

SEP 24 2021

DEPARTMENT OF
WATER RESOURCES

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

In the Matter of Certain Basin 79	)	Verified Petition for Order to Show Cause
Water Rights	)	
	)	

Pursuant to Idaho Code Sec. 42-224(1), Gill Family Ranches, LLC ("Petitioner") hereby petitions the Director of the Idaho Department of Water Resources ("IDWR") to order the owner of water rights listed on Exhibit A, attached hereto, (collectively, "Water Rights") to show cause why the Water Rights have not been lost through forfeiture pursuant to Idaho Code Sec. 42-222(2). As grounds for this Petition, Petitioner states as follows:

1. According to IDWR's records, the Water Rights are currently owned by the United States of America acting through the United States Forest Service, Exhibit A.
2. The Water Rights meets the requirements of Idaho Code Sec. 42-1401A(11) because the beneficial use is solely for stockwater in a quantity not to exceed 13,000 gallons per day.
3. Based upon Petitioner's knowledge of the Water Rights, including their sources, points of diversion, places of use, as well as IDWR's records, the Water Rights' points of diversion or places of use are on a federal grazing allotment known as the Cow Creek Allotment and managed by the Nez Perce National Forest.
4. There are no other water right decrees, licenses or permits known to have the same place of use, source, and point of diversion.
5. Petitioner has held a valid permit from the Forest Service to graze cattle on the Cow Creek Allotment each of the last five years. A copy of this Permit No. 01045 spanning the last five years is attached as Exhibit B. Petitioner is authorized to by the Forest Service to place livestock on the Allotment.
6. Petitioner has grazed its livestock on the Allotment in compliance with the permit for each year of the permit term.
7. As the permittee on the Cow Creek Allotment, Petitioner's employees, officers, and family of its officers and employees have regularly visited the Allotment, which borders Petitioner's private property, each grazing season of use and at other times outside the season of use each year for more than the past five years. Yearly documentation shows Petitioner's presence on some part of the Cow Creek Allotment over 75% of the permitted days use over the last five years. These visits have included, but are not limited to:

- tending and herding cattle

- monitoring grazing conditions and use
- fixing and maintaining allotment fences
- salting the cattle
- cutting and monitoring trails
- checking and maintaining water sources
- checking fire danger
- dealing with other public lands users

8. At no time over the past five years has Petitioner, its officers, employees, their families, or agents, witnessed or heard of the existence of livestock owned or controlled by the Forest Service on the Allotment either to graze or to use water under the Water Rights.

9. At no time in Petitioner's numerous and regular visits with Forest Service staff from the Slate Creek Ranger District of the Nez Perce National Forest has staff stated or suggested that the Forest Service has placed livestock owned or controlled by Forest Service on the Allotment in the last five years.

10. At no time since Petitioner's family use of the area since the early 1900s has Petitioner ever witnessed or heard of the Forest Service applying the Water Rights to the beneficial use of watering livestock the Forest Service owns or controls on the Allotment.

11. Petitioner is not now, nor has it ever been, an agent of the Forest Service for the purpose of acquiring water rights for the Forest Service on the Allotment.

12. The undersigned individual is the Manager and registered agent of Petitioner and is authorized by Petitioner to file this Petition on its behalf.

WHEREFORE, pursuant to Idaho Code Sec. 42-224, Gill Family Ranches, LLC petitions the Director of the Idaho Department of Water Resources to expeditiously issue an order to the United States of America, acting through the United States Forest Service, to show cause why the Water Rights should not be lost through forfeiture pursuant to Idaho Code Sec. 42-222(2).

VERIFICATION

STATE OF IDAHO)
County of Payette : ss.

Marty I. Gill, the Manager of Gill Family Ranches, LLC, being first duly sworn, deposes and says as follows:

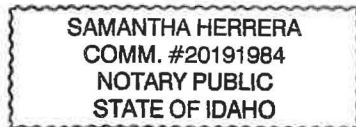
That Gill Family Ranches, LLC is the Petitioner herein, and that as the Manager thereof, I have read the foregoing instrument, know the contents thereof, and believe the contents thereof to be true and correct to the best of my knowledge.

DATED this 21 day of Sept., 2021.

Gill Family Ranches, LLC
an Idaho corporation

Marty I. Gill
By: Marty I. Gill
Manager
Gill Family Ranches, LLC

Subscribed and sworn to before me this 21 day of September, 2021.



[Signature]
Notary Public
Residing at: Fruitland, ID
My Commission Expires: 9-26-25

Basin	Sequence	Process	Basis	Status	Draft	RightID	Priority Date	Diversion Rate	Source List	Tributary List	Water Use List	Current Owner	Water District	Admin by WD
79	4134	Water Right	Decreed	Active	N	414284	5/1/1887	0.020	SPRING	SINKS	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4138	Water Right	Decreed	Active	N	414285	5/1/1880	0.020	SPRING	SINKS	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4139	Water Right	Decreed	Active	N	414286	5/1/1887	0.020	SPRING	CORRAL CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4149	Water Right	Decreed	Active	N	414294	5/1/1887	0.020	DAVIS SPRING	SINKS	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4165	Water Right	Decreed	Active	N	414306	5/1/1887	0.020	SPRING	KIRKWOOD CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4212	Water Right	Decreed	Active	N	414341	5/1/1887	0.020	SPRING	CLARKS FORK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4234	Water Right	Decreed	Active	N	414352	5/1/1902	0.020	SPRING	SINKS	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4235	Water Right	Decreed	Active	N	414353	5/1/1902	0.020	SPRING	CLARKS FORK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4236	Water Right	Decreed	Active	N	414354	5/1/1902	0.020	SPRING	CLARKS FORK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4237	Water Right	Decreed	Active	N	414355	5/1/1902	0.020	SPRING	CLARKS FORK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4238	Water Right	Decreed	Active	N	414356	5/1/1902	0.020	SPRING	SINKS	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4239	Water Right	Decreed	Active	N	414357	5/1/1902	0.020	SPRING	SINKS	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4240	Water Right	Decreed	Active	N	414358	5/1/1902	0.020	SPRING	SINKS	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4324	Water Right	Decreed	Active	N	414399	5/1/1880	0.020	SPRING	COW CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4325	Water Right	Decreed	Active	N	414400	5/1/1880	0.020	BUCKHORN SPRING	COW CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4327	Water Right	Decreed	Active	N	414401	5/1/1880	0.020	SPRING	SINKS	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4328	Water Right	Decreed	Active	N	414402	5/1/1880	0.020	SPRING	ELFERS CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4329	Water Right	Decreed	Active	N	414403	5/1/1880	0.020	SPRING	SINKS	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4330	Water Right	Decreed	Active	N	414404	5/1/1880	0.020	SPRING	SINKS	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4333	Water Right	Decreed	Active	N	414406	5/1/1880	0.020	SPRING	GRAVE CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4334	Water Right	Decreed	Active	N	414407	5/1/1880	0.020	SPRING	KESSLER CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4335	Water Right	Decreed	Active	N	414408	5/1/1880	0.020	KESSLER CREEK SPRING	KESSLER CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4336	Water Right	Decreed	Active	N	414409	5/1/1880	0.020	SPRING	KESSLER CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4337	Water Right	Decreed	Active	N	414410	5/1/1880	0.020	SPRING	SINKS	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4338	Water Right	Decreed	Active	N	414411	5/1/1880	0.020	HORNER SPRINGS	LITTLE CHINA CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4339	Water Right	Decreed	Active	N	414412	5/1/1880	0.020	SPRING	LITTLE CHINA CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4340	Water Right	Decreed	Active	N	414413	5/1/1880	0.020	FISH DAM SPRING	CHINA CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4341	Water Right	Decreed	Active	N	414414	5/1/1880	0.020	THOMAS SPRING	CHINA CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4342	Water Right	Decreed	Active	N	414415	5/1/1880	0.020	SPRING	COW CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	4343	Water Right	Decreed	Active	N	414416	5/1/1880	0.020	SPRING	SINKS	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	10505	Water Right	Decreed	Active	N	414479	5/1/1880	0.020	LITTLE CHINA CREEK	CHINA CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	10506	Water Right	Decreed	Active	N	414480	5/1/1880	0.020	CHINA CREEK	SALMON RIVER	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	10507	Water Right	Decreed	Active	N	414481	5/1/1880	0.020	COW CREEK	SALMON RIVER	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	10508	Water Right	Decreed	Active	N	414482	5/1/1880	0.020	CABIN CREEK	COW CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	10509	Water Right	Decreed	Active	N	414483	5/1/1880	0.020	SOUTH FORK COW CREEK	COW CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	10510	Water Right	Decreed	Active	N	414484	5/1/1880	0.020	SPRING	KESSLER CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	10511	Water Right	Decreed	Active	N	414485	5/1/1880	0.020	KESSLER CREEK	RACE CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	10512	Water Right	Decreed	Active	N	414486	5/1/1880	0.020	GRAVE CREEK	RACE CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	10513	Water Right	Decreed	Active	N	414487	5/1/1880	0.020	REMOTE SPRING	RACE CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	10514	Water Right	Decreed	Active	N	414488	5/1/1880	0.020	WEST FORK RACE CREEK	RACE CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	10515	Water Right	Decreed	Active	N	414489	5/1/1880	0.020	BEAN CREEK	RACE CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	10519	Water Right	Decreed	Active	N	414493	5/1/1880	0.020	ELFERS CREEK	SALMON RIVER	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	10559	Water Right	Decreed	Active	N	414524	5/1/1887	0.020	CORRAL CREEK	SNAKE RIVER	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	10568	Water Right	Decreed	Active	N	414526	5/1/1887	0.020	SPRING	KIRKWOOD CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	10572	Water Right	Decreed	Active	N	414529	5/1/1887	0.020	KIRKWOOD CREEK	SNAKE RIVER	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	10573	Water Right	Decreed	Active	N	414530	5/1/1887	0.020	LOST VALLEY CREEK	KIRKWOOD CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	10611	Water Right	Decreed	Active	N	414535	5/1/1902	0.020	CLARKS FORK	SHEEP CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	10612	Water Right	Decreed	Active	N	414536	5/1/1902	0.020	MIDDLE FORK CLARKS FORK	CLARKS FORK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	10720	Water Right	Decreed	Active	N	414591	5/1/1880	0.020	SPRING	SINKS	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	10722	Water Right	Decreed	Active	N	414592	5/1/1880	0.020	CHINA SPRING	LITTLE CHINA CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	13547	Water Right	Decreed	Active	N	414616	5/1/1887	0.020	SPRING	KIRKWOOD CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	13658	Water Right	Decreed	Active	N	414638	5/1/1895	0.020	SOUTH FORK RACE CREEK	RACE CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	13664	Water Right	Decreed	Active	N	414650	5/1/1887	0.020	SPRING	GRAVE CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No
79	13679	Water Right	Decreed	Active	N	414658	5/1/1887	0.020	SPRING	KIRKWOOD CREEK	STOCKWATER	USA acting through USDA Forest Service	NWD - No Water District	No

TERM GRAZING PERMIT - Parts 1 and 2

(Reference FSM 2230)

Page 1 of 9

Permittee: 604923010602

Permit Number: 01045

PART 1

GILL FAMILY RANCHES, LLC of 188 GILL RANCH ROAD, PO BOX 386, LUCILE, ID 83542 hereinafter called the permittee is hereby authorized to graze livestock owned by the permittee upon designated lands and is administered by the Forest Service within the Nez Perce-Clearwater National Forest.

1. Description of range. The livestock shall be grazed only upon the area described as follows:
~~described on attached page and/or~~ delineated on the attached maps, dated 05/01/2015, which is part of this permit
(Strike out item or items not applicable).

2. The number, kind, and class of livestock, period of use, and grazing allotment on which the livestock are permitted to graze are as follows, unless modified by the Forest Service in the Bill for Collection:

LIVESTOCK			PERIOD OF USE		GRAZING ALLOTMENT
Number	Kind	Class	From	To	
10	CATTLE	MATURE COW W/NURSING CALF	12/2	3/31	COW CREEK
10	CATTLE	MATURE COW W/NURSING CALF	4/1	5/31	COW CREEK
558	CATTLE	MATURE COW W/NURSING CALF	6/1	12/1	COW CREEK
10	HORSE	HORSE OR MULE	6/1	12/1	COW CREEK

3. It is fully understood and agreed that this permit may be suspended or cancelled, in whole or in part, after written notice, for failure to comply with any of the terms and conditions specified in Parts 1, 2, and 3 hereof, or any of the regulations of the Secretary of Agriculture on which this permit is based, or the instructions of the Forest officers issued thereunder; or for knowledge and willingly making a false statement or representation in the permittees grazing application, and amendments thereto; or for conviction for failure to comply with Federal laws or regulations or State and local laws relating to livestock control and to protection of air, water, soils and vegetation, fish and wildlife, and other environment values when exercising the grazing use authorized by the permit. This permit can also be cancelled, in whole or in part, or otherwise modified, at any time during the term to conform with the needed changes brought about by law, regulation, Executive order, allotment management plans, land management planning; numbers permitted or seasons of use necessary because of resource conditions, or the lands described otherwise being unavailable for grazing. Any suspension or cancellation action may be appealed pursuant to 36 CFR 214.

4. This permit supersedes permit no. 01033, issued on 05/19/2009, to Gill, Melvin C. and Margaret L.

I have reviewed and accepted the terms of this permit.

Signature of Permittee or His Authorized Agent		Date	
<i>O. Michelle Neal, manager</i>		4/29/2015	
Signature of Forest Officer	Name (Print)	Title	Date
<i>Jeff Shinn</i>	JEFF SHINN	DISTRICT RANGER	4/29/15

Exhibit B

1. Validation of Permit. The issuance of a Bill for Collection, payment of fees and actual turning on at least 90 percent of livestock the first grazing season after the permit is issued will validate this permit for the number, kind, and class of livestock, grazing allotment, and period of use for the particular year.

2. Bill for Collection. Each year, after validation and prior to the beginning of the grazing season, the Forest Service will send the permittee a Bill for Collection specifying for the current year the kind, number, and class of livestock allowed to graze, the period of use, the grazing allotment, and the grazing fees. This bill, when paid, authorizes use for that year and becomes part of this permit.

3. Payment of Fees. The permittee will not allow owned or controlled livestock to be on Forest Service-administered lands unless the fees specified in the Bill for Collection are paid.

4. Administrative Offset and Credit Reporting. Pursuant to 31 USC 3716 and CFR Part 3, Subpart B, any monies that are payable or may become payable from the United States, under this permit, to any person or legal entity not an agency or subdivision of a State or local government may be subject to administrative offset for the collection of a delinquent debt the person or legal entity owes to the United States. Information on the person's or legal entity's responsibility for a commercial debt or delinquent consumer debt owned the United States shall be disclosed to consumer or credit reporting agencies.

5. Interest, Penalty, and Administrative Costs. Pursuant to 31 USC 3717 and 7 CFR Part 3, Subpart B, interest shall be charged on any payment or fee amount not paid within 30 days from the date the payment was due. Interest shall be charged using the most current rate prescribed by the United States Department of the Treasury Fiscal Requirements Manual (TFRM-6-8020.20). Interest shall accrue from the date the payment was due. In addition, in the event the account becomes delinquent, administrative costs may be assessed. A penalty of 6 percent per year shall be assessed on any payment or fee amount overdue in excess of 90 days from the date the first billing was due. Payments will be credited on the date received by the designated collection officer or deposit location. If the due date(s) for any of the above payments falls on a non-workday, the charges shall not apply until the close of business on the next workday.

6. Term of Permit. This permit is effective until 12/31/2024, unless waived, cancelled, or otherwise terminated as provided herein. The permittee has first priority for receipt of a new permit at the end of the term subject to modification deemed necessary by the Forest Service.

In order to update terms and conditions, this permit may be cancelled at any time provided a new permit is issued to the existing permit holder for a new term of 10 years following this update.

7. Ownership Requirement

(a) Only livestock owned by the permittee are authorized to graze under this permit. To exercise use of the permit, the permittee will furnish all evidence of ownership requested by the Forest Service. Livestock purchased and subsequently sold back to the original owner, or to an agent, assignee, or anyone representing or acting in concert with the original owner, within a 24-month period without prior written approval by the Forest officer in charge will not be considered valid ownership of the livestock.

(b) Base property owned and used by the permittee to qualify for a term grazing permit must meet minimum base property requirements approved by the officer in charge.

8. Range and Livestock Management

(a) The allotment management plan for the land described on page 1, Part 1 is part of the permit, and the permittee will carry out its provisions, other instructions, or both as issued by the Forest officer in charge for the area under permit and will require employees, agents, and contractors and subcontractors do likewise.

(b) The number, kind, and class of livestock, period of use, and grazing allotment specified in the permit may be modified when determined by the Forest Officer in charge to be needed for resource protection. Except in extreme emergencies where resource conditions are being seriously affected by livestock use or other factors, such as fire, drought, or insect damage, notice of a scheduled reduction of numbers of livestock or period of use under a term permit will be given one (1) full year before a modification in permitted numbers or period of use becomes effective. This does not apply to annual adjustment in grazing as provided for in Section 8(c).

(c) When, in the judgment of the Forest Officer in charge, the forage is not ready to be grazed at the beginning of the designated grazing season, the permittee, upon request of the Forest Officer, will defer placing livestock on the grazing allotment to avoid damage to the resources. The permittee will remove livestock from Forest Service-administered lands before the expiration of the designated grazing season upon request of the Forest officer when it is apparent that further grazing will damage the resources.

(d) The permittee will allow only the numbers, kind, and class of livestock on the allotment during the period specified in Part 1 hereof or the annual Bill for Collection, including any modifications made as provided for in Section 8(c). If livestock owned by the permittee are found to be grazing on the allotment in greater numbers, or at times or places other than permitted in Part 1 hereof, or specified on the annual Bill for Collection, the permittee shall be billed for excess use at the unauthorized use rate and may face suspension or cancellation of this permit.

(e) The permittee will not allow owned or controlled livestock to be upon any area of Forest Service-administered lands not described in either Part 1 hereof or the annual Bill for Collection.

(f) The Forest officer in charge may, at any time, place or fasten or require the permittee to place or fasten upon livestock covered by this permit appropriate marks or tags that will identify them as livestock permitted to graze on lands administered by the Forest Service. When requested by the Forest officer, the permittee will, at any time during the permitted period of use, including entry and removal dates, gather permitted livestock to enable an accurate count to be made thereof. The Forest Service may, at its option, gather and hold for counting all livestock grazing on the allotment.

(g) Only livestock marked, tagged, or branded as shown in the application upon which this permit is based, and as may be required under Section 8(f), will be allowed to graze under this permit unless the permittee has advance written approval from the Forest officer in charge to do otherwise.

(h) The permittee will pay the costs of, perform, otherwise provide for the proportionate share of cooperative improvements and management practices on the permitted area when determined by the Forest officer in charge that such improvements and practices are essential to proper protection and management of the resources administered by the Forest Service.

(i) This permit is issued and accepted with the provision that the permittee will maintain all range improvements, whether private or Government-owned, that are assigned for maintenance to standards of repair, orderliness, and safety acceptable to the Forest Service. Improvements to be maintained and acceptable to maintenance are specified in Part 3 of this permit. The Government may maintain or otherwise improve said improvements when, in its opinion, such action will be to its advantage.

9. Nonuse. At least 90 percent of the livestock permitted must be grazed each year, unless the Forest officer in charge approves nonuse. Failure to place livestock on the allotted range/pasture without approved nonuse may result in cancellation of the term grazing permit in whole or in part.

10. Protection. The permittee, or the permittee's agents and employees, when acting within the scope of their employment, and contractors and subcontractors will protect the land and property of the United States and other land under jurisdiction of the Forest Service covered by and used in conjunction with this permit. Protection will include taking all reasonable precautions to prevent, make diligent efforts to suppress, and report promptly all fires on or endangering such land and property. The permittee will pay the United States for any damage to its land or property, including range improvements, resulting from negligence or from violation of the provisions and requirements of this permit or any law or regulation applicable to the National Forest System.

11. General.

(a) The Forest officer in charge may at any time require the permittee to give good and sufficient bond to insure payment for all damage or costs to prevent or mitigate damages sustained by the United States through the permittee's failure to comply with the provisions and requirements of this permit or the regulations of the Secretary on which it is based.

(b) This permit will be cancelled, in whole or in part, whenever the area described in this permit is withdrawn from the National Forest System by land exchange, modification of boundaries, or otherwise, or whenever the area described in this permit is to be devoted to a public purpose that precludes grazing.

(c) The permittee will immediately notify the Forest officer in charge of any change in control of base property, ownership of livestock, or other qualifications to hold this grazing permit.

(d) The permanent improvements constructed or existing for use in conjunction with this permit are the property of the United States Government unless specifically designated otherwise or covered by a cooperative agreement. They will not be removed nor compensated for upon cancellation of this permit, except in the National Forests in the 16 contiguous Western States when cancelled, in whole or in part, to devote land to another public purpose including disposal. In the event of such cancellation on the National Forests in the 16 Contiguous Western States, the permittee will be compensated for the adjusted value of approved range improvements installed or placed by him.

(e) The permittee may not transfer, assign, lease, or sublet this permit in whole or part.

(f) This permit includes the terms and conditions of Part 3 hereof, consisting of page 3 through 9 which follow.

GRAZING PERMIT - PART 3

Page 3 of 9

Permittee: 604923010602

Permit Number: 01045

(Reference FSM 2230)

Special Terms and Conditions**Responsibilities for Construction and Maintenance of Structural Improvements or for Range Rehabilitation.**

(List the specific responsibilities of the permittee; or incorporate into the permit the cooperative agreement, management plan or other document which sets forth these responsibilities in detail. Fully identify the particular document or documents.)

Structural Improvements

As a condition of this permit, the permittee is authorized to use and is assigned improvement maintenance. The Nez Perce National Forest has filed water rights with the State of Idaho for other consumptive uses in the allotment area. By issuing this grazing permit, the Forest Service does not convey ownership of any water rights in the allotment area. Forest Service ownership of the water rights assures that the use of the water will be both appurtenant to the land and available for current and future uses on the National Forest.

Materials needed for maintenance of range improvements shall be provided by the permittee. Native material may be available upon approval by the District Ranger. A Permit Modification for Range Improvements will be completed for construction of new range improvements.

This permit is issued and accepted with the provision that the permittee will maintain all the range improvements listed on page **3 and 4**, and as indicated on the allotment map, page **10**.

Wire Fences

1. Straighten bent steel posts (or replace).
2. Replace or reset brace poles if not in brace securely.
3. Straighten and re-tamp brace posts.
4. Replace rotted brace posts.
5. Splice broken wires and re-stretch.
6. Re-space wires where spacing has been altered.
7. Replace missing staples and steel post clips.
8. Straighten wire stays which have been bent.
9. Tighten or replace brace wires.
10. Replace broken gate stays on wire gates and shut the gates.
11. Cut trees which have fallen across fence & remove from fenceline.
12. All limbs and trees which have fallen on fences will be cut and removed at least yearly and the wires stretched tight again after removal of the tree.
13. Missing staples or nails will be replaced. Staples will be tight against wire on solid posts but must provide for movement of the wire (1-1/2" staples should be used). Loose or replaced staples should be driven to desired depth. Do not kink the wire by driving staples too deep.
14. Let Down Fences: The let-down design will be maintained. Retighten let-down spans that have become slack. Replace missing staples or wire loops. Drop the fence spans within two weeks after it is no longer needed to control livestock.

Wood Fences

1. Broken poles will be replaced.
2. Cut trees which have fallen across fence & remove from fenceline.
3. Loose poles will be re-nailed
4. Rotten or broken posts or jacks will be replaced.

FENCE on COW CREEK 00104

Number	Name	Location	Units
104101	COW/SHERWIN BOUNDARY FENCE	Section 20, T26N, R1E	1.75
104102	COW CREEK CORRAL CREEK FENCE	Section 24, T26N, R1W	1.5

GRAZING PERMIT - PART 3

Page 4 of 9

Permittee: 604923010602

Permit Number: 01045

(Reference FSM 2230)

Special Terms and Conditions**Responsibilities for Construction and Maintenance of Structural Improvements or for Range Rehabilitation.**

(List the specific responsibilities of the permittee; or incorporate into the permit the cooperative agreement, management plan or other document which sets forth these responsibilities in detail. Fully identify the particular document or documents.)

FENCE on COW CREEK 00104

Number	Name	Location	Units
104103	TRIANGLE MTN BOUNDARY FENCE	Section 27, T26N, R1W	2
104104	LOCK GATE FENCE	Section 26, T26N, R1W	.4
104105	DITCH SADDLE INTERIOR FENCE	Section 26, T26N, R1W	2
104106	BAKER KIRKWOOD INTERIOR FENCE	Section 25, T26N, R1W	2.4
104107	KIRKWOOD CORRALS FENCE	Section 26, T26N, R1W	.2
104109	BLUE JACKET BOUNDARY FENCE	Section 34, T26N, R1W	1.7
104110	CHINA ON/OFF FENCE	Section 32, T26N, R1E	0
104111	2060 ROAD BOUNDARY FENCE	Section 9, T25N, R1W	.72
104112	DUTCH OVEN BOUNDARY FENCE	Section 25, T25N, R1W	.4
104113	COW CREEK/COLD SPRINGS BOUNDARY FENCE	Section 17, T25N, R1W	.5
104115	BEAN KESSLER BOUNDARY FENCE	Section 20, T25N, R1E	.9
104116	ROUND KNOB SPRING ENCLOSURE FENCE	Section 28, T25N, R1W	.1
104117	COW GRAVES BOUNDARY FENCE	Section 36, T25N, R1W	.75
104121	CLARKS HOLE BOUNDARY FENCE	Section 29, T25N, R1W	0

Total Miles of Fence: 14.73**Spring Developments**

1. Maintain spring source fence according to above specifications.
2. Clean spring boxes of debris, and secure cover.
3. Water should be level in the trough and not allowed to overflow the sides of the troughs. Supply pipelines need to be functioning with broken pipes replaced. Overflow pipes must be kept clean and overflow water piped away from troughs at least 50 feet. The end of the overflow pipe must be protected from trampling livestock. Water from the overflow pipe must be directed away from the trough area.
4. Replace broken trough braces and framing.
5. All troughs shall be equipped with an escape structure secured near one end of the top rim of the trough and extending out into the trough far enough to provide a platform from which birds and small animals can drink or escape from the trough.
6. Troughs, storage tanks, and pipelines will be drained and cleaned periodically to prevent moss and debris buildup and reduce damage from freezing.

WATER_SYSTEM_RANGE on COW CREEK 00104

Number	Name	Location	Units
104201S	DAVIS SPRING	Section 18, T26N, R1E	1
104202T	HORNER SPRING TROUGH	Section 20, T26N, R1E	1
104203S	KEARNEY SPRING	Section 20, T26N, R1W	1
104204S	CHINA RIDGE SPRING	Section 21, T26N, R1E	1
104205S	ED THOMAS SPRING	Section 30, T26N, R1E	1
104206S	FISH DAM SPRING	Section 29, T26N, R1E	1
104207S	BAKER SPRING	Section 25, T26N, R1W	1
104208T	DITCH SADDLE TROUGH	Section 26, T26N, R1W	1
104209S	KIRKWOOD COW CAMP SPRING	Section 26, T26N, R1W	1
104210S	DITCH SADDLE SPRING	Section 26, T26N, R1W	1
104211S	JENKINS RIDGE SOURCE	Section 8, T25N, R1E	1

GRAZING PERMIT - PART 3

(Reference FSM 2230)

Page 5 of 9

Permittee: 604923010602

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WATER_SYSTEM_RANGE on COW CREEK 00104

Number	Name	Location	Units
104212S	COLD SPR COW CAMP SPRING	Section 16, T25N, R1W	1
104213T	BEEFTRAILSPRING TROUGH	Section 16, T25N, R1W	1
104214T	COLD SPRINGS COW CAMP TROUGH	Section 16, T25N, R1W	1
104217S	9904 SPRING	Section 14, T25N, R1W	1
104218T	SWITCHBACK TROUGH	Section 20, T25N, R1W	1
104219T	TELEPHONE SPRING TROUGH	Section 20, T25N, R1E	1
104220T	BEAN CREEK RIP TANK	Section 19, T25N, R1E	1
104221T	COW/RACE BOUNDARY SPRING TROUGH	Section 30, T25N, R1E	1
104222T	ROUND KNOB SPRING TROUGH	Section 26, T25N, R1W	1
104223T	KESSLER SPRING TROUGH	Section 36, T25N, R1W	1
104224P	GRAVES PIPELINE TROUGH	Section 2, T24N, R1W	0
104224T	GRAVES CREEK SPRING TROUGH	Section 34, T25N, R1W	1
104225S	WEST FORK SPRING	Section 14, T25N, R1W	1

GRAZING PERMIT - PART 3

Page 6 of 9

Permittee: **604923010602**Permit Number: **01045**

(Reference FSM 2230)

Special Terms and Conditions**Management Practices.**

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I. On and Off. This permit provides for grazing a total of 150 head of cattle for the grazing period 12/2 to 5/31, on Forest Service administered land controlled by the permittee which together form a natural grazing unit, hereby named the China/Cow ON/OFF pasture. The use by these livestock will be approximately 7 percent on Forest Service administered land and 93 percent on the lands controlled by the permittee.

The livestock will graze only upon the specified grazing allotment and only during the permitted grazing period. Any grazing use in excess of that authorized will be treated as a violation of the terms and conditions of the permit.

The lands described below constitute the "off" portion of this permit: T26N R1E Section 32: S1/2 NW1/4 (80 acres); NE1/4 SW1/4 (40 acres); NE1/4 NW1/4 SW1/4 (10 acres), NW1/4 SE1/4 SW1/4 (10 acres); W1/2 NW1/4 SE1/4 (20 acres)

II. General Allotment Management Direction (Forest Plan)

Livestock will be managed to protect soil and water resources, threatened and endangered species under the Endangered Species Act including federal listed fish species, and will meet or move towards the Forest Plan Goal of enhancing or maintaining habitat for riparian dependent species.

The following Forest Plan Management Direction is made a part of this permit.

A. Distribute livestock in a manner that protects low productive forest lands (MA-1).

B. Protect vulnerable prehistoric, historical, archaeological, and/or paleontological sites from livestock grazing (MA-3). Structural range improvements may be used where needed to protect these sites. Permittees may be required to share in the costs of needed improvements.

C. Restrict livestock grazing from mined areas (MA-4) during the reclamation phase of the operation.

D. Livestock are not permitted in developed recreation sites (MA-7) during times the site is open to the public.

E. The permittee will assure sufficient forage is available in wildlife winter range (MA-16 & 18) to meet big game (elk) needs through proper livestock distribution and forage utilization as stated in the Annual Operating Instructions.

F. Maintain range condition (MA-19 grasslands) at or above fair condition. Permittees may be required to share in the cost of improvements needed to maintain range conditions.

G. Riparian Habitat (MA-10)

GM-1: Grazing will be modified if livestock management retards or prevents attainment of Riparian Management Objectives (RMOs) or is likely to adversely affect listed anadromous fish. Grazing may be suspended if modifying practices are not effective in meeting RMOs and avoiding adverse effects on listed anadromous fish.

GM-2: New livestock handling/management facilities will be located outside of Riparian Habitat Areas (RHCA).

GM-3: Livestock trailing, bedding, watering, salting, handling/management activities will be limited to areas and times that will not retard or prevent attainment of Riparian Management Objectives (RMO).

H. Direction from the Hells Canyon National Recreation Area: (i.e. Comprehensive Management Plan, Forest Plan Amendment #29.):

a. The use of motorized and mechanical equipment would be prohibited off open designated FS roads, trails, and backcountry airstrips, except where authorized by permit. (Acc-S1).

b. The Sheep Creek Allotment area is closed to permitted livestock use. The vacant Pittsburgh Allotment will require further NEPA before grazing is considered.

GRAZING PERMIT - PART 3

(Reference FSM 2230)

Page 7 of 9

Permittee: 604923010602

Permit Number: 01045

Special Terms and Conditions**Management Practices.**

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III. Allotment Grazing Management.

As a result of decisions made in Biological Opinions and Biological Assessments under the Endangered Species Act, the following grazing standards have been adopted for the Cow Creek Allotment. These standards will be used to administer grazing on the allotment. Utilization percentages represent the maximum that will be allowed based on current livestock management practices.

A. Grazing Rotation: Cow Creek Allotment

The permittee's livestock will normally enter the Forest in three or four separate herds by way of China Creek pasture, Bean Creek pasture, and Cow Creek pasture. The majority of pasture boundaries are natural barriers such as steep terrain or heavy timber.

One or two herds averaging around 125 cow/calf pairs will enter the Forest via the China Creek pasture. These cattle will be moved to Schoolhouse and Kirkwood pastures, and then will meet up with the rest of the herd in the Cold Springs pasture.

Two or three herds averaging around 125 cow/calf pairs will enter the Forest via the Cow Creek and Bean Creek pastures, and will join up in the Cold Springs pasture with the herd that entered through the China Creek pasture.

From the Cold Springs pasture, entire herd will then be moved to Kessler and Clarks Hole pastures, then drift back to the Kirkwood pasture through the Cold Springs, Bean Creek and Cow Creek pastures. Generally, the calves will be shipped off the Forest from Kirkwood Corrals. The remaining cows will move through the Schoolhouse pasture and then off the Forest through the China Creek pasture.

Move dates are subject to meeting grazing utilization standards.

B. Riparian Grazing Standards:

Allowable Forage Utilization: 35% of available herbaceous forage species within riparian areas.

Allowable Woody Utilization: 30% of annual, available growth of woody riparian species.

Bank Disturbance: 10% of the linear distance along a streambank.

Stubble Height Objective: 6" stubble height.

C. Upland Grazing Standards:

Allowable Forage Utilization:

45% of available herbaceous forage species within upland areas.

30% of available herbaceous forage within upland areas inside the HCNRA wilderness.

Allowable Woody Utilization:

30% of annual, available growth of woody upland species inside the HCNRA wilderness.

40% of annual, available growth of woody upland species outside the HCNRA wilderness.

The permittee may be asked to contribute to the monitoring of livestock forage utilization, streambank disturbance, and stubble height along selected streams and upland areas within the allotment.

D. Closed Areas.

GRAZING PERMIT - PART 3

Page 8 of 9

Permittee: **604923010602**Permit Number: **01045**

(Reference FSM 2230)

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No known "closed areas" are currently within the allotment.

E. Herding/Salting.

1. Salt placement will be emphasized in under-utilized areas for better livestock distribution.
2. Salt placement will not be within 1/4 mile of any riparian area. Salt will not be placed adjacent to springs or meadows.
3. Active herding and riding will be required to maintain proper distribution and use under-utilized areas where forage is available, and to limit livestock use on sensitive riparian and upland areas.

F. Annual Operating Instructions.

Annual Operating Instructions (AOI) will be developed annually with the permittee. The AOI will state the specific actions and management requirements for the current grazing season. The AOI when signed by the Forest Officer becomes a part of this Term Grazing Permit.

IV. General Management Requirements

- A. The permittee will inform the Forest Officer of the date and number of livestock that will enter the Forest and, if called upon to do so, will provide for having the animals marked and/or counted before they enter the Forest and at any time during the life of this permit.
- B. Each herder or camp will be equipped with serviceable shovel and axe or such other combination of tools as the District Ranger may require for use in extinguishing campfires and forest fires.
- C. During periods when the Forest is closed to smoking, the person or persons in charge of livestock covered by this permit will refrain from smoking while away from the headquarters camp in pursuing duties connected with the management of livestock in their charge.
- D. All fires built for any purpose by the person or persons in charge of the livestock covered by this permit will be completely extinguished and will not be left unattended for any reason whatsoever.
- E. Owners of all livestock grazed under this permit must comply with the state livestock laws.
- F. When an animal covered by this permit dies from a contagious or infectious disease, its carcass must be disposed of by a method approved by State Laws and Regulations. If any animal dies or is killed in the vicinity of headquarters camps, streams, lakes, roads, trails, or recreational areas, its carcass must be moved to a point at least 100 yards from live water or as far as practicable when terrain makes that distance impossible.
- G. Camps must be kept and left in a sanitary condition. All flammable refuse may be burned and inflammable refuse must be packed off the National Forest.
- H. Any hay or straw used in association with this permit, will be certified as noxious weed free, or noxious weed seed free.
- I. The permittee is required to keep accurate records concerning movement of livestock, including stragglers outside authorized use periods, and to furnish such information to the Forest Service. Actual use reports will be supplied to the Forest Service in writing at the end of the grazing season.

V. Designated Base Property.

The following property is considered base property for this permit:

GRAZING PERMIT - PART 3

(Reference FSM 2230)

Page 9 of 9

Permittee: **604923010602**Permit Number: **01045****Special Terms and Conditions****Management Practices.**

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Cow Creek Property

T25N R1E Section 3

NW1/4 of the SW1/4 - 40 acres

VI. Other. This permit grants the use of the Kirkwood Cow Camp site for a cabin (Range Improvement #104501), located in SESE of Section 26 T26N R1W, for allotment administration purposes. Any exterior modifications need prior authorization by the district ranger.