

OCT 15 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 Department of the Interior, Bureau of Land Management ("BLM"), Exhibit A.
2. The Water Rights meet 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 one or both of two federal grazing allotments known as the Butcher Bar Allotment and the China Creek Allotment and managed by the Cottonwood Field Office of the BLM located in Cottonwood, Idaho.
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 lease from the BLM to graze cattle on the two Allotments each of the last five years. A copy of this Lease No. 1105152 spanning the last five years is attached as Exhibit B.
6. Petitioner has grazed its livestock on the Allotments in compliance with the lease for each year of the lease term.
7. As the lessee on the Allotments, Petitioner's employees, officers, and their families have regularly visited the Allotments, 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 Allotments 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 BLM on either Allotment either to graze or to use water under the Water Rights.

9. At no time in Petitioner's numerous and regular visits with BLM staff from the Cottonwood Field Office has staff stated or suggested that the BLM has placed livestock owned or controlled by BLM on either 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 BLM applying the Water Rights to the beneficial use of watering livestock the BLM owns or controls on either Allotment.

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

12. The undersigned individual is the Manager 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 BLM, 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:

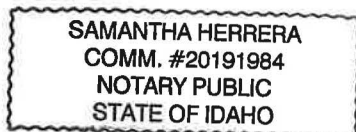
That Gill Family Ranches, LLC is the Petitioner herein, and that as the Manager thereof, I have read the foregoing instrument, know the contents thereof, and believe the contents thereof to be true and correct to the best of my knowledge.

DATED this 12 day of October, 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 12 day of October, 2021.



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

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Allotment	Basin	Sequence	Process	Basis	Status	Draft	RightID	Priority Date	Diversio n Rate	Source List	Tributary List	Water Use List	Current Owner	Water District	Admin by WD
Butcher Bar		79	11259 Water Right	Decreed	Active	N	413144	6/28/1934	0.020	UNNAMED STREAM	SALMON RIVER	STOCKWATER	UNITED STATES OF AMERICA ACTING THROUGH BLM	NWD - No Water District	No
Butcher Bar		79	11261 Water Right	Decreed	Active	N	413146	6/28/1934	0.020	WET GULCH CREEK	SALMON RIVER	STOCKWATER	UNITED STATES OF AMERICA ACTING THROUGH BLM	NWD - No Water District	No
China Creek		79	11372 Water Right	Decreed	Active	N	413222	6/28/1934	0.020	SALMON RIVER	SNAKE RIVER	STOCKWATER	UNITED STATES OF AMERICA ACTING THROUGH BLM	NWD - No Water District	No
China Creek/Butcher Bar		79	11373 Water Right	Decreed	Active	N	413223	6/28/1934	0.020	CHINA CREEK	SALMON RIVER	STOCKWATER	UNITED STATES OF AMERICA ACTING THROUGH BLM	NWD - No Water District	No
China Creek		79	11374 Water Right	Decreed	Active	N	413224	6/28/1934	0.020	LITTLE CHINA CREEK	CHINA CREEK	STOCKWATER	UNITED STATES OF AMERICA ACTING THROUGH BLM	NWD - No Water District	No
China Creek		79	11376 Water Right	Decreed	Active	N	413225	6/28/1934	0.020	UNNAMED STREAM	LITTLE CHINA CREEK	STOCKWATER	UNITED STATES OF AMERICA ACTING THROUGH BLM	NWD - No Water District	No
Butcher Bar		79	11756 Water Right	Decreed	Active	N	389160	6/28/1934	0.020	UNNAMED STREAM	SALMON RIVER	STOCKWATER	UNITED STATES OF AMERICA ACTING THROUGH BLM	NWD - No Water District	No
China Creek		79	11784 Water Right	Decreed	Active	N	389186	4/17/1926	0.020	SPRING	CHINA CREEK	STOCKWATER	UNITED STATES OF AMERICA ACTING THROUGH BLM	NWD - No Water District	No

OPERATOR COPY

AUTH NUMBER: 1105152
DATE PRINTED: 7/28/2015

Form 4130-2a
(February 1999)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

GRAZING LEASE

STATE ID
OFFICE LLIDC02000
AUTH NUMBER 1105152
PREFERENCE CODE 15
DATE PRINTED 07/28/2015
TERM 03/01/2016 TO 02/28/2026

BUREAU OF LAND MANAGEMENT
COTTONWOOD FO
1 BUTTE DRIVE
COTTONWOOD ID 83522-9498

GILL FAMILY RANCHES, LLC
C/O O. MICHELLE NEAL
188 GILL RANCH ROAD
P.O. BOX 3886
LUCILE ID 83542

THIS GRAZING LEASE IS OFFERED TO YOU UNDER 43 CFR PART 4100 BASED ON YOUR RECOGNIZED QUALIFICATIONS. YOU ARE AUTHORIZED TO MAKE GRAZING USE OF LANDS, UNDER THE JURISDICTION OF THE BUREAU OF LAND MANAGEMENT AND COVERED BY THIS GRAZING LEASE, UPON YOUR ACCEPTANCE OF THE TERMS AND CONDITIONS OF THIS GRAZING LEASE AND PAYMENT OF GRAZING FEES WHEN DUE. CONTACT YOUR LOCAL BLM OFFICE AT 208-962-3245 IF YOU HAVE QUESTIONS.

MANDATORY TERMS AND CONDITIONS

<u>ALLOTMENT</u>	<u>PASTURE</u>	<u>LIVESTOCK</u>		<u>GRAZING PERIOD</u>		<u>% PL TYPE USE</u>	<u>AUMS</u>
		<u>NUMBER</u>	<u>KIND</u>	<u>BEGIN</u>	<u>END</u>		
36138	BUTCHER BAR	75	CATTLE	03/01	04/15	33 ACTIVE	37
		50	CATTLE	12/20	01/20	33 ACTIVE	17
36191	CHINA CREEK	60	CATTLE	04/01	06/01	9 ACTIVE	11
		60	CATTLE	12/01	02/15	9 ACTIVE	14

OTHER TERMS AND CONDITIONS:

SALT CAN NOT BE PLACED WITHIN 1/4 MILE OF ANY WATER SOURCE ON PUBLIC LANDS. SUPPLEMENTAL FEED CAN NOT BE PLACED ON PUBLIC LANDS.

UNDER 4130.3-2(H) LESSEES SHALL PROVIDE REASONABLE ACCESS ACROSS PRIVATE AND LEASED LANDS TO THE BLM FOR THE ORDERLY MANAGEMENT AND PROTECTION OF THE PUBLIC LANDS.

ALLOTMENT(S) LISTED ON THIS GRAZING LEASE ARE SUBJECT TO THE REQUIREMENTS OF 43 CFR 4180 FUNDAMENTALS OF RANGELAND HEALTH AND STANDARDS AND GUIDELINES(S&G) FOR GRAZING ADMINISTRATION.

THIS LEASE SHALL BE MODIFIED, IF NECESSARY, TO MEET THESE REQUIREMENTS UPON COMPLETION OF A S&G ASSESSMENT AS SCHEDULED BY THE AUTHORIZED OFFICER.

RANGE IMPROVEMENTS MUST BE MAINTAINED PRIOR TO TURN-OUT.

THIS LEASE IS ISSUED UNDER THE AUTHORITY OF SECTION 402(C)(2) OF FLPMA, 1976 AS AMENDED, AND CONTAINS THE SAME TERMS AND CONDITIONS AS THE PREVIOUS PERMIT OR LEASE.

THIS PERMIT OR LEASE MAY BE CANCELED, SUSPENDED, OR MODIFIED, IN WHOLE OR IN PART TO MEET THE REQUIREMENTS OF APPLICABLE LAWS AND REGULATIONS.

ALLOTMENT SUMMARY (AUMS)

<u>ALLOTMENT</u>	<u>ACTIVE AUMS</u>	<u>SUSPENDED AUMS</u>	<u>TEMP SUSPENDED AUMS</u>	<u>PERMITTED USE</u>
36138 BUTCHER BAR	53	0	0	53
36191 CHINA CREEK	24	0	0	24

Exhibit B

Standard Terms and Conditions

1. Grazing permit or lease terms and conditions and the fees charged for grazing use are established in accordance with the provisions of the grazing regulations now or hereafter approved by the Secretary of the Interior.
2. They are subject to cancellation, in whole or in part, at any time because of:
 - a. Noncompliance by the permittee/lessee with rules and regulations.
 - b. Loss of control by the permittee/lessee of all or a part of the property upon which it is based.
 - c. A transfer of grazing preference by the permittee/lessee to another party.
 - d. A decrease in the lands administered by the Bureau of Land Management within the allotment(s) described.
 - e. Repeated willful unauthorized grazing use.
 - f. Loss of qualifications to hold a permit or lease.
3. They are subject to the terms and conditions of allotment management plans if such plans have been prepared. Allotment management plans MUST be incorporated in permits or leases when completed.
4. Those holding permits or leases MUST own or control and be responsible for the management of livestock authorized to graze.
5. The authorized officer may require counting and/or additional or special marking or tagging of the livestock authorized to graze.
6. The permittee's/lessee's grazing case file is available for public inspection as required by the Freedom of Information Act.
7. Grazing permits or leases are subject to the nondiscrimination clauses set forth in Executive Order 11246 of September 24, 1964, as amended. A copy of this order may be obtained from the authorized officer.
8. Livestock grazing use that is different from that authorized by a permit or lease MUST be applied for prior to the grazing period and MUST be filed with and approved by the authorized officer before grazing use can be made.
9. Billing notices are issued which specify fees due. Billing notices, when paid, become a part of the grazing permit or lease. Grazing use cannot be authorized during any period of delinquency in the payment of amounts due, including settlement for unauthorized use.
10. The holder of this authorization must notify the authorized officer immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (cultural items), stop the activity in the area of the discovery and make a reasonable effort to protect the remains and/or cultural items.
11. Grazing fee payments are due on the date specified on the billing notice and MUST be paid in full within 15 days of the due date, except as otherwise provided in the grazing permit or lease. If payment is not made within that time frame, a late fee (the greater of \$25 or 10 percent of the amount owed but not more than \$250) will be assessed.
12. No Member of, or Delegate to, Congress or Resident Commissioner, after his/her election of appointment, or either before or after he/she has qualified, and during his/her continuance in office, and no officer, agent, or employee of the Department of the Interior, other than members of Advisory committees appointed in accordance with the Federal Advisory Committee Act (5 U.S.C. App.1) and Sections 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) shall be admitted to any share or part in a permit or lease, or derive any benefit to arise therefrom; and the provision of Section 3741 Revised Statute (41 U.S.C. 22), 18 U.S.C. Sections 431-433, and 43 CFR Part 7, enter into and form a part of a grazing permit or lease, so far as the same may be applicable.

THIS GRAZING LEASE:

1. CONVEYS NO RIGHT, TITLE OR INTEREST HELD BY THE UNITED STATES IN ANY LANDS OR RESOURCES

2. IS SUBJECT TO (A) MODIFICATION, SUSPENSION OR CANCELLATION AS REQUIRED BY LAND PLANS AND APPLICABLE LAW; (B) ANNUAL REVIEW AND MODIFICATION OF TERMS AND CONDITIONS AS APPROPRIATE; AND (C) THE TAYLOR GRAZING ACT, AS AMENDED, THE FEDERAL LAND POLICY AND MANAGEMENT ACT, AS AMENDED, THE PUBLIC RANGELANDS IMPROVEMENT ACT, AND THE RULES AND REGULATIONS NOW OR HEREFTER PROMULGATED THEREUNDER BY THE SECRETARY OF THE INTERIOR.

ACCEPTED:

SIGNATURE OF LESSEE:

D. Michelle Neal, manager

DATE:

8/1/2015

APPROVED

BLM AUTHORIZED OFFICER:

W. K. Krumm

DATE:

09/30/2015