Form 10-114
Rev. Jan. 00

UNITED STATES DEPARTMENT OF THE INTERIOR
National Park Service
Special Use Permit

Name of Use: Grazing

Date Permit Reviewed 2008
Reviewed 20
Reviewed 20
Expires 2013 (11/30)

Long Term **X**

Short Term

Permit # AGRI-8350-2600-9007
Type Park Code No. #

Point Reyes National Seashore
Name of Area

Merv McDonald, Mike McDonald, Gino Lucchesi Jr. and Clayton Lucchesi

[redacted]

is hereby authorized during the period **from 12:00 AM on January 1, 2009 to 11:59 PM on December 31, 2013** to use the following described land or facilities in the above named area:
Approximately 2,660 acres on "Home" Ranch Tracts 02-107, 02-108, 02-109 and 02-146 within Point Reyes National Seashore (See Exhibit A, Range Map).
For the purpose(s) of:
Grazing beef cattle at 300 Animal Unit's (3600 AUM's) per year at $7.00 per AUM, the associated use of two barns at $0.35 per square foot (the Ranch Complex Barn 50ft. x80ft.=4,000sq.ft at $1,400.00 per year and the Hill Barn 24ft.x 84ft.=2,016sq.ft. at $705.60 per year for a combined annual total of $2,105.60) **and the incidental use of a residence at $218.00 per month** (the Ranch House, $2,616.00 per year)

The annual permit fee of $29,921.60 (25,200+2105.60+2,616.00) adjusted for the annual property insurance premium of 2,294.00 is **27,627.60** payable on a semi-annual basis at a rate of **$13,813.80**. (This permit replaces AGR-8530-2600-3023)

Authorizing legislation or other authority (RE – DO-53): 16USC1 through 4, 16USC459c

NEPA & NHPA Compliance: CATEGORICALLY EXCLUDED _X_ EA/FONSI __ EIS __ OTHER APPROVED PLANS

PERFORMANCE BOND:	Required	Not Required X	Amount $0.00
LIABILITY INSURANCE:	Required X	Not Required	Amount $500,000.00

ISSUANCE of this permit is subject to the conditions on the reverse hereof and appended pages and when appropriate to the payment to the U.S. Dept. of the Interior, National Park Service of the sum of **$138,138.00.**

The undersigned hereby accepts this permit subject to the terms, covenants, obligations, and reservations, expressed or implied herein.

PERMITTEE: [redacted] 12/29/08
Signature Organization Date

Authorizing Official: D L Neubacher Don L. Neubacher 12/2/08
Signature Superintendent Date

Additional Authorizing Official: _____
(if Required) Signature Title Date

CONDITIONS OF THIS PERMIT

1) DEFINITIONS GENERAL CONDITIONS

As used in this Permit, the following terms shall have the following meanings:

a) "Agency" means any agency, department, commission, board, bureau, office or other governmental authority having jurisdiction.

b) "Applicable Laws" includes, without limitation all present and future statutes, regulations, requirements, Environmental Requirements, guidelines, judgments, or orders of any Agency or judicial body, whether now existing or hereafter established, relating to or affecting the Premises or the use or occupancy of the Premises.

c) "Commencement Date" is as defined on the Cover Page of this Permit.

d) "Cyclic Maintenance" means (i) the performance by Permittee of all repairs, maintenance, or replacement-in-kind necessary to maintain the Premises and the existing improvements thereon in good order, condition, and repair; (ii) housekeeping and routine and periodic work scheduled to mitigate wear and deterioration without materially altering the appearance of the Premises; (iv) the repair or replacement-in-kind of broken or worn-out elements, parts or surfaces so as to maintain the existing appearance of the Premises; and (v) scheduled inspections of all building systems on the Premises.

e) "Default" means Permittee's failure to keep and perform any of the Provisions of this Permit.

f) "Environmental Requirements" means, without limitation, all standards or requirements relating to the protection of human health or the environment such as:

   a. standards or requirements pertaining to the reporting, permitting, management, monitoring, investigation or remediation of emissions, discharges, releases, or threatened emissions, releases or discharges of Hazardous Materials into the air, surface water, groundwater, or land;

   b. standards or requirements relating to the manufacture, handling, treatment, storage, disposal, or transport of Hazardous Materials; and

   c. standards or requirements pertaining to the health and safety of employees or the public.

g) "Expiration Date" is as defined on the Cover Page of this Permit.

h) "Hazardous Materials" means, without limitation, any material or substance, whether solid, liquid, or gaseous in nature,

   a. the presence of which requires reporting, permitting, management, monitoring, investigation or remediation under any Environmental Requirement;

   b. that is or becomes defined as a "hazardous waste," "extremely hazardous waste," "restricted hazardous waste," "hazardous substance," "pollutant," "discharge," "waste," "contaminant," or "toxic contaminant" under any Environmental Requirement, or any above-ground or underground storage containers for the foregoing;

   c. that is toxic, explosive, corrosive, flammable, infectious, radioactive, reactive, carcinogenic, mutagenic, or otherwise hazardous to human health or the environment and is or becomes regulated under any Environmental Requirement;

   d. that contains gasoline, diesel fuel or other petroleum hydrocarbons or derivatives or volatile organic compounds, or is an above-ground or underground storage container for same;

e. that contains polychlorinated biphenyls (PCBs), asbestos, asbestos-containing materials or urea formaldehyde foam insulation; or

f. that contains radon gas.

i) "Hazardous Materials Occurrence" means any use, generation, treatment, keeping, storage, transport, release, disposal, migration, or discharge of any Hazardous Materials from, on, under or into the Premises or Point Reyes National Seashore ("Point Reyes") that causes any environmental contamination.

j) "Improvements or Alterations" means any construction that does not fall within the definition of Cyclic Maintenance.

k) "NPS" means the management officials in charge of the administration and operation of Point Reyes, including the Superintendent or his/her designee(s).

l) "Park" means, without limitation, all lands, waters and structures within the legislative boundaries of the Point Reyes National Seashore, all natural and cultural resources within such boundaries, and any other property within such boundaries belonging to Point Reyes. As appropriate given the context, this term also includes the visiting public and/or Point Reyes employees.

m) "Permit," means this five year instrument which contains those certain termination and revocation provisions as provided for herein.

n) "Permitted Uses" is as defined on the Cover Page of this Permit.

o) "Personal Property" means all furniture, fixtures, equipment, appliances and apparatus placed on the Premises that neither are attached to nor form a part of the Premises.

p) "Point Reyes" means Point Reyes National Seashore.

q) "Premises" is as defined on the Cover Page of this Permit.

r) "Provision" shall mean any term, agreement, covenant, condition or provision of this Permit or any combination of the foregoing.

s) "Term" is as defined on the Cover Page of this Permit.

t) "Termination Date" means the Expiration Date or such earlier date as this Permit is terminated or revoked pursuant to any Provision of this Permit.

2) <u>GENERAL CONDITIONS</u>

a) The Permittee shall exercise this privilege subject to the supervision of the Superintendent, and shall comply with all applicable laws and regulations of the area.

b) Damages - The permitted shall pay the United States for any damage resulting from this use which would not reasonably be Inherent In the use which the Permittee is authorized to make of the land described In this permit.

c) Benefit - Neither Members of, nor Delegates to Congress, or Resident Commissioners shall be admitted to any share or part of this permit or derive, either directly or indirectly any pecuniary benefits to arise therefrom: Provided, however, that nothing herein contained shall be construed to extend to any incorporated company if the permit be for the benefit of such corporation.

d) Assignment - This permit may not be transferred or assigned without the consent of the Superintendent, in

writing.

e) Revocation - This permit may be terminated upon breach of any of the conditions herein or at the discretion of the Superintendent.

f) The Permittee is prohibited from giving false information; to do so will be considered a breach of conditions and be grounds for revocation [Re: 36 CFR 2.32(a)(3)]

g) Permittee will comply with applicable public health and sanitation standards and codes.

3) USE OF PREMISES

a) Permittee intends to use the Premises for pasturing / grazing of beef cattle, the associated utilization of two barns and the incidental utilization of a residence. Permitter hereby approves this use and no changes to this designated use shall be permitted. Permittee may neither authorize nor host activities that require a National Park Service Special Use Permit, including organized events and filming activity, upon the premises without prior NPS approval and issuance of a Special Use Permit.

b) Permittee's authorized use of the premises is subject to Permittee's good faith participation in the development and implementation of a Ranch Unit Plan that includes Best Management Practices (BMP's) designed to preserve the integrity of park resources.

c) Permittee shall not engage in any activity that may be dangerous or harmful to persons, property, or the Park; that constitutes or results in waste or unreasonable annoyance (including, without limitation, signage and the use of loudspeakers or sound or light apparatus that could disturb park visitors and/or wildlife outside of the Premises); that in any manner causes or results in a nuisance; or that is of a nature that it involves a substantial hazard, such as the manufacture or use of explosives, chemicals or products that may explode.

d) Except as otherwise provided in this Permit, Permittee shall be responsible for obtaining, at its sole cost and expense, all necessary permits, approvals or other authorizations relating to Permittee's use and occupancy of the Premises.

e) The Parties hereby acknowledge and agree that Permittee's covenant that the Premises shall be used as set forth in this Section "Use of the Premises", is material consideration for Permitter's agreement to enter into this Permit. The Parties further acknowledge and agree that any violation of said covenant shall constitute a Default under this Permit.

f) Permittee's use of the land is subject to the right of the NPS to establish trails, roads and other improvements and betterments over, upon, or through said premises and further to the use by travelers and others of such established or existing trails, roads and improvements. The Permittee understands that occasional park visitors are authorized to walk or hike on the various pastures and fields included in this Permit even if no trail is formally established.

g) No use of land or waters beyond the boundaries of the Premises is authorized.

h) Operations under this permit are subject to the conditions outlined in the U.S. Fish and Wildlife Service (USFWS) Biological Opinion for Grazing at Point Reyes National Seashore and the National Oceanic and Atmospheric Administration (NOAA) Fisheries Biological Opinion on Renewal of Grazing Permits. Both of these documents are available upon the Permittee's request.

i) Permitter reserves the right for Permitter, its employees, contractors and agents to enter and to permit any Agency to enter upon the Premises for the purposes of inspection, inventory or when otherwise deemed appropriate by the Permitter for the protection of the interests of Permitter, including Permitter's interests in any natural or cultural resources located on, in or under the Premises.

j) Permitter reserves the right at any time to close to travel any of its lands, to erect and maintain gates at any point

thereon, to regulate or prevent traffic of any kind thereon, to prescribe the methods of use thereof, and to maintain complete dominion over the same; provided, however, that at all times during the Term, Permitter shall provide Permittee and Permittee's invitees with reasonable access to the Premises subject only to interruptions caused by necessary maintenance or administrative operations or by matters beyond Permitter's control.

k) Permittee hereby waives any claim for damages for any injury, inconvenience to or interference with Permittee's use and occupancy of the Premises, any loss of occupancy or quiet enjoyment of the Premises, or any other loss occasioned by Permitter's exercise of its rights under this Article 3 except to the extent that the damages, expenses, claims or suits result from the willful misconduct or gross negligence of Permitter, its employees, contractors or agents; provided, further, that Permitter shall be liable only to the extent such claims are allowed under the Federal Tort Claims Act.

4) ACCEPTANCE OF THE PREMISES

a) Prior to entering into this Permit, Permittee has made a thorough, independent examination of the Premises and all matters relevant to Permittee's decision to enter into this Permit, and Permittee is thoroughly familiar with all aspects of the Premises and is satisfied that they are in an acceptable condition and meet Permittee's needs.

b) Permittee expressly agrees to use and occupy the Premises and all improvements thereon in their existing "AS IS" condition "WITH ALL FAULTS" and acknowledges that in entering into this Permit, Permittee does not rely on, and Permitter does not make, any express or implied representations or warranties as to any matters including, without limitation, the suitability of the soil or subsoil; any characteristics of the Premises or improvements thereon; the suitability of the Premises for the approved use; the economic feasibility of Permittee's use and occupancy of the Premises; title to the Premises; the presence of Hazardous Materials in, on, under or in the vicinity of the Premises; or any other matter. Permittee has satisfied itself as to such suitability and other pertinent matters by Permittee's own inquiries and tests into all matters relevant to determining whether to enter into this Permit and Permittee hereby accepts the Premises.

5) CONSTRUCTION OF IMPROVEMENTS OR ALTERATIONS

a) Permittee may only make those Improvements or Alterations to the Premises that relate to Permittee's use of the Premises as specified in Article 3, "Use of the Premises."

b) Permittee shall not undertake any Improvements or Alterations to the Premises (including installation of temporary equipment or facilities) without the prior written approval of Permitter.

c) Any Improvements or Alterations undertaken by Permittee shall be performed in a good and workmanlike manner and with materials of a quality and standard acceptable to Permitter. Permittee shall also construct, install and maintain equipment and any construction facilities on the Premises in a safe and orderly manner.

d) As a prerequisite to obtaining approval for Improvements or Alterations, Permittee, at Permittee's sole cost and expense, shall submit design plans and any other relevant data for Permitter's approval.

e) Construction of Improvements or Alterations by Permittee shall be performed in accordance with all Applicable Laws, including but not limited to general planning, building, and environmental laws and approved design plans and shall be undertaken and completed at Permittee's sole cost and expense.

f) Permittee shall, upon request, furnish Permitter with a true and correct copy of any contract, and any modification or amendment thereof, with Permittee's contractors, architects, or any other consultants, engaged in connection with this Permit.

g) Permittee shall not construct any Improvements or Alterations outside the boundaries of the Premises.

h) Permitter in its discretion is entitled to have on the Premises at any time during the construction of Improvements or Alterations an inspector or representative who shall be entitled to observe all aspects of the construction on the Premises.

i) Environmental compliance required for any project will be at Permittee's sole cost and expense and shall be subject to Permitter's review and approval.

j) As set forth in Article 19, title to any Improvements or Alterations to the Premises shall be and remain solely in the Permitter.

6) WATER RIGHTS

a) Water rights will be perfected as deemed necessary by the Permitter in Permitter's own name for water developed or used in connection with this Permit. The Permittee shall furnish Permitter such information as is necessary for the perfection of such rights, including statutory fees, and information for the management and protection of the Park. Permittee shall not perfect water rights in Permittee's own name.

7) TREATMENT OF LIVESTOCK, MANAGEMENT OF REFUSE AND CARCASSES

a) Diseased, injured, or dying animals shall be treated promptly in accordance with customary veterinary practices. Dead animals and refuse shall be promptly removed from Point Reyes National Seashore and shall be disposed of in accordance with all Applicable Laws.

b) Manure accumulating around feeding or watering stations shall be removed promptly and stored in accordance with Applicable Laws and so as not to contribute to water pollution or to create unsanitary or unsightly conditions.

c) Manure may be stored for use as fertilizer provided that such storage and use is accomplished in accordance with Applicable Laws. Manure not stored in this manner shall be disposed of outside National Park Service boundaries in accordance with Applicable Laws.

8) PESTICIDE AND HERBICIDE USE

a) Permittee shall submit a written request to Permitter prior to any proposed pesticide(s) or herbicide(s) use and shall not use any pesticide(s) or herbicide(s) until Permittee has received an express written authorization therefore. The National Park Service utilizes Integrated Pest Management ("IPM") to treat pest and vegetation problems. The goal of IPM is to use the least-toxic, effective methods of controlling pests and vegetation. Except for normal household purposes, Permittee shall not use any pesticides, including topical insecticide(s) and herbicide(s), that do not comply with the IPM program. The Permittee shall contact the NPS for assistance with a pesticide use proposal four weeks prior to the proposed application date.

b) Permittee shall manage, treat, generate, handle, store and dispose of all pesticides and herbicides in accordance with Applicable Laws, including reporting requirements.

9) HAZARDOUS MATERIALS; ENVIRONMENTAL HEALTH AND SAFETY

a) In connection with this Permit, Permittee, its officers, agents, employees and contractors, shall not use, generate, sell, treat, keep, or store any Hazardous Materials on, about, under or into the Premises or elsewhere in Point Reyes except in compliance with all Applicable Laws and as approved in writing by Permitter. However, Permittee shall not be obligated to obtain Permitter's approval to use, keep, or generate Hazardous Materials as necessary for the normal operation or maintenance of vehicles. Permittee agrees to be responsible for timely acquisition of any permit(s) required for its Hazardous Materials-related activities, and shall provide to the Permitter, upon request, inventories of all such Hazardous Materials and any supporting documentation, including but not limited to material safety data sheets, uniform waste manifest forms, and/or any other pertinent permits.

b) Permittee, its officers, agents, employees and contractors, shall not release, discharge or dispose of any Hazardous Materials from, on, about, under or into the Premises or elsewhere in Point Reyes.

c) If Permittee knows of or reasonably suspects or receives notice or other communication concerning any past, ongoing, or potential violation of Environmental Requirements in connection with the Premises or Permittee's

activities, Permittee shall immediately inform Permitter and shall provide copies of any relevant documents to Permitter. Receipt of such information and documentation shall not be deemed to create any obligation on the part of the Permitter to defend or otherwise respond to any such notification.

d) If any Hazardous Materials Occurrence is caused by, arises from, or is exacerbated by the activities authorized under this Permit or by the use of the Premises by Permittee, its officers, agents, employees or contractors, Permittee shall promptly take all actions at its sole cost and expense as are required to comply with Applicable Laws and to allow the Premises and any other affected property to be used free of any use restriction that could be imposed under Applicable Laws; provided that, except in cases of emergency, Permitter's approval of such actions shall first be obtained.

e) The Permitter shall have the right, but not the duty, at all reasonable times and, except in the case of emergency, following at least twenty-four (24) hours advance notice to Permittee, to enter and to permit any Agency, public or private utilities and other entities and persons to enter upon the Premises, as may be necessary as determined by the Permitter in its sole discretion, to conduct inspections of the Premises, including invasive tests, to determine whether Permittee is complying with all Applicable Laws and to investigate the existence of any Hazardous Materials in, on or under the Premises. The Permitter shall have the right, but not the duty, to retain independent professional consultants to enter the Premises to conduct such inspections and to review any report prepared by or for Permittee concerning such compliance. Upon Permittee's request, the Permitter will make available to Permittee copies of all final reports and written data obtained by the Permitter from such tests and investigations. Permittee shall have no claim for any injury or inconvenience to or interference with Permittee's use of the Premises or any other loss occasioned by inspections under this Section 9(e).

f) Should Permittee, its officers, agents, employees or contractors, fail to perform or observe any of the obligations or agreements pertaining to Hazardous Materials or Environmental Requirements for a period of thirty (30) days (or such longer period of time as is reasonably required) after notice, then Permitter shall have the right, but not the duty, without limitation of any other rights of Permitter under this Permit, personally or through its agents, consultants or contractors to enter the Premises and perform the same. Permittee agrees to reimburse Permitter for the costs thereof and to indemnify Permitter as provided for in this Permit.

g) Permittee shall indemnify, defend, save and hold Permitter, its employees, successors, agents and assigns, harmless from and against, and reimburse Permitter for, any and all claims, demands, damages, injuries, losses, penalties, fines, costs, liabilities, causes of action, judgments, and expenses, including without limitation, consultant fees and expert fees, that arise during or after the Term as a result of any violation of any Environmental Requirement in connection with this Permit or any Hazardous Materials Occurrence in connection with this Permit.

h) The provisions of this Article 9 shall survive any termination or revocation of this Permit. Article 17 (Insurance) of this Permit shall not limit in any way Permittee's or Permitter's obligations under this Article 9.

10) <u>FIRE PREVENTION AND SUPPRESSION</u>

a) Permittee and its employees, agents, and contractors shall, in Permittee's use and occupancy of the Premises, take all reasonable precautions to prevent forest, brush, grass, and structural fires and shall, if safety permits, assist the Permitter in extinguishing such fires on the Premises.

11) <u>EXCAVATION, SITE AND GROUND DISTURBANCE</u>

a) Except as provided in Article 14 (Tree and Vegetation Removal) and Article 16 (Range Improvements), Permittee shall not cut, remove or alter any timber or any other landscape feature; conduct any mining or drilling operations; remove any sand, gravel or similar substances from the ground or watercourse; commit waste of any kind; or in any manner change the contour or condition of the Premises without the prior written approval of the Permitter. Except in emergencies, Permittee shall submit requests to conduct such activities in writing to the Permitter not less than sixty (60) days in advance of the proposed commencement date of any such activities.

b) If approval is granted, Permittee shall abide by all the terms and conditions of the approval, including provisions

pertaining to archaeological resources.

c) No soil disturbance of any kind may occur in the vicinity of a known archeological site.

12) NONPOINT SOURCE POLLUTION AND SOIL EROSION

a) Potential sources of nonpoint source pollution associated with this Permit include soil erosion and animal waste. The Permittee shall comply with all Applicable Laws regarding nonpoint source pollution (including the protection of beneficial uses of waters as designated by the State of California). Further, Permittee's use and occupancy of the Premises shall be designed to minimize, to the greatest extent feasible, non-point source pollution within National Park Service boundaries or on adjacent lands.

b) Permittee shall be responsible for implementing, in a timely manner, water quality related Best Management Practices (BMP's) that are identified in the Ranch Unit Plan developed for this premises.

c) The Regional Water Quality Control Board (RWQCB) is in the process of identifying Waiver of Waste Discharge Requirements for nonpoint source pollution associated with grazing. If applicable, Permittee shall be responsible for meeting identified requirements in order to obtain a waiver.

13) ANIMAL UNITS

a) The average annual stocking rate of cattle on the rangelands is 300 Animal Units (for 3,600 AUM's annually). The maximum number of AU's allowed to graze at any one time is 330. Spot counts to determine the actual number of Animal Units being grazed may be conducted periodically by Permitter.

b) Permitter will monitor livestock use areas and may impose adjustments in the stocking rates or other livestock management practices to improve conditions as outlined in Exhibit B.

c) The determination of whether or not overgrazing is occurring shall be made by Permitter and Permitter's decision shall be final.

d) Permitter may, at Permitter's discretion, update and modify grazing standards and monitoring procedures during the term of this Permit. Permittee shall be notified prior to implementation of monitoring changes.

14) TREE AND VEGETATION REMOVAL

a) The Permittee shall not remove any tree(s) or vegetation unless expressly approved in writing by the Permitter. The Permittee shall provide specific plans to the Permitter for desired tree(s) and vegetation removal either during the annual meeting or in writing during the term of this Permit.

b) Prior to mowing in any pasture that is the subject of this permit, a written request must be submitted to the Park. These requests shall be directed to the Range Ecologist and/or the Special Park Uses Coordinator for NPS review and approval.

15) WILDLIFE PROTECTION

a) Wildlife is an integral part of Point Reyes National Seashore. Wildlife management practices, including removal of non-native species and the restoration of extirpated native species, are in accordance with NPS legislation, the Code of Federal Regulations, and NPS Policies (NPS Management Policies 2006).

b) The occasional damage that is caused by wildlife, to fences, ranching structures, and livestock forage, is to be expected on permitted lands.

c) Permittee should not engage in any activity that purposely causes harm or destroys any wildlife. Conversely, Permittee should not engage in any activity that purposely supports or increases populations of non-native or

invasive animal species.

d) On a case by case basis, the Permitter will evaluate incidences of depredation and choose a course of action. The nature of the course of action taken, if any, will be determined by the wildlife species, the extent and frequency of the damage and park-wide management objectives.

16) RANGE IMPROVEMENTS

a) For the purposes of this Permit, Range Improvements include, without limitation, structural range improvements to facilitate proper grazing use and land treatment to manage vegetation or reduce erosion (such as reseeding and brush burning). Permittee shall not implement any Range Improvement without the prior, express written approval of the Permitter. Permittee shall submit written requests for conducting Range Improvement not less than thirty (30) days in advance of the proposed commencement date of proposed Range Improvement.

b) Notwithstanding the foregoing, Permittee is prohibited from conducting any brush burning. If Permittee believes that brush burning is necessary, Permittee shall submit a request therefore to Permitter and Permitter shall determine in its sole discretion whether to perform the requested brush burning.

17) INSURANCE

a) Permittee shall purchase the types and amounts of insurance described herein before the Commencement Date of this Permit unless otherwise specified. At the time such insurance coverage is purchased, Permittee shall provide Permitter with a statement of Permittee insurance describing the insurance coverage in effect and a Certificate of Insurance covering each policy in effect as evidence of compliance with this Permit.

b) Permittee shall also provide the Permitter thirty (30) days advance written notice of any material change in the Permittee's insurance program hereunder.

c) Permitter shall not be responsible for any omissions or inadequacies in insurance coverage or amounts in the event such coverage or amounts prove to be inadequate or otherwise insufficient for any reason whatsoever.

d) From time to time, as conditions in the insurance industry warrant, the Permitter reserves the right to revise the minimum insurance limits required in this Permit.

e) All insurance policies required by this Permit shall specify that the insurance company shall have no right of subrogation against the United States or its employees, or shall provide that the United States is named as an additional insured.

f) All insurance policies required herein shall contain a loss payable clause approved by the Permitter which requires insurance proceeds to be paid directly to the Permittee without requiring endorsement by the United States. Insurance proceeds covering any loss of the Premises but not used to replace such losses shall be promptly paid by Permittee to Permitter. The use of insurance proceeds for the repair, restoration or replacement of the Premises shall not give any ownership interest therein to Permittee.

g) Public Liability: The Permittee shall provide Comprehensive General Liability insurance against claims arising from or in association with Permittee's use and occupancy of the Premises. Such insurance shall be in the amount commensurate with the degree of risk and the scope and size of such use and occupancy, but in any event, the limits of such insurance shall not be less than $500,000.00 per occurrence covering both bodily injury and property damage. If claims reduce available insurance below the required per occurrence limits, the Permittee shall obtain additional insurance to restore the required limits. An umbrella or excess liability policy, in addition to a Comprehensive General Liability Policy, may be used to achieve the required limits.

h) Permittee shall also obtain the following additional coverage:

i) Automobile Liability - To cover all owned, non-owned, and hired vehicles in the amount of $300,000.00.

ii) Workers' Compensation - The amount shall be in accordance with that which is required by the State of California.

iii) It is recommended that Permittee obtain renters and flood insurance in relation to the incidental use of the residence.

i) Permittee assumes full risk and responsibility for any inadequacy of insurance coverage or any failure of insurers. Except for specific provisions described in this Permit, no exclusion shall be permitted in any policy if it conflicts with any coverage required hereby. No approval by the Permitter of any insurer, or the terms or conditions of any policy, or any coverage or amount of insurance, or any deductible amount shall be construed as a representation by the Permitter of the solvency of the insurer or the sufficiency of any policy or any coverage or amount of insurance or deductible. By requiring insurance herein, the Permitter does not represent that coverage and limits will necessarily be adequate to protect Permittee, and such coverage and limits shall not be deemed as a limitation on Permittee's liability under the indemnities granted to the Permitter in this Permit. Failure of the Permitter to demand such certificate or other evidence of full compliance with these insurance requirements or failure of the Permitter to identify a deficiency from evidence that is provided shall not be construed as a waiver of Permittee's obligation to maintain such insurance.

18) INDEMNITY

a) In addition to the indemnification contained in Article 9, Permittee shall indemnify, defend, save and hold Permitter, its employees, successors, agents and assigns, harmless from and against, and reimburse Permitter for, any and all claims, demands, damages, injuries, losses, penalties, fines, costs (including consultant fees and expert fees), liabilities, causes of action, judgments and expenses and the like for any loss of business revenue or income, any loss or destruction of, or damage to, any real or personal property, including but not limited to damage by fire or other perils, or for the death of or injury to persons, of any nature whatsoever and by whomever made, which may arise out of or be incident in any way to this Permit: the use or occupancy of the Premises by Permittee or its officers, agents, employees, or contractors; the design, construction, maintenance, or condition of any Improvements or Alterations; or any accident or occurrence on the Premises or elsewhere arising out of the use or occupancy of the Premises by Permittee or its officers, agents, employees, or contractors, whether or not the same shall be occasioned by their negligence or lack of diligence. Permittee's obligations hereunder shall include, but not be limited to, the burden and expense of defending all claims, suits and administrative proceedings (with counsel reasonably approved by Permitter), even if such claims, suits or proceedings are groundless, false or fraudulent, and conducting all negotiations of any description, and paying and discharging, when and as the same become due, any and all judgments, penalties or other sums due against the United States. Such obligation to defend and indemnify shall arise at the time such claim is tendered by the Permittee to the Permitter and shall continue until discharged through performance or judicial determination.

b) Permitter agrees to cooperate, to the extent allowed by law, in the submission of claims pursuant to the Federal Tort Claims Act against the United States by third parties for personal injuries or property damage resulting from the negligent act or omission of any employee of the United States in the course of his or her employment.

c) This Article 18 shall survive any termination or revocation of this Permit. The provisions of Article 17 (Insurance) of this Permit shall not limit in any way Permittee's obligations under this Article (18).

19) PROPERTY INTEREST

a) Permit shall vest in Permittee no property interest in the premises or in the improvements thereon. Title to real property and improvements thereon, including any improvements or alterations constructed by Permittee, shall be and remain solely in Permitter. Permittee shall have no claim for any compensation or damages for the premises, the improvements thereon, or any improvements or alterations constructed by the Permittee.

b) Nothing in this Permit shall give or be deemed to give Permittee an independent right to grant easements or other rights-of-way over, under, on, or through the Premises.

a) Permitter hereby retains the sole and exclusive right to oil, gas, hydrocarbons, and other minerals (of whatsoever

character) in, on, or under the Premises.

20) RENTS, TAXES AND ASSESSMENTS

a) The annual rental rate for this Permit shall be established by Permitter in an appraisal of the Premises ("Appraisal") and such Appraisal shall be conducted in accordance with the Uniform Appraisal Standards for Federal Lands (version dated 2000).

b) The annual rent under this Permit is payable in advance on a semi-annual basis. Therefore, Permittee hereby agrees to pay fifty percent of the annual rate on or before July with the remaining fifty percent payable on or before January of each year during the Term.

c) Rents due hereunder shall be paid without assertion of any counterclaim, setoff, deduction or defense and without abatement, suspension, deferment or reduction.

d) Permittee shall pay the proper Agency, when and as the same become due and payable, all taxes, assessments, and similar charges which, at any time during the Term of this Permit, are levied or assessed against the Premises.

21) CYCLIC MAINTENANCE

a) Permittee shall perform all Cyclic Maintenance in accordance with the Provisions of this Permit and at Permittee's sole cost and expense. Permittee is responsible for the maintenance of all fences, buildings, corrals, and other improvements upon the Premises. All improvements and facilities used and occupied by Permittee shall at all times be protected and maintained in a safe, sanitary and sightly condition.

b) Specific maintenance requirements may be negotiated with Permittee each year as outlined in Article 23 (Annual Meeting). Cyclic Maintenance to be accomplished during the Term of this Permit includes, but is not limited to, the following:

i) Fences must be in good repair to ensure that cattle are confined at all times. Abandoned fences and other decrepit improvements shall be removed from the Premises and shall be disposed of outside the Park or as director by Permitter after review and approval by the NPS Historian.

ii) Residences and buildings shall be painted or stained periodically to maintain a neat and pleasing appearance. Roofs, sidings, doors and interiors shall be maintained and painted or a regular basis as needed. Exterior color choice should conform to traditional style to retain the historic pastoral scene.

iii) Permittee shall maintain the electrical system on the premises. Permittee shall repair or replace any damage to the electrical system beyond PG&E service within the Premises including electrical lines and equipment (conduits, fuses, panels, switches, etc.).

iv) Ranch service roads shall be maintained in a safe condition that does not contribute to sedimentation and erosion. No new roads or truck trails shall be established without prior written permission of the Permitter.

v) Existing water reservoirs shall be maintained in a safe and secure condition to prevent washouts and erosion. The NPS shall be notified prior to maintenance activities to determine potential effects to threatened and endangered plant and animal species. No new reservoirs shall be constructed or established without prior written approval of the Permitter.

vi) Permittee shall maintain all cattle water systems including outlying water spigots, water troughs, faucets, and stand pipes on the Premises. Permittee shall replace or repair any damage or loss of the cattle water system within the Premises.

vii) Permittee shall be responsible for removing slash buildup around fences or other facilities within the Premises so as to prevent fire and egress hazards.

viii) Permittee shall be responsible for removal of litter and trash from the Premises.

22) COMPLIANCE WITH APPLICABLE LAWS; NEPA, NHPA

a) General Compliance: As provided for in this Permit, Permittee at its sole cost and expense shall promptly comply with all Applicable Laws. Permittee shall immediately notify Permitter of any notices received by or on behalf of Permittee regarding any alleged or actual violation(s) of or non-compliance with Applicable Laws. Permittee shall, at its sole cost and expense, promptly remediate or correct any violation(s) of Applicable Laws.

b) National Environmental Policy Act and National Historic Preservation Act: In order to preserve the historic appearance of certain ranch structures, the following additional compliance may be necessary. Where activities undertaken by Permittee require the preparation of compliance documents pursuant to the National Environmental Policy Act ("NEPA") or the National Historic Preservation Act ("NHPA") ("Compliance Activity"), Permittee shall supply all necessary information to Permitter and any Agency in a timely manner. If Permitter determines that the Compliance Activity is warranted, Permitter will prepare NEPA or NHPA documents as appropriate. Permittee shall not implement any aspect of the Compliance Activity until all applicable NEPA and NHPA requirements have been met.

23) ANNUAL MEETING

a) The Parties shall meet annually during the Term of this Permit for the purposes of discussing and resolving issues of mutual concern and ensuring that Permittee is in compliance with the Provisions of this Permit. Any proposed changes or modifications to this Permit which are required in order to meet National Park Service requirements or objectives, including range management objectives, shall be discussed and negotiated at the Annual Meeting.

24) PENALTY

a) At the option of the Permitter, Permitter may, in lieu of voiding and terminating this Permit, assess a penalty of $100.00 per day for any failure by Permittee to keep and perform any of the Provisions of this Permit. In such case, Permittee shall be given notice in writing of a grace period (from one to thirty days) to remedy the situation before a penalty will be assessed. Payment of any penalty under this provision shall not excuse Permittee from curing the Default. This provision shall not be construed as preventing Permitter from issuing citations or initiating enforcement proceedings under Applicable Laws.

25) TERM

a) Prior to the Expiration Date of this Permit, this Permit, or a similar permit, will be offered to Permittee for an additional period.

b) If a subsequent permit is not entered into prior to the Expiration Date, the Provisions of this Permit regarding Permittee's obligations to surrender and vacate the Premises shall apply.

c) Notwithstanding the foregoing, Permitter shall have no obligation to offer a subsequent permit to Permittee if Permittee breaches any of the Provisions of this Permit or if Permittee terminates this Permit prior to its Expiration Date.

26) SURRENDER AND VACATE THE PREMISES, RESTORATION

a) Within 90 days of the termination date of this permit, Permittee shall surrender and vacate the premises, remove Permittee's personal property therefrom, and repair any damage resulting from such removal. Subject to the approval of the Permitter, Permittee shall also return the premises to as good order and condition (subject to ordinary wear and tear and damage that is not caused directly or indirectly by Permittee) as that existing upon the effective date.

b) All Permittee's Personal Property shall remain the property of Permittee. However, if after the Termination Date, Permittee shall fail satisfactorily to remove Permittee's Personal Property and so repair the Premises, then, at the Permitter's sole option, after notice to Permittee, Permittee's Personal Property, shall either become the property of the Permitter without compensation therefore, or the Permitter may cause it to be removed and the Premises to be repaired at the expense of Permittee, and no claim for damages against Permitter, its employees, agents or contractors shall be created or made on account of such removal or repair work.

27) LIMITATION ON EFFECT OF APPROVALS

a) All rights of Permitter to review, comment upon, approve, inspect or take any other action with respect to the use and occupancy of the Premises by Permittee, or any other matter, are expressly for the benefit of Permitter and no other party. No review, comment, approval or inspection, right or exercise of any right to perform Permitter's obligations, or similar action required or permitted by, of, or to Permitter under this Permit, or actions or omissions of Permitter's employees, contractors, or other agents, or other circumstances shall give or be deemed to give Permitter any liability, responsibility or obligation for, in connection with, or with respect to the operation of the Premises, nor shall any such approval, actions, information or circumstances relieve or be deemed to relieve Permittee of its obligations and responsibilities for the use and occupancy of the Premises as set forth in this Permit.

28) WAIVER NOT CONTINUING

a) The waiver of any Default, whether such waiver be expressed or implied, shall not be construed as a continuing waiver, or a wavier of or consent to any subsequent or prior breach of the same or any other provision of this Permit. No waiver of any Default shall affect or alter this Permit, but each and every Provision of this Permit shall continue in full force and effect with respect to any other then existing or subsequent Default.

29) LIENS

a) Permittee shall have no power to do any act or to make any contract that may create or be the foundation for any lien, mortgage or other encumbrance upon the reversion, fee interest or other estate of the Permitter or of any interest of the Permitter in the Premises. If any such lien shall at anytime be filed against the Premises or any portion thereof, Permittee shall cause the Permitter to be discharged from the lien.

30) HOLDING OVER

a) This Permit shall terminate upon the Termination Date and any holding over by Permittee after the Termination Date shall not constitute a renewal of this Permit or give Permittee any rights under this Permit or in or to the Premises.

31) NOTICES

a) Any notice or other communication required or permitted under this Permit shall be in writing and shall be delivered by hand or certified mail with return receipt requested. Notices and other communications shall be addressed as follows:

If to Permitter:

Superintendent
Point Reyes National Seashore
Point Reyes Station, CA 94956

If to Permittee:

Mery and Mike McDonald
[redacted]

32) NO PARTNERSHIP OR JOINT VENTURE

a) Permitter is not for any purpose a partner or joint venturer of Permittee in the development or operation of the Premises or in any business conducted on the Premises. Permitter shall not under any circumstances be responsible or obligated for any losses or liabilities of Permittee.

33) ANTI-DEFICIENCY ACT

a) Permittee and Permitter agree that nothing contained in this Permit shall be construed as binding Permitter to expend, in any fiscal year, any sum in excess of the appropriation made by Congress for that fiscal year in furtherance of the subject matter of this Permit, or to involve Permitter in any contract or other obligation for the future expenditure of money in excess of such appropriations.

34) COMPLIANCE WITH EQUAL OPPORTUNITY LAWS

a) Permittee agrees that in undertaking all activities pursuant to this Permit, Permittee will comply with all Applicable Laws relating to non-discrimination.

35) ENTIRE AGREEMENT AND AMENDMENT

a) This instrument, together with the exhibits hereto, all of which are incorporated in this Permit by reference, constitutes the entire agreement between Permitter and Permittee with respect to the subject matter of this Permit and supersedes all prior offers, negotiations, oral and written. This Permit may not be amended or modified in any respect whatsoever except by an instrument in writing signed by Permitter and Permittee.

36) NO PAYMENTS BY PERMITTER

a) Under no circumstances or conditions, whether now existing or hereafter arising, and whether or not beyond the present contemplation of the Parties, shall Permitter be expected or required to make any payment of any kind whatsoever with respect to the Premises or be under any obligation or liability except as expressly set forth in this Permit.

37) NO THIRD PARTY BENEFICIARIES

a) Except as expressly set forth in this Permit, this Permit shall not be deemed to confer upon any person or entity, other than the parties to this Permit as expressly set forth in this Permit, any third party beneficiary status, any right to enforce any Provision of this Permit, or any other right or interest.

38) NO PREFERENTIAL RENEWAL AND RELOCATION ASSISTANCE

a) Permittee hereby agrees that Permittee is not a concessionaire and that the provisions of law regarding National Park Service concessionaires do not apply to Permittee. No rights shall be acquired by virtue of this Permit entitling Permittee to claim benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646.

39) SEVERABILITY

a) In case any one or more of the provisions of this Permit shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Permit, and this Permit shall be construed as if such invalid, illegal or unenforceable provisions had not been contained in this Permit.

40) EXHIBITS

a) Each of the exhibits referenced in this Permit is attached hereto and incorporated herein.

41) TIME OF THE ESSENCE

a) Time is hereby expressly declared to be of the essence of this Permit and of each and every Provision of this Permit.

42) HEADINGS

a) Article, Section and Subsection headings in this Permit are for convenience only and are not to be construed as a part of this Permit or in any way limiting or amplifying the Provisions of this Permit.

43) PERMIT CONSTRUED AS A WHOLE

a) The language in all parts of this Permit shall in all cases be construed as a whole according to its fair meaning and not strictly for or against either Permitter or Permittee. The Parties acknowledge that each party and its counsel have reviewed this Permit and participated in its drafting and therefore that the rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed or applied in the interpretation of this Permit.

44) MEANING OF TERMS

a) Whenever the context so requires, the neuter gender shall include the masculine and the feminine, and the singular shall include the plural and vice versa.

45) FEDERAL LAW

a) The laws of the United States shall govern the validity, construction and effect of this Permit.

Exhibit A

Home Ranch Grazing SUP Boundary

Location Map

National Park Service
Point Reyes National Seashore
Marin County, CA

McDonald Home Ranch Grazing SUP Boundary
Murphy Home Ranch SUP Boundary

0 0.25 0.5 0.75 1 Miles

N

Plot Date: 7/7/08 S:/GIS/projects1/Range/SpecialParkUses/HomeRanchGraz.mxd

EXHIBIT B

GRAZING STANDARDS

DEFINITIONS

1) PROPER USE
   a) Proper use is a range management term defined as "the degree of livestock utilization of the current year's range forage growth which, if continued, will achieve management objectives and maintain or improve the long term productivity of the site" (RISC Report 1983).

2) RESIDUAL DRY MATTER
   a) Residual dry matter (RDM), sometimes called mulch residue, refers to the amount of forage plant material remaining on the range in the fall following spring and summer grazing. RDM consists of litter or dried plant material (either standing or on the ground) from the current season's growth. It does not include unpalatable forbs or weeds, woody plants, new green growth or dung. Research on California rangelands has shown the importance of RDM in protecting the soil from erosion, improving soil fertility, structure and infiltration rate, and in providing beneficial surface conditions for plant growth.

3) KEY AREAS
   a) A key area is approximately two (2) acres in size. It is a portion of a pasture that is selected as a monitoring point to evaluate the overall pasture conditions.

   b) Factors used in the selection of key grazing areas include:
      i) Kind and class of grazing animal
      ii) Range site(s), representative slope, conditions and trend
      iii) Grazing system used of planned
      iv) Season of use
      v) Pasture size
      vi) Location of fences and natural barriers, water supplies, salt and mineral block and feeding areas

   c) Key areas have the following characteristics:
      i) They consist of a single "range site" (a classification of land based on specific soil characteristics and potential natural plant community).
      ii) They are responsive to various management practices and reflect the results of current grazing practices.
      iii) They represent the average amount of use for the pasture.

   d) Key areas are not located where livestock congregate such as around water and feed supplement facilities and loafing areas, nor are they located in little-used portions of pasture.

   e) Ranchers will be invited to participate in the selection of key areas. Once selected, they will be identified on range maps and maps associated with Special Use Permit or Agricultural (Dairy and Beef Cattle) Use Permits.

4) MONITORING PROCEDURES
   a) Several procedures or techniques are needed to gather sufficient information to monitor both present range condition and range trend over the long term. The three indicators which will be used to evaluate range conditions and trend on National Park Service lands are residual dry matter, species composition changes, and forage productivity.

5) RESIDUAL DRY MATTER STANDARDS AND PROCEDURES

a) Proper use of the mixed perennial/annual ranges in the Point Reyes area is best evaluated by measuring the amount of residual dry matter (RDM) at the end of the summer grazing period just prior to the fall rains.

b) RDM is important in that it improves surface conditions for plant growth by providing more organic matter in the top soil and by sheltering seedlings from the desiccating effects of sun and wind. Thus it provides a favorable micro-environment for early seedling growth and extends the season in which forage is available. RDM is also important in that it provides soil protection against erosion by reducing the impact of rain splash, slowing runoff and enhancing infiltration.

c) The RDM standard recommended by the Soil Conservation Service for Point Reyes and vicinity is 1200 pounds air dry weight per acre as an average for all grazed lands regardless of slope. Using 1200 pounds as an average will allow for areas of less than that amount, which will likely occur in very rocky or shallow soils and in areas where cattle tend to concentrate. In these areas 1000 pounds per acre is the minimum acceptable amount. Any pasture which has less than 1200 pounds per acres will need other areas with more than this amount in order to attain an overall RDM measurement of 1200 pounds per acre. High impact areas described in Section C are excluded from RMP requirements.

d) RDM will be measured in two types of surveys September 1 and October 15, just prior to the fall rainy season. Intensive RDM sampling is conducted on key areas using the "Double Sampling Weight Estimation Method" for measuring RDM (Wilm et al 1944). This statistically based method has been extensively field tested and is a standard range management technique for RDM measurement. The double sampling method makes possible the monitoring of many range units during the few weeks of the year which are suitable for RDM measurement. The measured results in each key area are correlated with plant species cover data in evaluating the effects of grazing management on the range resource.

e) RDM mapping is conducted on all rangelands throughout the ranchlands. RDM is estimated over entire pastures in terms of broad classes or "zones of utilization". The zones are defined as "severe" (0-600 lb/acre); "heavy" (600-1200 lb./acre); "moderate" (1200-1800 lb./acre); and "light" (over 1800 lb./acre). The survey consists of walking through each pasture to the extent that all acreage can be viewed, and delineating the zones of field range maps in varying colors. The intensively sampled key areas are used as reference sites to aid in visual estimation of RDM zones. This method actually depicts livestock utilization patterns and identifies and quantifies overgrazed areas.

6) PLANT SPECIES COMPOSITION

a) Range condition refers to the "health" of vegetation and soil on a particular site in relation to its natural potential. It is evaluated on the basis of the kinds, proportions and amounts of plants and the soil features in a given area.

b) Line/point composition transects are one way of measuring the kinds and proportion of plants on a site. In this method, surveying tapes are laid out in a key area and individual plant species are identified and tallied at 400 random points located in relation to the tape. The resulting data is summarized in terms of the proportion of plant species present. In range management terminology this is referred to as "composition". The total percentage of plant cover, bare ground and litter is also summarized.

c) Plant composition transects are sampled in spring after seed heads have developed and grasses are readily identifiable. Transects will initially be read each year to determine if the plant community is table or changing. Changes in the proportion of desirable versus non-desirable forage species indicate whether the range condition is improving or declining in quality over a period of years. In range management terminology this is called monitoring range "trend."

7) FORAGE PRODUCTIVITY

a) Range condition and trend can also be evaluated by measuring forage productivity. Productivity can be defined as the weight, in pounds per acre, of palatable forage species. Productivity data supplements composition data by providing an index of plant vigor and an estimate of yield.

b) Forage productivity data may be used in two ways:

c) By comparing forage productivity data between pastures with similar soil characteristics, an estimate of range conditions can be obtained.

d) By comparing forage productivity data over many years (and adjusting for rainfall) a direction can be established indicating an improving or declining range trend.

8) HIGH IMPACT AREAS

a) The size and location of high impact areas allowed for each specific ranch unit shall be mutually agreed upon by the rancher and the National Park Service. Wherever possible, high impact areas will be restricted to level (less than 10% slope), well-drained areas, 200 feet from perennial streams or other bodies of water. Areas near main roads and other high visitor use zones will be avoided where possible.

b) It is recognized that a high degree of trampling and denudation of vegetation is unavoidable on these sites. Therefore, the "proper use" standards described above will not apply.

c) Examples include corrals and feedlots where livestock are confined for management purposes and permanent feeding and watering facilities.

9) MANAGEMENT PRACTICES

a) Recommendations will be developed and implemented for any pastures, which fall below the minimum standard. For example, range conditions may reflect an unusually dry winter, and an average of range conditions over several years may be used to evaluate whether or not a reduction in animal units being grazed is necessary. Additionally, improvements in range condition may be made by changes in fencing or stock water facilities to obtain better distribution of animals. Other alternatives include changing the length of time or period of grazing, changing the type and class of livestock, or transferring animals from pastures to impact areas and increasing the supplemental feed.