

ORDINANCE NO. 97-06

AN ORDINANCE CLOSING CERTAIN PORTIONS OF FREMONT COUNTY AND JEFFERSON COUNTY TO HUMAN ENTRY DURING CERTAIN SPECIFIED SEASONAL CLOSURE DATES; ALLOWING FOR CERTAIN EXCEPTIONS TO HUMAN ENTRY; PROVIDING FOR CONFLICTS WITH EXISTING ORDINANCES; AND, ESTABLISHING THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE BOARDS OF COUNTY COMMISSIONERS OF FREMONT AND JEFFERSON COUNTY, AS FOLLOWS:

1. Closure. All lands and roadways within the boundaries of identified on the attached Map, which is attached hereto and made a part hereof, are hereby closed to any and all human entry during the below prescribed seasonal periods, except as otherwise provided in Section 2, below:

A. All lands and roadways within the boundaries identified on the attached map which are North of the Egin-Hamer Road are closed to human entry from January 1 through April 30;

B. All lands and roadways within the boundaries identified on the attached map which are South of the Egin-Hamer Road are closed to human entry from January 1 through March 31;

C. The Taylor Well Road within the boundaries identified on the attached map is closed to human entry from January 1 through April 30.

2. Exceptions. The following exceptions to the closures set out above are hereby recognized:

A. All those persons with specific authorization from the counties; all those persons participating in emergency or search and rescue operations, and all those persons participating in necessary agency administration;

B. The Red Road shall remain legally open to motorized vehicles until snow conditions physically preclude normal vehicle traffic, and is thereafter open to snow machines traffic;

C. Lands administered by the BLM shall be open to grazing permittees authorized to graze on those lands while caring for and otherwise controlling their livestock, or while maintaining existing range improvement structures necessary for livestock control.

D. Private lands shall be opened to the owners or their agents who are on those lands while caring for and otherwise

controlling their livestock, or while maintaining existing range improvement structures necessary for livestock control.

E. The Egin-Hamer Road shall be open year round, unless closed pursuant to agreement with the BLM.

3. Conflict of Laws. This ordinance shall supplant and take the place of prior Fremont County Ordinance No. 87-3, and Jefferson County Ordinance No. 35. However, in the event the Egin-Hamer Road is closed at any time in the future pursuant to agreement with the BLM, said Fremont County Ordinance No. 87-3 and Jefferson County Ordinance No. 35 shall be reinstated in their entirety.

4. Effective Date. This ordinance shall be in full force and effect, from and after its passage and publication, all as provided by law.

PASSED THIS 22 DAY OF December, 1997, BY THE BOARD OF COUNTY COMMISSIONERS OF FREMONT COUNTY, IDAHO.

PASSED THIS _____ DAY OF _____, 1997, BY THE BOARD OF COUNTY COMMISSIONERS OF JEFFERSON COUNTY, IDAHO.

BOARD OF COUNTY COMMISSIONERS OF FREMONT COUNTY, IDAHO

BOARD OF COUNTY COMMISSIONERS OF JEFFERSON COUNTY, IDAHO

Grant Chandler
GRANT CHANDLER, CHAIRMAN

PAUL WALKER, CHAIRMAN

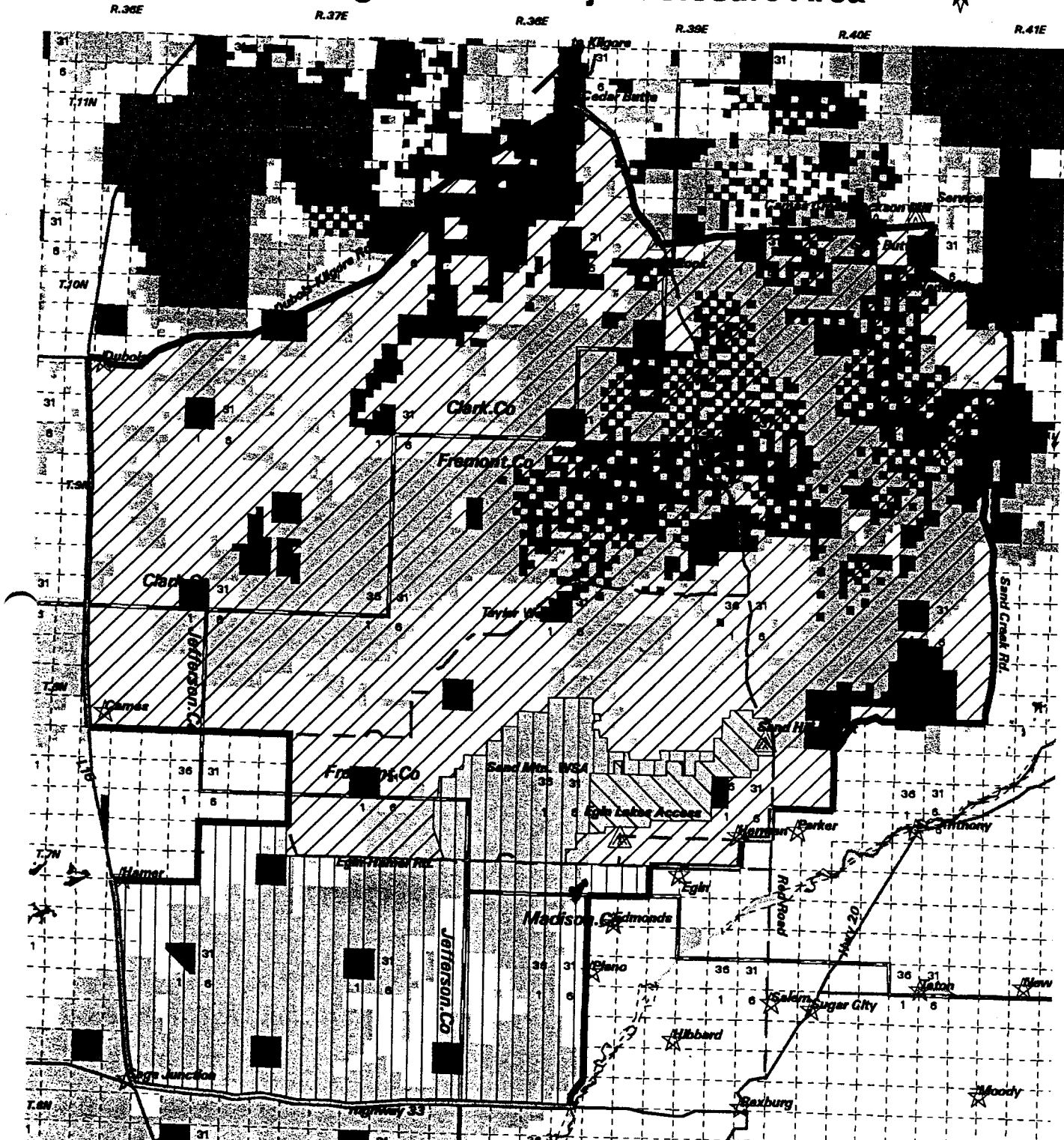
ATTEST:

ATTEST:

Mickie Funke
MICKIE FUNKE, CLERK

CONNIE KELLER, CLERK

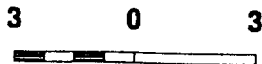
Egin-Hamer Project Closure Area



PRODUCED BY THE BLM SAND HILLS DISTRICT
 Projection Universal Transverse Mercator
 Zone 12, 5027 North American datum.

Scale 1:300,000

Note: Private lands within Clark and Madison Counties are exempt from restrictions



12/09/97

Legend

- Private
- BLM
- USFS
- State
- County Boundaries
- Highways
- Secondary Roads

Closure Dates

- Open Year Round
- Closed Jan 01 - April 30
- Closed Jan 01 - March 31

IDI-22460 &
IDI-22461
Exhibit B
December 16, 1997
Four Pages

TERMS, CONDITIONS, AND STIPULATIONS
OF AMENDED RIGHT-OF-WAY GRANT

The holders, by accepting this amended right-of-way grant, agree and consent to comply with and be bound by the following terms, conditions, and stipulations:

1. Fremont County and Jefferson County shall promulgate seasonal "no-human-entry" closure ordinances, acceptable to the BLM authorized officer, applicable to private and county land located within the project closure area as set forth below:

--Lands shown on the attached Exhibit A by forward slashing (///), shall be closed annually from January 1 to April 30.

--Lands shown on the attached Exhibit A by vertical lines (III), shall be closed annually from January 1 to March 31.

NOTE:

-- The portion of the active sand dunes, as shown on the attached Exhibit A by back-slashing (\\), is open year-round. Access to the dunes is permissible only from the BLM Egin Lakes Access and the Sand Hills Resort area off of the Red Road.

--Activities of authorized grazing operators are allowed on lands within the project closure area while moving and caring for livestock or maintaining existing range improvements needed for livestock control.

--Emergency personnel and private landowners, when authorized by Fremont County or Jefferson County to be on their private lands within the project closure area, may ingress or egress across public (BLM-administered) lands as long as such crossing of the public lands is essential.

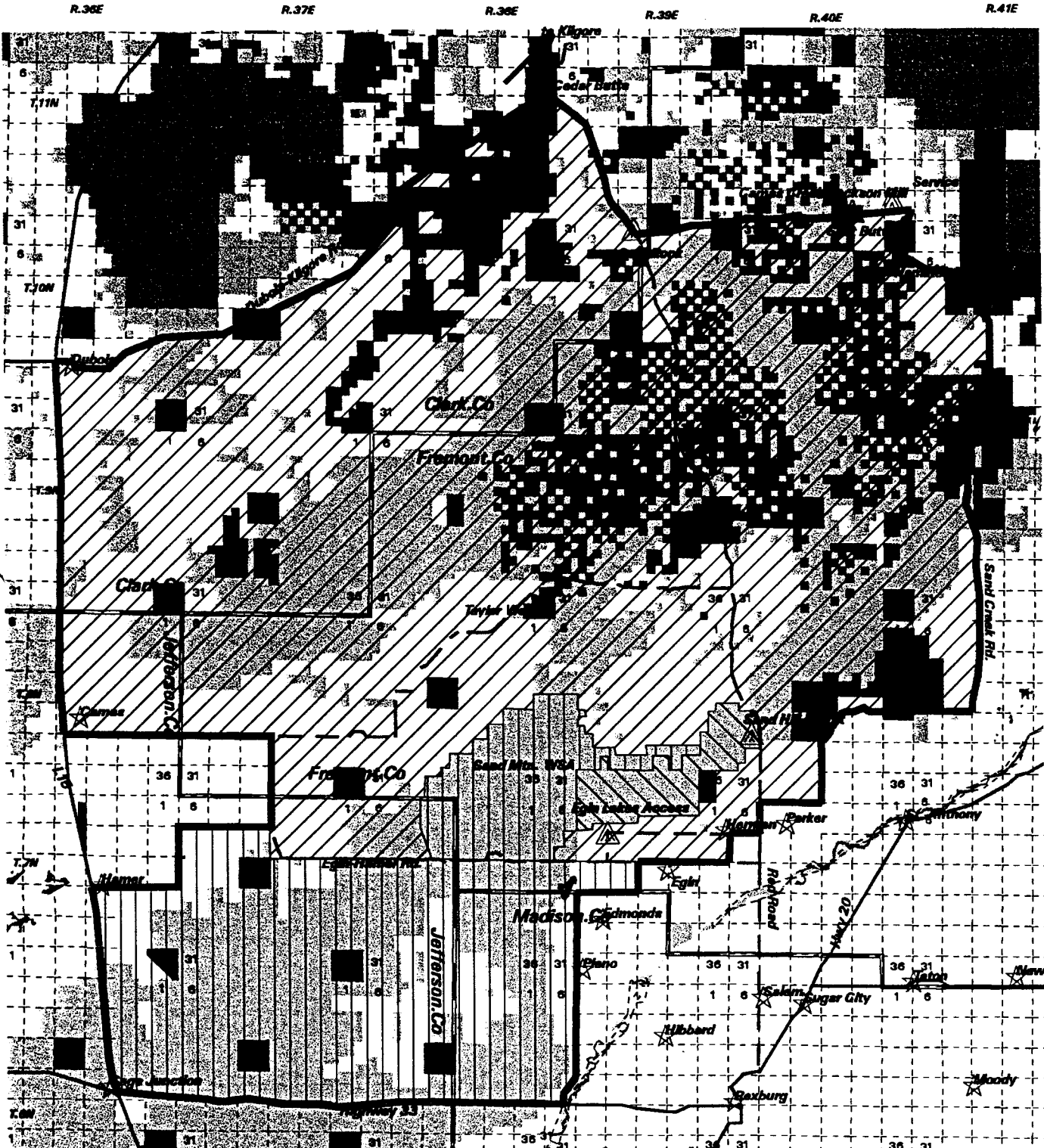
2. The holders shall enforce their respective county ordinances as appropriate.
3. The completed Egin-Hamer Road shall not be improved beyond a gravel surface.
4. The holders shall be responsible for weed control on disturbed areas within the limits of the right-of-way. The holders are responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations).
5. The holders shall conduct all activities associated with the construction, operation, and termination of the right-of-way within the authorized limits of the right-of-way. Any need to use public land outside the limits of the right-of-way shall require additional approval from the BLM authorized officer.

6. The holders shall comply with all applicable Federal, State and local laws and regulations, existing or hereafter enacted or promulgated, with regard to any hazardous materials, as defined in this paragraph, that will be used, produced, transported or stored on or within the R/W or any of the R/W facilities, or used in the construction, operation, maintenance or termination of the R/W or any of its facilities. "Hazardous material" means any substance, pollutant or contaminant that is listed as hazardous under the CERCLA of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations. The definition of hazardous substances under CERCLA includes any "hazardous waste" as defined in the RCRA of 1976, as amended, 42 U.S.C. 6901 et seq. and its regulations. The term hazardous materials also includes any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U. S. C. 2011 et seq. The term does not include petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA section 101(14), 42 U.S.C. 9601(14), nor does the term include natural gas.
7. The holders of right-of-way No. IDI-22460 & IDI-22461 agree to indemnify the United States against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601, et seq. or the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901 et seq.) on the right-of-way (unless the release or threatened release is wholly unrelated to the right-of-way holder's activity on the right-of-way.) This agreement applies without regard to whether a release is caused by the holders, its agent, or unrelated third parties.
8. The holders shall promptly remove and dispose of all waste caused or generated by holders' activities. The term "waste" as used herein means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, petroleum products, ashes, and equipment. Wastes shall be disposed of in an approved landfill or in a site and manner approved by the BLM authorized officer.
9. The holders shall notify the BLM authorized officer prior to commencement of any emergency maintenance outside the right-of-way to discuss repair and construction activities.
10. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holders, or any person working on their behalf, on public or Federal land shall be immediately reported to the authorized officer. Holders shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holders will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holders.
11. Ninety days prior to termination of the right-of-way, the holders shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holders' commencement of any termination activities.

EMERGENCY ROAD CLOSURE STIPULATIONS

12. In the event the BLM, in consultation with the Idaho Department of Fish & Game, determines that the conditions of the following threshold criteria have been reached (Criteria (1) and (3) and/or Criteria (2) and (3)), Fremont County and Jefferson County will take action to close the Egin-Hamer road within 12 hours of notification by the BLM. The road will remain closed through April 30 unless further notified by the BLM that elk-threatening conditions have abated and the road may once again be reopened. The threshold criteria are:
- (1). Total accumulated snow depth as recorded at the Hamer Weather Station anytime during January through March reaches 80 percent of the all-time deepest accumulation recorded for that month at the weather station.
 - (2). The ambient daily air temperature as recorded at the Hamer Weather Station anytime during January through March does not exceed 10 degrees Fahrenheit for a period of 5 consecutive days or 7 out of 10 consecutive days.
 - (3). The Idaho Dept. of Fish & Game or the BLM determines that approximately 200 or more head of elk are residing indefinitely on or within 1 mile either side of the Egin-Hamer Road.
13. Upon notification from the BLM that the Egin-Hamer Road is to be closed, Fremont County shall take action to re-implement the applicable language of Fremont County Ordinance No. 87-3 and Jefferson County shall take action to re-implement the applicable language of Jefferson County Ordinance No. 35.
14. Upon notification that the Egin-Hamer Road is to be closed, Fremont County and Jefferson County shall immediately comply with the following additional stipulations:
- A. Barriers will be installed, one at the east end of the Egin-Hamer Road and one at the west end of the Egin-Hamer Road, to block motor vehicle traffic.
 - The barriers will be a combination of metal gates, fences, earth, and rock.
 - The barriers will be maintained in a functional condition.
 - B. Signs will be placed on the metal gates at each end of the Egin-Hamer Road during periods of road closure.
 - The signs will be metal and a minimum of 2' X 4' in size.
 - Fremont County will maintain the signs at the East end of the Egin-Hamer Road and Jefferson County will maintain the signs at the west end of the Egin-Hamer Road. If damaged, the signs will be immediately repaired or replaced.
 - C. Cattleguards will be maintained by the respective counties at all livestock control fences.

Egin-Hamer Project Closure Area



PRODUCED BY THE U.S. BUREAU OF LAND MANAGEMENT
 Preparation Worksheet: Bureau of Land Management
 Date: 12, 1997 North American Datum
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Scale 1:300,000

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Closure Dates

- Open Year Round
- Closed Jan 01 - April 30
- Closed Jan 01 - March 31

The undersigned agrees to the terms and conditions of this amended right-of-way grant.

Grant Chandler
Chairman, Fremont County Commissioners

12-22-97
Date

Chairman, Jefferson County Commissioners

Date

Area Manager,
Medicine Lodge Resource Area

Date