



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Ely District Office

HC33 Box 150

Ely, Nevada 89301-9408



IN REPLY REFER TO:

4130 (NV-047)

APR 13 1992

Dan Russell
P. O. Box 343
Eureka, NV 89316

CERTIFIED MAIL NO. P 859 676 858
Return Receipt Requested

Pete Paris
Jiggs Waysack
Elko, NV 89801

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NOTICE OF FINAL MULTIPLE USE DECISION
FOR THE NEWARK ALLOTMENT

BACKGROUND INFORMATION:

The Resource Management Plan/Environmental Impact Statement and Record of Decision for the Egan Resource Area were issued in September, 1984 and February, 1987, respectively. The Egan Rangeland Program Summary was issued in May of 1988. These documents guide the management of public lands within the Newark Allotment. The Egan Resource Area Record of Decision, dated February 1987, states in pertinent part:

"Monitoring studies will be used to determine if adjustments in livestock numbers are necessary...All vegetation will be managed for those successional stages which would best meet the objective of this Final plan..." (short term objectives) "Future adjustments in livestock use will be based on data provided through the rangeland monitoring program." (long term objective)

"Implementation [of the range management program] will take place through coordination, consultation, and cooperation. Coordinated resource management and planning is an advisory process that brings together all interests concerned with the management of resources in a given local area (landowners, land management agencies, wildlife groups, wild horse groups, and conservation organizations) and is the recommended public process through which consultation and coordination will take place. Grazing adjustments, if required, will be based upon a combination of reliable vegetation monitoring studies, consultation and coordination, and inventory.

Range management actions for livestock use and wild horse numbers will be based upon data obtained through the monitoring program and will consider recommendations made through the coordinated resource management and planning process. Actions could include,

but will not be limited to, change in seasons-of-use, change in livestock numbers, correction of livestock distribution problems, alteration of the number of wild horses, development of range improvements, and taking site-specific measures to achieve improvements in wildlife habitat."

Monitoring studies were initially established in 1977 and have been conducted periodically since that time. In accordance with Bureau policy and regulations, this data has been analyzed and evaluated in order to determine progress in meeting management objectives for the Newark Allotment. Input was received from the permittee, the state wildlife agency, and the N-4 grazing board, via a range consulting firm. See Appendix 1 for the land use plan objectives covering livestock, wild horses, and wildlife. These objectives are in conformance with and formulated to accomplish the Egan Resource Management Plan multiple use objectives as they relate to all grazing use on the Newark Allotment.

A Proposed Multiple Use Decision for the Newark Allotment was issued on January 21, 1992. This Proposed Decision was protested by the Nevada Department of Wildlife (NDOW) on February 6, 1992. No other protests were received. The protest points revolved around NDOW's contention that the reductions and additional management proposed would not adequately resolve resource conflicts. The protest points were included in a comment letter to the evaluation summary dated August 28, 1991, and were discussed at a meeting between BLM, NDOW, and representatives of the permittee on December 5, 1991. NDOW's protest does not provide any additional information, therefore, the Final Decision will be unchanged from the Proposed Decision.

BASED ON THE EVALUATION OF MONITORING DATA FOR THE NEWARK ALLOTMENT, RECOMMENDATIONS FROM DISTRICT STAFF, AND INPUT RECEIVED THROUGH CONSULTATION, COORDINATION, AND COOPERATION FROM THE PERMITTEE AND PUBLIC INTEREST GROUPS, THE FINAL DECISION IS AS FOLLOWS:

The analysis of monitoring data has revealed that the multiple use objectives for the Newark Allotment are not being met due to the existing grazing use by livestock and wild horses. This analysis also shows that the existing management of wildlife does not contribute to the failure in meeting these multiple use objectives. Therefore, this decision proposes changes in livestock and wild horse use and not to wildlife use. This decision also establishes the appropriate management level for wild horses for that portion of the Buck and Bald Herd Management Area (HMA) and the Monte Cristo HMA within the Newark Allotment.

LIVESTOCK MANAGEMENT DECISION

In accordance with 43 CFR 4110.3, 4110.3-2(b), and 4130.6-1(a) and (b), the existing authorized livestock active use shall be changed, in three increments over 5 years. Total active preference for livestock on the Newark Allotment for Dan Russell would be a total of 9271 AUMs, with 5170 AUMs for cattle and 4101 AUMs for sheep, licensed separately for the six use areas (Appendix 2). The North Pancake Allotment will be disbanded, adding 648 sheep AUMs for Paris Livestock to specific use areas in the existing Newark Allotment. Changes in preference will be phased in over 5 years, in roughly equal increments as follows, with AUMs removed from active use to be held in suspension:

From (Existing permits): *
Dan Russell: Newark (0608)

Number	Kind	Period of Use	%PL	AUMs	
				Active	Susp
720	Cattle	03/01 - 05/20	100	1917	0
200	Cattle	05/21 - 06/15	100	171	0
50	Cattle	06/16 - 10/31	100	227	0
950	Cattle	11/01 - 02/28	100	3748	0
130	Cattle	03/01 - 02/28	100	1560	0
5530	Sheep	04/01 - 05/31	100	2218	0
6400	Sheep	11/01 - 12/31	100	2567	0

* Permit schedules were not exact. Total active preference for Dan Russell (existing permit) is 7620 AUMs cattle, 4784 AUMs sheep, 12,404 AUMs total.

Paris Livestock: North Pancake (0612)

Number	Kind	Period of Use	%PL	AUMs	
				Active	Suspended
6600	Sheep	05/03 - 05/09	100	324	0
6600	Sheep	11/19 - 11/25	100	324	0

To:

Dan Russell: Newark (0608)

Cattle preference (AUMs):

Use Area	Year 1	Year 3	Year 5
18 Mile House	1248	999	750
Newark Winter	3904	3528	3152
South Newark	0	0	0
North Diamonds	782	782	782
South Diamonds	245	245	245
Pinto Creek Seeding	241	241	241
Total Active	6420*	5795	5170
Total Suspended	634*	1259	1884

Sheep preference (AUMs):

<u>Use Area</u>	<u>Year 1</u>	<u>Year 1</u>	<u>Year 3</u>	<u>Year 5</u>
18 Mile House		783	627	471
Newark Winter		2453	2217	1981
South Newark		849	849	849
North Diamonds		545	545	545
South Diamonds		255	255	255
Total Active		4885*	4493	4101
Total Suspended		465*	857	1249

* Cattle preference of 566 AUMs for S. Newark Use Area transferred to sheep use Year 1. Total preference (active +suspended) 7054 AUMs cattle, 5350 AUMs sheep, 12404 total.

In accordance with 43 CFR 4130.6-2, the following terms and conditions will be included in the Russell grazing permit for the Newark Allotment:

1. Sheep will not be trailed or bedded in winterfat bottoms.
2. Sheep camps will be placed a minimum of 1/2 mile from winterfat bottoms.
3. Full use of sheep AUMs will be dependant on water hauling and/or availability of snow.
4. Livestock use on the 18 Mile House, Newark Winter, and South Newark Use areas will be limited to the winter use period, 11/1 to 4/30. Black Shale, Beck Pass, and Silverado Point Wells will not be pumped, except as an emergency measure or to provide water for trailed sheep and only on a very short term basis.
5. In the North Diamonds Use Area, 597 cattle AUMs are attached to the Diamond Bench and Newark Burn with a spring (4/1-5/15) season of use, and 185 AUMs for summer use in the Diamonds, 5/16-10/31. This summer use would be licensed to cover trailing and drift to and from the Battle Mountain District, on the west side of the Diamonds. Water Canyon and Mining Canyon/Tollhouse Canyon will be used in alternate years for cattle trailing. Sheep use in this area would be spring/summer/fall, to be used in the higher country in the Diamond Range.
6. In the South Diamonds Use Area, cattle AUMs will be licensed for trailing in Tollhouse Canyon, and spring/summer use in the vicinity of Pinto Creek Ranch. Sheep AUMs will be limited to those areas not utilized by cattle, primarily the steeper portions of the Diamonds.

7. In the Pinto Creek Seeding, the north and middle pastures will be rested for two growing seasons before cattle grazing use is allowed. Fall use may be allowed at the end of the second season. Prior to implementation of the grazing system, the south pasture would be available for either spring or fall use, but not both. After two growing seasons of rest, the deferred rotation system will be implemented as outlined below:

Pasture	Cattle AUMs	Year 1	Year 2	Year 3
		Schedule	Schedule	Schedule
North	64	9/10-10/31	6/21-8/13	4/16-6/7
Middle	80	7/5-9/9	4/16-6/20	8/26-10/31
South	97	4/16-7/4	8/14-10/31	6/8-8/25

8. To protect riparian values and Newark Valley Tui Chub habitat, the fenced springs at T 20 N, R 55 E, sec. 22 SE will be rested for at least two growing seasons, to be grazed seasonally at the discretion of the Authorized Officer. The public portion of the spring complex at T 21 N, R 55 E, sec. 34 NE will be considered for protection fencing.

Paris Livestock: Newark (0608)

Number*	Kind	Period of Use	%Federal	Active	AUMs	
					Susp	
1642	Sheep	04/01 - 04/30	100	324	0	
1642	Sheep	11/01 - 11/30	100	324	0	

*Flexibility in sheep numbers will be allowed up to a maximum of 6600 head, not to exceed the maximum preference. Flexibility in period of use will be allowed from 3/1 to 4/30 and 10/1 to 12/31.

In accordance with 43 CFR 4130.6-2, the following terms and conditions will be included in the Paris grazing permit for the Newark Allotment:

1. Use is authorized from Beck Pass west to Barrel Springs, south along the Barrel Springs Road to Highway 50, and east to the Newark allotment boundary. The east face of the Pancake Range, east of Sulphur Springs, is also authorized (see map, Appendix 3).
2. Sheep are not to be held in the winterfat bottom south of Carter (Smith) well.

RATIONALE:

The desired stocking level on the seedings is based on 65% desired utilization, with spring/summer/fall use in a deferred-rotation system. The seedings have been drastically overused, with subsequent invasion by sagebrush and reduced grass vigor. In order to improve crested wheatgrass plant vigor, some rest must be provided. Stocking rates for native pastures use 50% utilization on perennial grasses and winterfat as allowable use. These calculations result from actual use and measured utilization data, and indicate that reductions on the Newark Winter, 18 Mile House, and Pinto Creek Seeding Use Areas are necessary to meet the desired utilization level. Season-of-use limitations and permit stipulations are indicated to improve riparian conditions.

In accordance with 43 CFR 4130.6-2, herding of sheep is required when they are authorized on the allotment.

Future re-evaluations in the third and fifth years will consider existing and future monitoring data to determine if adjustments or additional modifications in management will be necessary.

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

4100.0-8: "The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b)."

4110.3: "The authorized officer shall periodically review the grazing preference specified in a grazing permit or grazing lease and may make changes in the grazing preference status. These changes shall be supported by monitoring, as evidenced by rangeland studies conducted over time, unless the change is either specified in an applicable land use plan or necessary to manage, maintain or improve rangeland productivity."

4110.3-2(b): "When monitoring shows active use is causing an unacceptable level or pattern of utilization or exceeds the livestock carrying capacity as determined through monitoring, the authorized officer shall reduce active use if necessary to maintain or improve rangeland productivity..."

4110.3-2(c): "Where active use is reduced it shall be held in suspension..."

4110.3-3(a): "Changes in active use in excess of 10 percent shall be implemented over a 5-year period..."

4110.3-3(b): "After consultation, coordination and cooperation, suspensions of preference shall be implemented through a documented agreement or by decision. If data acceptable to the authorized officer are available, an initial reduction shall be taken on the effective date of the agreement or decision and the balance taken in the third and fifth years following the effective date..."

4120.3-1(c): "The authorized officer may require a permittee or lessee to maintain and/or modify range improvements on the public lands under 4130.6-2 of this title."

4130.6: "Livestock grazing permits and leases shall contain terms and conditions necessary to achieve the management objectives for the public lands and other lands under Bureau of Land Management administration."

4130.6-1(a): "The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock carrying capacity as determined through monitoring and adjusted as necessary under 4110.3, 4110.3-1 and 4110.3-2."

4130.6-2: "The authorized officer may specify in grazing permits or leases other terms and conditions which will assist in achieving management objectives, provide for proper range management or assist in the orderly administration of the public rangelands..."

APPEAL:

If you wish to appeal the livestock portion of this decision for the purpose of a hearing before an Administrative Law Judge, in accordance with 43CFR 4.470, you are allowed thirty (30) days from receipt of this notice within which to file an appeal with the Egan Resource Area Manager, HC 33 Box 33500, Ely, Nevada 89301-9408. The appeal should state the reasons, clearly and concisely, why you think the final decision is in error.

WILD HORSE AND BURRO MANAGEMENT DECISION

It has been determined through monitoring that a thriving natural ecological balance will be obtained by maintaining wild horse use at the following levels:

<u>Use Area</u>	<u>Herd Mgt Area</u>	<u># Animals</u>	<u>AUMs</u>
18 Mile House	Monte Cristo	15	180
Newark Winter	Buck and Bald	51	612
South Newark	Monte Cristo	6	72
Total		72	864

The setting of wild horse numbers by allotment will eventually provide for an overall Herd Management Area (HMA) wild horse AML, and gathers within allotments will not allow total wild horse numbers to fall below the total HMA appropriate management level.

In accordance with 43 CFR 4700.0-6(a), wild horse use on the Newark Allotment shall be managed at 72 animals yearlong, 51 animals in the Buck and Bald Herd Management Area (HMA) and 21 animals in the Monte Cristo HMA.

In accordance with 43 CFR 4720.1, in the future, all wild horses in excess of the appropriate management levels of 51 and 21 animals will be removed.

In accordance with 43 CFR 4710.4, wild horses will be removed from the Diamond Mountains horse-free area.

Adjustments in wild horse numbers will be made by future Buck and Bald HMA and Monte Cristo HMA gathers based on continued monitoring, in order to achieve and maintain the established AML.

RATIONALE: The analysis and evaluation of available monitoring data indicates that reduction in wild horse numbers in the Buck and Bald and Monte Cristo HMA's, and the removal of wild horses from the Diamond horse-free area is necessary to establish and maintain a thriving natural ecological balance and to limit the animals' distribution to existing herd areas.

AUTHORITY: The authority for this decision is contained in Sec. 3(a) and (b) of the Wild-Free-Roaming Horse and Burro Act (P.L. 92-195) as amended and in Title 43 of the Code of Federal Regulations, which states in pertinent parts:

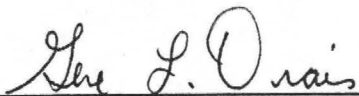
4700.0-6(a): "Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat."

4710.4: "Management of wild horses and burros shall be undertaken with the objective of limiting the animals distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans."

4720.1: "Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animals immediately..."

APPEAL:

Within 30 days of receipt of this decision, you have the right to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.400. If an appeal is taken, you must follow the procedures outlined in the enclosed Form 1842-1, Information on Taking Appeals to the Board of Land Appeals. Within 30 days after you appeal, you are required to provide a Statement of Reasons to the Board of Land Appeals and a copy to the Regional Solicitor's office listed in Item 3 on the form. In addition, please provide this office with a copy of your Statement of Reasons. The appellant has the burden of showing that the decision appealed from is in error.



Gene L. Drais, Manager
Egan Resource Area

	(Certified Mail #)
cc: Nevada Department of Wildlife, Reg. II	(#P 859 676 860)
U.S. Fish and Wildlife Service	(#P 859 676 861)
N-4 Grazing Board	(#P 859 676 862)
Resource Concepts Inc.	(#P 859 676 863)
International Society for the Protection of Mustangs and Burros	(#P 859 676 864)
Commission for the Preservation of Wild Horses	(#P 859 676 865)
Animal Protection Institute	(#P 859 676 866)
Natural Resources Defense Council	(#P 859 676 867)
Wilderness Society	(#P 859 676 868)
Farm Bureau	(#P 859 676 869)
Wild Horse Organized Assistance	(#P 859 676 870)

APPENDIX 1: Land Use Plan/Rangeland Program Summary Objectives

1. Land Use Plan (RMP) Objectives

- (a) Rangeland Management - All vegetation will be managed for those successional stages which would best meet the objective of this Proposed plan. (Egan Resource Area Record of Decision, p. 3)
- (b) Wild Horses - Wild horses will be managed at a total of 700 animals within the Buck and Bald HMA (Egan ROD, p. 6)*
 - Wild horses will be managed at a total of 96 animals within the Monte Cristo HMA. (Egan ROD, p. 6)*
 - Future adjustments in wild horse numbers will be based on data provided through the rangeland monitoring program. (Egan ROD, p. 8)
- (c) Wildlife - Habitat will be managed for "reasonable numbers" of wildlife species as determined by NDOW. (Egan ROD, p. 6)
 - Forage will be provided for "reasonable numbers" of big game as determined by NDOW. (Egan ROD, p. 8)
- (d) Watershed - Establish utilization limits to maintain watershed cover, plant vigor and soil fertility in consideration of plant phenology, physiology, terrain, water availability, wildlife needs, grazing system and aesthetic values. (Egan ROD, p. 44)

2. Rangeland Program Summary Objectives

- (a) Provide for up to 6890 AUM's of livestock use.
- (b) Maintain or improve ecological condition of native range with utilization levels not to exceed Nevada Rangeland Monitoring Handbook (NRMH) recommended allowable use levels. Allowable use levels for winterfat and perennial grass species is 50%.
- (c) Improve cover/density of crested wheatgrass in Pinto Seeding.
- (d) Maintain or improve mule deer yearlong habitat to good or better condition by not exceeding utilization levels on native species as recommended in the NRMH. Manage rangeland habitat and forage condition to support 1123 AUMs for mule deer.
- (e) Manage rangeland habitat and forage condition to support 139 AUM's for pronghorn antelope, with potential augmentation.

- (f) Protect sage grouse breeding complexes by maintaining the big sagebrush sites within 2 miles of active strutting grounds for mid to late seral stage with a minimum of 30% shrub composition by weight.
- (g) Protect ferruginous hawk nest sites by limiting utilization to 50% on winterfat flats within 2 miles of nest sites.
- (h) Manage rangeland habitat to support wild horses as part of the Buck and Bald and Monte Cristo HMAs by not exceeding allowable use levels on native species as recommended in the NRMH. Initially, provide for 90 horses (84 in Buck and Bald HMA, 6 in Monte Cristo HMA). *
- (i) Maintain habitat condition of meadows and riparian areas in good or better condition for mule deer and upland game by not exceeding utilization levels on perennial grasses (55%) and shrubs (45%) along streams and mesic meadows.
- (j) Improve 3.5 miles of stream riparian habitat from poor/fair to good or better condition.

* - The horse use yearlong identified in the RPS and ROD is no longer a valid AML. The Interior Board of Land Appeals June 7, 1989 decision (IBLA 88-591, 88-638, 88-648, 88-679) ruled in part: "an AML established purely for administrative reasons because it was the level of wild horse use at a particular point in time cannot be justified under the statute" (Dahl vs. Clark, Supra at 595). The IBLA further ruled that AML must be established through monitoring "in terms of the optimum number which results in a thriving natural ecological balance and avoids deterioration of the range."

3. Buck, Bald, Maverick, and Diamond Mountains Habitat Management Plan (HMP) - specific objectives which apply to Newark.

- (a) Limit utilization of bitterbrush and other browse species to 25% of current year's growth by September 30, to ensure adequate forage availability for wintering mule deer, at the following key location: Rock Springs - T21N, R56E
- (b) Limit utilization levels to 55% of current annual growth on perennial grasses and grasslike species along stream riparian areas and mesic meadows by November 1 at the following key locations:

Robinson Springs	T20N, R55E, sec. 5
Mau Creek	T21N, R55E, sec. 31
Rock Spring	T21N, R56E, sec. 36
Pinto Creek	T19N, R55E, sec. 35,36
Sadler Canyon	T20N, R55E, sec. 33
Water Canyon	T19N, R55E, sec. 5

- (c) Limit utilization to 45% of current years growth on riparian shrub species, and 25% on riparian tree species by November 1 at the following location:

Robinson Springs T20N, R55E, sec. 5

- (d) On Water Canyon and Sadler Canyon, (listed in good and excellent condition respectively) limit utilization on streamside vegetation to allowable use levels as listed in the Nevada Rangeland Monitoring Handbook (NRMH).

4. Monte Cristo Wild and Free Roaming Horses Management Plan Objectives

Objectives of this plan deal primarily with AMLs for specific areas, which are no longer valid (see footnote under 2. above). General objectives of this plan are covered under the Land Use Plan objectives for the Newark Allotment.

Nevada Department of Wildlife
Region II
1375 Mountain City Hwy.
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McGill, NV 89318

Resource Concepts, Inc.
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Carson City, NV 89703

International Society for the Protection
of Mustangs & Burros
6212 E. Sweetwater Ave.
Scottsdale, AZ 85254

Commission for the Preservation of
Wild Horses
Stewart Facility
Capitol Complex
Carson City, NV 89710

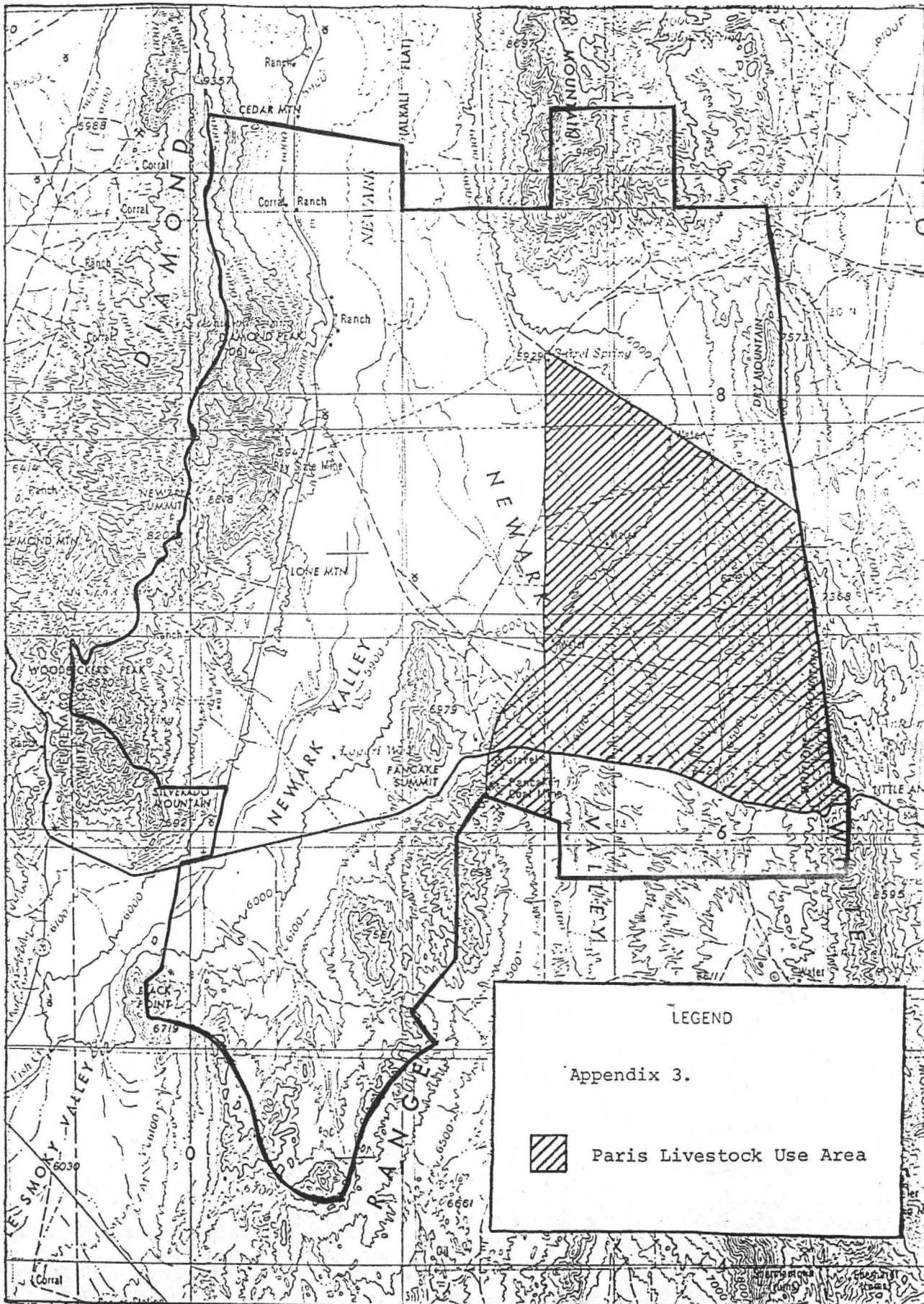
Animal Protection Institute
P. O. Box 22505
Sacramento, CA 95822

Wilderness Society
116 New Montgomery, Suite 526
San Francisco, CA 94105

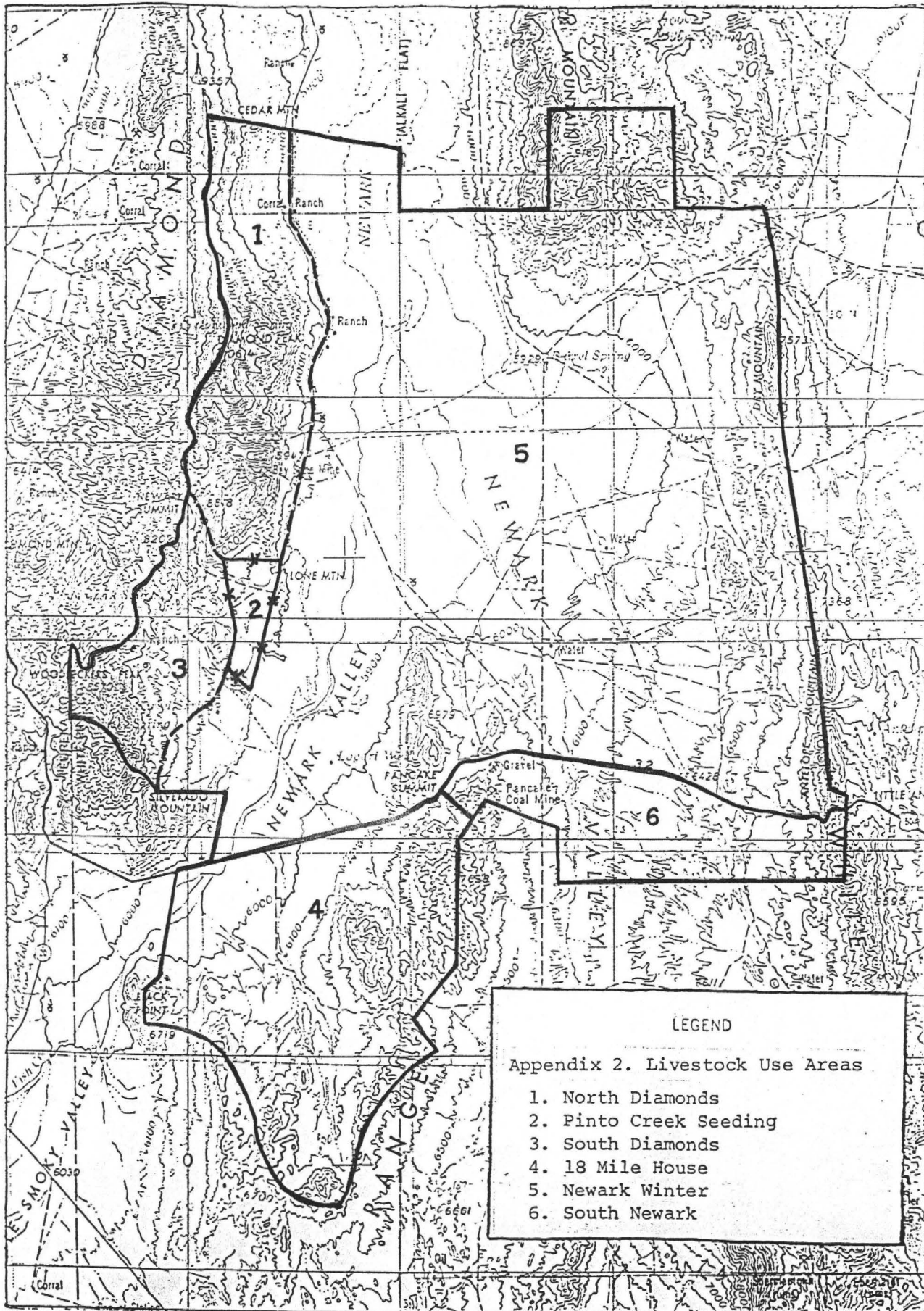
Natural Resources Defense Council
90 New Montgomery
San Francisco, CA 94105

Nevada Farm Bureau
1300 Marietta Way
Sparks, NV 89431

Wild Horse Organized Assistance
P. O. Box 555
Reno, NV 89504



SCALE 1:250000



LEGEND

Appendix 2. Livestock Use Areas

1. North Diamonds
2. Pinto Creek Seeding
3. South Diamonds
4. 18 Mile House
5. Newark Winter
6. South Newark

SCALE 1:250000