



DISTRICT OFFICE
WINNEMUCCA, NEVADA

**COMMISSION FOR THE
PRESERVATION OF WILD HORSES**

50 Freeport Boulevard, No. 2
Sparks, Nevada 89431

April 11, 1994
(702) 359-8768

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Mr. Bud Cribley
Sonoma-Gerlach Resource Area
Bureau of Land Management
705 East 4th Street
Winnemucca, Nevada 89445

RE: Appeal - Appeal of the Winter 1994 Wild Horse Removal Plan and Environmental Assessment for the Black Rock Range; East and West, Calico Mountains, and Warm Springs Canyon HMA's

Dear Bud:

The Wild Horse Commission has failed to reach agreement with the Nevada Bureau of Land Management concerning issues of our appeal. Therefore, we re-state previous errors of Soldier Meadows and Leadville Allotment Multiple Use Decisions that were the decision documents that have supported the gather plan we are appealing. The fact that this document was issued at a time when your District already had the gather crew working and a helicopter in the air prevented us from filing for a stay of the action as well as possibly filing an injunction to stop this gather, which is one of our appeal points. We have made every effort to work with the Bureau during our initial comments on these documents however our concerns were not addressed and satisfied. We have recently met with Billy Templeton, Nevada State Director and Mr. Bert Stanley from the Regional Solicitors Office in an attempt to resolve our appeal points. We have failed again to reach an agreement therefore are forced to appeal this document. In the interim until this is presented before the IBLA we are still willing to meet with you and your staff in efforts to resolve these conflicts. In the interim we are forced to file this appeal to hopefully gain your attention to these problems.

The gathers were in error because:

Use of Full Force and Effect violates Federal Regulations and prevents affected interests the right for a petition for stay of action.

N2 94 13

Bud Cribley, Area Manager
April 11, 1994
Page 2

Consistent with the Sonoma-Gerlach Management Framework Plan, the Resource Manager issued "Agreement for Implementation and Changes in Available Livestock Forage and Livestock Grazing Use Adjustments for Leadville Allotment" on December 6, 1989. This document set the objectives and schedule for adjustments to livestock and wild horses with the permittee. According to this livestock agreement, an allotment evaluation and manager's decision were scheduled for 1993.

The Final Decision was issued January 19, 1994 at the time when the Winnemucca District had issued contracts and actively gathering wild horses within the Leadville Allotment. The Nevada State Director issued an Instruction Memorandum, November 1993, stating that Full Force and Effect Decisions must allow affected interests the 30 day comment period allowed by law to comment on documents prior to an action taking place unless an emergency situation is established. This would allow for a request for a stay of the action or if necessary an injunction to be filed. The actions taken by the District is a violation of the Directors instructions as well as 43 CFR 4.21 (58 CFR 4939, January 19, 1993) for stay (suspension) of this decision.

The Final Decision extends the current land use plan without amendment and violates Bureau of Land Management Policy.

The Final Decisions short and long term objectives for riparian habitat were extended beyond the five year schedule of the land use plan to the years 2002 and 2014, respectively.

The Sonoma-Gerlach Resource Area Management Framework Plan III was completed in 1982. Range Management Decision Objective RM - 1 clearly states:

"5. At the end of the third and fifth year of grazing following the grazing decision make necessary use adjustments based upon monitoring results and other data then available..."

Bureau of Land Management national Instruction Memorandum No. 86-706 states:

"BLM policy is to issue decisions or enter into agreements within 5 years of publication of a Range Program Summary following completion of a grazing environmental impact statement (EIS)."

The allotment evaluations and manager decisions affecting livestock and wild horse numbers or management are necessary to implement the land use plan in absence of proper activity plans. It is apparent that the Humboldt County Coordinated Resource

Bud Cribley, Area Manager

N2 94 13

April 11, 1994

Page 3

Management Planning processes and activity planning processes could not meet the land use plan schedule. Therefore, it is reasonable that management actions of the second allotment evaluation and manager's decision concerning the Leadville Allotment must achieve land use plan objectives and decisions. Extending the land use plan objectives is beyond the Resource Manager's discretion and will require amending the land use plan.

Carrying Capacity of the Leadville Allotment must be established and available forage allocated fairly to wild horses.

This Final Decision, Notice of Final Full Force and Effect Multiple Use Decision - Buffalo Hills Allotment - February 9, 1993 and Notice of Full Force and Effect Multiple Use Decision - Soldier Meadows Allotment - January 24, 1994 established the carrying capacity or appropriate management levels for the Calico Mountains Wild Horse Herd Management Area. This appropriate management level is to be in a thriving natural ecological balance with livestock to achieve the allotment specific objectives of the Leadville Allotment. The Final Decision uses different procedure and criteria to determine appropriate management levels from the Buffalo Hills and Soldier Meadows Final Decisions.

Leadville Allotment Final Decision uses 50 percent utilization of key species of riparian habitat a procedure criteria for carrying capacity computations. The Buffalo Hills and Soldier Meadows Final Decisions use 60 percent utilization as the procedure criteria in their carrying capacity computations. This criteria is not consistent with the same ecosystem that directly affects the Calico Wild Horse Herd. Allocation of available forage was proportional to the land use plan in the Leadville and Soldier Meadows Final Decision and unknown in the Buffalo Hills Final Decision. Allocation of forage to horses was arbitrary.

Carrying capacity computations and appropriate management levels were established by procedures that weight averaged use pattern mapping data. Calculations based upon formula Example C of Appendix 2 of the "Rangeland Monitoring Analysis, Interpretation and Evaluation (TR 4400-7)" do not fully consider riparian habitat. Example C assumes rangeland production is not uniform and utilization is uniform. Utilization data confirms the conclusions of the Reevaluation that livestock distribution problems are causing heavy and severe utilization of riparian habitats; thus the Final Decision, and others, are flawed in procedure to establish a carrying capacity.

The Final Decision requires compliance to the National Environmental Protection Act.

N2 94 13

Bud Cribley, Area Manager
April 11, 1994
Page 4

Implementation of the "Strategic Plan for the management of Wild Horses and Burros on Public Lands" required the restructuring of the herds based upon adoptability. These actions were not assessed in a programmatic environmental impact statement or specific environmental assessment. Bureau of Land Management Policy must be consistent with applicable laws and regulations.

Allocation of available forage of the allotment's carrying capacity require environmental analysis and consultation of affected interests. The Sonoma-Gerlach Final Grazing Environmental Impact Statement did not set the initial stocking levels for wild horses and livestock based upon composition and compatibility with multiple use. Monitoring data must be the basis for adjustment in ungulate populations to meet land use plan objectives.

The Commission has worked long and hard with the Winnemucca District to promote good, sound, range management with appropriate stocking levels. We feel that we've made every effort possible to avoid an appeal including the most recent meeting with Mr. Bert Stanley from the Regional Solicitors Office as well as the Nevada State Director Billy Templeton. Failure to reach an agreement has forced us to finally appeal these documents.

If you would like to discuss these issues or if you have any questions, please feel free to call.

Sincerely,



CATHERINE BARCOMB
Executive Director

N2 94 13