

BOB MILLER
Governor

STATE OF NEVADA

9-18-92
CATHERINE BARCOMB
Executive Director



**COMMISSION FOR THE
PRESERVATION OF WILD HORSES**

Stewart Facility
Capitol Complex
Carson City, Nevada 89710
(702) 687-5589

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Las Vegas, Nevada

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Smith Valley, Nevada

Dawn Lappin
Reno, Nevada

September 18, 1992

Scott Billing, Area Manager
Paradise-Denio Resource Area
BLM-Winnemucca District Office
705 East 4th Street
Winnemucca, Nevada 89445

Dear Mr. Billing,

The Commission for the Preservation of Wild Horses formally appeals the grazing decision issued in August for the South Paiute Meadows Allotment. Our justification for this appeal will follow within 30 days.

If you have any questions, please feel free to call.

Sincerely,

A handwritten signature in cursive script that reads "Catherine Barcomb".

CATHERINE BARCOMB
Executive Director

W H O A

WILD HORSE ORGANIZED ASSISTANCE
P.O. BOX 555
RENO, NEVADA 89504
(702) 851-4817

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LOUISE C. HARRISON
VELMA B. JOHNSTON, "Wild Horse Annie"
GERTRUDE BRONN

September 18, 1992

Scott Billing, Area Manager
Paradise-Denio Resource Area
BLM-Winnemucca District Office
705 East 4th Street
Winnemucca, Nevada 89445

Dear Mr. Billing,

Wild Horse Organized Assistance formally appeals the grazing decision issued in August for the South Paiute Meadows Allotment. Our justification for this appeal will follow within 30 days.

If you have any questions, please feel free to call.

Sincerely,

Dawn Y. Lappin

DAWN Y. LAPPIN
Director

wj cb

9-11-92



STATE OF NEVADA
DEPARTMENT OF WILDLIFE

1100 Valley Road
P.O. Box 10678
Reno, Nevada 89520-0022
(702) 688-1500
Fax (702) 688-1595

Paiute
Department of Wildlife
1100 Valley Road
P.O. Box 10678
Reno, Nevada 89520-0022

BOB MILLER
Governor

WILLIAM A. MOLINI
Director

September 11, 1992

Mr. Scott Billings
Paradise-Denio Resource Area
Bureau of Land Management
705 East Fourth Street
Winnemucca, Nevada 89445

RE: Appeal - August 6, 1992 Grazing Authorization - Paiute Meadows Allotment

Dear Scott:

This letter is an appeal from your recent re-authorization of grazing livestock on the Paiute Meadows Allotment of August 6, 1992. The Nevada Department of Wildlife has great interest and concern with grazing authorizations made by the Paradise-Denio Resource Area. As an affected interest, the Department appealed the Multiple Use Decision dated November 22, 1991, the 1992 yearly license, and the manager's decision of June 30, 1992. Our appeals have objected to livestock management practices which have, based on rangeland monitoring studies, caused resource damage.

The Department of Wildlife's previous appeals have found errors in your authorizations based upon monitoring data, livestock carrying capacities calculations and their consistency with the Paradise-Denio Management Framework Plan III Decisions (land use plan). In addition, we argue that the 1992 Grazing License and this authorization are appealable final agency actions(See Appeal June 18, 1992).

Specific to your re-authorization of August 6, 1992, we find the following errors:

**North Paiute Use Area
High Elevations**

250 cows 8/01 to 8/14 115 AUMs

Mr. Scott Billings
September 11, 1992
Page 2

The Multiple Use Decision dated November 22, 1991 established a carrying capacity for the North Paiute Use Area that the Bureau knew would cause damage to streambank and wetland riparian systems (See Appeal December 18, 1991). The 1992 Grazing License perpetuated the previous decision and was appealed under the basis that riparian habitat did not receive consideration in determining the livestock carrying capacity (See Appeal June 18, 1992). As explained in these appeals, the 1992 livestock authorization for the high elevation of the North Paiute Use Area would exceed the livestock carrying capacity. Department photographs of key management areas on June 23, 1992 clearly exhibit ongoing resource damage six weeks prior to the scheduled removal of livestock (See Appeal July 30, 1992). Your re-authorization for the North Paiute Use Area did not take into account those concerns or evidence provided in three previous administrative appeals.

Knowing that previous decisions would cause damage and in spite of three appeals and photographic documentation of resource degradation, the Paradise-Denio Resource Area Manager by this decision (August 6, 1992) extended livestock use for two weeks or 115 AUMs which perpetuated ongoing and predictable damage to riparian systems in the North Use Area. This decision is arbitrary and contrary to law.

**South Paiute Use Area
High Elevations**

300 cows 8/01 to 10/31 907 AUMs

Department of Wildlife appeals of the Multiple Use Decision and 1992 Grazing License focused upon the monitoring data, analysis and livestock carrying capacity determinations for the South Paiute Use Area. As explained in the Department's appeals, our interpretation of Bureau rangeland monitoring data and stocking rate estimates indicate the South Paiute Use Area had only 225 AUMs available to livestock in 1992 (See Appeal June 18, 1992). In addition to our appeal points, photographs taken June 23, 1992 of key riparian areas and upland areas in the South Paiute Use Area clearly show that allowable use levels or utilization objectives for uplands and riparian key management areas were exceeded six weeks prior to beginning livestock use for the higher elevations.

Knowing that resource damage was imminent and in spite of photographic documentation, the Paradise-Denio Resource Area re-authorized livestock grazing for forage that did not exist, thus exceeding the allotment livestock carry capacity. This decision is arbitrary and contrary to law.

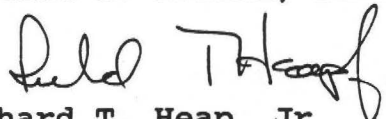
Mr. Scott Billings
September 11, 1992
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Conclusion

The voluntary non use of 300 cows, from the previously licensed 700 cows, appears to be a significant reduction; However in reality non use of only 224 AUMs is insignificant and cannot protect the critical fish and wildlife habitats of this allotment. Due to existing wild horse numbers and their use of the South Paiute Use Area, forage is not available to livestock. The acceptance of 224 AUMs of voluntary non-use is only five percent of the 1992 Grazing License authorization of 4,350 AUMs. To portray this decision as a 60 percent reduction is misleading and will not provide adequate relief or protection to critical wildlife habitats.

Sincerely,

WILLIAM A. MOLINI, DIRECTOR



Richard T. Heap, Jr.
Region I Manager
Region I

REL:rl/

CC: Habitat, Reno
Wayne Howle, Deputy Attorney General, Nevada
Billy Templeton, State Director, Bureau of Land Management
Burton Stanley, Counsel, Bureau of Land Management

9-18-92



United States Department of the Interior

TAKE PRIDE IN AMERICA

BUREAU OF LAND MANAGEMENT

Winnemucca District Office
705 East 4th Street
Winnemucca, Nevada 89445

IN REPLY REFER TO:

4160
(NV-024.1)

SEP 18 1992

Mr. William Molini
Director, Nevada Department of Wildlife
P.O. Box 10678
Reno, NV 89520-0022

Dear Mr. Molini:

This letter is in response to a letter I received from you dated September 11, 1992, in which you indicated that you were formally appealing the issuance of the grazing authorization for the remainder of the 1992 grazing year on the Paiute Meadows allotment. You are viewing the issuance of this grazing authorization as a final decision, because the Multiple Use Decision dated November 22, 1991, was vacated.

Your interpretation of this action is not correct. The yearly license is not an appealable action and was issued based on the transfer of 4350 AUMs of active use to Mr. Dan Russell in April of 1990, when he offered proof of control for the base properties at Paiute Meadows.

As you are aware, part of the proposal from the wild horse groups was to drop their appeal of the gathering of wild horses on the Black Rock East HMA, if the Bureau would vacate the Full Force and Effect decision for the Paiute Meadows allotment that was issued on November 22, 1991. Once that decision was vacated, then the permittee is allowed to use 4350 AUMs (the amount allowed in the transfer process) until another decision is issued to adjust that amount.

The stipulated agreement with the wild horse groups states that a new Proposed Multiple Use Decision will be issued in consultation with the interested parties and in coordination with the Paiute Meadows evaluation.

The consultation process leading to another decision can be lengthy. In addition to the meetings that you attended in Reno on January 7 and January 14, the Resource Area held a consultation meeting on March 10, 1992, to discuss the issues surrounding Paiute Meadows. Representatives from the Nevada Department of Wildlife were present at that meeting, and part of the discussion centered around the action that would be taken, if a new decision was not completed and issued prior to the 1992 grazing season.

My staff is currently working to develop alternatives for management on the allotment that address the concerns you identified in your appeal dated December 18, 1991, as well as the concerns of the wild horse groups, NRDC and the Sierra Club. A copy of the alternatives will be sent to all interested parties for their review and comment. Once my staff and I have reviewed the comments, a determination will be made if another consultation meeting is necessary before the management action is developed.

In closing, I want to reiterate that your interpretation of the yearly grazing permit being a final decision is not correct. Therefore, I view your letter dated September 11, 1992, as a protest as described in 43 CFR 4.450-2 and not as an appeal.

If you wish to appeal this final decision in accordance with 43 CFR Part 4, you are allowed thirty (30) days from receipt of this notice within to file such appeal with the Area Manager, Paradise-Denio Resource Area, Bureau of Land Management, 705 East Fourth Street, Winnemucca, Nevada 89445. The appeal should state clearly and concisely why you think the decision is in error.

If you have any other questions, please give me a call.

Sincerely yours,


Area Manager
Paradise-Denio Resource Area

cc Mr. Richard Heap
Ms. Cathy Barcomb
Ms. Dawn Lappin
Mr. Thomas Van Horne
NRDC
Sierra Club
Humane Society of the United States
American Horse Protection Association
Animal Protection Institute
Mr. William Cummings
Mr. Andy Johas
Mr. Dan Russell

10-28-92



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Winnemucca District Office
705 East 4th Street
Winnemucca, Nevada 89445

IN REPLY REFER TO:

4160
(NV-240)

OCT 28 1992

Commission for the Preservation
of Wild Horses
ATTN: Ms. Cathy Barcomb
Stewart Facility
Capitol Complex
Carson City, NV 89710

Dear Ms. Barcomb:

This letter is in response to a letter I received from you dated September 18, 1992 in which you indicated that you were formally appealing the issuance of the grazing authorization for the remainder of the 1992 grazing year on the Paiute Meadows allotment. You are viewing the issuance of this grazing authorization as a final decision because the Multiple Use Decision dated November 22, 1991 was vacated.

Your interpretation of this action is not correct. The yearly license is not an appealable action and was issued based on the transfer of 4350 AUMs of active use to Mr. Dan Russell in April of 1990 when he offered proof of control for the base properties at Paiute Meadows.

As you are aware, you agreed to drop your appeal of the gathering of wild horses on the Black Rock East HMA if the Bureau would vacate the Full Force and Effect decision for the Paiute Meadows allotment that was issued on November 22, 1991. Once that decision was vacated, then the permittee is allowed to use 4350 AUMs (the amount allowed in the transfer process) until another decision is issued to adjust that amount.

The stipulated agreement with you and other wild horse interest groups states that a new Proposed Multiple Use Decision will be issued in consultation with the interested parties and in coordination with the Paiute Meadows evaluation.

The consultation process leading to another decision can be lengthy. In addition to the meetings that you attended in Reno on January 7 and January 14, the Resource Area held a consultation meeting on March 10, 1992 to discuss the issues surrounding Paiute Meadows. Representatives from the Nevada Department of Wildlife were present at that meeting, but representatives from other interested parties were not in attendance. Part of the discussion centered around the action that would be taken if a new decision was not completed and issued prior to the 1992 grazing season.

My staff is currently working to develop alternatives for management on the allotment that address the concerns you identified in your appeal dated December 17, 1991 as well as the concerns of the Nevada Department of Wildlife, other wild horse interest groups, NRDC and the Sierra Club. A copy of the alternatives will be sent to all interested parties for their review and comment. Once my staff and I have reviewed the comments, a determination will be made if another consultation meeting is necessary before the