

**COMMISSION FOR THE  
PRESERVATION OF WILD HORSES**

50 Freeport Boulevard, No. 2  
Sparks, Nevada 89431

April 11, 1994  
(702) 339-8768

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Michael Jackson  
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Dawn Lappin  
Reno, Nevada

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

RE: Appeal - Notice of Full Force and Effect Multiple Use Decision  
Leadville Allotment - January 19, 1994

Dear Bud:

The Nevada Commission for the Preservation of Wild Horses has failed to reach agreement with the Nevada Bureau of Land Management concerning issues of our appeal of the Notice of Full Force and Effect Multiple Use Decision - Leadville Allotment - January 19, 1994. Therefore, we re-state previous errors of this decision in this formal appeal:

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

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

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Bud Cribley, Area Manager  
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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 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

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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.**

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.

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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

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**BOB MILLER**  
Governor

STATE OF NEVADA

**CATHERINE BARCOMB**  
Executive Director



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**COMMISSIONERS**

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Las Vegas, Nevada

**Dawn Lappin**  
Reno, Nevada

March 15, 1994

Interior Board of Land Appeals  
Office of Hearings and Appeals  
4015 Wilson Boulevard  
Arlington, Virginia 22203

**SUBJECT: Appeal of the Leadville Allotment Full Force and Effect  
Multiple Use Decision**

Dear Sirs,

I have enclosed a copy of the letter sent to the District and the Regional Solicitor on the Leadville Allotment. Within the 30 days allowed us I am informing you of our intent to file an appeal with you on this decision. Within 30 days from this notice I will be forwarding a copy of our reasons directly to you.

The reason for this delay is that our agency as well as the Nevada Department of Wildlife and Wayne Howle from the Attorney Generals Office will be meeting with Billy Templeton, BLM Nevada State Director and Mr. Stanley, Regional Solicitor, on March 31, 1994. This meeting is an attempt to discuss this appeal as well as other appeals that have been filed and determine if we can settle some of these issues. We no more enjoy filing appeals than you do in receiving them. We feel that unless some of the issues can be settled locally that we will be writing many, many more appeals. This is not what we want to do. Hopefully, the meeting on the 31st will recognize our concerns and decisions can be made to prevent further appeals. However, if we can't resolve the issues we will be forwarding our appeal reasons to you at that time.

We hope you will understand this delay and realize that we are going to every effort possible to resolve the conflicts prior to adding to your already overfull list of appeals. If there is something else we must file in the interim, please advise us of that.



**Interior Board of Land Appeals**  
**March 15, 1994**  
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Thank you in advance for your time and interest.

Sincerely,

CB

**CATHERINE BARCOMB**  
**Executive Director**

cc: ~~Billy Templeton, State Director~~  
Wayne Howle, Attorney Generals Office



BOB MILLER  
Governor,

STATE OF NEVADA

CATHERINE BARCOMB  
Executive Director



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Carson City, Nevada

Steven Fulstone, Vice Chairman  
Smith Valley, Nevada

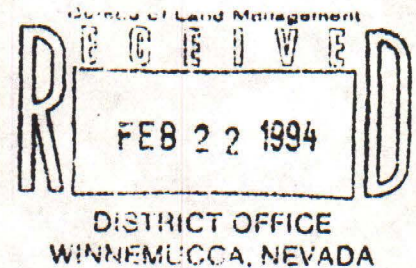
Michael Jackson  
Las Vegas, Nevada

Dan Keiserman  
Las Vegas, Nevada

Dawn Lappin  
Reno, Nevada

February 16, 1994

Ron Wenker, District Manager  
BLM-Winnemucca District Office  
705 East 4th Street  
Winnemucca, Nevada 89445



Subject: Appeal of the Leadville Allotment Full Force and  
Effect Multiple Use Decision

Dear Mr. Wenker,

We have reviewed the above mentioned final multiple use decision. The State of Nevada Commission for the Preservation of Wild Horses is formally notifying you of our intent to appeal this decision.

According to 43 CFR Secs. 4.411 and 4.413, we are filing with you our "Notice of Appeal", our appeal points will be filed with IBLA, the Solicitor, and your District within 30 days of this notice.

Sincerely,

*Catherine Barcomb*

CATHERINE BARCOMB  
Executive Director

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Official Business

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, \$300

Bureau of Land Management

RECEIVED  
JAN 27 1994

Print your name, address and ZIP Code here

DISTRICT OFFICE  
WINNEMUCCA, NEVADA

BUREAU OF LAND MANAGEMENT  
705 EAST 4TH STREET  
WINNEMUCCA, NEVADA 89445

Is your RETURN ADDRESS completed on the reverse side?

SENDER: 4160 JAN 26 1994

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1.  Addressee's Address
- 2.  Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Ms. Cathy Barcomb  
Commission for the Preservation  
of Wild Horses  
50 Freeport Blvd. #2  
Sparks, NV 89431

4a. Article Number  
P219921498

4b. Service Type

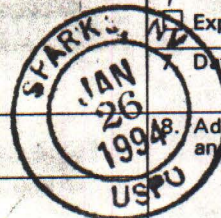
- Registered  Insured
- Certified  COD
- Express Mail  Return Receipt for Merchandise

Date of Delivery

5. Signature (Addressee)

6. Signature (Agent)

*Cathy Barcomb*



8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.

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