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Wild Horses & Nevada Division of Wildlife, Appellants

UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
HEARINGS DIVISION

NEVADA COMMISSION : N2-93-10 and IBLA 93-484
FOR THE PRESERVATION OF :
WILD HORSES (CPWH) :

Appellant

v.

BUREAU OF LAND MANAGEMENT,

Respondent

..... :
NEVADA DIVISION : N2-93-09 and IBLA 93-482
OF WILDLIFE (NDOW) :

Appellant

v.

BUREAU OF LAND MANAGEMENT,

Respondent

..... :
WILD HORSE ORGANIZED : N2-93-11 and IBLA 93-483
ASSISTANCE (WFOA) :

Appellant

v.

BUREAU OF LAND MANAGEMENT,

Respondent

ORDER

1
2 IT IS HEREBY ORDERED as follows:

3 Nevada Division of Wildlife (hereinafter "NDOW"), the Nevada Commission for the
4 Preservation of Wild Horses (hereinafter "Commission"), and the Wild Horse Organized
5 Assistance (WHOA) have agreed to withdraw the above-captioned appeals subject to the
6 following stipulation:

7
8 STATEMENT OF FACTS

9 A. NDOW is an agency of the State of Nevada, whose duty it is to ensure the
10 preservation, protection, management and restoration of wildlife within the State of Nevada.
11 The COMMISSION is a commission of the State of Nevada, whose duty it is to ensure the
12 preservation and management of wild horses within the State of Nevada. WHOA is a non-
13 profit wild horse advocacy group.

14 B. On May 10, 1993, NDOW and on May 12, 1993, the COMMISSION and
15 WHOA filed the above-captioned appeals from the Final Full Force and Effect Multiple Use
16 Decision for the Paiute Meadows Allotment, dated April 12, 1993. The bases for these appeals
17 were and are that (1) allotment specific objectives were not applied, thereby allowing for
18 resource damage; (2) carrying capacities were determined improperly and contrary to the land
19 use plan; (3) forage was not properly allocated; and (4) full force and effect was applied in a
20 manner that would not protect natural resources.
21

22 ORDER

23
24 A. BINDING OBJECTIVES. The Paradise-Denio land use plan MFP III
25 Decisions establishing the criteria for the Final Paiute Meadows Multiple Use
26 Decision (1993) are commitments binding upon the BLM. Decisions setting
27 appropriate management levels for wild horses and stocking rates for livestock
28

1 must be consistent with these short term objectives.

2 B. **MONITORING.** Monitoring is an essential part of BLM's obligation and
3 duty to determine the achievement of short term objectives set forth in
4 paragraph A above. The BLM therefore shall monitor the actual use of
5 livestock and wild horses and their impacts on the vegetative resources of the
6 Paiute Meadows Allotment in a manner which will ensure early detection of
7 effects which will result in nonattainment of wildlife habitat, riparian and range
8 objectives.
9

10 Specifically the BLM shall monitor fish and wildlife habitat within the
11 Paiute Meadows Allotment. The BLM will continue to collect utilization data
12 on stream bank and wetland meadow riparian habitats. Depending upon
13 available funding and other statewide priorities, BLM has a commitment to
14 collect wild horse census data will include accurate population estimates,
15 distribution, age composition, and annual rate of increase throughout the
16 allotment.
17

18 C. **ADJUSTMENT IN USE.** Part of BLM's effort to achieve the objectives set
19 forth in paragraph A above is the adjustment of active livestock grazing use and
20 appropriate management levels for wild horses when the evaluation of
21 monitoring data indicates an adjustment is necessary to achieve allotment
22 specific objectives within a reasonable time.
23

24 Desired Stocking Rate computations for the Paiute Meadows Multiple
25 Use Decision will be presented in the allotment evaluation or environmental
26 assessment to be completed no later than 1998. Summer pasture stocking rates
27 are to be determined by procedures found in Bureau of Land Management
28

1 Manual *Rangeland Monitoring Analysis, Interpretation, and Evaluation,*
2 Technical Reference 4400-7.

3 The following procedures will be applied:

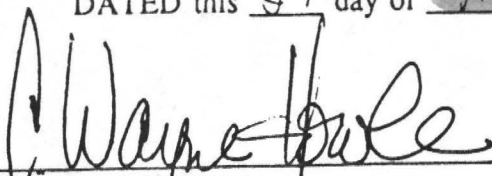
- 4 1. All available rangeland monitoring and actual use data will be
5 applied.
- 6 2. Riparian habitats will be considered Key Management Areas.
- 7 3. Use pattern mapping data will not be weight averaged or yield
8 indexed in a manner which compromises or dilutes Key Management Area
9 observed utilization or objectives.
- 10 4. Allocation of forage must consider proportional adjustments based
11 upon actual use during the duration of the evaluation.

12
13 The livestock season of use on summer pastures will be based upon
14 monitoring data and range science. A provision stating the following will be
15 included in the final decision transferring the grazing permit:

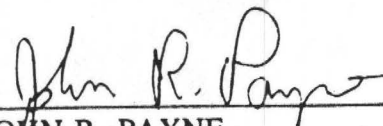
16
17 For the 1995 grazing season, the off date for
18 livestock will be August 17th. Should utilization
19 objectives not be met after the 1995 grazing
20 season, the full implementation of the multiple-use
21 decision will occur in the 1996 grazing season
22 with the off date of July 17th. If objectives are
23 met after the 1995 grazing season, the 1996 off
24 date will remain August 17th. In any event the
25 full implementation of the multiple-use decision
26 will occur as scheduled in 1997 with an off date of
27 July 17th.

28 D. RANGE IMPROVEMENT PROJECTS. Riparian enclosure projects will be
constructed in a timely manner as funding will allow. Interim adjustments in
carrying capacities and season of use will be taken to assure that resource
damage will be prevented.

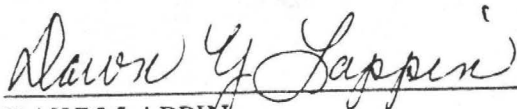
DATED this 27 day of March, 1995.



C. WAYNE HOWLE
Attorney for NDOW and Commission



JOHN R. PAYNE
Attorney for Respondents



DAWN LAPPIN
Representative for WHOA

ORDER

IT IS SO ORDERED THIS ___ day of _____, 1995.

ADMINISTRATIVE LAW JUDGE

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