



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
Nevada State Office  
850 Harvard Way  
P.O. Box 12000  
Reno, Nevada 89520-0006

CPWH  
12-7-92  
TAKE  
PRIDE IN  
AMERICA

IN REPLY REFER TO:

4160  
N2-92-10  
(NV-931.1)

Certified Mail Receipt Requested

DEC 7 1992

## MEMORANDUM

To: Interior Board of Land Appeals, Arlington, VA  
From: State Director, Nevada  
Subject: Appeal File #N2-92-10

Attached is appeal file #N2-92-10 which was filed by the Nevada Department of Wildlife (NDOW) on July 30, 1992.

On May 12, 1992, the Winnemucca District Office issued a grazing bill to Mr. Dan Russell for the Paiute Meadows Ranch. This authorization allowed Mr. Russell to graze 700 cattle on the Paiute Meadows Allotment from 5/1/92 to 7/31/92.

By letter dated May 22, 1992, a copy of this authorization was sent to NDOW.

On July 31, 1992, the Winnemucca District received a letter dated June 18, 1992, titled, "RE: Formal Appeal of Paiute Meadows Grazing Permit."

Upon receipt of this letter, and after consultation with the State Office and the Solicitor's Office, it was the Bureau of Land Management's (BLM's) position that this was not an appealable action. The Area Manager responded to NDOW via letter dated June 30, 1992, in which this position was explained. This letter stated that the Area Manager viewed NDOW's June 18, 1992, letter a protest as described in 43 CFR 4.450-2. The letter stated that if "...you wish to appeal this final decision in accordance with 43 CFR Part 4, you are allowed thirty (30) days...within to file such an appeal..."

On July 31, 1992, the Winnemucca District Office received an appeal from NDOW dated July 30, 1992. In their letter, they appealed the June 30, 1992, letter/decision stating that the yearly authorization issued for the Paiute Meadows Allotment is not an appealable decision.

This July 30, 1992, "Notice of Appeal," was assigned an appeal number N2-90-10. BLM's administrative file is Attachment A. The District Manager's responses to the appellant's points of appeal are contained in the Attachment A file, tabbed number (1) one.

On August 6, 1992, the Paradise Denio Area Manager sent notice to a list of interested parties, stating that he was approving an application for change of use in the Paiute Meadows allotment for the remainder of the 1992 grazing season.

In response to this "notice" the Paradise Denio Area Manager received another NDOW letter dated September 11, 1992, appealing the "...recent reauthorization of the grazing livestock on the Paiute Meadows Allotment."

By letter dated September 18, 1992, the Area Manager responded to NDOW stating that the authorization of the grazing use for the remainder of the grazing year was not an appealable action and that, in accordance with 43 CFR 4.450, this letter was being treated as a "protest."

#### **STATE OF NEVADA, COMMISSION FOR THE PRESERVATION OF WILD HORSES**

In addition to the NDOW appeal, the State of Nevada, Commission for the Preservation of Wild Horses (CPWH), by letter dated September 18, 1992, "...formally appeals the grazing decision issued in August for the South Paiute Meadows Allotment." By letter dated October 19, 1992, the CPWH listed their justification for this appeal.

On October 28, 1992, the Area Manager responded in writing to CPWH stating that he viewed the September 18, 1992, letter a protest as described in 43 CFR 4.450-2 and not an appeal.

On November 30, 1992, the Area Manager received a letter dated November 28, 1992, which states in part "...in response to your October 28, 1992, letter refusing our second appeal of a decision you make on the Paiute Meadows Allotment wherein you changed and reauthorized grazing on that allotment."

"We formally appeal your decision to refuse our appeal dated September 18, 1992..."

These letters are submitted as Attachment B to this transmittal.

**WILD HORSE ORGANIZED ASSISTANCE**

*June?*  
The Wild Horse Organized Assistance (WHOA) by letter dated September 18, 1992, also "...formally appeals the grazing decision issued in August for the South Paiute Meadows Allotment."

By letter dated October 19, 1992, WHOA listed their justification for this appeal. These letters are submitted as Attachment C to this transmittal.

On October 28, 1992, the Area Manager responded in writing to WHOA stating that he viewed the September 18, 1992, letter a protest as described in 43 CFR 4.450-2 and not an appeal.

On November 30, 1992, the Area Manager received a letter dated November 28, 1992, which states in part "...in response to your October 28, 1992, letter refusing our second appeal of a decision you make on the Paiute Meadows Allotment wherein you changed and reauthorized grazing on that allotment."

"We formally appeal your decision to refuse our appeal dated September 18, 1992..."

Since all three appeals, NDOW's, CPWH's, and WHOA's are similar in nature and allege that the authorization and subsequent reauthorization of the yearly grazing use on the Paiute Meadows Allotment are appealable, we request that the Interior Board of Land Appeals (IBLA) combine these appeals for the purpose of a single ruling on the matter.

The Winnemucca District Manager has requested, and I concur, that the appeals be dismissed. All three appellants are seeking to appeal BLM's position that an annual authorization for grazing use is not an appealable action. Additionally, the appellants are seeking to appeal an annual grazing permit that is based on a transfer of the grazing preference that was approved in 1990 following full consultation with the appellants, and from which no timely appeal was filed.

If you have any questions please call Brad Hines, in the Nevada State Office, at (702) 785-6466.

~~VSZ K LYNN BENNETT~~

~~Associate~~

3 Attachments  
As Listed Above

cc: Burton Stanley, Solicitors Office, Sacramento, CA  
NDOW (w/o attach.)  
WHOA (w/o attach.)  
✓CPWH (w/o attach.)  
DM, Las Vegas (w/o attach.)