

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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

L PA 2/7/94
IN REPLY REFER TO:

4160
(NV-241.3)

February 7, 1994

CERTIFIED MAIL NO. P111849937
RETURN RECEIPT REQUESTED

Nevada First Corporation
P.O. Box 490
Winnemucca, NV 89445

Dear Mr. Bengochea:

On February 17, 1993, you were mailed the Final Little Owyhee Allotment Evaluation Summary and Proposed Multiple Use Decision. On February 19, 1993, you visited the Winnemucca District Office to discuss the Proposed Decision. Your major concerns at this time were the AUMs in non-use and the 07/15 off date in the summer pastures. You were told the rationale for these concerns.

You protested this decision on March 16, 1993. On March 26, 1993, a Final Multiple Use Decision was mailed to you. On this same day, you applied for use as per the interim grazing system of the Final Multiple Use Decision. On April 19, 1993, I received an appeal from you on the final decision.

Since an appeal was filed, you were told it stayed the action and you would be authorized 8,777 AUMs in 1993, as per §4160.3(c), which was your active authorized use in 1992.

On October 25, 1993, you were told that I would not authorize winter use on the Little Owyhee Allotment and you applied for a refund. No winter grazing would be authorized on this allotment due to the fact that an appeal was filed and that the AUMs that were authorized in 1992, were used up during the spring and summer of 1993.

On October 27, 1993, Gene Seidlitz met with your livestock manager and discussed the 1993 utilization monitoring on the Little Owyhee Allotment. At this time, he was told that the wetland/riparian utilization objective was not met and an inquiry was made into fencing these habitats.

On January 20, 1994, I received two grazing applications with five differing scenarios for the Little Owyhee Allotment. These applications were as follows:

<u>Scenario</u>	<u>Allotment</u>	<u>Livestock #</u>	<u>Grazing Period</u>	<u>AUMs</u>
1	Little Owyhee	500	03/01 to 03/14	230
		800	03/15 to 03/31	447
		2400	04/01 to 06/15	5997
		1600	06/16 to 09/15	4839
		919	09/16 to 09/30	453

<u>Scenario</u>	<u>Allotment</u>	<u>Livestock #</u>	<u>Grazing Period</u>	<u>AUMS</u>
2	Little Owyhee	793	03/01 to 05/31	2398
		800	11/01 to 02/28	3156
			Total	5554
3	Little Owyhee	307	03/01 to 03/31	172
		627	04/01 to 05/31	1257
		1420	06/01 to 06/15	700
		2220	06/16 to 09/15	6715
		2902	09/16 to 09/30	1431
			Total	10275
4	Little Owyhee	1420	04/01 to 09/30	8543
5	Little Owyhee	1420	04/01 to 09/30	8543

Tentative Pasture Schedule

03/01 to 03/31	Lake Creek
03/15 to 03/31	Twin Valley
04/01 to 05/31	Lake Creek, Twin Valley, Fairbanks
05/25 to 05/31	Antelope
06/01 to 06/30	Rock Springs, Calico
07/01 to 08/31	Capitol Peak, Antelope
09/01 to 09/15	Calico & Capitol & Antelope
09/16 to 09/30	Calico & Capitol & Antelope

Numbers of cattle in each area, within each time frame, may vary, according to livestock management needs within the respective areas.

In a letter, dated January 20, 1994, it was brought to your attention that I was unable to process this application because it appeared the grazing scenarios that you outlined, in this application, conflicted with each other.

On January 25, 1994, I received a letter from you explaining the grazing application which you submitted on January 20, 1994 and resubmitted on January 25, 1994.

In conversation with you on January 27, 1994, you were informed that the 1994 applications would not be approved, and an inquiry was made as to whether you would withdraw your grazing application, which you did not.

Based upon the above information, my proposed decision is to deny your grazing applications that were received on January 20, 1994, and to authorize the following use in 1994 that is consistent with the authorized use in 1992.

<u>Pasture</u>	<u>Livestock #</u>	<u>Grazing Period</u>	<u>AUMs</u>
Lake Creek	500	03/01 to 05/31	1512
Twin Valley	500	03/01 to 05/31	1512
Fairbanks	500	03/01 to 05/31	1512
Rock Springs	700	06/01 to 06/30	690
Calico	700	07/01 to 07/31	713
Antelope	700	08/01 to 08/31	713
Fairbanks	539	11/01 to 02/28	2124
		Total	8777

Rationale:

An appeal was filed on the Final Multiple Use Decision for the Little Owyhee Allotment on April 19, 1993. This appeal stayed the action, thus, the 8777 AUMs that were authorized in 1992 will be your active authorized AUMs for 1994, which is consistent with 43 CFR §4160.3(c).

Analysis of current and past monitoring data collected in the summer pastures, indicates that utilization of forage within riparian areas and meadows are above acceptable levels (heavy and severe) because of livestock management practices, stocking levels, and poor livestock distribution. An increase in livestock numbers, as proposed in the applications dated January 15, 1994, will increase the areas of unacceptable use levels within the summer pastures.

Use in the Lake Creek, Twin Valley, and Fairbanks pastures will be from 03/01 to 05/31, based on the available water in these pastures. The summer pastures will be used from 06/01 to 08/31. Livestock will be in each pasture for approximately 30 days before they move to the other pasture. No use will be made in the Capitol Peak pasture so that the vegetative resource, in the wetland/riparian habitats, can receive a year of rest. These habitats have received heavy to severe use in the past, and headcutting problems are starting to occur.

The authority for this decision is contained in Title 43 Code of Federal Regulations, which states in pertinent part:

§4110.3 The authorized officer shall periodically review the grazing preference specified in a grazing permit or grazing lease and may make changes in the grazing preference status. These changes shall be supported by monitoring, as evidenced by rangeland studies conducted over time, unless the change is either specified in an applicable land use plan or necessary to manage, maintain, or improve rangeland productivity.

§4110.3-2)b) When monitoring shows active use is causing an unacceptable level or pattern of utilization or exceeds the livestock carrying capacity as determined through monitoring, the authorized officer shall reduce the active use if necessary to maintain or improve rangeland productivity, unless the authorized officer determines a change in management practices would achieve the management objectives.

§4130.6-1(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease.

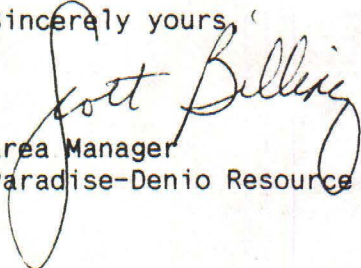
§4160.2 Any applicant, permittee, lessee or other affected interests may protest the proposed decision under §4160.1 of this title in person or in writing to the authorized officer within 15 days after receipt of such decision.

§4160.3(c) A period of 30 days after receipt of the final decision is provided for filing an appeal. Decisions that are appealed shall be suspended pending final action except as otherwise provided in this section. Except where grazing use the preceding year was authorized on a temporary basis under §4110.3-1(a) of this title, an applicant who was granted grazing use in the preceding year may continue at that level of authorized active use pending final action of the appeal..

If you wish to protest this decision in accordance with 43 CFR §4160.2 you are allowed fifteen (15) days from receipt of this notice within which to file such protest with the Paradise-Denio Resource Area Manager, Bureau of Land Management, Winnemucca District Office, 705 E. 4th Street, Winnemucca, NV 89445. In the absence of a protest within the time allowed and in accordance with 43 CFR §4160.3(a), the above proposed decision shall constitute my final decision.

Should this notice become the final decision and if you wish to appeal this decision for the purpose of a hearing before an Administrative Law Judge, in accordance with 43 CFR §4160.4 and §4.470, you are allowed thirty (30) days from receipt of this notice within which to file such appeal with the Paradise-Denio Resource Area Manager, Bureau of Land Management, at the above address.

Sincerely yours,


Area Manager
Paradise-Denio Resource Area

cc: Charley Amos
NRDC
Sierra Club
Craig Downer
Wilderness Society
Desert Bighorn Council
Nevada Dept. of Wildlife (Fallon)
John Marvel
Nevada Land Action Assoc.
Nevada Farm Bureau Federation
James Shepherd
USFWS
Trout Unlimited
Claudia J. Richards
WHOA
Animal Protection Institute
Commission for the Preservation of WH&B
Society for the Protection of Mustangs and Burros
American Horse Protection Association
U.S. Humane Society
Humboldt County Commissioners
Nevada Dept. of Wildlife (Winnemucca)
Nevada Dept. of Wildlife (Elko)
James Bonavia
Area Manager, Elko Resource Area