



COMMISSION FOR THE
PRESERVATION OF WILD HORSES

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

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October 19, 1992

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

RE: Formal Appeal of Change in Use of the Paiute Meadows Grazing Permit

Dear Mr. Billing,

The Nevada Commission for the Preservation of Wild Horses formally appeals the issuance of the change in use for the Paiute Meadows allotment for the remainder of the 1992 grazing season. The application was approved by you July 31, 1992, disregarding the consultation, coordination, and cooperation agreement that had been stipulated with the withdrawal of the original appeal on Paiute Meadows in February 1992.

Our original appeal as with the subsequent appeal dated July 24, 1992, focused on the numerous violations of NEPA, FLPMA, BLM Regulations, and BLM Policy. Among those violations, the decision issued by the BLM violated our rights to participate as an "affected interest." FLPMA, the 1971 Wild Free Roaming Horse and Burro Act, NEPA, and BLM grazing regulations grant the State of Nevada the right to participate in the making of decisions about the management of the public's rangelands including those denominated "multiple use decisions" by the Bureau. You have continued to violate our rights by ignoring all of the above.

According to the February 7, 1992, agreement signed by the Nevada State Director with interested parties, the appeals for the gather of wild horses on the Paiute Meadows Allotment would be vacated in order to facilitate the gather of wild horses not below 200 horses on the Paiute Meadows Allotment. This temporarily authorized 2,400 AUM's of forage for wild horse use for wild horses by the State Director. We were later made aware of an agreement (conversation dated 1/16/92, written confirmation of that conversations dated 1/20/92), between the BLM State Director and Mr. Thomas S. VanHorne, the attorney for Mr. Dan Russell, that the State Director assured Mr. VanHorne that he could and would Scott

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guarantee 4,350 AUM's of livestock use on the Paiute Meadows allotment irrelevant of the AUM's necessary for wild horse use.

By authorizing 4,350 AUMs of livestock use in addition to authorizing 2,400 AUMs of wild horse use the Bureau has deliberately overallocated the resource. By the Bureau's own data you have identified 4,950 AUMs of available forage. The Bureau, in this case, has knowingly authorized 6,750 AUMs of use, that is a deliberate overallocation of the resource by 1,800 AUM's. This in addition to six years of a drought is setting up the Allotment to be further degraded past the capacity for animals to survive during the winter of 1992/93.

According to the 1971 Wild Free Roaming Horse and Burro Act the Bureau is to manage wild horses for a thriving ecological balance. The application for the change in use you approved on July 31, 1992, and sent notice to the affected interests on August 6, 1992, does not protect the habitat. The 1992 stocking rates and seasons of use for livestock will exceed livestock carrying capacities and cause resource damage seriously endangering the welfare and survival of the wild horse herds and their habitat.

In conclusion we appeal the issuance change in use of the original 1992 grazing license to Mr. Russell as a violation of:

1) 1971 Act (P.L. 92-195) 4700.0-6(a) "Wild Horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat;"

2) CFR 4100.0-8 "The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b);"

3) 4110.3-2(b) "When monitoring shows use is causing an unacceptable level or pattern or utilization or exceeds the livestock carrying capacity as determined through monitoring, the authorized officer shall reduce 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;"

4) 4110.3-3(c) "When the authorized officer determines that the soil, vegetation, or other resources on the public lands require temporary protection because of conditions such as drought, fire, flood, or insect infestation, after consultation with affected permittees or lessees and other affected interests, action shall be taken to close allotments or portions of allotments to

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grazing by any kind of livestock or to modify authorized grazing use. Notices of closure and decisions requiring modification of authorized grazing use shall be issued as final decisions which are placed in full force and effect under 4160.3(c) of this title."

In conclusion, we are formally appealing your decision. As with our previous appeal, in the absence of a signed 10 year permit these new decisions (May and July), have set terms and conditions by the issuance of a new grazing permit. An annual permit that sets terms and conditions is appealable. Also, there is no AMP to stipulate terms and conditions.

This will be faxed to you with the original copy sent certified mail. If you have any questions, please call.

Sincerely,



CATHERINE BARCOMB
Executive Director