

3-30-95

Black Rock East HMA
Painted Meadows Allot.

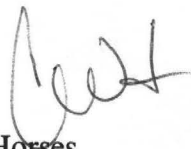
STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

Writer's Direct Dial (702) 687-4449

Fax (702) 687-5798

M E M O R A N D U M

DATE: March 30, 1995
TO: Cathy Barcomb, Executive Director
Commission on the Preservation of Wild Horses
FROM: C. Wayne Howle
Deputy Attorney General
SUBJECT: Paiute Meadows Allotment



I have attached a copy of the ORDER for your information.

CWH/pw
Attachment

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FRANKIE SUE DEL PAPA
Attorney General
C. WAYNE HOWLE
Deputy Attorney General
198 South Carson Street, No. 311
Carson City, Nevada 89710
Telephone: (702)687-3700
Attorneys Commission for the Preservation of
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 (WHOA) :
Appellant :

v.

BUREAU OF LAND MANAGEMENT, :
Respondent :
.....

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

IT IS HEREBY ORDERED as follows:

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

STATEMENT OF FACTS

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

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

ORDER

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

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.

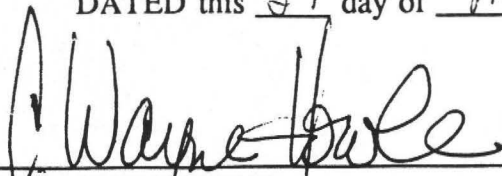
12
13 The livestock season of use on summer pastures will be based upon
14 monitoring data and range science. A provision stating the following will be
15 included in the final decision transferring the grazing permit:
16

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
date will remain August 17th. In any event the
full implementation of the multiple-use decision
will occur as scheduled in 1997 with an off date of
July 17th.

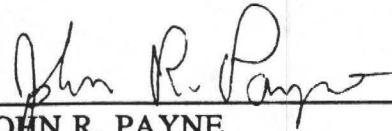
- 24 D. **RANGE IMPROVEMENT PROJECTS.** Riparian enclosure projects will be
25 constructed in a timely manner as funding will allow. Interim adjustments in
26 carrying capacities and season of use will be taken to assure that resource
27 damage will be prevented.
28

DATED this 27 day of March, 1995.

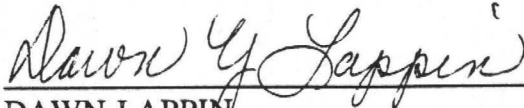
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



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

3-6-95



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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

IN REPLY REFER TO:

4160.4
(NV-024.14)

March 6, 1995

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

Dear Ms. Barcomb

Enclosed, please find your copy of the appeal file, for appeal number N2-93-10, for the Paiute Meadows Final Multiple Use Decision dated April 12, 1993.

Should you have any questions concerning this matter please do not hesitate to contact Mandy McCutcheon at (702) 623-1500.

Sincerely,

Bob Hopper

Acting Area Manager
Paradise-Denio Resource Area

Enclosure



United States Department of the Interior

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



IN REPLY REFER TO:

4160
N2-92-10
(NV-931.1)

DEC 7 1992

Certified Mail Receipt Requested

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

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.

/S/ 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.)

!HINES/ds::12/03/92:::NDOWIBLA.LRT

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
GRAZING APPEAL TRANSMITTAL

TO:

State Director: NV-931.1

The appeal identified herein has been filed and is forwarded to you, together with copies of the pertinent District Office records, for action and transmittal to an Administrative Law Judge in accordance with 43 CFR 4.470.

1. Name(s) of appellant(s) Nevada Department of Wildlife
Appeal No. N2-92-10

2. Appeal was filed (date)

July 30, 1992

3. Decision appealed from was served on appellant(s)

(date)

Area Manager's letter 6/30/92

4a. I do not recommend that a motion to dismiss the appeal be filed

b. I recommend that motion to dismiss the appeal be filed. I am submitting my recommendations in a separate memorandum to you

5. Recommendations as to approximate time for hearing (specify week or month)

a. Preferred time *

b. Alternative acceptable time

* If preferred time is more than 90 days hence, give reasons under "Remarks" item 8.

6. Estimated time (in days) hearing will require

7. Approximate number of other range users who may request to intervene

8. Remarks (See item 5 above; also include any other information helpful to the Administrative Law Judge in making his arrangements for the hearing; continue on reverse side, if necessary)

I request that his appeal be dismissed as lacking in standing. The appellant seeks 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 appellant. The authorize use was established with the approval of the transfer in April 1990. A letter informing affected interests of the approval of this transfer was sent to the appellant. No protest or appeal was made by the appellant.

Winnemucca

District

9/15/92

(Date)

For Wenker

(Signature of Authorized Officer)

Copy to: Office of Hearings and Appeals, Salt Lake City, Utah
Director, (220) Washington, D.C.

Forward with this transmittal: (1) related grazing application(s); and (2) Authorized Officer's final decision on application(s) with evidence of service upon the applicant(s).

N2-92-10
NDOW
Paiute Meadows

TABLE OF CONTENTS

Document
Reference

- 1 Chronological Summary of Events Leading up to Appeal-
Response to Appeal points
- 2 Letter sent to interested parties in the CCC process for
changes in grazing use in the Paiute Meadows allotment
- 3 July 31, 1992 grazing authorization issued for remainder of
the 1992 grazing year for Paiute Meadows allotment
- 4 Appeal from NDOW from letter of June 30, 1992
- 5 June 30, 1992 letter sent to NDOW responding to NDOW's
previous appeal which was considered a protest
- 6 June 18, 1992 letter from NDOW appealing the 1992 grazing
authorization for Paiute Meadows allotment received on July
31, 1992
- 7 Letter responding to NDOW's request for the 1992 Paiute
Meadows grazing authorization
- 8 Letter from NDOW requesting 1992 grazing authorization for
Paiute Meadows allotment
- 9 Schedule 1 grazing bill for Paiute Meadows allotment
- 10 Proposed decision issued to vacate the Full Force and Effect
Decision issued November 22, 1991
- 11 Letter from IBLA setting aside and closing the case file on
the decision issued November 22, 1991 which contained NDOW's
appeal
- 12 Letter from Office of Hearings and Appeals setting aside the
November 22, 1991 Multiple Use Decision
- 13 Letter sent to interested parties for notification of
meeting to discuss Paiute Meadows allotment evaluation
- 14 Letter from NDOW, offering additional data for the Paiute
Meadows allotment, to the Regional Solicitor
- 15 Appeal from NDOW on November 22, 1991 Multiple Use Decision

- 16 Full Force and Effect Multiple Use Decision and Final allotment evaluation
- 17 Comments received from NDOW on the draft Paiute Meadows allotment evaluation
- 18 Letter from Area Manager acknowledging return of unsigned grazing permit, explanation of grazing regulations pertainen to the unsigned permit and transfer of the grazing preference based on the terms and conditions within the offered permit
- 19 Letter from Thomas Van Horne withdrawing the transfer application and application for 1990 use and submission of applications consistent with the March 21, 1992 decision
- 20 Letter from Thomas Van Horne returning the unsigned grazing permit
- 21 Letter from Area Manager to Thomas Van Horne vacating the March 21, 1992 decision
- 22 Area Manager Proposed decision denying the grazing applications submitted in the transfer process and approving the transfer of the grazing preference with specific terms and conditions

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Winnemucca District Office
705 East Fourth Street
Winnemucca, Nevada 89445

In reply refer to:

4100(NV-241)

Memorandum

To: State Director, Nevada (NV-910)

From: District Manager, Winnemucca

Subject: Appeal Narrative Summary, Appeal N2-92-10, Nevada Department of Wildlife vs. BLM, Paiute Meadows Allotment, Appeal of decision letter of June 30, 1992.

A. Chronological Summary of Issues, Events, and Actions Leading to the Appeal:

January 8, 1990 and February 21, 1990 Applications submitted by Daniel Russell for transfer of grazing preference for Paiute Meadows Allotment.

March 21, 1990 Area Manager's Proposed Decision issued denying the transfer and grazing applications submitted by Mr. Russell and approving the transfer and grazing application outlined within the decision.

March 22, 1990 Nevada Department of Wildlife received March 21, 1990 Area Managers decision as per certified return receipt mail.

April 12, 1990 FAX letter from Thomas Van Horne submitting two grazing applications as per that authorized in the March 22, 1990 decision.

April 18, 1990 FAX copy received from Thomas Van Horne of draft grazing application for non use for the grazing preference and 1990 grazing application.

April 25, 1990 Letter from Area Manager to Thomas Van Horne acknowledging withdrawal of February 21, 1992 transfer application and vacating March 21, 1990 Proposed Decision.

April 26, 1990 Letter from Thomas Van Horne returning the unsigned grazing permit for the Paiute Meadows allotment.

April 28, 1990 FAX letter received from Daniel Russell withdrawing the transfer application and application for grazing use in 1990 and submission of transfer application and grazing application for the 1990

11272 11

grazing season consistent with that identified in the Area Managers March 21, 1990 Proposed Decision.

May 2, 1990 Letter to Thomas Van Horne from Area Manager acknowledging return of unsigned grazing permit; explanation of grazing regulations pertaining to unsigned grazing permits; approval of transfer of grazing preference and grazing application for 1990 grazing season.

July 3, 1991 Draft allotment evaluation sent out for comment and review.

August 13, 1991 comments received from NDOW on draft evaluation.

November 22, 1991 Full Force and Effect Multiple Use Decision issued for Paiute Meadows allotment.

December 20, 1991 Appeal received from NDOW on decision issued November 22, 1991.

January 7, 1992 meeting held in Reno to discuss the allotment evaluation and the grazing decision and appeals of the November 22, 1991 decision.

January 14, 1992 Second meeting held in Reno to discuss solutions to the appeals so that a horse gather could take place in February 92.

February 4, 1992 Letter from NDOW concerning the Paiute Meadows allotment evaluation and decision.

February 12-22, 1992 Wild horse gather conducted on the Paiute Meadows allotment Black Rock East Herd Management Area.

February 24, 1992 Letter sent to interested parties for notification of meeting to discuss Paiute Meadows allotment evaluation.

March 10, 1992 Meeting held in Winnemucca to discuss the Paiute Meadows allotment and planned actions for the 1992 grazing season if a new decision had not been issued. NDOW personnel attended this meeting.

March 27, 1992 Letter from Office of Hearings and Appeals setting aside and closing case file on the decision issued in November. NDOW appeal also was included in this letter.

April 28, 1992 Letter from IBLA setting aside the appeals of the Wild Horse groups and closing the case file on the November 22, 1991 decision.

May 11, 1992 Proposed Decision issued to vacate the November 22, 1992 decision.

May 12, 1992 Schedule 1 grazing bill issued for the Paiute Meadows. This authorization was for May 1, 1992 to July 31, 1992 as per the permittees request. A second billing was scheduled to be issued for the remainder of the grazing season in August.

May 18, 1992 NDOW received the May 11, 1992 decision as indicated by certified mail return receipt.

May 18, 1992 NDOW requested 1992 grazing authorization for Paiute Meadows allotment.

May 22, 1992 Letter sent to NDOW with the 1992 grazing authorization for Paiute Meadows.

June 30, 1992 Letter sent to NDOW responding to their previous appeal which was considered a protest only.

July 30, 1992 Appeal from NDOW received on letter of June 30, 1992.

July 31, 1992 appeal received from NDOW appealing the grazing authorization for the Paiute Meadows allotment which had a date of June 18, 1992 on the letter head.

July 31, 1992 grazing authorization issued for the remainder of the grazing season with modifications due to shortage of water and conflicts identified in the south end of the allotment in winter use areas.

B. Response to Appeal Points:

Appeal Point 1:

Because the decision to issue the permit to Paiute Meadows Ranch for grazing on the Paiute Meadows Allotment is not merely ministerial, and because it rests in the agency's sound professional judgement, it is a final agency action subject to appeal.

Response:

The annual license for the Paiute Meadows Allotment for 1992 authorized the level of use determined during the transfer of the grazing preference in 1990 at 4350 AUMs. During this transfer process, the Nevada Department of Wildlife was provided several opportunities to comment, protest and appeal the transfer of this preference to the permittee. No comment was received from NDOW at that time. The transfer was approved on April 30, 1990, and the authorized use for the Paiute Meadows Allotment was established at 4350 AUMs of Active Use with a Total Preference of 7827 AUMs. The balance (3477 AUMs) was held in non-use until completion of an allotment evaluation and issuance of a grazing decision.

The appeal appears to arise from a misunderstanding regarding the process requirements as a result of the following circumstances. In November of 1991, a Final Allotment Evaluation and a Final Full Force and Effect Decision for the Paiute Meadows Allotment were issued by the Area Manager to the permittee. These documents were provided to established affected interests for the Paiute Meadows Allotment including the appellant. The appellant appealed the November 22, 1991

they considered to be in error. These included inconsistencies with the IUP and the carrying capacity determinations invalid. Adjustments based on the carrying capacity established in the evaluation dated November 22, 1992 were to be implemented through a change in the grazing system and a reduction of the wild horse population. NDOW's appeal, along with appeals received from six other interest groups, generated several meetings which took place in January of 1992 between the various appellants and BLM. These meetings were to discuss resolution of the appeals. While NDOW, NRDC/Sierra Club appeals did not contain an appeal of the proposed wild horse gather, several other appeals had. Due to the impending shortage of feed during the winter on the Paiute Meadows Allotment, the BLM negotiated an agreement with the wild horse interest groups to drop their appeals in order to proceed with gathering plan (Attachment 1). The agreement was presented to the other affected parties. In this agreement it clearly stated that the BLM would vacate the decision of November 22, 1991 when the gather was completed. One of these groups was the State of Nevada Commission for the Preservation of Wild Horses, who is also represented by the State Attorney General's Office, the signatory on the current appeal. The State Attorney General's Office and the NDOW have had full knowledge that the November 22, 1991 Decision would be vacated, and the process for consultation, coordination and cooperation would begin anew with the drafting of a new final allotment evaluation and a new decision. Appellants have been aware that to begin this process again, and include the coordination of planning with another resource area, it would require additional time. More time than was provided between the vacating of the decision, and the issuance of the 1992 grazing license. A public meeting was held in Winnemucca on March 10, 1992 during which the NDOW was informed that as a result of the appeals and the agreement to withdraw, the 1992 grazing license would be authorized at the previous year's level of 4350 AUMs. This is standard Bureau procedure whenever decisions are appealed.

The wild horse gather concluded on February 22, 1992. On March 8, 1992 a request was sent to the Office of Hearings and Appeals and IBLA to remand the decision back to the Area Manager for reconsideration. Notification that IBLA had remanded the decision was received in the Winnemucca District on April 28, 1992. The November 22, 1991 decision was then vacated by proposed decision on May 11, 1992. This proposed decision became final in absence of any protests, on May 27, 1992. The final decision was then appealed by the permittee.

When the decision was remanded back to the Area Manager for reconsideration, this in effect left the 1990 transfer of the preference to the current permittee the only "decision" document for the Paiute Meadows Allotment which authorizes the level of grazing use. Because an adjustment to the livestock preference requires a document which provides the public an opportunity for consultation, coordination and cooperation, a new decision or agreement would be necessary to change the authorized preference within the allotment. This was not possible in the time frame prior to the authorized turn-out date of May 01, 1992. This statement is supported by 43 CFR 4110.3-3(b) which states in pertinent part:

"After consultation, coordination and cooperation, suspensions of preference shall be implemented through a documented agreement or

by decision".

Since the agreement with the wild horse interest groups (see attachment) indicated that a new decision would be issued in consultation, cooperation and coordination with all affected interest groups, and that planning efforts for the Paiute Meadows would be coordinated with the planning efforts for the Soldier Meadows allotment in the Sonoma-Gerlach RA, a new decision will be issued prior to the 1993 grazing period.

Appeal Point 2:

The issuance of the permit authorizing grazing at harmful levels was arbitrary and capricious and not in accordance with law.

Response:

200 wild horses remained in the HMA after the wild horse gather was completed as agreed to by the affected interest groups. If the carrying capacity established by the BLM in the November 22, 1991 decision (which was appealed by NDOW in December 1991) were to be utilized, 3750 AUMs would have been the portion of the carrying capacity to be scheduled for livestock use in 1992. This represents a reduction from the previously authorized 4350 AUMs. Bureau regulations dictate that reductions in use be implemented over a period of five years. A reduction can only be implemented by agreement or decision, requiring full coordination, consultation and cooperation with affected interests. The agreement to withdraw appeals filed by other interest groups indicated that a new decision would be issued providing coordination, consultation and cooperation (CCC) rather than full force and effect, which would provide the affected interests with protest and appeal process periods of 15 and 30 days consecutively. In the absence of a final action the livestock use automatically reverted to the previous year's use as dictated by 43 CFR 4160.3(c) states in pertinent part:

"...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 on the appeal."

As cited above, the issuance of the 1992 grazing license was based upon the transfer of the preference in 1990 to the current permittee which was not appealed by the appellant at the time of transfer. Due to the fact that the November 22, 1991 decision was vacated, no other planning document was in place to provide for an adjustment on the use in the Paiute Meadows Allotment. A new decision would have been necessary to make the contended necessary reductions in use. This new decision was agreed to, but was not to be issued until coordination, consultation and cooperation requirements had been met. As the appellant is well aware, this is a time consuming process, and has proven to be even lengthier than usual due to abnormal amount of appeals received on the November 22, 1991 decision and the active involvement of numerous and diverse opposing interest groups. In an effort to address all of the original

appeal points, received from all the appellants last December, the new decision will not be issued until public participation and a new allotment evaluation and proposed decision has been completed. A final decision will be developed following the additional public comment and review period. This is expected to take place prior to January 31, 1993.

Summary:

An appeal of the 1992 Paiute Meadows grazing authorization will not stay the action, as it has already taken place. The appeal of the 1992 grazing license will be rendered moot once the new grazing decision has been issued for the Paiute Meadows Allotment.

The point of whether the 1992 grazing license is appealable is also at question in this appeal. It is the BLM's position, that the annual permit based on a transfer that occurred in 1990, which was not appealed, is not an appealable document. A decision was not issued with the license to modify the authorized use that was established in the 1990 transfer. An adjustment in the authorized use cannot be made without a decision or agreement. The permittee applied to utilize the available preference of 4350 AUMs as was established during the transfer of 1990. NDOW's contention that the Bureau should have issued a new decision to limit livestock grazing to the carrying capacity is invalid, given the lack of a final allotment evaluation and final decision establishing the carrying capacity. In fact, the document by which the Bureau sought to establish the carrying capacity was appealed by the appellant on the grounds that the carrying capacity determinations were in error. This decision was set aside, therefore at the time of issuance of the 1992 license the livestock carrying capacity for the Paiute Meadows Allotment was calculated to be 4350 AUMs.

I request that this appeal be dismissed as lacking in standing. The appellant seeks 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 appellant. While there is not a 10-year grazing permit, the authorized use was established with approval of the transfer in April 1990 and issuance of the first annual permit. A letter informing affected interests of the approval of this transfer was sent to affected interests on April 25, 1990. Protest or appeals were not received from any affected interests at that time. The transfer approval is the most current decision document that specifies what the authorized active use and the carrying capacity for livestock is in the Paiute Meadows Allotment.

Lon Wenker



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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

AUG 06 1992

07 262N N292 10
TAKE PRIDE IN AMERICA

IN REPLY REFER TO:

4130
(NV-241.4)

Dear Interested Party:

In consideration of the consultation, coordination and cooperation that is occurring regarding the Paiute Meadows Allotment, I have enclosed a copy of a letter I am sending to Dan Russell approving an application for a change in use in the Paiute Meadows allotment for the remainder of the 1992 grazing season. The application was approved on July 31, 1992.

This change requires that Mr. Russell reduce the herd size in the allotment from 700 cows to 300 cows for the remainder of the summer use period. This represents a 57% reduction in herd size, and a 60% reduction in the actual AUMs to be utilized in the higher elevations of the south half of the allotment than was previously authorized earlier this year. No use by livestock will be made in the higher elevations of the North Paiute Use area following August 14, 1992. No use is authorized in the lower elevations of the southern half of the allotment where the key winter range for wild horses and wildlife has been identified by BLM and NDOW.

If you have any questions, please contact Bob Hopper or Abbie Jossie of my staff.

Sincerely yours,


Area Manager
Paradise-Denio Resource Area

cc: attached list

Ms. Johanna H. Wald
Natural Resources Defense Council
71 Stevenson, Ste. 1825
San Francisco, CA 94105

Ms. Rose Strickland
Sierra Club-Toiyabe Chapter
619 Robinson Ct.
Reno, NV 89503

David Harlow
U.S. Dept. of the Interior
Fish and Wildlife Service
4600 Kietzke Lane, Bldg. C
Reno, NV 89502

Mrs. Dawn Lappin
Wild Horse Organ. Assist.
P.O. Box 555
Reno, NV 89505

Mr. Craig C. Downer
P.O. Box 456
Minden, NV 89423

Joan Reiss
The Wilderness Society
116 New Montgomery #526
San Francisco, CA 94105

Ms. Nancy Whitaker
Animal Protection Institute of
America
P.O. Box 22505
Sacramento, CA 95822

Mr. Richard Heap
Department of Wildlife
State of Nevada
380 B Street
Fallon, NV 89406

Ms. Cathy Barcomb
Commission for the Preservation
of Wild Horses and Burros
Stewart Facility
Capitol Complex
Carson City, NV 89710

Mr. John Marvel
978 Commerical Street
P.O. Box 2645
Elko, NV 89801-2645

Nevada Land Action Assoc.
419 Railroad Street
Elko, NV 89801

Mr. Doug Busselman
Nevada Farm Bureau Federation
1300 Marietta Way
Sparks, NV 89431

Ms. Karen Sussman
International Society for the
Protection of Mustangs and Burros
6212 East Sweetwater Ave.
Scottsdale, AZ 85254

Mr. Thomas Van Horne
2991 Gold Canal Dr.
Suite B
Rancho Cordova, CA 95670

American Horse Protection Assn.
1000 29th St. NW, Suite T100
Washington, D.C. 20007-3820

U.S. Humane Society
2100 "L" Street, NW
Washington, D.C. 20037

Mr. Daniel Russell
P.O. Box 339
Folsom, CA 95630

C. Jean Richards
1767 Fieldcrest Drive
Sparks, NV 89434

Gail and Bill Phillips
P.O. Box 2991
Winnemucca, NV 89445

Humboldt County Commissioners
City/County Complex
Winnemucca, NV 89445

Andy Johas
Johas and Associates
P.O. Box 22938
Sacramento, CA 95822

William C. Cummings
7700 College Town Drive
Suite 208
Sacramento, CA 95826

Nevada Dept. of Wildlife
City/County Complex
Winnemucca, NV 89445

Daniel and Sammie Ugalde
Orovada, NV 89425
Winnemucca, NV 89445

DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

OFFICE NUMBER 3000
OPERATION NUMBER 3000
REFERENCE CODE 4000
SCHEDULE NUMBER 5000
BULL NUMBER 1000000000
BILL DATE 8-13-92
BILL CODE 1000
AMOUNT COLLECTED \$3865.36
JOB FILE NUMBER

FOR BILL PERIOD 8/1/92

PAIUTE RANCHMANSHIP CO
CAMP RANCH
2001 GOVERNOR OF
STATE ST
RANCHO CALABOAZ, CA 95720

BUREAU OF LAND MANAGEMENT
INTERMOUNTAIN DIV
207 EAST 3TH STREET
INTERMOUNTAIN, MT 59112

FOR REFERENCE TO THE DEPT. OF THE INTERIOR PLEASE RETURN THE TOP PORTION OF THIS BILL WITH YOUR PAYMENT, AND KEEP THE BOTTOM PORTION. THIS NOTICE SHALL BE VALID FOR THE PERIOD SET FOR CATTLE STOCK GRAZING USE OFFERED TO YOU. YOUR PAYMENT SHALL BE FOR THE PERIOD OF 30 DAYS FROM THE DATE FIRST LISTED ON THIS BILL. THIS BILL IS NOT VALID FOR CATTLE STOCK GRAZING USE.

FOR BILL PERIOD 8/1/92 THROUGH 8/31/92

FEATURE	LINE NUMBER	PERIOD	PERIOD	ACRES	UNIT	RATE	AMOUNT
PAIUTE RANCHMANSHIP	100	08/01/92	08/31/92	250	A	\$1.97	\$495.00
	200	08/15/92	10/31/92	300	A	\$1.91	\$576.00
	300	11/01/92	02/28/93	350	A	\$1.92	\$672.00
	400	08/01/91	11/05/92	227	N	\$1.00	\$227.00
SUBTOTAL							\$1,970.00
SERVICE CHARGE							\$10.00
TOTAL DUE							\$1,980.00

TERMS AND CONDITIONS:

GRAZING USE WILL BE AS FOLLOWS:

- NORTH OF PAIUTE CREEK - HIGH ELEV ONLY 250 C 08/01 TO 08/14
- SOUTH OF PAIUTE CREEK - HIGH ELEV ONLY 300 C 08/01 TO 10/31
- NORTH OF PAIUTE CREEK - LOW ELEV ONLY 350 C 11/01 TO 02/28

ACROSS OF LEAKAGE CREEK ROAD AND NORTH OF ELEPHANT MT ONLY.
LAND OF THE BUREAU OF LAND MANAGEMENT OF LEAKAGE CREEK RD TO THE N.E. CORNER OF THE SOUTH OF BATTLE CREEK RANCH.

THE ABOVE LAND IS BEING USED FOR CONSERVATION AND PROTECTION OF THE PUBLIC INTEREST AND IS SUBJECT TO THE FOLLOWING CONDITIONS:
1. THE LAND IS NOT TO BE USED FOR GRAZING OR OTHER PURPOSES WITHOUT THE WRITTEN CONSENT OF THE BUREAU OF LAND MANAGEMENT.

PAID

\$ 3,865.36

Date 8-13-92

DEPARTMENT OF THE INTERIOR
Bureau of Land Management

By Edward M. Emswiler

CASE FOLDER

ALL RANGE GRADING AND HOLDING IS REQUIRED TO ENSURE LIVESTOCK REMAIN IN
DESIGNATED AREAS ONLY. WINTER USE IS RESTRICTED TO NORTH OF
PAULINE CREEK NORTH BETWEEN PAULINE CREEK AND BARTLETT CREEKS, AND EAST
OF THE LEONARD CREEK RD. SOME DRIFT WEST OF LEONARD CREEK ROAD MAY
BE USED FOR LIMITED WINTER HOLDING UNLESS AGREED TO THE RANGE OWNER. NO USE
IS AUTHORIZED SOUTH OF PAULINE CREEK IS AUTHORIZED TO
BE USED FOR WINTER HOLDING AREAS NORTH OF PAULINE CREEK TO BARTLETT CREEK
MUST BE CONTROLLED THROUGH HOLDING AND RIDING.

SALT AND/OR MINERAL BLOCKS SHALL NOT BE PLACED WITHIN ONE QUARTER
OF A MILE OF SPRINGS, MEADOWS, STREAMS, RIPARIAN HABITATS OR
ASPEN STANDS.

YOU ARE REQUIRED TO PERFORM NORMAL MAINTENANCE ON THE RANGE
IMPROVEMENTS FOR WHICH YOU HAVE MAINTENANCE RESPONSIBILITY AS PER YOUR
SIGNED COOPERATIVE AGREEMENTS.

YOUR PERMITTED ANNUAL USE BEHELD, BY PASTURE, IS DUE 15 DAYS AFTER THE
END OF YOUR ANNUAL GRASSING PERIOD.

IF PAYMENT IS NOT RECEIVED WITHIN 15 DAYS OF THE DUE DATE, YOU WILL
BE SUBJECT TO THE DISBURSEMENT OF 25% OF THE GRASSING BILL,
WHICH MAY BE INCREASED, NOT TO EXCEED \$200.00. FAILURE TO MAKE PAYMENT
WITHIN 30 DAYS OF THE DUE DATE MAY RESULT IN TRESPASS ACTION.

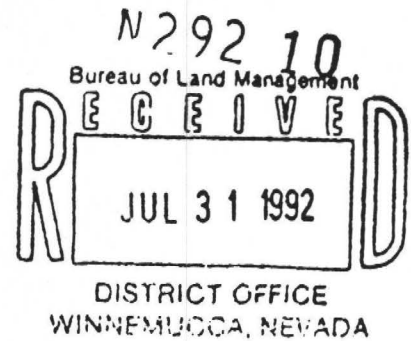
C R TO GATE AUTHORIZED

C R	FREE	PUT	AUTHORIZED				
			ACTIVE	NONUSE	FE USE	EQU TRAIL	TEMP
0057	7337	5479	4125	223			



FRANKIE SUE DEL PAPA
Attorney General

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
208 NORTH FALL STREET
CARSON CITY, NEVADA 89710



July 30, 1992

Mr. Scott Billings, Manager
Paradise-Denio Resource Area
Bureau of Land Management
705 East Fourth Street
Winnemucca, Nevada 89445

Re: Appeal of Paiute Meadows Grazing Permit

Dear Mr. Billings:

This letter is an appeal from your decision dated June 30, 1992, that the yearly license issued for the Paiute Meadows Allotment is not an appealable decision. Attachment A. This appeal is based on the following.

The Nevada Department of Wildlife ("Department") is an affected interest in the Paiute Meadows Allotment, as set forth in the appeal dated June 18, 1992. Attachment B. As an agency of the State of Nevada, the Department exercises its responsibilities over wildlife in the allotment, and has a long history of participation in the BLM's land use planning process in furtherance of those responsibilities.

It is the position of the Department that issuance of an annual grazing permit constitutes an appealable final agency action when the BLM knows that significant deterioration of the rangeland resource will result from the use which the permit authorizes. The BLM retains authority to adjust the year to year grazing authorization based on the condition of the range, 43 U.S.C. § 1752(e), so issuance of the annual permit is not merely a ministerial function. It is a function which rests on the exercise of sound professional judgment and is therefore an appealable agency decision. The failure to properly exercise that judgment is reversible as an arbitrary and capricious agency action not in accordance with the law. It should therefore be appealable pursuant to 43 C.F.R. §§ 4.470 et seq.

The BLM must reduce active use which is "causing an unacceptable level or pattern of utilization or exceeds the livestock carrying capacity as determined through monitoring." 43 C.F.R. § 4110.3-2. "The authorized livestock grazing use

Mr. Scott Billings, Manager
July 30, 1992
Page 2

shall not exceed the livestock carrying capacity." 43 C.F.R. § 4130.6-1. The Department believes the BLM must abide by its own regulations and make adjustments when annually renewing the grazing authorization. The Department particularly asserts that the BLM in the present instance had more than adequate information to require downward adjustment in the authorized grazing, yet arbitrarily and capriciously continued grazing use at a level which it knew would cause resource damage.

The BLM's own documentation proves the grazing authorized exceeds the carrying capacity of the land, as set forth in the Department appeal dated June 18, 1992. See Attachment B. In addition, the Department offers the attached report, Attachment C, as further visual and written evidence of the distressed state of the vegetation even before the onset of livestock grazing. The BLM is aware of these conditions; the affected land is under their charge.

It is 10 years since the land management plan for the Paradise-Denio Resource Area was approved, and the State of Nevada is in its sixth and worst year of drought. Delay can no longer be justified. Treating the annual permit as an appealable decision will prevent such delay.

The Department relies on the legal argument contained in the decision of Administrative Law Judge Rampton in the appeal entitled *Joseph M. Feller v. Bureau of Land Management*, UT-06-89-02 (August 13, 1990), a copy of which is attached as Attachment D. The Judge said "the renewal of a 10-year permit clearly is an action both on an application for a permit and relating to its terms and conditions. It is therefore subject to protest and appeal pursuant to 43 CFR Subpart 4160." *Id.* at 4. The Department believes the same reasoning applies to issuance of an annual permit, especially where the underlying multi-year permit was not subject to review and comment by affected interests, as in the present case.

The Department's position is also supported by recent court decisions. The federal district court found a final agency action in the U.S. Forest Service decision to maintain the status quo in its Region 8 pending development of a future land management plan. *Southern Timber Purchasers Council v. Alcock*, 779 F. Supp. 1353 (N.D. Ga. 1991). The BLM's decision to continue permitting livestock on the Paiute Meadows Allotment is analogous: it preserves the status quo while a decision is devised.

In reaching its conclusion, the court referred to the Supreme Court's practical approach to the definition of "final"

Mr. Scott Billings, Manager
July 30, 1992
Page 3

agency action. "The court looks to see whether the action is 'definitive'; whether it has a direct and immediate effect on the parties; and finally, whether judicial review will serve efficiency or enforcement of the regulatory scheme." *Id.*, 779 F. Supp. at 1358, (quoting *Newport Galleria Group v. Deland*, 618 F. Supp. 1179, 1185 (D.D.C. 1985)).

The Department would argue that each of these criteria is met by the reinstatement of grazing on the Paiute Meadows Allotment at its harmful levels pending the formulation of the promised decision at some indefinite time in the future. While acknowledging that the present appeal is one for administrative, not judicial, relief, the Department believes these three criteria are equally relevant in the administrative context because of the practical policies upon which they rest.

First, the action is definitive because it establishes the permittee's grazing for the 1992 grazing season. The permit very simply sets the level of grazing which will occur.

Second, issuance of the permit has the effect of authorizing grazing on a depleted range resource at levels known to be deleterious to the vegetation. This has a highly adverse effect on wildlife habitat, and therefore on the interests of the Department, which is charged with protection of the State's wildlife.

Third, allowing an appeal from the permit would serve to enforce the regulatory scheme, because it subjects a non-ministerial, allotment-specific BLM grazing decision to public scrutiny for arbitrariness, capriciousness, and unlawfulness. If the appeal is not allowed, then the affected interests have no administrative recourse.

In another decision, *Lane County Audubon Soc'y v. Jamison*, 958 F.2d 290 (9th Cir. 1992), a similar "interim strategy" was held to be a final agency action. The court remarked that the Ninth Circuit interprets the term "agency action" broadly. *Id.* at 294. The BLM should make the same broad interpretation in recognition of the many interests which are affected by the annual grazing decision.

CONCLUSION

Because the decision to issue the permit to Paiute Meadows Ranch for grazing on the Paiute Meadows Allotment is not merely ministerial, and because it rests in the agency's sound professional judgment, it is a final agency action subject to appeal.

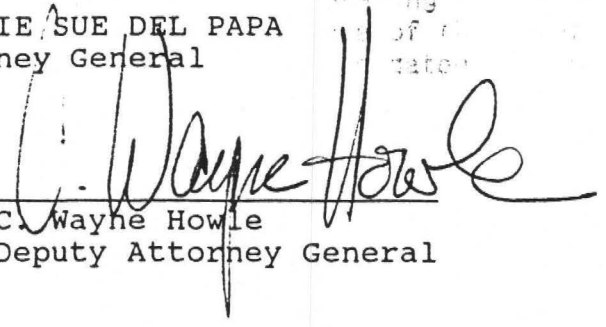
Mr. Scott Billings, Manager
July 30, 1992
Page 4

The grazing authorization was made in spite of information in BLM's possession which shows that grazing at levels authorized by the permit will cause resource damage. There is no other reasonable interpretation of the data. Furthermore, the BLM has the authority and the responsibility to adjust grazing levels when it has such knowledge. Therefore the issuance of the permit authorizing grazing at harmful levels was arbitrary and capricious and not in accordance with law, and the Department appeal of the permit on this basis is entitled to consideration. The Department therefore asks for reversal of the decision finding that the annual grazing permit is not an appealable agency decision, and that the previous Department appeal dated June 18, 1992, be considered on its merits.

Sincerely,

FRANKIE SUE DEL PAPA
Attorney General

By:


C. Wayne Howle
Deputy Attorney General

CWH/lhe

Enclosures

cc: Billy Templeton, State Director, Bureau of Land Management
Burton Stanley, Counsel, Bureau of Land Management



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

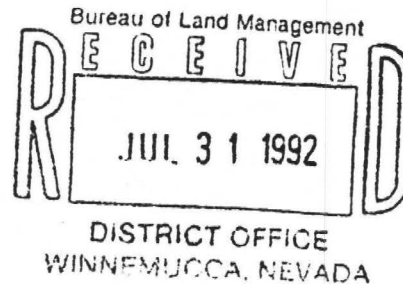
Winnemucca District Office
705 East 4th Street
Winnemucca, Nevada 89445

ML-92 1001 1992
TAKE
PRIDE IN
AMERICA
IN REPLY REFER TO:

June 30, 1992

4160
(NV-240)

Mr William Molini
Director, Nevada Department of Wildlife
P.O. Box 10678
Reno, Nevada 89520-0022



Dear Mr. Molini:

This letter is in response to a letter I received from you dated June 18, 1992 in which you indicated that you were formally appealing the issuance of the 1992 Grazing Permit for the Paiute Meadows allotment. You are viewing the issuance of this grazing permit as a final decision because the Multiple Use Decision dated November 22, 1991 was vacated.

Your interpretation of this action is not correct. The yearly license is not an appealable action and was issued based on the transfer of 4350 AUMs of active use to Mr. Dan Russell in April of 1990 when he offered proof of control for the base properties at Paiute Meadows.

As you are aware, part of the proposal from the wild horse groups was to drop their appeal of the gathering of wild horses on the Black Rock East HMA if the Bureau would vacate the Full Force and Effect decision for the Paiute Meadows allotment that was issued on November 22, 1991. Once that decision was vacated, then the permittee is allowed to use 4350 AUMs (the amount allowed in the transfer process) until another decision is issued to adjust that amount.

The stipulated agreement with the wild horse groups states that a new Proposed Multiple Use Decision will be issued in consultation with the interested parties and in coordination with the Paiute Meadows evaluation.

The consultation process leading to another decision can be lengthy. In addition to the meetings that you attended in Reno on January 7 and January 14, the Resource Area held a consultation meeting on March 10, 1992 to discuss the issues surrounding Paiute Meadows. Representatives from the Nevada Department of Wildlife were present at that meeting and part of the discussion centered around the action that would be taken if a new decision was not completed and issued prior to the 1992 grazing season.

My staff is currently working to develop alternatives for management on the allotment that address the concerns you identified in your appeal dated December 18, 1991 as well as the concerns of the wild horse groups, NRDC and the Sierra Club. A copy of the alternatives will be sent to all interested parties for their review and comment. Once my staff and I have reviewed the comments, a determination will be made if another consultation meeting is necessary before the management action is developed.

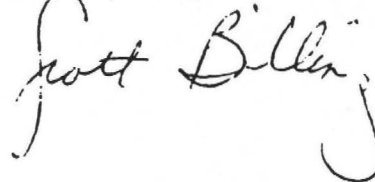
ATTACHMENT A

In closing, I want to reiterate that your interpretation of the yearly grazing permit being a final decision is not correct. Therefore, I view your letter dated June 18, 1992 as a protest as described in 43 CFR 4.450-2 and not as an appeal.

If you wish to appeal this final decision in accordance with 43 CFR Part 4, you are allowed thirty (30) days from receipt of this notice within to file such appeal with the Area Manager, Paradise-Denio Resource Area, Bureau of Land Management, 705 East Fourth Street, Winnemucca, Nevada 89445. The appeal should state clearly and concisely why you think the decision is in error.

If you have any other questions, please give me a call.

Sincerely yours,



cc: Mr. Richard Heap
Ms. Cathy Barcomb
Ms. Dawn Lappin
Mr. Thomas Van Horne
NRDC
Sierra Club
Humane Society of the United States
American Horse Protection Association
Animal Protection Institute
Mr. William Cummings
Mr. Andy Johas
Mr. Dan Russell



STATE OF NEVADA
 DEPARTMENT OF WILDLIFE
 1100 Valley Road
 P.O. Box 10678
 Reno, Nevada 89520-0022
 (702) 688-1500
 Fax (702) 688-1595

87 N2-92 1
 Bureau of Land Management
RECEIVED
 JUL 31 1992
 DISTRICT OFFICE
 WINNEMUCCA, NEVADA

BOB MILLER
 Governor

WILLIAM A. MOLINI
 Director

June 18, 1992

Mr. Scott Billings, Manager
 Paradise-Denio Resource Area
 Bureau of Land Management
 705 East Fourth St.
 Winnemucca, NV 89445

s with
 that appears
 to the 1992
 for dated
 (No
 at

RE: Formal Appeal of Paiute Meadows Grazing Permit

Dear Mr. Billings:

The Nevada Department of Wildlife hereby formally appeals the issuance of the 1992 Grazing Permit for the Paiute Meadows Allotment, which authorizes 4350 AUMs of livestock use with the Paradise-Denio Resource Area from May 1, 1992 through November 5, 1992. Recognizing that the November 22, 1991 Land Use Plan Decision has been vacated, we must necessarily view the Annual Grazing Permit License as the Bureau's final decision in this matter. A copy of the grazing permit was received by our office through the Freedom of Information Act on May 20, 1992, thereby making this appeal timely and within the required 30 day limitation.

Our agency has a long standing interest and investment in the Land Use Planning Process of the Paradise-Denio Resource Area, and particularly the Paiute Meadows Allotment. As an indication of our involvement, the Department provided a comprehensive response to the Draft Paiute Meadows Allotment Evaluation (issued on July 3, 1991) with specific reference to appropriate livestock stocking rates, and seasons of use which may affect important fish and wildlife values also found in this area (response dated August 7, 1991).

On November 22, 1991 the Bureau issued a Full Force and Effect Multiple Use Decision for the Paiute Meadows Allotment, a decision which was formally appealed by the Department of Wildlife on December 18, 1991. This appeal focused on errors in the decision which were used to determine livestock carrying capacities, the implementation

Mr. Scott Billings, Manager
June 18, 1992
Page 2

of a Livestock Use Agreement, and noncompliance with Bureau of Land Management Policies and the National Environmental Policy Act.

Because of the concern expressed by the Bureau and others relative to excessive numbers of wild horses within the allotment, and subsequent need from a budget and administrative standpoint to immediately address this problem, the Bureau facilitated coordination meetings on January 7, and again on January 14, 1992 with Department representatives and other interest groups. All parties present agreed to withdraw their appeals in an effort to allow for the removal of excess wild horses with the understanding that the livestock grazing portion of the decision and our attendant appeals would remain in place, or that a new grazing decision would be issued prior to the 1992 grazing season. Based on this understanding, the Department submitted a letter dated January 27, 1992 to Mr. Burton Stanley, which was used as support before the IBLA (No. 92-188) to insure the immediate removal of excess wild horses from this allotment.

Much to our surprise, the Multiple Use Decision was vacated by the Bureau in May of 1992, an action which renders our appeal invalid; and most disturbing, an annual license for grazing 4350 AUMs of livestock was issued to the Paiute Meadows Ranch. Although the permit references the establishment of 4350 AUMs "as per consultation with the State Director in January 1992", a letter from the State Director to Johanna Wald of NRDC dated May 27, 1992, states that the amount of use was actually established in April of 1990.

In view of the above, and pursuant to 43 CFR Section 4.470(a), and through the incorporation of comments provided in our original appeal dated December 18, 1992, the following represents the required statement as to why this decision is in error:

1. Livestock carrying capacities are invalid.

Livestock carrying capacities must be computed for the North and South pastures. Grazing authorizations must not exceed these livestock carrying capacities computed with monitoring data presented in the Paiute Meadows Final Allotment Evaluation Summary, November 22, 1991.

Streambank riparian vegetation for Paiute, Battle and Bartlett Creeks must be considered key management areas. The allotment evaluation short term objective limits utilization to 30% on key streambank riparian plant species. Furthermore, the evaluation lists seven riparian species to be monitored by the Bureau of Land Management. Livestock stocking rates and/or season of use that exceeds 30% utilization of these riparian plant species will exceed the livestock carrying capacity for the Paiute Meadows Allotment.

Mr. Scott Billings, Manager

June 18, 1992

Page 3

Average/Weighted Utilization estimates cannot be used in livestock carrying capacity calculations. "Range Monitoring Technical Reference 4400-7" instructs the Bureau to use average/weighted estimates only where livestock distribution and utilization is uniform. Monitoring data clearly shows utilization is not uniform on the Paiute Meadows Allotment. Management actions are to be based upon key management areas. "The Nevada Rangeland Monitoring Handbook" sets criteria for determining key areas and requires these areas be treated with special consideration, even if they do not reflect the entire grazing unit.

Wild horses did not have a significant influence on the utilization of streambank riparian vegetation in the North Pasture. Carrying capacity calculations should not utilize wild horse numbers or estimated animal unit months. Use pattern mapping data collected for grazing seasons 1989 and 1990 distinguish livestock and wild horse use of streambank riparian in the North Pasture. Appendix 1 of the allotment evaluation shows that 244 wild horses were present yearlong on the North Pasture during 1989 and 1990. Monitoring studies measured streambank riparian utilization as slight to light (20%) in 1989 and as severe (95%) in 1990. Regardless of actual wild horse numbers, the only significant differences that occurred between these years were the livestock seasons of use in the North Pasture. During 1989, 701 cows occupied the North Pasture from October 26 to February 28 (Fall/Winter). During 1990, 700 cows occupied the North Pasture from May 3 to October 31 (Spring/Summer). Since 1990 the Bureau of Land Management removed 489 wild horses from the allotment (February 1992) which further reduced the possible influence of wild horses on streambank riparian vegetation in the North Pasture.

The stocking rate for Spring/Summer use of the North Pasture for 1992 exceeds the livestock carrying capacity. Livestock carrying capacity for the North Pasture, in accordance to Bureau of Land Management TR 4400-7 and 1990 use pattern mapping data, is as follows:

$$\begin{array}{rcl} \frac{\text{Actual Use}}{\text{Actual Utilization}} & = & \frac{\text{Potential Actual Use}}{\text{Desired Utilization}} \\ \\ \frac{4,017 \text{ AUMs}}{95 \text{ Percent}} & = & \frac{1992 \text{ Carrying Capacity}}{30 \text{ Percent}} \end{array}$$

The livestock carrying capacity for the North Pasture is 1,268 AUMs for the Spring/Summer season of use. The 1992 Grazing Permit authorizes 2,175 AUMs of livestock use. Bureau of Land Management monitoring data confirms that this authorization will cause damage to streambank riparian vegetation and habitat.

Mr. Scott Billings, Manager
 June 18, 1992
 Page 4

Livestock carrying capacity calculations for the South Pasture cannot be computed without use pattern mapping data for livestock use. The Paiute Meadows Allotment Evaluation used wild horse use pattern mapping data from 1987 to 1990 to estimate a carrying capacity to be divided between wild horses and livestock. These data clearly indicated that wild horses utilized wetland riparian habitats from heavy to severe (60% to 100%). In several areas heavy and severe utilization were observed on upland sites and a seeding. Data clearly justified a significant removal of wild horses to protect and restore range conditions.

The District's computation of carrying capacity was based on wild horse data, uniform utilization, weight/averages and the assumption that livestock and wild horses exhibit similar foraging habits. These data are erroneous. Furthermore, this carrying capacity (4,950 AUMs) was allocated to livestock (4,350 AUMs) by the 1992 Grazing Permit. The Grazing Permit replaced wild horses with livestock on the South Pasture. Livestock are known to use mountain browse species important to big game during summer/fall months. The South Pasture is a critical big game winter range and livestock will compete with big game on these depleted ranges. Failure to collect trend studies on this critical winter range precludes the Bureau from showing any rationale to re-authorize livestock use in the South Pasture.

Using the allotment evaluation's 1990 use pattern mapping data and short term objective for wetland riparian habitat, a carrying capacity for wild horses can be computed. In accordance with Rangeland Monitoring Technical Reference 4400-7, the wild horse carrying capacity for the South Pasture would be as follows:

$$\frac{\text{Actual Use}}{\text{Actual Utilization}} = \frac{\text{Potential Actual Use}}{\text{Desired Utilization}}$$

$$\frac{3,168 \text{ AUMs (Horse only)}}{95 \text{ Percent}} = \frac{\text{Potential Actual Use}}{50 \text{ Percent}}$$

The carrying capacity for wild horses is 1,425 AUMs for the South Pasture in 1992. In February 1992 the Bureau removed 489 wild horses from the Paiute Meadows Allotment. By agreement with special interest groups, the District left 200 adult wild horses on the allotment. Previous monitoring data indicated even distribution of wild horses on this allotment. Assuming that 100 wild horses remain on the South Pasture, the estimated forage consumption would be 1,200 AUMs. Existing conditions of the Paiute Meadows Allotment would only leave 225 AUMs available to livestock. The 1992 Grazing

Mr. Scott Billings, Manager
June 18, 1992
Page 5

Permit authorizes livestock 2, 175 AUMs of Summer/Fall use. The 1992 Grazing Permit will exceed the livestock carrying capacity.

2. The Grazing Permit is not consistent with the Paradise-Denio Management Framework III Decisions.

The Range Management Program Objectives 5 states:

"At the end of the third and fifth year of grazing following issuance of the grazing decision make necessary adjustments based upon monitoring data..... If monitoring reveals that a particular use or practice is causing resource damage, that particular use may be adjusted....."

The Paradise-Denio Resource Area land use plan was completed by the issuance of the Record of Decision (MFP III) on August 6, 1982. Despite nearly a decade since the completion of the land use plan, the completion of the Paiute Meadows Allotment Evaluation and knowledge of occurring resource damage, the Bureau of Land Management issued this Grazing Permit contrary to this land use plan objective.

Range Program Decision RM 1.11 states:

".....initial stocking levels are based on current data, but will not preclude the future establishment of intensive grazing systems or other management practices that may be necessary to obtain proper management of the rangeland resources..."

Wildlife Program Decision WL 1.5 states:

"Management objectives of activity plans will include specific objectives pertaining to improving and maintaining desired riparian and meadow habitats..... meadows will be considered as critical areas.."

Wildlife Program Decision 1.11 states:

"All activity plans, permits, leaseswill take measures to protect:

1. Wildlife concentration areas.
2. Raptor nesting areas.
3. Sage grouse strutting, nesting and brooding areas.
4. Important wildlife waters."

Mr. Scott Billings, Manager
 June 18, 1992
 Page 6

Aquatic Wildlife Program Decision WLA 1.1, 1.2 states:

"The following listed streams appear to have this potential:

Habitat Expansion

Battle Creek Pahute Creek

Habitat Improvement

Bartlett Creek Battle Creek Pahute Creek"

Aquatic Wildlife Program Decision WLA 1.4, 1.5 and 1.6 states:

"...ensure that fish habitat factors are included as objectives of AMPs that contain fishable streams".

The stocking level or active preference was to be adjusted, if necessary, with monitoring data collected in accordance with an allotment management plan. The Paiute Meadows Allotment has never had an allotment management plan. Grazing management practices were solely described in the terms and conditions of Grazing Permits. In light of the recent allotment evaluation and vacated Full Force and Effect Multiple Use Decision (November 11, 1991), the Department seeks resource protection in the terms and conditions of the 1992 Grazing Permit. The Grazing Permit fails to list allotment objectives and grazing practices that will address specific fish and wildlife land use plan decisions. The 1992 stocking rates and seasons of use for livestock will exceed livestock carrying capacities and cause resource damage adversely impacting wildlife species.

Sincerely,

William A. Molini

William A. Molini
 Director

WAM:el

cc: BLM State Director
 Region I Manager

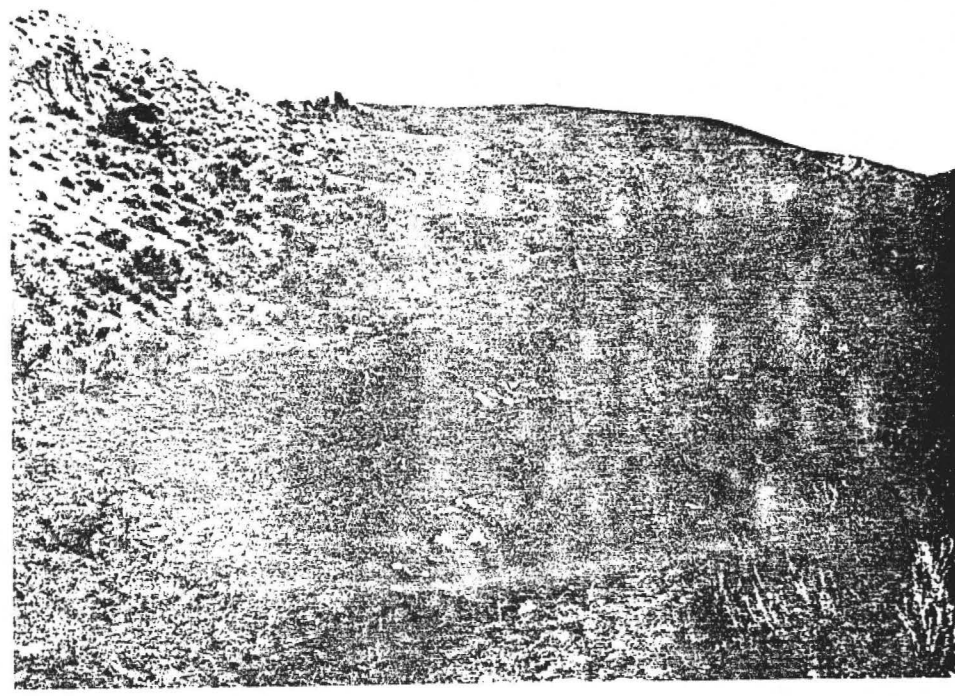
PAIUTE MEADOWS ALLOTMENT MONITORING 1992

Streambank Riparian Habitat - North Battle Creek T44N, R27E, S19
Final Allotment Evaluation (11-22-91):

Short Term Allotment Objective:
"Utilization of key streambank riparian plant species shall not exceed 30% on Paiute, Battle and Bartlett Creeks."

1992 License
North Pasture - 700 Cattle - 2,175 AUMs - 5/1 to 7/31

June 23, 1992 - Roy Leach, Jim Jeffress, Jim French



All cattle were observed within 1/4 mile of water sources. Significant use of riparians were common and licensed use allows for five more weeks before movement to South Pasture.

Field Notes: Streambank riparian vegetation appeared to be used by cattle exclusively. BIM monitoring data confirms this observation by NDOW. Young willows were all hedged by livestock this spring and summer. Mature willows were used. Uplands appeared to have perennial grasses available to cattle, but cattle use is limited to 1/4 of water.

Bureau of Land Management
RECEIVED
JUL 31 1992

DISTRICT OFFICE
WINNEMUCCA, NEVADA

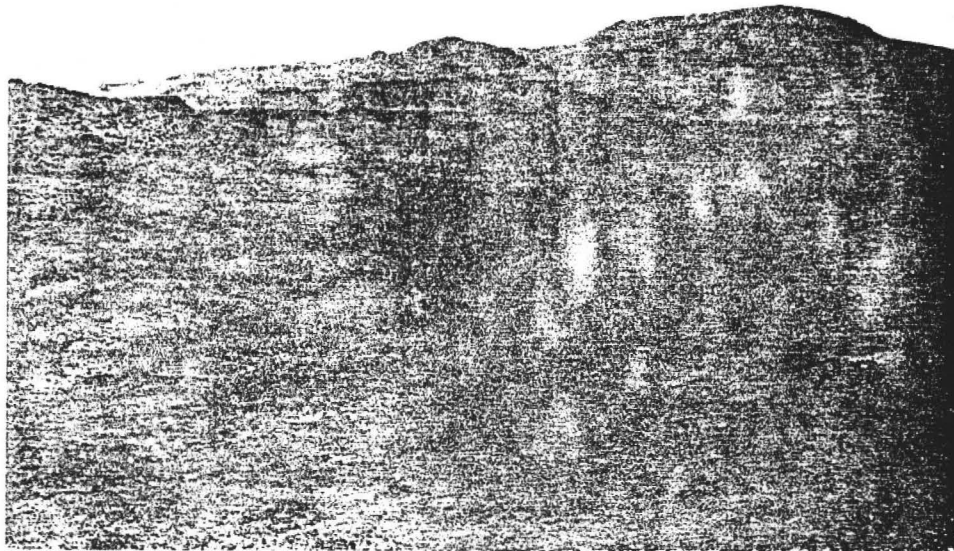
Wetland Riparian Habitat - Burnt Springs - T40N,R26E, S 10

Final Allotment Evaluation 11-22-91

Short Term Objective:

"Utilization of key plant species in wetland riparian habitats shall not exceed 50%."

June 23, 1992 - Roy Leach, Jim French, Jim Jeffress



Heavy use by cattle and wild horses. Bare soils are present. Wild horses use this stringer meadow all spring and summer. There will be no residual cover.

NDOW Appeal/Argument

NDOW used BLM monitoring data to estimate the livestock carrying capacity of 1,268 AUMs of spring/summer use. The 1992 Grazing License authorized 2,175 AUMs from 5/1 to 7/31. This use is known to cause damage to riparian habitats. We assume that these sites will receive continuous use for five additional weeks after these photographs. These sites are typical of the allotment and critical to sage grouse, antelope, mule deer and nongame wildlife.

1992 License:

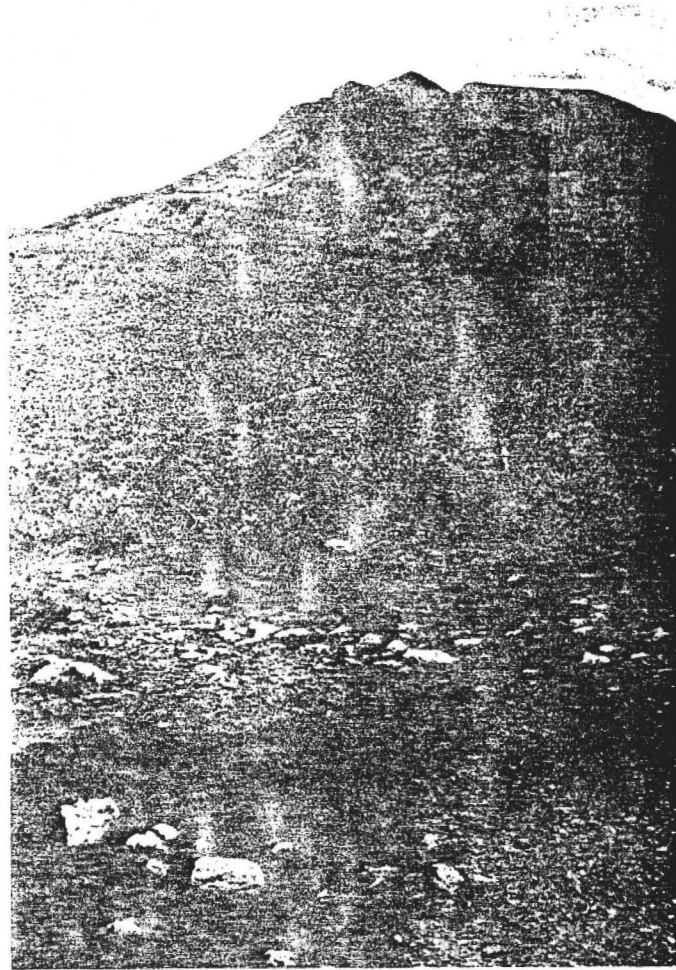
South Pasture - 700 Cattle - 2,175 AUMs - 8/1 to 11/5

Wetland Riparian Habitat - Trough Springs - T39N, R25E, S12
Final Allotment Evaluation (11-22-91)

Short Term Objective:

"Utilization of key plant species in wetland riparian habitats shall not exceed 50%."

June 23, 1992 - Roy Leach, Jim Jeffress, Jim French



Heavy use by wild horses and trespass cattle. Bare soils present and no cover for sage grouse broods.

Field Notes: This spring is typical of the South Pasture. Water sources are critical to antelope and sage grouse. All springs observed were heavily used by wild horses.

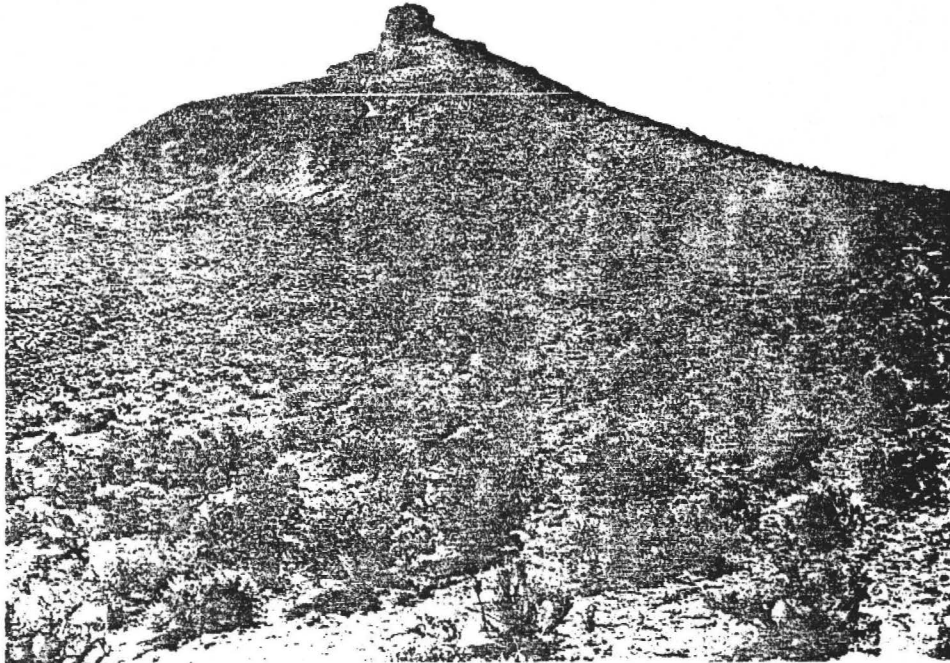
Upland Habitat - T39N, R25E, S 1

Final Allotment Evaluation (11-22-91)

Short Term Objective:

"Utilization of key plant species in upland habitats shall not exceed 50%."

June 23, 1992 - Roy Leach, Jim French, Jim Jeffress



Heavy use of the upland grasses by horses and trespass cattle in 1992. Hedged brush indicated heavy winter use.

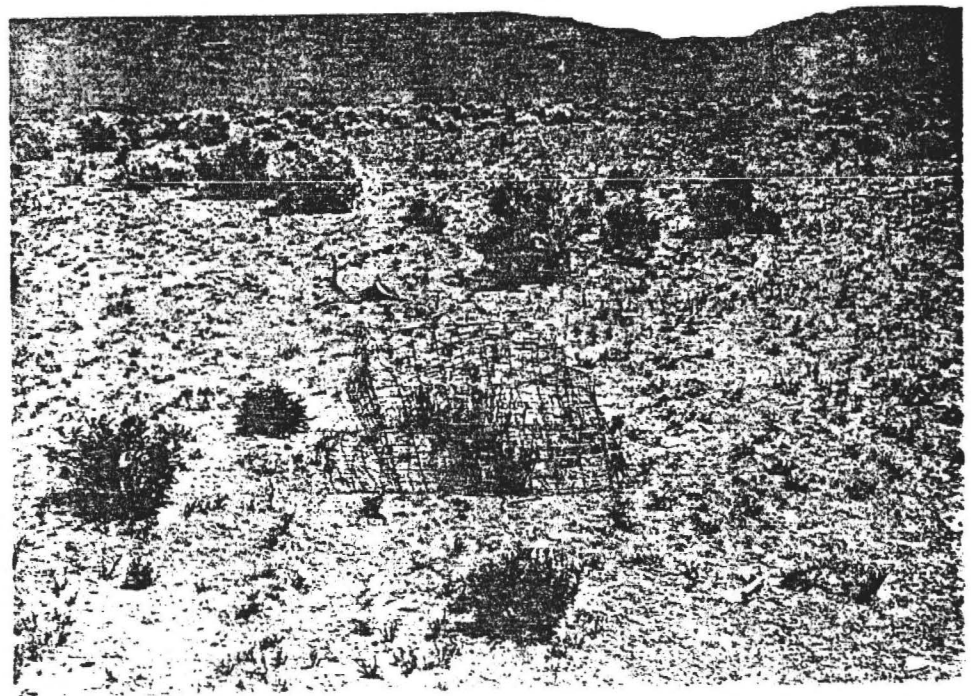
Field Notes: The site represents heavy yearlong use by wild horses. It would appear that wild horses had to survive on sage brush last winter. BLM removed 489 wild horses from the South Pasture in February 1992. Antelope, sage grouse and mule deer were observed.

Crested Wheatgrass Site - T39N, R25E

Final Allotment Evaluation (11-22-91)

Short Term Objective:
"Utilization of crested wheatgrass shall not exceed 50%."

June 23, 1992 - Roy Leach, Jim Jeffress, Jim French



Significant use by wild horses at a BLM monitoring site. BLM monitoring data indicate severe use by wild horses prior to the removal in 1992. The observed use is five weeks prior to livestock use. This is a critical antelope summer range.

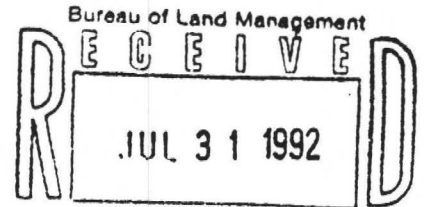
NDOW Appeal/Argument

NDOW used BLM monitoring data and wild horse numbers to estimate carrying capacities. According to our analysis, wild horses will use all available forage prior to livestock moving into the South Pasture. Our photographs clearly show that there is no forage available to livestock on key riparian and upland sites in the South Pasture. Conditions are expected to become worst on the North and South Pastures. The 1992 Grazing License authorizes livestock use known to cause damage. These photographs confirms our argument.



OFFICE OF HEARINGS AND APPEALS

Hearings Division
6432 Federal Building
Salt Lake City, Utah 84138
(Phone: 301-524-3344)



August 13, 1990

DISTRICT OFFICE
WINNEMUCCA, NEVADA-

JOSEPH M. FELLER, : UT-06-89-02
Appellant : Appeal from a decision of
v. : the San Juan Resource Area
BUREAU OF LAND MANAGEMENT, : Manager dated February 20,
Respondent : 1989, issuing a grazing
UTE MOUNTAIN UTE TRIBE, : permit to the White Mesa
Intervenor : Cattle Company, Moab
District, Utah

DECISION

Appellant Joseph M. Feller, a Professor of Law at Arizona State University, sought and was granted "affected interest" status with regard to the Comb Wash allotment in the San Juan Resource Area pursuant to the regulations at 43 CFR 4100.0-5. See attachments "A" and "B" to his Statements of Reasons (SOR). The San Juan Resource Area is located within the Moab District under the supervision of the Utah State Office of the Bureau of Land Management (BLM).

Mr. Feller appeals the issuance by the San Juan Resource Area Manager of a 10-year grazing permit authorizing the White Mesa Ute Cattle Company to graze the Comb Wash allotment. The grazing permit, which is set out as Attachment C to appellant's SOR, "is subject to (A) modification, suspension or cancellation as required by land plans and applicable law; (B) annual review and to modification of terms and conditions as appropriate; and (C) the Taylor Grazing Act, as amended, the Federal Land Policy and Management Act, as amended, the Public Rangelands Improvement Act, and the rules and regulations now or hereafter promulgated thereunder by the Secretary of the Interior." Appellant charges that the issuance of the permit was arbitrary and capricious because BLM failed to follow its own procedures and applicable environmental laws.

Mr. Feller and BLM agreed to waive the hearing and to submit the matter on briefs. See my Order dated January 30, 1990. The Ute Mountain Ute Tribe (Tribe) moved to intervene on March 19, 1990. The Tribe is a Federally recognized Indian tribe with three cattle operations, one of which is the White Mesa Ute Cattle Company in Utah. The motion was granted on March 22, 1990.

The record consists of appellant's appeal and statement of reasons dated March 14, 1989; BLM's Answer dated March 2, 1989; appellant's March 27, 1990, reply to BLM's answer; the Tribe's motion to intervene, and appellant's response to the motion. Appellant also supplemented his initial statement of reasons on April 11, 1990.

Issues

Mr. Feller's appeal asserts that the issuance of a 10-year grazing permit is subject to the provisions of 43 CFR Subpart 4160, which requires service of a proposed decision on all affected interests and an opportunity to protest and/or appeal BLM's proposed action. The appeal asserts BLM failed to comply with these provisions in issuing the subject permit and that it therefore should be set aside.

as to
states v.
Citizens
Cir.
B.L.M.
the
it

Additionally, the appeal asserts that the issuance of the subject permit violated provisions of the National Environmental Policy Act of 1969, the Clean Water Act of 1977, the Federal Land Policy and Management Act of 1976, and applicable grazing regulations. Mr. Feller argues that preparation of a site-specific Environmental Impact Statement (EIS) is necessary before BLM may decide to reauthorize grazing in the Comb Wash allotment and that such a study would show that changes in grazing levels and practices are required in order to keep grazing levels within the allotment's carrying capacity and to comply with applicable environmental laws.

In his final submittals, Mr. Feller makes clear that he does not seek any substantive relief in these proceedings. He seeks merely a procedural remedy: that the permit be set aside and the matter be remanded to BLM for further action in conformity with all applicable laws and regulations.

Applicable Law

The general authority of the Secretary of the Interior with respect to management of Federal rangelands is set forth in the Taylor Grazing Act of 1934, as amended, 43 U.S.C. §§ 315 et seq.:

The Secretary of the Interior shall make provision for the protection, administration, regulation, and improvement of [Federal rangelands] and he shall * * * do any and all things necessary to accomplish the purposes of this chapter * * * namely, to regulate their occupancy and use, to preserve the land and resources from destruction or unnecessary injury, [and] to provide for the orderly use, improvement and development of the range * * *.

43 U.S.C. § 315a.

Thus, the management of the Federal range is committed to the discretion of the Secretary. "[T]he entire authority and responsibility for allocation of the Federal range is vested in the Department [of the Interior], to be exercised in such a manner as to provide for the most beneficial use thereof." United States v. Maher, 5 IBLA 209, 221; 79 I.D. 109, 115 (1972), citing Red Canyon Sheep Company v. Ickes, 98 F.2d 308 (D.C. Cir. 1938).

Where, as here, a decision adjudicating grazing privileges is appealed, it is well settled that the appellant bears the burden of showing by substantial evidence that the decision was arbitrary, capricious, or clearly erroneous as a matter of law. A decision may be regarded as arbitrary and capricious only if it is not supportable on any rational basis or if it does not substantially comply with the grazing regulations. See, e.g., Fasselin v. Bureau of Land Management, 102 IBLA 9 (1988). A decision must also comply with Federal environmental laws. See, e.g., Natural Resources Defense Council v. Morton, 388 F. Supp. 819 (D.D.C. 1975) aff'd, 527 F.2d 1386 (D.C. Cir. 1976), cert. denied, 427 U.S. 913 (1976).

Discussion

The first issue to address is whether the renewal of a 10-year grazing permit for the Comb Wash allotment is a decision or an action on an application for a permit within the meaning of 43 CFR Subpart 4160. BLM asserts that the issuance of a grazing permit for the Comb Wash allotment is not a protestable or appealable decision because the permit "does not convey any new rights or privileges" but "merely recognizes [the permittee's] prior preference." BLM's Answer at 7. See also attachment B to appellant's SOR.

The applicable regulation provides:

[T]he authorized officer shall serve a proposed decision on any applicant * * * who is affected by the proposed action on applications for permits * * * or by the proposed action relating to terms and conditions of permits * * *. The authorized officer shall also send copies to other affected interests. The proposed decision shall state reasons for the action * * * and shall provide * * * for the filing of a protest.

43 CFR 4160.1-1 (emphasis added).

The renewal of a 10-year grazing permit clearly is an action both on an application for a permit and relating to its terms and conditions. It is therefore subject to protest and appeal pursuant to 43 CFR Subpart 4160.

The next issue to determine is whether Mr. Feller received appropriate notice of and opportunity to protest BLM's decision to renew the White Mesa Ute Cattle Company's permit to graze the Comb Wash allotment. Mr. Feller asserts he received an unsigned copy of the proposed permit on February 13, 1989. The permit was dated February 6, 1989. It apparently was signed by all parties and became effective as of February 20, 1989.

Mr. Feller asserts that he was not informed until he asked whether the permit he received was intended to be a proposed or final action. Nor is there any indication that any explanation of the reasons for deciding to renew the permit as issued was provided to anyone.

This is not surprising in light of BLM's stated position of which Mr. Feller was advised only days before the permit was issued:

[A]s an affected interest you would have the right to protest and/or appeal decisions which relate specifically to the Comb Wash allotment. Appeal or protests of actions which do not require specific decisions would not be allowed. An example of such an action which would not require a decision would be the renewal of a grazing permit or lease where monitoring showed that there was no need for adjustments in grazing use and are normally issued as standard operating procedure.

Attachment B to Appellant's SOI

Nevertheless, BLM argues that

If indeed BLM did not give Mr. Feller as much notice as he feels he should have had, he obviously has had every opportunity to appeal this matter, and is now being given an opportunity to have his side of the story told. The very documents which Mr. Feller has submitted for review indicate that BLM has made [an] extraordinary effort to involve this extremely active person in what is merely one allotment of a great many which one area office must assume total responsibility for.

Whether technical violations of informing Mr. Feller occurred or not he obviously has not been harmed in any way in his ability to have his views heard and reviewed.

Indeed, however, violations of the applicable regulation at 43 CFR Subpart 4160 did occur to the substantial prejudice of Mr. Feller's ability to participate as an affected interest in BLM's decision to reauthorize grazing in the Comb Wash allotment. For that reason, BLM's decision to issue the present 10-year grazing permit to the White Mountain Ute Cattle Company must be set aside and the matter must be returned to BLM for proper processing.

As noted above, Mr. Feller also asserts that the grazing permit issued to the White Mountain Ute Cattle Company for the Comb Wash allotment fails to comply with applicable provisions of several environmental laws and grazing regulations. Among other things, he argues

(1) A new site-specific EIS is required to be prepared for the Comb Wash allotment prior to the issuance of a new 10-year grazing permit pursuant to the provisions of the National Environmental Policy Act of 1969, 42 U.S.C. § 4321-4347 (1982) and the District Court's decision in Natural Resources Defense Council v. Morton, 388 F. Supp. 829 (D.D.C. 1975), aff'd, 517 F.2d 1386 (D.C. Cir. 1976), cert. denied 437 U.S. 13 (1976).

(2) Grazing levels must be reduced to prevent any violations of Sec. 61 of the Clean Water Act of 1977, P.L. 95-139, 91 Stat. 1566, 1598, 33 U.S.C. § 1323 (1982), which requires all Federal actions to comply with State water quality standards.

(3) Grazing levels must be reduced to those supportable by the allotment's carrying capacity and in conformity with the applicable allotment and resource management plans pursuant to

provisions of the Federal Land Policy and Management Act of 1976, 43 U.S.C. §§ 1701, 1702, 1733, and 1752, and the grazing regulations at 43 CFR 4130.6-1(a) and 4110.3.

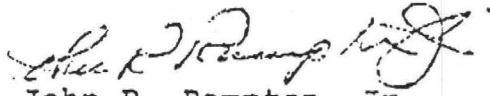
The parties have all submitted arguments concerning the provisions and applicability of, inter alia, a 1963 allotment management plan (AMP) for the Comb Wash allotment, an EIS prepared for an area encompassing the Comb Wash allotment, and a proposed San Juan Resource Management Plan which also encompasses the allotment. Significantly, none of these documents has been submitted into the record before me.

In light of the remand of this matter to BLM and the lack of a substantial factual record, I find it inappropriate to address the other issues raised in this appeal. On remand, BLM should take care to set out in an articulate and reasoned manner the basis for any decision regarding grazing in the Comb Wash allotment and, among other things, the decision should set forth the basis for asserting compliance with, or exemption from, the applicable provisions of law and regulation and should demonstrate consideration of any applicable monitoring studies.

A new decision regarding grazing on the Comb Wash allotment should issue within 60 days of the effective date of this decision and should be issued in compliance with the provisions of 43 CFR 4160.1-1.

Conclusion

For the reasons set forth above, the decision of the San Juan Resource Area Manager to issue a 10-year grazing permit to the White Mountain Ute Cattle Company for grazing on the Comb Wash allotment is hereby set aside. The matter is remanded to BLM for further action consistent with this decision. A new decision concerning grazing on the Comb Wash allotment should be issued by BLM within 60 days of the effective date of this decision. In the interim, grazing levels should be maintained as currently authorized.


John R. Rampton, Jr.
District Chief
Administrative Law Judge

Appeal Information

N2-92 10

Any party adversely affected by this decision has the right of appeal to the Interior Board of Land Appeals. The appeal must comply strictly with the regulations in 43 CFR Part 4 (see enclosed information pertaining to appeals procedures).

Distribution

By Certified Mail:

David K. Grayson, Esq.
Office of the Regional Solicitor
U.S. Department of the Interior
Room 6201 Federal Building
125 South State Street
Salt Lake City, Utah 84138

Joseph M. Feller
Associate Professor of Law
College of Law
Arizona State University
Tempe, Arizona 85287

Judy Knight-Frank, Chairperson
Ute Mountain Tribal Council
P.O. Box GG
Towaoc, Colorado 81334

JUN 30 1992

4160
(NV-240)

Mr William Molini
Director, Nevada Department of Wildlife
P.O. Box 10678
Reno, Nevada 89520-0022

Dear Mr. Molini:

This letter is in response to a letter I received from you dated June 18, 1992 in which you indicated that you were formally appealing the issuance of the 1992 Grazing Permit for the Paiute Meadows allotment. You are viewing the issuance of this grazing permit as a final decision because the Multiple Use Decision dated November 22, 1991 was vacated.

Your interpretation of this action is not correct. The yearly license is not an appealable action and was issued based on the transfer of 4350 AUMs of active use to Mr. Dan Russell in April of 1990 when he offered proof of control for the base properties at Paiute Meadows.

As you are aware, part of the proposal from the wild horse groups was to drop their appeal of the gathering of wild horses on the Black Rock East HMA if the Bureau would vacate the Full Force and Effect decision for the Paiute Meadows allotment that was issued on November 22, 1991. Once that decision was vacated, then the permittee is allowed to use 4350 AUMs (the amount allowed in the transfer process) until another decision is issued to adjust that amount.

The stipulated agreement with the wild horse groups states that a new Proposed Multiple Use Decision will be issued in consultation with the interested parties and in coordination with the Paiute Meadows evaluation.

The consultation process leading to another decision can be lengthy. In addition to the meetings that you attended in Reno on January 7 and January 14, the Resource Area held a consultation meeting on March 10, 1992 to discuss the issues surrounding Paiute Meadows. Representatives from the Nevada Department of Wildlife were present at that meeting and part of the discussion centered around the action that would be taken if a new decision was not completed and issued prior to the 1992 grazing season.

My staff is currently working to develop alternatives for management on the allotment that address the concerns you identified in your appeal dated December 18, 1991 as well as the concerns of the wild horse groups, NRDC and the Sierra Club. A copy of the alternatives will be sent to all interested parties for their review and comment. Once my staff and I have reviewed the comments, a determination will be made if another consultation meeting is necessary before the management action is developed.

In closing, I want to reiterate that your interpretation of the yearly grazing permit being a final decision is not correct. Therefore, I view your letter dated June 18, 1992 as a protest as described in 43 CFR 4.450-2 and not as an appeal.

If you wish to appeal this final decision in accordance with 43 CFR Part 4, you are allowed thirty (30) days from receipt of this notice within to file such appeal with the Area Manager, Paradise-Denio Resource Area, Bureau of Land Management, 705 East Fourth Street, Winnemucca, Nevada 89445. The appeal should state clearly and concisely why you think the decision is in error.

If you have any other questions, please give me a call.

Sincerely yours,

/s/ Scott R. Billing

cc: Mr. Richard Heap
Ms. Cathy Barcomb
Ms. Dawn Lappin
Mr. Thomas Van Horne
NRDC
Sierra Club
Humane Society of the United States
American Horse Protection Association
Animal Protection Institute
Mr. William Cummings
Mr. Andy Johas
Mr. Dan Russell



STATE OF NEVADA
DEPARTMENT OF WILDLIFE
1100 Valley Road
P.O. Box 10678
Reno, Nevada 89520-0022
(702) 688-1500
Fax (702) 688-1595

BOB MILLER
Governor

WILLIAM A. MOLINI
Director

June 18, 1992



Mr. Scott Billings, Manager
Paradise-Denio Resource Area
Bureau of Land Management
705 East Fourth St.
Winnemucca, NV 89445

RE: Formal Appeal of Paiute Meadows Grazing Permit

Dear Mr. Billings:

The Nevada Department of Wildlife hereby formally appeals the issuance of the 1992 Grazing Permit for the Paiute Meadows Allotment, which authorizes 4350 AUMs of livestock use with the Paradise-Denio Resource Area from May 1, 1992 through November 5, 1992. Recognizing that the November 22, 1991 Land Use Plan Decision has been vacated, we must necessarily view the Annual Grazing Permit License as the Bureau's final decision in this matter. A copy of the grazing permit was received by our office through the Freedom of Information Act on May 20, 1992, thereby making this appeal timely and within the required 30 day limitation.

Our agency has a long standing interest and investment in the Land Use Planning Process of the Paradise-Denio Resource Area, and particularly the Paiute Meadows Allotment. As an indication of our involvement, the Department provided a comprehensive response to the Draft Paiute Meadows Allotment Evaluation (issued on July 3, 1991) with specific reference to appropriate livestock stocking rates, and seasons of use which may affect important fish and wildlife values also found in this area (response dated August 7, 1991).

On November 22, 1991 the Bureau issued a Full Force and Effect Multiple Use Decision for the Paiute Meadows Allotment, a decision which was formally appealed by the Department of Wildlife on December 18, 1991. This appeal focused on errors in the decision which were used to determine livestock carrying capacities, the implementation

Mr. Scott Billings, Manager
June 18, 1992
Page 2

of a Livestock Use Agreement, and noncompliance with Bureau of Land Management Policies and the National Environmental Policy Act.

Because of the concern expressed by the Bureau and others relative to excessive numbers of wild horses within the allotment, and subsequent need from a budget and administrative standpoint to immediately address this problem, the Bureau facilitated coordination meetings on January 7, and again on January 14, 1992 with Department representatives and other interest groups. All parties present agreed to withdraw their pending appeals in an effort to allow for the removal of excess wild horses with the understanding that the livestock grazing portion of the decision and our attendant appeals would remain in place, or that a new grazing decision would be issued prior to the 1992 grazing season. Based on this understanding, the Department submitted a letter dated January 27, 1992 to Mr. Burton Stanley, which was used as support before the IBLA (No. 92-188) to insure the immediate removal of excess wild horses from this allotment.

Much to our surprise, the Multiple Use Decision was vacated by the Bureau in May of 1992, an action which renders our appeal invalid; and most disturbing, an annual license for grazing 4350 AUMs of livestock was issued to the Paiute Meadows Ranch. Although the permit references the establishment of 4350 AUMs "as per consultation with the State Director in January 1992", a letter from the State Director to Johanna Wald of NRDC dated May 27, 1992, states that the amount of use was actually established in April of 1990.

In view of the above, and pursuant to 43 CFR Section 4.470(a), and through the incorporation of comments provided in our original appeal dated December 18, 1992, the following represents the required statement as to why this decision is in error:

1. Livestock carrying capacities are invalid.

Livestock carrying capacities must be computed for the North and South pastures. Grazing authorizations must not exceed these livestock carrying capacities computed with monitoring data presented in the Paiute Meadows Final Allotment Evaluation Summary, November 22, 1991.

Streambank riparian vegetation for Paiute, Battle and Bartlett Creeks must be considered key management areas. The allotment evaluation short term objective limits utilization to 30% on key streambank riparian plant species. Furthermore, the evaluation lists seven riparian species to be monitored by the Bureau of Land Management. Livestock stocking rates and/or season of use that exceeds 30% utilization of these riparian plant species will exceed the livestock carrying capacity for the Paiute Meadows Allotment.

Mr. Scott Billings, Manager
 June 18, 1992
 Page 3

Average/Weighted Utilization estimates cannot be used in livestock carrying capacity calculations. "Range Monitoring Technical Reference 4400-7" instructs the Bureau to use average/weighted estimates only where livestock distribution and utilization is uniform. Monitoring data clearly shows utilization is not uniform on the Paiute Meadows Allotment. Management actions are to be based upon key management areas. "The Nevada Rangeland Monitoring Handbook" sets criteria for determining key areas and requires these areas be treated with special consideration, even if they do not reflect the entire grazing unit.

Wild horses did not have a significant influence on the utilization of streambank riparian vegetation in the North Pasture. Carrying capacity calculations should not utilize wild horse numbers or estimated animal unit months. Use pattern mapping data collected for grazing seasons 1989 and 1990 distinguish livestock and wild horse use of streambank riparian in the North Pasture. Appendix 1 of the allotment evaluation shows that 244 wild horses were present yearlong on the North Pasture during 1989 and 1990. Monitoring studies measured streambank riparian utilization as slight to light (20%) in 1989 and as severe (95%) in 1990. Regardless of actual wild horse numbers, the only significant differences that occurred between these years were the livestock seasons of use in the North Pasture. During 1989, 701 cows occupied the North Pasture from October 26 to February 28 (Fall/Winter). During 1990, 700 cows occupied the North Pasture from May 3 to October 31 (Spring/Summer). Since 1990 the Bureau of Land Management removed 489 wild horses from the allotment (February 1992) which further reduced the possible influence of wild horses on streambank riparian vegetation in the North Pasture.

The stocking rate for Spring/Summer use of the North Pasture for 1992 exceeds the livestock carrying capacity. Livestock carrying capacity for the North Pasture, in accordance to Bureau of Land Management TR 4400-7 and 1990 use pattern mapping data, is as follows:

$$\frac{\text{Actual Use}}{\text{Actual Utilization}} = \frac{\text{Potential Actual Use}}{\text{Desired Utilization}}$$

$$\frac{4,017 \text{ AUMs}}{95 \text{ Percent}} = \frac{1992 \text{ Carrying Capacity}}{30 \text{ Percent}}$$

The livestock carrying capacity for the North Pasture is 1,268 AUMs for the Spring/Summer season of use. The 1992 Grazing Permit authorizes 2,175 AUMs of livestock use. Bureau of Land Management monitoring data confirms that this authorization will cause damage to streambank riparian vegetation and habitat.

Mr. Scott Billings, Manager

June 18, 1992

Page 4

Livestock carrying capacity calculations for the South Pasture cannot be computed without use pattern mapping data for livestock use. The Paiute Meadows Allotment Evaluation used wild horse use pattern mapping data from 1987 to 1990 to estimate a carrying capacity to be divided between wild horses and livestock. These data clearly indicated that wild horses utilized wetland riparian habitats from heavy to severe (60% to 100%). In several areas heavy and severe utilization were observed on upland sites and a seeding. Data clearly justified a significant removal of wild horses to protect and restore range conditions.

The District's computation of carrying capacity was based on wild horse data, uniform utilization, weight/averages and the assumption that livestock and wild horses exhibit similar foraging habits. These data are erroneous. Furthermore, this carrying capacity (4,950 AUMs) was allocated to livestock (4,350 AUMs) by the 1992 Grazing Permit. The Grazing Permit replaced wild horses with livestock on the South Pasture. Livestock are known to use mountain browse species important to big game during summer/fall months. The South Pasture is a critical big game winter range and livestock will compete with big game on these depleted ranges. Failure to collect trend studies on this critical winter range precludes the Bureau from showing any rationale to re-authorize livestock use in the South Pasture.

Using the allotment evaluation's 1990 use pattern mapping data and short term objective for wetland riparian habitat, a carrying capacity for wild horses can be computed. In accordance with Rangeland Monitoring Technical Reference 4400-7, the wild horse carrying capacity for the South Pasture would be as follows:

$$\frac{\text{Actual Use}}{\text{Actual Utilization}} = \frac{\text{Potential Actual Use}}{\text{Desired Utilization}}$$

$$\frac{3,168 \text{ AUMs (Horse only)}}{95 \text{ Percent}} = \frac{\text{Potential Actual Use}}{50 \text{ Percent}}$$

The carrying capacity for wild horses is 1,425 AUMs for the South Pasture in 1992. In February 1992 the Bureau removed 489 wild horses from the Paiute Meadows Allotment. By agreement with special interest groups, the District left 200 adult wild horses on the allotment. Previous monitoring data indicated even distribution of wild horses on this allotment. Assuming that 100 wild horses remain on the South Pasture, the estimated forage consumption would be 1,200 AUMs. Existing conditions of the Paiute Meadows Allotment would only leave 225 AUMs available to livestock. The 1992 Grazing

Mr. Scott Billings, Manager
June 18, 1992
Page 5

Permit authorizes livestock 2, 175 AUMs of Summer/Fall use. The 1992 Grazing Permit will exceed the livestock carrying capacity.

2. The Grazing Permit is not consistent with the Paradise-Denio Management Framework III Decisions.

The Range Management Program Objectives 5 states:

"At the end of the third and fifth year of grazing following issuance of the grazing decision make necessary adjustments based upon monitoring data..... If monitoring reveals that a particular use or practice is causing resource damage, that particular use may be adjusted....."

The Paradise-Denio Resource Area land use plan was completed by the issuance of the Record of Decision (MFP III) on August 6, 1982. Despite nearly a decade since the completion of the land use plan, the completion of the Paiute Meadows Allotment Evaluation and knowledge of occurring resource damage, the Bureau of Land Management issued this Grazing Permit contrary to this land use plan objective.

Range Program Decision RM 1.11 states:

".....initial stocking levels are based on current data, but will not preclude the future establishment of intensive grazing systems or other management practices that may be necessary to obtain proper management of the rangeland resources..."

Wildlife Program Decision WL 1.5 states:

"Management objectives of activity plans will include specific objectives pertaining to improving and maintaining desired riparian and meadow habitats..... meadows will be considered as critical areas.."

Wildlife Program Decision 1.11 states:

"All activity plans, permits, leaseswill take measures to protect:

1. Wildlife concentration areas.
2. Raptor nesting areas.
3. Sage grouse strutting, nesting and brooding areas.
4. Important wildlife waters."

Mr. Scott Billings, Manager
June 18, 1992
Page 6

Aquatic Wildlife Program Decision WLA 1.1, 1.2 states:

"The following listed streams appear to have this potential:

Habitat Expansion

Battle Creek Pahute Creek

Habitat Improvement

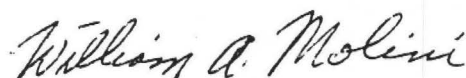
Bartlett Creek Battle Creek Pahute Creek"

Aquatic Wildlife Program Decision WLA 1.4, 1.5 and 1.6 states:

"...ensure that fish habitat factors are included as objectives of AMPs that contain fishable streams".

The stocking level or active preference was to be adjusted, if necessary, with monitoring data collected in accordance with an allotment management plan. The Paiute Meadows Allotment has never had an allotment management plan. Grazing management practices were solely described in the terms and conditions of Grazing Permits. In light of the recent allotment evaluation and vacated Full Force and Effect Multiple Use Decision (November 11, 1991), the Department seeks resource protection in the terms and conditions of the 1992 Grazing Permit. The Grazing Permit fails to list allotment objectives and grazing practices that will address specific fish and wildlife land use plan decisions. The 1992 stocking rates and seasons of use for livestock will exceed livestock carrying capacities and cause resource damage adversely impacting wildlife species.

Sincerely,



William A. Molini
Director

WAM:el

cc: BLM State Director
Region I Manager

N292 10

MAY 22 1992

4130.2
(NV-241)

Nevada Department of Wildlife
Region 1
ATTN: Rich Heap
380 West B Street
Fallon, NV 89406

Dear Mr. Heap:

Enclosed as per your request of May 18, 1992, is a copy of the grazing authorization for the Paiute Meadows allotment for the 1992 grazing season.

If you should have any questions please contact Abbie Jossie or Bob Hopper of my range staff.

Sincerely yours,

/s/ Scott R. Billing
Area Manager
Paradise-Denio Resource Area

Enclosure

cc: Nevada Department of Wildlife



W292 10

STATE OF NEVADA
 DEPARTMENT OF WILDLIFE Nevada Department of Wildlife
 1100 Valley Road Region 1 Ph-423-3171
 P.O. Box 10678 380 West B Street
 Reno, Nevada 89520-0022 Fallon Nevada 89406
 (702) 688-1500
 Fax (702) 688-1595

BOB MILLER
Governor

WILLIAM A. MOLINI
Director

May 14, 1992

Mr. Scott Billings
 Paradise-Denio Resource Area
 Bureau of Land Management
 705 East Fourth Street
 Winnemucca, Nevada 89445



RE: Request for Public Information

Dear Scott:

Pursuant to our verbal requests for the 1992 Grazing License for Piante Meadows, we formally request this document from your files.

We would appreciate a prompt response to this request. If for any reason, you cannot provide us this document or foresee any delay beyond 10 days, please advise our office.

Thank you for your attention concerning this matter.

Sincerely,

WILLIAM A. MOLINI, DIRECTOR

Roy Leach
 Acting Region I Manager
 Region I

REL:rl/

CC: Habitat, Reno
 Attorney General Office - Wayne Howle

DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

N292 10

DUE DATE MAY 13, 1992

TOTAL DUE \$4,064.64

ACCOUNT NUMBER (3) 0701 10
 BILL NUMBER (6) 0512 10
 BILL DATE (7) 05/12/92
 BILL CODE (3) 1
 PAYMENT COLLECTION \$4,064.64

PAIUTE MEADOWS RANCH

DAN RUSSELL
708 10TH ST STE 250
SACRAMENTO, CA 95814

BUREAU OF LAND MANAGEMENT
WINNEMUCCA B.O.
705 EAST 4TH STREET
WINNEMUCCA, NV 89415

MAKE REMITTANCE TO: US DEPT. OF THE INTERIOR-BLM. PLEASE RETURN THE TOP PORTION OF THIS NOTICE WITH YOUR PAYMENT, AND KEEP THE BOTTOM PORTION. THIS NOTICE SHOWS THE AMOUNT DUE IN GRAZING FEES FOR ALIVE STOCK GRAZING USE OFFERED TO YOU. YOUR CANCELED CHECK IS YOUR RECEIPT. A SERVICE CHARGE OF \$19.99 WILL BE MADE FOR EACH MONTH DELAY IN PAYING & REPLACEMENT OF CORRECTED BILL.

BILL NUMBER: 67217515 PAIUTE MEADOWS RANCH ALLPT

ACCOUNT	TYPE	CLASS	DATE	AMOUNT	UNIT	PERIOD	RATE	TOTAL
00057	C		05/01/92	07/31/92	100	A	117	\$1.92
								\$4,064.64
SUBTOTAL								\$4,064.64
SERVICE CHARGE								
TOTAL DUE								\$4,064.64

TERMS AND CONDITIONS:

GRAZING USE WILL BE AS FOLLOWS:
 NORTH OF PAIUTE CREEK 700 COWS 05/01 TO 07/31
 SOUTH OF PAIUTE CREEK 700 COWS 09/01 TO 11/30
 4350 AUMS ARE AUTHORIZED AS ACTIVE PREFERENCE AS PER CONSULTATION WITH THE STATE DIRECTOR IN JANUARY 1992.
 3477 AUMS WILL BE HELD IN NON-USE FOR CONSERVATION AND PROTECTION PURPOSES PENDING A FINAL ALLOTMENT EVALUATION AND ANY SUBSEQUENT LIVESTOCK USE AGREEMENTS AND/OR GRAZING DECISIONS.

HERDING/SALTING PRACTICES ARE REQUIRED AND SHOULD BE DESIGNED SO THAT LIVESTOCK DRIFT DOES NOT OCCUR INTO USE AREAS WHEN NOT AUTHORIZED FOR USE. THE BLM IS AUTHORIZED BY THE NORTH PAIUTE USE AGREEMENT TO

PAID
 \$4,064.64
 Date 5-27-92
 DEPARTMENT OF THE INTERIOR
 Bureau of Land Management
 By *[Signature]* CASE FOLDER

NO FILLING OF NATURAL BODIES SHALL NOT BE PERMITTED FOR...
WELL, MILL OF SPRINGS, MEADOWS, STREAMS, RIPARIAN HABITATS OR
OPEN STANDS.

YOU ARE REQUIRED TO PERFORM NORMAL MAINTENANCE ON THE FENCE
IMPROVEMENTS FOR WHICH YOU HAVE MAINTENANCE RESPONSIBILITY AS PER YOUR
SIGNED COOPERATIVE AGREEMENTS.

YOUR CERTIFIED ACTUAL USE REPORT, BY FACTURE, IS DUE 15 DAYS AFTER THE
END OF YOUR AUTHORIZED GRAZING PERIOD.

IF PAYMENT IS NOT RECEIVED WITHIN 15 DAYS OF THE DUE DATE, YOU WILL
BE CHARGED A LATE FEE ASSESSMENT OF \$25.00 OR 10% OF THE GRAZING BILL,
WHICHEVER IS GREATER, NOT TO EXCEED \$250.00. FAILURE TO MAKE PAYMENT
WITHIN 30 DAYS OF THE DUE DATE MAY RESULT IN TRESPASS ACTION.

BAR TO DATE AUTHORIZED

ALLOT	PROP	NO:	AUTHORIZED			EQU	TOTAL	YEAR
			ACTIVE	NO/USE	TY USE			
00057	7827	5710	2117					

1292

- Complete item 1
- Complete item 2
- 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 next to the article number.

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

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to: Dan Russell P.O. Box 339 Folsom, CA 95630		4a. Article Number P477558725
		4b. Service Type <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
		7. Date of Delivery 5-18-92
5. Signature (Addressee) <i>[Signature]</i>		8. Addressee's Address (Only if requested and fee is paid)
6. Signature (Agent)		

PS Form 3811, October 1990 *U.S. GPO: 1990-273-861 **DOMESTIC RETURN RECEIPT**

4100 (NV-240)

SENDER: <ul style="list-style-type: none"> • 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 next to the article number. 		I also wish to receive the following services (for an extra fee):
		<ol style="list-style-type: none"> <input type="checkbox"/> Addressee's Address <input type="checkbox"/> Restricted Delivery <p>Consult postmaster for fee.</p>
3. Article Addressed to: Nevada Department of Wildlife City/County Complex Winnemucca, NV 89445		4a. Article Number P477570436
		4b. Service Type <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
		7. Date of Delivery 5-18-92 <i>[Signature]</i>
5. Signature (Addressee) <i>[Signature]</i>		8. Addressee's Address (Only if requested and fee is paid)
6. Signature (Agent)		

PS Form 3811, October 1990 *U.S. GPO: 1990-273-861 **DOMESTIC RETURN RECEIPT**

Attach this form to the front of the mailpiece, or on the back if space does not permit.

2. Restricted Delivery
Consult postmaster for fee.

4a. Article Number
P477558727

4b. Service Type
 Registered
 Certified
 Express Mail
 Insured
 COD
 Return Receipt for Merchandise

7. Date of Delivery
5-26-92

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

3. Article Addressed to:
 Ms. Rose Strickland
 Sierra Club-Toiyabe Chapter
 619 Robinson Ct.
 Reno, NV 89503

5. Signature (Addressee)
[Signature]

6. Signature (Agent)

PS Form 3811, November 1990 *U.S. GPO: 1991-287-066

Attach this form to the front of the mailpiece, or on the back if space does not permit.

2. Restricted Delivery
Consult postmaster for fee.

4a. Article Number
P477570435

4b. Service Type
 Registered
 Certified
 Express Mail
 Insured
 COD
 Return Receipt for Merchandise

7. Date of Delivery
5-19-92

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

3. Article Addressed to:
 Mr. Richard Heap
 Department of Wildlife
 State of Nevada
 380 B Street
 Fallon, NV 89406

5. Signature (Addressee)
[Signature]

6. Signature (Agent)
[Signature]

PS Form 3811, October 1990 *U.S. GPO: 1990-273-861

Complete items 1 and/or 2 for additional services.
 Complete items 3, and 4a & b.

1. Addressee's Address
 2. Restricted Delivery
 Consult postmaster for fee.

3. Article Addressed to:
 Mr. Dave Harlow
 U.S. Dept. of the Interior
 Fish and Wildlife Service
 4600 Kietzke Lane, Bldg. C
 Reno, NV 89502

4a. Article Number
P477570439

4b. Service Type
 Registered
 Certified
 Express Mail
 Insured
 COD
 Return Receipt for Merchandise

7. Date of Delivery

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

5. Signature (Addressee)
[Signature]

6. Signature (Agent)
[Signature]

PS Form 3811, October 1990 *U.S. GPO: 1990-273-861

Complete items 1 and/or 2 for additional services.
 Complete items 3, and 4a & b.

1. Addressee's Address
 2. Restricted Delivery
 Consult postmaster for fee.

3. Article Addressed to:
 Joan Reiss
 The Wilderness Society
 116 New Montgomery #526
 San Francisco, CA 94105

4a. Article Number
P477570438

4b. Service Type
 Registered
 Certified
 Express Mail
 Insured
 COD
 Return Receipt for Merchandise

7. Date of Delivery
5-19-92

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

5. Signature (Addressee)
[Signature]

6. Signature (Agent)
[Signature]

PS Form 3811, October 1990 *U.S. GPO: 1990-273-861

Complete items 1 and/or 2 for additional services.
 Complete items 3, and 4a & b.

1. Addressee's Address
 2. Restricted Delivery
 Consult postmaster for fee.

3. Article Addressed to:
 Ms. Nancy Whitaker
 Animal Protection Institute of
 America
 P.O. Box 22505
 Sacramento, CA 95822

4a. Article Number
P477570434

4b. Service Type
 Registered
 Certified
 Express Mail
 Insured
 COD
 Return Receipt for Merchandise

7. Date of Delivery

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

5. Signature (Addressee)
[Signature]

6. Signature (Agent)
[Signature]

PS Form 3811, October 1990 *U.S. GPO: 1990-273-861

4100(NV-240)

4110.2-3 NV-241.4

4110.2-3 NV-241.4

DOMESTIC RETURN RECEIPT

1. Attach this form to the front of the mailpiece, or on the back if space does not permit.

2. Restricted Delivery Consult postmaster for fee.

3. Article Addressed to:

4a. Article Number P477570441

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery 5/18

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

9. Signature (Addressee)

10. Signature (Agent)

Mr. Craig C. Downer
P.O. Box 456
Minden, NV 89423

Craig C. Downer

1. Attach this form to the front of the mailpiece, or on the back if space does not permit.

2. Restricted Delivery Consult postmaster for fee.

3. Article Addressed to:

4a. Article Number P477570440

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery MAY 18 1992

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

9. Signature (Addressee)

10. Signature (Agent)

Nevada Land Action Assoc.
419 Railroad Street
Elko, NV 89801

Marilyn Tenney

PS Form 3811, October 1990 *U.S. GPO: 1990-273-861

DOMESTIC RETURN RECEIPT

SENDER:

- 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 next to the article number.

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

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Humboldt County Commissioners
City-County Complex
1105 S. Bridge Street
Winnemucca, NV 89445

4a. Article Number P477570444

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery 5/18/92

5. Signature (Addressee)

6. Signature (Agent)

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

PS Form 3811, October 1990 *U.S. GPO: 1990-273-861

DOMESTIC RETURN RECEIPT

PS Form 3811, October 1990 *U.S. GPO: 1990-273-861

DOMESTIC RETURN RECEIPT

SENDER:

- 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 next to the article number.

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

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Mr. John Marvel
State Assemblyman
P.O. Box 432
Battle Mountain, NV 89820

4a. Article Number P477570443

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery 5/18/92

5. Signature (Addressee)

6. Signature (Agent)

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

PS Form 3811, October 1990 *U.S. GPO: 1990-273-861

DOMESTIC RETURN RECEIPT

PS Form 3811, October 1990 *U.S. GPO: 1990-273-861

DOMESTIC RETURN RECEIPT

SENDER:

- 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 next to the article number.

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

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Animal Protection Inst. of America
P.O. Box 22505
Sacramento, CA 95822

4a. Article Number P477570442

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery

5. Signature (Addressee)

6. Signature (Agent)

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

PS Form 3811, October 1990 *U.S. GPO: 1990-273-861

DOMESTIC RETURN RECEIPT



N292 10
I also wish to receive the following services (for an extra fee):

- 1. Addressee's Address
 - 2. Restricted Delivery
- Consult postmaster for fee.

SENDER:

- Complete items 1 a and b for additional services.
- Complete items 3, a, 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 Fee will provide you the signature of the person delivered to and the date of delivery.

3. Article Addressed to:
Thomas S. Van Horne
708 10th Street
Suite 250
Sacramento, CA 95814

4a. Article Number
P477570450

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
5-21-92

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

5. Signature (Addressee)
Thomas S. Van Horne

6. Signature (Agent)

PS Form 3811, November 1990 * U.S. GPO: 1991-287-066 DOMESTIC RETURN RECEIPT

4100 (NV-240)

SENDER:

- 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 Fee will provide you the signature of the person delivered to and the date of delivery.

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. C. Jean Richards
1767 Fieldcrest Drive
Sparks, NV 89434

4a. Article Number
P477570449

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
5-19-92

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

5. Signature (Addressee)
Lynn Holson

6. Signature (Agent)

PS Form 3811, November 1990 * U.S. GPO: 1991-287-066 DOMESTIC RETURN RECEIPT

4100 (NV-240)

SENDER:

- 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 Fee will provide you the signature of the person delivered to and the date of delivery.

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:
U.S. Humane Society
2100 "L" Street, NW
Washington, D.C. 20037

4a. Article Number
P477570448

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery

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

5. Signature (Addressee)
A. Wasson

6. Signature (Agent)

PS Form 3811, November 1990 * U.S. GPO: 1991-287-066 DOMESTIC RETURN RECEIPT

1100 (NV-240)

SENDER:

- 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 Fee will provide you the signature of the person delivered to and the date of delivery.

3. Article Addressed to:
Mrs. Dawn Lappin
Wild Horse Organ. Assist.
P.O. Box 555
Reno, NV 89505

4a. Article Number
P477570446

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
5-21-92

8. Addressee's Address (Only if requested)

4100 (NV-240)

SENDER:

- 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 Fee will provide you the signature of the person delivered to and the date of delivery.

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 and Burros
Steward Facility
Capitol Complex
Carson City, NV 89710

4a. Article Number
P477570445

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
5-21-92

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

5. Signature (Addressee)
Cathy Barcomb

6. Signature (Agent)

PS Form 3811, November 1990 * U.S. GPO: 1991-287-066 DOMESTIC RETURN RECEIPT

+130 (NV-241.4)

N292 10

SENDER:

- 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 Fee will provide you the signature of the person delivered to and the date of delivery.

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:

Thomas S. Van Horne
708 10th Street
Suite 250
Sacramento, CA 95814

4a. Article Number
P477571439

- 4b. Service Type
- Registered Insured
 - Certified COD
 - Express Mail Return Receipt for Merchandise

7. Date of Delivery
5-19-92

5. Signature (Addressee)

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

6. Signature (Agent)

PS Form 3811, November 1990 *U.S. GPO: 1991-287-066

DOMESTIC RETURN RECEIPT

4100 (NV-240)

SENDER:

- 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 Fee will provide you the signature of the person delivered to and the date of delivery.

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:

William C. Cummings
7700 College Town Drive
Suite 208
Sacramento, CA 95826

4a. Article Number
P477570454

- 4b. Service Type
- Registered Insured
 - Certified COD
 - Express Mail Return Receipt for Merchandise

7. Date of Delivery
MAY 18 1992

5. Signature (Addressee)

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

6. Signature (Agent)

PS Form 3811, November 1990 *U.S. GPO: 1991-287-066

DOMESTIC RETURN RECEIPT

4100 (NV-240)

SENDER:

- 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 Fee will provide you the signature of the person delivered to and the date of delivery.

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:

Mr. Doug Busselman
Nevada Farm Bureau Organization
1300 Marietta Way
Sparks, NV 89431

4a. Article Number
P477570453

- 4b. Service Type
- Registered Insured
 - Certified COD
 - Express Mail Return Receipt for Merchandise

7. Date of Delivery

5. Signature (Addressee)

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

6. Signature (Agent)

4100 (NV-240)

SENDER:

- 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 Fee will provide you the signature of the person delivered to and the date of delivery.

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:

4a. Article Number
P477570452

4b. Service Type

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

7. Date of Delivery

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

Mr. Alan Schroeder
P.O. Box 267
Boise, ID 83701

Signature (Addressee)

4100 (NV-240)

SENDER:

- 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 Fee will provide you the signature of the person delivered to and the date of delivery.

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:

4a. Article Number
P477570451

4b. Service Type

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

7. Date of Delivery
5-18

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

Mr. Al Steninger
Western Range Service
P.O. Box 1328
Elko, NV 89801

Signature (Addressee)

SPARKS, NV 89431
MAY 18 1992
U.S. MAIL

Signature (Addressee): Sarah Fries

N292 10

4160
(NV-240)

MAY 11 1992

CERTIFIED MAIL NO. P477558725
RETURN RECEIPT REQUESTED

NOTICE OF PROPOSED DECISION
PAIUTE MEADOWS ALLOTMENT

Dan Russell
P.O. Box 339
Folsom, CA 95630

Dear Mr. Russell:

In November of 1991, the Paradise-Denio Resource Area completed a grazing evaluation of the Paiute Meadows allotment. After consultation with you and Western Range Service, you and I agreed to a Livestock Use Agreement for the Grazing Management on the Paiute Meadows allotment. The Livestock Use Agreement was implemented by a Multiple Use Grazing decision issued on November 22, 1991.

The Multiple Use decision was appealed by the Nevada Department of Wildlife, the Toiyabe Chapter of the Sierra Club, Natural Resources Defense Council, Wild Horse Organized Assistance, the Nevada Commission for the Preservation of Wild Horses, the American Horse Protection Association, Inc. and the Humane Society of the United States.

A series of meetings was held in January and February of 1992 with the appellants to discuss their points of appeal. As a result of these discussions, the American Horse Protection Association, the Humane Society of the United States, Wild Horse Organized Assistance and the Nevada Commission for the Preservation of Wild Horses agreed to withdraw their appeals regarding the wild horse gather plan based on the points outlined below:

1. BLM will not reduce the Black Rock East herd below 200 during the gathering planned to begin in February;
2. Following the gathering, the Paiute Meadows allotment multiple use decision dated November 22, 1991, will be vacated;
3. Consultation among affected interests will be undertaken regarding the Paiute Meadows allotment/Black Rock East HMA in anticipation of a new proposed multiple use decision. There is an understanding that a multiple use decision process for the Soldier Meadows/Black Rock West HMA will also begin this spring, and that planning for the two Black Rock HMAs will be coordinated in recognition of the migration of horses between the two herd areas and other relationships;

4. In the event further wild horse removals are proposed for the two herd areas, gather plans and Environmental Analysis will be prepared and issued along with the proposed multiple use decisions;

5. Following the protest period on draft decisions, final decisions will be issued. These will be appealable administratively.

The State Director, Bureau of Land Management, Nevada, agreed to these points for withdrawal. The American Horse Protection Association, the Humane Society of the United States, Wild Horse Organized Assistance, and the Nevada Commission for the Preservation of Wild Horses all withdrew their appeals for the gather of wild horses on Paiute Meadows allotment.

The Bureau of Land Management then requested to the Office of Hearings and Appeals and to the Interior Board of Land Appeals to remand the decision back to the Paradise-Denio Resource Area for further consideration.

The Paradise-Denio Resource Area received notice on March 27, 1992, from the Office of Hearings and Appeals that the appeals filed by the Nevada Department of Wildlife, Natural Resources Defense Council and the Sierra Club had been set aside and the decision remanded to the Resource Area for further consideration.

The Paradise-Denio Resource Area received notice on April 28, 1992, from the Interior Board of Land Appeals that the appeals filed by the American Horse Protection Association, the Humane Society of the United States, Wild Horse Organized Assistance, and the Nevada Commission for the Preservation of Wild Horses were dismissed in part and set aside in part and remanded along with the decision to the Resource Area for further consideration.

Therefore, it is my proposed decision to vacate the Multiple Use Decision for the Paiute Meadows allotment dated November 22, 1991. In vacating this decision, the Livestock Use Agreement signed between the permittee of the Paiute Meadows allotment and the Bureau of Land Management dated November 22, 1991, is termed null and void.

The Paradise-Denio Resource Area will keep interested parties informed of times and dates in which the other provisions of the agreement, signed by the State Director, will occur.

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, 705 E. 4th Street, Winnemucca, NV 89445.

232 10

In the absence of a protest within the time allowed 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. An appeal should specify the reasons, clearly and concisely, as to why you think the decision is in error.

Sincerely yours,

/s/ Scott R. Billing

Area Manager
Paradise-Denio Resource Area

cc Certified copies to:

- Sierra Club P477558727
- Nevada Dept. of Wildlife-Fallon P477570435
- Nevada Department of Wildlife-Winnemucca P477570436
- Natural Resources Defense Council P477570437
- Wilderness Society P477570438
- U.S. Fish and Wildlife Service P477570439
- Nevada Land Action Association P477570440
- Craig C. Downer P477570441
- Animal Protection Institute P477570442
- John Marvel P477570443
- Humboldt County Board of Commissioners P477570444
- Nevada Commission for the Preservation of Wild Horses P477570445
- Wild Horse Organized Assistance P477570446
- American Horse Protection Association P477570447
- Humane Society of the United States P477570448
- C. Jean Richards P477570449
- Thomas Van Horne P477570450
- Western Range Service P477570451
- Alan Schroeder, Atty at Law P477570452
- Nevada Farm Bureau P477570453
- William C. Cummings P477570454

B. Hopper

N292 10



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF LAND APPEALS

4015 WILSON BOULEVARD
ARLINGTON, VIRGINIA 22203

TASK
MADE IN
AMERICA
#1772

IN REPLY REFER TO:

APR 6 1992

IBLA 92-186, 92-187, 92-188	:	N2-92-03, N2-92-04, N2-92-07
	:	
NEVADA COMMISSION FOR THE	:	Wild Horses
PRESERVATION OF WILD HORSES ET AL.	:	
	:	IBLA 92-186, 92-187
	:	
	:	Dismissed in Part, Decision Set
	:	Aside and Remanded in Part
	:	
	:	IBLA 92-188 Dismissed

ORDER

The Nevada Commission for the Preservation of Wild Horses (IBLA 92-186); the Wild Horse Organized Assistance (IBLA 92-187); the American Horse Protection Association and the Humane Society of the United States (IBLA 92-188) (collectively, appellants) appealed from a decision of the Area Manager, Paradise-Denio Resource Area, Bureau of Land Management (BLM), dated November 22, 1991. By this decision, BLM gave Daniel Russell, grazing permittee, notice of full force and effect of its final multiple use decision for the Paiute Meadows Allotment and Black Rock East Wild Horse Herd Management Area. BLM decided to reduce numbers of wild horses and livestock and establish a deferred grazing system for livestock. The Nevada Commission for the Preservation of Wild Horses and the Wild Horse Organized Assistance filed statements of reasons objecting to the procedures BLM followed when it issued its decision and to the planned reduction in the numbers of wild horses. The American Horse Protection Association and the Humane Society of the United States requested and were granted an extension of time to February 5, 1992, in which to file their statement of reasons. On February 3, 1992, BLM filed a motion to place the decision in full force and effect.

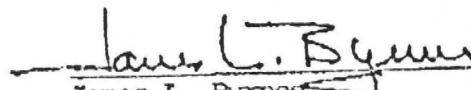
On February 5, 1992, the American Horse Protection Association and the Humane Society of the United States moved to withdraw their appeal (IBLA 92-188) and stated that they agree that "a removal of wild horses may proceed." The other appellants have filed motions to dismiss that portion of their appeals regarding capture of wild horses "in the Paiute Meadows Allotment." On March 10, 1992, BLM moved to have the November 22, 1991, decision set aside and remanded for further consideration, presumably withdrawing its previous motion for full force and effect.

RECEIVED
APR 28 1992
DISTRICT OFFICE
WILSON BOULEVARD
ARLINGTON, VIRGINIA

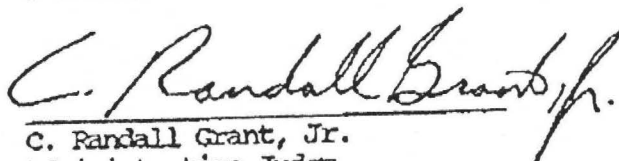
IBLA 92-186, etc.

No opposition to these motions for withdrawal or partial dismissal, or to have the November 22, 1991, decision set aside and remanded has been filed and there is no apparent overriding public interest that would warrant denial of the motions.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal of the American Horse Protection Association and the Humane Society of the United States (IBLA 92-188) is dismissed, the appeals of the Nevada Commission for the Preservation of Wild Horses (IBLA 92-186) and the Wild Horse Organized Assistance (IBLA 92-187) are dismissed, in part, to the degree they relate to the Paiute Meadows Allotment, and the remaining part of BLM's November 22, 1991, decision is set aside and remanded to BLM.


James L. Byrnes
Administrative Judge

I concur:


C. Randall Grant, Jr.
Administrative Judge

APPEARANCES:

Russell J. Gaspar, Esq.
Hanna, Gaspar & Osborne
2550 M Street, NW., Suite 375
Washington, D.C. 20037

Catherine Barcomb, Executive Director
Nevada Commission for the Preservation of Wild Horses
Stewart Facility
Capitol Complex
Carson City, Nevada 89710

Dawn Y. Lappin, Director
Wild Horse Organized Assistance
P.O. Box 555
Reno, Nevada 89504

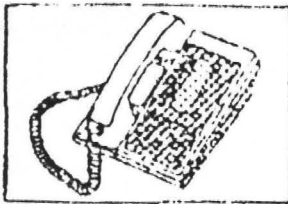
Burton J. Stanley, Esq.
Office of the Regional Solicitor
U.S. Department of the Interior
2800 Cottage Way, Rm. E-2753
Sacramento, California 95825

cc: William A. Molini, Director
Nevada Department of Wildlife
1100 Valley Road
Reno, Nevada 89520-0022

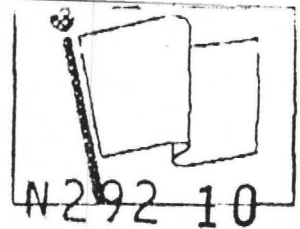
Johanna H. Wald, Esq.
Natural Resources Defense Council, Inc.
71 Stevenson St., Ste. 1825
San Francisco, California 94105

A. Alan Schroeder, Esq.
447 W. Myrtle
Boise, Idaho 83701

Thomas S. Van Horne, Esq.
708 Tenth St., #250
Sacramento, California 95814



U DEPARTMENT OF THE INTERIOR
 BUREAU OF LAND MANAGEMENT
 NEVADA STATE OFFICE
 DIVISION OF LANDS AND RENEWABLE RESOURCES
 BRANCH OF BIOLOGICAL RESOURCES
 FACSIMILE MESSAGE



FAX # FTS 469-6602 COMM (702) 785-6602

DATE <i>4/28/92</i>	NUMBER OF PAGES (Incl this page) <i>4</i>	AUTHORIZED BY <i>Prohues</i>	FILE CODE <i>4700/4/10</i>
------------------------	--	---------------------------------	-------------------------------

DISPOSITION OF ORIGINAL:
 RETURN MAIL
 TOSS CENTRAL RECORDS

TO (Name): <i>Paul Jensen</i>	FROM (Name): <i>Series</i>
Office: <i>Walla.</i>	Office: Branch of Biological Resources NV-931
FAX#:	Confirmation # FTS 468-6466 Commercial - - 702/785-6466

Subject: *Copy of FBLA - decision ref. Paints Meadows*

SPECIAL INSTRUCTIONS:
FBI per request

APR 23 1992
 STATE OFFICE
 WASHINGTON, D.C.



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS

Hearings Division
6432 Federal Building
Salt Lake City, Utah 84138
(Phone: 801-524-5344)

March 25, 1992

MAR 27 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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

Re: Cases closed:
Nevada Department of Wildlife v. BLM, N2-92-5
Natural Resources Defense Council, and Sierra
Club v. BLM, N2-92-6

My order dated March 16, 1992, set aside the final multiple use decision dated November 22, 1991, and remanded the matter to your office for further consideration. The case files are enclosed for your records.

John R. Rampton, Jr.
John R. Rampton, Jr.
District Chief
Administrative Law Judge

Enclosure
2 case files

cc:
Director, Bureau of Land Management, U.S. Department of the Interior, Room 5660, Main Interior Building, 1849 C Street, N.W., Washington, D.C. 20240
State Director, Bureau of Land Management, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS

Hearings Division
6432 Federal Building
Salt Lake City, Utah 84138
(Phone: 801-524-5344)

March 16, 1992

ORDER

NEVADA DEPARTMENT OF WILDLIFE, Appellant v. BUREAU OF LAND MANAGEMENT, Respondent : N2-92-5 : Appeal from the Resource Area Manager's Full Force and Effect Final Multiple Use Decision dated November 22, 1991, Paradise-Denio Resource Area, Winnemucca District, Nevada
NATURAL RESOURCES DEFENSE COUNCIL, and SIERRA CLUB, Appellants v. BUREAU OF LAND MANAGEMENT, Respondent : N2-92-6 : Appeal from the Resource Area Manager's Full Force and Effect Final Multiple Use Decision dated November 22, 1991, Paradise-Denio Resource Area, Winnemucca District, Nevada

Request for Remand and Reconsideration Granted

On March 9, 1992, the respondent requested that the final multiple use decision for the Paiute Meadows Allotment dated November 22, 1991, be set aside and the matter remanded to the Bureau of Land Management for further consideration to the extent that jurisdiction of these appeals rests with the Hearings Division.

The request is granted. The decision dated November 22, 1991, is set aside and the case files are returned to the District Office for further consideration.

John R. Rampton, Jr. District Chief Administrative Law Judge

Distribution
By Certified Mail:

William A. Molini
Director
Department of Wildlife
State of Nevada
P.O. Box 10678
Reno, Nevada 89520-0022

Ms. Johanna H. Wald
Natural Resources Defense Council
71 Stevenson, Suite 1825
San Francisco, California 94105

Ms. Rose Strickland
Sierra Club-Toiyabe Chapter
619 Robinson Court
Reno, Nevada 89503

Burton J. Stanley, Esq.
Office of the Regional Solicitor
U.S. Department of the Interior
2800 Cottage Way, Room E-2753
Sacramento, California 95825-1890

By Regular Mail:

NEV DEPT WILD, NRDC/Order/3/16/92/ea

NEV DEPT WILD, NRDC/Order/3/16/92/ea

NEV DEPT WILD, NRDC/Order/3/16/92/ea

NEV DEPT WILD, NRDC/Order/3/16/92/ea

SENDER:

- 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 Fee will provide you the signature of the person delivered to and the date of delivery.

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:
BURTON J STANLEY ESQ
OFFICE OF THE REGIONAL SOLICITOR
US DEPARTMENT OF THE INTERIOR
2800 COTTAGE WAY ROOM E-2753
SACRAMENTO CA 95825-1890

4a. Article Number 879 457 550

- 4b. Service Type
- Registered Insured
 - Certified COD
 - Express Mail Return Receipt for Merchandise

7. Date of Delivery MAR 18 1992

5. Signature (Addressee)

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

6. Signature (Agent)

FEB 24 1992

4400
(NV-241)

N292 10

Dear Interested Party:

The Paradise-Denio Resources Area will be conducting meetings on March 9-11, 1992 to discuss the Abel Creek Allotment Evaluation and Proposed Decision and the Paiute Meadows Allotment Evaluation. The meetings are scheduled as follows in the Humboldt County Library meeting room:

<u>March 09</u>	Abel Creek Allotment	1:00 to 5:00 PM
<u>March 10</u>	Paiute Meadows Allotment	9:00 AM to 5:00 PM
<u>March 11</u>	Paiute Meadows Allotment	9:00 AM to 5:00 PM (if required)

If you should have any questions, please contact Bob Hopper of my range staff.

Sincerely yours,

acty *LAP*
Area Manager
Paradise-Denio Resource Area

B. Hopper



STATE OF NEVADA
DEPARTMENT OF WILDLIFE

1100 Valley Road
P.O. Box 10678
Reno, Nevada 89520-0022
(702) 688-1500
Fax (702) 688-1595

NZ92 10

12/3

BOB MILLER
Governor

WILLIAM A. MOUNI
Director

January 27, 1992

Bureau of Land Management
RECEIVED
FEB 04 1992
DISTRICT OFFICE
WINNEMUCCA, NEVADA

Mr. Burton J. Stanley, Esq.
Office of the Regional Solicitor
U.S. Department of the Interior
2800 Cottage Way, Room E-2710
Sacramento, CA 95825-1890

RE: Paiute Meadows Allotment Decision Appeals - Wild Horse Impacts

Dear Mr. Stanley,

The Nevada Department of Wildlife has met with the Bureau of Land Management and affected interests concerning our appeal of the Paiute Meadows Allotment Full Force and Effect Multiple Use Decision, dated November 22, 1991. We wish to offer the Bureau of Land Management additional data and our professional judgement concerning necessary management actions to protect, maintain and enhance Nevada's fish and wildlife habitat.

The Paradise-Denio Resource Area chose to prepare an allotment evaluation and issue a manager's decision to implement the land use plan and resolve ongoing resource conflicts on the Paiute Meadows Allotment. As a step of this decision making process, the allotment evaluation set specific multiple use objectives to maintain and restore crucial fish and wildlife habitats. Short-term objectives limiting ungulate grazing use to 30% on streambank riparian and 50% on wetland riparian vegetation are essential elements in this decision making process. In our opinion these utilization limitations are necessary criteria for establishing the carrying capacities of the allotment pastures.

NZ-92-

Use Pattern Mapping Data collected by the Bureau during 1988, 1989 and 1990 on riparian habitats coincide with the data and observations of the Nevada Department of Wildlife. As a cooperative and interagency task, the Department conducted General Aquatic Wildlife System Stream Surveys during the summer of 1989. Ungulate use and occurrence was noted by our biologist on Battle Creek July 26, 1989 when he observed 61 horses on tributary streams to the South Fork of Battle Creek. Though ungulate grazing use on streambank riparian vegetation was measured to be slight on the South Fork of Battle Creek, the author photographed overuse on small riparian areas associated with the tributaries to Battle Creek.

Annual big game surveys conducted by the Department on the Black Rock Range have resulted in observations of wild horses. Our observations concur with the Bureau's assessment that a majority of horses inhabit the southern portions of the allotment. Photographs taken of key riparian sites during the spring of 1990 by the Department confirm much of the use pattern mapping data of the Bureau. In general, wild horse use exceeded 50% utilization on wetland riparian habitats in the southern portions of this allotment.

Degradation of wetland riparian habitat has a direct adverse impact upon wildlife diversity and abundance. For example, wetland riparian habitats are critical to sage grouse, antelope, mule deer and nongame wildlife. Meadows provide the forbs, grasses, insect and cover necessary for successful brood and fawn survival. Season long grazing will damage the viability of important forbs and encourage the invasion of less palatable invader type species. Heavy or severe grazing results in complete loss of residual vegetation. Stubble or standing plants are essential to wildlife for cover, thermal protection, and nesting and such vegetative ground cover prevents soil erosion. Loss of vegetative diversity and abundance has a direct relationship to wildlife composition and numbers.

Degraded habitat and excessive numbers of wild horses causes severe competition for water, cover and forage. Wildlife biologists have observed wild horses excluding antelope from water sources. Since these waters are associated with riparian habitat essential for fawn survival, antelope does and fawns are being displaced to less productive upland sites. Continued overuse for preferred forbs too early in the spring will eventually reduce forb frequency and availability to lactating does supporting fawns. Winter range competition for perennial grass, winterfat and sagebrush at lower elevations affect big game survival. Recent mule deer population data shows the poorest rate of fawn recruitment ever observed in Management Area 3 over the past five years.

Mr. Burton Stanley
January 27, 1992
Page 3

N292 10

The Department of Wildlife concurs with the use pattern mapping data collected by the Bureau of Land Management. We feel that it is incumbent upon the Bureau to authorize use that will not exceed the lands carrying capacity. Criteria set forth in the allotment evaluation's short-term objectives and monitoring data analysis provides the process and rationale for the manager's decision. Since use pattern mapping data distinguishes livestock and wild horse use on key wildlife habitats, we can support a significant reduction of wild horses as a part of the relief necessary to stop resource damage and, at the same time, establish the allotment's carrying capacity.

We hope this information will assist in implementing actions necessary to curtail resource damage on the Paiute Meadows Allotment

Sincerely,

William A. Molini

William A. Molini
Director

REL:rl/el

cc: Region I

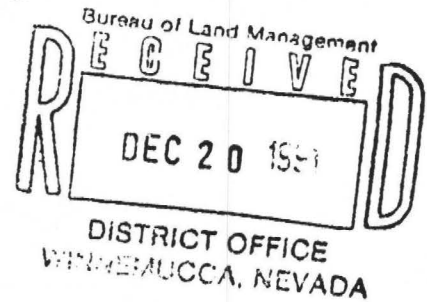
Wayne Howle

bc: ✓ Billy Templeton



STATE OF NEVADA
DEPARTMENT OF WILDLIFE

1100 Valley Road
P.O. Box 10678
Reno, Nevada 89520-0022
(702) 688-1500
Fax (702) 688-1595



BOB MILLER
Governor

WILLIAM A. MOLINI
Director

December 18, 1991

Mr. Scott Billings, Manager
Paradise-Denio Resource Area
Bureau of Land Management
705 East Fourth Street
Winnemucca, Nevada 89445

RE: Appeal - Paiute Meadows Multiple Use Final Decision

Dear Scott:

As an affected interest by definition in 43 CFR 4100.0-5, the Nevada Department of Wildlife hereby appeals the Full Force and Effect Final Multiple Use Decision for the Paiute Meadows Allotment. Pursuant to 43 CFR Section 4.470(a), the following represents the required statement as to why this decision is in error:

1. The Final Decision is not consistent with the Paradise Denio Management Framework III (MFP III) Decisions.

The Bureau of Land Management did not implement its land use plan (MFP III) through proper activity plans. An allotment management plan or habitat management plan has not been prepared. Failure to provide specific multiple-use allotment objectives and detailed monitoring studies necessary to evaluate the effectiveness of management actions in achieving these objectives (43 CFR 4120.2) required the Bureau to issue this Final Decision. Implementation of the Paradise-Denio land use plan for the Paiute Meadows Allotment is dependent upon the Paiute Meadows Allotment Evaluation and this Final Decision.

Short term objectives for the allotment evaluation set utilization limits (allowable use levels) for key areas and key vegetation species within the allotment. These short term objectives are necessary to implement management actions which will achieve the allotment evaluation's long term objectives. Fish and Wildlife Short and Long Term Objectives within the allotment evaluation are consistent with MFP III Decisions of the land use plan. These actions should help the Bureau meet its obligations under the Federal Land Policy and Management Act of 1976.

Mr. Scott Billings, Manager
December 18, 1991
Page 2

Commensurate with the riparian short term objectives, the allotment evaluation listed key species that included sedges, rushes, willows, aspen and rose. Short Term Objective 1 states: "Utilization of key streambank riparian plant species shall not exceed 30% on Paiute, Battle and Bartlett Creeks." This objective is consistent with MFP III Decision WL 1.11 that states: "all activity plans, permits, leases, ... will take measures to protect ... important wildlife waters". MFP Decision WLA 1.4, 1.5, and 1.6 states: "... ensure that habitat factors (bank stability, percent shading, siltation of pools and spawning gravels) are included as objectives of AMPs that contain fishable streams". This objective is also consistent with allowable use levels found in Table 1-4 Key Vegetation Factors Paradise-Denio Resource Area of the Paradise-Denio Grazing Environmental Impact Statement.

Following the same rationale, the upland Short Term Objective 3 states: "Utilization of key plant species in upland habitats shall not exceed 50%". The allotment evaluation identified serviceberry, bitterbrush, winterfat, snowberry and bud sagebrush as key species. These actions meet the intentions of MFP III Decision 1.4 that states "revision of grazing management systems ... consider mountain browse as critical management species...". The utilization limit of the objective is consistent with allowable use levels in Table 1-4 Key Vegetation Factors Paradise-Denio Resource Area of the Paradise-Denio Grazing Environmental Impact Statement.

The Full Force and Effect Final Multiple Use Decision - Paiute Allotment (11-22-91) fails to assure proper management of key wildlife habitat. The Final Decision modifies specific multiple-use objectives that are not consistent with the land use plan.

Modification of short term objectives of the allotment evaluation is contrary to the assessment of monitoring data and "allowable use levels" of the land use plan. As examples, Short Term Objective 1 (a) of the Final Decision states: "Utilization of key streambank riparian plant species shall average 30% on woody species over a period of time....and 50% on herbaceous species...", and Short Term Objective 1 (b) states: "Utilization of key plant species in upland habitats shall average 50% over a period of time...". Willows were designated as a key species in the Paradise-Denio Grazing Environmental Impact Statement. Table 1-4 sets an allowable use level of 30% and, the allotment evaluation objective stated that utilization would not exceed 30%. These changes in specific multiple-use objectives allow for occasional heavy or severe grazing use of key wildlife habitats over some period of time. Simply stated, changing allotment objectives to meet livestock demand, avoid range improvement and future monitoring of wildlife habitats will not provide any assurances in meeting

92 10

Mr. Scott Billings, Manager
December 18, 1991
Page 3

fish and wildlife obligations of the Paradise-Denio MFP III or land use plan.

2. Livestock carrying capacity determinations are invalid.

Livestock carrying capacity, as defined in 43 CFR 4100, is the maximum stocking rate possible without inducing damage to vegetation or related resources. The active preference of this allotment was established on the basis of historical use. The land use plan objective was to initiate intensive management, and monitor the effects to determine the livestock carrying capacity. As previously stated, the Bureau of Land Management failed to implement proper activity plans and must utilize the allotment evaluation as the means to implement the land use plan and achieve its goals and objectives.

The allotment evaluation's key areas, use pattern mapping and short term objectives for wildlife habitat, were not decisive factors in the determination of the livestock carrying capacity in the final decision. Without full consideration of key riparian areas, and lack of wildlife habitat monitoring data, the Final Decision stocking rates, season of use, and conditions of licenses have no direct relation to protection and enhancement wildlife habitat.

As an example, grazing during 1990 by cattle and wild horses resulted in severe (90%) grazing use of streambank riparian habitat along Paiute, Battle and Bartlett Creeks. The allotment evaluation's specific objective is not to exceed 30% utilization. The Bureau of Land Management claims the carrying capacity calculations were based upon methodology found in the Rangeland Monitoring Handbook, 1984. This document does not contain methodology referenced by the Bureau. Instead, the Bureau used weighted average and potential stocking rate calculations found in its Technical Reference TR 4400-7. By use of averaging observed utilization rates and adjusting desired utilization rates, the Final Decision determined a livestock carrying capacity without full consideration of key streambank riparians. According to Technical Reference TR 4400-7, the use of weighted averages are indicators of proper use and assume uniform production of the allotment. In the case of Paiute Allotment, streambank riparians are key management areas and are used to override the indicators of other key areas within the management unit. Land Use Plan Decisions, Bureau policy and findings of the allotment evaluation provide the justification and rationale to adjust livestock use to meet 30% utilization.

Streambank riparian areas constitute less than one percent of the allotment and the carrying capacity calculation masks the fact that severe grazing has occurred or will occur. In addition, the

Mr. Scott Billings, Manager
December 18, 1991
Page 4

892 101
N292 10

final decision provides no protective fences and prescribes a season of use during a portion of the hot season or growing period for key species. Furthermore, by modifying the specific multiple-use objectives found in the allotment evaluation, the District has established this methodology for future evaluations and decisions.

Carrying capacity determinations did not utilize monitoring data for key upland wildlife habitats. The allotment evaluation listed key mountain browse species, identified special features and made specific short and long term objectives for wildlife. However monitoring studies were not conducted and future studies are dependent on future funding. The Final Decision makes no reference to future monitoring as described in the allotment evaluation. Winter livestock use areas will cause direct competition for cover and forage crucial to big game.

3. The Final Decision does not comply with applicable Bureau of Land Management Policies.

The Bureau failed to consult with affected interests as required. Changes in the allotment's short term objectives were negotiated in the permittee's livestock agreement and were not coordinated or cooperatively reviewed by the affected interests. Instruction Memorandum No. NV-89-268 requires the decision maker to seek full consultation on an allotment specific, and on-the-ground basis.

The Final Decision was not done in a timely manner. Bureau of Land Management Instruction Memorandum No. 86-462 states: "the policy that a decision or agreement be made on all allotments in a planning area within 5 years of issuance of an RPS." The Paradise-Denio Range Program Summary was issued on October 14, 1984.

The Final Decision was after the fact of a Livestock Agreement. Bureau of Land Management Instruction Memorandum NV-89-268 states: "If controversy still exists, then the BLM implements the desired changes via a "Proposed Grazing Decision". Issues raised in this appeal were well address in the Department's letter of August 8, 1991 showing that these issues were controversial.

The Final Decision does not conform to the Bureau of Land Management's Riparian Area Management Policy dated January 22, 1987. The Policy Statement states: "Give special attention to monitoring and evaluating management activities in riparian areas and revise management practices where site-specific objectives are not being met." The allotment evaluation set these objectives and monitoring data showed they were not met. The Final Decision did not schedule any fences to preclude livestock access to riparians, adjust livestock levels to meet allowable use criteria, or

N292 10

Mr. Scott Billings, Manager
December 18, 1991
Page 5

prescribe a season of use that will assure improvement of stream-bank and wetland riparians.

4. The Final Decision does not comply with the Endangered Species Act.

The U.S. Fish and Wildlife Service issued a letter on July 2, 1991 to advise all parties that for an attached list of Lahontan cutthroat trout waters Section 7 Consultation would be required. The list identified Bartlett, Battle and Paiute Creeks as "Undetermined Status in 1970". The allotment evaluation further mentions these waters as potential Lahontan cutthroat streams identified in a draft species management plan by the Department of Wildlife. The Department could find no reference to consultation with the Fish and Wildlife Service.

5. The Final Decision does not comply with the National Environmental Policy Act.

The Final Decision to remove 400 to 600 wild horses in an effort to retain current livestock use on the allotment represents a significant action. Development of new allotment specific multiple-use objectives by the livestock agreement was done without the consultation, cooperation or coordination of affected parties. These actions are not consistent with the land use plan and will require amendment to the Paradise-Denio Management Framework Plan III Decisions. This Final Decision will require an environmental assessment as a minimum to meet National Environmental Policy Act compliance.

Sincerely,

William A. Molini

William A. Molini
Director

cc: Region I Manager
E. Wayne Howle
BLM State Director

and to you. 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 Fee will provide you the signature of the person delivered to and the date of delivery.

1. Addressee's Address
 Restricted Delivery **N292 10**
 Consult postmaster for fee.

3. Article Addressed to:
 Mr. Dan Russell
 P.O. Box 339
 Folsom, CA 95630

4a. Article Number
P477558764

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
11-26-91

5. Signature (Addressee)
Dan Russell

6. Signature (Agent)

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

PS Form 3811, November 1990 ☆ U.S. GPO: 1991-287-066 **DOMESTIC RETURN RECEIPT**

4100 nr 240

SENDER:
 • 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 Fee will provide you the signature of the person delivered to and the date of delivery.

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. Nancy Whitaker
 API
 P.O. Box 22505
 Sacramento, CA 95822

4a. Article Number
P477558759

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
11-26-91

5. Signature (Addressee)
Nancy Whitaker

6. Signature (Agent)

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

PS Form 3811, November 1990 ☆ U.S. GPO: 1991-287-066 **DOMESTIC RETURN RECEIPT**

4100 nr 240

SENDER:
 • 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 Fee will provide you the signature of the person delivered to and the date of delivery.

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. Karen Sussman
 6212 East Sweetwater Ave.
 Scottsdale, AZ 85254

4a. Article Number
P477558762

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
DEC 02 1991

5. Signature (Addressee)
Karen Sussman

6. Signature (Agent)

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

PS Form 3811, November 1990 ☆ U.S. GPO: 1991-287-066 **DOMESTIC RETURN RECEIPT**

• Attach this form to the front of the mailpiece, does not permit.
 • Write "Return Receipt Requested" on the mailpiece below the article number.
 • The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

Restricted Delivery
 Consult postmaster for fee: 292 10

3. Article Addressed to:

Mr. Dave Cassinelli
 P.O. Box 1
 Paradise Valley, NV 89426

5. Signature (Addressee)
Debra J Cassinelli

6. Signature (Agent)

4a. Article Number

4b. Service Type **P477558027**
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
 11/25/91

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

PS Form 3811, November 1990 ☆ U.S. GPO: 1991-287-066 **DOMESTIC RETURN RECEIPT** *fr*

4100 nr. 248

SENDER:

- 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 Fee will provide you the signature of the person delivered to and the date of delivery.

3. Article Addressed to:

Mr. John Marvel
 978 Commerical Street
 P.O. Box 2645
 Elko, NV 89801-2645

5. Signature (Addressee)
John Marvel

6. Signature (Agent)
NOV 25 1991

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

1. Addressee's Address
 2. Restricted Delivery
 Consult postmaster for fee.

4a. Article Number

4b. Service Type **P477558013**
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery

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

PS Form 3811, November 1990 ☆ U.S. GPO: 1991-287-066 **DOMESTIC RETURN RECEIPT**

4100 nr. 240

SENDER:

- 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 Fee will provide you the signature of the person delivered to and the date of delivery.

3. Article Addressed to:

Mr. David Harlow
 U.S. Dept. of the Interior
 Fish and Wildlife Service
 4600 Kietzke Lane, Bldg. C
 Reno, NV 89502

5. Signature (Addressee)
David Harlow

6. Signature (Agent)
11/22/91

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

1. Addressee's Address
 2. Restricted Delivery
 Consult postmaster for fee.

4a. Article Number

4b. Service Type **P477558755**
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery

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

PS Form 3811, November 1990 ☆ U.S. GPO: 1991-287-066 **DOMESTIC RETURN RECEIPT** *fr*

• 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 Fee will provide you the signature of the person delivered to and the date of delivery.

1. Addressee's Address
 Restricted Delivery
 Consult postmaster for fee.

NOV 29 10 1991

3. Article Addressed to:

Ms. Joan Reiss
 The Wilderness Society
 116 New Montgomery # 526
 San Francisco, CA 94105

4a. Article Number
 P477558758

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
 11-25-91

5. Signature (Addressee)
Joan E. Curtis

6. Signature (Agent)
 (Signature)

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

PS Form 3811, November 1990 *U.S. GPO: 1991-287-066

DOMESTIC RETURN RECEIPT

4100 NR-240

SENDER:

- 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 Fee will provide you the signature of the person delivered to and the date of delivery.

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:

Nevada Land Action Assoc.
 419 Railroad Street
 Elko, NV 89801

4a. Article Number
 P477558761

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery
 11-25-91

5. Signature (Addressee)

6. Signature (Agent)
Marilyn Tenney

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

PS Form 3811, November 1990 *U.S. GPO: 1991-287-066

DOMESTIC RETURN RECEIPT

4100 NR 240

SENDER:

- 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 Fee will provide you the signature of the person delivered to and the date of delivery.

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:

Mr. Craig C. Downer
 P.O. Box 456
 Minden, NV 89423

4a. Article Number
 P477558757

4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

7. Date of Delivery

5. Signature (Addressee)
Craig C. Downer

6. Signature (Agent)

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

PS Form 3811, November 1990 *U.S. GPO: 1991-287-066

DOMESTIC RETURN RECEIPT

292 10

return this card to you.
 • Attach this form to the front of the mailpiece on the back if space does not permit.
 • Write "Return Receipt Requested" on the mailpiece below the article number.
 • The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

I also wish to receive the following services (for an extra fee):
 1. Addressee's Address
 2. Restricted Delivery
 Consult postmaster for fee.

Ms. Rose Strickland
 Sierra Club-Toiyabe Chapter
 619 Robinson Ct.
 Reno, NV 89503

4a. Article Number
P477558754
 4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

5. Signature (Addressee)
[Signature]
 6. Signature (Agent)

7. Date of Delivery
12-2-91
 8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, November 1990 ☆ U.S. GPO: 1991-287-066

DOMESTIC RETURN RECEIPT

4100 NV-240

SENDER:
 • 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 Fee will provide you the signature of the person delivered to and the date of delivery.

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 Pres.
 of Wild Horses & Burros
 Stewart Facility
 Capitol Complex
 Carson City, NV 89710

4a. Article Number
P477558760
 4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

5. Signature (Addressee)
[Signature]
 6. Signature (Agent)

7. Date of Delivery
23 NOV 91
 8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, November 1990 ☆ U.S. GPO: 1991-287-066

DOMESTIC RETURN RECEIPT

MAILROOM COMPLEX
 CARSON CITY, NV 89710

4100 NV-240

SENDER:
 • 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 Fee will provide you the signature of the person delivered to and the date of delivery.

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:
 Mr. Jim French
 Nevada Department of Wildlife
 City/County Complex
 Winnemucca, NV 89445

4a. Article Number
P477558763
 4b. Service Type
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

5. Signature (Addressee)
[Signature]
 6. Signature (Agent)
[Signature]

7. Date of Delivery
11/28/91
 8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, November 1990 ☆ U.S. GPO: 1991-287-066

DOMESTIC RETURN RECEIPT

4100 nv 240

0292 10

SENDER:

- 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 Fee will provide you the signature of the person delivered to and the date of delivery.

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:

Mr. Richard Heap
 Department of Wildlife
 State of Nevada
 380 B Street
 Fallon, NV 89406

4a. Article Number

P477558012

4b. Service Type

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

7. Date of Delivery

5. Signature (Addressee)

6. Signature (Agent)

Susan Copeland
 11/25

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

PS Form 3811, November 1990 ☆ U.S. GPO: 1991-287-066

DOMESTIC RETURN RECEIPT

4100 nv 240

SENDER:

- 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 Fee will provide you the signature of the person delivered to and the date of delivery.

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. Dawn Lappin
 Wild Horse Organ. Assist.
 P.O. Box 555
 Reno, NV 89505

4a. Article Number

P477558756

4b. Service Type

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

7. Date of Delivery

5. Signature (Addressee)

6. Signature (Agent)

Dawn Lappin



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

PS Form 3811, November 1990 ☆ U.S. GPO: 1991-287-066

DOMESTIC RETURN RECEIPT

4100 nv 240

Private

SENDER:

- 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 Fee will provide you the signature of the person delivered to and the date of delivery.

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. Johanna H. Wald
 NRDC
 71 Stevenson, Ste. 1825
 San Francisco, CA 94105

4a. Article Number

P477558753

4b. Service Type

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

7. Date of Delivery

5. Signature (Addressee)

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



NOV 22 1991

4160
(NV-240)

CERTIFIED MAIL NO.477558764
RETURN RECEIPT REQUESTED

NOTICE OF FULL FORCE AND EFFECT FINAL MULTIPLE USE DECISION
PAIUTE MEADOWS ALLOTMENT

Dan Russell
P.O. Box 339
Folsom, CA 95630

Dear Mr. Russell:

The Record of Decision for the Paradise-Denio Environmental Impact Statement and the Management Framework Plan (Land Use Plan) was issued on July 09, 1982. These documents established the multiple use goals and objectives which guide management of the public lands on the Paiute Meadows allotment.

Monitoring has been established on the Paiute Meadows allotment to determine if existing multiple uses for the allotment are consistent with attainment of the objectives established by the Land Use Plan (LUP). Monitoring data has been collected and has been analyzed, through the allotment evaluation process, to determine progress in meeting multiple use objectives for the Paiute Meadows allotment, and to determine if changes are needed in existing management in order to meet specific multiple use objectives for this allotment.

Through the allotment evaluation process the Bureau of Land Management determined that a change in existing management is required in order to meet multiple use objectives for this allotment. Analysis of the monitoring data indicates that the existing numbers of wild horses and livestock is significantly contributing to the failure in meeting the multiple-use objectives for the Paiute Meadows Allotment. Analysis of the wildlife monitoring data does not indicate a need for a change in the existing management of wildlife. Therefore, this decision changes livestock and wild horse grazing use only and establishes the carrying capacity for livestock and wild horses that will result in a thriving natural ecological balance.

Through consultation, coordination and cooperation (CCC), comments were received and considered. As a result of evaluation conclusions and after consideration of input received through CCC, and in order to meet multiple use objectives established by the LUP, it is my decision to implement the grazing management changes on the Paiute Meadows Allotment through an agreement between the Bureau of Land Management and Daniel H. Russell dated November 22, 1991. The terms of that agreement are as follows:

- g) Improve to or maintain 15 acres of serviceberry, 82 acres of bitterbrush, 55 acres of ephedra, and 112 acres of winterfat vegetation types in good condition. [1]
- h) Improve to and maintain the water quality of Paiute, Battle and Bartlett Creeks to the State criteria set for the following beneficial uses: livestock drinking water, cold water aquatic life, wading (water contact recreation), and wildlife propagation.
- i) Improve to or maintain the 1000 acre Paiute seeding in good condition. (5-10 acres per AUM)

Footnote:

[1] Ecological status will be used to redefine/quantify these objectives where applicable.

CARRYING CAPACITY

The combined carrying capacity for livestock and wild horses shall be 4950 AUMs for the term of this agreement.

AGREED UPON CHANGES IN LIVESTOCK USE

A. From (Description of existing use)

1. Grazing Preference (AUMs)

a. Total Preference	9, 932
b. Suspended Preference	2, 105
c. Active Preference	7, 827
d. Not Scheduled (non use)	3, 477
e. Scheduled Use	4, 350

The authorized grazing use for the Paiute Meadows Allotment during 1990 and 1991 was adjusted to 4350 AUMs in conjunction with the transfer of grazing preference to Daniel H. Russell dated 01/05/90.

2. Season of Use - 05/01 to 11/05

During the 1990 transfer, the season of use was also adjusted.

3. Kind and Class of Livestock - Cattle, Cow/Calf

4. Percent Federal Range - 97%

5. Grazing System

During 1990 in conjunction with the transfer of grazing

ALLOTMENT OBJECTIVES

The following allotment specific objectives tie the Paradise-Denio Resource Area Management Framework Plan III (Land Use Plan-LUP) and Paradise-Denio Resource Area Rangeland Program Summary (RPS) objectives together into quantified objectives for this allotment. The achievement of these objectives will be evaluated through monitoring over time.

1. Short Term

- a) Utilization of key streambank riparian plant species on Paiute, Battle and Bartlett Creeks shall average 30% on woody species over a period of time as indicated by utilization data collected at the end of the grazing period and 50% on herbaceous species as indicated by utilization data collected at the end of the growing season.
- b) Utilization of key plant species in wetland riparian habitats shall average 50% over a period of time as indicated by utilization data collected at the end of the growing season.
- c) Utilization of key plant species in upland habitats shall average 50% over a period of time as indicated by utilization data collected at the end of the growing season.
- d) Utilization of crested wheatgrass shall average 50% following completion of the Paiute Seeding fence reconstruction until such time as the seeding meets the long term objective of good condition, at which time utilization shall average 60% over a period of time as indicated by utilization data collected at the end of the growing season.

2. Long Term

- a) Manage, maintain, or improve public rangeland conditions to provide forage on a sustained yield basis for livestock, with an initial stocking level of 7,827 AUMs.
- b) Improve range condition from poor to fair on 161,158 acres and from fair to good on 15,938 acres. [1]
- c) Improve to or maintain 86 acres of ceanothus habitat types in good condition. [1]
- d) Improve to or maintain 345 acres of mahogany habitat types in good condition. [1]
- e) Improve to or maintain 188 acres of aspen habitat types in good condition. [1]
- f) Improve to or maintain 529 acres of riparian and meadow habitat types in good condition. [1]

preference to Daniel H. Russell dated 01/05/90, grazing use was authorized north of Paiute Creek with herding practices designed to control drift of livestock south of Paiute Creek. For the years 1988-1989 cattle were also turned out north of Paiute Creek, controlling drift south of Paiute Creek. Grazing use was not at full active preference during the period 1983-1990. The active preference for the allotment has been 7,827 AUMs since at least 1983. The permittee has generally turned out in the spring and gathered in the fall. During the period 1983-1990 licensed livestock cattle use has varied as follows:

1983	No use
1984	6,283 AUMs
1985	4,896 AUMs
1986	No use
1987	No use
1988	1,143 AUMs
1989	2,342 AUMs
1990	4,350 AUMs

B. To: (Description of Agreed upon Changes)

A. Livestock Use:

During the term of this agreement livestock management on the Paiute Meadows allotment will be as follows:

1. Grazing Preference Status (AUMs)
 - a. Total Preference 9, 932
 - b. Suspended Preference 2, 105
 - c. Active Preference 7, 827
 - d. Not Scheduled 3, 477
 - e. (Voluntary Non-Use) Scheduled Authorized Use 4, 350
2. Season of Use - 04/15 to 02/28
3. Kind and Class of Livestock - Cattle, Cow/Calf
4. Percent Federal Range - 100%
5. Grazing System

This agreement implements a deferred rotation grazing system as follows:

Year 1 and 2

North Paiute

446 Cattle	04/15 to 07/15	1348 AUMs
243 Cattle	10/16 to 02/28	<u>1088 AUMs</u>
		2436 AUMs

South Paiute

446 Cattle	07/16 to 10/15	1348 AUMs
126 Cattle	10/16 to 02/28	<u>566 AUMs</u>
		1914 AUMs

Total AUMs 4350 AUMs

Use of the Paiute Seeding will be deferred until after seedripening during Year 1 and 2. Grazing use by livestock will be authorized in the seeding from July 15 through October 15. The utilization objective for the Paiute Seeding will be 50% of the standing crop during the first two years following reconstruction of the seeding boundary fence.

Year 3South Paiute

446 Cattle	04/15 to 07/15	1348 AUMs
126 Cattle	10/16 to 02/28	<u>566 AUMs</u>
		1914 AUMs

North Paiute

446 Cattle	07/16 to 10/15	1348 AUMs
243 Cattle	10/16 to 02/28	<u>1088 AUMs</u>
		2436 AUMs

Total AUMs 4350 AUMs

Use of the Paiute Seeding will be authorized for 04/15 to 07/15, concurrently with the South Paiute Use Area, with a utilization objective of 60% of the standing crop if the long term objective for good condition has been met. In the event it has not, the utilization objective will remain 50%.

Designated Areas of Use:

The areas of use are unfenced, with some natural barriers preventing livestock drift. To the extent that livestock drift may occur, the Bureau retains the authority to initiate trespass action if all reasonable alternatives have not been utilized to prevent the drift.

1) Winter Use Area:

This area would include all the lower foothills and lower country along the entire eastern portion of the allotment and fall below 1750 meters in elevation.

2) South Paiute Use Area:

This use area would be the southern portion of the allotment specifically from Paiute Creek south including the higher country above 1750 meters in elevation.

3) North Paiute Use Area:

This use area would be the northern portion of the allotment specifically from Paiute Creek north including the higher country above 1750 meters in elevation.

The attached map titled Paiute Meadows Allotment Use Areas outlines the livestock use areas as described above.

This distribution of authorized livestock use implements a grazing system and is not intended to constitute an assignment of the Total Grazing Preference or any part thereof to a specific area of use within the allotment. As the system may change, the distribution may change.

Terms and Conditions:

Grazing use will be in accordance with this Livestock Use Agreement.

Flexibility in turnout, movement between use areas, and removal dates will be allowed if approved in advance by BLM and if consistent with management objectives.

Salt and/or mineral blocks shall not be placed within one quarter (1/4) mile of springs, streams, meadows, riparian habitats or aspen stands. The permittee is required to perform normal maintenance on the range improvements to which he has been assigned maintenance responsibility.

The permittee will be required to do the necessary riding to keep livestock in the proper use area during the proper time periods.

6. Voluntary Non-Use

Voluntary Non-Use will be applied for by Daniel H. Russell to the extent of any Animal Unit Months of forage harvested annually by wild and free roaming horses in excess of 600 AUMs, based upon the post-gather census, but in no event shall such voluntary non-use application be for more than 300 AUMs.

This agreement allows Daniel H. Russell to apply for activation of the voluntary non-use in the event that forage is temporarily available.

RANGE IMPROVEMENTS

1. In order to assist the Bureau in achieving allotment specific objectives, Daniel H. Russell agrees to provide the labor for the reconstruction of the Paiute Seeding Fence in the South Paiute Use Area to be completed prior to the end of grazing year 1992. The BLM will provide the materials for the reconstruction of this fence.

2. By this agreement, Daniel H. Russell is requesting the construction of an allotment boundary fence on the west side of the allotment. The BLM agrees to complete an Environmental Assessment analyzing the proposal to construct this boundary fence by September 30, 1993. The proposed fence would essentially follow the west boundary of the East Black Rock HMA, the resource area boundary, and the allotment boundary. This fence would assist in establishing the integrity of the HMA division between the West Black Rock HMA and the East Black Rock HMA. In addition this fence will provide for control of migration of wild horses, if any, from the West Black Rock HMA into the East Black Rock HMA.

If the EA determines that no significant impact would result from the construction of the proposed fence, Daniel H. Russell agrees to work cooperatively with the Bureau in the fence design and construction. This includes an agreement to provide an amount of labor that is equitable to the interested parties. This also includes an agreement to maintain an equitable portion of the boundary fence once it is completed. Maintenance responsibilities will be assigned to affected grazing permit holders in an equitable proportion. The BLM would provide the archeological inventory, all materials in construction of the fence and additional labor. The BLM will develop a Cooperative Agreement for construction and maintenance of the proposed project. The BLM will use every option available to secure funding for the construction of the proposed project.

FUTURE MONITORING AND GRAZING ADJUSTMENTS

The Paradise-Denio Resource Area will continue to monitor the Paiute

Meadows Allotment. Daniel H. Russell will work cooperatively with the BLM in the development of a monitoring plan for the Paiute Meadows Allotment. This monitoring data will continue to be collected in the future to provide the necessary information for subsequent evaluation. These evaluations are necessary to determine if the allotment specific objectives are being met under the new grazing management strategy. In addition, these subsequent evaluations will determine if adjustments are required to meet the established allotment specific objectives.

The Paiute Meadows allotment is scheduled to be re-evaluated in 1995.

TERM/EXPIRATION OF AGREEMENT

This agreement sets forth the grazing management to be implemented on the Paiute Meadows Allotment following the adjustment of the wild horse population to the Appropriate Management Level (AML) of 50 horses or a population of horses ten (10) years of age or over, whichever is greater, within the Black Rock East HMA. In the event that this removal of horses to the adjusted AML cannot be made prior to April 15, 1992, or in the event that this removal of horses leaves a population in excess of 75 horses as determined by the BLM's post gather census, to be conducted within one month following the gather, this agreement shall be null and void upon the express written option of Daniel H. Russell (or assignee/transferee) delivered to the BLM office in Winnemucca, Nevada, and a new agreement or decision shall then be issued to implement interim management on the Paiute Meadows Allotment.

In the event that this agreement becomes null and void, for whatever reasons, no word, number and/or phrase shall be considered an admission and/or commitment by any party to this agreement unless otherwise expressly agreed by that party.

In no event will this agreement be effective after February 28, 1995. Following the expiration date of February 28, 1995, a new agreement or decision will be issued regarding the livestock grazing management on the Paiute Meadows Allotment.

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

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)".

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 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."

4110.3-2(c) "Where active use is reduced it shall be held in suspension or in nonuse for conservation/protection purposes, until the authorized officer determines that active use may resume."

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 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."

4120.3-1(a) "Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple-use management."

4120.3-2 "Any person may enter into a cooperative agreement with the Bureau of Land Management for the installation, use, maintenance, and/or modification of range improvements needed to achieve management objectives. The cooperative agreements shall specify the division of costs or labor, or both, between the United States and cooperator(s). Title to structural or removable improvements shall be shared by the United States and cooperator(s) in proportion to the actual amount of the respective contribution to the initial construction. Title to nonstructural or nonremoveable improvements shall be in the United States."

4120.3-7 "The authorized officer may accept contributions of labor, material, equipment, or money for administration, protection, and improvement of the public lands necessary to achieve the objectives of this part."

4130.6 "Livestock grazing permits and leases shall contain terms and conditions necessary to achieve the management objectives for the public lands and other lands under Bureau of Land Management administration."

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. The authorized livestock grazing use shall not exceed the livestock carrying capacity as determined through monitoring and adjusted as necessary under 4110.3, 4110.3-1 and 4110.3-2 ".

4130.6-2 "The authorized officer may specify in grazing permits and leases other terms and conditions which will assist in achieving management objectives, provide for proper range management or assist in the orderly administration of the public rangelands. These may include but are not limited to: ...

(f) Provision for livestock grazing to be temporarily delayed, discontinued or modified to allow for the reproduction, establishment, or restoration of vigor of plants, or to prevent compaction of wet soils, such as where delay of spring turnout is required because of weather conditions or lack of plant growth;"

4130.6-3 "Following careful and considered consultation, cooperation and coordination with the lessees, permittees, and other affected interests, the authorized officer may modify terms and conditions of the permit or lease if monitoring data show that present grazing use is not meeting the land use plan or management objectives."

4160.3(c) "A period of 30 days after receipt of the final decision is provided for filing of 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 on the appeal. The authorized officer may place the final decision in full force and effect in an emergency to stop resource deterioration. Full force and effect decisions shall take effect on the date specified, regardless of an appeal."

This final decision is issued in Full Force and Effect in accordance with Title 43 CFR 4160.3(c) and is effective on December 01, 1991. This decision has been placed in Full Force and Effect due to the combined current forage demand by livestock and wild horses of 10,642 AUMs which is in excess of the calculated carrying capacity of 4950 AUMs. This over-obligation is causing damage to the vegetative resource on the Paiute Meadows Allotment.

If you wish to appeal this decision for livestock management for the purpose of a hearing before an Administrative Law Judge, in accordance with 43 CFR 4.470 you are allowed thirty (30) days from receipt of this notice within which to file such appeal with the Area Manager, Paradise-Deno Resource Area, Bureau of Land Management, Winnemucca District, 705 E. 4th Street, Winnemucca, NV 89445. The appeal shall state the reasons, clearly and concisely as to why you think the final decision is in error.

WILD HORSE AND BURRO MANAGEMENT DECISION

The allotment specific objectives for Wild Horses and Burros on the Paiute Meadows Allotment are:

Maintain and improve the free-roaming behavior of wild horses by protecting and enhancing their home ranges.

Manage, maintain, or improve public rangeland conditions to provide an initial level of 600 AUMs of forage on a sustained yield basis for 50 (AML) adult wild horses and maintain a thriving natural ecological balance.

Maintain and improve wild horse habitat by assuring free access to water.

It has been determined through monitoring that a thriving natural ecological balance can be obtained through an AML of 50 adult wild horses for the Black Rock Range East Herd Management Area in the Paiute Meadows allotment. All animals in excess of the AML of 50 adult wild horses will be removed from the Black Rock Range East HMA and from those areas where wild horses have moved outside of the HMA boundaries in the Paiute Meadows allotment and in the Black Rock Desert between the eastern boundary of the Paiute Meadows allotment and the Quinn River. All adult wild horses in excess of ten (10) years of age that are removed in the gather process will be returned to the Black Rock Range East Herd Management Area in accordance with Washington Office Instruction Memorandum 91-216.

RATIONALE: The analysis and evaluation of available monitoring data indicates that management actions for wild horses must be modified to meet multiple use objectives for the Paiute Meadows allotment. Current and past grazing use by wild horses is not meeting allotment objectives. In the South Paiute use area the conflict has been solely with wild horses and in the North Paiute use area it has been a combination of livestock and wild horses. The current forage demand is in excess of the identified carrying capacity of 600 AUMs for adult wild horses in the Black Rock Range East HMA. The adjustment of wild horses to 50 head of adult wild horses or 600 AUMs of forage demand and the reduction of the Active Use for livestock to 4350 AUMs will result in the achievement of a thriving natural ecological balance of the resources in the Paiute Meadows allotment as indicated by the evaluation of monitoring data. The level of 50 adult animals will maintain a viable herd which will be self sustaining.

AUTHORITY: The authority for this decision is contained in Sec. 3(a) and (b) of the Wild-Free-Roaming Horse and Burro Act (P.L. 92-195) as amended and in Title 43 of the Code of Federal Regulations, which states in pertinent parts:

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."

4710.4 "Management of wild horses and burros shall be undertaken with

Improve to and maintain stream habitat conditions from 43% on Paiute Creek, 58% on Battle Creek, and 50% on Bartlett Creek to an overall optimum of 60% or above.

- Streambank cover 60% or above.
- Streambank stability 60% or above.
- Maximum summer water temperatures below 70° F.
- Sedimentation below 10%.

Protect sage grouse strutting grounds and brooding areas. Maintain the big sagebrush sites within two miles of active strutting grounds in mid to late seral stage with a minimum of 30% shrub composition by weight.

The analysis of monitoring data indicates that the multiple-use objectives for the Paiute Meadows Allotment are not being met. The analysis of utilization and use pattern mapping determined that the wild horses were the primary factor in the non-achievement of the multiple-use objectives in the South Paiute use area and that wild horses and livestock were the primary factors inhibiting achievement of the multiple-use objectives in the North Paiute use area. Analysis of the existing management of wildlife indicates that wildlife populations in the Paiute Meadows Allotment are not significantly contributing to the failure in meeting the multiple-use objectives. Therefore, a change in the existing wildlife populations or the existing wildlife management of the Paiute Meadows Allotment is not warranted. Reasonable numbers for wildlife will remain as follows:

<u>Mule Deer</u> 1,838 AUMs	<u>Pronghorn Antelope</u> 307 AUMs	<u>Bighorn Sheep</u> 180 AUMs (when introduced)
--------------------------------	---------------------------------------	---

Within thirty (30) days of receipt of this decision for wildlife management, you have the right of appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.400. If an appeal is taken, you must follow the procedures outlined in the enclosed Form 1842-1, Information on Taking Appeals to the Board of Land Appeals. Within thirty (30) days after you appeal, you are required to provide a Statement of Reasons to the Board of Land Appeals and a copy to the Regional Solicitor's office listed in Item 3 on the form. In addition, a copy of the Statement of Reason will be provided to the Area Manager, Paradise-Denio Resource Area, Bureau of Land Management, 705 E. 4th Street, Winnemucca, NV 89445. The appellant has the burden of showing that the decision appealed from is in error.

Sincerely yours,
/s/ Scott R. Billing
Area Manager
Paradise-Denio Resource Area

Attachment

the objective of limiting the animals' distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans."

4720.1 "Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animals immediately..."

This final decision is issued in Full Force and Effect in accordance with Title 43 CFR 4160.3(c) and is effective on December 01, 1991. This decision has been placed in Full Force and Effect due to the combined current forage demand by livestock and wild horses of 10,642 AUMs which is in excess of the calculated carrying capacity of 4950 AUMs. This over-obligation is causing damage to the vegetative resource on the Paiute Meadows Allotment.

Within thirty (30) days of receipt of this decision for wild horse management, you have the right of appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.400. If an appeal is taken, you must follow the procedures outlined in the enclosed Form 1842-1, Information on Taking Appeals to the Board of Land Appeals. Within thirty (30) days after you appeal, you are required to provide a Statement of Reasons to the Board of Land Appeals and a copy to the Regional Solicitor's office listed in Item 3 on the form. In addition, a copy of the Statement of Reason will be provided to the Area Manager, Paradise-Denio Resource Area, Bureau of Land Management, 705 E. 4th Street, Winnemucca, NV 89445. The appellant has the burden of showing that the decision appealed from is in error.

WILDLIFE MANAGEMENT DECISION

The allotment specific objectives for wildlife habitat on the Paiute Meadows Allotment are:

Manage, maintain, or improve public rangeland conditions to provide forage on a sustained yield basis for big game, with an initial forage demand of 1,838 AUMs for mule deer, 307 AUMs for pronghorn, and 180 AUMs for bighorn sheep.

Improve to or maintain 2,134 acres in Black Rock DY-13, 41,678 acres in Black Rock DW-10, and 45,856 acres in Black Rock DS-6 in good or excellent mule deer habitat condition.

Improve or maintain 45,965 acres in Black Rock PS-15 in good pronghorn habitat condition. Improve to or maintain 35,274 acres in Black Rock PY-14, 2,623 acres in Leonard Creek PW-17, and 31,466 acres in Paiute Creek PW-16 in fair or good pronghorn habitat condition.

Improve to or maintain 69,939 acres in Black Rock BY-15 in good to excellent bighorn sheep habitat condition.

November 22, 1991

November 22, 1991

PAIUTE MEADOWS FINAL
ALLOTMENT EVALUATION SUMMARY

Wildlife use areas as
shown, in consultation
agreed to reconcile
the Boundary along

Allotment (00057)

t

Dan H. Russell

have been identified in
the south end and one
containing ground is
along the Bartlett Creek
as are identified
would indicate that
. Two winter use
areas identified, one each
drainages.

Period - 10/14/83 to present

Management Category I

Grazing Preference (AUMs)

- Unlimited Preference - 9,932
- Controlled Preference - 2,105
- Seasonal Preference - 7,827
- Scheduled (Seasonal Use) - 3,477
- Controlled Use - 4,350

western portion of
approximately 40 air miles
crosses the east side of
elevation from
determined by shadscale
increases
season; aspen and

Controlled grazing use for the Paiute Meadows Allotment
was adjusted to 4,350 AUMs in conjunction with
the transfer of grazing preference to Dan Russell dated

1,096 acres

Period - 05/01-11/05

170 acres

the season of use was also adjusted in
conjunction with the transfer of grazing preference to Dan
Russell dated 01/05/90.

266 acres

Class of Livestock - Cattle, Cow/Calf

Utilization - 97%

on a field basis through
continued downward deterioration

of public grazing lands by improving 1,000,000 acres in poor condition to fair condition, and 400,000 acres in fair condition to good condition within 30 years.

b. Objective RM-2

Increase existing allocatable livestock forage by artificial methods from the present 103,721 AUMs to approximately 193,472 AUMs (89,751 AUM increase) within 30 years.

c. Objective WLA-1

Improve and maintain the condition of all the aquatic habitat of each stream, lake, or reservoir having the potential to support a sport fishery at a level conducive to the establishment and maintenance of a healthy fish community.

d. Objective WL-1

Improvement and maintenance of a sufficient quantity, quality, and diversity of habitat for all species of wildlife in the planning area.

e. Objective W-1

Preservation and improvement of quality water necessary to support current and future uses.

f. Objective W-2

Provision of adequate water to support public land uses.

g. Objective W-3

Reduction of soil loss and associated flood and sediment damage from public lands caused by accelerated erosion (man-induced) from wind and water.

h. Objective WH/B-1

Maintain wild horses and burros on public lands, where there were wild horses or burro use as of December 15, 1971, and maintain a natural ecological balance on the public lands.

2. Rangeland Program Summary Objectives

a. Livestock Management Objectives

- 1) Increase available forage for livestock to sustain an active preference of 7,827 AUMs.
- 2) Improve range condition from poor to fair on 161,158 acres and fair to good on 15,938 acres.
- 3) Develop a livestock grazing plan that will alleviate the following problems:
 - a) Inadequate livestock distribution.
 - b) Excessive stocking rate.
 - c) Improper season of use.
 - d) Livestock Drift

b. Wildlife Management Objectives

- 1) Manage rangeland habitat and forage condition to support reasonable numbers of wildlife demand as follows:

Deer	1,838 AUMs
Antelope	307 AUMs
Bighorn Sheep	180 AUMs
(when introduced)	

- 2) Improve condition of deteriorating upland meadows.
- 3) Protect sage grouse breeding complexes.
- 4) Improve and maintain the condition of aquatic habitat and riparian zones having the potential to support a sport fishery on Battle, Bartlett, and Paiute Creeks.

c. Wild Horse Management Objective

- 1) Graze 59 (708 AUMs) wild horses in the Black Rock Range - East Herd Use Area.

3. Allotment Objectives

The allotment specific objectives tie the Land Use Plan and RPS Objectives together into quantified objectives for this allotment.

a. Short Term

- 1) Utilization of key streambank riparian plant species shall not exceed 30% on Paiute, Battle and Bartlett Creeks. [1]
- 2) Utilization of key plant species in wetland riparian habitats shall not exceed 50%. [1]
- 3) Utilization of key plant species in upland habitats shall not exceed 50%. [1]
- 4) Utilization of crested wheatgrass shall not exceed 50%. [1]

b. Long Term

- 1) Manage, maintain, or improve public rangeland conditions to provide forage on a sustained yield basis for big game, with an initial forage demand of 1,838 AUMs for mule deer, 307 AUMs for pronghorn, and 180 AUMs for bighorn sheep. (WL-1, W-3, RPS b)
 - a) Improve to or maintain 2,134 acres in Black Rock DY-13, 41,678 acres in Black Rock DW-10, and 45,856 acres in Black Rock DS-6 in good or excellent mule deer habitat condition.
 - b) Improve or maintain 45,965 acres in Black Rock PS-15 in good pronghorn habitat condition. Improve to or maintain 35,274 acres in Black Rock PY-14, 2,623 acres in Leonard Creek PW-17, and 31,466 acres in Paiute Creek PW-16 in fair or good pronghorn habitat condition.
 - c) Improve to or maintain 69,939 acres in Black Rock BY-15 in good to excellent bighorn sheep habitat condition.
- 2) Manage, maintain, or improve public rangeland conditions to provide forage on a sustained yield basis for livestock, with an initial stocking level of 7,827 AUMs. (RM-1 a, RPS a)
- 3) Improve range condition from poor to fair on

161,158 acres and from fair to good on 15,938 acres. [2] (RM-1, RM-2, RPS a.2)

- 4) Maintain and improve the free-roaming behavior of wild horses by protecting and enhancing their home ranges. (WH/B-1)
 - a) Manage, maintain, or improve public rangeland conditions to provide an initial level of 708 AUMs of forage on a sustained yield basis for 59 wild horses and maintain a thriving natural ecological balance. (WH/B-1, RPS c)
 - b) Maintain and improve wild horse habitat by assuring free access to water. (WH/B-1, RPS C.)
- 5) Improve to or maintain 86 acres of ceanothus habitat types in good condition. [2] (WL-1, RPS b.1)
- 6) Improve to or maintain 345 acres of mahogany habitat types in good condition. [2] (WL-1, RPS b.1)
- 7) Improve to or maintain 188 acres of aspen habitat types in good condition. [2] (WL-1, RPS b.1)
- 8) Improve to or maintain 529 acres of riparian and meadow habitat types in good condition. [2] (WL-1, W-3, RPS b 4.)
- 9) Improve to or maintain 15 acres of serviceberry, 82 acres of bitterbrush, 55 acres of ephedra, and 112 acres of winterfat vegetation types in good condition. [2]
- 10) Improve to and maintain stream habitat conditions from 43% on Paiute Creek, 58% on Battle Creek, and 50% on Bartlett Creek to an overall optimum of 60% or above. (WLA-1, RPS b.4)

- a) Streambank cover 60% or above.
 - b) Streambank stability 60% or above.
 - c) Maximum summer water temperatures below 70° F.
 - d) Sedimentation below 10%.
- 11) Protect sage grouse strutting grounds and brooding areas. Maintain a minimum of 30% cover of sagebrush for nesting and winter use. (WL-1, RPS b.3)
 - 12) Improve to and maintain the water quality of Paiute, Battle and Bartlett Creeks to the State criteria set for the following beneficial uses: livestock drinking water, cold water aquatic life, wading (water contact recreation), and wildlife propagation. (WL-1)
 - 13) Improve to or maintain the 1000 acre Paiute seeding in good condition. (5-10 acres per AUM) (RM-2)
 - [1] The utilization levels will be used to evaluate and adjust management practices over a period of time.
 - [2] Ecological status will be used to redefine/quantify these objectives where applicable.

D. Key Species Monitored

1. Upland Habitat

<u>Symbol</u>	<u>Scientific Name</u>	<u>Common Name</u>
STTH2	<u>Stipa thurberiana</u>	Thurber's needlegrass
FEID	<u>Festuca idahoensis</u>	Idaho Fescue
STCO3	<u>Stipa columbiana</u>	Columbia needlegrass
POSE	<u>Poa secunda</u>	Sandberg's bluegrass
ORHY	<u>Oryzopsis hymenoides</u>	Indian ricegrass
ELCI2	<u>Elymus cinereus</u>	basin wildrye
AGSP	<u>Agropyron spicatum</u>	bluebunch wheatgrass
ATCO	<u>Atriplex confertifolia</u>	shadscale
BASA3	<u>Balsamorhiza sagittata</u>	arrowleaf balsamroot

<u>Symbol</u>	<u>Scientific Name</u>	<u>Common Name</u>
CRAC2	<u>Crepis acuminata</u>	tapertip hawksbeard
AMAL2	<u>Amelanchier alnifolia</u>	serviceberry
ARSP	<u>Artemisia spinescens</u>	bud sagebrush
PUTR2	<u>Purshia tridentata</u>	antelope bitterbrush
SYOR	<u>Symphoricarpos oreophilus</u>	snowberry
EULA5	<u>Eurotia lanata</u>	winterfat
LUPIN	<u>Lupinus</u>	lupine
SIHY	<u>Sitanion hystrix</u>	bottlebrush squirreltail
EPHED	<u>Ephedra</u>	ephedra

2. Riparian Habitat

<u>Symbol</u>	<u>Scientific Name</u>	<u>Common Name</u>
AGIN2	<u>Agropyron intermedium</u>	intermediate wheatgrass
CAREX	<u>Carex</u> spp.	sedge
POA++	<u>Poa</u> spp.	bluegrass
JUNCUS	<u>Juncus</u> spp.	rush
POTR5	<u>Populus tremuloides</u>	quaking aspen
ROWO	<u>Rosa woodsii</u>	woods rose
SALIX	<u>Salix</u> spp.	willow

IV. MANAGEMENT EVALUATION

A. Purpose

The purpose of this monitoring evaluation is to assess if current management practices are meeting the allotment specific and LUP objectives and to identify management changes needed to meet objectives.

B. Summary of Studies Data

1. Actual Use

a. Livestock

<u>Year</u>	<u>AUMs Used</u>
1983	0
1984	6,283
1985	4,896
1986	0
1987	0
1988	1,143
1989	2,342
1990	4,350

November 22, 1991

b. Wildlife (Existing Numbers)

The P-D EIS of 1982 indicated that forage use was 1,869 AUMs for mule deer and 204 AUMs for pronghorn on this allotment for the period 1971-1975. The 1986 forage use was determined to be 2,552 AUMs for mule deer and 615 AUMs by pronghorn. Survey methods to determine forage use differed between the two time periods, so data is not comparable. In general population trends for big game animals has increased on the Black Rock Range in the last 10 years.

c. Wild Horses

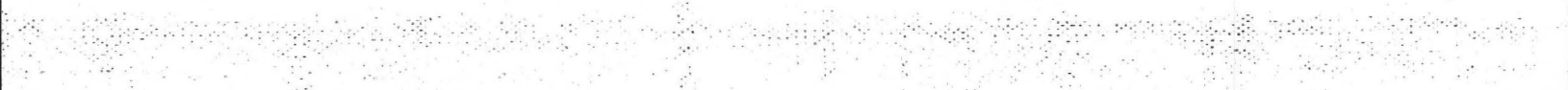
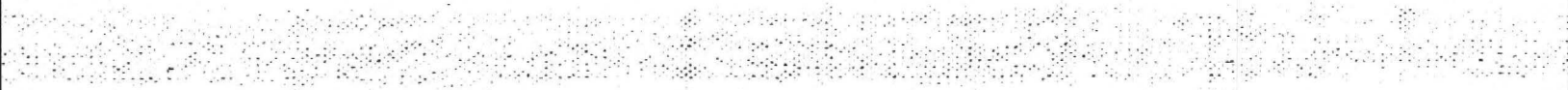
1) Census Data

Records indicate that the Black Rock East HMA has been censused ten times since 1974. Census counts were done by helicopter. Census data collected for the period 1974-1990 is as follows:

<u>Year</u>	<u>Date</u>	<u># of Wild Horses</u>
1974	Oct. 9	123
1975	Feb. 10	92
1977	April 4-5	282
1979	Feb. 6	261
1979	Sept. 17	471
1980	July 24-25	46
1986	June 12	1075
1987	Oct. 6, 8	666
1989	July 17-18	651
1990	Feb. 12-14	508

The 1987, 1989 and 1990 census indicated wild horses were found north and south of Paiute Creek as follows:

<u>Census Date</u>	<u>Paiute South</u>	<u>Paiute North</u>	<u>Total</u>
1987 (October 6, 7)	448	218	666
1989 (July 17, 18)	408	243	651
1990 (February 12-14)	264	244	508



Paiute Meadows

November 22, 1991

2) Wild Horse Gatherers

Three wild horse gathers have been completed on the Black Rock East and West HMA's since the winter of 1979-1980. The number of wild horses removed during each gather is as follows:

<u>Year</u>	<u>Black Rock East</u>	<u>Black Rock West</u>	<u>Total</u>
1979/1980	81	944	1,025
1986	193 horses removed from both (HMAs)		193
1987	445*	259	704

* 245 horses were removed from south of Paiute Creek
200 horses were removed from north of Paiute Creek

3) Actual Use

Forage (AUMs) consumed by wild horses in the Black Rock East (HMA) for the years 1987-1990 indicates more forage was consumed south of Paiute Creek.

Black Rock East (HMA)
Forage Consumption

<u>Year</u> <u>(AUMs)</u>	<u>South of Paiute Creek</u>		<u>North of Paiute Creek</u>		<u>HMA</u> <u>Total</u>
	<u># of</u> <u>Wild Horses</u>	<u>Actual</u> <u>Use (AUMs)</u>	<u># of</u> <u>Wild Horses</u>	<u>Actual</u> <u>Use (AUMs)</u>	
1987	448	4,928	218	2,398	7,326
1987*	203	203	18	18	221
1988	203	2,436	18	216	2,452
1989	203	1,328	18	118	1,446
1989**	408	2,227	243	1,326	3,553
1990	408	604	243	360	964
1990***	264	2,778	244	2,567	5,345
		14,504 AUMs		7,003 AUMs	21,507 AUMs

* Horse numbers change 12/01/87 due to gather 12/87 to 01/88.

** Horse numbers increase to reflect census on 07/18/89.

*** Horse numbers decrease to reflect census on 02/14/90.

Refer to Appendix for further Actual Use detail.

Appendices Revised 10/03/91.

Paiute Meadows

November 22, 1991

2. Climatological Data

Climatological Data (NOAA 1983-1989):

Leonard Creek Ranch Station
Precipitation (Inches)

<u>Year</u>	<u>Growing Season</u>	<u>Annual Total</u>
1983	6.94 M	17.24 M
1984	3.00 M	8.50 M
1985	2.48	6.82 M
1986	4.85 M	9.60 M
1987	5.42	9.30
1988	2.94	8.11
1989	3.98	7.48
1990	4.67	7.19

Growing season March - August
M = Partial or incomplete data

The Leonard Creek Station is 5 miles northeast of the Paiute Meadows Allotment at 4,300' elevation. The Paiute Meadows Allotment ranges in elevation from 4,000' to 8,631'.

A Remote Automated Weather Systems (RAWS) meteorological station (Dry Canyon) was installed in June of 1986 approximately nine miles north of Soldier Meadows Ranch on the west side of the Black Rock Range at an elevation of 4,900'. This station is approximately ten air miles from the Paiute Meadows Allotment.

Dry Canyon RAWS Data
Precipitation (Inches)

<u>Year</u>	<u>Annual Total</u>
1986	1.2
1987	8.7
1988	5.8
1989	5.6
1990	3.9

3. Utilization Data

a. Use Pattern Mapping (UPM)

Use Pattern Mapping (UPM) has been conducted for four (4) years over the period 1987, 1988, 1989 and 1990. During this period, UPM data indicates that the highest levels of utilization have consistently occurred south of Paiute Creek.

Refer to UPMs in the study file.

For the years 1988, 1989, 1990, cattle were authorized north of Paiute Creek only with some drift south of Paiute Creek.

1) North of Paiute Creek

- a) 1987 (Spring/Summer Treatment)
Wild horse use only.

Heavy grazing use covered approximately 2% of the north area and was associated with the lower end of Paiute Creek.

- b) 1988 (Spring/Summer Treatment)
Wild horse use only.

Heavy grazing use covered approximately 1% of the north area and was indicated near Burnt Springs and Butte Creek.

A small area of moderate use was recorded along Bartlett Creek. Battle Creek was not mapped in 1988.

- c) 1988/1989 (Yearlong Treatment)
Wild horse and cattle use

Heavy grazing use covered approximately 1% of the north area and was indicated near the upper end of Paiute Creek.

November 22, 1991

Battle Creek and Bartlett Creeks were not mapped.

- d) 1989 (Spring/Summer Treatment)
Wild horse use only.

Severe grazing use covered less than 1% of the north area. No heavy use was recorded. Slight to light utilization of streambank riparian vegetation occurred along Paiute and Battle Creeks. Bartlett Creek was not mapped in 1989.

- e) 1989/1990 (Yearlong Treatment)
Wild horse and cattle use.

Heavy grazing use covered approximately 19% of the north area. Severe grazing use was not recorded.

Slight to light utilization of streambank riparian vegetation occurred along Paiute Creek. Light use was recorded along Bartlett Creek and light to moderate use along Battle Creek.

- f) 1990 (Spring/Summer Treatment)
Wild horse and cattle use.

Heavy grazing use covered approximately 49% of the north area. Severe grazing use covered less than 1% of the north area. Heavy use of streambank riparian vegetation occurred along the north and south forks of Battle Creek. Severe grazing use of streambank riparian vegetation occurred along Paiute Creek, Battle Creek and Bartlett Creek.

November 22, 1991

2) South of Paiute Creek

- a) 1987(Spring/Summer Treatment)
Wild horse use only.

Heavy grazing use covered approximately 10% of the south area and was indicated primarily near developed water sources to include Opal Spring and Sheep Spring.

Severe grazing use covered approximately 11% of the south area and was indicated primarily near Indian and Pidgeon Springs.

- b) 1988 (Spring/Summer Treatment)
Wild horse use only.

Heavy grazing use covered approximately 2% of the south area.

Severe use covered approximately 1% of the south area primarily near the seeding.

- c) 1989 (Yearlong Treatment)
Wild horse use only.

Heavy use covered approximately 12% of the south area.

Severe use covered approximately 16% of the south area and was indicated near Indian Cave and Pidgeon Springs.

- d) 1989 (Spring/Summer Treatment)
Wild horse use only.

Heavy grazing use occurred on approximately 2% of the south area and was primarily near Horse, Cherry and Pidgeon Springs.

Severe use was not recorded.

Paiute Meadows

November 22, 1991

- e) 1989/1990 (Yearlong Treatment)
Wild horse use only.

Heavy grazing use covered approximately 39% of the south area. The heavy use was located in three different areas. The first area was around the Paiute seeding, the second was west of Elephant Mountain, and the last area was south of Pidgeon Springs.

Severe grazing use covered approximately 18% of the south area. The severe use occurred between Cain Springs and Pidgeon Springs.

- f) 1990 (Spring/Summer Treatment)
Wild horse use only.

Heavy grazing use covered approximately 42% of the south area. Severe grazing use covered approximately 16% of the south area primarily on the Paiute Seeding. Severe grazing use was also recorded near some water sources to include Trough Spring, Cancer Spring, Indian Spring, White Rock Spring.

3) Paiute Seeding

The following information is a description of the grazing use patterns by year and use periods for the Paiute Seeding.

- a) 1987 (Spring/Summer)

Heavy grazing use covered approximately 100% of the seeded area.

- b) 1988 (Spring/Summer)

Heavy grazing use covered approximately 62% of the seeded area.

Severe grazing use covered approximately 38% of the seeded area.

Paiute Meadows

November 22, 1991

c) 1989 UPM

Severe grazing use covered approximately 100% of the seeded area.

b. Utilization Data

Four key areas were established during the spring of 1990.

Key AreaLocation

Big Mountain (057-01)	T.39N., R.26E., Sec. 6, SE $\frac{1}{4}$, South of Paiute Creek
Battle Ck. #1 (057-02)	T.41N., R.26E., Sec. 25, NW $\frac{1}{4}$, North of Paiute Creek
Battle Ck. #2 (057-03)	T.41N., R.26E., Sec. 13, SE $\frac{1}{4}$, North of Paiute Creek
Emigrant (057-04)	T.38N., R.27E., Sec. 30, NE $\frac{1}{4}$, South of Paiute Creek

Utilization data as per the Key Forage Plant Method was collected during the initial establishment of these key areas and again during the fall along with UPM. The utilization data conducted during initial establishment in July was slight to light (1-40%) at all four key areas. The fall utilization averaged slight use at one key area, moderate use at two key areas, and heavy use at one key area.

- c. The Quadrat Frequency Trend study method was initiated at the four key areas during the spring of 1990. Additional data is needed to quantify a change or trend at each key area.

Trend data was collected in 1979 at the Paiute Seeding Exclosure. No further data has been collected at this location. More data is needed to quantify a change or trend.

The Paradise-Denio EIS identifies observed trend as downward. (Refer to PD EIS Appendix G. Table 6-1 and Chapter II, 209 PD EIS)

5. Range Survey Data

- a. A phase one watershed inventory was conducted in portions of the Paradise-Denio Resource Area from 1971-1974. Livestock forage condition was determined based upon data extrapolation and computations from

N292 10

this inventory. This data extrapolation resulted in the following condition classifications for the Paiute Meadows Allotment:

<u>Good</u>	<u>Fair</u>	<u>Poor</u>
0	15,938	161,158

Appendix G, Pg-28 of the P-D EIS provides more discussion on origin of livestock forage condition.

- b. In 1978 a range survey was conducted using the Ocular Reconnaissance Method to provide baseline data for analysis purposes in the Paradise-Denio EIS. The survey, along with suitability criteria indicated that 1,403 AUMs were available in 1978 for livestock and wild horse use.

6. Ecological Status Inventory

The order 3 soil survey field work has been completed on this allotment. The Ecological Status Inventory has not been completed on the allotment.

Ecological status was collected at four key areas during the spring 1990. The ecological status is as follows:

<u>Key Area</u>	<u>Ecological Status</u>
Big Mountain (057-01)	Mid Seral (39%)
Battle Ck. #1 (057-02)	Mid Seral (42%)
Battle Ck. #2 (057-03)	Mid Seral (33%)
Emigrant (057-04)	Mid Seral (49%)

7. Wildlife Habitat Inventory

- a. Priority Species: Mule deer, sage grouse, pronghorn, bighorn sheep and trout.
- b. Paiute, Battle and Bartlett Creeks are designated as potential recovery habitat for the threatened Lahontan cutthroat trout.
- c. Other species: chukar, Hungarian partridge and Valley quail.

Paiute Meadows

November 22, 1991

d. Special habitat features

- 1) A special habitat features inventory was conducted in 1977 and 1978. This inventory identified the location and acres of special habitats, listed observed plant and wildlife species, and documented ocular observations of the condition and utilization of these habitats. This information was analyzed in the Paradise-Denio EIS.
- 2) Special Habitat acreage calculations are approximate figures that will be field checked as time permits.

Riparian habitat	529 acres
Aspen	108 acres
Curlleaf mountain mahogany	345 acres
Ceanothus	86 acres
Serviceberry	15 acres
Bitterbrush	82 acres
Winterfat	112 acres
Ephedra	55 acres

e. Habitat Evaluation

A habitat evaluation has not been conducted on this allotment.

8. Riparian/Fisheries Habitat

a. Stream Survey

Paiute Creek was surveyed in 1976 at 51% of optimum and in 1988 at 43%. Battle Creek was also surveyed in 1976 and was rated at 59% of optimum; Battle Creek rated 58% in 1988. Bartlett Creek was 54% of optimum when surveyed in 1976 and 50% of optimum in 1988.

Summaries of the stream survey findings follow:

1) Bartlett Creek

The pool-riffle ratio index was 78% of optimum in 1976, with riffles being dominant. Quality pools were seldom observed. In 1988, pools were even scarcer, with a pool-riffle ratio index of 12%, and no quality pools.

The stream bottom had an improved proportion of desirable materials: 64% in 1976 versus 76% in 1988. There was also a slight reduction in sedimentation: 22% sand and silt in 1976 versus 18% in 1988. However, there was also a shift in the proportions of the coarser rock substrate materials, resulting in a reduction of spawning gravels from 48% to 26%.

Bank cover and stability were 50% and 61% of optimum, respectively, in 1976. This had improved to 76% and 86% in 1988. The degree of ungulate damage, however, had increased from 50% in 1976 to 86% in 1988.

On the portions of Bartlett Creek which were surveyed in 1976, 56% was shaded. This percentage was not determined during the 1988 stream survey.

In 1976, the water was relatively clear at the upper stations, but became increasingly turbid downstream (30 Jackson Turbidity Units (JTUs) at S-1). Turbidity was not measured in 1988.

The habitat was 54% of optimum in 1976, with the main limiting factors being the lack of quality pools and the lack of bank cover. In 1988, the habitat condition index was 50%. While bank cover had improved considerably, the continued occurrence of high levels of damage to the streambanks had prevented channel evolution processes from generating pool structure.

2) Battle Creek

The stream survey of Battle Creek in 1976 found that pools constituted 39% of the stream (pool/riffle ratio index equal to 78%), but also found that few of these were quality pools. This dropped pool quality index for the stream to 41% of optimum. In 1988, only 24% of the stream was in pools, and the pool quality index had dropped to 35%.

The stream bottom materials of Battle Creek in 1976 included 59% desirable materials and 28% sediments. Spawning gravels made up 37% of the bottom materials. In 1988 the bottom materials were 89% desirable materials and 15% sediments. Spawning gravels had decreased to 25% of the bottom materials.

Bank cover and stability of Battle Creek were 52% and 64% of optimum, respectively, in 1976. Ungulate damage ranged from 10% to 50%. In 1988, bank cover was 50% and bank stability was 71%. Bank damage was rated at 91%. The long periods of livestock use on this portion of the allotment have contributed to the increased bank damage that was observed between 1976 and 1988.

Only 34% of the stream was shaded in 1976. The peak water temperature recorded during the two day survey in July was 64°F. Neither the percentage shaded, nor water temperature were determined in 1988. During the summer of 1990, a recording thermograph placed in Battle Creek indicated a peak temperature of 67.8°F.

The habitat in Battle Creek was 59% of optimum in 1976. In 1988, the habitat condition index was 58%. The lack of pools and pool quality were the chief limiting factors. The bank damage has prevented channel evolution from generating and maintaining increased pool and quality pool structure. The time spent along the creek is a function of the high numbers of large herbivores present on the allotment. This is due mostly to cattle and wild horses which represent the majority of the forage demand. The horse population on the Black Rock Range has increased to levels where they are impacting the vegetation resources in their preferred use areas, including riparian communities. Cattle represent both an increased forage demand and also a disproportionate demand on riparian zones during summer use periods due to their preference for the greener forage, shade, short distance to water (and avoidance of walking long distances during periods when the ambient heat environment is not in the comfort zone for them).

3) Palute Creek

The pool-riffle ratio index of Palute Creek was near the optimum at 92%, but the small extent of quality pools reduced the pool quality rating to 26% of optimum in 1976. By the time of the 1988 stream survey, the proportion of the stream in

November 22, 1991

pools at the five stations surveyed that year had decreased to 0%.

The stream bottom of Palute Creek in 1976 was 41% desirable materials and 30% sediments. Spawning gravels made up 36% of the stream bottom. In 1988, desirable materials comprised 98% of the bottom materials. Sedimentation was 9%. Spawning gravels were reduced to 31%.

Much of the banks were deeply eroded, reflected as ungulate damage ratings of 50% to 90% throughout the four stations surveyed in 1976. Bank cover and stability were 39% and 58%, respectively. In 1988, bank damage was rated at 100%; severe bank erosion and accelerated erosion and sloughing occurred over virtually all of the surveyed portions of the stream channel. Bank cover and stability were 53% and 63%.

Only 37% of the stream was shaded in 1976. The creek averaged 0.16 feet deep, with a flow of 1.03 cfs. These factors resulted in a maximum water temperature of 80°F. The percentage shading and water temperature were not determined in 1988, however the depth averaged 0.20 feet and, as stated above, bank cover still did not meet the objective.

In 1976, the habitat condition index for Palute Creek was 50%. Warm water temperatures, a scarcity of quality pools, and poor benthic composition were the primary limiting factors. The habitat condition declined to 43% of optimum in 1988. The lack of pools and the degree of damage to the streambanks, which counteracts channel development toward providing better pool structure, were still the most critical factors in the poor habitat conditions. This is due to the growth of the wild horse population of the Black Rock Range and their use of Palute Creek whereas the riparian conflicts on Battle and Bartlett Creeks tend to be the result of the livestock management on other parts of the allotment.

Paiute Meadows Allotment Stream Survey Data

Paiute Creek Stream Survey Data

Date of Survey	Survey Agency	Percent of Optimum	Percent Sedimentation (% Opt.)	Bank Cover (% Opt.)	Bank Stability (% Opt.)	Water Temp. (°F)
(Objective Levels)		>60	<10	>60	>60	<70

Paiute Creek (all stations)

8/3/76	BLM	51	30	58	58	80
7/13/88	BLM	43	9	63	63	--

Battle Creek Stream Survey Data

Date of Survey	Survey Agency	Percent of Optimum	Percent Sedimentation (% Opt.)	Bank Cover (% Opt.)	Bank Stability (% Opt.)	Water Temp. (°F)
(Objective Levels)		>60	<10	>60	>60	<70

Battle Creek (all stations)

8/4/76	BLM	59	28	52	64	64
7/18/88	BLM	58	15	50	71	--

Bartlett Creek Stream Survey Data

Date of Survey	Survey Agency	Percent of Optimum	Percent Sedimentation (% Opt.)	Bank Cover (% Opt.)	Bank Stability (% Opt.)	Water Temp. (°F)
(Objective Levels)		>60	<10	>60	>60	<70

Bartlett Creek (all stations)

8/2/76	BLM	54	22	50	61	63
7/11/88	BLM	50	18	76	86	--

9. Wild Horse and Burro Habitat

Population Data

Utilization data for the Black Rock East HMA as indicated by census data shows that forage utilization and populations are consistently greater south of Paiute Creek compared to north of Paiute Creek. For the period 1987, 1988, 1989,

Paiute Meadows

November 22, 1991

1990 forage consumed by horses south of Paiute Creek was 16,212 AUMs or 4053 AUMs avg/year and north of Paiute Creek 8,748 AUMs or 2,187 AUMs avg/year.

UPM data collected from 1987 to 1990 also indicates that the highest levels of utilization have occurred south of Paiute Creek. Use patterns indicate that the southeast portion of the HMA from Lone Spring and White Rock Spring south is the recognized winter use area. Horses are scattered over the allotment the remainder of the year.

Census data for 1987, 1989, 1990 does not indicate a steady increase or decrease in population but rather erratic change both in the Black Rock East HMA and south and north of Paiute Creek.

Data indicates that in 1980 the wild horse population on the HMA as observed by census was 46 animals. The 1986 census indicated a population increase to 1,075 animals. The number indicates a high probability of wild horses moving within the Black Rock Range between both the West and East HMAs.

Census data does indicate horses are expanding further out into the Black Rock West and East HMAs. Horses are moving east of the Black Rock East HMA and south out of both HMA's. Horses are also moving north beyond Rough Canyon and Summit Lake Mountain in the East and West HMAs respectively.

In accordance with the June 1989 IBLA Ruling, adjustments for wild horses will be made based on monitoring data.

10. Water Quality

Available data - Lab water quality analysis was done in 1976 and 1979 on Bartlett Creek and Paiute Creek. Stream survey water quality analysis with a Hach Kit was done in 1976 on Battle, Bartlett, and Paiute Creeks.

Battle Creek - Temperatures are consistently too high for cold water aquatic life and fecal coliform and turbidity may also be problems, but more data is needed. TDS was low (1976).

11. Other Information

Normal maintenance on most range improvements has not been conducted leaving them in poor condition.

V. CONCLUSIONS

A. Short Term Objectives

Refer to Section III C.3 for Short and Long Term Objectives.

1. Use pattern mapping completed during 1990 indicates this objective is not being met on Paiute Creek, Battle and Bartlett Creeks.
2. Use pattern mapping completed during 1990 indicates this objective is not being met.
3. Use pattern mapping collected from 1987-1990 indicates this objective is not being met. During this period the highest levels of utilization have been south of Paiute Creek, which has been made by wild horses; however, use greater than 50% has occurred north of Paiute Creek also.
4. Use pattern mapping indicates this objective is not being met for all years 1987, 1988, 1989 and 1990.

B. Long Term Objectives

1. Baseline and ESI information has not been collected to evaluate progress in attaining this objective. Current demand for mule deer is 2,552 AUMs, 615 AUMs for antelope and 0 AUMs for bighorn. Existing populations are above reasonable numbers for mule deer and pronghorn antelope.
2. Baseline data has been collected during the initial year of establishment during 1990; however, additional data is needed to evaluate the progress towards achievement of this objective. Analysis of the short-term upland habitat objectives primarily south of Paiute Creek is an indication that progress towards achievement of this objective is not being made in this area of the allotment.
3. Baseline and ESI data has not been collected to evaluate the progress towards achievement of this objective. This objective will be redefined/quantified with ecological status condition as information becomes available.
4. a. Baseline data has been collected during the initial year of establishment during 1990, however additional data is needed to evaluate the progress towards achievement of this objective, analysis of the short-

term upland habitat objectives primarily south of Paiute Creek indicates utilization in the uplands is not being met. Use Pattern Mapping data indicates that the country south of Paiute Creek has received the highest levels of utilization.

- b. This objective is being met.
5. Baseline and ESI information has not been collected to evaluate the progress towards achievement of good condition in ceonothus vegetation types.
 6. Baseline and ESI information has not been collected to evaluate the progress towards achievement of good condition in mahogany vegetation types.
 7. Baseline and ESI information has not been collected to evaluate the progress towards achievement of good condition in aspen vegetation types.
 8. Baseline and ESI information has not been collected to evaluate the achievement of this objective. Analysis of short term objectives is an indication that progress is not occurring on 52 acres of riparian and meadow habitat but may be occurring on the other 477 acres of riparian and meadow habitats.
 9. Baseline and ESI information has not been collected to evaluate the achievement of good condition in serviceberry, bitterbrush, ephedra and winterfat vegetation types. Monitoring of age and form class structure in 1990 was satisfactory.
 10. Comparison of stream survey data from 1976 with that from 1988 indicates that habitat conditions during that period declined on Bartlett Creek and Paiute Creek, and that no significant progress was made on Battle Creek. Analysis of use pattern maps since 1988 in relation to the short term objectives for the riverine riparian vegetation indicates that, as of this date (April 1991), some progress is being made along Battle and Bartlett Creeks, but that Paiute Creek continues to be impacted by wild horses and livestock.
 11. Baseline information and habitat condition has not been collected to evaluate the progress towards achievement of this objective. No vegetation treatments to reduce sagebrush have occurred during the evaluation period.
 12. Baseline data has not been collected to evaluate the

N292 10

progress towards achievement of this objective.

- 13. Baseline and trend information has not been collected to evaluate the achievement of this objective. However, analysis of short term objectives indicates that progress is not being made towards this objective due to heavy and severe utilization by wild horses.

VI. TECHNICAL RECOMMENDATIONS

A. Technical

1. Adjust the numbers of wild horses and the active grazing preference for livestock on the Paiute Meadows Allotment to a stocking level of 3,942 AUMs which will provide for a thriving natural ecological balance and allow for multiple use objectives to be met. See Appendix I for stocking level calculations. Analysis of data does not indicate the need for an adjustment in wildlife populations.

* See Appendices.

Alternative 1. The level of livestock and wild horse use will be adjusted to conform with proportions established in the Land Use Plan (LUP).

Implement an adjustment based on the stocking level of 3,942 AUMs. The LUP proportion is 92% livestock, 8% wild horses. This equates to 3,627 AUMs for cattle and 315 AUMs for wild horses. Reducing herd size below 50 head may jeopardize the genetic viability of the herd; therefore wild horse numbers would be adjusted to 50 animals and 600 AUMs.

Table 1. Land Use Plan Proportional Stocking Level (AUMs)

Available Forage (AUMs)	Cattle	Wild Horses
3,942	3,342	600

Alternative 2. The level of livestock and wild horse use will be based on actual use percentages.

Adjust stocking rates for livestock and wild horses on actual use percentages during 1987-1990. Implement a proportionate share adjustment based on the calculated stocking level of 3,942 AUMs. The calculated average actual use is 5298 AUMs wild horses and 1,876 AUMs livestock as follows:

Table 2. Stocking Levels by Actual Use Percentages

<u>User</u>	<u>AUMs</u>	<u>Proportions</u>	<u>Stocking Rate (AUMs)</u>
Wild horses	5,298	74 x 3942 =	2917
Livestock	<u>1,876</u>	26% x 3942 =	<u>1,025</u>
Total	7,174 AUMs		3,942 AUMs

Wild horse and livestock actual use was averaged for the period 1987-1990.

See Appendix II for Actual Use Calculations.

Alternative 3. The level of livestock and wild horse use will be based on current use and active preference percentages. Adjust the stocking rates based on the current demand for forage within the allotment. This is calculated by using the current forage demand for wild horses and the active preference for the allotment.

Table 3. Current Forage Demand and Over-allocation of Forage

<u>User</u>	<u>AUMs</u>	<u>% of Demand</u>
Wild Horses	6,292 (1990 pop. levels)	45%
Livestock	<u>7,827</u> (Active Preference)	55%
	14,119 Total AUMs Forage Demand	
	14,119	
	<u>-3,942</u> (Available Forage)	
	10,177 AUMs to be reduced	

Table 5. Adjustments by Actual Use Proportional Share

<u>User</u>	<u>%</u>	<u>AUMs Above Carrying Capacity</u>	<u>Proportional Reduction</u>
Wild Horses	45%	10,177	4580 (AUMs)*
Livestock	55%	10,177	5597 (AUMs)*

* The adjustment or reduction of 10,177 AUMs will bring forage demand to the level of available forage. The following represents the stocking levels that would allow the multiple use objectives to be met.

<u>Use</u>	<u>Desired Stocking Level</u>
Wild Horses	1712 AUMs (6,292 - 4,580)
Livestock	<u>2230 AUMs</u> (7,827 - 5,597)
	3942 AUMs Carrying Capacity

2. Change Season-of-Use

Alternative a. Grazing use within the Paiute Meadows Allotment will be changed to eliminate use during the hot season. The season-of-use will be 11/01-06/01 each year. Livestock will be removed from the public lands for the period 06/02-10/30 each year. Grazing use will occur over the allotment with stocking levels not exceeding stocking rates for the north Paiute and south Paiute use areas. This season-of use will allow complete rest during the summer period and allow for a regrowth period for riparian vegetation.

Alternative b. Change the season-of-use to summer-fall-winter and implement a Deferred Rest Grazing System. The season-of-use will be 05/01-03/15 each year. Livestock will be removed from the public lands during the spring period (03/15-05/01). Stocking levels will not exceed stocking rates for the north Paiute and south Paiute use areas.

The objective of the deferred rest grazing system would be to reduce grazing pressure during the summer period. This grazing system will reduce grazing pressure for two consecutive years north of Paiute Creek and one year south of Paiute Creek. Under the Deferred Rest Grazing System, the Paiute Meadows Allotment would be divided into three use areas. The use areas would be:

- 1) Winter Use Area: This area would include all the lower foothills and lower country along the entire eastern portion of the allotment.
- 2) South Paiute Use Area: This use area would be the southern portion of the allotment specifically from Paiute Creek south including the higher country and foothills not used for winter use.
- 3) North Paiute Use Area: This use area would be the northern portion of the allotment specifically from Paiute Creek north including the higher country and foothills not used for winter use.

The following grazing system would be implemented

within the Paiute Meadows Allotment with respect to the above designated use areas:

Table - 6 Deferred Rest Grazing System

Grazing Years 1 and 2

<u>Use Area</u>	<u>Period-of-Use</u>
<u>North Paiute</u>	
early summer use area	05/01-08/15
winter use area	11/01-02/28
	03/01-03/15
<u>South Paiute</u>	
late summer use area	08/16-10/30
winter use area	11/01-02/28
	03/01-03/15

Grazing Year 3

<u>Use Area</u>	<u>Period-of-Use</u>
<u>North Paiute</u>	
late summer use area	08/16-10/30
winter use area	11/01-02/28
	03/01-03/15
<u>South Paiute</u>	
early summer use area	05/01-08/15
winter use area	11/01-02/28
	03/01-03/15

3. Range Improvement Projects

a. In order to facilitate the grazing system and improve distribution of grazing distribution of grazing animals, several waters should be developed or reconstructed.

- 1) Develop a pipeline on Burnt Springs
- 2) Repair Paiute Windmill
- 3) Repair Emigrant Well
- 4) Develop a spring at T.41N., R.27E., Sec. 20 SW $\frac{1}{4}$
- 5) Several existing projects require reconstruction

- b. Maintain the Paiute Seeding fence
 - c. Maintain/Reconstruct Range improvements as per conditions of the Cooperative Agreement, Permit and/or Assignment of Range Improvements.
4. Wild Horse Management
- a. Develop a Herd Management Area Plan and consider combining the Black Rock Range West and East HMAs or construct a fence between the Black Rock Range East and West HMAs.
 - b. Protect wild horses from unauthorized capture, harassment, and destruction.
 - c. Reevaluate the Draft Paradise-Denio Grazing E.I.S., Wild horse and Burro Use Area and Map for the Black Rock Range East.

B. Monitoring Needs

1. Continue to implement the rangeland monitoring program on the Paiute Meadows Allotment.
2. Continue to identify key areas and collect baseline data on upland sites.
3. Establish additional monitoring sites on riparian areas.
4. Initiate Wildlife Habitat Inventory and Riparian/Fisheries Habitat Studies.
5. Develop ecological site descriptions for riparian areas and determine ecological status for wet meadows and stream riparian areas.

Determine desired seral stages for key areas where ecological condition has been determined.

Redefine/quantify long term objective (3) with ecological status condition as information becomes available.
6. Re-evaluate ecological condition on all key areas particularly where statistically significant changes in frequency of key species have occurred.
7. Continue with intensive wild horse habitat monitoring

studies. Collect data to determine population estimates, trend, characteristics and dynamics.

8. Reevaluate the Palute Meadows allotment in 1997.

VII. Consultation

A. Consultation of this evaluation is listed chronologically as follows:

7/3/91 evaluation sent to permittee and affected interests for review and comment.

7/15/91 meeting with permittees consultant and attorney to discuss allotment evaluation

7/26/91 written comments on draft evaluation received from permittee

8/13/91 written comments on draft evaluation received from Nevada Department of Wildlife

10/2/91 written comments received from NRDC/Sierra Club

11/01/91 meeting with permittee to discuss management alternatives and potential agreement

11/12/91 meeting with permittee's consultant discussing carrying capacity and potential agreement

11/14/91 meeting with permittee's attorney and consultant to discuss carrying capacity and proposed agreement

B. Summary of Comments and Responses

1. Comment: Key areas for the allotment do not appear to correspond with the long term wildlife objectives of the allotment.

Response: Only a partial establishment of key areas has been completed to date for the Palute Meadows allotment. It is recognized that additional key areas must be established to completely represent the various multiple uses of the allotment.

2. Comment: Observations indicate severe and heavy use in the Sheep Creek and Deer Creek drainage are directly affecting the production of deer, antelope and sage grouse. Department [NDOW]

mule deer data suggest that the poor conditions summer and winter ranges are causing excessive fawn mortalities during the winter months.

Response: Specific data pertaining to wildlife populations and fawn mortality has not been received by the Bureau to be analyzed or considered in this allotment evaluation. Absence of this specific data prohibits the Bureau from changing management recommendations regarding wildlife habitats.

3. Comment: Data indicates the current and past wild horse use is a major factor in the condition of riparian habitat on this allotment. Serious overuse of riparian zones was occurring prior to 1988 when the District re-authorized livestock use. It is alarming that despite this knowledge, the District authorized 4,350 AUMs of livestock use on this allotment in 1990.

Response: Livestock use was not "re-authorized" in 1988. The active grazing preference for the Paiute Meadows allotment is 7,827 and was available for use in 1988 upon approval of grazing applications from qualified applicants. In 1990 an application for transfer of grazing preference and an application for the grazing permit was received. In consideration of these applications in light of the monitoring data available at that time it was determined that 4,350 AUMs of grazing use was available for livestock in the North Paiute Use Area only.

4. Comment: Appendix 1 determines a stocking rate under the assumption of meeting 50% utilization on upland grass species. Analysis cannot support these stocking rates and seasons of use to meet 30% utilization on streambank riparian, 50% utilization of wetland meadows or 50% utilization of key mountain browse.

Response: Appendix 1 does not determine a stocking rate based on meeting 50% utilization on upland grass species alone. The methodology used represents a weighted average of the heavy and severe use zones as determined through use pattern mapping. These areas are the problem areas that do not allow for the achievement of multiple use objectives. The weighted average utilization figure was then applied to the desired stocking rate formula to achieve a 50% utilization objective. This applies to upland grass species, wetland riparian and/or browse. The utilization figure of 30% was not used as the majority of the data collected to date does not indicate a problem with achieving this objective. Only one year of data out of four indicates that this objective has not been achieved.

5. Comment: Since monitoring studies are not conducted to address the specific long term objectives for big game and sage

November 22, 1991

grouse, data does not exist to allow for remedial actions to eliminate or reduce conflicts between livestock and wildlife.

Response: This is a misunderstanding of the basic concepts of range management. Multiple use objectives are developed to guide the management of the public lands and have been written in the form of short and long term objectives. Short term objectives are written to provide for an analysis of monitoring data such as forage utilization (including use pattern mapping) and actual grazing use made (livestock, wild horses and/or wildlife). The analysis of short term data provides an indication of progress being made towards long term objectives and is correlated and applicable to all resource uses including wildlife and livestock and allows for the determination of any necessary changes to those levels of use. It is not BLM policy to postpone the evaluation of multiple use objectives in lieu of collecting sufficient long term monitoring data to make conclusions as to current management of the public lands.

6. Comment: Develop an interim management decision to reduce cattle until horses are removed to appropriate management levels.

Response: A multiple use decision will be issued identifying any necessary changes to current management levels and will prescribe any necessary terms and conditions to be applied to those levels of use in order to achieve multiple use objectives. Any changes required will be commensurate with the monitoring data available and the degree of change necessary as indicated by that data.

7. Comment: Delineate key areas for utilization and trend studies that address the specific long term objectives of this allotment for sage grouse, antelope and mule deer. Schedule the monitoring activities.

Response: The future establishment of key areas will be completed as workloads and funding permit. The scheduling of monitoring workloads is done on a yearly basis in line with available funding for that fiscal year.

8. Comment: The permittee has not agreed to voluntary non-use after completion of the allotment evaluation.

Response: Voluntary Non-use is one option that may be utilized to assist in achieving allotment specific management objectives. If an adjustment in management is necessary to achieve objectives, the Bureau has other options available to implement the changes in management.

9. Comment: The document containing the land use plan objectives

should be referenced/identified in the final allotment evaluation.

Response: The land use plan objectives are found in the MFP III planning document. The MFP III decisions are derived from these objectives.

10. Comment: The allotment [specific] objectives should be stricken from the AE as they do not conform to any regulatory process for development of allotment specific objectives that provides public input.

Response: The allotment specific objectives were derived from the LUP objectives which were general in nature. Quantification of the LUP objectives was necessary to evaluate the grazing management on the individual allotments. The allotment specific objectives are Bureau objectives for the management of the resources. The Bureau is mandated the responsibility for the management of the public lands under it's jurisdiction. It does not require a regulatory authority to develop resource management objectives by which to measure management. Instruction Memorandum 86-706 does state "...management objectives should be written so data from short term studies, such as actual use, utilization and climate can be used to determine if objectives are being met." The short term objectives were developed to determine progress towards long term objectives and thereby towards LUP objectives.

11. Comment: The permittee and the public have not had opportunity to participate in the development of the allotment specific objectives.

Response: Consultation in the allotment evaluation process has been ongoing in the Paradise-Denio Resource Area since early 1988. Participation was provided to the general public and affected interests in the evaluation process through the following:

April 1988 public meetings were held in Denio, Orovada, Paradise Valley and Winnemucca to discuss the upcoming allotment evaluation process. A copy of the format for the evaluations was presented which included a provision for short and long term objectives.

August 1988 a draft Paiute Meadows allotment evaluation was provided to the permittee. The short and long term objectives used to evaluate the current grazing management were presented and analyzed in this document.

September 1989 a letter was sent to all permittees and affected interests from the general RPS mailing list to notify them of an upcoming public meeting to discuss the

Paiute Meadows

November 22, 1991

evaluation process.

September 1989 a public meeting was held and discussion of the evaluation process occurred.

January-April 1990 the grazing permit was transferred to the current permittee. Several meetings and correspondence regarding the allotment evaluation process occurred between the permittee and his representative and the BLM during this period.

12. Comment: Long term monitoring should be the primary criteria for evaluating range management success. Frequency objectives should be established.

Response: The Nevada Range Land Monitoring Handbook and IM 86-706 both give guidance for use of short term monitoring data in evaluating progress towards long term objectives. Frequency objectives are generally established for specific key areas. The key area objectives for trend (long term monitoring) will be established as the process continues.

13. Comment: Since there are no active fisheries within the allotment the stream condition and water quality objectives should be revised to reflect the current use in the allotment (ie; irrigation and livestock).

Response: Stream Survey data for Bartlett, Battle and Paiute Creeks indicate that currently there are rainbow trout within Bartlett Creek, and that as recent as 1967 there were fish found within Paiute Creek. All three streams are within the historic geographic distribution of the Lahontan cutthroat trout and have been identified by NDOW, USFWS and the BLM as potential recovery streams for the threatened fish. The NDOW Draft Lahontan Cutthroat Trout Fishery Management Plan for the Quinn River Drainage Basin identifies all three streams as having high potential for rapid recovery. It further identifies the North Fork of Battle Creek as having the highest potential on the east side of the Black Rock Range.

Water quality standards must be met by Federal Law. The Clean Water Act of 1972 dictates that the state in which the water is located will establish the water quality standards. Compliance with these water quality standards has been the policy of the Winnemucca District as established with the 1982 Management Framework Plan/Land Use Plan. The standards are set for both point and non-point source pollution, not for beneficial use.

M229922 110h

14. Comment: Actual use calculations should reflect the higher forage intake of wild horses.

Response: The Bureau does not employ conversion ratios for AUMs utilized on public lands. Current procedures employ a strict 1:1 ratio for cows:horses, cow:cow/calf, cow:steer. This applies to both wild and domestic horses.

15. Comment: An AMP should be completed for this allotment.

Response: AMPs are revised or developed as time and funding permit. At the present time an AMP is not scheduled for development for this allotment.

16. Comment: There are no proposals for direct protection of riparian areas.

Response: The selected management action is designed to achieve the allotment specific objectives for the riparian areas-in particular the streambank riparian vegetation. The carrying capacity of the allotment has been adjusted to a level that has been determined will achieve both the short and long term objectives over time. Changes in the season-of-use and the grazing management of the allotment will also assist in achieving these objectives. Prior to the removal of the excess horses, livestock grazing may only be authorized in the North Paiute Use Area. This will reduce the current over obligation of the forage resource in the interim. Fencing of the riparian areas was not selected as a management action at this time as current project development workloads prohibit the addition of extensive riparian protection fencing. The selected management action and the interim management action are designed to achieve the short and long term objectives without any additional fencing of riparian areas.

17. Comment: New projects are entirely unwarranted.

Response: See Response to #16. No new projects are included in the selected management action. Reconstruction of the Paiute Seeding fence is scheduled for 1993. An Environmental Assessment will be completed analyzing the feasibility of a boundary fence for the West side of the allotment.

18. Comment: What criteria is used for selection of an alternative for the proposed decision.

Response: The selected management action is selected after the consultation, coordination and cooperation has been completed for the draft evaluation. The selected management action was chosen

after review off all the alternatives presented in the draft evaluation and any other alternatives submitted during the consultation phase. A rationale is presented in the Selected Management Action section of the Final Paiute Meadows Allotment Evaluation. This rationale describes the changes that will be made in grazing management and what these changes are expected to achieve. Achievement of the allotment specific objectives is the primary goal of the Bureau, therefore the selected management is that which will achieve a thriving ecological balance for the vegetative resource on the public lands within the Paiute Meadows Allotment as determined through evaluation of the monitoring data.

19. Comment: How did the Bureau determine the minimum number of horses (50) for a "viable" population.

Response: Research has been done on feral horse populations in regards to inbreeding and effective populations. Some of this research indicates that with a population of less than 50 individuals, the herd runs a risk of significantly losing it's genetic diversity after as few as five generations. In the case of feral horses, this can be as soon as five years. ('Effective population size estimates and inbreeding in feral horses: a preliminary assessment': Berg, W.J.. Equine Veterinary Science Vol.6, No. 5).

20. Comment: How did you determine 'thriving ecological balance'?

Response: W.O. Instruction Memorandum No. 90-491 defines 'thriving natural ecological balance' as: The condition of the public range that exists when management objectives in approved land use and activity plans have been achieved that will: (1) sustain healthy populations of wild horses and burros, wildlife, and livestock on public land and (2) protect the desired plant community from deterioration.

The Paradise-Denio Resource Area, through evaluation of the monitoring data collected through 1990 on the Paiute Meadows allotment, determined that the short and long term objectives were not being met. Adjusting the stocking rate to the carrying capacity as determined through the evaluation of the monitoring data was necessary. The proportion of livestock:wild horses was determined through the land use planning process and is identified in the evaluation on page 31 as 92:8. The LUP identifies the population for monitoring in the Black Rock Range East HMA as 59 horses. This equates to 708 AUMs annually. This is 8% of the total AUMs for livestock and wild horses. Active Preference for livestock in the LUP was 7827 AUMs.

The carrying capacity of the Paiute Meadows allotment has been

determined to be 4950 AUMs. Using the LUP proportions would distribute the AUMs as follows:

Livestock	4554 AUMs
Wild Horses	396 AUMs

In order to maintain genetic viability the wild horse population will be reduced to 50 adult horses, and no less. This equates to 600 AUMs annually. Therefore, the proportion of livestock and wild horses will be adjusted to 88:12.

VIII. Selected Management Actions

1. Reduce livestock and wild horse use to a combined level of 4,950 AUMs. The respective adjustments to livestock and wild horses are as follows:

A. Livestock

1. Adjust livestock authorized active grazing preference to 4,350 AUMs.

From:

	Preference			
<u>Total</u>	<u>Suspended</u>	<u>Active</u>	<u>Not Scheduled</u>	<u>Active Use</u>
9932	2105	7827	3477	4350

To:

	Preference			
<u>Total</u>	<u>Suspended</u>	<u>Active</u>	<u>Not Scheduled</u>	<u>Active Use</u>
9932	2105	7827	3477	4350

2. Implement a deferred rotation grazing system as follows:

Year 1 and 2

North Paiute

446 Cattle	04/15 to 07/15	1348 AUMs
243 Cattle	10/16 to 02/28	<u>1088 AUMs</u>
		2436 AUMs

South Paiute

446 Cattle	07/16 to 10/15	1348 AUMs
126 Cattle	10/16 to 02/28	<u>566 AUMs</u>
		1914 AUMs

Total 4350 AUMs

Paiute Meadows

November 22, 1991

Use of the Paiute Seeding will be deferred until after seedripeness during Year 1 and 2. Grazing use by livestock will be authorized in the seeding from July 15 through October 15. The utilization objective for the Paiute Seeding will be 50% of the standing crop during the first two years following reconstruction of the seeding boundary fence.

Year 3South Paiute

446 Cattle	04/15 to 07/15	1348 AUMs
126 Cattle	10/16 to 02/28	<u>566 AUMs</u>
		1914 AUMs

North Paiute

446 Cattle	07/16 to 10/15	1348 AUMs
243 Cattle	10/16 to 02/28	<u>1088 AUMs</u>
		2436 AUMs

Total AUMs 4350 AUMs

Use of the Paiute Seeding will be authorized for 04/15 to 07/15, concurrently with the South Paiute Use Area, with a utilization objective of 60% of the standing crop if the long term objective for good condition has been met. In the event it has not, the utilization objective will remain 50%.

Designated Areas of Use:

The areas of use are unfenced, with some natural barriers preventing livestock drift. To the extent that livestock drift may occur, the Bureau retains the authority to initiate trespass action if all reasonable alternatives have not been utilized to prevent the drift.

1) Winter Use Area:

This area would include all the lower foothills and lower country along the entire eastern portion of the allotment and fall below 1750 meters in elevation.

2) South Paiute Use Area:

This use area would be the southern portion of the allotment specifically from Paiute Creek

Paiute Meadows

November 22, 1991

south including the higher country above 1750 meters in elevation.

3) North Paiute Use Area:

This use area would be the northern portion of the allotment specifically from Paiute Creek north including the higher country above 1750 meters in elevation.

The attached map titled Paiute Meadows Allotment Use Areas outlines the livestock use areas as described above.

3. Terms and Conditions:

Grazing use will be in accordance with this Livestock Use Agreement.

Flexibility in turnout, movement between use areas, and removal dates will be allowed if approved in advance by BLM and if consistent with management objectives.

Salt and/or mineral blocks shall not be placed within one quarter ($\frac{1}{4}$) mile of springs, streams, meadows, riparian habitats or aspen stands.

The permittee is required to perform normal maintenance on the range improvements to which he has been assigned maintenance responsibility.

The permittee will be required to do the necessary riding to keep livestock in the proper use area during the proper time periods.

4. Voluntary Non-Use

Voluntary Non-Use may be applied for by Daniel H. Russell to the extent of any Animal Unit Months of forage harvested annually by wild and free roaming horses in excess of 600 AUMs, based upon the post-gather census, but in no event shall such voluntary non-use application be for more than 300 AUMs.

Daniel H. Russell may apply for activation of the voluntary non-use in the event that forage is temporarily available.

B. Wild Horses

Adjust wild horses to an Appropriate Management Level (AML) of 50 adult wild horses within the Black Rock Range East HMA. All wild horses 10 years of age and older will be allowed to remain on the allotment until such time as the BLM can find a suitable range for them. The Active Use for livestock will be reduced accordingly to maintain the stocking level at the carrying capacity for the allotment.

C. Wildlife

Adjustment to the wildlife population levels is not warranted. Wildlife populations will remain at current levels.

2. Reconstruct the Paiute Seeding Fence and defer use in the seeding until after seedripeness for two (2) years. The reconstruction should coincide with the removal of wild horses so that the seeding can receive the growing season rest without pressure from the wild horses. Materials will be provided by the BLM and the labor for construction will be provided by the permittee. Conduct vegetation production studies during the growing season following fence construction to assist in determining a stocking rate for the seeding. The seeding will be used after seedripeness in Years 1 and 2, and in Year 3 will be used concurrently with the South Paiute use area.
3. Complete an Environmental Assessment for the proposed boundary fence for the west boundary of the Paiute Meadows Allotment as submitted by the permittee.
4. Monitoring
 - a) Develop a Monitoring Plan for the Paiute Meadows Allotment.
 - b) Continue monitoring the Paiute Meadows Allotment in accordance with the NRMH and BLM Manual procedures.
 - c) Complete the Ecological Status Inventory on the Paiute Meadows Allotment by 1997.
 - d) Initiate Wildlife Habitat Inventory and Riparian/Fisheries Habitat Studies.
 - e) Redefine/quantify long term objective (3) with ecological status condition as information becomes available.
 - f) Continue with intensive wild horse habitat and monitoring studies. Collect data to determine population estimates, population trend, population characteristics, population dynamics, and population analysis.

5. Objectives

The allotment specific objectives for the Paiute Meadows Allotment

shall be:

A. Short Term

Utilization of key streambank riparian plant species on Paiute, Battle and Bartlett Creeks shall average 30% on woody species over a period of time as indicated by utilization data collected at the end of the grazing period and 50% on herbaceous species as indicated by utilization data collected at the end of the growing season. [1]

Utilization of key plant species in wetland riparian habitats shall average 50% over a period of time as indicated by utilization data collected at the end of the growing season. [1]

Utilization of key plant species in upland habitats shall average 50% over a period of time as indicated by utilization data collected at the end of the growing season. [1]

Utilization of crested wheatgrass shall average 50% until the completion of the Paiute Seeding fence reconstruction at which time utilization shall average 60% over a period of time as indicated by utilization data collected at the end of the growing season. [1]

B. Long Term

Manage, maintain, or improve public rangeland conditions to provide forage on a sustained yield basis for big game, with an initial forage demand of 1,838 AUMs for mule deer, 307 AUMs for pronghorn, and 180 AUMs for bighorn sheep.

1) Improve to or maintain 2,134 acres in Black Rock DY-13, 41,678 acres in Black Rock DW-10, and 45,856 acres in Black Rock DS-6 in good or excellent mule deer habitat condition.

2) Improve or maintain 45,965 acres in Black Rock PS-15 in good pronghorn habitat condition. Improve to or maintain 35,274 acres in Black Rock PY-14, 2,623 acres in Leonard Creek PW-17, and 31,466 acres in Paiute Creek PW-16 in fair or good pronghorn habitat condition.

3) Improve to or maintain 69,939 acres in Black Rock BY-15 in good to excellent bighorn sheep habitat condition.

Manage, maintain, or improve public rangeland conditions to provide forage on a sustained yield basis for livestock, with a stocking level of 7,827 AUMs.

Improve range condition from poor to fair on 161,158 acres and from fair to good on 15,938 acres. [2]

Maintain and improve the free-roaming behavior of wild horses by protecting and enhancing their home ranges.

- 1) Manage, maintain, or improve public rangeland conditions to provide 600 AUMs of forage on a sustained yield basis for 50 (AML) wild horses to maintain a thriving natural ecological balance.

- 2) Maintain and improve wild horse habitat by assuring free access to water.

Improve to or maintain 86 acres of ceanothus habitat types in good condition. [2]

Improve to or maintain 345 acres of mahogany habitat types in good condition. [2]

Improve to or maintain 188 acres of aspen habitat types in good condition. [2]

Improve to or maintain 529 acres of riparian and meadow habitat types in good condition. [2]

Improve to or maintain 15 acres of serviceberry, 82 acres of bitterbrush, 55 acres of ephedra, and 112 acres of winterfat vegetation types in good condition. [2]

Improve to and maintain stream habitat conditions from 43% on Paiute Creek, 58% on Battle Creek, and 50% on Bartlett Creek to an overall optimum of 60% or above.

- 1) Streambank cover 60% or above.
- 2) Streambank stability 60% or above.
- 3) Maximum summer water temperatures below 70° F.
- 4) Sedimentation below 10%.

Protect sage grouse strutting grounds and brooding areas. Maintain the big sagebrush sites within two miles of active strutting grounds in mid to late seral stage with a minimum of 30% shrub composition by weight.

Improve to and maintain the water quality of Paiute, Battle

and Bartlett Creeks to the State criteria set for the following beneficial uses: livestock drinking water, cold water aquatic life, wading (water contact recreation), and wildlife propagation.

Improve to or maintain the 1000 acre Paiute seeding in good condition. (5-10 acres per AUM)

Footnotes:

- [1] The utilization levels will be used to evaluate and adjust management practices over a period of time.
- [2] Ecological status will be used to redefine/quantify these objectives where applicable.

IX. Rationale

Current and past grazing use by livestock and wild horses is not meeting allotment objectives. In the South Paiute use area the conflict has been solely with wild horses and in the North Paiute use area it has been a combination of livestock and wild horses. Monitoring data does not indicate a negative impact from current populations of wildlife.

Through the allotment evaluation process, the BLM, using available monitoring data, calculated an allotment carrying capacity of 3942 AUMs. During the review of the allotment evaluation, Western Range Service (WRS), a range consulting service for the permittee, submitted to the BLM their calculation for carrying capacity based on the interpretation of their monitoring data. Their calculation of carrying capacity ranged from 5000 to 7000 AUMs.

In a subsequent consultation meeting between the BLM and WRS (11/12/1991) discussion centered on the methods for calculating the carrying capacity.

WRS indicated that the BLM method of calculation was producing a conservative estimate of carrying capacity because the calculation had partially been based on the 1987 and 1988 data which only showed wild horse use in one use area of the allotment. WRS also indicated that the BLM method only addressed reducing the heavy and severe use areas to moderate use and did not account for forage that would be available in the areas of light and slight use that would be used with the implementation of the proposed grazing system.

In our analysis of the WRS methods for calculating the carrying capacity, we note that they have used a straight average of the utilization levels at specific locations throughout the North and South use areas of the allotment and have not taken into consideration the

Palute Meadows

November 22, 1991

actual proportion of acreage that each utilization zone represents. It also appears that they have not taken into consideration areas that may not be accessible to livestock.

Both methods used for calculating the carrying capacity have merit.

If the permittee's scheduled use is maintained at 4350 AUMs and the wild horse use is maintained at 600 AUMs, this reduces the actual demand for forage from 10,642 AUMs to 4950 AUMs which is a 53.5% reduction in actual use. The 4950 AUMs also approaches an average of our calculated carrying capacity and that of WRS.

In making a final determination of carrying capacity for this allotment, a review of the climatological data and personal interview with permittees adjacent to the Palute Meadows allotment indicates that rainfall during the growing season of the past several years has been less than average. This has probably contributed to some of the heavy and severe use that has been detected during our monitoring studies.

Also of consideration in the determination of the carrying capacity is the implementation of the grazing system which requires the permittee to ride and move the livestock from one use area to another instead of turning the livestock out for season long use in the same area (North Palute). The implementation of the grazing system to provide better distribution will reduce the heavy and severe use and improve distribution throughout the allotment and meet management objectives.

After reviewing the information, I conclude that the BLM calculations will produce a conservative estimate of the carrying capacity and that the WRS calculations would produce a maximum carrying capacity that may not be compatible with the meeting of our specific allotment objectives.

Therefore, I am selecting 4950 AUMs as the carrying capacity to achieve a thriving, natural ecological balance for the vegetative resource on the Palute Meadows allotment. The use on the allotment will be monitored and another evaluation of monitoring will be completed after the 1994 grazing season.

The 600 AUMs of wild horse use is based on Alternative 1 of the technical recommendations which bases the level of livestock and wild horse use on the proportions established in the Land Use Plan. The LUP proportion of 92% livestock use and 8% wild horse use would equate to the following use:

$4950 \times .92 = 4554$ AUMs for livestock

$4950 \times .08 = 396$ AUMs for wild horses

The 396 AUMs for horse use would allow for a year-round population of 33 wild horses. Reducing the herd size below 50 adult animals may jeopardize the genetic viability of the herd; therefore wild horse numbers will be adjusted to 50 adult animals using 600 AUMs of forage.

In our gather of excess wild horses, all wild horses that are 10 years of age and older will be allowed to stay on the allotment until the BLM can find a suitable range for them. Forage being used by the wild horses over the 600 AUMs stated above will be deducted from the livestock scheduled use so that a carrying capacity of 4950 AUMs can be maintained. This follows BLM policy and regulation as described in WO Instruction Memo 91-216 and 43 CFR 4100.

The adjustment to carrying capacity is for livestock and wild horses only, and does not affect the current population for wildlife. This adjustment recognizes that the majority of the forage use during the years of data collection has been from wild horses. The level of 50 animals will maintain a viable herd which will be self sustaining.

The selected grazing practices, which are a modification of technical recommendation A2, alternative b, for livestock will assist in the achievement of resources objectives. This alternative was modified to allow for earlier use and to remove the livestock from the use area earlier in the hot part of the grazing season. The selection of this grazing system is also based on the permittee riding and keeping the livestock in the identified use areas described in section A2, alternative b, of the technical recommendations. The early season use by livestock until July 16 in years 1 and 2 will promote better distribution patterns by livestock with green forage being available thereby reducing conflicts with riparian areas and streams and also allowing for a regrowth period for riparian areas. This treatment will also allow for two years of complete growing season rest for the South Paiute use area which has received the majority of overutilization of forage. The winter use areas for both the North and South areas will receive total growing season rest every year which will again allow for improvement of the range resources with the emphasis for improvement being placed on the South area. In year 3 the North Paiute use area will receive growing season rest aiding in the maintenance and/or improvement of the vegetative resource. These grazing practices recognize that the majority of the riparian areas and the aquatic habitats are located in the North Paiute use area.

Corridor fencing of the riparian habitats was not considered as these fences would interfere with the wild and free roaming nature of the wild horses. If riding is not effective in keeping the livestock in the proper use areas such that the riparian and aquatic habitats will be improved or maintained at the objective levels, then further reduction in livestock use may be necessary.

The reconstruction of the Paiute Seeding fence, along with the scheduled rest, will assist in the improvement of the vegetative resource and reduce any possible conflicts between livestock, wild horses and wildlife.

N202 13

The combination of adjusting the stocking rate for the allotment to alleviate conflicts with over obligation of forage and the identified grazing practices will allow for a carrying capacity of livestock and wild horses of 4950 AUMs and meet the phenological requirements of key species.

The range improvements recommended for development and reconstruction (other than Paiute Seeding) have not been scheduled at this time due to an excessive workload currently existing in the range improvement program for the resource area. The selected actions will allow for the achievement of resource objectives. The development of these range improvements will be considered in ensuing fiscal years as other projects are completed and as funding becomes available.

The recommendations for wild horse management are not identified in the selected action section as they are standard operating procedures for the wild horse program. The recommendations are recognized as being essential towards the management of wild horses in the Black Rock Range East HMA.

The recommendations for monitoring needs are also standard BLM procedures in the accomplishment of a monitoring program and are recognized as necessary for a complete monitoring program for the Paiute Meadows allotment and will be accomplished as monitoring progresses on the allotment. These actions are directly affected/controlled by available funding, manpower and priorities. Prior to the completion of all identified items evaluations of habitats and resource uses will be made on the best available data at the time.

The allotment specific objectives have been modified for the short term utilization objectives and the long term objective for sage grouse habitat. The short term objectives have been modified to indicate that the desired utilization level will be evaluated as an average over a period of time. It is expected that utilization levels will vary over the years due to climatic changes and environmental fluctuations but the average should not exceed the stated objective level. The short term objectives also contain a time at which the utilization data will be collected which will be after the growing season except for woody species in streambank habitats. This is to reflect any regrowth of herbaceous species on riparian areas recognizing that a major function of these species is for protection of streambanks and meadows during high water times of the year. Woody species along streams are essential for the shading and bank stability thereby requiring a lower utilization level and monitoring data collected at the end of the grazing periods.

The sage grouse habitat objective has been modified to better reflect the intent of the objective which is to protect strutting grounds and brooding areas. The 30% composition of shrubs within two miles of strutting grounds is to identify a habitat need for sage grouse when

Paiute Meadows

November 22, 1991

considering any vegetative treatments, range improvements or any action which may alter or disturb these areas.

X. Future Monitoring and Grazing Adjustments

The Paradise-Denio Resource Area will continue to monitor all existing studies and establish additional studies as identified above. This monitoring data will continue to be collected in the future to provide the necessary information for subsequent evaluation. These evaluations are necessary to determine if the allotment specific objectives are being met under the existing and/or new grazing management strategies. In addition, these subsequent evaluations will determine if adjustments are required to meet the established allotment specific objectives.

The Paiute Meadows allotment is scheduled to be re-evaluated in 1995.

XI. NEPA Review

The selected management action for grazing in the Paiute Meadows Allotment conforms with the environmental analysis of grazing impacts described in the Final Paradise-Denio Environmental Impact Statement dated September 18, 1981.

The EIS and NEPA Compliance Record are on file in the Winnemucca District Office, located at 705 E. Fourth Street, Winnemucca, Nevada 89445.

APPENDIX 1

Stocking Level Calculations Paiute Meadows Allotment.

1. Stocking Level Calculation Procedures

Monitoring data indicates that wild horses have contributed to over utilization in the allotment. Target utilization levels were exceeded south of Paiute Creek where the use was by wild horses. Use levels north of Paiute Creek resulted from livestock and wild horses. The total amount of actual use made by livestock and wild horses was determined north and south of Paiute Creek for each year.

The stocking level for the allotment was determined using the following Actual Use/Utilization formula.

$$\frac{\text{Actual Use}}{\text{Average/Weighted Average Utilization}} = \frac{\text{Desired Actual Use}}{\text{Desired Average Utilization}}$$

The stocking level was determined for the area north of Paiute Creek and south of Paiute Creek for each year data was available and then computing the average mean for those figures.

Stocking rates were calculated as follows:

South of Paiute Creek - The average calculated stocking rate is 1708 AUMs. This was based on the four years of use pattern mapping data and the desired yearlong utilization level of 50%.

North of Paiute Creek - The average calculated stocking rate is 2234 AUMs. This was based on the four years of use pattern mapping data and the desired yearlong utilization level of 50%.

Wild horse census data and cattle licensed use were used to calculate stocking levels. Wildlife AUMs were not calculated. Utilization was determined from use pattern mapping using the Average/Weighted Average Utilization formula for those areas where forage was utilized heavy and/or severe. These figures were then used to determine the amount of reduction from the present demand necessary to achieve management objectives. The procedures for doing the calculations are outlined as follows:

- 1) Planimeter Use Pattern Map by utilization category for each year.
- 2) Figure acreage by utilization category for north of Paiute

Creek and for south of Paiute Creek.

- 3) Using Weighted Average Utilization Formula, determine percent utilization level on acreage for heavy and severe use areas only. (As identified in the Nevada Rangeland Monitoring Handbook, 1984)
- 4) The Average/Weighted Average Utilization figure was entered into the Actual Use/Utilization Formula and a stocking level was determined.
- 5) Actual Use AUMs include cattle and wild horses only.

In the determination of a stocking rate both wild horse and livestock actual use were correlated to the dates of data collection. In some years data was collected in the fall of the year and then again at the end of winter. In these cases the data collected following the winter season (spring) was used to determine a stocking rate as it represents the entire grazing year. In 1987 data was collected in the fall only, in which case actual use was correlated to the dates of data collection and a stocking rate determined from the available data.

2. Actual Use Calculations

A. 1987

South Paiute

North Paiute

448 H - 03/01/87-08/08/87 - 2,371 AUMs

218 H - 03/01/87-08/08/87 - 1,154 AUMs

UPM completed August 8, 1987 and measures use 03/01-08/08

No cattle use

Census conducted Oct. 6-8, 1987, numbers are based on census.

Wild Horse gather conducted December 1987-January 1988.*

B. 1988 *

South Paiute

North Paiute

203 H - 03/01/88-02/28/89 - 2,436 AUMs

18 H - 03/01/88-02/28/89 - 216

AUMs

595 C - 10/17/88-01/01/89 - 1,143 AUMs
1,359 AUMs

UPM completed 04/06/89 and measures use for 03/01/88-02/28/89.

Cattle use 1,143 AUMs

C. 1989

	<u>South Paiute</u>	<u>North Paiute</u>
AUMs	203 H - 03/01/89-07/17/89 - 928 AUMs	18 H - 03/01/89-07/17/89 - 82
AUMs	408 H - 07/18/89-02/14/90 - 2,844 AUMs	243 H - 07/18/89-02/14/90 - 1,694
AUMs	264 H - 02/15/90-02/28/90 - <u>122</u> AUMs	244 H - 02/15/90-02/28/90 - 112
AUMs	3,894 AUMs	131-701 C - 10/26/89-02/28/90 - <u>2,342</u>
		4,230 AUMs

UPM completed 04/04/90 and measures use for 03/01/89-02/28/90. On 07/18/89 a census was done and on 02/14/90 a census was again conducted.
Cattle use - 2,342 AUMs

D. 1990

<u>South Paiute</u>	<u>North Paiute</u>
264 H - 03/01/90-02/28/91 - 3,168 AUMs	244 H - 03/01/90-02/28/91 - 2,928 AUMs
	700 C - 05/03/90-10/31/90 - <u>4,017</u> AUMs
	6,943 AUMs

UPM completed 04/17/91 and measures use from 03/01/90-02/28/91. Wild horse numbers are based on the 02/14/90 census date.
Cattle use - 4,017 AUMs.

3. Weighted Average Utilization Calculations

Paiute Meadows Allotment (South Paiute) Heavy and Severe Use Zone Acreage

Grazing Year	Total Acres Mapped	Use Zone	Total Acres Per Zone
1987	25,949	Heavy	6,465
		Severe	6,820
1988	23,047	Heavy	4,910
		Severe	9,340
1989	46,437	Heavy	23,965
		Severe	10,763
1990	59,178	Heavy	25,359
		Severe	6,850

4. Stocking Level Calculations*

	<u>South Paiute</u>	<u>North Paiute</u>
<u>1987</u>	<u>2,371 AUMs x 50%</u> = 1,482 AUMs 80%	<u>1,154 AUMs x 50%</u> = 824 AUMs 70%
<u>1988</u>	<u>2,436 AUMs x 50%</u> = 1,467 AUMs 83%	<u>1,359 AUMs x 50%</u> = 971 AUMs 70%
<u>1989</u>	<u>3,894 AUMs x 50%</u> = 2,562 AUMs 76%	<u>4,230 AUMs x 50%</u> = 3,021 AUMs 70%
<u>1990</u>	<u>3,168 AUMs x 50%</u> = 2,141 AUMs 74%	<u>6,943 AUMs x 50%</u> = 4,959 AUMs 70%
	<u>6, 830 AUMs</u>	<u>8,934 AUMs</u>
	$6,830 \div 4 = 1,708$ AUMs Avg. South Paiute $8,934 \div 4 = 2,234$ AUMs Avg. North Paiute <u>3,942 AUMs Total</u>	

*Note:
 The calculations have been revised from those presented in the Appendix section of the Draft Allotment Evaluation. Final review determined that the dates presented for the wild horse gather of December 1988-January 1989 were incorrect. The referenced gather actually took place in December 1987-January 1988. This significantly affected the Actual Use figures used in the calculations which resulted in the lower figures.

Paiute Meadows

November 22, 1991

Paiute Meadows Allotment (North Paiute) Heavy and Severe Use Zone Acreage

Grazing Year	Total Acres Mapped	Use Zone	Total Acres Per Zone
1987	10,227	Heavy	2,298
		Severe	0
1988	42,754	Heavy	6,227
		Severe	74
1989	53,974	Heavy	21,175
		Severe	0
1990	81,956	Heavy	46,934
		Severe	72

Note- The above tables display data for full grazing year (beginning 03/01 and ending 02/28) as indicated by use pattern mapping conducted in the spring. The exception to this 1987 when use pattern mapping was conducted in the fall only, and not in the following spring.

1987

<p>North Paiute</p> $\frac{2,298 \text{ Ac.} \times 70\%}{2,298 \text{ Ac}} = 70\%$	<p>South Paiute</p> $\frac{(6,820 \text{ Ac.} \times 90\%) + (6,465 \text{ Ac.} \times 70\%)}{13,285 \text{ Ac}} = 80\%$
---	--

1988

<p>North Paiute</p> $\frac{(6,227 \text{ Ac.} \times 70\%) + (74 \text{ Ac} \times 90\%)}{6,301 \text{ Ac}} = 70\%$	<p>South Paiute</p> $\frac{(9,340 \text{ Ac.} \times 90\%) + (4,910 \text{ Ac.} \times 70\%)}{14,250 \text{ Ac}} = 83\%$
---	--

1989

<p>North Paiute</p> $\frac{(21,175 \text{ Ac.} \times 70\%) + (0 \text{ Ac} \times 90\%)}{21,175 \text{ Ac}} = 70\%$	<p>South Paiute</p> $\frac{(23,965 \text{ Ac.} \times 70\%) + (10,763 \text{ Ac.} \times 90\%)}{34,728 \text{ Ac}} = 76\%$
--	--

1990

<p>North Paiute</p> $\frac{(46,934 \text{ Ac.} \times 70\%) + (72 \text{ Ac} \times 90\%)}{47,006 \text{ Ac}} = 70\%$	<p>South Paiute</p> $\frac{(25,359 \text{ Ac.} \times 70\%) + (6,850 \text{ Ac.} \times 90\%)}{32,209 \text{ Ac}} = 74\%$
---	---

Paiute Meadows

APPENDIX 2

The following indicates the actual use by livestock and wild horses for grazing years 1987-1990. These actual use figures were used in the development of recommendations to adjust livestock and wild horse forage demand to available forage levels. The years 1987-1990 were used as these are the years of data collection and also the years of recent wild horse census.

Wild horse Actual Use - 1987-1990 (revised 10/3/91)*

Year	<u>South Paiute</u>			<u>North Paiute</u>		
	# of Wild Horses	Period	AUMs	# of Wild Horses	Period	AUMs
1987	448 H	03/01-11/30	4,050	218 H	03/01-11/30	1,971
	203 H	12/01-02/28	601	18 H	12/01-02/28	53
1988	203 H	03/01-02/28	2,436	18 H	03/01-02/28	216
1989	203 H	03/01-07/18	934	18 H	03/01-07/18	83
	408 H	07/19-02/14	2,830	243 H	07/19-02/14	1,686
	264 H	02/15-02/28	122	244 H	02/15-02/28	112
1990	264 H	03/01-02/28	3,168	244 H	03/01-02/28	2,928

<u>South Paiute</u>	<u>North Paiute</u>
1987 - 4,651 AUMs	1987 - 2,024 AUMs
1988 - 2,436 AUMs	1988 - 216 AUMs
1989 - 3,886 AUMs	1989 - 1,881 AUMs
1990 - 3,168 AUMs	1990 - 2,928 AUMs
<u>14,141 AUMs</u>	<u>7,089 AUMs</u>

The actual use (AUMs) were determined by utilizing the AUMs/BAS computer program calculation. This program calculates AUMs based on the grazing years.

14,141 AUMs Actual Use South Paiute
7,089 AUMs Actual Use North Paiute
 21,230 AUMs Total

The total actual use figure of 21,230 AUMs was then divided by 4 years to determine an actual use average as follows;

$21,230 \text{ AUMs} \div 4 = 5,308 \text{ AUMs Avg. (4 years) wild horses.}$

A census was conducted during Oct. 6-8, 1987. This number was carried back to the beginning of the calendar year.

During Dec. 1987 and Jan. 1988 horses were gathered which reduced numbers beginning 12/87. *

Paiute Meadows

November 22, 1991

A census was completed on 07/18/89 which increased numbers.

A census was again completed on 02/14/90 which decreased numbers.

Livestock Actual Use

1987	No Use
1988	1,143 AUMs
1989	2,342 AUMs
1990	<u>4,017</u> AUMs
Total	7,502 AUMs

$7,502 \text{ AUMs} \div 4 \text{ yrs} = 1,876 \text{ AUMs Avg. Livestock Use}$

*Note:

The calculations have been revised from those presented in the Appendix section of the Draft Allotment Evaluation. Final review determined that the dates presented for the wild horse gather of December 1988-January 1989 were incorrect. The referenced gather actually took place in December 1987-January 1988. This significantly affected the Actual Use figures used in the calculations which resulted in the lower figures.

Paiute Meadows

November 22, 1991

APPENDIX 3

Western Range Service's confirmation of monitoring data discussion held with the Paradise-Denio staff on November 12, 1991.



N292 10

STATE OF NEVADA
DEPARTMENT OF WILDLIFE

1100 Valley Road
P.O. Box 10678
Reno, Nevada 89520-0022
(702) 688-1500
Fax (702) 688-1595

Nevada Department of Wildlife
Region 1 Ph-423-3171
380 West B Street
Fallon, Nevada 89406

BOB MILLER
Governor

WILLIAM A. MOLINI
Director

August 7, 1991

Mr. Scott Billings
Paradise-Denio Resource Area
Bureau of Land Management
705 East Fourth Street
Winnemucca, Nevada 89445



RE: Draft Paiute Meadows Allotment Evaluation - "I"

Dear Scott:

Our agency appreciates the District progress in evaluating its "I" allotments. The Paiute Meadows Allotment has many important fish and wildlife resources that require management emphasis by the Bureau.

Please consider our specific comments to the evaluation:

Page 6, Allotment Objectives

The short term objectives for fish and wildlife habitat are consistent with the goals and objectives of the land use plan. These objectives are binding and management actions must be developed as to achieve these short term objectives and show progress in meeting long term objectives for this allotment. Monitoring studies must be complete in order to evaluate the effectiveness of management actions to meet these objectives.

Page 9, Key Species Monitored

Key species for fish and wildlife are listed for upland and riparian habitats. We appreciate the detail to list all key species.

Page 18, Utilization Data

Key areas for the allotment do not appear to correspond with the long term wildlife objectives of the allotment. Key areas must be delineated within pronghorn and mule deer winter ranges along

Mr. Scott Billings
August 7, 1991
Page 2

the eastern hills between the Paiute Ranch and Battle Creek Ranch, and the hills south of Paiute Ranch to the Indian Creek, Cain and Pilgrim Springs Basin. These key areas must include key species listed in this evaluation.

Page 27, Conclusions

We agree with the conclusions that all short term objectives are not being met. If anything, the monitoring data collected by the Bureau is conservative. Our observations indicate severe and heavy use in the Sheep Creek and Deer Creek drainage are directly affecting the production of deer, antelope and sage grouse. Department mule deer data suggest that the poor conditions of summer and winter ranges are causing excessive fawn mortalities during the winter months. Spring fawn ratios for this herd approach the range of nine to fifteen fawns per 100 does in recent years. This indicates a declining herd.

Our observations by air and ground suggest severe and heavy use from Paiute Creek north to Battle Creek. Areas near Burnt Spring, Butte Creek and the headwaters of the south fork of Battle Creek appear to be and have been severely used by horses and some cattle.

Data indicates the current and past wild horse use is a major factor in the condition of riparian habitat on this allotment. We agree with the District that serious overuse of riparian zones was occurring prior to 1988 when the District re-authorized livestock use. It is alarming that despite this knowledge, the District authorized 4,350 AUMs of livestock use on this allotment in 1990.

Page 30, Technical Recommendations

We appreciate the District's consideration of alternatives prior to making a livestock grazing decision for this allotment. The Department views the short term objectives of this allotment as binding and its monitoring data as the basis for determining a livestock carrying capacity for the allotment. Therefore, we encourage the District to consider an alternative that give full recognition to fish and wildlife objectives and data.

Appendix 1 determines a stocking rate under the assumption of meeting 50% utilization on upland grass species. Analysis cannot support these stocking rates and seasons of use to meet 30% utilization on streambank riparian, 50% utilization of wetland meadows or 50% utilization of key mountain browse. Since monitoring studies are not conducted to address the specific long term objectives for big game and sage grouse, data does not exist to allow for remedial actions to eliminate or reduce conflicts between livestock and wildlife.

Mr. Scott Billings
August 8, 1991
Page 3

We suggest the following measures be taken in the final allotment evaluation:

Develop another alternative using existing fish and wildlife monitoring data to set a livestock carrying capacity for the allotment.

Reduce wild horses to 59 head. Professional judgement suggest that this will constitute a genetically viable population.

Develop an interim management decision to reduce cattle until horses are removed to appropriate management levels.

Delineate key areas for utilization and trend studies that address the specific long term objectives of this allotment for sage grouse, antelope and mule deer. Schedule the monitoring activities.

Schedule the next allotment evaluation within three years.

We hope the above comments will assist you with the preparation of this allotment evaluation and the pending grazing decision. This allotment deserves our agencies' full attention and cooperation.

Sincerely,

WILLIAM A. MOLINI, DIRECTOR



Richard T. Heap, Jr.
Region I Manager
Region I

REL:rl/

CC: Habitat, Reno
Jim Jeffress
Jim French

MAY 02 1990

Thomas S. Van Horne
708 10th Street
Suite 250
Sacramento, CA 95814

Dear Mr. Van Horne:

I have received your letter dated April 26, 1990 which returned a copy of the offered grazing permit for the Paiute Meadows allotment as unsigned.

When an offered grazing permit is returned and not signed a grazing bill is issued with terms and conditions identical to those included in the offered permit. Payment of the grazing bill is considered to be acceptance of the offered permit for the period of use covered by the grazing bill.

I am approving the transfer of grazing preference to Dan Russell for the Paiute Meadows allotment. This approval is based on the terms and conditions of the offered grazing permit. A copy of the approved grazing preference transfer is enclosed for your records.

I am also approving Mr. Russell's application for grazing use for the 1990 grazing season. A grazing bill for that use is also enclosed.

If you have any questions concerning these matters, please contact Jeff Rawson at (702) 623-1500.

Sincerely yours,

Area Manager
Paradise-Denio Resource Area

Enclosures:

Transfer
Grazing Bill

cc: Dan Russel
Dick Mecham
William Cummings

Rawson/los

N292 10

THE LAW OFFICES OF
THOMAS S. VAN HORNE
 708 10TH STREET
 SUITE 250
 SACRAMENTO, CALIFORNIA 95814
 TELEPHONE (916) 447-7632
 FAX (916) 447-8809
FACSIMILE COVER SHEET

Bureau of Land Management
RECEIVED
 APR 23 1990
 DISTRICT OFFICE
 WINNEMUCCA, NEVADA

(916) 447-8809

Date: April 23, 1990

PLEASE DELIVER THE FOLLOWING TO:

Name: Scott Belling - Jeff Hansen
BLM

Fax No.: 702-623-1503

Phone: 702-623-1500

Re: _____

Number of pages being sent (including cover page): 5

Items Transmitted: Letter & 2 Pricing Apps

Special Instructions: _____

If transmission is interrupted or of poor quality, please notify
Barbara Burnett immediately at (916) 447-7633.

Original will not follow.

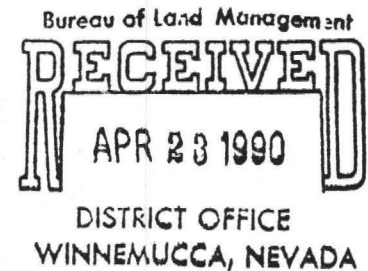
Original will follow by:

- Regular Mail
- Certified Mail
- Express Mail
- Federal Express
- Other: _____

N292 10

THE LAW OFFICES OF
THOMAS S. VAN HORNE
708 10TH STREET
SUITE 250
SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 447-7632
FAX (916) 447-8809

April 23, 1990



Mr. Scott Billing
Mr. Jeff Rawson
Bureau of Land Management
Paradise-Denio R.A.
705 East 4th Street
Winnemucca, NV 89445

Re: Daniel H. Russell - Paiute Meadows Ranch

Gentlemen:

This letter will serve to confirm our conversations of last week, as well as serve to withdraw the previous grazing applications regarding the transfer and the 1990 seasonal use submitted by Mr. Russell and resubmit applications as attached.

In our conversations, we agreed that Mr. Russell would submit a grazing application, grazing schedule, listing three lines, one for 4,350 active AUMs, one for 3,477 voluntary nonuse AUMs and one for 2,105 suspended AUMs. Additionally, as reflected in the attached, the application will provide explanatory language.

Based upon that understanding, Mr. Russell hereby withdraws the grazing schedule submitted and dated January 8, 1990 and February 21, 1990. It is our agreement that upon withdrawing those grazing schedules, you will vacate the proposed decision dated March 21, 1990.

Enclosed please find two amended Grazing Transfer Applications, the first in regard to the transfer and the second in regard to the 1990 grazing season.

This letter, together with its attachments has been transmitted to you via fax transmission. Originals will follow.

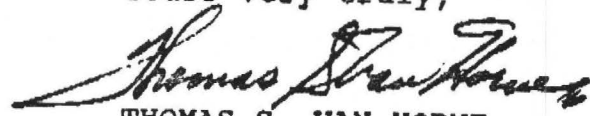
Provided that this letter and its attachments accurately reflect our conversations, please fax to my office a brief confirmation. On the other hand, if you perceive any differences between our agreement and this letter and its attachments, please contact my office immediately.

N292 10

Messrs. Billing and Rawson
April 23, 1990
Page 2

Thank you for your cooperation in resolving this matter.

Yours very truly,


THOMAS S. VAN HORNE

TVH/b

Enclosures

APR-19-90 THU 4:46

Bureau of Land Management

N292 10 P. 02

RECEIVED
APR 23 1990

Form 4130-1
(January 1988)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT DISTRICT OFFICE
WINNEMUCCA, NEVADA

FORM APPROVED
OMB NO. 1004-0005
Expires: December 31, 1988
FOR BLM USE ONLY

GRAZING APPLICATION
GRAZING SCHEDULE

Name (last, first, middle initial)

RUSSELL, DANIEL H.

Address (include street, city, State, and zip code)

c/o THOMAS S. VAN HORNE, Esquire
708 10th Street, Ste. 250, Sacramento CA
95814


State	(1)	
Office	(2)	
Operator No.	(3)	
Record Type	(4)	3
Schedule Number	(5)	
Schedule Code	(6)	
Action Code	(7)	
Billing Code	(8)	
Special Bill Code	(9)	

I hereby apply for the following grazing use on the public lands and/or other lands administered by the Bureau of Land Management. Amended Grazing Transfer Application 43 CFR 4110.2-3(b)

(10)	(11)		(12)		(13)	(14)		(15)	(16)	(17)	(18)
LINE NO.	ALLOTMENT		LIVESTOCK		KIND	PERIOD		% PL USE	TYPE USE	AUM'S	TYPE LAND
	NAME	NO.	NUMBER			BEGIN	END				
0,1	Paiute Meadows	0,0,0,5,7			C			1,0,0	Active	4,3,5,0	
0,2	Paiute Meadows	0,0,0,57			C			1,0,0	Nonuse	3,4,7,7	
0,3	Paiute Meadows	0,0,0,57			C			1,0,0	Suspended	2,1,0,5	

Re: Line 3: In light of the BLM announced intended completion of an allotment evaluation in 1990, applicant applies for 3,477 AUMs of voluntary nonuse for the 1990 grazing season.

Pending completion, the grazing schedule will be applied for in the annual grazing application.

Show your recorded brands, earmarks, and wattles
Upside down wine glass 

Show reason for nonuse, if requested: conservation and protection of the public lands; annual fluctuation of livestock operations; financial or other reasons beyond control of the operator; or livestock disease or quarantine.

Signature of applicant
Daniel Russell

Date
4/23/90

Reason for nonuse: Approved Disapproved (Decision Required)

Signature of Authorized Officer _____ Date _____

Title 18, U.S.C., Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations.

APR - 19 - 90 THU : 46

APR 23 1990

N292 PG 02

Form 4110-1 (January 1988)

UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT

DISTRICT OFFICE WINNEMUCCA, NEVADA

FORM APPROVED OMB NO. 1004-0008 Expires: December 31, 1988

GRAZING APPLICATION GRAZING SCHEDULE

Name (last, first, middle initial)

RUSSELL, DANIEL H.

Address (include street, city, State, and zip code)

c/o THOMAS S. VAN HORNE, Esquire 708 10th Street, Ste. 250, Sacramento, CA 95814

Table with 9 rows and 2 columns: (1) State, (2) Office, (3) Operator No., (4) Record Type, (5) Schedule Number, (6) Schedule Code, (7) Action Code, (8) Billing Code, (9) Special Bill Code.

I hereby apply for the following grazing use on the public lands and/or other lands administered by the Bureau of Land Management. 1990 Grazing Application 43 CFR 4110.2-3(a) (4)

Main table with columns: (10) LINE NO., (11) ALLOTMENT NAME, (12) ALLOTMENT NO., (13) LIVESTOCK NUMBER, (14) PERIOD BEGIN/END, (15) % PL USE, (16) TYPE USE, (17) AUM'S, (18) TYPE LAND. Row 1: Paiute Meadows, 0,0,0,5,7, 1,7,0,0, C, 0,5,0,1,9,0, 1,1,0,5,8,0, 1,0,0, A, 4,3,5,0.

APPLICANT APPLIES FOR 3,477 AUMs of voluntary nonuse

Show your recorded brands, earmarks, and wattles

Upside down Wine Glass

Show reason for nonuse, if requested: [] conservation and protection of the public lands; [] annual fluctuation of livestock operations; [x] financial or other reasons beyond control of the operator; or [] livestock disease or quarantine.

Signature of applicant

Daniel Russell

Date

4/23/90

Reason for nonuse: [] Approved [] Disapproved (Decision Required)

Signature of Authorized Officer

Date

Title 18, U.S.C., Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

N292 10

THE LAW OFFICES OF
THOMAS S. VAN HORNE
708 10TH STREET
SUITE 250
SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 447-7632
FAX (916) 447-8809

April 26, 1990



Mr. Jeff Rawson
Bureau of Land Management
Paradise-Denio R.A.
705 East 4th Street
Winnemucca, NV 89445

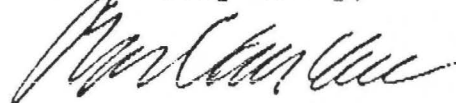
Re: Daniel H. Russell - Paiute Meadows Ranch

Dear Mr. Rawson:

Pursuant to our discussion, I enclose, as unsigned, the grazing permit which was sent to Mr. Russell in my care on April 17, 1990. It is my understanding that upon receipt of this permit you will complete the transfer and issue a grazing bill for the forthcoming year which will incorporate the basic terms and conditions of the enclosed permit. Upon completion of the bill, please fax it to me such that I may get it paid immediately as we would like to turn out promptly on May 1.

Thank you for your cooperation.

Yours very truly,


THOMAS S. VAN HORNE

TVH/b

Enclosures

BLM5.Win

N292 10

4130/4160
(NV-241)

APR 25 1990

CERTIFIED MAIL NO: P 536 169 355
RETURN RECEIPT REQUESTED

Thomas Van Horne
708 10th Street
Suite 250
Sacramento, CA 95814

Dear Mr. Van Horne:

On April 23, 1990 I received a FAX copy of your letter withdrawing the February 21, 1990 grazing application submitted as part of the transfer of grazing preference for the Paiute Meadows allotment with a hard copy of the letter received on April 24. The February 21, 1990 application had resulted in my proposed decision of March 21, 1990 which denied this grazing application and approved the transfer of grazing preference with grazing use as stated in the decision.

In light of your withdrawal of the February 21, 1990 application the need for the decision is mute and as such my proposed decision of March 21, 1990 is hereby vacated.

Your letter of April 23, 1990 also included an amended grazing application which is sufficient for completion of the transfer process.

As part of the grazing preference transfer process I am offering the grazing permit for the Paiute Meadows allotment to you for signature. Upon return of the permit the transfer process can be completed.

Your letter of April 23 also made the statement that you were withdrawing the application submitted on January 8, 1990. I believe this to be a misunderstanding on your part as the application of January 8 is the application for grazing preference (Form 4130-1a) that is an integral part of the transfer process, which cannot be completed without this application. I am proceeding as though the January 8, 1990 application is still valid unless I hear otherwise from you.

Sincerely yours,

/s/ Scott R. Billing

Paradise-Danio Resource Area Manager

Enclosures: Grazing Permit
certified copies to:

William T. Schmittig P 536169350 ✓
 Dick Macham P 536169357 ✓
 Dan Fuzel P 536169358 ✓
 Nevada Department of Wildlife P 536169359 ✓
 Natural Resources Defense Council P 536169360 ✓
 Sierra Club -Toiyabe Chapter P 536169361 ✓
 Winnemucca Unit of the Nevada Cattlemen P 536169362 ✓
 Wild Horse Organized Assistance P 536169363 ✓
 Desert Bighorn Council P 536169364 ✓
 Nevada Land Action Association P 536169365 ✓
 Craig C. Downer P 536169366 ✓
 Commission for the Preservation of Wild Horses P 536169367 ✓
 Animal Protection Institute P 536169368 ✓
 Wilderness Society P 536169369 ✓

N292 10

Put your address in the "RETURN TO" Space on the reverse side. Failure to do so will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. 2. Restricted Delivery (Extra charge)

3. Article Addressed to: Wilderness Society ATTN: Ms. Patricia Schifferle 116 New Montgomery, Suite 526 San Francisco, CA 94105	4. Article Number P 878 372 588
	Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
Always obtain signature of addressee or agent and DATE DELIVERED.	
5. Signature - Addressee X	8. Addressee's Address (ONLY if requested and fee paid)
6. Signature - Agent X <i>[Signature]</i>	
7. Date of Delivery	

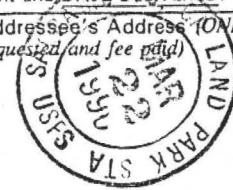
PS Form 3811, Apr. 1989 *U.S.G.P.O. 1989-238-815 DOMESTIC RETURN RECEIPT

4130 NV341 *Paulita Mera*

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" Space on the reverse side. Failure to do so will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. 2. Restricted Delivery (Extra charge)

3. Article Addressed to: Animal Protection Institute ATTN: Ms. Nancy Whitaker 2831 Fruitridge Road P. O. Box 22505 Sacramento, CA 95822	4. Article Number P 878 372 587
	Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
Always obtain signature of addressee or agent and DATE DELIVERED.	
5. Signature - Addressee X	8. Addressee's Address (ONLY if requested and fee paid) 
6. Signature - Agent X <i>Marcelo Lopez</i>	
7. Date of Delivery	

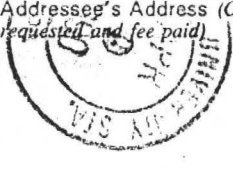
PS Form 3811, Apr. 1989 *U.S.G.P.O. 1989-238-815 DOMESTIC RETURN RECEIPT

4130 NV341 *Paulita Mera*

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" Space on the reverse side. Failure to do so will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. 2. Restricted Delivery (Extra charge)

3. Article Addressed to: Ms. Rose Strickland Sierra Club-Toiyabe Chapter 619 Robinson Ct. Reno, NV 89503 RT	4. Article Number P 878 372 580
	Type of Service: <input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail <input type="checkbox"/> Return Receipt for Merchandise
Always obtain signature of addressee or agent and DATE DELIVERED.	
5. Signature - Addressee X <i>Rose Strickland</i>	8. Addressee's Address (ONLY if requested and fee paid) 
6. Signature - Agent X	
7. Date of Delivery	

PS Form 3811, Apr. 1989 *U.S.G.P.O. 1989-238-815 DOMESTIC RETURN RECEIPT

4130 NV341 Painte Mca

RETURN TO Space on the reverse side. Failure to do so will prevent this card from being returned to you. The return receipt fee will provide you the name of person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. (Extra charge) 2. Restricted Delivery (Extra charge)

3. Article Addressed to:
Nevada Land Action Association
419 Railroad Street
Elko, NV 89801

4. Article Number
P 878 372 584

Type of Service:
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee
X

6. Signature - Agent
X *Beckie Hickok*

7. Date of Delivery
3-22-90

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

PS Form 3811, Apr. 1989 *U.S.G.P.O. 1989-238-815 DOMESTIC RETURN RECEIPT

292 10

4130 NV241 Painte Mca

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in "RETURN TO" Space on the reverse side. Failure to do so will prevent this card from being returned to you. The return receipt fee will provide you the name of person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. (Extra charge) 2. Restricted Delivery (Extra charge)

3. Article Addressed to:
Craig C. Downer
P. O. Box 456
Minden, NV 89423

4. Article Number
P 878 373 585

Type of Service:
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee
X *C. Downer*

6. Signature - Agent
X

7. Date of Delivery
TF 3-30-90

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

PS Form 3811, Apr. 1989 *U.S.G.P.O. 1989-238-815 DOMESTIC RETURN RECEIPT

4130 NV341 Painte Mca

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in "RETURN TO" Space on the reverse side. Failure to do so will prevent this card from being returned to you. The return receipt fee will provide you the name of person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. (Extra charge) 2. Restricted Delivery (Extra charge)

3. Article Addressed to:
Commission for the Prevention
of Wild Horses
ATTN: Terri Jay
Stewart Facility
Capitol Complex
Carson City, NV 89710

4. Article Number
P 878 372 586

Type of Service:
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee
X *David Rabe*

6. Signature - Agent
X

7. Date of Delivery

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

PS Form 3811, Apr. 1989 *U.S.G.P.O. 1989-238-815 DOMESTIC RETURN RECEIPT

82 MAIL COMPLEX
CARSON CITY, NEV. 89710

from the date of... apt fee... you the name of a person delivered to and the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. 2. Restricted Delivery (Extra charge)

3. Article Addressed to:
Fred Wilkinson
Winnemucca Unit, NCA
P. O. Box 6
McDermitt, NV 89421

4. Article Number
P 878 372 581

Type of Service:
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee
X

6. Signature - Agent
X *A. Beaufield*

7. Date of Delivery

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

4130 NV241 *Beaufield*

MCDERMITT, NV MAR 26 1990 USPO

N292 10

PS Form 3811, Apr. 1989 *U.S.G.P.O. 1989-238-815 DOMESTIC RETURN RECEIPT

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
Put your address in the "RETURN TO" Space on the reverse side. Failure to do so will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. 2. Restricted Delivery (Extra charge)

3. Article Addressed to:
Wild Horse Organized Assistance
ATTN: Dawn Lappin
P. O. Box 555
Reno, NV 89505

4. Article Number
P 878 372 582

Type of Service:
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee
X

6. Signature - Agent
X *Dawn Lappin*

7. Date of Delivery
3-27-90

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

4130 NV241 *Beaufield*

PS Form 3811, Apr. 1989 *U.S.G.P.O. 1989-238-815 DOMESTIC RETURN RECEIPT

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
Put your address in the "RETURN TO" Space on the reverse side. Failure to do so will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. 2. Restricted Delivery (Extra charge)

3. Article Addressed to:
Mr. Donald J. Armentrout
Desert Bighorn Council
160 W. Big Springs Road #5
Riverside, CA 92507

4. Article Number
P 878 372 583

Type of Service:
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee
X *Donald J. Armentrout*

6. Signature - Agent
X

7. Date of Delivery
3-28-90

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

4130 NV241 *Beaufield*

PS Form 3811, Apr. 1989 *U.S.G.P.O. 1989-238-815 DOMESTIC RETURN RECEIPT

1. Show to whom delivered, date, and addressee's address. 2. Restricted Delivery (Extra charge)

3. Article Addressed to:
Dan Russell
P. O. Box 339
Folsom, CA 95630

4. Article Number
P 878 372 577

Type of Service:
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee
X *[Signature]*

6. Signature - Agent
X

7. Date of Delivery
3-29-90

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

PS Form 3811, Apr. 1989 *U.S.G.P.O. 1989-238-815 DOMESTIC RETURN RECEIPT

N292 10

4130 NV341 Suite 112a

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. 2. Restricted Delivery (Extra charge)

3. Article Addressed to:
Mr. Richard Heap
Nevada Dept. of Wildlife
380 West B
Fallon, NV 89406

4. Article Number
P 878 372 578

Type of Service:
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee
X

6. Signature - Agent
X *[Signature]*

7. Date of Delivery
3/22

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

PS Form 3811, Apr. 1989 *U.S.G.P.O. 1989-238-815 DOMESTIC RETURN RECEIPT

4130 NV341 Suite 112a

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. 2. Restricted Delivery (Extra charge)

3. Article Addressed to:
Ms. Johanna Wald
Natural Resources Defense Council
90 New Montgomery, Suite 620
San Francisco, CA 94150

4. Article Number
P 878 372 579

Type of Service:
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee
X *[Signature]*

6. Signature - Agent
X

7. Date of Delivery
3/26/90

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

PS Form 3811, Apr. 1989 *U.S.G.P.O. 1989-238-815 DOMESTIC RETURN RECEIPT

3 and 4. Put your address in "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. (Extra charge) 2. Restricted Delivery (Extra charge)

3. Article Addressed to:
 William C. Cummings
 7700 College Town Drive, Suite 208
 Sacramento, CA 95826 25

4. Article Number
 P 878 372 575

Type of Service:
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee
 X *William C. Cummings*

6. Signature - Agent
 X

7. Date of Delivery
 3-22-90 CM

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

PS Form 3811, Apr. 1989 *U.S.G.P.O. 1989-238-815 DOMESTIC RETURN RECEIPT

N292 10

4130 NV-241 Paints, etc

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. (Extra charge) 2. Restricted Delivery (Extra charge)

3. Article Addressed to:
 Tom Van Horne
 708 10th St., Suite 250
 Sacramento, CA 95814

4. Article Number
 P 878 372 576

Type of Service:
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee
 X *Tom Van Horne*

6. Signature - Agent
 X *[Signature]*

7. Date of Delivery
 3-23-90

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

PS Form 3811, Apr. 1989 *U.S.G.P.O. 1989-238-815 DOMESTIC RETURN RECEIPT

4130 NV-241 Paints, etc

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4. Put your address in "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. Show to whom delivered, date, and addressee's address. (Extra charge) 2. Restricted Delivery (Extra charge)

3. Article Addressed to:
 Dick Mecham
 P.O. Box 342
 Eureka, NV 89316

4. Article Number
 P 878 372 574

Type of Service:
 Registered Insured
 Certified COD
 Express Mail Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee
 X

6. Signature - Agent
 X *Dick Mecham*

7. Date of Delivery
 3/27/90

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

PS Form 3811, Apr. 1989 *U.S.G.P.O. 1989-238-815 DOMESTIC RETURN RECEIPT

N292 10

4130
(NV-241)

March 21, 1990

CERTIFIED MAIL NO. P878372574
RETURN RECEIPT REQUESTED

Notice of Area Manager Proposed Decision

Dick Mecham
P.O. Box 342
Eureka, NV 89316

Dear Mr. Mecham:

On January 8, 1990 you submitted a transfer for grazing preference on the Paiute Meadows allotment. On February 21, 1990 you submitted an application for grazing use in the allotment as part of the transfer process. The applications were as follows:

January 8, 1990 application for transfer of grazing preference:

Total <u>Preference</u>	Suspended <u>Preference</u>	Active <u>Preference</u>
9,932 AUMs	2,105 AUMs	7,827 AUMs

February 21, 1990 Application:

Livestock Number	Period		%PL Use	Type Use	AUM's
	Begin	End			
500 C	03/16/90	03/31/90	100	A	263
1,000 C	04/01/90	10/31/90	100	A	7,036
484 C	11/01/90	11/30/90	100	A	477
50 C	12/01/90	12/31/90	100	A	51
					<u>7,827</u>

After considering your applications, my proposed decision is to deny your applications as submitted and to approve your transfer and grazing applications as outlined below for the Paiute Meadows allotment as interim grazing management until the allotment evaluation is completed. The approval of the grazing preference transfer will be suspended pending any appeal of the final decision.

Approved transfer of grazing preference:

Total <u>Preference</u>	Suspended <u>Preference</u>	Active <u>Preference</u>	Not <u>Scheduled</u>	Authorized <u>Active Use</u>
9,932 AUMs	2,105 AUMs	7,827 AUMs	3,477 AUMs	4,350 AUMs

The grazing permit for the Paiute Meadows allotment will be as follows:

Livestock Number	Period		ZPL	Type	AUM's
	Begin	End	Use	Use	
700 Cattle	05/01	11/05	100	A	4,350

Terms and Conditions:

Grazing use will be made north of Pahute Creek with herding practices designed to control drift of livestock south of Pahute Creek. Active grazing use will be held to 4,350 AUMs. 3,477 AUMs will be held in nonuse for conservation and protection purposes until evaluation of monitoring data indicates that active use may resume. No salt or mineral blocks shall be placed within one quarter mile of springs, meadows, streams, riparian habitats or aspen stands. You are required to perform normal maintenance on the range improvements to which you have been assigned maintenance responsibility.

Rationale:

An initial review of monitoring data indicates a possible overobligation of available forage within the southern portion of the allotment. This is due to the use of this area by wild horses. Monitoring data also indicates no apparent problems at this time with the northern portion of the allotment.

A review of the range survey used to adjudicate the grazing preference for this allotment shows that 4,341 AUMs were adjudicated for the northern portion of the allotment (north of Pahute Creek). For billing purposes an active grazing use of 4,350 AUMs will be authorized. A final determination of the carrying capacity of the Paiute Meadows allotment for livestock, wildlife and wild horses will be determined through the allotment evaluation process. I am approving interim grazing use for the 1990 grazing year or until this process can be completed. In addition to the grazing level of 4,350 AUMs, livestock use should be made north of Pahute Creek with herding practices designed to accomplish this, recognizing there is no restrictive barrier other than topography.

The livestock turn out date of May 1 is selected to provide for additional spring growth of forage prior to use by livestock. A final determination of the grazing season of use will be made when the allotment evaluation process is completed. This process will involve consultation with yourself and other affected interests prior to the selection of a management action for this allotment.

The Paiute Meadows evaluation is currently scheduled to be drafted and issued for public comment and review by June 1990. Additional monitoring data is also scheduled to be collected within the next 4 weeks and will provide additional information for the evaluation process.

Grazing use may be authorized at the approved levels, periods and areas of use. If the final decision is appealed, this decision shall be suspended pending final action on the appeal. The suspension of this decision would mean that the approval of the grazing preference transfer would also be suspended. Without completion of the preference transfer, active grazing use could not be authorized and as such the grazing permit would be cancelled.

The authority for this decision in pertinent part is contained in:

Title 43 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)."

Title 43 CFR 4110.3:

"The authorized officer shall periodically review the grazing preference specified in a grazing permit 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."

Title 43 CFR 4110.2-3(a)(3):

"The transferee shall accept the terms and conditions of the terminating grazing permit or lease (see 4130.2) with such modifications as he may request which are approved by the authorized officer or with such modifications as may be required by the authorized officer."

Title 43 CFR 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 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."

Title 43 CFR 4110.3-2(c):

"Where active use is reduced it shall be held in suspension or in nonuse for conservation/protection purposes, until the authorized officer determines that active use may resume."

Title 43 CFR 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. The authorized livestock grazing use shall not exceed the livestock carrying capacity as determined through monitoring and adjusted as necessary under 4110.3, 4110.3-1 and 4110.3-2."

"...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 on 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, 705 E. 4th Street, Winnemucca, NV 89445. In the absence of a protest within the time allowed 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,

/s/ Scott R. Billing

Area Manager
Paradise-Denio Resource Area

cc: Certified copies to:

William C. Cummings P878372575
Tom Van Horne P878372576
Dan Russell P878372577
Nevada Department of Wildlife P878372578
Natural Resources Defense Council P878372579
Sierra Club-Toiyabe Chapter P878372580
Winnemucca Unit of the Nevada Cattlemen P878372581
Wild Horse Organized Assistance P878372582
Desert Bighorn Council P878372583
Nevada Land Action Association P878372584
Craig C. Downer P878372585
Commission for the Preservation of Wild Horses P878372586
Animal Protection Institute P878372587
Wilderness Society P878372588