

m 3/27/95

BR W

1 FRANKIE SUE DEL PAPA  
 Attorney General  
 2 C. WAYNE HOWLE  
 Deputy Attorney General  
 3 Office of the Attorney General  
 Capitol Complex  
 4 Carson City, Nevada 89710  
 Telephone: (702) 687-3700  
 5 Attorneys for Nevada Division of  
 Wildlife, Appellant  
 6

7  
 8 **UNITED STATES DEPARTMENT OF THE INTERIOR**  
**OFFICE OF HEARINGS AND APPEALS**  
 9 **HEARINGS DIVISION**

9 NEVADA DIVISION OF  
 10 WILDLIFE, : NV-02-94-17  
 : IBLA 94-622

11  
 12 Appellant, :

13 v. :

14 BUREAU OF LAND MANAGEMENT, :

15 Respondent :

16 WILD HORSE : NV 020-93-11  
 17 ORGANIZED ASSISTANCE, : IBLA 94-387

18 Appellant, :

19 v. :

20 BUREAU OF LAND MANAGEMENT, :

21 Respondent :  
 22 .....

22 **STIPULATION AND WITHDRAWAL OF APPEAL**

23 The Nevada Division of Wildlife (NDOW) is an agency of the State of Nevada, whose duty  
 24 it is to ensure the preservation, protection, management and restoration of wildlife within the State  
 25 of Nevada. Wild Horse Organized Assistance (WHOA) is a private organization dedicated to the  
 26 preservation of wild horses. Subject to the following conditions, NDOW and WHOA hereby  
 27 withdraw their appeals from the decision in the Soldier Meadows Allotment, in case nos.

*Office of the Attorney General*  
 198 S. Carson Street  
 Carson City, Nevada 89710

1 NV-02-94-17/IBLA 94-622 and NV-020-93-11/IBLA 94-387.

2 A. **BINDING OBJECTIVES**. The objectives set forth in the Sonoma-Gerlach MFP III  
3 Decisions and Soldier Meadows Multiple Use Decision (1993) are commitments binding  
4 upon the BLM. Decisions establishing appropriate management levels for wild horses and  
5 stocking rates for livestock must be consistent with achieving these objectives.

6 B. **MONITORING**. BLM is obligated to monitor in order to determine whether the objectives  
7 identified in paragraph A above are being met. The BLM therefore shall monitor the actual  
8 use of livestock and wild horses and their impacts on the vegetative resources of the Soldier  
9 Meadows Allotment in a manner which will ensure early detection of nonattainment of  
10 wildlife habitat, riparian and range objectives.

11 Specifically BLM shall monitor fish and wildlife habitat within the Soldier Meadows  
12 Allotment. BLM will continue to collect utilization data on stream bank and wetland  
13 meadow riparian habitats. Depending upon available funding and other statewide priorities,  
14 BLM has committed to collect wild horse monitoring data which includes accurate  
15 population estimates, distribution, annual recruitment rates and age composition throughout  
16 the allotment.

17 C. **ADJUSTMENTS IN USE**. Part of BLM's efforts to achieve the objectives set forth in  
18 paragraph A above is the adjustment of active livestock grazing use and appropriate  
19 management levels for wild horse herds when monitoring data indicates adjustments are  
20 necessary to achieve allotment-specific objectives within a reasonable time.

21 Desired Stocking Rate computations for the Soldier Meadows Final Multiple Use  
22 Decision will be presented concurrently with the Paiute Meadows Final Multiple Use  
23 Decision in a new or amended allotment evaluation no later than 1999. Computations and  
24 assumptions will be disclosed and will be consistent with established procedures found in  
25 BLM Manual *Rangeland Monitoring Analysis, Interpretation, and Evaluation, Technical*  
26 *Reference 4400-7*.

27 ...

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

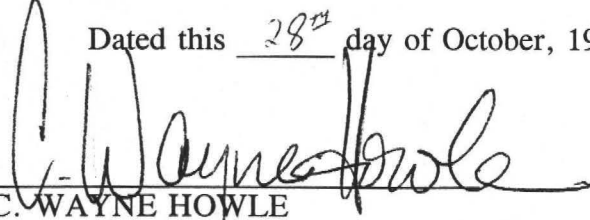
The following procedures will be applied:

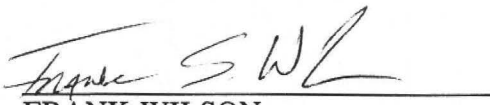
1. All available rangeland monitoring and actual use data will be applied.
2. Riparian habitats will be considered Key Management Areas.
3. Where observed utilization of Key Management Areas does not meet objectives, an appropriate management treatment shall be applied to assure that the Key Management Area objective will be met.
4. The BLM shall take appropriate action as soon as practicable, but not later than the start of the next grazing season, upon a determination that the existing grazing practices or levels of grazing use on public lands are significant factors in failing to achieve an approved standard of the North Western Great Basin Resource Advisory Council.
5. Allocation of forage must consider proportional adjustments based upon actual use and the ungulate-specific utilization objectives established by the evaluation.


D. **NOTICE OF GATHERS.** BLM agrees to follow the policy set forth in IM 95-87 regarding public review of wild horse gather plans. Specifically, BLM agrees that the 30-day comment and appeal periods will only be waived when immediate action is required due to sudden and unforeseen animal or habitat conditions. Even if the comment or appeal periods are waived, BLM agrees to provide as much advance notice as possible once it decides to implement an emergency gather in any of the HMA's that overlap the Soldier Meadows Allotment.

E. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties. This Agreement shall become effective on the date on which the case is ordered dismissed by the Administrative Law Judge.

Dated this 28<sup>th</sup> day of October, 1996.

  
C. WAYNE HOWLE  
Attorney for NDOW

  
FRANK WILSON  
Attorney for Respondents

  
DAWN LAPPIN  
Representative for WHOA

CERTIFICATE OF SERVICE

The original of the foregoing "Stipulation and Withdrawal of Appeal" was sent via Certified Mail-Return Receipt Requested, on October 28 1996, to:

Office of Hearings and Appeals  
Hearings Division  
6432 Federal Building  
Salt Lake City, UT 84138

Copies of the foregoing "Stipulation and Withdrawal of Appeal" was sent via Certified Mail-Return Receipt Requested, on October 28, 1996, to:

William A. Molini  
Administrator  
Nevada Division of Wildlife  
Department of Conservation & Natural Resources  
P.O. Box 10678  
Reno, Nevada 89520-0022

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

Catherine Barcomb  
Executive Director  
Commission for the Preservation of Wild Horses  
255 West Moana, Suite 207A  
Reno, Nevada 89509

R.C. Roberts  
801 A Street  
San Rafael, California 94901

I certify that the foregoing is true under penalty of perjury.

Executed this 28th day of October, 1996 at Sacramento, California.



Barbara L. Johnson

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

**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) :

Appellants :

v. :

BUREAU OF LAND MANAGEMENT, :

Respondent :

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

Appellants :

v. :

BUREAU OF LAND MANAGEMENT, :

Respondent :

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

Appellants :

v. :

BUREAU OF LAND MANAGEMENT, :

Respondent :  
.....

**AMENDMENT TO AGREEMENT**

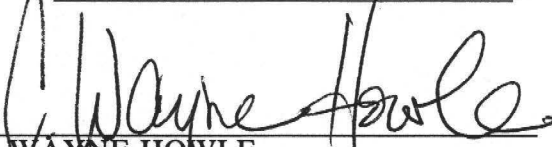
The U.S. Bureau of Land Management (BLM), the Nevada Division of Wildlife (NDOW),  
the Nevada Commission for the Preservation of Wild Horses (CPWH), and Wild Horse Organized  
Assistance (WHOA), by agreement dated March 27, 1995 (Agreement), resolved certain appeals


1 concerning the Paiute Meadows Allotment in BLM's Winnemucca District, which appeals were then  
2 pending before the Office of Hearings and Appeals. See Attachment A.


3 The parties, by this amendment to their Agreement, expressly indicate their intent that the  
4 date specified in the Agreement at paragraph C for the next allotment evaluation performed on the  
5 Paiute Meadows Allotment be changed from 1998 to 1999. The purpose for this change is  
6 understood to be to permit the Paiute Meadows allotment evaluation to be presented concurrently  
7 with that performed for the Soldier Meadows Allotment, scheduled for the same year.

8 All other provisions of the Agreement shall remain unaltered by this amendment.

9  
10 Dated: October 28, 1996.

11   
12 C. WAYNE HOWLE  
13 Attorney for NDOW and Commission

14   
15 JOHN R. PAYNE  
16 Attorney for Respondents

17   
18 DAWN LAPPIN  
19 Representative for WHOA  
20  
21  
22  
23  
24  
25  
26  
27

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.

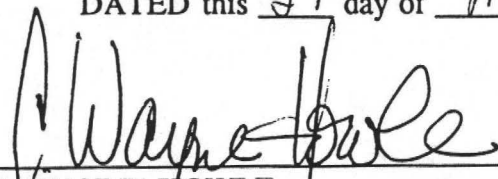
12  
13 The livestock season of use on summer pastures will be based upon  
14 monitoring data and range science. A provision stating the following will be  
15 included in the final decision transferring the grazing permit:

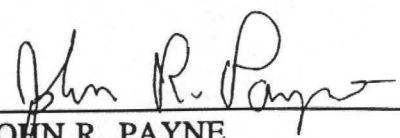
16  
17 For the 1995 grazing season, the off date for  
18 livestock will be August 17th. Should utilization  
19 objectives not be met after the 1995 grazing  
20 season, the full implementation of the multiple-use  
21 decision will occur in the 1996 grazing season  
22 with the off date of July 17th.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

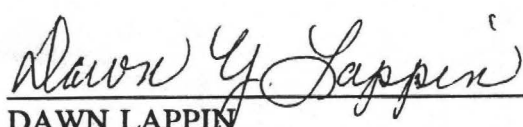
28 D. RANGE IMPROVEMENT PROJECTS. Riparian enclosure projects will be  
constructed in a timely manner as funding will allow. Interim adjustments in  
carrying capacities and season of use will be taken to assure that resource  
damage will be prevented.

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

DATED this 27 day of March, 1995.

  
C. WAYNE HOWLE  
Attorney for NDOW and Commission

  
JOHN R. PAYNE  
Attorney for Respondents

  
DAWN LAPPIN  
Representative for WHOA

**ORDER**

IT IS SO ORDERED THIS \_\_\_ day of \_\_\_\_\_, 1995.

\_\_\_\_\_  
ADMINISTRATIVE LAW JUDGE

1 CERTIFICATE OF SERVICE

2 Copies of the foregoing "Amendment to Agreement" were sent  
3 via Certified Mail-Return Receipt Requested, on October 28, 1996,  
4 to:

5 Dawn Lappin  
6 Wild Horse Organized Assistance  
7 P.O. Box 555  
8 Reno, Nevada 89504

9 William A. Molini  
10 Administrator  
11 Nevada Division of Wildlife  
12 Department of Conservation & Natural  
13 Resources  
14 P.O. Box 10678  
15 Reno, Nevada 89520-0022

16 I certify that the foregoing is true under penalty of perjury.  
17 Executed this 28th day of October, 1996 at Sacramento,  
18 California.

19   
20 Barbara L. Johnson  
21  
22  
23  
24  
25  
26  
27  
28