

m 4/5/95



# 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-241.3

April 5, 1995

Dear Interested Party:

On 02/23/95, I received two (2) Orders from Administrative Law Judge Sweitzer dismissing the proceedings concerning appeals of the **Little Owyhee Final Multiple Use Decision**. The hearings were to commence on 02/13/95.

These proceedings were dismissed per Consent Order Dismissing Appeal signed by Commission for the Preservation of Wild Horses, Wild Horse Organized Assistance, Nevada Division of Wildlife and Bureau of Land Management signed on 02/10/95 and 02/16/95 and as per Stipulation for Dismissal signed by Nevada First Corporation and Bureau of Land Management on 02/10/95.

I've enclosed both the Orders and Dismissals for your reference. If you have any questions, feel free to contact Bob Hopper at (702) 623-1500.

Sincerely yours,

Area Manager  
Paradise-Denio Resource Area

Enclosures

Orders - 2  
Dismissals - 2

3/16/95



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Winnemucca District Office

705 East 4th Street

Winnemucca, Nevada 89445

March 16, 1995

IN REPLY REFER TO:

4120.3

NV-241.3

Nevada First Corporation  
P.O. Box 490  
Winnemucca, NV 89446

Dear Mr. Bengochea:

A part of the dismissal of your appeal concerning the Little Owyhee Final Multiple Use Decision was the identification of enclosure fences around five (5) wetland/riparian habitats and a fence dividing the Antelope Pasture.

Members of my staff are scheduling to survey and design these projects beginning the week of April 3, 1995. If you have any questions and/or would like to participate in the initial phase of these projects, please contact Gene Seidlitz or Shane DeForest at (702) 623-1500.

Sincerely yours,

Area Manager  
Paradise-Denio Resource Area

cc NDOW  
WHOA  
CPWH

SEARCHED INDEXED SERIALIZED FILED  
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FBI - DENVER

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2-23-95

UNITED STATES DEPARTMENT OF THE INTERIOR  
OFFICE OF HEARINGS & APPEALS  
HEARINGS DIVISION

NEVADA FIRST CORPORATION, : N2-93-3 and IBLA 93-485 (N2-93-12)  
: :  
Appellant, : :  
: :  
v. : :  
: :  
BUREAU OF LAND MANAGEMENT, : :  
: :  
Respondent. : :  
.....

STIPULATION FOR DISMISSAL OF THE  
NEVADA FIRST CORPORATION APPEALS

The parties to this action hereby stipulate that the above-captioned appeals may be dismissed on the following terms and conditions:

The Bureau will administer the Little Owyhee Allotment in accordance with the Final Multiple Use Decision dated March 26, 1993, with the following modifications:

Livestock Decision

To: Grazing system to be implemented. (Pages 1-9 replace pages 8-11 of March 26, 1993, Area Managers Final Multiple Use Decision)

1. Grazing Preference

- a. Total Preference 47,463 AUMs
- b. Suspended Preference 19,663 AUMs
- c. Active Preference 27,800 AUMs
- Initial Stocking Rate 17,295 AUMs
- Voluntary Non-use 7,382 AUMs  
(Spring Pastures)
- Non-use for Conservation Purposes 3,123 AUMs

35B

2. Season of Use

|                 |             |   |
|-----------------|-------------|---|
| Spring Use      | 11,080 AUMS | 03/01 to 05/31  |
| Summer Use      | 3,215 AUMs  | 06/01 to 08/31  |
| Fall/Winter Use | 3,000 AUMs  | 09/01 to 02/28 Lake Creek<br>10/01 to 02/28 Fairbanks<br>11/01 to 02/28 Twin Valley |

**Spring Use**

|              |       |                |                    |
|--------------|-------|----------------|--------------------|
| Fairbanks    | 1,500 | 03/01 to 05/31 | 4,537 AUMs         |
|              | 500   | 06/01 to 06/30 | 493 AUMs           |
| Twin Valley  | 1,000 | 03/01 to 05/31 | 3,025 AUMs         |
| Lake Creek   | 1,000 | 03/01 to 05/31 | 3,025 AUMs         |
| <i>TOTAL</i> |       |                | <i>11,080 AUMs</i> |

The maximum spring period of use will be 03/01 to 06/30. All three spring pastures will be used every year. Total scheduled spring use will be up to 11,080 AUMs.

A total of 21,462 AUMs have been calculated based on the identified permanent and seasonally available water sources in the spring pastures.

The carrying capacity for the fall/winter, spring pastures is as follows:

11,080 AUMs for spring use  
3,000 AUMs for winter use  
7,382 AUMs voluntary non-use pending additional water  
21,462 AUMs total fall/winter spring carrying capacity

Eleven thousand eighty (11,080) AUMs will be authorized annually to support 3,500 livestock from 03/01 to 05/31. An additional 1,000 AUMs may be authorized between 06/01 and 06/30 as additional spring use, provided a minimum of 70% of the authorized waters for that year contain sufficient water to support the request and utilization is less than 50%. In normal years, by 05/31, 2,000 head will be moved out of the spring pastures and on to the Forest, and by 06/30 all livestock will be removed from the spring pastures.

In some years, movement of 2000 head of livestock onto the Forest Service allotment, will vary. However, no use by these livestock will be authorized beyond 06/10. AUMs necessary to support this additional use will be activated from those held in voluntary non-use with the above stipulation of 70% of the scheduled waters for that year contain sufficient water and less than 50% utilization.

Use in the spring pastures will be based on available water sources. Use will be scheduled based on these water sources and available forage around the water source. Availability of water sources will be determined by BLM in consultation with NFC and other affected interests based on the following criteria:

1. No water source and accompanying service area will be scheduled for use more than two years in a row. The third year, the area will be rested.

357B

2. If service areas for individual water sources overlap, the water source encompassing the greatest overlap area will be used as the basic forage allocating unit.

Additional Spring Use

Upon request by the permittee, additional spring use may be approved by the authorized officer. The authorization will be subject to the verification of the availability of sufficient forage and water in the spring pastures to support the additional use. Additional use, if granted will be at the scheduled water sources for the current year only, with the stipulation that 70% of the authorized water sources for that year must contain sufficient water to support the additional use and utilization must be less than 50%.

Additional spring use will be used to shorten the duration of use in one or more of the summer pastures.

| Summer Use |                                      |             |                |              |
|------------|--------------------------------------|-------------|----------------|--------------|
|            | Pasture                              | Livestock # | Period of Use  | AUMs         |
| Odd Years  | Antelope #1                          | 1,000       | 06/01 to 06/22 | 723          |
|            | Antelope #2                          | 1,000       | 06/23 to 07/06 | 460          |
|            | Rock Spring                          | 1,000       | 07/07 to 07/27 | 690          |
|            | Capitol Peak                         | 1,000       | 07/28 to 08/15 | 625          |
|            | Calico                               | 1,000       | 08/16 to 08/31 | 526          |
|            | Other Calico<br>variable times & #'s |             |                |              |
|            | <b>TOTAL</b>                         |             |                | <b>3,215</b> |
| Even Years | Rock Springs                         | 1,000       | 06/23 to 07/06 | 723          |
|            | Antelope #1                          | 1,000       | 06/23 to 07/06 | 460          |
|            | Antelope #2                          | 1,000       | 07/07 to 07/27 | 690          |
|            | Capitol Peak                         | 1,000       | 07/28 to 08/15 | 625          |
|            | Calico                               | 1,000       | 08/16 to 08/31 | 526          |
|            | Other Calico<br>variable times & #'s |             |                |              |
|            | <b>TOTAL</b>                         |             |                | <b>3,215</b> |

Summer use will be made in the Antelope, Rock Springs, Calico, and Capitol Peak Pastures. The permittee has agreed to fund, construct and maintain several riparian enclosure fences. The riparian areas presently identified for fencing by the permittee are:

1. Lone Willow Spring

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<sup>1</sup> Combined use in the Calico pasture, including scheduled use and working/sorting and trailing livestock should not exceed 1,000 AUMs. The scheduled use remains 717 AUMs. Up to 1,000 AUMs will be allowed provided that monitoring demonstrates that utilization objectives have not been exceeded in the Calico pasture.

2. a spring below the Little Owyhee cow camp
3. North Fork Little Humboldt River
4. Antelope Springs meadow
5. meadow East of Mahogany Pass.

The BLM and NFC have agreed to cooperatively construct a fence dividing the Antelope pasture in to an early summer (to be called Antelope #1) and a riparian pasture (to be called Antelope #2). The Bureau will be responsible for completing the necessary documentation, cultural clearance, and survey and design of the enclosure fences by the end of fiscal year 1995.

The permittee will be responsible for construction of the identified enclosure fences by the end of fiscal year 1996 and the subsequent maintenance of these projects. The completion of the survey and design of the Antelope Pasture Fence, and environmental documentation by the BLM will be completed by the end of FY-95. However, the cooperative construction of the fence will be dependent on the availability of Bureau 8100 funds, budgeting and manpower constraints.

Season of use in the summer pastures will be 06/01 to 08/31. Total scheduled use will be 3,215 AUMs. Livestock will be trailed through the Antelope #1 pasture on odd years, and the Rock Springs pasture on even years onto the Forest allotment. NFC will notify BLM prior to trailing activities. The authorized use period for trailing activities through the summer pastures will be between 05/15 and 06/10 to accommodate turn-out onto the Forest which varies in regards to range readiness.

The Capitol Peak pasture will be used from 07/28 to 08/15 every year. The Calico pasture will be used every year from 08/16 to 08/31. The Calico pasture will also be used for short periods throughout the summer season as a livestock processing area, and to trail livestock between pastures. Combined use in this pasture, including scheduled use and working/sorting and trailing livestock, shall not exceed 1,000 AUMs. The scheduled use remains 717 AUMs. However, up to 1,000 AUMs will be allowed provided that monitoring demonstrates that utilization objectives have not been exceeded in the Calico pasture. The permittee will notify the BLM before making use in the Calico pasture for these purposes.

A total of 3,215 AUMs are scheduled for use in the summer pastures. This total scheduled use is derived from desired stocking rate calculations using utilization of riparian habitats. The permittee has agreed to limiting grazing in the summer pastures to 3,215 AUMs. Up to an additional 3,123 AUMs may be available in the summer pastures with modification of the seasons of use in the summer pastures.

These 3,123 AUMs will be held in non-use for conservation purposes until utilization monitoring of the summer pastures indicates additional AUMs are available. These 3,123 AUMs will not be considered for activation by the BLM prior to the next evaluation period. Should utilization objectives be exceeded in the Capitol Peak pasture, the season of use in this pasture will be adjusted the following year by an appropriate number of days in consultation with BLM, NFC and other affected interests. If agreement cannot be reached as

to what an "appropriate" management action or number of days is, fifteen (15) days will be reduced off of the ending date of the season of use in Capitol Peak.

Calico pasture will also be affected by a fifteen day reduction as the movement into this pasture is accelerated. Following a reduction in the season of use, modifications may be made by the permittee. These modifications could include: additional riding, development of additional waters on private lands, fencing of wetland/riparian habitats, etc. If the modifications result in less than 50% utilization of riparian vegetation then a new off-date will be established by BLM in coordination with NFC and affected interests. However, in subsequent years if utilization levels are again exceeded, the season of use will again be adjusted back.

### APPLICATION OF ADDITIONAL SPRING USE WITHIN THE SUMMER PASTURES

If additional spring use is made, the season of use in one or more of the summer pastures will be shortened. Additional spring use will modify the pasture rotation, but will not result in scheduling of use in the Antelope #1, Antelope #2, and Rock Springs pastures beyond 07/27 and use in Capitol Peak pasture beyond 08/15. If enough days are gained in additional spring use, rest may be implemented for a pasture. Seasonal adjustments in the summer pastures will be determined by the BLM, in coordination with NFC and affected interests with primary consideration given to the Antelope #2 and Capitol Peak Pastures.

#### Fall/Winter Use (each year)

| Pasture      | Livestock # | Period of Use  | AUMs        |
|--------------|-------------|----------------|-------------|
| Lake Creek   | 221         | 09/01 to 02/28 | 1315        |
| Fairbanks    | 260         | 10/01 to 02/28 | 1291        |
| Twin Valley  | 100         | 11/01 to 02/28 | 394         |
| <i>TOTAL</i> |             |                | <i>3000</i> |

Fall/winter use within each pasture will be made within specific use areas which are separate from spring use areas. Use within each fall/winter use area will be limited to no more than two consecutive years. The third year the area will be rested. Livestock use will be limited to specific use area by utilizing natural snow accumulations, and by limiting access to developed waters. While some drift by livestock out of the scheduled use area may occur, the low livestock numbers will make these impacts minimal.

Spring cattle being moved to the summer pastures will be trailed through the winter use areas. The trailing period will not exceed two days.

Fall/winter use areas by pasture are shown on the attached map and are described as follows:

South Twin Valley

This area will consist of the basin around the Little Humboldt Ranch from the southern pasture boundary north to Four Mile Butte. Use can be made in this winter use area for two consecutive years. The third year the area will be rested.

|        |      |                |          |
|--------|------|----------------|----------|
| Year 1 | 100C | 11/01 to 02/28 | 394 AUMs |
| Year 2 | 100C | 11/01 to 02/28 | 394 AUMs |
| Year 3 |      | REST           |          |

North Lake Creek: This area has three use areas within it:

- Area A      The area serviced by the Maiden Springs Pipeline.
- Area B      The area serviced by the Lake Creek Reservoir, the East Fork Little Owyhee River and Cathcart Cabin.
- Area C      The area serviced by Willow Reservoir and Wild Bill Spring.

This fall/winter area will have cattle trailed through in the late spring for a period not to exceed two days.

South Fairbanks: This area has four use areas:

- Area A      The area serviced by private waters at the Bullhead Ranch, Fairbanks Reservoir and Pete's Reservoir.
- Area B      The area serviced by private waters along the North Fork of the Little Humboldt River and Chimney Dam Reservoir.
- Area C      The area serviced by Whiskey Spring, Mud Spring, and Cave Spring
- Area D      The area east of the North and South Forks of the Little Humboldt River and various reservoirs.

Use can be made in a particular fall/winter use area for two consecutive years. The third year, the fall/winter use area will be rested.

Livestock will be trailed through these areas in the early spring from the Bullhead ranch. No more than two days will be taken to trail through the fall/winter use areas.



## RATIONALE

### Spring Use

The proposed management action will eliminate the three pasture rest rotation spring grazing system. However, rest within the pasture will be implemented. Each pasture may be used every year from 03/01 to 05/31. In addition, the Fairbanks pasture could be used as late as 06/30.

Water and utilization of the riparian areas are the major limiting factors affecting livestock grazing on this allotment. The authorized spring use will be based on available public and private waters in these pastures, with the stipulation that a specific area will not be utilized more than two consecutive years. The third year it will be rested.

Additional spring use, if authorized, will enable the permittee to utilize AUMs held in voluntary non-use, and will allow the summer season of use to be adjusted. By stipulating that additional use will be possible only if utilization is less than 50% and 70% of the scheduled waters are available to support the use without exceeding objectives, the resource will not be negatively impacted.

### Summer Use

The summer pastures contain the majority of the riparian habitats in the allotment and have been utilized as late as 09/30 in the past. Grazing in these pastures to such a late date has resulted in utilization objectives being exceeded.

Grazing in the most critically sensitive summer pasture (Capitol Peak) will end by 08/15 and in the Calico pasture by 08/31. If it is found through monitoring that grazing to 08/31 does not result in the achievement of the utilization objectives in all summer pastures, appropriate measures will be taken to correct the situation.

The utilization objectives will be evaluated annually. Adjustments to the season of use will be made until the utilization objectives can be consistently met. This relief measure will be a term and condition of the permit.

In addition, the BLM and NFC have agreed to construct a fence dividing the Antelope pasture into an early summer and riparian pasture to allow for better livestock distribution. The permittee has further agreed to maintain this fence once constructed. Also, the permittee will fund, construct and maintain enclosure fences around five riparian areas. It is anticipated that few additional riparian areas will be proposed for fencing beyond those presently identified.

### Fall/Winter Use

In comparison to the winter grazing use identified in the March 26, 1993 Area Manager's Final Multiple Use Decision, livestock grazing pressure is be substantially reduced. Approximately one-third (1/3) of the livestock previously proposed for the Lake Creek and Fairbanks pastures will be authorized (221 and 260 respectively versus 760). One hundred head (100) of livestock will be authorized in the Twin Valley pasture.

The seasons of use for the pastures have been modified from an 11/01 to 02/28 season to: 09/01 to 02/28 in Lake Creek, 10/01 to 02/28 in Fairbanks, and 11/01 to 02/28 in Twin Valley. The lower stocking rates should reduce or eliminate any potential adverse impacts from the longer season of use.

The combination of reduced livestock numbers and modified use should result in lowered livestock utilization on the cured vegetation. Some use may be made on fall and spring green-up. If it occurs, the lower stocking rates along with the large size of these use areas should result in low grazing pressure on this resource. Spring use of the vegetation in the winter use areas will be limited to that which is made during trailing.

### SPECIFIC TERMS AND CONDITIONS

1. Salt and/or mineral blocks shall not be placed within one quarter (1/4) mile of springs, streams, meadows, riparian habitats, or aspen stands.
2. The permittee is required to perform normal maintenance on the range improvements as per their signed cooperative agreements/section 4 permits prior to turning out.
3. The permittee's certified actual use report, by pasture, is due 15 days after the end of the authorized grazing period.
4. Livestock use is not authorized in the following exclosures:
  - a. Lone Willow Exclosure T46N R41E sec. 1,12 and 6,7
  - b. Mahogany Ridge Exclosure T46N R41E sec. 14, 15, 22, 23
  - c. Antelope Springs Exclosure T45N R42E sec. 28, 29, 33
  - d. Owyhee Reservoir #3 Exclosure T47N R41E sec. 25
  - e. Other exclosures as identified in the above decision
5. Any livestock owned or controlled by the permittee must be eartagged. The permittee must submit to the BLM a list of private ear tags which will include numbers and colors.
6. The annual grazing authorization along with the schedule of use outlined in this document will be the only approved use. All other schedules, flexibilities and terms and conditions addressed in the 1972 Allotment Management Plan, the 1982 Coordinated Resource Management Plan, and October 21-22, 1987 Technical Review Team (TRT) recommendations are suspended until the plans are revised.
7. If monitoring at the end of the grazing season in the Capitol Peak Pasture indicates that utilization objectives were not met on wetland/riparian habitats, appropriate corrective actions will be taken the following year. If BLM, NFC and affected interests cannot agree as to what the "appropriate" management action or days should be, fifteen (15) days will be taken from the ending date of the season of use. Subsequent adjustments determined through monitoring will also be made.
8. The permittee will notify the authorized officer prior to using the Calico pasture for the purpose of trailing and processing livestock.

9. No water source, and accompanying service area will be scheduled for use more than two years in a row. The third year the area will be rested.

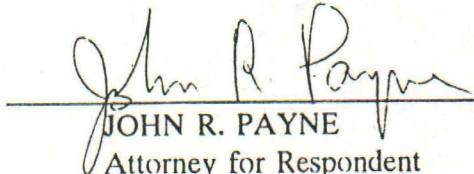
10. Additional spring use may be authorized if 70% of the scheduled water sources for the year contain sufficient water and utilization at the end of the normal use period is less than 50%.

11. The authorization of additional spring use will not result in scheduled use in the Antelope #1, Antelope #2, and Rock Springs pastures past 07/27 and use in Capitol Peak will not extend past 08/15.

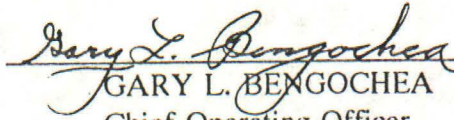
12. Spring and fall/winter use areas will be identified by NFC and BLM during the grazing application process.

This Agreement is the sole Agreement for Dismissal of the above-captioned appeals and supersedes all other written or oral Agreements pertaining to Dismissal of the above-captioned appeals.

02/17/95  
Date

  
JOHN R. PAYNE  
Attorney for Respondent  
Bureau of Land Management

February 10, 1995  
Date

  
GARY L. BENGOCHEA  
Chief Operating Officer  
Nevada First Corporation

Division of Land Management  
**RECEIVED**  
MAR 31 1995

**FRANKIE SUE DEL PAPA**  
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198 South Carson Street, No. 311  
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Telephone: (702)687-3700  
Attorneys Commission for the Preservation of  
Wild Horses & Nevada Division of Wildlife, Appellants

DISTRICT OFFICE  
WINNEMUKCA, NEVADA

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

NEVADA FIRST CORPORATION, : N2-93-4 and IBLA 93-485 (N2-93-12)

Appellant

v.

BUREAU OF LAND MANAGEMENT,

Respondent

.....  
WILD HORSE ORGANIZED : N2-93-5 and IBLA 93-486 (N2-93-13)  
ASSISTANCE,

Appellant

v.

BUREAU OF LAND MANAGEMENT,

Respondent

.....  
COMMISSION FOR THE : N2-93-6 and IBLA 93-487 (N2-93-18)  
PRESERVATION OF WILD HORSES

Appellant

v.

BUREAU OF LAND MANAGEMENT,

Respondent

.....  
and NEVADA DEPARTMENT : N2-93-4  
OF WILDLIFE

Appellant

v.

BUREAU OF LAND MANAGEMENT,

Respondent

.....  
**CONSENT ORDER DISMISSING APPEAL**

ATTORNEY  
GENERAL'S  
OFFICE  
NEVADA  
101-3677

1 Pursuant to the stipulation of the parties, Nevada Division of Wildlife (hereinafter  
2 "NDOW"), Nevada Commission for the Preservation of Wild Horses (hereinafter  
3 "COMMISSION") and Bureau of Land Management, Winnemucca District (hereinafter  
4 "BLM");

5 IT IS HEREBY ORDERED as follows:

6 **STATEMENT OF FACTS**

7  
8 A. The Nevada Division of Wildlife (NDOW) is an agency of the State of  
9 Nevada, whose duty it is to ensure the preservation, protection, management and restoration  
10 of wildlife within the State of Nevada. The COMMISSION is a commission of the State  
11 of Nevada, whose duty it is to ensure the preservation and management of wild horses  
12 within the State of Nevada.

13 B. On April 26, 1993, NDOW and the COMMISSION filed appeals (N2-93-4,  
14 N2-93-6) from the Little Owhyee Final Multiple Use Decision which was issued in part by  
15 full force and effect on March 26, 1993. The bases for these appeals were and are that (1)  
16 the livestock and wild horse decisions were not both in full force and effect, and the  
17 disparate treatment of horses and livestock was arbitrary; (2) the decision altered specific  
18 allotment objectives to allow for resource damage; (3) carrying capacities are arbitrary and  
19 capricious and contrary to the land use plan.

20  
21 **ORDER**

22 A. **BINDING OBJECTIVES.** The objectives set forth in the Paradise-Denio  
23 MFP decisions and Little Owhyee Final Multiple Use Decision (1993) are commitments  
24 binding upon the BLM. Grazing decisions setting appropriate management levels for wild  
25 horses and stocking rates for livestock must be consistent with these objectives.

26 B. **MONITORING.** Monitoring is an essential part of BLM's obligation and  
27 duty to determine the achievement of objectives set forth in paragraph A above. The BLM  
28 therefore shall monitor the actual use of livestock and wild horses and their impacts on the

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vegetative resources of the Little Owyhee Allotment in a manner which will ensure early detection of effects which will result in nonattainment of wildlife habitat, riparian, and range objectives.

Specifically, the BLM shall monitor fish and wildlife habitat within the Little Owyhee Allotment. The BLM will continue to collect utilization data on stream bank and wetland meadow riparian habitats. Wild horse census data will include accurate population estimates, distribution, annual recruitment rates, age composition and annual mortality data throughout the allotment.

C. ADJUSTMENT IN USE. Part of BLM's effort to achieve the objectives set forth in paragraph A above is the adjustment of active livestock grazing use and appropriate management levels for wild horses when the evaluation of monitoring data indicates an adjustment is necessary to achieve allotment specific objectives within a reasonable time.

Desired Stocking Rate computations for the Little Owyhee Final Multiple Use Decision will be presented in the allotment evaluation or environmental assessment. Summer pasture stocking rates are to be determined by procedures found in BLM Manual Rangeland Monitoring Analysis, Interpretation, and Evaluation, Technical Reference 4400-

7.

The following procedures will be applied:

1. Riparian habitats will be considered Key Management Areas.
2. Use pattern mapping data will not be weight averaged or Yield Indexed in a manner which compromises or dilutes Key Management Area observed utilization or objectives.
3. Must consider proportional allocation of forage will be established by the amount of actual use, and necessary adjustments will be determined during the period of evaluation.
4. All available and valid data will be used over the period of the evaluation.

1 Livestock season of use on summer pastures will be based upon monitoring data and  
2 range science. The provision of the Final Multiple Use Decision shortening the livestock  
3 grazing season of use to July 15 will be implemented, dependent on monitoring data which  
4 is current at the time of the adjustment. This schedule allows for livestock to use the  
5 summer pastures to August 15, with the exception of Calico Pasture. If allotment objectives  
6 are not achieved in 1995, then season of use will be reduced by 15 days the following  
7 grazing season in absence of an agreement by the affected interests. If allotment objectives  
8 are achieved in 1995, the season of use can remain at August 15. This provision is binding  
9 for each successive grazing season beyond 1995.

11 Livestock season of use and stocking levels for the spring and winter pastures will  
12 be based upon specific suitability criteria, and will be determined annually based upon  
13 monitoring data. These monitoring data will include, but not be limited to, amount of  
14 available water, utilization of key species, soil moisture and phenology of key species.

15 D. RANGE IMPROVEMENT PROJECTS. Riparian enclosure projects will be  
16 constructed in a timely fashion, with Nevada First Corporation providing the materials,  
17 labor and maintenance for the following projects:

- |    |                           |                             |
|----|---------------------------|-----------------------------|
| 18 | Lone Willow Spring        | Meadow(East Maghonany Pass) |
| 19 | North Fork Humboldt River | Lower Cow Camp Spring       |
| 20 | Antelope Spring Meadow    |                             |

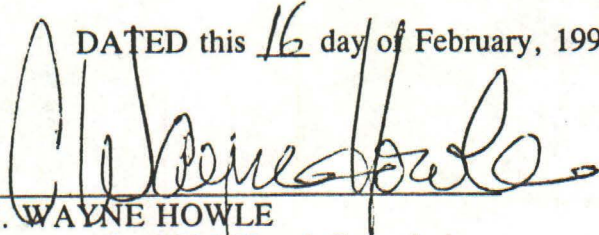
21 These projects will be completed by 1996.

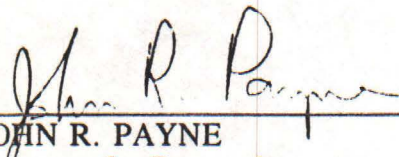
22 E. ADMINISTRATIVE PROCEDURES. The BLM will exercise its discretion  
23 to issue decisions full force and effect in a manner that will not discriminate between  
24 livestock and wild horses when there is no rational basis in resource conditions for such  
25 distinction. The allotment will receive an allotment evaluation or environmental assessment  
26 no later than 1996.

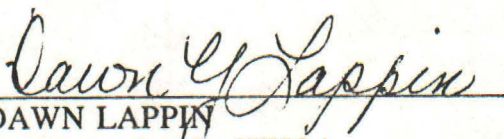
27 F. DISMISSAL. The appeals filed by NDOW and the COMMISSION shall be

1 dismissed. NDOW and the COMMISSION reserve the right to enforce the provisions of  
2 this agreement and order by any lawful process.

3 DATED this 16 day of February, 1995.

4  
5   
6 C. WAYNE HOWLE  
7 Attorney for NDOW and Commission

8   
9 JOHN R. PAYNE  
10 Attorney for Respondents

11   
12 DAWN LAPPIN  
13 Representative for WHOA

14 **ORDER**

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

16 \_\_\_\_\_  
17 ADMINISTRATIVE LAW JUDGE