



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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

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IN REPLY REFER TO
4130, 4160
(NV-024.14)

✓ 4-12-93
April 12, 1993

CERTIFIED MAIL NO. P111845566
RETURN RECEIPT REQUESTED

FINAL FULL FORCE AND EFFECT MULTIPLE USE DECISION PAIUTE MEADOWS ALLOTMENT

Bill & Gail Phillips
P.O. Box 2991
Winnemucca, NV 89446

Dear Mr. & Mrs. Phillips:

The record of Decision of the Paradise-Denio Environmental Impact Statement was issued on 09/18/81. The Paradise-Denio Management Framework Plan was issued on 07/09/82. These documents guide the management of public lands within the Paradise-Denio Resource Area and more specifically within the Paiute Meadows Allotment. Monitoring data has been collected on this allotment and in accordance with Bureau policy and regulations, this data has been evaluated in order to determine progress in meeting management objectives for the Paiute Meadows Allotment and to determine if management adjustments may be necessary to meet the management objectives.

The following are the multiple use management objectives under which grazing on the Paiute Meadows Allotment will be monitored and evaluated.

1. Short Term
 - a) The objective for utilization of key streambank riparian plant species (CAREX, JUNCUS, SALIX, POTR5, ROWO, POA spp.) on Paiute, Battle and Bartlett Creeks is 30%. Utilization data will be collected at the end of the grazing period.
 - b) The objective for utilization of key plant species (CAREX, JUNCUS and POA spp.) in wetland riparian habitats is 50%. Utilization data will be collected at the end of the grazing period.

- c) The objective for utilization of key plant species (STTH2, AGSP, FEID, ELCI, POA, ORHY, AMAL, PUTR, SYMPH, EPHEDRA, EULA) in upland habitats is 50%. Utilization data will be collected at the end of the grazing period.

2. Long Term

- a) 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 to 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.
- b) Improve public rangeland conditions to provide forage on a sustained yield basis for livestock, with a stocking level of 7,827 AUMs.
- c) Improve range condition from poor to fair on 161,158 acres and from fair to good on 15,938 acres.
- d) 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 1116 AUMs of forage on a sustained yield basis for wild horses.
 - 2) Maintain and improve wild horse habitat by assuring free access to water.

Ecological status will be used to redefine/quantify the following five objectives where applicable.

- e) Improve to or maintain 86 acres of ceanothus habitat types in good condition.
- f) Improve to or maintain 345 acres of mahogany habitat types in good condition.
- g) Improve to or maintain 188 acres of aspen habitat types in good condition.
- h) Improve to or maintain 529 acres of riparian and meadow habitat types in good condition.
- i) 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.
- j) Improve to and maintain stream habitat conditions from the 1988 levels of 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%.
- k) 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 or 30% canopy cover.
- l) 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.

Based upon the evaluation of monitoring data for the Paiute Meadows Allotment, consultation with the permittee and other affected interests, recommendations from my staff, and the Paiute Meadows Allotment final evaluation dated February 25, 1993, it is my final decision to:

CARRYING CAPACITY

Designate the carrying capacity for livestock and wild horses as 4,666 AUMs. Of this total, 3,550 AUMs are designated for livestock and 1,116 AUMs are designated for wild horses.

The Paiute Meadows Allotment is divided into two use areas, North of Paiute Creek and South of Paiute Creek. The carrying capacity for livestock and wild horses in the North Paiute use area is 2634 AUMs and 2032 AUMs in the South Paiute use area.

The livestock operation will be licensed according to available forage left after wild horse allocations. The difference in AUMs between the permittee's active preference and the active use will be held in non-use for conservation purposes.

RATIONALE:

This carrying capacity was calculated using monitoring data collected on the allotment from 1987 through 1990. Monitoring data collected in 1991 and 1992 support these calculations. Monitoring data has indicated that vegetative objectives are not being achieved in both the North Paiute and the South Paiute use areas of the allotment. Therefore, an adjustment is needed in the authorized use by livestock and the wild horse population size to achieve a thriving natural ecological balance within the allotment.

WILDLIFE MANAGEMENT DECISION

Based upon the final evaluation of monitoring data for the Paiute Meadows Allotment, consultation with the permittee and other affected interests, and recommendations from my staff, it is my final decision for wildlife to:

1. Continue with the reasonable numbers as outlined in the Land Use Plan (LUP).
2. Recommend to the Nevada Department of Wildlife and the U.S. Fish and Wildlife Service that the North Fork of Battle Creek be designated as a stream for the recovery of Lahontan cutthroat trout.
3. Construct corridor fencing on the North Fork of Battle Creek within the Paiute Meadows Allotment, due to riparian/aquatic conditions which did not meet management objectives.

RATIONALE:

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 livestock and wild horses were the primary factors inhibiting achievement of the multiple-use objectives in the allotment. Analysis of the existing management of wildlife indicates that wildlife populations in the Paiute Meadows Allotment are not contributing to the failure in meeting the multiple-use objectives. Therefore, a change in the existing wildlife populations or the existing wildlife management within the Paiute Meadows Allotment is not warranted. Reasonable numbers for wildlife will remain as follows:

Mule Deer
1838 AUMs

Pronghorn Antelope
307 AUMs

Bighorn Sheep
180 AUMs

The North Fork of Battle Creek is the most desirable stream within the allotment to be managed for recovery of Lahontan cutthroat trout based on the following:

The entire Battle Creek watershed lies within the Paiute Meadows Allotment and nearly all of the North Fork of Battle Creek (about 6 miles) lies within public lands.

There is no existing fishery in the Battle Creek drainage. There would be no fish eradication costs associated with the introduction of cutthroat trout into the North Fork of Battle Creek.

The existing stream habitat condition for the North Fork of Battle Creek is highly recoverable. The 1992 stream habitat conditions indicate that the North Fork of Battle Creek could be recovered more rapidly than Bartlett Creek.

With good to excellent stream habitat potential, lack of an existing fishery, nearly 100 percent public land ownership, and absence of mining activities, the North Fork of Battle Creek lends itself for the recovery of Lahontan cutthroat trout.

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

1725.3-3(b) "Management of public lands for fish and wildlife development and utilization involves the protection, regulated use, and development of habitat on public lands and waters to obtain a sustained yield of fish and wildlife and provision and maintenance of public access to fish and wildlife resources."

Within 30 days of receipt of this decision, you have the right of appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.4. 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 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. Please provide a copy of your appeal and Statement of Reasons to the Area Manager, Paradise-Denio Resource Area at 705 East Fourth Street, Winnemucca, Nevada 89445. Copies of your appeal and Statement of Reasons must also be served upon any parties adversely affected by this decision. The appellant has the burden of showing that the decision appealed from is in error.

In addition, within 30 days of receipt of this decision you have the right to file a petition for a stay (suspension) of the decision together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the parties specified above. The appellant has the burden of proof to demonstrate that a stay should be granted.

the determination of AML must be under the same criteria and objectives specifies assumptions

**FULL FORCE AND EFFECT
WILD HORSE MANAGEMENT DECISION**

*AML HAS
I have agreed content
2) this is agreed for
one side the other
sets is step
or draft*

Based on the final evaluation of the monitoring data for the Paiute Meadows Allotment, consultation with the permittee and affected interests and recommendations of my staff, my final decision, effective on April 15, 1993, for wild horses is to:

*carrying capacity
50%*

1. Combine the Black Rock Range East Herd Management Area (HMA) and the Black Rock Range West HMA with a combined appropriate management level (AML) of 186 adult horses. The AML will be managed within the range of 121 to 186 adult wild horses. The combined HMA will be called the Black Rock Mountain HMA.

*60 wild
upland
grasses*

2. Schedule a removal for the fall or early winter of 1993 to reduce the population of horses to the Appropriate Management Level if funding is available for such gather.

*no monitoring data
to substantiate
this decision*

RATIONALE:

Removals have occasionally been conducted on the Black Rock Range East HMA and not the Black Rock Range West HMA, creating a niche in the habitat, which is filled in by migrating horses, making retention of the population at, or close to, a manageable number impossible. Therefore, we are combining these HMA's in order to manage for one AML.

*will use during a
season that will
exceed
capacity
of the
range*

Census and distribution data show a heavy migration pattern between the HMAs from Slumgullion and Paiute Creek southward. These natural tendencies for the animals to distribute through both HMAs/allotments should result in approximately 93 animals utilizing the Black Rock Range East HMA year round. This estimate is based on historical distribution and census data that indicates that the proportional distribution of wild horses between the two HMAs is approximately 50% in the West HMA and 50% in the East HMA. This would result in a total of 1116 AUMs used by wild horses in the Paiute Meadows Allotment (approximately 480 AUMs in the north and 636 AUMs south of Paiute Creek).

Adjustments were made to the wild horse AML as described in the proposed decision, due to an adjustment in the amount of AUMs available for wild horses in the Soldier Meadows allotment. This adjustment reduced the AML for the Black Rock Mountain HMA.

The reduction in the wild horse AML, resulted in an additional 372 AUMs available for livestock on the Paiute Meadows allotment.

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 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 areas 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..."

4770.3(c) "The authorized officer may place in full force and effect decisions to remove wild horses or burros from public or private lands if removal is required by applicable law or to preserve or maintain a thriving ecological balance and multiple use relationship. Full force and effect decisions shall take effect on the date specified, regardless of an appeal. Appeals and petitions for stay of decisions shall be filed with the Interior Board of Land Appeals as specified in this part."

Within 30 days of receipt of this decision, you have the right of appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.4. 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 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. Please provide a copy of your appeal and Statement of Reasons to the Area Manager, Paradise-Denio Resource Area at 705 East Fourth Street, Winnemucca, Nevada 89445. Copies of your appeal and Statement of Reasons must also be served upon any parties adversely affected by this decision. The appellant has the burden of showing that the decision appealed from is in error.

In addition, within 30 days of receipt of this decision you have the right to file a petition for a stay (suspension) of the decision together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the parties specified above. The appellant has the burden of proof to demonstrate that a stay should be granted.

FULL FORCE AND EFFECT
LIVESTOCK DECISION

Based upon the final evaluation of monitoring data for the Paiute Meadows Allotment, consultation with the permittee and other affected interests and recommendations from my staff, it is my final decision, effective April 15, 1993, for livestock to:

1. Change the management:

FROM (Description of existing use)

A. Grazing Preference (AUMs)

1. Total preference	9,932
2. Suspended preference	2,105
3. Active preference	7,827
Active Use	4,350
Non-Use	3,477

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

B. Season of Use

Summer and Fall Use
05/01 to 11/05

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

D. Percent Federal Range - 97%

E. Grazing System

The active preference during the evaluation period was 7,827 AUMs from 1983 until 1990. In accordance with the transfer of grazing preference to Dan Russell on January 5, 1990, the active use was adjusted to 4,350 AUMs, with 3,477 AUMs in non-use.

From 1988 to 1992, grazing use was authorized north of Paiute Creek with herding practices designed to control livestock drift into the area south of Paiute Creek.

TO: GRAZING SYSTEM TO BE IMPLEMENTED

A. Grazing Preference Status (AUMs)

1. Total preference	9,932
2. Suspended preference	6,382
3. Active preference	3,550
Active Use	2,154
Non-Use	1,396

B. Season of Use

Spring and Early Summer Use
03/15 to 07/15

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

D. Percent Federal Range - 97%

E. Grazing System

The grazing system listed below is for the next evaluation period and will be implemented over a five year period.

North Paiute Use Area

Low Elevation			
540 cattle	03/15 to 05/15	1068	AUMs
High Elevation			
540 cattle	05/16 to 07/17	1086	AUMs

Use will begin in the lower elevations east of the Leonard Creek Road. This area would include all the lower foothills and alluvial fans along the eastern portion of the allotment north of Paiute Creek that fall below 1550 meters in elevation.

Livestock use of the higher elevations will be deferred until after May 01 by salting and herding practices. The high elevation use area would include Paiute Creek above the drift fence and higher country above 1550 meters in elevation.

All livestock will be removed from the allotment prior to July 17 of each year. Winter use by livestock will not be authorized due to direct

conflicts with wildlife and wild horse use of the area during winter months.

South Paiute Use Area

As identified in the February 25, 1993 allotment evaluation for Paiute Meadows, the use area south of Paiute Creek is lacking in grass species due to excessive use by wild horses and livestock and the past six years of drought conditions. Livestock use will not be authorized in this area until the following specific criteria are met as determined by the District Soil Scientist and the range staff in the Paradise-Denio Resource Area.

Criteria

Utilizing the 1992 Ecological Site Inventory data collected in this allotment, three key range sites were selected from the soil mapping units that represented the majority of the use area. The range sites selected were ones that would respond to changes in management and represent various elevations. The following is a description of the range sites:

South Slope 12-16 P.Z. 023XY016NV ARVA2/AGSP
Soil Map Unit 177 write-up number DJ-60 will be used for monitoring. The reference site is DJ-54.

Loamy Slope 10-14 P.Z. 023XY039NV ARTR2/AGSP
Soil Map Unit 965 write-up number DJ-63 will be used for monitoring. The reference site is DJ-52.

Sandy 5-8 P.Z. 027XY009NV ORHY/STCO4
Soil Map Unit 378 write-up number DJ-27 will be used for monitoring. The reference site is DJ-10.

Criteria for Resuming Livestock Grazing

023XY016NV	Increase AGSP from 6% present by weight in the monitoring site to 15% by weight. Site potential for AGSP is 60 to 70%. AGSP reference site is 14%.
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023XY037NV

Increase AGSP from 2% present by weight in the monitoring site to 15% by weight. Site potential for AGSP is 40 to 60%. AGSP reference site is 22%.

Increase STTH2 from 3% present by weight in the monitoring site to 5% by weight. Site potential for STTH2 is 10 to 20%. STTH2 reference site is 6%.

027XY009NV

Increase ORHY from 6% present by weight in the monitoring site to 15% by weight. Site potential for ORHY is 50 to 70%. ORHY reference site is 12%.

The control sites (clipped plots) will be compared in the future with the ocular sites to determine progress. The first monitoring is scheduled for 1995.

The active use will be phased in using the following schedule:

<u>Year</u>	<u>Total Preference</u>	<u>Suspended Preference</u>	<u>Active Preference</u>	<u>Active Use</u>	<u>Non-use</u>
1993	9932	6382	3550	2500	1050
1995	9932	6382	3550	2686	864
1997	9932	6382	3550	2154	1396

Season of Use Phase In:

1993 and 1994	03/15 to 09/18
1995 and 1996	03/15 to 08/17
1997	03/15 to 07/17

1993 Grazing Schedule
North Paiute

Low Elevation

230 cattle	04/01 to 05/15	330 AUMs
540 cattle	05/16 to 05/31	276 AUMs

High Elevation

540 cattle	06/01 to 09/18	1894 AUMs
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1994 Grazing Schedule

North Paiute

Low Elevation

540 cattle 03/15 to 05/31 1343 AUMs

High Elevation

540 cattle 06/01 to 09/18 1894 AUMs

A specific grazing schedule for 1995 and 1996 will be determined after evaluating the 1993 and 1994 monitoring data.

Terms and Conditions:

Herding/salting practices are required and should be designed so that livestock drift does not occur into use areas not scheduled for use.

Salt and/or mineral blocks shall not be placed within one quarter (1/4) mile of springs, streams, meadows, riparian habitats or aspen stands.

You are required to perform normal maintenance on the range improvements as per your signed cooperative agreements prior to turning out.

Your certified actual use report by pasture is due 15 days after the end of the authorized grazing period.

2. Reconstruct the existing Soldier Meadows/Paiute Meadows drift fence from the Pine Forest Allotment south and extend the fence to Burnt Springs with offset gates at major horse trails.
3. Removal of the fence from the Paiute Seeding.

RATIONALE:

This carrying capacity was derived from monitoring data collected on the allotment from 1987 through 1990. Monitoring data has indicated that vegetative objectives are not being achieved in both the North Paiute and the South Paiute use areas of the allotment. Therefore, an adjustment is needed in the authorized use by livestock and the wild horse population size to achieve the thriving natural ecological balance of the allotment.

In addition, long term stream habitat objectives have not been met in the North Paiute use area. Previous to the transfer of the grazing preference to the current permittee, and authorization of 56% of the grazing permit, improvement in stream habitats was noted. A reduction in the season of use for livestock is necessary to ensure continued growth of riparian vegetation and improvement towards long term streambank riparian

habitat conditions in the absence of riparian habitat fences. The reduction in active use combined with the season of use will ensure that progress.

When monitoring indicates the vegetation has recovered south of Paiute Creek the permittee will be authorized to activate those AUMs placed in non-use before adjustments will be made to the wild horse AML.

Adjustments were made to the wild horse AML as described in the proposed decision, due to an adjustment in the amount of AUMs available for wild horses in the Soldier Meadows Allotment. This adjustment reduced the AML for the Black Rock Mountain HMA.

The reduction in the wild horse AML, resulted in an additional 372 AUMs available for livestock on the Paiute Meadows Allotment.

The season of use will be phased in from 03/15 - 09/18 to 03/15 - 07/17 to provide a period of adjustment in ranching operations for the permittee.

The reconstruction and extension of the Soldier Meadows/Paiute Meadows drift fence would stop livestock drift from Paiute Meadows into Coleman, Snow, Summer Camp and Mahogany Creek areas of the Soldier Meadows Allotment. The extension of the drift fence would run through the North Black Rock Wilderness Study Area (WSA NV-020-622). All surveys, designs, and environmental assessments will be coordinated with interested parties.

A solid fence, as opposed to "gap" fencing, would ensure that the livestock drift would be stopped. Wild horses would create trails around the "gap" fencing which the cattle would then follow.

Distribution data shows that when horse populations are within an acceptable level, the concentration of horses are on the southern end of the Paiute Meadows Allotment where most of the migration occurs, therefore, conflicts with wild horse migration and fencing north of Burnt Springs will be minimized.

A cost estimate has been prepared for reconstruction of the Paiute Seeding fence, this estimate approximates \$28,000. It does not appear to be logical to expend this amount of money on a seeding that is over 35 years old.

Therefore, removal of the Paiute Seeding boundary fence will reduce the existing hazard of tangled barbed wire to wildlife, wild horses, and livestock .

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)."

4100.3 "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.

4110.3-3(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 interests, actions shall be taken to close allotments or portions of allotments to grazing by any kind of livestock or to modify 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)."

4130.6-1(a) "The authorized officer shall specify the kind and number 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 4110.3-1 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..."

4160.3(c) "...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.

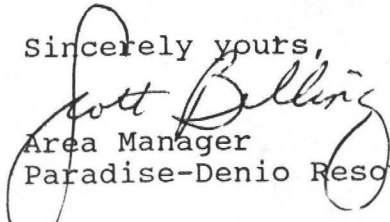
If you wish to appeal this decision for the purpose of a hearing before an Administrative Law Judge, in accordance with 43 CFR 4160.4 and 4.470, you are allowed thirty (30) days from receipt of this notice within which to file such appeal with the Paradise-Denio Resource Area Manager, Bureau of Land Management, Winnemucca District, 705 E. 4th Street, Winnemucca, NV 89445. An appeal shall state the reasons, clearly and concisely, as to why you think the decision is in error.

FUTURE MONITORING AND GRAZING ADJUSTMENTS

The Paradise-Denio Resource Area will continue to monitor the Paiute Meadows Allotment. The monitoring data will continue to be collected in the future to provide the necessary information for subsequent evaluations. 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 1994.

Sincerely yours,


Area Manager
Paradise-Denio Resource Area

certified cc: NRDC P111845580
Sierra Club-Toiyabe Chapter P111845581
Craig Downer P111845582
Wilderness Society P111845583
NV Outdoor Recreation Assoc. P111845584
Paul Clifford P111845515
Desert Bighorn Council P111845585
NDOW (Fallon) P111845586
John Marvel P111845589
Nevada Land Action P111845590
Thomas Van Horne P374309908
Andy Johas P374309909
William Cummings P374309910
NV Farm Bureau Federation P111845567
Nevada Cattlemen's Assoc. P111845568
USFW P111845569
Trout Unlimited, Sagebrush Chapter P111845542
WHOA P111845543
Animal Protection Institute P374309813
Commission for the Preservation of
Wild Horses & Burros P374309814
Inat'l. Society for the Protection of
Mustangs & Burros P374309815
American Horse Protection Assn. P111845573
US Humane Society P111845574
Claudia Richards P111845575
Daniel & Samye Ugalde P111845576
NDOW (Winnemucca) P111845577
Humboldt County Commissioners P111845578
Jerry Reno P111845579
Lyman Youngberg P111845587
Dan Russell P111845588



United States Department of the Interior

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TAKE PRIDE IN AMERICA

BUREAU OF LAND MANAGEMENT

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

IN REPLY REFER TO:

4130, 4160
(NV-024.14)

*add A.M.'s
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*h's down to 50
h's h's - emergency?*

APR 12 1993
MAY 12

*5 year to phase
in winter Dec.*

Coordination w/ other Dist.

CERTIFIED MAIL NO. P374309814
RETURN RECEIPT REQUESTED

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

Dear Ms. Barcomb:

On March 2, 1993, a proposed decision was issued to you for the Paiute Meadows Allotment. Protests of that decision were received from Nevada Department of Wildlife (NDOW) on March 10, 1993, Sierra Club on March 18, 1993, Commission for the Preservation of Wild Horses on March 18, 1993, the Law Offices of Thomas Van Horne on March 19, 1993, and the Nevada Outdoor Recreation Association on March 22, 1993.

The following are the points of protest as they pertain to the Paiute Meadows Allotment and also a response to those points. I am issuing these responses in hopes of providing a better understanding of the allotment evaluation process and the intent of the proposed decision.

NDOW Points of Protest

1. "The Proposed Decision modifies allotment specific objectives essential in determining stocking rates and appropriate management levels (AML) for livestock and wild horses, respectively."

Response: The stocking rates for livestock and the AML for wild horses are set by short term monitoring studies such as actual use, utilization, and climate. The short term objectives are used to evaluate whether or not the present management practices are adequate for achieving the long term objectives.

2. "Carrying capacities were computed improperly and not in accordance to Bureau of Land Management procedures."

Response: One of the prime considerations on which livestock reductions were based in the decision was the heavy and severe use on riparian habitats, particularly along the creeks. Carrying capacity was calculated at the 50% utilization level using heavy and severe use found along creeks and on the uplands. This is outlined in Technical Report 4400-7.

★

What about over-allocation while h's still there?

WHICH?

3. "Available forage was not allocated appropriately to range users or wildlife."

Response: The Bureau did not assume that the Land Use Plan initial numbers for wildlife, wild horses, and the actual preference for livestock were established at carrying capacity. For this evaluation period, we have concentrated our monitoring efforts on the vegetative resource that is being used by wild horses and livestock. The monitoring indicates that the use by livestock and wild horses should be decreased in order to meet our allotment specific objectives. Future monitoring will also include the vegetative resource used by wildlife. Hopefully, the Nevada Department of Wildlife will be able to supply the District with wildlife population information.

4. "The Final Decision must be Full Force and Effect."

Response: Consideration is being given to place the Final Decision for the Paiute Meadows Allotment in Full Force and Effect.

Sierra Club Points of Protest

1. "Without putting this decision in full force and effect, the BLM cannot effectively make any changes in livestock numbers or practices. While the 1991 decision was issued full force and effect in order to remove excess wild horses from this allotment, the proposed 1993 decision to protect the allotment from excessive livestock numbers and grazing practices which are damaging the environment is equally qualified to be full force and effect, and thereby implementable, whether appealed or not. Otherwise, the decision is a sham. If appealed, it will result in no on-the-ground improvements in resource conditions, no changes in livestock numbers or grazing practices, and continuing damage to public lands and resources by excessive ungulates."

Response: See response to NDOW Points of Protest #4.

2. "Inadequate use of monitoring data. Stocking rates were apparently estimated using only 1989 and 1990 monitoring data. The allotment evaluation clearly shows that heavy and severe livestock impacts were documented in 1991 and 1992. The carrying capacity calculation is therefore biased and inadequate to correct identified and documented livestock overgrazing problems."

Response: Stocking rates were determined using monitoring data from 1987 through 1990. Monitoring data collected in 1991 was incomplete. Therefore, it could not be used in the average/weighted average utilization formula. The utilization cages and wild horse key areas were checked in 1991 and this data reflected the same type of results as the 1987-1990 monitoring. The 1992 data could not be used, as the grazing season does not end until February 28 and the livestock actual use could not be completed until after this date.

3. "The proposed decision violates the agreement reached in 1991 between the Bureau and affected interests to coordinate management of wild horses between adjacent wild horse management areas in Paiute Meadows and Soldier Meadows. There is no evidence that necessary coordination has been done. Wild horse forage allocations are based on "data" which are not presented in the final Allotment Evaluation. Where is this "data"? The decision proposes to put livestock into the northern part of the allotment in a WMA in which wild horses are excessive and before excess numbers can be removed, thus making a gross overstocking problem even worse. And carrying capacity and allocation computations for wild horse AMLs were different for the two allotments."

Response: Both the Sonoma-Gerlach and the Paradise-Denio Resource Areas have worked closely on combining the Black Rock Range West and the Black Rock Range East HMAs. Therefore the final documents and multiple use decisions shall compliment one another.

4. "Again, no protection is provided for riparian areas in the northern part of the allotment from continuing livestock degradation. Instead, the decision relies on permittee "riding" and salting to prevent cattle from devastating riparian areas. Since the lack of active management has resulted in the current unsatisfactory conditions, why does the Bureau believe that relying on riding will actually protect public resources in the future? Has the permittee complied with terms and conditions of the permit, to date? Is there any record of trespass on the this allotment? What provisions has BLM made to ensure that riparian areas will be protected - additional monitoring, etc.?"

Response: The Proposed Multiple Use Decision issued on March 2, 1993, for the Paiute Meadows Allotment plainly states that corridor fencing shall be constructed on the North Fork of Battle Creek, due to riparian/aquatic conditions which did not meet management objectives. Also stated in the decision, wild horse and livestock use will be reduced, and the season of use for livestock will be changed to 3/15 to 7/15 to ensure that the streams receive minimal use by livestock during the hot season.

5. "While supporting the proposed reduction in livestock use, we believe that carrying capacity estimates are flawed and will result in continued overallocation of forage in this abused allotment. All of the monitoring data was not used. No provision is made for wildlife forage. The average/weighted average formula was used in this allotment which does not have uniform production or usage in any area, thus overestimating forage availability. And, lastly, the estimates do not consider riparian protection requirements in the calculations."

Response: The average/weighted average utilization formula is not based on uniform production or usage, but shows the Potential Actual Use, which is the level of use required to achieve the desired average utilization uniformly throughout the pasture, assuming utilization patterns could be uniform. Carrying capacity calculations were based on the heavy and severe use occurring in the riparian areas. The reduced use and the season of use adjustment for livestock should provide the necessary protection for the riparian areas.

6. "While we can support the concept of closing the So. Paiute use area to livestock grazing until this area - devastated by drought and excessive numbers of cattle and wild horses over the last two years - has recovered, we do not find any documentation in the proposed decision that the criteria for resuming livestock grazing have any scientific basis as a measure of satisfactory recovery. Will achievement of all of the 5 criteria result in good or excellent condition range? Is partial achievement or, euphemistically, "progress towards achieving" these vegetation objectives good enough to trigger BLM permission for grazing resumption? Exactly how will monitoring occur to evaluate whether vegetation objectives have been met?"

Response: The Public Rangelands Improvement Act of 1978 (PL 95-514) Sec. 2(b)(1) states, "The Congress therefore hereby establishes and reaffirms a national policy and commitment to: (1) inventory and identify current public rangelands conditions and trends as a part of the inventory process required by section 201(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711)" and Sec. 3(d) states, "The term "range condition" means the quality of the land reflected in its ability in specific vegetative areas to support various levels of productivity in accordance with range management objectives and the land use planning process, and relates to soil quality, forage values (whether seasonal or year round), wildlife habitat, watershed and plant communities, the present state of vegetation of a range site in relation to the potential plant community for that site, and the relative degree to which the kinds, proportions, and amounts of vegetation in a plant community resemble that of the desired community for that site."

Range sites and ecological site are synonymous as described in the National Range Handbook (NRH-1) Sec. 302.1 and BLM Manual H-4410-1 Sec.210.

The BLM adopted the range site (ecological site) inventory method for determining range condition, as described in the NRH-1, Sec. 300. The Nevada Rangeland Monitoring Handbook describes the purpose for determining ecological status from the ecological site inventory method, on page 6..."The primary purpose of determining ecological status in long term monitoring is to provide a basis for comparing or monitoring the extent and direction of changes in the plant community as a result of specific treatment or management. When establishing key area studies for native plant communities, the ecological status should be determined to facilitate monitoring the accomplishment of specific monitoring objectives.

7. "We object to the use of utilization "limits" as mere "targets" and not firm levels on which to change poor grazing practices or overgrazing. We question whether monitoring at the end of the grazing period will be sufficient to establish which ungulate is using the forage, especially if livestock use is ended before the grazing period is over. Please explain."

Response: Target utilization levels and allowable use levels are both terms used to define a desired use of forage species. Short term

utilization data (target utilization) will be used to determine needed adjustments in management actions and is used as the basis for adjusting grazing use. (BLM 1984 TR-4400-3)

Commission for the Preservation of Wild Horses Points of Protest

1. "For wild horses, wildlife, and livestock, you have stated that, "This carrying capacity was derived from monitoring data collected on the allotment from 1987 through 1990." Your data from those years indicated that vegetative objectives were not being achieved. In fact, in 1990, you reported 1% of the allotment in heavy to severe condition. This was prior to Mr. Russell taking possession of the allotment. Mr. Russell took over in 1990, by 1992 your data indicated the allotment went from 1% to 49% severely degraded."

"Why are you only analyzing data up to 1990? The allotment was not that severely damaged prior to that date. You are making use determinations for this 1993 and 1993 grazing seasons based on data prior to the permit transfer to Mr. Russell. We wonder what the evaluation would say if you include the 1991 and 1992 severely degraded and overuse years combined with the drought conditions? Please provide that data in your final document for inclusion in evaluating the current carrying capacity of the allotment."

Response: See responses to NDOW Points of Protest #2 and Sierra Club Points of Protest #5.

2. "Wild horses are scheduled for removal (subject to available funding), in the fall of 1993. Currently with the population of approximately 351 wild horses in Black Rock East, in addition to the permitted turnout of 2,054 AUM's of livestock prior to that removal, how will you still stay within the carrying capacity of the range. How will you provide for the additional AUM's necessary for the current population of 351 wild horses (4,212 AUM's), with the 2,054 scheduled AUM's necessary for livestock?"

Response: According to CFR 43 4110.3-3(a) "Changes in active use in excess of 10 percent shall be implemented over a five year period...." Due to this constraint, the reduction in AUMs for livestock is being phased in.

3. "We have one last question, on page 70, you responded to our question of evaluating both areas saying that "The Soldier Meadows allotment re-evaluation has been sent out for public comment." In checking with Tom Seley today (March 17, 1993), he notified me that Soldier Meadows will not be available until around September 30, 1993. How can your Resource Area staff evaluate data that the Sonoma Gerlach staff has yet to evaluate themselves?"

Response: The Soldier Meadows Draft Allotment Re-evaluation went out for public comment on January 12, 1993. Our office received comments from your organization, Commission for the Preservation of Wild Horses, for the Soldier Meadows Re-evaluation on February 12, 1992. The September 30, 1993 date is when the Final Re-evaluation and proposed action is expected to be through the Formal Section 7 Consultation with the U.S. Fish and Wildlife Service. The final re-evaluation and the proposed decision will then be issued.

Permittee Points of Protest (Thomas Van Horne)

1. "The objectives giving rise to the decisions are not the land use planning objectives. The objectives were not established in the development or revision of the allotment management plan subject to review by CRMP process. Thusly the allotment objectives giving rise to the decision are in violation of the land use plan."

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 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 its jurisdiction.

The Bureau's Range Manual 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.

2. "Utilization objectives should consider factors over a number of years and not for a single year."

Response: Monitoring data is collected over a period of years and is then evaluated to determine whether or not the short term objectives have been achieved and whether or not we are progressing towards the long term objectives.

3. "Trend studies have not been done by the Bureau of Land Management for the allotment and are necessary to properly evaluate the long term ecological condition of the allotment."

Response: The Nevada Rangeland Monitoring Handbook and BLM Manual both give guidance for use of short term monitoring data in evaluating progress towards meeting long term objectives. The key areas for trend (long term monitoring) will be established in 1993.

4. "The utilization data collected by the Bureau of Land Management is not sufficient to justify the decision in that its frequency of collection and methodology of collection is inadequate."

Response: You have not been specific enough with your comments for us to determine why the frequency of collection and the methodology of collection is inadequate.

5. "Utilization data does not address the climate related factors and are therefore insufficient."

Response: Climatic factors are taken into consideration at the time which the utilization data collected.

6. "The five objectives to be used in the re-definition of ecological status (objectives 2E through 2I) must be deleted until they are positively located and identified in the allotment and until the criteria for determining good condition for the various types are clearly identified."

Response: Ecological Site Inventory (ESI) data has been collected for this allotment. This inventory identifies the areas where these vegetation types occur and their condition. These objectives will be changed to reflect the desired plant community once the raw field data has been analyzed.

7. "The proposed criterion to improve or maintain stream habitat conditions is unnecessarily restrictive."

Response: The setting of livestock utilization standards within a grazing prescription is for the purpose of maintaining adequate riparian functionality. This must be done to accomplish two main criteria. First, time spent in the riparian zone must be low enough that mechanical damage by soil compaction and bank shearing are below the level that can be restored by normal channel evolution processes during the period before the next use by livestock occurs. Second, consumption of riparian plants must be low enough that the plants can maintain canopy cover to avoid warming of the stream water and ground cover and root mass (in the face of pressure from invading upland species) to prevent accelerated erosion, particularly during high flow events in the spring. As a corollary of the second criterion, stubble height of riparian graminoids must either be left sufficiently high to resist floodplain erosion and dissipate the energy of high flows, or be allowed sufficient time before cold weather slows growth processes so that the stubble height sufficient for that purpose can be restored by regrowth.

Satisfaction of the requirements of proper livestock management allows adequate riparian function. Sediment loads from normal erosion processes in the watershed are effectively filtered and bound so as to retard their movement and keep them below levels which would clog fish gills and the spaces between gravel which would suffocate trout eggs in spawning beds. Aggradation of the channel builds water depth in the channel, better allowing fish to withstand temperature extremes during

the summer and winter. Increases in the volume of fine-textured bank materials provides greater storage capacities for alluvial flows. This improves the regime of the system, decreasing the volume of erosive water during high flow events and increasing the volume of cool water available to sustain late summer flows when precipitation inputs are minimal.

8. "The proposed long term objectives regarding stream habitat conditions should not apply to streams except where a practical objective of establishing a meaningful fishery has not been duly adopted. The stream condition objectives are primarily designed for obtaining optimum fish habitat conditions. Streams not subject to a properly determined objective in the land use plan to establish an active fishery should not be considered as fisheries habitat."

Response: Objective WLA-1 in the Land Use Plan states, "Improve and maintain the condition of 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." Three major streams are located within the Paiute Meadows Allotment; Paiute, Battle, and Bartlett Creeks. Bartlett Creek currently supports a salmonid fishery. All three streams have been identified by the BLM Winnemucca District as "Proposed Lahontan Cutthroat Trout Habitats" and Battle Creek has been identified in the U.S. Fish and Wildlife Service Draft LCT Recovery Plan.

Even if the three major streams located within this allotment were not managed for active fisheries, they would undoubtedly be managed for properly functioning riparian systems.

9. "The primary use of water originating in the allotment is irrigation. Currently there is no fishery in the allotment, therefore water quality standard objectives related thereto should reflect the primary use (irrigation)."

Response: The primary use for water in the Paiute Meadows allotment is not only for irrigation. According to the 1989 NDOW stream survey report, Bartlett Creek supports an active trout fishery as well as a non-game fishery. Water quality standards for the Paiute Meadows allotment were designated according to the State criteria set for the following beneficial uses: livestock drinking water, cold water aquatic life, wading (water contact recreation), and wildlife propagation.

10. "The proposed decision does not set forth an adequate plan stating proposed ways to achieve the currently established objective of providing forage on a sustained yield basis for livestock with a stocking level of 7,827 AUM's."

Response: This objective should be met by reducing the wild horse population to an appropriate management level, reducing the number of livestock and the season of use, and closing the south end of the allotment until production (ESI) criteria has been met.

11. "Grazing adjustments are not based on the CRMP process."

Response: We have used an informal CRMP process in evaluating the allotment. This process has given the permittee and other interested parties an opportunity to provide information and to comment on a range of alternatives.

12. "Adjustments in livestock numbers should not be considered until excessive wild horses have been removed from the allotment. A fair and accurate assessment of livestock stocking rates cannot be conducted until wild horse numbers have been controlled. The Bureau of Land Management has refused to properly gather excessive horses pursuant to the commitment made in conjunction with the decision of November 22, 1991."

Response: The Paradise-Denio Resource Area, through evaluation of the monitoring data collected 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. This carrying capacity was calculated in accordance with BLM Manual 4400-7. The Bureau is striving to implement the Strategic Plan for management of the wild horses.

13. "Livestock grazing (legal multiple use) should not be replaced by wild horse grazing (another legal multiple use)."

Response: Based on the monitoring data, both the livestock and wild horse use are being reduced to stay within the carrying capacity of the allotment.

14. "A total carrying capacity of the allotment is substantially higher than that proposed by the proposed decision."

Response: See response to #12.

15. "The grazing system for the north and south Paiute use areas is inconsistent with the established seasons of use and impractical."

Response: We have tried to design a system that will benefit the resources within the allotment along with being compatible with the livestock operation.

16. "The constraint against grazing in the south Paiute area does not fulfill multiple use criterion as it allocated all forages to horses and the criterion for re-establishment of grazing is insufficient and not consistent with the established rules of the land use planning process."

Response: The constraint against livestock grazing in the Southern use area of the Paiute Meadows allotment was issued to prevent further resource damage from occurring. When monitoring data shows that there is available forage, the AUMs in non-use for livestock will be activated, before any AUMs are given to wild horses.

17. "The reconstruction of the existing drift fence as stated in the proposed decision fails to allocate responsibility for construction and maintenance between the appropriate parties."

Response: The assigning of maintenance responsibility for projects is completed during the project planning through a cooperative agreement.

18. "The removal of the fence from the Paiute seeding will destroy an established range improvement which was established and has been supported by a combination of private and public funds for many years."

Response: All range improvements have a life expectancy for the initial dollar investment. In this case, the Paiute seeding was first seeded in 1954 followed by a partial reseeding in 1956. The initial fence around the seeding was constructed in 1955 with an interior division fence constructed in 1957 to protect the reseeded area.

A cost estimate to reconstruct the fence has been prepared, with the estimated cost being \$27,930.00.

With a seeding that is over 35 years old, it seems that an additional investment of almost \$28,000.00 would not be cost effective.

19. "The elimination of winter use by livestock is inconsistent with the existing grazing season of use and is inappropriate in that it proposes winter use by horses in areas beyond historical horse use areas."

Response: Winter use has not been a part of the normal grazing system for this allotment. The normal use period has been May to November each year.

20. "The proposed decision causes each of the protesting parties irreparable economic harm."

Response: We are phasing the reduction in active use in over a five year period so that adjustments in the livestock operation can be made. If these adjustments are not made then damage of the natural resources will continue.

21. "The proposed decision is inconsistent with the full force and effect decision issued November 22, 1991 vacated by decision May 11, which decision to vacate has been appealed. This proposed decision is unwarranted and untimely until such appeal has been resolved."

Response: The November 1991 Decision was vacated and is null and void. The second draft evaluation of the Paiute Meadows allotment, contains additional data, and the carrying capacity for the allotment was recalculated. Therefore, the proposed decision for the Paiute Meadows allotment has also changed.

22. "All inconsistencies between the full force and effect decision of November 22, 1991 and this proposed decision should be governed by the full force and effect decision pending resolution of such appeal."

Response: See response to #21.

23. "The Bureau has established an appropriate management level of 59 horses and that level has been established to be the "thriving natural ecological balance" of the area pursuant to a properly issued full force and effect decision by the bureau. This proposed decision to increase the number of horses and combine the herd management areas is not supported by the planning process, adequate facts, and is not procedurally correct under the circumstances. The proposed combination of the herd management areas brings together management by different offices of Bureau of Land Management and will make overall management of the horse herds impossible."

Response: The Bureau identified a population of wild horses that was present within the allotment on July 1, 1982 as a starting point for monitoring if an AML had not been established by some other mechanism.

We have used our vegetative monitoring data to establish a carrying capacity for livestock and wild horses within each allotment. From this information we determined the number of adult wild horses that would be appropriate in order to meet the objectives of each allotment.

Our monitoring data indicates that the wild horses are moving between the Black Rock Range East and the Black Rock Range West HMA's, so the Bureau has elected to manage them as one unit with one AML. The census and distribution data over a period of time indicates that the wild horse population tends to distribute itself evenly through the two herd areas.

Therefore, we have determined the number of horses that are likely to use the vegetative resource in each area and subtracted those AUMs from the calculated carrying capacity.

24. "The proposed decision does not limit the use of horses to historically established areas. To the contrary, the proposed decision allocates forages to horses in areas beyond the established historical use and is thusly inconsistent with the land use plan objectives and the duty of the bureau to "maintain wild horses and burros on public lands where there was wild horse or burro use as of December 15, 1971 and maintain a natural ecological balance on the public lands." Any proposal to increase the appropriate management level of horses without a concrete methodology of constraining the use to historical areas will simply increase the use beyond those historical areas and is therefore contrary to the planning process and contrary to law."

Response: Boundaries of wild horse use areas were established in the 1981 Paradise-Denio Grazing EIS. These boundaries encompassed the known horse use areas at the time the Wild Horse and Burro Act was passed. All lands within the Black Rock Range East HMA boundary are "historical use areas." Likewise, the Black Rock West HMA boundary as delineated in

the Sonoma-Gerlach Grazing EIS represents the historical use in that area. The animals outside the historical use area are most likely using the area because of the population level at the current time. As the population is reduced, the Bureau would expect the remaining horses to use the historical areas.

25. "The proposed decision is contrary to the Wild Free Roaming Horse and Burro Act in that it fails to adequately balance horse use with other uses."

Response: The proposed decision allocates forage among all consumptive users: wild horses, livestock so as not to exceed the determined carrying capacity of the allotment. Wildlife are not allocated AUMs, instead reasonable numbers have been carried forward from the Land Use Plan. The Bureau is trying to balance the wild horse use and the livestock use with the available forage resource.

26. "A decision regarding number of horses and use thereby is insufficient in that it does not take into account the fact that horses consume more hoards per animal than other uses."

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.

27. "The proposed adjustment to the appropriate management level must be done through a proper land use planning process and not by decision. To the extent that determinations regarding horse use in appropriate numbers were dependant upon the population model for wild horses as described in the Paiute Meadows Draft Allotment Evaluation, the conclusions therefrom are invalid as the model is in error."

Response: The AML for the Paiute Meadows allotment has been set through the evaluation process. This is consistent with the MFP III at WHB 1.1. This process is considered an informal CRMP process with all affected interests involved. The population model was not used to determine the AML for wild horses on the Paiute Meadows allotment. It was included in the document to show the potential amount of wild horse gathers and years it will take to achieve the AML from the current population of wild horses based on the "Strategic Plan for Management of Wild Horses and Burros on Public Lands".

Points of Protest from Nevada Outdoor Recreation Association, Inc. (NORA) and Paul C. Clifford, Jr.

1. "Notification of interested parties. BLM districts routinely send notification of all matters relating to and affecting Wilderness Study Areas to recognized interested parties. Mr. Clifford is such an interested party as an individual. The Nevada Outdoor Recreation Association is a recognized interested party as an organization. The management of this allotment directly affects the Black Rock Desert WSA's and, if Mr. Clifford's experience is typical, wilderness interested parties were not notified and therefore could not participate

in the public input on the Multiple Use Decision (MUD). Therefore, the requirement of public input has not been met, and the MUD should be set aside until this deficiency is remedied as required by NEPA and FLPMA. If wilderness issue oriented interested parties were involved, why was Mr. Clifford not on the mailing list?

Response: On October 2, 1992, the Bureau of Land Management sent letters to interested parties informing them of the evaluation process for Paiute Meadows allotment. This letter was sent to the Nevada Outdoor Recreation Association (NORA). We did not receive a response from NORA indicating that they wanted to participate in the evaluation process. Individuals and associations that want to participate should respond to our letters so we can be made aware of their interest to participate.

2. "The multiple use management objectives under which grazing on the allotment will be monitored and evaluated in the short term (a,b, and c) are inappropriate because they do not meet requirements of CFR Title 43 4100.0-8, 4110.3, and 4110.3-2(b) among others because the proposed criteria as stated are insufficient to determine the state and/or trend of the affected range on either a short or long term basis. This deficiency is the result of the failure of the objectives to establish a definitive basis for evaluation. As stated in the MUD, the objective is to monitor the percent of utilization of key species during the grazing period. No mention of the amount of the given species actually present at the start of the grazing period, or relative to previous years, is specified. Both are critical. If the observed level of utilization is sufficiently severe, a reduced level of effective germination and growth will result in a reduced basis the following and subsequent grazing periods without necessarily violating the objective of the specified percentage of utilization. That this can be a real problem is demonstrated by the fact that livestock and wild horse grazing has effectively removed grass as a usable resource in the south pasture of this allotment. Under CFR 4110.3, the MUD must be set aside until meaningful evaluation objectives have been established."

Response: Approximately 30 utilization cages have been placed at strategic points within the Paiute Meadows allotment. These cages are over the key forage plants that are representative to that area. Utilization is determined by comparing the stubble height of the plants outside the cages with the vegetative growth within the cage that represents a particular area.

3. "The multiple use management objectives under which grazing on the allotment will be monitored and evaluated in the long term (items a, c, e, f, g, h, i) are inappropriate because they do not meet requirements of CFR Title 43 4100.0-8, 4110.3 and 4110.3-2(b) among others because of the proposed criteria as stated in the MUD are insufficient to determine the state and/or trend of the affected range on either a short or long term basis. This deficiency is the result of the failure of the objectives to establish a definitive basis for evaluation. The terms "poor", "fair", "good", and "excellent" have no evaluative utility as employed in these criteria. The terms are not defined in the document, nor are they referenced to regulatory definitions. As a result, there

is no statement of current conditions of the health of the range, and there is no meaningful way to determine if objectives have been or are being met. The MUD must be set aside until such time as current base conditions have been adequately described, and objectives posited which can be numerically or objectively evaluated.

Response: See response to Permittee Points-of-Protest #6.

4. "The methodology of determination, and hence the resulting carrying capacity of the allotment for livestock and wild horses are inaccurate and inappropriate."

Response: Refer to NDOW protest point #2.

5. "The Wildlife Management Decision proposes to construct corridor fencing on the North Fork of Battle Creek with the ultimate goal of reintroduction Lahontan cutthroat trout. We wish to protest this fencing as inadequate unless it comprises an actual, physically effective enclosure. If it is an adequate enclosure for livestock and wild horses, some means must be found to provide water for livestock and wild horse other than periodic sacrifice zones usually called "water gaps". Water gaps are unacceptable because they do not protect the riparian values where the gaps occur and will lead to significant degradation of stream quality down stream will beyond the water gap. Further, the permittee must agree to maintain, and in fact maintain the enclosure in an effective state of repair under the express penalty of suspension of grazing privilege, if the fence is not maintained, under authority of CFR 43 1725.3-3(b), 4100.0-8, and 4110.3-3(c). Similarly, and under the same authority as above, the enclosure proposed but not recommended for Bartlett Creek must be constructed so as to protect both the existing fishery and riparian values. Only an impractical level of herding will consistently keep livestock and wild horse use of such a riparian area to acceptable levels in a desert environment. This fence too must be maintained by the permittee."

Response: Leaving water gaps is a part of our design philosophy for enclosures along a stream. The enhanced riparian conditions in the enclosure will offset the use within the water gaps. We have stated in the rationale of the selected management action that we feel the shortened season of use will be enough to stimulated the riparian response in Bartlett Creek.

6. "The Wild Horse Management Decision proposes to schedule a removal for the fall of 1993 to reduce the population of wild horses to the Appropriate Management Level if funding is available for such a gather. This portion of the decision is incompatible with CFR 43 4720.1 which mandates that the authorized officer shall remove the excess animals immediately...One might delay to ensure the welfare of the underlying resource until the fall for the protection of mares and foals, but there is no leeway granted for the availability of funding. Under the regulation a gather is mandated, and must move forward if the District has any funds for anything. The removal under a full force and effect decision is further required by CFR 43 4770.3(c) because of undue and unnecessary degradation of the range resource due to illegal excess horses."

Response: We do have some direction given to us for expenditure of funds from other activities. Each program has its priority projects that need to be accomplished. Due to the large wild horse population in Nevada, under the Strategic Plan, horse removals will occur in 1/3 of the state each year. Prioritization for gathers is determined yearly.

7. "The Livestock Decision proposes a period of use which is unacceptable. As raised in Issue #3 above it is problematic if ANY period of use can permit the recovery of the range resource as set forth in the objectives. The proposed period of use will impact the plants every year just as they are trying to establish vigor in the spring and early summer. On the north pasture there will be little opportunity for grasses to set and ripen seed. This will adversely affect other multiple uses and is precluded under CFR 43 4100.0-8."

Response: Our season of use will account for your concerns. By removing livestock from the lower area by May 15th, and the higher elevations by July 15, we are allowing regrowth on the vegetative resource.

8. "The period of use has an additional problem. The MUD represents a contract between the BLM, the public and the permittee. In order for a contract to be enforceable, it must be able to be performed. As set forth, the decision calls for the permittee to instantaneously remove 500 to 700 cattle from the lower north use area by 12 midnight of 5/15 of each year, but does not permit him to put them anywhere reasonable as he cannot legally occupy the upper north use area until 12:00:01 AM 3/16 of each year. This clause of the decision is not practicable unless the permittee entirely removes all livestock from the allotment before he must vacate, and then return them only to the upper north use area on or after 3/16. This is unnecessary and stupid. Sloppy contract writing invites abuse. The permittee must have a period of grace in which to legally and practically move his stock from one pasture to the other. This period must be spelled out in the contract, and limit the total number of head in both pastures to the number then legally allowed in the allotment."

Response: The turnout date for the low elevation will be March 15 through May 15, which during this time the livestock are gradually moving up in elevation. Then from May 16 through July 15 the livestock utilize the high elevations in the North Paiute Use Area. It is up to the permittee to gradually remove the livestock and be off the Paiute Meadows allotment by July 15. There are no pastures within the allotment, just established use areas.

9. "The Criteria for Resuming Livestock Grazing on the south use area are fatally flawed. As in Issue 2 above, only percentages are specified. One must define a percentage as a per hundred of WHAT. The criteria may say by weight - by weight of what? Even if "what" is defined, it is not sufficient. As a practical evaluation tool either the overall composition or seral stage must be stated in order to evaluate progress. If all the plants were effectively removed, say by fire, and a few bunches of grass per acre came up, the criteria of resumption have been met, even if there are no actual AUM's present! In order to resume

grazing, one must specify both the desired seral stage and the desired actual AUM's available per acre or total pasture as criteria for resumption of grazing. Such an approach is mandated by CFR 43 4100.0-8, 4110.3, and 4110.3-2(b) among others."

Response: The National Range Handbook states in Section 606.4:

Inventorying Composition for Conservation Planning

Making a range condition inventory involves determining the species composition for each range condition class of each range site in a pasture. This can be determined by:

- (a) Directly estimating total production per acre and production by species and then converting to percentage composition,
- (b) Estimating and harvesting or estimating a series of plots in the area to determine production by species and then converting to percentage composition, or
- (c) Directly estimating species composition percentages of the entire areas as a unit.

During conservation planning, it is often necessary to determine plant composition when plant growth is not ideal for making such determinations. Some pastures are grazed at the time of planning. In other places, estimates must be made at different stages of plant growth or when plant vigor varies from pasture to pasture. In some years production is obviously much higher or lower than normal because of weather extremes. In making production estimates, therefore, it is often necessary to mentally reconstruct plant growth as it would most likely appear if undisturbed at the end of an "average" growing season.

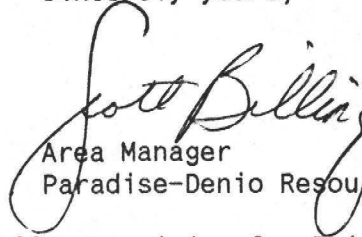
Also see response to Sierra Club point of protest #6.

10. "In determining appropriate livestock levels there are two potential adjustments which must be made to the determined carrying capacity. One is the contribution of forage from non-BLM lands to the forage base. In the case of the Paiute Meadows Allotment 97% and BLM and 3% other. Distribution of AUM's by use area and ownership must be evaluated if this allowance is to be taken and the AUM's increased. The non-BLM land may be better, the same, or worse. The other adjustment is the period of use. The BLM uses a period of 30.4167 days per month in computing the AUM. There are 62 days of permitted operation between 5/16 and 7/15 inclusive. An animal would therefore use 2.038 AUM's during the first period and 2.005 AUM's during the second. If either of these adjustments are used to determine allowable stocking level (and both should be the ideal case) then they must be set forth and accounted for in the MUD. If these adjustments were not used in the MUD, the AUM's and stocking levels are not arithmetically consistent in the MUD. The final MUD must fully set forth the criterion and mathematics for arriving at allowable livestock use levels. The public must also be informed of the partitioning and AUM value of non-BLM lands and the basis of that evaluation.

Response: The carrying capacity for the allotment was calculated using only the BLM lands which comprise 97% of the allotment.

Thank you for your participation in helping to evaluate the Paiute Meadows allotment. If you have any questions, you may refer them to Bob Hopper at (702) 623-1500.

Sincerely yours,

A handwritten signature in cursive script that reads "Scott Bellin". The signature is written in dark ink and is positioned above the typed name and title.

Area Manager
Paradise-Denio Resource Area

Enclosure - Final Full Force and Effect Decision for Paiute Meadows dated April 12, 1993