10/17/03

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
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In Reply Refer To:
4160.1
(NV022.15)

OCT 17 2003

CERTIFIED MAIL NO 7000 0500 0000 9663 4067
RETURN RECEIPT REQUESTED

PROPOSED MULTIPLE USE DECISION
SOLDIER MEADOWS ALLOTMENT

Estill Ranches, LLC.
John Estill
P.O. Box 655
Eagleville, CA 96110

Dear Mr. Estill:

BACKGROUND

The Sonoma-Gerlach Final Environmental Impact statement was issued on 09/18/81. The Sonoma-Gerlach Management Framework Plan Record of Decision was issued on 07/09/82. The Allotment Evaluation and Multiple Use Decision were issued in January 1994. These documents have guided the management of public lands within the Soldier Meadows Allotment (SMA) to date.

Monitoring data has been collected on this allotment in accordance with Bureau policy and regulations. This data has been evaluated in order to determine if current management is attaining the allotment objectives and Standards for Rangeland Health (SRH) in the SMA. The Final Allotment Re-evaluation, Determination and Management Action Selection Report (MASR) were completed and mailed to you on March 3, 2003. The Determination document determined that allotment objectives and SRH were not achieved under the existing management and that livestock grazing was a significant factor in that non-attainment. The SMA Environmental Assessment (EA) analyzed livestock grazing alternatives that were developed to achieve the allotment objectives and SRH. This EA was mailed to you on March 10, 2003, for your review and comment.

Due to the existing and potential habitats for threatened fish species, Lahontan cutthroat trout, and desert dace, the BLM entered into formal consultation with the U.S. Fish and Wildlife Service (Service) for the proposed livestock grazing system. With this in mind, the WFO received a Biological Opinion (BO) dated August 14, 2003, which stated that "...it is the

Service's biological opinion that the 2003-2013 livestock grazing system for SMA, as proposed, is not likely to jeopardize the continued existence of the threatened LCT or the threatened desert dace."

Seventeen (17) comment letters were received on the above- mentioned EA. After review of specific public comments on the EA, the BLM grouped them into four (4) broad categories: (1) Monitoring, (2) NEPA/Planning, (3) Sensitive Species, and (4) Outside of Scope of EA.

A summary of the comments in those response categories follows:

Monitoring – The majority of comments received on the EA dealt with monitoring. These comments stated that there was a lack of key areas, or insufficient site specific vegetative, water quality and riparian monitoring data. Other comments were inadequate inventories and/or analysis of weeds, soils, bats and cultural resources and some comments indicated that certain objectives, such as 6 inch stubble height were unreasonable.

Monitoring data was collected on the allotment during the allotment re-evaluation period. This data was analyzed, interpreted and evaluated to determine the attainment and/or non-attainment of allotment specific objectives and SRH. A monitoring term and condition has been included in the Proposed and Final Multiple Use Decisions.

The Winnemucca Field Office will continue to monitor the SMA. 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 and the SRH are being achieved or there is significant progress toward attainment under the new grazing management strategy. In addition, these subsequent evaluations will determine if adjustments are required to meet the established allotment specific objectives and SRH.

NEPA/Planning – Several comments on the EA were made regarding the National Environmental Policy Act (NEPA) and Land Use Plans (LUPs). There were comments that the LUPs were outdated, therefore, necessitating an Environmental Impact Statement. Other comments were that the NEPA grazing alternative(s) analysis was inadequate and BLM did not allow thirty (30) days for review, inadequate NEPA analysis of proposed fences, drought, wilderness, livestock impacts to wildlife and wild horse/burro. There were also comments that BLM had not complied with the Nevada Water Quality Standards, Standards of Rangeland Health, Land Use Plan, Stipulated Agreements, and existing Multiple Use Decisions. A few comments alleged violations of the grazing regulations and inadequate responses to livestock trespass.

The EA for the SMA complies with NEPA and associated Council of Environmental Quality regulations (40 CFR 1500-1508). The BLM used a systematic, interdisciplinary approach to evaluate environmental impacts from the proposed action and encouraged public participation. In addition, BLM rigorously explored and objectively evaluated reasonable alternatives as required under 40 CFR 1502.14(a). The proposed action and alternatives on BLM administered lands are in conformance with the Paradise-Denio Land Use Plan and Sonoma-Gerlach Land Use Plans approved in 1982. Currently, the WFO is in the progress of developing a new Land Use Plan for lands administered by BLM. It is anticipated that the plan will be completed in 3-4 years.

Sensitive Species – Some comments on the EA were made concerning sensitive species issues on the SMA. These comments ranged from alleged violations of the Endangered Species Act (ESA) to inadequate analysis of Special Status Species such as sage grouse, hydrobiid snails and neotropical migrants.

During the allotment re-evaluation process, the WFO requested and received a sensitive species list from the Service. Sensitive species were addressed and analyzed in the EA. Furthermore, the Determination/Management Action Selection Report also addressed sensitive species.

Along with this, the proposed livestock grazing system is in conformance with the Interim Sage Grouse Guidelines Strategy since it incorporates allotment objectives that will improve and/or maintain suitable sage grouse habitat.

As noted above, BLM complied with the ESA by reinitiating formal section 7 consultations, which resulted in the Service issuing a no jeopardy BO.

Outside of the Scope of the EA – A few comments were received that were considered to be outside the scope of analysis that took place in the EA. Comments considered outside of the scope dealt with the following issues: National Conservation Area (NCA), Off Road Vehicle (ORV), Dude Ranch, Fire Prevention, Fifth Amendment of Constitution Violation, Nevada Department of Wildlife (NDOW)/Private Land Owner Agreement, Conservation Easement, and Access.

Based upon consideration of comments received on the EA and draft BO, and meetings with you, we have selected the fall/winter/early spring grazing alternative with modified use areas and subject to the allotment objectives/SRH and terms & conditions which are described below. BLM believes this grazing system will result in significant progress toward attaining the allotment specific objectives and SRH.

The following are the multiple use allotment objectives and SRH under which grazing on the SMA will be monitored and evaluated:

A. Short Term Objectives:

1. Grazing on Colman and Donnelly Creeks would be permitted under all or a portion of the criteria, which BLM will determine are applicable based on site potential and stream characteristics:

    a. Riparian herbaceous utilization would ensure a 6-inch stubble height is left when livestock are removed from Colman Creek; and/or

    b. Riparian herbaceous utilization would ensure a 4-inch stubble height is left when livestock are removed and a 6-inch stubble height remains at the end of the growing season on Donnelly Creek; and/or

c. Within all use areas, utilization would not exceed 30 percent on willow species greater than 5 feet in height, 20 percent on willows less than 5 feet in height, and 10 percent on any height of aspen species; and/or

d. Streambank alteration would not exceed 10 percent.

2. The objective for utilization of key plant species in wetland riparian habitats is fifty percent (50%) for sedges (Carex spp.), rushes (Juncus spp.) and bluegrass (Poa spp.).

3. The objective for utilization of key plant species in streambank riparian habitats on lotic systems, which are not specified above, is thirty percent (30%) for sedges (Carex spp.), rushes (Juncus spp.) and bluegrass (Poa spp.).

4. The objective for utilization of key plant species in upland habitats is fifty percent (50%) on the following: bluebunch wheatgrass (Agropyron spicatum), serviceberry (Amelanchier), curlleaf mountainmahogany (Cercocarpus ledifolius), basin wildrye (Elymus cinereus), ephedra (Ephedra), winterfat (Eurotia lanata), Idaho fescue (Festuca idahoensis), meadow barley (Hordeum brachyantherum), Baltic rush (Juncus balticus), lupine (Lupinus caudatus), Indian ricegrass (Oryzopsis hymenoides), bluegrass (Poa), Nevada bluegrass (Poa nevadensis), Sandberg bluegrass (Poa secunda), antelope bitterbrush (Purshia tridentata), bottlebrush squirreltail (Sitanion hystrix), needleandthread (Stipa comata), Thurber needlegrass (Stipa thurberana),and snowberry (Symphoricarpos).

B. Long Term Objectives:

1. Manage, maintain, or improve rangeland conditions to provide forage on a sustained yield basis for big game, with an initial forage demand of 786 Animal Unit Months (AUMs) for mule deer, 429 AUMs for pronghorn, and 264 AUMs for bighorn sheep.

   a. Improve or maintain good to excellent mule deer habitat conditions.

   b. Improve or maintain fair to good pronghorn habitat conditions.

   c. Improve or maintain good to excellent bighorn sheep habitat conditions.

2. Improve and/or maintain suitable sage-grouse strutting, nesting, brood rearing, and/or wintering habitat in good condition within the site potential of the rangeland habitat.

   The following parameters have been found to constitute optimum (good) conditions for sage-grouse use:

   Strutting Habitat

   Low sagebrush or brush free areas for strutting and nearby areas of sagebrush having 20-50% canopy cover for loafing.

Nesting Habitat

1. Sagebrush between 7 and 31 inches in height (optimum= 16 inches).
2. Sagebrush canopy cover of 15-30% (optimum = 27%).
3. 25-35% basal ground cover.
4. Average understory height of 6-7 inches (grasses).

Brood Rearing Habitat

Early Season

1. Sagebrush canopy cover 10-21% (optimum = 14%).

Late Season

1. Meadow areas that are in functioning condition.
2. Residual meadow vegetation of no less than 3-6 inches in height.

Winter Habitat

1. Greater than 20% sagebrush canopy cover.

3. Improve and/or maintain public rangeland conditions to provide forage on a sustained yield basis for livestock.

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

   a. Manage, maintain, or improve public rangeland conditions to provide forage on a sustained yield basis for wild horses.

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

5. Improve and/or maintain ceanothus (Ceanothus), mahogany (Cercocarpus), serviceberry (Amelanchier), bitterbrush (Purshia tridentata), ephedra (Ephedra), winterfat (Eurotia lanata) and aspen (Populus tremuloides) habitats by allowing for successful reproduction and recruitment based on site potential.

6. Improve and/or maintain riparian and meadow habitat types to ensure species diversity and quality and to maximize reproduction and recruitment.

7. Improve and/or maintain fisheries habitat in good to excellent condition based upon stream potential.

8. Improve and/or maintain lentic and lotic riparian habitats to Properly Functioning Condition (PFC).

9. Numbers of wild horses will be managed at or below Appropriate Management Level (AML) within the Black Rock Range West, Warm Springs and Calico HMAs. Gathers will occur periodically as needed when monitoring reveals numbers are approaching or exceeding AML.

WATER QUALITY OBJECTIVES

1. Maintain Mahogany Creek and Summer Camp Creek to the State of Nevada designated Class A water standards.

2. Prevent Bureau authorized activities from degrading the natural quality of water. The Bureau will use the State's water quality criteria, found at NAC 445A.119, as benchmarks to determine whether or not the objective is being met.

3. The criteria for watering of livestock, coldwater aquatic life propagation, water contact recreation and wildlife propagation shall be applied to the following sources:

   Snow Creek
   Donnelly Creek
   Colman Creek.

4. The criteria for watering of livestock, water contact recreation and wildlife propagation shall be applied to the following sources:

   Slumgullion Creek
   Soldier Creek

C. STANDARDS AND GUIDELINES OF RANGELAND HEALTH

1. Soil processes will be appropriate to soil type, climate and land form.

2. Riparian/wetland systems are in properly functioning condition.

3. Water quality criteria in Nevada or California State Law shall be achieved or maintained.

4. Populations and communities of native plant species and habitats for native animal species are healthy, productive and diverse.

5. Habitat conditions meet the life cycle requirements of special status species.

D. LIVESTOCK GRAZING DECISION

Based upon the evaluation of monitoring data for the SMA, consultation with the permittee, Service and other interested publics, NEPA analysis, consideration of comments received on the EA, and recommendations from my staff, it is my proposed decision to change the management of livestock as follows:

FROM: Description of Existing Use

1. Grazing Animal Unit Months (AUMs)

a.	Total Preference	16,070
b.	Suspended Preference	3,902
c.	Active Preference	12,168
d.	Not Scheduled	4,481
e.	Exchange of Use	0
f.	Scheduled Use	7,687

2. Season of Use — 07/15 to 10/14, 11/16 to 04/30

3. Kind and Class of Livestock — Cow/Calf

4. Percent Federal Range — 100%

5. Grazing System

Table 1 - Existing Grazing System

YEARS 1 & 2

Use Area	No.	Kind	Period of Use	%PL	AUMs
Black Rock	500	Cows	01/01 to 03/31	100	1496
Soldier Meadow			Nonuse/Rest		
Summit Lake			Nonuse/Rest		
Calico	1117	Cows	04/01 to 04/30	100	1120
Warm Springs	1117	Cows	07/15 to 10/14	100	3379
Hot Springs	1117	Cows	11/16 to 12/31	100	1689
					Total 7649

YEARS 3 & 4

Use Area	No.	Kind	Period of Use	%PL	AUMs
Black Rock	500	Cows	01/01 to 03/31	100	1496
Soldier Meadow	1117	Cows	04/01 to 04/30	100	1120
Summit Lake	1117	Cows	07/15 to 10/14	100	3379
Hot Springs	1117	Cows	11/16 to 12/31	100	1689
Calico			Nonuse/Rest		
Warm Springs			Nonuse/Rest		
					Total 7649

TO: **Grazing System To Be Implemented:**

1. Grazing (AUMs)

   a. Permitted Use 16,070
   b. Historical Suspended 3,902
   c. Active AUMs 12,168

2. Season of Use 10/01 to 04/30

3. Kind and Class of Livestock Cow/Calf

4. Percent Federal Range 100%

5. Grazing System

Table 2 - Proposed Grazing System

Year	Pasture/Use Area	Livestock	AUMs	Period of Use	Resource Criteria or Restriction[a]
1 & 2	North	1097	3859	10/01-1/15	See footnote *a* & *b*
	South	1097	3823	1/16-4/30	See footnote *a* & *b*
	Stanley Camp Riparian	0	0	NONUSE	Resource Protection Closure
		Total	**7682**		
3 & 4	North	1258	4425	10/01-1/15	See footnote *a* & *b*
	South	1258	4384	1/16-4/30	See footnote *a* & *b*
	Stanley Camp Riparian	0	0	NONUSE	Resource Protection Closure
		Total	**8809**		
5 & 6	North	1418	4988	10/01-1/15	See footnote *a* & *b*
	South	1418	4942	1/16-4/30	See footnote *a* & *b*
	Stanley Camp Riparian	0	0	NONUSE	Resource Protection Closure
		Total	**9930**		

[a] All use areas are subject to the allotment objectives and the Standards for Rangeland Health in addition to the resource concerns or restrictions related to LCT or desert dace.

[b] Livestock grazing is subject to utilization criteria for riparian herbaceous and/or woody vegetation and bank alteration criteria on potential or occupied LCT streams. If criteria are exceeded at the end of the authorized period of livestock use, Term and Condition 4a shall be implemented prior to the next grazing season to insure objectives are met.

7 & 8	North	1578	5551	10/01-1/15	See footnote *a* & *b*
	South	1578	5499	1/16-4/30	See footnote *a* & *b*
	Stanley Camp Riparian	0	0	NONUSE	Resource Protection Closure
		Total	**11050**		
9 & 10	North	1737	6110	10/01-1/15	See footnote *a* & *b*
	South	1737	6053	1/16-4/30	See footnote *a* & *b*
	Stanley Camp Riparian	0	0	NONUSE	Resource Protection Closure
		Total	**12163**		
LIVESTOCK ARE OFF THE PUBLIC LAND PORTION OF THE ALLOTMENT FROM 5/1 TO 9/30					
*THE PROJECTED INCREMENTAL INCREASES IN LIVESTOCK/AUMs ARE CONTINGENT ON THE ATTAINMENT OF THE CRITERIA NOTED IN PROPOSED ALLOTMENT TERM AND CONDITION 2. *NON-ATTAINMENT OF PROPOSED ALLOTMENT TERM AND CONDITION 2 WOULD RESULT IN LIVESTOCK/AUMs REMAINING AT PREVIOUS YEAR LEVELS AS INDICATED ABOVE OR LESS BASED ON IMPLEMENTATION OF PROPOSED ALLOTMENT TERM AND CONDITION 4a.					

RATIONALE:

This modified grazing management system is the result of extensive analysis of grazing management alternatives in the SMA Environmental Assessment (EA) and public comments thereto, in accordance with (NEPA). Specifically, BLM analyzed a reasonable range of alternatives and associated environmental impacts in the SMA EA, reviewed and considered written comments from the permittee and interested publics on the alternatives, and met with the permittee for the SMA on several occasions. The BLM selected a grazing management system which is a combination of the alternatives analyzed in the EA and has been developed to reflect public input. Also, the modified grazing management system is within the range of actions the public could have reasonably anticipated BLM to consider. The public comments on the five alternatives presented in the EA apply to this modified grazing system and inform the agency meaningfully of the publics' attitude toward it. As a result, no further environmental analysis of the modified grazing management system is necessary and no further opportunity for public input is required.

The grazing management system consists of fall, winter, and early spring use, which is a cool and dormant period of use on the associated vegetative habitats. The allotment would be divided into two use areas: North and South. As indicated in Table 2 above, the livestock would begin grazing on the northern portion of the North Use Area on October 1 and would move into the South Use Area on approximately January 16. Livestock would be removed from the public lands portion of the SMA by April 30. Because the entire season of use is a cool season of use, the use areas and seasons of use are necessary to further BLM's administration of the livestock grazing on the SMA. Weather and monitoring will dictate livestock movements and livestock drift will occur due to the lack of fencing. However, the drift will be controlled and kept to a minimum through herding and riding by the permittee.

As indicated in the comments to the EA and based on BLM's expertise, the cooler season of use will result in reduced adverse impacts to riparian and LCT habitats by livestock grazing. This is because a cooler season of use will result in increased livestock distribution, less water

consumption by livestock, and weaned calves prior to livestock turnout in October. Under a cool season of use, livestock will distribute on the upland habitats and away from the riparian habitats. As compared with the current permitted "hot season" use, livestock will not congregate on streambank riparian or wetland riparian habitats in a cool season with cooler weather and snowfall. These drainages and associated riparian areas will be even more protected during the winter months due to frozen banks, ice, and dormant vegetation, which should result in minimizing adverse impacts associated with livestock drift into riparian areas.

In summary, the fall/winter/early spring livestock use will alleviate hot season use and the associated potential of livestock concentration within riparian areas. It will therefore allow for significant progress to be made toward achieving allotment objectives and standards for wetland riparian and streambank riparian habitats.

Interim Grazing System

Until the proposed fences are constructed to protect the desert dace habitat and separate the Idaho Canyon area from the Stanley Camp Riparian Pasture, livestock grazing would occur in accordance with the existing 1994 FMUD and 1993 Biological Opinion.

Range Improvements

The following range improvements, which are required for the final grazing system to function, are incorporated into this Proposed Multiple Use Decision. Until the fences are constructed, the interim livestock grazing system will require riding and herding by the permittee to maintain cattle in the authorized use areas. The following projects are scheduled to be evaluated through the project planning process. Construction of these projects is dependent upon NEPA analysis, funding and project priorities.

1. Reconstruct the existing fence from Stanley Camp cabin to the Summit Lake Reservation fence.

2. Construct a small portion of fence from the existing Pine Forest Allotment fence to the Lahontan cutthroat trout exclosure fence.

3. Construct approximately six miles of fence to protect Desert dace critical habitat.

RATIONALE:

These fencing projects are being proposed to reduce adverse impacts by livestock to Lahontan cutthroat trout (LCT) habitat in the Stanley Camp Riparian Pasture and Desert Dace critical habitat in the Hot Springs Use Area. LCT and Desert Dace are federally listed threatened species, protected under the ESA.

Upon the construction of the proposed range improvements and implementation of the 2003-2013 grazing system, livestock distribution and management will be improved. The allotment pastures/use areas will benefit from the range improvement projects by providing a more uniform utilization pattern, better use of the vegetation, and the flexibility to rest or defer livestock from resource sensitive areas. The range improvements are essential for the final grazing system to function properly.

TERMS AND CONDITIONS:

The terms and conditions must be in conformance with the Standards and Guidelines for the Sierra Front - Northwestern Great Basin Resource Advisory Council, approved by the Secretary of the Interior on February 12, 1997.

1. There will be no livestock grazing authorized within the Mahogany Creek Exclosure or the Stanley Camp Riparian Pasture.

2. Grazing on Colman and Donnelly Creeks would be permitted under all or a portion of the criteria, which BLM will determine are applicable, based on site potential and stream characteristics:

    a. Riparian herbaceous utilization would ensure a 6-inch stubble height is left when livestock are removed from Colman Creek; and/or

    b. Riparian herbaceous utilization would ensure a 4-inch stubble height is left when livestock are removed and a 6-inch stubble height remains at the end of the growing season on Donnelly Creek; and/or

    c. Within all use areas utilization would not exceed 30 percent on willow species greater than 5 feet in height, 20 percent on willows less than 5 feet in height, and 10 percent on any height of aspen species; and/or

    d. Streambank alteration would not exceed 10 percent.

3. Turn out dates will be flexible and could be modified based on range readiness, but livestock off dates will not be extended in any use area. Removing livestock earlier than authorized to conserve the range resources could occur depending on the range readiness/condition and resource values of the next scheduled use area, unless livestock are being removed from the public land portion of the allotment. Any changes to the season of use (i.e. turn out dates or off dates) would have to be authorized by the BLM in advance.

4. BLM would evaluate the monitoring data collected from Donnelly and Colman Creek to determine if the grazing exceeded the riparian herbaceous and/or woody vegetation and/or bank alteration criteria as outlined. If any of these criteria are exceeded, BLM would initiate the following actions:

    a. If monitoring at the end of the grazing season indicates that any of the allotment specific objectives, allotment Terms and Conditions, and/or Standards for Rangeland Health were not attained, and current livestock grazing practices or levels of use are the significant factor for non-attainment, appropriate corrective actions (e.g. reduction in season of use, reduction in numbers of livestock or a combination of strategies) will be taken prior to the following grazing season. The BLM, in conjunction with the permittee and interested publics, will reassess the livestock grazing system in those use areas, in which allotment specific objectives, Terms and Conditions, and/or the Standards for Rangeland Health

were not attained, to determine whether a change in livestock management (e.g., reduction in season of use, reduction in numbers of livestock, or a combination of all strategies) may be warranted to ensure that these criteria are met. If BLM and the permittee can not reach an agreement as to what action should be taken to achieve the term and condition, BLM shall issue a decision regarding the proposed change in livestock management. BLM shall repeat this process until the criterions are met.

5. BLM would monitor the allotment to determine if the 4,481 Not Scheduled AUMs would be phased in, in 25% increments or approximately 1,120 AUMs, after 2 years of implementing the system. These AUMs would be phased in if the criteria outlined in Proposed Allotment Term and Condition 2 is attained for two consecutive grazing seasons. However, if these criteria are not met, livestock numbers and AUMs would remain at the initial stocking levels shown in year 1 of Table 2 or lower based on the implementation of Proposed Term and Condition 4a. Data would be evaluated every two years until year 2013 to determine if 25% or approximately 1,120 of the Not Scheduled AUMs would be phased in.

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

7. Since the majority of the use areas are unfenced it is the responsibility of the permittee to incorporate riding and herding to insure livestock grazing occurs within the appropriate use area in accordance with the permit schedules.

8. Pursuant to 43 CFR 10.4(g) the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined at 43 CFR 10.4(c) and (d), you must stop activities in the immediate vicinity of the discovery and protect it from your activities for 30 days or until notified to proceed by the authorized officer.

9. The permittee is required to perform maintenance on range improvements as per their signed cooperative agreements and section 4 permits prior to livestock turnout.

10. The permittees certified actual use report, by pasture, is due 15 days after the end of the authorized grazing period.

11. The grazing authorization with the schedules of use outlined in this decision will be the only approved use and all other schedules, flexibilities and terms & conditions addressed in the 1994 Soldier Meadows Allotment Final Multiple Use Decision are suspended unless revised.

12. The authorized officer reserves the right to modify annual grazing authorizations as long as the modification is consistent with management objectives, standards for rangeland health and remains in the designated season of use.

E. GRAZING PERMIT

A ten year grazing permit, reflecting the terms and conditions of this decision, will be offered upon completion of the decision making process. Any existing permit would become null and void as the new ten-year permit becomes effective.

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

4110.3 The authorized officer shall periodically review the permitted use specified in a grazing permit or grazing lease and shall make changes in the permitted use as needed to manage, maintain or improve rangeland productivity, to assist in restoring ecosystems to properly functioning condition, to conform with land use plans or activity plans, or to comply with the provisions of subpart 4180. These changes must be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer.

4130.3-1(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock carrying capacity as of the allotment.

4130.3-1 (a) 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...

4130.3-3 Following consultation, cooperation, and coordination with the affected lessees or permittees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may modify terms and conditions of the permit or lease when the active grazing use or related management practices are not meeting the land use plan, allotment management plan or other activity plan, or management

objectives, or is not in conformance with the provisions of subpart 4180. To the extent practical, the authorized officer shall provide to affected permittees or lessees, States having lands or responsibility for managing resources within the affected area, and the interested public an opportunity to review, comment and give input during the preparation of reports that evaluate monitoring and other data that are used as a basis for making decisions to increase or decrease grazing use, or to change the terms and conditions of a permit or lease.

4160.1(a) Proposed decisions shall be served on any affected applicant, permittee, or lessee, and any agent and lien holder of record, who is affected by the proposed actions, terms or conditions, or modification relating to applications, permits and agreements (including range improvement permits) or leases, by certified mail or personal delivery. Copies of proposed decisions shall also be sent to the interested public.

4160.2 Any applicant, permittee, lessee or other interested public may protest the proposed decision under 4160.1 of this title in person or in writing to the authorized officer within 15 days after receipt of such decision.

4180.1 The authorized officer shall take appropriate action under subparts 4110, 4120, 4130, and 4160 of this part as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the following conditions exist.

(a) Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.

(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and every flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.

(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.

(d) Habitats are, or are making significant progress toward being restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species.

PROTEST:

Any applicant, permittee, lessee or other interested public may protest the livestock grazing portion of this Proposed Multiple Use Decision under 43 CFR 4160.2, in person or in writing. If you with to protest this decision, you are allowed 15 days from receipt of this notice within which to file such protest with:

Les W. Boni
AFM Renewable Resources
Bureau of Land Management
Winnemucca Field Office
5100 East Winnemucca Blvd.
Winnemucca, NV 89445

The protest must be received within 15 days of receipt of this decision. The protest, if filed, should clearly and concisely state the reason(s) as to why the proposed decision is in error.

Subsequent to the protest period, a Final Multiple Use Decision will be issued issued which will provide an opportunity for appeal in accordance with 43 CFR 4160.4 and 43 CFR Part 4.

F. WILD HORSE AND BURRO MANAGEMENT

We are re-affirming our previous management action outlined in the 1994 SMA FMUD that established the AML for the Black Rock Range West, Warm Springs and Calico Mountain HMA's.

The proposed action for wild horses is to manage the Black Rock Range West, Warm Springs and Calico HMAs at the AML consistent with the 1994 SMA FMUD.

In accordance with 43 CFR Subpart 4700, it has been determined through the evaluation of monitoring data that a thriving natural ecological balance will be maintained by managing and providing forage (AUMs) for the following number of wild horses within the Black Rock Range West, Warm Springs and Calico HMAs.

Wild horse populations are managed within a range of 40% below the AML to AML. The established AML for the Black Rock Range West, Warm Springs and Calico HMAs is as follows in Table 3 below:

Table 3 - Wild Horse Numbers and AUMs

HMA	# HORSES @AML 40% BELOW AML	#AUMs @AML 40% BELOW AML	#BURROS@AML 40% BELOW AML	#AUMs@ AML 40% BELOW AML
BLACK ROCK RANGE WEST	93 56	1116 672	0 0	0 0
WARM SPRINGS	175 105	2100 1260	24 14	288 168
CALICO MOUNTAIN*	65 39	780 468	0 0	0 0

*Approximately twenty percent (20%) of the horse numbers within the Calico HMA are in the Soldier Meadows Allotment.

Excess wild horses within the SMA will be removed periodically to manage the population within the AML range outlined above or until the AML is modified.

RATIONALE:

Based on monitoring data collected during the re-evaluation period there have not been any significant problems associated with wild horse use of the range. The AML established in the 1994 Multiple Use Decision SMA is still applicable today. It is recognized that horses from the Black Rock Range West HMA (Soldier Meadows Allotment) interact with horses in the Black Rock Range East HMA (Paiute Meadows Allotment) and this interaction will assure genetic viability. The wild horses within the Black Rock Range West HMA will be managed in conjunction with horses in the Black Rock Range East HMA. AMLs have been established within the HMAs and will be managed in accordance with the 2000 Wild Horse Strategy. When population levels exceed the AML within the HMA, the horses will be gathered regardless of the allotment they may be inhabiting at the time of the gather.

Compliance and Monitoring

Population adjustments will occur when data indicates the population is not consistent with the established AML. The AML will remain unchanged until data indicates a change is necessary to reach HMA objectives including maintenance of a thriving natural ecological balance and multiple-use relationship in the herd area.

G. WILDLIFE MANAGEMENT

We are re-affirming our past management action that outlined wildlife reasonable numbers that are in accordance with the Sonoma Gerlach Land Use Plan and also stated in the 1994 SMA FMUD.

Analysis of existing management of wildlife habitat indicates that current wildlife populations did not contribute to the non-attainment of the allotment objectives or standards for rangeland health. Therefore, a change in the existing wildlife populations or the existing wildlife management within the Soldier Meadows Allotment is not warranted.

Wildlife populations will remain at the reasonable numbers outlined in the Land Use Plan as follows in Table 4 below. Reasonable numbers of wildlife are as follows:

Table 4 - Wildlife AUMs

SOLDIER MEADOWS ALLOTMENT	
Species	**AUMs**
Mule Deer	786
Pronghorn Antelope	429
Bighorn Sheep	264
	Total 1479

RATIONALE:

Analysis of existing management of wildlife habitat indicates that current wildlife populations did not contribute to the non-attainment of the allotment objectives or the Standards for Rangeland Health. Therefore, a change in the existing wildlife populations or the existing wildlife management within the Soldier Meadows Allotment is not warranted.

FUTURE MONITORING AND GRAZING ADJUSTMENTS:

The Winnemucca Field Office will continue to monitor the Soldier 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 and the Standards for Rangeland Health are being achieved under the new grazing management strategy. In addition, these subsequent evaluations will determine if adjustments are required to meet the established allotment specific objectives and standards.

Sincerely,

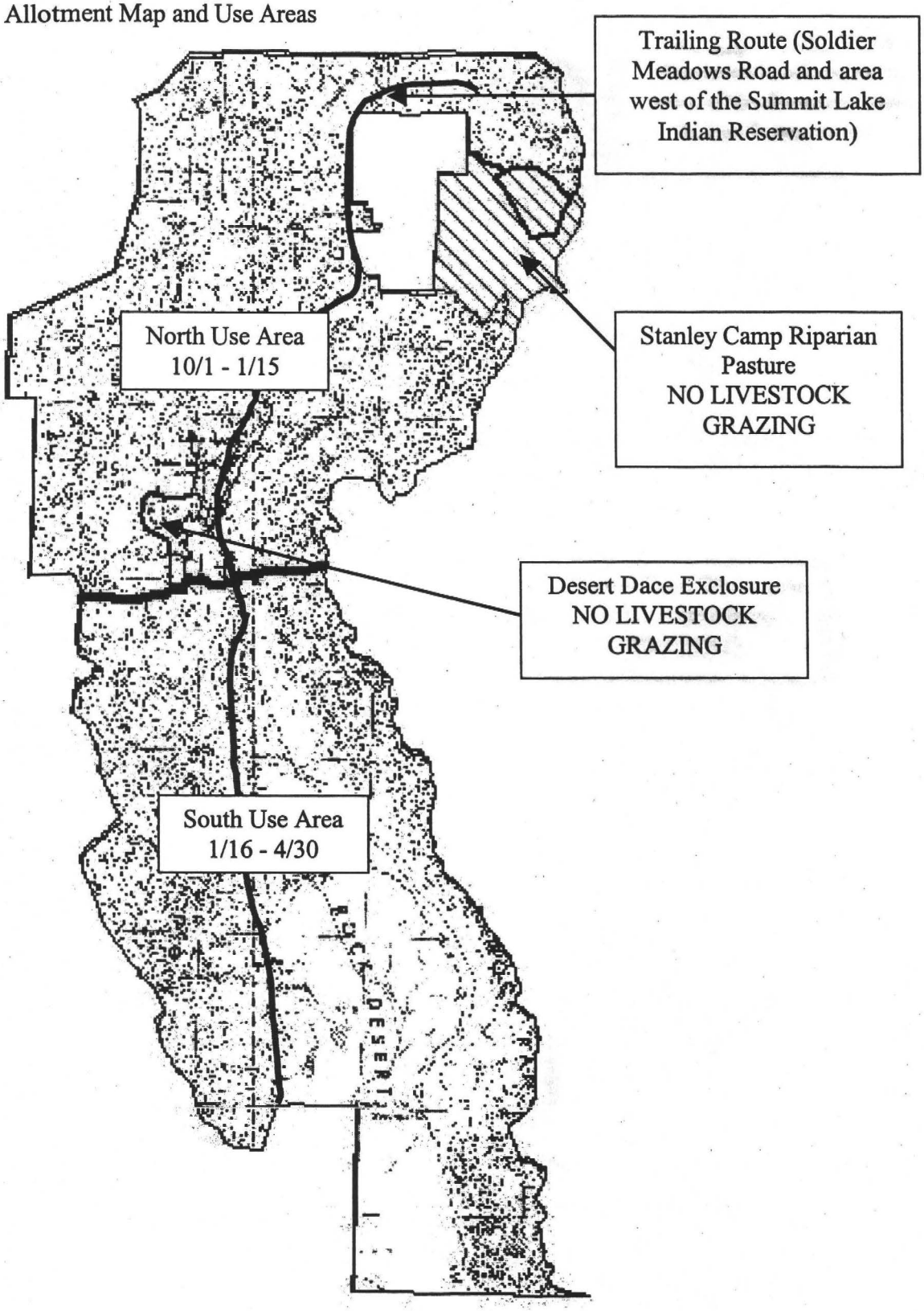
Les W. Boni
Assistant Field Manager
Renewable Resources

cc: Interested Publics

7003 0500 0000 9663 3992 BLM - Nevada State Office, Stephen Smith
7003 0500 0000 9663 3794 Leah Brashear
7003 0500 0000 9663 4067 Estill Ranches LLC, John Estill
7003 0500 0000 9663 3947 Cedarville Rancheria, Marisha Fragua
7003 0500 0000 9663 3619 Committee for the High Desert, Hilarie Engle
7003 0500 0000 9663 3565 William Cowan
7003 0500 0000 9663 3732 John Davis

7003 0500 0000 9663 3848 Desert Survivors, Steve Tabor
7003 0500 0000 9663 3930 Friends of Nevada Wilderness, Karen Boeger
7003 0500 0000 9663 3572 Friends of Nevada Wilderness, Brian Beffort
7003 0500 0000 9663 3893 Ft. Bidwell Tribal Council, Denise Pollard
7003 0500 0000 9663 4043 Great Old Broads for Wilderness
7003 0500 0000 9663 3503 Humboldt County Commissioners
7003 0500 0000 9663 3657 Intermountain Range Consultants, Robert Schweigert
7003 0500 0000 9663 3558 ISPMB, Karen Sussman
7003 0500 0000 9663 9369 James Linebaugh
7003 0500 0000 9663 4005 Modoc County, Terry Williams
7003 0500 0000 9663 3862 N. Nv. Native Plant Society
7003 0500 0000 9663 3541 Natural Resource Defense Council, Johanna Wald
7003 0500 0000 9663 4036 Nevada Division Of Wildlife-Reno, Dave Pullman
7003 0500 0000 9663 3480 Nevada Cattlemen's Association
7003 0500 0000 9663 3534 Nevada Comm. for the Preservation of Wild Horses, Cathy Barcomb
7003 0500 0000 9663 3466 Nevada Division of Wildlife-Fallon, Roy Leach
7003 0500 0000 9663 3596 Nevada Division of Wildlife-Winnemucca
7003 0500 0000 9663 3770 Nevada Heritage Program, James Morefield
7003 0500 0000 9663 3787 Nevada United 4-Wheel Assoc.
7003 0500 0000 9663 3497 Nevada Wool Growers
7003 0500 0000 9663 3909 NV Wildlife Federation, Gale Dupree
7003 0500 0000 9663 3664 Nv. Outdoor Rec. Assoc., Charles Watson
7003 0500 0000 9663 3879 NW Great Basin Assoc.,
7003 0500 0000 9663 4050 Oregon Natural Desert Association,
7003 0500 0000 9663 3589 Orient Farms, Donna Potter
7003 0500 0000 9663 3817 Public Resource Associates, Susan Lynn
7003 0500 0000 9663 3978 Pyramid Lake Tribe, Tribal Chairman
7003 0500 0000 9663 3459 Resource Concepts, John McClain
7003 0500 0000 9663 3961 Sen. Harry Reids Office, Mary Conelly
7003 0500 0000 9663 3695 Sierra Club - Toiyabe Chapter-Miller, Glen Miller
7003 0500 0000 9662 3671 Sierra Club - Toiyabe Chapter-Sill, Marjorie Sill
7003 0500 0000 9663 3473 Sierra Club - Toiyabe Chapter-Strickland, Rose Strickland
7003 0500 0000 9663 4012 Sierra Club-San Francisco, Vicki Hoover
7003 0500 0000 9663 3718 Sierra Club-Washington, Debbie Sease
7003 0500 0000 9663 3923 State of Nevada Dept. of Administration,
7003 0500 0000 9663 9376 State of Nevada Dept. of Agriculture, Gary McCuin
7003 0500 0000 9662 3688 The Wilderness Society-SF, Jay Watson
7003 0500 0000 9663 3701 The Wilderness Society-Washington,
7003 0500 0000 9663 3510 United States Fish and Wildlife Service, Robert Williams
7003 0500 0000 9663 3633 USDA-NRCS, Stan Boltz
7003 0500 0000 9663 3886 Washoe Co. Dept of Comprehen., Whitney
7003 0500 0000 9663 3602 Western Watershed Project, Jon Marvel
7003 0500 0000 9663 3527 Wild Horse Organized Assistance, Dawn Lappin
7003 0500 0000 9663 3824 Wild Spaces, Nobby Reidy
7003 0500 0000 9663 3855 Wilderness Watch,
7003 0500 0000 9663 3756 Justice Department, Donna Fitzgerald
7003 0500 0000 9663 3763 Office of Field Solicitor, Emily Roosevelt

Map 1. Allotment Map and Use Areas



FINDING OF NO SIGNIFICANT IMPACT
FOR
Paiute Meadows Allotment Evaluation
EA#020-03-12

OCT 15 2003

I have reviewed Environmental Assessment (EA) NV-02-03-12, dated March 19, 2003. After consideration of the environmental effects as described in the EA, I have determined that alternative 2 – Winter Use, with modified use area and subject to objectives and terms and conditions attached, will not significantly affect the quality of the human environment and that an Environmental Impact Statement (EIS) is not required to be prepared.

I have determined the proposed action is in conformance with the approved Paradise-Denio and Sonoma-Gerlach Management Framework Plans and is consistent with the plans and policies of neighboring local, county, state, tribal and federal agencies and governments. This finding and conclusion is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and the intensity of impacts described in the EA.

Context: The Paiute Meadows Allotment is located on the eastern slopes of the southern end of the Black Rock Mountain Range. The allotment is comprised of approximately 177,096 acres of public land and includes approximately 72,434 acres of Wilderness. The allotment is located within a rural area of Humboldt County, Nevada. On March 3, 2003 a Determination/MASR document was completed by BLM. The document determined that some allotment objectives and Standards for Rangeland Health were not being achieved under existing livestock management.

Intensity:
1) *Impacts that may be both beneficial and adverse.*
The environmental assessment has considered both beneficial and adverse impacts of the various livestock management alternatives. With the exception of Alternative 1 – Existing System, all other alternatives would result in achieving site specific Allotment Objectives and Standards for Rangeland Health. Meeting Allotment Objectives and Standards for Rangeland Health would improve the quality of the human environment as described in the EA and is not considered a significant effect both in the short or long term.

2) *The degree to which the proposed action affects public health or safety.*
The implementation of alternative #2 would not affect public health or safety.

3) *Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.*
The project area includes portions of three wilderness areas. Three stream existing within the allotment that are considered occupied or potential habitat for Lahontan cutthroat trout (*Oncorhynchus clarki henshawi,* LCT), a federally listed Threatened species. The analysis did not identify any significant impacts to Wilderness areas, Lahontan cutthroat trout, cultural resource, historic or cultural resources, prime farmlands, wetlands, wild and ecologically critical areas. Prime farmlands and wild and scenic rivers are not present within the allotment.

4) *The degree to which the effects on the quality of the human environment are likely to be highly controversial.*
The effects of livestock grazing management practices are well known and documented and are not highly controversial and are employed to meet resource or management objectives

5) *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.*
There are no known effects that would result from implementation of Alternative 2 – Winter Use, identified in the EA which are considered uncertain or involve unique or unknown risks.

6) *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.*
Implementation of Alternative 2 – Winter Use does not establish a precedent for future actions with significant effects and does not represent a decision in principle about a future consideration. Any future actions proposed for livestock management would be evaluated for compliance with the National Environmental Policy Act.

7) *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.*
No significant cumulative impacts have been identified in the EA. Past, present, and reasonably foreseeable future action on-going in the cumulative impact assessment area would not result in cumulatively significant impacts.

8) *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP or may cause loss or destruction of significant scientific, cultural, or historical resources.*
The proposed action will not cause the loss or destruction of significant scientific, cultural or historical resources.

9) *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the ESA of 1973.*
The EA has identified that no significant or adverse impacts would result to Lahontan cutthroat trout.. The Alternative 2 – Winter Use has undergone consultation and coordination with the USFWS and has been determined the activities will not likely adversely affect this species or their critical habitat.

10) *Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.*
The proposed action will not violate or threaten to violate any Federal, State, or local law or requirement imposed for the protection of the environment.

Les W. Boni

15 Oct 03

Les W. Boni, Assistant Field Manager
Non-renewable Resource Division

Date

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
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In Reply Refer To:
4160.2
(NV-022.15)

OCT 15 2003

The following is a Summary of Protest Points and BLM's Responses of the Paiute Meadows Allotment (PMA) Proposed Multiple Use Decision (PMUD). Protests were received from the Committee for the High Desert (CHD)/Western Watershed Project (WWP) and Paiute Meadows Ranch (PMR). Several of these protest points significantly overlap with comments received on the PMA EA, therefore BLM's responses would be applicable to both the EA and the PMUD.

CHD/WWP PROTEST POINTS SUBMITTED ON JULY 3, 2003 AND ADDITIONAL PROTEST POINTS SUBMITTED ON JULY 10, 2003:

Protest Point #1
We protest BLM's failure to prepare a current suitability, capability and carrying capacity analysis for these lands.

Response
The original range survey and allotment adjudication process was completed on December 4, 1964 and considered rangeland suitability criteria to determine initial allotment specific carrying capacities. This range survey was a one-point-in-time analysis of the available forage on the allotments. After the completion of the range survey and in accordance with the Paradise/Denio Management Framework Plan III Land Use Plan (LUP), future adjustments in carrying capacity for the allotments must be based on monitoring data. The 1993 Allotment Evaluation determined the total carrying capacity based upon vegetation utilization monitoring data and actual use. The 1993 Final Multiple Use Decision (FMUD) distributed forage proportionally between livestock, wild horses and wildlife based upon the monitoring data and the ratios of ungulate use established in the LUP. The current re-evaluation identified some areas of concern that could be corrected by changes in the livestock season of use, but determined that the current carrying capacity is still appropriate to allow for attainment and/or significant progress to be made toward attainment of allotment specific objectives/Standards for Rangeland Health (SRH).

Protest Point #2
We protest BLM's failure to adequately assess the impacts of livestock in the PM allotment on microbiotic crusts.

Response

BLM addressed biological soil crusts in section 4.7 of the Paiute Meadows Allotment (PMA) EA. There may be some confusion on the terminology biological soil crusts; these include both macro and microscopic components. These biological soil crusts are composed of bacteria, fungi, algae, and bryophytes. Managing for healthy biological soil crusts requires that grazing occur prior to depletion of soil moisture when crusts are less vulnerable to shear and compressional forces. It is important to remove livestock before the end of the wet season to allow recovery of biological crusts. Livestock impacts to biological crusts occur when soils are dry.

Protest Point #3
We protest BLM's failure to prepare a current weed inventory for these lands.

Response
Humboldt County and BLM system roads in the area were inventoried in 2002 and 2003. This inventory data is available within the Winnemucca Field Office (WFO) Geographic Information System (GIS) database. In June 2003, WFO partnered with Humboldt County to initiate noxious weed control within the county road rights-of-way. Leonard Creek, Big Creek and Woodward roads, along with system roads within the area, were treated in June of 2003 with pesticides to slow the spread of the noxious weeds that are present.

Noxious weeds inventory are and will be an ongoing task at the WFO. There are three components of an effective noxious weed program; inventory, treatment and evaluation.

Protest Point #4
We protest BLM's failure to identify lands "at risk" to weed invasion, and incorporate in its decision changes necessary to stem further invasion and spread.

Response
Lands "at risk" to weed invasion have been identified as the BLM system and non-system roads that connect to county roads that have been infested with noxious weeds. As a result, there is an on-going noxious weed control project, which includes BLM and Humboldt County to control the spread of noxious weeds to BLM roads. The road system in the area was treated in June of 2003 with appropriate pesticides in an initial attempt to "stem" the spread of the weeds present. This cooperative project will be continued for the next 3 or 4 years, as necessary, to ensure that the control methods have been effective.

Protest Point #5
We protest BLM's failure to assess the direct, indirect and cumulative impacts of BLM and permittee failures to comply with its previous decisions for the allotment.

Response
BLM has not failed to comply with its previous decisions. Through the allotment re-evaluation process, data was analyzed, interpreted and evaluated to determine attainment/non-attainment of allotment specific objectives and the SRH. The Determination/Management Action Selection Report (D/MASR) determined that livestock management was contributing to non-attainment of certain allotment objectives and the SRH. The PMA EA assessed the direct, indirect and cumulative impacts of the various grazing alternatives.

The only decisions that have been issued for the PMA were the 1995 PMA FMUD and a subsequent decision that occurred during the grazing preference transfer from Phillips to Brown. Both of these decisions were complied with until the issuance of the 2003 PMUD.

Protest Point #6
We protest BLM's failure to comply with the existing Land Use Plan.

Response
The multiple use decision for the PMA complies with the LUP, which is the current governing document and all management actions are in conformance with the LUP. The LUP identified general objectives, and the final allotment re-evaluation was site specific. BLM has not only complied with the LUP but has adjusted the numbers of livestock and wild horses based upon the criteria and ratios established in the LUP and implemented in the 1993 Allotment Evaluation and subsequent Final Multiple Use Decision.

Protest Point #7
We protest BLM's failure to prepare a new EIS to replace the out-dated Land Use plan.

Response
BLM prepared an EA that resulted in a Finding of No Significant Impacts such that an EIS was not required. A portion of the PMA was addressed in the Draft Environmental Impact Statement (DEIS) for the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area (NCA) dated February 2003.

Protest Point #8
We protest BLM's issuance of a Second Final Decision, when a Final Decision was already in place.

Response
The PMA Final Multiple Use Decision (FMUD) was issued in July of 1995. The Paiute Meadows/Soldier Meadows Allotments Biological Assessment (BA) was issued on June 24, 2002. On June 24, 2002, BLM received an appeal and a Petition For Stay of the BA from Committee for the High Desert and Western Watersheds Project. On August 19, 2002 Administrative Law Judge William E. Hammett ruled that a "Biological Assessment is not a final grazing decision which had the effect of modifying existing grazing permits...." Therefore, subsequent to the issuance of the Biological Opinion (BO) for the PMA on June 13, 2003 BLM issued the PMA Proposed Multiple Use Decision (PMUD) on June 25, 2003. This PMUD and FMUD implemented the BO and will modify grazing use on the PMA
Protest Point #9
We protest BLM's failure to change livestock grazing practices before the start of the next grazing year following its initial S&G Determination here.

Response
BLM issued its D/MASR in March 2003, which was the first time BLM determined that the existing grazing system was a significant factor in not attaining the SRH and guidelines. Therefore BLM has until the start of the next grazing year in 2004 to take action that will result in significant progress toward fulfillment of the standards and significant progress toward conformance with the guidelines. After informal consultation with the U.S. Fish and Wildlife Service (FWS), BLM implemented an Interim Grazing System in 2003, that resulted in

modifying the existing grazing practices to make progress toward achieving the SRH during the 2003 grazing season. The PMA PMUD issued on June 25, 2003, implemented the 2003 BO and outlined the terms and conditions for livestock management which will result in significant progress toward achieving the SRH and conforming with the guidelines.

Protest Point #10
We protest BLM's failure to conduct monitoring of livestock grazing impacts to soils, micorbiotic crusts, vegetation, watersheds, plant communities, wildlife habitats, etc. as required by its decisions, documents, and general principles of prudent land management. Why was this not done?

Response
During the allotment re-evaluation period from 1994 to 2000, rangeland monitoring was conducted to determine if the current grazing management, as outlined in the 1995 FMUD was allowing for attainment of allotment specific objectives/SRH. The Final Allotment Re-evaluation analyzed all monitoring data, and the D/MASR determined that current grazing was allowing for the attainment of some objectives/standards but was a significant factor in the non-attainment of other objectives/SRH within the PMA.

Protest Point #11
We protest BLM's failure to conduct monitoring of weed invasions related to livestock grazing on the public lands of these allotments.

Response
The invasive weed inventory data collected to date (including data from 1999, 2000, 2002 & 2003) indicate that the major factor resulting in the spread of noxious weeds is associated with the transportation system in the area. Livestock grazing, per se, does not appear to contribute to the spread of weeds at the current level of infestations. The effectiveness of the 2003 control project, which was a partnership with Humboldt County and the BLM, will be monitored and evaluated to determine the effectiveness of the control efforts. Changes in the control methods may be modified, as the monitoring results indicate, to increase/improve weed control. (Refer to responses to protest points 3 & 4).

Protest Point #12
We protest BLM's failure to catalogue/provide maps of location, condition, trespass and other factors associated with all existing range "improvement" projects on these allotments.

Response
The use, maintenance, and/or modification of permanent range improvements or rangeland developments are administered by BLM to achieve management or resource condition objectives. While the inspection, maintenance and repair of existing range improvement projects and the construction of new projects are important components of rangeland management. They were not determined to be factors relating to the non-attainment of SRH/objectives and thus were no part of any change in management of livestock grazing. Information related to the location or condition of specific projects is available upon request.

Protest Point #13
We protest BLM's failure to conduct current and adequate PFC assessments for all streams in this allotment.

Response
The BLM does not have adequate staffing or funding to conduct annual comprehensive PFC assessments, and nothing in the applicable law requires BLM to do so. The WFO administers 102 grazing allotments that contain approximately 894 miles of lotic streams and 15,000 acres of lentic habitats. The initial PFC assessments were conducted in 1998 for the PMA. The WFO attempts to reassess functionality prior to allotment evaluations/re-evaluations but this is not always possible. Reassessments are conducted each year on approximately 10 percent of the streams. At this rate, each stream should be reassessed once every 10 years.

Protest Point #14
We protest BLM's failure to significantly reduce or eliminate grazing use during the critical growing period for native grasses.

Response
The Ecological Status Inventory (ESI) information presented in the PMA EA identifies the vegetative diversity within the allotment. Plant phenology varies substantially from greasewood/saltgrass sites on the valley bottoms at elevations of 4,000' to bitterbrush/aspen site in the higher elevations at 8,600'. The critical growing season varies substantially depending upon annual and seasonal climatological fluctuations, elevation, aspect and soil types. The proposed grazing system limits hot season grazing, provides seasonal deferment and allows some dormant season use which should help achieve allotment objectives and the SRH. The monitoring data presented in the allotment re-evaluation, along with the analysis in the EA, did not indicate native grasses associated with upland range sites would be significantly impacted by the proposed grazing system.

Protest Point #15
We protest BLM's failure to analyze a suitable range of alternatives in this process, such as several significant reductions in livestock use, elimination of grazing during hot season, critical growing period, etc.

Response
On pages 9-13 of the PMA EA BLM sets forth four grazing alternatives that were subsequently analyzed and a fifth alternative that was considered but eliminated from detailed analysis. These grazing alternatives considered various use areas, seasons of use, and stocking rates and their effects on various resource values throughout the allotment. The proposed action from the EA was brought forward into the PMA PMUD but it was slightly modified in response to comments on the EA. We believe the record shows we analyzed a reasonable range of alternatives.

Protest Point #16
We protest BLM's conversion of TNR to permanent AUM's without conducting necessary carrying capacity and suitability studies.

Response
The 1993 allotment re-evaluation determined the total carrying capacity of the PMA and allocated forage proportionally between livestock, wild horses and wildlife based on the ratios established in the LUP. Monitoring studies determined there was slight to light utilization in the area authorized for Temporary Non Renewable (TNR) use, indicating that there was available forage. The PMA PMUD converted TNR to Active AUM's because perennial species are

dormant during winter use, monitoring data showed there was available forage, and there are no conflicts with wildlife or wild horses.

Protest Point #17
We protest BLM's application of an upland utilization standard (50%) known to be harmful to native bunchgrasses.

Response
BLM has employed and will continue to employ the Best Management Practices to analyze and implement multiple use management of public lands. The fifty percent (50%) upland utilization standard was developed by a team of professionals representing the National Resource Conservation Service, the U.S. Forest Service, BLM, the University of Nevada-Reno, and the Agricultural Research Service and Range Consultants. This team determined that utilization levels of fifty percent (50%) during the spring and summer and up to sixty percent (60%) in the fall and winter months is allowable on perennial grasses and forbs. In any event the D/MASR determined that upland vegetative utilization objectives were achieved except for some sites in Rough Canyon.

Protest Point #18
We protest BLM's failure to apply current ecological science to management of lands and protection of resources in the PMA, the Black Rock Wilderness and the Black Rock-High Rock NCA.

Response
BLM has employed and will continue to employ the Best Management Practices to analyze and implement multiple use management on public lands. Please refer to the PMA EA for specific information related to the detailed analysis of impacts of the various alternatives to renewable and nonrenewable resources. The preparation of the PMA EA occurred through an internal interdisciplinary approach. The approach involved several staff members with various knowledge, skills and abilities dealing with range, wildlife, soils, hydrology, fisheries, riparian, cultural, recreation and other resources and multiple uses on the BLM lands within the PMA. Through this interdisciplinary approach, BLM analyzed several grazing related alternatives including the action that was selected and will result in making significant progress toward attaining allotment objectives/SRH.

Protest Point #19
We protest BLM's failure to conduct necessary baseline studies and inventories for special status plant and animal species and important native wildlife.

Response
BLM staff and budget at the WFO is limited, and workloads and priorities change with issues and management decisions. Changes in personnel also impact the work accomplished and the continuity of planning, objectives, inventories, monitoring, fieldwork, and their final products.

At the WFO we depend on assistance and coordination with the U.S. Fish and Wildlife Service and other Federal agencies, the Nevada Department of Wildlife and other state agencies, the Nevada Natural Heritage Program, colleges and universities, and private individuals to document studies, inventories, and monitoring on special status plant and animal species and important native wildlife.

Although BLM is not obligated by law to protect special status species, BLM considered the impacts of the grazing action on potential special species in the EA. During the allotment re-evaluation process, the WFO requested and received a current sensitive species list from the FWS.

Due to the existing and potential habitats for a threatened fish species, LCT, the BLM entered into formal consultation with the FWS for the proposed livestock grazing system. The FWS issued its PMA BO dated June 13, 2003, which stated "...it is the Service's biological opinion that the 2003-20013 livestock grazing system for PMA, as proposed, is not likely to jeopardize the continued existence of the threatened LCT."

Finally, the PMA PMUD is in conformance with the Interim Sage Grouse Guidelines Strategy.

Protest Point #20

We protest BLM's failure to conduct and provide to the public monitoring data as required as by the existing settlement agreement over a broad range of appeals of its previous decision here.

Response

The interested publics of record for the PMA received copies of the final allotment re-evaluation, which presented various monitoring data compiled and analyzed during the re-evaluation period. Also, on September 26, 2002, January 22, 2003 and May 19, 2003 the WFO sent Committee for the High Desert monitoring data as per your FOIA requests. The PMA settlement agreement, dated March 1995, required BLM to; "...monitor the actual use of livestock and wild horses and their impacts on the vegetative resources, ... monitor fish and wildlife habitat, and ...collect utilization data on stream bank and wetland meadow riparian habitats to determine achievement of short term objectives." These data have been collected and presented in the PMA Final allotment re-evaluation. The PMA Determination/MASR explained which objective(s) and standard(s) were not attained, the PMA EA analyzed the grazing alternatives and preferred alternative was brought forward in the PMA PMUD.

Protest Point #21

We protest BLM's failure to adequately monitor and assess livestock grazing impacts to water quality – in particular during periods when livestock are present. All surface waters in this very arid area – including springs and seeps – must be monitored during periods when livestock are present.

Response

The BLM has collected water quality data, which is presented on page 15 of the EA and page 32 of the D/MASR. The sample sites (Paiute Creek, Battle Creek, and Bartlett Creek) were selected because they are the primary water bodies within the allotment. It is not currently feasible for the BLM to monitor each and every water source within the allotment.

The timing of the sampling events corresponds with the annual hydrograph for these stream systems. Sampling in this manner allows the BLM to assess the overall health of the stream, rather than just when livestock are present. The data does include at least one sample, from each of the streams, when livestock are present. Please refer to the D/MASR for more detailed information.

Protest Point #22
We protest BLM's failure to reveal if livestock were present, and for how long, during periods when water quality was monitored.

Response
The date of each sampling event is presented in Table 2 on page 15 of the EA. The dates when livestock were present are described in section 2.1 on page 9 of the EA. The location of each sample site is presented on page 143 of the EA.

Protest Point #23
We Protest BLM's calling the upper portions of Paiute Creek in FAR (upward). We visited {the} site in late fall 2002, and it was in terrible condition – NF, or FAR down, down downward. This emphasizes the stale, old, irrelevant and out-dated data used in this assessment.

Response
The evaluation period for the PMA which BLM relied on for the EA and PMUD was from 1995 to 2000. Although the riparian functionality assessment was conducted in 1998 it is considered representative of the evaluation period. When more current data collection occurs and is analyzed, this information will be used in assessing whether objectives/SRH are being attained on the public lands within the PMA. After analysis of the data and if it is determined that livestock are a casual affect in non-attainment or progress toward attainment of the standard, then changes in livestock management will occur.

Protest Point #24
We Protest the use of old and stale data throughout this assessment.

Response
The PMA Re-evaluation utilized all available data that was collected during the re-evaluation period. See previous response. Upon initiation of this re-evaluation, BLM requested that any data collected by other agencies, organizations or individuals be submitted for inclusion in this process. The following types of data was utilized to determine attainment of allotment objectives and SRH; utilization, trend, actual use, climatological, stream survey, riparian functionality, water quality, wildlife habitat assessment, ecological site inventory and wild horse census/distribution. This data collected from 1994-2000. BLM will continue to collect and use any current data to assess attainment of allotment objectives/SRH.

Protest Point #25
We Protest BLM's failure to address wet meadow degradation – both to provide detailed monitoring as well as to put in place periods of rest and standards of use that are necessary to protect these lands essential to sage-grouse.

Response
There is little direct experimental evidence linking grazing practices to sage-grouse population levels (Braun 1987, Connelly and Braun 1997). Research in northern Nevada has indicated that a potentially positive relationship between livestock grazing and sage-grouse habitat quality may actually occur (Savage 1969, Oakleaf 1971, Neel 1980, Evans 1986). However, grass height and cover affect sage-grouse nest site selection and success (Wakkinen 1990, Gregg 1991, Gregg et al 1994, Delong et al. 1995, Sveum et al. 1998). Thus, indirect evidence suggests grazing by

livestock or wild herbivores, that significantly reduce the herbaceous under story in breeding habitat, may have negative impacts on sage-grouse populations (Braun 1987, Dobkin 1995).

Preliminary estimates from research conducted in the Montana Mountains (approximately 30 miles northeast of the PMA) suggest that population densities of sage-grouse in this area may exceed many other currently occupied sage-grouse habitats. Wing-bee data from the Montana Mountains, which is comprised of seven (7) grazing allotments, indicate that sage-grouse production exceeds or is comparable to production on the Sheldon National Wildlife Refuge (approximately 6 miles north of the PMA) which is totally excluded from livestock grazing (Jim Jeffress, retired biologist Nevada Department of Wildlife, personal communication).

Prolonged drought during the 1930s and mid-1980s to early 1990s coincided with declining sage-grouse populations throughout much of the species' range (Patterson 1952, Fischer 1994, Hanf et al. 1994). Drought may affect sage-grouse populations by reducing herbaceous cover at nests and the quantity and quality of food available for hens and chicks during spring (Hanf et al. 1994, Fischer et al. 1996). Currently we are in the fourth year of drought, but the affect on population levels is unknown.

Over the last 25 years, numerous studies have used radio telemetry to address sage-grouse survival and nest success (Wallestad 1975; Hulet 1983; Gregg 1991; Robertson 1991; Connelly et al. 1993, 1994; Gregg et al. 1994; Schroeder 1997). Only Gregg (1991) and Gregg et al. (1994) indicated that predation was limiting sage-grouse numbers, and their research suggested that low nest success from predation was related to poor nesting habitat. Most reported nest success rates are >40%, suggesting that nest predation is not a widespread problem. Similarly, high survival rates of adult (Connelly et al. 1993, Zablan 1993) and older juvenile sage-grouse (>10 weeks of age) indicate that population declines are not generally related to high levels of predation. Thus, except for an early study in Oregon (Batterson and Morse 1948), predation has not been identified as a major limiting factor for sage-grouse (Connelly and Braun 1997).

Most research conducted to date has shown the limiting vegetation factor that affects sage-grouse production, survival and population densities is directly correlated to grass height and herbaceous cover in nesting habitat, not wet meadows. A certain length of stubble height in wet meadows (between 4 and 6 inches) is important for all wildlife species and the overall functionality of the riparian habitat. Total protection or exclusion from grazing is not required. A critical factor for management of sage-grouse habitats is to find the correct balance between grazing and sage-grouse habitat quality and quantity.

The WFO is currently conducting lentic functionality assessments in the South Paiute use area, but no assessments were conducted in the PMA during the re-evaluation period. Preliminary data from the 2003 surveys indicate that the majority of the lentic habitats in the South Paiute Use Area are in Proper Functioning Condition or Functioning at Risk, Upward Trend. Please refer to the Determination/Management Action Selection Report for more detailed information.

There are three known sage-grouse leks in the PMA which have been monitored by the NDOW since the early 1970's. Results of these surveys indicate the sage-grouse populations in the PMA are stable with low to moderate densities (Jim Jeffress, retired biologist NDOW, personal communication).

The proposed grazing system provides for seasonal deferment allowing limited seasons of use within sage-grouse use areas. BLM is currently in the process of developing a multidisciplinary conservation plan for the Black Rock Population Management Unit. Upon completion of this plan BLM will update sage-grouse habitat management as necessary.

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Protest Point #26

We Protest BLM's failure to put in place any standards of use that are adequate to protect sage-grouse nesting and brood rearing habitats.

Response

The PMA PMUD is in conformance with the Interim Sage Grouse Guidelines Strategy. We are coordinating, communicating, and consulting with the FWS, NDOW, BLM Sage-Grouse Habitat Conservation Strategy, Western Association of Fish and Wildlife Agencies (WAFWA), Nevada Governor's Sage-Grouse Conservation Strategy, and other Federal and state agencies on all sage-grouse plans being developed through a multidisciplinary process. Most plans are still being developed and the planning process is ongoing. We have initiated monitoring to try to determine long term trends in sage-grouse habitat. NDOW and the Oregon State University are conducting research on sage-grouse in our district. NDOW personnel have stated that the long

term recovery of sage-grouse populations will require approximately 25 years. Please refer to the D/MASR and the PMUD/FMUD for more detailed information regarding the allotment specific objectives for sage- grouse habitat.

Protest Point #27
We Protest BLM's failure to take actions necessary to fix the serious problems of head-cutting in all streams and wet meadow complexes in the allotment.

Response
Past and current data does not indicate any head-cutting. As stated on response to #25, wet meadows have not been assessed for Proper Functioning Condition. The WFO is currently conducting lentic assessments, but none were conducted in the PMA during the evaluation period.

The BLM has determined that the proposed livestock management is conducive to improving and maintaining healthy rangelands.

Protest Point #28
We protest BLM's failure to provide estimates of erosion rates and soil loss occurring under current conditions in the allotment.

Response
BLM has used a number of soil erosion models use to determine erosion rates, such as Universal Soil Loss Equation (USLE), Revised Universal Soil Loss Equation (RUSLE), or Water Erosion Prediction Project (WEPP). These models could be argued as each has advantages and limitations. The issue is not the tons of erosion produced, but the factors that affect erosion rates by the proposed action and alternatives. The factors that affect erosion rates are climate, soil texture, percent slope, cover, and soil loss tolerance. Soil loss tolerance denotes the maximum level of soil erosion that will permit sustainability.

Only one soil factor is affected by the PMUD grazing action which is cover, both for vegetative and biological soil crusts. This has been addressed in section 4.5, Vegetation and 4.7, Soils of the PMA EA. The EA found that the grazing alternatives would not significantly impact this soil factor.

Protest Point #29
We protest BLM's failure to conduct riparian monitoring as required by the 2002 Biological Opinion.

Response
BLM did not implement the 2001 Biological Opinion. After further review and analysis of the 2001 BO, the BLM concluded that the proposed actions outlined in the BO would not meet the allotment specific objectives/SRH. Thus, BLM had to reinitiate formal consultation with FWS after completing the National Environmental Policy Act (NEPA) analysis of the actions (alternatives) evaluated. Therefore, the 2003 Supplement to the 2001 BO, replaced the 2001 BO and the 2003 Supplemental BO will be implemented in the PMA FMUD.

Protest Point #30

We protest BLM's use of utilization cages biased towards the livestock industry – i.e. cages not tall enough to prevent cows from eating grasses, and thus biasing reference vegetation height potential and data.

Response
The purpose of the utilization cages is to document the annual production on the vegetative resources. Along with this, the cages serve as a comparison of grazed v. ungrazed vegetation. The type of utilization cage used is based upon the potential growth of various vegetative communities. The smaller cages are generally placed on perennial grasses and forbs in upland sites. The larger pyramid cages are used on upland shrub, woody riparian sites and wetland/streambank riparian habitats. BLM has purchased and will install the larger pyramid cages on wetland riparian and streambank riparian habitats this year.

Protest Point #31
We protest BLM's allowing cattle to graze under the new schedule prior to issuance of the decision and the appeal period.

Response
Informal consultation was required to insure that the authorized livestock grazing did not jeopardize the continued existence of LCT within Battle Creek (as per Section 7 (a) (3) of the ESA). Generally, consultations fulfilling this requirement are in place on allotments with TES. These consultations provide Terms and Conditions in the form of an Incidental Take Statement, which in this instance had not occurred due to the recent introduction of LCT into an unoccupied stream system. Therefore, informal consultation was initiated with the USFWS on May 6, 2003. Informal consultation was initiated instead of formal consultation due to the short time remaining prior to livestock turnout on PMA. The informal consultation was concluded on May 8, 2003, and resulted in a large commitment by the permittee and BLM to exclude livestock from an area nearly twice the size of the watershed. This exclusion was necessary since informal consultations do not contain an incidental take statement and cannot permit take, as defined in the ESA. Bi-weekly use supervision was conducted by BLM during the period livestock were authorized within the North Paiute High Elevation Use Area and weekly use supervision was conducted throughout the remainder of the grazing system. A system of reporting and also fall back measures were employed to maintain 100% exclusion from this watershed.

The PMUD for PMA is in accordance with the BO dated May 9, 2003. This BO includes Terms and Conditions to minimize levels of take of LCT below the threshold of incidental. This PMUD is also in accordance with analysis conducted in the Environmental Assessment dated March 19, 2003.

As indicated in our response to # 9, livestock grazing for this season has been in accordance with the interim grazing system developed during 2003 informal consultation with the FWS. This interim grazing system is similar to the existing system implemented in the 1995 FMUD with the exception of excluding grazing within the existing LCT watershed.

Protest Point #32
We protest BLM's failure to take actions necessary to assure significant progress is made towards attaining the Fundamentals of Rangeland Health.

Response

See response to protest point #9.

Protest Point #33
We protest BLM's failure to comply with the 1995 Recovery Plan for LCT, and to foster habitat conditions in Bartlett Creek that serve to deter slated re-introduction.

Response
BLM has complies with the 1995 Recovery plan for LCT. As stated in the PMA EA, Bartlett Creek is very close to natural potential for stream and riparian habitats. This is based on the Ecological Classification that was completed by Whitehorse Associates of Logan, Utah. The classification is based on the underlying geology, valley bottom type, stream survey data, and several other factors, which make these data valuable in determining the management goals for the watershed and the potential for future introductions of LCT. Although management has focused on improving all streams administered by the WFO, special emphasis has been placed on streams that are existing and/or potential habitat for LCT. As a result aquatic habitat has improved to near potential on many lotic systems. Much of Bartlett, the South Fork of Battle, and Paiute Creek are in private ownership and the NDOW has issued a letter to the private landowner stating that no introductions of LCT would occur without his concurrence and written agreement.

Protest Point #34
We protest BLM's failure to conduct on-the-ground inventories for pygmy rabbit.

Response
See response to protest point #19.

BLM is not obligated to inventory pygmy rabbit. NDOW has the responsibility of managing wildlife species. The BLM WFO, depends on assistance and coordination with the FWS and other Federal agencies, NDOW and other state agencies, the Nevada Natural Heritage Program, colleges and universities, and private individuals to document studies, inventories, and monitoring on special status animal species like the pygmy rabbit. BLM will continue to consult with FWS and NDOW on all sensitive species, including pygmy rabbit.

Moreover, by analyzing impacts to upland areas using season of use, topography, and off site water developments, BLM can equate the level of potential impacts that could occur to pygmy rabbit habitat. Using this analogy, in addition to other information found in the EA, BLM selected an alternative that will minimize potential impacts to pygmy rabbit habitat.

Protest Point #35
We protest BLM's failure to assess the deplorable and degraded conditions of recently burned lands in the allotment.

Response
Is is common practice to close allotments or portions of allotments to livestock grazing after a wildland fire to allow for reestablishment of vegetation. This was the case for the PMA in 2000, after the Mahogany Fire. After two growing seasons of rest monitoring data was initiated to assess attainment or non-attainment of the fire rehabilitation criteria outlined in the Final Decision. As a result of the monitoring studies, the criteria was met and the burned areas of the PMA were open to authorized livestock grazing subject to utilization criteria. BLM issued a fire

closure decision on October 18, 2000, and the opportunity to challenge that decision has long since passed.

Protest Point #36
We protest BLM's failure to conduct surveys and to adequately assess impacts of livestock grazing on hydrobiid snails.

Response
The BLM is responsible for the management of springsnail habitats, whereas the NDOW is responsible for the species management, including population surveys. The BLM utilizes all available data from the Nevada Natural Heritage Program and unpublished reports to ascertain the location of occupied springsnail habitat when developing an EA for a major federal action on public land. In the PMA EA, it was noted that a comprehensive survey for springsnail populations had not been completed, nor had the spring system riparian habitats been evaluated using techniques outlined in Technical Reference 1737-17, "A Guide to Managing, Restoring, and Conserving Springs in the Western United States"(Sada et al. 2001). However, by analyzing livestock impacts to riparian areas using season of use, topography, and off site water developments, BLM can equate the level of potential impacts that could occur to springsnail habitat. Based on this, in analogy, addition to other information found in the EA, BLM selected an alternative that minimized hot season use within the areas which have the majority of spring habitats. In addition to intensive herding, grazing must meet utilization objectives on all public land riparian wetland habitats, to minimize potential impacts to these sensitive habitats.

Protest Point #37
We protest BLM's failure to adequately assess the behavioral and other disturbance caused by livestock to bighorn sheep, sage-grouse, other special status species and their habitats.

Response
The BLM has no data that documents behavioral and other disturbances caused by livestock to bighorn sheep, sage-grouse, and other special status species and their habitats. The PMA EA analyzed potential impacts to these species by grazing alternatives. NDOW states that the bighorn sheep population on the Black Rock Range is still expanding and doing well. NDOW also has documented three sage-grouse leks in the PMA. Several years of drought and previous wildfires have negatively impacted sage-grouse habitat cumulatively, along with other factors. The BLM will continue to collect data and implement actions to insure that proper multiple use management is occurring.

Protest Point #38
EA page 14 describes the water sources in the allotment as being "numerous". If that is the case, where is the data? How many springs, seeps, playas and intermittent drainages occur here. We Protest your failure to assess their health – not just PFC but also soil loss, weed invasion, desiccation, hummocking, desertification, as part of this assessment.

Response
A water inventory was conducted on the Winnemucca District from 1978 to 1984. This inventory shows that there were a total of 5 wells, 323 springs, 3 perennial streams, 3 seasonal streams and 96 seeps within the PMA. The WFO has chosen to monitor the perennial streams (due to their habitat sensitivity) as indicators of rangeland health. The D/MASR assessed PFC of these perennial and seasonal streams.

Protest Point #39
We protest BLM's failure to provide maps, identify all habitats critical to sage-grouse and other special status species. Where is the data? Where was it collected? What did this data show regarding adequacy of grass for nesting cover?

Response
Maps have been provided in the PMA EA: Appendix 16 for Ecological Status Inventory, Appendix 20 for Vegetation Communities, Appendix 25 for Sage-Grouse Nesting Habitat and Appendix 26 for Sage-Grouse Seasonal Habitat. Please refer to the Affected Environment and Environmental Consequences sections of the EA.

See responses to protest point #19 which addresses special status species and responses to protest points #25, 26 and 37 which addresses sage-grouse.

Sage-grouse habitat, whether occupied or potential encompasses the sagebrush ecosystem starting at the foothills to the highest elevations (refer to page 142, PMA EA). The sagebrush communities are being impacted to varying degrees by the ongoing drought. We have selected the best grazing management scenario which should have the best chance of keeping and maintaining the existing sagebrush ecosystem. NDOW is responsible for collecting all sage-grouse census population and distribution data. We approach sage-grouse habitat management as sagebrush ecosystem management. The better the overall habitat then all species prosper. The Nevada Natural Heritage Program and the Fish and Wildlife Service monitor and maintain all data bases on special status species.

Protest Point #40
We protest your false conclusion that habitat conditions have been met for sage-grouse and other special status species. Where is the data? Where was it collected? What did this data show regarding adequacy of grass for nesting cover?

Response
See response to protest point #39.

Your disagreement with BLM about meeting habitat conditions does not show us that we erred.

Protest Point #41
We protest your merely providing a list of special status plants, with no description of survey efforts, locations, livestock impacts, etc. You can not say you have conducted a current S&G assessment until you have done properly assessed conditions.

Response
Please refer to the Affected Environment sections 3.3.2, Sensitive Terrestrial Species and 3.4. 2, Sensitive Plant Species of the PMA EA. Information on locations of special status plants have been provided in this document.

According to the Nevada Natural Heritage Program's data base there are two sensitive species found to date in PMA. The winged milkvetch (*Astragalus pterocarpus*) a forb and a gastropod (*Pyrgulopsis longiglans*) have been documented to be in PMA.

See response to protest point #19. Refer to the PMA D/MASR which conducted a SRH assessment based upon the most current PMA data.

Protest Point #42
We protest your reliance on data on "cover achieved" on streambanks – as p. 61 of the second assessment, when you have provided no information on whether livestock grazing had already occurred, when this measurement was taken.

Response
During the re-evaluation period the stream parameter data was collected by the Nevada Department of Wildlife (NDOW). NDOW use the General Aquatic Wildlife Survey for analysis of this data and calculate a Habitat Condition Index (HCI) derived by using the six habitat parameters of pool measure (PM), pool structure (PS), stream bottom (SB), bank cover (BC), bank soil stability (BSS) and bank vegetative stability (BVS). Riparian Condition Class (RCC) which correlates to bank erosion and changes in riparian vegetative composition, was also calculated as the average of bank cover and bank stability obtained from stream inventories. Stream surveys are not conducted annually and therefore are not used to record streambank vegetation utilization levels.

Protest Point #43
We protest your failure to collect ecological status inventory data. (Assessment, p. 60).

Response
Ecological Status Inventory (ESI) data has been provided in the PMA EA. Please refer to Section 3.4.1 ESI on page 33 and Appendix 16 Allotment ESI map on page 138 of the EA. Table 6 Ecological Seral Status, on page 33 of the EA, identifies over seventy-five percent (75%) of the allotment is at Potential Natural Community (6%) or Late Seral Stage (71%) with the remainder at Mid Seral (23%). Page 60 of the PMA Final Allotment Re-evaluation (FAE) refers to redefining/quantifying some vegetative long term objectives based upon ESI data. These vegetative long term objectives include ceanothus, mahogany, aspen, riparian/meadow habitats, serviceberry, bitterbrush, ephedra and winterfat. These vegetative long term objectives have been redefined (refer to page 165 of the FAE) to allow for successful reproduction and recruitment based on site potential. The vegetative components of these long term objectives have also been included in the PMA short term objectives. Utilization monitoring will be conducted to ensure use levels are not exceeded thereby ensuring attainment of the long term objectives based on site potential.

Protest Point #44
We protest your failure to collect data on condition of mahogany stands.

Response
See response to protest point #43.

Protest Point #45
We protest your failure to collect data on condition of aspen habitat types.

Response
See response to protest point #43.

Protest Point #46
We protest your failure to collect data on 529 acres of riparian and meadow habitats.

Response
See response to protest point #43.

Protest Point #47
We protest your failure to collect data on serviceberry, bitterbrush, ephedra, winterfat vegetation.

Response
See response to protest point #43.

Protest Point #48
We protest your failure to collect data and assess conditions of habitats invaded by cheatgrass and other exotic species on the allotment.

Response
In June of 2003, the WFO in partnership with Humboldt County initiated noxious weed control within the county road rights-of-way. Leonard Creek, Big Creek and Woodard roads, system roads within the area, were treated with pesticides to slow the spread of the noxious weeds that are present. Lands "at risk" to weed invasion have been identified as the BLM system and non-system roads that connect to county roads that have been infested with noxious weeds. This cooperative project will be continued for the next 3 or 4 years, as necessary, to ensure that the control methods have been effective.

Protest Point #49
We protest BLM's failure to describe population trends in the allotment and nearby areas for all special status species.

Response
On pages 33 & 34 of the PMA EA there is a list, provided by the U.S. Fish and Wildlife Service, of sensitive plant species that may occur within the allotment. At the WFO we depend on assistance and coordination with the U.S. Fish and Wildlife Service and other Federal agencies, the Nevada Department of Wildlife and other state agencies, the Nevada Natural Heritage Program, colleges and universities, and private individuals to document studies, inventories, and monitoring on special status plant and animal species and important native wildlife. None of these species are known to exist within the allotment and the BLM doesn't have adequate staffing or funding to conduct a special status species inventory. Although BLM is not obligated by law to protect special status species, BLM considered the impacts of the grazing action on potential special species in the EA.

Protest Point #50
We protest your failure to present and assess data that clearly distinguished between horse and cattle use.

Response
It is virtually impossible to clearly distinguish between cattle and wild horse vegetative utilization without constant monitoring. There is a dietary overlap between these two classes of ungulates compounded by the fact that they coexist throughout most of the allotment. BLM used all of the existing data to determine attainment or non-attainment of allotment objectives and SRH. The PMA settlement agreement, dated March 1995, required BLM to; "...monitor the actual use of livestock and wild horses and their impacts on the vegetative resources, ... monitor fish and wildlife habitat, and ...collect utilization data on stream bank and wetland meadow riparian habitats to determine achievement of short term objectives." These data have been collected and presented in the PMA Final Allotment Re-evaluation. The PMA Determination/MASR explained which objective(s) and standard(s) were not attained, the PMA EA analyzed the grazing alternatives and preferred alternative was brought forward in the PMA PMUD. Monitoring will be conducted on the allotment to ensure the management actions are leading to attainment of objectives/SRH. Specifically, monitoring will be conducted to determine what ungulate utilizes what percentage of vegetation.

Protest Point #51
We protest BLM's failure to provide a map that shows the areal extent and location of each stream segment used in its PFC assessment.

Response
A map depicting the requested information is located on page 145 of the PMA EA.

Protest Point #52
This document needs to be withdrawn, and an EIS using current data must be prepared to assess all direct, indirect and cumulative impacts.

Response
The PMA EA assessed the direct and indirect impacts of the proposed action. The EA also assessed the Cumulative Impacts and Past, Present and Reasonably Foreseeable Future Actions of various grazing alternatives.

The EA for the PMA evaluation complies with the NEPA and associated Council of Environmental Quality regulations (40 CFR 1500-1508). The BLM used a systematic, interdisciplinary approach and encouraged public participation to evaluate environmental impacts. In addition, BLM rigorously explored and objectively evaluated reasonable alternatives as required under 40 CFR 1502.14(a). The proposed action and alternatives on BLM administered lands are in conformance with the Paradise-Denio Land Use Plan and Sonoma-Gerlach Land Use Plans approved in 1982. Currently, the WFO is in the process of developing a new Land Use Plan for lands administered by BLM. It is anticipated that the plan will be completed in 3-4 years.

Protest Point #53
We Protest the reliance on Ecological Inventory Data from 1991 and 1992. You need to collect and assess new data.

Response
Ecological Status Inventory (ESI) is designed to serve as a base inventory of existing vegetation compared to site potential. Four classes are used to express the degree to which production or composition of the existing plant community reflects that of the potential natural community (site potential). The degree of measurable change between plant community classes is realized over a relatively long period of time (15-30 yrs.
See response to protest point #43.

Protest Point #54
We Protest your failure to assess the role of livestock in spread and infestation of weeds in the Paiute Meadows and surrounding allotments.

Response
See response to protest point #11.

Protest Point #55
We Protest your failure to assess the role of livestock grazing in addition to other disturbances (roads, mining, etc.) in spread of weeds in the allotment.

Response
See response to protest point #11.

Your concerns related to other disturbances such as roads, mining, etc. are outside the scope of the PMA Evaluation and the PMUD.

Protest Point #56
We Protest your failure to collect data that clearly separates horse use/impacts from cattle use/impacts.

Response
See response to protest point #50.

Protest Point #57
We Protest your having rounded up wild horses, and now proposing to dump large numbers of cattle on the same lands where you just removed horses. Please provide a rationale for this action.

Response
The 1993 Allotment Evaluation determined the total carrying capacity based upon recent vegetation utilization monitoring and actual use data. The 1993 Final Multiple Use Decision (FMUD) distributed forage proportionally between livestock, wild horses and wildlife based upon monitoring data and ratios established in the Land Use Plan. The 1993 FMUD also established the Appropriate Management Level (AML) for wild horses in the PMA. Periodically wild horse gathers are scheduled in order to maintain AML. See response to protest point #1.

Protest Point #58

We Protest your failure to collect site-specific data and assess the impacts of livestock on cultural sites. W have observed extensive erosion and head-cutting caused by livestock grazing at cultural sites in the neighboring Soldier Meadows allotment very close to the Paiute Meadows boundary. In fact, an exclosure acknowledged to be protecting cultural resources in the headwaters of Coleman Creek is a shambles, and we observed livestock trespass inside the exclosure on out visit of approx. 2 weeks ago. This exclosure has obviously not been maintained, and appears to have been purposefully destroyed in several locations. Under these circumstances, it is impossible to believe that you do not fully inventory and assess livestock damage to all cultural sites in the Paiute Creek, Battle Creek, Bartlett Creek, Burnt Spring, Butte Creek, Rough Canyon, Deer Creek and other spring and seep areas in the allotment. EA at 38 acknowledges that utilization levels were exceeded in all these stream locations. You must assess the irreparable damage grazing is causing to cultural sites.

Response
Page 38 of the PMA EA identified some areas where vegetation utilization levels were exceeded. These areas have the potential for cultural resources although their presence has not been documented. Page 70 of the PMA/EA states that the grazing alternative presented in the PMA PMUD would result in limiting or eliminating livestock impacts to cultural resources. Your concerns related to impacts to resources within the Soldier Meadows Allotment in outside the scope of the PMA PMUD.

Protest Point #59
We Protest your failure to inventory paleontological sites and assess livestock impacts to them.

Response
See response to protest point #58.

Protest Point #60
We Protest your failure to incorporate principles of the Black Rock-High Rock NCA legislation in this EA and decision.

Response
The PMA PMUD includes grazing permit terms and conditions that allow for the attainment of objectives/standards. The National Conservation Area (NCA) Resource Management Plan and Record Of Decision have not been completed. However, The PMA Re-evaluation, EA and PMUD are in full conformance with the NCA legislation which states; "Where the Secretary of the Interior currently permits livestock grazing in the conservation area, such grazing shall be allowed to continue subject to all applicable laws, regulations, and executive orders."

Protest Point #61
We Protest your failure to protect the nationally significant cultural, geological, ecological and recreational resources of the NCA in this decision making process.

Response
The PMA Re-evaluation, EA and PMUD are in full conformance with the NCA legislation. See response to protest point #58 related to cultural and response to protest point #43 related to ecological resource concerns. Your concerns related to geological and recreational resources have been addressed in the Soils (Sec. 4.7) and Recreation (SEC. 4.12) sections of the PMA

EA. The PMA EA interdisciplinary team comprised of resource specialists that brought forward information related to their area of expertise into the affected environment which was analyzed in the environmental consequences section for each alternative.

Protest Point #62
We Protest your acting to increase AUMs prior to completion of the new Black Rock NCA plan.

Response
The Black Rock NCA planning document does not address allotment specific grazing management issues. The NCA planning process includes developing broad goals to ensure that the plan will be consistent with the spirit and intent of legislation, subject to all applicable laws, regulations, and executive orders. The allotment re-evaluation process will continue to implement allotment specific livestock grazing management actions. Please refer to 4.13 of the EA. Page 74 of the EA analyzed the environmental consequences of the proposed grazing system and states; "Changing the active permit of the allotment from 3,550 to 4,040 would have little impact on the naturalness of the Wilderness Areas. These AUMs have been authorized in these areas since 1997 under a nonrenewable permit."

Protest Point #63
We Protest your failure to assess the impacts of livestock management and permittee practices in contributing to roading in the allotment.

Response
The majority of the livestock management on the PMA is conducted on horseback using existing trails established by livestock, wildlife and wild horses. Roads and trails exist throughout the allotment and have prior to the passage of the NCA. There are no new roads/trails being proposed for construction. Portions of the allotment within the NCA are subject to the guidelines established by the Act including the following: "The Secretary shall maintain adequate access for the reasonable use and enjoyment of the conservation area." "The Secretary is authorized to maintain existing public access within the boundaries of the conservation area in a manner consistent with the purposes for which the conservation area was established."

Protest Point #64
We Protest your failure to adequately evaluate the impacts of grazing and associated facilities and disturbances on VRM classification of the affected lands.

Response
Please refer to Section 4.14 Visual Resource Management in the PMA EA. Page 79 of the EA states that the proposed grazing system would result in long term beneficial impacts to visual resources. See response to protest point #61.

Protest Point #65
We Protest your failure to honestly address livestock grazing impacts to water quality. Page 45 of the EA tries to cover up the role of livestock in causing water pollution problems, including during runoff events.

Response
Please refer to the Affected Environment Section 3.1 Water Resources on page 14 of the PMA EA. This section explains that water quality sampling and analysis is limited to those

constituents that are most readily influenced by livestock grazing. Page 46 of the EA states that the PMA PMUD reduces the amount of hot season grazing that would result in improved riparian habitat and corresponding improvements to water quality. See response #21 above for additional information related to water quality.

Protest Point #66
We Protest your failure to separate livestock impacts from horse impacts in assessing water quality.

Response
See response to protest point #50.

Protest Point #67
We Protest your failure to address the ongoing unauthorized use and trespass problems here in alternatives. How will trespass affect elements of all alternatives?

Response
BLM has no data that supports your claim of on-going unauthorized use and/or trespass. It is the WFO policy to conduct livestock compliance checks and resolve incidents of unauthorized livestock use in a timely manner and in accordance with BLM regulations. Terms and conditions for livestock management are outlined in the PMA PMUD. These terms and conditions should allow for attainment of objectives and SRH. If there is a violation of the terms and conditions of the grazing permit, 43 CFR outlines actions that may occur with prohibited acts such as unauthorized livestock grazing. The PMA PMUD grazing alternative will be subject to BLM's existing regulations related to livestock grazing management.

Protest Point #68
We Protest your failure to assess harmful impacts of winter use.

Response
BLM does not have any data or scientific studies that indicate harmful impacts related to winter use. Please refer to EA Sections 4.2 through 4.15 on pages 45 through 79 of the PMA EA. These sections evaluate the impacts of winter grazing and positive benefits to all resource values within the allotment.

Protest Point #69
We Protest INCREASING GRAZING INTENSITY in the horrifically damaged NPHUA.

Response
The grazing system presented in the PMA PMUD would actually reduce the season of use, hot season use and AUM's authorized in the NPHUA from the existing system. This proposed grazing alternative would eliminate seventeen (17) days (during the hot season) of livestock grazing and reduce AUMs by 294 and 289 compared to the Alternative #1 and Alternative #3 respectively. This management action also proposes to change some of the areas of use by designating the Ridge Road as the boundary between the north and south use areas instead of Paiute Creek as under the existing system. This change in the boundary was a result of comments received on the PMA EA. The lack of adequate water sources south of Paiute Creek and the combined numbers of wild horses and livestock tend to concentrate use on the limited

water sources and vegetation under the existing system. Changing the use areas allows better distribution and more uniform vegetative utilization since there are more sources of water and greater forage production in the higher elevation sites on the northern portion of the allotment. Since the cattle will be moved to the larger southern use area around the first of July, alleviating hot season use in the riparian areas, this system will better achieve the allotment objectives and SRH. Riding and herding is an incorporated term and condition of the PMUD to ensure livestock are properly distributed within the appropriate use area North or South of the Ridge Road during the authorized period of use.

Protest Point #70
We Protest your failure to adequately assess the impacts of livestock grazing on soil erosion hazard.

Response
Please refer to section 4.7 Soils, on pages 65 through 67 of the PMA EA. This section of the EA evaluates potential soil impacts of the various grazing alternatives. Page 66 of the EA identifies the positive benefits of the proposed grazing system in the PMA PMUD such as increased cover, seedling establishment and establishing healthy biological crusts

Protest Point #71
We Protest your Preferred Alternative that allows damaging hot season and during-growing-season use on the fragile higher elevation lands in the NPHUA.

Response
See response to protest point #69.

Protest Point #72
We Protest your allowing harmful hot season use on the incredibly damages SPHUA. Paiute Creek headwaters are in terrible condition – we saw them last fall. Allowing practices known to be harmful to riparian habitats continue here is inexcusable, and defies logic and science.

Response
BLM has no data indicating terrible condition of riparian areas in Paiute Creek. The Proper Functioning Condition table on page 32 of the D/MASR show reach 1 of Paiute Creek as FAR with an upward trend and reach 2 at PFC. In the PMA PMUD Paiute Creek is the northern boundary of the SPHUA and livestock are required to be distributed throughout the use area. There is also some very restrictive utilization criteria and terms and conditions that are in the PMUD to ensure achievement of allotment objectives and the SRH.
See response to protest point #71.

Protest Point #73
We Protest your failure to evaluate the impacts of all alternatives on native wildlife – and trampling damage to nesting birds, disturbance of young mammals, etc.

Response
The BLM doesn't have adequate staffing or funding to conduct comprehensive studies that would evaluate all potential ungulate impacts to native wildlife species. There is however an

analysis of potential impacts to priority and special status terrestrial wildlife species on pages 51 through 60 of the PMA EA.

Protest Point #74
We Protest your failure to develop alternatives that reduce livestock grazing.

Response
Please refer to pages 9 through 13 of the PMA EA. This section of the EA presents various livestock numbers, seasons of use and AUMs associated with the grazing alternatives including no livestock grazing. Table 1 on page 10 of the EA lists the amount of total AUMs authorized during a portion of the evaluation period. The PMA PMUD would authorize 120 to 692 AUMs less than the existing system.

Protest Point #75
We Protest your selecting a Preferred Alternative known to be harmful to aquatic resources.

Response
BLM has no data indicating that the PMUD grazing alternative would adversely impact aquatic resources. Please refer to page 50 of the PMA EA. This section of the EA addresses the proposed grazing system impacts to aquatic resources. The summary states; "The attainment of the SRH and allotment objectives would likely be achieved under Alternative 2 in the quickest period of time with minimal adjustments to the intensity or duration of grazing compared to the other alternatives.

Based upon the evaluation of monitoring data for the PMA, consultation with the permittee, FWS and other interested publics, NEPA analysis and recommendations from the BLM staff, it was the authorized officer's proposed decision to change the management of livestock. The change in livestock management was due to non-attainment of objectives/SRH for riparian habitats. Thus, the management actions outlined in the PMA PMUD will allow for the attainment or progress to be made toward attainment of allotment specific objectives/SRH.

Protest Point #76
We Protest your false conclusion about pygmy rabbits on p. 56. You have conducted no surveys or pygmy rabbits. You can not assume that there will be no impacts from grazing in NPHUA to this species.

Response
Nevada Department Of Wildlife (NDOW) manages the wildlife species within the state and the BLM manages the habitat. Any pygmy rabbit surveys are to be conducted by NDOW and not BLM.

Please refer to page 55 and 56 of the PMA EA. The EA discussion is limited to possible grazing impacts to potential pygmy rabbit habitat. There is no conclusion or assumption that there will be no impacts from grazing in the NPHUA. The EA described pygmy rabbit habitat as tall, dense stands of big sagebrush growing on deep, well drained, loamy soils with a good understory of native grasses. The NPLUA is dominated by salt desert scrub vegetative communities therefore the potential of existing habitat and consequently the species is very limited within this use area.

Protest Point #77
We Protest your INCREASING spring grazing use in the NPHUA Wilderness area – this will significantly alter ecological processes and the Wilderness values and recreational and aesthetic experiences.

Response
Please refer to pages 9 through 13 of the PMA EA. The grazing system presented in the PMUD would actually reduce the season of use and AUM's authorized in the NPHUA from the existing system.

The Special Designations Map on page 152 of the EA illustrates that there is a relatively small portion of the NPHUA that is designated wilderness. The EA states on page 74 that since the proposed grazing system would reduce hot season grazing in the NPHUA, naturalness in the Black Rock Range Wilderness would be maintained or enhanced.

Protest Point #78
We ask that you rescind the EA and AE, place protective interim standards o use in place, and prepare the biologically and ecologically sound EIS that is necessary for modern-day decisionmaking on these important wild lands.

Response
Based upon consultation with the WFO NEPA coordinator it was determined that an EA would suffice. Please refer to the EA Finding of No Significant Impacts and the Final Multiple Use Decision. Also please refer to your copy of the Draft Resource Management Plan and Draft Environmental Impact Statement (EIS) for the Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area (NCA) and Associated Wilderness, and Other Contiguous Lands in Nevada dated February 2003. A portion of the PMA is within the area of analysis and addresses management issues and alternatives.

The EA for the PMA evaluation complies with the NEPA and associated Council of Environmental Quality regulations (40 CFR 1500-1508). The BLM used a systematic, interdisciplinary approach and encouraged public participation to evaluate environmental impacts. In addition, BLM rigorously explored and objectively evaluated reasonable alternatives as required under 40 CFR 1502.14(a). The proposed action and alternatives on BLM administered lands are in conformance with the Paradise-Denio Land Use Plan and Sonoma-Gerlach Land Use Plans approved in 1982. Currently, the WFO is in the progress of developing a new Land Use Plan for lands administered by BLM. It is anticipated that the plan would be completed in 3-4 years.

PAIUTE MEADOWS RANCH PROTEST POINTS:

The following protest points are presented in three separate headings; Grazing Schedule, Terms and Conditions and Omitted Items.

Grazing Schedule

Protest Point #1

Nothing in the Decision, EA, or data support the Decision to change the grazing season either on the North Paiute High Elevation or South Paiute High Elevation Use Areas. The Decision sets a gazing schedule that is flexible only for on dates. Eliminating flexibility of off dates provides no opportunity to match grazing management to seasonal growing conditions. Growing and weather conditions vary seasonally and annually. However, the Decision requires management that treats June 30 and September 21 as if conditions were the same each year. Therefore, the Decision is wrong.

Response
The PMA Final Allotment Re-evaluation and D/MASR presented data and determined that some of the allotment objectives and SRH were not achieved. The PMA EA analyzed grazing alternatives developed to achieve these objectives and standards. Each of these grazing alternatives identifies specific use areas, livestock numbers and seasons of use that will achieve and maintain the SRH regardless of seasonal or annual fluctuations in weather conditions. Term and Condition numbers 10 and 12 of the Proposed Decision provides for some flexibility based upon range readiness if any changes are consistent with management objectives and SRH. After meeting with you on September 4, 2003 BLM agreed to modify the season of use in the south use area by removing livestock on 10/6 and not 9/21.

Protest Point #2
The MASR does not support the EA's position that the existing grazing system had led to non-attainment of the SRH. Instead, it suggests that objectives for which the effects of livestock grazing were measured were met or substantially met with progress towards objectives. Furthermore, Paiute Meadows Ranch has proposed a grazing system, which addresses concerns raised by BLM, regardless of the merit of those concerns (EA's Alternative 3).

Response
Under the existing grazing system some of the SRH related to properly functioning riparian systems were not achieved. The non-attainment of these standards Battle, Bartlett and Butte Creeks within the North Paiute Use Area (NPUA) necessitated modifying the existing grazing system. In the PMA EA grazing alternative number 2 provided the greatest opportunity to achieve and maintain the SRH. Alternative 2 shortens the season use (5/16-6/30) within the NPUA compared to Alternative 3 (5/16-7/17), which will reduce the time that livestock could potentially impact the riparian systems. The removal of livestock earlier in the growing season allows the opportunity for vegetative re-growth providing greater protection of the riparian habitat.

Protest Point #3
The EA makes continued reference to Alternative 3 having an increased concentration of livestock without analyzing whether forage demand would exceed forage supply. Livestock forage demand for the NBUA would be at 24 acres per AUM. The North Battle Use Area (NBUA) has productivity well in excess of 24 acres per AUM (All ecological sites potentially found in this area produce more than 100 pounds per acre even in dry years according to the NRCS Major Land Resource Ecological Site Descriptions for the area). 24 acres per AUM represents a production level of less than 100 pounds per acre per year. Furthermore, it is misleading to describe cattle spread out with 24 acres per cow per month as "concentrated". The NBUA is made up of ecological sites that produce many times this level of production (as shown by NRCS MLRA 24). The EA errs when is states that there would be major adverse impacts to any of the creeks or upland communities. The EA offers nothing to support the conclusion that

any adverse impact would occur from implementation of any of the grazing alternatives and certainly does not support the conclusion that "major adverse impacts" would occur. Instead the data indicates exactly the opposite. This further supports adoption of Alternative 3.

Response
The issue is not a question of forage availability but of livestock distribution and the potential of cattle impacting riparian areas where the SRH were not achieved. Of equal consideration is that forage allocation is not solely determined by an ecological sites potential vegetative production. Factors such as percent slope, suitability and distance to water sources are also considerations in determining viable livestock grazing alternatives. BLM's multiple use management of public rangelands must also consider the forage demand and habitat requirements of wildlife and wild horses/burros when developing livestock grazing alternatives.

Protest Point #4
Under Paiute Meadows Ranch's proposed adjustment the amount of forage would match livestock forage demand. We disagree with the statement that there is likely to be major adverse impacts to Battle Creek and Bartlett Creek from livestock grazing. Cattle grazing for a 31-day period with adequate time for regrowth will not have a "major adverse impact" to riparian areas. We again emphasize that wild horses will be on these creeks year-round. Year-long wild horse grazing will cause "major negative impacts", while this is not true for cattle grazing for 1 month per year.

Response
Obviously the North Fork of Battle Creek with an existing population of federally listed LCT require BLM and the U.S. Fish and Wildlife Service to closely analyze any action that has the potential to impact LCT and its associated habitat. We do not have data indicating that wild horses are impacting Battle or Bartlett Creeks. Literature cited is conclusive that warm season livestock grazing has the potential to adversely impact riparian systems. With livestock removal by June 30 vegetative regrowth will occur resulting in sufficient stubble height to effectively trap sediment. However, if bank alteration occurs, these adverse impacts would result in increased sedimentation into these streams. BLM is committed to collecting monitoring data that will determine the class (livestock v. wild horse) of ungulate impacts.

Protest Point #5
It is short-sighted to predict that every year will be the same and that June 30 or September 21 will always be the appropriate date to move cattle. Monitoring data reported in the EA does not suggest this to be true.

Response
Annual and seasonal fluctuations in weather and the subsequent variable vegetative production were taken into consideration when analyzing the grazing alternatives presented in the EA. However the BLM is confident that the proposed grazing system with specific use areas and seasons of use will result in the achievement of allotment specific objectives and SRH. Furthermore CFR Sec. 4130.3-1 (a) states; "The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease."(emphasis added) The livestock seasons of use were based upon ensuring attainment of allotment riparian objectives and SRH. BLM has established key riparian areas and these areas will be used to monitor attainment of allotment objectives and SRH.

Protest Point #6

The end date for use on the S. Paiute high elevation use area should be October 6 rather than September 21. The Decision provides for long-term objectives that can be met with an October 6 end date (or later). As long as objectives are being met, BLM is in error to allow no extension past the scheduled end date and to unnecessarily move the end date to September 21, regardless of resource conditions. This demonstrates the punitive nature of the Decision and demonstrates that resource conditions are not the basis for the Decision.

Response

Standards and Objectives have not been met within this use area, which has utilized a late fall turn off date. Analyzing a grazing system from only a forage standpoint is flawed and against BLM Regulations. The BLM is tasked with managing the public lands for multiple uses. In addition, the BLM must ensure that the SRH, which include improving or maintaining threatened or endangered species habitats and that significant progress is being made toward the achievement/attainment of PFC on lotic and lentic riparian habitats. The PMA EA analyzes the data collected on the riparian and aquatic habitats during the evaluation period, which included livestock grazing until October 6 and failed to meet the allotment objectives and SRH. You are correct in ascertaining that livestock authorization dates should be flexible if objectives are met, however objectives were not been met during the evaluation period.

After meeting with you on September 4, 2003 to discuss your points of protest, BLM agreed to change the livestock removal date from 9/21 to 10/6. This change will be reflected in the PMA FMUD and grazing permit.

Protest Point #7

BLM presented no data or evidence to support limiting fall use to September 21 instead of October 6. Late-season use would not occur in the vicinity of LCT habitat. Late-season use should be based on site-specific monitoring data. The ranch has proposed a site-specific workable plan that accounts for seasonal variation; identify key areas that will be monitored on or about September 15. Site-specific measurable objectives should be set for each key area. If monitoring shows that predetermined conditions are not exceeded by September 15, cattle have to leave by September 21. This is fair and workable. The decision is in error.

Response

The BLM TR 1737-14 is a comprehensive document that outlines sound livestock management practices for riparian area management. Late fall livestock grazing has been identified as a period of use that is not compatible with willow management. This incompatibility is due to the loss of a flavenoid in the stems, which makes the species much more palatable to livestock. This data is reinforced by the FAR conditions of the lotic habitats within the South Paiute - High Elevation use area. Paiute Creek, which is within this use area is identified in the 1995 LCT Recovery Plan as a future recovery stream; therefore the BLM must improve habitat conditions to facilitate the future reintroduction of LCT. Riparian habitat condition is a strong component of salmonid habitat quality, especially in areas of environmental extremes like desert ecosystems.

After meeting with you on September 4, 2003 to discuss your points of protest, BLM agreed to change the livestock removal date from 9/21 to 10/6. This change will be reflected in the PMA FMUD and grazing permit.

Protest Point #8

The Ecological Status Inventory (ESI) indicated that over 76% of the PMA was in Late Seral or Potential Natural Community (PNC). This occurred under current management and without the strict off dates. This indicates that current management should be continued. It is completely unacceptable to punish good management by forcing a severely limiting grazing plan onto the permittees or implementing unjustifiable restrictions such as the 6-inch stubble height requirement.

Response

Upland vegetative condition is not the reason a 6-inch stubble height objective was set. It is well known that riparian areas are the limiting factor on the rangelands in Nevada and the desert southwest. The PMA Determination/MASR identified non-attainment of some allotment objectives and SRH related to riparian habitats. Streambank alteration and stubble height are excellent tools to manage livestock use within riparian/stream habitats. Properly functioning riparian zones can be maintained or improved by minimizing the level of streambank alteration on a stream and by maintaining a level of residual stubble height after grazing has ended. In accordance with BLM Manual 6500, "Wildlife and Fisheries Management", the goals for important fisheries, which include major recreational fisheries, threatened, endangered, or sensitive aquatic or riparian species, are to be maintained or enhanced. Furthermore, in accordance with the "Riparian-Wetland Initiative of the 1990s" and the 1995 LCT Recovery Plan, riparian areas should be managed to achieve and maintain proper functioning condition (BLM 1991, USFWS 1994). The BLM Riparian and Wetland Initiative for the 1990's states: "management is to maintain, restore, or improve riparian-wetland values to achieve a healthy and proper functioning condition, for the maximum long-term benefit of the American people" (USDI-BLM 1991). Further, it states that a healthy and proper functioning riparian-wetland is one that dissipates energy from runoff, filters sediments, contributes to root mass development for bank stabilization against erosion, develops diverse "ponding and channel characteristics to provide habitat and the water depth, duration, and temperature necessary for fish production, waterfowl breeding, and other uses" and maintains greater biodiversity (USDI-BLM 1991). The use of streambank alteration and residual stubble height to protect fisheries/aquatic resources is currently being used by the Forest Service and BLM in the western states.

Stubble height criterion has been applied as guides in riparian management in numerous cases (USDA-FS 1994, Hall and Bryant 1995, Leonard et al. 1997, Mosley et al. 1997, Oregon State University 1998, USDI- BLM 1991, USDI-BLM 1999). The measure of the remaining vegetation after grazing has ceased or the end of season stubble height is the most appropriate tool for managers when determining if short-term goals are being met (Turner and Clary 2001). The recognition of short-term goal achievement is critical to the attainment of long-term objectives for any managed ecosystem.

By utilizing stubble height criteria plant vigor is maintained, plant diversity is preserved, stream banks are protected, and also sediment entrapment is maximized (Clary and Webster 1990b). Many studies have analyzed varying stubble heights and their effectiveness to the previously mentioned goals. Kauffman et al. (1983), Myers (1989), and Clary and Webster (1990a,1990b) recommend a range of 4-6 inches for a stubble height range to be effective. Clary and Webster (1990a, 1990b) also indicate that a greater than 6-inch stubble height should be utilized in areas of critical fisheries habitats or streambanks that are easily eroded.

Livestock can alter watershed function directly and indirectly in a number of ways. By allowing the removal of riparian-wetland vegetation, increased evaporation occurs thus lowering the water table (Clary and Webster 1990a, 1990b). Grazing reduces the roughness coefficient of watersheds, resulting in increased runoff, increased soil erosion, and substantial flooding (Ohmart and Anderson 1982). Further, the removal of riparian vegetation reduces bank stability causing increased hoof shear and bank slough (Clary and Webster 1989), which increases bank angle and water width while reducing water depth (Platts 1990). These impacts cause increased sedimentation and turbidity, thereby reducing the quality of aquatic habitats downstream, including salmonid spawning substrate (Philips et al. 1975). Riparian vegetation also insulates the aquatic system from extreme temperatures in both summer and winter. This insulating effect is critical to protecting streambanks from freeze-thaw fractures (Bohn 1989) and subsequent mass erosion events during spring runoff periods. The insulating effect is also critical for the maintenance of the aquatic ecosystem at the watershed scale, since extreme temperatures can fragment habitats and increase seasonal mortality in aquatic species. The maintenance of watershed connectivity has become a major issue in the recovery of LCT, other salmonid species, and aquatic biodiversity; since it eliminates the ecological, genetic, and demographic dispersion of a population (see Zwick 1992, Vinyard and Dunham 1994). Therefore, improper riparian grazing can lead to an imbalance between the aquatic ecosystem, riparian zone, and watershed (Debano and Schmidt 1989).

The Sierra Front-Northwestern Great Basin Area Standards & Guidelines for Rangeland Health were approved by the Secretary of the Interior on February 12, 1997. Two of these Standards are directly related to Riparian/Wetland and Special Status Species habitats, and can be summarized as the maintenance of watersheds in proper functioning condition and that habitat of protected species are in order. Furthermore, the Clean Water Act of 1977 (PL 95-217) was designated to restore and maintain the chemical, physical and biological integrity of the Nation's waters. Karr et al. (1986) defines biological integrity as an "aquatic ecosystem in which the composition, structure, and functions have not been adversely impaired by human activities. Therefore, ecological integrity, i.e watershed integrity, is achieved when chemical, physical, and biological integrity is achieved. Williams et al. (1997) further summarizes a healthy watershed as a system that provides high biotic integrity, is resilient and recovers rapidly from disturbances, exhibits a high degree of connectivity, provides high quality water, moderates periods of excessive precipitation, recharges groundwater supplies, maintains diverse riparian community, provides a riparian area that yields thermal refugia to the stream, and maintains soil productivity.

Terms and Conditions

Term and Condition 3

Protest Point #9

Riparian Stubble Height – There is no scientific basis for the 6-inch stubble height requirement. There is no correlation between the 6-inch stubble height requirement and improved LCT habitat or improved riparian habitat. The decision is in error and this restriction should be removed.

Response

See response to protest point #8.

Protest Point #10

Browse Utilization – It is critical that monitoring occur so that utilization can be appropriately proportioned to wild horse, wildlife, and livestock. Management actions should be based on which species is creating resource concerns. Proper management is impossible without this separation of cause and effect.

Response
It is virtually impossible to clearly distinguish between cattle and wild horse vegetative utilization without constant monitoring. There is a dietary overlap between these two classes of ungulates compounded by the fact that they coexist throughout most of the allotment.

BLM used all of the existing data to determine attainment or non-attainment of allotment objectives and SRH. The PMA settlement agreement, dated March 1995, required BLM to; "...monitor the actual use of livestock and wild horses and their impacts on the vegetative resources, ... monitor fish and wildlife habitat, and ...collect utilization data on stream bank and wetland meadow riparian habitats to determine achievement of short term objectives." These data have been collected and presented in the PMA Final Allotment Re-evaluation. The PMA Determination/MASR explained which objective(s) and standard(s) were not attained, the PMA EA analyzed the grazing alternatives and preferred alternative was brought forward in the PMA PMUD. Monitoring will be conducted on the allotment to ensure the management actions are leading to attainment of objectives/SRH. Specifically, monitoring will be conducted to determine what ungulate utilizes what percentage of vegetation.

Protest Point #11
Additionally, browse standards need to be site specific. The proposed objectives are not appropriate for a site near potential density of woody species. The proposed objectives would not be met on some sites without livestock grazing. This may be a matter of establishing a workable monitoring protocol, we are willing to work with BLM (and have worked with BLM) to create a monitoring plan that provides data necessary for proper management.

Response
The WFO interdisciplinary team developed allotment objectives that are site specific, obtainable and measurable. BLM is committed to working cooperatively to identify the appropriate sites, vegetative species and monitoring methodologies used to determine specific ungulate utilization levels. The establishment and monitoring of these sites will provide data used to ensure attainment of allotment objectives and standards.

The establishment of key areas for monitoring will be strictly coordinated with the permittee to ensure consensus. At this time, utilization cages, methodologies and expectations will be futher discussed.

Protest Point #12
After completion of the FMUD/permit, key areas will be established on the allotment with members of the interdisciplinary team as well as input from the permittee. Without current and accurate data, a thorough analysis cannot occur regarding management actions meeting or not meeting objectives/SRH.

Streambank Alteration – BLM must determine the proportion of streambank alteration attributable to each wild horse, wildlife, and livestock use. This objective requires use of proper monitoring protocol. Management actions should be based on which species is creating resource concerns. Proper management is impossible without this separation of cause and effect.

Response

Streambank alteration is direct disturbance of the streambank by other than natural forces of water, ice, and debris. Large herbivores (e.g., cattle, sheep, horses, elk, moose, and deer), off-highway-vehicles, recreation use, road construction, logging, and mining are examples of uses or activities that can cause streambank alteration.

Without human influence, streambank stability (the ability of a streambank to resist the erosive forces of water) tends to be high. Observations were made of streambank stability on 767 reaches of low-gradient meadow type streams in Idaho (Natural Conditions Database, Overton – personal communication). Over two-thirds of those stream reaches had streambank stabilities in excess of 95% stable. Four-fifths exceeded 80% stability. Natural disturbances can reduce bank stability, although the probability of occurrence is low. Eight percent of the observed reaches had bank stabilities of less than 50%.

Pfankuch (1978), in his stream reach inventory and channel stability evaluation procedure, established four levels of streambank riparian vegetation cover needed for vegetation bank protection in his channel stability evaluation procedure. Streambanks with a vegetation cover of more than 90 percent are excellent, 70 to 90 percent are good, 50 to 70 percent are fair, and less than 50 percent are poor. In excellent condition, "growth is vigorous and reproduction of species . . . is proceeding at a rate to insure continued ground cover."

Platts et al (1987) describes a streambank alteration rating with five levels including both natural and human induced alteration. Streambank rating levels are: zero percent alteration are stable with no alteration by water flow, animals, or other disturbance; one to 25 percent of the streambanks altered is light alteration; alteration along 26 to 50 percent of the streambank is moderate; a streambank with 51 to 75 percent alteration is heavy; and 76 to 100 percent bank alteration is severe.

EPA Region 10's Habitat Assessment procedure describes four levels of streambank alteration in the vegetation section. The four levels are optimal (over 90 percent of the streambank vegetated and stable), sub-optimal (70 to 89 percent covered with vegetation and stable banks), marginal (50 to 79 percent vegetative cover), and poor (less than 50 percent cover) (Hayslip 1993).

The State of Montana's Monitoring for Success states that "when streambank disturbance exceeds 25% (i.e., > 50 ft. of the 200-ft sample) streambanks are more likely to slough or erode during peak stream discharge" (Montana Monitoring Working Group 1998).

Thompson et al (1998) describe a method for assessing the health of riparian areas. One attribute assessed is the percent of streambank structurally impaired (altered) by human cause, e.g., livestock grazing, road maintenance or construction, and recreation. They describe the streambank as the area from the water's edge to 18 inches beyond the top of the bank. Only streambank shearing is considered disturbance. A stream with less than 5% of the bank structurally altered by human use is given a score of six (Scores range from 0 to 6) . Streams

with five to 15 percent have a score of four and streambanks with 15 to 35 percent structural streambank alteration has a score of two. Below 35 percent no score is given.

Bengeyfield and Svoboda (1998) describe a process for establishing an allowable level of streambank alteration and other use levels for specific riparian areas. The primary purpose is to provide a method of determining when livestock should be moved. The use levels are determined by setting the desired future condition (DFC) by comparing to reference areas and assessing the potential, sensitivity and inherent stability of the riparian areas with an interdisciplinary team. Level 1 is 90 or more %; level 2 is 80 to 90%; level 3 is 70 to 80%; and level 4 is 60 to 70%.

Each of the authors mentioned above recognizes the ability of streams to repair a certain amount of bank alteration and provide for improvement. The amount of unaltered streambank needed to maintain streambank stability range from 70 to 100 percent stable banks. Therefore, it appears that 70 percent unaltered streambanks (i.e., 30 percent altered streambanks) is the minimum level that would maintain stable conditions. All of these authors consider both natural and accelerated alteration in the totals.

There are three legal standards for recovery and maintenance of riparian areas and stream channels. The first standard is from the requirements of the current biological opinion (BO) on LCT. The BO state that livestock streambank alteration shall not exceed 10%. Second, the current grazing regulations, 43 CFR 4180, requires that all grazing actions must meet the SRH or be "making significant progress" towards meeting the established standards (USDI, 1997). And third, land use plans, required by the Federal Land Policy and Management Act (FLPMA), may prescribe requirements for alteration levels, recovery rates, and/or desired future conditions.

Pfankuch (1978) and Hayslip (1993) use 90 percent or more unaltered streambank as the lower level of excellent or optimal condition. Thompson et al (1998) indicates 95 percent unaltered streambanks receive the best score. Bengeyfield and Svoboda (1998) uses 90 percent plus for Sensitivity Level 1 for those areas with the highest resource values and sensitivity. Therefore, streams with 90 percent of the potentially stable banks unaltered (ten percent or less alteration) would seem to allow for near optimal recovery and should allow for improved LCT habitat.

Powell et al (2000) list the following target levels for range use on streams in British Columbia as follows:

"Soil trampling Concentrated trampling (> 20% of the surface affected by deep hoof prints) should not occur along high value fish habitat. . ."

"Stream channel Shape Livestock use should not destabilize stream banks or result in significant change in stream channel form (e.g., reduced bank height or loss of undercut bank)."

"Streambank Vegetation The amount and height of shrub cover on and overhanging the bank should be at least 85% of the amount and height of stream bank vegetation in the absence of grazing."

For the most part streams that are those which have Endangered Species Act (ESA) listed threatened or endangered species or are listed as critical habitat under ESA are managed as RV Level I. Some other resource values that should be considered as RV Level I are domestic water

supplies and habitat for sensitive aquatic species that have a high likelihood of being listed under ESA.

The second standard, "making significant progress" requires a level of unaltered streambanks greater than the minimum amount necessary to maintain the stream's condition. Minimum unaltered streambanks ranging from 70 percent to 85 percent are the levels described by such terms as good condition, light alteration, sub-optimal, or other score in rating criteria. Bengeyfield and Svoboda (1998) use 80 percent of the potentially stable banks for sensitivity Level II. Since it has been suggested that 70 percent unaltered banks are the minimum necessary to maintain streambank conditions, it would hold that 80 percent unaltered streambanks should allow for "making significant progress." Thus, the maximum allowable streambank alteration is 20 percent of the potentially stable streambanks, making the alteration factor 0.80. Those streams on public land administered by BLM which are not RV Level I should use RV Level II criteria.

The BLM is currently developing a manual on monitoring streambank alteration levels. The draft protocol will be utilized when conducting streambank monitoring.

Protest Point #13

Nothing in the decision, EA, or data support the Decision's inclusion of stubble height requirements. The data, in fact, show that this requirement is in error and unnecessary. There is no basis for the 4-inch or 6-inch stubble height requirements. There is no correlation between the 6-inch stubble height requirement and improved LCT habitat or improved riparian habitat. The Decision is in error to include the stubble height restriction and this restriction should be removed.

Response

See response to protest point #12.

Protest Point #14

The EA reports that a substantial portion of the riparian areas on Bartlett Creek, Battle Creek, and Paiute Creek are in Proper Functioning Condition (PFC) with another substantial portion Functioning at Risk with Upward Trend. Furthermore, reduction of wild horses to AML levels is predicted to improve those sections needing improvement. These functional conditions have been established and maintained under current grazing management and without a requirement for a 6-inch minimum stubble height. This indicates that the 6-inch stubble height is unnecessary to reach PFC. This supports Paiute Meadows Ranch's position that it is unnecessary to change the grazing plan or implement a 6-inch minimum stubble height requirement. Instead, it shows that the Decision is in error and the 6-inch minimum stubble height is not correlated to PFC.

Response

See response to protest point #12.

Protest Point #15

Only 8.6% (3.5 miles) of the riparian areas are in downward trend and none are non-functioning. This demonstrates the stewardship of Paiute Meadows Ranch. The ranch should not be punished with unworkable restrictions. Instead, we should be encouraged to continue our good management. We would like to improve the 8% that are in downward trend. Rather than change management of the entire ranch, we propose that the 8% in need of improvement be identified

and handled on a site-specific basis. We will participate in monitoring of these sites and developing site-specific objectives and management plans to improve these few miles of stream.

Response
Over 22% of the lotic riparian areas are in downward or static trend. The proposed changes in livestock management are designed to improve these habitats in addition to the aquatic resource habitats. The presence of a population of federally listed LCT and potential recovery habitats necessitates implementing reasonable and prudent measures and terms and conditions that will insure habitat improvement.

Protest Point #16
The EA claims that increased vegetation cover and widened riparian zones would help improve the areas not currently in PFC. Therefore, objectives should be set based on the attributes of increased vegetation cover and wider riparian zones. These attribute objectives are most effectively manipulated by controlling timing of grazing and length of deferment. These attributes are not correlated to stubble height. The most effective management change that could occur would be to eliminate year-long use by wild horses.

Response
By allowing for the retention of a 6-inch stubble height many benefits to aquatic species habitats are incurred, as stated in the responses above. In addition, residual vegetative cover also promotes water holding capacity, decreased evaporation, and increased soil porosity; which will result in a widened riparian area. The BLM will continue the multiple use management of public lands in accordance with the wild horse and burro act.

Protest Point #17
The Decision sets restrictions on grazing on Paiute and Bartlett Creeks as if they are habitat for LCT, but neither stream contains LCT. Furthermore, Nevada Division of Wildlife (NDOW) had stated that without agreements from private landowners, "Nevada Division of Wildlife will not be stocking streams such as the South Fork of Battle Creek, Bartlett Creek or Paiute Creek with LCT." Paiute Meadows Ranch will not agree to such stocking, so these streams should be removed from management as LCT streams. See attached letter from NDOW dated April 23, 2003.

Response
As stated in the 1995 LCT Recovery Plan, the streams identified for species recovery are determined by the USFWS. The BLM is mandated to improve or maintain existing or potential habitats for threatened or endangered species. The management actions along with the terms and conditions outlined in the PMUD/FMUD and subsequent grazing permit should allow for attainment of objectives/SRH on all potential and existing LCT habitats.

Protest Point #18
The 6-inch stubble height requirement is not supported by BLM data or analysis. BLM offered no analysis in the EA that support a requirement for a 6-inch stubble height. This is unacceptable decision making, particularly in light of the failure to present, consider, or analyze management options other than the 6-inch stubble height. BLM offered no documentation to indicate that they completed any site-specific analysis, nor did they offer and explanation as to why the same management requirements were applied to streams with very different resource

conditions, Instead it appears the BLM arbitrarily chose a number and applied it to all LCT streams.

Response

See extensive literature review above...and reference literature cited below:

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Protest Point #19

For example BLM applied the same unnecessary restrictive standard to the 91% of the streams that are in PFC, upward trend, or static trend as the 9% that are in downward trend. Furthermore, the EA details the differences between channel types, sensitivity to disturbance, and recovery potential, but assigns the same management restrictions to all streams. Since no explanation was provided to the contrary, it appears BLM arbitrarily assigned to same management to creek regardless of riparian conditions. This is wrong.

Response

The BLM did not apply the same restriction to all aquatic habitats. As stated in the PMA PMUD, objectives that are applicable to the system will be utilized based on site potential and stream characteristics. The BLM will continue to manage aquatic systems as a whole and not as individual stream reaches. The literature sources used to develop these utilization objectives are shown above.

Protest Point #20

Should BLM demonstrate that stubble height is a reasonable objective, it should analyze different stubble heights for streams with different ecological conditions, such as initial species composition and species composition potential.

Response
See response to protest point #18.
The BLM's priority is ensuring that habitats for special status species are in order. Livestock management objectives are set to ensure that these are met, consequently some objectives may be difficult to achieve without invoking an intensive herding program. However, it is stated in the EA and PMUD that an intensive herding system would be necessary to ensure that objectives are achieved.

Protest Point #21
The 6-inch stubble height requirement is not supported by scientific literature. The EA includes what appear to be scientific citations but includes no list of literature cited. Therefore it is impossible to determine the validity of any of the references in the document. However, we are aware of no scientific literature that provides data from a study that indicates that meeting a 6-inch stubble height will result in improvement of riparian conditions in all cases and particularly, that it will improve LCT habitat. No data were cited to support that a 6-inch stubble height will create more desirable species composition or improve streambank stability.

Response
See response to protest point #13.

Protest Point #22
Most of the allotment is in high riparian condition without a 6-inch minimum stubble height. It is unnecessary to enforce this stubble height requirement. The objectives are already being met.

Response
As stated above, stubble height is a useful tool for improving riparian condition, however its use in this instance is based on special status species habitat. Contrary to your opinion an extensive literature base is available on stubble height and its application to improving aquatic and riparian habitats. Riparian habitats could be in PFC, yet the aquatic habitats could be in extremely poor condition. For example, a riparian exclosure may be in PFC yet a water gap upstream may degrade the downstream habitat via sedimentation impacts.

Protest Point #23
Any woody utilization standards and streambank alteration standards should be site-specific and based on site potential. BLM data shows that a wide range of conditions and potentials occur on riparian areas on the PMA. It is irresponsible decision making to treat all of these areas the same. The decision errs when it attempts to do so.

Response
The decision does not attempt to impose objectives arbitrarily. On the contrary objectives would be based on site potential and stream characteristics as indicated in the proposed allotment terms and conditions.

Term and Condition 8

Protest Point #24
Management decisions must be based on properly collected data, not consensus. The Decision errs when it attempts to do so.

We strongly protest the proposed Term and Conditions 8 that punishes PMR for a failure of BLM to achieve "Consensus" regarding monitoring data. The CFRs do not require that all parties reach consensus, they require responsible stewardship. 43 CFR does not give BLM authority to reduce permitted use based on lack of consensus from a third party. Management decisions must be based on "monitoring and other data" to make "decisions to increase or decrease grazing use" (43CFR 4130.3-3). Management must be based on properly collected data from a properly designed monitoring program. Consensus is not a monitoring tool and does not create data. This condition provides opportunity to anyone with an agenda to overrule all data simply by refusing to accept those data. This proposed term and condition is completely arbitrary and absolutely unacceptable. It is poor management and faulty interpretation of regulation.

Response
Your comment has been taken into consideration and will be reflected in the Final Multiple Use Decision.

Term and Condition 9

Protest Point #25
We protest proposed term and condition 9 that requires the permittee to take photos for the BLM. BLM is not authorized to require permittees to conduct monitoring as a term or condition of their permit. This term and condition is improper.

Response
Your comment has been taken into consideration and will be reflected in the Final Multiple Use Decision.

Term and Condition 10

Protest Point #26
We protest Term and condition 10 because it flies in the face of good resource management. Monitoring data may show that objectives can be met or the resource benefited by an extension of grazing beyond set dates and an incorporation of flexibility into the grazing schedule. If data demonstrate this to be true, management should incorporate the extension and/or flexibility. It seems extremely shortsighted for BLM to set as a term and condition a requirement that ignores year to year change in weather, production, management, or other site-specific conditions. This is highly flawed resource management.

Response
The proposed grazing system identifies specific use areas, livestock numbers and seasons of use that will achieve and maintain rangeland health regardless of seasonal or annual fluctuations in production or weather conditions. Furthermore CFR Sec. 4130.3-1 (a) states; "The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease."(emphasis added)

OMITTED ITEMS

Protest Point #27

The Decision errs when it does not require BLM to monitor to separate wild horse use from livestock use. BLM must monitor rangelands to separate the effects of wild horse use from those of livestock and other grazers. Permanent monitoring transects must be installed to determine the effects of wild horse grazing. Wild horses are large ungulates that graze season-long. There are few opportunities for riparian improvement when plants are grazed year-long, no matter the type of ungulate or total herd numbers.

Response

Ungulate specific utilization monitoring data is a major consideration when implementing changes in management. BLM is committed to the collection of data based upon the agency staffing and funding.

The WFO will continue to monitor the PMA. 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 and the SRH are being achieved under the new grazing management strategy. In addition, these subsequent evaluations will determine if adjustments are required to meet the established allotment specific objectives and standards.