



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

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

m 2-23-94  
IN REPLY REFER TO:

4160.1  
(NV-0241.5)

February 23, 1994

CERTIFIED MAIL NO. P877068722  
RETURN RECEIPT REQUESTED

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

Dear Ms. Barcomb:

Please find enclosed the Final Multiple Use Decision for the Deer Creek Allotment. No protests were received from the permittee and affected interests prior to issuing the Final Multiple Use Decision.

If you have any questions, please contact Richard Barry of my staff at (702) 623-1500.

Sincerely yours,

Area Manager  
Paradise-Denio Resource Area

Enclosure: Final Deer Creek Multiple Use Decision



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IN REPLY REFER TO:

4160  
(NV-0241.5)

February 23, 1994

CERTIFIED MAIL NO. P877068717  
RETURN RECEIPT REQUESTED

Mr. Robert Nuffer  
Star Route 395  
Winnemucca, NV 89445

### FINAL MULTIPLE USE DECISION DEER CREEK ALLOTMENT

Dear Mr. Nuffer:

The Record of Decision for the Paradise-Denio Environmental Impact Statement and the Paradise-Denio Management Framework Plan (Land Use Plan) were issued on July 09, 1982. These documents established the multiple use goals and objectives which guide management of public lands in the Deer Creek allotment. Monitoring data has been collected on this allotment and in accordance with Bureau policy and regulations, this data has been evaluated in order to determine progress in meeting management objectives for the Deer Creek allotment and to determine if management adjustments may be necessary to meet the management objectives.

On August 24, 1993, a draft allotment evaluation was sent to you for your review and comment.

On September 23, 1993, you submitted a proposal for livestock management on the Deer Creek Allotment to the Paradise-Denio Resource Area.

On January 21, 1994 a proposed Multiple-Use Decision and the Final Deer Creek Allotment Evaluation was issued to you. No protests were received on the proposed decision.

On February 7, 1994, comments on the proposed Multiple-Use Decision and the Final Deer Creek Allotment Evaluation were received from the Commission for the Preservation of Wild Horses. Based on these comments, the Wild Horse Decision section of this document has been modified to specify under what circumstances a wild horse removal may occur in the Deer Creek allotment.

The following are multiple use objectives under which livestock grazing management on the Deer Creek Allotment will be monitored and evaluated.

#### Short Term Objectives:

Utilization of key plant species in wetland riparian habitats (Salix, ROWA) is 50%. Utilization data will be collected at the end of the grazing period.

February 23, 1994

Utilization of key plant species (ELCI, SIHY, STTH, ATCO, EPNE) in upland habitats is 50%. Utilization data will be collected at the end of the grazing period.

Long Term Objectives:

Maintain and improve public rangeland conditions to provide forage on a sustained yield basis for big game, with a forage demand of 112 AUMs for mule deer and 58 AUMs for bighorn sheep.

1. Improve to and maintain 10,043 acres in good to excellent mule deer habitat condition.
2. Improve to and maintain 3,812 acres in good to excellent bighorn sheep habitat condition.

Manage, maintain, and improve public rangeland conditions to provide forage on a sustained yield basis for livestock, with an initial stocking level of 754 AUMs.

Improve range condition from poor to fair on 3,039 acres.

Manage, maintain and improve public rangeland conditions to provide forage for a viable population of horses.

Improve to and maintain the state water quality criteria for Deer Creek.

Protect sage grouse strutting grounds and brooding areas. Maintain a minimum of 30% canopy cover of sagebrush for nesting and winter use.

Available data collected in 1993 indicates objectives are being met in the winter ranges. Analysis of wildlife and wild horse monitoring data does not indicate a need for a change in existing management of wildlife and wild horses.

LIVESTOCK DECISION

Based upon the evaluation of monitoring data for the Deer Creek Allotment, consultation with you and other affected interests, your September 21, 1993 proposal for livestock management, recommendations from my staff, and the final Deer Creek Allotment evaluation dated January 19, 1994, it is my final decision for livestock grazing management to change the management as follows:

CHANGES IN LIVESTOCK USE

A. From: (Description of existing use)

1. Grazing Preference

- a. Total Preference 1,843 AUMs
- b. Suspended Preference 1,089 AUMs
- c. Active Preference 754 AUMs

- 2. Season of Use: 03/01 to 12/31
- 3. Kind and Class of Livestock: Cattle (cow/calf)
- 4. Percent Federal Land: 100%
- 5. Grazing System:

The system utilized from 1983 to present is as follows:

Winter Range	30 C	03/25 to 03/31	7 AUMs
Spring/Summer	120 C	04/01 to 07/31	481 AUMs
Summer/Fall	27 C	08/01 to 09/30	54 AUMs
Winter Range	70 C	10/01 to 12/31	212 AUMs

Terms and Conditions:

Salt and/or mineral blocks shall not be placed within 1/4 mile of springs, meadows, streams, riparian habitat or aspen stands.

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

B. To (Description of Changes)

On September 21, 1993 the permittee of the Deer Creek allotment proposed to modify the Deer Creek allotment grazing permit by eliminating late spring - summer grazing and utilizing the entire active preference during the winter and early spring use periods. Upon analysis of available monitoring data, it has been determined the permittees proposal would meet allotment specific objectives.

1. Livestock management on the Deer Creek allotment will be as follows:

Grazing Preference

- a. Total Preference 1,843 AUMs
- b. Suspended Preference 1,089 AUMs
- c. Active Preference 754 AUMs
- Season of Use: 03/01 to 04/30,  
10/01 to 11/30

Kind and Class of Livestock: Cattle (cow/calf)  
Percent Federal Land: 100%

Grazing System:

The active preference for livestock grazing is 754 AUM's. The grazing system to be implemented is as follows:

200 C 03/01 to 04/30	401 AUMs
176 C 10/01 to 11/30	<u>353 AUMs</u>
Total	754 AUMs

The winter range will be used from 10/01 to 11/30 and 03/01 to 03/31. The spring/summer range from 04/01 to 04/30.

Rationale:

The grazing system will allow for a significant regrowth period for both upland and riparian species in the spring/summer ranges due to the early removal date each year. Early spring grazing in the winter ranges would allow for establishment of upland species in the spring ranges prior to turnout. Monitoring data indicates livestock grazing from 10/01 to 11/30 and 03/01 to 03/31 would meet short term utilizations objectives for both upland and wetland riparian habitats in the winter ranges. A removal date of 03/31 in the winter ranges would allow for significant regrowth period.

Terms and Conditions:

Salt and/or mineral blocks shall not be placed within 1/4 mile of springs, meadows, streams, riparian habitat or aspen stands.

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

AUTHORITY

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

§ 4100.08 "The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b)."

§ 4110.3 "The authorized officer shall periodically review the grazing preference specified in a grazing permit or grazing lease and may make changes in the grazing preference status. These changes shall be supported by monitoring, as evidence by rangeland studies conducted over time, unless the change is either specified in an applicable land use plan or necessary to manage, maintain or improve rangeland productivity."

§ 4110.3-2(b) "When monitoring shows active use is causing an unacceptable level or pattern of utilization or exceeds the livestock carrying capacity as determined through monitoring, the authorized officer shall reduce active use if necessary to maintain or improve rangeland productivity, unless the authorized officer determines a change in management practices would achieve the management objectives."

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

§ 4130.6-1(a) "The authorized officer shall specify the kind and number of livestock, the periods(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock carrying capacity as determined through monitoring and adjusted as necessary under 4110.3, 4110.3-1 and 4110.3-2."

§ 4130.6-2 "The authorized officer may specify in grazing permits and leases other terms and conditions which will assist in achieving management objectives, provide for proper range management or assist in the orderly administration of the public rangelands..."

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

§ 4160.3(c) "A period of 30 days after receipt of the final decision is provided for filing an appeal. Decisions that are appealed shall be suspended pending final action except as otherwise provided in this section. Except where grazing use the preceding year was authorized on a temporary basis under § 4110.3-1(a) of this title, an applicant who is granted grazing use in the preceding year may continue at that level of authorized active use pending final action on the appeal. The authorized officer may place the final decision in full force and effect in an emergency to stop resource deterioration. Full force and effect decisions shall take effect on the date specified, regardless of an appeal."

§ 4160.4 "Any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purposes of a hearing before an administrative law judge under § 4.470 of this title by filing his notice in the office of the authorized officer within 30 days after the receipt of the decision."

February 23, 1994

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

FUTURE MONITORING AND GRAZING ADJUSTMENTS

The Paradise-Denio Resource Area will continue to monitor the Deer Creek Allotment. This monitoring data will continue to be collected in the future to provide the necessary information for subsequent evaluations. These evaluations are necessary to determine if the allotment specific objectives are being met under the new grazing management strategy. In addition, these subsequent evaluations will determine if adjustments are required to meet the established allotment specific objectives.

WILDLIFE MANAGEMENT DECISION

Based upon the evaluation of monitoring data for the Deer Creek allotment, the permittee and other affected interests and recommendations from my staff, my final decision for wildlife is as follows:

Continue with the management of wildlife as outlined in the Land Use Plan. Reasonable numbers of wildlife are as follows:

Mule Deer:	112 AUMs
Bighorn Sheep:	58 AUMs

**Rationale:**

Analysis of existing monitoring data indicates existing wildlife management and populations are meeting multiple-use objectives for the Deer Creek allotment. A change of the existing wildlife populations and management is not warranted at this time.

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

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

Within 30 days of receipt of this decision, you have the right of appeal to the Board of Land of Appeals, Office of the Secretary, in accordance with regulations at 43 CFR 4.4. If an appeal is taken, you must follow the procedures outlined in the enclosed Form 1842-1, Information on Taking Appeals to the Board of Land Appeals. Within 30 Days after you appeal, you are required to provide a statement of Reasons to the Board of Land Appeals and a copy of your appeal to

February 23, 1994

the Regional Solicitor's Office listed in Item 3 on the form. Please provide a copy of your appeal and Statement of Reasons to the Paradise-Denio Resource Area Manager, Bureau of Land Management, Winnemucca District, 705 E. 4th Street, Winnemucca, NV 89445. Copies of your appeal and the Statement of Reasons must also be served upon parties adversely affected by this decision. The appellant has the burden of showing that the decision appealed from is in error.

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

#### WILD HORSE MANAGEMENT DECISION

Based upon the evaluation of monitoring data for the Deer Creek allotment, the permittee and other affected interests and recommendations from my staff, my final decision for wild horses is as follows:

Establish an Appropriate Management Level (AML) of 10 horses and 120 AUMs as per the 1993 census data.

No determination of wild horses as "excess" in the Deer Creek allotment shall be made until an AML is established for the Happy Creek allotment and migration patterns between the two allotments have been determined. Any removal of wild horses from the Deer Creek allotment shall be in conjunction with removals from the Happy Creek and/or Jackson Mountain allotments.

#### Rationale:

The AML will be set at ten horses as per the 1993 census, which is the most recent data indicating wild horse numbers in the Deer Creek Allotment. Census data shows the average number of adult horses observed in the Deer Creek allotment is 3, with 10 horses observed in 1993 being the maximum. This area is used very little by wild horses and could be used as a migration route for horses from Happy Creek to other portions of the Jackson Mountain HMA.

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

§ 4700.0-6(a) "Wild horses and burros shall be managed a self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat."

§ 4710.4 "Management of wild horses and burros shall be undertaken with the objective of limiting the animals distribution to herd areas. Management shall be at the minimum level necessary to attain the objective identified in approved land use plans and herd management plans."



Deer Creek Final MUD

February 23, 1994

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

Within 30 days of receipt of this decision, you have the right of appeal to the Board of Land of Appeals, Office of the Secretary, in accordance with regulations at 43 CFR 4.4. If an appeal is taken, you must follow the procedures outlined in the enclosed Form 1842-1, Information on Taking Appeals to the Board of Land Appeals. Within 30 Days after you appeal, you are required to provide a statement of Reasons to the Board of Land Appeals and a copy of your appeal to the Regional Solicitor's Office listed in Item 3 on the form. Please provide a copy of your appeal and Statement of Reasons to the Paradise-Denio Resource Area Manager, Bureau of Land Management, Winnemucca District, 705 E. 4th Street, Winnemucca, NV 89445. Copies of your appeal and the Statement of Reasons must also be served upon parties adversely affected by this decision. The appellant has the burden of showing that the decision appealed from is in error.