

WF 1/11/01



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Carson City Field Office  
5665 Morgan Mill Road  
Carson City, NV 89701  
(775) 885-6000

In Reply Refer To:  
4160/4770  
(NV-032)

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

JAN 11 2001

Dave Stix  
D.S. Ranches  
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The Antelope Mountain and Hallelujah Junction Allotments have been affected by the Antelope, Cold Springs and Red Rock wildland fires (J906, J950, J971). The fires burned 5,130 acres within the Antelope Mountain Allotment involving the eastern portion of Pasture 3 and the southern portion of Pasture 2. The Cold Springs and Red Rock fires burned 415 acres in the east and south portions of the East Peterson Pasture of the Hallelujah Junction Allotment. A map of these burns are available at the Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701.

The Carson City Field Office plans to aerial and drill seed approximately 1500 acres in the Antelope Fire, about 40 acres in the Cold Springs Fire and approximately 250 acres in the Red Rock Fire.

### GRAZING DECISION FOR ANTELOPE MOUNTAIN AND HALLELUJAH JUNCTION ALLOTMENTS

In order to allow seeded areas to establish and the surviving native vegetation time to attain growth and vigor, my decision relating to livestock grazing within the Antelope Mountain Allotment is as follows:

A. In accordance with 43 CFR §4110.3-3(b), the public land within the following areas are

Carson  
only

**WILD HORSE DECISION**  
**ANTELOPE MOUNTAIN ALLOTMENT**

This decision is tiered to the Granite Peak Herd Management Area Plan and Capture Plan. The Antelope Mountain Allotment, has been affected by two wildland fires that occurred during June and August of 2000. These are the Antelope and Red Rock wildland fires (J906, J971), which burned 4580 acres within the allotment. Maps of these burns are available at the Carson City Field Office, 5665 Morgan Mill Road, Carson City, Nevada 89701. The Granite Peak Herd Management Area (HMA), located within the boundary of the Antelope Mountain Allotment was not burned though horses are residing outside of the HMA in Bedell Flat and in the burned portions of pastures 2 and 3. These horses are a problem and should be removed.

The Antelope Mountain Allotment Multiple Use Decision (1993) established the appropriate management level for wild horses within the Granite Peak HMA at 15 horses with a range of 11 to 18 (current numbers are approximately 60 head). Many of these horses occupy areas outside of the HMA including the Bedell Flat area, which is completely outside of the Granite Peak HMA. Approximately 30 head of wild horses occupy this area and will adversely impact the rehabilitation efforts in this allotment.

The Carson City Field Office plans to aerial and drill seed approximately 1500 acres in the Antelope Fire and approximately 250 acres in the Red Rock Fire. In order to allow seeded areas to establish and surviving native vegetation time to attain growth and vigor, and for the future enhancement of the HMA, my decision relating to wild horses is as follows:

- A. In accordance with §§4710.4 and 4770.3(c), wild horses outside of the Granite Peak HMA will be removed and the burned areas within pastures 2 and 3 of the Antelope Mountain Allotment are closed to wild horses as well as livestock for a period of 2 growing seasons, approximately 30 wild horses will be removed.

**RATIONALE**

The wild horses occupying areas outside of the HMA in the Bedell Flat area will adversely impact the rehabilitation efforts within the allotment, therefore all wild horses outside of the HMA will be removed. Adequate time is needed for the burned and rehabilitated areas to establish a native perennial vegetative community. This will move toward meeting the standards for rangeland health identified in the Standards and Guidelines as established by the Sierra Front – Northwestern Great Basin Resource Advisory Council. In order to achieve and maintain a thriving ecological balance and multiple-use relationship, it is necessary to temporarily remove all wild horses and livestock. If grazing by large animals occurs in the burned areas, recovery will be delayed and the carrying capacity may be decreased.

Some drift into the burn area may occur. The area will be closely monitored. If a problem develops with remaining wild horses taking up residency in a burn, appropriate action will be taken, which may include further removals.

be used first.”

Guideline #5 states that “Treated areas will be rested from livestock grazing for two growing seasons or until seedlings are established or the vegetative response has achieved objective levels. Wild horse and burros removed from Herd Management Areas will be restored after rehabilitation objectives have been met.”

Guideline #12 states that “Departure from traditional grazing management practices may be authorized by BLM to achieve Standards on a case by case experimental basis for rangeland restoration and rehabilitation.”

Guideline #18 says to, “Implement aggressive action to reduce the invasion of exotic plant species into native plant communities. Control the spread of noxious weeds through various methods such as, grazing management, fire management and other vegetative management practices.”

Guideline #21 says to “Implement grazing management practices that sustain biological diversity across the landscape.”

#### **ADDITIONAL GUIDANCE**

Emergency Fire Rehabilitation Plan – Red Rock and Cold Springs Fires approved on 09/07/00, and Antelope Fire (Reno Complex) approved on 09/27/00.

It is my decision that the closure be placed in full force and effect as provided under 43 CFR §4160.3(f). Any applicant, permittee, lessee, or other person whose interest is adversely affected by the Final Decision may file an appeal and petition for stay of the Decision pending final determination of the appeal pursuant to 43 CFR §4160.4 and §4.470. Appeals and petitions for a stay of the Decision shall be filed within 30 days after receipt of the Final Decision in person or in writing to the Assistant Manager, Renewable Resources, Bureau of Land Management, Carson City Field Office, 5665 Morgan Mill Road, Carson City, Nevada 89701.

The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error.

Should you wish to file a motion for stay, the appellant shall show sufficient justification based on the following standards under 43 CFR §4.21:

- (1) The relative harm to the parties if the stay is granted or denied.
- (2) The likelihood of the appellant’s success on the merits.
- (3) The likelihood of immediate and irreparable harm if the stay is not granted.
- (4) Whether the public interest favors granting the stay.

As noted above, the petition for stay must be filed in the office of the authorized officer.

requiring modification of authorized grazing use may be issued as final decisions effective upon issuance or on the date specified in the decision. Such decisions shall remain in effect pending the decision on appeal unless a stay is granted by the Office of Hearings and Appeals in accordance with 43 CFR §4.21.”

§4130.3 states that “Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of **subpart** 4180 of this part.”

§4130.3-2 states that “The authorized officer may specify in grazing permits or leases other terms and conditions which will assist in achieving management objectives, provide for proper range management or assist in the orderly administration of public rangelands. These may include but are not limited to: (c) Authorization to use, and directions for placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands; and (f) Provision for livestock grazing temporarily to be delayed, discontinued or modified to allow for the reproduction, establishment, or restoration of vigor of plants, provide for the improvement of riparian areas to achieve proper functioning condition or for the protection of other rangeland resources and values consistent with objectives of applicable land use plans, or to prevent compaction of wet soils, such as where delay of spring turnout is required because of weather conditions or lack of plant growth;”

§4140.1(b)(1)(I) states that “Persons performing the following prohibited acts related to rangelands shall be subject to civil and criminal penalties set forth at §§4170.1 and 4170.2: Allowing livestock or other privately owned or controlled animals to graze on or be driven across these lands (iii) In an area or at a time different from that authorized.”

§4160.3(f) states that “Notwithstanding the provisions of Sec. §4.21(a) of this title pertaining to the period during which a final decision will not be in effect, the authorized officer may provide that the final decision shall be effective upon issuance or on a date established in the decision and shall remain in effect pending the decision on appeal unless a stay is granted by the Office of hearings and Appeals when the authorized officer has made a determination in accordance with Sec. §4110.3-3(b) or Sec. §4150.2(d). Nothing in this section shall affect the authority of the Director of the Office of Hearings and Appeals or the Interior Board of Land Appeals to place decisions in full force and effect as provided in Sec. §4.21(a)(1) of this title.

### **GUIDANCE**

**Guidance is found within the Standards and Guidelines, approved by the Secretary of the Interior on February 12, 1997, for the Sierra Front – Northwestern Great Basin Resource Advisory Council, as follows:**

Guideline #4 states that “After a range fire or other natural catastrophic event, vegetation should be returned to the native species as rapidly as possible, to afford forage and habitat for native animals. If a nurse crop is needed to protect the land from erosion, all native nurse crops should

modifications may be taken that are deemed appropriate to limit the spread and establishment of exotic and/or noxious plant species.

- E. In accordance with §4130.3-2, in the event that livestock drift is a recurring problem into the areas closed to grazing within Pastures 2 and 3 in the Antelope Mountain Allotment or into the East Peterson Pasture in Hallelujah Junction Allotment, it will be necessary to close larger portions of these pastures or close the pastures entirely to livestock grazing.

### RATIONALE

Adequate time is needed for the burned and rehabilitated areas to reestablish a vigorous native perennial vegetative community. This will move toward meeting the standards for rangeland health identified in the Standards and Guidelines as established by the Sierra Front – Northwestern Great Basin Resource Advisory Council.

Establishing temporary and/or permanent water haul sites and the use of salt and/or supplements are an effective means to control livestock distribution. Additionally, a more intense herding program can further limit the potential of animals entering the burned areas. Heavier utilization levels are desirable and recommended for the crested wheatgrass seedings in the Hallelujah Junction Allotment and can be achieved by concentrating use in the remainder of the allotment.

Flexibility is an integral part of any management activity. It is crucial that adaptive management techniques are available to managers to confront the potential problem of exotic plant species, particularly cheatgrass, becoming the dominant vegetation.

The permittee in the Antelope Mountain Allotment is voluntarily reducing the herd size to accommodate the unusable portions inside the pastures created by the burns. It is not anticipated that drift onto the burned areas within either allotment will be a persistent problem, however, some drift may occur. If it does, the permittees will immediately remove the livestock. If the above mentioned or unanticipated problems develop, appropriate action will be taken, ranging from a larger area of the pastures being closed to total closure.

### AUTHORITY

43 CFR

§4110.3-2(a) states that "Permitted use may be suspended in whole or in part on a temporary basis due to drought, fire, or other natural causes, or to facilitate installation, maintenance, or modification of range improvements."

§4110.3-3(b) states that "When the authorized officer determines that the soil, vegetation, or other resources on the public lands require immediate protection because of conditions such as drought, fire, flood, insect infestation, or when continued grazing use poses an imminent likelihood of significant resource damage, after consultation with, or a reasonable attempt to consult with, affected permittee or lessees, the interested public, and the State having lands or responsible for managing resources within the area, the authorized officer shall close allotments or portions of allotments to grazing by any kind of livestock or modify authorized grazing use notwithstanding the provisions of paragraph (a) of this section. Notices of closure and decisions

closed to grazing for the next two growing seasons or until rehabilitation objectives have been met. Upon determination that the rehabilitation objectives have been met, authorized grazing use may resume. The legal descriptions of the areas closed include the following sections or portions thereof:

<u>Pasture</u>	<u>Township</u>	<u>Range</u>	<u>Sections</u>
Pasture 2 (Antelope Mtn.)	22 North	18 East	14, 22-26, 34-36
Pasture 3 (Antelope Mtn.)	22 North	19 East	1, 12
	23 North	19 East	24- 26, 36
	23 North	20 East	19, 30, 31
Hallelujah Junction (East Peterson Pasuture)	22 North	18 East	21, 22, 27, 28, 33, 34

The above legal descriptions concerning the Antelope Mountain Allotment includes 15 percent of Pasture 2 and approximately 18 percent of Pasture 3. The Peterson Mountain Pasture and Pasture 1 were not affected. The permittee has taken a voluntary reduction of 70%. Remaining cattle will be authorized to graze for 2001 starting in Pasture 1 from 4/15 - 6/1. Cattle will then be moved to pasture 2 until 7/15, and then into Pasture 3 until 8/15. The Peterson Mountain Pasture can be used the first year as needed. If 55% utilization is reached in any pasture before these dates, cattle will be moved to the next pasture or taken off of the allotment if it is the last pasture for that year. Cattle in 2002 will begin in pasture 3 from 4/15 to 5/15 then be moved to pasture 1 and then into Pasture 2 on 7/15. Pasture 3 will only be used for one months time each year.

The above legal descriptions concerning the Hallelujah Junction Allotment make up about 3% of the allotment. The East Peterson Pasture will be closed for two growing seasons, cattle will be redistributed within the other pastures and therefore no reduction in AUM's are required. Permitted use will not change.

- B. In accordance with §4130.3-2, water hauling sites may be established that will assist in the control of livestock movement within the affected pastures. Intensified herding will be necessary to more fully control livestock. The permittee has agreed to herd cattle at least every other day while they are grazing pastures 2 and 3. The Bedell Well will be fixed or water will be hauled to that site. While grazing in pasture 3 the pipeline within the pasture will be turned off and cattle will water at the well.
- C. In accordance with §4130.3-2(c), authorization is granted to use salt. Per the terms and condition of the grazing permit, salt will be placed at least one-quarter mile from live waters (springs/streams) and outside associated riparian areas, permanent livestock watering facilities, wet or dry meadows, and aspen stands. Also salt and/or supplements will not be placed in known historic properties.
- D. In accordance with §4130.3-2, the treatments and schedules will be monitored to determine the effectiveness of management applications. Any action(s) and/or

It is my decision that the area closed to use by wild horses be placed in full force and effect as provided under 43 CFR §4770.3(c). Any person who is adversely affected by the Final Decision of the authorized officer in the administration of these regulations may file an appeal and petition for stay of the Decision pending final determination of the appeal pursuant to 43 CFR, Part 4. Appeals and petitions for a stay of the Decision shall be filed within 30 days after receipt of the Final Decision in person or in writing to the Assistant Manager, Renewable Resources, Bureau of Land Management, Carson City Field Office, 5665 Morgan Mill Road, Carson City, Nevada 89701.

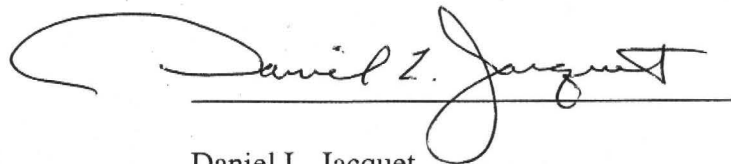
The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error. The appeal must be filed in accordance with the procedures outlined in the enclosed Form 1842-1, Information on Taking Appeals to the Board of Land Appeals.

Should you wish to file a motion for stay, the appellant shall show sufficient justification based on the following standards under 43 CFR §4.21:

- (1) The relative harm to the parties if the stay is granted or denied.
- (2) The likelihood of the appellant's success on the merits.
- (3) The likelihood of immediate and irreparable harm if the stay is not granted.
- (4) Whether the public interest favors granting the stay.

As noted above, the petition for stay must be filed in the office of the authorized officer.

1/10/01  
Date

  
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Daniel L. Jacquet  
Assistant Manager, Renewable Resources  
Carson City Field Office

## GUIDANCE

Guidance is found within the Standards and Guidelines, approved by the Secretary of the Interior on February 12, 1997, for the Sierra Front – Northwestern Great Basin Resource Advisory Council, as follows:

Guideline #4 states that “After a range fire or other natural catastrophic event, vegetation should be returned to the native species as rapidly as possible, to afford forage and habitat for native animals. If a nurse crop is needed to protect the land from erosion, all native nurse crops should be used first.”

Guideline #5 states that “Treated areas will be rested from livestock grazing for two growing seasons or until seedlings are established or the vegetative response has achieved objective levels. Wild horse and burros removed from Herd Management Areas will be restored after rehabilitation objectives have been met.”

## ADDITIONAL GUIDANCE

Emergency Fire Rehabilitation Plan – Red Rock and Cold Springs Fires approved on 09/07/00, and Antelope Fire (Reno Complex) approved on 09/27/00.

## AUTHORITY

43 CFR

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

§4710.1 states that “Management activities affecting wild horses and burros, including the establishment of herd management areas, shall be in accordance with approved land use plans prepared pursuant to part 1600 of this title.

§4710.4 states that “Management of wild horses and burros shall be undertaken with the objective of limiting the animal’s distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans.”

§4720.1 states in part that “Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animals immediately in the following order.....”

§4770.3(c) states that “Notwithstanding the provisions of paragraph (a) of Sec. §4.21 of this title, the authorized officer may provide that decisions to remove wild horses and burros from public or private lands in situations where removal is required by applicable law or is necessary to preserve or maintain a thriving ecological balance and multiple use relationship shall be effective upon issuance or on a date established in the decision.