

2/11/92

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# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

CARSON CITY DISTRICT OFFICE  
1535 HOT SPRINGS RD., STE. 300  
CARSON CITY, NV 89706-0638



IN REPLY REFER TO:

4130  
(NV-03580)

FEB 11 1992

*March 11  
due  
check w/ Grandia*

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

Dear Ms. Barcomb:

On May 15, 1990, you were sent a copy of the Marietta and Candelaria Allotment Evaluation. Based on the conclusions and technical recommendations presented in the evaluation, and after careful consideration of the comments received, I am issuing the enclosed Proposed Decision.

As you may remember, the main impetus for this evaluation is the Marietta Wild Burro Herd Management Area Plan (HMAP) requirement of dedicating a major portion of the Marietta Herd Management Area (HMA) to burro management without the construction of projects that will restrict the wild and free roaming nature of wild burros. Although the majority of the Marietta HMA lies in the Marietta Allotment, it also overlaps into the Candelaria Allotment. Consequently, this Decision addresses both the Marietta and Candelaria Allotments.

Sincerely yours,

John Matthiessen  
Area Manager  
Walker Resource Area

- 1 Enclosure
- 1. Proposed Decision



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CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

### NOTICE OF PROPOSED DECISION

Mervin McKay  
P.O. Box 17  
Smith, NV 89430

Dear Mr. McKay:

The Record of Decision for the Walker Environmental Impact Statement and the Resource Management Plan (RMP) was issued on June 6, 1986. These documents established the multiple use goals and objectives which guide management of the public lands on the Marietta and Candelaria Allotments. The Rangeland Program Summary (RPS), issued in November, 1989, specifically identified the allotment objectives for the Marietta and Candelaria Allotments.

The Marietta Wild Burro Herd Management Area Plan (HMAP), approved on July 6, 1987, established management objectives for the Marietta Herd Management Area (HMA), which lies in both the Marietta and Candelaria Allotments. One of these objectives was to designate the HMA as a National Burro Range. This was accomplished when the Marietta Wild Burro HMA was designated as the Marietta Wild Burro Range by approval of the Director of the Bureau of Land Management on October 31, 1989.

As identified in the Walker RMP, Marietta HMAP and Walker RPS, monitoring has been conducted on the Marietta and Candelaria Allotments to determine if existing multiple uses for the allotment were consistent with attainment of the objectives established by the RMP. Since 1982, monitoring data has been collected and during the past two years, this data has been analyzed, through the allotment evaluation process, to determine what changes in existing management are required in order to meet specific multiple use objectives for these two allotments.

Based on the conclusions made in the Marietta and Candelaria Allotment Evaluation, over-utilization by wild burros had occurred in the Marietta Allotment prior to 1989. Once management numbers of wild burros as prescribed in the Marietta HMAP had been achieved, vegetative utilization reached acceptable levels. No other resource conflicts were determined in the evaluation, therefore, the Marietta Allotment now conforms with the criteria for "M" allotments (Candelaria had initially been classified as an "M").

Although utilization is acceptable and no grazing use adjustments are necessary, the Marietta HMAP also established the following objective:

Develop an AMP that will dedicate a majority of the Marietta Wild Burro Herd Management Area to Burro management, either by adjusting allotment boundaries or closing area to livestock. [The main goal of this objective is emphasized above. If this can be done without an AMP, the intent of the objective would be met.]

In order to meet this objective, the proposed decision is as follows:

- A. Adjust the boundary of the Marietta Allotment by establishing the Little Huntoon Valley portion as the Little Huntoon Allotment, which would be used solely by Mervin McKay in conjunction with his Forest Service Allotments in Huntoon Valley (including the formerly BLM administered Huntoon Valley Allotment). No more than 128 AUMs will be authorized during a grazing season in the Little Huntoon Allotment.
- B. Adjust the boundary of Candelaria Allotment to exclude the Marietta Wild Burro Range. Adjust the boundary of Marietta Allotment to exclude the portion of the allotment north of the burro/livestock overlap area. 1/ Combine the remaining portions of both allotments to form the Belleville Allotment.
- C. Allow no more than 650 AUMs livestock use by Mervin McKay and 768 AUMs by Harris Brothers in the Belleville Allotment.
- D. The season of use in the Little Huntoon and Belleville Allotments will be from 11/01 to 04/15.
- E. Both Belleville and Little Huntoon will be classified as "M" Allotments.

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1/ Refer to the enclosed map for boundary locations.

This decision is based on the following rationale:

The current regulations for livestock grazing on public lands, Title 43 Code of Federal Regulations (CFR) Subpart 4100, state that:

1. "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 determined through monitoring and adjusted as necessary under §§4110.3, 4110.3-1 and 4110.3-2." [Title 43 CFR §4130.6-1(a)]
2. "After consultation, cooperation, and coordination with permittees or lessees, the authorized officer may designate and adjust allotment boundaries." [43 CFR §4110.2-4]

The current regulations for wild horse and burro management on public lands, Title 43 CFR Subpart 4700, state that:

1. "Herd management areas may also be designated as wild horse or burro ranges to be managed principally, but not exclusively, for wild horses or burros." [43 CFR §4710.3-2]

The actions prescribed in this decision would dedicate a major portion of the Marietta Wild Burro Range to wild burro management in accordance to the Marietta HMAP and 43 CFR §4710.3-2. The current active livestock preference identified in the Walker RPS will be maintained. This would be accomplished without restricting the free roaming nature of wild burros as required in the Marietta HMAP, or exceeding the carrying capacity of the range as per 43 CFR §4130.6-1(a).

In accordance with 43 CFR §4160.2, if you wish to protest this proposed decision, you are allowed 15 days from the receipt of this decision to file such protest with the Area Manager at the above Bureau office address. A protest may be made either in person or in writing and should specify the reasons why you think the proposed decision is in error. If the protest is filed timely, the protest statement of reasons and other pertinent information will be considered and a final decision will be issued with a right to appeal (43 CFR §4160.3(b) and §4160.4).

In the absence of a protest within the time allowed, the above decision shall constitute the final decision without further notice. If this becomes the final decision and you wish to appeal this decision for the purpose of a hearing

before an Administrative Law Judge, in accordance with 43 CFR §4160.4 and §4.470, you are allowed 30 days from the receipt of this decision to file such appeal with the District Manager at the above Bureau office address. The appeal shall state clearly and concisely why you think the decision is in error.

Sincerely yours,



John Matthiessen  
Area Manager  
Walker Resource Area

1 Enclosure  
1. Allotment Map

cc:

Natural Resources Defense Council  
Sierra Club - Toiyabe Chapter  
Regional Manager - NDOW  
Animal Protection Institute  
Nev. Div. of Conservation Districts  
Craig London  
Intrntl. Soc. for the Preserv. of  
Mustangs and Burros

BLM-Bishop Resource Area  
USFS - Mono Lake Ranger District  
USFS - Bridgeport Ranger District  
Wild Horse Organized Assistance  
District Conservationist - SCS  
Comm. for the Preserv. of Wild Horses