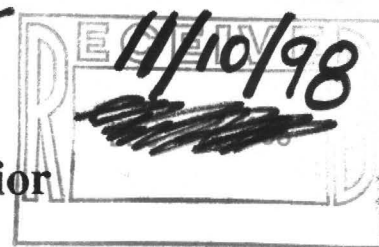




United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Carson City Field Office
5665 Morgan Mill Rd.
Carson City, NV 89701
(702) 885-6000



In Reply Refer To:

4700

(NV-032)

11/10/98 ✓

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOV 10 1998

Dear Interested Party:

Approximately five months ago you received a copy of the Proposed Multiple Use Decision for the Marietta Herd Management Area (HMA). Enclosed is a copy of the Final Multiple Use Decision for the Marietta HMA. Also enclosed is Form 1842-1, Information on Taking Appeals to the Board of Land Appeals. This form deals specifically with the wild burro portion of this decision.

No protests were received regarding the Proposed Multiple Use Decision for the Marietta HMA.

Sincerely,

John O. Singlaub
Manager
Carson City Field Office

2 Enclosures: 1-Final Multiple Use Decision
2-Form 1842-1

MARIETTA HERD MANAGEMENT AREA MULTIPLE USE DECISION

The Record of Decision for the Walker Resource Management Plan (RMP) and the Environmental Impact Statement was issued on June 6, 1986. These documents, developed through consultation and coordination with the public, established the multiple-use goals and objectives which guide management of public land in the Marietta Herd Management Area (HMA). The RMP also recommended the HMA be designated as a National Wild Burro Range, which was approved by the Director, Bureau of Land Management on October 31, 1989. This designation allows the HMA to be managed principally, but not necessarily exclusively, for wild burros. Accordingly, on February 26, 1992, a livestock grazing decision was issued which excluded grazing use from the majority (63%) of the HMA. Livestock grazing is permitted only in the designated dual use area (37%) of the HMA.

The Marietta Herd Management Area Plan (HMAP), approved by the State Director on July 16, 1987, established an initial population level of 85 wild burros, plus or minus 15%, in the Marietta HMA. The HMAP also stated that the population will be monitored in the future to determine the Appropriate Management Level (AML). Monitoring has been conducted within the HMA using the methodologies established in the HMAP.

Based on the use of the weighted average formula as prescribed in the HMAP and as described in BLM Technical Reference (TR) 4400-7, 1250 AUMs of forage is available for use by wild burros and 416 animal unit months (AUMs) of forage is available for livestock in the Marietta HMA. Therefore, my final decision is presented below.

MARIETTA HMA WILD BURRO DECISION

- A. The Appropriate Management Level (AML) for the Marietta HMA is 104 head of wild burros. The population will be managed between 78 and 104 animals. The AML will only be modified if monitoring indicates that a change is necessary.
- B. The management of wild burros within the Marietta HMA will be in accordance with the Strategic Plan for Management of Wild Horses and Burros on Public Lands (June 1992) and the Marietta Herd Management Plan (July 1987).
- C. Wild burros in excess of the AML of 104 animals in the Marietta HMA will be removed. Priority will be given to selectively removing wild burros from areas where over utilization of forage is occurring.

AUTHORITY

The authority for these decisions 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 Code of Federal Regulations (CFR), which states in pertinent parts:

- §4700.0-6 (a) "Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat."
- §4710.3-1 "Herd management areas shall be established for the maintenance of wild horse and burro herds. In delineating each herd management area, the authorized officer shall consider the appropriate management level for the herd, the habitat requirements of the animals, the relationship with other uses of the public and adjacent private lands, and the constraints contained in §4710.4..."
- §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 the excess animals immediately....."

APPEAL

Within 30 days of receipt of this decision, you have the right to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR § 4.4. If an appeal is taken, you must follow the procedures outlined in the enclosed Form 1842-1, Information on Taking Appeals to the Board of Land Appeals. Within 30 days after you appeal, you are required to provide a Statement of Reasons to the Board of Land Appeals and a copy to the Regional Solicitor's Office listed in Item 3 of the form. Please provide this office with a copy of your Statement of Reasons. Copies of your appeal and the Statement of Reasons must also be served upon any parties adversely affected by this decision. The appellant has the burden of showing that the decision appealed from is in error.

In addition, within 30 days of receipt of this decision you have the right to file a petition for a stay of the decision together with your appeal in accordance with the regulations at 43 CFR § 4.21. The petition must be served upon the same parties specified above. The appellant has the burden of proof to demonstrate that a stay should be granted. A petition for a stay of a decision pending appeals shall show sufficient justification based on the following standards:

- (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, and
- (4) Whether the public interest favors granting the stay.

MARIETTA HMA LIVESTOCK DECISION

A. Allow 416 AUMs of livestock use in the designated dual use area of the HMA.

AUTHORITY

The authority for these decisions is contained in Title 43 Code of Federal Regulations (CFR) Subpart 4100 which states in pertinent part:

§4110.3 " The authorized officer shall periodically review the permitted use specified in a grazing permit or 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 of this part. These changes must be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer.

APPEAL

Should you wish to appeal this decision for the purpose of a hearing before an Administrative Law Judge, in accordance with 43 CFR § 4160.4, you are allowed thirty (30) days from receipt of this notice within which to file such an appeal with the Manager, Bureau of Land Management, Carson City Field Office, 5665 Morgan Mill Road, Carson City, Nevada 89701. An appeal should specify the reasons, clearly and concisely, why you think the decision is in error.

RATIONALE

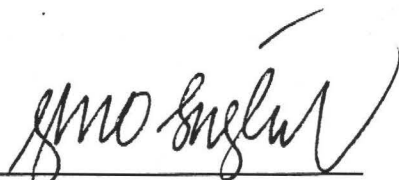
Livestock grazing is not permitted in 40,900 acres (63%) of the HMA in accordance with a Carson City District Final Decision effective February 26, 1992. That decision allowed livestock use from November 1 to April 15 within the 24,600 acres of the designated dual use area of the HMA. When determining the AUMs of available forage, the burro only area and the area of cattle and burro use, or dual use, were calculated separately.

The analysis of available monitoring data for the HMA indicates that a thriving natural ecological balance will be achieved by allowing no more than 1666 AUMs of grazing use. The current average vegetation utilization, as of October 1997, in the burro only area is moderate and in the dual use area it is light. The latest aerial census, conducted in August 1997, counted 93 wild burros. Seven years of census indicate that on average 25 burros were in the dual use area. Actual use data for livestock in 1997 was 150 AUMs in the designated dual use area. Using the most recent census of wild burros, livestock actual use and vegetation utilization data in the weighted average formula, there are 1666 AUMs of forage available.

This decision allows for 416 AUM's, 50% of the available AUM's, for livestock use in the designated dual use area only. The other 50% or 416 AUM's are for wild burros in combination with the 834 AUM's from the burro only area for a total of 1250 AUM's available for wild burros. This number of AUM's allows for an AML of 104 wild burros.

Managing the population between a range of 78 and 104 is based on a 10% replacement rate and a three year gather schedule. The 10% replacement rate is the historical rate of population increase in the HMA over the past seven years. Reducing the population to 78 and then allowing it to increase over three years to 104 will reduce the frequency of gathers and thereby reduce stress to the wild burros.

This decision does not pertain to wildlife as there are no major wildlife issues at this time.



John O. Singlaub
Manager
Carson City Field Office

11-10-98

Date

5/1/98



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Carson City District Office

5665 Morgan Mill Rd.

Carson City, NV 89701

(702) 885-6000

In Reply Refer To:

4700

(NV-032)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dear Interested Party:

Enclosed is the Proposed Multiple Use Decision for the Marietta Herd Management Area (HMA). This proposed decision sets the Appropriate Management Level (AML) for wild burros and also sets livestock grazing limits in a portion of the HMA. This proposed decision conforms to the objectives in the Marietta Herd Management Area Plan (HMAP) dated July 16, 1987. The HMAP established a population level of 85 wild burros, plus or minus 15%, and further stated that the population would be monitored in the future to determine the AML.

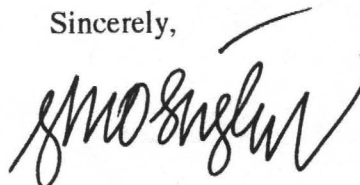
This proposed decision is based on current monitoring studies using the same methodology as used in the HMAP. This methodology is the weighted average formula as described in BLM Technical Reference TR 4400-7. Using this method, the AML for wild burros is determined to be 104 head or 1249 AUMs within the HMA and 416 AUMs of allowable use for livestock within a portion of the HMA.

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 Assistant District Manager, Renewable Resources, 5665 Morgan Hill Road, Carson City, NV 89701. The protest should state the reasons, clearly and concisely, why you think the decision is in error.

Although 43 CFR §4770.3 does not mention a protest, for the purpose of consistency, the wild burro elements of the Proposed Multiple Use Decision are being treated as protestable.

The documents referenced in the enclosed proposed decision, including the data to determine the AML for wild burros and livestock grazing limits, are available at this office for review. If you have any questions regarding this proposed decision, please contact Richard Jacobsen or Jim Gianola at this office (702/885-6100). Note that after the 15-day protest period, a Final Multiple Use Decision will be issued.

Sincerely,

A handwritten signature in black ink, appearing to read "John O. Singlaub", written in a cursive style.

John O. Singlaub
District Manager

2 Enclosures:

- 1-Proposed Multiple Use Decision
- 2-Map

PROPOSED

MARIETTA HERD MANAGEMENT AREA
MULTIPLE USE DECISION

The Record of Decision for the Walker Environmental Impact Statement and the Resource Management Plan (RMP) was issued on June 6, 1986. These documents, developed through consultation and coordination with the public, established the multiple-use goals and objectives which guide management of public land in the Marietta Herd Management Area (HMA). The RMP also recommended the HMA be designated as a National Wild Burro Range, which was approved by the Director, Bureau of Land Management on October 31, 1989. This designation allows the HMA to be managed principally, but not necessarily exclusively, for wild burros. Accordingly, livestock grazing was excluded from the majority (63%) of the HMA by the Carson City District Final Decision effective February 26, 1992. Livestock grazing is permitted only in the designated dual use area (see map) of the HMA.

The Marietta Herd Management Area Plan (HMAP), approved by the State Director on July 16, 1987, established an initial population level of 85 wild burros, plus or minus 15%, in the Marietta HMA. The HMAP also stated that the population will be monitored in the future to determine the Appropriate Management Level (AML). Monitoring has been conducted within the HMA using the methodologies established in the HMAP.

Based on the use of the weighted average formula as prescribed in the HMAP and as described in BLM Technical Reference (TR) 4400-7, 1250 AUMs of forage is available for use by wild burros and 416 AUMs of forage is available for livestock in the Marietta HMA.

Therefore, in accordance with Title 43, Code of Federal Regulations (CFR), Part §4700, my decision is:

- A. The Appropriate Management Level (AML) for the Marietta HMA is 104 head of wild burros. The population will be managed between 78 and 104 animals. The AML will only be modified if monitoring indicates that a change is necessary.
- B. The management of wild burros within the Marietta HMA will be in accordance with the Strategic Plan for Management of Wild Horses and Burros on Public Lands (June 1992) and the Marietta Herd Management Area Plan (July 1987).
- C. Wild burros in excess of the AML of 104 animals in the Marietta HMA will be removed. Priority will be given to selectively removing wild burros from areas where over utilization of forage is occurring.
- D. Allow 416 AUMs of livestock use in the designated dual use area of the HMA.

Rationale

Livestock grazing is not permitted in 40,900 acres (63%) of the HMA in accordance with a Carson City District Final Decision effective February 26, 1992. That decision allowed livestock use from November 1 to April 15 within the 24,600 acres of the designated dual use area of the HMA. When determining the AUMs of available forage, the burro only area and the area of cattle and burro use, or dual use, were calculated separately.

The analysis of available monitoring data for the HMA indicates that a thriving natural ecological balance will be achieved by allowing no more than 1666 AUMs of grazing use. The current average vegetation utilization, as of October 1997, in the burro only area is moderate and light in the dual use area. The latest aerial census, conducted in August 1997, counted 93 wild burros. Seven years of census indicate that on average 25 burros were in the dual use area. Actual use data for livestock in 1997 was 150 AUMs in the designated dual use area. Using the most recent census of wild burros, livestock actual use and vegetation utilization data in the weighted average formula, there are 1666 AUMs of forage available.

This decision allows for 416 AUMs, 50% of the available AUMs, for livestock use in the designated dual use area only. The other 50% or 416 AUMs are for wild burros in combination with the 833 AUMs from the burro only area for a total of 1249 AUMs available for wild burros. This number of AUMs allows for an AML of 104 wild burros.

Managing the population between a range of 78 and 104 is based on a 10% replacement rate and a three year gather schedule. The 10% replacement rate is the historical rate of population increase in the HMA over the past seven years. Reducing the population to 78 and then allowing it to increase over three years to 104 will reduce the frequency of gathers and thereby reduce stress to the wild burros.

This decision does not pertain to wildlife as there are no major wildlife issues at this time.

Authority

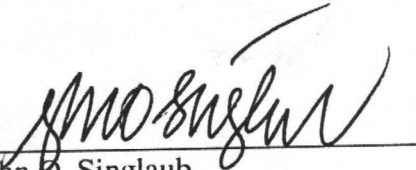
The authority for these decisions is contained in Sec. 3(a) and (b) of the Wild Free-Roaming Horse and Burro Act (P.L. 92-195) as amended and in Title 43 Code of Federal Regulations (CFR), which states in pertinent parts:

§4110.3 " The authorized officer shall periodically review the permitted use specified in a grazing permit or 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 of this part. These changes must be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer.

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

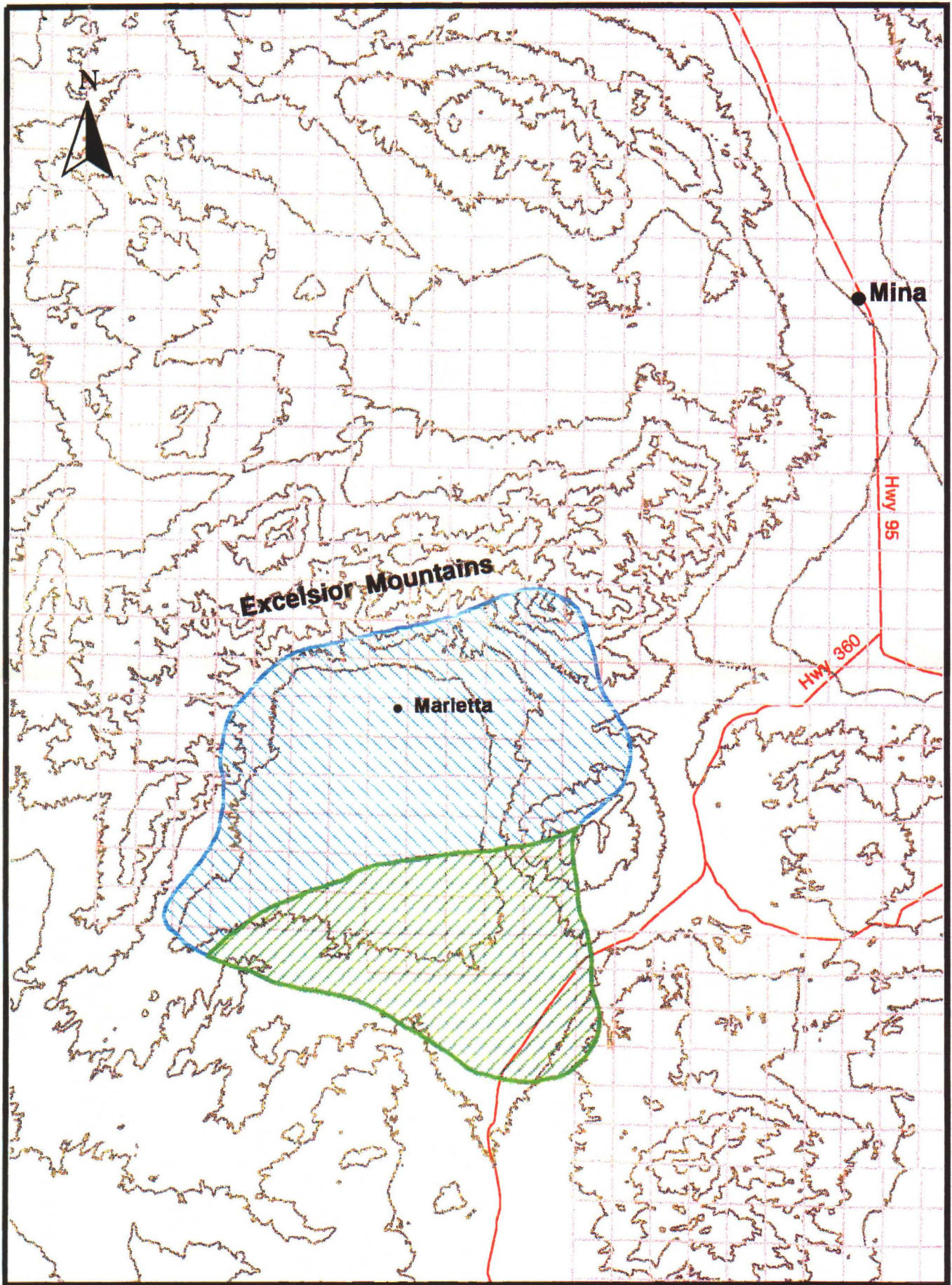
§4710.3-1 "Herd management areas shall be established for the maintenance of wild horse and burro herds. In delineating each herd management area, the authorized officer shall consider the appropriate management level for the herd, the habitat requirements of the animals, the relationship with other uses of the public and adjacent private lands, and the constraints contained in §4710.4..."



§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 the excess animals immediately....."



John O. Singlaub
District Manager
Carson City District Office

5-1-98
Date



Burro Use Only 
Dual Use 

Marietta HMA