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Holtz, Inc.
P.O. Box 87
Woods Cross, UT 84087

**NOTICE OF FINAL MULTIPLE USE DECISION
FOR THE NORTH STEPTOE ALLOTMENT (0405)**

BACKGROUND INFORMATION:

The Resource Management Plan/Environmental Impact Statement and Record of Decision for the Egan Resource Area were issued in September, 1984 and February, 1987, respectively. The Egan Rangeland Program Summary was issued in May of 1988. These documents guide the management of public lands within the North Steptoe Allotment. The Egan Resource Area Record of Decision, dated February 1987, states in part:

"Monitoring studies will be used to determine if adjustments in livestock numbers are necessary...All vegetation will be managed for those successional stages which would best meet the objective of this proposed plan..." (short term objectives). "Future adjustments in livestock use will be based on data provided through the rangeland monitoring program" (long term objective).

"Implementation [of the range management program] will take place through coordination, consultation, and cooperation. Coordinated resource management and planning is an advisory process that brings together all interests concerned with the management of resources in a given local area (landowners, land management agencies, wildlife groups, wild horse groups, and conservation organizations) and is the recommended public process through which consultation and coordination will take place. Grazing adjustments, if required, will be based upon a combination of reliable vegetation monitoring studies, consultation and coordination, and inventory."

"Range management actions for livestock use and wild horse numbers will be based upon data obtained through the monitoring program and will consider recommendations made through the coordinated resource management and planning process. Actions could include, but will not be limited to, change in seasons-of-use, change in livestock numbers, correction of livestock distribution problems, alteration of the number of wild horses, development of range improvements, and taking site-specific measures to achieve improvements in wildlife habitat."

In accordance with Bureau policy and regulations, monitoring data has been analyzed and evaluated in order to determine progress in meeting management objectives for the North Steptoe Allotment. Input was received from the permittee, Nevada Department of Wildlife, U.S. Fish and Wildlife Service, Resource Concepts, Inc. on behalf of the N-4 State Grazing Board and the Sierra Club. A proposed multiple use decision was issued on October 14, 1992. No protests were received. See Appendix I for the land use plan objectives covering livestock, wildlife and wild horses. These objectives are in conformance with and formulated to accomplish the Egan Resource Management Plan multiple use objectives as they relate to all grazing use on the North Steptoe Allotment.

BASED UPON THE EVALUATION OF MONITORING DATA FOR THE NORTH STEPTOE ALLOTMENT, RECOMMENDATIONS FROM DISTRICT STAFF, AND INPUT RECEIVED THROUGH CONSULTATION, COORDINATION, AND COOPERATION FROM THE PERMITTEE AND PUBLIC INTEREST GROUPS, THE FINAL DECISION IS AS FOLLOWS:

The analysis of monitoring data has revealed that all eleven land use plan objectives for the North Steptoe Allotment are being met for existing grazing use by livestock, wildlife and wild horses under current management practices. Therefore, this decision proposes no changes in livestock, wildlife and wild horse numbers. However, the livestock season-of-use permitted on the allotment will be changed from late winter/spring (February 1 to April 15) to fall/winter (October 1 to March 15). This change would better facilitate the permittee's sheep operation as well as be beneficial to the range resource by eliminating livestock grazing during the critical spring growing season. This decision also establishes the appropriate management level (AML) for wild horses for the portion of the Antelope Herd Management Area (HMA) within the North Steptoe Allotment.

LIVESTOCK MANAGEMENT DECISION

In accordance with 43 CFR 4110.3 and 4130.6-1(a), the existing authorized livestock active use shall remain unchanged at 700 AUMs of sheep use with 589 AUMs to be held in suspended non-use for a total preference of 1289 AUMs. Season-of-use will change from 2/1 - 4/15 to 10/1 - 3/15. The active preference is allocated as follows:

From:

KIND	USE PERIOD	% F.R.	TOTAL AUMS	ACTIVE AUMS	SUSP. AUMS
SHEEP	2/1 TO 4/15	100%	1289	700	589

To:

KIND	USE PERIOD	% F.R.	TOTAL AUMS	ACTIVE AUMS	SUSP. AUMS
SHEEP	10/1 TO 3/15	100%	1289	700	589

RATIONALE:

Utilization data and use pattern mapping support the conclusion that no change is needed in the adjudicated livestock preference in order to meet the Land Use Plan and Rangeland Program Summary objectives. The livestock season-of-use permitted on the allotment will be changed from late winter/spring (February 1 to April 15) to fall/winter (October 1 to March 15) to better facilitate the permittee's sheep operation as well as to benefit the range resource by eliminating livestock grazing during the critical spring growing season.

AUTHORITY: The authority for this decision is contained in Title 43 of the Code of Federal Regulations, which states in part:

4100.0-8: "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 evidenced 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."

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 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."

4130.6-2: "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 the public rangelands..."

APPEAL:

If you wish to appeal this final decision for the purpose of a hearing before an Administrative Law Judge, in accordance with 43 CFR 4.470, you are allowed thirty (30) days from receipt of this notice within which to file an appeal with the Egan Area Manager, BLM, Ely District Office, HC 33, Box 33500, Ely, Nevada 89301-9408. The appeal should state the reasons, clearly and concisely, why you think the final decision is in error.

WILD HORSE AND BURRO MANAGEMENT DECISION

It has been determined through monitoring studies that a thriving natural ecological balance can be maintained by setting the wild horse AML at 77 AUMs or 6 horses yearlong on that portion of the Antelope Herd Management Area which occurs within the North Steptoe Allotment. The setting of wild horse numbers by allotment will eventually provide for an overall herd management area wild horse AML, and gathers within allotments will not allow wild horse numbers to fall below total HMA wild horse AMLs.

In accordance with 43 CFR 4700.0-6(a), wild horse use on the North Steptoe Allotment shall be managed at 77 AUMs (6 horses yearlong).

In accordance with 43 CFR 4720.1, all wild horses in excess of the appropriate management level of 6 animals will be removed.

Adjustments in wild horse numbers will be made by future Antelope Herd Management Area gathers based on continued monitoring, in order to achieve and maintain the established AML.

RATIONALE: The analysis and evaluation of monitoring data indicates that existing numbers of wild horses are meeting multiple use management objectives on the North Steptoe Allotment as identified in Appendix I. Proper utilization levels are being achieved in areas where wild horses are present and the thriving natural ecological balance of the range is being maintained.

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 as 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 objectives identified in approved land use plans and herd management area plans."

4720.1: "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..."

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 4.400. 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 on the form. In addition, please provide this office with a copy of your Statement of Reasons. The appellant has the burden of showing that the decision appealed from is in error.

Gene L. Drais

Gene L. Drais, Manager
Egan Resource Area

	(Certified Mail #026 274 672)
cc: Nevada Department of Wildlife (Region II)	(#026 274 673)
N-4 Grazing Board	(#026 274 674)
Resource Concepts Inc.	(#026 274 675)
Sierra Club, Toiyabe Chapter	(#026 274 683)
U.S. Fish and Wildlife Service	(#026 274 676)
Natural Resource Defence Council	(#026 274 677)
Wilderness Society	(#026 274 678)
International Society for the Protection of Mustangs and Burros	(#026 274 679)
Commission for the Preservation of Wild Horses and Burros	(#026 274 681)
Animal Protection Institute	(#026 274 682)
Wild Horse Organized Assistance	(#026 274 685)
Claudia J. Richards	(#026 274 684)
Nevada Farm Bureau	(#026 274 680)

APPENDIX I: Land Use Plan/Rangeland Program Summary Objectives

1. Land Use Plan Objectives

a. Rangeland Management- "All vegetation will be managed for those successional stages which would best meet the objective of this proposed plan." (Egan Resource Area Record of Decision (ROD), p.3).

b. Wild Horses and Burros- "Wild horses will be managed at a total of 14 animals in the Antelope Herd Use Area." (Egan ROD, p.6). Actual wild horse numbers will be determined by this evaluation in conjunction with monitoring data to maintain a thriving natural ecological balance and prevent deterioration of the rangeland. (Note: The 14 animals identified above, as well as the 37 AUM's identified in the RPS is no longer a valid AML. The Interior Board of Land Appeals June 7, 1989 decision (IBLA 88-591, 88-638, 88-648, 88-679) ruled in part, "an AML established purely for administrative reasons because it was the level of wild horse use at a particular point in time cannot be justified under the statute" (Dahl vs. Clark, Supra at 595). The IBLA further ruled that the AML must be established through monitoring "in terms of the optimum number which results in a thriving natural ecological balance and avoids a deterioration of the range.")

c. Wildlife- "Habitat will be managed for "reasonable numbers" of wildlife species as determined by the Nevada Department of Wildlife." (Egan ROD, p.6).

- "Reintroductions of big game species will be accomplished in cooperation with the Nevada Department of Wildlife, where such reintroductions would not conflict with existing uses and if sufficient forage is available." (Egan ROD, p.6).

- "Forage will be provided for "reasonable numbers" of big game as determined by the Nevada Department of Wildlife." (Egan ROD, p. 8).

d. Riparian- "Where management objectives are not being obtained through application of management practices, fencing will be considered." (Egan ROD, p.13).

e. Watershed- "Establish utilization limits to maintain watershed cover, plant vigor and soil fertility in consideration of plant phenology, physiology, terrain, water availability, wildlife needs, grazing system and aesthetic values." (Egan ROD, p.44).

2. Rangeland Program Summary Objectives

Range

a. "Provide forage for up to 418 AUM's of livestock use. (Preference is actually 700 AUM's). Maintain or enhance native vegetation with utilization not to exceed Nevada Rangeland Monitoring Handbook levels on key species. Maintain or improve current ecological condition of native range." Maximum utilization on native key species is 50%.

Wild Horses

b. "Initially manage rangeland habitat to support Appropriate Management Level (AML) of 3 horses in the North Steptoe Allotment as part of the Antelope HMA. Provide forage for up to 37 AUM's of wild horse use." Actual wild horse numbers will be determined by this evaluation in conjunction with monitoring data to maintain a thriving natural ecological balance and prevent deterioration of the rangeland. (See note on previous page under 1.b.)

Wildlife/Riparian

c. "Manage rangeland habitat and forage condition to support reasonable numbers of wildlife as follows: mule deer 24 AUM's, antelope 18 AUM's." Utilization of key species will not exceed the levels listed in 2 a. above.

d. "Maintain or improve mule deer yearlong habitat and antelope summer habitat to good or better condition." This is also accomplished by limiting utilization to the levels listed in 2 a. above.

e. "Protect Ferruginous hawk nest sites."

f. "Improve 1.0 mile of stream riparian habitat condition to good or better."

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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL Within 30 days file a *Notice of Appeal* in the office which issued this decision (see 43 CFR Secs. 4.411 and 4.413). You may state your reasons for appealing, if you desire.

2. WHERE TO FILE
NOTICE OF APPEAL GENE L. DRAIS, EGAN RESOURCE AREA MANAGER
BUREAU OF LAND MANAGEMENT
HC 33, BOX 33500
ELY, NV. 89301-9408

SOLICITOR
ALSO COPY TO OFFICE OF THE REGIONAL SOLICITOR
U.S. DEPARTMENT OF THE INTERIOR
2800 COTTAGE WAY, ROOM E-2753
SACRAMENTO, CA. 95825-1890

3. STATEMENT OF REASONS Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 4015 Wilson Blvd., Arlington, Virginia 22203 (see 43 CFR Sec. 4.412 and 4.413). If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary.

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2800 COTTAGE WAY, ROOM E-2753
SACRAMENTO, CA. 95825-1890

4. ADVERSE PARTIES Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (see 43 CFR Sec. 4.413). Service will be made upon the Associate Solicitor, Division of Energy and Resources, Washington, D.C. 20240, instead of the Field or Regional Solicitor when appeals are taken from decisions of the Director (WO-100).

5. PROOF OF SERVICE Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of the Secretary, Board of Land Appeals, 4015 Wilson Blvd., Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (see 43 CFR Sec. 4.401(c)(2)).

Unless these procedures are followed your appeal will be subject to dismissal (see 43 CFR Sec. 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (see 43 CFR Sec. 4.401(a))