

STATE OF NEVADA

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DEPARTMENT OF AGRICULTURE

350 CAPITOL HILL AVENUE  
(MAILING ADDRESS—P.O. Box 11100, RENO, NEVADA 89510-1100)  
(702) 789-0180  
June 27, 1994

Catherine Barcomb, Executive Director  
Commission for the Preservation of Wild Horses  
50 Freeport Boulevard. No. 2  
Sparks, Nevada 89431

Dear Ms. Barcomb:

I have been advised by Tom Ballow, Administrator of Nevada Department of Agriculture of your request for information regarding horses captured on the Hank Rice allotment, Meadow Valley.

Mr. Rice was in the process of selling his ranch to Bob Lewis. Mr. Rice has ranched in the area for many years.

The B.L.M. in reviewing the sale and at the buyers request to transfer of the allotment, did a horse and burro gather. A number of feral horses were rounded up. Mr. Rice had a permit for twenty-seven (27) head of horses. He was invited to observe the roundup. Mr. Rice is elderly and in poor health, but his memory is sharp enough to identify progeny of horses he had turned out during the last eighteen years. Due to an auto accident and subsequent ill health, he did not get out to brand his horses. A cowboy, Bob Bowler who was assisting in the gather has known Mr. Rice all of his life and witnessed to the fact Hank Rice had turned out at least twenty-seven (27) head of horses on the allotment over the years.

The range was damaged by fire, and it was the intent of the B.L.M. to let it recover. Due to the drought, range conditions are very bad in the area.

Also among the animals gathered were twenty-two (22) head of feral mules. Mr. Rice remembered turning a Jack amongst his mares. He did not wish to claim any of them. I believe it to be a humanitarian act by B.L.M. to release the progeny of his horses running on the allotment. This type of fairness and consideration can only help the attitude of the ranchers of the state concerning the horse problem with the B.L.M. and the Wild Horse organization.

Yours very truly,

Richard M. Leonard, Brand Inspector II

CC: Tom Ballow

BOB MILLER  
Governor



THOMAS W. BALLOW  
Administrator

ROSE MCKINNEY-JAMES  
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STEPHEN J. MAHONEY  
Chief  
BUREAU OF BRAND INSPECTION

350 CAPITOL HILL AVENUE  
RENO, NEVADA 89502  
TEL: (702) 688-1180  
FAX: (702) 688-1178

M E M O R A N D U M

June 17, 1994

TO: Richard M. Leonard  
Deputy Brand Inspector  
1729 Fleetwood  
Boulder City, NV 89005

FROM: Tom Ballow,  
Administrator

RE: Wild Horse Commission request for information

Enclosed are copies of correspondence from The Executive Director of the Wild Horse Commission, Catherine Barcomb requesting information about the release of horses to the permittee on the Breedlove allotment.

Please provide Ms. Barcomb with whatever information you have relating to the matter.

Enc:  
cc: Steve Mahoney  
Catherine Barcomb ✓

A handwritten signature in cursive script, appearing to read "Tom".

BOB MILLER  
Governor

ROSE MCKINNEY-JAMES  
Director

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June 3, 1994

M E M O R A N D U M

TO: Cathy Barcomb  
FROM: Tom Ballow  
RE: Your Letter of May 6th

I am still at a loss to know why you are insisting that I must personally investigate this matter on your behalf. Why you will not accept information from any of my staff, such as Steve Mahoney, or Dick Leonard, the Brand Inspector involved.

You are asking for exact individual information and criteria used that determined "indicia of prior domesticity". Such information may not be available.

In any event, if you still want me to personally investigate this matter for you, the cost is estimated as follows:

Salary - 2 days @ \$204.00	=	\$ 408.00
Plane Ticket	=	96.00
Per Diem	=	76.00
Local Travel	=	20.00
Total		\$ 600.00

If you still want me to do this job, I will do so at my earliest availability.

TWB:smw

cc: Steve Mahoney



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Caliente Resource Area

P.O. Box 237

Caliente, Nevada 89008

TAKE  
PRIDE IN  
AMERICA

IN REPLY REFER TO:

4710  
Meadow Valley Mtn HMA File  
(NV-055.07)

(702) 726-8100

MAY 10 1994

Catherine Barcomb, Executive Director  
Commission for the Preservation of Wild Horses  
50 Freeport Boulevard, No. 2  
Sparks, NV 89431

Dear Cathy,

This letter is in response to your March 15, 1994 correspondence to the Caliente Resource Area (CRA) concerning the Breedlove allotment.

In your letter you requested information pertaining to 27 horses captured during the Meadow Valley Mountain Herd Management Area (HMA) Emergency Removal in October 1993 that were identified as domestic horses. The following information pertains to the release of the horses to the permittee after their capture.

Since 1962 Henry Rice, Breedlove allotment permittee, annually requested and was authorized a Federal grazing preference of 216 AUMs of domestic horse use with a yearlong (03/01 to 02/28) season of use.

On July 21, 1992, a Federal Grazing Privilege transfer was completed and approved by the CRA Area Manager transferring the Federal Grazing Privileges for the Breedlove allotment to Robert Lewis from Henry Rice. This transfer followed the purchase of the base property and associated Federal Grazing Privileges and livestock (cattle and horses) by Mr. Lewis.

Mr. Lewis made application for and was authorized his active preference of 216 AUMs for domestic horses within the Breedlove allotment during the 1992 and 1993 grazing years.

The Meadow Valley Mountain HMA Emergency Removal in October 1993 identified the removal of wild horses within the Breedlove allotment that had relocated there from the unfenced Meadow Valley Mountain HMA. Between October 4th and 10th, 211 horses, burros, and mules were gathered within the Breedlove allotment. During the gather operation it was not possible to differentiate between domestic horses and wild horses until they were handled in the processing pens. Of these 211 animals, the permittee identified 27 animals as his domestic animals. These animals were inspected and approved by the State of Nevada brand inspector present at the gather.

In your letter you make reference to the State of Nevada Agriculture Statutes on the determination of estray ownership. The BLM did not consider the 27 animals claimed by the permittee as estray animals as classified under NRS 569.005. They were legally authorized to graze within the boundaries of the allotment through the issuances of Federal grazing authorizations and 10-year Federal Grazing Permits. Though the animals identified as domestic horses did not carry a State of Nevada approved livestock brand as identified under NRS 564.025 and CFR 4130.5 (b), the horses were authorized to graze within the Breedlove allotment.

As shown above, the permittee had legal claim to the animals in question based on past and present documentation through grazing authorizations. The animals were inspected and approved by a state brand inspector prior to release to the permittee and were not classified as estray animals under State of Nevada Statutes.

If you have any additional questions, please contact the Caliente Resource Area office.

Sincerely,

*Curtis G. Tucker*  
Curtis G. Tucker  
Area Manager

cc: NV-053 (McFadden)  
NV-053 (Stager)



**COMMISSION FOR THE  
PRESERVATION OF WILD HORSES**

50 Freeport Boulevard, No. 2  
Sparks, Nevada 89431  
(702) 359-8768

**COMMISSIONERS**

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Steven Fulstone, Vice Chairman  
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Las Vegas, Nevada  
Dan Keiserman  
Las Vegas, Nevada  
Dawn Lappin  
Reno, Nevada

May 6, 1994

Tom Ballow, Director  
Department of Agriculture  
Box 11100  
Reno, Nevada 89510

Dear Tom,

This letter is to confirm our conversation regarding the information I requested from you pertaining to twenty seven horses given to the permittee from a Bureau of Land Management wild horse gather in the Caliente Resource Area of Nevada.

I have written to you twice requesting copies of the documentation or verification that was presented by the permittee under the law that established ownership of the twenty seven horses in question. After the most recent letter you called me and informed me that I could either come look through your files and obtain the information for myself or you would research your files and provide me with the information at a charge to our agency.

I would like to request a quote in writing from your department advising our agency of the charges that would be incurred to obtain the information that we have requested. I need this quote to determine if the charges are affordable to our agency for the information required to document our files as to the disposition of twenty seven horses that were captured during a wild horse gather.

Please inform me if there is a problem with this request or obtaining the information requested. Thank you in advance.

Sincerely,

A handwritten signature in cursive script that reads "Catherine Barcomb".

CATHERINE BARCOMB  
Executive Director



**COMMISSION FOR THE  
PRESERVATION OF WILD HORSES**

50 Freeport Boulevard, No. 2

Sparks, Nevada 89431

(702) 359-8768

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Carson City, Nevada

Steven Fulstone, *Vice Chairman*  
Smith Valley, Nevada

Michael Jackson  
Las Vegas, Nevada

Dan Keiserman  
Las Vegas, Nevada

Dawn Lappin  
Reno, Nevada

April 5, 1994

Tom Ballow, Executive Director  
Department of Agriculture  
Box 11100  
Reno, Nevada 89510

Dear Tom,

I wrote to you recently requesting individual information on twenty seven horses gathered during a wild horse gather in Caliente, Nevada, and claimed by the permittee. The letter I received in return basically stated that "it was determined jointly by Deputy Brand Inspector, Richard Leonard and the Bureau of Land Management that the twenty seven horses were progeny of Mr. Lewis' horses." The letter still doesn't explain how it was determined these were estray and not wild free roaming. Under Nevada law and the MOU between the BLM and the Agriculture Department there is criteria to be used in determining prior ownership of questionable wild or estray horses.

Again, I would like to request under NRS Statute 239.010, the Public Records Law, that you provide me with the exact individual information and criteria used that determined "indicia of prior domesticity," and therefore established that Mr. Lewis did indeed own these horses. Under the law my agency was established to preserve and protect wild horses in the State of Nevada. Under that mandate I am asking you for that information used which determined that these horses were not wild free roaming.

Tom, if there is a problem with supplying this information, please feel free to contact me. Thank you in advance for the information necessary for my files.

Sincerely,

A handwritten signature in cursive script that reads "Cathy".

CATHERINE BARCOMB  
Executive Director

STATE OF NEVADA

BOB MILLER  
GOVERNOR



THOMAS W. BALLOW, EXECUTIVE DIRECTOR  
JACK N. ARMSTRONG, D.V.M., DIRECTOR  
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FAX: (702) 688-1178

March 25, 1994

Ms. Catherine Barcomb  
Commission for the Preservation  
of Wild Horses  
50 Freeport Blvd. No. 2  
Sparks, NV 89431

*I*  
*4/17/94*  
*talked to*  
*Barcomb by phone.*  
*She said she will*  
*rethink the request.*  
*Tom*

Dear Cathy:

The gathering on the Breedlove Allotment in October of 1993, was done in a horse free area. A Bureau of Land Management permittee, Bob Lewis, has a horse permit in the area. Mr. Lewis claimed twenty-seven of the gathered horses. It was determined jointly by Deputy Brand Inspector, Richard Leonard and the Bureau of Land Management that the twenty-seven horses were progeny of Mr. Lewis' horses.

There was no management of these horses for a ten year period prior to the Bureau of Land Management gathering. It is my understanding that the Bureau of Land Management is in the process of converting Mr. Lewis' horse permit into a cattle permit. I hope this helps Cathy.

Sincerely,

Steve Mahoney, Chief  
for Thomas W. Ballow, Administrator  
Division of Agriculture



COOPERATIVE AGREEMENT BETWEEN THE DEPT. OF AGRICULTURE, STATE OF NEVADA  
THE BUREAU OF LAND MANAGEMENT, NEVADA STATE OFFICE  
U. S. DEPARTMENT OF THE INTERIOR, AND  
THE FOREST SERVICE, REGION 4,  
U. S. DEPARTMENT OF AGRICULTURE

I. Purpose

This Cooperative Agreement between the Department of Agriculture, State of Nevada, hereinafter referred to as the State, the Bureau of Land Management and Forest Service, hereinafter referred to as the Agencies, is for the purpose of identifying responsibilities relative to wild free roaming horses and burros.

II. Objective

The Agencies are charged by the Act and the regulations to manage, protect, and control wild free-roaming horses and burros using lands under their jurisdiction as well as private, State and other Federal land under cooperative agreement. The State is charged with the responsibility for validating and processing claims of ownership of branded and unbranded animals pursuant to the State branding and estray laws, and to assure the proper disposal of animals pursuant to the livestock health sanitation laws within the State of Nevada.

THEREFORE, it is the mutual desire of the Agencies to work in harmony for the common purpose of planning, implementing, and administering the applicable Federal laws to accomplish the directed management, protection and control of wild free-roaming horses and burros within the State of Nevada and provide maximum service with minimum adverse effect on resources and the environment.

III. Authority

The State is responsible for determining claims of ownership under State law pursuant to Title 50 of the Nevada Revised Statutes and State Regulation #58.

The Agencies are authorized to enter into cooperative agreements with State agencies concerning the management and protection of wild free-roaming horses and burros, and the management, use and protection of the public lands under the provisions of the Wild Horse Act of December 15, 1971, 16 U.S.C. Stat. 1331-1340 (1971 Supp.), hereinafter referred to as the Act, and the regulations embodied in 43 CFR Part 4700 and 36 CFR 231.11 pertaining to wild free-roaming horse and burro management, referred to as the regulations. In addition, the Bureau of Land Management is authorized under the Taylor Grazing Act, 43 U.S.C. Stat. 315-315r (1970), and other authorities. The Forest Service is authorized under the Act of June 30, 1914 and April 1950.

#### IV. Management Considerations

##### A. Planning

The Agencies' planning systems produce guidelines and decisions for management of the resources on lands under their jurisdiction. Planning, implementation and administration of wild free-roaming horses and burros will be the responsibility of the Agencies. IT IS THEREFORE AGREED:

1. "Wild free-roaming horses and burros" shall mean all unbranded and unclaimed horses and burros and their progeny which have used lands administered by the Agencies on or after December 15, 1971, or do hereafter use these lands as all or part of their habitat. Unbranded, claimed horses and burros where the claim is found to be erroneous are also considered as wild and free-roaming if they meet the criteria above. However, this definition shall not include any horse or burro introduced onto lands administered by the Agencies on or after December 15, 1971, by accident, negligence, or willful disregard of private ownership.

##### B. Claims of Animals

The Act (16 U.S.C. Stat. 1331-1340), and the Secretary's regulations provide that persons may recover unbranded animals where they can show proof of ownership under the State estray laws.

Therefore, in order to properly conform to such provisions and to provide harmony between the State and Federal Agencies in recognizing those persons who have legitimate claim to animals, otherwise thought to be wild and free-roaming, it is mutually agreed that the following procedures will be followed:

1. Written claims will be accepted by the Agencies' authorized officer. (District Manager - Bureau of Land Management)(Forest Supervisor - Forest Service).

a. The claimant must submit with his claim a sworn affidavit asserting ownership to the claimed animals and indicating a willingness to defend title and setting forth the following:

- (1) Number of animals claimed.
- (2) Description of the claimed animals including factors indicating tameness such as animal being gelded, broken to rope or saddle.
- (3) Date and circumstances animals were released upon the open range.
- (4) Location of relevant private or leased lands where animals were kept prior to the release on open range.
- (5) Any other information the claimant deems relevant.

b. Other ownership evidence when available will be submitted with the claim. This may include:

(1) A bill of sale fully describing the claimed animal(s) and which meets all State legal requirements for a bill of sale, or,

(2) A valid inspection certificate issued by the State for some previous occasion which fully describes the animal(s) and which clearly identifies the animal(s) as belonging to the claimant.

If the claimant is unable to satisfy b. (1) or (2) above, the Agencies may consider other appropriate indicia of ownership which may include, but is not limited to: (a) whether the claimant has paid personal property tax upon the claimed animal(s); (b) whether the animal(s) is the known progeny of animals owned by the claimant.

2. Upon receipt of the written claim and supporting information the Agencies' authorized officer will evaluate and either reject the claim or issue written authorization to the claimant to gather the animals. The authorization will stipulate terms and conditions for gathering the animals. The Agencies' authorized officer may participate in and supervise roundups or gathering operations authorized by the Agencies to assure compliance with Federal laws and regulations.

3. After animals are corraled they will be inspected by the Agencies' authorized officer and State Brand Inspectors, and upon satisfaction of the Brand Inspector, he will issue a brand inspection certificate showing ownership and a description of the animal to the claimant. The Agencies will release the owned animals to the claimant upon receipt of a copy of the State certificate. Unclaimed animals showing evidence of abandonment such as unregistered brands, tattoos, or tags will be turned over to the State to be handled under State estray procedures. Wild and free-roaming animals will be returned to the open range.

4. The claimant will be responsible for payment of charges by the State for inspection and determination of ownership on all animals certified to be property of the claimant. The Agencies will reimburse the State for pro rata salary, per diem and mileage for services and documentation and/or certification requested by the Agencies, based upon the number of unclaimed animals returned to the open range. As needed, the Agencies will issue purchase orders for services to be rendered by the State with rates pre-determined.

#### C. Disposal of Wild and Free-Roaming Horses and Burros

Pursuant to the Act and regulations, the Agencies may direct the disposal of animals. Disposal will be in accordance with State laws concerning humane treatment of animals and public health and sanitation.

Horses or burros known to be infected with certain communicable or infectious diseases such as "swampfever" or "sleeping sickness" will be disposed of by the Agencies in the most humane manner after consultation with the State. In the event of potential disease epidemic in a wild horse and burro herd, the Agencies will consider recommendations and guidance of the State to minimize the potential and to dispose of infected and exposed animals.

D. Violations; Enforcement and Property Damage

The Agencies are responsible for enforcement of alleged or known violations and the determination of property damage as provided for by the Act. The State may be requested to do brand inspections and determine the ownership of animals involved in violations, enforcement problems or property damage at any time.

V. Administrative Matters

A. Meetings

Joint State and Agency meetings may be held at any time it is beneficial to either party or in the interest of individuals or the public. Meetings may be held at the field or State office level, as determined by convenience.

B. Subject to Existing Laws

Horses and burros will be transported from lands administered by the Agencies in accordance with rules and regulations of the State and the Agencies.

C. Funding Obligations

Nothing in this agreement shall be construed as obligating any party hereto for the expenditure of funds except as provided for in paragraph B. 4 above.

D. Restriction of Congressional Delegates or Resident Commissioner

No member or delegate of Congress, or Resident Commissioner, shall be admitted to any share or part of this agreement, or to any benefit which may arise therefrom.

E. Discrimination

All cooperative work under the provisions of this agreement or supplemental agreements or memorandums of understanding will be accomplished without discrimination against any person because of race, creed, color, sex, or national origin.

F. Termination

This agreement shall become effective when signed by all the designated representatives of the parties hereto and shall remain in force until terminated by mutual agreement, or upon thirty days written notice of one party to the other parties of their intention to terminate upon the date indicated. Amendments to this agreement may be proposed by all parties and shall become effective upon approval of all parties.

Date: Dec. 4, 1973

Approved:  
Dept. of Agriculture, State of Nevada

By: Thomas Ballan  
Executive Director

Date: Nov. 8, 1973

U.S. Department of the Interior  
Bureau of Land Management

By: [Signature]  
State Director

Date: Nov. 2, 1973

U.S. Dept. of Agriculture  
Forest Service (Region 4)

By: [Signature]  
Acting Regional Forester