



*No response
needs letter request
Ans. to all concerns*

United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Ely District Office
HC 33 Box 33500
Ely, Nevada 89301-9408

m 2-10-97

FEB 10 1997 IN REPLY REFER TO:
4160 (NV-042)

Steven Carter
Lund, NV 89317

CERTIFIED MAIL NO. P 313 269 639
Return Receipt Requested

Frank Reid
Lund, NV 89317

CERTIFIED MAIL NO. P 313 269 640
Return Receipt Requested

NOTICE OF FINAL MULTIPLE USE DECISION:

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 following allotments:

Rock Canyon
Big Six Well
Dee Gee Spring
Allot. in HMA → North Cove
Sorensen Well
Cattle Camp/Cave Valley
Allot. in HMA → Wells Station
Maybe Seeding
Sheep Trail Seeding
East Wells
Brown Knoll
Swamp Cedar

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 twelve allotments covered under this decision. 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 allotments. Refer to Appendix I in the Proposed Multiple Use Decision issued December 6, 1996 for the Land Use Plan and Range Program objectives covering livestock, wildlife and wild horses.

BASED ON RECOMMENDATIONS FROM DISTRICT STAFF, AND INPUT RECEIVED THROUGH CONSULTATION, COORDINATION, AND COOPERATION FROM THE PERMITTEES AND PUBLIC INTEREST GROUPS, THE FINAL DECISION IS AS FOLLOWS:

Continue the grazing practices identified in the Livestock Grazing Agreement dated July 25, 1995 for the Carter Cattle Company and Frank Reid. This agreement expires on February 28, 1998. The Biological Plan and grazing practices will continue to be evaluated towards accomplishment of the multiple use objectives. Frank Reid will be authorized to graze cattle within a portion of the Bullwhack Pasture of the Cattle Camp/Cave Valley Allotment as set forth in the Livestock Grazing Agreement. (refer to Appendix III in the Proposed Multiple Use Decision issued December 6, 1996)

LIVESTOCK MANAGEMENT DECISION

In accordance with 43 CFR 4100.0-8, 4120.3-1(c), 4130.3, 4130.3-1(a) and 4130.3-2, the current livestock authorized use shall be 6,316 AUMs for Carter Cattle Co., and 533 AUMs for Frank Reid.

The authorized use (AUMs) by permittee is as follows:

PERMITTEE: Steven Carter

<u>Total</u>	<u>Authorized Use</u>	<u>Historical Suspended</u>
9,777	6,316*	3,461

*Authorized use total for 12 allotments under Steven Carter's permit.

PERMITTEE: Frank Reid

<u>Total</u>	<u>Authorized Use</u>	<u>Historical Suspended</u>
533	533**	0

**Authorized use in the Cattle Camp/Cave Valley Allotment.

The number of animal unit months of specified livestock grazing, historical suspended AUMs, and season of use for Carter Cattle Co. by allotment is as follows:

<u>Allotment Name</u>	<u>Season of Use</u>	<u>Authorized Use AUMs</u>	<u>Historical Suspended AUMs</u>
Big Six Well	12/1 to 5/31	140*	326
Brown Knoll	11/1 to 5/31	161**	268
Cattle Camp/ Cave Valley	5/15 to 11/30	3,185*	0
Dee Gee Spring	12/1 to 5/31	200*	178
East Wells	12/1 to 5/31	122*	104
Maybe Seeding	12/1 to 5/31	300*	0

North Cove	12/1 to 5/31	879**	881
Rock Canyon	12/1 to 5/31	432*	464
Sheep Trail Seeding	12/1 to 5/31	200*	0
Sorensen Well	12/1 to 5/31	193*	450
Swamp Cedar	12/1 to 5/31	192*	418
Wells Station	12/1 to 5/31	<u>312*</u>	<u>372</u>
	Totals	6,316	3,461

* Authorized use has not changed.

** The Final Multiple Use Decision (FMUD) for the Brown Knoll Allotment dated January 19, 1993 allowed for a first year incremental increase of 26 AUMs. In addition, the North Cove Allotment FMUD dated February 4, 1992 includes a first year incremental increase of 147 AUMs.

A term permit will be reissued to Carter Cattle Company and Frank Reid when the Final Multiple Use Decision becomes effective. The new Term Permits will incorporate the terms and conditions of this decision.

In accordance with 43 CFR 4130.3, the following terms and conditions are hereby made part of the respective grazing permits beginning March 1, 1997:

- [1] Carter Cattle Co. will be authorized to make livestock use according to the principles of Holistic Resource Management (HRM) and to use the HRM model as its guide as related to livestock grazing management in the 12 allotments.
- [2] Carter Cattle Co. will be authorized the flexibility to graze the public lands of the 12 allotments for the prescribed season at initially 6,316 AUMs of livestock in accordance with an annually submitted biological plan. The annual grazing plan will include a grazing schedule for the year. The schedule of moves will be based upon pasture carrying capacity, forage availability, current growing condition, quality of forage, planned rest periods, and any changes as a result of the previous year's evaluation by the team. The team is made up of a Permittee, Bureau of Land Management, Nevada Division of Wildlife, and Natural Resources Conservation Service personnel.
- [3] Where the HRM team determines that additional forage is available, the annual biological plan will include a recommendation that additional forage be authorized. BLM

will evaluate the team's recommendation as included in the annual biological plan. If BLM concurs with the team's annual recommendation, additional forage temporarily available may be apportioned on a nonrenewable basis for the term of the agreement.

- [4] Where conditions such as drought, weather, fire, or vegetation availability may require a modification of authorized grazing use, additional forage temporarily available may be apportioned on a nonrenewable basis. Additional forage available under these conditions will also be based on the HRM team's recommendations and subject to BLM concurrence.
- [5] When a pasture shows more available forage (or less grazing use) than planned, cattle may remain longer (not exceeding the season-of-use) or may return to the pasture within the grazing year as forage availability and production allows.
- [6] Steven Carter's designated use areas within the Cattle Camp/Cave Valley Allotment will be the Cattle Camp Pasture, the north/east portions of the Bullwhack pasture and the North Seeding. Which areas used will depend upon the grazing schedule presented in the annual biological plan.
- [7] Frank Reid's designated use area will be the south portion of the Bullwhack pasture or the Silver use area (refer to Appendix II in the Proposed Multiple Use Decision issued December 6, 1996 for map). Steven Carter of Carter Cattle Co. will be responsible for building the fence. Frank Reid will have the fence maintenance responsibility.
- [8] Frank Reid's period of use and authorized use in this designated area is 5/15 to 11/30 and 533 AUMs, respectively.
- [9] Certified actual use report by use area, pasture and allotments is due 15 days after the end of the authorized grazing period.

RATIONALE:

Monitoring studies support the conclusion that, as currently authorized, livestock use does not exceed proper use levels in the 11 White River Valley allotments and in the designated use pastures of the Cattle Camp/Cave Valley Allotment. Designation of use areas for Steven Carter and Frank Reid will make the users solely accountable for the condition of the range they use. Recent elk census show that elk numbers are increasing within the Cattle Camp/Cave Valley Allotment. Elk use on the upland areas of this allotment is not a problem at this time even though there is a dietary overlap with cattle for key forage species. However, elk habitat objectives, populations and ecosystem

impacts will be addressed in future evaluations, and an area wide elk management plan.

As of 1993 Carter Cattle Co. has not grazed in common with Frank Reid within the Cattle Camp/Cave Valley Allotment because of different livestock management practices. Steven Carter of Carter Cattle Co. and Frank Reid have agreed to graze their cattle separately in order for Carter Cattle Co. to practice the principles of HRM and Frank to have his own specific use area (refer to Appendix II in the Proposed Multiple Use Decision issued December 6, 1996 for map). This map shows the fence boundary different from the map in appendix IV of the agreement. A task force was conducted on October 26, 1995. The findings from this task force resulted in the relocation of the proposed fence for the ease of building the fence and mitigating archeological conflicts.

The agreed upon changes in livestock use are made in order to achieve the management objectives for the public lands under Bureau of Land Management (BLM) control identified in the Egan Resource Area Land Use Plan (LUP), which are specifically related to authorized grazing use on the above 12 allotments (refer to Appendix II in the Proposed Multiple Use Decision issued December 6, 1996 for allotment location maps).

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

4100.0-8: "The authorized officer shall manage livestock grazing on public lands under the principles 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)."

4120.3-1(c): "The authorized officer may require a permittee or lessee to maintain and/or modify range improvements on the public lands under 4130.6-2 of this title."

4130.3: "Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve the management and resource condition objectives for the public lands and other lands

administered by the Bureau of Land Management..."

4130.3-1(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 of the allotment."

APPEAL:

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final livestock grazing portion of this decision may file an appeal and petition for stay of the decision pending final determination on appeal. The appeal and petition for stay must be filed in the office of the authorized officer as noted above, within 30 days following receipt of the final decision.

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:

- (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.

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

WILD HORSE AND BURRO MANAGEMENT DECISION

Manage the wild horses on the allotment at appropriate management level of 14 animals yearlong (168 AUMs) + or - 15% which has been determined to be an optimum level to maintain the thriving ecological balance for that portion of the White River HMA within the Wells Station Allotment. The appropriate management level (AML) has been previously established for five other allotments within the HMA through the allotment evaluation/multiple use decision process. Those five allotments and the AML established are Hardy Springs - 24, North Cove - 0, Duck Water - 10, and Cove - 42. The setting of wild horse numbers by allotment is part of a process that provides for an overall HMA wild horse AML. Wild horse removals will occur on an HMA basis and numbers will be maintained at or near the total AML. Therefore, the AML for the entire HMA will be 90 wild horses + or - 15%. Numbers within allotments may be higher or lower than the numbers identified

above because of seasonal movements, but the total AML for the HMA will be maintained.

Of the 12 allotments affected by this Final Multiple Use Decision (FMUD), only two (North Cove and Wells Station) provide habitat for wild horses within the White River herd management area (HMA). This wild horse and burro management decision, therefore, only affects the Wells Station Allotment portion of the White River HMA. A Final Multiple Use Decision was previously issued February 4, 1992 for the North Cove Allotment.

In accordance with 43 CFR 4700.0-6(a), wild horse use on the Wells Station Allotment shall be managed at 14 animals yearlong + or - 15%, which establishes a wild horse management range of 12 to 16 wild horses yearlong.

In accordance with 43 CFR 4720.1, all wild horses in excess of the appropriate management level of 14 + or - 15% animals will be removed.

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

RATIONALE:

The Wells Station Allotment is an area where animals remain on a year-round basis and monitoring data suggests animals are year-long residents. The analysis and evaluation of available monitoring data indicates that management actions for wild horses must be modified to meet multiple use management objectives on the Wells Station Allotment as identified in Appendix I (refer to Appendix I in the Proposed Multiple Use Decision issued December 6, 1996). The data indicate that there are 168 AUMs available for wild horse use. The removal of excess wild horses is necessary to establish and maintain a thriving natural ecological balance and prevent a deterioration of the rangeland resources.

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."

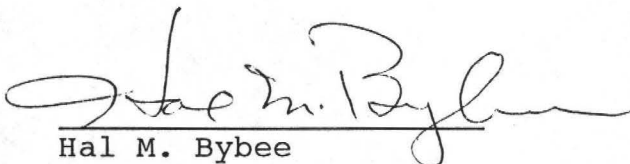
4710.4: "Management of wild horses and burros shall be undertaken with the objective of limiting the animals distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans,"

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, you have the right of 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 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. Copies of your appeal and 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 (suspension) of the decision together with your appeal, in accordance with the regulations of 43 CFR 4.21. The petition must be served upon the parties specified above. The appellant has the burden of proof to demonstrate that a stay should be granted.



Hal M. Bybee
ADM - Renewable Resources



COMMISSION FOR THE
PRESERVATION OF WILD HORSES

1105 Terminal Way

Suite 209

Reno, Nevada 89502

(702) 688-2626

February 20, 1997

Mr. Gene Kolkman
Ely District
Bureau of Land Management
HC 33 Box 33500
Ely, Nevada 89301-9408

Subject: White River HMA/AML

Dear Mr. Kolkman:

The Commission for the Preservation of Wild Horses has received the Notice of Final Multiple Use Decision affecting 12 allotments within the White River Herd Management Area.

As a matter of consultation and cooperation, the Commission provided comments to the proposed decision/allotment evaluation. We did not observe any suggested changes or response to our concerns. Our efforts to contribute and better understand your planning processes appear to have been ignored.

We would appreciate your attention on this matter.

Sincerely,

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

CATHERINE BARCOMB
Executive Director