



IN REPLY REFER TO:

Antelope HMA M 10/24/94  
United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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



IN REPLY REFER TO:

4700 (NV-047)

OCT 24 1994

Commission for the Preservation of Wild Horses  
c/o Cathy Barcomb, Executive Director  
255 West Moana  
Suite 207A  
Reno, NV 89509

Dear Ms. Barcomb:

This letter is the written response you requested concerning the Lovell Peak Final Multiple Use Decision (FMUD). The statement at the bottom of page 4 is in line with Bureau policy and has been included in all FMUDs concerning wild horses from the Egan Resource Area.

It is our intention during removal efforts to remove excess wild horse numbers down to AML within specific allotments. However, as stated on page four of the decision, first paragraph under the WILD HORSE AND BURRO MANAGEMENT DECISION, it is also our intention not to go below the overall AML for the entire herd.

If you have any further questions, please contact Joe Stratton of my staff at (702) 289-4865.

Sincerely,

Gene L. Drais, Manager  
Egan Resource Area



IN REPLY REFER TO:

# United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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



IN REPLY REFER TO:

4130 (NV-047)

OCT -7 1994

CERTIFIED MAIL NO. P 313 269 427  
RETURN RECEIPT REQUESTED

Lyman Rosenlund  
HC 33 Box 33620  
Ely, NV 89301

## NOTICE OF FINAL MULTIPLE USE DECISION FOR THE LOVELL PEAK ALLOTMENT (0406)

### 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 Lovell Peak 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 Lovell Peak Allotment. Input was received from the Nevada Division of Wildlife and the U.S. Fish and Wildlife Service. A proposed multiple use decision was issued on August 30, 1994. 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 Lovell Peak Allotment.

BASED UPON THE EVALUATION OF MONITORING DATA FOR THE LOVELL PEAK 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 ten land use plan objectives for the Lovell Peak 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 (6/15 to 9/3) to (7/1 to 9/30) to better reflect actual growing conditions at the higher elevations on the Lovell Peak Allotment. This decision also establishes the appropriate management level (AML) for wild horses for the portion of the Antelope Herd Management Area (HMA) within the Lovell Peak 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 105 AUMs of sheep use with 57 AUMs to be held in suspended non-use for a total preference of 162 AUMs. Season-of-use will be 7/1 to 9/30. The active preference is allocated as follows:

From:

Lovell Peak (0406)

<u>Unit</u>	<u>Period</u>	<u>%Federal Range</u>	<u>AUMs</u>
Native Range	6/15 to 9/3	100	105

To:

Lovell Peak (0406)

<u>Unit</u>	<u>Period</u>	<u>%Federal Range</u>	<u>AUMs</u>
Native Range	7/1 to 9/30	100	105

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 to 7/1 to 9/30 to better reflect actual growing conditions at the higher elevations on the Lovell Peak Allotment.

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. (See form 1842-1 - Information on Taking Appeals to the Board of Land Appeals)

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 93 AUMs or 8 horses yearlong on that portion of the Antelope Herd Management Area which occurs within the Lovell Peak 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 Lovell Peak Allotment shall be managed at 93 AUMs (8 horses yearlong).

In accordance with 43 CFR 4720.1, all wild horses in excess of the appropriate management level of 8 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 Lovell Peak 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 of appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR, Part 4, Subpart E. 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. 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 (suspension) 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.

*Michael W. M. G.*

Gene L. Drais, Manager  
Egan Resource Area

289-4865

CERTIFIED MAIL

cc: Nevada Division of Wildlife (Region II)	#313 269 428
N-4 Grazing Board	#313 269 429
Resource Concepts Inc.	#313 269 430
Sierra Club, Toiyabe Chapter	#313 269 431
U.S. Fish and Wildlife Service	#313 269 432
Natural Resources Defense Council	#313 269 433
Wilderness Society	#313 269 434
International Society for the Protection of Mustangs and Burros	#313 269 435
Commission for the Preservation of Wild Horses and Burros	#313 269 436
Animal Protection Institute	#313 269 437
Wild Horse Organized Assistance	#313 269 438
Nevada Farm Bureau	#313 269 439

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 AUMs 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." 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).

- "Reintroduction of big game species will be accomplished in cooperation with the Nevada Department of Wildlife, where such reintroduction 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 AUMs of livestock use. (Preference is actually 700 AUMs). 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 Lovell Peak Allotment as part of the Antelope HMA. Provide forage for up to 37 AUMs 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 AUMs, antelope 18 AUMs." 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."