

United States Department of the Interior

BUREAU OF LAND MANAGEMENT Ely District Office HC33 Box 150 Ely, Nevada 89301-9408



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Paris, Bertrand and Sons SR 1 Box 26 Ely, NV 89301

NOTICE OF PROPOSED MULTIPLE USE DECISION FOR THE MEDICINE BUTTE ALLOTMENT (0501)

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 Medicine Butte 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."

Monitoring studies were initially established in 1983 and have been conducted periodically since that time. In accordance with Bureau policy and regulations, this data has been analyzed and evaluated in order to determine progress in meeting management objectives for the Medicine Butte Allotment. Input was received from the permittee. See Appendix I for the land use plan objectives covering livestock, wild horses, and wildlife. 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 Medicine Butte Allotment.

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

The analysis of monitoring data has revealed that six of the fourteen land use plan objectives for the Medicine Butte Allotment are not being met with current management practices due to existing grazing use by livestock and wild horses. This analysis also shows that the existing management of wildlife does not contribute to the failure in meeting these multiple use objectives. Therefore, this decision proposes changes in livestock and wild horse use and not in wildlife use. This decision also establishes the appropriate management level for wild horses for those portions of the Butte, Buck and Bald, and the Cherry Creek Herd Management Areas within the Medicine Butte Allotment.

LIVESTOCK MANAGEMENT DECISION

In accordance with 43 CFR 4110.3, 4110.3-2(b), and 4130.6-1(a), the following changes in existing grazing management have been determined:

Hunter Point Use Area

1) Reduce adjudicated preference for livestock from 2060 AUMs to 1154 AUMs as indicated by monitoring studies. Sheep preference is allocated at 681 AUMs and cattle preference is allocated at 473 AUMs.

- 2) All trailing and bedding will be done in the black sagebrush dominated benchlands.
- 3) Season of use for sheep is April 15 to November 15. Season of use for cattle is November 1 to February 28.

Telegraph Use Area

- 1) Reduce adjudicated preference for sheep from 2510 AUMs to 1330 AUMs as indicated by monitoring studies.
- 2) Rotate the "circle" pattern of sheep use that is made on Telegraph to give the key species a chance to complete their physiological cycle once every two years.
- 3) Season of use for sheep is April 15 to November 15.

Pony Mountain Use Area (includes Paris Seeding)

- 1) Reduce adjudicated preference for sheep from 3236 AUMs to 906 AUMs as indicated by monitoring studies.
- 2) Season of use for sheep is April 15 to November 15.

Snow Creek Seedings

- 1) Reduce adjudicated preference for livestock from 888 AUMs to 445 AUMs on the North Seeding as indicated by monitoring studies. Sheep preference is allocated at 44 AUMs and cattle preference is allocated at 401 AUMs.
- 2) Reduce adjudicated preference for livestock from 551 AUMs to 496 AUMs on the South Seeding as indicated by monitoring studies. Sheep preference is allocated at 20 AUMS and cattle preference is allocated at 476 AUMs.
- 3) Increase adjudicated preference for cattle from 227 AUMs to 257 AUMs on the West Seeding as indicated by monitoring studies.
- 4) Maintenance of existing pipelines is required to encourage uniform distribution.
- 5) No use is authorized to be made in the seedings until April 15 or until range readiness as determined by the BLM.
- 6) Season of use for sheep is April 15 to November 15. Season of use for cattle is April 15 to February 28.

Butte Valley Use Area

- 1) Reduce adjudicated preference for livestock from 4338 AUMs to 1301 AUMs as indicated by monitoring studies. Sheep preference is allocated at 481 AUMs and cattle preference is allocated at 820 AUMs.
- 2) Season of use for sheep is April 15 to November 15. Season of use for cattle is March 1 to February 28.

Slough Meadows Use Area

- 1) Increase adjudicated preference for cattle from 1046 AUMs to 1130 AUMs as indicated by monitoring studies.
- 2) Eliminate domestic horse permit.
- 3) Season of use for cattle is May 1 to February 28.

Black Mt./Canyon Use Area

- 1) Reduce adjudicated preference for sheep from 318 AUMs to 213 AUMs as indicated by monitoring studies.
- 2) Season of use for sheep is April 15 to November 15.

In accordance with 43 CFR 4110.3-3(a), changes in livestock preference greater than 10% shall be phased in over a five year period. Adjustments will be implemented in years 1, 3 and 5. In accordance with 43 CFR 4110.3-2(c), reductions in active preference AUMs over this phase in period will be held in suspended non use. The following table indicates active preference by use area over the five year phase in period. Year 1 is the 1992 grazing year.

Active Preference (AUMs)

	Year	1			<u>r 3</u>	Year 5	
Use Area	Cattle	Sheep		<u>Cattle</u>	Sheep	Cattle	Sheep
Hunter Point	721	1037		597	859	473	681
Telegraph	0	2117		0	1723	0	1330
Pony Mt.	0	2459		0	1682	0	906
North Snow Crk.	666	74		533	59	401	44
South Snow Crk.	512	21		494	21	476	20
West Snow Crk.	237	0		247	0	257	0
Butte Valley	2095	1231		1457	856	820	481
Slough	1130	0		1130	0	1130	0
Black Mt./Canyon	0	283		0	248	0	213
Total	5361	7222		4458	5448	3557	3675

In accordance with 43 CFR 4130.6-2, the following terms and conditions will be included in the grazing permit for the Medicine Butte Allotment:

1. Saltblocks will be placed at least 3/4 mile from water sources to enhance proper distribution and utilization.

RATIONALE:

Utilization data and use pattern mapping support the conclusion that a reduction is needed in the adjudicated livestock preference in order to meet the Land Use Plan and Rangeland Program Summary objectives. Monitoring studies indicate over-utilization on native range, winterfat bottoms, and crested wheatgrass seedings used by livestock and wild horses. These problems will be corrected by reducing the active livestock preference to 7232 AUMs (3557 AUMs for cattle and 3675 AUMs for sheep).

BLM regulations prohibit grazing under permit or lease by domestic horses and burros on all public lands inhabited by wild horses and burros. Therefore, the domestic horse permit will be eliminated and the 360 AUMs assigned to domestic livestock use.

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."

4110.3-2(b): "When monitoring shows active use is causing an unacceptable level or pattern of utilization or exceeds the

livestock carrying capacity as determined through monitoring, the authorized officer shall reduce active use if necessary to maintain or improve rangeland productivity..."

- 4110.3-2(c): "Where active use is reduced it shall be held in suspension..."
- 4110.3-3(a): "Changes in active use in excess of 10 percent shall be implemented over a 5-year period..."
- 4110.3-3(b): "After consultation, coordination and cooperation, suspensions of preference shall be implemented through a documented agreement or decision. If data acceptable to the authorized officer are available, an initial reduction shall be taken on the effective date of the agreement or decision and the balance taken in the third and fifth years following the effective date..."
- 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."
- 4130.6: "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..."
- 4710.5(b): "All public lands inhabited by wild horses or burros shall be closed to grazing under permit or lease by domestic horses and burros."

PROTEST:

If you wish to protest this decision, in whole or in part, you are allowed fifteen (15) days from receipt of this notice within which to file a protest with the Egan Area Manager, BLM, Ely District

Office, HC 33, Box 150, Ely, Nevada 89301-9408. Subsequent to the protest period, a final decision will be issued, regardless of whether or not any protests were received. The final decision may be modified in light of pertinent information brought forth during the protest period.

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 80 horses yearlong (956 AUMs) on that portion of the Butte, Buck and Bald, and Cherry Creek Herd Management Areas which occur within the Medicine Butte Allotment. The Butte HMA will have an AML of 69 horses (822 AUMs) while the Buck and Bald HMA will have an AML of 11 horses (134 AUMs) within the Medicine Butte allotment. The Cherry Creek HMA will not have any horses within the Medicine Butte allotment.

In accordance with 43 CFR 4700.0-6(a), wild horse use on the Medicine Butte Allotment shall be managed at 80 horses yearlong (956 AUMs). The appropriate wild horse AUMs by use area as established by monitoring are as follows:

Hunter Point Use Area

1) Establish wild horse appropriate management level at 273 AUMs as indicated by monitoring studies.

Telegraph Use Area

1) Establish wild horse appropriate management level at 139 AUMs as indicated by monitoring studies.

Pony Mountain Use Area (includes Paris Seeding)

1) Establish wild horse appropriate management level at 134 AUMs as indicated by monitoring studies.

Butte Valley Use Area

Establish wild horse appropriate management level at 173
AUMs as indicated by monitoring studies.

Slough Meadows Use Area

1) Establish wild horse appropriate management level at 181 AUMs as indicated by monitoring studies.

Black Mt./Canyon Use Area

1) Establish wild horse appropriate management level at 56 AUMs as indicated by monitoring studies.

In accordance with 43 CFR 4720.1, all wild horses in excess of the appropriate management level of 80 animals (69 horses in the Butte HMA and 11 horses in the Buck and Bald HMA) will be removed.

Adjustments in wild horse numbers will be made by future Butte, Buck and Bald, and Cherry Creek Herd Management Area gathers based on continued monitoring.

RATIONALE: The analysis and evaluation of monitoring data indicates that management actions for wild horses must be modified to meet multiple use management objectives on the Medicine Butte Allotment as identified in Appendix I. The data indicate that there are 956 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..."

PROTEST:

Although the 4700 regulations allow for an appeal with no mention of a protest, for the purpose of consistency with the livestock management portion of this decision, the entire multiple use decision is initially being sent as a "Proposed" decision. If you wish to protest this decision, in whole or in part, you are allowed

fifteen (15) days from receipt of this notice within which to file a protest with the Egan Resource Area Manager, HC 33 Box 150, Ely, Nevada 89301-9408. Subsequent to the protest period, a final decision will be issued, regardless of whether or not any protests were received. The final decision may be modified in light of pertinent information brought forth during the protest period.

Gene L. Drais, Manager

Egan Resource Area

		(Certi	fied	Mai	il #)
cc:	Nevada Department of Wildlife (Region II)	(#P	776	533	900)
	N-4 Grazing Board	(#P	776	533	901)
	Resource Concepts Inc.				902)
	U.S. Fish and Wildlife Service	(#P	776	533	903)
	Natural Resource Defence Council	(#P	776	533	904)
	Wilderness Society	(#P	776	533	905)
	International Society for the Protection of Mustangs and Burros	(#P	776	533	906)
	Commission for the Preservation of Wild Horses and Burros	(#P	776	533	907)
	Farm Bureau	(#P	776	533	908)

APPENDIX I: Land Use Plan/Rangeland Program Summary Objectives

- 1. Land Use Plan (RMP) 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 Horse and Burros- "Wild horses will be managed at a total of 700 animals in the Buck and Bald Herd Use Area, 60 in the Butte Herd Use Area and 11 in the Cherry Creek 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.
 - 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. <u>Riparian</u>- "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 12,915 AUM's of livestock use. (Preference is actually 15,174 AUM's). Improve ecological condition of the spring range in Butte Valley. Maintain or

improve current ecological condition of remainder of native range. Maintain the Snow Creek Seedings and Paris Seeding in good or better condition. Maintain or enhance native vegetation with utilization levels not to exceed NRMH levels on key species. Maximum utilization on native key species is 50% with utilization on crested wheatgrass 60%.

Wild Horses

b. Initially manage rangeland habitat to support Appropriate Management Level (AML) of 105 horses in the Medicine Butte Allotment as part of the Butte HMA (38 horses), Cherry Creek HMA (4 horses), and Buck and Bald HMA (63 horses). Provide forage for up to 1,260 AUM's of wild horse use (453 AUM's-Butte HMA; 44 AUM's -Cherry Creek HMA; 755 AUM's-Buck and Bald HMA). " 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 1260 AUM's (105 horses yearlong) 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.")

Wildlife/Riparian

- c. "Manage rangeland habitat and forage condition to support reasonable numbers of wildlife as follows: mule deer 417 AUM's antelope 81 AUM's." Utilization of key species will not exceed the levels listed in 2 a. above.
- d. "Maintain or improve mule deer yearlong habitat in good or better condition." This is also accomplished by limiting utilization to the levels listed in 2 a. above.
- e. "Maintain habitat condition of meadows and riparian areas in good or better condition for pronghorn antelope, mule deer, sage and blue grouse. Utilization levels will not exceed 55% on the perennial grasses and the grass-like species and 45% on shrubs along stream riparian areas and mesic meadows."
- f. "Protect sage grouse breeding complexes." This is accomplished by maintaining the big sagebrush sites within

two miles of active strutting grounds in mid to late seral stage with a minimum of 30% shrub composition by weight.

- g. "Protect Ferruginous hawk nest sites."
- h. "Manage stands of aspen in early or mid seral stage and white fir in a late seral stage desired for blue grouse."
- i. "Maintain/improve 5.0 miles of stream riparian habitat condition to good or better."

10/29/91

AOIIW

WILD HORSE ORGANIZED ASSISTANCE P.O. BOX 555 RENO, NEVADA 89504 (702) 851-4817 **BOARD OF TRUSTEES**

DAVID R. BELDING JACK C. McELWEE GORDON W. HARRIS

In Memoriam

LOUISE C. HARRISON VELMA B. JOHNSTON, "Wild Horse Annie" GERTRUDE BRONN

October 29, 1991

Gene L. Drais, Manager Egan Resource Area BLM - Ely District Office HC33 Box 150 Ely, Nevada 89301-9408

Dear Mr. Drais,

Thank you for the opportunity to comment on the Notice of Proposed Multiple Use Decision for the Medicine Butte Allotment. We are protesting a part of this multiple use decision.

It is the policy of Congress "that wild free roaming horses and burros shall be protected...and to accomplish this they are to be considered in the area where presently found, as an integral part of the natural systems of the public lands."

Under CFR subpart 1610 - Resource Management planning, guidance is given for the land use planning process wherein the BLM identified HMA's and boundaries. The wild horse portion of this "multiple use decision" sets an AML in the Medicine Butte Allotment.

Under CFR 4730.2 "Management practices shall be...consistent to the extent possible and practical with the maintenance of their free-roaming behavior."

Also under CFR 4730.5 (b) "Consider only those areas where self-sustaining herds can maintain themselves within their established utilization and migratory patterns."

Wild horses and burros were given the Congressional right for maintenance of a thriving ecological balance and freedom of movement. Consideration must be given that wild horses move frequently within herd areas. It must be understood that these are free roaming animals and that they might move within their HMA to other allotments.

In the land use planning process the Bureau identified specific area's where wild horses would be protected and managed, those area's were the herd management areas. The allotment evaluation process was to determine the numbers of grazing

Gene L. Drais, District Manager October 29, 1991 Page 2

animals an area would support and set those levels. By not determining how many AUM's are available in a particular allotment, whether or not consistent sightings of wild horses have been noted, you are by defacto eliminating their use of their entire legal range.

In conclusion, we are protesting the setting of the appropriate management level by allotment rather than by herd area. The counts for the entire HMA haven't been considered, seasonal use hasn't been considered, along with not addressing the cumulative impacts of this type of management action. By not considering their natural movement you are attempting to create small herd areas within their entire HMA and would be removing animals that happened to migrate into another allotment.

We would suggest that if you propose to set AML's by allotment that the totals are compiled into one AML for the entire herd area. No horses shall be removed unless they exceed the total number of AUM's for the HMA until seasonal movement data is available to support that wild horses are exceeding their proper use within the HMA.

If you have any questions, please feel free to call. Sincerely,

DAWN Y. LAPPIN Director

Governor

STATE OF NEVADA



COMMISSION FOR THE PRESERVATION OF WILD HORSES

Stewart Facility Capitol Complex Carson City, Nevada 89710 (702) 687-5589

October 29, 1991

CATHERINE BARCOMB **Executive Director**

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