

10/15/91



United States Department of the Interior



IN REPLY REFER TO:

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

4130 (NV-047)

OCT 15 1991

CERTIFIED MAIL NO. P 776 533 802
Return Receipt Requested

Steptoe Ranch Company
c/o Bill Davidson
P.O. Box 1077
McGill, NV. 89318

NOTICE OF PROPOSED MULTIPLE USE DECISION FOR THE STEPTOE ALLOTMENT

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 Steptoe Allotment. The Egan Resource Area Record of Decision, dated February 1987, states in pertinent 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 1968 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 Steptoe Allotment. Input was received from the permittee and the state wildlife agency. 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 Steptoe Allotment.

BASED UPON THE EVALUATION OF MONITORING DATA FOR THE STEPTOE 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 the multiple use objectives for the Steptoe Allotment are not being met due to the existing grazing use by livestock. This analysis also shows that the existing management of wildlife and wild horses does not contribute to the failure in meeting these multiple use objectives. Therefore, this decision proposes changes in livestock use and not to wildlife use. This decision also establishes the appropriate management level for wild horses in that portion of the Butte Herd Management Area within the Steptoe Allotment.

LIVESTOCK MANAGEMENT DECISION

In accordance with 43 CFR 4110.3, 4110.3-2(b), and 4130.6-2, the existing permitted livestock active use shall be changed to 2,836 AUMs, with 1,689 AUMs in suspended non-use. The preference is allocated by pasture as follows:

FROM: (existing permit)

Livestock				
Pasture	Number	Period	%PL	AUMs
Egan Bench	200C	3/1 - 4/30	50	201
N.Sleptoe Seeding	134C	4/1 - 6/30	100	401
Dry Canyon	300C	4/16- 5/13	100	454
Shep Field	470C	6/16-10/15	5	94
Duckcreek Flat	75C	10/16-2/28	100	335
Duckcreek Flat	150C	11/16-2/28	100	518
Duckcreek Flat	25C	12/14-2/28	100	63
Duckcreek Flat	75C	1/16- 2/28	100	108
North Slough	400C	6/16- 9/30	43	605

TO:

Livestock				
Pasture	Number	Period	%PL	AUMs
Egan Bench	189C	3/1 - 4/30	50	189
N.Sleptoe Seeding	83C	4/1 - 6/30	100	247
Dry Canyon	300C	4/16- 5/13	100	454
Shep Field	470C	6/16-10/15	5	94
Duckcreek Flat	73C	10/16-2/28	100	326
Duckcreek Flat	148C	11/16-2/28	100	511
Duckcreek Flat	24C	12/14-2/28	100	61
Duckcreek Flat	75C	1/16- 2/28	100	108
North Slough	361C	6/16- 9/30	43	546
S.Sleptoe Seeding	100C	4/16- 6/30	100	300

In accordance with 43 CFR 4110.3-3(a), the total permitted grazing use will be adjusted from 2,779 AUMs to 2,836 AUMs in one increment, since the change is less than 10%. All other requirements of the Steptoe Allotment Management Plan are in force and affirmed by this decision.

Future re-evaluations in the third and fifth years will consider existing and future monitoring data to determine if adjustments or additional modifications in management will be necessary.

RATIONALE:

Monitoring studies, particularly use pattern mapping, show that some pastures in some years have cattle distribution and/or overstocking problems. The limited adjustments in pasture stocking levels listed above should alleviate these problems. Substantial reductions made in the late 1960's as well as establishment of the seedings have corrected many of the past resource problems and thus the recommendations are limited in scope. In general, most of the pastures will receive small reductions, which are more than offset

by the establishment of the South Steptoe Seeding; thus, the allotment as a whole will receive an increase in overall grazing use of 57 AUMs. In addition, although the current ecological condition and plant communities are adequate for the allotment, continuance of cattle overutilization in those pastures where it occurs may jeopardize continuance of the appropriate seral stages.

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 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."

4110.3-1(b): "Additional forage available on a sustained yield basis for livestock grazing use shall first be apportioned in satisfaction of grazing preferences to the permittee(s) or lessee(s) authorized to graze in the allotment in which the forage is available."

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 by decision..."

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..."

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, 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

The Egan Resource Area Rangeland Program Summary set no objectives for an appropriate management level for wild horses on the Steptoe Allotment, although the Butte HMA touches the mountainous western portion of the allotment. Since this allotment has historically received no wild horse use, this decision will establish the appropriate management level for wild horses for that portion of the Butte Herd Management Area within the Steptoe Allotment at zero.

In accordance with 43 CFR 4700.0-6(a), wild horse use on the Steptoe Allotment shall be managed at zero animals.

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

Adjustments in wild horse numbers will be made by future Butte Herd Area gathers based on continued monitoring.

RATIONALE: There is no evidence of wild horse use on this allotment with the exception of 4 horses observed from the ground, within the northern portion of the allotment, during the winter of 1987. Lack of consistent observations of wild horses on the allotment, indicates that what horse has been made was a temporary displacement due to weather, forage, or water conditions. In addition, the small portion of the Steptoe Allotment that falls within the boundaries of the Butte HMA is mountainous and substantially isolated from the rest of the HMA.

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

Gene L. Drais, Manager
Egan Resource Area

	(Certified Mail #)
cc: Nevada Department of Wildlife	(#P 776 533 803)
U.S. Fish and Wildlife Service	(#P 776 533 804)
N-4 Grazing Board	(#P 776 533 805)
Resource Concepts Inc.	(#P 776 533 806)
International Society for the Protection of Mustangs and Burros	(#P 776 533 807)
Commission for the Preservation of Wild Horses	(#P 776 533 808)
Wilderness Society	(#P 776 533 809)
Natural Resources Defense Council	(#P 776 533 810)
Farm Bureau	(#P 776 533 811)

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 - "Wild horses will be managed at a total of 60 animals within the Butte HMA." (Egan ROD, p. 6)
 - "Monitoring Studies will be used to determine if adjustments in wild horse numbers are necessary to meet management objectives." (Egan ROD, p. 6)
- (c) Wildlife - "Habitat will be managed for "reasonable numbers" of wildlife species as determined by NDOW." (Egan ROD, p. 6)
 - "Forage will be provided for "reasonable numbers" of big game as determined by NDOW." (Egan ROD, p.8)
- (d) 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

- (a) "Provide forage for up to 1820 AUMs of livestock use. Maintain or enhance native vegetation with utilization not to exceed Nevada Rangeland Monitoring Handbook (NRMH) levels on key species. Maintain or improve current ecological condition of native range. Maintain seeding in good or better condition. Improve distribution on winter range." Utilization will not exceed 50% on native key species or 65% on crested wheatgrass (from AMP). Utilization will not exceed 60% on dormant season use of winterfat.
- (b) "Manage rangeland habitat and forage condition to support reasonable numbers of wildlife, as follows: deer - 493 AUMs, antelope - 15 AUMs. Maintain or improve mule deer yearlong and antelope summer habitats in good or better condition." Utilization of key species will not exceed the levels listed in a. above.
- (c) "Maintain habitat condition of meadows and riparian areas in good or better condition for pronghorn antelope, mule deer, and sage grouse. Utilization levels will not exceed 55% on perennial grasses and grass-like species and 45 percent on shrubs along stream riparian areas and mesic meadows."
- (d) "Protect sage grouse breeding complexes." This is accomplished by maintaining the big sagebrush sites within 2 miles of active strutting grounds for mid to late seral stage with a minimum of 30% shrub composition by weight.

10/27/91

WHOA

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 27, 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 Steptoe Allotment. We are protesting a part of this multiple use decision.

The BLM states in paragraph 3, "...grazing adjustments, if required, will be based on a combination of reliable vegetation, monitoring studies, consultations, coordination, and inventory." Pages 2 to 5, list tables of livestock numbers by pasture, period of use, and AUM's along with rationale. The wild horse portion of this "multiple use decision" sets an AML in the Steptoe Allotment portion of the Butte HMA at zero. The rationale given is that there have been no horses observed using that portion of the allotment since 1987.

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." Section 2(c) "Range" means the amount of land necessary to sustain an existing herd or herds..."

Under CFR subpart 1610 - Resource Management planning, guidance is given for the land use planning process wherein the BLM identified HMA's and boundaries. CFR 4700.0-5 (b) defines wild horses and burros as "...horses and burros and their progeny that have used public lands on or after December 15, 1971, or that do use these lands as all or part of their habitat..."

The determination that zero is the AML for the Steptoe Allotment is not in compliance with land use plans. If wild horse and burros are to be eliminated from a portion of their legal habitat, the land use plans must be amended and put out for public discussion and comment. You are in fact, by establishing a zero population, defacto elimination of wild horse habitat.

Whoa was involved in numerous meetings at the Nevada State office that set up the multiple use decision process and we perfectly understand the reasons and the decisions for that policy. You are not following that policy. The intent in this instance was for the Districts to monitor the allotments, measure the vegetation, monitor the grazing animal numbers, and

Gene L. Drais, Manager
October 27, 1991
Page 2

establish a level of use for all of the grazing animals. The Ely District should have and still needs to establish the number of AUM's available for wild horse use should they need to use it. It doesn't matter whether or not they use it infrequently, only that their portion of the habitat be available should they need to use it.

In addition your monitoring shows the ability for BLM to give the reader an idea of when and where livestock and sheep graze however we see nothing in this multiple use decision that show the numbers and patterns of use for wild horses in their HMA.

In conclusion, we are protesting the elimination of AUM's in a portion of the HMA. By setting a zero AML for the Steptoe Allotment because of "lack of consistent observations" is inconsistent with the land use plans. The BLM can't zero out an area of a HMA without a land use plan amendment.

Please provide us with the exact dates of wild horse census monitoring for the Steptoe Allotment on which you have based your decision.

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

Sincerely,

DAWN Y. LAPPIN
Director