



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Ely District Office
HC 33 Box 33500
Ely, Nevada 89301-9408



File 5-2-97

consistent with previous FMS

IN REPLY REFER TO:

4130 (NV-042)

MAY 2 1997

IN REPLY REFER TO:

Huntsman Ranch LLC
Lyman Huntsman
12th East 1200 South
Beryl, UT 84714

CERTIFIED MAIL NO. P 216 079 753
Return Receipt Requested

NOTICE OF FINAL MULTIPLE USE DECISION FOR THE COTTONWOOD ALLOTMENT

BACKGROUND INFORMATION:

The Management Framework Plan and the Record of Decision for the Schell Grazing Environmental Impact Statement were issued in June and July of 1983, respectively. These documents guide the management of public lands within the Cottonwood Allotment. The Schell Resource Area Record of Decision dated July 1983 states in pertinent part:

"When adequate monitoring data becomes available adjustments to the grazing capacity will be made that are compatible with the multiple use objectives...

Implementation of the range management program will take place through monitoring and consultation and coordination with all interests concerned with the management of resources in a given local area; landowners, land management agencies, wildlife groups, wild horse groups, conservation organizations, etc. Grazing adjustments, if required, will be based upon reliable vegetation monitoring studies, consultation and coordination, baseline inventory, or a combination of these...

Prior to initiating grazing adjustments, the Bureau, within the guidance of the Management Framework Plan and consultation and coordination, will consider the specific management objectives for an allotment and other resource values (e.g., riparian habitat, water quality, wildlife, recreation, wild horses and livestock) to be evaluated in determining progress in meeting these objectives. Changes in the resource values may warrant a modification of the scheduled adjustments and thus indicate the intensity and types of monitoring that will be required in each allotment..."

Management of wild horses in the Cottonwood Allotment shall be undertaken with the objective of limiting animals distribution to herd areas.

Monitoring studies were initially established in 1983 and have been conducted since that time.

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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 Cottonwood Allotment. Input was received from the permittee, N-4 Grazing Board/RCI, and State of Nevada Commission for the Preservation of Wild Horses.

Appendices I through V show the management objectives for livestock and wild horses, wildlife, and riparian on the allotment. These objectives are in conformance with and formulated to accomplish the land use plan objectives and Mojave-Southern Great Basin Area Standards as they relate to all grazing use on the Cottonwood Allotment.

THEREFORE, BASED UPON THE EVALUATION OF MONITORING DATA FOR THE COTTONWOOD ALLOTMENT, RECOMMENDATIONS FROM DISTRICT STAFF, INPUT RECEIVED THROUGH CONSULTATION, COOPERATION, AND COORDINATION WITH THE PERMITTEE, N-4 GRAZING BOARD/RCI, AND PUBLIC INTEREST GROUPS, THE FINAL DECISION IS AS FOLLOWS:

The analysis of monitoring data has revealed that three of the five multiple use objectives for the Cottonwood Allotment are not being met under the existing management practices; therefore, implementation of management actions and adjustments to livestock and wild horses are necessary to meet these objectives. Allowable use levels for the key species selected for specific use areas on the allotment have been exceeded; use pattern data indicates poor distribution of livestock and wild horses, and long term studies data show a static trend of range sites. Livestock and wild horse grazing contributed to the high use levels recorded on the Cottonwood Allotment. Grazing use is adjusted to allow for short term (allowable use level) objectives and associated long term objectives to be met. These adjustments would initiate the required improvement of rangeland conditions. Wildlife use is not contributing to the non attainment of multiple use objectives.

LIVESTOCK MANAGEMENT DECISION

In accordance with 43 CFR 4110.3 and 4110.3-2(b) and 4130.3-1(a), the current Authorized Livestock Use shall be changed effective November 1, 1997 as follows:

COTTONWOOD ALLOTMENT

From: Total Suspended Active Preference
4,106 0 4,106

To: Authorized Use Conservation Use* Active Use
2,248 386 1,862

* Mandatory non-use required for conservation and protection purposes, the average number of AUMs of the three seeded pastures to cover one pasture being rested each year.

The Total Number of Animal Unit Months of Specified Livestock Grazing.

Authorized livestock use effective 11/1/97 as follows:

<u>Livestock No.</u>	<u>Kind</u>	<u>Period of Use</u>	<u>% PL</u>	<u>Active Use</u>
250	Cattle	11/1-6/15	100	1,862

In accordance with 43 CFR 4130.3-2, the following terms and conditions are hereby made a part of the grazing permit, for the Cottonwood Allotment effective November 1, 1997:

- Grazing will be in accordance with the rest rotation grazing system as outlined in Table 1 for cattle with a season of use from 11/01 to 06/15.

TABLE 1: Grazing Schedule for the Cottonwood Allotment.

YEARLY GRAZING SCHEDULE	
PASTURE	PERIOD OF USE
YEAR 1	
NATIVE	11/01 to 03/13
Upper and Middle	03/14 to 05/03
Lower	05/04 to 06/15
Deer Flat	REST
YEAR 2	
NATIVE	11/01 to 03/13
Deer Flat	03/14 to 05/03
Upper and Middle	05/04 to 06/15
Lower	REST
YEAR 3	
NATIVE	11/01 to 03/13
Lower	03/14 to 04/21
Deer Flat	04/22 to 06/15
Upper and Middle	REST
YEAR 4	
REPEAT CYCLE STARTING WITH YEAR 1	

2. Water haul sites will be determined to improve livestock distribution; mineral block and/or salt block will be placed a minimum distance of 1/2 mile from water, increased livestock movement by herding and water hauling. through consultation with permittee during annual use authorizations.
3. When livestock are moved out of a seeded pasture, gates will be closed.
4. Certified actual use report by use area and pasture is due 15 days after the end of the authorized grazing period.

TRANSFER APPLICATION DECISION

On March 28, 1997 Huntsman Ranch LLC submitted a transfer application requesting that Gordon Kirkeby's grazing privileges for the Cottonwood and Scotty Meadows Allotments be transferred to them. After considering the livestock management decision and the transfer application, my decision is to approve the transfer as follows:

Cottonwood

Authorized use will be as follows:

Authorized Use

2,248

Scotty Meadows

Authorized use will be as follows:

Authorized Use

1,227

RATIONALE: The analysis and evaluation of available monitoring data indicates that the current stocking rate and management practices must be modified to meet the multiple use management objectives for the Cottonwood Allotment as identified in the Appendices. The data indicates that 2,248 AUMs are available for livestock, and that active preference is 1,858 AUMs in excess of the livestock carrying capacity. Since livestock are contributing to the non attainment of multiple use objectives on the allotment, livestock are being reduced. The prescribed adjustments in stocking rates, grazing practices and increased intensity of management will initiate the accomplishment of the multiple use objectives. These actions are necessary to improve the natural ecological balance of the area's vegetative resources for all users by improving plant diversity in plant communities. In addition these actions will increase desirable plant species in the area.

No changes to the terms and conditions for Scotty Meadows are proposed at this time. The allotment evaluation process currently in place will be used in the future to modify the terms and conditions if warranted. Scotty Meadows Allotment is not within an HMA.

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

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 permitted use specified in a grazing permit or grazing lease and shall make changes in the permitted use as needed to manage, maintain or improve rangeland productivity, to assist in restoring ecosystems to properly functioning condition, to conform with land use plans or activity plans, or to comply with the provisions of subpart 4180. These changes must be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer."

4110.3-2(b): "When monitoring or field observations show grazing use or patterns of use are not consistent with the provisions of subpart 4180, or grazing use is otherwise causing an unacceptable level or pattern of utilization or, when use exceeds the livestock carrying capacity as determined through monitoring, ecological site inventory or other acceptable methods, the authorized officer shall reduce permitted grazing use or otherwise modify management practices."

4110.3-3(a): "After consultation, cooperation and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer..."

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, and to ensure conformance with the provisions of subpart 4180 of this part."

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."

4130.3-2: "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:

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.

If you decide to also submit a petition for stay of the decision, a copy of the notice of appeal, statement of reasons, and petition for stay should be simultaneously filed with the Authorized Officer and the Office of the Federal Solicitor, Suite 6201, Federal Building, 125 South State Street, Salt Lake City, Utah, 84138. 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 and the Solicitor Office.

WILD HORSE AND BURRO MANAGEMENT FINAL DECISION

Manage wild horses at the appropriate management level (AML) of 4 horses (44 AUMs) in this small portion of the Wilson Creek Herd Management Area (HMA) within the Cottonwood Allotment . This AML will maintain a thriving natural ecological balance and prevent deterioration of the range.

AML will remain at 4 wild horses $\pm 15\%$ for the Cottonwood Allotment unless further monitoring data indicates a change is necessary.

The AML's set through the final multiple use decisions for the Wilson Creek and Geysers Ranch Allotments and now the Cottonwood Allotment will set the total AML at 159 wild horses (1,911 AUMs) for the Wilson Creek HMA. Removals will occur on an HMA basis and numbers will be maintained at or near the total AML. Numbers within use areas and/or 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.

In accordance with 43 CFR 4700.0-6(a), wild horse use on the Cottonwood Allotment shall be managed at forty four AUMs or four horses yearlong in this portion of Wilson Creek Herd Management Area (HMA).

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

Monitoring will continue to ensure that AML is maintaining a thriving natural ecological balance.

RATIONALE: The analysis and evaluation of available monitoring data indicates that a change in management actions for wild horses is needed to meet multiple use management objectives on the Cottonwood Allotment as identified in the Appendices. The data indicates 44 AUMs of forage available for wild horses on the Cottonwood Allotment in the Wilson Creek 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."

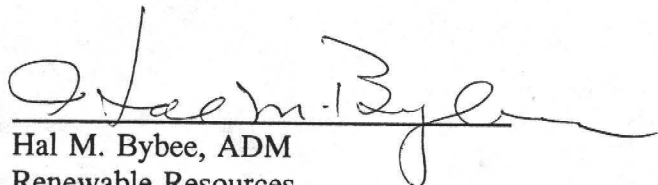
4710.4: "Management of wild horses and burros shall be undertaken with the objective of limiting the animals' distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans."

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..."

APPEAL:

Within 30 days of receipt of this decision, you have the right of appeal to the Board of Land Appeals, Office of 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 Statement of Reasons to the Board of Land Appeals and a copy to the Regional Solicitors 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 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 parties specified above. The appellant has the burden of proof to demonstrate that a stay should be granted.


Hal M. Bybee, ADM
Renewable Resources

(Certified Mail No.)

Huntsman Ranch LLC	(P 216 079 753)
Kirkeby Ranch	(P 216 079 754)
Nevada Division of Wildlife, Region III	(P 216 079 755)
Nevada Division of Wildlife, Kraig Beckstrand	(P 216 079 756)
U.S. Fish and Wildlife Service	(P 216 079 757)
Nevada State Grazing Board, N-4	(P 216 079 758)
Natural Resources Defense Council	(P 216 079 759)
Animal Protection Institute of America	(P 216 079 760)
Sierra Club, Toiyabe Chapter	(P 216 079 761)
Nevada Cattlemen's Association	(P 216 079 762)
Commission for the Preservation of Wild Horses	(P 216 079 763)
Marvel and Hansen	(P 216 079 764)
Lincoln County Commissioners	(P 216 079 765)
Lincoln County Public Lands Commission	(P 216 079 766)
Wild Horse Organized Assistance	(P 216 079 767)
Nevada Outdoor Recreation Association	(P 216 079 768)
American Wildlands	(P 216 079 769)
International Society for Protection Of Mustangs and Burros	(P 216 079 770)
Resource Concepts, Inc.	(P 216 079 771)

APPENDIX I: Allotment Specific Objectives

Livestock

- (1) The short term objective will be accomplished through managing the allowable use level (AUL) by season of use to improve or maintain the desired vegetative community throughout the allotment including crested wheatgrass seedings.
- (2) The long term objective is to improve those acres in poor or fair livestock forage condition and maintain all acres presently in good livestock forage condition by managing for those seral stages which optimize livestock forage production.
- (3) The long term objective is to improve those acres in poor or fair livestock forage condition on seeded rangeland.

Wild Horses

- (1) The short term objective will be accomplished through managing the allowable use level (AUL) by season to improve or maintain the desired vegetative community.
- (2) The long term objective is to manage for the most appropriate seral stage to provide the desired quantity, quality, variety, and density of forage in order to meet the requirements of the wild horses.

Mule Deer

- (1) The short term objective is to limit yearlong use on key species to 40 percent for perennial grasses, grass-like plants, and forbs and to 35 percent for shrubs if the mule deer range is in poor habitat condition. If the range is in fair condition or better, the objective is to limit yearlong use on key species to 55 percent for perennial grasses, grass-like plants, and forbs and to 45 percent for shrubs.
- (2) The long term objective is to maintain mule deer range in at least fair habitat condition by providing diversity of forage species.

Pronghorn Antelope

- (1) The short-term objective is to limit use on key perennial grasses and forbs listed for antelope kidding ground to 30 percent until June 30, and to 40

percent yearlong; also limit yearlong use on key shrubs to 45 percent.

- (2) The long-term objective is to improve antelope kidding ground from fair to good habitat condition.

Riparian Areas

- (1) The short term objective is to limit use on riparian areas to 50 percent for key species by all animals yearlong.
- (2) The long term objective is to maintain riparian areas in proper functioning condition.

APPENDIX II

ALLOTMENT: COTTONWOOD - LIVESTOCK OBJECTIVES (Seedings)

Study No.	Key Area Location	Ecological Site No.	Key Species	PRESENT SITUATION			LONG TERM OBJECTIVE		SHORT TERM OBJECTIVE		
				Key Spp % Comp By Weight	Livestock Forage Condition	Maintain or Improve	Key Spp % Comp By Weight	Livestock Forage Condition	Allowable Use Level	Season of Use	
C01	Upper Pasture	N/A	AGCR	79%	Good	Maintain	>79%	Good	60%	3/14-06/15	
C02	Upper Pasture	N/A	AGCR	61%	Good	improve	70%	Good	60%	3/14-06/15	
C03	Deer Flat Pasture	N/A	AGCR	71%	Good	Maintain	>71%	Good	60%	3/14-06/15	
C04	Deer Flat Pasture	N/A	AGCR	79%	Good	Maintain	>79%	Good	60%	3/14-06/15	
C05	Lower Pasture	N/A	AGCR	73%	Good	Maintain	>73%	Good	60%	3/14-06/15	
C06	Middle Pasture	N/A	AGCR	50%	Fair	Improve	70%	Good	60%	3/14-06/15	

APPENDIX III

ALLOTMENT: COTTONWOOD - LIVESTOCK AND WILD HORSE OBJECTIVES (Native)

Study No.	Key Area Location	Ecological Site No.	Key Species	PRESENT SITUATION		LONG TERM OBJECTIVE		SHORT TERM OBJECTIVE		
				Key Spp % Comp By Weight	Seral Stage (% of PNC)	Maintain or Improve	Key Spp % Comp By Weight	Seral Stage (% of PNC)	Allowable Use Level	Season of Use
CAW01	T. 9 N., R. 68 E., Sec 14	028BY011 NV	ORHY EULA ARARN	21 66	Mid 41	Improve	5 5 <66	Late 55 - 60	50% 45% 45%	Year-long *

* Season of use for cattle 11/1-3/13, wild horse yearlong.

APPENDIX IV

ALLOTMENT: COTTONWOOD - WILDLIFE OBJECTIVE

PRESENT SITUATION LONG TERM OBJECTIVE SHORT TERM OBJECTIVE

Study No.	Key Area Location	Key Species	Habitat Condition Rating 1/	Maintain or Improve	Habitat Condition Improve	Allowable Use Level	Season of Use
South Spring Valley AKG	T. 9 N., R. 68 E., Sec. 14	PHLOX ORHY ARARN	42(Fair)	Improve	>61% (good)	40% 40% 45%	Yearlong

APPENDIX V

ALLOTMENT: COTTONWOOD - RIPARIAN OBJECTIVES

			PRESENT SITUATION	LONG TERM OBJECTIVES		SHORT TERM OBJECTIVES	
Study No.	Key Area Location	Key Species	Functioning Condition	Maintain or Improve	Functioning Condition	Allowable Use Level	Season of Use
Pipe Spring	T. 8 N., R. 67 E., Sec. 3 SWSE	SALIX	Proper Functioning Condition	Maintain	Proper Functioning Condition	50%	Yearlong
Cotton-wood Spring	T. 9 N., R. 67 E., Sec. 27 SENW	POA++ ELC12 SALIX	Proper Functioning Condition	Maintain	Proper Functioning Condition	50% 50%	Yearlong