



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Ely District Office
Star Route 5, Box 1
Ely, Nevada 89301



IN REPLY REFER TO:

4130 (NV-046)

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JUL 13 1990

Gracian Uhalde
Box 88
Ely, Nevada 89301

NOTICE OF FINAL MULTIPLE USE DECISION FOR THE BATTERMAN WASH 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 Batterman Wash 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..."

Monitoring studies were initially established in 1983 and have been conducted 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 Batterman Wash Allotment. Input was received from the permittee, three wild horse groups, two wildlife agencies, two livestock interest groups, and two environmental interest groups. See Appendices I and II for the management objectives for livestock, wild horses, wildlife, and riparian areas on the allotment. These objectives are in conformance with and formulated to accomplish the Schell Land Use Plan multiple use objectives as they relate to all grazing use on the Batterman Wash Allotment.

I have reconsidered the proposed multiple use decision in response to the protests received and based upon this review of the reasons for protest the following modifications were made to the proposed decision:

The watering of livestock during the grazing season was further clarified.

The appropriate management level (AML) for wild horse use within the Batterman Wash Allotment was established.

THEREFORE, BASED UPON THE EVALUATION OF MONITORING DATA FOR THE BATTERMAN WASH ALLOTMENT, RECOMMENDATIONS FROM DISTRICT STAFF, AND INPUT RECEIVED THROUGH CONSULTATION, COOPERATION, AND COORDINATION WITH THE PERMITTEE AND PUBLIC INTEREST GROUPS, AND CONSIDERATION OF PROTESTS TO THE PROPOSED DECISION, THE FINAL MULTIPLE USE DECISION IS AS FOLLOWS:

The analysis of monitoring data has revealed that the multiple use objectives for the Batterman Wash 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 establishes the appropriate management level for wild horses. No changes are proposed for wildlife use.

LIVESTOCK MANAGEMENT DECISION

In accordance with 43 CFR 4110.3 and 4110.3-2(b) and 4130.6-1(a), the existing authorized livestock active use shall be changed to 1,294 AUMs cattle and 799 AUMs sheep use.

FROM:

No. & Kind	Period of Use	%PL	AUMs	
			Active	Susp
318 Cattle	11/10 - 01/31	100	868	0
3450 Sheep	11/27 - 01/07	100	953	0
3450 Sheep	03/26 - 04/06	100	272	0

(Note: Dual use has been authorized within the Batterman Wash Allotment with no specified ratio for sheep to cattle AUMs and the period of use has been inadequately defined.)

TO:

No. & Kind	Period of Use	%PL	AUMs	
			Active	Susp
243 Cattle	11/15 - 03/31	100	1094	0
80 Cattle	04/01 - 06/15	100	200	0
887 Sheep	12/01 - 04/15	100	799	0

Active grazing use shall not exceed the AUMs by kinds of animal and periods of use within the designated areas as authorized in accordance with this decision and illustrated in Map 1.

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

Livestock use is not authorized in the winterfat bottomland after 04/01. This area is illustrated on Map 1.

Salt will be placed at the following locations during 04/01 to 06/15 for the cattle spring period of use (refer to Map 1):
T. 3 N., R. 57 E., Sec. 12, NESE and T. 3 N., R. 57 E., Sec. 26, SENW.

Uhalde Well (JDR No. 0373) at T. 3 N., R. 57 E., Sec. 16 will be shut off between 04/01 and 06/15, except when gathering livestock, or other times as approved by the authorized officer.

Water will be made available for livestock within T. 2 N., R. 57 E., Sec. 3, (Refer to Map 1) while the cattle are authorized on the allotment during spring grazing (04/01 to 06/15). This may be done by hauling water to designated areas and/or maintaining/reconstructing the Batterman Spring and Pipeline (JDR No. 4619) located in T. 3 N., R. 57 E., Sec. 27, SWNE, through Section 34 ending in T. 2 N., R. 57 E., Sec. 3 by April 1, 1991. The Batterman Spring will be fenced to exclude livestock to protect the riparian habitat as part of the maintenance or reconstruction.

The existing water ditch beginning in T. 3 N., R. 57 E., Sec. 13, SESW and proceeding easterly through T. 3 N., R. 58 E.,

Secs. 18, 17, 16, 15 and 14 and the reservoirs for which you have a valid water right will be applied for under a Cooperative Agreement or Section 4 Permit with the Bureau of Land Management. That portion of the ditch and reservoir system past the first two reservoirs on the benchland, will not be utilized from 04/01 to 06/15 to water livestock in the winterfat bottomland.

In accordance with 43 CFR 4130.6-2 herding of sheep is required when they are authorized on the allotment.

In accordance with 43 CFR 4130.6-2(d), actual use information for each pasture and/or use area will be submitted within 15 days of completing grazing use as specified on the grazing permit and grazing licenses.

Future monitoring data will be evaluated in the third and fifth year following this decision to determine if any adjustments are necessary and/or if any additional modifications in existing management will be necessary.

RATIONALE: The analysis and evaluation of available monitoring data indicates that the current stocking rate, periods of use, and management practices must be modified to meet the multiple use management objectives for the Batterman Wash Allotment as identified in Appendices I and II. The data indicates that 2,093 AUMs are available for dual livestock use, and that active preference is not in excess of the livestock carrying capacity. Increased intensity of management (changing period of use through deferment of major vegetation types, and other management practices) is needed to maintain and/or improve rangeland productivity, resolve livestock distribution problems, and provide needed rest during critical spring growth in the winterfat area. These management actions when combined will allow multiple use objectives to be met.

AUTHORITY: The authority for this 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 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, unless the authorized officer determines a change in management practices would achieve the management objectives."

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 Sec. 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 Secs. 4110.3, 4110.3-1 and 4110.3-2."

4130.6-2: "The authorized officer may specify in grazing permits and 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 the livestock management portion of this 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 to file such an appeal with the Schell Resource Area Manager, Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301. The appeal should state the reasons, clearly and concisely, why you think the final decision is in error.

WILD HORSE AND BURRO MANAGEMENT DECISION

It has been determined through monitoring that the appropriate management level for wild horses for that portion of the Seaman Herd Management Area which occurs in the Batterman Wash Allotment is zero (0) animals.

In accordance with 43 CFR 4700.0-6(a), wild horse use on the Batterman Wash Allotment shall be managed at zero (0) animals.

RATIONALE: The analysis and evaluation of available monitoring data indicates that there is no wild horse use within that portion of the Seaman Herd Management Area which occurs in the Batterman Wash Allotment. The Batterman Wash Allotment is on the fringe of the Seaman Herd Management Area and represents a small portion (less than 400 acres or one tenth of a percent) of the Seaman Herd Management Area. Based upon Bureau of Land Management records no horses have ever been counted within the allotment during wild horse censuses and allotment inspections. The home range of the horses does not include this allotment. The wild horse objectives are not applicable to this allotment and have subsequently been deleted.

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."

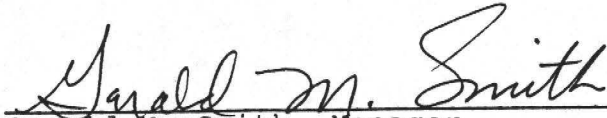
APPEAL:

43 CFR 4770.3 states in part:

"Any person who is adversely affected by a decision of the authorized officer in the administration of these regulations may file an appeal in accordance with 43 CFR 4.4 within 30 days of receipt of the written decision."

If you wish to appeal this decision as it pertains to wild horses for the purpose of an administrative review by the Interior Board of Land Appeals, you are required to file an appeal with the

Schell Resource Area Manager, Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301, in accordance with 43 CFR 4.411. An appeal should specify the reasons, clearly and concisely, as to why you think the decision is in error in accordance with 43 CFR 4.411 and 43 CFR 4.412.


Gerald M. Smith, Manager
Schell Resource Area

	(Certified Mail No.)
cc: Natural Resources Defense Council	(P 569 358 221)
U.S. Fish and Wildlife Service	(P 569 358 222)
Nevada Department of Wildlife, Region II	(P 569 358 223)
Nevada Department of Wildlife, Region III	(P 569 358 224)
Animal Protection Institute of America	(P 569 358 225)
Wild Horse Organized Assistance	(P 569 358 226)
Commission for the Preservation of Wild Horses	(P 569 358 227)
Resource Concepts, Inc.	(P 569 358 228)
Nevada Cattlemen's Association	(P 569 358 229)
Nevada State Grazing Board, N-4	(P 569 358 230)
Nevada Outdoor Recreation Association	(P 569 358 231)
Sierra Club, Toiyabe Chapter	(P 569 358 232)
Marvel and Hansen, Attorneys at Law	(P 569 358 233)

APPENDIX I: Land Use Plan/Activity Plan Objectives

A. Land Use Plan/ Rangeland Program Summary Objectives

1. Livestock

- a. The short term objective will be accomplished through managing the allowable use levels (AUL) by season of use to improve or maintain the desired vegetation community.
- b. 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. The long-term objective is to maintain KA BWR1 at a mid seral stage, 44% of the Potential Natural Community (PNC) for range site 029X015NV and at a late seral stage, 63% of PNC, for range site 029X008NV (KA BWR2).

Key Area BWR1;

<u>Objective % General Composition</u>	<u>Current % Composition by Dry Weight</u>	<u>Composition by Weight</u>
Grasses & grass-like	4	3-6%
Forbs	T*	T*-5%
Shrubs	96	> 84%
<u>Species Specific Composition</u>		
ORHY	1%	1-5%
EULA5	91%	>80%

* T = trace amount.

Key Area BWR2;

<u>Objective % General Composition</u>	<u>Current % Composition by Dry Weight</u>	<u>Composition by Weight</u>
Grasses & grass-like	39%	34-45%
Forbs	1%	1-5%
Shrubs	61%	55-65%
<u>Species Specific Composition</u>		
ORHY	1%	1-3%
ARARN	26%	23-29%
ATCA	28%	24-31%

2. Mule Deer

- a. The short term objective is to limit use on key browse species listed for mule deer to 30 percent by livestock prior to November 1, and to 45 percent by all animals yearlong.
- b. The long term objective is to maintain mule deer winter range in at least fair habitat condition by providing diversity of forage species.

3. Pronghorn Antelope

- a. The short term objective is to limit use on key species listed for pronghorn antelope range to 55 percent for perennial grasses, grass-like plants and forbs; and to 45 percent for shrubs yearlong.
- b. The long term objective is to maintain antelope range in at least fair habitat condition by providing appropriate vegetation quantity and quality.

4. Ferruginous Hawk

- a. The short term objective is to limit use on winterfat by livestock and wild horses near the occupied ferruginous hawk nest to 45 percent yearlong.
- b. The long term objectives are to manage winterfat stands (silty range sites) near occupied ferruginous hawk nests in mid to late seral stage, and to maintain the integrity of existing pinyon-juniper "stringers" near these winterfat stands.

5. Riparian Areas

- a. The short term objective is to limit use on wet meadows to 50 percent for grass and grass-like species by all animals yearlong.
- b. The long term objectives for the riparian areas are to manage all wet meadows for late seral stage (80-85 percent grass and grass-like plants, 10-15 percent forbs, and 5 percent shrubs).

APPENDIX II: Site Specific Allotment Objectives

ALLOTMENT: Batterman Wash (Livestock)

Study No.	Key Area Location	[1] 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	Met or Not Met	Rationale	
[2] BWR1	T. 3 N., R. 58 E., sec. 15	029XY020NV Silty 5-8"	Grass & grasslike Forbs Shrubs EULA5 ORHY	4% T 96% 91% 1%	PNC 76%	Maintain	3-6% T-5% >84% >80% 1-5%	PNC 76%-81%	45% 55%	Fall Winter Spring	Not Met	Allowable use levels exceeded on EULA 1985 52%	
[3] BWR2	T. 3 N., R. 58 E., sec. 5	029X008NV Shallow calcarrous loam 8-12"	Grass & grasslike Forbs Shrubs ARARN ATCA ORHY	39% 1% 61% 26% 28% 1%	Late Seral 56%	Maintain	34-45% 1-5% 55-65% 23-29% 24-31% 1-3%	Late Seral 56%-60%	45% 45% 55%	Fall Winter Spring	Met	Allowable use levels have not been excessive on ATCA	

[1] Soil Conservation MLRA site descriptions revision 2/90

[2] Key area representing livestock use only.

[3] Key area representing livestock and wild horse use.

APPENDIX III: Site Specific Allotment Objectives


ALLOTMENT: Batterman Wash (Riparian and Wildlife)

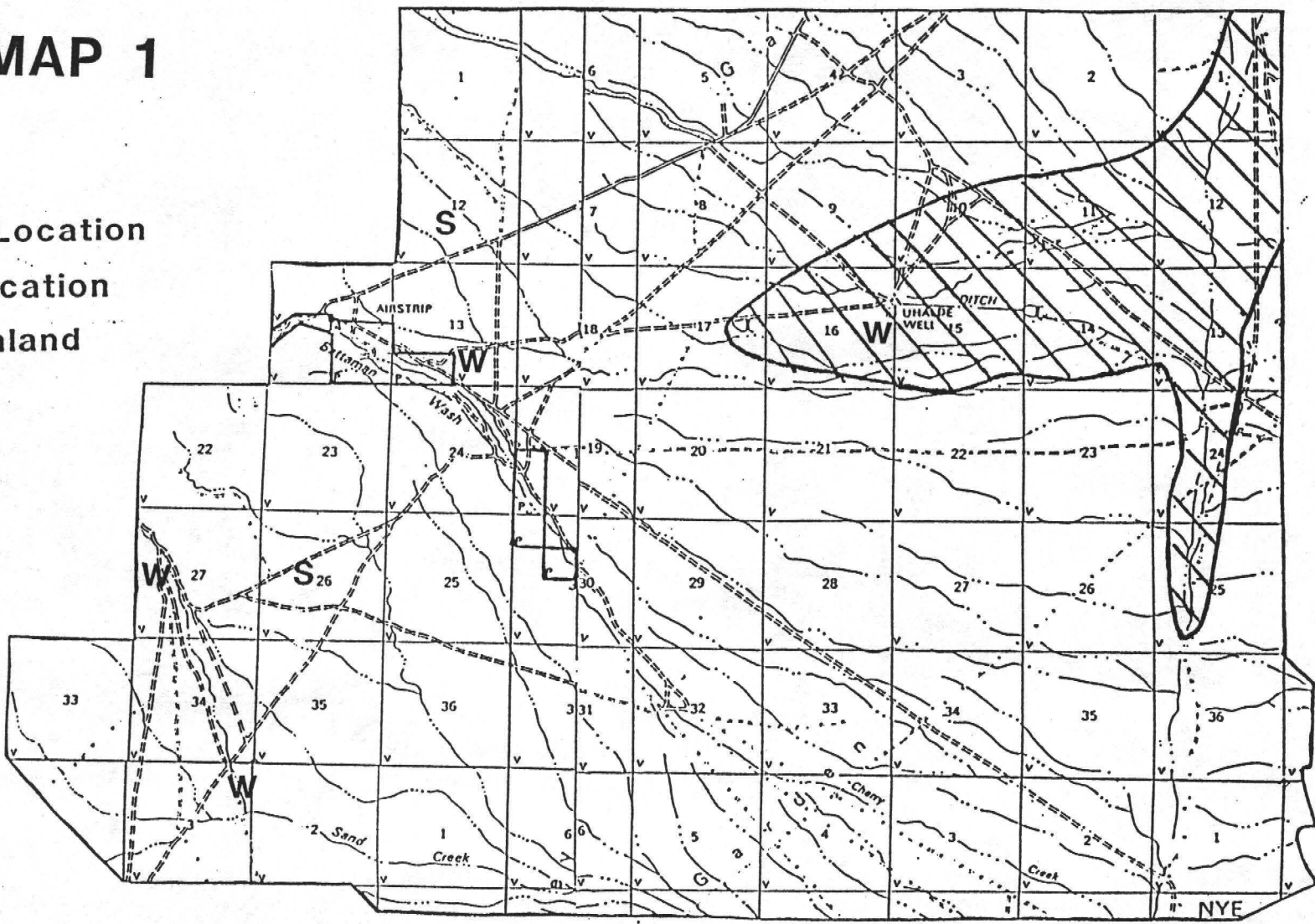
Study No.	Key Area Location	Ecological Site No.	Key Species	PRESENT SITUATION		LONG TERM OBJECTIVE		SHORT TERM OBJECTIVE				Rationale
				Key Spp % Comp By Weight	Seral Stage (% of PNC)	Maintain or Improve	Key Spp % Comp By Weight	Seral Stage (% of PNC)	Allowable Use Level	Season of Use	Met or Not Met	
FH (BWR1)	T. 3 N., R. 58 E., Sec. 15	029XY020NV (near nest)	EULA5 ORHY	91% 1%	76% PNC	Maintain		76% PNC	45%	Year Long	Not Met	Based on use pattern mapping, exceeded allowable use level in 1985 and 1986.
SPRING	T. 3 N., R. 57 E., sec. 27 NW $\frac{1}{4}$ NW $\frac{1}{4}$	Unknown	Grasses and Grass-Like	No Ecological Status Survey Completed to Date					50%	Year Long	Not Met	Based on use pattern mapping, exceeded allowable use level in 1986.
SPRING	T. 3 N., R. 57 E., sec. 27 SW $\frac{1}{4}$ NW $\frac{1}{4}$	Unknown	Grasses and Grass-Like	No Ecological Status Survey Completed to Date					50%	Year Long	Not Met	Based on use pattern mapping, exceeded allowable use level in 1986.
SPRING	T. 3 N., R. 57 E., sec. 27 NE $\frac{1}{4}$ SW $\frac{1}{4}$	Unknown	Grasses and Grass-Like	No Ecological Status Survey Completed to Date					50%	Year Long	Not Met	Based on use pattern mapping, exceeded allowable use level in 1986.

BATTERMAN WASH ALLOTMENT

MAP 1

LEGEND

- W Water Location
- S Salt Location
-  Bottomland



12 of 12

T. 3 N.
T. 2 N.

R. 57 E. R. 58 E.