



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

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

✓  
L 2/25/94  
TAKE  
PRIDE IN  
AMERICA

IN REPLY REFER TO:

4160.1  
(NV-047)

FEB 25 1994

CERTIFIED MAIL NO. P 313 269 908  
RETURN RECEIPT REQUESTED

### NOTICE OF PROPOSED DECISION

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

Dear Mr. Paris:

On February 16, 1994 you made application for grazing use on the public lands of the Medicine Butte Allotment (0501). This grazing application was for a total of 5,362 AUMs (cattle) for the 1994-1995 grazing year.

I have considered your application for grazing use on the public lands on the Medicine Butte Allotment. It is my decision to reject and deny the grazing application dated February 16, 1994 in its entirety.

The reason for my decision to reject and deny your application is because the issue was included in the Final Multiple Use Decision (FMUD) dated February 3, 1992 for the Medicine Butte Allotment. This decision adjusted the active preference on the Medicine Butte Allotment from 15,174 AUMs active preference to 7,232 AUMs active preference (3,557 AUMs for cattle and 3,675 AUMs for sheep). This reduction in active preference was phased-in over a five year implementation period as required in the Code of Federal Regulations. The reduction was proportioned in equal one third increments beginning in 1992 (Year 1), the year the final decision was issued, and in 1994 (Year 3) and 1996 (Year 5). It also established nine use areas, season of use by use area and total livestock preference by use area. The decision also established the Appropriate Management Level (AML) for wild horses on the Medicine Butte Allotment at 80 horses yearlong (956 AUMs). No appeals were received during the 30 days allowed for filing an appeal.

As per the FMUD, the authorized livestock use effective 3/1/92 is as follows:

Medicine Butte (0501)

Active Preference (AUMs)

<u>Use Area</u>	<u>Year 1 (1992)</u>		<u>Year 3 (1994)</u>		<u>Year 5 (1996)</u>	
	<u>Cattle</u>	<u>Sheep</u>	<u>Cattle</u>	<u>Sheep</u>	<u>Cattle</u>	<u>Sheep</u>
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
<b>Total</b>	<b>5361</b>	<b>7222</b>	<b>4458</b>	<b>5448</b>	<b>3557</b>	<b>3675</b>

\* A domestic horse preference of 180 AUMs can be substituted for an equal amount of sheep and/or cattle AUMs in all the Snow Creek Seedings combined. Any use made by domestic horses would reduce the use allocated to livestock within the three Snow Creek Seeding pastures.

Livestock grazing use for the grazing year 1994-1995 will be consistent with the active preference of 9,906 AUMs (4,458 AUMs for cattle and 5,448 AUMs for sheep) as specified for year 3. The adjustment identified for years 3 and 5 shall continue to be implemented. Your application was for 5,362 AUMs (the year 1 level) and therefore not consistent with the FMUD dated February 3, 1992.

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

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..."

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."

If you wish to protest this decision in accordance with 43 CFR 4160.2, you are allowed 15 days from receipt of this notice within which to file such protest with the Egan Area Manager, Bureau of Land Management, 702 N. Industrial Way, HC 33 Box 33500, Ely, Nevada.

In the absence of a protest within the time allowed, the above proposed decision shall constitute my final decision as per 43 CFR 4160.3. Should this notice become the final decision and if you wish to appeal 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 within which to file such appeal with the Egan Area  
Manager, Bureau of Land Management, 702 N. Industrial Way, HC 33  
Box 33500, Ely, Nevada.

Sincerely,



Gene L. Drais, Manager  
Egan Resource Area

cc: Nevada Department of Wildlife (Region II)  
N-4 Grazing Board  
Resource Concepts Inc.  
U.S. Fish and Wildlife Service  
Natural Resource Defence Council  
Wilderness Society  
International Society for the Protection  
of Mustangs and Burros  
Commission for the Preservation of Wild  
Horses and Burros  
Farm Bureau  
Animal Protection Institute of America

# W H O A

WILD HORSE ORGANIZED ASSISTANCE  
P.O. BOX 555  
RENO, NEVADA 89504



... a note from

Dawn Y. Lappin

March 10, 1994

Gene L. Drais, Manager  
BLM-Egan Resource Area  
Ely District Office  
HC33 Box 33500  
Ely, Nevada 89301-9408

Subject: Notice of Proposed Decision RE: Medicine Butte Allotment

Dear Mr. Drais,

Thank you for the opportunity to review and comment on the proposed decision for the Medicine Butte Allotment regarding an application for a grazing adjustment.

We support your decision to keep the grazing application to the decisions made in the February MUD, 1992. However, we have one concern with this proposed decision. On page two you refer to a domestic horse preference of 180 AUMs which can be either used or substituted for sheep or livestock use. It was our understanding that domestic horses could not be licensed in an area that allowed contact between wild and domestic horses.

According to 43 CFR 4710.5 (a): "If necessary to provide habitat for wild horses and burros, to implement herd management actions, or to protect wild horses and burros, to implement herd management actions, or to protect wild horses and burros from disease, harassment or injury, the authorized officer may close appropriate areas of the public lands to grazing use by all or a particular kind of animal."

If we are misunderstanding of the potential contact between the domestic horse use and wild horses please provide us with that information. If this is not the case, we must request that domestic horse use be denied and permanently placed as either sheep or livestock AUMs.

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

Sincerely,

DAWN Y. LAPPIN  
Director



**COMMISSION FOR THE  
PRESERVATION OF WILD HORSES**

50 Freeport Boulevard, No. 2  
Sparks, Nevada 89431  
(702) 359-8768

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Steven Fulstone, *Vice Chairman*  
Smith Valley, Nevada  
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Dan Keiserman  
Las Vegas, Nevada  
Dawn Lappin  
Reno, Nevada

March 10, 1994

Gene L. Drais, Manager  
BLM-Egan Resource Area  
Ely District Office  
HC33 Box 33500  
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Sincerely,

A handwritten signature in cursive script that reads "Catherine Barcomb".

CATHERINE BARCOMB  
Executive Director