



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Ely District Office

HC 33 Box 33500

Ely, Nevada 89301-9408



IN REPLY REFER TO:

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~~JUL 25 1995~~
AUG 28 1995

NOTICE OF FINAL MULTIPLE USE DECISION FOR THE MONTE CRISTO 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 Monte Cristo 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 data has been collected for this allotment periodically since 1976. 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 Monte Cristo Allotment. Input was received from the permittee via Intermountain Range Consultants, Nevada Division of Wildlife, the Commission for the Preservation of Wild Horses, and the N-4 Grazing Board via

Resource Concepts, Inc. 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 Monte Cristo Allotment.

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

The analysis of monitoring data has revealed that the multiple use objectives for the Monte Cristo Allotment are not being met due to the existing grazing use by cattle 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, but not wildlife use. This decision also establishes the appropriate management level for wild horses for that portion of the Monte Cristo Herd Management Area (HMA) within the Monte Cristo Allotment.

LIVESTOCK MANAGEMENT DECISION

In accordance with 43 CFR 4110.3, 4110.3-2(b) and (c), and 4130.6-1(a), the existing authorized livestock active use shall be changed, over five years, from 1,129 AUMs active preference to 586 AUMs active preference, with 543 AUMs placed in suspended non-use. Year one will be the 1996 grazing year. Active preference for the permittee will be as follows:

From (Existing permit):

<u>Number</u>	<u>Kind</u>	<u>Period of Use</u>	<u>%Federal</u>	<u>AUMs</u>	
				<u>Active</u>	<u>Susp</u>
325	Cattle	05/16 - 05/31	100	171	0
237	Cattle	07/01 - 10/31	100	958	0
Total.....				1,129	0

To - Native Range:

<u>Year</u>	<u>Number</u>	<u>Kind</u>	<u>Period of Use</u>	<u>%Federal</u>	<u>AUMs</u>	
					<u>Active</u>	<u>Susp</u>
1	134	Cattle	07/01 - 10/31	100	542	102
3	108	Cattle	07/01 - 10/31	100	437	207
5	82	Cattle	09/01 - 10/31	100	332	312

To - Seeding:

<u>Year</u>	<u>Number</u>	<u>Kind</u>	<u>Period of Use</u>	<u>%Federal</u>	<u>AUMS</u>	
					<u>Active</u>	<u>Susp</u>
1	101	Cattle	07/01 - 10/31	100	408	77
3	82	Cattle	07/01 - 10/31	100	332	153
5	62	Cattle	07/01 - 10/31	100	254	231

This adjustment will be implemented in accordance with 43 CFR 4110.3-3(a) and (b), over a five (5) year period.

Prior to implementing adjustments scheduled for the third and fifth years, existing and future monitoring data will be evaluated to determine if the indicated adjustments are necessary and/or if any additional modifications in existing management will be necessary.

RATIONALE: The desired stocking level for the Monte Cristo Allotment is 586 AUMs for cattle. At this stocking level objectives are expected to be met. The prescribed adjustment in the stocking rate will initiate the accomplishment of multiple use objectives and improve ecological conditions of the native range. Adjudicating the seeding and controlling use will also maintain or improve vegetative conditions. This stocking level was determined through evaluation of utilization and actual use data, indicating that the allotment has been overstocked and allowable use levels exceeded. The stocking rate for the native pasture is based on 50% utilization on perennial grasses and winterfat. The stocking rate for the crested wheatgrass seeding is based on a proper use factor of 60%.

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."

4110.3-2(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 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 this final 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 an appeal with the Egan Area Manager, BLM, Ely District Office, HC 33 Box 33500, Ely, Nevada 89301-9408. 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 a thriving natural ecological balance will be achieved by maintaining wild horse numbers at the following appropriate management level:

<u>Allotment</u>	<u>Herd Management Area</u>	<u># Animals</u>	<u>AUMs Yearlong</u>
Monte Cristo	Monte Cristo	7	85

This decision establishes a range of plus or minus 15% or six to eight wild horses yearlong within the Monte Cristo Allotment. The setting of wild horse numbers by allotment is part of a process that provides for an overall Herd Management Area (HMA) wild horse AML. Wild horse removals will occur on an HMA basis and numbers will be maintained at or near the total AML. Numbers within 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 Monte Cristo Allotment will be managed at 85 AUMs plus or minus 15%.

In accordance with 43 CFR 4720.1, in the future, all wild horses in excess of the appropriate management level of seven animals will be removed down to the lower limit of the range of six to eight animals yearlong and allow numbers to grow up to eight animals.

RATIONALE: The analysis and interpretation of available monitoring data indicates that the multiple use objectives for wild horses on the Monte Cristo Allotment are not being met. Therefore, a reduction in wild horses is necessary to establish and maintain a thriving natural ecological balance, to prevent further deterioration of the rangeland resource, and to meet the multiple use objectives for the allotment.

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."

4700.0-6(d): "In administering the regulations, the authorized officer shall consult with the Federal and State wildlife agencies and all other affected interests, to involve them in planning for and management of wild horses and burros on the public lands."

4710.1: "Management activities affecting wild horses and burros, including the establishment of herd management areas, shall be in accordance with approved land use plans prepared pursuant to Part 1600 of this title."

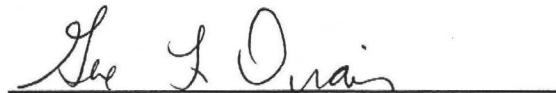
4710.3-1: "Herd management areas shall be established for the maintenance of wild horse and burro herds. In delineating each herd management area, the authorized officer shall consider the appropriate management level for the herd, the habitat requirements of the animals, the relationships with other uses of the public and adjacent private lands, and the constraints contained in 4710.4. The authorized officer shall prepare a herd management area plan, which may cover one or more herd management areas."

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 the Secretary, in accordance with the regulations of 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 Solicitor's Office listed in Item 3 on the Statement of Reasons. Copies of your appeal and 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.



Gene L. Drais, Manager
Egan Resource Area

CERTIFIED MAIL #

cc: Duckwater Cattle Company	P 026 274 913
Nevada Division of Wildlife, Region II	P 026 274 914
U.S. Fish and Wildlife Service	P 026 274 915
N-4 Grazing Board	P 026 274 916
Resource Concepts Inc.	P 026 274 917
The Sierra Club	P 026 274 918
Natural Resources Defense Council	P 026 274 919
The Wilderness Society	P 026 274 920
Nevada Farm Bureau	P 026 274 921
Intermountain Range Consultants	P 026 274 922
Commission for the Preservation of Wild Horses	P 026 274 923
International Society for the Protection of Mustangs and Burros	P 026 274 924
Animal Protection Institute	P 026 274 925
Wild Horse Organized Assistance	P 026 274 926

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, p. 3)
- (b) Wild Horses and Burros - Wild horses will be managed at a total of 96 animals within the Monte Cristo HMA. (Egan Resource Area Record of Decision, p. 6).*

* The 96 wild horses yearlong within the Monte Cristo HMA is no longer a valid Appropriate Management Level (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." 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 deterioration of the range."

- (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 372 AUMs of livestock use."
- (b) Maintain or improve the current ecological condition of the native range with utilization levels not to exceed Nevada Rangeland Monitoring Handbook (NRMH) levels on key species. Allowable use levels for winterfat and perennial grass species are 50%.
- (c) Maintain the seeding in good or better condition.

- (d) "Initially manage rangeland habitat to support an appropriate management level (AML) of 2 horses in the Monte Cristo Allotment as part of the Monte Cristo HMA. Provide forage for up to 24 AUMs of wild horse use.*

* The AML of 2 wild horses within the Monte Cristo Allotment as identified in the Rangeland Program Summary is no longer a valid AML. See the asterisk note under 1.(b) on the previous page for the reason why.

- (e) "Manage rangeland habitat and forage condition to support reasonable numbers of wildlife, as follows: mule deer - 150 AUMs, Pronghorn antelope - 10 AUMs. "
- (f) "Maintain or improve mule deer yearlong habitat in good or better condition."
- (g) Protect sage grouse breeding complexes 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.
- (h) Protect Ferruginous hawk nest sites by limiting utilization to 50% on winterfat flats within 2 miles of nest sites.