



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

DEC 5 1996

m 21 COVE 12-5-96  
TAKE PRIDE IN AMERICA  
IN REPLY REFER TO:

4160 (NV-047)

## NOTICE OF FINAL MULTIPLE USE DECISION FOR THE COVE 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 Cove 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 1987. 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 Cove Allotment. Input was

received from the permittee and the Commission for the Preservation of Wild Horses. 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 Cove Allotment.

**BASED UPON THE EVALUATION OF MONITORING DATA FOR THE COVE 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 Cove Allotment are being met with the existing use by livestock, wild horses, and wildlife. Therefore, this decision proposes an increase in livestock use but no change in wildlife use. This decision also establishes the appropriate management level for wild horses.

**LIVESTOCK MANAGEMENT DECISION**

In accordance with 43 CFR 4130.3-1(a) and 4130.3-2, the existing authorized use shall be changed from 1,038 AUMs authorized use to 1,544 AUMs authorized use, with 2,423 AUMs placed in historical suspended non-use. This change will become effective beginning with the 1997 grazing year. The total number of animal unit months of specified livestock grazing 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>
350	Cattle	03/01 - 05/29	100	1,038	2,423

To - Native Range

<u>Number</u>	<u>Kind</u>	<u>Period of Use</u>	<u>%Federal</u>	<u>AUMs</u>	
				<u>Authorized Use</u>	<u>Historical Suspended</u>
391	Cattle	01/01 - 04/30	100	1,544	2,423

In accordance with 43 CFR 4130.3-2, the following terms and conditions will be included in the grazing permit for the Cove Allotment:

1. When cattle are authorized to graze the native range, the gates to the Siberian crested wheatgrass seeding will be kept closed.

2. The increase in authorized use of 506 AUMs will be authorized only in the winterfat areas of the allotment. Water hauling will be **required** to a minimum of two locations in these areas. The authorized officer may require a specific well to be shutdown to facilitate livestock distribution.

3. Salt and supplements will not be allowed within 1/4 mile of stock waters, or without permission and consultation with the authorized officer or his representative.

#### TERM PERMIT

When this Final Multiple Use Decision becomes final, a new term permit will be issued. The terms and conditions of the term permit will be consistent with the authorized grazing use in this decision.

#### RATIONALE:

Rangeland monitoring studies and other existing information collected during the evaluation period support the conclusion that allowable use levels have generally not been exceeded in the Cove Allotment. Large areas of accessible, underutilized forage are present. The new terms and conditions of required water hauling will distribute cattle into the underutilized areas of winterfat, allowing winterfat to be grazed moderately and hold a competitive position with abundant undesirable species.

At the same time, the new season of use ending 4/30 rather than 5/31 will rest forage plants during the critical growth period and will allow progress towards meeting the long term objective of increasing perennial grasses in the key area.

Future reevaluations will consider existing and future monitoring data to determine if adjustments or additional modifications in management will be necessary.

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)."

4110.3-1: "Additional forage may be apportioned to qualified applicants for livestock grazing use consistent with multiple use management objectives."

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.....".

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 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**

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.

Should you wish to file a motion for stay, 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.

## 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>
Cove	White River	42	498
Cove	White River	10*	30*
Total AUMs.....			528

\* The second line of this table is that portion of the appropriate management level representing use by 10 wild horses for three months. This level corresponds to the level of 10 wild horses for nine months set for the Red Mountain Use Area of the Duckwater Allotment by decision in June, 1995 (The Red Mountain Use Area is immediately west and adjacent to the Cove Allotment).

This decision establishes a range of plus or minus 15% or 36 to 48 wild horses yearlong and 8 to 12 wild horses for three months within the Cove 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 Cove Allotment will be managed at 528 AUMs plus or minus 15% (449 to 607 AUMs).

In accordance with 43 CFR 4720.1, in the future, all wild horses in excess of the appropriate management level of 42 animals yearlong and 10 animals for three months will be removed down to the lower limit of the range of 36 to 48 animals yearlong and 8 to 12 animals for three months and allow numbers to grow up to the upper limits of the range (48 animals yearlong and 12 animals for three months).

**RATIONALE:** The analysis and interpretation of available monitoring data indicates that the multiple use objectives for wild horses on the Cove Allotment are being met. Wild horses have been allowed to increase from one censused wild horse in the entire White River Herd Management Area in 1983 to approximately 300 wild horses currently (9/95 census). No gather of the White River Herd ever occurred prior to the allotment evaluation. Because of this, forage was allocated to wild horses based upon their average use in the Cove Allotment over the six years for which there is utilization data.

Based upon 25.5% average actual forage use by wild horses during those six years, 25.5% of the proper stocking level of 2,072 AUMs, which is 528 AUMs, is allocated to wild horses. Establishing an Appropriate Management Level for wild horses would enhance the native range in the western portions of the allotment, allowing for improved production, vigor, cover, and seedling frequency of forage plants, particularly perennial grasses.

**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."

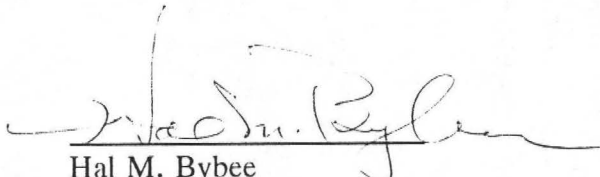
4710.4: "Management of wild horses and burros shall be undertaken with the objective of limiting the animals' distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans."

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 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 Solicitor's 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

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 20 animals within the White River HMA. (Egan Resource Area Record of Decision, p. 6).\*

" Future adjustments to wild horse numbers will be based on data provided through the rangeland monitoring program." (Egan ROD, p. 6). Actual wild horse numbers will be determined by this evaluation based upon monitoring data in order to maintain a thriving natural ecological balance and prevent deterioration of the range.

\* The 20 wild horses yearlong within the White River 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 the Nevada Division of Wildlife (NDOW) (Egan ROD, p. 6).

"Reintroductions of big game species will be accomplished in cooperation with the Nevada Department of Wildlife, where such reintroductions would not conflict with existing uses and if sufficient forage is available." (Egan ROD, p. 6)

"Forage will be provided for "reasonable numbers" of big game as determined by the Nevada Department of Wildlife." (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 systems and aesthetic values." (Egan ROD, p. 44)



## 2. Rangeland Program Summary Objectives

### Range

- a. Provide forage for up to 1,038 AUMs of livestock use.
- b. Maintain the seeding in the current condition or better. Maintain or enhance native vegetation with utilization not to exceed Nevada Rangeland Monitoring Handbook (NRMH) levels on key species. Maintain or improve the current ecological condition of the native range.

### Wild Horses

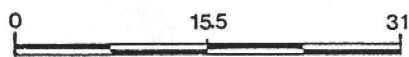
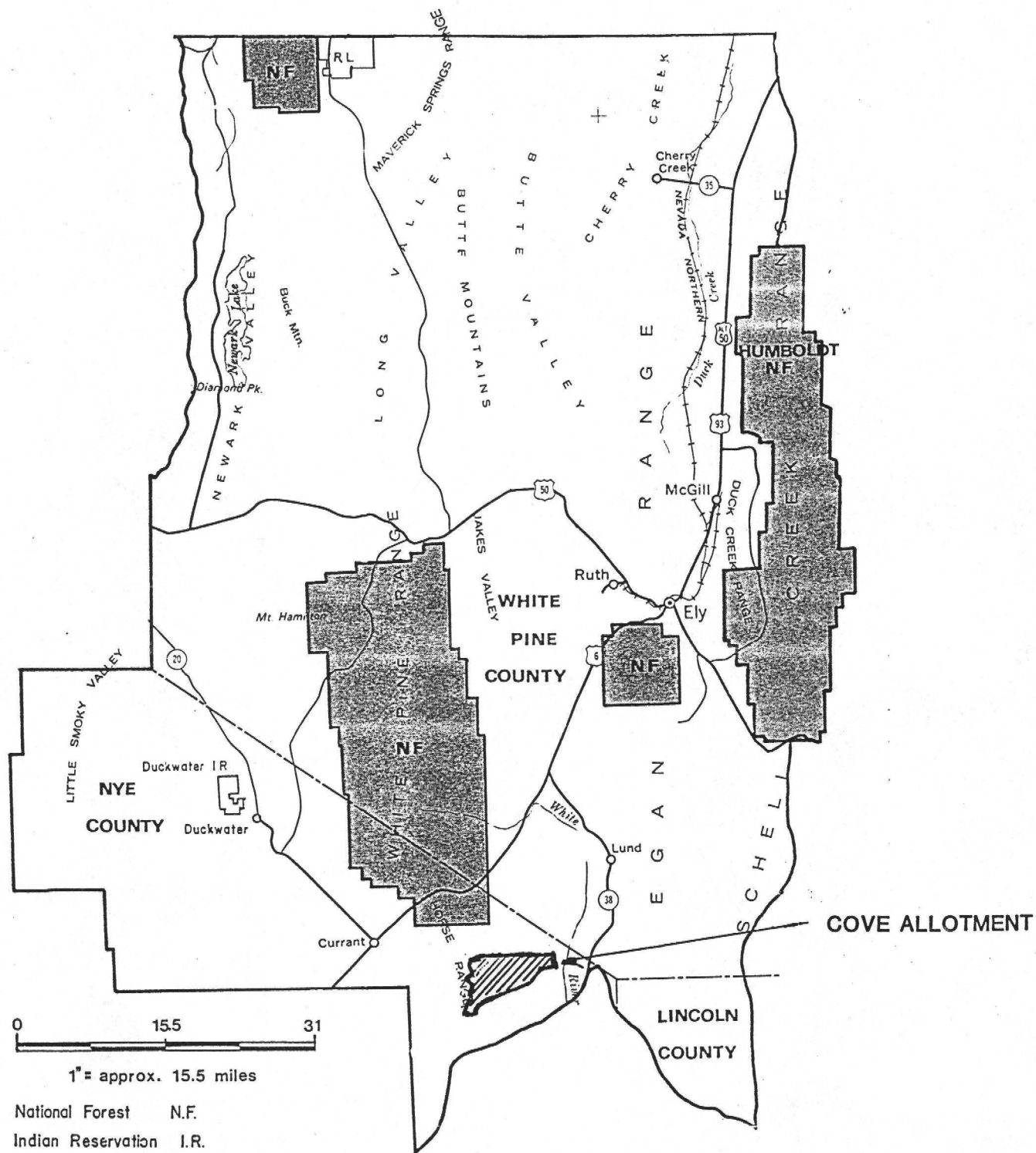
- c. "Initially manage rangeland habitat to support an Appropriate Management Level (AML) of 5 wild horses in the Cove Allotment as part of the White River HMA. Provide forage for up to 55 AUMs of wild horse use." (The AML of 5 wild horses identified in the RPS is no longer a valid AML - See asterisk note on page 8 for reasons why).

### Wildlife/Riparian

- d. "Manage rangeland habitat and forage condition to support reasonable numbers of wildlife, as follows: Mule deer 159 AUMs, Pronghorn antelope 6 AUMs."
- e. "Maintain mule deer spring habitat in good or better condition."

In addition to the above objectives the RPS identified the Cove Allotment as a potential antelope reintroduction area.

# MAP A ALLOTMENT LOCATION WITHIN THE RESOURCE AREA



1" = approx. 15.5 miles

- National Forest N.F.
- Indian Reservation I.R.
- Ruby Lake R.L.

**EGAN R.A.**  
**ELY DISTRICT**  
 BUREAU OF LAND MANAGEMENT  
 U. S. DEPARTMENT OF THE INTERIOR



**COMMISSION FOR THE  
PRESERVATION OF WILD HORSES**

1105 Terminal Way

Suite 209

Reno, Nevada 89502

(702) 688-2626

January 29, 1997

Mr. Gene A. Kolkman  
Ely District  
Bureau of Land Management  
HC 33 Box 33500  
Ely, Nevada 89301-9408

Subject: FMUD Cove Allotment - White River HMA

Dear Mr. Kolkman:

The Commission for the Preservation of Wild Horses has received and reviewed the final decision. Based upon our prior input, the Commission remains confused as to how utilization data were "corrected", then applied to determine a carrying capacity of 2,2078 AUMs.

As stated in the Final Decision, allotment specific objectives are being met under existing actual use. Therefore, an increase in livestock use could be justified, as well as maintaining present wild horse use on the allotment. In respect of the 1995 wild horse data, your decision requires over a 50 percent reduction in the White River Wild Horse Herd. This decision holds little consistency in stated supportive rationales.

Until the Ely District properly distinguishes livestock, wildlife and wild horse use of key forage species for these decisions, they will not escape these subjective rationales.

Sincerely,

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

CATHERINE BARCOMB  
Executive Director