



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:

416 0.1
(NV-047)

APR 22 1994

CERTIFIED MAIL NO. P 313 269 976
RETURN RECEIPT REQUESTED

NOTICE OF FINAL DECISION

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

Dear Mr. Paris:

On March 9, 1994, you withdrew your previous grazing application (dated 2/16/94) for grazing use on the public lands of the Medicine Butte Allotment (0501) and submitted a second grazing application for a total of 12,583 AUMs (5,361 AUMs cattle and 7,222 AUMs sheep) for the 1994-1995 grazing year.

I have considered your second application for grazing use on the public lands on the Medicine Butte Allotment. It is my determination that both applications are sufficiently similar to be treated the same. Therefore, it is my decision to reject and deny your second grazing application dated March 9, 1994 in its entirety.

The reason for my decision to reject and deny your application is the same as stated in the Notice of Proposed Decision issued 2/25/94. The re-evaluation of monitoring data continues to support the adjustments identified in the Final Multiple Use Decision (FMUD). Also, you failed to include any additional pertinent information or documentation to dispute the original FMUD issued 2/3/92. The issue was included in the 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	<u>0</u>	<u>283</u>	<u>0</u>	<u>248</u>	<u>0</u>	<u>213</u>
Total	5361	7222	4458	5448	3557	3675

* 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 applications dated February 16, 1994 and March 9, 1994 were for 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..."

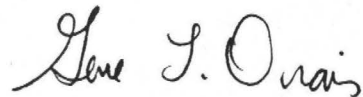
4110.3-3(b): "After consultation, coordination and cooperation, suspensions of preference shall be implemented through a documented agreement or decision. If data acceptable to the authorized officer are available, an initial reduction shall be taken on the effective date of the agreement or decision 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."

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.

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 Defense 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