



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Ely District Office
HC33 Box 150
Ely, Nevada 89301-9408



IN REPLY REFER TO:

4130 (NV-047)
JAN 23 1992

Dan Russell
P.O. Box 343
Eureka, NV 89316

CERTIFIED MAIL NO. P 776 533 346
Return Receipt Requested

Pete Paris
Jiggs Waysack
Elko, NV 89801

CERTIFIED MAIL NO. P 776 533 347
Return Receipt Requested

NOTICE OF FINAL MULTIPLE USE DECISION FOR THE COLD CREEK 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 Cold Creek 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 Final 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 studies were initially established in 1977 and have been conducted periodically 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 Cold Creek Allotment. Input was received from Russell Ranches, Pete Paris Jr., the Nevada Department of Wildlife, the Nevada Commission for the Preservation of Wild Horses, the International Society for the Protection of Mustangs and Burros, and the N-4 state grazing board, via a range consulting firm (Resources 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 Cold Creek Allotment.

A Proposed Multiple Use Decision for the Cold Creek Allotment was issued on October 15, 1991. This Proposed Decision was protested by the Nevada Commission for the Preservation of Wild Horses and the Wild Horse Organized Assistance, on October 29, 1991. These protests were identical and objected primarily to the setting of Appropriate Management Levels (AMLs) for horses on an allotment basis rather than for the entire Herd Management Area (HMA). Evaluation of stocking rates (including both livestock and wild horses) by allotment is current BLM policy, and it is felt that setting of wild horse numbers by allotment will eventually provide for an overall herd management area wild horse AML. Gathers within allotments will not allow total wild horse numbers to fall below HMA levels.

BASED ON THE EVALUATION OF MONITORING DATA FOR THE COLD CREEK 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 Cold Creek Allotment are not being met due to the existing grazing use by livestock 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 and not to wildlife use. This decision also establishes the appropriate management level for wild horses for that portion of the Buck and Bald Herd Management Area within the Cold Creek Allotment.

LIVESTOCK MANAGEMENT DECISION

In accordance with 43 CFR 4110.3, 4110.3-2(b), and 4130.6-1(a), the existing authorized livestock active use shall be changed, over 5 years, to a total of 5094 AUMs cattle use, with 4035 AUMs placed in suspended non-use. Year 1 will be the 1992 grazing year. In accordance with 43 CFR 4710.5(b) the horse permit for 200 AUMs associated with the Newark Unit will be cancelled. The AUMs will be available for cattle use, and are included in the stocking rates calculated for the Newark Unit. Active cattle preference will be divided among the pastures (to be licensed separately) as follows:

From (Existing permit): *

Number	Kind	Period of Use	%Federal	AUMs	
				Active	Susp
800	Cattle	4/15 - 5/14	100	789	0
1354	Cattle	5/15 - 11/14	100	8191	0
40	Horses	6/01 - 10/30	100	200	0

* Permit schedules were not exact. Total active preference for Dan Russell (existing permit) is 9129 AUMs cattle, 200 AUMs domestic horses.

To: Pasture	Active Preference (AUM's)		
	Year 1	Year 3	Year 5
Strawberry NW	874	678	482
Strawberry SW	574	445	316
Strawberry NE	436	338	241
Strawberry SE	773	600	427
Griswold NW	634	464	294
Griswold SW	666	488	310
Griswold NE	593	434	275
Griswold SE	729	534	339
Newark #1	226	259	292
Newark #2	116	133	150
Huntington #1	235	265	294
Huntington #2	82	86	90
Huntington #3	233	262	291
Huntington #4	323	364	405
Diamond #1	289	233	177
Diamond #2	329	265	201
Diamond #3	484	390	296
Diamond #4	350	282	214
Total Active AUMs	7946	6520	5094
Total Suspended	1183	2609	4035

Cattle use in these pastures will follow the rotation schedule set up in the Cold Creek AMP and modified by subsequent evaluation (Appendix 2).

Sheep preference will remain at 242 AUMs, tied to the Diamond #3 and Diamond #4 pastures, permitted as follows:

Number*	Kind	Period of Use*	%Federal	AUMs
3100	Sheep	4/20 - 4/22	100	62
600	Sheep	4/23 - 5/22	100	118
3100	Sheep	11/9 - 11/11	100	62
Total				242

*Flexibility in sheep numbers will be allowed up to a maximum of 6600 head, not to exceed the maximum preference. Flexibility in period of use will be allowed from 3/1 to 11/31.

RATIONALE:

The desired stocking level on the seedings is based on 65% desired utilization, with spring/summer/fall use in a rest-rotation system. Stocking rates for native pastures are based on 50% utilization on perennial grasses as allowable use. These calculations result from actual use and measured utilization data, and indicate that reductions on the Strawberry, Griswold, and Diamond Units are necessary to meet the desired utilization level. These calculations also indicate an allowable increase in stocking level on the Huntington and Newark Units.

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

Future re-evaluations in the third and fifth years 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: "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....until the authorized officer determines that active use may resume."

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 by 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 or 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..."

4710.5(b): "All public lands inhabited by wild horses or burros shall be closed to grazing under permit or lease by domestic horses and burros."

APPEAL:

If you wish to appeal the livestock portion of this decision for the purpose of a hearing before an Administrative Law Judge, in accordance with 43CFR 4.470, you are allowed thirty (30) days from receipt of this notice within which to file an appeal with the Egan Resource Area Manager, 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 obtained by maintaining wild horse use at 576 AUMs of yearlong horse use or an appropriate management level (AML) of 48 animals for that portion of the Buck and Bald Herd Management Area (HMA) which occurs in the Cold Creek Allotment.

In accordance with 43 CFR 4700.0-6(a), wild horse use on the Cold Creek Allotment shall be managed at 48 animals yearlong, to be limited to the Huntington #1, #2, and #3 pastures.

In accordance with 43 CFR 4720.1, all wild horses in excess of the appropriate management level of 48 animals will be removed.

In accordance with 43 CFR 4710.4, wild horses will be removed from the Diamond Mountains horse-free area. Wild horses will also not be allowed access to the Griswold, Strawberry, and Newark Seedings, since these pastures were fenced from horse use prior to the passage of the Wild Free-Roaming Horse and Burro Act of December 15, 1971, as amended.

Adjustments in wild horse numbers will be made by future Buck and Bald Herd Area gathers based on continued monitoring, in order to achieve and maintain the established AML. The setting of wild horse numbers by allotment will eventually provide for an overall herd area AML, and gathers within allotments will not allow total wild horse numbers to fall below the total HMA appropriate management level.

RATIONALE: The analysis and evaluation of available monitoring data indicates an allowable increase in stocking level on the Huntington Unit, for both livestock and wild horses. The data indicates that there are 576 AUMs available for wild horse use in the Huntington # 1-3 pastures. The removal of wild horses from the Diamond horse-free area is necessary to establish and maintain a thriving natural ecological balance and to limit the animals' distribution to existing herd areas.

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."

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 to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.400. 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. The appellant has the burden of showing that the decision appealed from is in error.



Gene L. Drais, Manager
Egan Resource Area

	(Certified Mail #)
cc: Nevada Department of Wildlife, Reg. II	(#P 776 533 348)
U.S. Fish and Wildlife Service	(#P 776 533 349)
N-4 Grazing Board	(#P 776 533 350)
Resource Concepts Inc.	(#P 776 533 351)
International Society for the Protection of Mustangs and Burros	(#P 776 533 352)
Commission for the Preservation of Wild Horses	(#P 776 533 353)
Animal Protection Institute	(#P 776 533 354)
Natural Resources Defense Council	(#P 776 533 355)
Wilderness Society	(#P 776 533 356)
Wild Horse Organized Assistance	(#P 776 533 357)

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 - Wild horses will be managed at a total of 700 animals within the Buck and Bald HMA (Egan ROD, p. 6) - Future adjustments in wild horse numbers will be based on data provided through the rangeland monitoring program. (Egan ROD, p. 8)
- (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 5406 AUM's of livestock use.
- (b) Maintain the seedings in good or better condition and improve cover/density of crested wheatgrass.
- (c) Maintain or improve ecological condition of native range with utilization levels not to exceed Nevada Rangeland Monitoring Handbook (NRMH) recommended allowable use levels. Allowable use levels for spring/summer/fall use on shrubs and perennial grass species is 50%.
- (d) Maintain or improve mule deer winter habitat to good or better condition by not exceeding utilization levels on native species as recommended in the NRMH. Manage rangeland habitat and forage condition to support 810 AUM's for mule deer.
- (e) Manage rangeland habitat and forage condition to support 22 AUM's for pronghorn antelope.
- (f) 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.

- (g) Protect ferruginous hawk nest sites by limiting utilization to 50% on winterfat flats within 2 miles of nest sites.
- (h) Manage rangeland habitat to support wild horses as part of the Buck and Bald HMA by not exceeding allowable use levels on native species as recommended in the NRMH. Initially provide forage for up to 419 AUM's of wild horse use (35 horses).

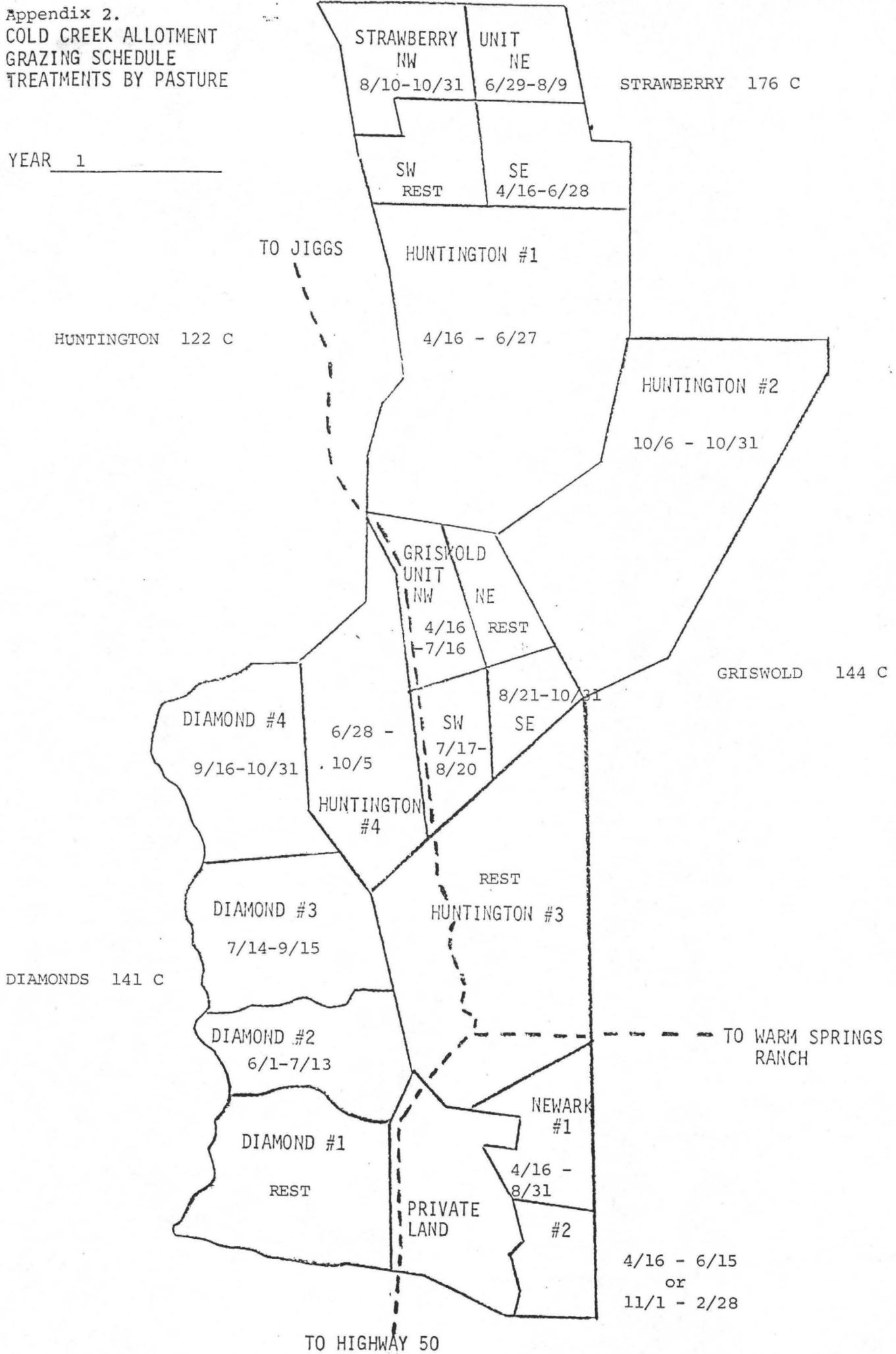
Note: The 35 horses yearlong identified in the RPS is no longer a valid AML. The Interior Board of Land Appeals June 7, 1989 decision (IBLA 88-591, 88-638, 88-648, 88-679) ruled in part: "an AML established purely for administrative reasons because it was the level of wild horse use at a particular point in time cannot be justified under the statute" (Dahl vs. Clark, Supra at 595). The IBLA further ruled that 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."

- (i) Maintain habitat condition of meadows and riparian areas in good or better condition for mule deer and upland game by not exceeding utilization levels on perennial grasses (55%) and shrubs (45%) along streams and mesic meadows.
 - (j) Maintain and improve 9.25 miles of stream riparian habitat to good or better condition.
3. Buck, Bald, Maverick, and Diamond Mountains Habitat Management Plan (HMP) - specific objectives which apply to Cold Creek.
- (a) Limit utilization levels to 55% of current annual growth on perennial grasses and grasslike species along stream riparian areas and mesic meadows by Nov. 1 at the following key locations:

Corta Spring	T24N, R55E, sec. 33
Connors Creek	T24N, R55E, sec. 14
 - (b) On Cold Creek, (listed in excellent condition) limit utilization on streamside vegetation to allowable use levels as listed in the Nevada Rangeland Monitoring Handbook (NRMH).

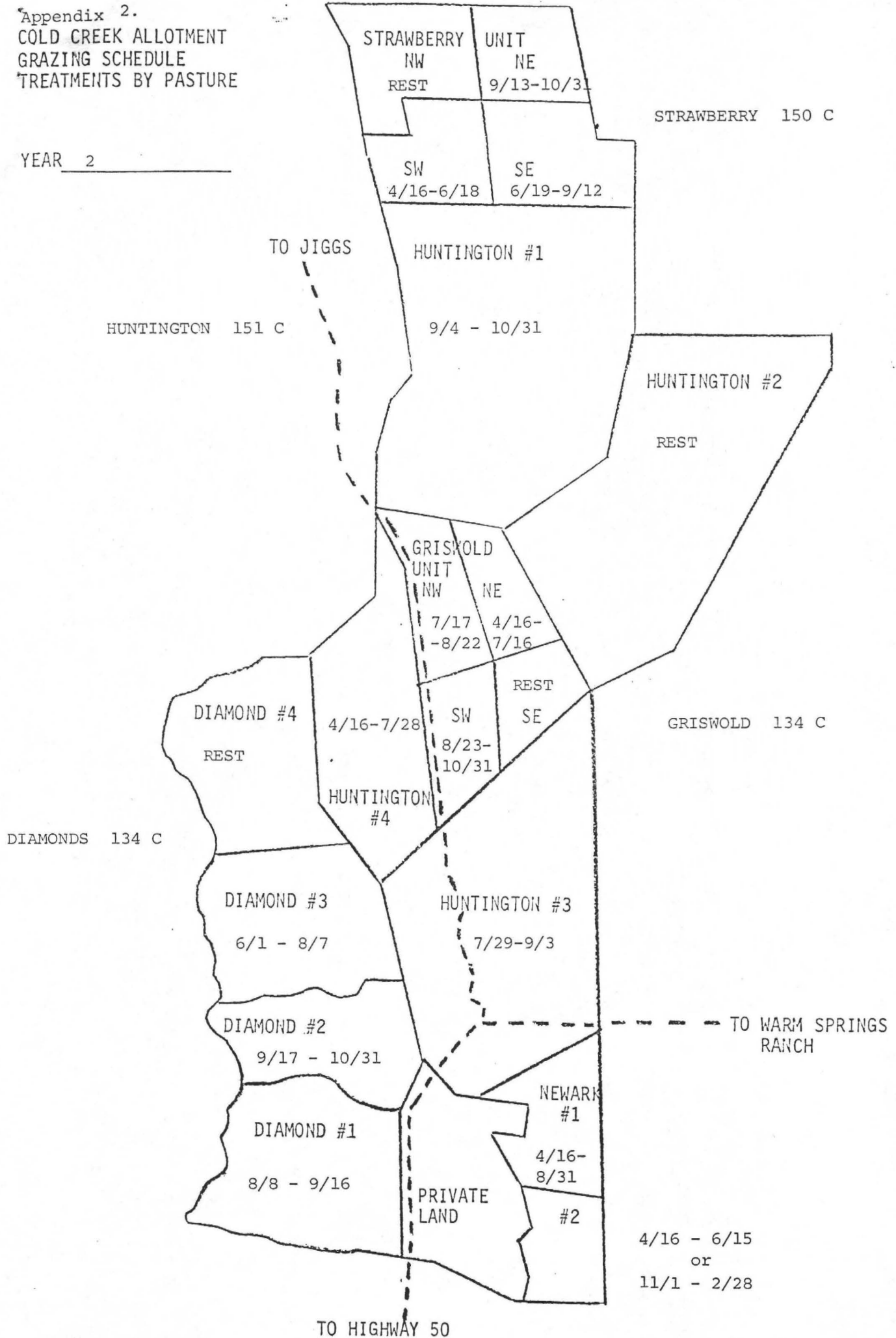
Appendix 2.
 COLD CREEK ALLOTMENT
 GRAZING SCHEDULE
 TREATMENTS BY PASTURE

YEAR 1



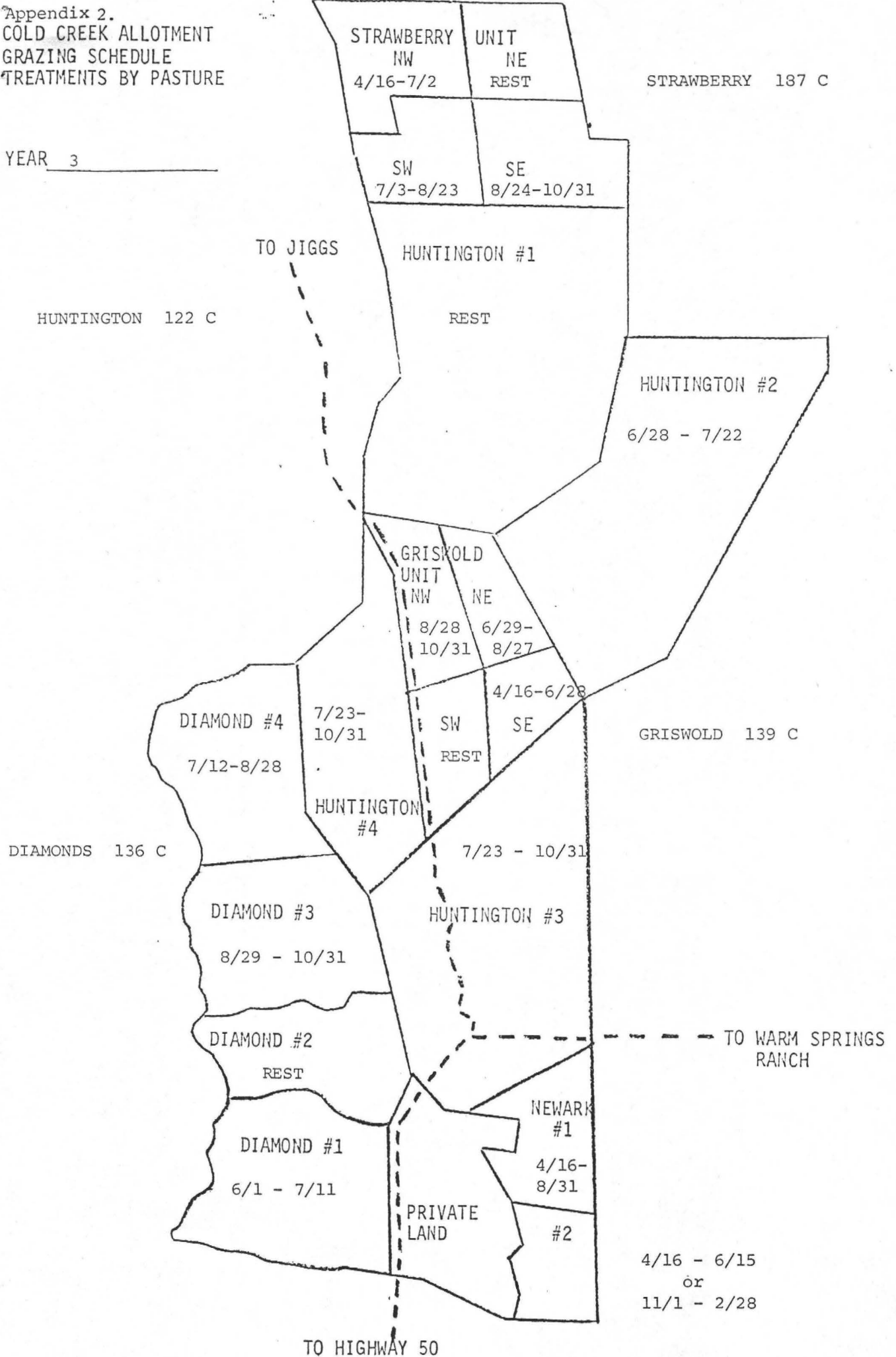
Appendix 2.
 COLD CREEK ALLOTMENT
 GRAZING SCHEDULE
 TREATMENTS BY PASTURE

YEAR 2



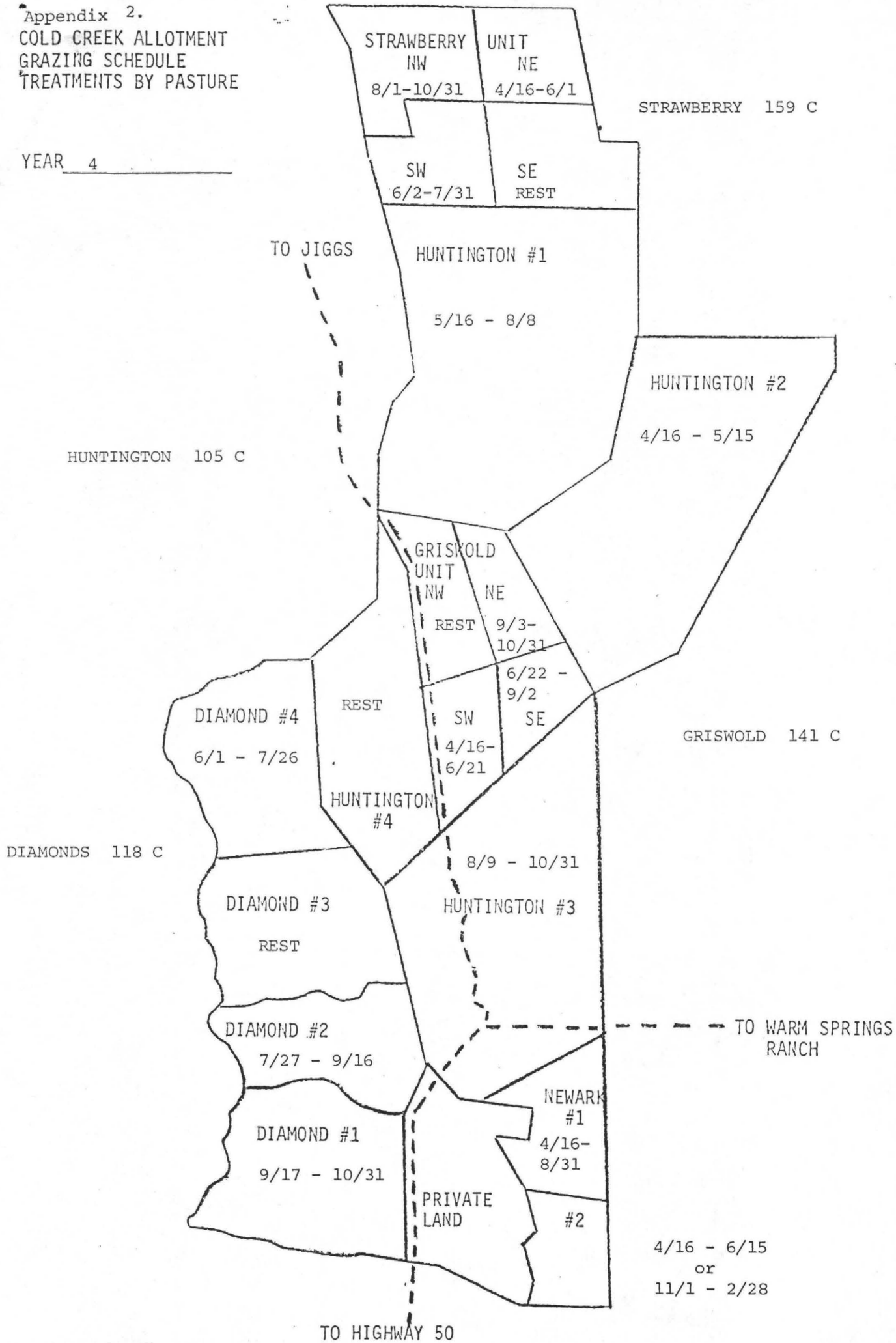
Appendix 2.
 COLD CREEK ALLOTMENT
 GRAZING SCHEDULE
 TREATMENTS BY PASTURE

YEAR 3



Appendix 2.
 COLD CREEK ALLOTMENT
 GRAZING SCHEDULE
 TREATMENTS BY PASTURE

YEAR 4



2/20/92

W H O A

WILD HORSE ORGANIZED ASSISTANCE
P.O. BOX 555
RENO, NEVADA 89504
(702) 851-4817

BOARD OF TRUSTEES

DAVID R. BELDING
JACK C. McELWEE
GORDON W. HARRIS

In Memoriam

LOUISE C. HARRISON
VELMA B. JOHNSTON, "Wild Horse Annie"
GERTRUDE BRONN

February 20, 1992

Mr. Gene Drais, Area Manager
Bureau of Land Management, Egan Resource
Ely District Office
HC33 Box 150
Ely, NV 89301-9408

COPY

Dear Mr. Drais:

Thank you for the Notice of Final Multiple Use Decision on the Cold Creek Allotment.

We have been assured by the Nevada State Office as well as field personnel that the setting of AML by allotments, while not the best system, appears to be the only one when the allotment evaluations are geared to the specific allotment. We fully support the monitoring and evaluation system that eventually will establish the true carrying capacity of the range.

We request notification, if for any reason, the season of use, or intitial stocking levels for livestock change within the portion of the Buck and Bald HMA. We still do not understand, and perhaps you can clarify how the wild horses will be able to enjoy their free-roaming statis under the law, migrate seasonally as they desire, and not compromise the plan. We are somewhat concerned about wild horse key winter use areas and spring green-up required for lactating mares.

Sincerely,

Dawn Y. Lappin (Mrs.)
Director

cc: files
State of Nevada/Commission