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Ely, NV 89301

NOTICE OF FINAL MULTIPLE USE DECISION
FOR THE BADGER SPRING ALLOTMENT (0823)

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 Badger Spring Allotment. The Egan Resource Area Record of Decision, dated February 1987, states in 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."

In accordance with Bureau policy and regulations, monitoring data has been analyzed and evaluated in order to determine progress in meeting management objectives for the Badger Spring Allotment. Input concerning the evaluation was received from the permittee, Nevada Department of Wildlife, U.S. Fish and Wildlife Service and Resource Concepts, Inc. on behalf of the N-4 State Grazing Board. A proposed multiple use decision was issued on October 14, 1992. No protests were received. See Appendix I for the land use plan objectives covering livestock, wildlife and wild horses. 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 Badger Spring Allotment.

BASED UPON THE EVALUATION OF MONITORING DATA FOR THE BADGER SPRING 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 all nine land use plan objectives for the Badger Spring Allotment are being met for existing grazing use by livestock, wildlife and wild horses with current management practices. Therefore, this decision proposes no changes in livestock, wildlife and wild horse use. This decision also establishes the appropriate management level (AML) for wild horses for the portion of the Jake's Wash Herd Management Area within the Badger Spring Allotment.

LIVESTOCK MANAGEMENT DECISION

In accordance with 43 CFR 4110.3 and 4130.6-1(a), the existing authorized livestock active use shall remain unchanged at 1412 AUMs of sheep use with no AUMs in suspension. The season-of-use will be from 4/15 to 11/30.

KIND	USE PERIOD	% F.R.	TOTAL AUMS	ACTIVE AUMS	SUSP. AUMS
SHEEP	4/15 TO 11/30	100%	1412	1412	0

RATIONALE:

Utilization data and use pattern mapping support the conclusion that no change is needed in the adjudicated livestock preference in order to meet the Land Use Plan and Rangeland Program Summary objectives. Monitoring studies indicate proper utilization levels on native range and winterfat bottoms by livestock.

AUTHORITY: The authority for this decision is contained in Title 43 of the Code of Federal Regulations, which states in 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."

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..."

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 studies that a thriving natural ecological balance can be maintained by setting the wild horse AML at 6 horses yearlong (72 AUMs) on that portion of the Jake's Wash Herd Management Area (HMA) which occurs within the Badger Spring Allotment. The setting of wild horse numbers by allotment will eventually provide for an overall herd management area wild horse AML, and gathers within allotments will not allow wild horse numbers to fall below total HMA wild horse AMLs.

In accordance with 43 CFR 4700.0-6(a), wild horse use on the Badger Spring Allotment shall be managed at 6 horses yearlong (72 AUMs).

In accordance with 43 CFR 4720.1, all wild horses in excess of the appropriate management level of 6 animals will be removed.

Adjustments in wild horse numbers will be made by future Jake's Wash Herd Management Area gathers based on continued monitoring, in order to achieve and maintain the established AML.

RATIONALE: The analysis and evaluation of monitoring data indicates that existing numbers of wild horses are meeting multiple use management objectives on the Badger Spring Allotment as identified in Appendix I. Proper utilization levels are being achieved in areas where wild horses are present and the thriving natural ecological balance of the range is being maintained.

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. Draiss

Gene L. Draiss, Manager
Egan Resource Area

(Certified Mail #026 274 686)

cc: Nevada Department of Wildlife (Region II) (#026 274 687)
N-4 Grazing Board (#026 274 688)
Resource Concepts Inc. (#026 274 689)
Sierra Club, Toiyabe Chapter (#026 274 690)
U.S. Fish and Wildlife Service (#026 274 691)
Natural Resource Defence Council (#026 274 692)
Wilderness Society (#026 274 693)
International Society for the Protection
of Mustangs and Burros (#026 274 694)
Commission for the Preservation of Wild
Horses and Burros (#026 274 695)
Animal Protection Institute (#026 274 696)
Wild Horse Organized Assistance (#026 274 697)
Claudia J. Richards (#026 274 698)
Nevada Farm Bureau (#026 274 699)

APPENDIX I: Land Use Plan/Rangeland Program Summary Objectives

1. Land Use Plan 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 (ROD), p.3).

b. Wild Horses and Burros- "Wild horses will be managed at a total of 20 animals in the Jake's Wash Herd Use Area." (Egan ROD, p.6). (Note: The 20 animals identified above, as well as the 46 AUM's 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 the AML must be established through monitoring "in terms of the optimum number which results in a thriving natural ecological balance and avoids a deterioration of the range.") Actual wild horse numbers will be determined by this evaluation in conjunction with monitoring data to maintain a thriving natural ecological balance and prevent deterioration of the rangeland.

c. Wildlife- "Habitat will be managed for "reasonable numbers" of wildlife species as determined by the Nevada Department of Wildlife." (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 system and aesthetic values." (Egan ROD, p.44).

2. Rangeland Program Summary Objectives

Range

a. "Provide forage for up to 473 AUM's of livestock use. Maintain or enhance native vegetation with utilization not to exceed NRMH levels on key species. Maintain or improve current ecological condition of native range." Maximum utilization on native key species is 50%.

Wild Horses

b. "Initially manage rangeland habitat to support Appropriate Management Level (AML) of 4 horses in the Badger Spring Allotment as part of the Jake's Wash HMA. Provide forage for up to 46 AUM's of wild horse use." Actual wild horse numbers will be determined by this evaluation in conjunction with monitoring data to maintain a thriving natural ecological balance and prevent deterioration of the rangeland.

Wildlife/Riparian

c. "Manage rangeland habitat and forage condition to support reasonable numbers of wildlife as follows: mule deer 306 AUM's." Utilization of key species will not exceed the levels listed in 2 a. above.

d. "Maintain or improve mule deer yearlong habitat to good or better condition." This is also accomplished by limiting utilization to the levels listed in 2 a. above.

e. "Protect Ferruginous hawk nest sites. Utilization on white sage flats within two miles of ferruginous hawk nest sites will not exceed 55%."