



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Winnemucca District Office
5100 East Winnemucca Blvd.
Winnemucca, Nevada 89445

In Reply Refer To:
(NV-022.16) 4100

January 9, 1997

CERTIFIED MAIL NO. P274715092
RETURN RECEIPT REQUESTED

FINAL MULTIPLE USE DECISION
HOLE IN THE WALL, JERSEY VALLEY & HOME STATION GAP ALLOTMENTS

Jerry Kelly
P.O. Box 885
Lovelock, Nevada 89419

Dear Mr. Kelly:

The Sonoma/Gerlach Land Use Plan (LUP), the Shoshone/Eureka Resource Management Plan (RMP) and the Lahontan RMP established the multiple use goals and objectives which guide management of the public lands in the Jersey Valley, Home Station Gap, and Hole in the Wall allotments.

In 1988 the Hole in the Wall allotment was evaluated using monitoring data to determine whether or not RMP objectives were being met. As a result of that evaluation an Agreement was negotiated which identified site specific objectives. The Jersey Valley and Home Station Gap allotments have never been evaluated.

Monitoring has been conducted to determine if livestock grazing, wild horse use, and wildlife use are within the objective parameters established in the LUP and RMPs. Monitoring data has been collected and analyzed to determine whether or not progress is being made in meeting the multiple use allotment objectives. In addition this information will direct changes

in management actions to meet those objectives.

Through the allotment evaluation process the Bureau of Land Management determined that changes in existing management are required to achieve the multiple use objectives for the allotment. Analysis of the monitoring data indicates that the existing numbers of wild horses, and the numbers and management of livestock are contributing to the failure in meeting parameters of the LUP, RMPs, and 1988 Agreement. The majority of these are utilization objectives. Analysis of wildlife data does not indicate a need for change in the existing management. Therefore, this proposed decision changes livestock management, the grazing system, establishes new or modified objectives; and establishes an Appropriate Management Level (AML) for wild horses which will result in a thriving natural ecological balance.

On June 25, 1996, the Final Allotment Evaluation and Proposed Multiple Use Decision was mailed to all interested parties. We received a protest from Mr. Jerry Kelly as well as a request for a tour of the allotments. A tour was held on August 19, 1996 in which all interested publics were invited. Although there was much discussion generated, the proposed decision was not greatly changed as a result of the tour. The protest points as well as responses to each point are summarized below:

Protest Points

1. **100 horses should be removed before any cattle reduction is considered.**

Response:

The carrying capacity for the Jersey Valley, Home Station Gap, and Hole in the Wall allotments has been calculated for each allotment. Land use plan ratios were applied to the calculations which resulted in the division of AUMs between wild horses and livestock. Determination of an Appropriate Management Level (AML) for wild horses and a stocking rate for cattle is the result of this process. Based on the AML and current wild horse numbers, a gather is proposed to bring the population down to AML.

2. **The evaluation only studied small proportions of the Allotment. The entire allotment should be considered.**

Response:

The evaluation considered each allotment in its entirety. Although each use pattern map may not have covered an entire allotment, the best available information was used in making recommendations and this decision. Ecological site inventory data, water availability, suitability, precipitation, and use pattern mapping were all analyzed and considered in making this decision.

3. **Proposed cattle use is unreasonably varied, and very low stocking rate**
 - a. **Hole in the Wall 70 acres/aum = 800 acre pasture/cow/yr**
 - b. **Home Station Gap 12 acres/aum = 150 acre/pasture/cow/yr**
 - c. **Jersey Valley 76 acres/aum = 900 acre/pasture/cow/yr**

Most stocking rates are viewed as 100 acres/AU, not 900, 800, or even 150 acres. All of these Allotments are useable, they contain less than 5% barren lands such as other Allotments with salt flats and rocky outcrops.

Response:

Carrying capacity calculations are based on observed utilization levels throughout the allotment. Areas in the allotment with no use are not included in the calculations because they are not suitable for grazing under existing conditions. Steepness of slope, distance from water, and vegetative production are all factors that could make an area unsuitable.

4. **The large reduction devalues our ranch disgracefully, this is a good outfit existing over 150 years in good range condition, with the slight exception of uncontrolled horse reduction from 1973 until 1991 --BLM in charge.**

Response:

It is not the BLM's intent to devalue your ranch. Based on the carrying capacity a reduction in AUMs is necessary to both wild horses and livestock.

5. **A cattle reduction will force us into fencing our private lands for cattle use only. This will hurt other life dependent on spring water.**

Response:

The BLM has no control over how you use your private land. Our responsibility as established by the Taylor Grazing Act and the Federal Land Policy and Management Act is management of the public lands.

6. **This proposed reduction in cattle use is unnecessary, and your final decision should reinstate our AUM's as they were when we purchased this ranch. To disrupt our ranching operation should be viewed as a political decision not an ecological decision.**

Response:

When conducting an evaluation, the Bureau also considers effects to the ranching operation in order to come up with management actions that will work for both the rancher and the health of the land. In order to improve or maintain the health of the

land in these three allotments, BLM feels it is necessary to implement the changes outlined in this Final Multiple Use Decision. This decision has been designed to improve the health of the ecosystem.

8. **Jersey Valley ecological study sites A & B are only 1 mile apart, unless this is a description error. I have never seen neither of these sites.**

Response:

Although Jersey Valley study sites A and B are only one mile apart, they are located in different ecological sites and will indicate response of different vegetation types to management actions. Site A is in a Gravelly Loam 4-6 inch precipitation zone dominated by shadscale, Bailey greasewood and Indian ricegrass. Site B is in a Loamy 4-8 inch precipitation zone dominated by shadscale, bud sagebrush, and Indian ricegrass.

ALLOTMENT WIDE MULTIPLE USE OBJECTIVES

These apply to all three allotments unless specified otherwise.

I. Short Term Objectives

- A. Utilization of key plant species in upland habitats shall not exceed 55% of current year's growth on grasses (Indian ricegrass, squirreltail, desert needlegrass, Thurber's needlegrass, Sandberg bluegrass, basin wildrye), 50% on shrubs (winterfat, budsage, shadscale, spiny hopsage, snowberry), except where adjusted by an approved activity plan. (WL-1.7 & 1.9)
- B. Utilization of key plant species in riparian habitat shall not exceed 50% (Sedges, rushes, meadow barley, bluegrass, saltgrass, willow). (WL-1.10)
- C. Limit the amount of utilization by wild horses to 20% by July 15. This level will limit use sufficiently so that the key species will reach seed ripe. This allows the plants to gain vigor through building of carbohydrate reserves and allows seed production and dispersal for reproduction.

II. Desired Plant Community Objectives

Desired plant community (DPC) objectives were based on an ecological site inventory. Key management areas were selected by reviewing ecological site inventory data, use pattern mapping data, distance to available water, wild horse distribution and wildlife habitat areas.

Several monitoring sites exist in the Hole in the Wall and Jersey Valley allotments. These are located in areas that correspond to three major ecological sites and receive use from both horses and livestock. Final site selection will be made by an interdisciplinary team and affected interests. Percentages may need to be slightly adjusted once locations are finalized.

Hole in the Wall Allotment

- A. On Ecological Site 027XY018 within site write up area (SWA) I140, at monitoring site #5 (T. 24N.,R.38E., Sec. 28) increase similarity to potential from 38% to 45% by the year 2003 or after three grazing cycles. Desired species most likely to increase are bud sage, Indian ricegrass, and globemallow.
- B. On Ecological Site 027XY027 within site write up area (SWA) I113, at monitoring site #3 (T.23N.,R.39E., Sec. 12) increase similarity to potential from 32% to 40% by the year 2003 or after three grazing cycles. Desired species most likely to increase are bud sage, Indian ricegrass, globemallow, and desert needlegrass.

- C. On Ecological Site 027XY007 within site write up area (SWA) I107, at monitoring site #7 (T.24N.,R.40E., Sec. 29) increase similarity to potential from 31% to 40% by the year 2003 or after three grazing cycles. Desired species most likely to increase are Sandberg bluegrass, bottlebrush squirreltail, and globemallow.

Jersey Valley

- A. On Ecological Site 027XY018 within site write up area (SWA) C223, at monitoring site (T.25N.,R.38E., Sec. 28) increase similarity to potential from 48% to 55% by the year 2003 or after three grazing cycles. Desired species most likely to increase are bud sagebrush, Sandberg bluegrass, and globemallow.
- B. On Ecological Site 027XY013 within site write up area (SWA) C234, at monitoring site (T.25N.,R.38E., Sec. 22) maintain similarity to potential at 53%.
- C. On Ecological Site 024XY002 within site write up area (SWA) C210, at monitoring site (T.26N.,R.40E., Sec. 4) maintain similarity to potential at 61%.

Home Station Gap

Home Station Gap has not had an ecological site inventory completed on it so there are no desired plant community objectives for it. However, as a long term objective we will continue to manage for an upward trend at the three photo trend sites established in the allotment.

WILDLIFE MANAGEMENT

Based on the interpretation and analysis of the monitoring data, consultation with the interested public, and staff technical recommendations, no adjustment in wildlife use or numbers is necessary to meet multiple use objectives. Wildlife habitat will be managed as outlined in the Land Use Plan, Resource Management Plans and in accordance with the objectives in this decision.

As a result of this process my decisions are as follows:

Carrying Capacity

The combined carrying capacities for livestock and wild horses to achieve these objectives are:

Hole in the Wall

Livestock	1224 Aums
Wild Horses	<u>851 Aums</u>
	2075 Aums

Jersey Valley

Livestock	917 Aums
Wild Horses	<u>1781 Aums</u>
	2698 Aums

Home Station Gap

Livestock	934 Aums
Wild Horses	<u>677 Aums</u>
	1611 Aums

The carrying capacity proportion between livestock and wild horses is based on LUP and RMP ratios.

Rationale: Analysis of actual use and utilization data through the evaluation period results in the determination that these are the carrying capacities.

LIVESTOCK MANAGEMENT

Based on the evaluation of monitoring data for the Hole in the Wall, Home Station Gap, and Jersey Valley Allotments, consultation with the permittee and other affected interests, it is my decision to change the livestock management as follows:

FROM:

	Hole in the Wall	Home Station Gap	Jersey Valley
Total Number of AUMs of specified livestock grazing	2,675	994	2912
Historical Suspended Pref.	0	0	1331
Active Number of AUMs of specified livestock grazing	2,675	994	1581
Exchange of Use	0	0	0
Season of Use	11/1 - 3/31	4/1 - 10/31	3/1 - 2/28 10/1 - 2/28

2. Number, Class of Livestock

Hole in the Wall	535 cow/calf
Home Station Gap	142 cow/calf
Jersey Valley	87 cow/calf 109 cow/calf

3. Percent Federal Range 100%

TO:

	Hole in the Wall	Home Station Gap	Jersey Valley
Total Number of AUMs of specified livestock grazing	1224	934	917
Historical Suspended Pref	0	0	1331
Active Number of AUMs of specified livestock grazing	1132	914	914
Exchange of Use	0	0	0
Season of Use	12/1 -4/30	5/1 - 7/31 8/1 -11/30	8/1 -11/30 5/1 - 7/31

2. Number, Class of Livestock

Hole in the Wall 246 cow/calf
Home Station Gap 228 cow/calf from 8/1 to 11/30
308 cow/calf from 5/1 to 7/31
Jersey Valley 228 cow/calf from 8/1 to 11/30
308 cow/calf from 5/1 to 7/31

3. Percent Federal Range 100%

Grazing System

	Hole in the Wall	Home Station Gap	Jersey Valley
Year 1	12/1 to 4/30 1221 Aums 246 cows	5/1 to 7/31 932 Aums 308 cows	8/1 to 11/30 914 Aums 228 cows
Year 2	12/1 to 4/30 1221 Aums 246 cows	8/1 to 11/30 914 Aums 228 cows	5/1 to 7/31 932 Aums 308 cows

The permittee will be allowed 10 days to move between allotments. Moves will be permitted 5 days on either side of the beginning date and trailing will be permitted through Jersey Valley if required. This system will become effective March 1, 1997.

Rationale:

This system proposes using the three allotments as pastures. This would give Home Station Gap and Jersey Valley allotments spring deferment every other year. During the years that Home Station Gap is used from 8/1 to 11/30, livestock use will be permitted on the east side of Jersey Valley (as drift caused by winter weather). On the years when Jersey Valley is used from 5/1 to 7/31, livestock use will be mainly on the west side of the allotment (from Jersey Valley Wash west). Hole in the Wall allotment will remain a winter use allotment. Riparian areas in Home Station Gap and Jersey Valley allotments will benefit by having rest from hot season use every other year. This also allows the permittee to maintain a year round operation while not maintaining continuous livestock use on any one allotment. Reductions in livestock use are based on actual use and utilization data collected during the evaluation period and are essential to ensure the health of the land.

Terms and Conditions

A new ten year permit will be issued when the Final Multiple Use Decision process is concluded. The following terms and conditions will be incorporated into the permittee's term permit and annual authorizations via the grazing bill:

1. Grazing use will be in accordance with this grazing decision.
2. Salt and/or mineral blocks shall not be placed within one quarter (1/4) mile of springs, streams, meadows, or aspen stands.
3. The permittee is required to perform normal maintenance on the range improvement projects which have been assigned to the permittee for maintenance responsibility.
4. Actual Use grazing reports are due within 15 days after completing your annual grazing use.
5. Pursuant to 43 CFR 10.4(g) the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (as defined at 43 CFR 10.2). Further, pursuant to 43 CFR 10.4(c) and (d), you must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.

Authority

The authority for this decision is contained in Title 43 of the Code of Federal Regulations; pertinent citations are below:

4100.0-8

Land use plans - 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
(paraphrased)

Section 4110.3 directs the authorized officer to periodically review the total number of animal unit months of specified livestock grazing. The authorized officer is further directed to make changes in this use as needed to manage, maintain or improve rangeland productivity, to assist in restoring ecosystems to properly functioning condition, to conform with land use plans or activity plans, or to comply with the provisions in 4180. Changes must be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer.

4120.3-1(a)

Conditions for range improvements - Range improvements shall be installed, used, maintained, and/or modified on the public lands, 4130.3-1(a)Mandatory terms and conditions - 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

Other terms and conditions - 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.

4130.3-3

Modifications of permits or leases - Following consultation, cooperation, and coordination with the affected lessees or permittees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may modify terms and conditions of the permit or lease when the active grazing use or related management practices are not meeting the land use plan, allotment management objectives, or is not in conformance with the provisions of subpart 4180. To the extent practical, the authorized officer shall provide to affected permittees or lessees, States having lands or responsibility for managing resources within the affected area, and the interested public an opportunity to review, comment and give input during the preparation of reports that evaluate monitoring and other data that are used as a basis for making decisions to increase or decrease grazing use, or to change the terms and conditions of a permit or lease.

WILD HORSE MANAGEMENT

Establish appropriate management levels for the Augusta Range HMA within the Hole in the Wall, Home Station Gap, and Jersey Valley Allotments.

<u>Augusta Mountain HMA</u>	<u>75% of AML to AML</u>	<u>AUMS</u>
Hole in the Wall	53 to 71	636 to 851
Home Station Gap	42 to 56	508 to 677
Jersey Valley	111 to 148	1332 to 1781

Maintain and improve the free-roaming behavior of wild horses by protecting their home range and assuring free access to water.

Rationale: This level of wild horse use, in association with the level of livestock use should achieve the short and long term management objectives and a thriving natural ecological balance for the three allotments. These proportions are based on LUP and RMP ratios.

Authority

The authority for this decision is contained in Sec. 3(a), 3(b)(1), and 3(b)(2) 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:

- 4700.0-6(a) **Policy** - 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.
- 4710.3-1 **Herd Management Areas** - ...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.
- 4710.4 **Constraints on Management** - 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 areas plans.
- 4720.1 **Removal of Excess Animals from Public Lands** - 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...

FUTURE MONITORING AND GRAZING ADJUSTMENT

The Winnemucca District will continue to monitor the Hole in the Wall, Home Station Gap, and Jersey Valley Allotments to provide the necessary information to determine if the allotment specific objectives are being met under the new grazing strategy. An annual report will be written to analyze the previous year's monitoring data and current conditions in order to make recommendations and/or adjustments for the upcoming grazing year. The allotments are scheduled for re-evaluation in 2003.

LIVESTOCK APPEAL RIGHTS

Any applicant, permittee, lessee, or other person whose interest is adversely affected by the final decision may file an appeal and petition for stay of the decision pending final determination on appeal under 43 CFR 4160.4, 4.21 and 4.470. The appeal and petition for stay must be filed in writing to:

Colin P. Christensen
Assistant District Manager
Division of Renewable Resources
Bureau of Land Management, Winnemucca District
5100 E. Winnemucca Blvd.
Winnemucca, NV 89445

within 30 days after receipt of the final decision. The appeal should clearly and concisely state the reason(s) as to why 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 APPEAL RIGHTS

If you wish to appeal this wild horse management decision, it may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR, Part 4. If you appeal, your appeal must be filed with the Bureau of Land Management,

Colin P. Christensen
Assistant District Manager
Division of Renewable Resources
Bureau of Land Management, Winnemucca District
5100 E. Winnemucca Blvd.
Winnemucca, NV 89445

within thirty (30) days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay (suspension) of the wild horse decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted to the:

Interior Board of Land Appeals
Office of Hearings and Appeals
4015 Wilson Boulevard
Arlington, VA 22203

and to the appropriate office of the Solicitor:

Office of the Regional Solicitor
Department of the Interior
2800 Cottage Way, Room 2753
Sacramento, CA 95825

at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted 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.

If you have any questions, please contact Leigh Redick at (702) 623-1500.

Sincerely yours,



Colin P. Christensen, Assist. District Manager
Division of Renewable Resources

Certified cc:

Joe Saval Co.	P274715093
Commission for the Preservation of Wild Horses	P274715094
Craig C. Downer	P274715095
Demar Dahl	P274715096
Resource Concepts, Inc.	P274715118
Sierra Club - Toiyabe Chapter	P274715119
Nevada Division of Wildlife	P274715120
Natural Resources Defense Council	P274715124
Donna L. Campbell	P274715125
Joe Dahl	Z374112708
Ann Ferrigan	Z374112709
Ray H. Williams, Jr.	Z374112710

Regular Mail:

Battle Mountain BLM
Carson City BLM



**COMMISSION FOR THE
PRESERVATION OF WILD HORSES**

1105 Terminal Way
Suite 209

Reno, Nevada 89502
(702) 688-2626

January 16, 1997

Mr. Pete Christensen
Paradise-Denio Resource Area
Bureau of Land Management
5100 East Winnemucca Blvd.
Winnemucca, Nevada 89406

Subject: Augusta AML


Dear Mr. Christensen:

The Commission for the Preservation of Wild Horses appreciates the notification of the final multiple use decisions for Hole in the Wall, Jersey Valley and Home Station GAP Allotments. These Decisions affect the Augusta Mountain Herd Management Area.

We find it ironic that the Sonoma-Gerlach Resource Area embraces a 20 percent utilization limit objective for wild horses by July 15. This objective was established by Carson City District years ago and monitoring studies were completed to evaluate data. However, the the Resource Area choose to ignore the land use planning for this area and weight average use pattern mapping data and allocate forage based upon 1981 existing use level proportions.

Pete, this is another example of agency discretion bypassing previous land use planning and agreements. We can only hope to see the Resource Area adhere to its land use planning in all future decisions affecting this herd area.

Sincerely,


CATHERINE BARCOMB
Executive Director