



United States Department of the Interior

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In Reply Refer To:  
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(NV-022.17)

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NOV 14 1997

Mr. Stan Ceresola  
P.O. Box 98  
Wadsworth, NV 89442

Received  
18th

**FINAL MULTIPLE USE DECISION  
RODEO CREEK ALLOTMENT**

Dear Mr. Stan Ceresola:

The Record of Decision for the Sonoma/Gerlach Environmental Impact Statement and the Management Framework Plan - Land Use Plan (LUP) - was issued September 9, 1982. These documents established the multiple use goals and objectives which guide management of the public lands in the Rodeo Creek Allotment.

In 1988, the Rodeo Creek Allotment was evaluated and as a result of that evaluation an Agreement was negotiated with the permittee which specified a grazing system, established a livestock grazing preference, and site specific objectives.

Since the 1988 Allotment Evaluation and Agreement, monitoring has been conducted to determine if livestock grazing, wild horse use, and wildlife use are within the parameters established in the LUP and the 1988 Livestock Use Agreement. The initial draft through conclusions was sent out May 21, 1993 with an initial meeting held at the Nevada State BLM Office on June 15, 1993 to go over the summary of data and conclusions and to begin writing technical recommendations. The meeting was attended by BLM personnel, the permittee, WHOA, and the Commission for the Preservation for Wild Horses. NDOW was unable to attend, but sent written comments. A completed draft evaluation was sent out for review on July 26, 1993. Due to the comments received from NDOW, WHOA, and the Commission for the Preservation for Wild Horses on this draft evaluation, it was sent to the Nevada State Office for review. Comments were received back from the Nevada State Office on July 22,

1994. A second draft was sent out November 1, 1995 with a meeting following in the Nevada State Office on December 13, 1995. The permittee, NDOW, a representative from the Commission for the Preservation for Wild Horses, and BLM personnel attended the meeting. As agreed to at the December 13, 1995 meeting, 1989 through 1992 data was used to determine carrying capacity, but the 1993 through 1996 data was added to the document for comparison purposes. 1989 - 1992 data was used to determine carrying capacity because these three years reflect the management that was put into place through the 1988 Livestock Use Agreement. Management on the allotment has changed since 1992 and has been in an interim status until completion of the Final Re-Evaluation and issuance of the Multiple Use Decision.

The summary of conclusions is as follows:

Use exceeded 50% within some areas of the winter use area, but because use is made during plant dormancy, damage is not occurring to plant health. Furthermore, the winter use area is in a static to upward trend and is primarily in late seral condition.

The spring/summer use area had repeated areas of heavy use in areas with concentrated use by both wild horses and livestock. This area is predominately in mid seral condition.

Specific utilization monitoring was not done on riparian habitat. Heavy use did occur on upland areas adjacent to the riparian habitat, so in all likelihood riparian habitat received heavy use as well.

Bitterbrush and aspen utilization objectives are being met. The form class for bitterbrush is slightly hedged except for those favored plants on the sites which are hedged. Some bitterbrush sites within the allotment have more compact plants with less vigor because these sites have a lower growing potential for bitterbrush.

The mule deer habitat condition rating was good. The pronghorn habitat condition rating was fair. Comparing the current pronghorn habitat condition to what it would be at potential improved it slightly, but it remained in fair condition. The limiting factor for both mule deer and pronghorn was forage quality.

On September 24, 1997, the Rodeo Creek Final Re-evaluation and Proposed Multiple Use Decision was mailed to all interested parties. We received protests from the Commission for the Preservation of Wild Horses and the Nevada Division of Wildlife. Protests points are summarized below along with responses to each point:

*Commission for the Preservation of Wild Horses*

1. **Comment:** Procedural errors in estimating actual use of wild horses

**Response:** Nevada has no written policy with regard to distinguishing between

can count foals in pop estimates BUT NOT ADULTS!

SONOMA GERLACH (LUP) DRAFT EIS  
1 AUM = 1 Adult Horse

foals and adults in compilation of census data, establishing appropriate management levels or determining the number of animals to be removed. However, it is, and has been, BLM Nevada's practice to include foals for total counts and as part of the number of horses remaining after a removal. Foals are included in the determination of actual use and appropriate management levels for wild horses because they are consuming forage during the year counted (Summary Order IBLA 92-241, Oct. 15, 1992). This is consistent with livestock progeny that are one year old while on the public land.

Actual use data for wild horses is derived from the total number of horses (adults and foals) inhabiting a Herd Management Area multiplied by 12 months (March 1 through February 28). The number of wild horses is based on the most recent helicopter census. For years in which an aerial census is not conducted a population estimate is calculated by multiplying the previous year's census or population estimate by 11% as outlined in the Sonoma-Gerlach Grazing Environmental Impact Statement. The 11% rate of increase is based on an analysis of helicopter census data collected by experienced personnel in the Sonoma-Gerlach Resource area in 1974, 1977, and 1980, verified by data gathered during wild horse and burro removals.

Census population is obtained by utilizing a helicopter to conduct a direct count of all adults and foals found within the HMA. This method assumes complete coverage of the HMA and observation of all animals. However, Cauley (1974) found in his study and literature search that the closest an aerial survey ever came to the actual population size was 89%. Wagner reported that studies conducted in four horse management areas (Nevada - 2, Oregon and Wyoming) showed about 93% accuracy in areas of low vegetation and moderate terrain, while 60% of the animal in wooded and mountainous topography were missed (TRANSACTIONS of the Forty-eighth North American Wildlife and Natural Resources Conference). The just completed Jackson Mountain Wild Horse gather reflected the percentages cited by Cauley.

When conducting a census, an HMA is flown in a modified transect pattern utilizing topography and natural or man-made barriers to ensure complete coverage and that animals are not counted twice.

2. **Comment:** averaging utilization data

**Response:** Using a weighted average utilization is according to Bureau's procedures as outlined in TR 4400-7 Rangeland Monitoring - Analysis, Interpretation, and Evaluation. A weighted average is a mathematical technique of calculating an average for a set of data that contains two

related variables. In the resource management context, the weighted average is most useful in averaging spatial data (e.g., acres) and their relationship to quantitative data (e.g., utilization). Specifically, in the Rodeo Creek Allotment, the moderate, heavy, and severe use classes were used in the calculations with the slight, light, and no apparent use classes dropped from the calculations. Moderate use was used because that is the desired utilization level. Heavy and severe use classes were used because these are the two use classes that need to be reduced.

3. **Comment:** allocation of forage

**Response:** It was recognized in the MFP that forage allocation made for livestock and wild horses was only a starting point and that numbers would be adjusted to appropriate levels through monitoring. The re-evaluation for this allotment established the total carrying capacity for livestock and wild horses based on monitoring data. The AUMs were then divided between livestock and wild horses on a proportionate basis based on the ratio established in the MFP decision Range 1.1 and Wild Horse/burro 1.1. These proportions and/or numbers were established through the CCC process of writing the land use plan and received extensive public review and comments. Since these proportions and/or numbers received public review, I feel that this is the appropriate and most equitable way to divide the total carrying capacity between livestock and wild horses. We will continue to monitor to determine if these new stocking rates are appropriate, and if not make future adjustments.

Nevada Division of Wildlife

1. **Comment:** **Wildlife data were not considered. Riparian habitat delineations found in the original land use plans were not assessed. Baseline inventory data were lost. Lotic and lentic functionality studies were not conducted. Streams were not inventoried. Baseline data for aspen, streams, and seeps have not been collected.**

**Response:** Wildlife data was considered as discussed on pages 22-24 of the Final Re-evaluation. Bitterbrush utilization studies and wildlife habitat condition ratings were included within the allotment re-evaluation. Qualitative data on the existing riparian habitat is found on page 24 of the Final Re-evaluation. The baseline data delineated the lower reaches of Rodeo, Rattlesnake, Bull Basin, Willow, and Coyote Creeks. These reaches are all ephemeral washes. The water inventory was conducted in 1984 for seeps and springs. As discussed in the conclusions section of the Final Re-evaluation, the acreage of wetland riparian habitat used in the land use plan was an office calculation based on the water inventory. Through field observations, it has been determined that



approximately 65 acres of wetland riparian habitat exists on the Rodeo Creek Allotment. Functionality had not been completed during the evaluation period. Since then, Wild Horse Canyon Creek and Rodeo Creek have been completed. Continuing efforts to conduct functionality will be done as time, money, and priorities allow. This data will be included in the next Rodeo Creek Allotment Evaluation.

2. **Comment:** **Sage Grouse habitat condition studies have not been established.**

**Response:** The Bureau is unaware of any sage grouse within this allotment. If NDOW has any sage grouse data for this allotment please provide the Bureau with any information. As outlined within the evaluation, sage grouse studies are proposed to be established at key areas when they are identified.

3. **Comment:** **The Districts's pursuit of new Potential Natural Condition or Desired Plant Community objectives may lead to the loss of the shrub communities supporting big game populations.**

**Response:** Potential Natural Community and Desired Plant Community (DPC) objectives are not equivalent. The Potential Natural Community is the presumed climax plant community for a specific ecological site, regardless of the value of individual plants or the plant community for specific uses. Desired Plant Communities is defined as: the plant community which provides the vegetation attributes required for meeting or exceeding Land Use Plan objectives. The DPC must be within an ecological sites's capability to produce these attributes through natural succession, management action, or both. The ecological sites within the Fox Range portion of the Rodeo Creek Allotment are primarily in mid seral condition. The shrub communities dominate these sites and because of the shrub component these sites are in mid seral. Two shrub communities key areas were chosen for this area. The first is the dominate site on the Fox Range. The second is one of two ecological sites that have potential for bitterbrush; which is a key species for mule deer on this allotment. The DPC objectives will be quantified to reflect the baseline data, however the Bureau's objective is not to lose shrub species but to improve the vigor and health of the grasses present and to increase the amount of grasses and forbs in the existing interspaces. In a field visit to Rodeo Creek on December 1993, Mike Dobel, NDOW Biologist, concurred this is what NDOW would like to see as well.

4. **Comment:** **Carrying capacities were determined by weight averaging of moderate, heavy, and severe use pattern mapping data in a manner that neglects critical wildlife habitat. Carrying capacities in**

**Appendix #2 are contrary to the evaluation's conclusions. Where objectives were not met, calculations support that objectives were met.**

**Response:** Using a weighted average utilization is according to Bureau's procedures as outlined in TR 4400-7 Rangeland Monitoring - Analysis, Interpretation, and Evaluation. A weighted average is a mathematical technique of calculating an average for a set of data that contains two related variables. In the resource management context the weighted average is most useful in averaging spatial data (e.g., acres) and their relationship to quantitative data (e.g., utilization). Specifically, in the Rodeo Creek Allotment, the moderate, heavy, and severe use classes were used in the calculations with the slight, light, and no apparent use classes dropped from the calculations. Moderate use was used because that is the desired utilization level. Heavy and severe use classes were used because these are the two use classes that need to be reduced. The calculations included utilization on bitterbrush, snowberry, serviceberry, aspen, winterfat and riparian habitats. The utilization cages placed throughout the allotment are located in critical wildlife habitat. To ensure that objectives are met or are progressing toward attainment, the livestock AUMs were maintained at the current level. The proposed carrying capacity is below the actual use that was occurring on the allotment prior to 1993. Stocking calculations alone will not "fix" problems on the allotment. That is why we are also changing the grazing system that should allow for deferment from livestock use on half of the Fox Range during the critical growing period each year, which should improve plant vigor, permit desirable species to produce seed, improve plant cover, and enhance wildlife habitat.

5. **Comment:** **Based on seven years of participation in this allotment evaluation, we have observed conditions that lead to catastrophic losses of ungulates on the Fox and Lake Ranges in 1993. Year long ungulate use, drought and forage conditions seriously damaged resources on the allotment. Recovery of these sites and protection of critical wildlife habitats require significant changes and proper monitoring of resources.**

**Response:** The situation on the Fox & Lake Range HMA during the early winter of 1992/93 was indeed critical. It must be noted that at the time we were at the end of a seven year drought and a period of expanding horse populations. Our estimate of actual death loss on the Fox & Lake Range was 16.9% over the winter of 1992/93. These numbers include the 27 horses that were destroyed on the range and the nine horses that were either destroyed or died after capture for a total of 36.

The permittee voluntarily reduced the number of livestock from 485 to 350 cattle on May 1, 1992. On July 2, 1992 livestock were reduced to 100. In November the remaining livestock were removed from the allotment. There were no livestock in the Pole Canyon Allotment, and there had been no livestock use for the previous 10 years.

On March 16, 1993 the District issued a Proposed Full Force and Effect Decision to temporarily close the Rodeo Creek and Pole Canyon Allotments to livestock grazing to prevent further deterioration of the vegetative resource. The decision became final on March 31, 1993, after the 15 day protest period had expired. The decision contained specific vegetative criteria that must be met before livestock grazing could resume. On June 24 and 25, 1993 an inspection of the livestock summer use area found that the plant growth requirements contained within the Full Force and Effect Decision had been met. On July 12, 1993 livestock grazing was authorized on the Rodeo Creek Allotment for 250 head of cattle from July 15 to October 31 within the summer use area. On October 21, 1993 an inspection of the livestock winter use area in the Rodeo Creek Allotment found that the plant growth requirements contained within the Full Force and Effect Decision had been met. Livestock were authorized to graze the winter use area on November 1st. The permittee in the Rodeo Creek Allotment voluntarily used less than his permitted use for the 3 years following the emergency gather to allow plants to regain their vigor and health. The livestock closure on the Pole Canyon Allotment is still in effect until the multiple use decision is issued.

To our knowledge, there has been no loss of wildlife on the Rodeo Creek Allotment during the evaluation period. In fact, it appears that wildlife are increasing in numbers on this allotment. If you have more data on this, please let us know.

The decision changes the carrying capacity for the allotment to be below the actual use that occurred throughout most of the evaluation period; an appropriate management level for wild horses is established based on monitoring data; and the grazing system is changed to one that should allow for deferment from livestock use on half of the Fox Range during the critical growing period each year, which should improve plant vigor, permit desirable species to produce seed, improve plant cover, and enhance wildlife habitat.

6. **Comment:** **The Lake Range Wild Horse Management Area may not be suitable for wild horses. A significant portion and major waters are located on the Reservation and outside of the Bureau of Land Management jurisdiction.**

*What are they?  
wild or  
reservation?!!*

**Response:**

The Lake Range is a part of the Fox and Lake Range Herd Management Area (HMA). The horses that move between the Lake Range and the Pyramid Lake Indian Reservation cannot be controlled by the Bureau unless a barrier was placed between the two that is stronger than the existing fence. Because we cannot control the movement between the Reservation and the public land portion of the Lake Range, we must provide forage for those horses when they do use the public lands, so that we are not exceeding the carrying capacity for the Rodeo Creek Allotment.

7. **Comment:** **Livestock grazing systems have some merit, but past management systems were not adequately monitored. Phenology of bitterbrush and winterfat were not considered in the development of alternatives.**

**Response:**

The phenology of bitterbrush and winterfat were considered in the development of the proposed grazing system. Winterfat occurs on the winter use area. Most of the grazing is completed during the dormant stage of winterfat. Livestock are removed by May 31 of each year. Utilization of winterfat has been primarily slight with some moderate use during the evaluation. Winterfat is increasing throughout the winter use area and the trend for the winterfat sites is upward as discussed on page 21 of the Final Re-evaluation. The bitterbrush studies that have been conducted during the evaluation period and past bitterbrush studies on the allotment show that use is not being made on bitterbrush while the livestock are utilizing the Fox Range or spring/summer use area. Use on bitterbrush has occurred during the late fall and winter after livestock were removed from the spring/summer use area. The dominate scat found in the bitterbrush sites are from mule deer and wild horses. Due to the above analysis of monitoring data, the Bureau feels that the grazing system is appropriate for bitterbrush and winterfat as well as the general improvement in plant vigor, cover, wildlife habitat.

Based upon the data analysis, technical recommendations designed to attain resource objectives throughout the allotment were developed.

### Allotment Wide Multiple Use Objectives

#### A. Standards of Rangeland Health

The following are the Standards of Rangeland Health as developed in consultation with the Sierra Front-Northwest Great Basin Resource Advisory Council, other interested publics and approved by the Secretary of the Interior on February 12, 1997. The terms and conditions of this livestock grazing permit must be in conformance with these approved Standards and Guidelines.

1. Soil processes will be appropriate to soil type, climate and land form.
2. Riparian/wetland systems are in properly functioning condition.
3. Water quality criteria in Nevada or California State Law shall be achieved or maintained.
4. Populations and communities of native plant species and habitats for native animal species are healthy, productive and diverse.
5. Habitat conditions meet the life cycle requirements of special status species.

The specific multiple use objectives for the Rodeo Creek Allotment are:

#### B. Short Term

1. Utilization of key plants in wetland riparian habitat shall not exceed 50% except where adjusted by an approved activity plan. (WL-1.10)
2. Total utilization of antelope bitterbrush (PUTR2) shall not exceed 50% and 40% on quaking aspen (POTR5) except where adjusted by an approved activity plan. (WL-1.7 and WL-1.9)
3. Maintain an acceptable use level of 50% on the summer use area and 60% on the winter use area on the key forage species to provide a sustained yield.

#### B. Long Term

1. To have functioning stream riparian areas by maintaining a static to upward trend on the streambank riparian areas by the next evaluation period (2004).



The following are the stream riparian habitats that will be monitored for this objective:

- a. Rattlesnake Creek
- b. Rodeo Creek
- c. Bull Creek
- d. Smith Canyon Creek
- e. Wild Horse Canyon Creek

2. To have functioning lentic (springs, seeps, and meadows) riparian habitat by maintaining a static to upward trend on the springs, seeps, and meadows by the next evaluation period (2004).

The following are the lentic (springs, seeps, and meadows) riparian habitats that will be monitored for this objective:

- a. the two headwaters meadows of Rodeo Creek
- b. spring complex meadow in the upper end of Trail Canyon.

Objectives 3 - 7 listed below will be requantified upon completion of baseline data to Desired Plant Community Objectives for wildlife, wild horses, and livestock. All interested publics will be invited and encouraged to participate in the writing of these objectives.

3. Protect sage grouse strutting grounds and nesting wintering habitat and improve brooding habitat by:
  - a. Following NDOW's guidelines for Vegetal Control Programs in Sage Grouse Habitat in Nevada.
  - b. Maintain sagebrush canopy cover at 30% in sage grouse nesting and wintering areas where sagebrush does not exceed (3) feet in height.

Use the criteria listed on pages 40 and 41 of the final Rodeo Creek Re-evaluation and the site potentials to establish desired plant community objectives for sage grouse.

4. Manage, maintain, and improve public rangeland habitat condition to provide forage on a sustained yield basis, with an initial forage demand for big game of 177 AUMs for mule deer, 137 AUMs for pronghorn, and 150 AUMs for bighorn sheep by:
  - a. Improve or maintain Fox Range DY-1 (16,224 acres) mule deer habitat condition to good condition.
  - b. Improve or maintain Fox Range AY-5 (38,100 acres) pronghorn habitat to good condition.
  - c. Improve or maintain Fox Range BY-3 (32,530 acres) potential California bighorn habitat to 75% of optimum.

- d. Improve bitterbrush from severely hedged form class to lightly hedged form class.
- 5. Manage, maintain, and improve rangeland conditions to provide forage on a sustained yield basis with an initial stocking level of 6,462 AUMs.
- 6. Improve range/ecological condition from poor to fair on 162,458 acres, fair to food on 27,076 acres, good to excellent on 1,934 acres.
- 7. Manage, maintain, and improve public rangeland conditions to provide an initial level of 4,020 AUMS of forage on a sustained yield basis for 335 wild horses in the Fox and Lake Range Herd Management Area.
- 8. Maintain and improve the free-roaming behavior of wild horses and burros by:
  - a. protecting their home range.
  - b. assuring free access to water

D. Desired Plant Community (DPC) Objectives

Desired Plant Community objectives will be completed once the baseline data is completed. The following are the locations for key areas where DPC objectives will be completed.

1. Winter Use Area

- a. Empire Key Area    024XY004    Silty 4-8"P.Z.
  - 1) To maintain a static to upward trend.
  - 2) Represents the northern half of the winter use area.
  - 3) Expect to see an increase in bottlebrush squirreltail and to maintain budsage at its current level.
  - 4) Continue to run quadrat frequency and establish a double sampling and ocular transect.
- b. Three Mile Canyon Key Area    024XY002    Loamy 4-6" P.Z.
  - 1) To maintain a static to upward trend.
  - 2) Represents the southern half of the winter use area.
  - 3) Expect to see an increase in perennial grasses (bottlebrush squirreltail, Indian ricegrass, and bluegrass) and to maintain budsage at its current level.
  - 4) Continue to run quadrat frequency and establish a double sampling and ocular transect.

2. Spring/Summer Use Area

- a. 023XY037 Clay Slope 8-12"P.Z. within SWA F010
- 1) To maintain or improve the ecological condition of this site at mid seral.
  - 2) This is the dominant ecological site that represents the Spring/Summer Use Area (Fox Range). This area is within the potential yearlong bighorn sheep range (BY-3), mule deer yearlong range (DY-1), pronghorn yearlong range (AY-5). Wild horses use the area yearlong and livestock use the area during the summer months.
  - 3) Expect to see an increase in perennial grasses (bottlebrush squirreltail, bluebunch wheatgrass, Thurbers needlegrass, and bluegrass) and to maintain or increase forbs.
  - 4) Initiate a quadrat frequency transect, a double sampling transect along with an ocular transect and a photo point.
- b. 023XY039 Loamy Slope 10-14"P.Z. within SWA F031 or F012 in the Rattlesnake Canyon Area (utilization transect already established)
- 1) To maintain or improve the ecological condition of this site at mid seral.
  - 2) This is one of the two ecological sites that has the potential to have bitterbrush occurring on the site and bitterbrush is one of the key species identified on the allotment. This area is within the potential yearlong bighorn sheep range (BY-3), mule deer yearlong range (DY-1), pronghorn yearlong range (AY-5). Wild horses use the area yearlong and livestock use the area during the summer months.
  - 3) Expect to see bitterbrush maintained, the perennial grasses (bluebunch wheatgrass and Thurbers needlegrass) to increase, and the forbs maintained or increased on the site.
  - 4) Establish a macro-plot and conduct the appropriate amount of line intercept transects to determine cover.

## WILDLIFE MANAGEMENT

Based on the interpretation and analysis of the monitoring data, consultation with the interested public, and staff technical recommendations, no adjustments in wildlife use or numbers are necessary. Wildlife habitat will be managed as outlined in the Sonoma-Gerlach MFP III and in accordance with the short and long term objectives in this decision.

The draft re-evaluation was sent to interested parties. The permittee, NDOW, WHOA, and the Commission for the Preservation for Wild Horses submitted comments that were incorporated into the final re-evaluation document.

As a result of this process, my final decisions are:

## LIVESTOCK MANAGEMENT DECISION

### Carrying Capacity

The carrying capacity was determined using the potential stocking level calculation from BLM Technical Reference 4400-7. A weighted average utilization was calculated by use area using the moderate, heavy, and severe use classes. Moderate use was used because that is the desired utilization. Heavy and severe use classes were used because these are the two use classes that need to be reduced.

The winter and spring/summer use areas were determined by elevation, the vegetative communities, water availability, and distribution of animals.

On the winter use area, 60% desired average utilization by February 28 was used. The plants are dormant and this use will not effect the plant physiologically. This is also in conformance with the state's best management practices.

On the spring/summer use area, 50% desired average utilization by February 28 was used. The rationale for the 50% use level is to maintain or accelerate improvement in upland vegetation. 50% use on the grasses during the growing season does not hinder the plant physiologically and plant vigor should increase. Furthermore, a grass plant produces twice the volume of leaves that it needs to complete its growth functions and remain productive (vigor along with carbohydrate reserves are not depleted). Increased plant vigor means better protection to the soil surface and assures greater root volume.

The Land Use Plan ratio was then applied to the calculated potential actual use to determine the number of AUMs for livestock and wild horses. Calculations can be found in Appendix #2 of the Final Allotment Re-evaluation.

#### From:

Pasture	Numbers	Kind	Period of Use	Total # of AUMs of specified livestock grazing	Historical Suspended AUMs
Winter	485	cow/calf	11/01 - 04/30	2886	
Spring/Summer	485	cow/calf	05/01 - 10/31	2934	
Total				5820	3516



To:

Pasture	Numbers	Kind	Season of Use	Total # of AUMs of specified livestock grazing	Historical Suspended AUMs
Winter	438	cow/calf	11/01 - 04/30	2608	
Summer	485*	cow/calf	05/01 - 10/31	2934	
Total				5542	3516

\* Until monitoring documents resource objectives are being met, livestock numbers on the spring/summer use area will remain the same.

**Rationale:** Based on monitoring data, areas within the winter use area were exceeding the utilization objective, so numbers were adjusted downward. The calculated potential actual use for the spring/summer use area resulted in a potential increase in livestock numbers. To accelerate improvement in plant vigor and health, the number of livestock will remain the same until monitoring data shows that upland and riparian utilization objectives are being met and the range is progressing toward the desired plant communities.

### Grazing System

**From:** Turnout is made in the winter use area of the Rodeo Creek Allotment. The winter use area includes the eastern portion of the Rodeo Creek Allotment and that area east of the Fox Range to include the San Emidio Desert, the Lake Range, and the southern portion of the Black Rock Desert.

For the period 05/01 - 05/30 cattle will utilize the spring use area which includes the foothills of the Fox Range along both the east and west sides.

On 06/01 cattle will be moved into the summer use area which includes the high country of the Fox Range and will remain on the Fox Range until 10/31.

On 11/01 cattle will be moved back to the winter use area as described above and will remain there until 04/30.

**To:** Alternative 3 from the Final Allotment Re-evaluation. Alternative 3 is as follows: Develop a grazing system that would defer grazing until after seedripe (bluebunch wheatgrass, Thurbers needlegrass, and bottlebrush squirreltail) on part of the spring/summer use areas.

Turnout will be made in the winter use area of the Rodeo Creek Allotment from 03/01 to 04/30. The winter use area would continue to include that area east of the Fox Range to include the San Emidio Desert, the Lake Range, and the southern portion of the Black Rock Desert.

In years one and two for the spring/summer use area, start on the north end of the Fox Range and use the area from Cottonwood Basin to Bull Basin from 05/01 to 07/15. From 07/15 to 10/30 the cows would use from Bull Basin south to the Pyramid Lake Indian Reservation and the Pole Canyon Allotment Boundary Fence.

In years three and four, the cows would use from the Pyramid Lake Indian Reservation and the Pole Canyon Allotment Boundary fence north to Bull Basin from 05/01 to 07/15. From 07/15 to 10/30 the cows would use from Bull Basin north to Cottonwood Basin.

This system would continue to alternate the use in the spring/summer use area between the north and south portions of the allotment as described above.

Drift of 20 head into the other use areas will be acceptable, since no fencing will be built. Due to lack of fences to control livestock movement, the permittee will be notified if more than 20 head drift into the other areas and given reasonable time to remove.

**Rationale:** This grazing system is a treatment alternative for areas that have had heavy use of key forage species, low vigor in key species, and an undesirable plant composition. It should allow attainment of the short term utilization objectives and long term vegetative objectives by:

- 1) Hasten natural revegetation by improving plant vigor and permitting desirable species to produce seed.
- 2) Improve plant cover and hydrologic cover conditions and reduce soil loss.
- 3) Enhance wildlife habitat.

## Terms and Conditions

In accordance with 43 CFR 4130.2(a), 4130.2(b), 4130.3, 4130.3-1(a), and 4130.3-2, a new 10 year permits will be issued to reflect the terms and conditions of this decision. The following terms and conditions will be incorporated into the permittee's term permit and their annual authorizations via the grazing bill:

Grazing use will be in accordance with this grazing decision.

Salt and/or mineral blocks shall not be placed within one quarter (1/4) mile of springs, streams, meadows, or aspen stands without first consulting BLM personnel.

The permittee is required to perform normal maintenance on the range improvement projects which have been assigned to the permittee for maintenance responsibility.

Actual use will be submitted within 15 days of livestock being removed from each use area.

"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 immediate vicinity of the discovery and protect it from your activities for 30 days or until notified to proceed by the authorized officer."

The terms and conditions of this permit must be in conformance with the Standards and Guidelines for the Sierra Front-Northwest Great Basin Resource Advisory Council Area, approved by the Secretary of the Interior on the February 12, 1997.

## 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      | Changes in permitted use- The authorized officer shall periodically review the permitted use specified in a grazing permit or grazing lease and shall make changes in the permitted 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 of subpart 4180. These 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, or removed from these lands, in a manner consistent with multiple-use management.  |
| 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.  |

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 DECISION

Alternative 1 from the Rodeo Creek Final Allotment Re-Evaluation.

<u>Herd Management Area</u>	<u>75% of AML to AML</u>	<u>AUMS</u>
Fox and Lake Range		
Winter	23 to 31	276 to 372
Spring/Summer	130 to 173	1560 to 2076
TOTALS	153 to 204	1836 to 2448

This is based on gathering horses every three years. If gathering schedule changes these ranges may also change.

**Rationale:** Distribution and census data indicates that horses on the Fox and Lake Range are two distinct populations that have minimal interactions. The data also indicates that there has been a small yearlong resident population on the Lake Range, and that horses on the Fox Range stay within the livestock spring/summer use area and typically do not move off of the mountain onto the valley floor except for those years when extremely heavy snows occur. Since the Lake Range is contained within the livestock winter use area, and the Fox Range corresponds with the spring/summer livestock use area, calculation of carrying capacity and distribution of AUMS between livestock and wild horses is fairly straight forward. Once total carrying capacity was calculated for the winter and spring/summer livestock use areas, AUMS were then distributed to wild horses and livestock by using the ratios established in the LUP. This resulted in a total of 1,599 AUMs for wild horses in the livestock winter use area, and 2,076 AUMs in the Fox Range (spring/summer livestock use area) for wild horses. To ensure that adequate forage on a sustained yield basis is available for wild horses on the winter livestock use area, carrying capacity for the small yearlong resident population on the Lake Range was determined by using a 30% utilization level by November 1, which resulted in 372 AUMs (31 horses yearlong) for the small resident population. The remaining 1,227 AUMs available for wild horses in the livestock winter use area will not be

made available to any other users, but will be held for those winters where snow forces the Fox Range horses from the spring/summer livestock use area onto the valley floor (winter livestock use area). Since horses remain on the Fox Range yearlong except when extremely heavy snow occurs, and to ensure resource objectives are met, the 2,076 AUMs were distributed for use over a 12 month period.

#### **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 of the Bureau of Land Management will continue to monitor the Rodeo Creek Allotment to provide the necessary information to determine if the allotment specific objectives are being met under the new grazing strategy. An annual meeting with NDOW, BLM, the permittee, and other interested publics will be held 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 allotment is scheduled for re-evaluation in 2004.

### **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:

Assistant District Manager, Renewable Resources  
Bureau of Land Management, Winnemucca District  
5100 East Winnemucca Blvd.  
Winnemucca, NV 89445

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 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,

Assistant District Manager, Renewable Resources  
Bureau of Land Management, Winnemucca District  
5100 East 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 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 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, E-1712  
Sacramento, CA 95825-1890

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 questions, please contact Rich Adams at (702) 623-1500.

Sincerely yours,



Colin P. Christensen, Assistant District Manager  
Winnemucca District

CC: Richard Heap, NDOW           Z374101399  
Trout Unlimited, Sagebrush Chapter       Z374101400  
David W. Armstrong, PCA   Z374101401  
John Torvick   Z374101402  
Cathy Barcomb, Commission for the Preservation of Wild Horses   Z374101403  
Dawn Lappin, WHOA       Z374101404  
Desert Bighorn Council       Z374101405  
RCI   Z374101406  
Rose Strickland, Sierra Club       Z374101407