



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Winnemucca Field Office
5100 East Winnemucca Boulevard
Winnemucca, Nevada 89445
702-623-1500

In Reply Refer To:

(NV022.44)
4400.3

09-29-98 P02:46 IN

September 28, 1998

CERTIFIED MAIL NO.Z551575154
RETURN RECEIPT REQUESTED

**NOTICE OF FINAL MULTIPLE USE DECISION
FOR THE SOUTH ROCHESTER ALLOTMENT**

Pleasant Valley Ranch Inc.
P.O. Box 1677
Lovelock, NV 89419

Dear Richard Carter:

On July 1, 1998, the South Rochester Proposed Multiple Use Decision was mailed to all interested parties. We received comments from the Commission for the Preservation of Wild Horses. Comments are summarized below along with responses:

- 1) The Commission feels the practice of weight averaging "moderate use" with heavy and severe can dilute the resource impact of overuse.

Response:

BLM's upland vegetation goal is to not have utilization levels exceed the moderate use level (50% by the end of the growing season). Therefore, it is appropriate to include the acres mapped in the moderate use category in order to analyze and set proper stocking levels. Although, monitoring data did document a problem with animal distribution. The multiple use Decision is implementing changes in livestock management to deal with livestock distribution, including alternating turn-out locations and hauling water to areas with historically slight to no use.

South Rochester Allotment
Final Multiple Use Decision
September 28, 1998

m 9/28/98

- 2) The final evaluation Appendix IX did not disclose the allocation of available forage to wild horses.

Response:

Appendix IX Pages 32-36 outline the stocking rate calculations for horses within the HMA, showing the allocation to wild horses within the South Rochester Allotment.

The following are the multiple use management objectives under which management of the South Rochester Allotment will be monitored and evaluated.

Short Term Objectives

1. Upland utilization not to exceed 50% on Bottlebrush Squirreltail, Indian Ricegrass, Sandberg Bluegrass, and Winterfat by 2/28.
2. Riparian utilization on rush, sedge, and buffaloberry not to exceed 50% use by 2/28 in New York Canyon, Hughes Canyon, and Kitten Springs.

Long Term Objectives

1. The following areas have been chosen to represent and be monitored as desired plant communities because they represent livestock, wild horse, and wildlife (including antelope) areas.

- a. Kitten Springs - Mustang Spring Area (T26N, R36E, E½, Sec.34, & W½, Sec.35); SWA C434, a loamy 4" - 8" (27-13)

Maintain or improve the ecological condition between Kitten Springs and Mustang Spring in late seral condition. Maintain bluegrass at 15%, shadscale at 35%, bud sagebrush at 15%, gray molly kochia at 3%, and Nevada ephedra at 2%.

- b. Buena Vista Well Area (T26N, R36E, SW¼, Sec.30 and T26N, R36E, SW¼, Sec.33); SWA C433, a loamy 4" - 8" (27-13) and SWA C429 a stony slope 4" - 8" (27-19)

Maintain or improve the ecological condition in the loamy 4" - 8" at mid seral or better condition, and the stony slope 4" - 8" in late seral condition. Maintain shadscale at 35%, bud sagebrush at 6%, Bailey greasewood at 2%, seepweed at 3% in the loamy 4" - 8". Maintain the bluegrass at 3%, shadscale at 35%, bud sagebrush at 8%, Baileys greasewood at 23%, gray molly kochia at 3%, and seepweed at 3% in

the stony slope 4" - 8".

- c. Wild Horse Spring Area (T25N, R32E, SE¼, Sec.12); SWA C414, a gravelly loam 4" - 6" (27-18)

Maintain or improve the ecological site in late seral ecological condition. Maintain the bottlebrush squirreltail at 1%, shadscale at 28%, bud sagebrush at 12%, Bailey greasewood at 30%, seepweed at 1%, black greasewood at 3%.

2. General Habitat requirements of Sage Grouse

- a. The Western States Sage Grouse Committee presented a comprehensive guide to habitat requirements for sage grouse in their 1974 Guidelines for Habitat Protection in Sage Grouse Range (Report). In this report, habitat conditions observed most frequently, and which resulted in the highest success for sage grouse strutting, nesting, brood rearing, and wintering ranges in the west are summarized.

The following criteria were found to sustain the highest levels of use and success by sage grouse:

1) Strutting Habitat

Low sagebrush or brush free areas for strutting and nearby areas of sagebrush having 20-50% canopy cover for loafing.

2) Nesting Habitat

- a) Areas within 2 miles of strutting grounds.
- b) Sagebrush between 7 and 31 inches in height (optimum = 16 inches)
- c) Sagebrush canopy cover of 20-30% (optimum = 27%)

3) Brood Rearing Habitat

- a) Sagebrush canopy cover of 10-21% (optimum = 14%).
- b) High composition of forb species.
- c) Vigorous-available meadow vegetation in late summer and fall.

4) Winter Habitat

- a) Greater than 20% sagebrush canopy cover.

- b) Areas do not maintain high winter snow depth due to either elevation or topography.

In addition NDOW personnel cited various literature sources which indicated the importance of good understory growth beneath and surrounding the nest bush. Understory cover helps to conceal the nests from predation from the air and creates a microclimate around the nesting site.

3. Wild Horses

- a. Remove wild horses from checkerboard land HA's unless a cooperative agreement providing for the retention and protection of wild horses is consummated with the affected land owner(s) (WH&B 1.3).
- b. Remove wild horses to AML in the North Stillwaters HMA. Subsequent removals should be scheduled on a 3 year cycle.
- c. Maintain and improve the free-roaming behavior of wild horses by:
 - 1. protecting their home range
 - 2. assuring free access to water

Stillwater Range Habitat Management Plan Objectives

- 1. Monitor bighorn sheep habitat seasonally to determine actual habitat use.
- 2. Provide forage and cover annually to support mule deer on a yearlong basis.
- 3. Provide forage and cover annually to support bighorn sheep on a yearlong basis.

Standards and Guidelines

The following are the standards for rangeland health as developed in consultation with the Sierra Front-Northwest Great Basin Area Resource Advisory Council, other interested publics and approved by the Secretary of the Interior on February 12, 1997.

- 1. Soil processes will be appropriate to soil types, climate and land form.
- 2. Riparian/wetland systems are in proper 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.

WILDLIFE MANAGEMENT

Analysis of existing management of wildlife habitat does not indicate that current wildlife populations are contributing to the failure in meeting multiple use objectives. Therefore, no change in wildlife use is recommended at this time.

LIVESTOCK MANAGEMENT DECISION

Livestock carrying capacity was determined to be 8811 AUMs. However, I have decided to maintain the initial stocking level until it is determined, through monitoring, that short term objectives are being met for three consecutive years. At that time the initial stocking rate for livestock will be re-evaluated.

Grazing of South Rochester Allotment will remain as follows:

Permittee	Number	Kind	Season of Use	Total Pref.	Specif. Lvstk Use	Exch. of Use
Olagaray	700	S	04/1 to 04/24	1400	1400	0
Pleasant Valley Ranch	44	C	04/1 to 12/31	400	400	0
Sims	171	C	03/1 to 02/28	778	778	1269
Unionville Land & Cattle	141	C	04/1 to 01/31	1386	1386	28
Safford & Safford Land & Lvstk	124	C	04/15 to 10/14	0	0	746
Safford & Safford	27	C	04/1 to 11/30	0	0	215
TOTALS	700 507	S C		1400 2564	1400 2564	2258

GRAZING SYSTEM

Presently, there is no grazing system in place on the South Rochester Allotment. However, establishing a grazing strategy received the consensus of the group. I agree with this consensus. The system will incorporate a rotation of spring turnout areas for cattle so the same areas are not initially used each spring. This deferred grazing will result in a limited amount of rest in rotated areas each year. Areas of turnout will be determined by the BLM, the permittees, and other interested publics by observing the range at summer's end and just prior to spring turnout.

Sheep grazing will remain the same as it.

TERMS AND CONDITIONS

The following terms and conditions will be incorporated into the respective permittee's term permit and their annual authorizations via the grazing bill:

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

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.

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 after the end of the authorized grazing period.

Spring turnout areas will be determined prior to the turnout date.

"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, 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."

RATIONALE:

The carrying capacity calculations show that additional forage is available for livestock

grazing. However, short term utilization objectives have not been met in all cases. I do not want to authorize any increases in livestock use until the monitoring data shows that all objectives are being met all the time.

The benefits of rotating livestock use in maintaining and restoring healthy vegetative communities are well documented. However, the low potential productivity of many of the range sites on this allotment do not justify the expenditure of large sums of public funds on an elaborate grazing system with an extensive range improvement program. Additionally, the physical potential for developing additional waters is very limited. The limited number of relatively small projects identified in the evaluation and this document illustrate this point. For all of these reasons I decided to use a less formal approach to providing deferment from grazing.

The authorized sheep use is essentially a low impact trailing situation with the animals being herded and moved on a daily basis thereby negating the need for a rotation. The sheep are moved out of the allotment early enough in the year to provide for regrowth, seed set, and replenishment of root reserves.

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.
- 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.
- 4180.1 **Fundamentals of rangeland health** - The authorized officer shall take appropriate action under subparts 4110, 4120, 4130, and 4160 of this part as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the following conditions exist:
- (a) Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow

(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.

(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.

(d) Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species.

FUTURE MONITORING AND GRAZING ADJUSTMENT

The Winnemucca Field Office will continue to monitor the South Rochester Allotment to provide the necessary information to determine if the allotment specific objectives are being met under the new grazing strategy. The monitoring information will be analyzed in five years from issuance of the Final Multiple Use Decision. If the monitoring documents short term objectives are met, a formal re-evaluation would be done five years later. If short term objectives are not being met a re-evaluation would be completed at that time. The BLM, permittees, and interested publics will work cooperatively through the year 2010, on an annual basis to determine areas of turnout in regards to range condition.

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 Field Manager
Renewable Resources
Bureau of Land Management
5100 E. 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 MANAGEMENT DECISION

Wild horse carrying capacity was determined to be 1,512 AUMs or 126 horses. The wild horse numbers will be managed between 70 to 126 animals, a 45% range. The AML is based on a three year gather cycle. If the cycle is changed, then the management range could change. The HMA is scheduled to have a gather in 1999.

RATIONALE:

The Carrying capacity calculations show that more forage is available for horses than the initial stocking level allowed for in the Land Use Plan. However, wild horse numbers presently exceed the AML set in this document resulting in some short term objective not already being met. Therefore, a removal is justified. The ability to reach AML will be based on the Selective Removal Policy which at this time allows for the selective removal of 0-5 years of age.

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:

- | | |
|-------------|---|
| 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 animal immediately...

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 Field Manager
Renewable Resources
Bureau of Land Management
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, 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 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 Nadine Francis or Rich Adams at 702-623-1500.

Sincerely yours,



Acting for

Colin P. Christensen
Assistant Field Manager
Renewable Resources