

8/30/94



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
ELKO DISTRICT OFFICE
3900 E. IDAHO STREET
P.O. BOX 831
ELKO, NEVADA 89801

IN REPLY REFER TO:

4130/4400.4 (NV-015)

AUG 30 1994

CERTIFIED MAIL NO. Z 278 655 799
RETURN RECEIPT REQUESTED

Bertrand Paris and Sons
HC 33 Box 33840
Ely, NV 89301-9403

AREA MANAGER'S FINAL MULTIPLE USE DECISION
FOR THE WEST CHERRY CREEK ALLOTMENT

The Record of Decision for the Wells Environmental Impact Statement and the Resource Management Plan (RMP) was issued on July 16, 1985. These documents established the multiple use goals and objectives which guide management of the public lands on the West Cherry Creek Allotment. The Rangeland Program Summary (RPS) was issued on September 15, 1986, which further identified the allotment specific objectives for the West Cherry Creek Allotment.

As identified in the Wells RMP and the RPS, monitoring was established on the West Cherry Creek Allotment to determine if existing multiple uses for the allotment were consistent with attainment of the objectives established by the RMP. Since 1980, monitoring data has been collected and during the years 1993/94 this data was analyzed through the allotment evaluation process, to determine progress in meeting multiple use objectives for the West Cherry Creek Allotment, and to determine what changes in existing management are required in order to meet specific multiple use objectives for the allotment.

The Area Manager's Proposed Multiple Use Decision for the West Cherry Creek Allotment was issued on June 15, 1994. Protests were received from the Nevada Division of Wildlife (NDOW), the Commission for the Preservation of Wild Horses, and Wild Horse Organized Assistance (WHOA). The Bureau invited all affected interests to participate in a tour, on August 17, 1994, of the West Cherry Creek Allotment. The purpose of the tour was to allow for discussion and resolution/recommendations of the resource issues and problems identified through the allotment evaluation process. The permittees and NDOW participated in the tour.

After careful consideration of the protests received to the proposed multiple use decision and the issues discussed on the August 17th field tour, I have modified the final multiple use decision to include short term utilization objectives for key shrub species in the Taylor Canyon and Snow Creek Units. Mountain big sage, snowberry, low sage, and black sage comprise the dominant shrub component for those key area range sites being monitored.

In addition, language has been added to the final multiple use decision clarifying the purpose and objectives for construction of the riparian exclosures in the Taylor Canyon Unit.

Through the consultation, coordination, and cooperation process (CCC), your input as well as input from other affected interests has been considered in the allotment evaluation process. As a result of the evaluation conclusions and after consideration of input received through the CCC process, it has been determined that: 1) some of the multiple use objectives for the West Cherry Creek Allotment are not being met, 2) changes in current livestock grazing management and wild horse management are required, 3) existing management of wildlife has not contributed to non-attainment of multiple use objectives, and 4) deletions, modifications, and/or requantification of some allotment specific multiple use objectives are required as follows:

1. The following RPS objectives will no longer be evaluated as they have been attained and it is unnecessary to continue monitoring achievement of these objectives:
 - a. Improve livestock distribution on the west bench of the Cherry Creek Mountains.
 - b. Improve water distribution problems for domestic sheep in the Cherry Creek Mountains near Elko-White Pine County Line.
 - c. Develop an allotment management plan (AMP) to be signed in FY86.
 - d. Facilitate big game movements by modifying existing fences to Bureau standards where necessary.

2. The following Cherry Creek Habitat Management Plan (HMP) short-term objectives will no longer be evaluated because final evaluation of these short-term objectives was in 1992, however, the long-term objectives for riparian/aquatic habitat will continue to be evaluated:
 - a. Improve 1.5 miles of lower Taylor Creek from 36.9 percent to 48 percent of habitat optimum (30 percent improvement) within the short-term (by 1992).

NOTE: The HMP objective was written for all of lower Taylor Creek. The specific objective for the West Cherry Creek Allotment should read: "Improve the riparian/stream habitat condition of 0.9 mile of lower Taylor Creek by a minimum of 30 percent (from 1980 baseline data) within the short-term (by 1992)."
 - b. Complete one comprehensive study of the relict dace by 1992.
 - c. Improve 8.5 miles of Odgers Creek from 32.4 percent to 42.1 percent of habitat optimum (30 percent improvement) within the short-term (by 1992).

NOTE: The HMP objective was written for all of Odgers Creek. The specific objective for the West Cherry Creek Allotment should read: "Improve the riparian/stream habitat condition of 4.5 miles of Odgers Creek by a minimum of 30 percent (from 1980 baseline data) within the short-term (by 1992)."

Allotment management plan (AMP) and key area objectives were modified to show achievement by 2005. There is a need to standardize all of our objectives to the land use plan, thus final achievement of the objectives should be consistent with the term of the land use plan.

Key area utilization objectives were modified to allow for some flexibility. The implementation of the proposed grazing system will result in intensive livestock management to allow the native grasses to meet physiological requirements. An average utilization over a period of time will allow for some flexibility as some years may result in less use while others may be slightly higher based on the grazing treatment and variations in forage production. The same concept applies to the seedings. However, utilization figures on crested wheatgrass are slightly higher as studies on similar range sites have shown that 55 percent utilization levels will maintain the seeding production. Annual utilization on bitterbrush remains at 25 percent use by livestock to ensure that enough forage is left for deer during the winter. Maximum combined annual utilization by livestock and deer will remain at 45 percent.

The seeding production objectives were requantified to indicate carrying capacity levels in terms of AUMs versus acres/AUM. The seeding production objectives are largely tied to the carrying capacity for livestock, which is referred to in terms of AUMs. Therefore, requantifying these objectives will equate more directly with the production of AUMs instead of acres/AUM.

Monitoring studies will continue to be conducted and the effects of grazing will be evaluated periodically to determine if progress is being made in meeting the multiple use objectives. The West Cherry Creek Allotment will be reevaluated in Fiscal Year 1997. The reevaluation will specifically address sheep use in Taylor Canyon and Snow Creek Units as it relates to key area objectives established in this multiple use decision. A complete allotment reevaluation will be scheduled in accordance with priorities established in the Wells Resource Area Monitoring and Evaluation Schedule to determine progress in meeting multiple use objectives and to make any necessary adjustments as determined by monitoring studies. Refer to Appendix A for a complete list of multiple use objectives to be evaluated at the next allotment evaluation.

In addition to the above described changes to objectives, it is my final decision to implement the management actions identified below for livestock and wild horse management in the West Cherry Creek Allotment. The permittee has voluntarily implemented the livestock management actions for the 1994 grazing season prior to issuance of this Final Multiple Use Decision. The management actions identified for livestock and wild horses will be effective upon issuance of this Final Multiple Use Decision and subsequent appeal period. The West Cherry Creek AMP (approved May 19, 1986), combined with the management actions outlined in this decision, and the planned actions identified in the Cherry Creek HMP (approved September 29, 1987) will continue to be implemented.

LIVESTOCK GRAZING MANAGEMENT DECISION

Livestock grazing management actions to be implemented in the West Cherry Creek Allotment are identified below:

1. **Modify the existing AMP grazing system:** Refer to Appendix B for an outline of the grazing system.

The grazing system will allow for:

-deferred use until 5/25 in the Dry Troughs Bench Unit. The development of waters in this unit will also allow for use later in the season. Authorized use in the Dry Troughs Bench will not extend beyond 10/25 for sheep and 9/30 for cattle.

-deferred use until 6/15 in the Snow Creek Unit. The development of waters will allow for use later into the season, avoiding the early part of the growing season. Sheep will remain in the Snow Creek Unit until water from snow is no longer available.

-a rest-rotation system for cattle and a deferred rotation system for sheep in the Taylor Canyon Unit in order to improve forage diversity on seasonal mule deer habitat and riparian areas. Sheep use in Taylor Canyon will not be allowed prior to 7/1.

-deferred use until 8/1 on Odgers Creek.

Rationale. The Dry Troughs Bench Unit is not only used by livestock, but is also crucial deer winter range. Use on Dry Troughs Bench in the early part of the season is basically on the native range adjacent to the seeding that the sheep are lambing in. As the sheep drop their lambs they are sorted and moved to Dry Troughs Bench. This use in the past has resulted in use levels of no more than light use. Because Dry Troughs Bench is lower in elevation than Snow Creek Unit, phenologically, range readiness is earlier on Dry Troughs Bench. During this time of the year, there is abundant green forage and sheep are only grazing for a short period of time (approx. 2 weeks) resulting in light use.

Historic livestock use through mid-October has resulted in utilization of bitterbrush below objective levels. Therefore, the 10/25 maximum off-date should not conflict with management objectives for key browse species.

Use in the Snow Creek Unit will occur as long as snow is available for water, in order to defer use in Taylor Canyon. Therefore, use in the Snow Creek Unit will be largely dependent on weather conditions. The construction of the Cherry Creek Reservoir should allow for longer periods of use provided snow conditions are adequate. When water is no longer available, sheep will move into Taylor Canyon. However, use in Taylor Canyon will not occur prior to 7/1.

The Taylor Canyon area has shown a downward trend in summer mule deer habitat conditions since 1979. This decline can be attributed to heavy livestock use within terrestrial riparian habitat types combined with drought conditions. The same grazing cycle has been used year after year in the past and has partly contributed to the declining conditions. Heavy livestock use within aspen types, for example, has significantly affected desired age class structure and the ability of these habitat features to provide optimum cover and forage. Poor forage diversity is the most common limiting factor on mule deer summer range in the West Cherry Creek Allotment. An improvement of the overall average percent forb composition would significantly improve habitat conditions and meet big game habitat objectives, improve sage grouse and blue grouse nesting and brood rearing habitat, and improve range conditions within this portion of the West Cherry Creek Allotment.

With the trespass livestock problem resolved, deferred use after seed ripe should allow for improved conditions on Odgers Creek. Wild horse monitoring data will continue to be collected to determine wild horse use made prior to livestock turnout and combined wild horse and livestock use, in order to determine if further adjustments are necessary.

2. The total active preference will remain at 2674 AUMs (2661 active AUMs and 13 FFR AUMs). The total AUMs authorized by pasture, as outlined in the grazing system (Appendix B), is outlined below.

AUMs Authorized By Pasture.				
Pasture	1994	1995	1996	1997
Snow Creek	289	289	289	289
Dry Troughs Bench	230	230	230	230
Odgers Creek	385	385	385	385
Taylor Canyon	630	630	585	585
North-South Seeding	196	147	196	205
South-South Seeding	180	196	147	196
North Seeding	308	385	376	385
East Seeding	385	341	385	308
Far East Seeding	58	58	68	78
Fenced Federal Range	13	13	13	13
Total	2674	2674	2674	2674

Rationale. The post-evaluation carrying capacity results indicate that 3108 AUMs are available, 2881 AUMs for livestock and 227 AUMs for wild horses (refer to Table 24 of the West Cherry Creek Allotment Evaluation). However, because not all multiple use objectives have been attained, an increase in livestock active preference cannot be justified. The purpose of the seedings was to defer use on the native range (primarily Odgers Creek because of the presence of relict dace) until 8/1 each year. Increases in carrying capacity of the seedings will not result in increases in active preference, but rather increased use on seedings and reduced use, if not complete rest, on the native range.

3. **Re-define the boundary between Dry Troughs Bench and Snow Creek Units. The new boundary will be at the tree line (see Map 6 in the West Cherry Creek Allotment Evaluation). Although there is not much difference, it is a more realistic boundary.**

Rationale. There are no existing interior fences separating the Dry Troughs Bench and Snow Creek Units. The current existing boundary is a line across the bench, connecting the water troughs. (Refer to Map 6 in the West Cherry Creek Allotment Evaluation.)

The uncertainty of where the permittee defines the boundary and reports his actual use and where BLM defines the boundary and interprets the reported actual use has led to problems in over-estimating and under-estimating use in both units.

Re-defining the boundary and ensuring that actual use reports are as accurate as possible will help in better interpretation of the data. This, along with monitoring data will allow for a more accurate carrying capacity level to be established for the Dry Troughs Bench Unit.

In addition, the boundary change will place KA-01 (Upper Dry Troughs) in the Dry Troughs Bench Unit, which will be deferred until 5/25.

4. **In addition to continued implementation of the West Cherry Creek AMP, the following terms and conditions will be added to the term grazing permit:**

"Authorized grazing use will be in accordance with the West Cherry Creek AMP, as amended by the Area Manager's Final Multiple Use Decision for the West Cherry Creek Allotment dated _____."

"An actual grazing use report, showing use by pasture and kind of livestock, must be submitted within 15 days from the last day of scheduled use."

"Supplemental feeding is limited to salt, mineral, and protein supplements in block, granular or liquid form. Such supplements must be placed at least $\frac{1}{4}$ mile from live waters (springs, streams, and troughs), wet or dry meadows, and aspen stands."

"All riparian enclosures, including spring development enclosures, are closed to livestock use unless specifically authorized in writing by the Wells Resource Area Manager."

"The numbers of livestock to be grazed will remain flexible according to the needs of the permittee. The grazing system is based on the maximum number of AUMs that may be removed from each pasture and the grazing treatments. Livestock numbers and periods of use will be applied for on an annual basis. The entire active grazing preference will be paid in advance. Reconciliation of payment will be made based on submitted actual grazing use report."

"Deviations from the grazing system will be allowed to meet the needs of the resources and the permittee as long as these deviations are consistent with multiple use objectives. Deviations beyond the limits of the flexibility outlined in the AMP, including deviations in the turnout date and grazing system, will require an application and written authorization from the Wells Resource Area Manager prior to grazing use."

The request must be applied for in writing, at least five working days prior to the proposed implementation date. The BLM will respond to such an application within five working days of receipt."

"No livestock use (except trailing) will be allowed along lower Taylor Creek. Livestock will be gathered from Taylor Canyon and trailed directly to the next scheduled pasture, rather than be allowed to drift into lower Taylor Creek. If control of livestock use in this manner cannot be accomplished, corridor fences will be constructed as originally proposed in the HMP and AMP."

"No sheep bedding areas will be allowed within riparian zones including springs, streams, wet or dry meadows or within aspen stands."

"All available waters within a scheduled use pasture will be used to ensure proper distribution by livestock."

Rationale. An evaluation of current grazing management practices has indicated multiple use objectives have not been achieved and changes are necessary.

Actual use is essential to the monitoring effort.

Supplemental feed and its location is important to proper livestock distribution and range management.

The permittee is afforded flexibility in his operation in order to adjust to range readiness, climatic conditions, and annual fluctuations in his livestock operation. The AMP allows for reconciliation of grazing use at the end of the grazing season.

Livestock use along Taylor Creek and Odgers Creek must be limited to achieve riparian/stream habitat objectives. Continued implementation of the AMP will help achieve these objectives.

Corridor fences were proposed along a portion of lower Taylor Creek. With construction of the new allotment boundary fence and proper movement/trailing of livestock, improvement of the riparian/stream habitat for this portion of Taylor Creek can be accomplished without fencing. This would meet the riparian/stream habitat objective for Taylor Creek within the West Cherry Creek Allotment.

Excessive livestock use within terrestrial riparian habitats has led to declining conditions on mule deer fawning areas and summer habitat. Limiting use in these crucial areas, along with deferment as per the selected grazing system, should improve current conditions.

Using all available waters within a pasture will ensure proper livestock distribution.

5. Establish additional key areas to monitor livestock use in the following locations:

- slopes of the Snow Creek Unit,
- aspen type communities in Taylor Canyon,
- and, upland browse communities in Taylor Canyon.

Utilization of the upland browse species and aspen will not exceed 45% combined livestock and wildlife use. The percent allowable use by livestock will be determined in future evaluations. The key species will be determined when key areas are established.

Rationale. Another key area in the Snow Creek Unit is needed to monitor sheep use on the slopes, including use on browse species. One of the existing key areas (KA-01) in the Snow Creek Unit will be within the Dry Troughs Bench Unit upon adjustment of the boundary between the two units.

Establishing a key area in the aspen type communities will monitor these deer crucial areas and ensure that wildlife objectives are being met.

Monitoring utilization of the upland browse communities, in addition to current monitoring efforts, will help to determine the extent of use made on key browse species and allow for identification of problem areas of these species that may lead to potential wildlife conflicts.

Minimal monitoring of the browse species exists in Taylor Canyon and Snow Creek Units. Utilization levels by kind of animal (livestock or wildlife) will be established upon determination of the extent of use being made. A reevaluation in Fiscal Year 1997 will allow for analysis of monitoring data collected.

6. In addition to the key forage species currently being monitored at KA-04, KA-05, and KA-06, the browse species listed below will also be monitored. The maximum combined utilization by livestock and wildlife at the end of the grazing season will be limited to 45 percent.

Snow Creek Unit -	KA-04	ARVA2 and SYMPH
Mustang Spring Subunit -	KA-05	ARAR8 and ARARN
Main Camp Spring Subunit -	KA-06	ARVA2 and SYMPH

SPP. CODE	SCIENTIFIC NAME	COMMON NAME
ARAR8	<i>Artemisia arbuscula</i>	Low sagebrush
ARARN	<i>Artemisia arbuscula nova</i>	Black sagebrush
ARVA2	<i>Artemisia vaseyana</i>	Mountain big sage
SYMPH	<i>Symphoricarpos spp.</i>	Snowberry

Rationale. The allotment evaluation process identified utilization of the key shrubs by livestock, particularly sheep, as a potential conflict with maintaining optimal seasonal habitat conditions for mule deer. Monitoring utilization for these shrub species at established key areas and through use pattern mapping will identify conflicts and support any necessary adjustments in livestock season of use and/or stocking levels.

7. Evaluate the two exclosures in Odgers Creek and one exclosure in Taylor Canyon in 1995 to determine if good or excellent riparian/stream habitat condition has been achieved (Project #5205 - Odgers Creek Exclosures 2 & 4 and Project #5703 - Taylor Creek Exclosure). Upon achievement of good or excellent condition, a determination to allow livestock use in a manner consistent with maintenance of good or excellent riparian/stream habitat condition will be made. Written authorization and adherence to any special terms and conditions will be required before use is made.

Rationale. The exclosures in Odgers Creek were constructed in 1986. Available monitoring data indicates that progress has been made toward attaining the riparian/stream habitat objectives within the exclosures. Upon attainment of these objectives, light use levels by livestock (30 head herd) may be allowed and still maintain good or excellent riparian/stream habitat conditions.

The Taylor Creek Exclosure was constructed in 1989 to expedite the recovery process of the creek after the unauthorized channelization and rehabilitation work. Upon attainment of the riparian/stream habitat objectives within the exclosure, light use levels by livestock (30 head herd) may be allowed and still maintain good or excellent riparian/stream habitat conditions.

8. Complete at least 3 spring enhancement/development projects within the aspen type communities around Main Camp Spring and Tent Spring by 1996. Completion of these projects will be contingent upon available funding and manpower.

Additional spring enhancement/development projects will be completed as needs are determined and funding becomes available.

Upon completion of these projects, they will be evaluated in conjunction with other riparian studies on the allotment to determine what progress is being made toward achieving good or excellent riparian conditions. Upon attainment of good or excellent riparian conditions, evaluate the option to graze within the exclosures.

Rationale. Completion of these projects will help achieve the general land use plan objective to eliminate terrestrial riparian conflicts in conjunction with other uses and the wildlife habitat improvement objectives identified for the West Cherry Creek Allotment. Fencing and/or development of these areas will: 1) improve overall riparian habitat condition, 2) allow for regeneration of the associated aspen community, and 3) improve quality and quantity of water available for livestock, wildlife, and wild horses.

Authority for the actions described in this decision is found in 43 CFR Parts 4100.0-8, 4120.2, 4130.6, 4130.6-1(a), 4130.6-2, 4130.6-3, and 4160.3.

If you wish to appeal this decision for the purpose of a hearing before an Administrative Law Judge, in accordance with 43 CFR 4.470 and 43 CFR 4160.4, you are allowed thirty (30) days from receipt of this notice within which to file such an appeal with the Wells Resource Area Manager, Elko District, Bureau of Land Management, P.O. Box 831, Elko, Nevada, 89803.

An appeal should be in writing and specify the reasons, clearly and concisely, as to why you think the decision is in error.

WILD HORSE AND BURRO MANAGEMENT DECISION

It has been determined through monitoring that in order to maintain a thriving ecological balance for that portion of the Maverick-Medicine Herd Management Area (HMA) which occurs in the West Cherry Creek Allotment, it is necessary to implement the following actions:

1. Reduce to and maintain the Maverick-Medicine HMA to an initial herd size of 332 as per the Wells RMP Wild Horse Amendment. This will allow for an initial AML of 33 wild horses in the West Cherry Creek Allotment (227 AUMs).

Rationale. As per the Wells RMP Wild Horse Amendment, wild horses will be reduced to initial herd size within the HMAs. As per Bureau policy, upon establishing an AML for each HMA, wild horses will be removed every three years and herds maintained at AML. The most recent recalculations of wild horse monitoring data indicate that the initial herd size of 389 wild horses for the Maverick-Medicine HMA needs to be adjusted to 332 to ensure the initial AML of 33 within the West Cherry Creek Allotment.

Through seasonal distribution flights, it was determined that an average of 23 percent of the wild horses in the Maverick-Medicine HMA use the West Cherry Creek Allotment. The carrying capacity in the pastures used most by wild horses was proportioned based on their demand for forage. The data indicated that based on this proportion, 227 AUMs (or 33 horses for 7 months at 96 percent public land) were available for wild horses.

2. **Continue to gather seasonal distribution data on the Maverick-Medicine HMA.**

Rationale. In 1991, intensive seasonal distribution flights were begun within the Wells Resource Area. These census flights have provided valuable information on wild horse movements and should continue until monitoring data indicates that the appropriate management level has been attained. Monitoring will be increased by establishing additional key areas after the Maverick-Medicine HMA is reduced to initial herd size.

3. **Establish 2 additional key areas to monitor wild horse use in the following locations:**

- Denton Canyon area, and
- on the west side of Odgers Creek.

Rationale. A key area in Denton Canyon would provide strictly wild horse utilization data. The furthest north that sheep use the Taylor Canyon area is around Mustang and Trough Springs. Sheep use in the Mustang and Trough Springs area is usually limited by the amount of water in the springs. From 1989 to 1992, use by sheep was very limited due to drought conditions and dried up springs. Denton Canyon is located north of Mustang and Trough Springs and thus would provide only wild horse use.

A key area on the west side of Odgers Creek would monitor strictly wild horse utilization data. This area is not readily used by livestock due to the lack of water. However, wild horses do readily use this area as they come off the Medicine Range to water in Odgers Creek.

Authority for the actions described in this decision is found in Section 3 (a) and (b) of the Wild Free-Roaming Horse and Burro Act, as amended, and 43 CFR Parts 4700.0-6(a) and (d), 4710.4, and 4720.1.

Within 30 days of receipt of this decision, you have the right of appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.4. If an appeal is taken, you must follow the procedures outlined in the enclosed Form NV 1840-2, Information on Taking Appeals to the Board of Land Appeals. Within 30 days after you appeal, you are required to provide a Statement of Reasons to the Board of Land Appeals and a copy to the Regional Solicitor's Office listed in Item 2 on the form. Please provide this office with a copy of your Statement of Reasons. Copies of your appeal and the Statement of Reasons must also be served upon any parties adversely affected by this decision. The appellant has the burden of showing that the decision appealed from is in error.

In addition, within 30 days of receipt of this decision you have the right to file a petition for a stay (suspension) of the decision together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties specified above. The appellant has the burden of proof to demonstrate that a stay should be granted.

An appeal should be in writing and specify the reasons, clearly and concisely, as to why you think the decision is in error.

Sincerely yours,



BILL BAKER, Manager
Wells Resource Area

Enclosures:

Appendix A
Appendix B
Form NV 1840-2 (Information on Taking Appeals to the Board of Land Appeals)

cc: NV Division of Wildlife
Farm Credit Services
Cliff Gardner
HTT Resource Advisors
U.S. Fish and Wildlife Service
Nevada Land Action Association
Louise Lear, et. al.
Nevada Department of Agriculture
The Nature Conservancy
Jim Mulcahy
Natural Resources Defense Council
Sierra Club - Toiyabe Chapter
Commission for the Preservation of Wild Horses
Animal Protection Institute
Rutgers Law School
Wells Resource Area Grazing Association
Wild Horse Organized Assistance

APPENDIX A

Allotment Management Objectives

1. General Land Use Plan (LUP) Objectives:

- a. Provide for livestock grazing consistent with other resource uses.
- b. Continue management of the existing wild horse herds consistent with other resource uses.
- c. Conserve and/or enhance wildlife habitat to the maximum extent possible.
- d. Eliminate all of the fencing hazards in crucial big game habitat and most of the fencing hazards in non-crucial big game habitat.
- e. Eliminate all of the high and medium priority terrestrial riparian habitat conflicts in coordination with other resource uses.
- f. Improve high and medium priority riparian/stream habitat to at least good condition.
- g. Prevent undue degradation of all riparian/stream habitat due to other uses.

2. Rangeland Program Summary (RPS) Objectives

- a. Improve ecological status in the Dry Troughs Bench Unit and Taylor Canyon Unit (Main Camp Spring Area).
- b. Maintain or improve ecological status in the Snow Creek Unit (including Dry Trough-Upland), Odgers Creek Unit, and Taylor Canyon Unit (Mustang Spring Area).
- c. Manage for a wild horse herd size which will maintain a thriving ecological balance consistent with other multiple uses while remaining within the wild horse herd management area.

NOTE: The original AMP objective read "Ensure that wild horse populations are managed at the 1981 levels as per the Wells RMP/EIS." However, IBLA rendered a decision which clarified that a wild horse herd size is to be established based on the concept of maintaining a thriving ecological balance, thus the objective was reworded.

- d. Improve or maintain all seasonal big game habitat in the West Cherry Creek Allotment to good or excellent condition to provide forage and habitat capable of supporting the following reasonable numbers by 2005:
1,717 mule deer: 2,294 AUMs
- e. Improve, enhance, or develop 2 springs in the West Cherry Creek Allotment to good or excellent condition.
- f. Improve crucial deer winter habitat by:
 - cutting (thinning) 3,000 acres of pinyon and juniper.
 - chaining or burning and seeding 250 acres of pinyon, juniper, and sagebrush.
- g. Improve riparian/stream habitat to good or better condition on Taylor Creek and Odgers Creek by 2005.

3. **Cherry Creek Habitat Management Plan (HMP) Objectives**

- a. Improve to or maintain in at least good condition all deer use areas in the Cherry Creek Resource Conflict Area (RCA) by 2000.
- b. Increase the combined percentage of seedlings and young plants in the Cherry Creek bitterbrush population to 10 percent by 2000.
- c. Achieve annual utilization of the Cherry Creek bitterbrush population which does not exceed 45 percent of twig length by 2000 (maximum of 25 percent for livestock).
- d. Maintain or increase the foliar coverage of the Cherry Creek bitterbrush population by 2000.
- e. Improve 1.5 miles of lower Taylor Creek from 36.9 percent to at least 60 percent of habitat optimum (good condition) within the long-term (by 2000).

NOTE: The HMP objective was written for all of lower Taylor Creek. The specific objective for the West Cherry Creek Allotment should read: "Improve the riparian/stream habitat condition of 0.9 mile of lower Taylor Creek to good or better condition (60 percent or more of habitat optimum) in the long-term (by 2000)."

- f. Improve 8.5 miles of Odgers Creek from 32.4 percent to at least 60 percent of habitat optimum (good condition) within the long-term (by 2000).

NOTE: The HMP objective was written for all of Odgers Creek. The specific objective for the West Cherry Creek Allotment should read: "Improve the riparian/stream habitat condition of 4.5 miles of Odgers Creek to good or better condition (60 percent or more of habitat optimum) in the long-term (by 2000)."

- g. Improve 25 springs and wet meadows, presently in poor or fair condition, to good or excellent condition by 2000.

NOTE: Two springs are to be improved within the West Cherry Creek Allotment.

4. **Allotment Management Plan (AMP) Objectives**

- a. Maintain or improve the ecological status of all key areas to late seral by 2005.
- b. Show a significant increase in percent frequency of occurrence of key species, as defined by Duncan's Multiple Range Test, by 2005.
- c. Manage for a wild horse herd size which will maintain a thriving ecological balance consistent with other multiple uses while remaining within the wild horse herd management area.

NOTE: The original AMP objective read "Ensure that wild horse populations are managed at the 1981 levels as per the Wells RMP/EIS." However, IBLA rendered a decision which clarified that a wild horse herd size is to be established based on the concept of maintaining a thriving ecological balance, thus the objective was reworded.

- d. Maintain good or excellent habitat condition ratings in deer summer ranges in the Cherry Creek Mountains.
- e. Improve the habitat condition rating for the deer winter range from the current rating of fair to good by 2005.

f. Maintain the current good riparian habitat condition ratings along Taylor Creek and improve the aquatic habitat condition rating from poor to good by 2005.

g. Improve current poor aquatic and riparian habitat condition ratings on Odgers Creek to good condition by 2005.

5. Key Area Objectives

a. Maintain or improve current late seral stage by 2005.

Key Area	1984 (baseline data) ¹	1989 ¹
KA-01	53	40
KA-03	58	29
KA-04	52	41
KA-05	56 ²	53
¹ Percent of range site potential. ² Baseline data read in 1985.		

b. Improve from current mid to late seral stage by 2005.

Key Area	1984 (baseline data) ¹	1989 ¹
KA-02	47	49
KA-06	49	35
¹ Percent of range site potential.		

c. Manage the seedings to provide at least the following AUMs of forage.

Seeding	Key Area	AUMs
East Sdg	KA-07	397
	KA-08	
Far East Sdg	KA-09	70
North Sdg	KA-10	423
	KA-11	
North-South Sdg	KA-12	213
South-South Sdg	KA-13	225

d. Manage grazing to obtain an average utilization of 50 percent on all native grass species, while never exceeding 60 percent in any single year. The seedings will be managed to obtain an average utilization of 55 percent on crested wheatgrass, while never exceeding 65 percent in any single year. The maximum allowable use by livestock on PUTR2 is 25 percent and the maximum allowable combined use by livestock and deer is 45 percent in any single year. The maximum allowable combined use by livestock and wildlife on the upland browse communities is 45 percent in any single year. The key species to be monitored at each key area are as follows:

Key Area	Key Spp.	Key Area	Key Spp.
KA-01	AGSP	KA-05 ¹	AGSP
	ORHY		POSC
	POSC		STLE4
	PUTR2		ARAR8
KA-02	AGSP	KA-06	ARARN
	ORHY		AGSP
	POSC		STCO3
			HEKI
KA-04	STLE4	KA-07	AGCR
	STCO3	KA-08	AGCR
	AGOSE	KA-09	AGCR
	ERIOG	KA-10	AGCR
	ARVA2	KA-11	AGCR
	SYMPH	KA-12	AGCR
	KA-13	AGCR	

¹ Odgers Creek (KA-03) and Taylor Canyon, Mustang Spring Subunit (KA-05) will be read prior to livestock turnout (wild horse use only) and when livestock leave the area (combined wild horse and livestock use).

GRAZING SYSTEM FOR THE CATTLE OPERATION ON THE WEST CHERRY CREEK ALLOTMENT.

APPENDIX B

PASTURE	1994	1995	1996	1997	1998
North Seeding	Rest	200 c 5/1-6/30 (385)	50 c 10/1-10/31 (49) 30 c 7/11-9/30 (78)	200 c 6/1-7/31 (385)	Repeat Cycle
East Seeding	200 c 5/1-6/30 (385)	50 c 10/1-10/31 (49) 30 c 5/1-6/15 (43)	200 c 6/1-7/31 (385)	REST	
N-South Seeding	200 c 7/1-7/31 (196)	REST	200 c 5/1-5/31 (196)	50 c 10/1-10/31 (49) 30 c 5/1-7/10 (68)	
S-South Seeding	50 c 10/1-10/31 (49) 30 c 5/1-6/15 (43)	200 c 7/1-7/31 (196)	REST	200 c 5/1-5/31 (196)	
Far East Seeding	30 c 6/16-8/15 (58)	30 c 6/16-8/15 (58)	30 c 5/1-7/10 (68)	30 c 7/11-9/30 (78)	
Taylor Canyon	30 c 8/16-9/30 (45)	30 c 8/16-9/30 (45)	30 c REST	30 c REST	
Dry Troughs Bench	50 c 8/1-9/30 (85)	(Annual Use)			
Odgers Creek	150 c 8/1-9/30 (385)	(Annual Use)			
Total AUMs	(1246)	(1246)	(1246)	(1246)	

Legend: 200 c 8/1-9/30 (385)
 (# livak & kind) (Period of Use) (AUMs)

Taylor Canyon will receive two consecutive years of rest every four years by the 30 head of cattle. Use will be authorized after 8/15.

The native range (Dry Troughs Bench and Odgers Creek) will be deferred from cattle use until 8/1.

Cattle will come off all the native range by 9/30 annually. Any authorized use after 9/30 will be in the seedings.

All available waters within a scheduled pasture will be used to ensure proper distribution by livestock.

The numbers of livestock to be grazed will remain flexible according to the needs of the permittee. The grazing system is based on the maximum number of AUMs that may be removed from each pasture and the grazing treatments. Livestock numbers and periods of use will be applied for on an annual basis.

The grazing cycle will be repeated in 1998.

GRAZING SYSTEM FOR THE SHEEP OPERATION ON THE WEST CHERRY CREEK ALLOTMENT.

APPENDIX B (con't)

Pasture	1994	1995	1996	1997	1998
North Seeding	1800 s 5/1-5/14 (147) 1500 s 5/15-5/31 (161)	REST	1500 s 5/15-5/31 (161) 1000 s 6/1-6/14 (88)	REST	Repeat Cycle
East Seeding	REST	1500 s 5/15-5/31 (161) 1000 s 6/1-6/14 (88)	REST	1800 s 5/1-5/14 (147) 1500 s 5/15-5/31 (161)	
N-South Seeding	REST	1800 s 5/1-5/14 (147)	REST	1000 s 6/1-6/14 (88)	
S-South Seeding	1000 s 6/1-6/14 (88)	REST	1800 s 5/1-5/14 (147)	REST	
Taylor Canyon	1000 s 7/1-9/30 (585) <small>Main Camp deferred until 8/1.</small>	1000 s 7/1-9/30 (585) <small>Main Camp deferred until 8/1.</small>	1000 s 7/1-9/30 (585) <small>Mustang Spring deferred until 8/1.</small>	1000 s 7/1-9/30 (585) <small>Mustang Spring deferred until 8/1.</small>	
Dry Troughs Bench	1000 s 5/25-6/15 (100) 1000 s 10/1-10/25 (45)	(Annual Use)			
Snow Creek	1000 s 6/15-9/30 (289)	(Annual Use)			
Total AUMs	(1415)	(1415)	(1415)	(1415)	

Grazing Treatment for Taylor Canyon:

Taylor Canyon Unit will be divided into 2 subunits; Main Camp Spring and Mustang Spring. In 1994 and 1995, use in Main Camp Spring will be deferred until 8/1. When moving sheep into Taylor Canyon, 2 days use will be allowed in Main Camp Spring for watering, then sheep must be moved into Mustang Spring Subunit. Use after 8/1 will be allowed in both Main Camp Spring and Mustang Spring Subunits.

In 1996 and 1997, use in Mustang Spring will be deferred until 8/1. Use after 8/1 will be allowed in both Main Camp Spring and Mustang Spring Subunits.

There are 275 AUMs available in Main Camp Spring and 355 AUMs available in Mustang Spring, i.e. combined cattle and sheep AUMs.

Dry Troughs Bench will be deferred from sheep use until 5/25, Snow Creek will be deferred until 6/15, and Taylor Canyon will be deferred until 7/1. Sheep use from 5/1-5/25 will be in the seedings.

Sheep use in the Snow Creek Unit will occur as long as snow is available for water.

Sheep use on Taylor Canyon will be limited from 7/1-9/30 annually.

No camps or sheep bedding areas will be allowed within 1/4 mile of lives waters (springs, streams, and troughs), wet and dry meadows, including aspen stands.

The numbers of livestock to be grazed will remain flexible according to the needs of the permittee. The grazing system is based on the maximum number of AUMs that may be removed from each pasture and the grazing treatments. Livestock numbers and periods of use will be applied for on an annual basis.

The grazing cycle will be repeated in 1998.



UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
ELKO DISTRICT OFFICE



INFORMATION ON TAKING APPEALS TO THE BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES **MUST** BE FOLLOWED:

1. NOTICE OF APPEAL

Within 30 days file a **NOTICE OF APPEAL** in the office which issued this decision (SEE 43CFR SECS. 4.411 AND 4.413). You may state your reasons for appealing, if you desire.

2. WHERE TO FILE NOTICE OF APPEAL:

BUREAU OF LAND MANAGEMENT
ELKO DISTRICT OFFICE
P.O. Box 831
ELKO, NEVADA 89803

and a copy to

REGIONAL SOLICITOR PACIFIC SOUTHWEST REGION
US DEPARTMENT OF THE INTERIOR
2800 COTTAGE WAY
SACRAMENTO, CALIFORNIA 95825

3. STATEMENT OF REASONS

Within 30 days after filing the **NOTICE OF APPEAL**, file a **COMPLETE** statement of the reasons why you are appealing. This must be filed with the

UNITED STATES DEPARTMENT OF THE INTERIOR.
OFFICE OF THE SECRETARY, BOARD OF LAND APPEALS,
4015 WILSON BLVD.,
ARLINGTON, VIRGINIA 22203

(SEE 43 CFR SEC. 4.412 AND 4.413). If you fully stated your reasons for appealing when filing the **NOTICE OF APPEAL**, no additional statement is necessary. **ALSO SEND A COPY TO REGIONAL SOLICITOR.**

4. ADVERSE PARTIES

Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor must be served with a copy of:

- A. THE **NOTICE OF APPEAL**
- B. THE STATEMENT OF REASONS, AND
- C. ANY OTHER DOCUMENT FILED (SEE 43 CFR SEC. 4.413).

5. PROOF OF SERVICE

Within 15 days after any document is served on an adverse party, file proof of that service with the BOARD OF LAND APPEALS, at the above address. This may consist of a certified or registered mail "return receipt card" signed by the adverse party (SEE 43 CFR SEC. 4.401(C)(2)).

UNLESS THESE PROCEDURES ARE FOLLOWED YOUR APPEAL WILL BE SUBJECT TO DISMISSAL (SEE 43 CFR SEC. 4.402). Be certain that all communications are identified by serial number of the case being appealed.

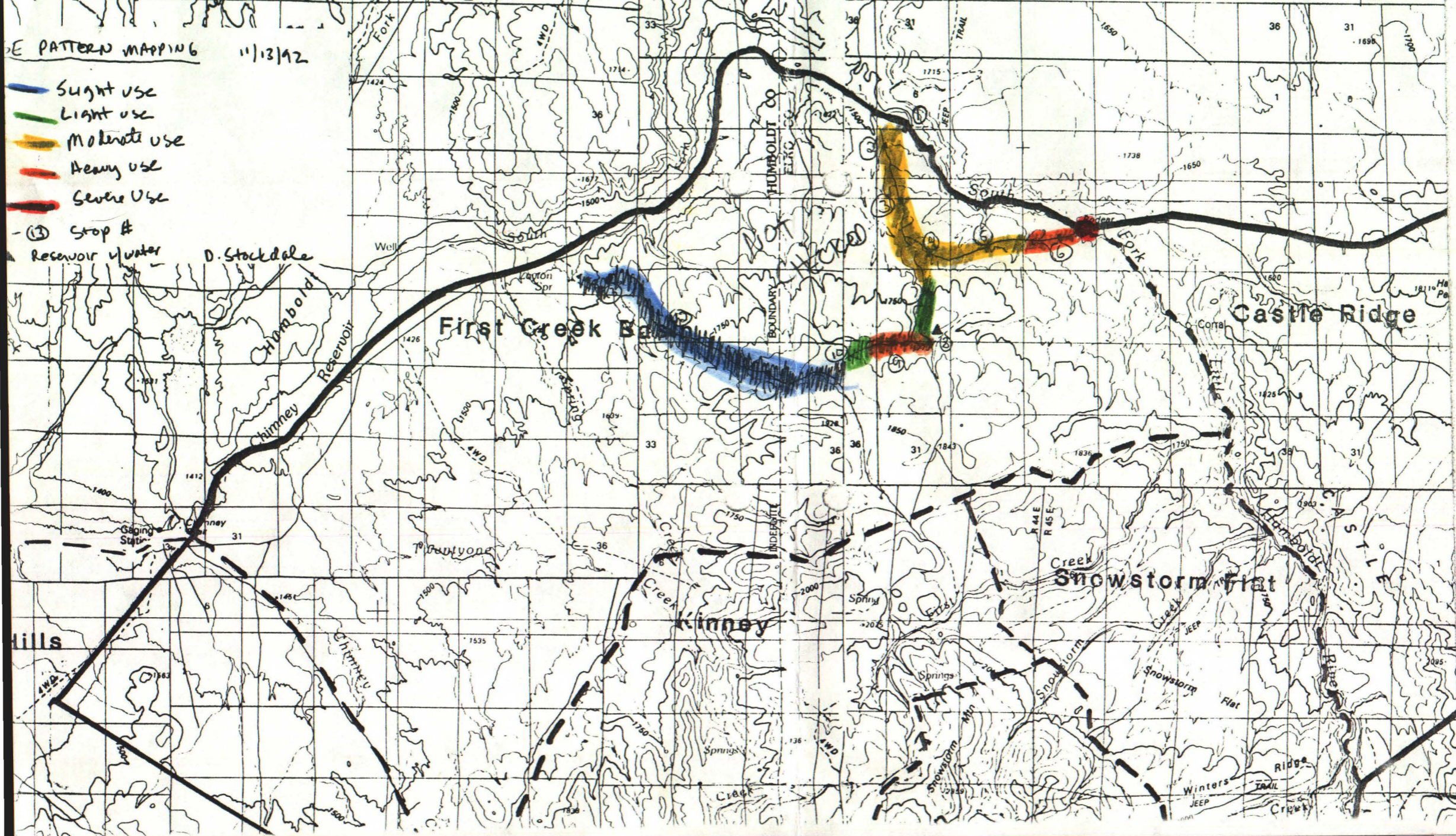
NOTE: A DOCUMENT IS NOT FILED UNTIL IT IS ACTUALLY RECEIVED IN THE PROPER OFFICE (SEE CFR SEC. 4.401(A))

30X60 MINUTE SERIES (TOPOGRAPH) TUSCARORA, NEVADA

50 875 75 900 000 FEET (WEST) R 43 E 100 925 R 44 E 30' 125 R 45 E 150 100000mE 150

E PATTERN MAPPING 11/13/92

- █ Slight use
- █ Light use
- █ Moderate use
- █ Heavy use
- █ Severe Use
- ③ Stop #
- Reservoir winter



9/13/94

- There is no reference that Pts. of Protest were addressed.
- Now settled for more monitoring & another Decision in 1997.
- Option 1
Appeal with Protest
- Option 2
Hard letter.

DRAFT

September 13, 1994

Mr. Bill Baker
Well Resource Area
Bureau of Land Management
3900 East Idaho Street
Elko, Nevada 89801

Subject: Appeal - FMUD West Cherry Creek Allotment

Dear Mr. Baker:

The Nevada Commission for the Preservation of Wild Horses continues to appeals decisions that implement the Wild Horse Amendment to the Wells Resource Management Plan. Failure to receive full consideration to our protests concerning the draft amendment and without administrative appeal of the final amendment, the Commission seeks relief by appeal of management decisions implementing the land use plan. We find the following errors in the Final Decision:

The Final Decision does not establish an appropriate management level of 33 wild horses on the West Cherry Creek Allotment.

The Wells final amendment established an "initial herd size" based upon the exclusion of wild horses from checkerboard lands. This initial herd use of key forage is to be monitored and evaluated to establish a carrying capacity to be allocated to livestock, wildlife and wild horses.

Carrying Capacity was not established for the West Cherry Creek Allotment.

The Wells final amendment and Nevada Rangeland Monitoring Handbook set allowable use levels for key forage species on the West Cherry Creek Allotment. These limitations are to set carrying capacities for the affected pastures. The allotment evaluation carrying capacity computations did not consider the land use plan limitation of 55 percent utilization on riparian key species.

Mr. Bill Baker
September 12, 1994
Page 2

The Final Decision cannot extend the short term objectives of the land use plan.

Range program summaries are not decisions or management actions of the land use plan. Bureau policy requires monitoring data and evaluations to be completed five years after the completion of the land use plan. Short term objectives of the land use plan were based upon ten year time frames. Extending the accountability of the land use plan to 2005 will require a land use plan amendment.

The Final Decision does not comply with the National Environmental Policy Act.

The Strategic Plan for Management of Wild Horses and Burros on Public Lands and the Wild Horse Amendment to the Wells Resource Area Plan did not have NEPA documents that consider the impacts of herd re-structuring of the Maverick-Medicine Wild Horse Herd. The recent gather within the Wells Resource Area took all horses from the checkerboard lands and released older age class wild horses to the new herd management area. This action increased horse densities on over grazed lands and re-structured the herd with older age class animals. No data were presented or evaluated to determine the composition and viability of the remaining re-structured herd.

The Final Decision is bias against Wild Horses.

The Final Decision implements a reduction in wild horse numbers and stipulates limitations horse numbers without addressing the impacts of livestock. Riparian and winter key forage limitations are to be applied to determining an appropriate management level for the Maverick-Medicine Wild Horse Herd in 1997. The Livestock Decision retains active preference for livestock during the "hot season" without any terms or conditions to limit 55% overall utilization. All livestock actions are dependent on future range improvement projects and actions will not provide any relief to riparian habitats.

The Final Decision did not address the 10% use limitation by wild horses on winter key species set by the Wells land use plan. This arbitrary limitation to lessen competition with livestock is not based upon plant phenology or range science.

Mr. Bill Baker
September 12, 1994
Page 3

SUMMARY

Bureau of Land Management land use planning, technical manuals, procedures and policy require the implementation of management actions to protect natural resources supporting wildlife, wild horses and livestock on public lands. Multiple use decisions are the present vehicle to accomplish the short comings of prolong planning processes that have delayed significant and necessary adjustments in ungulate use to stop resource damage. Errors of this Final Decision resulted in management actions that will not correct obvious conflicts and resource damage. We request the following measures to provide remedy to our appeal:

Establish a carrying capacity with use pattern mapping and actual use data for livestock and wild horses.

Allocate available forage to user based upon the proportion of use contributed to exceeding the proper utilization limit for key forage.

Implement projects or adjustments that will meet riparian habitat objectives immediately.

Prepare necessary NEPA documents that address impacts to wild horses.

Sincerely,

Catherine Barcomb
Director

9/15/94

BOB MILLER
Governor

STATE OF NEVADA

CATHERINE BARCOMB
Executive Director



CI
PRESER

There are livestock
actions to protect
portions of rip.
Habitat along
streams.

It's questionable
about the appeal, but
a response would
be helpful.

September 15, 1994

Mr. Bill Baker
Wells Resource Area
Bureau of Land Management
3900 East Idaho Street
Elko, Nevada 89801

Subject: FMUD Cherry Creek Allotment

Dear Mr. Baker:

The Nevada Commission for the Preservation of Wild Horses protested the Proposed Multiple Use Decision for Cherry Creek Allotment. Errors of the Proposed Decision were specifically detailed as a protest. It is apparent that the Final Multiple Use Decision did not consider or address the issues of our protest.

It is disappointing to find that additional promises to monitor, build projects and make future decisions can remedy the ongoing resource damage to riparian systems on this allotment. It has not been our experience that the Bureau of Land Management has increasing funds for monitoring or range improvement projects; therefore, the Final Decision to extent the land use plan accountability will procrastinate the enviable hard decisions affecting livestock and wild horses.

We would like to request a response to the protest points or you will force us to issue our previous protest points in the form of an appeal of the FMUD to get the answers we need. We would like to work with the Bureau to alleviate concerns to avoid filing an appeal and would appreciate a response to our request within 10 days. We had asked these questions in the earlier stages of the LUP process and cannot seem to get answers. If there is a problem with this request please let me know as soon as possible.

Sincerely,

CATHERINE BARCOMB
Executive Director

9/23/94



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
ELKO DISTRICT OFFICE
3900 E. IDAHO STREET
P.O. BOX 831
ELKO, NEVADA 89801

IN REPLY REFER TO:

4400.4 (NV-015)

SEP 23 1994

Commission for the Preservation of Wild Horses
Cathy Barcomb, Executive Director
255 W. Moana Lane
Suite 207A
Reno, NV 89509

Dear Ms. Barcomb:

In response to your letter dated September 15, 1994, I think it is important that we clarify some issues on the ~~West Cherry Creek Allotment~~.

On July 1, 1994, this office received a faxed copy of your protest for the Area Manager's Proposed Multiple Use Decision for the West Cherry Creek Allotment dated June 15, 1994.

As per 43 CFR 4160.3(b), "Upon the timely filing of a protest, the authorized officer shall reconsider his proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case. At the conclusion to his review of the protest, the authorized officer shall serve his final decision on the protestant or his agent, or both, and on other affected interests."

Therefore, the protests received were reviewed and considered prior to issuing the Area Manager's Final Multiple Use Decision for the West Cherry Creek Allotment on August 30, 1994. The Bureau even held a tour on the West Cherry Creek Allotment on August 17, 1994, to allow all affected interests the opportunity to discuss their concerns and problems that were identified through the allotment evaluation process and possibly arrive at some resolution/recommendation that all parties involved would be satisfied. The only participants in the tour were the Nevada Department of Wildlife (NDOW) and the permittees.

Following is our ~~responses to your protest points~~ in your letter dated July 1, 1994:

1. **Protest Point:** The proposed decision does not establish an appropriate management level of 33 wild horses on the West Cherry Creek Allotment.

Response: As per the proposed and final decisions, the Bureau would "reduce to and maintain the Maverick-Medicine HMA to an initial herd size of 332 as per the Wild Horse RMP Amendment. This will allow for an initial AML of 33 wild horses in the West Cherry Creek Allotment."

The initial AML was determined using a proportion based on the demand of available AUMs. The AUMs were calculated using the actual use data by livestock and wild horses and utilization of key forage species.

The initial herd size established for each HMA as per the Wild Horse Amendment can be refined as the allotment evaluation process establishes a wild horse AML on an allotment by allotment basis.

2. **Protest Point:** Carrying capacity must be established for the West Cherry Creek Allotment.

Response: Carrying capacities were established for the West Cherry Creek Allotment. Livestock grazing management decision #2 in the proposed and final decisions identified the authorized AUMs by pasture as determined by available monitoring data. The carrying capacity analysis can be found on pages 42 through 53 in the West Cherry Creek Allotment Evaluation, dated December 15, 1993, and comment #15 in the Management Action Selection Report (MASR) for the West Cherry Creek Allotment, dated March 30, 1994.

The Wells RMP/EIS does not establish utilization objectives on riparian areas. The riparian objectives stated in the land use plan are limited to improving riparian/stream habitat conditions.

3. **Protest Point:** The proposed decision cannot extend the short term objectives of the land use plan.

Response: As per the proposed and final decisions, the West Cherry Creek Allotment Management Plan objectives were modified in order to standardize final evaluation of these objectives and make them consistent with the term of the 20-year land use plan, which is 2005. The general land use plan and Rangeland Program Summary objectives remained unchanged. Both short and long term monitoring data will continue to be collected on the allotment and reevaluations completed as identified through the allotment evaluation and multiple use decision process.

4. **Protest Point:** The proposed decision does not comply with the National Environmental Policy Act.

Response: The Strategic Plan has no NEPA compliance documents because it is not a decision document and therefore, does not need to be supported by an environmental assessment (EA) or environmental impact statement (EIS). However, the directives given in the Strategic Plan need to be supported by an EA for the specific management action.

The Wells Resource Management Plan (RMP) Proposed Wild Horse Amendment and Environmental Assessment (EA) was issued to the public on October 2, 1992. The amendment analyzed the impacts of several alternatives for maintaining and managing wild horses in the Wells Resource Area. On August 2, 1993, the Wells RMP Wild Horse Amendment and Decision Record was issued. Therefore, the Wild Horse RMP Amendment is in compliance with NEPA directives.

The gathers completed in October 1993 affected only the Goshute and Spruce-Peguop HMA's. The Maverick-Medicine HMA has not had a gather since 1986, therefore, the age structure of the herd is intact. The 1986 gather was a non-selective removal.

The draft Maverick Medicine Gather Plan and associated EA, dated June 20, 1994, addressed the impacts of an age-selective removal and the age composition of the wild horses to remain in the HMA.

5. **Protest Point:** The proposed decision is bias against wild horses.

Response: The proposed and final decisions were based on monitoring and selected management actions regarding multiple use management for the allotment.

The calculated carrying capacity AUMs were proportioned based on percent of demand by wild horses and livestock. The data indicates that wild horses make 18 percent of the demand, while livestock make 82 percent.

The 10 percent utilization limitation on the winter range by wild horses on the winter common use areas was not addressed in the proposed or final decisions because these type of areas do not occur within the West Cherry Creek allotment.

The Bureau has coordinated, cooperated, and consulted with all affected interests in the allotment evaluation and multiple use decision process for the West Cherry Creek Allotment in hopes of resolving concerns and conflicts to avoid protests and appeals so that on the ground management can progress.

I hope that this information will help you in making your decision. If you have any questions, please contact me at (702) 753-0200.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Bill Baker", written in a cursive style.

BILL BAKER, Manager
Wells Resource Area