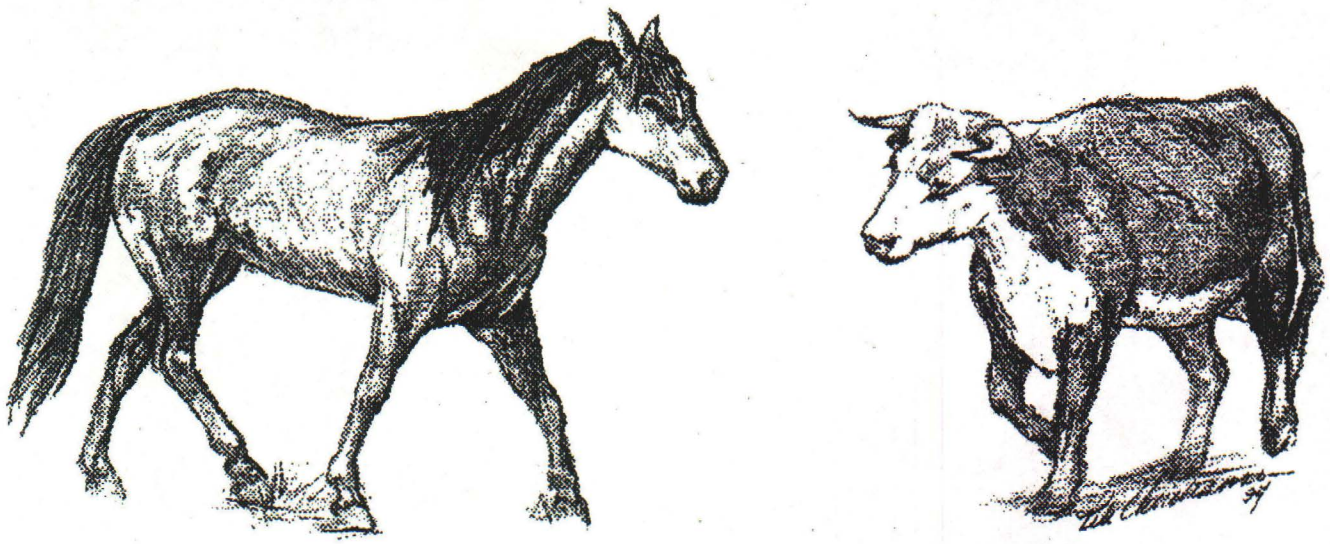
United States Department of the Interior
Bureau of Land Management

REPORT OF THE REVIEW TEAM ON FORAGE ALLOCATIONS FOR WILD HORSES AND LIVESTOCK



October 1994

BOB MILLER
Governor

STATE OF NEVADA

CATHERINE BARCOMB
Executive Director

COMMISSION FOR THE PRESERVATION OF WILD HORSES
255 W. Moana Lane
Suite 207A
Reno, Nevada 89509
(702) 688-2626

MEMORANDUM

TO: Forage Allocation Task Force Members

FROM: Cathy Barcomb

SUBJECT: Revisions to Report

DATE: April 16, 1996

For addition to page 16, B., 2., last paragraph:

The team recommends adoption of the following policies for censusing:

a. AGE DETERMINATION: In order to maintain consistency with other classes of livestock, new born wild horses and burros will not be considered to be a full animal unit until they have reached six months of age. Only adult horses over 6 months of age will be used to establish actual use on the herd management area. (Example: Using annual yearling counts, multiply number of yearlings times 6 AUM's for first years use. This will credit that animal for the first six months of life. This would allow for varied foaling dates)

b. RECRUITMENT VS FERTILITY RATE: Fertility is the ratio of foals to horses present on/about June 30, unless a different foaling period has been established for the HMA. Recruitment is the increase in new members of the population from one year to the next. Recruitment is determined by counting the number of yearlings. The best results are obtained by counting the yearlings in late winter - early spring. It is critical that the counts be conducted during the same month each year. Counts conducted during foaling season must be done in a manner that is not disruptive to foaling season.

c. CENSUS DISCREPANCIES: Seasonal movements of wild horses between HMAs has frequently led to "double counting" and missing animals (under counting). Therefore, all counts for the purpose of determining seasonal distribution, census, and

total population must be conducted within a short enough time frame that avoids duplication or missed animals due to migration between the counts. A census/distribution plan that includes all HMAs within a region must be developed with the specific goal of avoiding bias or error due to movement of animals between HMAs. Care must be taken to coordinate the census plan between regions, particularly for HMAs on or near the boundary of the census plan area. Timing and sequencing of the counts must insure that there is no opportunity for animals to have moved from one HMA to the next between the counts. Continuity of census crew members can also decrease the likelihood of double counting.

d. COLLECTION OF DATA: At conclusion of a gather or based on data collected in the most recent gather, the Bureau will determine the actual population and its composition. Composition data will include age, color, sex, and productive mare age classes. Preceding spring recruitment surveys will be conducted between late winter/early spring to collect yearling/adult ratios to determine annual population estimates. Spring composition surveys should be at least 30% of the known population.

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Vernal District Office
170 South 500 East
Vernal, Utah 84078-2799

IN REPLY REFER TO:

4700
UT080

OCT 25 1994

TO: Chief, Wild Horse and Burro National Program Office
NV960

FROM: Dave Little, Team Leader

SUBJECT: Final Report of the Review Team on Forage Allocations for Wild Horses and Livestock

Enclosed is the final report of the Review Team. The report includes the results of our field reviews and our team's conclusions and recommendations.

This has been a very interesting exercise and we on the team are very hopeful that our recommendations can be useful in helping to resolve the issue.

Dave E. Little

EXECUTIVE SUMMARY

Wild horse groups perceive that as reductions in grazing animals are made to balance numbers with the forage carrying capacity, the common practice in the Bureau is to remove actual horses but only "paper" cows.

A team was asked to review a sample of Districts to determine the degree of consistency or inconsistency among Bureau offices in the way in which forage allocation decisions are made, documented and implemented. The team made site visits to eight Districts in Utah, Idaho, Wyoming and Nevada.

The team found that there is a considerable amount of variation in the way allocation decisions are made and documented, particularly between Nevada and the other three states. Nevada uses a Multiple Use Decision (MUD) process which follows development of land use plans (LUPs) and implements the objectives of the LUPs, while the other states use the LUP process to determine wild horse and livestock numbers. The Nevada MUD concept of adjusting grazing use using monitoring data is applied equally to all large herbivores after completion of LUPs.

The team found a consistent pattern among all states in the way reduction decisions are implemented. Once the decision is made to reduce both wild horses and livestock, the reduction for wild horses almost always constitutes a real reduction in the number of wild horses on the range while the reduction in livestock is first taken from the permit preference level rather than actual livestock numbers. On the other hand, the general trend from the early '70s to the present appears to be an increase in the target number of horses and a static or slightly declining number of livestock.

Team recommendations include the following:

* Forage allocation decisions should be directly tied to land use planning.
* All reasonable alternatives should be explored with full public involvement and compliance with NEPA.
* Emphasis should be directed to the result, not an arbitrary formula for making forage allocation decisions.
* AMLs should be expressed as ranges rather than single numbers and reports should summarize the totals for both the minimum and maximum numbers.
* The Bureau needs to take a look at the practical effect of reliance on monitoring.
* Better information is needed for calculating AUMs for all herbivores.

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REPORT OF THE REVIEW TEAM ON FORAGE ALLOCATIONS TO WILD HORSES

I. INTRODUCTION

Since its inception, the wild horse and burro program has been controversial. Prior to 1971 and the passage of the Wild Free-Roaming Horse and Burro Act (hereafter called the Act), it was pretty much open season on wild horses and burros on the public lands of the west. Intermittent roundups by ranchers and others kept numbers in check and the proper number of horses versus the proper number of livestock was seldom an issue. In the range adjudications of the late '50s and '60s the allocation of forage to anything other than livestock was almost never attempted. However, with the passage of the Act, the Bureau of Land Management (BLM) was mandated to maintain appropriate numbers of horses and burros on the public lands. This meant that for the first time the agency had to make explicit decisions about future numbers of wild horses, burros and livestock where there was joint use.

The early attempts to manage numbers of wild horses through roundups or gathers were challenged by wild horse advocacy groups. They felt the Bureau lacked adequate documentation on the extent of the available forage resource and information on present and desired future numbers of wild horses. Advocacy groups often viewed agency attempts to control numbers as a threat to the existence of the wild horses and as bowing to the political pressure exerted by livestock permittees. As BLM implemented land use planning in the '70s, the decision process on how to deal with the apparent conflict over the use of a finite forage resource became more structured and provided for more public involvement in the process.

However, the evolution of a more structured process did not settle to the satisfaction of all the issue of fairness between the number of wild horses and the number of livestock that both can and should be supported on the public ranges. In general, wild horse advocacy groups want more horses (or at least no fewer) and the livestock interests want fewer horses. As decisions are being made in more and more land use plans, the wild horse advocacy groups believe that a consistent and disturbing trend is becoming apparent, i.e., actual horses were being removed while reductions on the livestock side amount to removal of only "paper" cows.

The wild horse advocacy groups and livestock permittees have raised the issue of fairness and equity and are challenging the manner in which the allocations of forage are being made between wild horses and burros and livestock. Because there are a number of different methods which can be used to arrive at and implement forage allocation decisions, a team was established to document the

variables involved, particularly those actions which affect how and when forage is allocated among livestock and wild horses. Our discussion in this report is limited to wild horses and livestock, usually sheep or cattle, although the principles also apply to wild burros.

The review team was led by Dave Little, Vernal District Manager, and included Gerald Smith, Ely District Office; Kris Eshelman, Wild Horse and Burro National Program Office; Ken Harrison, Utah State Office; David Aicher, Humboldt National Forest; and Cathy Barcomb, Nevada Wild Horse Commission.

The team was requested to gather information on the present situation from a cross-section of Districts and prepare a summary report. The approved study plan for the review was transmitted to the field in WO Information Bulletin 94-3512 and is included in this report as Attachment 1. The team was asked to:

1. Determine the basis being used for establishing the forage carrying capacity, i.e., the specific range survey, monitoring studies, etc.

2. Identify the methods and techniques for allocating forage among competing uses, i.e., historical use patterns, active versus non-use, public or other agency recommendations, etc.

3. Document the vehicles for actually putting those determinations into effect, i.e., land use plans and/or amendments, grazing decisions, allotment management plans, herd management plans, multiple use decisions or some other documented process.

4. Document the practical effect of implementing the decisions in terms of the number of wild horses and/or livestock actually removed from wild horse herd management areas. To the extent that data are available, plot the historical trend of wild horse and livestock numbers for at least several representative herd management areas.

5. Summarize the degree of consistency or inconsistency among offices and states.

Team members visited eight districts in four states as follows:

Cedar City and Richfield Districts - Jerry Smith and Cathy Barcomb

Boise and Winnemucca Districts - Kris Eshelman and David Aicher

Elko and Ely Districts - Ken Harrison

Rock Springs and Rawlins Districts - Dave Little

Team members interviewed managers and staff in each district and reviewed land use planning documents, wild horse herd management area plans, herd management area evaluations and other available material to gather information relative to the five broad categories above. A summary writeup for each of the site visits is included in this report as Appendices 2-5. The team found personnel at all offices very open and helpful, with a universal intense interest in the outcome of this forage allocation review.

The team convened in Reno, Nevada on September 12-14, 1994 to share the information gathered and to prepare this report.

II. APPROPRIATE MANAGEMENT LEVEL

The term "appropriate management level" (AML) as it applies to target numbers of wild horses has been with BLM since the origins of the Act in 1971 but there are significant differences in the way the term is being applied. The review team feels that some discussion of the background and application of AMLs is essential to understanding the perceptions on the forage allocation issue.

Until recently, most offices have interpreted the AML as the maximum number of horses allowed on the range and derived the number from counts or estimates performed shortly after the act was passed. Several offices now use the AML as the average number of horses to be maintained over some designated period of time. This is basically the midpoint between a minimum population level and the maximum that is tolerable before deterioration of resources occurs. The team found no situations where an AML was defined as the minimum population.

The AMLs in most states are based on census or estimates of populations performed in the early 1980s. In most of the sites visited, these AML numbers have held relatively constant even through the 1990s when wild horse interest groups challenged the basis for these numbers. However, in some areas AML numbers have increased slightly.

As long as the term is accurately defined for each area and then is applied in a way that is consistent with the definition used, the variation in the definitions used for the AML do not directly impact the forage allocation issue. However, the differences in meaning do have a bearing on the understanding that BLM personnel and the public have on the numbers of wild horses for which the Bureau is managing. For example, differing definitions affect the accuracy of the National Report because if some AMLs are averages whereas others are maximums, accurate inferences about the total number of horses on the public range are impossible to make.

A secondary issue relating to AMLs is the different ways offices use the age of wild horses to determine the official count. This difference results both from philosophical differences regarding the age at which an animal should first be counted as well the differing times of the year when counts are made. Note that the regulations at 43 CFR 4130.7-1(c) establish that, for the purposes of calculating grazing fees, all livestock over six months of age are counted unless they were less than six months old at the time of entering the public lands and will not become twelve months of age during the authorized period of use.

III. THE FORAGE ALLOCATION DECISION PROCESS

The regulations in Volume 43 of the Code of Federal Regulations governing both administration of livestock grazing (subpart 4100) and management of wild horses (subpart 4700) tie decisions in these programs to the Bureau's land use planning requirements (part 1600). Quotations from the portions of the regulations and BLM Manual on planning most relevant to the allocation issue are included in this report as Appendix 6.

Both the livestock and wild horse regulations assume: (1) that there is a land use plan in effect, (2) that a determination of carrying capacity has been made, (3) that a decision has been reached on the appropriate numbers of animals and (4) that subsequent management will then be consistent with decisions in those plans.

The regulations set out broad guidance for the types of decisions to be made in the land use plans, but provide little direct guidance on how the authorized officer is to determine what is fair or equitable. For example, there is only one statement in the wild horse regulations that even indirectly provides some policy direction on how allocation decisions are to be made for competing use of the available forage resource by livestock, wild horses and other uses. At 43 CFR 4700.0-6(b) the policy states: "Wild horses and burros shall be considered comparably with other resource values in the formulation of land use plans."

From the team's review of documented decisions on the forage allocation issue, it is apparent that there is a wide variation in the way the forage allocations have been made as well as in the type of document that establishes the allocation decision. During the reviews the team attempted to establish for each District and Resource Area visited the basis for the allocation, the general approach applied and the method of implementing the decision. These are described in each of the individual District reports included in Appendices 2-5 and are summarized below.

A. Basis for Forage Allocation Decisions

Wild Horses:

There appear to be three primary approaches to establishing target wild horse management levels in land use plans (LUPs), which may be either the older Management Framework Plans or the newer Resource Management Plans. These are 1) a census at one point in time (usually either 1971 numbers or the population when the LUP was developed), 2) an agreement between affected parties and BLM and 3) by court order. In some Resource Areas a combination of these were used.

The basis used for each Resource Area depended upon the unique circumstances in effect at the time the decision was made. For example, in the Rock Springs District a court suit brought by the Rock Springs Grazing Association concerning wild horses on the "checkerboard" lands led to a negotiated AML that then became a part of the court order. In other districts there were negotiations with counties over numbers or agreements with livestock operators and others on target numbers. In some cases, these early agreements are still in effect while in others they have been superseded by more recent decisions.

Livestock:

The basis for livestock allocations in all land use plans was more consistent among Districts. They commonly used either the existing active preference or the average actual use of livestock over a specified period of time prior to the completion of the LUP. These were usually considered goals or objectives for livestock use which were to be subsequently adjusted based upon the resource capability as determined through monitoring data analysis, interpretation and evaluation.

B. Approach Used in Making Forage Allocations

Wild Horses:

All the states visited, with exception of Nevada, consider the management levels identified in the LUPs as the appropriate management level for wild horses and these AMLs are only changed through a LUP amendment process. In Nevada, the management levels identified in the LUPs are not considered AMLs, based upon an interpretation of IBLA Decisions 88-591, 638, 648 and 679 decided June 7, 1989. These IBLA decisions required that AMLs be established through the analysis and evaluation of monitoring data to determine the "thriving natural ecological balance" for wild horses and burros with all other resource uses as specified in the Act.

Therefore, management levels identified in LUPs in Nevada are adjusted periodically through analysis of monitoring data to reach a thriving natural ecological balance within their Herd Management Areas (HMAs), taking into consideration all other resource uses. Since IBLA decisions establish a precedent for all states, not just the state from which the appeal was litigated, all other states may need to determine if they are in compliance with IBLA's interpretation of the Act.

Livestock:

The approach for livestock adjustments was consistent throughout all the states visited. A documented evaluation of monitoring data is utilized to determine the needed adjustment in livestock use to balance with the carrying capacity of the natural resources. In all cases, any reduction in numbers of livestock resulting from a reallocation of available forage between livestock and wild horses begins with the active preference and continues until the established livestock carrying capacity is reached.

C. Method of Implementation

In those States where the approach is to establish AMLs in the LUP, adjustments to the AMLs are made through amendments to the land use plan based upon new information. Wild horse numbers are held within the established AML by the completion of gathering plans and associated NEPA documentation. Livestock are adjusted through the issuance of traditional grazing decisions to make livestock use levels consistent with the established carrying capacity of the natural resources.

In Nevada, Multiple Use Decisions (MUDs) are utilized to adjust all herbivore numbers in accordance with the thriving natural ecological balance. MUDs are prepared subsequent to completion of LUPs and are based on the objectives established in the LUP and individual allotment monitoring and evaluations. They are a combination of decisions within one format that adjust terms and conditions of livestock grazing permits, establish wild horse AMLs, and recommend wildlife management numbers and/or habitat management. (See Appendix 7 for a general description of the MUD process.)

Another difference in implementation methodology between Nevada and the other states visited is the amount or degree of public involvement in the decision process. BLM's emphasis on public involvement appears to be greatest in those areas where there is active interest by advocacy groups. In other areas, the diminished level of apparent interest by advocacy groups may be because there is less actual concern, or because the lack of an open public decision process reduces the public's knowledge of and interest in

participating in the process. In this latter situation, the resulting feeling by BLM managers may be that there is little interest by wild horse groups and, therefore, no need to solicit or offer opportunities for extensive public involvement beyond comments on the proposed decision. Livestock grazing use is, therefore, sometimes adjusted through agreements with the permittees with little or no affected public interest involvement or notification.

In Nevada, adjustments following monitoring involve a large group of affected public interests throughout the entire MUD process. This may be the result of the fact that the majority of wild horses are in Nevada; thus they receive the bulk of the public attention, or it could be because Nevada adjusts all herbivores periodically while most other states have had more stable goals for wild horses for a number of years. Whatever the reason, Nevada's larger than normal public involvement in development of the MUDs is a public input driven process.

IV. FORAGE ALLOCATION FOR WILDLIFE AND OTHER USES

The Act, particularly in Section 3, stresses the importance of coordinating wild horse and burro needs with those of wildlife. For example, the Act states:

> All management activities shall...be carried out in consultation with the wildlife agency of the State...in order to protect the natural ecological balance of all wildlife species..., particularly endangered wildlife species. Any adjustments in forage allocations on any such lands shall take into consideration the needs of other wildlife species which inhabit such lands.

In the collection of data for this study, the team has focused primarily on the division of forage among livestock and wild horses. The team, however, recognizes that, both from a legal standpoint and from an ecosystem perspective, any valid forage allocation must consider the total amount of forage available and all uses of the vegetative resource, including use by livestock, wild horses and burros, recreation, esthetics, watershed, wildlife, etc. Unfortunately, it was not always possible to find explicit, documented allocations of the forage or vegetative resource for each use, but it is apparent that there have been over allocations of the forage resource in some areas.

This is a particular concern where there is a significant use of the forage resource by wildlife. The manner in which forage allocations have been made for wildlife appear to vary widely depending upon the extent of the perceived conflicts with other uses and the working relationship with the involved state wildlife agency. In some states, the number of wildlife for which an

allocation of forage is made is open ended and undefined while in others the numbers are jointly set by BLM and the state at some "reasonable" or "objective" level.

There are also problems in relating data for various kinds of wildlife herd units to data relevant to wild horse herd management areas. This is particularly difficult when considering such things as the degree of dietary overlap with horses, seasonal use patterns and breaking down geographically broader wildlife herd unit information into more site-specific livestock allotments or wild horse herd management areas.

In the team's review of the eight districts, there appears to be little consistency in the way forage is allocated to uses such as wildlife. In most areas, the local personnel did not feel that this was a problem because wildlife such as antelope and mule deer seldom appear to be a limiting factor in determining numbers of wild horses and livestock. However, in some site-specific situations, use by wildlife is viewed as a significant issue because of such things as heavy use on browse in areas critical for winter survival of both horses and mule deer or where numbers of elk are increasing and prior planning did not allocate sufficient forage for elk.

V. RESULTS AND TRENDS

The review team attempted to document the effects of the Bureau's forage allocation decisions on wildlife, wild horses and livestock over time. Unfortunately, this is a very complex task and information in summary form is generally not available. The information in this section is, therefore, a combination of specific information gathered and the collective sense of the review team members resulting from personal knowledge and interviews and discussions with the staffs of the offices visited.

A. Wildlife

As the team reviewed the programs in the eight Districts in the four states used for the study, the reviews centered more on forage allocations for livestock and wild horses than on those needed to meet wildlife objectives. Generally, specific information on trends in wildlife numbers was not available, but most staffs felt that wildlife was not a major concern as a competitor for forage with livestock and wild horses.

Detailed forage allocations for wildlife have been difficult to establish because state wildlife management agencies typically have not set specific objectives for wildlife populations based on identified carrying capacities. They usually use "reasonable numbers" obtained from wildlife counts, harvest data and

professional estimates. There are few areas where state agencies can provide actual target wildlife population numbers tied to the forage capacity.

In the future, as wildlife conflicts increase, the Bureau will be forced to incorporate more explicitly the forage use by wildlife in its decisions. This is especially true for elk because they directly compete with both wild horses and livestock for forage and their numbers in some areas are significantly increasing because of planned reintroductions, natural population increases or migrations from existing elk herds.

B. Wild Horses

Data for a good analysis of trends in wild horse numbers on the public lands since 1971 are impossible to get. Estimated population numbers in the early '70s were derived from a combination of census data and "best guess". There were also problems associating numbers of wild horses with specific use areas. The designated herd management areas (HMAs) were established using the initial "one-point-in-time" census surveys and often did not take into account migration and seasonal movement of the animals out of one office's area of administration into that of another office, resulting in under counting or double counting. The confidence in the estimations on numbers of horses has, however, improved as experience and accuracy in census techniques has increased and personnel have become more knowledgeable of seasonal movements.

Wild horse populations numbers are published in BLM's annual report, Public Lands Statistics. Because of the reasons given above, the specific figures for some years may be questionable but they are the best we have for showing trends. The data for wild horses for the four states which were involved in this review are summarized below for the years 1973 through 1993 for those years when specific population numbers were published.

REPORTED POPULATIONS OF WILD HORSES

Fiscal Year	NEVADA	UTAH	WYOMING	IDAHO
1973	20,000	1000	4411	500
1975	22,258	1803	8833	874
1978	31,800	2150	9700	1200
1980	31,260	1714	10,448	935
1983	29,642	1636	7959	811
1984	32,975	1810	7604	630
1985	29,853	1254	4684	706
1986	29,416	1309	3455	709
1987	27,015	1319	3764	449
1988	27,230	1778	3303	431
1989	30,798	1884	4115	354
1990	28,266	2006	5109	355
1991	31,650	2523	4280	444
1992	32,655	2726	5208	409
1993	25,170	2430	5602	586

During the '70s, the general Bureau trend in decisions for wild horse numbers was to maintain their populations at the estimated 1971 census levels. As populations increased, little or no action was taken to adjust the numbers due to budgetary constraints, appeals, memorandums of understanding (MOUs) and, more often than not, political pressures. Wild horse populations consequently fluctuated widely as indicated above. Therefore, as the AMLs were established, they usually remained the same as the initial management target, while the actual populations of wild horses significantly increased.

In the early '80s, the wild horse target numbers were reestablished through land use planning, such as revisions of existing Management Framework Plans or preparation of new Resource Management Plans, or through Coordinated Resource Management Plans, Multiple Use Decisions, social/political negotiations or court established numbers. Since there had been little direction on or budget for gathers previous to this, wild horse numbers were higher than the established AMLs because of the natural increases in the populations. As the new AMLs were being established, they were usually based on the then current '80s census information rather than the original '70s numbers. In the states reviewed, this has generally resulted in the target numbers of wild horses increasing to varying degrees.

In Utah, Wyoming and Idaho, the numbers established in the land use plans of the early '80s have been "written in blood". That is, the initial battles over numbers are over and, with very few exceptions, the numbers established in those plans have been managed for and maintained at that level. Again, budgetary constraints, appeals, court orders, MOUs, politics and social

economics have influenced wild horse captures and removals and the resulting actual numbers of wild horses on the range.

In Nevada, however, the numbers established in the early '80s were maintained at that level only until 1989 when a series of IBLA decisions mandated that numbers be established for a "thriving natural ecological balance" rather than on an administratively determined number. Nevada now, therefore, uses a Multiple Use Decision (MUD) to determine the specific objectives for wild horse numbers in a herd management area. (See the section on the Decision Process and Appendix 7 for descriptions of Nevada's MUD process.)

The MUD for each grazing allotment within a wild horse herd management area is completed following preparation of a land use plan (either a Management Framework Plan or a Resource Management Plan) and subsequent monitoring and evaluation. This is intended to be a continuing process whereby new monitoring data will be used to periodically update the forage allocation decisions on numbers of wild horses, wildlife and livestock.

With the use in Nevada of the MUD process and with the trend that three to five years of monitoring data is usually necessary to adequately evaluate range condition, many proposed gathers in Nevada were appealed and halted for controversial reasons or because of a perception that there was a lack of solid data. This "moratorium" on gathering horses allowed the numbers in Nevada to increase dramatically and then decrease as MUDs were completed and gathers were reinitiated. The total number of wild horses in Nevada provided for in the 1980's land use plans was about 20,000 horses. Since the 1989 IBLA decisions, that number grew to an estimated 32,655 horses in 1992 and has subsequently decreased with drought, severe winter conditions, lack of available forage, rustling and the push to gather excess horses to reach the planned AMLs to a current population level of approximately 27,000 estimated for 1994.

Another difference between Nevada and the other states is that the Nevada land use plans of the '80s were used to set proportions (percentages of use) between livestock (usually existing preference) and numbers of wild horses. As previously discussed, the numbers of wild horses counted may not have been correct in some HMAs due to the learning curve in applying census techniques and failure to fully recognize seasonal movements, etc. Therefore, the proportions of wild horses/livestock set for some HMAs may not have been correct and may still not be entirely accurate, which may now result in less than accurate proportional or percentage reductions resulting from the MUDs.

Over allocation of the available forage has also resulted from the application of the Bureau's Strategic Plan for Wild Horses and Burros by not removing animals down to the identified AML. The Strategic Plan dictates that age and adoptability, not range

condition, be the deciding factor in how many horses are removed and how many are released back onto the resource. Where the herd contains a disproportionate number of older animals, there are not enough "adoptable" animals available to remove to get down to the AML. In some cases in Nevada, unadoptable horses have been known to be released back to certain death from lack of either forage or water - again age and adoptability being the criteria, not carrying capacity.

C. Livestock

The actual number of livestock authorized to graze on allotments that overlap wild horse herd management areas is believed to have remained essentially the same over the past twenty years, but there has been some variation among the states reviewed. Factors such as politics, socio-economics, the negotiation process, various kinds of agreements, coordinated resource management plans, memorandums of understanding, court decisions, etc., have often led to allocation of uses rather than allocations of resources based on the true capacity of the available forage resource. Livestock allocations based on existing livestock preference were usually set along with AMLs for wild horses.

In all states reviewed, it is common for operators who graze in areas shared with wild horses to be carrying a significant proportion of their grazing preference as nonuse, either voluntarily or by agreement with, or decision from, the Bureau. Reasons for nonuse vary with the operator and area, but often include either a recognition that there is not sufficient forage for both the present numbers of wild horses and the preference level of livestock grazing or the economics of the range livestock industry, or both. Economic reasons for nonuse particularly apply to the range sheep industry where there are depressed prices, difficulties with obtaining inexpensive labor and problems with predators.

Other problems with allocating forage to livestock are the result of conversions from sheep preference to cattle preference. In some areas, the conversion allowed an even trade in numbers of animals rather than a conversion based on numbers of animal unit months (AUMs) used by each class of livestock (e.g., 5 cows equal 5 sheep instead of the more usual 1 cow equals 5 sheep). Sometimes the differing forage preferences or the physical suitability of the area based on type of vegetation, presence or absence of water and topography were not fully considered. The result in these areas has been an over allocation of the forage and a corresponding decline, or at least a lack of improvement, in range conditions.

Although the decision process varies among states and districts, a common trend in all states reviewed is that in making adjustments,

any reductions to livestock consistently come first from the preference level, not the historic levels of actual use.

Another problem voiced by the wild horse advocacy groups is that any adjustment in livestock AUMs from active use greater than 10% must, by regulation, be phased in over a five year period unless an agreement is reached with the affected parties to implement the reduction in less than five years (43 CFR 4110.3-3(a)). Where reductions begin at the preference level, the result has been that the number of mouths feeding on the range until the fifth year is likely to be greater than the forage resource can support on a sustained basis or that provided for in the allocation decision. This appears to conflict with other regulations and policy and with proper resource management (especially when considering principles of ecosystem management).

VI. CONCLUSIONS AND RECOMMENDATIONS

A. The Forage Allocation Process.

1. Conclusions:

The team was able to document significant differences in the approaches used in making forage allocations, but there is also a surprising amount of consistency. The method of documentation is fairly consistent among Utah, Idaho and Wyoming but quite different for Nevada because Nevada uses a Multiple Use Decision process after their land use plans are completed.

In nearly all cases, if reductions are to be made in both wild horses and livestock, the first reductions almost always come in the actual number of horses because the livestock reductions are first taken from the so-called "paper" AUMs. With some exceptions, livestock actual use has been reduced only after wild horse numbers have been reduced and monitoring has confirmed that the livestock numbers must also then be reduced.

Over allocation of the forage resource appears to be a serious concern in some places because of past practices in conversion of sheep permits to use by cattle, inaccurate census of wild horse numbers, increasing numbers of elk and other factors.

However, the major conclusion of the team is that nearly every one is focusing on the process for making forage allocations rather than on the outcome. There seems to be a feeling both within BLM and among wild horse advocacy groups that if we only had the right formula or if we would only apply "good science" that the outcome would be more acceptable to

everyone. Unfortunately, this does not appear to be a rational view of the real world.

The ultimate concern of the wild horse advocacy groups is with the collective results of the forage allocation process. That is, how many wild horses are going to be on the public ranges after this round of planning, and how many can they reasonably be sure will be there in the future? While there may be some legitimate concerns with inconsistencies among various Bureau offices, the real concern is that, overall, wild horses are being threatened with a continued decline in their numbers.

The team concluded that "good science" can help define the extent of the forage resource as well as the possible options for utilizing that resource and for maintaining a "thriving natural ecological balance". However, the ultimate decision on the balance between wild horses and livestock is a political one based on public perceptions of values. Unfortunately, the appearance given by the common application of reductions to real horse numbers but, at least initially, paper livestock numbers is that the Bureau is consistently favoring livestock at the expense of wild horses.

On the other hand, "paper AUMs" exist in many cases because livestock permittees have taken nonuse for many years. Sometimes this has been done for economic reasons within the industry, but some have taken nonuse because they recognize that the forage resource cannot sustain both their full preference numbers of livestock and the number of wild horses present on the range. To some extent then, livestock permittees have already taken reductions that have been impacting them financially for many years.

Unfortunately, it is also true that some "paper AUMs" exist because of questionable practices in past range adjudications or in conversions of sheep permits to cattle permits. In these cases, the Bureau will find it difficult to defend the fairness of a de facto policy of beginning livestock reductions from the full preference level rather than the actual use levels.

2. **Recommendations:**

The team recommends that forage allocations be directly tied to land use planning, either directly in Resource Management Plans or in subsequent Multiple Use Decisions that are tiered to specific objectives in the RMPs consistent with the regulations and the Supplemental Program Guidance for planning. In either case, Bureau policy should ensure full public involvement in the process and compliance with the National Environmental Policy Act. Regardless of the document used, each time there is a choice to be made among numbers of

wild horses and cattle, there should be a full exploration of all of the reasonable alternatives.

Each alternative should have a discrete number (or specific range of numbers, i.e., maximum and minimum) for both wild horses and livestock and should fully disclose the differing effects on the resources as well as the social and economic impacts. Everyone must then recognize that the final decision on which alternative to select is not only based on science or formula, but is also a social and political decision. "Good science" can then assure that the balance chosen will maintain sustainability and, if necessary, will lead to the improvement of the resource.

As decisions are made on livestock numbers, there should be a full disclosure of the historical basis for the present grazing preference and levels of active use by livestock. There should be a clear message from the Bureau leadership that a set formula, regardless of this history, is not an acceptable way of allocating forage among competing uses. Bureau policy should also emphasize the importance of allocating vegetation, including the forage resource, among all competing uses, not just wild horses and livestock.

Where there are several grazing allotments within a wild horse herd management area or more than one office involved in administering a herd management area, we need to do a better job of coordination and consultation among all the involved parties. The goal should be to have consistent objectives and implementation for the entire herd management area.

B. Appropriate Management Levels (AMLs).

1. **Conclusions:**

The way AMLs for wild horses are set and viewed varies considerably from District to District and, in some cases, among Resource Areas in the same District. The most significant result of this is that there is no way to sum up the AML numbers to get a picture of the total target population of wild horses for a district, state or the Bureau as a whole. This leads to serious misunderstandings about the long-term outlook for wild horses on the public ranges. A single number is also very misleading since it will never match the actual population because of the continual changes in numbers from natural population increases which are periodically offset by gathers and removals.

There is considerable confusion and inconsistency in the way in which wild horses are counted and reported in relation to the AML, i.e., the age at which a wild horse should count

toward the AML. This is important both for reporting purposes and for calculating the amount of forage that will be consumed by a given number of horses.

2. **Recommendations:**

The team recommends that the Bureau establish a policy which defines the AML as a range, expressed as the maximum and the minimum population within which wild horse numbers will be allowed to fluctuate. The breadth of this range should consider the need "to reach a thriving ecological balance" and the biological and social needs of the wild horses, the economics and cycles of gathering, genetic diversity and the number above which resource deterioration would be expected to begin. The Bureau's reports should then report wild horse numbers based on the sum of both the minimum numbers and the maximum numbers to establish the target range for the Bureau rather than an unrealistic and artificial single number.

The Bureau, in consultation with all other involved parties, should consider whether there are significant advantages to establishing statewide AMLs or a Bureauwide AML.

The team also recommends that a technical group be convened to develop specific recommendations on censusing and recording to establish a consistent policy of when to count a wild horse toward the AML.

C. Over Allocation Because of the Requirement to Base Livestock Reductions on Monitoring and to Phase in Reductions Over a Five Year Period.

1. **Conclusions:**

The team and many of the managers and resource specialists interviewed feel that the current regulatory requirements delay improvement and recovery which contributes to resource deterioration and decline in ecosystem health. For example, decisions on livestock reductions must be based on monitoring and reductions in active use greater than 10% must be phased in over a five year period

The common practice is to collect at least three to five years of monitoring data before initiating an intensive allotment evaluation which then often takes another year to complete. This means it often takes six years just to determine if there is a problem and to decide what to do about it. If the decision on the number of livestock is issued the same year as the allotment evaluation and the reduction in active use is greater than 10%, it takes another five years to actually reduce the amount of livestock grazing to the established

carrying capacity. In the meantime, the decision on wild horses is often implemented the same or next year after the evaluation and decision.

Wild horse advocacy groups complain that too often, by the third year of the scheduled livestock reduction, monitoring detects an improvement in forage conditions because of fewer total foraging animals (primarily less wild horses) and then BLM abandons the third and fifth year livestock reductions. They feel the result is that horses have been reduced to the objective level, livestock get a reprieve from the planned reductions and long-term goals for resource improvement are not met or are met through reductions in horses only.

The above discussion assumes that a Resource Area has the funding and personnel to follow through with a good monitoring program. The team found that monitoring is being done in all areas although the methods and intensity vary. However, there seems to be a reluctance in some areas to make difficult decisions (e.g. livestock reductions) even where monitoring data is available. This reluctance may be due in part to perceptions by managers that monitoring data may not be regarded as sufficiently supportable or defensible when challenged. Regardless of the reason, it appears that monitoring data is not being utilized to its fullest extent and that this may adversely impact the Bureau's effectiveness and efficiency in making proper and timely resource management decisions, including those on forage allocations.

If it is true that there is a reluctance to use available monitoring data on a timely basis and a feeling that more analytical scientific data is needed prior to making the tough decisions, this means that the resource continues to absorb the various identified and monitored impacts. This leads to ecological conditions which are less than satisfactory and continued delays in changing trends towards improvement and further reenforces the perception by wild horse advocates that the Bureau is often ready to reduce wild horses but not livestock.

2. **Recommendations:**

The team did not have time to document whether the concern about the failure to follow through on planned livestock reductions is real. However, the Bureau should follow up to assure that this scenario does not happen and, if it has happened, direct the appropriate managers to follow through with their commitments to reduce planned levels of livestock as well as wild horses.

The Bureau should conduct a technical procedures review of the monitoring program to document the practical effect of the

reliance on monitoring, including the adequacy of monitoring data for supporting decisions, and to make recommendations on any needed policy changes.

D. Calculating AUMs of Forage for Wild Horses

1. **Conclusions:**

Most Districts assume that one AUM of forage for cattle equals one AUM of forage for wild horses. One District, however, is using a conversion that provides for 1.25 AUMs for each wild horse.

There are also concerns among resource specialists that they do not have adequate information on things such as proper use factors for grazing by wild horses and that this may lead to inaccurate calculations on carrying capacities.

2. **Recommendations:**

The Bureau should convene a technical group to review the available literature and research on the amount of forage consumed by wild horses, elk, mule deer and other herbivores compared to cattle and to develop a Bureau policy on AUM equivalents and conversion factors.

This technical group should also discuss other related and appropriate issues such as the forage preferences for wild horses, the proper use factors to apply in calculating carrying capacities, adult/foal ratios and fertility rates.

Appendix 1

FORAGE ALLOCATION STUDY PLAN

ISSUE: Several wild horse advocacy groups have questioned the way in which the Bureau allocates forage among completing livestock and wild horses.

BACKGROUND: Since the passage of the Wild Free-Roaming Horse and Burro Act of 1971, the Bureau has been charged with management of wild horses and burros on the public lands. At the time of the act there were serious resource conflicts associated with the number of livestock, wildlife, and wild horses and burros. This caused an early emphasis on removal of "excess" wild horses and burros with little definition of just how to determine how many were "excess".

The regulations at 43 CFR 4700.0-6 (a) state:

> Wild horses and burros shall be managed .... in balance with other uses and the productive capability of their habitat.

Under the subheading "Land Use Planning", the regulations at 43 CFR 4710.1 state:

> Management activities affecting wild horses and burros .... shall be in accordance with approved land use plans prepared pursuant to part 1600 of this title.

Under the subheading "Herd management areas", the regulations at 43 CFR 4710.3-1 state in part:

> In delineating each herd management area, the authorized officer shall consider the appropriate management level for the herd.....

And, finally, under the subheading "Removal of excess animals from public lands", the regulations at 43 CFR 4720.1 state:

> Upon examination of current information and a determination by the authorized that an excess of wild horses or burros exist, the authorized officer shall remove the excess animals immediately....

In the BLM Manual, Section 1622.4, the Supplemental Program Guidance for Wild Horse and Burro Management gives guidance on the types of decisions that are "required in every resource management plan" unless certain exceptions apply. Under "Management Objectives" the Manual at 1622.41A2 states:

> Identify habitat related objectives for each herd management area. Where these areas also provide habitat and forage for

other large herbivores (wildlife or livestock), the objectives should address use of the forage by all species.

The Manual in Section 1622.41A3b under the heading "Adjustment Criteria" states:

> Outline criteria for making adjustments, if necessary, in the initial herd size. These should include a statement of the critical resource use levels that will not be exceeded, as well as criteria that might guide necessary adjustments among consumptive uses.

The issue raised by the wild horse advocacy groups is that in making forage allocations and determining what animals are "excess", the result often is that wild horses end up being reduced in actual numbers while livestock reductions are often paper reductions.

OBJECTIVES OF THE STUDY: The Forage Allocation Study Team has been asked to document the various methods of arriving at the forage allocations among livestock and wild horses and the subsequent result in actual animal numbers, including the degree of consistency or inconsistency among the Districts and States.

STUDY METHODS: The Team will collect data through visits to a representative sample of the involved Districts. They will conduct interviews and review relevant documents. While we are most interested in the present situation and how we got there, it may also be useful to summarize the way in which allocations have been made in the past. The major concern is for how allocations are made among livestock and wild horses, but it may be necessary to also include allocations to wildlife or other competing uses to get a complete picture.

STUDY REPORT: The Team in their final report will do at least the following:

1. Determine the basis being used for establishing the forage carrying capacity, i.e., the specific range survey, monitoring studies, etc.

2. Identify the methods and techniques for allocating forage among competing uses, i.e., historical use patterns, active versus non-use, public or other agency recommendations, etc.

3. Document the vehicles for actually putting those determinations into effect, i.e., land use plans and/or amendments, grazing decisions, allotment management plans,

herd management plans, multiple use decisions or some other documented process.

4. Document the practical effect of implementing the decisions in terms of the actual number of wild horses and/or livestock actually removed from wild horse herd management areas. To the extent that data are available, plot the historical trend of wild horse and livestock numbers for at least several representative herd management areas.

5. Summarize the degree of consistency or inconsistency among offices and states.

DEADLINES:

The final report of the team will be provided to the National Program Office and the appropriate staffs in the Washington Office no later than October 26, 1994.

Appendix 2

REVIEW OF THE CEDAR CITY AND RICHFIELD DISTRICTS

1) Decision Process

Cedar City, Beaver River Resource Area... The initial basis for wild horse numbers was the 1971 census. The Land Use Plan (LUP), a 1983 MFP, utilized the 1982 census numbers and established that number as the Appropriate Management Level (AML). Two exceptions were made where Herd Management Area Plans (HMAPs), were completed and wild horse AML's were established by agreement. During the allotment analysis process, which was completed around 1982, the number of wild horses and wildlife which were present on a given grazing allotment were given a priority forage allocation adequate to provide for existing needs. Forage which remained after allocation to horses and wildlife was allocated to domestic livestock. The LUP dictated that adjustments be based on the soil-vegatation inventory method (SVIM) data; however, adjustments were not entirely implemented to livestock because policy was modified to require monitoring data in combination with inventory data to make adjustments. These initial reductions were generally limited to 10 percent per year, though on occasion larger adjustments of primarily "paper AUMs" were agreed to. Reductions to livestock permits amounting to approximately 11,000 AUMs have occurred in the Pinyon planning unit from 1983 to the present. At the present time wild horse numbers have remained static at LUP AMLs with all subsequent adjustments to the carrying capacity made to livestock. This process was implemented utilizing livestock agreements/decisions.

* Notice should be taken that the Cedar City District is calculating AUMs at 1 AUM for livestock and 1.25 for wild horses.

Richfield, Warm Springs and House Range Resource Areas... The initial management of wild horses was by agreement with the counties in 1968. A West Desert Wild Horse Capture Plan was written in 1977 that recommended and implemented wild horse gathers in 1978 to reduce their numbers to the 1971 census level. In part, the capture plan was based on 1976 studies, both vegetative and herbivore. Between 1978 and 1987 when the LUP's were developed, addendums to the original capture plans were developed that recognized existing increasing numbers as appropriate with the carrying capacity based on the 1976 studies. In 1987, Resource Management Plans (RMPs) for both resource areas were developed that recognized those AMLs established through the addendums. Wild horses and wildlife were given priority allocation of forage (IN BLOOD). One RMP established current use for wild horses and wildlife as opposed to the other which established wild horses at current populations while wildlife were established at an increased objective. Livestock remained at existing levels to be adjusted through the use of monitoring data. At the present time wild

horses have been maintained at the established AML's with a few exceptions based on evaluations of monitoring and census data.

* Within both Districts the allotment analysis utilized monitoring data and was documented through the allotment evaluation process.

2) Appropriate Management Levels (AMLs)

With few exceptions based on HMAPs, both the Cedar City and Richfield Districts established AMLs in their LUPs based on existing population numbers. Since that time with little exception, capture plans have been initiated to reduce wild horses to those LUP numbers.

Both Districts indicated that in their interpretation the AMLs are written IN BLOOD!

One District manages for an established set AML, while the other District manages for the established AML with a minimum and maximum range.

3) Wildlife

Wildlife were given priority in the forage allocation process during the establishment of the LUPs. In two of the Resource Areas wildlife numbers were established at current population numbers while in the third area interviewed, objective numbers established in the LUP were greater than the current use.

Wildlife forage allocation appeared not to be a major issue since livestock monitoring adjustments are designed to compensate for wildlife objectives.

4) Trend

Wild Horses:

In the '70s the trend was to maintain the wild horse levels at the 1971 census. As the populations increased, Cedar City took little or no action to adjust the numbers since the population levels were fairly low and not a resource issue.

In the late '70s the Richfield District gathered the West Desert HMAs to maintain 1971 levels. After this point the herds were allowed to increase to the LUP established levels and have been maintained at that level to present.

Livestock:

In Cedar City, active preference has been status quo following the LUPs, while actual use has slightly increased within HMAs.

In Richfield, livestock use remained fairly constant until completion of the LUPs, when subsequent evaluations and livestock agreements reduced active preference. These were primarily "paper AUMs".

*Trend information cannot be compiled at this time; the database is not available within the time constraints provided.

Appendix 3

REVIEW OF THE ELKO AND ELY DISTRICTS

WELLS RA

Draft RMP Alternatives:

NO ACTION:
RESOURCE PRODUCTION:
MIDRANGE:
RESOURCE PROTECTION:
PREFERRED:

Objective: To continue management of the six existing wild horse herds(See Map 3-4) consistent with other resource uses.

Short and Long-Term Management Actions:
1. Continue to monitor wild horse populations and habitat conditions.
2. Conduct wild horse gatherings as necessary and allow wild horse populations to increase so as to maintain populations within a range from 557 to 692 animals. The Toano herd would be maintained at 20 animals.
3. Construct.....
4. Remove WH&Bs from private lands if required.

Proposed RMP:

Objective: To continue management of the six existing wild horse herds(See Map 3-4) consistent with other resource uses.

Short and Long-Term Management Actions:
1. Continue to monitor wild horse populations and habitat conditions.
2. Conduct wild horse gatherings as necessary and allow wild horse populations to increase so as to maintain populations within a range from **550 to 700** animals.
3. Construct.....
4. Remove WH&Bs from private lands if required.

Approved RMP/Record of Decision:

1. Monitor wild horse populations and habitat conditions; maintain populations within a range of **550 to 700** animals.
2. Construct six water development projects.
3. Remove WH&Bs from private lands if required.

WH&B DRMPA:

NO ACTION:
PREFERRED:

This alternative combines the management of the six existing herd areas in the Wells RA into four herd management areas. All areas of checkerboard land ownership, including all of the Toano Herd Area and portions of the Goshute and Spruce-Pequop Herd Areas, will be managed as horse-free areas. The management of wild horses begins at initial herd size and will be maintained in designated HMAs. Adjustments will be based on monitoring and grazing allotment evaluations. Wild horse numbers in excess of the initial herd size would be removed within statewide priorities.

Objectives:

1. To manage wild horses only on areas where requests for removal of animals will not hinder management.
2. To manage wild horses within HMAs and maintain a thriving natural ecological balance consistent with other resource needs.
3. To combine portions of the wild horse herd areas where horses intermix between herd areas.

Management Determinations: 1. Delineate four HMAs...

ELKO RA

ELKO DRMP-1985

ALTERNATIVE A: 1. Continue management of current population levels on four existing wild horse herd areas with an existing population of **330** horses.
2. Conduct wild horse gatherings as needed to maintain current numbers.

ALTERNATIVE B: 1. Manage the four wild horse herd areas, with a target population of **220** horses.
2. Conduct wild horse gatherings as needed to maintain current numbers.

ALTERNATIVE C:
Short-Term Management Actions:
1. Evaluate wild horse habitat to reduce or eliminate conditions that would prevent population numbers from increasing.
2. Construct three water development projects (catchment type) each with a storage tank and trough (table 2-2)

Long-Term Management Actions:
1. Manage the four wild horse herd areas with a target population of **660** horses.
2. Conduct wild horse gatherings as needed to maintain numbers.

ALTERNATIVE D (PREFERRED ALTERNATIVE):
1. Manage the four wild horse herd areas, with a target population of **330** horses.
2. Monitor wild horse populations and habitat conditions.
3. Construct two water development projects (catchment type) each with a storage tank and trough (table 2-2)
4. Conduct wild horse gatherings as needed to maintain numbers.

ALTERNATIVE E:

Short-Term Management Actions:
1. Monitor wild horse populations and habitat to reduce or eliminate conditions that would prevent population numbers from increasing.
2. Construct three water development projects (catchment type) each with a storage tank and trough (table 2-2)

Long-Term Management Actions:
1. Manage the four wild horse herd areas, with a target population of **660** horses.
2. Conduct wild horse gatherings as needed to maintain numbers.

ELKO PRMP-1986:

1. Manage the four wild horse herd areas, with a target population of **330** horses.
2. Monitor wild horse populations and habitat conditions.
3. Construct two water development projects (catchment type) each with a storage tank and trough (table 2-2)
4. Conduct wild horse gatherings as needed to maintain numbers.

ELKO ARMP/ROD-1987

1. Manage the four wild horse herd areas, with a target population of **330** horses (Map 11) as follows:

HMA	AML	ALLOTMENT
Owyhee	58	Owyhee
Little Humbolt	107	Little Humbolt
Rock Creek	119	Rock Creek
Diamond Hills	46	Red Rock, Brown

2. Monitor wild horse populations and habitat conditions.
3. Construct two water development projects (catchment type) each with a storage tank and trough (table 2-2)
4. Conduct wild horse gatherings as needed to maintain numbers.

No gathers made since LUPs, no WH&B amendments, no grazing decisions involving WH&B areas.

1. ALLOCATION DECISION PROCESS

ELKO DISTRICT

WELLS RA: Completed a RA-wide RMP Amendment which refined HMAs and established AMLs. Alternative levels were analyzed in an apparently legitimate multiple use context to arrive at final levels. Nevada's MUD process used to arrive at both livestock and wild horse allocations, all legitimately tiered to the RMP and RMP Amendment for wild horses. This is the cleanest documentation of the decision process of the four RAs reviewed.

ELKO RA: The same process as Wells has been forecast but nothing significant has occurred as yet. First allotment evaluation will be this year.

ELY DISTRICT

SCHELL RA: Used the MUD process exclusively; no amendment to the MFP was done.

EGAN RA: Using the MUD process exclusively and independent of the RMP.

All RAs expressed some of the same problems, e.g., no valid allocation among vegetation users, previous conversions from sheep operations to cattle operations have resulted in significant levels of "paper" AUMs, have not been successful in a full multiple-use approach to monitoring, no one available at the interview time could certify a known tie between an identified vegetative carrying capacity and the allocations resulting from a number of independent actions (i.e., land use planning, wild horse management pushes, livestock use monitoring). All RAs have relied on analysis of monitoring data to arrive at "carrying capacity".

2. APPROPRIATE MANAGEMENT LEVELS FOR WILD HORSES

ELKO DISTRICT

WELLS RA: Used HMAs and numbers determined administratively between 1972 and 1982 through census methods. Final HMAs (checker-board ownerships were dropped) were established formally through an amendment to the Wells RMP. In this same action, AMLs were established in the form of a range of numbers for each HMA. Interviews indicate they regard the **range** as the AML, not as min/max. Strong correlation between numbers in the RMP and MUD decisions now in place. Seems to be a concerted effort to maintain numbers within the range of the AMLs.

ELKO RA: AMLs considered to be the historic levels (71-?). There have been no gathers in recent history and no grazing decisions issued after monitoring, so the acceptability of these AML numbers has not yet been a serious question. Elko RMP established "target" AML numbers, but does not define that in relation to maximum, minimum or average. In addition, the RMP decisions reflect total RA (four HMAs) numbers rather than for the individual HMAs (unless that's buried in a table that the reviewer missed). Elko RMP did not accomplish specific allocation of forage among the many competing uses.

ELY DISTRICT

SCHELL RA: AMLs used census ('72+) figures as a starting base for monitoring. AMLs were solidified in the MFP ('83) as a result of a comprehensive census of that year. All "I" category allotments have been completed (MUD) and decisioned with none going to court. Current numbers are at or near the AMLs identified in the MFP.

EGAN RA: Same general scheme as Schell RA, through the completion of the Egan RMP. Grazing decisions are now in progress. AMLs are established by allotment, aggregating upwards to the HMA. Cumulative decisions have little to do with AMLs established in the RMP. "AMLs in the RMP have kept RMP AML numbers updated." (Reviewers Note: Plan Maintenance **can not** result in changing the RMP Decision (i.e., **numbers**)!

3. WILDLIFE ISSUES

All RAs visited expressed the same problems though of varying degrees of severity. No target management numbers established for wildlife and, therefore, no known and documented balancing of the various competing uses of vegetation; elk numbers in particular have risen far above historic levels (Wells RA has issued a Draft RMP Amendment addressing this issue, but has yet to reach resolution with State.)

4. TRENDS

All RAs indicated same general trends though documentation was not immediately available: wild horse populations "exploded" during the gathering moratoriums of the 70s and 80s, only "priority areas" in the state have been able to bring them down to a manageable range, grazing/wild horse decisions have generally reduced only wild horses because of extensive voluntary non-use by livestock operators, the major problem being previous conversions of sheep to cattle operations without regard to the differing forage demands/vegetative availability of/for the two kinds of livestock.

Appendix 4

REVIEW OF THE WINNEMUCCA AND BOISE DISTRICTS

I. INTRODUCTION

A. Purpose of review - To find out how forage is being allocated.

B. Format of report - Six major topics were identified by the team. These topics are discussed specifically by state in a general fashion. If there were special circumstances or items in need of further explanation, more detailed analysis is provided.

II. ALLOCATION/DECISION PROCESS

A. Basis:

1. Nevada:

Winnemucca District. The census following the WFRHBA was used as the basis for AMLs for all Herd Management Areas. A census, completed in 1982, was the basis for development of the MFP planning documents during the middle 1980's. The MFP set goals and objectives for management of livestock, wildlife, and wild horses. In general, the use levels occurring in 1982 established ratios of livestock to cattle which are still in use today.

During the mid to late 1980's the CRMP process was used to establish use levels on some allotments and HMAs. Livestock numbers were generally aligned along long-term actual/licensed use whereas horse numbers were determined to be maximum numbers.

The early 1990s have seen a shift to interdisciplinary and more interest group involvement. An intensive analysis and evaluation process is used to determine use levels appropriate to the natural resources involved.

2. Idaho

Boise District. The census following the WFRHBA was used as the basis for AMLs for all Herd Management Areas. MFPs set goals and objectives for management of livestock, wildlife, and wild horses.

The early 1990s have seen a shift to interdisciplinary and more interest group involvement. An intensive analysis and

evaluation of data is used to determine use levels appropriate to the natural resources involved.

B. Method of Implementation.

1. Nevada used the MFP to implement all WHB, wildlife, and livestock decisions and used the RMP process in the 1990's. Multiple use decisions are used to implement management decisions (see the paper on the MUD process).

2. Idaho also used the MFP/RMP process to implement planning decisions. Grazing decisions and gather plans were the means to complete administrative procedures.

C. Approach.

1. Nevada. 1971 census figures were used as the basis for management up until 1982, then proportions were based on politics/socio-economics of the affected area which greatly influenced the numbers set in the new RMPs. This was done through negotiations, agreements, or the CRMP process.

2. Idaho. 1971 census figures were used as the basis for management through the 1990's RMP.

III. APPROPRIATE MANAGEMENT LEVEL (AML)

A. Nevada: AMLs are considered to be maximum numbers. Originally set in 1971 with census as required by Law. Based on existing numbers at that point in time. Not based on resource conditions. HMA's boundary determined at same time.

AMLs set may not be equitable with resource capability (i.e., at time of initial census, WH&Bs were seasonally displaced and not counted, or possibly double counted, or out of the area). This same situation occurred in the '80s when census was taken prior to RMP development.

CRMPs, MOUs, political agreements either aided in setting or modifying the RMP levels set for WH&Bs.

B. IDAHO: AMLs are considered to be maximum numbers. Staff specialists, however, mentioned that they would prefer using a range of numbers (Minimum/Maximum). Originally set in 1971 by census as required by Law. Has remained the same since.

Some HMAs have had AML set based on available water. Currently in process of draft RMPs, however, original 1971 census numbers and established AML's are still used.

IV. WILDLIFE

A. NEVADA: Nevada Division of Wildlife (NDOW) does not set population(s) numbers based on identified carrying capacity. They use "reasonable numbers" they obtain from wildlife counts and professional estimates. Therefore, wildlife numbers given to BLM for RMPs, and other decision type documents are "reasonable numbers". There are only a very few areas where the State (NDOW) can provide actual population numbers tied to an area's capacity.

B. IDAHO: Idaho State Game and Fish has population goals and objectives, however, they are not tied to a land base's actual capabilities/carrying capacity. The majority of Idaho's objectives are to maintain or increase what they currently have. Actual population numbers are difficult to obtain from the State. Therefore wildlife allocations in RMPs and decisions involving WH&Bs may not be equitable with other resource allocations considering livestock and WH&Bs.

V. TRENDS

A. NEVADA:

1. HORSES - Horse numbers from 1971 (census and AML establishment) have increased. WH&B numbers as set in the 80's through the RMP development, CRMP and other social/political negotiations process were increased from the original census/AML set. This was due to higher horse/burro numbers existing at that time.

Multiple Use decision process (MUDs) have been utilized to reach a more equitable Thriving Natural Ecological Balance (TNEB) which has resulted in gathers to reduce WH&Bs to the AMLs set in the 1980's through the RMPs.

2. LIVESTOCK - Livestock licensed numbers have essentially remained same over time. Operators have taken non-use from preference due to economics and drought situations throughout the 1980s. The MUD process has attempted to reduce authorized numbers and done so in places. Regulations require livestock reductions be phased in over five years.

3. WILDLIFE - Population goals/objectives remained same/constant. Populations have fluctuated due to natural dynamics, however, have remained static.

B. IDAHO:

1. HORSES - Original AML set in 1971 based on census. Gathers have maintained overall herd numbers at original AMLs. RMPs are utilizing initial numbers for horses/burros as set in

1971. A recent appeal has allowed one herd to grow until data indicates deterioration of the resource.

2. LIVESTOCK - Grazing EISs are still evaluating numbers. Authorized numbers are less than preference.

3. WILDLIFE - Population numbers have remained status quo with natural population dynamics. Elk have increased, causing overlap and conflict with livestock and horses in some areas.

VI. CONSTRAINTS

A. NEVADA:

1. The original 1971 census based on number of WH&Bs there at the time and was not directly related to the actual carrying capacity of the area.

2. MFPs in '80s based on new census information and generally increased the WH&B numbers over the original 1971 levels. These numbers were used to set proportions in MFPs between livestock (existing preference) and number of WH&Bs. The number of WH&Bs censused may not be correct in some HMAs due to seasonal movements, locations, etc. So proportions in some HMA's may not be correct, which may result in poor percentage reductions coming out of MUDs.

3. Politics/social economics - The negotiation process through agreement, CRMPs, MOUs etc. - leads to allocation of uses rather than allocations based on the capacity of available resources. Even though this is a reality, this caused over allocations which is in conflict with regulations, policy and proper resource management.

4. The review process through various levels of organization adds time before implementation. This affects timely decisions which in turn delays resource improvement.

5. AMLs set in RMPs are not necessarily meeting the need of the resources on the ground.

6. Reducing livestock numbers based on the decision process usually takes five (5) or more years which constrains and retards timely resource improvement.

B. IDAHO:

1. Other resource programs have committed/allocated resource (i.e.- livestock, recreation) spatially and

temporally (i.e.- spring recreational use). These other uses are a direct conflict with foaling areas and competing uses which in effect is an over allocation of available resources.

2. Resource availability may be a constraint. For example, water may be controlled by permittee and not the U.S. Government. Or, when areas are unserviceable (poor or non-functional range improvements, i.e., water developments) allocations may have been made anyway, thus over allocating the resource.

3. One HMA had a very small herd size far below the 50 recommended by some geneticists.

Appendix 5

REVIEW OF THE ROCK SPRINGS AND RAWLINS DISTRICTS

I. BACKGROUND

Rock Springs District:

There are three primary wild horse herd management areas in the Rock Springs District. All are within the Green River Resource Area:

White Mountain	392,600 acres
Great Divide Basin	778,900 acres
Salt Wells Creek	1,193,300 acres

A portion of a fourth herd management area, the Adobe Town WHHMA is partially in the Green River Resource Area, with the rest of the HMA in the Great Divide Resource Area of the Rawlins District to the east. This HMA, by agreement, is administered by the Rawlins District.

The Green River Resource Area contains a substantial amount of "checkerboard" lands, both north and south of Interstate 80, which are included in all four of the herd management areas. These lands create a substantial management problem under the Wild Horse and Burro Protection Act because the alternating sections of public and private land result in wild horses moving freely between public and private lands. The Rock Springs Grazing Association (RSGA) controls administration of the bulk of the private lands within the checkerboard area.

Rawlins District:

The Rawlins District has four wild horse HMAs. None are in the checkerboard area, so the issues are quite different than those in the Rock Springs District. Of the four HMAs, one is in the Lander Resource Area (encompassing 6 herd areas) and three are in the Great Divide Resource Area, including the Adobe Town HMA shared with the Rock Springs District.

II. FORAGE ALLOCATION DECISION PROCESS

Rock Springs District:

The objectives for the number of wild horses to be maintained were set by agreement. In 1979, representatives of the Rock Springs Grazing Association (RSGA) met with a local wild horse interest group, Wild Horse Yes, and the International Society for the Protection of Mustangs and Burros to establish mutually agreeable numbers for wild horses. They agreed to numbers both north and south of Interstate 80 and then presented their numbers to the BLM. Generally, the agreed

upon numbers called for 1,000 wild horses north of I-80 and 600 wild horses south of I-80.

In March 1981, in response to litigation brought by Mountain States Legal Foundation on behalf of the RSGA, the Federal District Court ordered BLM to "remove all wild horses from the checkerboard grazing lands in the Rock Springs District except that number which the Rock Springs Grazing Association voluntarily agrees to leave in said area." This litigation was precipitated by the inability of the Bureau to control wild horse populations to the previously agreed upon levels.

The Court Order further required that:

> ...the Rock Springs District...shall within two years...remove all excess horses from within the Rock Springs District.
>
> ...excess as defined in this Order and the Act means that the wild horse population exceeds the number deemed appropriate by a final environmental statement. In the absence of such a statement excess means that the number of horses exceeds the number present in the same area at the time the Act was passed....

The original court order was amended in February of 1982 to include the following:

> ...the Bureau of Land Management has determined that the appropriate management level for the horse herds on the Salt Wells/Pilot Butte checkerboard lands is that level agreed to by the landowners in that area. All horses on the checkerboard above such levels are "excess" within the meaning of 16 U.S.C. 1332(f)....
>
> ...in the Final Environmental Impact Statement for the Sandy Area, the Bureau of Land Management's proposed action was for an average herd management level in that area of 825 horses. All horses in the Sandy Resource Area above that level are "excess"...
>
> ..."excess," as used in this Order, means those wild horses above the population level that the Bureau of Land Management has determined to be appropriate, in accordance with its multiple-use management responsibilities under 16 U.S.C. 1332(f) and 1333; or, in the absence of such a determination, the number of horses above the number present at the time the Act was passed.

Planning decisions concerning wild horses are documented in the Big Sandy and Salt Wells Management Framework Plans. The AML for wild horses was not changed from the original numbers agreed to by the RSGA because any additional numbers allowed on public land could, at some point, be found on private checkerboard lands covered by the District Court Order. Horse numbers are also mentioned in the Sandy Grazing EIS and the Salt Wells/Pilot Butte Grazing EIS. Herd Management Plans were completed for the Divide Basin HMA in 1981 and the Salt Well Creek HMA and White Mountain HMA in 1982. Each of these plans and

EISs accepts as the decision the original agreed upon number of 1600 wild horses.

Gathering EAs and decisions were appealed by wild horse interest groups in 1990. On February 22, 1991, the IBLA affirmed BLM decisions to gather wild horses according to the 1990 gathering EA and recognized the district's approach to using AMLs from the Court Order to establish AMLs for wild horse management areas that include checkerboard lands. They stated that "The issue of AMLs of wild horses and what constitutes 'excess,' has been determined with finality by the District Court Orders."

The Green River Resource Area is in the process of completing a Resource Management Plan to replace the two MFPs. The Draft Green River Resource Area RMP/EIS on page 16 states:

> The Green River RMP EIS will consider appropriate management levels for horses in accordance with an existing court order and related agreements.
>
> The currently used appropriate management levels (AML) for wild horses were based on the numbers agreed to and on existing land use plans. The AML for wild horses in the solid block public land areas was not changed from the numbers agreed to by the Rock Springs Grazing Association, because any additional numbers allowed on solid block public land would, at some point, be found on checkerboard lands covered by the District Court Order.
>
> The management of wild horse populations must be in compliance with the District Court Order. Therefore, it is assumed that wild horse numbers in compliance with the District Court Order are those numbers agreed to by the Rock Springs Grazing Association, and that any wild horses above that number are "excess", in the meaning of the Act, and are subject to gathering.

On page 142 the preferred alternative in the draft RMP says:

> Permitting for livestock grazing would continue until monitoring, negotiation, or a change in resource conditions indicate that a modification is needed.

On page 143 the draft RMP says:

> Authorized grazing preference may be reduced in areas with excessive soil erosion and poor range condition, if allotment evaluation warrant such a change or if necessary to provide forage for wildlife, wild horse, and recreational use.
>
> The current authorized active livestock use and existing forage reservations for wildlife and wild horses would be maintained.

Existing rangeland monitoring would continue and additional rangeland monitoring would be initiated to determine the need for forage allocation adjustment.

Rawlins District:

The district used public input through its MFP process to set the original AMLs. Interested and affected groups were asked to comment on the AMLs and at that time everyone was, of course, very aware of the law suit ongoing in the adjoining Rock Springs District. RMPs have now been completed for both Resource Areas and Herd Management Area Plans have been completed for each of the four herd management areas. These plans set the AMLs for each of the HMAs. These AMLs were reassessed in wild horse evaluations completed for each of the two Resource Areas, 1992 for the Lander RA and 1994 for the Great Divide RA.

The 1988 Medicine Bow-Divide (Great Divide Resource Area) RMP set a total AML for the Great Divide RA described as a range of 406 - 735 animals for the three HMAs in the Resource Area, the same as provided for in the earlier MFP. An evaluation of the HMAs in the Great Divide Resource Area completed in 1993 resulted in a new decision to maintain the AML for the Resource Area at a median of 995 animals.

The decision on the number of wild horses in the 1987 Lander RMP was to continue the 1983 interim wild horse herd management levels established in the Green Mountain Management Framework Plan. This provided for a median population of 580 animals with a minimum number of 420 animals and a maximum number of 815. The RMP on page 80 states "This initial or interim population level will be monitored, along with the habitat, to allow further adjustments as necessary to maintain viable herds and satisfactory range condition."

The 1992 evaluation of the Lander HMA slightly increased the forage allocation for wild horses to provide for a new total of 490 to 836 adult animals. The evaluation document also states that monitoring studies in grazing allotments within the herd areas will continue to be used to determine if adjustments in active grazing preference and changes in livestock/range management are needed.

The 1993 decision to gather horses in the Lander HMA resulting from the decisions in the 1992 evaluation of the HMA was appealed to the IBLA by the Animal Protection Institutes of America. The IBLA decision on the appeal is still pending. Two of the four issues on appeal include the accusation that the BLM decision on removal is not based on monitoring and that BLM has not determined how many wild horses must be removed to restore the thriving ecological balance.

III. APPROPRIATE MANAGEMENT LEVELS

Rock Springs District:

The original agreement on a total of 1600 head of wild horse in the district viewed these numbers to be the maximum number of horses for the district. Beyond that number, wild horses are considered to be "excess" as defined in the Court Order. However, for management purposes, the AMLs for wild horses in the Rock Springs District are managed to maintain numbers within a certain range. It was assumed that excess wild horses in a herd management area would be gathered at least every two years and that there would be a 20 percent annual increase in population.

North of I-80 the AMLs fall about the middle of the identified range, with 1000 head being the maximum in accordance with the agreement. South of I-80, the AML is defined as the top of the range rather than the middle. The maximum number allowed is the 600 head in conformance with the District Court Order. The areas north and south of I-80 were in two different Resource Areas that have subsequently been combined into the present Green River Resource Area.

Rawlins District:

AMLs were set considering the amount of nonuse historically being taken, the heavy utilization of some riparian areas, the horses' social behavior and space requirements which at some level of numbers cause the horses to begin to move outside of designated herd areas and the availability of water.

On page 3 of the 1993 evaluation of the Great Divide HMAs, it states: "The AML becomes the median of the range..." In calculating the upper and lower limits, it was assumed that excess horses would be rounded up every three years and that the rate of population increase was 20% per year.

IV. WILDLIFE ISSUES

In neither the Rock Springs nor the Rawlins district was wildlife viewed as a significant factor in allocating forage to wild horses. The degree of dietary overlap for antelope and mule deer was slight and, when combined with the seasonal timing of their use compared with that of the wild horses, led to a general conclusion that there was little direct conflict among most wildlife and wild horses. There were, however, a few site-specific areas where use by elk was considered a competitive use and this was considered when evaluating causes for decline in some riparian areas and the decisions on the numbers of horses in some of the Rawlins herds.

V. RESULTS AND TRENDS

Rock Springs District:
The numbers of wild horses within the Rock Springs District has fluctuated because of budgetary constrains on roundups and appeals, but the target number of horses or AML has remained the same since 1982.

The staff of the Green River RA said that they feel there is little direct competition among wild horses and livestock at the present time. Livestock use within the HMAs is primarily winter sheep grazing and a substantial amount of nonuse has been occurring for a number of years. Some of this nonuse has been because of the presence of the wild horses, but most has more to do with the problems within the sheep industry. The amount of nonuse was not further documented because the present allocation of forage to wild horses was established independent of the forage allocation issue and because monitoring indicates there is sufficient forage for both the agreed upon numbers of wild horses and the historic level of use by livestock. However, the RMP currently being prepared recognizes that at some time in the future an allocation may need to be made and establishes a basis for considering reductions in livestock numbers if needed.

Rawlins District:

The decision made in the 1993 evaluation report for the Great Divide RA increased the AML from a range of 406-735 wild horses set in the 1988 RMP to a new AML of 995, which is to be the median of the range in the number of horses. There was no adjustment in the number of livestock.

For the 10 years preceding the 1993 evaluation livestock use in the allotments in the Great Divide RA that are within the HMAs has been considerably below the preference. Averages for percent of active preference actually used ranged from about 17 percent to 73 percent with the average for the 19 allotments being about 47 percent. Nonuse has been partially the result of voluntary adjustments because of the presence of the wild horses, but the primary reason for nonuse has been labor and other economic problems within the livestock industry, especially within the sheep industry.

In general, monitoring has shown that within the HMAs in the Great Divide RA that utilization, condition and trend on most upland areas does not present a problem. However, riparian areas are consistently overgrazed for too long a time, are in less than desirable condition and are not improving.

The 1986 RMP for the Lander Resource Area set the number of wild horses at a median population of 580 animals with a minimum number of 420 and a maximum number of 815. The 1992 evaluation of the Lander HMA resulted in a slight increase in the forage allocation for wild

horses to provide for a total of 490 to 836 adult animals. The evaluation document also states that monitoring studies in grazing allotments within the herd areas will continue to be used to determine if adjustments in active grazing preference and changes in livestock/range management are needed.

The actual livestock use for the Lander HMA for the years 1982 to 1991 for the allotments that are located within the herd areas ranges from a low of 45 percent of preference to a high of 88 percent of preference with an average of about 68 percent. During the same period of time, the actual numbers of wild horses was considerably above the AMLs. For example, in February of 1992 as the evaluation was being prepared, about 1100 adult horses were counted, compared to the AML at that time which set the upper limit at 815 and a median of 500.

The Lander HMA evaluation found that the range trend in general is static to slightly up. However, utilization is high on all riparian areas within all of the allotments inside the HMA (upwards of 80%) and riparian conditions are only fair to good. Some riparian sites are still in less than desirable condition (mid to low fair) and the evaluation concluded that in some areas continued implementation of a combination of management actions is still needed. Livestock management actions taken to date to help alleviate the pressure on the resource include fencing, herding and changes in livestock turnout dates.

VI. CONSTRAINTS

The primary constraints for establishing the allocation for wild horses in the Rock Springs District has been the acceptance of a reasonable number of horses on the private lands within the checkerboard area by the Rock Springs Grazing Association.

The primary constraints for the Rawlins District appeared to be that number of wild horses above which the horses begin to move onto checkerboard lands and other lands outside established HMAs and the site-specific condition of some riparian areas.

Appendix 6

EXCERPTS FROM REGULATIONS AND BLM MANUAL

The regulations governing both administration of livestock grazing (subpart 4100) and management of wild horses (subpart 4700) tie decisions in these programs to the Bureau's land use planning requirements (part 1600). Quotations from the portions of the regulations Volume 43 CFR and BLM Manual on planning relevant in some way to the allocation issue are included below:

4100.0-5 Definitions.

> Livestock carrying capacity means the maximum stocking rate possible without inducing damage to vegetation or related resources. It may vary from year to year on the same area due to fluctuating forage production.

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 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).

4110.2-2 Specifying grazing preference.

> (a) Grazing preference shall be specified in all grazing permits or grazing leases. It shall include both active use and suspended use. Active use shall be based upon the amount of forage available for livestock grazing established in the land use plan as defined in 43 CFR 1601.0-5(k).

4110.3 Changes in grazing preference status.

> The authorized officer shall periodically review the grazing preference specified in a grazing permit or grazing lease and may make changes in grazing preference status. These changes shall be supported by monitoring, as evidenced by rangeland studies conducted over time, unless the change is either specified in an applicable land use plan or necessary to manage, maintain or improve rangeland productivity.

4110.3-2 Decreasing active use.

(b) When monitoring shows active use is causing an unacceptable level or pattern of utilization or exceeds the livestock carrying capacity as determined through monitoring, the authorized officer shall reduce active use if necessary to maintain or improve rangeland productivity, unless the authorized officer determines a change in management practices would achieve the management objectives.

4130-6-1 Mandatory terms and conditions (in part).

(a)...The authorized livestock grazing use shall not exceed the livestock carrying capacity as determined through monitoring and adjusted as necessary....

4700.0-2 Objectives.

The objectives of these regulations are management of wild horses and burros as an integral part of the natural system of the public lands under the principle of multiple use....

4700.0-6 Policy.

(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.

(b) Wild horses and burros shall be considered comparably with other resource values in the formulation of land use plans.

(d) In administering these regulations, the authorized officer shall consult with Federal and State wildlife agencies and all other affected interests, to involve them in planning for and management of wild horses and burros on the public lands.

4710.1 Land use planning.

Management activities affecting wild horses and burros, including the establishment of herd management areas, shall be in accordance with approved land use plans prepared pursuant to part 1600 of this title.

4710.3-1 Herd management areas (in part).

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 in 4710.4.

The BLM Supplemental Program Guidance which directs how land use plans are prepared appears in the BLM Manual in section 1620. The policy section states that the resource management planning determinations set forth in this series of the Manual are required in every RMP unless one of four specific exceptions apply. One of these exceptions provide that:

> D. A determination is not required if management has decided that it would be premature to make the determination in question and that it should be handled through a subsequent plan amendment when and if the need arises. (Such deferrals are normally identified during preplanning.)

The determinations required for wild horse and burro management are listed in the Manual at 1622.41 and include the following:

> A. Resource Management Planning. The following wild horse and burro related determinations are required in every resource management plan unless one of the exceptions discussed in BLM Manual 1620.06 applies.
>
> 1. Management Areas. Delineate public land areas where herds of wild horses or burros will be maintained and managed in the long term (herd management areas).
>
> 2. Management Objectives. Identify habitat related objectives for each herd management area. Where these areas also provide habitat and forage for other large herbivores (wildlife or livestock), **the objectives should address use of the forage by all species.** (emphasis added)
>
> 3. Management Direction.
>
> a. Herd Size. Identify the **initial herd size** for each herd management area. **Long term herd size** and **forage requirements** must be estimated. (emphasis added)
>
> b. Adjustment Criteria. **Outline criteria for making adjustments, if necessary, in the initial herd size.** These should include a statement of the critical resource use levels that will not be exceeded, as well as criteria that might guide necessary adjustments among consumptive uses. (emphasis added)
>
> c. Resource Constraints. List by herd management area constraints that will be required on other resource uses, both consumptive and nonconsumptive, to allow for herd management at the appropriate intensity.
>
> d. Wild Horse and Burro Ranges. Recommend for approval by the Director herd management areas proposed for designation as ranges.

B. Activity Planning. The following wild horse and burro related determinations are usually deferred to activity planning: objectives relating to herd composition or animal characteristics; monitoring methods and schedules; range improvement needs; schedules for management actions; **upper and lower limits on herd size, within which the population will be allowed to fluctuate**; and criteria for selective removal of animals, if any. (emphasis added)

Appendix 7

ALLOTMENT EVALUATIONS TO MULTIPLE USE DECISIONS

Presented to the "NATIONAL WILD HORSE AND BURRO FORUM" May 8, 1991 by Brad Hines

HISTORICAL BACKGROUND

The Bureau of Land Management (BLM) in Nevada is implementing multiple use management on nearly 48,000,000 acres of public land under the direction of fourteen existing Land Use Plans (LUPs) that have been prepared throughout the State. Generally these LUP's correspond to the twelve Resource Area boundaries that occur within the six district offices.

Beginning in the late 1970s and continuing in the late 1980s the BLM in Nevada was in an intensive land use planning phase. The emphasis which began this effort was the court settlement (NRDC v. Morton), agreed to between the National Resource Defense Council, the BLM and Federal Court wherein, the BLM was to prepare 212 Environmental Impact Statements (EISs) to analyze the impacts of grazing domestic livestock on public lands.

The proposed action in the early planning efforts which were analyzed in the EIS's contained, in part, a forage allocation to livestock, wild horses and burros, and wildlife. These proposed actions used "one point in time range land inventories" as a data base to determine the overall carrying capacity of the range and proposed various allocations of the capacity between varying uses. This policy became controversial and centered around the validity of using "one point in time inventories" as the main criteria for allocations. As a result of this controversy in 1982 the BLM Director issued a new policy that required adequate monitoring data to be required in addition to the "one point in time inventory" data when changes in livestock grazing preferences were implemented.

As a result the 14 LUPs for the State made the following types of decisions:

1. Livestock Grazing
   a. Identified objectives for vegetation goals
   b. Determined where livestock would and would not be allowed.
   c. Identified the degree of range improvements deemed to be necessary to meet LUP objectives
   e. Identified Kind of livestock to be permitted by area
   f. Identified goals for authorized levels of livestock use
   g. Identified "initial levels" of authorized livestock grazing
   h. Identified that "monitoring" would be used to adjust livestock grazing if it was determined that the existing authorizations were not meeting the LUP objectives

2. Wild Horse and Burros
   a. Identified Herd Management Areas
   b. Identified "initial levels" of WH&B
   c. Identified that "monitoring" would be used to adjust WH&B levels.

3. Wildlife
   a. Identified habitat objectives by kind and area of wildlife
   b. Identified "reasonable numbers" of wildlife by kind and area
   c. Identified aquatic habitat objectives

This approach to our LUP decisions was again challenged in Federal District Court (NRDC v Watt) or the Reno Grazing EIS lawsuit. This suit challenged both the National Environmental Policy Act (NEPA), and the Federal Land Policy and Management Act (FLPMA), compliance of BLM LUP/EIS. They also alleged that the BLM policy of not using "inventories" for allocation was illegal. That our LUP decisions were "..delaying indefinitely management actions needed to improve unacceptable range conditions."

The Federal Judge ruled that he ..."refused to become the Range Manager for the State of Nevada," he also stated the BLM had clearly stated that "monitoring" would be used to determine what changes in existing management of the public lands would be implemented. He "invited" the plaintiffs back into his court room if the BLM did not implement their approved LUPs.

Subsequent to this ruling the BLM Director issued a policy direction which stated that within 5 years of issuance of the Record of Decision-and the Rangeland Program Summary the BLM would do the following on all Intensive (I) and Maintenance (M) category allotments:

1. establish multiple use allotment specific objectives
2. implement a monitoring program to assess the obtainment or lack there of in meeting the LUP objectives
3. based upon an analysis of the monitoring data either
   a. enter into a livestock use agreement which implements the needed changes in existing management or
   b. issue a decision which implements the needed changes in management or
   c. document the file if monitoring establishes that existing management is meeting the LUP objectives

The attached table shows the reported progress of this effort for Nevada as of 11-05-90.

THE NEVADA ALLOTMENT EVALUATION PROCESS

To meet the goals established by BLM policy the Nevada BLM has implemented a interdisplinary allotment evaluation policy that creates the opportunity for interested parties or affected interests to become involved in the process.

At the beginning of the fiscal year each resource area sends a listing of the allotment evaluations that they will be working on to their mailing list of interested publics. This letter requests that if you want to become involved or if you want to identify yourself as an affected interest on a particular allotment to notify the authorized office in writing. Additionally the letter requests that if you have information that will assist the BLM in determining if the current management is or is not meeting the LUP objectives to please provide this information.

As this list is developed the area office will then keep you involved in the consultation, cooperation and coordination process on a particular allotment(s).

The evaluation process consists of five basic parts which are:

1. What do you want? (Allotment specific objectives for those LUP objectives that are or may be impacted by grazing animals)
2. Data analysis
3. What's broke (and what broke it) and what's not broke?
4. How do you fix what's broke?
5. Management Decision

NEVADA'S MULTIPLE USE DECISION PROCESS

At the conclusion of the evaluation process Nevada BLM uses a Multiple Use Decision process to establish:

1. The terms and conditions of the grazing permits.
2. The Appropriate Management Level for Wild Horses and Burros that occur within the allotment.
3. Any recommendations for wildlife populations or habitat management actions required if it is determined that these action are necessary.

This format addresses the above items in a manner that must be consistent with the LUP for the area.

Should any protests or appeals be initiated as a result of these decisions it is intended that they all be consolidated for the purpose of holding one hearing on the issues. The rationale for this is that the issues of livestock grazing, wild horse and burro management and wildlife issue are all interrelated. The basis of the decision is monitoring information collected on the resources of the allotment. Any adjudication of these decisions should consider all the users of the vegetation resources, rather than sperate forums adjudicating single issues.
(See attached flow sheet for more detail)

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
NEVADA STATE OFFICE
P.O. Box 12000
Reno, Nevada 89520-0006

MAR 21 1994

In Reply Refer To
4710.6 (NPO-960)

Memorandum

To: State Director, Nevada

From: Chief, Wild Horse and Burro National Program Office

Subject: Summary of Research and Review of Draft Appropriate Management Level Memorandum

On February 10, 1994, you provided me with draft wording which could be used in developing guidance on the establishment of appropriate management levels (AML) through the multiple use decision (MUD) process in Nevada. Since that time, Tom Pogacnik has been conducting research on the subject. The research has focused on: the numbers used in the grazing Environmental Impact Statements (EISs); the origins of the numbers used in the land use planning process; how AMLs are currently being established; and the "problem" facing the long-term management level for wild horses and burros in Nevada. The following summarizes that research.

- Grazing EISs established allocations for livestock, wild horses and burros (WH&B) and wildlife using one-point-in-time inventory data.

- Management Framework Plans (MFP) and Resource Management Plans (RMP) did not carry the data forward from the EISs. Land Use Plans (LUPs) established current numbers and monitoring policy.

- Livestock numbers were developed by averaging the last 3-5 years of grazing use to determine the initial stocking rates, WH&B numbers were developed through the Coordinated Resource Management Planning (CRMP) process, wildlife numbers were developed from Nevada Department of Wildlife (NDOW) as reasonable numbers.

- The WH&B numbers were developed in coordination with WH&B advocates and the permittees. Although it is reasonable to assume review of existing monitoring data would have been considered in the process, no documentation record stating such was carried forward to the MFP/RMPs.

- Discussions of whether or not data was used in negotiating the WH&B numbers may be located in the resource area's CRMP files. However, Tom's experience with Tonopah's CRMP records is that any discussions about monitoring data was not included in the minutes.

- It does not appear that the LUP numbers have any technically defendable basis. Managing for these numbers would not survive an appeal. However, the proportions established in the LUP between livestock and wild horses and burros has been challenged and upheld.

- The LUP's represent the political input to the decision process. The proportions between livestock and WH&Bs is the net result of the political question "who gets how much".

- The "problem" within the Multiple Use Decision (MUD) process is that livestock were over-allocated so badly in the LUP process that the permittees have been taking as much as 50% non-use.

- Where as the wild horse proportions and ensuing reductions have been based on actual use, the livestock proportions were based on total preference and reductions have come from total preference.

- The net result is that when a reduction in AUMs is identified, WH&B take an actual reduction in animals while livestock primarily are reduced from non-use AUMs. In several decisions issued in the Ely district, the permittee may not take an actual reduction in animals until the fifth year, while in others, the permittee's reductions may come only from non-use AUMs.

- To correct this situation would require LUP amendments to revise the proportions. Simply requiring that all reductions be made from actual use would result in a change in the proportions leaving BLM exposed to appeal from the livestock permittee. BLM would probably not survive an appeal on this subject.

In summary, should we issue new guidance using the LUP numbers as a base? I believe we would be leaving ourselves open to an appeal from the livestock industry. I do not believe we would prevail in an appeal of this nature. However, the "problem" continues and to fail to address the issue in some manner soon will result in degenerated relations with the wild horse and burro advocacy groups and a potential loss of some of the ground the program has gained during the past 3 years.

As an initial idea toward heading-off the "problem", Nevada should issue guidance that would prohibit further reductions in WH&B populations until livestock take their final reductions (5th year). Any further reductions would be targeted to the offending animal, when that can be identified. It may be necessary to develop new criteria for directing reductions. Tom will begin to research the feasibility, and defensibility of this.

My staff and I would appreciate your insight in resolving this situation now, while it is still only a potential problem.

BRUCE E. [illegible]

TPogacnik:jan:3/21/94:aml