

**STATE OF NEVADA  
BOARD OF WILDLIFE COMMISSIONERS**

**Commission Policy Number 67**

**Title:** Federal Horses and Burros

**References:** NRS 561.025, 561.218,  
569.008, 504.030, 533.367,  
533.695, 533.460, NRS  
321, Presidential Executive  
Order: 12630, Public Law  
92-195 (1971).

**Effective Date:** May 14, 2011

**BACKGROUND**

The Board of Wildlife Commissioners shall establish policies necessary for the preservation, protection, management and restoration of wildlife and its habitat and shall utilize its land management authority to carry out a program for conserving, protecting and propagating wildlife and their habitats. To that end the Nevada Board of Wildlife Commissioners established the "Feral Horse Committee" and asked that committee to provide background and action recommendations relative to the Wild Free-Roaming Horses and Burros found within Nevada.

The Wild Free-Roaming Horses and Burros Act of 1971 (Public Law 92-195) gave federal protection to feral horses that went unclaimed on the federally administered lands. The Act of 1971 protects multiple use, wildlife, wildlife habitat, jurisdiction and authority of State Law, and consultation or coordination with State agencies such as the Nevada Department of Wildlife and the Nevada Board of Wildlife Commissioners (PL92-195 Section 1333(a)). Federal assumption of ownership of the WFRHB places them in a category that is neither wildlife nor livestock. The Act of 1971 instructs each federal agency to resolve any conflicts between wildlife and these feral horses and burros that have been redefined with special status under federal law.

Congress declared that Wild Free-Roaming Horses and Burros (WFRHB) would be kept at the level of "*thriving natural ecological balance*" within the areas in which they would exist. "*Thriving natural ecological balance*" is specified numerous times throughout The Act of 1971. Federal agencies are required to "...*protect the natural ecological balance of all wildlife species which inhabit such lands, particularly endangered wildlife species.*" Failure to limit WFRHB numbers to thriving natural ecological balance will trigger specific actions to reduce herd numbers in accordance with the law (PL92-195 Section 1332(f)(2)).

**PURPOSE**

The purpose of this policy is to provide direction and guidance for the Nevada Department of Wildlife regarding Wild Free-Roaming Horses and Burros, the recognition of any impediments to natural ecological balance, and the fulfillment of coordination to resolve inconsistencies between federal actions and this official policy.

## POLICY

The Board of Wildlife Commissioners does hereby establish the following policy to provide for the preservation, protection, management and restoration of wildlife and its habitat:

A. When the Board of Wildlife Commissioners or the Nevada Department of Wildlife determine a conflict exists between any wildlife of Nevada and WFRHB, written notification should be sent describing such conflict to the responsible federal agency and officials. Such determination of a conflict may be the result of direct observations by Wildlife Commissioners, NDOW personnel, reports by other state or local officials, or reports by members of the public.

B. Strict compliance with the Act of 1971 is the minimal acceptable level of management of Wild Free-Roaming Horses and Burros (WFRHB) in Nevada. In particular “*thriving natural ecological balance*” is to be maintained at all times.

Thriving ecological balance of Nevada wildlife is violated when WFRHB directly compete for any attribute of wildlife habitat. Such violations include but are not limited to: competition for food or forage, competition for space that disturbs the movement or distribution of wildlife, competition for water, interference with wildlife access to water, use of water reserved for wildlife under Nevada Law by WFRHB that do not have lawful beneficial use designation for that water, etc.

Thriving natural ecological balance is defined in part by the Secretary of Interior in Section 4.1.5 (page 17) of the BLM Wild Horses and Burros Management Handbook dated July 7, 2010.

Wild Horses and Burros “...*shall be managed in balance with other uses and the productive capacity of their habitat (i.e., WH&B will be managed to achieve and maintain a thriving natural ecological balance (TNEB) and multiple use relationships on the public lands). ... To achieve a TNEB on the public lands, WH&B should be managed in a manner that assures significant progress is made toward achieving the Land Health Standards for upland vegetation and riparian plant communities, watershed function, and habitat quality for animal populations, as well as other site-specific or landscape-level objectives, including those necessary to protect and manage Threatened, Endangered, and Sensitive Species (TES)*”

C. When it is found that WFRHB are not within “thriving natural ecological balance” NDOW should request in writing to the responsible Federal Agency they immediately remove the offending animals in accordance with the Act of 1971.

D. When WFRHB are found outside of designated Herd Management Areas (HMA) NDOW should request in writing to the responsible Federal Agency that those horses or burros be removed immediately in accordance with the Act of 1971.

E. When it is found that WFRHB within an HMA are above the set Appropriate Management Levels (AML) NDOW should request in writing to the responsible Federal Agency that all excess animals be removed in accordance with the Act of 1971.

F. When it is found that the wild horses and burros are in direct competition for limited resources with wildlife this should be a trigger mechanism for the NDOW to request in writing to the responsible Federal Agency that the horses or burros be immediately removed in accordance with the Act of 1971 and that the AML be revised so as to achieve and maintain thriving natural ecological condition.

G. When a member of the public, local or county officials, or officials of other state agency notifies NDOW that they have identified a violation, this notification should be a trigger for NDOW to investigate and take appropriate action in accordance with this policy.

H. This policy shall be submitted to the federal agencies operating who may have responsibilities for managing WFRHB and will serve to enable those agencies to fully comply with federal law requiring federal actions be coordinated with state policy and any conflicts be resolved.

This policy shall remain in effect until amended, repealed, or superseded by the Board of Wildlife Commissioners.

BY ORDER OF THE BOARD OF WILDLIFE COMMISSIONERS IN REGULAR  
SESSION, May 14, 2011

A handwritten signature in cursive script, appearing to read "Scott Raine".

Chairman, Board of Wildlife Commissioners  
Scott Raine