

## 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:** January ??, 2022

### **BACKGROUND**

The Nevada Board of Wildlife Commissioners (NBWC) shall establish and implement policies necessary for the preservation, protection, restoration and management of Nevada's wildlife.

Expanding populations of free roaming horses and burros (FRHB) on federal, state, and military lands are impacting the future of Nevada's wildlife. Additionally, increasing numbers of fires, expansion of exotic grasses, tree encroachment into sagebrush habitats, loss of riparian functions and a warming climate all impact water sources and plant survival. These ever-increasing threats not only challenge populations of FRHB but also the multitude of wildlife species that depend upon healthy Nevada landscapes to survive.

As of March 2021, the nationwide total estimated FRHB population on Bureau of Land Management (BLM) lands was 86,189 with 53,741 residing in Nevada (including Nevada Herd Management Areas managed out of California BLM offices), representing approximately **62%** of the total FRHB BLM manages. These current numbers exceed the nationwide Appropriate Management Level (AML) of 26,770 by 310 percent and Nevada's AML of 14,331 by 375 percent. These population estimates do not include another 2,100 FRHB reside on U.S. Forest Service lands, 3,000 on private lands (managed by Nevada Department of Agriculture), and over 1,000 on Department of Energy and Department of Defense lands, or any horses found on Nevada tribal lands.

The Wild Free-Roaming Horses and Burros Act of 1971 (Public Law 92-195) requires the BLM to protect wild horses and burros from harassment and be managed as components of the public lands. The 1971 Act also requires multiple use management including wildlife and wildlife habitat, recognizing the jurisdiction and authority of State Law and requires consultation and coordination with State agencies such as the Nevada Department of Wildlife and the NBWC (PL92-195 Section 1333 (a)).

Congress declared in 1971 that Wild and Free-Roaming Horses and Burros (WFRHB) would be kept at the level to achieve "thriving natural ecological balance" within the areas in which they would exist. Failure to limit WFRHB numbers to thriving natural ecological balance must trigger specific actions to reduce herd numbers in accordance with

the law (PL92-195 1332(f)(2)).

The tools available to federal agencies are limited for removing excess FRHB. Agencies are restricted to the tools of adoption, short and long-term care, and fertility control. In areas where sufficient forage and water exists, these FRHB populations can double every three to five years. For these and a variety of other reasons, BLM has been unable to achieve Appropriate Management Level (AML) of 14,331 in Nevada necessary to sustain the thriving ecological balance, set by the Act of '71.

The result has been exponential growth, doubling FRHB populations every 3 to 5 years, with Nevada's current population of 53,741 being 375 percent above AML. FRHB graze rangelands 365 days a year, can dominate and exhaust water sources, overgraze rangelands and degrade riparian habitat and springs all at fish and wildlife's expense. This current reality is unsustainable for horses, rangeland ecosystems, wildlife and habitats.

### **PURPOSE**

The purpose of this policy is to provide guidance and direction and guidance for the to the Nevada Department of Wildlife (NDOW) to see FRHB properly managed to ensure that Nevada's diversity of 895 species of wildlife continue to thrive within our vulnerable Great Basin desert ecosystems with their extremely limited water sources.

### **POLICY**

1. The Nevada Board of Wildlife Commissioners (NBWC) recognizes that the exponential growth of free roaming horse and burro (FRHB) populations in Nevada pose a problem for the current and future health and viability of wildlife and FRHB.
2. The NBWC supports compliance with the Act of 1971 and the policies established by BLM for ensuring healthy landscapes and humane management of FRHB.
3. The NBWC supports the intent of the Path Forward (<https://www.energy.senate.gov/services/files/0869B02B-E9C5-4F0B-9AE8-9A8A1C85293E>) developed and approved in April 2019 by humane, livestock, and range management interests, acknowledging that increasing population of FRHB requires immediate management actions. The NBWC supports the Path Forward's three main precepts of targeted gathers and removals, increased adoptions, leased pastures, and use of fertility inhibitors based on efficacy. The NBWC believes that the 20-year time frame to reach AML as specified in the Path Forward will allow the continued degradation of wildlife habitat. The NBWC supports any opportunities for a FRHB gather program to achieve AML in a much shorter time frame.
4. The NBWC supports management actions based on scientific research: on FRHB, on use of public land resources and on development of best management practices.
5. The NBWC supports collaboration of stakeholders and agency managers to develop best practices in managing FRHB within a thriving ecological balance with wildlife,

plants, and pollinators.

6. The NBWC and NDOW shall provide letters of support for projects or plans proposed by BLM or other agencies managing FRHB that propose actions to achieve AML in agreement with objectives of this policy.
7. NDOW shall provide to NBWC, on an annual basis and in concert with the BLM and other agencies managing free-roaming horses and burros, a listing of those areas where FRHB are having the most significant impact on wildlife habitat. Prioritization is focused on those habitats critical for Lahontan Cutthroat Trout, Sage Grouse and other threatened or sensitive wildlife. Upon NBWC approval, the report will accompany a NBWC request to those agencies for the removal of excess horses and burros to AML on HMA lands and be totally removed from non HMA lands.
8. The NBWC supports and recognizes the urgency of removal of FRHB outside HMA's and reduction of horses within HMA's to their Appropriate Management Level to provide critical resources to wildlife in maintaining a "thriving natural ecological balance".
9. Because of Nevada's limited water sources, the NBWC asks NDOW, together with BLM, The Sagebrush Ecosystem Council, other public land agencies and water right holders, to identify and invest in efforts to ensure that these water sources remain available to wildlife, fish and invertebrates and to keep or restore riparian functions.

BY ORDER OF THE BOARD OF WILDLIFE COMMISSIONERS IN REGULAR SESSION,  
January, ?? 2022

Chairwoman, Board of Wildlife Commissioners  
Tiffany East

~~September-October 2021, 2021~~ – Proposed  
Revisions  
Coalition for Healthy Nevada Lands, Wildlife

STATE OF NEVADA  
BOARD OF WILDLIFE COMMISSIONERS

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321, Presidential Executive  
Order: 12630, Public Law  
92-195 (1971).

Effective Date: May 14, 2011

**BACKGROUND**

The *Nevada* Board of Wildlife Commissioners (*NBWC*) shall establish *and implement* policies necessary for the preservation, protection, *restoration and management of Nevada's wildlife.* ~~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.~~

*Expanding populations of free roaming horses and burros (FRHB) on federal, state, and military lands are impacting the future of Nevada's wildlife. Additionally, increasing numbers of fires, expansion of exotic grasses, tree expansion-encroachment onto into sagebrush habitats, loss of riparian functions and a warming climate all impact water sources and plant survival. These ever increasing threats not only challenge pPopulations of FRHB are impacted, as are manybut also the multitude of wildlife species of wildlife that depend upon healthy Nevada landscapes to survive., in turn, increasing management difficulties.*

*As of March 20210, there were anthe nationwide total -estimated 53,741 FRHB population on Bureau of Land Management (BLM) lands was 86,189 with 53,741 residing in Nevada (including Nevada Herd Management Areas managed out of California BLM offices), representing approximately 62% of the total FRHB BLM manages nationwide. These current numbers exceed the nationwide Appropriate Management Level (AML) of 26,770 by 310 percent and Nevada's AML of 14,331 by 375 percent. These population estimates do not include aAnother 2,100 FRHB reside on U.S. Forest Service lands, 3,000 on private lands (managed by Nevada Department of Agriculture), and over 1,000 on Department of Energy and Department of Defense lands, or including Nevada National Security Site and the U.S. Army's Hawthorne Ammunition Depotany horses found on Nevada tribal lands. Where sufficient forage and water exists, these FRHB populations can double every three to five years. They graze rangelands 365 days a year, can dominate and exhaust water sources, overgraze rangelands and degrade riparian habitat and springs.*

The Wild Free-Roaming Horses and Burros Act of 1971 (Public Law 92-195) *requires*

~~the BLM to protect wild horses and burros from harassment and be managed as components of the public lands. The 1971 Act also requires multiple use management including wildlife and wildlife habitat, recognizes recognizing the jurisdiction and authority of State Law and requires consultation and coordination with State agencies such as the Nevada Department of Wildlife and the NBWC (PL92-195 Section 1333 (a)). 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 *in 1971* that Wild *and* Free-Roaming Horses and Burros (WFRHB) would be kept at the level *to achieve* 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 *must* will trigger specific actions to reduce herd numbers in accordance with the law (PL92-195 Section 1332(f)(2)).

~~However, the~~ *The tools available to federal agencies are limited for removing excess FRHB. Agencies are restricted to the tools of adoption, short and long-term care, and costly temporary fertility control. Yet, in areas where sufficient forage and water exists, these FRHB populations can double every three to five years. For these and a variety of other reasons, BLM has been unable to achieve Appropriate Management Level (AML) of 13,000 14,331 -in Nevada necessary to sustain achieve the thriving ecological balance, set by the Act of '71.*

~~The result is and has been exponential growth, doubling FRHB populations every 3 to 5 years, -with Nevada's current population of 53,741 being 375 percent above AML. FRHB graze rangelands 365 days a year, can dominate and exhaust water sources, overgraze rangelands and degrade riparian habitat and springs all at fish and wildlife's expense. This current reality that is unsustainable for horses, and rangeland ecosystems, and wildlife and habitats.~~

## **PURPOSE**

The purpose of this policy is to provide *guidance and* direction and guidance for the *to the* Nevada Department of Wildlife (NDOW) *to see FRHB properly managed to ensure that Nevada's diversity of 8959 species of wildlife continue to thrive within our vulnerable Great Basin desert ecosystems with their extremely limited water sources* 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

1. ~~The Nevada Board of Wildlife Commissioners (NBWC) recognizes that the exponential growth of free roaming horse and burro (FRHB) populations in Nevada pose a problem for the current and future health and viability of wildlife and ultimately those of FRHB~~
2. ~~The State Board of Wildlife Commission~~ **NBWC** supports compliance with the Act of 1971 and the policies established by BLM for ensuring healthy landscapes and humane management of FRHB.
3. The NBWC supports the intent of the Path Forward (<https://www.energy.senate.gov/services/files/0869B02B-E9C5-4F0B-9AE8-9A8A1C85293E>) developed and approved in April 2019 by humane, livestock, and range management interests, acknowledging that increasing population of FRHB requires immediate management actions. The NBWC supports the Path Forward's three main precepts of targeted gathers and removals, increased adoptions, leased pastures, and use of fertility inhibitors based on efficacy. **The NBWC believes that the 20 year time frame to reach AML as specified in the Path Forward will allow for the continued degradation of wildlife habitat. The NBWC supports any opportunities for a more aggressive FRHB gather program so as to reach to achieve AML in a much shorter time frame."**
4. The NBWC supports management actions based on scientific research: on FRHB, on use of public land resources and on development of best management practices.
5. The NBWC supports collaboration of stakeholders and agency managers to develop best practices in managing FRHB within a thriving ecological balance with wildlife, plants, and pollinators.
- 5.6. The NBWC and NDOW shall provide letters of support for projects or plans proposed by BLM or other agencies managing FRHB that propose actions to achieve AML in agreement with objectives of this policy.
- 6.7. NDOW shall provide to NBWC, on an annual basis and in concert with the BLM and other agencies **managing free-roaming horses and burros**, gather planning processes, and a listing of those areas where FRHB are having the most significant impact on wildlife habitat, with prioritization is focused on those habitats critical for Lahontan Cutthroat Trout and Sage Grouse and other threatened or sensitive wildlife. With Upon NBWC approval, the report, together with will accompany a NBWC request to those agencies for the removal of excess horses and burros to ~~low~~ AML on HMA lands and be totally removed from non HMA lands.
- 7.8. The NBWC supports and recognizes the urgency of removal of FRHB outside HMA's and reduction of horses within HMA's to their Appropriate

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*Management Level to provide critical resources to wildlife in maintaining a “thriving natural ecological balance”.*

~~8. NDOW will review all FRHB management **populations** outside BLM lands with the same criteria used to review ecological impacts on BLM lands.~~

~~11. NDOW should **shall work with BLM, The Sagebrush Ecosystem Council, and other organizations and agencies to identify and protect** critical riparian areas for fencing to exclude or manage FRHB and livestock use for the benefit of Sage Grouse and other critical wildlife species, and to consider the potential use of the Nevada Conservation Credit System to facilitate the fencing and effective management of such areas.~~

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:

Commented [KM1]: Need to talk to Coalition about legal action or enforcement clause

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 these 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 these 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~~



Chairman, Board of Wildlife Commissioners  
Scott Raine