

# **SUSTAINABLE GRAZING COALITION**

*Nevada State Board of Agriculture • Nevada Rangeland Resources Commission •  
Nevada Cattlemen's Association • Nevada Farm Bureau •  
Nevada Central Grazing Committee  
P.O. Box 310, Elko NV 89803*

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November 1, 2008

## **VIRGINIA RANGE ESTRAY HORSE HERD ISSUE PAPER**

### **HISTORY:**

In 1997 the Nevada State Legislature enacted Assembly Bill No. 619 designating establishment of a revolving account for the management of estray horses in the Virginia Range (VR) under the jurisdiction of the Nevada Department of Agriculture. This bill established a revolving fund of \$10,000 dollars for this use. Monies to maintain the account balance were to be derived from the sale of estray horses from the Virginia Range and any other gifts, grants, donations or other monies so designated (AB 619, APPENDIX 1). Monies derived from sales of "Virginia Range horses" was exempt from subsection 3 of NRS 569.010 "Estrays and Feral Livestock" which required that monies from the sale of estrays were to be held for a period of one year subject to any claim of any person who could establish legal title to any animal concerned.

Based on this exemption, the bill as written appears to designate these animals as estray without opportunity for outside claim and under the jurisdiction and management of the Nevada Department of Agriculture. To date this has not been tested in a court of law as to any other interpretation. (BOA policy statement APPENDIX 2)

The Nevada Department of Agriculture (NDOA) also administers the 'estrays' livestock provisions of NRS 569 which are applicable to feral livestock, including horses.

In 1971, the U.S. Congress passed the Wild and Free-Roaming Horse and Burro Act (WHBA) and has since managed all the wild horse and burro populations in the United States. The Bureau of Land Management completed the Stockton Flat/Horse Springs and Jumbo gathers in 1983 and 1984 and declared the Virginia Range to be essentially wild horse free. At this time, based on the declaration by the Bureau that there are no wild horses in the area, any responsibility for horses in the Virginia Range would have fallen to the individual holding title to the animals and/or the NDOA through the "Estrays and Feral Livestock" provisions of NRS. In the case of the horses in the Virginia Range as per AB 619 and NRS 569.020, 569.031 and 569.120 (NRS 569, APPENDIX 3), the animals are the property of the Department, who has the authority to gather by themselves or through an agent, and hold and dispose of the animals with the proceeds, as per AB 619, going back into a revolving account for continued management and control of the animals in the designated Virginia Range Horse Management area.

Records from NDOA indicate that in 1997 there were 413 horses in the Virginia Range Estray Horse Area (VREHA). Census figures from counts conducted in June of 2002 indicated a population of 1200 head. In 1999, NDOA commissioned a rangeland assessment of the private lands within the VR. This study was concluded in 2000. As a result, the NDOA and the Virginia Range Wildlife Protection Association (VRWPA) agreed through a public meeting that the management number for the VR herd would be 550 animals.

A number of horses have been removed from the range and passed through the Warm Springs Correctional Center for gentling and initial training since August 1999. Several factors hamper the potential adoption opportunities for these animals. These include factors such as the need to concentrate efforts in management on “at risk horses”, the number of horses available for adoption through the BLM Wild Horse program, costs of caring for and maintaining a horse, and the simple truth that most of these animals are not the best looking specimens of horses available for purchase. This is complicated even further in that the federal government has by law closed all US based slaughter houses to horses and is considering passage of legislation outlawing the sale of horses for slaughter either here or out of the country (introduced in the house [H.R. 503], returned from committee to the floor of the senate [S. 311] proposed to be discussed and in subcommittee at this time. Reintroduced as “The Prevention of Equine Cruelty Act of 2008” [H.R. 6598] which was granted an extension from the House Committee on Agriculture for discussion set to end January 3, 2009). This legislation and the previous bill prohibiting slaughter of horses for consumption in the United States has in effect greatly reduced the price of horses available for sale and has the potential to greatly increase the number of abandoned older animals that the owner otherwise would have no other alternative but to feed until it dies of natural causes. Since 2006, the NDOA has been able to place 23 horses through auction and 29 with local horse advocacy groups. 72 horses were sent to non-profit organizations out of state. The compounding consequence of this is that a population size below 600 animals has not been attainable.

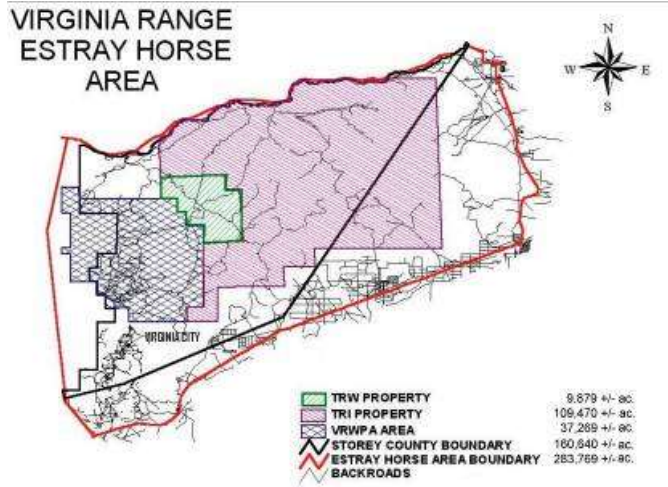
Competition exists for any potential adoptions of VR horses. The BLM wild horse program currently is responsible for management of approximately 33,000 horses on Bureau administered rangeland in ten western states. Since 1973, the Bureau has placed more than 220,000 horses and burros into private care (1. USDI; BLM Web Page, 2008) through their adoption program. There are still approximately 30,000 horses in BLM short and long term holding facilities utilizing close to half of the BLM’s operating budget due in part to the extremely large number of horses already in some form of adoption program.

#### DESCRIPTION OF VIRGINIA RANGE ESTRAY HORSE AREA (VREHA) AND RANGE CONDITIONS:

The VREHA consists of approximately 283,769 acres located east of Reno, NV. The boundaries are roughly the Storey County Line on the west, Alternate Highway 95 on the east, the Truckee River on the north and the Carson River on the south. The majority of

land within this area is privately owned. The information quoted below was prepared by the Nevada Department of Agriculture and describes the area in its entirety and critical resource concerns (2. NDOA). It includes information from field studies by the Natural Resources Conservation Service (NRCS) that were conducted at the Department's request.

"The Virginia Range herd area (VREHA) consists of approximately 283,769± acres located east of Reno, NV. VREHA is situated between Reno and Carson City on the west and Fernley and Silver Springs on the east. The boundaries are roughly delineated by the Storey County line on the west; Alternate Highway 95 on the East; the Truckee River on the north and the Carson River on the south. Within this area the majority of land is privately owned (over 160,000± acres). Roughly 80,000 acres are public lands managed by the Bureau of Land Management (BLM), Carson City District.



The area is predominantly mountainous terrain extending down to the river drainages of the Truckee and Carson. Much of the area is mountainous and rocky with varying steepness of slope up to 85%. Elevations range from approximately 4,100 feet to 7,300 feet above sea level. Annual precipitation data from the Reno Weather Station for The Virginia City weather station (high altitude 1890-2006) indicate an average annual precipitation of 13.4 inches. The Lahontan Dam station (low altitude 1911-2006) indicates an average annual precipitation of 4.6 inches. The precipitation range between these two weather sites are indicative of the highly variable precipitation received over the entire VREHA, with elevation variations and generally decreasing precipitation patterns from west to east across the range.

Given the areas high degree of variation in, precipitation, soils, altitude, slope, aspect and degree of historical and current disturbance, the natural vegetation in the VREHA is consequently very diverse. Extremes of vegetation and ecological sites range from very productive sites with vegetation production of 3800-6000 lbs./ac./yr. in small stringer wet meadows to very unproductive sites with production of 25-125 lbs./ac./yr. in pinion/juniper dominated woodlands. The predominant native vegetation types are Sagebrush/grass and pinion/juniper. Sagebrush present in the area consists mostly of low sage, Wyoming sage and mountain big sage, rabbit brush is also very prevalent. Native grasses are mostly Sandberg's blue grass, wild rye, Indian rice grass and needle grasses in decreasing order.

The western higher elevation portion of the VREHA has a reasonable amount of water mainly from springs and a few ephemeral creeks. These higher elevation springs have a history of going dry during periods of prolonged drought severely limiting water availability. There is a general scarcity of live water throughout the eastern portion of the range. The Steamboat Ditch, Truckee River and Carson River provide water along the borders of the VREHA. Residential and industrial development is encroaching on water sources in the lower elevations further limiting access to water. Availability of water is a limiting factor in the number of horses or cattle the VREHA can sustain.

The VREHA has been invaded by cheatgrass (*Bromus tectorum*). Cheatgrass is an introduced annual grass species that does provide some nutrition to horses, however, forage production by cheatgrass is unpredictable (dependent upon precipitation, temperature and many other factors) and, because it matures early and dries out, is only a good source of nutrition early in the spring. Cheatgrass is very tolerant of fire and heavy grazing, producing seed very prolifically and early in the growing season. With excessive grazing or fire cheatgrass can quickly become the dominant vegetation. Once Cheatgrass becomes dominant it is extremely difficult and expensive to return arid rangelands back to native perennial vegetation. Dominance of any vegetative species reduces biodiversity at the vegetative level thus reducing biodiversity of wildlife.

Many wildlife species have historically been found in the VREHA. Predators are mainly coyotes, but one mountain lion resides in the VREHA and she is known to have taken horses as prey. Mule deer are the largest wild herbivores

occupying the VREHA. There is a small resident herd of mule deer in the VREHA and some migration occurs between the Pah Rah range and the Pine Nut's. Deer do not usually directly compete with horse for forage as they are browsers (using woody shrub species). Reports of visual sightings of deer have decreased over the last ten years in the VREHA. Other herbivorous species include jackrabbits, cottontail, and rodents. Numerous non-game bird species occupy the various vegetative communities from sage brush to pinion/juniper. Game birds are limited to dove, chukkar and sage grouse. The VREHA is thought to have been an important link between grouse in the Virginia range and grouse in the Pine Nut Range. No Leks were found in the Virginia Range during the extensive planning effort for sage grouse in Nevada. Current populations of game birds are minimal in the VREHA.

Livestock utilize portions of the VREHA through private lease on the TRI lands and permits on BLM lands. TRI lease their rangelands to a local cattleman. Typically cattle numbers have been fewer than 200 head in the TRI owned rangelands. This year the lessee has sublet the TRI range to another individual that has placed approximately 800 head of cattle on the TRI range. Cattle have used the TRI area year-around with a minimal degree of rotation. Cattle and horses directly compete for forage and water in this area and vegetation has degraded to near total dominance of cheatgrass. BLM permits both cattle and sheep on a portion of the land they administer in the VREHA. The Stockton Flat allotment is a cattle permit for 224 animal unit months' (aum's) from November 1 to March 31 (+/-75 cattle) in the southeastern portion of the VREHA in Lyon County. Sheep are also permitted within the VREHA. The Jumbo and Duck hill allotments are located east of Washoe Valley and west of Virginia City. The Jumbo allotment is permitted for 927 Aum's, approximately one band (1000 head) for one month from May 1 to June 30. The permit has been used on a sporadic basis. The Duck Hill allotment provides 172 Aum's from November 16 to December 15. This allotment has not been used in many years. The Carson Plains/Gold Hill allotment is located in the southern foothills of the VREHA between Carson City and Carson Plains. The Carson Plains/Gold Hill allotment is permitted for 535 Aum's from April 1 to May 31. This allotment is rarely used because of the limitation of numbers and period of use and significant residential development in the allotment. Livestock do not use the VRWPA and TRW areas except on rare occasion.

The most detailed ecological information available for the VREHA can be found in a resource inventory (range assessment) completed by the Natural Resource Conservation Service (NRCS) in 2000. This study was jointly commissioned by the Virginia Range Wildlife Protection Association (VRWPA) and the Nevada Department of Agriculture (NDA). The commission to NRCS was to complete a comprehensive habitat capacity analysis on a portion of the VREHA consisting of 85,130+/- acres, predominantly in western Storey County and a small portion of adjoining Washoe County. The study area included those properties delineated on the attached map as TRW (9,789 ac.), VRWPA (37,289 ac.) and the remaining acreage within the study area is public land administered by the BLM. The study area is located on the western portion of the VREHA, generally at higher elevations (>6000 feet) and typically receives more precipitation than the balance of the VREHA. Therefore, the study area comprises the most productive and well watered rangelands within the VREHA. This area has the greatest ability to withstand excessive yearlong grazing and has the most potential for recovery.

The primary objective of the inventory was to "gather sufficient information to make an estimate of the carrying capacity (grazing capacity) for horses that graze year-around within the area evaluated". An extensive survey of the study area was completed. Field investigations were performed to determine the amount of herbaceous production, levels of utilization and the degree of variance of existing plant species from expected historic climax community or potential natural community (PNC) to provide an estimate of range condition. An ecological status class can be assigned based on the variance of existing plants from PNC that provides a general indication of range condition. Of 144 ecological sites studied; 8% were rated excellent; 32% rated good; 40% rated fair and 20% rated poor. This metric provides some insight as to the ecological health of the VREHA, but does not tell the whole story. Sagebrush, rabbit brush and pinion/ juniper are all native species that contribute to a particular ecological sites ability to rate high in a similarity index and ecological status rating. However, these species do not contribute to the forage base for horses. Vegetation types in the sites were skewed with a high component of shrubs and woody vegetation (>50%). The herbaceous or grass and forb components were at the low end of the expected range. The most desirable grass species needlegrass and ricegrass only show traces in many sites and Sandberg's bluegrass was more prevalent, but is less palatable and desired by horses and cattle than needle grass or rice grass. Thus, the ecological status rating overestimates range condition in relation to forage production for horses and other livestock and does not capture the shift in plant communities from grasses to shrubs.

A forage allocation table based upon adjusted production (providing an estimate of the total useable forage in the study area, for the year investigated) was developed to estimate carrying capacity. The estimated grazing or carrying capacity for horses is provided in Table V of the written report. Three estimates of grazing capacity are given in Table V for year-around grazing (12 months). As a matter of policy NRCS does not usually grant any forage capacity to cheatgrass. This results in an estimated year-around carrying capacity of 280 Animal Units (AU's). However, due to the prevalence of cheatgrass and the fact that horses use cheatgrass when more desirable forage is unavailable, two additional estimates of carrying capacity are calculated. Cheatgrass at 20% utilization results in a carrying capacity

estimate of 552 AU's per year. Cheatgrass considered at the same forage value as native perennial grasses results in a carrying capacity estimate of 919 AU's per year.

NDA and VRWPA agreed to a carrying capacity of 550 horses for the entire VREHA of 283,769 acres in a public meeting held shortly after the study was released. The primary reasons for selecting a carrying capacity of 550 head for the entire VREHA based upon only the forage capacity estimated for the study area (85,000 acres) was that the remainder of the VREHA is privately owned by TRI, in development of industrial use with plans for significant residential development. Additionally, the communities of Fernley, Silver Springs, Stage Coach and Dayton Valley are experiencing rapid residential development and expansion into the VREHA. There was recognition that the rangelands in VREHA are experiencing heavy use, is in poor condition and cheatgrass is the primary forage outside the study area in the VREHA.

Data was collected on the amount or degree of utilization of the vegetation by horses within the study area. The study documented heavy utilization (60% - 70%) throughout most of the study area and east of the study area. Severe use (>70% of current years growth) was recorded in all riparian and surrounding areas. Light use (< 25%) was recorded in the southwestern portion of the study area between Virginia City Carson and Dayton. The attached map (page 5) illustrates the area and degree of utilization in the study area. At the time of the study the horse population was estimated in excess of 1000 horses. The population of horses in the VREHA has been in excess of 700 head for more than a decade with several years during this period in excess of 1000. It is safe to say that the utilization levels found in 1999-2000 are the norm and not the exception. Utilization at these levels year after year will completely eliminate the native perennial grasses in the VREHA. The unknown is when (which year) degradation will be complete. It is a testament to the resiliency of the study area that there were still enough perennial grasses remaining to rate as high in productivity and carrying capacity as it did.

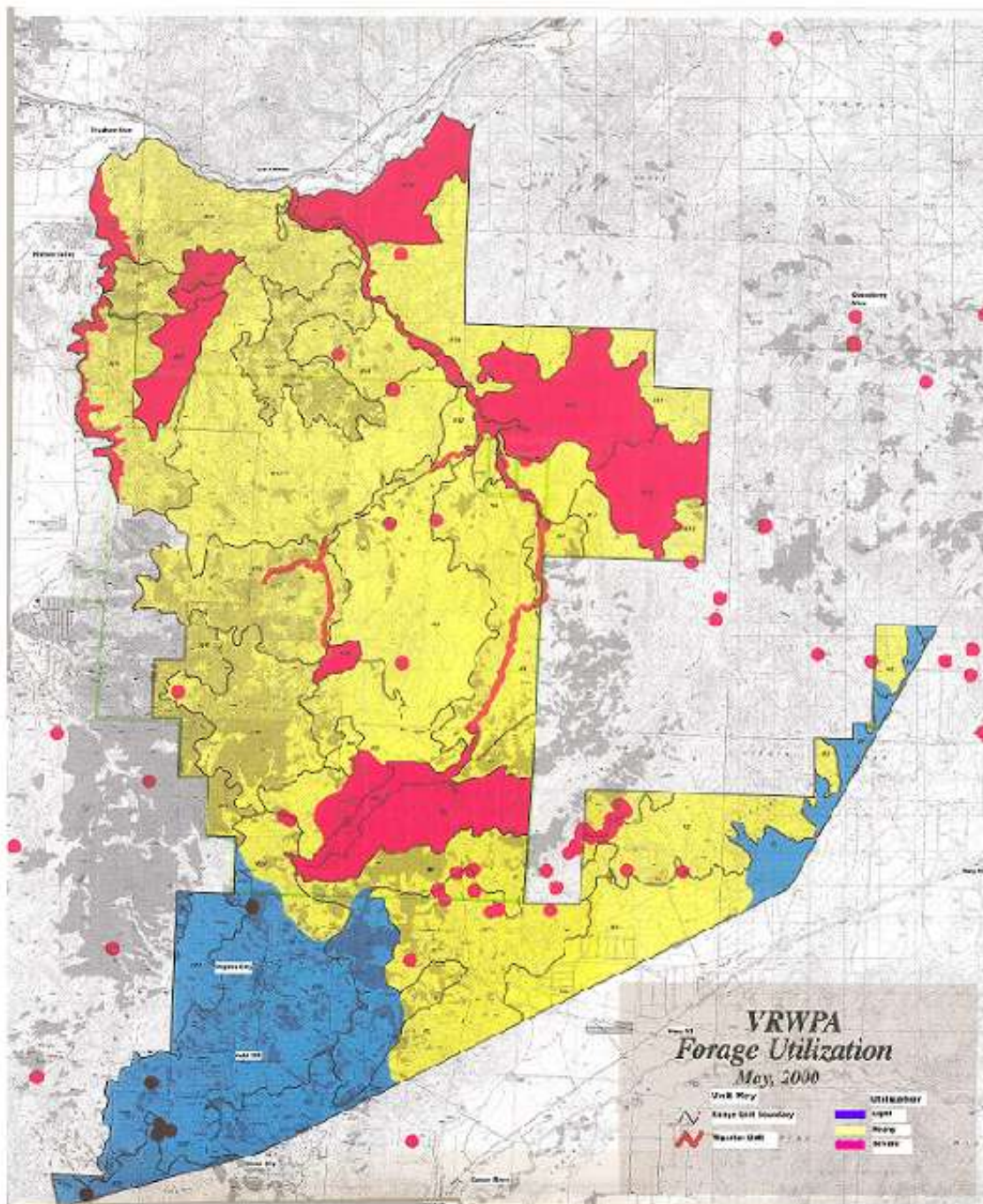
For horse populations to be sustainable over the long term, use of forage must be in balance with the physiological requirements and precipitation available to the forage plants. Domestic livestock can be moved and rotated through rangelands to meet vegetation requirements in conjunction with the time and timing of precipitation. Wild horses are difficult to rotate on the range and consume forage every day of the year. The level of utilization present in the VREHA is similar to what was common throughout the west during settlement. Heavy and severe utilization year-around and year after year is what decimated western rangelands during settlement and led to regulation of public lands by the federal government. It is not necessary to repeat history to determine if the VREHA rangelands are in trouble. Discussion with the NRCS personnel that performed the study revealed that they were appalled at the condition of the VREHA at the time they collected data. They witnessed horses eating rabbit brush and sage brush which can be toxic to horses and is extremely unusual behavior. They also stated that most of the horses they observed were in poor physical condition and witnessed one animal dying of starvation.

In order to accommodate the physiological requirements of the rangeland vegetation, population numbers of wild horses must be kept low enough in relation to the area horses graze to minimize the destructive impact on vegetation. 500 to 600 head has been the negotiated population, range scientists would decrease this number to 200 – 300 head for the entire range for a starting point to give the range time for rehabilitation. The carrying capacity for horses and cattle within the VREHA will vary over time as climate, recovery, horse distribution and a myriad of other variables change over time. A conservative population level must be chosen and the resulting management and grazing effects monitored over time and changed annually through adaptive management to achieve long term sustainability. Conservative population numbers (200-300) are urged, at least initially, and necessary to slow and reverse ongoing rangeland deterioration in the VREHA.

There has been minimal competition for feed between cattle, sheep and horses in the study area. Outside the study area there has been moderate competition. This year with the very large number of cattle being placed on the TRI property there is an extreme amount of competition. Due to drought, there has been minimal production of any perennial forage or cheatgrass this year. A large area of the TRI and BLM lands east of the TRI property burned in 2006 eliminating any remnant cheatgrass in the burned area. The heavy stocking of cattle and horses has created a critical shortage of forage in the eastern portion of the VREHA that could result in a crisis situation if the winter is unusually cold or there is significant snow pack on the ground for extended periods. The eastern portion of the VREHA is important in relation to the carrying capacity of the study area for winter use. When snowfall covers the higher elevation rangelands horses need to get to warmer lower elevations and open feed. If there is no cheatgrass available in the low country due to excessive grazing during the growing season; exclusion due to development; elimination by fire; or covered by heavy snow pack, mass starvation will be the result. Horses can and do winter in the upper elevations, but not when heavy snowfall occurs. Winter carrying capacity in the higher elevations is also skewed by the feeding of hay to horses in the VRWPA by horse advocacy groups.

The good news is that in 2000 there was still a sufficient native plant community in a high enough precipitation area to recover. However, to recover, utilization would have to be dramatically reduced as discussed previously. If this area

burns in its current condition, the already stressed native grasses will be eliminated and replaced by cheatgrass. The eastern portion of the VREHA has already degraded to cheatgrass dominance which severely decreases the carrying capacity of this area. Combined stocking levels of horses and cattle are totally dependant upon annual precipitation and it is nearly impossible to estimate carrying capacity in advance of green-up in the spring. There is limited possibility for range improvement through re-seeding to crested wheat grass and forage Kochia and some native grasses such as squirrel tail, rice grass and needle grass. NRCS estimated approximately 1000 acres could be seeded in the study area. The average precipitation in the higher elevations is sufficient (8 inches annually) to attempt seeding. Costs are variable but will likely be in excess of \$400 per acre. Seedings would have to be fenced to allow establishment of the plants and provide for periods of rest each year afterwards. Lower elevations provide more area with suitable topography for seeding, however, precipitation rates less than 8 inches per year make the possibility of successful establishment in any given year much more risky and unpredictable. Some fencing in the VREHA to provide rest and recovery periods for vegetation during each year to portions of the rangeland would be a positive management action, but movement of horses to different areas is very difficult. The least expensive and most effective management option for the VREHA from a range management perspective is to minimize the number of horses and cattle throughout the area.”



## MANAGEMENT IMPLICATIONS:

As can be seen by information presented in this report, resource conditions are at or have crossed a threshold point for many areas within the Range. The variability of range conditions, the variability of cheatgrass production, the fact that cheatgrass has to be relied on for a forage base, the extent of heavy utilization and the number of animals all combine to create a strong potential for a crash. In addition there are only a few limited perennial water sources for animals to use which increases concentration and impact on the already affected vegetative communities.

The NRCS National Range and Pasture Handbook describes in detail the process of developing, identifying and evaluating Ecological Site Descriptions (5. NRPH, 1997). Evaluations conducted by NRCS staff, as stated in the report above, identify 60% of the sites evaluated at fair or poor ecological condition. This means that of the species and variety of plants expected to be on a given site, at least 50 percent or more of these plants were either not observed, are missing or are completely different species than what should comprise the site. With these factors in place, any major disturbance such as drought, fire, flooding, heavy trampling, home site development removing acreage from availability, and other disturbances may be enough to cause a complete change in the vegetative community to one which will not have the capacity to recover and produce a resilient, productive, native plant community even with complete removal of any animal use.

A good example of this is the majority of potential vegetative communities in this area should be made up of sagebrush, bunch grasses and native forbs. It is currently invaded by cheatgrass and can be easily changed to a cheatgrass monoculture plant community due to a fire. Once this happens, the native plant community can't compete effectively for moisture with the cheatgrass and the fire cycle changes from the 15 to 70+ years normally recognized in most sagebrush bunchgrass plant communities to every few years for a cheatgrass community. The native plant community is not likely to return without excessive costs to rehabilitate the site which may include almost total control of cheatgrass to achieve success in establishing desired perennials (3. Rafferty and Young, 2002). This is extremely difficult to accomplish.

The study conducted by NRCS only covered a portion of the area included in the VREHA. Visual observations by both past and present NDOA staff and NRCS personnel on the site indicate that vegetative communities in the lower elevations of the VHERA were predominantly brush and cheatgrass and have crossed a threshold. These reports indicate that the majority of the lower elevations have no perennial grass and are mostly a mix of cheatgrass and some brush. This results in a limited forage base dependent almost entirely on the production of cheatgrass. Unfortunately, in low production years, cheatgrass will only be available for forage for a few weeks leaving several months of inadequate available food sources. In good years, even though cheatgrass is available for

forage for an additional few weeks, it is far more susceptible to wildfire which can result in conversion of more acres of the VREHA to monoculture cheatgrass. This results in reduced available forage, a more unreliable food source, reduced vegetative diversity and habitat condition for wildlife, and the potential for mass starvation of horses and other animals when production is limited after the cheatgrass has cured out (2. NDOA). Because the area has crossed a threshold, removal of grazing will not repair the damage to the vegetative community which instead will require expensive invasive control, clearing, seeding and perhaps reseeding to be effective.

Animal health is also of major concern when sites are in such poor condition. Having to rely on cheatgrass for a forage base puts these animals at risk and completely dependent on availability of annual production. Cheatgrass can vary in production from several thousand pounds per acre to as low as almost no production (4. Emmerich, Tipton, and Young, 1993). As a result, any reliance on cheatgrass as a forage base to establish a sustainable herd management number is risky. Mass die offs are probable in drought years and would be publically unacceptable. These concerns of maintaining good condition diverse native plant communities are also critical to wildlife populations in the area. NDOW has stated that native plant communities being converted to cheatgrass monocultures is the biggest threat to wildlife populations in the state. Even though cheatgrass has fairly good forage value at very specific times of the year, its variability in production does not allow for maintaining static population levels of animals year in and year out without concern for drought. It is possible where animal on/off dates are managed and controlled but will not work with an estray population which will be present on the site year round. These animals need a stable forage base that inventories indicate is not present to sustain the current numbers. (2. NDOA).

This leads to the following major management implications:

- Population levels currently cannot be adequately reduced due to a variety of factors such as sale restrictions, and the number of horses in the various adoption programs.
- The current vegetative condition is unacceptable and is not likely to improve until horse populations are reduced to levels that will allow for recovery of plant communities and for establishment of seedings in areas beyond the ability to recover without assistance.
- Large scale disturbance (as seen in the extremely large fires the past 10 years) is likely to result in cheatgrass monocultures which will worsen the current problem and make the area even more susceptible to large scale disturbance due to a shortened fire return cycle.
- Current NRS's are specific in the authorities and responsibilities of the Department of Agriculture as to how to manage, roundup, and dispose of these animals (explained in NRS 569; "Estrays and Feral Livestock").
- A continuation of the present management scenario is likely to cause continued decline in the condition of the horses, vegetative communities, wildlife and wildlife habitat and is increasing the potential for catastrophic vegetation change, and animal die off and increased fire risk.



## CONCLUSIONS AND RECOMMENDATIONS:

Current range and animal conditions are not acceptable and present management is not in the best interest of the horses, wildlife, the few grazing permits and/or the ecological condition of the VREHA. The process of management of estrayed animals is defined in NRS 569 but impacts from recent and pending federal legislation has severely limited this process resulting in only a few options to resolve this issue. In addition, AB 619 expands responsibilities of the Department outside the scope of procedures in NRS 569 to direct ownership and management of these particular animals. Accomplishing this task may require innovative approaches given current limitations.

1. Option 1: Establish a partnership of public (not to exceed the \$10,000 revolving account set up in AB 619) and private funds sufficient to cover costs to gather and process the animals through the following steps. The excess animals above a population number which will allow for recovery and sustainable long term management WILL BE gathered on a three year cycle. Gathered animals will be sorted with the best potential animals going to the Warm Springs Correctional Facility program. Adoption of these animals would include a fee of any costs not covered by the partnership account above. The remaining horses would be held for 60 days with immediate adoption and or transfer to interest groups as the main desired source of outlet for the horses. Remaining horses after this step would be offered for Sale as general stock (not for slaughter) with any funds derived going to the revolving account set up in AB 619 and any remaining horses not sold or adopted through the other described means would be humanely euthanized. The state's Fiscal and Management responsibility for managing animal numbers on the VREHA would diminish as funding in the management account declines.

This would allow for the best mix of attempts to manage the animals, manage the rangeland resources and habitat of the area and provide the greatest opportunity for individuals or groups to be involved with protection of the horses while insuring compliance with NRS and fiscal responsibilities to the citizens of the State of Nevada.

2. Option 2: Establish a partnership where in the Nevada Department of Agriculture assists the Virginia Range Wildlife Protection Association to acquire a reasonable sized block of private property in the Virginia Range. Upon acquisition of this property, all horses in the range would be transferred to VRWPA ownership and removed from the remainder of the range. With the transfer of the animals to private ownership, the Department would be able to proceed with proper management and administration of NRS 569.

This would insure the long term management and survival of horses through the direct action and involvement of the appropriate interest groups and allow for the

repeal of AB 619 at which time the Department would be able to fully administer the provisions of NRS 569 without exception or special circumstance.

The long term goal for management of the Virginia Range should be to reduce horse numbers to a healthy sustainable level that will allow for the recovery of vegetative communities to a state that they are resilient when disturbed and resistant to crossing thresholds into unproductive and undesired states such as monoculture cheatgrass. This will maintain other wildlife and public uses of the area..

Richard A. Orr  
Certified Professional in Range Management

APPENDIX 1:

Assembly Bill No. 619-Committee on Natural Resources,  
Agriculture, and Mining  
CHAPTER

610

AN ACT making an appropriation for the management of estray horses in the Virginia Range area in northern Nevada and creating a special account for the money appropriated; and providing other matters properly relating thereto.

[Approved July 16, 1997]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** 1. There is hereby appropriated from the state general fund to the revolving account for the management of estray horses in the Virginia Range, created in section 2 of this act, the sum of \$10,000 for the management of estray horses in the Virginia Range area in northern Nevada.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 1999, and reverts to the state general fund as soon as all payments of money committed have been made.

**Sec. 2.** 1. The revolving account for the management of estray horses in the Virginia Range is hereby created in the state general fund. The Administrator of the Division of Agriculture of the Department of Business and Industry shall administer the account and is hereby authorized to expend the money in the account for the management of estray horses in the Virginia Range area.

2. All proceeds from the sale of estray horses from the Virginia Range area in northern Nevada and any gifts, grants, donations or other money received by the Division of Agriculture for the management of estray horses in the Virginia Range must be deposited in the state general fund for credit to the revolving account for the management of estray horses in the Virginia Range.

3. The provisions of subsection 3 of NRS 569.010 do not apply to the proceeds derived from the sale of estray horses from the Virginia Range.

**Sec. 3.** The Administrator of the Division of Agriculture of the Department of Business and Industry shall designate the boundaries of the Virginia Range area in northern Nevada.

**Sec. 4.** This act becomes effective upon passage and approval or on June 30, 1997, whichever occurs earlier.

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APPENDIX 2:

State of Nevada  
**Board of Agriculture Position Statement<sup>1</sup>**

**MANAGEMENT OF FREE-ROAMING ESTRAY HORSES  
LOCATED WITHIN THE VIRGINIA RANGE**

Through A.B. 619, the 70<sup>th</sup> State Legislature directed the Nevada Department of Agriculture to manage free-roaming estray horses located within the Virginia Range for the purpose of reducing the escalating human and horse conflicts in this region. Per this direction, the department has developed the Virginia Range estray horse management program. The Nevada Board of Agriculture supports the provisions of this program, and directs the department to fully implement this program to the extent fiscal funding is made available.

Fundamental provisions of the program that are required for its success, include the timely capture and removal of estray horses from congested residential and commercial areas, and along roadways, where they pose a safety hazard to themselves and the general populace. Horses so removed will be relocated or placed in the estray horse adoption program. In addition, the department may remove estray horses from non-congested areas when necessary to maintain a healthy and sustainable estray horse population within the Virginia Range. To ensure attainment of appropriate management levels, decisions for such horse removals will be made by the department based on habitat and forage conditions and availability.

All estray horses captured and removed from the Virginia Range will be held for a 60-day period to allow for proper placement, by non-profit groups, through an approved adoption process. Estray horses not placed through the adoption program may be sold at a public sale after the prescribed holding time has expired.

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<sup>1</sup> This position statement was approved by the Nevada Board of Agriculture at their November 30, 2001 meeting in Las Vegas.

Appendix 3:

CHAPTER 569 - ESTRAYS AND LIVESTOCK

ESTRAYS AND FERAL LIVESTOCK

<a href="#">NRS 569.005</a>	Definitions.
<a href="#">NRS 569.006</a>	“Alternative livestock” defined.
<a href="#">NRS 569.0065</a>	“Department” defined.
<a href="#">NRS 569.007</a>	“Director” defined.
<a href="#">NRS 569.0075</a>	“Estray” defined.
<a href="#">NRS 569.008</a>	“Feral livestock” defined.
<a href="#">NRS 569.0085</a>	“Livestock” defined.
<a href="#">NRS 569.010</a>	Estrays and feral livestock deemed property of Department; control, placement and disposition of estrays and feral livestock; disposition of money; liability.
<a href="#">NRS 569.020</a>	Duties of certain officers who impound livestock to notify Department; contents of notice.
<a href="#">NRS 569.031</a>	Cooperative agreements for control, placement or disposition of livestock: Required provisions; annual review by Department; cancellation.
<a href="#">NRS 569.040</a>	Unlawful to take up or feed estray or feral livestock.
<a href="#">NRS 569.045</a>	Person gathering estray or feral livestock to publish notice in newspaper; requirements of notice.
<a href="#">NRS 569.050</a>	Written notice to Department when person takes up estray.
<a href="#">NRS 569.060</a>	Examination by Department of brand records upon receipt of notice of taking up of estray; notice to owner; payment of charges incurred for care; authority for closer examination of brands.
<a href="#">NRS 569.070</a>	Publication of notice of estray required if owner cannot be determined; reimbursement of expenses for publication; sale of injured or debilitated estray.
<a href="#">NRS 569.075</a>	Sale of feral livestock gathered by Department; publication of notice of sale of feral livestock; sale of injured or debilitated feral livestock.
<a href="#">NRS 569.080</a>	Sale, placement or other disposition of unclaimed estray; sale or placement of unclaimed feral livestock; issuance of brand inspection clearance certificate upon sale; marking, branding or identifying required before sale or placement.
<a href="#">NRS 569.090</a>	Deposit of balance of proceeds of sale; records; payment to owner.
<a href="#">NRS 569.100</a>	Person taking up estray or feral livestock entitled to hold animal until relieved of custody; unlawful use or taking of estray or feral livestock; penalties.
<a href="#">NRS 569.110</a>	Escaped or removed estray or feral livestock may be recovered by person who took it up.
<a href="#">NRS 569.120</a>	Estrays and feral livestock may be taken up by agents of Department; procedure for disposal.
<a href="#">NRS 569.130</a>	Penalties.

LIVESTOCK

<a href="#">NRS 569.431</a>	“Legal fence” defined.
<a href="#">NRS 569.440</a>	Liability caused by trespassing livestock; liability of landowner for injury to trespassing livestock; trespassing livestock treated as estrays.
<a href="#">NRS 569.450</a>	Trespass on cultivated land: No award of damages unless land enclosed by legal fence.
<a href="#">NRS 569.461</a>	Liability of developer of residential, commercial or industrial structure adjoining pasture for damages to legal fence.
<a href="#">NRS 569.471</a>	Replacement of legal fence permitted; conditions; duty and liability.

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## ESTRAYS AND FERAL LIVESTOCK

**NRS 569.005 Definitions.** As used in [NRS 569.005](#) to [569.130](#), inclusive, unless the context otherwise requires, the words and terms defined in [NRS 569.006](#) to [569.0085](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1961, 512; A 1993, 1744; 1997, 461; [1999, 3682](#); [2003, 2152](#))

**NRS 569.006 “Alternative livestock” defined.** “Alternative livestock” has the meaning ascribed to it in [NRS 501.003](#).

(Added to NRS by [2003, 2152](#))

**NRS 569.0065 “Department” defined.** “Department” means the State Department of Agriculture.

(Added to NRS by [2003, 2152](#))

**NRS 569.007 “Director” defined.** “Director” means the Director of the Department.

(Added to NRS by [2003, 2152](#))

**NRS 569.0075 “Estray” defined.** “Estray” means any domesticated livestock or progeny of domesticated livestock showing signs of domestication, running at large upon public or private lands in the State of Nevada, whose owner is unknown in the section where the animal is found.

(Added to NRS by [2003, 2152](#))

**NRS 569.008 “Feral livestock” defined.** “Feral livestock” means any formerly domesticated livestock or progeny of domesticated livestock which have become wild and are running at large upon public or private lands in the State of Nevada, and which have no physical signs of domestication. The term does not include horses or burros that are subject to the jurisdiction of the Federal Government pursuant to the Wild Free-Roaming Horses and Burros Act, 16 U.S.C. §§ 1331 to 1340, inclusive, and any regulations adopted pursuant thereto, or any other federal statute or regulation.

(Added to NRS by [2003, 2152](#))

**NRS 569.0085 “Livestock” defined.** “Livestock” means:

1. All cattle or animals of the bovine species;
2. All horses, mules, burros and asses or animals of the equine species;
3. All swine or animals of the porcine species;
4. All goats or animals of the caprine species;
5. All sheep or animals of the ovine species;
6. All poultry or domesticated fowl or birds; and
7. All alternative livestock.

(Added to NRS by [2003, 2152](#))

**NRS 569.010 Estrays and feral livestock deemed property of Department; control, placement and disposition of estrays and feral livestock; disposition of money; liability.**

1. Except as otherwise provided by law, all estrays and feral livestock within this state shall be deemed for the purpose of this section to be the property of the Department.

2. The Department has all rights accruing pursuant to the laws of this state to owners of those animals, and may:

(a) Dispose of estrays and feral livestock by sale through an agent appointed by the Department; or

(b) Provide for the control, placement or disposition of estrays and feral livestock through cooperative agreements pursuant to [NRS 569.031](#).

3. Except as otherwise provided by law, all money collected for the sale or for the injury or killing of any such animals must be held for 1 year, subject to the claim of any person who can establish legal title to any animal concerned. All money remaining unclaimed must be deposited in the Livestock Inspection Account after 1 year. The Department may disallow all claims if it deems the claims illegal or not showing satisfactory evidence of title.

4. The Department or any political subdivision of this state is not liable for any trespass or other damage caused by any of those estrays or feral livestock.

[1:200:1925; NCL § 3993]—(NRS A 1959, 641; 1961, 546; 1991, 1794; 1993, 295, 1744; 1995, 579; 1997, 461; [1999, 3682](#); [2003, 2153](#))

**NRS 569.020 Duties of certain officers who impound livestock to notify Department; contents of notice.**

1. Any county, city, town, township or other peace officer or poundmaster who impounds under the provisions of any state law or county or municipal ordinance any livestock shall, immediately after impounding the livestock, send a written notice to the Department.

2. The notice must contain a full description, including all brands and marks, sex, age, weight, color and kind of each animal so impounded.

3. For the sale of livestock if the owner of the livestock is not known, and for the sale of the impounded livestock as prescribed by law, all notices posted or advertisements published by any officer or other person having charge of the sale must include, unless the livestock is feral livestock, a complete description of each animal to be sold, including all brands and marks, sex, age, weight, color and kind.

[1:182:1925; NCL § 3990]—(NRS A 1959, 641; 1961, 546; 1993, 1744; [1999, 3683](#); [2003, 2153](#))

**NRS 569.031 Cooperative agreements for control, placement or disposition of livestock: Required provisions; annual review by Department; cancellation.** The Department may enter into a cooperative agreement for the control, placement or disposition of the livestock with another agency of this state or with a county, city, town, township, peace officer, poundmaster or nonprofit organization. If an agreement is entered into, it must provide for:

1. The responsibility for the payment of the expenses incurred in taking up, holding, advertising and making the disposition of the stray or feral livestock, and any damages for trespass allowed pursuant to [NRS 569.440](#);

2. The disposition of any money received from the sale of the livestock;

3. The protection of the rights of a lawful owner of an stray or feral livestock pursuant to [NRS 569.040](#) to [569.130](#), inclusive; and

4. The designation of the specific geographic area of this state to which the cooperative agreement applies.

↪ The Department shall annually review the actions of the cooperating person or entity for compliance with the agreement. The Department may cancel the agreement upon a finding of noncompliant actions.

(Added to NRS by 1993, 294; A 1995, 649; 1997, 462; [1999, 3683](#); [2003, 2153](#))

**NRS 569.040 Unlawful to take up or feed stray or feral livestock.**

1. Except as otherwise provided in subsection 2, [NRS 569.040](#) to [569.130](#), inclusive, or pursuant to a cooperative agreement established pursuant to [NRS 569.031](#), it is unlawful for any person or his employees or agents, other than an authorized agent of the Department, to:

(a) Take up any stray or feral livestock and retain possession of it; or

(b) Feed any stray or feral livestock.

2. For a first violation of paragraph (b) of subsection 1, a person must not be cited or charged criminally but must be informed that it is unlawful to feed an stray or feral livestock.

[Part 1:27:1923; NCL § 3978] + [Part 9:27:1923; NCL § 3986]—(NRS A 1961, 547; 1991, 913; 1993, 295, 1744; 1995, 579; 1997, 462; [1999, 3683](#); [2003, 2154](#))

**NRS 569.045 Person gathering stray or feral livestock to publish notice in newspaper; requirements of notice.**

1. Before any person gathers any estrays or feral livestock, he must cause notice of the gathering to be published in a newspaper of general circulation within the county in which the gathering is to take place.

2. The notice must:

(a) Be published at least once a week for the 4 weeks preceding the gathering;

(b) Clearly identify the area in which the gathering is to take place and the date and time of the gathering;

(c) If feral livestock are to be gathered, include a full description of the species of feral livestock to be gathered;

(d) Indicate a location where owners or possible owners of the estrays or feral livestock may go to claim an stray or feral livestock that was gathered; and

(e) List the name and telephone number of a person who may be contacted if an owner or possible owner is interested in viewing the estrays or feral livestock gathered.

(Added to NRS by 1991, 912; A [2003, 2154](#))

**NRS 569.050 Written notice to Department when person takes up estray.** If a person takes up an estray, he shall, within 5 days thereafter, make out a written description of the animal, setting forth all marks or brands appearing upon the animal, and other marks of identity, including color, age and sex, and forward the description by mail to the Department at its office.

[Part 2:27:1923; NCL § 3979]—(NRS A 1959, 642; 1961, 547; 1993, 1745; [1999, 3683](#))

**NRS 569.060 Examination by Department of brand records upon receipt of notice of taking up of estray; notice to owner; payment of charges incurred for care; authority for closer examination of brands.**

1. Upon receiving notice of the taking up of an estray, the Department, or its authorized agent, shall make or cause to be made an examination of the state brand records.

2. If from the records the name of the owner or probable owner can be determined, the Department, or its authorized agent, shall forthwith notify him of the taking up of the estray.

3. Upon the owner's proving to the satisfaction of the Department that the estray animal is lawfully his, the Department shall issue to him an order to receive the estray upon the payment of any damages allowed by law and such charges as may be approved by the Department as reasonable which may have been incurred in the care of the animal so taken up.

4. Upon receipt of a notice of the taking up of an estray, the Department, or its authorized agent, may require a closer examination of the brands and marks, as set forth in the notice, and may require a state inspector to examine the brands before advertising.

[4:27:1923; A 1947, 426; 1943 NCL § 3981]—(NRS A 1959, 642; 1961, 547; 1969, 138; 1977, 249; 1993, 1745; [1999, 3684](#))

**NRS 569.070 Publication of notice of estray required if owner cannot be determined; reimbursement of expenses for publication; sale of injured or debilitated estray.**

1. Except as otherwise provided in subsection 4, if the owner or probable owner of an estray cannot with reasonable diligence be determined by the Department or its authorized agent, the Department shall advertise the estray or cause it to be advertised.

2. A notice of the estray, with a full description, giving brands, marks and colors thereon, must be published in a newspaper published at the county seat of the county in which the estray was taken up. If there is no newspaper published at the county seat of the county, the notice must be published in the newspaper published at the nearest point to that county.

3. Expenses incurred in carrying out the provisions of subsections 1 and 2 must be deducted from the proceeds of the sale of the estray advertised.

4. The Department may sell an injured, sick or otherwise debilitated estray if, as determined by the Department, the sale of the estray is necessary to facilitate the placement or other disposition of the estray. If an estray is sold pursuant to this subsection, the Department shall give a brand inspection clearance certificate to the purchaser.

[5:27:1923; A 1931, 83; 1931 NCL § 3982]—(NRS A 1961, 547; 1977, 249; 1993, 1745; 1997, 462; [1999, 3684](#); [2003, 2154](#))

**NRS 569.075 Sale of feral livestock gathered by Department; publication of notice of sale of feral livestock; sale of injured or debilitated feral livestock.**

1. The Department may sell all feral livestock which it has gathered if the Department determines that the sale of the feral livestock is necessary to facilitate the placement or other disposition of the feral livestock.

2. Except as otherwise provided in subsection 3, before the Department may sell feral livestock, the Department must publish notice of the sale of the feral livestock in a newspaper published at the county seat of the county in which the gathering of the feral livestock occurred. If there is no newspaper published at the county seat of the county, the notice must be published in the newspaper published at the nearest point to that county seat. A notice of a sale published pursuant to this section need not include full



descriptions of the feral livestock, but may include such information and details as the Department determines necessary.

3. The Department may sell injured, sick or otherwise debilitated feral livestock if, as determined by the Department, the sale of the feral livestock is necessary to facilitate the placement or other disposition of the feral livestock. If feral livestock is sold pursuant to this subsection, the Department shall give a brand inspection clearance certificate to the purchaser.

(Added to NRS by [2003, 2152](#))

**NRS 569.080 Sale, placement or other disposition of unclaimed estray; sale or placement of unclaimed feral livestock; issuance of brand inspection clearance certificate upon sale; marking, branding or identifying required before sale or placement.**

1. If an estray is not claimed within 5 working days after the last publication of the advertisement required by [NRS 569.070](#), it must be:

(a) Sold by the Department; or

(b) Held by the Department until the estray is given a placement or other disposition through a cooperative agreement established pursuant to [NRS 569.031](#).

2. If feral livestock is not claimed by the date of sale published pursuant to [NRS 569.075](#), the feral livestock must be sold by the Department pursuant to [NRS 569.075](#) or placed pursuant to [NRS 569.031](#).

3. If the Department sells the estray or feral livestock, the Department shall give a brand inspection clearance certificate to the purchaser.

4. Estrays and feral livestock must be marked, branded or identified with an individual animal identification before sale or placement.

[6:27:1923; NCL § 3983]—(NRS A 1961, 548; 1993, 295, 1745; 1995, 579; 1997, 463; [1999, 3684](#); [2003, 2155](#))

**NRS 569.090 Deposit of balance of proceeds of sale; records; payment to owner.**

1. Except as otherwise provided pursuant to a cooperative agreement established pursuant to [NRS 569.031](#), the Department shall:

(a) Pay the reasonable expenses incurred in taking up, holding, advertising and selling the estray or feral livestock, and any damages for trespass allowed pursuant to [NRS 569.440](#), from the proceeds of the sale of the estray or feral livestock and shall place the balance in an interest-bearing checking account in a bank or credit union qualified to receive deposits of public money. The proceeds from the sale and any interest on those proceeds, which are not claimed pursuant to subsection 2 within 1 year after the sale, must be deposited in the State Treasury for credit to the Livestock Inspection Account.

(b) Make a complete record of the transaction, including any marks and brands and other means of identification of the estray, and shall keep the record available for inspection by members of the general public.

2. If the lawful owner of the estray or feral livestock is found within 1 year after its sale and proves ownership to the satisfaction of the Department, the net amount received from the sale must be paid to the owner.

3. If any claim pending 1 year after the date of sale is denied, the proceeds and any interest thereon must be deposited in the Livestock Inspection Account.

[7:27:1923; NCL § 3984]—(NRS A 1959, 642; 1961, 548; 1977, 250; 1983, 404; 1991, 1795; 1993, 295, 1745; 1995, 246, 579; [1999, 1513, 3685](#); [2001, 91](#); [2003, 2155](#))

**NRS 569.100 Person taking up estray or feral livestock entitled to hold animal until relieved of custody; unlawful use or taking of estray or feral livestock; penalties.**

1. A person who takes up an estray or feral livestock as provided for in [NRS 569.040](#) to [569.130](#), inclusive, is entitled to hold the estray or feral livestock lawfully until relieved of custody by the Department.

2. A person shall not use or cause to be used, for profit or otherwise, any estray or feral livestock in his keeping under the provisions of [NRS 569.040](#) to [569.130](#), inclusive. A violation of this subsection shall be deemed grand larceny or petit larceny, as set forth in [NRS 205.2175](#) to [205.2707](#), inclusive, and the person shall be punished as provided in those sections.

3. Any person taking, leading or driving an estray or feral livestock away from the possession of the lawful holder, as specified in [NRS 569.040](#) to [569.130](#), inclusive, except as otherwise provided in this

section, is subject to all the penalties under the law, whether or not he is the claimant of the estray or feral livestock.

[8:27:1923; NCL § 3985]—(NRS A 1961, 548; 1993, 1746; 1997, 347; [1999, 3685](#); [2003, 2155](#))

**NRS 569.110 Escaped or removed estray or feral livestock may be recovered by person who took it up.** If any estray or feral livestock, after having been taken up by a person in accordance with the provisions of [NRS 569.040](#) to [569.130](#), inclusive, escapes or is removed from the custody of the person before being disposed of under the provisions of [NRS 569.040](#) to [569.130](#), inclusive, the person has the legal right to recover the estray or feral livestock wherever found and to hold it until it is disposed of as provided in [NRS 569.040](#) to [569.130](#), inclusive.

[11:27:1923; NCL § 3988]—(NRS A 1961, 549; [2003, 2156](#))

**NRS 569.120 Estrays and feral livestock may be taken up by agents of Department; procedure for disposal.** Estrays and feral livestock may be taken up by authorized agents of the Department. The disposal of the estrays and feral livestock must be conducted in the manner set forth in the provisions of [NRS 569.040](#) to [569.130](#), inclusive.

[10:27:1923; NCL § 3987]—(NRS A 1961, 549; 1993, 1746; [1999, 3685](#); [2003, 2156](#))

**NRS 569.130 Penalties.** Any person, including, without limitation, any firm, company, association or corporation, who takes up or retains in his possession any estray or feral livestock not his property, without the owner's consent, or except in accordance with the provisions of [NRS 569.040](#) to [569.130](#), inclusive, is guilty of a misdemeanor.

[3:27:1923; NCL § 3980] + [Part 9:27:1923; NCL § 3986]—(NRS A 1959, 643; 1961, 549; [2003, 2156](#))

## LIVESTOCK

**NRS 569.431 “Legal fence” defined.** As used in [NRS 569.431](#) to [569.471](#), inclusive, “legal fence” means a fence with not less than four horizontal barriers, consisting of wires, boards, poles or other fence material in common use in the neighborhood, with posts set not more than 20 feet apart. The lower barrier must be not more than 12 inches from the ground and the space between any two barriers must be not more than 12 inches and the height of top barrier must be at least 48 inches above the ground. Every post must be so set as to withstand a horizontal strain of 250 pounds at a point 4 feet from the ground, and each barrier must be capable of withstanding a horizontal strain of 250 pounds at any point midway between the posts.

(Added to NRS by 1991, 1147)

**NRS 569.440 Liability caused by trespassing livestock; liability of landowner for injury to trespassing livestock; trespassing livestock treated as estrays.**

1. Except as otherwise provided in [NRS 569.461](#) and [569.471](#):

(a) If any livestock break into any grounds enclosed by a legal fence, the owner or manager of the livestock is liable to the owner of the enclosed premises for all damages sustained by the trespass. If the trespass is repeated by neglect of the owner or manager of the livestock, he is for the second and every subsequent offense or trespass, liable for double the damages of the trespass to the owner of the premises.

(b) If any owner or occupier of any grounds or crops trespassed upon by livestock entering upon or breaking into his grounds, whether enclosed by a legal fence or not, kills, maims or materially injures the livestock so trespassing, he is liable to the owner of the livestock for all damages, and for the costs accruing from a suit for such damages, when necessarily resorted to for their recovery.

(c) The owner or occupier of grounds or crops so damaged and trespassed upon may take up and safely keep, at the expense of the owner or owners thereof, after due notice to the owners, if known, the livestock, or so many of them as may be necessary to cover the damages he may have sustained, for 10 days, and if not applied for by the proper owner or owners before the expiration of 10 days, the livestock may be posted under the estray laws of the state, and before restitution may be had by the owner or owners of the livestock, all damages done by them, as well also as the expense of posting and keeping them, must be paid. Any justice of the peace in the township has jurisdiction of all such reclamation of livestock, together with the damages, and expense of keeping and posting the same, when the amount claimed does not exceed \$2,500.

2. When two or more persons cultivate lands under one enclosure, neither of them may place or cause to be placed any livestock on his ground, to the injury or damage of the other or others, but is liable for all damages thus sustained by the other or others. If repeated, after due notice is given, and for every subsequent repetition, double damages are recoverable in any court having jurisdiction.

[1:16:1862; B § 3992; BH § 741; C § 777; RL § 2332; NCL § 4016] + [2:16:1862; B § 3993; BH § 742; C § 778; RL § 2333; NCL § 4017] + [3:16:1862; B § 3994; BH § 743; C § 779; RL § 2334; NCL § 4018]—(NRS A 1961, 549; 1991, 1148)

**NRS 569.450 Trespass on cultivated land: No award of damages unless land enclosed by legal fence.** No person is entitled to collect damages, and no court in this state may award damages, for any trespass of livestock on cultivated land in this state if the land, at the time of the trespass was not enclosed by a legal fence.

[1:223:1917; 1919 RL p. 2846; NCL § 4022] + [2:223:1917; A 1929, 255; NCL § 4023]—(NRS A 1961, 550; 1991, 1149)

**NRS 569.461 Liability of developer of residential, commercial or industrial structure adjoining pasture for damages to legal fence.**

1. When a residential, commercial or industrial structure is erected, or any other commercial or industrial activity is undertaken, on land adjoining a pasture and separated from the pasture by a legal fence, the developer of the structure or the person undertaking the activity, unless he makes the election permitted by [NRS 569.471](#), shall repair any damage to the fence caused by or related to the erection of the structure, the associated development of the land or the activity undertaken. The developer or person undertaking the activity is liable for any damage done by any livestock which stray from the pasture through the damaged portion of the fence for which he is responsible, and to the owner of the livestock for any loss suffered as a result of their straying and for the loss accruing from a suit for any such damages when necessarily resorted to for their recovery.

2. For the purposes of this section, a structure is erected on land adjoining a pasture if the land on which it is erected and land adjoining the pasture are owned by the same person directly or through an affiliate, even though the area may be divided into lots, and if the site of the construction is within one-fourth of a mile of the pasture.

(Added to NRS by 1991, 1147)

**NRS 569.471 Replacement of legal fence permitted; conditions; duty and liability.** A developer or a person undertaking an activity described in [NRS 569.461](#), at his own expense, may replace a legal fence with a fence certified by the Administrator of the Division to be equally impervious to livestock, but if he does so, the duty and liability imposed by [NRS 569.461](#) exist and devolve in the same manner.

(Added to NRS by 1991, 1148; A 1993, 1746)

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