

JOE LOMBARDO
Governor

STATE OF NEVADA

J.J. GOICOECHEA, DVM
Director



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DEPARTMENT OF AGRICULTURE

405 South 21st Street
Sparks, Nevada 89431-5557
Telephone (775) 353-3601 Fax (775) 353-3661
Website: <http://www.agri.nv.gov>

August 27, 2024

Brooklyn Oswald
The Aryte Group, LLC.

Dear Brooklyn,

The Nevada Department of Agriculture (NDA) has been notified of recent Revised Conditions for the Canyons PUD. The NDA has not been asked to provide input nor given the opportunity to review proposed changes and language that specifically deals with the Virginia Range Estray (VRE) horse herd, under NDA management. We are unfortunately unable to comment extensively on the PUD, having not been a party to its drafting and editing, but the agency is deeply concerned about how the proposed changes related to the VRE horses will steer populations into residential and urban areas and create future negative impacts to public safety and the health and wellbeing of the horses.

The NDA is ultimately responsible for the management of the VRE horse herd through Nevada Revised Statute (NRS) 569, through which they are classified as livestock. While the agency may enter into cooperative agreements per NRS 569.031 with another state agency or with a county, city, town, township, peace officer, pound master, or nonprofit organization, there is currently one agreement in place with a nonprofit organization, Wild Horse Connection, related to the management and placement of the VRE horses. The NDA has no agreements with other local or state governmental entities related to the management of the VRE.

The priority of the NDA is to protect human health and safety. The VRE horses are a public health and safety risk, particularly in residential and urban areas where they wander onto roadways and interact with humans. It is the stance of the NDA that feeding may only be on a diversionary basis and approved by the Department. The NDA does not require the placement of water on any private property. Should a developer or private property owner willingly decide to provide water in accordance with NRS 533.503, or grant access to diversionary feeding in some cases, that will be the sole decision of that property owner/manager and must be done with the approval of the NDA. The NDA shall work to ensure any activities surrounding feral horses are in accordance with the policies of the agency related to distance, public safety, and resource protection, but the NDA does not demand action be taken by a private property owner or condone the infringement upon private property owner rights.

The NDA has reviewed the attached document titled, *Exhibit C* with a date of July 29, 2022, that was signed by Mr. James W. Dolan and Ms. Tracy Wilson, related to the Canyon's Edge Project. The NDA has significant concern over watering and establishing a "horse trail," if this is again being requested of your group, with such proximity to a residential area. These actions further condition the horses to return to this area for resources and risks their movement into areas posing a risk to their safety and public safety. In addition, the NDA asserts there is no legal authority of the signatories to enter into an agreement related to the VRE horses when neither is statutorily responsible or the legal owners of the horses.

In addition, water rights are required to provide water to the VRE horses. Water rights do not fall under the purview of the NDA and are regulated by the Nevada Division of Water Resources (NDWR), we recommend contacting NDWR for a full explanation of water rights regarding livestock. For the purposes of this notice, please see NRS 533.503 below,

explaining that an applicant for a water permit to water livestock must be the owner of said livestock (note that NRS 533 and 534 cover water rights more in depth, and this is one example):

~~NRS 533.503 Restrictions on issuance of permit or certificate regarding appropriation to water livestock.~~

1. The State Engineer shall not issue a permit to appropriate water for the purpose of watering livestock unless:
 - (a) The applicant for the permit is legally entitled to place the livestock on the lands for which the permit is sought, and:
 - (1) Owns, leases or otherwise possesses a legal or proprietary interest in the livestock on or to be placed on the lands for which the permit is sought; or
 - (2) Has received from a person described in subparagraph (1), authorization to have physical custody of the livestock on or to be placed on the lands for which the permit is sought, and authorization to care for, control and maintain such livestock;
 - (b) The forage serving the beneficial use of the water to be appropriated is not encumbered by an adjudicated grazing preference recognized pursuant to law for the benefit of a person other than the applicant for the permit; and
 - (c) The lack of encumbrance required by paragraph (b) is demonstrated by reasonable means, including, without limitation, evidence of a valid grazing permit, other than a temporary grazing permit, that is issued by the appropriate governmental entity to the applicant for the permit.

Other regulation pertaining to the VRE horses includes NRS 569.431, establishing Nevada as a “fence-out” state. This means that landowners must construct a legal fence in accordance with the regulation to keep livestock (including the VRE horses) off of private property. Per the City of Reno [Land Development Code 18.04.108](#), all new development properties along the Virginia Range are required to install fencing in accordance with NRS 569.431 for the protection of public safety, however, *Exhibit C (2.)* appears to attempt to inhibit private property owner rights of installing legal fencing surrounding the entirety of their property.

While the NDA continues to explore humane and sustainable ways to manage the horse population long term, there are actions that we and our partners can do now to ensure the safety of the public and horses. The NDA asks that the Aryte Group join us in maintaining and ensuring the safety of the public on the roadways and in public spaces by adhering to existing NRS surrounding providing water for feral and stray livestock and fencing requirements.

The NDA will continue to work to ensure public safety and the safety of the VRE horses. Habituating horses to water and feed sources, and use of “horse trails” within developments will only lead to further public safety concerns in the future. It is the agency’s intent that horses be encouraged to move further into the Virginia Range and not provided supplemental resources in or near residential or urban areas.

Respectfully,

J.J. Goicoechea Digitally signed by J.J. Goicoechea
Date: 2024.08.27 18:45:11 -0700
J.J. Goicoechea, DVM
Director
Nevada Department of Agriculture

STEVE SISOLAK
Governor

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October 4, 2019

Dylan Shaver
Director, Office of Policy and Strategy
City of Reno

To whom it may concern:

As the city of Reno continues to expand into the land that the Virginia Range stray and feral horses (VRE) use for grazing, public interactions with horses will likely become more frequent. In the interest of working collaboratively, we would like to inform the city of existing state regulations in place that regulate the management of the VREs with the goal of keeping the public safe.

NRS 569 outlines several regulations regarding stray and feral livestock. Of note are two in particular that we would like to call your attention to now. First, please note that per NRS 569.040, in order to discourage horses from entering roadways and communities, it is unlawful to feed feral or stray horses:

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](#) for the management, control, placement or disposition of strays and feral livestock, it is unlawful for any person or the person's 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.

3. For a second or subsequent violation of paragraph (b) of subsection 1, a person is guilty of a gross misdemeanor.

In addition to restrictions surrounding feeding the horses, water rights can also pose an issue. Because water rights do not fall under the purview of the NDA and are regulated by the Nevada Division of Water Resources (NDWR), we recommend contacting NDWR for a full explanation of water rights regarding livestock. For the purposes of this notice, please see NRS 533.503 below, explaining that an applicant for a water permit to water livestock must be the owner of said livestock (note that NRS 533 and 534 cover water rights more in depth, and this is one example):

NRS 533.503 Restrictions on issuance of permit or certificate regarding appropriation to water livestock.

1. The State Engineer shall not issue a permit to appropriate water for the purpose of watering livestock unless:

- (a) The applicant for the permit is legally entitled to place the livestock on the lands for which the permit is sought, and:

(1) Owns, leases or otherwise possesses a legal or proprietary interest in the livestock on or to be placed on the lands for which the permit is sought; or

(2) Has received from a person described in subparagraph (1), authorization to have physical custody of the livestock on or to be placed on the lands for which the permit is sought, and authorization to care for, control and maintain such livestock;

(b) The forage serving the beneficial use of the water to be appropriated is not encumbered by an adjudicated grazing preference recognized pursuant to law for the benefit of a person other than the applicant for the permit; and

(c) The lack of encumbrance required by paragraph (b) is demonstrated by reasonable means, including, without limitation, evidence of a valid grazing permit, other than a temporary grazing permit, that is issued by the appropriate governmental entity to the applicant for the permit.

While the NDA is working diligently to explore humane and sustainable ways to manage the horse population long term, there are things that we and our partners can do now to keep the public and the horses safe. We ask that the city of Reno join us in maintaining the safety of the public on the roadways and in public spaces by adhering to existing NRS surrounding feral and estray livestock, and by communicating these regulations with Reno constituents.

Regards,



Jennifer Ott

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Exhibit C

Virginia 40s, LLC

Reno Office
5150 Mac Anne Ave
Suite 405 #238
Reno, NV 89523

Main 949-929-7069
Fax 949-666-6788

July 29, 2022

City of Reno
1 E. First Street
Reno, Nevada 89501

Re: *Canyons Edge Project (the "Project")*;
Virginia 40s, LLC (the "Applicant");

This letter memorializes and reaffirms certain representations and development commitments made by the Applicant at the City Council meeting on July 27, 2022.

1. *Continued Cooperation.* With no guarantees to success, Applicant commits to continue working with Wild Horse advocates, adjacent property owners, federal, state and local authorities, and other interested, regional stakeholders to develop and implement plans to secure permanent water resources and facilities for the existing Virginia Range horse and wildlife population and displaced by Applicant's project.

2. *Horse Trail.* At its own expense and subject to the Projects approval by City Council at its second reading and the City of Reno's approval of necessary grading permits, Applicant agrees to construct a horse access trail (the "Trail"). In general, the Trail shall be located where the existing legal trail intersects the proposed fence line on the north, and shall continue south to the border of the Project property line. The Trail shall be no less than six (6) feet wide, and shall remain within an adjacent twenty (20) foot corridor on the east side of the proposed Virginia Range fence line as outlined within the amended PUD (Canyons) Handbook. The Trail shall be designed to accommodate the safe passage of horses to existing water sources and safe passage of horses north and south of the Project to accommodate current movement patterns. Applicant shall post reasonable signage indicating that the Trail is not open for public use or motorized vehicles, as well as signage in accordance with NRS. Signage must be approved prior to posting by the American Wild Horse Campaign, Wild Horse Connection, and the City of Reno Development Services Administrator.

3. *Watering Facilities.* Applicant intends to install watering facilities within the northeast portion of the Project.

4. *Access for Diversionary Feeding.* At its own expense and subject to the Projects approval by City Council at its second reading and the City of Reno's approval of necessary grading permit(s), Applicant agrees to grade improvements to an existing access roadway to parcels east of the Project and grant permission to use suitable areas accessed by this roadway, and on its property for Wild Horse advocates to provide diversionary feeding for public safety and other range management activities authorized by the Nevada Department of Agriculture.

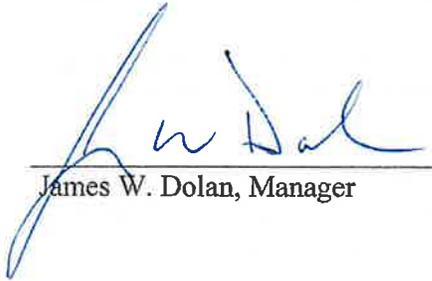
Virginia 40s, LLC

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5150 Mac Anne Ave
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5. *Deed Restricted Open Space.* Subject to the Projects approval by City Council at its second reading and the City of Reno's approval of necessary grading permit(s) Applicant agrees to deed restrict the PGOS (Open Space) area identified within the Applicant's MPA and Amendment of The Canyons PUD Handbook to prohibit (1) any further development of housing structure(s), and (2) any fencing within PGOS (Open Space) area. Specifically, no fencing (other than that required by the City of Reno and Canyons PUD) shall be allowed east of the required Virginia Range Fencing.

Virginia 40s, LLC



James W. Dolan, Manager

American Wild Horse Campaign
Wild Horse Connection



Tracy Wilson, Special Projects Manager