



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT

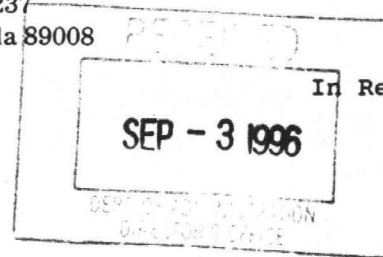
Caliente Resource Area

P.O. Box 237

Caliente, Nevada 89008



IN REPLY REFER TO:



In Reply Refer To:  
4700  
(NV-055.07)

CERTIFIED MAIL #  
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## NOTICE OF FINAL DECISION FULL FORCE AND EFFECT

### MILLER FLAT HERD MANAGEMENT AREA (HMA) EMERGENCY REMOVAL

Severe drought conditions exist within the Miller Flat HMA and forage production is extremely limited. Forage utilization in the western two-thirds of the Sheep Springs Allotment and over 75% of the Rabbit Springs Allotment is currently in a severe use category. From field observations of available forage and water as well as a review of monitoring data, it has been determined the wild horses and their habitat are being adversely impacted.

Approximately 100 wild horses must be gathered from within the HMA. All wild horses gathered will be placed into the adoption program. No other portions of the Miller Flat HMA will be gathered in conjunction with this emergency gather operation. The gather operation will be conducted by helicopter trapping and/or roping.

The Rabbit Springs and Sheep Springs allotments have not been grazed by domestic livestock (cattle and/or sheep) for approximately twenty (20) years due to large numbers of wild horses and limited forage.

Due to the emergency nature of these conditions, it is necessary to implement this immediately, through a Full Force and Effect Decision. This decision will be implemented on or about October 2, 1996 and will continue until the action is completed. The rationale for placing this decision in Full Force and Effect are as follows:

1. Drought conditions have critically limited forage production and water availability for wild horses. The western two-thirds of the Sheep Springs allotment and over 75% of the Rabbit Springs allotment is receiving severe use, has received 50% of its normal precipitation, and is not expected to produce enough forage to sustain the animals currently occupying the area.
2. Water availability for the horses' consumption is limited to a water source (Rabbit Spring) which is located on private property. The remaining spring sources supply only marginal amounts of water for the horses.

**AUTHORITY:** The authority for this decision is contained in Sec.3(a) and (b) and Sec.4 of the Wild Free-Roaming Horse and Burro Act (P.L. 92-195) as amended and Title 43 of the Code of Federal Regulations. The authority for the Full Force and Effect decision can be found at 43 CFR 4770.3(c) which states:

"(c) Notwithstanding the provisions of paragraph (a) of 4.21 of this title, the authorized officer may provide that decisions to remove wild horses or burros from public or private lands in situations where removal is required by applicable law or necessary to preserve or maintain a thriving ecological balance and multiple use relationship shall be effective upon issuance or on a date established in the decision."

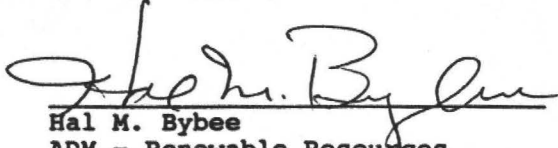
**APPEALS:** Within 30 days of receipt of this decision, you have the right of appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR, Part 4, Subpart E and 43 CFR 4770.3(a) and (c). Within 30 days after filing a Notice of Appeal, you are required to provide a complete statement of the reasons why you are appealing. The appellant has the burden of showing that the decision appealed from is in error. If you wish to file an appeal and petition for a stay, the petition for a stay must accompany your notice of appeal and be in accordance with 43 CFR, Part 4, Subpart E and 43 CFR 4770.3(c). Copies of the Notice of Appeal and Petition for a Stay must be submitted to (1) the Interior Board of Land Appeals, Office of Hearing and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, (2) the Regional Solicitor's Office, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, CA 95825-1890, and (3) Ely District Office, HC 33 Box 33500, Ely, NV 89301-9408. The original documents should be filed with this office.

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay of decision pending appeals shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied.
2. The likelihood of the appellant's success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

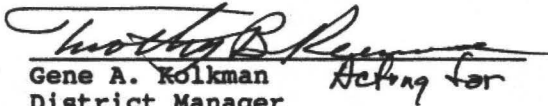
**ADDITIONAL INFORMATION:** Contact Alan B. Shepherd of my staff, at (702) 726-8100 or write at the above address.

Concurrence:

  
Hal M. Bybee  
ADM - Renewable Resources  
Ely District

8-26-96  
Date

Approval:

  
Gene A. Kolkman *Acting for*  
District Manager  
Ely District

8/26/96  
Date

Enclosure:

1. Capture Plan

**MILLER FLAT HERD MANAGEMENT AREA  
EMERGENCY GATHER PLAN**

**PREPARED BY  
Alan B. Shepherd  
Wild Horse and Burro Specialist**

**Caliente Field Station  
Ely District  
August 1996**

## I. Purpose and Need

Resource conditions and animal health are currently being adversely affected by severe drought conditions in the southern portion of the Ely District, in Lincoln County, Nevada. The drought conditions prevent the Herd Management Area (HMA) from producing adequate forage to sustain those animals currently occupying the area. To prevent resource degradation and animal stress, an emergency gather will be initiated.

The Ely District Manager has determined that a Full Force and Effect Decision is necessary to accomplish an emergency gather to prevent resource degradation. Field observations of forage and water availability have indicated that wild horses and their habitat are being negatively impacted. The following conditions exist in the Miller Flat HMA:

**Forage Condition:** Current year's growth is extremely limited. Growth on native grasses (Indian ricegrass, small galleta) averaged less than 3 inches.

**Forage Utilization:** Severe utilization on herbaceous forage documented throughout the emergency gather area.

**Precipitation:** Precipitation for the past 12 months has averaged 50% of normal.

**Water Availability:** Water is limited to Rabbit Spring, which is located on private property. All other spring sources supply marginal water to the wild horses. All reservoirs within the emergency gather area are dry.

**Animal Condition:** Lact./mares = condition classes 2-4  
Studs = condition class 4

**Capture Method:** Helicopter trapping and/or roping

**Number of Animals:** Horses: capture 150, remove 100

**Age Criterion:** All horses

## II. Area of Concern

The proposed emergency gather area is located on public lands administered by the Bureau of Land Management's (BLM) Ely District, in Lincoln County, Nevada. The areas of concern are the western two-thirds of the Sheep Springs Allotment and all of the Rabbit Springs Allotment within the Miller Flat HMA, approximately 20 miles northeast of Caliente, Nevada (refer to Map 1). No other portions of the Miller Flat HMA will be gathered in conjunction with this emergency gather.

III. Time Frame

The animals will be removed from the HMA beginning approximately October 2, 1996 and continuing until the emergency gather is completed.

IV. Gather Methods

The animals will be gathered through the use of helicopter trapping and/or roping. The gather operation will adhere to the "Nevada Wild Horse and Burro Gather Contract" Number 1422-N660-C96-3004.

V. Administration of the Contract

The BLM will be responsible, through the above-cited contract (1422-N660-C96-3004), for all capture, care, and temporary holding of animals until release. The Contracting Officers Representative (COR) will be the Wild Horse and Burro Specialist from the Caliente Field Station, who will be directly responsible for conducting the emergency gather.

VI. Disposal of Removed Animals

All wild horses gathered will be sent to the Palomino Valley Center to be prepared for adoption.

VII. Branded and Claimed Animals

A notice of intent to impound to gather wild horses will be issued concurrently by BLM, prior to any gathering operations in this area. The Nevada Department of Agriculture and the District Brand Inspector will receive copies of these notices, as well as the Notice of Public Sale, if issued. The COR or Project Inspector (PI) will contact the District Brand Inspector and arrange dates and times if brand inspections are needed. Impounded privately owned animals will be handled in accordance with BLM, Nevada State Office Instruction Memoranda NV-84-116 and NV-85-416.

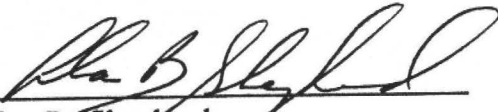
VIII. Destruction of Injured or Sick Animals

Any severely injured or seriously sick animals will be destroyed in accordance with 43 CFR 4730.1. Animals will be destroyed only when a definite act of mercy is needed to alleviate pain and suffering. The COR will make this determination; the advice of a veterinarian will be sought if the COR is uncertain about the severity or the injury or illness. Destruction will be done in the most humane method available.

IX. Responsibility

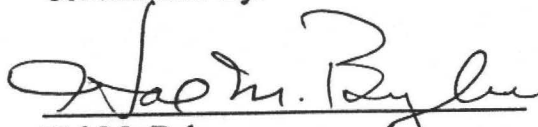
The Ely District Manager is responsible for maintaining and protecting the health and welfare of wild horses. To ensure the contractor's compliance with contract stipulations, a COR from the Ely District will be on site at all times during the emergency gather. The health and welfare of the animals will be the overriding concern of the District Manager, Field Station Manager, COR and PI.

Prepared By:

  
Alan B. Shepherd  
Wild Horse and Burro Specialist  
Caliente Field Station  
Ely District


8/20/96  
Date

Concurrence By:

  
Hal M. Bybee  
ADM - Renewable Resources  
Ely District

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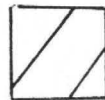
Approved By:

  
Gene A. Kolkman  
District Manager  
Ely District

8/26/96  
Date



RABBIT SPRING AND SHEEP SPRING ALLOTMENT MAP



EMERGENCY GATHER AREA

MAP #1

