



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Ely District Office
HC 33 Box 33500
Ely, NV 89301-9408

In Reply Refer To:
4700 NV-046

SEP 27 1996

CERTIFIED MAIL NO. P 313 269 545
RETURN RECEIPT REQUESTED

Commission for the Preservation
of Wild Horses
c/o Cathy Barcomb, Executive Director
1105 Terminal Way, Suite #209
Reno, Nevada 89502

NOTICE OF FINAL DECISION FULL FORCE AND EFFECT

Ely District Lincoln County EMERGENCY REMOVAL

Severe drought conditions exist within the Delamar Mountains, Clover Mountains, Little Mountain and Wilson Creek Herd Management Areas HMA(s). Forage production and water availability is extremely limited. Livestock have been removed from the drought impacted areas. The principle wild horse use areas within the HMAs are receiving heavy to severe grazing use. Based on field observations of available forage, water sources and monitoring data, it has been determined the wild horses and their habitat are being adversely impacted.

The approximate number of horses to be removed by HMA are as follows:

Herd Management Area	Approximate Number of Horses to be removed.
Little Mountain	125
Delamar Mountains	40
Clover Mountains	40
Wilson Creek	100

All wild horses gathered will be placed into the adoption program. The gather operation will be conducted by helicopter trapping and/or roping.

Due to the emergency nature of these conditions, it is necessary to implement this action immediately, through a Full Force and Effect Decision to ensure the survival of the remaining horses through the winter.

The rationale for placing this decision in Full Force and Effect are as follows:

Drought conditions have critically limited forage production for wild horses. Most of Lincoln County has received 50% of its normal precipitation, and is not expected to produce enough forage to sustain the animals currently occupying the area. In addition water sources are

limited endangering the survival of horses in certain portions of HMA's.

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."

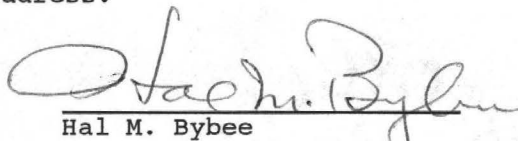
APPEALS: Within 30 days of receipt of this decision, you have the right of appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR, Part 4, Subpart E and 43 CFR 4770.3(a) and (c). Within 30 days after filing a Notice of Appeal, you are required to provide 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.

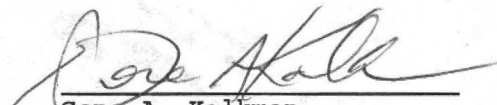
ADDITIONAL INFORMATION: Contact Bob Brown, Ely District Office at (702) 289-1800, or Alan B. Shepherd, Caliente Field Station at (702) 726-8100, or write to the above address.

Concurrence:


Hal M. Bybee
ADM - Renewable Resources
Ely District

9-27-96
Date

Approval:


Gene A. Kolkman
District Manager
Ely District

9/27/96
Date

Enclosure:

1. Capture Plan 6pp

DELAMAR MOUNTAINS, LITTLE MOUNTAIN, CLOVER
MOUNTAINS, AND WILSON CREEK HERD MANAGEMENT AREA(S)
EMERGENCY GATHER PLAN

PREPARED BY
Robert E. Brown
Wild Horse and Burro Specialist

Ely District
September 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 Areas (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 Delamar Mountains, Clover Mountains, Little Mountain and Wilson Creek HMAs:

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

Forage Utilization: Heavy to severe utilization on herbaceous forage is documented throughout the emergency gather area.

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

Water Availability: Water is limited at springs sources located through out various portions of HMAs.

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

Horse Free Areas: Horses are impacting areas outside their HMA.

Capture Method: Helicopter trapping and/or roping.

Number of Animals: Capture 305 horses in the following HMAs:

Little Mountain (125)
Delamar Mountains (40)
Clover Mountains (40)
Wilson Creek (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 (see attached maps).

III. Time Frame

The animals will be removed from the HMA beginning approximately September 27, 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 Specialists from the Ely District Office or 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.

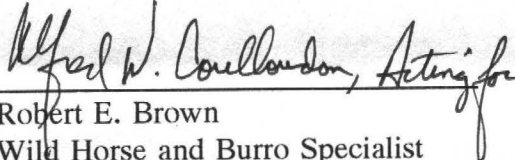
VIII. Destruction of Injured or Sick Animals

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

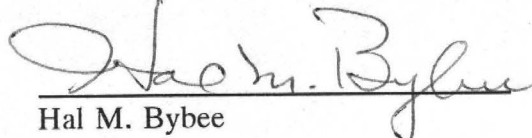
The Ely District Manager is responsible for maintaining and protecting the health and welfare of wild horses. To ensure the contractor's compliance with contract stipulations, a COR from the Ely District will be on site at all times during the emergency gather. The health and welfare of the animals will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

Prepared By:


Robert E. Brown
Wild Horse and Burro Specialist
Ely District

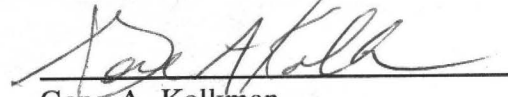
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ADM - Renewable Resources
Ely District

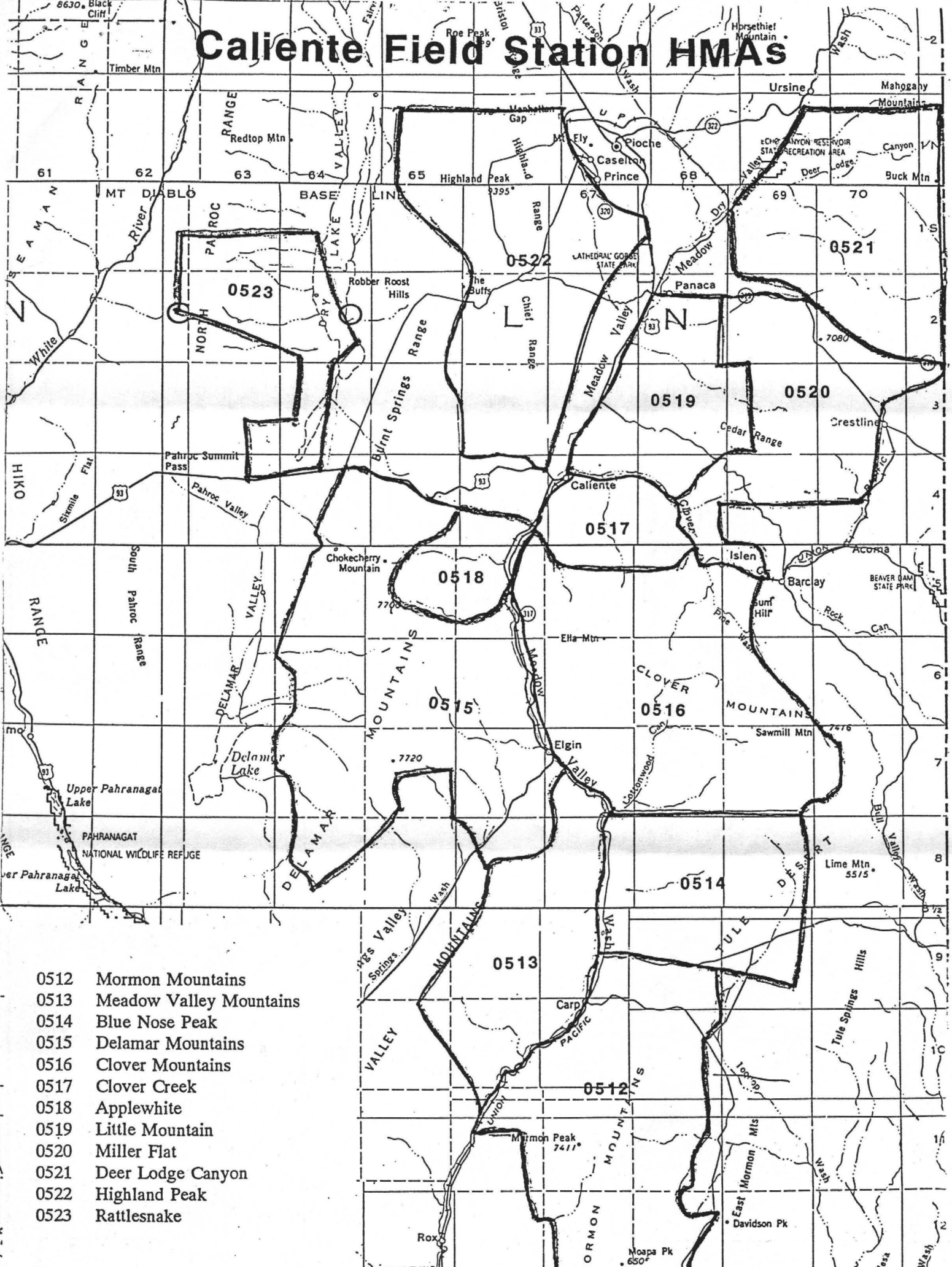
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Approved By:


Gene A. Kolkman
District Manager
Ely District

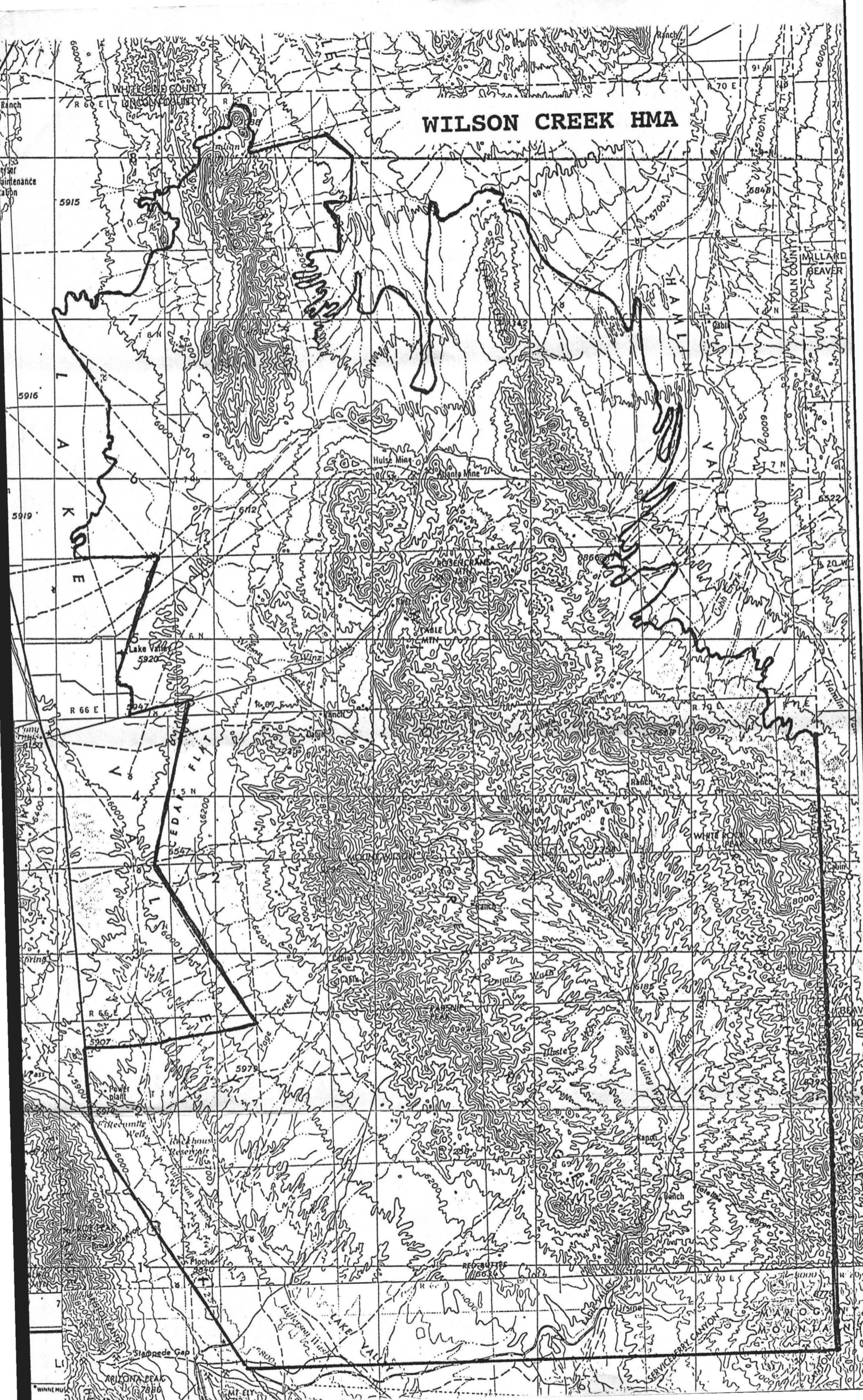
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Caliente Field Station HMA's



- 0512 Mormon Mountains
- 0513 Meadow Valley Mountains
- 0514 Blue Nose Peak
- 0515 Delamar Mountains
- 0516 Clover Mountains
- 0517 Clover Creek
- 0518 Applewhite
- 0519 Little Mountain
- 0520 Miller Flat
- 0521 Deer Lodge Canyon
- 0522 Highland Peak
- 0523 Rattlesnake

WILSON CREEK HMA





COMMISSION FOR THE
PRESERVATION OF WILD HORSES

1105 Terminal Way
Suite 209

Reno, Nevada 89502
(702) 688-2626

October 10, 1996

Mr. Gene A. Kolkman
Ely District
Bureau of Land Management
HC 33 Box 33500
Ely, Nevada 89301-9408

Subject: Delamar, Little Mountain, Clover Mountains, Wilson Creek HMAS
- Emergency Gathers

Dear Mr. Kolkman:

Thank you for consulting the Commission for the Preservation of Wild Horse concerning the Emergency Removals - Clover, Little Mountain, and Wilson Creek Herd Management Areas. We appreciate the extensive efforts of the District to properly consult affected parties during these extreme drought conditions in southern Nevada.

We agree with your present position to gather all horses and not return older age class animals to degraded rangelands or cause imminent death of horses.

It would be appropriate to provide the affected parties after-the-fact environmental assessments.

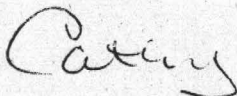
Please address the following issues:

1. Percentage of the herd management area affected by the decision.
2. Percentage of the herd affected by the decision.
3. Ownership of available water (Section 4 Agreements).
4. Age, sex and longevity data from the gather.
5. Range suitability (ephemeral classification).
6. Range criteria for livestock turnout.
7. Long term planning schedule.

Mr. Gene Kolkman
October 10, 1996
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Gene, we appreciate the ongoing efforts of the Ely District to promptly and efficiently address the needs of wild horses during this extensive drought. It is not clear if these proposed gathers are to achieve appropriate management levels that were determined in multiple use decisions. Also, it is apparent that these herd areas represent a meta-population and may behave as one herd area. In any case, we would appreciate the District by addressing our identified issues and propose long term solutions for any herd area without a current multiple use decision. We assume that the condition of these horses prompted the emergency gathers and proportional actions with livestock.

Sincerely,



CATHERINE BARCOMB
Executive Director