



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Ely Field Office  
HC 33 Box 33500 (702 No. Industrial Way)  
Ely, Nevada 89301-9408  
<http://www.nv.blm.gov>



### RECEIVED

FEB 22 2006

In Reply Refer To:  
4720(NV-042,045)

DEPARTMENT OF ADMINISTRATION  
OFFICE OF THE DIRECTOR  
BUDGET AND PLANNING DIVISION

FEB 17 2006

Dear Interested Party:

Enclosed are the Decision Record and Finding of No Significant Impact for the Ely South Desert Fire Emergency Wild Horse Gather. Also enclosed are the Ely South Desert Emergency Wild Horse Gather Plan and Environmental Assessment (EA NV-040-06-008).

The Ely South Desert Fires Emergency Wild Horse Gather Plan and **Preliminary** Environmental Assessment (E.A.) NV-040-06-008 was mailed and made available to the public on December 15, 2005. A 30 calendar day public scoping/notification period was conducted in order for the public to provide information, data, or analysis. Seventy five responses were received by the BLM in relation to this project. All information, data, or analysis was considered during this process. On pages 19-25 of the Ely South Desert Emergency Wild Horse Gather Plan and Environmental Assessment (EA NV-040-06-008) specific responses to comments are addressed.

Due to information provided to us through some of the public letters the proposed action and subsequent analysis has been modified to reflect conducting gather operations within the Burned portions of the Delamar Mountains, Meadow Valley Mountains, Bluenose Peak and Clover Mountains HMAs. Further, no gather operations would occur within portions of HMAs where authorized active livestock use is occurring.

The Bureau of Land Management (BLM) Ely Field Office/Caliente Field Station is removing wild horses from Herd Management Areas that were burned by the Delamar, Duzak, and Meadow Valley Mountains Fires. BLM has determined that large and or key forage areas for wild horses have burned and no longer can provide forage for maintenance of wild horses at current population levels. The gather would occur approximately on February 20, 2006 until February 28, 2006 to prevent placing wild horse death and/or suffering from starvation due to a lack of forage. It has been determined the presence of wild horses would jeopardize the stabilization efforts of the burned areas, resulting in un-healthy rangeland.

If you have any questions, please contact Jared Bybee, Lead Wild Horse and Burro Specialist, Ely Field Office at (775) 289-1843, or myself at (775) 726-8126.

Sincerely,



William Smith  
Acting, Assistant Field Manager  
Caliente Field Station

2 Enclosure:

1. Decision Record (DR) and Finding of No Significant Impact (FONSI)
2. Ely South Desert Fires Emergency Wild Horse Gather Plan Environmental Assessment (E.A.)  
NV-040-06-008

CC:

7J Ranch, c/o Henry Brackenbury	7005 1160 0000 2336 1401
Andrea Lococo	7005 1820 0002 4099 7006
Anna Charlton, Animal Rights Law Center	7005 1820 0002 4099 0281
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Barbara Warner	7005 1820 0002 4099 6849
Betsy Macfarlan, ENLC	7005 1820 0002 4099 6931
Betty Kelly, Wild Horse Spirit	7005 1820 0002 4099 0328
Bonnie Matton, Wild Horse Preservation League	7005 1820 0002 4099 6832
Catherine Barcomb, Comm for Pres of Wild Horses	7005 1820 0002 4099 6924
Charles Culverwell Estate, c/o Chuck Culverwell	7005 1820 0002 4099 0311
Charles S Watson, Jr, NV Outdoor Recreation, National Public Lands Task Force	7005 1820 0002 4099 6825
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Craig Downer, Wild Horse Wildness and Wildlife	7005 1820 0002 4099 0304
Dave & Jenifer Free	7005 1820 0002 4099 6818
Dave Free	7005 1820 0002 4099 6900
Dawn Lappin, Wild Horse Organized Assistance	7005 1820 0002 4099 6788
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Michael Wickersham, NDOW	7005 1820 0002 4099 7013
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National Mustang Association	7005 1820 0002 4099 7167
National Wild Horse Association	7005 1820 0002 4099 7082
Nevada Cattlemens Association	7005 1820 0002 4099 7150
Nevada Dept. of Agriculture	7005 1820 0002 4099 6993
Nevada Farm Bureau Federation	7005 1820 0002 4099 7075
Nevada Woolgrowers Association	7005 1820 0002 4099 7143
Newby Cattle Co., c/o Ken Newby	7005 1820 0002 4099 6986
Randall Spoerlein, Save the Mustangs	7005 1820 0002 4099 7068
Robert and Vivian Lewis	7005 1820 0002 4099 7136
Robert, Anthony and Chad Steele	7005 1820 0002 4099 7051
Roberta Moore, Great Basin National Park	7005 1820 0002 4099 7129
Roger Dieleman	7005 1820 0002 4099 7198
Sharon Crook	7005 1820 0002 4099 7044
Steve Fulstone	7005 1820 0002 4099 7112
Susan Asher, Nevada Humane Society	7005 1820 0002 4099 7181
Terry Reed, Public Land Solutions	7005 1820 0002 4099 7037
Tina Nappé, Sierra Club	7005 1820 0002 4099 7105
US Fish and Wildlife Service Reno	7005 1820 0002 4099 7174
US Wild Horse Burro Foundation	7005 1820 0002 4099 7020
Zosia Targosz, Nevada State Clearinghouse	7005 1820 0002 4099 0298
Carol Hodgman	7005 1820 0002 4098 9568
Gail Fox	7005 1820 0002 4098 9582
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# **United States Department of the Interior**

## **BUREAU OF LAND MANAGEMENT**

**Ely Field Office  
702 North Industrial Way, HC 33 Box 33500  
Ely, NV 89301-9408  
<http://www.nv.blm.gov>**

**In Reply Refer To:  
4720/4710.4 (NV-042)**

### **DECISION RECORD (DR) AND FINDING OF NO SIGNIFICANT IMPACT (FONSI)**

**Ely South Desert Fire Wild Horse Gather  
Ely Field Office**

**ENVIRONMENTAL ASSESSMENT (EA)  
NV-040-06-008**

#### **Introduction**

The Ely South Desert Fires Gather Plan and Environmental Assessment (NV-040-06-008) had been completed to analyze the impacts of conducting a gather and removal operation. The environmental assessment analyzes two alternatives.

BLM has determined there are excess wild horses present due to the loss of habitat from the Delamar, Duzak, and Meadow fires and the Proposed Action is needed in February of 2006 to restore wild horse herd numbers to levels consistent with the loss of habitat and support stabilization efforts.

The Proposed Action in the E.A. is to capture and remove all wild horses from burned areas of the Delamar Mountains, Meadow Valley Mountains, Bluenose Peak, and Clover Mountains HMAs, as well as animals on fenced private property. Approximately 60-80 wild horses are currently living in the burned area, and the BLM would attempt to capture and remove these wild horses. The area would continue to be monitored for the detection of wild horses living in the HMAs affected by the fires that may move from the unburned portions to the burned portions. The health and condition of remaining animals would be assessed and removal of additional animals through an appropriate method would be implemented as needed

The other alternative analyzed is the No Action Alternative. In this alternative, wild horses would not be gathered at this time.

## **FINDING OF NO SIGNIFICANT IMPACT**

Based on the analysis of potential environmental impacts in the E.A. for the Monte Cristo Complex Wild Horse Gather (NV-040-05-030), I have determined that the Proposed Action will not have a significant effect on the human environment. Therefore, the preparation of an environmental impact statement (EIS) is not required for compliance with the National Environmental Policy Act of 1969.

Reasons for this finding are based on my consideration of the Council on Environmental Quality (CEQ) criteria for significance (40 CFR 1508.27) with regard to the context and intensity of impacts.

Context: The affected region is limited to the south portion of Lincoln County, where the project area is located. The gather has been planned with input from interested public and users of public lands.

Intensity: Based on my review of the EA against CEQ's factors for intensity, there is no evidence that the severity of impacts is significant:

1. *Impacts that may be both beneficial and adverse.* The proposed gather is expected to meet BLM's resource objectives for fire stabilization as well as wild horse health. Although the gathering and removal of excess wild horses is expected to have short-term impacts on individual animals, it is expected to ensure the long-term viability of the wild horse herds and help to improve forage and habitat conditions in the herd management areas.
2. *The degree to which the proposed action affects public health or safety.* The proposed gather has no effect on public health or safety.
3. *Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.* The proposed action has no potential to affect unique characteristics such as historic or cultural resources or properties of concern to Native Americans. No adverse impacts to Wilderness are anticipated. There are no wild and scenic rivers, or ecologically critical areas present in the areas. Maintenance of appropriate numbers of wild horses is expected to help make progress in meeting resource objectives for improved riparian, wetland, aquatic and terrestrial habitat.
4. *The degree to which the effects on the quality of the human environment are likely to be highly controversial.* Effects of the gather are well known and understood. No unresolved issues were raised following notification of wild horse advocacy groups of the proposed gather.

5. *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.* The proposed gather does not possess any highly uncertain or involve unique or unknown risks due to the numerous wild horse gathers that have occurred within the Ely District. The effects of conducting a wild horse gather are well known. Further the proposed gather includes measures for monitoring its effects on herd population dynamics and toward meeting stabilization for the burned areas.

6. *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.* The action would not establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration.

7. *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.* The EA includes an analysis of cumulative effects which considers past, present and reasonably foreseeable future actions in the burned HMAs that supports the conclusion that the proposed gather is not related to other actions with individually insignificant but cumulatively significant impacts.

8. *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing on the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources.* The proposed gather has no potential to adversely affect significant scientific, cultural, or historical resources.

9. *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.* The action is not likely to adversely affect any listed species, and the action area does not include any habitat determined to be critical under the Endangered Species Act.

10. *Whether the action threatens a violation of Federal, State, local or tribal law or requirements imposed for the protection of the environment.* The proposed gather conforms to the Caliente Management Framework Plan. Further the proposed gather is consistent with other Federal, State, local and tribal requirements for protection of the environment to the maximum extent possible.

## **DECISION**

It is my decision to implement the proposed action as described in the EA for the Ely South Desert Fires Wild Horse Gather (Ely NV-040-06-008). Wild horses will be gathered from burned areas within the Delamar Mountains, Clover Mountains, Meadow Valley Mountains, and Blue Nose Peak HMAs as well as nuisance animals residing within fenced private property.

## **Rationale**

1. The gathering and removal wild horses as described in the proposed action is being selected to prevent wild horse suffering and death caused by a lack of forage and habitat. Further, this action is needed to meet stabilization of vegetation and soils associated with the burned areas.
2. The proposed action is in conformance with the Caliente Management Framework Plan (MFP), Caliente Grazing Environmental Statement (ES), and subsequent Record of Decision (ROD) dated 1982.
3. The proposed action was selected due to meeting the need of obtaining resource objectives.
4. The No Action Alternative was not selected because it would not allow for the removal of wild horses to prevent possible death and starvation nor preserve the multiple use relationship within the area and help to make progress in meeting objectives for wild horses and riparian, wetland, aquatic and terrestrial habitat.

### **Public Involvement**

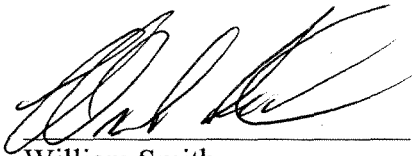
Public notification and scoping of E.A. Ely NV-040-06-008 was sent to the persons, groups, and agencies listed on pages 19 and 20 of that document on December 15, 2005, with a 30-day review and comment period. Sixty Seven comment letters were received during the public scoping period. Comments are addressed in the final EA/gather plan. All input received was considered in relation to the analysis and the formulation of a decision the proposed action was modified due to information provided by public input.

### **Authority**

The authority for this decision is contained in Section 3(b) (2) of the 1971 Free-Roaming Wild Horses and Burros Act and Section 302(b) of the Federal Land Policy and Management Act of 1976. The action is also needed to meet the intent of Promulgated Federal Regulations at Title 43 CFR 4700.0-6 (a) which states: "*Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat (emphasis added).*"

### **Approval**

The Ely South Desert Fires wild horse gather is approved for implementation on February 20, 2006. This decision is effective upon February 20, 2006 in accordance with Title 43 of the Code of Federal Regulations (CFR) at 4770.3(c) because removal of excess animals beginning in February is necessary to protect animal health and prevent further deterioration of rangeland resources. It may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR part 4 (see attachment).



William Smith  
Acting Assistant Field Manager  
Caliente Field Station

Feb 15, 06  
Date



**Attachment**  
**ELY SOUTH DESERT FIRES**  
**WILD HORSE GATHER**  
**Decision Record**

**Appeal Procedures**

If you wish to appeal this decision, it may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR part 4 in writing. If you appeal, your appeal must **also** be filed with the Bureau of Land Management at the following address in writing:

William Smith, Acting Assistant Field Manager  
BLM, Caliente Field Station  
P.O. Box 237  
Caliente Nevada 89001-0237

Your appeal must be filed within thirty (30) days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4942, January 19, 1993) for a stay (suspension) of the decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted in writing to:

Board of Land Appeals  
Dockets Attorney  
801 N. Quincy Street, Suite 300  
Arlington, VA 22203

A copy must also be sent to the appropriate office of the Solicitor at the same time the original documents are filed with the above office.

US Department of the Interior  
Office of the Regional Solicitor  
Pacific Southwest Region  
2800 Cottage Way, Room E-1712  
Sacramento, California 95825

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay is required to 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 appellants success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

The Office of Hearings and Appeals regulations do not provide for electronic filing of appeals, therefore they will not be accepted.

**U.S. Department of the Interior  
Bureau of Land Management  
Ely Field Office/Caliente Field Station**

**Ely South Desert Fires  
Emergency Wild Horse Gather Plan  
and Environmental Assessment**

**NV-040-06-008**

**Jared Bybee**

**February 2006**

## **I. Background Information**

The Bureau of Land Management (BLM) is proposing to remove wild horses from Herd Management Areas (HMAs) that were burned by the Delamar, Duzak, and Meadow Valley Mountains Fires. These fires burned the following Wild Horse Herd Management Areas (HMAs): Delamar Mountains, Meadow Valley Mountains, Blue Nose Peak, and Clover Mountains. The gather would occur approximately February 20 until February 28, 2006 in order to prevent wild horse death and/or suffering from starvation due to a lack of forage as well as to provide for stabilization of the burned areas.

Higher than average precipitation during the winter of 2004-05 promoted abundant growth of native shrubs, forbs and grasses as well as heavy growth of non-native, invasive annual plant species, especially those in the genus *Bromus*, leading to the above mentioned fires. The Southern Nevada Complex Fires were ignited by dry lightning storms and burned approximately 740,000 acres from June 22, 2005 to July 10, 2005. Of the total areas burned, 597,096 acres are on lands managed by the Ely BLM Field Office.

The Delamar Mountains wild horse population is located directly south west of Caliente Nevada, and extends south to Kane Springs Summit. The Delamar Fire is located approximately ten miles south of Caliente, Nevada. The Fire encompasses approximately 50% of the Delamar Mountains Wild Horse Herd Management Area (HMA). The HMA is 186,000 acres in size, of which 93,000 acres burned in June/July of 2005. Refer to Figure 1 for a map of the Affected Area.

The Meadow Valley Mountains HMA is 97,000 acres, of which 77,000 acres are burned. The Meadow Valley Mountains Fire is located approximately 20 miles south of Caliente. The fire burned approximately 80% of the Meadow Valley Mountains HMA. The AML has been set at zero due to desert tortoise protection as a federally listed threatened species as well as a lack of habitat to sustain wild horses. Refer to Figure 1 for a map of the Affected Area.

The Clover Mountains, and Blue Nose Peak HMAs share one wild horse population. The Clover Mountains HMA has approximately 45,000 burned acres. Although the HMA is 173,000 acres, and approximately 25% of the HMA, the area that burned is the primary horse use area. Approximately 60% of the Blue Nose Peak HMA is burned. The Blue Nose Peak HMA serves as a winter retreat for this population of wild horses to escape winter snows. This area has very steep deep canyons and ridges without motorized access.

A helicopter flight was completed on November 28, and 29, 2005. The flight was completed in order to determine if current wild horse population estimates were accurate, ascertain distribution patterns and observe wild horse herd and individual animal health. The flight indicated wild horse population estimates were accurate. Animals also appear to be suffering from a lack of forage. Emaciated animals were observed within burned areas in the Delamar Mountains, Clover Mountains, Meadow Valley Mountains, and Blue Nose Peak. Only four foals were classified out of 102 animals observed indicating a 4% foal crop survival following the summer burns. Classification of four foals indicates poor overall herd health. Observations confirm that the current population of wild horses is at risk of death or suffering by starvation.

## **A. Need for the Proposed Action**

BLM has determined that large and or key forage areas for wild horses have burned and no longer can provide forage for maintenance of wild horses at current population levels, placing the animals at risk of death and/or suffering by starvation. Further, the presence of wild horses would jeopardize the stabilization efforts of the burned areas, resulting in un-healthy rangeland.

The proposed action is needed at this time to achieve a thriving natural ecological balance between wild horse populations, livestock, wildlife, and vegetation; to make significant progress towards attainment of Mojave-Southern Great Basin Resource Advisory Council rangeland health standards; and to protect the range from the deterioration associated with an overpopulation of wild horses as authorized under Section 3(b) (2) of the 1971 Free-Roaming Wild Horses and Burros Act and Section 302(b) of the Federal Land Policy and Management Act of 1976. Additionally, Promulgated Federal Regulations at Title 43 CFR 4700.0-6 (a) state *“Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat (emphasis added).”*

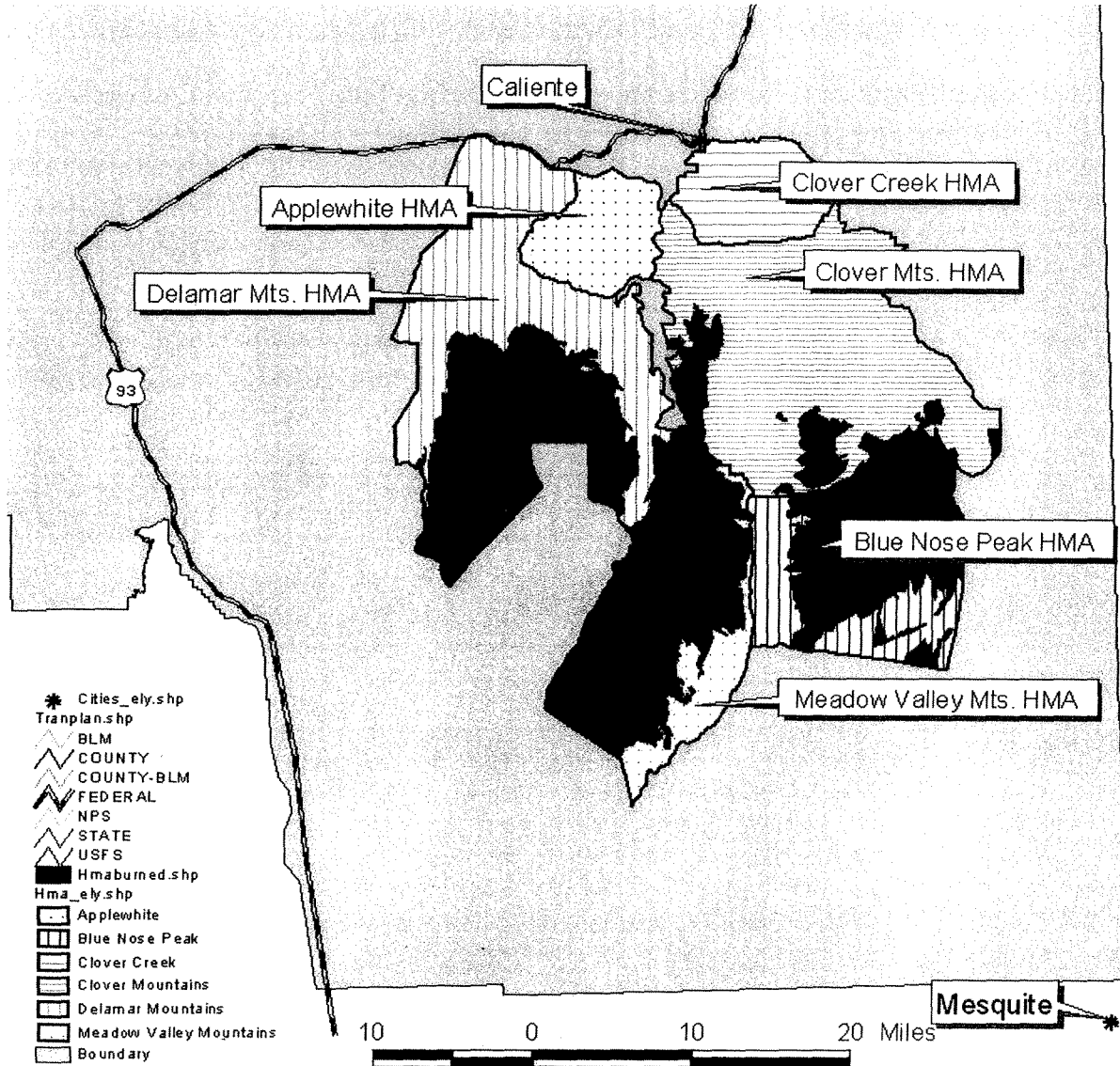
## **B. Relationship to Planning**

The proposed action is in conformance with the Caliente Management Framework Plan (MFP), Caliente Grazing Environmental Statement (ES), and subsequent Record of Decision (ROD) dated 1982. Additionally, the proposed action is consistent with the Lincoln County Public Land and Natural Resource Management Plan as adopted by the Board of County Commissioners of Lincoln County, December 5, 1997 and the "Lincoln County Elk Management Plan" dated July 1999. The proposed action is also in conformance with all applicable regulations at 43 CFR (Code of Federal Regulations) 4700 and policies and with the Wild Free Roaming Horses and Burros Act of 1971. It is consistent with federal, state, and local laws, regulations, and plans.

The Delamar Mountains, Meadow Valley Mountains, Blue Nose Peak, and Clover Mountains, Herd Management Areas were designated as Herd Management Areas in the Caliente MFP. In November of 2003, AML was set through a “Notice of Wild Horse Management Decision and Finding of No Significant Impact (FONSI) for the Establishment of Appropriate Management Levels for Twelve Wild Horse Herd Management Areas with the Ely District.” This document, together the environmental assessment (EA NV-040-03-036) accompanying the Wild Horse Decision, is incorporated by reference into this EA. Five alternatives were analyzed in that EA, including the No Action Alternative. The other alternatives included setting AML based on monitoring data and the essential habitat components of forage, water, cover, and space; managing HMAs as complexes; reducing livestock numbers to provide forage for a minimum viable population of wild horses; and setting AML based solely on forage availability and emergency gather history.

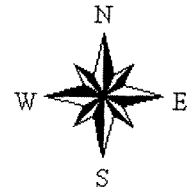
Figure 1. Map of the Affected Area and Adjacent HMAs

### Fire Affected HMAs



Ely Field Office  
November 15, 2005  
Jared Bybee

"No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data."



In the AML decision for Bluenose Peak, and Clover Mountains HMAs, setting the AML at zero was identified as the environmentally preferred decision, but that can only be accomplished through a land use plan amendment. Delamar Mountains was identified as an interim AML due to viability limitations, AML was set based on forage availability and past emergency gather history. Meadow Valley Mountains previously had AML set at zero (Table 1) due to Desert Tortoise Habitat Issues. Currently the Ely Field Office is in the process of writing a new Resource Management Plan which would analyze the appropriateness of managing for wild horses in these HMAs.

Existing AML and estimated populations for the affected herd management areas are summarized in Table 1 below.

**Table 1.**  
**Appropriate Management Levels and Current Estimated Populations for Burned portions of HMAs**

<b>Herd Management Area</b>	<b>Appropriate Management Level</b>	<b>Current Estimated Population</b>
Delamar Mountains	51-85 (interim)	30-50
Meadow Valley Mountains	0	10-15
Blue Nose Peak	1	5-10
Clover Mountains	1-16	25-35

**C. Issues**

The two issues identified are protection of wild horses from suffering and/or starvation and protection of stabilization efforts.

**II. Description of the Proposed Action and Alternatives**

**A. Proposed Action – Remove all Wild Horses from Burned Areas and Outside HMAs**

The Proposed Action is to capture and remove all wild horses from burned areas of the Delamar Mountains, Meadow Valley Mountains, Bluenose Peak, and Clover Mountains HMAs as well as animals residing outside of HMAs. Approximately 60-80 wild horses are currently living in the affected area, and the BLM would attempt to capture and remove all of those wild horses. The area would continue to be monitored for the detection of wild horses living in the HMAs affected by the fires that may move from the unburned portions to the burned portions. The health and condition of remaining animals would be assessed and removal of additional animals through an appropriate method would be implemented as needed

Multiple capture sites (traps) would be used to capture wild horses from the HMAs. Whenever possible, capture sites would be located in previously disturbed areas. All capture and handling activities (including capture site selections) would be conducted in accordance with Standard Operating Procedures (SOPs) described in Appendix 1. Capture techniques would be the helicopter-drive trapping method and/or helicopter-assisted roping from horseback.

## **B. No Action Alternative – Continuation of Existing Management**

The No Action Alternative is required by National Environmental Policy Act (NEPA) analysis to provide a baseline for impact analysis.

Under this alternative a wild horse gather would not take place in February nor would subsequent follow up trapping. There would be no active management to control the size of the wild horse population at this time. The current population would be put at risk of starvation due to a lack of habitat. Stabilization efforts would be at risk of failure due to lack of rest during plant re-establishment periods. Existing management, including monitoring, would continue.

The No Action Alternative would violate the Wild Free-Roaming Horses and Burros Act, federal regulations and Bureau policy. The Wild Horses and Burros Act of 1971 mandates the Bureau to prevent the range from deterioration associated with overpopulation, and preserve and maintain a thriving natural ecological balance and multiple use relationships in that area. In addition, the No Action Alternative would not comply with the Mojave-Southern Great Basin RAC Standards and Guidelines for Rangeland Health and Healthy Wild Horse and Burro Populations.

## **C. Alternatives Considered but Dismissed from Detailed Analysis**

One alternative which was considered but dismissed from detailed analysis is temporarily fencing burned areas to promote vegetation recovery. Due to the scope and extent of the burned areas, it was determined that temporary fencing was not feasible. Moreover, the few unburned areas remaining would not be expected to provide sufficient forage for current wild horse and wildlife populations, without risk of death by starvation. Another possible alternative would be to gather wild horses only to the high point of the appropriate management level. However, given the emaciated condition of wild horses at the present time and the low percentage of surviving foals, it would be inhumane not to remove as many animals as possible to reduce competition for available forage, risk of death by starvation, and greater potential to adversely impact vegetation recovery.

Another possible alternative would be to allow natural predators to control wild horse populations allowing post-fire vegetation recovery without the need to gather/remove wild horses. However, wild horses are introduced species within North America and have few natural predators. Even if natural predators were present, allowing wild horses to slowly starve before becoming prey is cruel and inhumane when viable options exist such as gather/removal before individual animal and herd health is jeopardized.

Another option considered was relying primarily on water and/or bait trapping as the primary gather/removal method as compared to helicopter drive-trapping or helicopter-roping from horseback methods. However, this method is extremely time and labor intensive, requiring daily monitoring, often over several weeks to effectively capture/remove the animals. Helicopter drive-trapping or helicopter-roping from horseback have proven to be safe and effective methods for capture/removal and are expected to be more cost-effective given the number of animals proposed for removal and the size and complexity of the affected area. Further, the Delamar and Clover Mountains have numerous water sources with many small (non-fishery) stream stretches that would preclude the use of water trapping.

**III. Affected Environment**

Table 2 summarizes which of the critical elements of the human environment and other resources of concern within the project area are present, not present or not affected by the proposed action.

**Table 2.  
Summary of Critical and Other Elements of the Human Environment**

Element	Present	Not Present or Not Affected	Element	Present	Not Present or Not Affected
Air Quality		X	Threatened or Endangered Species	X	
Areas of Critical Environmental Concern		X	Vegetation	X	
Cultural Resources/Paleontological	X		Visual Resource Management		X
Environmental Justice		X	Wastes, Hazardous and Solid		X
Floodplains		X	Water Quality (surface or ground)		X
Invasive, Non-native Species	X		Wetlands	X	
Native American Religious Concerns		X	Wild Horses	X	
Prime or Unique Farmlands		X	Wildlife (including migratory birds)	X	
Riparian Areas	X		Wilderness	X	
Soils	X		Wild and Scenic Rivers		X

**IV. Environmental Consequences**

The following critical or other elements of the human environment are present and may be affected by the Proposed Action or the alternative. The affected environment is described for the reader to be able to understand the impact analysis.

**A. Wild Horses**

**Affected Environment**



Wild horses are introduced species within North America and have few natural predators. Few natural controls act upon wild horse herds making them very competitive with native wildlife and other living resources managed by the BLM.

Census flights have been conducted in the area every three to four years. These census flights have provided information pertaining to population numbers, foaling rates, distribution, and herd health. Wild horse population growth rates average approximately 10% to 20% in the area. This fluctuation is due to many natural drought occurrences. The estimated herd population for the affected HMAs was determined from past census data and a subsequent November 2005 census flight which confirmed the Bureau's population estimates. November 2005 observations also documented wild horses in poor and emaciated condition. In addition, only four foals were classified indicating poor overall herd health. Observations confirm that the current population of wild horses is at risk of death or suffering by starvation.

### Environmental Impacts

**Proposed Action** – Based on past gather experience within the Ely District and the topography of the area, it is expected that the BLM would be able to capture 85 percent of the wild horses within the burned areas if the gather occurs in winter. A capture rate of 50-60% tends to occur in this area during the summer and fall. No gather operations would occur in unburned portions of the affected HMAs, but could occur outside HMAs for animals residing outside the HMA. It is expected that 50 wild horses would not be gathered in unburned portions of the HMAs.

Monitoring would be conducted through helicopter census and vegetation measurements to determine if stabilization objectives are being met.

Removing approximately 60-80 wild horses from the burned area is expected to minimize the potential impacts to individual animals and the herd from the risk of death or suffering by starvation. Summer fires have significantly reduced the amount of forage available for use. Competition for scarce forage resources would severely stress mares and foals and increase fighting among stud horses as they protect their position for limited forage. Additionally, natural vegetation recovery would be slowed as wild horses travel looking for green growth, impacting the plant's ability to grow and store carbohydrates.

Gathering wild horses causes impacts to individual animals. These impacts may occur as a result of handling stress associated with the gather, capture, processing, and transportation of animals. The intensity of these impacts varies by individual and is indicated by behaviors ranging from nervous agitation to physical distress. Mortality to individuals from this impact is infrequent but does occur in one half to one percent of wild horses captured in a given gather. Other impacts to individual wild horses include separation of members of individual bands of wild horses and removal of animals from the population.

Indirect impacts can occur to horses after the initial stress event, and may include increased social displacement, or increased conflict between studs. These impacts are known to occur intermittently during wild horse gather operations. Traumatic injuries may occur, and typically involve biting and/or kicking bruises, which don't break the skin. The occurrence of spontaneous abortion events among mares following capture is very rare.

Population-wide impacts to individual bands of wild horses would be minimized with this action because all horses caught would be removed. The remaining wild horses not captured would maintain their social structure and herd demographics (age and sex ratios). No observable effects to the remaining population associated with the gather impacts would be expected except a heightened shyness toward human contact.

*No Action Alternative* –Under this alternative, wild horses would not be removed at this time. The horses would not be subject to any individual direct or indirect impacts described in the Proposed Action as a result of a gather operation. The current estimated population of 100-150 wild horses could not be sustained with the forage that is currently available. Consequences of wild horses on the range after these fires would be increased risk to the health of the rangelands, and horse herd health. Individual horses would be at risk of death or suffering by starvation. The population of wild horses would compete for the available forage resources, affecting mares and foals most severely. Social stress would increase. Fighting among stud horses would increase as they protect their position at scarce forage sources, as well as injuries and death to all age classes of animals. The areas closest to the water would experience severe utilization and degradation. Over time, the animals would continue to deteriorate in condition as a result of declining forage availability and the increasing distance traveled to forage if forage can be found. Many horses, especially foals and mares, would likely die through the following summer due to a lack of forage.

## **B. Vegetation, Soils and Riparian**

### Affected Environment

#### 1. Vegetation

##### *Upland Vegetation*

A variety of vegetation types burned in the Southern Nevada Complex Fires, including communities dominated by creosote bush-white bursage, Mojave mid elevation desert scrub (blackbrush), warm desert washes, riparian vegetation, sagebrush shrublands, pinyon-juniper woodlands, and interior chaparral. These communities respond differently to the effects of fire.

##### *Creosote bush-white bursage desert scrub*

This vegetation type is primarily found within the low elevation portions of the Meadow Valley Mountains HMA and Blue Nose Peak HMA. The Southern Nevada Complex Fires burned through communities co-dominated by the shrubs creosote bush and white bursage. In some areas, galleta grass is common in the understory. Creosote and white bursage generally are not adapted to fire. Recruitment of these dominants as well as associated four-wing saltbush brittlebush and three-awn grasses is generally by seed preserved in the seedbank.

##### *Mojave mid-elevation desert scrub*

This vegetation type is primarily found within the Blue Nose Peak HMA. At elevations above creosote bush-white bursage communities, a variety of shrubs become dominant. In the burned areas, these communities were often dominated by blackbrush. Other common shrubs include various yucca species, Joshua tree, Nevada ephedra, rabbitbrush and indigobush. Grasses and forbs were a relatively minor component of blackbrush communities. In most areas, blackbrush

formed extensive, nearly monotypic stands.

Observation of adjacent unburned areas and unburned islands revealed that many blackbrush shrublands have dense cover (40-50%), and relatively little abundance of *Bromus* fine fuels, especially in shrub interspaces. In some areas, even though blackbrush shrubs were completely consumed by fire, low density *Bromus* grasses remain unburned in the interspaces. Therefore, it is probable that blackbrush shrubs, rather than annual grasses, carried fires in this community.

Where fire burned through blackbrush communities, essentially all of the existing blackbrush was removed. Blackbrush, while extremely flammable, is not a fire tolerant species and individual plants are usually killed by even low severity fires. Studies indicate that blackbrush can take upwards of 60 years to reestablish (Anderson 2001) and possibly 1,000 years to be fully restored (Web et al. 2001). Other studies suggest that these sites are converted to other vegetation types and do not return as blackbrush sites (Callison et al 1985; Haines et al. 2003). Burned yuccas showed high levels of re-sprouting. Joshua trees occupying portions of the blackbrush community were also re-sprouting, but some of the re-sprouts were grazed. Of all vegetation types burned in the South Desert Complex Fires, blackbrush-dominated communities are the least likely to recover naturally.

#### *Sagebrush shrublands*

This vegetation type is primarily found in the high elevations of the Delamar Mountains, Clover Mountains, Clover Creek, and Applwhite HMAs in close association with Pinyon/Juniper communities. Communities dominated by sagebrush were burned. Other shrubs present include rubber rabbitbrush, antelope bitterbrush, and black greasewood. Depending upon adequate precipitation and rest from grazing, a number of native perennial grass species are not likely to re-sprout including Indian ricegrass, blue grama, needle-and-thread, Great Basin wild rye, galleta grass, western wheatgrass and bluegrass.

#### *Pinyon-juniper woodlands*

This vegetation type occurs in all six HMAs. At higher elevations, woodlands dominated by pinyon pine and Utah juniper were burned. Neither pinyon nor juniper trees are fire-tolerant and readily die after moderate to severe fires. Some of the pinyon-juniper (PJ) woodlands were on steeper slopes in closed-canopy conditions with little or no understory. The fire burned intensely through the woodland canopy, killing the trees, and left little chance for native species to reestablish. These areas are likely prone to soil erosion and invasive annual grass establishment and dominance. Over time, burned PJ woodlands are likely to transition to fire-adapted interior chaparral vegetation, creating a mosaic of vegetation types where fire occurs frequently and where fire does not occur frequently.

#### *Interior chaparral*

This vegetation type is found on the south slope of the Delamar Mountains, and Clover Mountains HMAs. At higher elevations, above and intermingled with the PJ woodlands, fire-adapted shrub communities exist. These communities are similar to those found in Mediterranean climates, such as the California coast. Where communities similar to chaparral are found in the Intermountain West, they are often referred to as "Interior" chaparral. Common species of this vegetation type include manzanita, which is known to readily reestablish from seed in burned areas, turbinella oak, Gambel's oak, desert bitterbrush, cliffrose and yerba santa

In portions of the Clover Mountains and Delamar Mountains, this community type also contained populations of ponderosa pine.

## 2. Riparian

Riparian vegetation dominates near springs and where water flows permanently. These communities are typically dominated by, rush, sedge and willows. It is likely that a majority of these vegetation communities surrounding water sources remain unburned.

## 3. Soils

Numerous soil mapping units are found in the areas burned by the Southern Nevada Complex Fires. Approximately one-third of burned areas, mainly at higher elevations were occupied by mesic soils, whereas two-thirds were occupied by thermic soils. Mesic soils can freeze and tend to have higher soil moisture than thermic soils.

Erosion due to wind and water is common in arid landscapes. Fire may exacerbate erosive potential due to removal of vegetation and changes to soil properties. Reconnaissance two months after the fire did not provide substantial evidence for increased erosion due to fire effects. Post-fire heavy precipitation events occurred during late July of 2005. Evidence of flash floods was present in washes and roads, as was charcoal sediment. Burned “spots” on slopes where shrubs were located were not elongated or mixed in to the surrounding, lesser burned landscape. Shrub skeletons and the roots that hold soil in place are still present in much of the burned areas. Since vegetative cover is generally low in many of the ecosystems that burned, it is unlikely that the removal of this cover drastically alters the erosion potential of a slope. The fire primarily removed foliage from shrubs, which generally consists of very small leaves. Removal of this foliage is not likely to greatly alter the erosive potential of these slopes.

Fire may also change erosive potential by altering soil profile properties. Soils can become hydrophobic if a fire burns hot and has a long residence time. Hydrophobic soils have lower infiltration rates and increased runoff. However, in most of the lower elevation areas that burned, the fire burned very quickly. The exception to this is in pinyon-juniper woodlands where a denser canopy was likely to retard water impact to slopes. These areas also burned with higher intensity, increasing the potential of soil hydrophobicity.

Numerous springs with riparian characteristics are located within the burned area. It is likely that many of these springs did not burn, although a burned matrix now surrounds them. These springs may now be “refuges” for wild horses, given the lack of habitat due to the fire.

### Environmental Impacts

**Proposed Action** – Implementation of the proposed action would reduce the wild horse population within the area to within AML on all HMAs except Delamar Mountains which would be below the low end of AML.

Impacts to vegetation with implementation of the Proposed Action could include disturbance of

native vegetation immediately in and around temporary trap sites, and holding and processing facilities. Impacts could be by vehicle traffic and the hoof action of penned horses, and could be locally severe in the immediate vicinity of the corrals or holding facilities. Generally, these activity sites would be small (less than one half acre) in size. Since most trap sites and holding facilities would be re-used during recurring wild horse gather operations, any impacts would remain site-specific and isolated in nature. In addition, most trap sites or holding facilities are selected to enable easy access by transportation vehicles and logistical support equipment and would generally be adjacent to or on roads, pullouts, water haul sites, or other flat spots that were previously disturbed. By adhering to the SOPs, adverse impacts to soils would be minimized.

By removing wild horses, hoof action on the soil around unimproved springs and stream banks should be reduced, leading to increased stream bank stability and improved riparian habitat conditions. There would also be a reduction in hoof action on upland habitats and reduced competition for available water sources. Also the removal of wild horses from the burned areas would allow the herbaceous component or understory that wild horses rely on for a feed source to recover. Without the herbaceous understory present, the long term maintenance of wild horses would prove to be impossible. The aerial seeding would be given a greater chance of success without a large herbivore present during the critical establishment period (which can last several years) of the young plants, which are known not to tolerate grazing.

***No Action Alternative*** - The severe localized trampling associated with trap sites would not occur. However, as wild horse populations continue to grow, soil erosion would increase throughout the HMAs and in areas outside the HMAs where wild horses are living. Increased horse use throughout the HMAs would adversely impact soils and vegetation health, especially around the water locations. As native plant health deteriorates and plants are lost, soil erosion would increase. The shallow soils typical of this region cannot tolerate much loss without losing productivity and thus the ability to be re-vegetated with native plants. Invasive, non-native plant species would increase and invade new areas following increased soil disturbance and reduced native plant vigor and abundance. This would lead to both a shift in plant composition towards weedy species and an irreplaceable loss of topsoil and productivity from erosion. These impacts would also be seen outside the HMAs, and could reach even larger geographic areas as wild horses forage further from the HMAs.

## **C. Wildlife (including Migratory Birds) and Special Status Species**

### Affected Environment

Wildlife potentially affected by the Southern Nevada Complex includes large and small mammals, birds, fish, reptiles, and amphibians. Mammals in the burned area include desert bighorn sheep, mule deer, elk, bobcat, coyote, kit fox, black-tailed jackrabbit, cottontail rabbit, antelope ground squirrel, kangaroo rat, and several bat species. Bird species include loggerhead shrike, greater roadrunner, house sparrow, black-throated sparrow, Gambel's quail, mourning dove, chukar, red-tailed hawk, turkey vulture, common raven, and other western species. Migratory bird species are found in the area especially during the spring and summer. Native fishes that are not considered special status species found in the Virgin River, Meadow Valley Wash, and Beaver Dam Wash include speckled dace, desert sucker, flannelmouth sucker, and Virgin River spinedace. Non-native fish species in watersheds downstream or within receiving

drainages from the fires include red shiner, carp, small-mouth bass, channel catfish, and bluegill. Non-listed reptile species in the burned area and within close proximity include but are not limited to: western whiptail lizard, leopard lizard, side-blotched lizard, zebra-tailed lizard, horned lizard, western diamondback rattlesnake, Mojave green rattlesnake, gopher snake, chuckwalla, and kingsnake. Amphibian species occurring downstream from the burned area include Woodhouse's toad and bullfrog.

A species list was provided by the U.S. Fish and Wildlife Service – Nevada Fish and Wildlife Office on July 14, 2005. Two federally listed species occur within the burned area. They are the desert tortoise and bald eagle. The desert tortoise is widely distributed below 4,000 feet in elevation, in association with Mojave Desert scrub, particularly in creosote-bursage communities. The bald eagle winters around Lake Mead and may forage in the fire areas in the winter. Five federally listed species occur within the receiving waterbodies and associated riparian areas downstream from the burned areas. They are the Virgin River chub, woundfin, razorback sucker, southwest willow flycatcher, and Yuma clapper rail. The Virgin River chub and woundfin occur downstream of several of the fires in the Virgin River. The Yuma clapper rail also occurs along the Virgin River. The southwest willow flycatcher occurs along the Virgin and Muddy Rivers, and habitat for this species is present in the Meadow Valley Wash. Yellow-billed cuckoo, a candidate species, occurs within the riparian areas downstream from the burned areas. One experimental (nonessential) population of California condors may occasionally forage over the eastern edge of the fire area. Although not found within the Southern Nevada Complex, the fires burned 2 of the 3 identified refugia for Big Springs spinedace.

Numerous BLM-sensitive species occur within the burned area or within the receiving waterbodies and associated riparian areas downstream from the burned areas; most notable are the desert bighorn sheep, Gila monster, Sonora mountain kingsnake, Meadow Valley speckled dace, Meadow Valley desert sucker, and Virgin River spinedace.

### Environmental Impacts

**Proposed Action** – Wildlife adjacent to trap sites would be temporarily displaced during capture operations by increased activity of trap setup, helicopters and vehicle traffic. Since the gather would occur in February, there would be no impacts to migratory birds during the breeding and nesting period as a result of trapping operations. Trap sites would not be constructed within tortoise habitat, although wild horses would be driven from tortoise habitat to a trap site outside of tortoise habitat in conjunction with the Meadow Valley Mountains and Blue Nose Peak HMAs.

Reduction of wild horse numbers would result in reduced competition between wild horses and wildlife as soon as the gather is completed. This would result in improved habitat conditions by increasing forage availability, herbaceous cover, and quality. In addition, it would reduce competition between wild horses and wildlife for available forage and water resources. Disturbance associated with wild horses along stream bank riparian habitat and adjacent upland habitat would be reduced.

**No Action Alternative** – Wildlife would not be temporarily displaced or disturbed under the no action alternative. There would be continued competition with wild horses for water and forage

resources. This competition would increase as wild horse numbers increased annually. Wild horses are aggressive around water sources, and some wildlife species may not be able to compete. The competition for resources may lead to increased stress or dislocation of native wildlife species, or possible death of individual animals.

#### **D. Livestock**

##### Affected Environment

Livestock grazing closures are in place, no authorized livestock grazing would occur in the burned areas until stabilization objectives are met.

##### Environmental Impacts

**Proposed Action** –There would be no impacts to livestock grazing since there would be no authorized livestock use within burned areas during the gather or fire stabilization period.

**No Action Alternative** –Same as the proposed action

#### **E. Noxious Weed and Invasive Non-Native Species**

##### Affected Environment

An abnormally wet winter and spring in 2004/2005 promoted abundant growth of shrubs, grasses, and forbs including noxious weeds and invasive plants. High densities of invasive annual bromes (cheatgrass and red brome) that greened up during the late winter and early spring became highly flammable fine fuels by late spring of 2005. These fine fuels, present in the interspaces between shrubs, allow fire to spread through Mojave Desert scrub (red brome), and Great Basin shrub/woodlands (cheatgrass). These grasses are fire-adapted and generally return at higher abundance following fire, fueling a positive-feedback loop known as the grass-fire cycle (Brooks et al. 2004, D'antonio and Vitousek 1992). In this cycle, grasses increase in abundance, which increases fire frequency, which increases abundance of grasses. This cycle hinders competition from native perennial grasses, forbs, and shrubs, which are not adapted to the increased fire frequency.

Sahara Mustard, an invasive non-native winter annual forb, is being considered as a Nevada state-listed noxious weed. It is new to the area, which is why it has not yet been listed. Sahara mustard spread from the Sonoran Desert through the Mojave Desert and into the Colorado Plateau by being a roadside invader (Brooks and Lair 2005). This species is already abundant in Clark County and is being found in the southern portions of Lincoln County.

Other noxious weeds or invasive plants that are likely to become established and/or increase in abundance within the burned area include, filaree, Russian thistle and tamarisk.

##### Environmental Impacts

**Proposed Action** – The proposed gather may spread existing noxious weed species. This could

occur if vehicles drive through infestations and spread seed into previously weed-free areas. The contractor together with the contracting officer's representative or project inspector (COR/PI) would examine proposed trap sites and holding corrals prior to construction. If noxious weeds were found, the location of the facilities would be moved. Any off-road equipment that has been exposed to weed infestations would be cleaned before moving into relatively weed free areas. All trap sites, holding facilities, and camping areas on public lands would be monitored during the next several years.

Despite short-term risks, with the reduction in wild horse numbers, and the subsequent recovery of the native vegetation, fewer disturbed sites would be available for non-native plant species to invade.

*No Action Alternative* – Under this alternative, the wild horse gather would not take place at this time. The likelihood of noxious weeds being spread by gather operations would not exist.

## **F. Cultural Resources/Paleontological Resources**

### Affected Environment

Cultural resources are known to exist within the area. A Class III cultural resources inventory has not occurred for the entire affected area.

### Environmental Impacts

*Proposed Action* – No impacts to cultural resources/paleontological resources are anticipated to occur since all trap sites and holding facilities would be inventoried for cultural resources prior to set-up. An archaeologist would review all proposed trap sites and facility locations (new and previously used locations) to determine if these locations have had a cultural resources inventory, and/or if a new inventory is required (Cultural Resources Needs Assessment NV-8100-9). This review by the archaeologist, which does not normally include fieldwork, would be documented in the Needs Assessment. A District Archaeological Technician (DAT) would be on-site during the gather to perform any needed cultural resources inventories. If cultural resources are encountered at proposed trap site(s) or holding facility location(s), those location(s) would not be utilized unless it could be modified to avoid impacts to cultural resources. With reduced horse numbers, there would be less hoof action around riparian spring areas where cultural resources can often be high. This could lead to decreased damage to cultural resources by wild horses.

*No Action Alternative* - Under this alternative, the wild horse gather would not take place and therefore, no trap sites or holding facilities would be constructed. There would be no possibility that cultural resources would be damaged as a result of horse gather operations, however, high numbers of wild horses could cause damage to cultural resources due to trampling, especially around water sources, where the occurrence of cultural resources can often be high.

## **G. Wilderness**

### Affected Environment



The fires burned into four newly designated wilderness areas in the Ely District. These wilderness areas include the Clover Mountains, Delamar Mountains, Meadow Valley Range, and Mormon Mountains. Invasive *Bromus* grasses were already present in wilderness areas prior to the fire. Establishment of noxious weeds and increases in abundance of non-native annual *Bromus* grasses may threaten the naturalness of wilderness. The Clover Mountains and Meadow Valley Range Wilderness Areas are within the wild horse gather area. Mormon Mountains and Delamar Mountains Wilderness Areas are adjacent to the wild horse gather area.

### Environmental Impacts

**Proposed Action** – Impacts to opportunities for solitude could occur during gather operations due to the possible noise of the helicopter and increased vehicle traffic around wilderness areas. Those impacts would cease when the gather was completed. No surface impacts within the wilderness are anticipated to occur during the gather since all trap sites and holding facilities would be placed outside wilderness areas. Wilderness values of naturalness after the gather would be enhanced by a reduction in wild horse numbers result improved ecological condition of the plant communities and other natural resources as plant communities are allowed to stabilize wild horse herbivory.

**No Action Alternative** – No impacts to wilderness due to gather operations would occur. Impacts to wilderness values of naturalness could be threatened through the continued population growth of wild horses. Degradation of vegetative and soil resources by would be expected if wild horses are present.

### V. Cumulative Impacts

Cumulative impacts are impacts on the environment which result from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. The area of cumulative impact analysis is the area immediately adjacent to it.

According to the 1994 BLM *Guidelines For Assessing and Documenting Cumulative Impacts*, the cumulative analysis should be focused on those issues and resource values identified during scoping that are of major importance. Accordingly, the issues of major importance that are analyzed are maintaining rangeland health and proper management of wild horses within the established boundaries of an HMA.

#### **Past Actions**

Fires were relatively uncommon in Mojave Desert ecosystems. In those systems where fire did occur with some frequency (e.g. pinyon-juniper woodlands, Interior chaparral), suppression activities prevented fire from spreading to natural extents. This could have created increased fuel loads in some areas. Livestock grazing and wild horse use occurred in portions of the affected area, which may have alter vegetation community composition. Large-scale invasion and increases in abundance of invasive annual *Bromus* grasses occurred.

Herd Areas were identified in 1971 as areas occupied by wild horses. The HMAs or Territories

were established in the 1980s through the land use planning process as areas where wild horse management was a designated multiple uses. The BLM also moved to long range planning with the development of Resource Management Plans and Grazing Environmental Impact Statements. These EISs analyzed impacts of the Land Use Plan's management direction for grazing and wild horses, as updated through Bureau policies, Rangeland Program direction, and Wild Horse Program direction. Forage was allocated within the allotments for livestock use and range monitoring studies were initiated to determine if allotment objectives were being achieved, or that progress toward the allotment objectives was being made.

Gathering these HMAs on a regular basis has never happened, due to the preponderance of drought related emergencies that have occurred throughout this area. Emergency gathers have occurred in 1993, 1996, 1999, 2000, and 2002.

### **Present Actions**

A wet winter and spring during 2004/2005 season promoted increased density of annual *Bromus* grasses, which permitted large-scale fires in June and July of 2005. Non-fire adapted shrubs, especially blackbrush, were consumed over large portions of these fires.

Today the burned area has an estimated population of 100 wild horses. Wild horse health is endangered due to the fires. Current BLM policy is to removal all animals during emergency situations, as well as protection of rehabilitation efforts until such a time as wild horse use is appropriate. Program goals have expanded beyond establishing a "*thriving natural ecological balance*" by setting appropriate management level (AML) for individual herds, to include achieving and maintaining healthy, viable, vigorous, and stable populations. Appropriate management levels for all HMAs within the Ely District are set.

Current mandates prohibit the destruction of healthy animals that are removed or deemed to be excess. Only sick, lame, or dangerous animals can be euthanized, and destruction is no longer used as a population control method. A recent amendment to the Wild Free-Roaming Horses and Burro Act allows the sale of excess wild horses that are over 10 years in age or have been offered unsuccessfully for adoption three times. Some of the animals removed as a result of the proposed action could be over age 10 and eligible for sale under the new authority.

Today public interest in the welfare and management of wild horses is currently higher than it has ever been. Many different values pertaining to wild horse management form current wild horse perceptions. Wild horses are viewed as nuisances, as well as living symbols of the pioneer spirit.

The focus of wild horse management has also expanded to place more emphasis on achieving rangeland health as measured through the RAC Standards. Mojave-Southern Great Basin Resource Advisory Councils (RAC) developed standards and guidelines for rangeland health the current basis for managing wild horse and livestock grazing within the Ely Districts. Adjustments in numbers, season of use, grazing season, and allowable use are based on evaluating progress toward reaching the standards. Attainment of these standards cannot be met with the current burned area situation

## **Reasonably Foreseeable Future Actions**

An increase in dominance of invasive annual grasses is likely, especially in areas formerly dominated by blackbrush. Corresponding changes to fire regimes are also likely. With this scenario, it is probable that fire would spread to adjacent areas that are presently dominated by blackbrush, causing further reductions in blackbrush dominated communities. Sahara mustard, without treatment, could rapidly spread northward, given the window of opportunity provided by the presently burned landscape.

In the future, the BLM would manage wild horses within HMAs that have suitable habitat for a population range, while maintaining genetic diversity, age structure, and sex ratios. Current policy is to express all future wild horse AMLs as a range, to allow for regular population growth, as well as better management of populations rather than individual HMAs. The Ely BLM District is in the process of writing a new Resource Management Plan which would analyze AMLs expressed as a range and addressing wild horse management on a programmatic basis. Future wild horse management would focus on an integrated ecosystem approach with the basic unit of analysis being the watershed. The BLM would continue to conduct monitoring to assess progress toward meeting rangeland health standards. Wild horses would continue to be a component of the public lands, managed within a multiple use concept.

While there is no anticipation for amendments to the Wild and Free-Roaming Horse and Burro Act that would change the way wild horses could be managed on the public lands, the Act has been amended three times since 1971. Therefore, there is potential for amendment as a reasonably foreseeable future action.

## ***Impacts***

Past actions regarding the management of wild horses have resulted in the current wild horse population within the Fire Area. Wild horse management has contributed to the present resource condition and wild horse herd structure within the gather area.

The combination of the past, present, and reasonably foreseeable future actions, along with the proposed action, should result in stabilization efforts being realized. Accordingly, the issues of major importance that are analyzed are maintaining rangeland health and proper management of wild horses within the established boundaries of an HMA.

## **VI. Proposed Mitigation and Suggested Monitoring**

The area would continue to be monitored for the detection of wild horses living in the HMAs affected by the fires. The health and condition of remaining animals would be assessed and removal of additional animals through an appropriate method would be implemented as needed. Vegetation monitoring would continue to determine if stabilization objectives are being met.

Proven mitigation and monitoring are incorporated into the proposed action through standard operating procedures, which have been developed over time. These SOPs (Appendix I) represent the "best methods" for reducing impacts associated with gathering, handling, transporting and collecting herd data. Additional mitigation regarding wild horse gathers within

desert Tortoise habitat will be adhered to as well.

## VII. Consultation and Coordination

Public hearings are held annually on a state-wide basis regarding the use of helicopters and motorized vehicles to capture wild horses (or burros). During these meetings, the public is given the opportunity to present new information and to voice any concerns regarding the use of these methods to capture wild horses (or burros). The Nevada State BLM Office held a meeting on May 17<sup>th</sup>, 2005, and received input from various members of the public. A tribal coordination meeting was held on November 17, 2005. The Preliminary EA was mailed to the following list of people on December 19, 2005:

CC:	Return Reciept
7J Ranch, c/o Henry Brackenbury	7004 0750 0000 0612 0088
Anna Charlton, Animal Rights Law Center	7004 0750 0000 0612 1597
Aosia Targosz, Nevada State Clearinghouse	7004 0750 0000 0612 1122
Barbara Flores, Colorado Wild Horse and Burro Coalition	7004 0750 0000 0612 0903
Barbara Warner	7004 0750 0000 0612 1115
Betsy Macfarlan, ENLC	7004 0750 0000 0612 0934
Betty Kelly, Wild Horse Spirit	7004 0750 0000 0612 0873
Bonnie Matton, Wild Horse Preservation League	7004 0750 0000 0612 0996
Catherine Barcomb, Comm for Pres of Wild Horses	7004 0750 0000 0612 0828
Charles Culverwell Estate, c/o Chuck Culverwell	7004 0750 0000 0612 1153
Charles S Watson, Jr, NV Outdoor Recreation, National Public Lands Task Force	7004 0750 0000 0612 1108
Christine Stones, Ely Shoshone Tribe	7004 0750 0000 0612 1061
Craig Downer, Wild Horse Wildness and Wildlife	7004 0750 0000 0612 0866
Dave & Jenifer Free	7004 0750 0000 0612 0927
Dave Free	7004 0750 0000 0612 0910
Dawn Lappin, Wild Horse Organized Assistance	7004 0750 0000 0612 0972
Delamar Valley Cattle, c/o Merlin Flake	7004 0750 0000 0612 1184
Diane Nelson, Wild Horse Sanctuary	7004 0750 0000 0612 1030
Donald Molde	7004 0750 0000 0612 0965
Ed and Connie Bundy	7004 0750 0000 0612 1207
Executive Director, Animal Protection Institute of America	7004 1160 0005 3070 1715
George Lee, Public Lands Foundation	7004 0750 0000 0612 0941
John Blethen	7004 0750 0000 0612 0811
June Sewing, National Mustang Association Inc	7004 0750 0000 0612 1085
Karen Sussman, Intl Soc Protection of Mustangs Burros	7004 0750 0000 0612 1054
Katie Fite, Western Watersheds Project	7004 0750 0000 0612 0859
Kay Wright Ranch LLC, c/o Rocky & Linda Hatch	7004 0750 0000 0612 1139
Laurel Marshall, Eureka Producers Cooperative	7004 0750 0000 0612 1009
Lavar & Kaye Wade	7004 0750 0000 0612 0071
Lyle and Ruth Whiteside	7004 0750 0000 0612 1214
Michael Wickersham, NDOW	7004 0750 0000 0612 1092
Mike Scott, NDOW	7004 0750 0000 0612 1016
National Mustang Association	7004 0750 0000 0612 1177
National Wild Horse Association	7004 1160 0005 0370 1692
Nevada Cattlemens Association	7004 1160 0005 3070 1708
Nevada Dept. of Agriculture	7004 1160 0005 3070 1722

Nevada Farm Bureau Federation	7004 1160 0005 3070 1678
Nevada Woolgrowers Association	7004 1160 0005 3070 1739
Newby Cattle Co., c/o Ken Newby	7004 0750 0000 0612 1160
Randall Spoerlein, Save the Mustangs	7004 0750 0000 0612 1078
Robert and Vivian Lewis	7004 0750 0000 0612 1191
Robert, Anthony and Chad Steele	7004 0750 0000 0612 1146
Roberta Moore, Great Basin National Park	7004 0750 0000 0612 0989
Roger Dieleman	7004 0750 0000 0612 0064
Sharon Crook	7004 0750 0000 0612 0880
Steve Fulstone	7004 0750 0000 0612 0897
Susan Asher, Nevada Humane Society	7004 0750 0000 0612 0835
Terry Reed, Public land Solutions	7004 0750 0000 0612 1023
Tina Nappe, Sierra Club	7004 0750 0000 0612 1047
US Fish and Wildlife Service Reno	7004 0750 0000 0612 0842
US Wild Horse Burro Foundation	7004 1160 0005 3070 1685

Seventy Five comment letters were received during the public scoping period. All input received was considered in relation to the analysis and the formulation of a decision. The proposed action was modified due to information provided by public input. The proposed action was changed to reflect removal of wild horses would be limited to burned portions of the HMAs. Although 75 letters were received nearly all had the same comments. Thirteen comments were identified after reviewing and considering all letters.

**Comment 1. Please explain exactly what the emergency is that the horses must be removed but not the cattle or sheep. In keeping with multiple use principles established by federal law for our public lands, please use reasonable alternatives, such as limiting livestock grazing in unburned herd management areas.**

The Bureau of Land Management agrees with the comment and subsequently modified the proposed action to reflect that gather operations would be limited to burned portions of the Delamar Mountains, Meadow Valley Mountains, Blue Nose Peak, and Clover Mountains HMAs. Gather operations would not occur in the unburned portions of the above HMAs as well as Applewhite, and Clover Creek.

As stated in the South Desert Fire EA (section III.D – page 13), livestock grazing closures are in place. Any livestock within burned areas are in trespass and are subject to administrative action on behalf of the BLM. No Authorized livestock use would occur during the fire stabilization period. Subsequently, no gather operations would occur within unburned areas with active livestock use.

Because livestock grazing closures are already in place, the scope of the South Desert Fire EA is limited to assessing the impacts associated with the proposed removal of about 60-80 wild horses within the Meadow Valley Mountains, Bluenose Peak, Clover Mountains, and Delamar Mountains HMAs. Two alternatives are considered in detail in the environmental assessment, the Proposed Action and Continuation of Current Management (No Action). Several additional alternatives were considered but dismissed from detailed analysis (refer to EA, Section II. A. and B. – pages 4-6).

**Comment 2. Wild horses enhance the wilderness experience and contribute to a healthy ecosystem.**

We agree, provided that wild horses are managed in balance with other uses and the productive capacity of their habitat.

The Wild Free-Roaming Horse and Burro Act (Act) of 1971 requires the Bureau of Land Management to “*manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands*” and “*to protect the range from the deterioration associated with overpopulation*” of wild horses (refer to Section 3 (a) and (b) (2) of the 1971 Act, as amended). Additionally, Promulgated Federal Regulations at Title 43 CFR 4700.0-6 (a) state: “*Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat* (emphasis added).”

Following the Delamar, Duzak, and Meadow Valley Mountains fires during summer 2005, much of the habitat provided to wild horses within the Delamar Mountains, Meadow Valley Mountains, Blue Nose Peak, Clover Mountains and Herd Management Areas (HMAs) was destroyed. A helicopter flight conducted in late November 2005 documented emaciated animals in four of the HMAs and only a 4% foal crop survival following the summer burns. Observations confirm that the current population of wild horses is at risk of death or suffering by starvation (refer to South Desert Fire EA, Section I, pages 1-2).

**Comment 3. Why isn't it feasible to move the wild horses to adjacent BLM land or to develop a plan to return them once the area has recovered from the fire's effects?**

BLM is required to manage wild horses and burros where they existed in 1971, provided that the areas can be managed over the long-term to achieve sustainable, healthy and viable populations of wild horses and burros in balance with the land's ability to provide habitat. As a result, moving wild horses outside the areas where they existed in 1971 is inconsistent with law, regulation and policy. Refer to 43 CFR 4710.4.

The Bureau of Land Management's Ely Field Office has established AML for the affected HMAs as follows:

<b>Herd Management Area</b>	<b>Appropriate Management Level</b>	<b>Year AML Was Set</b>
Delamar Mountains	51-85 (interim)	2003
Meadow Valley Mountains	0	1998
Blue Nose Peak	1	2003
Clover Mountains	1-16	2003

In issuing the decisions to establish AML, the public was provided with an opportunity to both

review and comment on the proposed AMLs and with an opportunity for administrative review (appeal) of the final decisions.

Relative to the affected HMAs, the Meadow Valley Mountains HMA was set at zero in 1998 due to Desert Tortoise issues. AML was established for the balance of the affected HMAs in November 2003 through issuance of a Decision Record and Finding of No Significant Impact. No appeals were filed in response to BLM's decision.

In establishing AML for the HMAs in November 2003, BLM completed an in-depth evaluation of the essential habitat components of forage, water, cover, and space; carefully reviewed and analyzed all available monitoring data; and made a determination as to whether or not habitat was sufficient to support viable and healthy populations of wild horses over the long term. The AML decision, together with the analysis documented in EA NV-040-03-036, is incorporated by reference in the South Desert Fire EA (Section I. B – pages 2-4). As a result of this analysis, BLM determined that the habitat provided is not sufficient to support healthy and viable populations of wild horses over the long term for the Blue Nose Peak and Clover Mountains HMA. Setting the AML at zero for these HMAs was identified as the environmentally preferred decision; however, that can only be accomplished through a land use plan amendment. As a result, the Ely Field Office is currently proposing to set the AML at zero and to return these HMAs to Herd Area status in the Resource Management Plan currently being prepared.

**Comment 4. Wild horses are not an introduced exotic species as you claim, but reintroduced native wildlife.**

Under the law, the management of wild horses and burros differs from the management of many native wildlife species in at least one key respect – wild horses and burros are protected from hunting, illegal capture and harassment under the law (43 CFR 4770.1). By contrast, hunting is a tool which is often used to manage/control native wildlife populations.

One of the alternatives considered, but dismissed from detailed analysis in the South Desert Fire EA (Section II.C. - page 5), was to allow natural predators to control wild horse populations allowing post-fire vegetation recovery without the need to gather/remove wild horses. However, wild horses are an introduced species in North America with few natural predators. Even if natural predators were present, allowing wild horses to slowly starve before becoming prey is cruel and inhumane when other viable options exist, such as gather/removal before individual animal/herd health is jeopardized.

**Comment 5. Please take into account the well-being of wild horses in your planned actions. Your actions do not appear to be managing the wild horses for their health and welfare.**

As discussed in BLM's response to Comment 1 above, much of the habitat provided to wild horses within the Delamar Mountains, Meadow Valley Mountains, Blue Nose Peak, and Clover Mountains Herd Management Areas (HMAs) was destroyed by fire during summer 2005. A helicopter flight conducted in late November 2005 documented emaciated animals in four of the HMAs and only a 4% foal crop survival following the summer burns. Observations confirm that

the current population of wild horses is at risk of death or suffering by starvation (refer to South Desert Fire EA, Section I, pages 1-2). It would be inhumane to allow wild horses to slowly starve when other viable management options exist.

**Comment 6. You may have forgotten that the west used to have millions of wild horses instead of millions of cattle and sheep. There's plenty of room for the few thousand we have now who should be left alone.**

As discussed in BLM's response to Comment 2 above, the scope of the South Desert Fire EA is limited to assessing the impacts associated with the proposed removal of wild horses within the Meadow Valley Mountains, Bluenose Peak, Clover Mountains, and Delamar Mountains HMAs. Comment 6 is outside the scope of the South Desert Fire EA. The analysis for the determination of grazing use was completed in November of 2003 in EA NV-040-03-036. This was the proper time to comment on grazing use.

**Comment 7. If the wild horses are in danger of starving, hay should be taken to them.**

Providing supplemental feed (hay) does not meet the definition of minimum feasible management and is inconsistent with current law, regulation and policy. Refer to 43 Code of Federal Regulations (CFR) 4710.4. Moreover, Congress did not intend wild horses to be managed in a zoo-like setting or for intensive management practices to be employed to preserve and protect these animals (refer to Congressional Conference Report 92-42 for additional information).

**Comment 8. Predators have been killed out to benefit ranchers and this has upset the balance of nature.**

As stated in BLM's response to Comment 4 above, one of the alternatives considered, but dismissed from detailed analysis in the South Desert Fire EA (Section II.C. - page 5), was to allow natural predators to control wild horse populations allowing post-fire vegetation recovery without the need to gather/remove wild horses. However, wild horses are an introduced species in North America with few natural predators. Even if natural predators were present, allowing wild horses to slowly starve before becoming prey is cruel and inhumane when other viable options exist, such as gather/removal before individual animal/herd health is jeopardized.

**Comment 9. Since the wild horses had only 4 foals in 2005, this shows how wild horses regulate their population and there is overpopulation.**

That is incorrect. BLM monitoring data documents that the annual growth rate for wild horse populations in this area average 10-20% per year. The fluctuation in annual population growth rates is attributable to recurring drought and other natural occurrences (refer to South Desert Fire EA, Section IV. A). The low rate of surviving foals is an indicator of the stress the herds have experienced since the summer 2005 fires, and together with observations of emaciated animals in four of the affected HMAs in November 2005, is an indicator of current herd health.

**Comment 10. BLM does not follow federal law for public lands and this plan is no exception. The proposed action is inconsistent with the 1971 Wild Free-Roaming Horse**



## **and Burro Act.**

We disagree. Prior to removing wild horses and burros from the range, BLM prepares an environmental assessment (EA) to analyze the impacts associated with the proposed gather as required by the 1969 National Environmental Policy Act (NEPA). Before preparing the EA, BLM determines if excess animals are present. Excess animals are defined as those which must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship with livestock, wildlife, vegetation and other uses in that area. BLM monitors grazing utilization, trend in range condition, actual use, population data, and other factors to determine if excess animals are present and that removal is necessary to restore the range to a thriving natural ecological balance and prevent a deterioration of the range (refer to 117 IBLA 4). Once excess animals are determined to be present, BLM is required to remove them (refer to Section 3 (b) (2) of the 1971 Act and 43 CFR 4720.1).

The Ely Field Office has followed the above procedures relative to preparing the South Desert Fire EA. An environmental assessment (EA) was prepared to analyze the impacts associated with the proposed removal of wild horses to the low range of the AML and has carefully reviewed the proposed action to assure it is consistent with law, regulation and policy (refer to the EA, Section I. B – page 2). The current population of wild horses, coupled with the loss of a significant portion of the habitat and the current condition of the animals, as well as the need to protect post-fire stabilization and vegetation recovery efforts has led to BLM's determination that excess wild horses are present and require immediate removal as authorized under Section 3 (b) (2) of the 1971 Wild and Free-Roaming Horses and Burros Act in order to achieve a thriving natural ecological balance and multiple use relationship and avoid deterioration of the range.

### **Comment 11. Horses are less destructive to healthy rangelands than cattle or sheep.**

Public lands are managed under the Federal Land Policy and Management Act of 1976 (FLPMA). The FLPMA emphasizes that the public lands are to be managed to protect the quality of scenic, ecological, environmental, and archeological values; to preserve and protect public lands in their natural condition; to provide feed and habitat for wildlife and livestock; and to provide for outdoor recreation. The FLPMA also stresses harmonious and coordinated management of the resources without permanent impairment of the environment.

Under the FLPMA it is not a matter of selecting horses over cattle and sheep but balancing the uses of livestock, wild horses and wildlife within the land's productive capability.

Relative to the South Desert Fire Area, and as discussed in response to Comment 2, livestock grazing closures are already in place (EA, Section III.D – page 13. No livestock use would occur during the fire stabilization period.

In addition to closing the areas to livestock use, BLM has determined that excess wild horses are present and require immediate removal as authorized under Section 3 (b) (2) of the 1971 Wild and Free-Roaming Horses and Burros Act. As stated above, the current population of wild horses, coupled with the loss of a significant portion of the habitat and the current condition of the animals, as well as the need to protect post-fire stabilization and vegetation recovery have led to BLM's determination that excess wild horses are present.

**Comment 12. Why is BLM working with Nevada Department of Wildlife (NOPA-NV-040-06-07) to take measures to assure that bighorn sheep and other wildlife have sufficient water yet wild horses are not receiving the same consideration?**

No where in the analysis does it say wild horses are short of water. Quite the contrary wild horses have sufficient water but not feed or cover. The area where Nevada Department of Wildlife is doing sheep management is outside the gather area. Therefore the comment is outside of scope of the analysis.

**Comment 13. We should stop all cattle ranching.**

As discussed in response to Comment 11 above, public lands are managed under the Federal Land Policy and Management Act of 1976 (FLPMA). Under the FLPMA, it is not a matter of selecting horses over cattle and sheep but of balancing the uses of livestock, wild horses and wildlife within the land's productive capability. This comment is outside the scope of the analysis.

**Comment 14. I strongly support your proposal to gather all the horses in HMAs that suffered wildfire damage last summer.**

Managing wild horses is within the purview of federal law and promulgated federal regulation. Although supportive of wild horse management this comment is outside the scope of the analysis.

**Internal District Review**

Jared Bybee/Author	Wild Horses
Neil Frakes	Vegetation/Soils
Ryan Pitts	Invasive, Non-Native Species
Steve Leslie	Wilderness Values
Mark Henderson	Archaeological/Historic/Paleontological
Paul Podborny	Wildlife, Migratory Birds, Special Status Species/Writer Editor
Chris Hanefeld	Public Affairs
Jake Rajala	Environmental Coordination/Writer Editor
Elvis Wall	Native American Religious Concerns/Tribal Coordination

**Nevada State Office**

Susie Stokke	Writer/Editor
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## **APPENDIX I STANDARD OPERATING PROCEDURES**

Gathers would be conducted by contractors or agency personnel. The same procedures for gathering and handling wild horses and burros apply whether a contractor or BLM personnel are used. The following stipulations and procedures will be followed to ensure the welfare, safety and humane treatment of the wild horses and burros (WH&B) in accordance with the provisions of 43 CFR 4700.

Gathers are normally conducted for one of the following reasons:

1. Regularly scheduled gathers to obtain or maintain the Appropriate Management Level (AML).
2. Drought conditions that could cause mortality to WH&B due to the absence of water or forage, and where continued grazing may result in a downward trend to the vegetative communities due to plant mortality and reduced vigor and productiveness.
3. Fires that remove forage to the extent that there is inadequate forage to sustain the population or to allow recovery of native vegetation.
4. Utilization levels that reach a point where a continued increase in utilization would cause a downward trend in the plant communities and impede meeting standards for rangeland health.
5. Monitoring indicates that WH&B use would begin to cause a downward trend in riparian function or not permit the recovery of riparian vegetation determined to be in undesirable condition.

### **A. Capture Methods used in the Performance of Gather Contract Operations**

1. The primary concern of the contractor is the safe and humane handling of all animals captured. All capture attempts shall incorporate the following:

All trap and holding facilities locations must be approved by the Contracting Officer's Representative (COR) and/or the Project Inspector (PI) prior to construction. The Contractor may also be required to change or move trap locations as determined by the COR/PI. All traps and holding facilities not located on public land must have prior written approval of the landowner.

2. The rate of movement and distance the animals travel shall not exceed limitations set by the COR/PI who will consider terrain, physical barriers, weather, condition of the animals and other factors.
3. All traps, wings, and holding facilities shall be constructed, maintained and operated to handle the animals in a safe and humane manner and be in accordance with the

following:

- a. Traps and holding facilities shall be constructed of portable panels, the top of which shall not be less than 72 inches high for horses and 60 inches for burros, and the bottom rail of which shall not be more than 12 inches from ground level. All traps and holding facilities shall be oval or round in design.
  - b. All loading chute sides shall be a minimum of 6 feet high and shall be fully covered, plywood, metal without holes.
  - c. All runways shall be a minimum of 30 feet long and a minimum of 6 feet high for horses, and 5 feet high for burros, and shall be covered with plywood, burlap, plastic snow fence or like material a minimum of 1 foot to 5 feet above ground level for burros and 1 foot to 6 feet for horses. The location of the government furnished portable fly chute to restrain, age, or provide additional care for the animals shall be placed in the runway in a manner as instructed by or in concurrence with the COR/PI.
  - d. All crowding pens including the gates leading to the runways shall be covered with a material which prevents the animals from seeing out (plywood, burlap, plastic snow fence, etc.) and shall be covered a minimum of 1 foot to 5 feet above ground level for burros and 2 feet to 6 feet for horses
  - e. All pens and runways used for the movement and handling of animals shall be connected with hinged self-locking gates.
4. No modification of existing fences will be made without authorization from the COR/PI. The Contractor shall be responsible for restoration of any fence modification which he has made.
  5. When dust conditions occur within or adjacent to the trap or holding facility, the Contractor shall be required to wet down the ground with water.
  6. Alternate pens, within the holding facility shall be furnished by the Contractor to separate mares or jennies with small foals, sick and injured animals, and estrays from the other animals. Animals shall be sorted as to age, number, size, temperament, sex, and condition when in the holding facility so as to minimize, to the extent possible, injury due to fighting and trampling. Under normal conditions, the government will require that animals be restrained for the purpose of determining an animal's age, sex, or other necessary procedures. In these instances, a portable restraining chute may be necessary and will be provided by the government. Alternate pens shall be furnished by the Contractor to hold animals if the specific gathering requires that animals be released back into the capture area(s). In areas requiring one or more satellite traps, and where a centralized holding facility is utilized, the contractor may be required to provide additional holding pens to segregate animals transported from remote locations so they may be returned to their traditional ranges. Either segregation or temporary marking and later segregation will be at the discretion of the COR.

7. The Contractor shall provide animals held in the traps and/or holding facilities with a continuous supply of fresh clean water at a minimum rate of 10 gallons per animal per day. Animals held for 10 hours or more in the traps or holding facilities shall be provided good quality hay at the rate of not less than two pounds of hay per 100 pounds of estimated body weight per day. An animal that is held at a temporary holding facility after 5:00 p.m. and on through the night, is defined as a horse/burro feed day. An animal that is held for only a portion of a day and is shipped or released does not constitute a feed day.
8. It is the responsibility of the Contractor to provide security to prevent loss, injury or death of captured animals until delivery to final destination.
9. The Contractor shall restrain sick or injured animals if treatment is necessary. The COR/PI will determine if injured animals must be destroyed and provide for destruction of such animals. The Contractor may be required to humanely euthanize animals in the field and to dispose of the carcasses as directed by the COR/PI.
10. Animals shall be transported to final destination from temporary holding facilities within 24 hours after capture unless prior approval is granted by the COR/PI for unusual circumstances. Animals to be released back into the HMA following gather operations may be held up to 21 days or as directed by the COR/PI. Animals shall not be held in traps and/or temporary holding facilities on days when there is no work being conducted except as specified by the COR/PI. The Contractor shall schedule shipments of animals to arrive at final destination between 7:00 a.m. and 4:00 p.m. No shipments shall be scheduled to arrive at final destination on Sunday and Federal holidays, unless prior approval has been obtained by the COR. Animals shall not be allowed to remain standing on trucks while not in transport for a combined period of greater than three (3) hours. Animals that are to be released back into the capture area may need to be transported back to the original trap site. This determination will be at the discretion of the COR.

## **B. CAPTURE METHODS THAT MAY BE USED IN THE PERFORMANCE OF A GATHER**

1. Capture attempts may be accomplished by utilizing bait (feed or water) to lure animals into a temporary trap. If the contractor selects this method the following applies:
  - a. Finger gates shall not be constructed of materials such as "T" posts, sharpened willows, etc., that may be injurious to animals.
  - b. All trigger and/or trip gate devices must be approved by the COR/PI prior to capture of animals.
  - c. Traps shall be checked a minimum of once every 10 hours.
2. Capture attempts may be accomplished by utilizing a helicopter to drive animals into a

temporary trap. If the contractor selects this method the following applies:

- a. A minimum of two saddle-horses shall be immediately available at the trap site to accomplish roping if necessary. Roping shall be done as determined by the COR/PI. Under no circumstances shall animals be tied down for more than one hour.
  - b. The contractor shall assure that foals shall not be left behind, and orphaned.
3. Capture attempts may be accomplished by utilizing a helicopter to drive animals to ropers. If the contractor with the approval of the COR/PI selects this method the following applies:
- a. Under no circumstances shall animals be tied down for more than one hour.
  - b. The contractor shall assure that foals shall not be left behind, or orphaned.
  - c. The rate of movement and distance the animals travel shall not exceed limitations set by the COR/PI who will consider terrain, physical barriers, weather, condition of the animals and other factors.

### **C. USE OF MOTORIZED EQUIPMENT**

1. All motorized equipment employed in the transportation of captured animals shall be in compliance with appropriate State and Federal laws and regulations applicable to the humane transportation of animals. The Contractor shall provide the COR/PI with a current safety inspection (less than one year old) for all motorized equipment and tractor-trailers used to transport animals to final destination.
2. All motorized equipment, tractor-trailers, and stock trailers shall be in good repair, of adequate rated capacity, and operated so as to ensure that captured animals are transported without undue risk or injury.
3. Only tractor-trailers or stock trailers with a covered top shall be allowed for transporting animals from trap site(s) to temporary holding facilities, and from temporary holding facilities to final destination(s). Sides or stock racks of all trailers used for transporting animals shall be a minimum height of 6 feet 6 inches from the floor. Single deck tractor-trailers 40 feet or longer shall have two (2) partition gates providing three (3) compartments within the trailer to separate animals. Tractor-trailers less than 40 feet shall have at least one partition gate providing two (2) compartments within the trailer to separate the animals. Compartments in all tractor-trailers shall be of equal size plus or minus 10 percent. Each partition shall be a minimum of 6 feet high and shall have a minimum 5 foot wide swinging gate. The use of double deck tractor-trailers is unacceptable and shall not be allowed.
4. All tractor-trailers used to transport animals to final destination(s) shall be equipped with at least one (1) door at the rear end of the trailer which is capable of sliding either

horizontally or vertically. The rear door(s) of tractor-trailers and stock trailers must be capable of opening the full width of the trailer. Panels facing the inside of all trailers must be free of sharp edges or holes that could cause injury to the animals. The material facing the inside of all trailers must be strong enough so that the animals cannot push their hooves through the side. Final approval of tractor-trailers and stock trailers used to transport animals shall be held by the COR/PI.

5. Floors of tractor-trailers, stock trailers and loading chutes shall be covered and maintained with wood shavings to prevent the animals from slipping.
6. Animals to be loaded and transported in any trailer shall be as directed by the COR/PI and may include limitations on numbers according to age, size, sex, temperament and animal condition. The following minimum square feet per animal shall be allowed in all trailers:
  - 11 square feet per adult horse (1.4 linear foot in an 8 foot wide trailer);
  - 8 square feet per adult burro (1.0 linear foot in an 8 foot wide trailer);
  - 6 square feet per horse foal (.75 linear foot in an 8 foot wide trailer);
  - 4 square feet per burro foal (.50 linear feet in an 8 foot wide trailer).
7. The COR/PI shall consider the condition and size of the animals, weather conditions, distance to be transported, or other factors when planning for the movement of captured animals. The COR/PI shall provide for any brand and/or inspection services required for the captured animals.
8. If the COR/PI determines that dust conditions are such that the animals could be endangered during transportation, the Contractor will be instructed to adjust speed.

#### **D. SAFETY AND COMMUNICATIONS**

1. The Contractor shall have the means to communicate with the COR/PI and all contractor personnel engaged in the capture of wild horses and burros utilizing a VHF/FM Transceiver or VHF/FM portable Two-Way radio. If communications are ineffective the government will take steps necessary to protect the welfare of the animals.
  - a. The proper operation, service and maintenance of all contractor furnished property is the responsibility of the Contractor. The BLM reserves the right to remove from service any contractor personnel or contractor furnished equipment which, in the opinion of the contracting officer or COR/PI violate contract rules, are unsafe or otherwise unsatisfactory. In this event, the Contractor will be notified in writing to furnish replacement personnel or equipment within 48 hours of notification. All such replacements must be approved in advance of operation by the Contracting Officer or his/her representative.
  - b. The Contractor shall obtain the necessary FCC licenses for the radio system
  - c. All accidents occurring during the performance of any task order shall be

immediately reported to the COR/PI.

2. Should the contractor choose to utilize a helicopter the following will apply:

- a. The Contractor must operate in compliance with Federal Aviation Regulations, Part 91. Pilots provided by the Contractor shall comply with the Contractor's Federal Aviation Certificates, applicable regulations of the State in which the gather is located.
- b. Fueling operations shall not take place within 1,000 feet of animals.

#### **E. SITE CLEARANCES**

Prior to setting up a trap or temporary holding facility, BLM will conduct all necessary clearances (archaeological, T&E, etc). All proposed site(s) must be inspected by a government archaeologist. Once archaeological clearance has been obtained, the trap or temporary holding facility may be set up. Said clearance shall be arranged for by the COR, PI, or other BLM employees.

#### **F. ANIMAL CHARACTERISTICS AND BEHAVIOR**

Releases of wild horses would be near available water. If the area is new to them, a short-term adjustment period may be required while the wild horses become familiar with the new area.

#### **G. PUBLIC PARTICIPATION**

It is BLM policy that the public will not be allowed to come into direct contact with wild horses or burros being held in BLM facilities. Only authorized BLM personnel, or contractors may enter the corrals or directly handle the animals. The general public may not enter the corrals or directly handle the animals at anytime or for any reason during BLM operations.

#### **H. RESPONSIBILITY AND LINES OF COMMUNICATION**

##### **Ely District - Contracting Officer's Representatives**

Jared Bybee

##### **Ely District - Project Inspectors**

Paul Podborny

The Contracting Officer's Representatives (CORs) and the project inspectors (PIs) have the direct responsibility to ensure the Contractor's compliance with the contract stipulations. The Ely Assistant Field Manager for Renewable Resources or the Caliente Field Station Manager and the Ely Field Manager will take an active role to ensure the appropriate lines of communication are established between the field, Field Office, State Office, National Program Office, and PVC Corral offices. All employees involved in the gathering operations will keep the best interests of the animals at the forefront at all times.

All publicity, formal public contact and inquiries will be handled through the Assistant Field



Manager for Renewable Resources. This individual will be the primary contact and will coordinate the contract with the BLM Corrals to ensure animals are being transported from the capture site in a safe and humane manner and are arriving in good condition.

The contract specifications require humane treatment and care of the animals during removal operations. These specifications are designed to minimize the risk of injury and death during and after capture of the animals. The specifications will be vigorously enforced.

Should the Contractor show negligence and/or not perform according to contract stipulations, he will be issued written instructions, stop work orders, or defaulted.