



# 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>

6 9/5/00  
In Reply Refer To:  
4700  
Miller Flat HMA File  
(NV-045.07)

CERTIFIED MAIL # P 216 081 312  
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### NOTICE OF FINAL DECISION FULL FORCE AND EFFECT

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

Severe drought conditions and grasshopper infestations exist within the Miller Flat HMA and forage production is extremely limited. From field observations of available forage and water as well as a review of monitoring data, it has been determined the wild horses and their habitat are being adversely impacted.

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

Forage utilization in the western one-third of the Sheep Springs Allotment and over 75% of the Rabbit Springs Allotment is currently in a moderate to severe use category (60-90%). All documented use is by wild horses. There are five very small spring sources located on public lands within this HMA, of which, three of these spring are dry. The current population of wild horses is reliant upon water sources located on private lands and these sources are also showing reduced flows due to the drought conditions.

Forage utilization in the Crossroads Allotment is currently in a moderate to severe use category (70-90%) due to domestic livestock, wild horses and grasshoppers. The Crossroads Allotment is non-HMA but wild horses have been documented on this allotment since the late 1980's. Based upon field observations and review of monitoring data, it has been determined the wild horses are adversely impacting the Crossroads Allotment.

Approximately 80-90 wild horses must be gathered from within the HMA and approximately 40 horses from outside the HMA within the Crossroads Allotment. All wild horses gathered will be placed into the adoption program. No other portions of the Miller Flat HMA will be gathered in conjunction with this emergency gather operation. The gather operation will be conducted by helicopter trapping and/or roping.

Under current drought management measures, domestic livestock have been removed from the Crossroads Allotment, per signed livestock management agreements with the individual permittees. Livestock are currently not being grazed within the Rabbit Spring and Sheep Springs Allotments. A notice of closure agreement for livestock grazing is being issued in conjunction with this decision for those areas affected by the emergency gather operation.

Due to the emergency nature of these conditions, it is necessary to implement this immediately, through a Full Force and Effect Decision. This decision will be implemented on or about September 7, 2000 and will continue until the action is completed. The rationale for placing this decision in Full Force and Effect are as follows:

1. Drought conditions have critically limited forage production and water availability for wild horses. The western one-third of the Sheep Springs allotment and over 75% of the Rabbit Springs allotment is receiving moderate to severe use, has received 50% of its normal precipitation, and is not expected to produce enough forage to sustain the animals currently occupying the area.

2. Water availability for the horses' consumption is primarily limited to two water sources (Rabbit Spring Sheep Spring), which are located on private property. The three of the five small spring sources located on public lands are dry, with the remaining spring sources supplying only marginal amounts of water for the horses.

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

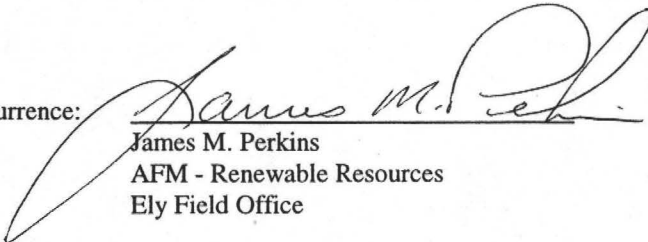
"(c) Notwithstanding the provisions of paragraph (a) of 4.21 of this title, the authorized officer may provide that decisions to remove wild horses or burros from public or private lands in situations where removal is required by applicable law or necessary to preserve or maintain a thriving ecological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

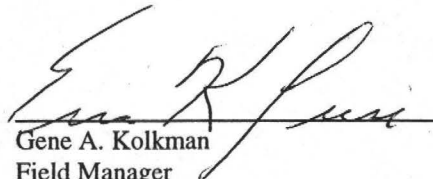
APPEALS: Within 30 days of receipt of this decision, you have the right of appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR, Part 4, Subpart E and 43 CFR 4770.3(a) and (c). Within 30 days after filing a Notice of Appeal, you are required to provide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

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

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

ADDITIONAL INFORMATION: Contact Alan B. Shepherd of my staff, at (775) 726-8100 or write at the above address.

Concurrence:  9-5-00  
James M. Perkins  
AFM - Renewable Resources  
Ely Field Office  
Date

Approval:  9/5/00  
Gene A. Kolkman  
Field Manager  
Ely Field Office  
Date

Enclosure:

1. Capture Plan

MILLER FLAT AND LITTLE MOUNTAIN HERD MANAGEMENT AREAS  
EMERGENCY GATHER PLAN

PREPARED BY  
Alan B. Shepherd  
Wild Horse and Burro Specialist

Caliente Field Station  
Ely Field Office  
September 2000

## I. Purpose and Need

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

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

- Forage Condition: Current year's growth is extremely limited. Growth on native grasses (Indian ricegrass, small galleta) averaged less than 4 inches.
- Forage Utilization: Moderate to severe utilization on herbaceous forage has been documented throughout the emergency gather area due to yearlong use by wild horses.
- Precipitation: Precipitation for the year has averaged 40-50% of normal, with the majority of this precipitation coming in the month of February.
- Water Availability: Water is limited to 3 spring sources located on private lands and 2 very small spring sources located on Public lands. All the spring sources within the emergency gather area are showing very reduced flows with at least 3 sources being dry.
- Animal Condition: Lact./mares = condition classes 2-5  
Studs = condition class 3-5
- Capture Method: Helicopter trapping and/or roping will be the primary method of capture. Water bait trapping may be used where feasible.
- Number of Animals: Horses: capture 100-110, remove 90 within the HMA
- Age Criterion: All horses

## II. Area of Concern

The proposed emergency gather area is located on public lands administered by the Bureau of Land Management's (BLM) Ely Field Office, in Lincoln County, Nevada. The areas of concern are within the Rabbit Spring, Sheep Springs, and Buckboard Allotments within the Miller Flat and Little Mountain HMAs, approximately 10 miles east of Caliente, Nevada (refer to Map 1 & 2). No other portions of the Miller Flat and Little Mountain HMAs will be gathered in conjunction with this emergency gather.

## III. Time Frame

The animals will be removed from the HMAs beginning approximately September 10, 2000 and continuing until the emergency gather is completed.

IV. Gather Methods

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

V. Administration of the Contract

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

VI. Disposal of Removed Animals

All wild horses gathered will be sent to the Ridgecrest Adoption Facility at Ridgecrest, California to be prepared for adoption.

VII. Branded and Claimed Animals

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

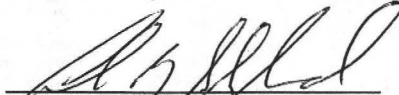
VIII. Destruction of Injured or Sick Animals.

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

IX. Responsibility

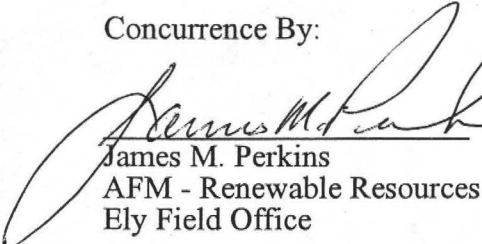
The Ely Field Office Manager is responsible for maintaining and protecting the health and welfare of wild horses. To ensure the contractor's compliance with contract stipulations, a COR from the Ely Field Office will be on site at all times during the emergency gather. The health and welfare of the animals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

Prepared By:

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

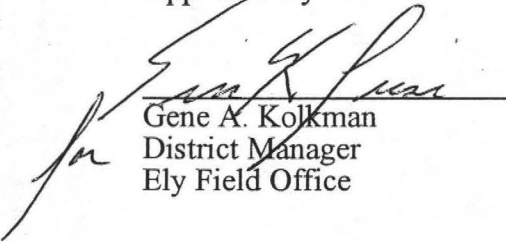
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Concurrence By:

  
James M. Perkins  
AFM - Renewable Resources  
Ely Field Office

9-01-00  
Date

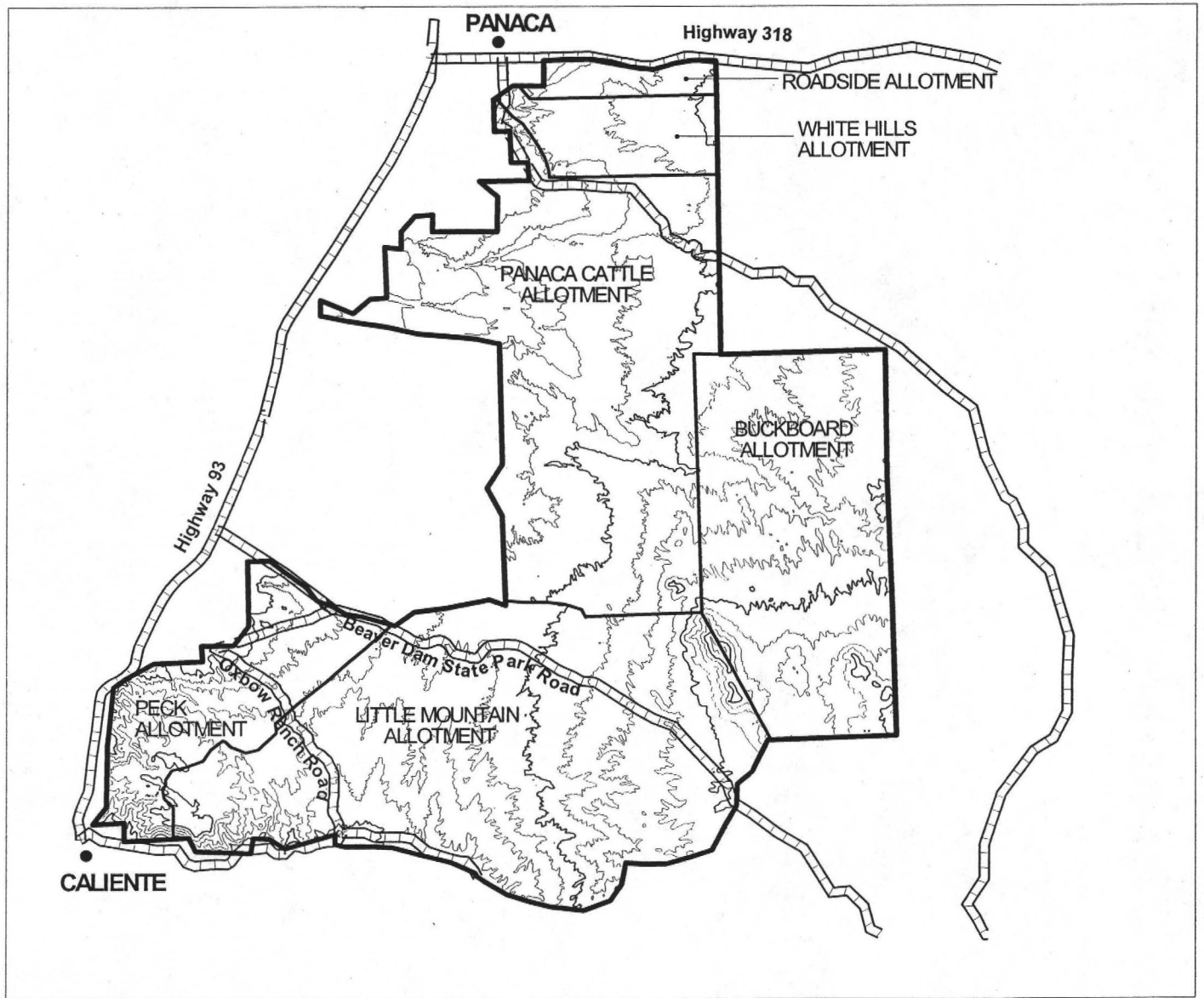
Approved By:

  
Gene A. Kolkman  
District Manager  
Ely Field Office

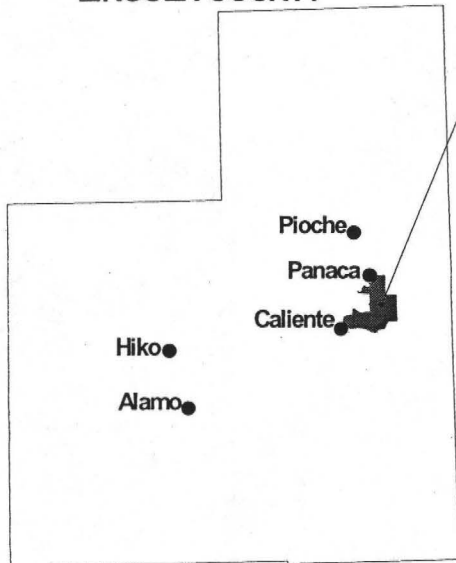
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Date



# Little Mountain HMA



## LINCOLN COUNTY

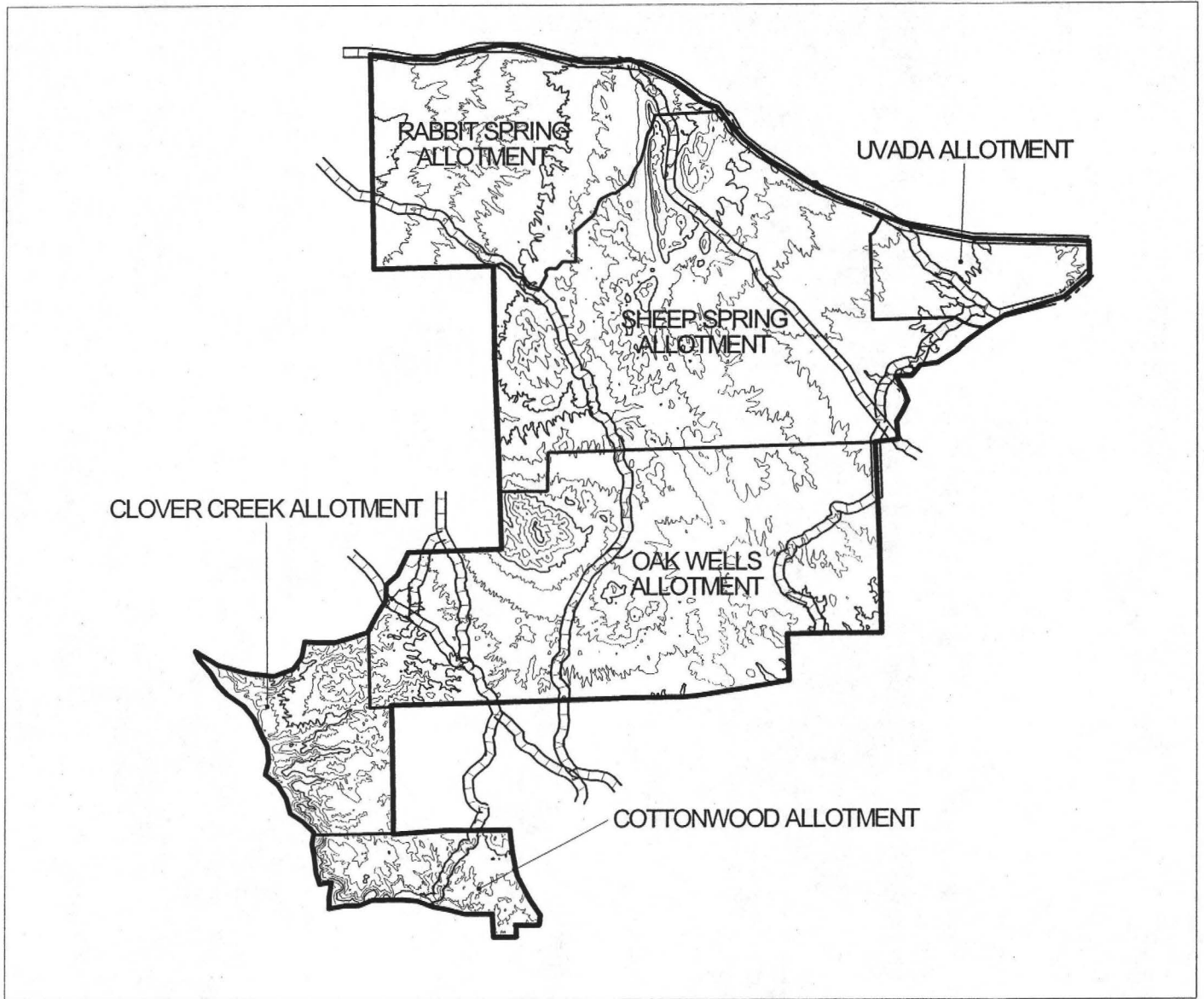


HMA

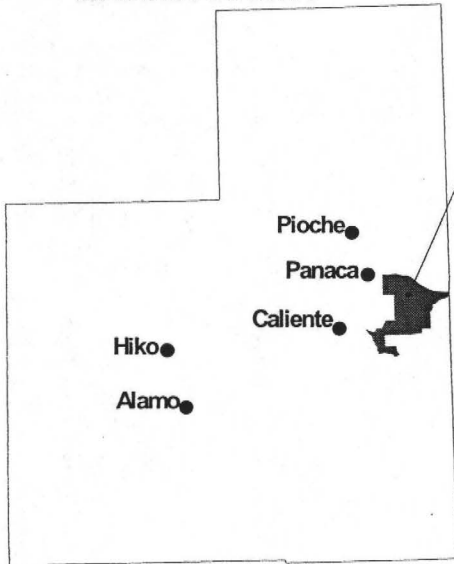
-  Roads
-  Allotment Boundaries
-  HMA Boundary



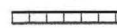
# MILLER FLAT HMA



## LINCOLN COUNTY



HMA



Roads



Allotment Boundaries



HMA Boundary

