



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Winnemucca District Office  
705 East 4th Street  
Winnemucca, Nevada 89445

1-25-93  
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TAKE  
PRIDE IN  
AMERICA

IN REPLY REFER TO:

4700

(NV-023.6)

January 25, 1993

Dear Interested Party:

This letter constitutes notice that we are planning an Emergency Gather in the Fox & Lake HMA south west of Gerlach Nevada. This gather will commence no earlier than January 26th, 1993, and involves up to 400 wild horses. As discussed in the enclosed Emergency Capture Plan, it is believed that a significant number of wild horses will die from starvation if action is not taken.

This action is immediately placed in FULL FORCE AND EFFECT. The authority for placing removal decisions in FULL FORCE AND EFFECT is Title 43 CFR 4770.3(c) "The authorized officer may place in full force an effect decisions to remove wild horses or burros from public or private lands if removal is required by applicable law or to preserve or maintain a thriving ecological balance and multiple use relationship. Full force and effect decisions shall take effect on the date specified regardless of an appeal. Appeals and petitions for stay of decisions shall be filed with the Interior Board of Land Appeals as specified in this part."

You have the right to appeal to the Board of Land Appeals, Office of the Secretary in accordance with the regulations of 43 CFR Part 4.400. If an appeal is taken, the notice of appeal must be filed in the Winnemucca District Office of BLM (not the Office of the Board) within thirty (30) days of receipt of the decision appealed from, so that the case file can be transmitted to the Board. The notice may contain a statement of reasons for the appeal but if not, such a statement must be filed with the Board (Address: Board of Land Appeals, Office of the Secretary, Department of the Interior, 4015 Wilson Boulevard, Arlington, VA 22203) within thirty (30) days after the notice is filed. Additionally, the appellant must serve a copy of the notice of appeal and of any reasons, written arguments, or briefs on the Regional Solicitor, Pacific Southwest Region (Address: U.S. Dept. of the Interior, 2800 Cottage Way, Room E-2753, Sacramento CA 95825) and each adverse party named in the decision appealed from, in the manner prescribed in Sec. 4.401(c), not later than 15 days after filing the document. To avoid summary dismissal of the appeal, there must be strict compliance with the regulations.

2-8-93

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
Winnemucca District Office  
705 East Fourth Street  
Winnemucca, Nevada 89445

In reply refer to:

4720 (NV020)

Memorandum

To: State Director (NV910)

From: District Manager, Winnemucca

Subject: Fox/Lake Ranges Emergency Wild Horse Gather

FEB 08 1993

As of Friday, February 5, 1993 the emergency gather was completed. On Friday we flew the west side of the Fox Range with Tom Seley, Ron Hall, and Rich Sanford (Veterinarian) to determine which horses would absolutely not make it through the rest of the winter. It was determined that 24 horses could not make it and they were euthanized. The remainder of the animals in that area were determined to be strong enough to make it.

The following is a summary of the gather operation:

- 325 horses captured (including 1 burro)
- 32 horses euthanized (8 at the corrals and 24 in the HMA)
- 1 horse died during capture
- 294 horses shipped to PVC (including 1 burro)
- 22 horses returned to the HMA

Based on our flights prior to the gather we should have approximately 100 horses remaining in the Fox/Lake HMA. We suspect the number of horses will increase this spring when the horses move north from the Pyramid Lake Indian Reservation.

Since we will be in the area for the next few weeks for the pending Buffalo Hills/Granite HMA gather, we will keep an eye on the remaining horses in the Fox/Lake HMA to assess their condition.

*Ron Wenker*

UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
Winnemucca District Office  
705 East Fourth Street  
Winnemucca, Nevada 89445

In reply refer to:  
4700 (NV-023.6)

Memorandum

To: State Director, Nevada

From: District Manager, Winnemucca

Subject: Rationale for placing the Fox & Lake HMA Emergency Gather  
in Full Force and Effect.

The Fox and Lake HMA are located immediately south and west of Gerlach, Nevada. On October 15, 1992, a helicopter census identified 619 wild horses within the HMA. At this time it was estimated that 25-30% of the horses were in poor condition. During the period December 15-18, 120 horses were closely observed and it was estimated that 90% of them were in poor condition. Heavy snows and lower temperatures since that time have further taxed the wild horses. It is now predicted that significant mortality will occur in this population unless we take immediate action.

The following are considerations that were evaluated prior to making a decision to place this gather in Full Force and Effect:

1. A delay in removing thin and weak horses from the Fox & Lake HMA will result in the death loss, from starvation, of in excess of 300 wild horses.
2. Damage to the range resource has occurred to a significant degree. Utilization data indicates moderate to heavy use of the summer range since 1988. Lower forage production, due to insufficient spring moisture in 1992, forced the horses onto an already depleted much earlier than normal. Heavy snowfall and nocturnal temperatures occasionally below zero have made the situation worse. Severe use of browse species has been documented during 1992. Early movement of the horses onto their winter range is supported by the following distribution data:

Percentage of Horses on Winter Range

<u>Type of Inventory</u>	<u>Date</u>	<u>% Horses</u>
Helicopter Census	10/1/88	19%
Helicopter Census	9/26/90	17%
Helicopter Census	10/15/92	38%

These data indicate that the forage was nearing depletion in the higher country in October. The first significant snow was recorded on 12/17/92.

3. This action is humane in nature and is not related to establishing an AML. The issue is to prevent further suffering of horses, and, additional degradation of the range resource.

The Rodeo Creek and Pole Canyon Allotments, which comprise all the HMA, are scheduled for re-evaluation during 1993. The AML will be established and a thriving ecological balance will be achieved at this time.

We are proposing an immediate gather with the animals to be separated using the following criteria:

1. Those horses judged to be strong enough to survive the winter on the range would be released regardless of age.
2. Those horses judged to be capable of surviving, if cared for at Palomino Valley over the winter, will be shipped to Palomino Valley for adoption or care. Horses that are over 9 years old would be cared for until spring and then would be released back into the HMA.
3. Those horses judged incapable of surviving, regardless of any action taken, would be humanely euthanized at the trap site.

Due to the emergency nature of this situation, this action is being placed in FULL FORCE AND EFFECT. The authority for placing removal decisions in FULL FORCE AND EFFECT is Title 43 CFR 4770.3.

Recommended: \_\_\_\_\_ Date: \_\_\_\_\_  
Ron Wenker  
District Manager, Winnemucca

Concurrence: \_\_\_\_\_ Date: \_\_\_\_\_  
Billy Templeton  
State Director, Nevada

Attachments:

1. Emergency Capture Plan
2. Environmental Assessment



U. S. DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

Winnemucca District Office

Sonoma-Gerlach Resource Area

FOX & LAKE RANGE HORSE MANAGEMENT AREA

EMERGENCY WILD HORSE REMOVAL (GATHERING) PLAN

I. Introduction

The purpose of this proposed action is to remove a segment of the wild horse population in the Fox and Lake Range Herd Management Area (HMA) to prevent major death losses due to starvation. The condition of the wild horses within this HMA has deteriorated significantly since October when approximately 25-30% of the horses were identified as being in poor condition. Heavy snows and low temperatures have placed increasing demands on wild horses that were already in less than optimum condition.

**Problem:** Combined use by wild horses and livestock over the last 5 years has averaged 11,505 AUM's per year. (6624 Horses-4881 Livestock) The carrying capacity of the HMA is estimated to be \_\_\_\_\_. This has resulted in severe degradation of the range resource as indicated by the following facts.

1. 100 cows were turned out during the summer of 1992 while 485 were permitted. Non use was taken for the winter of 1992. (Non use has been taken in Pole Canyon since 1988).
2. At least 25% of the wild horses went into the winter in poor condition.
3. There was little or no survival in the yearling age class of horses from 1991-92.

The overuse by wild horses and livestock is compounded by six years of drought followed by heavy snows and night time temperatures below zero with occasional strong winds during late 1992 and early 1993. Environmental conditions and weak horses have placed the Fox & Lake herd in jeopardy. No action would result in a significant percentage of the wild horses dying from malnutrition.

During the period Dec. 15-18, 120 wild horses were observed and classified around the perimeter of Fox Mountain and it was estimated that 90% of the horses were thin and with increasing snow depths and their survival was questionable. Severe weather conditions have compounded the situation in the following ways:

1. Snow depths of 12" on the flats with depths increasing with elevation have reduced the area available to the horses for foraging to a small portion of their traditional wintering area.
2. Deep snows and colder temperatures have increased the energy demand on horses that were already in poor condition.

## II. Background data

### A. Area description

The geographical center of the Fox and Lake Range HMA is located 17 air miles southeast of Gerlach, Nevada. The HMA is bounded on the north and west by Union Pacific Railroad and the Smoke Creek Desert, on the east by Highway 34, and on the south by the Pyramid Indian Reservation. Refer to attached map. The HMA is administered by the Sonoma-Gerlach Resource Area out of the Winnemucca District of the Bureau of Land Management.

The Fox & Lake Range HMA is comprised of approximately 177,274 acres; 171,967 acres (97%) of BLM land and 5307 acres (3%) of private land. The HMA is approximately 30 miles long (north-south) at its longest point, and 19 miles wide at its widest point. (see attachment # 1). The HMA boundary was drawn along soil types. A more logical boundary would have been the Southern Pacific Railroad on the west and north, highway 34 on the east, and the Pyramid Indian Reservation on the south. This is in fact the area used by the horses and is now defined as the capture area.

Topographically, the elevation varies from 7508' at Pah Run Peak to just under 3900' on the Smoke Creek Desert. Fox Mountain is characterized with deeply dissected short drainages and an intermitted cover of Juniper. The flats on the west side have limited winter range due to the intrusion of the Smoke Creek Desert which is essentially barren. On the east side of the Fox Range the foothills and slopes to the San Emidio Desert provide better winter range with vegetative cover varying from Greasewood, Big Sagebrush, Bud Sagebrush, Rabbitbrush and occasional stands of Winterfat. This area is notably lacking in grass species due to overuse by wild horses and domestic livestock.

The northern portion of the Lake Range (within the HMA) is characterized by more gentle open slopes that are dominated by Lahotan sagebrush.

### B. Wild horse population data:

Two removals of wild horses have occurred within this HMA; 1986 (436) and 1988 (85). The following chart depicts population trend, dates of census and population estimates based on a projection of an 11% growth rate per year. In all cases Census means a helicopter inventory.

<u>Date</u>	<u>Census</u>	<u>Removal</u>	<u>Pop.Est.</u>
6/86	913	-	-
8/86	-	436	477
7/87	-	-	529
7/88	-	-	588
10/88	538	-	-
12/88	-	85	453
7/89	682*	-	503
7/90	-	-	558
9/90	565	-	-

7/91	-	-	627
7/92	-	-	696
10/92	619	-	-

\* It appears that the 1989 census erred on the high side.

C. Stocking levels

The level of use by wild horses is indicated in the above chart. Using the 1992 census, forage utilization by wild horses was 7440 AUM's. There are two livestock allotments within the HMA; 1. Pole Canyon-identified on appendix #1 and, 2. Rodeo Ck., the remainder of the HMA. The active preference for livestock is as follows:

<u>Allotment</u>	<u>Permittee</u>	<u>Active Preference</u>
Rodeo Ck.	Ceresola	5820 AUM's*
Pole Canyon	Torvick	540 AUM's
Total		6362 AUM's

\* In the Pole Canyon Allotment active preference was reduced from 6462 AUM's to 5820 AUM's during the 1988 Allotment Evaluation.

D. Actual use-livestock

Rodeo Ck.

<u>Year</u>	<u>Actual Use/AUM's</u>
1988	4,925
1989	5,750
1990	5,820
1991	5,820
1992	2,088*

Non-use was taken during the winter of 1992 due to poor forage production resulting from the drought, and the use of over 7000 AUM's by wild horses. The season of use within this allotment is yearlong. Data on AUM's are available upon request.

Non-use has been taken in the Pole Canyon Allotment since 1988. Low forage production and heavy utilization by wild horses make domestic livestock grazing impractical.

D. Utilization levels

A concerted effort has been made since 1989 to collect forage utilization data to assist in establishing a stocking level for the allotment, and re-establish an Appropriate Management Level (AML) in the Fox & Lake HMA. In addition, an Ecological Site Inventory (ESI) was conducted within this HMA during the summer of 1992. However, the District is in the process of digitizing the maps and compiling acreage figures on range condition. This data will be available for this HMA by March 1993. In lieu of quantifiable data a general statement may be made concerning the dynamics of plant communities within this HMA. As ecological condition deteriorates, Lahotan sagebrush, shadscale, littleleaf horsebrush and Douglas rabbitbrush will

increase; while bluegrass, desert needlegrass, Thurber needlegrass and Indian ricegrass decrease. We are in this situation within this HMA.

#### E. Utilization Data

~~Utilization data and maps are bulky and will be summarized briefly in this text.~~ A complete summary is presented in appendix #3. Maps are available from the Winnemucca District Office upon request. Generally, heavy use of the higher, or typical summer/fall country started showing up in 1990. We have had several open winters the past few years and all the HMA was available to wild horses yearlong. Lower production the last few years did not significantly affect animal condition until 1990 as the horses had the entire HMA available to them. Heavy utilization and lower production the last few years started impacting horse condition in 1990. Over Utilization of the lower slopes and flats by both wild horses and livestock have resulted a winter range with insufficient forage to sustain the wild horse population through this difficult winter. In some cases, the greasewood flats in particular, the vegetation is in climax status and is probably producing all it will ever produce.

#### F. Distribution Data

Distribution of the Wild Horse Population from 1988 to the present is essentially what would be expected given the open winters we have experienced since that time. Water is not a limiting factor except for the Lake Range. On most distribution flights the horses were scattered throughout the mountainous habitat with a few horses being found on the flats. In March of 1992 the horses in the Rodeo Ck. allotment were found primarily in the lower elevations. Due to the open winter this is a good indication that the forage was exhausted at the higher elevations.

Distribution data indicates that some of the Pole Canyon horses move onto the Pyramid Lake Indian Reservation during certain winters. One-hundred fourteen horses were counted within the Reservation on 1-13-93. This should not be considered a complete count as we were flying in a fixed-wing aircraft and lowering cloud cover forced us out of the area prior to finishing the count. The horses within the reservation were generally in much better condition than horses located off the reservation to the north and east. This is due to the fact that this area is more ideal winter range in terms of both aspect and vegetative cover. Some horses are yearlong residents on the Reservation and are not included in the 1992 census.

Data collected on a distribution flight on 1/13/93 are presented as appendix #4. Crucial winter habitat is the limiting factor for this population of wild horses, and this habitat is identified on the map presented. This data will be utilized to establish AML's within this HMA. (Complete utilization data are presented as Appendix 5-Maps are available on request.)

#### G. Pyramid Lake Indian Reservation

The south boundary of the Fox & Lake HMA is the Pyramid Lake Indian Reservation. A fence was constructed along this boundary by the Piante

Indians and they have the maintenance responsibility. The west portion of the fence is mostly down and several gates along the remainder of the fence are constantly left open. This permits significant movement of wild horses back and forth across the boundary. This is particularly true of the Pole Canyon Allotment (94 horses-10/92) and those horses that utilize the area around Trail Canyon. The area north of Pyramid Lake and south of the boundary fence provides the best winter range for the wild horses within this HMA. The boundary extending toward the Smoke Creek Desert on west is indistinct, and will be marked with a steel post and flagging to assure our gather operations do not infringe upon tribal lands.

#### H. Wilderness Study Area

Almost the entire HMA is within the Fox & Lake Wilderness Study Area. (See Appendix #\_\_\_\_\_) This designation prevents further impairment, or surface disturbance, within the boundaries. Placement of trapsites must be limited to existing roads and trails and surface disturbance must be minimized. Two study areas exist within this HMA (WSA NV-020-014 and WSA NV-020-14A). The gather will be accomplished in full compliance with the Interior Guidelines for Wilderness Study Areas.

#### I. Transportation

As an aid in capturing the wild horses and as an effort to reduce the stress on the horses, it is proposed that we blade the snow off existing roads and trails as indicated on appendix #1. This will provide easier traveling for the horses inroute to the trap site and will be an advantage in the capture. The existing road along the powerline on the east side of the Fox range and a trail along the west side to Wild Horse Canyon may be bladed.

#### III. Proposal

Gather up to 500 wild horse on the Fox & Lake HMA starting no later than January 26th. This is a humane measure instituted to prevent a major death loss in the horse population. Approximately 400 of the horses gathered would be shipped to Palomino Valley Corral. The horses will be fed and rested until it is judged that their condition would permit processing. Adoptable age horses will be separated for adoption and the remainder will be cared for within the facility until spring.

A licensed veterinarian and qualified BLM personnel will make a determination as to the condition of the wild horses. They will be separated using the following criteria.

1. Those horses judged to be strong enough to survive the winter on the range would be released regardless of age. These animals have been tested by forage and weather conditions and have proven themselves capable of surviving adverse conditions. They will form the nucleus of the herd. If at least 50% of the release animals are not in age classes 1-9 then younger age class animals would be transported back from Palomino Valley to insure that this quota of younger animals remain in this population. This action will protect



the viability of this herd. These animals will not be released until spring.

2. Those horses judged to be strong enough to withstand transporting and the subsequent change in diet would be shipped to Palomino Valley for adoption. Those horses that are unadoptable, plus the younger animals that may be needed to ensure population viability, will be cared for at the facility until spring. They will then be released back into the HMA.

3. Those horses judged to be not capable of surviving transporting and the subsequent change in diet would be humanely euthanized at the trap site.

A. Animal condition

The physical condition of the wild horse population has been discussed in the introduction. Their condition was verified on a distribution flight conducted on 1/13/93. It is possible that weather condition and/or animal condition will prevent total achievement of our objectives. If snow depth increases or the snow melts during the gather process and undue stress is likely to be placed on animals already in poor condition then the gather would be suspended and nature will be allowed to take its course.

The wild horses located on the west side of Fox Mt., are of particular concern to BLM. They are in the worst shape and access to this area is very limited, particularly, given current weather conditions. Rate of movement of the horses, distance moved and the animals ability to make it to the trap site will be carefully monitored. Animal welfare is the prime consideration in this effort and will be carefully evaluated.

B. Livestock closure

The Rodeo Ck., and Pole Canyon Allotments will be either formally closed to livestock grazing or the area will be closed through agreement. Vegetative objectives will be developed through the Allotment Evaluation Process. Livestock grazing will not be allowed until these objectives are met.

IV. Justification

A. Statutory authority:

The Wild Free-Roaming Horse and Burro Act of 1971 (Public Law 92-195) as amended, Section 3(b)(1), states that the Secretaries of Interior and Agriculture shall "determine appropriate management levels of wild free-roaming horses and burros on areas of public lands; and determine whether appropriate management levels should be achieved by the removal or destruction of excess animals, or other options (such as sterilization or natural controls on population levels)." Section 3(b)(2) states, "that if an overpopulation exists on a given area of the public lands and that action is necessary to remove excess animals, he shall immediately

remove excess animals from the range so as to achieve appropriate management levels. Such action shall be taken, until all excess animals have been removed so as to restore a thriving natural ecological balance to the range, and protect the range from the deterioration associated with overpopulation."

Title 43 CFR 4770.3 provides the authority for placing removal decisions in FULL FORCE AND EFFECT. We are directed to take expeditious action particularly when the potential for loss or substantial damage to the health of animals or unborn foals due to starvation, disease, or dehydration exists.

B. Animal condition:

The rationale for this decision is based primarily on wild horse condition, although other factors such as; apparent range condition, utilization levels, and distribution have been considered. Animal condition has rapidly deteriorated since the advent of severe weather. It is the opinion of professional biologists that the entire herd may be in jeopardy. At the best, a significant portion of the horses will perish from starvation. This action is humane in nature and would be implemented to assure survival of the herd.

C. Full Force and Effect

Due to the emergency nature of this action with the eminent probability of the starvation of numerous wild horses, the action will be placed in Full Force and Effect. 43 CFR 4770.3

D. Environmental Assessment (EA)

An Environmental Assessment (No. NV-020----) has been prepared to cover this action and is on file at the Winnemucca District Office of the Bureau of Land Management.

V. Methods for Removal and Safety

The methods employed during this capture operation will be herding animals with a helicopter to a trap built with portable panels, or herding animals with a helicopter to ropers. The Bureau of Land Management will contract with a private party for this operation. The following stipulations and procedures will be followed during the contract to ensure the welfare, safety and humane treatment of the wild horses and burros.

A. Trapping and Care of Animals

1. All capture attempts will be accomplished by the utilization of a helicopter. A minimum of one saddle horse shall be immediately available at the trap site to accomplish roping if necessary. Roping will be done only when necessary and only with prior approval by a BLM authorized officer. Under no circumstances shall animals be tied down for more than one hour.

It is anticipated that roping of some animals will occur in each capture area in order to facilitate the removal all wild horses and burros.

2. The helicopter shall be used in such a manner that bands will remain together. Foals shall not be left behind. The project helicopter actions may occasionally be observed by a Government controlled helicopter. All actions of the Government helicopter will be coordinated with the Contractor to prevent interference with the project helicopter and contract operations.

In the event an additional helicopter is not available to observe the project helicopter, other methods will be utilized to observe the removal operations such as using observers on horseback, in vehicles and/or placing stationary observers in strategic locations.

3. The rate of movement and distance that animals travel shall not exceed limitations set by a BLM employee who will consider terrain, physical barriers, weather, condition of the animals and other factors.

BLM will not allow horses to be herded more than 10 miles nor faster than 20 miles per hour. The COR may decrease the rate or distance traveled, should the route to the trap site pose a danger or cause undue stress. In the case of the west Fox Range horses the distance the animals have to be moved may exceed the above limit. However, the animals will be moved slowly-at a walk when possible. This will be carefully monitored. In addition, the horses will be herded along a plowed trail if possible. If it appears the horses are being unduly stressed then the effort will be abandoned and nature will be allowed to take its course.

Temperature limitations are 0°F as a minimum and 95°F as a maximum.

The terrain in the removal areas varies from flat valley bottoms to mountainous, and the animals may be located at all elevations (ranging from 3900 feet to 7500 feet) during the time the gathering is scheduled.

Prior to any gathering operation, BLM will provide for a pre-capture evaluation of existing conditions in the gather areas. The evaluation will include animal condition, prevailing temperatures, drought conditions, soil conditions, topography, road conditions, location of fences and other physical barriers, and animal distribution in relation to potential trap locations.

The Contractor will be provided with a topographic map of the removal area which shows acceptable trap locations and existing fences and/or physical barriers prior to any

gathering operations.

The Contractor will also be appraised of the above conditions and will be given direction regarding the capture and handling of animals to ensure their health and welfare is protected.

4. It is estimated that a minimum of one trap site will be required in each capture area to accomplish the work. All trap locations and holding facilities must be approved by a BLM employee prior to construction. The Contractor may also be required to change or move trap locations as determined by the BLM. All traps and holding facilities not located on public land must have prior written approval of the landowner.

Each general site will be selected by a BLM employee after determining the habits of the animals and observing the topography of the area. Site specific locations may be selected by the Contractor with the BLM's approval within this general preselected area. Trap sites will be located to cause as little injury and stress to the animals and as little damage to the natural resources of the area as possible. Sites will be located on or near existing roads and will receive cultural, and threatened/endangered plant and animal clearances prior to construction. Additional trap sites may be required, as determined by the BLM, to relieve stress caused by certain conditions at the time of the gather (i.e. dust, rocky terrain, temperatures, deep snow, etc.).

Due to the many variables affecting the distribution of animals such as weather, health and condition, and time of year, it is not possible to identify specific locations at this time. They will be determined at the time of the removal operation.

5. 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 the ground level. All traps and holding facilities shall be oval or round in design.
  - b. All loading chute sides shall be fully covered with plywood without holes or separation of plies, or like material. The loading chute shall also be a minimum of 6 feet high.
  - c. All runways shall be a minimum of 30 feet long and a minimum of 6 feet high for horses, and 5 feet for burros, and shall be covered with plywood without holes or separation of plies, or like material a minimum of 1

foot to 5 feet above ground for burros and 1 foot to 6 feet for horses.

- d. Wings shall not be constructed out of barbed wire or other material injurious to animals and must be approved by a BLM employee.
  - e. All crowding pens, including the gates leading to the runways, shall be covered with a material which prevents the animals from seeing out (plywood without holes or separation of plies, burlap, jute, 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. Eight linear feet of this material shall be capable of being removed or let down to provide a viewing window.
  - f. All pens and runways used for the movement and handling of horses shall be connected with hinged self-locking gates.
6. No fence modifications will be made without authorization from the BLM. The Contractor shall be responsible for restoration of any fence modifications which he has made.

If the route the Contractor proposes to herd animals, passes through a fence, the Contractor shall be required to roll up the fence material and pull up the posts to provide at least a 50 yard gap. The standing fence on each side of the gap will be well flagged or covered with jute or like material for a distance of 50 yards from the gap on each side.

7. 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 to ensure that dust does not pose a problem to personnel or to the animals. If mud becomes a problem in the working facility, then the animals will be worked when the ground is frozen and straw will be placed within the working facility.
8. Alternate pens within the holding facility shall be furnished by the Contractor to separate animals with small foals, sick and injured animals, and stray animals 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.**
9. Animals shall be transported to final destination from temporary holding facilities within 24 hours after capture unless prior approval is granted by the BLM for unusual circumstances. 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 BLM. The Contractor shall schedule to arrive at the final destination between 6:00

a.m. and 4:00 p.m.. No shipments shall be scheduled to arrive at final destination on Sundays or Federal holidays. Animals shall not be allowed to remain standing in trucks while not in transport for a combined period of greater than 3 hours.

10. 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.

Separate water troughs shall be provided at each pen where animals are being held. Water troughs shall be constructed of such material (e.g. rubber, rubber over metal) so as to avoid injury to animals.

11. It is the responsibility of the contractor to provide security to prevent loss, injury or death of captured animals until delivery to final destination.
12. The Contractor shall restrain sick or injured animals if treatment by the Government is necessary. The BLM will determine if injured animals must be destroyed and provide for destruction of such animals. The Contractor may be required to dispose of the carcasses as directed by the BLM.

Any severely injured or seriously sick animal shall be destroyed in accordance with 43 CFR Subpart 4730.1. Animals shall be destroyed only when a definite act of mercy is needed to alleviate pain and suffering. A BLM employee will have the primary responsibility for determining when an animal will be destroyed and will perform the actual destruction. When a BLM employee is unsure as to the severity of an injury or sickness, a veterinarian will be called to make a diagnosis and final determination. Destruction shall be done in the most humane method available. A veterinarian can be called, if necessary, to care for any injured animal.

The carcasses of the animals which die or must be destroyed as a result of any infectious, contagious, or parasitic disease will be disposed of by burial to a depth of at least 3 feet.

The carcasses of the animals which must be destroyed as a result of age, injury, lameness, or noncontagious disease or illness will be disposed of by removing them from the capture site or holding corral and placing them in an inconspicuous location to minimize the visual impacts. Carcasses will not be placed in drainages regardless of drainage size or downstream destination.

13. Branded or privately owned animals whose owners are known will



be impounded by BLM, and if not redeemed by payment of trespass and capture fees, will be sold at public auction. If owners are not known, the private animals will be turned over to the State for processing under Nevada estray laws.

B. 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.
2. Vehicles 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 stock trailers with a covered top shall be allowed for transporting animals from traps to temporary holding facilities. Only bobtail trucks, stock trailers, or single deck trucks shall be used to haul animals from temporary holding facilities to final destination. Sides or stock racks of transporting vehicles shall be a minimum height of 6 feet 6 inches from vehicle floor. Single deck trucks with trailers 40 feet or longer shall have two partition gates providing three compartments within the trailer to separate animals. Trailers less than 40 feet shall have at least one partition gate providing two compartments within the trailer to separate animals. The compartments 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 trailers is unacceptable and shall not be allowed.
4. All vehicles used to transport animals to the final destination shall be equipped with at least one door at the rear end of the vehicle, which is capable of sliding either horizontally or vertically. The rear door must be capable of opening the full width of the trailer. All 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 the trailer must be strong enough, so that the animals cannot push their hooves through the sides.

The Contractor will not be allowed to begin work on the contract until all vehicles and equipment are in compliance with these stipulations.

5. Floors of vehicles and the loading chute shall be covered and maintained with wood shavings to prevent the animals from slipping.

The adequacy of this material will be confirmed prior to every load by a BLM employee.

6. Animals to be loaded and transported in any vehicle shall be

as directed by a BLM employee and may include limitations on numbers according to age, size, temperament and animal condition. The following minimum linear feet per animal shall be allowed per standard 8 foot wide stock trailer/truck:

1.40 linear foot per adult horse (11 square feet per adult horse)

1.00 linear foot per adult burro (8 square feet per adult burro)

.75 linear foot per horse foal (6 square feet per horse foal)

.50 linear foot per burro foal (4 square feet per burro foal)

The BLM employee supervising the loading of the animals to be transported from the trap to the temporary holding corral will require separation of small foals and/or weak animals from the rest should he/she feel that they may be injured during the trip. He/she will consider the distance and condition of the road in making this determination. Animals shipped from the temporary holding corral to the BLM facility will be separated by sex and age class (including small yearlings). Further separation may be required should condition of the animals warrant.

The BLM employee supervising the loading will exercise his/her authority to off load horses should he/she feel there are too many animals on the vehicle.

7. The BLM shall consider the condition of the animals, weather conditions, type of vehicles, distance to be transported, or other factors when planning for the movement of captured animals. The BLM shall provide for any brand and/or inspection services required for the captured animals.

It is currently planned to ship all animals to the Palomino Valley facility. Communication lines have been established with the Palomino Valley personnel involved in off-loading the animals, to receive feedback on how the animals arrive. Should

problems arise, gathering methods, shipping methods and/or separation of the animals will be changed in an attempt to alleviate the problems.

8. If a BLM employee determines that ice or mud conditions are such that animals could be endangered during transportation, the Contractor will be instructed to adjust speed. The maximum distance over which animals may have to be transported on dirt roads is approximately 10 miles per load.

In general, roads in the capture areas are in fair to good condition. If a problem develops, speed restrictions shall be set or alternate routes used.

#### C. Helicopter, Pilot and Communications

1. 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 of Nevada and shall follow what are recognized as safe flying practices.
2. When refueling, the helicopter shall remain a distance of at least 1,000 feet or more from animals, vehicles (other than the fuel truck), and personnel not involved in refueling.
3. The BLM shall have the means to communicate with the Contractor's pilot and be able to direct the use of the gather helicopter at all times. If communications cannot be established, the Government will take steps as necessary to protect the welfare of the animals.
4. The proper operation, service and maintenance of all Contractor furnished helicopters is the responsibility of the Contractor. The BLM reserves the right to remove from service, pilots and helicopters which, in the opinion of the BLM violate contract rules, are unsafe or otherwise unsatisfactory. In this event, the Contractor will be notified in writing to furnish replacement pilots or helicopters within 48 hours of notification. All such replacements must be approved in advance of operation by the BLM.

#### IV. Responsibility and Lines of Communication

The Sonoma-Gerlach Area Manager and the Winnemucca District Manager will take an active role to ensure the appropriate lines of communication are established between the field, District, State, and Palomino 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 Sonoma-Gerlach Area Manager. This individual will be the primary contact.

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 enforced vigorously.

##### Attachments:

1. NMA map with general capture areas
2. Horse concentration areas (1-13-93)
3. Distribution 10-15-92
4. WSA map with proposed road plowing
5. Utilization Data
6. Distribution



V. Signatures:

Prepared by: \_\_\_\_\_ Date \_\_\_\_\_  
Wild Horse and Burro Specialist  
Division of Resources

Reviewed by: \_\_\_\_\_ Date \_\_\_\_\_  
Chief, Division of Resources

Recommended by: \_\_\_\_\_ Date \_\_\_\_\_  
Area Manager  
Sonoma-Gerlach Resource Area

Approved by: \_\_\_\_\_ Date \_\_\_\_\_  
District Manager

ENVIRONMENTAL ASSESSMENT  
GATHER AND REMOVAL OF WILD HORSES  
FROM THE FOX AND LAKE RANGE HERD MANAGEMENT AREA

I. DESCRIPTION OF ALTERNATIVES

A. Background Data

This document has been prepared to assess the environmental impacts of adjusting the numbers of wild horses in the Fox and Lake Range Herd Management Area (HMA). This EA does not assess the impacts of different methods of gathering horses. These impacts were analyzed in a programmatic EA (No. NV-020-7-24) prepared in May 1987. After the incorporation of public comments, a Record of Decision and Finding of No Significant Impact was approved on August 4, 1987 and the assessment remains valid today. That EA is on file and available for review in the Winnemucca District Office.

B. Purpose and Need

Severe winter weather conditions have resulted in a critical situation for wild horses in the Fox and Lake Range HMA. Deep snows and colder temperatures have caused decreased forage availability and increased bioenergetic expenditure. Observations in mid-December 1992 on 27% of the population showed 90% of the observed horses to be in very poor physical condition. Horse condition has deteriorated significantly since October 1992, when approximately 25-30% of the horses were in poor condition. The Bureau proposing an emergency removal of horses in this HMA to prevent major death loss due to starvation and suffering due to malnutrition.

This action is in conformance with the Sonoma-Gerlach Land Use Plan.

C. Proposed Action and Alternatives

Proposed Action

The proposed action is to capture up to 500 out of population of approximately 620 wild horses, and remove approximately 400 horses, according to the following criteria.

1. Those animals which, in the professional judgment of on-site BLM personnel (including a contract veterinarian) are capable of surviving this winter would be turned back onto the range, regardless of age.
2. Those animals which are incapable of surviving the winter on the range, but are able to make the trip to Palomino Valley Center (PVC) for treatment and feeding would be shipped to PVC, regardless of age. Those horses 10 years of age and older

shipped to PVC would be returned to the HMA in spring 1993, in accordance with the Strategic Plan for Management of Wild Horses and Burros on Public Lands (Strategic Plan).

3. Those animals which are judged unlikely to survive the winter, either on the open range or at PVC, would be humanely euthanized and disposed of at the capture site, regardless of age.

Wild horses would be gathered by means of a helicopter. To reduce stress on the horses traveling through the snow, it is proposed to plow up to 10 miles of road on each side of the Fox Range. Horses would be brought down from the mountains to the cleared roads, then moved along the road to the trap site. Reference section IV, Removal Techniques and Methods, in the Fox and Lake Range Wild Horse Gathering Plan dated January , 1993.

The proposed removal operation is expected to begin January 26, 1993, and be completed by Feb., 7, 1993.

#### Alternative I

Criteria for horse removal would be animal age rather than condition, as indicated in the Strategic Plan and Nevada State Office direction for emergency removals. All horses 9 years of age and younger would be shipped to Palomino Valley Center. The number of horses removed under this alternative is approximately 400.

#### Alternative II - No Action Alternative

No wild horses would be gathered. Population control would be left to natural processes. Significant death loss would occur.

#### Alternative III-Feeding on site

Transporting hay out to the wild horses via helicopter. Due to distribution of the horses and limited access, ground transportation is not practicable. Approximately 3 tons of hay would be required per day for at least 90 days or a total of 270 tons.

## II. AFFECTED ENVIRONMENT

The geographical center of the Fox and Lake Range HMA is located about 17 air miles southwest of Gerlach, Nevada. The HMA is bounded on the north and west by Western Pacific Railroad and the Smoke Creek Desert, on the east by Highway 34, and on the south by the Pyramid Lake Indian Reservation. Refer to attached map. The HMA is administered by the Sonoma-Gerlach Resource Area of the BLM Winnemucca District.

The elevation varies from 7508 feet at Pah Rum Peak to just under 3900 feet on the Smoke Creek Desert. Fox Mountain is characterized by deeply dissected short drainages and an intermittent cover of juniper. The flats



on the west side have limited winter range due to the intrusion of the Smoke Creek Desert which is essentially barren. On the east side of the Fox Range the foothills and slopes to the San Emidio Desert provide better winter range with vegetative cover varying from greasewood, big sagebrush, bud sagebrush, rabbitbrush and occasional stands of winterfat. This area is notably lacking in grass species due to overuse by wild horses and domestic livestock. The northern portion of the Lake Range, within the HMA, is characterized by more gentle open slopes that are dominated by sagebrush.

The HMA provides habitat for wild horses, domestic livestock, chukar, sage grouse, California quail, mule deer, antelope, coyotes, and various species of birds, rodents and reptiles. Wild horses and wildlife inhabit the HMA year-round, and domestic livestock are licensed to use the area year-round.

The Fox and Lake Range HMA is comprised of approximately 177,274 acres; 171,967 acres (97%) of BLM land and 5,307 acres (3%) of private land. The HMA is contained within the Rodeo Creek and Pole Canyon grazing allotments.

Two Wilderness Study Areas (WSA) (NV-020-014, Fox Range and NV-020-014A, Pole Creek) are located within the Fox and Lake Range HMA. A WSA designation restricts the choices for suitable trap sites.

Halogeton, larkspur, death camas, and lupine occur in the area, but the extent to which any of these poisonous plants affects wild horses is unknown.

### III. ENVIRONMENTAL CONSEQUENCES

#### Proposed Action

##### Direct Impacts

Gathering operations would result in temporary soil and vegetation disturbance, at the temporary facilities, from horse and vehicle activity. Access to the area by the public would be limited or prohibited during gather operations. The opportunity for wild horse viewing after the gather would be reduced due to the lesser numbers of horses. The horses would undergo stress related to being captured and handled.

There is a possibility that the helicopter would occasionally land inside the boundary of a wilderness study area during the capture operation. The only impacts occurring would be temporary ones. Cross country travel would be allowed as long as it does not cause impacts inconsistent with the requirements of the non-impairment criteria outlined in the Interim Management Policy and Guidelines for Lands under Wilderness Review. The landing of helicopters satisfies the non-impairment criteria and would not require the

construction of heli-spots as the helicopter would be landing on unimproved sites.

#### Indirect Impacts

Several indirect impacts may occur.

a. Vegetation, soil and watershed

Reduction of horse numbers would allow for increased efficiency in the use of the forage resource and a reduction of grazing demand. Continuing the management policies outlined in the final allotment re-evaluations for the Rodeo Creek and Pole Canyon allotments, currently in preparation, would contribute toward an improvement in ecological condition and associated benefits of improved watershed condition and improved water quality through the reduction of the sediment and salt loads in the surface runoff.

b. Wildlife and Livestock

The proposed action would result in an increase in quantity and quality of forage available to livestock and wildlife.

c. Wild Horses

The reduction in horse numbers would bring the forage demand closer to the forage production capability of the range. This would aid in achieving proper forage utilization levels and resource objectives of the Land Use Plan and allotment specific objectives.

The effects of selective removals of horses from a herd have not been analyzed in any other NEPA document to date. It is projected that population dynamics of the herd would be significantly altered after return of the "unadoptable" 10+ year old horses to the range. Also, herd size should continue to decrease for several years before rebounding, due to the removal of the main reproductive age classes.

Wild horse viewing opportunities would be diminished after the gather due to the reduced numbers.

d. Cultural Resources and Threatened and Endangered Species

A clearance for cultural resources and T&E species would be conducted prior to any surface disturbance activity. Any resources located would be avoided.

e. Wilderness

The Fox Range and Pole Creek WSAs are affected by the proposed gather. Implementation of the proposed action would result in improved ecological condition with associated watershed and soil benefits and would enhance wilderness values by returning the range to a more natural condition.

f. Mitigating Measures and Residual Impacts

The following mitigating measures will be a part of the proposed action:

1. Cultural resource and T&E inventories will be conducted prior to setting up capture and holding facilities. Any resources identified will be avoided.
2. No surface disturbing activities are anticipated. Unanticipated surface disturbing activities will be approved only after cultural and T&E clearance. Under no circumstances will they occur inside a WSA.
3. All phases of the gather and processing operation will be carried out according to Bureau policy with the intent of conducting as safe and humane an operation as possible. Rate of movement of horses, distance traveled and the animals ability to make it to the trap site will be carefully monitored. If undue stress is likely to be placed on animals already in poor condition, the gather will be suspended and nature allowed to take its course.
4. Cross country travel within WSA boundaries would be allowed so long as it does not cause impacts inconsistent with the requirements of the non-impairment criteria outlined in the Interim Management Policy and Guidelines for Lands Under Wilderness Review.

No Impacts

The following critical elements are not affected: Air Quality, ACEC, Farmlands, Floodplains, Native American Religious Concerns, Solid or Hazardous Wastes, Wild and Scenic Rivers, and Paleontological Resources.

Alternative I

This alternative would have the same direct and indirect impacts as the proposed action. In addition, the impacts associated with removal of younger age classes on a wild horse herd would be exacerbated due to the greater numbers of animals removed. However,

this would be mitigated somewhat by maintaining 50% younger age classes (-0-9.)

#### Alternative II

No direct environmental impacts would result, since there would be no gather operations. Wild horses would be stressed even further by severe weather conditions. Death of horses from starvation would occur.

EAW-NV-020-

#### Alternative III

Logistically, the feeding of horses scattered over 177,000 acres would be very expensive. Grass hay could be purchased to try and minimize death loss due to diet change. In the Winnemucca District we have 10,000 horses scattered over 20 HMA's and 5 HA's. If we select feeding as an alternative, it would be logistically and economically impossible if widespread starvation resulted from a hard winter. This is a very real possibility during this difficult winter of 1992-93. Within the Fox & Lake HMA it is more cost effective to gather the horses and care for them at Palomino Valley.

### Decision Record

#### Gather and Removal of Wild Horses from the Fox and Lake Range Herd Management Area

#### I. Proposed Action and Alternatives

- A. Proposed Action - The proposed action is to remove approximately 400 wild horses from the Fox and Lake Range HMA, to prevent death loss of horses from starvation. Criteria for removal would be animal condition.
- B. Alternative I - Remove approximately 500 wild horses aged 9 and younger. Criteria for removal would be animal age.
- C. Alternative II - No wild horses would be gathered.

#### II. Decision and Rationale

The decision is to adopt the proposed action. Alternative I is rejected because many older animals may die that could have been saved at PVC and returned to the range. Alternative II is rejected, as under this alternative there is an unacceptable risk of major death losses of horses. Alternative III is rejected due to costs and logistics.

#### III. Mitigation, Monitoring and Compliance

The following mitigating measures will be a part of the proposed action:  
1. Cultural resource and T&E inventories will be conducted prior to

setting up gathering and holding facilities. Any resources identified would be avoided.

2. No surface disturbing activities are anticipated. Unanticipated surface disturbing actions will be approved only after cultural and T&E clearance.

3. All phases of the gather, capture and processing operation will be carried out according to Bureau policy with the intent of conducting as safe and humane an operation as possible. Animal condition will be carefully monitored throughout the gather operation.

4. All actions taking place within a Wilderness Study Area would be in compliance with the Bureau's Interim Management Policy for lands under wilderness review.

IV. Conclusion

The proposed action is in conformance with the Sonoma-Gerlach Land Use Plan. Based on the EA, no significant environmental impacts will result and an EIS in addition to this EA is not required.

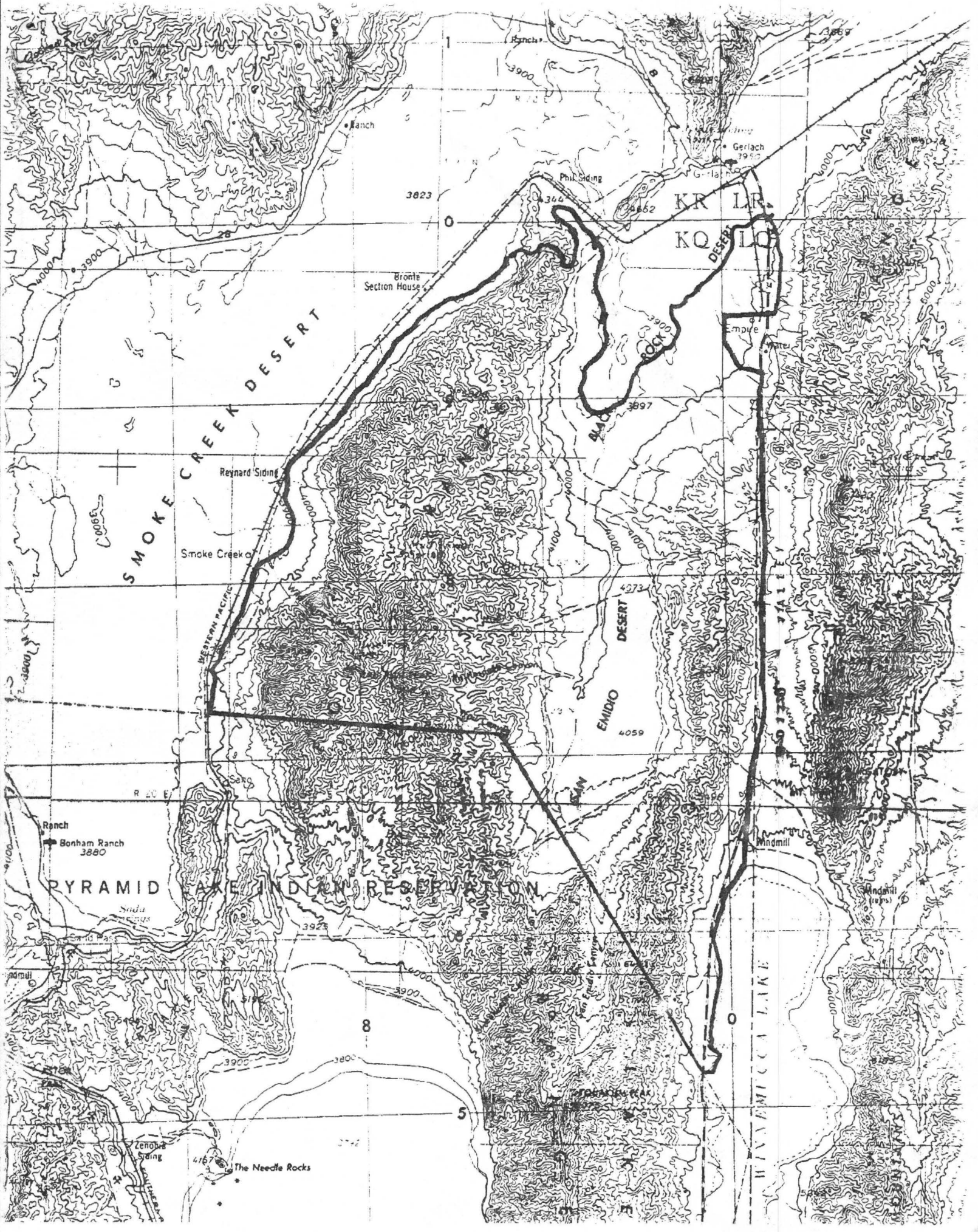
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Area Manager, Sonoma-Gerlach Resource Area

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Date







2/12/93

# W H O A

WILD HORSE ORGANIZED ASSISTANCE  
P.O. BOX 555  
RENO, NEVADA 89504  
(702) 851-4817

## BOARD OF TRUSTEES

DAVID R. BELDING  
JACK C. McELWEE  
GORDON W. HARRIS

### In Memoriam

LOUISE C. HARRISON  
VELMA B. JOHNSTON, "Wild Horse Annie"  
GERTRUDE BRONN

February 12, 1993

Bud Cribley, Area Manager  
Sonoma-Gerlach Resource Area  
Winnemucca District Office  
705 East 4th Street  
Winnemucca, Nevada 89445

Dear Mr. Cribley,

Thank you for the notification for the Fox/Lake Full Force and Effect Emergency Gather.

The emergency gather is the only humane alternative to mitigate an ongoing and predicted catastrophic event for the herd.

Comments to the text of this document will be delayed until further inquiry is completed. If you have any questions, please feel free to contact us.

Sincerely,

DAWN Y. LAPPIN  
Director

BOB MILLER  
Governor

STATE OF NEVADA

CATHERINE BARCOMB  
Executive Director



**COMMISSION FOR THE  
PRESERVATION OF WILD HORSES**

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Dawn Lappin  
Reno, Nevada

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