

1-24-94



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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

IN REPLY REFER TO:
4720.1
(NV-026.8)

January 24, 1994

Dear Interested Party:

Enclosed is the final approved Winter 1994 Wild Horse Removal Plan and Environmental Assessment for the Black Rock Range; East and West, Calico Mountains, and Warm Springs Canyon Herd Management Areas (HMA's), along with the Decision Record/Finding of No Significant Impact for these documents.

This action constitutes my final decision for approval of the proposed action as analyzed in the environmental assessment and to implement the Winter 1994 Wild Horse Removal Plan. The action is in conformance with the Wild and Free Roaming Horse and Burro Act of 1971 (P.L. 92-195) section 1 and section 3(b)(1) and (2), as amended, the Sonoma-Gerlach and Paradise-Denio Land Use Plans dated July 9, 1982.

This decision is issued Full Force and Effect to allow for the immediate removal of excess wild horses from the Black Rock Range; East and West, Calico Mountains, and Warm Springs Canyon Herd Management Areas (HMA's) to reach the established appropriate management level in each of these HMA's. Immediate removal of wild horses in excess of the established appropriate management level is necessary to restore the range to a thriving natural ecological balance, to avert imminent damage to the range, to protect wildlife habitat (i.e. Lahontan cutthroat trout, desert dace) as well as to protect the wild horse population from a potential loss due to winter weather conditions. The full force and effect determination is in accordance with the code of federal regulations 43 CFR 4770.3(c).

Within 30 days from receipt of this decision, you have the right of appeal to the Board of Land Appeals, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, in accordance with the code of federal regulations 43 CFR, part 4, subpart E. You are required to provide a Statement of Reasons to the Board of Land Appeals and a copy to the Regional Solicitors Office, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, CA 95825-1890. Please provide this office with a copy of your appeal and Statement of Reasons. The appellant has the burden of showing that the decision appealed from is in error.

If you have any questions concerning this final decision, please contact Tom Seley at (702) 623-1500, or write to the address listed above.

Sincerely yours,

District Manager

Enclosure

U.S. DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

Winnemucca District Office

Paradise-Denio Resource Area
&
Sonoma-Gerlach Resource Area

Winter 1994

Wild Horse Removal Plan

Winter 1994
Wild Horse Removal Plan

I. INTRODUCTION

The intent of this removal plan is to outline the methods and procedures to be used in the capture of approximately 2,100 wild horses and removal of approximately 1200 wild horses from the Black Rock Range: East and West, Calico Mountains and Warm Springs Canyon Herd Management Areas (HMAs). The removal would reduce the wild horse population in the Calico Mountains and Warm Springs Canyon HMA's to near the Appropriate Management Level (AML), while the Black Rock Range will be substantially above AML. The removal is proposed to begin on January 17, 1994 and to be completed by March 5, 1994.

II. GENERAL AREA DESCRIPTION - BACKGROUND DATA

A. Location

The capture areas are located in Humboldt County and northeast Washoe County, north of Gerlach, Nevada. Refer to the attached maps for the specific location of the capture areas.

1. Black Rock Range: East (NV-209) and West (NV-227) HMA's

The Black Rock Range is located in the west-central portion of the Paradise-Denio Resource Area and the northwest portion of the Sonoma-Gerlach Resource Area. The Black Rock Range East HMA is located within the Paiute Meadows Allotment and the Black Rock Range West is located within the Soldier Meadows Allotment. The area is bordered on the north by the Charles Sheldon National Antelope Range, on the east and south by the Black Rock Desert, and on the west by the Black Rock Desert, the Summit Lake Indian Reservation and the Warm Springs Canyon HMA. The elevation ranges from 4,000 feet at the valley floor to 8,508 feet at Pahute Peak.

The area is comprised of approximately 195,694 acres; 183,715 acres (94%) of public land and 11,979 acres (6%) of private land.

The capture area contains the entire North Black Rock Range and Pahute Peak Wilderness Study Areas (WSA's), the Lahontan Cutthroat Trout Natural Area, and the western portion of the Black Rock Desert WSA. The designation of the Lahontan Cutthroat Trout Natural Area resulted in the area receiving Instant Study Area (ISA) status, which affords the same management as a WSA. Refer to the attached maps for the specific location of the WSA's and ISA.

2. Calico Mountains HMA (NV-222)

The Calico Mountains HMA is located within the northwest portion of the Sonoma-Gerlach Resource Area in the Buffalo Hills, Leadville, and Soldier Meadows Allotments. There is 36% of the HMA within the Buffalo Hills Allotment, 34% within the Leadville Allotment, and 30% within the Soldier Meadows Allotment. The area is bordered on the north by the Warm Springs Canyon HMA, on the east by the Black Rock Desert, on the south by the Black Rock Desert and Granite Range HMA, and on the west by the Susanville/Winnemucca District boundary. Elevations range from 4,000 feet at the valley floor to 8,491 feet at Donnelly Peak.

The area is comprised of approximately 157,166 acres; 157,066 acres (99.9%) public land and 100 acres (.1%) private land.

The capture area contains the Calico Mountains and High Rock Lake WSA's. Refer to the attached maps for the specific location of the WSA's.

3. Warm Springs Canyon HMA (NV-226)

The Warm Springs Canyon HMA is located in the northwest portion of the Sonoma-Gerlach Resource Area in the Soldier Meadows Allotment. The area is bordered on the north by the Charles Sheldon National Antelope Range, on the east by the Black Rock Range West HMA and Summit Lake Indian Reservation, on the south by the Calico Mountains HMA, and on the west by the Susanville/Winnemucca District boundary. Elevations range from 4,550 at the valley floor to 7,084 feet at Trough Mountain.

The area is comprised of approximately 83,136 acres; 82,485 acres (99%) public land and 651 acres (1%) private land.

There are no WSA's contained within the capture area.

B. Justification

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."

1. Black Rock Range: East and West HMA's

The Paiute Meadows Allotment Evaluation and Final Full Force and Effect Multiple Use Decision dated April 12, 1993, and the Soldier Meadows Allotment Re-Evaluation and Final Multiple Use Decision combined the Black Rock Range: East and West HMA's for the purpose of managing the wild horse population within the two HMA's as one population. The AML for the Black Rock Range is established at 186 head of wild horses in order to maintain a thriving natural ecological balance.

2. Calico Mountains HMA

The Buffalo Hills Allotment Re-Evaluation and Final Full Force and Effect Multiple Use Decision dated February 9, 1993 established the AML for the 36% of the HMA contained within the allotment. The Leadville Allotment Re-Evaluation and Final Multiple Use Decision established the AML for the 34% of the HMA contained within the allotment. The Soldier Meadows Allotment Re-Evaluation and Final Multiple Use Decision established the AML for the 30% of the HMA contained within the allotment. The following table lists the AML to maintain a thriving natural ecological balance for the HMA by allotment.

<u>Allotment</u>	<u>AML Horses</u>
Buffalo Hills	142
Leadville	126
Soldier Meadows	<u>65</u>
Total	333

3. Warm Springs Canyon HMA

The Soldier Meadows Allotment Re-Evaluation and Final Multiple Use Decision established that 175 wild horses and 24 burros is the AML that will maintain a thriving natural ecological balance within the HMA.

The removal plan will not be implemented until a Final Multiple Use Decision has been issued and is in effect for the Leadville and Soldier Meadows Allotments.

C. Reference to Environmental Assessment (EA)

An environmental assessment (No. NV-020-04-009) was prepared analyzing the environmental impacts of adjusting the numbers and age structure of wild horses in the Black Rock Range; East and West, Calico Mountains, and Warm Springs Canyon HMA's. A Programmatic EA (No. NV-020-7-24) analyzing the environmental consequences and

mitigating measures of different gathering methods was prepared and distributed for public comment 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. This document is available for review at the Winnemucca District Office.

D. Population and Removal Data

The following table shows the AML, current population estimates, and number of wild horses and burros to remain in the capture areas. The population estimates are the results of a helicopter census conducted in September 1993.

<u>Capture Area</u>	<u>AML Horses/Burros</u>	<u>Population Estimate Horses/Burros</u>	<u># to Remain Horses/Burros</u>
Black Rock Range	186/0*	901/0	186/0
Calico Mountains	333/0*	722/7	333/0
Warm Springs Cyn.	175/24	435/16	175/16

* There were no Burros found in the HMA when the Wild Free-Roaming Horse and Burro Act of 1971 (P.L. 92-195) was passed.

Age structure information from past removals in these HMA's indicate that approximately 55% of the population is 5 years of age or younger. If the age structure of the current population is similar, approximately 1,200 horses will be removed from the HMA's.

Based on current policy, wild horses removed from HMA's cannot exceed 5 years of age, while horses removed from outside HMA's, private land or emergency gather areas (i.e. drought) cannot exceed nine years of age. However, horses which do not meet these criteria may be removed if adopted within Nevada.

All captured animals, five and younger will be shipped to the Palomino Valley Corrals. Wild Horses that are six years of age or older will be released back into their respective HMA's, if not selected for removal. Mares with foals will be released separately from the other release animals to ensure that the foals do not become separated from the mare.

Prior to release of older animals, each horse will be freeze branded on the left hip with the last two digits of the capture area HMA number to assist with the determination of movement between HMA's and the Susanville District. Blood sampling may be conducted on approximately 10% of the captured animals to collect base line genetic information.

III. 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.

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.
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.

The terrain in the removal areas varies from flat valley bottoms to mountainous, and the animals may be located at all elevations (ranging from 4,000 feet to 8,508 feet) depending upon weather conditions and precipitation.

Experience gained from past removals in these areas indicates the proposed action may cause undue stress to the animals. It will be difficult to remove animals from these areas without some concern for the welfare of the animals due to the following reasons.

- a. The parent material in the capture areas ranges from granitic to basalt parent material. The volcanic material

is very sharp, and as a result, there is concern that some animals hoofs and fetlocks may become injured, especially the younger animals.

- b. There are steep and extensive escarpments in the capture areas which limit the areas where animals can be brought into the trap or ropers.

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 evaluation will also arrive at a conclusion as to whether the level of activity is likely to cause undue stress to the animals, and whether such stress would be acceptable to the animals if veterinarian expertise were present, or whether a delay in the capture activity is warranted. If it is determined that the capture efforts necessitate the services of a veterinarian, one will be obtained before the capture will proceed.

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 two trap sites 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. Trap sites located within WSA's shall be

constructed on roads or ways and shall not extend farther than 50 feet from the edge of the road or way. 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 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.
8. Alternate pens within the holding facility shall be furnished by the Contractor to separate animals with small foals, sick and injured animals, and estray 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 animals to be transported from the trap site to the temporary holding corral will require separation of small foals and/or weak animals from

the rest should it appear that the animals may be injured during the trip. The distance and condition of the road will be considered 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 may require the contractor to off load horses should it appear that 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 dust 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 80 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.

Periodic checks by BLM employees will be made as the animals are transported along dirt roads. If speed restrictions are in effect, then BLM employees will, at times, follow and/or time trips to ensure compliance.

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 Contractors 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.
5. The contractor shall provide the Cor/PI with the total flight hours flown at the completion of the delivery order. The COR must submit a completed SERVICE CONTRACT FLIGHT HOURS REPORT to the local aviation manager and to the Contracting Officer.

IV. Responsibility and Lines of Communication

The Contracting Officers Representative, Tom Seley and Project Inspectors (Ron Hall, Nadine Jackson and Dave Stockdale) from the Winnemucca District, have the direct responsibility to ensure the Contractor's compliance with the contract stipulations. However, the Sonoma-Gerlach Area Manager, Paradise-Denio 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 Valley 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 inquires will be handled through the Sonoma-Gerlach Area Manager. This individual will be the primary contact and will coordinate the contract with the Palomino Valley 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 enforced vigorously.

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

V. Signatures:

Prepared by: T Selan Date 1-19-94
Wild Horse and Burro Specialist
Sonoma-Gerlach Resource Area

Reviewed by: Ron Hill Date 1-19-94
Wild Horse and Burro Program Leader

Recommended by: [Signature] Date 1-19-94
Area Manager
Sonoma-Gerlach Resource Area

Recommended by: [Signature] Date 1-19-94
Area Manager
Paradise-Denio Resource Area

Approved by: Ron Wenker Date 1/24/94
District Manager

Preliminary Environmental
Assessment
for the
Winter 1994 Wild Horse Removal

Environmental Assessment
Winter 1994
Wild Horse Removal

I. Description of Alternatives

A. Background Information

This document has been prepared to assess the environmental impacts of adjusting the numbers and age structure of wild horses in the Black Rock Range; East and West, Calico Mountains, and Warm Springs Canyon Herd Management Areas (HMAs). 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

The Wild Free-Roaming Horse and Burro Act of 1971 (Public Law 92-195) Section 3(b)(1), as amended, states, " the Secretaries of Interior and Agriculture shall determine appropriate management levels (AML) 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) as amended 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 from the range so as to restore a thriving natural ecological balance to the range and protect the range from the deterioration associated with over population."

The purpose of the proposed action is to remove all wild horses five years and younger from the Black Rock Range, Calico Mountains, and Warm Springs Canyon HMA's in conformance with the Strategic Plan For Management Of Wild Horses And Burros On Public Lands (June 1992). The Paiute Meadows, Soldier Meadows, Leadville and Buffalo Hills Allotment evaluation's and multiple use decision's established the AML's for the proposed capture areas.

C. Proposed Action

The proposed action is to remove all animals (5 years and younger) in excess of AML in the Calico Mountains and Warm Springs Canyon HMA. Due to Bureau's selective removal policy, all animals five years of age and younger would be removed from the Black Rock Range, however the area could remain above AML.

The Paiute Meadows Allotment Evaluation and Final Full Force and Effect Multiple Use Decision dated April 12, 1993, and the Soldier Meadows Allotment Re-Evaluation and Final Multiple Use Decision established the appropriate management level (AML) for the Black Rock Range at 186 head of wild horses in order to maintain a thriving natural ecological balance.

The Buffalo Hills Allotment Re-Evaluation and Final Full Force and Effect Multiple Use Decision dated February 9, 1993, the Leadville Allotment Re-Evaluation and Final Multiple Use Decision, and the Soldier Meadows Allotment Re-Evaluation and Final Multiple Use Decision established the AML for the Calico Mountains HMA at 333 head of wild horses in order to obtain a thriving natural ecological balance.

The Soldier Meadows Allotment Re-Evaluation and Final Multiple Use Decision established the AML for the Warm Springs Canyon HMA at 175 wild horses and 24 burros in order to obtain a thriving natural ecological balance.

The following table shows the AML, current population estimates, and estimated number of wild horses and burros to remain in the capture areas. The population estimates are the results of a helicopter census conducted in September 1993.

<u>Capture Area</u>	<u>AML</u>	<u>Population Estimate</u>	<u># to Remain</u>
	<u>Horses/Burros</u>	<u>Horses/Burros</u>	<u>Horses/Burros</u>
Black Rock Range	186/0*	901/0	186/0
Calico Mountains	333/0*	743/7	333/0
Warm Springs Cyn.	175/24	435/16	175/16

* There were no Burros found in the HMA when the Wild Free-Roaming Horse and Burro Act of 1971 (P.L. 92-195) was passed.

Age structure information from past removals in these HMA's indicate that approximately 55% of the population is 5 years of age or younger. If the age structure of the current population is similar, approximately 1,200 horses (55% of 2179) would be removed from the HMA's.

Prior to release of older animals, each horse will be freeze branded on the left hip with the last two digits of the capture area HMA number to assist with the determination of movement between HMA's and the Susanville District. Blood sampling may be conducted on approximately 10% of the captured animals to collect base line genetic information.

The proposed removal operation is projected to begin January 17, 1994, and to be completed by March 5, 1994.

D. Alternatives to the Proposed Action

NO ACTION - Wild horses would not be gathered from the Black Rock Range, Calico Mountains, and Warm Springs Canyon HMA's which would result in continued degradation of the upland and riparian habitat.

II. Affected Environment

A. Black Rock Range: East (NV-209) and West (NV-227) HMA's

The Black Rock Range is located in the Paradise-Denio and Sonoma-Gerlach Resource Areas. The Black Rock Range East is located within the Paiute Meadows Allotment and the Black Rock Range West is located within the Soldier Meadows Allotment. Elevations range from 4,000 feet at the valley floor to 8,508 feet at Pahute Peak. Vegetative types found within the HMA's vary from black greasewood, shadscale/budsage-grass at lower elevations to mountain sagebrush-bunch grass, mountain mahogany and quaking aspen at higher elevations.

The threatened Lahontan cutthroat trout (LCT) is found in Mahogany Creek, Summer Camp Creek, and Snow Creek. In addition to the existing populations of LCT, Coleman Creek and Battle Creek have been identified as potential re-introduction streams.

The area is comprised of approximately 195,694 acres; 183,715 acres (94%) of public land and 11,979 acres (6%) of private land.

The capture area contains the entire North Black Rock Range and Pahute Peak Wilderness Study Areas (WSA's), the Lahontan Cutthroat Trout Natural Area, and the western portion of the Black Rock Desert WSA. The designation of the Lahontan Cutthroat Trout Natural Area resulted in the area receiving Instant Study Area (ISA) status, which affords the same management as a WSA. Refer to the attached maps for the specific location of the WSA's and ISA.

B. Calico Mountains HMA (NV-222)

The Calico Mountains HMA is located within the Sonoma-Gerlach Resource Area in the Buffalo Hills, Leadville, and Soldier Meadows Allotments. Elevations range from 4,000 feet at the valley floor to 8,491 feet at Donnelly Peak. Vegetative types found within the HMA vary from shadscale/budsage-grass at lower elevations to mountain sagebrush-bunch grass, low sagebrush-bunch grass and quaking aspen at higher elevations.

Donnelly Creek has been identified as a potential LCT re-introduction stream.

The area is comprised of approximately 157,166 acres; 157,066 acres (99.9%) public land and 100 acres (.1%) private land.

The capture area contains the Calico Mountains and High Rock Lake WSA's. Refer to the attached maps for the specific location of the WSA's.

C. Warm Springs Canyon HMA (NV-226)

The Warm Springs Canyon HMA is located in the Sonoma-Gerlach Resource Area within the Soldier Meadows Allotment. Elevations range from 4,550 at the valley floor to 7,084 feet at Trough Mountain. Vegetative types found within the HMA vary from shadscale/budsage-grass at lower elevations to mountain sagebrush-bunch grass, low sagebrush-bunchgrass and mountain mahogany at higher elevations.

The threatened desert dace is found in a number of hot springs in the southeastern area of the HMA.

The area is comprised of approximately 83,136 acres; 82,485 acres (99%) public land and 651 acres (1%) private land.

There are no WSA's contained within the capture area.

D. Critical Elements

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.

III. Environmental Consequences

A. Impacts of Proposed Action

1. Vegetation, soil, and water

Implementation of the proposed action would reduce the wild horse population to near AML in the Calico Mountains and Warm Springs Canyon HMA's which would help to promote a thriving natural ecological balance. This would result in an increase in vegetation density, vigor, reproduction, productivity, and forage availability.

The Black Rock Range would remain substantially above AML. There would be an increase in vegetation density, vigor, reproduction, productivity, and forage availability. However it would be less than will occur in the Calico Mountains and Warm Springs Canyon HMA's .

The proposed action would lessen the impact of hoof action on the soil around unimproved springs and stream bank riparian areas which should lead to an improvement in stream bank stability and improved riparian habitat conditions. There would also be a reduction in hoof action on upland habitat area and reduced competition for available water sources.

2. Wildlife and Livestock

The proposed action would result in reduced competition which would increase the quantity and quality of forage available to livestock and wildlife. There would be less disturbance associated with wild horses along stream bank riparian habitat and adjacent upland habitat which should result in improved habitat conditions on existing and potential re-introduction LCT streams.

3. Wild Horses

Implementation of the proposed action would change the age structure within the HMA's from a normal age distribution to a population comprised primarily of horses six years and older. This may lead to a decrease in recruitment rate and a stabilization of the population. Social structure may be affected since the selective removal process would result in turning back more studs than mares, and increasing the number of bachelor bands within the capture areas. Since the outcome of this action is not known, the populations would be monitored to determine the outcome of this selective removal.

4. Wilderness

Wilderness values would be positively affected by implementation of the proposed action as it would result in an improved ecological condition of the plant communities that is aesthetically more appealing to the public than the existing situation.

B. Alternative-No Action

Wild horse populations would continue to increase. The forage resource, would continue to be degraded. Preferred forage species would continue to be over utilized resulting in decreases in vegetation densities, vigor, reproduction, productivity, and forage availability. If normal to above normal winter precipitation is received this year, there is a strong potential for a loss of wild horses from these areas.

C. Mitigating Measures

All phases of the gather and processing operation would be carried out according to Bureau policy with the intent of conducting as safe and humane an operation as possible.

To the extent possible, avoid concentration of antelope and mule deer that are 50 head or larger while herding horses from the range to the capture site.

Desert dace and LCT habitat shall be avoided while herding horses from the range to capture sites.

Trap sites shall not be placed within desert dace or LCT habitat.

As identified in programmatic EA NV-020-7-24, trap sites located within WSA's shall be constructed on roads or ways and shall not extend farther than 50 feet from the edge of the road or way.

As identified in programmatic EA NV-020-7-24, a cultural resources inventory would be conducted prior to construction of trap sites. If a cultural site is located, there would be no work conducted at that site.

Mares with foals will be released separately from other release animals to ensure that foals do not become separated from the mare.

IV. Consultation

The following individuals were contacted during the preparation of this document.

Dawn Lappin	Wild Horse Organized Assistance
Cathy Barcomb	Commission for the Preservation of Wild Horses
Tom Pogacnik	Nevada State Office (BLM) WH&B Specialist
Roy Leach	Nevada Division of Wildlife

The Fish and Wildlife Service provided a biological opinion for the proposed Soldier Meadows Allotment Re-Evaluation and Multiple Use Decision pursuant to section 7 of the Endangered Species Act of 1973. The biological opinion contained terms and conditions for the capture of wild horses which have been incorporated as mitigating measures.

CAPTURE AREAS

Warm Springs Canyon

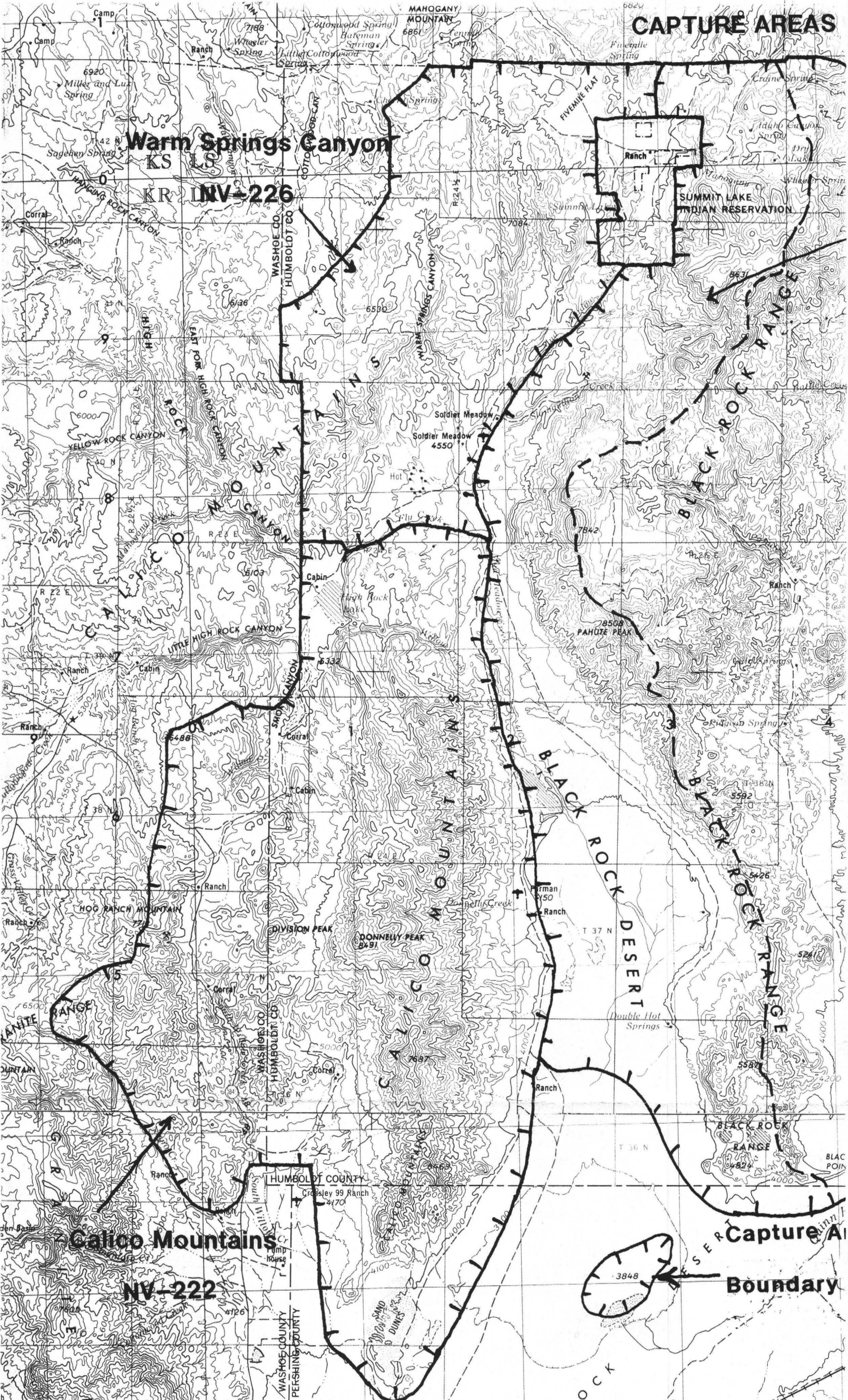
KS LS
KR INV-226

SUMMIT LAKE INDIAN RESERVATION

Calico Mountains

NV-222

SE Capture Area Boundary



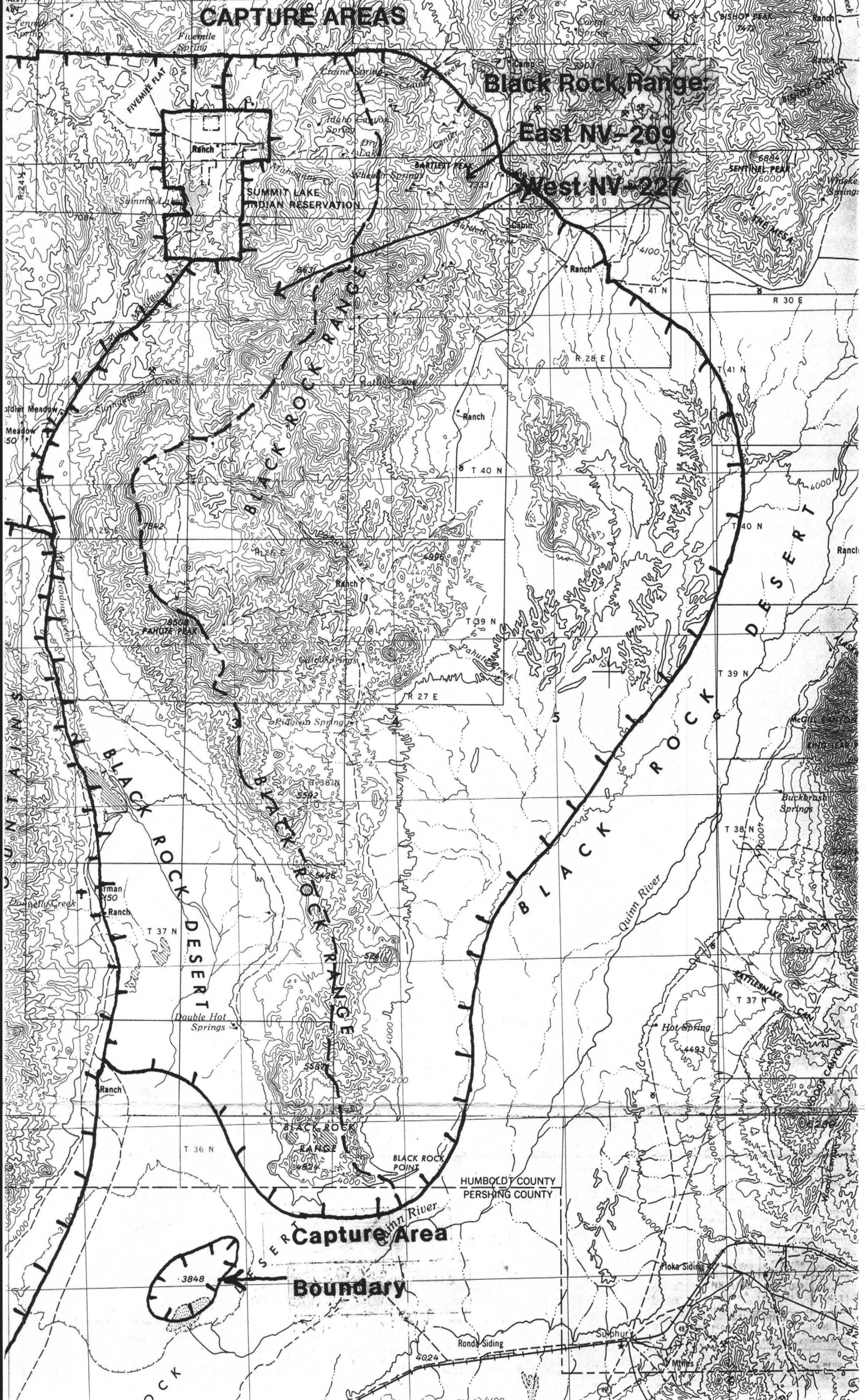
CAPTURE AREAS

Black Rock Range

East NV-209

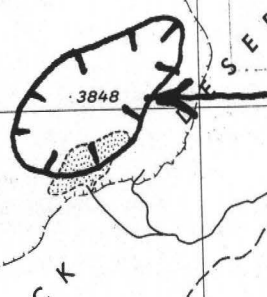
West NV-227

SUMMIT LAKE INDIAN RESERVATION



Capture Area Boundary

HUMBOLDT COUNTY
PERSHING COUNTY



Rondo Siding

Subbur

Myers

Ploka Siding

BATTLESNAKE

Hot Spring

Buckbrush Springs

Ranch

Ranch

Ranch

Ranch

Ranch

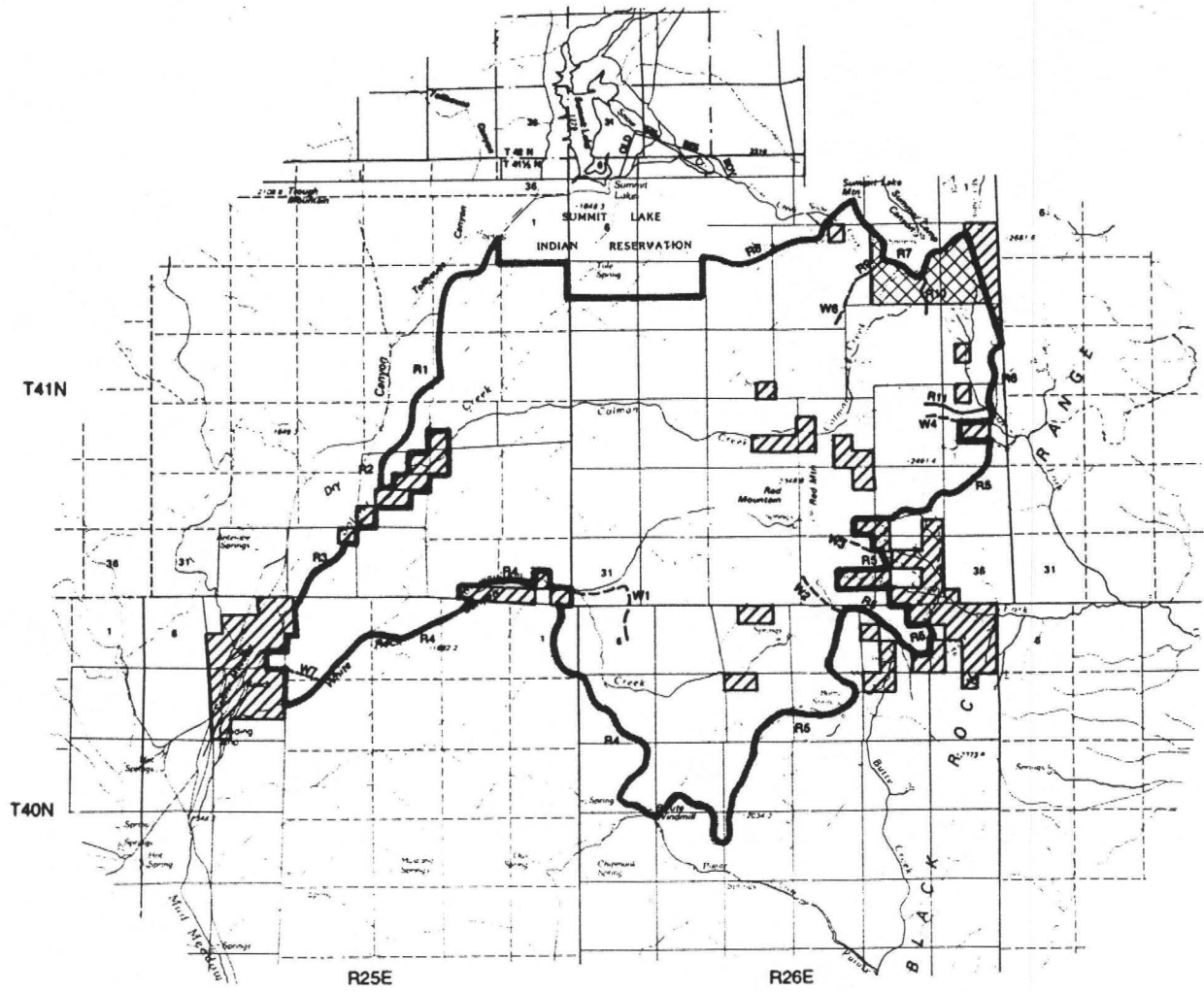
Meadow






Older Meadow


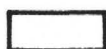
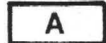
Summit Lake

Fivemile Spring

Creek

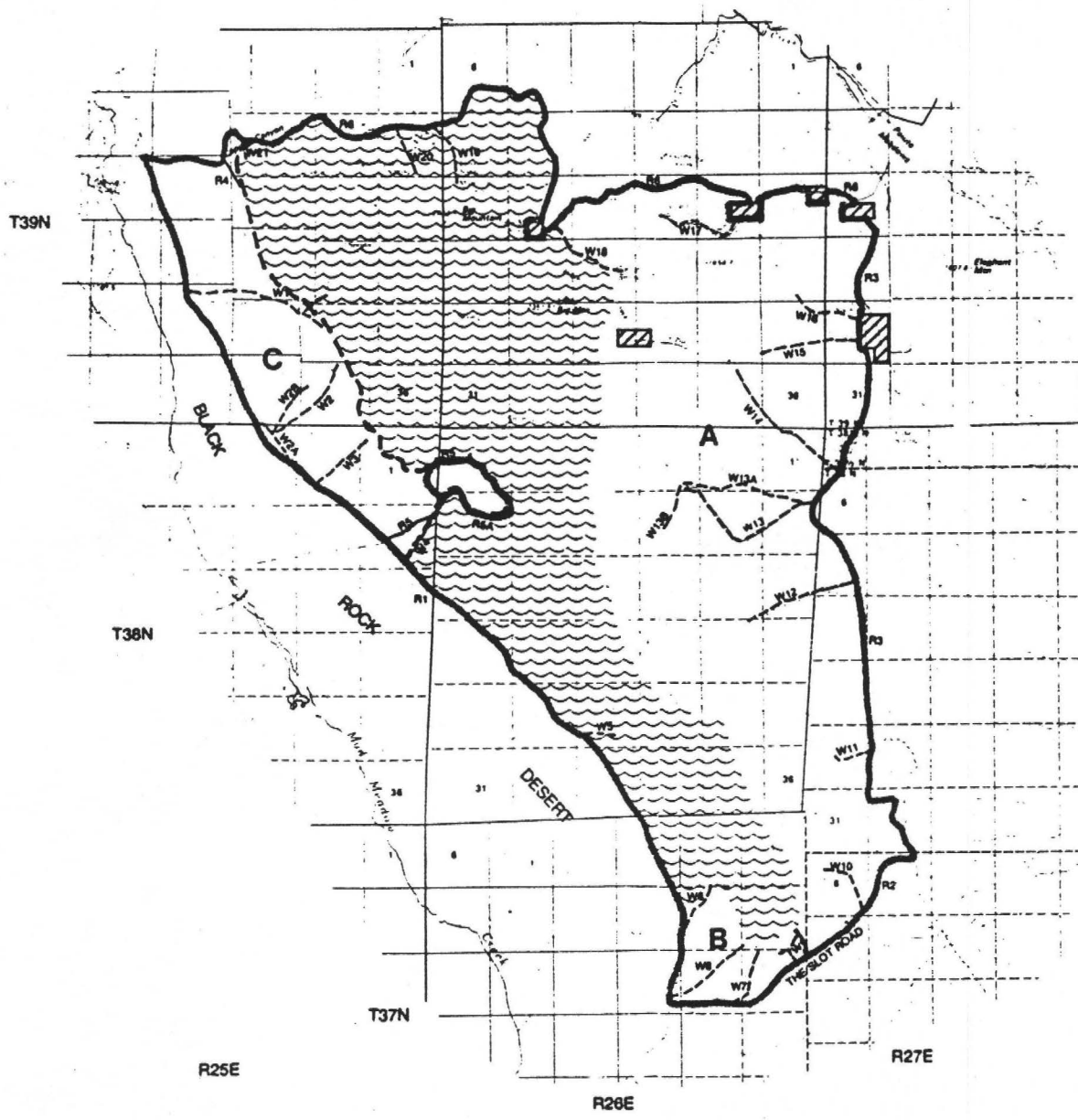




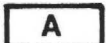




-  PORTION OF LAHONTAN CUTTHROAT TROUT INSTANT STUDY AREA WITHIN W.S.A.
-  PRIVATE LAND (SURFACE & MINERALS)
-  W.S.A. BOUNDARY
-  ROAD
-  WAY

-  PRELIMINARILY RECOMMENDED SUITABLE (None)
-  RECOMMENDED NONSUITABLE
-  ZONE (See Text)



NV-020-622 NORTH BLACK ROCK RANGE RECOMMENDATIONS



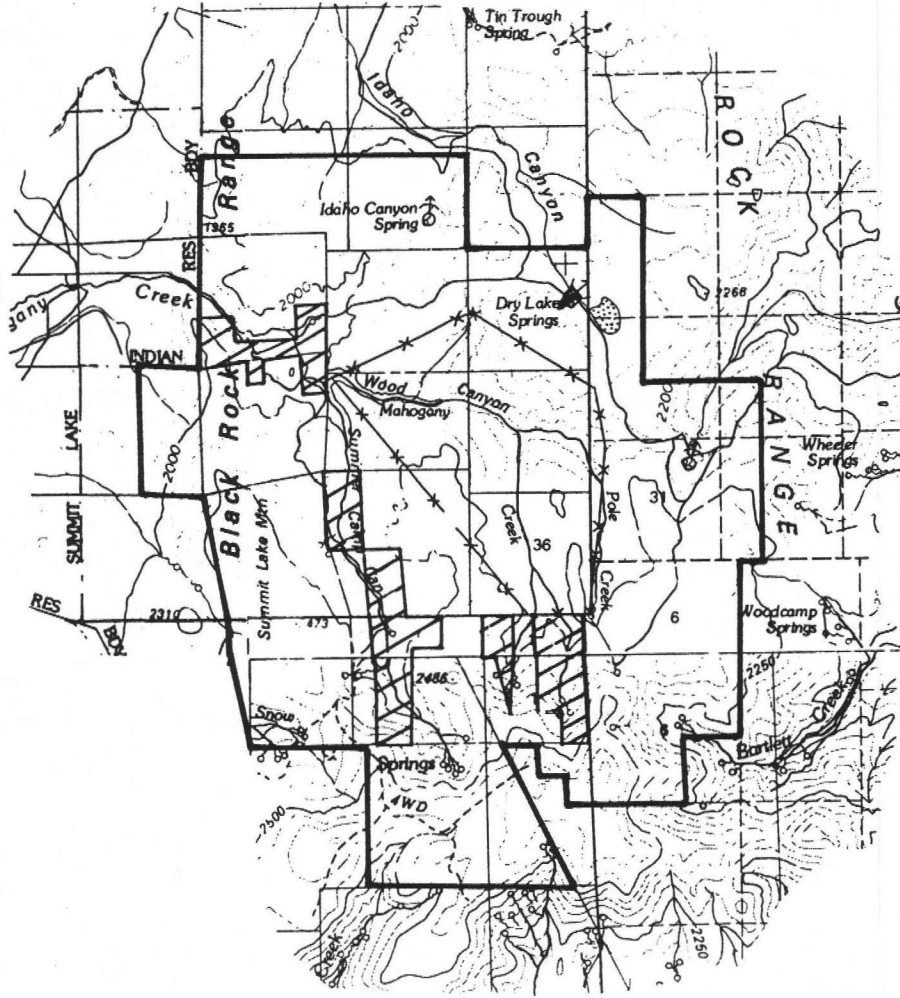
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-  RECOMMENDED NONSUITABLE
-  ZONE (See Text)
-  PRIVATE LAND(SURFACE & MINERALS)
-  W.S. A. BOUNDARY
-  ROAD
-  WAY



NV-020-621 PAHUTE PEAK (SOUTH BLACK ROCK)
RECOMMENDATIONS

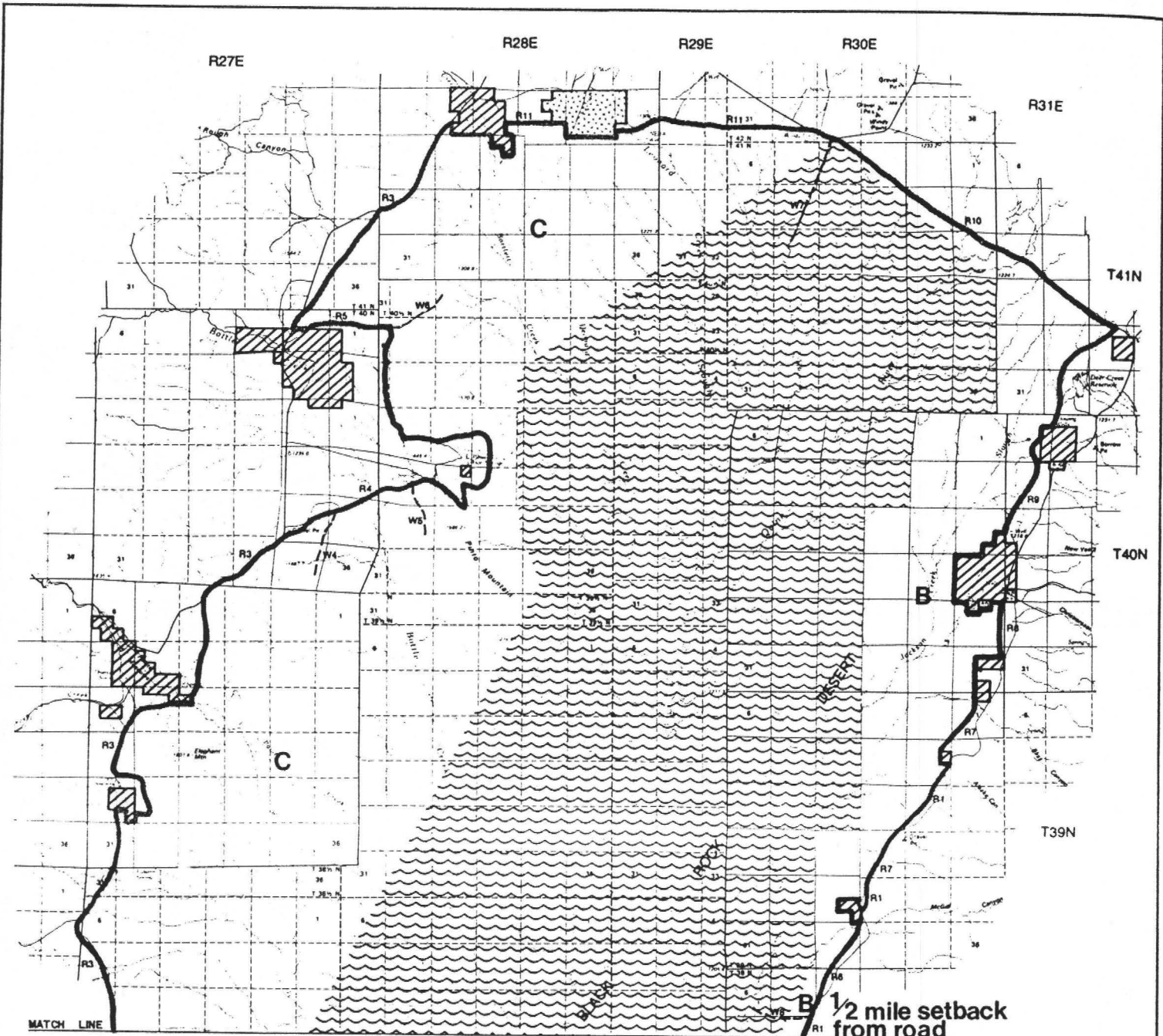
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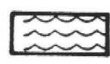
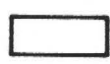
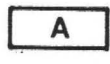





T42N

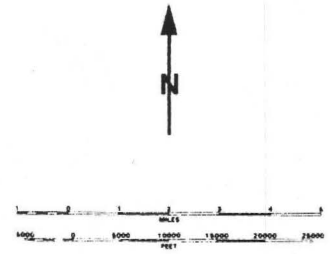


-  PRIVATE LAND
-  FENCE
-  RESERVOIR
-  DEVELOPED SPRING

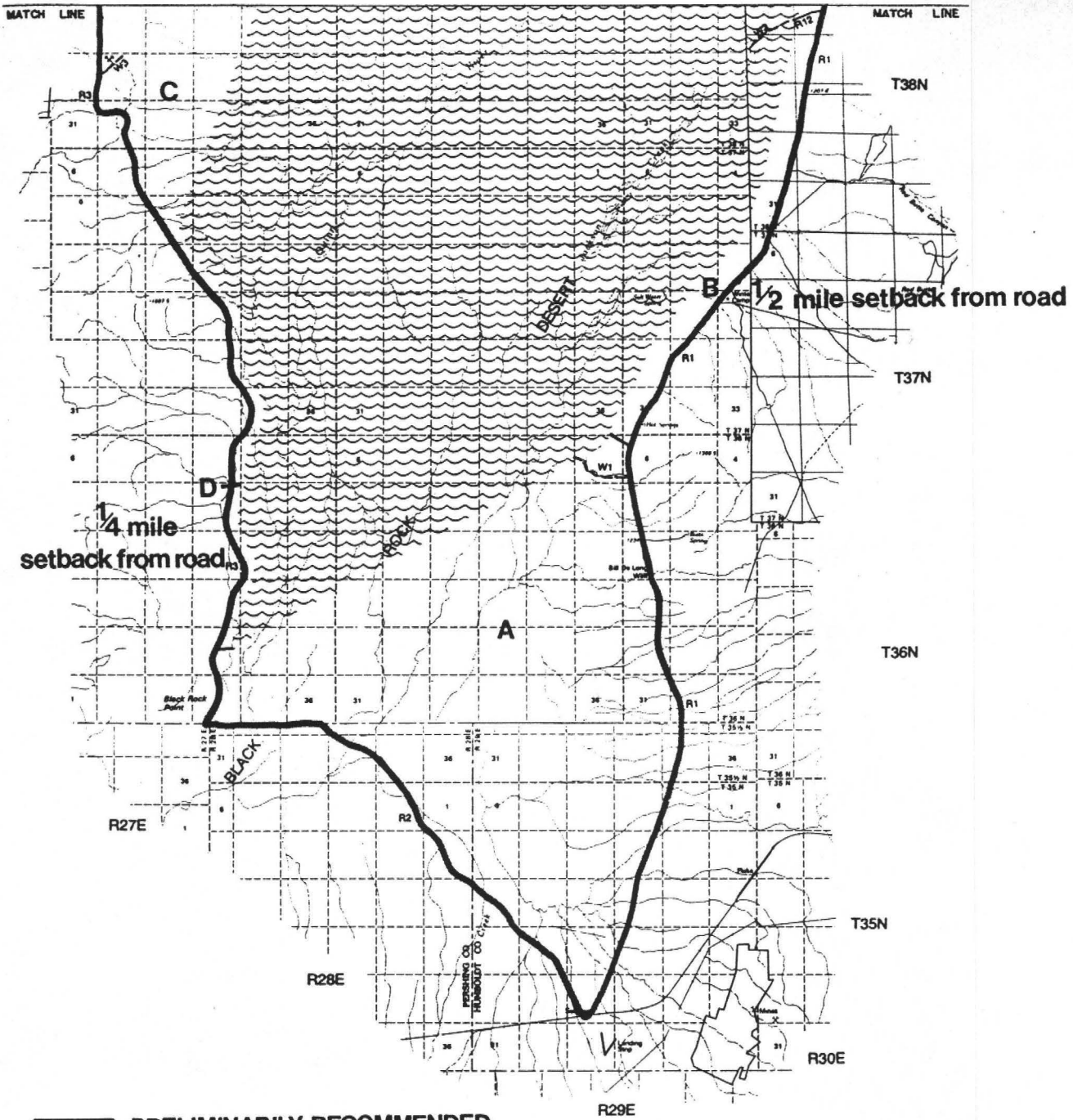
EXISTING SITUATION
LAHONTAN ISA



-  **PRELIMINARILY RECOMMENDED SUITABLE**
-  **RECOMMENDED NONSUITABLE**
-  **ZONE (See Text)**
-  **PRIVATE LAND (SURFACE & MINERALS)**
-  **PRIVATE SURFACE (PUBLIC MINERALS)**
-  **W. S. A. BOUNDARY**
-  **ROAD**
-  **WAY**



NV-020-620 BLACK ROCK DESERT - NORTH RECOMMENDATIONS



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 RECOMMENDED NONSUITABLE

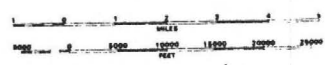
 ZONE (See Text)

 W. S. A. BOUNDARY

 ROAD

 WAY

 MINE



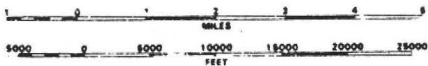
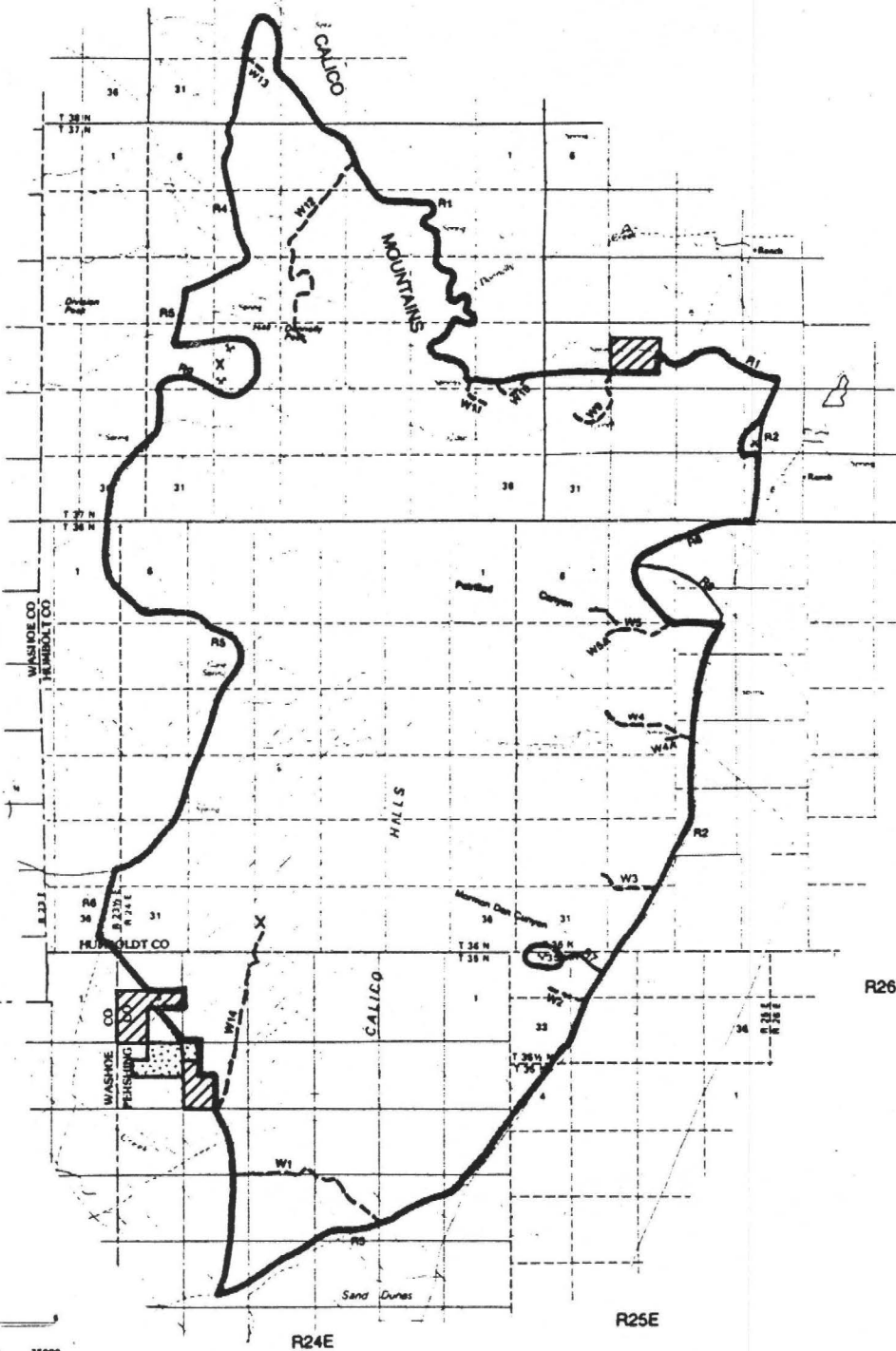
NV-020-620 BLACK ROCK DESERT - SOUTH RECOMMENDATIONS









T38N

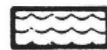
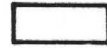

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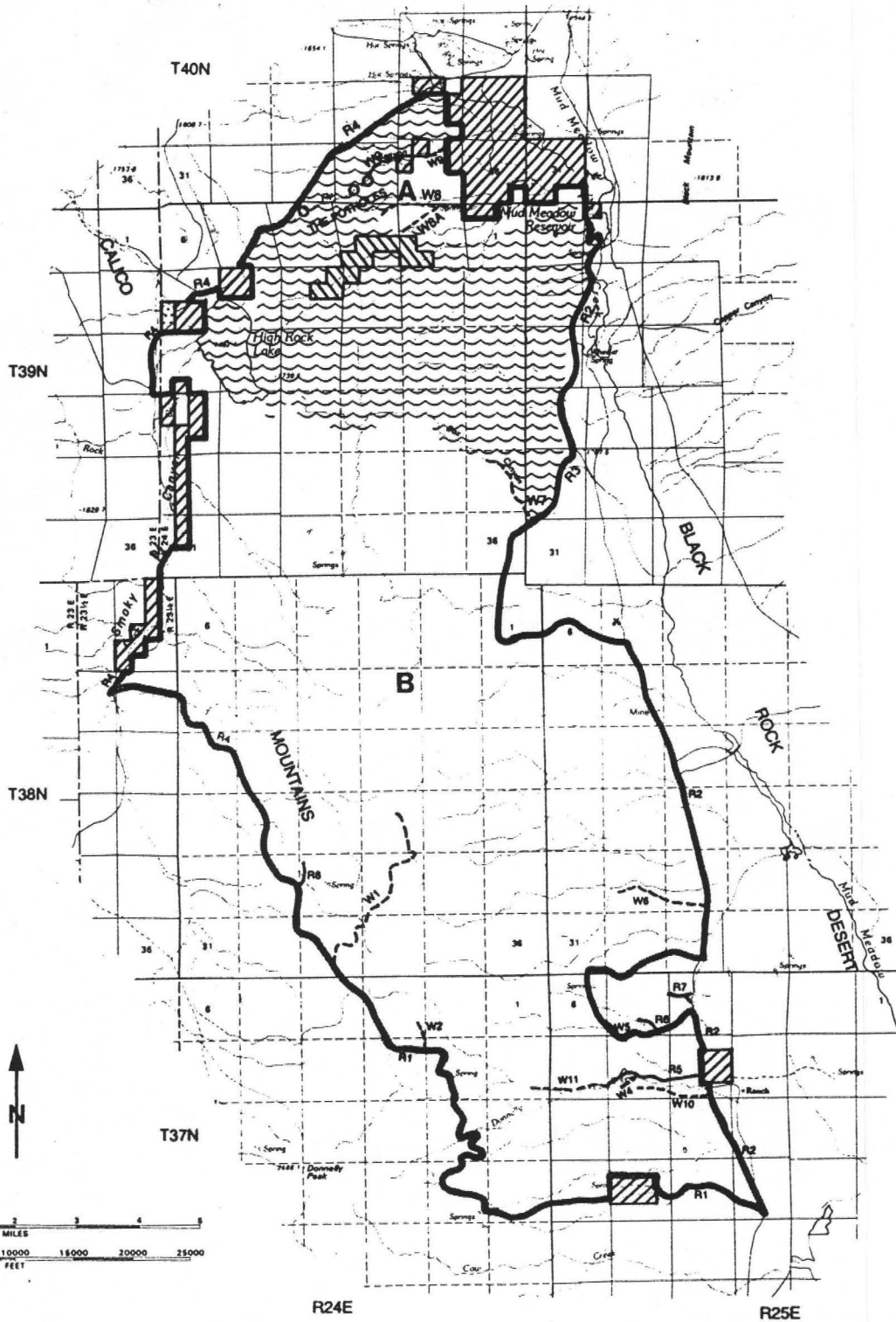
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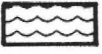
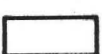
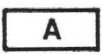
-  PRIVATE LAND (SURFACE & MINERALS)
-  PRIVATE SURFACE - PUBLIC MINERALS
-  W. S. A. BOUNDARY
-  ROAD
-  WAY
-  PROSPECT
-  MINE
-  GRAVEL PIT

-  PRELIMINARILY RECOMMENDED SUITABLE (None)
-  RECOMMENDED NONSUITABLE
-  ZONE (See Text)

NV-020-019 CALICO MOUNTAINS
RECOMMENDATIONS



-  PRIVATE LAND (SURFACE & MINERALS)
-  PRIVATE MINERALS — PUBLIC SURFACE
-  PRIVATE SURFACE — PUBLIC MINERALS
-  W. S. A. BOUNDARY
-  ROAD
-  WAY
-  GRAVEL PIT

-  PRELIMINARILY RECOMMENDED SUITABLE
-  RECOMMENDED NONSUITABLE
-  ZONE (See Text)



NV-020-007 HIGH ROCK LAKE
RECOMMENDATIONS

BOB MILLER
Governor

STATE OF NEVADA

2-16-94
CATHERINE BARCOMB
Executive Director



**COMMISSION FOR THE
PRESERVATION OF WILD HORSES**

50 Freeport Boulevard, No. 2
Sparks, Nevada 89431
(702) 359-8768

COMMISSIONERS

Paula S. Askew, *Chairperson*
Carson City, Nevada

Steven Fulstone, *Vice Chairman*
Smith Valley, Nevada

Michael Jackson
Las Vegas, Nevada

Dan Keiserman
Las Vegas, Nevada

Dawn Lappin
Reno, Nevada

February 16, 1994

Ron Wenker, District Manager
BLM-Winnemucca District Office
705 East 4th Street
Winnemucca, Nevada 89445

Subject: Appeal of the Winter 1994 Wild Horse Removal Plan and
Environmental Assessment for the Black Rock Range; East
and West, Calico Mountains, and Warm Springs Canyon HMA's

Dear Mr. Wenker,

We have reviewed the above mentioned final documents regarding the gathers in these HMA's. The State of Nevada Commission for the Preservation of Wild Horses is formally notifying you of our intent to appeal this gather plan.

According to 43 CFR Secs. 4.411 and 4.413, we are filing with you our "Notice of Appeal", our appeal points will be filed with IBLA, the Solicitor, and your District within 30 days of this notice.

Sincerely,

A handwritten signature in cursive script that reads "Catherine Barcomb".

CATHERINE BARCOMB
Executive Director

BOB MILLER
Governor

STATE OF NEVADA

4-11-94
CATHERINE BARCOMB
Executive Director



**COMMISSION FOR THE
PRESERVATION OF WILD HORSES**

50 Freeport Boulevard, No. 2

Sparks, Nevada 89431

APR 11, 1994
(702) 359-8768

COMMISSIONERS

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Carson City, Nevada

Steven Fulstone, Vice Chairman
Smith Valley, Nevada

Michael Jackson
Las Vegas, Nevada

Dan Keiserman
Las Vegas, Nevada

Dawn Lappin
Reno, Nevada

Mr. Bud Cribley
Sonoma-Gerlach Resource Area
Bureau of Land Management
705 East 4th Street
Winnemucca, Nevada 89445

RE: Appeal - Appeal of the Winter 1994 Wild Horse Removal Plan and Environmental Assessment for the Black Rock Range; East and West, Calico Mountains, and Warm Springs Canyon HMA's

Dear Bud:

The Wild Horse Commission has failed to reach agreement with the Nevada Bureau of Land Management concerning issues of our appeal. Therefore, we re-state previous errors of Soldier Meadows and Leadville Allotment Multiple Use Decisions that were the decision documents that have supported the gather plan we are appealing. The fact that this document was issued at a time when your District already had the gather crew working and a helicopter in the air prevented us from filing for a stay of the action as well as possibly filing an injunction to stop this gather, which is one of our appeal points. We have made every effort to work with the Bureau during our initial comments on these documents however our concerns were not addressed and satisfied. We have recently met with Billy Templeton, Nevada State Director and Mr. Bert Stanley from the Regional Solicitors Office in an attempt to resolve our appeal points. We have failed again to reach an agreement therefore are forced to appeal this document. In the interim until this is presented before the IBLA we are still willing to meet with you and your staff in efforts to resolve these conflicts. In the interim we are forced to file this appeal to hopefully gain your attention to these problems.

The gathers were in error because:

Use of Full Force and Effect violates Federal Regulations and prevents affected interests the right for a petition for stay of action.

Bud Cribley, Area Manager
April 11, 1994
Page 2

Consistent with the Sonoma-Gerlach Management Framework Plan, the Resource Manager issued "Agreement for Implementation and Changes in Available Livestock Forage and Livestock Grazing Use Adjustments for Leadville Allotment" on December 6, 1989. This document set the objectives and schedule for adjustments to livestock and wild horses with the permittee. According to this livestock agreement, an allotment evaluation and manager's decision were scheduled for 1993.

The Final Decision was issued January 19, 1994 at the time when the Winnemucca District had issued contracts and actively gathering wild horses within the Leadville Allotment. The Nevada State Director issued an Instruction Memorandum, November 1993, stating that Full Force and Effect Decisions must allow affected interests the 30 day comment period allowed by law to comment on documents prior to an action taking place unless an emergency situation is established. This would allow for a request for a stay of the action or if necessary an injunction to be filed. The actions taken by the District is a violation of the Directors instructions as well as 43 CFR 4.21 (58 CFR 4939, January 19, 1993) for stay (suspension) of this decision.

The Final Decision extends the current land use plan without amendment and violates Bureau of Land Management Policy.

The Final Decisions short and long term objectives for riparian habitat were extended beyond the five year schedule of the land use plan to the years 2002 and 2014, respectively.

The Sonoma-Gerlach Resource Area Management Framework Plan III was completed in 1982. Range Management Decision Objective RM - 1 clearly states:

"5. At the end of the third and fifth year of grazing following the grazing decision make necessary use adjustments based upon monitoring results and other data then available..."

Bureau of Land Management national Instruction Memorandum No. 86-706 states:

"BLM policy is to issue decisions or enter into agreements within 5 years of publication of a Range Program Summary following completion of a grazing environmental impact statement (EIS)."

The allotment evaluations and manager decisions affecting livestock and wild horse numbers or management are necessary to implement the land use plan in absence of proper activity plans. It is apparent that the Humboldt County Coordinated Resource

Bud Cribley, Area Manager

Management Planning processes and activity planning processes could not meet the land use plan schedule. Therefore, it is reasonable that management actions of the second allotment evaluation and manager's decision concerning the Leadville Allotment must achieve land use plan objectives and decisions. Extending the land use plan objectives is beyond the Resource Manager's discretion and will require amending the land use plan.

Carrying Capacity of the Leadville Allotment must be established and available forage allocated fairly to wild horses.

This Final Decision, Notice of Final Full Force and Effect Multiple Use Decision - Buffalo Hills Allotment - February 9, 1993 and Notice of Full Force and Effect Multiple Use Decision - Soldier Meadows Allotment - January 24, 1994 established the carrying capacity or appropriate management levels for the Calico Mountains Wild Horse Herd Management Area. This appropriate management level is to be in a thriving natural ecological balance with livestock to achieve the allotment specific objectives of the Leadville Allotment. The Final Decision uses different procedure and criteria to determine appropriate management levels from the Buffalo Hills and Soldier Meadows Final Decisions.

Leadville Allotment Final Decision uses 50 percent utilization of key species of riparian habitat a procedure criteria for carrying capacity computations. The Buffalo Hills and Soldier Meadows Final Decisions use 60 percent utilization as the procedure criteria in their carrying capacity computations. This criteria is not consistent with the same ecosystem that directly affects the Calico Wild Horse Herd. Allocation of available forage was proportional to the land use plan in the Leadville and Soldier Meadows Final Decision and unknown in the Buffalo Hills Final Decision. Allocation of forage to horses was arbitrary.

Carrying capacity computations and appropriate management levels were established by procedures that weight averaged use pattern mapping data. Calculations based upon formula Example C of Appendix 2 of the "Rangeland Monitoring Analysis, Interpretation and Evaluation (TR 4400-7)" do not fully consider riparian habitat. Example C assumes rangeland production is not uniform and utilization is uniform. Utilization data confirms the conclusions of the Reevaluation that livestock distribution problems are causing heavy and severe utilization of riparian habitats; thus the Final Decision, and others, are flawed in procedure to establish a carrying capacity.

The Final Decision requires compliance to the National Environmental Protection Act.

Bud Cribley, Area Manager
April 11, 1994
Page 4

Implementation of the "Strategic Plan for the management of Wild Horses and Burros on Public Lands" required the restructuring of the herds based upon adoptability. These actions were not assessed in a programmatic environmental impact statement or specific environmental assessment. Bureau of Land Management Policy must be consistent with applicable laws and regulations.

Allocation of available forage of the allotment's carrying capacity require environmental analysis and consultation of affected interests. The Sonoma-Gerlach Final Grazing Environmental Impact Statement did not set the initial stocking levels for wild horses and livestock based upon composition and compatibility with multiple use. Monitoring data must be the basis for adjustment in ungulate populations to meet land use plan objectives.

The Commission has worked long and hard with the Winnemucca District to promote good, sound, range management with appropriate stocking levels. We feel that we've made every effort possible to avoid an appeal including the most recent meeting with Mr. Bert Stanley from the Regional Solicitors Office as well as the Nevada State Director Billy Templeton. Failure to reach an agreement has forced us to finally appeal these documents.

If you would like to discuss these issues or if you have any questions, please feel free to call.

Sincerely,

CATHERINE BARCOMB
Executive Director