

**United States Department of the Interior  
Bureau of Land Management  
California Desert District  
Ridgecrest Resource Area Office  
Ridgecrest, California**

**FULL FORCE AND EFFECT DECISION  
&  
DECISION RECORD/FINDING OF NO SIGNIFICANT IMPACT  
for the  
Centennial, Slate Range and Panamint Herd Management Areas  
Wild Horse and Burro  
Gather and Removal for Fiscal Year 1997  
Environmental Assessment Number CA-065-NEPA97-01**

**Introduction**

The Ridgecrest Resource Area of the Bureau of Land Management is proposing to conduct a wild horse and burro gather and removal on public lands within the Centennial, Slate Range and Panamint Wild Horse and Burro Herd Management Areas (HMA). An Environmental Assessment (CA-065-NEPA97-01) has been prepared in compliance with the National Environmental Policy Act (NEPA). This document was prepared by BLM staff under the guidance of a Bureau interdisciplinary team and serve as both NEPA Decision Record/Finding of No Significant Impact and Full, Force and Effect Decision for the implementation of the Centennial, Slate Range and Panamint Herd Management Areas Wild Horse and Burro Gather and Removal for Fiscal Year 1997. The EA describes the potential impacts of wild horse and burro management activities for the Fiscal Year 1997 capture plan for the Centennial, Slate Range and Panamint Herd Management Areas.

**Authority and Planning Conformance**

The Proposed Action is submitted pursuant to 43 CFR 4770 and other applicable BLM regulations and policies. Other authorities are included in:

The Wild Free Roaming Horse and Burro Act of 1971; the Federal Land Policy and Management Act of 1976; the Public Range Improvement Act of 1978; California Desert Conservation Area Plan, and amendments, dated September 1980-1996 (CDCA); the BLM-NAWS Interagency Agreement, NO. B-060-A2-0002 of 1992; and the Desert Protection Act of 1994.

The Wild Free-Roaming Horse and Burro Act, as amended, 16 U.S.C. 1331-1340 provides the statutory authority for the management of wild and free-roaming horses and burros on the public lands. Section 3(b)(2) of the act provides the statutory authority for the removal of excess wild horses and burros.

The Full Force and Effect determination is in accordance with the regulations at 43 CFR 4770.3(c).

The proposed action is to comply with Federal Statutes, CDCA Plan policy and the NAWS-BLM Interagency Agreement in the management and removal of wild horses and burros in the Centennial and Slate HMA's.

### **PROJECT DESCRIPTION:**

Remove up to 150 burros from the Centennial, Slate Range and Panamint Herd Management Areas (HMAs) and the removal of up to 30 horses, 3 years of age and younger from the Centennial HMA. These animals will be transported to the Ridgecrest Wild Horse and Burro Holding Facility, where they will be placed into the Bureau of Land Management's National Wild Horse and Burro Adoption Program. The health and welfare of all the animals will be given the highest priority.

### **Proposed Action: Helicopter Assisted Wild Horse and Burro Gather and Removal in Wilderness and Non-Wilderness Lands.**

The proposed action is to capture and remove wild horses and burros from rangelands that are managed by the Federal Government (BLM and NAVY) with the assistance of a helicopter. This method for capture and removal has been utilized in the past, as part of the continuing efforts by the BLM and Navy in managing wild horse and burro populations that are compatible with the existing land use plans. The objectives, methods and procedures for the wild horse and burro reductions are described in the "Ridgecrest Resource Area / Naval Air Weapons Station Capture Plan for Wild Horses and Burros for the Centennial, Slate Range and Panamint Herd Management Areas, Fiscal Year 1997". The operation is planned to begin around February 10, 1997 and last for a maximum of 20 days.

All capture attempts shall be accomplished utilizing either helicopter - drive trapping or helicopter - roping methods. This will involve low level flights (use of motorized equipment) OVER wilderness areas, to locate and herd the animals to a capture site located outside of any designated wilderness area. There are no specific prohibitions against this type of activity in the Wilderness Act of 1964, BLM regulations 43CFR 8560 Management of Designated Wilderness Areas, or BLM Manual 8560 Management of Designated Wilderness Areas. There are specific prohibitions, in law, regulation and policy, for the landing of any aircraft in wilderness; however, under the proposed action, all helicopter landings would occur outside of wilderness areas.

**The State Director has approved the action to conduct low level helicopter flights over designated wilderness areas to gather and remove wild horses and burros from the Centennial, Slate and Panamint Herd Management Areas.**

Public Law 94-579 known as the "Federal Land Management Act", Section 404 provides for the gathering of wild horses and burros using the helicopter for the following reasons:

- 1) Provide safety for saddle horse and rider.
- 2) Increase capability to locate and herd horses to trap sites.
- 3) Increase distance and ease of herding animals.
- 4) Decrease cost per animal.

## **ALTERNATIVES INCLUDING THE NO ACTION ALTERNATIVE**

The range of alternatives to the Proposed Action includes the No Action Alternative and Alternatives to the proposed gathers that would meet the BLM's land management objectives. Since the Proposed Action would involve helicopter-assisted wild horse and burro gather and removal in wilderness and non-wilderness lands, alternatives to the Proposed Action will focus on the methodology of gathers as it relates to the land use designation. These alternatives included:

1. No Action alternative, i.e. not approving the proposed gather, was considered. The Bureau is required to analyze the No Action alternative under the Council of Environmental regulations.
2. Helicopter-Assisted Wild Horse and Burro Gather and Removal in Non-Wilderness & Non Helicopter-Assisted Wild Horse and Burro Gather and Removal in Wilderness Lands.
3. Non Helicopter-Assisted Wild Horse and Burro Gather and Removal in Wilderness and Non-Wilderness Lands.

Other alternatives were considered and examined but rejected from further analysis because they are restricted by regulations, policy or their inability to meet land use objectives.

## **PUBLIC INVOLVEMENT**

A copy of CA065-NEPA97-01 is available at the Bureau of Land Management, Ridgecrest Resource Area, California Desert District, (Mailing address; Bureau of Land Management Ridgecrest R.A., 300 S. Richmond, Ridgecrest, CA 93555).

Copies of the Capture Plan for removal of wild horse and burros from the Centennial, Slate Range and Panamint HMAs were sent to wild horse/burro interest groups on December 1, 1996 (a mailing list can be located in appendix C in the EA). As of January 22, 1997, no comments have been received in response to the notice.

A Notice of Proposed Action (NOPA) was sent to 86 individuals on October 10, 1997 (a mailing list can be located in appendix D in the EA). As of January 22, 1997, no comments have been received in response to the notice.

## **Environmental Impacts**

The identification of issues that the EA would address were developed by the Bureau using two methods: 1) internal scoping by staff specialists based on past experience that addressed similar actions within the Resource Area and adjoining Districts; 2) conformance with the California Desert Conservation Area (CDCA) Plan; 3) and conformance with the CDPA.

The following resources were identified as most likely to be impacted by the proposed action: areas of critical environmental concern, air quality, cultural resources, water quality, wild horse

and burro, wildlife, wilderness, riparian, threatened and endangered species, soils, range, vegetation, and the military mission. Cumulative impacts were addressed in the environmental documents CA065-NEPA97-01 as well as direct and indirect impacts for each affected resources.

### Environmental Considerations

The EA details the proposed action's impacts to the environment. Environmental concerns that may result from the gathering and removing excess wild horses and burros have been addressed in Operating Measures below. The implementation of the Operating Measures will mitigate all identified potential impacts to the resources.

Helicopter use within wilderness may require low-level flying (below five hundred feet). There is no specific prohibition of low flying flights over wilderness. BLM Manual 8560.39C.12 states "...the use should be discouraged". In this case, helicopter use was determined to meet minimum tool policy guidelines.

The proposed action and alternatives have been analyzed under section 176 © of the Clean Air Act (CAA), as amended, and the selected action has been determined to be in conformity to the applicable state implementation plan's (SIP) purpose of attaining ambient air quality standards (NAAQS).

The operating measures described in the ENVIRONMENTAL ASSESSMENT, CENTENNIAL AND SLATE RANGE HERD MANAGEMENT AREAS WILD HORSE AND BURRO GATHER AND REMOVAL (CA065-NEPA97-01) will be followed for this proposed action. The operating measures are described below:

### OPERATING MEASURES

**1. Area of Critical Environmental Concern:**

No off road travel by vehicles in these areas is permitted.

**2. Air Quality:**

- a. Continue to follow applicable state and federal guidelines i.e. reasonably available control measures (RACM) to control PM-10 emissions from unpaved roads including the following:

Source category

Control Measure

Unpaved road

Control vehicular traffic speed  
(20 MPH on dirt roads)

- b. If the vehicles carry material onto the paved roads, then the paved road would need to be swept clear to reduce entrainment dust.
- c. Use water as necessary to limit fugitive dust blowing off the site during the work, if fugitive emissions exceed state and/or GBUAPCD standards.

d. Curtail activities when wind speeds exceed 30 MPH.

**3. Cultural Resources:**

All impact areas associated with the gather will be targeted for previously disturbed areas. However, when gathering activities on BLM administered lands cannot be confined to previous disturbance, a BLM archaeologist will examine the proposed gather site to ensure that no cultural resources are present. The Navy will have their own archaeologist to examine proposed gather sites on the Navy administered lands. If cultural resources are identified within a proposed gather site, an alternate gather site will be selected.

**4. Surface Hydrology:**

Do not allow discharge of oil or other petroleum products on site.

**5. Wild Horse and Burro:**

The operating measures and procedures are described in the "Ridgecrest Resource Area / Naval Air Weapons Station Capture Plan for Wild Horses and Burros for the Centennial, Slate Range and Panamint Herd Management Areas, Fiscal Year 1997".

**6. Wildlife Protection:**

Each proposed capture site within desert tortoise habitat will be inventoried by a biologist or designated BLM representative who has done field work with desert tortoises for tortoise burrows. Temporary structures, vehicles, equipment, helicopter landing sites and other activity shall be located in areas free of tortoise burrows. The following guidelines will be followed:

- a. One member of the team conducting the gather shall be responsible for overseeing compliance with protective stipulations for the desert tortoise and for coordination on compliance. This individual shall have the authority to halt all activities that are in violation of the stipulations. The person may be a BLM or NAWS employee.
- b. The gather crew shall be aware of the following types of information concerning the desert tortoise:
  - general behavior and ecology of the tortoise
  - sensitivity to human activities
  - legal protection
  - penalties for violations of State or Federal laws
  - reporting requirements
  - project protective mitigation measures

The crew may contact the BLM and/or NAWS biologists for clarification and additional information.

- c. Only individuals authorized by the U.S. Fish and Wildlife Service shall handle desert tortoises.
- d. The area of disturbance shall be confined to the smallest practical area, considering topography, placement of facilities, locations of burrows, public health and safety, and other limiting factors. To the extent possible, previously disturbed areas within the site shall be utilized. The project lead shall ensure compliance with this measure.
- e. The Ridgecrest office shall receive a brief report on the effectiveness of the stipulations.
- f. Upon locating a dead or injured tortoise, the gather crew is to notify the Ridgecrest Office. The BLM must then notify the appropriate field office (Carlsbad or Ventura) of USFWS by telephone within three days of the finding.
- g. No dogs shall be allowed on site during the operation.
- h. All trash and food items shall be promptly contained within closed, raven-proof containers. These shall be regularly removed from the project site to reduce the attractiveness of the area to ravens and other tortoise predators.

**7. Wilderness:**

No trap sites, temporary corrals, helicopter landings or ground motorized vehicle travel would occur within any wilderness. Trap sites and temporary corrals along wilderness boundaries will be confined within the boundary roads themselves, cherrystems or areas otherwise excluded from wilderness and the following:

- a. Advise helicopter pilot of location of wilderness boundaries and provide with map.
- b. Minimize helicopter use over wilderness.
- c. Prohibit motorized vehicle travel or helicopter landings in wilderness, except for emergencies as authorized under BLM regulations and policy.

**Full Force and Effect**

The California District Manager concurs to issue this decision **FULL FORCE AND EFFECT** to allow for the immediate removal of excess wild horses and burros from the Centennial HMA and burros in the Slate and Panamint HMAs to facilitate the goal in reaching the appropriate management levels. Immediate removal of wild horses and burros in excess of the established appropriate management level is necessary to prevent serious range deterioration and eventual

adverse impacts to the operation of the China Lake Naval Air Weapons Station. Instruction Memorandum No. 94-09 recommends that management officials consider placing all removal decisions in full force and effect under provisions of 43 CFR 4770.3(c) unless a potential 1 to 2 year delay in removing excess animals is acceptable.

**Rationale**

This decision is to place in "Full Force and Effect" and implement the capture plan under the "Proposed Action" outlined in CA-065-NEPA97-01.

A formal monitoring evaluation, an Analysis, Interpretation and Evaluation (AIE), was completed in September 1995 for the lands within the L-C-M allotment and Centennial HMA. Summarized monitoring data from 21 trend monitoring study sites indicates that the range is in a downward trend. Drought seems to be the most significant impact, and grazing by cattle, wild horses and burros, is contributing to the observed downward trend. The majority of the study sites indicate utilization on key forage species are above their proper use factor. Although a large number of wild horses and burros have been removed since 1982, a loss of perennial grasses and downward trend of perennial vegetative cover indicates that the animal units exceed the carrying capacity of the range, leading to a shortage of forage. The past five year average use by cattle has been 1,856 AUMS or 59% of permitted allocation. The five year average estimated population of horses has been 586 animals or 249% above land use plan established allocation.

The following table lists the appropriate management level; estimated existing populations; excess above management level; and the goals for removal inside the HMAs:

Herd Management Area	Appropriate Management Level	Estimated Population	Excess Above Management Level	Goal To Remove
Centennial Horses	168	280	112	30
Centennial Burros	0	116	116	80
Slate Range Horses	0	0	0	0
Slate Range Burros	0	87	87	50
Panamint Horses	0	0	0	0
Panamint Burros	0	12	12	12(+)

Under current conditions, populations can increase by 10% to 20% annually. Taking a conservative reproductive estimate, population numbers could double in seven years.

The proposed burro reductions are in accordance with the California Desert Conservation Area Plan 1981 Amendment (NO. 24) which changed the Wild Horse and Burro Element for the Centennial and Slate Range HMAs to reflect the change in burro management policy at the Naval Weapons Center to zero burros (China Lake); and the 1983 Amendment (NO. 12) which deleted the Panamint Herd Management Area (concentration areas 8,11 and 12) of the Saline/Panamint Herd Management Planning Area for burros.

The act requires that excess wild horses and burros be removed from the public lands. Excess wild horses and burros must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple use relationship in that area. Impacts by uncontrolled populations of wild horses and burros upon soils, native plant and animal communities, water and cultural resources have been described in the environmental document CA065-EA97-01. These impacts degrade the natural environmental quality of arid land ecosystems and will continue and intensify as animal numbers increase.

Implementing this decision in a expeditious manner is necessary to return wild horses to balance with the productivity of their habitat in a multiple use setting and to achieve a thriving natural ecological balance.

### **Appeal Procedure**

Within 30 days from receipt of this decision, any person has 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 regulations at 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 Solicitor's 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 appealed decision from is in error.

If you wish to file a petition for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal and be in accordance with 43 CFR 4.21. Copies of the notice of appeal and petition for a stay must also be submitted to the Interior Board of Land Appeals, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington VA 22203, and to the Regional Solicitor's Office, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, CA 95825-1890, at the same time the original documents are filed with this office.

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

A petition for a stay of a decision pending appeals shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties of the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,



- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

### **FINDING OF NO SIGNIFICANT IMPACT**

I have reviewed CA065-NEPA97-01 and associated documents. I have determined that the proposed action and any alternatives analyzed (except the "No Action" alternative) is in conformance with the California Desert Conservation Area Plan, and amendments, dated September 1980-1994 (CDCA).

The proposed action and alternatives have been analyzed under section 176 © of the Clean Air Act (CAA), as amended, and the selected action has been determined to be in conformity to the applicable state implementation plan's (SIP) purpose of attaining ambient air quality standards (NAAQS).

It is my decision, based on the Environmental Assessment (CA065-NEPA97-01), that this is not a major Federal Action that would significantly affect the quality of the human environment; therefore, an **Environmental Impact Statement is not needed**. This determination is based on the rationale that significant criteria, as defined by the Council on Environmental Quality (40 CFR 1508.27) are not being met, or if met will be mitigated to a level that will not be significant. The following rationale was used to determine that significant impacts were not present for each criteria mentioned in 40 CFR 1508.27.

Implementation of the Proposed Action, following the California Desert District wild horse and burro management policies, will result in safe and humane treatment of the animals. The actions will utilize BLM crews to gather horses and burros through helicopter-assisted capture methods, including the use of a helicopter over Wilderness areas. No trap sites, temporary corrals or helicopter landings will be located within any designated Wilderness or Wilderness Study Area. Operating measures will be implemented as specified in CA065-NEPA97-01.

#### **Rationale for Decision**

- a) The short and long term impacts as disclosed in CA065-NEPA97-01 are not considered to be significant upon the human environment.
- b) There will be no significant irreversible resource commitments or irretrievable loss to historic or cultural resources, prime or unique farmlands, wetlands or floodplains, wild and scenic rivers, or areas of critical environmental concern.
- c) The actions do not set a precedent for other projects that may be implemented to meet the goals and objective of the California Desert Conservation Plan.

- d) Based on the proposed action and environmental analysis, there will be no adverse effects to any properties eligible for the National Register of Historic places.
- e) This action does not violate Federal, State or local law or requirements imposed for the protection of the environment.
- f) Instruction Memorandum No. 94-09 recommends that management officials consider placing all removal decisions in full force and effect under provisions of 43 CFR 4770.3(c), unless a potential 1 to 2 year delay in removing excess animals is acceptable.
- g) The current estimated population in the Centennial HMA is 280 wild horses and 116 burros. The Slate HMA has an estimated 87 burros and the Panamint HMA has an estimated 12 burros. Population estimates are based from aerial survey data, ground observations and a projected yearly increase from reproductive rates. The Appropriate Management Level (AML) prescribed in the California Desert Conservation Area (CDCA) Plan and amendments is 168 wild horses and 0 burros for the Centennial HMA and 0 burros for the Slate and Panamint HMAs. Wild horses exceed AML by 112 animals and burros exceed AML by 215 animals.
- h) A formal monitoring evaluation, an Analysis, Interpretation and Evaluation (AIE), was completed in September 1995 for the lands within the L-C-M allotment and Centennial HMA. Summarized monitoring data from 21 trend monitoring study sites indicates that the range is in a downward trend. Drought seems to be the most significant impact, and grazing by cattle, wild horses and burros, is contributing to the observed downward trend.

The majority of the study sites indicate utilization on key forage species are above their proper use factor. Although a large number of wild horses and burros have been removed since 1982, a loss of perennial grasses and downward trend of perennial vegetative cover indicates that the animal units exceed the carrying capacity of the range, leading to a shortage of forage. The past five year average use by cattle has been 1,856 AUMS or 59% of permitted allocation. The five year average estimated population of horses has been 586 animals or 249% above land use plan established allocation.

- i) A continued decline in range conditions would eventually affect the vegetative communities within the wilderness areas, contributing to a decline in the unique qualities and naturalness of these wilderness areas.
- j) The proposed action is necessary to comply with Federal Statutes, CDCA Plan Policy and the NAWS-BLM Interagency Agreement in the removal of wild horses and burros.
- k) The operation is planned to begin around February 10, 1995 and last for a maximum of 20 days. The helicopter and gather crew will meet at the BLM Ridgecrest Wild Horse and Burro Corrals to review the operation.
- l) Adverse impacts to wildlife habitat and competition for forage and water will increase as wild horse and burro numbers increase.
- m) A thriving ecological balance cannot be achieved if wild horse and burro populations are not

managed.

- n) Delay now in removing the excess wild horses and burros would cost the BLM and Navy more money in the future to remove excess animals down to the appropriate management levels. Excess animals left on the range now would reproduce, increasing the number of animals to be removed in the future. The public interest would not be served by this delay and increase in spending.
- o) The consequences of a long delay for the appeal process would further degrade the rangeland resources.
- p) If this Full Force and Effect decision were reversed by IBLA through resolution of an appeal at a later date, the wild horse and burro populations could be allowed to rebuild through reproduction.
- q) The primary mission of the NAWS relates to official military use. Historically, NAWS personnel have been injured or endangered, and equipment has been damaged, compromising safety and the NAWS mission, as a result of uncontrolled burro activity. The problem of burros interfering with NAWS activities has been effectively controlled by the reduction in their population through gathers initiated in 1982. Continued population control of wild horses and burros through gathers are required to avoid interference in the NAWS mission.

All the above reasons lead to the potential of serious range deterioration and adverse impacts to the operation of the NAWS if a removal action is not undertaken.

It is my decision to place in Full Force and Effect and approve the proposed action described in the Environmental Assessment CA065-NEPA97-01.

Authorized Officer: Lee Delaney Date: 1/20/97  
Lee Delaney  
Area Manager  
Ridgecrest Resource Area