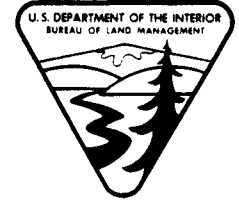


8-26-94



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
NEEDLES RESOURCE AREA
P.O. BOX 888
NEEDLES, CALIFORNIA 92363-0888

IN REPLY REFER TO:

(619) 326-3896

APR 26 1994

4700
(CA-069.21)

CERTIFIED RETURN RECEIPT
P 308 728 971

Wild Horse Organized Assistance
c/o Ms. Dawn Lappin
15640 Sylvester Rd.
Reno, NV 89511

Dear Ms. Lappin:

Enclosed for your review, please find a copy of Needles Resource Area's proposed Capture Plan for the Lava Beds Herd Management Area. Also enclosed is a copy of the Cooperative Agreement for Burro removal between BLM and the lessee.

I would appreciate it if you would review these documents and provide me comments by May 15, 1994. If you have any questions concerning the enclosed documents, need further clarification concerning the proposed capture, or need more time to provide your comments, please don't hesitate to contact Kevin Madsen, of my staff, at (619) 326-3896. I thank you for your prompt attention in this matter.

Sincerely,

ACTING FOR
Richard E. Fagan
Area Manager

Enclosures



**Needles Resource Area
Capture Plan for Wild Burros
for the
Lava Beds Herd Management Area**

I. INTRODUCTION AND BACKGROUND

The purpose of this capture plan is to outline the objectives, methods and procedures for the reduction of burro populations in the Lava Beds Herd Management Area (HMA) within the Eastern Mojave. The proposed reductions are in accordance with the:

- Wild Free Roaming Horse and Burro Act of 1971 (Public Law 92-195)
- Federal Land Policy and Management Act of 1976 (Public Law 94-579)
- Public Rangelands Improvement Act of 1978 (Public Law 95-514)
- Codes of Federal Regulations (43 CFR 4700 - Protection, Management, and Control of Wild Free-Roaming Horses and Burros)
- California Desert Conservation Area (CDCA) Resource Management Plan of 1980
- Eastern Mojave Herd Management Area Plan of 1984 (EMHMP)
- Eastern Mojave National Scenic Area Plan of 1988
- Post June 30, 1989, requirements of the Interim Management Policy.

The burro population in the Lava Beds area has been very prolific and requires a large removal to reduce the burro numbers down to acceptable levels. They are currently expanding their range to areas outside of the historical range, including areas outside of the HMA. The area of the removal contains prime desert bighorn sheep habitat, especially the Old Dad Mountains, and critical desert tortoise habitat. Utilization monitoring, use pattern mapping based on the key forage plant method, of the Lava Beds HMA indicate overall heavy utilization levels of forage species in the area. The area is receiving excessive amounts of trailing and formation of dirt wallows. The burro population is estimated to be 300 - 400 burros, actual sightings confirm over 200 burros. The Management level set by the CDCA plan is 75 burros. The EMHMP objectives provide that burro numbers will be reduced to the levels prescribed by the CDCA Management Plan. Maintenance of that level, +/- 30%, will be sustained by periodic removals.

II. AREA DESCRIPTION

The Eastern Mojave is located in Southern California in the upper eastern portion of San Bernardino County. It encompasses much of the area surrounding the higher mountain ranges between Interstate 40, and northward to the Inyo County line. It is located entirely within the boundaries of the Needles Resource Area of the Bureau of Land Management's California Desert District.

The Lava Beds are located in the northwestern portion of the Eastern Mojave. The area is of volcanic origin, characterized by layers of black basalt overlaying a base of granite. More than 30

cinder cones are clustered in this area. All of the Lava Beds HMA is within the Valley View grazing allotment.

III. JUSTIFICATION

The Wild Free-Roaming Horse and Burro Act of 1971 (Public Law 92-195) as amended, Section 3(b)(2) requires that if an overpopulation exists on a given area of public lands and that action is necessary to remove excess animals, excess animals shall be immediately removed from the range so as to achieve the appropriate management level.

The following table lists the estimated existing burro population, the appropriate management level and the goals for removal in the Lava Beds HMA.

Herd Management Area	Appropriate Management Level	Estimated Population	Excess Above Management Level	Goal To Gather Initially
Lava Beds	75	300-400	225-325	125-150

Populations can increase by 15% to 25% annually. Taking a conservative reproductive estimate, population numbers could double in five years. Currently, excess burros from herd areas are colonizing areas outside of existing herd areas. Population estimates are based on aerial survey data (actual count 200 burros), ground observations, removals and projected yearly increases of 16 percent. Based on past studies, it is estimated that actual population numbers are around twice that of aerial counts. The following is an analysis of methods and reliability of current estimates.

Herd Management Area	Population Estimate Method and Date	Reliability (High, Good, Fair, Poor)
Lava Beds	Aerial Census - 1993	High

The proposed action is to comply with Federal Statutes and the Bureau of Land Management policies in managing wild burros in the Lava Beds HMA. The Proposed action is to initially water trap between 125-150 burros, starting in mid-year 1994. It is estimated that after this initial removal approximately 150-200 burros would still be within the HMA. If future censuses, conducted after initial removal, indicate that there are more than 75 burros in the HMA, the excess burros would be removed in a like manner. The operation will generally take place from late spring and until late fall or until the targeted number of burros are gathered.

IV. CAPTURE SITES

Water traps for burros are proposed at the following existing corrals:

Proposed Water trap locations within HMA, using existing corrals:

- 1). T.14N, R.12E, Section 28, S.B.B.M., RIP # 9587¹.
- 2). T.14N, R.12E, Section 20, S.B.B.M., RIP # 9588.
- 3). T.14N, R.12E, Section 20, S.B.B.M., RIP # 9448.

- 4). T.13N, R.11E, Section 25, S.B.B.M., RIP # 9590.
- 5). T.13N, R.12E, Section 18, S.B.B.M., RIP # 9588.
- 6). T.14N, R.11E, Section 7, unsurveyed, S.B.B.M., RIP # 9591.

¹ Within Cinder Cones WSA, CDCA-239. All others are outside or on the boundary of WSA's.

Proposed Water trap locations outside HMA, using existing corrals:

- 1). T.14N, R.12E, Section 22, S.B.B.M., RIP # 9592.
- 2). T.14N, R.12E, Section 13, S.B.B.M., RIP # 9023.

15' QUADRANGLES: Halloran Spring, Calif., Kelso, Calif., Mescal Range, Calif., and Old Dad Mtn. Calif.

V. METHODS OF CAPTURE

The BLM and the Lessee of the Valley View Allotment will work together to water trap burros in order to remove excess burros from the Lava Beds HMA. Water trapping is the easiest, least expensive and safest for the personnel involved in the gathering operation. Water trapping involves the following: 1) excluding burros at waters where no trap is set, and 2) setting a one way gate (trigger) at watering site(s).

Trap Sites

The corrals used to trap burros will contain adequate water and fencing. There will be no exposed barbed wire in any of the corral facilities. Any objects potentially injurious to the animals will be removed or made safe. Water troughs are located inside each corral. The corrals that are used to trap burros will be temporarily modified using portable steel pipe panels (5 feet high) that are self supporting to divide the corral into a trapping area and a holding area. The dimensions of the trap and holding areas will vary with the dimensions of the corral. Both areas are designed so that animals have access to water. This area will be constructed entirely within existing disturbance. No new surface disturbances would occur. The trapping area consists of placing a finger trigger gate at the entrance way of the corral. This allows the animals to enter to drink, but not exit. The size of the trap area will be approximately 400 square feet, but will vary with the size of corral. A swing gate will be placed between the holding area and the trap area so that trapped burros can be moved into the holding pen. The holding area will be approximately 40 feet by 40 feet. The traps will be checked daily for any trapped animals. Trapped burros will be moved to the holding area. In the case that other animals are trapped besides burros, the burros will be sorted into the holding area, if this can be done without harming any animals. If it is not possible to sort without harming animals, the trigger gate will be opened allowing the animals to escape. The BLM plans to load and transport the burros within 48 hours of being notified of capture. If the BLM is unable to transport burros within 5 days they must be released, unless authorized otherwise. If the holding facility gets too crowded, the trigger gate will be locked open, until extra panels are set up to expand the holding facility or until the animals are removed. If the burros are to be transported by truck and trailer by the Lessee to a holding corral, the Lessee will notify the BLM prior to such action. The holding corral must meet the same standards of the capture corral. The Lessee will feed fair-to-good quality hay to the captured burros.

The related structures will be installed by hand using hand tools and will be removed upon completion of the gather in the area. A new site may then be set up according to the location of any other herds. When the traps are not in service, the trap gates will be locked open.

Limiting Burro Access To Other Available Water Sources

The other existing water sources would be closed off to burros. This may include turning off the water to troughs, closing corrals, or temporarily placing steel fence posts around water sites and running one to three strands of wire between them and then attaching flags to the wire. The flags flapping in the breeze repel burros from the watering area. A temporary barrier fence would be installed at Indian Spring, using prefabricated fence panels and metal T-stakes, so no burros can use the water source. The temporary fence would be as small as practical. Water sites that are fenced off are generally difficult to access with stock trailers or are located where setting up traps would result in new disturbance. The temporary barriers at waters of prime importance to deer will be at least 60 foot long on a side and not over 60 inches tall at any point with opposite sections 42 inches or less in height for escape. Those barriers around bighorn sheep waters will include several bighorn sheep panels to allow sheep access to the water, while excluding burros. The disturbance would be temporary in nature and consist of steel fence post holes in sand. The related structures will be installed by hand using hand tools and will be removed upon completion of the gather in the area.

Excluding burro from the following water locations, within Cinder Cones WSA (CDCA-239) to divert animals to waters with traps:

- 1). T.13N, R.11E, Sections 3 & 9 (unsurveyed), S.B.B.M., Indian Creek Area Springs: Indian Spring, Cane Spring, and other open/available waters at the time of trapping activity.
- 2). T.14N, R.11E, Section 9 (unsurveyed), S.B.B.M., Granite Spring.
- 3). T.14N, R.11E, Section 1 (unsurveyed), S.B.B.M., Cow Cove Reservoir.

Transporting and Sorting

Horse trailers pulled by heavy duty four wheel drive trucks will be necessary to transport the materials and captured animals, thus trapping locations will be limited to those areas where suitable access exists. All vehicular access would be by existing routes. Any travel into WSA's will be authorized and restricted to existing routes and no off road travel will occur.

Captured burros will be counted as they are loaded into the horse trailer. Jennies and foals will be kept as pairs, jacks will be kept separate from pairs, and when practical, jennies and jacks will be kept separate.

All animals gathered will be brought back to the BLM Ridgecrest Corrals. Captured burros are very sensitive to people. Because of this, the number of team members to handle the animals shall be limited to essential personnel to alleviate stress on the animals. The number of animals will be counted as they come off the trailer. The first consideration after unloading is to determine which animals, if any, need special attention for injuries, illnesses or any other problems requiring prompt attention. Any orphans shall be separated and provisions made to feed and care for them. The jacks will be separated from the pairs and jennies.

Handling of the animals would be kept to a minimum in order to avoid traumatizing the animals any more than necessary. A veterinarian will be on call at all times.

VI. RESPONSIBILITIES

It will be the responsibility of the Lead Range Conservationist from the Needles Resource Area Office to locate all trap sites and to assure that the capture is being conducted in accordance with applicable regulations and BLM policies. He will also insure that the animals are humanely treated, work in a safe manner and adhere to the guidelines set forth in the capture plan. The Needles Range Conservationist will consult with the Capture Crew Leader from the Ridgecrest Resource Area Office of any sick or injured animals. If for some reason the Capture Crew Leader is unavailable, the Ridgecrest Resource Area Supervisory Range Conservationist or the Ridgecrest Wild Horse and Burro Specialist will act in his absence. The lessee may assist in the water trapping of burros if he coordinates with the BLM and follows this capture plan and the Cooperative Agreement between the lessee and the BLM (see appendix 1).

The Needles Lead Range Conservationist will keep the Ridgecrest Resource Area Supervisory Range Conservationist and Capture Crew Leader advised of progress and of any problems in implementing the capture plan. The Range Conservationists in turn will keep the Resource Area Managers informed.

VII. INJURIES AND DISEASE

For injuries and disease not requiring destruction, the Capture Crew Leader will determine if the animal can be transported to the Ridgecrest Corrals without further injury, harm or undue pain to the animal. If the animal can be transported, the animal will be treated upon arrival at the Ridgecrest Corrals. If the animal cannot be transported, or if the Capture Crew Leader is uncertain, a veterinarian will examine the injured or sick animal at the trap site.

VIII. DESTRUCTION OF INJURED OR SICK ANIMALS

Any severely injured or sick animal shall be destroyed in accordance with 43 CFR 4740.31. Such animals shall be destroyed only when a definite act of mercy is needed to alleviate pain and suffering. When the Capture Crew Leader is unsure as to the severity of an injury or sickness, a veterinarian will be on call to make a final determination. Destruction shall be done in the most humane method available.

IX. SAFETY

All capturing and handling of the animals shall be done in the safest manner possible for the wild animal and personnel.

Appendix 1

Cooperative Agreement for Burro removal (Needles CA-069)

I. Purpose

This agreement provides procedures for the removal of the wild, free-roaming burros which make use of Public Lands under the authorized grazing lease(s) of the following Allotment(s): Valley View allotment, administered by the Needles Resource Area of the Bureau of Land Management. The purpose of this agreement is to provide a method of reducing the number of burros to management level, thereby, reducing the damage to other resources.

II. Authority

A. Bureau of Land Management

1. The Wild, Free-Roaming Horse and Burro Act, 16 USC, 1336 (1982), authorizes the program.
2. 16 USC, 1331-1339 (1982), authorizes protection, management, and control of Wild Horses and Burros.
3. Public Land Administration Act, 43 USC, 1363 (1982), authorizes cooperative agreements.

III. Definitions

- A. Lessee: means person, group, or their designated agent controlling a grazing lease for an allotment.
- B. Wild, Free-Roaming Burros: means all unbranded and unclaimed horses and burros and their progeny that have used public lands on or after December 15, 1971, or that do use these lands as all or part of their habitat.
- C. The Act: means 16 USC, 1331-1340 (1982).
- D. Removal: means the capturing of burros on public lands by either trapping or shutting the gates of the corral facilities. Removal as defined here does not include actual removal from the boundaries of the allotment.
- E. Working: means roping, driving, or handling animals.
- F. Trapping: means the method of removal of burros in which the animals are baited into a corral, and the gates on the facility are such that they prevent the animal from escaping.
- G. Shutting the Gates: means the methods of burro removal in which the animals are baited into a corral, and the gates on the facility are left open allowing the burros to come and go until the Lessee physically shuts the corral gate.

IV. Operations

- A. Removal of Burros may be done by the Lessee or his or her tenant only within the allotment that they have under lease.
- B. Removal procedures can only be performed at corral facilities that do not have inadequacies or potential injurious features that could result in injury of burros. For example, the corrals cannot be constructed of barbed wire or have exposed sharp objects that may cause injury.
- C. All appropriate steps shall be taken to reduce chances of injury to burros. Incidences of burro injury or death will be reported promptly and then investigated in order to reduce chances of further injury or death.
- D. Actual time periods and areas of removal, and numbers of animals allowed to be removed will be set by the Needles Area Manager or his authorized Representative with the consultation and cooperation of the Lessee. Within periods of removal actual scheduled capture days and transport days will be set by the Area Manager. Suspension of removal may be initiated by either party upon five day written notice.
- E. Trapping shall be done only when cattle are not in the area; this is to eliminate injury to animals during separation (sorting). The Lessee is required to check the corral facilities for burros every morning where the finger trap gates are set. Shutting of the gates on burros may be done only if there are no cattle captured with the burros.
- F. Working of the burros will be kept to a minimum in order to minimize stressing the burros. If necessary, lessees will be allowed to drive burros short distances from a capture corral to a holding corral. Holding corrals should be readily accessible to truck and trailer.
- G. The Lessee must notify the BLM within 6 hours after checking the traps and finding burros captured. Notification will be made by calling the Needles Resource Area Office ((619) 326-3896) between 7:45 a.m. and 4:30 p.m. (a message can be left on answering machine after hours, but will not be considered as an official notification). The location of the burros and the number captured at each site will be reported at this time by the Lessee. The BLM will attempt to load and transport the animals within 48 hours of notification. If the BLM is unable to transport burros within 5 days they must be released unless authorized otherwise. The Lessee will allow the captured burros free access to water at all times. Also, the Lessee will feed fair-to-good quality hay to the burros captured in the traps as follows:
1. A six-inch flake of hay per burro at each feeding.
 2. The first feeding will be within 12 hours after notification.
 3. Any additional feedings will occur at 24 hour intervals after the first.
- H. Reimbursement for cost of burro removal will be limited to the cost of the amount of hay required to be fed to the burros (see above). This will not exceed the replacement value of the actual amount and quality of hay fed.

V. Implementation

A. Failure to comply with conditions brought forth in Part IV of this agreement will result in the termination of this Cooperative Agreement by the Needles Area Manager. After termination any attempt to remove burros will be considered a violation of the Act and 43 CFR 4700.

B. Neither the Lessor nor the United States Government, nor their officers, agents, and employees shall be liable for any loss, damage, death or injury of any kind whatsoever to the person or property of the Lessee or sublessee or of any other person whomsoever, caused by any use of the leased premises or by any defect in any structure erected thereon, or arising from any accident, fire, or other casualty on said premises or from any other cause whatsoever; and Lessee, as a material part of the consideration for this lease, hereby waives on Lessee's behalf all claims against Lessor and the United States Government and agrees to hold Lessor employees, free and harmless from liability for all claims for any loss, damage, injury or death arising from the use of the premises by Lessee, together with all costs and expenses in connection therewith.

C. Failure to comply with procedures outlined in this agreement and/or any malicious or negligent act, or harassment resulting in injury or death of burros will result in immediate termination of this agreement and also may be considered a violation of the Act and 43 CFR 4700.

D. Nothing in this agreement will serve to alter the terms or provisions of Needles Resource Area grazing leases.

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
NEEDLES RESOURCE AREA
ENVIRONMENTAL ASSESSMENT**

CONTROL NUMBER: CA-069-EA4-19

DRAFT

CASE FILE / SERIAL NUMBER: 4700

PROJECT: Lava Beds Herd Management Area Burro Removal

LOCATION:

A). Proposed areas to temporarily exclude burros from water sources within the Lava Beds Herd Management Area (HMA) and Cinder Cones Wilderness Study Area.

- 1). T.13N, R.11E, Sections 3 & 9 (unsurveyed), S.B.B.M., Indian Spring, Cane Spring and other available waters at the time of trapping activity.
- 2). T.14N, R.11E, Section 9 (unsurveyed), S.B.B.M., Granite Spring.
- 3). T.14N, R.11E, Section 1 (unsurveyed), S.B.B.M., Cow Cove Reservoir.

B). Proposed water trap locations within the Lava Beds HMA using existing corrals:

- 1). T.14N, R.12E, Section 28, S.B.B.M., RIP # 9587¹.
- 2). T.14N, R.12E, Section 20, S.B.B.M., RIP # 9588.
- 3). T.14N, R.12E, Section 20, S.B.B.M., RIP # 9448.
- 4). T.13N, R.11E, Section 25, S.B.B.M., RIP # 9590.
- 5). T.13N, R.12E, Section 18, S.B.B.M., RIP # 9588.
- 6). T.14N, R.11E, Section 7, unsurveyed, S.B.B.M., RIP # 9591, Henry Springs.

¹ Within Cinder Cones WSA, CDCA-239. All others are outside or on the boundary of the WSA.

C). Proposed water trap locations outside HMA, using existing corrals:

- 1). T.14N, R.12E, Section 22, S.B.B.M., RIP # 9592.
- 2). T.14N, R.12E, Section 13, S.B.B.M., RIP # 9023.

AFFECTED ACREAGE: 10 (almost entirely within existing areas of disturbance).

15' QUADRANGLES: Halloran Spring, Calif., Kelso, Calif., Mescal Range, Calif., and Old Dad Mtn. Calif.

MULTIPLE-USE CLASS: Limited and Moderate **SECTOR:** 95

LAND STATUS: Public

SUPPORTING ENVIRONMENTAL ASSESSMENTS: Programmatic Burro Removal Environmental Assessment (EA), CA-069-EA1-08.

SPECIAL DESIGNATION AREA: California Desert Conservation Area; East Mojave National Scenic Area; Cinder Cones Wilderness Study Area (CDCA-239).

AUTHORITY: 16 U.S.C. 1331-1340; 43 U.S.C. 315, 1711, and 1712.

LAND USE PLAN CONFORMANCE: The Proposed Action is in conformance with land use plan terms and conditions in accordance with Title 43 Code of Federal Regulations 1610.5-3.

California Desert Conservation Area Management Plan (CDCA) 1980 and as amended 1989, provides for removal of animals to maintain the population level of 75 burros.

East Mojave National Scenic Area Management Plan (EMNSA) 1988, provides that "populations of wild and free-roaming horses and burros will be maintained in healthy, stable herds, in accordance with the Wild and Free-Roaming Horse and Burro Act of 1971 but will be subject to controls to protect sensitive resources" (pg 151).

Eastern Mojave Herd Management Area Plan (EMHMP) 1984, objectives provide that burro numbers will be reduced to the levels prescribed by the CDCA Management Plan. Maintenance of that level, +/- 30%, will be sustained by periodic removals (pg 11).

NEED FOR THE ACTION

DRAFT

The burro population in the Lava Beds area has been very prolific and requires substantial reductions to reduce the herd to acceptable levels and stop the spread of burros to areas outside of their historical range, including areas outside of Herd Management Areas (HMA). Populations can increase by 15% to 25% annually. The estimated population, based on aerial survey data and ground observations, is 300 - 400 burros within and adjacent to the HMA, and actual sightings confirm over 200 burros. The Management Level set by the CDCA Management Plan is 75 burros. Taking a conservative reproductive estimate, population numbers could double in five years. Delays in removal of burros would increase the cost and time needed to meet multiple use and sustained yield objectives. The area of the removal contains prime desert bighorn sheep habitat, especially the Old Dad Mountains, critical desert tortoise habitat, and is within the Valley View grazing allotment. The Lava Beds area is receiving excessive amounts of trailing and formation of dirt wallows by burros. Utilization maps of the area confirm utilization of forage plants above recommended levels.

The following documents has led us to the development of this Environmental Assessment and attached *Capture Plan for Wild Burros for the Eastern Mojave Herd Management Area*.

- 1). Wildhorse and Burro Act of 1971
- 2). CDCA Management Plan Environmental Impact Statement and resulting Record of Decision -- limiting the Lava Beds HMA retention area to 75 burros.
- 3). EMHMP
- 4). Programmatic Burro Removal Environmental Assessment, CA-069-EA1-08.
- 5). Reports of excessive burros in Lava Beds HMA and adjoining areas.
- 6). Intensive aerial census of Lava Beds HMA and adjoining areas.
- 7). Monitoring of utilization of Lava Beds HMA and adjoining areas.
- 8). Notification of Proposed Actions in Lands under Wilderness Review (NOPA) of proposed burro removal in or near a Wilderness Study Area, 1993.

PROPOSED ACTION AND ALTERNATIVES

DRAFT

Proposed Action:

The Bureau of Land Management (BLM) proposes the capture and removal all burros in excess of the established Management Level (75 burros). This will require removal of between 225 and 325 burros within and adjacent to the Lava Beds Herd Management Area (HMA). The BLM will be assisted by the Valley View Grazing Allotment lessee (see Appendix 1: Cooperative Agreement) in accomplishing this objective.

During the initial gathering, Fiscal Year (FY) 1994, between 125-150 burros would be removed from the HMA and adjacent areas outside the HMA. The population remaining in excess of the 75 burro management level, +/- 30% or approximately 150-200 burros, would be removed between FY 94 and FY 96. A censuses of the area would be routinely conducted to assure that the burro population remaining would be maintained at the management level. Burro capture would be conducted at existing corrals, within associated disturbed areas, with available water sources (see Appendix 2: *Capture Plan for Wild Burros for the Eastern Mojave Herd Management Areas Fiscal Year 1994-1996*). A one way gate (trigger) would be placed at the entrance of these existing corrals surrounding the watering source. Attempts would be made to exclude burros from waters sources, not easily accessible to stock trailers or where trapping activities would result in new disturbance, during the undertaking.

Within the Cinder Cones Wilderness Study Area, burros would be excluded from water sources through construction of temporary fence enclosures. Fences would be constructed of steel fence posts strung with one to three strands of wire. Flags would be attached to the wire to aid in repelling the burros. The resulting disturbance would be temporary. Fence enclosures would be removed upon completion of the project.

Alternative One:

Same as above with the exception that the burro gather end by December 30, 1994. It would involve the removal of between 125-150 burros from the Lava Beds HMA and adjacent areas. **The following areas would not be used at this time:**

A. 1). T.13N, R.11E, Sections 3 & 9 (unsurveyed), S.B.B.M., Indian Spring, Cane Spring and other available waters near this area.

A. 2). T.14N, R.11E, Section 9 (unsurveyed), S.B.B.M., Granite Spring.

B. 6). T.14N, R.11E, Section 7, unsurveyed, S.B.B.M., RIP # 9591, Henry Springs.

No Action:

Under the No Action Alternative, burro removal would not be undertaken as proposed. Existing management and use of the sites would continue subject to applicable statutes, regulations, policy, and land use plans.

ENVIRONMENTAL IMPACTS:

<u>Critical Element</u>	<u>Affected</u>		<u>Critical Element</u>	<u>Affected</u>	
	Yes	No		Yes	No
Air Quality	—	<u>xx</u>	T & E Species	—	<u>xx</u>
ACEC's	—	<u>xx</u>	Wastes, Hazard / Solid	—	<u>xx</u>
Cultural Resources	<u>xx</u>	—	Water Quality	—	<u>xx</u>
Floodplains	—	<u>xx</u>	Wetlands / Riparian Zone	—	<u>xx</u>
Native American Concerns	—	<u>xx</u>	Wilderness	<u>xx</u>	—

Description of Impacts:

Wilderness:

The proposed action requires the construction of temporary fence enclosures around water sources within the Cinder Cone Wilderness Study Area, CDCA 239. The proposed action would require cross country vehicle access to Granite Springs. Alternative One eliminates the need for cross country vehicle access and removes the use of all temporary enclosures inside the wilderness study area. Alternative One will not negatively impact wilderness values.

Range Conservation:

Both the proposed action and alternative one would reduce grazing impacts on the vegetative resource which would be very beneficial especially in this poor precipitation year.

Cultural Resources:

Alternative One: Base Date Review, the Native American Values Inventory, and Class III Inventory did not reveal archaeological or historical resources or areas of Native American traditional concern within the area of potential effect for those locations listed as locations A3, B1-5 or C1-2.

Those locations listed as Locations A1-2 and B6 but removed from current consideration under Alternative A require some further note:

A1 - Archaeological sites potentially eligible after National Register criteria occur thereby requiring Section 106 of the NHPA should this location be considered for this purpose in the future.

Waters at the time of feasibility inspection were easily available within the drainage system.

A2 - Archaeological sites potentially eligible after National Register criteria occur thereby requiring Section 106 of the NHPA should this location be considered for this purpose in the future.

B6 - Archaeological sites potentially eligible after National Register criteria occur thereby requiring Section 106 of the NHPA should this location be considered for this purpose in the future.

WILDLIFE

Helicopter Assisted and Water Trapping:

Negative impacts to wildlife in the area are anticipated to be negligible due to the size and nature of the proposed project (i.e. temporary setups over very short periods of time, use of

already disturbed areas, etc.). Positive impacts both short and long term, include increased vegetation (for forage, shelter, reseeding) due to reduced grazing pressure, and decreased compaction of the soils (for burrowing animals, and for increased forage/shelter via increased reseeding potential). This action will be very beneficial to all wildlife.

Because disturbance is anticipated to be negligible, both the proposed action and alternative one have been determined by the BLM to be a "no affect" situation in relation to the desert tortoise.

Alternative One:

Alternative one is the preferred alternative at this time since it have less potential to have significant impacts on any resource, while allowing for a gather of 125-150 burros.

No Action:

Adoption of the "No Action" alternative will result in adverse impacts to range resources until excess burros numbers are reduced. These impacts will be both temporary and permanent in nature. Temporary impacts will include continued loss of plant vigor and seedling establishment. Long term to permanent impacts would include loss of species richness and plant vigor. **Permanent** impacts would include loss of soil and site potential due to trailing, wallowing, and improper use.

MITIGATION MEASURES:

WILDLIFE

DRAFT

Helicopter Assisted and Water Trapping:

1. The proposed project is located in and around prime desert tortoise habitat. All trash and food items from the project sites can be promptly contained and regularly removed to reduce attractiveness to ravens.
2. Because access routes pass through designated desert tortoise Critical Habitat, precautions are to be taken to maintain a "no affect" situation. Mitigations to insure no impacts to the desert tortoise are as follows:
 - . For protection of tortoise, all project related vehicular traffic is to be confined to existing roads.
 - . Any tortoises observed during any phase of the project would be left to move out of the way on their own. Handling of tortoises is not permitted!
 - . To assure observation and avoidance of any tortoise in roadways, the proponent shall travel no more than 25 mph on all dirt roads in desert tortoise habitat.

CONSULTATION:

A NOPA was sent out on to the attached mailing list in October of 1993, no comments were received regarding to the action effect on wilderness values.

Capture plan was sent to wildhorse\burro interest groups on April 26, 1994, no comments were received.

After not receiving return receipts from three people attempts were made to contact them by phone.

Notification of the proposed action and analysis has been prominently posted in the Needles Resource Area office, Needles, California, during its undertaking. The notification cites the nature and location of the proposed action, the purpose of analysis, and encourages public participation in the process. Notification of the impending decision on this proposed action will be posted similarly, with appeal information, for a period of thirty days upon signature.

NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE

In accordance with 43 USC 4371 et sec., we have reviewed environmental document CA-O69-EA4-. Subject to mitigation measures, the proposed action would result in a finding of no significant impact on the human environment. We find that proper consideration has been given to all resource values and that the document is technically adequate. Accordingly, an Environmental Impact Statement is not required.

Coordinator, Planning and Environmental Analysis

Date

Chief, Resource Program Operations Branch

Date

DRAFT

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
NEEDLES RESOURCE AREA

DRAFT

DECISION RECORD
CA-069-EA4-19

Note:

Wildhorse\burro interest groups comments received by August 15, 1994 will be considered in the final wording of this decision record.

PROJECT: Lava Beds Herd Management Area Burro Gather and Removal

In accordance with 16 U.S.C. 1331-1340, 18 U.S.C. 47 and 43 U.S.C. it is my decision to approve the Alternative One as described in Environmental Assessment CA-69-EA4-19, Lava Beds Herd Management Area Burro Gather and Removal. Conditioned through mitigation measures, I find that this action will not result in significant impacts on the human environment and that an Environmental Impact Statement is not required. I further find this action in conformance with applicable land use plans and will not cause unnecessary or undue degradation. Measures mitigating project impacts are formulated into the attached stipulations, incorporated by reference as the decision of the Bureau of Land Management regarding this action.

The preferred action is to capture and remove for adoption between 125-150 burros, ending by December 30, 1994. It is estimated that after this removal approximately 150-275 burros would still remain within the HMA. If future censuses, conducted after this removal, indicate that there are more than 75 burros in the HMA, the excess burros may be removed after the completion of another EA and after the public comment period.

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.

RATIONALE FOR DECISION

... The short and long term impacts as disclosed in CA069-EA4-19 are not considered to be significant upon the human environment.

... 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.

... 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.

... 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.

... This action does not violate Federal, State or local law or requirements imposed for the protection of the environment.

OVERVIEW

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. Excess wild horses and burros and appropriate management levels were defined in the act and BLM policies. The stipulations for humane gathers and handling were also codified in the act.

Based from population estimates from aerial survey data, and ground observations, the current population of burros in the Lava Beds HMA exceeds the appropriate management level (AML), 75 burros, as prescribed in the California Desert Conservation Area (CDCA) Plan. The Eastern Mojave Herd Management Area Plan (EMHMP) objectives provide that burro numbers will be reduced to the levels prescribed by the CDCA Management Plan. Maintenance of that level, +/- 30%, is to be sustained by periodic removals.

Populations can increase by 15% to 25% annually. Taking a conservative reproductive estimate, population numbers could double in five years. Currently, excess burros from herd areas are colonizing areas outside of existing herd areas. Based on past studies, it is estimated that actual population numbers are around twice that of aerial counts. The population estimates of 300 - 400 burros is based on aerial survey data (actual count 200 burros), and ground observations. The Environmental Assessment (EA) addresses impacts by uncontrolled populations of wild horses and burros upon soils, native plant and animal communities, water and cultural resources. These impacts degrade the natural environmental quality of arid land ecosystems and will continue and intensify as animal numbers increase.

ISSUES

The issues that the EA address were identified/developed by the use of two methods: 1) internal scoping by staff specialists based on past experience that addressed similar actions within the Resource Area and adjoining Resource Areas and Districts; and 2) plan conformance, the California Desert Conservation Area (CDCA) Management Plan and Eastern Mojave Herd Management Area Plan (EMHMP).

A NOPA was sent out in October of 1993, no comments were received regarding to the action effect on wilderness values.

The Capture plan was sent to wildhorse\burro interest groups on April 26, 1994, no comments were received.

Delays in removal of burros would increase the cost and time needed to meet multiple use and sustained yield objectives. The area of the removal contains prime desert bighorn sheep habitat, especially the Old Dad Mountains, critical desert tortoise habitat, and is within the Valley View grazing allotment. The Lava Beds area is receiving excessive amounts of trailing and formation of dirt wallows by burros. Utilization of forage plants is above recommended levels.

FULL FORCE AND EFFECT

This decision is issued in **FULL FORCE AND EFFECT** to allow for the immediate removal of excess burros from the Lava Beds HMA to facilitate the goal in reaching the appropriate management level. Immediate removal of burros in excess of the established appropriate management level is necessary to prevent serious environmental deterioration of the area.

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

JUSTIFICATION

The Wild Horse and Burro 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.

Issuing this decision in Full Force and Effect will result in the action not being stayed during any appeal process. Implementing this decision in a expeditious manner is necessary to return burros to balance with the productivity of their habitat in a multiple use setting and to achieve a thriving natural ecological balance.

APPEAL PROCEDURE

This decision is issued Full Force and Effect to allow for the immediate removal of excess burros from the Lava Beds HMA. The Full Force and Effect determination is in accordance with the regulations at 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 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, Needles R.A., P.O. Box 888, Needles, CA 92363. 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 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, Needles R.A., P.O. Box 888, Needles, CA 92363.

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.

Area Manager, Needles Resource Area

Date

DRAFT

STIPULATIONS:

DRAFT

CASE FILE / SERIAL NUMBER: 4700

PROJECT: Lava Beds Herd Management Area Burro Removal

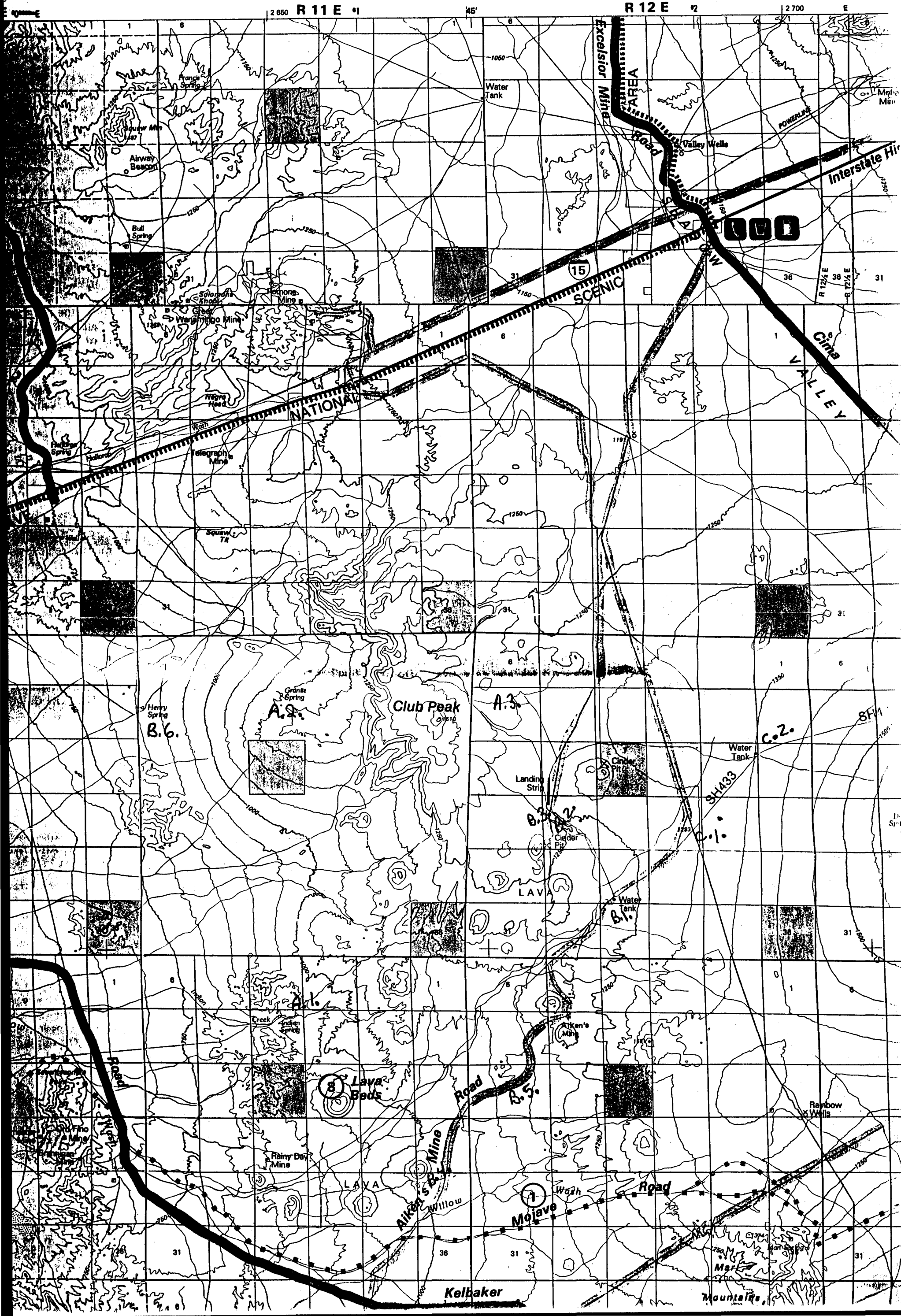
1. Operators shall immediately bring to the attention of the Authorized Officer any archaeological resources encountered during operations and maintain the integrity of such resources pending subsequent investigation.
3. No Joshua trees, yuccas, or cacti will be damaged or destroyed by this action.
4. All trash and food items shall be deposited in raven proof containers and removed on a regular basis.
5. Should a tortoise be encountered, it is to be left to move out of the way on its own. Handling of tortoises is not permitted!
6. For protection of tortoises, all project related vehicular traffic is to be confined to existing roads.
7. To assure observation and avoidance of any tortoise in roadways, the proponent shall travel no more than 25 mph on all dirt roads in desert tortoise habitat.

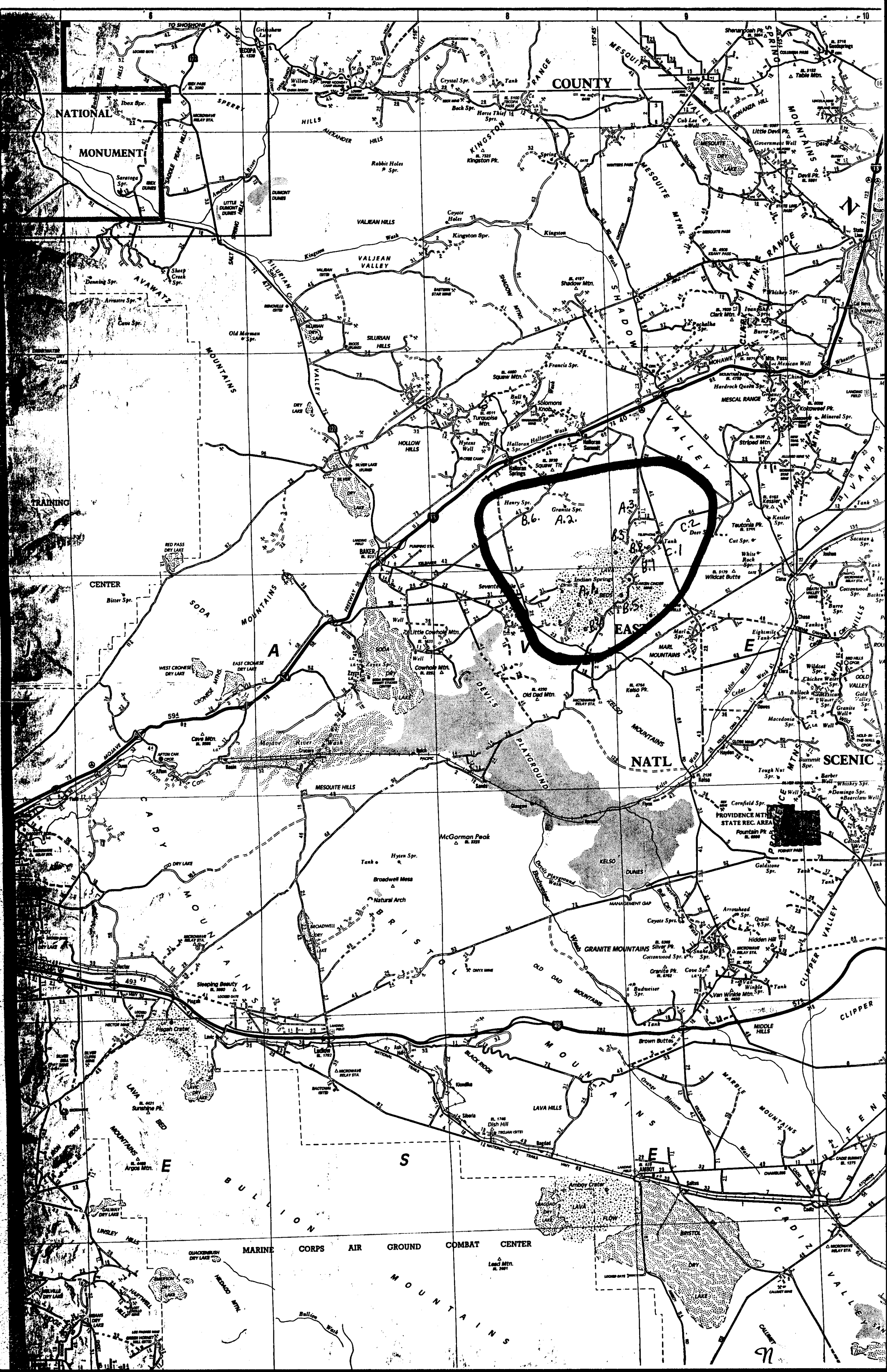
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Cooperative Agreement for Burro Removal (Needles CA-069)

I. Purpose

This agreement provides procedures for the removal of the wild, free-roaming burros which make use of Public Lands under the authorized grazing lease(s) of the following Allotment(s): Valley View allotment, administered by the Needles Resource Area of the Bureau of Land Management. The purpose of this agreement is to provide a method of reducing the number of burros to management level, thereby, reducing the damage to other resources.

II. Authority

A. Bureau of Land Management

1. The Wild, Free-Roaming Horse and Burro Act, 16 USC, 1336 (1982), authorizes the program.
2. 16 USC, 1331-1339 (1982), authorizes protection, management, and control of Wild Horses and Burros.
3. Public Land Administration Act, 43 USC, 1363 (1982), authorizes cooperative agreements.

III. Definitions

A. Lessee: means person, group, or their designated agent controlling a grazing lease for an allotment.

B. Wild, Free-Roaming Burros: means all unbranded and unclaimed horses and burros and their progeny that have used public lands on or after December 15, 1971, or that do use these lands as all or part of their habitat.

C. The Act: means 16 USC, 1331-1340 (1982).

D. Removal: means the capturing of burros on public lands by either trapping or shutting the gates of the corral facilities. Removal as defined here does not include actual removal from the boundaries of the allotment.

E. Working: means roping, driving, or handling animals.

F. Trapping: means the method of removal of burros in which the animals are baited into a corral, and the gates on the facility are such that they prevent the animal from escaping.

G. Shutting the Gates: means the methods of burro removal in which the animals are baited into a corral, and the gates on the facility are left open allowing the burros to come and go until the Lessee physically shuts the corral gate.

IV. Operations

- A. Removal of Burros may be done by the Lessee or his or her tenant only within the allotment that they have under lease.
- B. Removal procedures can only be performed at corral facilities that do not have inadequacies or potential injurious features that could result in injury of burros. For example, the corrals cannot be constructed of barbed wire or have exposed sharp objects that may cause injury.
- C. All appropriate steps shall be taken to reduce chances of injury to burros. Incidences of burro injury or death will be reported promptly and then investigated in order to reduce chances of further injury or death.
- D. Actual time periods and areas of removal, and numbers of animals allowed to be removed will be set by the Needles Area Manager or his authorized Representative with the consultation and cooperation of the Lessee. Within periods of removal actual scheduled capture days and transport days will be set by the Area Manager. Suspension of removal may be initiated by either party upon five day written notice.
- E. Trapping shall be done only when cattle are not in the area; this is to eliminate injury to animals during separation (sorting). The Lessee is required to check the corral facilities for burros every morning where the finger trap gates are set. Shutting of the gates on burros may be done only if there are no cattle captured with the burros.
- F. Working of the burros will be kept to a minimum in order to minimize stressing the burros. If necessary, lessees will be allowed to drive burros short distances from a capture corral to a holding corral. Holding corrals should be readily accessible to truck and trailer.
- G. The Lessee must notify the BLM within 6 hours after checking the traps and finding burros captured. Notification will be made by calling the Needles Resource Area Office ((619) 326-3896) between 7:45 a.m. and 4:30 p.m. (a message can be left on answering machine after hours, but will not be considered as an official notification). The location of the burros and the number captured at each site will be reported at this time by the Lessee. The BLM will attempt to load and transport the animals within 48 hours of notification. If the BLM is unable to transport burros within 5 days they must be released unless authorized otherwise. The Lessee will allow the captured burros free access to water at all times. Also, the Lessee will feed fair-to-good quality hay to the burros captured in the traps as follows:
1. A six-inch flake of hay per burro at each feeding.
 2. The first feeding will be within 12 hours after notification.
 3. Any additional feedings will occur at 24 hour intervals after the first.
- H. Reimbursement for cost of burro removal will be limited to the cost of the amount of hay required to be fed to the burros (see above). This will not exceed the replacement value of the actual amount and quality of hay fed.

V. Implementation

A. Failure to comply with conditions brought forth in Part IV of this agreement will result in the termination of this Cooperative Agreement by the Needles Area Manager. After termination any attempt to remove burros will be considered a violation of the Act and 43 CFR 4700.

B. Neither the Lessor nor the United States Government, nor their officers, agents, and employees shall be liable for any loss, damage, death or injury of any kind whatsoever to the person or property of the Lessee or sublessee or of any other person whomsoever, caused by any use of the leased premises or by any defect in any structure erected thereon, or arising from any accident, fire, or other casualty on said premises or from any other cause whatsoever; and Lessee, as a material part of the consideration for this lease, hereby waives on Lessee's behalf all claims against Lessor and the United States Government and agrees to hold Lessor employees, free and harmless from liability for all claims for any loss, damage, injury or death arising from the use of the premises by Lessee, together with all costs and expenses in connection therewith.

C. Failure to comply with procedures outlined in this agreement and/or any malicious or negligent act, or harassment resulting in injury or death of burros will result in immediate termination of this agreement and also may be considered a violation of the Act and 43 CFR 4700.

D. Nothing in this agreement will serve to alter the terms or provisions of Needles Resource Area grazing leases.

Appendix 2

**Needles Resource Area
Capture Plan for Wild Burros
for the
Lava Beds Herd Management Area**

I. INTRODUCTION AND BACKGROUND

The purpose of this capture plan is to outline the objectives, methods and procedures for the reduction of burro populations in the Lava Beds Herd Management Area (HMA) within the Eastern Mojave. The proposed reductions are in accordance with the:

- Wild Free Roaming Horse and Burro Act of 1971 (Public Law 92-195)
- Federal Land Policy and Management Act of 1976 (Public Law 94-579)
- Public Rangelands Improvement Act of 1978 (Public Law 95-514)
- Codes of Federal Regulations (43 CFR 4700 - Protection, Management, and Control of Wild Free-Roaming Horses and Burros)
- California Desert Conservation Area (CDCA) Resource Management Plan of 1980
- Eastern Mojave Herd Management Area Plan of 1984 (EMHMP)
- Eastern Mojave National Scenic Area Plan of 1988
- Post June 30, 1989, requirements of the Interim Management Policy.

The burro population in the Lava Beds area has been very prolific and requires a large removal to reduce the burro numbers down to acceptable levels. They are currently expanding their range to areas outside of the historical range, including areas outside of the HMA. The area of the removal contains prime desert bighorn sheep habitat, especially the Old Dad Mountains, and critical desert tortoise habitat. Utilization monitoring, use pattern mapping based on the key forage plant method, of the Lava Beds HMA indicate overall heavy utilization levels of forage species in the area. The area is receiving excessive amounts of trailing and formation of dirt wallows. The burro population is estimated to be 300 - 400 burros, actual sightings confirm over 200 burros. The Management level set by the CDCA plan is 75 burros. The EMHMP objectives provide that burro numbers will be reduced to the levels prescribed by the CDCA Management Plan. Maintenance of that level, +/- 30%, will be sustained by periodic removals.

II. AREA DESCRIPTION

The Eastern Mojave is located in Southern California in the upper eastern portion of San Bernardino County. It encompasses much of the area surrounding the higher mountain ranges between Interstate 40, and northward to the Inyo County line. It is located entirely within the boundaries of the Needles Resource Area of the Bureau of Land Management's California Desert District.

The Lava Beds are located in the northwestern portion of the Eastern Mojave. The area is of volcanic origin, characterized by layers of black basalt overlaying a base of granite. More than 30

cinder cones are clustered in this area. All of the Lava Beds HMA is within the Valley View grazing allotment.

III. JUSTIFICATION

The Wild Free-Roaming Horse and Burro Act of 1971 (Public Law 92-195) as amended, Section 3(b)(2) requires that if an overpopulation exists on a given area of public lands and that action is necessary to remove excess animals, excess animals shall be immediately removed from the range so as to achieve the appropriate management level.

The following table lists the estimated existing burro population, the appropriate management level and the goals for removal in the Lava Beds HMA.

Herd Management Area	Appropriate Management Level	Estimated Population	Excess Above Management Level	Goal To Gather Initially
Lava Beds	75	300-400	225-325	125-150

Populations can increase by 15% to 25% annually. Taking a conservative reproductive estimate, population numbers could double in five years. Currently, excess burros from herd areas are colonizing areas outside of existing herd areas. Population estimates are based on aerial survey data (actual count 200 burros), ground observations, removals and projected yearly increases of 16 percent. Based on past studies, it is estimated that actual population numbers are around twice that of aerial counts. The following is an analysis of methods and reliability of current estimates.

Herd Management Area	Population Estimate Method and Date	Reliability (High, Good, Fair, Poor)
Lava Beds	Aerial Census - 1993	High

The proposed action is to comply with Federal Statutes and the Bureau of Land Management policies in managing wild burros in the Lava Beds HMA. The Proposed action is to initially water trap between 125-150 burros, starting in mid-year 1994. It is estimated that after this initial removal approximately 150-275 burros would still be within the HMA. If future censuses, conducted after initial removal, indicate that there are more than 75 burros in the HMA, the excess burros would be removed in a like manner. The operation will generally take place from late spring and until late fall or until the targeted number of burros are gathered.

IV. CAPTURE SITES

Water traps for burros are proposed at the following existing corrals:

Proposed Water trap locations within HMA, using existing corrals:

- 1). T.14N, R.12E, Section 28, S.B.B.M., RIP # 9587¹.
- 2). T.14N, R.12E, Section 20, S.B.B.M., RIP # 9588.
- 3). T.14N, R.12E, Section 20, S.B.B.M., RIP # 9448.

- 4). T.13N, R.11E, Section 25, S.B.B.M., RIP # 9590.
- 5). T.13N, R.12E, Section 18, S.B.B.M., RIP # 9588.
- 6). T.14N, R.11E, Section 7, unsurveyed, S.B.B.M., RIP # 9591.

¹ Within Cinder Cones WSA, CDCA-239. All others are outside or on the boundary of WSA's.

Proposed Water trap locations outside HMA, using existing corrals:

- 1). T.14N, R.12E, Section 22, S.B.B.M., RIP # 9592.
- 2). T.14N, R.12E, Section 13, S.B.B.M., RIP # 9023.

15' QUADRANGLES: Halloran Spring, Calif., Kelso, Calif., Mescal Range, Calif., and Old Dad Mtn. Calif.

V. METHODS OF CAPTURE

The BLM and the Lessee of the Valley View Allotment will work together to water trap burros in order to remove excess burros from the Lava Beds HMA. Water trapping is the easiest, least expensive and safest for the personnel involved in the gathering operation. Water trapping involves the following: 1) excluding burros at waters where no trap is set, and 2) setting a one way gate (trigger) at watering site(s).

Trap Sites

The corrals used to trap burros will contain adequate water and fencing. There will be no exposed barbed wire in any of the corral facilities. Any objects potentially injurious to the animals will be removed or made safe. Water troughs are located inside each corral. The corrals that are used to trap burros will be temporarily modified using portable steel pipe panels (5 feet high) that are self supporting to divide the corral into a trapping area and a holding area. The dimensions of the trap and holding areas will vary with the dimensions of the corral. Both areas are designed so that animals have access to water. This area will be constructed entirely within existing disturbance. No new surface disturbances would occur. The trapping area consists of placing a finger trigger gate at the entrance way of the corral. This allows the animals to enter to drink, but not exit. The size of the trap area will be approximately 400 square feet, but will vary with the size of corral. A swing gate will be placed between the holding area and the trap area so that trapped burros can be moved into the holding pen. The holding area will be approximately 40 feet by 40 feet. The traps will be checked daily for any trapped animals. Trapped burros will be moved to the holding area. In the case that other animals are trapped besides burros, the burros will be sorted into the holding area, if this can be done without harming any animals. If it is not possible to sort without harming animals, the trigger gate will be opened allowing the animals to escape. The BLM plans to load and transport the burros within 48 hours of being notified of capture. If the BLM is unable to transport burros within 5 days they must be released, unless authorized otherwise. If the holding facility gets too crowded, the trigger gate will be locked open, until extra panels are set up to expand the holding facility or until the animals are removed. If the burros are to be transported by truck and trailer by the Lessee to a holding corral, the Lessee will notify the BLM prior to such action. The holding corral must meet the same standards of the capture corral. The Lessee will feed fair-to-good quality hay to the captured burros.

The related structures will be installed by hand using hand tools and will be removed upon completion of the gather in the area. A new site may then be set up according to the location of any other herds. When the traps are not in service, the trap gates will be locked open.

Limiting Burro Access To Other Available Water Sources

The other existing water sources would be closed off to burros. This may include turning off the water to troughs, closing corrals, or temporarily placing steel fence posts around water sites and running one to three strands of wire between them and then attaching flags to the wire. The flags flapping in the breeze repel burros from the watering area. A temporary barrier fence would be installed at Indian Spring, using prefabricated fence panels and metal T-stakes, so no burros can use the water source. The temporary fence would be as small as practical. Water sites that are fenced off are generally difficult to access with stock trailers or are located where setting up traps would result in new disturbance. The temporary barriers at waters of prime importance to deer will be at least 60 foot long on a side and not over 60 inches tall at any point with opposite sections 42 inches or less in height for escape. Those barriers around bighorn sheep waters will include several bighorn sheep panels to allow sheep access to the water, while excluding burros. The disturbance would be temporary in nature and consist of steel fence post holes in sand. The related structures will be installed by hand using hand tools and will be removed upon completion of the gather in the area.

Excluding burro from the following water locations, within Cinder Cones WSA (CDCA-239) to divert animals to waters with traps:

- 1). T.13N, R.11E, Sections 3 & 9 (unsurveyed), S.B.B.M., Indian Creek Area Springs: Indian Spring, Cane Spring, and other open/available waters at the time of trapping activity.
- 2). T.14N, R.11E, Section 9 (unsurveyed), S.B.B.M., Granite Spring.
- 3). T.14N, R.11E, Section 1 (unsurveyed), S.B.B.M., Cow Cove Reservoir.

Transporting and Sorting

Horse trailers pulled by heavy duty four wheel drive trucks will be necessary to transport the materials and captured animals, thus trapping locations will be limited to those areas where suitable access exists. All vehicular access would be by existing routes. Any travel into WSA's will be authorized and restricted to existing routes and no off road travel will occur.

Captured burros will be counted as they are loaded into the horse trailer. Jennies and foals will be kept as pairs, jacks will be kept separate from pairs, and when practical, jennies and jacks will be kept separate.

All animals gathered will be brought back to the BLM Ridgecrest Corrals. Captured burros are very sensitive to people. Because of this, the number of team members to handle the animals shall be limited to essential personnel to alleviate stress on the animals. The number of animals will be counted as they come off the trailer. The first consideration after unloading is to determine which animals, if any, need special attention for injuries, illnesses or any other problems requiring prompt attention. Any orphans shall be separated and provisions made to feed and care for them. The jacks will be separated from the pairs and jennies.

Handling of the animals would be kept to a minimum in order to avoid traumatizing the animals any more than necessary. A veterinarian will be on call at all times.

VI. RESPONSIBILITIES

It will be the responsibility of the Lead Range Conservationist from the Needles Resource Area Office to locate all trap sites and to assure that the capture is being conducted in accordance with applicable regulations and BLM policies. He will also insure that the animals are humanely treated, work in a safe manner and adhere to the guidelines set forth in the capture plan. The Needles Range Conservationist will consult with the Capture Crew Leader from the Ridgecrest Resource Area Office of any sick or injured animals. If for some reason the Capture Crew Leader is unavailable, the Ridgecrest Resource Area Supervisory Range Conservationist or the Ridgecrest Wild Horse and Burro Specialist will act in his absence. The lessee may assist in the water trapping of burros if he coordinates with the BLM and follows this capture plan and the Cooperative Agreement between the lessee and the BLM (see appendix 1).

The Needles Lead Range Conservationist will keep the Ridgecrest Resource Area Supervisory Range Conservationist and Capture Crew Leader advised of progress and of any problems in implementing the capture plan. The Range Conservationists in turn will keep the Resource Area Managers informed.

VII. INJURIES AND DISEASE

For injuries and disease not requiring destruction, the Capture Crew Leader will determine if the animal can be transported to the Ridgecrest Corrals without further injury, harm or undue pain to the animal. If the animal can be transported, the animal will be treated upon arrival at the Ridgecrest Corrals. If the animal cannot be transported, or if the Capture Crew Leader is uncertain, a veterinarian will examine the injured or sick animal at the trap site.

VIII. DESTRUCTION OF INJURED OR SICK ANIMALS

Any severely injured or sick animal shall be destroyed in accordance with 43 CFR 4740.31. Such animals shall be destroyed only when a definite act of mercy is needed to alleviate pain and suffering. When the Capture Crew Leader is unsure as to the severity of an injury or sickness, a veterinarian will be on call to make a final determination. Destruction shall be done in the most humane method available.

IX. SAFETY

All capturing and handling of the animals shall be done in the safest manner possible for the wild animal and personnel.

- 6) T.16N, R.12E, Sec. 22.
- 7) T.16N, R.12 1/2E, Sec. 12.
- 8) T.15 1/2N, R.14E, Sec. 31.
- 9) T.17N, R.14E, Sec. 27.

- 6. **AFFECTED ACREAGE:** Approximately forty (40) square acres.
- 7. **7 1/2' QUADRANGLES:** Clark Mtn., East/Kingston Spg, Halloran Spring, Ivanpah Lake, Kingston Spg., Mescal Range, Mesquite Lake, Mesquite Mtns., Mineral Hill, Pachalka Spring, Solomons Knob, Stateline Pass, Turquoise Mtn., and Valley Wells.
- 8. **MULTIPLE-USE CLASS:** Limited and Moderate 9. **SECTOR:** 96
- 10. **LAND STATUS:** Public (BLM)/National Preserve (NPS)
- 11. **SPECIAL DESIGNATION AREA:** California Desert Conservation Area - Kingston Range, Mesquite Mountain, Northern Mesquite Mountain, and Stateline Wilderness Areas; Mojave National Preserve - Clark Mountain Wilderness.
- 12. **AUTHORITY:** 16 U.S.C. 1331-1340; 18 U.S.C. 47; 43 U.S.C. 315, 1711, and 1712, (BLM); 16 U.S.C. 1, 3, and 410aaa (NPS).
- 13. **LAND USE PLAN CONFORMANCE:** *California Desert Conservation Area (CDCA) Management Plan*, 1980 and as amended 1989, provides for removal of animals to maintain the population level of 44 burros west of Excelsior Mine Road, with no animals to remain east of this road.
- 14. **HERD MANAGEMENT PLAN (HMP) CONFORMANCE:** *Eastern Mojave HMP*, 1984, objectives provide that burro numbers will be reduced to the levels prescribed by the CDCA Management Plan. Maintenance of that level, +/- 30%, will be sustained by periodic removals (pg. 11).
- 15. **NPS POLICY:** The NPS policy for lands in the Mojave National Preserve (MNP) during its planning process is to remove all burros in non-retention areas and to reduce burro numbers in the retention areas to the level provided in the BLM's current HMP.
- 16. **RELATED DOCUMENTS:**

The following documents has led to the development of this Environmental Assessment and attendant *Capture Plan for Wild Burros for the Clark Mountain Herd Management Area (HMA)*.

- 1). Wildhorse and Burro Act of 1971
- 2). CDCA Management Plan Environmental Impact Statement and resulting Record of Decision -- limiting the Clark Mountain HMA retention area to 44 burros.
- 3). Eastern Mojave HMP
- 4). Programmatic Burro Removal Environmental Assessment, CA-069-EA1-08.
- 5). Reports of excessive burros in the Clark Mountain HMA.
- 6). Aerial census of part of the Clark Mountains HMA.
- 7). Monitoring of utilization of Clark Mountains HMA and adjoining areas including Valley Wells, Valley View, and Clark Mountain grazing allotments.

17. NEED FOR PROPOSED ACTION:

The Clark Mountain HMP is divided into two parts the retention area and the non-retention area. The retention area encompasses the area west of the Excelsior Mine Road including the Turquoise and Squaw Mountain area. The non-retention area encompassed the area east of the Excelsior Mine Road including the Clark Mountain, and Mesquite Dry Lake area, see exhibit. Some of these lands east of the road are now in the Mojave National Preserve.

The burro population in the Clark Mountain HMP has been very prolific and requires routine reductions to maintain the burro population at acceptable levels and to remove burros from the non retention area. Populations can increase by 15 percent to 25 percent annually. The estimated burro population within the Clark Mountain HMA area is 174 as of September 1994. This estimate is based on an aerial counts and on the ground estimates. The management level set by the CDCA Management Plan is 44 burros within the retention area. Taking a conservative reproductive estimate, population numbers could double in five years. Delays in removal of burros would increase the cost and time needed to meet multiple use and sustained yield objectives. The area contains prime desert bighorn sheep habitat and critical desert tortoise habitat and is within the Valley Wells and Clark Mountain Grazing Allotments. The prime desert bighorn sheep habitat is located in the Clark Mountains and the critical desert tortoise habitat is located in the Shadow Mountain area. The HMA is receiving excessive amounts of trailing and formation of dirt wallows by burros. Utilization maps of the area confirm utilization of forage plants above recommended levels. Cattle have been reduced in numbers in the Valley Wells allotment and almost entirely removed from the Shadow Mountain and Clark Mountain areas due to poor forage availability. The adjoining area south of Mountain Pass in the Valley View allotment is outside any HMA. This area does not have a retention level and burros from this area have in the past become hazardous to Interstate 15 and Nipton Highway travelers. The area around Clark Mountain area and adjacent area south of Mountain Pass was covered in detail in Programmatic Burro Removal Environmental Assessment, CA-069-EA1-08.

18. PROPOSED ACTION AND ALTERNATIVES

18.1 Proposed Action:

The Bureau of Land Management (BLM) proposes the capture and removal of burros in excess of the established management level (44 burros), throughout a five year period. This would require removal of approximately 130 burros. The BLM may be assisted by the Valley Wells and Clark Mountain lessees (see Appendix 1: Cooperative Agreement) in accomplishing this objective.

During the initial gathering, fiscal year (FY) 1995, roughly 100 burros would be removed from the HMA. The population remaining in the retention area would be maintained at 44 burros +/- 30%. In subsequent years additional removals would be conducted to maintain 44 burros +/- 30% in the retention area and to eliminate the burros in other portions of the HMA. Censuses of the burro population in the retention area would be routinely conducted prior to removals to assure that the burro population would be maintained at or near the management level. All burros on public land south of Mountain Pass, outside the HMA, would be removed.

It is proposed that a water/bait trapping and wranglers only methods (see Method Section), would be used to remove burros, in all areas listed during FY95 and early FY96, spring through fall 1995. All trap and corral locations are outside wilderness (see Location section

and attached maps). The helicopter assisted trapping method would only be used to gather and capture burros in areas outside wilderness. If this effort is not effective in reducing burro numbers to down to 60 animals within the HMA, the helicopter assisted trapping method would be allowed starting in FY96, winter of 1995. Helicopters would then be used to herd burros inside wilderness to capture sites outside wilderness.

Methodology:

Helicopter Assisted Trapping

Proposed activities include use of a helicopter, 4 to 5 wranglers on horseback, temporary corrals to hold the burros, and trucks and trailers to remove the captured animals (see Appendix 2: *Capture Plan for Wild Burros for the Clark Mountain Herd Management Areas Fiscal Year 1995-2000*). All work would be conducted by personnel experienced in gathering operations, mostly the Wild Horse and Burro crew. Any given gathering operation may last from 2 to 14 days.

A B-1 Jet Ranger, or other similar helicopter would be used to direct burros to the nearest corral. Flight time would not exceed 8 hours a day. The helicopter would normally fly at heights from 50 to 100 feet, although it would drop as low as 5 or 6 feet when turning burros. This latter action would be brief (2 to 4 minutes), and generally occur within 600 feet of the corral. The helicopter would usually pass over any given point only one time as it herds the burros. Refueling would involve one fuel truck and would be restricted to an area within existing roads. Refueling would occur up to four times a day at flat disturbed areas near the corral.

Generally less than 15 burro would be herded or moved at one time. Burros would be herded a distance of up to six miles by the helicopter. Burros would not be moved at more than 10 miles an hour and would be given a chance to rest as necessary. The rate of movement and distance traveled may be adjusted downward depending upon the terrain, weather, condition of the animals and other factors. An individual herding effort would be terminated if fatigue or undue stress is noted in any of the animals being herded.

Burros would be moved to temporary corrals constructed for this purpose or existing livestock corrals. Existing corrals would be cleaned up to remove all sharp objects. If no wings are present at the corrals, then a temporary wing may be built. The wing panel would be constructed of jute and held up along tee posts over a 300 foot span. This would provide a visual barrier and would help guide animals to the corral.

Temporary corrals would be located in previously disturbed areas. The temporary corrals would be approximately 60 feet on a side. They would be made out of portable steel panels and would be self supporting or supported by metal fence posts. Each temporary corral would be in place for no more than three days, and would be visited daily. All temporary corrals would be removed upon completion of capture episode in that area.

Water would be provided to all burros held at the corrals for more than 4 hours and food would be provided for any animals held over 10 hours. Burro handling would be kept to a minimum in order to minimize trauma to the burros. A veterinarian would be on call at all times.

As the helicopter herds the burros to the corral, the wranglers would be concealed. Four to five wranglers on horseback would move in behind the burros and maneuver them into the

corral. This generally requires the burros to be roped and then lead into the corral. At corrals sites within critical desert tortoise habitat, burros would be roped before entering critical habitat or in an area within 600 feet of the corral to minimize disturbance of critical habitat.

Approximately 8 to 10 horses would be used in each operation. The horses would be kept in an existing corral or the temporary corral overnight. Those horses not being used during the day would be kept tied to or left inside of the horse trailer during the roundup. Temporary corrals at collection points that are not prime deer or bighorn water sources will not have the height or minimum size restrictions.

Within wilderness areas, applicable to alternative one and allowable in preferred action if other method are not effective, the helicopter would be used almost exclusively to herd burros to herd burros to wrangler waiting near collection points, see Locations section and maps. The resulting disturbance would be minimal in wilderness areas and primarily consisting of disturbance in solitude due to helicopter operation.

Wranglers Only

This method involves wranglers traveling on horseback up to several miles from the corral to herd or rope burros and bring them to the corral locations, without the assistance of a helicopter. This operation would require 4 to 15 wranglers and 8 to 60 horses. All other aspects would be similar including the use of corrals to hold the burros and horses, and trucks and trailers to remove the captured animals.

Water/Bait Trapping

The activities include use of the Wild Horse and Burro crew, Needle BLM staff and lessee. It would involve the use of existing corrals and when needed temporary corrals or devices to trap or limit animal access to water or bait (see Appendix 2: *Capture Plan for Wild Burros for the Clark Mountain Herd Management Areas Fiscal Year 1995-2000*). A one way gate (trigger) would be placed at the entrance of these existing corrals surrounding the watering or baiting locations. Attempts would be made to exclude burros from waters sources, not easily accessible to stock trailers or where trapping activities would result in new disturbance, during the undertaking. Temporary corrals designed to limit burro access to waters of prime importance to deer will be at least 60 foot long on a side and not over 60 inches tall at any point with opposite sections 42 inches or less in height for escape, while those for bighorn sheep will have several bighorn sheep panels per corral to allow sheep access to the water while excluding burros.

The lessee would be required to work under the guidelines of a current cooperative agreement for burro removal and can only trap burros within their allotment (see appendix 1).

Within wilderness areas, burros may need to be excluded from additional unfenced water sources not address in this document through construction of temporary fence enclosures. This would require subsequent review. Steel fences posts would be pounded in and three strands of wire strung. Flags would be attached to the wire to aid in repelling the burros. The resulting disturbance would be temporary. Fence enclosures would be removed upon completion of the project.

18.2 Alternative One:

Alternative One consists of burro capture and removal as developed in the proposed action with the addition of helicopter assisted trapping in wilderness areas, see the Method Section. All trap and corral locations are outside wilderness, see Location section and attached maps. Helicopter could then be used gather burros from within wilderness areas and herd them to capture sites outside of wilderness.

18.3 Alternative Two:

Alternative Two consists of burro capture and removal as developed in the proposed action with the use of Wranglers Only method to capture burros that remain in wilderness areas. All trap and corral locations are outside wilderness, see Location section and attached maps. Wranglers would rope the excess animals, which avoid the traps, and lead them to capture locations outside of wilderness.

18.4 No Action Alternative:

Under the No Action Alternative, burro removal would not be undertaken as proposed. Existing management and use of the sites would continue subject to applicable statutes, regulations, policy, and land use plans.

Adoption of the no action alternative would result in adverse impacts to range resources until excess burros numbers are reduced. These impacts would be both temporary and permanent in nature. Temporary impacts would include continued loss of plant vigor and seedling establishment. Long term to permanent impacts would include loss of species richness and plant vigor. Permanent impacts would include loss of soil and site potential due to trailing, wallowing, and improper use.

The no action alternative would conflict with NPS official policy for exotic species, including burros in the National Park System units. The no action alternative would also conflict with interim management policy of the NPS for the MNP.

Adverse impacts, both short and long term, include decreased vegetation (for forage, shelter, reseeding) due to heavy grazing pressure, and compaction of the soils (for burrowing animals, and for increased forage/shelter via increased reseeding potential). This action would adversely impact all wildlife.

No impacts upon other resource values are foreseen consequent adoption of the no action alternative.

19. ENVIRONMENTAL IMPACTS

19.1 PROPOSED ACTION:

<u>Critical Element</u>	<u>Affected</u>		<u>Critical Element</u>	<u>Affected</u>	
	Yes	No		Yes	No
Air Quality	—	—	Recreation	—	—
ACEC's	—	—	Range	<u>X</u>	—
Cultural Resources	—	—	Soils	—	—
Farmland, Prime/Unique	—	—	Visual	—	—
Floodplains	—	—	T&E Species	—	—
Forestry	—	—	Wastes, Hazardous	—	—
Fire Mgmt. Objectives	—	—	Water Quality	—	—
Lands (existing rights)	—	—	Wetlands & Riparian	—	—
Minerals	—	—	Wild & Scenic Rivers	—	—
Nat. Amer. Rel. Concerns	—	—	Wildlife	—	—
Paleontology	—	—	Wild Horse & Burro	<u>X</u>	—
Vegetation	—	—	Wilderness	—	—

Description of Impacts:

Range Conservation:

The proposed action would reduce grazing impacts on the vegetative resource which would be very beneficial especially in due to the past poor precipitation in 1993-1994.

19.11 Mitigation:

X

19.12 Residual Impacts:

X

19.2 ALTERNATIVE ONE:

<u>Critical Element</u>	<u>Affected</u>		<u>Critical Element</u>	<u>Affected</u>	
	Yes	No		Yes	No
Air Quality	—	—	Recreation	—	—
ACEC's	—	—	Range	<u>X</u>	—
Cultural Resources	—	—	Soils	—	—
Farmland, Prime/Unique	—	—	Visual	—	—
Floodplains	—	—	T&E Species	—	—
Forestry	—	—	Wastes, Hazardous	—	—
Fire Mgmt. Objectives	—	—	Water Quality	—	—
Lands (existing rights)	—	—	Wetlands & Riparian	—	—
Minerals	—	—	Wild & Scenic Rivers	—	—
Nat. Amer. Rel. Concerns	—	—	Wildlife	—	—
Paleontology	—	—	Wild Horse & Burro	<u>X</u>	—
Vegetation	—	—	Wilderness	—	—

Description of Impacts:

Range Conservation:

Alternative one would allow the use of a two proven methods of burro gathering throughout the project area from the start. This would probably result in reaching the target level of burros in a shorter period of time than any of the other proposals. This would result in a faster reduction of grazing impacts on the vegetative resource which would be very beneficial. The area outside of wilderness is the first priority to remove burro due to the heavy impacts on vegetation in this area.

19.21 Mitigation:

X

19.22 Residual Impacts:

X

19.3 ALTERNATIVE TWO:

<u>Critical Element</u>	<u>Affected</u>		<u>Critical Element</u>	<u>Affected</u>	
	Yes	No		Yes	No
Air Quality	—	—	Recreation	—	—
ACEC's	—	—	Range	—	<u>X</u>
Cultural Resources	—	—	Soils	—	—
Farmland, Prime/Unique	—	—	Visual	—	—
Floodplains	—	—	T&E Species	—	—
Forestry	—	—	Wastes, Hazardous	—	—
Fire Mgmt. Objectives	—	—	Water Quality	—	—
Lands (existing rights)	—	—	Wetlands & Riparian	—	—
Minerals	—	—	Wild & Scenic Rivers	—	—
Nat. Amer. Rel. Concerns	—	—	Wildlife	—	—
Paleontology	—	—	Wild Horse & Burro	—	<u>X</u>
Vegetation	—	—	Wilderness	—	—

Description of impacts:

Range Conservation:

Alternative two may increase the time required to reduce grazing impacts on the vegetative resource which may result in further degradation of the resource. Helicopter would not be allowed to assist wranglers in capturing burros in wilderness even if other methods failed. This may result in excessive amount of time required for wrangler to rope and lead out each burro remaining in wilderness or avoiding the traps. Instead of being able to capture 10-20 burros a day with helicopter assisted gathering, it is estimated that only around 4 burros would be captured a day. This would result in greater ground disturbance since wranglers on horseback would replace the use of helicopter.

19.31 Mitigation:

X

19.32 Residual Impacts:

X

19.4 NO ACTION ALTERNATIVE :

<u>Critical Element</u>	<u>Affected</u>		<u>Critical Element</u>	<u>Affected</u>	
	Yes	No		Yes	No
Air Quality	—	—	Recreation	—	—
ACEC's	—	—	Range	—	<u>X</u>
Cultural Resources	—	—	Soils	—	—
Farmland, Prime/Unique	—	—	Visual	—	—
Floodplains	—	—	T&E Species	—	—
Forestry	—	—	Wastes, Hazardous	—	—
Fire Mgmt. Objectives	—	—	Water Quality	—	—
Lands (existing rights)	—	—	Wetlands & Riparian	—	—
Minerals	—	—	Wild & Scenic Rivers	—	—
Nat. Amer. Rel. Concerns	—	—	Wildlife	—	—
Paleontology	—	—	Wild Horse & Burro	—	<u>X</u>
Vegetation	—	—	Wilderness	—	—

Description of impacts:

Adoption of the no action alternative would result in adverse impacts to range resources until excess burros numbers are reduced. These impacts would be both temporary and permanent in nature. Temporary impacts would include continued loss of plant vigor and seedling establishment. Long term to permanent impacts would include loss of species richness and plant vigor. Permanent impacts would include loss of soil and site potential due to trailing, wallowing, and improper use.

Adverse impacts, both short and long term, include decreased vegetation (for forage, shelter, reseeding) due to heavy grazing pressure, and compaction of the soils (for burrowing animals, and for increased forage/shelter via increased reseeding potential). This action would adversely impact all wildlife.

19.41 Mitigation:

X

19.42 Residual Impacts:

X

20. CONSULTATION:

A Notice of Proposed Action (NOPA) was sent to (mailing list attached)

Copies of the *Capture Plan for Wild Burros for the Clark Mountain HMA* were sent to wildhorse\burro interest groups on --.

Copies of the *Capture Plan for Wild Burros for the Clark Mountain HMA* and the Environmental Assessment, CA-069-EA5- were sent to wildhorse\burro interest groups on --.

21. PUBLIC NOTIFICATION:

Notification of the proposed action and analysis has been prominently posted in the Needles Resource Area office, Needles, California, during its review. The notification cites the nature and location of the proposed action, the purpose of analysis, and encourages public participation in the process.

22. REVIEWERS:

In accordance with 43 U.S.C. 4371 et sec., we have reviewed environmental document CA-069-EA5-14. Subject to mitigation measures, the proposed action would result in a finding of no significant impact on the human environment. We find that proper consideration has been given to all resource values and that the document is technically adequate. Accordingly, an Environmental Impact Statement is not required.

Coordinator, Planning and Environmental Analysis

Date

Chief, Multi-Resource Staff

Date

Appendix 1: Cooperative Agreement

Cooperative Agreement for Burro Removal

I. Purpose

This agreement provides procedures for the removal of the wild, free-roaming burros which make use of Public and National Park System Lands under the authorized grazing lessees/permits of the following Allotments: Clark Mountain and Valley Wells allotments, administered by the Needles Resource Area of the Bureau of Land Management and the National Park Service. The purpose of this agreement is to provide a method of reducing the number of burros to management level, thereby, reducing the damage to other resources.

II. Authority

A. Bureau of Land Management

1. The Wild, Free-Roaming Horse and Burro Act, 16 U.S.C., 1336 (1982), authorizes the program.
2. 16 U.S.C., 1331-1339 (1982), authorizes protection, management, and control of Wild Horses and Burros.
3. Public Land Administration Act, 43 U.S.C., 1363 (1982), authorizes cooperative agreements.

B. National Park Service

1. 16 U.S.C. 1 and 3, established the NPS and authorized the removal of detrimental animals from parks.
2. California Desert Protection Act, created the Mohave National Preserve and placed it under the jurisdiction of the NPS.

III. Definitions

A. Lessee/Permittee: means person, group, or their designated agent controlling a grazing lease for an allotment.

B. Wild, Free-Roaming Burros: means all unbranded and unclaimed horses and burros and their progeny that have used public lands on or after December 15, 1971, or that do use these lands as all or part of their habitat.

C. The Act: means 16 U.S.C., 1331-1340 (1982).

D. Capture: mean the actual action of trapping or shutting the gates of the corral facilities. Capture as defined here does not include actual removal from the boundaries of the allotment.

D. Removal: means transporting the captured burros from public lands from which they were captured.

E. Working: means roping, driving, sorting, loading, or handling animals.

F. Trapping: means the capture method in which the animals are baited into a corral, and the gates on the facility are such that they prevent the animal from escaping.

G. Shutting the Gates: means the capture method in which the animals are baited into a corral, and the gates on the facility are left open allowing the burros to come and go freely until the corral gate is physically shut.

IV. Operations

A. Capture of Burros may be done by the Lessee or his or her tenant only within the allotment that they have under lease.

B. Capture procedures can only be performed at corral facilities that do not have inadequacies or potential injurious features that could result in injury of burros. For example, the corrals cannot be constructed of barbed wire or have exposed sharp objects that may cause injury.

C. All appropriate steps shall be taken to reduce chances of injury to burros. Incidences of burro injury or death will be reported promptly and then investigated in order to reduce chances of further injury or death.

D. Actual time periods and areas of capture, and numbers of animals allowed to be captured will be set by the Needles Area Manager or his authorized Representative with the consultation and cooperation of the Lessee. Within periods of capture actual scheduled capture days and removal/transport days will be set by the Area Manager. Suspension of a capture may be initiated by either party upon five day written notice.

E. Trapping is preferred to be done when cattle are not in the area; this will reduce possibility of injuring animals during separation (sorting). Shutting of the gates on burros should only be done if there are no cattle captured with the burros. Trapped burros will be moved to the holding area. In the case that other animals are trapped besides burros, the burros will be sorted into the holding area, if this can be done without harming any animals. If it is not possible to sort without harming animals, the trigger gate will be opened allowing the animals to escape. The Lessee is required to check the corral facilities for burros every morning where the finger trap gates are set.

F. Working of the burros will be kept to a minimum in order to minimize stressing the burros. If necessary, the Lessees will be allowed to transport burros short distances by truck and trailer from a capture corral to a holding corral. Holding corrals should be readily accessible to truck and trailer.

G. The Lessee must notify the BLM within 6 hours after checking the traps and finding burros captured. Notification will be made by calling the Needles Resource Area Office ((619) 326-3896) between 7:45 a.m. and 4:30 p.m. (a message can be left on answering machine after hours, but will not be considered as an official notification). The location of the burros and the number captured at each site will be reported at this time by the Lessee. The BLM will attempt to load and transport the animals within 48 hours of notification. If the BLM is unable to transport burros within 5 days they must be released unless authorized otherwise. The Lessee will allow the captured burros free access to water at all times. Also, the Lessee will feed good quality grass hay, supplied by the BLM, to the burros captured in the traps as follows:

1. A six-inch flake of hay per burro at each feeding.
2. The first feeding will be within 12 hours after notification.

3. Any additional feedings will occur at 24 hour intervals after the first.

H. The lessee will not be reimbursed for cost of burro removal. The BLM's supply of good quality grass hay will be limited to the amount needed to feed the burros during the capture period (see above)."

V. Implementation

A. Failure to comply with conditions brought forth in Part IV of this agreement will result in the termination of this Cooperative Agreement by the Needles Area Manager. Any attempt to capture or remove burros without BLM and or NPS authorization will be considered a trespass of applicable laws and regulations.

B. Neither the Lessor nor the United States Government, nor their officers, agents, and employees shall be liable for any loss, damage, death or injury of any kind whatsoever to the person or property of the Lessee or sublessee or of any other person whomsoever, caused by any use of the leased premises or by any defect in any structure erected thereon, or arising from any accident, fire, or other casualty on said premises or from any other cause whatsoever; and Lessee, as a material part of the consideration for this lease, hereby waives on Lessee's behalf all claims against Lessor and the United States Government and agrees to hold Lessor employees, free and harmless from liability for all claims for any loss, damage, injury or death arising from the use of the premises by Lessee, together with all costs and expenses in connection therewith.

C. Failure to comply with procedures outlined in this agreement and/or any malicious or negligent act, or harassment resulting in injury or death of burros will result in immediate termination of this agreement and also may be considered a trespass of applicable laws and regulations.

D. Nothing in this agreement will serve to alter the terms or provisions of Needles Resource Area grazing leases.

Lessee

Date

Area Manager, Needles Resource Area

Date

Superintendent, Mojave National Preserve

Date

Appendix 2: Capture Plan