

G 1/15/02



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Elko Field Office  
3900 East Idaho Street  
Elko, Nevada 89801-0611  
<http://www.nv.blm.gov>

In Reply Refer To:  
4710.4 (NV-012)

IAN 15 2002

Dear Interested Party:

This letter is to inform you that the Elko Field Office intends to gather and remove approximately 290 wild horses impacted by the Buffalo and Ranch Wildland Fires. The Buffalo fire was started by lightning on August 12, 2001 and burned 21,188 acres before control was declared on August 18, 2001. Almost 20% of the Rock Creek Herd Management Area (HMA) was burned, therefore, approximately 250 wild horses of the 1,675 wild horses currently inhabiting the HMA must be removed to allow natural resources to recover. The Ranch Fire was started by lightning on August 12, 2001 and burned 19,966 acres before control was declared on August 14, 2001. The Ranch Fire burned a small portion of the Little Humboldt HMA and no gather is necessary within the HMA. However, there is a small group of wild horses that have moved outside the HMA and are currently inhabiting the burned area; these horses need to be gathered and removed. Both of these burned areas will have protective fencing constructed around their perimeter in order to allow rest from grazing. The gather is to commence on or about February 15, 2002.

EA  
WHEN?

unless fence is done, his will come back in

The Elko Field Office has prepared several documents which pertain to this action. Because this is an emergency action, the Environmental Assessment (EA), Finding of No Significant Impact (FONSI), and Decision Record (DR) are final and are being sent to you for informational purposes only. The final decision to gather and remove wild horses affected by the fires is being placed in Full Force and Effect. This decision may be appealed to the Interior Board of Land Appeals. Should you wish to file an appeal, instructions for doing so are contained in the Notice of Full Force and Effect Decision.

250 now  
250 later  
250 " "

4770-emergency NEPA

Bad area to set to in the winter. long road Bumpy

Please find the following documents enclosed:

1. Environmental Assessment for the Buffalo and Ranch Wildland Fire Emergency Wild Horse Gather and Removal (EA# BLM/EK/PL-2002-002);
2. Finding of No Significant Impact and Decision Record for EA# BLM/EK/PL-2002-002;

NO emergency NEPA

Tom can't force them to do testing, no proof that there is any problem (yes there is? - BY STATE)

3. Notice of Intent to Impound.

If you have any questions following the examination of these documents, please contact Kathy McKinstry, Elko Field Office Natural Resource Specialist, at the above address, or telephone (775) 753-0200.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Oke", with a long horizontal flourish extending to the right.

CLINTON R. OKE  
Assistant Field Manager  
Renewable Resources

**U.S. DEPARTMENT OF THE INTERIOR**

**BUREAU OF LAND MANAGEMENT**

**ELKO FIELD OFFICE**

**BUFFALO AND RANCH WILDLAND FIRES  
EMERGENCY WILD HORSE REMOVAL PLAN  
AND ENVIRONMENTAL ASSESSMENT  
EA# BLM/EK/PL-2002-002**

**2002**

## CHAPTER I - INTRODUCTION/PURPOSE AND NEED

### Introduction

The Buffalo and Ranch Fires were started by lightening within a few days of each other in August 2001. These fires, combined, burned a total of 41,154 acres in Northern Elko and Humboldt Counties. The fires burned habitat contained in the Rock Creek and Little Humboldt Herd Management Areas (HMAs). The Elko Field Office requested the assistance of the Department of the Interior Burned Area Emergency Rehabilitation (BAER) Team to initiate the rehabilitation planning process. The team produced The August 2001 Fire Complex Burned Area Rehabilitation Plan dated September 24, 2001. The plan covers the rehabilitation and emergency stabilization of 13 fires that burned a total of nearly 262,215 acres of public lands managed by the Elko Field Office and within Elko, Lander, Eureka and Humboldt Counties.

The BAER Team recommendations for the Ranch Fire are as follows:

- Dozer Line Rehabilitation - 5 miles
- Dozer Line Stabilization - 77 acres
- Watershed Protection Seedings - 132 acres
- Reseed Range using Drill or Aerial Methods 12237 acres
- Reseed Critical Wildlife Winter Range and Sage Grouse Habitat - 6374 acres
- Repair Pre-existing Fence for Resource Protection - 4.5 miles
- Construct New Fence Required for Resource Protection - 28 miles
- Exclude Wild Horses from Burned Area - 40 horses

The BAER Team recommendations for the Buffalo Fire are as follows:

- Aspen Protection Fence - 1.5 miles
- Dozer Line Rehabilitation - 11 miles
- Road Rehabilitation - 24 miles
- Dozer Line Stabilization - 207 acres
- Watershed Protection Seedings - 251 acres
- Reseed Range Using Drill or Aerial Methods - 695 acres
- Reseed Critical Wildlife Winter Range and Sage Grouse Habitat - 3379 acres
- Noxious Weed Control - 15 acres
- Repair Pre-existing Fence for Resource Protection - 6 miles
- Construct New Fence Required for Resource Protection - 20 miles
- Exclude Wild Horses from Burned Areas - 250 horses

**Allotments Affected:** Squaw Valley, Spanish Ranch, Midas, Little Humboldt and Jakes Creek.

### **Purpose and Need**

The proposed action is to gather and remove wild horses in the area of the Buffalo and Ranch Wildland Fire rehabilitation project. The purpose of this capture/removal plan is to outline the methods and procedures to be used in the capture/removal process and to discuss the disposition of the older unadoptable horses removed from the area.

Wild horses need to be excluded from the burned area to allow natural resources, such as soils and vegetation to recover. In most cases, it could take two growing seasons following the burn or reseeded for plant species to become established enough to withstand the impacts of grazing and still provide necessary watershed protection. The Buffalo and Ranch Wildland Fire burned areas would be closed to both livestock and wild horses for at least two growing seasons, although site specific monitoring will ultimately determine just when resource objectives have been achieved on specific burned areas. At the end of the closure period, wild horses would be allowed to return to the Buffalo Fire burned area, but they should not be allowed to return to the Ranch Fire burned area as the majority of this fire is well outside the Little Humbolt HMA. It is anticipated that the new Buffalo Fire rehabilitation fence will remain in place to facilitate livestock management and allow Frazer Creek to be grazed in a riparian friendly manner. A carrying capacity for the new pasture would be determined and AUMs allocated to both livestock and wild horses. This information will be contained in the Squaw Valley/Spanish Ranch Final Multiple Use Decision.

The wild horse gather would be conducted by the Bureau of Land Management (BLM) Elko Field Office. The removal operation would begin after issuance of the final gather plan and environmental assessment by the Elko Field Office.

The proposed action(s) would: (1) allow the range to recover after a devastating wild fire, (2) prevent further deterioration of the range not affected by the wild fire but now threatened by an overpopulation of wild horses, and (3) allow the BLM to remove wild horses currently residing outside a designated HMA in accordance with 43 CFR 4710.4.

### **Land Use Plan Conformance Statement**

The proposed action and alternatives described below are in conformance with the Elko Resource Management Plan (RMP), Issue Wild Horses, management prescriptions 1 and 3 and are consistent with Federal, State and local laws, regulations, and plans to the maximum extent possible.

### **Relationship to Planning**

The Elko Field Office has prepared several environmental assessments which address the capture and removal of wild horses. The Rock Creek HMA was last gathered in July of 1996. That action was a continuation of the implementation of the Rock Creek Emergency Fire Rehabilitation Plan and associated Environmental Assessment, EA#BLM/EK/PL-94-038, dated 10/26/94. A gather took place in November 1994 to implement that rehabilitation plan.

The capture area is not covered by a herd management area plan (HMAP). IBLA has ruled "...that it is not necessary that BLM prepare an HMAP as a basis for ordering the removal of wild horses, so long as the record otherwise substantiates compliance with the statute. Indeed, 43 CFR 4710.3-1 does not require preparation of an HMAP as a prerequisite for a removal action. Thus, we are not persuaded that preparation of an HMAP must in all cases precede the removal of wild horses from an HMA/WHT, and decline to order preparation of HMAP's." (IBLA 88-591, 88-638, 88-648, 88 679, at 127).

The removal also implements the Strategic Plan for Management of Wild Horses and Burros on Public Lands, issued on 6/92; U.S. Department of the Interior, Bureau of Land Management. The Strategic Plan states that only animals between the ages of 1 and 3 years should be removed. However, current National and Nevada policy is to remove animals up to five years of age for placement into the Adopt-A-Horse program, remove horses over the age of 10 for placement into long-term holding and to attempt to leave the majority of the 6-9 year old horses on the range as these are the most difficult animals to place. Because this is an emergency action and all grazing animals must be removed from the burn area, all horses found inhabiting the burn area will be gathered and removed from the range.

## **CHAPTER II - PROPOSED ACTION AND ALTERNATIVES**

### **PROPOSED ACTION**

The proposed action is a Bureau initiated action which would be carried out by a contractor. The proposed action is to gather and remove wild horses found within the Buffalo and Ranch Wildland Fire rehabilitation areas.

At the completion of the gather, no wild horses would remain in either the Buffalo or Ranch Wildland Fire rehabilitation areas. Gathered horses that are determined to be suitable for the adoption program would be prepared at Palomino Valley Corrals (PVC) and placed into the national adoption program. Mares and studs age 10 and over would be prepared at PVC and placed into a pasture like setting or "long-term holding" facilities to live out their days. Horses within the ages of 6-9 would be targeted for gelding (in the case of the studs), training, and eventually the adoption program. Horses within the ages of 1-5 would be placed directly into the adoption program after being prepared at PVC.

### **Time and Method of Capture**

Because the proposed action is part of the wildland fire emergency rehabilitation plan, the removal would be scheduled to commence on or about February 15, 2002. The rehabilitation fence is currently under construction and it would be imperative to remove the horses prior to fence completion. Otherwise, horses would be trapped inside the rehabilitation area without adequate forage.

The method of capture would be to use a helicopter to herd the animals to portable wing

traps. It is the intention of the BLM to conduct the removal through a private contractor under the current requirements contract. At least one qualified Bureau employee would be supervising the capture operation and one Bureau employee would be supervising the sorting and shipping operations at all times. It is estimated that 2 trap locations would be required to accomplish the work.

#### Administration of the Contract

BLM would be responsible for overseeing a contract for the capture, care, aging and temporary holding of approximately 250 wild horses from the capture area. BLM would also be responsible to oversee the transportation of the wild horses to the adoption preparation facility as specified in the removal contract, which is expected to be PVC.

Within two weeks prior to the start of the contract, BLM would conduct a pre-capture evaluation of existing conditions in the capture area. The evaluation would include animal condition, prevailing temperatures, soil conditions, topography, road conditions, locations of fences and other physical barriers, and animal distribution in relation to potential trap locations.

The contractor would be briefed on duties and responsibilities before the notice to proceed is issued. There would also be an inspection of the contractor's equipment at this time to ensure that it meets specifications and is adequate for the job. Any equipment that did not meet specifications would be replaced within 36 hours. The contractor would also be informed of the terrain involved, the condition of the animals, the condition of the roads, potential trap locations, motorized equipment limitations, and the presence of fences and other dangerous barriers. The contractor would be provided with a topographic map of the capture area which shows acceptable trap locations and existing fences and/or physical barriers prior to any gathering operation. The contractor would also be appraised of the existing conditions in the capture area and would be given direction regarding the capture and handling of animals to assure their health and welfare is protected.

At least one authorized BLM employee, a Contracting Officer's Representative (COR) or Project Inspector (PI), would be present at the site of captures/removals. The COR/PI would be directly responsible for the capture/removal. Other BLM personnel may be needed to assist the operation (i.e., an archaeologist or an archaeological technician to conduct cultural inventories, and a BLM law enforcement agent to protect BLM personnel and property from unlawful activities).

The CORs/Pis would be directly responsible for the conduct of the capture/removal operation and for reporting progress to the Elko Field Office Managers and the Nevada State Office.

All publicity, public contact, and inquiries would be handled through the Manager for Renewable Resources. The manager would also coordinate the contract with the National

Wild Horse and Burro Center at Palomino Valley, the adoption preparation facility, to assure there is space available in the corrals for the captured horses, animals are handled humanely and efficiently, and animals being transported from the capture site are arriving in good condition.

The COR/PIs would constantly evaluate the contractor's ability to perform the required work in accordance with the contract stipulations. Compliance with the contract stipulations would be ensured through issuance of written instructions to the contractor, stop work orders and default procedures should the contractor not perform work according to the stipulations.

To assist the COR/PI in administering the contract, the BLM would have a helicopter available, if needed, at the roundup site. This helicopter would be used with discretion to minimize disturbance to horses that would make capture more difficult. However, it would be used as needed to assure that the contractor is complying with the specifications of the contract and to ensure the humane capture of animals. In the event an additional helicopter is not available to observe the project helicopter, other methods would be utilized to observe the removal operations, such as using observers on horseback or in vehicles, or by placing stationary observers in strategic locations.

If the contractor fails to perform in an appropriate manner at any time, the contract would not be allowed to continue until problems encountered are corrected to the satisfaction of the COR/PI.

#### **Standard Operating Procedures**

The following stipulations, specifications and procedures would be followed during the capture operation to ensure the welfare, safety and humane treatment of the wild horses.

##### **A. Trapping and Care**

All capture attempts would be accomplished utilizing helicopter drive-trapping and would incorporate the following:

##### **1. Trap and Holding Facility Locations.**

- a. All trap locations and holding facilities must be approved by the COR and/or PI prior to construction. The contractor may also be required to change or move trap locations as determined by the COR/PI. All traps and holding facilities not located on public land must have prior written approval of the landowner.
- b. The COR/PI would ensure that the general location of the trap is close to major concentrations of horses. General locations of traps would be selected by the COR after determining the habits of the animals and



observing the topography of the area. Specific locations may be selected by the contractor with the COR/PI's approval within this general preselected area. Trap sites would be located to cause as little injury to horses and as little damage to the natural resources of the area as possible. Sites would be located on or near existing roads.

- c. Due to many variables such as condition of the horses, ground conditions and suitable trap sites, it is not possible to identify specific locations at this time. They would be determined at the time of the capture.
- d. Trap sites or holding corrals would not be placed in areas of any known threatened or endangered species or in areas of candidate species.
- e. A cultural resources investigation by an archaeologist or an archaeological technician would be conducted prior to trap or holding facility construction. If cultural resources are found, an alternative site would be selected
- f. Trap sites for capturing horses with a helicopter would not be placed within  $\frac{1}{4}$  mile of water sources such as streams, springs, reservoirs or troughs.
- g. Temporary traps and corrals would be removed and sites will be left free of all debris within 30 days following the operation.
- h. Every effort would be made to place temporary traps and holding corrals on non-erosive soils.
- i. Every effort would be made to reduce visual impacts by locating traps and holding facilities well off commonly traveled roads. The nature of capturing wild horses, itself, requires that the traps be well hidden.
- j. Prior to facility (temporary traps and holding corrals) construction, the proposed locations would be examined for the presence of noxious weeds. If it is determined that noxious weeds are present, the contractor would be instructed to located the facilities elsewhere. The contractor and his personnel would also be instructed to avoid camping in or driving through noxious weed infestations.

## 2. Rate and Distance of Movement.

- a. The rate of movement and distance the animals travel would not exceed limitations set by the COR/PI who would consider terrain, physical barriers, weather, condition of the animals and other factors.

- b. BLM would not allow horses to be herded more than 10 miles nor faster than 20 miles per hour. The COR/PI may decrease the rate of travel or distance moved should the route to the trap site pose a danger or cause avoidable stress (steep and/or rocky). Animal condition would also be considered in making distance and speed restrictions.
- c. Temperature limitations would be 10 degrees F. as a minimum and 95 degrees F. as a maximum. Special attention would be given to avoiding physical hazards such as fences.

3. Trap and Holding Facility Construction. All traps, wings and holding facilities would be constructed, maintained and operated to handle animals in a safe and humane manner and be in accordance with the following:

- a. Traps and holding facilities would be constructed of portable panels, the top of which would not be less than 72 inches high and the bottom rail of which shall not be more than 12 inches from ground level. All traps and holding facilities would be oval or round in design.
- b. All loading chute sides would be fully covered with plywood (without holes) or like material. The loading chute would also be a minimum of 6 feet high.
- c. All runways would be a minimum of 30 feet long and a minimum of 6 feet high and would be covered with plywood, burlap, plastic snow fence or like material a minimum of 1 foot to 6 feet above ground level.
- d. Wings would not be constructed out of barbed wire or other materials injurious to animals and must be approved by the COR/PI.
- e. All crowding pens including gates leading to the runways would be covered with a material which prevents the animals from seeing out (plywood, burlap, etc.) and would be covered a minimum of 2 feet to 6 feet above ground level. Eight linear feet of this material would be capable of being removed or let down to provide a viewing window.
- f. All pens and runways used for the movement and handling of animals would be connected with hinged self-locking gates.

4. Fence Modifications. No fence modifications would be made without authorization from the COR/PI. The contractor would be responsible for restoration of any fence modification which he has made.

5. Dust. When dust conditions occur within or adjacent to the trap or holding

facility, the contractor would be required to wet down the ground with water.

6. Animal Separation. Alternate pens, within the holding facility, would be furnished by the contractor to separate mares with small foals, sick and injured animals, and estrays from the other animals. Animals would be sorted as to age, number, size, temperament, sex, and condition when in the holding facility so as to minimize, to the extent possible, injury due to fighting and trampling. The contractor would be required to restrain animals for the purpose of determining age. Alternate pens would be furnished by the contractor to hold the animals to be returned to the herd area. Every attempt will be made to keep family bands together, unless holding bands together proves too dangerous for small foals. Mares and foals to be returned to the HMA will be held together. Segregation or temporary marking and later sorting would be at the discretion of the COR/PI.

7. Food and Water. The contractor would provide animals held in the traps and/or holding facilities with a continuous supply of fresh clean water at a minimum rate of 10 gallons per animal per day. Animals held for 10 hours or more in the traps or holding facilities would be provided good quality hay at the rate of not less than two pounds of hay per 100 pounds of estimated body weight per day.

8. Security. It would be the responsibility of the contractor to provide security to prevent loss, injury or death of captured animals until delivery to final destination.

9. Sick or Injured Animals.

- a. The contractor would restrain sick or injured animals if treatment by the Government is necessary.
- b. Any severely injured, seriously sick, or animal with genetic defects such as club feet would be destroyed in accordance with 43 CFR Subpart 4730.1. Animals would be destroyed only when a definite act of mercy is needed to alleviate pain and suffering. The COR/PI would have the primary responsibility for determining when an animal would be destroyed and would perform the actual destruction. The contractor would be permitted to destroy an animal only in the event the COR/PI is not at the capture site or holding corrals, and there is an immediate need to alleviate pain and suffering of a severely injured animal. When the COR/PI is unsure as to the severity of an injury or sickness, a veterinarian would be called to make a final determination. Destruction would be done in the most humane method available as per Washington Office Wild Free-Roaming Horse and Burro Program Guidance dated January 1983. A veterinarian could be called from Elko if necessary to care for any injured horses.

- c. The contractor may be required to dispose of the carcasses as directed by the COR/PI. The carcasses of wild horses which die or must be destroyed as a result of any infectious, contagious, or parasitic disease would be disposed of by burial to a depth of at least 3 feet.

The carcasses of wild horses which must be destroyed as a result of age, injury, lameness, or noncontagious disease or illness would be disposed of by removing them from the capture site or holding corral. Carcasses would not be placed in drainages regardless of drainage size or downstream destination.

10. Transportation. Animals would be transported to final destination (the National Wild Horse and Burro Center at Palomino Valley) from temporary holding facilities within 24 hours after capture unless prior approval is granted by the COR/PI for unusual circumstances. Animals to be released back into the HMA following capture operations may be held up to 21 days or as directed by the COR/PI. Animals would not be held in traps and/or temporary holding facilities on days when there is no work being conducted except as specified by the COR/PI. The contractor would schedule shipments of animals to arrive at the final destination between 6:00 a.m. and 4:00 p.m. No shipments would be scheduled to arrive at the final destination on Sunday or Federal holidays. Animals would not be allowed to remain standing on trucks while not in transport for a combined period of greater than three (3) hours. Animals that are to be released or relocated back into the herd area may need to be transported back to the original trap site. This determination would be at the discretion of the COR/PI.

11. Handling procedures for mares and foals

- a. Mares that are to be transported to PVC would be paired with their unweanable foals and the pair would be held together and be sent together to PVC.
- b. If mares do not pair with their unweanable foals, the foals would be sent to the National Wild Horse and Burro Center at Palomino Valley (PVC) for adoption or the leppy foals would be placed directly into private care at the discretion of the COR/PI, and the mares would also be transported to PVC. Once at PVC, the mares and foals would again be placed together in an attempt to pair them up.
- c. If a foal is large enough to be humanely weaned from its dam, the foal would be held separately at the holding corrals and sent separately to PVC, where it would then be prepared for the adoption program.

## **B. Capture Methods for Helicopter Drive Trapping**

1. The primary method for gathering wild horses would be the use of helicopter drive trapping. Roping would only be used as a supplemental gather technique when determined by the on-site COR that drive trapping would not be successful and it is in the best interest of the animals being gathered to capture them using roping techniques. Circumstances where roping may be necessary include, but are not limited to, the capture of horses which elude helicopter herding in areas which call for the complete removal of horses, and where it is necessary to capture an orphaned foal or a suspected wet mare. In all cases, when it is determined by the COR that a significant proportion of animals must be roped, the roping would only proceed after consultation with the Field Office Managers or their designated representative.

2. The helicopter would be used in such a manner that bands remain together. Foals would not be left behind.

### **3. Helicopter, Pilot and Communications**

a. The contractor must operate in compliance with Federal Aviation Regulations, Part 91. Pilots provided by the contractor would comply with the Contractors Federal Aviation Certificates, applicable regulations of the State of Nevada and would follow what are recognized as safe flying practices.

b. When refueling, the helicopter would remain at a distance of at least 1,000 feet or more from animals, vehicles (other than fuel truck), and personnel not involved in refueling.

c. The COR/PI would have the means to communicate with the Contractor's pilot and be able to direct the use of the capture helicopter at all times. If communications cannot be established, the government would take steps as necessary to protect the welfare of the animals. The frequency(ies) used for this contract would be assigned by the COR/PI when the radio is used. When a VHF/AM radio is used, the frequency would be 122.925 MHz.

d. The contractor would obtain the necessary FCC licenses for the radio system.

e. The proper operation, service and maintenance of all contractor furnished helicopters would be the responsibility of the contractor. The BLM reserves the right to remove from service pilots and helicopters which, in the opinion of the contracting officer or COR/PI violate contract

rules, are unsafe or otherwise unsatisfactory. In this event, the contractor would be notified in writing to furnish replacement pilots or helicopters within 48 hours of notification. All such replacements must be approved in advance of operation by the contracting officer or his/her representatives.

f. At time of delivery order completion, the contractor would provide the COR/PI with a completed copy of the Service Contract Flight Hour Report.

g. All incidents/accidents occurring during the performance of the delivery order would be immediately reported to the COR/PI.

### C. Motorized Equipment

1. All motorized equipment employed in the transportation of captured animals would be in compliance with appropriate State and Federal laws and regulations applicable to the humane transportation of animals. The contractor would provide the COR/PI with a current safety inspection (less than one year old) of all tractor/stocktrailers used to transport animals to final destination.

2. Vehicles would be in good repair, of adequate rated capacity, and operated so as to ensure captured animals are transported without undue risk or injury.

3. Only stocktrailers with a covered top would be allowed for transporting animals from trap site(s) to temporary holding facilities. Only stocktrailers or single deck trucks would be used to haul animals from temporary holding facilities to final destination(s). Sides or stock racks of transporting vehicles would be a minimum height of 6 feet 6 inches from the floor. Single deck trucks with trailers 40 feet or longer would have two (2) partition gates providing three (3) compartments within the trailer to separate animals. The compartments would be of equal size plus or minus 10 percent. Trailers less than 40 feet would have at least one (1) partition gate providing two (2) compartments within the trailer to separate the animals. The compartments would be of equal size plus or minus 10 percent.

Each partition would be a minimum of 6 feet high and would have a minimum 5 foot wide swinging gate. The use of double deck trailers is unacceptable and would not be allowed.

4. All vehicles used to transport animals to final destination(s) would be equipped with at least one (1) door at the rear end of the vehicle which is capable of sliding either horizontally or vertically. The rear door must be capable of opening the full width of the trailer. All panels facing the inside of the trailers must be free of

sharp edges or holes that could cause injury to the animals. The material facing the inside of the trailer must be strong enough so that the animals cannot push their hooves through the side. Final approval of vehicles to transport animals would be held by the COR/PI.

5. Floors of vehicles, trailers, and the loading chutes would be covered and maintained with wood shavings to prevent the animals from slipping.

6. Animals to be loaded and transported in any vehicle or trailer would be as directed by the COR/PI and may include limitations on numbers according to age, size, sex, temperament, and animal condition. The following minimum square feet per animal would be allowed in all trailers:

11 square feet per adult horse (1.4 linear foot in an 8 foot wide trailer);  
8 square feet per adult burro (1.0 linear foot in an 8 foot wide trailer);  
6 square feet per horse foal (.75 linear foot in an 8 foot wide trailer);  
4 square feet per burro foal (.5 linear foot in an 8 foot wide trailer);

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

8. If the COR/PI determines that dust conditions are such that the animals could be endangered during transportation, the contractor would be instructed to adjust speed to minimize dust. In general, roads in the capture area are in fair to good condition. If a problem develops, speed restrictions would be set or alternate routes used. Periodic checks by BLM employees would be made as the animals are transported along dirt roads. If speed restrictions are in effect, then BLM employees would, at times, follow and/or time trips to ensure compliance.

#### D. Contractor Furnished Property

1. All hay, water, vehicles, saddle horses, helicopters and other equipment would be provided by the contractor. Other equipment includes, but is not limited to, a minimum of 2,500 linear feet of 72-inch high (minimum height) panels for traps and holding facilities. Separate water troughs would be provided at each pen where animals are being held. Water troughs would be constructed of such material (e.g. rubber, galvanized metal with rolled edges, rubber over metal) so as to avoid injury to the animals.

2. The contractor would furnish an avionics system that will allow communications between the contractor's helicopter and his fuel truck.

3. The contractor would furnish a VHF/AM radio transceiver in the contractor's helicopter which has the capability to operate on a frequency of 122.925 MHz.

4. The contractor would provide a programmable VHF/FM radio transceiver in the contractor's helicopter to accommodate the COR/PI in monitoring the capture operation.

E. Government Furnished Property

The government would provide a portable "Fly" restraining chute at each pre-work conference, to be used by the contractor for the purpose of restraining animals to determine the age of specific individuals or other similar practices. The government may also provide portable 2-way radios, if needed. The contractor would be responsible for the security of all government furnished property.

Branded and Claimed Animals

A notice of intent to impound would be issued by the BLM prior to any capture operations in this area. The Nevada Department of Agriculture and the District Brand Inspector would receive copies of this notice, as well as the Notice of Public Sale, if issued. The COR/PI would contact the District Brand Inspector and make arrangements for dates and times when brand inspections will be needed.

When horses are captured, the COR/PI and the District Brand Inspector would jointly inspect all animals at the holding facility in the capture area. If determined necessary at that time by all parties involved, horses would be sorted into three categories:

- a. Branded animals with offspring, including yearlings.
- b. Unbranded or claimed animals with offspring, including yearlings with obvious evidence of existing or former private ownership (e.g., geldings, bobbed tails, photo documentation, saddle marks, etc.).
- c. Unbranded animals and offspring without obvious evidence of former private ownership.

The COR/PI, after consultation with the District Brand Inspector, would determine if unbranded animals are wild and free-roaming horses. The District Brand Inspector would determine ownership of branded animals and their offspring and, if possible, the ownership of unbranded animals determined not to be wild and free-roaming horses.

Branded horses with offspring and claimed unbranded horses with offspring for which the owners have been identified by the District Brand Inspector would be retained in the custody of the BLM pending notification of the owner or claimant.

A separate holding corral would be set up near the temporary holding corral to house



these horses until the owner/claimant or BLM can pick them up.

The animals would remain in the custody of the BLM until settlement in full is made for impoundment and trespass charges, as determined appropriate by the Manager for Renewable Resources in accordance with 43 CFR Subpart 4710.6 and provisions in 43 CFR Subpart 4150. In the event settlement is not made, the horses would be sold at public auction by the BLM.

Branded horses with offspring whose owners cannot be determined, and unclaimed, unbranded horses with offspring having evidence of existing or former private ownership would be released to the Nevada Department of Agriculture (District Brand Inspector) as estrays.

The District Brand Inspector would provide the COR/PI a brand inspection certificate for the immediate shipment of wild horses to Palomino Valley (Reno), and for the branded or claimed horses where impoundment and trespass charges have not been offered or received, for shipment to public auction or another holding facility.

#### **No Action Alternative**

Under no action, wild horses would not be removed from the burned areas. This would not be acceptable for the recovery of the resource nor is this alternative legal under 43 CFR 4710.4 (horses would remain outside the Little Humboldt HMA). In addition, if wild horses are fenced inside the burned area, it is likely that they would starve to death after they have consumed all of the available, unburned forage. Heavy utilization would lead to the degradation of important watersheds and fisheries habitat, including that of the federally listed threatened species, the Lahontan cutthroat trout (LCT).

#### **ALTERNATIVE CONSIDERED BUT ELIMINATED FROM DETAILED ANALYSIS**

##### **Water Trapping Alternative**

Due to the time necessary for construction of complex water traps and the prolonged period it would take for the animals to become accustomed to using the traps, water trapping is not being considered. Also, the proposed gather is to take place during February when horses can obtain water from eating snow, therefore, water trapping would not be feasible.

##### **Horseback Trapping Alternative**

Bands of horses are not controlled effectively with horseback herding, therefore, many bands are spilled or individual horses separated from the band. This results in increased social structure disruption and/or orphaned foals, which requires attempts to capture these separated animals. The number of animals captured per day versus the proposed action is significantly fewer, therefore, it is very time consuming resulting in very high capture costs.

### Relocation of Wild Horses

Relocation of the wild horses in the currently inhabiting the burned area was considered. However, the Rock Creek HMA is six times over the appropriate management level (AML) of 250 and the Little Humboldt HMA is five times over the projected AML. Simply moving horses to unburned areas would place additional strain on already over taxed resources.

## CHAPTER III - AFFECTED ENVIRONMENT

### General Setting

Elevations in the Buffalo Fire burned area range from approximately 5,369 feet to 7,400 feet above mean sea level (AMSL). Mountain slopes range from 4 to 40 percent with elevations from 6,000 to 7,500 feet AMSL. The dominant vegetation within the burned area consisted of Idaho fescue, bluebunch wheat grass, Sandberg's bluegrass, bottlebrush squirreltail, mountain big sagebrush, Wyoming big sagebrush, low sagebrush, and rabbitbrush. Riparian species included willows, aspen sedges, rushes, and grasses.

Elevations in the Ranch Fire burned area range from 4,560 feet to 6,234 feet above mean sea level (AMSL). Slopes range from flat valley bottoms to +30 percent on the upper slopes.

Vegetation on the Ranch Fire consisted of some Great Basin wildrye, bluebunch wheatgrass, Sandberg's bluegrass, bottlebrush squirreltail, Wyoming big sagebrush, low sagebrush, and cheatgrass. In the lower elevation areas there was also some shadscale which survived the fire.

### Critical Elements of the Human Environment

The following critical elements of the human environment are not present or are not affected by the proposed action or alternatives:

#### **Areas of Critical Environmental Concerns**

**Cultural Resources** -A cultural resources investigation by an archaeologist or an archaeological technician would be conducted prior to trap or holding facility construction. If cultural resources are found, an alternative site would be selected.

#### **Environmental Justice**

#### **Farm Lands (prime or unique)**

#### **Flood Plains**

**Native American Religious Concerns** - Various tribes and bands of the Western Shoshone have stated that federal projects and land actions could have widespread effects to their culture and religion because they consider the landscape as sacred and as a provider. However, the proposed action has a low potential to negatively impact any specific Native American religious aspect or Traditional Cultural Property. Native American consultation was deemed unnecessary at this time.

**Paleontology**  
**Wastes (hazardous or solid)**  
**Water Quality (drinking/ground)**  
**Wilderness**

Bureau Specialists have further determined that the following resources, although present in the project area, are not affected by the proposed action: Range (livestock operations), Lands, Recreation, Geologic Resources, Forestry and Social and Economic Resources.

**Resources Present and Brought Forward for Analysis:**

**Air Quality**

The burned area would be susceptible to wind erosion until revegetation occurs. Wind erosion can increase Particulate Matter #10 (PM#10) emissions causing exceedence of PM#10 air quality standards which can negatively affect human health. In addition, airborne dust can cause visibility and safety problems on roads in the area. The proposed action would encourage regrowth of vegetation, thus reducing future potential air quality impacts.

**Soils**

The soils in the Ranch Fire area includes rock outcrops in the upper elevation with cobbly loams, very cobbly loam, and loam flats in the upland to very fine siltyloams to clay soils in the valley bottoms. Soils occur on volcanic flowrock plateaus and are shallow to deep. The erosion hazard due to water ranges from slight to high. The erosion hazard due to wind is slight. These soils have slow to very slow rates of infiltration. The northeast area of the burn is the area of concern for runoff potential. This area of the burn experienced moderate and high burn severity. The terrain in the Ranch Fire burned area is flat.

In the Buffalo Fire area soils that occur on fan piedmont remnants are shallow to moderately deep over a duripan. Soil textures include loam, clay, silt loam and silty clay loam, with or without gravel and cobble. Wind and water erosion hazard are slight.

Hill slope and mountain soils occur on steep slopes and developed in residuum from volcanic rocks. These soils are shallow over bedrock. Textures are loams and clay loams. Wind erosion hazard is slight; water erosion hazard is slight to high.

Floodplain soils occur along drainages on gentle slopes. They formed in alluvium from mixed rock sources. Soil textures are silt loam, silty clay loam, and clay loam with few coarse fragments. Wind and water erosion hazard are slight.

**Vegetation**

Major plant associations were (prior to the fires) characterized as big sagebrush-grass and low sagebrush-grass. The big sagebrush-grass and low sagebrush-grass types are

dominated by big sagebrush (Artemisia tridentata) and low sagebrush (A. arbuscula), respectively. Major grass species include bluebunch wheatgrass (Agropyron spicatum), Idaho fescue (Festuca idahoensis), Sandberg Bluegrass (Poa secunda), and bottlebrush squirreltail (Sitanion hystrix). Forbs include arrowleaf balsamroot (Balsamorhiza sagittata), lupine (Lupinus spp.), phlox (Phlox spp.), and aster (Aster spp.).

There are no known listed or proposed threatened and endangered plants in the proposed project area.

#### Wildlife

Within the proposed project area, numerous species of wildlife may occur. Mule deer, pronghorn antelope, mountain lions, coyotes, bobcats and kit foxes are the main game and furbearer species present. Sage grouse, chukar, mourning doves, and cottontail rabbits constitute the major upland game species. In addition, a variety of non-game mammals, birds, and reptiles occurred in the project area. Wildlife was adversely impacted by the Buffalo and Ranch Fires primarily through temporary loss of habitat through removal of vegetation by the fire.

#### Threatened, Endangered, Candidate or Sensitive Species

No threatened or endangered plant species are known to occur in the Ranch Fire burn area.

Within the Buffalo Fire burn area, one federally listed threatened species, the Lahontan cutthroat trout and its habitat exists within Frazer Creek. A known burrowing owl nest exists within the burn perimeter. Other known special status species sightings adjacent to the burn perimeter are Townsend's big-eared bat, golden eagle, prairie falcon, etc.

#### Migratory Birds

The proposed actions are located in a sagebrush habitat type. The Nevada Partners in Flight Bird Conservation Plan identifies the following bird species associated with this physiographic region: sage grouse (obligate), black rosy finch, ferruginous hawk, gray flycatcher, loggerhead shrike, vesper sparrow, prairie falcon, sage sparrow, sage thrasher, Swainson's hawk, burrowing owl, calliope hummingbird, Brewer's sparrow, Western meadowlark, black-throated sparrow, green-tailed towhee, Brewer's blackbird, horned lark, and lark sparrow.

#### Visual Resources

Visual resources are identified through the Visual Resource Management (VRM) inventory. This inventory consists of a scenic quality evaluation, sensitivity level analysis and a delineation of distance zones. Based on these factors, BLM administered lands are placed into four visual resource inventory classes. Class I and II are the most valued, Class III representing a moderate value, and Class IV being of least value. Visual resource classes serve two purposes: (1) an inventory tool that portrays the relative value of visual resources, and

(2) a management tool that portrays the visual management objective.

The Buffalo Fire is located within VRM class IV, except for the Scrapper Springs area which is in VRM Class III. The Ranch Fire is located within VRM Class IV. Within Class III VRM areas, management activities may attract attention but should not dominate the view of the casual observer. Changes should repeat the basic elements found in the predominant natural features of the characteristic landscape. The Class IV objective is to provide for management objectives which require major modification of the existing character of the landscape. The level of change to the characteristic landscape can be high. These management activities may dominate the view and be the major focus of viewer attention.

#### Wetlands/Riparian Zones

Within the Ranch Fire, some riparian areas along Jake's Creek experienced high burn severity. Both meadow areas and willow stands were impacted. Within the Buffalo Fire, Frazer Creek, Buffalo Creek, Scrapper Springs Creek, and other riparian areas were burned. Willow, aspen, and perennial shrubs along streams should resprout naturally if grazing is prevented during the sensitive early growth stages. The horse gather would enable these riparian species to regrow faster and return the riparian wetlands to a proper functioning condition.

#### Wild Horses

A census conducted in June 2001, found 1,675 wild horses within the Rock Creek HMA and 574 wild horses within the Little Humboldt HMA. The 40 horses found within the Ranch Fire burned area are outside the Little Humboldt HMA. Prior to the Buffalo Fire, 234 wild horses were counted within the area that burned in this fire. As mentioned above, the Rock Creek HMA is currently 6 times over the AML of 250. A wild horse gather is scheduled for the summer of 2002, but for the purpose of protecting the Buffalo Fire, approximately 235-250 wild horses would have to be gathered and removed from the burned area before the regularly scheduled gather. This action needs to take place before the fence is completed and before the first growing season.

Wild horses are an introduced species on North American rangeland, have few natural predators and are long-lived. Few natural controls act upon wild horse herds making them very competitive with native wildlife and other living resources. Wild horses have been shown to be capable of 18 to 25% increases in numbers annually. With horses, this can result in a doubling of the population about every 3 years. Past census data has shown that the average foal recruitment rate in the Rock Creek HMA is approximately 22% per year and 20% per year in the Little Humboldt HMA.

The Rock Creek HMA has had two partial removals in the last several years, both as a result of wildland fire rehabilitation. A gather occurred in the Winters Creek area in 1994 and again in 1996. A total of 477 wild horses were gathered during those previous actions. During the gather in 1996, 81 older studs and mares were relocated and released

within the HMA. The Little Humboldt HMA has not been gathered since the 1980's.

Wild horses in both the Little Humboldt and Rock Creek HMAs have moderate to large builds, averaging approximately 900-1000 pounds (this is a rough estimate). Horse colors are predominantly bay, sorrel, brown and roan, but a good variation in colors exist. Sex ratios for the horses in the HMAs are representative of other HMAs in the Elko Field Office and the West at large. At birth, sex ratios are roughly equal. This balance shifts to favor studs throughout the younger age classes. This pattern shifts again at around 15 years of age slightly favoring females.

Field observations throughout the summer and fall of 2001 have shown that the horses are generally in good condition. However, the condition of the horses may have deteriorated due to the length of time they have been inhabiting the burned areas and due to the recent heavy snows. The snow has presumably made foraging more difficult.

#### Invasive, Non-native Species

Noxious weeds and invasive non-native species introduction and proliferation is a growing concern among local and regional interests. Noxious weed surveys including invasive and non-native species in the Rock Creek and Little Humboldt HMAs have been partially completed and are available at the Elko Field Office.

## CHAPTER IV - ENVIRONMENTAL CONSEQUENCES

### Proposed Action and No Action Alternative

#### Air Quality

The most significant impacts to air quality would be moderate increases in noise, dust, and combustion engine exhaust generated by mechanical equipment. Impacts would be temporary, small in scale, and dispersed throughout the proposed capture. Impacts would be kept to a minimum by following the standard operating procedure listed at 5. A above.

**No Action Alternative** - The air quality would be the same as described in the affected environment section.

#### Soils

An area less than one acre in size at each trap location would be severely trampled during gathering operations. This trampling would lead to compaction and pulverization of the topsoil leading to a possible loss of soils. By adhering to the SOPs, adverse impacts to soils would be minimized. Compaction impacts would be greatest when soils are moist, and on the soils with few surface coarse fragments. Biological soil crusts may be destroyed at the trap site where soils are severely trampled.

If the trap site is located on the fan piedmont remnant soils, which it likely would be, there would be little accelerated water erosion. Wind erosion would be a problem if the

gather occurs when the soils are dry and are more susceptible to blowing. A chemical stabilizer could be used at the trap site to reduce fugitive dust emissions.

Once the horses are removed from the burned area, the vegetation should reestablish which will provide cover to protect the soils from further accelerated wind and water erosion.

**No Action Alternative** - The severe localized trampling associated with trap sites would not occur, however, as wild horse populations continue to grow, soil erosion would increase. Increased use throughout the burned areas would adversely impact soils and vegetation health, especially around the water locations. As native plant health deteriorates and plants are lost, soil erosion would increase. The shallow desert topsoil can not tolerate much loss without losing productivity and thus the ability to be revegetated with native plants. Invasive non-native plant species would increase and invade new areas following increased soil disturbance and reduced native plant vigor and abundance. This would lead to both a shift in plant composition towards weedy species and an irreplaceable topsoil and productivity loss from erosion.

#### Vegetation

Impacts to vegetation with implementation of the Proposed Action would consist of direct and indirect impacts. Direct impacts would include disturbance of non-burned, native vegetation immediately in and around temporary trap sites, and holding, sorting and animal handling facilities. Impacts are created by vehicle traffic, and hoof action of penned horses, and can be locally severe in the immediate vicinity of the corrals or holding facilities. Generally, these activity sites would be small (less than one half acre) in size. Since most trap sites or holding facilities are re-used during recurring wild horse gather operations, any impacts would remain site specific and isolated in nature. In addition, most trap sites or holding facilities are selected to enable easy access by transportation vehicles and logistical support equipment and would therefore generally be near or on roads, pullouts, water haul sites or other flat spots which were previously disturbed. These common practices would minimize the cumulative effects of these impacts.

**No Action Alternative** - No vegetation trampling would occur as a result of trapping and holding horses in a small area, however, the re-vegetation efforts would be severely hampered if wild horses are not removed from the burned areas. A growing season of rehabilitation effort would be lost if wild horses are not removed.

#### Wildlife

Some mammals, reptiles, and birds would be temporarily displaced from the trap sites and holding facilities. Animals may also be disturbed by the low-flying helicopter; this disturbance would be of very short duration. A slight possibility exists that non-mobile or site specific animals would be trampled. The proposed action would result in an increase in quantity and quality of forage and water available to wildlife.

**No Action Alternative** - Wildlife would not be displaced or disturbed under the no action alternative.

Threatened, Endangered, Candidate or Sensitive Species

There is a possibility that BLM sensitive species could be displaced by the gathering activities. The most likely species that would be affected by the proposed action is the sage grouse. Prior to trap site selection, the area would be inventoried for the presence of sage grouse. If sage grouse are found to exist through the observation of droppings, an alternative trap site would be selected. Dry lake beds and other areas with high potential for strutting grounds would be avoided. The proposed action would allow the burned area rest from grazing pressure would help restore sagebrush habitat and/or reduce the impacts from the invasion or re-invasion of fire prone annual weeds. This would directly benefit sage grouse and other BLM Sensitive Species.

**No Action Alternative** - The ground disturbing impacts of gathering wild horses would not occur.

Visual Resources

The proposed project activities would result in minimal, temporary impacts. For the duration of the proposed gather, traps and corrals would introduce weak horizontal lines to the foreground. Visual resource management objectives for Class IV VRM areas would be met.

**No Action Alternative** - Under the no action alternative, the wild horse gather would not take place. There would be no temporary impacts related to the proposed action.

Wetlands/Riparian Zones

The proposed project would not impact wetlands or riparian zones as no traps or holding facilities would be built in these areas. Overall, the gather and removal of wild horses would have a positive impact to the recovering wetlands and riparian zones. Willows, aspen, and perennial shrubs along streams should resprout naturally if grazing is prevented during the sensitive early growth stages.

**No Action Alternative** - Under the no action alternative, the wild horse gather would not take place. This may lead to heavy to severe utilization of wetland/riparian zones within the burned areas, which may lead to increased erosion and decreased watershed health and function.

Invasive, Non-native Species

The proposed gather may spread existing noxious weeds species. This would occur if vehicles drive through infestations and spread seed into previously weed free areas. The contractor together with the COR/PI would examine proposed trap sites and holding corrals prior to construction. If noxious weeds are found, the location of the facilities



would be moved.

**No Action Alternative** - Under this alternative, the wild horse gather would not take place. The chance that noxious weeds would be spread by the contractor, his personnel and equipment would not exist. However, if wild horses are not removed from the burned areas, rehabilitation efforts would be hampered and the establishment of native vegetation species may be slowed. This could possibly lead to an expansion of noxious weeds.

### Wild Horses

Impacts to wild horses under the proposed action take the form of direct and indirect impacts and may occur on either the individual or the population as a whole. Direct individual impacts are those impacts which occur to individual horses and are immediately associated with implementation of the proposed action. These impacts include: handling stress associated with the roundup, capture, sorting, animal handling, and transportation of the animals. The intensity of these impacts vary by individual, and are indicated by behaviors ranging from nervous agitation to physical distress. Mortality of individuals from this impact is infrequent but does occur in one half to one percent of horses gathered in a given round-up. Following the SOPs outlined in the Proposed action would minimize impacts associated with handling stress. There are no indications that these direct impacts persist beyond a short time following the stress event.

Indirect individual impacts are those impacts which occur to individual horses after the initial stress event. Indirect individual impacts may include spontaneous abortions in mares, and increased social displacement and conflict in studs. These impacts, like direct individual impacts are known to occur intermittently during wild horse gather operations. An example of an indirect would be the brief skirmish which occurs with most older studs following sorting and release into the stud pen which lasts less than two minutes and ends when one stud retreats. Traumatic injuries do not occur in most cases, however, they do occur. These injuries typically involve a bite and/or kicking with bruises which don't break the skin. Like direct individual impacts, the frequency of occurrence of these impacts among a population varies with the individual. Spontaneous abortion events among mares following captures is rare.

The effect of removal of horses from the population would not be expected to have significant impact on herd dynamics or population variables.

**No Action Alternative** - Under this alternative, wild horses would not be removed from the burned areas. The horses would not be subject to any individual direct or indirect impacts as described above as a result of a gather operation. However, there would be individual direct and indirect impacts as a result of not gathering horses from the burned areas. There is the potential that wild horses will be fenced within the burned areas without adequate forage and water resources. This could lead to injury as the horses attempt to leave the fenced areas or possibly death through starvation.

### Cumulative Impacts

Cumulative impacts are impacts on the environment which result from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

Past present and reasonably foreseeable activities which would be expected to contribute to the cumulative impacts of implementing the proposed action include: Past wild horse removals which may have altered the structure and composition of the Rock Creek HMA, continuing livestock grazing in the Rock Creek and Little Humboldt HMAs and continued development of mining and recreational activities. These past present and reasonably foreseeable activities would be expected to generate cumulative impacts to the proposed action by influencing the habitat quality abundance and continuity for the Rock Creek and Little Humboldt wild horses.

The past events in this area have created the current wild horse population with its associated structure and composition, and have shaped the patterns of use found today in the herds. Continued development of these parameters would be expected to result in small annual changes in herd structure and behavior with small changes in habitat use over time.

These impacts would be expected to be marked by relatively large changes occurring rather slowly over time. The Bureau would continue to identify these impacts as they occur, and mitigate them as needed on a project specific basis to maintain habitat quality. At the same time, horse herds would be expected to continue to adapt to these small changes to availability and distribution of critical habitat components (food, water, shelter, space). The proposed action would contribute to the cumulative impacts of these past and foreseeable future actions by maintaining the herd at AML, and establishing a process whereby biological and/or genetic issues associated with herd or habitat fragmentation would become apparent sooner and mitigating measures implemented quicker.

### Monitoring Needs

Monitoring procedures to address specific habitat variables have been established in the Bureau's 4400 series handbooks. These monitoring protocols are the excepted Bureau methodologies for collecting habitat based information to determine achievement of habitat based objectives and the standards for rangeland health as developed by the Northeastern Great Basin Area Resource Advisory Council. Specific habitat monitoring procedures and key area selection has already occurred. These methodologies and sites will continue to be used under this proposed action. Species monitoring protocols and data collection methods have been established by equine professionals and researchers who initiated the first round of these studies (animal handling techniques). Bureau practices are based on these procedures which are incorporated into both the proposed

action and alternative as animal handling techniques. These animal handling techniques would be sufficient to determine the short- and long-term effects of implementing the proposed action or alternative.

## CHAPTER V - CONSULTATION AND COORDINATION

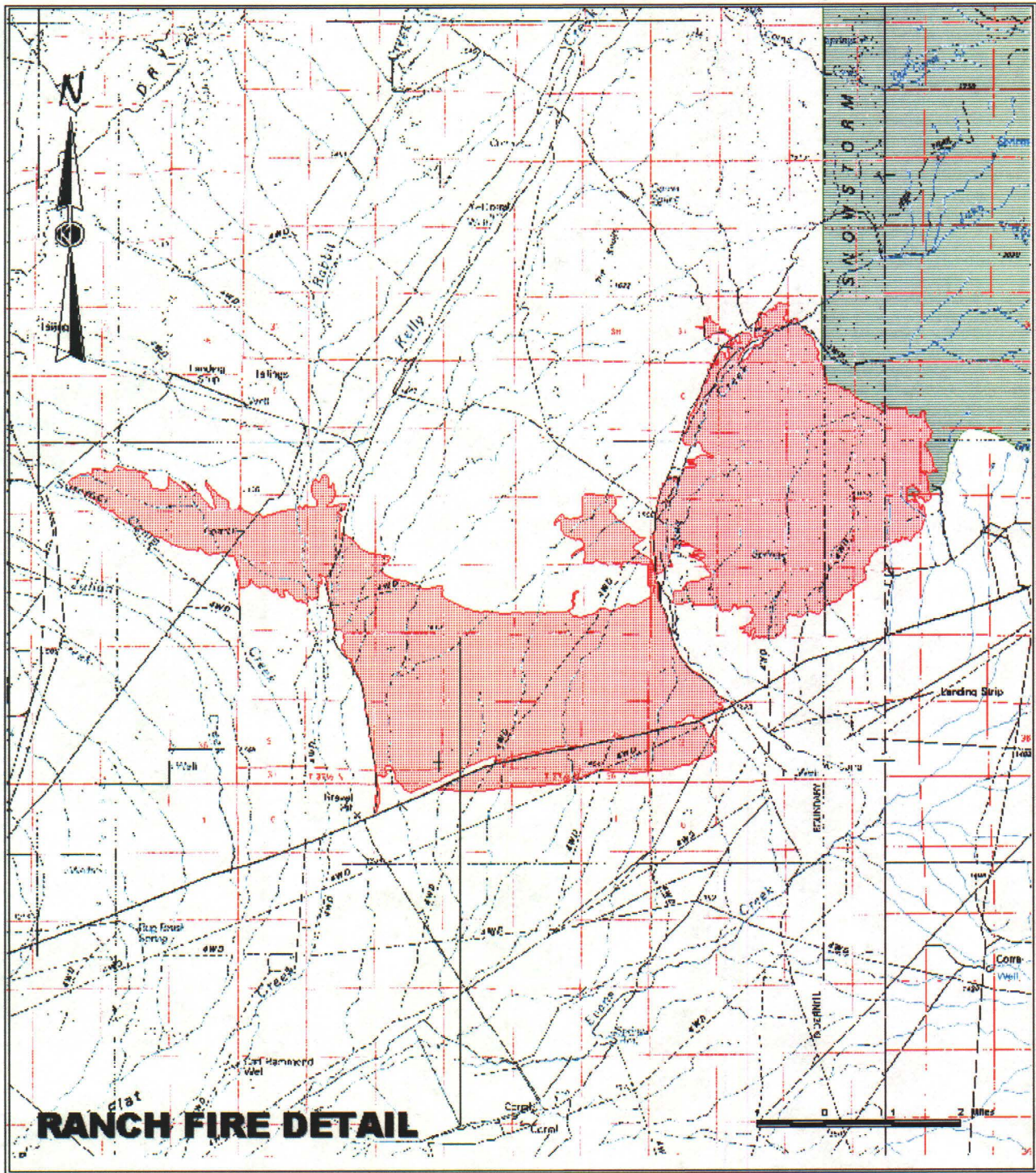
### List of Preparers

Kathy McKinstry	Natural Resource Specialist	Lead Preparer
Marlene Braun	Environmental Planning	Environmental Coordination
Steve Dondero	Outdoor Recreation Planner	Visual Resources
Bryan Hockett	Archaeologist	Cultural Resources, Paleontology, Native American Religious Concerns
Carol Evans	Fisheries Biologist	Fisheries/Riparian/Wetlands
Ken Wilkinson	Wildlife Biologist	T&E Species
Carol Marchio	Hydrologist/ Natural Resource Spec.	Air Quality
Mark Coca	Natural Resource Spec.	Invasive, Non-native Species

### Persons, Groups or Agencies Consulted

American Mustang and Burro Association  
 American Horse Protection Association  
 Andrea Lococo, Rocky Mountain Coordinator, The Fund For Animals, Inc.  
 Animal Protection Institute of America  
 Barbara Flores, Colorado Wild Horse and Burro Coalition  
 Barrick Goldstike Mines, Inc.  
 Betty Kelly, Wild Horse Spirit  
 Board of County Commissioners, Elko County, Nevada  
 Bureau of Livestock Identification  
 Catherine Barcomb, Executive Director, Commission for the Preservation of Wild Horses  
 Claudia Richards  
 Craig C. Downer  
 Diane Nelson, Wild Horse Sanctuary  
 Donald Molde, MD.  
 Ellison Ranching Co.  
 Felix Ike, Chairman, Te-Moak Tribe of Western Shoshone  
 Fund for Animals  
 Hammond Ranches, Inc.  
 June Sewing, National Mustang Association, Inc.  
 Karen Sussman, President, International Society for Protection of Mustangs and Burros  
 Kathryn Cushman  
 Kenneth Buckingham  
 Larry Kibby, Consultant/Director, Western Shoshone Historic Preservation Society

Nan Sherwood  
National Wild Horse Association  
Natural Resources Defense Council  
Nevada Outdoor Recreation Association  
Nevada Humane Society  
Nevada Farm Bureau Federation  
Nevada Cattlemen's Association  
Nevada Woolgrowers Association  
Nevada State Department of Agriculture  
Nevada State Clearing House  
Paul C. Clifford Jr.  
Resource Concepts Inc.  
Robert Smith, Elko High School  
Roger Scholl  
Rutgers School of Law - Animal Rights Law Center, c/o Anna Charlton  
Sharon Crook  
Sierra Club, c/o Ms. Rose Strickland  
Sierra Club  
Steve Foree, Nevada Division of Wildlife  
The Humane Society of the United States  
U.S. Fish and Wildlife Service  
Western Watersheds Project  
Wild Horse Organized Assistance



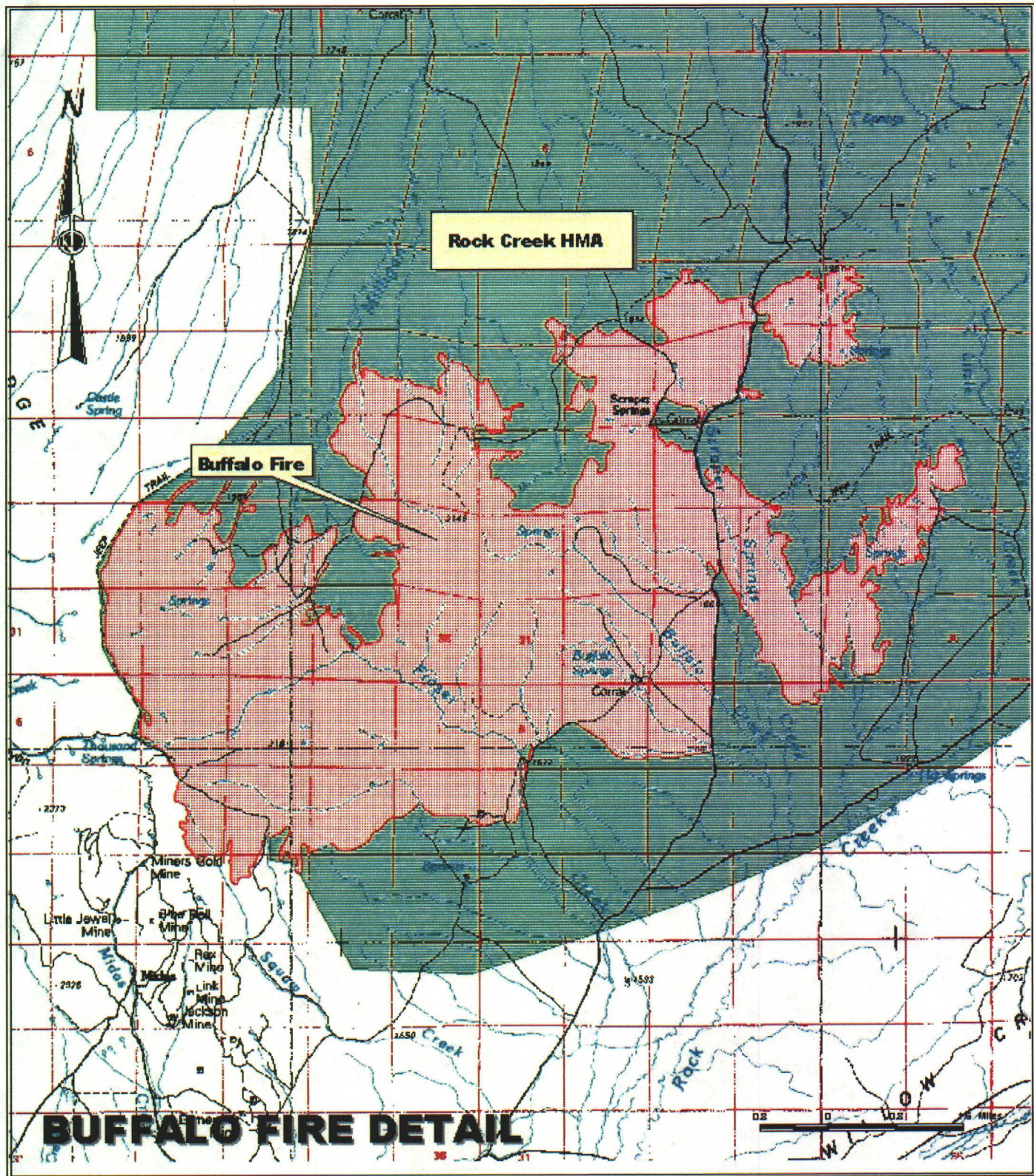
**RANCH FIRE DETAIL**



-  Ranch Fire 2001
-  Little Humboldt Herd Management Area

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
ELKO FIELD OFFICE



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-  Buffalo Fire 2001
-  Rock Creek Herd Management Area

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1/15/02



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Elko Field Office  
3900 East Idaho Street  
Elko, Nevada 89801-0611

In Reply Refer To:  
NV-010-4710.4

JAN 15 2002

### FINDING OF NO SIGNIFICANT IMPACT AND DECISION RECORD

### BUFFALO AND RANCH WILDLAND FIRES EMERGENCY WILD HORSE GATHER AND REMOVAL

**BLM/EK/PL-2002-002**

#### Finding of No Significant Impact

Based on the analysis of potential environmental impacts contained in Environmental Assessment BLM/EK/PL-2002-002, I have determined that the action will not have a significant effect on the human environment, and therefore, an environmental impact statement will not be prepared.

#### Decision

It is my decision to approve the emergency gather and removal of approximately 290 wild horses from the Buffalo and Ranch Wildland Fire burned areas as described in the proposed action of BLM/EK/PL-2002-002. Each of the Standard Operating Procedures described in the Proposed Action will be strictly followed. In accordance with 43 CFR 4770.3 (c), this constitutes the final decision to gather wild horses within the Buffalo and Ranch Wildland Fire burned areas and is placed in full force and effect.

#### Monitoring

The monitoring described in the proposed action of BLM/EK/PL-2002-002 is sufficient for the proposed action.

#### Rationale

The action would implement two of the recommendations in the Burned Area Emergency Rehabilitation (BAER) August 2001 Fire Complex Burned Area Rehabilitation Plan dated September 24, 2001.

Wild horses need to be excluded from the burned area to allow natural resources, such as soils and vegetation to recover. In most cases, it could take two growing seasons following the burn or reseeding for plant species to become established enough to withstand the impacts of grazing and still provide necessary watershed protection.

#### Methods

The method of capture will be to use a helicopter to herd the animals to portable wing traps. The BLM will conduct the removal through a private contractor under the current requirements contract and supervised by a Contracting Officer's Representative. It is estimated that 2-3 trap locations will be required.

#### Dates

The action is scheduled to begin on or about February 15, 2002, and will likely be six days in duration.

#### Location

The action will occur in the burned areas of the Buffalo and Ranch Fires. The Buffalo Fire was within the Rock Creek Herd Management Area (HMA) and the majority of the Ranch Fire was outside the Little Humboldt HMA, however there are currently at least 40 wild horses inhabiting the burned area, outside the HMA.

#### Authority

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

The authorized officer may place in full force and effect decisions to remove wild horses or burros from public lands if removal is required by applicable law or to preserve or maintain a thriving ecological balance and multiple use relationship. Full force and effect decision shall take effect on the date specified, regardless of an appeal. Appeals and petitions for stay of decision shall be filed with the Interior Board of Land Appeals, as specified in the part.

#### Appeals

Within 30 days of receipt of this decision, you have the right of appeal to the board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR, Part 4, Subpart E and 43 CFR 4770.3(a) and (c). Within 30 days after filing a Notice of Appeal, you are required to provide a complete statement of the reasons why you are appealing. The appellant has the burden of showing that the decision appealed from is in error. If you wish to file an appeal and petition for a stay, the petition for a stay must accompany your notice of appeal and be in accordance with 43 CFR, Part 4, Subpart E and 43 CFR 4770.3(c). Copies of the Notice of Appeal and Petition for a Stay must be submitted to (1) the Interior Board of Land Appeals, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, (2) the Regional Solicitor's Office, Western Region, U.S. Department of the Interior, Federal Building, Suite 6201, 125 S. State Street, Salt Lake City, UT 84138-1180, and (3) Elko Field Office, 3900 E.



Idaho Street, Elko, NV 89801. The original documents should be filed with this office.

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

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

Additional Information

Contact Kathy McKinstry of my staff, at (775) 753-0290 or write to the above address.



CLINTON R. OKE  
Assistant Field Manager  
Renewable Resources

11/24/02  
DATE

WFOIA

Rock Creek HMA 1/22/02  
G

January 22, 2002

Mr. Clinton R. Oke, Asst. Field Manager  
Bureau of Land Management, Elko District  
3900 East Idaho Street  
Elko, NV 89801-0611

Dear Mr. Oke;

Thank you for your notice of the pending Full Force and Effect capture in the area impacted by the Buffalo and Ranch Wildland Fires in August of 2001.

4710.4(NV-012)

This notice stated that 20% of the Rock Creek HMA had burned and 250 of the 1675 horses would need to be removed to allow the range to recover.

Comment

We have no difficulty in the legitimate removal of horses from burn areas that require grazing rest in order to recover. However, we have found that as of 1/22/02 there are no wild horses in that area due to snow cover. \* How do you propose to separate the 250 from the 1675 currently somewhere else? If the gather is to commence on February 15th, will the snow be gone, those particular 250 animals having returned? If you do not get those particular horses, how will you prevent their return to their home?

\* 2

EA#BLM/EK/PL-2002-002

Purpose and Need, page 3

This portion of the document states that wild horses must be excluded from the burn area to allow natural resources to recover, or reseeding.

"The new Buffalo Fire rehabilitation fence will remain in place to facilitate livestock management and allow Frazier Creek to be grazed in a riparian friendly manner." (Emphasis my own)

### Comment

WHOA does not differ from the District's recommendation to exclude grazing of livestock and wild horses from the burn area for rangeland recovery. <sup>2</sup>\* It is the comment "...although site specific monitoring will ultimately determine just when resource objectives have been achieved on specific burned areas.' Since this is the wild horses' legal herd management area they should be assured that if any graziing is to occur on any portion of the herd area, that they would be allowed in their area at the same time domestic grazing is authorized.

The Rock Creek and Andrae Allotment Evaluation, 1997, page 72 states, "Recent data show while aquatic habitat conditions are fair inside the fenced portion of Frazier Creek, riparian habitat conditions are excellant (Table 39)." If this no longer applicable because of the burns, then the Allotment evaluation is flawed and a whole lot of planning for this specific area would be altered. If and when the PMUD is sent out, these adjustments need to be reviewed from the point of what the condition is currently.

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"It is anticipated that the new Buffalo Fire rehabilitation fence will remain in place to facilitate livestock management and allow Frazier Creek to be grazed in a riparian friendly manner. A carrying capacity for the new pasture would be determined and AUMs allocated to both livestock and wild horses. This information will be contained in the Squaw Valley/Spanish Ranch Final Mulitple Use Decision."

### Comment

I believe that the above paragraph identifies the real purpose of this "emergency." No EA went out to the public for the portion of the south fence that has been already been constructed; and the District is attempting to use 'emergency fire funding' to fence ("It is anticipated that the new Buffalo Fire rehabilitation fence will remain in place..."). Furthermore the possibility of "...reseeding for plant species..." would probably occur within that pasture.

Page 3

"A carrying capacity for the new pasture would be determined and AUMs allocated to both livestock and wild horses. This information will be contained in the Squaw Valley/Spanish Ranch Final Multiple Use Decision."

### Comment

On May 3, 1996 WHOA, represented by myself as well as many others travelled to Elko at the urging of the District Manager Hankins. We were told that an emergency was imminent, and would we sanction an interim capture; the allotment evaluation was due within weeks. We agreed, the capture took place and obviously we are still waiting for the P-MUD, nearly 6 years later.

Page 3

"The proposed action(s) would: (1) allow the range to recover after a devastating wild fire, (2) prevent further deterioration of the range not affected by the wild fire but now threatened by

an over population of wild horses. and (3) allow the BLM to remove wild horses currently residing outside a designated HMA in accordance with 43 CFR 4710.4."

### Comments

Number 1 appears to a legitimate use of emergency fire funds, if one didn't know that the 250 or so wild horses that usually use that area are not there, and unless marked in some way, cannot be distinguished from the entire population. There also is no fencing that would prohibit any wild horse return. The District is attempting to combine a multitude of issues under the guise of the emergency fire rehabilitation. You may not gather horses until you have established an AML, and no AML has been established for the Rock Creek HMA, so number 2 is outside the purpose of the emergency action. You do not need this vehicle to remove horses outside an established herd management area, so number 3 also does not belong on a fire rehabilitation document.

### Land Use Plan Conformance Statement

You state the proposed action and alternatives described below are in conformance with the Elko Resource Management Plan RMP, Issue Wild Horses, management prescriptions 1 and 3 are consistent with Federal, State, and local laws, regulations, and the plans to the maximum extent possible.

### Comment

I can find nothing in the Elko RMP, the terminology of prescriptions 1 or 3 so would be hard pressed to agree. Given experience with this District with this HMA; I am unwilling to take this as gospel and instead would request you explain and detail these specific prescriptions and what they say.

### Relationship to Planning

The Rock Creek Emergency Fire Rehabilitation Plan (EA#BLM/EK/PL94-038) addressed and authorized the capture of wild horses in November 1994; furthermore it was again used to remove horses in July 1996.

### Comment

WHOA represented by myself and many others traveled to Elko wherein Helen Hankins requested our agreement to the extension of the 1994 EA for the purpose of preventing wild horses from starving that winter. Ms. Hankins also promised that the Allotment Evaluation and PMUD was forthcoming... It is now 6 years after the last capture and once again the District does not have an established AML for the Rock Creek because no P-MUD or F-MUD. Apparently the District intends to attempt to use 'emergency fire rehab funds' to address a myriad of issues BEFORE the fact.

YOU DO NOT HAVE AN AML FOR A PORTION OR THE ENTIRE ROCK CREEK HERD MANAGEMENT AREA UNTIL YOU COMPLETE THE PLANNING PROCESS! Therefore, despite the fact that I believe you most likely have more horses than what the resource can support, no AML has been established! Any attempt to use 'fire rehab funds' to address issues other than the burn is

skirting the requirement of establishing an AML (going outside the burn for capture) and implementing a 'permanency' of the fence outside the land use planning.

One of the more serious issues regarding this herd has been omitted from this document, that of the possibility of EIA exposure in Rock Creek HMA, including those outside the HMA boundary. The health and safety of this herd as well as any excess that may be removed and placed in other facilities is compromised by your non-disclosure. The BLM (National, State, and District), the Nevada Department of Agriculture, and many others are aware that a permittee lost some domestic horses while trailing through the Rock Creek HMA. I understand these domestic horses were under 'ranch quarantine' for testing positive for EIA. I understand that not all the domestic horses were recovered, hence are now a part of the Rock Creek HMA herd. In light of the 'notice to impound,' we believe the BLM knows those horses are still out there as well. Am I correct in the knowledge that the domestic horses were neither authorized to graze or trail? Correct me if I am wrong, but what about not licensing domestic horses in areas where the potential to mix is possible?

The non-disclosure, along with no proposal to test for even the possibility leaves one to wonder that the District is willing to risk the health and safety of the animals, but the entire Adopt-A-Horse Program. I was on the Task Force for the Utah/EIA when I was on the National Advisory Board and the testing of a percentage of animals within the area most likely to have been contaminated is absolutely necessary. It looks like you are trying to cover it up and putting at risk the program as a whole.

In conclusion, WHOA does not object to the temporary fencing of burned areas, or even riparian (so long as water is piped out) to allow for range recovery. Since horses are not there, there is no reason to capture horses within this area. The 'temporary' fencing could then be completed to keep the animals out. If the PMUD and FMUD are forthcoming, as you state, then the capture of the horses to their AML will make more sense.

Most sincerely,

Dawn Y. Lappin(Mrs.)

1/14/02



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Elko Field Office

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Elko, Nevada 89801-0611

<http://www.nv.blm.gov>

In Reply Refer To:  
4710/4120 (NV-012)

## NOTICE OF INTENT TO IMPOUND

### ROCK CREEK HERD MANAGEMENT AREA

The Elko Field Office is proposing to gather wild horses from public lands in the State of Nevada.

This Notice is to inform you that any unauthorized livestock grazing upon public land or other lands under Bureau of Land Management's control in the Elko District are in violation of 43 CFR 4140.1(b)(1) and may be impounded.

The unauthorized livestock may be impounded at any time after five (5) days from delivery of this notice or after five (5) days from the publishing and posting of this Notice. The owner of livestock so impounded will be permitted to redeem and regain possession of the livestock claimed upon by payment of:

1. The value of forage consumed;
2. The damage to the public lands and other property of the United States; and
3. The cost of impoundment and removal thereof as provided for by regulation 43 CFR 4150.4-4.

In accordance with 43 CFR 4150.4-2, impoundment may occur without further notice within a twelve (12) month period following the effective date of this Notice.

The area affected by this Notice is specifically the following allotments:

Little Humboldt, Jakes Creek, Squaw Valley, Spanish Ranch and Midas.

HELEN HANKINS  
Elko Field Office Manager

Jan 14, 2002  
DATE