

The Wild Horse and Burro Act of 1971 (Public Law 92-195) as amended by
The Federal Land Policy and Management Act of 1976 (Public Law 94-579)
and The Public Rangelands Improvement Act of 1978 (Public Law 95-514)



Public Law 92-195
92nd Congress, S. 1116
December 15, 1971

An Act

85 STAT. 649

To require the protection, management, and control of wild free-roaming horses and burros on public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress finds and declares that wild free-roaming horses and burros are living symbols of the historic and pioneer spirit of the West; that they contribute to the diversity of life forms within the Nation and enrich the lives of the American people; and that these horses and burros are fast disappearing from the American scene. It is the policy of Congress that wild free-roaming horses and burros shall be protected from capture, branding, harassment, or death; and to accomplish this they are to be considered in the area where presently found, as an integral part of the natural system of the public lands.

Wild horses
and burros.
Protection.

SEC. 2. As used in this Act—

Definitions.

(a) "Secretary" means the Secretary of the Interior when used in connection with public lands administered by him through the Bureau of Land Management and the Secretary of Agriculture in connection with public lands administered by him through the Forest Service;

(b) "wild free-roaming horses and burros" means all unbranded and unclaimed horses and burros on public lands of the United States;

(c) "range" means the amount of land necessary to sustain an existing herd or herds of wild free-roaming horses and burros, which does not exceed their known territorial limits, and which is devoted principally but not necessarily exclusively to their welfare in keeping with the multiple-use management concept for the public lands;

(d) "herd" means one or more stallions and his mares; and

(e) "public lands" means any lands administered by the Secretary of the Interior through the Bureau of Land Management or by the Secretary of Agriculture through the Forest Service.

(f) "excess animals" means wild free-roaming horses or burros (1) which have been removed from an area by the Secretary pursuant to applicable law or, (2) which must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area."

SEC. 3. (a) All wild free-roaming horses and burros are hereby declared to be under the jurisdiction of the Secretary for the purpose of management and protection in accordance with the provisions of this Act. The Secretary is authorized and directed to protect and manage wild free-roaming horses and burros as components of the public lands, and he may designate and maintain specific ranges on public lands as sanctuaries for their protection and preservation, where the Secretary after consultation with the wildlife agency of the State wherein any such range is proposed and with the Advisory Board established in section 7 of this Act deems such action desirable. The Secretary shall manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands. He shall consider the recommendations of qualified scientists in the field of biology and ecology, some of whom shall be independent of both Federal and State agencies and may include members of the Advisory Board established in section 7 of this Act. All management activities shall be at the minimal feasible level and shall be carried out in consultation with the wildlife agency of the State wherein such lands are located in order to protect the natural ecological balance of all wildlife species which inhabit such lands, particularly endangered wildlife species. Any adjustments in forage allocations on any such lands shall take into consideration the needs of other wildlife species which inhabit such lands.

Jurisdiction
management.

"(b) (1) The Secretary shall maintain a current inventory of wild free-roaming horses and burros on given areas of the public lands. The purpose of such inventory shall be to: make determinations as to whether and where an overpopulation exists and whether action should be taken to remove excess animals; determine appropriate management levels of wild free-roaming horses and burros on these areas of the public lands; and determine whether appropriate management levels should be achieved by the removal or destruction of excess animals, or other options (such as sterilization, or natural controls on population levels). In making such determinations the Secretary shall consult with the United States Fish and Wildlife Service, wildlife agencies of the State or States wherein wild free-roaming horses and burros are located, such individuals independent of Federal and State government as have been recommended by the National Academy of Sciences, and such other individuals whom he determines have scientific expertise and special knowledge of wild horse and burro protection, wildlife management and animal husbandry as related to rangeland management.

Consultation.

"(2) Where the Secretary determines on the basis of (i) the current inventory of lands within his jurisdiction; (ii) information contained in any land use planning completed pursuant to section 202 of the Federal Land Policy and Management Act of 1976; (iii) information contained in court ordered environmental impact statements as defined in section 2 of the Public Range Lands Improvement Act of 1978; and (iv) such additional information as becomes available to him from time to time, including that information developed in the research study mandated by this section, or in the absence of the information contained in (i-iv) above on the basis of all information currently available to him, that an overpopulation exists on a given area of the public lands and that action is necessary to remove excess animals, he shall immediately remove excess animals from the range so as to achieve appropriate management levels. Such action shall be taken, in the following order and priority, until all excess animals have been removed so as to restore a thriving natural ecological balance to the range, and protect the range from the deterioration associated with overpopulation:

Overpopulation.

43 USC 1712.

"(A) The Secretary shall order old, sick, or lame animals to be destroyed in the most humane manner possible:

"(B) The Secretary shall cause such number of additional excess wild free-roaming horses and burros to be humanely captured and removed for private maintenance and care for which he determines an adoption demand exists by qualified individuals, and for which he determines he can assure humane treatment and care (including proper transportation, feeding, and handling): *Provided*, That, not more than four animals may be adopted per year by any individual unless the Secretary determines in writing that such individual is capable of humanely caring for more than four animals, including the transportation of such animals by the adopting party; and

"(C) The Secretary shall cause additional excess wild free-roaming horses and burros for which an adoption demand by qualified individuals does not exist to be destroyed in the most humane and cost efficient manner possible.

"(3) For the purpose of furthering knowledge of wild horse and burro population dynamics and their interrelationship with wildlife, forage and water resources, and assisting him in making his determination as to what constitutes excess animals, the Secretary shall contract for a research study of such animals with such individuals independent of Federal and State government as may be recommended by the National Academy of Sciences for having scientific expertise and special knowledge of wild horse and burro protection, wildlife management and animal husbandry as related to rangeland management. The terms and outline of such research study shall be determined by a research design panel to be appointed by the President of the

Research study.

Submittal to Congress.

National Academy of Sciences. Such study shall be completed and submitted by the Secretary to the Senate and House of Representatives on or before January 1, 1983.

Title, application.

"(c) Where excess animals have been transferred to a qualified individual for adoption and private maintenance pursuant to this Act and the Secretary determines that such individual has provided humane conditions, treatment and care for such animal or animals for a period of one year, the Secretary is authorized upon application by the transferee to grant title to not more than four animals to the transferee at the end of the one-year period.

"(d) Wild free-roaming horses and burros or their remains shall lose their status as wild free-roaming horses or burros and shall no longer be considered as falling within the purview of this Act—

"(1) upon passage of title pursuant to subsection (c) except for the limitation of subsection (c) (1) of this section; or

"(2) if they have been transferred for private maintenance or adoption pursuant to this Act and die of natural causes before passage of title; or

"(3) upon destruction by the Secretary or his designee pursuant to subsection (b) of this section; or

"(4) if they die of natural causes on the public lands or on private lands where maintained thereon pursuant to section 4 and disposal is authorized by the Secretary or his designee; or

"(5) upon destruction or death for purposes of or incident to the program authorized in section 3 of this Act; *Provided*, That no wild free-roaming horse or burro or its remains may be sold or transferred for consideration for processing into commercial products."

Private maintenance.

Sec. 4. If wild free-roaming horses or burros stray from public lands onto privately owned land, the owners of such land may inform the nearest Federal marshal or agent of the Secretary, who shall arrange to have the animals removed. In no event shall such wild free-roaming horses and burros be destroyed except by the agents of the Secretary. Nothing in this section shall be construed to prohibit a private landowner from maintaining wild free-roaming horses or burros on his private lands, or lands leased from the Government, if he does so in a manner that protects them from harassment, and if the animals were not willfully removed or enticed from the public lands. Any individuals who maintain such wild free-roaming horses or burros on their private lands or lands leased from the Government shall notify the appropriate agent of the Secretary and supply him with a reasonable approximation of the number of animals so maintained.

Recovery rights.

Sec. 5. A person claiming ownership of a horse or burro on the public lands shall be entitled to recover it only if recovery is permissible under the branding and estray laws of the State in which the animal is found.

Agreements and regulations.

Sec. 6. The Secretary is authorized to enter into cooperative agreements with other landowners and with the State and local governmental agencies and may issue such regulations as he deems necessary for the furtherance of the purposes of this Act.

Joint advisory board.

Sec. 7. The Secretary of the Interior and the Secretary of Agriculture are authorized and directed to appoint a joint advisory board of not more than nine members to advise them on any matter relating to wild free-roaming horses and burros and their management and protection. They shall select as advisers persons who are not employees of the Federal or State Governments and whom they deem to have special knowledge about protection of horses and burros, management of wildlife, animal husbandry, or natural resources management. Members of the board shall not receive reimbursement except for travel and other expenditures necessary in connection with their services.

Penalty.

Sec. 8. Any person who—

(1) willfully removes or attempts to remove a wild free-roaming horse or burro from the public lands, without authority from the Secretary, or

(2) converts a wild free-roaming horse or burro to private use, without authority from the Secretary, or

(3) maliciously causes the death or harassment of any wild free-roaming horse or burro, or

(4) processes or permits to be processed into commercial products the remains of a wild free-roaming horse or burro, or

(5) sells, directly or indirectly, a wild free-roaming horse or burro maintained on private or leased land pursuant to section 4 of this Act, or the remains thereof, or

(6) willfully violates a regulation issued pursuant to this Act, shall be subject to a fine of not more than \$2,000, or imprisonment for not more than one year, or both. Any person so charged with such violation by the Secretary may be tried and sentenced by any United States commissioner or magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401, title 18, United States Code.

(b) Any employee designated by the Secretary of the Interior or the Secretary of Agriculture shall have power, without warrant, to arrest any person committing in the presence of such employee a violation of this Act or any regulation made pursuant thereto, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction, and shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of this Act or regulations made pursuant thereto. Any judge of a court established under the laws of the United States, or any United States magistrate may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases.

Power of arrest.

"SEC. 9. In administering this Act, the Secretary may use or contract for the use of helicopters or, for the purpose of transporting captured animals, motor vehicles. Such use shall be undertaken only after a public hearing and under the direct supervision of the Secretary or of a duly authorized official or employee of the Department. The provisions of subsection (a) of the Act of September 8, 1959 (73 Stat. 470; 18 U.S.C. 47(a)) shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary."

16 USC 1338a.

SEC. 10. Nothing in this Act shall be construed to authorize the Secretary to relocate wild free-roaming horses or burros to areas of the public lands where they do not presently exist.

Limitation.

SEC. 11. After the expiration of thirty calendar months following the date of enactment of this Act, and every twenty-four calendar months thereafter, the Secretaries of the Interior and Agriculture will submit to Congress a joint report on the administration of this Act, including a summary of enforcement and/or other actions taken thereunder, costs, and such recommendations for legislative or other actions as he might deem appropriate.

Report to Congress.

The Secretary of the Interior and the Secretary of Agriculture shall consult with respect to the implementation and enforcement of this Act and to the maximum feasible extent coordinate the activities of their respective departments and in the implementation and enforcement of this Act. The Secretaries are authorized and directed to undertake those studies of the habits of wild free-roaming horses and burros that they may deem necessary in order to carry out the provisions of this Act.

Studies.

LEGISLATIVE HISTORY: Public Law 92-195

HOUSE REPORTS: No. 92-480 accompanying H.R. 9890 (Comm. on Interior and Insular Affairs) and No. 92-681 (Comm. of Conference).

SENATE REPORT No. 92-242 (Comm. on Interior and Insular Affairs).

CONGRESSIONAL RECORD, Vol. 117 (1971):

June 29, considered and passed Senate.

Oct. 4, considered and passed House, amended, in lieu of H.R. 9890.

Dec. 2, House agreed to conference report.

Dec. 3, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 7, No. 51:

Dec. 17, Presidential statement.

LEGISLATIVE HISTORY: Public Law 95-514

HOUSE REPORTS: No. 95-1122 (Comm. on Interior and Insular Affairs) and No. 95-1737 (Comm. of Conference).

SENATE REPORT No. 95-1237 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 124 (1978):

June 29, considered and passed House.

Sept. 30, considered and passed Senate, amended.

Oct. 10, House agreed to conference report.

Oct. 11, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 43:

Oct. 27, Presidential statement.

6/1986



United States
Department of
Agriculture

Forest
Service

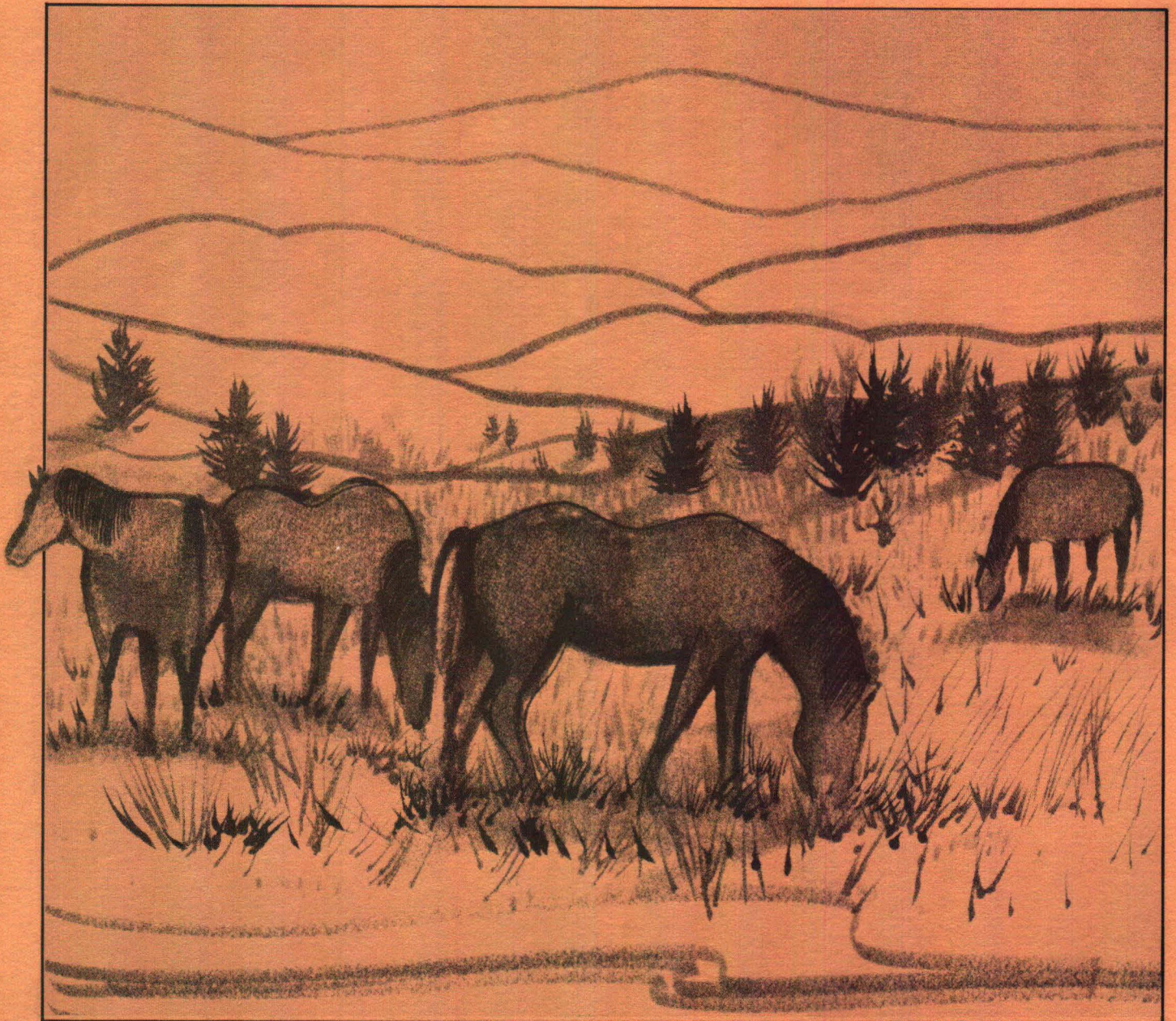


United States
Department of the
Interior

Bureau of
Land Management

Administration of the Wild Free-Roaming Horse and Burro Act

6th Report to Congress
June 1986



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United States
Department of
Agriculture



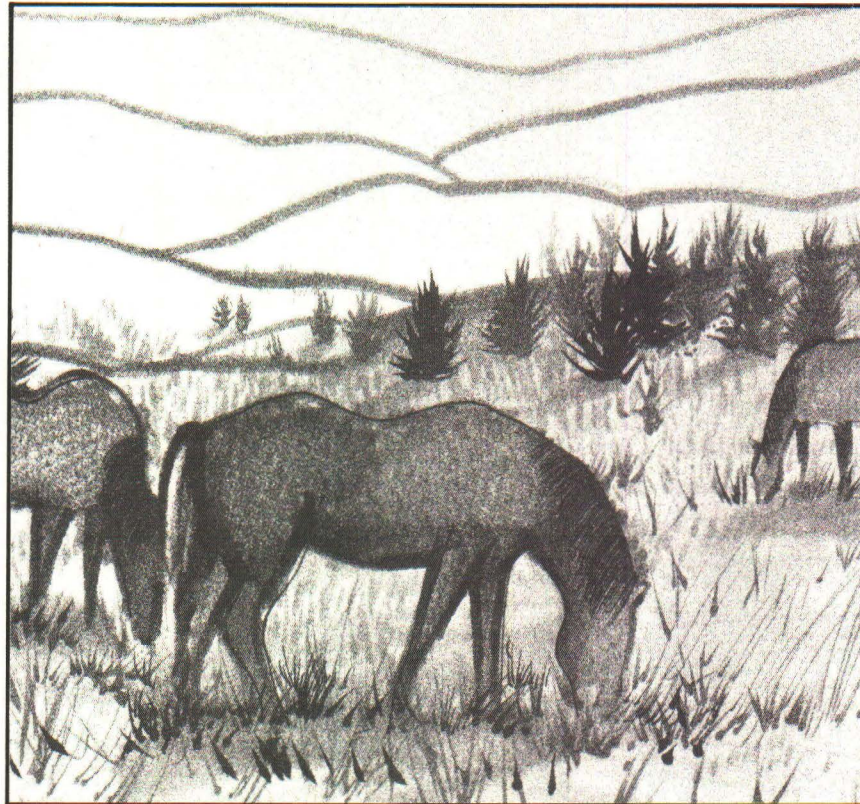
Forest
Service



United States
Department of the
Interior



Bureau of
Land Management



Preface: 1971-1983

In 1971, the efforts of thousands of concerned Americans culminated in the unanimous passage of a bill commonly referred to as the Wild Free-Roaming Horse and Burro Act. The Act of December 15, 1971 (16 U.S.C. 1331-1340), provides for the protection, management, and control of wild horses and burros that roam public lands administered by the Department of the Interior through the Bureau of Land Management and by the Department of Agriculture through the Forest Service. The Congress declared that these "living symbols of the historic and pioneer spirit of the West . . . [were] fast disappearing from the American scene." Indeed, the support for Federal protection for these animals was based on indignation at their wide-spread and often inhumane slaughter and on the belief that they faced possible extinction.

Five years later, in 1976, a census of herds indicated wild horse and burro populations three times greater than had been thought to exist in 1971. With no natural predators and the protection of Federal law, the animals were thriving. A 1959 law (18 U.S.C. 47, known as the Wild Horse Annie Act) prohibited the use of aircraft or motor vehicles to hunt wild horses or burros. Because of this, the removal of excess animals had to be accomplished by bait or water trapping or by roundup on horseback. Horseback roundups proved to be slow, dangerous, and expensive, and it became obvious that using helicopters would be more efficient, as well as safer for the wranglers and animals. An amendment authorizing the use of helicopters in the management of wild horses and burros was included in the Federal Land Policy and Management Act of 1976.

The Congress amended the Wild Free-Roaming Horse and Burro Act again in 1978. By that time, how to determine what constitutes excess wild horses and burros and how to dispose of animals removed from the range were issues of growing importance. The 1978 amendment, part of the Public Rangelands Improvement Act, established an order and priority for removal and disposition of excess animals, allowed adopters to obtain title to

animals in their care, and called for a research study to provide the data necessary for sound management decisions. The National Academy of Sciences (NAS) presented its final report on the research in 1982. Although the information gathered was useful, it did not provide solutions to all of the problems posed by thriving herds of wild horses and burros. The NAS recommended that additional research be carried out.

Meanwhile, legislation had been introduced in Congress on several occasions to allow the sale of unadopted excess wild horses and burros, but none of the proposals was successful. According to the 1978 amendment, old, sick, or lame animals are to be humanely destroyed; healthy excess animals are to be made available for adoption by qualified individuals; and if unadopted, the healthy animals are to be destroyed in the most humane and cost-efficient manner. Recognizing that sale authority would provide an alternative to the requirement that healthy unadopted animals be destroyed and that sale receipts would reduce Government subsidies to the wild horse and burro program, the Administration has testified in support of such legislation.

For nearly a decade, since the beginning of the program, adopters paid only a small fee, typically \$25, to cover veterinary costs associated with preparing the animal for adoption. In 1982, in an effort to recover a greater part of the cost of placing animals in private care and to discourage adoption for commercial gain, the Bureau of Land Management and the Forest Service set uniform adoption fees of \$200 per horse and \$75 per burro. The adoption demand for horses decreased sharply, and a moratorium was placed on destruction of healthy animals to avoid having to destroy large numbers of horses. In 1983, the fee for horses was reduced to \$125, and adoption demand began to rise again. However, demand for wild horses and burros still lagged behind the need to remove excess animals; the moratorium remained in effect; and the problem of maintaining large numbers of unadopted excess animals became one of the major issues of Fiscal Years 1984 and 1985.

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Issues

The Forest Service has jurisdiction over approximately 3 percent of the wild horse and burro populations and is close to appropriate management levels on most herd territories. On the other hand, at the beginning of Fiscal Year (FY) 1984, the population of wild horses and burros on lands administered by the Bureau of Land Management (BLM) was more than double the estimated appropriate management level. The major issues involved in administering the Wild Free-Roaming Horse and Burro Act (Act) are therefore overwhelmingly centered on animals under the jurisdiction of BLM.

1984

In FY 1984, the major issue for BLM in the administration of the Act was disposition of unadopted excess animals removed from the public lands. The Administration continued to support legislative proposals before the 98th Congress that would have provided authority to sell unadopted animals at public auction. Without this authority, the only method to dis-

pose of these excess animals is humane destruction. Both BLM and the Forest Service, however, maintained the moratorium on destruction of healthy animals through FY's 1984 and 1985, and large numbers of unadopted animals accumulated in BLM maintenance centers.

1985

Even with the removal of 6,200 animals in FY 1984, the population increased 3,600 over the previous year. At the beginning of FY 1985, the total population of wild horses and burros was estimated to be nearly 66,000, an excess of 40,000 animals beyond the estimated appropriate management level. Although the disposition of unadopted animals remained a critical issue, the overriding long-range concern was how to achieve appropriate management levels on public lands administered by the BLM. The need to remove excess animals from the public lands pursuant to the requirements of the Act had become pressing.



Wild horses removed from the range await preparation for adoption at BLM's Palomino Valley corrals. (July 1984)

Accomplishments

Management

The Act requires that wild horses and burros be managed "as components of the public lands . . ." Decisions concerning the management and protection of these animals on BLM-administered lands are made through a planning process required by BLM's organic legislation, the Federal Land Policy and Management Act of 1976. The resource management planning process encompasses all uses of the public land resource and is the vehicle through which available forage, water, and other resources are allocated among the various uses, including wildlife, livestock, and wild horses and burros. There are 141 separate planning areas where resource management plans will be prepared, on a schedule ending in 1988. At the end of FY 1985, 120 of the 141 plans were completed.

The Act limits management of wild horses and burros to areas of the public lands where herds existed in 1971, called herd territories by the Forest Service and herd areas by BLM. The Forest Service reports that there were 51 herd territories in 1971, but this number has been reduced to 45. The change resulted from declassification of one territory in Idaho and one in Wyoming and consolidation of eight territories into four, where territories overlapped forest or regional boundaries.

The BLM estimated in 1982 that the original number of herd areas was approximately 303, encompassing a total land area of more than 47 million acres. More intensive and accurate inventories have since shown that some of the 303 areas did not support distinct herds and that the horses on some were actually privately owned animals rather than wild ones. Therefore, BLM has adjusted the number of herd areas over the years through consolidation and deletion to a present level of 268, covering approximately 44 million acres. Eighteen of these 268 herd areas include lands administered by the FS as well as lands administered by BLM. In these areas, one of the Agencies must then assume lead responsibility for managing the herd. The FS has the

management responsibility for 11 of these areas. BLM retains the management lead on 257 areas, which include nearly 35 million acres of BLM-administered public lands and an additional 7 million acres of State, private, and public lands under the administration of other Federal agencies. Table A shows the number of herd areas and territories, including acreage, by State and lead agency, as of September 30, 1985.

For each of the original territories or herd areas, a decision must be made as to whether wild horses and burros will be managed in the long term as one of the multiple uses of the area. As of September 30, 1985, the Forest Service had designated 45 territories for long-term wild horse and burro management. Of the 257 herd areas for which BLM has herd management responsibility, the resource management planning process has identified 151 as herd management areas for long-term management of wild horses and burros. For another 53 herd areas, completed planning does not include long-term management of wild horse or burros, and BLM has removed or will remove animals from these herd areas. Thus, decisions on whether to remove wild horses and burros from an area or to manage them as one of the multiple uses have been made for a total of 204 of the 257 herd areas. Decisions on the remaining 53 herd areas, located where resource management plans have not yet been completed, are due by the end of FY 1988.

Removal of a herd from a herd area may be appropriate if Federal control of the lands constituting the herd area is not sufficient to ensure long-term integrity of the habitat; if access to critical parts of the habitat, such as waters or seasonal use areas, cannot be ensured because of ownership patterns; or if other planned uses of the area would preclude management of the herd in a genuinely wild and free-roaming state.

Once it has been determined that an area is to be a herd management area or territory, the administering Agency prepares a management

Table A--Wild Horse and Burro Territories and Herd Areas

State	Forest Service		Bureau of Land Management	
	Territories	Acres	Herd Areas	Acres
Arizona	3	42,964	11	2,011,000
California	9	431,189	35	4,479,622
Colorado	0	0	6	637,514
Idaho	1	4,246	7	424,150
Montana	1	3,350	2	44,813
Nevada	18	1,250,421	120	18,394,838
New Mexico	9	142,434	2	44,238
Oregon	2	100,660	34	3,589,848
Utah	2	40,356	28	2,095,502
Wyoming	0	0	12	3,181,703
TOTALS	45	2,015,620	257	34,903,228 ^a

^aAn additional 7 million acres of land not under the jurisdiction of BLM (either privately owned or administered by other government agencies) are intermingled with public lands within the BLM herd areas and comprise part of the habitat for wild horses and burros.

plan detailing the size of the herd to be managed, specific objectives for the herd and its habitat, and management methods that will be used to reach the objectives. The Forest Service has completed 25 management plans for its 45 designated territories. These management plans spell out population objectives for long-term management. Of the remaining 20 designated territories without management plans, 10 are currently unoccupied by wild horses or burros and 5 have fewer than 8 animals each.

The BLM has prepared herd management area plans for 108 of the 151 herd management

areas identified to date. When all management plans have been prepared, the Agencies will have established the overall appropriate management level for wild horses and burros.

The appropriate management level for each territory or herd management area is a prescribed median herd size, and wild horse and burro numbers are allowed to fluctuate about this number. Deviations from the appropriate management level are typically managed at about 35 percent, so that a herd managed at an appropriate management level of 300 horses might grow to 400 animals before being reduced by removals to 200.

The appropriate management level itself is usually established at a level below the maximum carrying capacity of the territory or herd management area to allow for the previously discussed fluctuation and for allocations to other uses, both consumptive and nonconsumptive. Monitoring of habitat condition and forage use ensures that levels of use continue to be compatible with management goals and that necessary adjustments can be identified.

Although planning is not complete, the Forest Service and BLM estimate that the overall appropriate management levels will be as shown below.

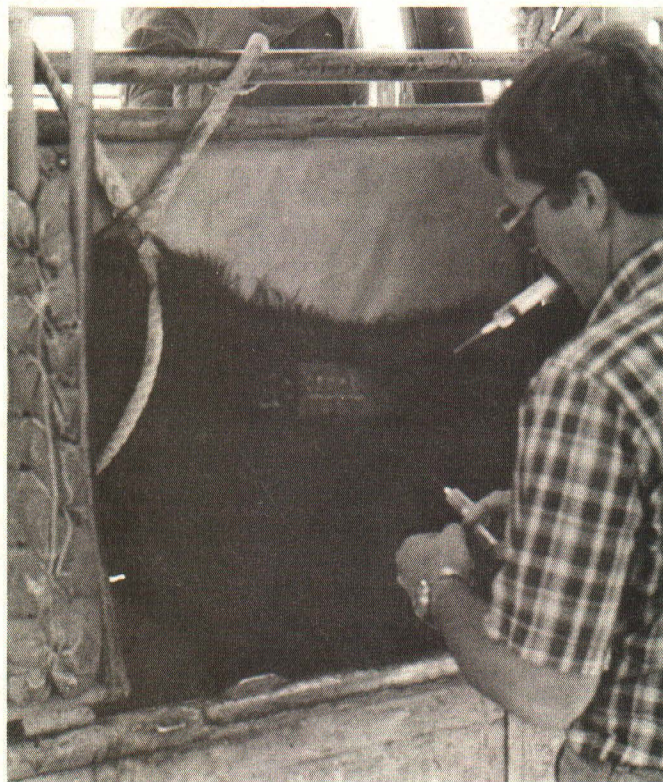
	<u>Horses</u>	<u>Burros</u>
BLM	20,600	3,800
Forest Service	1,225	350
Totals	<u>21,825</u>	<u>4,150</u>

Other accomplishments during FY's 1984 and 1985 that will affect BLM's wild horse and burro program management included the preparation of revised regulations and the design of a new information system to provide more timely and accurate information about the program.

In December 1984, the BLM published a proposed revision of the wild horse and burro program regulations. The revision of existing regulations will reduce the regulatory burden on the public, clarify BLM's management procedures, remove unnecessary self-regulating provisions, and arrange the regulations by subject. Following analysis of public comments on the proposed regulations, draft final rules were prepared. The final regulations became effective in April 1986.

Over the last 4 years, the BLM's wild horse and burro program has been the subject of intense public and congressional interest, making the availability of accurate, current data increasingly important. In addition, the expanded removal and adoption activity in FY 1985 emphasized the need for up-to-date information about program activity.

In FY 1984, BLM embarked on development of a new, computer-based wild horse and burro information system, which will provide quicker access to more complete and accurate information than was available under the previous recordkeeping system. The new information system will contain current and historical data in four major subject areas. A disposition data base will provide data about each animal gathered from the time of its capture on public land until it ultimately is released back to the range or loses its status as a wild horse or burro through death or the issuance of title to an adopter. The other three data bases deal with herd area and population characteristics, adoption applicants, and wild horse and burro events of public interest. The entire wild horse and burro information system is expected to be in use by the end of FY 1986.



Preparation of wild horses and burros for adoption includes freeze marking with a permanent identification number and inoculation against various equine diseases. (Palomino Valley, 1984)

In addition to these wild horse and burro program information activities, there is a Bureauwide effort to develop computer systems that will deal with resource inventory and monitoring information and with development and maintenance of range improvements on public lands. When completed, these efforts will provide access to data of importance to the wild horse and burro program.

Research

Although the 1982 Final Report of the NAS Committee on Wild and Free Roaming Horses and Burros urged that further research be carried out, funds were not available for additional studies until FY 1985. In the FY 1985 Appropriations Act for the Department of the Interior and Related Agencies, \$1 million was provided for wild horse and burro research to be conducted through the NAS. A contract was signed with the NAS in March 1985 in the amount of \$150,000, for the required assistance in designing, overseeing, and interpreting the research studies.

As wild horse and burro populations steadily increase, the possibility of using fertility control strategies in managing rates of growth has attracted considerable interest. Because of the polygynous nature of wild horses, fertility control interest has centered on these animals, rather than on burros. Some studies relating to fertility control in wild horses have already been conducted, but more information is needed before informed judgments can be made as to its practicality in wild horse management. Because of its potential as a tool for stabilizing wild horse populations, this topic was given the highest priority for funding with the money made available in FY 1985. Working through the NAS, BLM developed study topics that will test the effectiveness of both mare-focused and stallion-focused control strategies.

In September 1985, BLM contracted for two research studies: (1) fertility control in wild

horses and (2) wild horse parentage and population genetics. A third study, which calls for additional assays of blood collected in previous demographic research, was arranged through an interagency agreement with the Veterans Administration. This research involves blood analyses for condition evaluation of wild horses. When completed, these three studies should provide BLM with data that will be useful in the consideration of alternative strategies for management and control of wild horses on public lands. Research results, including interpretation by the NAS Committee on Wild Horses and Burros, will be available by the end of FY 1988.

Appendix A provides a summary of the status of knowledge about fertility control in wild horses and includes an explanation of the methods and objectives of the two current studies related to this topic. Synopses of all three research efforts are provided below.

Contract Number: AA-852-CT5-29

Cost: \$710,920

Date Signed: September 30, 1985

Research Topic: Fertility Control in Wild Horses

Contractor: University of Minnesota

Principal Investigators: Donald B. Siniff, John R. Tester, & Edward D. Plotka

The only method of population control currently used in horses is removal of animals from the herd. Fertility control has been suggested as a more cost-efficient and humane alternative. This study has two objectives:

1. To develop and test a compound and carrier that would cause contraception in mares for a period of at least two breeding seasons from a single application.
2. To test the effect on reproduction of sterilization of the dominant stallions in free-roaming bands within multi-band herds, by vasectomizing lead stallions in selected bands.

Contract Number: AA-852-CT5-28

Cost: \$62,708

Date Signed: September 9, 1985

Research Topic: Wild Horse Parentage and Population Genetics

Contractor: University of California, Davis

Principal Investigator: Dr. Ann Bowling

The objective of the study is to determine the extent of paternity by the lead stallions in breeding bands of wild horses and the extent of genetic diversity among horses in selected herds. Knowledge of paternity patterns will enable evaluation of the possible effectiveness of stallion-focused fertility control strategies. Herds studied will be those gathered in the fertility control research.

Contract Number: AA-852-IA5-33

Cost: \$8,730

Date Signed: September 25, 1985

Research Topic: Blood Analyses for Condition Evaluation of Feral Horses

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The objective of the study is to determine whether certain characteristics of blood chemistry are related to animal condition. Aspects of condition that will be evaluated are: age at capture; sex; weight; reproductive status (mares); and size (girth, length, height).

Removals

When it has been determined that a given area of the public lands has an overpopulation of wild horses or burros, the Act requires the Secretaries to "immediately remove excess animals from the range so as to achieve appropriate management levels." According to the Act, several sources of information may be used in determining what constitutes an excessive population, including inventories, resource management plans, grazing environmental statements, and other pertinent

documents, e.g., territory or herd management area plans or forage utilization studies. In most cases, the determination of excess is arrived at through the BLM or Forest Service planning process.

1984: In FY 1984, the number of excess animals removed from the public lands administered by BLM was 6,084, a decrease of 9 percent from the previous year. This decrease was the result, not of a reduction in the need to remove animals, but of the need to divert funding to feed and care for the large number of unadopted animals in BLM facilities. At times during the year, as many as 3,000 animals were being maintained by BLM. In FY 1984, the Forest Service removed 135 excess animals from National Forest lands. Because appropriate management levels have been achieved on most herd territories, Forest Service gatherings decreased by about 70 percent from the removal rate of previous years.

1985: In FY 1985, Congress appropriated \$17.0 million for the wild horse and burro program and directed BLM to remove 17,142 excess wild horses and burros. The addition of more than \$11 million to the Administration's \$5 million budget request was made to "increase the FY 1985 removal rate to 11,000 excess animals and to remove the approximately 6,142 excess animals budgeted for but not removed in fiscal years 1983 and 1984." In response to this congressional direction and in accordance with completed resource management plans, BLM removed 18,959 excess wild horses and burros in FY 1985. Approximately 90 percent of these removals were undertaken to implement locally developed resource management plans or to comply with court orders. The BLM also responded to requests from landowners to remove animals from private land, as the Act requires. Most of the remaining animals were removed to maintain an interim population level in areas where resource management plans have not yet been completed. The Forest Service removed 139 excess animals in FY 1985. These removals were carried out mainly to offset the year's population increase.

As FY 1986 began, 50,421 wild horses and burros inhabited lands administered by BLM and 1,875 wild horses and burros roamed National Forest lands. (See Tables B and C.)

Adoptions

From modest beginnings in Montana in 1973, the wild horse and burro adoption program has placed in private care more than 60,000 excess horses and burros removed from the range. (See Table D for a summary of wild horses and burros adopted by State.) For almost a decade, adoption demand was sufficient to

absorb the number of animals removed, with adoption facilities charging a minimal fee to cover veterinary costs, usually about \$25. But the low fees attracted criticism for two reasons: first, because they represented a significant Government subsidy of the actual costs associated with adoptions, and secondly, because they encouraged the adoption of animals for eventual commercial gain. In 1982, uniform adoption fees of \$200 per horse and \$75 per burro were established to reimburse the Government for a greater share of the costs involved in preparing the animal for adoption and to discourage adoption for commercial purposes. Demand for wild horses

Table B--Biennial Population Estimates by State for Wild Horses and Burros on Lands Administered by the Bureau of Land Management (Number of Animals)

State	1974	1976	1978	1980	1982	1984	1986
<u>Wild Horses</u>							
Arizona	115	107	70	125	150	115	115 ^a
California	3,000	4,230	3,700	2,897	3,320	4,106	2,354 ⁴
Colorado	500	1,035	990	1,229	650	675	414 ⁷
Idaho	500	874	1,200	935	880	811	706 ⁶
Montana	325	257	300	232	200	141	157 ⁴
Nevada	20,000	22,258	31,800	31,260	26,050	29,642	29,853 ¹
New Mexico	7,550	6,420	70	76	80	165	70 ¹⁰
Oregon	5,265	7,493	4,050	3,458	3,270	3,748	3,149 ³
Utah	1,000	1,803	2,150	1,714	1,330	1,636	1,254 ⁵
Wyoming	4,411	8,833	9,700	10,448	9,000	7,959	4,684 ²
TOTALS	42,666	53,310	54,030	52,374	44,930	48,998	42,756
<u>Wild Burros</u>							
Arizona	10,000	2,668	3,780	5,000	5,600	3,625	3,625
California ^a	3,200	3,072	3,845	6,152	4,850	5,900	2,765
Colorado	0	0	0	0	0	0	0
Idaho	8	9	10	16	20	0	0
Montana	0	0	0	0	0	0	0
Nevada	1,000	842	1,420	939	1,330	1,744	1,202
New Mexico	80	104	25	31	30	14	14
Oregon	16	25	0	20	20	25	25
Utah	50	70	80	13	20	50	34
Wyoming	20	0	0	0	0	0	0
TOTALS	14,374	6,790	9,160	12,171	11,870	11,358	7,665

^aBecause several burro herds roam freely between BLM-administered lands and lands under the jurisdiction of the National Park Service or Department of Defense, population estimates through 1984 had included some animals whose status was uncertain. This discrepancy has been resolved in the figure reported for 1986, due in part to an aggressive removal program by the Park Service and the Defense Department.

Table C--Biennial Population Estimates by State for Wild Horses and Burros
on National Forest Land
(Number of Animals)

State	1974	1976	1978	1980	1982	1984	1986
<u>Wild Horses</u>							
Arizona	7	5	3	8	5	7	5
California	828	1,037	1,381	1,397	1,006	496 ^{a,b}	581
Colorado	0	0	0	0	0	0	0
Idaho	34	5	0	7	7	3	4
Montana	8	9	8	8	8	20	0
Nevada	1,174	1,305	1,042	951	1,139	490 ^{b,c}	571
New Mexico	207	279	420	230	170	119	129
Oregon	215	295	215	225	485	205 ^{a,c}	180
Utah	45	90	103	121	74	47	55
Wyoming	23	0	0	0	0	0	0
TOTALS	2,541	3,025	3,172	2,947	2,894	1,387	1,525
<u>Wild Burros</u>							
Arizona	36	24	14	4	16	166 ^c	76
California	209	252	312	143	325	77 ^{a,b}	232
Colorado	0	0	0	0	0	0	0
Idaho	6	5	6	6	3	0	0
Montana	0	0	0	0	0	0	0
Nevada	13	15	28	16	40	15	17
New Mexico	5	15	30	35	32	25	25
Oregon	0	0	0	0	0	0	0
Utah	13	0	0	0	0	0	0
Wyoming	0	0	0	0	0	0	0
TOTALS	282	311	390	204	416	283	350

Reasons for significant differences between 1982 and 1984 population estimates:

^aAn aggressive capture program to bring population in line with management plan level.

^bElimination of duplicate counting by BLM and FS on overlapping territories.

^cImproved census techniques.

dropped sharply. At the same time, the number of excess animals was growing. As necessary removals were carried out, unadopted animals--mostly horses--began to accumulate in Government corrals.

1984: In FY 1984, approximately 5,500 excess wild horses and burros were placed in private care though BLM's Adopt-A-Horse (or Burro) Program. This was an 8 percent increase over FY 1983. However, at the start of FY 1984, BLM was maintaining about 2,600 animals in corrals, and the two Agencies removed another 6,200 excess wild horses and burros during the year. The death loss, including

humane destruction of old, sick, and lame animals and fatalities from accident and disease, was about 600 animals. At times during FY 1984, as many as 3,000 animals were being maintained in BLM corrals at a daily cost of about \$6,000. By the end of FY 1984, BLM had reduced the number of animals on hand to 2,500.

The animals being maintained for long periods of time were those that were unattractive to most potential adopters because of advanced age or some other characteristic perceived as undesirable. The BLM was faced with the prospect of maintaining these virtually

Table D--Summary of Wild Horses and Burros
Adopted by State

State	FY's 1984-1985		Total FY's 1972-1985	
	Horses	Burros	Horses	Burros
Alabama	214	73	573	118
Alaska	3	2	49	8
Arizona	233	70	558	542
Arkansas	57	8	414	46
California	913	235	5,723	2,544
Colorado	350	5	1,788	318
Connecticut	6	3	22	12
Delaware	1	6	2	6
Florida	174	69	386	341
Georgia	259	78	441	146
Hawaii	0	0	0	0
Idaho	477	3	3,011	92
Illinois	42	26	458	131
Indiana	98	74	336	126
Iowa	66	107	803	572
Kansas	139	56	964	112
Kentucky	71	26	708	207
Louisiana	270	66	583	89
Maine	3	0	26	12
Maryland	89	46	153	79
Massachusetts	7	4	24	10
Michigan	79	79	369	134
Minnesota	56	17	340	87
Mississippi	256	5	581	102
Missouri	102	61	1,179	163
Montana	1,622	11	2,006	96
Nebraska	48	104	681	527
Nevada	267	45	1,481	220
New Hampshire	5	4	22	12
New Jersey	25	38	44	51
New Mexico	159	4	590	69
New York	105	107	198	216
North Carolina	176	59	443	116
North Dakota	397	9	482	21
Ohio	157	73	490	137
Oklahoma	432	76	3,032	158
Oregon	227	42	4,205	290
Pennsylvania	559	95	854	219
Rhode Island	0	0	6	0
South Carolina	189	39	409	62
South Dakota	924	16	1,879	65
Tennessee	403	187	1,495	490
Texas	1,624	413	5,995	1,011
Utah	276	3	1,689	49
Vermont	0	0	4	0
Virginia	116	78	316	106
Washington	126	77	1,789	559
West Virginia	52	67	117	90
Wisconsin	75	7	261	178
Wyoming	600	45	2,023	67
District of Columbia	1	0	3	0
TOTALS	12,530	2,718	50,005	10,806
TOTAL ANIMALS ADOPTED (FY's 1972-1985)				60,811

unadoptable animals for an indefinite period of time or destroying them as provided for in the Act. Unwilling to lift the moratorium on the destruction of healthy animals, the Agency published an emergency rule in May 1984, giving the Director the authority to adjust or waive the adoption fee for animals unadopted

at the standard fee. To maximize the effect of the rule and to avoid interfering with the regular adoption program, BLM required that a minimum of 100 animals be involved in each fee waiver or reduction transaction, except in unusual cases. Approximately 700 otherwise unadoptable animals were placed under this rule between May 1984 and the end of the fiscal year.

1985: Along with the ambitious removal program undertaken in FY 1985, BLM also intensified its adoption efforts and increased the number of adoptions by more than 70 percent over FY 1984. The placement of 9,554 excess wild horses and burros in private care made FY 1985 the most successful year in the adoption program since the establishment of uniform fees in 1982 and the second highest year since the program began. Fees were waived or reduced in about one-third of the FY 1985 adoptions. Another fee change in FY 1985 eliminated a customary charge for transportation costs from the facility where the animal is prepared to the adoption site. The practical effect of this charge had been to increase the fee for adoptions in the East by 50 to 100 percent, making the total fee for a wild horse higher than the value of domestic horses of equivalent quality. Elimination of the transportation fee established a uniform national adoption fee and greatly improved the potential for adoptions in the East.

Most animals made available for adoption after removal from National Forest lands are placed by BLM through its Adopt-A-Horse (or Burro) Program, and the figures given above and in Table D include these animals. However, in some instances involving only a few animals, the Forest Service carries out its own adoptions. This occurred with a single horse in FY 1984 and with 14 horses in FY 1985.

Approximately 2,600 animals of the 19,100 removed by both Agencies in FY 1985 died from all causes, including humane destruction of old, sick, or lame animals; accident; and disease.



Wild horses awaiting adoption at BLM's contract adoption center in Lewisberry, Pennsylvania. (September 1985)

To find homes for more than 9,500 healthy excess wild horses and burros, BLM made animals available at permanent adoption centers, contract centers, and satellite (temporary) centers. Five permanent year-round centers are located in Kingman, Arizona; Susanville, California; Palomino Valley, Nevada; Burns, Oregon; and Rock Springs, Wyoming. (BLM also has six permanent facilities that serve as adoption centers only on an occasional basis, when animals are available in their vicinity.) Contract centers are currently being operated in Lewisberry, Pennsylvania; Cross Plains, Tennessee; and Collinsville, Texas. In addition, 60 satellites were held in 25 States at various times throughout the year.

In order to bring animals to areas not convenient to year-round centers, BLM has made increasing use of the satellite adoption center. In FY 1983, 27 satellites were held; the next year saw 42 such centers; and in FY 1985, the number jumped to 60. These centers, usually held over a weekend in an area where BLM has identified sufficient adoption demand, provide an effective mechanism for placing wild horses and burros in private care.

Publicity efforts for the adoption program in FY 1985 centered on the production and distribution of national and local television public service announcements. At the State Office level, adoption publicity campaigns

concentrated on satellite adoption centers, with intensive use of posters, fliers, displays, and media interviews in advertising the satellites. State and county fairs and similar events also provided opportunities to inform the public about the adoption program.

At BLM's contract centers in Pennsylvania and Tennessee, annual Wild Horse and Burro Days celebrations have been featured in recent years. These celebrations provide exposure and garner a great deal of positive publicity for the program in the East. In August 1985, BLM's Eastern States Office conducted a special satellite in cooperation with the Bob Evans Farm in Ohio. This cooperative venture was quite successful in terms of immediate adoptions and creation of interest in the overall program.

Titles

When the Agencies first began placing excess wild horses and burros in private care, there was no provision in the law allowing adopters to acquire ownership of the animals. The 1978 amendment to the Act authorized the Secretary to grant title to an individual for up to four animals annually, provided they had been humanely maintained for 1 year. The first titles were issued in 1980.

By the end of FY 1985, more than 50,000 animals had been maintained in private care for a year or more, and approximately half (26,000) had been titled. This number includes 3,095 titles issued in FY 1984 and 3,677 in FY 1985. Towards the end of FY 1985, BLM prepared to survey recently eligible adopters who have failed to apply for title in order to ascertain some of the reasons why many adopters do not take advantage of the opportunity to obtain title.

The Agencies favor titling where appropriate because of the continued responsibility the Government has for untitled animals. Under BLM's revised regulations, the titling process will be simplified, and it is anticipated that a greater percentage of adopters will receive

title to the animals in their care. Nonetheless, a significant number of animals can be expected to remain the legal responsibility of the adopting Agencies.

Maintenance

In the last few years, long-term maintenance of excess animals has become an increasingly burdensome function of the wild horse and burro program. The BLM began both FY 1984 and FY 1985 with more than 2,000 animals in corrals, and at times in 1984 that number rose as high as 3,000. At a cost of between \$2.00 and \$2.25 per day per animal, long-term maintenance of large numbers of animals is a major expense.

When Congress directed the removal of more than 17,000 excess wild horses and burros in FY 1985, BLM had to supplement its own corral space by contracting with the private sector. The number of adoptions that could be accomplished in FY 1985 was estimated at 9,500. Therefore, space would be needed to maintain as many as 10,000 animals during the year, including those carried over from FY 1984. This meant that BLM had to contract for facilities to hold at least 8,000 animals.

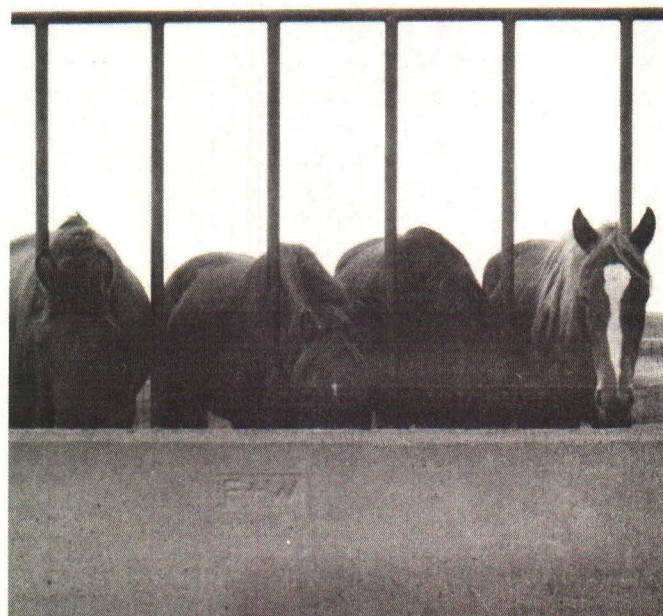
Specifications for the contract holding facilities were carefully designed to ensure that the

Feeding time at BLM's contract holding facility in Bloomfield, Nebraska, which began operation in June 1985.



animals would be humanely maintained. In December 1984, BLM initiated a competitive bidding process that culminated in April with the award of four contracts for facilities in Nebraska (1 contract), Nevada (2), and Texas (1). By June 1985, three facilities were in operation, but one of the Nevada contracts had to be terminated for default. Expansion from a capacity of 2,000 to 3,000, if needed, was provided for in the contracts, and two of the remaining facilities were expanded to replace the lost space. The BLM also has the option to extend the contracts for each of the next 2 years, depending on program needs and funding availability. In September 1985, the facility and veterinary contractors were notified of BLM's intention to use their services through FY 1986, at an estimated cost of \$6 million. The cost of the contract facilities and associated veterinary services for approximately 4 months in FY 1985 was \$2.8 million.

At the end of FY 1985, more than 7,600 animals were being maintained in the contract facilities, and another 2,300 animals were being cared for in BLM's own corrals. The combined daily cost of maintaining these animals was approximately \$22,000.



Compliance/Enforcement

Enforcement of the provisions of the Act and regulations related to it can be divided into two basic categories: protection of the animals on the range and protection of those placed in private care through the adoption program. In FY's 1984 and 1985, there were 4 reports of illegal activities involving wild horses on the range, two in Oregon and two in Wyoming. The Oregon incidents included a suspected illegal roundup of wild horses and the shooting of four wild horses on the range. In both cases, there was insufficient evidence to refer the matter to the judicial system. One of the Wyoming violations was a shooting incident, and the second was an illegal gathering. Investigation of the shooting incident is in progress; the illegal gathering case is closed. In that case, an individual had reported unauthorized removals of wild horses to the local sheriff. Both the sheriff's office and BLM investigated the report but found no evidence to verify the allegations.

Most compliance and enforcement activity centers on adopted animals. According to the Act, the Secretary is to place in private maintenance excess wild horses and burros for which an adoption demand by qualified individuals exists and "for which he can assure humane treatment and care" To assure that adopted animals receive proper treatment, the Agencies screen all prospective adopters. The purpose of the screening is to determine that the adopter has adequate facilities, is aware of the costs associated with maintaining the animal, and understands all conditions and terms of the legally binding adoption agreement. Most adopters are interviewed by telephone. However, in 1983 an agreement between BLM and the American Horse Protection Association (AHPA) settled a civil suit brought to halt large-scale adoptions, and this settlement stipulated certain extra precautions in adoptions involving five or more animals. In accordance with this agreement, the placement of five or more animals

requires written verification of the adequacy of the facilities, and an on-site inspection of the facilities is a prerequisite to a large-scale adoption (more than 24 animals).

Once a wild horse or burro has been placed in private care, current policy in large-scale adoptions requires at least one on-site inspection within the first year. In adoptions involving fewer animals, BLM responds to any reports of violations of the adoption agreement.

Interested humane organizations are encouraged to help with the compliance process since fiscal restraints and personnel ceilings limit compliance inspections by BLM. The BLM cooperates with officials of local humane groups by supplying them with the necessary information to enable them to check on adopters in their area. The Agency then investigates any reported violations and takes whatever action is necessary to resolve the situation. Remedial actions range from requiring the adopter to correct minor problems to repossessing the animal and citing or prosecuting the adopter for violating the terms of the private maintenance and care agreement. The most humane solution for the animal, in some few instances of neglect or abuse, may be destruction. Cases that appear to BLM officials to warrant prosecution are referred to the appropriate U.S. or State's Attorney's Office. In less serious offenses, e.g., failure to notify the Agency of the death of an untitled animal, BLM officials may issue a citation imposing a fine.

The use of humane group volunteers to help in compliance inspections has worked well. Nevertheless, BLM recognizes that there are not enough humane groups involved in this process and continues to encourage more organizations to participate in on-site inspections to bring to light any instances of abuse or neglect. It must be emphasized, however, that the overwhelming majority of adopters provide humane treatment for the animals in their care.

In FY 1984, BLM inspected wild horses and burros maintained by 454 adopters. As a result of the inspections, 107 animals were repossessed and reassigned to other individuals. Most compliance inspections take place only after BLM is notified of possible abuse or neglect, but some of these inspections were undertaken to carry out the terms of the agreement with the AHPA in connection with large-scale adoptions. This was also true in FY 1985, when BLM inspected animals being cared for by 587 adopters and repossessed and reassigned 74 animals.

In FY's 1984 and 1985, the BLM referred a total of seven incidents to the U.S. Attorney's Office. Of these, two were pending at the end of FY 1985; two were deemed to lack prosecutive merit; and three were prosecuted successfully. One of the cases pending as of September 30, 1985, was in Colorado, where two adopters were charged with abuse and abandonment of six adopted wild horses. The other case occurred in Pennsylvania. An adopter was charged in Federal court with mistreating three wild horses in his care by feeding them inadequately and failing to trim their hooves, which can cripple the animal.¹

The three cases resulting in convictions in FY's 1984 and 1985 involved individuals in North Dakota and Texas. In the North Dakota case, a man pleaded guilty to maliciously

¹In November 1985, a federal magistrate sentenced the defendant to work 200 hours on behalf of animals and levied a \$300 fine.

killing an adopted mare. After an unsuccessful attempt to rope the horse, the adopter shot and killed the animal. A colt adopted with the mare was repossessed and reassigned. The adopter was sentenced to 100 hours of public service work, placed on probation for 1 year, and fined \$25.

In Texas, an individual entered a guilty plea when charged with the sale of three untitled wild horses. He was given 2 years unsupervised probation and fined \$250. The fine was suspended. Another Texas adopter was charged with forgery in a State court after signing a veterinarian's name on the application for title to an adopted wild horse. The defendant pleaded guilty and was fined \$20.

One of the enforcement cases included in the June 1984 report to Congress involved a Texas rancher accused of inhumane treatment in the deaths of several adopted wild horses. The case was eventually settled through a plea bargain agreement after the first trial ended in a hung jury. The defendant was sentenced to 6 months in jail, fined \$4,000, and given probation for a period of 5 years. However, in September 1984, the conviction was overturned by the Fifth Circuit Court of Appeals because of a procedural technicality. The Government did not pursue the matter further because of limited resources and the unlikelihood of obtaining a conviction, particularly in light of the hung jury in the original trial. Furthermore, the individual did not avoid punishment altogether, having been convicted in a State court on a felony charge of fraud for using the adopted horses as collateral for a bank loan.

Litigation

Prior to October 1, 1983, officials responsible for administration of the Act were defendants in 20 lawsuits. Four of these were pending at the beginning of the 2-year period covered by this report. During FY 1984, no litigation was resolved, and three new suits were filed against the Department of the Interior and the BLM, bringing the number of cases outstanding to seven. These cases all sought to require BLM to remove wild horses from public or private lands. Some of the suits also raised the issue of Federal responsibility for damage to private lands by wild horses and for the value of forage they consumed.

Two of the seven suits were decided in FY 1985. One was resolved in the Government's favor, and one was decided for the plaintiff. However, the Government appealed the unfavorable decision. The Ninth Circuit Court

of Appeals was expected to rule on the appeal in 1986. A third suit was resolved in September 1985 when the parties agreed to a voluntary dismissal, following removal of wild horses from the plaintiff's property. (In February 1986, another suit was also resolved by an order of dismissal.)

One new suit was filed in FY 1985. In this action, two humane organizations charged the Secretary of the Interior and various BLM officials with inhumane treatment of animals in connection with removal operations and inhumane conditions in BLM corrals. As FY 1985 ended, that case had not gone to trial.

Summaries of the eight cases before the courts during FY's 1984 and 1985 are contained in Appendix B. The Forest Service was not involved in any of this litigation.

Funding and Expenditures

In BLM, the wild horse and burro program receives funding by direct appropriation through the annual appropriation act, within the Management of Lands and Resources (MLR) account, and by indefinite appropriation of receipts collected in the Service Charges, Deposits, and Forfeitures account. The BLM subactivities funded by these two appropriations are the Wild Horse and Burro Management and Adopt-A-Horse Programs, respectively. The funding for the BLM's Wild Horse and Burro Management Program and for the Forest Service are shown below:

<u>Fiscal Year</u>	<u>Appropriated Amount</u>	
	<u>FS</u> ¹	<u>BLM</u>
1972		\$ 0
1973		400,000
1974		687,000
1975		1,314,000
1976		1,272,000
1977		2,679,000
1978		4,025,000
1979	\$435,000	4,250,000
1980	450,000	4,582,000
1981	400,000	5,704,000
1982	310,000	5,418,000
1983	570,000	4,877,000
1984	293,000	5,766,000
1985	175,000	17,039,000

A portion of the funding for the Adopt-A-Horse Program comes from adoption fees collected, which are then made available through appropriation for use in the program. Funds collected in one year and not expended can be carried over into the next year. The receipts and expenditures for FY's 1983, 1984, and 1985 are shown below.

¹Prior to Fiscal Year 1979, Forest Service expenditures in wild horse and burro management were approximately \$200,000 per year.

	<u>Fiscal Years</u>		
	<u>1983</u>	<u>1984</u> (\$000's)	<u>1985</u>
Receipts	765	696	676
Expenditures	682	732	551

The average fee received for animals placed in adoption in FY 1985 was \$73, compared to \$127 in FY 1984 and \$150 in FY 1983. The lower average fees in FY's 1984 and 1985 can be explained by two changes in fee policy that occurred in 1984. The regulation authorizing reduced or waived fees for otherwise unadoptable animals took effect in May, and in October BLM stopped charging adopters the cost of transporting animals to adoption centers. Despite the substantial increase in the number of adoptions in FY 1985, adoption receipts rose only slightly, largely because about one-third of the FY 1985 adoptions involved fee waivers or reductions.

The BLM expenditures for Wild Horse and Burro Management for FY's 1984 and 1985 are shown below, followed by an explanation of the expenditures in each category. FY 1983 figures are included for comparison.

<u>Activity</u>	<u>Obligations by Fiscal Year</u>		
	<u>1983</u>	<u>1984</u> (\$000's)	<u>1985</u>
Inventory	95	94	157
Monitoring	225	200	345
Project Development	194	301	311
Management Plans	110	113	177
Management Support	38	40	39
Research	51	29	1,195
Removal of Excess Animals	1,619	1,417	2,728
Disposition of Excess Animals	2,287	3,363	11,737
Compliance and Enforcement	221	168	157
Title Transfer	37	40	55
Total Manage- ment Activity	\$4,877	\$5,765	\$16,901

Inventory and monitoring costs include the expenses of census and demographic analysis of herds; delineation of herd distribution; study of the utilization, condition, and trend of the vegetation resource; and documentation of the effects of management actions. Expenditures in these activities increased significantly in FY 1985, reflecting the progress in completion of resource management plans and the associated need to undertake and evaluate the prescribed management actions.

Funds spent on preparation of herd management area plans (HMAP's) were also significantly higher in FY 1985 than in previous years because of the emphasis on implementing the decisions on herd management reached in resource management plans. Twenty-two HMAP's were completed in FY 1984 and twenty-eight in FY 1985, compared to fifteen in FY 1983. In both 1984 and 1985, slightly more than \$300,000 was spent on the construction of associated range improvement projects, primarily water developments, and on their maintenance.

Management support costs cover activities related to herd management such as preparation and revision of environmental analyses and revision of resource management plans to address wild horse and burro issues.

Research obligations of about \$1 million in FY 1985 responded to the provision in the appropriation that this amount be used for new studies on wild horse or burro population dynamics, historical numbers, or rates of increase. Three separate studies were funded, focusing on the effects of various fertility control strategies on population dynamics of wild horses, parentage patterns in horse herds, and condition evaluation of animals through blood serum assay. The BLM signed a \$150,000 contract with the NAS for aid in the design of the studies and preparation of a final report synthesizing and interpreting the results of the funded research and other relevant studies in the subject area. The report is due in 1988.

Removal costs include the preparation of removal plans and associated environmental assessments, gathering the animals, and transportation of the animals to the initial holding facility. Removal costs remained fairly constant through FY 1984, but were significantly higher in FY 1985 because of the sharp increase in the number of animals removed. Average costs in FY 1985, however, were lower by about half compared to previous years (\$125 versus \$250 per animal captured), due to the efficiencies possible in larger operations.

Disposition costs include those associated with processing, maintaining, and disposing of excess animals after they have arrived at a permanent holding facility. Among these costs are construction, rental, and maintenance of holding facilities; medical treatment, including tests, vaccinations, and worming; hoof-trimming; brand inspection and freeze marking; feeding and handling; public affairs efforts in support of adoption; transportation of animals to other holding facilities or adoption centers, if necessary; and destruction of old, sick, or lame animals.



Wild horses roam public land in Utah.

Obligations in FY 1985 for disposition were more than three times those of previous years, due both to the large number of animals placed in private care and to the large number maintained in corrals for extended periods of time, many of which remained unadopted at the end of the fiscal year.

Compliance and enforcement costs include those associated with ensuring that wild horses and burros on public lands are not illegally captured, branded, harassed, or killed, and that care of adopted animals is humane. Compliance costs have decreased in recent years, due in part to the voluntary partici-

pation of local humane groups in conducting inspections of adopted animals. These groups also assist with pre-adoption screening by inspecting facilities in which animals in large-scale adoptions are to be kept.

Costs of issuing titles to adopted animals that have been humanely maintained for 1 year have risen from a 1983 average cost of \$6 to \$15 in 1985. The reason for this increase is not clear, but it is probably related to reduced volume of titles issued. In FY's 1984 and 1985, about half as many titles were issued as in the previous 2-year period.

1986 and Beyond

For FY 1986, Congress provided \$16.2 million¹ for BLM's wild horse and burro program. This amount will allow further progress towards achieving appropriate management levels by removing excess animals, but nearly 45 percent of the funding will be needed to pay for the maintenance of unadopted animals. At the beginning of FY 1986, the outlook for the introduction and eventual passage of legislation providing sale authority was uncertain, and BLM began to explore other options to

¹After taking into account the reduction required by Public Law 99-177.

enable more efficient operation of the wild horse and burro program.

The next few years will be crucial ones in the administration of the Act. If steady progress can be made towards attaining appropriate management levels and if a satisfactory alternative to long-term maintenance of unadopted animals can be found, it should be possible to enter the 1990's with a cost-effective management program that ensures the continued existence of healthy herds of wild and free-roaming horses and burros in ecological balance with other resource uses of the public lands.



Unlike wild horses, virtually every healthy burro removed from the range is placed in private care, making long-term maintenance of burros unnecessary. (Lewisberry, Pennsylvania, 1985)

Appendix A: Fertility Control Research

Over the past several years, the Bureau of Land Management (BLM) has been evaluating the practicality and cost-effectiveness of both stallion- and mare-focused approaches to fertility control to manage rates of increase in wild horse populations. The National Academy of Sciences (NAS) has also reviewed the subject. In its 1982 final report, the NAS Committee on Wild and Free-Roaming Horses and Burros concluded that no method had been developed to the point of being ready for use in the management of wild horse herds. However, the report indicated that mare-focused methods, although not perfected, hold more promise because of several demographic characteristics of the species.

Horse herds characteristically exhibit a polygynous social structure, in which several to twenty mares are associated with a single dominant stallion in the breeding band. A stallion-focused fertility control strategy would take advantage of this structure by blocking fertility in the single dominant male, thus suppressing reproduction in the entire band. However, although one study has reported success in the use of this approach, most other investigators have reported significant interchange of mares among established stallion-dominated bands, as well as breeding by subdominant stallions. Either of these conditions would effectively negate the value of stallion-focused fertility control.

In a strictly demographic sense, mare-focused control, if feasible, would have the advantage that treatment of a given portion of the adult female population could be expected to have a quantitatively equal effect on the herd's rate of reproduction. For example, treatment of 20 percent of the adult mares would likely result in a 20-percent depression in foaling rate. In stallion-focused fertility control, on the other hand, this expectation would not be valid; it has been estimated, based on computer modeling, that perhaps 80 percent of the adult males in a herd might have to be treated to achieve a significant depression in the foaling rate.

Two other considerations also point to a mare focus in fertility control strategies. First, breeding stallions are thought to be the genetically superior male animals in any horse herd, simply because they have been successful in asserting dominance over other stallions in the competition for breeding status. This hierarchical arrangement, which has not been demonstrated among mares, argues against a fertility control strategy that targets only dominant stallions and thereby selects against their contribution of genetic material to the herd.

Second, no suitable male fertility suppressant delivery has been demonstrated to be successful for more than one breeding season. Practically speaking, a fertility control method would be logistically feasible and cost effective only if single treatments could maintain effectiveness for 3 or more years. This appears to be possible in mares, and implants effective for 1 to 3 years have been demonstrated in domestic animals. However, based on studies with testosterone and similar compounds, it appears that quantities sufficient to ensure continued release of adequate dosages over several years in males would require carriers so large that implantation would be infeasible in wild animals.

Congress provided \$1 million for research in the Fiscal Year 1985 appropriation for the wild horse and burro program. Working through the NAS, the BLM has awarded two contracts for research projects on fertility control. The first contract encompasses two separate projects, one on mare-focused methods of fertility control and one on stallions.

In the stallion study, the dominant stallions from approximately 40 bands will be captured, radio-collared, and vasectomized to ensure their long-term infertility. Their bands will then be monitored for 3 years to detect the extent of reproduction. Any reproduction observed would be attributed either to breeding by subdominant stallions within these

bands or to interchange of mares among bands where fertile stallions are available for breeding. In either case, if reproduction is found to be significant, the conclusion would be that stallion-focused fertility control, whether surgical or chemical, is not a promising strategy for population management.

In the mare study, 6 groups of 30 mares each will be treated with various combinations and dosages of the hormones estradiol and progesterone. Silastic polymer rods of varying lengths will be impregnated with these compounds and implanted subcutaneously, and the effects on estrus recorded. Treatments that appear potentially effective for 3 or more years will then be applied to mares in a free-ranging population, and the effects on reproduction monitored for a 3-year period. Based on the effectiveness of the method and the

costs experienced in its application to free-ranging animals, the overall cost effectiveness for population management will be evaluated.

The second contract will entail the collection and analysis of blood samples from all animals captured in the fertility control studies, including treated and nontreated animals. Probable paternity by the dominant stallion of foals associated with the mares in his band will be determined. If the incidence of such paternity is high, it would be considered an indication of band integrity and of successful breeding primarily by the dominant stallion, in which case stallion-focused control may be a useful strategy. Conversely, if there is not a strong indication of paternity by the dominant stallion, use of male-focused control would not be indicated.

Appendix B: Litigation Summaries

The following summaries give the status of wild horse and burro litigation before the courts in Fiscal Years 1984 and 1985.

Resolved

1. **DeMar Dahl v. Watt, et al.**; Civil No. R-82-124-BRT (D. Nev., filed March 1982).

Issue: The plaintiff sought a court order requiring BLM to reduce immediately the number of wild horses on allotments for which he held grazing permits to the level present when the Wild Free-Roaming Horse and Burro Act was enacted in 1971.

Status: A trial was held in July 1984, and a decision was entered in the defendants' favor on January 4, 1985. The court held that the number of wild horses on the public lands in 1971 was immaterial and that the law requires reduction of the wild horse population on public lands only when necessary to achieve or maintain a thriving ecological balance. However, the court rejected BLM's contention that it lacks sufficient information to justify removals from plaintiff's allotments and concluded "that the areas in question are not in a thriving, ecological condition." The decision stated that if the suit had not been limited to a request for a return to 1971 population levels, a different judgment might have been reached.

2. **Depaoli Brothers v. Clark, et al.**, CV-R-84-302-BRT (D. Nev., filed July 1984).

Issue: The plaintiffs requested the court to require BLM to remove all wild horses from their private property and to prevent the animals from straying onto the subject lands in the future.

Status: Plaintiffs entered an agreement to settle the case upon removal of the subject animals in the summer of 1985. On September 24, 1985, an order of voluntary dismissal was entered, based on removal of the animals by the BLM.

3. **Sweetwater Ranch Company v. Clark**, No. CV-R-84-79-ECR (D. Nev., filed March 1984).¹

Issue: The plaintiff sought an order compelling the BLM to immediately remove wild horses that have strayed from public lands onto plaintiff's private lands. The complaint also asked the court to order the BLM to take necessary steps to prevent other wild horses from straying onto plaintiff's land. Plaintiff alleged that wild horses straying from public lands onto private lands cause permanent, irreparable damage and consume water appropriated to the plaintiff.

Status: On February 6, 1986, the district court entered judgment dismissing the lawsuit. The dismissal had been stipulated to by Sweetwater Ranch Company and the Government.

Pending

1. **Mountain States Legal Foundation v. Andrus**; Civil No. C-79-275K (D. Wyo., filed September 1979).

Issue: Plaintiffs brought suit contending that the Bureau of Land Management (BLM) had failed to maintain an ecological balance in its horse population; to protect and manage wild horses; and to remove wild horses from private lands upon request of the landowner. The plaintiffs sought an order that would require BLM to reduce the number of horses to a level that would prevent further damage to the horses, their habitat, and the ecological condition of the public lands. They also sought damages to cover forage losses and payment for each horse remaining on the checkerboard area. The plaintiffs also claimed that the former Director of BLM should be personally liable for damage caused by wild horses on private lands.

¹Resolved in FY 1986.

Status: In March 1981, the trial judge dismissed the former Director from any personal liability in the suit. However, the judge ruled in favor of the plaintiffs and ordered BLM to remove all wild horses from the checkerboard grazing lands in the Rock Springs District, except the number which the Rock Springs Grazing Association voluntarily agreed to leave. This removal was to be completed within 1 year of the order, and all excess wild horses within the Rock Springs District were to be removed within 2 years.

Both plaintiffs and BLM appealed the decision. However, the Tenth Circuit Court of Appeals dismissed these appeals because the trial court had failed to rule on all of the plaintiffs' claims.

A hearing was held in January 1982 to consider defendant's motion to amend the final order and to consider remaining issues in the case. On February 19, 1982, the trial judge denied compensation to the plaintiffs for forage consumed by wild horses. The court also amended its 1981 order in regard to management levels, removal deadline, and definition of "excess." The Mountain States Legal Foundation filed a Notice of Appeal with the Tenth Circuit Court of Appeals.

In a two-to-one decision, the Tenth U.S. Circuit Court of Appeals ruled in July 1984 that the Federal Government is responsible for damages resulting from use of private lands by wild horses. The dissenting opinion warned that the ruling, if extended, could make the Government liable for damage done by other federally protected species. The United States filed a petition for rehearing of this case.

On March 29, 1985, the U.S. Court of Appeals for the Tenth Circuit agreed to withdraw its decision and rehear arguments in the case. No date for oral argument has been set.

2. **Fallini v. Watt**; Civil No. 81-536-RDF (D. Nev., filed August 1981).

Issue: The plaintiff requested the court to require BLM to remove all wild horses from his private property and to prevent the animals from straying on the subject lands in the future. Plaintiff had asserted identical facts in an earlier case which was eventually dismissed.

Status: On October 4, 1984, the court decided in favor of the plaintiff, ruling that the BLM has a duty under the act to remove wild horses from private lands upon request of the landowner and to prevent their return. Based on this decision, an order was issued on November 20, 1984, enjoining the BLM "from suffering or permitting the presence of wild free-roaming horses and burros to hereafter be upon plaintiff's land." The Government filed a notice of appeal in January 1985. Arguments were heard before the Ninth Circuit Court of Appeals in October 1985.

3. **Fallini, et al. v. Clark, et al.**, Civil No. LV-84-040-HEC (D. Nev., filed January 1984).

Issue: The plaintiffs sought to set aside the BLM's land use planning decision for managing wild horses on the Reveille Allotment in Nevada. The complaint alleged that BLM, through inaction, was allowing wild horses to overpopulate the public lands resulting in "ecological imbalance." Plaintiffs further alleged that the number of wild horses in the area could not be allowed to exceed the level existing in 1971. The lawsuit was closely related to the previous case of *Fallini, et al. v. Watt*, Civil No. LV-81-536 RDF.

Status: Trial was set for September 1985, but a change of venue was subsequently granted to Reno, and a new judge was assigned. No date has been set for the trial before the new judge.

4. **Animal Protection Institute of America, Inc., and the Fund for Animals, Inc., v. Hodel, et al.** CV-R-85-365-HDM (D.Nev., filed July 1985; amended September 1985).

Issue: The original suit, filed by the Animal Protection Institute on July 16, 1985, named as defendants, in addition to the Secretary and BLM Director, various BLM officials in Nevada; and was limited in scope to conditions and practices at the wild horse maintenance facilities there. The suit alleged that the BLM's roundup, possession, and transportation of excess wild horses and burros are cruel and inhumane. The suit contended that the BLM had exacerbated the inhumane conditions by deliberately discouraging the adoption of these animals by individuals, by failing to provide adequate veterinary care, and by overcrowding the facilities.

Status: The lawsuit was amended on September 12, 1985, to add the Fund for Animals as a plaintiff and the BLM State Directors of Wyoming and Montana as defendants. An answer was filed to the amended complaint. The case is currently in discovery status.

Inactive

1. **Bright-Holland Company et al. v. Watt;** Civil No. R-82-153-BRT (D. Nev., filed April 1982).

Issue: Plaintiffs sought a ruling requiring the BLM to remove wild free-roaming horses and burros from their private lands. They alleged the presence of wild horses had caused permanent damage to their lands and asked for compensation in the amount of \$2,500,000, as well

as a daily payment for each wild horse and burro remaining on their property.

Status: Plaintiffs filed a motion for summary judgment, arguing that there was no genuine issue of material fact and they were entitled to judgment as a matter of law since (1) defendants were under a mandatory duty to arrange for the removal of wild horses on plaintiffs' private property, and (2) the diminution in value to their property as a result of the forage consumed by the wild horses was compensable under the Fifth Amendment.

Defendants filed a motion in opposition to summary judgment, arguing in part that a genuine issue of material fact existed as to the presence of wild horses on plaintiffs' property. Defendants also filed a motion to dismiss the compensation claim, arguing that the district court lacked subject matter jurisdiction over claims in excess of \$10,000 founded on a constitutional taking. Both parties filed new memorandums.

The district court denied plaintiffs' motion for summary judgment, holding that a genuine issue of material fact did exist as to the presence of wild horses on plaintiffs' property. The court also dismissed plaintiffs' claim for damages.

Plaintiffs have yet to ask the court for a calendar date to hold a trial or evidentiary hearing on their claim for removal of the wild horses. The case has been placed in inactive status on the Court's docket.

Appendix C: Summary of Bureau of Land Management Wild Horse and Burro Program Accomplishments for Fiscal Years 1984 and 1985

Fiscal Year 1984

State	Herd Areas Monitored	Herd Management Area Plans	Inventory (000 acres)	Removals		Adoptions		Compliance Inspections (No. of Adopters)	Titles		
				Horses	Burros	Horses	Burros		Horses	Burros	
AK	0	0	0	0	0	0	0	0	0	0	
AZ	2	1	0	3	585	4	10	30	5	71	
CA	1	6	333	828	500	622	138	89	171	173	
CO	5	2	0	87	0	22	4	24	97	10	
ID	1	0	0	311	0	289	0	52	35	11	
MT	1	1	0	0	0	16	2	50	44	0	
NV	50	3	0	1,410	0	467	22	19	197	21	
NM	0	0	20	0	0	453	85	9	362	31	
OR	16	5	0	644	0	165	80	46	227	64	
UT	5	2	728	88	0	82	0	41	18	0	
WY	1	2	8,064	1,628	0	1,050	236	93	732	121	
ES	0	0	0	0	0	1,116	628	1	462	243	
SUBTOTALS				4,999	1,085	4,286	1,205		2,350	745	
TOTALS				82	22	9,145	6,084	5,491	454	3,095	

Fiscal Year 1985

State	Herd Areas Monitored	Herd Management Area Plans	Inventory (000 acres)	Removals		Adoptions		Compliance Inspections (No. of Adopters)	Titles	
				Horses	Burros	Horses	Burros		Horses	Burros
AK	0	0	0	0	0	0	0	0	0	0
AZ	6	0	0	0	841	114	61	27	5	31
CA	33	12	60	697	397	987	96	142	348	94
CO	11	0	0	174	0	167	1	35	105	26
ID	2	3	0	186	0	117	0	7	152	1
MT	3	2	0	0	0	810	2	242	19	0
NV	64	3	3,039	10,118	322	376	26	21	259	19
NM	1	0	0	29	0	1,535	438	9	366	70
OR	15	5	1,167	1,310	0	170	27	10	172	75
UT	7	1	0	616	0	156	0	52	33	0
WY	4	2	6,754	4,269	0	1,354	4	4	727	117
ES	0	0	0	0	0	2,305	808	38	722	336
SUBTOTALS				17,399	1,560	8,091	1,463		2,908	769
TOTALS	146	28	11,020	18,959		9,554		587	3,677	

Appendix D: Summary of Forest Service Wild Horse and Burro Program Accomplishments for Fiscal Years 1984 and 1985

State	Territories		Management Plans Completed			1984-1985	
	No.	Acres	Prior to 1984	1984-1985	Total	Removals	Adoptions
AZ	3	42,964	1	1	2	0	0
CA	9	431,189	8	0	8	126	1
ID	1	4,246	0	1	1	0	0
MT	1	3,350	0	0	0	0	0
NV	18	1,250,421	7	0	7	122	0
NM	9	142,434	3	0	3	15	14
OR	2	100,660	2	0	2	1	0
UT	2	40,356	2	0	2	0	0
TOTALS	45	2,015,620	23	2	25	264	15^a

^aIncludes only those animals adopted independently of the BLM Adopt-A-Horse Program summarized elsewhere in the text.