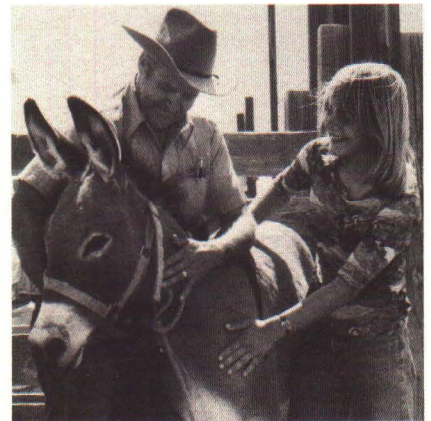
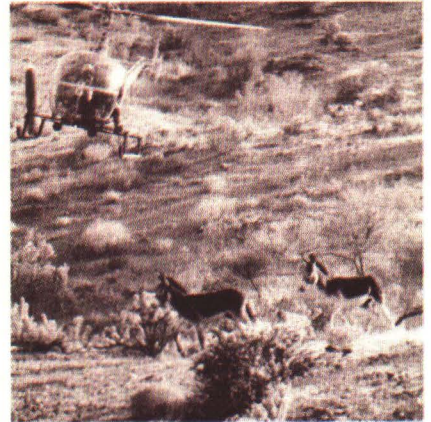
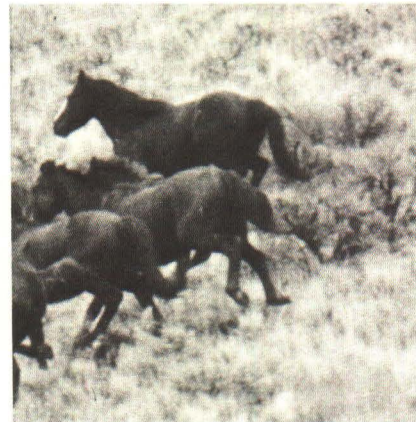
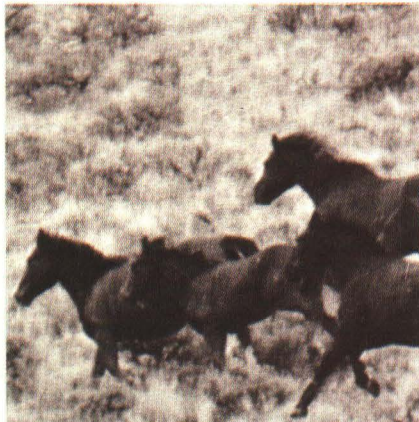
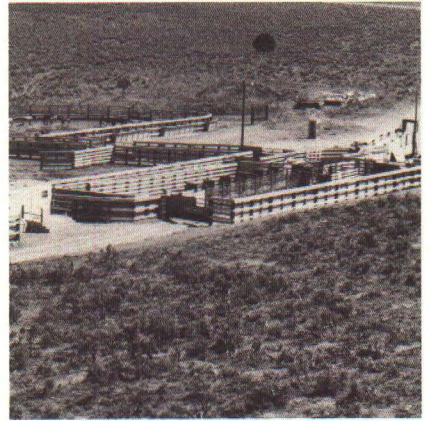
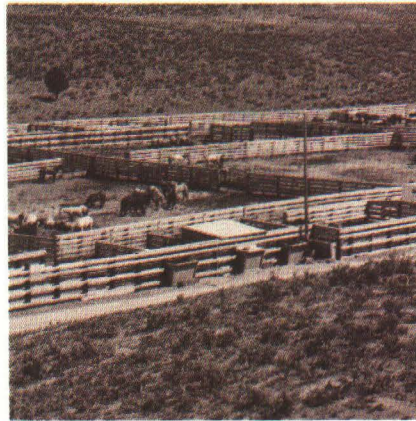


6/1980

Third Report to Congress

June 1980

Administration of the Wild Free-Roaming Horse and Burro Act



U.S. Department of the Interior
Bureau of Land Management

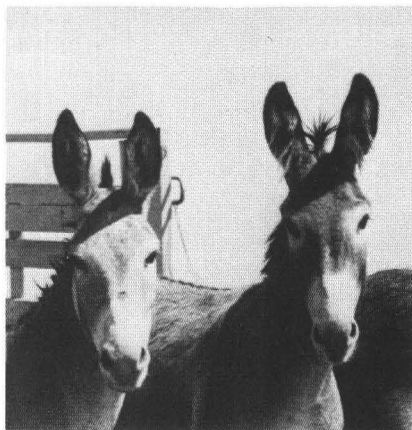
U.S. Department of Agriculture
Forest Service

Third Report to Congress

June 1980

Administration of the Wild Free-Roaming Horse and Burro Act





Preface



On December 15, 1971, the Wild Free-Roaming Horse and Burro Act became law. The Act, unanimously passed by Congress, declared 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..." Congress required that the animals be protected, preserved, and managed "...as an integral part of the natural system of the public lands..."

Responsibility for the animals was delegated to the Bureau of Land Management (BLM) through the Secretary of the Interior and to the Forest Service through the Secretary of Agriculture. Section 11 of the Act¹ requires the Secretaries to submit periodic joint reports on their administration of the wild horse and burro program, describing their activities and costs, and recommending legislative actions which would assist them in their management responsibilities. This is the Third Report to Congress on the program.

Since passage of the Act, wild horse and burro populations have increased steadily. BLM and the Forest Service have placed emphasis on controlling the populations by determining the proper number of animals to be managed and removing excess animals. (Excess animals are those horses or burros which must be removed to preserve and maintain a thriving ecological balance and a multiple-use relationship in an area.)

BLM, which has responsibility for 95% of the wild horses and burros, is currently controlling the overall annual increase in the populations under its jurisdiction, but it is still a long way from reducing herds to proper management levels. Forest Service herds are nearing desired management levels. An adoption program has been developed to place healthy excess animals under care and maintenance by qualified individuals and, subsequently, to grant titles for the animals to qualified adopters.

Proper use of the public lands and protecting and maintaining viable, healthy herds of wild horses and burros are the Agencies' management objectives. Through the nationwide Adopt-A-Horse program, the public is able to participate directly in and contribute to the improved management of wild horses and burros and their habitat.

A brief history of wild horses and burros can be found in Appendix A.

¹Redesignated section 11 by section 404, Act of October 21, 1976, 16 U.S.C.A. 1340.

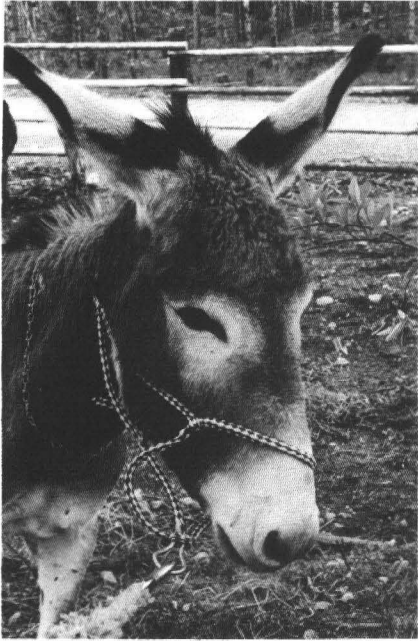


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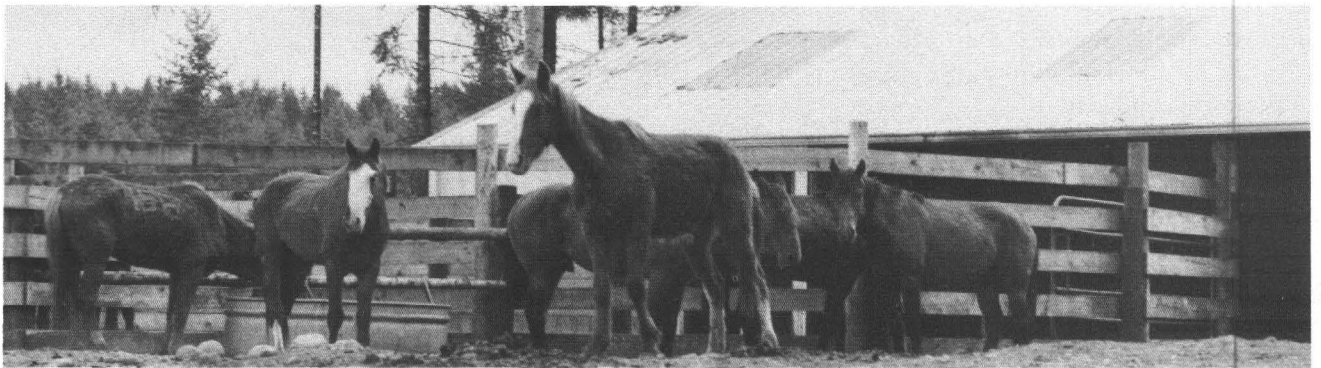
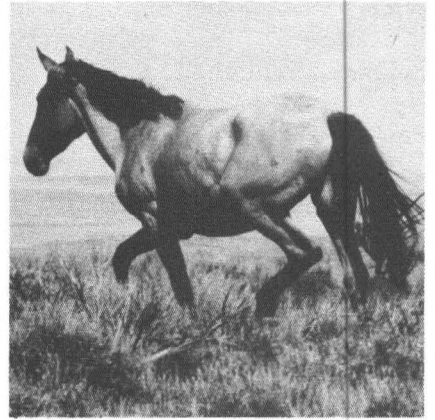
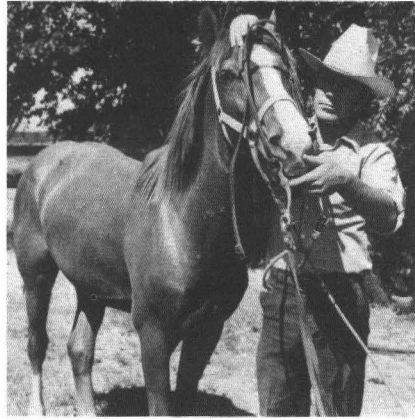
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Horses await adoption at the Spanaway, WA distribution center, one of the several regional centers established by BLM.

Summary Highlights

Populations:

There are an estimated 55,400 wild horses and 12,400 wild burros as of January 1980. BLM is responsible for more than 52,400 horses and 12,200 burros; the Forest Service manages almost 3,000 horses and more than 200 burros.

Program Costs:

The Bureau of Land Management spent \$4.25 million and the Forest Service \$435,000 administering the program in Fiscal Year 1979. Both Agencies spend an average of \$300 per animal for removal and placement under the Adopt-A-Horse program.

Management:

Thirty-six BLM herd management area plans and 29 Forest Service territory plans have been developed in the last four years. The plans provide direction for maintaining healthy, viable herds of wild horses and burros in relation to other foraging animals and multiple-use needs.

Roundups:

For the first time since the program began, BLM roundups scheduled in Fiscal Year 1980 will nearly equal the estimated annual population increase. Roundups must be accelerated to remove far more than 10,000 animals each year before the BLM can reach desired management levels. Forest Service herds are nearing management levels.

Distribution System:

BLM's holding and distribution centers for the Adopt-A-Horse program have been expanded and improved. The centers were supplemented in 1978 and 1979 when the Bureau contracted for the use of privately owned facilities near Eugene, Oregon; Dallas, Texas; Nashville, Tennessee; and Spanaway, Washington. Almost 1,500 animals have been placed under adoption through the contract centers.

Adopt-A-Horse Program:

Since the Adopt-A-Horse program began in 1973, more than 20,000 wild horses and burros (mostly horses) have been adopted nationwide by some 7,000 individuals, organizations and agencies. Almost half of the adoptions occurred in the last two years. Adopted animals are located in 47 of the 50 States.

Compliance/Enforcement:

Forty-one cases of law or regulation violations have been submitted for prosecution in the last two years alone. Nine guilty verdicts have been obtained, including one case which resulted in a fine of \$25,000, 18 months imprisonment, and an additional five years' probation for an Oregon adopter.

Litigation:

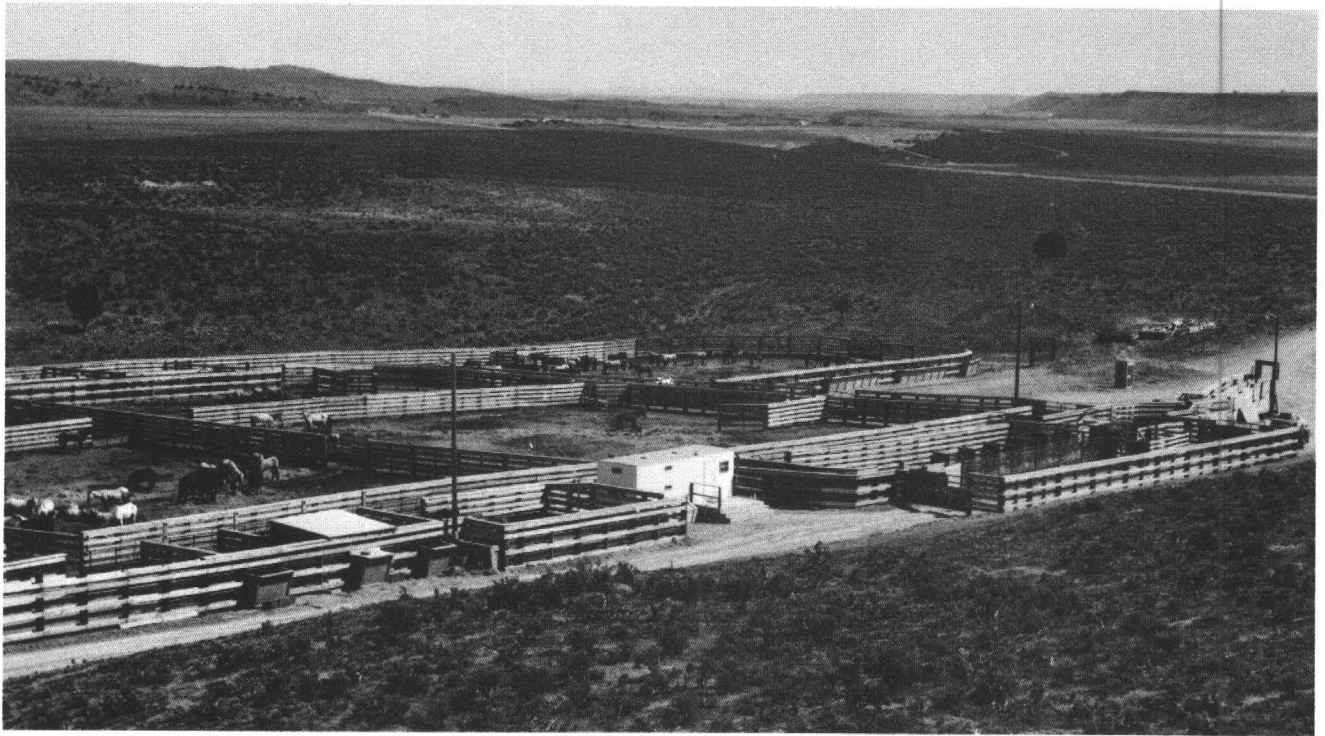
Eleven lawsuits have been filed against the Secretaries or Agencies since passage of the Act. Seven have been resolved and four are pending or are on appeal.

Research:

Based on recommendations of the National Academy of Sciences (NAS), studies will be conducted on wild horse and burro biology and the animals' interrelationships with wildlife and domestic livestock. A key study will develop improved methods for inventorying wild horse and burro populations. Other ongoing studies are concentrating on finding safe and effective immobilization and fertility-control drugs, and analyzing the impacts of wild horses and burros on public ranges.

Legislative Needs:

The top needs are (1) specification of the conditions under which animals must be removed from private property; (2) extension of the January 1, 1983, deadline on research required by the 1978 amendments to the Act; and (3) a change in the date the biennial report on the wild horse and burro program is due.



Adopters in eastern Oregon and neighboring States travel to the distribution center in Burns, OR for their animals.

Legislative Mandates

The Wild Free-Roaming Horse and Burro Act of 1971 has been amended by section 404 of the Federal Land Policy and Management Act (FLPMA) of 1976 and section 14 of the Public Rangelands Improvement Act (PRIA) of 1978 (see Appendix B).

Both amendments were strongly supported by the Secretaries of Agriculture and Interior. The amendments specified key changes which were critically needed by BLM and the Forest Service to fulfill their management responsibilities for wild horses and burros.

The 1976 amendment authorized the Agencies to use helicopters for capture operations and motor vehicles for transporting captured animals to holding corrals. Until that amendment, capture operations were slow, dangerous, and costly. The chief method involved the use of wranglers on horseback herding the animals to strategically located corrals or roping individual animals for leading to nearby corrals. Capture from horseback proved to be unsafe to the rider, his mount, and the wild animals whose habitat frequently included rocky and hilly terrain. The potential for injury to the animals, exhaustion for both animals and wranglers, and a low success rate made the method too hazardous, costly, and inefficient. Now, BLM and the Forest Service are able to rely on helicopters and experienced pilots supervised by Agency personnel familiar with the animals and terrain. Since the helicopter was first used in 1977 (after regulations implementing the amendment took effect), the Agencies have gained skill and experience in its use for the safe, humane, and cost-effective capture of wild horses and burros. In accordance with the 1976 amendment, a public hearing is held prior to the use of helicopters in capture operations.

The 1978 amendment to the Act is much broader in scope. The amendment noted that the 1971 Act was successful in protecting and preserving wild free-roaming horses and burros, but that the Agencies needed relief in their administrative responsibilities "... to avoid excessive costs . . . and to facilitate the humane adoption or disposal of excess . . ." horses and burros.

Specifically, the 1978 amendment requires the Agencies:

- (1) to keep current inventories of wild horses and burros on public lands;
- (2) to consult with other agencies and individuals having scientific expertise and special knowledge concerning the animals and their needs as related to rangeland management;
- (3) to use the inventories and consultations to determine appropriate management and whether overpopulation exists;
- (4) to remove healthy excess animals for adoption and to provide for the destruction of old, sick, lame, or unadoptable excess animals;
- (5) to conduct research which will assist the Agencies in managing the animals and in determining appropriate population levels. The research must be designed by a committee appointed by the National Academy of Sciences and the results reported to Congress by January 1, 1983;

- (6) to limit adoptions to not more than four animals per year by qualified individuals, organizations, or agencies, unless the Secretaries determine in writing that an applicant is capable of caring for more; and
- (7) to grant titles for animals to qualified adopters, upon their application, after they have properly cared for the animals for at least one year. Adopters may receive title to no more than four animals per year.

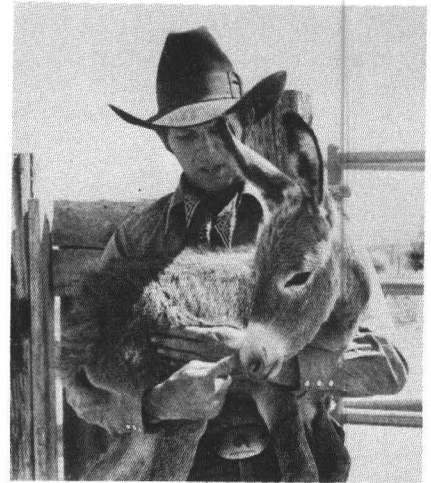
Further, the 1978 amendment stipulates that wild horses and burros or their remains lose their wild, free-roaming status under the Act if (1) title is granted; (2) the animal dies of natural causes before title is granted; (3) the animal is destroyed under provisions of the Act; or (4) the animal's death is incidental to studies and research authorized by the Act.

Draft regulations to implement the 1978 amendment were prepared jointly by the Agencies and published for public review during 1979. Comments were received from 33 individuals, organizations, and agency personnel. Final rules for both Agencies have been published and are in effect.

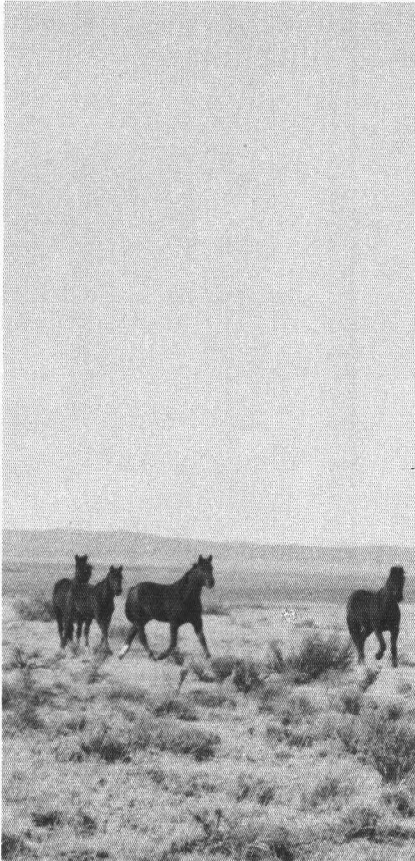
BLM expanded the prohibited acts portion of its regulations to further deter inhumane treatment, abandonment, commercial exploitation, and slaughter of adopted animals. Until the regulations were modified, inhumane treatment had to be prosecuted under State laws, because the Act had not addressed that issue.

The amendments and revised regulations are contributing to better management of the animals on the public lands and the proper treatment of adopted animals.

The following sections describe the funding allocated for administering the Act; the Agencies' accomplishments; wild horse and burro litigation; legislative proposals; and future outlook.



Program Funding



BLM funds for wild horse and burro management are part of its total allocation for rangeland management. Allocations and expenditures by fiscal year have increased significantly:

Fiscal Year	Wild Horse and Burro Allocation	Wild Horse and Burro Expenditures
1972	\$ 0	\$ 0
1973	100,000	400,000
1974	400,000	687,123
1975	700,000	1,314,306
1976	1,000,000	1,271,833
1977*	2,631,000	2,679,000
1978**	3,125,000	4,025,000
1979	3,691,000	4,250,000
1980	5,150,000	
1981		
Request ***	6,790,000	

Forest Service

Funds allotted for protection, management, and control of wild horses and burros on the National Forest System have remained relatively constant each year until Fiscal Year 1979. Prior to then, about \$200,000 was expended annually. In Fiscal year 1979, expenditures rose to \$435,000 to implement management plans and remove excess animals.

The expenditures listed for each Agency cover all program costs, including research, inventories, herd management planning, equipment and facilities, capture and adoption of excess animals, and compliance and law enforcement.

* In 1977, the allocation and expenditure included \$450,000 for emergency drought relief activities.

** An additional \$900,000 was reprogrammed by BLM, mid-way through the fiscal year, to support increased wild horse and burro management.

*** BLM Budget Justifications Document for Fiscal Year 1981



Major Accomplishments

Management

Managing wild horses and burros must be placed in the perspective of BLM's and the Forest Service's overall goals for multiple use and sustained yield of the public rangelands. The 1971 Act stipulates that the animals be managed "...to achieve and maintain a thriving natural ecological balance on the public lands..." In 1978, the Public Rangelands Improvement Act recognized this balance had not been achieved, noting "...unsatisfactory conditions on public rangelands present a high risk of soil loss, desertification and a resultant underproductivity for large acreages of the public lands..."

Management emphasis up to this point has been the reduction of animals where seriously deteriorated range conditions existed. Reduc-

tions remain a high priority in some areas. However, the Agencies' emphasis is shifting to on-the-ground management and enhancement of the wild horse and burro herds.

Herd plans are developed to implement multiple-use management goals for each area where wild horses and burros are located. The plans detail range condition, current population levels, age and sex ratios, watering facilities, and forage available for the herd. The plans may identify specific improvements and facilities required to enhance range resource use by the animals and to maintain viable, thriving herds. Some herd areas may need improved water sources, while others may require increased quantity and/or quality of the vegetation. Measures to prevent damage to the vegetation, soil and water resources may be necessary. Efforts to maintain herd characteristics will be made. Desired management levels are stated. Actions necessary to maintain and protect the proper number of animals are described, including population manipulation or control techniques to be used. The public is involved in this planning process.

During the past four years, 36 BLM Herd Management Area Plans have been prepared. Twenty of the plans cover long-term management of herds and 16 were developed for interim guidance until the multiple-use management goals for the herd areas are established. The Forest Service has developed plans for 21 of its 43 horse territories and 8 of its 10 burro territories.

Both BLM and the Forest Service recognize that some public ranges are in urgent need of improved

management, and actions are being taken to remove excess animals (both livestock and wild horses or burros) in those areas. Priority areas for removals are based on the condition of the range and the steps required to restore a balanced use.

Population Estimates

Currently, the Agencies estimate the wild horse population at 55,400 and burros at 12,400 (see Figures 1 and 2). The 1980 wild horse population estimate is 3% less than the 1978 level, while the burro population estimate is almost 30% higher. The vast majority of the animals—about 52,000 horses and 12,000 burros—are under BLM's management, while the remainder are on national forest lands.

Tables 1-3 (Appendices C through E) list the biennially estimated wild horse and burro populations by State for each Agency. The decline in BLM's horse populations in California, Nevada, and Oregon represents both improved inventory data and removal of excess animals. Other States reported only modest population increases and, in many cases, those increases were minimized or balanced by removals of excess animals. The burro population estimate increases reflect the limited removals of burros by the Agencies and revised inventory data. To date, less than 2,000 burros have been removed from public lands. A downward adjustment in BLM's Nevada burro population estimate and the Forest Service's California burro estimate resulted from better inventory information.

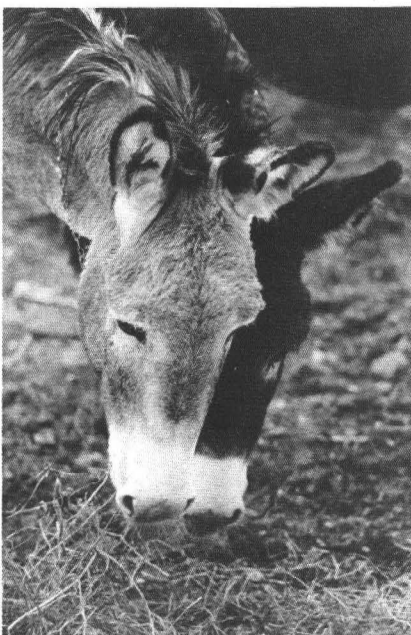
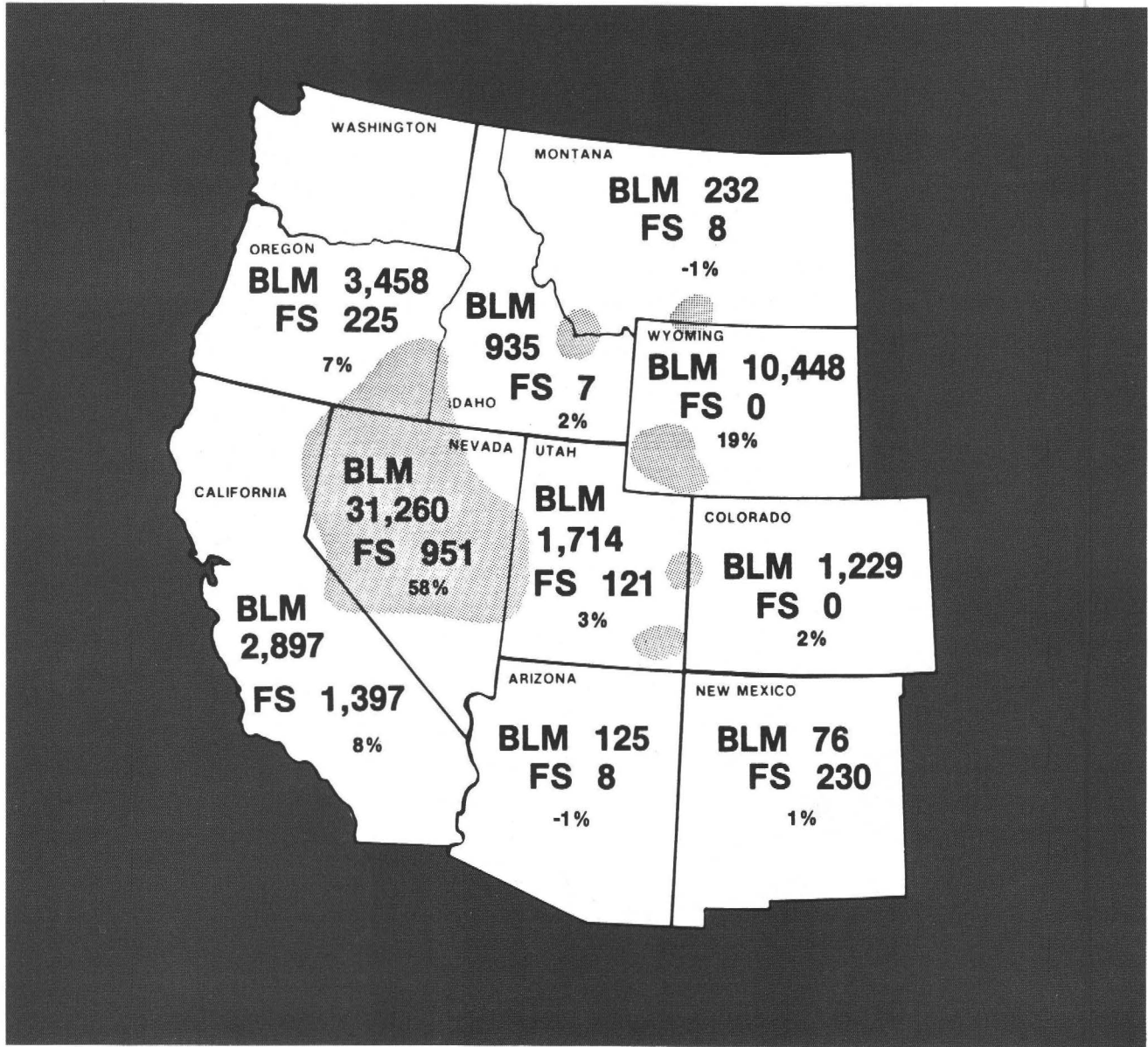


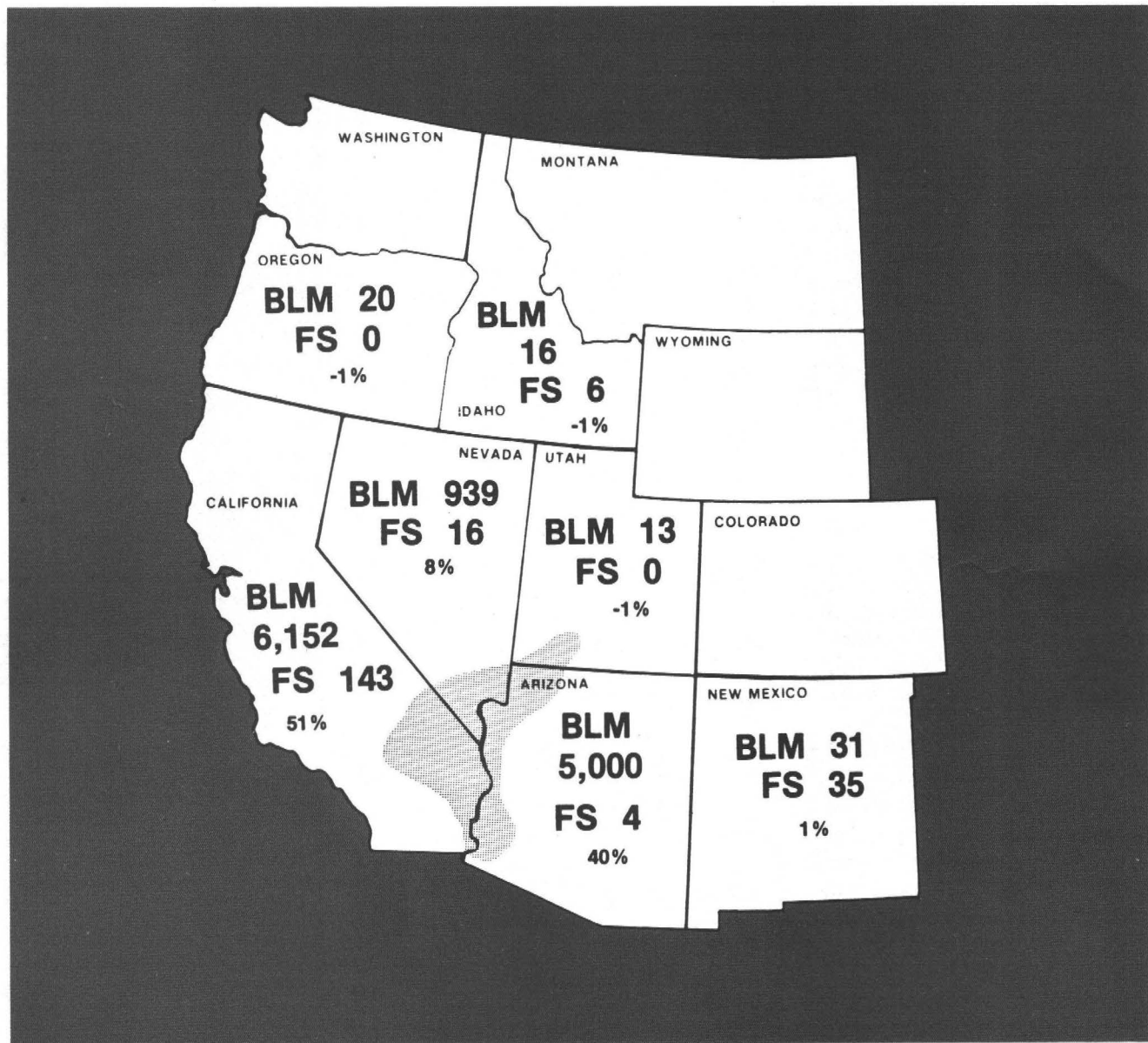
Fig. 1
ESTIMATED WILD HORSE POPULATION
(as of January 1980)



BLM - Bureau of Land Management
 FS - Forest Service

% - Percentage of Total Population [Shaded Box] - Major Wild Horse Areas

Fig. 2
ESTIMATED WILD BURRO POPULATION
(as of January 1980)



BLM - Bureau of Land Management
 FS - Forest Service

% - Percentage of Total Population ■ Major Burro Area

Population estimates are based on inventories, using helicopters and counting animals sighted from the air. "Marker" animals—those with distinctive markings or color—help in determining home ranges for specific herds. Repeated aerial censuses of the wild horse and burro herds have been infrequent because of funding limitations. As partial inventories are completed, changes in the population projections are made to update previous estimates.

Horse and burro protectionist groups have questioned the validity of the population estimates and have challenged the Agencies' reliance on such figures for determining the number of excess animals to be removed from an area. This is the basis for the National Academy of Sciences-designed research on census techniques. Scientists will review the Agencies' current inventory procedures and develop recommendations on inventory designs, frequency, and timing.

Specific horse and burro herds are affected by the local range conditions, the size and composition of the herd, and climatic conditions. In most areas, there are no natural predators to check the growth rates. Severe winters and droughts in several States during the last few years have taken their toll on wild horses. Such weather conditions result in particularly heavy losses in herds using ranges in poor condition.

During 1978, BLM officials in Nevada removed nearly 600 wild horses which were dying from thirst and starvation. Their habitat was damaged from overuse, and this, combined with a long, severe winter followed by a dry spring, created the critical situation. Severe winter and

spring weather in 1979 caused heavy mortality in the Carson National Forest's Jicarilla horse herd in New Mexico. Nearly 140 horses died because they could not get to forage covered by deep snow. Parasites and the poor physical condition of the animals compounded the problem.

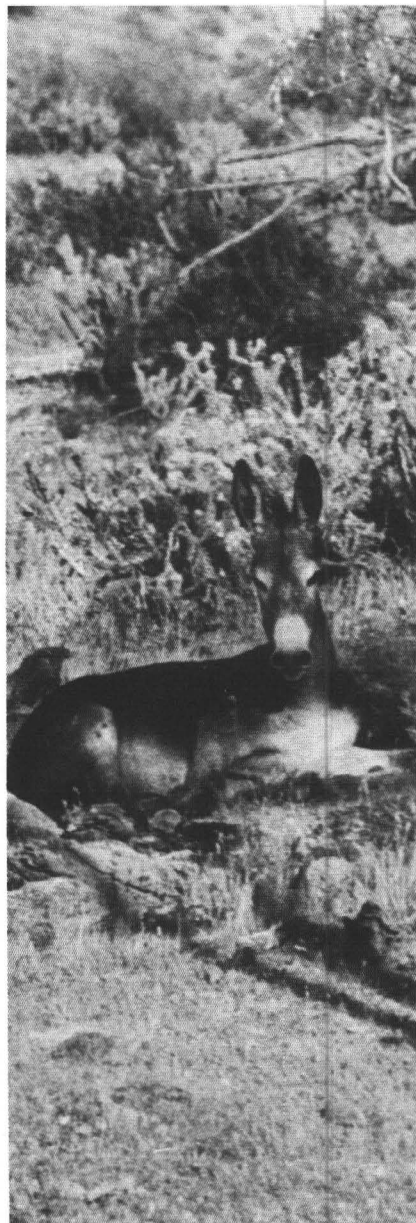
Privately Claimed Animals

Section 5 of the Act provides, "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."

More than 7,000 privately-owned horses and burros have been removed from the public lands since passage of the Act. Working cooperatively with State and local officials, the Agencies evaluate ownership claims and determine whether the animals are wild and free-roaming. The number of claims has been reduced significantly in the last four years, since many were dropped or relinquished and others were rejected by the Agencies as invalid or unproven.

When claimed or branded animals are gathered as part of a roundup, the owners must reimburse the Agency for the roundup costs incurred and pay a trespass fee for the unauthorized animals.

The following table shows the number of animals involved in outstanding claims:



Bureau of Land Management	Remaining Claims			
	1974	1976	1978	1980
Horses	17,165	11,023	9,650	1,907
Burros	123	84	147	0
Forest Service				
Horses	228	50	23	15
Burros	0	0	0	0

Roundups

Since wild horse and burro management began in the early 1970's, the Agencies have captured almost 22,000 excess animals. About 3% of the animals died or were destroyed shortly after capture, due to injuries, illness, or old age. A limited number of animals were released at the capture site or relocated to other wild horse and burro areas. Remaining captured animals have been placed or are awaiting adoption through the Adopt-A-Horse program.

Roundups have been increased in the last few years to remove excess animals and restore balanced use of public rangelands. Most of the Agencies' roundup activities have been concentrated in four States, because the pressures on the public lands are greatest there. Slightly more than 58% of the wild horse population is in Nevada and another 19% is in Wyoming (Figure 1). The same problem exists with burros in California and Arizona, where they account for 51% and 40%, respectively, of the total population (Figure 2).

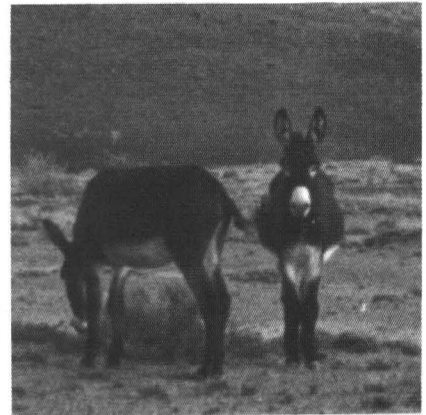
A small number of animals have been rounded up because of their attraction to gardens and lawns or their amorous attentions to mares on nearby private lands. Because of the intermingled pattern of private and public lands and rapidly growing communities in the West, such conflicts are expected to increase.

A factor which may have significant effects on BLM's roundup program relates to recent litigation. As a result of a court ruling in Oregon, *Roaring Springs Associates v. Andrus*, BLM was required to



Modern-day BLM wranglers use a helicopter to herd wild horses into a corral near Susanville, CA.

remove wild horses from public rangelands which were unfenced and interspersed with private holdings. The plaintiffs were successful in invoking a provision of the Act which requires strayed wild horses and burros to be removed from private property upon the request of the landowner. Since most of the public rangelands in the West are intermingled with private lands, BLM cannot prevent herds from moving onto the private land. The



only solution presently available is to eliminate entire herds in such areas (see Legislative Proposals section).

Similar litigation against the BLM is pending in both Nevada and Wyoming.

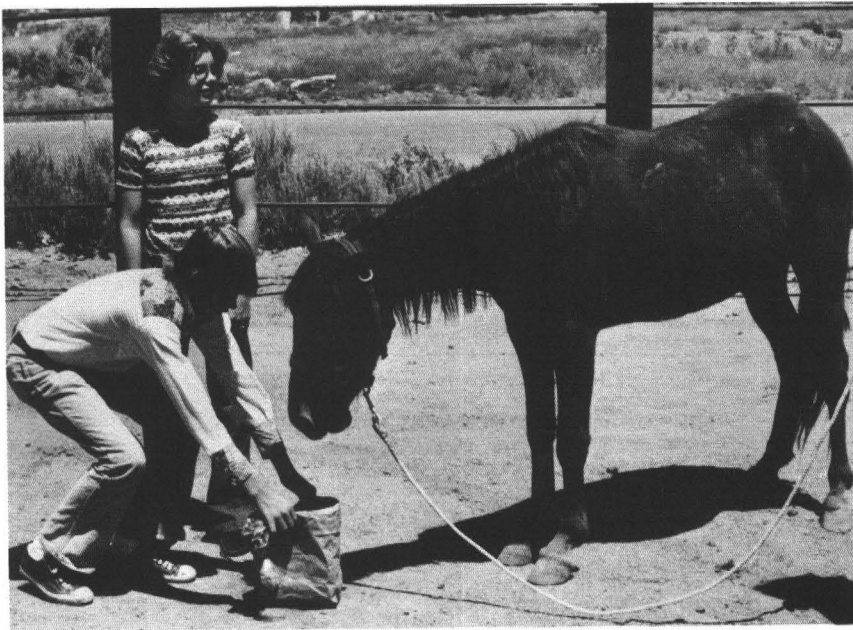
Adopt-A-Horse Program

More than 20,000 wild horses and burros (mostly horses) have been adopted throughout the United

States by some 7,000 individuals, organizations, and groups. Some of the animals are trained for riding, showing, or working on farms and ranches, while others are used as family pets. Table 4 (Appendix F) summarizes adoptions by State.

Once captured, the wild horses and burros are transported to nearby holding facilities owned or rented by the Agencies. There, the animals are examined by a veterinarian and given any necessary medical treatment. Blood samples are drawn and examined for diseases. Old, sick, or lame animals that are unable to fend for themselves are humanely destroyed under a veterinarian's or Agency personnel's supervision. Animals destroyed usually number less than 3% of the total captured.

After the captured animals are examined, they are painlessly freeze-marked for identification as wild horses and burros. This system of identification was initiated by BLM in April 1978. Each animal is individually identified by a series of coded dashes and angles applied by a freeze mark on the left side of its neck. The symbol includes the animal's birth year and individual identification number. A typical freeze mark follows:

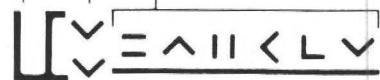


ALPHA ANGLE CODE INTERPRETATION



KEY: Read each angle to determine freeze mark number.

Indicates U.S. Wild Horse or Burro
Year of Birth (top to bottom)
Registration Number



7 0 3 1 9 8 7

Easy and permanent identification will help eliminate past abuses by hindering attempts to sell, trade, or make commercial use of freeze-marked wild horses and burros. Information about the identification system has been distributed nationwide to brand inspectors, slaughterhouses, and rendering plants. Humane organizations and associations monitoring the program have been alerted about the system.

Forest Service adoptions are handled in one of two ways: (1) in areas with small herds, excess animals are adopted by local people on-site; or (2) when large numbers are involved, excess animals are processed through centralized Forest Service or BLM facilities.

BLM has expanded its distribution system for excess wild horses and burros to make the animals more accessible to potential adopters. Year-round facilities operate in Susanville, California; Palomino Valley, Nevada; Burns, Oregon; and Rock Springs, Wyoming. As other roundups are scheduled, centers are opened periodically in Arizona, Colorado, Idaho, Montana, New Mexico, and Utah. Supplementing these facilities are year-round BLM-contracted centers opened during 1978 and 1979 in Eugene, Oregon; Cross Plains, Tennessee; Valley Mills, Texas; and Spanaway, Washington. Almost 1,500 animals have been placed under adoption through the contract centers.

Humane standards and practices have been established by the Agencies for processing excess animals for adoption. The procedures were developed in consultation with State and local governments and humane



representatives. Animals are put into separate pens according to age and sex. The number of animals which may be held at any given time is limited to avoid overcrowded conditions.

The Adopt-A-Horse program has been publicized nationwide to generate interest in adopting excess animals, and to inform people of the necessity for the program and its procedures and responsibilities. Media coverage has included numerous newspaper and magazine features, television and radio announcements, and news stories. European journa-

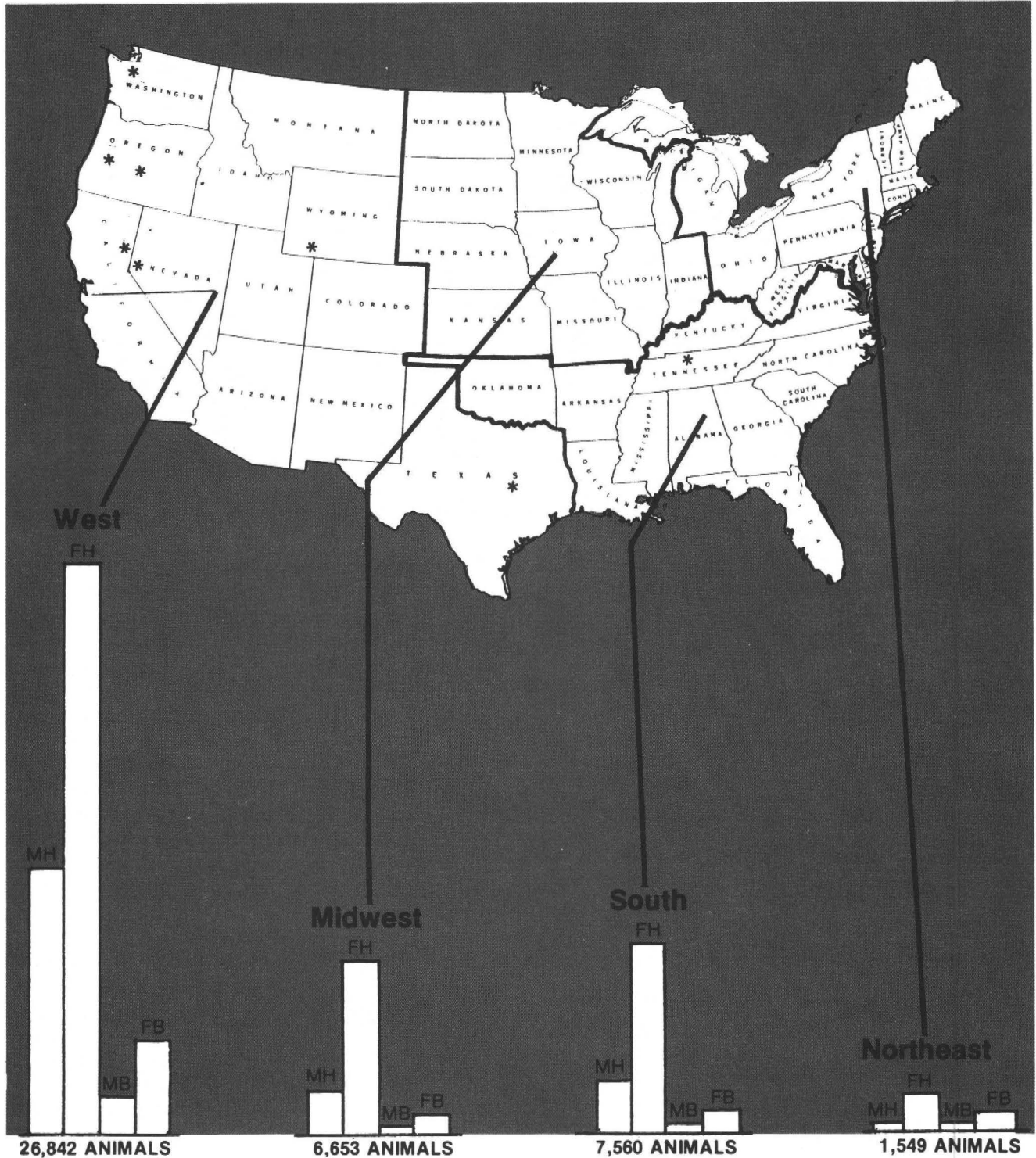
lists have covered several of the roundups and adoptions for international papers and magazines.

As a result of the publicity, BLM's current computerized listing of applications totaled nearly 16,000 in April 1980, and the applicants have asked for almost 43,000 animals. One problem associated with this is that the demand and supply do not match. More than half the applicants request female horses and primarily those of relatively young ages. Demand for stallions, again mainly younger ones, totals little more than 10,000 animals. Applications for male and female burros account for 5,700 animals. Although there are a number of applications, some distribution centers have reported that less than three out of ten applicants actually adopt animals.

Fig. 3
REGIONAL DEMAND FOR
WILD HORSES AND BURROS
(as of April 1980)

Key to Adoption Requests

- MH - Male Horses MB - Male Burros
- FH - Female Horses FB - Female Burros
- * Bureau Holding Facilities and Adoption Centers (Year-round)



Accessibility to pickup points poses another problem. The regional demand for excess animals and existing distribution locations are illustrated in Figure 3. Although there are applications for about 6,000 animals in the Midwest, the nearest center to that area is from 500 to more than 1,000 miles away. Distances from the Northeast are even greater. As funding permits, future distribution centers will be located near midwestern and northeastern population areas.

Costs to the adopter vary according to the distance captured animals are transported from the holding facilities to the adoption center and the fees for health care required to import animals into other States. At centers where adoptions involve interstate travel, animals are wormed and vaccinated against disease. Nominal upkeep costs at the distant contract centers are also recovered from adopters. Currently, the fee is as low as \$25 per animal at some of the western holding facilities, or \$140 for a horse and \$120 for a burro at the Tennessee contract center. The adopters must arrange their own transportation to and from the adoption center.

The Agencies have managed to keep their costs for roundups and adoption to an average \$300 per animal (in addition to the costs recovered from adopters). This does not include indirect management costs.



About \$3 per day is spent for holding an animal at an adoption center. Increased knowledge, improved roundup techniques, and efficient placement of the animals under adoption contribute to minimizing the program costs.

Compliance/ Enforcement

Ownership of adopted wild horses and burros remains with the Government until titles to the animals are transferred.

Ensuring that adopters understand the requirements for the use of their animals and checking to see if the animals are being properly treated has been a problem, especially for BLM. With more than 19,000 animals adopted nationwide and only a limited staff concentrated primarily in the West, BLM's compliance program has encountered difficulties. Forest Service adoptions number little more than 1,000 animals, most of which are located in the areas of the National Forest System, insuring systematic followup.

Highly publicized abuse cases in 1978 focused national attention on problems in BLM's adoption program and showed up weaknesses in the legislation prior to 1978. There was no limit on the number of animals a person could adopt and commercial processors had been paying premium prices at slaughterhouses. Opportunity for speculative gain was too enticing. Some people adopted horses with the hope of gaining title, then selling their animals. Others did not wait for ownership and assumed that they would not get caught. BLM's investigations of individuals with more than 10 animals revealed a number of abuse cases ranging from neglect to illegal disposal of animals for slaughter.

Steps to correct these problems have been taken. More time is spent with potential adopters to acquaint them with the restrictions of the law, and screening procedures have been strengthened to eliminate unqualified individuals or those without acceptable facilities. Adoptions are normally limited to four animals per year to individuals of legal age in the State in which they reside. Adoptions of more than four animals per year may be approved if applicants justify the need for more animals, have on-site inspections of their facilities, and receive confirmation of their qualifications by local humane and law enforcement officials.

BLM's regulations were strengthened in 1979 to provide criminal penalties for inhumane treatment. Formerly, such offenses had to be prosecuted under State laws.

Under the new regulations prohibited acts include inhumane treatment; failure to produce adopted animals for inspection upon request; alteration or destruction of the freeze mark identification; abandonment without making arrangements for food, water, and shelter; and commercial exploitation. Maximum penalties are a fine of \$2,000, one-year imprisonment, or both.

The Agencies investigate reported abuses promptly. A system for conducting random compliance checks is being developed. Cooperative agreements with local humane organizations to assist in compliance checks are also being negotiated. One such BLM agreement with the Humane Society of Utah has already been enacted. The organization has examined nearly 71% of the animals adopted in Utah.

During the last two years, more than 5,000 animals (one-fourth of the total adopted) were checked by BLM resource staff. As a result, 325 animals were repossessed from adopters. In addition, another 225 animals were returned by adopters who were no longer willing or able to maintain their animals.

Compliance checks are supplemented by formal investigations when the Agency suspects violations of the Act or regulations. BLM has 23 special agents to investigate natural resource cases nationwide; wild horses and burros are only one of dozens of programs they must cover. Investigators pursued suspected violations involving 1,800 adopted animals during 1978 and 1979, and 41 cases, involving more than 1,000 animals, were submitted for prosecution.

Nine guilty verdicts were obtained, resulting in fines and convictions; one case is awaiting a verdict; and 19 others are pending prosecution. Only one case was dismissed; and another resulted in an acquittal. U.S. Attorneys declined to seek prosecution in the remaining 10 cases.

In one of the convictions obtained, an Oregon adopter received a fine of more than \$25,000, 18-months imprisonment, and an additional five years' probation. The adopter had received 109 horses over a two-year period and had sold the animals to meat processors.

Another facet of compliance is protecting the wild horses and burros on public lands. Preventing illegal roundups is difficult. "Mustangers" can round up isolated herds in remote locations without being detected. By the time BLM personnel travel to the scene in response to reports of roundups, the animals, mustangers, and other evidence are gone. Many times vehicle tracks are the only clues left. In spite of the difficulties, BLM has investigated more than 35 cases during the last two years involving harassment, illegal capture, and killing of animals on public ranges. Twelve cases were submitted for prosecution and guilty verdicts were obtained in four of them. Only one case was dismissed, and another was declined for prosecution. Remaining cases are pending trials.



Research

Results of studies recommended by the National Academy of Sciences, combined with ongoing research, will strengthen the capabilities of the Agencies for effectively managing wild horses and burros. The reliability of the techniques and studies currently used have been questioned by several wild horse and burro organizations.



National Academy of Sciences Studies

A contract with the National Academy of Sciences (NAS) was developed to implement the research required by the 1978 amendment to the Act. The contract, totalling \$350,000 for a three-year period, called for NAS to review the state of knowledge regarding wild horses and burros and to design comprehensive research projects to assist in the management and protection of the animals.

The purpose of the research is to gain additional knowledge of wild horse and burro population dynamics and the animals' interrelationships with wildlife, forage, and water resources. Due to be completed and submitted to Congress by January 1, 1983, the NAS-designed studies will:

- Develop information on the biology of wild horses and burros;
- Identify principles and procedures for inventorying and managing wild horses and burros;
- Develop information concerning the availability and use of forage and water resources; dietary and habitat overlaps; and other factors relating to the number of wild horses and burros that a range can sustain; and
- Provide information that will help the Agencies determine what population levels should be considered excess.

Potential researchers are to be recommended by NAS. The results are to be evaluated and summarized by NAS, and recommendations made on appropriate management strategies for wild horses and burros.

In 1979, a 13-member committee was named by NAS to direct wild horse and burro research. The committee will submit to the Agencies in 1980 a report which summarizes all of the available literature and knowledge concerning wild horses and burros. In an interim report submitted at the end of 1979, the committee proposed nine initial studies, which will be followed by nine others.

BLM will issue contracts during 1980 for several of the initial studies. Research funding appropriated to BLM for Fiscal Year 1980 fell short of the total amount needed. BLM has about \$400,000 for the research in Fiscal Year 1980. The NAS committee estimated that \$1.5 million annually would be required to fund all of the studies. The Agencies are considering alternatives which would enable them to complete additional studies.

Other Wild Horse and Burro Studies

Several other current and past research projects funded by BLM will supplement the NAS studies:

—A two-part project at Eastern Montana College, begun in 1978, is examining reproductive biology and fertility control of wild horses. Researchers have discovered two compounds that reduce spermatogenesis to zero in domestic ponies without affecting normal activity. Field tests are now being conducted on wild horses. Results of the study are due by the end of Fiscal Year 1980.

—Finding a safe and humane immobilization drug for use on wild horses is the subject of a Washington State University study. The development of such a drug will aid in the capture and handling of wild horses. Contract stipulations require that the drugs have a wide tolerance level by wild horses; be readily available for field use by Agency employees; and be such that they can be administered humanely. The study will conclude in Fiscal Year 1980.



—Researchers at Utah State University are developing a computer model of wild horse population dynamics using the factors which contribute to population increases or decreases. They are analyzing, by simulation, the effects of removal; fertility control; and other elements that influence wild horse populations. The model and results will be provided to BLM in Fiscal Year 1980.

—Oregon State University researchers are studying the food habits of wild horses. They are attempting to pinpoint the amount of competition which may occur when wild horses, wildlife, and domestic livestock use the same area. Results are due by the end of Fiscal Year 1981.

—Designing a telemetry system for tracking wild horses was the subject of another contractor's study. Sensory Systems Laboratory in Alberta, Canada, designed both a solar-powered, digitally-coded radio transmitter and a collar to attach the transmitter to horses. The transmitter and collar will be field-tested on wild horses during 1980. The system has the capability of identifying from an airplane specific animals within herds. If successful, such capability will enable personnel to monitor herd migration patterns or inventory the animals.

—In 1978, Arizona State University researchers developed a method to identify the different plants which make up the wild burro's diet and the amount each plant contributes to the burro's diet. BLM has expended an average of \$100,000 per year to fund all of the projects mentioned above.

Other Accomplishments

Cooperative Memorandum of Understanding

The Bureau of Land Management and the Forest Service developed a Memorandum of Understanding (MOU) in August 1979 concerning their joint responsibilities under the amended Act (see Appendix G). The document describes the Agencies' agreements to coordinate and fund the research required by the 1978 amendment to the Act, to make adoption procedures standard for both Agencies, and to provide any other necessary assistance.

The Agencies' staffs meet frequently to review management methods and progress and to stay informed of new initiatives in administering the wild horse and burro program.

Program Coordination

BLM and the Forest Service are developing and implementing parallel wild horse and burro management programs. This has resulted in similar regulations, similar policy and management directions, and assigning one agency to lead when joint actions are undertaken.

Efforts are underway by the Agencies' California offices to develop zones within the State for monitoring adopted animals. Each Agency will take the lead for certain zones, which will result in more compliance checks being conducted at less cost.

Bureau of Land Management

Program Management

As part of BLM's reorganization during the spring of 1979, a Division of Wild Horses and Burros was created to oversee the adoption program from capture to title transfer, and to develop detailed procedures for each phase. The new division works closely with the Division of Rangeland Management, which has responsibility for on-the-ground management of wild horses and burros.



The two lead horses, once wild, earn their keep on a farm near Sacramento.

Photo by Sacramento Bee.

Public Involvement Opportunities

BLM held more than 140 hearings, meetings, and workshops during the last four years to obtain public comments and suggestions on wild horse and burro management. Topics included the development of planning goals, reviewing management decisions, using helicopters in capture operations, and methods of handling captured animals.

Public Education Activities

Recognizing the need for public understanding and support, the BLM has issued news releases, a film, and environmental education materials concerning the program.

The film, "Dapples and Grays, Pintos and Bays," has been distributed to State and local Bureau offices and film libraries, for lending to the public. It has also been shown by hundreds of television stations. Flyers describing the film and its availability were distributed to schools and libraries nationwide.

Several BLM field offices developed slide and videotape programs addressing local range management issues and the need for controlling wild horse and burro populations. These programs have been presented to school classes, civic groups, and members of the general public.

An environmental education package, "Fitting 'Em In," was developed for use by upper elementary-aged students and youth organizations. The package includes a poster modeling the role of wild horses and burros in the human environment and a teacher's guide with studies for

use in classrooms and outdoors regarding management of the animals. This package has been widely distributed to schools, libraries, and youth organizations and is available at all BLM offices.

Adoption centers have become the focal point for tours by schools, youth and civic groups, and individuals who wish to learn more about wild horses and burros. One center reported visits by classes at levels ranging from second-graders to college veterinary students.

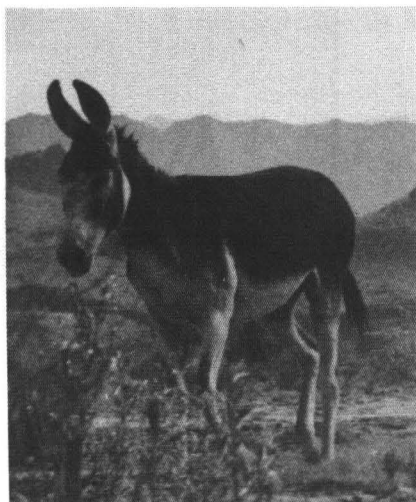
Forest Service

Forest Service public information programs are conducted at the regional and local offices. An example of their efforts is the film, "Mustang...Managing a Misfit," which describes the cooperative program by BLM and the Forest Service in California to solve wild horse overpopulation in the Modoc National Forest. The film received two awards.



Removal from the public rangelands means survival for the wild horses and burros when drought turns watering holes into muddy deathtraps.

Litigation



Three groups—wild horse and burro protection organizations, livestock interests, and State and local governments—have made most of the legal challenges to the Agencies' wild horse and burro management.

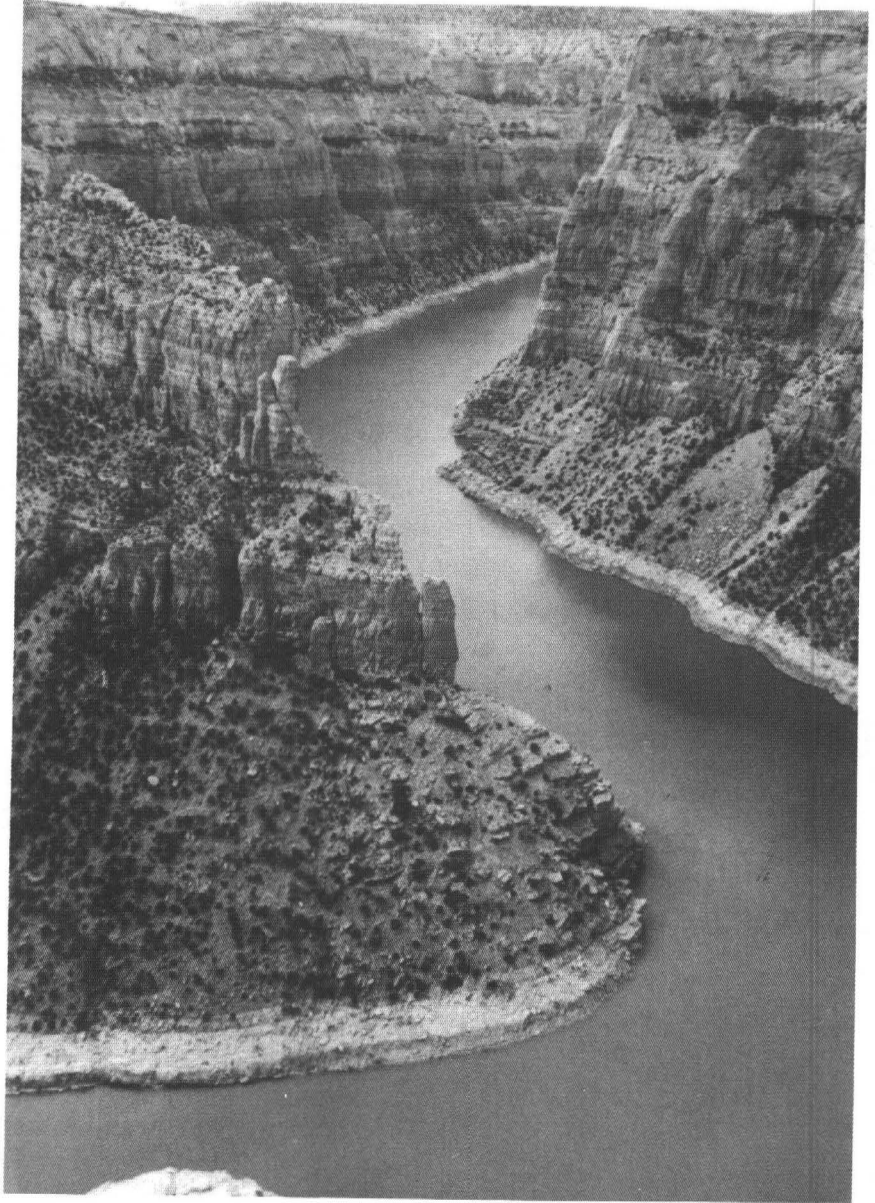
The lawsuits originating from local and State officials clarified and strengthened the provisions of the 1971 Act, especially where State and Federal laws conflicted. Decisions placed ultimate authority over wild horses and burros with the Federal Government, and upheld the constitutionality of the Act.

Wild horse and burro interest groups challenged, on an individual basis, planned BLM actions to control animal populations. Generally, the courts have allowed the Agency to carry out its plans, but they have also shown a willingness to halt population control measures based on what they believe to be speculative or unsound data.

Other cases involving livestock interests demonstrated weaknesses in the 1971 Act concerning management of wild horses and burros.

Since the Act was passed, 11 lawsuits have been filed. Seven of the lawsuits have been resolved and four are pending (see Appendix H for a detailed synopsis):

1. *Kleppe v. New Mexico*; 426 U.S. 529 (1976); Resolved in Interior's favor;
2. *American Horse Protection Association v. Interior and Agriculture*; 551 F.2d 432 (D.C.Cir., 1977); Resolved in Interior's favor;
3. *American Horse Protection Association, Inc. v. Frizzel*; 403 F. Suppl. 1206 (D. Nev., 1975); Resolved in Interior's favor;
4. *National Animal Welfare League v. Interior*; Civil No. F-77-98 (E.D. Calif., 1977); Resolved in Interior's favor;
5. *American Horse Protection Association, Inc. v. Kleppe*; Civil No. 76-1455 (D.D.C., 1976); Resolved in Plaintiff's favor;
6. *American Horse Protection Association, Inc. v. Andrus*; Civil No. R-78-105 (D. Nev., filed 1978); Still pending;
7. *Roaring Springs Associates v. Andrus*; Civil No. 77-330 (D. Ore., 1978); Resolved in Plaintiff's favor;
8. *Mountain States Legal Foundation v. Andrus*; Civil No. C-79-275 (D. Wyo., 1979); Still pending;
9. *State of Nevada, ex. rel. Nevada State Board of Agriculture v. United States*; Civil No. 78-0076 (D. Nev., 1979); Resolved in Interior's favor;
10. *State of Nevada, ex. rel. Nevada State Board of Wildlife Commissioners and Nevada State Department of Wildlife v. Andrus*; Civil No. R-79-185 (D. Nev., filed 1979); Still pending; and
11. *Fallini v. Andrus*; Civil No. 79-223 (D. Nev., filed 1979); Still pending.



The Bighorn River forms a natural barrier for the 32,000-acre Pryor Mountain Wild Horse Range on the Wyoming-Montana border. Established in 1968, the Range accommodates 100 horses.

Legislative Proposals

The Secretaries of the Interior and Agriculture are considering various legislative proposals that will further improve management of wild horses and burros.

The first deals with the concern that the Agencies may be forced to remove all wild horses and burros from public rangelands where such lands are unfenced and interspersed with private holdings. That possibility looms as a result of a recent court ruling, *Roaring Springs Associates v. Andrus*, Civil No. 77-330 (D. Oregon, 1978).

As discussed earlier, the plaintiffs were successful in requiring BLM to remove wild horses from their property—private unfenced inholdings scattered among public lands. The basis of the decision was section four of the Act, which requires wild horses and burros to be removed upon request of a private landowner.

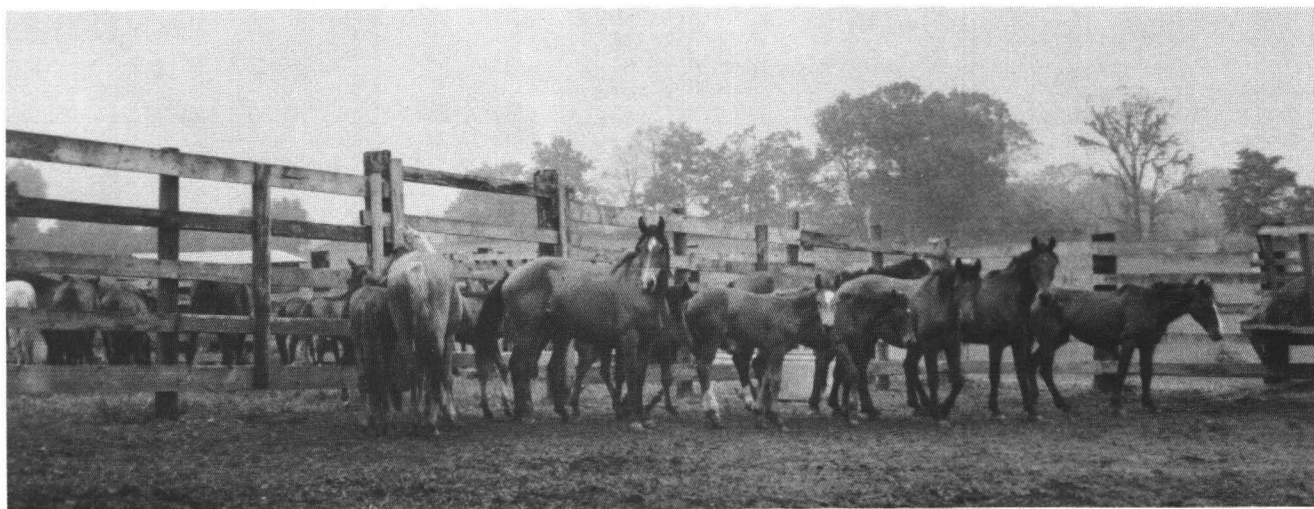
Since most of the public land in the West is intermingled with private land, such removals would be extremely costly and time consuming. Wild horses and burros would be eliminated in many large public land areas, because the Agencies could not prevent them from moving onto private lands, or from returning once the Agency herded them back to public lands.

The Secretaries are considering a proposal to limit the requirements of BLM and the Forest Service to situations where the private land is fenced and a written request is made for removal. This approach clearly defines the responsibilities of all parties.

Secondly, the Agencies are considering a proposal to amend section 3(b)(3) of the Act to extend the deadline of January 1, 1983, for reporting on research recommended by the National Academy of Sciences. The extension would allow the funding of several additional studies (18 have been recommended, less than 5 can be funded within the BLM's current budget) and allow enough time for gathering data.

The third legislative consideration is to change the congressional reporting date for this report from June to March, starting in 1983. This change has two advantages: first, the Agencies can gather and compile data on a fiscal year basis (October 1 through September 30) which coincides with their budget cycle; and second, the report can be presented to Congress soon after the new session begins, allowing time for consideration of the Secretaries' recommendations before adjournment.

Adoptions in the East increased dramatically after a distribution center near Nashville opened in 1979.





Looking To The Future

Research

BLM and the Forest Service are optimistic that results of the research designed by NAS will lead to improved management of the wild horses and burros.

Determining the actual habitat needs of wild horses and burros, such as their seasonal food, water, cover, and space requirements, will provide the Agencies with basic tools for proper management. Very little is known about the physiological requirements of wild horses. A method for measuring their daily and seasonal food intake will be developed. Once the horses' requirements are better understood, habitat needs can be better defined.

Impacts of wild horses and burros on the range, and the amount and degree of competition with livestock and wildlife will be investigated. Once these factors are determined, management options to minimize conflicts and impacts of grazing animals can be evaluated.

An important project in the future will be the development of improved census techniques. Without firm population figures on which to base management actions, the Agencies' effectiveness will continue to be questioned and proposals for animal population reductions challenged.

Many of the NAS proposals cannot be pursued because of the congressional deadline set for the research and BLM's funding limitations. The 1978 amendment requires that a report on the research results be submitted to Congress by January 1, 1983, and some of the research projects require several years of field study.

Once other studies funded by BLM have been completed and the results synthesized with the NAS research projects, the information can be used to predict resource impacts better; to base management decisions on habitat needs; and to reduce the lengthy, costly legal challenges to proposals based on currently used methods.

The Agencies have received widespread endorsement and encouragement to pursue these studies from livestock interests, wildlife interests, wild horse and burro advocates, conservationists, and others interested in sound management of the public rangelands.



Management and Roundups

During the next four years, the Agencies plan to complete 104 wild horse and burro management plans (BLM, 80; Forest Service, 24). As management levels are established for specific herd areas, roundups will be held to remove excess animals. In Fiscal Years 1980 and 1981 combined, the Agencies have recommended that more than 24,000 excess animals (mostly horses) be removed.

For the first year since the program began, roundups scheduled during Fiscal Year 1980 are expected to offset the annual population increase. Accelerating the removals to more than 10,000 animals per year will begin to reduce the total populations. Even so, management levels will not be reached for several years.

Adopt-A-Horse Program

The adoption program will continue to be the Agencies' primary method of disposal for healthy excess animals. So far, destruction of unadoptable animals has not been necessary. Whether the adoption demand will continue to match accelerated roundups will determine the need for destroying unadoptable animals. Based on outstanding applications, it is likely that older excess animals, particularly stallions, will be difficult to adopt within a reasonable time after capture. The Agencies will establish criteria for defining and destroying "unadoptable" animals.

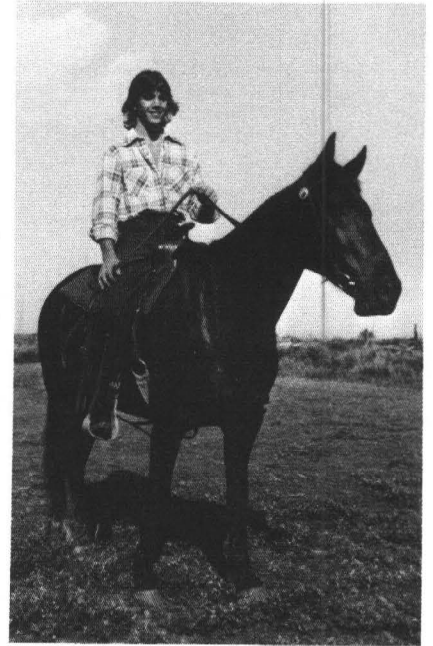
BLM will evaluate the feasibility of expanding its distribution system by adding a center in the Midwest within the next two years. Adoption demand in the Midwest remains unfilled, because the distance to the nearest distribution center is so far. Funding for such a center has not been available.

Wild Horse and Burro Title Transfer

More than 60% of the adopters have had their animals for at least one year and are eligible to apply for titles. Applicants will be required to provide a veterinarian's certification, attesting that the adopted animals have been examined, are in good condition, and are receiving proper care. Adopters are limited by the Act to receive title to no more than four animals per year.

In the past, a frequent complaint concerning the adoption program was that the government would always own the animals. The Agencies anticipate that the opportunity to obtain title may increase adoption demand. Awarding titles also recognizes the efforts of those who have shown a genuine concern for the animals.

The Agencies will benefit by no longer having responsibility for the excess animals throughout their lifetime and by reducing their recordkeeping and monitoring expenditures.



Appendix



Gathering horses for adoption in northwestern Nevada.

Appendix A.

History of the Wild Horse and Burro Program

Origin:

During the last Ice Age, over 10,000 years ago, horses became extinct on the North American Continent. They did not reappear until horses and burros were brought to America's western plains by Spanish explorers in the 16th Century. Through the years, escaped or abandoned animals formed the first wild horse and burro herds.

Indians obtained horses from Spanish camps for hunting, fighting on horseback, and for transportation. As settlers headed West, they lost some horses which joined the wild herds. Sometimes, the cavalry released horses after Army posts were closed. Still later, ranchers released horses when they could not afford to keep them.

The sure-footed burros were used by early prospectors and sheepherders as pack animals because they could travel long distances and survive on desert vegetation. Some of them were later abandoned in favor of new forms of transportation. Others escaped to the open range.

Though today's horse and burro herds are wild, they all came from animals that were once tame.

Abuse:

The herds continued to multiply and the number of people in the West increased too. The horses were often a nuisance to ranchers raising cattle and sheep, and because of

this, some were destroyed. Also, commercial horse-hunters began rounding the animals up with trucks and airplanes as a source of pet food. Sometimes, herds were driven to exhaustion and destruction, then sold to canneries.

Protection:

At first, man's abuse of wild horses and burros concerned only a few people. One person was the late Mrs. Velma Johnston of Reno, Nevada, who earned the title of "Wild Horse Annie" for her diligent campaign for legislation to protect the animals from abuses during roundups. Her campaign for legislation began in 1950 and resulted in the passage of Public Law 86-234, known as the "Wild Horse Annie Act" in 1959. This legislation prohibited the use of aircraft or motor vehicles and the pollution of watering holes for capturing or killing wild horses and burros. (Because of the danger to both the rider and his mount, this Act was amended by the Federal Land Policy and Management Act of 1976 to permit the humane use of helicopters in government roundups.) Continued efforts

during the 1960's by concerned groups and national letterwriting campaigns by schoolchildren ended in full-scale protection of wild horses and burros on public lands with passage of the Wild Free-Roaming Horse and Burro Act of December 15, 1971.

Adopt-A-Horse Program:

The practice of removing wild horses and burros from the public lands and placing them in the custody of individuals began in Montana in 1973 when 23 excess horses were removed from the Pryor Mountain Wild Horse Range (established in 1968) and adopted. The next year, BLM began an adoption program in Oregon, followed by Nevada in 1975. Favorable public response in these States led BLM to launch the adoption program nationwide in the spring of 1976.

Appendix B.

Legislative Authority

The Act of December 15, 1971, as amended (16 U.S.C. 1331-1340), commonly referred to as the Wild Free-Roaming Horse and Burro Act, is the legislative authority for the Agencies' management of wild horses and burros on the public lands.

Amendments to the Wild Free-Roaming Horse and Burro Act were contained in:

- a. Section 404 of the Federal Land Policy and Management Act of 1976, (90 Stat. 2775).
- b. Section 14 of the Public Rangelands Improvement Act of 1978, (92 Stat. 1808).

Appendix C.

Table 1. 1980 Population Estimates by State for Wild Free-Roaming Horses and Burros

STATE	HORSES	BURROS
Arizona	133	5,004
California	4,294	6,295
Colorado	1,229 (BLM only)*	0
Idaho	942	22
Montana	240	0
Nevada	32,211	955
New Mexico	306	66
Oregon	3,683	20 (BLM only)*
Utah	1,835	13 (BLM only)*
Wyoming	10,448 (BLM only)*	0
TOTAL	55,321	12,375

*No animals on FS lands

Appendix D.

Table 2. Biennial Population Estimates by State for Wild Horses and Burros Managed by the Bureau of Land Management

STATE	HORSES				BURROS			
	(No. of Animals)				(No. of Animals)			
	1974 ¹	1976	1978	1980 ²	1974 ¹	1976	1978	1980 ²
Arizona	115	107	70	125	10,000	2,668	3,780	5,000
California	3,000	4,230	3,700	2,897	3,200	3,072	3,845	6,152
Colorado	500	1,035	990	1,229	—	—	—	—
Idaho	500	874	1,200	935	8	9	10	16
Montana	325	257	300	232	—	—	—	—
Nevada	20,000	22,258	31,800	31,260	1,000	842	1,420	939
New Mexico	7,550 ³	6,420 ³	70	76	80	104	25	31
Oregon	5,265	7,493	4,050	3,458	16	25	—	20
Utah	1,000	1,803	2,150	1,714	50	70	80	13
Wyoming	4,411	8,833	9,700	10,448	20	0	—	—
TOTAL	42,666	53,310	54,030	52,374	14,374	6,790	9,160	12,171

¹The 1974 estimates were based on field counts from the ground and population projections. The first aerial surveys were conducted in 1975 on public lands.

²The 1980 population estimates include certain State adjustments based on improved inventory data, combined with the effects of removal programs and normal population increases.

³New Mexico range users submitted claims on many licensed branded and unbranded horses and burros. Horses and burros which never grazed on public lands were included on the claim forms. The claims have now been processed and the discrepancies involving animals that should not have been claimed were resolved.

Appendix E.

Table 3. Biennial Population Estimates by State for Wild Horses and Burros on the National Forest System

STATE	HORSES (No. of Animals)				BURROS (No. of Animals)			
	1974	1976	1978	1980	1974	1976	1978	1980
Arizona	7	5	5	8	36	24	14	4
California	828	1,037	1,381	1,397	209	252	312	143
Colorado	—	—	—	—	—	—	—	—
Idaho	34	5	0	7	6	5	6	6
Montana	8	9	8	8	—	—	—	—
Nevada	1,174	1,305	1,042	951	13	15	28	16
New Mexico	207	279	420	230	5	15	30	35
Oregon	215	295	215	225	—	—	—	—
Utah	45	90	103	121	13	—	—	—
Wyoming	23	—	—	—	—	—	—	—
TOTAL	2,541	3,025	3,174	2,947	282	311	390	204

Appendix F.

Table 4. Summary of Wild Horses and Burros Adopted by State (as of April 1980)

State	Number of Animals	State	Number of Animals
Washington D.C	2	Montana	160
Alabama	39	Nebraska	258
Alaska	7	Nevada	819
Arizona	440	New Hampshire	4
Arkansas	117	New Jersey	7
California	4083	New Mexico	137
Colorado	833	New York	30
Connecticut	3	North Carolina	51
Delaware	0	North Dakota	24
Florida	29	Ohio	127
Georgia	27	Oklahoma	1221
Hawaii	0	Oregon	2728
Idaho	1217	Pennsylvania	54
Illinois	157	Rhode Island	3
Indiana	95	South Carolina	103
Iowa	500	South Dakota	357
Kansas	386	Tennessee	396
Kentucky	134	Texas	1772
Louisiana	39	Utah	943
Maine	10	Vermont	0
Maryland	36	Virginia	63
Massachusetts	13	Washington	1028
Michigan	128	West Virginia	14
Minnesota	183	Wisconsin	48
Mississippi	43	Wyoming	591
Missouri	750		
TOTAL ADOPTIONS		20,209 animals	

Appendix G.

Memorandum of Understanding Between Bureau of Land Management and Forest Service

This agreement is made and entered into by and between the Bureau of Land Management (BLM), U.S. Department of the Interior, and the Forest Service (FS), U.S. Department of Agriculture, under the provisions of the Act of October 25, 1978 (43 U.S.C. 1901) and the Act of June 30, 1978 (16 U.S.C. 1600).

The Wild Free-Roaming Horse and Burro Act, Public Law 92-195, charges the Secretary of the Interior, through the Bureau of Land Management, and the Secretary of Agriculture, through the Forest Service, with the protection, management, and control of all unbranded and unclaimed horses and burros on public lands administered by the two agencies; and

WHEREAS, the 1971 Wild Horse and Burro Act as amended states:

"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 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."

NOW, THEREFORE, the Director, Bureau of Land Management (BLM) and the Chief, Forest Service (FS) hereby agree as follows:

- I. To coordinate the Research Study and Program as required by the Public Rangelands Improvement Act of 1978, Section 14 by:
 - A. The BLM will act as the contracting agency with the National Academy of Sciences (NAS). It is further agreed that:
 1. Forest Service will reimburse BLM \$62,500 as their share of the first-year costs of the NAS contract;
 2. Funding for the balance of the contract will be provided by the BLM;
 3. The BLM and FS will jointly review and concur in the research study report, as submitted by NAS under this contract;
 4. The parties hereto shall meet at least twice annually during March and October to review operations and progress hereunder. It is agreed that the BLM shall be responsible for setting a mutually convenient date, time, and place for the meeting.
 - B. Contracts for the research as recommended by NAS and concurred in by the BLM and FS will be funded by the BLM.

- II. To assure coordination of the Adopt-A-Horse Program, the BLM and FS agree:
 - A. The Forest Service will use the Alpha Angle system for identifying excess wild horses and burros using the numbers 975,001 through 999,999;
 - B. The Forest Service will accept the BLM form, format, and computer system for recordation of applicants, cooperators, and transfer of title;
 - C. The BLM agrees to allow the FS use of the Adopt-A-Horse program at Denver.
- III. In the accomplishment of the Free-Roaming Wild Horse and Burro Program, each party will render such assistance as may be requested by the other provided that such assistance is within its capabilities and that such action will not jeopardize its ability to respond to demands within its own primary jurisdiction.
- IV. Either of the parties may terminate this agreement by providing thirty (30) days written notice to the other. Unless terminated by written notice, this agreement remains in effect until September 30, 1984.

In witness whereof, the parties hereto have executed this agreement as of the last date signed below.

Chief
Forest Service

Date: Aug. 29, 1979

Director
Bureau of Land Management

Date: Aug. 15, 1979

Appendix H.

Summary of Litigation Regarding Wild Horses and Burros

Following is a synopsis of the wild horse and burro lawsuits:

1. In *Kleppe v. New Mexico*, the constitutionality of the 1971 Act was challenged. The capturing and selling of 19 burros on public range was approved by the New Mexico Livestock Board. The U.S. Attorney requested the Livestock Board to return the burros to public land inasmuch as they were protected under the 1971 Act. The Livestock Board filed suit challenging the U.S.'s right to administer the 1971 Act on the grounds that it violated New Mexico's statutes and the U.S. Constitution. The case went before the Supreme Court, which unanimously upheld the 1971 Act in June 1976.

2. Reservation of the right to determine the status of wild horses is held by the Federal Government, according to the decision in *American Horse Protection Association v. The Secretary of the Interior and Secretary of Agriculture*. The case was heard after 53 unbranded horses rounded up near Howe, Idaho, were ruled as "domesticated" by the Idaho State Brand Inspector. The U.S. Court of Appeals for the District of Columbia reversed a lower court ruling February 2, 1977, by holding that the Federal Government must determine when an unbranded and unclaimed animal is wild.

3. An expanding horse population in Nevada's Stone Cabin Valley prompted the Bureau of Land Management to determine about 400 horses should be captured and removed from the area. This plan was challenged in *American Horse Protection Association, Inc., v. Frizzel*. The plaintiff's motion for a temporary restraining order was denied in the U.S. District Court for the District of Nevada, and in 1975, the Bureau of Land Management removed the number of animals originally planned.

4. A temporary restraining order preventing the Bureau of Land Management from removing wild burros from Saline Valley, Inyo County, California, was sought in *National Animal Welfare League v. Interior*. The temporary order was denied in the U.S. District Court, Eastern District of California, in May 1977. The Federal Judge ordered a hearing for a permanent restraining order to take place June 3. The Court again ruled in the Bureau's favor.

5. In 1976, the roundup of 260 horses in the Challis Planning Unit in Idaho was stopped in *American Horse Protection Association, Inc. v. Kleppe*. The Court challenged Agency population figures, describing them as "... estimated and speculative at best." The Court also enjoined roundups until completion of an environmental impact statement (EIS) on the Challis Planning Unit. The injunction was temporarily lifted in 1979 and 150 horses were removed. The EIS has been completed, and the Government is seeking to have the injunction dissolved.

6. A request to halt all roundups in Nevada and that environmental impact statements be prepared on a district-by-district basis was denied in *American Horse Protection Association, Inc. v. Andrus*. The AHPA alleged cruelty, malfeasance, and mismanagement by the Bureau of Land Management in administering the 1971 Act. The U.S. District Court Judge in Nevada ruled that the Bureau of Land Management had not violated the 1971 Act or the National Environmental Policy Act (NEPA) of 1969. The Court decision also provided that no wild horse or burro held at the Bureau of Land Management's Palomino Valley corrals shall be destroyed except after certification by a licensed veterinarian that the animal is severely injured or seriously sick. This case was appealed to the U.S. Court of Appeals for the Ninth Circuit, which remanded the case to the trial judge on the NEPA question. A further hearing is pending.

7. Horses were removed from private land by the Federal Government based on a decision rendered in *Roaring Springs Associates v. Andrus*. The United States Magistrate's decision, issued in April 1978 and approved by the District Court, stated that the 1971 Act requires the removal of horses even though the private lands are not enclosed by a legal fence. Applicable regulations of the Secretary of the Interior (43 CFR 4750.3) were held to be inconsistent with this statute. The Department of the Interior is seeking a legislative remedy to this problem since an appeal of this decision to the U.S. Court of Appeals for the Ninth Circuit could possibly take up to three years.

8. In *Mountain States Legal Foundation v. Andrus*, the plaintiffs allege that the public lands and the wild horses are not being managed properly, as required by the Act. They are seeking damages for the loss of their property arising from grazing and other activities. The complaint alleges that certain government officials are personally liable for improper management of wild horses. The case is still pending.

9. In *State of Nevada, ex. rel. Nevada State Board of Agriculture v. United States*, two BLM employees observed a rancher loading six head of unbranded horses into a truck. The person held no grazing lease or license in the area of the capture and was charged with removing wild horses from the range. He was acquitted after a jury was instructed by the Federal District Judge that if the defendant believed he had complied with State Estray Laws, he should be found not guilty. A dispute involving ownership of the six horses then developed. BLM's National Director did not release the animals to the State of Nevada, citing *American Horse Protection Association, Inc. v. Interior* (determination of a wild horse's status is reserved for the Federal Government) and *Kleppe v. New Mexico, Supra* (the 1971 Wild Horse and Burro Act takes precedence over State Estray Laws). In 1979, the Nevada State Agriculture Board sued in Federal District Court to gain possession of the horses. The Court held that the provisions of the 1971 Wild Horse and Burro Act took precedence over State laws regarding strays. The U.S. District Judge wrote "... Nevada laws relating to the capture or killing of wild unbranded

horses no longer have force or effect" to the extent that they conflict with the Act. The case served to again strengthen the Federal Government's position that it has the final authority in determining which horses are wild.

10. A new case, *State of Nevada, ex. rel. Nevada State Board of Wildlife Commissioners and Nevada State Department of Wildlife v. Cecil Andrus*, concerning the horse population in Nevada was filed on August 20, 1979. The State of Nevada is asking for an order directing the Bureau of Land Management to reduce the current horse population from an estimated 35,000 animals to no more than 10,000. The State is also asking for a judgment that the State may administer the wildlife and range resources within its borders and has the authority to establish a State program of wild horse removal from the public lands.

11. A case similar to the issues in *Roaring Springs Associates* was filed in Nevada on October 26, 1979: *Fallini v. Andrus*. The plaintiffs are seeking the removal of a number of wild horses from their private lands. The case is in a preliminary stage.