

6/1974

A REPORT TO CONGRESS
BY
THE SECRETARY OF THE INTERIOR
AND
THE SECRETARY OF AGRICULTURE
ON
**ADMINISTRATION OF THE
WILD FREE-ROAMING
HORSE AND BURRO ACT**

Public Law 92-195



JUNE 1974

TABLE OF CONTENTS

	<u>Page</u>
Introduction	1
Summary of Findings	2
Legislative Considerations	6
A Report to Congress	8
1. Brief History and Background of Wild Horses and Burros	8
2. Implementation of the Act	10
a. Public Notice and Interim Instructions	10
b. Secretaries' Regulations and Environmental Impact Statements	12
c. National Advisory Board for Wild Free-Roaming Horses and Burros	14
(1) Advisory Board Recommendations on Regulations	16
(2) Advisory Board Recommendations on Management and Policy	18
3. Administration	22
a. Protection and Law Enforcement	22
Idaho Horse Roundup	25
New Mexico Burro Roundup	28
b. Management	29
(1) Inventory--Population and Habitat Identification	29
(2) Private Ownership Claims	30
(3) Management Plans	39
(4) Research	44
(5) Costs	45

	<u>Page</u>
c. Control and Disposition of Excess Animals	47
4. Legislative Changes	52
5. References	58

Appendix

1	Wild Horse and Burro Act (Public Law 92-195)
2	Notices to the Public - <u>Federal Register</u>
3	Agencies' Interim Instruction to Field Offices
	a. Bureau of Land Management
	b. Forest Service (2 items)
4	Examples of News Releases
5	Agencies' Manuals, Instructions, Directives
	a. Bureau of Land Management
	b. Forest Service (2 items)
6	Secretaries' Regulations
	a. The Department of the Interior - 43 CFR 4700
	b. The Department of Agriculture - 36 CFR 231.11
7	Advisory Board Members
8	Advisory Board Administrative Procedures
9	Advisory Board's Report - First Year
10	Cooperative Agreement with a Military Installation
11	Summary of Investigative Report on the Idaho Horse Roundup
12	Cooperative Agreement with a State Livestock Agency
13	Research Prospectus

INTRODUCTION

The Wild Free-Roaming Horse and Burro Act (Public Law 92-195, approved December 15, 1971) delegated to the Secretary of the Interior and the Secretary of Agriculture the authority and responsibility for protection, management, and control of wild free-roaming horses and burros on public lands administered through the Bureau of Land Management (BLM) and the Forest Service (FS). In compliance with Section 10 of the Act, the Secretaries respectfully submit this joint report covering the operations during the 30 months which have elapsed since passage of the Act.

The review presents the progress made and the problems encountered by these two Agencies in their administration of wild horses and burros during this formative period. It also contains considerations for legislative changes which will assist the Agencies in meeting the intent of the 1971 Act in a more effective, humane, and cost-conscious manner.

SUMMARY OF FINDINGS

It is apparent that wild horses and burros are far from being vanishing breeds. They are known to exist on 50 to 60 million acres of public lands administered by the Bureau of Land Management and the Forest Service in 10 Western States. As indicated in this report, the number of such animals using public lands is substantially greater than preliminary estimates made just prior to passage of the Act. At that time, based upon available data, it was estimated that there were approximately 17,000 wild horses and 10,000 wild burros on lands administered by the BLM. Expanded and improved surveys reveal the BLM estimates were low. Based upon the latest available data, as of January 1, 1974, the FS and BLM estimate that there are 27,000 wild horses and 14,000 wild burros, unbranded and unclaimed, grazing on public lands. An additional 17,000 horses and 100 burros have been claimed as privately owned. The increase in reported wild horse and burro numbers is due to a more accurate inventory and the fact that the animals are thriving. An annual foal rate of 20 to 25 percent has been documented for some herds. No assessment has been made of unbranded free-roaming horse or burro populations which may be found on private lands or other public lands.

There are considerable problems regarding private ownership claims associated with the management of wild free-roaming horses and burros. The Act states that 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. However, these claims cannot be fully validated until the animals in question are gathered and physically examined.

Federal law prohibits the use of aircraft and motorized vehicles in the capture and removal of wild horses or burros from public lands. Since many private animals are intermingled with herds of wild free-roaming horses, and the use of motorized equipment is prohibited, men on horseback is the method commonly used in most roundups. Unfortunately, this method has been notably unsuccessful. Estimates are that it will take several years to complete the gathering of all private horses and burros now claimed under the provisions of the Act.

Controlling the population of wild horses and burros is considered the most difficult and controversial problem associated with wild horse and burro management. Methods presently available for controlling populations are: relocating animals; assigning excess animals to private individuals and organizations under a cooperative maintenance agreement; and disposing of animals in a humane manner. The only practice employed to date has been the assignment by the use of a cooperative maintenance agreement of a minimal number of excess animals. The relocation of wild horses and burros would merely delay the problem of overpopulation since the new herds could be expected to eventually increase beyond the carrying capacity of their new range. Also, the Act prevents relocating them to areas which were not inhabited by wild horses or burros at the time of the passage of the Act.

With respect to the assignment of animals, under the present law, the Secretaries of the Interior or Agriculture do not have authority to transfer ownership of a wild horse or burro. It is difficult to find an individual willing to accept and care for a wild horse or burro unless he can assume ownership of that animal.

Although the disposal of excess wild horses and burros by shooting or other humane methods has not been undertaken since implementation of the Act, such disposal practices will become necessary as populations increase.

Two amendments to the 1971 Act are being considered. The first amendment would permit the use of aircraft or other motorized vehicles to be used for the protection, management, and control of wild horses and burros. The use of such equipment would be in accordance with humane procedures prescribed by the two Secretaries. The second amendment would authorize the two Secretaries to sell or donate excess animals to private individuals or organizations.

In the area of protection and surveillance of wild free-roaming horses and burros, the two Agencies have investigated many cases of suspected violations of the Act. In about 25 instances there appeared to be sufficient reason to make a more detailed investigation. However, only three of these investigations produced sufficient information to refer the matter to the Department of Justice. To date, there has been no prosecution under the Act.

Costs to administer the Act have exceeded the limited funds appropriated, especially for the BLM which has responsibility for the larger number of animals on the public lands.

Actions taken by the two Departments to implement the 1971 Act include the appointment of a nine-member board to advise the two Secretaries on matters pertaining to wild horses and burros, the publication of regulations to implement the Act, and the issuance of an environmental impact statement.

LEGISLATIVE CONSIDERATIONS

Section 10 of the Wild Horse and Burro Act of December 15, 1971 (85 Stat. 649), directs the Secretaries of the Interior and Agriculture to submit recommendations for appropriate legislation as a part of their report to Congress. We are considering the following changes for accomplishing long term effective management of the wild horse and burro resource. In combination, they will facilitate the Agencies' programs, administratively and in terms of cost. But perhaps more important, they will facilitate a practical means whereby horses and burros excess to their habitat may be captured and placed with persons who wish to provide homes for them, or may otherwise be disposed of once they are removed from the public lands.

The changes under consideration are:

1. Authorize the Secretary of the Interior and the Secretary of Agriculture to sell or donate, without restriction, excess horses or burros to individuals or organizations. These animals would no longer be subject to provisions of the 1971 Act.
2. Authorize the Secretary of the Interior and Secretary of Agriculture to use aircraft and motorized vehicles to provide for the protection, management, and control of wild free-roaming horses and burros; such use to be in accordance with humane procedures prescribed by the Secretaries.

In addition, some provisions of the Act need clarification. For example, subparagraphs (b) and (c) of §3 appear to be in conflict. Likewise §3(d),

when read in light of the legislative history, appears to be in conflict with §8(a)(4).

The details of these proposed amendments are being developed. We will submit draft legislation to accomplish changes, along with required supporting data, in the near future.

A REPORT TO CONGRESS

1. Brief History and Background of Wild Horses and Burros.

Today's horses and burros are not native to America. The first modern-day horses and burros were brought here by the Spanish conquistadors. Inevitably, some of these animals escaped and some were released to the wild. The wild horses originating from these early transplants earned the name mustang--a derivation of the Spanish word *mestano*, meaning "wild." The Indians of the West seized the opportunities that horses and burros offered them for transportation and food, and established a horse-related culture that hastened the spread of horses throughout the West.

By the late nineteenth century, the wild horse population had reached such heights as to be considered a serious problem on Western rangelands and efforts were initiated to control their numbers. Some estimates placed the population at 2 million animals and more. From that point on, population control efforts steadily became more commonplace.

The Federal land Agencies, in their attempts to control grazing use and balance the numbers of animals with the capacity of the range, encouraged the removal of feral horses and burros from the public lands. The problem was real enough, when viewed in relation to competition for forage with livestock and native wildlife.

A simple matter of priority was exercised in terms of the land use philosophy of those times. At first, the animals were either captured and domesticated, or shot. Later, they came to have value for slaughter, and by the 1940's, captured animals were commonly processed for some commercial purposes. The 1940's also saw the last of most large herds of horses. From 1950 on, except in a few locations, control actions consisted of sporadic instances of shooting or capturing the scattered horses. In Nevada and portions of a few other States, however, the populations were large enough to support a few "commercial" capture operations.

Coincident with this time era came the expression of an organized national conscience in regard to the humane treatment of these animals and questioning whether or not there was just cause for their elimination. The first Federal law to deal specifically with these issues was the Act of September 8, 1959, which prohibited the use of motorized vehicles and aircraft and the polluting of waterholes in the capture or killing of wild unbranded horses and burros on public lands.

The 1959 Act dealt with the humane capture of wild horses and burros and perhaps was the major factor that began to alter the downward trend in feral horse numbers on the Western range. Although the capture and sale of horses and burros by private individuals was reduced, more people were concerned. The Federal Agencies reduced their effort toward removal of wild horses and burros on the public lands. Two national wild horse ranges were established by the Bureau of Land Management.

National interest came to a focus in 1971 with the passage of the "Act for the Protection, Management, and Control of Wild Free-Roaming Horses and Burros" (Public Law 92-195).

2. Implementation of the 1971 Wild Horse and Burro Act.

Passage of the 1971 Act placed totally new and different duties on the two land managing Agencies involved. Neither the Forest Service nor the Bureau of Land Management had ever before received clear responsibility and authority for the management and physical welfare of animals on the range. Previously, both Agencies' primary responsibility pertaining to animals involved management of habitat on lands under their respective jurisdictions.

The exercise of responsibilities and authorities originating with the 1971 Act required adjustments in culture and attitudes in many quarters. Responsibilities previously assumed by various State agencies had been taken from them, private landowners could not now move so independently against wild horses or burros utilizing their lands, and some persons no longer could assume that their claimed ownership of free-roaming horses or burros was assured. Likewise, wildlife interests could no longer rely on the assumption that horse and burro competition with big game would continue to decline.

a. Public Notice and Agency Instructions to Field Units

One of the early objectives of the managing Agencies upon the passage of the Wild Horse and Burro Act was to inform the general

public of the context and intent of the new law. A Federal Register notice issued by the respective Secretaries in March 1972 advised the general public of the Act and stated that all unbranded and unclaimed animals on public lands were not to be molested (see Appendix No. 2). Interim directions on the new responsibilities were provided to all field offices of the Bureau of Land Management and Forest Service through instruction memoranda and other directives. These guidelines were issued to insure compliance with the law pending adoption of Federal regulations which were to provide for more explicit implementation of the Act (see Appendix No. 3). A personal letter was sent to the governors of the Western States by Secretary Morton on behalf of himself and Secretary Butz requesting the cooperation of these States in administration of the new Act. Examples of joint news releases of Forest Service and BLM which were prepared are shown in Appendix No. 4.

The BLM and Forest Service continue to provide information to the press by news releases. Forest Rangers and BLM District Managers issue news bulletins on a local basis about wild horses and burros as time and circumstances warrant.

The Forest Service and BLM have issued manuals or directives on wild horse and burro administration. The Agency manuals and directives are supplementary to the regulations of the two Departments on the methods for protection, management, and control of these animals (see Appendix No. 5).

Interpretations of the Act are commonly conflicting among interest groups. These conflicts have been the basis for news articles and other forms of expression. This, in turn, has brought considerable amounts of mail and personal contact to the Bureau of Land Management and Forest Service administrative staffs.

It is apparent the Agencies must establish a more direct line of communication with the general public and must continue to encourage all interested groups to work cooperatively with the Agencies to implement the programs and procedures required by the Act.

b. Secretaries' Regulations and Environmental Impact Statements

The Act makes provision for the Secretaries to issue regulations deemed necessary for furtherance of the Act's purposes. The fact that lands of two jurisdictions are involved made it especially desirable that coordinated regulations be developed. Also, various sections of the Act allow a latitude of interpretation and application that could best be made through coordinated Secretaries' regulations. Every effort has been made by the Agencies to achieve this coordination.

Proposed regulations by the Department of the Interior and the Department of Agriculture were published in the Federal Register via the proposed rulemaking process on December 20, 1972. Draft environmental impact statements pertaining to the proposed regulations

were released by the Forest Service and the Bureau of Land Management in December 1972. These proposed regulations and draft statements were also made specifically available to National Forest System grazing advisory boards and Bureau of Land Management District and State advisory boards for their review.

The proposed regulations and environmental statements were reviewed at the first meeting of the newly appointed National Advisory Board for Wild Free-Roaming Horses and Burros at Salt Lake City, Utah, January 12-13, 1973. The Board devoted considerable time to the discussion of the proposals and deferred final recommendation pending further study and review. The second meeting of the Board was held in Denver, Colorado, on March 21-23, 1973. At that time, the Board made further recommendations for improvement of the proposed regulations, and passed a resolution approving the draft environmental impact statements as written.

From this background of advisory board and public comment, each Department prepared a final environmental impact statement accompanied by proposed final regulations. Final environmental impact statements were released by the Forest Service on July 6, 1973, and by the Bureau of Land Management on July 10, 1973.

The National Advisory Board reviewed and endorsed the proposed final regulations, with suggested minor changes, at its meeting in Billings

Montana, on July 16-17. Regulations of both Departments were published as final in the Federal Register on August 15, 1973 (see Appendix No. 6).

Comments and criticism occasionally have been made relative to the time lapse between passage of the Act and the finalization of Secretaries' regulations.

The above chronology shows that serious continuing effort moved the regulations along as speedily as possible. It obviously was not possible nor prudent to move in a unilateral direction relating only to the Wild Free-Roaming Horse and Burro Act. The Federal Advisory Committee Act, National Environmental Policy Act, and proposed rule-making procedures were important parts in this process and the regulations are better products because of this.

c. National Advisory Board for Wild Free-Roaming Horses and Burros

As required by Section 7 of the Act, a joint Advisory Board was appointed by the Secretary of the Interior and the Secretary of Agriculture in 1972. The nine-member Board was selected on the basis of experience and special knowledge of horses and burros, wildlife management, animal husbandry, and natural resource management. See Appendix No. 7 for names of Board members.

The Board is solely advisory as provided by PL 92-195, and it must function in accordance with the applicable Federal committee guidelines as established in the Federal Advisory Committee Act.

All recommendations or actions are made directly to the Secretary of Agriculture, the Secretary of the Interior, or their authorized representatives.

The Agencies view this Board as operating at the highest levels of program control and as a sounding board for public opinion. At each meeting, a specific time is set aside for public participation with the Board.

Advice and recommendations of the Board are made with the approval of a majority of the members present. Advice and recommendations of individual members, including minority views, may be entered into the Board minutes if the member so desires.

A notice of all Board meetings is published in the Federal Register to provide interested parties an opportunity to attend and participate. Notices of meetings are sent to the news media.

The working procedures for the advisory committee and details for preparation and circulation of the proceedings of each meeting can be found in Appendix No. 8.

Transcripts or tapes of all Advisory Board meetings are available for review in the Bureau of Land Management's Washington Office. Summary proceedings of each of the five board meetings held to date are found in the reference material to this report. A report of

activities and recommendations entitled "The Advisory Board's First Year," presented by Dr. C. Wayne Cook, Chairman, is included as Appendix No. 9.

The Board's major recommendations pertaining to development of Secretaries' regulations and management policy are discussed below. Their recommendations pertaining to proposed legislative change are found in Section 4 of this report.

It should be noted that some recommendations concerning management and policy were supportive of actions already underway by the Agencies.

Both Departments commend this first Advisory Board on Wild Horses and Burros for so readily accepting its responsibilities and discharging its duties. The Board was faced with a unique challenge in advising two Agencies operating under two different departments of the U.S. Government on a highly controversial subject.

(1) Advisory Board Recommendations on Regulations

The first Advisory Board meetings were devoted primarily to a detailed review and discussion of the Secretaries' proposed regulations and Draft Environmental Impact Statements. Board suggestions and recommendations were helpful in developing similar concepts and wording in the regulations for both Agencies.

Details of the Board's participation with the Agencies in developing Secretaries' regulations can be found in the reference material for this report in the proceedings of the Salt Lake, Denver, and Billings meetings. Examples of key recommendations are quoted below.

(a) That the authorized officers to designate specific free-roaming wild horse or wild burro ranges be identified only with the Secretary of the Interior or the Secretary of Agriculture. (This recommendation subsequently was changed to Director of Bureau of Land Management and Chief of Forest Service.)

The Agencies concur with this recommendation as changed. Authority for designation of specific ranges has been restricted to the Chief of the Forest Service and the Director of the BLM. See discussion on page 43.

(b) That the proposed regulation for proof of ownership in the claiming process be strengthened
and
Claims be based upon evidence of ownership as cooperatively agreed upon by the Agencies and State authorities.

The Board's suggestions were adopted changing the proposed requirement that a claimant show "probable ownership" to the requirement that a claimant show "evidence of ownership."

(2) Advisory Board Recommendations on Management and Policy

Key recommendations of the Board appear below.

(a) That the Agencies immediately begin to develop model cooperative agreements with State agencies which is encouraged in Section 6 of the Act.

Such agreements are vital to the success of the wild horse and burro management program and this was established as a high priority item for early completion. Tripartite agreements were subsequently negotiated with each of the State livestock agencies in the States where wild horses and burros roam. These agreements set forth criteria that will be used in resolving private ownership claims under Section 5 of the Act.

The State of New Mexico has since withdrawn from its agreement. Full discussion of this particular situation is found under 3a, Special Issues.

(b) That the Agencies update inventory methods and develop a continuing inventory of wild free-roaming horses and burros that inhabit Federal lands either in part or for all of their annual habitat requirements.

The Agencies fully concurred with this recommendation. More detailed discussion is found in 3b(1), Inventory.

(c) Total number allowable animals be interpreted to mean in general the approximate number of free-roaming horses and burros in existence at time of passage of the 1971 Act.

The Agencies accept this recommendation as an interim guide for management and control pending completion of land use plans. Both Forest Service and BLM will incorporate wild horse and burro management within their overall resource management programs and establish management goals in terms of population and other habitat requirements through current Agency planning systems. Through this process, land ownership problems and conflicts with other legitimate uses of the public land can be resolved.

(d) The Agencies obtain a legal review of all laws pertaining to the use of aircraft in working with wild horses or burros in management practices.

Opinions obtained from the Solicitor's Office, U.S. Department of the Interior, and Office of the General Counsel, U.S. Department of Agriculture, made it clear that aircraft could be used for certain management practices such as population inventory, but not for the purpose of capturing or killing wild horses and burros.

(e) That the Secretaries request adequate funding to do the necessary research to properly manage wild horses and burros on public lands.

and,

Where practical, that research on wild horses and burros should be conducted outside the Agencies under contracts and cooperative agreements; and further, that the Agencies expedite the research program and request adequate funding for this effort.

The Agencies concur that research is needed to properly determine long term management goals and programs and that contract research is a desirable method in the research program.

(f) The Board recommended that the two Agencies follow the policy of not resorting to supplemental feeding of wild horses and burros except in extreme emergency.

The Agencies concur in this recommendation.

(g) That the Agencies obtain a legal opinion on transfer of title to excess animals to private ownership.

An opinion obtained from the Office of the General Counsel, U.S. Department of Agriculture, pointed out the Agencies lacked authority to transfer title to excess wild free-roaming horses and burros.

(h) That the two Federal Agencies begin immediately to formulate and initiate management plans for wild horses and burros under the multiple-use concept for each individual area where these animals reside.

Planning efforts have been initiated in several areas. However, long term wild horse and burro management plans will not be complete in some areas for a period of years since they are but a part of a total land use planning effort.

(i) That the Agencies receive the full support of the Board in forewarning the public that population control measures beyond the removal of live animals from an area might be necessary for the protection of the over-all land resources.

This resolution of the Board recognizes that there will be situations where the unpleasant task of destroying excess wild

horses and burros will be the only practical solution to controlling the populations.

(j) That the Forest Service and Bureau of Land Management negotiate formal cooperative agreements with other Federal Agencies where burros and horses are using lands under more than one governmental jurisdiction.

The Agencies fully concur with the recommendation. Some cooperative agreements have been negotiated and others are under consideration. See Appendix No. 10 for a copy of an agreement with Hill Air Force Base and Dugway Proving Grounds in Utah.

3. Administration

a. Protection and Law Enforcement

As previously mentioned, one of the first thrusts in implementing the wild horse and burro program by the managing Agencies was to alert the public to the enforcement aspects and penalties for violations of the Act (see Appendixes 1 and 2).

The Forest Service, with previous law enforcement authorities and personnel trained in law enforcement techniques and investigative procedures, was in a good position to assume the responsibilities of enforcement under the Act.

The Bureau of Land Management, however, had to initiate a completely new program in enforcement and to select and train personnel for enforcement responsibilities.

In 1973 the BLM enrolled eight people in the basic School for Law Enforcement and Criminal Investigation conducted by the Department of the Treasury in Washington, D.C. To date, desert rangers, area managers, and field technicians have been the people selected for this type of training.

In addition, the BLM sponsored a training session emphasizing the public relations and investigative aspects of law enforcement. This session was conducted in November of 1973 in Boise, Idaho, with approximately 50 BLM and Forest Service field personnel in attendance.

Since passage of the Act in December of 1971, BLM and Forest Service have received many reports of possible violations of the Act. In most instances review of the report indicated that the information was second or third-hand or concerned incidents purported to have taken place many weeks or months previous to Agency contact. In approximately 25 instances there appeared to be sufficient reason to make a more detailed investigation. However, only three of these investigations produced sufficient information to refer the matter to the Department of Justice. One of these referrals concerns a roundup of burros in New Mexico by the State Livestock Board. The question of prosecution in this matter has been deferred pending a legal determination concerning a Federal-State dispute as to jurisdiction over such animals. To date, no prosecutions have occurred under the Act.

The FBI has advised the Agencies it is unable to participate in the investigation of possible law violations since these responsibilities were delegated in the law directly to FS and BLM. Law enforcement personnel from other Interior Agencies have helped in the enforcement efforts at the request of the BLM. These arrangements are being formalized through cooperative agreements.

A task force was assigned to study all BLM law enforcement responsibilities. In a report prepared March 1, 1974, the task force recommends that the BLM establish a small cadre of professional law enforcement personnel supplemented by trained investigators to carry out its enforcement responsibilities. This will be accomplished by close coordination and the cooperation of other Federal, State, and local agencies. Steps are being taken to implement this recommendation in Fiscal Year 1975. The aim is to select and train highly qualified personnel so as to protect the rights of innocent citizens, to avoid false arrest suits, and to protect employees from bodily harm. The BLM has directed its field managers to enforce the Act by presenting evidence of illegal acts to the U.S. attorney.

Not all the horses grazing on the public lands come under the provisions of PL 92-195. For example, the Bureau of Land Management issues grazing licenses for approximately 26,000 privately owned horses each year on the national resource lands. Beginning with the 1974 grazing year, all domestic horses and burros turned onto the Federal range administered by BLM are required to be branded as a condition of license, lease, or permit.

The USDA reports approximately 8 million horses now in the U.S.A., a great many of which are not branded. Many complaints of possible law violations are received which relate to privately owned horses, rather than wild horses. This may be attributed to the public seeing numerous domestic horses being trucked along highways en route to processing plants and other horses are merely being moved by their owners, from one location to another.

(1) Special Issues

Two situations that have had a significant impact on the wild horse and burro program are the roundup of horses near Howe, Idaho, in February 1973, and the lawsuit brought by the State of New Mexico contending that PL 92-195 is unconstitutional.

Idaho Horse Roundup

Copies of the investigative report on the Howe, Idaho, horse roundup have been provided to the Senate and House Interior and Insular Affairs Committees. The investigative report contains all the information which the BLM and Forest Service investigators were able to gather concerning the roundup. A copy of the summary of the investigative report is attached to this report as Appendix 11.

According to the summary of the report, all of the horses in the Badger Creek area of the Little Lost River Valley (the roundup area) were removed in 1945. In the early 1950's, several ranchers either lost horses in the area or intentionally turned out unbranded horses on the Federal lands. By 1973, the number of horses in the area had increases to more than 50.

The roundup involved many private individuals. Helicopters and snowmobiles were utilized a portion of the time. A small number of horses were gradually caught over a period of several weeks during January and early February of 1973. On February 17, 1973, approximately 21 horses were trapped in a high rimrock area. Approximately 20 more horses were captured in another area between February 19, and February 25, 1973.

At this time reports of the roundup came to the attention of the BLM and FS in Washington. An investigation was started immediately by the Agencies. Fifty-three unbranded horses and one branded horse were involved in the roundup.

Thirty of the surviving horses were traced to North Platte, Nebraska. These horses were taken into custody by Federal officers and placed under the care of a veterinarian along with seven other horses which were not involved in the roundup but were added to the shipment en route to Nebraska.

The horses at North Platte were in poor condition and many died while under veterinary care. At least 13 of the Bodger Creek horses, plus a newborn colt survived. Five additional horses also survived. The identification of the five animals is unclear. The five, or some of them, may be a part of the seven head of privately owned animals mixed into the Badger Creek shipment of horses.

Six other horses from the roundup were traced to various locations in Idaho. Persons holding these animals are in receipt of notices from the Government concerning the possibility that these animals may be wild and free-roaming.

Upon completion of the investigation, the USDI and USDA referred the matter to the Department of Justice. After evaluating the report, the Department of Justice declined prosecution because the available evidence was considered to be insufficient to successfully prosecute. In November of 1973, the possibility of new evidence initiated a second investigation by the managing Agencies. In March 1974, the Department of Justice, after reevaluating the original report, together with the results of the second investigation, again declined prosecution.

The horses were returned to Idaho Falls, Idaho, in November 1973 where they remain in the custody of the Federal Government.

A private ownership claim has been filed for the Badger Creek horses by one of the participants in the roundup. In addition, Senator James Abourezk of South Dakota and Congressman Gilbert Gude of Maryland have filed claims on these animals stating they are acting on behalf of the people of the United States. Claims filed on these horses are being examined by the Idaho State Brand Inspector and a decision will be made as to ownership pursuant to Idaho State law. The Idaho State Brand Inspector has scheduled a hearing on June 27, 1974, concerning the claims. If the claims are found invalid the horses will be returned to public lands. If private ownership is proven the horses will be released to the owner.

On April 5, 1973, the Humane Society of the United States, the American Horse Protection Association, and Mrs. Paul M. Twyne filed a civil suit in the U.S. District Court in Washington, D.C., against the Department of Agriculture and the Department of the Interior and their respective Secretaries and other personnel within the two Departments concerning the Howe,

incident. As part of their relief, plaintiffs seek regular and punitive damages totaling \$600,000 against each of the 17 defendants.

New Mexico Burro Roundup

As in other States, the BLM and FS entered into a tripartite cooperative agreement with the State of New Mexico through its Livestock Board. This agreement spelled out the manner in which private ownership would be resolved. The agreement was accepted and signed in August 1973 by the State of New Mexico. On November 15, 1973, the State, through its Livestock Board, advised the Agencies that it was terminating the cooperative agreement.

On February 11, 1974, under direction of the State Livestock Board, certain individuals captured 19 unbranded burros on public land. The burros were trucked to Roswell, New Mexico, and sold at public auction. The BLM advised the U.S. attorney that the capture and sale of the animals appeared to be a violation of the Wild Horse and Burro Act. The U.S. attorney directed the BLM to contact the buyers and request that the animals be held and cared for until the Federal-State dispute as to jurisdiction over the animals could be legally determined. The purchaser of 16 of the burros agreed to do this. However, the purchaser of the other three burros refused to make such a commitment.

On March 4, 1974, a complaint was filed by the State of New Mexico in the U.S. District Court for the District of New Mexico against the Secretary of the Interior and against the United States for allegedly attempting to restrain the plaintiffs from implementing the estray laws of the State of New Mexico. Plaintiffs assert that

the Wild Free-Roaming Horse and Burro Act deprives plaintiffs of their constitutional rights concerning jurisdiction and control over unbranded and unclaimed horses and burros in New Mexico. Plaintiffs seek to have the court declare the Act unconstitutional and to enjoin the defendants from enforcing the Act.

b. Management

(1) Inventory--Population and Habitat Identification

Rough inventories and estimates of wild horse and burro populations were available prior to passage of the Act. It was essential that refined inventory information concerning wild horse and burro populations be completed as soon as possible.

To date, a substantial portion of the available manpower and budget has been devoted to intensified inventory efforts. We now have reasonably reliable estimates on the number of these animals and their habitat location. The table on page 31 shows an estimated population of 44,000 horses and 14,000 burros on Bureau of Land Management and National Forest lands. Of this number, over 17,000 horses and 100 burros have been claimed as privately owned animals. Horse and burro herds on National Forest lands are considerably more scattered and far less numerous than on BLM lands. The maps on pages 32 and 33 show the location of wild horse and burro areas.

The BLM is finding there are many more horses and burros on the national resource lands than first estimated. The FS has found there is not a great deal of change from earlier estimates. It is apparent wild horses and burros are not vanishing breeds, although there are marginal herds. Wild horse and burro populations are known to be increasing in some locations. In some areas, the increase is estimated to be 20 to 25 percent per year as evidenced by monitoring of the herds by BLM in the Susanville, Salmon, Vale, and Billings Districts.

(2) Private Ownership Claims

Section 5 of the Wild Horse and Burro Act provides individuals with the opportunity to claim and prove ownership of animals on public lands that might otherwise be presumed to be wild and free-roaming. To be valid, a claim must meet the ownership requirements of the estray livestock laws in the State where the animal is located. The adjudication of claims requires close cooperation between the two Federal Agencies and the State livestock agencies.

The Wild Free-Roaming Horse and Burro Act and its legislative history indicate Congress intended decisions concerning private ownership claims were to be made pursuant to State estray laws by the appropriate State Agencies.

In fact, Congress considered and rejected more than 20 bills which provided for the proving of title "to the satisfaction

WILD FREE-ROAMING HORSES AND BURROS

Estimated population of horses and burros (as of January 1974) on national resource lands administered by the Bureau of Land Management of the U. S. Department of the Interior and on National Forest land administered by the Forest Service of the Department of Agriculture.

State	Estimated Numbers of Animals*			
	Horses		Burros	
	BLM	FS	BLM	FS
Arizona	115	7	10,000	36
California	3,000	828	3,200	209
Colorado	500	---	---	---
Idaho	500	34	8	6
Montana	325	8	---	---
New Mexico	7,550	207	80	5
Nevada	20,000	1,174	1,000	13
Oregon	5,265	215	16	---
Utah	1,000	45	50	3
Wyoming	4,411	23	20	---
Subtotal	<u>42,666</u>	<u>2,541</u>	<u>14,374</u>	<u>272</u>
Total	(45,207)		(14,646)	

Adjusted to	44,000	14,000
-------------	--------	--------

Total number of animals estimated to the nearest thousand population less duplication of animals believe to be using the lands of both agencies.

*Included in total numbers are 17,189 horses and 123 burros claimed under Section 5 of the Wild Horse and Burro Act. The total number also includes branded horses grazing in trespass which were not claimed.

In addition to the total figures given above, approximately 26,000 domestic horses are licensed annually to graze on national resource lands under the provisions of the Taylor Grazing Act.



LEGEND

**WILD HORSES AND BURROS
IN THE WESTERN STATES**

- MAJOR WILD HORSE AREAS
- - - - - MAJOR WILD BURRO AREAS

**United States Department of the Interior
Bureau of Land Management**

NATIONAL FOREST SYSTEM LANDS



Possible Locations ★
**Wild Free-Roaming
Horses and Burros**

JANUARY 1974

November 15, 1973

Number of claims for horses and burros on national resource lands administered by the Bureau of Land Management and the number of animals claimed under Section 5 of the Wild Horse and Burro Act.

STATE	No. of Claims	No. of Animals	
		Horses	Burros
Arizona	5	9	20
California	3	305	--
Colorado	5	74	--
Idaho	7	42	--
Montana	10	133	--
New Mexico	1,494	7,523	36
Nevada	75	6,854	64
Oregon	24	1,310	2*
Utah	8	150	--
Wyoming	30	765	1*
<u>TOTAL</u>	<u>1,661</u>	<u>17,165</u>	<u>123</u>

*Mules

November 15, 1973

A Summary of Private Ownership Claims
Which Have Been Filed With The
Forest Service

STATE	Claims on National Forests Only			Claims Duplicated With BLM ^{1/}		
	No. Claims	Horses	Burros	No. Claims	Horses	Burros
ARIZONA	-	-	-	-	-	-
CALIFORNIA	-	-	-	-	-	-
COLORADO	-	-	-	-	-	-
IDAHO	-	-	-	1 3 ^{2/}	13 50	-
MONTANA	-	-	-	-	-	-
NEW MEXICO ^{3/}	-	-	-	-	-	-
NEVADA	2	20	-	1 9	150 (undetermined small % of 779 horses)	-
OREGON	1	1	-	1	10	-
UTAH	1	3	-	1	5	-
WYOMING	-	-	-	-	-	-
WASHINGTON	-	-	-	-	-	-
TOTAL	4	24	0	16	228	0

- ^{1/} Includes duplicate claims filed with both Agencies and claims filed only with BLM which involve horses also using National Forest lands.
- ^{2/} Little Lost River herd. Claims filed for 32 deceased horses, 17 live horses, and 1 colt.
- ^{3/} No claims by individuals. All animals claimed by New Mexico Livestock Sanitary Board.

of the Secretary." Thus Congress considered vesting the power to determine private ownership claims in the Secretary but rejected the idea in favor of allowing the responsibility for deciding private ownership claims to remain with the States.

However, while State estray laws concerning private ownership claims remain applicable, any provisions of State estray laws in conflict with the Federal law have been superseded insofar as they may have previously applied to "public lands" as defined in the Wild Free-Roaming Horse and Burro Act. For example, the Federal law provides that wild free-roaming horses and burros (unbranded and unclaimed animals on public lands) are under the jurisdiction of the Secretary for purposes of protection, management, and control. Consequently, any State law making a similar assertion of jurisdiction over such animals on public lands, or which in any way interferes with the Secretary's authority to manage, protect, and control these animals, has been superseded by the Federal law.

The FS and BLM have entered into tripartite cooperative agreements with the State agencies for examining ownership claims within each State where wild horses or burros are found. See Appendix No. 11 for an example of a three-way agreement.

To implement the claiming process, the Federal regulations referred to earlier established a 90-day claiming period for

persons to file their claim. This period expired on November 15, 1973. The tables on pages 34 and 35 show the number of claims received and the number of animals claimed.

Presently, the Agencies and the States are examining the claims. If a claim shows evidence of ownership, the Agencies will issue an authorization for gathering of the animals in question. Final release of the animal to a private claimant is given only after the animal is captured, examined, and private ownership verified in accordance with the State branding and estray laws and the cooperative agreement between State, BLM, and Forest Service.

A few gatherings have been completed, but the bulk of examining the claims and capturing the animals remains to be done. The review of the claims and gathering operations will require considerable manpower and funds. All gathering operations must be conducted under the supervision of a BLM or Forest Service employee. Close supervision is required to see that the capture is conducted in a humane manner and that wild free-roaming animals are released back onto the public lands. The procedure may take several years to complete because of the number of claims and location of animals involved. Capture is authorized only

during those periods of the year and by those methods whereby stress on associated wild free-roaming horses and burros can be minimized.

Initial efforts to gather by private parties have been less than successful. In Arizona, an authorization was approved to gather 16 horses. The applicant and 15 riders had captured only two horses after 3 days. Ownership of one animal was verified. The other horse was released as wild and free-roaming.

An authorization to gather 150 claimed horses was approved in Wyoming. After several days, only three mature horses were captured. The roundup crew of five men and 25 saddle horses was completely exhausted attempting to corral the claimed horses in the rough and rocky terrain. Similar results have been reported in Oregon.

It is apparent that it may be impossible to gather all claimed and unauthorized animals under the current restrictions placed on gathering operations, as discussed in Section 3b2 of this report.

(3) Management Plans

The preparation of management plans for wild free-roaming horses and burros is underway. Some plans have been completed, but are subject to continued updating and improvement. Horse and burro management plans normally will embody all of the concepts found in Section 1 of the 1971 Act--that is, protection, management, and control--and will be formulated within guidelines and criteria established by the overall land use management plan for an area.

Wild horse or burro management plans which might be prepared for an area in advance of a land use plan may require modification to meet the criteria of the land use plan when it is developed.

The FS and BLM have similar land use planning systems that develop integrated planning and management for all resources in the land area being considered. Briefly, the first step involves an analysis of the land's capabilities and the development of various optional combinations of resource production within that capability. Land capability, options, requirements of law, and established national need and direction are then made available for public review and comment. After a consideration of all input, the land manager arrives at resource goals and decisions for the particular land unit.

Where management plan specifics are identified for wild horses and burros, coordinating requirements to protect the welfare of the animals will be developed which must be respected by other multiple uses. In like fashion, the horse and burro management plan may be restrained by coordinating requirements necessary to protect other uses.

For example, a coordinating requirement might necessitate the use of a low pole fence for domestic livestock control rather than barbed wire in a location where wild horses commonly cross; or a coordinating requirement might mean the fencing of burros from a desert waterhole that is vital to the survival of bighorn sheep, but not necessary to burros.

Land use planning and formulation of management plans are complicated in many areas administered by the BLM because national resource lands are often isolated or intermingled with privately owned lands.

Where private lands comprise the larger percentage of a wild horse or burro area and a cooperative agreement for their management cannot be consummated with the owner of the private acreage, some animals may have to be removed.

Private lands are involved in many of the wild horse or burro management areas of both Agencies. A good example is the railroad checkerboard lands (Red Desert-Wyoming), where BLM administers less than 50% of the total area.

Several requests have been discussed verbally with the BLM for removal from private property. Only one request in writing has been received. Additional requests for removal can be anticipated as the claiming process leaves unclaimed or unbranded animals in an area containing private property. The cost and manpower for removal can be expensive as explained under disposal (page 52).

Existing cooperative agreements with State land managing agencies are being modified to include wild horses and burros where these animals inhabit both State and public lands.

Very important in the management planning effort is the determination of appropriate population levels for horses and burros. Experience and research will enable the Agencies to do increasingly better in making this determination. However, substantial information is now available concerning current populations, habitat occupied at the time the 1971 Act was passed, vegetative conditions, watershed conditions, wildlife needs, livestock use, recreational use, and other legitimate demands upon the public lands.

Guided by available knowledge, land use plans, public participation, National Advisory Board recommendations, and the many laws applying to the public lands (i.e., Wild Horse and Burro

Act, Multiple Use-Sustained Yield Act, and Taylor Grazing Act) the land manager will make his decision on the population levels appropriated to an area. His objective usually will be to maintain a sound, healthy population in numbers commensurate with other values and demands on the land. At times, this will result in an expansion of current numbers. At other times, it may require a reduction of numbers. Healthy, protected herds will mean a high annual rate of foal production. Whenever the prescribed population levels are attained for an area, this high foal production will mean a steady flow of excess animals.

The inventory of free-roaming wild horses and burros population, as described earlier, has identified a major management problem. The inventory has established the fact that there existed numerous small herds scattered throughout the public lands. This inventory indicates that these small herds average about 9-12 head each. These are family herds consisting of a stud and his mares. This population profile presents imponderable management problems on lands managed by BLM. As described elsewhere in this report, the continual protection and surveillance of such small bands is most difficult. Controlling the size of these bands as prescribed by the land use plan for the area will be very expensive and impractical.

PL 92-195 provides limited authority for the designation of wild free-roaming horse and burro ranges by the Secretaries. The designation of ranges will be studied as experience is gained in future management under PL 92-195. The designation of wild horse and burro ranges would assist in solving the management problems identified in this report, including minimizing conflicts with wildlife, private land, and other resource values.

The pending policy outlined by the Secretary of the Interior in the preceding paragraph concerning specific ranges and the relocation of small herds into such areas does not refer to the lands administered by the Department of Agriculture through the Forest Service.

(4) Research

Movies, magazines, and other periodicals have dramatized the wild horses and burros of the West. However, in-depth knowledge about wild horses and burros and their role and relationship in the varied ecosystem they inhabit is lacking.

In order to assess current information on wild horses and burros, the BLM has negotiated a contract with the Conservation Library in Denver to assemble an annotated bibliography of all available information. The FS is sharing the contract cost.

The BLM field offices were asked to identify their research and study needs in developing the wild horse and burro protection, management, and control plans. Based on this analysis, management study proposals to be conducted in-house and a prospectus outlining research needs have been developed (see Appendix No. 13).

The research prospectus has been circulated to universities and research agencies for review. They were asked to develop contract proposals for initiating the high priority items such as biological and physiological needs, population dynamics, and wild horse and burro competition with other animal life.

Currently, two research contracts with Arizona State University

are evaluating the impacts of burros on native desert and riparian vegetation along the lower Colorado River. These research projects consider wild burro diet intake, seasonal distribution patterns, sex and age ratios, and, where applicable, competition with the desert bighorn sheep.

FS research scientists and land managers are in the first phases of a convergence analysis to determine research needs. Private lands as well as public lands are being considered. The analysis will provide the basis for developing a FS research effort that will complement research by others.

(5) Costs

BLM

Protection, management, and control of wild horses and burros is an integral part of the range management program. Initial costs (FY 1972) were absorbed by shifting work priorities.

Beginning in FY 1973, \$100,000 was identified in the range management budget specifically for wild horse and burro related work. The actual costs, however, were in excess of \$400,000. Costs included operation of the Wild Horse and Burro Advisory Board field surveillance, investigations of reported violations, feed and veterinarian costs for horses

in custody of the Agencies in North Platte, Nebraska, initial population inventories, and management of the Pryor Mountain wild horse range.

In FY 1974, \$400,000 and 10 positions were identified in the range management budget specifically for wild horse and burro related work. Actual cost will exceed \$600,000. The expenditures intensified all aspects of wild horse and burro management with emphasis on protection, population inventory refinement, and habitat analysis and research contracts.

Range management budget proposals for FY 1975 include \$700,000 and 16 positions specifically for wild horse and burro activities. The management program will emphasize the processing of private claims for animals, population control, management plans, and research needs.

Forest Service

Funds for protection, management, and control of wild horses and burros on National Forest System lands are allocated by the Agency from money appropriated by Congress for range management purposes.

Field units were authorized in FY's 1972 and 1973 to shift work priorities to accomplish the needed protection of these

animals and to initiate population inventories and the identification of their habitat.

In FY 1974, \$175,000 was established as a minimum allocation to field units. An additional \$25,000 was estimated as a part of the Washington Office budget for staff work and National Advisory Board support. Like amounts have been programmed in FY 1975 tentative budget proposals.

Amounts to be expended for research purposes, once approved, will be additional to these figures.

c. Control and Disposition of Excess Animals

Excess animals and population control is predicted to be the most critical and controversial issue in the management of wild horses and burros. The job of population control for whatever purpose, by whatever method, is not looked forward to by land managers. Control measures since passage of the 1971 Act have been taken only on the Pryor Mountain Wild Horse Range where 30 excess horses were removed during the fall of 1973.

There are three alternatives under the Act to deal with excess numbers. They are:

1. Removal to other areas of wild horse or burro territory.
2. Removal for private maintenance.
3. Destruction in a humane manner.

A discussion of each alternative follows:

(1) Removal to other areas is restricted by Section 9 of the Act and the Secretaries' regulations. The animals can be relocated only to other areas where wild horses and burros existed at the time of the Act. Prudent management would further restrict such action to those circumstances where there is available capacity for them or if there is a need for certain animals to fill some biological gap in the existing herd.

Use of this alternative will ordinarily require the capture and transportation of the animals involved.

(2) Removal for private maintenance. Excess animals may be placed with private individuals who agree to be responsible for their care. The animals may either be maintained in a wild state if the person has the necessary land, or they may be domesticated. Private maintenance provides an outlet for excess horses and burros which the Agencies are anxious to develop to its full potential.

There are, however, serious limitations to the private maintenance approach. The Act does not provide for release of responsibility for the animals. Therefore, a cooperative agreement must be utilized to place the animals under the care of a private person or organization. The agreement has been successful in some instances but, in general, is seen by the public as overly limiting to their personal needs and prerogatives as horse "owners." The agreement being used calls for care and protection under humane conditions and prohibits the sale or use of the animal or its remains for commercial exploitation. Through the years, the numbers of these cooperative agreements could reach into the thousands and create an impossible administrative burden on the Bureau of Land Management and Forest Service since they would remain responsible and accountable to see the terms of the agreements were maintained by the individual.

A second problem concerning private maintenance is that many excess animals screened for removal will not be suitable for placement. Realistically, only colts and young animals will be suitable for this purpose, but older horses or burros will also have to be removed.

Limited experience with the 30 excess wild horses on the Pryor Mountains, in Montana, last year indicates the "market" will be saturated long before the supply of excess animals will be exhausted. Although all horses were eventually assigned, it was difficult to place the last 18 since few persons wanted older horses. Hundreds

of requests for a wild horse had been received. However, few persons actually backed up their original request.

Use of a private maintenance arrangement will always require the capture of the animals involved.

(3) Disposal in a humane manner. The last alternative available for controlling excess numbers of horses or burros is to destroy the animals in the field. This will be accomplished by using personnel who are experts with a rifle and selectively destroying those animals considered surplus to a particular herd. Older animals and those that might not fit the characteristics of a particular herd would be removed first. When destruction is necessary, it will be done selectively, individually, and as unobtrusively as possible. The advantages are it is much more economical and would not require the roundup and capture of animals. A limited return might be the food provided to carrion feeders on the public lands such as coyotes, eagles, and vultures.

Within a year or two, to keep the numbers near the populations that the public lands may sustain will require the removal of 8 to 10 thousand animals annually. As many as possible will be disposed of alive and the remaining destroyed on their range.

Since it is not deemed practical to destroy a large number of animals on the range annually, an amendment to the Act is being considered requesting the sale of excess animals without any restrictions. The results of this recommendation if approved, may be that large numbers of animals removed would be subsequently processed for commercial purposes.

The prospects of conducting the humane capture of excess animals on a continuing basis from hundreds of locations pose such difficulties and costs that it requires detailed discussion. The problems that capture offers are not commonly appreciated by much of the public nor perhaps anticipated by the 1971 Act.

The limited capture work done to date has been extremely expensive in manpower and time. The cost of capturing, feeding, and finding homes for the excess horses on the Pryor Mountains was approximately \$800 to \$1,000 per head.

Perhaps the difficulties associated with capture can best be understood by recalling, again, that there are about 58,000 of these animals, including those which have been claimed, scattered across approximately 50-60 million acres and that they vary from large herds to small isolated bands. Each horse or burro herd must be dealt with the consideration of the peculiarities of topography, water locations, climate, and accessibility of its area of habitat. This equates to several hundred continuing situations where live capture, if needed, must be conducted under individual circumstances.

Capture can be attempted by building permanent trap corrals and pasture arrangements such as had been done on the Pryor Mountains, or by rounding horses up with a number of men and horses and driving them into temporary or permanent corrals, or by roping them from horseback, or by stalking and shooting them with a tranquilizer gun.

All of these methods have severe limitations when viewed on a continuing widespread basis. The results cited in the recent authorized roundups in Wyoming, Arizona, and Oregon attest to the difficulties. Trap corrals at waterholes work well in areas of limited water, but are very expensive and obviously limited in their versatility. Roundups are also costly and require experienced men--not too easily available in this day and age. Roping is extremely limited in results and requires an even more experienced and talented person. Either method, using domestic horses, can prove dangerous to man and horse alike. The use of tranquilizer guns offers extremely limited production and poses severe transportation problems once the horse is tranquilized.

4. Legislative Changes

Five distinct areas of possible legislative changes in the Act were discussed by the Advisory Board. The areas came to the attention of the Board, either from public participation sessions at Board meetings, from Agency presentation, or from their own determinations that certain areas of the law were difficult or impossible to administer. The Board's responses and recommendations appear below, followed by agency comments and viewpoints.

(a) It was made a matter of record that the committee does not feel disposed, at this time, to make a recommendation for amendment to the present Act to include mustanging.

"Mustanging," as used here, refers to the practice of pursuing excess wild horse or burros on horseback, roping, and capturing them as a form of recreation. Captured animals would become available for private maintenance agreements or for other disposal, the premise being that the captor would have the option of keeping the animal or turning it over to the Agencies.

The practice of mustanging under a controlled situation has good and bad points. Public response through the Advisory Board meeting and through the proposed rulemaking process in the regulations revealed more of the Western public to be interested in this than had been originally surmised. There are several groups that, through the years, have "mustanged" under codes of ethics of their own design. It is entirely possible that some herds have survived other forms of elimination because of the protective efforts of mustanging organizations.

The pursuit and sometimes capture of horses or burros through this sport, if the law were amended, could have a positive effect in keeping the animals "tuned" with the true Wild Spirit that is so admired by people today. There are also negative

points. Controlling this activity would be difficult and costly. And even under the best control it is altogether possible and probable that some horses will be injured and some colts orphaned in the furious action of the chase.

Agencies' view- We are in accord with the Board's position that amendment of the Act for the purpose of mustanging should not be considered at this time.

(b) That the 1971 Act be amended to include lands under the jurisdiction of the National Park Service, Bureau of Sport Fisheries and Wildlife, Bureau of Reclamation, and Military Reservations.

This recommendation is one that will require study and coordination between all Departments before a sound position can be developed. It may be correct to assume that extension of the Act to these other public lands would provide a more uniform protective coverage of wild horses and burros. However, it is likely that such an extension could conflict with the basic purposes of these other Departments or Agencies.

Agencies' view- The Agencies suggest, until coordination and study are accomplished, the Secretary of the Interior and Secretary of Agriculture defer a recommendation on the matter.

(c) That title to surplus animals to private ownership be permitted either through sale or gift.

A change in the 1971 Act which would allow the Agencies to sell or donate without restriction, surplus animals to screened recipients is appropriate and needed. It is seen by the Department of the Interior and Department of Agriculture as one element of a proposed two-part amendment to the Act that will be of extreme importance in providing homes for animals surplus to the rangeland in minimizing the need for the use of less palatable methods to dispose of surplus animals.

The presently available placement authority through a cooperative agreement is usable, but has obvious limitations. The public is reluctant to accept custody and responsibility for a wild horse or burro under the restrictions that exist today.

(Also see the discussion under 3c, Control and Disposition of Excess Animals.)

Agencies' view- We concur with the Board's recommendation to authorize the Secretary of the Interior and the Secretary of Agriculture to sell or donate, without restriction, excess horses or burros to individuals or organizations. These animals would no longer be subject to provisions of the 1971 Act.

(d) That carcasses of animals of free-roaming wild horses and burros designated for disposal could be sold to rendering plants.

This recommendation would provide for utilization of animal products at a time when these products are in short supply. The prospect of not

utilizing the carcasses of excess animals impresses some of the public as a waste of a usable resource and as a lack of prudent management.

The utilization of excess animal carcasses in this manner would minimize conflict with State sanitary laws and regulations. It also would minimize the complaints and distress when and if the occasion arises where visitors to the public lands would observe wild horse or burro carcasses lying about.

The problem of carcass disposal has not been significant, to date, because the Agencies have not yet undertaken control programs. At this time, the dimensions of the problem are not predictable, although it is obvious there will be carcasses from excess animals. The Agencies will gain considerably more experience as they attempt capture and placement of excess horses and burros in the coming months and years.

Agencies' view- The Agencies believe this recommendation would be unnecessary if authorization is provided to sell or donate, without restriction, live animals to private parties.

(e) That aircraft, including helicopters and motorized vehicles, be used in capture and removal of excess animal numbers when the craft contains an employee of one of the two Departments.

(This recommendation could be accomplished by amending either the 1959 Act or the 1971 Act.)

Aircraft and motorized vehicles under the direct supervision of a Bureau of Land Management or Forest Service employee are the prospective means to effective and practical capture of animals for management or disposal.

It is the second element of the proposed two-part amendment discussed in 4c, above. No other alternatives, short of extravagant expenditures of funds, offer equal results. By comparison, organized mustanging groups have offered their assistance when the time comes for control. Realistically, however, a continuing, biologically and environmentally sound, humane capture program applied to a population estimate of 58,000 animals (17,000 of which are claimed), is far beyond the scope of such recreational activity. Further discussion on the difficulties and cost of capturing excess animals by traditional methods can be found under 3c, Control and Disposition of Excess Animals, and under 3b(2), Private Ownership Claims.

The use of aircraft and motorized vehicles in capturing or killing wild horses and burros at one time represented a threat to the continued existence of wild horses and burros, so much so that the Act of 1959 was passed forbidding their use for this purpose. Today, in a converse fashion, the use of aircraft and motorized vehicles is needed to help avoid the necessity of destroying surplus animals for which no other practical means of capture exists.

Agencies' view- The Agencies believe implementation of the Wild Horse and Burro Act can best be accomplished by authorizing the Secretaries of Agriculture and Interior to use aircraft and motorized vehicles to provide for the protection, management, and control of wild free-roaming horses and burros, such use to be in accordance with humane procedures prescribed by the Secretaries. Under no circumstance should this recommendation be interpreted to mean that mustanging would be allowed.

5. Reference material to this report

Four copies each of the following material were submitted to the Congress for use as reference material in reviewing this report.

a. Final environmental statements on proposed regulations for wild free-roaming horses and burros

- (1) BLM statement, July 3, 1973
- (2) Forest Service statement, July 6, 1973

b. Minutes of Advisory Board Proceedings-

- (1) Salt Lake City, Utah, January 12-13, 1973
- (2) Denver, Colorado, March 21, 22, 1973
- (3) Billings, Montana, July 16, 17, 1973
- (4) Lake Havasu City, Arizona, November 6, 7, 8, 1973
- (5) Washington, D.C., March 26, 27, 1974

The official records and proceedings of the National Advisory Board for Wild Free-Roaming Horses and Burros are available for public inspection in the Bureau of Land Management, Department of the Interior, 18th and C Streets, NW, Washington, D.C.



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

An Act

85 STAT. 641

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.

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.

85 STAT. 650

Destruction
or removal,
authority.

(b) Where an area is found to be overpopulated, the Secretary, after consulting with the Advisory Board, may order old, sick, or lame animals to be destroyed in the most humane manner possible, and he may cause additional excess wild free-roaming horses and burros to be captured and removed for private maintenance under humane conditions and care.

(c) The Secretary may order wild free-roaming horses or burros to be destroyed in the most humane manner possible when he deems such action to be an act of mercy or when in his judgment such action is necessary to preserve and maintain the habitat in a suitable condition for continued use. No wild free-roaming horse or burro shall be ordered to be destroyed because of overpopulation unless in the judgment of the Secretary such action is the only practical way to remove excess animals from the area.

(d) Nothing in this Act shall preclude the customary disposal of the remains of a deceased wild free-roaming horse or burro, including those in the authorized possession of private parties, but in no event shall such remains, or any part thereof, be sold for any consideration, directly or indirectly.

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 regula-
tions.

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

December 15, 1971

- 3 -

Pub. Law 92-195

85 STAT. 651

(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. 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. 10. 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.

Approved December 15, 1971.

LEGISLATIVE HISTORY:

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.

Dec. 17, Presidential statement.

Notices

DEPARTMENT OF AGRICULTURE

Office of the Secretary

WILD FREE-ROAMING HORSES AND BURROS

Protection on National Forest Lands

The Act of December 15, 1971 (85 Stat. 649), Public Law 92-195, provides for the protection of wild free-roaming horses and burros on the public lands administered by the Department of Agriculture through the Forest Service.

Section 3 of the Act places wild free-roaming horses and burros on National Forest lands under the jurisdiction of the Secretary of Agriculture for the purpose of management and protection.

Section 5 of the Act provides that a person claiming ownership of a horse or burro on these 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.

Section 8 of the Act provides that any person who

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

(2) Converts a wild free-roaming horse or burro on these public lands to private use, without authority from the Secretary of Agriculture, or

(3) Maliciously causes the death or harassment of any wild free-roaming

horse or burro on or from these public lands, or

(4) Processes or permits to be processed into commercial products the remains of a wild free-roaming horse or burro from these public lands,

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

(6) Willfully violates a regulation issued pursuant to the Act, shall be subject to a fine of not more than \$2,000, or imprisonment for not more than 1 year, or both.

Notice is hereby given that, as provided by the Act, rounding up, harassing, or removing any wild free-roaming horse or burro from public lands administered by the Forest Service is prohibited. Wild free-roaming horses or burros may be rounded up and removed from such lands only when written authorization has been obtained from the Forest Service.

Forest Service personnel will carry out the provisions of this notice and take such action as considered necessary to enforce the Act.

The Act also applies to lands administered by the Department of the Interior through the Bureau of Land Management. Any person wishing to round up or remove unauthorized horses or burros from public lands under the jurisdiction of the Bureau of Land Management should request authorization from the appropriate officer of the Bureau of Land Management.

EARL L. BUTZ,
Secretary of Agriculture.

FEBRUARY 28, 1972.

[FR Doc. 72-3267 Filed 3-3-72; 8:46 am]

Notices

DEPARTMENT OF THE INTERIOR

Office of the Secretary WILD FREE-ROAMING HORSES AND BURROS

Protection on Public Lands

The Act of December 15, 1971 (85 Stat. 649), Public Law 92-195, provides for the protection of wild free-roaming horses and burros on the public lands administered by the Department of the Interior through the Bureau of Land Management.

Section 3 of the Act places wild free-roaming horses and burros on these public lands under the jurisdiction of the Secretary of the Interior for the purpose of management and protection.

Section 5 of the Act provides that a person claiming ownership of a horse or burro on these public lands shall be entitled to recover it only if recovery is permissible under the branding and es-

tray laws of the State in which the animal is found.

Section 8 of the Act provides that any person who

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

(2) Converts a wild free-roaming horse or burro on these public lands to private use, without authority from the Secretary of the Interior, or

(3) Maliciously causes the death or harassment of any wild free-roaming horse or burro on or from these public lands, or

(4) Processes or permits to be processed into commercial products the remains of a wild free-roaming horse or burro from these public lands, or

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

(6) Willfully violates a regulation issued pursuant to the Act, shall be subject to a fine of not more than \$2,000, or imprisonment for not more than 1 year, or both.

Pursuant to this authority and responsibility given to the Secretary of the Interior under the Act, public notice is hereby given that rounding up, harassing, or removing from public lands administered by the Bureau of Land Management any horse or burro whose presence on such lands is not authorized by a license or permit, without written authorization from the Bureau of Land Management District Manager responsible for the management of such lands, is prohibited. Any person wishing to round up or remove unauthorized horses and burros from public lands must request authorization from the Bureau of Land Management District Manager.

Bureau of Land Management District Managers will carry out the provisions of this notice and take such action as considered necessary to enforce the Act.

The Act also applies to lands administered by the Department of Agriculture through the Forest Service. Any person wishing to round up or remove unauthorized horses or burros from National Forest lands must request authorization from the appropriate officer of the Forest Service.

HARRISON LOESCH,

Assistant Secretary of the Interior.

FEBRUARY 28, 1972.

[FR Doc.72-3268 Filed 3-3-72;8:46 am]



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

November 5, 1971

Instruction Memo No. 71- 398

Expires: 6/30/72

To: All SD's (except Alaska)

From: Director

Subject: Protection of Wild Horses and Burros - State and Local Cooperation

Legislation now pending before Congress would authorize the Secretary of the Interior to protect, manage and control wild horses and burros on public lands. The legislation would give the Secretary responsibility for protection of free-roaming horses which are both "unbranded and unclaimed." It would not affect private rights to horses or State laws relating to privately owned horses.

It has come to the attention of the Secretary that a concentrated effort may be underway to dispose of as many wild horses as possible before Federal legislation is passed to protect these animals on public lands. The Secretary has been requested to effect a moratorium on the capture and/or slaughter of wild horses during the interim period pending passage of final legislation by Congress.

Present legal jurisdiction over these animals on public lands is not clear, therefore, the Secretary has directed the Bureau to ask State and county authorities not to issue permits to round up horses on public lands unless acceptable measures are taken to protect "unbranded and unclaimed" horses which would be protected by the wild horse legislation.

You should take immediate steps to contact the governor and other State and county officials as appropriate and request their consideration and cooperation in this matter.

Burt Silcock



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

June 1, 1973

Instruction Memo No. 73-223
Expires 6/30/73

To: All SD's
From: Director
Subject: Wild Horse and Burro Management--Cooperation with State Agencies

Comments concerning the draft environmental statement and Secretary's proposed regulations for administration of wild free-roaming horses and burros have been received. The National Advisory Board has also reviewed the proposals and given their recommendations. We now anticipate the final statement can be issued by June of this year and the regulations 30 days thereafter.

With the regulations soon to become effective, it is probable that the claiming process for privately owned horses ranging on public lands will take on an extremely high initial priority. The National Advisory Board also recognizes this and has urged the Forest Service and Bureau of Land Management to complete cooperative agreements with the agency in each affected State which is responsible for administration of State livestock estray laws. We are asking that you attempt to complete such agreements by June 30.

In anticipation of this need, the Wyoming SD has worked out a tentative agreement with the State of Wyoming, and Forest Service has requested its Region 3 office to work one out with the State of New Mexico. Each contains items that the other does not. The Advisory Board gave some review to the agreements and, in general, voiced approval of the approach, although indicating that more specific ownership criteria were desirable.

The BLM and FS have taken what they feel to be the best features of Wyoming and New Mexico agreements along with Advisory Board suggestions and worked them into the enclosed sample agreement. When used, it obviously must be adjusted to fit each State's estray laws.

Tripartite agreements between State, BLM, and FS would be most desirable. However, we recognize that this may not always be possible. It is mandatory, however, that portions of agreements relating to ownership criteria and claiming procedure be identical for the BLM and FS in a State. This, of course, will require close cooperation in the formulation and execution of the agreements.

We hope that you will have good luck in executing cooperative agreements with the States. The Advisory Board, BLM, and FS all feel that a cooperative agreement which recognizes the law's requirements while fully involving the State in ownership determination will do much to harmonize a difficult situation.

As you seek to execute an agreement, seek help and counsel from your respective Field Solicitors. We would also caution that there are points which cannot be arbitrated, such as:

1. All horses and burros meeting the definition of wild and free-roaming are under the jurisdiction of the Federal Government.
2. Ownership must be established according to the State law, not customary practice in the State.
3. Any agreement must relate to wild free-roaming horses wherever they might be located and not just when "on the public lands."



1 Enclosure

Encl. 1--Sample Cooperative Agreement (See Appx. 11)



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

March 13, 1972

Instruction Memorandum 72-85

Expires 6/30/72

To: SD's, DM's, SCD's

From: Associate Director

Subject: Wild Free-roaming Horses and Burros; Public Notice

Attached are copies of the public notices published by the Secretaries of Interior and Agriculture in the Federal Register (37 Fed. Reg. 4729-4730) regarding protection of wild free-roaming horses and burros. Also attached are copies of the news release explaining the purpose of the notices.

The Department of the Interior notice will serve as interim rules pending establishment of a national advisory board, promulgation of regulations, and the development of management procedures.

Delegation of authority to field offices to take all actions under the Act except those provided in Section 8(b) (arrest authority) was published in the Federal Register February 11, 1972 (37 Fed. Reg. 3064).

As indicated in the public notice, authorization from the District Manager is required to round up or remove horses and burros not under a license, lease, or permit. Pending promulgation of regulations, do not: (1) authorize any person to round up or remove horses and burros not under a license, lease or permit where such removal would take place on areas where wild free-roaming horses and burros are known or suspected to frequent, or (2) transfer or remove animals except in emergencies and with approval from this office.

Send a copy of the notice to all grazing permittees, licensees, or lessees that have authorized use on areas frequented by wild horses or burros, and the appropriate U.S. attorney.

Field personnel should investigate any known or suspected violations of the Act and promptly report their findings to the appropriate field solicitor and U.S. attorney in accordance with Instruction Memo. 72-35.

Questions regarding protection of free-roaming horses and burros should be directed to the Director (330).

2 Enclosures

Encl. 1 - Fed. Reg. Notice (See Appx. 2)

Encl. 2 - News Release (See Appx. 4)

George C. Turrent



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

February 4, 1972

Instruction Memo No. 72-35
Expires 12/31/72

To: All SD's (except Alaska)

From: Associate Director

Subject: Wild Horses and Burros

On December 15, 1971, bill S. 1116 for the protection, management and control of wild free-roaming horses and burros on public lands was signed by President Nixon and designated Public Law 92-195.

In general, Public Law 92-195 places wild horses and burros which roam on public lands under the jurisdiction of the Secretary of the Interior. The Act also provides for:

1. protection
2. removal
3. private maintenance
4. recovery of privately owned domestic horses
5. an advisory board
6. cooperative agreements with private, State and local groups
7. penalty for violating the provisions of the Act
8. arrest of violators
9. relocation of wild horses or burros
10. reporting

Regulations and manual instructions are currently being drafted. This Instruction Memo provides interim directives pending approval of more complete guidance.

1. Jurisdiction. Assume that all horses or burros on public lands not covered by a current license, permit or lease are "wild free roaming horses or burros" until proven otherwise. All lands on which the Bureau of Land Management has direct or joint administration of the surface (excluding exchange of use, 4115.21A6) are considered public lands for the purposes of this Act. This includes lands administered by cooperative agreement. If you have any doubts about a particular tract of land you should request an opinion of your field solicitor.

2. Inventory. At the present time you should have general data regarding location and approximate numbers. Until specific instructions are given no intensive inventory should be initiated. However, you should take advantage of any opportunity to improve existing knowledge in conjunction with regularly scheduled field work.

3. Claims by owners. Section 5 of the Act makes it possible for persons claiming ownership of a horse or burro on public lands to recover it. In areas where wild horses or burros are known or suspected to roam, recovery of privately owned animals should be discouraged until the regulations and instructions have been published.

If recovery cannot be avoided it should be authorized by a letter which includes:

1. a general description of the lands from which the animals are to be recovered.
2. a specific time period including dates during which the animals are to be recovered.
3. the method of roundup.
4. other items which you deem necessary in the public interest.

Neither the Act (Pl. 92-195) nor Pl. 86-234 (use of motorized vehicles) may be violated by the owner when recovering private animals.

Before authorizing an individual to attempt to recover any animals the district manager should be reasonably sure that the claim is valid. Protection of wild horses and burros should be your primary concern. Prior to actually releasing a claimed horse or burro to private custody the claimant must prove ownership to the satisfaction of the district manager. The claimant must also present the district manager with some form of proof that the State agency charged with livestock inspection accepts his claim as valid.

4. Authorizing domestic horse or burro use. Until regulations and instructions are published no increase in authorized use for domestic horses or burros will be allowed on public lands where wild horses or burros are known or suspected to roam. Any applications to activate long standing nonuse for active cattle, sheep, or goat use should be reviewed carefully to determine the compatibility with wildlife and wild horse or burro forage that may be required and to protect the natural ecological balance.

5. Requests to remove wild horses or burros from private lands. Section 4 of the act requires removal of wild horses and burros from private lands if requested by the landowner. Such requests should be accommodated under the following conditions:

- a. The private lands are fenced or some natural barrier exists which would keep the animals from returning to the private lands and,
- b. The animals strayed from the public lands onto the private lands.

6. Violations of the act. Section 8 of the act provides authority for fine and imprisonment for certain actions and violations. Subsection (b) of Section 8 provides arrest authority to designated employees. Until designations have been made, Bureau employees do not have this authority and should not attempt to arrest alleged violators. If an employee sees or is told of a violation he should record as much information as is readily available regarding the circumstances of the violation. Try to obtain time of day, date, location, names of violators, names of witnesses, license numbers or other identification. Turn this information over to the nearest office of the U. S. Attorney. Don't attempt to gather or collect physical evidence unless it is likely to be destroyed before it can be examined in the field by the U. S. Attorney.

Each State Director should take appropriate steps to publicize the existence of this act and indicate what actions (Section 8) are prohibited.

All time and expenditures connected with wild horses and burros should still be coded to project number X000.

Until further notice do not: construct facilities for wild horses and burros; round up or relocate any wild horses or burros (except as in paragraph 5, above); initiate any wild horse or burro management plans; or designate any areas except as specifically approved in your FY 72 operating budget. Any actions taken adjacent to or near a national forest should be coordinated closely with the appropriate U. S. Forest Service office.

We would appreciate any comments which you believe might be useful in development of regulations and manual guidance. If you encounter a situation which requires immediate action not covered in this memo, please consult with the Division of Range, WO, immediately.

George L. Turcott



United States Department of the Interior

1761(330)

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

December 12, 1972

Instruction Memo No. 72-449, Change 1
Expires 6/30/73

To: All SD's (except Alaska)

From: Associate Director

Subject: Draft Regulations--Wild Free-Roaming Horse and Burro Management--District Advisory Board Recommendations
FD 1/2/73

The original Instruction Memo advised you that Subpart 4713.1 dealing with ownership claims of horses and burros might be revised after review by the Solicitor's Office. This revision, consisting of one page, is enclosed.

In addition to the review and recommendations by the district advisory boards, or informal comments if board meetings are not scheduled prior to the submission date, it would be desirable to receive review and comments from your local Field Solicitor.

Upon adoption of final regulations by the Secretary, there will be an obvious need to develop cooperative agreements with State agencies such as the State game and fish department and State department of agriculture (brand inspection). It appears to be desirable to initiate preliminary contact with these agencies as soon as possible relative to the groundwork for the type and content of agreement which may be required. We believe the proposed regulations would be sufficient for the preliminary discussions.

1 Enclosure
Subpart 4713 - Claimed Animals

Subpart 4713 - Claimed Animals.

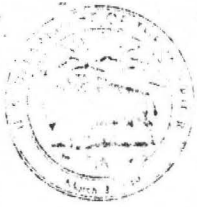
§ 4713.1 Removal of Claimed Animals.

(a) All unauthorized and unbranded horses and burros on the public lands, except those introduced onto public lands on or after December 15, 1971, by accident, negligence, or willful disregard of ownership, are presumed for the purpose of management to be wild free-roaming horses or burros.

(b) Any person claiming ownership of unauthorized and unbranded horses or burros must obtain written authorization from the authorized officer to round up and remove claimed animals from public lands. Claims must be based upon probable ownership.

(c) The authorized officer shall establish in the authorization a reasonable period to allow roundup of claimed animals. The method of roundup and removal shall include such conditions deemed necessary to minimize stress on associated wild free-roaming animals. Prior to removal from public lands of any gathered animals, the claimant shall substantiate proof of ownership in accordance with applicable State branding and estray laws. Such ownership shall be certified by the appropriate State official.

(d) Horses or burros proved to be privately owned in accordance with the provisions of this subpart will be considered to have been in trespass and may not be removed until a proper trespass charge has been determined by the authorized officer. In order to facilitate implementation of the Act no trespass charge will be assessed for animals for which claims of ownership are submitted within 90 days of the effective date of these regulations.



United States Department of the Interior

4500(330)

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

May 16, 1973

Instruction Memo No. 73-203
Expires 6/30/74

To: AFO's

From: Director

Subject: Wild Free-Roaming Horse and Burro Management

This memorandum summarizes and updates all previous instructions, memorandums, and messages on the Bureau's responsibilities and interim procedures relative to administration of PL 92-195 pending adoption of regulations by the Secretary and approved BLM Manual instructions.

The Act of December 15, 1971 (16 U.S.C. 1331-1340, PL 92-195), places wild free-roaming horses and burros on national resource lands under the jurisdiction of the Secretary of the Interior through the Bureau of Land Management. General provisions of the Act provide for:

1. protection
2. removal
3. private maintenance
4. recovery of privately owned domestic horses
5. an advisory board
6. cooperative agreements with private, State, and local groups
7. penalty for violating the provisions of the Act
8. arrest of violators
9. relocation of wild horses or burros
10. reporting

Current actions being taken by the Bureau include:

1. Preparation of the final environmental impact statement.
2. Preparation of the final regulations.
3. Preparation of a model cooperative agreement to be executed by the State Directors and the State officials administering the State branding and estray laws. This will provide the criteria for adjudicating claims in accordance with Section 5 of the Act.
4. Preparation of the BLM Manual release relative to wild free-roaming horse and/or burro management.

Pending issuance of the above policies and procedures the following policies and directives are to be strictly followed:

1. Jurisdiction. The Act defines "wild free-roaming horses and burros" as all unbranded and unclaimed horses and burros on the public lands. Therefore, assume that all unbranded horses or burros which utilize national resource lands as any part of their habitat and not covered by a current license, permit or lease are "wild free-roaming horses or burros" until claimed and proven otherwise. All lands on which the Bureau of Land Management has direct or joint administration of the surface (excluding Exchange-of-Use, BLM Manual 4115.21A6) are considered national resource lands for the purposes of this Act. If you have any doubts about a particular tract of land you should request an opinion from this office.

2. Inventory. Inventory of horses and burros utilizing national resource lands as all or a part of their habitat should be made as soon as manpower and funds are available. Extreme care should be exercised that you do not classify these animals as wild free-roaming horses and/or burros at this time because they may fall into one or more of the following categories:

- A. Branded and/or unbranded horses or burros under license, lease, or permit.
- B. Branded and/or unbranded claimed animals in trespass.
- C. Branded and/or unbranded abandoned animals.
- D. Wild free-roaming animals.

An inventory of wild free-roaming horses and/or burros and the habitat they occupy will be required after the claiming process has been completed in an area or planning unit to provide data for the Bureau's Planning System and management decisions.

3. Claims and removal of privately owned horses and/or burros. Only horses and/or burros currently authorized under license, lease or permit can be removed from national resource lands pending further notice. The district manager must analyze each situation and be assured that only horses or burros actually authorized by license or lease are removed upon request or as licenses or leases expire.

If the authorized horses or burros are unbranded, written authorization from the district manager will be required prior to gathering and removal of these animals from national resource lands. The authorization will stipulate any conditions the district manager deems appropriate in addition to the following stipulations:

- A. An affidavit by the licensee, lessee or permittee asserting ownership and willingness to defend title to the unbranded animal.
- B. After unbranded animals have been gathered they must be inspected by State official responsible for State branding and estray laws and a copy of the certificate provided the DM.
- C. Adequate notice to DM of gathering plans so gathering operation can be supervised to assure humane treatment and care in handling.

In cases where the requests to gather authorized unbranded horses or burros are in areas which may be occupied by wild free-roaming horses or burros (that is, unbranded and unclaimed horses and burros) the following procedure is required:

- A. The district manager will not issue authorization to gather the animals until:
 - (1) A public notice and/or press release of the intent to gather and remove the animals has been published in the local newspaper and/or posted at other locations and provided individuals as the district manager deems appropriate.
 - (2) Public reaction to the notice is analyzed and appropriate actions taken to accommodate the public interest. Examples of actions which may be appropriate include public meeting, tour of the area, and the opportunity for the public to observe the gathering operations.

4. Authorizing domestic horse or burro use. Until regulations and instructions are published no increase in authorized use for domestic horses or burros will be allowed on national resource lands. Any application to activate long standing nonuse for cattle, sheep, or goat use should be reviewed carefully to determine the compatibility with wildlife and wild horse or burro forage which may be required and to protect the natural ecological balance.

The district manager should consider the desirability of placing a stipulation on future horse and burro grazing authorizations which would require the animals to be branded if the area of use is in or near areas where the authorized animals may become mixed with known or suspected wild free-roaming horses and/or burros.

5. Requests to remove wild horses or burros from private lands. Section 4 of the Act requires removal of wild horses and burros from private lands if requested by the landowner. Such requests should be accommodated under the following conditions:

- A. The private lands are located in "open range" areas under the State statutes and are enclosed in a "legal fence" or some other natural barrier exists which will keep the animals from returning to the private land. A "legal fence" for this purpose is one which complies with State standards and specifications.
- B. The private lands are located in "no fence districts" or other areas where the private landowner is not required by State statute to fence the private land to protect it from trespass by domestic livestock.

6. Violations of the Act. Section 8 of the Act provides authority for fine and imprisonment for certain actions and violations. Subsection (b) of Section 8 provides arrest authority to designated employees. Until designations have been made, Bureau employees do not have this authority and should not attempt to arrest alleged violators. If an employee sees or is told of a violation he should record as much information as is readily available regarding the circumstances of the violation. Try to obtain time of day, date, location, names of violators, names of witnesses, license numbers, or other identification. Turn this information over to the nearest office of the U.S. Attorney through the State Director. Do not attempt to gather or collect physical evidence unless it is likely to be destroyed before it can be examined in the field by the U.S. Attorney.

Each State Director should take appropriate steps to publicize the existence of this Act and indicate what actions (Section 8) are prohibited.

All general time and expenditures connected with wild horses and burros should be coded to project B000. Direct expenses connected with the functions of the National Wild Horse and Burro Advisory Board are coded to project B001.

Until further notice do not: construct facilities for wild horses and burros; round up or relocate any wild horses or burros (except as in paragraph 5, above); implement any wild horse or burro management plans; or designate any specific wild horse or burro ranges. Any actions taken adjacent to or near a national forest should be coordinated closely with the appropriate Forest Service office.

Unusual situations not covered by this memorandum should be brought to the attention of the Director (330) for further advice.

Burt Gilson



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

July 31, 1973

Instruction Memo No. 73-324
Expires 12/31/73

To: All SD's (except Alaska)

From: Associate Director

Subject: Law Enforcement Training - FD 8/15/73

As you know, the Department is obligated under Section 8(b) of PL 92-195 (Wild Horse and Burro Act) to take action against persons violating the act. In testimony before the House Appropriations Subcommittee this year the Director stated that the Bureau would be training individuals for enforcement responsibilities.

Guidelines for selection should consider that the designated individual will have the power of arrest without warrant for a violation occurring in his presence. The individual must have the aptitude, temperament, ability, and training necessary to carry out this very sensitive responsibility. We see the enforcement role of these trained employees as primarily associated with the investigation of reported violations of the act and collection of evidence for referral to or in cooperation with law enforcement authorities. It must be emphasized that we anticipate the duties performed relating to enforcement activities will be minimal compared to other responsibilities in carrying out the wild horse and burro program. The individual will be expected to complete a Non-Critical Sensitive Clearance for Suitability (Standard Form No. 86) and to maintain this suitability during his employment.

The 1974 AWP Directives advised the States to select at least one individual to attend a designated training course in enforcement (page G-70). Arrangements have been made with the Consolidated Federal Law Enforcement Training Center in Washington, D.C., to provide training on a space available basis to Bureau employees. The course will last 8 weeks with travel and per diem chargeable to the WO (08-510/1220/1216/B000).

Class starting dates for the Criminal Investigator School are August 20, September 10, October 1, and October 23. Selected employees should be prepared to report to Washington for the training on short notice. Lodging arrangements will be made at a later date to accommodate individual needs. You may want to indicate a class schedule preference and when notification of available training slots is received we will advise selected participants through the State Directors.

Please submit your nominations with supporting biosketch, SF-86, and DI-510 to the Director (330) by August 15.

2 Enclosures
Encl. 1--Form 1400-87
Encl. 2--Criminal Investigator School Training Schedule

TITLE 2200 - RANGE MANAGEMENT

c. Promote stability of family ranches and farms within local communities in the areas of which the National Forests and National Grasslands are a part.

d. Exert a favorable influence for securing sound conservation practices on associated private and other related lands.

2. Under title III of the Bankhead-Jones Farm Tenant Act and the Secretary's order emanating therefrom, additional objectives in the administration of the National Grasslands include:

a. Promoting the development of grassland agriculture in the areas of which the National Grasslands are a part, thereby encouraging the retirement of lands which are not principally suitable for cultivation, and thus assisting in controlling soil erosion and preservation of natural resources.

b. Securing sound land conservation practices on associated lands by relating the use of National Grasslands with associated lands of all ownerships.

c. Demonstrating livestock grazing associated with other resources, such as wildlife and recreation, in a way that, when practiced by private landowners, will give greatest returns from private investments in multiple use management and the best public use of all lands, both public and private, in the area.

2203 - POLICY

*-2203.1 - For All Forest Service-Administered Lands

1. Make Forest Service-administered lands suitable for livestock grazing available for use by qualified livestock operators.

2. Develop the range resources to their reasonably attainable potential, and manage them on a sustained yield basis in harmony with other uses and resource values.

3. Provide reasonable tenure of grazing use thus lending stability to the local communities and to the established ranching operations.

4. Protect the established family farms and ranches against unfair competition in using Forest Service administered range.

5. Correlate the use of Forest Service administered range with the use of dependent private lands. -*

TITLE 2200 - RANGE MANAGEMENT

-2203.2 - Additional Policy on the National Grasslands

1. Integrate rangelands of all ownerships into logical land management units administered where possible through organizations of local grazing users. These cooperatives will be encouraged to obtain control of all lands within their boundaries needed for sound land programs in accord with the Bankhead-Jones Farm Tenant Act.

2. Demonstrate range management and livestock use in association with other multiple uses on mixed ownership land management units.

2203.3 - *-Wild Free-Roaming Horses and Burros. There are numerous legislative proposals currently pending that would make the wild horse and burro "national heritage species" and provide protection for them on public lands.

The terminology for these animals as usually found in the proposed legislation refers to "wild free-roaming horses and burros," meaning all unbranded and unclaimed horses and burros on public lands of the United States.

Inasmuch as the Forest Service recognizes a true multiple use value in wild horses and burros, is sympathetic to the need for their controlled protection and management and recognizes the urgency of this need, the following temporary policy is established:

1. Wild free-roaming horses and burros will be given protection. Their capture, pursuit, or other harassment will not be permitted on National Forest System lands.

2. This protection shall be considered to extend to all unclaimed and/or unbranded horses and burros, the exception being those unbranded or unclaimed animals whose private ownership is recognized and established by the law or laws of the various States. Forest officers shall continue as presently provided to require the legal owners of these animals to remove them or as necessary shall take direct action to remove them (FSM 2239, 5333). All others shall be protected as defined above and are not to be unduly interfered with in the retrieval of owned horses or burros.

This policy is temporary and is intended to protect the wild herds from further decimation until laws pertaining to their final status are enacted and/or a policy of management is adopted by the Forest Service. -*

DEPARTMENT of the INTERIORnews release

U.S. DEPARTMENT OF THE INTERIOR
U.S. DEPARTMENT OF AGRICULTURE

For Release to PM's Thursday, March 3, 1972

INTERIOR AND AGRICULTURE MOVE TO PROTECT WILD HORSES
AND BURROS ON PUBLIC LAND

Secretary of the Interior Rogers C. B. Morton and Secretary of Agriculture Earl L. Butz reminded the general public today that wild horses and burros on public land are now protected by the Federal Government. A public notice being published in the Federal Register emphasizes that Congress in an Act signed by President Nixon December 15, 1971, has placed free-roaming wild horses and burros under the jurisdiction of the two Departments.

The Secretaries said that the purpose of the notice is to acquaint the public with the restrictions of the law while the two Departments are preparing regulations to implement all provisions of the Act that pertain to lands administered by the Bureau of Land Management and the Forest Service. The two Secretaries also stressed that the law is now in effect, and that persons who violate its provisions are subject to its penalties even though the Departments have not yet published detailed regulations.

The Act provides for the following:

--All wild horses and burros on public land are under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture for the purpose of management and protection.

--Persons claiming ownership of a horse or burro on public land shall be entitled to recover it only if recovery is permissible under the branding and estray laws of the State.

--A fine of not more than \$2,000 or imprisonment for not more than one year or both for persons who, without written authorization from the Secretary of the Interior (1) remove a wild free-roaming horse or burro from public land, or (2) convert a free-roaming horse or burro to private use.

The Act also provides for a fine and imprisonment for any person who:

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

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

(3) sells directly or indirectly a wild free-roaming horse or burro maintained on public land.

DEPARTMENT of the INTERIOR

news release

BUREAU OF LAND MANAGEMENT

For Release March 7, 1973

Herndon (202) 343-5717

ADVISORY BOARD FOR WILD AND FREE-ROAMING HORSES AND BURROS SCHEDULES SECOND MEETING IN COLORADO

The second meeting of the recently formed advisory board to the Secretaries of Agriculture and Interior for the management of wild horses and burros will be held March 21-22 in Denver, Colorado.

Secretary of Agriculture Earl L. Butz and Secretary of the Interior Rogers C. B. Morton will receive recommendations from the Board on proposed regulations concerning the protection, management and control of wild free-roaming horses and burros on public land administered by the Bureau of Land Management and the Forest Service.

The meeting will be held in the Continental Denver Motor Inn located at Valley Highway and Speer Boulevard. Meetings will start at 8:30 a.m.

Written statements may be filed with the Board by any interested party and time for a limited number of oral statements from members of the public will be available during the meeting. Arrangements for making oral statements must be made in advance with the Chairman, Dr. C. Wayne Cook, care of the Director (330) Bureau of Land Management, Washington, D. C. 20240. Written statements may be sent to the same address before or after the meeting.

Present members of the Advisory Board are: Dr. C. Wayne Cook, Fort Collins, Colorado; Dr. Floyd W. Frank, Moscow, Idaho; Ben Glading, Sacramento, California; Dr. Roger Hungerford, Tucson, Arizona; Mrs. Velma Johnston, Reno, Nevada; Ed Pierson, Laporte, Colorado; Mr. Dean Prosser, Jr., Cheyenne, Wyoming; Mrs. Pearl Twyne, Great Falls, Virginia; Mr. Roy Young, Elko, Nevada.

x x x

INT: 4297-73

DEPARTMENT of the INTERIORnews release

BUREAU OF LAND MANAGEMENT

For Release August 16, 1973

Herndon (202) 343-5717

INTERIOR AND AGRICULTURE ISSUE WILD HORSE REGULATIONS FOR LANDS
ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT AND THE FOREST SERVICE

The U.S. Departments of the Interior and of Agriculture have announced new amendments to the Code of Federal Regulations to implement the Wild and Free-Roaming Horses and Burros Act of 1971.

The 1971 Act provides for the protection, management, and control of wild horses and burros associated with National Forests, which are administered by Agriculture's Forest Service, and the National Resource Lands -- formerly called public lands -- which are administered by Interior's Bureau of Land Management. Agriculture's regulations apply only to the National Forests, and Interior's apply only to the National Resource Lands. The regulations of both Departments, however, have been jointly developed and essentially are the same.

The regulations call for the management of wild horses as an integral part of the natural systems of Federal lands. Animals are protected from unauthorized capture, branding, undue disturbance, and slaughter. BLM personnel are authorized to reserve public land forage for wild horse use and to reduce domestic livestock grazing where necessary to provide for wild horse needs.

The new rules also provide for the removal from Federal lands of animals claimed by private owners prior to November 15, 1973; prohibit the sale of wild horses or their carcasses; and allow authorized personnel to destroy animals when other means of disposal prove impractical or where humane considerations require it.

X X X

DEPARTMENT of the INTERIOR

news release

BUREAU OF LAND MANAGEMENT

For Release October 11, 1973

Herndon (202) 343-5717

JUSTICE DEPARTMENT DECLINES CRIMINAL PROSECUTION IN IDAHO HORSE ROUNDUP

The U.S. Department of the Interior and the U.S. Department of Agriculture announced today that they were informed by the Department of Justice that prosecution of any of the individuals involved in the roundup of horses which occurred last February on Federal lands near Howe, Idaho, has been declined because the available evidence is considered to be insufficient to successfully prosecute. However, the Department of Justice added that if further evidence should develop indicating criminal activity by any person involved in the roundup, the declination of prosecution would be reconsidered.

The two Departments also announced plans concerning the surviving horses now located in North Platte, Nebraska, which were taken into protective custody after the roundup. Because the declination to prosecute does not constitute a determination of ownership, the horses will be returned to Idaho and held in the custody of the two Departments until it can be determined whether or not they were, or can be, properly claimed as privately owned animals pursuant to State law in accordance with Section 5 of the Wild Free-Roaming Horse and Burro Act. If no valid claims are made the horses will be held until spring and then released on public lands in the Little Lost River Valley where the roundup occurred.

x x x



United States Department of the Interior

4700(330)

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

September 26, 1973

Information Memo No. 73- 212

Expires: 6/30/74

To: AFO's

From: Assistant Director, Resources

Subject: Wild Horses and Burros

The regulations for implementing Public Law 92-195 became final on August 15, 1973. Most State Offices have reached or will soon execute a cooperative agreement with State officials administering the State branding and estray law. These agreements provide the criteria for adjudicating claims of ownership in accordance with Section 5 of the Act (PL 92-195).

Questions have been raised on the gathering of authorized horses on national resource lands. Information Memo No. 73-203 remains in effect for the licenses now issued. The necessity of filing claims for all authorized unbranded horses is required to protect the interest of the public regarding free-roaming wild horses and burros during the claiming process. This will cause additional work on the part of field offices, but will insure the Bureau's compliance in the protection, management, and control of wild free-roaming horses and burros under the Act.

We are reviewing with the Solicitor's Office a policy to require that all licensed horses and burros, beginning with the 1974 grazing season, be branded prior to being turned onto national resource lands. If approved, this will require the issuance and publication of new regulations before the next grazing season.

A handwritten signature in cursive script that reads "Paul L. Howard".

Acting



United States Department of the Interior

9233(330)

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240Instruction Memo No. 73-411
Expires: 6/30/74

October 1, 1973

To: All SD's and DM's

From: Assistant Director, Resources

Subject: Grazing Trespass Charges--Unauthorized Domestic Horses and Burros

A uniform procedure in all States is desirable for establishing grazing trespass charges during the claiming and gathering process as we move ahead with the implementation of PL 92-195.

The primary purpose of the claiming process is to allow a person to claim his animals and to remove, upon proof of ownership, any privately owned horses or burros and enable us to proceed with an orderly wild horse and burro management program. Any trespass charges must be reasonable and determined on a case-by-case basis keeping in mind the extensive evidence and detail necessary to carry a case through administrative and court review.

Since an earlier directive (Instruction Memo No. 72-35 (expired)) from this office discouraged the claiming and recovery of privately owned animals until such time as regulations implementing PL 92-195 were published, horse and burro use subsequent to February 4, 1972, will not be considered trespass and value of the forage consumed can be assessed at the regular horse grazing fee rate during the grazing use period based upon information provided by the claimant and other available data. Unauthorized grazing use by horses and burros prior to February 4, 1972, will be considered as trespass and subject to settlement under the grazing trespass regulations. Items subject to arbitration in determining AUM's used include length of time animals have used public lands, age of animals, percentage of public lands in the area grazed, and whether the animals have been off public lands part of the year or seasons of the year.

If Settlement of Trespass Obligation Offer, Form 9239-1, is not acceptable to the DM or not submitted in response to the Trespass Notice, Form 9230-1, the DM will consult the Field Solicitor (through current arrangements with the respective SD's) for alternative guidance and compromise considerations (BLM Manual 9230.61) before a demand is issued on the trespasser.

Paul L. Howard

Acting



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

October 18, 1973

Instruction Memo No. 73-443

Expires: 6/30/74

To: AFO's

From: Director

Subject: Branding of Licensed Horses and Burros

It is becoming increasingly evident as the Bureau initiates the wild horse and burro program that the identification of privately owned horses on the national resource lands is a significant problem because many of these animals do not carry brands or other markings. There are numerous areas where the historic practice of turning out privately owned horses and burros has resulted in a hodgepodge of conflicting claims of ownership and an administrative nightmare for field personnel attempting to regulate authorized use.

As the Bureau enters into claiming operations of private animals in connection with PL 92-195, the lack of brands will result in considerably more effort in adjudicating claims and supervising removal of animals than in those cases where the animals are branded. Consequently, we are proposing rulemaking to amend 43 CFR Parts 4112 and 4122, which will require that all authorized livestock over six months of age carry a registered brand or mark (copy of proposed rulemaking enclosed).

The proposed regulation change should be presented at district advisory board meetings scheduled this fall. However, until rulemaking becomes final, any authorization issued for horse or burro grazing use will require the animals to be properly branded.

In addition to expediting claiming operations in connection with PL 92-195, the branding requirement will simplify grazing trespass administration involving all classes of livestock. The action is also responsive to individuals and horse protection groups who have expressed concern that horses thought to be wild and free-roaming have been rounded up by individuals claiming ownership of the animals. The fact that unbranded horses are observed on the open range naturally leads many people to believe that these horses are, in fact, wild and free-roaming, and should remain that way.

As management framework plans are accomplished on areas inhabited by wild and free-roaming horses and burros, decisions will have to be made concerning the continued authorized use of domestic horses and burros in those same areas. Attention to obvious conflicts in the planning process will reduce management problems as resource action plans are implemented.

Ernst Backlund.

1 Enclosure

Encl. 1--Proposed Rulemaking - 43 CFR Parts 4112 and 4120



United States Department of the Interior

4700(330)

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

February 20, 1974

Instruction Memo No. 74-52
Expires 6/30/74

To: SD's and DM's

From: Associate Director

Subject: Wild Horse and Burro Population, Supplemental Feeding, and
Advisory Board

Since publication of the wild horse and burro regulations on August 15, 1973, concern has been expressed on a number of issues that need further clarification.

1. Significant wild horse and burro population increases have been reported in some areas. You may take steps to maintain wild horse and burro populations at the 1971 level pending the completion of management plans where resource damage is occurring and planning will be delayed. Any proposed animal reduction program must be coordinated with the State Director and WO.

2. Recent newspaper articles have speculated on this winter's range conditions and feed shortages for wild horses and burros. These articles have generated numerous letters as to our policies on supplemental feeding.

You should resort to supplemental feeding only in unusual and extreme circumstances when herd populations are threatened. We must recognize winter losses as one of nature's ways of selection and population control as it is recognized in other wildlife situations.

3. Some offices have asked as to the role of the WH&B Advisory Board in local operational matters. In addition to the role set forth in the regulations (4711.1), you can find further elaboration in the proceedings of the first meeting of the Advisory Board at Salt Lake City on January 12 and 13, 1973.

Following are pertinent excerpts from Associate Director Turcott's comments at the meeting:

- You have been selected because of your talents. You are not representatives of any special group or interest. Your advice is needed from the full scope of your talents and cannot be limited by past or present affiliations.

- In our management and therefore in your advice you must give full weight to the values placed on these animals by the people as a whole. We cannot be unduly influenced by value systems of special groups of our citizenry.
- By Act of Congress and approval of the President, the Secretaries of Agriculture and Interior have full responsibility for the wild horse and burro program. Thus, they have to make the decisions. In the Act the Congress recognized the need for the highest level of advice from qualified citizens. This is your job.
- A desire may arise for the Board to concern itself with the multiplicity of individual actions that must be taken in the implementation of the law, the regulations, policies, and guidelines. We have viewed this Board as operating at the highest levels of program control and not at the local implementation levels.
- In accepting service on this Board you have, of course, not given up your rights as individual citizens. In that capacity you may individually wish to participate in the public participation process at the District, State and regional levels. I know you are all skilled enough to make it clear when you are acting in your individual capacities and when you are acting in your advisory role at the national level.

The issues raised in 1, 2, and 3 above have been discussed with the Wild Horse and Burro Advisory Board members and they support the general approach outlined.

George L. Truett



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

MANUAL TRANSMITTAL SHEET

Release
4-48
Date
10/23/73

Subject

4710 - WILD FREE-ROAMING HORSE AND BURRO MANAGEMENT

1. Explanation of Material Transmitted: This release provides guidance for the establishment of the Bureau's Wild Free-Roaming Horse and Burro Management program.
2. Reports Required: None.
3. Material Superseded: None.
4. Filing Instructions: After the attached sheets have been filed as directed, this Transmittal Sheet may be discarded.

REMOVE

None

INSERT

4710

(Total: 2 sheets)

Ed Hartey

Associate Director

Acting

4710 - WILD FREE-ROAMING HORSE AND BURRO MANAGEMENT

Table of Contents

- .01 Purpose
- .02 Objectives
- .03 Authority
- .04 Responsibility
- .05 Definitions
- .06 Policy
- .07 Public Participation

4711 - MANAGEMENT COORDINATION

4712 - MANAGEMENT CONSIDERATION

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND BURROS IN THE
IDENTIFICATION AND REMOVAL OF CLAIMED AND TRESPASS HORSES
AND BURROS

4714 - ENFORCEMENT PROVISIONS

4710 - WILD FREE-ROAMING HORSE AND BURRO MANAGEMENT

.01 Purpose. This section provides instructions and guidelines required to implement the Wild Free-Roaming Horse and Burro Management Act of December 15, 1971.

.02 Objectives. The objectives are to:

A. Provide uniform and effective direction for the management and protection of wild free-roaming horses and burros on national resource lands.

B. Establish a natural ecological balance to benefit wild free-roaming horses and burros.

.03 Authority.

A. Basic.

1. Wild Free-Roaming Horse and Burro Management Act of December 15, 1971 (16 U.S.C. 1331-1340), PL 92-195.

B. General.

1. Taylor Grazing Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315, as amended).

2. O. and C. Act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a).

3. Endangered Species Preservation Act of October 15, 1966 (80 Stat. 926; 16 U.S.C. 668, as amended).

4. Title I of the Public Land Administration Act of July 14, 1960 (74 Stat. 506; 43 U.S.C. 1361).

5. National Environmental Policy Act of 1969, January 1, 1970 (83 Stat. 852).

.04 Responsibility.

A. The Director and Associate Director are responsible for the overall management of wild free-roaming horses and burros on national resource lands administered by BLM.

B. The Assistant Director, Resources, through the Chief, Division of Range, is responsible for developing and implementing procedures for the protection of wild free-roaming horses and burros.

.04C

4710 - WILD FREE-ROAMING HORSE AND BURRO MANAGEMENT

C. State Directors and District Managers as authorized officers are responsible for assuring the protection of wild free-roaming horses and burros on the lands they administer, consistent with the procedures set forth in this Manual section.

.05 Definitions. (Reserved)

.06 Policy. It is Bureau policy that:

A. Administration of the public lands provide for the management, protection and control of wild free-roaming horses and burros.

B. Wild free-roaming horses and burros be protected from capture, branding, harassment, or death.

C. Wild free-roaming horses and burros must be managed in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands.

D. All management activities must be at a minimum feasible level and 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.

E. Adjustments in forage allocation on any such land must take into consideration the need of wildlife species and authorized livestock which inhabit such lands.

F. Management of wild free-roaming horses and burros will not be assigned to any private individual or association through a grazing license, lease, or permit.

.07 Public Participation. A primary concern relative to all aspects of administration of PL 92-195 must be adequate public information, education, and participation. A plan and schedule must be developed by the Director's Office and each State and District Office involved in this activity to assure adequate public participation in accordance with the procedures outlined in BLM Manual 1127.



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

MANUAL TRANSMITTAL SHEET

Release

4-49

Date

10/23/73

Subject 4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

1. Explanation of Material Transmitted: This release provides procedures for the claiming and removal of trespass horses and burros for unauthorized grazing on the national resource lands.
2. Reports Required: None.
3. Material Superseded: None.
4. Filing Instructions: After the attached sheets have been filed as directed, this Transmittal Sheet may be discarded.

REMOVE

None

INSERT

4713

(Total: 22 sheets)

Ed Hartley
Associate Director

Acting

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

TC-1

Table of Contents

- .01 Purpose
- .02 Objectives
- .03 Authority
- .04 Responsibility
- .05 Definitions
- .06 Policy

- .1 General

- .2 Action on Claims
 - .21 Filing of Ownership Claims
 - A. State-BLM Cooperative Agreements
 - B. Other Ownership Criteria
 - .22 District Manager's Decision
 - .23 Claiming Schedule
 - .24 Public Meetings
 - .25 Gathering Authorization
 - .26 Gathering Procedures
 - .27 Trespass Charges

- .3 Action in Absence of Claims
 - .31 Closure
 - A. Notice of Closure
 - B. Publication of Notice
 - C. Coordination
 - .32 Impoundment
 - A. Determining Location of Trespass Animals
 - B. Impoundment Facilities
 - C. Care and Handling of Impounded Animals
 - D. Ownership Determination

- .4 Disposal of Unclaimed Trespass Horses and Burros
 - .41 Repossession
 - A. Redeemed by Their Owners
 - .42 Transfer
 - .43 Disposal by Sale
 - A. Notification of Sale
 - B. Conduct of Sale
 - .44 Other Disposal

- .5 Records and Filing

TC-2 4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
 BURROS IN THE IDENTIFICATION AND REMOVAL
 OF CLAIMED AND TRESPASS HORSES AND BURROS

Illustrations

1. Affidavit and Claim of Ownership of Horses or Burros on Public Lands (Form 4710-1)
2. Acknowledgement of Claim of Ownership of Horses or Burros and Decision of the District Manager (Form 4710-2)
3. Authorization to Gather Claimed Horses and Burros (Form 4710-3)
4. Notice of Closure (Form 4710-4)
5. Notice of Sale of Impounded Horses and Burros (Form 4710-5)
6. Notice to Owners of Impounded Horses and Burros (Form 4710-6)
7. Bill of Sale of Impounded Horses or Burros (Form 4710-7)
8. Horse and Burro Claims Record (Form 4710-8)
9. Suggested Format for Cooperative Agreement Between the [State] Livestock Board and the Bureau of Land Management
10. Suggested Format for Information Plan - Wild Horse and Burro Management

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND BURROS IN THE IDENTIFICATION AND REMOVAL OF CLAIMED AND TRESPASS HORSES AND BURROS .01

.01 Purpose. The purpose is to provide procedures for:

- A. Filing of ownership claims for horses and burros found grazing on national resource lands without authorization.
- B. Determining validity of ownership claims.
- C. Processing of ownership claims.
- D. Removing of such animals when claims are found to be valid.

.02 Objectives. The objectives are to assure that wild horses and burros are provided adequate forage opportunities by:

- A. Identifying and removing validly claimed trespass horses and burros from the national resource lands.
- B. Removing other trespass horses and burros for which a claim has not been filed.

.03 Authority. (See BLM Manual 4710.03.)

.04 Responsibility.

- A. Director and Associate Director. (See BLM Manual 4710.04A.)
- B. Chief, Division of Range. (See BLM Manual 4710.04B.)
- C. State Directors and District Managers as authorized officers are responsible for:
 - 1. Coordinating the development of valid ownership criteria with appropriate State and Federal agencies.
 - 2. Assuring adequate public participation in the claiming process.
 - 3. Consulting with the Field Solicitor on all matters relating to the claiming, recovering, and sale of trespass animals.
 - 4. Complying with the provisions of this Manual section.

.05

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

.05 Definitions.

A. Trespass horses or burros:

1. Unauthorized animals, either branded or unbranded, grazing on public lands and described in a valid claim. They may be further divided into:

- a. Those removed after proper authorization.
- b. Those not removed after proper authorization.
- c. Those removed without authorization.

2. Unclaimed, branded animals grazing on public lands.

3. Branded or unbranded animals abandoned upon public lands after December 15, 1971.

.06 Policy. It is Bureau policy that public participation techniques be fully utilized to acquaint the public with the regulations and procedures relating to the claiming of trespass horses and burros. A public participation plan and schedule must be prepared by the Director's Office, each State Director, and each District Manager covering the claiming process. (See Illustration 10 for a format of a public information and participation plan.)

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

.1 General. 43 CFR 4713.1(b) states:

"The gathering or rounding up of unbranded horses or burros on the public lands where any of such animals are not in fact authorized to be on the public lands pursuant to a grazing license, permit, lease, or other authorization, is prohibited without written notice from the authorized officer. Also prohibited without written notice from the authorized officer, is the gathering or rounding up of unauthorized branded horses or burros where the branded animals are, or may become, intermingled with wild free-roaming horses or burros, or where the gathering or round up is likely to involve or affect wild free-roaming horses or burros."

All authorized officers must assure that the above statement is complied with.

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

.2 Action on Claims.

.21 Filing of Ownership Claims. Ownership claims are filed with the District Manager on Affidavit and Claim of Ownership of Horses or Burros on Public Lands, Form 4710-1, supported by valid proof of ownership, as outlined below (see Illustration 1).

A. State-BLM Cooperative Agreements. State Directors must attempt to develop cooperative agreements with the State agency, or agencies, responsible for branding and estray laws, detailing criteria for valid proof of ownership (see Illustration 9).

1. Field Solicitor. Cooperative agreements should be coordinated with the responsible Field Solicitor.

2. Forest Service. Since the Forest Service (USDA) plays a substantial role in the management of wild horses and burros, it is desirable to include them in the formulation and execution of the agreement, even though they may not be a party to the agreement. It is essential that procedures relating to ownership criteria and claiming be identical between the FS and BLM in each State.

B. Other Ownership Criteria. In the absence of a State-BLM cooperative agreement, the District Manager, with the Field Solicitor's advice, must determine criteria for valid ownership. Such ownership evidence may include:

1. Bill of sale meeting State legal requirements, fully describing the claimed animal(s).

2. Valid inspection certificate issued by the State on a previous occasion, fully describing the animal(s), which clearly identifies claimant's ownership.

3. Valid brand exemption certificate issued on a previous occasion, fully describing the animal(s), which clearly identifies claimant's ownership.

4. Tax receipt identifying the claimant as having paid personal property tax on the claimed animal(s).

5. Common knowledge that the animal(s) claimed is (are) progeny of a mare, or mares, owned by the claimant.

.22 District Manager's Decision. Based on the above criteria, the District Manager determines validity of claim and notifies the claimant on Acknowledgement of Claim of Ownership of Horses or Burros and Decision of the District Manager, Form 4710-2 (see Illustration 2). This form must be served personally or sent by certified mail, return receipt requested.

.23 4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

.23 Claiming Schedule. District Manager formulates a schedule for the removal of horses or burros for which claims have been validated. The schedule must conform to overall District planning priorities and cause minimum disturbance to wild free-roaming horses or burros. Another consideration is the grazing authorization expiration date for domestic horses and burros.

.24 Public Meetings. Meetings should be held with the public, claimant(s), and other interested parties to coordinate plans and dates for gathering and removal of owned animals from specific areas.

.25 Gathering Authorization. District Manager issues claimant Authorization to Gather Claimed Horses and Burros, Form 4710-3, in accordance with the claiming schedule (see Illustration 3). Authorization must specify gathering techniques, noting that gathering will be authorized on public lands only, unless cooperative agreements or other arrangements have been executed with private landowners.

→ .26 Gathering Procedures. The District Manager must supervise all gathering operations to determine that the method used is in compliance with applicable laws and the regulations. The District Manager is responsible for assuring that the gathering is conducted by humane methods. ←

.27 Trespass Charges. Assess in accordance with 43 CFR 9239.3. Charges must be determined on a case-by-case basis taking into account individual circumstances and data available.

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

.3 Action in Absence of Claims.

.31 Closure. If the District Manager determines there are horses or burros on the public lands which fall into one or more of the following categories, he may request that the State Director close the area to grazing by domestic horses and burros (see 43 CFR 9239.3):

- branded, but unclaimed
- branded and claimed, but not gathered
- branded or unbranded, abandoned after December 15, 1971

A. Notice of Closure. State Director prepares Notice of Closure, Form 4710-4, if he concurs with the District Manager's request (see Illustration 4).

B. Publication of Notice. Notices should be published sufficiently in advance of the closure date to allow claimants to file ownership claims. Notices must be published in a local newspaper and posted in the District Office, at the county courthouse, and in a post office near the closure area.

C. Coordination. Coordinate closures with District claiming schedule to allow impoundment of trespass animals at the same time claimed animals are to be gathered. Notify authorized grazing licensees and permittees in the closure area, by regular mail, of closure, prior to publication of the Notice of Closure. If practical, closures should be coordinated with the grazing authorization expiration date of horses and burros licensed or permitted to use the area.

.32 Impoundment. After the closure period, specified in the Notice of Closure, horses and burros may be impounded as follows.

A. Determining Location of Trespass Animals. It must be determined that trespass horses and burros are on public land, or lands under formal cooperative agreement with other landowners, at the time impoundment action is taken.

B. Impoundment Facilities. Corrals, fences, etc., should be located or temporarily constructed on lands owned by the Federal Government, unless formal arrangements have been made for the use of private facilities. In all instances impoundment facilities must be adequate to handle animals as humanely as possible.

.32C1

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

C. Care and Handling of Impounded Animals.

1. Preventing Injury. Care must be taken to prevent injury to horses and burros during roundup and impoundment. Sufficient help should be available to assure adequate handling. If animals are seriously injured or die during impoundment, extent of injury or exact cause of death must be documented.

2. Marking. In some cases it may be helpful to dye-mark impounded animals for identification in the event of loss or for future reference.

3. Feeding. Impounded animals must be adequately fed and watered during impoundment.

4. Security. Provide reasonable security during the impoundment period to prevent harm and unauthorized removal.

D. Ownership Determination. Ownership of impounded horses and burros should be determined jointly by the authorized officer and a State brand inspector. The brand inspector should provide the authorized officer written verification of his identification. Horses and burros determined to be wild and free-roaming must be released on public lands.

1. Trespass Charges. Privately owned horses and burros are considered to have been in trespass and may not be released until a proper trespass charge has been determined by the authorized officer in accordance with the provisions of 43 CFR 9239.3.

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

.4

.4 Disposal of Unclaimed Trespass Horses and Burros.

.41 Repossession.

A. Redeemed by Their Owners. (See 43 CFR 4713.2(b)&(c))

.42 Transfer. Unclaimed trespass horses or burros may be turned over to the appropriate State or local official pursuant to State branding and estray laws.

.43 Disposal by Sale. Impounded animals not claimed or transferred may be offered for sale, subject to the following.

A. Notification of Sale.

1. Public Notice. Authorized Officer prepares Notice of Sale of Impounded Horses and Burros, Form 4710-5, (see Illustration 5) assuring concurrent issuance as follows:

a. Publish in local newspapers. Care should be taken to assure that notification is published in as many newspapers as possible to inform likely owners. Since many newspapers are published weekly, it is necessary to know the schedule of each newspaper to arrange for simultaneous publication.

b. Post notice in county courthouse for the county, or counties, involved and in the District Office.

c. Post notice in post office(s) which service the area involved by the impoundment.

d. Post additional notices in other public meeting places as appropriate.

2. Private Notice. Notify known owners of public sale, using Notice to Owners of Impounded Horses and Burros, Form 4710-6 (see Illustration 6). This notice must be served in person, or sent by certified mail, return receipt requested.

B. Conduct of Sale. All animals not redeemed by the date and time set for sale are to be sold at public auction.

1. Price Determination. The authorized officer must establish a minimum sale price for each animal. This price must be no less than impoundment costs, unless such costs exceed fair market value for the animal.

.43B2 4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL OF
OF CLAIMED AND TRESPASS HORSES AND BURROS

2. Auction. Animals are to be auctioned individually. If the minimum sale price is not received, animals may be reoffered for sale at progressively lower prices.

3. Payment. Payment must be in cash, money order, or cashier's check, payable to the Bureau of Land Management. Personal checks are not acceptable. All payments are to be deposited to account number 142299 (Sale of Miscellaneous Products and By-Products Not Otherwise Classified).

4. Transfer of Ownership. Bill of Sale of Impounded Horses or Burros, Form 4710-7, must be issued to the buyer of impounded animals (see Illustration 7).

.44 Other Disposal. If unclaimed horses and burros cannot be sold or released to State agencies using the above procedures, such livestock may be condemned and disposed of in the most humane manner possible.

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

.5

.5 Records and Filing. Copies of all documents issued under this section, together with copies of State brand inspector reports, must be filed in the District Office. Horse and Burro Claims Record, Form 4710-8, is maintained as a summary for all claims within the District (see Illustration 8).

Illustration 1
Form 4710-1
(.21)

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

Affidavit and Claim of Ownership of Horses
or Burros on Public Lands

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

AFFIDAVIT AND CLAIM OF OWNERSHIP OF HORSES
OR BURROS ON PUBLIC LANDS

1. I hereby claim ownership to the following described horses burros on public lands
2. Give number of animals claimed 6
3. Give description of each animal, including color, markings or brands, and factors indicating tameness such as gelded, or broken to a rope or saddle (attach additional sheets, if necessary)
- 1 roan gelding - branded C-W
4 black geldings - branded C-W
1 bay mare - 6 years old - unbranded with white star
on forehead - fluke to bridle and saddle - picture
4. Give location of animals on public lands attached to this horse in home corral 7
a. Geographic description west of Baggs road - south of I-80. years ago
b. Legal description if surveyed
5. Explain circumstances (including relevant dates) under which the animals entered or were introduced onto public lands Gate let open last fall during antelope hunting season - horses strayed on to public land
6. Give location of lands where animals were kept prior to entry or introduction onto public lands at my home ranch just east of Wamsutter in a fenced pasture.

I hereby swear that the above information is true; that the above-described animals are owned by me; and that I will gather and remove them only upon receiving written authorization from the Bureau of Land Management. (Affidavit must be signed in presence of a Notary Public.)

State of Wyoming

C. G. Weaver

(Signature of Owner)

Submitted to and sworn to before me this 27 day of
August, 19 73.

[SEAL]

Betty J. Cullimore
(Notary Public)

My commission expires June 30, 19 75.

Title 18 U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.

INSTRUCTIONS

Claimant submits one (1) copy to District Office in which the lands are located.

All six (6) items must be completed in full. Additional pages may be used, if necessary.

(Use reverse, if necessary)

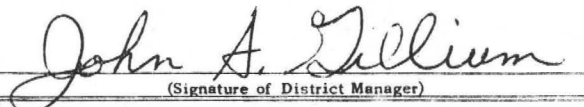
For 4710-1 (August 1973)

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROSAcknowledgement of Claim of Ownership of Horses
or Burros and Decision of the District ManagerForm 4710-2
(October 1973)UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Date September 6, 1973

Mr. C. A. Weaver
Box 204
Wamsutter, Wyoming 82311 Certified #092856
 Registered
Return Receipt RequestedACKNOWLEDGEMENT OF CLAIM OF OWNERSHIP OF HORSES OR BURROS
AND DECISION OF THE DISTRICT MANAGERYour claim of animals filed on *Affidavit and Claim of Ownership of Horses or Burros on Public Lands* (Form 4710-1)
was received in this office on (date) August 28, 1973 Your claim as submitted is acceptable. Authorization to gather and remove the animals claimed will be issued
later in accordance with the District Claiming Schedule.**THIS IS NOT AN AUTHORIZATION TO GATHER AND REMOVE CLAIMED ANIMALS*** Your claim as submitted is rejected for the following reason(s):

-
- Claim form is not complete
-
-
- Claim does not constitute adequate proof of ownership

If your claim has been rejected for the lack of adequate proof of ownership and you have no further evidence to
support your claim, you have the right of appeal to the Board of Land Appeals, Office of the Secretary, within
thirty (30) days from date of receipt of this decision, in accordance with the regulations in 43 CFR Part 1840
(see enclosed *Information on Taking Appeals to the Board of Land Appeals* (Form 1842-1)). However, if an appeal
is to be taken, the notice of appeal *must* be filed in the above office (*not the Board*) so that the case file can be
transmitted to the Board. To avoid summary dismissal of the appeal, there *must* be strict compliance with the
regulations.* Persons attempting to remove unbranded horses or burros
from the public lands without authorization are subject
to prosecution under PL 92-195.
(Signature of District Manager)

DISTRICT FILES

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

Authorization to Gather Claimed Horses and Burros

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INSTRUCTIONS

District Office prepares original and
one (1) copy. Mail original to claimant
retain copy in District Office file.

Mr. C. A. Weaver
Box 204
Wamsutter, Wyoming 82301

AUTHORIZATION TO GATHER CLAIMED HORSES AND BURROS

This is your authorization to gather animals described on the *Affidavit and Claim of Horses or Burros on Public Lands*
(Form 4710-1) submitted on (date) August 28, 1973

Authorization is void without full compliance of the following stipulations

1. Animals will be gathered from the following-described land Red Desert Planning Unit, Badger Creek Allotment - All of that area South of Interstate 80 and West of State Highway 789 in T. 38 N., R. 87 W., Sections 8, 9, 10, 11, 12, 13, 14, 15, and 17.
2. The method of gathering will be using saddle horses and confining the animals for inspection at the A-A Corrals in Section 16, T. 38 N., R. 87 W.
3. Duration of authorization and period when animals *must* be gathered is from month, October day, 1 year 1973, to month, October day, 31 year 1973.
4. Animals will be corralled and held for inspection by the Authorized Officer and State Brand Inspector at the A-A Corral. Mr. Floyd Jenkins has provided written permission for the use of his private facilities for the corraling of these horses.
5. Animals claimed *must* be inspected by a State Brand Inspector and an inspection report issued in accordance with State law prior to removal from the facility described-above. A copy of the State Brand Inspector's report will be provided the Authorized Officer.

Sept 18, 1973 (Date) John A. Gilliam (Signature of Authorized Officer)

(Continued on reverse)

Form 4710-3 (October 1973)

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

Authorization to Gather Claimed Horses and Burros

6. Special Stipulations:

- (a) Public Law 86-234 prohibits the use of aircraft or motorized vehicles to roundup wild free-roaming horses.
- (b) Any unbranded and unclaimed horses that are gathered with the claimed horses will be turned back onto national resource lands after inspection by the State brand inspector and authorized officer.
- (c) All horses gathered will be handled in a humane manner.
- (d) Any trespass animals not redeemed by the owners will be turned over to the appropriate State agency, or sold at public sale, or condemned and destroyed as provided for by the regulations of the Secretary of the Interior (43 CFR 9239.3).

Illustration 4
Form 4710-4
(.31A)

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

Notice of Closure

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

NOTICE OF CLOSURE

WHEREAS, a number of horses burros are making unauthorized use of public lands within the (District)
Rawlins, (County) Carbon, State of Wyoming; and

WHEREAS, these animals are consuming forage needed for permitted or licensed livestock, wild free-roaming horses and burros, and wildlife.

NOW THEREFORE, by virtue of the authority vested in the Secretary of the Interior by the Act of June 28, 1934 (43 U.S.C. 315a-315r), as amended, the Act of December 15, 1971 (16 U.S.C. 1331-1340), and other authorities, the following order is issued for occupancy, use, protection, and administration of the (District) Rawlins, Bureau of Land Management:

CLOSURE FOR THE GRAZING OF HORSES AND BURROS

1. The area designated below is hereby closed for the period of 5 months :
Lone Tree grazing allotment enclosed by a boundary fence and including the following described national resource lands; all of Townships 41, 42, and 43 North, Ranges 96, 97, and 98 West, 6th Prin. Mer. Private holdings within this area are closed under cooperative agreement executed with the private landowners.
Month October day 1, year 1973 through month Feb., day 28, year 1973 to grazing by horses or burros, with the exception of those horses or burros in the immediate possession of, or being used for such purposes as riding, pack, or draft animals by persons traveling over public land.
2. Unauthorized horses and burros grazing on the above-described area may be gathered and removed only upon written authorization from the District Manager whose office is at Rawlins, Wyoming.
3. Officials of the Bureau of Land Management are hereby authorized to dispose of, in the most humane manner, those animals found making unauthorized use of the area described above in violation of this order 10 days after publication. Any horse or burro not redeemed by the owners will be turned over to the appropriate State agency, or sold at public sale, or condemned and destroyed as provided for by the regulations of the Secretary of the Interior (43 CFR 9239.3)

September 14, 1973

(Date of Publication)

Julie C. Andrews

(Signature of State Director)

Instructions: State Office prepares Notice and makes sufficient machine copies for posting and for State Office and District Office.
File in _____ contain a copy of this Notice when it is posted.

Form 4710-4 (October 1973)

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

Notice of Sale of Impounded
Horses and Burros

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

NOTICE OF SALE OF IMPOUNDED
HORSES AND BURROS

Place issued
Rawlins, Wyoming
District
Rawlins
Date
October 31, 1973

Notice is hereby given that animals described below were found trespassing on lands belonging to the United States within the (District) Rawlins, Bureau of Land Management. Said animals were impounded at Red Desert, on October 26, 1973.

DESCRIPTION OF ANIMALS IMPOUNDED

KIND(s)	BRAND(s)	KIND(s)	BRAND(s)
Horses			
3 black mares	<i>h</i>		
1 sorrel mare	<i>(S)</i>		
2 bay geldings	<i>H</i>		

Said animals will be offered for sale at public auction to highest bidder at Red Desert, Wyoming at 10 a.m. p.m. on November 9, 1973, unless the same be redeemed by the owners thereof before the time set for the sale. Before the owner will be permitted to redeem and regain possession of the animals claimed, he *must* pay to the Bureau of Land Management the expenses incurred in the gathering, impounding, pasturing, and advertising thereof.

Any animals not redeemed by the owners will be turned over to the appropriate State agency, or sold at public sale, or condemned and destroyed as provided for by the regulations of the Secretary of the Interior (43 CFR 9239.3).

Further information regarding the redemption or sale of the above-described animals may be obtained from the District Manager at

356 North Main Street
Rawlins, Wyoming 82301

John A. Gilliam
(Signature of District Manager)

Instructions: District Office to prepare original and submit to the Bureau for printing. Retain original in District Office. All other copies to be made from original when printed.

Illustration 6
Form 4710-6
(43A2)

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

Notice to Owners of Impounded
Horses and Burros

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Place issued Rawlins

District Rawlins

Date October 29, 1973

Mr. A. M. King
Rural Route 1
Sinclair, Wyoming 08742

Certified 060844
 Registered
Return Receipt Requested
Number

NOTICE TO OWNERS OF IMPOUNDED HORSES AND BURROS

Notice is hereby given that animals described below and which appear to belong to you were found trespassing on lands belonging to the United States within the (District) Rawlins, Bureau of Land Management. Said animals were impounded at Red Desert, Wyoming, on October 26, 1973.

DESCRIPTION OF ANIMALS IMPOUNDED			
KIND(s)	BRAND(s)	KIND(s)	BRAND(s)
Horses			
2 bay geldings	H		

Said animals will be offered for sale at public auction to the highest bidder at Red Desert, Wyoming, at 10 a.m. p.m. on November 9, 1973, unless the same be redeemed by the owners thereof before the time set for the sale. Before the owner will be permitted to redeem and regain possession of the animals claimed, he must pay to the Bureau of Land Management trespass charges and expenses incurred in the gathering, impounding, pasturing, and advertising thereof.

Any animals not sold at public sale will be turned over to the State or sold at private sale or condemned and destroyed as provided for by the Regulations of the Secretary of the Interior (43 CFR 9239.3).

Further information regarding the redemption or sale of the above-described animals may be obtained from the District Manager at

356 N. Main Street
Rawlins, Wyoming 82301

John A. Gilliam
(Signature of District Manager)

Instructions: District Office prepares an original and one (1) copy. Original is sent by certified mail, return receipt requested, or served in person to owner of animals. Copy is retained for District records.

Form 4710-6 (October 1973)

UNITED STATES
 DEPARTMENT OF THE INTERIOR
 BUREAU OF LAND MANAGEMENT

 District
 Rawlins

HORSE AND BURRO CLAIMS RECORD

 Horses Burros

DATE	ANIMAL (number)	WHERE GATHERED	BRAND INSPECTION REPORT NUMBER	OWNER	REMARKS
10/25/73	6	A-A corral	Wyoming #4639	C. A. Weaver Wamsutter, Wyoming	branded C-W Trespass charge paid in full
10/29/73	2	Red Desert	Wyoming #4647	A. M. King Sinclair, Wyoming	branded -H Trespass charge paid in full

Instructions: District Office prepares form listing all unauthorized horses or burros removed from public lands.
Original retained in District Office file.

Form 4710-8 (October 1973)

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
 BURROS IN THE IDENTIFICATION AND REMOVAL
 OF CLAIMED AND TRESPASS HORSES AND BURROS
 Horse and Burro Claims Record

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

Suggested Format for Cooperative Agreement Between the
[State] Livestock Board and the Bureau of Land Management

I. Purpose

This cooperative agreement between the [State] Livestock Board, hereinafter referred to as the Board, and the Bureau of Land Management, hereinafter referred to as the Bureau, is for the purpose of identifying joint responsibilities of each agency toward the implementation and administration of the 1971 Wild Free-Roaming Horse and Burro Act, 16 U.S.C. §§ 1331-1340 (1970 Supp.), hereinafter referred to as the Act, and the regulations embodied in 43 CFR Part 4700, Wild and Free-Roaming Horse and Burro Management, hereinafter referred to as the regulations, within the State of _____.

II. Objectives

The Bureau is charged by the Act and the regulations to manage, protect, and control wild free-roaming horses and burros on Bureau administered lands under its jurisdiction, and private land under cooperative agreement. The Board is charged with the responsibility for validating and processing claims of ownership of branded and unbranded animals pursuant to the State branding and estray laws, and the proper disposal of animals pursuant to the livestock sanitation laws, within the State of _____.

THEREFORE, it is the mutual desire of the Board and Bureau to work in harmony for the common purpose of planning, implementing, and administering the applicable State and Federal laws to accomplish the management, protection, and control of wild free-roaming horses and burros within the State of _____ and provide maximum service with minimum adverse effect on resources and the environment.

III. Authority

The Board is authorized to determine claims of ownership under State law with Federal agencies pursuant to _____ State laws (_____ Stat., Secs. _____).

The Bureau is authorized to enter into cooperative agreements with State agencies concerning the management and protection of wild free-roaming horses and burros, and the management, use and protection of the public lands under the provisions of the Wild Horse Act of December 15, 1971, 16 U.S.C. §§ 1331-1340 (1971 Supp.), the Taylor Grazing Act, 43 U.S.C. §§ 315-315r (1970), and other authorities.

Illustration 9, Page 2

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

Suggested Format for Cooperative Agreement Between the
[State] Livestock Board and the Bureau of Land Management

IV. Resource Planning System

The Bureau's resource planning system produces guidelines and decisions for management of the resources on Bureau administered lands. Since wild free-roaming horses and burros can be affected by decisions which are produced by the planning system, it is essential that information, data, viewpoints, and cooperation be obtained from the Board. The Board, can also benefit from similar consultation with the Bureau. IT IS THEREFORE AGREED:

A. Wild Free-Roaming Horses and Burros. "Wild free-roaming horses and burros" shall mean all unbranded and unclaimed horses and burros which have used lands administered by the Bureau on or after December 15, 1971, or do hereafter use these lands as all or part of their habitat. Unbranded, claimed horses and burros, when the claim is found to be erroneous, are also considered as wild and free-roaming if they meet the criteria above. However, this definition shall not include any horse or burro introduced onto Bureau administered lands on or after December 15, 1971, by accident, negligence, or willful disregard of private ownership.

B. Board. The Board will participate, to the extent allowed by other program commitments, in planning system meetings called to review management plans and proposals, and offer recommendations regarding wild horse and burro management and other management alternatives. The Board recognizes the Bureau's jurisdiction over wild free-roaming horses and burros, including those that stray from Bureau administered lands or are privately maintained as provided in the Act and the regulations.

C. Bureau. All resource information gathered by the Bureau during the inventory and public participation phases of the planning effort will be available for review by the Board. To the extent allowed by program commitments, the Bureau will assist the Board as requested in providing data beneficial to the Board's planning efforts.

1. Claims to Animals

The Act (16 U.S.C. §§ 1331-1340), and the Secretary's regulations thereunder (43 CFR Part 4700), provide that persons may recover unbranded animals where they can show proof of ownership under the State estray laws.

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

Suggested Format for Cooperative Agreement Between the
[State] Livestock Board and the Bureau of Land Management

Therefore, in order to properly conform to such provisions and to provide harmony between the State and Federal agencies in recognizing those persons who have legitimate claims to animals, otherwise thought to be wild and free-roaming, it is mutually agreed that the following procedures ~~must~~ be followed:

a. Written claims will be accepted by the Bureau's authorized officer.

(1) The claimant must submit with his claim a sworn affidavit asserting ownership to the claimed animals and indicating a willingness to defend title and setting forth the following:

(a) Number of animals claimed.

(b) Full description of each of the claimed animals including factors indicating tameness such as animal being gelded, or broken to rope or saddle.

(c) Date and circumstances animals entered upon the open range.

(d) Location of relevant private or leased lands where animals were kept prior to the entry on open range.

(e) Any other information the claimant deems relevant.

(2) Other ownership evidence, when available, will be submitted with the claim. This may include:

(a) A bill of sale fully describing the claimed animal(s) and which meets all State legal requirements for a bill of sale, or

(b) A valid inspection certificate, issued by the Board for some previous occasion, which fully describes the animal(s) and which clearly identifies the animal(s) as belonging to the claimant, or

(c) A valid brand exemption certificate, for some previous occasion, which fully describes the animal(s) and which clearly identifies the animal(s) as belonging to the claimant.

If the claimant is unable to satisfy (a), (b), or (c) above, the Board may consider other appropriate indicia of ownership which may include, but is not limited to; whether the claimant has paid personal property tax upon the claimed animal(s); or whether the animal(s) is the known progeny of a mare owned by the claimant.

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

Suggested Format for Cooperative Agreement Between the
[State] Livestock Board and the Bureau of Land Management

b. Upon receipt of the written claim and supporting information, the Bureau's authorized officer must meet with the Board's representative and jointly review the information submitted by the claimant. Based upon this review, the Board must certify in writing to the authorized officer as to whether the claimant meets the State ownership requirements.

(1) If State ownership requirements have been met, the Bureau's authorized officer must issue written authorization to the claimant setting forth the terms and conditions for gathering the animals. The Bureau's authorized officer and the Board's representative may participate in and supervise roundups directed by the Bureau to assure compliance with State laws and regulations.

(2) After animals are gathered, they must be inspected by the Bureau's authorized officer and Board representative, and upon satisfaction of ownership and determination of any trespass charges, the animals must be turned over to the claimant. Unclaimed animals, showing evidence of abandonment, such as unregistered brands, tattoos, or tags, must be turned over to the Board to be handled under State estray procedures. Wild free-roaming animals must be returned to the open range.

2. Disposal of Animals

Pursuant to the Act and regulations, the Bureau may direct the disposal of animals. Prior to disposal, the Bureau must consult with the Board regarding disposal of animals except in acts of mercy requiring immediate action. The Board must review any proposed disposal and make recommendations concerning the method of destruction and the method of disposing of destroyed animals, in accordance with State laws concerning humane treatment of animals and public health and sanitation.

Horses or burros known to be infected with certain communicable or infectious diseases such as swamp fever and sleeping sickness must be disposed of by the Bureau in the most humane manner after consultation with the Board. In the event of potential disease epidemic in a wild horse and burro herd, the Bureau must consider recommendations and guidance of the Board to minimize the potential and to dispose of infected and exposed animals.

3. Violations; Enforcement

In the event of alleged or known violations of the Act, the Bureau must contact the Board to validate the ownership status of the animal(s) involved according to the criteria set forth in this agreement. The Board may be requested to assist in enforcement proceedings where wild free-roaming horses or burros are involved.

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

Suggested Format for Cooperative Agreement Between the
[State] Livestock Board and the Bureau of Land Management

4. Property Damage

The Board may be requested to assist the Bureau in investigation of alleged property damage inflicted by wild free-roaming horses or burros. Assistance must include, but may not be limited to, establishment of the ownership status of animals.

V. Administrative Matters

A. Annual Meeting

The Board and the Bureau must meet jointly at least once annually to discuss matters relating to the planning, coordination, and implementation of the Act and regulations pertaining to management of wild horses on or affecting the Bureau administered lands and provide for other meetings as necessary.

B. Other Agreements

The local representatives of both agencies may enter into supplemental or specific agreements to accomplish the purpose of this agreement.

C. Transporting Horses and Burros

Horses and burros must be transported from Bureau administered lands in accordance with rules and regulations of the Board and the Bureau.

D. Funding Obligations

Nothing in this agreement shall be construed as obligating either party hereto in the expenditure of funds.

E. Restrictions

No member or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this agreement, or to any benefit which may arise therefrom.

F. Discrimination

All cooperative work under the provisions of this agreement, or supplemental agreements or memorandums of understanding, must be accomplished without discrimination against any person because of race, creed, color, sex, or national origin.

Illustration 9, Page 6

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

Suggested Format for Cooperative Agreement Between the
[State] Livestock Board and the Bureau of Land Management

G. Termination

This agreement shall become effective when signed by the designated representatives of the parties hereto and shall remain in force until terminated by mutual agreement, or by either party upon thirty (30) days notice in writing to the other of its intention to terminate upon a date indicated. Amendments to this agreement may be proposed by either party and shall become effective upon approval by both parties.

Date: _____

Approved:

State of _____ Livestock Board

by: _____
President

Date: _____

U.S. Department of the Interior
Bureau of Land Management, [State]

by: _____
State Director

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL OF
CLAIMED AND TRESPASS HORSES AND BURROS

Suggested Format for Information

Plan - Wild Horse and Burro Management

A. Publics Affected:

1. Audubon Society
2. League of Women Voters
3. Nevada Cattlemen's Association
4. Nevada Woolgrower's Association
5. Nevada Farm Bureau Federation
6. Nevada Conservation Forum
7. Nevada Mining Association
8. Sierra Club
9. Nevada Outdoor Recreation Association
10. Reno Gem and Mineral Club
11. Nevada State Committee on Federal Land Laws
12. Governor
13. Nevada Wildlife Federation
14. Department of Conservation and Natural Resources
15. Department of Fish and Game
16. Department of Agriculture
17. Nevada Open Spaces Council
18. Nevada Organization for Wildlife
19. Nevada Environmental Education Council
20. Nevada Off-Road Vehicle Association
21. National Mustang Association
22. Wild Horse Organized Assistance, Inc.
23. Society of Range Management
24. The Wildlife Society
25. Society of American Foresters
26. Forest Service
27. University of Nevada
28. American Society of Animal Science
29. Nevada State Multiple-Use Advisory Board

B. Viewpoints of Publics Affected:

1. Audubon Society - has had limited participation in BLM planning processes. Can expect to be interested but not aggressively concerned with wild horse and burro management.

2. League of Women Voters - a civic organization whose interests encompass many fields. It can be expected to evidence some interest in the wild horse and burro management program, particularly if there are environmental or consumer impact overtones.

3. Nevada Cattlemen's Association - active participant in the Bureau's resource management programs. It will take an active interest and aggressively make its views known on wild horse management, particularly as it may affect the Association's operations.

Illustration 10, Page 2

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL OF
CLAIMED AND TRESPASS HORSES AND BURROS

4. Nevada Woolgrower's Association - same as 3 above.
5. Nevada Farm Bureau Federation - same as 3 above.
6. Nevada Conservation Forum - this Forum has provided the opportunity for people representing many interests to get together periodically and discuss matters of conservation interest and to update members about ongoing programs. The organization as such will take little interest in the wild horse and burro management program; however, individual members, for example, President Cliff Young, can be expected to take an active interest and exert strong influence for management and protection from a preservationist point of view.
7. Nevada Mining Association - the Association will be sympathetic and interested in our management problems regarding wild horses and burros, but will make no effort to become actively engaged unless a management action is taken which it believes is inimical to its immediate interests, such as designation of a wild horse range in an area where the NMA expects to conduct mining activity.
8. Sierra Club - will be interested and actively watchful of the Bureau's wild horse and burro management program from the standpoint of effect on the environment, particularly from the viewpoint of overutilization or institution of range practices which might upset the ecological balance.
9. Nevada Outdoor Recreation Association - cannot be sure of the Association's response to the wild horse and burro program. It is generally protection and preservation oriented. Would not expect much in the way of support or opposition unless there was degradation caused by wild horses and burros in an area which it felt had wilderness or recreational values.
10. Reno Gem and Mineral Club - only a casual interest evidenced in the Bureau's management of the national resource lands. About the only time it can be expected to react is to a management decision which would restrict its use of a particular area.
11. Nevada State Committee on Federal Land Laws - has maintained a rather adversary stance with respect to BLM. It will be very interested in the wild horse and burro program, particularly as it may affect the livestock industry. It can be expected to formulate its judgments independently and report, with recommendations, directly to the Governor.

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL OF
CLAIMED AND TRESPASS HORSES AND BURROS

12. Governor - is interested in effective public land management which will keep the lands open and available for unrestricted use consistent with State interests and needs. As a generalization, he will support management of the wild horses and burros.

13. Nevada Wildlife Federation - can be expected to support the wild horse and burro management program, but will be very concerned if it is necessary to reduce forage allocations for wildlife in order to balance out for wild horses, particularly if such reductions are not made even more severely for the livestock industry.

14. Department of Conservation and Natural Resources - the Department will reflect and implement the views of the Governor, but will perhaps be conditioned to a considerable extent by the Nevada State Committee on Federal Land Laws. The sympathy of the Department may be characterized as industry (livestock) oriented, and our management will be viewed from this standpoint.

15. Department of Fish and Game - will be actively engaged with our management of wild horses and burros if specific ranges are designated for wild horse and burro use. This participation is in keeping with the Department's responsibilities for wildlife management. As an organization, it will be generally sympathetic, supportive, and helpful to our management program as long as it does not intrude into any areas which it believes to be a State's rights area.

16. Department of Agriculture - as an organization will not be greatly concerned with our wild horse and burro program unless it must actively participate in the determination of the ownership process. This will be a sensitive area with the Department, and the way it is handled and the agreements arrived at will determine its attitude about this program and the BLM.

17. Nevada Open Spaces Council - will be interested in our management of the wild horses and burros from a conservationist/preservationist point of view. It can be expected to be critical of a management program which reduces wild horses and burro numbers in order to protect forage for the livestock industry. By and large, the Council can be expected to support our management program if it feels the program is being legitimately designed to maintain the ecological balance.

18. Nevada Organization for Wildlife - this organization will exhibit a reasonable interest in the wild horse and burro program and can generally be expected to support our management endeavors. However, it, along with the Nevada Wildlife Federation, will be critical of any forage reductions at the expense of wildlife, particularly if reductions are not the same or more for the livestock industry.

Illustration 10, Page 4

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

19. Nevada Environmental Education Council - we are not well enough acquainted with this organization to assess what its viewpoint might be with respect to the wild horse and burro program.

20. Nevada Off-Road Vehicle Association - will be interested in our management only to the extent that closures or restrictions on off-road vehicle use may be placed in effect in certain areas to protect the wild horses and burros. While the Association might question the need for closure or restriction in any given area, it can generally be expected to be cooperative and helpful. However, it will have little understanding of the management problems inherent in this program.

21. National Mustang Association - this organization actively supports the protection and management of wild horses and burros. It may not, however, be fully supportive of a BLM management program. If past practices are any indication, it will want to actively engage itself in some phases of our management. The NMA will need to be handled with care.

22. Wild Horse Organized Assistance, Inc. - the organization is heavily oriented to the protection and preservation of the wild horses and burros with little regard for other considerations. It will support management which moves to achieve these objectives. It will be critical of compromise measures recognizing other interests at the expense of wild horses and burros. It is adamantly opposed to any action even suggesting inhumane treatment of these animals. With care, we can gain some support for our management program.

23. Society for Range Management - a society of professional and lay people interested in range management. It will be extremely interested in the program as it affects future direction and concepts in management techniques.

24. Wildlife Society - an organization of professional wildlife biologists. It will be vitally interested in the wild horse and burro program, since this program directly affects wildlife and wildlife habitat management.

25. Society of American Foresters - a society of professional foresters. It will be interested from a resource management standpoint, but not aggressively concerned since wild horse and burro management will not directly affect timber management in Nevada.

26. Forest Service - this agency has the same responsibilities under Public Law 92-195 as BLM. Forest Service people have been very cooperative and interested to date and can be expected to continue to cooperate in all actions relating to wild free-roaming horses and burros.

Illustration 10, Page 5

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

27. University of Nevada - the University (College of Agriculture in particular) can be expected to be keenly interested in the program because of its impact upon its various disciplines and because of its general interest in all activities concerning the program.

28. American Society of Animal Science - a Society of professional animal scientists. It can be expected to be very interested in the program in Nevada due to the "range orientation" of the livestock industry here. It also opens new avenues of study and management for the Society.

29. Nevada State Multiple-Use Advisory Board - interest and support can be expected to vary considerably by individual member. As a group, however, the Board may be opposed to many of the actions required by Public Law 920195.

C. Long-Range Goals: To promote public knowledgeability about, and obtain active support for, the Bureau's efforts at wild horse and burro management, including administration of the public lands for the management and protection of wild free-roaming horses and burros; protection of wild free-roaming horses and burros from capture, branding, harassment or death; management of wild free-roaming horses and burros in a manner designed to achieve and maintain a natural ecological balance on the public lands; consideration of adjustments in forage allocation on national resource lands to accommodate the needs of wildlife species and authorized livestock which inhabit such lands; and to assist the Bureau in arriving at wise management decisions in these matters.

D. Short-Range Objectives: To inform the public regarding the claiming process and determination of ownership; to assure the public is informed regarding gathering the removal of claimed horses and removal procedures; to inform the public regarding the Bureau's planning system and its use in wild horse and burro management, and to gain public participation in the development and implementation of wild horse and burro management plans.

E. Informing the Public: To realize the short-range objectives and long-range goals of this program, the following means of disseminating information should be utilized: newspapers, news releases, feature stories, television news items, interviews, information-education items, brochures, fact sheets, public presentations, employee meetings, public meetings, and radio information tapes. Particular emphasis should be put on the use of workshops.

Two- to five-minute radio tapes will be made for use by local radio stations on various phases of the program as it is carried out, including feature stories describing the program's management and its immediate and ultimate objectives.

Illustration 10, Page 6

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL
OF CLAIMED AND TRESPASS HORSES AND BURROS

F. Timetable of Actions: While the specific dates for scheduling the events under Informing the Public are not immediately known, they can be calculated as follows:

a = publication of final regulations

a - 15 days = news release regarding claiming period and procedures. Letter to publics transmitting simple handout explaining mechanics of claiming period and how to be handled.

a + 2 days = news release of final regulations. Letter transmitting regulations to publics. Radio item on farm news.

a + 5 days = television appearances regarding regulations, claiming, gathering, and removal of horses.

KCRL-TV, Channel 4 - Perspective - Dick DeWitt
KOLO-TV, Channel 8 - By-Line - Tad Dunbar
KTVN-TV, Channel 2 - On the Line - Cork Proctor

a + 15 days = first workshop on regulations. Employee meetings.

a + 20 days = radio tapes covering regulations, claiming, gathering, and removal, made available to Districts for local use.

b = gathering and removal of claimed animals.

b - 3 days = news release to announce gathering and removal schedule (to be supplied by Districts).

b + 1 day = feature article covering program to date, e.g., regulations, claiming, and gathering operations.

b + ? = periodic summaries of gathering and removal proceedings.

c = initiation of substantive management.

c + 1 = feature article regarding program, wild horse numbers, where located, management to be used, enforcement needs and techniques, and special problems.

c + 2 = radio tapes reflecting material in feature article above.

c + 3 = initiation of workshops regarding wild horse management program, its problems and needs. Employee meetings.

Scheduled through this timetable of actions will be public meetings exposing our MFP's, with particular emphasis on the wild horse management program.

Illustration 10, Page 7

4713 - PROTECTION OF WILD FREE-ROAMING HORSES AND
BURROS IN THE IDENTIFICATION AND REMOVAL OF
CLAIMED AND TRESPASS HORSES AND BURROSG. Communication Methods:

1. Newspaper
 - a. Feature articles
 - b. News releases
 - (1) regulations
 - (2) claiming
 - (3) gathering and removal
 - (4) management
2. Radio
 - a. Interviews
 - b. Farm Bureau report
 - c. Information tapes
 - (1) regulations
 - (2) claiming
 - (3) roundups
 - (4) management
3. Television
 - a. News stories, e.g., releases
 - b. Interviews
 - c. Fish and game program
4. Employees
 - a. Word of mouth to friends, relatives, and acquaintances
 - b. As members of clubs and organizations
5. Public Meetings
6. Workshops
7. Service Clubs



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

MANUAL TRANSMITTAL SHEET

Release

4-52

Date

5/31/74

Subject

4711 - MANAGEMENT COORDINATION

1. Explanation of Material Transmitted: This release provides guidelines for coordination of wild free-roaming horse and burro programs with advisory boards, State and Federal agencies, and other interested parties.
2. Reports Required: None.
3. Material Superseded: None.
4. Filing Instructions: After the attached sheets have been filed as directed, this transmittal sheet may be discarded.

REMOVE

None

INSERT

4711

(Total: 13 sheets)

Ed Hartley

Associate Director

Acting

4711 - MANAGEMENT COORDINATION

Table of Contents

- .01 Purpose
- .02 Objective
- .03 Authority
- .04 Responsibility
- .05 Definitions
- .06 Policy

- .1 Recommendations of the Joint National Advisory Board on Wild Free-Roaming Horses and Burros
 - .11 Required Consultation
 - .12 Desirable Consultation

- .2 State Agencies
 - .21 Wildlife
 - A. Designation of Specific Ranges
 - B. Natural Ecological Balance
 - .22 Livestock

- .3 Cooperative Agreements
 - .31 Federal Agencies
 - .32 State Agencies
 - A. Land and/or Wildlife
 - B. Livestock
 - .33 Individuals or Organizations
 - A. Public Land and Other Intermingled Ownerships
 - B. Maintenance on Private Land Under Wild Free-Roaming Conditions
 - C. Private Maintenance of Excess Animals Under Humane Conditions and Care

- .4 Grazing District Advisory Boards

Illustrations

1. Cooperative Agreement - Assignment for Private Maintenance of Wild Free-Roaming Horses or Burros (Form 4710-9)

Appendices

1. National Advisory Board - Administrative Procedures
2. Memorandum of Agreement - Federal Agencies
3. Supplemental Memorandum of Understanding

4711 - MANAGEMENT COORDINATION

.01 Purpose. This section provides information and guidance for coordination of wild free-roaming horse and burro programs with advisory boards, State and Federal agencies, and other interested parties.

.02 Objective. The objective is to seek and obtain full participation by all agencies and interested parties in the conduct of the program.

.03 Authority. Title 43 CFR 4711 (also see BLM Manual 4710.03).

.04 Responsibility.

A. The Director and Associate Director. (See BLM Manual 4710.04A.)

B. The Assistant Director, Resources. (See BLM Manual 4710.04B.)

C. State Directors and District Managers, as authorized officers, are responsible for coordination with the Joint National Advisory Board on Wild Free-Roaming Horses and Burros, appropriate State and Federal agencies, and other local organizations and individuals concerning policies and guidelines in addition to the actual conduct of the program within their respective areas of jurisdiction.

.05 Definitions. (Reserved)

4711 - MANAGEMENT COORDINATION

.1 Recommendations of the Joint National Advisory Board on Wild Free-Roaming Horses and Burros.

.11 Required Consultation. Consultation with the Advisory Board is required concerning policies and guidelines of a national scope relative to:

- Establishment of specifically designated ranges
- Management plans
- Adjustment in numbers
- Relocation of animals
- Disposal of animals

(See Appendix 1 for National Advisory Board - Administrative Procedures.)

.12 Desirable Consultation. The Advisory Board may also be consulted on other matters relating to the protection, management, and control of wild free-roaming horses and burros.

4711 - MANAGEMENT COORDINATION

.2 State Agencies..21 Wildlife.

A. Designation of Specific Ranges. The District Manager must consult with the appropriate State wildlife agency prior to proposing the designation of a specific range.

Such consultation must include:

1. Area and location of the proposed range.
2. Plans for management of the area and optimum population objectives.
3. Need for special land-use regulations and their enforcement.
4. Expected impact on other uses, especially wildlife, and mitigating measures which may be taken to provide an alternate source of forage or habitat.
5. Possible predator control measures.
6. Development of facilities, if any.
7. Plans for any artificial manipulation of vegetative types.
8. Any other matter related to the establishment and use of the proposed range.

B. Natural Ecological Balance. The authorized officer must consult with the appropriate State wildlife agency to protect the natural ecological balance of all wildlife species which inhabit national resource lands, particularly endangered wildlife species. The Endangered Species Act of 1973 and implementing Departmental and Bureau guidelines establish, as overriding priority, the preservation of habitat for wildlife species threatened with extinction.

.22 Livestock. A person claiming ownership of a horse or burro on the public lands shall be entitled to recover it only if recovery is permitted under the branding and estray laws of the State in which the animal is found. In most instances, recovery of privately owned animals will be accomplished through procedures established in a cooperative agreement between the appropriate State agency and the Bureau (see 4713, Illustration 9).

4711 - MANAGEMENT COORDINATION

.3 Cooperative Agreement.

.31 Federal Agencies. The authorized officer, in providing for protection and management of wild horses and burros, must coordinate planned actions with other Federal land-managing agencies which might be affected by the provisions of the Act. (See Appendix 2 for an example of a memorandum of agreement with Federal Agencies.)

.32 State Agencies.

A. Land and/or Wildlife. Supplements to existing memorandums of understanding between State land and/or wildlife agencies and the Bureau may be required to effectively carry out the provisions of the wild horse and burro regulations for the protection, management, and control of wild free-roaming horses and burros in harmony with the wildlife resources within a State. (See Appendix 3 for an example of supplemental memorandum of understanding.)

B. Livestock. (See 4713, Illustration 9, for an example of a cooperative agreement with State sanitary and branding authorities.)

.33 Individuals or Organizations. Cooperative agreements may be entered into with individuals or organizations to maintain wild free-roaming horses and burros as follows:

A. Public Land and Other Intermingled Ownerships. If the grazing patterns of the wild free-roaming horses or burros require utilization of lands in other ownership, the authorized officer must seek cooperative agreements through individuals or organizations to insure continuance of such use. An example of where such an agreement might be sought is the railroad checkerboard lands located throughout much of the West. Wild free-roaming horses and burros utilizing both public and private lands by reason of a cooperative agreement are managed by the authorized officer, with full public participation in the planning process.

B. Maintenance on Private Land Under Wild Free-Roaming Conditions. An individual or organization is considered to be actively maintaining wild free-roaming horses or burros on private lands if measures are taken that are designed to protect or enhance the welfare of the animals under such conditions. The cooperative agreement must set forth the following management and maintenance requirements:

1. Number of Animals
2. Description of animals
3. Annual report (due in January of each year)
4. Means of control

5. Means of disposal
6. Facilities for maintenance
7. Provisions for humane handling
8. Provisions for acts of mercy

C. Private Maintenance of Excess Animals Under Humane Conditions and Care. An individual or organization may maintain excess animals on private or leased lands. Requests for excess animals must be in writing and should be submitted to either the District, State, or Washington Office. A cooperative agreement must not be entered into with individuals or organizations where public lands, as defined in the Act (PL 92-195), will be a portion of the land area used to maintain the excess animals. The cooperative agreement must insure proper care and protection of the animals under humane conditions, and provide that neither the animals or their remains may be sold or used in any way for commercial exploitation, nor may any of the animals be transferred or reassigned except with written permission from the authorized officer. Fee title cannot be conveyed with the animal (see Illustration 1). The cooperative agreement may indicate any necessary special conditions that might be deemed necessary, such as marking or tattooing for subsequent identification.

1. A letter is sent by the authorized officer to those individuals or organizations which have indicated an interest in privately maintaining one or more excess animals. The letter is to determine further interest in the animals and state the general terms of assignment under a cooperative agreement.

2. Animals considered excess can be assigned to individuals or organizations by the authorized officer after a favorable recommendation from a screening committee selected by the District Manager. The selection committee should be persons having an interest in the management program. The committee usually should not exceed seven persons, and include two or three Bureau personnel.

3. Individuals or organizations wishing to obtain a horse or burro should state number wanted as to sex, age, color, etc., and why they desire excess animals. They must state type of facilities available such as pastures, size, location, etc., and furnish any additional comments that would be helpful in determining the best home for the excess animals. Applicants under the legal age must have their parents or legal guardian sign a request for excess animals.

4711 - MANAGEMENT COORDINATION

.4 Grazing District Advisory Boards in reviewing grazing applications or wildlife programs, may make recommendations relating to the protection and management of wild horses and burros if the presence of these animals affects livestock or wildlife.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

COOPERATIVE AGREEMENT
ASSIGNMENT FOR PRIVATE MAINTENANCE OF
WILD FREE-ROAMING HORSES OR BURROS

Sally M. Cooper of Saratoga, Wyoming

and the Bureau of Land Management for the United States of America for and in consideration of the mutual benefits hereunder, and in accordance with Public Law 92-195, Sec. 3(b), do enter into this cooperative agreement for the maintenance, protection, and the welfare of wild free-roaming horses and burros.

Animals listed below have been declared excess and available for private maintenance in accordance with 43 CFR 4712.3-2.

ANIMALS ASSIGNED

Give description of each animal including color, markings, or other available identification information

1 yearling - brown filly with star and strip, white pastern, left rear leg

TERMS OF THIS AGREEMENT

1. Maintenance, as herein required, shall mean proper care and protection of the animals under humane conditions
2. None of these animals, or their remains, may be sold or used in any way for commercial exploitation, nor may any of these animals be transferred or reassigned except with written permission from the Authorized Officer
3. This agreement shall remain in full force and effect until (1) animals die, or (2) this agreement is terminated by the Authorized Officer after due notice in writing because of cooperator(s) default or violation of any of the terms or provisions of this agreement
4. Special conditions:
Tattoo No. Wyo-23

THE UNITED STATES OF AMERICA

State of Wyoming

District Rawlins

By Sally M. Cooper (Signature of Cooperator)

By John A. Gilliam (Signature of Authorized Officer)

4-20-74

(Date)

4-20-74

(Date)

DEPARTMENT OF THE INTERIOR
Office of the Secretary

DEPARTMENT OF AGRICULTURE
Office of the Secretary

National Advisory Board on
Wild Free-Roaming Horses and Burros

Administrative Procedures

I. Purpose. This document provides for the operation and describes the purpose, composition, and functions of the National Advisory Board on Wild Free-Roaming Horses and Burros.

II. Authority. The Act of December 15, 1972 (16 U.S.C. 1131-1340) requires the protection and management of wild free-roaming horses and burros on the public lands. Section 7 authorizes and directs the Secretary of the Interior and the Secretary of Agriculture to appoint a joint advisory board to advise them on any matter relating to the protection and management of wild free-roaming horses and burros, and specifies the qualifications required for membership on the advisory board.

III. National Advisory Board on Wild Free-Roaming Horses and Burros.

A. Membership. The Board shall consist of nine members, none of whom shall be an employee of the Federal Government or State governments.

1. Qualifications. Each member must have specialized knowledge in one or more of the following fields: The protection of horses and burros, the management of wildlife, animal husbandry, and natural resource management. At least one of each of the above disciplines shall be represented on the Board at all times.

2. Selection. All members shall be selected on the basis of experience and established competence in their respective fields of specialized knowledge.

3. Appointments. All members will be jointly appointed by the Secretary of the Interior and the Secretary of Agriculture.

4. Term. The term of appointment will be 1 year. If a member does not serve his full term, the Secretary of the Interior and the Secretary of Agriculture may appoint a successor for the remainder of the unexpired term. Members may be reappointed for additional 1-year terms not to exceed 10 years of total service.

5. Compensation. Members shall serve without compensation, except for reimbursement of travel expenses, including per diem, in connection with their duties as members.

B. Functions. The Board shall advise, consult with, and make recommendations to the Secretary of the Interior and the Secretary of Agriculture, or their duly authorized representatives, on any matter relating to wild free-roaming horses and burros.

C. Meeting. The Board shall meet at times and places to be determined by the Secretary of the Interior or the Secretary of Agriculture, or both, or their duly authorized representatives. It is estimated that there will be four meetings per year at an annual cost of \$30,000 and one man year of support.

1. Call to meet. The Secretary of the Interior and/or the Secretary of Agriculture, or their respective designees, will issue a formal call for each Board meeting.

2. Agenda. The Secretary of the Interior and/or the Secretary of Agriculture, or their respective designees will, in consultation with the chairman, formulate and approve the agenda for each meeting in advance.

3. Official participation. All meetings will be conducted in the presence of a duly authorized full-time salaried official or employee of the Department of the Interior or the Department of Agriculture, who is authorized to adjourn any meeting whenever he considers adjournment to be in the public interest.

4. Quorum. A majority of Board members holding office shall constitute a quorum which shall be required for the conduct of Board business.

5. Public participation. All meetings of the Board will be open to public observation. Any interested person may attend meetings, make a presentation upon request to the chairman, or file a statement with the Board. However, the authorized Department of Agriculture or Department of the Interior representative may establish reasonable limits as to the numbers of persons who may attend and the nature of their participation to the extent that available accommodations and time require limitation.

6. Advance public notice. To provide interested parties an opportunity to attend and participate, advance public notice of the date, place, and general subject matter of scheduled meetings will be given through publication in the Federal Register and appropriate local news media.

7. Support services. The Secretary of the Interior or his delegate shall be responsible for providing support services for the Board, including advance public notice of meetings.

D. Chairmanship. The Secretary of the Interior and the Secretary of Agriculture will designate one of the members as chairman and another as vice chairman for the first year. Thereafter, members will annually elect the chairman and vice chairman among their own members.

The chairman will be the liaison between the Secretary of the Interior and the Secretary of Agriculture or their duly authorized representatives in working with the Departments in formulating agendas and otherwise arranging for the orderly conduct of business. He will preside at meetings and appoint members of working groups of the Board. The vice chairman will act for the chairman in his absence.

E. Record or proceedings. A written record shall be made of all proceedings of Board and working group meetings. A verbatim transcript may be made but is not required. As a minimum, each record of proceedings shall include: (a) the agenda; (b) the date(s) and place(s) of the meeting; (c) the names and addresses of all in attendance and the capacity in which they participated, (d) a description of matters discussed and conclusions reached; (e) the recommendations made and reasons therefor; together with concurring or minority views and, at the request of any individual member, individual views; and, (f) copies of all reports received, issued, or approved by the Board. The Board chairman shall certify to the accuracy of the record of proceedings of each meeting. Such records, together with appendices, working papers, drafts, studies, and other documents, made available to or prepared or used by the Board, will be available for public inspection and copying in the Office of the Director of the Bureau of Land Management, Washington, D. C. Additionally, copies of the record of proceedings for each meeting shall be available for viewing at the libraries of the Department of the Interior and Department of Agriculture and the Library of Congress, Washington, D. C.

F. Rules and procedures. The Board is solely advisory and shall function in accordance with applicable Federal committee management requirements, and any supplementary and complementary guidelines which the Secretary of the Interior and the Secretary of Agriculture, or their respective authorized representatives, may jointly prescribe. Determinations of actions to be taken and policy to be expressed with respect to any report or recommendation of the Board shall be made only by the Secretary of the Interior, Secretary of Agriculture, or their authorized representatives.

G. Advice and recommendations. All advice and recommendations of the Board shall be made with the approval of a majority of the members present. Advice and recommendations of individual members, including minority views, may be made by the individuals involved. Each report of advice and recommendations shall be addressed only to the Secretary of the Interior or the Secretary of Agriculture, or both, or to their respective authorized representatives, and shall address only matters covered in the record of the Board's proceedings.

H. Termination. The term of the Board is indefinite.

/s/ Harrison Loesch
Asst. Secretary of the Interior

/s/ T. K. Cowden
Asst. Secretary of Agriculture

January 2, 1973

4711 - MANAGEMENT COORDINATION

MEMORANDUM OF AGREEMENT - FEDERAL AGENCIES

MEMORANDUM OF AGREEMENT

BETWEEN

HILL AIR FORCE BASE, U.S. AIR FORCE

DUGWAY PROVING GROUND, U.S. ARMY

AND

BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

RELATIVE TO

THE MANAGEMENT OF WILD, FREE-ROAMING HORSES WHICH INHABIT PUBLIC
LANDS UNDER THE DEPARTMENT OF INTERIOR AND NATIONAL DEFENSE
JURISDICTIONS IN WESTERN UTAH, IN ACCORDANCE WITH PUBLIC LAW 92-195

It is jointly recognized that wild, free-roaming horses inhabit public lands both within the Dugway Proving Ground and the Wendover Bombing Range and adjoining national resource lands administered by the Bureau of Land Management. The habits of these horses fluctuate, depending upon seasonal conditions, but normally they summer on national resource lands in the Cedar Mountains and Dugway Range, and winter on the Dugway Proving Ground and Wendover Bombing Range in the Wildcat Mountain, Granite Mountain, and portions of the Cedar Mountain and Dugway Range both within the Dugway Proving Ground and outside.

It is recognized that the welfare of these horses will depend upon the joint effort of the National Defense Agencies and the Bureau of Land Management for the management of their habitat and protection of the horses.

Public Law 92-195, 92nd Congress, commonly known as the Wild Horse and Burro Act, herein referred to as the Act, and the regulations of the Secretary of the Interior, pursuant thereto (43 CFR Part 4700) herein referred to as the regulations, provide for the protection of wild, free-roaming horses and burros and their management as components of the public lands administered by the Forest Service and the Bureau of Land Management. The Act provides that where wild, free-roaming horses use other than national resource lands or national forest lands, that cooperative agreements may be entered into to promote the protection and welfare of these animals.

Therefore, in the interest of carrying out the purposes of the Act, the undersigned hereby agree as follows:

1. That the wild, free-roaming horses that use lands under the jurisdiction of the Defense Department and the national resource lands under the jurisdiction of the Bureau of Land Management, will be considered to be under the jurisdiction of the Secretary of the Interior.
2. That a joint management plan will be developed to provide for the management of these wild horses and their habitat in a manner consistent with the purposes of the Act. This management plan will include the following:

4711 - MANAGEMENT COORDINATION

A. An annual inventory of the wild horse populations in the area of joint concern.

B. A continuing review of the habits of the wild horses in terms of grazing and watering patterns, seasonal migrations, and the availability of water and forage.

C. A determination of the necessary use-facilitation projects -- water, fencing, etc. -- to provide for the welfare of the animals.

3. That implementation of the management plan shall be the responsibility of the Bureau of Land Management and will be carried out in accordance with terms and conditions specified by the Commanding Officers in the interest of program coordination and minimizing conflicts with the basic mission of the Defense installations.

4. That the following procedures will be used, and controls recognized in carrying out this joint effort:

A. The inventory of the horses and their habitat will be conducted jointly in accordance with plans or techniques jointly agreed upon and may include aerial or on-the-ground surveys and photography. In no case will Bureau of Land Management officials engage in these activities without clearance from the Commanding Officers of the Defense installations involved, and then only in accordance with restrictions and conditions imposed.

B. The Commanding Officers of the Defense installations shall assure that responsible officials under their commands shall be aware of the terms and conditions of this agreement, and, in carrying out their maneuvers and operations, shall exercise controls and assure compliance therewith.

C. If it is determined by the Commanding Officer of either of the Defense installations that the presence of wild horses interferes with military programs and operations, such problems shall promptly be referred to the District Manager, who shall be responsible for correcting the problem in accordance with access and related constraints or directives imposed by the Commanding Officer.

D. The District Manager of the Salt Lake District, Bureau of Land Management, herein referred to as the District Manager, shall represent the State Director of the Bureau of Land Management/implementation of this agreement.

4711 - MANAGEMENT COORDINATION

5. There shall be at least semiannual joint reviews of this wild horse management program by the Commanding Officers of the Defense installations and the District Manager of the Bureau of Land Management. These normally will be conducted in December and May, but could be at other times as conditions dictate. The management plan may be updated on the basis of information gathered in these reviews.

6. No wild, free-roaming horses shall be removed from the area, or harassed, captured, branded, or killed by either military or Bureau of Land Management personnel except as provided for in the Act and the Regulations. In the event horses are accidentally injured or killed by normal military operations, such instances shall be promptly reported to the Bureau of Land Management District Manager.

7. There shall be open channels of communication between the District Manager and Commanding Officers to provide for prompt reporting of problems associated with wild horse management and to promptly and efficiently carry out the programs here jointly agreed to. Any problems that cannot be reconciled at the District Manager-Commanding Officer level shall be referred through channels to higher authority of each agency for resolution.

8. The liability of the parties under this agreement is contingent upon the necessary appropriation and reservation of funds being made therefor.

This agreement is effective immediately and shall remain so until cancelled or modified by any party hereto by written notice. Such written notice must be two months in advance of the intended cancellation or modification date.

/s/ William G. Leavell
State Director, Utah Acting
Bureau of Land Management
Department of the Interior

October 3, 1973

Date

(Signed)
Commanding Officer
Dugway Proving Ground
U.S. Army

October 1, 1973

Date

(Signed)
Commanding Officer
Hill Air Force Base
U.S. Air Force

September 21, 1973

Date

4711 - MANAGEMENT COORDINATION
SUPPLEMENTAL MEMORANDUM OF UNDERSTANDING

SUPPLEMENT NO. 1 TO
MASTER MEMORANDUM OF UNDERSTANDING
BETWEEN
THE UTAH STATE DIVISION OF WILDLIFE RESOURCES
AND
THE BUREAU OF LAND MANAGEMENT, DEPARTMENT OF
THE INTERIOR

FREE-ROAMING HORSES AND BURROS

- I. Purpose: To effect management of free-roaming horses and burros on State and Federal lands in Utah.
- II. Policy: It is hereby understood that free-roaming horses and burros are, by virtue of Public Law 92-195 of December 15, 1971, under the jurisdiction of the United States. These animals shall be recognized as an element of the range ecosystem in Utah and shall be protected from capture, branding, harassment, or death, except as provided for by regulations. Personnel of both agencies will assist each other in enforcing these regulations on lands of respective jurisdiction.

Such animals shall be managed and controlled in a manner that is designed to achieve and maintain a desirable ecological community on Federal and State lands in accordance with the basic policy of the respective agencies.

III. Coordination-Cooperation:

- A. The BLM shall coordinate its management of free-roaming horses and burros at the State and district levels with appropriate Division of Wildlife Resources Offices.

4711 - MANAGEMENT COORDINATION

- B. The Division of Wildlife Resources will provide aircraft, pilots and observers to assist in surveys of free-roaming horse and burro populations as mutually agreed upon. The Bureau of Land Management will reimburse the Division for aircraft operations and maintenance expenditures on an hourly rate basis. Services by Division personnel will be provided at Division expense.
- IV. Modifications: This agreement shall remain in effect unless cancelled or modified by either party by informing the other, in writing, at least two months in advance of any intended cancellation or modification date.

/s/ William G. Leavell
State Director, Acting
Bureau of Land Management

October 18, 1973
Date

/s/ John E. Phelps
John E. Phelps, Director
Utah Division of Wildlife Resources

October 9, 1973
Date

Approval of Attorney General
Approved as to form

By /s/ Larry V. Lunt
Assistant Attorney General

FOREST SERVICE MANUAL
Washington, D. C.

EMERGENCY DIRECTIVE NO. 8

Aug. 6, 1973

DISTRIBUTION: All In-Service Holders of FSM 2200

CHAPTER: 2200 - ZERO CODE

POSTING NOTICE: Last ED is No. 7 to FSM 2260

2204 - DELEGATION

2204.1 - Limitation on Delegation

1. Delegations Limited to the Chief

e. Establishment of Wild Free-Roaming Horse and Burro Ranges.

f. Appointment of USDA representative to the National Advisory Board on Wild Free-Roaming Horses and Burros.

2. Delegations Limited to Regional Foresters

1. Approving management plans involving wild free-roaming horses and burros. This may be delegated to Forest Supervisors under such review procedures as he deems necessary to insure adequate control.

3. Delegations Limited to Forest Supervisors

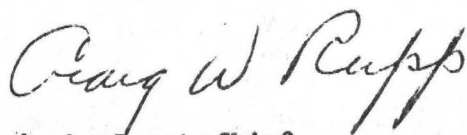
t. Processing of private ownership claims for unbranded horses and burros on National Forest System lands as per FSM 2266.

u. Disposal of wild free-roaming horses and burros as an act of mercy. This may be delegated to District Rangers.

v. Delegate individuals outside of the Forest Service as "Agents of the Secretary" in carrying out specified actions in the management of wild free-roaming horses and burros.

All Forest employees are designated as Agents of the Secretary in enforcing sections (p) and (q) of Secretary's Regulation 36 CFR 231.11. Such delegation does not limit Forest officers in their actions relative to protecting wild horses and burros when other broader law enforcement authorities exist.

Any action contemplated against an individual(s) will follow procedures established in FSM 5310 including a review by the Office of the General Counsel.


Acting Deputy Chief

FOREST SERVICE MANUAL
Washington, D. C.

Aug. 6, 1973

EMERGENCY DIRECTIVE NO. 9

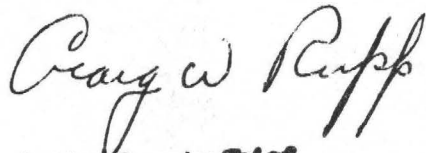
DISTRIBUTION: All In-Service Holders of FSM 2200

CHAPTER: 2260 - WILD FREE-ROAMING HORSES AND BURROS

POSTING NOTICE: Last ED is No. 8 to FSM 2200

REMOVE: ED No. 7 to Chapter 2260 issued 5/31/73

This directive replaces present instructions in ED No. 7
to Chapter 2260 issued 5/31/73.



Acting Deputy Chief

TITLE 2200 - RANGE MANAGEMENT

CHAPTER 2260 - WILD FREE-ROAMING HORSES AND BURROS

Contents

2260.1	Authority
2260.11	Secretary's Regulation
2260.2	Objectives
2260.3	Policy
2260.4	Responsibility
2260.5	Definition of Wild Free-Roaming Horses and Burros
2261	COOPERATION
2261.1	Bureau of Land Management
2261.2	Other Government Agencies
2261.3	State and Local Governments
2261.31	State Agencies - Claiming Procedures
2261.32	State Agencies, Wildlife
2261.4	Private Individuals and Organizations
2261.5	Cooperative Agreements
2262	NATIONAL ADVISORY BOARD
2262.01	Authority
2262.02	Charter
2262.03	Administrative Procedures
2262.04	Memorandum between USDA and USDI
2262.05	Designation of Secretary's Regulation
2262.1	Consultation with National Advisory Board on Wild Free-Roaming Horses and Burros
2263	INVENTORY AND STUDIES
2263.1	Census
2263.11	Inventory Area
2263.12	Methods
2263.13	Individual Animal Data

2260-2

- 2263.2 Habitat
- 2263.3 Wild Horse and Burro Ecology (Reserved)
- 2264 "1971 HORSE AND BURRO TERRITORY"
- 2264.1 Herd Units
- 2264.2 Horse and Burro Range
- 2265 PROTECTION, MANAGEMENT AND CONTROL
- 2265.1 Management Plans
- 2265.2 Protection of Wild Horses and Burros
- 2265.21 National Forest System Lands
- 2265.22 Private Lands
- 2265.23 Other Government Lands
- 2265.3 Landowners Request
- 2265.4 Capture
- 2265.5 Population Control
- 2265.51 Policy
- 2265.52 Relocation of Wild Horses and Burros
- 2265.53 Private Custody Arrangements
- 2265.54 Disposal as an Act of Mercy
- 2265.55 Disposal of Old, Sick, and Lame Animals
- 2265.56 Disposal of Excess and Problem Animals
- 2265.6 Remains of Wild Horses and Burros
- 2265.7 Appointment of Agents of the Secretary
- 2266 CLAIMS
- 2266.1 Handling Ownership Claims
- 2266.2 Ownership Claims
- 2266.3 Capture of Claimed Animals
- 2266.31 Public Notice
- 2266.32 Capture Procedures
- 2266.33 Handling Facilities
- 2266.34 Care of Horses and Burros
- 2266.35 Ownership Verification

2260 - WILD FREE-ROAMING HORSES AND BURROS

2260.1 - Authority. Public Law 92-195 (85 Stat. 649, 16 U.S.C. 1331-1340) establishes wild horses and burros as a part of the "Natural System" of National Forest System lands and requires their protection, management, and control. Other laws applicable to National Forest System lands also commonly apply in the administration of these animals. One that plays an important assisting role is the Multiple Use-Sustained Yield Act of 1960 (74 Stat. 215, 16 U.S.C. 528-531).

Secretary's Regulations have been developed to guide in the protection, management and control of such horses and burros. The Regulations are nearing final publication and will be available shortly (36 CFR, Part 231). In the interim, the Regulations as proposed in the final environmental statement, July 6, 1973, on wild free-roaming horses and burros will serve as a suitable reference.

2260.2 - Objective. The objective in administering wild free-roaming horses and burros and their progeny on the National Forest System lands is to maintain a thriving ecological balance in those areas where they now occur, considering them an integral component of the multiple use resources and regulating their population and accompanying need for forage and habitat in correlation with that of uses recognized under the Multiple Use-Sustained Yield Act.

In considering population levels, it will be necessary to remember that to fully comply with the objectives of Congress the animals are a part of the "Natural System" of many National Forest System lands. As such the option will seldom exist as to deciding whether or not they are a suitable component of an area (1971 Horse and Burro Territory). As with wildlife, they must be considered as properly belonging in the area at some planned management level.

2260.3

2260.3 - Policy.

1. Wild free-roaming horses will be managed in a manner that will confine them to their 1971 Horse and Burro Territory as an integral component of the multiple use resources, and regulate their population and accompanying need for forage and habitat in correlation with that of uses recognized under the Multiple Use-Sustained Yield Act.
2. Relocation of wild free-roaming horses or burros will be made only to areas identified as 1971 Horse or Burro Territory, where suitable habitat capacity is available.
3. The Forest Service will provide for the protection, management, and control of wild free-roaming horses and burros on National Forest System lands rather than the granting of leases and permits to private parties for such purposes.
4. Wild Horse and Burro Ranges will be established only in those unique and singularly important situation where it is especially fitting to meet the purposes of the Act.

2260.4 - Responsibility "Agents of Secretary." The Chief, Forest Service, is responsible for the administration of the Wild Free-Roaming Horse and Burro Law, P.L. 92-195, and Secretary's Regulation, 36 CFR 231.11, as an agent of the Secretary of Agriculture.

Any employee of the Forest Service, or other individual who either individually or by virtue of the position he holds is delegated authority by the Chief, Forest Service, to take actions under the Wild Free-Roaming Horse and Burro regulations will be considered an "Agent of the Secretary." This does not preclude that each and every Forest Officer has the responsibility of providing protection to wild horses and burros as provided by the law and regulation.

2260.5 - Definition of Wild Free-Roaming Horses and Burros. "Wild Free-Roaming Horses and Burros" shall mean all unbranded and unclaimed horses and burros and their progeny that have used lands of the National Forest System on or after December 15, 1971, or do hereafter use these lands as all or part of their habitat. Unbranded, claimed horses and burros where the claim is found to be erroneous are also considered as wild and free-roaming if they meet the criteria above. However, this definition shall not include any horse or burro introduced onto National Forest System lands on or after December 15, 1971, by accident, negligence, or willful disregard of private ownership.

Animals meeting the above criteria are automatically considered "Wild and Free-Roaming." It is not ordinarily necessary to entertain a process of proving them wild. The law provides the option to individuals to claim and prove ownership to animals under State

estray laws. As suggested above, however, the process requires initial action on the part of the claimant, not the Government (see FSM 2266 - Ownership Claims).

2261 - COOPERATION. In providing for the protection, management, and control of wild free-roaming horses and burros, cooperation shall be maintained with other Federal Agencies, State Agencies, local governments and private individuals and organizations which may be affected or interested.

2261.1 - Bureau of Land Management. The Bureau of Land Management and the Forest Service are charged to jointly protect, manage and control wild horses and burros on their respective lands in a similar fashion. It is therefore necessary that all activities related to wild horses and burros be coordinated to reflect similar management objectives. Upon occasion it may be desirable to enter into State level agreements to insure coordinated approaches to the management, control, and protection of horses and burros.

Where wild free-roaming horses and burros use lands administered by the Bureau of Land Management as a part of their habitat, all management activities related to the protection, management, and control of these animals will be coordinated with the Bureau of Land Management to the fullest extent possible. Coordination should take the form of a joint effort in inventory, planning, and management.

2261.2 - Other Government Agencies. In providing the protection, management and control of wild horses and burros, planned actions shall be coordinated with other Federal land management agencies which may be affected by the provisions of the Act and/or regulation.

The advice and suggestions of agencies with qualified scientists or other expertise should be sought when appropriate.

2261.3 - State and Local Governments. Applicable State Agencies will be consulted on those matters that are of interest to them.

2261.31 - State Agencies - Claiming Procedures. Regional Foresters will attempt to develop a cooperative agreement with the State Agency responsible for the branding and estray laws. Such agreement will spell out the acceptable proof of ownership. It is desirable to include the Bureau of Land Management in this agreement. Close cooperation with the Bureau of Land Management is essential even though they may not be a party to the agreement. It is essential that procedures relating to ownership criteria and claiming be identical between the Bureau of Land Management and Forest Service in a given State.

If an agreement cannot be made with the State Agency responsible for the branding and estray laws, ownership claims will be approved

2261.32

or rejected by the Forest Service in accordance with State law.

2261.32 - State Agencies, Wildlife. Consultation will be made with the appropriate State wildlife agency in the protection, management, and control of wild free-roaming horses and burros. Such consultation should include, but not be limited to:

1. Areas identified as 1971 Horse and Burro Territory.
2. Wild free-roaming horse and burro management plans.
3. Expected impact of wild free-roaming horses and burros on other uses, especially wildlife, and the coordination measures expected to be taken to mitigate impacts.
4. Possible predator control measures.
5. Establishment of Wild Horse and Burro Ranges.

2261.4 - Private Individuals and Organizations. Full public knowledge and participation is desirable in the management of wild horses and burros. This can often be accomplished by public meetings, advisory board meetings, and similar events where the agenda might provide for consideration of wild horse and burro matters.

2261.5 - Cooperative Agreements. Cooperative agreements may be entered into with other Federal Agencies, State Agencies, local governments and private individuals and organizations for the purpose of carrying out the responsibilities of protection, management, and control of wild free-roaming horses and burros.

2262 - NATIONAL ADVISORY BOARD

2262.01 - Authority. Public Law 92-195 (16 U.S.C. 1331-1340) to require the protection, management, and control of wild free-roaming horses and burros on public lands, and Public Law 92-463, Federal Advisory Committee Act.

2262.02 - Charter:

CHARTER
NATIONAL ADVISORY BOARD FOR WILD FREE-ROAMING
HORSES AND BURROS

1. Purpose: Compliance with Section 9(c) of the Federal Advisory Committee Act (86 Stat. 770).
2. Official Committee Designation: The National Advisory Board for Wild Free-Roaming Horses and Burros.
3. Committee Objectives and Scope of Authority: As provided by the Act of December 15, 1971 (85 Stat. 649), advise the Secretaries of Agriculture and the Interior on any matter relating to wild free-roaming horses and burros on national forest lands and on public lands administered by the Bureau of Land Management.
4. Period of Time Necessary for Committee's Activities: Since the Board has been established by statute and its responsibilities are related to continuing Forest Service and Bureau of Land Management responsibilities for the use and management of national forests and the National Resource Lands, the Board's activities are indefinite in duration.
5. Agency Official to whom the Board Reports: Director, Bureau of Land Management, Interior Building, Washington, D.C. 20240, or Chief, Forest Service, Independence and 14th Street, SW, Washington, D.C. 20250.
6. Agency Responsibility for Administrative Support: Bureau of Land Management, U.S. Department of the Interior.
7. Committee Duties: Gather and analyze information, make studies, hold meetings, and develop recommendations for the Secretaries of Agriculture and the Interior.
8. Estimated Annual Operating Costs: \$30,000; 12 man months of Federal manpower.
9. Estimated Number and Frequency of Meetings: Four regular meetings annually.
10. Committee Termination Date: December 31, 1974, unless otherwise provided for by law in accordance with Section 14 of the Federal Advisory Committee Act.

C. Wayne Cook
Chairman, National Advisory Board
on Wild Free-Roaming Horses and Burros

Date

2262.03-1

2262.03 - Administrative Procedures:

DEPARTMENT OF THE INTERIOR
Office of the Secretary

DEPARTMENT OF AGRICULTURE
Office of the Secretary

National Advisory Board on
Wild Free-Roaming Horses and Burros

Administrative Procedures

On page 11276 of the Federal Register of June 6, 1972, there was published a notice and text of proposed administrative procedures (charter) for the National Advisory Board on Wild Free-Roaming Horses and Burros.

Interested persons were given 45 days within which to submit written comments, suggestions or objections. Upon consideration of these comments and suggestions, certain changes have been incorporated. Additionally, language has been added to reflect the requirements of newly enacted Public Law 92-463, the Federal Advisory Committee Act.

The changes required by Public Law 92-463 are as follows:

1. The wording of IIIA5, Compensation, has been amended to clarify the provisions for payment of travel expenses.
2. A sentence has been added to IIIC, Meetings, to give the estimated number of meetings per year, annual operating costs, and man years required.
3. A new clause reading: ". . . who is authorized to adjourn any meeting whenever he considers adjournment to be in the public interest." has been added to IIIC3, Official participation.
4. Part IIIC4, Executive session, has been eliminated, and Part IIIC5 renumbered IIIC4.
5. Part IIIE, Public participation, has been renumbered IIIC5, reworded to insure that all meetings will be open to the public, and to provide for the making of presentations and the filing of statements.
6. The portion of IIIE, Public participation, concerning advance public notice of meetings has been separated and expanded under part IIIC6, Advance public notice.

7. A part IIIC7, Support services, has been added to spell out responsibility for such services.

8. Part IIIF, Record of proceedings, has been renumbered IIIE, and the word "official" dropped from subpart (c). Subpart (d) has been changed to read, "a description of matters discussed and conclusions reached;". Subpart (f) has been amended to provide for certification of the accuracy of records by the Board chairman. Additionally, a sentence has been added to indicate where copies of Board records may be inspected and copied.

9. Part IIIG, Rules and procedures, has been renumbered IIIF, and the words ". . . is solely advisory and . . ." added between "Board" and "shall" of the first sentence. A sentence has been added to prescribe responsibility for actions to be taken with respect to any report or recommendation of the Board.

10. A part IIIH, Termination, has been added.

The following changes were made in response to comments:

1. The second sentence of II Authority has been eliminated. Although the sentence was an accurate statement of the law, its repetition in the charter could be interpreted as a limitation on the broad scope of the Board's advisory functions.

2. IIID Chairmanship has been revised to make clear that the chairman and vice chairman would be selected from among the membership of the Board. The word "principal" has been deleted from the first sentence of the second paragraph.

3. IIIE Public participation has been revised to show that their duly authorized representatives, as well as the two Secretaries, can call emergency meetings.

4. IIIH Advice and recommendations, renumbered IIIG, has been amended by changing "dissents from majority views" to "minority views" in the second sentence.

It was concluded that no further change was necessary to reflect the fact that State university staff members are qualified to serve on the Board, and that the Secretaries will seek a proper balance of interests on the Board. The suggestion that "land use" be added to the list of qualified disciplines was not adopted because the law itself specifies the qualifications. Similarly, there were recommendations to appoint officials of State government. The Act specifically prohibits such appointments.

The procedures are hereby adopted as revised and as set forth below. They shall become effective January 1, 1973.

I. Purpose. This document provides for the operation and describes the purpose, composition, and functions of the National Advisory Board on Wild Free-Roaming Horses and Burros.

II. Authority. The Act of December 15, 1971 (16 U.S.C. 1131-1340) requires the protection and management of wild free-roaming horses and burros on the public lands. Section 7 authorizes and directs the Secretary of the Interior and the Secretary of Agriculture to appoint a joint advisory board to advise them on any matter relating to the protection and management of wild free-roaming horses and burros, and specifies the qualifications required for membership on the advisory board.

III. National Advisory Board on Wild Free-Roaming Horses and Burros.

A. Membership. The Board shall consist of nine members, none of whom shall be an employee of the Federal Government or State governments.

1. Qualifications. Each member must have specialized knowledge in one or more of the following fields: The protection of horses and burros, the management of wildlife, animal husbandry, and natural resource management. At least one of each of the above disciplines shall be represented on the Board at all times.

2. Selection. All members shall be selected on the basis of experience and established competence in their respective fields of specialized knowledge.

3. Appointments. All members will be jointly appointed by the Secretary of the Interior and the Secretary of Agriculture.

4. Term. The term of appointment will be 1 year. If a member does not serve his full term, the Secretary of the Interior and the Secretary of Agriculture may appoint a successor for the remainder of the unexpired term. Members may be reappointed for additional 1-year terms not to exceed 10 years of total service.

5. Compensation. Members shall serve without compensation, except for reimbursement of travel expenses, including per diem, in connection with their duties as members.

B. Functions. The Board shall advise, consult with, and make recommendations to the Secretary of the Interior and the Secretary of Agriculture, or their duly authorized representatives, on any matter relating to wild free-roaming horses and burros.

C. Meeting. The Board shall meet at times and places to be determined by the Secretary of the Interior or the Secretary of

Agriculture, or both, or their duly authorized representatives. It is estimated that there will be four meetings per year at an annual cost of \$30,000 and one man year of support.

1. Call to meet. The Secretary of the Interior and/or the Secretary of Agriculture, or their respective designees, will issue a formal call for each Board meeting.

2. Agenda. The Secretary of the Interior and/or the Secretary of Agriculture, or their respective designees will, in consultation with the chairman, formulate and approve the agenda for each meeting in advance.

3. Official participation. All meetings will be conducted in the presence of a duly authorized full-time salaried official or employee of the Department of the Interior or the Department of Agriculture, who is authorized to adjourn any meeting whenever he considers adjournment to be in the public interest.

4. Quorum. A majority of Board members holding office shall constitute a quorum which shall be required for the conduct of Board business.

5. Public participation. All meetings of the Board will be open to public observation. Any interested person may attend meetings, make a presentation upon request to the chairman, or file a statement with the Board. However, the authorized Department of Agriculture or Department of the Interior representative may establish reasonable limits as to the numbers of persons who may attend and the nature of their participation to the extent that available accommodations and time require limitation.

6. Advance public notice. To provide interested parties an opportunity to attend and participate, advance public notice of the date, place, and general subject matter of scheduled meetings will be given through publication in the Federal Register and appropriate local news media.

7. Support services. The Secretary of the Interior or his delegate shall be responsible for providing support services for the Board, including advance public notice of meetings.

D. Chairmanship. The Secretary of the Interior and the Secretary of Agriculture will designate one of the members as chairman and another as vice chairman for the first year. Thereafter, members will annually elect the chairman and vice chairman among their own members.

The chairman will be the liaison between the Secretary of the Interior and the Secretary of Agriculture or their duly authorized

2262.03-5

representatives in working with the Departments in formulating agendas and otherwise arranging for the orderly conduct of business. He will preside at meetings and appoint members of working groups of the Board. The vice chairman will act for the chairman in his absence.

E. Record or proceedings. A written record shall be made of all proceedings of Board and working group meetings. A verbatim transcript may be made but is not required. As a minimum, each record of proceedings shall include: (a) the agenda; (b) the date(s) and place(s) of the meeting; (c) the names and addresses of all in attendance and the capacity in which they participated, (d) a description of matters discussed and conclusions reached; (e) the recommendations made and reasons therefor; together with concurring or minority views and, at the request of any individual member, individual views; and, (f) copies of all reports received, issued, or approved by the Board. The Board chairman shall certify to the accuracy of the record of proceedings of each meeting. Such records, together with appendices, working papers, drafts, studies, and other documents, made available to or prepared or used by the Board, will be available for public inspection and copying in the Office of the Director of the Bureau of Land Management, Washington, D. C. Additionally, copies of the record of proceedings for each meeting shall be available for viewing at the libraries of the Department of the Interior and Department of Agriculture and the Library of Congress, Washington, D. C.

F. Rules and procedures. The Board is solely advisory and shall function in accordance with applicable Federal committee management requirements, and any supplementary and complementary guidelines which the Secretary of the Interior and the Secretary of Agriculture, or their respective authorized representatives, may jointly prescribe. Determinations of actions to be taken and policy to be expressed with respect to any report or recommendation of the Board shall be made only by the Secretary of the Interior, Secretary of Agriculture, or their authorized representatives.

G. Advice and recommendations. All advice and recommendations of the Board shall be made with the approval of a majority of the members present. Advice and recommendations of individual members, including minority views, may be made by the individuals involved. Each report of advice and recommendations shall be addressed only to the Secretary of the Interior or the Secretary of Agriculture, or both, or to their respective authorized representatives, and shall address only matters covered in the record of the Board's proceedings.

H. Termination. The term of the Board is indefinite.

(Sgd.) Harrison Loesch
Assistant Secretary
Secretary of the Interior

T. K. Cowden
Assistant Secretary
Secretary of Agriculture

2262.04 - Memorandum between USDA and USDI:

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF THE INTERIOR WITH RESPECT TO THE NATIONAL ADVISORY BOARD ON WILD FREE-ROAMING HORSES AND BURROS

P.L. 92-195 (85 Stat. 649; 16 U.S.C. 1301) requires formation of a joint National Advisory Board to advise the Secretaries of Agriculture and Interior on matters relating to wild free-roaming horses and burros. In connection with the National Advisory Board on Wild Free-Roaming Horses and Burros, we agree to the following cooperative procedures:

I. In dealing with the Board, both Departments will endeavor to impress upon the Board members and the public at large that it is a joint Board assisting both Departments.

II. The Board will be utilized jointly by both Departments to the maximum extent possible. There may be instances when a meeting may be called to assist one Department only. The Department initiating the call for a meeting will provide advance notice and invitation to the other Department for attendance and participation.

III. Both Departments will designate an official representative to the Board who will attend all meetings of the Board.

1. The official representative may redelegate his role to other responsible officers in the agency concerned.

2. The Department initiating the call for a meeting will designate the presiding Government official to be the Co-chairman for that meeting, but he may relinquish this by mutual agreement of both Departments.

IV. In compliance with Executive Order 11007 and to avoid confusion in reporting, record keeping, and financing:

A. The Secretary of the Interior, or his duly appointed representative, will assume the duty of providing primary support services for the Board and for preparing reports required by statute, Executive Order, OMB Circulars, and other directives. Such responsibility includes:

1. Processing and payment of all authorized expenses by the Board;
2. Maintaining the official file of Board activities;
3. Furnishing clerical and secretarial help and materials;

2262.05

4. Furnishing all support services for joint-Department of the Interior-Department of Agriculture meetings of the Board;

5. Furnishing the Department of Agriculture with a timely, complete, and accurate copy of all material being entered into the official file of Board activities, including records of Board meetings, and copies of reports prepared in accordance with statute, Executive Order, OMB Circulars, and other directives, and

6. Processing formal calls for all meetings of the Board.

B. The Department of Agriculture will:

1. Provide a timely notice to the Department of the Interior for all meetings of the Board which it desires called;

2. Provide local support services for Board meetings called for the sole purpose of advising the Department of Agriculture;

3. Reimburse the Department of the Interior for expenses incurred for meetings called solely for the conduct of Department of Agriculture business and for its share of the costs of joint meetings; and

4. Furnish the Department of the Interior with a complete and accurate record of meetings supervised by the Department of Agriculture.

V. This memorandum of understanding will become effective upon signature.

Signed

(sgd) Rogers C. B. Morton

Earl L. Butz
Secretary of Agriculture

Rogers C. B. Morton
Secretary of the Interior

May 25, 1972

May 23, 1972

2262.05 - Designation of Secretary's Representative

The Secretary of Agriculture has delegated to the Chief of the Forest Service, pending regulation, the authority for appointing the Department's official representative to the National Advisory Board on Wild Free-Roaming Horses and Burros.

2263.12

2262.1 - Consultation with National Advisory Board on Wild Free-Roaming Horses and Burros. A National Advisory Board on Wild Horses and Burros is required by the law. The members are appointed jointly by the Secretaries of the Interior and Agriculture. The Board is established for the purpose of providing program direction at the national level in an advisory capacity. Their role has been and will continue to be vital in the early stages of implementing the regulation and development of management direction.

Coordination with the Advisory Board will be maintained by the Chief in a way that will develop overall direction in the protection, management, and control of wild horses and burros. As a general rule, the Board will not be burdened by asking them to review specific management actions. However, every effort will be made to keep them fully informed of progress and developments across the National Forest System lands.

2263 - INVENTORY AND STUDIES

2263.1 - Census. Sufficient data must be collected on wild free-roaming horses and burros so that meaningful management plans, required control of wild horses and burros, and adequate coordination with other uses and activities can be achieved. The disruption of wild horse and burro habits can result when adequate information is not available. High quality data and records are important to insure that land management decisions do not have an adverse effect on wild horses and burros.

The census of wild free-roaming horses and burros will collect information on numbers, herd composition, reproduction levels, feeding habits by time of year and weather conditions, herd unit, seasonal distribution on movement, external influences, and the effect of other animal species on horse and burro behavior.

Each Regional Forester will develop detailed guidelines for the collection of census data.

2263.11 - Inventory Area. Inventories will be conducted on each of the 1971 Horse and Burro Territories.

2263.12 - Methods. Various techniques and combination of techniques can be used in the collection of census data. Each individual situation will establish the best techniques to be used in the collection of data. The most common techniques are:

2263.13

1. Helicopter. Helicopters give the advantage of intensive inventory of a large area in relatively short periods of time. Not all data required can be obtained by helicopter observation alone. When using aircraft, care should be exercised to avoid undue stress and disturbance to animals being observed.

2. Surveillance of Water Sources. A continuing surveillance of all water sources in the inventory area in a systematic approach for a 3 or 4 day period. Accurate data may be difficult to obtain in areas with numerous or closely located waters which may have an overlap in use by various herds. These areas may require that several water sources be watched at the same time. This system yields good data on herd composition, reproduction levels, animal health, and identification of individual animals. However, important habitat relationship data cannot be obtained by this type of surveillance.

3. Systematic Grids. Travel throughout the inventory area in a systematic manner and document wild horse or burro herds as they are encountered. The advantage of this method is that animals are recorded in the location they are presently inhabiting. Data collected from these locations will prove valuable in determining herd unit boundaries. A disadvantage is that many of the animals inhabiting the inventory area may be missed.

4. Photographs. Photographs will serve as an important identification tool of wild horses and burros. Photographs should be taken of each band at the time of observation.

2263.13 - Individual Animal Data. The need to identify individual animals is important for planning the removal of excess animals, removal of animals from private land or other Government land when requested, and for the processing of claims by private individuals. Age class, sex, reproduction activities and color markings of individual wild horses and burros should be obtained as accurately as possible.

2264.1

2263.2 - Habitat. Wild free-roaming horse and burro habitat information will be obtained from existing range environmental analysis and wildlife habitat inventories. Where these do not exist, procedures defined in FSM 2210 and FSM 2610 will be used to gather the needed habitat information.

The information found in other resource inventories should be utilized in fully evaluating wild free-roaming horse and burro habitat.

2263.3 - Wild Horse and Burro Ecology (reserve)

2264 - "1971 HORSE AND BURRO TERRITORY"

Means the National Forest System area to be identified by the Chief, Forest Service, as the areas which were the territorial habitat of wild free-roaming horses and/or burros at the time of the passage of the Act.

Land use planning endeavors will recognize Wild Horse and Burro Territories as the habitat boundaries for the management of these animals.

It will be the responsibility of the Regional Forester to identify all areas meeting this definition by December 31, 1973. As a minimum, this identification will include the following information:

1. Exterior boundaries of the territorial habitat limits, regardless of the landownership. This should include the complete habitat requirements for the animals.
2. Estimated number of wild horses and/or burros occupying the territory as of December 1971.
3. Those numbers currently occupying this territory.
4. The extent that animals depend upon other lands for portions of their habitat requirements.
5. Outside influences that are or might be causing numbers to fluctuate. This might include migration from adjacent lands, unusual predator problems, general range condition, and removal by unauthorized activities.

A Regional report including maps of the areas should be furnished to the Washington Office by January 15, 1974.

2264.1 - Herd Units. An area of land within 1971 Horse and Burro Territory that is defined as the territorial habitat of one or more

stallions and their mares, or jacks and their jennies, which range as one band of animals. This specifically identifies the maximum geographic limits used by the herd under varying weather conditions and which is needed for reproduction and survival.

This relationship of animals and habitat is not always a clearly identifiable situation. Therefore the use of herd units cannot always be a key factor for management purposes.

2264.2 - Horse and Burro Range. This is an area of land specifically designated by the Chief from 1971 Horse and Burro Territory for the purpose of sustaining 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 multiple-use management.

By policy Horse and Burro Ranges will be established only when unique and singularly important situations require such classification to insure meeting the intent of the law. Their establishment must be formally approved by the Chief.

2265 - PROTECTION, MANAGEMENT, AND CONTROL

2265.1 - Management Plans. A management plan will be prepared for all Horse and Burro Territories. When appropriate, herd unit plans may also be developed. Each plan should present the needs for the specific wild free-roaming horse and burro territory. The basic components of all management plans should include applicable information as follows:

1. Background information. This would be such items as herd history, existing resource condition, and animal health.

2. Objectives. The objectives for both animals and resource management should be clearly stated. Management objectives will need to be coordinated with other uses and activities on the area. Where necessary, because of complexity, interim management objectives may be established. In establishing objectives, the retention of the wild free-roaming nature of the animals in harmony with a thriving ecological balance is essential. Normally management will not be intensive, but will be coordinated with existing livestock and wildlife management plans. Modification of intensive domestic livestock management plans may be necessary to insure the welfare of wild horses and burros.

It is the intent of the wild horse and burro law to not restrict these animals to any one particular strain. Because of this, biological management of animals will not ordinarily be to improve strains or conformation. Rather management should be to maintain

a biologically sound level. This does not preclude management objectives aimed at favoring a particular genetic strain of animal when there appears to be a special value to be realized.

3. Management (resource). Description of the management techniques proposed to achieve the desired intensity of management of management.

4. Management (animals). Include such direction as level of population protection requirements, means of disposal, and means of capture. Planned populations levels will be arrived at by considering number presently on territory, suitability of range to feed horses, condition of range, range trend, and coordinated use by horses with other multiple uses. These criteria are not to be used to establish minimum or maximum numbers, but are to be used as an aid in determining a sound biological population. These criteria are the recommendation of the National Advisory Board somewhat modified by the Forest Service.

5. Improvements. Those improvements, structural and non-structural, needed to assure the desired level of management. Improvements may be constructed from appropriated funds or cooperative deposits.

6. Cooperative arrangements. Spell out the applicable cooperative arrangement that will be needed to achieve the management objectives as defined. Where appropriate cooperative agreements should be included in the appendix of the plan.

7. Studies and evaluation. Described followup action to be taken and any studies that might be required to fully implement management plan.

2265.2 - Protection of Wild Horses and Burros. The Forest Service is responsible for the protection of individual animals and herds of wild free-roaming horses and burros even though they may move to lands of other ownership or jurisdiction as a part of their annual territorial habitat pattern or for other reasons. Surveillance and protection of wild free-roaming horses and burros will be maintained at all times through the use of cooperative agreements or other media as authorized by law. However, Forest Service personnel are not authorized to enter upon lands of other ownership in the surveillance and protection of wild horses and burros without permission or court order.

When there is cause to believe that the protective measures of the Act and regulation are being violated, appropriate administrative and/or criminal and civil judicial procedures will be implemented.

2265.21 - National Forest System Lands. Where wild free-roaming horses and burros are entirely confined to National Forest System lands

2265.22

for their territorial habitat, they will be administered by the Forest Service. Permits will not be issued to individuals or organizations for the management of animals on National Forest System lands. Cooperative agreements may be entered into whereby individuals or organizations may provide funds for management purposes such as water or habitat improvement.

2265.22 - Private Lands. Owners of private land who wish to maintain wild horses and burros in a wild state may do so when excess animals are available for such purposes. A cooperative agreement will be entered into for their protection, management, and control. The agreement will provide for an annual report of the welfare and status of the animals. In those instances where wild horses or burros stray or migrate seasonally from National Forest System lands onto private lands and the owner makes no objection to their intermittent presence, no cooperative agreement is required.

2265.23 - Other Government Lands. Although wild free-roaming horses and burros may wander from National Forest System lands to lands of other Government ownership, parks, monuments, military, etc., or conversely they remain under the protection of the Forest Service, coordinated management of the animals should be achieved through a cooperative agreement. Control programs by other Government Agencies on lands under their jurisdiction that affect wild horses and burros must be approved by the Forest Service. However, Forest Service personnel will not participate in execution of such control programs.

2265.3 - Landowners Request. Upon request by a private landowner(s), wild free-roaming horses and burros that have strayed from National Forest System lands will be removed. When the fences on private lands are not in conformance with the applicable State fence laws, the landowner will be advised of his responsibilities.

In moving wild free-roaming horses and burros from private lands, the applicable State laws governing livestock movement will be adhered to.

All wild free-roaming horses and burros removed from private lands will be returned to their normal herd territories with a minimum of physical damage or undue stress.

2265.4 - Capture. Wild free-roaming horses and burros may be captured as necessary to achieve their protection, management, and control. Captured animals may be corralled and held in a humane manner pending release, relocation, or disposal.

All actions affecting the capture of wild free-roaming horses and burros shall be under the direction of a Forest officer. Caution and surveillance of operation must assure a minimum of risk to the

welfare of the animals. Handling (corral, water traps, etc.) shall be such as to reduce or eliminate inadvertent injury to the captured animals. Adequate food and water shall be provided to satisfy animal requirements.

2265.5 - Population Control. When it is necessary to conduct an artificial control of wild horse and burro numbers, the following priorities will be observed:

1. Severely injured or sick animals which may be destroyed immediately (FSM 2265.54).
2. Old, sick, and lame animals that are excess to the biological needs of the horse or burro population.
3. Problem animals which demonstrate individual habits or traits that pose an undue threat to the safety or welfare of persons, wildlife, or livestock.
4. Animals that are determined to be in excess of population numbers required to maintain a sound biological level with a natural ecological balance that is harmonious with multiple use management of the area.

2265.51 - Policy.

1. Populations of wild free-roaming horses and burros will be maintained in those areas identified as 1971 Horse and Burro Territory.
2. Population numbers will be maintained at levels that will result in a sound biological balance that will insure their perpetuation.
3. Population numbers will be maintained at a level that is compatible with the sound multiple use management of the area.
4. Healthy wild horses and burros will be destroyed only when it is unfeasible or impracticable to capture and/or relocate them.

2265.52 - Relocation of Wild Horses and Burros. Wild horses and burros may be relocated when they are found to be excess or problem animals. They may also be relocated if it is necessary to prevent their repetitive return to private land from which their removal has been requested. Relocation must be to other areas identified as 1971 Horse and Burro Territory if suitable habitat capacity is available or to the custody of private parties.

2265.53 - Private Custody Arrangements. Individual animals selected for relocation may be placed with private parties or other Government

2265.54

Agencies. When this is done a cooperative agreement will be entered into. The cooperative agreement will not transfer title but merely place the animal(s) in custody of the private individual.

The cooperative agreement will also cover such conditions as:

1. Specification for humane treatment.
2. Prevention of commercial exploitation.
3. Prevention of disposal to a third party.
4. Requirement for an annual report on the animals' health.
5. Requirement for noncommercial disposal of the carcass in case of death.
6. May allow domestication and riding.
7. May allow gelding of stallions.

2265.54 - Disposal as an Act of Mercy. Severely injured or seriously sick animals will be destroyed immediately in the most humane manner possible. This destruction must be done by an Agent of the Secretary. Acts of mercy may be taken regardless of other population considerations.

All destruction of animals as an act of mercy should be fully documented by the person destroying the animal. This documentation will fully describe the health of the animal and the conclusions reached that lead to the act of mercy. When the cause of the injury or circumstances leading to the injury are known, they should be documented.

2265.55 - Disposal of Old, Sick, and Lame Animals. If excess populations exist, old, sick, and lame animals may be destroyed in the most humane manner possible. The National Advisory Board has indicated in recent meetings that they do not need to be consulted for such disposal if the action is being conducted in accord with approved management plans.

Inclusion of animals in this category will be restricted to those not biologically necessary to the herd and to those instances where relocation is not possible or practicable. Their relocation may not be possible due to age, health, or the general condition of the animal. Sound horses, even though old would not fall into this classification.

2265.56 - Disposal of Excess and Problem Animals. Normally these animals will be relocated to private custody, 1971 Horse and Burro

Territory, or to other Governmental Agencies. They will be destroyed only when all means of relocation have been fully explored and found to be unreasonable or impractical.

When it is determined necessary to destroy excess and problem animals, it will be done in the most humane manner possible. Such actions should be anticipated and reviewed with the National Advisory Board prior to taking action.

2265.6 - Remains of Wild Horses and Burros. Known carcasses of wild horses and burros may be disposed of in the manner set forth by State sanitary codes. In no event will they be processed into a commercial product.

Where State sanitary codes do not prescribe techniques for disposal, the following may be considered:

1. Burying. When carcasses are buried, such agents as quick lime should be spread over the carcass prior to covering.

2. Burning. Burning should be done in line with State fire laws and when not a hazard to National Forest System lands.

2265.7 - Appointment of Agents of the Secretary. The appointment of individuals outside of the Forest Service as Agents of the Secretary should be restricted to the carrying out of Forest Service action programs and cooperative agreements for the maintenance of wild horses and burros. In most cases management actions on wild horse and burro areas will be accomplished by Forest Service employees.

Where landowners or individuals are experiencing problems with wild horses and burros, they should not be given authority as Agents of the Secretary.

Delegation of Agents of the Secretary will be in writing and of short duration. The delegation should spell out the specific authority being given to the Agent and the duration of the authority.

2266

2266 - CLAIMS

The following claiming procedures have been developed in conjunction and with the advice of the National Advisory Board. The Bureau of Land Management has established similar procedures to be followed. Therefore, all claiming procedures will stay within the framework outlined below.

2266.1 - Handling Ownership Claims. Ownership claims for unbranded, unpermitted horses and burros occupying National Forest System lands as all or part of their habitat will be recognized within the State estray laws and the criteria cooperatively agreed to with the State Agency administering State estray laws (2261.3). Only those horses and burros which do not qualify as wild and free-roaming may be captured or removed from National Forest System lands or other lands, except by Agents of the Secretary.

The processing of ownership claims will be handled in three distinct steps:

1. Filing of claims by private parties and the evaluation of these claims for validity. Claims will be accepted for a period of 90 days after publication of the Regulation (36 CFR 231.11).
2. Issuing of permits for the capture of animals in the case of approved claims. Capture permits may extend for any reasonable period into the future but not more than 1 year.
3. Final verification or rejection of ownership claims after the animals have been captured.

A claimant must submit an affidavit claiming ownership and indicating his willingness to defend title to the claimed animals. All ownership claims will be accepted and acted upon. The claim should include such information as the following (see also sample format, end of section):

1. Numbers of animals claimed.
2. Full description of each animal, including such factors as color, markings, brand, and factors indicating tameness such as animal being gelded, broken to rope or saddle.
3. Location of animals on National Forest System lands.
4. Date and circumstances animals were released upon National Forest System lands.
5. Location of relevant private lands where animals were kept prior to release upon National Forest System lands.
6. Documentation of proof of ownership such as:
 - a. Bill of Sale(s) fully describing the claimed animals and meeting all State legal requirements, or

- b. State inspection certificate issued for some previous occasion, or
- c. State brand exemption certificate (in those States that provide these) issued for some previous occasion.
- d. Other indicia of ownership that may be used are:
 - (1) Whether the claimant has paid personal property tax upon the claimed animal(s).
 - (2) Whether the animal(s) is the known progeny of a mare owned by the claimant.

Claims received for horses and burros will be acknowledged in writing to the claimant. He should be informed that no grazing fee will be charged for whatever time is required by the Forest Service to determine the validity of claims, timing, and method of removing claimed animals.

Those horses and burros that are branded but unclaimed or that were unbranded but released upon National Forest System lands after December 15, 1971, will be considered as trespass or unauthorized animals. They will be removed only in a manner that will not cause harassment or injury to the wild free-roaming horses and burros where they exist.

2266.2 - Ownership Claims. All ownership claims will be analysed to determine the validity in accordance with State law and cooperative agreements made with State Agencies. Where cooperative agreements do not exist the Forest Supervisor will have the full responsibility to assess the claim as to its evidence of ownership. After fully evaluating the claim the claimant will be advised of the Forest Supervisor's finding. Where there is a determination that the claim is based on sound merits of ownership the claimant will be informed that capture authorization will be granted. Where claims are rejected, the reason for rejection will be stated.

2266.3 - Capture of Claimed Animals. Capture will be accomplished within the criteria established by the Forest Supervisor in a manner which will not cause harassment to wild free-roaming horses and burros or result in violation of law. All captures will be approved in writing. The actual capture efforts will be observed and overseen by a Forest officer.

2266.31 - Public Notice. The pending regulation provides for a 90-day claiming period for individuals to claim unbranded horses or burros utilizing National Forest System lands. Public notices

2266.32

should be made spelling out the claiming period and the procedures that are to be followed in submitting claims. When several claims are received for a given area, a public notice should be given in order that other parties will be aware of pending activity. Comments from interested parties will be accepted and utilized in determining validity of claims. In some instances it may be advisable to hold a public meeting for discussion of the subject.

2266.32 - Capture Procedures. When there are two or more claims covering animals in a given area, capture actions by all claimants will ordinarily be accomplished concurrently under joint criteria. Timing of roundups can often be done so as to assist in the minimization of stress on the animals and also make the bunching and corralling of the animals easier. Use of aircraft and motorized vehicles will not be used in capturing animals.

Some means of controlling and corralling horses and burros are as follows:

1. Tranquilizers. Animals may be placed under control through use of tranquilizers or immobilizing drugs. This procedure may be effective in aiding in the humane removal, relocation or disposal of animals.

2. Water traps (salt traps). Water and/or salt traps may be used for capture of horses and burros where this can be accomplished in a humane manner. Frequent inspection and other measures must be taken to prevent undue stress of animals caused by trapping.

2266.33 - Handling Facilities (corrals, fences, etc.). Should be located on National Forest System lands and owned by the Federal Government unless formal arrangements have been made for the use of private facilities. In some cases, it may be necessary to construct temporary facilities adequate to handle animals in a humane fashion during capture. Care must be taken to prevent injury to horses and burros during the roundup and corralling of animals. Sufficient help should be available to adequately handle the horses and burros. Should animals become seriously injured or die during corralling, extent of injury or exact cause of death must be thoroughly documented.

2266.34 - Care of Horses and Burros. Horses and burros will be properly fed and watered while corralled. Security should be provided to keep them safe from harm and prevent unauthorized removal while corralled.

2266.35 - Ownership Verification. Once the animals are captured the ownership will be verified prior to granting permission to remove animals. Criteria established

through a cooperative agreement (2261.3) will be used to verify ownership claims.

Where cooperative agreements do not exist the Forest Supervisor will make the final determination as to the validity of the claim. This determination should be done according to the complete requirements of State laws. Customary practices of ownership in the area which do not clearly conform to the State law will not be acceptable in this evaluation. Although there is no agreement, State brand inspectors can be of assistance in making this evaluation. Permission will then be granted to transport the animals. All transportation must conform to the respective State laws.

Where claims for unbranded animals are not valid, the animals will be considered as wild free-roaming horses and burros and released with a minimum of delay. Where claims for branded animals are not valid, the animals will be handled as trespass or unauthorized per FSM 5333.

ED. No. 9
8/6/73

(Sample Claiming Form)

AFFIDAVIT AND CLAIM OF OWNERSHIP OF HORSES OR BURROS

I hereby claim ownership to the following described animals using National Forest System lands as part of their habitat.

1. Animals are _____ Horses _____ Burros
2. Number of animals claimed _____
3. Full description of each animal (include color, markings brand, and factors indicating tameness such as animal being gelded, broken to rope or saddle) _____

4. Location of animals
 - a) Geographic description of lands: _____

 - b) Legal description of lands: _____

5. Date and circumstances animals were released: _____

6. Location of relevant private or leased lands where animals were kept prior to release: _____

I hereby certify that the above described animals are owned by me and I will defend my title to them. I will gather and remove them only upon receiving written authorization from the Forest Service.

Date

Signature (Owner)

Signature (Witness)

18 U.S.C. Sec. 1001 makes it a crime for any person knowingly and willfully to make to any Department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

NOTE: All six (6) items on this statement must be completed in full. Additional pages may be used if necessary.

Title 43—Public Lands: Interior
CHAPTER II—BUREAU OF LAND MANAGE-
MENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER D—RANGE MANAGEMENT (4000)

[Circular No. 2347]

**WILD FREE-ROAMING HORSE AND
 BURRO MANAGEMENT**

**Protection, Management, Control and
 Reservation of Forage**

Subchapter D, Chapter II, of Title 43 of the Code of Federal Regulations is amended as follows:

**PART 4110—GRAZING ADMINISTRATION
 (INSIDE GRAZING DISTRICTS) (THE
 FEDERAL RANGE CODE FOR GRAZING
 DISTRICTS)**

1. The first sentence of paragraph (d) of § 4115.2-1 of Subpart 4115 is revised to read as follows:

§ 4115.2-1 License and permit procedures; requirements and conditions.

* * * * *

(d) *Cancellation or reduction of licenses or permits; show cause; appeal to examiner.* Licenses or permits are subject to cancellation or reduction to the extent that they have been improperly issued, or to the extent that their continued effectiveness is adversely affected pursuant to any of the provisions of §§ 4111.1, 4115.2-1(e), 4115.1-1(k)(4), 4114.4-4, 4115.2-5(a)(6), 4712.1-3, or 4712.1-4 of this chapter.

* * * * *

**PART 4120—GRAZING ADMINISTRATION
 (OUTSIDE GRAZING DISTRICTS AND
 EXCLUSIVE OF ALASKA); GENERAL**

2. Paragraph (a) of § 4121.2-1 of Subpart 4121 is revised to read as follows:

§ 4121.2-1 Minimum requirements, rating and classification of lease land.

(a) *Land Resource Consideration.* The authorized officer will determine the availability of public land for grazing leases and the amount of forage available for use by livestock in conjunction with considerations of forage reservations for watershed protection, wildlife, wild free-roaming horses and burros, and other multiple uses.

* * * * *

3. A new Group 4700 is added to Subchapter D to read as follows:

**Group 4700—Wild Free-Roaming Horse
 and Burro Management**

**PART 4710—WILD FREE-ROAMING
 HORSE AND BURRO MANAGEMENT;
 GENERAL**

**Subpart 4710—Purpose; Objectives; Authority;
 Definitions; Policy**

Sec.
 4710.0-1 Purpose.
 4710.0-2 Objectives.
 4710.0-3 Authority.
 4710.0-5 Definitions.
 4710.0-6 Policy.

Subpart 4711—Management Coordination

4711.1 Recommendations from the joint national advisory board on wild free-roaming horses and burros.
 4711.2 State agencies.
 4711.3 Cooperative agreements.

Subpart 4712—Management Considerations

4712.1 Management; General.
 4712.1-1 Planning.
 4712.1-2 Intensity of management.
 4712.1-3 Habitat reservation and allocation.
 4712.1-4 Closures to livestock grazing.
 4712.2 Establishment of specifically designated ranges or herd management areas.
 4712.2-1 Designation.
 4712.2-2 Criteria for designation.
 4712.2-3 Management plan.
 4712.3 Removal and relocation or disposal of excess animals.
 4712.3-1 Method of capture.
 4712.3-2 Relocation of animals.
 4712.3-3 Disposal.
 4712.3-4 Acts of mercy.
 4712.3-5 Disposal of carcasses.
 4712.4 Animals on private lands.
 4712.4-1 Allowing animals on private lands.
 4712.4-2 Active maintenance of animals on private lands.
 4712.4-3 Removal of animals from private lands.

Subpart 4713—Protection of Wild Free-Roaming Horses and Burros in the Identification and Removal of Claimed and Trespass Horses and Burros

4713.1 General.
 4713.2 Action on claims.

Subpart 4714—Enforcement Provisions

4714.1 Arrest.
 4714.2 Penalties.

**Subpart 4710—Purpose; Objectives;
 Authority; Definitions; Policy**

§ 4710.0-1 Purpose.

To implement the laws relating to wild free-roaming horses and burros on public lands.

§ 4710.0-2 Objectives.

The objective of these regulations is to provide criteria and procedures for protecting, managing, and controlling wild free-roaming horses and burros as a recognized component of the public land environment.

§ 4710.0-3 Authority.

The Act of December 15, 1971 (16 U.S.C. 1331-1340), and the Act of June 28, 1934 (43 U.S.C. 315-315r).

§ 4710.0-5 Definitions.

(a) "Authorized Officer" means any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described herein.

(b) "Wild free-roaming horses and burros" means all unbranded and unclaimed horses and burros and their progeny that have used public lands on or after December 15, 1971, or that do use these lands as all or part of their habitat, including those animals given an identifying mark upon capture for live disposal by the authorized officer. Unbranded, claimed horses and burros where the claim is found to be erroneous are also considered as wild and free-roaming if they meet the criteria above. However, this definition shall not include any horse or burro which entered or was introduced onto public lands after December 15, 1971, by accident, negligence, or willful disregard of ownership.

(c) "Herd" means one or more stallions and their mares or jacks and their jennies.

(d) "Excess animals" means wild free-roaming horses or burros determined to be in excess of populations proper to maintain a thriving natural ecological balance and harmonious multiple-use relationship in an area of the public lands.

(e) "Problem animal" means a wild free-roaming horse or burro whose demonstrated individual habits or traits pose an undue threat to the safety or welfare of persons, wildlife, livestock, or property; or a wild free-roaming horse or burro infected by a contagious disease or suspected of being diseased or seriously ill.

(f) "Public lands" means any lands administered by the Secretary of the Interior through the Bureau of Land Management.

(g) "Wild horse or burro range" means a specifically designated area of land needed to sustain a herd or herds of wild free-roaming horses or burros, and which is devoted principally but not necessarily exclusively to their welfare in keeping with the multiple use management of the public lands.

(h) "Management plan" means a written program of action designed to protect, manage, and control wild free-roaming horses and burros and maintain a natural ecological balance on the public lands.

(i) "Act" means the Act of December 15, 1971 (16 U.S.C. 1331-1340).

(j) "Advisory Board" means the joint advisory board established by the Secretary of the Interior and the Secretary of Agriculture pursuant to section 7 of the Act.

§ 4710.0-6 Policy.

(a) Wild free-roaming horses and burros are under the jurisdiction of the Secretary of the Interior and will be managed as an integral part of the natural systems of the public lands. They will be protected from unauthorized capture, branding, undue disturbance, and destruction. They and their habitat will be managed and controlled in a manner designed to achieve and maintain a thriving ecological balance on the public lands and a thriving population of sound, healthy individuals, all in accordance with the basic program policies for public land management set forth in Subpart 1725 of this chapter.

(b) Wild free-roaming horses and burros on the public lands will be managed by the authorized officer, with full public participation and such cooperative arrangements as he may find helpful. Management on public lands will not be assigned to any private individual or association through a grazing license, lease, or permit.

Subpart 4711—Management Coordination

§ 4711.1 Recommendations from the joint national advisory board on wild free-roaming horses and burros.

Policies and guidelines relative to proposals for establishment of ranges, proposed management plans, adjustments in number, relocation and disposal of animals, and other matters relating generally to the protection, management, and control of wild free-roaming horses and burros shall be presented to the Advisory Board for recommendations.

§ 4711.2 State agencies.

(a) All management activities including, but not limited to, establishment of ranges and adjustments in forage allocation shall be planned and executed in consultation with the appropriate State agency to further consider the needs of all wildlife, particularly endangered species.

(b) All actions taken in connection with private ownership claims to unbranded horses and burros shall be coordinated to the fullest extent possible with the appropriate State agency.

§ 4711.3 Cooperative agreements.

The authorized officer may enter into cooperative agreements with other landowners, private citizens, nonprofit organizations, and with Federal, State, and local governmental agencies as he deems necessary for purposes of protecting, managing and controlling wild free-roaming horses and burros. Where the grazing patterns of the animals require utilization of lands in other ownerships or administration, the authorized officer shall seek cooperative agreements to insure continuance of such use.

**Subpart 4712—Management
Considerations**

§ 4712.1 Management; general.

§ 4712.1-1 Planning.

In planning for management, protection, and control of wild free-roaming horses and burros, including the establishment of specifically designated ranges, determination of desirable numbers and other management provisions of these regulations, the authorized officer will utilize the Bureau's multiple-use planning system with its requirements for public participation by and coordination with others.

§ 4712.1-2 Intensity of management.

Wild free-roaming horse or burro herds may be managed either as one of the components of public land use or on a specifically designated wild horse or burro range. Management practices shall be at the minimal feasible level and shall be consistent to the extent possible and practical with the maintenance of their free-roaming behavior. Management facilities should be designed and constructed to the extent possible to maintain the free-roaming behavior of the herds.

§ 4712.1-3 Habitat reservation and allocation.

The biological requirements of wild free-roaming horses and burros will be determined based upon appropriate studies or other available information. The needs for soil and watershed protection, domestic livestock, maintenance of environmental quality, wildlife, and other factors will be considered along with wild free-roaming horse and burro requirements. After determining the optimum number of such horses and burros to be maintained on an area, the authorized officer shall reserve adequate forage and satisfy other biological requirements of such horses and burros and, when necessary, adjust or exclude domestic livestock use accordingly. See §§ 4115.2-1(d) and 4121.2-1(a) of this chapter.

§ 4712.1-4 Closures to livestock grazing.

The authorized officer may close public lands to use by all or a particular class of domestic livestock where he finds it necessary to allocate all available forage to, or to satisfy other biological requirements of, wild free-roaming horses or burros. Such closures may be made only after appropriate public notice and in accordance with the procedures for reduction or cancellation of grazing privileges provided for under the provisions of this subchapter. See §§ 4115.2-1(d) and 4121.2-1(a) of this chapter.

§ 4712.2 Establishment of specifically designated ranges or herd management areas.

§ 4712.2-1 Designation.

The authorized officer may designate and maintain specifically designated ranges principally for the protection and preservation of wild free-roaming horses and burros.

§ 4712.2-2 Criteria for designation.

In designating specific ranges and herd management areas, the authorized officer, in addition to any other provisions of these regulations, shall:

(a) Consider only those areas utilized by wild free-roaming horses or burros as all or part of their habitat on December 15, 1971.

(b) Consider only those areas where self-sustaining herds can maintain themselves within their established utilization and migratory patterns.

(c) Consider only those areas which are capable of being managed as a unit to ensure a sustained yield of forage without jeopardy to the resources.

(d) Develop a wild free-roaming horse or burro management plan in accordance with § 4712.2-3.

§ 4712.2-3 Management plan.

The authorized officer shall, in connection with the designation of a specific range, develop a proposed wild free-roaming horse or burro management plan designed to protect, manage, and control wild free-roaming horses and burros on the area on a continuing basis. The authorized officer may also develop herd management plans as part of the multiple use management on areas outside of specifically designated wild horse or burro ranges. All management plans shall be developed in accordance with the Bureau's planning system and shall govern management of the area.

§ 4712.3 Removal and relocation or disposal of excess or problem animals.

§ 4712.3-1 Method of capture.

Under the supervision of the authorized officer, wild free-roaming horses and burros may be captured, corralled and held under humane conditions pending disposal of excess or problem animals under the provisions of this Subpart.

§ 4712.3-2 Relocation of animals.

(a) The authorized officer may relocate wild free-roaming horses and burros on public lands when he determines such action is necessary to: (1) Relieve overgrazed areas, (2) locate animals removed from private lands in accordance with § 4712.4-3, (3) remove problem animals, or (4) achieve other purposes deemed to be in the interest of proper resource and herd management. Such animals relocated on public lands shall not be introduced onto areas of the public lands which were not used by wild free-roaming horses or burros as all or part of their habitat on December 15, 1971.

(b) The authorized officer may also place animals in the custody of private persons, organizations or other governmental agencies. Custodial arrangements shall be made through cooperative agreement which shall include provisions to maintain and protect the animals and ensure that the animals will not be used for commercial exploitation. The authorized officer may, in his discretion, mark animals placed in private custody for identification purpose.

§ 4712.3-3 Disposal.

Where the authorized officer finds it necessary to remove excess animals from areas of the public lands, and he determines that it is not practical to relocate them on public lands or capture and remove them for private maintenance under § 4712.3-2, he may destroy such animals in the most humane manner possible. No person, except the authorized officer or his authorized representative, shall destroy wild free-roaming horses and burros.

§ 4712.3-4 Acts of mercy.

Any severely injured or seriously sick animals will be destroyed in the most humane manner possible as an act of mercy.

§ 4712.3-5 Disposal of carcasses.

Carcasses shall be disposed of in any customary manner under State sanitary statutes. In no event shall carcasses, or any part thereof, including those in the authorized possession of private parties, be sold or processed into a commercial product.

§ 4712.4 Animals on private lands.

§ 4712.4-1 Allowing animals on private lands.

Nothing in these regulations shall preclude a private landowner from allowing wild free-roaming horses and burros to remain on his private lands so long as the animals were not willfully removed, enticed, or retained by him or his agent from the public lands.

§ 4712.4-2 Active maintenance of animals on private lands.

Any individual who actively maintains wild free-roaming horses and burros on his private lands shall notify the authorized officer and supply him with a reasonable approximation of their number and location and, when required by the authorized officer, a description of the animals. Thereafter, he shall furnish an annual report updating the information during the month of January. An individual will be considered to be actively maintaining wild free-roaming horses or burros if he takes measures of any kind designed to protect or enhance the welfare of the animals. No person shall maintain such animals except under cooperative agreement between the private landowner and the authorized officer setting forth the management and maintenance requirements including provisions for regulating disposal of excess animals.

§ 4712.4-3 Removal of animals from private lands.

The authorized officer shall remove, as soon as he can make the necessary arrangements, wild free-roaming horses and burros, from private land at the request of the landowner where the private land is enclosed in a "legal fence." A "legal fence" for this purpose is one which complies with State standards and specifications. In "no fence districts" or other areas where the private landowner is not required by State statute to fence the private land to protect it from trespass by domestic livestock, the authorized officer shall, as soon as he can make the necessary arrangements, remove wild free-roaming horses or burros from such private land at the request of the landowner.

Subpart 4713 is revised. The full text of revised subpart 4713 follows:

Subpart 4713—Protection of Wild Free-Roaming Horses and Burros in the Identification and Removal of Claimed and Trespass Horses and Burros

§ 4713.1 General.

(a) All unauthorized and unbranded horses and burros on the public lands, except those which entered or were introduced onto the public lands after December 15, 1971, by accident, negligence, or willful disregard of ownership are presumed for the purpose of management to be wild free-roaming horses or burros.

(b) The gathering or rounding up of unbranded horses or burros on the public lands where any of such animals are not in fact authorized to be on the public lands pursuant to a grazing license, permit, lease, or other authorization, is prohibited without written authorization from the authorized officer. Also prohibited without written authorization from the authorized officer is the gathering or rounding up of unauthorized branded horses or burros where the branded animals are, or may become, intermingled with wild free-roaming horses or burros, or where the gathering or round up is likely to involve or affect wild free-roaming horses or burros.

§ 4713.2 Action on claims.

(a) Any person claiming ownership under state branding and estray laws of unbranded or branded horses or burros on public land where such animals are not authorized must present evidence of ownership to justify a roundup before permission will be granted to gather such animals. Claims of ownership, with supporting evidence, shall be submitted within 90 days of the effective date of these regulations. All written authorizations to gather claimed animals shall be on a form approved by the Director. After such public notice as the authorized officer deems appropriate to inform interested parties, he may authorize the gathering or roundup. The authorized officer shall provide in the authorization that the gathering or roundup shall be consistent with the legislation which prohibits the use of aircraft or motor vehicles to capture unbranded horses or burros; shall establish in the authorization a reasonable period of time to allow the gathering of the claimed animals; and shall provide such other conditions in the authorization which he deems necessary to minimize stress on any associated wild free-roaming horses or burros and to protect other resources.

(b) After the animals have been gathered the authorized officer and the appropriate state or local official shall inspect each claimed animal in relation to the evidence of ownership previously presented by the claimant. The state or local official shall then make a written determination of ownership concerning each claimed animal pursuant to the state branding and estray laws and any agreement between the Bureau and the appropriate state or local authority. A copy of the written determination shall be provided to the authorized officer. No animal may be removed from the gathering place until the claim of ownership has been proven to the satisfaction of the authorized officer.

(c) Unauthorized horses or burros which have been claimed and have been determined to be privately owned in accordance with the provisions of this Section will be considered to have been in trespass and may not be released until a proper trespass charge has been determined by the authorized officer in accordance with the provisions of 43 CFR 9239.3.

Subpart 4714—Enforcement Provisions

§ 4714.1 Arrest.

The Director of the Bureau of Land Management may authorize such employees as he deems necessary to arrest without warrant, any person committing in the presence of the employee a violation of the Act or of these regulations and to take such person immediately for examination or trial before an officer or court of competent jurisdiction. Any employee so designated shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of the Act or these regulations.

§ 4714.2 Penalties.

In accordance with section 8 of the Act (16 U.S.C. 1338), any person who:

(a) Willfully removes or attempts to remove a wild free-roaming horse or burro from the public lands, without authority from the authorized officer, or

(b) Converts a wild free-roaming horse or burro to private use, without authority from the authorized officer, or

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

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

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

(f) Willfully violates any provisions of the regulations under Group 4700, shall be subject to a fine of not more than \$2,000 or imprisonment for not more than 1 year, or both. Any person so charged with such violation by the authorized officer may be tried and sentenced by a U.S. 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 in section 3401, Title 18, U.S.C.

W. R. WILSON,
*Acting Deputy Assistant
Secretary of the Interior.*

AUGUST 13, 1973.

[FR Doc.73-17067 Filed 8-14-73;8:45 am]

WEDNESDAY, AUGUST 15, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 157

Pages 21967-22108



FOREST SERVICE

Rules and Regulations

Grazing; protection, management,
control of wild and free-roam-
ing horses and burros..... 22000

Forest Register

August 15, 1973—Pages 21967-22108

22000

RULES AND REGULATIONS

Title 36—Parks, Forests and Memorials

CHAPTER II—FOREST SERVICE,
DEPARTMENT OF AGRICULTURE

PART 231—GRAZING

Protection, Management, and Control of
Wild Free-Roaming Horses and Burros

On December 20, 1972, a notice of proposed rulemaking was published in the FEDERAL REGISTER (37 FR 28077). The proposal would amend 36 CFR Part 231 for the purpose of providing authority and direction to the Chief, Forest Service, for protection, managing, and controlling those wild free-roaming horses and burros that are associated all or part time with National Forest System lands. In addition to the above publication the proposal was discussed in a draft environmental statement filed with the Council on Environmental Quality on December 21, 1972, and in a final environmental statement filed on July 6, 1973. The proposed rule making and the environmental statements were reviewed in detail with the National Advisory Board on Wild Free-Roaming Horses and Burros. National Forest Grazing Advisory Boards were also called upon to review the proposal as provided by the Requirements of the Granger-Thye Act (sec. 18, 64 Stat. 87, 16 U.S.C. 580k). All comments received from Advisory Boards and comments received from the public at large were considered in preparation of a final regulation. Revisions made as a result of the comments received and further analysis by USDA and the Forest Service are summarized below:

1. Section 231.11(a) *Definitions*, "Agent of the Secretary" has been added to the list of definitions.
2. Section 231.11(a) *Definitions*, the term "excess animals" has been substituted for "surplus animals."
3. Section 231.11(a) *Definitions*, the term "1971 Horse and Burro Territory" has been defined and adopted as a means of more clearly identifying the areas where Wild Horses and Burros were found at the time of the Act.
4. Direction has been established in § 231.11(b) (3) to identify the 1971 Horse and Burro Territory as rapidly as possible.
5. Section 231.11(c) *Ownership Claims*, has been revised to provide more specific information on the procedures to be followed and to make specific reference to the use of Cooperative Agreements with State agencies administering the State estray laws. The phrase "evidence of ownership" has been substituted for "probable ownership."
6. Section 231.11(e) *Other Lands, Protection Upon*, has been slightly revised to show more clearly that Wild Free-Roaming Horses and Burros associated with the National Forest System lands are protected whenever they move to lands of any other ownership or jurisdiction.
7. Section 231.11(h) *Cooperative Agreements*, has been simplified to eliminate any implied restriction in the use of cooperative agreements.

8. Section 231.11(j) *Disposal of Animals*, has been slightly revised for clarity concerning Acts of Mercy.

As so revised the proposal is hereby adopted to read as set forth below. It becomes effective immediately.

§ 231.11 Wild free-roaming horses and burros.

The Chief, Forest Service, shall protect, manage, and control wild free-roaming horses and burros on lands of the National Forest System and shall maintain vigilance for the welfare of wild free-roaming horses and burros that wander or migrate from National Forest System lands. If these animals also use lands administered by the Bureau of Land Management as a part of their habitat, the Chief, Forest Service, shall cooperate to the fullest extent with the Department of the Interior through the Bureau of Land Management in administering the animals.

(a) *Definitions*. As used in this section,

(1) "Agent of the Secretary" means any employee of the Forest Service or other individual who either individually or by virtue of the position he holds is delegated authority by the Chief, Forest Service, to take actions under the Regulations of this Section.

(2) "Wild Free-Roaming Horses and Burros" shall mean all unbranded and unclaimed horses and burros and their progeny that have used lands of the National Forest System on or after December 15, 1971, or do hereafter use these lands as all or part of their habitat. Unbranded, claimed horses and burros where the claim is found to be erroneous are also considered as wild and free-roaming if they meet the criteria above. However, this definition shall not include any horse or burro introduced onto National Forest System lands on or after December 15, 1971, by accident, negligence, or willful disregard of private ownership.

(3) "Herd" means one or more stallions and their mares, or jacks and their jennies.

(4) "Excess animals" means wild free-roaming horses or burros determined to be in excess of populations proper to maintain a thriving natural ecological balance and harmonious multiple use relationship on National Forest System lands.

(5) "Problem animal" means a wild free-roaming horse or burro whose demonstrated individual habits or traits pose an undue threat to the safety or welfare of persons, wildlife, livestock, or property.

(6) "National Forest System lands" are the National Forests, National Grasslands and other Federal lands for which the Forest Service has administrative jurisdiction.

(7) "1971 Horse and Burro Territory" means the National Forest System areas to be identified by the Chief, Forest Service, as the areas which were the territorial habitat of wild free-roaming horses and/or burros at the time of the passage of the Act.

(8) "Wild Horse and Burro Range" means an area of National Forest System land specifically so designated by the Chief, Forest Service, from 1971 Horse and Burro Territory, for the purpose of sustaining 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 National Forest System lands.

(9) "Act" means the Act of December 15, 1971 (85 Stat. 649, 16 U.S.C. 1331-1340), Public Law 92-195.

(10) "National Advisory Board" means the Advisory Board as established jointly by the Secretary of Agriculture and the Secretary of the Interior under the provisions of the Act.

(b) *Administration of Wild Free-Roaming Horses and Burros and their Environment*. The Chief, Forest Service, shall:

(1) Administer wild free-roaming horses and burros and their progeny on the National Forest System land in the areas where they now occur (1971 Horse and Burro Territory) to maintain a thriving ecological balance, considering them an integral component of the multiple use resources, and regulating their population and accompanying need for forage and habitat in correlation with that of uses recognized under the Multiple Use-Sustained Yield Act of June 12, 1960 (74 Stat. 215; 16 U.S.C. 528-531). He may designate areas of National Forest System land as specific Wild Horse and Burro Ranges in those unique and singularly important situations where he determines such designation as especially fitting to meet the purposes of the Act and the Multiple Use-Sustained Yield Act and after consultation with the appropriate agencies of the State where such Range is proposed and with the National Advisory Board.

(2) Provide direct administration for the welfare of wild free-roaming horses and burros that are located on National Forest System land by use of the Forest Service organization rather than by the granting of leases and permits for maintenance of these animals to individuals and organizations.

(3) Direct that an identification of all areas meeting the definition of 1971 Horse and Burro Territory be completed as rapidly as possible.

(c) *Ownership claims*. Individuals wishing to assert a claim of ownership under the estray laws of a State to any unbranded, unauthorized horse or burro on National Forest System lands must present a written claim and evidence of ownership to the Forest Supervisor before permission will be granted to attempt a capture of the animal(s) involved. A claimant must support his claim in accordance with whatever criteria are cooperatively agreed to between the Forest Service and the State Agency administering the State estray laws. In the absence of a cooperative agreement a claim will be substantiated in accordance with State law, will be reviewed by

RULES AND REGULATIONS

22001

the Forest Service for compliance with such law, and will require Forest Service approval. All ownership claims to unauthorized, unbranded horses and burros located on National Forest System land on or after December 15, 1971, must be filed with the Forest Supervisor by November 15, 1973. Capture attempts must be authorized by written permission of the Forest Supervisor. He shall establish in the authorization a specific, reasonable period of time to allow capture of claimed animals and shall stipulate other conditions, including visual observation by Forest Service personnel, that he deems necessary to minimize stress on associated wild free-roaming horses and burros and to protect other resources involved. Prior to authorizing the capture of a claimed animal, the Forest Supervisor shall provide whatever public notice is appropriate in order that all interested parties may take notice and furnish him with any pertinent information relative to the claimed animals.

Prior to removal of claimed, captured animals from National Forest System lands, the claimant shall substantiate his claim of ownership in accordance with whatever criteria are cooperatively agreed to between the Forest Service and the State agency administering the State estray laws. In the absence of a cooperative agreement, ownership claims shall be substantiated in accordance with State law and subject to approval of the Forest Service.

(d) *Removal of other horses and burros.* In the event branded horses or burros or horses or burros which do not come within the definition in paragraph (a) of this section are intermingled at any time with herds of wild free-roaming horses or burros, the Forest Supervisor shall require and allow their removal only by methods which do not subject the wild ones to physical damage or undue stress. Horses or burros introduced onto National Forest System lands after December 15, 1971, by accident, negligence, or willful disregard of private ownership shall be considered in trespass and treated in accordance with 36 CFR 261.7 and 261.13.

(e) *Other lands, protection upon.* Individual animals and herds of wild free-roaming horses and burros, as components of the National Forest System lands, will be under the protection of the Chief, Forest Service, even though they may thereafter move to lands of other ownership or jurisdiction as a part of their annual territorial habitat pattern or for other reasons. The Chief will exercise surveillance of these animals through the use of cooperative agreements and as otherwise authorized by law, and act immediately through appropriate administrative or criminal and civil judicial procedures to provide them the protective measures of the Act at any time he has cause to believe its provisions are being violated.

(f) *Private lands, removal from.* Owners of land upon which wild free-roaming horses and burros have strayed from National Forest System lands may request their removal by calling the nearest office

of either the Forest Service or Federal Marshal.

(g) *Private lands, maintenance.* Owners of land who wish to maintain wild free-roaming horses and burros which have strayed onto their lands from National Forest System lands may do so by notifying the nearest office of the Forest Service in timely fashion and providing such information on a continuing basis as the Chief, Forest Service, may require. Such owners shall protect the wild free-roaming horses and burros on their lands. They may not, in so maintaining these animals, impede their return to National Forest System lands unless authorized by cooperative agreement with the Forest Service.

(h) *Cooperative agreements.* The Chief, Forest Service, may enter into cooperative agreements as he deems necessary to further the protection, management, and control of wild free-roaming horses and burros.

(i) *Relocation of animals.* The Chief, Forest Service, may cause wild free-roaming horses and burros to be captured under the supervision of Forest Service personnel and relocated if they are found to be "excess" animals, "problem" animals, or if it is necessary to prevent their repetitive return to private land from which their removal has been requested.

(1) Relocation upon National Forest System land may be made only to areas identified as 1971 Horse or Burro Territory, and if suitable habitat capacity is available.

(2) Animals may be placed in the custody of private persons, organizations, and other Governmental agencies through the use of a cooperative agreement. Such custodial care arrangements must require that the animals be maintained and protected in accordance with the Act, and not used for commercial exploitation.

(j) *Disposal of animals.* No person except a duly designated Agent of the Secretary shall destroy any wild free-roaming horse or burro. Such Agents may destroy wild free-roaming horses or burros under the following circumstances:

(1) Severely injured or seriously sick animals may be destroyed immediately in the most humane manner possible as an Act of Mercy.

(2) Old, sick, and lame animals may be destroyed in the most humane manner possible after appropriate consultation with the National Advisory Board.

(3) When the Chief, Forest Service, finds it necessary to remove wild free-roaming horses or burros for the reasons identified in Section (i) and he determines there is no practical way to effect either their capture or their relocation, the animal(s) shall be destroyed in the most humane manner possible. To the extent possible, such problems will be anticipated and reviewed with the National Advisory Board before action is taken.

(k) *Disposal of carcasses.* The remains of deceased wild free-roaming horses and burros including those in the custody of private parties may be disposed of in any customary manner under State sanitary

codes but in no event will they be processed into a commercial product.

(l) *Agents of the Secretary.* The Chief, Forest Service, is authorized to designate Forest Service personnel to serve as "agents of the Secretary" in accomplishing the purposes of the Act and these regulations. The Chief, Forest Service, may also appoint other individuals to serve as "agents of the Secretary" to assist Forest Service personnel in specific situations of short duration.

(m) *Management coordination.* All management activities by the Chief, Forest Service, shall be carried out in consultation with the appropriate agencies of the State involved. The expert advice of qualified scientists in the fields of biology and ecology shall also be sought in administering wild free-roaming horses and burros. The advice and suggestions of agencies, qualified scientists, and other qualified interest groups shall be made available to the National Advisory Board for their use and consideration. Actions taken in connection with private ownership claims shall be coordinated to the fullest extent possible with the State agency responsible for livestock estray law administration.

(n) *National Advisory Board.* The Chief, Forest Service, shall appoint a representative to attend all meetings of the National Advisory Board for Wild Free-Roaming Horses and Burros and to function as prescribed by the Memorandum of Agreement between the Department of the Interior and the Department of Agriculture and the Joint Charter issued by the Secretary of the Interior and the Secretary of Agriculture. Policies and guidelines relative to proposals for the establishment of ranges, adjustments in number, relocation and disposal of animals, and other matters relating generally to the protection, management, and control of wild free-roaming horses and burros shall be presented to the National Advisory Board for recommendations.

(o) *Studies.* The Chief, Forest Service, is authorized and directed to undertake those studies of the habits and habitat of wild free-roaming horses and burros that he may deem necessary. In doing so, he shall consult with the appropriate agencies of the State(s) involved.

(p) *Arrest.* Any employee designated by the Chief, Forest Service, shall have the power to arrest without warrant, any person committing in the presence of the employee a violation of the Act or of the regulations in this section and to take such person immediately for examination or trial before an officer or court of competent jurisdiction. Any employee so designated shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of the Act or of the regulations in this section.

(q) *Penalties.* In accordance with Section 8 of the Act, any person who:

(1) Willfully removes or attempts to remove a wild free-roaming horse or burro from the National Forest System lands, without authority from the Chief, Forest Service, or;

22002

RULES AND REGULATIONS

(2) Converts a wild free-roaming horse or burro to private use, without authority from the Chief, Forst Service, 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 horse or burro allowed on private or leased land pursuant to Section 4 of the Act, or;

(6) Willfully violates a regulation issued pursuant to the Act shall be subject to a fine of not more than \$2,000 or imprisonment for not more than 1 year, or both. Any person so charged with such violation by the authorized officer may be tried and sentenced by a 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 in section 3401, Title 18, U.S.C.

(85 Stat. 649 (16 U.S.C. 1331-1340); Sec. 1, 30 Stat. 35, as amended (16 U.S.C. 551); Sec. 32, 50 Stat. 525, as amended (7 U.S.C. 1011); 74 Stat. 215 (16 U.S.C. 528-531))

ROBERT W. LONG,
Assistant Secretary for Conservation, Research and Education.

AUGUST 6, 1973.

[FR Doc.73-16912 Filed 8-14-73; 8:45 am]

ADVISORY BOARD MEMBERS

Mrs. Velma B. Johnston
140 Greenstone Drive
Reno, Nevada 89502

Mr. Roy Young
P. O. Box 588
Elko, Nevada 89801

Mr. Dean T. Prosser, Jr.
1717 Alexander Avenue
Cheyenne, Wyoming 82001

Dr. C. Wayne Cook
4800 Venturi Lane
Fort Collins, Colorado 80521

Mr. Ed Pierson
3010 Arrowhead Road
Laporte, Colorado 80535

Mrs. Pearl R. Twyne
629 River Bend Road
Great Falls, Virginia 22066

Dr. C. Roger Hungerford
4422 N. Anna Park Drive
Tucson, Arizona 85705

Dr. Floyd W. Frank
1395 Walenta
Moscow, Idaho 83843

Mr. Ben Glading
Route 4, Box 774
Bend, Oregon 97701

DEPARTMENT OF THE INTERIOR
Office of the Secretary

DEPARTMENT OF AGRICULTURE
Office of the Secretary

National Advisory Board on
Wild Free-Roaming Horses and Burros

Administrative Procedures

On page 11276 of the Federal Register of June 6, 1972, there was published a notice and text of proposed administrative procedures (charter) for the National Advisory Board on Wild Free-Roaming Horses and Burros.

Interested persons were given 45 days within which to submit written comments, suggestions or objections. Upon consideration of these comments and suggestions, certain changes have been incorporated. Additionally, language has been added to reflect the requirements of newly enacted Public Law 92-463, the Federal Advisory Committee Act.

The changes required by Public Law 92-463 are as follows:

1. The wording of IIIA5, Compensation, has been amended to clarify the provisions for payment of travel expenses.
2. A sentence has been added to IIIC, Meetings, to give the estimated number of meetings per year, annual operating costs, and man years required.
3. A new clause reading: ". . . who is authorized to adjourn any meeting whenever he considers adjournment to be in the public interest." has been added to IIIC3, Official participation.
4. Part IIIC4, Executive session, has been eliminated, and Part IIIC5 renumbered IIIC4.

5. Part IIIE, Public participation, has been renumbered IIIC5, reworded to insure that all meetings will be open to the public, and to provide for the making of presentations and the filing of statements.

6. The portion of IIIE, Public participation, concerning advance public notice of meetings has been separated and expanded under part IIIC6, Advance public notice.

7. A part IIIC7, Support services, has been added to spell out responsibility for such services.

8. Part IIIF, Record of proceedings, has been renumbered IIIE, and the word "official" dropped from subpart (c). Subpart (d) has been changed to read, "a description of matters discussed and conclusions reached;". Subpart (f) has been amended to provide for certification of the accuracy of records by the Board chairman. Additionally, a sentence has been added to indicate where copies of Board records may be inspected and copied.

9. Part IIIG, Rules and procedures, has been renumbered IIIF, and the words ". . . is solely advisory and . . ." added between "Board" and "shall" of the first sentence. A sentence has been added to prescribe responsibility for actions to be taken with respect to any report or recommendation of the Board.

10. A part IIIH, Termination, has been added.

The following changes were made in response to comments:

1. The second sentence of II Authority has been eliminated. Although the sentence was an accurate statement of the law, its repetition in the charter could be interpreted as a limitation on the broad scope of the Board's advisory functions.

2. IIID Chairmanship has been revised to make clear that the chairman and vice chairman would be selected from among the membership of the Board. The word "principal" has been deleted from the first sentence of the second paragraph.

3. IIIE Public participation has been revised to show that their duly authorized representatives, as well as the two Secretaries, can call emergency meetings.

4. IIIH Advice and recommendations, renumbered IIIG, has been amended by changing "dissents from majority views" to "minority views" in the second sentence.

It was concluded that no further change was necessary to reflect the fact that State university staff members are qualified to serve on the Board, and that the Secretaries will seek a proper balance of interests on the Board. The suggestion that "land use" be added to the list of qualified disciplines was not adopted because the law itself specifies the qualifications. Similarly, there were recommendations to appoint officials of State government. The Act specifically prohibits such appointments.

The procedures are hereby adopted as revised and as set forth below. They shall become effective January 1, 1973.

I. Purpose. This document provides for the operation and describes the purpose, composition, and functions of the National Advisory Board on Wild Free-Roaming Horses and Burros.

II. Authority. The Act of December 15, 1972 (16 U.S.C. 1131-1340) requires the protection and management of wild free-roaming horses and burros on the public lands. Section 7 authorizes and directs the Secretary of the Interior and the Secretary of Agriculture to appoint a joint advisory board to advise them on any matter relating to the protection and management

of wild free-roaming horses and burros, and specifies the qualifications required for membership on the advisory board.

III. National Advisory Board on Wild Free-Roaming Horses and Burros.

A. Membership. The Board shall consist of nine members, none of whom shall be an employee of the Federal Government or State governments.

1. Qualifications. Each member must have specialized knowledge in one or more of the following fields: The protection of horses and burros, the management of wildlife, animal husbandry, and natural resource management. At least one of each of the above disciplines shall be represented on the Board at all times.

2. Selection. All members shall be selected on the basis of experience and established competence in their respective fields of specialized knowledge.

3. Appointments. All members will be jointly appointed by the Secretary of the Interior and the Secretary of Agriculture.

4. Term. The term of appointment will be 1 year. If a member does not serve his full term, the Secretary of the Interior and the Secretary of Agriculture may appoint a successor for the remainder of the unexpired term. Members may be reappointed for additional 1-year terms not to exceed 10 years of total service.

5. Compensation. Members shall serve without compensation, except for reimbursement of travel expenses, including per diem, in connection with their duties as members.

B. Functions. The Board shall advise, consult with, and make recommendations to the Secretary of the Interior and the Secretary of Agriculture, or their duly authorized representatives, on any matter relating to wild free-roaming horses and burros.

C. Meeting. The Board shall meet at times and places to be determined by the Secretary of the Interior or the Secretary of Agriculture, or both, or their duly authorized representatives. It is estimated that there will be four meetings per year at an annual cost of \$30,000 and one man year of support.

1. Call to meet. The Secretary of the Interior and/or the Secretary of Agriculture, or their respective designees, will issue a formal call for each Board meeting.

2. Agenda. The Secretary of the Interior and/or the Secretary of Agriculture, or their respective designees will, in consultation with the chairman, formulate and approve the agenda for each meeting in advance.

3. Official participation. All meetings will be conducted in the presence of a duly authorized full-time salaried official or employee of the Department of the Interior or the Department of Agriculture, who is authorized to adjourn any meeting whenever he considers adjournment to be in the public interest.

4. Quorum. A majority of Board members holding office shall constitute a quorum which shall be required for the conduct of Board business.

5. Public participation. All meetings of the Board will be open to public observation. Any interested person may attend meetings, make a presentation upon request to the chairman, or file a statement with the Board. However, the authorized Department of Agriculture or Department of the Interior representative may establish reasonable limits as to the numbers of persons who may attend and the nature of their participation to the extent that available accommodations and time require limitation.

6. Advance public notice. To provide interested parties an opportunity to attend and participate, advance public notice of the date, place, and general subject matter of scheduled meetings will be given through publication in the Federal Register and appropriate local news media.

7. Support services. The Secretary of the Interior or his delegate shall be responsible for providing support services for the Board, including advance public notice of meetings.

D. Chairmanship. The Secretary of the Interior and the Secretary of Agriculture will designate one of the members as chairman and another as vice chairman for the first year. Thereafter, members will annually elect the chairman and vice chairman among their own members.

The chairman will be the liaison between the Secretary of the Interior and the Secretary of Agriculture or their duly authorized representatives in working with the Departments in formulating agendas and otherwise arranging for the orderly conduct of business. He will preside at meetings and appoint members of working groups of the Board. The vice chairman will act for the chairman in his absence.

E. Record or proceedings. A written record shall be made of all proceedings of Board and working group meetings. A verbatim transcript may be made but is not required. As a minimum, each record of proceedings shall include: (a) the agenda; (b) the date(s) and place(s) of the meeting; (c) the names and addresses of all in attendance and the capacity in which they participated, (d) a description of matters discussed and conclusions reached; (e) the recommendations made and reasons therefor; together with concurring or minority views and, at the request of any individual member,

individual views; and, (f) copies of all reports received, issued, or approved by the Board. The Board chairman shall certify to the accuracy of the record of proceedings of each meeting. Such records, together with appendices, working papers, drafts, studies, and other documents, made available to or prepared or used by the Board, will be available for public inspection and copying in the Office of the Director of the Bureau of Land Management, Washington, D. C. Additionally, copies of the record of proceedings for each meeting shall be available for viewing at the libraries of the Department of the Interior and Department of Agriculture and the Library of Congress, Washington, D. C.

F. Rules and procedures. The Board is solely advisory and shall function in accordance with applicable Federal committee management requirements, and any supplementary and complementary guidelines which the Secretary of the Interior and the Secretary of Agriculture, or their respective authorized representatives, may jointly prescribe. Determinations of actions to be taken and policy to be expressed with respect to any report or recommendation of the Board shall be made only by the Secretary of the Interior, Secretary of Agriculture, or their authorized representatives.

G. Advice and recommendations. All advice and recommendations of the Board shall be made with the approval of a majority of the members present. Advice and recommendations of individual members, including minority views, may be made by the individuals involved. Each report of advice and recommendations shall be addressed only to the Secretary of the Interior or the Secretary of Agriculture, or both, or to their respective authorized representatives, and shall address only matters covered in the record of the Board's proceedings.

H. Termination. The term of the Board is indefinite.

/s/ Harrison Loesch
Asst. Secretary of the Interior

/s/ T. K. Cowden
Asst. Secretary of Agriculture

January 2, 1973

THE ADVISORY BOARD'S FIRST YEAR

March 26, 1974

Washington, D.C.

Section 7 of the Wild Horse and Burro Act authorized and directed the Secretaries of the Interior and Agriculture to appoint a joint advisory board of not more than nine members to advise them on any matter relating to the management and protection of wild horses and burros. The group that you see seated here today is the result of the action by the Secretaries to select representation to meet the goals and objectives of the Wild Horse and Burro Act.

One of the prime assets of the Board, as set forth in its charter, is its joint responsibility to the Bureau of Land Management and the Forest Service. This responsibility provides for uniform criteria and procedures between the two agencies in the management of wild horses and burros.

The assignment given this advisory board was a new and perhaps unique challenge. This is true not only for the members of this Board but for the two managing agencies as well. The board has reviewed and made recommendations on a number of important issues concerning the management of wild horses and burros under a multiple-use concept. These recommendations were made to the two Secretaries and their managing agencies and were based upon combined experience and knowledge of the committee in plant and animal husbandry, and natural resources management.

As a National Advisory Board we have provided advice at the highest operating levels of program controls rather than at the local levels. During

the past year it was felt that the most urgent need for advice from this Board should be in advance of program actions. Other means provide for full public participation and interdisciplinary consideration at local levels; however, membership on the board has not precluded individuals of this body from participating in meetings at local levels.

The suggestions and recommendations of the Board have been instrumental in changing and, in several instances creating, a complete rewrite of the draft for the regulations. Recommendations of the Board have not always been passed with unanimous agreement. Many times a resolution was vigorously debated before final passage or defeat. Because of the qualifications and background of the Board's members there was wide diversity of views, but this perhaps demonstrates the strength of such a Board for evaluating the broad spectrum of any particular problem that may arise. The Board has a chance to see a wide range of options before making a final recommendation. We believe through this past year we have dealt with these problems on the basis of mutual concern and cooperation.

During the past year the Board met on four occasions. Meetings were held in Salt Lake City, Utah; Denver, Colorado; Billings, Montana; and Lake Havasu City, Arizona. All meetings of this Board have been and we presume will continue to be open to the public. Any interested person is invited to attend the meetings, make a presentation upon request to the Chairman, or file a statement with the Board at the time of the meeting.

First Meeting

January 12 and 13, 1973

Salt Lake City, Utah

The first meeting was devoted largely to orientation for the Board. The agencies explained the Federal Advisory Committee Act, the Advisory Board Charter, and the role of the Board under the present assignment.

Considerable time during this first meeting was used in reviewing a draft of the proposed regulations of the agencies. Individuals from the public had their first chance to express their views on wild horse and burro management to the Board and the agencies.

PUBLIC COMMENT

Nine individuals from the public presented their views. A brief summary follows:

There was an expression that the capture of wild horses in the past had been accomplished by individuals and organized groups as a form of sport and pleasure and that this should be allowed to continue as a method of wild horse population control. Representatives of these groups expressed a desire to acquire title to any animals they captured.

Several individuals indicated that there was a great amount of information available relative to wild horses and burros and their management from various individuals and groups and that the Advisory Board and administering agencies should seek out and utilize this information.

A suggestion was made to modify the bloodlines and characteristics of wild free-roaming horses by introduction of domestic stallions. Considerable discussion followed, both pro and con, on this suggestion.

PROBLEMS CONSIDERED

- I. Several important policy guidelines were set forth at the initial meeting.
 - A. The BLM or Forest Service will not assign management responsibility for wild free-roaming horses and burros on the public lands. This was not interpreted to mean the agencies did not need advice and council in carrying out management responsibilities.
 - B. The Agencies will manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on public lands.
- II. Inventory of wild free-roaming horses and burros.
 - A. Data was presented by the Agencies relative to the estimated numbers of horses and burros occupying national forests and BLM lands, including location, land status and specific ranges.
- III. Removal of claimed animals.
 - A. Individual state statutes differ and present a problem with respect to proof of ownership.
 - B. Cooperative agreements appeared to be the only solution.
- IV. Excess numbers.
 - A. Planning systems for managing a balanced ecosystem would identify excess numbers.
- V. Disposal of excess numbers.
 - A. Relocation.

- B. Placement in private custody.
- C. Disposal in a humane manner.

RECOMMENDATIONS

- I. That the agencies immediately begin to develop model cooperative agreements with state agencies which is encouraged in Section 5 of the Act.
- II. That the regulation for proof of ownership in the claiming process be strengthened.
- III. That the agencies keep the Board informed on pertinent and current literature relative to behavior and management of wild horses and burros.
- IV. That the agencies develop a continuing inventory of wild free-roaming horses and burros that inhabit federal lands either in part or for all of their annual habitat requirements.
- V. That each Board member review the proposed regulations in view of finalizing them at the next meeting in Denver, Colorado.
- VI. That the agencies obtain a legal opinion on transfer of title to excess animals to private ownership.

Second Meeting

March 21 and 22, 1973

Denver, Colorado

Most of the time at this meeting was devoted to discussing the regulations for each agency with respect to the revisions and suggestions from the committee. However six well prepared statements were made by individuals representing themselves or organizations that were concerned with the management of wild horses and burros.

PUBLIC STATEMENTS

The Rocky Mountain Regional Office of the Humane Society and the International Society for Protection of Mustangs and Burros expressed concern regarding the apparent misconduct of the roundup of the Idaho horses. Their Societies expressed interest in helping improve roundup and claiming procedures.

The Animal Protection Institute of America expressed concern about the wild burros and their role in the environment. They favored closer supervision over roundups and claiming of wild horses.

Some individuals making statements believed that organized groups should be given permits to carry out or continue mustanging while others disagreed with this practice since it constituted harassment of animals.

Mr. William Wright of Nevada explained the various ways wild horses might be gathered by using a combination of horsebackers and an airplane. He made

a strong case for use of a plane, when properly handled, as a humane method of managing wild animals.

ISSUES CONFRONTED

- I. Revision of the regulations.
 - A. Disposal of animals
 1. Relocation.
 2. Gifts.
 3. Recycle in the system.
 - B. Acts of mercy.
 - C. Disposal of carcasses.
 1. The old, sick, crippled etc.
 - D. Claiming animals.
- II. A lack of uniformity between BLM and Forest Service regulations.
- III. Need for research concerning behavior and feeding habits of wild horses and burros.
- IV. Cooperative agreement criteria with:
 - A. States.
 - B. Other agencies (BIA - National Park Service)
 - C. Private land owners.

RECOMMENDATIONS

- I. Authorized officer to designate specific free-roaming wild horse or wild burro ranges (This was changed later to Director of BLM and Chief of Forest Service).
- II. Total number allowable animals be interpreted to mean in general the approximate number of free-roaming horses and burros in existence at the time of passage of the Act.

- III. Claims be based upon evidence of ownership as cooperatively agreed upon by the Agencies and State authorities.
- IV. The Agencies obtain a legal review of all laws pertaining to the use of airplanes in working with wild horses or burros in management practices.
- V. It was recommended that cooperative agreements such as the one between Wyoming and BLM be concluded with all states as rapidly as possible.

Third Meeting

July 16 and 17, 1973

Billings, Montana

Again, as in previous meetings, the formulation of a final proposed list of regulations for the management of wild free-roaming horses and burros occupied most of the Board's time.

At the Billings meeting, the Board was able to inspect the Pryor Mountain wild horse range on the border between Wyoming and Montana. In the Pryor Mountains the Board was able to observe first hand the Bureau of Land Management planning process in action. This wild horse range was established in 1968 prior to the enactment of the Wild Horse and Burro Act (Public Law 92-195) with the help of several of the present board members. At the present time the Pryor Mountain horse range is managed under the concepts of the new law and regulations.

PUBLIC COMMENTS

During the period on the agenda for hearing comments from the public, the following persons appeared before the Board:

Mr. Alan J. Kania, Feral Organized Assistance League, Inc.
Mr. Harold L. Perry, The Humane Society of the United States
Mr. Kent Gregersen, National Mustang Association, Inc.
Mr. Eldon Smith, Wildlife Biologist

The full text of their comments is on file with the BLM. The general nature of their comments is as follows:

Mr. Kania told the Board of his experience in viewing wild horses in the Bookcliff area north of Grand Junction, Colorado. He explained his present

research efforts on different diseases of horses and the issue of horses being classified as an exotic or feral species.

The primary concern of the Humane Society, according to Mr. Perry, is that in all instances where a reduction in numbers was necessary, all animals would be handled and transported or disposed of in a humane manner.

Mr. Gregersen proposed mustanging as a possible way to reduce numbers of excess horses in a region. He stated several areas in the West had a large overpopulation of horses, and suggested the distribution of the excess animals to other areas.

Mr. Smith stated the Bureau of Land Management should set a definite policy for wild horse management in the Pryor Mountain complex. If protection under the Act creates an excess of animals, the surplus must be disposed of when overpopulation occurs.

PROBLEMS CONSIDERED

- I. Inclusion of NPS, BSF & W, and military reservations under the provisions of the Act.
- II. Disposal of carcasses of free-roaming wild horses and burros to rendering plants.
- III. Who is the authorized officer to designate specific wild horse or burro ranges?
- IV. Capturing, corralling animals for observation or disposal in a humane manner.

RECOMMENDATIONS

- I. That this Act be amended to provide:
 - A. That the NPS, BSF & W, military reservations and BR lands to be included under the provision of the Act.

- B. That carcasses of animals of free-roaming wild horses and burros designated for disposal could be sold to rendering plants.
 - C. That aircraft including helicopters and motorized vehicles to be used in capture and removal of excess animal numbers when the craft contains an employee of one of the two departments.
 - D. That title of surplus animals to private ownership be permitted either through sale or gift.
- II. It was made a matter of record that the committee does not feel disposed, at this time, to make a recommendation for amendment to the present Act to include mustanging.
- III. It was again recommended that the Secretaries request adequate funding to do the necessary research to properly manage wild horses and burros on public lands.
- IV. The Board recommended that the two agencies follow the policy of not resorting to supplemental feeding of wild horses and burros except in extreme emergency.

Fourth Meeting

November 6, 7 and 8, 1973

Lake Havasu City, Arizona

The site of this meeting was selected to give the Board an opportunity to become better acquainted with the problems involved in burro management on public lands. The lower Colorado River area has one of the larger concentrations of burros in the Southwest. At this meeting, guest speakers were selected for their expertise in burro management and wildlife inhabiting the same environmental niche. They were:

- Pete Sanchez, Death Valley National Monument
- John Russo, Arizona Game and Fish Department
- Larry Powell, Bureau of Land Management
- Richard Weaver, California Fish and Game Department
- Patricia Moehlman, Chico State College
- Kathy Ayres, Forest Service

PUBLIC COMMENTS

During the period on the agenda for hearing comments from the public, the following persons appeared before the Board:

- Mrs. Bob Barling, Naval Weapons Center, China Lake, California
- Mr. Belton P. Mouras, Animal Protection Institute, Sacramento, California
- Mr. Ben Avery, Arizona Republic, Phoenix, Arizona
- Mr. Herbert Martin, Humane Society of the U.S., Washington, D.C.

The full text of their comments is a matter of record with the BLM.

The general content of their comments is as follows:

Mrs. Barling stated that burros were a problem over much of the Naval Weapons Center. Last winter in one area, after a drought period, there was not sufficient food for the concentration of burros. The NWC intends to maintain herds of burros consistent with the carrying capacity of the land consistent with the values of other wildlife on the base.

Mr. Belton P. Mouras stated the concerns of his organization range from the multitude of all animals to interest in a single animal or species. At this time, they would like to see wild burros and horses maintained in a natural and undisturbed state, free from unnecessary fear, pain or suffering. His organization feels in spite of the fact that burros are not a potential game animal like bighorn sheep, they do have a rightful place on the range and reasonable and normal competition with other species, including game species, should be tolerated. Disposition by destruction, when absolutely necessary, should be accomplished by a method considered humane.

Mr. Avery pointed out in any wildlife or burro problems, the public must be interested to get action. He told of the progress in attempting to restore the desert bighorn sheep in greater number within his State. He said, we do have burro-bighorn conflicts without any question. Mr. Avery said he does feel that the burro does have a place in Arizona. There should not be this conflict between the two species. Mr. Avery would urge the Board to adopt a policy to try and separate burros and bighorn.

Mr. Herbert Martin stated that the purpose in being here is to express the concern of the HSUS, and its many members across the country for the health and welfare of wild free-roaming horses and burros as defined in PL 92-195. Ideally, his organization would like to see all animal species living side by side without conflict. Unfortunately, man must attempt to help the ecological scales level with a semblance of balance. People must resolve or at least minimize the conflicts which exist between certain species as well as their habitat. Horses and burros must be managed in such a way as to equally consider other forms of life around them.

PROBLEMS CONSIDERED

- I. Location and behavior of wild burros.
 - A. A concentration of burro numbers and a stressed water and feed supply.
 - B. Competition between bighorn sheep and burros.
- II. A final analysis for the years activity and recommendations.

RECOMMENDATIONS

- I. That the two federal agencies begin immediately to formulate and initiate management plans for wild horses and burros under the multiple-use concept for each individual area where these animals reside.
- II. That the agencies receive the full support of the Board in forewarning the public that population control measures beyond the removal of live animals from an area might be necessary for the protection of the over-all land resources.
- III. The Board recommended where practical that research on wild horses and burros should be conducted outside the agencies under contracts and cooperative agreements and further that the agencies expedite the research program and request adequate funding for this effort.
- IV. That the Forst Service and BLM negotiate formal cooperative agreements with other federal agencies where burros and horses are using lands under more than one governmental jusisdiction.

FUTURE PROBLEMS

From the four meetings and the issues raised to date, the Board has learned that the successful protection, management and control of wild horses and burros will not be an easy task. Some of the problems still unsolved are:

1. An accurate inventory of wild horses and burros and an evaluation of the land resource capability to support these numbers consistent with other demands.
2. Means of disposing of excess numbers such as transfer of ownership through gifts and sales or through recycling them into the system in a humane manner acceptable to the public.
3. Use of aircraft in collecting animals for removal or inspection in the management plan.
4. Convincing the public that control of animal numbers is absolutely necessary to manage a viable biological system and that total and complete protection without control will not only be catastrophic to the animals but to the land resources as well.
5. Research is needed to determine the true overlap between wild horses and burros with livestock and game animals otherwise a well founded and a defensible management plan can not be formulated.
6. Wild free-roaming horses and burros that obtain part of their annual feed requirements from private lands will present a difficult problem that will require agreements, payments for damages and/or for the feed they consume.
7. The claiming procedures and agreements between state and federal agencies are yet to be tested and revised to work in an effective manner.
8. In order to eventually accomplish the task of managing the wild free-roaming horses and burros the Act itself may have to be amended or complemented by other legislation both from the state and federal level.

9. The Board should not become involved in specific administrative problems, litigation, or controversy that is legally the responsibility of the Agencies.
10. Most important of all the Board must not become divided. They must continue to work together as a body and consider each issue on its merits and its absoluteness in maintaining the wild horses and burros on public lands in a balanced and productive ecosystem.
11. Develop management plans on all local wild horse and burro areas consistent with the Act and with minimum reliance upon the advice of the Board for deciding local issues.

MEMORANDUM OF AGREEMENT
BETWEEN
HILL AIR FORCE BASE, U.S. AIR FORCE
DUGWAY PROVING GROUND, U.S. ARMY
AND
BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR
RELATIVE TO
THE MANAGEMENT OF WILD, FREE-ROAMING HORSES WHICH INHABIT PUBLIC
LANDS UNDER THE DEPARTMENT OF INTERIOR AND NATIONAL DEFENSE
JURISDICTIONS IN WESTERN UTAH, IN ACCORDANCE WITH PUBLIC LAW 92-195

It is jointly recognized that wild, free-roaming horses inhabit public lands both within the Dugway Proving Ground and the Wendover Bombing Range and adjoining national resource lands administered by the Bureau of Land Management. The habits of these horses fluctuate, depending upon seasonal conditions, but normally they summer on national resource lands in the Cedar Mountains and Dugway Range, and winter on the Dugway Proving Ground and Wendover Bombing Range in the Wildcat Mountain, Granite Mountain, and portions of the Cedar Mountain and Dugway Range both within the Dugway Proving Ground and outside.

It is recognized that the welfare of these horses will depend upon the joint effort of the National Defense Agencies and the Bureau of Land Management for the management of their habitat and protection of the horses.

Public Law 92-195, 92nd Congress, commonly known as the Wild Horse and Burro Act, herein referred to as the Act, and the regulations of the Secretary of the Interior, pursuant thereto (43 CFR Part 4700) herein referred to as the regulations, provide for the protection of wild, free-roaming horses and burros and their management as components of the public lands administered by the Forest Service and the Bureau of Land Management. The Act provides that where wild, free-roaming horses use other than national resource lands or national forest lands, that cooperative agreements may be entered into to promote the protection and welfare of these animals.

Therefore, in the interest of carrying out the purposes of the Act, the undersigned hereby agree as follows:

1. That the wild, free-roaming horses that use lands under the jurisdiction of the Defense Department and the national resource lands under the jurisdiction of the Bureau of Land Management, will be considered to be under the jurisdiction of the Secretary of the Interior.
2. That a joint management plan will be developed to provide for the management of these wild horses and their habitat in a manner consistent with the purposes of the Act. This management plan will include the following:

A. An annual inventory of the wild horse populations in the area of joint concern.

B. A continuing review of the habits of the wild horses in terms of grazing and watering patterns, seasonal migrations, and the availability of water and forage.

C. A determination of the necessary use-facilitation projects -- water, fencing, etc. -- to provide for the welfare of the animals.

3. That implementation of the management plan shall be the responsibility of the Bureau of Land Management and will be carried out in accordance with terms and conditions specified by the Commanding Officers in the interest of program coordination and minimizing conflicts with the basic mission of the Defense installations.

4. That the following procedures will be used, and controls recognized in carrying out this joint effort:

A. The inventory of the horses and their habitat will be conducted jointly in accordance with plans or techniques jointly agreed upon and may include aerial or on-the-ground surveys and photography. In no case will Bureau of Land Management officials engage in these activities without clearance from the Commanding Officers of the Defense installations involved, and then only in accordance with restrictions and conditions imposed.

B. The Commanding Officers of the Defense installations shall assure that responsible officials under their commands shall be aware of the terms and conditions of this agreement, and, in carrying out their maneuvers and operations, shall exercise controls and assure compliance therewith.

C. If it is determined by the Commanding Officer of either of the Defense installations that the presence of wild horses interferes with military programs and operations, such problems shall promptly be referred to the District Manager, who shall be responsible for correcting the problem in accordance with access and related constraints or directives imposed by the Commanding Officer.

D. The District Manager of the Salt Lake District, Bureau of Land Management, herein referred to as the District Manager, shall represent the State Director of the Bureau of Land Management/implementation of this agreement.

5. There shall be at least semiannual joint reviews of this wild horse management program by the Commanding Officers of the Defense installations and the District Manager of the Bureau of Land Management. These normally will be conducted in December and May, but could be at other times as conditions dictate. The management plan may be updated on the basis of information gathered in these reviews.

6. No wild, free-roaming horses shall be removed from the area, or harassed, captured, branded, or killed by either military or Bureau of Land Management personnel except as provided for in the Act and the Regulations. In the event horses are accidentally injured or killed by normal military operations, such instances shall be promptly reported to the Bureau of Land Management District Manager.

7. There shall be open channels of communication between the District Manager and Commanding Officers to provide for prompt reporting of problems associated with wild horse management and to promptly and efficiently carry out the programs here jointly agreed to. Any problems that cannot be reconciled at the District Manager-Commanding Officer level shall be referred through channels to higher authority of each agency for resolution.

8. The liability of the parties under this agreement is contingent upon the necessary appropriation and reservation of funds being made therefor.

This agreement is effective immediately and shall remain so until cancelled or modified by any party hereto by written notice. Such written notice must be two months in advance of the intended cancellation or modification date.

/s/ William G. Leavell
State Director, Utah Acting
Bureau of Land Management
Department of the Interior

October 3, 1973

Date

(Signed)
Commanding Officer
Dugway Proving Ground
U.S. Army

October 1, 1973

Date

(Signed)
Commanding Officer
Hill Air Force Base
U.S. Air Force

September 21, 1973

Date

FOR OFFICIAL USE ONLY

The following is an investigation report compiled jointly by the Bureau of Land Management and the U. S. Forest Service concerning the roundup of allegedly wild horses north of Howe, Idaho, during the months of January and February 1973.

During the latter part of October or the first part of November 1972, WILLIAM B. ROBISON, a rancher residing approximately 15 miles north of Howe, Idaho, contacted BILL K. YEARSLEY, 220 North East Main Street, Blackfoot, Idaho. YEARSLEY is in the real estate business working out of St. Anthony, Idaho, for the United Farm Agency. ROBISON asked YEARSLEY if he (YEARSLEY) would be interested in gathering a herd of 50 or 60 horses that ROBISON claimed were owned by local ranchers in the area. YEARSLEY tentatively agreed to undertake the roundup of these horses. YEARSLEY agreed as a favor to ROBISON. ROBISON told him that the horses were cutting into the grazing for his livestock and that he would lose his grazing land. ROBISON holds grazing privileges for cattle on all of the BLM administered lands and National Forest lands on which the horses were roaming.

It was YEARSLEY's understanding that the roundup would take place the Thanksgiving weekend in 1972. YEARSLEY began his preparations for the roundup approximately November 15, 1972.

On or about the same time that ROBISON contacted YEARSLEY, ROBISON also contacted L. R. (SLIM) HAWLEY, a local rancher in the Howe, Idaho area. ROBISON asked HAWLEY if he would be interested in relinquishing any property rights to horses that he (HAWLEY) claimed in the Badger Creek area. HAWLEY agreed that he would relinquish any right to horses that he had in this area and by mail sent to ROBISON a bill of sale which was dated November 15, 1972. This bill of sale was for three branded horses. HAWLEY's claim to ownership is based upon his turning out seven unbranded fillies and a branded stud horse onto Federal land in 1955.

During November 1972 ROBISON also made contact with two other individuals, LEO D. AMY, a local rancher in the Howe, Idaho area and JAY LITTLE, an individual who had owned the ROBISON ranch prior to selling it to ROBISON in 1970. ROBISON requested that AMY and LITTLE make out a bill of sale to him for any horses they claimed ownership to in the Badger Creek area. Both AMY and JAY LITTLE agreed to relinquish any interest that they might have in these horses to ROBISON. Bills of sale were obtained by ROBISON from these two individuals dated December 5, 1972. The bill of sale from AMY was for six unbranded horses plus offspring. The bill of sale from J. LITTLE was for seven to ten branded horses. J. LITTLE believes that he signed a blank bill of sale which did not specify the number of horses.

2

AMY's claim to ownership is based upon a stallion and a mare that he lost in the area in 1951 as he was moving horses. J. LITTLE's claim to ownership is based upon a possibility that some of his horses may have escaped from his ranch prior to selling it to ROBISON in 1970.

On December 19, 1972, a Bureau of Land Management Advisory Board meeting was held in Idaho Falls, Idaho at the District Office. This meeting was attended by a number of individuals, among them were LEO AMY and GEORGE B. WOODIE of Howe, Idaho, JENS JENSEN of the Bureau of Land Management from Boise, Idaho, and WALTER (ED) JONES, District Manager of the BLM Office at Idaho Falls, Idaho.

One of the items discussed at this meeting was Public Law 92-195 relating to the protection, management and control of wild free-roaming horses and burros on public land. Also discussed were the proposed Department of Interior regulations concerning implementation of this act. AMY and WOODIE left this meeting with the impression that if the herd of horses in the Badger Creek area was not removed from Federal lands within 90 days they would be declared wild free-roaming horses. The BLM District Manager, JONES, had this same understanding. Copies of the proposed BLM regulations and copies of PL 92-195 were given to all Advisory Board members at this meeting. The proposed BLM regulations were amended on December 12, 1972. The copies of the proposed BLM regulations that were given to the Advisory Board members did not contain this amendment. Within several, approximately 8, days after the meeting WOODIE furnished ROBISON his copy of the proposed Department of Interior regulations.

On December 28, 1972, ROBISON and FRANK HARTMAN, JR., also a rancher at Howe, Idaho, visited the Bureau of Land Management District Office in Idaho Falls. They discussed with District Manager JONES, the possibility of removing the band of 50 to 60 horses from Federal lands in the Badger Creek area. The District Manager advised them that if the horses were theirs they should remove them from Federal lands and that they would not need written permission to do so. JONES also advised them to contact the County Attorney and County Sheriff concerning their proposal to gather their claimed horses, which they did. However, no counsel or guidance was provided by either the County Attorney or the County Sheriff to the ranchers concerning the State of Idaho brand or estray laws.

On December 29, 1972, a water board or fish and game meeting was held at the Howe school. There were no Federal employees present at this meeting. One of the items of discussion among the ranchers attending this meeting was the gathering of the band of 50 to 60 horses in the Badger Creek area. ROBISON was at this meeting as well as LEO AMY and HARTMAN. ROBISON apparently led the discussion

3

concerning the horses and indicated to the other ranchers that his primary concern was that they all be in agreement concerning the gathering of these horses.

At some point during the month of December ROBISON again contacted YEARSLEY about gathering the horses. ROBISON agreed to turn over to YEARSLEY the three bills of sale that were in his possession for the consideration of one dollar.

YEARSLEY received an additional bill of sale from HARTMAN (dated 1/3/73). This bill of sale transferred to YEARSLEY horses in the Badger Creek area in which HARTMAN claimed ownership. HARTMAN's claim to ownership is based upon his purchase of a ranch in 1968 that had been owned earlier by ANDY LITTLE. ANDY LITTLE denies that he conveyed to HARTMAN any interest he may have had in horses in the Badger Creek area.

On approximately January 5, 1973, BIM District Manager JONES contacted Forest Supervisor RICHARD BENJAMIN of the Challis National Forest, Challis, Idaho. JONES advised BENJAMIN that the ranchers in the Howe area were going to gather horses on Federal land in the Badger Creek area. JONES continued that these horses were on Federal land administered by the BIM and that the horses were privately owned. BENJAMIN told JONES that as long as the horses were being gathered on land administered by the BIM and that the horses were privately owned the Forest Service would not be involved.

On approximately January 6, 1973, YEARSLEY made an attempt to gather the horses by means of a helicopter. The helicopter was piloted by SAM BUCKLEY of Mountain States Helicopter Service, Rigby, Idaho. The helicopter attempt to gather the horses was virtually unsuccessful. One white stallion was captured, and was kept by one of HARTMAN's hired men.

Between January 6 and January 20, 1973, YEARSLEY requested the assistance of MAX PALMER of Sugar City, Idaho, to help him gather the horses. PALMER agreed and was to receive half of the horses captured. PALMER stated he never intended to do anything else with the horses than to sell them for slaughter.

A second helicopter attempt was made on approximately January 20, 1973. This attempt was also unsuccessful.

During the period of January 20 and February 10, YEARSLEY stated that he used an airplane in an attempt to haze the horses into a corral. The airplane was piloted by a man named MASON (?). They were unsuccessful in their attempts.

4

Also, between January 20 and approximately February 10, 1973, YEARSLEY and PALMER, with the assistance of numerous other individuals on horseback, were successful in gathering 6 additional horses. One of these horses, a mare, allegedly had the LEO AMY brand upon her. The remaining horses were unbranded. Five of these horses were transported to the ranch of PALMER at Sugar City, Idaho. Two of the horses were given to a MELVIN GRIFFITH, of Rexburg, Idaho, and three of the horses were consigned to BISH JENKINS, an Idaho Falls horse dealer, for sale to the Central Nebraska Pack in North Platte, Nebraska. The two horses in the possession of MELVIN GRIFFITH were stallions. After being notified that these might be government protected horses (March 3, 1973), GRIFFITH castrated the two horses (March 7, 1973).

By this time YEARSLEY was becoming discouraged with their unsuccessful attempts to gather the horses. They were staying at the ROBISON ranch during the roundup. Each day, according to YEARSLEY, ROBISON would implore them not to give up. YEARSLEY stated that ROBISON told him that he (ROBISON) was in daily contact with the BLM and that they were pressuring him to get the horses off Federal land. YEARSLEY further stated that ROBISON had told him that if they could not capture the horses they were to shoot them. This was also PALMER's understanding.

BIM District Manager JONES says that other than at the December 28 meeting with ROBISON and HARTMAN he (JONES) did not make requests of ROBISON to remove the horses from Federal lands. JONES also stated that he never, at any time, told the ranchers to shoot the horses they could not capture. In one of JONES' conversations with ranchers from the Howe area JONES was asked what would happen if the ranchers could not get all the horses off. JONES told them he did not know; that he would have to study it. It might be limited to what was there it might be more.

At about this same time DAVE LINDBERG, the Assistant Area Manager for the BLM, contacted ROBISON to advise him that the BLM had received an inquiry from U. S. Senator FRANK CHURCH concerning the roundup. This inquiry was received in the BLM office in Idaho Falls on February 15, 1973. The U. S. Forest Service Office in Ogden received this same inquiry from CHURCH on approximately the same date.

YEARSLEY was told by one of the men participating in the roundup about CHURCH's inquiry. All of the men staying at the ROBISON ranch discussed the CHURCH inquiry the evening of February 16 and they decided to continue their attempts to gather the horses.

During the period February 17-19, 1973, approximately 21 horses were trapped in a high rimrock area by YEARSLEY, PALMER, and others.

5

These horses were trapped on February 17, 1973, and left unattended at the site of their capture until the morning of February 19, 1973. One very young suckling colt was outside of the trap area. LYN MUNN from the Howe area took this colt home with him. This colt subsequently died. At the time of capture and after leaving the area the ranchers discussed various means of controlling the horses so they could remove them. They consulted a veterinarian in Rexburg, Idaho. He advised them to partially close their nostrils with hog rings.

On the morning of February 19, YEARSLEY, PALMER and, according to YEARSLEY, everyone else in the area who could ride a horse, returned to the trap area. There they found that four horses had fallen over a 40 foot cliff to their death. Three other horses had caught their hooves in the rocks. Since they were already caught, PALMER placed hog rings in the nostrils of the three horses whose hooves were caught. They attempted to free these three horses but could not do so. Therefore, they disposed of the three by cutting their throats and pushing the bodies over the cliff. In all, seven horses met their death at the trap area.

During this time someone thought they saw a cougar at the base of the cliff. PALMER took a rifle that he had with him and proceeded to the base of the cliff in an effort to shoot the cougar. Instead of a cougar, PALMER saw another horse that had fallen over the cliff and survived. This horse escaped capture at this time.

Hog rings were then placed in the nostrils of the remaining horses in the trap. These horses were removed from Federal lands on the evening of February 19.

During the period of approximately February 19 to February 25, 1973, approximately 20 additional horses were gathered and shipped to the PALMER ranch at Sugar City, Idaho. In addition to these, three horses broke their legs while attempting to avoid capture. PALMER shot these three. PALMER also observed the bodies of two horses that had recently died of unknown causes. PALMER did not see any brands on these five horses.

Several snowmobiles were used in gathering these horses. However, YEARSLEY stated that the man who used his snowmobile most effectively was LYN MUNN, who resides in the Howe area. MUNN used his snowmobile to haze horses into a corral in the Rocky Run area. YEARSLEY stated that MUNN also bull-dogged a horse from his snowmobile. One horse was reportedly roped by another man on a snowmobile.

A total of 39 horses had been received by PALMER. Five had been disposed of by PALMER as stated earlier in this report. One of the remaining 34 horses was claimed by a ROBERT HALL of Howe, Idaho, and

6

transported by HALL to his sister-in-law's residence at Ririe, Idaho. A second horse, a young colt, was sold to GARY GRIFFITH for the amount of \$30. GARY GRIFFITH resides at Rexburg, Idaho. A third horse was sold for \$10 to RONNIE MOSS of Rexburg, Idaho. The remaining 31 horses were consigned by PALMER to BISH JENKINS of Idaho Falls, for shipment to Central Nebraska Pack in North Platte, Nebraska.

On March 1, the 31 horses were inspected by State Brand Inspector BOYD SUMMERS and were found to have no brands. As PALMER had no "Bill of Sale" transferring these horses to him he requested HARTMAN, ROBISON, and LEO AMY to sign the Brand Inspection Certificate as owners, which they did. All of these individuals were present during the inspection.

The MILLER transport company of Hyrum, Utah, was hired by JENKINS, to transport the 31 horses, via Idaho Falls, from Sugar City to North Platte, Nebraska. At the JENKINS stockyard in Idaho Falls, one horse was removed from the truck because it was believed to be too weak to make the trip (this horse was observed dead in the BISH JENKINS yard by Federal officers on March 3, 1973). While the truck was at the JENKINS yard, seven additional horses were added to the shipment, making a total of 37 horses shipped to North Platte, Nebraska.

A summary of the unbranded horses captured or that died during the roundup shows:

- 31 - shipped to North Platte with brand inspection certificate
- 3 - shipped to North Platte with no brand inspection certificate
- 7 - dead at the trap area
- 3 - shot dead in the roundup area
- 2 - found dead in the roundup area
- 2 - in possession of MELVIN GRIFFITH
- 1 - in possession of GARY GRIFFITH
- 1 - in possession of ROBERT HALL
- 1 - in possession of hired man at HARTMAN ranch
- 1 - in possession of RONNIE MOSS
- 1 - suckling colt that died while in the possession of LYN MUNN

53 Total number of unbranded horses.

In addition to the 53 unbranded horses, one horse was allegedly gathered that bore the LEO AMY brand. The disposition of this horse is not known at this time.

Many of the mares in this herd of horses were with foal. Most lost these foals either during the many attempts to capture them or at the packing plant yard in Nebraska.

7

BACKGROUND AND RELATED INFORMATION

Prior to 1945 a large band of horses, 200 or more, could be found in the Badger Creek area. Periodically, the horses were rounded up and either sold or used as saddle and pack stock by local ranchers. After selecting the horses to be retained the remainder were returned back onto Federal lands. About 1945, all of the horses were rounded up and disposed of. Allegedly, there were no horses in this particular area for a period of approximately six years.

In the early 1950's several ranchers either lost horses in the area or turned out unbranded stock on Federal lands. They did this in an attempt to establish a reservoir of horses they could draw upon at will. By using unbranded stock they attempted to avoid any trespass action by the Government. These efforts apparently met with success, inasmuch as the herd grew in size, and in spite of several attempts to do so, the BIM was unable to determine ownership so as to initiate any trespass action.

Periodically from 1955 to 1965 the horses in the Badger Creek area were gathered. Selected horses were removed from the herd and the remainder were returned to the range. During one such roundup in 1962, conducted by an individual named CURLEY ANGEL, and assisted by others, a number of branded and unbranded horses were gathered. ANGEL claimed all the unbranded horses but the local ranchers made him return all the branded stock back onto Federal land.

The last known roundup in the area occurred in approximately 1964. There have been no known attempts to gather these horses between 1964 and January 1973.

The horses, for the most part, grazed on National Forest lands. At the time of the roundup there was more than sufficient feed available to the horses on the National Forest lands that they used.

Investigating Team

JENS C. JENSEN, Bureau of Land Management, Boise, Idaho
KENNETH W. JENSEN, Bureau of Land Management, Boise, Idaho
CULVER D. ROSS, Forest Service, Ogden, Utah
RALPH R. DYMENT, Forest Service, Ogden, Utah
FRED W. PRUSSING, Forest Service, Ogden, Utah

FOREST SERVICE MANUAL
Denver, Colorado

EMERGENCY DIRECTIVE NO. 2

CHAPTER: 2260 - WILD FREE-ROAMING HORSES AND BURROS

2261 - COOPERATION

This should follow ED No. 1 of 9/12/73. It is expanding R-2 material in 2261 Cooperation.

COOPERATIVE AGREEMENT
BETWEEN

THE WYOMING LIVESTOCK BOARD; THE BUREAU OF LAND
MANAGEMENT, U. S. DEPARTMENT OF THE INTERIOR
AND THE FOREST SERVICE, REGIONS TWO AND FOUR,
U. S. DEPARTMENT OF AGRICULTURE

I. PURPOSE

This Cooperative Agreement between the Wyoming Livestock Board, hereinafter referred to as the Board; the Bureau of Land Management, hereinafter referred to as the Bureau, and the United States Forest Service through the Regional Foresters of Region Two and Region Four, hereinafter referred to as the Forest Service, is for the purpose of identifying joint responsibilities of each agency and instituting close cooperation toward the implementation and administration of Public Law 92-195 for the Protection, Management and Control of Wild Free-roaming Horses and Burros, hereinafter referred to as the Act, and the Secretary of the Interior's regulations embodied in 43 CFR Part 4700, and the Secretary of Agriculture's regulations embodied in 36 CFR 231.11, hereinafter referred to as the Regulations, within the State of Wyoming.

II. OBJECTIVE

The Bureau is charged by the Act and the regulations to manage, protect, and control wild free-roaming horses and burros on Bureau-administered lands under its jurisdiction, and private land under cooperative agreement. The Forest Service is charged by the Act and the regulations to protect, manage, and control wild free-roaming horses and burros associated with lands under the administration of the

2261--10

Forest Service. The Board is charged with the responsibility for validating and processing claims of ownership of branded and unbranded animals pursuant to the State branding and estray laws, and the proper disposal of animals pursuant to the livestock sanitation laws, within the State of Wyoming.

Therefore, it is the mutual desire of the Board, the Bureau, and the Forest Service to work in harmony for the common purpose of planning, implementing and administering the applicable State and Federal laws to accomplish the directed management, protection and control of wild-free roaming horses and burros within the State of Wyoming and provide maximum service with minimum adverse effect on resources and the environment.

III. AUTHORITY

The Board is authorized to determine claims of ownership under State law pursuant to Wyoming State brand laws, WS (1957) Chapter 22, as amended.

The Bureau and the Forest Service are authorized to enter into cooperative agreements with State agencies, and with each other, concerning the management and protection of wild free-roaming horses and burros under the provisions of the Act.

IV. MANAGEMENT CONSIDERATION

To accomplish the purpose and objective of this agreement,
IT IS MUTUALLY AGREED:

A. Planning

The Bureau's and the Forest Service's planning system produces guidelines and decisions for management of the resources on the respective administered lands. Since wild free-roaming horses and burros can be affected by decisions which result from planning systems, it is essential that information, data, viewpoints and cooperation be obtained from the Board. The Board can also benefit from similar consultation with the Bureau and the Forest Service.

1. Board

The Board will participate, to the extent allowed by other program commitments, in planning system meetings called to review management plans and proposals, and offer recommendations regarding wild horse and burro management, and other management alternatives. The Board recognizes the jurisdiction of the Bureau and the Forest Service over wild free-roaming horses and burros, including those that stray from lands administered by the Bureau or the Forest Service, or are privately maintained as provided in the Act and the regulations.

2. Bureau and Forest Service

All resource information gathered by the Bureau and the Forest Service during the inventory and public participation phases of the planning effort will be available for review by the Board. To the extent allowed by program commitments, the Bureau and the Forest Service will assist the Board as requested in providing data beneficial to the Board's planning efforts.

B. Claims of Animals

The Act and the regulations thereunder, provide that persons may recover unbranded animals where they can show proof of ownership under State estray laws.

Therefore, in order to properly conform to such provisions and to provide harmony between the State and Federal agencies in recognizing those persons who have legitimate claim to animals, otherwise thought to be wild and free-roaming, it is mutually agreed that the following procedures will be followed:

1. Written claims will be accepted by the Bureau's and/or Forest Service's authorized officer. The Forest Service's authorized officer as referred to herein is the Forest Supervisor or his delegated representative.

2261--12

- a. The claimant must submit with his claim a sworn affidavit asserting ownership to the claimed animals and indicating a willingness to defend title and setting forth the following:
 - (1) Number of animals claimed.
 - (2) A description of each of the claimed animals including factors indicating tameness, such as animal being gelded, broken to rope or saddle, and including other marks, such as, tattoos, tags, or man-created blemishes, color pattern or characteristics, clearly visible.
 - (3) Date and circumstances animals entered upon the open range.
 - (4) Location of relevant private or leased lands where animals were kept prior to the release on open range.
 - (5) Any other information the claimant deems relevant.

- b. Other ownership evidence when available will be submitted with the claim. This may include:
 - (1) A bill of sale fully describing the claimed animal(s) and which meets all State legal requirements for a bill of sale, or
 - (2) A valid inspection certificate issued by the Board for some previous occasion which fully describes the animal(s) and which clearly identifies the animal(s) as belonging to the claimant, or
 - (3) A brand certificate issued by another state for some previous occasion as required by rules and regulations of the Board.

If the claimant is unable to satisfy (1), (2), or (3) above, the Board, Bureau, and Forest Service may consider other appropriate indicia of ownership which may include, but is not limited to:

(a) whether the claimant has paid personal property tax upon the claimed animal(s); (b) whether the animal(s) is the known progeny of a mare or jenny owned by the claimant.

2. Upon receipt of the written claim and supporting information, the Bureau's or Forest Service's authorized officer will meet with the Board's representative and jointly review the information submitted by the claimant. Based upon this review the Board's representative will certify in writing to the authorized officer as to whether the claimant meets the State ownership requirements.
 - a. If State ownership requirements have been met, the Bureau's or Forest Service's authorized officer will issue written authorization to the claimant setting forth the terms and conditions for gathering the animals. The Bureau's and/or Forest Service's authorized officer and the Board's representative may participate in and supervise roundups directed by the Bureau or the Forest Service to assure compliance with State laws and regulations.
 - b. If State ownership requirements have not been met the Bureau's or Forest Service's authorized officer will advise the claimant accordingly and reject his claim.
3. After animals are gathered they will be inspected by the Bureau's or Forest Service's authorized officer and Board representative, and upon satisfaction of ownership and a determination of any trespass charges, the animals will be turned over to the claimant. Unclaimed animals showing evidence of abandonment such as unregistered brands, tattoos, or tags will be turned over to the Board's representative to be handled under State estray procedures. Wild and free-roaming animals will be returned to the open range.

C. DISPOSAL OF ANIMALS

Pursuant to the Act and regulations, the Bureau or the Forest Service may direct the disposal of animals. Prior to disposal, the Bureau and/or Forest Service will consult with the Board regarding disposal of animals except in acts of mercy requiring immediate actions. The Board will review any proposed disposal and make recommendations concerning the method of destruction and the method of disposing of destroyed animals, in accordance with State laws concerning humane treatment of animals and public health and sanitation.

Horses or burros known to be infected with certain communicable or infectious diseases such as "swampfever" or "sleeping sickness" will be disposed of in the most humane manner after consultation with the Board or its authorized representative. In the event of potential disease epidemic in a wild horse or burro herd, the Bureau and/or Forest Service will consider recommendations and guidance of the Board to minimize the potential and to dispose of the infected and exposed animals.

D. VIOLATIONS; ENFORCEMENT

In the event of alleged or known violations of the Act, the Bureau and/or Forest Service will contact the Board to validate the ownership status of the animal(s) involved according to the criteria set forth in this agreement. The Board may be requested to assist in enforcement proceedings where wild free-roaming horses or burros are involved.

E. PROPERTY DAMAGE

The Board may be requested to assist in investigation of alleged property damage inflicted by wild free-roaming horses and burros. Assistance will include, but may not be limited to, establishment of the ownership status of animals.

229

V. ADMINISTRATIVE MATTERS

A. ANNUAL MEETING

The Board, the Bureau and the Forest Service will meet jointly at least once annually to discuss matters relating to the planning, coordination and implementation of the Act and Regulations pertaining to management of wild horses and burros on or affecting Bureau or Forest Service administered lands and provide for other meetings as necessary.

B. OTHER AGREEMENTS

The local representative of the agencies may enter into supplemental or specific agreements to accomplish the purpose of this agreement.

C. SUBJECT TO EXISTING LAWS

Horses and burros will be transported from Bureau administered lands in accordance with rules and regulations of the Board and the Bureau, and from National Forest System lands in accordance with rules and regulations of the Board and Forest Service.

D. FUNDING OBLIGATIONS

Nothing in this agreement shall be construed as obligating any party hereto in the expenditure of funds.

E. RESTRICTION OF CONGRESSIONAL DELEGATES OR RESIDENT COMMISSIONER

No member or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this agreement, or to any benefit which may arise therefrom.

F. DISCRIMINATION

All cooperative work under the provisions of this agreement or supplemental agreements or memorandums of understanding will be accomplished without discrimination against any person because of race, creed, color, sex or national origin.

G. TERMINATION

This agreement shall become effective when signed by the designated representatives of the parties hereto and shall remain in force until terminated by mutual agreement, or by any one or more of the parties upon 30 days' notice in writing to the other party or parties of such intention to terminate upon a date indicated.

Amendments to this agreement may be proposed by any party to the Agreement and shall become effective upon approval by all parties.

APPROVED:

Date: August 14, 1973

State of Wyoming Livestock Board

by: /s/ Christy K. Smith
President

Date: August 16, 1973

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

by: /s/ Daniel P. Baker
State Director

Date: September 6, 1973

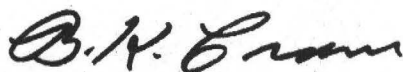
U. S. Department of Agriculture
Forest Service, Region Two

by: /s/ B. K. Crane, for
Regional Forester

Date: September 21, 1973

U. S. Department of Agriculture
Forest Service, Region Four

by: /s/ P. M. Rees, for
Regional Forester



B. K. CRANE
Deputy Regional Forester



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
DENVER SERVICE CENTER
DENVER FEDERAL CENTER, BUILDING 50
DENVER, COLORADO 80225

APR 19 1974

Dear Sir:

The Bureau of Land Management is soliciting cooperative research contracts with research institutions interested in conducting investigations of wild, free-roaming horses and burros.

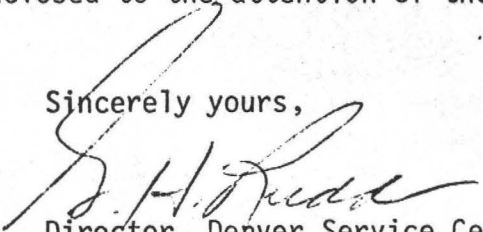
Our research informational needs for both horses and burros are enclosed. However, we are limiting our research efforts to horses at this time, in the following priority areas:

1. Biological and Physiological Needs.
2. Population Dynamics.
3. Competition with Other Animal Life.

Your Departments of Range Science, Wildlife, Zoology, Agriculture, Biology and others may be interested in developing cooperative research contracts with the Bureau of Land Management to provide the needed information.

Would you please bring the enclosed to the attention of those who would be interested.

Sincerely yours,


Director, Denver Service Center



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
DENVER SERVICE CENTER
DENVER FEDERAL CENTER, BUILDING 50
DENVER, COLORADO 80225

Memorandum

To: Prospective Research Contractors

The Bureau of Land Management is required by Public Law 92-195 to protect, manage and control wild, free-roaming horses and burros on public lands. Reliable information is decidedly lacking on which a responsible program can be based. Through extensive interviews with government agency and research personnel, as well as others, the BLM has developed a brief listing of research information required to develop a biologically sound program of protection, management and control. This list of research needs is attached.

Your review of the attached listing of information requirements is invited. Your consideration of possible cooperative research contracts to conduct certain studies is solicited. At this time, the BLM is not prepared to finance a broad, comprehensive research effort, but will consider cooperative research contracts on the following high priority categories only:

1. Biological and Physiological needs (See Item A in the attached list)
2. Population Dynamics (See Item B in the attached list)
3. Competition with Other Animal Life (See Item D in the attached list)

If you are interested in conducting research in the above categories, please submit a project proposal to the above address attention: Dr. Floyd E. Kinsinger. At this time, partially due to budgetary limitations, we are soliciting project proposals only for wild, free-roaming horses. (Burros will be considered for additional research effort in the future).

If you submit a project proposal, it should be received by July 31, 1974. Research proposals finally selected for funding will not be initiated until July 1, 1975, due to the time involved in review, budgeting and obtaining appropriations. The proposal should be relatively brief but concise and contain, as a minimum, the following:

1. Title
2. Introduction

3. Justification and need (including probable duration)
4. Study Objectives (be specific)
5. Brief description of methods used to obtain data
6. Location
7. Proposed Annual Budget (include source and amount of cost-sharing funds expected from other sources, including the contracting research agency)
 - a. Salaries and wages
 - b. Travel
 - c. Operations
 - d. Equipment and Supplies
 - e. Overhead (indirect costs)
 - f. Publications costs
8. Brief biography, including significant publications, of the principal investigator(s).

It is anticipated that several high quality research proposals will be submitted. After careful review of all proposals, the successful contractors will be notified.

Any questions regarding the information contained herein should be directed to:

Dr. Floyd E. Kinsinger
Denver Federal Center
Bldg. 50
Denver, Colorado 80225

Telephone: 303-234-2394

Research Informational Needs for a Program of
Protection, Management, and Control
of Wild, Free-Roaming Horses

I. Title - Wild Horses as Components of the Range Ecosystem.

II. Introduction - Western rangelands have supported a substantial population of feral horses for several hundred years. Passage of the Taylor Grazing Act in 1934 resulted in the first broadscale attempts to control overuse and destruction of grazing lands and provide for conservation of the natural resource values inherent in these lands. Well into the second half of the 20th Century, undomesticated horses running at large on the range were considered as undesirable trespass animals subject to partial or complete elimination in the interest of providing more water and forage for domestic livestock and wildlife. Public Law 92-195, dated 12/15/71, has completely changed this concept. Wild horses and burros have assumed the mantle of "living symbols of the historic and pioneer spirit of the West," to be preserved "as an integral part of natural systems of the public lands." To meet the requirements for control, protection, and management as authorized in P.L. 92-195, requires greatly expanding the fund of knowledge now available to resource managers. Studies to develop this information may be carried out in part as an "In-House" effort by Bureau employees. Other needs can best be satisfied by contractual research carried out by educational institutions, research agencies, or professional consulting firms.

III. Research Objectives - Listed below are topics needing additional study and research by educational institutions, research agencies, or recognized consultants.

A. Biological and physiological needs of wild horses to include:

1. Forage requirements including preferred vegetative types; preferred plant species; low preference survival species; a comprehensive list of all utilizable plant species.
2. Water requirements; daily watering habits; subsistence on snow; maximum travel distance to water under drouth conditions; use of water to influence animal movement and management.
3. Band composition and territorial requirements, i.e., habitat acres per animal; daily travel distances; seasonal migrations; tolerance to other bands of horses; tolerance to man's activities without losing wild, free roaming characteristics; need for buffer zones.

B. Population dynamics to include:

1. Reproductive rate; average breeding age; average life span; season of foaling.
2. Survival by age groups; colt mortality and causes.
3. Characteristics of non-breeding animals such as young bachelor bands and older solitary animals.

C. Predation and Disease:

1. Influence of native predators, particularly mountain lions on colts and juveniles.
2. Effect, if any, by coyotes or other predators on young or winter-weakened animals.
3. Evidence of disease, such as equine encephalitis, as a mortality factor.
4. Parasites and their role in disease transmission or direct loss of animals.

D. Competition with other animal life:

1. Degree of competition or compatibility with native big game animals.
2. Influence on habitat of small wildlife species.
3. Compatibility with domestic livestock at water holes, salt licks, or other areas of concentration.
4. Degree of overlap between wild horse and wild burro habitat areas, if any.

E. Environmental Influences:

1. Evidence of change in vegetative composition or trend resulting from horse use.
2. Effects of trampling at watering places or other site depleting activities.
3. Evidence of other than normal wear and tear on developed range improvements due to horse use.

4. Evidence of depletion of watershed from destructive grazing habits.

F. The contract should include a compilation and thorough review of literature, published and unpublished, with appropriate abstract of material applicable to management of wild horses on public lands.

IV. Research Plan - The contracting agency shall furnish a detailed plan and location for conducting a study of wild horses, including procedures and methods to achieve data needed for each of the objectives listed under Section III. Should the plan call for collection of specimens for autopsy or other purposes, it shall be the responsibility of the researchers to secure legal clearance and authorization for such action from the authorized officer.

Subsequent to such authorization, the Bureau and the Contracting Agency will jointly agree upon the number, place, and time of needed specimen collections with adequate record documentation in each case. In addition, if telemetry, aerial surveillance, or similar procedures will be involved, the exact procedure shall be fully outlined in order to meet the anti-harassment and other provisions of PL 92-195 and PL-86-234.

V. Estimated Project Costs. In consideration of the plan and objectives of this study as outlined in the preceding sections, any individual or agency offering to conduct the study shall provide an estimated time and cost breakdown for completion of the project. The estimate shall provide a time frame for completion of the various phases with estimated costs on an annual basis. Costs shall be broken down as to:

- A. Level and quality of manpower to be utilized.
- B. Supplies and equipment needs.
- C. Anticipated cooperative support in terms of manpower, equipment usage, etc., which may be required from BLM.
- D. Any special requirements not included under (A), (B), (C).

Research Informational Needs for a Program of
Protection, Management, and Control
of Wild, Free-Roaming Burros

I. Title - Wild Burros as components of the Range Ecosystem.

II. Introduction - Feral burros are found principally in the desert rangelands of southwestern United States, but occur locally in small groups or bands in most of the other western states as well. They are believed to be descendants of animals brought into Mexico and the southwest by early-day Spanish explorers, augmented by pack animals which were abandoned or escaped from miners, prospectors, and sheepherders during the past hundred years or longer. Generally, they have been tolerated or even regarded with affection by westerners, excepting instances where excessive populations resulted in conflict or severe competition with ranching interests, recreational developments, or endangered wildlife populations. Reduction or elimination of animals under these situations led to the first protective legislation enacted in California in 1953. Now, under the provisions of Public Law 92-195, burros will receive full protection in all areas where populations existed as of December 15, 1971, the date of its enactment. The Bureau of Land Management, as one of the agencies charged with administrative responsibilities under this law, will require much more detailed information than has heretofore been available about the burro and its habitat. Some of this can be acquired in the course of regular operational programs. Other needs must be filled through contractual study and research carried out by educational institutions, research agencies, or professional consultants.

III. General Research Objectives.

A. Biological and physiological requirements of wild burros to include:

1. Forage requirements; preferred range types and plant species; a comprehensive listing of all plants used, including low preference survival species.
2. Water requirements under normal and drouth conditions; distances traveled to and from water sources; use of water to influence animal movements and management.
3. Habitat limitations as related to extremes of climate, elevation, shelter and other factors.

4. Social characteristics relating to such things as group association, territorial requirements, if any, others.

B. Population dynamics:

1. Reproductive rate, average breeding age and life span.
2. Survival data by age groups, colt mortality.

C. Predation and disease:

1. Predators as a limiting factor on population growth, distribution patterns, etc.
2. Losses due to disease or parasites.

D. Competition with other animals.

1. Degree of competition or compatibility with other native animal and bird life with special reference to bighorn sheep.
2. Compatibility with domestic livestock, competition for use of water or salt.
3. Overlap, if any, with habitat of wild horses.

E. Environmental influences.

1. Evidence of changes in vegetative composition or trend due to burro use.
2. Determine the degree of site deterioration due to trampling; destruction of water developments or range improvement structures; depletion of soil or vegetation from destructive grazing use; other watershed influences.

F. Compilation and review of literature, both published and unpublished with appropriate abstract of material applicable to the protection and management of the burro and its habitat.

IV. Research Plan - The contracting agency shall furnish a detailed plan and location for conducting a study of wild burros, including the procedures and methods to be used in reaching the objectives listed under part III. If the study plan requires capture or collection of specimens for marking, autopsy, or other purposes, it will be the responsibility of the contracting agency to secure legal clearance and authorization under provision of State or Federal law.