



Johnnie m 7-1-94

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
LAS VEGAS DISTRICT OFFICE
4765 VEGAS DRIVE
P.O. BOX 26569
LAS VEGAS, NEVADA 89126



IN REPLY REFER TO:

1270
94-10
(NV-050)

Mrs. Dawn Y. Lappin
Director, WHOA
P.O. Box 555
Reno, Nevada 89504

JUL 07 1994

Dear Dawn:

This is in response to your Freedom of Information Act Request dated June, 5, 1994.

Please find enclosed a copy of the return receipts you requested. Let me assure you there was no deliberate intention to send the information to the wrong address. I hope you will forgive the inconvenience this caused for you. There is some resemblance between WHOA and the name used by Ms. Richard's organization, which may have caused some confusion.

Regarding the fencing project near Johnnie, the Nevada Department of Transportation (NDOT) has a pre-FLPMA (Federal Land Policy Management Act) right-of-way, and therefore no federal action is necessary for the placement of a fence within the boundaries of the right-of-way. Because no federal action is necessary, no formal documentation was initiated (including preparation of an Environmental Assessment). I have enclosed, however, copies of all our written correspondence. It includes a discussion of our short and long-term plans to remedy the situation. NDOT did prepare its own environmental documentation, and I recommend that you request a copy from them.

Finally, an update on the rehabilitation of the waters at Nellis are as follows:

- Tunnel Spring: Project completed and horses are using it.
- Cedar Spring: Spring box to trough is complete with water in the trough. We will add a second pipe from the collection reservoir to the trough by 6-24-94.
- Rose Spring: All materials are ready for installation starting 6-20-94 and completed by 6-23-94.

Please let me know if you need any additional information, or contact Gary McFadden, Wild Horse and Burro Specialist, of my staff.

Sincerely,

Louise A. Burt
Acting for Gary Ryan
Acting District Manager

5 Enclosures

1. Return Receipt
2. Letters regarding NDOT fencing project (4)



**UNITED STATES DEPARTMENT of the INTERIOR
BUREAU OF LAND MANAGEMENT**

Las Vegas District Office

4765 Vegas Drive
P.O. Box 26569
Las Vegas, Nevada 89126



In Reply Refer To:
4710
(NV-050)

June 9, 1994

Memorandum

To : State Director, Nevada (NV-961)

From : District Manager, Las Vegas

Subject : Last Chance/Mt. Stirling (Johnnie) Herd Management Areas Wild Horse and Burro Situation

As you are aware, Nevada Department of Transportation (NDOT) is currently constructing a safety fence on their right-of-way along State Route 160 from Highway 95 to just north of Pahrump. This fence will cut the Last Chance/Mt. Sterling (Johnnie) HMA approximately in half creating an adverse situation for the survival of the animals on the west side of the fence.

We conducted a census the week of May 16, 1994 to determine current use areas and animal numbers. Based on census and movement data from 1988 to 1994 we estimate that 1/5 of the horses and 1/2 of the burros in the HMA have established territories on the west side of SR 160 where they make extensive use of forage and shade. Naturally occurring water, is lacking on the west side of the highway. The only available water source is a small private pond supplied by a spring on the east side of the highway. The pond provides an insufficient amount of water to handle current animal numbers. Because of this lack of available water on the west side, animals rely upon water on the east side as their primary source. If animals are not able to get to water on the east side there is the potential for deaths; concentration of animals at the private water source; and/or movement of animals into the town of Pahrump or the Ash Meadows area, both undesirable locations.

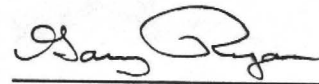
The primary water sources (springs) on the east side are located on private land and at this time it is not known if it is feasible to acquire water rights and pipe water to the west side. We are working on this but even if the land owners are cooperative it would take several months to get anything going.

Water hauling to augment the private water source on the west side was considered as an option. This however is considered to be logistically prohibitive considering the number of animals involved.

At this time there does not appear to be a viable remedy to the immediate situation other than the removal of 100 to 150 burros and 20 to 30 horses from the west side. In combination with the removal we would relocate any additional animals to the east side and provide water for any stragglers. The NDOT has agreed to leave a four mile gap in the fence for a period of two to three weeks so we can get a gather in place.

Please disregard our previous request for a Full Force and Effect Decision (dated June 3, 1994) and consider this as our amended request.

If you have any questions concerning this matter please contact Gary McFadden or Donn Siebert.



Gary Ryan
District Manager

Concurrence by:

Ron Wenker
State Director, Nevada



**UNITED STATES DEPARTMENT of the INTERIOR
BUREAU OF LAND MANAGEMENT**

Las Vegas District Office

4765 Vegas Drive
P.O. Box 26569
Las Vegas, Nevada 89128



In Reply Refer To:
4700/4000
(NV-053)

June 14, 1994

State of Nevada
Department of Transportation
Garth Dull, Director of Transportation
1263 S. Stewart Street
Carson City, NV 89712

Dear Mr. Dull:

My staff discussed our management concerns with your staff in 1993 during the early planning stages for fencing the right of way for State Route (SR) 160 from Pahrump north to Highway 95. In subsequent telephone conversations on May 24, 1994 and June 3, 1994, my staff reiterated these same concerns. Unfortunately, these latter discussions occurred after construction had commenced.

SR 160 traverses the Johnnie Herd Use Area of the Mount Stirling and Last Chance Wild Horse and Burro Herd Management Areas (HMA). This HMA falls under the 1971 Wild Free Roaming Horse and Burro Act as amended.

The Bureau of Land Management has been managing this wild horse and burro herd with removals of problem animals, herd movement and census data, and monitoring studies. No major removal has been completed due to funding constraints.

Human safety in relation to highway collisions with these wild animals is a primary concern. This has prompted our coordination with NDOT for highway signs warning of horses and consideration of fencing the right of way and building underpasses (concrete box culverts). We have conducted numerous problem animal removals in response to the safety concern.

We conducted a census the week of May 16, 1994 to determine current use areas and animals numbers. Based on the census/movement data from 1988 to 1994, about 1/5 th of the wild horses and 1/2 of the wild burros have established territories on the west side of SR 160 where they make extensive use of forage and shade. Since the wild horses

and burros use both sides of the highway, safe and unrestricted access to springs, forage, and shade on both sides of the highway is very important to their survival.

If SR 160 is fenced without installing at least one 8x12 cement box culvert serving as an underpass, the horses and burros would be deprived of almost 1/2 their herd use area. Potential management problems are:

1. Horses and burros could die of thirst when trapped on the west side of SR 160.
2. Horses and burros may migrate into Pahrump seeking water and forage causing damage to private property.
3. Animals trying to get to home territories or gain access to springs could get trapped between the two highway fences. The trapped animal(s) would become a serious highway safety problem.
4. The lack of springs on the west side of SR 160 would remove the area from practical use by the wild horses and burros. The Johnnie Herd Use Area would be reduced in size by approximately 50 %. As a result, we would need to study the long term potential viability of the herd.

The overall management of this historic wild horse and burro herd would be impacted.

Some management considerations would be:

1. One of the primary herd crossing areas is located in the deep wash near mile marker 23. The placement of at least one reinforced concrete box culvert with a minimum of 1 opening of 8X12 feet would help insure safe and unrestricted access to both sides of the highway. We could work with you on this
2. The fencing design should funnel the horses in and out of the culverts using a "Y" section of fence entering both sides of the culverts. These locations may be ideal locations for the one way gates discussed in number 3.
3. The placement of "one-way" wild horse and burro gates on the west and east side of SR 160 at the major crossing areas. These gates would open in both the northerly and southerly directions allowing animals trapped on the highway an escape route.

It is highly probable that animals will breach the highway fence and be trapped in the right of way posing a safety hazard. These one-way gates are designed to deal with that situation and have done so effectively for mule deer in parts of Nevada and California.

Should circumstances make it necessary at a later date, we may need to work with you to modify any one-way gates or install additional ones. If this requires

an easement and/or an agreement with you, we are agreeable to this.

4. Cattle guards are preferred over gates on the primary roads/trails. We suggest locked gates in addition to cattle guards on SR 160. This would meet our access needs. A double lock system using BLM and NDOT locks would provide easy access so we both can enter with heavy equipment as needed.

We would be glad to work with you on the placement of gates and/or cattle guards. There are a number of roads/trails that we make frequent use of in managing the public lands.

damage to private property

5. **The fence design should consider wildlife (big horn sheep) requirements.**

If a culvert(s) (serving as an underpass) is completed, we would use a combination of hay, water, and temporarily corralled domestic horses/burros (mares/jennies) to attract and educate the wild horses and burros on its use and location. The Western Mustang and Burro Alliance and The National Wild Horse Association will assist us through the cooperative agreement we have with them. We would be glad to accompany your contract supervisor during different stages of the construction.

Your consideration and cooperation in combining public safety with the management of our wildlife and historic wild horses and burros in the Johnnie Herd Use Area is appreciated.

If you have concerns or questions on this, please contact Gary Ryan or Gary McFadden at (702) 647-5000.

Sincerely,



Gary Ryan
District Manager



**UNITED STATES DEPARTMENT of the INTERIOR
BUREAU OF LAND MANAGEMENT**

Las Vegas District Office

4765 Vegas Drive
P.O. Box 26569
Las Vegas, Nevada 89126



In Reply Refer To:
4710
(NV-050)

June 21, 1994

Memorandum

To : State Director, Nevada (NV-961)
From : District Manager, Las Vegas
Subject: Last Chance/Mt. Stirling (Johnnie) Herd Management
Areas Wild Horse and Burro Background and Recommended
Action

As we indicated to you in our memorandum dated June 9, 1994, Nevada Department of Transportation (NDOT) is currently constructing a safety fence on their right-of-way along State Route (SR) 160 from Highway 95 to just north of Pahrump. This fence will divide the Last Chance/Mt. Stirling Herd Management Areas (HMA) approximately in half creating an adverse situation for the survival of the animals on the west side of the fence.

In order to bring you up to date with the situation, I will present some background information on this issue and then discuss my recommended actions both short and long term.

Background Information:

The climate and terrain in the area has a strong influence on the distribution and density of wild horses and burros. Understanding this is essential to managing herds within the Mojave Desert.

Rainfall during the period of October to April and even into May, suffers less evaporation due to the cooler ambient temperatures and is characterized by low intensity/long duration winter storms. As a result, these low intensity storms are very effective in recharging springs and generating cool season plant growth. The animals are more widely spread out over the HMA and will drift farther from water sources for short periods to follow the "green" of cool season shrub and grass growth.

The high intensity/short duration nature of most thunderstorms common from July to September and often October usually equates

to flash floods and less effective recharging of underground water sources feeding the springs. Warm season shrub and grass growth provide essential forage for lactating mares and foals. The high summer temperatures, prevailing winds, and the thermic soils cause much of the water that doesn't run off to evaporate shortly after the storm. Shade is a very important habitat parameter during this time of the year.

The Last Chance and Mount Stirling HMA boundaries overlap. In the absence of any natural barriers, wild horses and burros move freely from one HMA to the other. The primary use area for these HMA's is the same area and is reflected in the Supplement to the Draft Stateline Resource Management Plan (RMP) and Environmental Impact Statement dated May 2, 1994. The RMP identifies this area as the Johnnie HMA.

There are no natural water sources on the west side of SR 160. The primary water sources on the east side are on private land and privately controlled. The two waters on public lands administered by BLM, Diebert and Kwichup springs, are minor springs with flows of less than a pint per minute. We are currently exploring acquisition of water rights on Kwichup spring, the better of the two.

Most of the water sources are within 2 to 8 miles of the habitat on the west side of SR 160. This has historically allowed animals to use the habitat on the west side by crossing the highway.

The habitat on the west side of the highway has a significant amount of north and northeast aspect. The shade provided in the summer is an important habitat parameter for wild burros. This area has historically been part of the burro's primary use area.

Wild horses use the lower terrain during the summer and stay closer to the waters to the east and in Johnnie.

In the spring and fall, the burros and horses spread out over the HMA to take advantage of spring and summer vegetation growth during cooler ambient temperatures.

The wells, springs, and ponds located on private land on the east side of SR 160, have been and are currently available to the wild horses and burros. The local inhabitants are fond of the animals.

The only pond located on the west side of SR 160 is privately owned and is derived from an east side spring. It has been and is available to the animals but has a limited capacity.

We have been looking at the situation in the HMA for several years realizing that there were excess animals, a limited water

supply primarily privately controlled, and deteriorating habitat. Since the late 1980's we have been conducting census, use mapping, studied seasonal use habits, and problem animal removals.

The use levels in the primary use areas has been heavy to severe since 1991. Concentrated trailing and trail terracing on hillsides is prevalent in the primary use areas.

We requested removals and discussed fencing the right of way with underpasses as early as 1988. Because of higher priority situations such as Nellis and Gold Butte, we were unable to acquire funding to conduct a removal. More recently, policy changes requiring the establishment of an AML prior to gathering has contributed to a postponed removal.

In the interim, we have relied on periodic problem animal removals to partially remedy the situation. For example, when animals migrated into the town of Pahrump and over into the Ash Meadows National Wildlife Refuge.

Human safety in relation to highway collisions with horses and burros is a concern. Citizens from Pahrump prepared 2 petitions concerning the safety issue in the late 1980's. We worked with NDOT in getting road signs installed warning motorists of the presence of the animals.

Fencing the right of way and installing a box culvert(s) at least 8 feet by 10 to 12 feet in size (underpass) to allow animal movement across the highway was recognized as the long term solution. We requested Bureau funding for underpasses in the late 1980's. Also, we approached the horse groups about funding for fencing the right of way and discussed underpasses in 1988 and 1989.

NDOT's environmental staff visited our office, in 1993 during the early planning stages of the fence project. We discussed our management concerns and provided them with our recommendations which included a large culvert. Our recommendations were consistent with the Supplement to the Draft Stateline Resource Management Plan and Environmental Impact Statement dated May 1994.

The right-of-way for this section of SR 160 dated August 27, 1958 was granted on August 31, 1965. We coordinated with Nevada State Office (NSO) Lands staff and were advised that the right-of-way was pre-FLPMA and since there was no federal action involved, we could not require them to mitigate the disruption of wild horse and burro movement.

NDOT indicated that the fence project was funded from a highway safety fund and that no highway funds were involved. As a

consequence, a new culvert/underpass was not possible based on a limited project budget.

We were notified indirectly in May 1994 that NDOT had commenced construction.

We contacted NDOT again with our concerns and notified NSO as to the emergency nature of the situation. We sent a letter to NDOT on June 14 and 22, 1994 quantifying our concerns and suggested mitigation (copies attached).

We requested emergency removal authority on June 9, 1994. We met with Nevada State Office and Washington Office wild horse and burro staff on June 14, 1994 to clarify the situation.

Our short term and long term plans to mitigate impacts of the NDOT fence are as follows.

In the short term:

1. We are preparing an Emergency Gather Plan and EA to conduct a combination removal and relocation. The methods would include helicopter and water trapping under the current Bureau contract. We plan to remove 100 to 150 wild burros and 20 to 30 horses on the west side. We would ship the animals to Kingman for processing.

2. Any burros over the 150 would be relocated to the east side. The adoptable horses will be removed and the remainder relocated to the east side.

We will monitor the impact of relocating animals to the east side on the habitat and any movement into Pahrump.

3. NDOT has agreed to leave a four mile gap in the fence around the Johnnie area until July 5, 1994 to give us time to arrange for a gather.

4. Arrangements with the private land owner on the west have been made to continue providing water to any stragglers after fencing.

5. We are working with NDOT to provide "Y" sections of fence entering both sides of the two existing six foot round culverts and the location where the future box culvert would be feasible.

6. The standard rip-rap on one of the culverts has been undercut and washed out leaving 30 inch drop. We have asked NDOT to consider restoring the rip-rap and making it passable with finer sands and gravel.

7. Using water, hay, and a corralled mare/jenny near the existing culverts, we will begin to train the wild burros to use the culverts as thoroughfares. This will help insure the survival of any stragglers and the continued use of the west side of SR 160.

8. HMA identification and caution signs will be installed along SR 160.

In the long term:

1. Using existing and additional monitoring data, an AML will be established for the Johnnie HMA.

2. Negotiations with NDOT will continue in an effort to get an appropriately sized culvert (8 ft. by 10 to 12 ft.) installed to facilitate both wild horse and burro movement as well as other modifications to the fence (see attached letter to NDOT). We will also pursue other sources of funding for a culvert/underpass.

3. We will file for water rights on the Kwichup spring and request funding to develop it for wild horse and burro use.

4. Cooperative agreements will be pursued with the land owners having control of most the existing waters located on private land. Long term use of the water for wild horses and burros is the objective.

5. Other management actions as needed to manage the herd in a thriving natural ecological balance.

I hope this answers any questions you have on the action. Please direct any additional questions to Gary McFadden or myself.

GARY RYAN

2 Attachments:

1. June 14, 1994 letter 3 pgs.
2. June 22, 1994 letter 3 pgs.





United States Department of the Interior

BUREAU OF LAND MANAGEMENT
LAS VEGAS DISTRICT OFFICE
4765 VEGAS DRIVE
P.O. BOX 26569
LAS VEGAS, NEVADA 89126



IN REPLY REFER TO:

4700/4000
(NV-053)

State of Nevada
Department of Transportation
Garth Dull, Director of Transportation
1263 S. Stewart Street
Carson City, NV 89712

JUN 22 1994

Dear Mr. Dull:

Subsequent to my letter to you dated June 14, 1994, I directed my staff to visit the right-of-way for State Route (SR) 160 from Pahrump north to Highway 95 and review the Nevada Department of Transportation's fencing efforts.

As a result of this, I would like to share some potential Bureau actions and additional recommendations and mitigation concerns that they discussed with me.

1. There are two existing six foot tall metal culverts near Johnnie on SR 160 that may be able to serve as temporary east/west access routes for burros. They are too small for wild horses.

One is located .2 mile north of mile marker 24 and the other .5 mile south.

The north culvert needs approximately 1 to 2 feet of sand/gravel removed from the east inlet.

The south culvert has been undercut and washed out leaving a 30 inch drop on the west outlet. The flow in this culvert appears to be greater than the North one. The rip-rap needs to be restored and made traversable. Additionally, a short lip welded on the outlet end of the culvert may help trap a 1 to 2 inch layer of sand/gravel providing a better walking surface.

2. The highway fencing design should funnel the horses in and out of the two culverts using a "Y" section of fence entering both sides of the culverts. The fence currently blocks access to the north culvert.

Access to these culverts is needed to mitigate short term impacts on wild burros in the Johnnie Herd Use Area of the

Mount Stirling and Last Chance Wild Horse and Burro Herd Management Areas (HMA).

3. I would direct my staff to use a combination of hay, water, and temporarily corralled burros (jennies) to attract and educate the wild burros on the use and location of these two culverts.

Due to the size difference in horses, it is not likely that this will mitigate their use of the west side of the highway in the HMA.

4. A gate or drop fence is needed at each culvert on both sides of the road to allow access for the water, corrals and jennies used for attracting burros to the culvert. My staff would be available to select the locations for these access gates. A drop fence may be more economical.

5. About .7 mile south of mile marker 24 there is a deeper wash with an existing 24 inch culvert. There is approximately a 20 foot drop from the west side and a 25 foot drop from the east side of SR 160. This may be an excellent future location for one or more 8 foot by 10 to 12 foot box culverts.

I would like a commitment from NDOT to place box culverts of this kind in the appropriate drainages, with BLM technical input, at the time this section of highway is scheduled for roadway work or reconstruction.

This size culvert is essential to mitigate long term impacts to wild horses and burros.

The wild horses and burros make use of water trapped on both sides of this drainage after rainstorms. We recommend using a "Y" section of fence entering both sides of the highway. Without this, the animals are likely to be attracted to the water and breach the fence creating a safety hazard.

6. Our past experience with fencing in wild horse and burro habitat indicates a propensity for breeches. Could you send my staff the fence standards being used on the Johnnie fence for review? In our experience, when the bottom wire is too high or the top wire too low, animals can get under and go over the fence.

As I indicated in my June 14, 1994 correspondence, the use of "one-way" wild horse and burro gates will allow animals trapped on the highway an escape route. We have the design specifications for one way gates used for mule deer, should you be interested.

I appreciate your consideration and cooperation in combining public safety with the management of our wildlife and historic wild horses and burros in the Johnnie Herd Use Area.

If you have concerns or questions on this, please contact Gary Ryan or Gary McFadden at (702) 647-5000.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gary Ryan".

Gary Ryan
Acting District Manager