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



Las Vegas District Office
P.O. Box 26569
Las Vegas, Nevada 89126

Caliente Resource Area
P.O. Box 237
Caliente, Nevada 89008

February 1992

Approved
**Nellis Air Force Range Resource Plan
and
Record of Decision**





United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Nevada State Office
850 Harvard Way
P.O. Box 12000
Reno, Nevada 89520-0006



IN REPLY REFER TO:

1610
(NV-933.1/
NV-055)

February 21, 1992

Dear Reader:

Enclosed for your information and use is a copy of the Approved Nellis Air Force Range Resource Plan (RP) and Record of Decision (ROD). The RP outlines the level of management for the natural and cultural resources on 2.2 million acres of withdrawn lands on the Nellis Air Force Range by the Caliente Resource Area, Las Vegas District of the Bureau of Land Management (BLM). The ROD summarizes and completes the environmental process for the above RP.

This RP and ROD completes the resource plan development and associated environmental documentation for the Nellis Air Force Range planning area as required by the Federal Land Policy and Management Act (FLPMA), the National Environmental Policy Act (NEPA), and the Military Lands Withdrawal Act of 1986. An "Implementation Plan" will be completed over the next several months outlining the steps for implementation of the management actions of this RP.

This document has two parts. PART 1: RESOURCE PLAN, contains the Resource Objectives, Management Direction, and Management Actions for each major resource; Implementation of the plan; plan Monitoring and Evaluation frequencies; and Support Requirements needed for implementation. PART 2: RECORD OF DECISION, contains a summary of the Resource Decisions; Alternatives considered, including the Environmentally Preferable Alternative; Management Considerations; Mitigation and Monitoring; Public Involvement; and Approval.

Additional copies of this RP and ROD may be obtained from the BLM's Caliente Resource Area Office, P.O. Box 237, Caliente, NV 89008 or the Las Vegas District Office, P.O. Box 26569, Las Vegas, NV 89126. All supporting documentation may be reviewed at the Caliente Resource Area Office.

Sincerely,

Billy R. Templeton
State Director, Nevada

APPROVED

**NELLIS AIR FORCE RANGE RESOURCE PLAN
and
RECORD OF DECISION**

**Prepared by the
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
LAS VEGAS DISTRICT**



**Billy R. Templeton
State Director, Nevada**

The Approved Nellis Air Force Range Resource Plan and Record of Decision outlines the level of management for the natural and cultural resources on 2.2 million acres of withdrawn lands on the Nellis Air Force Range in Clark, Nye, and Lincoln Counties by the Caliente Resource Area, Las Vegas District of the Bureau of Land Management.

For further information contact: Area Manager, Caliente Resource Area, Bureau of Land Management, P.O. Box 237, Caliente, NV 89008, or telephone (702) 726-3141.

BLMLVPT910061610

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**APPROVED
RESOURCE PLAN
and
RECORD OF DECISION**

APPROVED

NELLIS AIR FORCE RANGE RESOURCE PLAN and RECORD OF DECISION

INTRODUCTION

The Approved Nellis Air Force Range Resource Plan (RP) and Record of Decision (ROD) directs the level of management of the natural and cultural resources by the Bureau of Land Management (BLM) for the Nellis Air Force Range planning area (see Maps 1 and 2). The planning area is located in the Caliente Resource Area of the BLM's Las Vegas District, Nevada. The RP covers 2,209,326 acres of withdrawn lands within the Nellis Air Force Range in Clark, Nye, and Lincoln Counties of Southern Nevada. The development of this RP conforms with the requirements of the Military Lands Withdrawal Act of 1986 (Public Law 99-606 as amended by Public Law 100-338 - see Appendix A).

The BLM, in cooperation with the Nellis Air Force Base and with extensive involvement by the public, developed this RP. The planning process began in July, 1988 with the publication of the "Notice of Intent" to prepare a resource plan in the Federal Register on July 8, 1988. Resource information obtained from BLM files and from the Nellis Air Force Base as well as the public was utilized to develop a Draft Resource Plan and Environmental Impact Statement (DRP/EIS). The draft document was made available for a 90 day public review period in June of 1989. Following this review, a Proposed Resource Plan and Final EIS (PRP/FEIS) was developed and made available to the public in January, 1990. A 30 day protest period was provided and two protests were filed with the BLM Director. These protests were resolved by decision letters in June, 1991. All supporting documents for this planning effort are available for review at the BLM Caliente Resource Area Office in Caliente, Nevada.

This RP and ROD is in two parts. **PART 1: RESOURCE PLAN**, meets the requirements of the Federal Land Policy and Management Act (FLPMA) of 1976. **PART 2: RECORD OF DECISION**, meets the requirements of the National Environmental Policy Act (NEPA) of 1969.

PART 1: RESOURCE PLAN

A. RESOURCE DECISIONS

This section contains resource decisions that fall into two distinct categories. The first five resource categories contain *Objectives*, *Management Direction*, and *Management Actions* that are a result of this planning effort. These same resource categories also include the valid management actions that were taking place prior to this RP. The remaining 11 resource categories, numbers 6 through 16, contain only those valid management actions that were taking place prior to the RP and do not contain *Objectives* or *Management Direction* sections. All of these management actions will be implemented and used for the management of the natural and cultural resources by BLM.

ADMINISTERED
BY CALIFORNIA

WINNEMUCCA
DISTRICT

ELKO
DISTRICT

CARSON CITY
DISTRICT

BATTLE
MOUNTAIN
DISTRICT

ELY
DISTRICT



MAP 1

**NELLIS AIR FORCE RANGE
RESOURCE PLAN**

GENERAL LOCATION



Nellis Air Force Range
Resource Plan

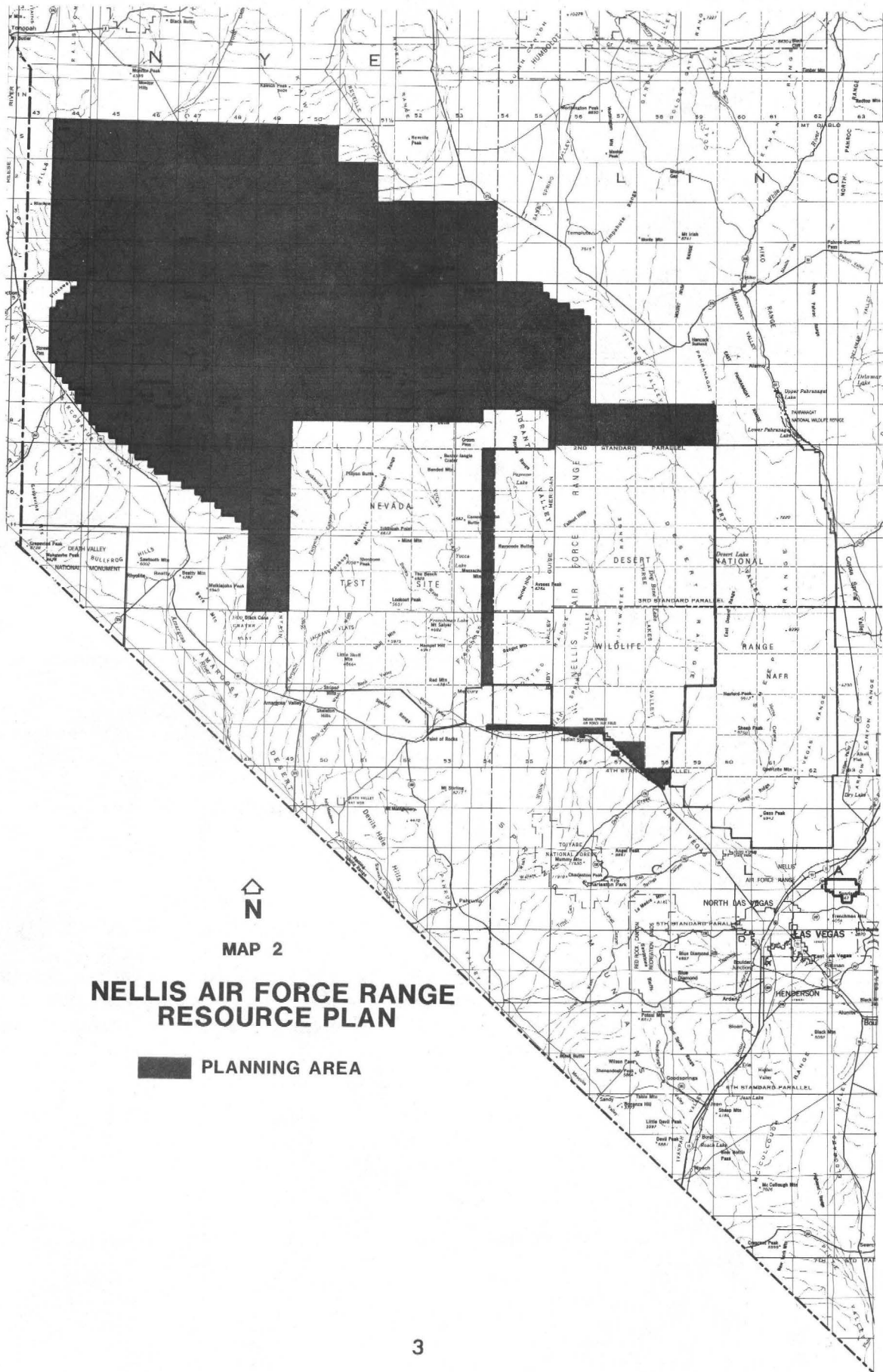


Overlap Area is the part of the
Nellis Air Force Range that will not
be covered by this Plan

NEVADA
TEST
SITE

NATIONAL
LIFE
RANGE

LAS VEGAS
DISTRICT



1. **VEGETATION**

Objectives

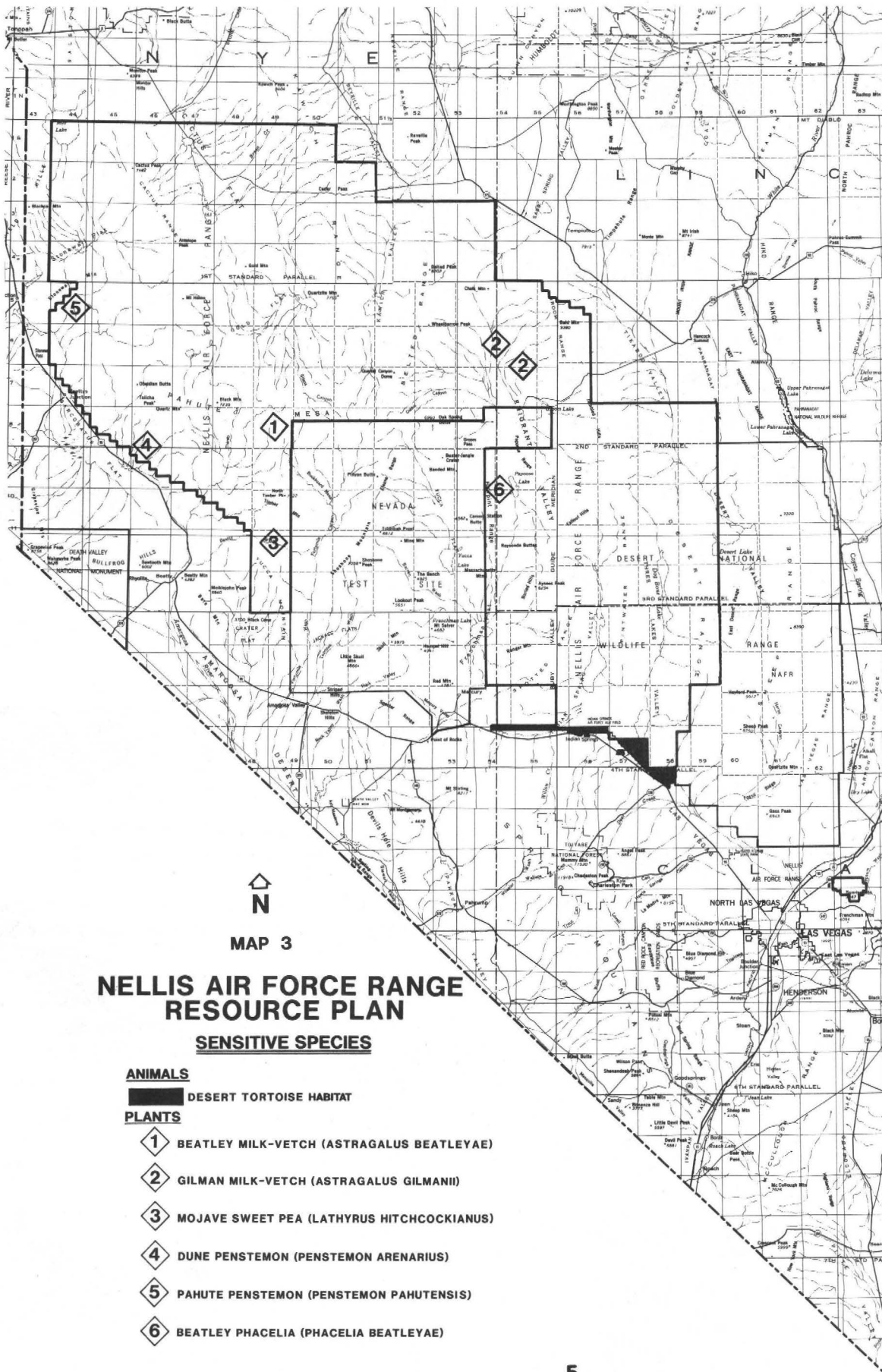
- To maintain existing species diversity and composition at existing ecological stages, except in disturbed and riparian areas.
- To protect and, if necessary, to improve or restore the condition of riparian areas.
- To maintain a static to upward apparent trend in vegetation characteristics through control of grazing levels.

Management Direction:

1. Use species native to the area for any re-vegetation efforts.
2. Restrict surface-disturbing activities in special status plant species habitat or riparian areas (see Map 3).
3. Continue to develop and maintain permanent water sources on the Nevada Wild Horse Range to achieve proper distribution of horses and utilization of forage.
4. Develop and maintain water sources on the Bald Mountain grazing allotment to achieve proper distribution of livestock and utilization of forage.
5. Use fencing only when monitoring demonstrates that other management practices are not successful in achieving the identified objectives.
6. Protect and enhance riparian habitat areas on the Nevada Wild Horse Range and on the Bald Mountain grazing allotment.
7. Monitor vegetation resources on the planning area to determine the effectiveness of management actions.

Management Actions:

1. Develop activity plans for riparian areas throughout the planning area.
2. If monitoring demonstrates that the above-listed management practices are not successful in protecting and/or restoring the productivity of riparian areas, construct and maintain up to 50 miles of fence to exclude wild horses and livestock from riparian areas.




MAP 3

**NELLIS AIR FORCE RANGE
RESOURCE PLAN
SENSITIVE SPECIES**

ANIMALS

 DESERT TORTOISE HABITAT

PLANTS

-  BEATLEY MILK-VETCH (ASTRAGALUS BEATLEYAE)
-  GILMAN MILK-VETCH (ASTRAGALUS GILMANII)
-  MOJAVE SWEET PEA (LATHYRUS HITCHCOCKIANUS)
-  DUNE PENSTEMON (PENSTEMON ARENARIUS)
-  PAHUTE PENSTEMON (PENSTEMON PAHUTENSIS)
-  BEATLEY PHACELIA (PHACELIA BEATLEYAE)

2. WILDLIFE HABITAT

Objectives:

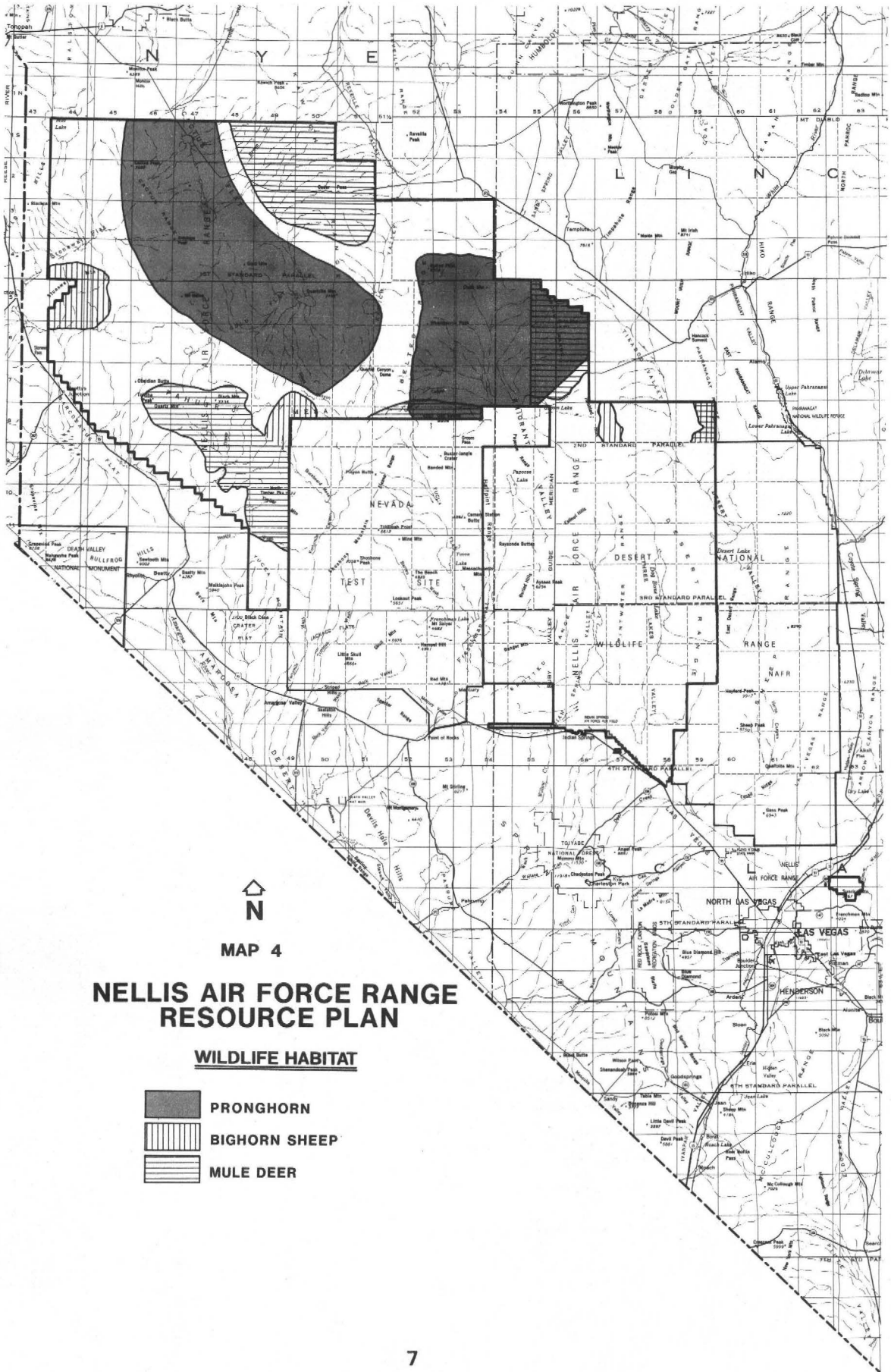
- To manage wildlife habitat (exclusive of the Nevada Wild Horse Range and the Bald Mountain grazing allotment) for maximum wildlife value.
- To manage wildlife habitat within the Nevada Wild Horse Range and the Bald Mountain grazing allotment to sustain viable wildlife populations.
- To protect threatened and endangered wildlife and their habitat.

Management Direction:

1. Forage outside the boundaries of the Nevada Wild Horse Range and the Bald Mountain grazing allotment will be managed for wildlife (Map 4).
2. Continue to reserve forage for wildlife in the Bald Mountain grazing allotment at current levels (370 animal unit months (AUMs) for deer).
3. Forage on the Nevada Wild Horse Range will be managed to achieve and maintain a thriving ecological balance.
4. Provide permanent water sources for wildlife on the Nevada Wild Horse Range and the Bald Mountain grazing allotment.
5. Conduct monitoring as a joint effort, in conjunction with the Air Force and the Nevada Department of Wildlife.

Management Actions:

1. Develop and maintain up to 20 water sources for wildlife within the Nevada Wild Horse Range and the Bald Mountain grazing allotment.
2. If monitoring indicates the need, build and maintain up to 30 miles of boundary fence on the Bald Mountain grazing allotment to prevent livestock from drifting off the allotment (see Map 5).
3. Predator control will be authorized, as required, through the District Animal Damage Control Plan (ADC), in coordination with BLM, Air Force, the Nevada Department of Wildlife and the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture.

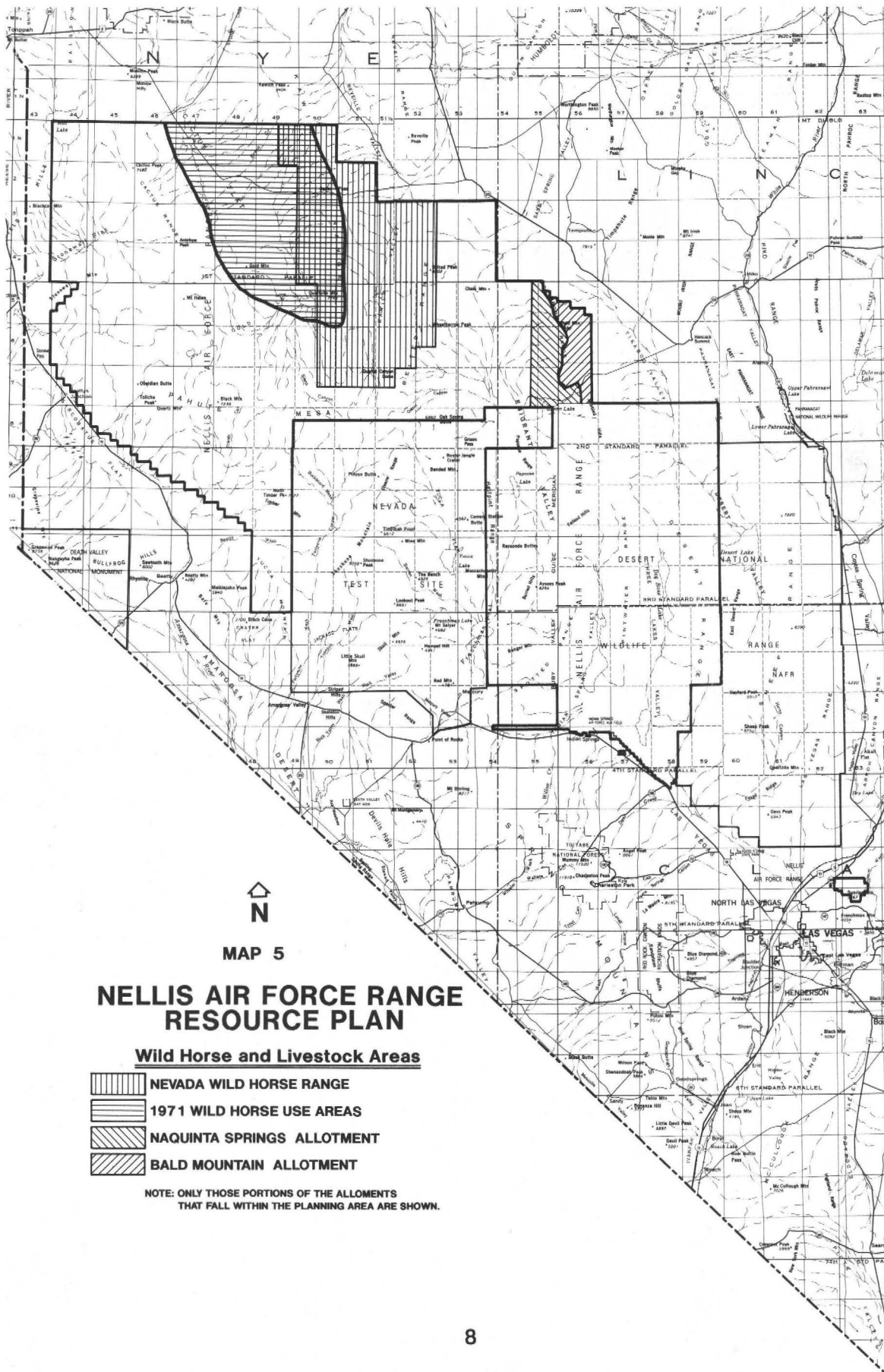



 MAP 4

**NELLIS AIR FORCE RANGE
RESOURCE PLAN**




WILDLIFE HABITAT

-  PRONGHORN
-  BIGHORN SHEEP
-  MULE DEER



MAP 5
NELLIS AIR FORCE RANGE
RESOURCE PLAN

Wild Horse and Livestock Areas

-  NEVADA WILD HORSE RANGE
-  1971 WILD HORSE USE AREAS
-  NAQUINTA SPRINGS ALLOTMENT
-  BALD MOUNTAIN ALLOTMENT

NOTE: ONLY THOSE PORTIONS OF THE ALLOTMENTS
 THAT FALL WITHIN THE PLANNING AREA ARE SHOWN.

3. WILD HORSES

Objectives:

- To maintain and manage populations of wild, free-roaming horses only on the Nevada Wild Horse Range.
- To maintain the Nellis Air Force Range as a burro-free area.
- To achieve a thriving ecological balance consistent with other resource values.

Management Direction:

1. BLM is authorized to manage wild horses on the Nellis Air Force Range through the Cooperative Agreement of February 8, 1974 with the Nellis Air Force Base (see Appendix B). This cooperative agreement identifies the area for management of wild horses as the Nevada Wild Horse Range and describes its location by legal description (see Map 5).
2. Adjust wild horses numbers to achieve a thriving ecological balance using data obtained from monitoring and, if available, other sources.
3. Develop and implement a gathering plan for the removal of all wild horses outside the Nevada Wild Horse Range Herd Management Area.
4. Continue to conduct annual censuses to determine wild horse populations on the Nevada Wild Horse Range and the remainder of the planning area.
5. Continue to conduct gatherings, relocations and removals to enhance color markings in specified areas.
6. Continue to monitor the physical condition of wild horses.
7. Continue to conduct studies to determine productivity, survival, sex ratios, age structure, seasonal movement, and home ranges.
8. Continue to develop and maintain permanent water sources on the Nevada Wild Horse Range.
9. Continue to conduct vegetation trend and utilization studies.
10. Use fencing only when monitoring demonstrates that other management practices are not successful in achieving the identified objectives.
11. Delineate 1971 wild horse use areas (see Map 5).

Management Actions:

1. Conduct gatherings to achieve a thriving ecological balance on the Nevada Wild Horse Range.
2. Conduct gatherings to remove wild horses outside the boundaries of the Nevada Wild Horse Range.
3. Develop or improve water sources on the Nevada Wild Horse Range, including, but not limited to, the following springs: Cedar Wells, Upper and Lower Corral, Silverbow, Rose, Tunnel, and Cedar Springs.
4. Remove all burros from the planning area.
5. Amend, if necessary, the Nevada Wild Horse Range Herd Management Area Plan (HMAP) to conform with this resource plan.
6. If monitoring demonstrates that the above management practices are not successful in preventing wild horse use outside of the Nevada Wild Horse Range, build and maintain up to 125 miles of boundary fence on the Nevada Wild Horse Range.
7. If monitoring demonstrates that the above management practices are not preventing wild horses and burros from moving onto the planning area from adjacent lands, build and maintain up to 75 miles of fence to selectively fence the boundary of the planning area.

4. VISUAL RESOURCES

Objectives:

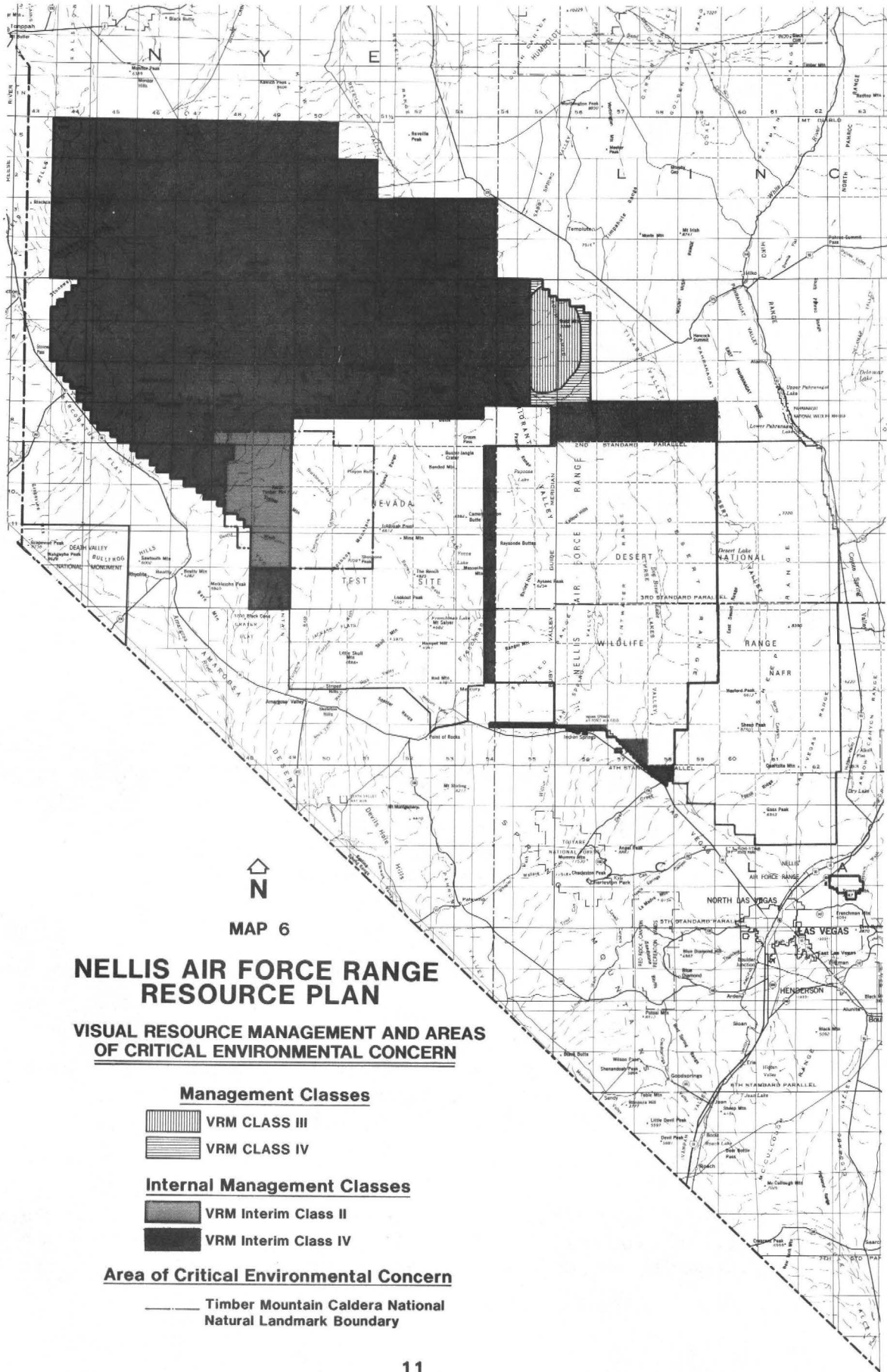
- To maintain the integrity of visual resources in natural areas.
- To protect visual resources in the planning area while allowing for development.

Management Direction:

1. Assign visual resource management (VRM) classes in accordance with BLM guidance and policy.
2. Ensure all actions initiated or authorized by BLM are in compliance with VRM guidelines.

Management Actions:

1. Manage the Groom Mountain Range addition for VRM Class III and IV values (see Map 6).
2. Manage the Timber Mountain Caldera National Natural Landmark as VRM Interim Class II (see Map 6).



MAP 6

NELLIS AIR FORCE RANGE RESOURCE PLAN

VISUAL RESOURCE MANAGEMENT AND AREAS OF CRITICAL ENVIRONMENTAL CONCERN

Management Classes

-  VRM CLASS III
-  VRM CLASS IV

Internal Management Classes

-  VRM Interim Class II
-  VRM Interim Class IV

Area of Critical Environmental Concern

-  Timber Mountain Caldera National Natural Landmark Boundary

3. Manage the remainder of the planning area as VRM Interim Class IV (see Map 6).

5. **AREAS OF CRITICAL ENVIRONMENTAL CONCERN**

Objective:

- To protect officially recognized natural areas.

Management Direction:

1. All officially recognized natural areas will be designated as areas of critical environmental concern (ACEC).
2. All ACECs will be managed primarily for their natural values.

Management Action:

1. Designate that portion of the Timber Mountain Caldera National Natural Landmark located within the planning area as an ACEC (see Map 6).

Note: *Numbers 6 through 16 contain the valid management actions that were taking place prior to this planning process. These actions were brought forward and analyzed in the DRP/EIS and PRP/FEIS.*

6. **LANDS PROGRAM**

Rights-of-way

Lands within the planning area will continue to be available for rights-of-way (ROW). BLM will issue ROWs for nonmilitary uses only with the concurrence of the Secretary of the Air Force through the Nellis Air Force Base Commander.

Utility corridors will not be designated in the planning area.

Disposals

Lands in the planning area are not available for disposal.

Land Use Authorizations

Lands within the planning area will be available, on a limited basis, for some land use authorizations. Nonmilitary land use authorizations, such as leases and permits, will be issued only with the concurrence of the Nellis Air Force Base Commander.

7. **ACCESS**

The Nellis Air Force Range will remain closed to the general public. Access to the planning area will be permitted by the Nellis Air Force Base for specific purposes and will be subject to security clearance, scheduling, and safety constraints.

8. MINERALS

Pursuant to PL 99-606, the Nellis Air Force Range is withdrawn from all forms of appropriation under the mining laws and the mineral leasing and the geothermal leasing laws.

PL 100-338 amended PL 99-606 to include the Groom Mountain Addition. This addition contains valid existing mineral rights. Twenty five unpatented mining claims will continue to be recognized (see Map 7). If any of the valid existing rights are eliminated by relinquishment or purchase by the Air Force, the mineral rights will revert to the United States.

At the beginning of this planning effort, the BLM, after conferring with the Nellis Air Force Base, determined that no lands within the Nellis Air Force Range were suitable for opening to mineral exploration and development. To comply with Section 12 of the Act, in November, 1991, and every five years thereafter, the BLM will, with Air Force concurrence, determine which, if any, of the withdrawn public lands will be opened for operation under the Mining Law of 1872, the Mineral Lands Leasing Act of 1920, as amended, the Mineral Leasing Act for Acquired Lands of 1947, the Geothermal Steam Act of 1970, or any one or more of such Acts. If any lands are "opened" following these reviews, the management of mineral resources will be addressed in an amendment to this RP.

(Note: Oil and gas leases N-26566 and N-26577, which were all or partially included in the Groom Mountain Addition, expired on March 31, 1991. All of lease N-26566 and a portion of lease N-26577 are located within the military withdrawal area and will not be available for re-leasing unless otherwise determined to be "opened" during any of the evaluations to be conducted every five years.)

9. SOIL, WATER, and AIR RESOURCES

Soils

Soils will be managed to maintain or improve rangeland productivity and to minimize present and potential wind and water erosion.

Water Resources

Water quality will be maintained or improved in accordance with Federal and State standards. Consultations will be undertaken with state agencies for proposed projects that may significantly affect water quality. BLM, in consultation with the Nellis Air Force Base, will apply for water rights with the State of Nevada for use by wild horses, wildlife, and livestock.

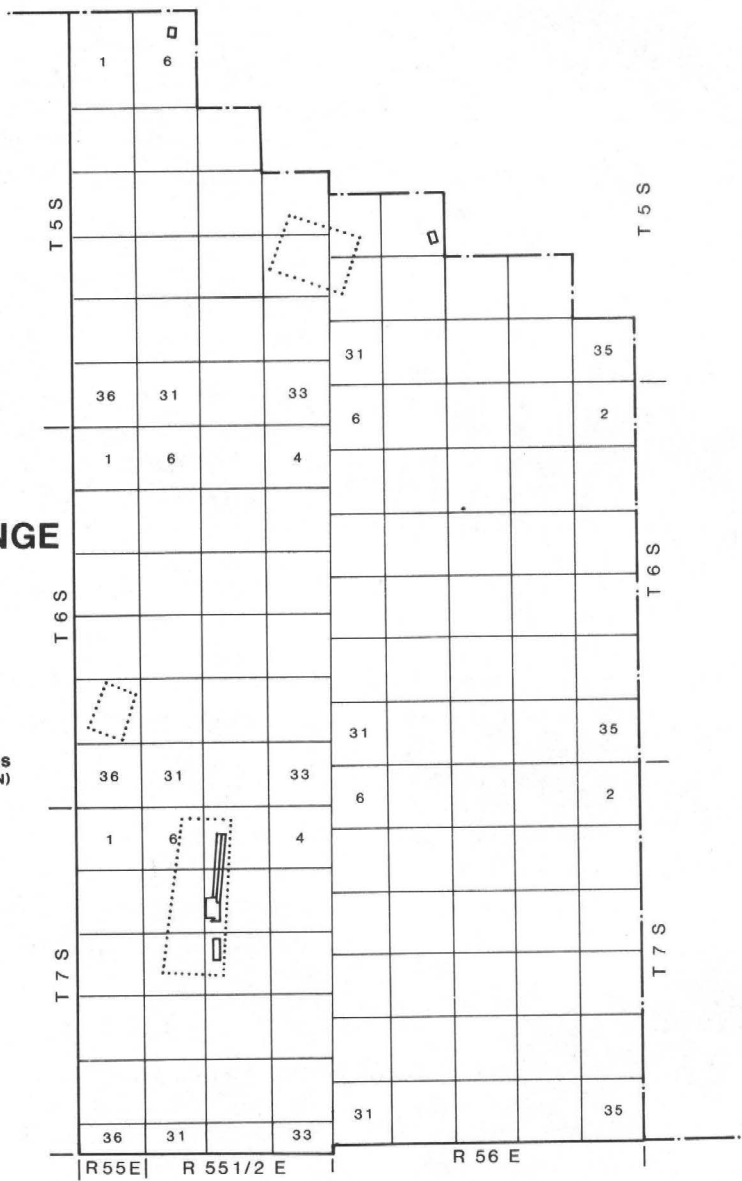
Air

All BLM activities and BLM authorized activities will be managed to prevent air quality deterioration beyond the thresholds established by the Nevada Ambient Air Quality Standards.


MAP 7
NELLIS AIR FORCE RANGE
RESOURCE PLAN

MINERALS

- · — · — · Withdrawal Boundary
- — — — — Patented Mining Claims
- · · · · Unpatented Mining Claims
(APPROX. LOCATION)



10. FORESTRY

The sale of forest products are not authorized in the planning area.

11. LIVESTOCK GRAZING

The Nellis Air Force Range will continue to be closed to livestock grazing except for that portion of the Bald Mountain Allotment in the Groom Mountain Addition (see Map 5).

The Bald Mountain Allotment is categorized as a maintenance "M" category allotment. Develop, if monitoring determines a need, an allotment management plan to systematically control livestock grazing use levels and use patterns.

Authorize 800 animal unit months (AUM) of forage for cattle from June 1 to March 31.

Construct the following range improvements, if needed, to achieve proper management (this includes the entire allotment and was analyzed in the Caliente Grazing Environmental Impact Statement): one well, eight miles of pipeline, two spring developments, four corrals, and 800 acres of vegetative manipulation by controlled burning.

The Naquinta Springs allotment is closed to all livestock grazing.

12. CULTURAL AND PALEONTOLOGICAL RESOURCES

Cultural resources will be managed to conserve and protect the full array of archeological, historical, paleontological, natural history, and socio-cultural resources present in the planning area.

Prior to authorizing any surface disturbing activities, or initiating any surface disturbing activities, the activity will be evaluated in compliance with the Programmatic Agreement Among the Bureau of Land Management, Nevada Division of Historic Preservation and Archaeology, and the Advisory Council on Historic Preservation Regarding the Identification, Evaluation and Treatment of Historic Properties Throughout the State of Nevada on Lands Managed by the Bureau of Land Management, Nevada State Office, dated August 8, 1990, and all subsequent amendments to it.

Paleontological resources will be managed through the issuance of research and scientific use permits and by consideration in all environmental documentation for surface disturbing activities.

13. RECREATION

Access restrictions on the Nellis Air Force Range preclude all unrestricted recreational opportunities in the planning area. Should negotiations currently underway between the Air Force and the Nevada Department of Wildlife conclude in the opening of a 26 square mile area on Stonewall Mountain for limited access bighorn sheep hunting, this area will be managed for its recreational hunting potential.

14. WILDERNESS

The Nellis Air Force Range planning area does not contain any land that meets the minimum criteria for consideration as a wilderness study area. No areas will be recommended for management as wilderness.

15. NATURAL AREAS

The Timber Mountain Caldera National Natural Landmark will continue as designated. No new areas will be designated as Research Natural Areas, Outstanding Natural Areas or Natural Hazard Areas within the planning area (see Map 6).

16. FIRE MANAGEMENT

BLM will conduct fire management activities on the Nellis Range in accordance with the Fire Management Reciprocal Agreement between the USAF and BLM.

B. IMPLEMENTATION OF THE RESOURCE PLAN

The BLM and the Air Force will enter into an Memorandum of Understanding (MOU) to implement this RP. The MOU will establish the policies, procedures, and responsibilities for coordination and cooperation between the BLM and the Air Force.

The management actions, as outlined in this RP, will be implemented over a period of 20 years. The ability of the Caliente Resource Area to implement management actions is directly dependent upon the BLM budgeting process and authorized access by the Nellis Air Force Base. If insufficient funding is appropriated for any given year or access is limited, some delays in the completion schedule may result. The priorities for accomplishment will be reviewed annually and may be revised based upon changes in law, regulations, policy, or economic factors such as cost effectiveness of projects.

1. Standard Operating Procedures

The following procedures will be followed during the implementation stage of the plan to mitigate the impact of the above management actions:

- a) All management actions will require an environmental assessment prior to implementation. If, through the environmental assessment process, it is determined that significant impacts would occur that cannot be mitigated, the action will be modified or abandoned.
- b) Permanent roads will not be constructed to project sites. Use will be made of existing access, off-road travel, or temporary roads which would be rehabilitated after construction activities are completed.
- c) Cultural resource protection will require compliance with Section 106 of the National Historic Preservation Act of 1966, as amended, Section 101(b)(4) of the National Environmental Protection Act of 1969, the American Indian Religious Freedom Act of 1978, and the Native American Graves Protection and Repatriation Act of 1991.

Prior to project approval, the BLM will consult with the State Historic Preservation Officer and the Advisory Council on Historic Preservation in accordance with the Programmatic Agreement Among the Bureau of Land Management, Nevada State Office, Nevada Division of Historic Preservation and Archaeology, and the Advisory Council on Historic Preservation Regarding the Identification, Evaluation and Treatment of Historic Properties Throughout the State of Nevada on Lands Managed by the Bureau of Land Management, Nevada State Office, dated August 8, 1990, and all subsequent amendments to it.

- d) All actions will be in compliance with the BLM's visual resource management procedures. For any project that would have a visual contrast rating in excess of the recommended maximum for the visual class zone in which it is proposed, the visual contrast will be considered significant and the need for mitigation measures will be examined.
- e) The construction of fences, if necessary, will conform with the objectives and specification in BLM Manual 1737 to assure minimization of impacts to wildlife, wild horses, and visual resources.
- f) If constructed, fences located in or around wild horse use areas will be flagged or otherwise marked for one year after construction to make them more visible to horses.
- g) Wild horse gathering procedures will be designated so that captured animals are hauled in a safe, humane manner, death loss of captured is limited to less than two (2) percent. Removals will be conducted in accordance with an approved gathering plan.
- h) The clearing of vegetation from project sites will be restricted to the minimum amount necessary.
- i) All disturbed areas will be rehabilitated using plant species native to the area, where such action is necessary and practical, to replace ground cover and prevent erosion.
- j) Long-term air quality will be protected as all BLM and BLM authorized activities must be designed to prevent air quality deterioration in excess of the established thresholds specified in the Nevada Ambient Air Quality Standards.
- k) Spring improvement projects will be fenced and water will be piped away from the source to a trough or pond if necessary. Water will also be left at the spring source to create riparian vegetation for wildlife.
- l) Bird ramps will be constructed at all watering troughs.
- m) Water will be left available for wildlife at all developed spring sites.
- n) Endangered species protection will require compliance with Section 7 of the Endangered Species Act, as amended. Prior to initiating or authorizing any activities which may affect a threatened or endangered species, the BLM will consult with the US Fish and Wildlife Service (see Map 7).

- o) In November, 1991, and every five years thereafter, the BLM will, with Air Force concurrence, determine which, if any, of the withdrawn public lands will be opened for operation under the Mining Law of 1872, the Mineral Lands Leasing Act of 1920, as amended, the Mineral Leasing Act for Acquired Lands of 1947, the Geothermal Steam Act of 1970, or any one or more of such Acts per Section 12 of PL 99-606 (see Appendix A).

C. MONITORING AND EVALUATION OF THE RESOURCE PLAN

This RP will be monitored annually and evaluated at five year intervals to determine if there is sufficient cause to warrant revision or amendment. The evaluation will consist of a review of each resource objective and management action and will determine if the implementation of these components are meeting the needs of management and will define the necessary changes as appropriate.

D. SUPPORT REQUIREMENTS

The support requirements such as cadastral surveys, engineering design, additional inventories, etc., needed to implement the management actions of this RP will be determined during the preparation of activity or project plans when more detailed, specific proposals are available.

PART 2: RECORD OF DECISION

A. RESOURCE DECISIONS

The Preferred Alternative, as modified by the BLM Director's administrative review, is selected as the Approved Nellis Air Force Range Resource Plan. The resource decisions contained in the Preferred Alternative, as displayed in PART 1: RESOURCE PLAN section of this document, are the same and are not repeated here.

B. ALTERNATIVES CONSIDERED, INCLUDING THE PROPOSED ACTION

1. Alternatives Analyzed in the Draft Resource Plan

Preferred Alternative:

The Preferred Alternative described management to: improve the rangeland vegetation conditions; maintain wildlife habitat; achieve a thriving ecological balance for wild horses; protect visual resource values; designate the Timber Mountain Caldera National Natural Landmark as an Area of Critical Environmental Concern; and continue with valid existing management.

Alternative A: No Action Alternative

The No Action Alternative described the current management that was taking place at the time this planning process was started (July, 1988). This consisted of management of the natural resources of fish and wildlife, vegetation, watershed, and wild horses and burros on the Nellis Air Force Range that was authorized through a "Five-Party Cooperative Agreement," dated January 21, 1977, between the U.S. Air Force, Fish and Wildlife Service, Bureau of Land Management, Nevada Department of Wildlife, and the U.S. Department of Energy.

2. Environmentally Preferable Alternative

The Preferred Alternative, as modified by the BLM Director's administrative review, is the environmentally preferable alternative and is approved as the Nellis Air Force Range Resource Plan (see PART 1: RESOURCE PLAN).

C. MANAGEMENT CONSIDERATIONS

The decisions in this RP and ROD were selected because they: are environmentally preferable; are consistent with BLM's multiple use mandate and other BLM policy and guidance; and are within the applicable legal and statutory authorities of both the Federal Land Policy and Management Act of 1976 and the Military Land Withdrawal Act of 1986, as amended.

D. MITIGATION AND MONITORING

No additional mitigation measures are needed for the implementation of these management actions as described in Part 1A above. These management actions will be implemented over a 20 year period. This RP will be monitored annually and will be evaluated at least every five years.

E. PUBLIC INVOLVEMENT

The public participation process began in July, 1988 with the publication of a Notice of Intent to prepare a Resource Plan for the Nellis Air Force Range in the Federal Register of July 8, 1988. A scoping report was also sent in July, 1988 to the general public, State and Federal agencies, units of local Government, organizations, and members of private industry. Three public meetings were also held in July at Alamo, Tonopah, and Las Vegas, Nevada.

A Notice of Availability for the Draft Resource Plan/Environmental Impact Statement was published in the Federal Register in June, 1989 to begin the 90 day public review period of this document. Three public meetings were held during July, 1989 at the same place as the scoping meetings discussed above. An additional public meeting was held in Caliente, Nevada at the request of the local newspaper editor.

The Proposed RP/Final EIS was made available to the public on January 29, 1990. The Governor of Nevada was given a 60 day consistency review and the public was given an opportunity to protest the proposed RP during a 30 day protest period. The Governor, through the State Clearinghouse, concurred that this RP does not conflict with plans of the state. Two protests were filed by wild horse organizations to the Director of the BLM during this period. These protests were resolved by decision letters in June, 1991. As a result of the BLM Director's administrative review of the protests, two changes from the Proposed RP were made in the Approved RP. The State Director was directed to delete Wild Horses "Management Direction 1" and to include a map delineating the 1971 Wild Horse Use Areas.

A copy of this Approved RP and ROD will be sent to all those who participated in its development and to all others who may request copies. Public involvement will continue to be requested during the implementation of this RP.

F. APPROVAL



Billy R. Templeton

February 21, 1992
Date

APPENDICES

APPENDIX A

**MILITARY LANDS
WITHDRAWAL ACT**

Public Law 99-606
99th Congress

An Act

To withdraw certain public lands for military purposes, and for other purposes.

Nov. 6, 1986
[H.R. 1790]*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. WITHDRAWALS.

Defense and
national
security.
Mining and
mining.

(a) BRAVO-20 BOMBING RANGE.—(1) Subject to valid existing rights and except as otherwise provided in this Act, the lands referred to in paragraph (2) of this subsection, and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, and tactical maneuvering and air support; and

(B) subject to the requirements of section 3(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) of this subsection are the public lands comprising approximately 21,576.40 acres in Churchill County, Nevada, as generally depicted on the map entitled "Bravo-20 Bombing Range Withdrawal—Proposed", dated April 1986, and filed in accordance with section 2.

Nevada.

(3) This section does not affect the withdrawals of July 2, 1902, August 26, 1902, and August 4, 1904, under which the Bureau of Reclamation utilizes for flooding, overflow, and seepage purposes approximately 14,750 acres of the lands withdrawn and reserved by this subsection.

Flood control.

(b) NELLIS AIR FORCE RANGE.—(1) Subject to valid existing rights and except as otherwise provided in this Act, the public lands described in paragraph (2) of this subsection are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Air Force—

(A) as an armament and high-hazard testing area;

(B) for training for aerial gunnery, rocketry, electronic warfare, and tactical maneuvering and air support; and

(C) subject to the requirements of section 3(f), for other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) of this subsection are the lands comprising approximately 2,945,000 acres of land in Clark, Nye, and Lincoln Counties, Nevada, as generally depicted on the map entitled "Nellis Air Force Range Withdrawal—Proposed", dated January 1985, and filed in accordance with section 2.

Nevada.

A-1

(c) BARRY M. GOLDWATER AIR FORCE RANGE.—(1) Subject to valid existing rights and except as otherwise provided in this Act, the lands described in paragraph (2) of this subsection are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Air Force for—

(A) an armament and high-hazard testing area;

(B) training for aerial gunnery, rocketry, electronic warfare, and tactical maneuvering and air support; and

(C) subject to the requirements of section 3(f), other defense-related purposes consistent with the purposes specified in this paragraph.

Arizona.

(2) The lands referred to in paragraph (1) of this subsection are the lands comprising approximately 2,664,423 acres in Maricopa, Pima, and Yuma Counties, Arizona, as generally depicted on the map entitled "Luke Air Force Range Withdrawal—Proposed", dated January 1985, and filed in accordance with section 2.

(d) MCGREGOR RANGE.—(1) Subject to valid existing rights and except as otherwise provided in this Act, the public lands described in paragraph (2) of this subsection are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Army—

(A) for training and weapons testing; and

(B) subject to the requirements of section 3(f), for other defense-related purposes consistent with the purposes specified in this paragraph.

New Mexico.

(2) The lands referred to in paragraph (1) of this subsection are the lands comprising approximately 608,384.87 acres in Otero County, New Mexico, as generally depicted on the map entitled "McGregor Range Withdrawal—Proposed", dated January 1985, and filed in accordance with section 2.

(3) Any of the public lands withdrawn under paragraph (1) of this subsection which, as of the date of enactment of this Act, are managed pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) shall continue to be managed under that section until Congress determines otherwise.

Alaska.

(e) FORT GREELY MANEUVER AREA AND FORT GREELY AIR DROP ZONE.—(1) Subject to valid existing rights and except as otherwise provided in this Act, the lands described in paragraph (2) of this subsection are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws), under an Act entitled "An Act to provide for the admission of the State of Alaska into the Union", approved July 7, 1958 (48 U.S.C. note prec. 21), and under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.). Such lands are reserved for use by the Secretary of the Army for—

(A) military maneuvering, training, and equipment development and testing; and

(B) subject to the requirements of section 3(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) of this subsection are—

(A) the lands comprising approximately 571,995 acres in the Big Delta Area, Alaska, as generally depicted on the map entitled "Fort Greely Maneuver Area Withdrawal—Proposed", dated January 1985, and filed in accordance with section 2; and

(B) the lands comprising approximately 51,590 acres in the Granite Creek Area, Alaska, as generally depicted on the map entitled "Fort Greely, Air Drop Zone Withdrawal—Proposed", dated January 1985, and filed in accordance with section 2.

(f) FORT WAINWRIGHT MANEUVER AREA.—(1) Subject to valid existing rights and except as otherwise provided in this Act, the public lands described in paragraph (2) of this subsection are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws), under an Act entitled "An Act to provide for the admission of the State of Alaska into the Union", approved July 7, 1958 (48 U.S.C. note prec. 21), and under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.). Such lands are reserved for use by the Secretary of the Army for—

(A) military maneuvering;

(B) training for artillery firing, aerial gunnery, and infantry tactics; and

(C) subject to the requirements of section 3(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) of this subsection are the lands comprising approximately 247,951.67 acres of land in the Fourth Judicial District, Alaska, as generally depicted on the map entitled "Fort Wainwright Maneuver Area Withdrawal—Proposed", dated January 1985, and filed in accordance with section 2.

SEC. 2. MAPS AND LEGAL DESCRIPTIONS.

(a) PUBLICATION AND FILING REQUIREMENT.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this Act; and

(2) file maps and the legal description of the lands withdrawn and reserved by this Act with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives.

(b) TECHNICAL CORRECTIONS.—Such maps and legal descriptions shall have the same force and effect as if they were included in this Act except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of such maps and legal descriptions shall be available for public inspection in the offices of the Director and appropriate State Directors of the Bureau of Land Management; the office of the commander, Bravo-20 Bombing Range; the offices of the Director and appropriate Regional Directors of the United States Fish and Wildlife Service; the office of the commander, Nellis Air Force Base; the office of the commander, Barry M. Goldwater Air Force Base; the office of the commander, McGregor Range; the office of the installation commander, Fort Richardson, Alaska; the office of the commander, Marine Corps Air Station, Yuma, Arizona; and the office of the Secretary of Defense.

Alaska.

Federal Register, publication.

Alaska. Arizona.

(d) REIMBURSEMENT.—The Secretary of Defense shall reimburse the Secretary of the Interior for the cost of implementing this section.

SEC. 3. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—(1) During the period of the withdrawal, the Secretary of the Interior shall manage the lands withdrawn under section 1 (except those lands within a unit of the National Wildlife Refuge System) pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including the Recreation Use of Wildlife Areas Act of 1962 (16 U.S.C. 460k et seq.), and this Act. Lands within the Desert National Wildlife Range and the Cabeza Prieta National Wildlife Refuge shall be managed pursuant to the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and other applicable law. No provision of this Act, except sections 4, 11, and 12, shall apply to the management of the Desert National Wildlife Range or the Cabeza Prieta National Wildlife Refuge.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 1 may be managed in a manner permitting—

(A) the continuation of grazing pursuant to applicable law and Executive orders where permitted on the date of enactment of this Act;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation; and

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities.

(3)(A) All nonmilitary use of such lands, other than the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this Act.

(B) The Secretary of the Interior may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such land only with the concurrence of the Secretary of the military department concerned.

(b) CLOSURE TO PUBLIC.—(1) If the Secretary of the military department concerned determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this Act, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the military department concerned determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the military department concerned shall—

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) MANAGEMENT PLAN.—The Secretary of the Interior (after consultation with the Secretary of the military department concerned) shall develop a plan for the management of each area withdrawn

National Wildlife Refuge System.

Safety, Defense and national security.

under section 1 during the period of such withdrawal. Each plan shall—

- (1) be consistent with applicable law;
- (2) be subject to conditions and restrictions specified in subsection (a)(3) of this section;
- (3) include such provisions as may be necessary for proper management and protection of the resources and values of such areas; and
- (4) be developed not later than three years after the date of enactment of this Act.

(d) **BRUSH AND RANGE FIRES.**—The Secretary of the military department concerned shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 1 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy, Army, or Air Force, as appropriate, to the Bureau of Land Management as compensation for such assistance.

(e) **MEMORANDUM OF UNDERSTANDING.**—(1) The Secretary of the Interior and the Secretary of the military department concerned shall (with respect to each land withdrawal under section 1) enter into a memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 1 if requested by the Secretary of the military department concerned.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 1.

(f) **ADDITIONAL MILITARY USES.**—(1) Lands withdrawn by section 1 (except those within the Desert National Wildlife Range or within the Cabeza Prieta National Wildlife Refuge) may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary of the Interior in the event that the lands withdrawn by this Act will be used for defense-related purposes other than those specified in section 1. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

SEC. 4. SPECIAL WILDLIFE RULES.

(a) **NELLIS AIR FORCE RANGE.**—(1) Neither the withdrawal under section 1(b) nor any other provision of this Act shall be construed to amend—

(A) the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) or any other law related to management of the National Wildlife Refuge System; or

(B) any Executive order or public land order in effect on the date of enactment of this Act with respect to the Desert National Wildlife Refuge.

(2) Neither the withdrawal under section 1(b) nor any other provision of this Act shall be construed to amend any memorandum of understanding between the Secretary of the Interior and the Secretary of the Air Force regarding the administration and joint use of a portion of the Desert National Wildlife Range. The provisions of the memorandum of understanding between the Secretary of the Interior and the Department of the Air Force regarding Air Force operations on the Desert National Wildlife Range in effect on March 15, 1986, shall not be amended sooner than 90 days after the Secretary of the Interior has notified the Committee on Interior and Insular Affairs of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Merchant Marine and Fisheries of the House of Representatives, and the Committee on Environment and Public Works of the Senate of any proposed amendments to such provisions.

(b) **BARRY M. GOLDWATER AIR FORCE RANGE.**—(1) Neither the withdrawal under section 1(c) nor any other provision of this Act shall be construed to amend—

(A) the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) or any other law related to management of the National Wildlife Refuge System; or

(B) any Executive order or public land order in effect on the date of enactment of this Act with respect to the Cabeza Prieta National Wildlife Refuge.

(2) Neither the withdrawal under section 1(c) nor any other provision of this Act shall be construed to amend any memorandum of understanding between the Secretary of the Interior and the Secretary of the Air Force regarding the administration and joint use of a portion of the Cabeza Prieta National Wildlife Refuge. The provisions of the memorandum of understanding between the Secretary of the Interior and the Department of the Air Force regarding Air Force operations on the Cabeza Prieta National Wildlife Refuge in effect on March 24, 1975, shall not be amended sooner than 90 days after the Secretary of the Interior has notified the Committee on Interior and Insular Affairs of the House of Representatives, the Committee on Energy and Natural Resources of the Senate, the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Merchant Marine and Fisheries of the House of Representatives, and the Committee on Environment and Public Works of the Senate of any proposed amendments to such provisions.

SEC. 5. DURATION OF WITHDRAWALS.

(a) **DURATION.**—The withdrawal and reservation established by this Act shall terminate 15 years after the date of enactment of this Act.

(b) **DRAFT ENVIRONMENTAL IMPACT STATEMENT.**—(1) No later than 12 years after the date of enactment of this Act, the Secretary of the military department concerned shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this Act for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental

impact statement. Prior to the termination date specified in subsection (a), the Secretary of the military department concerned shall hold a public hearing on any draft environmental impact statement published pursuant to this subsection. Such hearing shall be held in the affected State or States in order to receive public comments on the alternatives and other matters included in such draft environmental impact statement.

(2)(A) For purposes of such draft environmental impact statement published by the Secretary of the Navy, the term "lands withdrawn by this Act" shall be deemed to include lands withdrawn by public land orders 275, 788, 898, and 2635 and lands proposed for withdrawal as specified in the draft environmental impact statement for the proposed master land withdrawal, Naval Air Station, Fallon, Nevada.

(B) For purposes of this subsection, lands withdrawn by section 1(b) shall be deemed to include lands withdrawn by Public Law 98-485.

(c) EXTENSIONS OR RENEWALS.—The withdrawals established by this Act may not be extended or renewed except by an Act or joint resolution.

SEC. 6. NEVADA REPORT.

(a) SPECIAL NEVADA REPORT.—No later than five years after the date of enactment of this Act, the Secretary of the Air Force, the Secretary of the Navy, and the Secretary of the Interior shall submit to Congress a joint report. In addition to the other matters required by this section, the report shall include an analysis and an evaluation of the effects on public health and safety throughout Nevada of—

- (1) the operation of aircraft at subsonic and supersonic speeds;
- (2) the use of aerial and other gunnery, rockets, and missiles; and
- (3) the uses specified in section 1.

(b) EVALUATION OF CUMULATIVE EFFECTS OF CONTINUED OR RENEWED WITHDRAWAL.—Each of the military departments concerned and the Secretary of the Interior shall, in the report required by this section, evaluate the cumulative effects of continued or renewed withdrawal for military purposes of the military department concerned of some or all of the lands withdrawn by sections 1(a) and 1(b) on the environment and population of Nevada. In performing this evaluation, there shall be considered—

(1) the actual and proposed withdrawal for military and related purposes of other lands in Nevada, including (but not limited to)—

(A) lands withdrawn by sections 1(a) and 1(b) of this Act and by Public Law 98-485 (98 Stat. 2261);

(B) lands withdrawn by Public Land Orders 275, 788, 898, and 2635;

(C) lands proposed for withdrawal as specified in the draft environmental impact statement for the proposed master land withdrawal, Naval Air Station, Fallon, Nevada; and

(D) lands withdrawn or being considered for withdrawal for use by the Department of Energy; and

(2) the cumulative impacts on public and private property in Nevada and on the fish and wildlife, cultural, historic, scientific, recreational, wilderness, and other values of the public lands of Nevada resulting from military and defense related uses of the

Nevada.

98 Stat. 2261.

Health and medical care. Safety.

Real property. Defense and national security.

lands withdrawn by sections 1(a) and 1(b) and the other lands described in paragraph (1) of this subsection.

(c) MITIGATION MEASURES.—The report required by this subsection shall include an analysis and an evaluation of possible measures to mitigate the cumulative effect of the withdrawal of public lands in Nevada for military and defense-related purposes, and of use of the airspaces over public lands in Nevada for such purposes, on people and property in Nevada and the fish and wildlife, cultural, historic, scientific, wilderness, and other resources and values of the public lands in Nevada (including recreation, mineral development, and agriculture).

SEC. 7. ONGOING DECONTAMINATION.

(a) PROGRAM.—Throughout the duration of the withdrawals made by this Act, the Secretary of the military department concerned, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this Act at least at the level of cleanup achieved on such lands in fiscal year 1986.

President of U.S.

(b) REPORTS.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this Act and for each subsequent fiscal year, each such Secretary shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the Senate and to the Committees on Appropriations, Armed Services, and Interior and Insular Affairs of the House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including:

- (1) amounts appropriated and obligated or expended for decontamination of such lands;
- (2) the methods used to decontaminate such lands;
- (3) amount and types of contaminants removed from such lands;
- (4) estimated types and amounts of residual contamination on such lands; and
- (5) an estimate of the costs for full decontamination of such lands and the estimate of the time to complete such decontamination.

SEC. 8. REQUIREMENTS FOR RENEWAL.

(a) NOTICE AND FILING.—(1) No later than three years prior to the termination of the withdrawal and reservation established by this Act, the Secretary of the military department concerned shall advise the Secretary of the Interior as to whether or not the Secretary of the military department concerned will have a continuing military need for any of the lands withdrawn under section 1 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the military department concerned concludes that there will be a continuing military need for any of such lands after the termination date, that Secretary shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the military department concerned decides to relinquish

all or any of the lands withdrawn and reserved by this Act, such Secretary shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) **CONTAMINATION.**—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the military department concerned, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

Hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

Federal Register, publication.

(c) **DECONTAMINATION.**—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the military department concerned, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the military department concerned shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) **ALTERNATIVES.**—If the Secretary of the Interior, after consultation with the Secretary of the military department concerned, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) **STATUS OF CONTAMINATED LANDS.**—If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over lands withdrawn by this Act which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this Act the Secretary of the Interior determines that some of the lands withdrawn by this Act are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the military department concerned shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

Public information.

(2) after the expiration of the withdrawal, the Secretary of the military department concerned shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the military department concerned shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

Reports.

(f) **REVOCATION AUTHORITY.**—Notwithstanding any other provisions of law, the Secretary of the Interior, upon deciding that it is in

the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this Act as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands laws, including the mining laws.

Federal Register, publication.

Mines and mining.

SEC. 9. DELEGABILITY.

(a) **DEFENSE.**—The functions of the Secretary of Defense or of a military department under this title may be delegated.

(b) **INTERIOR.**—The functions of the Secretary of the Interior under this title may be delegated, except that an order described in section 7(f) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 10. WATER RIGHTS.

Nothing in this Act shall be construed to establish a reservation to the United States with respect to any water or water right on the lands described in section 1 of this Act. No provision of this Act shall be construed as authorizing the appropriation of water on lands described in section 1 of this Act by the United States after the date of enactment of this Act except in accordance with the law of the relevant State in which lands described in section 1 are located. This section shall not be construed to affect water rights acquired by the United States before the date of enactment of this Act.

SEC. 11. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this Act shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code, except that hunting, fishing, and trapping within the Desert National Wildlife Range and the Cabeza Prieta National Wildlife Refuge shall be conducted in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.), the Recreation Use of Wildlife Areas Act of 1962 (16 U.S.C. 460k et seq.), and other laws applicable to the National Wildlife Refuge System.

SEC. 12. MINING AND MINERAL LEASING.

(a) **DETERMINATION OF LANDS SUITABLE FOR OPENING.**—As soon as possible after the enactment of this Act and at least every five years thereafter, the Secretary of the Interior shall determine, with the concurrence of the Secretary of the military department concerned, which public and acquired lands (except as provided in this subsection) described in subsections (a), (b), (d), (e), and (f) of section 1 of this Act the Secretary of the Interior considers suitable for opening to the operation of the Mining Law of 1872, the Mineral Lands Leasing Act of 1920, as amended, the Mineral Leasing Act for Acquired Lands of 1947, the Geothermal Steam Act of 1970, or any one or more of such Acts. The Secretary of the Interior shall publish a notice in the Federal Register listing the lands determined suit-

National Wildlife Refuge System.

Federal Register, publication.

17 Stat. 91.
30 USC 181.
30 USC 351 note,
1001 note.
Federal Register, publication.
National Wildlife Refuge System.

able pursuant to this section and specifying the opening date, except that lands contained within the Desert National Wildlife Range in Nevada or within the Cabeza Prieta National Wildlife Refuge in Arizona shall not be determined to be suitable for opening pursuant to this section.

(b) **OPENING LANDS.**—On the day specified by the Secretary of the Interior in a notice published in the Federal Register pursuant to subsection (a), the land identified under subsection (a) as suitable for opening to the operation of one or more of the laws specified in subsection (a) shall automatically be open to the operation of such laws without the necessity for further action by either the Secretary or the Congress.

(c) **EXCEPTION FOR COMMON VARIETIES.**—No deposit of minerals or materials of the types identified by section 3 of the Act of July 23, 1955 (69 Stat. 367), whether or not included in the term "common varieties" in that Act, shall be subject to location under the Mining Law of 1872 on lands described in section 1.

(d) **REGULATIONS.**—The Secretary of the Interior, with the advice and concurrence of the Secretary of the military department concerned shall promulgate such regulations to implement this section as may be necessary to assure safe, uninterrupted, and unimpeded use of the lands described in section 1 for military purposes. Such regulations shall also contain guidelines to assist mining claimants in determining how much, if any, of the surface of any lands opened pursuant to this section may be used for purposes incident to mining.

(e) **CLOSURE OF MINING LANDS.**—In the event of a national emergency or for purposes of national defense or security, the Secretary of the Interior, at the request of the Secretary of the military department concerned, shall close any lands that have been opened to mining or to mineral or geothermal leasing pursuant to this section.

(f) **LAWS GOVERNING MINING ON LANDS WITHDRAWN UNDER THIS ACT.**—(1) Except as otherwise provided in this Act, mining claims located pursuant to this Act shall be subject to the provisions of the mining laws. In the event of a conflict between those laws and this Act, this Act shall prevail.

(2) All mining claims located under the terms of this Act shall be subject to the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(g) **PATENTS.**—(1) Patents issued pursuant to this Act for locatable minerals shall convey title to locatable minerals only, together with the right to use so much of the surface as may be necessary for purposes incident to mining under the guidelines for such use established by the Secretary of the Interior by regulation.

(2) All such patents shall contain a reservation to the United States of the surface of all lands patented and of all nonlocatable minerals on those lands.

(3) For the purposes of this section, all minerals subject to location under the Mining Law of 1872 are referred to as "locatable minerals".

(h) **REVOCATION.**—Notwithstanding any other provision of law, the Secretary of the Interior, if the Secretary determines it necessary and appropriate for the purpose of consummating an exchange of lands or interests therein under applicable law, is hereby authorized and directed to revoke the Small Tract Act Classification S.T.049794 in Clark County, Nevada.

Federal
Register,
publication.

30 USC 611.

17 Stat. 91.

Defense and
national
security.

Nevada.

SEC. 13. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injuries or damages to persons or property suffered in the course of any mining or mineral or geothermal leasing activity conducted on lands described in section 1 of this Act.

SEC. 14. SHORT TITLE.

Sections 1 through 15 of this Act may be cited as the "Military Lands Withdrawal Act of 1986".

SEC. 15. REDESIGNATION.

The Luke Air Force Range in Arizona is hereby redesignated as the "Barry M. Goldwater Air Force Range". Any reference in any law, regulation, document, record, map, or other paper of the United States to the Luke Air Force Range shall be deemed to be a reference to the "Barry M. Goldwater Air Force Range".

SEC. 16. BOUNDARY ADJUSTMENT TO CUYAHOGA VALLEY NATIONAL RECREATION AREA.

Section 2 of the Act entitled "An Act to provide for the establishment of the Cuyahoga Valley National Recreational Recreation Area", approved December 27, 1974 (16 U.S.C. 460ff et seq.), is amended as follows:

(1) In subsection (a), strike out "numbered 655-90,001-A and dated May 1978" and insert "numbered 644-80,054 and dated July 1986".

(2) At the end of subsection (a), insert the following: "The recreation area shall also comprise any lands designated as 'City of Akron Lands' on the map referred to in the first sentence which are offered as donations to the Department of the Interior or which become privately owned. The Secretary shall revise such map to depict such lands as part of the recreation area."

(3) In subsection (b), after the first sentence, insert the following:

"The Secretary may not acquire fee title to any lands included within the recreation area in 1986 which are designated on the map referred to in subsection (a) as 'Scenic Easement Acquisition Areas'. The Secretary may acquire only scenic easements in such designated lands. Unless consented to by the owner from which the easement is acquired, any such scenic easement may not prohibit

Military Lands
Withdrawal Act
of 1986.

Arizona.

16 USC 460ff-1.

State and local
governments.

PUBLIC LAW 99-606—NOV. 6, 1986

100 STAT. 3469

any activity, the subdivision of any land, or the construction of any building or other facility if such activity, subdivision, or construction would have been permitted under laws and ordinances of the unit of local government in which such land was located on April 1, 1986, as such laws and ordinances were in effect on such date."

Approved November 6, 1986.

LEGISLATIVE HISTORY—H.R. 1790:

CONGRESSIONAL RECORD, Vol. 132 (1986):
Oct. 17, considered and passed House.
Oct. 18, considered and passed Senate.

○

PUBLIC LAW 100-338—JUNE 17, 1988

102 STAT. 619

Public Law 100-338
100th Congress

An Act

To extend the withdrawal of certain public lands in Lincoln County, Nevada.

June 17, 1988
[H.R. 4799]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1(b) of the Military Lands Withdrawal Act of 1986 (100 Stat. 3457) is amended by striking out the period at the end of paragraph (2) and by inserting in lieu thereof the following: "and lands comprising approximately 89,600 acres of land in Lincoln County, Nevada, as generally depicted on the map entitled 'Groom Mountain Addition to Nellis Air Force Range' dated September 1984 and filed in accordance with section 2."

SEC. 2. CONFORMING AMENDMENT.

Section 5(b)(2) of the Military Lands Withdrawal Act of 1986 (100 Stat. 3463) is hereby amended by striking out subparagraph (B) and by striking out "(A)" after "(2)".

Approved June 17, 1988.

LEGISLATIVE HISTORY—H.R. 4799 (S. 1508):

CONGRESSIONAL RECORD, Vol. 134 (1988):

Mar. 25, S. 1508 considered and passed Senate.
Mar. 29, considered and passed House, amended.
June 10, Senate concurred in House amendment with an amendment.
June 14, H.R. 4799 considered and passed House.
June 15, considered and passed Senate.

○

APPENDIX B

**BUREAU OF LAND MANAGEMENT - U.S. AIR FORCE
COOPERATIVE AGREEMENT**

APPENDIX B

COOPERATIVE AGREEMENT BETWEEN THE BUREAU OF LAND MANAGEMENT, NEVADA STATE OFFICE AND UNITED STATES AIR FORCE, NELLIS AIR FORCE BASE

An agreement between the respective agencies to establish a WILD HORSE MANAGEMENT AREA was signed by the BLM Nevada State Director and the Commander, Nellis Air Force Base in June 1962. An additional agreement containing the same provisions but modifying the location of the wild horse management area was signed by the BLM Nevada State Director on June 2, 1964 and the Commander, Nellis Air Force Base, on June 18, 1965. The Act of December 15, 1971 (16 U.S.C. 1331-1340), hereafter referred to as the Act, and the regulations of the Secretary of the Interior (43 CFR Part 4700), hereafter referred to as the regulations, places the responsibility for protection, management, and control of wild free-roaming horses and burros with the Bureau of Land Management when such animals use public lands administered by the Bureau as all or part of their habitat.

This Cooperative Agreement cancels and supersedes the agreements identified above and is for the purpose of establishing responsibilities relative to wild free-roaming horses and burros on the area described below in accordance with the Act. This agreement applies to the following described lands under the administration of Nellis Air Force Base:

The area described by townships and ranges with references to the Mount Diablo Base Line is as follows:

T. 1 S., R. 49 E., E-1/2; T. 1 S., R. 50 E., All;
T. 2 S., R. 50 E., All;
T. 2 S., R. 51 E., All; T. 3 S., R. 50 E., All;
T. 3 S., R. 51 E., All;
T. 3 S., R. 51-1/2 E., All; T. 3 S., R. 52 E., All;
T. 4 S., R. 50 E., All;
T. 4 S., R. 51 E., All; T. 4 S., R. 51-1/2 E., All;
T. 4 S., R. 52 E., All;
T. 5 S., R. 50 E., E-1/2; T. 5 S., R. 51 E., All;
T. 5 S., R. 52 E., All;
T. 5 S., R. 53 E., W-1/2; T. 6 S., R. 50 E., E-1/2;
T. 6 S., R. 51 E., All;
T. 6 S., R. 52 E., All; T. 6 S., R. 53 E., NW-1/4;
T. 7 S., R. 50 E., NE-1/4;
T. 7 S., R. 51 E., N-1/2; T. 7 S., R. 52 E., NW-1/4.

The area as described by longitude and latitude is as follows:

Beginning at the longitude of 116°04' and a latitude of 37°43' thence west on the same latitude to a longitude of 116°13'; thence north on the same longitude to a latitude of 37°49'; thence west on the same latitude to a longitude of 116°20'; thence north on the same longitude to a latitude of 37°54'; thence west on the same latitude to a longitude of 116°30'; thence south on the same longitude to a latitude of 37°49'; thence east on the same latitude to a longitude of 116°26'; thence south on the same longitude to a latitude of 37°33'; thence east on the same latitude to a longitude of 116°23'; thence south on the same longitude to a latitude of 37°19'; thence east on the same latitude to a longitude of 116°11'; thence north on the same longitude to a latitude of 37°21'; thence east on the same latitude to a longitude of 116°07'; thence north on the same longitude to a latitude of 37°23'; thence east on the same latitude to a longitude of 116°04'; thence north on the same longitude to a point of beginning.

It is jointly recognized that the horses and burros utilizing the area described above also utilize the adjacent public lands administered by the Bureau; therefore the wild free-roaming horses and burros utilizing these areas are under the jurisdiction and responsibility of the Bureau in accordance with the provisions of the Act and the regulations. It is also jointly recognized that some of the horses and burros utilizing these areas may be privately owned and subject to recovery by the owners in accordance with Section 5 of the Act or estray animals subject to impoundment and removal under Nevada statutes.

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

1. That the wild, free-roaming horses and burros that use the above described lands or other lands under the jurisdiction of Nellis Air Force Base and the national resource lands under the jurisdiction of the Bureau of Land Management, will be considered under the jurisdiction of the Bureau. The BLM Nevada State Director has delegated direct responsibility for the wild horses and burros to the Bureau's Las Vegas and Battle Mountain District Managers.
2. Nellis Air Force Base will cooperate with the Bureau in the recovery and removal of privately owned horses and burros in accordance with the Act and the regulations and the removal of estray animals in accordance with the State statutes.

3. That a joint management plan will be developed to provide for the management of these wild horses and burros and their habitat in a manner consistent with the purposes of the Act. As a minimum, this management plan will include the following:
 - A. An annual inventory of the wild horse and burro populations in the area of joint concern.
 - B. A continuing review of the habits of the wild horses and burros in terms of grazing and watering patterns, seasonal migrations, and the availability of water and forage. This would include a determination of the condition of the horses and burros and their habitat and if any excess animals must be removed to protect the soil, vegetation, watershed or other resource values in the area.
 - C. A determination of the necessary management-facilitation projects--water, fencing, etc.--to provide for the welfare of the animals.
4. Implementation of the management plan shall be carried out as agency funds and priorities permit. Management-facilitation projects may be constructed in accordance with the management plan by either agency or as a joint project. All projects shall be carried out as a coordinated program and minimizing conflicts with the basic mission of Nellis Air Force Base.
5. That the following procedures will be used, and controls recognized in carrying out this joint effort:
 - A. The inventory of the horses and burros 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 Officer, and then only in accordance with the provisions of paragraph 6 of this agreement.
 - B. The Commanding Officer shall assure that responsible officials under his command 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. The Commanding Officer and officials under his command shall also be aware of acts which are in violation of

the Act and the regulations and immediately report any known or suspected violations to the Las Vegas District Manager. Violations and penalties as set forth under the Act and the regulations are listed below:

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 authorized officer - BLM or

(2) Converts a wild free-roaming horse or burro to private use, without authority from the authorized officer - BLM, or

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

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

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

(6) 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 - BLM 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.

- C. If it is determined by the Commanding Officer that the presence of wild horses and burros interferes with military programs and operations, such problems shall promptly be referred to the District Managers, who shall be responsible for correcting the problem in accordance with access and related constraints or directives imposed by the Commanding Officer.
- D. The Las Vegas and Battle Mountain District Managers, Bureau of Land Management, herein referred to as the District Managers, shall represent the State Director of the Bureau of Land Management in implementation of this agreement.

- 6. Bureau personnel will not enter the area covered by this agreement without clearance from Nellis Air Force Base. Nellis Air Force Base will grant the Bureau access to the area to carry out its responsibilities under the Act and the regulations for any period or periods of time when such access does not interfere with the operations and missions of Nellis Air Force Base.

7. **Requests for access to the area covered by this agreement by individuals or representatives of associations for any purpose related to the protection, management, and control of wild free-roaming horses and burros will be transmitted to and reviewed by the Bureau for a determination of the need and/or desirability of authorizing the access. If it is determined that access should be granted, the Bureau will contact Nellis Air Force Base and recommend that the access be granted. Generally, access to the area will be restricted to time periods when the individuals or representatives can be accompanied by either Bureau or Nellis Air Force Base personnel.**
8. **There shall be at least annual joint reviews of this wild horse and burro management program by the Commanding Officer or his representative and the District Managers of the Bureau of Land Management. The management plan may be updated on the basis of information gathered in these reviews.**
9. **No wild, free-roaming horses and burros 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 or burros are accidentally injured or killed by normal military operations, such instances shall be promptly reported the Las Vegas District Manager.**
10. **There shall be open channels of communication between the District Managers and Commanding Officer to provide for prompt reporting of problems associated with wild horse and burro 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.**
11. **The liability of the parties under this agreement is contingent upon the necessary appropriation and reservation of funds being made therefore.**
12. **No member or delegate of Congress, or Resident Commissioner, shall be admitted to any share or part of this agreement, or to any benefit which may arise there from.**
13. **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.**

14. 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 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.

Approved:

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

Date Nov. 12, 1973

By: s/State Director, Nevada

U.S. Department of Defence
Nellis Air Force Base

Date 8 Feb., 1974

By: s/Commanding Officer