

Johnnie HMA

✓ 6-28-96  
2:50pm



# United States Department of the Interior

Bureau of Land Management

Las Vegas District Office

4765 Vegas Drive

Las Vegas, Nevada 89108

In Reply Refer To:

4700

NV-050

CERTIFIED MAIL 2525736  
RETURN RECEIPT REQUESTED

## NOTICE OF FINAL DECISION FULL FORCE AND EFFECT

JUN 28 1996

### JOHNNIE HERD MANAGEMENT AREA (HMA) EMERGENCY REMOVAL

Severe drought conditions exist within the Johnnie HMA and forage production is extremely limited. Forage utilization in the primary use area on the east side of SR 160 are currently in a severe use (95%) category. From field observations of available forage and water as well as a review of monitoring data, it has been determined the wild horses and burros and their habitat are being adversely impacted.

Therefore, approximately 125 wild horses and 200 burros must be gathered from the HMA. All wild horses 9 years old and under, and all burros will be placed into the adoption program. A total of approximately 50 burros and 50 horses will be released back into the HMA. The gather operation will be conducted by helicopter trap and/or water trapping.

Due to the emergency nature of these conditions, it is necessary to implement this removal immediately, through a Full Force and Effect decision. This Decision will be implemented on June 28, 1996 and will continue until the action is completed. The rationale for placing this decision in Full Force and Effect are as follows:

1. Drought conditions are critically limiting forage production and water availability for wild horses and burros. The HMA is receiving severe use, has received below normal precipitation (1.9 inches), and is not expected to produce enough forage to sustain the animals currently occupying the area.

**AUTHORITY:** The authority for this decision is contained in Sec.3(a) and (b) and Sec.4 of the Wild Free-Roaming Horse and Burro Act (P.L. 92-195) as amended and Title 43 of the Code of Federal Regulations. The authority for the Full Force and Effect decision can be found at 43 CFR 4770.3(c) which states:

The authorized officer may place in full force and effect decisions to remove wild horses or burros from public lands if removal is required by applicable law or to preserve or maintain a thriving ecological balance and multiple use relationship. Full force and effect decisions shall take effect on the date specified, regardless of an appeal. Appeals and petitions for stay of decision shall be filed with the Interior Board of Land Appeals, as specified in this part.


**APPEALS:** Within 30 days of receipt of this decision, you have the right of appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR, Part 4, Subpart E and 43 CFR 4770.3(a) and (c). Within 30 days after filing a Notice of Appeal, you are required to provide a complete statement of the reasons why you are appealing. The appellant has the burden of showing that the decision appealed from is in error. If you wish to file an appeal and petition for a stay, the petition for a stay must accompany your notice of appeal and be in accordance with 43 CFR, Part 4, Subpart E and 43 CFR 4770.3(c). Copies of the Notice of Appeal and Petition for a Stay must be submitted to (1) the Interior Board of Land Appeals, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, (2) the Regional Solicitor's Office, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, CA 95825-1890, and (3) Las Vegas

District Office, 4765 Vegas Drive, Las Vegas, NV 89108. The original documents should be filed with this office.

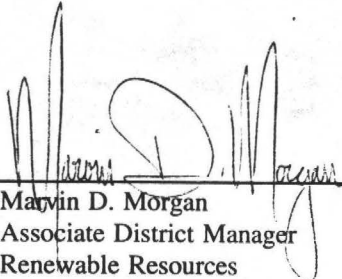
If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay of a decision pending appeals shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

ADDITIONAL INFORMATION: Contact Gary McFadden of my staff, at (702) 647-5024 or write at the above address.

Concurrence:   
Mike Dwyer  
District Manager, Las Vegas

6/28/96  
Date

Approval:   
Marvin D. Morgan  
Associate District Manager  
Renewable Resources

6/28/96  
Date

2 Enclosures:

1. Capture Plan
2. Environmental Assessment

JOHNNIE HERD MANAGEMENT AREA  
GATHER PLAN

PREPARED BY  
Gary McFadden  
Wild Horse and Burro Specialist

Las Vegas District  
July 1996

## JOHNNIE EMERGENCY WILD HORSE REMOVAL PLAN

### I. Purpose

Due to severe drought conditions in the Las Vegas District, resource conditions and animal health are currently being adversely affected. Current drought conditions prevent the Herd Management Area (HMA) from producing enough forage to sustain the animals currently occupying the area. To prevent further resource and animal stress an emergency gather will be initiated.

The Las Vegas District Manager has determined that a Full Force and Effect Decision is necessary to accomplish an emergency gather to prevent resource degradation. From field observations of forage and water availability, it has been determined that wild horses and burros and their habitat are being negatively impacted. The following conditions exist in the HMA;

- Animal Condition;      Lact/mares = condition class 2-3  
                                 Studs                = condition class 4  
                                 Burros                = condition class 4-5
- Forage Condition;      No evidence of any growth this year.
- Forage Utilization;    Severe utilization on herbaceous forage (95%).
- Water Availability;    Currently water production is approximately 75% of normal. Horses and burros are not having to wait on water at this time.
- Capture Method;        Helicopter/Trap.
- Number of Animals;    Burros, capture 200, remove 200, and leave approx. 50 hd.  
                                 Horses, capture 125 , removed 75.
- Age Criteria;            All burros, horses up to 9 yrs. old.
- Precipitation;          Current precipitation for the last 12 months has been 1.9 inches or 40 % of normal (4.76

### II. Area of Concern

The proposed emergency gather area is located in the Las Vegas District in Nye County, Nevada. The area of concern is the Johnnie HMA, approximately 20 miles north of Pahrump, Nevada (refer to Map 1).

### III. Time Frame

The animals will be removed from the HMA beginning approximately July 7th. and continuing until completed.

### IV. Gather Methods

The gather operation will adhere to the "Nevada Wild Horse and Burro Gather Contract 1422-NV961-C96-3005.

### V. Administration of the Contract

The BLM will be responsible, through contract 1422-NV961-C96-3005, for all capture, care and temporary holding until release. The COR will be the Las Vegas District Wild Horse Specialist which will be directly responsible for conducting the gather.

### VI. Desert Tortoise

1. The contractor and all employees will be informed about the desert tortoise (which will include information provided by the BLM on the life history of the desert tortoise, its protected status, protocols for dealing with tortoises if and when they are encountered, and the definition of "take" via informational handout provided by the BLM. Each shall be advised of the potential impacts to desert tortoises and potential penalties (up to \$50,000 in fines and one year in prison) for taking a Federally protected species.

The contractor shall ensure that all personnel associated with the gather shall acknowledge receipt of the tortoise information through the signing of an acknowledgement for which shall be returned to the BLM upon completion of circulation to all employees.

2. Trap sites and holding corral locations and helicopter staging areas will be selected with the input of a BLM biologist to ensure that impacts to tortoise habitat are avoided.
3. Trap sites, holding corral and staging areas will be surveyed for desert tortoise and tortoise burrows before use by a BLM biologist. If an active tortoise burrow is located on the proposed site a new site will be selected.

4. To the extent possible, all traps, holding corrals and staging areas will be located in previously disturbed areas which are devoid of perennial vegetation and will be located adjacent to existing roads and trails.
5. To the extent possible, vehicular travel will be restricted to existing roads, trails and washes. If off-road vehicular travel is necessary, the route will be surveyed for the presence of desert tortoise before use.
6. Garbage and similar items will be placed in appropriate containers and not allowed to accumulate in order to discourage the attraction of ravens to the area.
7. If a desert tortoise should wander onto the trap, holding corral or staging area, all activities with the potential to harm the tortoise will cease until the tortoise moves out of harms way under its own volition.
8. The discharge of firearms will be prohibited at all trap and holding facilities except in the case of euthanasia of a captured animal (wild horse, mule or burro) by an authorized BLM employee.

#### VII. Disposition of Removed Animals:

Wild horses under the age of 9 years, and all burros will be sent to the Palomino Valley Center to be prepared for adoption. All other horses over the age of 9 years will be relocated within the Johnnie HMA.

#### VIII. Branded and Claimed Animals

A notice of intent to impound and a 28 day notice to gather wild horses and burros will be issued concurrently by the BLM prior to any gathering operations in this area. The Nevada Department of Agriculture and the District Brand Inspector will receive copies of these notices, as well as the Notice of Public Sale if issued. The COR/PI will contact the District Brand Inspector and make arrangements for dates and times when brand inspections will be needed. Impounded privately owned animals will be handled in accordance with the Bureau of Land Management, Nevada State Office Instruction Memoranda NV-84-116 and NV-85-416.

IX. Destruction of Injured or Sick Animals

Any severely injured or seriously sick animal shall be destroyed in accordance with 43 CFR 4730.1. Animals shall be destroyed only when a definite act of mercy is needed to alleviate pain and suffering. The COR will make this determination, with the advice of a veterinarian, if needed, when unsure of the severity of the illness or injury. Destruction will be done in the most humane method available.

X. Responsibility:

The District Manager is responsible for maintaining and protecting the health and welfare of the wild horses. To ensure the contractor's compliance with the contract stipulations, the COR from the Las Vegas District, will be on site at all times. The health and welfare of the animals is the overriding concern of the District Manager, Area Manager, COR and PI's.

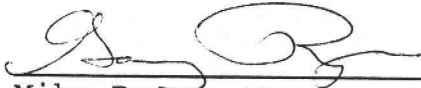
Prepared By:



\_\_\_\_\_  
Gary McFadden  
Wild Horse and Burro Specialist  
Las Vegas District

6-28-96  
Date

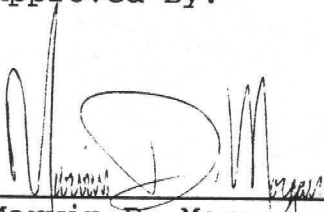
Concurrence By:



\_\_\_\_\_  
Mike Dwyer  
District Manager  
Las Vegas District

6/28/96  
Date

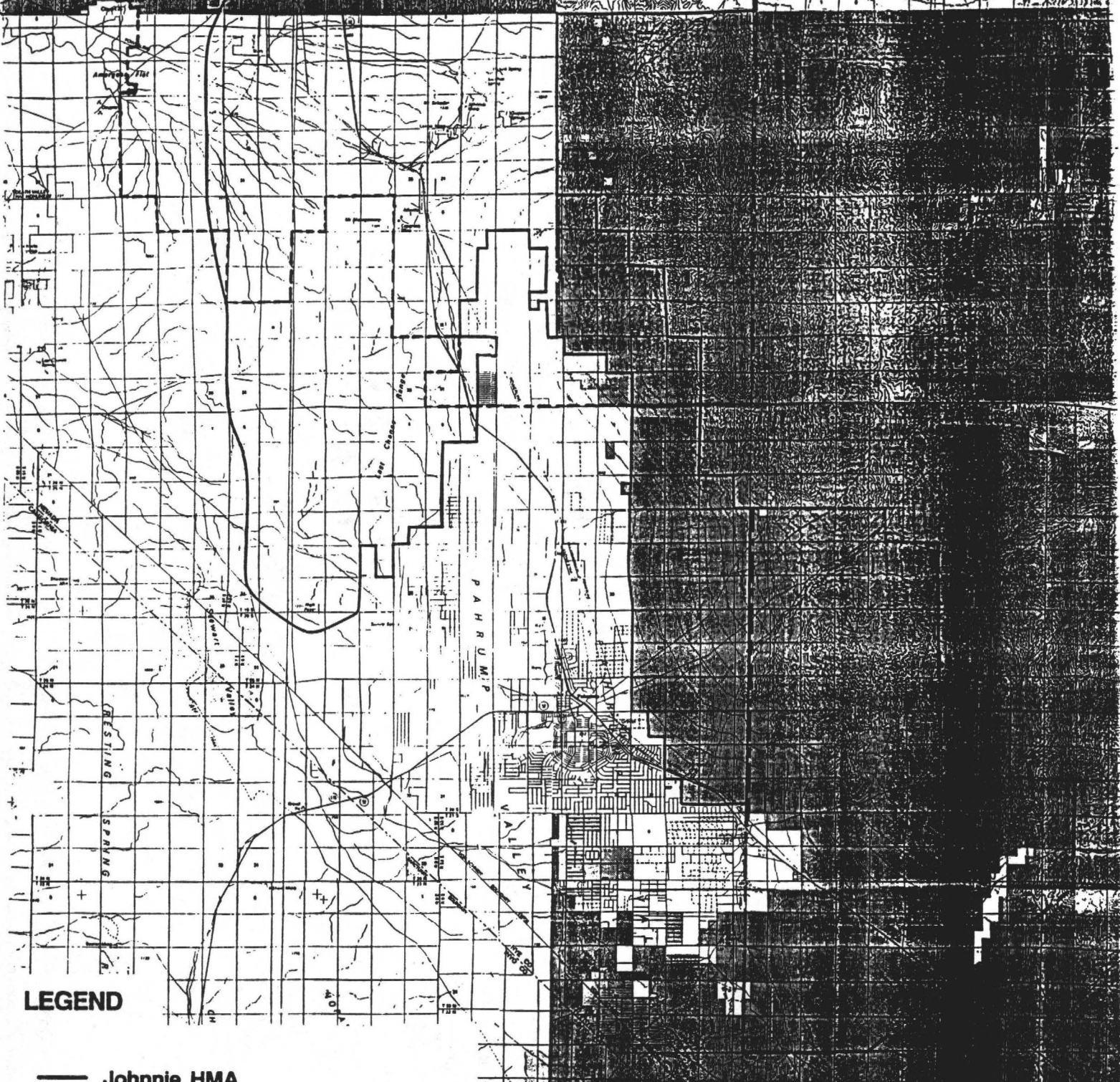
Approved By:



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Marvin D. Morgan  
Associate District Manager  
Renewable Resources  
Las Vegas District

6/28/96  
Date





**LEGEND**

- Johnnie HMA
- Mt. Stirling Allotment
- Wheeler Wash Allotment

OPTIONAL PLAN CONFORMANCE/NEPA COMPLIANCE RECORD  
USE OF EXISTING ENVIRONMENTAL ANALYSIS  
LAS VEGAS DISTRICT

BLM Office: Las Vegas

Lease/Serial/Case File No.: NV-050-96-00-5AD

Proposed Action Title/Type: Emergency wild horse and burro gathers to mitigate unsatisfactory resource and animal conditions resulting from drought conditions in the Las Vegas District. The following Herd Management Area's (HMA'S) will be gathered;

1. Red Rock HMA. Approximately 100 burros and 50 wild horses will be gathered and placed into the Bureau's adoption program.
2. Johnnie HMA. Approximately 200 burros and 75 wild horses will be gathered and placed into the Bureau's adoption program.

Location of Proposed Action: The Red Rock HMA is located approximately 20 miles west of Las Vegas and is primarily contained within the Red Rock Canyon National Conservation Area (RRCNCA). The Johnnie HMA is Located approximately 20 miles north of the town of Pahrump.

Description of Proposed Action: Remove excess wild horses and burro's from the above identified HMA's to prevent resource and animal health degradation as a result of drought conditions. Gather operations are SOP's and will adhere to the Nevada Wild Horse and Burro Gather contract 1422-N660-C96-3005.

Applicant (if any): NA.

Part I: PLAN CONFORMANCE REVIEW. This proposed action is subject to the following Land Use Plan:

Name of Plan: Clark County MFP	Date Approved: September 1983
Interim General Management Plan	June 1995
Esmeralda - Southern Nye EIS	October 1985

The proposed action has been reviewed for conformance with this plan (43 CFR 1610.5, BLM MS 1617.3).

  
Surname(s) of Reviewer(s)

Remarks: \_\_\_\_\_

PART II RECOMMENDATION AND RATIONALE

- A. RECOMMENDATION; Initiate gather operations to protect resource and animal condition. Follow all SOP's and contract stipulations associated with gather operations.

- B. RATIONALE; This action is initiated for the protection of resources and animals and is not intended to establish a Appropriate Management Level and will not preclude the Multiple Use Decision (MUD) process.
1. Forage utilization is severe in primary use area's.
  2. Water production is decreasing on most spring sources.
  3. The action is in compliance with planning documents and normal wild horse and burro management.
  4. The district archaeologist preformed an existing data review for all proposed trap site locations. All proposed trap site locations are immediately adjacent to or on existing roads. No historic properties have been recorded within the area of potential effect and the probability for site occurrence is low for all proposed trap sites. No additional cultural resources evaluation is recommended.
  5. A no effect determination was conducted by a staff wildlife biologist (see attached no effect document).

### PART III NEPA REVIEW.

A. Categorical exclusion review. This proposed action qualifies as a categorical exclusion under 516 DM 2, Appendix 1.\_\_\_\_(CX number) or 516 DM 6 Appendix 5, 5.4.(B)\_\_\_\_(CX number). It has been reviewed to determine if any of the exceptions described in 516 DM 2, Appendix 2, apply.

N.A.

\_\_\_\_\_  
Surname(s) of Reviewer(s)

B. Existing EA/EIS review. This proposed action is addressed in the following BLM EA/EIS: NV-054 -94-89

Name of Document: Johnnie Emergency Wild Horse Removal Date Approved: 06-30-94

This EA/EIS has been reviewed against the following criteria to determine if it covers the proposed action:

1. The proposed action is a feature of, or essentially the same as, the alternative selected and analyzed in the existing document.
2. A reasonable range of alternatives was analyzed in the existing document.
3. There has been no significant change in circumstances or significant new information germane to the proposed action.
4. The methodology/analytical approach previously used is appropriate for the proposed action.
5. The direct and indirect impacts of the proposed action are not significantly different than those identified in the existing document.

6. The proposed action would not change the previous analysis of cumulative impacts.
7. Public involvement in the previous analysis provides appropriate coverage for the proposed action.

Gregory Steinmetz  
Surname(s) of Reviewer(s)

**PART IV: DECISION.** I have reviewed this plan conformance and NEPA compliance record and have determined that the proposed project is in conformance with the approved land use plan and that no further environmental analysis is required. It is my decision to implement the project, as described, with the mitigation measures identified below.

**Mitigation Measures/Other Remarks:** This project will adhere to the stipulations of the Nevada Wild Horse Gather Contract and those identified in the no effect determination on the desert tortoise..

Authorized Official: [Signature]

Date: 6/28/96



COMMISSION FOR THE  
PRESERVATION OF WILD HORSES

255 W. Moana Lane

Suite 207A

Reno, Nevada 89509

(702) 688-2626

July 12, 1996

Mr. Mike Dwyer  
District Manager  
Las Vegas District  
4765 Vegas Drive  
Las Vegas, Nevada 89108

Subject: FD Johnnie HMA Gather

Dear Mr. Dwyer:

The Commission for the Preservation of Wild Horses appreciates the notification of the Johnnie Management Area Emergency Removal. It is unfortunate that the planning processes of the Las Vegas District were unable to proceed as scheduled in the Stateline land use plan. Determination of an appropriate management level and implementation of proper gathers could have mitigated the effects of the severe drought we now witness.

It is obvious from the Decision's rationale that 80 percent of the burros and 50 percent of the wild horses may soon be in jeopardy. It is also alarming that the primary use area has suffered 95 percent utilization of forage species.

The capture criteria to release animals over nine years may not support a viable wild horse herd. During the gather, it may be found that the Johnnie longevity does not exceed ten years or old mares do not produce foals to sustain the herd. Just an age criteria may not assure any unique genetic traits of the herd.

We request additional information concerning the situation and immediate management of the Johnnie Herd. We ask for the following information:

1. When did the Bureau of Land Management document "heavy" use on the primary use area?
2. Where, when and how did supplemental feeding or watering influence the herd and its primary use area?

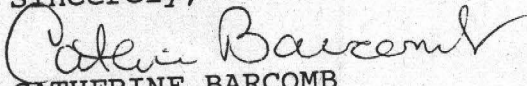
Mr. Mike Dywer  
July 12, 1996  
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3. Provide the age, sex, color, condition and recruitment data collect at the gather.

4. Provide the age, sex, color, condition and recruitment data for the surviving herd in the Johnnie HMA.

We regret that this emergency has occurred and encourage the District to take the appropriate actions. It is essential to know the specific results of the Decision on the surviving herd. We realize the severity of the drought, but must continue to encourage the Bureau of Land Management to manage wild horses and burros to lessen the impacts of natural disasters.

Sincerely,

  
CATHERINE BARCOMB  
Executive Director

cc. Bertie Coleman, 6260 Wittig Ave., Las Vegas 89131