

Categorical Exclusion Documentation

BLM Office: El Centro Field Office
DOI-BLM-CA-D070-2012-0055-CX
1661 S. 4th Street El Centro, CA 92243

Palo Verde, California Nuisance Wild Burro Removal

A. Background

On September 23, 2011, the El Centro Field Office received two letters from Robinson Farms and Jack Seiler Farms (Attachments 3 and 4, respectively) requesting burros be removed from their agricultural lands.

On September 14, 2011, the El Centro Field Office Natural Resource Specialist went on site and met with representatives from Robinson Farms and Sieler Farms. A summary of his findings were as follows:

1. Burros are moving off from the northern portion of the Chocolate-Mule Mountains Herd Area from Thumb Peak to the agricultural fields / private lands seeking shade, water and food.
2. Burros are crossing Highway 78, creating a safety hazard for the public driving on the highway.
3. Approximately 20 - 30 burros are creating a nuisance and are impacting the town and surrounding community of Palo Verde.
4. Burros are impacting other farms in the area in addition to Robinson and Jack Seiler Farms.
5. Approximately 20-30 burros are within the problem area of private lands impacted by burros.
6. Landowners have written letters to the El Centro Field Office Manager requesting the BLM take action for the removal of strayed animals from private lands under CFR 4720.2-1

The Bureau of Land Management (BLM) California Desert Conservation Area (CDCA) Plan of 1980, as amended through the Northern and Eastern Colorado Desert Coordinated Management (NECO) Plan of 2002 identified management prescriptions for the Chocolate – Mule Mountains Herd Area and did not designate the northern portion of the herd area as a herd management area (HMA). Burros located in this portion of the herd area would be subject to removal.

4720.2-1 Removal of strayed animals from private lands:

Upon written request from the private landowner to any representative of the Bureau of Land Management, the authorized officer shall remove stray wild horses and burros from private lands as soon as practicable. The private landowner may also submit the written request to a Federal marshal, who shall notify the authorized officer. The request shall indicate the numbers of wild horses or burros, the date(s) the animals were on the land, legal description of the private land, and any special conditions that should be considered in the gathering plan.

Proposed Action Title/Type: Palo Verde, California Nuisance Wild Burro Removal

Location of Proposed Action:

The nuisance burros are from the northern portion of the Chocolate-Mule Mountain Herd Area. Specifically, the burros which are utilizing private lands in and around the town of Palo Verde, California; See Map 1 – Vicinity Map and Map 2 – Project Map; Palo Verde Nuisance Burro Project Area Summer 2012.

Description of Proposed Action:

The goal is to capture and remove wild burros impacting the surrounding community of Palo Verde California located in Imperial and Riverside Counties, near the town of Blythe, California. It is anticipated this could be approximately 30 burros. Only burros which are impacting private lands and creating a public safety hazard on the roads and Highway 78 will be removed. Prior to initiating any helicopter assisted removal activity, a helicopter reconnaissance of the project area, shown on Map 2 – Project Map; Palo Verde Nuisance Burro Project Area Summer 2012, shall be conducted to verify the burros are within the project area. Burros located within the project area including burros located on BLM lands outside the herd area immediately adjacent to the agricultural fields (private lands), which are either accessing or departing from the agricultural fields would be subject to removal. Burros located on public lands outside the project area within the Chocolate-Mountain Herd Area will not be removed. For burros that move onto the agricultural lands later in the summer / fall, the BLM or contractor may also use water/bait trapping on private lands to gather and remove the remaining nuisance burros.

All gather locations will be located on private lands with the permission of the land owner. The anticipated start date is June 16, 2012 utilizing helicopter assisted removal techniques and will last approximately two days. For the protection of burros being gathered, workers will cease the helicopter operation when the temperature rises above 95 degrees Fahrenheit, and the temperature will be monitored on an hourly basis when heat is an issue.”

Continued actions to address nuisance burros that may continue to move from public lands onto on the private lands may be conducted throughout the remainder of calendar year 2012. These actions may include the use of helicopter assisted removal techniques as described or through water/bait trapping on the private lands. The water/bait trapping method may include the assistance of the agricultural farmers through a Cooperative Agreement for burro removal.

The contractor shall furnish all labor, supplies and equipment necessary to accomplish the work. The work shall be accomplished in a safe and humane manner and be in accordance with the provisions of 43 CFR Part 4700 and the contract specifications and provisions outlined under Solicitation, L10PC00593 or L10PC00594.

The work includes capture and transportation of approximately 20 - 30 burros from the trap sites established on the private lands to a temporary holding location at Palo Verde or Blythe, California, then transported to the BLM’s Ridgecrest Regional Wild Horse and Burro Holding and Adoption Facility where they will be placed into the BLM's Adopt A Horse or Burro Program.

Instructional Memorandum 2010-135 requires Washington Office-260 approval for the removal of more than 15 nuisance animals. This approval is on file at the National Program Office.

B. Land Use Plan Conformance:

The proposed actions are in accordance with the:

- Wild Free Roaming Horse and Burro Act of 1971 (Public Law 92-195)
- Federal Land Policy and Management Act of 1976 (Public Law 94-579)
- Public Rangelands Improvement Act of 1978 (Public Law 95-514)
- Codes of Federal Regulations 43 CFR 4700 prescribe the authorities, objectives, and policies that guide the protection, management, control, and disposition of wild free-roaming horses and burros in accordance with the Act.
- California Desert Conservation Area (CDCA) Plan of 1980 and associated CDCA Plan Environmental Impact Statement and resulting Record of Decision and associated amendments within the Northern and Eastern Colorado Desert Coordinated Management Plan, 2002.

The proposed action is to comply with Federal statutes and regulations, the CDCA Plan and with BLM policy for the management and removal of wild burros in the California Desert District.

C. Compliance with NEPA:

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, D. Rangeland Management, (4) Removal of wild horses or burros from private lands at the request of the landowner.

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed (See Attachment 1), and none of the extraordinary circumstances described in 516 DM 2 apply.

I considered the plan conformance and NEPA compliance record and have determined that the proposed project is in conformance with the approved land use plan, that none of the exceptions described in 516 DM 2 apply, and that no further environmental analysis is required.

D. Signature


Margaret L. Goodro
Field Manager


Date

E. Contact

For more information, contact Andrew Trouette, Natural Resource Specialist at (760) 337-4400 or atrouette@blm.gov

Attachment 1
Review of Extraordinary Circumstances

The Department of the Interior Manual 516 2.3A (3) requires review of the following “extraordinary circumstances” (516 DM 2 Appendix 2) to determine if an otherwise categorically excluded action would require additional environmental analysis/documentation.

- 1) Have significant impacts on public health or safety.
Yes No

Comments: The capture and removal burros from private lands will have no significant impacts on health or safety. The capture and removal of the wild burros will be beneficial for private land owners currently being impacted by the presence of wild burros on their private lands and will also eliminate or reduce the safety risks caused by wild burros crossing Highway 78.

- 2) Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.
Yes No

Comments: The capture and removal of burros from private lands will have no significant impacts to cultural resources.

- 3) Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].
Yes No

Comments: As the wild burro will be removed from private lands, this action will not have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.

- 4) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.
Yes No

Comments: As the wild burros are being gathered for their own safety and for the safety of the private land holders and of the public, and as prior gathers have been previously conducted in the same manner as will be carried out here, this action will not have highly uncertain or potentially significant environmental effects or involve unknown environmental risks.

- 5) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.
Yes No

Comments: This action will not establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects as wild horse and burro gathers are common. This action was initiated at the request of the private land owners on

whose lands the wild burros are currently located, and is being conducted to address their needs for removal of those burros and for the safety of the animals.

6) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.

Yes No

Comments: This action will not have a direct relationship to others actions with individually insignificant but cumulatively significant environmental effects as the wild burros will be transported to a temporary holding location at Palo Verde or Blythe, California, then transported to the BLM's Ridgecrest Regional Wild Horse and Burro Holding and Adoption Facility where they will be placed into the BLM's Adopt A Horse or Burro Program.

7) Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.

Yes No

Comments: Pursuant to the State Protocol Agreement between the California State Director of The Bureau of Land Management and the California State Historic Preservation Officer (2007) and in accordance with 36 CFR Part 800, the BLM has reviewed this undertaking.

It is recommended that this project satisfies criteria stipulated in Appendix D to the Protocol governing Exempt Undertakings and that the following exemption applies to this undertaking:

B3: Resource management actions which do not utilize motorized vehicles or create new surface disturbance and that do not have the potential to affect access to or use of resources by American Indians.

As such, it is recommended this undertaking is exempt from further review under Section 106 of the National Historic Preservation Act however as an additional precaution, an archaeological monitor should be present during all gather operations to ensure that there is no new surface disturbance and that archeological resources are not present or are avoided.

8) Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat.

Yes No

Comments: As the wild burros are being gathered, potential conflicts with burrowing owl and other species of concern are unlikely. To avoid potential injuries to the burrowing owl, gather contractors will place trap fencing in agricultural fields, when possible, avoiding berms and ditches where owl burrows may be located.

9) Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.

Yes No

Comments: This action will not violate a federal law, or a state, local, or tribal law or requirement imposed for the protection of the environment. On the contrary, BLM was requested to take action for the removal of strayed animals from private lands consistent with the provisions of CFR 4720.2-1.

10) Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).

() Yes (X) No

Comments: This action will not have a high or adverse effect on low income or minority populations as the gather will take place on private lands and the wild animals will be transported to a temporary holding location at Palo Verde or Blythe, California, then transported to the BLM's Ridgecrest Regional Wild Horse and Burro Holding and Adoption Facility where they will be placed into the BLM's Adopt A Horse or Burro Program.

11) Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).

() Yes (X) No

Comments: This action will impose no limits on access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites.

12) Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).

() Yes (X) No

Comments: This action will not contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species. The gather will take place on lands previously disturbed by these wild animals.

Reviewers:

Andrew Trouette

Andrew Trouette, Natural Resource Specialist

6/12/12

Carri Simmons

Staff, Cultural Resources

6/12/12

Nicollee Gaddis

Nicollee Gaddis, Planning & Environmental Coord.

6/12/12

Daniel Steward

Daniel Steward, Resource Branch Chief

6/12/12

Attachment 2 Decision Record for a Categorically Excluded Action

Introduction and Background

The goal is to capture and remove wild burros impacting the surrounding community of Palo Verde California located in Imperial and Riverside Counties, near the town of Blythe, California. There are approximately 30 burros from the Chocolate-Mule Mountain Herd Area utilizing the agricultural fields for shade, water and food. Only burros which are impacting private lands will be removed. All gather locations will be sited on private lands with the permission of the land owner.

Only burros which are impacting private lands and creating a public safety hazard on the roads and Highway 78 will be removed. Prior to initiating any helicopter assisted removal activity, a helicopter reconnaissance of the project area, shown on Map 2 – Project Map; Palo Verde Nuisance Burro Project Area Summer 2012, shall be conducted to verify the burros are within the project area. Burros located within the project area including burros located on BLM lands outside the herd area immediately adjacent to the agricultural fields (private lands), which are either accessing or departing from the agricultural fields would be subject to removal. Burros located on public lands outside the project area within the Chocolate-Mountain Herd Area will not be removed.

For burros which move onto the agricultural lands later in the summer / fall, the BLM or contactor may also implement water/bait trapping during the 2012 calendar year on private lands to remove those nuisance burros.

The anticipated start date for the removal of the nuisance burros on private lands is June 16, 2012 utilizing helicopter assisted removal techniques and will last approximately two days. For the protection of burros being gathered, workers will cease the helicopter operation when the temperature rises above 95 degrees Fahrenheit, and the temperature will be monitored on an hourly basis when heat is an issue.

Continued actions to address nuisance burros on the private lands may be conducted throughout the remainder of calendar year 2012. These actions may include the use of helicopter assisted removal techniques as described or through water/bait trapping on the private lands. The water/bait trapping method may include the assistance of the agricultural farmers through a Cooperative Agreement for burro removal.

The proposed action includes capture and transportation of approximately 30 burros from the trap sites on private lands to a temporary holding location at Palo Verde or Blythe, California, then transported to the BLM's Ridgecrest Wild Horse and Burro Holding and Adoption Facility where they will be placed into the BLM's Adopt A Horse or Burro Program.

The contractor shall furnish all labor, supplies and equipment necessary to accomplish the work. The work shall be accomplished in a safe and humane manner and be in accordance with the provisions of 43 CFR Part 4700 and the contract specifications and provisions outlined under Solicitation, L10PC00593 or L10PC00594.

Decision and Rationale

Based on a review of the project described above and field office staff recommendations, I have determined that the project is in conformance with the land use plan and is categorically excluded from further environmental analysis. It is my decision to approve the action as proposed effective immediately pursuant to 43 C.F.R. 4770.3(c).

My rationale for issuing this decision under the Full Force and Effect authority is that the authorized officer shall remove stray wild horses and burros from private lands as soon as practicable as required under the Wild Horse and Burro Code of Federal Regulations: 4720.2-1 Removal of strayed animals from private lands. There has already been a delay of more than eight months in scheduling the gather due to constraints in the national gather schedule and limited window for helicopter gathers, and further delay could compromise the field office's ability to remove the nuisance burros in a timely manner. The economic loss to the agricultural farmers can be significant if actions to reduce the number of burros coming into the fields are not taken. These actions will also reduce the risk of burro vehicle collisions from movement of the nuisance burros off the public lands and increase the safety of the public and the safety of the private land holders.

Compliance with Laws, Regulations, Policies and Land Use Plans

The proposed actions are in accordance with the:

- Wild Free Roaming Horse and Burro Act of 1971 (Public Law 92-195)
- Federal Land Policy and Management Act of 1976 (Public Law 94-579)
- Public Rangelands Improvement Act of 1978 (Public Law 95-514)
- Federal Regulations at 43 CFR Part 4700 prescribe the authorities, objectives, and policies that guide the protection, management, control, and disposition of wild free-roaming horses and burros in accordance with the Act.
- California Desert Conservation Area (CDCA) Plan of 1980 and associated CDCA Plan Environmental Impact Statement and resulting Record of Decision and associated amendments within the Northern and Eastern Colorado Desert Coordinated Management Plan, 2002.

The proposed action is to comply with Federal statutes and regulations, the CDCA Plan, and BLM policy for the management and removal of wild burros in the California Desert District.

The proposed action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, D. Rangeland Management, (4) Removal of wild horses or burros from private lands at the request of the landowner.

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed (See Attachment 1), and none of the extraordinary circumstances described in 516 DM 2 apply.

I considered the plan conformance and NEPA compliance record and have determined that the proposed project is in conformance with the approved land use plan, that none of the exceptions described in 516 DM 2 apply, and that no further environmental analysis is required.

Administrative Remedies

Administrative remedies may be available to those who believe they will be adversely affected by this decision. Appeals may be made to the Office of Hearings and Appeals, Office of the Secretary, U.S. Department of Interior, Board of Land Appeals (Board) in strict compliance with the regulations in 43 CFR Part 4. Notices of appeal must be filed in this office within 30 days after publication of this decision. If a notice of appeal does not include a statement of reasons, such statement must be filed with this office and the Board within 30 days after the notice of appeal is filed. The notice of appeal and any statement of reasons, written arguments, or briefs must also be served upon the Regional Solicitor, Pacific Southwest Region, U.S. Department of Interior, 2800 Cottage Way, E-1712, Sacramento, CA 95825.


Margaret L. Goodro
Field Manager


Date

Attachment 3

Brad Robinson
Robinson Farms
P.O. Box 2399
Bythe, CA 92226

RECEIVED
SHERIFF AND MARSHAL
2011 SEP 23 AM 11:04
EL CENTRO FIELD OFFICE
EL CENTRO, CA.

To Margaret Goodro,

I am writing to you in regards to a problem I am having with desert burros coming in on my ranch and causing significant monetary damage to my alfalfa stacks and fields. There were approximately 35-40 burros in my field on Saturday night, September 15th. The fields are located on the west side of highway 78 and 34th Ave, a couple of miles north of Palo Verde. For better reference they are in the south half of the southwest quarter of section 24, township 8 south, and range 21 east. The APN numbers for the fields is 879-240-026-8. Your assistance in resolving this problem is greatly needed and would be tremendously appreciated. If you would like to contact me you can reach me on my cell phone at 760-899-7458 or at my office at 760-922-4331.

Thank you,



Brad Robinson
Ranch Manager
Robinson Farms

Attachment 4



Jack Seiler Farms
P.O. Box 267
94 Clarkway
Palo Verde, CA 92266

Office (760) 854-1841
FAX (760) 854-1073

September 22, 2011

To whom it may concern:

We have been growing alfalfa in the southern Palo Verde Valley for the past twenty years. During this time we have seen a steady increase in the amount of wild burros foraging in our fields and our hay stacks. Since the burros are protected we cannot obtain a depredation permit to control them. The only protection measure we have is to install fencing around our hay stacks. This method merely slows the burros down as they simply knock the fence over with time.

Currently there are about 100 burros coming from the desert and entering our ranch every night. We feel we need your assistance in removing these burros. The location is west of the town of Palo Verde. The following assessor parcel numbers are the exact locations: (006-020-004-01), (006-020-004-01), (006-210-001-01), (006-210-007-01), (006-120-085), (006-120-086), (006-120-079), (006-120-078).

Thank you,

Jack Seiler Farms
P.O. Box 267
Palo Verde CA, 92266

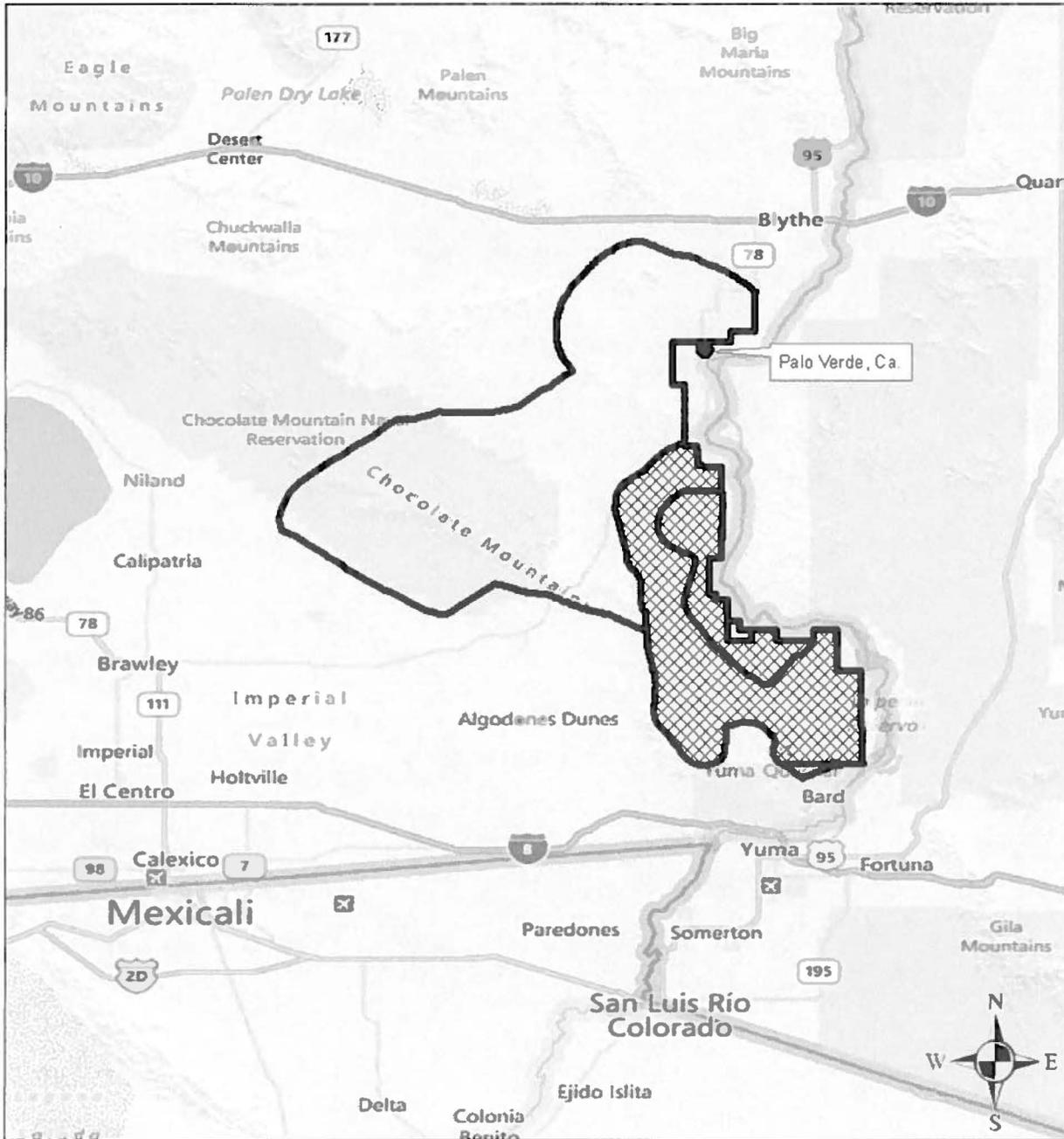
Ryan Seiler
(760) 640-2034

Jack Seiler
(760) 427-5901

RECEIVED
DIVISION OF LAND MANAGEMENT
SEP 23 AM 11:04
CENTRAL FIELD OFFICE
SI CENTRO, CA.

Map 1 - Vicinity Map

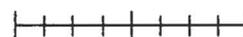
Vicinity Map - Palo Verde, CA.



Legend

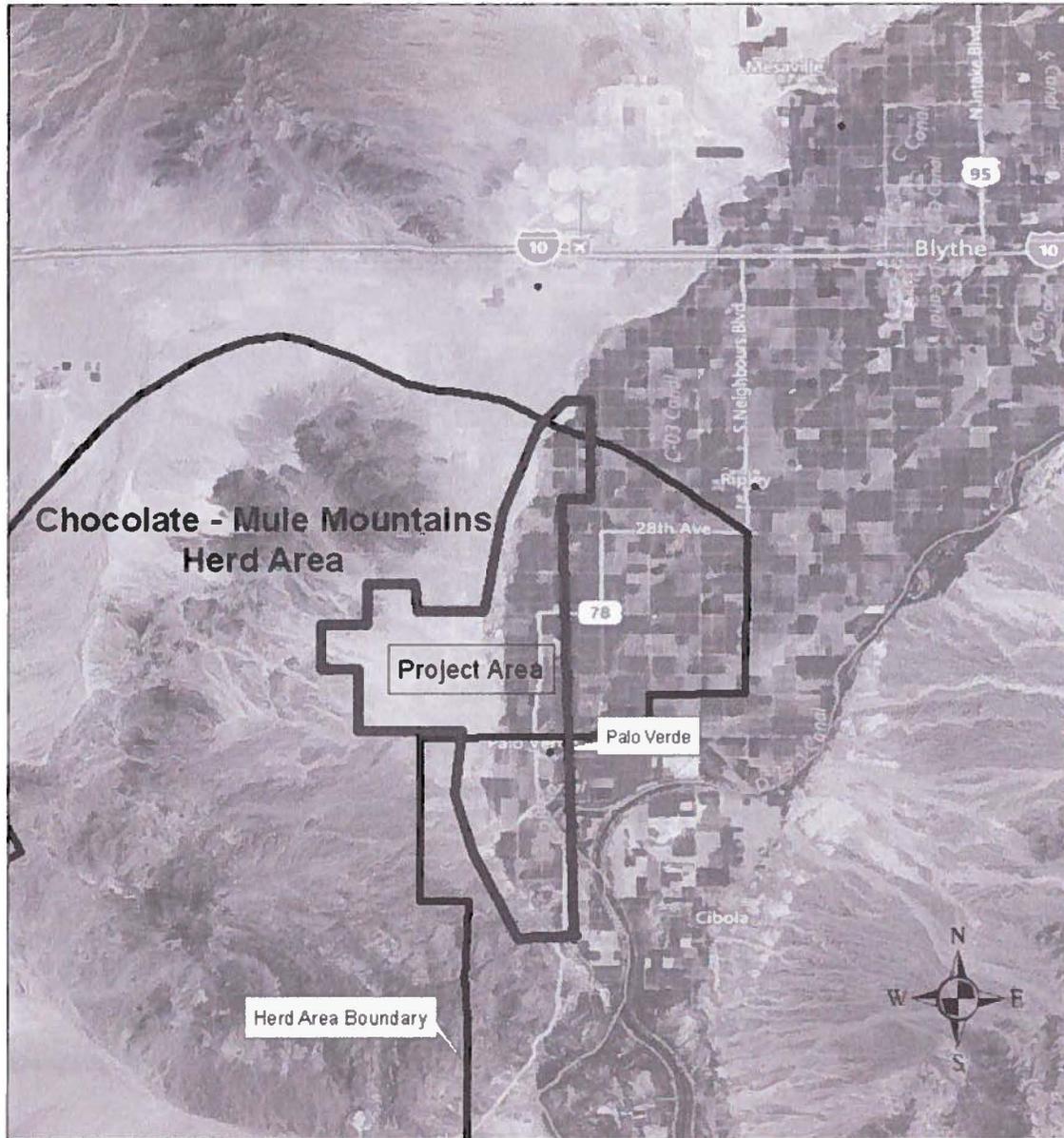
-  Chocolate - Mule Mountains Herd Area
-  Chocolate - Mule Mountains Herd Management Area

0 5 10 20 Miles



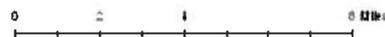
Map 2 – Project Map

Palo Verde Nuisance Burro Removal Project Area Summer 2012



Legend

-  Herd Area
- Land Status**
- Agency**
-  Agriculture
-  Private
-  Bureau of Land Management
-  State
-  Other Federal



**United States Department of the Interior
BUREAU OF LAND MANAGEMENT**

El Centro Field Office

1661 South 4th Street

El Centro, CA 92243

www.blm.gov/ca/elcentro/

In Reply Refer To:

CA-670-12-083/DOI-BLM-CA-D070-2012-0055-CX/ (8100)P

Memorandum

To: Field Manager, El Centro Field Office (CA-670)

From: Archaeologist, El Centro Field Office (CA-670)

Subject: Agency Findings and Determinations under Section 106 of the National Historic Preservation Act

Project: Palo Verde, California Nuisance Wild Burro Removal, Imperial and Riverside Counties, California

The Bureau of Land Management (BLM), El Centro Field Office proposes to authorize the capture and removal of approximately 30 wild burros impacting the surrounding community of Palo Verde, California. The anticipated start date of this removal process is to begin around June 14, 2012 and would be a one to two day operation however continued action to address nuisance burros may continue throughout the remainder of 2012. The work includes the capture and transportation of approximately 30 burros from baited trap sites to a temporary holding location in Palo Verde. The burros would then be transported to the BLM's Ridgecrest Wild Horse and Burro Holding and Adoption Facility. All gather locations will be located on private agricultural lands with the permission of the land owner. There will be no new surface disturbance.

Pursuant to the *State Protocol Agreement between the California State Director of The Bureau of Land Management and the California State Historic Preservation Officer* (2007) and in accordance with 36 CFR Part 800, the BLM has reviewed this undertaking. This memorandum documents the review of the proposed project by the cultural resources staff of the BLM.

It is recommended that this project satisfies criteria stipulated in Appendix D to the *Protocol* governing Exempt Undertakings and that the following exemption applies to this undertaking:

B3: Resource management actions which do not utilize motorized vehicles or create new surface disturbance and that do not have the potential to affect access to or use of resources by American Indians.

As such, it is recommended this undertaking is exempt from further review under Section 106 of the National Historic Preservation Act however as an additional precaution, an archaeological

monitor should be present during all gather operations to ensure that there is no new surface disturbance and that resources are avoided.

This memorandum documents the recommendations of the cultural resources staff, the acceptance of these recommendations by the Agency Official (as defined in 36 CFR §800.2(a), Protection of Historic Properties), and constitutes the formal statement of Agency findings and determinations for Section 106 of the National Historic Preservation Act as implemented in the *Protocol*. In accordance with the *Protocol*, BLM has satisfied its responsibilities to take into account the effects of this undertaking on historic properties that may be included or eligible for inclusion on the National Register of Historic Places.

Recommended by:

JEFF SAHAGUN 5/24/12
Archaeologist, El Centro Field Office Date

Recommended by:

Carrie Simmons 5/24/12
Reviewing Archaeologist, El Centro Field Office Date

Acceptance by the Agency Official:

Jane E. Ortega 5/24/12
Field Manager, El Centro Field Office Date