

**UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
NEEDLES FIELD OFFICE**

Piute Mountains Herd Area  
Wild Free-Roaming Burro Removal  
DOI-BLM-CA-D090-2012-0029-DNA

Lead	_____
Air Quality	_____
Cultural Resources	_____
Ecologically Critical Area	_____
Environmental Justice	_____
Hazardous and Solid Materials	_____
Health and Safety	_____
Invasive, Nonnative Species	_____
Law Enforcement	_____
Range Conservation	_____
Recreation	_____
Soils and Minerals	_____
Water Quality	_____
Wetlands and Riparian Areas	_____
Wild, Free-Roaming Burros	_____
Wilderness	_____
Wildlife	_____
Recreation Staff Chief	_____
Resources Staff Chief	_____
Planning and Environmental Coordinator	_____

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**Decision Record**

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In accordance with 43 United States Code (U.S.C.) 1701 and 16 U.S.C. 1331-1340, it is my decision as the California Desert District Manager to approve the removal of wild free-roaming burros from the Piute Mountains Herd Area. I find that the action conforms to the California Desert Conservation Area Plan, 1980 *et seq.* (CDCA Plan), and that it will not cause unnecessary or undue degradation. I further find that Environmental Assessment CA-690-EA03-09 fully covers the approved action and constitutes the Bureau's compliance with the *National Environmental Policy Act*. Preparation of an Environmental Impact Statement is not required. Measures mitigating project impacts are formulated into the attached Conditions of Approval, incorporated by reference as the decision of the Bureau of Land Management regarding this action. A copy of this Decision Record and attendant Conditions of Approval shall be in the possession of the on-site Bureau of Land Management representative during all undertakings approved herein.

**Background**

The proposed action is subject to and in conformance with 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, in accordance with Title 43 Code of Federal Regulations 1610.5-3.

This project is part of the Bureau's continuing efforts to manage wild burro populations under the land use plan decisions of the California Desert Conservation Area Plan of 1980 as amended by the Northern and Eastern Colorado Desert Coordinated Management Plan (2002).

The CDCA Plan did not designate the Piute Mountain Herd Area as a Herd Management Area (HMA). The CDCA Plan's Wild Horse and Burro Element Goal 3

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provides that all wild horses and burros from areas not designated for retention and excess wild horses and burros from designated retention areas will be removed. Management objectives remained the same as those addressed in the 1984 East Mojave Herd Management Area Plan, in which burros are to be removed from this HA.

Fenner Spring is the only water source within the Piute Mountain HA which the burros have access to. This spring was developed by the Santa Fe Railroad and abandoned between 1915 and 1920. The spring source is located in a tunnel which flows outward to provide water to the burros and wildlife. In August 2010, 56 burros succumbed due to dehydration, due to the spring source drying up. Emergency actions were taken to have an excavator dig down enough into the tunnel to allow adequate water flow for the remaining burros. Due to the unpredictable variations of the water output of the spring, and the burros dependency on this sole water source to survive, continued efforts are being conducted to remove the burros from the Piute Mountain HA, to prevent a similar occurrence in the future.

Currently there is an estimated population of 25 burros in the Piute Mountain HA.

### Approved Action

Specifically, the removal of the wild free-roaming burros from the Piute Mountains Herd Area is expected to occur between April 15 and May 15, 2012, but may occur as late as September 30, 2013 depending upon the weather conditions during the targeted removal dates and the availability of contract services. The removal operations will include the following measures.

### Methods of Capture

The action will utilize two methods of capture; helicopter-assisted gathers and bait trapping. Captures will be conducted by BLM in-house or by BLM contract with a vendor. The capture methods could be used singly or in conjunction with one another. Several sites are approved as needed to gather the wild burros from the Piute Mountains, selected based upon the location of the animals and how the topography of the area can best facilitate the capture methods. Trucks pulling stock trailers will be necessary to transport panels, saddle horses, and the captured animals. A temporary capture corral site will be located on the existing roadway/designated route of travel. The temporary corral will be assembled using interconnected 10-foot long metal panels. The corral will be approximately 20 – 25 feet in diameter with a swing gate. A 10-foot panel will be anchored at each side of the gate to create a funnel for easier maneuvering of the animals. The trap and related structures will be installed by hand using hand tools and will be removed upon completion of the gather in the area. Corrals may then be set up at another predetermined site according to the location of other groups of

animals. The capture site may include a portion of the access road. If vehicle traffic needs access through the trap when it is positioned in the road, or if the trap is going to be left overnight, the end panels or jute netting will be removed to allow through passage. The corral will be removed after the completion of the gather in the area. The horse trailers and extra horses, weed-free hay and other equipment will be located adjacent to the corral. The project will include up to 8 people for ground support at the capture site, three horse trailers and associated pickup trucks, helicopter fuel truck, the capture project manager's truck and an agency representative truck. The corral panels and feed for the animals will be delivered on horse trailers. Saddle horses not being used during the capture will be kept tied to or left inside of the horse trailer during the round-up. A portable loading chute with solid sides will be used when captured animals are loaded onto semi-trailers.

Captured animals will be monitored on a continual basis, receiving water and feed according to their needs. In order to minimize possible stress, handling of the animals will be kept to a minimum. The wranglers will insure that the animals are humanely treated during the capture operation, sorting, loading, and hauling. They will work in a safe manner and determine if destruction of any sick or injured animals is necessary during the gather. For injuries and disease not requiring the immediate care of a veterinarian, the animal will be transported to the BLM Ridgecrest or Kingman corrals where the animal will be treated upon arrival. If the animal cannot be transported, or if it is uncertain if the animal can be transported to the corral facility without further injury, harm, or undue pain, a contracted veterinarian for the wild horse and burro program will be available upon request. Any severely injured or sick animal may be destroyed in accordance to 43 Code of Federal Regulations 4740.31. This regulation requires that animals are to be destroyed only when a definite act of mercy is needed to alleviate pain and suffering. When it is uncertain as to the severity of an injury or sickness, a veterinarian will make a final determination. Destruction will be accomplished utilizing a humane method. Deposition of euthanized animals will consist of removing the body to a point hidden from public view at least 300 feet from any road and leaving the remains to natural processes.

Capture and removal of wild burros will be aided by the use of a helicopter. Only one helicopter will be utilized at the gather site. The helicopter will be used to locate and herd the targeted animals to the capture site and assist wranglers in capturing wild burros. The gather area will be flown prior to the start of the round-up to locate the animals, study the terrain and locate any hazards to the burros and helicopter (fences, cliffs, power lines etc.). All aircraft safety and communication procedures outlined in the California Desert District Wild Horse

and Burro Aviation Safety Plan for BLM in-house gathers will be adhered to. The helicopter will normally fly at heights from ground level to 500 feet. It will drop as low as 5 or 6 feet when turning the animals. Refueling will involve one fuel truck, which will be restricted to existing roads. Refueling will occur on flat, previously disturbed areas. Helicopter refueling locations will be located at the capture site where the refueling truck will be stationed (away from the corral on the other side of the trailers and vehicles). The helicopter may refuel up to 4 times each day. Nearby airports, or fire stations may also be used as refueling stations.

Two methodologies of helicopter-assisted gathers will be utilized; drive trapping and roping. Each method will utilize 3 to 6 wranglers. Each wrangler will have 1 to 3 horses. Only one horse per wrangler will be used at a time and will be replaced by a fresh horse as the horse the wrangler is using tires. The spare horses will be kept saddled and ready to go, tethered on the side of the horse trailer or corral. The number of animals herded can vary from 1 to 20 head per capture episode. All attempts will be made to keep the herd together as they are being moved. The rate of movement and distance the animals travel will be based on the condition of animals, terrain, physical barriers, and weather. Should any animal become fatigued or over-stressed, the pilot will break off pursuit, so the animal(s) could rest and recover.

#### 1. Drive Trapping (run traps):

The drive trapping method will use two temporary wing extensions positioned at 45 to 90 degree angles from two sides of the corral. Wing extensions consist of 6 feet high jute netting supported by steel tee-posts spaced approximately 15 to 20 feet apart for up to 200 yards long. All 200 yards of wing fencing may not be utilized, as the terrain may not require this. The jute provides a visible barrier that aids in herding the animals to the trap corral. Run traps are usually placed in arroyos or immediately over the crest of a hill where the corral extensions are easily disguised or not easily seen. Once a group of animals is herded into the trap corral, the gate is closed and the capture is complete. Foals and mothers occasionally become separated or escape during the gathering process. The escaped mother or foal will be roped to keep the foal from being orphaned.

After the burros are caught they will be herded from the trap corral to the holding pen. These two corrals will be located side-by-side forming the capture site. From the holding pen they will then be loaded into a stock trailer or barge and transported to either another holding area for the night or transported to either the BLM Kingman or Ridgecrest Wild Horse and Burro Holding Facility. Once there, the burros will be prepared for adoption to the public, their final destination. All corrals and wings will be constructed, maintained and operated to handle the animals in a safe and humane manner and be in accordance with the following:

- Traps and holding facilities will be constructed of portable panels, the top of which will not be less than 60 inches tall, and the bottom rail of which will not be more than 12 inches from ground level. The traps and holding facilities will be oval or round in design. The dimensions of the corral will vary with the topography and the dimensions of the road.
- All loading chute sides will be fully covered with plywood (without holes) or like material. The loading chute will also be a minimum of 6 feet high.
- All runways will be a minimum of 30 feet long and 5 feet high, and will be covered with plywood, burlap, and plastic snow fence or like material a minimum of 1 to 5 feet above ground level.
- Wings will not be constructed out of barbed wire or other materials injurious to animals and will be approved by a BLM project inspector (PI) if the project is contracted. Wings may be constructed along existing fence lines, at the discretion of the PI (if contracted), only if the barbed wire or other wire fencing material is removed from the fence posts and laid on the ground distal to the posts for the length of the wing, or if portable panels are placed along the inside of the fence to protect the animals from injury from the fence wire.
- All crowding pens including gates leading to the runways will be covered with a material that prevents the animals from seeing out (plywood, burlap, etc.) and will be covered a minimum of 1 to 5 feet above ground level. Eight linear feet of this material will be capable of being removed or let down to provide a viewing window.
- All pens and runways used for the movement and handling of animals will be connected with hinged self-locking gates.

#### Roping:

The helicopter-roping method will use the helicopter to herd the wild burros to the wranglers on horseback. The wranglers will be positioned out of view from the herded burros, but in such a position that they can maneuver their horses when pursuing the burros. The helicopter will take the main herd to a holding area and will break off a smaller set of animals that the wranglers can manage, usually one animal per wrangler. These animals will then be herded to the capture area. The wranglers will pursue, rope by lassoing the animal around the neck, and then lead the captured animal into the corral. The burro will be led into the trap corral

and the rope will be removed from its neck. After a burro is caught it will be herded from the trap corral to the holding pen. From the holding pen, the animals will then be moved into a stock trailer. This is repeated until all the targeted animals are captured. The burros are then transported to a holding area where they will be separated by gender (jennies with foals will be kept together) and receive water and feed until they are transported to the Ridgecrest Regional Wild Horse and Burro Holding and Adoption Facility.

#### Bait Trapping:

Bait trapping will be conducted during periods between helicopter gathers. The trap site will be located on previously disturbed areas such as active trails or roads where suitable vehicle access exists. The related structures will be installed by hand using hand tools and will be removed upon completion of the gather. Trapping operations will probably extend from a few days to several months. Certified weed-free hay will be placed on trails for the burros to become familiar with that food source. Portable metal 10-foot panels will be placed around the area where the burros come to feed on the hay. The trapping area will be approximately 40 feet by 40 feet. The trigger gate will be left open until the burros are not afraid of coming into the trap to feed. Once the trigger gate is set, the traps will be checked daily for any trapped animals. Trapped burros will be moved to a designated holding area. In the case that other animals are trapped besides burros, the burros will be sorted. If it is not possible to sort the animals without harming them, the trigger gate will be opened allowing all the animals to escape. When the traps are not in service, the trap gates will be locked open. The burros will then be transported to the Ridgecrest Regional Wild Horse and Burro Holding and Adoption Facility.

#### Sorting:

All vehicular access will be restricted to existing routes with no off road travel occurring. Trucks with stock trailers will be used to remove the captured animals from the capture sites or barge unloading areas. Burros will be transported to the holding area with jennies and foals kept as pairs, and when practical, jacks will be kept separate from pairs and jennies.

At the holding area, as the burros will be unloaded from the stock trailers, pairs and jennies will be separated from the jacks. The number of animals will be counted as they are unloaded from the trailer. Animals will be assessed for any required special attention to injuries, illnesses or other problems immediately following unloading. Orphans will be separated and provisions made to feed and care for them. Captured burros are very sensitive to people. Because of this, the number of team members to handle the animals will be limited to essential

personnel to alleviate stress on the animals. Handling of the animals will be kept to a minimum in order to minimize possible stress to the animals. A veterinarian will be on call at all times.

## Protection Measures

Capture Plan activities will be supported by health and safety guidelines addressing emergency recognition and prevention; communications; emergency contacts; biological hazards; physical hazards; unforeseen hazards evacuation routes and resources; and, standard operating procedures, engineering controls, and work practices.

Capture sites will be located in areas that have been previously disturbed. No temporary trap sites, temporary corrals, helicopter landings or ground motorized vehicle travel will occur within any wilderness area. The helicopter pilot will be advised of the location of wilderness boundaries and be provided with a wilderness area boundary map. The pilot will also be instructed to minimize helicopter use over wilderness. Special care will be taken to minimize disturbance to resource values in gather areas.

The helicopter pilot will be instructed to avoid steep craggy areas of the surrounding mountains so as to protect lambing big horn sheep. The pilot will also be instructed to break off pursuit if big horn sheep inadvertently start herding with the burros.

A desert tortoise biologist will conduct a desert tortoise survey (in accordance with USFWS protocol) at each proposed capture site. Temporary structures, vehicles, equipment, helicopter landing sites and other activity will be located in areas free of tortoise burrows. The following guidelines will be adhered to in regards to the desert tortoise:

a. One member of the team conducting the gather will be responsible for overseeing compliance with protective stipulations for the desert tortoise and for compliance coordination. This individual will have the authority to halt all activities that are in violation of the stipulations.

b. The gather crew will be informed of the following information in regards to the desert tortoise:

- General behavior and ecology of the tortoise
- Sensitivity to human activities

- Legal protection
- Penalties for violations of State or Federal laws
- Reporting requirements
- Project protective mitigation measures

The crew will contact the BLM biologist for clarification and additional information.

c. The area of disturbance will be confined to the smallest practical area, considering topography, placement of facilities, locations of burrows, public health and safety, and other limiting factors. To the extent possible, previously disturbed areas within the site will be utilized. The project lead will ensure compliance with this measure.

d. Upon locating a dead or injured tortoise, the gather crew will notify the applicable BLM Field Office or Refuge office. The BLM will then notify the USFWS Ventura Office by telephone within three days of the finding.

e. No dogs will be allowed on site during the operation.

f. All trash and food items will be promptly contained within closed, predator-proof containers. These will be regularly removed from the project site to reduce the attractiveness of the area to ravens and other tortoise predators.

g. The probability of a desert tortoise wandering onto the removal site is remote. However if such an instance should occur all activity will cease until such tortoise is no longer in danger.

#### National Environmental Policy Act Compliance

Environmental Assessment CA-690-EA03-09, entitled *Capture Plan for the Removal of Wild Free-Roaming Burros from the Piute and Dead Mountains Herd Areas and the Chemehuevi Herd Management Area*, meets the following criteria for National Environmental Policy Act compliance as it relates to the action described above.

*The proposed action is substantially the same action and location (or is a part of that action) analyzed in the subject environmental assessment. The nature and location of this action is the same as was analyzed in the environmental assessment.*

*The range of alternatives analyzed in the existing environmental assessment are appropriate with respect to the current proposed action, given current environmental concerns, interests, and resource values. An alternative to*

disallow the event was analyzed in the environmental assessment. Additionally, non-helicopter-assisted gathering in wilderness and direct reduction alternatives were considered but rejected from further analysis because they were restricted by regulations, policy, funding, or did not conform with land use plan objectives.

*The existing analysis is valid in light of any new information or circumstances. The methodology and analytical approach used in the existing environmental assessment(s) continues to be appropriate for the current proposed action.* The same information and circumstances pertain to this event as were addressed in the environmental assessment. No new information or circumstances which might prompt altering the action has been noted.

*The methodology and analytical approach used in the existing environmental assessment continues to be appropriate for the current proposed action.* The methodology and analytical approach used in the environmental assessment continues to apply to the current action.

*The direct, indirect and cumulative impacts associated with the current proposed action are substantially unchanged from those identified in the environmental assessment.*

No changes to the assessed direct or indirect impacts have been revealed. Further, since the completion of the environmental assessment, no new future foreseeable actions have been proposed in the vicinity of the gather.

*The public involvement and interagency review associated with environmental assessment(s) are adequate for the current proposed action.* The U.S. Fish and Wildlife Service, Barstow Field Office (USFWS) was consulted regarding threatened and endangered species on March 19, 2003. The consultation included consideration of the desert tortoise, Yuma clapper rail and the southwestern willow flycatcher in relation to the burro removal action. Upon conclusion of the consultation, the USFWS concurred with the Bureau that the action would have no adverse effect on any of the above-described animals.

The California Department of Fish and Game (CDFG) was also consulted on March 19, 2003. The consultation included consideration of Nelson's bighorn sheep and their associated lambing grounds in area of action. Upon conclusion of the consultation, the CDFG concurred with the Bureau that the action would not adversely affect the bighorn sheep, providing that helicopters maintain their distance from steep and rugged terrain and that helicopters break off pursuit if a bighorn sheep inadvertently joins the burro gather.

A Notice of Proposed Action (NOPA), dated August 12, 2002 was mailed to 224 individuals. The NOPA generated one response from the Sierra Club California/Nevada Regional Wilderness Committee, dated December 23, 2002. In addition to requesting additional information, the Sierra Club indicated that it supported removal of wild burros from wilderness if the actions can take place without the use of motorized vehicles and requested that low-level helicopter flights be minimized. In its response to the additional information provided by the BLM, the Sierra Club reiterated its support for the burro removal and its desire that it be conducted without vehicular intrusions.

The wild horse and burro interest groups The Fund for Animals, Inc. and Colorado Wild Horse and Burro Coalition were mailed letters describing the proposed action in September 2002. No comments from the two affected interest groups were received.

### Appeals

This decision is issued Effective Immediately in accordance with Title 43 Code of Federal Regulations 4770.3(c) to allow for the immediate removal of excess burros from the Piute Mountains Herd Area.

This decision may be appealed to the Board of Land Appeals, Office of Hearings and Appeals, Office of the Secretary, in accordance with the regulations contained in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E and enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in the California Desert District office, Bureau of Land Management, U.S. Department of Interior, 22835 Calle San Juan De Los Lagos, Moreno Valley, CA 92553, within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error. Please provide this office, Needles Field Office, 1303 S. U.S. Highway 95, Needles, California 92363, with a copy of your appeal and Statement of Reasons.

If you wish to file a petition pursuant to 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) for a stay (suspension) of the effectiveness of this decision during the time that your appeals is being reviewed by the Board, the petition for a stay must accompany your notice of appeal, A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay:

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal 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.

Recommended by:

\_\_\_\_\_  
Needles Field Office Manager

\_\_\_\_\_  
Date

Approved by:

\_\_\_\_\_  
California Desert District Manager

\_\_\_\_\_  
Date