

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

Determination of NEPA Adequacy (DNA)

DOI-BLM-CA-D090-2020-0011-DNA

***Clark Mountain Herd Area Burro Gather
Wild Horse and Burro Project***

San Bernardino Meridian, California

T.16 N., R. 10 E.,

Section 25, unsurveyed

T. 16 N., R. 11 E.,

Section 7, unsurveyed

T. 15 N., R. 10 E.,

Section 14, NE $\frac{1}{4}$ SW $\frac{1}{4}$

T. 15.5 N., R. 14 E.,

Section 19, unsurveyed.

Geographic Location

***Bull Spring Corral, Francis Spring, & Halloran Spring, Clark Mountain Herd Area
Groaner Corral, Mescal Mountain Range***

Preparing Office

U.S. Department of the Interior
Bureau of Land Management
Needles Field Office, California

Lead Office / Agency

Needles Field Office / CAD09000



SUMMARY

This document constitutes the Decision Record (DR) of the United States Department of the Interior (DOI) and Bureau of Land Management (BLM) for the implementation of the Clark Mountain Herd Area Capture Plan. This Plan will remove Wild Free-Roaming Burros from within and outside the Clark Mountain Herd Area using a bait and water trapping method analyzed in Environmental Assessment (EA) DOI-CA-690-EA04-27.

A Determination of National Environmental Policy Act (NEPA) Adequacy (DNA) to consider the Clark Mountain Herd Area Burro Removal, Fiscal Years 2007-1012 Environmental Assessment (EA) DOI-CA-690-EA04-27 has been completed for this Decision.

BACKGROUND

The California Desert Conservation Area (CDCA) Plan (1980) as amended by the 2002 Northern and Eastern Mojave Coordinated Management Plan (NEMO) reduced the Appropriate Management Level (AML) of the Clark Mountain Herd Area to zero (0) burros and established the Shadow Valley Desert Wildlife Management Area (DWMA) to aid the recovery of the threatened desert tortoise (*Gopherus agassizii*). The burros in the Herd Area (HA) rely heavily upon man-made and natural springs in the area; however, most of the springs are ephemeral, consistently drying by early to mid-summer and pose a health and safety risk to burros.

On January 16, 2007, the BLM issued a decision to gather wild burros from within and outside the Clark Mountain HA. At that time, the wild burro population was approximately 150 burros and exceeded the AML range of zero (0). The 2007 Decision implemented a 5-year phased plan to remove all wild Burros from the HA in order to move towards the management level of zero (0) consistent with the Land Use Plan as amended by NEMO.

Reports from grazing operators, game camera footage, and field visits by BLM personnel in 2020 indicate that 30-40 burros are congregating at Bull, Francis, and Halloran springs. Surveys conducted in the spring of 2020 indicated that the waters were receding at all the springs. Bull Spring ran dry by May 27th and Halloran Spring ran dry by July 14th. Emergency water hauling to Halloran Spring began July 21st. These springs are in designated desert tortoise critical habitat and within the Clark Mountain HA. Although there is no designated desert tortoise critical habitat nor herd area in the Mescal Mountain Range, the burros there cross under Interstate 15 and pose a threat to motorists that use the on/off ramps to I-15. Burros are also posing a safety hazard, and have been a constant nuisance at the MP Materials - Mountain Pass Mine, to the extent that the landowner consistently requests the BLM to remove the burros from the private land as required by law.

By utilizing the Groaner Corral, Bull Spring Corral, Francis Spring, and Halloran Spring areas for gathers, NFO would work towards achieving AML, remove nuisance burros, reduce future resource impacts to vegetation, soils, desert tortoise and its critical habitat, prevent deaths of burros due to dehydration as the springs dry up, and minimize other safety hazards to burros and people. Because the Land Use Plan objective has not been met and no new circumstances have risen that require re-evaluation, the capture plan and EA were used to satisfy the NEPA requirements for this proposed action.

The EA analyzed two methods of capture, a helicopter assisted and bait/water trapping method. These methods may be used singly or in conjunction with one another. Based on the need to remove approximately 40 wild burros the BLM believes that the burros can be captured and removed safely using the bait/water trap method without helicopter assistance.

Temporary panels would be used to reinforce Groaner Corral and Bull Springs Corral and create a temporary enclosure pen at Halloran Spring. Francis Spring is on private land. The private landowner has given permission to trap at or close to the spring if needed for the 2020 gather. If water is present at time of the gather, a temporary panel enclosure around Francis Spring would be installed to prevent burro access or be used as a trap site. Permission to use private land would be sought and granted by the landowner for future gathers at this site.

Temporary troughs will be placed at Halloran Spring, in the Bull Spring Corral, and in the Groaner Corral to bait burros (see Appendix A Maps). Weed free or locally grown alfalfa, orchard grass or other types of hay and food supplements along with a water trough would be placed as an attractant at each of the gather sites. The catch pens would have a break in the panels for burros to access hay and/or water within the pens. When it is evident that the burros are fixated on the food and/or water within the enclosure, a trigger gate would be installed which would be left open for a period of time so that burros become accustomed to coming in and out of the pens through the trigger gate. When it is determined the burros would readily access the catch pens, the trigger gate would be set. The trigger gate would allow burros to enter the catch pen but not exit. Traps will be checked twice daily, once in the morning and again in the late afternoon. When personnel are not available to monitor the catch pens, the trigger gates would be locked opened or removed.

Capture sites occurring in desert tortoise critical habitat would conform to the Biological Opinion (1-8-04-F-43R) and follow the Desert Tortoise Conservation Measures Terms and Conditions outlined in the EA or get concurrence from the United States Fish and Wildlife Service (USFWS) for actions which fall outside these terms and conditions. At a minimum, a Service-authorized biologist will be present for the setup and removal of the panels and water tanks at capture sites located within critical habitat.

If any stray cattle are bait trapped through this action, the NFO Rangeland Management Specialist and grazing operator shall be contacted and he/she or their representative will remove the livestock. This action is in accordance with 43 CFR 4710.6, Removal of unauthorized livestock in or near areas occupied by wild horses or burros.

PROTECTION MEASURES

Terms and Conditions outlined in the EA and 2007 Decision Record that apply to bait and trap capture methods would be carried forward and can be found in Appendix B.

PUBLIC INVOLVMENT

The EA (CA-690-EA04-27) was made available to the public through the Needles Field Office Public area and official website during the environmental review process. Copies of the Environmental Assessment were sent to interested public, State, county, and local government

representatives on November 22, 2006. A Notice of Proposed Action (NOPA) in Wilderness was sent to individuals and organizations on November 18, 2006. A hearing was held at the Needles Field Office on December 6, 2006 and a Town Hall meeting was held at Barstow Field Office on December 13, 2006. A notice of intent by the BLM Ridgecrest Field Office to implement wild burro gathers and removals from the Clark Mountain Herd Area and adjacent areas was released with the EA Decision Record on January 16, 2007. The new proposed action was made available through the BLM e-Planning website for public review on July 28, 2020. No public input was received. Affected interests that have requested to be kept updated for actions involving the Clark Mountain Herd Area will be notified of this action.

DECISION

It is my decision to approve the implementation of bait/water trapping to remove approximately 40 excess wild burros from the Clark Mountain Herd Area and adjacent areas as described in the proposed action and previously analyzed under Environmental Analysis, DOI-CA-690-EA04-27. I find that this action is necessary to remove excess wild burros that are adversely impacting resources and that pose a threat public health and safety.

The approved action will continue until the AML objectives are met or there is a change in land use decisions, or new and pertinent information requiring re-evaluation of the capture plan and associated environmental assessment is received.

Pursuant to Title 43 Code of Federal Regulations 4770.3(c) this decision is issued effective immediately.

AUTHORITY

The authority for this decision is contained in Section 1333(a) of the Wild Free-Roaming Horse and Burro Act of 1971 (WFRHBA), Section 302(a) and (b) of the Federal Land Policy and Management Act (FLPMA) of 1976, as amended, and at 43 CFR Part 4700.

Additional Statutes and Regulations Applicable:

- National Historic Preservation Act of 1966 as amended (16 USC 470)
- Archaeological Resources Protection Act of 1979
- Endangered Species Act of 1973
- Public Rangelands Improvement Act (PRIA) of 1978

RATIONALE

The BLM is required to manage multiple uses in a manner that avoids degradation of resources and does not impact public health and safety. The current population of wild Burros in the Clark Mountain Herd Area exceeds the number that can be sustained, as evidenced by dried up water sources and movement of burros to areas outside the HA, and by the public health and safety concerns along public highways.

The Wild Free-Roaming Horse and Burro Act requires that excess wild burros be removed from public lands in order to preserve and maintain a thriving natural ecological balance and multiple use relationship in that area.

In addition, the proposed action is a feature of the preferred alternative analyzed in DOI-CA-690-EA-04-27 and authorized by a 2007 Decision Record. The geographic and resource conditions for the current project are the same as those analyzed in the EA. Method and locations are both analyzed in the EA (see pages 1-2, 5-10 and Appendix A Maps).

APPEAL PROCEDURES

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in Title 43 Code of Federal Regulations (CFR) Part 4 and the enclosed Form 1482-1. If an appeal is taken, a notice of appeal must be filed in the Needles Field Office, Bureau of Land Management, U.S. Department of the Interior, 1303 South U.S. Highway 95, Needles, California 92363, within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

Pursuant to this decision shall remain effective pending appeal unless the Secretary of the Interior rules otherwise. If the appellant wishes to file a petition pursuant to regulation for a stay of the effectiveness of this decision during the time that the appeal is being reviewed by the Board, the petition for a stay must accompany the 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 a stay is requested, the appellant has 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.

Mike W. Ahrens, Manager
Needles Field Office

Date