

EXHIBIT 1



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July 5, 2016

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VIA EMAIL

Reviewing Officer
UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
WASHINGTON OFFICE
1400 Independence Avenue, SW
Washington, D.C. 20250
Email: appeals-chief@fs.fed.us

**Re: *Land Management Plan for the Apache-Sitgreaves National Forests
Appeal No. 16-13-00-0007¹***

Dear Reviewing Officer:

This letter concerns Appeal No. 16-13-00-0007 regarding the Record of Decision and Final Environmental Impact Statement (“FEIS”) for the Land Management Plan (“Plan”) for the Apache-Sitgreaves National Forests (“Appeal”), which I filed on behalf of the International Society for the Protection of Mustangs and Burros and TerraWind Ranch Eco-Action Group (collectively, “Appellants”).

Based on the United States Forest Service’s commitment to make mutually agreed upon changes to the Plan and FEIS (as outlined in the attached document), as well as to work collaboratively with Appellants to meet our mutual goal of managing a sustainable herd in the Heber Wild Horse Territory in accordance with the Wild Free-Roaming Horses and Burros Act, Appellants hereby withdraw their Appeal.

Very truly yours,

A handwritten signature in black ink that reads "Anthony W. Merrill".

Anthony W. Merrill

¹ At times, Appeal No. 16-13-00-007 has been referred to as Appeal No. 16-13-007 in correspondence between the USFS and Appellants.



Reviewing Officer
UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
WASHINGTON OFFICE
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cc (*via email*):

Calvin N. Joyner, Regional Forester, United States Forest Service, Southwestern
Regional Office – cjoyner@fs.fed.us

Roxanne Turley, Acting Regional Administrative Review Coordinator, United States
Forest Service, Southwestern Regional Office – raturley@fs.fed.us

Apache-Sitgreaves National Forests Plan
ISPMBfTerraWind Appeal Resolution
Appeal #16-13-00-0007
June 30, 2016

ISSUE 1: THE LAND MANAGEMENT PLAN FAILS TO RECOGNIZE THE HISTORIC AND CONTEMPORARY PRESENCE OF THE WILD HORSES.

Resolution

- Glossary definitions for "Wild free-roaming horses and burros," "Wild horse and burro territory," and "Stray animal" will be replaced by definitions taken directly from federal statute, federal regulations, and/or Arizona state statute.
- Plan language in Wild Horse Territory section of the Land Management Plan will be replaced as described below.

Document Changes

1.1 a. Replace glossary definition for "Wild horse (wild free-roaming horse)," FLMP, p. 170 and FEIS, v. 2, p. 546, with:

"Wild free-roaming horses and burros-

- " ... all unbranded and unclaimed horses and burros on public lands of the United States." (16 USC 1332(b)).
- "*Wild free-roaming horses and burros mean all unbranded and unclaimed horses and burros and their progeny that have used lands of the National Forest System on or after December 15, 1971, or do hereafter use these lands as all or part of their habitat, but does not include any horse or burro introduced onto the National Forest System on or after December 15, 1971, by accident, negligence, or willful disregard of private ownership. Unbranded, claimed horses and burros for which the claim is found to be erroneous, are also considered as wild and free-roaming if they meet the criteria above.*" (36 CFR 222.60(b)(13))
- "*Horses and burros not within the definition in § 222.20(b)(13) [recodified as 36 CFR § 222.60(b)(13)] which are introduced onto Wild Horse and Burro Territories or ranges after December 15, 1971, by accident, negligence, or willful disregard of private ownership, and which do not become intermingled with wild free-roaming horses or burros shall be considered as unauthorized livestock and treated in accordance with provisions in 36 CFR 261.7 and 262.10.*" (36 CFR 222.63) [administrative change to the plan; erratum to the FEIS]

1.1 b. Add a glossary definition for "Wild horse and burro territory", FLMP p. 170, and FEIS, v. 2, p. 546, after the definition of "Wild free-roaming horses and burros":

Wild Horse and Burro Territory -- *Lands of the National Forest System which are identified by the Chief, Forest Service, as lands which were territorial habitat of wild free-roaming horses and/or burros at the time of the passage of the Act.*" (36 CFR 222.60(b)(15)) [administrative change to the plan; erratum to the FEIS]

1.1c. Replace glossary definition for "stray equine" with definition for "Stray animal," FLMP p. 167 and add to FEIS, v.2 p. 544, before the definition of "Structure":

Stray animal-

- *Livestock, bison or ratites whose owner is unknown or cannot be located, or any such*

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animal whose owner is known but permits the animal to roam at large on the streets, alleys, roads, range or premises of another without permission". (Arizona Revised Statute: Title 3, Chapter 11, Article 7, 3-1401)

- *Stray horses and burros are animals that do not meet the definition of a wild free-roaming horse in accordance with 36 CFR 222.60(b)(13). [administrative change to the plan; erratum to the FEIS]*

1.2. Replace the entire section Background for Wild Horse Territory, (FLMP, p. 118) with:

"This management area contains most of the Heber Wild Horse Territory, approximately 19,700 acres on the Black Mesa Ranger District. The territory was established in 1973 pursuant to the Wild Free-Roaming Horse and Burro Act of 1971 as amended with the purpose of providing use by and for the protection of wild horses. The Heber Wild Horse Territory is considered a special area by the Forest Service. The Forest Service entered into a Stipulation Agreement filed on March 2, 2007, agreeing that wild horses are by law an integral part and component of the natural system of the public lands, as expressed by Congress. Under the Stipulation Agreement, the Forest Service agreed to "refrain from any gathering or removing of horses within the Heber Wild Horse Territory, as well as, on the Black Mesa and Lakeside Ranger Districts (which are considered the Sitgreaves National Forest) until the Forest Service completes, with public involvement, an analysis and appropriate environmental document pursuant to NEPA and develops a written Heber Wild Horse Territory Management Strategy." [administrative change]

1.3. Replace the "Management Approaches for Wild Horse Territory" section (FLMP, pp. 118- 119) with the following:

"The Forest Service will administer wild horses in the Heber Wild Horse Territory in accordance with applicable laws and regulations, including but not limited to 36 CFR Part 222, Subpart D. The Forest Service will work with the public to develop a Heber Wild Horse Territory Management Plan to direct specific management actions for the Heber Wild Horse Territory. Based on site-specific analysis, the management plan will determine an appropriate management level. As directed in the regulations at 36 CFR 222. 61(a)(1), the goal is to maintain a thriving ecological balance within the territory. Management actions may be needed both inside and outside of the territory to meet desired conditions." [administrative change]

ISSUE 2: THE USFS VIOLATES THE WILD FREE-ROAMING HORSES AND BURROS ACT OF 1971, A FEDERAL COURT ORDER, AND THE NATIONAL ENVIRONMENTAL POLICY ACT BY IGNORING ITS OBLIGATIONS UNDER EACH.

Resolution

This issue is resolved by the same changes as Issue 1.

Document Changes

Same as Issue 1 above.

ISSUE 3: THE USFS'S CHARACTERIZATION OF THE WILD HORSES AS "FERAL" AND "INVASIVE" IS UNFOUNDED AND IGNORES EVIDENCE CONTRARY TO THOSE LABELS.

Resolution

- Glossary definitions of "Feral equine" (Plan) and "Feral horse" (Final EIS) will be replaced by definitions taken from federal regulations, as described below.
- Language characterizing the horses as feral and/or invasive will be removed from the Plan and Final EIS, as described below.

Document Changes

3.1 Change definition of "Feral equine" in FLMP glossary, p. 155, to the following:

"Feral animal- " ... animals, including horses, burros, cattle, swine, sheep, goats, reindeer, dogs, and cats, without ownership that have reverted to the wild from a domestic state ... " (50 CFR 30.11). Feral horses and burros are animals that do not meet the definition of a wild free-roaming horse in accordance with 36 CFR 222.60(b)(13)." [administrative change]

3.2 Replace definition for "Feral horse" in FEIS (p. 531) with the above definition for "Feral animal" [erratum]

3.3 Delete paragraph 2, page 65, under Invasive Species, FLMP as follows:

~~"In addition, feral and/or stray equine (e.g., horses) have become established on the forests. These unauthorized animals are impacting ecological conditions as well as management opportunities. Locations include areas within the Black River drainage, west of Big Lake, and along and north of FR300."~~ [administrative change]

3.4 Delete paragraph 3, v. 1, page 336, of the FEIS as follows:

~~"Feral horses have become established in several locations within the forests. Herds (small groups) of these animals can be found along the western forest boundary on the Apache portion (within the Black River drainage on Alpine and Springerville Ranger Districts, areas west of Big Lake on the Springerville Ranger District, and upper Eagle Creek on the Clifton Ranger District) and along the southern forest boundary on the Sitgreaves portion (along and north of Forest Road 300 on the Black Mesa and Lakeside Ranger Districts). A feral horse is defined as a free roaming horse having escaped from domestication. Feral horses are escaped domestic horses, or their descendants (branded or unbranded), that strayed, escaped, or were deliberately released onto National Forest System lands and continue to survive and reproduce on the forests in the wild. Feral horses are animals that do not meet the definition of a wild free roaming horse and are considered unauthorized livestock. These unauthorized animals are negatively impacting ecological conditions as well as management opportunities were they occur. Feral horses have few natural predators."~~ [erratum]

3.5a. Revise FEIS "Response" at v. 2, p. 692:

"The definition for feral animal was added to the plan. See definitions for feral animal, unauthorized livestock, and wild free-roaming horses and burros in the plan's glossary." [erratum]

3.5b. Revise FEIS "Response" at p. 693 (delete final sentence):

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"The wild horse territory remains as one of the 12 management areas identified in chapter 3 of the plan. The Heber Wild Horse Territory management plan (in progress) will identify the appropriate management level (number of wild horses) for this area. ~~If this number is zero, the plan could be amended in the future to remove the territory.~~" [erratum]

3.6. Add to the FEIS Chapter 3 Introduction (add below two sentences to the end of the first paragraph on page 49):

"Specialist reports are one of a host of factors considered in the decision-making process. The final decision is based on information derived from a number of sources and may not fully reflect statements made in the specialist reports." [erratum]

ISSUE 4: THE USFS FAILS TO CONSIDER - LET ALONE ANALYZE - HOW THE LAND MANAGEMENT PLAN WILL IMPACT THE WILD HORSES AND THE TERRITORY.

Resolution

4.1 The Forests will defer any site-specific plan amendments to change the suitability of the HWHT for one or more uses until site-specific NEPA analysis for the Heber Wild Horse Territory Management Strategy.

Document Changes

4.2 Add a footnote at the end of paragraph 3, p. 133, in FLMP, after ". . . support that use.":

"As a result of site-specific analysis if plan suitability needs adjustment, it can be accomplished through a plan amendment." [administrative change]

EXHIBIT 2

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9 Attorneys for Plaintiffs

10 UNITED STATES DISTRICT COURT
11 DISTRICT OF ARIZONA

12 IN DEFENSE OF ANIMALS, a non-profit
13 organization; the ANIMAL WELFARE
14 INSTITUTE, a non-profit organization; and
15 the INTERNATIONAL SOCIETY FOR THE
16 PROTECTION OF MUSTANGS and
17 BURROS, a non-profit organization;
18 PATRICIA HAIGHT, an individual;
19 RICHARD POTTS, an individual,

20 Plaintiffs,

21 vs.

22 UNITED STATES GOVERNMENT,
23 DEPARTMENT OF AGRICULTURE, ANN
24 M. VENEMAN as acting UNITED STATES,
25 SECRETARY OF AGRICULTURE;
26 UNITED STATES FOREST SERVICE;
27 ELAINE J. ZIEROTH, as the acting UNITED
28 STATES FOREST SUPERVISOR,

Defendants.

Case No. _____

**VERIFIED COMPLAINT
SEEKING A TEMPORARY
RESTRAINING ORDER,
PRELIMINARY INJUNCTION, and
WRIT of MANDAMUS**

(Jury Trial Demanded)

Plaintiffs, In Defense of Animals, a non-profit organization, the Animal Welfare Institute, a non-profit organization, the International Society for the Protection of Mustangs and Burros, a non-profit organization, Dr. Patricia Haight, and Richard Potts (collectively "Plaintiffs), hereby allege as follows:

1 NATURE OF THIS ACTION

2 1. This is an action for declaratory and injunctive relief, as well as seeking
3 redress for violation of several federal statutes.

4 2. This action arises out of the United States Forest Service’s decision to
5 round-up and remove approximately 300 to 400 “feral” or wild horses from the Apache-
6 Sitgreaves National Forests, including a designated protected horse area or sanctuary
7 known as the Heber Wild Horse Territory. The Forest Service has ordered that all horses
8 in its forests be rounded-up because they are allegedly “unauthorized livestock” or
9 “trespass animals.” Thereafter, the horses, per Forest Service order, will be impounded
10 and transported to a livestock auction house near Holbrook, Arizona. Upon information
11 and belief, the majority of these horses will be auctioned and purchased for slaughter and
12 sold for their meat.

13 JURISDICTION AND VENUE

14 3. Jurisdiction is proper in this action pursuant to 28 U.S.C. Section 1331
15 (federal question), 28 U.S.C. Section 1361 (mandamus), the Declaratory Judgment Act
16 (28 U.S.C. Sections 2201, 2202), the Administrative Procedure Act (5 U.S.C. Section
17 701, et seq.)(“APA”), and the National Environmental Policy Act (42 U.S.C. Section
18 4321, et seq.)(“NEPA”).

19 4. Venue is appropriate in this Court pursuant to 28 U.S.C. Sections 1391(b)
20 and (e).

21 5. The amount in controversy exceeds the jurisdictional requirements of this
22 court and is believed to be in excess of \$100,000.00, the estimated minimum cost for the
23 rounding-up and removal of the wild horses, according to U.S. Forest Service records.

24 THE PARTIES

25 6. Plaintiff, In Defense of Animals (“IDA”), is a non-profit organization
26 formed for the purpose of promoting animal welfare and protection, including the
27 protection of wild horses. IDA is incorporated in the state of California and has a local
28 office at 2121 South Mill Avenue, Suite 107C, Tempe, Arizona. The IDA has

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1 approximately 80,000 members worldwide and of that amount, 1600 members residing in
2 the state of Arizona. IDA brings this action on its own behalf and on behalf of all of its
3 members.

4 7. Plaintiff, the Animal Welfare Institute (“AWI”), is a non-profit organization
5 formed for the purpose of promoting animal welfare and protection, including the
6 protection of wild horses. Plaintiff, AWI, is incorporated in the state of Delaware. AWI
7 has approximately 20,000 constituents throughout the United States and of that amount,
8 242 constituents are in Arizona. AWI brings this action on its behalf and on behalf of all
9 of its members.

10 8. Plaintiff, the International Society for the Protection of Mustangs and
11 Burros (“ISPMB”), is a non-profit organization formed for the purpose of promoting
12 animal welfare and protection, including the protection of wild horses. Plaintiff, ISPMB,
13 is the oldest wild horse and burro organization in the U.S. Along with its first president,
14 Wild Horse Annie, ISPMB was instrumental in securing and implementing the 1971
15 Wild Horse and Burro Act, at issue in this litigation. ISPMB was headquartered in
16 Arizona from approximately 1993 until the year 2000 when it re-located its headquarters
17 to Lantry, South Dakota. ISPMB is incorporated in the state of California and is an
18 affected and interested party in the State of Arizona.

19 9. Plaintiff, Patricia Haight, Ph.D., is the Southwest Regional Director for
20 IDA and resides in Phoenix, Arizona. She is a concerned citizen who enjoys viewing
21 these wild horses in their natural habitat.

22 10. Plaintiff, Richard Potts, is also concerned citizen who enjoys viewing the
23 wild horses in their natural habitat and has done so for many years in the area of
24 Heber/Overgaard, Arizona. He is currently a resident of Heber/Overgaard, Arizona.

25 11. Defendant, the U.S. Department of Agriculture, is a branch of the United
26 States government which has been charged with the responsibility of overseeing the
27 protection and management of wild free-roaming horses.
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1 19. The U.S. Forest Service has taken the position that all 300 to 400 of these
2 horses residing in the public lands of the Apache-Sitgreaves National Forest are “stray,
3 domestic horses and are not considered wild.” See United States Department of
4 Agriculture, Forest Service, News Release dated August 31, 2005 entitled “Unauthorized
5 Horses to be Removed from the National Forest,” a copy of which is attached at Exhibit
6 B, and incorporated herein by reference.

7 20. Plaintiffs, IDA, AWI, and ISPMB, have contacted the Defendants U.S.
8 Forest Service and Secretary of Agriculture, and requested that it reconsider its decision
9 to capture and remove these horses. The Defendants have refused. See Letter from
10 Elaine Zieroth dated September 7, 2005, copy attached at Exhibit C and incorporated
11 herein by reference.

12 21. On or about July 19, 2005, the U.S. Forest Service issued a Solicitation for
13 Bid Number AG-8173-S-05-0004, entitled “Trespass Horse Capture and Transport.” A
14 copy of this solicitation is attached hereto at Exhibit D and incorporated herein by
15 reference.

16 22. According to the Solicitation for Bid, the horses are to be captured and
17 transported out of the Apache-Sitgreaves National Forest in Navajo and Coconino
18 Counties, Arizona to an auction house near Holbrook, Arizona.

19 23. Upon information and belief, the estimated cost for removal of these horses
20 is between \$400 and \$800 per horse or \$160,000 to \$320,000 (assuming the estimated
21 number of horses is accurate).

22 24. The Solicitation for Bid provides for a round-up and capture of all horses in
23 the Apache-Sitgreaves Forest including those in the Heber Wild Horse Territory.

24 25. The Solicitation for Bid also provides for a round-up of all mares even
25 those mares with foals.

26 26. Upon information and belief, the majority if not all of these foals were born
27 on public lands, in the national forests and are unbranded and unclaimed. As a result, the
28 foals or any horses born on the public lands, would have the protection of the applicable

1 federal laws such as the Wild Free-Roaming Horses and Burros Act of 1971 and its
2 corresponding regulations.

3 27. Plaintiff IDA issued a Freedom of Information Act 5 U.S.C. Section 552
4 (“FOIA”) request upon the U.S. Forest Service seeking information concerning the
5 decision to capture and remove all horses as trespass horses and unauthorized livestock.
6 Little information was provided in response to the FOIA request. No census was
7 produced nor were any inventories produced suggesting that the U.S. Forest Service has
8 done little over the past few decades to manage or take an accounting of the horses.

9 28. What little information was produced in response to the FOIA request
10 showed that the U.S. Forest Service admitted that it did not “manage” the horses and
11 indicated a desire to be rid of the horses in that area.

12 29. Plaintiffs have asked the U.S. Forest Service to withdraw or delay its
13 Solicitation for Bid and to comply with the applicable federal statutes. Defendants have
14 refused.

15 **COUNT ONE**

16 **(VIOLATION OF WILD HORSES AND BURROS ACT OF 1971)**

17 30. The above paragraphs, numbered 1 through 29, are incorporated herein by
18 reference.

19 31. The preamble and statement of policy for the Wild Free-Roaming Horses
20 and Burros Act of 1971, 16 U.S.C. Section 1331, *et seq.*, states:

21 Congress finds and declares that wild free-roaming horses
22 and burros are living symbols of the historic and pioneer
23 spirit of the West; that they contribute to the diversity of life
24 forms within the Nation and enrich the lives of the American
25 people; and that these horses and burros are fast disappearing
26 from the American scene. It is the policy of Congress that
27 wild free-roaming horses and burros shall be protected from
28 capture, branding, harassment, or death, and to accomplish
this they are to be considered in the area where presently
found, as an integral part of the natural system of the public
lands.

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32. Under the 1971 Act, the Secretary of Agriculture is “directed to protect and manage wild free-roaming horses as components of the public lands...” 16 U.S.C. Section 1333(a).

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33. The term “wild free-roaming horses and burros” is specifically defined under the 1971 Act to mean “all unbranded and unclaimed horses and burros on public lands of the United States.” (Emphasis added.) 16 U.S.C. Section 1333(a).

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34. The 1971 Act also states that the Secretary “shall manage wild free-roaming horses and burros in a manner that is designated to achieve and maintain a thriving natural ecological balance on the public lands.” 16 U.S.C. Section 1333(a). The Secretary “shall consider the recommendations of qualified scientists in the field of biology and ecology, some of whom shall be independent of both Federal and State agencies and may include members of the Advisory Board established in section 1337 of this title.” 16 U.S.C. Section 1333(a).

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35. Section 1337 of the Act “directs” the Secretary of Agriculture “to appoint a joint advisory board of not more than nine members to advise them on any matter relating to wild free-roaming horses and burros and their management and protection.” Upon information and belief, no such advisory board has ever been appointed to assist with the wild horses in the Apache-Sitgreaves National Forests.

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36. The 1971 Act further provides that the Secretary “shall maintain a current inventory of wild free-roaming horses and burros on given areas of the public lands.” Section 1333(b).

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37. The Code of Federal Register (“CFR”) Section 222.23 entitled “Removal of Other Horses and Burros,” defines the conditions for treating certain horses as “unauthorized livestock” which could then be impounded and properly disposed. Section 222.23 provides special protection for horses that do not fall initially within the protection of the 1971 Act, if they are subsequently introduced into a protected territory

1 “by accident, negligence or willful disregard of private ownership” and which become
2 intermingled with wild free-roaming horses.

3 38. Only if these newly introduced horses do not intermingle may they be
4 considered “unauthorized livestock.” Upon information and belief, to the extent there are
5 any domestic horses now living within the wild herds, they have intermingled and under
6 the 1971 Act are entitled to protection as well. Similarly any newly born foals into the
7 wild would be entitled to the protection of the 1971 Act.

8 39. CFR Section 222.25 of the regulations provides protection for the wild free-
9 roaming horses even if they were to move or migrate off of protected territories onto
10 lands of other ownership or jurisdiction.

11 40. Section 1338a of the 1971 Act provides that while the Secretary may use or
12 contract for the use of motor vehicles for the purpose of transporting captured animals,
13 such use can only be undertaken after a public hearing, among other things. Upon
14 information and belief, no public hearing was held prior to the decision to capture and
15 remove these horses and the Solicitation for Bid (which requires the use of motorized
16 vehicles). See Exhibit D (Solicitation for Bid at § C.1.4.(b)).

17 41. The Defendants, including the U.S. Forest Service, have made an
18 uninformed and unilateral decision to remove all horses from the Apache-Sitgreaves
19 National Forests as “strays” or “unauthorized livestock.” This decision is unsupported by
20 the facts and was made with little to no investigation or inventory of the horses. In so
21 doing, the Defendants have violated the Wild Horses and Burros Act of 1971, including
22 but not limited to:

23 (a) making the decision to capture and remove all horses without first
24 conducting an inventory or accounting of the horses to determine their status as wild or
25 domestic trespass, branded versus unbranded;

26 (b) making the assumption, without reliable data or investigation to
27 support it, such as input from scientists and biologists, that none of the horses in the
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1 Apache-Sitgreaves National Forests and surrounding area are wild free-roaming horses or
2 offspring of those horses;

3 (c) failing to appoint or consult a joint advisory board concerning this
4 decision to remove all horses;

5 (d) attempting to remove wild free-roaming horses from the Heber Wild
6 Horse Territory and the Apache-Sitgreaves Forests, including the removal of foals who
7 have been born there;

8 (e) failing to manage the wild horses in the area;

9 (f) failing to conduct an inventory or census of the number, types, age,
10 and condition of the wild free-roaming horses in the Apache-Sitgreaves Forests including
11 the Heber Wild Horse Territory;

12 (g) failing to hold a public hearing for comment on the decision to use
13 motor vehicles in the capture and transport of these horses;

14 (h) failing to make an effort to segregate any wild horses from domestic
15 horses before ordering removal of all horses from the Apache-Sitgreaves National Forests
16 including the Heber Wild Horse Territory.

17 **COUNT TWO**
18 **(VIOLATION OF NEPA)**

19 42. The above paragraphs, numbered 1 through 41, are incorporated herein by
20 reference.

21 43. The U.S. Forest Service and Department of Agriculture must comply with
22 the National Environmental Policy Act of 1969, 42 U.S.C. Section 4321, *et seq.*
23 (“NEPA”) before taking any “major federal action.”

24 44. Specifically, Section 4332 of NEPA provides in pertinent part:

25 (2) [A]ll agencies of the Federal Government shall ***

26 (C) include in every recommendation or report on proposals for
27 legislation and other major Federal actions significantly
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1 affecting the quality of the human environment, a detailed
2 statement by the responsible official on –

- 3 (i) the environmental impact of the proposed action,
4 (ii) any adverse environmental effects which cannot be
5 avoided should the proposal be implemented,
6 (iii) alternatives to the proposed action,
7 (iv) the relationship between local short-term uses of man's
8 environment and the maintenance and enhancement of
9 long-term productivity, and
10 (v) any irreversible and irretrievable commitments of
11 resources which would be involved in the proposed
12 action should it be implemented.

13 Prior to making any detailed statement, the responsible
14 Federal official shall consult with and obtain the comments of
15 any Federal agency which has jurisdiction by law or special
16 expertise with respect to any environmental impact involved.
17 Copies of such statement and the comments and views of the
18 appropriate Federal, State, and local agencies, which are
19 authorized to develop and enforce environmental standards,
20 shall be made available to the President, the Council on
21 Environmental Quality and to the public as provided by
22 section 552 of Title 5, and shall accompany the proposal
23 through the existing agency review processes.

24 45. The order or decision to capture and remove all 300 to 400 horses from the
25 Apache-Sitgreaves National Forests constitutes a “major federal action” under NEPA.

26 46. As such, NEPA requires that an environmental assessment or impact study
27 be conducted as well as a census to determine the precise nature and number of horses are
28 residing in Apache-Sitgreaves Forests including the Heber Wild Horse Territory.

47. The Defendants must comply with the National Environmental Policy Act
of 1969, 42 U.S.C. Section 4321, *et seq.* (“NEPA”) before taking any major federal
action. The removal of all horses from the Apache-Sitgreaves National Forest is a major
federal action.

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- (1) Preparing an Environmental Impact Statement to determine the impact of the proposed removal on the human and natural environment;
- (2) Determining the number of wild horses located in the Apache-Sitgreaves National Forest including means such as observation for branding or domestic markings, use of genetic testing and/or other means or study;
- (3) Determining the number of branded horses in the Apache-Sitgreaves National Forest that now may qualify for protection under the Wild Horses and Burros Act through intermingling under 36 CFR Section 222.23; and
- (4) Providing the public with notice of any proposed action with regard to horses within the Apache-Sitgreaves National Forest and allowing for public comment on that proposed action and then take into consideration those comments prior to any future action.

Absent the requested relief, Plaintiffs will suffer immediate and irreparable injury.

Furthermore, pursuant to 28 U.S.C. § 1361, Plaintiffs seek a writ of mandamus compelling Defendants to comply with the requirements of the Wild Horse Act in protecting and managing horses within the Apache-Sitgreaves National Forests, including:

- (A) Conducting an inventory or accounting of the horses located within the Apache-Sitgreaves National Forest to determine their status as wild or domestic trespass, branded versus unbranded. See 16 U.S.C. § 1333(b);
- (B) Presenting reliable data or investigative reports to support the assertion, if supportable, that horses in the Apache-Sitgreaves National Forests and surrounding area are “unauthorized livestock,” as opposed to protected “wild free-roaming horses” or offspring of those horses Id.;

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- (C) Protecting any and all wild free-roaming horses in the Apache-Sitgreaves National Forests, including but not limited to foals born there and/or branded horses that have intermingled with the wild horses from capture, branding, harassment and death. See 16 U.S.C. 1331;
- (D) Managing the wild horses in the Apache-Sitgreaves National Forests and surrounding public lands. See 16 U.S.C. § 1333;
- (E) Conducting an inventory or census of the number, types, age, and condition of the wild free-roaming horses in the Apache-Sitgreaves National Forests and surrounding public lands. See 16 U.S.C. § 1338(a);
- (F) Conducting a scientific and independent study to determine the interaction with and relationship of the horses to other wildlife and foliage in the Apache-Sitgreaves National Forests.

For such other relief as the Court deems just and proper.

JURY TRIAL DEMAND

Plaintiffs hereby demand a trial by jury .

DATED this 9th day of September, 2005.

BRYAN CAVE LLP

By Debra Sirower
Debra A. Sirower
Two North Central Avenue, Suite 2200
Phoenix, AZ 85004-4406
Attorneys for Plaintiffs

521060/P006716

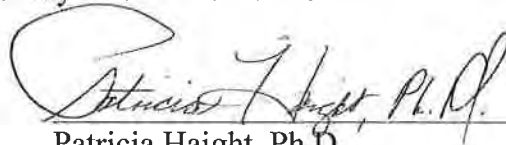
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LAW FIRM
TWO NORTH CENTRAL AVENUE, SUITE 2200
PHOENIX, ARIZONA 85004-4406
(602) 364-7000

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VERIFICATION


STATE OF ARIZONA)
) ss.
County of Maricopa)

PATRICIA HAIGHT, being first duly sworn upon her oath, deposes and says that
I am the Southwest Regional Director of the organization known as, In Defense of
Animals. In such capacity, I am authorized to make this verification for and on behalf of
plaintiffs. I have read the foregoing Verified Complaint and know the contents thereof to
be true and correct to the best of my information and belief.



Patricia Haight, Ph.D.

Subscribed and sworn to before me this 9th day of September, 2005.



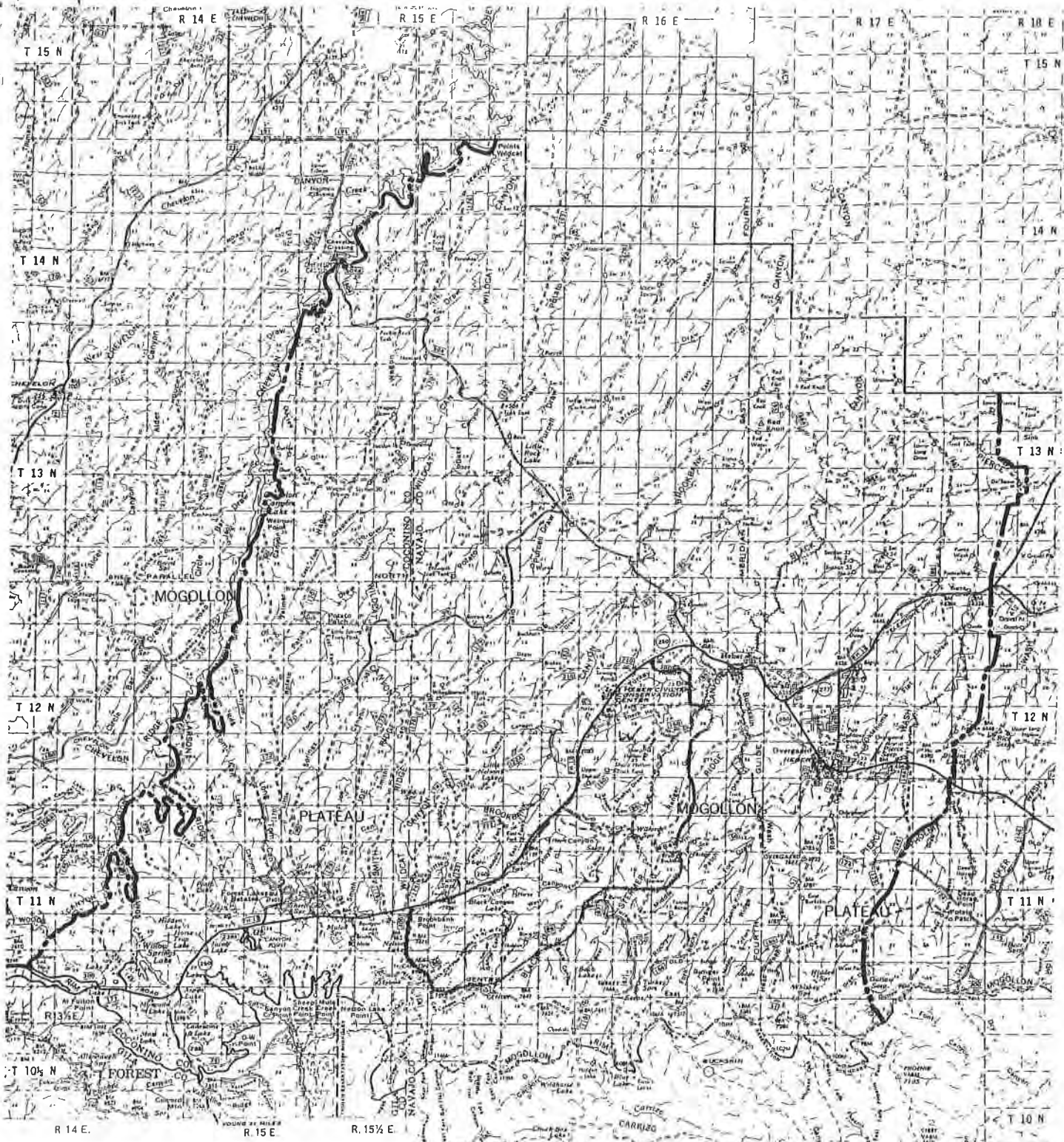
Notary Public

My Commission expires:

May 6, 2008



Exhibit A



**HEBER RANGER DISTRICT
SITGREAVES NATIONAL FOREST**

ARIZONA
1972

Scale
1 1/2 0 1 2 3 4 5 Miles

LEGEND

- Ranger District Boundary
- National Forest Land

TERRITORIAL HABITAT LIMITS

Wild Horses - December 1971

FORT

Boundary

Winter

Summer



Exhibit B

NEWS RELEASE



USDA FOREST SERVICE Apache-Sitgreaves National Forests

*P.O. Box 640
Springerville, AZ 85938
928-333-4301
TTY 928-333-6292*

For Immediate Release
August 31, 2005

Contact: Bob Dyson
928-333-6263

UNAUTHORIZED HORSES TO BE REMOVED FROM THE NATIONAL FOREST

Springerville, AZ (August 30, 2005)... The Apache-Sitgreaves National Forests in the next month will be removing some of the approximately 300 horses that are currently grazing a portion of the Rodeo/Chediski burned area near Heber. The horses come from adjacent lands and attempts to locate their owners have met with only limited success.

Significant numbers of stray, domestic horses were in the area before the Rodeo-Chediski Fire in 2002 but even more horses came onto the National Forests after the Forest Service had seeded the burned area. The fire destroyed boundary fencing allowing unobstructed movement of horses from adjacent lands. Some horses have been removed by their owners in the past three years but the numbers are steadily increasing. "We have tried to locate the owners of these horses and we have posted impoundment notices throughout adjacent communities in an attempt to have the owners remove these horses but people have not responded," said Elaine Zieroth, Forest Supervisor. "If the owners do not come forward, we plan to have a contractor gather the horses as humanely as possible and then we will post notices one final time to try to locate the owners. We will work with the State of Arizona Brand Inspector to locate owners of branded animals but, if we do not locate the owners, the horses will be taken to a sale barn for public auction," she said.

The horses are stray, domestic horses and are not considered wild. Forest Service regulations for handling such animals does not allow for adoption. The agency uses a Cooperative Agreement with the Arizona Livestock Sanitary Board to auction unclaimed animals. Sale receipts from the auction would be used to defray expenses incurred by the agencies in the impoundment process. A contract to gather the horses has been advertised but not yet awarded.

END

Exhibit C



APACHE-SITGREAVES NATIONAL FORESTS

**P.O. BOX 640
SPRINGVILLE, AZ 85938
(928) 333-4301
FAX (928) 333-5966**

DATE: September 7, 2005

TO: Debra Sinner

FROM: Waine Zieroth

SUBJECT: Response to correspondence

Number of Pages (including cover sheet): 3

Comments: _____

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United States
Department of
Agriculture

Apache-Sitgreaves
National Forests

P.O. Box 640
Springerville, AZ 85938-0640
(928) 333-4301 FAX: 333-5966
TTY: (928) 333-6292

File Code: 5330-4

Date: September 7, 2005

Ms. Debra Sirower
Bryan Cave LLP
One Renaissance Square
Two North Central Ave., Suite 2200
Phoenix, AZ 85004-4406

Dear Ms. Sirower:

This letter is in response to your letters of August 26 and 31, and September 2, 2005, concerning the proposed gathering of stray livestock on the Apache-Sitgreaves National Forest. Specifically you were inquiring about the approximately 300 horses that have strayed from the Fort Apache Reservation onto National Forest System lands in the area from Pinetop to Heber, Arizona. You also cited two Freedom of Information requests in your letters and those will be formally processed through our FOIA Officer.

We are confident that the horses involved in this action strayed onto the forest after the Rodeo-Chediski Fire in 2002. The fences between the reservation and the national forest were burned by the fire and were ineffective in stopping the movement of livestock. According to our Bureau of Indian Affairs and Tribal contacts, the BIA rounded up several hundred of the horses that graze freely on reservation land, to prevent damage to the areas being reclaimed following the fire. During their round-up, they indicated that hundreds of horses likely were pushed onto the national forest. The BIA then rebuilt the fences, trapping the horses on the forest.

We have very clear direction under 36 CFR 262.10 and our policy Handbook for Law Enforcement, FSH 5309.11 on impoundment procedures for stray livestock. Impoundment of stray livestock is a law enforcement activity and under 7 CFR 1b.3, the Secretary has excluded from documentation (EA or EIS) certain categories of actions, including law enforcement activities. Therefore, we are not required to complete an environmental document for this action.

I have provided Dr. Haight with a copy of our impoundment policies. We have notified the White Mountain Apache Tribal Chairman and Tribal Attorney of a Notice of Impoundment Action and given tribal members more than 30 days to come gather their horses. No horse owners have come forward. As I stated, there are hundreds of horses grazing freely on the reservation so they are not really managed there. The next step is to gather the horses and contact the State Department of Agriculture, under our Cooperative Agreement (C.A.) with the State of Arizona Livestock Sanitary Board. We have received a letter from the State concerning the procedures. The State Brand Inspector inspects the horses for brands and the owners of the brands are contacted and given five days to redeem their animals. The C.A. states: "That unbranded, unmarked or branded unknown ownership horses, mules, asses, cattle, sheep or goats impounded by the agencies on Public Lands will be turned over to the Board for disposal...".

As you are aware, we have advertised for a contractor to gather the horses. We have a FOIA request from Dr. Haight, asking for the contractor's name once the contract is awarded. You



Caring for the Land and Serving People

Printed on Recycled Paper



have also asked under FOIA how the award of the bid was extended. We will formally respond to the FOIA, but let me explain that the contract itself was not extended, but our time limit for obligating Fiscal Year 2005 funds under contracts was verbally extended to September 10, 2005. With the impacts from Hurricane Katrina in New Orleans, we are not certain whether our National Finance Center there will be able to find alternative locations for processing our financial instruments. We are trying to award the bid this week, but do not know if we will be successful. I will inform you if we do award the bid.

We do not classify these stray horses as "wild and free-roaming horses", nor do they have any connection to the Heber Horse Territory of record. The 1974 report on the Heber Territory lists 7 horses within the territory. The "Ninth Report to Congress on the Administration of the Wild Free-Roaming Horse and Burro Act" (following the 1990-91 censuses) lists 5 horses. The 1991 report FS-2200-E also notes: "Approximately 5 feral horses wander along the Mogollon Rim back and forth from the White River Apache Reservation. The Indians do not manage the horses, neither does the Forest Service. Natural Attrition will eliminate the horses eventually". The 2200-E report goes on to state, under program needs: "Elimination of incidental feral horses and burros from formal management consideration to reduce impacts on management resources, personnel and time. The A/S "herd" should not be recognized at all." The 1993 letter from the Heber District Ranger lists 2 mares in the territory. We always have a certain number of stray horses from the reservation, and these are no doubt the horses that some of your contacts see in the area.

If you would like to send me any of the materials you mentioned, I would welcome seeing them. I would also be available for a meeting in my office if you wish. I do not have any plans to be in Phoenix, however, this month. Please contact me if you would be available to meet.

Sincerely,



ELAINE J. ZIEROTH
Forest Supervisor

cc:

Ralph Giffen, WO Range
Gene Onken, RO
Deb Bumpus, A-S Range Staff
Ed Collins, Lakeside District Ranger
Kate Klein, Black Mesa District Ranger

Exhibit D



Y -- Trespass Horse Gathering and Transport

- [Solicitation 01](#) - Posted on Jul 19, 2005
- [Modification 01](#) - Posted on Jul 19, 2005
- [Amendment 01](#) - Posted on Jul 28, 2005

General Information

Document Type: Presolicitation Notice
Solicitation Number: AG-8173-S-05-0004
Posted Date: Jul 01, 2005
Archive Date: Aug 26, 2005
Original Response Date: Jul 26, 2005
Current Response Date: Aug 11, 2005
Classification Code: Y -- Construction of structures and facilities
SetAsides: Total Small Business
Naics Code: 115210 -- Support Activities for Animal Production

Contracting Office Address

Department of Agriculture, Forest Service, R-3 Southwestern Region/Apache_Sitgreaves, P.O. Box 640 309 South Mountain Ave, Springerville, AZ, 85938

Description

The USDA Forest Service, Apache—Sitgreaves National Forests, Springerville, Arizona, has a requirement for Trespass Horse Gathering and Transport, on the Lakeside Ranger District, Lakeside, AZ; and Black Mesa Ranger District, Overgaard, AZ.. The Government anticipates awarding a Firm Fixed-Price contract for horse gathering and transport services. This is a 100% Small Business Set-Aside. The Small Business size standard is \$6.0 Million under NAICS code 115210. The Request For Quotations (RFQ) package will be made available on, before, or after July 7, 2005, and will be posted at <http://www.fedbizopps.gov>. In order to be eligible for award of a Federal contract, Contractors must now be registered in the Central Contractor Registration System (CCR), <http://www.ccr.gov/handbook.cfm>. No Telephone requests for RFQ packages will be accepted. You may request printed copy of the solicitation package by Fax to: (928) 333-5966 (or 6362). The Deadline for receipt of responses to the RFQ shall be July 26, 2005, 4:00 p.m. Arizona Time.

Point of Contact

Margaret Cisco, Purchasing Agent, Phone (928)333-6345, Fax (928)333-6362, Email mcisco@fs.fed.us - Warren Abbott, Contracting Officer, Phone 928-333-4301, Fax 928-333-6362, Email wabbott@fs.fed.us

Place of Performance

Address: Navajo County, Arizona

Postal Code: null

Country: null

Government-wide Numbered Notes

USDA-Specific Numbered Notes

You may return to Business Opportunities at:

- USDA Forest Service listed by [[Posted Date](#) | [Classification Code](#)]
- USDA Agencywide listed by [[Posted Date](#) | [Classification Code](#)]

[\[Home\]](#) [\[SEARCH synopses\]](#) [\[Procurement Reference Library\]](#)

REQUEST FOR QUOTATION (THIS IS NOT AN ORDER)		THIS RFQ <input checked="" type="checkbox"/> IS <input type="checkbox"/> IS NOT A SMALL BUSINESS SET- ASIDE		PAGE OF PAGES 1
1. REQUEST NO.	2. DATE ISSUED July 19, 2005 Revised July 28, 2005	3. REQUISITION/PURCHASE REQUEST NO. AG-8173-S-05-0004 RFQ R3-01-05-26	4. CERT. FOR NAT.DEF. UNDER BDSA REG. 2 <input type="checkbox"/> AND/OR DMS REG. 1	RATING

5a. ISSUED BY
USDA FOREST SERVICE
APACHE-SITGREAVES NATIONAL FORESTS CONTRACTING OFFICE
P.O. BOX 640
SPRINGERVILLE, ARIZONA, 85938

6. DELIVER BY (Date)

5b. FOR INFORMATION CALL (NO COLLECT CALLS)
 NAME
WARREN ABBOTT

TELEPHONE NUMBER	7. DELIVERY <input checked="" type="checkbox"/> FOB DESTINATION
AREA CODE 928	<input type="checkbox"/> OTHER (See Schedule)
NUMBER 333-4301	9. DESTINATION
	a. NAME OF CONSIGNEE

8. TO:

a. NAME **ALL OFFERORS**

b. COMPANY

b. STREET ADDRESS

c. STREET ADDRESS

c. CITY

d. CITY

e. STATE

f. ZIP CODE

d. STATE

e. ZIP CODE

10. PLEASE FURNISH QUOTATIONS TO THE ISSUING OFFICE IN BLOCK 5A ON OR BEFORE CLOSE OF BUSINESS

IMPORTANT: This is a request for information, and quotations furnished are not offers. If you are unable to quote, please so indicate on this form and return it to the address in BLOCK 5A. This request does not commit the Government to pay any costs incurred in the preparation of the submission of this quotation or to contract for supplies or services. Supplies are of domestic origin unless otherwise indicated by quoter. Any representations and/or certifications attached to this Request for Quotations must be completed by the quoter.

11. SCHEDULE (Include applicable Federal, State and local taxes)

ITEM #	SUPPLIES/SERVICES	QTY	UNIT	UNIT PRICE	AMOUNT
	TRESPASS HORSE CAPTURE AND TRANSPORT:				
12. DISCOUNT FOR PROMPT PAYMENT <input type="checkbox"/>	a. 10 CALENDAR DAYS (%)	b. 20 CALENDAR DAYS	c. 30 CALENDAR DAYS	d. CALENDAR DAYS	
				NUMBER	PERCENTAGE
				R	

NOTE: Additional provisions and representations are are not attached.

13. NAME AND ADDRESS OF QUOTER		14. SIGNATURE OF PERSON AUTHORIZED TO SIGN QUOTATION		15. DATE OF QUOTATION
a. NAME OF QUOTER				
b. STREET ADDRESS		16. SIGNER		b. TELEPHONE
c. COUNTY		a. NAME (Type or print)		AREA CODE
d. CITY	e. STATE	f. ZIP CODE	c. TITLE (Type or Print)	NUMBER

PART I—THE SCHEDULE

SECTION B--SUPPLIES OR SERVICES AND PRICES/COSTS

**APACHE-SITGREAVES NATIONAL FORESTS
 LAKESIDE AND BLACK MESA RANGER DISTRICTS**

FOB DESTINATION PRICING ONLY

Base Line Items	Description of Services or Work	Unit of Measure	Est. Qty.	Unit Price	Price
B.1.1.	Capture and transport of approximately 120 trespass horses from the Apache-Sitgreaves National Forest in Navajo and Coconino County, Arizona. Costs to include capture, holding, feeding, maintenance and transport of the trespass horses as described in the specifications.	Horse	120	\$ _____	\$ _____
				Total Price	\$ _____

Optional Line Items	Description of Services or Work	Unit of Measure	Est. Qty.	Unit Price	Price
O.2.1.	Capture and transport of approximately 80 trespass horses from the Apache-Sitgreaves National Forests in Navajo and Coconino County, Arizona. Costs to include capture, holding, feeding, maintenance and transport of the trespass horses as described in the specifications.	Horse	80	\$ _____	\$ _____
O.3.1	Capture and transport of approximately 80 trespass horses from the Apache-Sitgreaves National Forests in Navajo and Coconino County, Arizona. Costs to include capture, holding, feeding, maintenance and transport of the trespass horses as described in the specifications.	Horse	80	\$ _____	\$ _____
O.4.1.	Capture and transport of approximately 80 trespass horses from the Apache-Sitgreaves National Forests in Navajo and Coconino County, Arizona. Costs to include capture, holding, feeding, maintenance and transport of the trespass horses as described in the specifications.	Horse	80	\$ _____	\$ _____
O.5.1.	Capture and transport of approximately 80 trespass horses from the Apache-Sitgreaves National Forests in Navajo and Coconino County, Arizona. Costs to include capture, holding, feeding, maintenance and transport of the trespass horses as described in the specifications.	Horse	80	\$ _____	\$ _____

PERFORMANCE WORK STATEMENT (PWS)

C.1.1. GENERAL

Contractor shall furnish all transportation, lodging, labor, supervision, tools, materials, supplies, and equipment necessary to accomplish the work. The work consists of the capture of trespass horses from the Apache-Sitgreaves National Forests, Lakeside and Black Mesa Ranger Districts in Navajo and Coconino Counties, Arizona. The work also includes the care and transportation of the animals to a Sun Valley Livestock Auction near Holbrook, AZ, within two hours of the gather site. Holding facilities will be provided by the Contractor at sites approved by Forest personnel. This contract is unique in the fact that the Contractor must not only supply the Forest Service (FS) with a service, gathering and shipping horses, but in doing so must place the health and well being of the animal as well as their personal safety, as their first priorities. The work shall be accomplished in a safe and humane manner and be in accordance with appropriate Arizona State Laws and the following specifications and provisions.

Copies of laws or regulations referenced herein may be obtained from the following FS offices:

Apache-Sitgreaves National Forests
Lakeside Ranger District
2022 West White Mountain Boulevard
Lakeside, AZ 85929
928-368-5111

Apache Sitgreaves National Forest
Black Mesa Ranger District
P.O. Box 968
Overgaard, AZ 85933
928535-4481

Apache-Sitgreaves National Forests
Supervisor's Office
P.O. Box 640
Springerville, AZ 85938
928-333-4301

Arizona Department of Agriculture
1688 West Adams
Phoenix, AZ 85007
www.azleg.state.az.us

C.1.2. SCOPE OF CONTRACT

The work consists of:

a. The humane capture of trespass horses from the Lakeside and Black Mesa Ranger Districts of the Apache-Sitgreaves National Forests, which will include the transport of captured horses to Sun Valley Livestock Auction. The contractor shall furnish all labor, equipment, supplies and incidentals necessary to accomplish the work. The method of gathering will be proposed by the contractor, however helicopters shall not be considered for use in conjunction with performance of the work of this contract.

b. Gather activities may be temporarily suspended due to adverse weather conditions, fire season or other critical activities, at the discretion of the COR.

c. Contractor will initiate work within 10 days from the date the purchase order is issued. Gather activities will be completed **within six (6) months**. Extensions may be granted if the contractor is showing significant progress on the work order, or if weather prohibits gather activities.

d. Payment will be made at the unit price shown on the contract for the number of animals captured in accordance with all specifications, terms, and conditions contained herein. The unit price proposed shall incorporate all work associated with the performance of the work statement contained herein and any other activities required for successful performance of the contract. Captured animals shall be delivered live, and in good condition to the Sun Valley Auction sale barn. Some authorized captured animals will be designated for release by the Contracting Officer's Representative (COR), for which these captures will be accrued to the count of units eligible for payment. Payment shall not be made for capturing any animals which were previously captured and released or captured and escape, and injured or destroyed during capture. Payment shall not be made for any captured animals that die due to fault or negligence on the part of the Contractor or their employees.

e. Payment will be made for foals above the age of 6 months at the Unit Price. Foals under the age of 6 months and not weaned, shall be considered as belonging with the mare, and not counted as a separate "unit".

C.1.3. TRAPPING AND CARE

All traps, wings, and holding facilities shall 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 shall be located in sites approved by the COR.

Traps and holding facilities shall be constructed of portable panels, the top of which shall not be less than 6 feet high for horses and the bottom rail of which shall not be more than 1 foot from ground level.

All crowding pens including the gates leading to any runways may be required, at the discretion of the COR, to be covered with a material which prevents the animals from seeing out (plywood, burlap, plastic snow fence, etc.) and shall be covered from 2 feet above ground to 6 feet for horses. If required 8 linear feet of this material shall be capable of being removed or let down to provide a viewing window.

No fence modification will be made without authorization from the COR. The contractor shall be responsible for restoration of any fence modifications made.

Foals will not be left behind during trapping, transportation or any time. Foals are defined as juveniles less than 6 months of age. A mare with a foal less than 6 months of age will be considered one unit.

The Contractor will separate mares with small foals, sick and injured animals, and strays from the other animals as needed. Segregation will be at the discretion of the COR.

The Contractor shall provide animals held in the traps and/or holding facilities with a supply of fresh clean water at a minimum rate of 10 gallons per animal per day. Animals held for 14 hours or more in the traps or holding facilities shall be provided good quality grass hay at the rate of not less than two pounds of hay per 100 pounds of estimated body weight per day. Any hay or pellets used during the trapping or holding phase shall be certified as weed free.

It is the responsibility of the Contractor to provide security to prevent loss, injury or death of captured animals until delivery to final destination.

The Contractor shall restrain sick or injured animals if treatment is necessary. The COR will determine if injured animals must be destroyed and provide for destruction of such animals. The Contractor may be required to dispose of the carcasses as directed by the COR.

Animals shall be transported to final destination from temporary holding facilities within 24 hours after capture unless prior approval is granted by the COR for unusual circumstances. Animals shall not be held in traps and/or temporary holding facilities on days when there is not work being conducted except as specified by the COR. The Contractor shall schedule shipments of animals to arrive at final destination in coordination with the COR. No shipments shall be scheduled to arrive at final destination on Sunday and Federal holidays, unless prior approval has been obtained by the COR. Animals shall not be allowed to remain standing on trucks while not in transit for a combined period of greater than three (3) hours.

Traps shall be checked a minimum of once every 10 hours when traps are "set" to capture animals.

C.1.4. MOTORIZED EQUIPMENT

a. All motorized equipment employed in the transportation of captured animals shall be in compliance with appropriate State and Federal laws and regulations applicable to the humane transportation of animals.

b. All motorized equipment, tractor-trailers, and stock trailers shall be in good mechanical condition, of adequate rated capacity, and operated so as to ensure that captured animals are transported without undue risk or injury.

c. Only tractor-trailers or stock trailers with a covered top shall be allowed for transporting animals from trap site(s) to temporary holding facilities, and from temporary holding facilities to final destination(s). Sides or stock racks of all trailers used for transporting animals shall be a minimum height of 6 feet 6 inches from the floor. Single deck tractor-trailers 40 feet or longer shall have two (2) partition gates providing three (3) compartments within the trailer to separate animals. Tractor-trailers less than 40 feet shall have at least one partition gate providing two (2) compartments within the trailer to separate the animals. Compartments in all tractor-trailers shall be of equal size plus or minus 10 percent. Each partition shall be a minimum of 6 feet high and shall have a minimum of 5 foot wide swinging gate. The use of double deck tractor-trailers is unacceptable and shall not be approved.

d. All tractor-trailers used to transport animals to final destination(s) shall be equipped with at least one (1) door at the rear end of the trailer which is capable of sliding either horizontally or vertically. The rear door(s) of the tractor trailers and stock trailers must be capable of opening the full width of the trailer. Panels facing the inside of all trailers must be free of sharp edges or holes that could cause injury to the animals. The material facing the inside of all trailers must be strong enough so that the animals cannot push their hooves through the side. Final approval of tractor-trailers and stock trailers used to transport animals shall be held by the COR.

e. Floors of tractor-trailers, stock trailers and loading chutes shall be covered with a non-slip material to prevent animals from falling during transport.

f. Animals to be loaded and transported in any size trailer shall be as directed by the COR and may include limitations on numbers according to age, sex size, temperament and animal condition. The following minimum square feet per animal shall be allowed in all trailers:

- 11 square feet per adult horse (1.4 linear foot in an 8 foot wide trailer);
- 6 square feet per foal (.75 linear foot in an 8 foot wide trailer);

g. The COR shall consider the condition and size of the animals, weather conditions, distance to be transported, or other factors when planning for the movement of captured animals. The contractor shall provide for any brand and/or inspection services required for the captured animals.

C.1.5. SAFETY AND COMMUNICATION

a. The Contractor shall have the means to communicate with the COR and all contractor personnel (i.e. cell phone, satellite phone, etc.). If communications are ineffective the government will take steps necessary to protect the welfare of the animals. The Contractor shall obtain the necessary FCC licenses if a radio system will be

used.

(1) The proper operation, service and maintenance of all contractor furnished property is the responsibility of the Contractor. The Forest Service reserves the right to remove from service any contractor personnel or contractor furnished equipment which, in the opinion of the contracting officer or COR violate contract rules, are unsafe or otherwise unsatisfactory. In this event, the Contractor will be notified in writing to furnish replacement personnel or equipment within 48 hours if notification. All such replacements must be approved in advance of operation by the Contracting Officer or his/her representative.

(2) All accidents occurring during the performance of any delivery order shall be immediately reported to the COR.

(3) The contractor agrees that there shall be no release of information to the news media regarding the removal or remedial activities conducted under this contract.

(4) All information will be released to the news media by the Forest Service.

b. The contractor will be working within the area of the Rodeo-Chediski fire of 2002, and there are numerous hazards that exist including: numerous dead trees which have the potential of falling, flooding, impassable or narrow slick roads, thunderstorms, and lighting. The contractor needs to provide for the safety for all employees.

C.1.6. CONTRACTOR-FURNISHED PROPERTY

Vehicles, tractor-trailers, stock trailers, saddle horses, and other equipment necessary to accomplish a removal shall be provided by the Contractor. Other equipment includes but is not limited to enough livestock panels at 72-inch high (minimum height) to successfully hold horses until transport. Separate water troughs shall be provided at each pen where animals are being held. Water troughs shall be constructed of such material (e.g., rubber, galvanized metal with rolled edges, rubber over metal) so as to avoid injury to the animals. The contractor will furnish any necessary certified weed free grass hay for captured trespass horses. The Forest Service shall not be held liable for damage to property furnished by the contractor.

C.1.7. SITE CLEARANCES

All traps and holding facilities locations must be approved by the COR prior to construction. The contractor may also be required to change or move trap locations as determined by the COR. All traps will be located on public lands.

Prior to setting up a trap or temporary holding facility, the Forest Service will conduct all necessary clearances (archaeological, T&E, etc.). All proposed site(s) must be inspected by a government archaeologist or equivalent. Once archaeological clearance has been obtained, the trap or temporary holding facility may be set up. Said clearances shall be arranged for by the COR, Project Inspector, or other Forest Service employees.

QUALITY ASSURANCE SURVEILLANCE PLAN (QASP)

The following criteria will be used by the Contracting Officer Representative (COR) to evaluate the Contractor's performance of the contract requirement. (See attached Performance Assessment Form to be used by the COR.)

C.2.1. INSPECTION OF SERVICES

- a. Definitions: "Services," as used in this clause, included services performed, workmanship, and material furnished or utilized in the performance of services.
- b. The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the

Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

- c. The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.
- d. If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.
- e. If any of the services do not conform with the contract requirements, the Government may require that Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the government may:
 - (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce the contract price to reflect the reduced value of the services performed.
- f. If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may:
 - (1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service or terminate the contract for default.

C.2.2. UNSATISFACTORY PERFORMANCE:

Capture of the trespass horses is done in a way that does not provide for animal safety. Capture facilities are not maintained in an orderly manner. During holding period, animals are not maintained with good quality hay or clean water. Transporting of animals is not done in a manner that provides for animal safety.

C.2.3. ACCEPTABLE PERFORMANCE:

Capture of the trespass horses is accomplished in a manner that provides for animal safety. Capture facilities are maintained in an orderly manner. During holding period, animals are maintained with good quality hay and clean water. Transporting of animals is done in a manner that provides safety for the animals.

C.2.4. GOVERNMENT INSPECTION OF SERVICES

The COR and or the Project Inspector(s) shall inspect services being performed to ensure that the Contractor's performance is in conformance with the specifications, terms, and conditions of this contract.

C.2.5. FINAL ACCEPTANCE OF SERVICE PERFORMED

Final acceptance of services performed hereunder, shall be made by the Contracting Officer.

SECTION E – INSPECTION AND ACCEPTENCE

FAR CLAUSE 52.246-4 INSPECTION OF SERVICES--FIXED-PRICE (AUG 1996)

(a) Definition: "Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the Government may--

(1) Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and

(2) Reduce the contract price to reflect the reduced value of the services performed.

(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may--

(1) By contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service; or

(2) Terminate the contract for default.

(End of clause)

SECTION F - DELIVERIES OR PERFORMANCE

F. 1. FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (Feb 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es): <http://www.arnet.gov/far>

FAR 52.242-14 Suspension of Work (APR 1984)

F. 2. DELIVERIES

F.2.1. Contract Performance Time and Required Rate of Progress

The Contractor shall maintain progress at a rate that will assure completion within the performance period. The minimum acceptable rate of progress will be calculated by dividing the total blocks of work for each item by performance time specified.

The Contractor shall start work promptly after receipt of a Notice to Proceed. The Contractor shall maintain progress at a rate that will assure completion within the stated contract time. The contract time specified in each Task Order will generally not exceed a required rate of progress exceeding that determined from the accepted work plan.

Items	Estimated Beginning Date	Program Size	Contract Time
All	September 15, 2005	Entire Job	180 calendar days

The Government will issue a Notice to Proceed as soon as weather and ground conditions are favorable for work on one or more of the areas. Contract time will start (1) on the date specified on the Notice to Proceed, if the notice is hand-delivered; Or (2) Contract Time will start on the third-day after the post office has issued a Notice of Certified Mail to the Contractor.

F.2.3. Unfavorable Conditions

It is estimated that adverse weather and/or road conditions may prevent access to the work sites or performance to specification. When such conditions make work impracticable, or if wind or other conditions create extreme conditions that are unsafe for contract work, and with written request by the Contractor, the Contracting Officer may suspend work with no charge against contract time. When conditions are again favorable, the Contracting Officer will issue a verbal resume work order and confirm that order in writing. The count of contract time will resume on the day indicated by the Contracting Officer. If the Contractor cannot be reached at the phone number provided or the Contractor fails to contact the Contracting Officer (per Section C) a written Resume Work Order will be mailed and count of contract time will resume on the date specified in the order. If it is determined that bark beetles are causing damage to the timber stand at any time during the year, timing restrictions may be implemented. The Contracting Officer may suspend work with no charge against contract time and work will resume when conditions are again favorable.

F.2.4. Suspension of Work By The Government

Work may be suspended by the Governemnt for the following conditions:

Exclusion for Fire Plan: During periods of elevated fire risk may receive a Suspend Work Order if the COR determines that conditions merit suspension of work. The suspension order will be rescinded once the risk for fire danger has been reduced to an acceptable level as determined by the District Ranger in conjunction with the COR. See Secton H for Fire Plan.

F. 3. FAR 52.236-6 SUPERINTENDENCE BY THE CONTRACTOR

At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the worksite a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.

SECTION G - CONTRACT ADMINISTRATION DATA

G.1.0. METHOD OF CALCULATING PAYMENT

G.1.1. PAYMENT CALCULATION

Payment less damages will be based on the contract requirements listed in Section C. Payment for services shall be reduced commensurate with value of livestock sold at auction for each captured animal that die or are damaged in the gathering, corralling, and transporting.

G.2.0. INVOICES, PAYMENTS, AND ACCRUALS

All payments for services rendered shall be made by proper invoice. The successful offeror will be provided FS-6300-30, *Contract Payment Estimate and Invoice*, form at the Pre-Work Conference prior to issuance of Notice To Proceed. Upon successful completion of block(s) of work (number of blocks to be determined at Pre-Work), contractor shall prepare and submit an invoice to the designated COR for review and approval. COR will certify the invoice and submit all documents to the Contracting Officer for final approval. Invoices may be submitted in two (2) week intervals; however, only one payment will be processed every 30 days.

ACCRUALS. For any work not completed by the 20th of the month at the end of a quarter (December, March, June or September), but anticipated to be completed by last business day of said month, Contractor shall estimate the cost of such work and prepare a report that outlines the work that will be completed for the period between the 20th and the last business day of said month. The Accrual Report shall be submitted to the Contracting Officer, on or about the 20th of the month at the end of a quarter (December, March, June or September).

SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.1.0. KEY PERSONNEL

H.1.1. The Contractor shall assign to this contract the key personnel identified in their technical proposal and that list may include the following:

- CONTRACTOR REPRESENTATIVE
- SUPERINTENDENT/FOREMAN
- INSPECTOR
- FIRE GUARD

H.1.2. The Contractor shall make no substitutions of key personnel without notifying the Contracting Officer within a reasonable timeframe and in advance, and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the contract. Proposed substitutes should have comparable qualifications to those of the persons being replaced.

H.1.3. The Contractor shall make no diversion of personnel without the written consent of the Contracting Officer.

H.1.4. The contract will be modified to reflect any approved changes of key personnel.

H.2.0. MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

H.2.1. FSAR 4G52.222-701 EMPLOYMENT OF ELIGIBLE WORKERS (DEC 1999)

Section 274A of the Immigration and Nationality Act (8 USC 1324a) makes it unlawful for an employer to hire unauthorized aliens. The Immigration and Naturalization Service (INS) has established the Form I-9, Employment Eligibility Verification Form, as the document to be used for employment eligibility verification (see 8 CFR 274a).

The contractor is required to (1) have all employees complete and sign the I-9 Form to certify that they are eligible for employment; (2) examine documents presented by the employee and ensure the documents appear to be genuine and related to the individual; (3) record information about the documents on the form, and complete the certification portion of the form; (4) retain the form for three years, or one year past the end of employment of the individual, whichever is longer.

It is illegal to discriminate against any individual (other than a citizen of another country who is not authorized to work in the United States) in hiring, discharging, or recruiting because of that individual's national origin or citizenship status.

Compliance with Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is a material condition of the contract. If the contractor employs unauthorized workers during contract performance in violation of section 274A, the Government may terminate the contract, in addition to other remedies or penalties prescribed by law.

For further information on the requirements of the Act, contractors should contact the Employer and Labor Relations Officer of their local INS office.

H.2.4. CAMPING

If the Contractor elects to camp, a signed permit by the Lakeside and Black Mesa District Rangers shall be obtained by the Contractor prior to occupation of an area. Site location will be discussed at post award meeting. The following guidelines will be followed while camping.

H.2.4.1. The Contractor shall be aware of and abide by the rules of the Apache-Sitgreaves National Forests applicable to forest visitors.

H.2.4.2. The Contractor shall obtain a camping permit from the Apache-Sitgreaves National Forests prior to camping on Forest Service land. Final payment shall be withheld until the authorized camping area has been cleaned up to the requirements of the Camping Permit.

If the Contractor does not obtain a camping permit but requires his/her employees to obtain the camping permit, the Contractor remains responsible for campsite clean up and his/her employees' conduct while camping on National Forest land.

H.2.3 Contractor Information: The Contractor shall abide by the OSHA's Field Sanitation Standard Fact Sheet No. OSHA 92-25, which applies to agricultural establishments hiring 11 or more workers for hand labor.

PART II--CONTRACT CLAUSES

SECTION I--CONTRACT CLAUSES

FAR 52.252-2 Clauses Incorporated by Reference (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

www.arnet.gov/far/

www.usda.gov/procurement/policy/agar.html

FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

- 52.209-6 Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (JAN 2005) *(Applicable if contract exceeds \$25,000)*
- 52.215-8 Order of Precedence--Uniform Contract Format (OCT 1997)
- 52.219-6 Notice of Total Small Business Set-Aside (JUN 2003)
- 52.222-3 Convict Labor (JUN 2003)
- 52.222-21 Prohibition of Segregated Facilities (FEB 1999)
- 52.222-26 Equal Opportunity (APR 2002) *(Applicable if contract exceeds \$10,000)*
- 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and other Eligible Veterans (DEC 2001) *(Applicable if contract exceeds \$25,000)*
- 52.222-36 Affirmative Action for Workers with Disabilities (JUN 1998) *(Applicable if contract exceeds \$10,000)*
- 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and other Eligible Veterans (DEC 2001) *(Applicable if contract exceeds \$25,000)*
- 52.222-41 Service Contract Act of 1965, as Amended (MAY 1989)
- 52.223-5 Pollution Prevention and Right-to-Know Information (AUG 2003)
- 52.223-6 Drug-Free Workplace (MAY 2001) *(Applicable if contract is awarded to an individual)*
- 52.232-1 Payments (APR 84)
- 52.232-8 Discounts for Prompt Payment (FEB 2002)
- 52.232-11 Extras (APR 1984)
- 52.232-18 Availability of Funds (APR 1984)
- 52.232-23 Assignment of Claims (JAN 1986)
- 52.232-25 Prompt Payment (OCT 2003)
- 52.232-33 Payment by Electronic Funds Transfer – Central Contractor Registration (OCT 2003)
- 52.233-1 Disputes (JULY 2002)
- 52.233-3 Protest After Award (AUG 1996)
- 52.233-4 Applicable Law for Breach of Contract Claim (OCT 2004)
- 52.237-2 Protection of Government Buildings, Equipment, and Vegetation (APR 1984)
- 52.243-1 Changes--Fixed-Price (AUG 1987)--Alternate I (APR 1984)
- 52.245-4 Government-Furnished Property (Short Form) (JUN 2003)
- 52.249-1 Termination for Convenience of the Government (Fixed-Price) (Short Form) (APR 1984)
- 52.249-8 Default (Fixed-Price Supply and Service) (APR 1984)
- 52.253-1 Computer Generated Forms (JAN 1991)

AGRICULTURE ACQUISITION REGULATION (48 CFR CHAPTER 4) CLAUSES

- 452.237-70 Loss, Damage, Destruction or Repair (FEB 1988)
- 452.237-75 Restrictions Against Disclosure (FEB 1988)

52.204-7 Central Contractor Registration (OCT 2003)

(a) Definitions. As used in this clause-

"Central Contractor Registration (CCR) database" means the primary Government repository for Contractor information required for the conduct of business with the Government.

"Data Universal Numbering System (DUNS) number" means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

"Data Universal Numbering System +4 (DUNS+4) number" means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same parent concern.

"Registered in the CCR database" means that-

- (1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and
- (2) The Government has validated all mandatory data fields and has marked the record "Active".

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS +4" followed by the DUNS or DUNS +4 number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number-

(i) If located within the United States, by calling Dun and Bradstreet at 1-866-705-5711 or via the Internet at <http://www.dnb.com>; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company Physical Street Address, City, State, and Zip Code.

(iv) Company Mailing Address, City, State and Zip Code (if separate from physical).

(v) Company Telephone Number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(g) (1) (i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of Subpart 42.12 of the FAR; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423, or 269-961-5757.

FAR 52.222-42 Statement of Equivalent Rates for Federal Hires (MAY 1989)

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

*This Statement is for Information Only:
 It Is Not A Wage Determination.*

Employee Class	Monetary Wage--Fringe Benefits
_____	_____
_____	_____
_____	_____
_____	_____

FAR 52.244-6 Subcontracts for Commercial Items (DEC 2004)

(a) *Definitions.* As used in this clause-

"Commercial item" has the meaning contained in Federal Acquisition Regulation 2.202-1, Definitions.

"Subcontract" includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c)(1) The following clauses shall be flowed down to subcontracts for commercial items:

(i) 52.219-8, Utilization of Small Business Concerns (MAY 2004) (15 U.S.C. 637(d)(2) and (3)), in all

subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (APR 2002) (E.O. 11246).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era and Other Eligible Veterans (DEC 2001) (38 U.S.C. 4212(a)).

(iv) 52.222-36, Affirmative Action for Workers with Disabilities (June 1998) (29 U.S.C. 793).

(v) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004) (E.O. 13201). Flow down as required in accordance with paragraph (g) of FAR clause 52.222-39).

(vi) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (APR 2003) (46 U.S.C. Appx 1241 and 10 U.S.C. 2631) (flow down required in accordance with paragraph (d) of FAR 52.247-64).

(2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

FAR 52.246-20 Warranty of Services (MAY 2001)

(a) *Definition.* "Acceptance," as used in this clause, means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services, as partial or complete performance of the contract.

(b) Notwithstanding inspection and acceptance by the Government or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The Contracting Officer shall give written notice of any defect or nonconformance to the Contractor 30 days. This notice shall state either--

(1) That the Contractor shall correct or reperform any defective or nonconforming services; or

(2) That the Government does not require correction or reperformance.

(c) If the Contractor is required to correct or reperform, it shall be at no cost to the Government, and any services corrected or reperformed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or reperform, the Contracting Officer may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the Government thereby, or make an equitable adjustment in the contract price.

(d) If the Government does not require correction or reperformance, the Contracting Officer shall make an equitable adjustment in the contract price.

PART III--LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS

SECTION J--LIST OF ATTACHMENTS

**EXHIBIT
CONTRACTOR'S QUALIFICATIONS AND FINANCIAL INFORMATION**

SECTION 1 – GENERAL INFORMATION						
1A. NAME			2. TYPE OF ORGANIZATION (CHECK ONE)			
1B. STREET ADDRESS			A. Sole Proprietorship		F. LLC	
			B. General Partnership		G. Joint Venture	
1C. CITY			C. Limited Partnership		H. Non-Profit/Education	
			D. Corporation		i. Other: Specify	
1D. STATE		1E. ZIP/POSTAL	E. Subchapter S.			
3. TAXPAYER ID NUMBER :						
6. DUNS NUMBER			7. VENDOR EXPRESS NUMBER: (FS VENDORS)			
8. KIND OF PRODUCT OR SERVICE PROVIDED:						
10. KIND OF BUSINESS- Specify one block (plus "J" if applicable)						
A. LARGE BUSINESS		E. WOMAN OWNED SDB		I. INDIAN SDB		
B. SMALL BUSINESS		F. VETERAN SMALL BUSINESS		J. HUB ZONE - Also		
C. SMALL DISADVANTAGED BUSINESS		G. VETERAN SDB		K. Other: Please Specify		
D. WOMAN OWNED SMALL BUSINESS		H. INDIAN SMALL BUSINESS				
11. OWNERSHIP INFORMATION – PARTNERS – PRINCIPALS - OTHERS						
NAME			TITLE			
12.						
13.						
14.						
16. Questions. If "Yes" to any below, provide detailed information in section vii, remarks.					Yes	No
A. Have you/your affiliates ever filed for bankruptcy?						
B. Do you have any judgments, liens, pending suits?						
C. Do you have any contingent liabilities?						
D. Have you/your affiliates discontinued business operations with outstanding debts						
SECTION II. GOVERNMENT FINANCIAL AID AND INDEBTNESS					Yes	No
If "Yes" provide detailed information in Section VII, remarks.						
17. Are you delinquent on any Federal Debt (OMB Circular 129)						
18. Do you owe the Government for any contract or other claims?						
19. Are you currently receiving Government Financing? (Bonds, Loans, Advanced Payments, Progress Payments, Other)						
19a. Are you now in or pending Default on ANY Obligations (i.e. Banks, Financial Institutions, Suppliers, Other)? IF yes please provide detailed information in Section VII remarks.						

SECTION III – REFERENCES– CURRENT CONTRACTS INFORMATION (Optional)	
20. CONTRACT 1	21. CONTRACT 2
LOCATION	LOCATION
OWNERS NAME	OWNERS NAME
CONTACT PERSON	CONTACT PERSON
TELEPHONE	TELEPHONE
FAX	FAX
ADDRESS (City, State, Zip/Postal)	ADDRESS (City, State, Zip/Postal)
TYPE OF WORK	TYPE OF WORK
CONTRACT AMOUNT	CONTRACT AMOUNT
% COMPLETE	% COMPLETE
ESTIMATED COMPLETION DATE	ESTIMATED COMPLETION DATE
22. CONTRACT 3	23. CONTRACT 4
LOCATION	LOCATION
OWNERS NAME	OWNERS NAME
CONTACT PERSON	CONTACT PERSON
TELEPHONE	TELEPHONE
FAX	FAX
ADDRESS (City, State, Zip/Postal)	ADDRESS (City, State, Zip/Postal)
TYPE OF WORK	TYPE OF WORK
CONTRACT AMOUNT	CONTRACT AMOUNT
% COMPLETE	% COMPLETE
ESTIMATED COMPLETION DATE	ESTIMATED COMPLETION DATE

SECTION IV – REFERENCES - PAST PERFORMANCE – COMPLETED CONTRACTS INFORMATION (Optional)	
24. CONTRACT 1	25. CONTRACT 2
LOCATION	LOCATION
OWNERS NAME	OWNERS NAME
CONTACT PERSON	CONTACT PERSON
TELEPHONE	TELEPHONE
FAX	FAX
ADDRESS (City, State, Zip/Postal)	ADDRESS (City, State, Zip/Postal)
TYPE OF WORK	TYPE OF WORK
CONTRACT AMOUNT	CONTRACT AMOUNT
% COMPLETE	% COMPLETE
ESTIMATED COMPLETION DATE	ESTIMATED COMPLETION DATE
26. CONTRACT 1	27. CONTRACT 2
LOCATION	LOCATION
OWNERS NAME	OWNERS NAME
CONTACT PERSON	CONTACT PERSON
TELEPHONE	TELEPHONE
FAX	FAX
ADDRESS (City, State, Zip/Postal)	ADDRESS (City, State, Zip/Postal)
TYPE OF WORK	TYPE OF WORK
CONTRACT AMOUNT	CONTRACT AMOUNT
% COMPLETE	% COMPLETE
ESTIMATED COMPLETION DATE	ESTIMATED COMPLETION DATE

SECTION V – REMARKS

REMARKS – Cite those sections of the form relating to your remarks. If additional space is needed, please use blank pages and appropriately identify them as section vii and refer to cited sections.

CERTIFICATION

By signing the Offer and completing this format, this form becomes part of the Business Proposal offer. The Government's purpose for requesting this information is to establish offeror's financial responsibility, considered other than certified cost and pricing data to assist the Government in determining fair, reasonable, and realistic prices, past performance acceptability, and the offeror's responsibility. The information requested on this document is not to be considered Certified Cost and Pricing Data. All information shall be considered true and correct as of the date of form completion or date of signature on the offer. All such certifications are subject to the general certifications stated in Section K representations and certifications of the RFP.

PART IV--REPRESENTATIONS AND INSTRUCTIONS

SECTION K--REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS OR RESPONDENTS

AGAR 452.219-70 SIZE STANDARD AND NAICS CODE INFORMATION (JANUARY 2005)

The North American Industrial classification System Code(s) and business size standard(s) describing the products and/or services to be acquired under this solicitation are listed below:

Contract line item(s): All
--NAICS Code 115210
--Size Standard \$6.0 Million

The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (JAN 2005)

(a)(1) If the clause at 52.204-7, Central Contractor Registration, is included in this solicitation, paragraph (b) of this provision applies.

(2) If the clause at 52.204-7 is not included in this solicitation, and the offeror is currently registered in CCR, and has completed the ORCA electronically, the offeror may choose to use paragraph (b) instead of completing the corresponding individual representations and certifications in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:

(i) Paragraph (b) applies.

(ii) Paragraph (b) does not apply and the offeror has completed the individual representations and certifications in the solicitation.

(b) The offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website at <http://orca.bpr.gov>. After reviewing the ORCA database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [offeror to insert changes, identifying change by clause number, title, date]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause #	Title	Date	Change
_____	_____	_____	_____

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.

SECTION L--INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS OR RESPONDENTS

FAR 52.252-1 Solicitation Provisions Incorporated by Reference (FEB 1998)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

www.arnet.gov/far/

www.usda.gov/procurement/policy/agar.html

FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)

52.215-1 Instructions to Offerors--Competitive Acquisition (JAN 2004)
52.237-1 Site Visit (APR 1984)

AGRICULTURE ACQUISITION REGULATIONS (48 CFR CHAPTER 4) CLAUSES

452.204-70 Inquiries (FEB 1988)

FAR 52.215-5 Facsimile Proposals (OCT 1997)

(a) *Definition.* "Facsimile proposal," as used in this provision, means a proposal, revision or modification of a proposal, or withdrawal of a proposal that is transmitted to and received by the Government via facsimile machine.

(b) Offerors may submit facsimile proposals as responses to this solicitation. Facsimile proposals are subject to the same rules as paper proposals.

(c) The telephone number of receiving facsimile equipment is: *[insert telephone number]*

(d) If any portion of a facsimile proposal received by the Contracting Officer is unreadable to the degree that conformance to the essential requirements of the solicitation cannot be ascertained from the document--

(1) The Contracting Officer immediately shall notify the offeror and permit the offeror to resubmit the proposal.

(2) The method and time for resubmission shall be prescribed by the Contracting Officer after consultation with the offeror; and

(3) The resubmission shall be considered as if it were received at the date and time of the original unreadable submission for the purpose of determining timelines, provided the offeror complies with the time and format requirements for resubmission prescribed by the Contracting Officer.

(e) The Government reserves the right to make award solely on the facsimile proposal. However, if requested to do so by the Contracting Officer, the apparently successful offeror promptly shall submit the complete original signed proposal.

FAR 52.216-1 Type of Contract (APR 1984)

The Government contemplates award of a Firm Fixed-Price contract resulting from this solicitation.

AGAR 452.237-71 Pre-Bid/Pre-Proposal Conference (FEB 1988)

(a) The Government is planning a pre-bid/pre-proposal conference, during which potential Offerors may obtain a better understanding of the work required.

(b) Offerors are encouraged to submit all questions in writing at least five (5) days prior to the conference. Questions will be considered at any time prior to or during the conference. However, Offerors will be asked to confirm verbal questions in writing. Subsequent to the conference, an amendment to the solicitation containing an abstract of the questions and answers, and a list of attendees, will be disseminated.

(c) In order to facilitate conference preparations, it is requested that the person named on the Standard Form 33 of this solicitation be contacted and advised of the number of persons who will attend.

(d) The Government assumes no responsibility for any expense incurred by an Offeror prior to contract award.

(e) Offerors are cautioned that, notwithstanding any remarks or clarifications given at the conference, all terms and conditions of the solicitation remain unchanged unless they are changed by amendment to the solicitation. If the answers to conference questions, or any solicitation amendment, create ambiguities, it is the responsibility of the Offeror to seek clarification prior to submitting an offer.

(f) The conference will be held:

Date: July 20, 2005

Time: Lakeside Ranger District

Location:

2022 West White Mountain Boulevard

Lakeside, AZ 85929

928-368-5111, Randall Chavez

SECTION M – EVALUATION FACTORS FOR CONTRACT AWARD

M.1.0. The following factors will be evaluated in determination of a contract award:

1. Cost or Price
2. Technical Capability
3. Past Performance.

When combined, Technical Capability and Past Performance, are significantly less important when compared to Cost or Price.

M.2.0. EXPERIENCE & PAST PERFORMANCE QUESTIONNAIRE

Offerors are required to submit past performance information for evaluation purposes to determine the best value to the government. Offerors should develop their past performance in the format listed below:

Name of Contracting Office:	USA Federal Contracting
Contract/Project No.:	XX-XXXX-XX
Contract total value:	\$XX,XXX
Contracting Officer and phone:	Sam O. Stone (928) 123-4567
Program Manager (COR) and phone:	Silviculturist (928) 123-4567
Brief description of work:	Tree Thinning and slash treatment
List of major subcontractors:	Elf's Tree Service (928) 123-4567

A. PAST PERFORMANCE INFORMATION:

Offerors shall submit the following information as part of their proposal for both the offeror and proposed major subcontractors:

A. A list of all contracts and subcontracts completed during the past three (3) years and all contracts and subcontracts currently in process. Contracts listed may include those entered into with the Federal Government, State and Local governments and Commercial enterprises. Offerors that are newly formed entities that do not have past performance experience for the newly formed entity, should list contracts and subcontracts that all key personnel were a part of.

B. The offeror may provide information on problems encountered on the contracts and subcontracts identified in A above and corrective actions taken to resolve those problems. Offerors should not provide general information on their performance on the identified contracts. General performance information will be obtained from the references. (Use this paragraph if written input from the offeror is desired in addition to the information obtained from the references).

C. The offeror may describe any quality awards or certifications that indicate the offeror possesses a high-quality process from developing and producing the product or service required. Such awards or certifications include, for example, the Malcolm Baldrige Quality Award, other government quality awards, and private sector awards or certifications (e.g., the automobile industry's QS 9000, Sematech's SSQA, or ANSI/EIA-599).

Identify what segment of the company (one division or the entire company) that received the award or certification. Describe when the award or certification was bestowed. If the award or certification is over three years old, present evidence that the qualifications still apply.

D. Each offeror will be evaluated on his/her performance under existing and prior contracts for similar products or services. Performance information will be used for both responsibility determinations and as an evaluation factor against which offerors' relative rankings will be compared to assure best value to the government. The government will focus on information that demonstrates quality of performance relative to the size and complexity of the

procurement under consideration. The Performance Information Form identified as an attachment, will be used to collect this information. References other than those identified by the offeror may be contacted by the Government with the information received used in the evaluation of the offeror's past performance.

RATING DEFINITIONS

Quality of Product or Service

Unacceptable = Contractor is not in compliance and is jeopardizing the achievement of contract objectives.

Acceptable = Minor inefficiencies/errors have been identified.

Excellent = Contractor is in compliance with contract.

Superior = The Contractor has demonstrated an outstanding performance level in any of the above four categories that justifies adding a point to the score. It is expected that this rating will be used in those rare circumstance when contract performance clearly exceeds the performance levels described as "Excellent."

Timeliness of Performance

Unacceptable = Contractor delays are jeopardizing performance of contract objectives

Acceptable = Contractor is usually effective in meeting milestones and delivery schedules.

Excellent = Contractor is effective in meeting milestones and delivery schedules.

Superior = Contractor has demonstrated an outstanding performance level in any of the above four categories that justifies adding a point to the score. It is expected that this rating will be used in those rare circumstances when contract performance clearly exceeds the performance levels described as "Excellent."

Business Relationship

Unacceptable = Response to inquiries, technical/service/administrative issues is not effective.

Acceptable = Responses to inquiries, technical/service/administrative issues is usually effective.

Excellent = Responses to inquiries, technical/service/administrative issues is effective.

Superior = The Contractor has demonstrated an outstanding performance level in any of the above four categories that justifies adding a point to the score. It is expected that this rating will be used in those rare circumstances when contract performance clearly exceeds the performance levels described as "Excellent."

AMENDMENT OF SOLICITATION		MODIFICATION OF CONTRACT		1. CONTRACT ID CODE	PAGE OF PAGES 1 2	
2. AMENDMENT/MODIFICATION NO. Amendment No. 1		3. EFFECTIVE DATE 07/28/2005		4. REQUISITION/PURCHASE REQ. NO.		5. PROJECT NO. (If applicable)
6. ISSUED BY Apache-Sitgreaves National Forests Contracting Officer 309 S. Mountain Ave., PO Box 640 Springerville, AZ 85938		7. ADMINISTERED BY (If other than Item 6) SAME AS BLOCK #6		CODE		
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State, and ZIP Code)				(X)	9A. AMENDMENT OF SOLICITATION NO. AG-8173-S-05-0004/ RFQ R3-01-05-26	
				<input checked="" type="checkbox"/>	9B. DATED (SEE ITEM 11) July 19, 2005	
				<input type="checkbox"/>	10A. MODIFICATION OF CONTRACT/ORDER NO.	
					10B. DATED (SEE ITEM 13)	
CODE		FACILITY CODE				

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in item 14. The hour and date specified for receipt of Offers is extended, is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing Items 8 and 15, and returning one copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted;

or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

<input checked="" type="checkbox"/>	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
<input type="checkbox"/>	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
<input type="checkbox"/>	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
<input type="checkbox"/>	D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor is not, is required to sign this document and return **1** copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible).

AG-8173-S-05-0004 / RFQ R3-01-05-26

Trespass Horse Gathering & Transportation

The purpose of Amendment No. 1 is to:

- I. Replace solicitation dated July 19, 2005, with a revised version. This revision removes the requirement for vendors to have a MSPA registration and corrects minor errors.
- II. The minutes for Pre-Proposal Meeting held on July 20, 2005, are attached.
- III. All other conditions remain the same.

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print)		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)	
		Warren Abbott, Contracting Officer	
15B. CONTRACTOR/OFFEROR	15C. DATE SIGNED	16B. UNITED STATES OF AMERICA	16C. DATE SIGNED
(Signature of person authorized to sign)		(Signature of Contracting Officer)	

A. Minutes from Pre-Proposal Meeting, JULY 20, 2005:

ATTENDANCE:

**Randall Chavez, Operation Team Leader – Lakeside
Kendell Hughes, Rangeland Management Specialist – Black Mesa
Anne Weiskircher, Contract Specialist
Juan J Gamon, SCEP Student – Range
Joseph G. Bliss, Bio Tech
Bob Gaunt, Bio Tech**

VENDORS:

**Joe & Gerri Wager
Scythian Grouse
P.O. Box 854
Tonto Basin, AZ**

**Kent Nelson
Lazy 9
P.O. Box 2891
Snowflake, AZ**

**Cindy Rodriguez for Dan Elkins
Mount Taylor Mustangs
Snowflake, AZ**

**Rocky Fuller
Antler Outfitters
985 Hwy 260 #30
Heber, AZ 85928**

B. The meeting began at 10:00 a.m. in the Lakeside Ranger District Conference Room, Lakeside, Arizona.

- **Contract Specialist made introductions and opening remarks**
- **Contract Specialist discussed the RFQ format for Performance Based Service Contracts and noted the closing date and hour for responses to the Request for Quotations. Also discussed requirements for vendors to have a DUNS number, an active registration in the Central Contractor Registration (CCR) database, and Online Representations and Certifications Application (ORCA).**
- **Discussions were held with Randall Chavez and Kendell on the prosecution of the work.**
- **Discussions were held on various line items, and some clarifications and changes will be made.**
- **Revised changes to the RFQ will be posted with changes on Fedbizopps.**
- **Hard copy of revised RFQ will be mailed to all participants at meeting and those on the RFQ planholder list.**

C. Meeting was adjourned at 12:30 p.m.

REQUEST FOR QUOTATION (THIS IS NOT AN ORDER)		THIS RFQ <input checked="" type="checkbox"/> IS <input type="checkbox"/> IS NOT A SMALL BUSINESS SET- ASIDE		PAGE OF PAGES 1 51
1. REQUEST NO.	2. DATE ISSUED July 19, 2005	3. REQUISITION/PURCHASE REQUEST NO. AG-8173-S-05-0004 RFQ R3-01-05-26	4. CERT. FOR NAT.DEF. UNDER BDSA REG. 2 <input type="checkbox"/> AND/OR DMS REG. 1	RATING

5a. ISSUED BY USDA FOREST SERVICE APACHE-SITGREAVES NATIONAL FORESTS CONTRACTING OFFICE P.O. BOX 640 SPRINGERVILLE, ARIZONA, 85938	6. DELIVER BY (Date)
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5b. FOR INFORMATION CALL (NO COLLECT CALLS) NAME WARREN ABBOTT	TELEPHONE NUMBER AREA CODE 928 NUMBER 333-4301	7. DELIVERY <input checked="" type="checkbox"/> FOB DESTINATION <input type="checkbox"/> OTHER (See Schedule)
8. TO:		9. DESTINATION

a. NAME ALL OFFERORS	b. COMPANY	b. STREET ADDRESS
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c. STREET ADDRESS	c. CITY
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d. CITY	e. STATE	f. ZIP CODE	d. STATE	e. ZIP CODE
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10. PLEASE FURNISH QUOTATIONS TO THE ISSUING OFFICE IN BLOCK 5A ON OR BEFORE CLOSE OF BUSINESS 2:00 PM Arizona time, August 11, 2005	IMPORTANT: This is a request for information, and quotations furnished are not offers. If you are unable to quote, please so indicate on this form and return it to the address in BLOCK 5A. This request does not commit the Government to pay any costs incurred in the preparation of the submission of this quotation or to contract for supplies or services. Supplies are of domestic origin unless otherwise indicated by quoter. Any representations and/or certifications attached to this Request for Quotations must be completed by the quoter.
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11. SCHEDULE (Include applicable Federal, State and local taxes)					
ITEM #	SUPPLIES/SERVICES	QTY	UNIT	UNIT PRICE	AMOUNT
	TRESPASS HORSE CAPTURE AND TRANSPORT:				
12. DISCOUNT FOR PROMPT PAYMENT <input type="checkbox"/>	a. 10 CALENDAR DAYS (%)	b. 20 CALENDAR DAYS	c. 30 CALENDAR DAYS	d. CALENDAR DAYS	
				NUMBER	PERCENTAGE

NOTE: Additional provisions and representations are are not attached.

13. NAME AND ADDRESS OF QUOTER			14. SIGNATURE OF PERSON AUTHORIZED TO SIGN QUOTATION		15. DATE OF QUOTATION
a. NAME OF QUOTER			16. SIGNER		b. TELEPHONE
b. STREET ADDRESS			a. NAME (Type or print)		AREA CODE
c. COUNTY					NUMBER
d. CITY	e. STATE	f. ZIP CODE	c. TITLE (Type or Print)		

PART I—THE SCHEDULE**SECTION B--SUPPLIES OR SERVICES AND PRICES/COSTS****APACHE-SITGREAVES NATIONAL FORESTS
LAKESIDE AND BLACK MESA RANGER DISTRICTS****FOB DESTINATION PRICING ONLY**

Base Line Items	Description of Services or Work	Unit of Measure	Est. Qty.	Unit Price	Price
B.1.1.	Capture and transport of approximately 120 trespass horses from the Apache-Sitgreaves National Forest in Navajo and Coconino County, Arizona. Costs to include capture, holding, feeding, maintenance and transport of the trespass horses as described in the specifications.	Horse	120	\$ _____	\$ _____
				Total Price	\$ _____

Optional Line Items	Description of Services or Work	Unit of Measure	Est. Qty.	Unit Price	Price
O.2.1.	Capture and transport of approximately 80 trespass horses from the Apache-Sitgreaves National Forests in Navajo and Coconino County, Arizona. Costs to include capture, holding, feeding, maintenance and transport of the trespass horses as described in the specifications.	Horse	80	\$ _____	\$ _____
O.3.1	Capture and transport of approximately 80 trespass horses from the Apache-Sitgreaves National Forests in Navajo and Coconino County, Arizona. Costs to include capture, holding, feeding, maintenance and transport of the trespass horses as described in the specifications.	Horse	80	\$ _____	\$ _____
O.4.1.	Capture and transport of approximately 80 trespass horses from the Apache-Sitgreaves National Forests in Navajo and Coconino County, Arizona. Costs to include capture, holding, feeding, maintenance and transport of the trespass horses as described in the specifications.	Horse	80	\$ _____	\$ _____
O.5.1.	Capture and transport of approximately 80 trespass horses from the Apache-Sitgreaves National Forests in Navajo and Coconino County, Arizona. Costs to include capture, holding, feeding, maintenance and transport of the trespass horses as described in the specifications.	Horse	80	\$ _____	\$ _____

PERFORMANCE WORK STATEMENT (PWS)

C.1.1. GENERAL

Contractor shall furnish all transportation, lodging, labor, supervision, tools, materials, supplies, and equipment necessary to accomplish the work. The work consists of the capture of trespass horses from the Apache-Sitgreaves National Forests, Lakeside and Black Mesa Ranger Districts in Navajo and Coconino Counties, Arizona. The work also includes the care and transportation of the animals to the. The work also includes the care and transportation of the animals to a Sun Valley Livestock Auction near Holbrook, AZ, within two hours of the gather site. Holding facilities will be provided by the Contractor at sites approved by Forest personnel. This contract is unique in the fact that the Contractor must not only supply the Forest Service (FS) with a service, gathering and shipping horses, but in doing so must place the health and well being of the animal as well as their personal safety, as their first priorities. The work shall be accomplished in a safe and humane manner and be in accordance with appropriate Arizona State Laws and the following specifications and provisions.

Copies of laws or regulations referenced herein may be obtained from the following FS offices:

Apache-Sitgreaves National Forests
Lakeside Ranger District
2022 West White Mountain Boulevard
Lakeside, AZ 85929
928-368-5111

Apache Sitgreaves National Forest
Black Mesa Ranger District
P.O. Box 968
Overgaard, AZ 85933
928535-4481

Apache-Sitgreaves National Forests
Supervisor's Office
P.O. Box 640
Springerville, AZ 85938
928-333-4301

Arizona Department of Agriculture
1688 West Adams
Phoenix, AZ 85007
www.azleg.state.az.us

C.1.2. SCOPE OF CONTRACT

The work consists of:

a. The capture of trespass horses from the Lakeside and Black Mesa Ranger Districts of the Apache-Sitgreaves National Forest. Included will be transport of captured horses to Sun Valley Livestock Auction. The contractor shall furnish all labor, equipment, supplies and incidentals necessary to accomplish the work. There will be no reimbursement for foals under 6 months of age. The method of gathering will be proposed by the contractor, however helicopters shall not be considered for use in conjunction with performance of the work of this contract.

b. Gather activities may be temporarily suspended due to adverse weather conditions, fire season or other

critical activities, at the discretion of the COR.

c. Contractor will initiate work within 10 days from the date the purchase order is issued. Gather activities will be completed within six (6) months. Extensions may be granted if the contractor is showing significant progress on the work order, or if weather prohibits gather activities.

d. Payments shall be made at the unit price shown on the contract for the number of animals captured which have been 1) delivered live to the Sun Valley Auction, 2) released back to the public lands at the direction of the COR. The Contractor shall not be entitled to payment for capturing any animals which are lost, killed or destroyed during capture or die due to fault or negligence on the part of the Contractor or their employees. The contractor shall not be entitled for payment of recapture of animals previously captured.

e. Payments will be made for foals above the age of 6 months at the Unit Price. Foals under the age of 6 months and not weaned will be considered along with the mare as a "unit".

C.1.3. TRAPPING AND CARE

All traps, wings, and holding facilities shall 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 shall be located in sites approved by the COR.

Traps and holding facilities shall be constructed of portable panels, the top of which shall not be less than 6 feet high for horses and the bottom rail of which shall not be more than 1 foot from ground level.

All crowding pens including the gates leading to any runways may be required, at the discretion of the COR, to be covered with a material which prevents the animals from seeing out (plywood, burlap, plastic snow fence, etc.) and shall be covered from 2 feet above ground to 6 feet for horses. If required 8 linear feet of this material shall be capable of being removed or let down to provide a viewing window.

No fence modification will be made without authorization from the COR. The contractor shall be responsible for restoration of any fence modifications made.

Foals will not be left behind during trapping, transportation or any time. Foals are defined as juveniles less than 6 months of age. A mare with a foal less than 6 months of age will be considered one unit.

The Contractor will separate mares with small foals, sick and injured animals, and strays from the other animals as needed. Segregation will be at the discretion of the COR.

The Contractor shall provide animals held in the traps and/or holding facilities with a supply of fresh clean water at a minimum rate of 10 gallons per animal per day. Animals held for 14 hours or more in the traps or holding facilities shall be provided good quality grass hay at the rate of not less than two pounds of hay per 100 pounds of estimated body weight per day. Any hay or pellets used during the trapping or holding phase shall be certified as weed free.

It is the responsibility of the Contractor to provide security to prevent loss, injury or death of captured animals until delivery to final destination.

The Contractor shall restrain sick or injured animals if treatment is necessary. The COR will determine if injured animals must be destroyed and provide for destruction of such animals. The Contractor may be required to dispose of the carcasses as directed by the COR.

Animals shall be transported to final destination from temporary holding facilities within 24 hours after capture unless prior approval is granted by the COR for unusual circumstances. Animals shall not be held in traps and/or temporary holding facilities on days when there is not work being conducted except as specified by the COR. The Contractor shall schedule shipments of animals to arrive at final destination in coordination with the COR. No shipments shall be scheduled to arrive at final destination on Sunday and

Federal holidays, unless prior approval has been obtained by the COR. Animals shall not be allowed to remain standing on trucks while not in transit for a combined period of greater than three (3) hours.

Traps shall be checked a minimum of once every 10 hours when traps are "set" to capture animals.

C.1.4. MOTORIZED EQUIPMENT

a. All motorized equipment employed in the transportation of captured animals shall be in compliance with appropriate State and Federal laws and regulations applicable to the humane transportation of animals.

b. All motorized equipment, tractor-trailers, and stock trailers shall be in good mechanical condition, of adequate rated capacity, and operated so as to ensure that captured animals are transported without undue risk or injury.

c. Only tractor-trailers or stock trailers with a covered top shall be allowed for transporting animals from trap site(s) to temporary holding facilities, and from temporary holding facilities to final destination(s). Sides or stock racks of all trailers used for transporting animals shall be a minimum height of 6 feet 6 inches from the floor. Single deck tractor-trailers 40 feet or longer shall have two (2) partition gates providing three (3) compartments within the trailer to separate animals. Tractor-trailers less than 40 feet shall have at least one partition gate providing two (2) compartments within the trailer to separate the animals. Compartments in all tractor-trailers shall be of equal size plus or minus 10 percent. Each partition shall be a minimum of 6 feet high and shall have a minimum of 5 foot wide swinging gate. The use of double deck tractor-trailers is unacceptable and shall not be approved.

d. All tractor-trailers used to transport animals to final destination(s) shall be equipped with at least one (1) door at the rear end of the trailer which is capable of sliding either horizontally or vertically. The rear door(s) of the tractor trailers and stock trailers must be capable of opening the full width of the trailer. Panels facing the inside of all trailers must be free of sharp edges or holes that could cause injury to the animals. The material facing the inside of all trailers must be strong enough so that the animals cannot push their hooves through the side. Final approval of tractor-trailers and stock trailers used to transport animals shall be held by the COR.

e. Floors of tractor-trailers, stock trailers and loading chutes shall be covered with a non-slip material to prevent animals from falling during transport.

f. Animals to be loaded and transported in any size trailer shall be as directed by the COR and may include limitations on numbers according to age, sex size, temperament and animal condition. The following minimum square feet per animal shall be allowed in all trailers:

11 square feet per adult horse (1.4 linear foot in an 8 foot wide trailer);

6 square feet per foal (.75 linear foot in an 8 foot wide trailer);

g. The COR shall consider the condition and size of the animals, weather conditions, distance to be transported, or other factors when planning for the movement of captured animals. The contractor shall provide for any brand and/or inspection services required for the captured animals.

C.1.5. SAFETY AND COMMUNICATION

a. The Contractor shall have the means to communicate with the COR and all contractor personnel (i.e. cell phone, satellite phone, etc.). If communications are ineffective the government will take steps necessary to protect the welfare of the animals. The Contractor shall obtain the necessary FCC licenses if a radio system will be used.

(1) The proper operation, service and maintenance of all contractor furnished property is the responsibility of the Contractor. The Forest Service reserves the right to remove from service any contractor personnel or contractor furnished equipment which, in the opinion of the contracting officer or COR violate contract rules, are unsafe or otherwise unsatisfactory. In this event, the Contractor will be notified in writing to

furnish replacement personnel or equipment within 48 hours if notification. All such replacements must be approved in advance of operation by the Contracting Officer or his/her representative.

(2) All accidents occurring during the performance of any delivery order shall be immediately reported to the COR.

(3) The contractor agrees that there shall be no release of information to the news media regarding the removal or remedial activities conducted under this contract.

(4) All information will be released to the news media by the Forest Service.

b. The contractor will be working within the Rodeo-Chediski fire of 2002, and there are numerous hazards that exist including: numerous dead trees which have the potential of falling, flooding, impassable or narrow slick roads, thunderstorms, and lightning. The contractor needs to provide for the safety for all employees.

C.1.6. CONTRACTOR-FURNISHED PROPERTY

Vehicles, tractor-trailers, stock trailers, saddle horses, and other equipment necessary to accomplish a removal shall be provided by the Contractor. Other equipment includes but is not limited to enough livestock panels at 72-inch high (minimum height) to successfully hold horses until transport. Separate water troughs shall be provided at each pen where animals are being held. Water troughs shall be constructed of such material (e.g., rubber, galvanized metal with rolled edges, rubber over metal) so as to avoid injury to the animals. The contractor will furnish any necessary certified weed free grass hay for captured trespass horses. The Forest Service shall not be held liable for damage to property furnished by the contractor.

C.1.7. SITE CLEARANCES

All traps and holding facilities locations must be approved by the COR prior to construction. The contractor may also be required to change or move trap locations as determined by the COR. All traps will be located on public lands.

Prior to setting up a trap or temporary holding facility, the Forest Service will conduct all necessary clearances (archaeological, T&E, etc.). All proposed site(s) must be inspected by a government archaeologist or equivalent. Once archaeological clearance has been obtained, the trap or temporary holding facility may be set up. Said clearances shall be arranged for by the COR, PI, or other Forest Service employees.

QUALITY ASSURANCE SURVEILLANCE PLAN (QASP)

The following criteria will be used by the Contracting Officer Representative (COR) to evaluate the Contractor's performance of the contract requirement. (See attached Performance Assessment Form to be used by the COR.)

C.2.1. INSPECTION OF SERVICES

- a. Definitions: "Services," as used in this clause, included services performed, workmanship, and material furnished or utilized in the performance of services.
- b. The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.
- c. The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

- d. If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.
- e. If any of the services do not conform with the contract requirements, the Government may require that Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the government may:
 - (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce the contract price to reflect the reduced value of the services performed.
- f. If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may:
 - (1) by contract or otherwise, perform the services and charge to the Contractor an cost incurred by the Government that is directly related to the performance of such service or terminate the contract for default.

C.2.2. UNSATISFACTORY PERFORMANCE:

Capture of the trespass horses is done in a way that does not provide for animal safety. Capture facilities are not maintained in an orderly manner. During holding period, animals are not maintained with good quality hay or clean water. Transporting of animals is not done in a manner that provides for animal safety.

C.2.3. ACCEPTABLE PERFORMANCE:

Capture of the trespass horses is accomplished in a manner that provides for animal safety. Capture facilities are maintained in an orderly manner. During holding period, animals are maintained with good quality hay and clean water. Transporting of animals is done in a manner that provides safety for the animals.

C.2.4. GOVERNMENT INSPECTION OF SERVICES

The COR and or the Project Inspector(s) shall inspect services being performed to ensure that the Contractor's performance is in conformance with the specifications, terms, and conditions of this contract.

C.2.5. FINAL ACCEPTANCE OF SERVICE PERFORMED

Final acceptance of services performed hereunder, shall be made by the Contracting Officer.

SECTION E – INSPECTION AND ACCEPTANCE

FAR CLAUSE 52.246-4 INSPECTION OF SERVICES--FIXED-PRICE (AUG 1996)

(a) Definition: "Services," as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the Government may--

(1) Require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and

(2) Reduce the contract price to reflect the reduced value of the services performed.

(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may--

(1) By contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service; or

(2) Terminate the contract for default.

(End of clause)

SECTION F - DELIVERIES OR PERFORMANCE

F. 1. FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (Feb 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es): <http://www.arnet.gov/far>

FAR 52.242-14 Suspension of Work (APR 1984)

F. 2. DELIVERIES

F.2.1. Contract Performance Time and Required Rate of Progress

The Contractor shall maintain progress at a rate that will assure completion within the performance period. The minimum acceptable rate of progress will be calculated by dividing the total blocks of work for each item by performance time specified.

The Contractor shall start work promptly after receipt of a Notice to Proceed. The Contractor shall maintain progress at a rate that will assure completion within the stated contract time. The contract time specified in each Task Order will generally not exceed a required rate of progress exceeding that determined from the accepted work plan.

Items	Estimated Beginning Date	Program Size	Contract Time
All	September 15, 2005	Entire Job	20 calendar days

The Government will issue a Notice to Proceed as soon as weather and ground conditions are favorable for work on one or more of the areas. Contract time will start (1) on the date specified on the Notice to Proceed, if the notice is hand-delivered; Or (2) Contract Time will start on the third-day after the post office has issued a Notice of Certified Mail to the Contractor.

F.2.3. Unfavorable Conditions

It is estimated that adverse weather and/or road conditions may prevent access to the work sites or performance to specification. When such conditions make work impracticable, or if wind or other conditions create extreme conditions that are unsafe for contract work, and with written request by the Contractor, the Contracting Officer may suspend work with no charge against contract time. When conditions are again favorable, the Contracting Officer will issue a verbal resume work order and confirm that order in writing. The count of contract time will resume on the day indicated by the Contracting Officer. If the Contractor cannot be reached at the phone number provided or the Contractor fails to contact the Contracting Officer (per Section C) a written Resume Work Order will be mailed and count of contract time will resume on the date specified in the order. If it is determined that bark beetles are causing damage to the timber stand at any time during the year, timing restrictions may be implemented. The Contracting Officer may suspend work with no charge against contract time and work will resume when conditions are again favorable.

F.2.4. Suspension of Work By The Government

Work may be suspended by the Governemnt for the following conditions:

Exclusion for Fire Plan: During periods of elevated fire risk may receive a Suspend Work Order if the COR determines that conditions merit suspension of work. The suspension order will be rescinded once the risk for fire danger has been reduced to an acceptable level as determined by the District Ranger in conjunction with the COR. See Secton H for Fire Plan.

F. 3. FAR 52.236-6 SUPERINTENDENCE BY THE CONTRACTOR

At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the worksite a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.

SECTION G - CONTRACT ADMINISTRATION DATA

G.1.0. METHOD OF CALCULATING PAYMENT

G.1.1. THE CONTRACTOR'S QUALITY CONTROL

For each completed unit, the Contractor's quality control inspection percentage for tree thinning and slash treatment will be compared to the Government's assessment results. If the results differ by 5 percent or less, the Contractor's inspection will be considered acceptable and the quality percentage will be used as the basis for payment. When the results differ by more than 5 percent, the Government's inspection percentage will be used as the basis for payment.

G.1.2. PAYMENT CALCULATION

Payment less damages will be based on the contract requirements listed in Section E, Inspection and Acceptance.

G.2.0. INVOICES, PAYMENTS, AND ACCRUALS

All payments for services rendered shall be made by proper invoice. The successful offeror will be provided FS-6300-30, *Contract Payment Estimate and Invoice*, form at the Pre-Work Conference prior to issuance of Notice To Proceed. Upon successful completion of block(s) of work (number of blocks to be determined at Pre-Work), contractor shall prepare and submit an invoice to the designated COR for review and approval. COR will certify the the invoice and submit all documents to the Contracting Officer for final approval. Invoices may be submitted in two (2) week intervals; however, only one payment will be processed every 30 days.

ACCRUALS. For any work not completed by the 20th of the month at the end of a quarter (December, March, June or September), but anticipated to be completed by last business day of said month, Contractor shall estimate the cost of such work and prepare a report that outlines the work that will be completed for the period between the 20th and the last business day of said month. The Accrual Report shall be submitted to the Contracting Officer, on or about the 20th of the month at the end of a quarter (December, March, June or September).

SECTION H - SPECIAL CONTRACT REQUIREMENTS

H.1.0. KEY PERSONNEL

H.1.1. The Contractor shall assign to this contract the key personnel identified in their technical proposal and that list may include the following:

- CONTRACTOR REPRESENTATIVE
- SUPERINTENDENT/FOREMAN
- INSPECTOR
- FIRE GUARD

H.1.2. The Contractor shall make no substitutions of key personnel without notifying the Contracting Officer within a reasonable timeframe and in advance, and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the contract. Proposed substitutes should have comparable qualifications to those of the persons being replaced.

H.1.3. The Contractor shall make no diversion of personnel without the written consent of the Contracting Officer.

H.1.4. The contract will be modified to reflect any approved changes of key personnel.

H.2.0. MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT

H.2.1. FSAR 4G52.222-701 EMPLOYMENT OF ELIGIBLE WORKERS (DEC 1999)

Section 274A of the Immigration and Nationality Act (8 USC 1324a) makes it unlawful for an employer to hire unauthorized aliens. The Immigration and Naturalization Service (INS) has established the Form I-9, Employment Eligibility Verification Form, as the document to be used for employment eligibility verification (see 8 CFR 274a).

The contractor is required to (1) have all employees complete and sign the I-9 Form to certify that they are eligible for employment; (2) examine documents presented by the employee and ensure the documents appear to be genuine and related to the individual; (3) record information about the documents on the form, and complete the certification portion of the form; (4) retain the form for three years, or one year past the end of employment of the individual, whichever is longer.

It is illegal to discriminate against any individual (other than a citizen of another country who is not authorized to work in the United States) in hiring, discharging, or recruiting because of that individual's national origin or citizenship status.

Compliance with Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is a material condition of the contract. If the contractor employs unauthorized workers during contract performance in violation of section 274A, the Government may terminate the contract, in addition to other remedies or penalties prescribed by law.

For further information on the requirements of the Act, contractors should contact the Employer and Labor Relations Officer of their local INS office.

H.2.2. FSAR 4G52.222-702 LABOR STANDARDS FOR CONTRACTS INVOLVING MIGRANT AND SEASONAL AGRICULTURAL WORKERS (DEC 1999)

(a) General. This contract is subject to the Migrant and Seasonal Agricultural Workers Protection Act (MSPA) (29 U.S.C 1801-1872) and to Department of Labor regulations implementing MSPA (see 29 CFR 500). The purpose of MSPA is to eliminate activities that are detrimental to migrant and seasonal agricultural workers, to require registration of farm labor contractors, and to assure necessary protections for the workers. In addition to traditional farm labor activities, the Act applies to predominately manual forestry work including, but not limited to, tree planting, release, precommercial thinning, and site preparation and wildland fire fighting.

(b) Definitions.

"Migrant Agricultural Worker" and "Seasonal Agricultural Worker", as used in this clause, mean individuals employed in agricultural (including forestry) work on a seasonal or temporary basis. A worker who moves from one seasonal activity to another is employed on a seasonal basis even though the worker may continue to be employed during a major portion of the year. Migrant workers are required to be absent overnight from their permanent place of residence. Seasonal workers are not required to be absent overnight from their permanent place of residence. Members of the contractor's immediate family are not considered to be either migrant or seasonal workers. "Immediate family" includes only (1) spouse; (2) children, stepchildren, or foster children; (3) parents, stepparents, or foster parents; and (4) brothers and sisters.

"Farm Labor Contractor", as used in this clause, means an individual who, for any money or other valuable consideration, paid or promised to be paid, performs any recruiting, soliciting, hiring, employing, furnishing, or transporting of any migrant or seasonal agricultural worker.

(c) Registration Requirement. Any contractor who provides or hires migrant or seasonal workers to perform agricultural or manual forestry work shall first obtain a Certificate of Registration from the Department of Labor or an authorized State agency. The contractor shall carry the Certificate at all times while engaged in contract performance, and shall display it upon request. Any of the contractor's employees who also perform any one or more of the activities defined for a "Farm Labor Contractor" in paragraph (b) must have their own Farm Labor Contractor Employee Certificate.

(d) Worker Protections. The contractor shall comply with the following protections and standards related to wage disclosure, recordkeeping, vehicle safety, and housing:

(1) The contractor shall display and maintain at the place of employment the MSPA poster provided by the Department of Labor.

(2) Wage and Payroll Standards

(i) The contractor shall disclose in writing to each worker in a language common to the worker the full terms of their employment, including workers compensation information, at the time they are recruited or hired. The Department of Labor provides an optional form WH-516 for contractor's use in disclosure.

(ii) The contractor must keep the following payroll records for each employee: name, address, social security number, basis for wages (i.e. per hour, per tree, per acre), number of units earned if paid on a per unit basis, hours worked, total pay, withholdings and purpose for each, and net pay. Payroll records shall be retained for three years.

(iii) Payments must be made no less frequently than every two weeks or semi-monthly. At the time of each payment, the contractor shall provide to the employee a written itemization of the information listed above and which shall include the employer's tax identification number.

(iv) If paid on a piece rate basis, the employee's wage must be at least equivalent to the required hourly wage for the hours worked, including overtime differential for time in excess of 40 hours per week.

(3) Motor Vehicle Safety

(i) The contractor must be registered to transport employees, unless employees provide their own transportation or carpool by their own arrangement in one of their own vehicles. The authorization to transport employees must appear on the contractor's certificate. If the contractor directs or requests employees to carpool, the registration requirement is still applicable. Any driver who transports workers for a fee or at the direction of the contractor must be registered as a farm labor contractor or a farm labor contractor employee.

(ii) Any vehicle under the ownership or control of the contractor shall comply with safety standards applicable to that vehicle. Generally passenger vehicles or station wagons must comply with Department of Labor regulations at

29 CFR 500.104. Vehicles other than passenger vehicles or station wagons which are driven more than 75 miles must comply with Department of Transportation Regulations at 29 CFR 500.105. All drivers must have a current, valid State drivers license.

(iii) Each vehicle under the ownership or control of the contractor which is used to transport any migrant or seasonal agricultural worker shall be covered by vehicle insurance of \$100,000 per seat (maximum \$5,000,000). A workers compensation policy which covers the workers while being transported plus an additional property damage policy for \$50,000 for loss or damage in any one accident to the property of others may be substituted for the vehicle insurance requirement.

(4) Housing

(i) The contractor shall house workers only in a commercial establishment or a facility that has been certified by a health authority or other appropriate agency. The contractor must post the certificate of occupancy at the housing site.

(ii) The authorization to furnish housing, other than commercial lodging, must appear on the contractor's certificate.

(e) For further information on the requirements of the Act, contractors should contact their local Wage and Hour Division of the Department of Labor.

H.2.3. FSAR 4G52.222-703 MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT REGISTRATION (DEC 1999)

The Migrant and Seasonal Agricultural Worker Protection Act (MSPA) (29 U.S.C. 1801-1872) and implementing regulations issued by the Department of Labor (29 CFR 500), require any employer who hires or anticipates hiring employees subject to MSPA to obtain an MSPA registration number.

If the contractor employs or anticipates hiring employees subject to MSPA, the contractor shall provide a valid U.S. Department of Labor MSPA Registration Number to the Contracting Officer within 10 days after notification of award of the contract.

The Government may demand that the contractor display MSPA registration at any time during contract performance if it appears that the contractor is employing workers subject to MSPA. On demand, the contractor shall display its MSPA registration or state why it is exempt from MSPA.

Compliance with MSPA is a material condition of the contract. If the contractor fails to provide a valid MSPA number in accordance with this clause, or falsely states that it is exempt from the MSPA, the Government may terminate the contract, in addition to other remedies or penalties prescribed by law.

H.2.4. CAMPING

If the Contractor elects to camp, a signed permit by the Clifton District Ranger shall be obtained by the Contractor prior to occupation of an area. Site location will be discussed at post award meeting. The following guidelines will be followed while camping.

H.2.4.1. The Contractor shall be aware of and abide by the rules of the Apache-Sitgreaves National Forests applicable to forest visitors.

H.2.4.2. The Contractor shall obtain a camping permit from the Apache-Sitgreaves National Forests prior to camping on Forest Service land. Final payment shall be withheld until the authorized camping area has been cleaned up to the requirements of the Camping Permit.

If the Contractor does not obtain a camping permit but requires his/her employees to obtain the camping permit, the Contractor remains responsible for campsite clean up and his/her employees' conduct while camping on National

Forest land.

H.2.3 Contractor Information: The Contractor shall abide by the OSHA's Field Sanitation Standard Fact Sheet No. OSHA 92-25, which applies to agricultural establishments hiring 11 or more workers for hand labor.

H.3.0 INDUSTRIAL FIRE PLAN

The following requirements are a part of this solicitation and any resultant contract, and shall be provided at the Contractor's expense:

1. Wildfire Prevention – During periods of contract performance, fire prevention and immediate suppression actions shall be performed by the Contractor.
2. Execution of Industrial Fire Plan
 - a. Forest Service personnel involved will, in all cases, coordinate through the Contracting Officer's Representative (COR) except in cases of emergency, Red Flag Days, or Forest closure.
 - b. The Contractor shall designate a Fire Guard, fluent in English, who shall be responsible for executing and carrying out the Industrial Fire Plan requirements. The name of this representative will be provided to the COR at the pre-work meeting.
 - c. The Contractor shall include the Industrial Fire Plan requirements in all subcontracts.
 - d. The Contractor shall assure that all contract employees are informed of the existence and conditions of the Industrial Fire Plan requirements.
3. Compliance Inspection
 - a. Inspection by the Forest Service will be made to insure compliance with the fire requirements.
 - b. Should any deficiencies appear during the inspection, the Contractor will be informed and the deficiencies shall be corrected within 24 hours. Activities with the potential to start fires shall be halted until the deficiencies are corrected and the corrections are approved by the COR.
 - c. The Contractor's Fire Guard shall make daily inspections to insure that the terms of the Industrial Fire Plan requirements are met at all times, both on the job-site and in the Contractor's camp.
4. Fire Pre-Suppression Requirements
 - a. Fire Toolbox - During contract performance, the Contractor shall furnish and maintain, at the Contractor's expense, one mobile Fire Toolbox, within ¼ mile or less of the location where the Contractor is currently performing work and camping.

The fire toolbox is to be maintained with tools in good condition, in such quantities and mix to provide a fire tool for each person in the Contractor's workforce. This equipment is for the sole purpose of firefighting: a mix of three shovels, size 0 or larger, one axe, two fire rakes, two Pulaskis, and two 3-5 gallon hand pump garden sprayers or backpack pumps filled with water. Where appropriate, a chainsaws may be substituted for the axe; a McLeod tool or heavy duty garden rake for a fire rake, and a heavy duty garden wide hoe or other sturdy digging/scraping tool may be substituted for the Pulaski.

The fire toolbox shall be replenished with re-sharpened, reconditioned, or new tools by the Contractor after each use.

- b. Work Hours – The Contractor shall restrict operations in accordance with the following Industrial Fire Plan level unless the COR waives the requirement in writing.

Each day of operation when there is a predicted change in the Industrial Fire Plan level, the Forest Service will inform the Contractor between 3 and 6 pm MST (4 and 7 pm MDT). Notification will be made of the alphabetical industrial fire precaution plan (Supplement 1) to be followed the next day within the local operating area.

No later than 9 am MST (10 am MDT) the following day, the Forest Service will inform the Contractor of any change in the fire precaution schedule. In the case of Red Flag Days, the Forest Service will inform the Contractor as soon as possible after the National Weather Service issues their high wind warning for that day, which often comes after 9 am MST.

- c. Blasting – Use of caps and safety fuse detonators for blasting is not permitted during periods when fire precaution plan C, or D, or Red Flag is in effect. A Fire Guard shall be required in accordance with the Industrial Fire Plan level (see Section H.3.0.). This individual, when required, shall remain on duty to check for fires for at least 1 hour after blasting is finished. Required equipment shall consist of at least one 5 lb. fire extinguisher, one shovel, size 0 or larger and one 3-5-gallon hand pump garden sprayer or backpack pump filled with water. Blasting hours are restricted under fire precaution plan C; and blasting is prohibited under fire precaution plan D and on Red Flag days.
- d. Welding –Written permission must be obtained from the COR during fire precaution plan B, C, and D. Welding is prohibited on Red Flag days. Required equipment at the welding site shall consist of at least one 5 lb. fire extinguisher, one shovel, size 0 or larger and one 3-5-gallon hand pump garden sprayer or backpack pump filled with water. An area commensurate with the amount of welding to be accomplished shall be cleared to bare mineral soil before welding operations are started. The area in the immediate vicinity of the operation shall be wet down before and after operations. The area adjacent to the welding operations shall be thoroughly checked by the Fire Guard for fires for at least 1 hour after welding.
- e. Slash Incineration – Operation of forced-air burners must comply with all state and federal open burning laws, regulations and policies. Forced air burners shall be operated with a minimum set back from combustibles of 100'. This activity is prohibited on fire precaution plan C, D and Red Flag days.
- f. Ash disposal – Ash from slash incineration shall be treated in such a manner as to not constitute a wildfire risk, and shall be disposed of in an approved manner designated by the COR.
- g. Controlled Burning – All planned burns, including pile burns or use of air curtain burners, conducted by the Contractor under the terms and conditions of the contract are required to have a written Burn Plan that meets the requirements of Forest Service Manual 5140 for the project. The Burn Plan must be prepared, recommended and approved by the appropriate Forest Service Officers. The Contractor will notify the CO, COR, and District Fire Management Officer prior to implementation of a burning project. The Contractor will insure all appropriate Federal, State and local laws, regulations, and policies pertinent to the Burn Plan, are adhered to. Training and qualification standards for the Contractor's employees conducting burning operations will be required according to the applicable regulations in NWCG 310-1, which can found at the National Wildfire Coordinating Group website, www.nwcg.gov/pms/docs/docs.htm.
- h. Fire Guard – To prevent, detect, and suppress wildfires, the Contractor shall provide one or more trained Fire Guards at each operating area where internal combustion engines, incineration equipment, controlled burns or camps are used. Each Fire Guard is required to read, understand, and perform the Industrial Fire Plan duties. The Fire Guards may perform

other contract work in conjunction with Fire Guard duties, provided such other work does not distract from Fire Guard responsibilities. A Fire Guard(s) assigned on one operating area shall satisfy the requirements on adjacent areas if the travel time with available transportation is not in excess of twenty (20) minutes to any of the other areas.

Each Fire Guard shall be physically able, and trained to prevent, detect, and report any fire, and to immediately take suppression action with the required firefighting equipment and employees on any wildfire that starts within the contract area. The Fire Guards shall perform their duties during normal operating hours; with an added two (2) hour watch after work stops for the day when the Fire Precaution Plan is at level B or C (see Supplement 1). If the Contractor has agreed to additional terms for operation under Fire Precaution Plan D (see Supplement 2), the Fire Guard will perform all requirements specified in the Plan D Authorization Letter issued by the CO.

Each Fire Guard shall be equipped with a vehicle capable of carrying a minimum 5 lb. fire extinguisher and fire tools consisting of a cache box with one shovel, size 0 or larger, one cutting tool such as either an axe, Pulaski or chainsaw, one fire rake or heavy duty garden rake, and two 3-5-gallon hand pump garden sprayers or backpack pumps filled with water. All equipment and tools shall be maintained in serviceable and operable condition. The tool cache for the Fire Guard will be in addition to the Fire Toolbox maintained for the work crews and available for use at both the work site and campsite.

- i. Communications –The Contractor shall provide some form of direct communication, such as a cell phone or two-way radio, between the Fire Guard(s) and the work crews, and when technically possible, between the job-site and the Forest Service. The Contractor's cell phone number, or other form of contact, will be reported to the COR at the pre-work meeting. All communications will be in English.

5. Wildfire Suppression

- a. The Contractor shall take independent action immediately to suppress all fires originating within the contract boundary and camp location. The Contractor shall continue fighting the fire until released from the fire by the Forest Service. The Contractor will take appropriate action on a fire outside the contract area or campsite to the level of their firefighting experience, abilities and qualifications. The Contractor may be requested to assist the Forest Service with fighting a fire if the personnel have been trained and equipped with the proper personnel protective equipment (PPE). If contract operations are interrupted for fire fighting purposes the Contractor shall notify the COR as soon as practical.
- b. If the Contractor pursues fighting any wildfire which has moved from off the USFS contract land and crosses onto lands of other ownership, such as private property, the Contractor shall be aware that dangers may be present associated with urbanized areas. For example, the Contractor will need to become highly alert, and take extreme care to avoid dangers associated with open flames or operating heavy equipment near propane/butane tanks and underground gas lines, overhead/underground electric lines, underground septic tanks, and private outbuildings which may contain hazardous or flammable/explosive chemicals. Coordination as soon as possible with USFS and/or local municipal firefighters who are better trained for safe wildland/urban-interface fire suppression tactics is recommended when faced with fires on private lands.
- c. All fires shall be reported immediately to the most available Forest Service office. The COR will insure that all fire reports are forwarded immediately to the Apache-Sitgreaves NF Fire Dispatcher's Office. Even though the fire may have been suppressed by the Contractor's crew, this report is still required. The office and telephone numbers to which fires shall be reported will be furnished to the Contractor at the contract pre-work meeting.

- d. The Contractor shall not perform fire suppression activity, or provide reinforcement support, on any wildfires that originates and remains outside the contract boundary or Contractor's camp location, without meeting the criteria below.

If the Contractor wishes to be available to assist the Forest Service with emergency wildfire suppression or support activities beyond the contract boundary, all the Contractor's, and/or Subcontractor's, equipment must first be signed up on an Equipment Rental Agreement, USDA/USDI Optional Form 294, issued by the Apache-Sitgreaves National Forests. (In cases of extreme emergency, the Forest Service can finalize this agreement at the fire location.) Emergency use of equipment manned with operators, such as dozers, skidders, tree shears, chainsaws and water trucks/trailers, would then be compensated to the Contractor at current Forest Service fire-fighting rental equipment rates common to the area. Equipment rented by the Forest Service under this agreement shall be operated only by physically able personnel supplied by the Contractor.

Likewise, all personnel employed or subcontracted by the Contractor who wish to work on wildfires as individuals must first be currently certified with the required fire training to be qualified as a wildland firefighter before being permitted to assist the Forest Service with fire suppression. Firefighters must also have completed the necessary forms to become temporary emergency Forest Service fire-fighting employees. Contract personnel temporarily released off this contract by the Contractor to fight off-contract fires, shall be paid by the Forest Service at current USFS standard emergency "administratively determined" (AD) fire-fighting rates.

The COR can direct you on how and where to make these preparations in advance. The contract COR must be notified as soon as possible in writing when the above conditions for fire rental equipment and personnel have been met. The Contractor must also notify the COR as soon as practical if contract operations are interrupted for emergency fire fighting outside the contract area. If the Contractor does not wish to meet these criteria to help fight wildland fire outside the contract area, the Contractor is not required to do so.

6. Equipment Requirements

- a. All gasoline and diesel equipment (except turbocharged) used on the project, and in camp, shall be equipped with spark arresters approved in the Spark Arrester Guide, USDA Forest Service, which will be used by the USFS for equipment inspections. Copies of this Guide can be viewed on the internet at www.nwcg.gov/pms/pubs/pubs.htm. To purchase the most recent Guide, go to the above mentioned website.
- b. All internal combustion engines must be inspected before use in the job and periodically thereafter by the Forest Service. Equipment not passing inspection cannot be used until repairs are made, re-inspected, and passed by the Forest Service - see attached Supplement 3: Order Southwestern Region USDA Forest Service pursuant to 36 CFR 261.50 and 261.52 (f) and (j).
- c. Serviceable baffled mufflers with standard exhaust tailpipes and catalytic converter heat shields are considered adequate on trucks, pickups, vans, sedans, motor-homes, and ATVs provided the muffler system meets the USDA Forest Service, Spark Arrester Guide. Care shall still be taken to avoid parking such vehicles over tall grass, brush or flammable materials.
- d. Equipment service areas, and gas and oil storage areas, shall be cleared of brush, litter, debris, and grass for a radius of at least 50 feet. Locations shall be pre-approved by the Forest Service.
- e. Each piece of motorized equipment not included in item (f.) below shall be equipped with a round-point shovel and fire extinguisher.

- f. Fuel trucks, service trucks, and the work camp shall be equipped with a shovel, double bit axe, and class ABC pressurized chemical fire extinguisher of not less than 15 pounds capacity by weight.

The shovels and fire extinguishers are in addition to those required for the Fire Guard tool cache (4.a.) and the mobile fire tool box (4.e). These shall be furnished and maintained at the Contractor's expense.

- g. All crawler tractors and rubber-tired equipment suitable for fire suppression work shall be equipped with lights for nighttime use. This includes two functioning headlights, and 1 to 2 backup lights.
- h. Power saws shall be kept in a safe, serviceable condition at all times. Each power saw shall be equipped with an approved spark arrester screen muffler system defined by USDA Forest Service Spark Arrester Guide. All exhaust products must pass through the screen, which has openings of 0.023-inch or less. The effective exhaust area of the screen (total area of all screen openings) shall not be less than 200 percent of the engine exhaust port area at its smallest cross-section. Screen material will be heat and corrosion resistant, and shall provide at least 100 hours of service life.
- (1.) The refueling of power saws shall be done on bare mineral soil and the saw shall be moved at least 10 feet from the point of refueling to another barren spot before being started.
 - (2.) Power saws with warm or hot spark arresters screen mufflers—running or not—shall not be placed or rested on sawdust piles, litter duff, stumps, or spots that are easily ignited.
 - (3.) Each crew with power saws shall be accompanied by at least one round point shovel in good condition and a Factory Mutual (FM) approved fuel can. One chemical pressurized fire extinguisher, 8 ounces or larger, is to be kept with the power saw operator at all times while working on the project. The shovel is to be kept with the fuel supply can.
- i. Forced Air Burners shall be kept in serviceable conditions at all times. Blower unit power supplies must comply with 6 b and c above.

7. Smoking and Fires

- a. Smoking – When/where smoking is permitted, cigarette butts or other smoking materials shall be extinguished completely and disposed of responsibly.
- (1.) No smoking shall be allowed while traveling, except on surfaced highways. A surfaced highway is any road that is oiled, graveled, or otherwise paved.
 - (2.) Smoking is not permitted while working. Smoking is only permitted in camp or on breaks, and only in areas having a clearing of at least 3 feet in diameter to bare mineral soil or rock, or preferably inside an enclosed vehicle with an ash tray.
 - (3.) Smoking is not permitted while refueling, or while in the fuel storage/ service area.
- b. Fires – Warming fires, cooking fires, or burning of waste debris at camp or on the job-site, shall not be permitted during periods of high to extreme fire danger except in designated places by written consent of the Forest Service. All other fires (such as burning of debris resulting from clearing a camp or right-of-way) and ash disposal are covered under sections 4.e., 4.f., and 4.g.

8. Fire Plan and Closure Order Violations

- a. Contractor's violation or deficiency in meeting fire plan requirements shall result in a state of non-compliance with the terms and conditions of the contract. Immediate suspension of contract operations will be enforced until the deficiency or violation is corrected.
- b. The Contractor shall advise all employees of Forest campfire, smoking, powersaw, and/or area closure orders (36 CFR 261.52 (a) (c) (d) (e) (h)). After notification to the Contractor by the Forest Service of such orders taking effect, the Contractor and their employees may be subject to criminal action under Federal Regulations separate from this contract should a violation occur.

9. Fire Suppression Costs – The USDA Forest Service reserves the right to participate in extinguishing any fires caused by the Contractor's operations. Contractor's obligations for cost of fire suppression, and all suppression activities ordered or directed by the Forest Service, vary according to three classifications of fires as follow below:

- a. **Operations Fire.** An "Operations Fire" is a fire caused by Contractor's operations other than a Negligent Fire, when all requirements of this industrial fire safety plan have been met and consistently maintained by the Contractor. The Government (Forest Service) shall perform fire suppression activities on Operations Fires, under the authorities of 16 USC 572. Contractor agrees to reimburse the Forest Service for expenses incurred by the Forest Service for the cost of an Operations Fire, to a maximum of \$10,000 dollars for each occurrence.
- b. **Negligent Fire.** A "Negligent Fire" is a fire caused by negligence or fault of the Contractor's deficient operations by failure to comply with all requirements of this industrial fire plan (ie. "Fire Plan Negligence"), which results in a wildfire starting or permitting a controlled fire to spread out of control. Damages and the cost of suppressing Negligent Fires shall be borne by the Contractor. The Contractor shall also be responsible for full or partial costs and damages to any property of the USDA Forest Service or third parties caused by escaped fires resulting from Contractor's negligence.
- c. **Other Fires in Immediate Area.** This situation is covered under section 5.d. of this industrial fire plan.

10. Historical Data – The following data on the Forest area involved is provided for the Contractor's information. The data are averaged from records for the past 10 years based on the Energy Release Component (ERC) for the appropriate Fuel Models, at various weather stations across the Forest.

Total operating year is January 1 through December 31. (Most years lack some days of data collection during winter months when weather stations were not functional.)

Apache-Sitgreaves National Forest – Average # days/year by Industrial Plan for past 10 years:

A-S Industrial Plan SIG (Heber – Lakeside – Alpine) NFDRS Fuel Model J

Approx. # Days per Year at Each Industrial Plan Level (5-day averaged ERC)

Industrial Fire Precautionary Plan Levels	AVG	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
A	85	150	110	55	75	140	175	50	15	60	15

B	204	14 5	200	215	220	190	145	220	210	270	220
C	24	35	20	15	10	10	30	70	0	15	30
D	32	20	10	20	55	25	10	20	50	15	95

Average number of Red Flag Days = 1 to 15 (highly variable by year).

The majority of Plan C, D, and Red Flag days generally occur between the periods of March 25th to September 25th. Wildfire risk is usually at its greatest between mid-April through mid-July each year.

**SUPPLEMENT 1
EMERGENCY FIRE PRECAUTION SCHEDULE**

Fire Precaution Plan Description

A	Normal fire precautions. No Fire Guard required.
B	Designated areas for smoking, warming, and cooking fires require a written permit. Contractor shall provide Fire Guard unless relieved of this responsibility in writing by the COR.
C	Power saws shall be shut down from <u>9 am</u> to 8 pm MST (10 am to 9 pm MDT). Turbo-charged equipment and rubber-tired skidders, shears, and chippers shall be shut down from <u>12 noon</u> until 8 pm MST (1-9 pm MDT). Shutdown from <u>12 noon</u> until 8 pm MST (1-9 pm MDT) of all machine treatment of slash, blasting, welding, metal cutting, and clearing. No forced air burner or controlled burning ignition, smoking, warming, or cooking fires permitted at any time. Operations on bare mineral soil involving loading, hauling, road excavation, watering, grading, surfacing, rock crushing and/or other equipment maintenance may continue. Fire Guard is required.
D and Red Flag Days, and Area Closure Orders	Shut down all operations, except operations on bare mineral soil involving road excavation, watering, grading, gravel surfacing, rock crushing may continue <u>only</u> with a special Forest Service permit.

11. Plan D Authorization Letter - Attached as Supplement 2, is a sample of the additional requirements the Contractor must agree to, only if he wishes to continue limited operations on Fire Plan "D" days. This authorization letter would only be issued to contractors who already have a dozer or skidder available on that job to quickly dig fire line. Recommendation for such authorization would be determined by the District Fire Management Officer and contract COR, on an individual contract basis, taking into consideration such things as contract location, terrain, road access, hazardous fuels present, long-term fire weather forecasts, and other risk factors. Contractors who chose not to work on this limited basis during Plan "D" days may decline these additional terms, in which case normal shutdown and/or suspension of contract time would be likely until field conditions improve.

In select cases, acceptance and possession of such a letter may also serve as the special USFS permit required for legal operation during times of fire and powersaw restriction orders. A separate Forest Entry Permit, issued by the designated ranger district at no cost, would still be required for work to continue within forest areas closed to the public by special order.

District permits to continue contract work involving heat or spark-causing activities during power saw restrictions and/or area closure orders will not be issued without very serious consideration beforehand by the District Fire Management Officer, District Ranger, COR and contract CO, and are not likely to be granted except in the most unique of circumstances.

(See attached two-page sample letter)

FIRE PLAN SUPPLEMENT 2

(Printed on A-SNF Forest Business Letterhead)

To: Service Contractor: Name	File Code: 6320/5100 Date: xxxxxxxx
Address	

To facilitate production on the XXXXXXXXXXXX TSI Contract # xx-xxxx-x-xxxx, on the XYZ Ranger District, you are temporarily authorized to operate under "hoot-owl" conditions during Industrial Fire Precautionary Plan "D" days, as per the "INDUSTRIAL FIRE PLAN" portion of your service contract, IF you agree to take the following required and additional measures. If you wish to keep working during Plan "D" days, then acceptance of these additional measures is mandatory. If you are not willing to accept these extra terms, then the contract will revert to the shut down requirements for Plan "D" days as stated in the contract Fire Plan. Once accepted, this authorization will be revoked if you are found in non-compliance of these extra terms, or if the fire danger becomes more extreme as determined by Forest Service Fire Specialists.

1. Full compliance with all measures listed in the FIRE PLAN, including absolutely NO open flames on the job or in camp at any time. Smoking is allowed only within enclosed vehicles with ash trays.
2. All operations will be on "hoot-owl" shift, with shutdown times according to Fire Precaution Plan "C". No ignition of broadcast or pile burns are permitted at any time.
3. Felling, pruning, and lopping saws shall be shut down at 9:00 am. Skidding and shearing with rubber-tires, turbo-charged chainsaws and skidding equipment, delimiting machines at landings, and chipping with rubber-tired transport may continue until 12 noon. Loading on bare dirt landings and hauling on contract roads may continue all day, with caution. USFS discretion will be used to set shutdown times for other equipment not listed here. Slash pullback by hand, use of hand tools, and piling by hand may continue after these times. The Fire Guard is required to monitor the entire work area and roadsides for sparks/smokes where chain saws, shears, skidders, delimiters, chippers/shredders, hydro-axes, loaders, etc. were used, for 2 hours after all mechanical operations have ceased, including departure time for the last load hauled away for the day.
4. No chainsaw work, chipper operation, off-road vehicle or equipment use, self-contained or pit-design forced air burner operation, or other heat/spark-causing activities, will be permitted whenever eye-level winds exceed 10 miles per hour. This will require your Fire Guard or on-site Contractor Representative to determine when these wind conditions have developed in the contract area, and to immediately shut down your mechanical operations until winds have subsided, or until hoot-owl times take effect, whichever comes first.
5. On any Fire Plan "D" days which turn into "Red Flag Warning" days, the Contractor is responsible for full and immediate shut down of ALL mechanical and air burner operations upon notification from the Forest Service. The Fire Guard will remain on-duty for 3 hours after shut down, to check for smokes. Absolutely NO smoking or heat/spark-causing activities are to occur while doing any handwork. Red Flag Warnings are issued by the National Weather Service (NWS) for unusually severe fire weather, and extremely high fire danger due to the combination of low forest ground fuel moisture, low relative humidity, and sustained strong winds.

Letter page 2 of 2

The District Office or COR will contact you as soon as the Forest Service receives notice from the NWS that they have issued a Red Flag Warning for that day.

6. A 4-wheel drive vehicle equipped as a minimum with a 50 gallon water tank, pump, 50 feet of 1" hose with an adjustable spray nozzle attached will be required on-site where cutting, skidding, and chipping activities are in progress. A functioning dozer, tractor plow or skidder, equipped with a blade and manned with a qualified operator, must be on-site at all times dedicated to fire suppression in cutting, skidding and chipping areas, for 2 full hours after operations are shut down.

7. All operations will be restricted to one contract unit or block, unless otherwise approved by the Contracting Officer's Representative (COR).

8. Communications: Some reliable source of communications must be established from the contract area (such as cellular phone, or two-way radio) which is manned during the same time period as your Fire Guard is on the contract area. Your radio or cellular phone must be able to communicate with the Forest Fire Dispatcher's office during hours of contract operation. Key emergency contact phone numbers provided to you by the Contracting Officer's Representative (COR) shall be kept with this communication equipment at all times. All communications shall be in English.

9. The Contractor is responsible to contact the COR or designated District Office between 2:00 and 4:30 pm each day of operation, to advise of the operational status implemented the previous 24 hours. (For example, if conditions permitted the chipper to run until noon, then include this in your report. If winds were in excess of 10 mph after 8:00 pm the night before or prior to 9:00 am, then advise that operations were indeed shut down during those windy times.) During this contact, the COR or District Office will advise you of the Industrial Fire Plan precaution level predicted for the following day.

10. Scarcity of fire fighting resources: During periods of extreme fire danger (Plan D and Red Flag days), when Forest fire fighting resources are committed to fighting fires on or off the Forest, and are unable to respond to a new fire starts, the Contractor's operations may be required to totally shut down until this emergency status is over.

The District may request that the CO modify these requirements if the contract area is in a low risk area (bounded by natural fire breaks), or a high risk area (up-wind of urban-interface/residential area). The Industrial Fire Plan precaution level may be adjusted by one level up or down based on local conditions. When this occurs the District will notify the CO or COR, who will attempt to notify you verbally first, then in writing.

Please notify the Contract COR in writing by ____ (DATE) _____, to clarify if you will, or will not, accept these extra terms to continue operating during Fire Plan "D" days.

Sincerely,

/s/ signature

Name

Contracting Officer, Apache-Sitgreaves NFs

cc: Contract COR, District FMO, Forest Fire Dispatcher's Office

FIRE PLAN SUPPLEMENT 3

R3 SUPPLEMENT 5100-91-1

5110

EFFECTIVE DATE: 01/31/91

Page 3 of 5

DURATION: This supplement is effective until superseded or removed.

**FSM 5100 —FIRE MANAGEMENT
CHAPTER 5110 - WILDFIRE PREVENTION
5110.3-Exhibit
ORDER
SOUTHWESTERN REGION
USDA FOREST SERVICE**

PURSUANT to 36 CFR 261.50 and 261.52(f) and (j), the following are prohibited within all National Forests located in the States of Arizona and New Mexico, and in the Black Kettle, McClellan Creek, Rita Blanca, and Kiowa National Grasslands located in Oklahoma, New Mexico and Texas.

All such lands are located within the Southwestern Region of the USDA Forest Service. This order will remain in effect until rescinded or revoked.

These prohibitions are in addition to those enumerated in Subpart A of Part 261, 36 CFR.

Except as provided below, the following is prohibited:

Operating or using any internal or external combustion engine without a spark arresting device properly installed, maintained, and in effective working order meeting either: (1) Department of Agriculture, Forest Service Standard 5100-1a; or (2) appropriate Society of Automotive Engineers (SE) recommended practice J335(b) and J350(a) (36 CFR 261.52(3)).

Possessing, discharging or using any kind of firework or other pyrotechnic device (36 CFR 261.52(f)).

PURSUANT to 36 CFR 261.52(e), each of the following persons is exempted from this order:

1. Persons with a permit specifically authorizing the prohibited act.
2. Any Federal, State, or local officer, or member of an organized rescue or firefighting force, in the performance of official duty.

Done at Albuquerque, New Mexico, this 13 day of June, 1986.

/s/ Sotero Muniz
SOTERO MUNIZ
Regional Forester
Region 3

PART II--CONTRACT CLAUSES

SECTION I--CONTRACT CLAUSES

FAR 52.252-2 Clauses Incorporated by Reference (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

www.arnet.gov/far/

www.usda.gov/procurement/policy/agar.html

FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) CLAUSES

- 52.209-6 Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (JAN 2005) (*Applicable if contract exceeds \$25,000*)
- 52.215-8 Order of Precedence--Uniform Contract Format (OCT 1997)
- 52.219-6 Notice of Total Small Business Set-Aside (JUN 2003)
- 52.222-3 Convict Labor (JUN 2003)
- 52.222-21 Prohibition of Segregated Facilities (FEB 1999)
- 52.222-26 Equal Opportunity (APR 2002) (*Applicable if contract exceeds \$10,000*)
- 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and other Eligible Veterans (DEC 2001) (*Applicable if contract exceeds \$25,000*)
- 52.222-36 Affirmative Action for Workers with Disabilities (JUN 1998) (*Applicable if contract exceeds \$10,000*)
- 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and other Eligible Veterans (DEC 2001) (*Applicable if contract exceeds \$25,000*)
- 52.222-41 Service Contract Act of 1965, as Amended (MAY 1989)
- 52.223-5 Pollution Prevention and Right-to-Know Information (AUG 2003)
- 52.223-6 Drug-Free Workplace (MAY 2001) (*Applicable if contract is awarded to an individual*)
- 52.232-1 Payments (APR 84)
- 52.232-8 Discounts for Prompt Payment (FEB 2002)
- 52.232-11 Extras (APR 1984)
- 52.232-18 Availability of Funds (APR 1984)
- 52.232-23 Assignment of Claims (JAN 1986)
- 52.232-25 Prompt Payment (OCT 2003)
- 52.232-33 Payment by Electronic Funds Transfer -- Central Contractor Registration (OCT 2003)
- 52.233-1 Disputes (JULY 2002)
- 52.233-3 Protest After Award (AUG 1996)
- 52.233-4 Applicable Law for Breach of Contract Claim (OCT 2004)
- 52.237-2 Protection of Government Buildings, Equipment, and Vegetation (APR 1984)
- 52.243-1 Changes--Fixed-Price (AUG 1987)--Alternate I (APR 1984)
- 52.245-4 Government-Furnished Property (Short Form) (JUN 2003)
- 52.249-1 Termination for Convenience of the Government (Fixed-Price) (Short Form) (APR 1984)
- 52.249-8 Default (Fixed-Price Supply and Service) (APR 1984)
- 52.253-1 Computer Generated Forms (JAN 1991)

AGRICULTURE ACQUISITION REGULATION (48 CFR CHAPTER 4) CLAUSES

- 452.237-70 Loss, Damage, Destruction or Repair (FEB 1988)
- 452.237-75 Restrictions Against Disclosure (FEB 1988)

52.204-7 Central Contractor Registration (OCT 2003)

(a) Definitions. As used in this clause-

"Central Contractor Registration (CCR) database" means the primary Government repository for Contractor information required for the conduct of business with the Government.

"Data Universal Numbering System (DUNS) number" means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

"Data Universal Numbering System +4 (DUNS+4) number" means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same parent concern.

"Registered in the CCR database" means that-

- (1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and
- (2) The Government has validated all mandatory data fields and has marked the record "Active".

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS +4" followed by the DUNS or DUNS +4 number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number-

(i) If located within the United States, by calling Dun and Bradstreet at 1-866-705-5711 or via the Internet at <http://www.dnb.com>; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company Physical Street Address, City, State, and Zip Code.

(iv) Company Mailing Address, City, State and Zip Code (if separate from physical).

(v) Company Telephone Number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(g) (1) (i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in

Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of Subpart 42.12 of the FAR; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423, or 269-961-5757.

FAR 52.222-42 Statement of Equivalent Rates for Federal Hires (MAY 1989)

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

*This Statement is for Information Only:
 It Is Not A Wage Determination.*

Employee Class	Monetary Wage--Fringe Benefits
_____	_____
_____	_____
_____	_____
_____	_____

FAR 52.244-6 Subcontracts for Commercial Items (DEC 2004)

(a) *Definitions.* As used in this clause-

"Commercial item" has the meaning contained in Federal Acquisition Regulation 2.202-1, Definitions.

"Subcontract" includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c)(1) The following clauses shall be flowed down to subcontracts for commercial items:

(i) 52.219-8, Utilization of Small Business Concerns (MAY 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (APR 2002) (E.O. 11246).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era and Other Eligible Veterans (DEC 2001) (38 U.S.C. 4212(a)).

(iv) 52.222-36, Affirmative Action for Workers with Disabilities (June 1998) (29 U.S.C. 793).

(v) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004) (E.O. 13201). Flow down as required in accordance with paragraph (g) of FAR clause 52.222-39).

(vi) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (APR 2003) (46 U.S.C. Appx 1241 and 10 U.S.C. 2631) (flow down required in accordance with paragraph (d) of FAR 52.247-64).

(2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

FAR 52.246-20 Warranty of Services (MAY 2001)

(a) *Definition.* "Acceptance," as used in this clause, means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services, as partial or complete performance of the contract.

(b) Notwithstanding inspection and acceptance by the Government or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The Contracting Officer shall give written notice of any defect or nonconformance to the Contractor _____ [*Contracting Officer shall insert the specific period of time in which notice shall be given to the Contractor; e.g., "within 30 days from the date of acceptance by the Government,"; "within 1000 hours of use by the Government;" or other specified event whose occurrence will terminate the period of notice, or combination of any applicable events or period of time*]. This notice shall state either--

(1) That the Contractor shall correct or reperform any defective or nonconforming services; or

(2) That the Government does not require correction or reperformance.

(c) If the Contractor is required to correct or reperform, it shall be at no cost to the Government, and any services corrected or reperformed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or reperform, the Contracting Officer may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the Government thereby, or make an equitable adjustment in the contract price.

(d) If the Government does not require correction or reperformance, the Contracting Officer shall make an equitable adjustment in the contract price.

PART III--LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS

SECTION J--LIST OF ATTACHMENTS

EXHIBIT 1: Service Contract Act Wage Determination No. 94-2023, Revision 30 dated 05/23/2005

EXHIBIT 2: Vicinity Map

EXHIBIT 3: CONTRACTOR'S QUALIFICATIONS AND FINANCIAL INFORMATION

EXHIBIT 1: 94-2023 AZ,PHOENIX

WAGE DETERMINATION NO: 94-2023 REV (30) AREA: AZ,PHOENIX

HEALTH AND WELFARE LEVEL - INSURANCE ONLY **OTHER WELFARE LEVEL WD:94-2024

REGISTER OF WAGE DETERMINATIONS UNDER THE SERVICE CONTRACT ACT By direction of the Secretary of Labor		U.S. DEPARTMENT OF LABOR EMPLOYMENT STANDARDS ADMINISTRATION WAGE AND HOUR DIVISION WASHINGTON D.C. 20210
-------------------------------------------------------------------------------------------------------------	--	--------------------------------------------------------------------------------------------------------------------

William W.Gross Division of
 Director Wage Determinations

Wage Determination No.: 1994-2023
 Revision No.: 30
 Date Of Revision: 05/23/2005

State: Arizona
 Area: Arizona Counties of Apache, Coconino, Gila, Maricopa, Navajo, Pinal, Yavapai

Fringe Benefits Required Follow the Occupational Listing

OCCUPATION CODE - TITLE	MINIMUM WAGE RATE
01000 - Administrative Support and Clerical Occupations	
01011 - Accounting Clerk I	11.16
01012 - Accounting Clerk II	12.30
01013 - Accounting Clerk III	14.02
01014 - Accounting Clerk IV	15.85
01030 - Court Reporter	15.17
01050 - Dispatcher, Motor Vehicle	12.91
01060 - Document Preparation Clerk	11.52
01070 - Messenger (Courier)	10.24
01090 - Duplicating Machine Operator	11.52
01110 - Film/Tape Librarian	12.15
01115 - General Clerk I	8.78
01116 - General Clerk II	10.21
01117 - General Clerk III	11.20
01118 - General Clerk IV	13.32
01120 - Housing Referral Assistant	16.44
01131 - Key Entry Operator I	9.80
01132 - Key Entry Operator II	11.02
01191 - Order Clerk I	10.66
01192 - Order Clerk II	14.86
01261 - Personnel Assistant (Employment) I	10.94
01262 - Personnel Assistant (Employment) II	13.54
01263 - Personnel Assistant (Employment) III	15.62
01264 - Personnel Assistant (Employment) IV	17.42
01270 - Production Control Clerk	16.43

01290 - Rental Clerk	11.47
01300 - Scheduler, Maintenance	13.66
01311 - Secretary I	13.66
01312 - Secretary II	14.86
01313 - Secretary III	16.44
01314 - Secretary IV	19.01
01315 - Secretary V	23.35
01320 - Service Order Dispatcher	11.28
01341 - Stenographer I	11.73
01342 - Stenographer II	13.18
01400 - Supply Technician	19.01
01420 - Survey Worker (Interviewer)	12.54
01460 - Switchboard Operator-Receptionist	11.12
01510 - Test Examiner	14.86
01520 - Test Proctor	14.86
01531 - Travel Clerk I	11.14
01532 - Travel Clerk II	12.02
01533 - Travel Clerk III	12.93
01611 - Word Processor I	12.21
01612 - Word Processor II	13.94
01613 - Word Processor III	15.49
03000 - Automatic Data Processing Occupations	
03010 - Computer Data Librarian	12.16
03041 - Computer Operator I	11.25
03042 - Computer Operator II	14.25
03043 - Computer Operator III	16.38
03044 - Computer Operator IV	18.51
03045 - Computer Operator V	20.19
03071 - Computer Programmer I (1)	20.91
03072 - Computer Programmer II (1)	24.91
03073 - Computer Programmer III (1)	27.62
03074 - Computer Programmer IV (1)	27.62
03101 - Computer Systems Analyst I (1)	27.62
03102 - Computer Systems Analyst II (1)	27.62
03103 - Computer Systems Analyst III (1)	27.62
03160 - Peripheral Equipment Operator	11.25
05000 - Automotive Service Occupations	
05005 - Automotive Body Repairer, Fiberglass	18.62
05010 - Automotive Glass Installer	15.63
05040 - Automotive Worker	15.63
05070 - Electrician, Automotive	16.34
05100 - Mobile Equipment Servicer	13.37
05130 - Motor Equipment Metal Mechanic	18.25
05160 - Motor Equipment Metal Worker	15.78
05190 - Motor Vehicle Mechanic	17.37
05220 - Motor Vehicle Mechanic Helper	12.16
05250 - Motor Vehicle Upholstery Worker	14.59
05280 - Motor Vehicle Wrecker	15.78
05310 - Painter, Automotive	17.80
05340 - Radiator Repair Specialist	15.76
05370 - Tire Repairer	12.92

05400 - Transmission Repair Specialist	17.37
07000 - Food Preparation and Service Occupations	
(not set) - Food Service Worker	8.31
07010 - Baker	11.36
07041 - Cook I	9.94
07042 - Cook II	11.50
07070 - Dishwasher	7.56
07130 - Meat Cutter	16.13
07250 - Waiter/Waitress	7.22
09000 - Furniture Maintenance and Repair Occupations	
09010 - Electrostatic Spray Painter	16.50
09040 - Furniture Handler	10.88
09070 - Furniture Refinisher	16.50
09100 - Furniture Refinisher Helper	12.16
09110 - Furniture Repairer, Minor	14.59
09130 - Upholsterer	16.50
11030 - General Services and Support Occupations	
11030 - Cleaner, Vehicles	7.83
11060 - Elevator Operator	8.06
11090 - Gardener	12.96
11121 - House Keeping Aid I	7.54
11122 - House Keeping Aid II	8.70
11150 - Janitor	10.14
11210 - Laborer, Grounds Maintenance	9.37
11240 - Maid or Houseman	7.54
11270 - Pest Controller	13.19
11300 - Refuse Collector	10.74
11330 - Tractor Operator	11.82
11360 - Window Cleaner	10.96
12000 - Health Occupations	
12020 - Dental Assistant	13.56
12040 - Emergency Medical Technician (EMT)/Paramedic/Ambulance Driver	12.53
12071 - Licensed Practical Nurse I	14.13
12072 - Licensed Practical Nurse II	15.72
12073 - Licensed Practical Nurse III	17.60
12100 - Medical Assistant	11.06
12130 - Medical Laboratory Technician	14.74
12160 - Medical Record Clerk	12.22
12190 - Medical Record Technician	15.57
12221 - Nursing Assistant I	9.24
12222 - Nursing Assistant II	10.37
12223 - Nursing Assistant III	10.94
12224 - Nursing Assistant IV	12.30
12250 - Pharmacy Technician	12.19
12280 - Phlebotomist	12.30
12311 - Registered Nurse I	20.71
12312 - Registered Nurse II	25.35
12313 - Registered Nurse II, Specialist	25.35
12314 - Registered Nurse III	30.68
12315 - Registered Nurse III, Anesthetist	30.68
12316 - Registered Nurse IV	36.74

13000 - Information and Arts Occupations	
13002 - Audiovisual Librarian	20.92
13011 - Exhibits Specialist I	15.53
13012 - Exhibits Specialist II	19.16
13013 - Exhibits Specialist III	23.37
13041 - Illustrator I	18.79
13042 - Illustrator II	23.18
13043 - Illustrator III	28.27
13047 - Librarian	21.60
13050 - Library Technician	12.80
13071 - Photographer I	14.72
13072 - Photographer II	16.96
13073 - Photographer III	20.94
13074 - Photographer IV	25.54
13075 - Photographer V	30.98
15000 - Laundry, Dry Cleaning, Pressing and Related Occupations	
15010 - Assembler	7.70
15030 - Counter Attendant	7.70
15040 - Dry Cleaner	9.62
15070 - Finisher, Flatwork, Machine	7.70
15090 - Presser, Hand	7.70
15100 - Presser, Machine, Drycleaning	7.70
15130 - Presser, Machine, Shirts	.70
15160 - Presser, Machine, Wearing Apparel, Laundry	7.70
15190 - Sewing Machine Operator	10.25
15220 - Tailor	0.90
15250 - Washer, Machine	8.37
19000 - Machine Tool Operation and Repair Occupations	
19010 - Machine-Tool Operator (Toolroom)	16.74
19040 - Tool and Die Maker	22.78
21000 - Material Handling and Packing Occupations	
21010 - Fuel Distribution System Operator	14.14
21020 - Material Coordinator	16.43
21030 - Material Expediter	16.43
21040 - Material Handling Laborer	11.91
21050 - Order Filler	10.52
21071 - Forklift Operator	13.52
21080 - Production Line Worker (Food Processing)	13.52
21100 - Shipping/Receiving Clerk	13.89
21130 - Shipping Packer	13.45
21140 - Store Worker I	8.00
21150 - Stock Clerk (Shelf Stocker; Store Worker II)	12.24
21210 - Tools and Parts Attendant	14.00
21400 - Warehouse Specialist	14.00
23000 - Mechanics and Maintenance and Repair Occupations	
23010 - Aircraft Mechanic	22.04
23040 - Aircraft Mechanic Helper	15.43
23050 - Aircraft Quality Control Inspector	26.36
23060 - Aircraft Servicer	18.51
23070 - Aircraft Worker	19.83
23100 - Appliance Mechanic	16.50

23120 - Bicycle Repairer	12.92
23125 - Cable Splicer	21.98
23130 - Carpenter, Maintenance	16.50
23140 - Carpet Layer	15.63
23160 - Electrician, Maintenance	19.99
23181 - Electronics Technician, Maintenance I	12.68
23182 - Electronics Technician, Maintenance II	21.46
23183 - Electronics Technician, Maintenance III	23.61
23260 - Fabric Worker	14.59
23290 - Fire Alarm System Mechanic	18.20
23310 - Fire Extinguisher Repairer	14.71
23340 - Fuel Distribution System Mechanic	20.21
23370 - General Maintenance Worker	15.63
23400 - Heating, Refrigeration and Air Conditioning Mechanic	18.76
23430 - Heavy Equipment Mechanic	18.72
23440 - Heavy Equipment Operator	17.83
23460 - Instrument Mechanic	19.98
23470 - Laborer	9.04
23500 - Locksmith	16.50
23530 - Machinery Maintenance Mechanic	20.68
23550 - Machinist, Maintenance	17.49
23580 - Maintenance Trades Helper	12.16
23640 - Millwright	19.60
23700 - Office Appliance Repairer	16.93
23740 - Painter, Aircraft	22.46
23760 - Painter, Maintenance	16.50
23790 - Pipefitter, Maintenance	18.75
23800 - Plumber, Maintenance	17.81
23820 - Pneudraulic Systems Mechanic	18.20
23850 - Rigger	18.20
23870 - Scale Mechanic	15.65
23890 - Sheet-Metal Worker, Maintenance	17.37
23910 - Small Engine Mechanic	15.63
23930 - Telecommunication Mechanic I	18.23
23931 - Telecommunication Mechanic II	22.06
23950 - Telephone Lineman	18.23
23960 - Welder, Combination, Maintenance	17.37
23965 - Well Driller	18.30
23970 - Woodcraft Worker	18.20
23980 - Woodworker	13.37
24000 - Personal Needs Occupations	
24570 - Child Care Attendant	9.75
24580 - Child Care Center Clerk	13.87
24600 - Chore Aid	8.77
24630 - Homemaker	16.71
25000 - Plant and System Operation Occupations	
25010 - Boiler Tender	21.49
25040 - Sewage Plant Operator	19.64
25070 - Stationary Engineer	21.49
25190 - Ventilation Equipment Tender	12.16
25210 - Water Treatment Plant Operator	19.64

27000 - Protective Service Occupations	
(not set) - Police Officer	24.11
27004 - Alarm Monitor	15.60
27006 - Corrections Officer	19.52
27010 - Court Security Officer	19.52
27040 - Detention Officer	19.77
27070 - Firefighter	19.82
27101 - Guard I	10.07
27102 - Guard II	15.15
28000 - Stevedoring/Longshoremen Occupations	
28010 - Blocker and Bracer	15.65
28020 - Hatch Tender	15.65
28030 - Line Handler	15.65
28040 - Stevedore I	13.92
28050 - Stevedore II	17.40
29000 - Technical Occupations	
21150 - Graphic Artist	20.44
29010 - Air Traffic Control Specialist, Center (2)	31.49
29011 - Air Traffic Control Specialist, Station (2)	21.71
29012 - Air Traffic Control Specialist, Terminal (2)	23.92
29023 - Archeological Technician I	15.21
29024 - Archeological Technician II	17.02
29025 - Archeological Technician III	21.08
29030 - Cartographic Technician	22.61
29035 - Computer Based Training (CBT) Specialist/ Instructor	28.44
29040 - Civil Engineering Technician	19.28
29061 - Drafter I	14.16
29062 - Drafter II	15.90
29063 - Drafter III	18.33
29064 - Drafter IV	22.61
29081 - Engineering Technician I	15.61
29082 - Engineering Technician II	17.26
29083 - Engineering Technician III	21.48
29084 - Engineering Technician IV	25.33
29085 - Engineering Technician V	27.52
29086 - Engineering Technician VI	31.49
29090 - Environmental Technician	18.59
29100 - Flight Simulator/Instructor (Pilot)	30.38
29160 - Instructor	21.67
29210 - Laboratory Technician	18.63
29240 - Mathematical Technician	23.35
29361 - Paralegal/Legal Assistant I	15.92
29362 - Paralegal/Legal Assistant II	18.85
29363 - Paralegal/Legal Assistant III	23.00
29364 - Paralegal/Legal Assistant IV	27.91
29390 - Photooptics Technician	24.41
29480 - Technical Writer	22.48
29491 - Unexploded Ordnance (UXO) Technician I	20.02
29492 - Unexploded Ordnance (UXO) Technician II	24.22
29493 - Unexploded Ordnance (UXO) Technician III	29.03
29494 - Unexploded (UXO) Safety Escort	20.02

29495 - Unexploded (UXO) Sweep Personnel	20.02
29620 - Weather Observer, Senior (3)	17.80
29621 - Weather Observer, Combined Upper Air and Surface Programs (3)	14.75
29622 - Weather Observer, Upper Air (3)	14.75
31000 - Transportation/ Mobile Equipment Operation Occupations	
31030 - Bus Driver	17.45
31260 - Parking and Lot Attendant	8.71
31290 - Shuttle Bus Driver	13.61
31300 - Taxi Driver	9.50
31361 - Truckdriver, Light Truck	13.61
31362 - Truckdriver, Medium Truck	18.71
31363 - Truckdriver, Heavy Truck	19.17
31364 - Truckdriver, Tractor-Trailer	19.17
99000 - Miscellaneous Occupations	
99020 - Animal Caretaker	9.19
99030 - Cashier	10.59
99041 - Carnival Equipment Operator	11.29
99042 - Carnival Equipment Repairer	12.36
99043 - Carnival Worker	8.06
99050 - Desk Clerk	9.75
99095 - Embalmer	18.23
99300 - Lifeguard	10.52
99310 - Mortician	21.46
99350 - Park Attendant (Aide)	13.21
99400 - Photofinishing Worker (Photo Lab Tech., Darkroom Tech)	11.30
99500 - Recreation Specialist	13.51
99510 - Recycling Worker	15.03
99610 - Sales Clerk	11.62
99620 - School Crossing Guard (Crosswalk Attendant)	7.96
99630 - Sport Official	10.52
99658 - Survey Party Chief (Chief of Party)	22.51
99659 - Surveying Technician (Instr. Person/Surveyor Asst./Instr.)	19.11
99660 - Surveying Aide	13.56
99690 - Swimming Pool Operator	15.60
99720 - Vending Machine Attendant	12.31
99730 - Vending Machine Repairer	15.60
99740 - Vending Machine Repairer Helper	12.31

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$2.87 an hour or \$114.80 a week or \$497.47 a month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 5 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year: New Year's Day, Martin Luther King Jr.'s Birthday,

Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4.174)

THE OCCUPATIONS WHICH HAVE PARENTHESES AFTER THEM RECEIVE THE FOLLOWING BENEFITS (as numbered):

- 1) Does not apply to employees employed in a bona fide executive, administrative, or professional capacity as defined and delineated in 29 CFR 541. (See CFR 4.156)
- 2) APPLICABLE TO AIR TRAFFIC CONTROLLERS ONLY - NIGHT DIFFERENTIAL: An employee is entitled to pay for all work performed between the hours of 6:00 P.M. and 6:00 A.M. at the rate of basic pay plus a night pay differential amounting to 10 percent of the rate of basic pay.
- 3) WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY: If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance, explosives, and incendiary materials. This includes work such as screening, blending, dying, mixing, and pressing of sensitive ordnance, explosives, and pyrotechnic compositions such as lead azide, black powder and photoflash powder. All dry-house activities involving propellants or explosives. Demilitarization, modification, renovation, demolition, and maintenance operations on sensitive ordnance, explosives and incendiary materials. All operations involving regrading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with, or in close proximity to ordnance, (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands, face, or arms of the employee engaged in the operation, irritation of the skin, minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving, unloading, storage, and hauling of ordnance, explosive, and incendiary ordnance material other than small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance, explosives, and incendiary material differential pay.

**** UNIFORM ALLOWANCE ****

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage

determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

**** NOTES APPLYING TO THIS WAGE DETERMINATION ****

Under the policy and guidance contained in All Agency Memorandum No. 159, the Wage and Hour Division does not recognize, for section 4(c) purposes, prospective wage rates and fringe benefit provisions that are effective only upon such contingencies as "approval of Wage and Hour, issuance of a wage determination, incorporation of the wage determination in the contract, adjusting the contract price, etc." (The relevant CBA section) in the collective bargaining agreement between (the parties) contains contingency language that Wage and Hour does not recognize as reflecting "arm's length negotiation" under section 4(c) of the Act and 29 C.F.R. 5.11(a) of the regulations. This wage determination therefore reflects the actual CBA wage rates and fringe benefits paid under the predecessor contract.

Source of Occupational Title and Descriptions:

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations," Fourth Edition, January 1993, as amended by the Third Supplement, dated March 1997, unless otherwise indicated. This publication may be obtained from the Superintendent of Documents, at 202-783-3238, or by writing to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Copies of specific job descriptions may also be obtained from the appropriate contracting officer.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 (C)(vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

1) When preparing the bid, the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).

2) After contract award, the contractor prepares a written report listing in order proposed classification title(s), a

Federal grade equivalency (FGE) for each proposed classification(s), job description(s), and rationale for proposed wage rate(s), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.

3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).

4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.

5) The contracting officer transmits the Wage and Hour decision to the contractor.

6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination.

Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

EXHIBIT 2: Vicinity Map. Please fax request for map to Attn: Contracting, (928) 333-5966

**EXHIBIT 3
CONTRACTOR'S QUALIFICATIONS AND FINANCIAL INFORMATION**

SECTION 1 – GENERAL INFORMATION						
1A. NAME			2. TYPE OF ORGANIZATION (CHECK ONE)			
1B. STREET ADDRESS			A. Sole Proprietorship	F. LLC		
			B. General Partnership	G. Joint Venture		
1C. CITY			C. Limited Partnership	H. Non-Profit/Education		
			D. Corporation	i. Other: Specify		
1D. STATE	1E. ZIP/POSTAL		E. Subchapter S.			
3. TAXPAYER ID NUMBER :						
6. DUNS NUMBER			7. VENDOR EXPRESS NUMBER: (FS VENDORS)			
8. KIND OF PRODUCT OR SERVICE PROVIDED:						
10. KIND OF BUSINESS- Specify one block (plus "J" if applicable)						
A. LARGE BUSINESS		E. WOMAN OWNED SDB		I. INDIAN SDB		
B. SMALL BUSINESS		F. VETERN SMALL BUSINESS		J. HUB ZONE - Also		
C. SMALL DISADVANTAGED BUSINESS		G. VETERAN SDB		K. Other: Please Specify		
D. WOMAN OWNED SMALL BUSINESS		H. INDIAN SMALL BUSINESS				
11. OWNERSHIP INFORMATION – PARTNERS – PRINCIPALS - OTHERS						
NAME			TITLE			
12.						
13.						
14.						
15.						
16. Questions. If "Yes" to any below, provide detailed information in section vii, remarks.					Yes	No
A. Have you/your affiliates ever filed for bankruptcy?						
B. Do you have any judgments, liens, pending suits?						
C. Do you have any contingent liabilities?						
D. Have you/your affiliates discontinued business operations with outstanding debts						
SECTION II. GOVERNMENT FINANCIAL AID AND INDEBTNESS					Yes	No
If "Yes" provide detailed information in Section VII, remarks.						
17. Are you delinquent on any Federal Debt (OMB Circular 129)						
18. Do you owe the Government for any contract or other claims?						
19. Are you currently receiving Government Financing? (Bonds, Loans, Advanced Payments, Progress Payments, Other)						
19a. Are you now in or pending Default on ANY Obligations (i.e. Banks, Financial Institutions, Suppliers, Other)? IF yes please provide detailed information in Section VII remarks.						

SECTION III – REFERENCES– CURRENT CONTRACTS INFORMATION (Optional)	
20. CONTRACT 1	21. CONTRACT 2
LOCATION	LOCATION
OWNERS NAME	OWNERS NAME
CONTACT PERSON	CONTACT PERSON
TELEPHONE	TELEPHONE
FAX	FAX
ADDRESS (City, State, Zip/Postal)	ADDRESS (City, State, Zip/Postal)
TYPE OF WORK	TYPE OF WORK
CONTRACT AMOUNT	CONTRACT AMOUNT
% COMPLETE	% COMPLETE
ESTIMATED COMPLETION DATE	ESTIMATED COMPLETION DATE
22. CONTRACT 3	23. CONTRACT 4
LOCATION	LOCATION
OWNERS NAME	OWNERS NAME
CONTACT PERSON	CONTACT PERSON
TELEPHONE	TELEPHONE
FAX	FAX
ADDRESS (City, State, Zip/Postal)	ADDRESS (City, State, Zip/Postal)
TYPE OF WORK	TYPE OF WORK
CONTRACT AMOUNT	CONTRACT AMOUNT
% COMPLETE	% COMPLETE
ESTIMATED COMPLETION DATE	ESTIMATED COMPLETION DATE

SECTION IV – REFERENCES - PAST PERFORMANCE – COMPLETED CONTRACTS INFORMATION <i>(Optional)</i>	
24. CONTRACT 1	25. CONTRACT 2
LOCATION	LOCATION
OWNERS NAME	OWNERS NAME
CONTACT PERSON	CONTACT PERSON
TELEPHONE	TELEPHONE
FAX	FAX
ADDRESS (City, State, Zip/Postal)	ADDRESS (City, State, Zip/Postal)
TYPE OF WORK	TYPE OF WORK
CONTRACT AMOUNT	CONTRACT AMOUNT
% COMPLETE	% COMPLETE
ESTIMATED COMPLETION DATE	ESTIMATED COMPLETION DATE
26. CONTRACT 1	27. CONTRACT 2
LOCATION	LOCATION
OWNERS NAME	OWNERS NAME
CONTACT PERSON	CONTACT PERSON
TELEPHONE	TELEPHONE
FAX	FAX
ADDRESS (City, State, Zip/Postal)	ADDRESS (City, State, Zip/Postal)
TYPE OF WORK	TYPE OF WORK
CONTRACT AMOUNT	CONTRACT AMOUNT
% COMPLETE	% COMPLETE
ESTIMATED COMPLETION DATE	ESTIMATED COMPLETION DATE

SECTION V – REMARKS

REMARKS – Cite those sections of the form relating to your remarks. If additional space is needed, please use blank pages and appropriately identify them as section vii and refer to cited sections.

CERTIFICATION

By signing the Offer and completing this format, this form becomes part of the Business Proposal offer. The Government's purpose for requesting this information is to establish offeror's financial responsibility, considered other than certified cost and pricing data to assist the Government in determining fair, reasonable, and realistic prices, past performance acceptability, and the offeror's responsibility. The information requested on this document is not to be considered Certified Cost and Pricing Data. All information shall be considered true and correct as of the date of form completion or date of signature on the offer. All such certifications are subject to the general certifications stated in Section K representations and certifications of the RFP.

PART IV--REPRESENTATIONS AND INSTRUCTIONS

SECTION K--REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS OR RESPONDENTS

AGAR 452.219-70 SIZE STANDARD AND NAICS CODE INFORMATION (JANUARY 2005)

The North American Industrial classification System Code(s) and business size standard(s) describing the products and/or services to be acquired under this solicitation are listed below:

Contract line item(s): All
 --NAICS Code 115210
 --Size Standard \$6.0 Million

The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (JAN 2005)

(a)(1) If the clause at 52.204-7, Central Contractor Registration, is included in this solicitation, paragraph (b) of this provision applies.

(2) If the clause at 52.204-7 is not included in this solicitation, and the offeror is currently registered in CCR, and has completed the ORCA electronically, the offeror may choose to use paragraph (b) instead of completing the corresponding individual representations and certifications in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:

(i) Paragraph (b) applies.

(ii) Paragraph (b) does not apply and the offeror has completed the individual representations and certifications in the solicitation.

(b) The offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [*offeror to insert changes, identifying change by clause number, title, date*]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause #	Title	Date	Change
_____	_____	_____	_____

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.

SECTION L--INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS OR RESPONDENTS

FAR 52.252-1 Solicitation Provisions Incorporated by Reference (FEB 1998)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

www.arnet.gov/far/

www.usda.gov/procurement/policy/agar.html

FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)

52.215-1 Instructions to Offerors--Competitive Acquisition (JAN 2004)
52.237-1 Site Visit (APR 1984)

AGRICULTURE ACQUISITION REGULATIONS (48 CFR CHAPTER 4) CLAUSES

452.204-70 Inquiries (FEB 1988)

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(a) *Definition.* "Facsimile proposal," as used in this provision, means a proposal, revision or modification of a proposal, or withdrawal of a proposal that is transmitted to and received by the Government via facsimile machine.

(b) Offerors may submit facsimile proposals as responses to this solicitation. Facsimile proposals are subject to the same rules as paper proposals.

(c) The telephone number of receiving facsimile equipment is: (928) 333-5966

(d) If any portion of a facsimile proposal received by the Contracting Officer is unreadable to the degree that conformance to the essential requirements of the solicitation cannot be ascertained from the document--

(1) The Contracting Officer immediately shall notify the offeror and permit the offeror to resubmit the proposal.

(2) The method and time for resubmission shall be prescribed by the Contracting Officer after consultation with the offeror; and

(3) The resubmission shall be considered as if it were received at the date and time of the original unreadable submission for the purpose of determining timelines, provided the offeror complies with the time and format requirements for resubmission prescribed by the Contracting Officer.

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The Government contemplates award of a Firm Fixed-Price contract resulting from this solicitation.

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(f) The conference will be held:

Date: July 20, 2005

Time: 10:00 A.M.

Location:

Lakeside Ranger District
2022 West White Mountain Boulevard
Lakeside, AZ 85929
928-368-5111, Randall Chavez

SECTION M – EVALUATION FACTORS FOR CONTRACT AWARD

M.1.0. The following factors will be evaluated in determination of a contract award:

1. Cost or Price
2. Technical Capability
3. Past Performance.

When combined, Technical Capability and Past Performance, are significantly less important when compared to Cost or Price.

M.2.0. EXPERIENCE & PAST PERFORMANCE QUESTIONNAIRE

Offerors are required to submit past performance information for evaluation purposes to determine the best value to the government. Offerors should develop their past performance in the format listed below:

Name of Contracting Office:	USA Federal Contracting
Contract/Project No.:	XX-XXXX-XX
Contract total value:	\$XX,XXX
Contracting Officer and phone:	Sam O. Stone (928) 123-4567
Program Manager (COR) and phone:	Silviculturist (928) 123-4567
Brief description of work:	Tree Thinning and slash treatment
List of major subcontractors:	Elf's Tree Service (928) 123-4567

A. PAST PERFORMANCE INFORMATION:

Offerors shall submit the following information as part of their proposal for both the offeror and proposed major subcontractors:

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REQUEST FOR QUOTATION (THIS IS NOT AN ORDER)		THIS RFQ <input checked="" type="checkbox"/> IS <input type="checkbox"/> IS NOT A SMALL BUSINESS SET- ASIDE		PAGE OF PAGES 1 51
1. REQUEST NO.	2. DATE ISSUED July 19, 2005	3. REQUISITION/PURCHASE REQUEST NO. AG-8173-S-05-0004 RFQ R3-01-05-26	4. CERT. FOR NAT.DEF. UNDER BDSA REG. 2 <input type="checkbox"/> AND/OR DMS REG. 1	RATING

5a. ISSUED BY USDA FOREST SERVICE APACHE-SITGREAVES NATIONAL FORESTS CONTRACTING OFFICE P.O. BOX 640 SPRINGERVILLE, ARIZONA, 85938	6. DELIVER BY (Date)
----------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------

5b. FOR INFORMATION CALL (NO COLLECT CALLS) NAME WARREN ABBOTT	TELEPHONE NUMBER AREA CODE 928	NUMBER 333-4301	7. DELIVERY <input checked="" type="checkbox"/> FOB DESTINATION <input type="checkbox"/> OTHER (See Schedule)
8. TO:			9. DESTINATION
a. NAME ALL OFFERORS		b. COMPANY	a. NAME OF CONSIGNEE

c. STREET ADDRESS		b. STREET ADDRESS	
d. CITY		c. CITY	

d. CITY	e. STATE	f. ZIP CODE	d. STATE	e. ZIP CODE
---------	----------	-------------	----------	-------------

10. PLEASE FURNISH QUOTATIONS TO THE ISSUING OFFICE IN BLOCK 5A ON OR BEFORE CLOSE OF BUSINESS 2:00 PM Arizona time, August 11, 2005	IMPORTANT: This is a request for information, and quotations furnished are not offers. If you are unable to quote, please so indicate on this form and return it to the address in BLOCK 5A. This request does not commit the Government to pay any costs incurred in the preparation of the submission of this quotation or to contract for supplies or services. Supplies are of domestic origin unless otherwise indicated by quoter. Any representations and/or certifications attached to this Request for Quotations must be completed by the quoter.
----------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

11. SCHEDULE (Include applicable Federal, State and local taxes)					
ITEM #	SUPPLIES/SERVICES	QTY	UNIT	UNIT PRICE	AMOUNT
	TRESPASS HORSE CAPTURE AND TRANSPORT: RETURN PACKAGE				
12. DISCOUNT FOR PROMPT PAYMENT <input type="checkbox"/>	a. 10 CALENDAR DAYS (%)	b. 20 CALENDAR DAYS	c. 30 CALENDAR DAYS	d. CALENDAR DAYS	
				NUMBER	PERCENTAGE

NOTE: Additional provisions and representations are are not attached.

13. NAME AND ADDRESS OF QUOTER			14. SIGNATURE OF PERSON AUTHORIZED TO SIGN QUOTATION		15. DATE OF QUOTATION
a. NAME OF QUOTER					
b. STREET ADDRESS			16. SIGNER		b. TELEPHONE
c. COUNTY			a. NAME (Type or print)		AREA CODE
d. CITY	e. STATE	f. ZIP CODE	c. TITLE (Type or Print)		NUMBER

PART I—THE SCHEDULE

SECTION B--SUPPLIES OR SERVICES AND PRICES/COSTS

**APACHE-SITGREAVES NATIONAL FORESTS
 LAKESIDE AND BLACK MESA RANGER DISTRICTS**

FOB DESTINATION PRICING ONLY

Base Line Items	Description of Services or Work	Unit of Measure	Est. Qty.	Unit Price	Price
B.1.1.	Capture and transport of approximately 120 trespass horses from the Apache-Sitgreaves National Forest in Navajo and Coconino County, Arizona. Costs to include capture, holding, feeding, maintenance and transport of the trespass horses as described in the specifications.	Horse	120	\$ _____	\$ _____
				Total Price	\$ _____

Optional Line Items	Description of Services or Work	Unit of Measure	Est. Qty.	Unit Price	Price
O.2.1.	Capture and transport of approximately 80 trespass horses from the Apache-Sitgreaves National Forests in Navajo and Coconino County, Arizona. Costs to include capture, holding, feeding, maintenance and transport of the trespass horses as described in the specifications.	Horse	80	\$ _____	\$ _____
O.3.1	Capture and transport of approximately 80 trespass horses from the Apache-Sitgreaves National Forests in Navajo and Coconino County, Arizona. Costs to include capture, holding, feeding, maintenance and transport of the trespass horses as described in the specifications.	Horse	80	\$ _____	\$ _____
O.4.1.	Capture and transport of approximately 80 trespass horses from the Apache-Sitgreaves National Forests in Navajo and Coconino County, Arizona. Costs to include capture, holding, feeding, maintenance and transport of the trespass horses as described in the specifications.	Horse	80	\$ _____	\$ _____
O.5.1.	Capture and transport of approximately 80 trespass horses from the Apache-Sitgreaves National Forests in Navajo and Coconino County, Arizona. Costs to include capture, holding, feeding, maintenance and transport of the trespass horses as described in the specifications.	Horse	80	\$ _____	\$ _____

**EXHIBIT 3
CONTRACTOR'S QUALIFICATIONS AND FINANCIAL INFORMATION**

SECTION 1 – GENERAL INFORMATION					
1A. NAME			2. TYPE OF ORGANIZATION (CHECK ONE)		
1B. STREET ADDRESS			A. Sole Proprietorship	F. LLC	
			B. General Partnership	G. Joint Venture	
1C. CITY			C. Limited Partnership	H. Non-Profit/Education	
			D. Corporation	i. Other: Specify	
1D. STATE	1E. ZIP/POSTAL		E. Subchapter S.		
3. TAXPAYER ID NUMBER :					
6. DUNS NUMBER			7. VENDOR EXPRESS NUMBER: (FS VENDORS)		
8. KIND OF PRODUCT OR SERVICE PROVIDED:					
10. KIND OF BUSINESS- Specify one block (plus "J" if applicable)					
A. LARGE BUSINESS		E. WOMAN OWNED SDB		I. INDIAN SDB	
B. SMALL BUSINESS		F. VETERAN SMALL BUSINESS		J. HUB ZONE - Also	
C. SMALL DISADVANTAGED BUSINESS		G. VETERAN SDB		K. Other: Please Specify	
D. WOMAN OWNED SMALL BUSINESS		H. INDIAN SMALL BUSINESS			
11. OWNERSHIP INFORMATION – PARTNERS – PRINCIPALS - OTHERS					
NAME			TITLE		
12.					
13.					
14.					
15.					
16. Questions. If "Yes" to any below, provide detailed information in section vii, remarks.				Yes	No
A. Have you/your affiliates ever filed for bankruptcy?					
B. Do you have any judgments, liens, pending suits?					
C. Do you have any contingent liabilities?					
D. Have you/your affiliates discontinued business operations with outstanding debts					
SECTION II. GOVERNMENT FINANCIAL AID AND INDEBTNESS				Yes	No
If "Yes" provide detailed information in Section VII, remarks.					
17. Are you delinquent on any Federal Debt (OMB Circular 129)					
18. Do you owe the Government for any contract or other claims?					
19. Are you currently receiving Government Financing? (Bonds, Loans, Advanced Payments, Progress Payments, Other)					
19a. Are you now in or pending Default on ANY Obligations (i.e. Banks, Financial Institutions, Suppliers, Other)? IF yes please provide detailed information in Section VII remarks.					

SECTION III – REFERENCES– CURRENT CONTRACTS INFORMATION (Optional)	
20. CONTRACT 1	21. CONTRACT 2
LOCATION	LOCATION
OWNERS NAME	OWNERS NAME
CONTACT PERSON	CONTACT PERSON
TELEPHONE	TELEPHONE
FAX	FAX
ADDRESS (City, State, Zip/Postal)	ADDRESS (City, State, Zip/Postal)
TYPE OF WORK	TYPE OF WORK
CONTRACT AMOUNT	CONTRACT AMOUNT
% COMPLETE	% COMPLETE
ESTIMATED COMPLETION DATE	ESTIMATED COMPLETION DATE
22. CONTRACT 3	23. CONTRACT 4
LOCATION	LOCATION
OWNERS NAME	OWNERS NAME
CONTACT PERSON	CONTACT PERSON
TELEPHONE	TELEPHONE
FAX	FAX
ADDRESS (City, State, Zip/Postal)	ADDRESS (City, State, Zip/Postal)
TYPE OF WORK	TYPE OF WORK
CONTRACT AMOUNT	CONTRACT AMOUNT
% COMPLETE	% COMPLETE
ESTIMATED COMPLETION DATE	ESTIMATED COMPLETION DATE

SECTION IV – REFERENCES - PAST PERFORMANCE – COMPLETED CONTRACTS INFORMATION <i>(Optional)</i>	
24. CONTRACT 1	25. CONTRACT 2
LOCATION	LOCATION
OWNERS NAME	OWNERS NAME
CONTACT PERSON	CONTACT PERSON
TELEPHONE	TELEPHONE
FAX	FAX
ADDRESS (City, State, Zip/Postal)	ADDRESS (City, State, Zip/Postal)
TYPE OF WORK	TYPE OF WORK
CONTRACT AMOUNT	CONTRACT AMOUNT
% COMPLETE	% COMPLETE
ESTIMATED COMPLETION DATE	ESTIMATED COMPLETION DATE
26. CONTRACT 1	27. CONTRACT 2
LOCATION	LOCATION
OWNERS NAME	OWNERS NAME
CONTACT PERSON	CONTACT PERSON
TELEPHONE	TELEPHONE
FAX	FAX
ADDRESS (City, State, Zip/Postal)	ADDRESS (City, State, Zip/Postal)
TYPE OF WORK	TYPE OF WORK
CONTRACT AMOUNT	CONTRACT AMOUNT
% COMPLETE	% COMPLETE
ESTIMATED COMPLETION DATE	ESTIMATED COMPLETION DATE

SECTION V – REMARKS

REMARKS – *Cite those sections of the form relating to your remarks. If additional space is needed, please use blank pages and appropriately identify them as section vii and refer to cited sections.*

CERTIFICATION

By signing the Offer and completing this format, this form becomes part of the Business Proposal offer. The Government's purpose for requesting this information is to establish offeror's financial responsibility, considered other than certified cost and pricing data to assist the Government in determining fair, reasonable, and realistic prices, past performance acceptability, and the offeror's responsibility. The information requested on this document is not to be considered Certified Cost and Pricing Data. All information shall be considered true and correct as of the date of form completion or date of signature on the offer. All such certifications are subject to the general certifications stated in Section K representations and certifications of the RFP.

PART IV--REPRESENTATIONS AND INSTRUCTIONS**SECTION K--REPRESENTATIONS, CERTIFICATIONS, AND
OTHER STATEMENTS OF OFFERORS OR RESPONDENTS****AGAR 452.219-70 SIZE STANDARD AND NAICS CODE INFORMATION (JANUARY 2005)**

The North American Industrial classification System Code(s) and business size standard(s) describing the products and/or services to be acquired under this solicitation are listed below:

Contract line item(s): All
 --NAICS Code 115210
 --Size Standard \$6.0 Million

The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (JAN 2005)

(a)(1) If the clause at 52.204-7, Central Contractor Registration, is included in this solicitation, paragraph (b) of this provision applies.

(2) If the clause at 52.204-7 is not included in this solicitation, and the offeror is currently registered in CCR, and has completed the ORCA electronically, the offeror may choose to use paragraph (b) instead of completing the corresponding individual representations and certifications in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:

(i) Paragraph (b) applies.

(ii) Paragraph (b) does not apply and the offeror has completed the individual representations and certifications in the solicitation.

(b) The offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [*offeror to insert changes, identifying change by clause number, title, date*]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause #	Title	Date	Change
_____	_____	_____	_____

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.

SECTION L--INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS OR RESPONDENTS

FAR 52.252-1 Solicitation Provisions Incorporated by Reference (FEB 1998)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

www.arnet.gov/far/

www.usda.gov/procurement/policy/agar.html

FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)

52.215-1 Instructions to Offerors--Competitive Acquisition (JAN 2004)
52.237-1 Site Visit (APR 1984)

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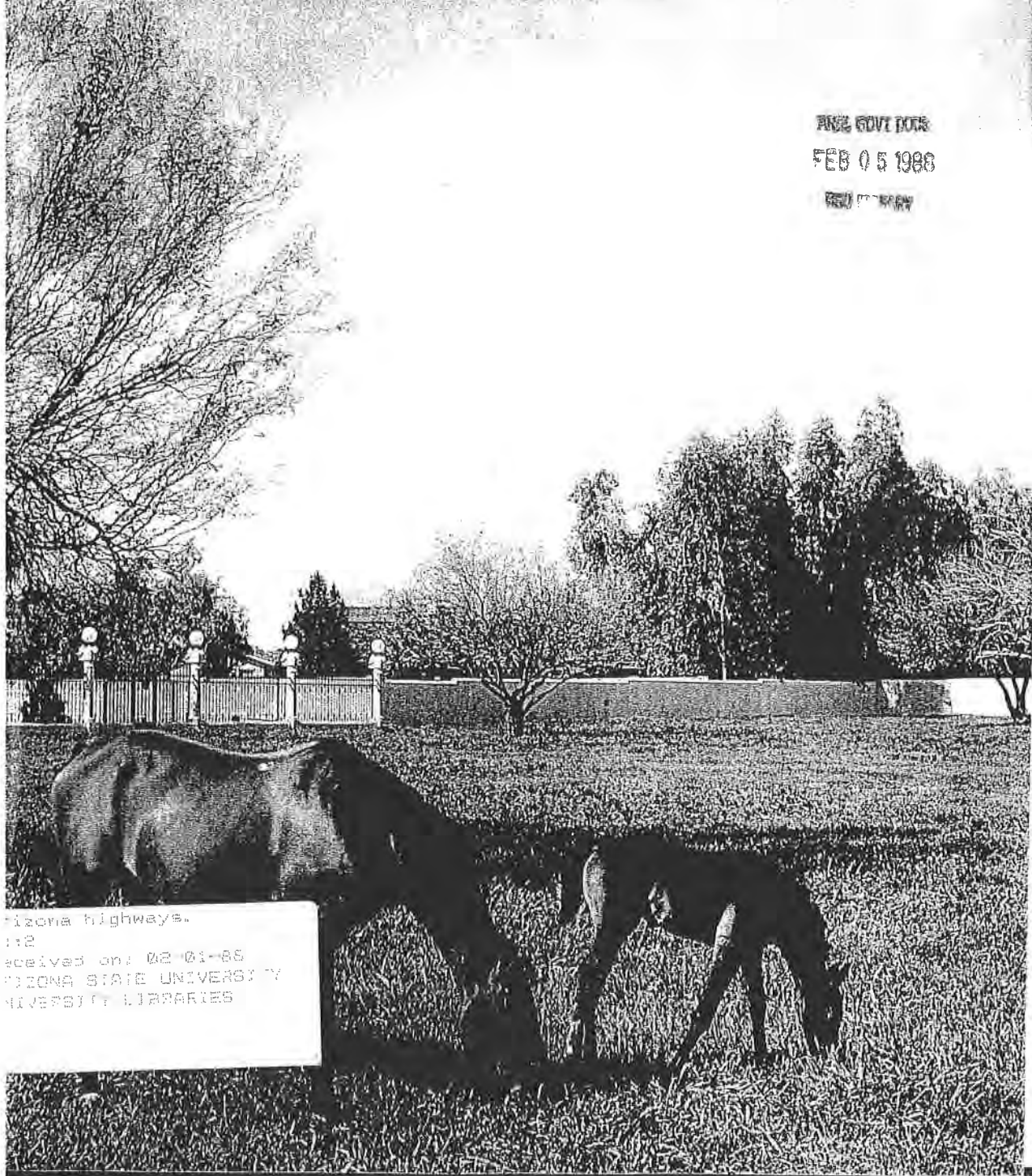
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Exhibit A

ARIZONA HIGHWAYS

FEBRUARY 1986

ARIZ. GOVT. DOCS
FEB 05 1986
REV. 11-85



Arizona highways.
#2
Received on: 02-01-86
ARIZONA STATE UNIVERSITY
UNIVERSITY LIBRARIES

ARIZONA

FEB 05 1988

1988

HIGHWAYS

FEBRUARY 1988 Vol. 64, No. 2

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Horses of Arizona
by Joan Baéza

From all parts of our state, a report on the fierce, the proud, the mild: from mountain mustang to Thoroughbred and Arabian to gentle hayburner.

page 4

Scion of a noble breed. PETER ENSEBERGER ▶

Night Creatures
by Dennis Comejo

Seldom seen in the glare of midday, these fascinating animals venture forth at twilight to bring the desert to life.

page 14

**Skyscapes of the Night:
A Portfolio**
by Frank Zullo

Star light, star bright: few regions of the United States provide such spectacular views of the night sky as the Southwest. A collection of images to dazzle the dubious.

page 22

Amateur astronomer in Arizona. FRANK ZULLO ▶

The Bats
by Pinau Moriarty

Although gentle as lap dogs—and intelligent and beneficial to humankind to boot—bats long have been subject to slander. And the resulting attitudes are killing them.

page 30

**The Colorful World
of Fungi**
by Willis Peterson

Birth, death, change. The miraculous cycle of life forever repeats itself in the forest, thanks in great part to the little-known, often unseen organisms called fungi.

page 34

Mushrooms decorate a patch of wilderness. FRED GRIFFIN ▶

**Water and the
Desert Dweller,
Part Two**
by Howard E. Boice, Jr.

What is the latest forecast for Arizona's future water supply? What is being done to conserve and manage this vital resource? An *Arizona Highways* special report on a subject of interest to every resident.

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DEPARTMENTS

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(FRONT COVER) *Living a pampered existence, a mare and her newborn colt graze peacefully in a lush pasture at Karho Arabian Farms in Scottsdale. For more on Arizona's horses, turn to page 4.* PETER ENSEBERGER
(OPPOSITE PAGE) *Celestial jewels sparkle in a dark desert sky. A summer view of the Milky Way and foreground silhouettes from Squaw Peak Park and the Superstition Wilderness come together in an evocative scene fashioned by a fertile imagination. A portfolio of the photographer's images, along with a look at how he creates them, begins on page 22.* FRANK ZULLO



They range from the fierce and the proud to the meek and the mild, from wild mustang to high-strung Thoroughbred to gentle hayburner. They're the ...

of Arizona



TEXT BY JOAN BAÉZA ■ PHOTOGRAPHS BY PETER ENSEBERGER



For a wild horse, the price of freedom from rope and bit is the vigilance of keen senses and a brave heart. He learns to walk as soundlessly as a deer and to shy at the scent of man. He has many ene-

mies—drought, snow, cold, parasites, predators, old age, injuries. Add to these the potential danger of poisonous plants and animals, thorns, quills, and disease. A mare may die foaling, a stallion may be mortally wounded in combat.

I gained respect for feral horses when I lived on an old homestead near Deer Springs on the Mogollon Rim. Often, their courage and character were matched by our own half-wild horses, mountain born and bred.

One still summer night, I lay in bed listening to the rage of stallions under a full moon and the screams of mares running along the fence line two miles away. Next morning, I realized a big black stallion with a white spot on its forehead, the notorious leader of a wild band, had come to steal our filly, Sara. Zair, our gentle blue colt, had run to the corner of the fence to meet the challenge and defend the filly he had grown up with. He was small, even for a desert Arabian, and could have been



(PRECEDING PANEL, PAGES 4 AND 5) Wild horses still roam remote areas of Arizona in small bands like this one in the Cerbat Mountains. Many are descendants of an original purchase of 150 head by the Hualapai Indians in the 1870s with money Brig. Gen. George Crook paid to his Indian scouts. In time, the horses escaped or were set free, went feral, and prospered through interbreeding with ranch stock in the Kingman area.

(INSET, PAGE 5) A Navajo pony grazes on sparse vegetation in Monument Valley.

(ABOVE) In the first event of its kind in Arizona, members of the International Society for the Protection of Mustangs and Burros got a chance to show the progress they had made with their adopted animals in the show-ring. At the registration desk, a precocious yearling appears to be entering himself in the competition.

(TOP) For some entries, the excitement of appearing before a crowd proves too much, and they balk at entering the ring.

killed with one head-shattering blow, or have bled to death from wire cuts. But the breeding of centuries gave him the determination to stand his ground.

We found the little Arab grazing in the meadow. He was bruised and bloody, but his palomino filly was beside him. They nickered softly to each other. When we walked up the ridge, we found a half-mile of fence ripped out and the ground pummeled by hooves.

Later that summer, elk snapped the new barbed-wire fence, and Zair disappeared. We tracked him for three days without success. On the fourth morning, he was back in the meadow, grazing contentedly with Sara and a new harem—a young bay mare and a white mare with blue eyes. They were wild as deer.

The black stallion whose tracks we had found along our fence was a legend in the Rim country. Bruce Mortenson, U.S. Forest Service range management officer, had sought him for years. Once he came upon the black grazing with several mares.

"He raised up his head and stared holes right through me," Mortenson recalled. "Then he charged the truck, and he reared up and pawed the air in front of it. If he had hit the windshield, he would have kicked it in."

I always considered it a privilege to catch sight of the black nipping at his mares, pointing them this way and that reminding them who was in charge. But less romantic souls wanted to rid the national forest of wild horses, because they competed with cattle and deer for grass and browse; so every year the Forest Service reluctantly but dutifully tried to catch them.

One year the black and his band were trapped by the lure of salt blocks in a strong pole corral, and then auctioned off. But the man who bought them never loaded the stallion into his stock trailer. The black charged him, teeth bared; then, said Mortenson, the animal "sailed over the fence like it wasn't even there."

Eventually, the stallion gathered up another bunch of mares—bays and buckskins, mostly—on the Fort Apache Indian Reservation, where hundreds of bands belonging to the tribal cattlemen's associations run free on the open range. The mares weren't "broomtails," but swift well-built horses with hard feet, straight legs, and good heads. A mix of genes, like the black himself.

Every bloodline of the horse world seemed to have merged in the black stallion; try to visualize a kind of quarter-horse-Thoroughbred-mustang-Morgan. Or maybe a descendant of the mythical "Black Wind Horse" the Apaches said was the Sun Deity's favorite; that horse also was

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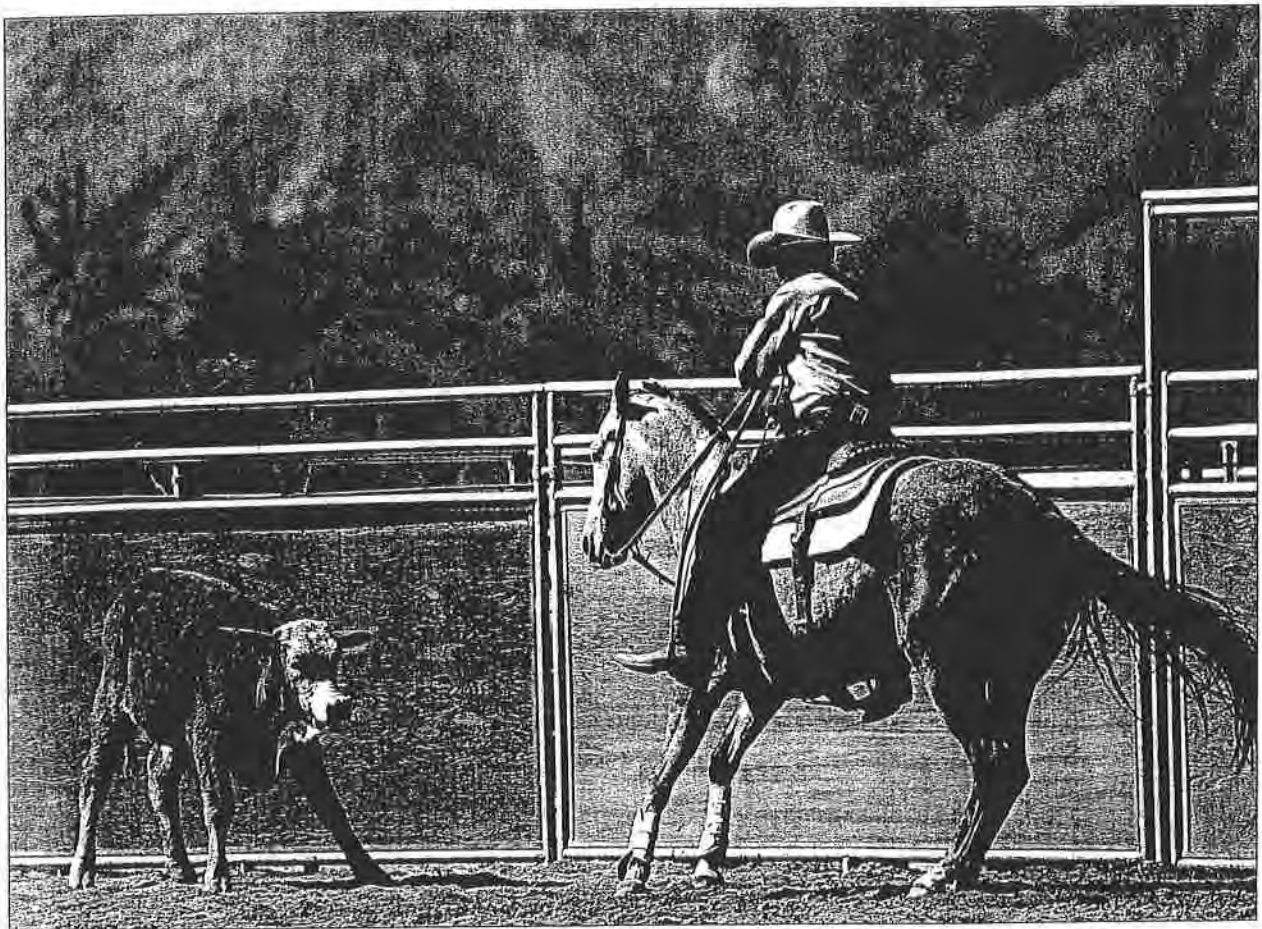
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V. L. (Doc) Doherty and one of his prized cutting horses confront a defiant calf in a Tucson corral as they prepare for competition.

black as obsidian with a white spot on his forehead. The black symbolized power; the white spot, intelligence.

The next year, the big black and five of his mares were gutshot in cold blood by vandals and left to die in a meadow where once they peacefully grazed. That same summer our wild bay mare foaled. We found her licking a pure black colt with a white spot on his forehead. We named him Sabache, "obsidian."

Thousands of free-roaming horses still run on public and Indian lands in Arizona. Some are inbred, ill-formed, even diseased mustangs; but many, like the big black, are sturdy descendants of sound cow ponies or cavalry mounts, toughened by generations of hardship.

Pioneer cowboys considered the Mogollon Rim the best horse country in the world, and more than a few old-timers have told me their happiest times were spent chasing wild horses at breakneck speed through the

pin. A grainfed shod horse could usually get close enough to a wild horse so that a man could use his rope; but what might happen after that was anybody's guess.

Since the 1500s, when Jesuit priests drove remudas of Andalusian horses north from Mexico to the Spanish missions and presidios on the frontier, horses and men have been working partners in Arizona. The introduction of the horse changed the lives of the Athabaskan people forever.

For ages, migratory groups of Indians had packed their belongings on dogs, while they hunted and gathered food where they could. But within a century of the Spaniards' arrival, Apaches and Navajos had become horse people—living, hunting, and raiding on horseback; trading horses to Plains Indians for buffalo meat and hides, to white men for guns and ammunition, to Pueblo Indians for grain, fruit, and vegetables.

They considered horses a gift from the gods. Navajos sang for their strength, beauty, and health, and Apaches received

visions from a "guardian horse" who protected them and led them to find more fine horses.

As Mexican and Anglo settlers increasingly peopled the Southwest, they brought livestock with them, and, by the late 19th century, life on the Arizona frontier centered around horses. They helped plow fields, skid logs, haul freight, pull stages, work cattle. They also played a vital role in the courting of young ladies, and in the enforcement of (and, on occasion, escape from) the law. Summer entertainment featured matched races and rodeos where cowboys could show off prized horseflesh.

Long after the horse-and-buggy days passed into history, horses were still highly valued on Arizona's cattle ranches. Even today, nowhere is the partnership between man and horse more important. A working cowboy may not remember the names of his relatives, but he remembers the names, colors, and quirks of all the horses he has ever owned.

But the man who traditionally knew a



horse's temperament best was the horse-breaker, because he was the one who staked life and limb on his knowledge of a particular colt. Day after day he worked patiently, teaching the animal to lead, to wear a saddle, to balance the weight of a rider, to respond to the reins, and finally, to work cattle.

And that brings us to the cow horse, made famous by the folklore of the American cowboy. Almost any horse can be taught to work cattle, but relatively few are born with "cow sense." When a born cow pony sees cattle, his ears perk up, his nostrils flare, and his muscles quiver. A cow-

boy has only to read his horse to find strays.

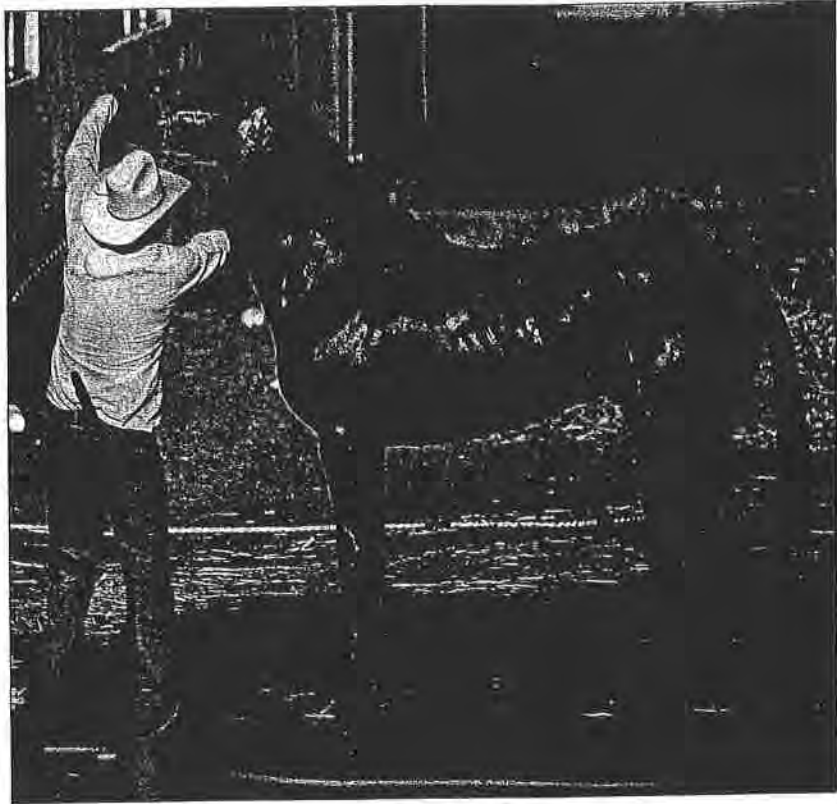
Even more rare is the animal with the combination of strength, agility, and intelligence to be a cutting horse, a special animal that must be quick as a cat and know what a cow is thinking before the cow does. Its task requires working into a herd and separating the cattle to be sold, or, at branding time, cutting off unbranded calves from their mothers.

C. P. Honeycutt, a 76-year-old Maricopa wheat and cotton grower, has worked with horses all his life. When he was eight years old, he and his brother drove a band of them ahead of the family's covered wagon

through the dusty streets of Dallas. Since 1956 he's been training and riding cutting horses competitively, and he is the first Arizonan to be inducted into the National Cutting Horse Association Hall of Fame.

"I've always liked horses, but I didn't see my first cutting horse show until I watched animals from the King Ranch in Texas performing at Tucson," he said. "That's when I got the bug."

He knew he was in the cutting horse business to stay when he bought Chick Jay, a quarter horse foaled on the King Ranch. In 1959, at the age of five, Chick Jay became a national grand champion cutting horse.



(LEFT) Charging from the starting gate at Prescott Downs in a crowd of taut muscles and colorful silks, eight Thoroughbreds demonstrate athletic skills refined through centuries of selective breeding. (ABOVE) For this lean running machine, a sponge bath and a rubdown are reward for a good morning workout at Phoenix's Turf Paradise. (RIGHT) Veteran trainer Zenon Lipowicz develops a bond of trust with his Thoroughbreds before subjecting them to the rigors of racing.



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scoring more points at San Francisco's Cow Palace than any horse before him. Since then, his record has been tied but never surpassed.

"Chick was mean. He acted real 'studdy.' He tore up more good horse trailers than any horse I ever had—and he'd bite you," said C.P. "If he hadn't been such a good horse, I'd have sold him. He'd fight you on the ground, but once you got on him, he was all heart. He'd die for you."

A colt with good potential, C.P. believes, is "real sensible" with a lot of natural curiosity. "He'll walk right up to you. You can pretty well tell in two or three months if

he's going to be a top horse. A cutting horse has got to have everything — cow sense, athletic ability, intelligence, heart."

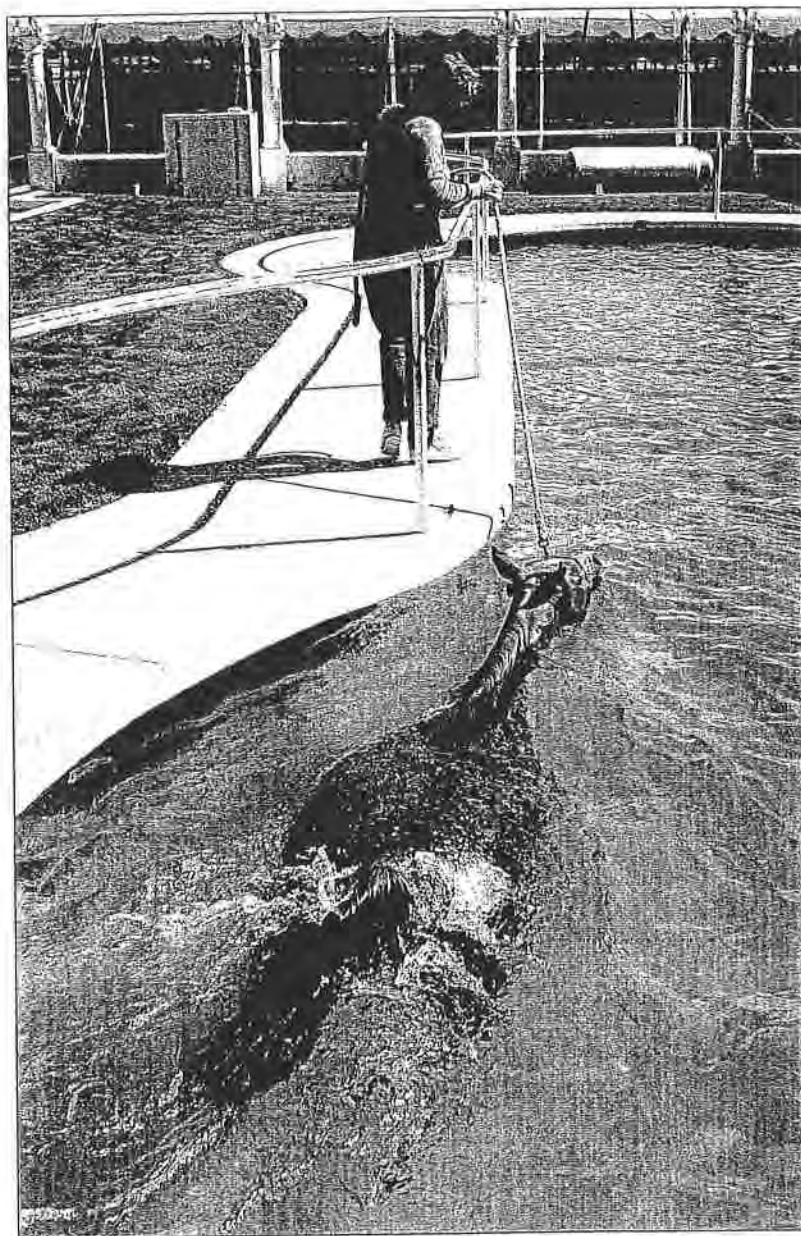
He insists that "patience is the best trainer." Chick Jay required more than his share, but "I never whipped him or jerked him around. I made him like me. He could spot me in a huge crowd at a show and he'd nicker to me."

C.P. at 76 is still riding cutting horses and promoting shows in Arizona. "Cutting horse shows are so fascinating, I just can't get enough of them. I still want to promote the biggest cutting horse show in the world right here in Arizona."

More than breeding, more than conformation, it is the will of a horse that determines what he is. For a racehorse that will is fixed on one purpose — to win. All that kept his wild ancestors alive — strength, instinct, coordination — is concentrated in his moment of glory.

The racehorse, especially the Thoroughbred, has superb athletic skills, a single-minded disregard for pain or danger, and a noble recklessness of spirit.

Among humans, the fever of racing seems to be just about universal, and in the sport of horse racing is found its most



(LEFT) A few laps around the equine swimming pool at Karbo Arabian Farms in Scottsdale provide both exercise and therapy for injuries.

(ABOVE) From the stately stalls to the polished, skylighted ceilings, accommodations at the Karbo barns are everything an aristocratic Arabian could want.

(RIGHT) This purebred colt, scion of a long and distinguished bloodline, will soon begin a training program that may lead to a successful career in the show-ring and lucrative stud fees.

popular and romantic expression.

Few racing enthusiasts are without an opinion about what makes a horse run, of course, but no one knows a racehorse as well as its trainer. And no Arizona trainer is more respected than Polish-born Zenon Lipowicz.

"Understanding horses is something that is born in you. It's in your genes," said Zenon. "You must love horses to understand them."

His grandfather had a Thoroughbred farm in Poland, and both Zenon and his father raced in international steeplechase events. Zenon studied animal breeding at

the university in Warsaw, and was working at a racetrack when a Canadian rancher commissioned him to buy Polish Arabians. Eventually he emigrated to the United States, and he now runs a breeding program and trains Thoroughbreds as manager of Sir William Farm in Scottsdale.

Lipowicz believes a good horse trainer is an artist. "You can compare him to a sculptor, who has a piece of stone and a vision of what he wants to create. A trainer gets a young green horse, and he knows what he wants to achieve after a period of time.

"His most important tools are his methods of feeding and conditioning. Like the

sculptor, he must know the strength and texture of his material. If a trainer pushes a horse too soon, he may destroy him for life. To understand a horse, he must know the pedigree. Genetic factors are very strong with horses. Most receive their speed by heredity. Some are fast apparently by accident.

"First, we build confidence within the horse. The horse must trust the human and know the human will take care of him; later, because of that trust, he can take the stress of training and racing.

"We go very slow under the saddle. We don't want to lose the confidence we have



built up. When he's psychologically ready, we start....

"The race track puts more nervous stress on a horse than any other sport. It's not the same kind of stress in any other situation. It's a matter of precision; you have no margin for error. The most important part of the training concerns the animal's central nervous system and psychology.

"A horse with the will to run and win must have a strong, perfect nervous system. He must put forth a maximum of effort whether he feels like it or not. To work with racehorses requires the same kind of effort in a man. I think to train race-

horses, you must give more of yourself."

Every morning during racing season at Phoenix's Turf Paradise, Zenon Lipowicz is at the track in the early light. Old injuries have slowed him down, but he is still putting out "a maximum of effort" to train the splendid animals he loves.

They are myth in motion. They seem to breathe fire — to fly. Almost more dream than reality, horses of the oldest pure breed in the world have made themselves at home in Arizona.

Today Scottsdale touts itself as the "Arabian Horse Capital of the World," attracting

thousands of buyers and onlookers to the All Arabian Horse Show every February. It combines sales with spectacle, generating an estimated \$40 million to \$50 million each year. Bids on Arabian show horses start at about \$10,000.

The horse that carried Bedouins across vast deserts and conquered much of a continent for Islam 1,300 years ago is today being treated as royalty on Arizona breeding farms.

On Tom Chauncey's Arabian Farm in Scottsdale, horses sleep, blanketed, in spotless stalls. At 7:00 A.M., they are fed individual formulas of oats, alfalfa, and



vitamins. After breakfast, the blankets come off and the animals are groomed with three different sizes of brushes while listening to music. At 9:00 A.M., they are ridden in the desert or exercised in a corral. Afterwards, the horses are splashed with a body bracer and rinsed off. While drying, they walk in circles on the mechanical walker.

The noon meal consists of more oats and hay. After a short nap, it's off to the swimming pool and 10 laps. Then it's shampoo-and-rinse time, and back on the mechanical walker until dry. After supper, the horses are blanketed again and tucked in for the night.

To prevent injuries and infection, all breeding is done by artificial insemination, in a horse "boudoir" with stained glass windows.

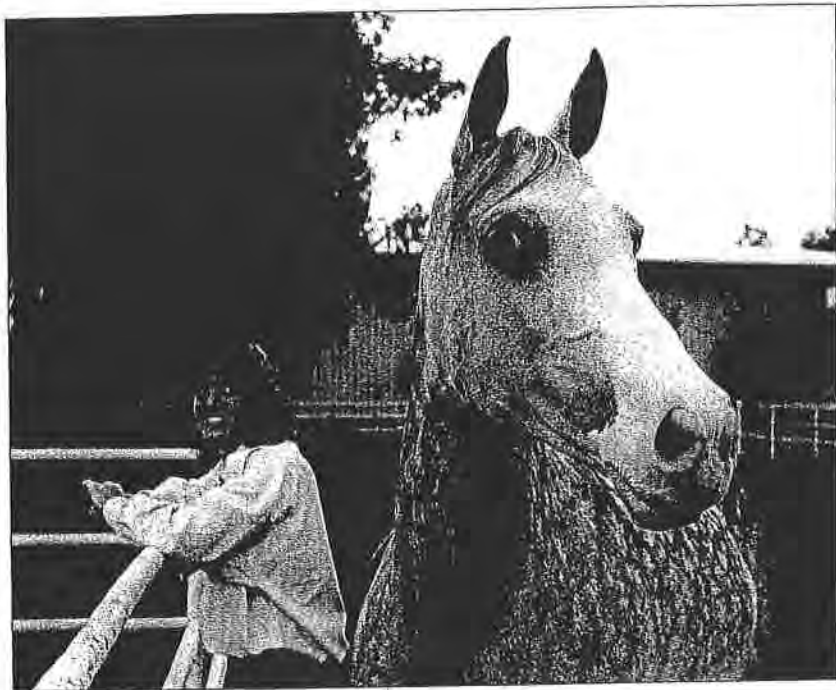
The owner lives more modestly. Tom Chauncey, a "Horatio Alger" from a farm in East Texas, came to Phoenix in 1926 at the age of 13 and took a job as bellboy at the old Adams Hotel. From that humble start, he eventually built a radio and television empire.

Horses are in Chauncey's blood. His great-great-grandparents raised dapple grays for the Continental Army on a Virginia farm at the time of the American

Revolution. Today he is committed to breeding Arabians, and gets much satisfaction from "touching them, feeding them carrots, talking to them." An injury has left him unable to ride.

"An Arabian horse can do anything," Chauncey said. "It must also be classic in conformation, and beautiful. If you breed that out of them, you fail. You try to bring the best of everything together — hybrid vigor, stamina, appearance. What you get out of it is the satisfaction of improving a breed that's 5,000 years old."

Most, perhaps, but not all Chauncey Arabians are owned by millionaires. Thirteen-



(ABOVE) The pride and intelligence associated with the Arabian pedigree are apparent in Debbie Feingold's gelding Barshala.

(LEFT) An alert young Arabian shows off before an auction gallery of potential investors at Star World's Scottsdale Sale Center, where a million dollars may change hands in an afternoon.

(RIGHT) Arizona today boasts more pleasure horses than ever before. Riding into the sunset is a familiar sight on the state's webs of riding trails.

year-old Debbie Feingold of Scottsdale dreamed of having a horse of her own, but couldn't believe it when her physician father came home one day and said he had bought her an Arabian gelding named Barshala. She boarded Barshala at Chauncey's farm and took riding lessons on Saturday mornings. She learned to groom and care for him as well as ride him in the show ring. Last year, amid the glitter of the world's biggest Arabian show, Debbie won high score in the state for the 13-and-under age class in three different events.

Barshala is more than an outlet for Debbie's competitive spirit. The bond between a horse and a teenage girl is mystical. "He's everything to me," she said. "I can talk to him and tell him my problems when I can't talk to anyone else."

Although working cowboys humorously maintain there's no such thing as a "pleasure horse," most Arizona horsemen would disagree. More often than not, a pleasure horse is part of the family. It may be a purebred Arabian show horse, or a working cow pony gentled by the hands of children. Choosing that family horse is more a matter of

instinct than knowledge, according to the John Snyder family of Lakeside.

Chris "Sparky" Snyder rides a Lippizan named Jasmine, "Jazz" for short. Her daughter Maryfaith is training three-year-old Sugar, an American saddlebred-quarter horse cross that she refers to as Silly Filly. Sparky's husband, John, a former game ranger, rides a stout horse named Red. "The first time I saw him, I thought he was dead. He had just been ridden 80 miles, and he was sleeping in a corner of the corral," he said.

When John went to work for the Arizona Game and Fish Department in 1978, rangers had to oversee an entire district. His included hundreds of square miles of the Mogollon Rim, White Mountains, and Blue Primitive Area. The only way to do the job was on horseback.

Now John is manager of the Pinetop-Lakeside Sanitary District. Said Maryfaith, "The only thing Dad talks about is sewers, until we get him out on horseback in the mountains."

John values the freedom and privacy horses make possible. "You can take off with a packhorse and be what you want to be, go where you want to go, without any

peer pressure, any need to wear a tie or shave. Spark and I both work in offices. I wear a tie all day at work. When I'm out on horseback, my behavior is normal. It's in an office that it's abnormal, for me."

Sparky added, "Sure, horses are expensive and a lot of trouble. But how many people can climb on a pet and take off to see parts of the country other people don't get to see? It's always an adventure for our family."

To Maryfaith, the family horsebreaker, horses are an investment. "You get too many bruises to give them up," she said. She worked for a riding stable last summer and enjoyed showing other people the mountains. "From the road, all you can see is a field or a ridge. On horseback, you find things you didn't know were there — an old cabin, a sawmill, logging road, wild berries and nuts, bear and elk."

Sarah and Christine, the younger daughters, don't do much riding, but they enjoy the family camping trips. At least twice a year the Snyder family camps in one of Arizona's remote areas. Recently they've ridden in the Superstition Wilderness, the Painted Desert, and along the Lower Blue River. In addition to improving their horsemanship, the family has learned survival skills. "It makes you think, learn to be adaptable," Sparky said. "If you get in a tight spot, you find some way out of it."

Today, there are more horses in Arizona than ever before. Organized mounted groups are found in nearly every community. Their activities range from trail building and maintenance to conservation projects, from search and rescue operations to sponsorship of horse shows, rodeos, and trail rides.

In the electronic age, the horse is a reminder of simpler times when mankind was part of the natural world. For many of us, no machine can ever replace a good horse. 🐾



Joan Baliza, a staff writer for White Mountain Publishing, also teaches creative writing at Northland Pioneer College. She has lived and ranched in Navajo County for 36 years and has recounted her experiences in Ranch Wife, written under the name Jo Jeffers.

Peter Eisenberger is picture editor of Arizona Highways.

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HASHKNIFE COWBOY

Recollections of Mack Hughes

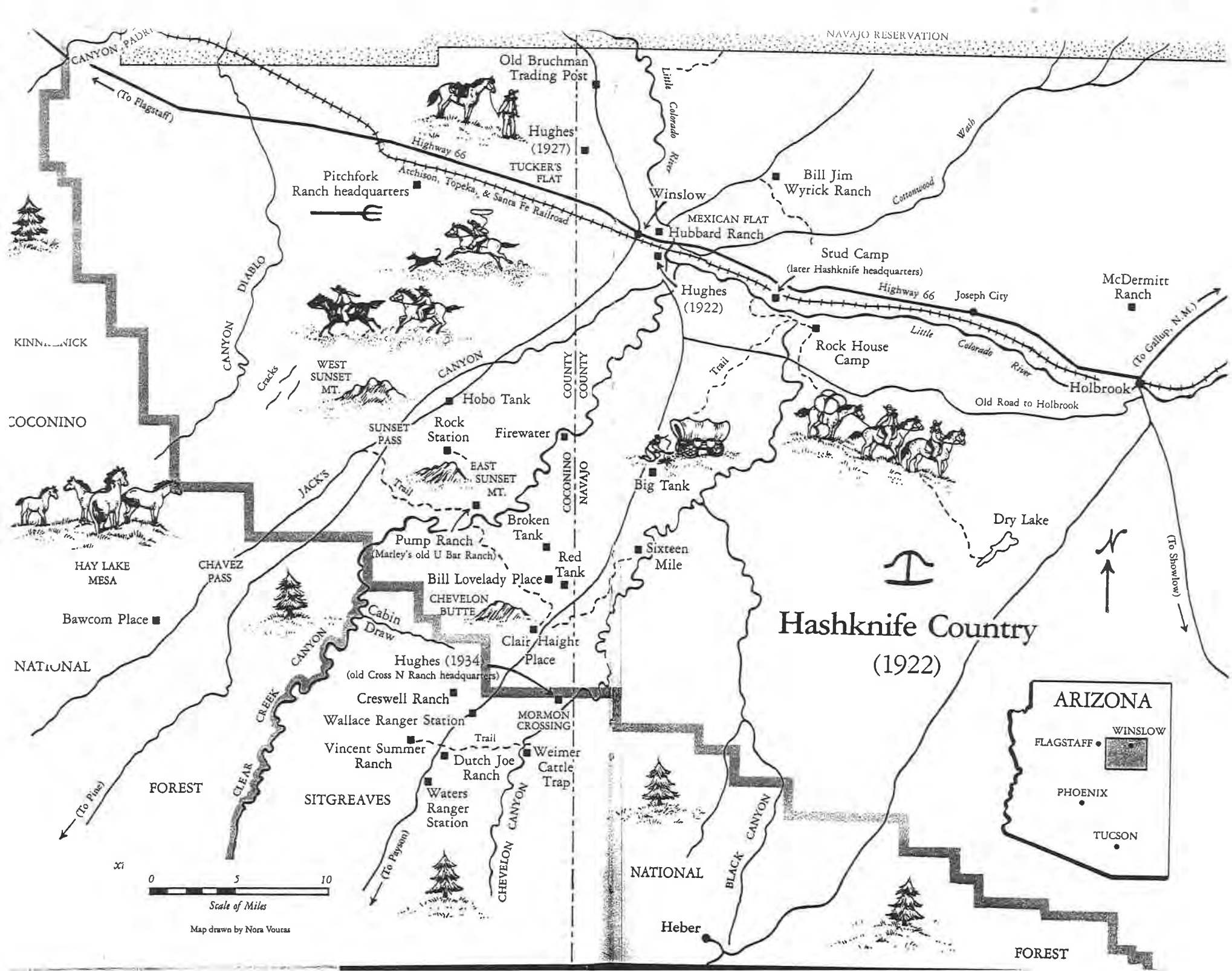
STELLA HUGHES

Illustrated by Joe Beeler



The University of Arizona Press
TUCSON, ARIZONA

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NAVAJO RESERVATION

CANYON PADRI
(To Flagstaff)

Old Bruchman Trading Post

Hughes' (1927)

Highway 66

Pitchfork Ranch headquarters

Archison, Topeka, & Santa Fe Railroad

TUCKER'S FLAT

Winslow

Bill Jim Wyrick Ranch

MEXICAN FLAT

Hubbard Ranch

Stud Camp

(later Hashknife headquarters)

Hughes (1922)

Highway 66

Joseph City

McDermitt Ranch

(To Gallup, N.M.)

CANYON DIABLO

Cracks

WEST SUNSET MT.

CANYON

Hobo Tank

Rock Station

Firewater

SUNSET PASS

EAST SUNSET MT.

COCONINO COUNTY
COCONINO COUNTY

Big Tank

Rock House Camp

Little Colorado River

Old Road to Holbrook

Holbrook

KINNA-LNICK

COCONINO

NATIONAL

HAY LAKE MESA

CHAVEZ PASS

JACKS

Pump Ranch
(Matley's old U Bar Ranch)

Broken Tank

Sixteen Mile

Bawcom Place

BILL LOVELADY PLACE

Red Tank

Hashknife Country

(1922)

ARIZONA

FLAGSTAFF

WINSLOW

PHOENIX

TUCSON

(To Showlow)

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Scale of Miles

Map drawn by Nora Vouras

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NATIONAL

BLACK CANYON

MORMON CROSSING

CHEVELON CANYON

SITGREAVES

CLEAR CREEK CANYON

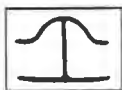
(To Payson)

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FOREST

Wild Horses



Farmer Jones liked chasin' broomies about as much as any man I ever saw. He passed on his love for the sport to his two boys, Dick and Boyd, and after they moved from Mexican Flats to the Bawcom Place at Hay Lake Mesa, we got in a lot of wild horse runnin' with them. There were bands of wild horses running all the way from Mormon Lake, out of Flagstaff, clear to Heber on the Mogollon Rim. There were scads of them running at Hay Lake and Kinnikinick, because this was the kind of country the broomies liked best. This area was on range owned by the Babbitts and was part of their Pitchfork Ranch.

The country around Sunset Pass was a natural for the wild horses, too. Grass was belly high and there was plenty of water in the canyons. Here the wild ones could see for miles. If they were crowded too much they could leave the plateaus and hit for timber not far away. Farther up, cedars and piñons grew thick for miles; a bunch of broomies could hide out there and you'd not see them if it wasn't they had to come out to water in the man-made stock tanks and in the canyons.

I learned the wild ones preferred open country, as their main defense was their speed. They had a wonderful sense of smell, yet it seemed to me they relied on their speed in making a getaway after they *sighted* their enemies, instead of running after getting their smell. Other wild animals might like to hide out, but the broomies were like the antelope, they wanted to *see*. I learned that wild horses stayed on a home range, and hardly ever grazed out farther from water than four or five miles, as long as their feed held out. They wouldn't drift off their range in a storm like cattle do. They'd stay within one general area all their lives, say twenty square miles, as long as their water didn't dry up, and they weren't run a lot by *mesteñeros*, as Pat called anyone making a business of chasing and catching mustangs. Hardly any of us called the wild ones mustangs, but they were commonly called that in Nevada, and I noticed the Texans did, which meant about one out of every third cowboy in northern Arizona.

There sure wasn't much money to be made in runnin' wild horses, but it was lots of fun. One year at Sunset Pass there were so many broomies they were eating out the range. The Babbitts encouraged the removal of any wild horses running on their grass but they frowned on any cowboy on their payroll spendin' very much time chasin' the broomtails. In the 1930s the Forest Service made a concentrated effort to thin out the herds of wild horses running on the forest reserve in northern Arizona. At that time they offered five dollars a head for every wild horse shot and the ears turned in. But before that, when we were rounding them up, we were strictly on our own, and our operations was sanctioned only by the ranchers.

Early in the summer of 1929 Farmer Jones asked me to bring a couple of my toughest and fastest horses and come up to help him and his boys, Dick and Boyd, along with Hebe Petty, Jones's son-in-law, do some serious broomie chasin'. We went to work building corrals and long wings made of burlap strung between cedar trees and posts. We worked our heads off and wore calluses on our hands, and if any one of us had been *forced* to work that hard to build fence, we'd have quit and rode to town.

The first big drive we made we caught forty head, but not a one was worth over ten dollars. Tom Crabtree, a horse trader in

Winslow, bought some of them for five dollars and paid seven dollars for some of the younger studs we'd castrated. He hardly bothered to even look at the old mares and baby colts. I traded a few of my share of the catch to the Navajos, who never did seem to have too many horses to suit them, even though the Navajo Reservation was overrun with thousands of worthless ponies, none of them a shade different than the scrubby wild ones I traded them. I traded old One-eyed Jim, a Navajo who owned a bunch of cattle, three head of young studs with long heads and peaked hind ends for two good cows, both due to calve.

Some of the young studs we castrated right away, and after one or two days to let them heal, we started breaking them and sold some for ten dollars a head to town boys. At any one time we'd have ten to fifteen head of colts tied to stake logs, all learning their lessons about ropes and how to stake without getting tangled up and killing themselves. In a few days the wild ones learned to quit running on the rope, and by taking them to water each day we soon taught them to lead. The logs we used for staking had to be big enough to hold a good-sized horse to where he could move it a few inches but not drag it off. If it was too heavy and solid, the first time the broomie ran to the end of the rope he could very well break a leg or his neck when he was jerked back. An ideal log would budge about ten inches when seven hundred pounds of running horse came to the end of the stake rope. At that, some of them turned end over end and skinned themselves up and got rope burned, but they soon learned respect for the rope and that nice gentle log, and within a week we were riding them all over the flats on short rides. Me and Dick and Boyd spent hours every evening petting and gentlin' the better prospects. We used up gallons of bacon grease doctoring all the skinned places and rope burns they'd gotten in their struggles with the stake logs.

At the beginning of that summer, before the rains started, we camped at the head of Dog Valley, northwest of Sunset Pass. In the cedars and along some shaley rock country were two or three deep cracks we had to keep an eye out for. These narrow cracks were in almost solid rock and real deep—some said they were bottomless. One long crack, over a half mile in length, was nar-

row enough in places that we could jump our horses across easy. Other places the crack widened out and it was risky for any horse to try to jump. We stayed away from these cracks if we could, as they were spooky things, and not a one of us would have dreamed of riding in this area after dark. Once I dropped some rocks in one, and after awhile I heard a splashing sound.

One day I was crowding a small bunch of broomies towards a hold-up herd of gentle horses being held by the other men near the entrance to our trap. I was closing in on them when I came to one of these cracks. I was riding a short-coupled, brown horse I called Badger, and in the heat of the chase I misjudged the distance and tried to jump where it was far too wide. Even as Badger gathered himself and left the ground, I knew he wasn't going to make it. I threw myself forward out of the saddle and landed on my hands and knees. Badger hung his front feet on the rim of the crack and scrambled to get his hind feet under him. Then he lost his balance and started slipping backwards. I caught the reins and pulled on them as hard as I could, but they slipped through my hands like they were greased and I lost sight of Badger. When the dust settled on the rim I looked down and couldn't see a thing. Not a sound came out of that black hole in the ground, and all I could hear was my heart pounding in my ears. It had happened so fast I'd not had time to get scared, but I was one sad broomie chaser when I walked back to where the others were and told them about the accident. The broomies I'd been chasing had crossed below me and they'd all run into the hold-up bunch and been caught.

I was put out of business for a few days as I'd used all my cash to buy my share of the chuck and grain for my horses, and I didn't have a dime to buy a new saddle. I asked to borrow Jim's saddle and had to go get it up where Jim was working as a fire guard on the Mogollon Rim. Jim's saddle had twenty-four inch swells, which I hated, so as soon as I had the money I finally did send down to Porter's in Phoenix and got a good used saddle for thirty dollars.

After losing Badger, who'd been one of the best broomie-chasin' horses I had, I rode one of Hebe Petty's horses as a relief mount, until one day we jumped a bunch of wild ones in the



"Badger hung his front feet on the rim of the crack and scrambled to get his hind feet under him, but he lost his balance and started slipping backwards."

breaks of Jack's Canyon. Jones ran right up on a big, black, bald-faced gelding that was branded. Jones roped the black, and the moment the horse felt the loop settle around his neck, he turned and led like a well-broke saddle horse. The black was branded P A T, and we found out Monte Walters had lost him some years back. I put my borrowed saddle on this P A T horse and he didn't even offer to buck, but he'd trot around loose as a goose, and every little bit he'd jump and kick at my feet. One hard ride and he quit this, and I found he could outrun any wild horse that ever lived, so instead of calling him Pat, which would have been natural because of his brand, I named him the Gallopin' Goose. He sure didn't take the place of good ol' Badger, though, and I grieved over the loss of my little, brown horse.

Once in awhile some rancher would offer five dollars a head for any of their strays we caught that had thrown in with the broomies. There were plenty of branded horses running with the wild ones, and we'd keep up those we thought would be worth a reward and notify the owners to come and get them. I used Gallopin' Goose for two weeks before Monte Walters sent a kid over to the Bawcom Place to pick him up. Monte sure didn't send no five dollars with the kid, but I didn't care, for by that time I'd gotten my fill of riding that limber-gaited, spine-jarrin' stray.

One day after corralling a bunch of broomies in a pole corral, I roped a big blue-roan mare that wore a brand. She had saddle marks and some old scars, showing that at some time or other she'd worn a work collar, and Jones said she'd been running with this wild bunch for a couple of years. When I pulled on the rope she led right up to me, rolling her nose. I reached up to take my loop off her neck, and she reared and pawed me on top of the head. I jumped back and got tangled in the coils of my rope and away she went, tearing around the corral, dragging me and scarin' the other horses. The first thing that hit the ground was the back of my head, and my eyes were filled with dirt. The other horses ran all over me and when the mare finally stopped and I got loose, I was in a terrible shape. I was so skinned up and sore I could hardly get out of bed in the mornings for a week.

While we were running broomies that summer Farmer Jones had two hundred hogs he kept at the Bawcom Place, and all the

crippled horses and old mares that weren't worth a cent Jones shot and fed to his hogs. Those hogs cleaned the bones slick as a whistle, and after they'd been feeding the hogs horsemeat for a few weeks, you wouldn't dare ride a horse near them. Them hogs could rip a horse's belly out in a minute. They were so bold they'd attack a man on a horse the moment they saw you. Farmer Jones raised a lot of corn and fed it to the hogs along with the horsemeat, but for some reason the hogs seemed to prefer meat over corn any day.

Near the Bawcom Place was a huge corral made of pine slabs set right in the ground, close together and ten feet high. We worked for days stringing up wire and hanging burlap on it for wings. Where the cedars were thick we'd cut brush and pile it in the gaps, and finally we had a lane a mile long leading to this big corral. The country below the corral was open and unfenced and ideal for making drives. We caught seventy-five head of broomies, along with some branded horses, before the ones that got away became so wise we couldn't crowd them within a mile of our wild-horse trap.

Once in awhile we'd run some young studs that had been whipped out of an old stud's band, and sometimes there'd be two or three of these youngsters running together. They never let up trying to steal mares to make up their own band. One day we ran onto an old stallion all by himself, and he was a sorry sight. He must have been twenty-five years old and he was so battle scarred he looked like a paint. Both ears had been chewed off almost to stubs and one eye was out. When he saw us with that one good eye, he cocked his head to one side and circled around in a high trot givin' us the once over. Then he let out a blast that sounded like a train's whistle and took off in a lumbering lope. He looked in fair shape and wasn't lame, so we just sat our horses and watched him out of sight. Not a one of us wanted to see the old warrior go for hog feed.



On the Fourth of July we all knocked off running wild horses and went to Winslow to attend the big rodeo held at the ball park

north of town. The rodeo stock contractor had sent us word to bring in any old outlaw horses we might have that would buck. We had some, all branded geldings, that had been turned out by their owners because they were so rank and mean. These horses wouldn't be used in the bucking-horse contest, but would be for anyone wanting to make a little "mount money." This meant the rider was paid so much just to put on a good show, and it didn't matter if the cowboy was bucked off or made a qualified ride. In fact, it was better if the rider got bucked off fast, and the harder he hit, the better the crowd liked it. Pay for putting on an exhibition ride was usually three dollars. A lot of young fellows got their start in rodeoing by riding horses just for mount money.

Instead of a wild-horse race that year the rodeo committee staged a wild-mule race. The LaPrade Dairy was just a mile or so north of the ball park. The LaPrades raised all their own work mules out of Percheron mares and big Spanish jacks. They had a bunch of young bronc mules that weighed from twelve to thirteen hundred pounds, and some of them were three or four years old and had never even been halter broke. I guess the LaPrades just raised too many for their needs, and the big mule colts ran out in alfalfa fields and grew up wild and free without a care in the world. We drove ten head of these young bronc mules to the rodeo grounds the day before, and that alone was worth the price of admission had anyone been there to see the fun.

Ed Janeway, who was still working for the Hashknives, was entered in the wild-mule race, and he tried to talk me into being his swamper. I told him to go to hell in a hurry, because I was entered in the calf roping and if I served as his swamper I might not be able to tie a calf the next day—or for that matter, the next week. Ed just laughed in his big hearty way and talked Cleburn Creswell into being his swamper instead. Ed offered Cleburn half of the forty silver dollars being put up for the winner of the wild-mule race. I wouldn't have weakened if it had been a hundred silver dollars.

The mule race was the last event of the day, and when it came time for it, five mules at a time were run into the bucking chutes and haltered. The halter rope was handed to the contestant's swamper, who was on horseback. Then the gate was opened and

the swamper was supposed to lead the mule into the middle of the arena and wait until all ten contestants were ready and the whistle blew to start the contest. Then each rider was to saddle his mule, mount and ride him to the end of the arena, go around a barrel, and come back down to cross the finish line in front of the chutes. Well, that's the way it was supposed to be, but, when Cleburn was handed the lead rope of a big mule with a head the size of a water barrel and the gate was opened, this wild mule climbed right into the saddle with Cleburn. Cleburn lost his turns on the saddle horn with the lead rope, and when the mule left there in a hurry, Cleburn held onto the rope and was dragged from his saddle. Cleburn knew Ed would kill him if he lost the mule before the event even started, so he hung on for dear life.

The mule headed for the far side of the arena, going a hundred miles an hour, with Cleburn trying to get enough purchase with the seat of his pants in the soft arena dirt to bring the runaway to a halt. Cleburn was skimming along so fast it looked like his britches were on fire. About that time the whistle blew for the event to start and Ed had to run, carrying his heavy saddle, clear down to the end of the arena, where the two of them finally got the mule stopped and facing them. By this time all the buttons on Cleburn's shirt were ripped off so he just shed the shirt and used it to blindfold the mule.

Ed had let his cinch out to the last notch, but his latigo was still a little short and he was able to take only one lap through the cinch ring. He pulled on it as tight as he could, hoping the saddle wouldn't turn; then he mounted and Cleburn pulled off the blind and Ed's mule left there like a scalded cat.

Meanwhile, two other contestants had managed to get their mules saddled and, after mounting, they began trying to haze them down to the end of the arena and get them around the barrel. The trouble with this setup was that LaPrade's dairy was beyond the end of the arena, and all the mules—except Ed's—bucked a few jumps and lit out for the dairy just like homing pigeons. They jumped the ball park fence with the greatest of ease and ran over people, cars, and ditches until they were back at the dairy barns. Every one of the mules got away and followed the leader, and Ed had the field to himself.

Ed won the mule race simply because he was young and tough and strong as an ox. He was able to manhandle his mule around the barrel by whipping him alongside the head with his hat, and once that was accomplished Ed had no trouble getting the mule to run—lucky for him, in the right direction. They flew across the finish line in front of the chutes, made a wide circle—never slacking their speed, and headed back down to the end of the arena once more. Here Ed's one turn with the latigo gave out and his saddle fell off and Ed was plastered against the arena fence. His mule never checked his speed as he hit the gap the others had made, and in two minutes he joined his partners at the dairy.

There were a good many empty saddles scattered about and cowboys on foot, but all the swampers had left the arena in a vain attempt to catch their mules. Poor Cleburn not only lost a good shirt, but he wore the seat of his britches plumb out. He had a terrible black eye and a sprained wrist, plus rope burns that took a week to heal. I didn't win any money in the calf tying the next day, but I congratulated myself for having enough brains to stay out of that wild-mule race.



Before the end of the summer Mother and the little boys came out to stay with us while we were camped at Hobo Tank. She and the little boys slept in a little board shack; the rest of us had our bedrolls scattered all over the flat. Emmett and Ernest were old enough to ride with us, but Boyd and Little Pat stayed in camp with our mother during the day. One morning I was gettin' ready to chase some broomies, and I saddled a horse called U Bar Roanie, who was what we called a blind buckler. He just closed his eyes and would have bucked off into the Grand Canyon if it had been out there in front of him. This time he headed for the little shack, and Mother saw him coming. She ran out of the door with a white tea towel in her hand waving it in his face trying to turn him. I yelled at her to get out of the way and she jumped back inside the door just as Roanie hit the shack and the whole end of it collapsed. Roanie never slowed down and bucked out across the flat until he got winded and threw up his head to see where he was going. A blind buckler like that can sure get a

cowboy in trouble, but the horse always seems to come out of it unscratched.

My mother wasn't hurt, nor was Boyd or Little Pat, but it nearly scared the daylights out of them. The roof on the end of the house had caved in on top of the cupboard of groceries and had mashed the table and benches to splinters. A big jug of syrup had broken all over the tin plates, and cornmeal and beans were mixed together, along with some coffee and salt. Ol' Roanie had done a pretty good job of house wrecking.



Wild horses was easy to catch compared to gathering horses that was once tame and had gone to the wild bunch. These horses were wise and not one bit scared of a man on a horse. The Hashknives had a bunch of broodmares running free in the Chevelon Butte country, and they were gathered only once a year when we brought them in to brand their colts. Some of these mares got awfully spoiled about corralling and some would even get away year after year.

Bill Lovelady had a Box H brown horse that had gotten away and was running with this bunch of spoiled mares. Lovie had this brown horse caught up any number of times, but never long enough to ever break him. The brown was eight years old and barely broke to lead when Lovie asked me and a friend, Frank Hollaway, to help him catch this horse and we said we would. The brown horse was the leader of this band of mares, and you couldn't turn him once he'd made up his mind to cut out from the bunch. He would either run over you or under you—he wasn't particular how he did it, but he always managed to get away. No one ever wanted to ruin a good horse in runnin' the brown horse down, so that's why Lovie asked me and Frank to help relay him. Lovie said he'd made up his mind to either catch the horse or shoot him if he could get within rifle range.

The brood mares' range ran from the mouth of Chevelon Canyon on the Little Colorado River south to the U. S. Forest line. On the west it was bordered by Clear Creek, and this made one huge range of thirty-five square miles, at least. There were a few holding pastures around stock tanks and the homesteaders had

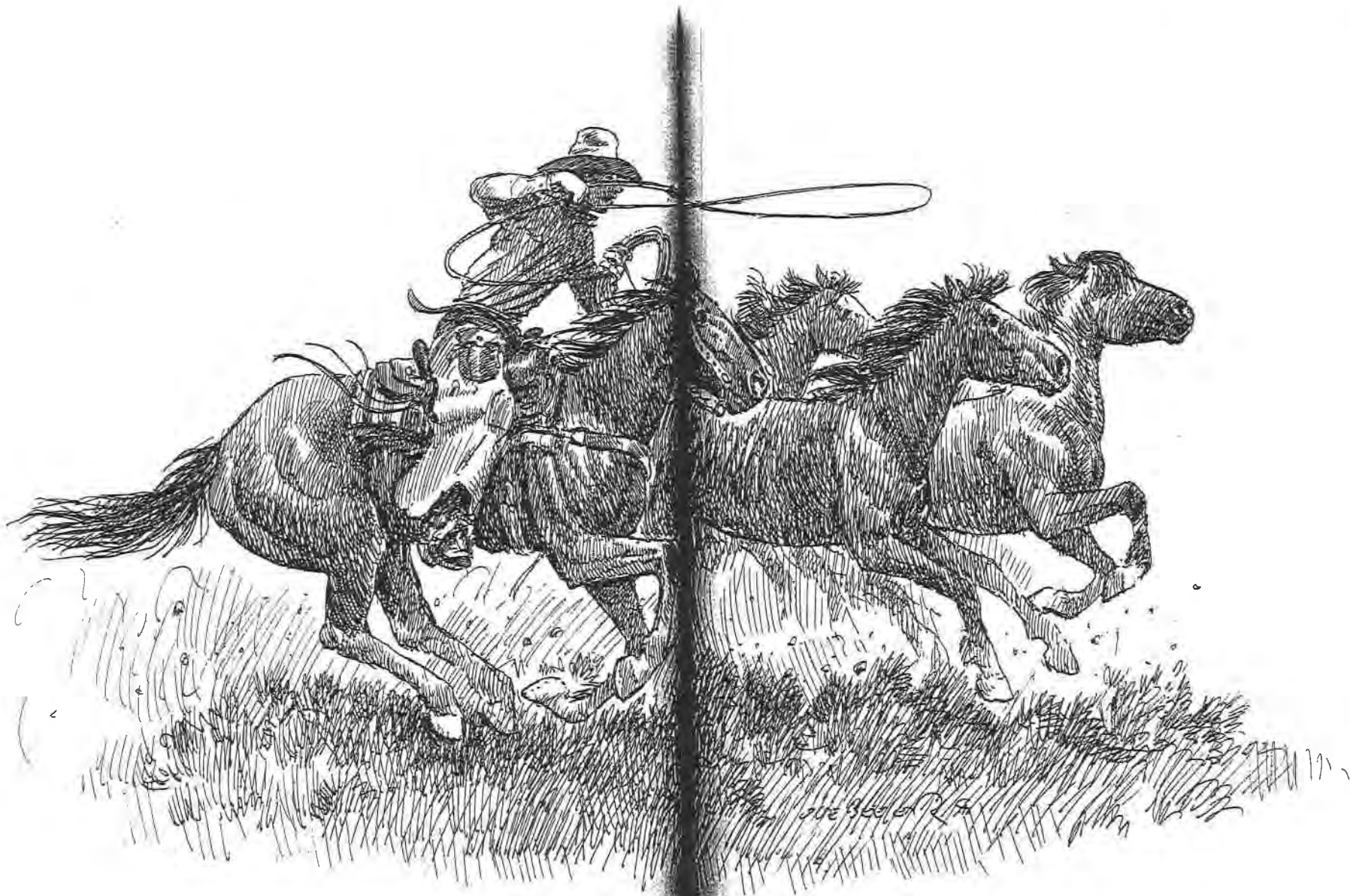
their sections fenced; otherwise, the horses could just about run on forever in a giant circle.

Lovie set up a little greasy-sack camp over at Big Tank, and one morning early me and Frank and Lovie rode out to find this Box H runaway. The sun wasn't two hours high when we ran onto him with a bunch of mares and big colts. I took to him first, as our plan was for me to run him awhile and try to bring him to the place where Lovie and Frank would be stationed on fresh horses. We spotted him at Firewater, right on the rim of Clear Creek Canyon. The Box H brown took off to the south the minute he sighted us and he and the mares ran a mile or so, but one at a time the mares started dropping out as they got tired. Most of them were heavy with foal.

I was mounted on a big buckskin, tough and hard from plenty of ridin', but in order to save him I was ridin' bareback. The brown stayed far in the lead and ran hard, although I didn't press him. We passed Broken Tank and in no time Red Tank came in sight and was passed. None of the mares were left by this time and it was just a race between me and the brown horse. Not really a race, 'cause I just stayed a certain distance behind and at no time did I crowd him. I wanted him to choose the route and he did just what I knew he'd do—he turned towards the National Forest boundary and ran along the fence aways. I pulled up and he headed back down country on his own, bound for Big Tank, where Frank was to take the second turn.

Some horses, after running a long distance and getting far enough ahead, will slow down and trot and get some of their wind back, but not this brown horse. No matter how far in the lead he got, he just kept going in a long, hard gallop like some kind of a machine. I pulled my horse down to a slow lope and, when we came in sight of Big Tank, I saw Frank take off after the brown. Frank was riding a fine horse called Tops, and they really poured it on for the first mile. I was sure Frank was going to be able to rope the brown, but he called on some reserved strength, and Frank never got within throwing distance.

You can see a long way in that country, and it seemed the farther they ran, the greater the distance between the brown and Frank got. Their dust finally went out of sight ten miles or so



*"The Hashknives had a bunch of brood mares running free
in the Chevelon Butte country, and they were gathered
only once a year."*

where me and Lovie watched, up on a little rise. I stayed with Lovie at Big Tank because we knew if Frank roped the brown he'd be back, and if he didn't catch him, we figured he'd be able to turn him back south when they came to the mouth of Chevelon Canyon. The Little Colorado was fenced there, and the Box H brown would have to turn back unless he jumped the fence and swam the river.

While me and Lovie waited for Frank's return, I caught up another horse called Sunnybrook, a big Cross N horse, and this time I saddled up. Lovie was mounted on a brown horse named Stormy, branded D Y on his left thigh. It was shortly after noon when we saw Frank coming back towards Big Tank, with the Box H brown still some distance in the lead. Both him and Frank had slowed down a lot since we'd seen them a few hours before, but the brown didn't look like he intended to quit. Frank's tough, grain-fed horse was dinked.

Lovie got stationed on top of a little red hill and, when the Box H brown came by, Lovie took after him. Lovie only ran him a few hundred yards and roped him right around the neck. I was ready with my rope cocked and ran in and heeled the brown and we stretched him out on the ground between us. Lovie let out a whoop and got off and started putting a hackamore over the brown's head. The horse's lungs were working like a bellows, and puffs of dust blew out from in front of his nostrils. But, even as I watched, suddenly the bellows stopped and I saw his eyes roll back in their sockets, and the brown horse died before Lovie could finish fastening the hackamore.

Kneeling by the still, sweaty form, Lovie hesitated a moment, then reached down and grabbed a handful of sand and flung it from him in an angry motion. I thought he wasn't going to say a word, but after getting his hackamore off the dead horse he turned to me and Frank. "He wasn't pushed—he could have stopped any time," he said. Then he mounted Stormy and the three of us rode back to camp.

Later Frank told us the brown had run all the way to the mouth of Chevelon Canyon, turned there, and run all the way to Clear Creek bridge before he had turned back south. The round trip had to have been forty miles or more, and Frank said he'd

pulled Tops up several times to let him get his wind. We figured the Box H brown had run better than seventy-five miles, all within about six hours. I never liked to kill a horse and I would rather have seen the Box H brown run wild and free the rest of his life, and none of us felt good about the day's work.

There was one time I killed a horse on purpose, but I figured it was the only thing I could do to save my saddle. In the 1980s a good horse cost far more than a saddle, but in 1929 in Hashknife country, saddles were expensive and horses were a dime a dozen. That summer me and Ira Hays was riding at Big Tank, and among the band of mares there was a blood-bay gelding with black points that belonged to George Roberts. George called him Apache and had told me I could have the horse if I could catch him. The day I got lucky and roped Apache, Ira was with me and was riding a sorry little broomie he'd broken only a few weeks before. Wanting to see what kind of a gift horse I had, I saddled him the next morning. I was able to hold him up, and he didn't buck—not then, he didn't—but about twenty minutes later he blew his plug and bucked hard for a hundred feet, and then stepped in a dog hole and turned completely over with me. When Apache jumped up, he ran off with my saddle. Ira came loping up on his broomie and asked me if I wanted him to try to catch the runaway. I knew Ira couldn't keep in sight of Apache's dust if it came to a chase, so I walked back to the shack and got my 30-30 and went up on a little hill and told Ira to go way out around Apache, who was grazing about a mile away, with the bridle reins dragging. Pretty soon Ira got the horse headed below me in a little draw. I hid down and when Apache passed within rifle shot I killed him, as my saddle was damned sure worth five times more than that runaway.

Bill Lovelady had another horse called Shorty that he lost to the wild bunch one time. Whenever we were runnin' broomies in the general area Lovie's horse was supposed to be in, Lovie would beg us to catch and bring ol' Shorty home to him. Lovie had gotten the horse from Vern Gillette in the Tonto Basin and

Shorty had headed for home the first chance he got. On his way, he had thrown in with a bunch of broomies running along the Mogollon Rim and liked it so well he just stayed. That's where we gathered Lovie's runaway, when we were camped at a place called Hole In The Ground. The next morning I saddled Shorty, as I just wanted to see what the horse would do. Lovie had always told me how bad Shorty could buck. I'd seen Lovie saddle Shorty up and lead him for a mile before getting on, and then hold the horse up and sweet-talk to him half a day before he'd break him into a lope. I'd never actually seen Shorty do anything.

So I saddled Shorty and just climbed aboard without untracting him and reached up with both spurs to the point of his shoulders and raked him good. I was fixin' to make one hell of a bronc ride and put on a show for the boys. All ol' Shorty did was kick up and squeal, and he barely left the ground. I almost fell off from laughing so hard, because that's all I could make Shorty do. Why, any widow woman could have ridden him bareback.

After I returned the horse to Lovie, he didn't keep him a month when Shorty got away again, with his hobbles on. He soon hopped and jumped all the way back to Hole In The Ground and took up with his favorite bunch of broomies. Someone saw Shorty the next fall with just one piece of the hobbles still tied to one ankle. Some horses never get over wanting to go back to the wild bunch.

Exhibit B

BRYAN CAVE LLP
TWO NORTH CENTRAL AVENUE, SUITE 2200
PHOENIX, ARIZONA 85004-4406
(602) 364-7000

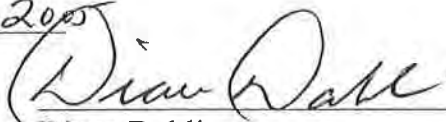
1 STATE OF ARIZONA)
2) ss.
3 COUNTY OF NAVAJO)

4 After being first duly sworn, and upon her oath, affiant, Diane Dahlin deposes and
5 says:

- 6 1. I am a current resident of Heber/Overgaard, Arizona.
- 7 2. I am over the age of 18 years of age.
- 8 3. I have resided in the Heber/Overgaard area, Navajo County, Arizona, since
9 1989.
- 10 4. I am currently employed at Jim Burton Realty.
- 11 5. I have seen herds of wild horses beginning along the borders of Bison
12 Ranch and continuing east toward Sunrise resort along State Route 260.
- 13 6. I have seen a herd of wild horses of approximately 20 to 30 head in this
14 area as early as 1995 and possibly earlier, well before the Rodeo-Chediski fires.

15 Further affiant sayeth naught.

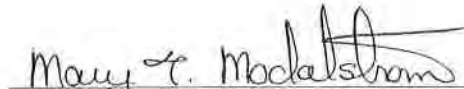
16 DATED: September 7, 2005

17 
18 Diane Dahlin

19 STATE OF ARIZONA)
20) ss.
21 County of Navajo)



22 Subscribed and sworn before me this 7th day of September, 2005.

23
24 
25 Notary Public

26 Commission Expires: ^{MM} ~~9-13-2005~~ 3-13-2008
27
28

Exhibit C

BRYAN CAVE LLP
TWO NORTH CENTRAL AVENUE, SUITE 2200
PHOENIX, ARIZONA 85004-4406
(602) 364-7000

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STATE OF ARIZONA)
) ss.
COUNTY OF NAVAJO)

After being first duly sworn, and upon his oath, affiant, Lee Larson deposes and says:

1. I am a current resident of Heber/Overgaard, Arizona.
2. I am over the age of 18 years of age.
3. I have resided in the Linden area, Navajo County, Arizona, since 2001.
4. I have been hunting in and visiting the Heber/Overgaard area since the late 1970's and have personally witnessed two separate herds of wild horses in this area.
5. I am currently employed at Jim Burton Realty, in Overgaard, Arizona.
6. I have seen herds of wild horses in the following locations between approximately 1977 and present time:
 - a) along Forest Service Road 86
 - b) between Forest Service Roads 107 and 146
 - c) near Forest Service Road 125
 - d) near Forest Service Road 141
 - e) on Forest Service Road 300
 - f) near the Forest Service Road 163.
7. I have also seen the herds outside of Bison Ranch in Overgaard, Arizona.
8. I have not witnessed any markings or brandings on any of the wild horses that I have encountered.
9. I have seen between 25 to 30 wild horses at any given time.
10. I have seen at least five (5) foals since the beginning of 2005 and over the years I have seen numerous other foals.

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11. Many of these wild horses have been in the area prior to the Rodeo-Chediski fires of 2002.

Further affiant sayeth naught.

DATED: 9-7-05

Lee Larson

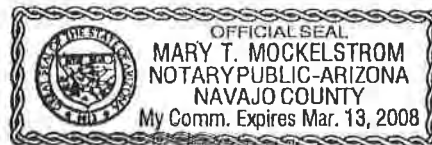
Lee Larson

STATE OF ARIZONA)

)

) ss.

County of Navajo)



Subscribed and sworn before me this 7th day of September, 2005.

Mary T. Mockelstrom
Notary Public

Commission Expires: 3-13-2008

BRYAN CAVE LLP
TWO NORTH CENTRAL AVENUE, SUITE 2200
PHOENIX, ARIZONA 85004-4406
(602) 364-7000

Exhibit D

1 STATE OF ARIZONA)
2) ss.
3 COUNTY OF NAVAJO)

4 After being first duly sworn, and upon his oath, affiant, Ron Britz deposes and
5 says:

- 6 1. I am a current resident of Heber/Overgaard, Arizona.
- 7 2. I am over the age of 18 years of age.
- 8 3. I have resided in the Heber/Overgaard area, Navajo County, Arizona, since
9 1980.
- 10 4. Prior to the Rodeo-Chediski fires in 2002, I had seen herds of wild horses
11 throughout the Heber/Overgaard area. The size of the herds have varied but have
12 included at least a dozen horses at any given time.
- 13 5. None of the horses that I have viewed over the years were branded or had
14 any domestic markings, to the best of my knowledge. I believe that on many instances I
15 was close enough to have viewed or seen brands or markings had there been any on these
16 horses.
- 17 6. Throughout the 1980's, I often drove between Heber and Holbrook,
18 Arizona along State Route 377. During my drives back and forth, I had the opportunity
19 to view many herds of wild horses along this route. In the 1990's, I frequently saw these
20 wild horses while I was driving south toward Chevelon, Arizona. However, since the
21 Rodeo-Chediski fires of 2002, I have noticed an increased number of wild horses near
22 Bison Ranch in Overgaard, Arizona.

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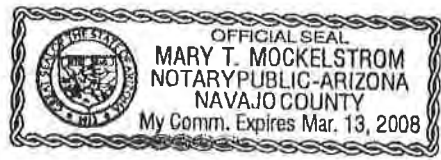
7. Most recently, in April 2005, while driving from Holbrook to Heber, Arizona, I saw a herd of approximately 12 to 15 horses. Again, I did not see any brandings or evidence of domestic marking of any kind on the horses.

Further affiant sayeth naught.

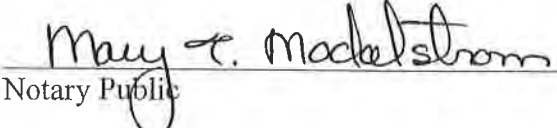
DATED: 9-7-05


Ron Britz

STATE OF ARIZONA)
) ss.
County of Navajo)



Subscribed and sworn before me this 7th day of September, 2005.


Notary Public

Commission Expires: 3-13-2008

BRYAN CAVE LLP
TWO NORTH CENTRAL AVENUE, SUITE 2200
PHOENIX, ARIZONA 85004-4406
(602) 364-7000

Exhibit E

BRYAN CAVE LLP
TWO NORTH CENTRAL AVENUE, SUITE 2200
PHOENIX, ARIZONA 85004-4406
(602) 364-7000

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STATE OF ARIZONA)
)
) ss.
COUNTY OF NAVAJO)

After being first duly sworn, and upon her oath, affiant, Barbara Van Cleve deposes:

1. I am over the age of 18 years old.
2. I am a current resident of Overgaard, Arizona.
3. I have resided in the Overgaard area, Navajo County, Arizona, since 1994.
4. I am currently employed at Jim Burton Realty.
5. I have seen herds of wild horses on the borders of Sunrise Resort and surrounding areas since approximately 2004 .

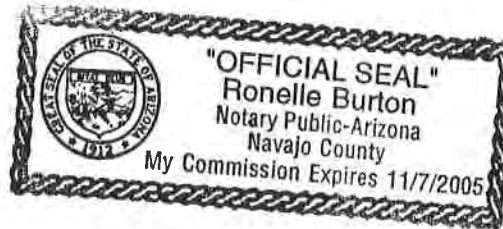
6. In fact, in 2004, I photographed a large herd of these wild horses along State Route 260 in between Forest Roads 107 and 139. Attached hereto are true and correct copies of photographs I took on May 16, 2004, identified as Exhibit A. Due to the large size of this herd, which I estimate at approximately 30 to 40 head, I had to take two separate photographs to capture the entire herd.

Further affiant sayeth naught.

DATED: 9-7-05 Barbara Van Cleve

Barbara Van Cleve

STATE OF ARIZONA)
)
) ss.
County of Navajo)



Subscribed and sworn before me this 7th day of September, 2005.

Ronelle Burton
Notary Public

Commission Expires: November 7, 2005

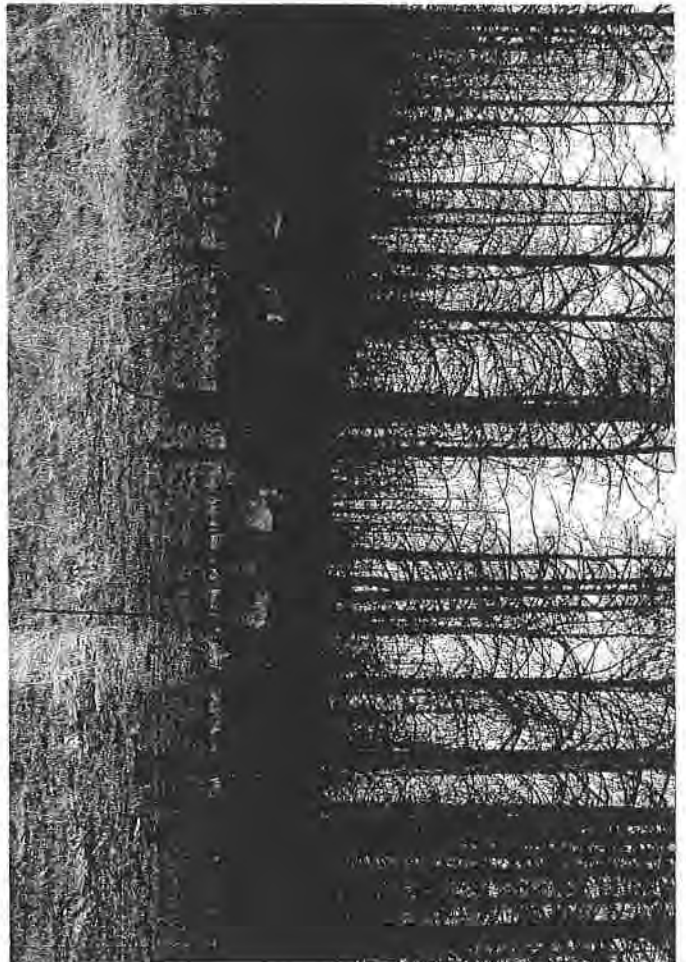
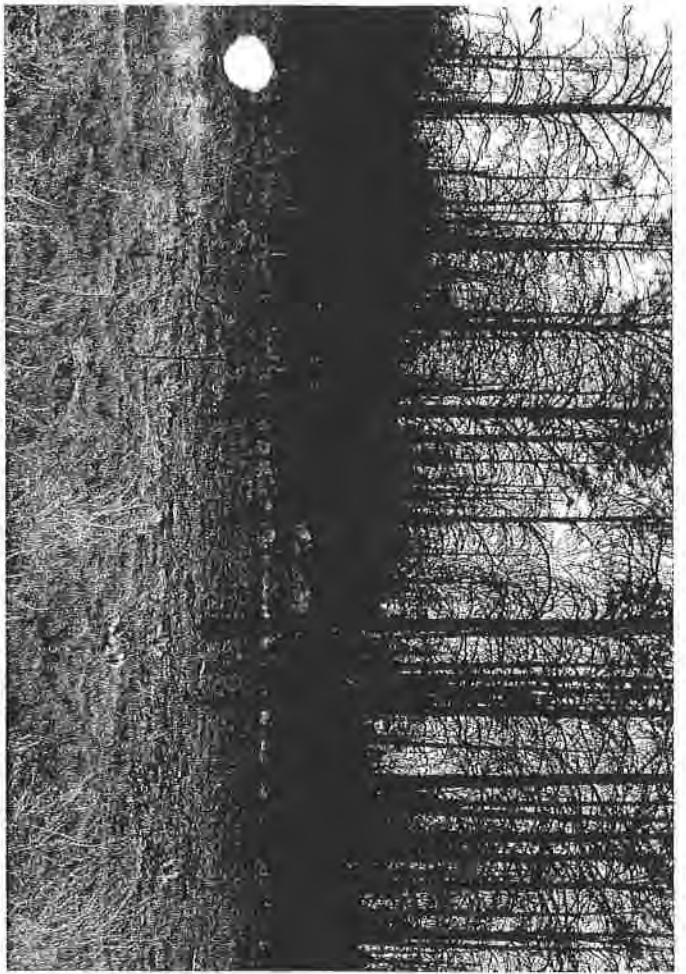
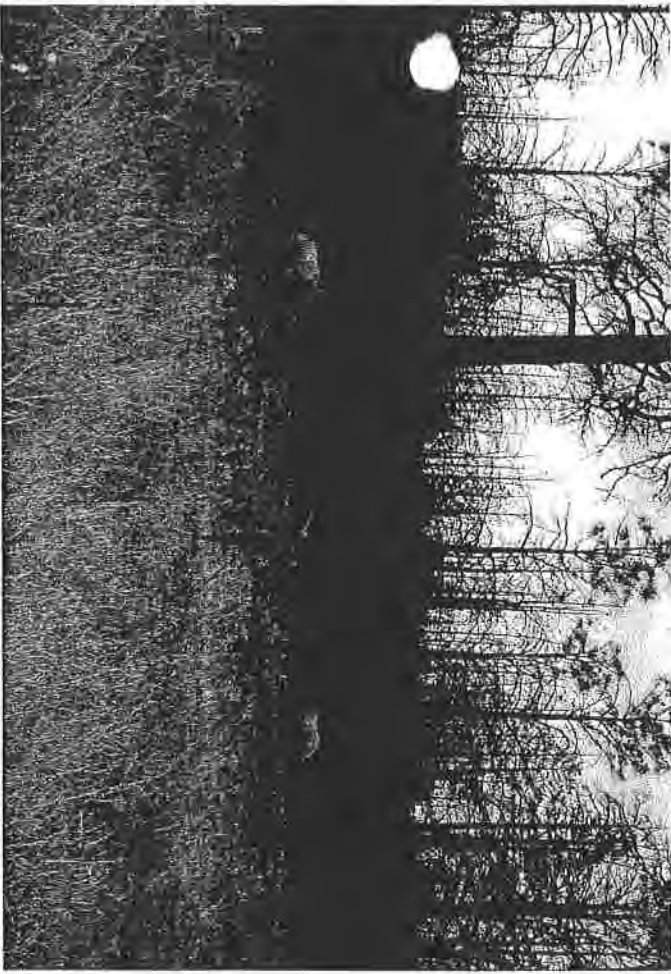


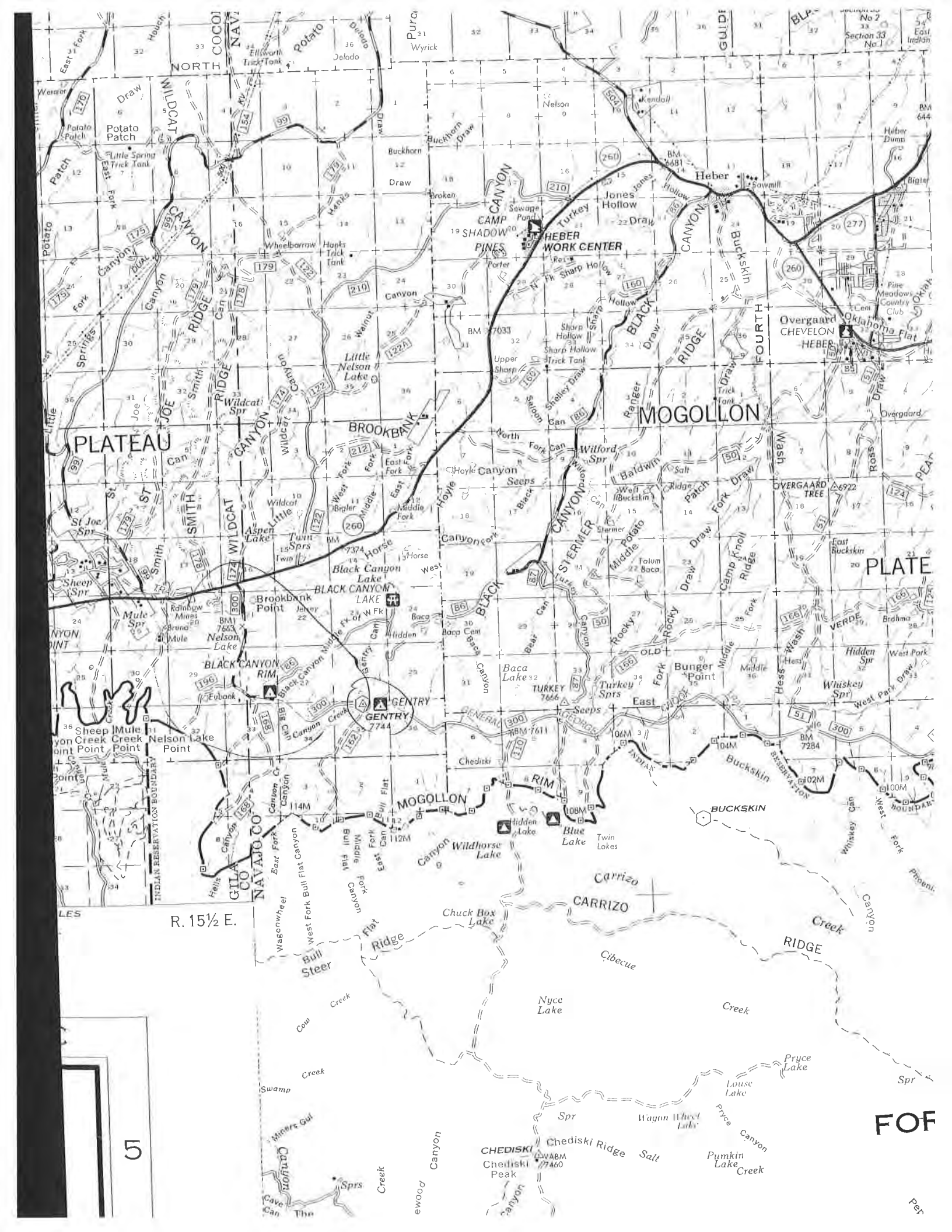
Exhibit F

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STATE OF ARIZONA)
) ss.
COUNTY OF NAVAJO)

After being first duly sworn, and upon his oath, affiant, Richard Potts deposes:

1. I am over the age of 18 years old.
2. I am a current resident of Heber/Overgaard, Arizona.
3. I joined the Air Force in 1957, obtained a business degree, and was commissioned as an officer in 1974. I eventually retired as a Captain in the Air Force in 1984. I served as a police officer and detective for the City of Scottsdale, Arizona from 1984 until I retired in 1997.
4. I have resided full-time in the Heber/Overgaard area, Navajo County, Arizona, since 1997. Prior to 1997, I visited the area frequently and have owned property here since 1970.
5. I am currently serving as a fire lookout for the United States Forest Service and have worked for the Forest Service for the past six (6) summer seasons.
6. In this capacity, I am familiar with the Heber Wild Horse Territory. Over the years, I have seen a small band of wild horses in that Territory and, in particular, in the vicinity of Gentry lookout, Township 11 N, Range 15.5 E, Section 28. A copy of an Apache-Sitgreaves National Forests map indicating this area (in circle) is attached hereto as Exhibit A. While driving around the forest roads in the area, I have become familiar with one particular herd since the summer of 2000. This was two years prior to the Rodeo-Chediski fires. The leader of this herd is a Buckskin stallion. This stallion usually runs with seven (7) or eight (8) mares and has produced foals for the last three years of which I am aware.



R. 15 1/2 E.

5

FOF

Per

Exhibit G

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STATE OF ARIZONA)
)
COUNTY OF NAVAJO)

ss.

After being first duly sworn, and upon her oath, affiant, Cheryl Crandell deposes:

1. I am over the age of 18 years old.
2. I am a current resident of Heber/Overgaard, Arizona.
3. I have resided in the Heber/Overgaard area, Navajo County, Arizona, since 1968.
4. I am currently employed at Bison Ranch as a Barn Manager.
5. I have seen herds of wild horses on the borders of Bison Ranch and surrounding areas since approximately 1974.
6. In fact, in 1974, I photographed several of these wild horses along the Mogollon Rim. Attached hereto are true and correct copies of photographs of a herd of wild horses that I personally watched on or around 1974. These horses have historically roamed the Heber/Overgaard area of Arizona.

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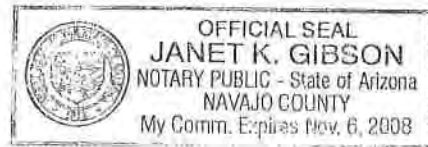
7. Most recently I have witnessed three separate herds of these wild horses. In particular, I have seen an eighteen-month old colt with a distinctive cream color that has consistently appeared around the Bison Ranch area.

Further affiant sayeth naught.

DATED: Sept. 7, 2005

Cheryl Crandell
Cheryl Crandell

STATE OF ARIZONA)
) ss.
County of Navajo)



Subscribed and sworn before me this 7th day of September, 2005.

Janet K. Gibson
Notary Public

Commission Expires: 11/06/2008



Exhibit H

1 6. On or about July 19, 2005, I sent a Freedom of Information Act or FOIA
2 request to Elaine Zieroth with the U.S. Forest Service in Springerville, Arizona. A true
3 and correct copy of that letter is attached at Exhibit 1. The FOIA request sought
4 information relating to a protected wild horse territory similar to a sanctuary dedicated by
5 Congress and known as the Heber Wild Horse Territory.

6 7. I issued a second FOIA request to Ms. Zieroth on or about August 23,
7 2005. This request related to the attempt to award a contract for the removal of all horses
8 from the Apache-Sitgreaves National Forests.

9 8. To date, I have received a few pages of information and reports from the
10 U.S. Forest Service in response to my requests. None of the documents suggest that the
11 Forest Service has conducted any type of investigation or study of the horses in this area
12 before making a decision to remove all of them. In fact, they have failed to provide me
13 with any census or inventory regarding the present number and status of wild horses in
14 the Apache-Sitgreaves National Forest.

15 9. I have also reviewed the Solicitation for Bid entitled "Trespass Horse
16 Capture and Transport, Apache-Sitgreaves National Forest" initially posted on July 19,
17 2005. This Solicitation provides for trapping of the horses, allows motorized equipment,
18 tractor trailers, and stock trailers into the forests for removal of the horses. Most
19 interestingly, the Solicitation also places a "gag order" on it and provides that the
20 "contractor agrees that there shall be no release of information to the news media
21 regarding the removal or remedial activities conducted under this contract." See
22 Solicitation at Section C.1.5(a)(3). The Solicitation provides for conditions for camping
23 for the contractor and its agents when rounding up the horses and staying overnight in the
24 forests at Section H.2.4, a fire plan at Section H.3.0, and other issues such as slash
25 incineration, smoking cigarettes, power chain saws, and the like.

26 10. To my knowledge and investigation to date, neither the United States Forest
27 Service or any other government agency has conducted a public hearing or allowed for
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public comment on their present intent to remove horses from the Apache-Sitgreaves National Forest.

11. I have reviewed photographs and videos of the wild horses in the Apache-Sitgreaves National Forests. I have also spoken with residents who have viewed these horses.

12. From my review of the photographs and videos of these horses, I believe that the light Buckskin (or crème color) and the jet black horses and foals in the Apache-Sitgreaves National Forests are indicative of offspring of the original Spanish wild mustangs introduced to the Heber area by Father Eusebio Kino some 300 years ago.

13. Based upon my discussions and interviews with local residents of Heber/Overgaard, it appears clear that wild horses have existed continuous in the Apache-Sitgreaves National Forest since 1971 and earlier.

14. If the Forest Service proceeds with its plan to capture and remove these horses, they will be transported to a livestock auction house in Sun Valley, Arizona (near Holbrook). Upon information and belief, most, if not all the horses at that auction will go for slaughter. This means that there is a good chance that the majority of the horses presently living in the Apache-Sitgreaves National Forest will go to a slaughter house.

15. The present bid for removal of these horses constitutes more than a mere relocation or reduction in the horse population, but rather a total eradication and extinction of all wild horses in the area.

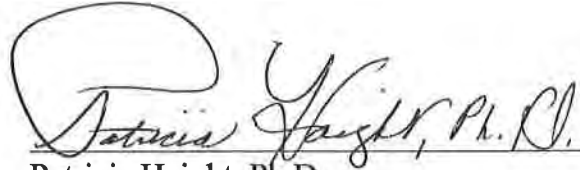
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16. Once these wild horses are captured and removed, they can never be replaced.

Further, Affiant sayeth naught.

DATED: 9/09/2005



Patricia Haight, Ph.D.

SWORN AND SUBSCRIBED before me by Patricia Haight, Ph.D. this 9th
day of September, 2005.



Notary Public

My Commission expires:

May 6, 2008



The Honorable Senator John McCain
241 Russell Senate Office Building
Washington, D.C. 20510-0303

July 12, 2005

Dear Senator McCain,

Once again I am writing to you regarding an issue related to horses living on Federal land in Arizona. Currently, these horses are living in the Sitgreave National Forest under the jurisdiction of the United States Forest Service. I have been told that the horses may be gathered, sold at auction, and end up at slaughter. I am writing to ask if you might inquire whether the information I have received regarding these horses is correct and whether, if it is correct, there might be an option other than sale of several hundred Arizona horses at auction. This, most likely, will result in most of these horses going to slaughter.

I received the information about this situation through Colonel Newlin Happersett, owner of Blue Grass Arabians in Cave Creek, Arizona. Colonel Happersett is a highly respected horseman in Arizona whose two-year-old Arabian, Point Man, took Championship honors at the last Arabian National Show at WestWorld. He also is a decorated veteran of World War II and Vietnam and was a former POW. Colonel Happersett fosters horses for In Defense of Animals and brought this information to my attention.

Below is the information:

- A committee has been formed by the United States Forest Service to deal with a large number of horses, perhaps several hundred horses, who ran to escape from fires during the Rodeo-Chediski fire. They are horses that were living on the White Mountain Apache Reservation prior to the Rodeo fire and who belonged to the White Mountain Apache Tribe.
- The terrified horses took refuge from the flames by running to the Sitgreave National Forest during the Rodeo fire and have been living there since. They are living on the rim side of the forest going from Showlow toward Lakeside in an area known as Forest Lakes. The public has been blocked access to this area.
- The US Forest Service does not want these horses on that land because they want the vegetation to come back and the horses are grazing on the vegetation. Technically the horses belong to the White Mountain Apache tribe but the White Mountain Apache tribe won't take them back either. Consequently, the Forest Service is working on a plan to gather up all of these hundreds of horses and turn them over to the Arizona Department of Agriculture. If this happens, the horses will go to the Holbrook sale lot. It is a place with a very bad reputation among horse people and animal welfare organizations.
- If the horses are turned over to the Arizona Department of Agriculture by the Forest Service, they will go to the Holbrook facility and, after 14 days, will then be sent to auction. Most of these horses will end up in the hands of killer buyers and be sold to slaughter because there simply are not enough people in the Holbrook area who will buy these horses. I have been told that the Forest Service will not consider taking the responsibility of the horses directly and doing an adoption program because it is too expensive. However, the BLM certainly does adoptions in Arizona and Kelly Grissom, the head of the BLM Horse and Burro Program in Arizona, is experienced at setting

up adoption programs. While I cannot speak for Mr. Grissom on this issue, he has been more than willing to help tribes in Arizona set up adoption programs for horses in other areas.

Would it be possible for you to inquire of the US Forest Service regarding the following concerns that have been expressed to me?

1. Is the Forest Service dealing with several hundred horses in the Sitgreave Forest that they plan to turn over to the Arizona Department of Agriculture as abandoned horses?
2. If the Forest Service is working on this plan, would they reconsider the possibility of an adoption program instead especially given that they have the BLM program in Phoenix to turn to for information on setting up such an adoption?
3. I have contacted Karen Sussman of the International Society for the Protection of Mustangs and Wild Burros to ask her assistance in finding a place for these horses to be relocated. If a place was found for them, would the Forest Service work with animal welfare groups to allow their relocation rather than sale at auction and to killer buyers?

These horses are simply victims of a horrible wildfire in Arizona. They escaped the fire and survived through their own courage and ingenuity. It would be tragic for them to end up at auction and at slaughter. In Defense of Animals delivered hay, feed and medical supplies to people in the White Mountains during that fire. I saw first hand its effect on the people and on the animals including horses. These horses have survived that ordeal. Now, if it is true that the US Forest Service plans to remove them from the land and turn them over to the Arizona Department of Agriculture, they will end up sold at auction and in the hands of killer buyers and slaughter houses. I believe there are other alternatives.

Would it be possible for you to assist me in determining whether this information is correct and, if it is correct, whether the US Forest Service would consider an adoption program or relocation of the horses if land can be found for them? The person I am told who is in charge of the issue of these horses is the following:

Elaine Zorthor
Forest Supervisor, Apache Sitgreave National Forest
PO Box 640
Springerville, AZ 86938

Once again, thank you so very much for your assistance, for your compassion, and for the assistance and kindness of your staff.

With best wishes and deepest respect,

Patricia Haight, Ph.D.
Southwest Regional Director, In Defense of Animals
Director, IDA Conquistador Equine Rescue Program
Cell: 480-232-8068, Email: pat@idausa.org

Exhibit I

AFFIDAVIT OF DEBRA SIROWER

1
2
3 STATE OF ARIZONA)
4) ss.
5 COUNTY OF MARICOPA)

6 After being first duly sworn, and upon her oath, affiant, Debra Sirower, avows as
7 follows:

8 1. I am over the age of 18 and am competent to testify as to the matters set
9 forth herein and would so testify if called upon to do so.

10 2. I have personal knowledge of all of the matters set forth herein, except
11 those matters theorized upon information and belief, which matters I believe to be true.

12 3. My law firm currently represents three animal welfare groups: In Defense
13 of Animals, the Animal Welfare Institute, and the International Society for the Protection
14 of Mustangs and Burros. In this capacity, I have had discussions with the U.S. Forest
15 Service located in Springerville, Arizona regarding its attempt to remove all horses from
16 the Apache-Sitgreaves National Forests. In particular, my contacts have been with Elaine
17 Zieroth, a U.S. Forest Supervisor.

18 4. On August 26, 2005, I sent a letter by fax to Ms. Zieroth pointing out the
19 various federal statutes that are applicable to the Forest Service's attempt to remove the
20 horses, wild or otherwise, from the Apache-Sitgreaves National Forests. On behalf of my
21 clients, I asked that the Forest Service delay or refrain from awarding any bid on its
22 Solicitation for the capture and removal of the horses. A copy of this letter is attached at
23 Exhibit A.

24 5. After a number of telephone discussions with Ms. Zieroth, it became clear
25 to me that the U.S. Forest Service intended to move forward with its plans to remove all
26 of the horses from this forest area, despite my clients protestations and request to comply
27 with federal laws. As a result, on September 2, 2005, I sent another letter by fax to Ms.
28 Zieroth asking as a compromise position that, the Forest Service agree to remove only

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1 “branded” horses (those with some type of domestic marking or sign ownership) so we
2 could have time to discuss the remaining issues further.

3 6. The U.S. Forest Service was scheduled to award the bid on its solicitation
4 for the capture and removal of the horses by August 31, 2005. However, due to
5 Hurricane Katrina, and the fact that its contracting office was located in New Orleans,
6 Louisiana, the time to award the bid was extended until September 10, 2005.

7 7. On Wednesday, September 7, 2005, I received a response letter from Ms.
8 Zieroth to my initial letter. A true and correct copy of this letter is attached at Exhibit B.
9 In sum, Ms. Zieroth stated that the Forest Service considered all of the 300 to 400 horses
10 in the Apache-Sitgreaves National Forests as “strays” or trespass livestock which
11 authorizes them to impound and dispose of them as needed. The Forest Service believes
12 that all of horses in the forests were chased by the Rodeo-Chediski fires off of the Apache
13 Indian reservation. The Forest Service’s position is that because the animals are
14 “claimed” or owned by the Apaches, they could be removed from the forest as
15 “unauthorized livestock.”

16 8. On Thursday, September 8, 2005, I spoke with Ms. Zieroth in a final
17 attempt to persuade the U.S. Forest Service to delay the bid award and consider whether
18 there were indeed wild horses in the forests in question that were deserving of protection
19 under the 1971 Wild Horses and Burros Act. I advised Ms. Zieroth that I have visited
20 Heber/Overgaard this week and interviewed local residents who confirmed seeing these
21 wild horses in the forests and surrounding areas since the 1970s. I also advised her that
22 they residents had provided me with sworn statements. Despite this information, the
23 Forest Service held to its position and advised me that it was trying to award the bid by
24 Saturday, September 10, 2005.

25 9. After my phone conversation with Ms. Zieroth yesterday afternoon, I
26 prepared another letter to her advising of my clients intent to move forward and seek a
27 restraining order to prevent the bid award. A copy of this letter is attached as Exhibit C.
28 If the bid is awarded, the contractor will begin operations which include the round up and

1 trapping of the horses in the Apache-Sitgreaves National Forests and then transporting
2 them to the auction house near Holbrook, Arizona.

3 Further, Affiant sayeth naught.

4
5 DATED: 9/9/05

6 Debra Sirower
Debra A. Sirower

7 SWORN AND SUBSCRIBED before me by Debra Sirower this 9th day of
8 September, 2005.

9
10 Lori L. De Los Santos
Notary Public

11 My Commission expires:

12
13 May 6, 2008



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EXHIBIT A
TO DEBRA SIROWER'S AFFIDAVIT

BRYAN CAVE

Debra A. Sirower
Direct: 602-364-7153
Fax: 602-716-8452

August 26, 2005

By Fax (928) 333-5966 & U.S. Mail
Elaine J. Zieroth, Forest Supervisor
Apache-Sitgreaves National Forests
U.S. Dept. of Agriculture
P.O. Box 640
Springerville, AZ 85938-0640

**Re: Removal of 400 Wild Horses from Heber Wild Horse Territory
Apache-Sitgreaves Forest**

Dear Ms. Zieroth:

This firm has been retained to represent the interests of certain animal protection groups including In Defense of Animals, the Animal Welfare Institute, the International Society for the Protection of Mustangs and Burros, as well as other concerned citizens residing within of the State of Arizona. It has come to our attention that the U.S. Forest Service has issued requests for bids on the removal of approximately 400 wild horses from the Heber Wild Horse Territory, Apache-Sitgreaves Forest. In response to a FOIA request by Dr. Pat Haight, our clients received little to no documentation for this decision. However, we have learned that the bid award for this removal will be made no later than August 31, 2005, and the scheduled removal is to begin the second week of September 2005. We have also received and reviewed your letter to Dr. Haight dated July 26, 2005. Based upon the information received to date, our clients have serious concerns about this attempted removal of protected animals.

First, we question whether adequate investigation and research has been conducted to support your conclusion that these animals are "trespass horses" and "are not considered wild horses." While your policy manual may provide for a certain manner of disposing of abandoned trespass property, we question the basis of your initial conclusion that the animals fall into this category.

Second, and possibly most telling, is the fact that the response to Dr. Haight's FOIA request provided little to no information demonstrating that any type of inventory, study or census has been conducted in this area for decades. Additionally, we found that no investigation has been conducted to determine how many of these horses are unbranded. We know from your efforts so far that the horses are unclaimed. Again, we question the basis of your decision that the horses are indeed trespass horses and not wild horses.

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Kuwait
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New York
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Riyadh
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United Arab Emirates (Dubai)
Washington, DC

*And Bryan Cave,
A Multinational Partnership,
London*

Third, our concerns were further heightened after interviews were conducted of local residents. Based upon first-hand eye witnesses' accounts, the majority of these horses are indeed unbranded and unclaimed. Presently, our clients are in the process of interviewing local residents who will confirm by written affidavit, video, and perhaps live testimony that these horses have lived in that area for years. We believe that many of these local citizens will also confirm that the horses were living in the area decades prior to the Rodeo-Chediski fires. As such, these horses would be federally protected as discussed below.

With this said, we need to bring to your attention that any attempt to remove 400 horses from this rugged area would likely be considered a "major Federal action significantly affecting the quality of the human environment." Such a massive operation of removal, assuming you intend to remove live horses, would require numerous personnel who would be camping out in this territory, installing traps, providing access points for horse trailers and other transportation, off-road vehicles, and the like. The bidding information suggests that the cost for such a removal may range between \$200,000 and \$320,000. In this rugged mountainous area, there should be no disagreement that this operation with all of its vehicles, traps, and manpower will cause considerable disturbance to the surrounding environment and other wildlife. It is apparent that compliance with the National Environmental Policy Act of 1969, 42 U.S.C. Section 4321, *et. seq.* ("NEPA") is required before taking this type of major federal action. Specifically, Section 4332 provides in pertinent part:

- (2) [A]ll agencies of the Federal Government shall ***
- (C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on –
- (i) the environmental impact of the proposed action,
 - (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
 - (iii) alternatives to the proposed action,
 - (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
 - (v) any irreversible and ir retrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local

Elaine J. Zieroth, U.S. Forest Supervisor
August 26, 2005
Page 3

Bryan Cave LLP

agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of Title 5, and shall accompany the proposal through the existing agency review processes.

42 U.S.C. Section 4332. In short, your actions in attempting to remove the horses appear predecisional in terms of NEPA. An environmental assessment or impact study should be conducted as well as a census to determine the precise nature and number of wild horses and how many are unbranded in this territory. Only then, after proper investigation and study, should a decision be made as to how the area should be managed.

We also point out that under the Wild Horses and Burros Act of 1971, 16 U.S.C. Section 1331, *et seq.*, the trespass status of these animals is arguable, and many may well be federally protected as provided for under the Act. As you are probably familiar, the Act's preamble and declaration of the policy provides:

Congress finds and declares that wild free-roaming horses and burros are living symbols of the historic and pioneer spirit of the West; that they contribute to the diversity of life forms within the Nation and enrich the lives of the American people; and that these horses and burros are fast disappearing from the American scene. It is the policy of Congress that wild free-roaming horses and burros shall be protected from capture, branding, harassment, or death, and to accomplish this they are to be considered in the area where presently found, as an integral part of the natural system of the public lands.

Under this Act, the Secretary of Agriculture is charged with the responsibility of "managing and protecting" all wild free-roaming horses. The Act also provides that the Secretary "shall manage wild free-roaming horses and burros in a manner that is designated to achieve and maintain a thriving natural ecological balance on the public lands." Section 1333(a). This Act further provides that the Secretary "shall maintain a current inventory of wild free-roaming horses and burros on given areas of the public lands." Section 1333(b).

As you are aware, there are also regulations under the 1971 Act of significance here. In particular, CFR Section 222.23 entitled "Removal of Other Horses and Burros," defines the conditions for treating certain horses as "unauthorized livestock" which could then be impounded and properly disposed. Notably, Section 222.23 provides special protection for horses that do not fall initially within the protection of the 1971 Act, if they are subsequently introduced into a protected territory "by accident, negligence or willful disregard of private ownership" and which become intermingled with wild free-roaming horses. Accordingly, only if these newly introduced horses do not intermingle may they be considered "unauthorized livestock." Based upon the information available to us to date, it appears that the horses in question have intermingled. Additionally, Section 222.25 of the regulations provides protection for the wild free-roaming horses even if they were to move or migrate off of protected territories onto lands of other ownership or jurisdiction.

Elaine J. Zieroth, U.S. Forest Supervisor
August 26, 2005
Page 4

Bryan Cave LLP

While we acknowledge the Forest Service's position that these animals are trespassing and therefore not protected, we question that position since the Forest Service readily admits it has not conducted a census in this area for decades. In fact, the response to the FOIA request revealed that no efforts to inventory or count the horses in this area has been conducted. Failure to conduct a census and jumping to the conclusion that these animals are trespass without good cause violates the Wild Horses and Burros Act of 1971. Furthermore, the Act defines "wild horses and burros" as "all unbranded and unclaimed horses and burros on public lands of the United States."

The Administrative Procedure Act, 5 U.S.C. Sections 551, *et seq.* ("APA") may be relevant to your agency's actions as well. Taking these steps without first conducting a full and proper investigation could be viewed as "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law" and thus in violation of the APA. 5 U.S.C. Section 706(2)(a).

Since the Forest Service intends to revise its land use plans in 2006, this is a prime opportunity to allow public comment as to whether to maintain horses in this area or not. We are not aware of any official decision to remove all horses from the Heber Wild Horse Territory. If such a decision has been made, please advise when it was made, by whom, and if there was any public comment or research on the issue. We also note that it is obviously, much easier to complete a Forest Plan Revision in 2006 if wild horses do not need to be taken into consideration.

In sum, we ask that you reconsider your actions, meet the requirements of a NEPA review, and provide documentation including monitoring data supporting your claim that these horses are "trespassers" and do not fall within the protections of the 1971 Act. We contend that before any major federal action such as this one can be undertaken, Section 4332 of NEPA must be followed. If you require another FOIA request, we can issue one, but, this letter should suffice. We, however, seriously question that all 400 horses are trespassers and ask for further investigation on your part as well as compliance with all applicable federal statutes.

We are open to the possibility of a face-to-face meeting among all interested parties to facilitate discussions and an exchange of information. While we are hopeful that we can resolve this dispute, we need a prompt response by the close of business Monday, August 29, 2005. We also ask that you consider delaying the bid award next week and take time to review the historic information that our clients have gathered (which will establish that many of these horses are not trespass horses). If you choose to move forward next week with the bid award, we will be forced to seek relief through other means including court-intervention.

Elaine J. Zieroth, U.S. Forest Supervisor
August 26, 2005
Page 5

Bryan Cave LLP

Thank you for your time.

Very truly yours,

Debra Sirower

Debra A. Sirower

DAS:ck

cc: Lucia Turner, Acting Regional Forester (by mail and fax 505-842-3110)
United States Forest Service
333 Broadway SE
Albuquerque, New Mexico 87102

Senator John McCain (by mail and fax 602-952-8702)
5353 North 16th Street, Suite 105
Phoenix, Arizona 85016

Senator John McCain (by mail and fax 202-228-2862)
241 Russell Senate Office Building
United States Senate
Washington, D.C. 20510
Attention: Nick Matiella

EXHIBIT B
TO DEBRA SIROWER'S AFFIDAVIT



APACHE-SITGREAVES NATIONAL FORESTS

P.O. BOX 640

SPRINGERVILLE, AZ 85938

(928) 333-4301

FAX (928) 333-5966

DATE: September 7, 2005

TO: Debra Sinsler

FROM: Ernie Zieroth

SUBJECT: Response to correspondence

Number of Pages (including cover sheet): 3

Comments: _____

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United States
Department of
Agriculture

Apache-Sitgreaves
National Forests

P.O. Box 640
Springerville, AZ 85938-0640
(928) 333-4301 FAX: 333-5966
TTY: (928) 333-6292

File Code: 5330-4

Date: September 7, 2005

Ms. Debra Sirower
Bryan Cave LLP
One Renaissance Square
Two North Central Ave., Suite 2200
Phoenix, AZ 85004-4406

Dear Ms. Sirower:

This letter is in response to your letters of August 26 and 31, and September 2, 2005, concerning the proposed gathering of stray livestock on the Apache-Sitgreaves National Forest.

Specifically you were inquiring about the approximately 300 horses that have strayed from the Fort Apache Reservation onto National Forest System lands in the area from Pinetop to Heber, Arizona. You also cited two Freedom of Information requests in your letters and those will be formally processed through our FOIA Officer.

We are confident that the horses involved in this action strayed onto the forest after the Rodeo-Chediski Fire in 2002. The fences between the reservation and the national forest were burned by the fire and were ineffective in stopping the movement of livestock. According to our Bureau of Indian Affairs and Tribal contacts, the BIA rounded up several hundred of the horses that graze freely on reservation land, to prevent damage to the areas being reclaimed following the fire. During their round-up, they indicated that hundreds of horses likely were pushed onto the national forest. The BIA then rebuilt the fences, trapping the horses on the forest.

We have very clear direction under 36 CFR 262.10 and our policy Handbook for Law Enforcement, FSH 5309.11 on impoundment procedures for stray livestock. Impoundment of stray livestock is a law enforcement activity and under 7 CFR 1b.3, the Secretary has excluded from documentation (EA or EIS) certain categories of actions, including law enforcement activities. Therefore, we are not required to complete an environmental document for this action.

I have provided Dr. Haight with a copy of our impoundment policies. We have notified the White Mountain Apache Tribal Chairman and Tribal Attorney of a Notice of Impoundment Action and given tribal members more than 30 days to come gather their horses. No horse owners have come forward. As I stated, there are hundreds of horses grazing freely on the reservation so they are not really managed there. The next step is to gather the horses and contact the State Department of Agriculture, under our Cooperative Agreement (C.A.) with the State of Arizona Livestock Sanitary Board. We have received a letter from the State concerning the procedures. The State Brand Inspector inspects the horses for brands and the owners of the brands are contacted and given five days to redeem their animals. The C.A. states: "That unbranded, unmarked or branded unknown ownership horses, mules, asses, cattle, sheep or goats impounded by the agencies on Public Lands will be turned over to the Board for disposal...".

As you are aware, we have advertised for a contractor to gather the horses. We have a FOIA request from Dr. Haight, asking for the contractor's name once the contract is awarded. You



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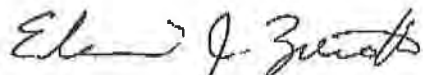


have also asked under FOIA how the award of the bid was extended. We will formally respond to the FOIA, but let me explain that the contract itself was not extended, but our time limit for obligating Fiscal Year 2005 funds under contracts was verbally extended to September 10, 2005. With the impacts from Hurricane Katrina in New Orleans, we are not certain whether our National Finance Center there will be able to find alternative locations for processing our financial instruments. We are trying to award the bid this week, but do not know if we will be successful. I will inform you if we do award the bid.

We do not classify these stray horses as "wild and free-roaming horses", nor do they have any connection to the Heber Horse Territory of record. The 1974 report on the Heber Territory lists 7 horses within the territory. The "Ninth Report to Congress on the Administration of the Wild Free-Roaming Horse and Burro Act" (following the 1990-91 censuses) lists 5 horses. The 1991 report FS-2200-E also notes: "Approximately 5 feral horses wander along the Mogollon Rim back and forth from the White River Apache Reservation. The Indians do not manage the horses, neither does the Forest Service. Natural Attrition will eliminate the horses eventually". The 2200-E report goes on to state, under program needs: "Elimination of incidental feral horses and burros from formal management consideration to reduce impacts on management resources, personnel and time. The A/S "herd" should not be recognized at all." The 1993 letter from the Heber District Ranger lists 2 mares in the territory. We always have a certain number of stray horses from the reservation, and these are no doubt the horses that some of your contacts see in the area.

If you would like to send me any of the materials you mentioned, I would welcome seeing them. I would also be available for a meeting in my office if you wish. I do not have any plans to be in Phoenix, however, this month. Please contact me if you would be available to meet.

Sincerely,



ELAINE J. ZIEROTH
Forest Supervisor

cc:

Ralph Giffen, WO Range
Gene Onken, RO
Deb Bumpus, A-S Range Staff
Ed Collins, Lakeside District Ranger
Kate Klein, Black Mesa District Ranger

EXHIBIT C
TO DEBRA SIROWER'S AFFIDAVIT



Debra A. Sirower
Direct: 602-364-7153
Fax: 602-716-8452

September 8, 2005

By Fax (928) 333-5966 & U.S. Mail

Elaine J. Zieroth, Forest Supervisor
Apache-Sitgreaves National Forests
U.S. Dept. of Agriculture
P.O. Box 640
Springerville, AZ 85938-0640

Re: Removal of All Horses from Apache-Sitgreaves Forest

Dear Ms. Zieroth:

Thank you for returning my call this afternoon.

As I stated on the phone, my clients are still disappointed that the Forest Service stands by its position that all horses living within the Apache-Sitgreaves National Forests are strays and/or trespass livestock. As I advised you, we have signed affidavits of local residents who readily confirm that wild horses have lived in the area well before the Rodeo-Chediski fires in 2002 and the horses you seek to remove are not simply "stray" or "trespass." We have local eye witness reports back as early as the 1970s. Unfortunately, the U.S. Forest Service is adhering to its position that none of the horses in the forest are "wild" within the definition of the 1971 Act, despite the nearby Heber Territory Wild Horse sanctuary dedicated by Congress in the 1970s.

The purpose of this letter is to advise you that unless the U.S. Forest Service agrees to delay its award of any bid for removal indefinitely, or until we can reach amicable resolution, we have no choice but to apply for an ex parte (or without notice) temporary restraining order tomorrow in federal court. If you are willing to refrain from awarding a bid until we are able to resolve this dispute, please call me first thing tomorrow or as soon as possible. Otherwise, we will be seeking such relief tomorrow.

Thank you for your time.

Very truly yours,

Debra A. Sirower

DAS:ck

Bryan Cave LLP
One Renaissance Square
Two North Central Avenue
Suite 2200
Phoenix, AZ 85004-4406
Tel (602) 364-7000
Fax (602) 364-7070
www.bryancave.com

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*And Bryan Cave,
A Multinational Partnership,
London*

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One Renaissance Square
Two North Central Avenue
Suite 2200
Phoenix, AZ 85004-4406
Tel (602) 364-7000
Fax (602) 364-7070
www.bryancave.com

Date: September 8, 2005
From: Debra A. Sirower Telephone: 602-364-7153
Sender's Direct Fax Number: 602-716-8452
To: Elaine J. Zieroth, Forest Supervisor Fax Number: 928-333-5966
Company: U.S. Dept. of Agriculture Telephone:
Matter N002578 Number of Pages Including Cover: 2
Message:

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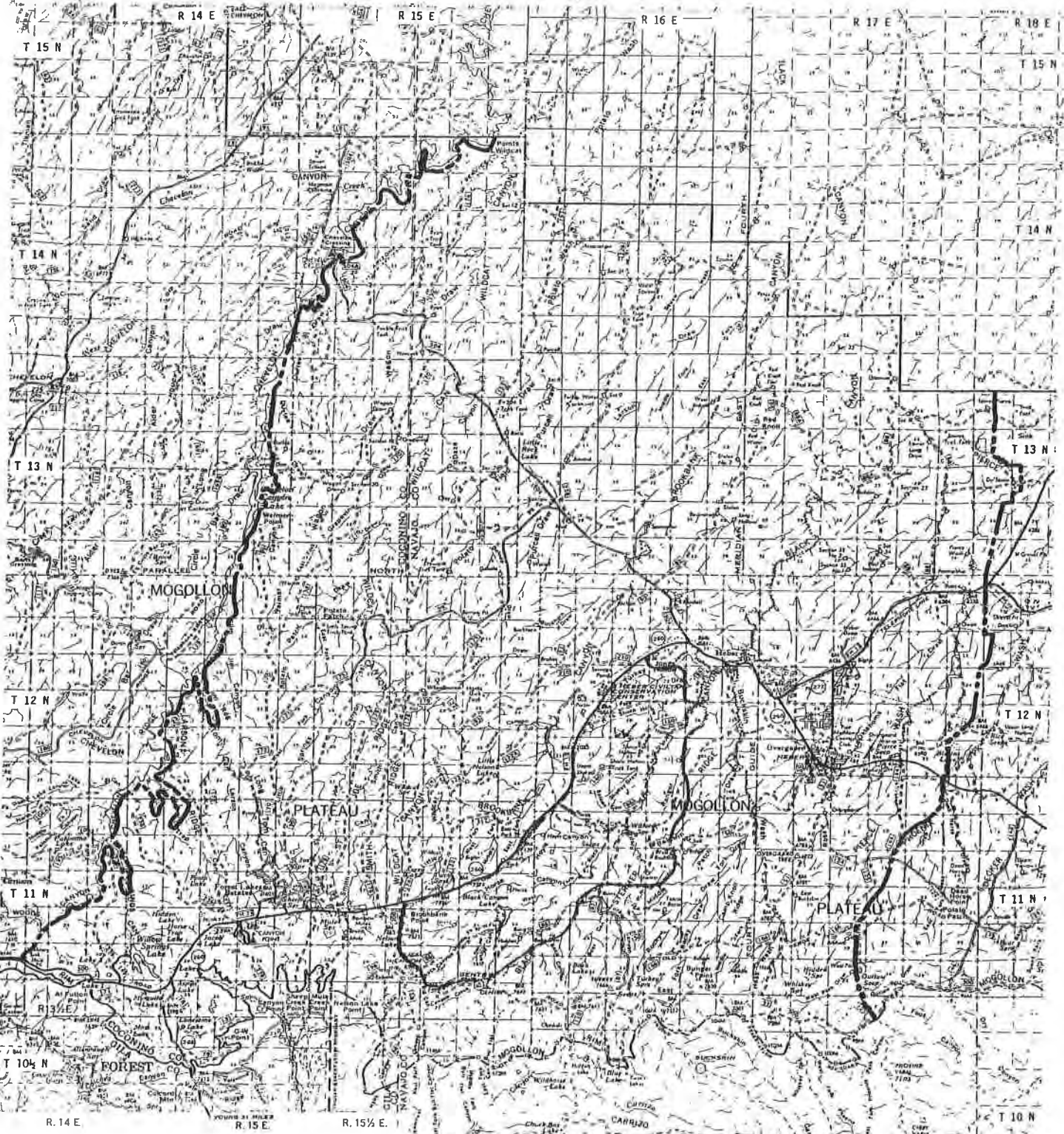
Date: September 8, 2005
From: Debra A. Sirower Telephone: 602-364-7153
Sender's Direct Fax Number: 602-716-8452
To: Elaine J. Zieroth, Forest Supervisor Fax Number: 928-333-5966
Company: U.S. Dept. of Agriculture Telephone:

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Exhibit J



**HEBER RANGER DISTRICT
SITGREAVES NATIONAL FOREST**

ARIZONA
1972

Scale



LEGEND

- Ranger District Boundary
- National Forest Land

TERRITORIAL HABITAT LIMITS

Wild Horses - December 1971

Boundary

Winter

Summer



Part II. Excess Animal Removal. Submit the following information summarized by Region for FY 90 and FY 91. Count mare or jenny with foal less than 6 months at side as one. Count weaned foals, or foals more than 6 months, as one.

	<u>FY 90</u>		<u>FY 91</u>	
	<u>Horses</u>	<u>Burros</u>	<u>Horses</u>	<u>Burros</u>
1. Total number captured and removed from territories (total of items 1a, 1b, 1c, and 1d.				
a. Number Excess Destroyed				
(1) Old, sick, lame	0	0	0	0
(2) Unadoptable	0	0	0	0
b. Deaths after removal				
(1) Natural Causes	0	0	0	0
(2) Accidental	0	0	0	0
c. Animals transferred BLM. 1/				
d. Excess animals adopted through FS or BLM programs but remain responsibility of FS. 2/	0	0	0	0

1/ Include those excess animals where followup including adoption, monitoring, and title assignments is BLM responsibility.

2/ Include only those animals removed from National Forest System lands and processed by FS or BLM Adopt-a-Horse Program but remain responsibility of the FS.

Part III. Status of adoptees that remain Forest Service Responsibility.

	<u>Horses</u>	<u>Burros</u>
1. Number of adopted animals that remain responsibility of FS.	0	0
2. Number of titles granted this Fiscal Year.	0	0
3. Number of deaths after adoption this fiscal year.	0	0
4. Number of adopted animals eligible for granting title, but no title issued.	0	0

Part IV. Territory adjustments. Report only those territory changes that have been approved through the NEPA and/or the Forest Land Management Planning Process during FY 90 and FY 91.

1. Name of territories discontinued. None

2. Name of territories where boundaries were adjusted.

Part V. State Wild Horse and Burro Program Overview for Fiscal Years 1990 and 1991 (use additional space as needed): None

STATE: Arizona

PROGRAM HIGHLIGHTS: Report management actions, cooperation with groups, special events, awards, etc. Provide one or two anecdotes about noteworthy accomplishments. Of particular interest would be management actions having to do with or documenting relationships between WH&B management activities and movement towards ecological status and rangeland health objectives and/or coordination of WH&B management and planning for permitted domestic livestock.
None

PROGRAM ISSUES: Provide examples of major issues associated with WH&B management i.e. issues associated with drought, accidents, disease outbreaks, harassment/capture/killing of wild horses and burros, interagency disagreements, etc.

Approximately 5 feral horses wander along the Mogollon Rim back and forth from the White River Apache Reservations. The Indians do not manage the horses, neither does the Forest Service. Natural attrition will eliminate the horses eventually.

Exhibit K

Eastern Arizona Counties RAC
Project Proposal Form

AS-33

1. **PROJECT NAME:** Removal of Feral Horses from the Rodeo-Chedeski Fire Area

Proposed By: Randall L. Chavez
Phone/e-mail: 928-368-5111
rchavez02@fs.fed.us

2. **NEPA:** Is the project NEPA sufficient? Yes ___ No ___ If no, when will it be? **Not Needed**

3. **LOCATION:** County-Navaho Ranger District-Lakeside (attach vicinity map or site map)
Is the project within a wilderness or inventoried roadless area? Yes ___ No **X**

4. **PURPOSE OF THE PROJECT:** (place an X in every applicable category)

Road/trail maintenance, obliteration, or decommissioning* ___

Stream or watershed restoration * **X**

Improve forest ecosystem health **X**

Improve wildlife or fish habitat ___

Control of noxious and exotic weeds ___

Re-establish native species: ___

Other: (describe)

* Please explain here how this project fits this category:

5. **PROJECT DESCRIPTION:**

This project is to remove the feral horses that have been established in the Rodeo-Chedeski area after the fire. The fences between the Fort Apache Reservation and the Federal lands was destroyed by the fire but has been rebuilt since. During that time, 300 – 400 head of feral horses migrated onto the Black Mesa and Lakeside Ranger Districts. These herds are currently multiplying and have the potential to double in size in 1 -2 years. Approximately 10 million dollars has been spent on watershed protection in the Rodeo-Chedeski fire area and these herds are disrupted the post-fire ecological recovery process. Damage has been observed after reforestation projects, native seed planting, extensive used travel corridors, and watershed stabilization projects. Arizona Game and Fish Department has also expressed a concern that these herds can impact wildlife habitats, as well. Arizona State Livestock Board will have control of the animals after they are captured. This project would be conducted under a Forest Service contract with an experienced contractor. The contractor may be using methods, such as portable corrals with spring loaded gates, using gentle horses to lure horses into corrals, ect. Contracting cost per head could range from \$100/head to \$300/head, on an average of \$200/head.

6. **COST:** Total cost of project: **\$100,000**

Amount of funding requested from the RAC: **\$25,000** (Includes 5% FS admin cost)

Can the cost be leveraged with partners? **Yes** If yes, describe:

The Forest Service has \$40,000 that would be contributed toward this effort and the Habitat Partnership Committee is being asked for \$40,000 also.

Can the project be phased –in over time? **Yes** If yes, explain:

Not all horses will be captured during this first round; there will have to be another round.

**Eastern Arizona Counties RAC
Project Proposal Form**

Add 5% to the project cost to include FS administrative costs = total RAC funds requested

7. SOCIAL IMPACT: Describe how the project: a) will affect public safety b) will benefit the community economically c) will provide educational opportunities d) will improve quality of life for nearby communities or visitors. How many people will this project impact?

This project will benefit all forest visitors by improving visual esthetics to the land and having recreation experiences without observing large herds of horses. Nearby communities will not have to worry about their horses trying to escape and becoming part of these herds or having their horses infected with diseases from feral horses that have not been vaccinated.

8. Describe expected outcomes including how the project will meet or exceed desired ecological conditions or stewardship objectives. Estimate the amount of timber, forage, or other commodities and economic activities, including any new jobs generated as part of this project.

By removing these feral horses, the post-fire ecological recovery process will not be impacted and watershed conditions will be able to stabilize without interruptions. Currently not permitted livestock is allowed into the burned area to provide recovery, removal of the horses will allow us to regain control of most of the use to the forage. In some areas in the burn, forage has doubled in production, this will continue if adequate moisture is received.

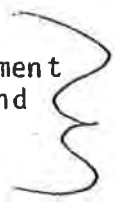
The county will have 1-3 jobs created for this project, due to the interest of local contractors from Navaho County.

9. Describe the monitoring plan, including funding needs that track and identifies the positive or negative impacts of the project and provides for validation monitoring. The monitoring plan shall include an assessment of whether or not the project 1) met or exceeded desired ecological conditions, 2) created local employment or training opportunities, including summer youth programs such as the Youth Conservation Corps, and 3) improved the use of, or added value to any products removed from lands consistent with the purpose of this Act.

Monitoring for this project will be conducted by the Forest Service and Arizona Game and Fish Department and will be by reduction of animal numbers. Arizona Game and Fish keep a count of number of horses during their annual flight surveys each year. The goal is for total removal of the feral horses.

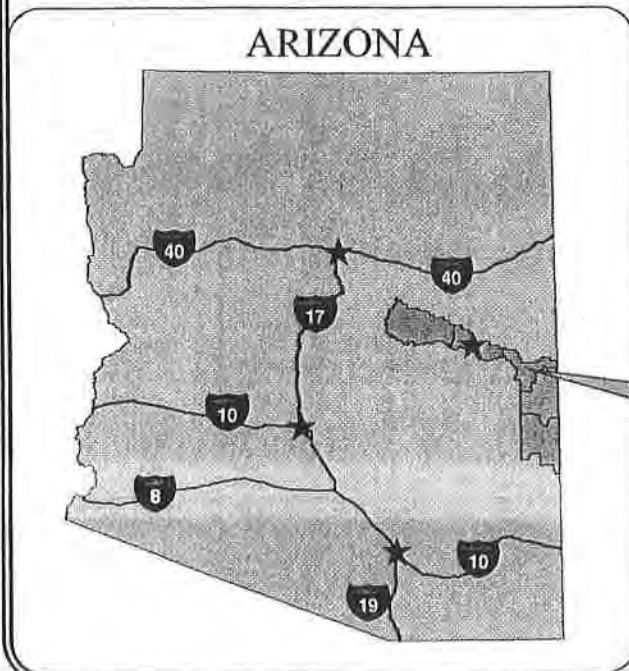
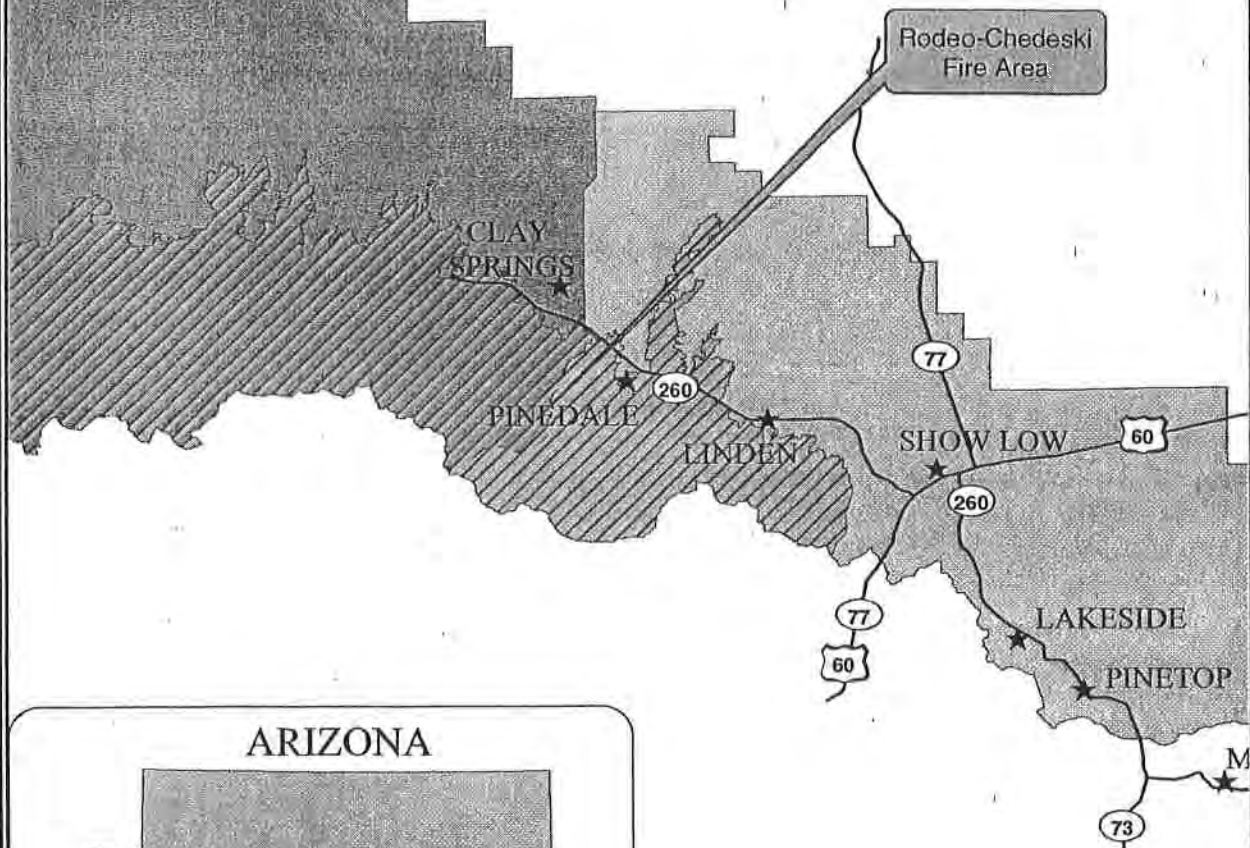
MAJOR PROGRAM CHALLENGES/NEEDS: From a field perspective, what are the major challenges/needs facing the Wild Horse and Burro Program within the Forest Service today? Provide information relative to this question as a scoping exercise preparatory to the WH&B Activity Review to be conducted in FY 92. Examples could include: monitoring needs, data information needs, FS/BLM relations, management strategies etc. Many of these undoubtedly will relate to funding levels; do not just indicate the need for increased funding, but rather the program needs/activities that additional funding could provide.

Elimination of incidental feral horses and burros from formal management consideration to reduce impacts on management resources, personnel and time. The A/S "herd" should not be recognized at all.





Vicinity Map
 Feral Horse Removal Project
 Black Mesa & Lakeside Ranger District
 Apache-Sitgreaves National Forests



Apache-Sitgreaves
 National Forests



Exhibit B

1 PAUL K. CHARLTON
United States Attorney
District of Arizona

2
3 RICHARD G. PATRICK
Assistant U.S. Attorney
Arizona State Bar No. 5148
Two Renaissance Square
4 40 North Central Avenue, Suite 1200
Phoenix, Arizona 85004-4408
Telephone: (602) 514-7500
5 Facsimile: (602) 514-7760
E-Mail: richard.patrick@usdoj.gov

6 UNITED STATES DISTRICT COURT

7 DISTRICT OF ARIZONA

8
9 In Defense of Animals, a non-profit
organization; the Animal Welfare
institute, a non-profit organization;
10 and the International Society for the
Protection of Mustangs and Burros,
11 a non-profit organization; Patricia
Haight, an individual; Richard Potts, an
12 individual,

13 Plaintiffs,

14 v.

15 United States Government, Department
of Agriculture, Ann M. Veneman,
16 as Action United States, Secretary of
Agriculture; United States Forest
17 Service; Elaine J. Zieroth,
as the acting United States Forest
18 Supervisor,

19 Defendants.

CIV-05-2754-PCT-FJM

**FEDERAL DEFENDANTS'
RESPONSE IN OPPOSITION TO
PLAINTIFFS' APPLICATION FOR
PRELIMINARY INJUNCTION**

20 Plaintiffs, in an application for temporary restraining order and writ of mandamus, have
21 suggested the need for a preliminary injunction to "prevent Defendants from unlawfully
22 rounding up and removing all (approximately 300 to 400 wild horses) from the Apache-
23 Sitgreaves Forests." Plaintiffs' TRO application was directed at a July 19, 2005 Forest Service
24 Solicitation for Bid ("bid solicitation") to capture and transport approximately 120 trespass
25 horses from the Apache-Sitgreaves National Forest. Complaint, ¶ 21. The defendants did not
26 oppose the initial TRO, except to preserve a hearing on plaintiffs' preliminary injunction
27 application prior to October 1, 2005 because of the concern that the funding for the bid
28

1 solicitation would be lost by the close of the 2005 fiscal year (ending 9/30/05). For that reason,
2 a preliminary injunction hearing was initially set for September 23, 2005. By September 23,
3 2005, the funding for the bid solicitation had been lost; therefore the Court vacated the
4 September 23, 2005 hearing and, with the consent of defendants, continued the TRO in effect
5 until a December 9, 2005 preliminary injunction hearing.

6 In general, injunctive relief is “to be used sparingly, and only in a clear and plain case.”
7 *Rizzo v. Goode*, 423 U.S. 362, 378 (1976). To obtain injunctive relief against government
8 actions which allegedly violate the law, the injury or threat of injury must be real and immediate
9 and not conjectural or hypothetical. *Orantes Hernandez v. Thornburg*, 919 F.2d 549, 557 (9th
10 Cir. 1990). Furthermore, a preliminary injunction is a device for preserving the status quo and
11 preventing the irreparable loss of rights before judgment – is it not for the purpose of obtaining
12 a preliminary adjudication on the merits. *Textile Unlimited, Inc. v. A. BMH and Company, Inc.*,
13 240 F.3d 781, 786 (9th Cir. 2001).

14 As noted above, the Forest Service’s July 13, 2005 bid solicitation is no longer viable.
15 While the Apache-Sitgreaves Forest Supervisor has a stated position that, based upon historical
16 Forest Service records, the numbers of horses currently on the forests at issue are not wild horses
17 protected under The Wild Free-Roaming Horses and Burros Act, as amended. 16 U.S.C.
18 §§ 1331-1340 and, thus, are removable as unauthorized livestock, the only agency action to
19 implement that agency position has become moot. Implementation action in the future, while
20 contemplated, will not occur without advance notice to the Court and the plaintiffs given the
21 pendency of the litigation.¹ Hence, the purpose of a preliminary injunction – to preserve the
22 status quo *ante litem* – is not presently served given the current status of this case.

23 To the extent plaintiffs seek some form of preliminary mandatory injunctive relief, they
24 raise the bar even higher. A mandatory injunction goes well beyond maintaining the status quo
25 and is particularly disfavored. *Stanley v. University of Southern California*, 13 F.3d 1313, 1320

26
27 ¹ In fact, the parties have met to formulate ideas/plans leading to a consensual means of
28 identifying unauthorized horses on the forests which can be returned to their owners on the
White Mountain Apache Reservation.

1 (9th Cir. 1994). Here, plaintiffs' demonstrate no present need for preliminary injunctive relief;
2 accordingly, a request for preliminary mandatory injunctive relief is wholly unjustified.

3 To the extent the merits need to be addressed, they are dependent upon the source of the
4 horse population presently on the Apache-Sitgreaves National Forest. Branded and unbranded
5 horses, and their foals, on the forests at issue which are claimed by White Mountain Apache
6 tribal members are subject to return under the 36 C.F.R. § 222.22. Any other horse introduced
7 on the Apache-Sitgreaves after December 15, 1971 by accident, negligence, or willful disregard
8 of private ownership is subject to removal under 36 C.F.R. § 222.23 (except to the extent it has
9 become intermingled with wild free-roaming horses within the meaning of Section 222.23). Any
10 horse in the latter ("intermingled") category, while itself not entitled to wild free-roaming status
11 unless it meets the 36 C.F.R. § 222.20(13) status criteria, would, unless it meets the Section
12 222.20(13) wild horse criteria, be subject to the estray laws of the State of Arizona A.R.S.
13 §§ 3-1401, *et. seq.* In their application for injunctive relief, plaintiffs proffer historical evidence
14 of horses on the Apache-Sitgreaves National Forest. Some of that evidence further supports the
15 sighting of unbranded/unmarked horses. In those evidentiary affidavits, the affiants conclude
16 that the horses they observed were "wild horses." As noted above, however, whether such
17 horses are wild free-roaming horses within the meaning of 16 U.S.C. § 1332(b) and 36 C.F.R.
18 § 222.20(13) is not determined by whether they are branded or unbranded or by whether they
19 were sighted on the forest prior to the Rodeo-Chediski fire. *See United States v. Christiansen*,
20 504 F. Supp. 364, 367 (D. Nev. 1980) (domestic horse escaping from its corral onto public lands
21 does not become a wild free-roaming horse).

22 Plaintiffs' reliance upon the National Environmental Policy Act as a basis for preliminary
23 injunctive relief suffers from the same mootness/ripeness deficiencies as does their APA basis
24 for such relief. The particular and final agency action that caused plaintiffs real and actual harm
25 was the July bid solicitation. That agency decision is no longer viable. The timing of any future
26 agency action to remove horses, and whether any such action will be determined to fall within
27 the categorical exclusion to a NEPA process, is not yet known. This Court's APA jurisdiction
28

1 to review an agency's NEPA compliance must focus on some particular agency action and not
2 on plaintiffs' request for "wholesale improvement" of the Forest's view of the status of horses
3 presently on the Apache-Sitgreaves National Forest and what might be done with them, or some
4 of them, in the future. *Lujan v. National Wildlife Fed.*, 497 U.S. 871, 891 (1990).

5 In summary, plaintiffs' application for preliminary injunction relief should, at this stage
6 of the litigation, be denied. If a concrete and final agency action decision is made in the future
7 that is reviewable by this Court under the APA, the plaintiffs, if dissatisfied therewith, can renew
8 their application at that time.

9 Respectfully submitted this 28th day of October, 2005.

10 PAUL K. CHARLTON
11 United States Attorney
12 District of Arizona

13 *s/Richard G. Patrick*

14 RICHARD G. PATRICK
15 Assistant U.S. Attorney

16
17 CERTIFICATE OF SERVICE

18 I hereby certify that on October 28, 2005, I electronically transmitted the attached
19 document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice
20 of Electronic Filing to the following CM/ECF registrants:

21 Anthony W Merrill
22 Bryan Cave LLP
23 2 North Central Avenue, Suite 2200
24 Phoenix, AZ 85004-4406

25 *s/Diana Henson*

26 _____
27 Office of the U.S. Attorney
28

Exhibit C

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8 Attorneys for Plaintiffs

9 **UNITED STATES DISTRICT COURT**
10 **DISTRICT OF ARIZONA**

11 IN DEFENSE OF ANIMALS, a non-profit
12 organization; the ANIMAL WELFARE
13 INSTITUTE, a non-profit organization; and
14 the INTERNATIONAL SOCIETY FOR THE
15 PROTECTION OF MUSTANGS and
16 BURROS, a non-profit organization;
17 PATRICIA HAIGHT, an individual;
18 RICHARD POTTS, an individual,

19 Plaintiffs,

20 vs.

21 UNITED STATES GOVERNMENT,
22 DEPARTMENT OF AGRICULTURE, ANN
23 M. VENEMAN as acting UNITED STATES
24 SECRETARY OF AGRICULTURE;
25 UNITED STATES FOREST SERVICE;
26 ELAINE J. ZIEROTH as the acting UNITED
27 STATES FOREST SUPERVISOR,

28 Defendants.

Case No. CV-05-2754-PHX-FJM

**REPLY IN SUPPORT OF
APPLICATION FOR
PRELIMINARY INJUNCTION**

23 To preserve the status quo, the Court should grant Plaintiffs' Application for
24 Preliminary Injunction. Defendants have not disputed the substantive merits of Plaintiffs'
25 claims or the irreparable injury Plaintiffs will suffer absent the requested injunctive relief.
26 Instead, Defendants erroneously claim that the expiration of the initial Solicitation for Bid
27 renders Plaintiffs' Application moot. This assertion lacks merit. Defendants have not carried
28 the heavy burden required to demonstrate mootness. The Ninth Circuit has clearly held that

1 voluntary cessation of an action that a party may again attempt in the future does not obviate a
2 request for an injunction. See Norman-Bloodsaw v. Lawrence Berkeley Lab., 135 F.3d 1260,
3 1264 (9th Cir. 1998) (explaining that a defendant’s conduct cannot eliminate the need for
4 injunctive relief absent an absolutely clear showing that the defendant is completely unable to
5 repeat the wrongful activities).

6 Although Defendants’ initial Solicitation for Bid to unlawfully capture and remove
7 wild horses from the Apache-Sitgreaves (“A-S”) Forests may have expired, Defendants still
8 have the capability to renew such efforts. The initial Solicitation for Bid for removal of the
9 subject wild horses, which the Court enjoined by means of a TRO, corresponded to the 2005
10 fiscal year. At the close of that fiscal year, Defendants’ apparently lost budgetary funding for
11 that particular Solicitation. (See Defendants Response in Opposition to Application for
12 Preliminary Injunction (“Defs. Resp. in Opp’n”), filed October 28, 2005, at 2). Defendants,
13 however, may simply re-issue an identical solicitation for fiscal year 2006. Only the existing
14 TRO prevents Defendants from soliciting bids for removal of the protected wild horses from
15 the A-S Forests and awarding that bid.

16 In fact, Defendants’ stated, yet unsupported, position that the horses are “removable as
17 unauthorized livestock” clearly demonstrates Defendants’ continued intention to unlawfully
18 remove wild horses from the A-S Forests. (See Defs. Resp. in Opp’n at 2). Therefore,
19 because the very action Plaintiffs seek to enjoin will recur, Plaintiffs’ request for injunctive
20 relief is not moot. Absent the requested injunction, nothing will prevent Defendants from
21 violating the status quo by removing horses from the A-S Forests prior to this Court’s
22 determination regarding their wild and protected status.

23 Defendants’ uninformed and unsupported determination that only “trespass livestock”
24 presently reside in the A-S Forests, which led to efforts to capture and remove the horses at
25 issue in this litigation, clearly violated the Wild Horse Act, the APA, and NEPA. Defendants
26 have not offered any evidence to dispute the numerous first-hand, eyewitness accounts from
27 long-time residents of the area that conclusively show a large number of unbranded, wild
28

1 horses that have roamed forest lands since the early 1970s. (See Plfs. Application for TRO,
2 filed September 9, 2005 at Exhibits B-G). Therefore, at the very least, serious questions go to
3 the merits of Plaintiffs’ claims, with the balance of hardships clearly favoring Plaintiffs.
4 Moreover, the evidence before the Court indicates a strong likelihood of success on the merits.
5 This fact, coupled with the irreparable harm resulting from the complete removal of all horses
6 from the A-S Forests, militates in favor of granting Plaintiffs’ request for a preliminary
7 injunction.

8 **I. Because A Present, Live Controversy Remains Before the Court, Plaintiffs’**
9 **Request for a Preliminary Injunction Is Not Moot.**

10 An action becomes moot only when “(1) there is no reasonable expectation that the
11 wrong will be repeated, and (2) interim relief or events have completely and irrevocably
12 eradicated the effects of the alleged violation.” Barnes v. Healy, 980 F.2d 572, 580 (9th Cir.
13 1992) (emphasis added). The party alleging mootness must conclusively demonstrate that
14 there is no reasonable expectation that the violation will reoccur. See United States v.
15 Oakland Cannabis Buyers’ Coop, 190 F.3d 1109, 1113 (9th Cir. 1999) (concluding that a
16 party’s promise to comply with an injunction is less than a “mere certainty” of no
17 reoccurrence). The Ninth Circuit has clearly held that an action for an injunction does not
18 become moot merely because the conduct complained of was terminated, if there remains a
19 possibility of reoccurrence. See FTC v. Affordable Media, LLC, 179 F.3d 1228, 1237 (9th
20 Cir. 1999) (citing Allee v. Medrano, 416 U.S. 802, 801 (1974)).

21 For a defendant to carry its burden in establishing that the need for an injunction is
22 moot, it must “show that ‘subsequent events [have] made it **absolutely clear** that the allegedly
23 wrongful behavior cannot reasonably be excepted to reoccur.’” Id. at 1238 (quoting Norman-
24 Bloodsaw, 135 F.3d at 1264) (emphasis added). Here, Defendants have not carried their
25 burden. The mere expiration of the Solicitation for Bid fails to demonstrate that the allegedly
26 wrongful behavior cannot reasonably be expected to reoccur. In fact, Defendants have clearly
27 stated an intention to re-attempt the unlawful capture and removal of wild horses from the A-S
28

1 Forests. (See Defs. Resp. in Opp’n at 2). Thus, Plaintiffs’ present application for injunctive
2 relief is not moot.

3 For example, in Norman-Bloodsaw, a federal contract with the United States
4 Department of Energy required a private research laboratory to subject its potential employees
5 to pre-placement medical examinations. Norman-Bloodsaw, 135 F.3d at 1264 (9th Cir. 1998).
6 The plaintiff employees filed suit against their employer, alleging that the testing occurred
7 without their consent or knowledge, and that it was performed in a discriminatory fashion. Id.
8 The defendants, the employer and the Secretary of the Department of Energy, asserted that
9 injunctive and declarative relief was moot because testing had been cancelled prior to the
10 filing of the lawsuit. Id. at 1274.

11 The court concluded that despite the fact that testing had ceased, the defendants had not
12 met the heavy burden of proving mootness. Id. The defendants failed to show that testing
13 would not be reasonably expected to reoccur because the defendants continued to contend that
14 testing would still be required as a condition of employment. Id. In fact, the plaintiffs showed
15 that the defendants only ceased testing because it was no longer economical. Id. The court
16 concluded that the issue was not moot. Id. at 1274-75.

17 Similarly, Defendants here argue that voluntary cessation of a course of action, i.e. the
18 expiration of the bid solicitation, terminates the need for an injunction. Alleged budgetary
19 constraints, along with the current TRO, constitute Defendants’ only reasons for postponing
20 the bid process and the subsequent removal of the wild horses. Defendants, however, remain
21 resolute in their intention to resume implementation of their plan to remove the horses from
22 the forests. (See Defs. Resp. in Opp’n at 2 (“Implementation action in the future, while
23 contemplated, will not occur without advance notice to the Court and the plaintiffs given the
24 pendency of the litigation.”); at 3 (“The timing of any future agency action to remove horses .
25 . . . is not yet known.”)). Absent injunctive relief, nothing will prevent Defendants from
26 resuming efforts to unlawfully remove wild horses from protected areas within the A-S
27 Forests.
28

1 Furthermore, the mere expiration of the initial Solicitation for Bid has not completely
2 and irrevocably eradicated the effects of the wrongful conduct. Defendants’ unsupported and
3 unlawful determination that the horses constitute “trespass livestock,” as opposed to protected
4 wild horses, along with the probability of future attempts to capture and remove the horses,
5 continues to threaten harm to Plaintiffs. As a result, the Court should grant Plaintiffs’ request
6 for injunctive relief.

7 **II. As Plaintiffs Seek Judicial Review of a Discrete Agency Action, Plaintiffs’ Claims**
8 **Are Ripe for Adjudication.**

9 Defendants incorrectly rely on Lujan v. National Wildlife Federation, 497 U.S. 871,
10 891 (1990), in a transparent effort to characterize Plaintiffs’ claims as unripe for judicial
11 review. In Lujan, a plaintiff citizens group challenged the Bureau of Land Management’s
12 “continuing (and constantly changing) operations . . . in reviewing withdrawal revocation
13 applications and the classifications of public lands and developing land use plans.” 497 U.S.
14 871, 890 (1990). The Court found that the plaintiffs sought nothing more than a general
15 review of internal agency procedures. Id. As the plaintiffs failed to address any direct action
16 taken by the agency, the court held that the plaintiffs’ action was not yet ripe for judicial
17 review. Id.

18 Contrarily here, Plaintiffs seek judicial review of a concrete agency determination.
19 Plaintiffs’ claims under NEPA and the APA derive from the Defendant agencies’ arbitrary
20 and capricious actions in classifying all the horses located in the A-S Forests as “trespass live
21 lock” without undertaking any study to support that determination. As a result, Plaintiffs’
22 purely legal claims are fit for judicial review. See Nat’l. Ass’n. of Homebuilders v. U.S.
23 Army Corps of Eng’rs., 417 F.3d 1272, 1281-82 (D.C. Cir. 2005) (holding that purely legal
24 issues, such as a claim that an agency’s action is arbitrary and capricious or contrary to law,
25 are fit for judicial review).

26 Furthermore, because Plaintiffs’ cause of action involves review of a discrete agency
27 action, it is presently fit for judicial review. Claims related to specific agency actions that
28 harm a party are ripe for adjudication. See, e.g., Lujan, 497 U.S. at 891. Unlike the situation

1 in Lujan, Plaintiffs do not seek general “wholesale improvement” of agency procedures.
2 Rather, Plaintiffs challenge Defendants’ discrete action in soliciting bids for the removal of
3 the horses and the arbitrary determination that all horses found in the A-S Forests are
4 “trespass livestock.” Moreover, Plaintiffs’ claims regarding violation of the Wild Horse Act
5 involve a pattern of behavior by Defendants over several years in disregarding their
6 obligations to manage and protect wild horses located within the Heber Wild Horse Territory.
7 As a result, Plaintiffs’ cause of action targets a specific agency action and Lujan is inapposite.

8 Additionally, the balance of hardship favors adjudicating Plaintiffs’ claims. Absent the
9 injunctive relief presently sought, Plaintiffs will have the unnecessary burden of having to
10 constantly monitor the actions of Defendants with regard to the horses at issue. In contrast,
11 Defendants have not asserted any hardship from being enjoined from conducting future bid
12 solicitations, capturing, and removing the horses. This balance weighs heavily in favor of the
13 Plaintiffs. Thus, the issue of an injunctive relief is presently ripe for decision.

14 **III. To Avoid Irreparable Harm to Plaintiffs, the Court Should Grant Plaintiffs’**
15 **Request for a Preliminary Injunction.**

16 The Court should enter a preliminary injunction (“PI”) prohibiting Defendants from
17 rounding up, removing, and impounding all horses living in the A-S Forests. The PI should
18 enjoin Defendants from undertaking any removal or capture activities within the Heber Wild
19 Horse Territory.¹ In addition, the Court should enjoin Defendants from taking any action with
20 respect to capture and removal of the wild horses until Defendants have complied with the
21 requirements of the APA and NEPA, including but not limited to the preparation of an
22 Environmental Impact Statement (“EIS”) and allowing public comment on the proposed
23 removal.²

24 A moving party is entitled to a PI if it demonstrates that it is likely to succeed on the
25 merits of its claim and may suffer irreparable injury absent injunctive relief. See Self-

26
27 ¹ This portion of the requested PI would mirror the terms of the TRO currently in place.

28 ² The scope of injunctive relief requested is set forth in Plaintiffs’ Request for Temporary Restraining Order, filed September 9, 2005, at pp. 2-3.

1 Realization Fellowship Church v. Ananda, 59 F.3d 902, 913 (9th Cir. 1995). Moreover, a
2 court may grant a PI if serious questions go to the merits of a claim and the balance of
3 hardship tips in favor of the moving party. Id. Serious questions refer to matters which
4 cannot be resolved one way or the other by the court at the hearing on the injunction and
5 which present a need to preserve the status quo lest one side prevent resolution of the matter
6 by altering the status quo. Republic of the Philippines v. Marcos, 862 F.2d 1355, 1362 (9th
7 Cir. 1988 (en banc), cert. denied, 490 U.S. 1035, 109 S. Ct. 1933 (1989).

8 Because, at the very least, serious questions go to the merits of Plaintiffs' claims, the
9 Court should grant the injunctive relief requested. Defendants' failure to comply with the
10 requirements of NEPA and the Wild Horse Act have created a hardship whereby Plaintiffs
11 cannot with certainty establish an exact number of wild horses presently in the A-S Forests.
12 The uncontested evidence presented by Plaintiffs, however, clearly shows the presence of wild
13 horses in the A-S Forests. (See Exhibits B-G, attached). Defendants' current course of action
14 would irretrievably destroy the status quo. Absent the requested injunctive relief, Plaintiffs
15 will suffer immediate and irreparable injury.

16 Moreover, Plaintiffs have a strong likelihood of succeeding on the merits of their
17 claims. Defendants are hard-pressed to argue that their decision to capture and remove all of
18 the horses from public lands within the A-S Forests will not "significantly impact the
19 environment." NEPA requires a federal agency such as USFS to prepare a detailed EIS for all
20 "major federal actions significantly affecting the quality of the human environment." See
21 Blue Mountains Biodiversity Project v. Blackwood, 161 F.3d 1208, 1211-1212 (9th Cir. 1998)
22 (citing 42 U.S.C. § 4332(2)(C)); National Wildlife Fed'n. v. Spespy, 45 F.3d 1337, 1343 (9th
23 Cir. 1994). Defendants did not undertake any efforts to determine whether the capture and
24 removal of hundreds of horses from the protected A-S Forests would significantly impact the
25 environment. Therefore, Plaintiffs are likely to succeed on their claims under NEPA.

26 Additionally, prior to classifying the horses as "trespass livestock," Defendants failed
27 to even analyze whether the horses at issue are "wild" and, therefore, entitled to federal
28

1 protection. Under the Wild Horse Act, wild, free-roaming horses and burros means “all
2 unbranded and unclaimed horses and burros and their progeny that have used lands of the
3 National Forests system on or after December 15, 1971, or do hereafter use these lands as all
4 or part of their habitat.” See 36 C.F.R. § 222.20(13). Unbranded claimed horses and burros
5 for which the claim is found to be erroneous are also considered as wild and free-roaming if
6 they meet the criteria stated above. Id. The regulations also provide that horses not meeting
7 the above definition, but which become intermingled with wild, free-roaming horses or
8 burros, are accorded the same protection as “wild” horses. See 36 C.F.R. § 222.23.

9 Plaintiffs have presented evidence that the horses sought to be removed meet the
10 definition of wild, free-roaming horses under the Wild Horse Act. (See Exhibits B-G,
11 attached). Of the various herds of wild horses observed on public lands in the Heber Area
12 since the 1970s, none are branded or claimed. (See Exhibits C, F-G, attached). Defendants
13 have failed to offer any evidence to contradict Plaintiffs’ sworn eyewitness testimony
14 regarding these wild horses. As a result, Defendants’ actions in attempting to remove the
15 horses from the A-S Forests violate the mandates of the Wild Horse Act which requires
16 Defendants to manage and protect such horses from capture, branding, harassment, or death.
17 Therefore, due to the likelihood of success on Plaintiffs’ claims under the Wild Horse Act, the
18 Court should grant the injunctive relief requested.

19 As stated in the Wild Horse Act, wild horses “enrich the lives of the American people”
20 and “contribute to the diversity of life forms within the Nation.” 16 U.S.C. 1331. As
21 Congress declared in 1971, “these horses . . . are fast disappearing from the American scene.”
22 Defendants’ intended actions will facilitate this disappearance and result in the complete
23 extermination of all wild horses within the A-S Forests. All wild horses within the Territory
24 will be rendered extinct. The subsequent damage to Plaintiffs and the human environment
25 would be beyond repair. As a result, the Court should grant the requested PI.
26
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RESPECTFULLY SUBMITTED this 21st day of November, 2005.

BRYAN CAVE LLP

By: s/ Anthony W. Merrill
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Anthony W. Merrill
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Attorneys for Plaintiffs

COPY of the foregoing electronically filed
and copy sent via e-mail this 21st day of
November, 2005, to:

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U.S. Attorneys Office
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Attorneys for Defendants

s/ Laurene Zemis

Exhibit D

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN DEFENSE OF ANIMALS, et al.,)

Plaintiffs,)

vs.)

UNITED STATES GOVERNMENT,)
DEPARTMENT OF AGRICULTURE,)
et al.,)

Defendants.)

CIV 05-2754-PCT-FJM

Phoenix, Arizona

December 9, 2005

2:00 p.m.

BEFORE: THE HONORABLE FREDERICK J. MARTONE, JUDGE

REPORTER'S TRANSCRIPT OF PROCEEDINGS

PRELIMINARY INJUNCTION HEARING

Official Court Reporter:
Linda Schroeder, RDR, CRR
Sandra Day O'Connor U.S. Courthouse, Suite 312
401 West Washington Street, Spc. 32
Phoenix, Arizona 85003-2151
(602) 322-7249

Proceedings Reported by Stenographic Court Reporter
Transcript Prepared by Computer-Aided Transcription

COPY

A P P E A R A N C E S

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For the Plaintiffs:

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For the Defendants:

U.S. Attorney's Office
By: RICHARD GLENN PATRICK, ESQ.
40 North Central Avenue, Suite 1200
Phoenix, AZ 85004

1 THE CLERK: This is civil cause number 05-2754, In
2 Defense of Animals and others versus United States Department
3 of Agriculture, time set for preliminary injunction hearing.

4 Counsel, please announce.

5 MR. MERRILL: Anthony Merrill for the plaintiffs,
6 Your Honor.

7 MS. BROUCEK: Christine Broucek on behalf of the
8 plaintiffs.

9 THE COURT: Welcome.

10 MR. PATRICK: Richard Patrick for the federal
11 defendants.

12 THE COURT: Welcome.

13 Let me tell you what's before me and what my areas of
14 interest are. We've reread the application for a temporary
15 restraining order and preliminary injunction, the one that we
16 read the last time when we granted the temporary restraining
17 order.

18 And then we read the federal defendants' response in
19 opposition, arguing that in their view the funding having been
20 not consummated during fiscal year 2005, they argue that the
21 matter was both moot and no longer ripe for consideration.

22 And then I've got the plaintiffs' reply, arguing that
23 it's neither moot nor unripe.

24 Then there was kind of a hiatus in which nothing much
25 happened, and after having read the motion, response, and

1 reply, it was not at all clear to me whether the parties were
2 going to be presenting evidence in support of the application
3 or whether they were relying on the submissions that they had
4 already made in connection with the application for TRO.

5 So I had my JA contact you to see what your positions
6 were, which apparently generated the following, which I have
7 also read, a document filed by plaintiffs called notice of
8 filing of the affidavit of Pam Reed, which I've read and which
9 contains the photographs that you took of horses that the
10 plaintiffs claim were within the scope of the Wild Horses Act.

11 And then I also have read a document called notice of
12 lodging of the exhibits to the preliminary injunction hearing,
13 which looks like a PowerPoint presentation, and I've looked at
14 each of those slides.

15 And then we have the federal defendants' notice of
16 filing of the declaration of Debra Bumpus attaching what
17 purports to be a summary of various reports that had earlier
18 been filed in connection with the wild horse population on the
19 Apache-Sitgreaves National Forest.

20 And then finally an objection to that summary exhibit
21 arguing that it fails to comply with Rule 1006 because the
22 subsidiary data from which the summary was prepared has not
23 been made available to the plaintiffs within the meaning of
24 the rule, and, thus, whatever weight or merit the document
25 has, I guess it should be excluded, but even if it's not

1 excluded, the weight would be de minimis because there's no
2 way to test the accuracy of it.

3 My impression of all of this -- and maybe it will
4 help guide your presentations, because I believe we have about
5 an hour available to you -- is that I think three things are
6 of interest.

7 One, the factual issue that separates you is the
8 nature of these horses, and so that's an interesting issue. I
9 think that's important. And some of these later filed
10 affidavits belatedly go to that issue. And as I understand
11 the standard, it's that they have to be both unbranded and
12 unclaimed.

13 And then the second issue that's of interest to me
14 is -- Because it wasn't entirely clear from your submissions,
15 the response and the reply, on the question of mootness and
16 ripeness. There was, I think, a little fuzziness there in
17 connection with whether the whole action was moot, and the
18 whole action was no longer ripe, or whether these doctrines
19 that normally apply to civil actions to meet the
20 case-in-controversy requirement of Article III of the
21 Constitution were being applied to attack the imminence
22 requirement for the application for preliminary injunctive
23 relief. And there's a distinction there.

24 The underlying action may not be at all moot and may
25 be quite ripe for resolution, and yet arguably, in light of

1 the failure of the funds for 2005, there may not be sufficient
2 imminence for the issuance of preliminary injunctive relief.

3 So it would be helpful to me if you address that
4 distinction between those two phases of the litigation.

5 And then finally -- and I guess it's really rather
6 than a third point maybe a subset of the second one -- and
7 that is that the government has argued that and has
8 represented in its papers that it would not implement a new
9 bid, a new effort to capture and dispose of these horses,
10 without notice to both the Court and to the plaintiffs.

11 And the question there is is that sufficient to
12 protect the plaintiffs' interests? Because I know the
13 plaintiffs have argued that, look, we can't spend our whole
14 life monitoring this situation, and we still need injunctive
15 relief so that we don't have to do that.

16 I don't believe the plaintiffs responded to that
17 particular offer made by the government.

18 So those are the issues, I believe. The factual
19 issue is of great interest as well as these little ripples on
20 the question of mootness and ripeness.

21 And, Mr. Merrill, I'd be happy to hear from you in
22 whichever way you want to proceed. Tell me, sir, how much
23 time did you think you needed?

24 MR. MERRILL: Well, it was my impression that we had
25 two hours total, an hour apiece. I wasn't going to take that

1 long. I was thinking a half an hour, maybe a little more.

2 THE COURT: That would be fine. Let's limit it to
3 that. Because we were uncertain about whether there would be
4 an evidentiary presentation, we narrowed your time down to one
5 hour instead of the two. So we'll limit you to the 30, and
6 then we'll give the government its half hour if it needs it
7 although I suspect maybe it will not, because, you know,
8 you've both quarreled about these late filings. But, you
9 know, our order setting the hearing set forth a schedule that
10 responsive papers were to be filed by October 21 and reply by
11 November 14, and yet we've got all these papers filed on the
12 eve of the hearing.

13 MR. MERRILL: Your Honor, if I could clarify, the
14 reason that we filed the affidavit of Miss Reed was solely
15 because the pictures that are attached to that affidavit came
16 to my attention rather recently. And it was solely to
17 establish foundation for those pictures to use them in the
18 PowerPoint presentation. And we'd already submitted pictures
19 with the other affidavit. So it was more additional evidence
20 and more demonstrative than anything else on our end.

21 THE COURT: All right. I'm happy to hear you, and,
22 again, you might -- I understand the standard appropriate to
23 the application for preliminary injunctive relief.

24 MR. MERRILL: Of course, Your Honor.

25 THE COURT: So there may be portions of your

1 PowerPoint presentation that you can go through more quickly
2 than others.

3 MR. MERRILL: I understand, Your Honor.

4 Well, to begin with, I appreciate you outlining the
5 three main points of interest, and I would like to jump to the
6 second point first -- and come back to the factual issues --
7 with regard to the ripeness and the mootness.

8 If we could move on the PowerPoint to slide 28, which
9 kind of sets forth the test for mootness, which I'll address
10 first.

11 As you've explained, Your Honor, the defendants
12 believe the action is moot solely because fiscal year 2005 has
13 expired.

14 THE COURT: Let me interrupt you a minute, because it
15 might even shorten it further. I didn't see the defendant
16 suggesting that the whole case was moot, because I think their
17 conclusion was that the doctrines of mootness and ripeness
18 prevented preliminary injunctive relief. They didn't say go
19 ahead and dismiss the case. They basically said --

20 MR. MERRILL: Right, that there's no imminence here.

21 THE COURT: -- we'll give you notice if we do
22 anything.

23 MR. MERRILL: Correct, Your Honor. Let's go to that.

24 They, let's say, hypothetically speaking -- because
25 it's our position that the TRO in place currently is the only

1 reason they haven't reissued a solicitation for bid for
2 2006 -- so let's say that the TRO was lifted here, and no
3 injunction is granted, and they promised to notify us if they
4 choose to reissue the bid.

5 Well, that's all fine and well in that we'll know
6 that they're going to do this, but say all they do is just,
7 you know, change the date on the bid they issued previously.
8 Then we'll be right back here with an application for TRO, and
9 we'll go through the whole process again, and three, four
10 months from now, we'll be back here, I'll have basically the
11 same PowerPoint, and we'll go through the same process over.

12 And the reason we'll have to do that, Your Honor, is
13 because clearly the action is not moot. The Forest Service in
14 their papers is still alleging that these horses are trespass
15 animals and that they need to be removed.

16 It's pretty clear that they will again attempt to
17 remove them, and merely providing us notice just resets the
18 entire process.

19 So I don't feel that that's a valid reason why the
20 injunction should not be granted. It would be a waste of
21 everybody's time and resources to come back here.

22 Now, in regards to which part of the case may have
23 been moot, it's clear that the violation of the Wild Horse Act
24 claims that we have asserted are not moot and are ripe for
25 adjudication. The Wild Horse Act requires, in addition to

1 protecting the horses from harassment, removal, capture, and
2 removal, it also requires that they manage the horses. It
3 requires censusing activities be taken so that we know what's
4 in the forest. And that failure to comply with that Act is
5 really why we have the information gap you referred to as we
6 started this afternoon.

7 So I don't feel that the mere fact that the TRO
8 prevented the bid from issuing and the horses from being
9 removed in September means that we have to start the whole
10 process over, when throughout the entire presentation of the
11 papers and the reason the Forest Service is here clearly shows
12 their intent to still remove these horses from the forest.

13 So I don't believe that is a valid argument. An
14 action for injunction doesn't become moot merely because the
15 conduct complained of was terminated if, as in this case,
16 there remains a possibility of recurrence. And I've cited
17 there for you the FTC v. Affordable Media case, which was
18 essentially a case involving --

19 THE COURT: Let me interrupt you. Are those cases
20 involving the action or the application for preliminary
21 injunctive relief?

22 MR. MERRILL: Well, I believe they involve both. As
23 with the pleadings in this case, they were a little fuzzy, but
24 what happened is essentially in the Ponzi case, the action
25 was -- the participation in the scheme, which they claim had

1 stopped -- They stopped doing the alleged violation. So they
2 came to court saying that the action was moot, claiming, well,
3 we're not doing this anymore. So they were arguing both ways,
4 that it's not imminent because there's nothing to stop, and
5 therefore the action is moot.

6 The court didn't buy that argument because there's a
7 possibility of reoccurrence of the action. Therefore, it
8 would start the whole process over again, as I've explained.

9 So they really addressed both sides of the coin, in
10 my opinion. The action had stopped, but there was still a
11 need for a preliminary injunction.

12 THE COURT: So it's your position, then, that there's
13 no real distinction, then, between the underlying action on
14 the one hand versus the application for preliminary injunctive
15 relief on the other when it comes to the doctrine of mootness
16 or ripeness, and that if the underlying action is not moot,
17 and if the underlying action is ripe for resolution, then
18 there's no bar to the application for preliminary injunctive
19 relief.

20 MR. MERRILL: That's correct, Your Honor, because in
21 the cases that I've read, they don't make that distinction.

22 I mean, each of these cases, the Norman-Bloodsaw case
23 we've cited, the FTC case, they have the same problem, because
24 the action has stopped.

25 Well, if there's no action being pushed to go

1 forward, then you can argue the two sides; that there's no
2 imminence and that there is no -- that the case is moot. And
3 the courts just do not address it that way.

4 They look and they say, well, if you don't qualify
5 under the mootness standard, then the injunction should be
6 issued. And my view of that is just because it would simply
7 be a waste of judicial resources to pass the case along and
8 wait and wait for an action that you know is going to happen.
9 I mean, if we want to stipulate right now that they're not
10 going to remove horses from the forest, we can save a lot of
11 time. But I don't think defendants are willing to do that.

12 So I believe the action is still ripe for
13 adjudication and still imminent.

14 I've explained in the Norman-Bloodsaw case there are
15 essentially two prongs for mootness:

16 The first I've discussed, it's that, you know, there
17 could be no reasonable expectation of reoccurrence;

18 The second being that subsequent events have to
19 completely and irrevocably eradicate the impact of the
20 violation. And this goes more to the imminence prong.

21 In this case the subsequent events, which was
22 basically the issuance of the TRO, which is the only thing
23 that prevented the bid from being issued, have not completely
24 and irrevocably eradicated the impact of that violation,
25 because our clients still live under the threat that this will

1 happen. I mean, these are exactly the people, my clients, who
2 Congress was speaking to in the Wild Horse Act when it
3 declared that these horses enrich the lives of the American
4 people.

5 These horses are part of my plaintiffs' lives.
6 They're organizations who represent people and private
7 citizens who live in and near the forest and encounter these
8 horses every day.

9 And the threat hanging over them that this will still
10 happen is just an undue burden for them to bear. Even if we
11 are given notice that they're going to be removed, we still
12 have to come back. And there's no guarantee that this Court
13 will issue a TRO again.

14 THE COURT: Why wouldn't there be? I mean, if we
15 granted it the first time, wouldn't we grant it the second
16 time?

17 MR. MERRILL: Well, Your Honor, if you -- then why go
18 through the whole process again? I mean, if we can craft
19 something out where we say, you know, here's an injunction for
20 a certain amount of time, six, nine months, and the Forest
21 Service, if they're going to issue this bid, has to comply
22 with various requirements like inventory censusing, reliable
23 data to show whether the horses are there, then maybe that
24 would be worth the time. But if we're just going to start the
25 whole process over, then that kind of defeats the point. And

1 it's exactly what the Ninth Circuit said should not be done in
2 the Norman-Bloodsaw case and should not be done in the FTC
3 case, because you have to show that it's absolutely clear that
4 the alleged wrongful behavior cannot reasonably be expected to
5 reoccur in order to escape a motion for injunction on the
6 mootness argument.

7 And I don't feel that what's -- Well, it's clear that
8 defendants have not shown that in this case, because they
9 still believe that these are trespass animals that need to be
10 removed.

11 THE COURT: This is your argument under the Wild
12 Horses Act?

13 MR. MERRILL: Yes, Your Honor.

14 THE COURT: How about NEPA and the APA?

15 MR. MERRILL: Well, the NEPA arguments and the APA
16 argument are granted based on the solicitation for bid. If
17 you want to view them in a broad sense, you can view them on
18 the determination that the Forest Service made that these
19 animals are trespass livestock. They didn't do -- They didn't
20 prepare an environmental impact statement or any other study
21 to make that determination.

22 Unfortunately, absent the bid, I will grant you there
23 is no action implementing that decision. So the claims under
24 NEPA have to be viewed in a broader context.

25 The claims under the Wild Horse Act, however, still

1 remain viable and ripe for adjudication.

2 THE COURT: How about the Administrative Procedure
3 Act?

4 MR. MERRILL: Well, this is another point, Your
5 Honor. As you pointed out today, the defendants filed their
6 first smidgen of evidence this morning. But since we filed
7 this complaint, we have been asking for the certified
8 administrative record upon which they based their decision.
9 We've repeatedly asked for that. And nothing has been filed.
10 Nothing has been disclosed to us.

11 Essentially from what the Court has in front of it,
12 there is one piece of paper that nobody can tell where it came
13 from filed by Ms. Bumpus today that is essentially a tally on
14 the document. That's what they base their decision on.

15 I can explain this document, I think, a little bit if
16 you look at this slide before you right now. This is a
17 document that we attached as Exhibit J to our application,
18 which is what we received through a FOIA request, which is
19 about seven pages we got.

20 It purport to be a wild and free-roaming horses and
21 burros public lands report from the early '90s. If you look
22 to the bottom, the Forest Service states "Approximately five
23 feral," which means wild, "horses wander along the Mogollon
24 Rim. The Apache Indians don't manage them. The Forest
25 Service doesn't manage them, contrary to what they should have

1 done under the Wild Horse Act." And then it says, "Natural
2 attrition will eliminate the horses eventually."

3 No reason as to why. And it's pretty apparent from
4 what's in the forest right now that nature did not eliminate
5 these horses even though the Forest Service now seeks to do
6 that job.

7 But what's interesting is if you note this report,
8 the zeros start to enter right after this report was issued.
9 Do you see the five in '91 when this report came out? There's
10 five. And then it's like somebody just believed, okay,
11 natural attrition eliminates the horses, zero, zero, zero,
12 zero, zero. And this is the only evidence they've offered.

13 So getting back to the APA question, it's obvious
14 their decision regarding these horses was arbitrary and
15 capricious based on no record. And I believe that claim
16 remains ripe for adjudication, because we have to remember the
17 only -- the only event that's occurred here is completely
18 artificial. Because the TRO was issued, the fiscal year 2005
19 expired without the bid issuing. And because the TRO is still
20 in place, they haven't issued a new bid for 2006, though it's
21 evident they still intend to, and their budget is in place.

22 So absent the TRO, there would be a new bid for 2006.
23 It's a very arbitrary and artificial cutoff where essentially,
24 oh, you caught us; we did something wrong; but my mere
25 fortuity of circumstances we're going to be allowed to try

1 again.

2 And that's the very reason why the standard for
3 mootness in the Ninth Circuit is so difficult. It's a very
4 heavy burden to have to bear, as I explained before, and they
5 just haven't met it.

6 Now, if we can get back to the issue of this case, as
7 you explained as we started here today, is one factual issue,
8 whether the horses are wild and entitled to protection or
9 whether these horses are domestic trespass animals.

10 Your Honor, our request here today is relatively
11 simple. I believe -- and you've probably realized this from
12 what's been submitted -- we've done the best we can, Your
13 Honor. We're not the Forest Service. We have received
14 affidavits from people that live in the area who have seen the
15 horses. We've submitted pictures of the horses. They all
16 appear unbranded, and there's been no claim of ownership that
17 this Court or plaintiffs have been made aware of.

18 THE COURT: And in fact the government gave notice to
19 the tribe and got no response?

20 MR. MERRILL: Got no response, exactly. So as you
21 explained earlier, that's pretty much the definition under the
22 Wild Horse Act.

23 And all we're asking today, Your Honor, is that these
24 horses be allowed to remain in the forest until a conclusive
25 determination is made, until this matter is resolved, until we

1 know for sure that they're wild horses. All we want to do is
2 exactly what a preliminary injunction is designed to do.

3 THE COURT: Are you going to hire experts, or are
4 you waiting for the -- or do you think the burden is on the
5 government to go out and do its job as the steward and
6 custodian of these --

7 MR. MERRILL: Your Honor --

8 THE COURT: Hear me out.

9 MR. MERRILL: Excuse me, Your Honor.

10 THE COURT: And then examine their report. If you're
11 satisfied with their report, you do nothing. But if you're
12 not, is that when you'd actually go out and hire an expert?

13 MR. MERRILL: Your Honor, we feel the burden is on
14 the Forest Service, given the clear language of the Wild Horse
15 Act. So what we would request after the injunction issues is
16 that the Forest Service do its duty and go out there and
17 census the horses and come back with a report. We will hire
18 an expert to review that report.

19 And then if that report is insufficient, we'll go
20 from there. But if they go up in the forest and do an actual
21 report, if they get the brand book from the State of Arizona,
22 if they get the brand book from the Apache Indians, and go up
23 there and say, hey, look, these are all branded, and they
24 belong to Mr. So-and-so, then obviously we have no claim for
25 those horses to remain there.

1 Given the evidence we've submitted, the pictures and
2 the testimony, we -- it's clear that not all of the horses
3 will fall in that category. We don't know because the Forest
4 Service hasn't been doing what the Act requires them.

5 THE COURT: Does the law require the government to
6 inventory these horses in an absolute sense or only as a
7 condition to their removal?

8 MR. MERRILL: A condition to -- Excuse me?

9 THE COURT: Or only as a condition to their removal?

10 In other words, if we were to grant injunctive
11 relief, do we simply say don't bid out these horses, and don't
12 remove these horses unless you do so-and-so, or do we say, in
13 an absolute sense, you must do so-and-so?

14 MR. MERRILL: Well, Your Honor, what we would propose
15 is you must do so-and-so, and the so-and-so being primarily
16 prove conclusively that these are not wild protected horses.

17 The Act imposes a duty to protect the horses and then
18 the duty to manage the horses, flowing from that duty to
19 protect, because you can't protect something if you don't know
20 it's there. You can't have a duty to protect unless you know
21 that it's wild.

22 It's their burden to establish what's in the forest
23 conclusively, and if there are wild horses, which the evidence
24 we've submitted, I believe, shows there are, then they need to
25 protect those animals, and they cannot be removed.

1 So, yes, the burden would fall on the Forest Service.

2 If we go get back to the evidence on the factual
3 question, we submitted various exhibits. The first that I'd
4 like to go over would be the exhibit of Lee Larson, which is
5 slide 10. Mr. Larson's exhibit is interesting for various
6 reasons, because, as you know, the Forest Service has made
7 various claims about these horses, which are unsupported, the
8 principal being that the horses didn't arrive in the forest
9 until after the wildfires in 2002.

10 As you can see in Mr. Larson's affidavit, he's
11 currently a resident of the Heber area and has hunted
12 extensively in those forests since approximately '77, well
13 before the fires. And he notes at least six different places
14 where he's seen the wild horses.

15 He also notes that he's never witnessed any markings
16 or brandings on the wild horses. And he's encountered about
17 25 to 30 head of wild horses at any given time.

18 This refutes the claim of the defendants that the
19 horses didn't arrive until 2002. And if you look at the
20 standard of preliminary injunction which you've indicated and
21 I'm sure you're well versed in, if you look under the serious
22 questions prong, which is a prong where, as the degree of harm
23 increases, the required probability of success decreases, here
24 the degree of harm is immeasurable and irreparable. These
25 horses cannot be replaced.

1 If you balance those harms with the harm claimed by
2 the Forest Service, which is mainly that the horses are
3 impacting reseeding efforts, you look, well, if you don't
4 grant the injunction, these wild horses are gone forever,
5 destroyed and removed.

6 If you do grant the injunction, well, the horses eat
7 the grass. Grass grows back, Your Honor. Horse -- These wild
8 horses can't come back.

9 The other issue is defendants have never shown why,
10 after more than three years since the fires, the horses have
11 to be removed now, and they've never shown that the horses are
12 actually negatively impacting the vegetation.

13 So the balance of the hardship clearly goes very high
14 degree of harm to the point as if it's not issued. And then
15 the serious questions prong in the -- as is laid out in the
16 Republic of Philippines v. Marcos case, that prong doesn't
17 require an actual likelihood of success on the merits. It
18 requires a fair chance of success on the merits, which is a
19 little bit lower standard.

20 Serious questions point to issues like, as you
21 pointed out I think we have here, that cannot be resolved at
22 the hearing on the injunction but which present a need to
23 preserve the status quo lest one side prevent resolution of
24 the matter by altering that status quo.

25 That's what will happen if the injunction isn't

1 issued, Your Honor. The defendants will remove the horses
2 from the forest and prevent resolution in two ways.

3 First of all, as you indicated, there may be need for
4 more evidence here to conclusively establish that these horses
5 are wild or not. If they're not there, we can't get the
6 evidence.

7 THE COURT: Ordinarily one would expect that at a
8 hearing like this. You know, the application for preliminary
9 injunctive relief is a phase of the proceeding somewhere
10 between the TRO, which is very incomplete, and the ultimate
11 resolution of the case on the merits.

12 So it's sort of a preliminary incomplete but still
13 evidentiary based. And I take it that other than the exhibits
14 that you've offered, you've not offered evidence here today,
15 because you believe the government -- the burden is on the
16 government, and the government having failed to meet its
17 burden of coming forward with the evidence, the burden of
18 coming forward with the evidence has never shifted to you.

19 MR. MERRILL: Well, that's part of it. The other
20 issue is we believe we've presented enough evidence. We've
21 presented numerous affidavits of local residents who have seen
22 unbranded, unclaimed horses in the forest since the 1970s.

23 We've presented pictures of those animals. The
24 pictures clearly indicate that these animals have the
25 distinctive light buckskin color that, as we explained in the

1 papers, is indicative of the original Spanish horses brought
2 here in the 1700s.

3 We submitted photographs that showed no branding on
4 the flanks or the necks of these horses. And that was for the
5 TRO, Your Honor. And we sat back and waited for the
6 defendants to come up with counter evidence in their response.

7 They didn't. They did not contradict this evidence.

8 THE COURT: They only argued the mootness/ripeness
9 issue.

10 MR. MERRILL: Exactly.

11 THE COURT: Let me ask you this, and I don't know the
12 state of veterinary medicine, but can blood be drawn from
13 these animals and DNA analysis done to see whether or not they
14 match up with the horses that belonged to the conquistadors?

15 MR. MERRILL: Your Honor, that is an idea I floated
16 back and forth with my clients, and we're under the impression
17 that while it may be limited, because first you have to track
18 down and find the horses, and it may an expensive and
19 difficult process, that it can be done. That's my impression,
20 that it can be done. But --

21 THE COURT: Well, would you take samples from horses
22 in Spain? In other words, how would you get the original DNA?

23 MR. MERRILL: Your Honor, that is a point I have to
24 admit I'm not clear on as to how we get the original DNA. My
25 clients are a group that believes in the protection of horses,

1 and they represent horse experts around the country, and I'm
2 sure there would be a way to figure that out.

3 Unfortunately that's something that, you know, should
4 have already been done. When the Act came out in 1971, it
5 basically declared, you know, unbranded, unclaimed horses that
6 are right now in this territory are wild horses in need of
7 protection. Their progeny are wild horses in need of
8 protection.

9 And under the Act, the Forest Service should have
10 been out there monitoring these horses and have an exact
11 number of what happened to the forest -- the wild horses; not
12 see five of them in '93 and claim that they're going to
13 disappear and then write zeros on a tally sheet.

14 They should have been out there monitoring the
15 horses, and we wouldn't have this problem. But we do have the
16 information gap.

17 We also have serious questions going to the merits of
18 our claim. We also have a high degree of irreparable harm
19 balanced against almost no harm.

20 If the horses should remain in the forest, the status
21 quo should be preserved until we can come up with a definitive
22 answer. We believe the evidence we've offered is sufficient,
23 especially based on what's been offered to counter it.

24 But if not, those horses need to remain in the forest
25 so that we can gather more evidence. And if the horses are

1 removed before we gather that evidence and before we reach
2 resolution, then this case will never have a resolution. It
3 does us no good after the fact to find out these horses should
4 have been protected. Our clients aren't in it for money.

5 THE COURT: Well, we know that isn't going to happen.
6 I mean, the fact of the matter is that the horses will be
7 preserved pending ultimate resolution on the merits.

8 The only question, it seems to me, is whether we need
9 a preliminary injunction to do that or whether the notice
10 option offered by the government with reapplications for TROs
11 is adequate. I'll be asking the government some questions
12 about that in a minute.

13 And I don't believe there's going to be any
14 destruction of the horses pending final judgment, because then
15 the case would become moot.

16 MR. MERRILL: So then, Your Honor, if we were to go
17 with that option of the government, would we then issue an
18 order that a TRO automatically issues once they try to remove
19 horses from the forest?

20 And then we can just skip that process and set up a
21 preliminary injunction, which would be a little more focused,
22 because our first application could focus a lot more on the
23 evidence we need to get as opposed to, oh, you get notice
24 we're removing the horses in five days, and, you know, throw
25 something quick together again and start the whole process

1 over.

2 I mean, if you say they're not going to be removed
3 until judgment, then why not just issue an injunction and say
4 if the Forest Service reissues the bid, they have to do this
5 and this and this. And if they don't, then they're enjoined
6 from removing any horses until we come back into court.

7 I mean, that's essentially what we're asking for,
8 that the horses are allowed to remain there in the forest,
9 that they can't issue a bid for removal, and that they can't
10 remove the horses until we reach final resolution.

11 I think we're saying almost the same thing. I think
12 the tie-up is just with the phrase preliminary injunction,
13 because, Your Honor, I believe what you just said, that the
14 horses will remain there until final resolution, would be
15 preserving the status quo, which is exactly why the
16 preliminary injunction mechanism exists.

17 So if the option is the government just gives notice,
18 but then you're already predisposed to keep them in the
19 forest --

20 THE COURT: Well, it's not being predisposed in the
21 sense of inappropriate predisposition. It's that we've
22 already run down this road.

23 MR. MERRILL: I understand.

24 THE COURT: We've already considered this issue in
25 the context of temporary restraining order. And if we're

1 right back where we started, we'd have the same result. It
2 would be inconsistent to achieve a different result.

3 In one of the footnotes to one of the documents,
4 there was a suggestion -- it was in the government's
5 document -- footnote one at Page 2, that the parties had met
6 to formulate ideas leading to a consensual means of
7 identifying the horses.

8 MR. MERRILL: Yes, Your Honor.

9 THE COURT: And so forth. Have you been able to
10 proceed down that road?

11 MR. MERRILL: Your Honor, we had a meeting that I
12 felt was very productive for about three hours. And as we
13 left the meeting, it was left for me to draft a stipulation
14 and get it to the U.S. Attorney.

15 I drafted a stipulation that basically said we
16 stipulate to the entry of a preliminary injunction. Then we
17 used cooperative efforts to census these animals, two of us
18 together, to census the animals, and any unbranded, unclaimed
19 animal stays on the forest until resolution.

20 Any animal we find that is branded and there's a
21 valid claim for it -- we'd of course have to know the brands
22 beforehand, so we're not making this up as we go -- would be
23 released.

24 And I sent the stipulation off. And I never heard
25 back from the U.S. Attorney. I sent an e-mail inquiry. I did

1 receive a phone call where he indicated he would call me back
2 at a later date and never did. And I sent a letter just last
3 week asking what happened with our proposed stipulation. It
4 never came back to me.

5 We put forth what we thought was a valid compromise
6 where we would in a cooperative way find out what's in the
7 forest. And we just wanted the horses that were unbranded and
8 unclaimed to stay in the forest until this matter was
9 resolved.

10 And I never heard back from the U.S. Attorney's
11 Office on that.

12 THE COURT: You have about five minutes left. Do you
13 want to reserve that for your reply?

14 MR. MERRILL: I would, Your Honor, yes. Thank you.

15 THE COURT: Thank you.

16 Mr. Patrick.

17 MR. PATRICK: Your Honor, keeping in mind your three
18 questions at the outset, the United States did not argue that
19 the action was moot or not ripe. We never have.

20 The issue that we tried to suggest to the Court --
21 and I apologize if we failed to make ourselves abundantly
22 clear -- is that the issue of the need for a preliminary
23 injunction is unnecessary to preserve the status quo. The
24 status quo out in the forest right now is that there are a
25 good number of horses.

1 The status quo is that the Forest Service would like
2 to identify which of those animals are branded or claimable by
3 members of the White Mountain Apache Indian Tribe or which of
4 those are unbranded, unclaimed, unmarked, and thereby might be
5 protectible.

6 In the future, we may take some action.

7 THE COURT: Well, and in your papers basically it is
8 contemplated that you will.

9 MR. PATRICK: That's correct, because our position is
10 that, for example, branded horses are trespass animals on the
11 forest. Indeed, I don't believe plaintiffs take issue with
12 that. But we have them out there.

13 Now -- So the mootness/ripeness dialog in our
14 pleading papers was addressed -- and I apologize if it was
15 fuzzy -- to the issue of whether or not there is an imminent
16 need for a preliminary injunction to preserve the status quo.

17 THE COURT: Let me ask you this: What's your answer
18 to Mr. Merrill's suggestion that the government isn't harmed
19 at all by a preliminary injunction? If the government is
20 willing to give the defendants notice of any intention to
21 proceed, then what further negative consequence flows from the
22 preliminary injunction?

23 In other words, why have them spend money and
24 resources coming back and forth every time the government does
25 something?

1 MR. PATRICK: To make myself clear, if you only and
2 exclusively look at the issue of harm and you are limiting
3 yourself to the issue of round-up and not looking at the
4 issue -- the so-called census issue that they're raising and
5 identification issues that they're raising, then there is no
6 harm, if you solely look at the issue of harm.

7 But part of the question is, for issuance of a
8 preliminary injunction or indeed a TRO, is the necessity to
9 preserve a status quo. And the question is we attempted to do
10 something in the past, which, because of this litigation, A,
11 is gone, but, B, we're not going to repeat.

12 THE COURT: If what you say is the case, then why
13 haven't the parties simply stipulated pending resolution?

14 MR. PATRICK: Because, as Mr. Merrill correctly
15 noted, the parties -- and I don't want to get into settlement
16 issues, so please somebody stop me if I get too far afield --
17 the parties did have the three-hour meeting that he discussed.
18 I concur with Mr. Merrill's evaluation. It was a good
19 meeting. We -- May I talk about --

20 (Counsel confer off the record.)

21 MR. PATRICK: What we had contemplated, Your Honor,
22 is a little bit of a pilot project to take -- round up a
23 discrete number of horses, and for both our edification as
24 well as plaintiffs', if you know where some horses are and you
25 round them up, then by that process, with a subset of the

1 number that are out there, whatever that number is, you get
2 some sense of how many are branded, marked, or not marked and
3 not branded.

4 So that we both have some sense of what this issue is
5 going to look like when we get down to the identification
6 process.

7 THE COURT: Is the sample random among horses, or do
8 birds of a feather flock together?

9 MR. PATRICK: It was more an issue of where do we
10 know horses are and in an area where they can be rounded up --
11 I don't want to say easily. But we wouldn't select the most
12 difficult terrain of the forest to do it. We would find, A,
13 where horses are, hopefully 20 to 30 or whatever, and then, B,
14 where it can be done as easily as possible under the
15 circumstances.

16 That's what we discussed. That's what we envisioned.
17 The problem was, as counsel absolutely identified, he sent a
18 proposed stipulation outlining the parameters of what the
19 parties wanted to do and included a stipulation for the
20 United States to enter into a stipulated preliminary
21 injunction. And that's been the hang-up.

22 THE COURT: I'm a little bit confused. Is this just
23 a formal hang-up? Because it sounds like you've agreed to
24 stipulate to the substance of a preliminary injunction
25 consensually, but you just didn't want an order entered? Is

1 that it?

2 MR. PATRICK: In all candor, it's two things: A, the
3 entry of the order has implications under the Equal Access to
4 Justice Act for attorney's fees and expenses.

5 THE COURT: And that's not something you could
6 resolve together?

7 MR. PATRICK: Not yet. And, B -- and this is the
8 government's side of this equation -- the existence of court
9 orders has, from the government's perspective, it perceives
10 that that -- that that has an effect on the parties'
11 willingness to negotiate issues for settlement purposes.

12 THE COURT: What would be simply wrong with a letter
13 from the Forest Service to the plaintiff saying we have no
14 intention of bidding out these animals or removing any of
15 these animals until the Court enters its final judgment?
16 Would you be happy to do that on behalf of the United States?

17 MR. PATRICK: Subject to -- and also subject to
18 agreement of the parties, because it's still our intent, I
19 hope, to go through the pilot project process, identify those
20 that are branded. Then we wouldn't need to wait for a final
21 judgment. The parties would just agree on site these animals
22 can be removed; these cannot.

23 So I don't want to say anything that would suggest
24 that the Forest Service wants to wait until a final judgment
25 from this Court. We would hope that the parties can resolve

1 some of these issues amicably.

2 The problem, from the government's perspective thus
3 far, has been plaintiffs' insistence that we stipulate to a
4 preliminary injunction. What the government did in its
5 responsive pleading is indicate we're not going to take any
6 action without notice to the Court, without notice to the
7 parties, and the -- The process is we want to go through with
8 the pilot project. It makes sense, because plaintiffs are
9 adding to -- have suggested that they're willing to commit
10 some resources to that enterprise that helps the Forest
11 Service. So it's a collaborative, cooperative effort.

12 But the stumbling block has been thus far they want
13 your signature on a piece of paper that says the government
14 has to do this or can't do it.

15 THE COURT: And it's your theory that they want that
16 formality to support their application for fees at the end of
17 the case? Is that what your theory is?

18 MR. PATRICK: That was something that I came up --
19 They never said that.

20 The other issue and very candidly is I think they're
21 distrustful of the Forest Service, and I have nothing to say
22 about that. But they are very desirous of having an order
23 from the Court and are unwilling to rely upon our
24 representation.

25 THE COURT: What do you say to the plaintiffs'

1 argument that in all this time since the action's been filed,
2 the government really has come forth with little or no
3 evidence to rebut the plaintiffs' submission that there are at
4 least some of these horses that would come within the scope of
5 the Act, and that all you've done up to this point is on the
6 eve of the hearing produce a single page summary, tabular
7 summary, of prior reports without indicating what if anything
8 the government did before it even solicited the first bid?

9 Was it just relying on that tabulation that its own
10 little summary since fiscal year 1991 show that there were no
11 wild horses, and, therefore, they must all be horses not
12 protected by the Act and therefore bid them out, or was the
13 government actually going to go out and evaluate horses?

14 MR. PATRICK: In order for me to respond to your
15 question, I must make a distinction to start with that I'm not
16 sure has been properly crystallized, and to some extent I
17 blame myself and my pleadings for that.

18 The report to Congress has to do with wild horse
19 populations in the Heber wild horse territory.

20 You have the totality of the Apache-Sitgreaves
21 National Forest. Within that you have the Heber wild horse
22 territory.

23 Part of the difficulty between what we've submitted
24 to you and some of the oral advocacy has been we are talking
25 about horses in the forest. And the United States has, for

1 purposes of its submission and its requirements under the Wild
2 Horse and Burro Act, tried to focus on what we're required to
3 do with respect to the Heber wild horse territory.

4 So in answer to your question, it is true that there
5 are -- and as some of the documents that the plaintiff has
6 demonstrated -- there have been historically horses on the
7 forest. The genesis of those horses is somewhat unknown.

8 The Forest Service suspects -- I don't know what they
9 have in terms of anything to validate that suspicion --
10 suspects that they're also White Mountain Apache tribal
11 horses.

12 But the point to keep in mind is our reporting
13 requirements under the Act, which we've demonstrated at least
14 to you what we've done, is reported the number of horses in
15 the horse territory. That's all we're required to do.

16 They talk about a horse census for the entire forest.
17 And a lot of their anecdotal -- or evidence that they're
18 submitting has to do with horses on the forest but not
19 necessarily in the Heber wild horse territory.

20 Now, even if you accept everything that they've
21 submitted in terms of numbers of animals, they're less than
22 100. The Forest Service, by virtue of what people have been
23 talking about on both sides, we have three to four hundred
24 horses up there.

25 I don't -- Once you capture and determine markings,

1 brandings, et cetera, we will all collectively be able to
2 identify, at least on that basis alone, which aren't protected
3 animals and which might be. And that was the collaborative
4 effort that the parties were trying to work toward.

5 But, once again -- and I apologize for the circular
6 position -- we got hung up on the issue of their alleged need
7 for an order signed by you.

8 So once again I go back to the point that we raised
9 in our pleadings: That which we tried to do in the past and
10 is gone is not, by virtue of this litigation, going to be
11 repeated, and yet they think they need a preliminary
12 injunction.

13 Our position is if you do it to preserve the status
14 quo, what is the status quo that you're preserving?

15 It's unfortunate counsel talked about a waste of time
16 and resources to, in case the Forest Service does something in
17 the future, it forces them to return to the court. We've had
18 time and resources committed to this proceeding based upon
19 their desire for an order from you apparently because they
20 don't trust us.

21 Your first question to both of us, both sides, the
22 factual nature of the issue of the horses, I don't know of any
23 realistic and feasible way to do this -- and feasibility takes
24 into consideration terrain, weather, people, money,
25 et cetera -- any feasible way to do this absent round-up of

1 animals, separating those that are clearly not protected from
2 those that might be, and trying to gel this controversy down.

3 But, once again, the desire for an order from you
4 seems to have at least deviated the parties from that effort.

5 Now, in that regard -- and I think I can note this to
6 you -- one of the problems with starting that process
7 immediately is there is or are hunts going up on, wild animal
8 hunts, elk, whatever, on the A-S, and accordingly we didn't
9 want people up there during December when there are folks with
10 guns and shootings and all that kind of stuff.

11 So the meeting that we had, we wanted to begin the
12 pilot project as quickly as we could after the December hunts,
13 and that's what we're still trying to do.

14 And, once again, the plaintiffs were very forthright
15 and very helpful in that process and suggested that they had
16 some resources that they could bring to bear on that issue.

17 I should note that we are also involving the White
18 Mountain Apache Indian Tribe to try to solicit help from them
19 to, A, help identify animals that may have come off the
20 reservation and have attempted thus far without much success
21 to try to get them to commit some resources to the process of
22 recovery of any animals that might belong to the reservation.
23 So it's a collaborative effort. On behalf of the government,
24 I hope we go through with that process. But we are here.

25 THE COURT: Well, if that process fails, is it the

1 government's intention to initiate its own independent
2 evaluation of these horses before it solicits new bids?

3 MR. PATRICK: Because of pending litigation, we have
4 to.

5 But the problem, once again, is in order to identify
6 the brands, we have to be able to round them up. And because
7 of the pendency of the TRO, we can't do that, nor would we
8 want to without plaintiffs' cooperation.

9 So we're in this kind of --

10 THE COURT: No. But I meant absent a TRO or
11 preliminary injunction, is it the government's position that
12 in all instances, it would always conduct an independent
13 evaluation of the animals before it solicited bids?

14 Because the major contention here has been from the
15 plaintiffs that the government's done nothing to fulfill its
16 trusteeship obligation under the Act and willy-nilly solicited
17 bids.

18 And we've gone now through the second phase of this
19 litigation, we've been through the TRO and now the application
20 for preliminary injunctive relief, and we still have nothing
21 from the government that indicates that the government has
22 done anything or believes that it has any obligation to do
23 anything before it solicits bids.

24 So that's why I'm asking the question.

25 MR. PATRICK: All right. I have to answer that in

1 several parts.

2 THE COURT: Well, you've got one minute to do it.

3 MR. PATRICK: All right. We report to Congress on a
4 biannual basis the number of animals that we observe, know, or
5 otherwise believe are in the Heber wild horse territory.
6 That's our obligation to Congress. We argued to you that we
7 fulfilled that, and that's the numbers that we're looking at.
8 So I take issue with plaintiffs' argument that we haven't
9 fulfilled our obligations.

10 If your question is are we going to do some kind of
11 census forest-wide, absent an order from this Court, prior to
12 the solicitation for bids?

13 I must confess I don't know enough about their
14 contracting process to be able to adequately respond to that.

15 THE COURT: If the bids went out this past fall, as
16 they did not, but had they gone out, I assume some commercial
17 contractor would go out there and round up horses, and when
18 they do that and they look at these horses, does the
19 government delegate to them the authority and the
20 responsibility to identify which horses are which?

21 MR. PATRICK: No. We have a cooperating agreement
22 with the state brand inspector person. This is done through a
23 cooperative agreement. They have to have somebody on site.

24 But I feel very uneasy talking about this process,
25 because this is a contractual process that I must apologize

1 I'm not that familiar with.

2 Your question precisely was whether we have to go
3 through some census process outside the Heber territory --

4 THE COURT: No, I didn't say anything at all about
5 outside the Heber territory. That's a new issue that your
6 argument has introduced. And in the few minutes that are
7 left, I want to ask Mr. Merrill about that distinction.

8 But mine was a more global question. Does the
9 government believe it has any independent obligation to
10 identify these animals, whichever animals are otherwise within
11 the scope of the Act, whichever animals are otherwise within
12 the scope of this litigation, before it solicits bids?

13 MR. PATRICK: I apologize, Your Honor.

14 I'm having difficulty understanding your question.
15 You can't tell whether they're branded animals or not,
16 generally speaking, until you round them up.

17 Are you talking about just counting the number of
18 horses on the forest?

19 THE COURT: No. I think I have the answer to my
20 question.

21 MR. PATRICK: And I apologize.

22 THE COURT: And I think you have run out of time as
23 well. Thank you very much, Mr. Patrick.

24 Mr. Merrill, you've got two minutes to reply. I'm
25 particularly interested in your answer to his argument that

1 you --

2 MR. MERRILL: The first question --

3 THE COURT: Excuse me, please.

4 MR. MERRILL: Go ahead.

5 THE COURT: One at a time. The reporter can only get
6 one of us down, and I've instructed her that when there's
7 conflicts in testimony, she's always to take me down.

8 MR. MERRILL: Of course, Your Honor.

9 THE COURT: Two things I'm interested in. One is his
10 argument or suggestion or theory that the only reason you want
11 the formality of an injunction is for some tactical advantage
12 in the litigation that he has on the side offered you the
13 substance of preliminary injunctive relief without the
14 formality of it, and, two, would you address his distinction
15 between this district around Heber versus the forest as a
16 whole.

17 MR. MERRILL: I will address both, Your Honor. The
18 first question is absolutely false. If I may approach?

19 THE COURT: Please.

20 MR. MERRILL: We have -- In September when we tried
21 to work out these issues and the hearing was first postponed,
22 my colleague drafted a stipulation where we specifically
23 said -- Page 3, it's highlighted -- that we will not use the
24 entry of an injunction to seek any fees under the Equal Access
25 to Justice Act. My clients care about horses. They don't

1 care about money.

2 Second question, 36 CFR 222.25 says --

3 THE COURT: Do you need this back?

4 MR. MERRILL: I do not, Your Honor.

5 -- "Protection for the wild free-roaming horses is
6 granted even if they were to move or migrate off of protected
7 territories onto lands of other ownership or jurisdiction."
8 That is cited in Paragraph 39 of our complaint.

9 So I believe I've answered both those questions, and
10 both those questions are in our favor.

11 THE COURT: All right. Anything else, to wrap it up?

12 MR. MERRILL: To conclude, Your Honor, I found the
13 cite in the FTC case on the mootness issue. It's marked here
14 for you, and I've provided a copy for counsel.

15 The last paragraph on that page that is highlighted,
16 if you could flip to it, I'll read it. "It is possible of
17 course that a defendant's conduct can moot the need for
18 injunctive relief, but the test for mootness in cases such as
19 this is a stringent one. The reason that defendant's conduct
20 in choosing to voluntarily cease some wrongdoing is unlikely
21 to moot the need for injunctive relief is that the defendant
22 could simply begin the wrongful activity again. Mere
23 voluntary cessation of alleged illegal conduct does not moot a
24 case. If it did, courts would be compelled to leave the
25 defendant free to return to its old ways."

1 That's exactly what would happen if the injunction
2 was not issued today, Your Honor. The need is not moot. And
3 plaintiffs request that you enter the injunction today.

4 THE COURT: Thank you very much. Let me thank both
5 sides for coming over this afternoon and for bearing with our
6 schedule. We'll take it under advisement, and we'll give you
7 an order promptly, certainly in less than a week. So thank
8 you for coming.

9 MR. MERRILL: Thank you, Your Honor.

10 MR. PATRICK: Your Honor, in terms of your schedule
11 for preparing an order, let me further represent we will take
12 no action on the forest with respect to these animals until
13 the Court has an opportunity to address the issue.

14 THE COURT: Thank you.

15 MR. MERRILL: Thank you.

16 Your Honor, one last thing: The TRO stays in place
17 until you rule?

18 THE COURT: Of course.

19 (Proceedings recessed at 3:00 p.m.)
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C E R T I F I C A T E

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2
3 I, LINDA SCHROEDER, do hereby certify that I am duly
4 appointed and qualified to act as Official Court Reporter for
5 the United States District Court for the District of Arizona.

6 I FURTHER CERTIFY that the foregoing pages constitute
7 a full, true, and accurate transcript of all of that portion
8 of the proceedings contained herein, had in the above-entitled
9 cause on the date specified therein, and that said transcript
10 was prepared under my direction and control.

11 DATED at Phoenix, Arizona, this 11th day of May,
12 2006.

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16 Linda Schroeder, RDR, CRR
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Exhibit E

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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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In Defense of Animals, a non-profit
organization, et al.,

No. 05-CV-2754-PHX-FJM

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Plaintiffs,

ORDER

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vs.

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United States Government, Department of
Agriculture, et al.,

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Defendants.

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On July 19, 2005, defendant United States Forest Service issued a bid solicitation for the removal of horses from the Apache-Sitgreaves National Forest ("ASNF"). Complaint, Exhibit D. On September 9, 2005, plaintiffs filed this action seeking a Temporary Restraining Order ("TRO") and Preliminary Injunction to prevent defendants from removing any horses from the ASNF, or awarding a bid for the capture and removal of any horses from the ASNF, unless defendants have complied with the National Environmental Policy Act ("NEPA"), the Wild Free-Roaming Horses and Burros Act ("Wild Horses Act") and the Administrative Procedures Act ("APA"). We issued a TRO enjoining defendants from rounding up, removing, or awarding a bid for the capture and removal of horses from the ASNF (doc. 5). Subsequently, defendants lost their funding for the bid solicitation, and accordingly, it is no longer viable. Response at 2.

1 We now have before us plaintiffs' application for a preliminary injunction (doc. 1),
2 defendants' Response (doc. 13), and plaintiffs' Reply (doc. 16). We also have before us
3 defendants' supplemental filing (doc. 17), plaintiff's supplemental filing (doc. 18), and
4 plaintiff's motion to strike defendants' supplemental filing (doc. 20), all of which were filed
5 the day of the preliminary injunction hearing.

6 II.

7 Defendants argue that the application for a preliminary injunction is moot because
8 the July 19, 2005 bid solicitation is no longer viable. Response at 2-4. However, an
9 action for a preliminary injunction will not become moot "merely because the conduct
10 complained of was terminated, *if there is a possibility of recurrence*, since otherwise the
11 defendant's [sic] would be free to return to [their] old ways," Fed. Trade Comm'n v.
12 Affordable Media, LLC, 179 F.3d 1228, 1237 (9th Cir. 1999) (alteration in original)
13 (citation omitted). To establish mootness, defendants would need to show that
14 "subsequent events made it absolutely clear that the allegedly wrongful behavior could
15 not reasonably be expected to recur." United States v. Concentrated Phosphate Export
16 Ass'n, 393 U.S. 199, 203, 89 S. Ct. 361, 364 (1968). This action for a preliminary
17 injunction is not moot because there is a possibility of recurrence; defendants are
18 contemplating another bid solicitation under the 2006 budget. Response at 2.

19 Defendants also argue that the application for a preliminary injunction is not ripe
20 because defendants have not issued another bid solicitation. Response at 3. The rationale
21 of the ripeness doctrine is to "prevent the courts, through avoidance of premature
22 adjudication, from entangling themselves in abstract disagreements over administrative
23 policies, and also to protect the agencies from judicial interference until an administrative
24 decision has been formalized and its effects felt in a concrete way by the challenging
25 parties." Abbott Laboratories v. Gardner, 387 U.S. 136, 148-49, 87 S. Ct. 1507, 1515
26 (1967). Defendants' argument fails because plaintiffs' claims are not based upon an
27 abstract disagreement over policy but the very real concrete dispute over the identity of
28 the horses, the applicability of multiple statutes and the defendants' conceded intent in

1 soliciting bids. This action is thus ripe for adjudication. See Porter v. Jones, 319 F.3d
2 483, 490-91 (9th Cir. 2003).

3 **III.**

4 A preliminary injunction should only be granted if the moving party "demonstrates
5 that it is likely to succeed on the merits and may suffer irreparable injury, or that serious
6 questions exist on the merits and the balance of hardships tips in its favor." Self-
7 Realization Fellowship Church v. Ananda Church of Self-Realization, 59 F.3d 902, 913
8 (9th Cir. 1995). "These two formulations represent two points on a sliding scale in which
9 the required degree of irreparable harm increases as the probability of success decreases."
10 Oakland Tribune, Inc. v. Chronicle Pub. Co., Inc., 762 F.2d 1374, 1376 (9th Cir. 1985).
11 Therefore, "[w]here a party can show a strong chance of success on the merits, he need
12 show only a possibility of irreparable harm. Where, on the other hand, a party can show
13 only that serious questions are raised, he must show that the balance of hardships tips
14 sharply in his favor." Bernard v. Air Line Pilots Ass'n, Int'l, AFL-CIO, 873 F.2d 213, 217
15 (9th Cir. 1989).

16 **A.**

17 Plaintiffs raise at least serious questions as to the legality of defendants' actions.
18 Plaintiffs argue that defendants violated NEPA because the removal of wild horses will
19 significantly affect the human environment, and defendants failed to properly consider the
20 impact, and failed to issue an Environmental Impact Statement ("EIS") or a statement of
21 reasons as to why an EIS is unnecessary. Complaint at 9-11. Plaintiffs argue that
22 defendants violated the Wild Horses Act because they attempted to remove the wild
23 horses, failed to properly investigate the status of the horses, failed to keep an inventory
24 of the horses, failed to establish an advisory committee with regard to the horses, and
25 failed to hold a public hearing prior to the attempt to use motorized vehicles to remove
26 the horses. Complaint at 6-9. Plaintiffs argue that defendants violated the APA because
27 they acted arbitrarily and capriciously by failing to conduct a full investigation into the
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1 effects of the removal of the horses, and failing to comply with NEPA and the Wild
2 Horses Act. Complaint at 11.

3 In response to all of these allegations, defendants merely argue that the horses at
4 issues are not "wild horses." The Wild Horses Act defines "wild free-roaming horses and
5 burros" as "all unbranded and unclaimed horses and burros on public lands of the United
6 States." 16 U.S.C. § 1332(b). Defendants set forth a summary table showing that
7 between 1992 and 2004, there were no documented wild horses in the Heber Wild Horse
8 Territory. Declaration of Debra Bumpus, Exhibit 1. Plaintiffs' motion to strike this
9 document is denied as moot because the evidentiary value of the table is de
10 minimis—defendants fail to explain how these figures were derived (doc. 20). Defendants
11 also argue that the horses at issue are domesticated and "strayed onto the forest after the
12 Rodeo-Chediski Fire in 2002." Complaint, Exhibit C at 1. However, plaintiffs set forth
13 six affidavits by residents of the ASNF area, who have seen unbranded "wild horses" in
14 the ASNF area before and after the Rodeo-Chediski fire. Application for TRO, Exhibits
15 B-G.

16 Defendants further argue that this evidence is insufficient, because plaintiffs must
17 also show that the horses are unclaimed. Response at 3. However, defendants fail to
18 argue that the horses have been claimed, and to the contrary, they state that they "notified
19 the White Mountain Apache Tribal Chairman and Tribal Attorneys of a Notice of
20 Impoundment Action and g[ave] tribal members more than 30 days to come gather their
21 horses [and] [n]o horse owners [came] forward." Complaint, Exhibit C at 1. Moreover,
22 plaintiffs argue that they are prevented from setting forth more detailed evidence as to
23 claims because defendants failed to properly inventory the horses pursuant to the
24 requirements of the Wild Horses Act. Application for TRO at 15; Reply at 7.

25 Defendants' arguments, and defendants' counsel's statements during the
26 preliminary injunction hearing, evidence defendants' failure to have thoroughly
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1 considered the status of the horses in the ASNF before soliciting a bid for their removal.¹
2 Accordingly, we conclude that plaintiffs have raised serious questions as to the legality of
3 defendants' actions.

4 **B.**

5 The removal of horses prior to final adjudication would cause plaintiffs
6 irreparable harm. Defendants state that they are contemplating removing the horses if a
7 preliminary injunction is not granted, and plaintiffs' argue that once removed, the horses
8 will become extinct in the ASNF.² Application for Temporary Restraining Order at 17.
9 In contrast, defendants conceded at the preliminary injunction hearing that a preliminary
10 injunction prohibiting horse removal would not cause the defendants any hardship.
11 Accordingly, the balance of hardships tips sharply in plaintiffs' favor.

12 **IV.**

13 **IT IS ORDERED GRANTING** plaintiffs' application for a preliminary injunction
14 and enjoining defendants from awarding a bid for the capture and removal of the
15 allegedly wild horses from within the Apache-Sitgreaves National Forest, and from
16 rounding up and removing the allegedly wild horses from within the Apache-Sitgreaves
17 National Forest. This order is in effect until final judgment is entered by way of motion
18 for summary judgment or trial (doc. 1).

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22 ¹ Defendants argue that pursuant to the Wild Horses Act, they need only census horses
23 in the Heber Wild Horse Territory, and not the entire ASNF. However, 36 C.F.R. § 222.25
24 requires the surveillance and protection of wild horses on national forest lands, other public
lands, and lands of other ownership or jurisdiction.

25 ² Defendants argue that plaintiffs will not suffer irreparable harm if the preliminary
26 injunction is denied because defendants have not issued a new bid solicitation, and they will
27 warn the court and the plaintiffs before issuing a new bid solicitation. We resolved this
28 matter with regard to the mootness analysis above. Moreover, plaintiffs should not be forced
to monitor defendants' activity to ensure that they have complied with their promise of pre-
removal notification.

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IT IS FURTHER ORDERED DENYING plaintiffs' motion to strike as moot
(doc. 20).

DATED this 13th day of December, 2005.

Frederick J. Martone

Frederick J. Martone
United States District Judge

F

Table of Contents

In Defense of Animals, et al. v. United States Government, et al.
CIV 05-2754 PHX-FJM
Administrative Record

Doc. #	Date	Author	Addressee	Description
1	09/04/1973	W.R. Fallis, R-3 Asst. Reg. Forester	Arizona Forest Supervisors	Cooperative Agreement in Implementation and Administrations of the 1971 Wild Free-Roaming Horse and Burro Act
2	01/15/1974	J.S. Tixier Forest Supervisor, Sitgreaves NF	Regional Forester, USDA Forest Service R-3	Letter submitting information on Horse and Burro Territory, including map.
3	11/04/1974	W.R. Fallis, Director Range Management	Ms. Jeanne C. Raudenbush	Letter transmitting reports of wild horses and burros as of December 1973; #2 is the attached A-S report and map.
4	1987	Apache-Sitgreaves National Forests Plan	District Files	Excerpt from Forest Plan, Page 166 with standard and guideline to "maintain existing wild horse territory and herd"
5	6/1/89	Nick McDonough/Forest Supervisor	District Files	Range Management Plan for the Buckskin, Gentry and Heber-Mud Tank Allotments - item II (D), regarding trespass horses.
6	1991	Heber Ranger District	District Files	Wild and Free Roaming Horses on Public Lands Report
7	01/31/1991	Region 3 Manual Supplement 2200-91-1	District Files	Cooperative Agreement on Estray Livestock State of New Mexico, US Forest Service, US BLM
8	1992	United States Department of the Interior; United States Department of Agriculture	Congress	Ninth Report to Congress on the Administration of the Wild Free-Roaming Horse and Burro Act
9	06/21/1993	Kathleen Klein, District Ranger, Heber Ranger District	John Bedell, Forest Supervisor	Memo: Territory Withdrawal Recommendation
10	07/12/1993	John Bedell,	Kathleen Klein	Letter regarding Wild Horse Territory Removal
11	02/18/1999	Katherine A. Meyer	FOIA Officer, BLM and FOIA Officer, FS	FOIA Request regarding wild horses and burros
12	01/24/2003	WO FSM Manual Amendment	District Files	FSM 2200, Range Management, Chapter 2260 – Wild Free-Roaming Horses and Burros including R-3 supplement 1/31/91
13	06/12/2003	Kendell Hughes, Black Mesa District Range Cons.	Gene Onken, FS R3 Invasive Plants Program Manager	Email responding to questions about the history of the Heber Wild Horse Territory

In Defense of Animals, et al. v. United States Government, et al.
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Administrative Record

Doc. #	Date	Author	Addressee	Description
14	2004	Infrastructure report	District Files	Populations in 2004 of wild horses in Heber Territory
15	01/20/2004	Gene Onken	Kendell Hughes	Clarifications and information concerning 6/12/03 email
16	09/07/04	AZG&FD, Birkland, Halama, Conrad	District Files	AZ Game and Fish Department Elk Survey records for GMU 3C showing # of horses seen during survey
17	09/08/04	AZG&FD, Barber, Schahn, Cagle	District Files	AZ Game and Fish Department Elk Survey records for GMU 3C showing # of horses seen during survey
18	01/13/05	AZGFD, Birkeland, Cagle, Halama	District Files	AZ Game and Fish Department Deer-Elk Survey records for GMU 3C showing # of horses seen during survey
19	01/14/05	AZGFD, Birkeland, Cagle, Halama	District Files	AZ Game and Fish Department Deer-Elk Survey records for GMU 3C showing # of horses seen during survey
20	4/19/2005	Randall Chavez, Lakeside District Range Conservationist	Eastern Arizona Counties Resource Advisory Committee	Proposal, AS-33, Removal of feral horses from Rodeo-Chediski Fire Area.
21	05/05/2005	Arizona State Legislature	District Files	Arizona Revised Statutes 3-1331 through 1337; 3-1339 through 1349 (regarding equine inspections, certificates, transport,)
21a				ARS 3-1331. Inspection required; powers and duties of livestock officers
21b				ARS 3-1332. Method, place and time of inspecting livestock
21c				ARS 3-1333. Record of inspection
21d				ARS 3-1334. Inspection as to ownership of livestock
21e				ARS 3-1335. Certificate of inspection; delivery
21f				ARS 3-1336. Inspection of livestock to be slaughtered, sold, or transported; fee; violation; classification
21g				ARS 3-1337. Service charge and inspection fee; self-inspection; civil penalties
21h				ARS 3-1339. Mobile slaughtering units; custom slaughtering; brand inspections
21i				ARS 3-1340. Unbranded livestock kept in close confinement; shipment, sale and inspection
21j				ARS 3-1341. Transportation of livestock by person without certificate of inspection, validated auction invoice or bill of sale; violation; classification

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Doc. #	Date	Author	Addressee	Description
21k				ARS 3-1342. Alteration of certificate or record of inspection; classification
21l				ARS 3-1343. Substitution of animals after issuance of certificate of inspection; classification
21m				ARS 3-1344. Ownership and hauling certificates for equines; inspection; exemption; cancellation; fees
21n				ARS 3-1345. Transfer or issuance of ownership and hauling certificates; fees
21o				ARS 3-1345,01. Equine; inspection fund
21p				ARS 3-1346. Seasonal inspection for exhibition livestock; fee
21q				ARS 3-1347. Violation; classification
21r				ARS 3-1348. Equine trader permit
21s				ARS 3-1349: Inventory and monthly report of equine traders
22	05/26/2005	Elaine Zieroth	Dr. Phil Blair, State Veterinarian, AZ Dept of Agriculture	Letter regarding removal of trespass horses from National Forest and desire to comply with state laws governing process
23	06/01/2005	Phil A. Blair DVM	Elaine Zieroth	Letter documenting state concurrence with horse removal process; states letter of intent conforms to statute, contract not enclosed
24	06/13/2005	Elaine Zieroth	Dallas Massey, White Mtn Apache Tribal Chairman	Letter to White Mountain Apache Tribe notifying them of our intent to remove trespass horses
25	6/13/2005	Randall Chavez	Warren Abbott-Contracting Officer	Document: Request for contract Contract Action and Procurement Request No. 9507
26	July 2005	Patricia Haight	Bob Dyson, A-S Public Affairs Staff Officer	Newspaper Article: "Arizona Congressmen Grijalva and Hayworth Show Repeated Commitment to Protecting Horses" (they voted to deny fed. funds to slaughterhouses)
27	07/06/2005	Elaine Zieroth	Joe Wager	Letter regarding FS plans to remove trespass horses on Lakeside and Heber areas
28	07/06/2005	Elaine Zieroth	Public Posting	Notice of Intent to Impound Unauthorized Livestock
29	07/11/2005	Joe Wager	Elaine Zieroth	Letter of concern regarding horses to be removed from forest going to Holbrook auction, and article on unwanted horses.

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Doc. #	Date	Author	Addressee	Description
30	07/12/2005	Patricia Haight, PhD, SW Reg. Dir. Defense of Animals	Senator John McCain	Letter expressing concern with FS plans to remove horses from Sitgreaves National Forest
31	07/13/2005	Senator John McCain	Emma Carroll, FS Congressional Liaison	Letter asking for a response to letter from Patricia Haight
32	7/15/2005	Tina Sorenson, Lakeside RD Resource Assistant	Randall Chavez, Kendell Hughes	e-mail of the public postings of notice of Intent to Impound Unauthorized Livestock
33	7/15/2005	Kendell Hughes	Randall Chavez	e-mail of additional public postings of notice of Intent to Impound Unauthorized Livestock
34	07/25/2005	Joe Wager	Elaine Zieroth	Letter regarding decision not to bid on trespass horse removal contract
35	07/25/2005	Elaine Zieroth	Mr. Dallas Massey, Tribal Chairman	Letter to tribe enclosing impoundment notice and encouraging the tribe to also post the notice
36	07/26/2005	Elaine Zieroth	Dr. Patricia Haight, PhD	Letter responding to Dr. Haight's 7/6/05 letter to Senator McCain
37	07/29/2005	Delia and Jack McCormick, Animal Defense Council, Animal Welfare Institute, The National Horse Protection Coalition, In Defense of Animals, Internat'l Soc. for the Protection of Mustangs and Wild Burros	Elaine Zorthor (sp.) Forest Supervisor	Letter asking the US Forest Service to stop plans to gather horses
38	8/12/2005	John and Nancy Tēets	Elaine Zieroth	Letter in support of 7/29/05 letter requesting a stop to soliciting for a contract to gather the horses
39	8/17/2005	Gene Onken	Elaine Zieroth	FAX: notes provided to Ralph Giffen, Asst Dir. Rangelands Mgt, to use in drafting a response to Sen. McCain Inquiry.

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Doc. #	Date	Author	Addressee	Description
40	8/19/2005	Gene Onken	Toni Strauss, R4 Wild Horse & Burro Spec, USFS	E-mails requesting status of Heber Territory, and response by Gene. Note on page four of email is an excerpt of 92-95 report to congress that population is managed at 0 , and supports that current horses are feral and not wild
41	8/23/2005	Patricia Haight, PhD	Warren Abbott	Memorandum of a call wanting information on cattle impound
42	8/23/2005	Patricia Haight, Ph.D . /In Defense of Animals	Elaine Zieroth	Letter- FOIA request for information on contracts awarded to remove horses.
43	8/24/2005	Elaine Zieroth	Patricia Haight, PhD	Fax – response to FOIA, explaining where the horse gather contract information is located on the internet, and how to get it
44	8/25/2005	Joe Wager	Elaine Zieroth	Letter - contradicting a definition within a July 6 th letter, and providing incidental historical information on wild horses
45	8/26/2005	Debra Sirower -Bryan Cave LLP	Elaine Zieroth	Fax and letter Re: Removal of 400 Wild Horses from Heber Wild Horse Territory Apache-Sitgreaves Forests, Law Firm Retained
46	8/26/2005	Wild Free-Roaming Horse and Burro Act	District Files	“1971 Act” from the Internet
47	8/26/2005	BLM-History of the Program –internet article	District Files	Bureau of Land Management's “National Wild Horse and Burro Program”
48	8/29/2005	Washington Office – Forest Service	Senator John McCain	Response notes- Congressional Inquiry by Senator John McCain
49	8/30/2005	USDA Forest Service; Bob Dyson	Local Media	News Release- Un-authorized horses to be removed from the National Forest
50	8/31/2005	USDA Forest Service; Bob Dyson	Local Media	News Release- Un-authorized horses to be removed from the National Forest
51	8/31/2005	Debra A. Sirower- Bryan Cave attorney	Elaine Zieroth	Fax and letter- wanting documentation on contract extension, etc
52	9/1/2005	Deb Bumpus	Kendell Hughes Randall Chavez	E-mails Re: contacting the Sale Barn; also e-mails between Gene Onken and Jo Baeza concerning potential Spanish mustang descendents among estray horses
53	9/1/2005	James W Payne, USFW R3 Public Affairs, Reg. Media Officer	Elaine Zieroth, Deb Bumpus, Robert Dyson,	E-mail with Julianne French’s message disputing feral horse designation and about her visits with Congressman Kolbe, Senators Kyl and McCain.
54	9/1/2005	Deb Bumpus	Kendell Hughes Randall Chavez	e-mail – Deb’s discussion with Tim Kessay from Corrizo Livestock Association, who is interested in seeing the horses

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Doc. #	Date	Author	Addressee	Description
55	9/1/2005	Deb Bumpus	Kendell Hughes Randall Chavez	E-mails with message from In Defense of Animals message board about horses, seeking funds
56	9/2/2005	Kathleen Klein	Kendell Hughes	E-mails regarding press release
57	9/2/2005	DenverPost.com	District Files	News article on Wild Horse herd on W. Slope Range
58	9/2/2005	Pine Graphics Weekly	District Files	News article: Unauthorized Horses to be Removed from the National Forest
59	9/2/2005	Debra Sirower -Bryan Cave LLP	Elaine Zieroth	FOIA request for information on what investigations or reports does the FS to base their claim that all of the horses are feral and not wild
60	9/3/2005	Mary Jo Pitzl/Azcentral.com	District Files	Internet news article- regarding animal groups trying to halt roundup of horses on forest land.
61	9/6/2005	AZGFD, Halama, Schahn, Birkeland,	District Files	AZ Game and Fish Department Deer-Elk Survey records for GMU 3C showing # of horses seen during survey
62	9/6/2005	Elaine Zieroth	Dianne Douglas, public person	Email response to Dianne's concerns regarding the horses
63	9/6/2005	Steve Spangle	Dianne Douglas	Email response to Dianne's concerns regarding the horses, referring her to the Forest Service
64	9/6/2005	Kendell Hughes	Elaine Zieroth	Email – response to Elaine's request for FOIA information and attached Fax which includes the Range Management Plan for the area. Also mentions discussion with Tribal range rep on Tribal brands.
65	9/6/2005	Mara Reyes/White Mtn. Independent	District Files	News article-Rambling horses causing damage
66	9/7/2005	James Payne	Elaine Zieroth, Deb Bumpus, Robert Dyson, Kate Klein	e-mail sending a copy of Mary Jo Pitzl's Arizona Republic article on animal groups trying to halt roundup.
67	9/7/2005	Elaine Zieroth	Debra Sirower- Byran Cave LLP	Letter in response to 8/26, 8/31, and 9/2/05 letters
68	9/7/2005	Pioneer – Navajo County	District Files	News article from local newspaper
69	9/8/2005	Debra Sirower – Bryan Cave LLP	Elaine Zieroth	Fax and letter advising that they will seek temporary restraining order unless FS delay award indefinitely
70	9/16/2005	Kathleen Klein	Kendell Hughes	e-mail with news article from the Payson Roundup

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Doc. #	Date	Author	Addressee	Description
71	9/16/2005	Bailey Williams	Mailroom R3 Apache-Sitgreaves	e-mail – encouraging the re-evaluation of the A-S horses as wild or feral
72	9/19/2005	Arthur Rotstein/ Casper Star Tribune	District Files	News article
73	9/22/2005	Deryl Jevons for Elaine Zieroth	Patricia Haight, Ph.D./In Defense of Animals	Letter- Response to FOIA request of 8/23/05 with “9 th Report .. on Admin. of Wild Free-roaming Horse and Buro Act; and excerpts of FSH5309.11 (law enf. Hb); R3 suppl to FSH 2200; and Region’s 1974 Report.
74	9/27/2005	Jo Baeza/The Independent	District Files	News article- Congress moves to stop horse slaughter
75	9/29/2005	Deryl Jevons for Elaine Zieroth	Debra Sirower - Bryan Cave LLP	Letter- response to FOIA: contract cancelled, and page 2 of 9/7/2005 letter.
76	10/8/2005	Gene Onken	Kendell Hughes	Fax submitting requested information
76a				page 1 same as #15, with Infra database entry correction for 2004 for R3 Horse territories (pg2)
76b				Pages 3-5: the 14 th biennial wild horse and burro report to congress- Heber Territory not even listed,
76c				pages 6-10: the 13 th biennial Report to Congress on Wild Horses and Burros (FY 98&99) population “0”.
76d				Pages 11-12: the 12 th biennial report to Congress on Wild Horses and Burros (FY 96&97) pop. “0”
76e				Page 13: a report that George Martinez filed in 1998
76f				Pages 14-15: letter submitting correction to 10 th biennial report
77	10/11/2005	Ralph Giffen, USFS Asst Dir, Rangelands Management	Kendell Hughes	Fax – with excerpt from The 10 th and 11 th Report to Congress on the Administration of the Wild Free-Roaming Horses and Burros Act for Fiscal years 1992- 1995
78	10/11/2005	Patricia Haight, Ph.D./In Defense of Animals	White Mtn. Independent	Letter to the editor: Horses are not “illegally” trespassing
79	10/13/05	Ed Collins, Lakeside District Ranger /Randall Chavez, Lakeside Range Cons	Deb Bumpus	Fax- list of coordination meetings with the tribe in which discussions of feral horses and fences occurred.

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Doc. #	Date	Author	Addressee	Description
80	10/14/05	Patricia Haight, PhD	Bob Dyson	Freedom of Information Act request (catalogued by A-S as A-S-2006-002) requesting info on all grazing leases and capacity
81	10/20/05	Gene Onken	Deb Bumpus	Heber Territory horse population information 1974-2004
82	10/20/2005	United States Department of Agriculture	Files	Cultural Resources Management. The Early Days: A Sourcebook of Southwestern Region History, Book 2
83	11/15/05	Elaine Zieroth	Patricia Haight, PhD	Response to FOIA, Control No. A-S-2006-002 Spreadsheets with requested info on all grazing leases; and "Considerations Concerning Stocking Rates" document'

COOPERATIVE AGREEMENT BETWEEN THE ARIZONA LIVE STOCK SANITARY BOARD
THE BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR AND
THE FOREST SERVICE, DEPARTMENT OF AGRICULTURE

I. Purpose

This Cooperative Agreement between the Arizona Live Stock Sanitary Board, hereinafter referred to as the Board, the Bureau of Land Management and/or the Forest Service, hereinafter referred to as Agencies, is for the purpose of identifying joint responsibilities of each agency toward the implementation and administration of the 1971 Wild Free-Roaming Horse and Burro Act, 16 U.S.C. §§ 1331-1340 (1971 Supp.), hereinafter referred to as the Act, and the regulations embodied in 43 CFR Part 4700 and 36 CFR 231.11, Wild and Free-Roaming Horse and Burro Management, hereinafter referred to as the regulations, within the State of Arizona.

Objective

The Agencies are charged by the Act and the regulations to manage, protect, and control wild free-roaming horses and burros on public administered lands under their jurisdiction, and private land under cooperative agreement. The Board is charged with the responsibility for validating and processing claims of ownership of branded and unbranded animals pursuant to the State branding and estray laws, and the proper disposal of animals pursuant to the live stock sanitation laws, within the State of Arizona.

THEREFORE, it is the mutual desire of the Board and Agencies to work in harmony for the common purpose of planning, implementing and administering the applicable State and Federal laws to accomplish the directed management, protec-

tion, and control of wild free-roaming horses and burros on Public Lands within the State of Arizona, and

THEREFORE, it is the mutual desire of the Board, and Agencies, to work in harmony for the common purpose of solving problems of stray and trespass animals on Public Lands,

NOW, THEREFORE, The Board, and the Agencies mutually agree:

A. Wild Free-Roaming Horses and Burros

The Board recognizes the Agencies' jurisdiction over wild free-roaming horses and burros, as defined in the Act or are privately maintained as provided in the Act and the regulations.

1. "Wild free-roaming horses and burros" means all unbranded and unclaimed horses and burros and their progeny that have used or do use Public Lands as all or part of their habitat on or after December 15, 1971, including those animals given an identifying mark upon capture for live disposal by the authorized officer. Unbranded, claimed horses and burros where the claim is found to be erroneous, are also considered as wild and free-roaming if they meet the criteria above. However, this definition shall not include any horse(s) or burro(s) introduced onto Public Lands on or after December 15, 1971, by accidental, negligent, or willful disregard of ownership.

2. Claiming of Animals - The Act and the regulations thereunder provide that persons may recover unbranded animals where they can show proof of ownership under the State estray laws.

THEREFORE, in order to properly conform to such provisions and to

provide harmony between the Board and Agencies in recognizing those persons who have legitimate claim to such animals, it is mutually agreed that the following procedures will be followed.

a. Written claims will be submitted to the Agencies' authorized officer and forwarded to the Board.

(1) The claimant must submit with his claim a sworn affidavit asserting ownership to the claimed animals and indicating a willingness to defend title and setting forth the following:

(a) Number of animals claimed.

(b) Full description of each of the claimed animals including factors indicating tameness such as animal being gelded, broken to rope or saddle.

(c) Date and circumstances animals entering upon the Public Lands.

(d) Location of relevant private or leased lands where animals were kept prior to entry onto Public Lands.

(e) Any other information the claimant deems relevant.

(2) Other ownership evidence when available will be submitted with the claim. This may include:

(a) A valid inspection certificate issued by the Board for some previous occasion which fully describes the animal(s) and which clearly identifies the animal(s) as belonging to the claimant or

(b) Animal(s) bearing owner's Arizona Registered Brand.

(3) If the claimant is unable to satisfy (1) or (2) above, the Board and Agencies may consider other appropriate indicia of ownership which may include, but is not limited to: (a) whether the claimant has paid personal property tax upon the claimed animal(s); (b) whether the animal(s) is the known progeny of a mare or jenny

owned by the claimant.

(4) Upon receipt of the claim, the BLM or the Forest Service will meet with the Board's representative and jointly review the information submitted by the claimant. Based upon this review, the claim will be rejected and the claimant notified, or approved and the authorized officer will issue written authorization to the claimant setting forth the terms and conditions of the gathering of animals.

B. Estray Animals

(This section applies to only those horses and burros which do not meet the definition of Wild Free-Roaming Horses and Burros, Section A).

1. That unbranded, unmarked or branded of unknown ownership horses, mules, asses, cattle, sheep or goats impounded by the Agencies on Public Lands will be turned over to the Board for disposal; that when these animals and those in Paragraph 3 below are disposed of in accord with State Law, the Board will first deduct its costs for holding and selling the animals from the proceeds, if any, of said disposal. Remaining funds will be used to reimburse the Agencies for their impoundment costs.
2. The Board will recognize the impoundment and sale procedure of branded horses, mules, asses, cattle, sheep or goats "of known ownership" under Secretary of Agriculture's Regulations 36 CFR 261.13 and the Bureau's authority under 43 CFR 9239.3, provided that bills of sale are notarized or acknowledged in accord with Arizona State Law. All live stock sold under this section must be inspected as per the Board's regulation and the owner issued the necessary certificate upon removal of animal(s) from Public Lands.
3. That impounded swine of unknown ownership will be turned over to the Board for disposal in a manner similar to the procedures described

in Paragraph 1 above. Swine of known ownership will be disposed of by the Agencies under the provision of 36 CFR 261.13 or 43 CFR 9239.3 as shown in Paragraph 2 above.

C. Disposal of Animals

Pursuant to the Act and regulations, the Agencies may direct the disposal of animals. Prior to disposal, the Agencies will consult with the Board regarding disposal of animals except in acts of mercy requiring immediate actions. Disposal will be in accordance with State laws concerning humane treatment of animals and public health and sanitation. Horses or burros known to be infected with certain communicable or infectious diseases such as "swamp-fever" or "sleeping sickness" will be handled in accordance with applicable State laws.

D. Violations: Enforcement

In the event of alleged or known violations of the Act, the Agencies will contact the Board to validate the ownership status of the animal(s) involved according to the criteria set forth in this agreement.

The Board may assist in enforcement proceedings where wild free-roaming horses or burros are involved.

E. Property Damage

The Board may assist the Agencies in investigation of alleged property damage inflicted by wild free-roaming horses or burros.

The Board shall be involved where animal ownership is in question in alleged property damage claim.

III. Administrative Matters

A. Subject to Existing Laws

Horses and burros will be transported from and upon Agencies' administered Public Lands in accordance with rules and regulations of the

Board and Agencies.

B. Funding Obligations

Nothing in this agreement shall be construed as obligating either party hereto in the expenditure of funds. Any costs incurred by the Board for services rendered at the request of any Agency will be at a rate not to exceed the costs incurred by a private individual for similar services and shall be reimbursed by the Agency.

C. Restriction of Congressional Delegates or Resident Commissioner

No member or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this agreement, or to any benefit which may arise therefrom.

D. Discrimination

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.

E. Termination

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 any party upon thirty days' notice in writing to the others of its intention to terminate upon a date indicated.

Amendments to this agreement may be proposed by any party and shall become effective upon approval by all parties. This Cooper-

ative Agreement supersedes and replaces memorandum dated November 19, 1965
between the Forest Service and the Live Stock Sanitary Board.

Date: 8/22/73

Approved:
State of Arizona Live Stock Sanitary Board
by: James D. Caldwell
Chairman of the Board

Date: 8/22/73

State of Arizona Live Stock Sanitary Board
by: L. M. Burt
Executive Secretary

Date: 8/23/73

U. S. Department of the Interior
Bureau of Land Management, Arizona
by: J. F. Jalline
State Director

Date: 8/29/73

U. S. Department of Agriculture Forest Service
by: W. D. Hunt
Regional Forester

UNITED STATES DEPARTMENT OF AGRICULTURE
 FOREST SERVICE
 Sitgreaves National Forest

to: 2260 Wild Free-Roaming Horses and Burros

JAN 15 1974

SUBJECT: 1971 Horse and Burro Territory



to: Regional Forester, R-3

The information on wild horses grazing on the Sitgreaves is shown below:

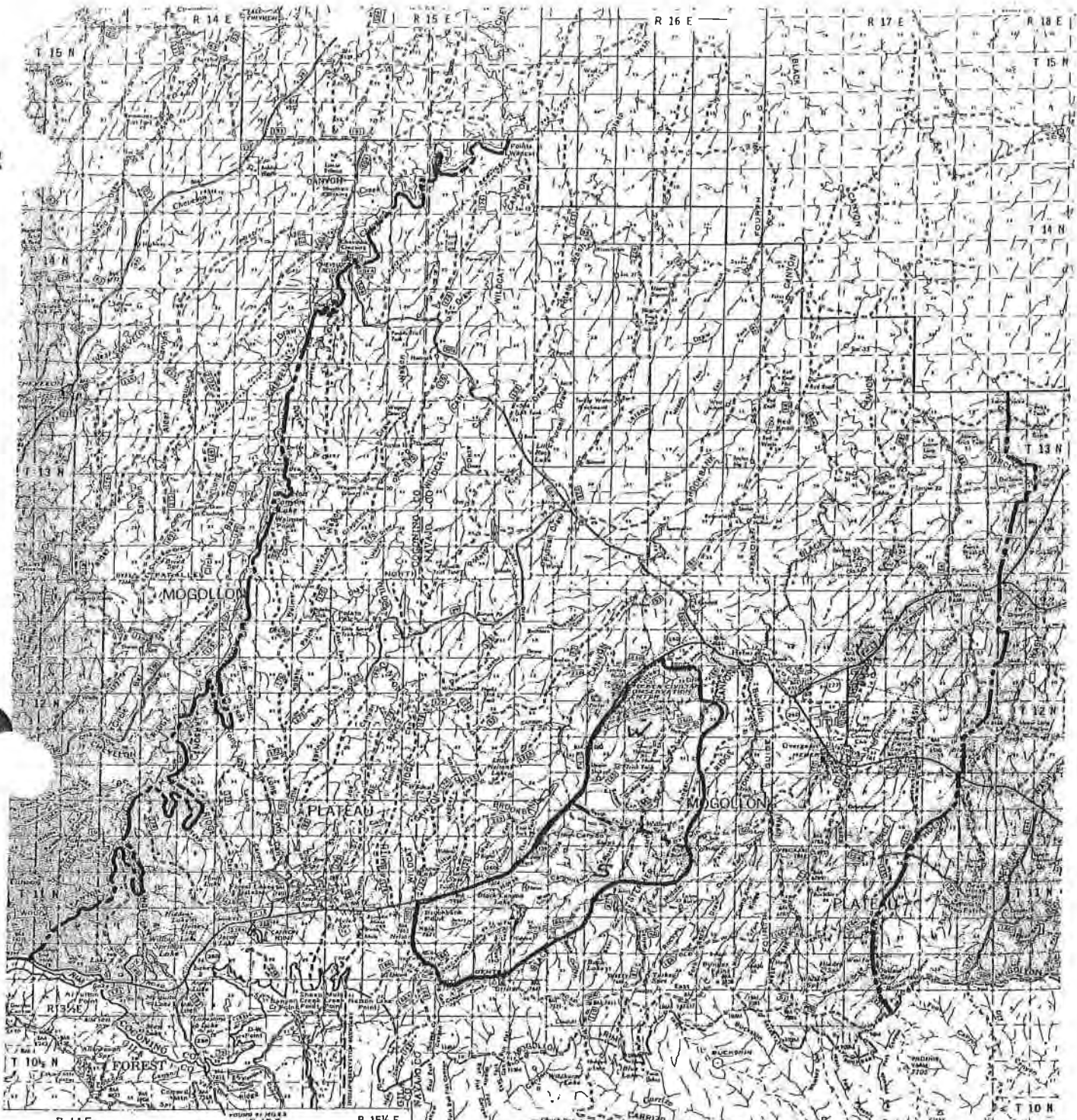
1. Territorial habitat limits - see attached map
2. Estimated number of horses, December 1971 - Seven (7)
3. Estimated number of horses currently occupying the territory - Seven (7)
4. Extent animals depend on other lands. There is a small amount of private land within their territory, however, it does not affect the dependency of the animals.
5. Influences causing numbers to fluctuate. There are no outside influences or problems causing the numbers to fluctuate. It does appear the stud may be sterile as no colts have been seen for several years, and there is no indication of unauthorized removal.

J. S. Tixier
 J. S. TIXIER
 Forest Supervisor

Enclosure

APACHE-SITGREAVES NFs HEBER RANGER DISTRICT	
JUN 23 1993	
ROUTE TO:	
District Ranger	
Range Staff	
Timber Staff	
H&I	
F.M.O.	
H.E.L.S.	
Wildl.	
Ext.	
A.S.D.	
Cons.	
File Clerk	

SITGREAVES NATIONAL FOREST		
JAN 16 1974		
HEBER RANGER DISTRICT		
ROUTE TO:	INFO: ACT	INIT
District Ranger		WJ
Range Staff	✓	WJ
Timber Staff		
Rd. Staff		
F.O.		
File Clerk		

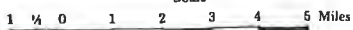


**HEBER RANGER DISTRICT
SITGREAVES NATIONAL FOREST**

ARIZONA

1972

Scale



LEGEND

- Ranger District Boundary
- National Forest Land

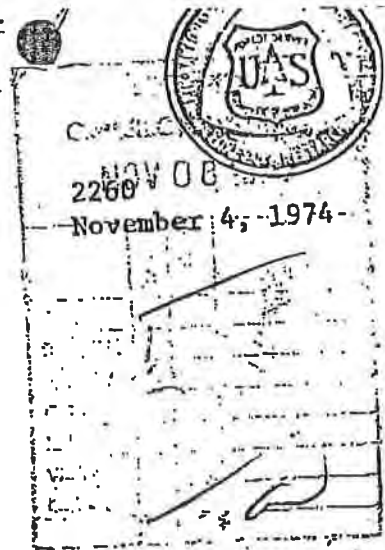


R. 14 E. R. 15 E. R. 15 1/2 E.

R. 16 E. R. 17 E. R. 18 E.



UNITED STATES DEPARTMENT OF AGRICULTURE
 FOREST SERVICE
 Region 3
 517 Gold Avenue S.W.
 Albuquerque, New Mexico 87102



Ms. Jeanne C. Raudenbush
 Research Librarian
 Denver Public Library
 1357 Broadway
 Denver, Colorado 80203

Dear Ms. Raudenbush:

Enclosed are copies of the Forests' reports of wild horses and burros as of December 1973 and maps of territories.

A summary of numbers by territories follows:

ARIZONA

<u>Forest</u>	<u>Territory</u>	<u>Numbers</u>
	Double A	10 Burros
Kaibab	Limestone	12 Burros
Prescott	Heber	7 Horses
* → Sitgreaves	Saguaro	14 Burros
Tonto		

RECEIVED

NOV 7 1974 NEW MEXICO

TO	ACR INFO
SUPV	Forest
DEP/RES	
TFR	Carson
RANGE/WL	
REC/INF/FIRE	
CHP	
WS/BOILS	
L/AC	
DEP/ENR	
PHYCIST	
RES-ENGR	
CONST.	
LANDS	
DEP/OPNS	Gila
ADM. SUP.	
OFF. SERV.	
B.F.	
RESOURCE	
PERSONNEL	
AV. ENF.	
RADIO TECH.	

<u>Territory</u>	<u>Numbers</u>
Jicarilla	70 Horses
Mesa Las Viejas	8 Horses
Mesa Montosa	8 Horses
El Rito	12 Horses
Deep Creek	8 Horses

2

Forest
Santa Fe

Territory

San Diego
Bandeleria
Caja del Rio
Chicoma

Numbers

25 Horses
5 Burros
30 Horses
5 Horses

Total for Southwestern Region:

173 Horses
41 Burros
Total 214

These numbers do not include the 1974 foal crop or death losses.

I hope this information will be of assistance to you.

Sincerely,

W. R. Fallis

W. R. FALLIS
Director
Range Management

Enclosures



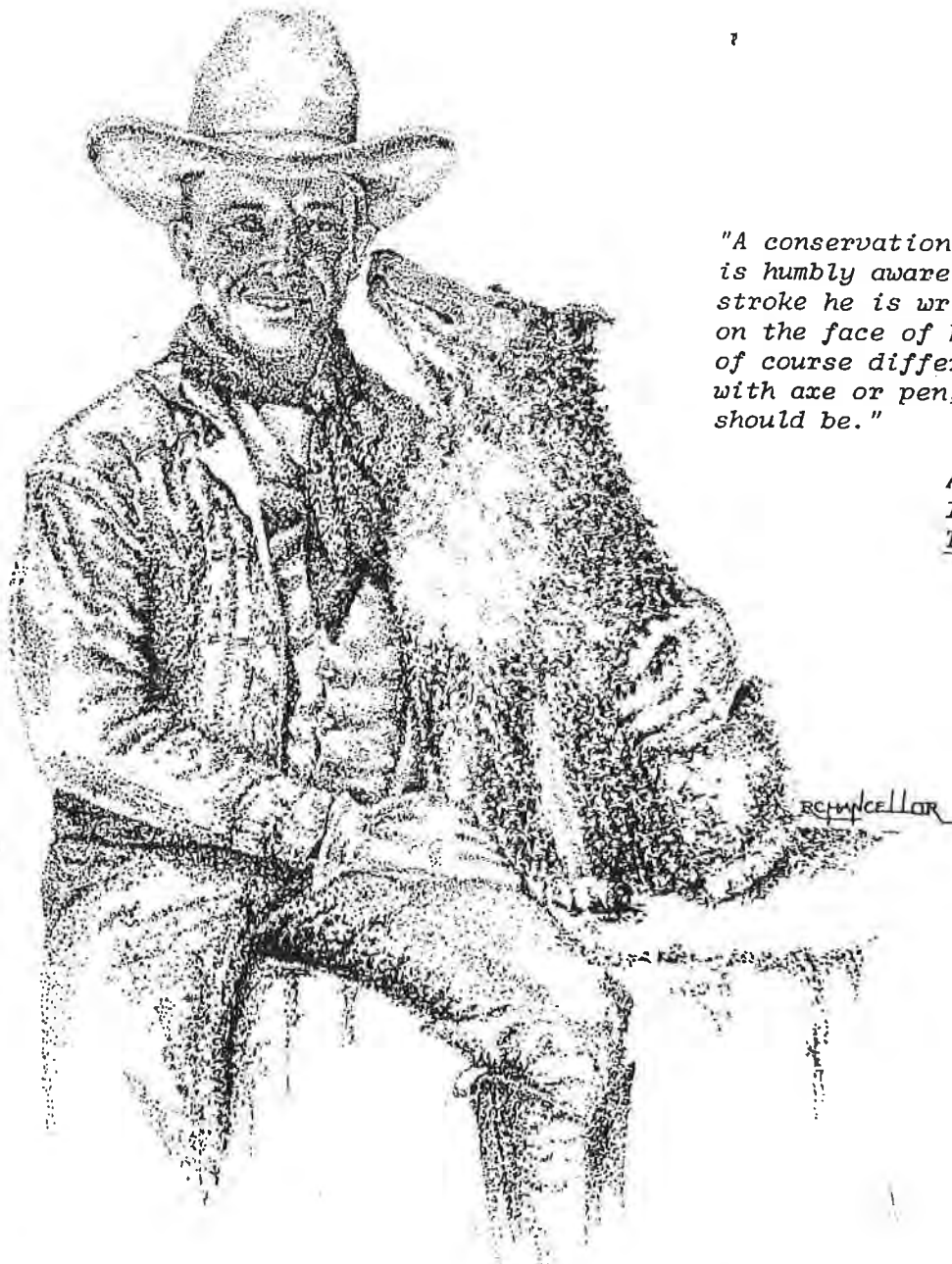
United States
Department of
Agriculture

Forest
Service

Southwestern
Region



Apache-Sitgreaves National Forests Plan



"A conservationist is one who is humbly aware that with each stroke he is writing his signature on the face of his land. Signatures of course differ, whether written with axe or pen, and that is as it should be."

*Aldo Leopold
1887-1948
The Sand County Almanac*

<u>Program Components</u>	<u>Activities</u>	<u>Applicable Analysis Areas</u>	<u>Standards and Guidelines</u>
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Recreation

A2	A02	ALL	Manage the following acreages in each Recreation Opportunity Spectrum (ROS) class:
----	-----	-----	------------------------------------------------------------------------------------

1,873 acres — Primitive
 14,757 acres — Semi-primitive Non-motorized
 120,749 acres — Semi-primitive Motorized
 100,455 acres — Roaded Natural
 5,292 acres — Rural
 0 acres — Urban

Manage for the following visual quality objectives:

0 acres — Preservation
 69,828 acres — Retention
 78,074 acres — Partial Retention
 89,625 acres — Modification
 5,601 acres — Maximum Modification

A2	A0B	ALL	Manage recreation use at less than standard service level.
----	-----	-----	------------------------------------------------------------

Wildlife Management

C9	C03, F02	022,102,282,364 392,404,422,432 447,454,482,472 492	Evaluate need, maintain and improve meadows by eliminating competing conifers, stabilizing gullies to restore water tables, and reseeding with species desirable to wildlife.
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Structural Wildlife Habitat Improvements

Evaluate need and construct fences where necessary to protect key meadows from grazing.

When springs are developed in meadow communities, riparian areas, or other sensitive areas, protect these areas by piping the water to water developments in adjacent, less sensitive areas.

Maintain existing antelope range.

Maintain existing wild horse territory and herd

RANGE MANAGEMENT PLAN
for the
BUCKSKIN, GENTRY AND HEBER-MUD TANK ALLOTMENTS
HEBER RANGER DISTRICT
APACHE-SITGREAVES NATIONAL FORESTS

PREPARED by

Bruce Mortensen
BRUCE MORTENSEN, RANGE STAFF

3/1/89
DATE

PERMITTED by

Steve Egel
STEVE EGELINE, DISTRICT RANGER

3/28/89
DATE

AGREED to by

Rancho Milagro - Stephen D. Bragg
RANCHO MILAGRO-STEWEN BRAGG
PERMITTEE

3/28/89
DATE

APPROVED by

Nick McDonough
NICK McDONOUGH, FOREST SUPERVISOR

6-1-89
DATE

John F. Schubert

09-10-01

Description

The Rancho Milagro cattle operation includes the Buckskin, Gentry and Heber-Mud Tank Allotments. These allotments range from the mixed conifer type on the South to the dense Pinyon-Juniper stands to the North. These allotments encompass 134,795 acres of National Forest Lands.

Past management on these allotments consisted of running 1047 head of cattle split into three herds for the summer season. One herd rotating on the Heber-Mud Tank Allotment, a second herd rotating on the Buckskin Allotment and a third grazing the Gentry. In 1987, due to deteriorating range conditions and a lack of forage, these numbers were reduced to a herd of 628 head 5/1 to 10/31 and 157 head of non-use until forage improvements can be made.

II. Problems and Conflicts

- A. The Forest Plan has identified the winter habitat of Pinyon-Juniper areas as limiting in suitability for forage across the forest. These allotments contain approximately 48,000 acres of winter habitat. Approximately 90% of these acres are not suitable forage acres for cattle or wildlife due to dense Pinyon-Juniper stands. These dense stands have forced heavy grazing pressure on the riparian bottoms that traverse the Pinyon-Juniper.

Structural range improvements are in need of heavy maintenance. Many of the fences are in excess of fifty years old and need major maintenance or reconstruction. Water developments at the Mud Tank and Bigler Trick Tanks need considerable maintenance on the aprons. Water lines from the Bigler Well are exposed in several areas and need recovering.

- C. Lack of water in most of the pastures hinder good cattle distribution. Further water development is needed on the allotments.
- D. Trespass horses from off-forest remain as annual problem on Gentry and Buckskin Allotments. Eight horse traps have been constructed to date and trapping of these horses started this year. More emphasis needs to be put on having adjacent landowners maintain the Forest boundary fence every spring.
- E. Deteriorating conditions in riparian areas is another problem addressed in the forest plan. There are approximately 45 miles of riparian drainage on the allotments that are in poor condition. The riparian in the pine type is now heavily invaded with small pine. Riparian in the Pinyon-Juniper is overgrazed by cattle and wildlife due to invasion of Pinyon-Juniper and lack of forage in other areas.

II. Objectives of the Management Plan

- A. Implement a program in the Pinyon-Juniper that will create forage openings in the Ancient, Halter Cross, Oil Well, Red Knoll and Mud Tank pastures. This will increase winter habitat and greatly reduce grazing pressures on the riparian areas.
- B. Implement a rest-rotation grazing system that will reduce grazing pressures on key riparian areas.

Using KV collections and P&M funds, implement projects to restore riparian area in the pine type.

Develop more water in all pastures.

- C. Implement a program of allotment maintenance to restore all fences and water developments in a state of good repair.

IV. Management System

- A. It is planned to put all four allotments together as one allotment and rotate one herd through seven of the nine pastures. Two pastures will rest every year. This will give us more flexibility for rotations and reducing grazing pressures on key riparian areas. For the planned rotation see attached grazing form R3-2200-19.

V. Range Improvements

A. Non-Structural Improvements

- 1. Create 6000 acres of openings in the Pinyon-Juniper through commercial fuelwood sales, contract cutting and pushing.

B. Structural Improvements

- 1. Construction of earthen stock tanks in the following pastures:

PASTURE	# TANKS	PASTURE	# TANKS
Gentry	3	Ancient	2
Bunger	5	Mud Tank	3
Phoenix Park	8	Oil Well	3
Halter Cross	2	Red Knoll	3
Squaw	2		

- 2. Totally reconstruct apron at the Bigler Trick Tank.

VI. Maintenance of Improvements

1. Do heavy maintenance on four miles of the North boundary of the Mud Tank Pasture - 1989.
2. Do heavy maintenance on six miles of the West boundary of the Squaw Pasture - 1989.
3. Repair the apron on the Mud Tank Trick Tank - 1989.
4. Do heavy maintenance on five miles of the West boundary of the Mud Tank Pasture - 1990.
5. Do heavy maintenance on four miles of the East boundary of the Mud Tank Pasture - 1990.
6. Do heavy maintenance on six miles of the West boundary of the Bunger Pasture from the Apache Reservation boundary to the West Fork of Black Canyon - 1991.
7. Do heavy maintenance on four miles of the division fence between the Oil Well and the Red Knoll Pastures - 1991.
8. Do heavy maintenance on nine miles of the West boundary of the Ancient Pasture - 1992.
9. Do heavy maintenance on nine miles of the North boundary of the Gentry Pasture - 1993.
10. All wells and waterlines will be maintained annually. Exposed waterlines and unserviceable troughs will be maintained or replaced as soon as possible.

VII. Follow-Up Action

- A. Annual permittee instructions will be written each year to supplement this plan. Any deviation from this plan will be documented in the annual instructions.
- B. Annual inspections will be conducted on the allotment to ensure compliance with the management plan and modifications made when necessary.

WILD AND FREE ROAMING HORSES AND BURROS ON PUBLIC LANDS REPORT
 (Report FS-2200-E), FY 1991.

Part I. Territory Record. Submit the following information for each Wild Horse and Burro Territory.

Name: Heber Ranger District
 National Forest: Apache-Sitgreaves
 State: Arizona
 Size (in acres) by ownership:
 FS: 14,000 BLM: _____ Other: _____
 Total: _____

Territory Plan Status:
 Approved Plan (yes,no): No Fiscal Year Approved: _____
 Plan in conformance with Forest LRMP (yes,no): _____
 Joint FS/BLM territory (yes,no): No
 If yes, lead agency (FS, BLM): _____

Current Population: 1/

	Number of Animals			Animal Months Actual Use		
	FS	BLM	OTHER	FS	BLM	OTHER
Horse:	<u>5</u>	_____	_____	<u>60</u>	_____	_____
Burro:	_____	_____	_____	_____	_____	_____

Fiscal year of latest census upon which current population estimate is based: None

Territory Plan Population Level: 1/2/ None

	Number of Animals			Animal Months Actual Use		
	FS	BLM	OTHER	FS	BLM	OTHER
Horse:	_____	_____	_____	_____	_____	_____
Burro:	_____	_____	_____	_____	_____	_____

Excess animal removal: List total number of animals removed from this territory during FY 90 and 91. 3/
 Removals During FY 90: None
 Removals During FY 91: None

1/ Do not duplicate animals or animal months. If animals utilize both FS and BLM lands, prorate population and actual use. If no current census, the data should be based on the most recent census corrected for such factors as reproduction, mortality, or removals since the last census.

2/ Population level as established in Territory Plan and/or LRMP or, based on best estimate from existing information.

3/ Count mare or jenny with foal less than 6 months at side as one. Count weaned foals more than 6 months as one.

Part II. Excess Animal Removal. Submit the following information summarized by Region for FY 90 and FY 91. Count mare or jenny with foal less than 6 months at side as one. Count weaned foals, or foals more than 6 months, as one.

	<u>FY 90</u>		<u>FY 91</u>	
	<u>Horses</u>	<u>Burros</u>	<u>Horses</u>	<u>Burros</u>
1. Total number captured and removed from territories (total of items 1a, 1b, 1c, and 1d.				
a. Number Excess Destroyed				
(1) Old, sick, lame	0	0	0	0
(2) Unadoptable	0	0	0	0
b. Deaths after removal				
(1) Natural Causes	0	0	0	0
(2) Accidental	0	0	0	0
c. Animals transferred BLM. 1/				
d. Excess animals adopted through FS or BLM programs but remain responsibility of FS. 2/	0	0	0	0

1/ Include those excess animals where followup including adoption, monitoring, and title assignments is BLM responsibility.

2/ Include only those animals removed from National Forest System lands and processed by FS or BLM Adopt-a-Horse Program but remain responsibility of the FS.

Part III. Status of adoptees that remain Forest Service Responsibility.

	<u>Horses</u>	<u>Burros</u>
1. Number of adopted animals that remain responsibility of FS.	0	0
2. Number of titles granted this Fiscal Year.	0	0
3. Number of deaths after adoption this fiscal year.	0	0
4. Number of adopted animals eligible for granting title, but no title issued.	0	0

Part IV. Territory adjustments. Report only those territory changes that have been approved through the NEPA and/or the Forest Land Management Planning Process during FY 90 and FY 91.

1. Name of territories discontinued. None

2. Name of territories where boundaries were adjusted.

Part V. State Wild Horse and Burro Program Overview for Fiscal Years 1990 and 1991 (use additional space as needed): None

STATE: Arizona

PROGRAM HIGHLIGHTS: Report management actions, cooperation with groups, special events, awards, etc. Provide one or two anecdotes about noteworthy accomplishments. Of particular interest would be management actions having to do with or documenting relationships between WH&B management activities and movement towards ecological status and rangeland health objectives and/or coordination of WH&B management and planning for permitted domestic livestock.

None

PROGRAM ISSUES: Provide examples of major issues associated with WH&B management i.e. issues associated with drought, accidents, disease outbreaks, harassment/capture/killing of wild horses and burros, interagency disagreements, etc.

Approximately 5 feral horses wander along the Mogollon Rim back and forth from the White River Apache Reservations. The Indians do not manage the horses, neither does the Forest Service. Natural attrition will eliminate the horses eventually.

MAJOR PROGRAM CHALLENGES/NEEDS: From a field perspective, what are the major challenges/needs facing the Wild Horse and Burro Program within the Forest Service today? Provide information relative to this question as a scoping exercise preparatory to the WH&B Activity Review to be conducted in FY 92. Examples could include: monitoring needs, data information needs, FS/BLM relations, management strategies etc. Many of these undoubtedly will relate to funding levels; do not just indicate the need for increased funding, but rather the program needs/activities that additional funding could provide.

Elimination of incidental feral horses and burros from formal management consideration to reduce impacts on management resources, personnel and time. The A/S "herd" should not be recognized at all.

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2256 - COOPERATION ON ESTRAY LIVESTOCK

COOPERATIVE AGREEMENT,

BETWEEN

NEW MEXICO LIVESTOCK BOARD
STATE OF NEW MEXICO

FOREST SERVICE
U.S. DEPARTMENT OF AGRICULTURE

BUREAU OF LAND MANAGEMENT
U.S. DEPARTMENT OF THE INTERIOR

This Cooperative Agreement made pursuant to the Wild Free-Roaming Horse and Burro Act of December 15, 1971. (16 U.S.C. s1331-1339, 43 CFR Part 4700, 43 CFR Subpart 4150 (43 F.R. 29074), 36 CFR 222.8, 222.20-36, and 262.2) by and between the New Mexico Livestock Board, created pursuant to Laws 1967, Ch. 213, Secs. 1-8, 47-23 N.M. Stat. Ann. (1975 Suppl.), hereinafter called the Board, the United States Forest Service through the Regional Forester of Region 3, responsible for administration of National Forests and National Grasslands pursuant to the Act of June 12, 1960, (16 U.S.C. 528-531), hereinafter called the Forest Service, and the Bureau of Land Management through the State Director responsible for administration of public lands pursuant to Sec. 307 of the Act of October 21, 1976, 90 Stat. 2766, 43 U.S.C.A. sec. 1737 (1978 Suppl.), hereinafter called the Bureau;

WHEREAS, the Board has been created under the laws of the State of New Mexico to provide an adequate system of control and regulation for livestock ownership, transportation, and disease prevention; and

WHEREAS, it is the desire of the Forest Service and the Bureau to effectively manage the wild free-roaming horses and burros located on National Forest System lands and public lands, or that may wander from such lands as provided in the Act of December 15, 1971, cited above; and

WHEREAS, it is the mutual desire of the Board, the Forest Service, and the Bureau to work in harmony for the common purpose of solving problems of livestock disease prevention and estray and trespass animals in National Forests, National Grasslands, and public lands in the State of New Mexico.

NOW, THEREFORE, the Board, the Forest Service and the Bureau mutually agree:

A. Estray Animals - (This section applies to only those horses and burros which do not meet the definition of wild free-roaming horses and burros under Section B, item 1.)

1. That unbranded or unmarked and branded of unknown ownership and branded unredeemed of known ownership horses, mules, asses, cattle,

swine, sheep, or goats impounded by the Forest Service or the Bureau on National Forest, National Grasslands and public lands may be turned over to the Board for disposal. The Board will reimburse the Forest Service or the Bureau, whichever is appropriate, for impoundment cost up to the net sale price of the animal(s). Amounts realized from the sale in excess of Forest Service or Bureau costs will be retained by the Board for their refund to former owners as applicable.

2. All impoundments of estray and trespass livestock from public and National Forest System lands shall be accomplished by the Bureau and Forest Service on lands under their respective jurisdiction. However, their field officers will extend full cooperation to, and involvement of the local livestock inspector of the Board on each impoundment.

3. Government owned horses, mules, or asses transported by vehicle within the State will be done in accordance with rules and regulations of the Forest Service, and/or Bureau and the Board.

B. Wild Free-Roaming Horses and Burros - The Board will recognize the authority of the Forest Service and the Bureau to manage and protect wild free-roaming horses and burros on National Forest System lands and public lands or those that may wander from such lands. The Board, Forest Service, and Bureau specifically agree to the following procedures in the administration of regulations promulgated under this statutory authority:

1. "Wild free-roaming horses and burros" shall mean all unbranded and unclaimed horses and burros and their progeny that have used lands of the National Forest System or public lands on or after December 15, 1971, or do hereafter use these lands as all or part of their habitat. Unbranded claimed horses and burros, where the claim is found to be erroneous, are also considered as wild and free-roaming if they meet the criteria above. However, this definition shall not include any horse(s) or burro(s) introduced onto National Forest System lands or public lands on or after December 15, 1971, by accident, negligence, or willful disregard of private ownership.

2. The Forest Service and Bureau will recognize private ownership claims for unbranded horses and burros when fully supported by evidence in accord with State branding and estray laws and regulations of the Board.

a. A written claim submitted to the Bureau and/or the Forest Service.

b. A valid bill of sale as per 47-9-19, 47-9-19.1 N.M. Stat. Comp. (1953), which fully describes the claimed animal(s), or

c. An inspection certificate issued by the Board for some previous occasion which clearly identified the animal(s) as belonging to the claimant, or

d. A brand exemption certificate for some previous occasion as required by rules and regulation of the Board.

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3. The Forest Service and/or the Bureau and the Board will jointly evaluate ownership claims lacking the above supporting documents when said animals are on or have been known to come from National Forest System lands or public lands where wild free-roaming horses and burros are known or suspected to exist. Where evidence is lacking for valid claims, the animals will come under the jurisdiction of the Forest Service and/or the Bureau. Facts, such as, but not limited to the following, will be considered in determining ownership claim validity:

- a. Affidavit signed by claimant indicating a willingness to defend title and setting forth the following: Number of animals and date animals were released upon the open range.
- b. Evidence of payment of personal property tax upon the claimed animals.
- c. Evidence of grazing license or permit for such animals.
- d. Location of relevant private or leased lands.
- e. Broken to a rope.
- f. Broken to a saddle.
- g. Gelded.
- h. Mare of known private ownership with current progeny.
- i. Have other marks such as tattoos, tags or man-created blemishes, clearly visible.

4. Wild free-roaming horses and burros transported by the Forest Service or Bureau by driving or vehicle onto, within, or from National Forest System lands or public lands will be issued a no-fee transportation permit by the Board.

5. Hauling permits issued for adopted wild horses and burros to individuals will contain both the adoptee's name and the Forest Service or Bureau's name.

6. All wild horses and burros adopted under the Bureau's Adopt-a-Horse Program will be freeze-marked on the left side of the animal's neck. The freeze mark used is known as the Alpha Angle International marking system. The Board will notify the Bureau concerning any suspected wrongdoings of horses or burros with this identifying mark, in particular, and suspected violations of Sec. 8 of the Act of December 15, 1971, cited above.

Additional information on the Alpha Angle System is attached in Appendix I and is herein incorporated into this memorandum by reference.

C. Administrative - It is mutually agreed and understood by and between the said parties that:

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1. No member or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this agreement, or to any benefit which may arise therefrom.
2. 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.
3. This agreement may be revised as necessary, by mutual consent of all parties, by the issuance of a written amendment, signed and dated by all parties.
4. This agreement is effective on the date last entered below and supersedes and replaces similar memorandum dated August 7, 1973, between the Forest Service, Bureau, and the Board. This agreement will be reviewed every 2 years and can be terminated by any party upon 60 days written notice to the others.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the last date below.

NEW MEXICO LIVESTOCK BOARD

/s/ G. M. Jones
Director

1/5/79
Date

BUREAU OF LAND MANAGEMENT

/s/ Arthur W. Zimmerman
State Director

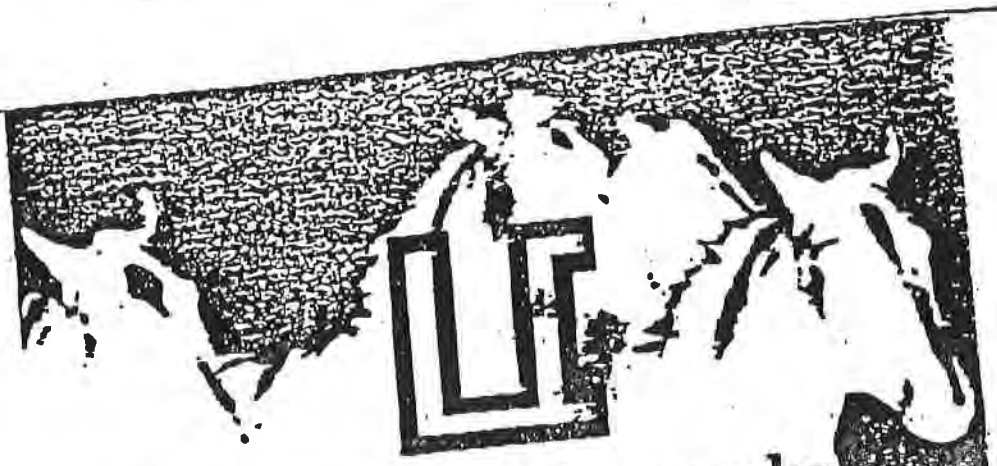
1/17/79
Date

FOREST SERVICE, SOUTHWESTERN REGION

/s/ M. J. Hassell
Regional Forester

1/5/79
Date

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watch for this symbol on horses and burros.

This symbol and a series of coded dashes and angles freeze-marked on the left side of the neck identify a wild free-roaming horse or burro adopted after April 1, 1978, through the Bureau of Land Management's Adopt-A-Horse Program.
Sample marking:



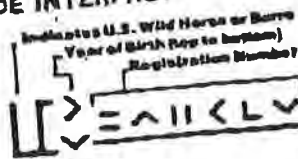
Any person who willfully processes or permits to be processed into commercial products the remains of a wild free-roaming horse or burro, or sells, directly or indirectly, one of these animals or its remains, is subject to a maximum penalty of a \$2,000 fine or 1 year imprisonment, or both.

Please report suspected violations. Supply animal's registration number, if possible. Call collect: (303) 334-2083

ALPHA ANGLE CODE INTERPRETATION



Read each angle to determine freeze mark number.



5 0 3 1 9 8 7

ADOPT-A-HORSE PROGRAM U.S. DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT
DENVER FEDERAL CENTER, BUILDING 30, DENVER, COLORADO 80225



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COOPERATIVE AGREEMENT BETWEEN THE ARIZONA LIVESTOCK SANITARY BOARD
THE BUREAU OF LAND MANAGEMENT, U. S. DEPARTMENT OF THE INTERIOR AND
THE FOREST SERVICE, DEPARTMENT OF AGRICULTURE

I. Purpose

This Cooperative Agreement between the Arizona Livestock Sanitary Board, hereinafter referred to as the Board, the Bureau of Land Management and/or the Forest Service, hereinafter referred to as Agencies, is for the purpose of identifying joint responsibilities of each agency toward the implementation and administration of the 1971 Wild Free-Roaming Horse and Burro Act, 16 U.S.C. sec. 1331-1340 (1971 Supp.), hereinafter referred to as the Act, and the regulations embodied in 43 CFR Part 4700 and 36 CFR 231.11, Wild and Free-Roaming Horse and Burro Management, hereinafter referred to as the regulations, within the State of Arizona.

II. Objective

The Agencies are charged by the Act and the regulations to manage, protect, and control wild free-roaming horses and burros on public administered lands under their jurisdiction, and private land under cooperative agreement. The Board is charged with the responsibility for validating and processing claims of ownership of branded and unbranded animals pursuant to the State branding and estray laws, and the proper disposal of animals pursuant to the livestock sanitation laws, within the State of Arizona.

THEREFORE, it is the mutual desire of the Board and Agencies to work in harmony for the common purpose of planning, implementing, and administering the applicable State and Federal laws to accomplish the directed management, protection, and control of wild free-roaming horses and burros on Public Lands within the State of Arizona, and

THEREFORE, it is the mutual desire of the Board and Agencies to work in harmony for the common purpose of solving problems of estray and trespass animals on Public Lands.

NOW, THEREFORE, The Board, and the Agencies mutually agree:

A. Wild Free-Roaming Horses and Burros

The Board recognizes the Agencies' jurisdiction over wild free-roaming horses and burros, as defined in the Act or are privately maintained as provided in the Act and the regulations.

1. "Wild free-roaming horses and burros" means all unbranded and unclaimed horses and burros and their progeny that have used or do use Public Lands as all or part of their habitat on or after December 15, 1971, including those animals given an identifying mark upon capture for live disposal by the authorized officer. Unbranded, claimed horses and burros where the claim is found to be erroneous, are also considered as wild and free-roaming if they meet the criteria above. However, this definition shall not include any horse(s) or burro(s) introduced onto

Public Lands on or after December 15, 1971, by accidental, negligent, or willful disregard of ownership.

2. Claiming of Animals - The Act and the regulations thereunder provide that persons may recover unbranded animals where they can show proof of ownership under the State estray laws.

THEREFORE, in order to properly conform to such provisions and to provide harmony between the Board and Agencies in recognizing those persons who have legitimate claim to such animals, it is mutually agreed that the following procedures will be followed.

a. Written claims will be submitted to the Agencies' authorized officer and forwarded to the Board.

(1) The claimant must submit with his claim a sworn affidavit asserting ownership to the claimed animals and indicating a willingness to defend title and setting forth the following:

(a) Number of animals claimed.

(b) Full description of each of the claimed animals including factors indicating tameness such as animal being gelded, broken to rope or saddle.

(c) Date and circumstances animals entering upon the Public Lands.

(d) Location of relevant private or leased lands where animals were kept prior to entry onto Public Lands.

(e) Any other information the claimant deems relevant.

(2) Other ownership evidence when available will be submitted with the claim. This may include:

(a) A valid inspection certificate issued by the Board for some previous occasion which fully describes the animal(s) and which clearly identifies the animal(s) as belonging to the claimant or

(b) Animal(s) bearing owner's Arizona Registered Brand.

(3) If the claimant is unable to satisfy (1) or (2) above, the Board and Agencies may consider other appropriate indicia of ownership which may include, but is not limited to: (a) whether the claimant has paid personal property tax upon the claimed animal(s); (b) whether the animal(s) is the known progeny of a mare or jenny owned by the claimant.

(4) Upon receipt of the claim, the BLM or the Forest Service will meet with the Board's representative and jointly review the information submitted by the claimant. Based upon this review, the claim will be rejected and the claimant notified, or approved and the authorized officer will issue written

authorization to the claimant setting forth the terms and conditions of the gathering of animals.

B. Estray Animals

(This section applies to only those horses and burros which do not meet the definition of Wild Free-Roaming Horses and Burros, Section A).

SECRET
262.10

1. That unbranded, unmarked or branded of unknown ownership horses, mules, asses, cattle, sheep or goats impounded by the Agencies on Public Lands will be turned over to the Board for disposal; that when these animals and those in Paragraph 3 below are disposed of in accord with State Law, the Board will first deduct its costs for holding and selling the animals from the proceeds, if any, of said disposal. Remaining funds will be used to reimburse the Agencies for their impoundment costs.

2. The Board will recognize the impoundment and sale procedure of branded horses, mules, asses, cattle, sheep or goats "of known ownership" under Secretary of Agriculture's Regulations 36 CFR 261.13 and the Bureau's authority under 43 CFR 9239.3, provided that bills of sale are notarized or acknowledged in accord with Arizona State Law. All livestock sold under this section must be inspected as per the Board's regulation and the owner issued the necessary certificate upon removal of animal(s) from Public Lands.

3. That impounded swine of unknown ownership will be turned over to the Board for disposal in a manner similar to the procedures described in Paragraph 1 above. Swine of known ownership will be disposed of by the Agencies under the provision of 36 CFR 361.13 or 43 CFR 9236.3 as shown in Paragraph 2 above.

C. Disposal of Animals

Pursuant to the Act and regulations, the Agencies may direct the disposal of animals. Prior to disposal, the Agencies will consult with the Board regarding disposal of animals except in acts of mercy requiring immediate actions. Disposal will be in accordance with State laws concerning humane treatment of animals and public health and sanitation. Horses or burros known to be infected with certain communicable or infectious diseases such as "swamp-fever" or "sleeping sickness" will be handled in accordance with applicable State laws.

D. Violations; Enforcement

In the event of alleged or known violations of the Act, the Agencies will contact the Board to validate the ownership status of the animal(s) involved according to the criteria set forth in this agreement.

The Board may assist in enforcement proceedings where wild free-roaming horses or burros are involved.

E. Property Damage

The Board may assist the Agencies in investigation of alleged property damage inflicted by wild free-roaming horses or burros. The Board shall be involved where animal ownership is in question in alleged property damage claim.

III. Administrative Matters

A. Subject to Existing Laws

Horses and burros will be transported from and upon Agencies' administered Public Lands in accordance with rules and regulations of the Board and Agencies.

B. Funding Obligations

Nothing in this agreement shall be construed as obligating either party hereto in the expenditure of funds. Any costs incurred by the Board for services rendered at the request of any Agency will be at a rate not to exceed the costs incurred by a private individual for similar services and shall be reimbursed by the Agency.

C. Restriction of Congressional Delegates or Resident Commissioner

No member or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this agreement, or to any benefit which may arise therefrom.

D. Discrimination

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.

E. Termination

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 any party upon 30 days notice in writing to the others of its intention to terminate upon a date indicated.

Amendments to this agreements may be proposed by any party and shall become effective upon approval by all parties. This Cooperative Agreement supersedes and replaces memorandum dated November 19, 1965, between the Forest Service and the Livestock Sanitary Board.

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EFFECTIVE 1/31/91

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Date: 8/22/73

Approved:
State of Arizona Livestock Sanitary
Board by: /s/ James D. Caldwell
Chairman of the Board

Date: 8/22/73

State of Arizona Livestock Sanitary
Board by: /s/ L. M. Butler
Executive Secretary

Date: 8/23/73

U.S. Department of the Interior
Bureau of Land Management, Arizona
by: /s/ Joe T. Fallini
State Director

Date: 8/29/73

U.S. Department of Agriculture
Forest Service
by: /s/ Wm. D. Hurst
Regional Forester

Exhibit 1

MEMORANDUM OF UNDERSTANDING

SHEEP SANITARY COMMISSION OF ARIZONA FOREST SERVICE
U.S. DEPARTMENT OF AGRICULTURE

This Memorandum of Understanding made, in triplicate, this 7th day of October 1966, by and between the Sheep Sanitary Commission of Arizona, hereinafter called the Commission, and the United States Forest Service, through the Regional Forester of Region 3, hereinafter called the Forest Service;

WHEREAS, the Commission has been created under the laws of the State of Arizona to provide an adequate system of control and regulation for livestock ownership, transportation, and disease prevention; and

WHEREAS, it is the mutual desire of the Commission and the Forest Service to work in harmony for the common purpose of solving problems of estray and trespass animals in National Forests in the State of Arizona.

NOW THEREFORE, the Commission and the Forest Service mutually agree:

1. Sheep or goats impounded on National Forest lands in Arizona by the Forest Service, in accord with Secretary of Agriculture's regulations, will be turned over to Arizona Livestock Sanitary Board for disposal if said animals are either (a) unbranded or of a general questionable ownership as listed in Arizona Statutes 24-291, or (b) if the owner is unknown or cannot be located as prescribed in Section 24-31; and As provided for in the Memorandum of Understanding made between the Forest Service and the Arizona Livestock Board on the 19th of November 1965, amended on the 26th of January 1966.

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EFFECTIVE 1/31/91

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2. That, sheep or goats of known ownership impounded by the Forest Service under authority of the Secretary of Agriculture's Regulation T-12 will be retained by the Forest Service and disposed of under the provision of said regulation.

Further, that the Commission will recognize, accept, and affirm Bills of Sale issued by Forest Officers for sheep and goats sold under these provisions by issuing an appropriate inspection certificate, and/or acknowledging the inspection certificate from a State Livestock Inspector issued in accord with the aforementioned Memorandum of Understanding between the Forest Service and the Arizona Livestock Sanitary Board. All this, provided that Bills of Sale are notarized, or acknowledged, in accord with Arizona State Law.

U.S. FOREST SERVICE

October 4, 1966
Date

/s/ Wm. D. Hurst
Regional Forester

SHEEP SANITARY COMMISSION OF ARIZONA

October 7, 1966
Date

/s/ M. L. Espil
Chairman

2256.03 - Policy. The occasional stray animal on the wrong side of the fence is not a situation which falls within the intended purpose of the regulations, provided the owner removes the animal when notified.

State livestock inspectors will not be asked to round up and remove livestock from National Forest System lands. Their assistance will be requested in inspection and determination of ownership of impounded livestock. They are to be kept fully apprised of all livestock impoundments and proposed impoundments.

A stray animal(s) which can be easily rounded up and held with minor cost can be released to the state livestock inspector for disposition.

Refer to FSH 5309.11, section 160 for livestock impoundment and disposal procedures.

On the Carson and Santa Fe National Forests, the duration between notification of intention to impound and actual impoundment should exceed the normal 5 days so that 2 weekends are included. In areas where unauthorized livestock is a reoccurring problem the 2 weekend courtesy need not be extended.

Violations of existing injunctions regarding unauthorized range use will be reported to the Attorney in Charge, Office of General Counsel, through the Regional Office Range Management Staff.
(FSM 1545.04).

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Reports will include a copy of the original judgment, injunction, or court order and a statement of facts showing where, when, and how the violation occurred. Send four copies.

Cases warranting action will be referred to the Office of the U.S. Attorney.

On Arizona Forests and Grasslands in Texas and Oklahoma, unauthorized animals of known ownership that are properly branded and marked, and animals whose ownership has been cleared by the local livestock inspector, shall be retained by the Forest Service for redemption or disposal under the provisions of 36 CFR 262.2. All bills of sale issued in connection with such sales must be notarized or acknowledged in accordance with state law.

In New Mexico all unclaimed and unredeemed impounded livestock will be turned over to the New Mexico Board in accordance with the Memorandum of Understanding.

The following procedure should be used in turning livestock over to any of the livestock boards:

1. At the time of inspection of the impounded animals, inform the local livestock inspector of intention to turn over the unbranded and/or unowned stock for disposal under the provisions of the appropriate memorandum of understanding.

2. District Rangers shall, if feasible, allow the livestock inspector to continue impoundment of these animals in Forest Service corrals until disposal is effected; or transport said animals to other places of confinement designated by the inspector. Cost of such action shall be added to the original costs of impoundment.

3. At the time impounded animals are turned over to the state; a Bill for Collection, FS-6500-89, will be prepared and mailed to the applicable address. Enclose one copy of the impoundment notice with the bill. A single Bill for Collection may be used for the total costs due, but individual costs due must be shown for each animal. This individual cost ordinarily will be a simple average of total costs divided by the number of animals. Show unweaned young with the mother as only one unit on the Bill for Collection, for example, one 3-year old cow (w/calf). Remuneration by the state will be on the basis of net proceeds from individual animals.

The Bill for Collection shall also have the following statement typed on it.

For (number) head of (kind of stock) turned over to (Inspector's name) on (date) for disposition.

The billed amount is to be paid if net proceeds from sale or redemption equal or exceed this figure. In the event of a lesser amount being realized, please remit that amount, so noting on the return copy of this document.

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4. The following are the locations of the concerned livestock boards:

New Mexico Livestock Board
7013 Central NE
Albuquerque, New Mexico 87108
Telephone No. 505-841-4000

Arizona Livestock Sanitary Board
Arizona State Building
1688 West Adams
Phoenix, Arizona 85007

5. Headquarters of Local Inspectors

Arizona Livestock Sanitary Board

Ajo	Hereford	San Simon
Alpine	Higley	Scottsdale
Amado	Holbrook	Seligman
Apache Junction	Kingman	Sells
Bagdad	Kirkland	Show Low
Bapchule	Littlefield	Snowflake
Benson	Mayer	St. John
Buckeye	Mesa	Superior
Camp Verde	Mesquite, Nevada	St. George, Utah
Casa Grande	Moccasin	Tempe
Chandler	Nogales	Tolleson
Chino Valley	Oracle	Tucson
Clifton	Page	Whiteriver
Coolidge	Patagonia	Wikieup
Cortaro	Payson	Willcox
Cottonwood	Phoenix	Williams
Douglas	Pima	Winslow
Duncan	Randolph	Young
Eagar	Roll	Yuma
Ehrenberg	Rimrock	
Elfrida	Safford	
Flagstaff	Salome	
Gila Bend	Sanders	
Glendale		
Globe		

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New Mexico Livestock Board Districts

1. Raton
2. Clayton
3. Tucumcari
4. Alamogordo or Carrizozo
5. Roswell
6. Farmington
7. Deming
8. Albuquerque, Cuba, Belen
9. Santa Fe
10. Las Cruces
11. Carlsbad
12. Lovington
13. Clovis (outlying)
14. Socorro
15. East Vaughn
16. Lordsburg
17. Silver City
18. Watrous, Las Vegas
19. Roy
20. Hobbs
21. Truth or Consequences
22. Datil
23. Prewitt (Grants)
24. Taos
25. Clovis (commercial facilities)

2257 - COOPERATION ON PESTICIDES. It is a common practice for permittees to spray their livestock during periods they are on National Forest ranges. When livestock are sprayed on National Forest lands or when Forest Service facilities such as corrals are used for spraying, the Forest Officer in charge must be sure that the materials used are registered for such use.

Under no circumstance will DDT or products containing DDT be used. The following materials are approved for spraying of cattle and horses, and around barns and corrals. Be sure to follow label instructions.

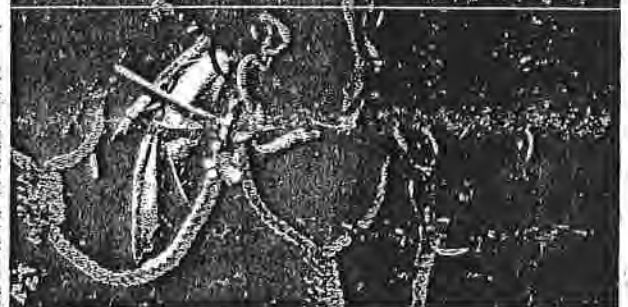
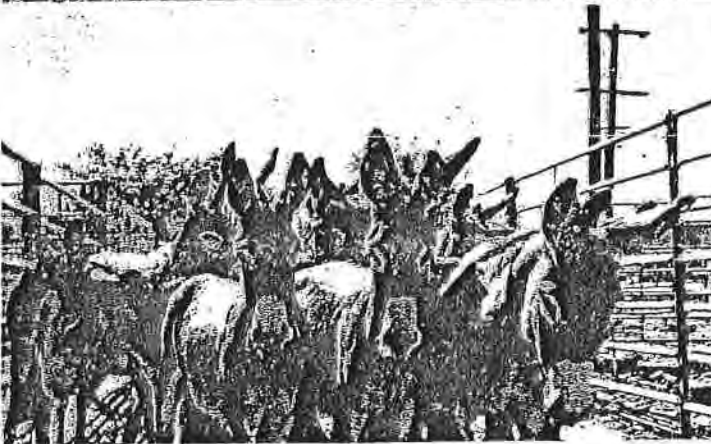
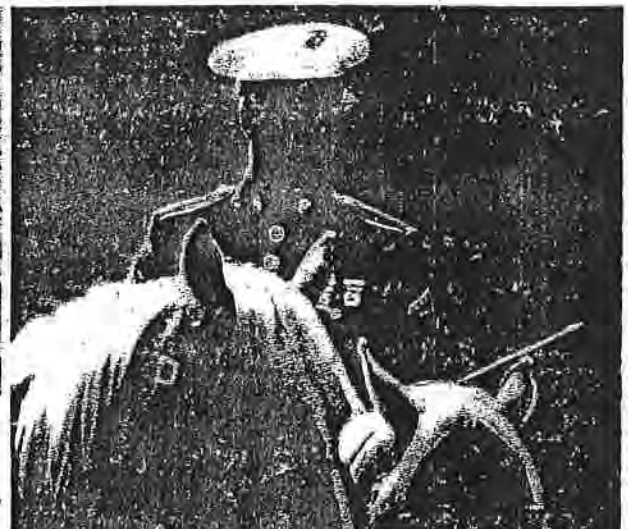
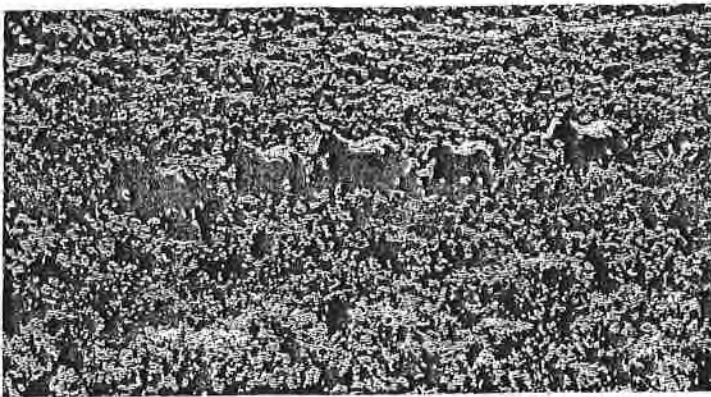
<u>Proprietary Name</u>	<u>Chemical Name</u>	<u>Beef Cattle</u>	<u>Horses</u>	<u>Barns, Corrals Stables</u>
Ciodrin	Dimethyl Phosphate of Methylbenzyl	X	X	X
Vapona	2, 2 Dichlorovinyl Dimethyl Phosphate	X	X	X
	Pyrethrins	X	X	X
Co Ral	Coumophos	X	X	
Delnav	Dioxanthion	X		

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Korlan	Ronnel	X	X
	Malathion	X	X
Dipterex) Dylox)) Neguvon))	Dimethyl Phosphonate	X	X
Ruelene	4 Tret-Butyl 2-Chlorophenyl Methyl Methylphosphoramidate	X	
Sevin	Carbaryl	X	
Baytex	Fenthion	X	X
Cygon	Dimethoate		X
Diazinon	O O Diethyl-O-(2 Isoproryl-6-Methyl- 4-Pyrimidinyl)		X
Dibrom	Naled		X

Ninth Report to Congress on the Administration of the Wild Free-Roaming Horse and Burro Act



**United States Department of the Interior
Bureau of Land Management**

**United States Department of Agriculture
Forest Service**

**Ninth Report to Congress
on the Administration of the
Wild Free-Roaming Horse
and Burro Act**

Executive Summary

The Wild Free-Roaming Horse and Burro Act of 1971, as amended, calls for the protection, management, and control of wild horses and burros on the public lands at population levels that assure a thriving natural ecological balance and multiple-use relationship on the range.

Fiscal Years (FY) 1990 and 1991 mark the turning point for the Wild Horse and Burro Program to address population increases in wild horse herds and the effectiveness of the Adopt-A-Horse or Burro Program to place excess animals in good homes. Recommendations were made by the Wild Horse and Burro Advisory Board, and internal reviews were conducted. These recommendations and findings resulted in major changes in all facets of the program. We began 1992 with the development of policies and procedures to ensure new and positive program thrusts.

In 1990 and 1991, the Secretary of Agriculture and the Secretary of the Interior, recommended policy initiatives for evaluating the program and for achieving the purposes of the Wild Free-Roaming Horse and Burro Act. These initiatives are now the foundation for resolving the natural resource management issues presently challenging the BLM.

To further facilitate the implementation of these new initiatives less emphasis was placed on some less essential portions of the adoption program and more effort was placed on herd and habitat management. As a result of this new emphasis, funding for herd and habitat management and for removal was increased by 20 percent and 19 percent respectively during FY 1990/91, and adoption costs were reduced by 26 percent from funding levels during the previous 2-year period.

During the 2-year period, a total of 12,054 wild horses and burros were removed from the public lands. In spite of the increased funding for removals in FY 1990 and 1991, the population of wild horses and burros on public lands administered by the BLM increased from 46,550 at the end of FY 1989 to nearly 50,700 at the end of FY 1991. Wild horse and burro populations declined to approximately 2,100 animals on areas administered by the Forest Service (FS). The wild horse and burro population on BLM and FS administered areas is about 21,400 animals above the level estimated to be appropriate.

Almost 10,200 wild horses and burros were adopted in FY 1990 and 1991. The remaining 1,800 animals were older unadoptable animals shipped to sanctuaries in South Dakota and Oklahoma, or were being trained in prison training facilities, or died of age, injury or disease. During the 2-year period the two sanctuaries provided care for between 3,000 and 3,700 wild horses and the prison program provided over 2,000 trained animals for the adoption program.

It is the objective of both the BLM and FS to place wild horses and burros with individuals who will provide proper care to the adopted animals. To assure that adopted animals are receiving humane care, we visited over 1,500 adopters and inspected their adopted animals in FY 1990 and 1991.

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External Oversight

In 1990 and 1991, the Bureau of Land Management's (BLM) wild horse and burro program was the object of oversight activities to identify areas where improvements were needed. Three outside groups examined the program: the General Accounting Office (GAO), the Wild Horse and Burro Advisory Board, and the Senate Appropriations Subcommittee on Interior.



The GAO reviewed the BLM's wild horse and burro program in 1988 and 1989, and issued a final report in August 1990. The GAO made recommendations to the Secretary of the Interior for changes in three major areas: removal decisions, fee waiver adoptions, and training/maintenance situations such as prisons and sanctuaries. The DOI responded to the appropriate congressional committees on October 24, 1990. The BLM responded positively to the GAO report and issued guidance to enact recommendations.

The Wild Horse and Burro Advisory Board was chartered in May 1990. In October, the Secretaries of Interior and Agriculture appointed nine individuals to two-year terms. The Board met for the first time in December 1990 in Reno, Nevada, and held two more meetings in Fiscal Year (FY) 1991, one in Las Vegas, Nevada, in February and one in Pueblo, Colorado, in May. The Board considered a broad array of issues and sent subcommittees to various sites to examine matters of interest, such as sanctuaries, prisons, and preparation centers. At the end of FY 1991, the Board was preparing for an October meeting in Denver and a meeting in Washington, D.C., in January 1992, where they planned to make recommendations to both Secretaries. (See Appendix A.)

On June 20, 1991, Senator Harry Reid chaired an oversight hearing of the Senate Appropriations Subcommittee on Interior, on the wild horse and burro program. In opening remarks the Senator mentioned growing wild horse populations, insufficient number of animals being adopted at BLM facilities, potential closure of the South Dakota sanctuary and prison training programs, and lack of credible data on numbers of horses, forage, and fertility control techniques.

Four panels testified at the hearing. The topics included Specific Program Management, Science, Conservation, and Policy. Panel members included BLM Director Jamison and others representing a wide range of expertise and views.

At the end of the hearing, Senator Reid stated that neither Congress nor the Administration had done its jobs in the wild horse and burro program. In closing, Senator Reid indicated his intention to direct FY 1992 funding toward fertility control research, population modeling, census and monitoring, and continuation of the South Dakota sanctuary.

Chapter 1

Internal Management Actions

In addition to oversight from external entities, the BLM took several internal management actions to improve program management. These actions included program guidance and review, as well as three new regulations.

In October 1989, the BLM issued guidance to the field to assure that removal decisions conformed to a June 1989 ruling by the Interior Board of Land Appeals (IBLA). The IBLA required the BLM to base its removal decisions on current data indicating that removals are necessary for "restoring the range to a thriving natural ecological balance and protecting the range from deterioration." The BLM guidance set forth the conclusions, findings, and interpretations of the IBLA decision and issued policy changes.

Early in 1990, BLM Director Jamison established a Wild Horse and Burro Steering Committee to focus on critical issues in the administration of the Wild Free-Roaming Horse and Burro Act. The Steering Committee consists of five BLM State Directors (Eastern States, Montana, Nevada, New Mexico, and Wyoming) whose States encompass a cross section of major program concerns. The Forest Service is also represented on the Steering Committee. Policy issues examined in FY's 1990 and 1991 included strategic plan development, sanctuaries, fertility control, coordination of removals and adoptions, and use of aircraft in wild horse and burro management.

In March 1991, the BLM issued a new policy of returning to the range all excess animals old than 9 years of age that are captured in future roundups. With the two sanctuaries near capacity, the BLM issued this policy to limit the number of unadoptable animals gathered from the range.

The BLM examined one specific aspect of the wild horse and burro program through an Alternative Management Control Review. The focus of the review was the wild horse and burro prison training program. The BLM evaluated prison training programs in the following States: Colorado, New Mexico, and Wyoming.

An evaluation team visited each BLM State Office, District Office, and prison facility in the above States between March 4-15, 1991. The evaluation included a review of the entire program operations including recordkeeping, facilities, nutrition, animal care, veterinary care training, safety, and adoption. A written report was filed with each of the BLM State Offices involved, and changes are being implemented.

Wild horse and burro program leaders met in Reno, Nevada, in May 1991, to maximize the opportunity for exchange of information and ideas among interested parties, including members of the Wild Horse and Burro Advisory Board. The meeting was scheduled immediately after a wild horse research symposium sponsored by the Nevada



Program Management

Commission for the Preservation of Wild Horses and Wild Horse Organized Assistance. The program leaders meeting was in turn followed by a meeting of the Steering Committee.

Among the recommendations of the Steering Committee in May 1991 were calls for two program meetings annually, one near the start of the year to coordinate removals and adoptions and one near midyear to make adjustments and prepare for the upcoming year. The first such meeting was held in Denver in September 1991.

Director Jamison appointed two wild horse and burro task forces in July 1991. The first task force was asked to identify and draft field guidance necessary to integrate fertility control and population modeling into the management of wild horses. The second was charged with development of a wild horse and burro strategic plan.

As a result of an Incident Investigation Board's report on an aircraft accident, the BLM Director formed a committee to establish standard operating policies and procedures in the use of aircraft to manage wild horses and burros and to also identify field training needs.

The BLM issued handbooks on adoption (December 1989) and prison training (September 1991). Handbooks provide detailed instructions on proper procedures to implement requirements imposed by law, regulation, and policy.

In addition to program guidance, the BLM adopted or proposed three new rules in FY's 1990 and 1991.

In response to a recommendation of the GAO, the BLM published a proposed rule in September 1990 limiting the use of power of attorney in the adoption program. The final rule prohibits the use of power of attorney to adopt wild horses or burros when the adoption would result in the maintenance of more than four untitled wild horses or burros in one place. The purpose of the rule is to prohibit an individual from gaining control of more than four wild horses or burros through the use of one or more powers of attorney. The rule significantly reduces the likelihood of adoption for commercial purposes.

In January 1991, the BLM published an interim final rule allowing decisions to repossess adopted animals to be placed in full force and effect. This rule increases the BLM's ability to act quickly to protect adopted wild horses and burros from inhumane treatment or improper care. The regulation is scheduled for publication as a final rule in 1992.

The BLM published a proposed rule in July 1991 allowing decisions to remove excess wild horses and burros from the range to be placed in full force and effect, while still maintaining the right of the public to appeal a decision after it has been implemented. The existing regulations have resulted in removal actions being delayed for up to two years pending a ruling from the Interior Board of Land Appeals. The purpose of this rulemaking is to allow the BLM to expeditiously capture and remove excess wild horses and burros, to prevent injury or death to the animals, to reduce damage to soil, vegetation, and water resources on the public lands, and to reduce the future cost of removing and placing wild horses and burros. The BLM expects to issue the final rule in the summer of 1992.

Chapter 2

The Wild Free-Roaming Horse and Burro Act requires the Secretary of the Interior and the Secretary of Agriculture to manage wild horse and burro herds at population levels that allow preservation and maintenance of "a thriving natural ecological balance and multiple-use relationship in that area."

The land use planning process determines whether areas identified as habitat for wild horses and burros in 1971, when the law was passed, are suitable for management of wild horses and burros. The BLM and the Forest Service make decisions concerning the preferred mix of multiple uses in a given planning area through the planning process, which has many opportunities for public participation. Once a herd management (HMA) or territory, in the case of the Forest Service, has been decided on, the Agencies consider wild horses and burros in the HMA or territory as one of the uses to be managed in the planning area.



In both the BLM and the Forest Service, the planning process plays a central part in determining what constitutes the correct population level needed for each herd area to establish or maintain a thriving natural ecological balance. This population number is known as the appropriate management level (AML).

In addition to the AML, management objectives for the herd and the habitat are generally included in the resource management plan. More specific management actions are developed subsequent in a herd management area plan (HMAP). In FY 1991, one HMAP was signed in Nevada, bringing the number completed to 91 Bureauwide.

Reports from BLM field offices at the end of FY 1991 listed 269 herd areas, with decisions made to manage wild horses and burros on 196 areas and not to manage on 72. One herd area in Arizona has no decision as yet. The Forest Service lists 36 territories of which 29 are managed for wild horses or burros. Of the remaining 7 Forest Service territories, land use plan decisions require all wild horses and burros to be removed from 3 and no decision has yet been reached on the other 4 territories.

Appendix B provides herd area data for the BLM, including population numbers, and Appendix gives similar information for the Forest Service. Figure 1 graphs Agency population estimates reflecting historical populations as well as herd size as of October 1, 1991. Population estimates by State are provided in Appendixes D and E.

The BLM conducts a census of each of the approximately 200 HMA's on a rotating basis, usually every three years. The BLM census techniques are based on research conducted by the University of Minnesota in the early 1980's under the auspices of the National Academy of Sciences (NAS). The year for the most recent census on each BLM herd area is shown in Appendix B.

Appropriate Management Level

The law requires both Secretaries to remove excess wild horses and burros once the determination has been made that an overpopulation exists on a given area. This determination must be based on current data.

Removals in FY 1990 and FY 1991 are shown below:

REMOVALS

	<i>FY 1990</i>		<i>FY 1991</i>
Horses	4,451	Horses	6,395
Burros	595	Burros	613
TOTAL	5,046	TOTAL	7,008

According to BLM policy, only wild horses younger than 10 years of age were to be removed from the range after March 1991.

The Wild Free-Roaming Horse and Burro Act directs the Secretaries to achieve AML's by removals, destruction* of excess animals, or other options, including sterilization. In FY 1985, Congress appropriated funds for wild horse and burro research. The BLM and the NAS Committee on Wild Horse and Burro Research decided on fertility control in wild horses as the major research need.

The University of Minnesota completed the 5-year wild horse and burro fertility control study and provided a final report to the BLM in November 1990. As part of a contract with the BLM, the Committee on Wild Horse and Burro Research, Board on Agriculture and National Research Council (NRC), published a review and interpretation of the Minnesota research, entitled *Wild Horse Populations: Field Studies in Genetics and Fertility* (National Academy Press, Washington, D.C., 1991). The NRC concluded that fertility control "research to date shows some promise for controlling the wild and free-roaming horse population, and at reduced cost and need for adoption."

The Wild Horse and Burro Advisory Board supported fertility control as a possible tool for improving on-the-ground management in an effective and humane way. The BLM planned to initiate a pilot fertility control effort in Nevada in FY 1992 on a few herd management areas.

**The BLM and the Forest Service voluntarily placed a moratorium on destruction of healthy wild horses and burros in 1982. Every year since FY 1988, Congress has included a prohibition on destruction of healthy animals in the annual Department of the Interior Appropriations Act.*

Chapter 3

During FY's 1990 and 1991, the BLM placed more than 10,000 wild horses and burros in private homes. The table below shows adoptions by year and by species.

ADOPTIONS

	FY 1990		FY 1991
Horses	3,587	Horses	5,307
Burros	627	Burros	660
TOTAL	4,214	TOTAL	5,967

Most adoptions took place at temporary adoption sites held throughout the United States. Forty-four adoption events were held in FY 1990 and 62 events were held in FY 1991 at temporary sites. The BLM Eastern States, led the way, holding 38 adoption events during the 2-year period.

Wild horses and burros also were offered for adoption at BLM preparation facilities in the West; a BLM adoption center in Lindsay, Oklahoma; three contract adoption centers in the East (Cross Plains, Tennessee; London, Ohio; and Lewisberry, Pennsylvania); and at prison training centers. Towards the end of FY 1991, the BLM instituted a new approach to contracting private sector help with adoptions. Instead of contracting for an adoption center, the Agency awarded a mobile adoption contract that calls for the contractors to carry out temporary adoption events only. For more detailed information about adoptions and other aspects of the wild horse and burros program, see Chapter 7, "From the Field," Eastern States.

The prison training program provides a service to the BLM and positive work experience to inmates in four States—California, Colorado, New Mexico, and Wyoming. From the various BLM preparation centers, the BLM transports horses between the ages of 5 and 9 to the prisons to be partially gentled before the animals are offered for adoption. In FY 1991, a reduction in the number of participating prisons in New Mexico changed from three to two and the other three States have one wild horse training facility each.

To improve the prison training program and respond to recommendations in the GAO audit report, the BLM developed a series of training videotapes in 1991, as well as a training handbook. These materials provide guidance and promote a consistent and humane approach throughout the prison training program. In FY 1990, the prisons gentled 1,045 animals; in FY 1991 the number was 937.

Placement of Excess Wild Horses and Burros

Beginning in FY 1988, older, hard-to-adopt excess wild horses were placed on sanctuaries where they could live out their lives on pastureland. The first sanctuary was established in South Dakota in August 1988. This facility was operated under a cooperative agreement among the private sector, the State of South Dakota, a community development organization, and the BLM. A second sanctuary, located in Oklahoma, was chosen through a competitive procurement process in September 1989. The Oklahoma sanctuary can hold up to 2,000 wild horses. The South Dakota sanctuary had the capacity to maintain about 2,000 wild horses at two separate units, one in the Black Hills and one in south-central South Dakota, near the Nebraska border.

The BLM agreed to fund each sanctuary for 3 years. During that time, the sanctuary operators were to raise funds to become financially self-sufficient. At the end of 3 years, Federal funding would cease.

The South Dakota sanctuary did not raise sufficient funds in the time allowed. In August 1991, when the 3-year period of Federal funding was ending, the BLM signed two agreements for continued maintenance of wild horses at the two units that comprised the South Dakota sanctuary. These agreements expire on September 30, 1992. The Oklahoma sanctuary agreement also expires in September 1992.

As FY 1991 came to a close, the BLM requested the help of wild horse and burro interest groups and humane organizations in finding adopters for many of the sanctuary horses in 1992. Other placement choices must be found for sanctuary horses that are unsuitable for adoption; some may be returned to herd areas on the public lands.

For the future, the BLM's March 1991 decision to remove only adoptable horses under the age of 10 will virtually eliminate the need for long-term holding facilities of any kind. Although this policy increases the cost of removing animals, an overall reduction in program costs should result.

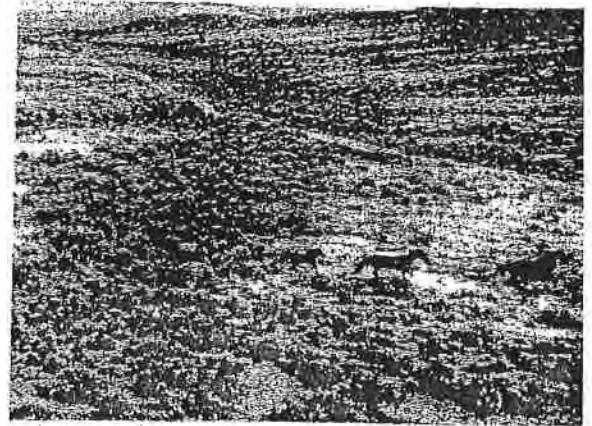
It is expected that some animals will die in the process of removal, preparation, and maintenance of excess wild horses and burros. Also, some animals die as a result of accidents or natural causes. Others must be humanely destroyed because they are old, sick, or lame. Euthanasia is performed using methods found acceptable by the American Veterinary Medical Association Panel on Euthanasia. The BLM State Offices reported a total of 429 deaths in FY 1990 and 533 in FY 1991.



Chapter 4

The BLM and the Forest Service are responsible for protecting wild free-roaming horses and burros on the range and adopted animals as well. The Wild Free-Roaming Horse and Burro Act provides for "a fine of not more than \$2,000, or imprisonment for not more than one year, or both" for violations of the Act.

In FY's 1990 and 1991, violations of the Act on the range included two separate incidents of wild horse shootings in Nevada. In the Granite Range Herd Management Area, 46 horses were killed, and in Red Rock National Conservation Area, 5 horses were shot. Both of these cases remained open at the end of FY 1991. Another open case involved the shooting of more than 50 burros in Arizona.



Most compliance work during the reporting period involved adopted wild horses and burros. In attempting to protect adopted wild horses and burros in FY's 1990 and 1991, the BLM conducted inspections of about 2,000 horses and 200 burros in the care of nearly 1,500 adopters. In some cases these inspections revealed problems that required either administrative or legal action. The BLM primary concern is to remedy any undesirable situation as quickly as possible and to assure the welfare of the adopted animals.

The BLM State Offices pursued 23 cases which, in the judgment of BLM officials, merited significant legal action in FY 1990 and 1991. The California BLM investigated four cases affecting nine animals. Two cases are pending: one in which an adopted animal died and one where five adopted animals were allegedly sold illegally. A third case was dismissed for lack of evidence to prosecute the charge of illegal transfer of an adopted animal. The BLM seized two adopted animals in another case, charging mistreatment of the animals. The adopter has appealed the repossession to the Interior Board of Land Appeals (IBLA), which had not ruled as of the end of FY 1991.

The BLM Eastern States (ES) charged 16 adopters with a variety of violations, including sale, attempted sale, or illegal transfer of adopted wild horses or burros; cruelty and inhumane treatment; shooting; and abandonment. The U.S. Attorney's Office declined to prosecute in 13 cases. One conviction was obtained on a Federal charge of inhumane treatment of horses. Another prosecution succeeded in a case where the U.S. Attorney deferred to the State, which obtained a conviction for animal cruelty. The 16 cases developed by the ES involved incidents in 10 separate States.

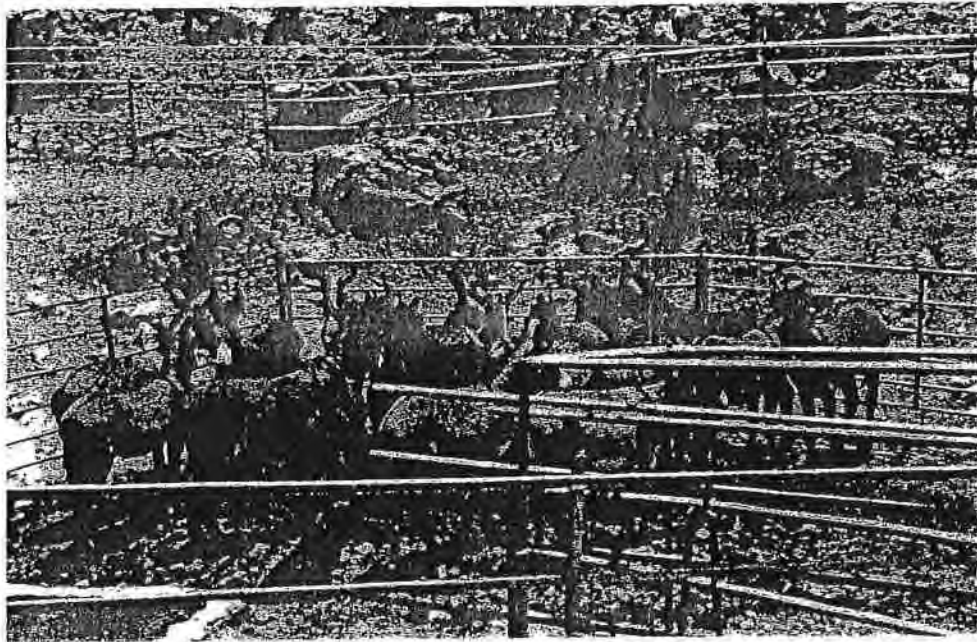
Montana had a single case of an adopter selling an untitled wild horse. The U.S. Attorney declined to prosecute.

The BLM New Mexico State Office had two cases involving a total of 19 animals. In the first incident, six individuals were charged with abusing 12 wild burros and 6 wild horses. The BLM repossessed the animals, and the adopters appealed the repossession to the IBLA. The matter was still pending at the end of FY 1991. Another case before the IBLA is the repossession of one adopted wild horse that, according to the BLM, was abused.

Compliance and Enforcement

Most inspections are the result of complaints from private citizens or humane groups. The BLM policy also requires regular inspections for untitled adopted animals maintained in groups of five or more at one location.

A significant step in increasing compliance activities was the BLM's signing of a Memorandum of Understanding (MOU) with the International Society for the Protection of Mustangs and Burros (ISPMB) in December 1989. This national level MOU will allow the ISPMB to expand compliance work ongoing for the past 4 years in cooperation with the BLM in Arizona. The ISPMB provides trained volunteers to make compliance visits and report any negative findings to the BLM for follow-up.



Chapter 5

Funds for BLM's management of wild horses and burros are provided through; (1) a direct annual appropriation, the Management of Lands and Resources (MLR) account, and (2) by an indefinite appropriation derived from adoption receipts through the Service Charges, Deposits, and Forfeiture account. Appropriations for BLM's Wild Horse and Burro Management subactivity in the MLR account and the corresponding FS appropriation levels for FY's 1990 and 1991 are shown below. Funding levels for the wild horse program since 1972 are provided in Appendix G.

Wild Horse and Burro Management

<i>Fiscal Year</i>	<i>Appropriated Amount</i>	
	<i>FS</i>	<i>BLM</i>
1990	\$183,000	\$13,598,000
1991	\$220,000	\$14,341,000

The Adopt-A-Horse (or Burro) funds in the BLM Service Charge account which are collected but not expended in one year may be carried over for use in following years. Receipts and obligations for FY's 1989, 1990, and 1991 are shown below. (FY 1989 figures are shown for comparison.)

Adopt A Horse

	<i>Fiscal Years</i>		
	<i>1989</i>	<i>1990</i> <i>(\$000's)</i>	<i>1991</i>
Receipts	\$ 557	\$ 446	\$ 555
Obligations	578	17	452

The average fee collected for each animal adopted was \$104 in FY 1990 and \$93 in FY 1991, compared with \$106 in FY 1987. The decrease in the average receipt in FY 1991 reflects the adoption of nearly 500 animals at reduced fees that were removed under emergency conditions from the Nevada, Nellis Air Force Base Wild Horse Range. The FY 1990 receipts reflect the adoption of virtually all wild horses and wild burros at the normal fee of \$125 and \$75 respectively.

The BLM obligations of funds for Wild Horse and Burro Management for FY's 1990 and 1991 are shown in the table below, with FY 1989 figures included for comparison. Expenditures for the 2-year period are also displayed in Figure 2. Because of some changes in the description of a few program components and initiation in a few offices of a pilot productivity project under which costs are not

Funding and Expenditures

charged to specific program components, the costs for FY 1990 and FY 1991 are not always comparable to the figures for FY 1989 and those published in the Seventh Report to Congress. (Where they existed, the pilot productivity projects promoted innovative solutions to resource management problems and involved less structured reporting on the use of appropriated funds in a number of BLM programs, not just the wild horse and burro program.)

Program Component	<i>Obligations by Fiscal Year</i> (<i>\$000's</i>)		
	1989	1990	1991
Program Management	\$2,832	\$2,645	\$3,050
Research	42	40	35
Management Plans	235	349	244
Project Development	143	93	209
Inventory	180	128	226
Monitoring	820	948	1,243
Long-Term Maintenance of Excess Animals	2,417	2,623	2,716
Removal of Excess Animals	1,123	1,402	1,826
Adoption of Excess Animals*	4,698	4,766	4,865
Compliance and Enforcement	388	352	316
Pilot Productivity Project **	1,407	6	0
Total Program Costs:	\$14,285	\$13,352	\$14,730

* Includes both Wild Horse and Burro Management and Adopt-A-Horse (or Burro) program costs.

** The Pilot Productivity Project was designed to promote greater efficiency in expenditure of program resources and did not require costs in some field offices to be placed in the categories outlined above. Because the program ended in FY 1990, no further costs will appear in this category.

The costs displayed above reflect some major changes in the program since FY 1989. As a result of the October 1989 IBLA decision requiring the BLM to base its removal decisions on current data, expenditures for monitoring increased by over \$400,000 since FY 1989. In addition, as more monitoring data was collected supporting the need to remove excess animals, annual expenditures for removing wild horses and burros increased by over \$700,000 during the 2 year period. While some program costs have changed significantly, overall wild horse and burro program expenditures have remained relatively stable since FY 1989.

Two suits were resolved during FY's 1990 and 1991. Both suits arose from fee waiver adoptions. In each case, the BLM refused to title repossessed adopted wild horses on the grounds that the adopters intended to sell the horses to slaughter after receiving title. The BLM's action was consistent with a 1987 ruling by the U.S. District Court for Nevada enjoining the BLM from adopting animals or transferring titles to adopters who expressed an intent to use the animals for commercial purposes upon receipt of title. The adopters sought money damages from the BLM in the U.S. Claims Court. Both cases were dismissed. (See Appendix I for more detailed summaries of litigation referred to in this chapter.)

Two other cases, which were resolved prior to FY 1990 but were not included in previous reports, are listed in Appendix I.

Pending litigation includes a water rights case originally filed in 1986 and now before the Ninth Circuit Court of Appeals. There are also two additional suits involving repossession of wild horses adopted under fee waivers.



Bureau of Land Management

Arizona



HIGHLIGHTS

- * In recognition of the 20th anniversary of the Wild Free-Roaming Horse and Burro Act, Arizona showed BLM pack burros, Mineshaft Mike and Honest John at the Mohave and Graham County fairs and parades. The burros were also taken to Helldorado Days in Tombstone, Arizona, the Dixie Roundup (rodeo and parade) in St. George Utah, and Adopt-a-Shoreline/Public Lands Appreciation Day near Lake Havasu, Arizona. Both wild horses and pack burros were on display during the dedication of the Eagletails Wilderness Area in April 1991.
- * The Arizona, BLM formed a tri-agency task group composed of the BLM Phoenix District, Arizona Game and Fish, and the National Park Service to respond to management responsibilities in the Black Mountains as a biological unit rather than agency responsibilities within jurisdictional boundaries.

CHALLENGES

- * To resolve of management responsibility for wild burros that cross back and forth over BLM and National Park Service boundaries in the Lake Mead area.
- * To determine the existence and extent of conflicts between wild burros and desert tortoise.

California

HIGHLIGHTS

- * Excellent cooperative efforts continue with the Modoc and Klamath National Forests and the China Lake Naval Weapon Center.
- * Four burros, including Bumper, who was returned to the BLM when Disneyland closed the Big Thunder Ranch in 1990, have been trained as a team to pull a surrey in parades and other promotional events.
- * An adoption and a horse show featuring all formerly wild horses and burros were held in Lancaster to commemorate the 20th anniversary of the Wild Free-Roaming Horse and Burro Act. The event, a cooperative effort with the Southern California Chapter of the American Mustang and Burro Association, was a great success.

Chapter 7

- * The September 1991 issue of BLM California's newsletter Newsbeat, was dedicated to the 20th anniversary, featuring 12 pages of text and pictures. Newsbeat is published monthly and is mailed to approximately 10,000 people and organizations.
- * A special 20th anniversary banner was displayed at satellite adoptions, fairs, and parades throughout the State.
- * The horse training program at the Susanville, California, Correctional Center remains successful, with horses being gentled for use by the Forest Service and the BLM, as well as for enhanced adoptability.
- * Volunteers continue to play an important role in the adoption program, putting in many hours at temporary adoptions, telling their success stories, and winning awards at equestrian events throughout the West.

CHALLENGES

- * To continue efforts with interest groups to hold adoptions at private facilities throughout the State to cut the length of time that animals are held in BLM corral facilities.
- * To develop new promotional materials and videos, to enhance publicity on availability of animals at satellites, to get enough media coverage to increase adoption numbers to approximately 100 animals per event.

Colorado

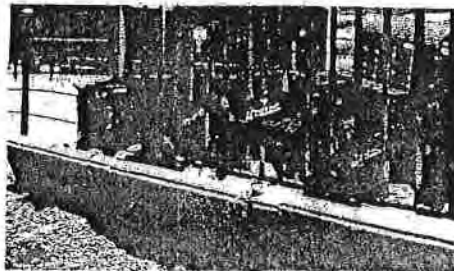
HIGHLIGHTS

- * One meeting each year of Colorado's Wild Horse and Burro (WH&B) interest groups. Hosted national WH&B Advisory Board in Pueblo in May 1991.
- * WH&B booth at National Western Livestock Show with a drawing for four horses (1990) and three horses, one burro (1991).
- * Third and Fourth Annual Wild Horse Gymkhana - Phantom Riders Club.
- * Westfest (Copper Mountain, Colorado) - resistance-free training by Richard Shrake.
- * Friends of the Mustangs, Grand Junction, Colorado, volunteer group:
 - a. Celebrated 20th anniversary of the WH&B Act by riding in two parades and staffing a booth in two fairs.
 - b. Repaired five miles of trail, maintained nine springs, reseeded 90 acres.
 - c. Hosted Parker Elizabeth Riding Club for a 2-day tour of Little Bookcliffs HMA.



CHALLENGES

- * To conduct a quality program while severely underfunded.
- * To increase volunteerism.
- * To maintain the Wild Horse Inmate program at Canon City.



Eastern States

HIGHLIGHTS

Special Events

- * America's living legends found the lush blue-green pastures of Kentucky quite a contrast to the dry semi-arid desert of Nevada—and they liked it. Through the cooperative efforts of BLM's Eastern States, the Kentucky Horse Park, and Breyer Animal Creations, Inc., producers of collectible model animals, wild horses and burros have indeed achieved a place of distinction among the most prominent horse breeds in the country.
- * The Kentucky Horse Park in Lexington included an adopted mustang in its Parade of Breeds attraction in 1991. Recognition of the mustang's historic significance at one of the country's foremost equestrian facilities did much to elevate the esteem afforded the American mustang, and to increase the public's awareness of the Adopt-A-Horse-and-Burro Program.
- * Scores of adopters from as far as New York and Wisconsin brought their adopted animals to Kentucky in 1990 and 1991. A competitive horse and burro show held in July 1990 featured the versatility and trainability of adopted animals with events such as pleasure riding, trail, flag racing, and costume classes. In August 1991, adopters demonstrated the intelligence of their animals through group and individual presentations and skits.
- * Mustangs and burros fresh from the West stole the show in Lexington. During the 1990 event, 120 horses and burros were placed in foster homes during a 2-day adoption operation. Two of the burros remained at the Horse Park to feast on its thick sweet grasses. Although burros were not available for adoption for the 1991 Wild Horse and Burro Expo, 89 horses were adopted during the temporary operation.

Chapter 7

Contract Adoption Centers

- * The Southeast contract adoption center closed in 1990 when the contract expired. A new contract was awarded in mid-1991 to Randall and Paula Carr of Cross Plains, Tennessee, who had conducted adoption operations in previous years. Their facility, expanded to hold 170 animals, reopened in 1991.
- * To meet the demands of the entire northern region, which had been served by the London, Ohio, and Lewisberry, Pennsylvania, permanent centers, until their contracts expired in early 1991, officials devised a plan to utilize a mobile crew and portable pens.

The adoption crew meets the horses at a designated location, such as a State or county fair grounds, and with assistance from Eastern States personnel about 150 wild horses are placed into foster homes. The portable pens give Eastern States the freedom to locate adoption sites in fairgrounds and arenas, making it more convenient for prospective adopters to obtain a wild horse.

The 3-year contract for the mobile wild horse and burro adoption operation was awarded in 1991 to James and Laura Rowell of Elba, Alabama. Some of the temporary adoption sites scheduled for 1992 include Des Moines, Iowa; Canton, Mississippi; Carrollton, Georgia; and Nashville, Arkansas.

District Accomplishments. Eastern States' District Offices in Jackson, Mississippi, and Milwaukee, Wisconsin, conducted unprecedented adoption events in 1991, finding homes for nearly 2,400 animals through 20 temporary adoption events.

Volunteers:

- * Members of the American Mustang and Burro Association helped BLM find foster homes for 100 percent of the animals brought to the Jackson District's North Carolina, Arkansas, Georgia, and South Carolina adoption events.
- * Jackson's volunteers assisted with program promotion at the Southern Horse Fair in North Carolina and the Southern Horse Celebration at Clemson University in South Carolina.
- * In the Milwaukee District, the Missouri Humane Society has for the past several years provided both volunteer workers and a location for an adoption event in Union, Missouri, for the past several years.
- * Milwaukee's volunteers also promoted the Adopt-A-Horse program and exhibited their animals at the American Royale Horse Fair in Kansas City and at the Minnesota Horse Expo in St. Paul. Combined attendance at these events was more than half a million people.

- * East Coast volunteers have gone the extra mile to provide educational materials about the Adopt-A-Horse-or-Burro Program to local schools, county fairs, and youth organizations.

Outreach

- * Expanding their efforts to increase the awareness of the Agency in areas where the BLM has little presence, ES participated in the annual conference of the Outdoor Writers Association of America and hosted a field trip for writers to a temporary adoption event in Lockport, New York. Writers were given an up-close and personal glimpse of the adoption program. They enjoyed photographing and interviewing prospective adopters as they carefully selected their horses and past adopters as they proudly exhibited their tamed steeds.
- * More than a million people visited the "Big E," New England's annual State Fair held in West Springfield, Massachusetts, where ES promoted the adoption program by showing films, distributing brochures, and just talking "horse sense."
- * Outreach booths staffed by both employees and volunteers were set up at the Arkansas Horse Council, the Mississippi State Fair, and the Alabama State Fair.
- * A newsletter featuring articles about the Adopt-A-Horse-or-Burro community has been distributed quarterly to about 10,000 adopters and equine interest groups.

Rangers

- * ES welcomed two law enforcement rangers to the District Office Staffs. The rangers will investigate reports of inhumane treatment of untitled adopted animals, conduct random compliance checks, and provide a uniformed presence at temporary adoption events.

CHALLENGES

- * To explore new methods to reach the public, adopters, owners and managers of livestock facilities and to inform them about the Wild Free-Roaming Horse and Burro Act in an effort to prevent harassment, exploitation, and destruction of these animals.
- * To encourage and increase cooperation and participation of volunteers. To provide training for volunteers working with the Adopt-A-Horse-and-Burro Program.



Chapter 7

Idaho

HIGHLIGHTS

- * The Idaho BLM conducted a successful gathering in both the Salmon and Boise Districts.
- * The Salmon District kept two wild horses, a gelding and a mare. The horses are being trained by volunteers from the community and were ridden in the Fourth of July parade. Local school children helped name the horses, Centennial Beauty and Centennial Spirit.
- * Naomi Tyler, the 1990 National Middleweight Endurance Champion, continues to promote the adoption program. Tyler and her adopted horse, Mustang Lady, appeared at schools, several horse shows, county fairs, and other events on behalf of BLM. In 1991, she finished fourth in the Tevis Cup Race, improving her 1990 time by 1 hour. She won the 180-mile Race of Champions solo event division in July.
- * The Idaho adoption program and Tyler received national publicity from The West television program, National Public Radio, Public Broadcasting Service, Associated Press, Equus, Western Horseman, and other media outlets.
- * The Idaho BLM has worked closely with wild horse interest groups in the area to resolve concerns about gathering and adoption procedures.

CHALLENGES

- * To determine the amount and types of monitoring data needed for deciding when roundups are necessary.
- * To respond positively to increased scrutiny of the wild horse and burro program in Idaho.

Montana

HIGHLIGHTS

- * The Pryor Mountain Wild Horse Association and the BLM held "Mustang Days" in late June 1991. The 20th anniversary of the Wild Horse and Burro Act was commemorated, and the Association adopted a horse and placed it with a qualified person via a drawing.

CHALLENGES

- * To find a viable solution to the disposition of the horses on the South Dakota sanctuary.

Nevada

HIGHLIGHTS

- * On May 3, 1991, Nevada dedicated the Marietta Wild Burro Range, the Nation's first Wild Burro Range, is home to approximately 85 burros and includes nearly 66,500 acres of public land and about 1,500 acres of private lands. The range is managed principally for burros under a formal designation made by the Director of the BLM.
- * The manager of Nevada's Palomino Valley Center conducted two seminars on the training of wild horses. During the September, 1991 training session, over 270 people attended a lecture and demonstrations on getting acquainted with and gentling wild horses using resistance-free methods.
- * Nevada celebrated the 20th anniversary of the Wild Free Roaming Horse and Burro Act by participating in the Great Reno Balloon Race on September 5-8, 1991. Nevada BLM cooperated with the Commission for the Preservation of Wild Horses and Wild Horse Organized Assistance (WHOA!) in providing a balloon draped with a banner promoting the 20th anniversary of America's Living Legends. Dignitaries on hand to participate in the celebration included Sen. Richard Bryan, Gov. Bob Miller, Major Juan Figueroa of the United States Marine Corps Mounted Color Guard, and Michael Blake, author of *Dances With Wolves*.
- * The Nevada BLM presented the Marine Corps Mounted Color Guard with three all-black wild horses removed from Nevada's rangeland. In the past, the Marine Color Guard rode palomino horses, however, the black horses will be trained and used for parades and special events.
- * The third annual tri-state wild horse and burro adoption and title presentation ceremony was held in Las Vegas. The adoption is a cooperative effort among Arizona, California, and Nevada BLM, and numerous wild horse protection groups and corporate sponsors.
- * Palomino Valley Center hosted an adoption event in which over 400 animals were adopted in one weekend. The adoption was in response to the Nellis Air Force Range emergency removal required due to the severe drought in 1991.

CHALLENGES

- * To implement a long-range strategy to integrate fertility control as part of wild horse management.
- * To implement an all-inclusive public affairs program to assist in the increased adoption of excess wild horses and to build public support and understanding of the program. Public education on all aspects of wild horse and burro management should include ways, aside from adopting, for the public to become involved with the program.

Chapter 7

- * To develop cooperative agreements with affected interest groups to assist with the adoption of wild horses and burros.

New Mexico

HIGHLIGHTS

- * New Mexico's second wild horse and burro show was held September 17, 1991, at the New Mexico State Fair. The theme for the show was the 20th anniversary of the Act. This year's show was sponsored by the BLM and the ISPMB. Twenty-one adopters showed their horses, and one wild burro appeared in the burro halter class.

CHALLENGES

- * To start Mustang shows at the Oklahoma and Texas State Fairs.
- * To increase adoption numbers and hold down adoption cost per head.

Oregon/Washington

HIGHLIGHTS

- * Because of the considerable demand for Kiger mustangs, lottery adoptions began in 1990 at the Burns District Wild Horse Corrals. The event was well attended.
- * The Oregon State Office and Prineville, Burns, and Vale Districts were assisted by the American Mustang and Burro Association and Breyer Company in the celebration of the 20th anniversary of the Wild Horse and Burro Act. The celebration and wild horse adoption were held in Redmond, Oregon.
- * The Third Infantry Division, U.S. Army, of Fort Myers, Virginia, came to Burns, Oregon and adopted Casperina, an albino filly, which will be used in the National White Horse Ceremonial Unit.
- * Burns District BLM participated in the Kiger Mesteno Association's first Kiger Mustang Show held at the Harney County Fairgrounds in eastern Oregon.
- * The Vale District initiated the adoption of seven wild horses by the Eagle Cap Ranger District, Wallowa-Whitman National Forest. Burns assisted the Forest Service in selecting the horses and arranged for BLM's Susanville District to have them trained at the Susanville, California, State Prison. Employees from the Eagle Cap Ranger District were pleased with the trained animals.

From the Field

- * The Burns District arranged the adoption of 13 horses to three Ranger Districts that are part of the Bridger-Teton National Forest. The animals are now being trained at the Wyoming State Prison in Riverton, Wyoming.
- * In June 1991, Steve Amen and Todd Sonflieth of Oregon Field Guide, Oregon Public Broadcasting, visited the Kiger HMA where they obtained video footage of the Kiger mustangs for a television program that aired in November 1991 and was well received by the public.
- * Positive articles on the Kiger Mustangs appeared in three major West Coast equine magazines.
- * Mr. Bobby Ingersoll, 3 time National Reined Cow Horse Champion, demonstrated Kiger Cougar's reining and cow horse abilities at the National Finals Reined Cow Horse Futurity in September 1991. Cougar was a real crowd pleaser.

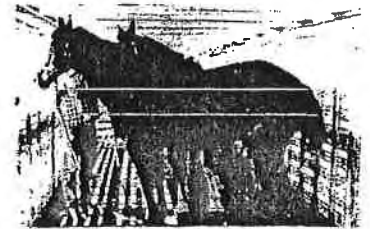
CHALLENGES

- * To increase wild horse adoptions by increasing public affairs outreach programs.
- * To place greater emphasis on wild horse herd management techniques.
- * To assist in developing a more positive image for the national wild horse and burro program.

Utah

HIGHLIGHTS

- * In the Salt Lake District, two horse rides for the public to view wild horses were held in the Cedar Mountain HMA, located about 60 miles west of Salt Lake City. Both rides were very successful, and interest has been expressed that they continue next year.
- * The Cedar City District presented a certificate of appreciation to the National Mustang Association for their cooperation in habitat improvement projects within the Sulphur HMA. They contributed both dollars and labor to develop two springs and help complete one vegetation manipulation project. The group also helped install a sign at the Mountain Home seeding, which was a cooperative reseeding in the Sulphur HMA to benefit both wild horses and wildlife. The Utah Division of Wildlife Resources was also a contributor to the seeding project.
- * In the Salt Lake District, a private corporation donated \$2,000 to help redevelop a critical wild horse watering area in the Cedar Mountain HMA.



Chapter 7

- * The 20th anniversary of the passage of the Wild Free-Roaming Horse and Burro Act was celebrated by the most successful adoption ever held in Utah. Fifty-two wild horses were taken to the Ogden county fair grounds to the satellite adoption; in about 2 hours all were adopted. Other activities at the event included a horse training exhibition and previously adopted horses shown by their owners. About 20 volunteers were involved in this activity. The local newspaper publicized the adoption extensively and is working on follow-up stories on adopters. Season-long media coverage of roundups, adoption events, and follow-up stories kept wild horses in the public eye. The media coverage is one reason for the good results in summer 1991.
- * A consultation was completed on an allotment in the Price River Resource Area with the Utah Department of Agriculture and the grazing permittee. This allotment also has all the wild horses in the Range Creek HMA. The consultation resulted in revision of the monitoring plan to improve monitoring of the resources, including wild horses.

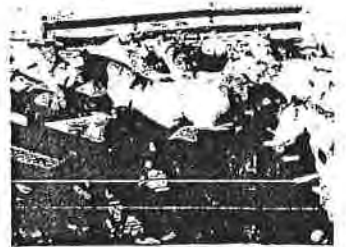
CHALLENGES

- * To promote the development of recreational opportunities for wild horse viewing of the herds in close proximity to Salt Lake City.

Wyoming

HIGHLIGHTS

- * Completed a land exchange in the 15 Mile HMA to convert 1,517 acres of private land in the HMA to public land. Total acreage of the HMA remained the same.
- * Cowboy poet Bud Paine adopted several pack-trained horses from the Wyoming Honor Farm and is riding across the U.S. with them.
- * The Wyoming Honor Farm participated with the Rock Springs District in an anniversary celebration at the Sweetwater County Fair. Two Honor Farm trained horses were displayed in a pen on the midway. Honor Farm residents also rode these horses in the indoor arena.



CHALLENGES

- * To complete additional land exchanges in the 15 Mile HMA to remove the remaining private acres from the HMA.
- * To determine how to deal with unadoptable horses (i.e. over 10 years old)

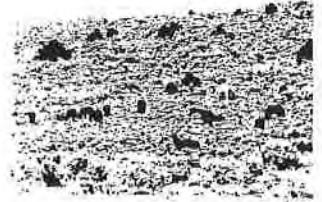
BLM Field Office Major Concerns:

- * The continuing drought has resulted in wild horses and burros moving outside designated HMA's in search of food and water, some becoming problems on private lands and along unfenced highways, requiring emergency removal actions.
- * Investigations are continuing into the reports of harassment and possibly illegal capture of horses in many HMA's. Information has been reported to the law enforcement rangers, and more frequent visits are being made to the HMA's throughout the west. Offices have also investigated numerous incidents of shooting both wild horses and burros.
- * The numbers of wild horses are increasing and so are the problems with wild horses impacting range resources on private lands. Complaints are increasing because of the expansion of wild horses into previously unused areas. Some grazing operators complain that horse numbers are up and horses are using more forage than the amount allocated to them.
- * An increase of project developments is needed on many HMA's, such as water supplies and boundary fencing. Habitat and vegetative monitoring techniques should be developed jointly with other range users.
- * This program is unique to the BLM and FS and requires a more centralized approach than other natural resource management programs.

Chapter 7

Forest Service

California



HIGHLIGHTS

- * The San Bernadino National Forest has developed cooperative agreements with special interest groups to gain public support for burro removals from the Big Bear Burro territory.
- * The Las Padres National Forest revised and constructed two water systems within the Black Mountain Wild Horse territory. The Santa Lucia Ranger District also constructed a wild horse facility to process captured horses and conduct public adoptions.
- * The Modoc National Forest is working closely with the BLM Susanville District, to tailor capture guidelines and policies for the Devil's Garden Plateau wild horse territory to conform with the BLM's guidelines.
- * On the Devil's Garden Plateau wild horse territory, the Modoc National Forest is undertaking a pilot project to map and describe potential and existing vegetation, develop a habitat classification system, and resource value ratings. 40,000 acres were mapped in FY 91. This information will be utilized in the update of the territory management plan, and the development of allotment management plans for the domestic livestock allotments within the territory.
- * On the Inyo National Forest, the Montgomery Pass wild horse territory is administered through an interagency cooperative agreement involving the Forest Service, BLM, California Department of Fish and Game, and a steering committee, which consists of agency members and representatives of various interest groups and private landowners.
- * On the Montgomery Pass wild horse territory, Dr. John Turner of the University of Ohio is conducting a study of the reproduction and predatorial effects of mountain lions on the wild horse population. Preliminary findings indicate the population has remained relatively constant due to foal predation.

CHALLENGES

- * There are problems with burros of the Big Bear territory wandering into residential areas. Forest Service personnel have difficulty in conveying to local residents the problems of feeding and watering the burros in town.
- * The small band of horses within the Black Mountain territory of the Los Padres National Forest exhibit signs of inbreeding and are difficult to adopt.

From the Field

- * Coordinated guidelines for cattle allotments within the Montgomery Pass territory need to be jointly established between the Forest Service and BLM. The monitoring of range condition and trend needs to be initiated.
- * There is a need for additional research on herd genetics, reproduction, and predation relationships.
- * The White Mountain territory within the Inyo National Forest needs to be inventoried on a more consistent basis to allow better tracking of herd populations, health, and habitat conditions. Current funding levels do not provide adequately for these needs.

Nevada

HIGHLIGHTS

- * An interagency agreement has been drafted among the Las Vegas Ranger District, Toiyabe National Forest, and the Stateline Resource Area, BLM. On the Toiyabe NF volunteers completed a protection fence at the mouth of Lee Canyon to keep wild horses off the ski slopes.
- * The Toiyabe National Forest hosted the National Wild Horse and Burros Advisory board's field trip. The Toiyabe National Forest has prepared a 3-year study proposal to gather base line data to develop territory management plans. The proposal would be multi-funded by the Forest Service, BLM, wild horse groups, Rocky Mountain Elk Foundation, and the Nevada Department of Wildlife.
- * The Humboldt National Forest initiated development of a territory plan for the Cherry Springs wild horse territory. The Humboldt Forest has hosted several tours with grazing permittees, interest groups, university personnel, and the news media. Target date for completion of the territory plan is the spring of 1992.

CHALLENGES

- * There are on going differences between the Forest Service and BLM as to what constitutes a healthy horse herd, a healthy ecosystem, and proper forage utilization standards. Progress is being made in this regard through field trips and on-going communications.
- * There is a need for monitoring, wild horse and livestock use, better information gathering, and more accurate censusing in order to develop updated wild horse territory plans, and to do a better job of planning when removal activities will be needed.
- * There is a need to work more closely with public interest groups through field trips and education.

Chapter 7

NEW MEXICO

HIGHLIGHTS

- * Eighteen horses were removed from the Jarita Mesa herd on the Carson National Forest and transferred to the BLM facility in Santa Fe where inmates of the New Mexico State penitentiary (under agreement with BLM) later processed the animals for adoption. All 18 were successfully adopted.
- * Forty-four horses were captured from the Jicarilla territory and transferred to the BLM for processing at the New Mexico State Penitentiary.

OREGON

HIGHLIGHTS

- * The Bear Valley Ranger District of the Malheur National Forest receives superior support from District personnel in reporting wild horse sightings for the Murderers Creek Territory. Instructions and reporting forms are given to all field going personnel. The reporting form contains important information on horse characteristics and location of sightings.
- * The Bear Valley District is creating a database to track different horse bands and keep track of the herd and band demographics. In cooperation with the BLM, the Malheur National Forest participated in presenting a class for the Pacific Northwest Field Seminars entitled "Wild Horse, Range, and Wildlife Management".

UTAH

HIGHLIGHTS

- * A speaker from a wild horse/mustang association gave a presentation on wild horses at the Utah Section, Society for Range Management summer tour.

CHALLENGES

- * Additional monitoring is needed to determine band-size, age, structure, productivity, mortality, population growth, sex ratios, habits and movements, and animal health.
- * Maintenance of existing range improvements is needed including fences, spring developments and reservoirs.

From the Field

- * Monitoring is needed to determine compliance with Forest Plan standard and guidelines and desired future conditions.
- * New structural range improvements, such as permanent year-round water developments, are needed to improve distribution of animals especially during periods of below normal precipitation.

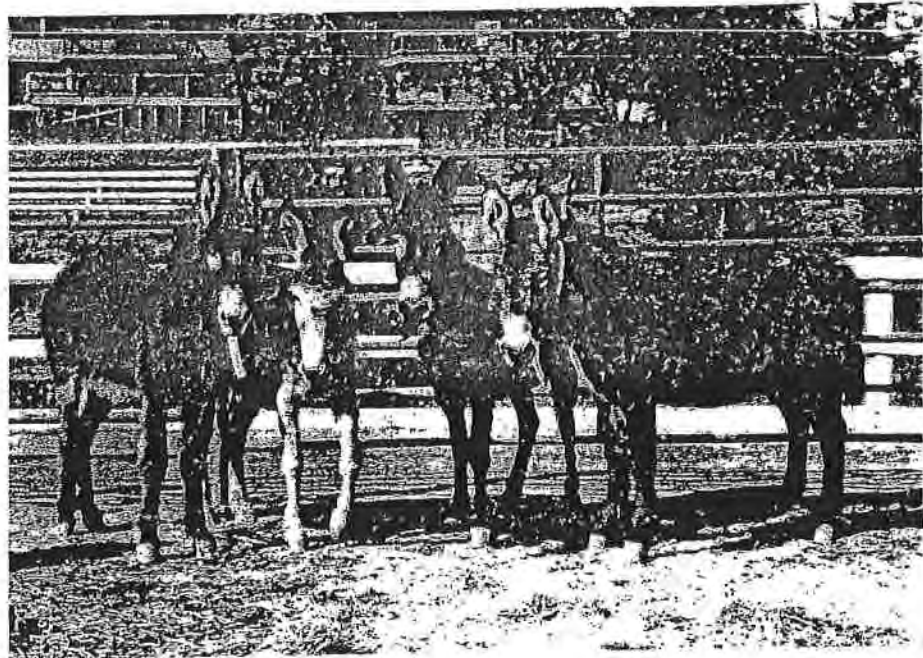
Forest Service Field Office Major Concerns:

- * National Forest wild horse and burro territories adjacent to urban areas present unique management concerns. The San Bernadino National Forest had a total of 14 burros killed in collisions with vehicles within the past two years. The Las Padres National Forest is preparing an EIS on trail management relative to the compatibility of motorcycle use and conflicts with wild horses.
- * Continued drought in the states of California and Nevada are causing a number of management concerns including the following: severely reduced forage production causing use outside of designated territories; excessive use of vegetation within both upland and riparian areas; growing competition between wild horses, wildlife, and permitted livestock; animal stress and poor foal survival; and long travel distances to water.
- * There was an outbreak of strangles and a secondary virus resulting in the death of 20 horses captured from the Devils Garden Plateau territory within the Modoc National Forest in California.
- * There is a concern with the infusion of domestic stock in the bloodline of wild horses within the McGavin Peak territory in the Klamath National Forest in California. Domestic horses from adjoining private lands are mixing with wild horses.
- * In New Mexico the Cochiti Pueblo has fenced off 30,000 acres of land which in the past has been used by wild horses from the Caja territory of the Santa Fe National Forest. The Pueblo is not interested in a cooperative agreement and prefers to eliminate all horses from Pueblo lands.
- * In New Mexico there is a need for better coordination between the Forest Service and the BLM. The Jicarilla wild horse territory adjoins a BLM territory. A coordinated plan needs to be developed for more efficient management of the horses which utilize both territories.
- * On the Malheur National Forest in Oregon, there is concern for the effects of wild horses on big game habitat within the Murderers Creek Wildlife area owned by the Oregon Department of Fish and Wildlife. The BLM, Oregon Department of Fish and Wildlife and grazing permittees have also expressed concern over the Malheur National Forest census data and population estimates.

The Secretary of the Interior and the Secretary of Agriculture will continue to work toward effective administration of the Wild Free-Roaming Horse and Burro Act.

- Effective administration means healthy herds of wild horses and burros will roam on public lands in numbers compatible with preservation of a thriving natural ecological balance.
- It means population growth will be controlled through periodic removals of excess wild horses and burros and through efficacious and humane fertility control.
- It means healthy excess wild horses and burros will be placed in private care as soon as possible after removal from the range.

In short, effective administration means that the intent of the Act will be carried out in a humane and cost-effective way. With implementation of the BLM's long-term strategic plan and the Forest Service's management of wild horses and burros, the Secretaries intend to achieve a more balanced wild horse and burro program by the turn of the century.



WILD HORSE AND BURRO ADVISORY BOARD RECOMMENDATIONS JANUARY 30, 1992

WILD HORSE AND BURRO MANAGEMENT: A CONCEPTUAL MODEL

Whereas: the 1971 Wild Horse and Burro Act directs the Secretaries to protect and manage wild horses and burros on public lands as an integral part of the natural system and in a thriving natural ecological balance with the range and other multiple uses; and whereas the management of wild horses and burros has been largely characterized by conflicts, public and agency disillusionment, and ecological crises; therefore, the Wild Horse and Burro Advisory Board recommends the wild horse and burro program be restructured on the following conceptual model:

To protect free-roaming wild horses and burros, the program should be designed to:

1. Reduce public and agency disillusionment, distrust, and conflict regarding wild horses and burros by implementing responsible on-the-ground management of wild horses and burros.
2. Enhance public and agency awareness and appreciation of wild horses and burros.

To responsibly manage free-roaming wild horses and burros within herd management areas on public lands, the program should:

1. Identify and manage wild horse and burro habitats in a manner that:
 - a) Considers the natural behavior and biological needs of wild horses and burros.
 - b) Considers the ecosystem's other diverse components and their relationships.
2. Implement optimum herd population levels (appropriate management levels) which are in harmony with the range ecosystem by:
 - a) Integrating the impacts of wild horse and burro herds and all other major forage consumers so that the combined demand is within the range capacity and represents a thriving natural ecological balance.
 - b) Setting initial appropriate management levels in terms of minimum and maximum herd size so that the minimum level is sufficient to maintain herd integrity* and the maximum level is in harmony with the range system.



APPENDIX

- c) Balancing the total population of wild horses and burros so that the annual production of excess young is within the outlet capacity for these excess animals.
3. Maintain herd integrity and stability while assessing long-term impacts to the rangeland ecosystem by:
 - a) Maintaining on the range aged animals and allowing recruitment of sufficient young animals into the base herds to offset mortality, without regard to economic value or population aesthetic criteria.
 - b) Stabilizing and maintaining herd population levels within the minimum/maximum herd size through periodic removal of excess young animals.
4. Appropriate management levels for wild horse and burro herds along with other major forage consumers should be established through the respective agencies' planning processes. Levels should be based on and continually verified by habitat monitoring. Monitor habitat impacts of the established base herds and the other major forage consumers to assure that the combined habitat impacts are within the rangeland capacity and represent a thriving natural ecological balance. When environmental analysis of monitoring information suggests that herbivore impacts are leading to an ecological imbalance, appropriate adjustments in herbivore grazing and browsing pressures should be implemented in a manner that averts or prevents a crisis situation for the habitat and or the herbivores.

WILD HORSE AND BURRO PROGRAM: FOCUS AND GOALS

Whereas the Wild Horse and Burro Act directs the Secretaries to protect, manage, and control wild horses and burros on public lands, the Advisory Board believes that the need for prison programs and sanctuaries is not integral to a quality management program for wild horses and burros; therefore, this Board recommends that future program emphasis and funding be directed toward management of the animals on the public range.

- * Herd integrity is the unique genetic characteristics and collective herd behavioral wisdom that contributes to the herd's adaptability.

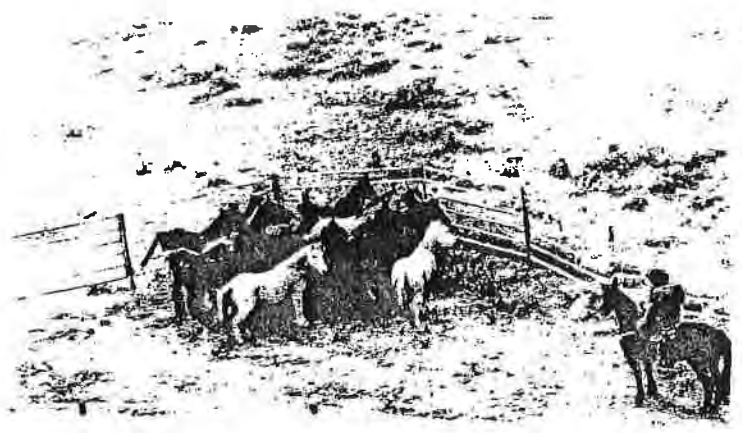
PLANNING, MONITORING, AND INVENTORYING POPULATIONS AND HABITAT

We recommend to the Secretaries of Agriculture and Interior that the BLM and Forest Service implement consistent inventorying and monitoring procedures. These procedures will provide information to determine wild horse and burro populations, herbivore impacts to achieve habitat objectives, and desired plant communities as described in the following guidelines.

Planning and Monitoring Populations

That wild horses and burros are an integral part of public lands and must be managed under the principle of multiple use with integrated, coordinated decision making.

That multiple-use, sustained yield management objectives must be stated in Resource Management Plans (RMP's) and focus on achieving, maintaining or restoring a thriving range condition that contributes to species diversity.



Objectives must be based on public input, existing resource conditions and issues, and must be measurable, attainable, and realistic.

That population and habitat are so intertwined that planning and monitoring must include the following:

- a. Behavioral observations of wild horses, burros, and other herbivores.
- b. Map spatial overlap information for the purpose of showing where competition occurs in juxtaposition to damaged areas; map 1 to include seasonal movement and distribution of wild horses and burros; map 2 to include distribution of livestock; map 3 to include the use pattern map of vegetation; map 4 to include seasonal movements and distribution of major wildlife species.
- c. Collection of consistent census data on a regular basis, using the most appropriate wild life censusing methods for the habitat and situation.
- d. Determination of minimum population levels to serve as a threshold (based on viable gene pools, herd integrity, and population dynamics information) below which the population in a given area cannot be removed.
- e. Age structure and sex ratio information which would assist in making determinations for population adjustments. The information should not only determine what to take off but, more importantly, what should be left behind.
- f. Update land-use plans as needed based on current monitoring data.

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Monitoring and Inventorying Habitat

That the purpose of monitoring is to measure the impacts of wild horses and burros and other grazers on rangelands in order to provide information that allows sound management decisions.

That habitat must be managed as an ecosystem which takes into account all components, and vegetation is to be managed not only for its forage value but its values as watershed protection and fish-and-wildlife habitat.

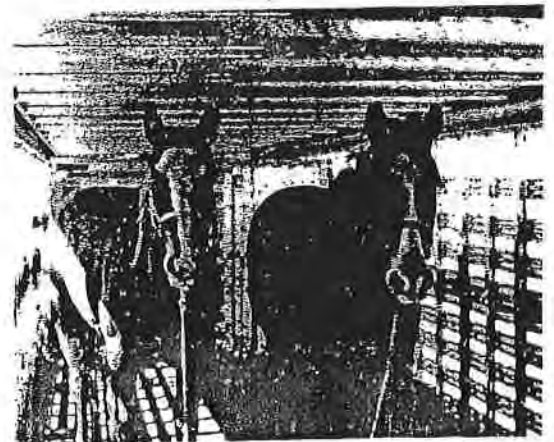
That BLM field manuals and program guidance be reviewed for compliance with actions set forth by IBLA.

That habitat monitoring must include the following:

- a. Assess utilization by each herbivore species in terms of area of use and seasons of use
- b. Collect quantifiable data which will determine where and when competition occurs.
- c. Collect technical data which will identify range conflicts and areas of actual competition and initiate a coordinated, integrated management approach.
- d. Establish timeframes for evaluating monitoring data that results in multiple-use decision making, planning, and management.
- e. Categorize objectives, moving from broad objectives (goals) to quantifiable objectives. Monitoring requires sound objectives and management constraints, which must be expressed in the RMP, quantified objectives in the AMP, and all management practices in the field manual.
- f. Develop species-specific habitat evaluation standards and practices handbook agency-wide.

HORSE HANDLING

The Wild Horse and Burro Advisory Board recommends to the Secretary of the Interior and the Secretary of Agriculture that the BLM and the Forest Service further investigate and implement the safest, cost-effective, and least stressful horse and burro handling methods that will meet each herd management area's goals and objectives.



FERTILITY CONTROL

The Wild Horse and Burro Advisory Board recommends to the Secretary of the Interior and the Secretary of Agriculture that the BLM and the Forest Service develop criteria and methods for fertility control.

ADOPTION FEE FOR BURROS

The Wild Horse and Burro Advisory Board recommends to the Secretary of the Interior and the Secretary of Agriculture that they increase the adoption fee for wild burros from \$75 to \$125 to match the fee for wild horses.

NEVADA WILD HORSE CENTER

The Wild Horse and Burro Advisory Board recommends to the Secretaries of the Interior and Agriculture that they investigate the need to develop a National Wild Horse and Burro Center in Nevada.

PRISON TRAINING PROGRAMS

The Board recommends to the Secretary of the Interior that the BLM give consideration to the Crabtree Correctional Facility wild horse training program. Furthermore, it recommends that criteria and guidelines be established for all prison horse programs and a quality assurance program be implemented with oversight, direction, and review.

DISPERSAL OF EXCESS WILD HORSES, INCLUDING SANCTUARIES

The Wild Horse and Burro Advisory Board recommends to the Secretary of the Interior and the Secretary of Agriculture that BLM and the Forest Service implement a responsible dispersal plan for excess wild horses, including sanctuary horses, that engages cooperative marketing assistance from interest groups.

PROFESSIONALISM IN THE WILD HORSE AND BURRO PROGRAM

The Wild Horse and Burro Advisory Board recommends to the Secretary of the Interior and the Secretary of Agriculture that they:

- a. Strengthen the internal training, orientation, leadership, and career programs within the BLM and the Forest Service for wild horse and burro personnel.
- b. Petition the Office of Personnel Management to develop a Technical Series and Professional Series for wild horse and burro personnel.
- c. Require all contractors operating in the wild horse and burro program to have appropriate certification demonstrating professional expertise in performing their wild horse and burro function.

APPENDIX

PUBLIC EDUCATION AND MARKETING

The Wild Horse and Burro Advisory Board recommends to the Secretary of the Interior and the Secretary of Agriculture that public education and marketing be implemented as a part of the wild horse and burro program, and that wild horse and burro protection and management become an integral part of any environmental education program. Also, the Board recommends there be a full-time Public Affairs staff person in the BLM for the wild horse and burro program.



RESEARCH

We recommend that the agencies evaluate research priorities with concern for addressing critical management issues.

AGENCY ACCOUNTABILITY

The Wild Horse and Burro Advisory Board recommends to the Secretary of the Interior and the Secretary of Agriculture that they direct the Director of the Bureau of Land Management and the Chief of the Forest Service to:

- a. Adopt a strategic plan.
- b. Review existing wild horse and burro program policies and procedures with regard to their improvement.
- c. Hold appropriate managers accountable for achieving established wild horse and burro program goals and objectives.

APPENDIX

B.

WILD HORSE AND BURRO HERD AREAS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

STATE HERD AREA NAME	ACREAGE		HERD AREA MANAGEMENT STATUS	HORSE POP.	HORSE AML.	BURRO POP.	BURRO AML.	FY HMAP	FY LAST CENSUS
	BLM	OTHER*							
ARIZONA									
ALAMO	238,000	68,000	HERD MGT AREA	0	0	307	200	79	91
BIG HORN MTNS	116,000	8,000	REMOVE ANIMALS	0	0	125	0	—	—
BIG SANDY	181,000	71,000	HERD MGT AREA	0	0	300	140	82	86
BLACK MTN	544,000	725,000	HERD MGT AREA	0	0	1,228	400	81	91
CERBAT MTN	51,700	21,600	HERD MGT AREA	130	20	0	0	—	87
CIBOLA-TRIG	250,000	581,000	HERD MGT AREA	76	113	359	165	80	89
HAVASU	312,000	152,000	HERD MGT AREA	0	0	212	315	79	89
LAKE PLEASANT	57,800	31,900	HERD MGT AREA	0	0	200	75	—	90
LITTLE HARQUAHALA MTNS	53,000	14,000	REMOVE ANIMALS	0	0	75	0	—	—
PAINTED ROCK	178,000	37,000	NO DECISION	0	0	25	—	—	—
TASSI-GOLD BUTTE	52,000	50,000	HERD MGT AREA	0	0	187	100	82	85
TOTALS:	2,033,500	1,759,500		206	133	3,018	1,395		

ARIZONA HERD AREA ACREAGE: 3,793,000 ARIZONA WH&B POP: 3,224 ARIZONA WH&B AML: 1,528 ARIZONA EXCESS WH&B'S: 1,696

APPENDIX

B.

WILD HORSE AND BURRO HERD AREAS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

STATE HERD AREA NAME	ACREAGE		HERD AREA MANAGEMENT STATUS	HORSE POP.	HORSE AML.	BURRO POP.	BURRO AML.	FY HMAP	FY LAST CENSUS
	BLM	OTHER*							
CALIFORNIA									
BITNER	43,550	7,110	HERD MGT AREA	23	20	0	0	85	89
BUCKHORN	62,320	3,320	HERD MGT AREA	84	63	0	0	84	90
CARTER RESERVOIR	21,880	1,320	HERD MGT AREA	27	25	0	0	85	89
CENTENNIAL	184,000	736,000	HERD MGT AREA	283	168	18	0	76	90
CHEMEHUEVI	332,400	58,600	HERD MGT AREA	0	0	370	150	84	89
CHICAGO VALLEY	262,200	13,800	HERD MGT AREA	30	28	20	28	84	90
CHOCOLATE-MULES	249,800	83,200	HERD MGT AREA	0	0	305	22	84	89
CIMA DOME	69,000	0	HERD MGT AREA	0	0	123	55	85	88
CLARK	173,100	0	HERD MGT AREA	0	0	132	44	85	88
COPPERSMITH	63,020	7,740	HERD MGT AREA	80	63	0	0	84	90
COYOTE CANYON	4,100	16,600	REMOVE ANIMALS	0	0	0	0	—	90
DEAD MTN	29,200	19,400	REMOVE ANIMALS	0	0	0	0	84	86
FORT SAGE	12,509	160	HERD MGT AREA	55	60	4	0	85	90
FOX HOG	94,080	5,480	HERD MGT AREA	79	63	0	0	84	90
GRANITE-PROVIDENCE MTN	136,500	0	REMOVE ANIMALS	0	0	30	0	85	88
HIGH ROCK	114,447	653	HERD MGT AREA	118	85	0	0	85	91
KRAMER	8,300	5,500	REMOVE ANIMALS	0	0	0	0	—	89
LAVA BEDS	178,500	0	HERD MGT AREA	0	0	72	75	85	88
LEE FLAT-SALINE VALLEY	115,000	0	HERD MGT AREA	0	0	27	30	86	86
MASSACRE LAKES	39,959	471	HERD MGT AREA	20	15	0	0	85	89
MORONGO	25,400	13,700	REMOVE ANIMALS	0	0	5	0	85	88
	10,500	0,000	HERD MGT AREA	24	15	0	15	85	89

APPENDIX

B.

WILD HORSE AND BURRO HERD AREAS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

STATE HERD AREA NAME	ACREAGE		HERD AREA MANAGEMENT STATUS	HORSE POP.	HORSE AML.	BURRO POP.	BURRO AML.	FY HMAP	FY LAST CENSUS
	BLM	OTHER*							
CALIFORNIA									
PALM CANYON	600	10,900	HERD MGT AREA	0	6	0	0	—	86
PANAMINT	425,500	425,500	REMOVE ANIMALS	0	0	49	0	86	86
PICACHO	38,000	2,000	HERD MGT AREA	56	42	0	0	84	89
PIPER MTN	69,000	0	HERD MGT AREA	20	17	43	82	76	86
PIUTE MTN	30,100	0	REMOVE ANIMALS	0	0	12	0	85	86
RED ROCK LAKES	12,475	4,420	HERD MGT AREA	16	2	0	0	85	91
SAND SPRING-LAST CHANCE	230,000	0	REMOVE ANIMALS	0	0	36	0	76	86
SLATE RANGE	78,200	312,800	REMOVE ANIMALS	0	0	24	0	76	87
TWIN PEAKS	653,905	139,727	HERD MGT AREA	984	725	213	132	85	88
WALL CANYON	47,877	1,400	HERD MGT AREA	34	20	0	0	85	89
WAUCOBA-HUNTER MTN	598,000	0	HERD MGT AREA	0	0	201	357	86	86
WOODS-HACKBERRY	19,700	19,700	HERD MGT AREA	26	6	24	0	85	88
TOTALS:									
	4,479,962	1,900,401		2,011	1,485	1,708	990		

CALIFORNIA HERD AREA ACREAGE: 6,380,363 CALIFORNIA WH&B POP: 3,719 CALIFORNIA WH&B AML: 2,475
CALIFORNIA EXCESS WH&B'S: 1244

APPENDIX

B.

WILD HORSE AND BURRO HERD AREAS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

STATE HERD AREA NAME	ACREAGE		HERD AREA MANAGEMENT STATUS	HORSE POP.	HORSE AML.	BURRO POP.	BURRO AML.	FY HMAP	FY LAST CENSUS
	BLM	OTHER*							
COLORADO									
LITTLE BOOKCLIFFS	30,261	816	HERD MGT AREA	112	125	0	0	84	91
NATURITA	19,700	5,640	REMOVE ANIMALS	0	0	0	0	—	—
NORTH PICEANCE	120,214	10,705	REMOVE ANIMALS	106	0	0	0	—	91
PICEANCE-EAST									
DOUGLAS CREEK	148,153	16,559	HERD MGT AREA	319	95	0	0	84	91
SANDWASH	154,540	4,880	HERD MGT AREA	140	160	0	0	84	91
SPRING CREEK	14,835	1,620	HERD MGT AREA	42	50	0	0	86	91
WEST DOUGLAS CREEK	274,019	28,272	REMOVE ANIMALS	91	0	0	0	—	91
TOTALS:	761,722	68,492		810	430	0	0		

COLORADO HERD AREA ACREAGE: 830,214 COLORADO WH&B POP: 810 COLORADO WH&B AML: 430 COLORADO EXCESS WH&B'S: 380

APPENDIX

B.

WILD HORSE AND BURRO HERD AREAS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

STATE HERD AREA NAME	ACREAGE		HERD AREA MANAGEMENT STATUS	HORSE POP.	HORSE AML.	BURRO POP.	BURRO AML.	FY HMAP	FY LAST CENSUS
	BLM	OTHER*							
IDAHO									
BLACK MOUNTAIN	35,000	0	HERD MGT AREA	30	30	0	0	78	91
CHALLIS	154,150	10,570	HERD MGT AREA	272	185	1	0	79	91
HARD TRIGGER	70,000	0	HERD MGT AREA	69	66	0	0	78	91
MORGAN CREEK	17,952	0	REMOVE ANIMALS	0	0	0	0	—	—
SANDS BASIN	15,000	0	HERD MGT AREA	22	22	0	0	78	91
SAYLOR CREEK	50,000	0	HERD MGT AREA	42	50	0	0	—	91
SHEEP MOUNTAIN	4,000	10,000	REMOVE ANIMALS	0	0	0	0	—	—
WEST CRANE CREEK	10,000	0	REMOVE ANIMALS	0	0	0	0	—	—
WILLOW RIDGE	90,000	0	HERD MGT AREA	9	20	0	0	—	—
TOTALS:	446,102	20,570		444	373	1	0		

IDAHO HERD AREA ACREAGE: 466,672 IDAHO WH&B POP: 445 IDAHO WH&B AML: 373 IDAHO EXCESS WH&B'S: 72

APPENDIX

B.

WILD HORSE AND BURRO HERD AREAS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

STATE HERD AREA NAME	ACREAGE		HERD AREA MANAGEMENT STATUS	HORSE POP.	HORSE AML.	BURRO POP.	BURRO AML.	FY HMAP	FY LAST CENSUS
	BLM	OTHER*							
MONTANA									
ERVIN RIDGE	14,720	560	REMOVE ANIMALS	0	0	0	0	—	87
PRYOR MTN	30,093	16,718	HERD MGT AREA	121	121	0	0	84	89
TOTALS:	44,813	17,278		121	121	0	0		

MONTANA HERD AREA ACREAGE: 62,091 MONTANA WH&B POP: 121 MONTANA WH&B AML: 121 MONTANA EXCESS WH&B'S: 0

WILD HORSE AND BURRO HERD AREAS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

STATE HERD AREA NAME	ACREAGE		HERD AREA MANAGEMENT STATUS	HORSE POP.	HORSE AML.	BURRO POP.	BURRO AML.	FY HMAP	FY LAST CENSUS
	BLM	OTHER*							
NEVADA									
AMARGOSA VALLEY	10,000	13,000	HERD MGT AREA	0	19	0	1	—	91
ANTELOPE	390,363	9,782	HERD MGT AREA	391	303	1	0	87	91

**WILD HORSE AND BURRO HERD AREAS
ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT**

STATE HERD AREA NAME	ACREAGE		HERD AREA MANAGEMENT STATUS	HORSE POP.	HORSE AML.	BURRO POP.	BURRO AML.	FY HMAP	FY LAST CENSUS
	BLM	OTHER*							
NEVADA									
APPLEWHITE	27,814	0	HERD MGT AREA	23	12	0	0	—	89
ASH MEADOWS	200,000	20,000	REMOVE ANIMALS	73	0	20	0	—	91
AUGUSTA MTNS	210,000	6,000	HERD MGT AREA	532	684	0	0	—	91
BALD MTN	120,000	0	HERD MGT AREA	387	362	0	0	—	91
BLACK ROCK RANGE EAST	91,300	3,804	HERD MGT AREA	660	59	0	0	—	90
BLACK ROCK RANGE WEST	92,543	8,047	HERD MGT AREA	478	424	0	0	—	90
BLOODY RUNS	43,991	31,856	REMOVE ANIMALS	0	0	0	0	—	—
BLUE NOSE PEAK	86,695	0	HERD MGT AREA	24	1	0	0	—	88
BLUE WING MTNS	17,913	0	HERD MGT AREA	37	50	30	39	87	89
BUCK-BALD	613,950	13,080	HERD MGT AREA	1,228	700	0	0	—	91
BUFFALO HILLS	123,141	9,269	HERD MGT AREA	368	272	0	0	—	90
BULLFROG	126,900	700	HERD MGT AREA	0	12	251	218	—	90
BUTTE	143,065	0	HERD MGT AREA	505	60	3	0	—	91
CALICO MTN	155,594	1,572	HERD MGT AREA	1,093	514	0	0	—	89
CALLAGHAN	153,000	0	HERD MGT AREA	916	577	0	0	—	91
CHERRY CREEK	44,269	0	HERD MGT AREA	0	11	0	0	—	91
CHERRY CREEK NORTH	138,000	3,000	HERD MGT AREA	188	64	0	0	—	91
CLAN ALPINES	320,000	2,800	HERD MGT AREA	1,764	1,575	0	0	—	89
CI OVER CREEK	33,653	0	HERD MGT AREA	45	9	0	0	—	88
CLOVER MTNS	175,717	0	HERD MGT AREA	145	55	0	0	—	88
DEER LODGE CANYON	106,607	0	HERD MGT AREA	9	10	0	0	—	89
DELAMAR	190,234	1,336	HERD MGT AREA	120	95	0	0	82	89
DESATOYAS	124,000	0	HERD MGT AREA	258	217	0	0	—	91
DIAMOND	122,000	0	HERD MGT AREA	193	205	0	0	—	91

APPENDIX

B.

WILD HORSE AND BURRO HERD AREAS
ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

STATE HERD AREA NAME	ACREAGE		HERD AREA MANAGEMENT STATUS	HORSE POP.	HORSE AML.	BURRO POP.	BURRO AML.	FY HMAP	FY LAST CENSUS
	BLM	OTHER*							
NEVADA									
DIAMOND HILLS NORTH	70,000	0	HERD MGT AREA	101	50	0	0	—	91
DIAMOND HILLS SOUTH	10,500	0	HERD MGT AREA	414	36	0	0	—	91
DOGSKIN MTN	7,600	0	HERD MGT AREA	46	19	0	0	—	92
DRY LAKE	496,500	0	HERD MGT AREA	326	82	0	0	—	91
EAST RANGE	310,605	120,790	REMOVE ANIMALS	0	0	0	0	—	—
ELDORADO MTNS	22,734	81,210	HERD MGT AREA	0	0	100	—	—	88
EUGENE MTNS	39,540	37,989	REMOVE ANIMALS	10	0	0	0	—	89
FISH CREEK	275,000	0	HERD MGT AREA	310	446	1	0	—	91
FISH LAKE VALLEY	10,000	10	HERD MGT AREA	7	62	0	12	—	89
FLANIGAN	16,260	1,000	HERD MGT AREA	122	104	0	0	91	92
FOX-LAKE RANGE	171,956	5,307	HERD MGT AREA	627	434	1	1	—	90
GARFIELD FLAT	146,800	3,200	HERD MGT AREA	86	364	0	0	—	90
GOLD BUTTE	176,878	96,890	HERD MGT AREA	0	0	254	498	—	91
GOLD MTN	92,000	50	HERD MGT AREA	8	19	0	0	—	90
GOLDFIELD	62,000	0	HERD MGT AREA	225	227	98	71	—	90
GOSHUTE	266,800	16,600	HERD MGT AREA	277	120	0	0	—	90
GRANITE PEAK	4,800	0	HERD MGT AREA	48	17	0	0	—	92
GRANITE RANGE	88,436	13,214	HERD MGT AREA	956	176	0	0	—	89
HIGHLAND PEAK	137,776	1,849	HERD MGT AREA	50	50	54	0	87	89
HORSE MTN	53,000	160	HERD MGT AREA	153	63	0	0	—	91
HORSE SPRING	18,000	12,000	REMOVE ANIMALS	0	0	0	0	—	—
HOT CREEK	40,476	35,584	HERD MGT AREA	129	89	0	0	—	91
HOT SPRING MTNS	49,324	21,139	REMOVE ANIMALS	0	0	0	0	—	—
HUMBOLDT	240,000	100,000	REMOVE ANIMALS	0	0	0	0	—	—

WILD HORSE AND BURRO HERD AREAS
ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

STATE HERD AREA NAME	ACREAGE		HERD AREA MANAGEMENT STATUS	HORSE POP.	HORSE AML.	BURRO POP.	BURRO AML.	FY HMAP	FY LAST CENSUS
	BLM	OTHER*							
NEVADA									
JACKSON MTNS	274,510	8,490	HERD MGT AREA	435	215	0	0	—	89
JAKES WASH	67,045	0	HERD MGT AREA	46	20	0	0	—	90
KAMMA MTNS	54,573	2,872	HERD MGT AREA	10	50	0	0	87	89
KRUM HILLS	30,780	23,220	REMOVE ANIMALS	0	0	0	0	—	—
LAHONTAN	10,500	1,000	HERD MGT AREA	95	42	0	0	—	92
LAST CHANCE	78,895	3,342	HERD MGT AREA	35	0	70	12	—	88
LAVA BEDS	231,744	0	HERD MGT AREA	354	375	68	40	87	89
LITTLE FISH LAKE	26,420	83,488	HERD MGT AREA	29	33	0	0	—	91
LITTLE HUMBOLDT	64,075	8,406	HERD MGT AREA	174	107	0	0	—	91
LITTLE MTN	54,148	410	HERD MGT AREA	56	29	0	0	84	89
LITTLE OWYHEE	398,160	16,560	HERD MGT AREA	856	200	0	0	87	91
MARIETTA	66,500	1,550	HERD MGT AREA	0	0	70	85	—	90
MAVERICK-MEDICINE	207,000	500	HERD MGT AREA	507	244	0	0	—	91
MCGEE MTN	50,000	0	HERD MGT AREA	0	0	5	41	—	91
MEADOW VALLEY MTNS	94,966	0	HERD MGT AREA	37	33	0	0	—	89
MILLER FLAT	90,901	280	HERD MGT AREA	123	50	0	0	82	88
MONTE CRISTO	155,330	73,610	HERD MGT AREA	725	96	0	0	77	91
MONTEZUMA PEAK	57,000	30	HERD MGT AREA	189	161	1	0	—	90
MORIAH	83,673	0	HERD MGT AREA	42	0	0	0	—	90
MORMON MTNS	175,423	0	HERD MGT AREA	139	27	0	0	—	89
MT STIRLING	30,855	27,634	HERD MGT AREA	55	54	90	77	—	88
MUDDY MTNS	61,226	79,590	HERD MGT AREA	26	02	81	22	—	88
NEVADA WILD HORSE RANGE	394,500	0	HERD MGT AREA	5,219	2,000	182	0	85	91
NEW PASS-RAVENSWOOD	225,000	0	HERD MGT AREA	415	476	3	0	—	91

APPENDIX

B.

WILD HORSE AND BURRO HERD AREAS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

STATE HERD AREA NAME	ACREAGE		HERD AREA MANAGEMENT STATUS	HORSE POP.	HORSE AML.	BURRO POP.	BURRO AML.	FY HMAP	FY LAST CENSUS
	BLM	OTHER*							
NEVADA									
NIGHTENGALE MTNS	72,218	3,80	HERD MGT AREA	377	87	0	0	87	89
NORTH STILLWATER	131,104	1,325	HERD MGT AREA	152	82	0	0	—	91
OSGOOD MTNS	68,273	53,643	REMOVE ANIMALS	0	0	0	0	—	—
OWYHEE	371,000	3,234	HERD MGT AREA	86	57	0	0	—	90
PAH RAH	8,000	18,000	REMOVE ANIMALS	0	0	0	0	—	—
PALMETTO	71,000	200	HERD MGT AREA	66	184	0	0	—	89
PAYMASTER-LONE MTN	85,000	0	HERD MGT AREA	355	48	0	0	—	90
PILOT MTN	495,000	800	HERD MGT AREA	627	466	0	0	—	90
PINE NUT	216,000	72,000	HERD MGT AREA	414	387	0	0	—	90
RATTLESNAKE	75,461	0	HERD MGT AREA	11	25	0	0	—	89
REVEILLE	125,400	920	HERD MGT AREA	145	165	0	0	—	92
ROBERTS MTN	132,000	0	HERD MGT AREA	213	127	0	0	—	91
ROCK CREEK	115,500	38,500	HERD MGT AREA	392	119	0	0	—	91
ROCKY HILLS	124,000	0	HERD MGT AREA	205	135	0	0	—	91
SAND SPRINGS EAST	386,776	0	HERD MGT AREA	936	494	0	0	—	91
SAND SPRINGS WEST	203,868	35	HERD MGT AREA	193	129	0	0	—	91
SEAMAN	340,100	0	HERD MGT AREA	288	84	0	0	—	91
SELENITE RANGE	126,186	3,903	REMOVE ANIMALS	33	0	29	0	—	89
SEVEN MILE	80,936	7,492	HERD MGT AREA	100	105	0	0	—	90
SEVEN TROUGHS	130,161	17,749	HERD MGT AREA	248	215	112	64	87	89
SHAWAVE MTNS	88,927	18,214	HERD MGT AREA	380	100	21	0	87	89
SILVER PEAK	186,000	12,000	HERD MGT AREA	182	307	0	0	—	91
SLUMBERING HILLS	64,962	14,585	REMOVE ANIMALS	0	0	0	0	—	—

WILD HORSE AND BURRO HERD AREAS
ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

STATE HERD AREA NAME	ACREAGE		HERD AREA MANAGEMENT STATUS	HORSE POP.	HORSE AML.	BURRO POP.	BURRO AML.	FY HMAP	FY LAST CENSUS
	BLM	OTHER*							
NEVADA									
SNOWSTORM MTNS	133,138	12,400	HERD MGT AREA	140	50	0	0	87	89
SONOMA RANGE	148,799	60,779	REMOVE ANIMALS	0	0	0	0	—	—
SOUTH SHOSHONE	180,000	0	HERD MGT AREA	203	85	0	0	—	91
SOUTH SLUMBERING HILLS	15,181	14,585	REMOVE ANIMALS	0	0	0	0	—	—
SOUTH STILLWATER	7,600	0	HERD MGT AREA	22	25	0	0	—	89
SPRING MTN	297,653	278,232	HERD MGT AREA	293	—	254	—	—	91
SPRUCE-PEQUOP	172,000	34,500	HERD MGT AREA	193	80	0	0	—	91
STONE CABIN	392,176	12,205	HERD MGT AREA	268	364	0	0	82	91
STONEWALL	21,800	0	HERD MGT AREA	94	13	11	34	—	90
TOANO	57,500	57,500	HERD MGT AREA	30	20	0	0	—	89
TOBIN RANGE	185,322	9,754	HERD MGT AREA	33	19	0	0	—	91
TRINITY RANGE	89,712	46,215	REMOVE ANIMALS	4	0	2	0	—	91
TRUCKEE RANGE	91,664	78,084	REMOVE ANIMALS	0	0	0	0	—	—
WARM SPRINGS CANYON	82,305	831	HERD MGT AREA	648	294	24	10	—	89
WASSUK	60,000	20,000	HERD MGT AREA	205	151	0	0	—	89
WHISTLER MTN	60,000	0	HERD MGT AREA	75	28	0	0	—	90
WHITE RIVER	98,534	0	HERD MGT AREA	157	20	0	0	—	91
WILSON CREEK	689,246	0	HERD MGT AREA	343	181	1	0	—	91
TOTALS:	16,617,515	2,042,843		31,650	17,670	1,784	1,325		

NEVADA HERD AREA ACREAGE: 18,660,358 NEVADA WH&B POP: 33,434 NEVADA WH&B AML: 18,995 NEVADA EXCESS WH&B'S: 14,439

APPENDIX

B.

WILD HORSE AND BURRO HERD AREAS
ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

STATE HERD AREA NAME	ACREAGE		HERD AREA MANAGEMENT STATUS	HORSE POP.	HORSE AML.	BURRO POP.	BURRO AML.	FY HMAP	FY LAST CENSUS
	BLM	OTHER*							
NEW MEXICO									
BORDO ATRAVESADO	16,493	3,113	HERD MGT AREA	29	32	0	0	80	89
GODFREY HILLS	27,746	14,517	REMOVE ANIMALS	0	0	0	0	—	—
PUNCHE VALLEY	50,733	30,531	REMOVE ANIMALS	0	0	0	0	—	—
TOTALS:	94,972	48,161		29	32	0	0		

NEW MEXICO HERD AREA ACREAGE: 143,133
NEW MEXICO EXCESS WH&B'S: 0

NEW MEXICO WH&B POP: 29 NEW MEXICO WH&B AML: 32

APPENDIX

B.

WILD HORSE AND BURRO HERD AREAS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

STATE HERD AREA NAME	ACREAGE		HERD AREA MANAGEMENT STATUS	HORSE POP.	HORSE AML.	BURRO POP.	BURRO AML.	FY HMAP	FY LAST CENSUS
	BLM	OTHER*							
OREGON									
ALVORD-TULE SPRINGS	121,323	41,040	HERD MGT AREA	51	107	0	0	85	91
ATTURBURY	5,985	1,183	REMOVE ANIMALS	0	0	0	0	—	—
BASQUE	8,616	707	REMOVE ANIMALS	0	0	0	0	—	—
BEATYS BUTTE	396,520	40,600	HERD MGT AREA	250	175	0	0	—	91
CHERRY CREEK	29,000	120,000	REMOVE ANIMALS	0	0	0	0	—	—
COLD SPRINGS	27,363	800	HERD MGT AREA	75	113	0	0	76	91
COTTONWOOD BASIN	7,763	226	REMOVE ANIMALS	0	0	0	0	—	—
COTTONWOOD CREEK	25,135	1,406	REMOVE ANIMALS	0	0	0	0	—	—
COYOTE LAKE	173,370	29,731	HERD MGT AREA	91	188	0	0	—	91
DIAMOND CRATERS	48,077	750	REMOVE ANIMALS	0	0	0	0	—	—
EAST WAGONTIRE	158,048	41,146	REMOVE ANIMALS	0	0	0	0	—	—
HEATH CREEK-SHEEPSHEAD	64,539	8,261	HERD MGT AREA	24	82	0	0	—	88
HOG CREEK	23,817	236	HERD MGT AREA	85	40	0	0	81	91
JACKIES BUTTE	56,062	42	HERD MGT AREA	144	113	0	0	75	91
KIGER	36,618	3,042	HERD MGT AREA	73	67	0	0	74	89
LAKERIDGE	2,720	0	REMOVE ANIMALS	0	0	0	0	—	—
LIGGETT TABLE	25,000	460	HERD MGT AREA	14	35	0	0	—	88
MIDDLE FORK	37,885	3,349	REMOVE ANIMALS	0	0	0	0	—	—
MORGER	170	17,102	REMOVE ANIMALS	0	0	0	0	—	—
PAISLEY DESERT	324,600	5,960	HERD MGT AREA	169	85	0	0	—	91
PALOMINO BUTTES	84,697	13,799	HERD MGT AREA	36	48	0	0	80	91
POKEGAMA	16,486	64,400	HERD MGT AREA	60	38	0	0	79	91
POTHOLES	8,619	787	REMOVE ANIMALS	0	0	0	0	—	89
PUEBLO-LONE MTN	274,061	33,209	REMOVE ANIMALS	0	0	0	0	—	—

APPENDIX

B.

WILD HORSE AND BURRO HERD AREAS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

STATE HERD AREA NAME	ACREAGE		HERD AREA MANAGEMENT STATUS	HORSE POP.	HORSE AML.	BURRO POP.	BURRO AML.	FY HMAP	FY LAST CENSUS
	BLM	OTHER*							
OREGON									
RHODES CANYON	13,000	33,000	REMOVE ANIMALS	0	0	0	0	—	—
RIDDLE MTN	74,155	11,830	HERD MGT AREA	48	45	0	0	75	89
SAND SPRINGS	194,846	6,466	HERD MGT AREA	258	150	0	0	—	91
SECOND FLAT	8,281	1,921	REMOVE ANIMALS	0	0	0	0	—	—
SHEEPSHEAD	116,122	424	HERD MGT AREA	206	150	0	0	—	91
SOUTH CATLOW	63,120	38,600	REMOVE ANIMALS	0	0	0	0	—	89
SOUTH STEENS	175,605	76,630	HERD MGT AREA	178	232	0	0	80	90
STINKING WATER	79,631	12,224	HERD MGT AREA	80	60	0	0	77	89
STOCKADE	16,801	10,065	REMOVE ANIMALS	0	0	0	0	—	—
THREE FINGERS	65,322	5,546	HERD MGT AREA	85	113	0	0	75	91
WARM SPRINGS	456,855	51,536	HERD MGT AREA	79	157	6	25	80	91
TOTALS:	3,220,212	676,478		2,006	1,998	6	25		

OREGON HERD AREA ACREAGE: 3,896,690 OREGON WH&B POP: 2,012 OREGON WH&B AML: 2,023 OREGON EXCESS WH&B'S: 0

WILD HORSE AND BURRO HERD AREAS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

STATE HERD AREA NAME	ACREAGE		HERD AREA MANAGEMENT STATUS	HORSE POP.	HORSE AML.	BURRO POP.	BURRO AML.	FY HMAP	FY LAST CENSUS
	BLM	OTHER*							
UTAH									
BIBLE SPRING	50,160	7,280	HERD MGT AREA	23	25	0	0	—	91
BLAWN WASH	37,110	4,170	HERD MGT AREA	46	17	0	0	—	91
BONANZA	101,160	16,430	REMOVE ANIMALS	60	34	0	0	—	91
BURBANK	59,240	6,400	REMOVE ANIMALS	0	0	0	0	—	89
CANYON LANDS	16,000	52,680	HERD MGT AREA	0	0	40	20	—	91
CEDAR MTN	117,540	65,184	HERD MGT AREA	385	85	0	0	85	91
CHLORIDE CANYON	8,855	4,120	HERD MGT AREA	30	30	0	0	—	90
CHOKO CHERRY	31,130	3,840	HERD MGT AREA	43	29	0	0	—	89
CONFUSION	235,005	27,285	HERD MGT AREA	100	70	0	0	—	91
CONGER	139,920	14,080	HERD MGT AREA	80	60	0	0	—	91
FOUR MILE	23,380	4,160	HERD MGT AREA	53	25	0	0	—	89
FRISCO	26,680	6,660	HERD MGT AREA	64	16	0	0	—	91
HARVEYS FEAR	23,040	0	REMOVE ANIMALS	0	0	0	0	—	89
HILL CREEK	118,532	20,622	HERD MGT AREA	507	195	0	0	—	91
KINGTOP	134,847	14,720	HERD MGT AREA	50	3	0	0	—	91
MOODY-WAGON BOX MESA	38,231	0	REMOVE ANIMALS	0	0	0	0	—	87
MT ELINOR	31,600	6,480	HERD MGT AREA	47	15	0	0	—	88
MUDDY CREEK	137,110	17,480	HERD MGT AREA	72	55	0	0	—	91
NORTH HILLS	35,573	35,422	HERD MGT AREA	77	65	0	0	77	90
ONAQUI MTN	34,495	9,385	HERD MGT AREA	250	45	0	0	86	91
OQUIRRH MT	71,730	0	REMOVE ANIMALS	0	0	0	0	—	—
RANGE CREEK	69,000	6,380	HERD MGT AREA	120	100	0	0	—	91
ROBBERS ROOST	120,970	15,180	HERD MGT AREA	20	10	0	0	—	91
SINBAD	217,600	25,450	HERD MGT AREA	80	35	60	50	—	91

APPENDIX

B.

WILD HORSE AND BURRO HERD AREAS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

STATE HERD AREA NAME	ACREAGE		HERD AREA MANAGEMENT STATUS	HORSE POP.	HORSE AML.	BURRO POP.	BURRO AML.	FY HMAP	FY LAST CENSUS
	BLM	OTHER*							
UTAH									
SULPHUR	142,800	16,460	HERD MGT AREA	260	155	0	0	87	91
SWASEY	120,113	16,200	HERD MGT AREA	95	60	0	0	—	91
TILLY CREEK	26,480	5,520	HERD MGT AREA	56	21	0	0	—	87
WINTER RIDGE	15,000	0	REMOVE ANIMALS	5	5	0	0	—	90
TOTALS:	2,183,301	401,588		2,523	1,155	100	70		

UTAH HERD AREA ACREAGE: 2,584,889 UTAH WH&B POP: 2,623 UTAH WH&B AML: 1,225 UTAH EXCESS WH&B'S: 1398

WILD HORSE AND BURRO HERD AREAS
ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

STATE HERD AREA NAME	ACREAGE		HERD AREA MANAGEMENT STATUS	HORSE POP.	HORSE AML.	BURRO POP.	BURRO AML.	FY HMAP	FY LAST CENSUS
	BLM	OTHER*							
WYOMING									
ADOBE TOWN	386,600	27,700	HERD MGT AREA	780	500	0	0	83	91
ALKALI-SPRING CREEK	3,000	1,500	REMOVE ANIMALS	0	0	0	0	—	—
CARTER	118,114	139,199	REMOVE ANIMALS	0	0	0	0	—	—
CUMBERLAND	266,144	193,158	REMOVE ANIMALS	0	0	0	0	—	—
DEER CREEK	9,750	55,250	REMOVE ANIMALS	0	0	0	0	—	—
DIVIDE BASIN	562,702	216,213	HERD MGT AREA	386	500	0	0	81	91
FIFTEENMILE	69,273	13,418	HERD MGT AREA	246	100	0	0	85	91
FLAT TOP	218,400	27,500	HERD MGT AREA	128	70	0	0	84	91
FOSTER GULCH-DRY CREEK	116,500	6,400	REMOVE ANIMALS	0	0	0	0	—	—
LABARGE	154,800	52,220	REMOVE ANIMALS	0	0	0	0	—	—
LANDER	323,700	42,000	HERD MGT AREA	1,184	615	0	0	84	91
MCCULLOUGH PEAKS	86,160	24,260	HERD MGT AREA	362	100	0	0	85	91
NORTH GRANGER	248,107	274,138	REMOVE ANIMALS	0	0	0	0	—	—
NORTH SHOSHONE	18,980	2,720	REMOVE ANIMALS	0	0	0	0	—	—
SALT WELLS CREEK	584,077	397,883	HERD MGT AREA	410	365	0	0	82	91
SAND DRAW	9,560	640	REMOVE ANIMALS	0	0	0	0	—	—
SEVEN LAKES	297,100	38,300	HERD MGT AREA	368	95	0	0	81	91
SLATE CREEK	229,365	41,805	REMOVE ANIMALS	0	0	0	0	—	—
SOUTH DESERT-FIGURE FOUR	150,975	4,389	REMOVE ANIMALS	126	0	0	0	83	91
SOUTH GRANGER	107,500	108,320	REMOVE ANIMALS	0	0	0	0	—	—
WHITE MTN	240,416	52,233	HERD MGT AREA	290	250	0	0	83	91
ZIMMERMAN	9,580	720	REMOVE ANIMALS	0	0	0	0	—	—
TOTALS:	4,210,803	1,719,966		4,280	2,595	0	0		

2 WYOMING HERD AREA ACREAGE: 5,930,769

WYOMING WH&B POP: 4,280

WYOMING WH&B AML: 2,595

WYOMING EXCESS WH&B'S: 1685

APPENDIX

B.

BLM WILD HORSE AND BURRO HERD AREAS SUMMARY

HERD AREA ACREAGE HERD		AREA MANAGEMENT STATUS		SIGNED HMAP'S	
BLM:	34,092,902	HMA:	196	91	
OTHER:	8,655,277	REMOVE WH&B'S:	72		
TOTAL	42,748,179	NO DECISION:	1		
WH&B POPULATION AS OF 10/01/91		APPROPRIATE MANAGEMENT LEVEL		EXCESS WH&B'S	
HORSES:	44,080	HORSES	25,992	HORSES:	18,088
BURROS:	6,617	BURROS:	3,805	BURROS:	2,812
TOT. WH&B POP.	50,697	TOT. WH&B AML:	29,797	TOT. EXCESS WH&B'S:	20,900

APPENDIX

C.

WILD HORSE AND BURRO TERRITORIES ADMINISTERED BY THE USDA FOREST SERVICE

FS REGION STATE TERRITORY NAME	FS	ACREAGE		TERRITORY PLAN FY COMPLETED	DESIRED POP.		CURRENT POP.		FY LAST CENSUS
		BLM	OTHER		HORSE	BURRO	HORSE	BURRO	
REGION 1									
MONTANA									
(No Wild Horse and Burro Territories Administered by U.S. Forest Service)									
REGION 2									
(No Wild Horse and Burro Territories)									
REGION 3									
ARIZONA									
DOUBLE A	29,766	0	0	84	0	20	0	26	—
HEBER	14,000	0	0	—	—	0	5	0	—
SAGUARO LAKE	27,092	0	0	87	0	15	0	18	—
NEW MEXICO									
CAJA	12,928	0	0	89	48	0	48	0	88
DOMO	2,000	0	0	—	0	—	0	0	—
JARITA MESA	19,483	0	0	82	14	0	20	0	—
JICARILLA	75,000	0	0	78	40	0	85	0	91
YESO-MONTOSA MESA	2,400	0	0	—	—	0	—	0	—
<hr/>									
R-3 TOTALS	182,669	0	0		102	35	158	44	

APPENDIX

C.

WILD HORSE AND BURRO TERRITORIES ADMINISTERED BY THE USDA FOREST SERVICE

FS REGION	STATE	TERRITORY NAME	ACREAGE		TERRITORY PLAN FY COMPLETED	DESIRED POP.		CURRENT POP.		FY LAST CENSUS	
			FS	BLM		OTHER	HORSE	BURRO	HORSE		BURRO
REGION 4											
NEVADA											
		BURRO	23,700	22,000	0	79	0	15	0	10	83
		BUTLER BASIN	51,834	9,000	0	—	12	0	19	0	90
		CHERRY SPRINGS	63,696	0	0	77	58	0	200	0	91
		DOBBIN SUMMIT	51,740	90,000	0	—	4	0	9	0	90
		ELLSWORTH	18,000	0	0	—	8	0	8	0	83
		HOT CREEK	35,024	40,476	0	—	21	0	75	0	—
		KELLY CREEK	19,600	35,000	0	88	11	0	15	0	83
		L. FISHLAKE VALLEY	76,079	28,157	0	—	—	—	108	0	89
		MONITOR	384,000	140,065	0	79	280	0	277	0	79
		NORTHUMBERLAND	12,800	0	0	88	8	0	8	0	83
		PARADISE PEAK	17,920	0	0	—	8	0	0	0	83
		POWELL MOUNTAIN	111,185	14,240	7,375	79	29	0	25	0	87
		QUINN	26,661	0	0	—	0	0	0	0	—
		SHOSHONE	26,430	83,014	0	79	25	0	25	0	83
		TIERNEY	61,463	0	0	88	0	0	0	0	75
		TOYAIBE	74,000	0	0	—	0	0	0	0	71
		TOQUIMA	135,000	0	0	—	35	0	19	0	71
UTAH											
		BIG CREEK	7,680	0	0	79	25	0	25	0	90
R-4		TOTALS	1,196,812	461,952	7,375		524	15	813	10	

APPENDIX

C.

WILD HORSE AND BURRO TERRITORIES ADMINISTERED BY THE USDA FOREST SERVICE

FS REGION STATE TERRITORY NAME	FS	ACREAGE		TERRITORY PLAN FY COMPLETED	DESIRED POP.		CURRENT POP.		FY LAST CENSUS
		BLM	OTHER		HORSE	BURRO	HORSE	BURRO	
REGION 5									
CALIFORNIA									
BIG BEAR	35,000	0	0	82	0	60	0	110	90
BLACK MOUNTAIN	13,215	0	635	80	20	0	13	0	92
BRUSHY MOUNTAIN	2,311	0	600	—	70	0	8	0	91
DEVIL'S GARD. PLAT	228,320	7,680	0	80	305	0	400	0	90
McGAVIN PEAK	3,860	1,860	10,325	75	15	0	24	0	89
MONTGOMERY PASS	146,100	70,400	3,020	88	200	0	204	0	91
THREE SISTERS	35,000	0	1,000	74	10	0	27	0	89
WHITE MOUNTAIN	136,000	80,000	4,000	77	75	0	55	0	—
R-5 TOTALS	599,806	159,940	19,580		695	60	731	110	

APPENDIX

C.

WILD HORSE AND BURRO TERRITORIES ADMINISTERED BY THE USDA FOREST SERVICE

FS REGION		FS	ACREAGE		TERRITORY PLAN FY COMPLETED	DESIRED POP.		CURRENT POP.		FY LAST CENSUS
STATE	TERRITORY NAME		BLM	OTHER		HORSE	BURRO	HORSE	BURRO	
REGION 6										
OREGON										
	BIG SUMMIT	27,300	80	160	75	60	0	70	0	91
	MURDERERS CREEK	73,629	34,261	35,240	84	100	0	180	0	91
R-6	TOTALS	100,929	34,341	35,400		160	0	250	0	

FS WILD HORSE AND BURRO TERRITORY AREAS SUMMARY

TERRITORY ACREAGE		TERRITORY MANAGEMENT STATUS	
FS:	2,080,216	TERRITORIES:	36
OTHER:	718,588	TERRITORIES w/PLANS:	23
TOTAL	2,798,804		

WH&B POPULATION AS OF 10/01/91		DERIRED POPULATION LEVELS		EXCESS WH&B'S	
HORSES:	1,952	HORSES	1,481	HORSES:	471
BURROS:	164	BURROS:	110	BURROS:	54
TOT. WH&B POP.	2,116	TOT. WH&B AML:	1,591	TOT. EXCESS WH&B'S:	525

**BIENNIAL POPULATION ESTIMATES BY STATE FOR WILD HORSES
AND BURROS ON LANDS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT**

STATE	1974	1976	1978	1980	1982	1984	1986	1988	1990	1992
<i>(Number of animals at start of FY)</i>										
WILD HORSES										
Arizona	115	107	70	125	150	115	115	204	225	206
California	3,000	4,230	3,700	2,897	3,320	4,106	2,354	1,755	1,745	2,011
Colorado	500	1,035	990	1,229	650	675	414	569	605	810
Idaho	500	874	1,200	935	880	881	706	449	354	444
Montana	325	257	300	232	200	141	157	128	121	121
Nevada	20,000	22,258	31,800	31,260	26,050	29,642	29,853	27,015	30,798	31,650
New Mexico	7,550	6,420	70	76	80	165	70	70	29	29
Oregon	5,265	7,493	4,050	3,458	3,270	3,748	3,149	2,549	1,891	2,006
Utah	1,000	1,803	2,150	1,714	1,330	1,636	1,254	1,319	1,884	2,523
Wyoming	4,411	8,833	9,700	10,448	9,000	7,959	4,684	3,764	4,115	4,280
TOTALS	42,666	53,310	54,030	52,374	44,930	48,998	42,756	37,822	41,774	44,080

**BIENNIAL POPULATION ESTIMATES BY STATE FOR WILD HORSES AND
BURROS ON LANDS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT**

STATE	1974	1976	1978	1980	1982	1984	1986	1988	1990	1992
<i>(Number of animals at start of FY)</i>										
WILD BURROS										
Arizona	10,000	2,668	3,780	5,000	5,600	3,625	3,625	2,465	2,075	3,018
California ^a	3,200	3,072	3,845	6,152	4,850	5,900	2,765	1,369	1,708	1,708
Colorado	0	0	0	0	0	0	0	0	0	0
Idaho	8	9	10	16	20	0	0	1	1	1
Montana	0	0	0	0	0	0	0	0	0	0
Nevada	1,000	842	1,420	939	1,330	1,744	1,202	1,518	1,269	1,784
New Mexico	80	104	25	31	30	14	14	0	0	0
Oregon	16	25	0	20	20	25	25	25	6	6
Utah	50	70	80	13	20	50	34	86	91	100
Wyoming	20	0	0	0	0	0	0	0	0	0
TOTALS	14,374	6,790	9,160	12,171	11,870	11,358	7,665	5,464	4,775	6,617

^a Because several burro herds roam freely between BLM-administered lands and lands under the jurisdiction of the National Park Service or Department of Defense, population estimates through 1984 had included some animals whose status was uncertain. This discrepancy was resolved in the figure reported for 1986, due in part to an aggressive removal program by the Park Service and the Defense Department.

APPENDIX

E.

BIENNIAL POPULATION ESTIMATES BY STATE FOR WILD HORSES AND BURROS ON NATIONAL FOREST LAND

STATE	1974	1976	1978	1980	1982	1984	1986	1988	1990	1992
<i>(Number of animals at start of FY)</i>										
WILD HORSES										
Arizona	7	5	3	8	5	7	5	5	5	5
California	828	1,037	1,381	1,397	1,006	496 ^{a,b}	581	500	475	612
Colorado	0	0	0	0	0	0	0	0	0	0
Idaho	34	5	0	7	7	3	4	0	6	0
Montana	8	9	8	8	8	20	0	10	12	35
Nevada	1,174	1,305	1,042	951	1,139	490 ^{b,c}	571	560	1,552 ^d	1,240
New Mexico	207	279	420	230	170	119	129	158	176	153
Oregon	215	295	215	225	485	205 ^{a,c}	180	170	135	162
Utah	45	90	103	121	74	47	55	50	49	58
Wyoming	23	0	0	0	0	0	0	0	0	0
TOTALS	2,541	3,025	3,172	2,947	2,894	1,387	1,525	1,453	2,410	2,265

**BIENNIAL POPULATION ESTIMATES BY STATE
FOR WILD HORSES AND BURROS ON NATIONAL FOREST LAND**

STATE	1974	1976	1978	1980	1982	1984	1986	1988	1990	1992
<i>(Number of animals at start of FY)</i>										
WILD BURROS										
Arizona	36	24	14	4	16	166 ^c	76	48	46	44
California	209	252	312	143	325	77 ^{a,b}	232	90	92	140
Colorado	0	0	0	0	0	0	0	0	0	0
Idaho	6	5	6	6	3	0	0	0	0	0
Montana	0	0	0	0	0	0	0	0	0	0
Nevada	13	15	28	16	40	15	17	15	269 ^d	70
New Mexico	5	15	30	35	32	25	25	25	25	0
Oregon	0	0	0	0	0	0	0	0	0	0
Utah	13	0	0	0	0	0	0	0	0	0
Wyoming	0	0	0	0	0	0	0	0	0	0
TOTALS	282	311	390	204	416	283	350	178	432	254

Reasons for significant differences between 1982 and 1984 population estimates:

- a An aggressive capture program to bring population in line with management plan level.
- b Elimination of duplicate counting by BLM and FS on overlapping territories.
- c Improved census techniques.
- d Population increases due to land being transferred from BLM to FS administration.

APPENDIX

F.

BUREAU OF LAND MANAGEMENT WILD HORSE
AND BURRO PROGRAM ACCOMPLISHMENTS FOR FISCAL YEARS 1990 AND 1991

Fiscal Year 1990

STATE	Herd Areas Monitored	Removals		Adoptions		Compliance Inspections (No. Adopters)	Titles	
		Horses	Burros	Horses	Burros		Horses	Burros
AK	0	0	0	5	0	0	1	0
AZ	8	19	366	83	24	98	113	33
CA	8	456	132	309	75	91	315	83
CO	7	48	0	96	5	10	74	0
ES	0	0	0	2,060	346	43	2,450	461
ID	6	35	0	76	0	2	17	7
MT	2	3	0	58	67	11	61	76
NV	126	2,934	89	72	20	138	110	33
NM	1	1	0	506	65	45	748	114
OR	7	357	0	101	2	71	96	21
UT	11	205	13	58	9	24	58	5
WY	9	393	0	163	14	8	129	28
SUBTOTALS		4,451	595	3,587	627		4,172	861
TOTALS	185	5,054		4,214		541	5,033	

APPENDIX

F.

BUREAU OF LAND MANAGEMENT WILD HORSE AND BURRO PROGRAM ACCOMPLISHMENTS FOR FISCAL YEARS 1990 AND 1991 (Concluded)

Fiscal Year 1991

STATE	Herd Areas Monitored	Removals		Adoptions		Compliance Inspections (No. Adopters)	Titles	
		Horses	Burros	Horses	Burros		Horses	Burros
AK	0	0	0	4	1	0	0	0
AZ	9	0	122	55	29	105	71	23
CA	14	611	234	511	114	174	261	67
CO	7	72	0	155	8	13	100	5
ES	0	0	0	2,842	382	59	1,585	305
ID	8	80	0	77	0	4	79	2
MT	0	17	0	35	60	13	13	45
NV	102	3,912	256	697	39	405	49	15
NM	0	0	0	334	16	57	250	30
OR	17	526	1	225	6	71	103	11
UT	18	370	0	189	1	29	44	4
WY	8	807	0	183	4	15	147	14
SUBTOTALS		6,395	613	5,307	660		2,702	521
TOTALS	183	7,008		5,967		946	3,223	

APPENDIX

G.

FOREST SERVICE WILD HORSE AND BURRO PROGRAM ACCOMPLISHMENTS FOR FISCAL YEARS 1990 AND 1991

STATE	Territories		Management Plans Complete			1990-1991	
	No. ^a	Acres ^b	Prior to 1990	1990-1991	Total	Removals ^c	Adoptions
AZ	3	70,858	2	0	2	0	0
CA	9	604,927	8	0	8	255	0
MT	1	3,800	1	0	1	0	0
NV	23	1,553,304	10	0	10	5	0
NM	5	111,811	3	0	3	62	1
OR	2	100,929	2	0	2	0	0
UT	2	32,396	2	0	2	0	0
TOTALS	45	2,478,025	28	0	28	322	1 ^d

^a Includes all territories with National Forest System Lands

^b Includes all National Forest System Lands within territories

^c Includes only removal from territories where the Forest Service is the Lead Agency

^d Includes only those animals adopted by the Forest Service independently of the BLM Adopt-A-Horse Program

WILD HORSE AND BURRO PROGRAM APPROPRIATIONS - 1972-1989

Appropriated Amount

Fiscal Year	Forest Service	Bureau of Land Management
1972		0
1973		400,000
1974		687,000
1975		1,314,000
1976		1,272,000
1977		2,679,000
1978		4,025,000
1979	\$435,000	4,250,000
1980	450,000	4,582,000
1981	400,000	5,704,000
1982	310,000	5,418,000
1983	570,000	4,877,000
1984	293,000	5,766,000
1985	175,000	17,039,000
1986	262,000	16,234,000
1987	280,000	17,936,000
1988	286,000	14,774,000
1989	181,000	14,560,000
1990	183,000	13,598,000
1991	220,000	14,341,000

APPENDIX

LITIGATION SUMMARIES

The following summaries give the status of wild horse and burro litigation in FY's 1990 and 1991.

RESOLVED

Cases 3 and 4 below were resolved prior to the period covered by this report; they are listed here because their final disposition was not included in earlier reports.

1. A&B Horse Farms v. United States, Cl. Ct. No. 664-88-C (filed November 21, 1988).

Issue: Plaintiff sought money damages related to the care and feeding of 600 wild horses which were undergoing adoption pursuant to the Wild Free-Roaming Horse and Burro Act.



On October 21, 1986, A&B Farms acquired 600 horses and thereafter maintained those horses for about 1 year under the terms of Private Maintenance and Care Agreements entered into between plaintiff's principals (the 150 individual adopters) and the BLM. At the end of 1 year, the plaintiff contacted BLM officials regarding transfer of title to the horses as provided by 16 U.S.C. 1333(c). In November 1987, the BLM repossessed the subject horses and declined to transfer title of them to plaintiff after receiving information that A&B Horse Farms was allegedly adopting the horses with an intent to sell them for slaughter once title passed.

Plaintiff then filed this action in the U.S. Claims Court to recover damages of \$440,000 for the reasonable value of the care and maintenance of the horses or, alternatively, \$173,329.22, which represents the fair value of the horses, transportation costs, and attorney's fees.

Status: On October 4, 1989, the Claims Court granted the United States' motion to dismiss, concluding that the plaintiff had failed to state a claim within the court's jurisdiction. Plaintiff did not appeal.

2. M.E. Eddleman v. United States, Cl. Ct. No. 90-3853-L (filed October 12, 1990.)

Issue: Plaintiff sought almost \$2.5 million for the care, feeding, and value of 613 wild horses which were undergoing adoption pursuant to the Wild Free-Roaming Horse and Burro Act.

In October or November 1988 about 613 wild horses were delivered to plaintiff pursuant to Powers of Attorney obtained by plaintiff. Plaintiff alleged that he fed and cared for the horses until May 1988. In May 1988, the BLM repossessed the subject horses and declined to transfer title of them to plaintiff after receiving information alleging that he might have intended to sell the horses for slaughter after title had passed.

This suit sought the same relief as *Eddleman v. United States*, CV-88-276-BLG-JFB (D. MT.), which was dismissed for lack of subject matter jurisdiction on September 19, 1989.

Status: On March 28, 1991, the Claims Court dismissed this action without prejudice.

3. *William Hein v. M. E. Eddleman, Donald Hodel, et al.*, CV88-135-BLG-JFB (D. MT., filed June 1988).



Issue: Plaintiff requested issuance of an order enjoining and restraining defendants from removing wild horses from his ranch. The application for preliminary injunction and temporary restraining order was made on the grounds that plaintiff had an Agister's Lien on the horses for costs associated with the care and feeding of the animals from November 11, 1987, to April 15, 1988.

Plaintiff owns and operates a ranch near Worden, Montana. On November 11, 1987, at the request of M. E. Eddleman, he began to care for approximately 600 wild horses at his ranch. Eddleman held power of attorney for adopters of these horses, which he could no longer care for adequately on his property.

The Bureau of Land Management had notified Eddleman, on or about October 21, 1987, shortly before the wild horses would have been eligible for titling, that title would be withheld because BLM had determined that Eddleman intended to commercially exploit the horses. Withholding of title was consistent with the ruling of Judge Howard B. McKibben of the U.S. District Court for Nevada in *Animal Protection Institute of America, Inc., and the Fund for Animals, Inc. v. Hodel et al.* CV-R-85-365-HDM.

The compensation sought by plaintiff is for the period of November 11, 1987, to April 15, 1988. The BLM agreed to assume the costs associated with caring for the horses beginning on or about April 15, 1988, through a contractual arrangement with the plaintiff.

Status: On June 13, 1988, plaintiff submitted a memorandum in support of application for preliminary injunction and in opposition to motion to dismiss. On June 14, 1988, Federal Judge James Battin denied the motion for an injunction, ruling that Federal law did not give him jurisdiction in plaintiff's debt action against the Government. The law requires that the plaintiff submit his bill to the Court of Claims in Washington, D.C. Judge Battin approved a BLM plan to remove the horses after paying the plaintiff an agreed amount for feeding since April 1988. The animals were gathered and shipped to South Dakota by rancher Melvin Delzer, who has power of attorney for a group of adopters. On July 8, 1988, Judge Battin granted defendants' motion to dismiss. No appeal was filed.

APPENDIX

4. Bright-Holland Company et al. v. Watt, Civil No. R-82-153-BRT (D. Nev., filed April 1982).

Issue: Plaintiffs sought a ruling requiring the BLM to remove wild free-roaming horses and burros from their private lands. They alleged the presence of wild horses had caused permanent damage to their lands and asked for compensation in the amount of \$2,500,000, as well as a daily payment for each wild horse and burro remaining on their property.

Status: Plaintiffs filed a motion for summary judgment, arguing that there was no genuine issue of material fact, and they were entitled to judgment as a matter of law since (1) defendants were under a mandatory duty to arrange for the removal of wild horses on plaintiffs' private property, and (2) the diminution in value to their property as a result of the forage consumed by the wild horses was compensable under the Fifth Amendment.

Defendants filed a motion in opposition to summary judgment, arguing in part that a genuine issue of material fact existed as to the presence of wild horses on plaintiffs' property. Defendants also filed a motion to dismiss the compensation claim, arguing that the district court lacked subject matter jurisdiction over claims in excess of \$10,000 founded on a constitutional taking. Both parties filed new memorandums.

In April 1983, the district court denied plaintiffs' motion for summary judgment, holding that a genuine issue of material fact did exist as to the presence of wild horses on plaintiffs' property. The court also dismissed plaintiff's claim for damages. The case was closed by the court's docket in August 1983. No appeal was filed.

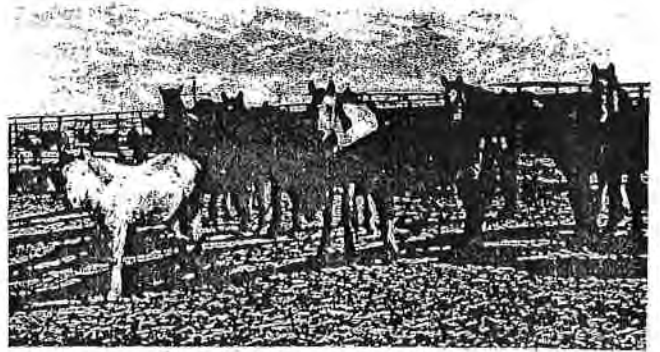
PENDING

1. Joe B. Fallini, Jr., Susan Fallini, and Helen Fallini v. Donald P. Hodel, Robert F. Burford, and Edward F. Spang, CV-S-86-645-RDF (Filed July 1986).

Issue: In the spring of 1984, plaintiffs modified several range improvements (wells), that had been authorized by range improvement permits in 1966, without seeking or obtaining authorization from BLM. The modifications consisted of sections of highway guardrail installed across gates to the waters at a height that allowed cattle to pass but excluded wild horses. On May 3, 1984, the Battle Mountain District Manager issued a decision canceling the permits for the affected wells, citing unauthorized modification of the improvements. The permittee removed the guardrail from all the improvements except Deep Well, and appealed the decision as it pertained to that project. On September 27, 1984, an administrative law judge reversed the District Manager's decision in a ruling from the bench, and extended the ruling to the other well projects that had not been included in the appeal, directing the BLM to issue the required authorizations. The BLM appealed the decision to the IBLA. On June 12, 1986, the IBLA reversed the decision and remanded it to the BLM for appropriate action. The plaintiffs initiated this complaint for judicial review on July 2, 1986.

On November 16, 1989, the U.S. District Court for Nevada set aside the Interior Board of Land Appeals decision and concluded in part that "the BLM actions effected a regulatory taking of Fallinis' water rights at Deep Well contrary to the dictates of the constitution."

Status: The Department of Justice filed a notice of appeal on January 12, 1990, appealing the district court's adverse decision to the U.S. Court of Appeals for the Ninth Circuit. All briefs have been filed in this case, and it is currently pending before the Ninth Circuit. (90-15124 and 90-15125.)



2. Alfred Haberman et. al., d/b/a &B Horse Farms v. United States, Cl.Ct. No. 90-3891-C (filed October 30, 1990).

Issue: Plaintiffs seek the sum (unspecified) equal to the reasonable value of 600 repossessed wild horses or, alternatively, a sum (unspecified) equal to the reasonable value of the care and maintenance of the 600 horses which were undergoing adoption pursuant to the Wild Free-roaming Horse and Burro Act.

On October 21, 1986, A&B Farms acquired 600 horses and thereafter maintained those horses for about 1 year under the terms of Private Maintenance and Care Agreements entered into between plaintiff's principals (the 150 individual adopters) and BLM. At the end of 1 year, the plaintiff contacted BLM officials regarding transfer of title to the horses as provided by 16 U.S.C. 1333(c). In November 1987, the BLM repossessed the subject horses and declined to transfer title of them to plaintiff after receiving information that A&B Horse Farms was allegedly adopting the horses with an intent to sell them for slaughter once title passed.

On November 21, 1988, plaintiffs filed suit in A&B Horse Farms v. United States, Cl. Ct. No. 664-88-C. The 1988 suit was dismissed by the Claims Court on October 4, 1989, concluding the plaintiffs lacked jurisdiction.

Status: The current action was filed in October 1990. In March 1991, the Department of Justice filed a motion to dismiss on the grounds that the Claims Court lacks jurisdiction to entertain plaintiffs' claim and that the court may not grant certain of the relief sought by plaintiffs. All briefs have been filed, and the matter is pending before the Claims Court.

APPENDIX

I.

3. M.E. Eddleman v. United States, Cl. Ct. No. 91-1572-C (filed November 7, 1991).

Issue: Plaintiff seeks almost \$2.5 million for the care, feeding, and value of 613 wild horses which were undergoing adoption pursuant to the Wild Free-Roaming Horse and Burro Act.

In October or November 1988 about 613 wild horses were delivered to plaintiff pursuant to Powers of Attorney obtained by plaintiff. Plaintiff alleged that he fed and cared for the horses until May 1988. In May 1988, the BLM repossessed the subject horses and declined to transfer title of them to plaintiff after receiving information alleging that he might have intended to sell the horses for slaughter after title had passed.

This suit seeks the same relief as Eddleman v. United States, CV-88-276-BLG-JFB (D. MT.), which was dismissed for lack of subject matter jurisdiction on September 19, 1989, and Eddleman v. United States, No. 90-3853-L (Cl. Ct.), which was dismissed on March 28, 1991, without prejudice.

Status: The Department of Justice filed a motion to dismiss on January 7, 1991.





United States
Department of
Agriculture

Forest
Service

Heber Ranger District
P. O. Box 968
Overgaard, Arizona 85933

ly to: 2260

Date: June 21, 1993

Subject: Territory Withdrawal Recommendation

To: Forest Supervisor

The "wild horse territory" on the Heber Ranger District should be eliminated from formal management designation. The territory was designated in the early 70's because there were unclaimed animals on the Forest. Some of these were "unclaimed" animals from the Fort Apache Indian Reservation and some were animals abandoned in the area when a local family left. Indian horses have been claimed when the District has published a notice to impound estray animals. There are two mares left in the "herd".

The Region in a 2260 memo to the WO, dated November 6, 1991, had reports for each territory. The Heber Territory was mentioned. It states: "... (it) should not be recognized at all." The territory was not an issue raised during development of the Forest Plan. It was not discussed in the EIS, nor is it discussed anywhere in the plan itself. A Territory Plan has not been written.

recommend it be removed from the records as a territory and that the animals be removed by the State Livestock Sanitary Board.

Kate Klein

KATE KLEIN
Heber District Ranger

United States
Department of
Agriculture

Forest
Service

Apache-
Sitgreaves
NF's

P.O. Box 640
Springerville, AZ 85938

Reply to: 2260

Date: July 12, 1993

Subject: Wild Horse Territory Removal

To: District Ranger, Heber Ranger District

This office is in agreement with your recommendation concerning the territory.

The designation did not meet the intent of law and policy. The subject was not an issue during the Forest Land Management Planning process and is not mentioned in the Forest Plan, as amended, or its EIS.

You may proceed to have the two unauthorized animals removed from the Forest.

The record will be closed on this subject.

/s/ John C. Bedell
JOHN C. BEDELL
Forest Supervisor

cc:
RO Range

Meyer & Glitzenstein
1601 Connecticut Avenue, N.W.
Suite 700
Washington, D.C. 20009-1035

Katherine A. Meyer
Telephone (202) 588-5206
Eric R. Glitzenstein
(202) 588-5049
Howard M. Crystal
Jonathan R. Lovvorn

.....
..... Fax

February 18, 1999

Freedom of Information Act Officer
Bureau of Land Management
1849 C Street, N.W.
Washington D.C. 20240

Freedom of Information Act Officer
USDA Forest Service
PO Box 96090
Washington, D.C. 20090-6090

Dear Sir/ Madam:

On behalf of the Fund for Animals (Fund), I am writing to request certain information under the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"). The Fund is a national, non-profit organization, which is dedicated to educating the public about issues concerning animal protection. As you may know from previous communications with the Fund, the organization is particularly interested in obtaining a greater understanding of BLM's wild horse and burro programs.

BLM originally had 303 Herd Management Areas (HMAs), spread out over 47 million acres of land. There are now approximately 186 HMAs. In order to gain an understanding of this reduction in HMAs, the Fund requests:

(1) All NEPA documentation from the Bureau of Land Management (BLM) and the Forest Service (FS) related to decisions to eliminate each one of the estimated 117 HMAs no longer in existence. This request seeks information pertaining to the policies, guidelines and decision making process which drive decisions to eliminate HMAs, as opposed to documents which govern or plan the actual physical elimination of an HMA once the determination to remove the horses has been made. This FOIA request includes any scoping documents, Environmental

Tenth and Eleventh Report to Congress on the Administration of the Wild Free-Roaming Horse and Burro Act for Fiscal Years 1992-1995 at 7.

Assessments, Environmental Impact Statements, or other documents prepared pursuant to NEPA and related to eliminating HMAs.

(2) BLM and FS documents related to the elimination of HMAs and prepared pursuant to the statutory mandates governing removal of wild horses and burros.

²This would include relevant multiple use decisions (MUDS) on grazing management made within the context of Resource Management Plans (RMPs) and EISSs from BLM or issuing BLM field offices, which bear on the decision to eliminate HMAs.

(3) All BLM and FS records (memoranda, letters, and electronic mail, notes, etc ...) where the elimination of an HMAs is contemplated, discussed, or determined to be an appropriate course of action. This does not include records which pertain only to the mechanics involved in physically eliminating an HMA.


(4) Any Wild Horse and Burro Steering Committee materials containing or referring to BLM policies regarding the removal of wild horses and burros from public lands. This request is not specifically limited to decisions regarding the removal of an entire HMA, but focuses more broadly on any steering committee materials which guide removal decisions on a programmatic, statewide or regional basis.

These documents should be provided within twenty working days. 5 U.S.C. § 552(a)(6)(A)(i). In addition, any records or segments of records that are deemed to be exempt from FOIA should be specifically described and correlated with a particular FOIA exemption.

We would request that you waive any applicable fees for this request. The Fund is a non-profit public interest group (tax exempt number 13-6218740) dedicated to the protection of animals such as wild horse and burros. For years, the Fund has been involved in efforts to protect these animals. The Fund will not commercially profit from any information provided pursuant to this request. Moreover, the disclosure of the requested information would promote the public's interest in understanding the government's management of the wild horse and burro program. BLM has waived all fees for the Fund's requests in the past.

Please feel free to contact me or Howard Crystal directly should you have any questions regarding this request.

Sincerely,


Cara Romanzo

TO: rgiffen / wo

art 3.3.2

ARPA MESSAGE HEADER

Part 3.3.3

** High Priority **

here's what we sent to our field

Part 3.3.4

Part 3.3.4.1

TO: DISTRIBUTION (Title: FFA FOIA Response)

Part 3.3.4.2

** High Priority **

Hello to all. I have attached the notes from an informal meeting we held in response to the Fund For Animals FOIA request. Due to the sizeable nature of the request, we have decided to appoint a National FOIA Coordinator. Please do not respond individually to the request at this time. We will contact you when the FOIA contact person at Washington has been selected. We sent the scanned request out as a "heads up". As reflected in the meeting notes, there are several things that need clarification. Thanks for your cooperation in this matter.

Sally Hampton

For those of you who do not have a copy of the request, I have attached the scanned file.

Part 3.3.4.3

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Part 3.3.4.4

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Meeting @ WO March 3, 1999

Attendees:

David Williams Planning WO-210
Mary Linda Ponticelli Planning WO-210
Luiz Florez Range, WO-220 [Detail from NM]
Bud Cribley WH&B, WO-260
Paul Politzer Planning, WO-210

Amy Edwards FOIA/Directives/Records, WO-540
Sally Hampton WH&B, WO-260
Tom Pogacnik WH&B Reno, WO-260 [call]
Bob Mitchell WH&B Reno, WO-260 [call]

Issues:

Interpreting the request and assigning initial tasks
Extension of time to gather information requested
Arranging meeting with FFA attorney for clarification and correction of terminology in letter
Discussion of material availability
Discussion of requested cost waiver

Resolution and Tasks:

-Land Use Plans

1 RMPs available at WO 7th floor library and other agencies and DOI
2 MFPs, URAs, Grazing EISs

-Materials to give attorney at meeting week of March 8th

3 Tonapah RMP CD
4 one MFP from field minus planning unit maps
5 1790 manual and handbook
1600 regulations and manual and Supplemental Program Guidance
Provide Web addresses for regulations

-WO-260 determined that no IM's in WH&B direct or set policy for not managing for horses or burros in Herd Areas

-WO-210 [Planning] will get list of all State NEPA/Planning Coordinators for those states with Herd Areas

-WO-260 WH&B Reno will find MFP and Fed Ex to WO

-WO-260 WH&B WO will provide list of all HA's with dates of Plans sorted by O'd out and AMLs set

-WO-260 WH&B search for PAWP directives or strategic goal statements that address total removal of animals from Herd Areas

***-WO-540 FOIA WO will provide list and contact all FOIA coordinators for States involved**

***-WO-540 will assign National lead for FOIA and draft extension letter**

-WO-260 WH&B Reno search public info in congressional reports addressing Herd Area boundaries, counts, not managing for animals....

-WO-260 WH&B WO - liaison with Solicitor, WO FOIA, and USFS

Make determination of what NOT to release

nothing affecting decision-making process after or in progress at time of letter - February 18th, 1999

Part 1

TO: DISTRIBUTION (Title: Distribution list)

Part 2

Subject: FOIA on :Wild Horses and Burro...Territories...the ones we eliminated or are planning to eliminate!!!!

WO, has asked that we provide them information on any Wildhorse & Burro Territories that we have eliminated, either individually or thorough Forest plan Decison. We do not need any documentaing data at this point but I do need the following By MIDDLE OF NEXT WEEK (3/18):

- 1) Territory Name.... if eliminatedor..... planned to be eliminated irrespective if there are live critters on it or not!!
- 2) Whether the territory isalready eliminated or..... isPlanned to be eliminated!!!!.
- 3) Date eliminated or proposed date for elimination.
- 4) The type of documentation or decision document by which it was eliminated or is planned to be eliminated!!
- 5) Whether or not the Territory is currently populated.

Those of you who have eliminated or planned to eliminate territories MAY BE ASKED to provide documentation to that effect..... including any documentation regarding discussion held with respect to these planning efforts... Again You do not need to provide any documentation at this time ...but be prepared if the WO calls for this.

I will be hosting an INFRA Range Training here in the RO but will not be available to answer any questions Monday throught Wednesday of next week (3/15-18) Therefore if youhave any questions ...please do not hesitate to call Ralph Giffen 202-205-1455. Your report however needs to come into me...

This request stems from the attached documents on the issue.

Part 3

Part 3.1

TO: george martinez / r3

Part 3.2

George, I sent this earlier to Dave. We need to talk about the enclosed. If you can't open it up let me know and I'll send a FAX. I need to have you find out if any Forest has eliminated a wild horse or burro territory. We have direction in the FSM to do so, and I thought that the A-S had attempted to do it, although we told them that we didn't think that it was appropriate. Also, on an old map of territories, and an attached list, I have a territory that's are not listed in your latest report, that's the San Diego on the Santa Fe. It had no numbers on my poop sheet, and I wondered what happened to it. I'll be in tomorrow, so give me a call.

Ralph Giffen/wo@fs.fed.us
Range Management Staff/WO
202-205-1455
FAX 202-205-1096

Part 3.3

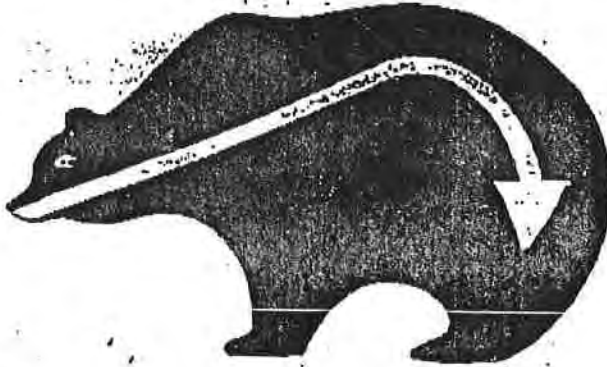
Part 3.3.1

FROM: shampton / BLM

DDT1=RFC-822; DDV1=shampton@blm.gov;

Chevelon-Heber

Chevelon -Heber Ranger Districts
Apache-Sitgreaves National Forests - Overgaard, Arizona
(520) 535-4481 FAX (520) 535-5972



To: Mike Rising

From: Kendell

Number of Pages (not including cover) 6

Comments: Wild Horse Territory information

Ralph Chiffen

Answers to your questions on wild horse and burro territories.

1. Heber is the name of the territory. No critters on the area.
2. The territory is still listed in the blue pages of the manual, however we eliminated the territory July 12, 1993.
3. July 1993
4. The territory was eliminated by letter from the Forest Supervisor.
5. The Territory is not occupied by wild horses or burros.

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2260.1 – Authority

The Wild Horses and Burros Protection Act of 1971, as amended by the Federal Land Policy and Management Act of 1976 and the Public Rangelands Improvement Act of 1978, establishes wild free-roaming horses and burros as a part of the natural system where they occur on National Forest System lands. The acts require management, protection, and control of these horses and burros. Four acts important in protection and control of wild free-roaming horses, and burros are the Multiple Use-Sustained Yield Act of 1960, the National Environmental Policy Act of 1969, and the Resource Planning Act as amended by the National Forest Management Act. Legal citations for these acts are in FSM 2201.

2260.2 – Objective

To maintain wild free-roaming horse and burro populations in a thriving ecological balance in the areas they inhabit on National Forests.

2260.3 - Policy

1. Confine wild free-roaming horses and burros to managed Horse and Burro Territories as established in 1971, to the extent possible.
2. Determine population levels by considering the animals' forage and habitat requirements, wildlife, permitted livestock, and other uses recognized under the Multiple Use-Sustained Yield Act.
3. Remove excess animals from the range at the earliest opportunity.
4. Recognize wild free-roaming horses and burros as part of the natural system of National Forests.
5. Recognize wild horse-burro territory boundaries in Forest land management plans.
6. Relocate wild free-roaming horses and burros only to territories identified in 1971, and only where a receiving territory has sufficient suitable habitat to sustain planned population levels.
7. Manage, protect, and control wild free-roaming horses and burros on National Forest land rather than issue leases or permits to private parties.
8. Control uses of aircraft and motor vehicles in such a way that animals are disturbed as little as possible, and in a manner that ensures humane treatment of the animals at all times.

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9. Grant title to individuals who have provided one year of private maintenance and care under humane conditions.

10. The Forest Service may destroy excess wild horses and burros when there is no demand for adoption and it is not practical to capture or relocate the animals. Excess animals may be destroyed when placement in private custody is not achieved within 45 days after capture.

11. Charge adoption fees for all wild horses and burros placed through the Forest Service Adopt-A-Horse Program.

12. Do not apply adoption fees or transportation charges to unweaned offspring, which are under the age of 6 months and accompany their mare or jenny.

2260.4 – Responsibility

Responsibilities for administering this program are included in FSM 2204 - 2204.3.

2260.41 - Regional Foresters

Regional Foresters are authorized to abolish territories or adjust territorial boundaries if justified in the Forest Land and Resource Management Plan.

Regional Foresters may enter into State level agreements with the Bureau of Land Management to ensure coordinated approaches to management.

2260.5 - Definitions

Adoption Fee. A fee that partially recovers Forest Service costs incurred in removal of animals from territories, processing adoption applications, providing medical examinations and vaccinations, and feeding and handling the animals during the adoption procedure.

Excess Animals. Wild free-roaming horses or burros that authorized personnel have removed or must remove, pursuant to law, to preserve and maintain ecological balance in coordination with other resources and activities.

Herd Unit. An area of land within a Wild Horse and Burro Territory that is designated as a territorial habitat of one or more stallions/jacks, and their mares/jennies, and progeny, all ranging as one band of animals. A herd unit identifies land area boundaries used by the herd under varying conditions necessary for survival and reproduction.

Territorial Plan. An operational plan for managing one or more herd units of wild free-roaming horses and burros. The plan describes desired population level, detailed management practices, interagency coordination, scheduling, and monitoring requirements for managing each herd unit, within the direction established in the Forest plan.

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Transportation Costs. All costs incurred in moving animals beyond the Forest Service/Bureau of Land Management facility where they are prepared for adoption. See FSM 6531 for collection procedures.

Wild Free-Roaming Horses and Burros. All unbranded and unclaimed horses and burros and their progeny using National Forest System lands on or after December 15, 1971. This also includes all excess horses and burros removed from National Forest System lands by the Forest Service but which have not lost status (FSM 2264). Unbranded, claimed horses and burros found to be under an erroneous claim are also considered wild and free-roaming, if they meet the criteria above.

Does not include any horse or burro introduced onto National Forest System lands on or after December 15, 1971, by accident, negligence, or willful disregard of private ownership. Such animals are unauthorized livestock. Animals that stray from other lands onto National Forest lands are not considered wild free-roaming horses and burros and are not under Forest Service protection, unless they stray from a Bureau of Land Management wild free-roaming horse or burro herd area.

Wild Horse and Burro Territory. National Forest land identified by the Chief as the territorial habitat of wild free-roaming horses and/or burros when the Wild Horses and Burros Protection Act was passed.

2261 – COOPERATION

Consult and cooperate with the organizations that may be affected or interested in providing for protection, management, determination of excess animals, and control of wild free-roaming horses and burros.

2261.1 - Bureau of Land Management

Coordinate all activities related to wild horses and burros with the Bureau of Land Management (BLM) to reflect similar management objectives.

When wild free-roaming horses and burros roam part of the year on National Forest lands and part of the year on lands administered by BLM, the authorized officers of the two agencies should develop and approve a single territory plan. The plan should include agreement on inventory, desired population level, determination of excess animals, planning, management, protection, control, capture methods, and responsibility for initiating action. The plan may designate a lead agency for management actions.

The Forest Service coordinates with BLM the Adopt-A-Horse Program through agreement (FSM 1531.11a).

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2261.2 - Other Federal Agencies

Consult with the Fish and Wildlife Service, other affected land management agencies, and interested individuals in developing management levels for the protection, management, and control of wild free-roaming horses and burros, and in developing plans for removal of excess animals.

2261.3 - State and Local Governments

Develop a memorandum of understanding with the State agency responsible for enforcing State branding and estray laws. Preferably, the Bureau of Land Management (BLM) will be a party to the agreement. The memorandum of understanding should state clearly what is acceptable proof of ownership of claimed animals. In each State, the Forest Service and the BLM should develop identical criteria and procedures for establishing ownership of claimed animals. The courts have established that it is the responsibility of the Federal Government to determine whether or not the animals in questions are "wild and free-roaming." Once this determination has been made, the State agency responsible for enforcing brand and estray laws may handle ownership claims for those animals determined not to be wild free-roaming, in accordance with State law.

2261.31 - State Wildlife Agencies

Consult and cooperate with the State wildlife agency in management, protection, and control of wild free-roaming horses and burros. Such consultation and cooperation should include, but not be limited to:

1. Proposals to modify boundaries of established wild horse and burro territories.
2. Territory plans for wild free-roaming horses and burros, including plans for the achievement of appropriate population levels through removal and/or destruction of excess animals.
3. Determination of the effects of wild free-roaming horses and burros on other resource uses, especially wildlife and wildlife habitat, and coordination measures necessary to mitigate adverse impacts.
4. Proposals for predator control.

2261.4 - Private Individuals and Organizations

Participation of a well-informed public in management of wild horses and burros is desirable. Participation often can be achieved through public meetings, contacts with organized wild horse and burro protection groups, local livestock associations, or organizations with scientific expertise or special knowledge of wild horses and burros, or by individual contact.

2261.5 - Agreement and Memorandums of Understanding

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When necessary, enter into agreements or memorandums of understanding with other Federal agencies, State agencies, local governments, and private individuals and organizations in carrying out the responsibilities of management, protection, and control of wild free-roaming horses and burros.

2262 - INVENTORY AND STUDIES

2262.1 – Inventory

Maintain a current inventory of the number of wild free-roaming horses and burros on each territory.

In addition to population numbers, the census of wild free-roaming horses and burros shall include herd composition, reproduction rates, seasonal feeding habits, herd unit area, seasonal distribution or movement, external influences, and the effects of other animal species on behavior of wild horses and burros.

2262.11 - Individual Animal Data

It is important to identify some individual animals (marker animals) for management purposes and for processing private ownership claims. Obtain information about age, sex, reproduction, and color markings of individual wild horses and burros as needed.

2262.2 – Habitat

Range analyses and wildlife inventories are primary sources of information about habitat of wild free-roaming horses and burros. When information is not available, follow procedures described in FSM 2213 and FSM 2620 for gathering habitat information. In addition, use information available in other resource inventories in evaluating habitat. Baseline data must be established to determine long-term range condition and trend.

2262.3 – Wild Horse and Burro Ecology [Reserved]

2263 - MANAGEMENT OF WILD FREE-ROAMING HORSES AND BURROS

2263.1 - Wild Horse and Burro Territory Plans

Prepare a territory plan for each Wild Horse and Burro Territory. The plan shall ensure implementation of and compliance with the management direction identified in Regional Guides and Forest land and resource management plans (FSM 1921, 1922). Wild Horse and Burro Territory plans shall follow the outline for allotment management plans (FSM 2214). In addition, the plans shall include a section on management of the animals, addressing such items as population level, special consultation and coordination considerations, and plans for the removal or disposal of excess animals.

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2263.11 - Elements of Plan

1. Objectives. Clearly state the objectives of managing animal, vegetation, and soil resources. In establishing objectives, note the importance of retaining wild free-roaming horses and burros in ecological balance. Wild Horse and Burro Territory plans are to conform with the Forest land and resource management plans. Consider existing livestock and wildlife needs and activities as well as the forage requirements of all animals.

Selective removal of excess animals or relocation of superior animals from other territories to improve gene pool is prohibited. The intent of the Wild Horses and Burros Protection Act is to manage these animals as part of the natural ecosystem.

2. Actions. Includes such direction as population level, protection requirements, and means for removal and/or disposal of excess animals. Identify action needed to achieve management objectives.

Establish population levels by considering:

- a. Number of animals.
- b. Suitability of range.
- c. Range condition and trend.
- d. Other associated resources and resource use activities.

The plan must include range improvements in order to ensure desired management. Range improvements may be constructed from appropriated funds or deposits.

3. Evaluation. Describe the system to be used to determine progress in meeting management objectives.

4. Annual Operating Plan. List the actions for the current year to implement management direction. Include plans for removal of excess animals.

2264 - PROTECTION OF WILD FREE-ROAMING HORSES AND BURROS

2264.1 - Agency Responsibility

Wild free-roaming horses and burros remain under protection of the Forest Service and/or the Bureau of Land Management even though they stray from National Forest lands to lands under other Federal jurisdiction such as National Parks, monuments, and military reservations. The Forest Service shall maintain surveillance of and provide protection for wild free-roaming horses and burros at all times. Utilize agreements, memorandums of understanding, or other

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instruments authorized by law to protect these animals. Forest Service personnel are not authorized, in the absence of agreements with landowners or court orders to enter lands of other ownership for the surveillance and protection of wild horses and burros. When there is reason to suspect violation of the protective measures of the Wild Horses and Burros Protection Act and regulations, initiate appropriate administrative and/or criminal and civil judicial procedures.

2264.2 - National Forest System

Do not issue permits to individuals or organizations for management of animals on National Forest System lands. Consider entering into agreements whereby individuals or organizations may provide funds for management purposes, improvement of water supply, fencing, or other habitat needs.

2264.3 - Private Lands

Agency officials may permit owners of private land who wish to maintain wild free-roaming horses and burros to do so when excess animals are available, and when the owners agree to provide management, protection, and control of the animals, and as a condition of such agreement, to provide an annual report of the welfare and condition of the animals. When wild horses and burros stray or migrate seasonally from National Forest lands onto private lands and the owner does not object to their intermittent presence, the authorized officer should formulate agreements that establish a mutual understanding about the animals' management.

2265 - ANIMAL CONTROL

2265.1 - Capture

Capture wild free-roaming horses and burros as necessary for management, protection, and control. Corral captured animals and hold them in a humane manner pending release, relocation, or disposal. All actions affecting the capture of wild free-roaming horses and burros shall be under the direction of a Forest officer with delegated authority (FSM 2204.3).

2265.2 - Removal of Animals at Landowner's Request

Upon request of a landowner, Forest Service personnel shall remove wild free-roaming horses and burros that have strayed from National Forest lands onto private lands. When fences on boundaries between private lands and National Forest do not exist or are not adequate, advise the landowners of their responsibilities, what the Forest Service position is, and come to an agreement about who will construct, improve, or maintain such fences.

Adhere to applicable State laws governing movement of live-stock when moving wild free-roaming horses and burros from private lands. Return all wild free-roaming horses and burros from private lands to their normal herd territories with minimum physical damage or stress to the animals. Use helicopters and motor vehicles within limits established in FSM 2267.

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When strayed animals pose an imminent threat to the safety of persons or are likely to cause excessive damage to private property if not removed immediately, they may be destroyed in the most humane and cost-efficient manner possible.

2265.3 - Removal of Excess Animals

Remove excess animals in the following order and priority:

1. Old, sick, or lame animals. They should be destroyed in the most humane manner possible.

2. Those animals determined to be "excess" to the maintenance of a natural ecological balance. The remaining number is that acceptable population range identified in the management plans.

2265.4 - Relocation of Wild Horses and Burros

Relocate wild horses and burros if they are excess or if it is necessary to prevent their repeated return to private land from which their removal has been requested. Relocation must be to one or more of the following:

1. Some other area designated as a Wild Horse and Burro Territory, if suitable habitat and grazing capacity is available.

2. Lands administered by the Bureau of Land Management.

3. Custody of other parties, under agreement.

2265.5 - Maintenance and Care Agreement

Authorized Forest officers may place excess animals with qualified individuals, Government agencies, or other entities. Written agreement must accompany such relocation. Animals may remain in private custody for an indefinite period.

Allow an individual to adopt No more than four animals per year, unless the applicant is found capable of caring for more than four animals. Document evidence of the individual's ability to care for additional animals. Each Region shall establish procedures, including public awareness, for adoption programs. Coordinate programs with local Bureau of Land Management efforts (FSM 2261.1).

The maintenance and care agreement will provide for:

1. Humane treatment and care of animals.

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2. Prevention of sale of the animals.
3. Prevention of transfer or assignment of the animal to a third party without approval of the Forest Service.
4. Domestication, including riding, packing, and other recognized uses of domesticated horses and burros.
5. Possible gelding of stallions.
6. Ownership of foals born during the time animals are in custody of private parties.
7. Submission of periodic reports to the Forest Service.
8. Prohibiting financial remuneration from carcasses of animals.
9. Notification, within at least 7 days, of the death of adopted animal.
10. Transfer of ownership (granting of title) at the end of one year of humane care and maintenance (FSM 2265.56).

2265.51 - Identification of Animals Placed in Private Custody

All animals placed in private custody must receive a number for identification purposes. Use the Alpha Angle marking and numbering system where sizable numbers are processed or where animals are processed in cooperation with the Bureau of Land Management. Use freeze brand methods to place markings under the mane on the left side of the neck.

2265.52 - Assignment of Number

Numbers are assigned as follows:

<u>State</u>	<u>Numbers to be Assigned</u>	<u>Total Number Available</u>
Arizona	975,001 - 975,500	500
California	975,501 - 985,500	10,000

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<u>State</u>	<u>Numbers to be Assigned</u>	<u>Total Number Available</u>
Colorado	985,501 - 986,000	500
Idaho	986,001 - 986,500	500
Montana	986,501 - 987,000	500
New Mexico	987,001 - 990,000	3,000
Nevada	990,001 - 997,000	7,000
Oregon	997,001 - 998,500	1,500
Utah	998,501 - 999,500	1,000
Wyoming	999,501 - 999,999	<u>499</u> 24,499

Numbers are assigned through the Bureau of Land Management. It is suggested that Regions make allocations by territories or Forest.

2265.53 - Control of Numbers

Do not reuse numbers for 20 years following the granting of title or 5 years following the known death of a horse or burro placed in private custody.

Report any horses or burros marked by numbers to the Bureau of Land Management, Denver Service Center. It is not necessary to report assigned numbers not yet marked on animals to BLM.

2265.54 - Adoption Fee Procedures

Charge adoption fees and transportation costs used in the Adopt-A-Horse Program. Where advance applications for adoptions are required, the adopting individual must make a non-refundable \$25 advance payment with the application. Such advance payment is applicable to the total fee.

Mark Forest Service animals to be moved through BLM adoption centers to the eastern states with BLM Alpha Code numbers and process them as BLM animals. When animals are processed through BLM facilities, come to agreement about charges for transportation costs. See FSM 6531 for collection and billing procedures.

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2265.55 – Violations

Handle violations of maintenance and care agreements, including unlocatable cooperators, as set forth in FSM 5320.3, FSM 5303.12, and FSM 5321.4.

2265.56 - Conditions for Granting Title

Grant title to wild free-roaming horses and burros applicant when:

1. Applicant has provided the animal maintenance and care under humane conditions for at least 1 year.
2. Unless waived in writing, the application for title includes a written statement by a licensed veterinarian attesting to the present condition and treatment of the animal.
3. Applicant is of legal age in the State in which the applicant resides.

Grant title to no more than four animals per year to any individual, organization, or government agency unless they have an agreement, which covers more than four animals. The maintenance and care agreement may include the application for title. The title can then be issued when 1 year of humane maintenance and care has been provided.

2265.57 - Status of Animal After Title Has Been Granted

After title has been granted, the horse or burro loses its wild free-roaming status, the United States has no further jurisdiction, and the owner has full freedom to manage, protect, use, and control the animal.

2265.6 - Disposal of Animals on National Forest System Lands

2265.61 - Act of Mercy

Immediately destroy severely injured or seriously ill animals on National Forest System lands in the most humane manner possible under the supervision of a Forest officer delegated such authority. Destruction as an act of mercy is acceptable regardless of other population considerations. Destruction of an animal as an act of mercy should be documented fully by the person who destroys the animal. Documentation should describe the health of the animal, reason for its destruction, and cause of injury or circumstances leading to the animal's condition.

2265.62 - Excess Unadoptable Animals

Animals not placed under care and maintenance agreements to qualified individuals within 45 days following capture may be destroyed in the most humane and cost-efficient manner possible. Make a reasonable attempt to establish demand for these animals before destroying them.

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Dispose of carcasses in accordance with FSM 2265.7. Adhere to State and local laws in destroying excess animals and consult local veterinarians for advice.

2265.7 - Carcasses

Carcasses of animals that were wild free-roaming lose their status and no longer fall under the jurisdiction of the United States when:

1. Animals have been destroyed as an act of mercy. This includes carcasses of animals under private maintenance and care agreement.
2. Excess animals have been destroyed or their disposal approved of by an authorized Forest officer in carrying out provisions of the territory management plan.
3. Animals have died of natural causes on National Forest lands or on private land where they were being maintained under agreement.

Follow State and local laws in the disposal of these carcasses.

2265.71 - Carcasses That Retain Status as Wild Free-Roaming Horses and Burros

Retain the status of wild free-roaming horses and burros that are deliberately destroyed by others for malicious or capricious reasons. Do not process these carcasses through a rendering plant or into a commercial product. When State sanitary codes do not prescribe techniques for disposal, consider burying or burning the carcasses in accordance with State fire laws.

2266 - CLAIMS

Privately-owned branded or unbranded horses and burros might roam into areas established as Wild Horse and Burro Territories and become intermingled with wild free-roaming horses and burros. Pursuant to 36 CFR 222.22(a), individuals claiming ownership of these animals must make their claim to the District Ranger, who then decides whether or not to recommend a roundup to determine the validity of the claim. The Forest Supervisor makes the decision whether to authorize a roundup in writing (FSM 2266.2).

2266.1 - Handling Ownership Claims

Settle claims as soon as possible after capturing the claimed animals. The District Ranger shall verify or reject the claim and shall obtain a written release from the claimant for animals verified.

2266.2 - Authorization to Gather Claimed Animals

**FSM 2200 - RANGE MANAGEMENT
CHAPTER 2260 - WILD FREE-ROAMING HORSES AND BURROS**

Authorization to gather privately claimed horses and burros located on Wild Horse and Burro Territories, whether or not they have become intermingled with wild free-roaming horses and/or burros, must be in writing by the Forest Supervisor. The written authorization must as a minimum:

1. Be consistent with the provisions of 36 CFR 222.22.
2. Establish a specific, reasonable period of time to allow the gathering of claimed animals.
3. Stipulate that Forest Officers make periodic observations of roundup operations.
4. Stipulate measures for the roundup that ensure humane treatment of wild free-roaming horses and burros.
5. Outline criteria for achieving compliance with agreements with the State agency administering the State estray laws. In the absence of an agreement, the authorization shall outline measures required by the Forest Service to comply with State law.
6. In the event that helicopter use is authorized for the roundup, the authorization shall specify how such helicopters shall be used to ensure humane treatment of all horses and burros involved (FSM 2204.3).
7. Provide for inspection of captured animals by authorized Forest officer to verify ownership. Use State brand inspectors whenever possible.

2267 - USE OF HELICOPTERS, FIXED-WING AIRCRAFT, AND MOTORIZED VEHICLES

The Wild Horse and Burro Protection Act limits use of helicopters, fixed-wing aircraft, and motor vehicles. There are no limitations when such vehicles are used in carrying out management programs, such as inventory, observation, movement, relocation, and surveillance purpose, except that use must be in a manner that ensures humane treatment of the animals. There are strict limitations concerning use of aircraft and ground motor vehicles in connection with the capture or transport of wild horses and burros.

2267.1 - Public Meetings

Hold public meetings before initiating capture operations that include use of helicopters with subsequent use of motor vehicles to transport captured animals.

Hold public meetings close to the territory where the capture operations are to take place. Plan the meetings far enough in advance of capture operations to allow for changes in plans that result from public input.

**FSM 2200 - RANGE MANAGEMENT
CHAPTER 2260 - WILD FREE-ROAMING HORSES AND BURROS**

The Forest Supervisor or a representative authorized by the Forest Supervisor shall preside over the meeting. Federal Register notice of a meeting is desirable when there is considerable public interest in the operation or it has generated controversy.

Verbatim documentation of these meetings is not necessary. Keep minutes that identify the date and place of meeting, the number in attendance, and the names of those offering comments, as well as a summary of comments made. Minutes of the meeting shall be filed in the Forest Supervisor's office, as well as in the affected Ranger's office.

2267.2 - Prohibition Against Use of Fixed-Wing Aircraft to Capture Wild Free-Roaming Horses and Burros

The Wild Horse Protection Act of September 8, 1959, as amended (18 U.S.C. 21 et seq.), prohibits use of fixed-wing aircraft in capturing wild horses and burros. Use such aircraft as support vehicles to transport personnel and equipment, but not in actual capture operations.

2267.3 - Use of Helicopters in Capture Operations

Helicopter use in the capture of wild free-roaming horses and burros is acceptable, subject to compliance with public meeting requirements (FSM 2267.1) and to the following stipulations:

1. Helicopters must be used in a manner that ensures humane treatment of wild free-roaming horses and burros. They may be used to locate animals, to assist ground crews in moving and turning animals to encourage movement, to immobilize animals with tranquilizers, and for related purposes such as transporting personnel and equipment.
2. Use helicopters in roundups in such a manner that bands or herds will tend to remain together.
3. Do not move horses or burros at a rate that exceeds the limitations set by the authorized officer who shall consider terrain, weather, distance to be traveled, and condition of animals in setting the limitations.
4. Use helicopters to observe the presence of dangerous areas and to move animals away from hazards during capture operations.
5. During capture operations, move animals in such a way as to limit stress or injury.
6. The authorized Forest officer supervising helicopter use shall:
 - a. Have means to communicate with the pilot and direct the helicopter's use.
 - b. Be able to observe the effects of the helicopter on the animals.

**FSM 2200 - RANGE MANAGEMENT
CHAPTER 2260 - WILD FREE-ROAMING HORSES AND BURROS**

2267.4 - Use of Motor Vehicles to Transport Excess Wild Horses and Burros

Use of motor vehicles to transport excess wild horses or burros is acceptable, subject to compliance with public meeting requirements (FSM 2267.1). Do not use motor vehicles for rounding up, driving, or chasing wild free-roaming horses or burros. Transport excess animals in a humane manner to minimize injury. The following guidelines apply:

1. Such transportation shall comply with appropriate State and Federal laws and regulations on humane transportation of horses and burros.
2. Inspect vehicles before use to ensure they are in good repair and of adequate rated capacity. Do not use "possum belly" cattle trucks to transport wild free-roaming horses and burros.
3. Unless otherwise approved by the authorized officer, limit the transportation of wild free-roaming horses and burros, in sequence, to a maximum of 24 hours in transit followed by a minimum of 5 hours of on-the-ground rest with adequate feed and water.
4. Operate vehicles carefully to ensure that excess animals are transported without undue risk or injury.
5. Where necessary and practical, sort animals by age, temperament, sex, size, and condition to limit injuries from fighting and trampling to the extent possible.
6. Consider the condition of the animals, weather conditions, type of vehicle, and distance to be traveled when planning for transportation of captured animals.

FSM 2200 - RANGE MANGEMENT
R-3 SUPPLEMENT 2200-91-1
EFFECTIVE 1/31/91

CHAPTER 2260 - WILD FREE-ROAMING HORSES AND BURROS

2261.3 - State and Local Governments. Forest Supervisors have the responsibility for deciding whether particular animals are "wild free-roaming." Claims for horses or burros other than those determined to be wild free-roaming will be a cooperative effort between the Forest Supervisor and the State Livestock Board inspector in accordance with State branding and estray laws. The Memorandums of Understanding with State Livestock Boards are in FSM 2256.

2262.1 - Inventory. The following is a listing of the Wild Free-Roaming Horse and Burro Territories in Region 3:

<u>Wild Horse Territory Name</u>	<u>Forest</u>
Heber	Apache/Sitgreaves (01)
Jicarilla	Carson (02)
Mesa Las Viejas	Carson (02)
Mesa Montosa	Carson (02)
Jarita Mesa	Carson (02)
Deep Creek	Gila (06)
San Diego	Santa Fe (10)
Caja del Rio	Santa Fe (10)
Chicoma	Santa Fe (10)

<u>Wild Burro Territory Name</u>	<u>Forest</u>
Double A	Kaibab (07)
Dome (Bandelier)	Santa Fe (10)
Saguaro	Tonto (12)

2263.1 - Wild Horse and Burro Territory Plans. Wild horse and/or burro management plans shall contain a section pertaining to inventory of the forage resource. Range analysis guidelines will be used for determining condition, trend and capacity estimates in wild horse and burro territories. Existing range analysis data may be used, if available, with necessary adaptations to make it applicable to use by wild horses and/or burros. These studies together with other resource and use studies will serve as the basis for establishment of population levels.

2265.3 - Removal of Excess Animals. Periodically, it may be necessary to remove excess animals from wild horse or burro territories to assure that populations are maintained consistent with the needs of the forage base and other uses in the area. Population control will be considered in each territory plan.

An excess animal removal plan will be developed for each proposed removal action. Prior to the actual initiation of the project, the plan must be approved by the Forest Supervisor. Excess animals will not be removed and relocated in other National Forests' wild horse or burro territories prior to completion of a management plan, and assurance that sufficient capacity is available on the receiving territory. In the development of removal plans, the following topics should be considered:

1. Justification for Removal. The plan must document the need for removal of excess animals to maintain and improve the forage base for wildlife, domestic livestock, and maintain a thriving population of wild horses (or burros). Current studies including range analysis, soils information, production-utilization studies, including levels of desired use by those herbivores competing for the forage base must fully support the action to remove excess animals.

2. Inform and Involve Actions. Successful removals of excess animals hinge on local, Regional, and National support of the proposal. Contacts with and involvement of wild-horse-interest organizations and humane associations are necessary well in advance of the planned control action. Local public meetings are required if helicopters are to be used in the removal program (FSM 2267.1).

3. Maintenance Agreements. Lists of individuals who are willing to care for excess animals under a private maintenance agreement must be developed. A sample application for maintenance and cooperative agreement are included as exhibits 1 and 2. A person who wants an animal must be apprised well in advance of actual acceptance of the problems, expense, and facilities associated with keeping a horse or burro. Applications must be carefully screened to assure humane treatment of the placed animals.

4. Methods of Removal. The removal action to be taken should be sufficiently detailed to explain the operation; that is, roundup, use of helicopter, transportation of captured animals, traps, tranquilization of individual animals, class and age of animals to be removed, and related information. Whether the operation is to be by force account or contract should also be discussed.

5. Timing of Removal. Normal weather patterns, condition of animal, age of foals, breeding and foaling seasons should all be considered in planning removals.

6. Care of Captured Animals. The initial stress placed on captured animals is traumatic. Proper holding facilities, feed and veterinarian services for sick or injured animals are a necessary part of every project.

7. Cooperation with State Livestock Boards and Inspectors. The local livestock inspector should be advised of each planned removal. All captured excess animals will be inspected by the livestock inspector and a permanent hauling permit secured for each animal to be placed under a private maintenance agreement. The Regional Office will keep the State Livestock Board and State Veterinarian apprised of all proposed

removals. Full cooperation will be extended to livestock boards for any disease diagnostic tests they propose on captured animals. Certain tests are required for movement of animals placed in other states. Any branded or previously domesticated animal captured will be handled under regular impoundment and disposal procedures (FSH 5309.11, Section 160).

8. Contracts for Capture. Contracts must specify acceptable methods of capture and assure, through contract clauses and administration, the humane treatment of wild horses and burros. The contractor may be granted authority for disposal of injured animals as an act of mercy for the life of the contract. This delegation should be specific and limited to assure compliance with the intent of the act, regulations and policy.

9. Disposal of Problem and Nonplaceable Animals. Problem and nonplaceable animals may be disposed of in a humane manner. Examples include old studs which cannot be safely handled and are, therefore, nonplaceable. Justification for each disposal action must be supportable and thoroughly documented.

10. Disposal of Carcasses. The burying of an animal carcass should meet state and local health codes. However, local health officers should be contacted for specific requirements. Carcasses cannot be given or sold to local packers or animal product rendering plants.

11. Identification of Excess Animals Placed Under Private Maintenance Agreements. Permanent hauling permits, photographs, age, color, sex, and other identifying marks will be used for the description of horses and burros placed under private maintenance agreements. Permanent hauling permits will be applied for prior to placement of excess animals with a cooperator. The permit will show the Forest Service as owner, in care of John Doe, Box 76, Farmington, New Mexico.

12. Case Histories. Maintain a card system or folder for each placed animal. Provisions for followup checking after placement must be planned.

13. Humane Treatment. The capture, handling, and movement of excess animals must be done in a safe and humane manner. Equipment used to transport these animals and facilities to hold them must be strong and of a design which not only confines them but prevents attempted escape. Chutes to constrain animals for tests and marking are preferred over other methods.

Use local veterinarians for the treatment of sick and injured animals. Equine influenza can spread rapidly through confined horses. Separate infected animals and keep in isolation pens away from the main herd(s).

Studs should be separated, hauled, and confined away from mares and colts and should be separated from each other if necessary to prevent injury. In working and handling confined horses, slow, steady movements and experience in such work will prevent many injuries.

14. Safety. Project safety plans should be developed and cover all aspects of the removal program.

2265.3 - Exhibit 1

United States Department of Agriculture
Forest Service
Jicarilla Ranger District
Carson National Forest
Gobernador Route
Blanco, NM 87412

APPLICATION FOR COOPERATIVE MAINTENANCE OF EXCESS WILD HORSES
Public Law 92-195 (85 Statute 649)

Name: _____ Age: _____

Address: _____ Home Phone: _____

Bus. Phone: _____

1. Number wanted: Male _____ Age preference _____

Number wanted: Female _____ Age preference _____

2. Will you accept horses regardless of sex? Yes _____ No _____ If
yes, how many _____. Will you accept horses regardless of age?
Yes _____ No _____ If no, what is the maximum age you will accept?
Male _____ Female _____

3. Minimum number of horses you will haul due to travel distance or
other reasons _____

4. What kind of shelter do you have for horses? _____

5. How many acres of pasture do you own? _____

6. Will you be leasing or renting pasture? _____ If so, how many
acres? _____

7. Do you own one or more horses? _____

8. Why do you want a wild horse? _____

9. Do you have adequate hay or means to provide hay during winter
period or when pastures are not adequate to maintain the horse or
horses? _____

10. Additional comments you may wish to offer: _____

2265.3 - Exhibit 1 (continued)

Only a limited number of wild horses will be available for private maintenance at this time. In the event your request is not filled, your application will be held on file for future wild horse gatherings on the Jicarilla District of the Carson National Forest.

Applicants should be aware that the New Mexico Livestock Board, as well as other State Livestock Boards, require a health test on the horses that will be adopted. It is estimated that the test required by the State of New Mexico will be approximately \$20. Test costs required by other states should be approximately the same.

The New Mexico Livestock Board also requires a State hauling permit which costs approximately \$5.

The necessary health tests and hauling permits will be obtained by the Forest Service; however, reimbursement will be required from the applicant on receipt of the horses.

I certify that I have the ability and financial means to properly care for and protect the number of animals requested in this application under humane conditions. I know that it is unlawful to sell any wild horse or their remains, or to use the horses for commercial exploitation. I am aware that these animals cannot be transferred or reassigned to another person except with written permission from the authorized officer. I further certify that the statements made in this application are true, complete, and correct to the best of my ability.

_____	_____
Date	Signature of Applicant (Applicants under legal age must have parent's signature)
_____	_____
Date	Parent or Guardian
_____	_____
Date	Parent or Guardian

If additional space is needed for comments, and so forth, please attach a separate sheet of paper.

Mail this application to U.S.D.A., Forest Service, Jicarilla Ranger Station, Gobernador Route, Blanco, New Mexico 87412.

A maintenance and care agreement will be required for any animals "adopted."

2265.3 - Exhibit 2

COOPERATIVE AGREEMENT

BETWEEN

(NAME OF COOPERATOR)

AND

FOREST SERVICE ORGANIZATION UNIT
USDA FOREST SERVICE

WHEREAS, the Forest Service, in consideration of the mutual benefits hereunder and in accordance with Public Law 92-195 (16 USC 1336), does enter into this cooperative agreement for the maintenance, protection, and the welfare of wild free-roaming horses and burros.

Animal and/or animals listed below have been declared excess and available for private maintenance in accordance with 36 CFR 222.29(a)(2).

ANIMALS ASSIGNED

Give description of each animal, including color, marking, or other available identification information.

TERMS OF THIS AGREEMENT

A. THE COOPERATOR AGREES:

1. To provide proper care and protection of the animals under humane conditions.

Specification for humane treatment: Adequate feed, water, hold facilities, and veterinary care.

2. That none of these animals, or their remains, may be sold or used directly or indirectly for commercial exploitation.

3. That none of these animals may be transferred or reassigned except with written permission from an authorized officer of the Forest Service.

4. To furnish annually to the Forest Service a report on the animal's health.

2265.3 - Exhibit 2 (continued)

5. To submit to the Forest Service a veterinarian's report concerning the destruction of any animal(s) as an act of mercy. This documentation will fully describe the caused injury and circumstances of the animal and the conclusion reached that lead to the act of mercy.

6. To allow authorized Forest Service personnel or their representatives to inspect the animals at any time or place after assignment.

B. THE FOREST SERVICE AGREES:

1. To make available those animals that have been declared excess for private maintenance in accordance with 36 CFR 222.29(a)(2).

2. To allow domestication and riding.

3. To allow gelding of stallions.

4. To permit cooperator to stand stallion(s) for stud services; however, no fees may be charged for the service.

5. All foals born to mares under this agreement are property of the cooperator and are not considered wild and free-roaming animals as provided in Public Law 92-195.

6. To appoint the cooperator as an agent of the Secretary for the destruction of any animal under this agreement as an act of mercy, if said animal is severely injured.

C. IT IS MUTUALLY AGREED THAT:

1. The United States Government assumes no liability for the animals included in this agreement or for any damages they may cause to cooperator or cooperator's employees, persons, animals, or property.

2. The cooperator must not brand animals included in this agreement.

3. If the cooperator no longer wishes to maintain the animal, the animal must be returned to the place of original assignment.

4. This agreement shall remain in full force and effect until (a) animals die, or (b) this agreement is terminated by an authorized officer of the Forest Service upon due notice in writing because of default or violation of any of the terms or provisions of this agreement by cooperator(s).

5. Nothing in this agreement shall be construed as obligating the Forest Service to expend or as involving the United States in contract or other obligation for the future payment of money.

2265.3 - Exhibit 2 (continued)

6. Changes in the terms, laws, or regulations that are determined to be necessary or desirable may be made by formal amendments.

7. No member of, or delegate to, Congress or Resident Commissioner shall be admitted to share any part of this agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

8. This agreement shall be effective upon execution by both parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the last date written below.

DATE

SIGNATURE OF COOPERATOR

DATE

SIGNATURE OF COOPERATOR

DAVID F. JOLLY
Deputy Regional Forester

2265.5 - Maintenance and Care Agreement. An application form for maintenance of excess wild horses or burros will be required from interested parties.



Kendell L
Hughes/R3/USDAFS
06/12/2003 08:19 AM

To Gene Onken/R3/USDAFS@FSNOTES
cc
bcc Kendell L Hughes/R3/USDAFS
Subject Wild horse territory

Gene,
I hope this answers your question, if not let me know. Kendell

Acres: 14,000
Allotments within the Territory: portions of the Heber and Black Canyon Allotments

Why is the population "0" and why is it being managed at "0" population: A 1974 letter indicates that the stud may be sterile, because no colts have been seen for several years and no indication of unauthorized removal. A 1991 report indicates that "approximately 5 feral horses wander along the Mogollon rim back and forth from the White River Apache Reservations. The Indians do not manage the horses, neither does the Forest Service. Natural attrition will eliminate the horses eventually." This report also states that "Elimination of incidental feral horses and burros from formal management considerations to reduce impacts on management resources, personnel and time. The A/S "herd" should not be recognized at all." A 1993 letter by the District ranger to the Forest Supervisor, indicates that "the territory was designated in the early 70's because there were "unclaimed" animals from the Fort Apache Indian Reservation and some were animals abandoned in the area when a local family left. Indian Horses have been claimed when the District has published a notice to impound stray animals. There are two mares left in the "herd"." This letter also recommends this territory be removed from the records and the two remaining animals be removed by the State Livestock Sanitary Board. A letter from the Forest Supervisor to the District Ranger agreed that "the designation did not meet the intent of the law and policy. The subject was not an issue during the Forest Land management Planning process and not mentioned in the forest plan as ammended or its EIS.

RMU_CN	RMU_ID	RMU_NAME	RMU_STATUS	ADMIN_ORG	ADMINISTERING_UNIT_NAME	FOREST_NUMBER	DISTRICT_NUMBER	FISCAL_YEAR	NUMBER_ANIMALS	BREEDING_MARE_NUMBER
20050.010437	0201	HEBER TERRITORY		030102	Black Mesa Ranger District	01	02	2004	0	0
20050.010437	0201	HEBER TERRITORY		030102	Black Mesa Ranger District	01	02	2004		0

BREEDING_STALLION_NUMBER	PLANNED_NUMBER	PLANNED_NUMBER_MAX	PLANNED_NUMBER_MIN	NUMBER_REMOVED	HEAD_MONTHS	REMARKS	WHB_ANIMAL_TYPE
0	0	0	0	0	0		HORSE
0	0	0	0	0	0		BURRO



Kendell L Hughes
06/12/2003 09:19 AM

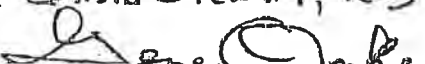
To: Gene Onken/R3/USDAFS@FSNOTES
cc:
Subject: Wild horse territory

Gene,
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Acres: 14,000
Allotments within the Territory: portions of the Heber and Black Canyon Allotments

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Note to File: It appears Kendall may be confusing the situation of horses from Reservation unauthorized grazing on Black Mesa District where there is ~~no~~ no designated Wild Horse Territory
vs.

the Heber Wild Horse Territory on Heber RD which is a territory although only populated with feral horses at time WH&B Act was passed in 1971. Should never have been designated a territory - so $AML = \emptyset$
Conversation with David Stewart, R3 Dir. Rangeland Mgmt.
1/20/2004 

3025

1-83

(12)

100-10
200 AGL

ELK SURVEY RECORD

11027' - 11040'



2222 WEST GREENWAY ROAD
P. O. BOX 9099
PHOENIX, ARIZONA 85068

Date: 9-7-04

Survey Area: 3C

Survey Method (circle one): 1 Foot-Horseback, Vehicle, Fixed-wing, Helicopter
 Observer: BIRKLAND, HALANDA CONRAD Pilot: VILLANUEVA Weather: CLEAR, 40-50°
 Time Start: 618 Time Stop: 821 Total Time: 2HR 3MI
 Odometer Start: 7524.9 Odometer Stop: _____ Total Miles: _____

Herd Obsrv. and Time*	Herd					Un.	Total	Location/Remarks/Other Wildlife, Etc.
	Spikes	Bulls	Cows	Calves				
1 620		3	9	4		16	(1,3) 250 STAND	
2 622			1				(2) 100 STAND	
3 628							4 BEAR	
? 628	1	2	3	1		7	(4) 100 RUN (4 HORSES)	
4 629		1	4	3		8	(1,4,3) ON LINE	
? 4 631							4 2 DOES	
5 633			1			1	(3) 200	
6 638		1	5	1		7	(1,3) 100	
7 640		1	8	6			(2) LEFT SIDE	
8 642		1				1	(3) 100	
9 649		3				3	(3) 100	
10 656		2	2	2		6	(3) 300	
11 717		1	10	6		17	(1,3) 150	
12 718		1	4	3		8	(4) 200	
13 725		1	1	3		5	(4) 100	
14 728		1	2	1			(2) 150 LEFT SIDE	
15 738		1	3			4	(3) 100	
16 741	2	2				4	(4) 75	
17 744							2 BUCKS	
18 754		1	3	2		6	3 100	
Totals	3	22	56	32				

Scale: 1:1000

NOTE: A separate survey record is required for each survey method and each observer.

* An observation is a discrete herd of 1 or more individuals. This is, in the observer's opinion, a group of animals comprising 1 unit--separated from other similar units.

3025
21-83

200 AGL



2222 WEST GREENWAY ROAD
P. O. BOX 9099
PHOENIX, ARIZONA 85068

ELK SURVEY RECORD
110° 27' - 110° 40'

Date: 9-7-04

Survey Area: 3C

Survey Method (circle one): Helicopter
 Observer: BIRKELAND, HALAM, CONRAD Pilot: VALUANT Weather: CLEAR 40-60
 Time Start: 6:18 Time Stop: _____ Total Time: _____
 Odometer Start: _____ Odometer Stop: _____ Total Miles: _____

Herd Obsrv. and Time*	Spikes	Bulls	Cows	Calves	Un.	Total	Location/Remarks/Other Wildlife, Etc.	
19 757	1	1	5	2		4	50	3 BUCKS
20 803	1		2	1		3	150	
21 807		2				2	100	(2 HORSES)
22 809		1				2	50	
23 811			1	1		2	100	
24 812	1	1	12	4		18	1,3	150
25 819		1	3	2		6	1,3	100
Totals	3	6	23	10				

δ:100% θ

6 28 79 42

34 155
121

NOTE: A separate survey record is required for each survey method and each observer.

* An observation is a discrete herd of 1 or more individuals. This is, in the observer's opinion, a group of animals comprising 1 unit--separated from other similar units.



ELK SURVEY RECORD

Date: 8-8-04

No. 3025

(13)

Units: 3C Survey Area: E OF DECKER WASH

Survey Method (circle one): Helicopter Foot-Horseback, Vehicle, Fixed-wing,
 Observer: BARBER, SHAHAN, CAGLE Pilot: MATT Weather: CLEAR, CALM, MILD
 Time Start: 05:50 Time Stop: _____ Total Time: _____
 Odometer Start: _____ Odometer Stop: _____ Total Miles: _____

Herd Obsrv. and Time*	Spikes	Bulls	Cows	Calves	Un.	Total	Location/Remarks/Other Wildlife, Etc.	DIST.
0620		2	1	1		4	70 YDS ON TURN	154
0625		1				1	200 YDS	155
0629		1				1	10 YDS	156
0630		2	6	6		14	10 Y GOOD BULL	157
0643	1	1				2	200 YDS	
0647		1	3	3		7	200 Y	158
0654			2	1		3	150 Y	159
703	1		6	8		15	Y	160
0106		1	2	1		4	250 YDS	161
0724		1	5	1		8	10 YDS	162
0728		2	6	4		12	20 YDS	163
0730		2	4	6		10	INCIDENTAL TO WP 163	164
0731		2	7	3		12		164
0738		1				1	100 YDS	165
0741		1				1	100 YDS	166
							APPX 8. JAV ON RES	
							HORSES:	
							DEER ♂ ♀	
							III	
							TURKEY IIII IIII	
Totals	20	18	43	34		95		

1	2
3	4

* NOTE: A separate survey record is required for each survey method and each observer.
 * An observation is a discrete herd of 1 or more individuals. This is, in the observer's

DEER-SAVANNA SURVEY RECORD

Hu. t: 3C Survey Area: FR 146 WEST TO ^(Past FR 512) Block Number: _____ Date: 1-13
 Survey Method: (circle one): Foot, Horseback, Vehicle, Fixed-wing, Helicopter, Other _____ Ship #: 1
 Observer(s): Birkeland - Cagle - Halama Pilot: NICK LOPES Weather: CLEAR-COLD
 Time Start: 0815 Time Stop: 1210 ^(12:30) Total Time: 3 hr + 30 min Observer position:

1	2
3	4

 Odometer start: 22.5 Odometer stop: 26.5 Total Miles: 4 hrs GPS File #: 3C JAN 2005
(Or Hobbs meter) (Or Hobbs meter) (Or meter hours)

*No.	Time	MULE DEER					WHITE-TAILED DEER					ELK					HORSES		Obsv. Pos.	Dist.	Comments: <u>SNOW COVER %</u>		
		♂	♀	θ	Unk	Tot.	♂	♀	θ	Unk	Tot.	♂	♀	θ	Unk	Tot.	Ad.	θ					
10	0825		1			1													13	100	75		
11														13	13				14	0	75		
12													2	2					1	75	50		
13														16	16				1	200	50		
14														1	22				13	75	50		
15														1	2				4	100	0		
16														3	3				4	25	(NICE 6pts) 50		
17															9				5				
18														3	3				3	0			
19			2	1		3													4	74	25		
20															6	6			13	25	50		
21			1	2	2	5													4	75	(mature Buck) 50		
No. #															1	1			13	125	50		
22															4	4			4	150	25		
Totals		2	12	6	-	20	-----					10	84	-	-	94	22	1					

♂:100 ♀: _____ θ: _____

Mean Herd Size

*Enter way point number, or, if no way point, assign a number to the group observation.
 Miles (Per GPS) = 267.2
 moving TIME (GPS) = 3 hrs + 27 minutes
 = 20 mi... for

WPT/WAYPOINT #15 = END

DEER-JAVELINA SURVEY RECORD

Hunt: 3C Survey Area: _____ Block Number: _____ Date: _____

Survey Method: (circle one): Foot, Horseback, Vehicle, Fixed-wing, Helicopter, Other _____ Ship #: _____

Observer(s): _____ Pilot: _____ Weather: _____

Time Start: _____ Time Stop: _____ Total Time: _____ Observer position:

1	2
3	4

Odometer start: _____ (Or Hobbs meter) Odometer stop: _____ (Or Hobbs meter) Total Miles: _____ (Or meter hours) GPS File #: _____

*No.	Time	MULE DEER					WHITE-TAILED DEER					ELK					HORSES		Obsv. Pos.	Dist.	Comments:
		♂	♀	θ	Unk	Tot.	♂	♀	θ	Unk	Tot.	♂	♀	θ	Unk	Tot.	Ad.	θ			
23																			4	150	75
																			7		
24		1	7	3		11													3	20	(Mature buck) 75
																			8	1	
*Totals																					

Page ONE

♂:100♀: _____ ♂:100♀: _____ θ

Juv:100 Adults Mean Herd Size _____

*Enter way point number, or, if no way point, assign a number to the group observation.

DEER-ELK SURVEY RECORD

Hu it: 3C Survey Area: SHOW LOW TO 146 Block Number: _____ Date: 01-12
 Survey Method: (circle one): Foot, Horseback, Vehicle, Fixed-wing Helicopter Other _____ Ship #: CO. 2R 1
 Observer(s): 184(1), 182(3), 185(4) Pilot: N. Weather: CALM (30°)
 Time Start: 8:00 Time Stop: 12:00 (20) Total Time: _____ Observer position:

1	2
3	4

 Odometer start: 26.7 (Or Hobbs meter) Odometer stop: _____ (Or Hobbs meter) Total Miles: _____ GPS File #: _____

*No.	Time	MULE DEER					WHITE-TAILED DEER					ELK					HORSES		Obsv. Pos.	Dist.	Comments:	
		♂	♀	θ	Unk	Tot.	♂	♀	θ	Unk	Tot.	♂	♀	θ	Unk	Tot.	Ad.	θ				
139	8:26																					START
140	8:26																		1	200		2 COYOTES
141	8:40											3				3				1,3	150	RET. 1 TAG
142	8:55																			1	150	
143	8:55															50				1,3	200	
144	8:56											1				1				4	200	NOT PHOTO COL.
	9:06																			4		BALD EAGLE
145	9:10															31				1,3	100	
146	9:14	2	5	1		8														3	175	3x4, 3x3
	9:20																			3		NOTE
147												3	62		65					4	100	
148	9:55																	3		4	125	
149	10:00																					END
Totals																						

♂:100 ♀: _____ θ: _____

Juv:100 Adults _____
Mean Herd Size _____

*Enter way point number, or, if no way point, assign a number to the group observation.

Hu. it: Survey Area: Block Number: Date:
 Survey Method: (circle one): Foot, Horseback, Vehicle, Fixed- Helicopter, Other Ship #:
 Observer(s): Pilot: Weather:
 Time Start: Time Stop: Total Time: Observer position:

1	2
3	4

 Odometer start: Odometer stop: 30.4 Total Miles: GPS File #:
(Or Hobbs meter) (Or Hobbs meter) (Or meter hours)

*No.	Time	MULE DEER					WHITE-TAILED DEER					ELK					HORSES		Obsv. Pos.	Dist.	Comments:	
		♂	♀	θ	Unk	Tot.	♂	♀	θ	Unk	Tot.	♂	♀	θ	Unk	Tot.	Ad.	θ				
150	1030																					START
151	1036																		4	50		8 TURKEYS
152	1038																		1,3	75		32 TURKEYS
153	1042																		1,3	100		6 JAVELINA 4 A, 2 B
154	1047																8	1	4	150		
155	1104																		3	100		15 TURKEYS
156	1106																		3	100		
157	1108															19			4	175		
158	1110																		4			2 BIRD HOLE
159	1110																		4	100		15 TURKEYS
160	1125																					STOP
161																						
162																						
163																						
164	Totals	5	6	3		14																

Cottonwood
 BURN

♂:100 ♀: ♂:100 ♀: θ

Juv:100 Adults
 Mean Herd Size

*Enter way point number, or, if no way point, assign a number to the group observation.

Approved on 4/19/05

Eastern Arizona Counties RAC
Project Proposal Form

AS-33

1. PROJECT NAME: Removal of Feral Horses from the Rodeo-Chedeski Fire Area

Proposed By: Randall L. Chavez
Phone/e-mail: 928-368-5111
rchavez02@fs.fed.us

2. NEPA: Is the project NEPA sufficient? Yes ___ No ___ If no, when will it be? Not Needed

3. LOCATION: County-Navaho Ranger District-Lakeside (attach vicinity map or site map)
Is the project within a wilderness or inventoried roadless area? Yes ___ No X

4. PURPOSE OF THE PROJECT: (place an X in every applicable category)

Road/trail maintenance, obliteration, or decommissioning* ___

Stream or watershed restoration * X

Improve forest ecosystem health X

Improve wildlife or fish habitat ___

Control of noxious and exotic weeds ___

Re-establish native species ___

Other: (describe) ___

* Please explain here how this project fits this category:

5. PROJECT DESCRIPTION:

This project is to remove the feral horses that have been established in the Rodeo-Chedeski area after the fire. The fences between the Fort Apache Reservation and the Federal lands was destroyed by the fire but has been rebuilt since. During that time, 300 - 400 head of feral orses migrated onto the Black Mesa and Lakeside Ranger Districts. These herds are currently multiplying and have the potential to double in size in 1 -2 years. Approximately 10 million dollars has been spent on watershed protection in the Rodeo-Chedeski fire area and these herds are disrupted the post-fire ecological recovery process. Damage has been observed after reforestation projects, native seed planting, extensive used travel corridors, and watershed stabilization projects. Arizona Game and Fish Department has also expressed a concern that these herds can impact wildlife habitats, as well. Arizona State Livestock Board will have control of the animals after they are captured. This project would be conducted under a Forest Service contract with an experiences contractor. The contractor may be using methods, such as portable corrals with spring loaded gates, using gentle horses to lure horses into corrals, ect. Contracting cost per head could range from \$100/head to \$300/head, on an average of \$200/head.

6. COST: Total cost of project: \$100,000

Amount of funding requested from the RAC: \$25,000 (Includes 5% FS admin cost)

Can the cost be leveraged with partners? Yes If yes, describe:

The Forest Service has \$40,000 that would be contributed toward this effort and the Habitat Partnership Committee is being asked for \$40,000 also.

Can the project be phased -in over time? Yes If yes, explain:

Not all horses will be captured during this first round; there will have to be another round.

**Eastern Arizona Counties RAC
Project Proposal Form**

Add 5% to the project cost to include FS administrative costs = total RAC funds requested

7. SOCIAL IMPACT: Describe how the project: a) will affect public safety b) will benefit the community economically c) will provide educational opportunities d) will improve quality of life for nearby communities or visitors. How many people will this project impact?

This project will benefit all forest visitors by improving visual esthetics to the land and having recreation experiences without observing large herds of horses. Nearby communities will not have to worry about their horses trying to escape and becoming part of these herds or having their horses infected with diseases from feral horses that have not been vaccinated.

8. Describe expected outcomes including how the project will meet or exceed desired ecological conditions or stewardship objectives. Estimate the amount of timber, forage, or other commodities and economic activities, including any new jobs generated as part of this project.

By removing these feral horses, the post-fire ecological recovery process will not be impacted and watershed conditions will be able to stabilize without interruptions. Currently not permitted livestock is allowed into the burned area to provide recovery, removal of the horses will allow us to regain control of most of the use to the forage. In some areas in the burn, forage has doubled in production, this will continue if adequate moisture is received.

The county will have 1-3 jobs created for this project, due to the interest of local contractors from Navaho County.

9. Describe the monitoring plan, including funding needs that track and identifies the positive or negative impacts of the project and provides for validation monitoring. The monitoring plan shall include an assessment of whether or not the project 1) met or exceeded desired ecological conditions, 2) created local employment or training opportunities, including summer youth programs such as the Youth Conservation Corps, and 3) improved the use of, or added value to any products removed from lands consistent with the purpose of this Act.

Monitoring for this project will be conducted by the Forest Service and Arizona Game and Fish Department and will be by reduction of animal numbers. Arizona Game and Fish keep a count of number of horses during their annual flight surveys each year. The goal is for total removal of the feral horses.

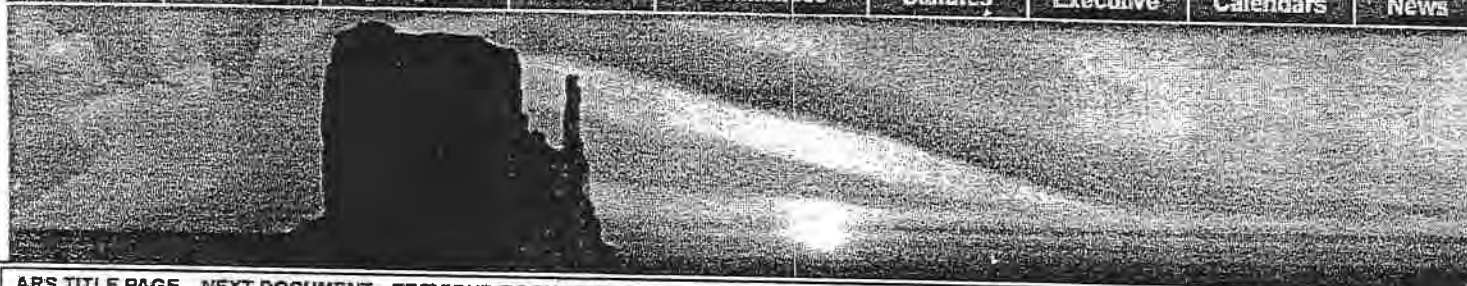


Vicinity Map
Feral Horse Removal Project
Black Mesa & Lakeside Ranger District
Apache-Sitgreaves National Forests



Apache-Sitgreaves
National Forests

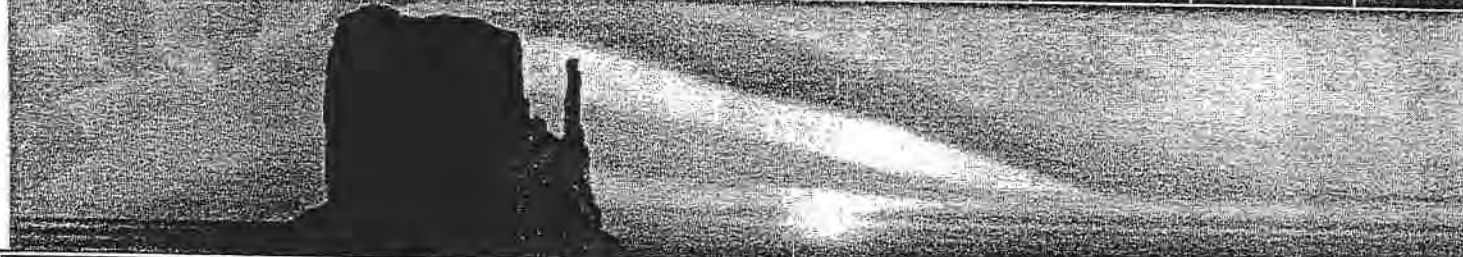




ARS TITLE PAGE NEXT DOCUMENT PREVIOUS DOCUMENT

3-1331. Inspection required; powers and duties of livestock officers

- A. Livestock officers and inspectors may authenticate bills of sale of livestock, brands and marks, deliver certificates of acknowledgment thereof under their hands and seals and take acknowledgments to applications for brands and marks. A fee of more than twenty-five cents shall not be asked or received for taking an acknowledgment.
- B. Livestock officers and inspectors shall not grant a certificate of inspection of unbranded hides of livestock or of hides or livestock upon which the marks and brands cannot be ascertained or which disclose ownership by some person other than the one seeking the certificate of inspection.
- C. A livestock officer or livestock inspector may stop any person who is in possession of and is conveying, shipping or transporting livestock or hides of livestock to examine brands, marks, certificates of brand inspection and bills of lading or bills of sale relating to the livestock in transit if the officer or inspector has probable cause or reasonable suspicion to believe that the person has violated any provision of this title or title 13 relating to livestock.
- D. Livestock officers and livestock inspectors may enter any premises where livestock are kept or maintained to examine brands or marks or other evidence of ownership or to determine the health or welfare of livestock. If admittance is refused and probable cause exists, the livestock officer may immediately request an administrative inspection warrant from the nearest court of competent jurisdiction to allow such entry.
- E. Livestock officers are peace officers, certified by the Arizona peace officer standards and training board, and shall pursue and arrest on probable cause any person who violates any provision of this title or title 13 relating to livestock.



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3-1332. [Method, place and time of inspecting livestock](#)

- A. Livestock officers and inspectors shall inspect livestock, other than equine and livestock subject to authorized self-inspection, for health, marks and brands at loading stations, at places of exit from the state and at places where livestock are gathered to be sold, slaughtered, transported, conveyed, shipped or driven from their range for any purpose whatever except when livestock are being moved from pasture to a destination in this state and no change of ownership, slaughter or other disposition is involved and the owner is utilizing self-inspection approved by the division under section 3-1203. Livestock officers and inspectors need not inspect outgoing livestock from feed lots, dairies and producers utilizing self-inspection pursuant to section 3-1203 but may conduct periodic inspections to ascertain compliance with this article.
- B. Feed lots, dairies and producers utilizing self-inspection approved by the division under section 3-1203 shall comply with the applicable provisions of this section and procedures established by the division.
- C. Brand inspections shall be made by daylight and in a manner that enables the livestock officer or inspector personally to see, inspect and record each and every mark and brand. Inspections of livestock for health at a slaughterhouse may be made by other than daylight if adequate artificial light is provided.
- D. Upon being advised that livestock is subject to inspection, livestock officers and inspectors shall arrange for the inspection of the livestock and inspect such livestock within twelve hours.
- E. The animal services division, the plant services division and the office of inspections shall cooperate to provide livestock inspections at border inspection stations or department offices and to train appropriate personnel to perform these inspections. Employees of the plant services division acting under this subsection do not have enforcement powers otherwise granted to livestock officers. In the case of an apparent discrepancy, disease or other problem a livestock officer or inspector employed by the animal services division shall be called on to make a final inspection and determination. The associate director of the animal services division shall assign at least one livestock officer or inspector to be on call from each office operated by the plant services division under this subsection.

C

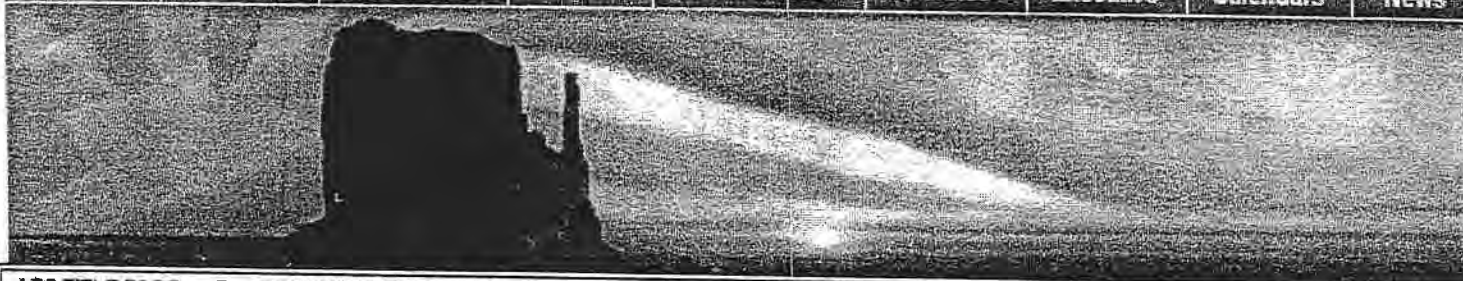
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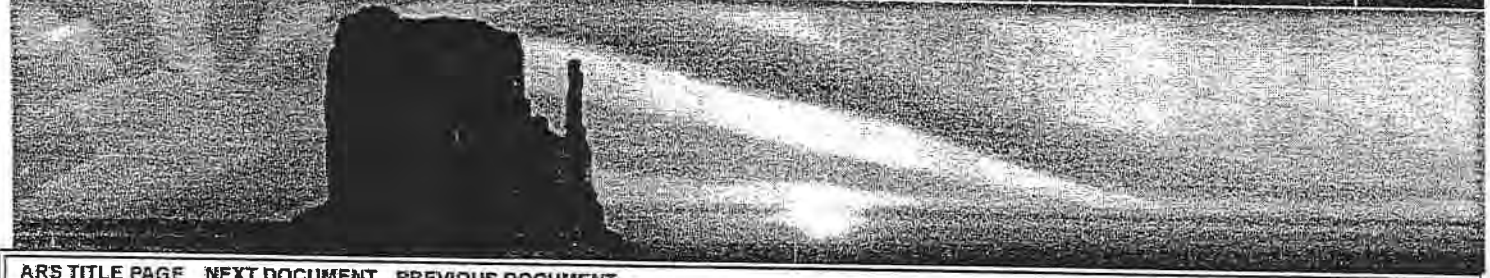


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3-1333. Record of inspection

- A. Livestock officers and inspectors shall make a record of all inspections, disclosing the place and date of the inspection, its purpose, the kind, sex and description necessary to identify the livestock, the number of head running in every brand and mark, the name of the seller if the livestock is to be sold, the name of the shipper if the livestock is to be shipped, and other necessary information.
- B. Feed lots, dairies and producers utilizing self-inspection approved by the division pursuant to section 3-1203 shall comply with this section and procedures established by the division.

D



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3-1334. Inspection as to ownership of livestock

- A. Livestock officers and inspectors, in making inspections, shall require from livestock auctions or the owner or person in charge of the livestock a list of the brands and marks or necessary evidence of ownership and shall determine by inspection of the livestock that the person in charge is the owner or an approved livestock auction or is authorized in writing to handle the livestock.
- B. Feedlots, dairies and producers utilizing self-inspection approved by the division pursuant to section 3-1203 shall comply with this section and procedures established by the division.

E

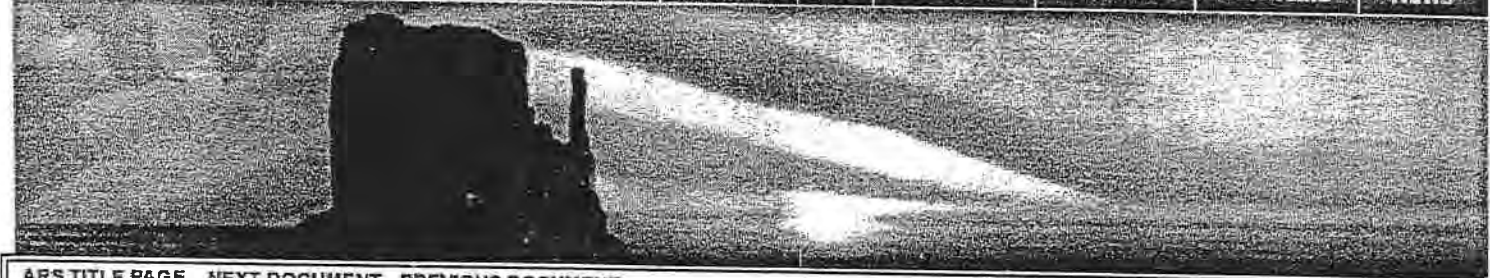
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3-1335. Certificate of inspection; delivery

- A. Upon completion of an inspection, the livestock officer or inspector shall deliver to the person in charge of the livestock a certificate on a form provided by the department disclosing the date of inspection, the purpose for which inspected, the number, sex and kind of livestock inspected, their brands and the fee collected. The certificate of inspection shall have clearly imprinted on its face the legend: "This certificate of inspection is not and shall not be used as a bill of sale."
- B. Feed lots, dairies and producers utilizing self-inspection approved by the division pursuant to section 3-1203 shall comply with this section and procedures established by the division.

certificates shall be made for each animal.

G. Livestock officers or inspectors shall not inspect livestock for health before they are slaughtered at an establishment which is subject to federal meat inspections as provided under chapter 13 of this title.

H. A person violating any provision of this section is guilty of a class 3 misdemeanor.

F

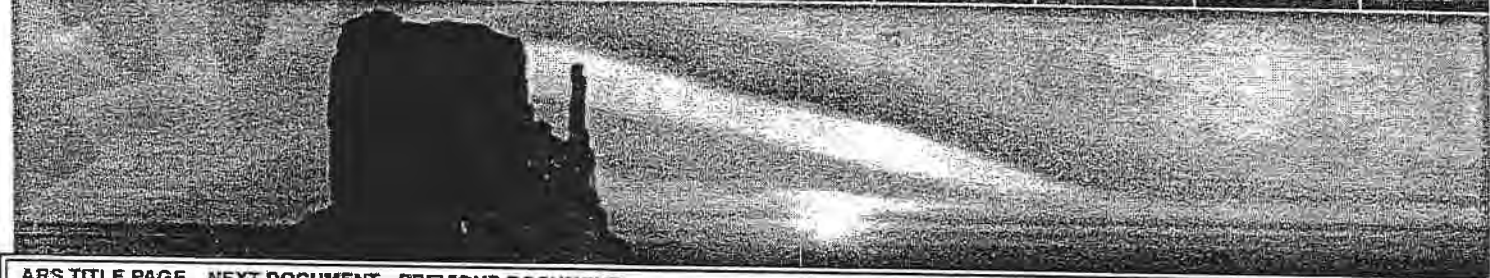
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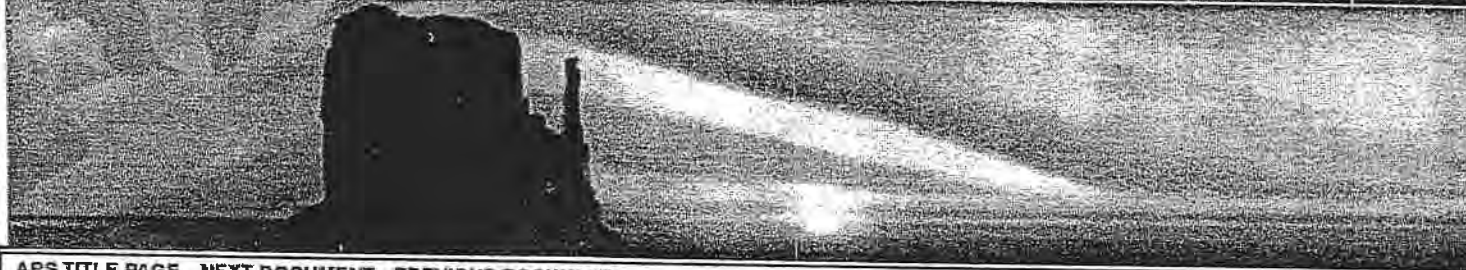


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3-1336. Inspection of livestock to be slaughtered, sold or transported; fee; violation; classification

- A. Except as otherwise provided in this section, livestock, other than equines and livestock inspected at feedlots or dairies pursuant to section 3-1337, shall not be slaughtered, sold, purchased, driven, transported, shipped or conveyed unless the animals have been inspected by a livestock officer or inspector for health, brands and marks before they are slaughtered, sold, purchased, driven, transported, shipped or conveyed and the inspection fee paid.
- B. The owner or agent of the owner of the livestock to be slaughtered, sold, driven, transported, shipped or conveyed as provided in subsection A of this section shall notify the nearest livestock officer or inspector of that intention.
- C. Equines consigned to either licensed Arizona livestock auctions or other special auctions approved by the department from out of state or from Indian reservations in this state or from other state or federal agencies without prior inspection shall be inspected on delivery at an auction.
- D. All livestock other than equines sold at auctions shall be inspected out on an inspection certificate or auction invoice validated by the department.
- E. The owner or producer of livestock excluding equines may slaughter or transport to another person to slaughter such livestock without having the animal inspected and without paying the inspection fee or service charge if the meat of such slaughtered livestock is solely for home consumption by such owner providing that such owner contacts a livestock officer or inspector within a forty-eight hour period prior to slaughter and is able to establish proof of ownership either by a prior inspection certificate, by a recorded brand on the animal or that the animal was raised by said owner, and the hide is inspected as provided for in section 3-2011. If proof of ownership cannot be established to the satisfaction of the livestock officer or inspector then the livestock officer or inspector may require an inspection prior to slaughter.
- F. The associate director may waive an inspection for brands and marks before the slaughter of an animal if a federal or state meat inspector on the premises certifies on a form provided by the department that, as determined by an antemortem inspection, the animal is in a distressed condition and for humane reasons should be slaughtered immediately if it is otherwise fit for slaughter and if the hide, carcass and certification are segregated and held pending inspection for brands and marks. The associate director may waive inspections under this subsection only for individual animals, and a separate

G



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3-1337. Service charge and inspection fee; self-inspection; civil penalties

- A. Livestock officers and inspectors shall collect from the person in charge of cattle inspected a service charge of three dollars plus an inspection fee of twenty-five cents per head for making inspections for the transfer of ownership, sale, slaughter or transportation of cattle.
- B. Livestock officers and inspectors shall collect from the person in charge of sheep inspected a service charge of three dollars plus an inspection fee of five cents per head for making inspections for the transfer of ownership, sale, slaughter or transportation of sheep.
- C. Livestock officers and inspectors shall collect from the person in charge of dairy cattle inspected a service charge of three dollars plus an inspection fee of twenty-five cents per head for making inspections for the transfer of ownership, sale, slaughter or transportation of dairy cattle.
- D. The division may approve self-inspection by movers of beef cattle, feedlots and dairies pursuant to section 3-1203, subsection D. Movement shall be documented on forms provided by the department. Movers of beef cattle, feedlots and dairies that utilize self-inspection shall pay an outgoing inspection fee of twenty cents per head.
- E. Service charges and inspection fees collected by the livestock officers and inspectors and feedlots and dairies utilizing self-inspection shall be remitted to the division. Service charges and inspection fees incurred by feedlots and dairies shall be remitted to the department within ten days after the end of the month in which the livestock were inspected.

H



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3-1339. Mobile slaughtering units; custom slaughtering; brand inspections

- A. A mobile slaughtering unit or a locker plant slaughtering livestock on a custom basis shall notify the local livestock officer or inspector before any slaughtering operation. If brand inspection of an animal is not conducted before slaughter, the mobile slaughterer or the locker plant slaughtering the animal shall retain the hide for a forty-eight hour period for inspection by a livestock officer or inspector.
- B. Mobile slaughtering units and locker plants which slaughter livestock shall maintain accurate records of the number of animals slaughtered, their source and ownership and the brands on the animals. These records shall be available for inspection by a livestock officer or inspector during regular business hours.
- C. All locker plants and mobile slaughtering units licensed by this state shall collect the brand inspection fees provided for by law and rules of the director and all other fees provided for by law or rule to be collected by the department for each animal slaughtered and remit the fees to the department.

1

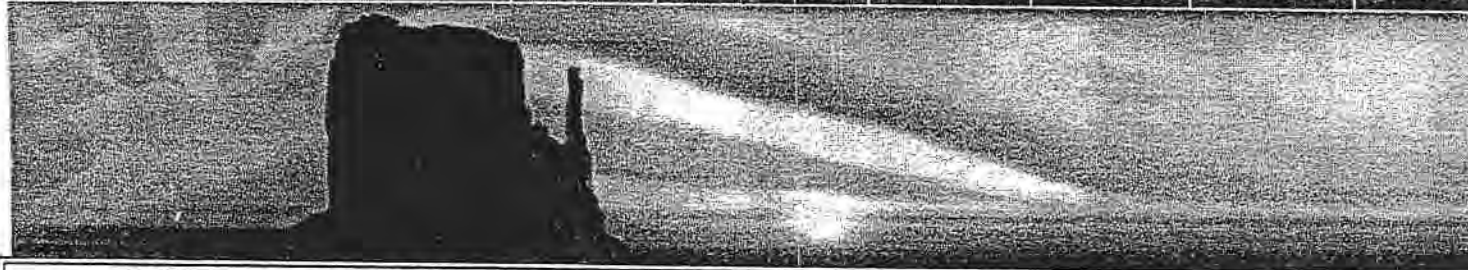
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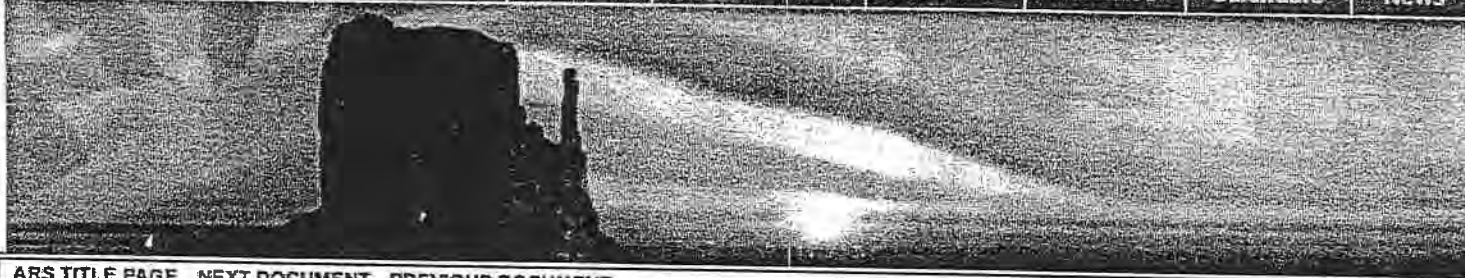


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3-1340. Unbranded livestock kept in close confinement; shipment, sale and inspection

- A. Owners of livestock, other than equines, who do not have a recorded brand and who maintain their animals in close confinement not exceeding ten acres may transport their animals to livestock auctions licensed in this state, feedlots licensed in this state or slaughter plants licensed in this state without first having those animals inspected if the shipment does not exceed five cattle or calves or ten sheep.
- B. Animals shipped, conveyed or transported under this section shall be accompanied by proof of ownership, such as auction invoices or inspection certificates which the owner received at the time of purchase.
- C. Any livestock, other than equines, that are transported, shipped or conveyed pursuant to this section and that have not been inspected by a livestock officer or inspector within the previous forty-eight hours shall be inspected at their destination point by a livestock officer or inspector before the sale, slaughter or change of ownership and all applicable inspection fees shall be paid. Destination points for the purpose of this section are feedlots, slaughter plants and auctions which are licensed in this state.

J



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3-1341. Transportation of livestock by person without certificate of inspection, validated auction invoice or bill of sale; violation; classification

A. Except as otherwise provided in this article, it is unlawful for any person, firm or corporation to carry, transport or convey livestock by any conveyance without first having such livestock inspected and having in immediate possession the duplicate record of the inspection, an auction invoice issued pursuant to section 3-1336, a registration or identification card issued pursuant to section 3-1344 or 3-1345 or a bill of sale.

B. A person violating this section is guilty of a class 2 misdemeanor.

K

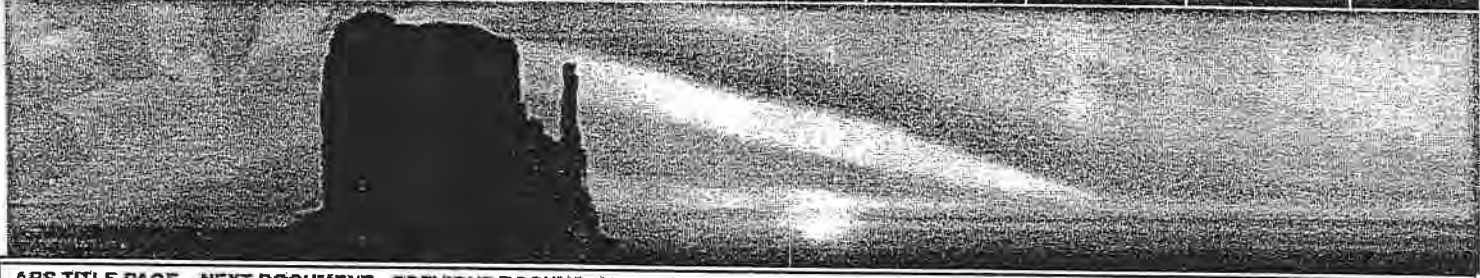
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3-1342. Alteration of certificate or record of inspection; classification

A person who intentionally alters a certificate or record of inspection or copy thereof issued by a livestock officer or other agent of the department is guilty of a class 2 misdemeanor.

L

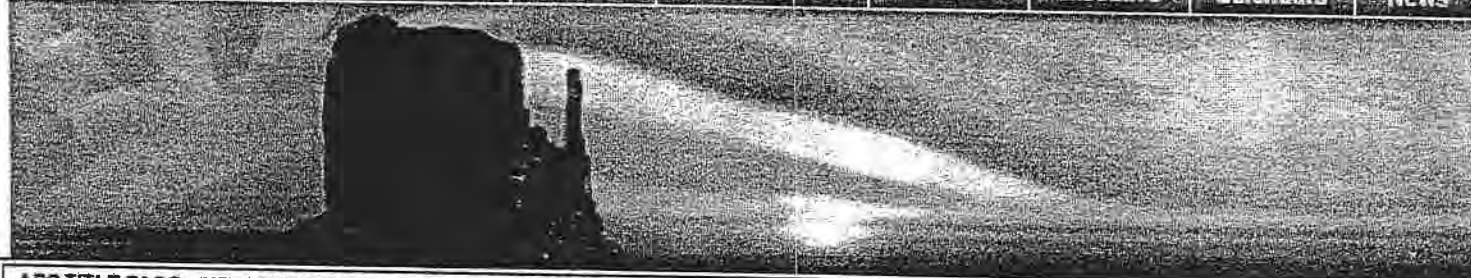
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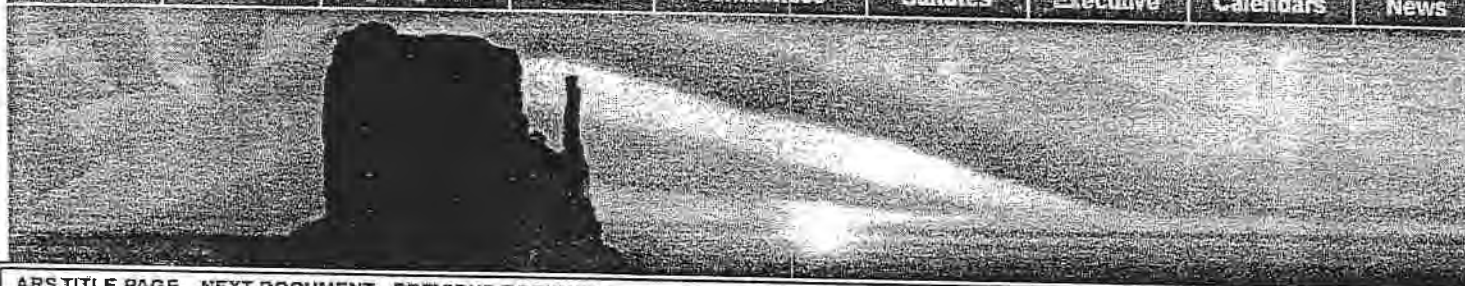


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3-1343. Substitution of animals after issuance of certificate of inspection; classification

A person who removes an animal and substitutes another therefor or adds other animals to a lot of livestock for which an inspection certificate or validated auction invoice has been issued for shipment, sale or slaughter is guilty of a class 2 misdemeanor.

M

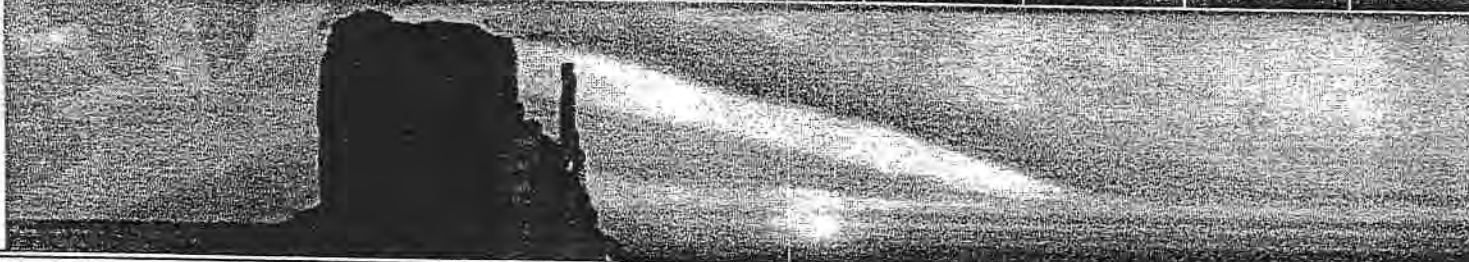

[ARS TITLE PAGE](#) [NEXT DOCUMENT](#) [PREVIOUS DOCUMENT](#)

3-1344. Ownership and hauling certificates for equines; inspection; exemption; cancellation; fees

- A. Except as otherwise provided in this article, owners or persons in charge of equines may obtain ownership and hauling certificates from the department.
- B. The director shall adopt inspection fees by rule pursuant to title 41, chapter 6, for the processing of ownership and hauling certificates and replacement ownership and hauling certificates. If a person requests an ownership and hauling certificate or a replacement ownership and hauling certificate, the department shall collect from the owner or person in charge of equines an inspection fee for deposit in the equine inspection fund pursuant to section 3-1345.01.
- C. Notwithstanding other provisions of this title, ownership and hauling certificates issued pursuant to subsection A of this section shall be valid for the life of the animal or until transferred pursuant to section 3-1345.
- D. An owner or the authorized agent of an owner of a thoroughbred that will be used solely for horse racing or race horse breeding purposes and that has a certificate of registration or a facsimile of a certificate of registration issued by the jockey club of Lexington, Kentucky or a predecessor organization or a quarter horse that will be used solely for horse racing or race horse breeding purposes and that has a certificate of registration or a facsimile of a certificate of registration issued by the American quarter horse association of Amarillo, Texas is exempt from this section and all other statutes and rules that require an ownership and hauling certificate issued under this section with respect to that horse. This subsection applies to an unweaned foal if his or her dam has the certificate of registration required by this subsection. On the sale or disposition of a horse that is exempt from the ownership and hauling certificate requirements under this subsection, the seller or an authorized agent of the seller shall either:
1. Properly execute and transfer the certificate of registration required under this subsection to the buyer.
 2. Complete and date an equine transfer request form issued by the department and give the form and a notarized bill of sale to the buyer. Within thirty days after the transfer of ownership, the buyer shall complete the buyer's portion of the equine transfer request form and shall comply with subsections A and B of this section.
- E. Ownership and hauling certificates issued with respect to any equine shall be surrendered to the department or its authorized representative if any of the following occurs:

1. The equine dies.
2. The equine is sold and shipped out of state.
3. The equine is sent to slaughter or is disposed of for humane reasons.

N



[ARS TITLE PAGE](#) [NEXT DOCUMENT](#) [PREVIOUS DOCUMENT](#)

3-1345. Transfer or issuance of ownership and hauling certificates; fees

- A. The seller of any equine who has a valid ownership and hauling certificate for such animal and the buyer of such animal, except a person who has been issued an equine trader's permit pursuant to section 3-1348, may both complete and date a transfer request form. One copy of the transfer request form shall be given to the seller.
- B. Within thirty days of the transfer of ownership of any equine, provided for in subsection A of this section, the buyer may forward to the division the ownership and hauling certificate, the original copy of the completed transfer request form and the transfer fee. The director shall adopt transfer fees by rule pursuant to title 41, chapter 6, for processing transfer request forms. Upon receipt, the division shall deposit the fees in the equine inspection fund pursuant to section 3-1345.01 and issue a new ownership and hauling certificate to the transferee and a blank transfer request form. Such certificate shall be valid for the life of the animal or until sold.
- C. An equine trader permittee who purchases an equine in this state must receive from the seller a bill of sale or the ownership and hauling certificate and the original and buyer's copy of a transfer request form with the seller's portion completed.
- D. An equine trader permittee shall sign and enter his permit number on the transfer document when he transfers ownership of an equine.

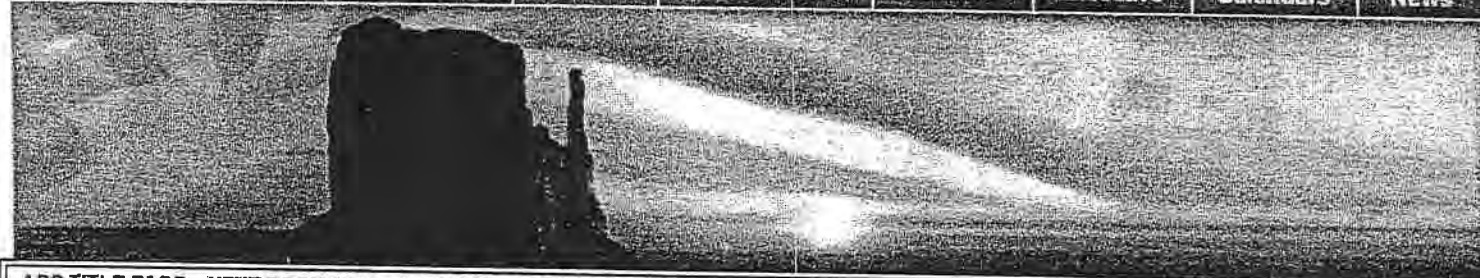
Arizona State Legislature

Forty-seventh Legislature - First Regular Session

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[ARS TITLE PAGE](#) [NEXT DOCUMENT](#) [PREVIOUS DOCUMENT](#)

3-1345.01. Equine; inspection fund

The equine inspection fund is established consisting of fees collected pursuant to section 3-1344, subsection B and section 3-1345, subsection B. The department of agriculture shall administer the fund. Monies in the fund are continuously appropriated for the issuance of equine ownership and hauling certificates.

P

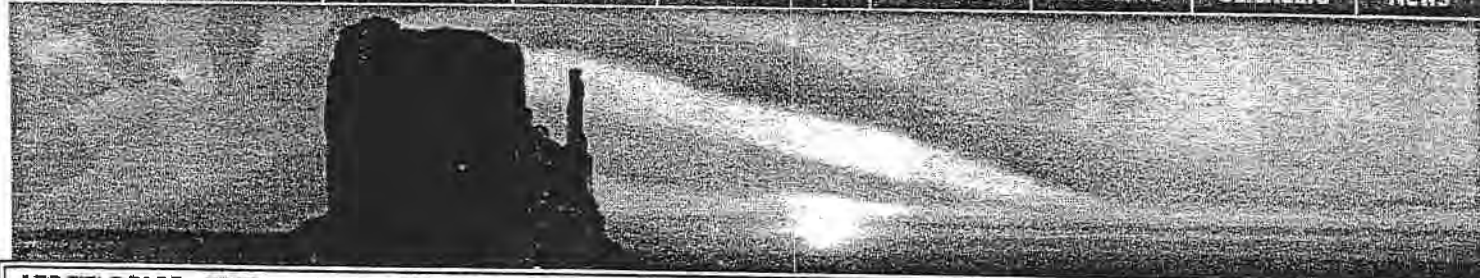
Arizona State Legislature

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[ARS TITLE PAGE](#) [NEXT DOCUMENT](#) [PREVIOUS DOCUMENT](#)

3-1346. Seasonal inspection for exhibition livestock; fee

- A. Seasonal inspection certificates may be issued, under the self-inspection program, for exhibition livestock for any purpose other than slaughter, sale or trade. The fee for a seasonal brand inspection certificate is five dollars plus fifty cents per head of livestock in excess of ten.
- B. The certificate shall state the date of issuance, the sex, color and breed, the brand or brands and their location and any other identifying marks and the name of the owner of the livestock. The words "seasonal brand inspection" shall be written across the face of the certificate.
- C. The certificate is valid for twelve months after the date of issuance and shall accompany the livestock while in transit.

Q

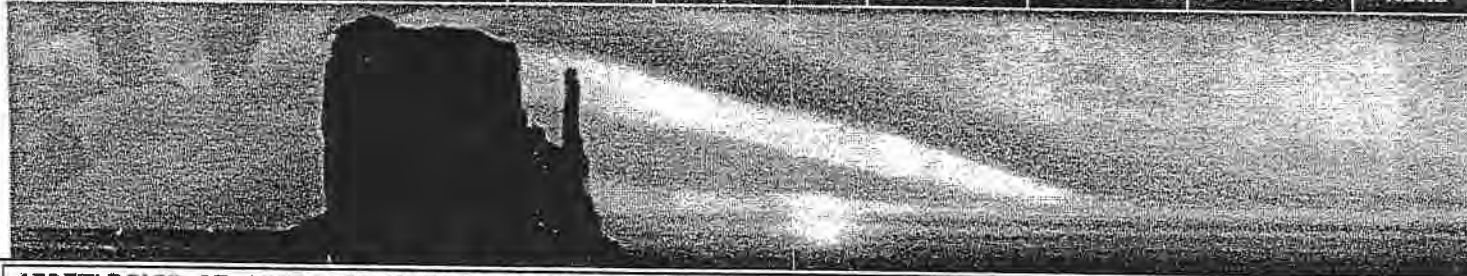
Arizona State Legislature

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[ARS TITLE PAGE](#) [NEXT DOCUMENT](#) [PREVIOUS DOCUMENT](#)

3-1347. Violation; classification

Unless otherwise provided any person who does not comply with this article is guilty of a class 3 misdemeanor.

R

Arizona State Legislature

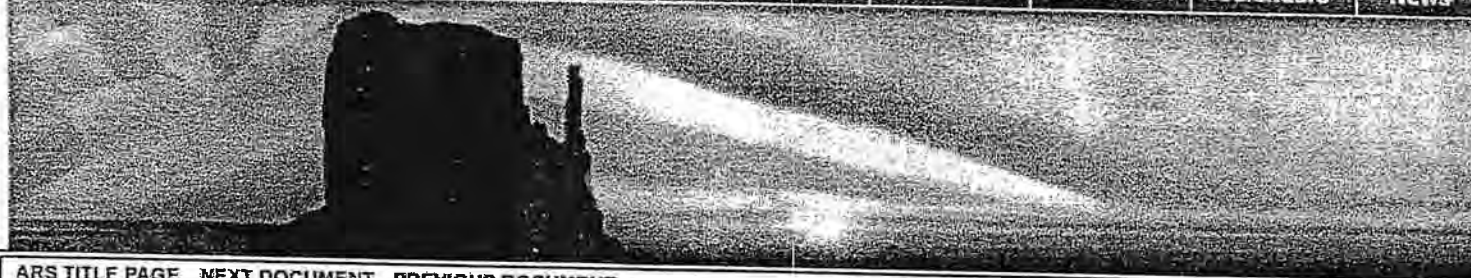
Forty-seventh Legislature - First Regular Session

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[ARS TITLE PAGE](#) | [NEXT DOCUMENT](#) | [PREVIOUS DOCUMENT](#)

3-1348. Equine trader permit

- A. The division shall issue an equine trader permit to an applicant who pays a fee of one hundred dollars and who complies with the requirements of this section. The permit is valid for one year from the date of issuance and may be renewed on payment of an annual renewal fee of one hundred dollars and on compliance with the requirements of this section.
- B. Applications for initial and renewal permits shall contain the following information:
1. The full name of the applicant.
 2. The applicant's business and residence addresses.
 3. The date and place of the applicant's birth.
 4. Information concerning equine trading permits held in other states and their status.
 5. Information concerning any felony convictions within seven years before the date of application, including any convictions subsequently set aside or resulting in restoration of civil rights.
 6. Any other information which the division may require.
- C. The director may adopt rules specifying additional information which may be reasonably required to be submitted on an application for an equine trader permit or renewal of a permit to allow the division to determine the fitness of the applicant to receive a permit or renewal of a permit.
- D. The director may deny, refuse to renew, suspend or revoke an equine trader permit pursuant to title 41, chapter 6, article 10 for any of the following reasons:
1. A violation of any provision of this title or of any rule adopted pursuant to this title.
 2. A violation of any provision of title 44, chapter 10, article 7.
 3. The revocation or suspension for cause of an equine trader permit issued by the division or by any other state within five years before the date of application.
 4. A conviction of a felony involving a crime related to the equine trade occupation within seven years before the date of application for an equine trader permit.
- E. Except as provided in section 41-1092.08, subsection H, final decisions of the director are subject to judicial review

pursuant to Article 12, chapter 7, article 6.

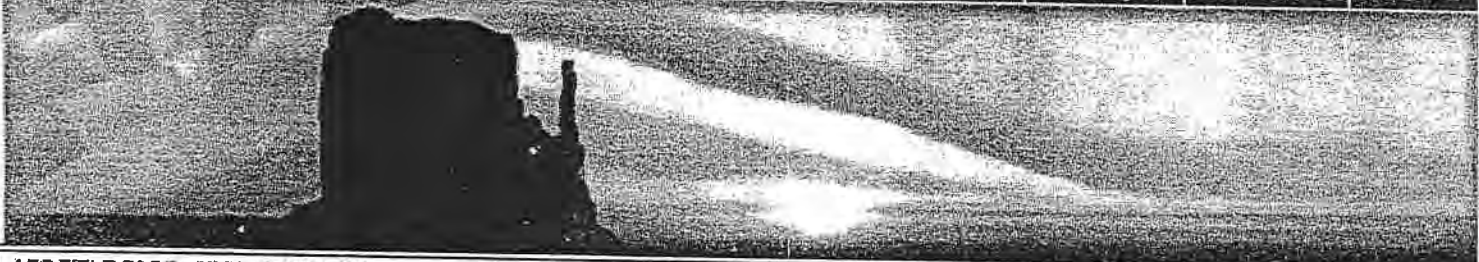
Arizona State Legislature

Bill # Search

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[ARS TITLE PAGE](#) [NEXT DOCUMENT](#) [PREVIOUS DOCUMENT](#)

3-1349. Inventory and monthly report of equine traders

Equine trader permittees shall maintain inventory records of all equines sold. The records shall include the date sold, the ownership and hauling certificate number and the name and address of the buyer. At the end of each month each equine trader permittee shall report to the division the number of equines sold during the month. Each equine trader permittee shall also surrender to the division each month all ownership and hauling certificates in his possession belonging to equines that have been moved out of state. Authorized representatives of the department may review the inventory records of any equine trader permittee during normal business hours.



COPY

File Code: 2260-1

Date: May 26, 2005

Dr. Phil Blair
Assistant State Veterinarian
Arizona Department of Agriculture
1688 West Adams
Phoenix, AZ 85007

Dear Dr. Blair:

As you are aware, the Apache-Sitgreaves National Forest is planning to remove horses that are trespassing on the Forest. These horses are believed to have entered National Forest Lands sometime after June 2002, the date of the Rodeo-Chediski Fire. As a result of the fire, a majority of the boundary fence between the White Mountain Apache Reservation and the Forest was destroyed, allowing for unrestricted access to the Forest by these horses. The Forest will soon be contracting to gather these horses, and we want to ensure that we follow Arizona State Laws during implementation. This letter documents our understanding of the Arizona State Laws governing branded and unbranded horses that are currently trespassing (or "stray" as defined by ARS 3-1401) on National Forest Lands. After receiving confirmation from you about this process, the Forest will proceed using the following steps:

- 1) We will issue a "Notice of Intent to Impound Unauthorized Livestock," posted at the proper public locations, including the courthouse and local post offices, and we will also send a copy to the White Mountain Apache Tribe.
- 2) If there are remaining horses on the Forest after this impoundment notice, we will proceed with the contracting process. Once the contract is awarded we will meet with the contractor and discuss the procedures that they must adhere to which include:
 - During the gathering/trapping phase, all horses shall be managed as per "trapping and care" clauses within our contract (enclosed). The Contractor must abide by State laws regarding the treatment of animals (ARS 13-2910).
 - Once gathered, the Contractor shall haul all horses to the Sun Valley Livestock Auction, near Holbrook, AZ. Prior to hauling, the Contractor shall call the local livestock inspector. The horses shall be transported as per the "motorized equipment" clauses (enclosed) within our contract. These clauses are consistent with State Law (ARS 3-1312).

Once at the sale barn, the horses then become sole custody of the State via the local livestock inspector or designee. The inspector will try to determine ownership, and attempt to contact the proper owner. If no ownership is claimed or the owner refuses the opportunity to collect his or her animals, the livestock inspector will proceed with the sale of these animals as per the normal



State process. After the sale, the State will recover any cost associated with the care, feeding, and any other miscellaneous costs and return any remaining balances to the Forest Service.

It is our intention to comply with State laws during this contract. We currently think that the verbiage that will be contained in the contract complies with State Laws, but if it doesn't please let me know by the end of May so that we can correct it. We appreciate the assistance that you have provided and plan to work closely with your department during our contract. The local contacts for this contract will be Kendell Hughes of the Black Mesa Ranger District (928) 535-4481, and Randall Chavez of the Lakeside Ranger District (928) 368-5111.

Sincerely,



ELAINE J. ZIEROTH

Enclosure

cc:

Randall Chavez

Kendell Hughes ✓

JANET NAPOLITANO
Governor



House File
Donald Butler
Director

Arizona Department of Agriculture

1688 W. Adams Street, Phoenix, Arizona 85007
(602) 542-4373 FAX (602) 542-5420

RECEIVED

JUN - 6 2005

MAILROOM

Attn: Ms. Elaine J. Zieroth

P.O. Box 640

Springerville, AZ
85938-0640

Re: Your File Code 2260-1
Dated May 26, 2005

Removal of trespassing horses from National Forest Lands.

(I do not find "contract enclosed"...)

To contact your area Livestock Official please call Animal Service Dispatch in Phoenix at 1-800 294-0305 or 602-542-0799. This allows us to create an Incident Number and Officially record your notification.

My opinion is your letter of intent conforms to statute.

Respectfully,

A handwritten signature in cursive script that reads "Phil A. Blair DVM".

Phil A. Blair DVM
Assistant State Veterinarian
June 1, 2005



United States
Department of
Agriculture

Apache-Sitgreaves
National Forests

COPY
P.O. Box 640
Springerville, AZ 85938-0640
(928) 333-4301 FAX: 333-5966
TTY: (928) 333-6292

File Code: 1500/2200

Date: June 13, 2005

Mr. Dallas Massey
Tribal Chairman
White Mountain Apache Tribe
PO Box 1150
Whiteriver, AZ 85941

Dear Chairman Massey:

The Apache-Sitgreaves National Forests are planning to remove horses that are trespassing on the Forests. These horses are believed to have entered National Forest Lands sometime after the Rodeo-Chediski Fire. Since a majority of the boundary fence between the White Mountain Apache Reservation and the Forests was destroyed after the fire, this allowed for unrestricted access to the Forests by these horses. The Forests will soon be contracting to gather these horses, and I want to provide you notification of the process the Forests will proceed with:

- 1) The Forests will issue a "Notice of Intent to Impound Unauthorized Livestock," posted at the proper public locations, including the courthouse and local post offices. We will also send you a copy.
- 2) If there are remaining horses on the Forests after this impoundment notice, we will proceed with the contracting process.
- 3) Once gathered, the Contractor shall haul all horses to the Sun Valley Livestock Auction, near Holbrook, AZ.

Once at the sale barn, the horses then become sole custody of the State via the local livestock inspector or designee. The inspector will try to determine ownership, and attempt to contact the proper owner. If no ownership is claimed or the owner refuses the opportunity to collect his or her animals, the livestock inspector will proceed with the sale of these animals as per the normal State process.

The Forests would like your cooperation during and after this contract by keeping all gates closed along the reservation boundary on Forest Road 300. This will help us to complete the contract and prevent further migration of horses onto National Forest Lands.



If you have any questions, please feel free to give me a call. The local contacts for this contract will be Kendell Hughes of the Black Mesa Ranger District (928) 535-4481, and Randall Chavez of the Lakeside Ranger District (928) 368-5111.

Sincerely,



ELAINE J. ZIEROTH
Forest Supervisor

cc:

Randall Chavez

Kendell L. Hughes ✓

Deb Bumpus

Dave Stewart, Regional Office

Allen J. Anspach, Fort Apache Agency, BIA

Lowell Walker, Tribal Brand Inspector

Mary Stuever

REQUEST FOR CONTRACT ACTION
(Reference FSH 6309.31)

TO: ADMINISTRATIVE SERVICE
Warren Abbott - Contracting Officer

Date of Request
06/13/2005

Name and Address of Requesting Unit
Lakeside & Black Mesa Ranger District

PROJECT

Check the appropriate box
 construction of public works non-personal services Personal Property

Name and Project Description

Trespass Horse Gathering - This contract is to gather trespass horses from two districts on the Apache-Sitgreaves National Forest.

**SENSITIVE
DO NOT RELEASE**

LOCATION	State	County	Unit
Lakeside & Heber-Overgaard	Arizona	Navaho	030107 & 030102

Brief description of how project can be located by prospective bidders

South HWY 260 from Show Low to Heber-Overgaard to Forest Lakes. This contract is only on National Forest lands and not on the Fort Apache Reservation Lands.

PROGRAM DATA	Available Appropriations Chargeable	Quarter Apportioned	Estimate of Cost (Confidential)
Recommended Contract Time 6 months or funds end	Desired Date for Starting Work August 1, 2005	Pre-Bid Meeting or Tour Desired	\$60,000 Desired Date for Pre-Bid Mtg.

Location of Pre-Bid Meeting

Lakeside Ranger District
2022 W. White Mtn. Blvd
Lakeside, AZ 85929

Person to Contact for Additional Information (Name)	Address	Telephone Number
Kendell Hughes	P.O. Box 968 Overgaard, AZ 85933	(928) 535-4481
Qualified Contracting Officers Representative (Name)	Address	Telephone Number
Randall L. Chavez	2022 W. White Mtn Blvd Lakeside, AZ 85929	(928) 368-5111

ATTACHMENTS

Schedule of Items, Pages 2-3 Specifications, Pages 4-15

Supplementation Specifications, Pages _____ Plans, Drawings and Maps (Including Itemized List)

Form 7700-18 (For Roads, Trails and Bridges Only) List of Interested Prospective Bidders

Other Attachments or Remarks

S-6500-202 - Funds Availability Form

SIGNATURE	TITLE	DATE
<i>Randall L. Chavez</i>	<i>Operation Team Leader</i>	<i>6/13/05</i>

DISTRIBUTION

Original - Contracting Office Yellow - Technical Staff
Ink - Budget Office Blue - Requesting Unit File

FS-6300-4(3-80)

R ~~~~~

PROCUREMENT REQUEST NO.
9507

1. NAME, PHONE NUMBER, AND ROUTING SYMBOL OF PERSON TO CONTACT
CHAVEZ, RANDALL

REQUISITION DATE
06/16/2005

3. ORIGINATING OFFICE DATA
CHAVEZ, RANDALL L

2. TYPE OF REQUEST (Check one)
A. NEW REQUEST

4. ADDITIONAL INFORMATION (Suggested supply sources, security data, etc.)

B. CHANGE TO PENDING PR NO. _____
C. MODIFICATION TO CONTRACT OR ORDER NO. _____

5. APPROVALS

6. CONSIGNEE AND DESTINATION

APPROVING OFFICIALS (A)	ROUTING SYMBOL (B)	DATE (C)	INTERNAL ROUTING	
			INITIALS (D)	ROUTING SYMBOL (E)
(1) AUTHORIZED REQUISITIONER RANDALL CHAVEZ	FS	06/20/2005		
(2) THERESA BROWN	FS	06/20/2005		
(3)				
(4)				

USDA FOREST SERVICE
LAKESIDE RANGER DISTRICT
RURAL ROUTE 3 B-50
LAKESIDE AZ 85929

7. DATE(S) REQUIRED
07/15/2005

8. GOVERNMENT FURNISHED PROPERTY
 YES NO (If "yes," see par. 8 of instructions on next page.)

9. DESCRIPTION OF ITEMS OR SERVICES

ITEM NO. (A)	ITEM OR SERVICE (Include Specifications and Special Instructions) (B)	QUANTITY (C)	UNIT (D)	ESTIMATED COST	
				UNIT (E)	AMOUNT (F)
0001	<p>Trespass Horse Gathering</p> <p>Contract for capture and transport of Approx. 120 trespass horses from the A-S NF. Product/Service Code: R707 Product/Service Description: CONTRACT, PROCUREMENT, AND ACQUISITION SUPPORT SERVICES Accounting Info: 11.ZZ.ZZ.ZZZZZZ.0301.ZZ.ZZZZZZZZ.ZZ.ZZZZZZZZZZ.2540 ZZ.NFN33005.ZZZZ Agency Code: 11 Program Code: ZZZZZZZZZZ BOC: 2540 Sub BOC: ZZ Cost Org: ZZZZZZZZ Job Code: NFN33005 Sub Cost Org: ZZ Budget Yr Start: ZZ Budget Yr End: ZZ Fund: ZZZZZZ Budget Org: 0301 Sub Budget Org: ZZ Report Category: ZZZZ Funded: \$40,000.00 Accounting Info: 11.ZZ.ZZ.ZZZZZZ.0301.ZZ.ZZZZZZZZ.ZZ.ZZZZZZZZZZ.2540 ZZ.RSW3C005.ZZZZ Agency Code: 11 Program Code: ZZZZZZZZZZ BOC: 2540 Sub BOC: ZZ Cost Org: ZZZZZZZZ Continued ...</p>	120	EA	500.00	60,000.00
				TOTAL ESTIMATED COST \$60,000.00	

10. ACCOUNTING DATA
See Schedule

SENSITIVE
DO NOT RELEASE

Arizona Congressmen Grijalva and Hayworth Show Repeated Commitment to Protecting Horses

By Patricia Haight

Others Split on Vote While Flake, Kolbe, & Shadegg Repeatedly Vote Against Protections

(Phoenix, AZ) The United States House of Representatives passed yesterday by an overwhelming majority the Sweeny/Spratt amendment to the 2006 Agriculture Appropriations bill.

The amendment makes the use of federal funds for horse slaughterhouses in the U.S. illegal. The amendment means that USDA inspectors and veterinarians cannot be paid to inspect at horse slaughterhouses in the United States, thus making it impossible for these houses to function legally in the United States. The final vote on the amendment was 269 for the amendment and 158 against, a landslide mandate by the House to end horse slaughter in this country.

Arizona Congressmen voting in favor of the amendment were:
 Raul M. Grijalva
 JD Hayworth
 Rick Renzi

Arizona Congressmen who voted against the amendment were:
 Jeff Flake
 Ed Pastor
 Trent Franks
 John Shadegg
 Jim Kolbe



Congressman Hayworth



Congressman Grijalva

The amendment now goes to the Senate. If passed in the Senate and signed into law, the ban on use of federal funds for slaughterhouses will be in effect for one year until consideration of the next agriculture budget. Passage of the amendment is critical to allow time for supporters to rally support behind HR 503, a permanent ban on the slaughter of horses in the United States and export of horses for slaughter outside of the United States. Such famous horses as Kentucky Derby winner Ferdinand, have met tragic ends in foreign slaughterhouses.

Just three weeks ago, the US House voted to restore protection to all wild horses falling under federal jurisdiction after direct sale of 80 older horses resulted in many of them being slaughtered in an Illinois slaughterhouse. On that vote, Arizona Congressmen voted as follows:

In favor of restoring protection for all wild horses were Arizona Congressmen:

Raul M. Grijalva
 Trent Franks
 JD Hayworth
 Ed Pastor

Voting against restoration of protections for all wild horses were Arizona Congressmen:
 Rick Renzi
 Jeff Flake
 Jim Kolbe
 John Shadegg

This Bill HAS to do with all horses NOT JUST Wild Horse



United States
Department of
Agriculture

Apache-Sitgreaves
National Forests

COPY
P.O. Box 640
Springerville, AZ 85938-0640
(928) 333-4301 FAX: 333-5966
TTY: (928) 333-6292

File Code: 2200

Date: July 6, 2005

Mr. Joe Wager
PO Box 854
Tonto Basin, AZ 85553

Dear Mr. Wager:

I received your letter dated June 30, 2005, concerning the trespass horse situation on the Sitgreaves National Forest. After your last letter I asked Randall Chavez from the Lakeside Ranger District to call and speak with you. Randall informs me that you have been exchanging messages, but haven't been able to make connection. He did put your name on the contract bidders list for the project.

The articles you have sent to me have to do with wild horses. In the Lakeside and Heber areas we are dealing with trespass horses from neighboring lands, not wild horses. The distinction is that wild horses have spent generations in an area before 1971 in an untamed state. These are generally tame horses whose owners have allowed them to roam (see the enclosed definition). We have been consulting with the Tribe on this issue since 2003. Notices have recently been sent to the Tribe asking them to inform tribal members that we want the trespass horses removed, and will soon issue a notice to impound.

Once we gather the horses, we will work with the State Brand Inspector to find owners for branded horses or to take unbranded horses to the sale barn to help offset some of our costs. Randall mentioned that, in general, these horses are in good condition and most will probably go as riding horses. There will be too many horses to attempt adoption (200+), and it will be up to the State Brand Inspector to deal with them once they are caught.

Since the Bill in Congress deals with wild horses only, it would not have any influence on the impoundment of trespass horses. Forest Service policy is clear that we do not want resource damage from unauthorized livestock and need to notify the owners and impound the animals as soon as possible. If we allow the situation to persist, we will continue to see increasing damage to the fire rehabilitation efforts, (we will also have more people wanting free grazing on national forest lands). We have kept the cattle permittee off the fire area to allow rehabilitation, and it would not be fair to these permittees to continue to allow trespass livestock in the area.



I have asked Mr. Chavez to continue trying to contact you as well. We do welcome your ideas in this matter.

Sincerely,



ELAINE J. ZIEROTH
Forest Supervisor

Enclosure

cc:

Lakeside District Ranger
Black Mesa District Ranger
Deb Bumpus, Forest Range Staff



Notice OF INTENT TO IMPOUND UNAUTHORIZED LIVESTOCK (Ref: FSM 5330)

Notice is hereby given that pursuant to Regulation of the Secretary of Agriculture, 36 C.F.R. 262.2, all unauthorized livestock found upon National Forest System Lands or other lands under Forest Service control within the following area:

TOPOGRAPHIC UNIT, LEGAL SUBDIVISION OR ALLOTMENT Rodeo-Chedeski Fire Area - South of Hwy 260 to Fort Apache Reservation Boundary, East of Tonto Forest Boundary, West of HWY 60 on the Apache-Sitgreaves National Forest lands only.	RANGER DISTRICT Lakeside & Black Mesa
NATIONAL FOREST OR GRASSLAND Apache-Sitgreaves National Forest	STATE Arizona

The livestock are described as follows: All trespass horses within the described area above.

May be impounded by the United States Forest Service on or after July 30, 2005 if the same be previously removed permanently from the above described lands.

Any unbranded livestock, or any livestock bearing brands of previously unauthorized livestock which are found to be making continuing or subsequent unauthorized use within twelve months after publication of this notice may be impounded without further notice.

After the impoundment, owners of unauthorized livestock may regain possession thereof only by first showing proof of ownership and reimbursing the United States in full for the expense incurred in impounding, feeding, and care of such livestock, or if impoundment costs exceed fair market value, by a payment equal to the fair market value of the impounded livestock. All impounded animals not redeemed within 5 days after notice of sale of impounded livestock has been published in a local newspaper, posted in the county court house and in one or more local post offices, will be offered for sale at public auction.

Livestock not sold at public sale may be sold at private sale or condemned and destroyed, or otherwise disposed of as provided by Regulation 36 C.F.R. 262.2(f).

Signed at Supervisor's Office this 6th day of July 2005

NAME AND SIGNATURE 	TITLE ELAINE J. ZIEROTH Forest Supervisor
------------------------	-------------------------------------------------

7-11-05

I AM CONCERNED - EVEN WITH THIS
NEW BILL - I HAVE NO CONFIDENCE
IN THE STATE DOING THE "RIGHT" THING -

Randall's Proposal was based on 400+
horse - I doubt that many or most
will make family riding horses -

THERE ARE VERY VERY FEW INDIVIDUALS
THAT GO TO THE HORSE SALE IN HOLBROOK
IT IS MAINLY A CATTLE SALE - MOSTLY
NAVAJOS AND BULK BUYERS FROM ALBQ.
I HAVE BEEN THERE 10/15 TIMES I HAVE
NEVER SEEN MORE THAN A DOZEN HORSE
IN THE SALE - AND FEW SOLD TO INDIVIDUALS

WITH THE NEW BILL WE CAN BE SURE THAT
A HORSE STEAK WILL NOT GRACE THE TABLE
OF THE RESIDENTS OF FRANCE. HOW ABOUT
A STRONG HEART DOG FOOD CAN?

TRESPASS HORSE - UNWELCOME GRAZED ~~OR~~
WHAT EVER THEY ARE TO BE CALLED THEY
SHOULD HAVE A FAIR CHANCE -

JOE

Our BIGGEST Concern

At the heart of the "unwanted horse" issue is a deep-rooted concern for equine welfare.

By Christine Hamilton

IF YOU OWN AND CARE FOR AN AMERICAN QUARTER HORSE, chances are your No. 1 concern is its welfare. You know that good care is good business, and you love horses.

Horse people are like that, especially those who come from the American Quarter Horse heritage. The West was settled by people who relied on their horses to help bring in a herd and survive in rough country, and they were treasured companions beside lonely campfires. That sentiment remains in every Quarter Horse person today.

A concern for equine welfare is at the heart of the issues surrounding unwanted horses. All horsemen agree: Wanted or unwanted, no horse should experience abuse as a result of treatment or neglect.

What we have yet to agree on is how to maintain that standard and still deal with the reality of unwanted horses.

What Is An Unwanted Horse?

NAT MESSER, I.V., D.V.M., OF THE UNIVERSITY OF MISSOURI, defined unwanted horses as horses "that are no longer needed or useful, or their owners are no longer interested in or capable of providing care for them physically or financially."

"Some unwanted horses are old, some are injured, some are lame, and some have attitude problems or behavioral problems, where people can't get along with them," said Tom Lenz, D.V.M., past president of the American Association of Equine Practitioners (AAEP).

"Some of them are poor quality animals that were bred and don't fit their owners' expectations," he added.

Unwanted horses are often retired and turned out to pasture, or are humanely euthanized. Some are donated to research universities or therapeutic riding programs.

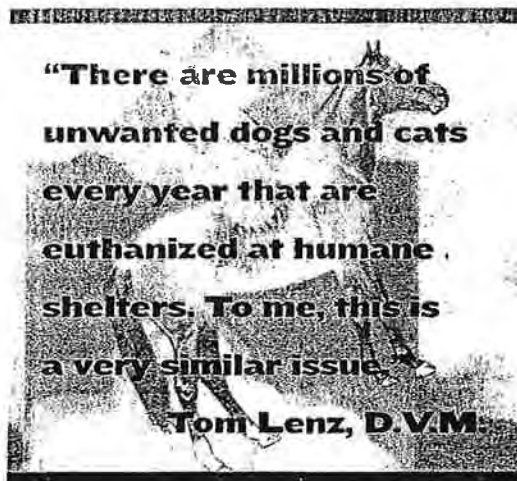
Some are prone to suffer from neglect, and many are sent to processing plants.

According to Messer, 1 percent to 2 percent (or 75,000 to 150,000 horses) of the domestic equine population in the United States has been sent to humane slaughter and processing each year for the last 10 years.

United States Department of Agriculture (USDA) figures show that number has dropped since the late 1980s when the annual average hovered around 300,000.

"These horses are bringing \$200-\$300 a head," Lenz said. "If there were some use for them, or some place for them to go, they wouldn't be going to a processing plant."

Since 2001, USDA's Animal and Plant Health Inspection Service (APHIS) has tracked all information from the owner/shipper form to trace violators. That form accompanies every horse shipped for commercial and tracks information such as a horse's color, breed type, gender and point of origin:



"Using that data," said Tim Cordes, D.V.M., APHIS senior staff veterinarian for equine programs, "if you look at the top four types that go to slaughter you have 'Quarter Horse' and 'Thoroughbred' type, 'other' and 'draft.'"

"That's pretty much a cross-section of the normal horse population in the United States," he continued. "There is no such thing as a particular kind or type or breed of horse that goes to slaughter. The data clearly show a cross-section of the overall horse population."

"The only things these horses have in common is that they're unwanted."

Sobering Truths

"JUST TO SAY YOU CAN NO LONGER PROCESS A HORSE DOESN'T solve the unwanted horse problem," Lenz said.

"As long as the welfare of the horse is cared for prior to processing and the animal is euthanized humanely, that's what (veterinarians) are concerned about," he added.

"What happens to the body after death is not our issue. That's society's issue."

Lenz said legislation has been introduced during the last several years to ban processing or slaughter of horses in this country for human consumption.

"AAEP's concern with these legislations is that they don't address several things," he said.

According to AAEP, those bills don't address how and where to place unwanted horses or provide the funding to care for them if processing is banned. The current legislation introduced in the U.S. House of Representatives contains ambiguous language that extremists could use to demand a ban of horse transport for *any* reason, including for veterinary care or going to a trail ride or a show.

Disposal

"Over the last 10 years we've had a pretty consistent number of horses going to processing," Lenz said.

With an average of 80,000 head, those horses pose problems if they are euthanized but their carcasses must be disposed of in ways other than processing. Carcass disposal is costly, and horse owners' options are limited to what's available locally and by local government regulations.

"When you euthanize a horse with a barbiturate, you give it a massive overdose of a controlled substance," Lenz explained, as example. "That carcass becomes an environmental hazard, and it has to be handled so that no other animal or human comes into contact with it."

"If a coyote or a dog were to eat part of it, it could potentially kill them."

Check out these facts on carcass disposal:

- \$250 - \$500: Cost to hire backhoe services to bury a horse carcass. Permission to bury is subject to local regulations.
- \$80 - \$150: Landfill charges to accept a horse carcass. Some landfills do not accept them or won't accept chemically euthanized carcasses.
- \$75 - \$250: Cost for rendering services, dependent on regional availability.

CURRENT LEGISLATION

United States Representative John Sweeney, Republican from the 20th District, New York, introduced bill H.R. 503, the "Horse Slaughter Prevention Act" on February 1. As of press time, the bill has been referred to the Committee on Energy and Commerce.

The American Association of Equine Practitioners opposes this bill for the following reasons:

- **It fails to address how and where unwanted horses will be placed if processing is banned.** The current system of retirement and rescue facilities is inadequate to meet the needs for the approximately 80,000 horses per year currently processed.
- **It fails to provide financially for the care of unwanted horses.** If basic annual care per animal is estimated at \$1,825, then care for the approximately 80,000 horses per year currently processed could be \$146,000,000 for the first year alone. That does not include veterinary and farrier services.
- **It contains ambiguous language.** The bill reads, "...to prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of horses and other equines to be slaughtered for human consumption, and for other purposes." "Other purposes" could be taken to mean transportation of horses for any reason, including for shows, recreational events, medical care, etc.

Bill H.R. 503, 109th Congress, found at www.Congress.org via this link: www.congress.org/congressorg/bill.xc?bill_num=H.R.503&congress=109.

AAEP's official position is at: www.aaep.org/pdfs/AAEP_Position_HR503.pdf.

- \$600 - \$2,000: Cremation charges for a typical 1,000-pound horse.
- 9 to 10 months: Time it takes for an intact horse carcass to compost.

According to Messer, almost 200,000 equine carcasses must be disposed of annually. Only one-third of those carcasses are currently processed for human consumption.

Many question our infrastructure's ability to handle 80,000 more carcasses in addition to the other horses that die every year from other causes.

Care

The reality of maintaining unwanted horses is daunting.

AAEP currently estimates the average basic subsistence care for a horse to cost \$1,825 per year, not including veterinary and farrier services.

For 80,000 head, that calculates out to \$116,800,000 in potential care costs for the first year alone.

If the unwanted horse population remains at current annual levels, that cost would increase every year, exponentially.

"Some can be taken care of by rescue facilities or humane societies," Lenz pointed out. "But when you talk to these facilities you find that, combined, they can only care for a few thousand horses per year. It's expensive, and they have restrictions on how much land or stall space they have."

Messer agreed: "There simply are not enough volunteers, funding, or placement opportunities for all of these unwanted horses."

Based on the current estimated number of rescue facilities, AAEP estimates an additional 2,700 facilities (able to handle an average of 30 horses each) would be needed to care for the unwanted horses generated by a ban on processing, in the first year alone.

Care alternatives

"There are alternatives worse than slaughter," said Temple Grandin, an internationally respected expert on livestock animal welfare and slaughter. She spoke at the AAEP Unwanted Horse Summit in Washington, D.C., on April 19.

Neglect is one.

"I see a lot of neglected horses," said Jennifer Williams, Ph.D., president of Bluebonnet Equine Humane Society Inc., of College Station, Texas.

"Very few of the horses we get in can go straight to adoption," she said. "Often the owners have held on for a long time, and the horse has lost more and more weight. By the time we get them, they have a lot of weight to gain."

"Founder is another problem. A horse will founder, and an owner doesn't know how to (care for the animal) or want to or can't financially deal with it."

It's also a fact that many horses unwanted in the United States find their way to Mexico and to Mexican slaughter plants.

In a recent article in *The Horse*, "Welfare in Mexico," Les Sellnow wrote: "(In Mexico), many horses are underfed and others toil daily with injuries that compromise their abilities and induce pain and suffering."

He continued: "Horses that are headed to slaughter often are treated abominably ... There are few, if any, governmental rules and regulations controlling care and humane transportation of horses in Mexico."

That's not the case in the United States.

"In my opinion," Grandin said, "equine slaughter represents a viable alternative to abuse, neglect or being worked to death in a state of malnutrition."

AQHA Positions

THE AMERICAN QUARTER HORSE ASSOCIATION RECOGNIZES the rights of all horse owners to manage their horses, in their best interests as long as their horses are treated humanely, with dignity, respect and compassion. To that end, AQHA believes horse owners should have all legal options available when relinquishing ownership of an unwanted horse.

- Horses should be euthanized in a humane manner in accordance with the guidelines established by the American Veterinary Medical Association and federal and state law.
- Currently, AQHA recognizes adoption and retirement facilities as an option for owners of unwanted horses. However, at this time, AQHA will not endorse any specific facilities, as there are no regulations governing the operation of these businesses.
- AQHA recognizes that the human consumption of horse meat is a cultural and personal issue and does not fall within the purview of the Association.
- Horses destined for processing should be transported to the production facility according to the federal regulations adopted and enforced by the United States Department of Agriculture in 2002.

Based on those positions and the negative animal welfare implications if the processing industry is eliminated, AQHA opposes H.R. 503 for failing to address the following issues:

- Infrastructure to care for the horses needing placement if slaughter facilities are closed. There are currently not enough facilities to absorb the horses that will remain upon the closure of slaughter facilities.
- Funding to create and maintain facilities to care for unwanted horses. Costs of caring for these horses will overwhelm the network of horse protection facilities that currently exists in the United States.
- This legislation does not establish standards of care that horse rescue facilities must meet. Regulations to govern these facilities will need to be created to ensure humane care of unwanted horses.

The Real Issues That Unwanted Horses Raise

NO ONE WHO OWNS HORSES LIKES THE REALITY OF UNWANTED horses humanely euthanized at a livestock processing plant and the meat shipped abroad for human consumption.

But many view humane livestock processing as a necessary part of animal husbandry and managing domestic animals. What happens to the carcass doesn't matter to them as long as the horse was cared for in life and had a humane death.

Why is the ethic of allowing processing of a livestock animal being questioned today?

"One important point to consider at the outset of the discussion of the slaughter issue," Grandin said, "is the recognition of the existence of a cultural disconnect between people who live in cities and those that live in rural areas."

Lenz agreed.

"One of the biggest challenges we have in agribusiness today is that the majority of the people in this country didn't grow up on a farm or a ranch. They don't understand animal husbandry or livestock management."

FACING UNWANTED HORSES TOGETHER

On April 19, the American Association of Equine Practitioners (AAEP) hosted a one-day Unwanted Horse Summit in conjunction with the annual meeting of the American Horse Council (AHC) in Washington, D.C.

Participants included representatives from 25 equine industry organizations and one United States congressman. Their recommendations included forming a national steering committee dedicated to addressing the unwanted horse and increasing horse owner education on the issues.

A general educational session on the issues associated with unwanted horses coincided with the summit, open to anyone attending the AHC annual meeting. The session, "The Unwanted Horse: Understanding the Issues," included these presentations:

• "The Plight of the Unwanted Horse," Nat Messer, D.V.M., associate professor of equine medicine and surgery, University of Missouri College of Veterinary Medicine.

• "Rescue and Retirement Options in the United States," Jennifer Williams, Ph.D., president, Bluebonnet Equine Humane Society.

• "Enforcement of Federal Transport to Slaughter Regulations," Timothy Cordes, D.V.M., APHIS Equine Programs, United States Department of Agriculture.

• "California and the Unwanted Horse," Carol Stull, Ph.D., Veterinary Medicine Extension, University of California, Davis.

• "A Perspective on Equine Slaughter from the Field," Temple Grandin, Ph.D., associate professor, Colorado State University.

For copies of the materials presented at the educational session go to the AAEP Web site via the following link: www.aaep.org/press-room.php.

For more information on the summit, contact Ward Stutz, AQHA director of membership services/public policy, or Tim Case, AQHA manager of public policy, at (806) 376-4888.

Our agricultural society of 100 years ago did not question the ethic of selling a horse that was no longer useful to a farm or ranch to the "knacker." Horses were livestock, although much closer to a cowboy's heart than his cattle. He understood that some animals in his care needed culling at times for their own sake, and the good of the herd.

In our increasingly urban society there are a growing number of people who grew up not thinking of horses as livestock, but more as pets or companion animals.

"If you talk to the nonhorse-owning public, who saw the movies 'Black Beauty' and 'The Black Stallion' and all those good horse stories," said Williams, "they think, 'People kill horses?!' There are some horse owners (who feel that way), too."

But the same unwanted problem exists in companion animals.

"There are millions of unwanted dogs and cats every year that are euthanized at humane shelters," Lenz pointed out. "To me, this is a very similar issue."

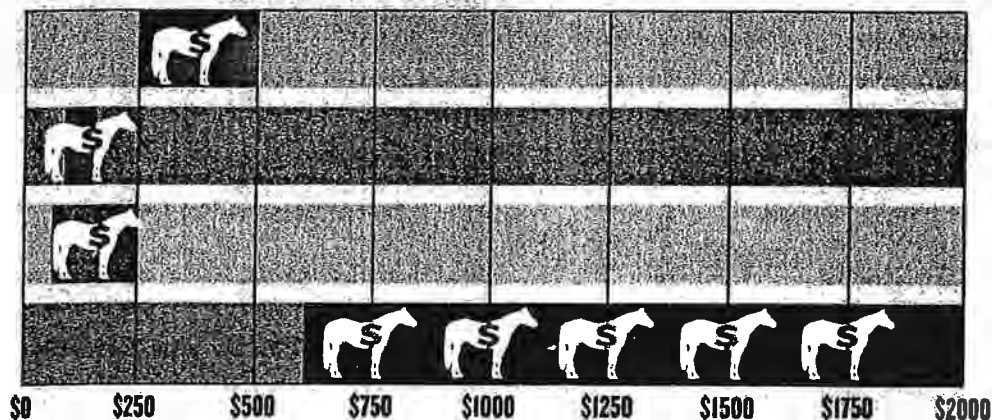
No matter how society or we as the horse industry decide to view horses and handle their deaths, the problem remains as to what to do with those that are unwanted, if humane slaughter is no longer allowed.

What We Can Do Now

• **Stop creating unwanted horses.**

"Make slaughterhouses obsolete," Grandin said. "That's the way to get rid of them. The answer is *not* to close them down."

Costs



- **\$250 - \$500:** Cost to hire backhoe services to bury a horse carcass. Permission to bury is subject to local regulations.
- **\$80 - \$150:** Landfill charges to accept a horse carcass. Some landfills do not accept them or won't accept chemically euthanized carcasses.
- **\$75 - \$250:** Cost for rendering services, dependent on regional availability.
- **\$600 - \$2,000:** Cremation charges for a typical 1,000-pound horse.

9 to 10 months: Time it takes for an intact horse carcass to compost.

It might be impossible to prevent horses from becoming unwanted, but we can try to prevent creating unwanted horses.

"It's not just end-of-life issues that need to be addressed," Lenz said. "It's beginning-of-life issues. The fact is, people breed horses that they shouldn't be breeding.

"We've also got a lot of backyard owners that often don't understand horse care and horse husbandry," Lenz continued. "They have false expectations of what owning a horse is about.

"I've seen it in my practice. People get a horse, often not a very good one, and then they can't handle it, or it becomes a financial burden, and they don't know what to do with it. It ends up an unwanted horse."

Williams agreed. "In most cases (of neglect that I've seen), people think they're taking care of their horses, or they think they don't have to take care of them."

"The solutions are going to center around owner education," Lenz said.

• **Improve retirement options.**

"We also need to look at funding retirement facilities," Lenz said.

Williams pointed out a need for retirement and rescue organizations to pull together.

"Rescue is really fragmented," she said. "Some rescues do work together, but, overall, they don't and we're going to have to share resources to take care of these horses.

"We need to do a good job of promoting rescue in general, making it so that people will want to come to us to get horses."

UNDERSTANDING YOUR OPTIONS FOR THE UNWANTED OR UNUSABLE HORSE.



Nobody likes to think about it, much less talk about it. But it's one of those topics that must be addressed.

We're talking about the unwanted, unneeded or unusable horse.

Over time, some horses become unusable because they get sick, injured or old. Some might be unmanageable because they are dangerous or unruly. In some instances, an owner's financial situation might change and they can no longer afford to properly care for the horse. Whatever the reason, many people face the difficult decision of dealing with an unwanted or unusable horse.

In a perfect world, it would be ideal for every horse to live out its days in rich, green pastures. Unfortunately, that's not always the case. That's why we've developed this manual to help you explore the many options that are available to all horse owners. Above all, we want to assure that your horse's health and welfare are at all times paramount to every other consideration.

AQHA has created this booklet to help horse owners understand their options when they have unwanted horses. For more information, call (800) 376-4844 or log onto www.aqha.com to receive this brochure.

• **Ensure federal shipping regulations are kept in place.**

"If a horse must be transported commercially to slaughter, then it will travel in a safe and humane fashion," Cordes said.

Through the 1996 federal Farm Act, in 2001, USDA's APHIS established regulations governing all horses shipped for slaughter. They cover everything from rest and watering requirements, inspection, loading, transport truck type, as well as what horses are prohibited from being transported to slaughter. APHIS can also assess civil penalties of up to \$5,000 per horse violation.

"The bottom line is," Cordes said, "we're seeing much, much fewer humane violations."

The percentage of violations relating to treatment of horses that his department investigated dropped by half between 2003 and 2004.

"We still have some humane issues," Cordes continued. "But violators know that we're going to come down hard on them."

• **Stick together as horsemen**

Grandin summed it best.

"We've got to focus on what we agree on," she said. "That horses shouldn't be bred indiscriminately, and that we all want them to have good, safe, healthy lives and humane deaths." ■

Christine Hamilton is a field editor for The American Quarter Horse Journal. To comment on this article, write to aqhajrnl@aqha.org.

FIND OUT FOR YOURSELF

The following materials were used in preparing this article.

- "Definition of Horses as Livestock," by American Association of Equine Practitioners, *The Horse*, October 2001, or go to www.thehorse.com, article No. 555.
- "Guidebook for USDA's Slaughter Horse Transport Program," USDA Animal and Plant Health Inspection Service, program aid No. 1683, January 2002.
- "Horses Destined for Slaughter," by Les Sellnow, *The Horse*, December 1999, or go to www.thehorse.com, article No. 418.
- "An Overview of Acceptable Euthanasia Procedures, Carcass Disposal Options, and Equine Slaughter Legislation," Tom R. Lenz, D.V.M., M.S., Dipl. A.C.T., American Association of Equine Practitioners Proceedings, Vol. 50, 2004.
- "The Plight of the Unwanted Horse: Scope of the Problem," by Nat T. Messer, I.V., D.V.M., American Association of Equine Practitioners Proceedings, Vol. 50, 2004.
- "Reliable Rescue or Shameless Scam," by Jennifer Williams,

- Ph.D., *EQUUS*, October 2004.
- "The Unwanted Horse and H.R. 503: An Equine Veterinary Perspective," www.aaep.org/pdfs/AAEP_Position_HR503.pdf.
- "The Unwanted Horse: Understanding the Issues," session presentations delivered at the AAEP Unwanted Horse Summit, April 19, 2005, in Washington, D.C.: www.aaep.org/press_room.php.
- "Take Care of Our Horses," USDA Animal and Plant Health Inspection Service brochure, January 2002: www.aphis.usda.gov/vs/nahps/equine/horse_transport/truckers-brochure/truckers-brochure.html.
- "Welfare in Mexico," by Les Sellnow, *The Horse*, April 2005 issue, or go to www.thehorse.com, article No. 5636.
- www.bluebonnetequine.org, Web site for Bluebonnet Equine Humane Society, a Texas/Arkansas-based rescue and adoption facility.
- www.grandin.com, Web site for Temple Grandin, Ph.D., associate professor, Colorado State University, world-renowned expert on livestock processing.

PATTERN Remix

2004 AQHYA World Championship Show judges take a critical look at five patterns from last year's finals to help you prepare for this year's show

By Christine Hamilton

WITH THIS YEAR'S AQHYA WORLD CHAMPIONSHIP SHOW just around the corner, the *Journal* asked judges from the 2004 Youth World to comment on five of the patterns from last year's finals. If you want to improve your performances in showmanship, horsemanship, trail, hunt seat equitation or equitation over fences, read on!

NO. 1: SHOWMANSHIP

The Judges

Mark Sheridan, Stephanie Lynn

Overview

Sheridan: The key was to maintain a situational awareness in the arena, keeping a "heads up" for where you were. Look up and know exactly where you need to go all the time.

Know how big your horse is, how big a step he has, how wide or how tight you needed to go around the cones.

Lynn: We wanted the kids to come out and look like they were a really good hand with a horse. They knew their horses and were in tune with them.

Showmanship Judges' Pet Peeves

Gaudy outfits

Sheridan: When the outfits are so distracting that it takes

my attention away from the actual go, it's going to lower the score. I'd like to see outfits look less like band uniforms and be more conservative, neat, clean and traditional with solid colors. A little sparkle is fine, but it's going to extremes with some. Just show me your horse.

Posed look


Lynn: I don't like a posed look instead of the confident look of a horseman. I don't like a too perky or perfect expression, a plastered, fake smile like you're smiling for a camera. I like to see a pleasant look; you show your confidence in the ease with which you handle the pattern.

Crouching trot

Sheridan: Don't bend over or crouch at the trot. Just trot like you're trotting from the house to the barn, or as if you went jogging and happened to have a horse alongside you.

Low headset

Sheridan: There's a new fad now of pulling down on the horse's head while showing. In my book, it's a score of zero. I've judged some kids where, as I walked around their horse they grabbed the horse's head and pulled it down to waist level. I can't figure that one out.

 Joe Wager
PO Box 854
Tonto Basin, AZ 85553-0854



A.S. NATIONAL FOREST

P.O. Box 640

Springerville, AZ 85938-0640

RECEIVED

JUL 13 2005

MAILROOM

ATTN: ELAINE ZIEGEL



In Defense of Animals

The Honorable Senator John McCain
241 Russell Senate Office Building
Washington, D.C. 20510-0303

July 12, 2005

Dear Senator McCain:

Once again I am writing to you regarding an issue related to horses living on Federal land in Arizona. Currently, these horses are living in the Sitgreave National Forest under the jurisdiction of the United States Forest Service. I have been told that the horses may be gathered, sold at auction, and end up at slaughter. I am writing to ask if you might inquire whether the information I have received regarding these horses is correct and whether, if it is correct, there might be an option other than sale of several hundred Arizona horses at auction. This, most likely, will result in most of these horses going to slaughter.

I received the information about this situation through Colonel Newlin Happersett, owner of Blue Grass Arabians in Cave Creek, Arizona. Colonel Happersett is a highly respected horseman in Arizona whose two-year-old Arabian, Point Man, took Championship honors at the last Arabian National Show at WestWorld. He also is a decorated veteran of World War II and Vietnam and was a former POW. Colonel Happersett fosters horses for In Defense of Animals and brought this information to my attention.

Below is the information:

- A committee has been formed by the United States Forest Service to deal with a large number of horses, perhaps several hundred horses, who ran to escape from fires during the Rodeo-Chediski fire. They are horses that were living on the White Mountain Apache Reservation prior to the Rodeo fire and who belonged to the White Mountain Apache Tribe.
- The terrified horses took refuge from the flames by running to the Sitgreave National Forest during the Rodeo fire and have been living there since. They are living on the rim side of the forest going from Showlow toward Lakeside in an area known as Forest Lakes. The public has been blocked access to this area.
- The US Forest Service does not want these horses on that land because they want the vegetation to come back and the horses are grazing on the vegetation. Technically the horses belong to the White Mountain Apache tribe but the White Mountain Apache tribe won't take them back either. Consequently, the Forest Service is working on a plan to gather up all of these hundreds of horses and turn them over to the Arizona Department of Agriculture. If this happens, the horses will go to the Holbrook sale lot. It is a place with a very bad reputation among horse people and animal welfare organizations.
- If the horses are turned over to the Arizona Department of Agriculture by the Forest Service, they will go to the Holbrook facility and after 14 days will then be sent to auction. Most of these horses will end up in the hands of killer buyers and are sold to slaughter because there simply are not enough people in the Holbrook area who will buy these horses. I have been told that the Forest Service will not consider taking the responsibility of the horses directly and doing an adoption program because it is too expensive. However, the BLM certainly does adoptions in Arizona and Kelly Grissom, the head of the BLM Horse and Burro Program in Arizona, is experienced at setting



In Defense of Animals

up adoption programs. While I cannot speak for Mr. Grissom on this issue, he has been more than willing to help tribes in Arizona set up adoption programs for horses in other areas.

Would it be possible for you to inquire of the US Forest Service regarding the following concerns that have been expressed to me?

1. Is the Forest Service dealing with several hundred horses in the Sitgreave Forest that they plan to turn over to the Arizona Department of Agriculture as abandoned horses?
2. If the Forest Service is working on this plan, would they reconsider the possibility of an adoption program instead especially given that they have the BLM program in Phoenix to turn to for information on setting up such an adoption?
3. I have contacted Karen Sussman of the International Society for the Protection of Mustangs and Wild Burros to ask her assistance in finding a place for these horses to be relocated. If a place was found for them, would the Forest Service work with animal welfare groups to allow their relocation rather than sale at auction and to killer buyers?

These horses are simply victims of a horrible wildfire in Arizona. They escaped the fire and survived through their own courage and ingenuity. It would be tragic for them to end up at auction and at slaughter. In Defense of Animals delivered hay, feed and medical supplies to people in the White Mountains during that fire. I saw first hand its effect on the people and on the animals including horses. These horses have survived that ordeal. Now, if it is true that the US Forest Service plans to remove them from the land and turn them over to the Arizona Department of Agriculture, they will end up sold at auction and in the hands of killer buyers and slaughter houses. I believe there are other alternatives.

Would it be possible for you to assist me in determining whether this information is correct and, if it is correct, whether the US Forest Service would consider an adoption program or relocation of the horses if land can be found for them? The person I am told who is in charge of the issue of these horses is the following:

Elaine Zorthor
Forest Supervisor, Apache Sitgreave National Forest
PO Box 640
Springerville, AZ 86938

Once again, thank you so very much for your assistance, for your compassion, and for the assistance and kindness of your staff.

With best wishes and deepest respect,

Patricia Haight, Ph.D.
Southwest Regional Director, In Defense of Animals
Director, IDA Conquistador Equine Rescue Program
Call: 480-232-8068, Email: pat@ldausa.org

JOHN MCCAIN
ARIZONA

CHAIRMAN
COMMITTEE ON INDIAN AFFAIRS
COMMISSION ON ARMED SERVICES
COMMISSION ON COMMERCE,
AND TRANSPORTATION

United States Senate

July 13, 2005

241 RUSSELL SENATE OFFICE BUILDING
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5253 NORTH 16TH STREET
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(602) 952-2410

4703 SOUTH LAKESHORE DRIVE
SUITE 1
TEMPE, AZ 85282
(480) 897-8289

407 WEST CONGRESS STREET
SUITE 103
TUCSON, AZ 85701
(520) 670-8330

TELEPHONE FOR HEARING IMPAIRED
(802) 952-0170

Emma Carroll
Congressional Liaison
Forest Service
Department of Agriculture
Yates Building, 5th Floor, NW Wing
201 Fourteenth St., SW
Washington, DC 20250

Dear Ms. Carroll:

I am writing to bring to your attention a matter raised to me by Dr. Patricia Haight, Southwest Regional Director of In Defense of Animals, that appears to be in the jurisdiction of the U.S. Forest Service.

When matters such as this are raised by a petitioner, it is my policy to refer them to the appropriate federal department or agency, regardless of whether the petitioner has any personal or political relationship with me. It is also my policy that I ask for no preferential treatment for this petitioner or any single or select group of interests, nor do I advocate a specific outcome for this or any other petitioner.

I ask that this matter be handled in strict accordance with existing agency rules, regulations, and ethical guidelines. My sole interest is to ensure that this petitioner is treated fairly and equitably and in a manner that reflects appropriate and prompt service to citizen taxpayers.

I am enclosing correspondence from Patricia Haight regarding this matter. Dr. Haight is concerned with Forest Service management of horses, presumably wild, that escaped a wildfire on the White Mountain Apache Reservation and relocated to the Apache-Sitgraves National Forest. Consequently, Dr. Haight suggests several management alternatives for your consideration. In an effort to better understand the details of this situation, Dr. Haight has compiled a set of questions that she would like answered by the Forest Service.

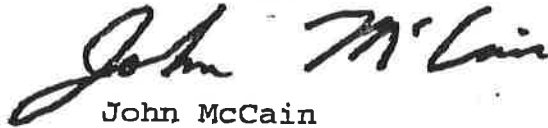
I would appreciate a timely response to this petitioner

addressing her concern, with a copy sent to me for my information. PLEASE MARK ALL CORRESPONDENCE TO:

Attn: NICK MATIELLA in my Washington office, 241 Russell Senate Office Building, Washington, D.C. 20510.

Let me reiterate that I am not advocating a specific result in this matter, and I trust that whatever decision or course of action you may take will be made in the best interests of the country. Again, I seek no preferential treatment for Dr. Haight and request only that she be treated appropriately, fairly, and in a timely manner.

Sincerely,



John McCain
United States Senator

JM/dnm

House File



Tina Sorenson /R3/USDAFS
07/15/2005 11:46 AM

To Randall Chavez/R3/USDAFS@FSNOTES, Kendell L
Hughes/R3/USDAFS@FSNOTES
cc Edward Collins/R3/USDAFS@FSNOTES, Deb
Bumpus/R3/USDAFS@FSNOTES

bcc

Subject Notice of Intent to Impound Unauthorized Livestock posting

FYI -I posted the Notice of Intent to Impound Unauthorized Livestock at the following locations:

9:10 Lakeside Post Office - Rod stated that there was no "secure" bulletin board so he allowed me to post the Notice with the Town of Pinetop-Lakeside information
9:15 Pinetop-Lakeside Magistrate court - Notice posted in clerk's office
9:20 Pinetop Post Office - no "secure" bulletin board, posted with other public information
10:00 Pinedale Post Office - no "secure" bulletin board, posted with other public information
10:37 Show Low Post Office - Notice given to Nancy, she will post in the locked public information bulletin board
10:45 Show Low Municipal Office & Magistrate Court - Notice will be given to the City Clerk for posting at facility

Tina Sorenson
Resource Assistant
Lakeside Ranger District
(928) 368-5111 ext 763
Email: tsorenson@fs.fed.us

Horse file



Kendell L
Hughes/R3/USDAFS
07/15/2005 11:56 AM

To Randall Chavez/R3/USDAFS@FSNOTES
cc Kendell L Hughes/R3/USDAFS@FSNOTES
bcc
Subject notice of intent

I posted the "notice of intent to impound unauthorized livestock" at the Clay Springs, Heber, and Overgaard Post Offices, Fred Green posted this notice of intent at the Courthouse in Holbrook, and Pete Davis, posted this notice at the Post Office at Forest Lakes. All of these were posted on July 15, 2005.
Kendell

DATE: July 25, 2005

TO: Elaine J. Zieroth, Forest Supervisor
Bob Dyson
Randall Chavez

JUL 27 2005

MAILROOM



FROM: JOE WAGER

SUBJECT: TRESPASS HORSES

We have reviewed the proposed contract and have to advise that our group will not be submitting a bid on 8-11-05.

Frankly, I feel that our outfit could have handled the task with dispatch and in a business like manner. Our action team, that is the group of horse handlers actually making the capture, are as good as they get.

For your information I will outline some of our reasons for deciding not to participate.

TIMING:

Starting our operation at mid September at the earliest will give us only 30 days + or -, of actual operation. We can look forward to about an Oct. 15th close down. We had expected a summer to fall campaign. Most of our people are not in a position to leave their present positions to join our program for 30+ or - days, then take a 6 month suspension and start again when conditions suit.

TRANSPORTATION & HORSE MANAGEMENT:

SECURITY: The proposal puts all responsibility on the Contractor, with a strict 24 hour time table. Total responsibility for the security of the horses fall on the Contractor. Groups concerned with animal rights and welfare, and others, could attempt to sabotage the operation. The Contractor would be put in a position to take direct action to protect the horses, his own interests, the USFS and the Livestock Department of the State of Arizona.

OTHER: 1. The reduction in numbers from 400 + or - to 120 head detracts from the entire operation. If the reduction is due to the fact that the money is not available, it is doubtful that the F.S. will have enough to pay for the 120 head as our early estimate of costs were doubled by the changes.

2. It would be unlikely that the Contractor would have the right or an interest in attempting to restrict the 1st Amendment rights of anybody.

3. Working on this project with the security and transportation involvement places a potential liability on the Contractor far in excess of the value of the contract.

I had not intended to make any money on this project as Contractor, but I did not expect to bear the weight of such heavy risk alone. I was hopeful that we could help assure that the horses were handled in a safe, humane manner.

We want to thank you all for all the courtesies you have extended us.

J. Wager
P.O. Box 854
Tonto Basin, AZ 85553

Elaine J. Zieroth
Forest Supervisor
P.O.Box 640
Springerville, AZ 85938



REC'D

JUL 27

MAILROOM



United States
Department of
Agriculture

Apache-Sitgreaves
National Forests

COPY
P.O. Box 640
Springerville, AZ 85938-0640
(928) 333-4301 FAX: 333-5966
TTY: (928) 333-6292

File Code: 1500/2200
Date: July 25, 2005

Mr. Dallas Massey
Tribal Chairman
White Mountain Apache Tribe
P.O. Box 1150
Whiteriver, AZ 85940

Dear Chairman Massey:

This letter is a follow-up to our letter dated June 13, 2005, in which we informed you that we are planning to remove horses that are trespassing on the Apache-Sitgreaves National Forest. These horses are believed to have entered National Forest Lands sometime after the Rodeo-Chediski Fire. Since a majority of the boundary fence between the White Mountain Apache Reservation and the Forest was destroyed after the fire, this allowed for unrestricted access to the Forest by these horses.

Enclosed is a copy of the Notice of Intent to Impound Unauthorized Livestock for the Rodeo-Chedeski fire area of the Apache-Sitgreaves National Forest, as promised in my June 13, 2005, letter.

As you will notice, the United States Forest Service may impound horses on or after July 30, 2005. We may not begin gathering any livestock until after summer rains or until conditions warrant, but I wanted to provide you advance notice.

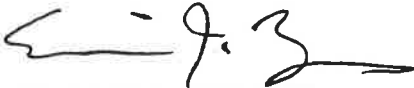
The Forest has posted this Notice in all post offices and court houses in the surrounding area of Forest lands on the Sitgreaves side. I would encourage you to post this Notice at your post offices and any other locations that you feel would be appropriate.

We ask for your participation during this effort by trying to keep all gates closed along the Fort Apache Reservation Boundary. This will keep livestock from crossing back and forth and will assist us in completing our contract.



Thank you for assisting us in this effort. If you have any questions, please feel free to give me a call. Local contacts for this contract are Kendall Hughes, Black Mesa Ranger District, at (928) 535-4481 or Randall Chavez, Lakeside Ranger District, at (928) 368-5111.

Sincerely,



ELAINE J. ZIEROTH
Forest Supervisor

Enclosure

cc:

Randall Chavez

Kendell L. Hughes ✓

Deb Bumpus

Dave Stewart, Regional Office

Allen J. Anspach, Fort Apache Agency, BIA

Lowell Walker, Tribal Brand Inspector

Mary Stuever



File Code: 2200

Date: July 26, 2005

Dr. Patricia Haight
Southwest Regional Director
In Defense of Animals
2121 S. Mill Ave., Suite 107C
Tempe, AZ 85282

Dear Dr. Haight:

I received a copy of your July 6, 2005, letter to Senator McCain, and also talked to Bob Dyson on my staff, who spoke to you by phone last week. I understand that you are concerned about the welfare of approximately 400 head of unauthorized horses in the Rodeo-Chediski Fire area, and also wanted some information on the Heber Wild Horse Territory.

In regard to the unauthorized livestock, the 400 horses now grazing in the fire rehabilitation area, these are trespass horses that we believe came from the Fort Apache Reservation, lured by the new grass in the area burned. These are not considered wild horses. Our policy manual is quite clear that when we have trespass property abandoned on the National Forest that we go through impoundment proceedings and notify potential owners of the property.

We have contacted the Chairman of the White Mountain Apache Tribe, asking for his help in locating and notifying individuals who own these horses to come and retrieve them. We have also posted Impoundment Notices. If the owners do not come forward, we plan to have a contractor gather the horses, as humanely as possible, and then we post notices one final time to try to locate owners. We work with the State of Arizona Brand Inspector to locate owners of branded horses. If we do not locate owners, the horses are taken to the sale barn; probably at Holbrook, as you noted.

The BLM recently had a wild horse and burro adoption in our area and very few animals were adopted. It would be expensive and difficult to try to find folks to adopt even a fraction of these horses. Our policy direction is to sell trespass livestock to try to recoup some of our expenses. I know this may seem unfair to the horses, but we are concerned about the animals grazing on newly reseeded fire areas and damaging our rehabilitation efforts. We have to follow our policy and procedures.


As for the Heber Wild Horse Territory, I have enclosed a few documents, but there is not much information on this topic. In 1971, when the Wild Free-Roaming Horse and Burro Act was approved, a territory of approximately 14,000 acres was identified for an estimated 7 horses. The stud horse was apparently sterile and this herd diminished to 5 animals in 1991 and 2 by 1993, when the Heber District recommended dissolving the territory. We have no information on any horses for this population since then.



When we start our Forest Plan Revision in 2006, we will probably recommend that the Heber Wild Horse Territory be closed. Any horses that trespass from the reservation now would not qualify as wild horses since they were not in place prior to 1971.

if you have any questions or concerns, please contact me.

Sincerely,



ELAINE J. ZIEROTH
Forest Supervisor

Enclosures

RECEIVED

AUG 18 2005

MAILROOM

Elaine Zorthor, Forest Supervisor
Apache-Sitgreaves National Forest
United States Forest Service
PO Box 640, Springerville, AZ 86938

July 29, 2005

Dear Forest Supervisor,

The following Arizona citizens together with Arizona, national and international animal welfare organizations have signed this letter and support the contents of this letter:

- Animal Defense Council
- Animal Welfare Institute
- In Defense of Animals
- International Society for the Protection of Mustangs and Wild Burros
- The National Horse Protection Coalition
- Delia McCormick, IDA Conquistador Rescue Program Board Member
- Jack McCormick, McCormick Construction

Our combined memberships make up millions of individuals throughout Arizona, the United States and across the world.

It has come to our attention that the United States Forest Service currently is asking for bids to gather a large number of horses, perhaps several hundred horses, now living in the Apache-Sitgreaves National Forest near Heber, Arizona. It is our understanding that after these horses are gathered, they will be taken to the Holbrook auction lot, their custody will be transferred to the Arizona Department of Agriculture, the horses will be sold at auction, and proceeds from their sale will go to the Arizona Department of Agriculture.

We object to the gathering of these horses for several reasons:

1. The information we have received indicates that the Forest Service alleges that, at least some of these horses, may have been living on the White Mountain Apache reservation prior to 2002 and then sought refuge in the Apache-Sitgreaves National Forest from the Rodeo-Chediski Fire in the summer of 2002 and that others have wandered on to Forest Service land from neighboring areas. However, we also understand that many of these horses carry no brand or identifying marks that suggest they are or have ever been in the custody of any person or any organization.
2. The Apache-Sitgreaves Forest near Heber, Arizona, the area in which these horses are living, was designated by Congress as the Heber Territory, a protected territory for wild horses and burros, from 1971 to the present. Records indicate that as late as the early 1990's wild horses were documented to be living in this Heber Territory. Since many of the horses currently living in this area carry no brand, it is highly probable that at least some of them are the offspring of wild horses living in the Heber Territory earlier and, as such, are protected under the Wild Horse and Burro Act, and cannot be turned over to a State Agency for sale at auction.
3. In Arizona, wild horses carry very unique Spanish bloodlines that can be traced to the Spanish Barb and Andalusian brought by the Conquistadors. It is highly likely that some of these horses are the offspring of wild horses documented to have been in the Apache-Sitgreaves Forest and they too carry these bloodlines that should not be jeopardized.

4. The PIO for the Sitgreaves National Forest, Mr. Bob Dyson, has indicated that no NEPA study has been done regarding the impact of the removal of these horses on the forest because the Forest Service considers the horses "a nuisance" and, as such, they do not believe a study of the impact of their removal on the environment is necessary. We believe an environmental impact study is, indeed, necessary and that the Forest Service should go no further with plans for gathering horses from this region until one is done. It is our understanding that the grass is lush and high in this area and, in fact, the vegetation is thicker than it has ever been because the area was re-seeded after the Rodeo-Chediski Fire and the seeded grasses grew well because of rains during that time. We believe that the Forest Service needs to demonstrate empirically in what way these horses negatively impact the environment and why they may remove them as what they term "a nuisance."
5. While the Forest Service has put out a public call for bids on the gathering of the horses, the Forest Service has not attempted in anyway to inform the public of its plans or to open this issue for public comment. Since this is a program that will be paid for by taxpayer dollars, the Forest Service must make the public aware of its intent and allow the public to comment.
6. The removal of these horses is inhumane. The Holbrook auction facility is located in a small town in Eastern Arizona. There is no demand for a large number of horses in that community. It is a commonly understood fact that horses from that auction most often end up being sold to individuals for slaughter. The US Forest Service has allowed these horses to live in the Apache-Sitgreaves Forest for years and now, suddenly wants to gather the horses, turn them over to a State agency that will profit from their sale at auction to killer buyers. The handling of these horses, taking them from the safety of their home, transport to an auction lot, and sale will be traumatic for the horses, most likely will result in injury to some, and, the Forest Service has done nothing to demonstrate any compelling need for this.
7. We believe that a motivation for the gathering of these horses may be a concern by the Forest Service that the horses have some proprietary rights to the land they are on. In fact, we believe that the horses do have proprietary rights to the land they are living on by virtue of the amount of time they have been there, by virtue of the fact that the Forest Service has allowed them to live there, and by virtue of the fact that they are living directly in a territory designated as protected by the United States Congress.

We request all documents related to United States Forest Service plans to remove the wild horses from this area, including, but not limited to, any NEPA documents, or other decision documents, and any discussion of this issue within the agency.

We ask that the US Forest Service immediately stop plans to gather horses in the Apache-Sitgreaves Forest, the Heber Territory, a territory designated by Congress under the Wild Horse and Burro Act.

Sincerely,



Delia McCormick



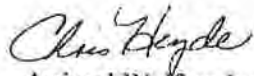
Animal Defense Council



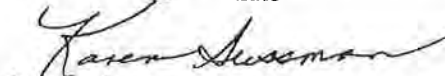
In Defense of Animals



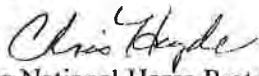
Jack McCormick



Animal Welfare Institute



International Society for the Protection of Mustangs and Wild Burros



The National Horse Protection Coalition

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RECEIVED

AUG 12 2005

MAILROOM

August 4, 2005

Elaine Zieroth
Forest Supervisor
Apache-Sitgreaves National Forest
United States Forest Service
PO Box 640
Springerville, AZ 86938

Dear Forest Service Supervisor,

We are writing to you because we have become aware of a plan by the United States Forest Service to remove 400 horses that you describe as "trespass" horses from the Apache-Sitgreaves National Forest in Arizona. We strongly object to your plan to gather these horses and turn them over to the Arizona Department of Agriculture for sale at the Holbrook Auction Lot.

We object to the gathering and sale at auction of these horses for the following reasons:

1. The horses are located in the Heber Territory, a territory designated by Congress as a protected territory for wild horses and burros under the 1971 Wild Horse and Burro Act. Documents demonstrate that wild horses were counted in that Heber Territory. Some of these horses are most likely descendants of horses counted in that Territory and hence protected under the Act.
2. The Forest Service believes that some of the "trespass" horses are horses that came from the White Mountain Reservation to escape the Rodeo-Chediski fire in 2002. If this is the case, the horses have been living in the Apache-Sitgreaves Forest for 3 years now. To remove them would be inhumane. The horses are living in a wild horse and burro territory and the US Forest Service should manage them as wild horses since many of them carry no brand.
3. The US Forest Service alleges that the horses may interfere with their efforts to re-vegetate the land after the Rodeo fire. However, we have information indicating that the land was reseeded after the fire, that the reseeded was followed by heavy rains, and that the grass and vegetation in that area is actually taller than it has ever been. Also, the US Forest Service has done no study under NEPA to determine what impact the removal of 400 horses will have on the land and on the vegetation or to prove that the horses have any negative impact on the land.
4. The Forest Service has so far not made this public or opened the issue to public comment. This is egregious. As taxpayers who will pay for the gathering of the horses, the public must be allowed to comment on this issue. Especially in light of the fact that the Forest Service intends to take no responsibility for the horses once they are gathered, no responsibility for their safe holding and transport nor does the Arizona Department of Agriculture intend to take any responsibility for gathering, holding the horses safely until transport, or for safe transport. Yet, the Arizona Department of Agriculture fully intends to take all of the profits made from sale of the horses at auction.
5. The Forest Service also expresses intent to close the Heber Territory in 2006 but, again, has not made this issue open to public comment. The Apache-Sitgreaves National Forest is a trust of the American people. It is inconceivable that the Forest Service would consider closing a wild horse and burro territory without hearing the comments of the taxpayers who support them.

6. There is no large market in the Holbrook area for companion horses or working horses. Primarily killer buyers, who will sell them for slaughter, will buy the horses. This is a most inhumane and unacceptable end to horses who either escaped the Rodeo fire to find refuge in the Apache-Sitgreaves Forest or are offspring of wild horses from that area. Since the horses have been living in that area for sometime, it also is quite likely that there are young horses and mares with foals in the herds.
7. The United States Forest Service to date has shown no decision document or documents authorizing the removal of 400 horses from the Apache-Sitgreaves National Forest.

We fully endorse and support the letter sent to the United States Forest Service asking you to stop this gathering. The Animal Defense Council, the Animal Welfare Institute, In Defense of Animals, the International Society for the Protection of Mustangs and Wild Burros, the National Horse Protection Coalition and Arizona community leaders sent the letter. The letter represents the desires of literally millions of Americans. A copy of the letter is enclosed.

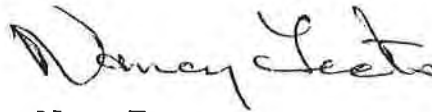
We urge you to stop soliciting for a contractor to gather the horses and to stop this plan to remove the horses. We urge you to accept the responsibility of managing horses who certainly have proprietary rights to be in the Apache-Sitgreaves Forest based on their location in a Wild Horse and Burro Territory, based on the amount of time the Forest Service has allowed them to live there and based on the fact that, at least some, most likely are descendants of horses protected under the Act.

Sincerely,



John Teets

5305 East Desert Park Lane
Paradise Valley, AZ 85253



Nancy Teets

cc The Honorable Senator John McCain

Enclosure

Southwestern Region (R3)

USDA Forest Service

Rangeland Management

333 Broadway Blvd., SE

Albuquerque, NM 87102

Fax: (505) 842-3150

Facsimile Transmittal

Debo talked to me after I faxed in the correspondence on this. We are OK to go.

To: Elaine Zieroth

Company: Apache-Sitgreaves NF

Fax Number: 91-928-333-5966

From: Gene Onken

Phone Number: (505) 842-3227

Number of Pages to Follow: 2
(Does not include cover page)

Comments: Hi Elaine - Attached Notes are those I provided to Ralph Giffen in W.O. to use in drafting response to Sen. McCain Inquiry. I do not know if this response has been sent yet from the WO. If you need to talk directly with Ralph Giffen of W.O. Range Staff, his number is 202-205-1455. I will be contacting you by phone. Gene?

Response Notes

Congressional Inquiry by Senator John McCain

MATTERS AND QUESTIONS RAISED BY PETITIONER PATRICIA HAIGHT, Ph.D.

1. A committee has not been formed by the USDA-Forest Service to deal with unauthorized grazing on the Apache-Sitgreaves National Forest by feral horses from the White Mountain Apache Reservation. However, persons having administrative responsibilities involving unauthorized grazing on the Apache-Sitgreaves National Forest have been communicating and coordinating with one another about resolving this problem and mitigating the resulting impacts to the land.
2. Dr. Haight is correct in her statement that "technically the horses belong to the White Mountain Apache tribe" or the members thereof. These horses were introduced onto Public Lands after December 15, 1971, by accidental, negligent, or willful disregard of ownership. Although the number of horses on the National Forest from the Reservation may have increased after the Rodeo-Chediski Wildfire Incident, that was not the start of the problem. Significant numbers of Reservation horses were in unauthorized grazing on the National Forest during the several years before this most recent fire incident.
3. Dr. Haight is correct in her statement that "the Forest Service is working on a plan to gather these horses currently residing on the Apache-Sitgreaves National Forest and to turn them over to the Arizona Livestock Sanitary Board of the Arizona Department of Agriculture.
4. The information that was told to Dr. Haight "that the Forest Service will not consider taking responsibility of the horses directly and doing an adoption program because it is too expensive" is not the reason the Forest Service is deferring disposition of the horses to the Arizona Livestock Sanitary Board.
 - a. There currently exists a Cooperative Agreement Between the Arizona Livestock Sanitary Board; the Bureau of Land Management, U.S. Department of Interior; and the Forest Service, Department of Agriculture.
 - b. The following Section of the Cooperative Agreement applies:
 - B. Estray Animals
 1. That unbranded, unmarked or branded of unknown ownership horses, mules, asses, cattle, sheep or goats impounded by the Agencies on Public Lands will be turned over to the Board for disposal; that when these animals and those in paragraph 3 below (swine) are disposed of in accord with State Law, the Board will first deduct its costs for holding and selling the animals from the proceeds, if any, of said disposal. Remaining funds will be used to reimburse the Agencies for their impoundment costs.

- c. With this Cooperative Agreement in effect, it is incumbent upon the involved parties to comply with the provisions as stated, wherein subject horses will be turned over to the Livestock Sanitary Board of the Arizona Department of Agriculture for disposal.
5. Our response to the three concerns expressed by (or to) Dr. Haight on page 2 of her letter, is in context with the provisions of the Cooperative Agreement as indicated above:

CONCERN 1: The Forest Service is dealing with a rather large number of horses in unauthorized grazing status, that will be processed as estray animals as prescribed in the Cooperative Agreement between the Agency and the Arizona Livestock Sanitary Board.

CONCERN 2: Under the provisions of the Cooperative Agreement, it is not within the decision authority of the Forest Service to direct the Livestock Sanitary Board of the Arizona Department of Agriculture as to how subject animals will be disposed.

CONCERN 3: As stated for Concern 2 above, it is the jurisdiction of the Livestock Sanitary Board to determine the disposition of estray animals on the Public Lands in Arizona.

05_08_19_Onken msg2 Toni Strauss.txt

To
Gene Onken/R3/USDAFS@FSNOTES
CC

Subject
Fw: Missed call

Gene, do you know the full story about the Heber Territory on the A-S and below mentioned action? I have an old document Ralph had given me that notes the LMP dropped the Heber Territory, but it doesn't say why, though my guess would follow Kelly's explanation at the bottom of this message scroll.

Toni Strauss
Wild Horse & Burro Specialist
USDA Forest Service
775-355-5387

There are friends and faces that may be forgotten, but there are horses that never will be. - Andy Adams

----- Forwarded by Toni Strauss/R4/USDAFS on 08/05/2005 09:41 AM -----

Dean Bolstad/NVSO/NV/BLM/DOI@BLM
08/04/2005 12:00 PM

To
Toni Strauss/R4/USDAFS
CC
Kelly Grissom/AZSO/AZ/BLM/DOI@BLM
Subject
Fw: Missed call

Toni,

At the bottom of the following string of emails there is reference to a Forest Territory. Not sure if you are aware of the questions being asked by Karen Sussman.

Dean

Dean Bolstad
Wild Horse/Burro Operations Lead
Reno National Program Office (Washington Office)
(775) 861-6611

----- Forwarded by Dean Bolstad/NVSO/NV/BLM/DOI on 08/04/2005 11:57 AM -----

Kelly Grissom/AZSO/AZ/BLM/DOI
07/28/2005 02:06 PM

To
<ispmb@lakotanetwork.com>
CC
Jeff Rawson/WO/BLM/DOI@BLM, Don Glenn/WO/BLM/DOI@BLM, Dean Bolstad/NVSO/NV/BLM/DOI@BLM
Subject
RE: Missed call

Karen, I don't know. I would suspect that the crew is swamped. When we got our new chief, he was quickly called up to Main Interior with the reprogramming effort and had been visiting regularly with the Director, Secretaries Office and the Hill on the politics of the reprogramming initiative. After that we ended up having to deal with the amendment to the law and again he was visiting said politicians on a regular basis and that is the priority that the politicians have set. The law does state that we will do our reports to congress but historically they do allow some slack because the 2000 report was actually written for 1996 through 2000 so there is some history of getting some grace time based on the political happenings at the time and the interaction between 'The Hill' and BLM.

"My opinion only and my opinion only" and that is Congress is not wanting a report rather they are dictating what we are doing and they are getting regular briefings (updates/reports) on how we are implementing their directives. Is there a violation of the law? Now that is caught up in a legal technicality. Sec 11 of the law states "...and every twenty-four calendar months thereafter, the Secretaries of the Interior and Agriculture will submit to Congress a joint report on the administration for this Act, including a summary of enforcement and/or other actions taken thereunder, costs and such recommendations for legislative or other actions he might deem appropriate." The Code of Federal Regulations does not address the report to congress nor any format or forum for such a report. It does not stipulate a written report in a glossy covered magazine format or anything like that. It just states 'report'. So with that wording and representatives of BLM and the Departments regularly reporting to the House and the Senate every month or so on the implementation of the law, technically we would be in compliance because reporting of implementation is well within the 24 month period. It just may not be in the type of report that we have seen in the past but format and style of reporting seems to be left up to the desecration of the agencies and the immediate needs of Congress.

I am forwarding this on to WO to get their read on it.

-kelly-

"International Society for the Protection of Mustangs and Burros"
<ispmb@lakotanetwork.com>
07/28/05 01:10 PM
Please respond to
<ispmb@lakotanetwork.com>

To
<Kelly_Grissom@blm.gov>
cc

Subject
RE: Missed call

Thanks kelly!

Why isn't the BLM getting their reports done. It is a violation of the

law! Your thoughts??

Karen A. Sussman
President, ISPMB
PO Box 55
Lantry, SD 57636
Tel: 605.964.6866
Cell: 605.365.6991
Saving America's Wild Horses & Burros since 1960

www.ispmb.org

Become a member of ISPMB today!
<http://www.ispmb.org/membership.shtml>

-----Original Message-----

From: Kelly_Grissom@blm.gov [mailto:Kelly_Grissom@blm.gov]
Sent: Thursday, July 28, 2005 12:32 PM
To: ispmb@lakotanetwork.com
Subject: RE: Missed call

The 90-91 report to congress has the acreage of the Territory in it and like I said, they estimated the population to be 5 head. In the 92-95 report to congress, they were estimating the population to be 0. Of the three Territories in Arizona, only two had plans written and though not named, I'm assuming that the plans were written for the two little burro areas (Double A and Saguaro Lake). So if they were reporting an estimated population of 0 head for 1994 and 1996, they probably zeroed them out and were managing for zero. That would make a strong case for the FS that the animals drifted in off the White River Apache Reservation. The name of the Forest around the Heber area is the Sitgreaves National Forest so you might want to call them and ask them what sort of action they are proposing. (I don't have a phone number or name for anyone up there)

My last report to congress was 2000 but it was just a narrative and no tables or anything like that so the 92-95 is the last one with all of the territories, herd areas mentioned.

-Kelly-

"International Society for the Protection of Mustangs and Burros"
<ispmb@lakotanetwork.com>
07/28/05 11:15 AM

Please respond to
<ispmb@lakotanetwork.com>

To
<Kelly_Grissom@blm.gov>
cc

Subject
RE: Missed call

Hi Kelly,

Do we have any current report to Congress with figures in it???

Thanks

Karen A. Sussman
President, ISPMB
PO Box 55
Lantry, SD 57636
Tel: 605.964.6866
Cell: 605.365.6991
Saving America's Wild Horses & Burros since 1960

www.ispmb.org

Become a member of ISPMB today!

<http://www.ispmb.org/membership.shtml>

-----Original Message-----

From: Kelly_Grissom@blm.gov [mailto:Kelly_Grissom@blm.gov]

Sent: Thursday, July 28, 2005 9:57 AM

To: ispmb@lakotanetwork.com

Subject: RE: Missed call

Karen, I really don't know much about the Heber Territory. I looked in the 9th report to congress and see that it is a Territory of 14,000 acres and in 1991, there was no plan written for it and there was no AML set but at that time they estimated the population to be 5 head. If they are saying that the current horses are Indian ponies, that is probably true. I do remember working with the White River Apaches back in the late 80's and early 90's as they had a booming horse population (over a 1,000 head) and the tribal concern was that these ponies were consuming forage that the elk could be eating. At that time, there was a big run on trophy elk hunting and folks were paying premium prices for a trophy elk tag (like several thousands of dollars) to hunt on the reservation and the ponies were worthless (dollar wise). But in spite of the economics involved, the elders of the tribe didn't want the business types to take the horses off. I did hear of a few Apache horses showing up at various sale yards after that but I lost touch with my contact so I do not know what the outcome of that deal was.

If the FS is removing these as trespass or astray animals, then they can go to the sale with them but there would have to be a trespass notice or something. If they are treating them as astray, then there would have to be some sort of action through the Arizona State Livestock Department. If they are removing them as 'wild' horses, we would have heard something as they (FS) would probably be wanting to push them through our facility. Last week I had a voice message from Dr. Haight asking about the "Heber Territory" and at that time, I didn't even know there was such a thing. Then here the other day, I had a call from a lady with the FS asking about contracts and the cost of the hourly wage of wranglers and animal care takers but I couldn't help her so turned her on to our Contracting Officer in Denver. That was the first inkling that I had of anything going on up in the rim country.

-Kelly-

MEMORANDUM
OF CALL

Previous editions void

TO:

Wagner

YOU WERE CALLED BY —

YOU WERE VISITED BY —

OF (Organization)

Dr. Pat Haight

In Defense of Animals

PLEASE PHONE (Enter area code if necessary)

DSN

On: 480-394-0578 Cell 480-232-8068

WILL CALL AGAIN

IS WAITING TO SEE YOU

RETURNED YOUR CALL

WISHES AN APPOINTMENT

MESSAGE

re Little Empower

Awarded? To whom? When does gathering

begin? ~~How much~~ Price?

Fax 480-394-0578

RECEIVED BY

Law

DATE

8/23

TIME

NSN 7540-00-034-4018
SOCC-113
UNICOR FPI/SST



OPTIONAL FORM 359 (Rev. 7-94)
General Services Administration



DEFENSE OF ANIMALS

RECEIVED

AUG 29 2005

MAILROOM

Elaine Zieroth
Forest Supervisor
Apache-Sitgreaves National Forest
United States Forest Service
PO Box 640
Springerville, AZ 86938

August 23, 2005

Dear Forest Supervisor,

This is a request under the Freedom of Information Act, 5 U.S.C. Sec. 552, for the following information covering the period January 1, 2005 through September 30, 2005:

Any and all documents related to contracts awarded by the United States Forest Service to remove horses from the Apache-Sitgreaves Forest including but not limited to the following information:

- Name of any and all contractors.
- Amount of payment awarded to remove horses per horse.
- Number of horses to be removed.
- Timeline for removal of horses.
- Plan for removal of horses including method of collection, holding, transportation, and final disposition.
- Information on agreements for dispersal of funds from any sales of horses removed from the Apache-Sitgreaves Forest.

For purposes of this request documents include any and all hard copies, memoranda, minutes, correspondence, notes, information stored on computer disk, information stored on microfiche, and videotapes. I am willing to pay fees for this request up to a maximum of \$20.00. If you estimate that the fees will exceed this limit, please inform me first.

Please provide information as it becomes available. Please fax information if possible.

Thank you for your assistance.

Sincerely,

Patricia Haight, Ph.D.
Southwest Regional Director
In Defense of Animals
Director, IDA Conquistador Program
Fax: 480-394-0576
Cell: 480-232-8068
Email: pat@idausa.org



APACHE-SITGREAVES NATIONAL FORESTS

**P.O. BOX 640
SPRINGERVILLE, AZ 85938
(928) 333-4301
FAX (928) 333-5966**

DATE: 8/24/05

TO: Dr. Pat Haight

FROM: Elaine Zieroth

SUBJECT: Horse Gather Contract

Number of Pages (including cover sheet): _____

Comments: These pages explain how to
get the Horse Gather Contract off
the internet. let me know if
this doesn't work for you.

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VENDORS

1. Click on Vendors button
2. Select Acronym USDA from pull down menu

Acronym:

Select One

3. Click on Forest Service Locations
Forest Service

Locations

4. Choose any of the links below or click on Locations:

Postings of Forest Service By Location

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R-3 Southwestern Region/Apache_Sitgreaves, Springerville, AZ [Posted Dates](#)

5. Click on the Solicitation or Synopsis you are interested in.

(Example)

Feb 21, 2004

Agency: Department of Agriculture

Office: Forest Service

Location: R-3 Southwestern Region/Apache_Sitgreaves

➔ Posted: Feb 21, 2004 Type: [Solicitation 01](#) Title: F -- APACHE-SITGREAVES NF BEETLE PREVENTION SOL:RFQ-R3-01-04-13

➔ Posted: Feb 21, 2004 Type: [Solicitation 01](#) Title: F -- Lakeside Campground Bark Beetle Prevention SOL:RFQ-R3-01-04-14

Sample - See second page for horse contract

Solicitation number : RFQ-R3-01-04-13

Title : F -- APACHE-SITGREAVES NF BEETLE PREVENTION

Synopsis - Posted on Feb 19, 2004

Solicitation 01 - Posted on Feb 21, 2004

6. Click on the links to open the file you want, then print.

Description	Size (Bytes)	File Format
Map	834,301	Microsoft Word
RFQ Solicitation Pkg	903,168	Microsoft Word
Return Pkg	315,392	Microsoft Word
All Files	1,054,876	Zip Compression

0007

➤Posted:Jul 25, 2005 Type: Modification 01 Title:F -- Black Canyon / Long Tom Allotment Fence SOL:AG-8173-S-05-0006

Jul 19, 2005

Agency:Department of Agriculture

Office:Forest Service

Location:R-3 Southwestern Region/Apache_Sitgreaves

X ➤Posted:Jul 19, 2005 Type: Solicitation 01 Title:Y -- Trespass Horse Gathering and Transport SOL:AG-8173-S-05-0004

➤Posted:Jul 19, 2005 Type: Modification 01 Title:Y -- Trespass Horse Gathering and Transport SOL:AG-8173-S-05-0004

Jul 12, 2005

Agency:Department of Agriculture

Office:Forest Service

Location:R-3 Southwestern Region/Apache_Sitgreaves

➤Posted:Jul 12, 2005 Type: Solicitation 01 Title:F -- Park-Day / Willow Wash Allotment Fence SOL:AG-8173-S-05-0007

Jul 11, 2005

Agency:Department of Agriculture

Office:Forest Service

Location:R-3 Southwestern Region/Apache_Sitgreaves

➤Posted:Jul 11, 2005 Type: Amendment 02 Title:Z -- Rehab Roads IDIQ 2005 SOL:RFP-R3-01-05-17

Jul 01, 2005

Agency:Department of Agriculture

Office:Forest Service

Location:R-3 Southwestern Region/Apache_Sitgreaves

➤Posted:Jul 01, 2005 Type: Synopsis Title:Y -- Trespass Horse Gathering and Transport SOL:AG-8173-S-05-0004

➤Posted:Jul 01, 2005 Type: Synopsis Title:F -- Park-Day / Willow Wash Allotment Fence SOL:AG-8173-S-05-0007

➤Posted:Jul 01, 2005 Type: Synopsis Title:F -- Black Canyon / Long Tom Allotment Fence SOL:AG-8173-S-05-0006

August 25, 2005

Elaine J. Zierothn
Forest Supervisor
Apache-Sitgreaves National Forests
P.O. Box 640
Springerville, AZ 85938-0640

RECEIVED
AUG. 25 2005
MAILROOM

Elaine,

This business of the unfortunate "free roaming" horses has been bugging me. I have reviewed all the information I have and want to lay a few things on the table.

Your letter to me of July 6th with a "Definition" is, on the surface, contradictory. In order to clarify the matter in my mind, I dug into my files and came up with a copy of the Act, Public Law 92-195 (with amendments).

It seems to me that the folks who wrote FSM 2200 were off the mark.

To get out of Tonto Basin heat, I traveled up to the Heber Territory to, 1. cool off, 2. Look at some of these horses, and 3. visit with some other old folks to see what I could dig up. A lot of old timers not only have clear recollection of horses in the area in question going back may years to the 30's and 40's and up to the present time. A few even had written family histories where the horses are mentioned.

Just for your information:

Sec. 2 (definitions as used in the Act 92-195)

b. "wild and free roaming horses and burros" means all unbranded and unclaimed horses and burros on public lands of the United States. (NO restrictive dates mentioned in this act.)

This is for your information.



RECEIVED
AUG. 25 2005
MAILROOM

ELAINE J. ZIRKOTZ
FOREST SUPERVISOR
P.O. BOX 640
SPRINGVILLE, AZ
85938-0640



C. #2



Facsimile Cover

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Date:	August 26, 2005	Telephone:	602-364-7153
From:	Debra A. Sirower	Sender's Direct Fax Number:	602-716-8452
To:	Elaine J. Zieroth, Forest Supervisor	Fax Number:	<u>928-333-5966</u>
Company:	U.S. Dept of Agriculture	Telephone:	
To:	Lucia Turner, Acting Regional Forester	Fax Number:	<u>505-842-3110</u>
Company:	U.S. Forest Service	Telephone:	
To:	Senator John McCain	Fax Number:	<u>202-228-2862</u>
Company:		Telephone:	
To:	Nick Matiella	Fax Number:	<u>202-228-2862</u>
Company:	Legislative Aide to Senator John McCain	Telephone:	

Matter N002578
 Message:

Number of Pages Including Cover: 3

To Sender:

Do you wish to be contacted when fax is sent? Yes No
 Do you wish to be contacted at your home/office if fax cannot be sent within one hour? Yes No Tel:



Debra A. Sirower
 Direct: 602-364-7153
 Fax: 602-716-8452

August 26, 2005

By Fax (928) 333-5966 & U.S. Mail

Elaine J. Zieroth, Forest Supervisor
 Apache-Sitgreaves National Forests
 U.S. Dept. of Agriculture
 P.O. Box 640
 Springerville, AZ 85938-0640

**Re: Removal of 400 Wild Horses from Heber Wild Horse Territory
 Apache-Sitgreaves Forest**

Dear Ms. Zieroth:

This firm has been retained to represent the interests of certain animal protection groups including In Defense of Animals, the Animal Welfare Institute, the International Society for the Protection of Mustangs and Burros, as well as other concerned citizens residing within of the State of Arizona. It has come to our attention that the U.S. Forest Service has issued requests for bids on the removal of approximately 400 wild horses from the Heber Wild Horse Territory, Apache-Sitgreaves Forest. In response to a FOIA request by Dr. Pat Haight, our clients received little to no documentation for this decision. However, we have learned that the bid award for this removal will be made no later than August 31, 2005, and the scheduled removal is to begin the second week of September 2005. We have also received and reviewed your letter to Dr. Haight dated July 26, 2005. Based upon the information received to date, our clients have serious concerns about this attempted removal of protected animals.

First, we question whether adequate investigation and research has been conducted to support your conclusion that these animals are "trespass horses" and "are not considered wild horses." While your policy manual may provide for a certain manner of disposing of abandoned trespass property, we question the basis of your initial conclusion that the animals fall into this category.

Second, and possibly most telling, is the fact that the response to Dr. Haight's FOIA request provided little to no information demonstrating that any type of inventory, study or census has been conducted in this area for decades. Additionally, we found that no investigation has been conducted to determine how many of these horses are unbranded. We know from your efforts so far that the horses are unclaimed. Again, we question the basis of your decision that the horses are indeed trespass horses and not wild horses.

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And Bryan Cave,
 A Multinational Partnership,
 London

Elaine J. Zieroth, U.S. Forest Supervisor
August 26, 2005
Page 2

Bryan Cave LLP

Third, our concerns were further heightened after interviews were conducted of local residents. Based upon first-hand eye witnesses' accounts, the majority of these horses are indeed unbranded and unclaimed. Presently, our clients are in the process of interviewing local residents who will confirm by written affidavit, video, and perhaps live testimony that these horses have lived in that area for years. We believe that many of these local citizens will also confirm that the horses were living in the area decades prior to the Rodeo-Chediski fires. As such, these horses would be federally protected as discussed below.

With this said, we need to bring to your attention that any attempt to remove 400 horses from this rugged area would likely be considered a "major Federal action significantly affecting the quality of the human environment." Such a massive operation of removal, assuming you intend to remove live horses, would require numerous personnel who would be camping out in this territory, installing traps, providing access points for horse trailers and other transportation, off-road vehicles, and the like. The bidding information suggests that the cost for such a removal may range between \$200,000 and \$320,000. In this rugged mountainous area, there should be no disagreement that this operation with all of its vehicles, traps, and manpower will cause considerable disturbance to the surrounding environment and other wildlife. It is apparent that compliance with the National Environmental Policy Act of 1969, 42 U.S.C. Section 4321, *et. seq.* ("NEPA") is required before taking this type of major federal action. Specifically, Section 4332 provides in pertinent part:

(2) [A]ll agencies of the Federal Government shall ***

- (C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on -
- (i) the environmental impact of the proposed action,
 - (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
 - (iii) alternatives to the proposed action,
 - (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
 - (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local

Elaine J. Zieroth, U.S. Forest Supervisor

August 26, 2005

Page 3

Bryan Cave LLP

agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of Title 5, and shall accompany the proposal through the existing agency review processes.

42 U.S.C. Section 4332. In short, your actions in attempting to remove the horses appear predecisional in terms of NEPA. An environmental assessment or impact study should be conducted as well as a census to determine the precise nature and number of wild horses and how many are unbranded in this territory. Only then, after proper investigation and study, should a decision be made as to how the area should be managed.

We also point out that under the Wild Horses and Burros Act of 1971, 16 U.S.C. Section 1331, *et seq.*, the trespass status of these animals is arguable, and many may well be federally protected as provided for under the Act. As you are probably familiar, the Act's preamble and declaration of the policy provides:

Congress finds and declares that wild free-roaming horses and burros are living symbols of the historic and pioneer spirit of the West; that they contribute to the diversity of life forms within the Nation and enrich the lives of the American people; and that these horses and burros are fast disappearing from the American scene. It is the policy of Congress that wild free-roaming horses and burros shall be protected from capture, branding, harassment, or death, and to accomplish this they are to be considered in the area where presently found, as an integral part of the natural system of the public lands.

Under this Act, the Secretary of Agriculture is charged with the responsibility of "managing and protecting" all wild free-roaming horses. The Act also provides that the Secretary "shall manage wild free-roaming horses and burros in a manner that is designated to achieve and maintain a thriving natural ecological balance on the public lands." Section 1333(a). This Act further provides that the Secretary "shall maintain a current inventory of wild free-roaming horses and burros on given areas of the public lands." Section 1333(b).

As you are aware, there are also regulations under the 1971 Act of significance here. In particular, CFR Section 222.23 entitled "Removal of Other Horses and Burros," defines the conditions for treating certain horses as "unauthorized livestock" which could then be impounded and properly disposed. Notably, Section 222.23 provides special protection for horses that do not fall initially within the protection of the 1971 Act, if they are subsequently introduced into a protected territory "by accident, negligence or willful disregard of private ownership" and which become intermingled with wild free-roaming horses. Accordingly, only if these newly introduced horses do not intermingle may they be considered "unauthorized livestock." Based upon the information available to us to date, it appears that the horses in question have intermingled. Additionally, Section 222.25 of the regulations provides protection for the wild free-roaming horses even if they were to move or migrate off of protected territories onto lands of other ownership or jurisdiction.

Elaine J. Zieroth, U.S. Forest Supervisor

August 26, 2005

Page 4

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While we acknowledge the Forest Service's position that these animals are trespassing and therefore not protected, we question that position since the Forest Service readily admits it has not conducted a census in this area for decades. In fact, the response to the FOIA request revealed that no efforts to inventory or count the horses in this area has been conducted. Failure to conduct a census and jumping to the conclusion that these animals are trespass without good cause violates the Wild Horses and Burros Act of 1971. Furthermore, the Act defines "wild horses and burros" as "all unbranded and unclaimed horses and burros on public lands of the United States."

The Administrative Procedure Act, 5 U.S.C. Sections 551, *et seq.* ("APA") may be relevant to your agency's actions as well. Taking these steps without first conducting a full and proper investigation could be viewed as "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law" and thus in violation of the APA. 5 U.S.C. Section 706(2)(a).

Since the Forest Service intends to revise its land use plans in 2006, this is a prime opportunity to allow public comment as to whether to maintain horses in this area or not. We are not aware of any official decision to remove all horses from the Heber Wild Horse Territory. If such a decision has been made, please advise when it was made, by whom, and if there was any public comment or research on the issue. We also note that it is obviously, much easier to complete a Forest Plan Revision in 2006 if wild horses do not need to be taken into consideration.

In sum, we ask that you reconsider your actions, meet the requirements of a NEPA review, and provide documentation including monitoring data supporting your claim that these horses are "trespassers" and do not fall within the protections of the 1971 Act. We contend that before any major federal action such as this one can be undertaken, Section 4332 of NEPA must be followed. If you require another FOIA request, we can issue one, but, this letter should suffice. We, however, seriously question that all 400 horses are trespassers and ask for further investigation on your part as well as compliance with all applicable federal statutes.

We are open to the possibility of a face-to-face meeting among all interested parties to facilitate discussions and an exchange of information. While we are hopeful that we can resolve this dispute, we need a prompt response by the close of business Monday, August 29, 2005. We also ask that you consider delaying the bid award next week and take time to review the historic information that our clients have gathered (which will establish that many of these horses are not trespass horses). If you choose to move forward next week with the bid award, we will be forced to seek relief through other means including court-intervention.

Elaine J. Zieroth, U.S. Forest Supervisor
August 26, 2005
Page 5

Bryan Cave LLP

Thank you for your time.

Very truly yours,

Debra Sirower

Debra A. Sirower

DAS:ck

cc: Lucia Turner, Acting Regional Forester (by mail and fax 505-842-3110)
United States Forest Service
333 Broadway SE
Albuquerque, New Mexico 87102

Senator John McCain (by mail and fax 602-952-8702)
5353 North 16th Street, Suite 105
Phoenix, Arizona 85016

Senator John McCain (by mail and fax 202-228-2862)
241 Russell Senate Office Building
United States Senate
Washington, D.C. 20510
Attention: Nick Matiella

• *Wild Free-Roaming Horse & Burro Act*

Bold face type indicates revisions to the Wild Free-Roaming Horse and Burro Act (Public Law 92-195). Sections 2. and 3. were modified by the Public Rangelands Improvement Act of 1978; Section 9. was modified by the Federal Land Policy and Management Act of 1976.

(Public Law 92-195)

To require the protection, management, and control of wild free-roaming horses and burros on public lands. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress finds and declares that wild free-roaming horses and burros are living symbols of the historic and pioneer spirit of the West; that they contribute to the diversity of life forms within the Nation and enrich the lives of the American people; and that these horses and burros are fast disappearing from the American scene. It is the policy of Congress that wild free-roaming horses and burros shall be protected from capture, branding, harassment, or death; and to accomplish this they are to be considered in the area where presently found, as an integral part of the natural system of the public lands.

Sec. 2. As used in this Act-

- (a) "Secretary" means the Secretary of the Interior when used in connection with public lands administered by him through the Bureau of Land Management and the Secretary of Agriculture in connection with public lands administered by him through the Forest Service;
- (b) "wild free-roaming horses and burros" means all unbranded and unclaimed horses and burros on public lands of the United States;
- (c) "range" means the amount of land necessary to sustain an existing herd or herds of wild free-roaming horses and burros, which does not exceed their known territorial limits, and which is devoted principally but not necessarily exclusively to their welfare in keeping with the multiple-use management concept for the public lands;
- (d) "herd" means one or more stallions and his mares; and
- (e) "public lands" means any lands administered by the Secretary of the Interior through the Bureau of Land Management or by the Secretary of Agriculture through the Forest Service.

(f) "excess animals" means wild free-roaming horses or burros (1) which have been removed from an area by the Secretary pursuant to application law or, (2) which must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area.

Sec. 3.

(a) All wild free-roaming horses and burros are hereby declared to be under the jurisdiction of the Secretary for the purpose of management and protection in accordance with the provisions of this Act. The Secretary is authorized and directed to protect and manage wild free-roaming horses and burros as components of the public lands, and he may designate and maintain specific ranges on public lands as sanctuaries for their protection and preservation, where the Secretary after consultation with the wildlife agency of the State wherein any such range is proposed and with the Advisory Board established in section 7 of this Act deems such action desirable. The Secretary shall manage wild

free-roaming horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands. He shall consider the recommendations of qualified scientists in the field of zoology and ecology, some of whom shall be independent of both Federal and State agencies and may include members of the Advisory Board established in section 7 of this Act. All management activities shall be at the minimal feasible level and shall be carried out in consultation with the wildlife agency of the State wherein such lands are located in order to protect the natural ecological balance of all wildlife species which inhabit such lands, particularly endangered wildlife species. Any adjustments in forage allocations on any such lands shall take into consideration the needs of other wildlife species which inhabit such lands.

(b) (1) The Secretary shall maintain a current inventory of wild free-roaming horses and burros on given areas of the public lands. The purpose of such inventory shall be to: make determinations as to whether and where an overpopulation exists and whether action should be taken to remove excess animals; determine appropriate management levels of wild free-roaming horses and burros on these areas of the public lands; and determine whether appropriate management levels should be achieved by the removal or destruction of excess animals, or other options (such as sterilization, or natural controls on population levels). In making such determinations the Secretary shall consult with the United States Fish and Wildlife Service, wildlife agencies of the State or States wherein wild free-roaming horses and burros are located, such individuals independent of Federal and State government as have been recommended by the National Academy of Sciences, and such other individuals whom he determines have scientific expertise and special knowledge of wild horse and burro protection, wild-life management and animal husbandry as related to rangeland management.

(2) Where the Secretary determines on the basis of (i) the current inventory of lands within his jurisdiction; (ii) information contained in any land use planning completed pursuant to section 202 of the Federal Land Policy and Management Act of 1976; (iii) information contained in court ordered environmental impact statements as defined in section 2 of the Public Rangelands Improvement Act of 1978; and (iv) such additional information as becomes available to him from time to time, including that information developed in the research study mandated by this section, or in the absence of the information contained in (i-iv) above on the basis of all information currently available to him, that an overpopulation exists on a given area of the public lands and that action is necessary to remove excess animals, he shall immediately remove excess animals from the range so as to achieve appropriate management levels. Such action shall be taken, in the following order and priority, until all excess animals have been removed so as to restore a thriving natural ecological balance to the range, and protect the range from the deterioration associated with overpopulation:

(A) The Secretary shall order old, sick, or lame animals to be destroyed in the most humane manner possible;

(B) The Secretary shall cause such number of additional excess wild free-roaming horses and burros to be humanely captured and moved for private maintenance and care for which he determines an adoption demand exists by qualified individuals,

and for which he determines he can assure humane treatment and care (including proper transportation, feeding, and handling):
Provided, That, not more than four animals may be adopted per year by any individual unless the Secretary determines in writing that such individual is capable of humanely caring for more than four animals, including the transportation of such animals by the adopting party; and [PRIA 10/25/1978]

(C) The Secretary shall cause additional excess wild free roaming horses and burros for which an adoption demand by qualified individuals does not exist to be destroyed in the most humane and cost efficient manner possible.

continued on next page

Top of Page • Close Window

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Save America's Wild Horses

• *Free-Roaming Wild Horse & Burro Act*

(Public Law 92-195)

continued from previous page

(3) For the purpose of furthering knowledge of wild horse and burro population dynamics and their interrelationship with wildlife, forage and water resources, and assisting him in making his determination as to what constitutes excess animals, the Secretary shall contract for a research study of such animals with such individuals independent of Federal and State government as may be recommended by the National Academy of Sciences for having scientific expertise and special knowledge of wild horse and burro protection, wildlife management and animal husbandry as related to rangeland management. The terms and outline of such research study shall be determined by a redesign panel to be appointed by the President of the National Academy of Sciences. Such study shall be completed and submitted by the Secretary to the Senate and House of Representatives on or before January 1, 1983.

(c) Where excess animals have been transferred to a qualified individual for adoption and private maintenance pursuant to this Act and the Secretary determines that such individual has provided humane conditions, treatment and care for such animal animals for a period of one year, the Secretary is authorized upon application by the transferee to grant title to not more than four animals to the transferee at the end of the one-year period.

(d) Wild free-roaming horses and burros or their remains shall lose their status as wild free-roaming horses or burros and shall no longer be considered as falling within the purview of this Act- (1) upon passage of title pursuant to subsection (c) except for the limitation of subsection (c)(1) of this section, or (2) if they have been transferred for private maintenance or adoption pursuant to this Act and die of natural causes before passage of title; or (3) upon destruction by the Secretary or his designee pursuant to subsection (b) of this section; or (4) if they die of natural causes on the public lands or on private lands where maintained thereon pursuant to section 4 and disposal is authorized by the Secretary or his designee; or (5) upon destruction or death for purposes of or incident to the program authorized in section 3 of this Act; Provided, That no wild free-roaming horse or burro or its remains may be sold or transferred for consideration for processing into commercial products.

Sec. 4. If wild free-roaming horses or burros stray from public lands onto privately owned land, the owners of such land may inform the nearest Federal marshal or agent of the Secretary, who shall arrange to have the animals removed. In no event shall such wild free-roaming horses and burros be destroyed except by the agents of the Secretary. Nothing in this section shall be construed to prohibit a private landowner from maintaining wild free-roaming horses or burros on his private lands, lands leased from the Government, if he does so in a manner that protects them from harassment, and if the animals were not willfully

removed or enticed from the public lands. Any individuals who maintain such wild free-roaming horses and burros on their private lands or lands leased from the Government shall notify the appropriate agent of the Secretary and supply him with a reasonable approximation of the number of animals so maintained.

Sec. 5. A person claiming ownership of a horse or burro on the public lands shall be entitled to recover it only if recovery is permissible under the branding and estray laws of the State in which the animal is found.

Sec. 6. The Secretary is authorized to enter into cooperative agreements with other landowners and with the State and local governmental agencies and may issue such regulations as he deems necessary for the furtherance of the purposes of this Act.

Sec. 7. The Secretary of the Interior and the Secretary of Agriculture are authorized and directed to appoint a joint advisory board of not more than nine members to advise them on any matter relating to wild free-roaming horses and burros and their management and protection. They shall select as advisers persons who are not employees of the Federal or State Governments and whom they deem to have special knowledge about protection of horses and burros, management of wildlife, animal husbandry, or natural resources management. Members of this board shall not receive reimbursement except for travel and other expenditures necessary in connection with their services.

Sec. 8.

(a) 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 Secretary, or

(2) converts a wild free-roaming horse or burro to private use, without authority from the Secretary, 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 this Act, or the remains thereof, or

(6) willfully violates a regulation issued pursuant to this Act, shall be subject to a fine of not more than \$2,000, or imprisonment for not more than one year, or both. Any person so charged with such violation by the Secretary may be tried and sentenced by any United States 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 for in section 3401, title 18, United States Code.

(b) Any employee designated by the Secretary of the Interior or the Secretary of Agriculture shall have power, without warrant, to arrest any person committing in the presence of such employee a violation of this Act or any regulation made pursuant thereto, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction, and shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of this Act or regulations made pursuant thereto. Any judge of a court established under the laws of the United States, or any United States magistrate may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases.

Sec. 9. In administering this Act, the Secretary may use or

contract for the use of helicopters or, for the purpose of transporting captured animals, motor vehicles. Such use shall be undertaken only after a public hearing and under the direct supervision of the Secretary or of a duly authorized official or employee of the Department. The provisions of subsection (a) of the Act of September 8, 1959 (73 Stat. 470; 18 U.S.C. 47(a)) shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary.

Sec. 10. Nothing in this Act shall be construed to authorize the Secretary to relocate wild free-roaming horses or burros to areas of the public lands where they do not presently exist.

Sec. 11. After the expiration of thirty calendar months following the date of enactment of this Act, and every twenty-four calendar months thereafter, the Secretaries of the Interior and Agriculture will submit to Congress a joint report on the administration of this Act, including a summary of enforcement and/or other actions taken thereunder, costs, and such recommendations for legislative or other actions he might deem appropriate.

The Secretary of the Interior and the Secretary of Agriculture shall consult with respect to the implementation and enforcement of this Act and to the maximum feasible extent coordinate the activities of their respective departments and in the implementation and enforcement of this Act. The Secretaries are authorized and directed to undertake those studies of the habits of wild free-roaming horses and burros that they may deem necessary in order to carry out the provisions of this Act.

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Save America's Wild Horses



Wild Horse and Burro Act

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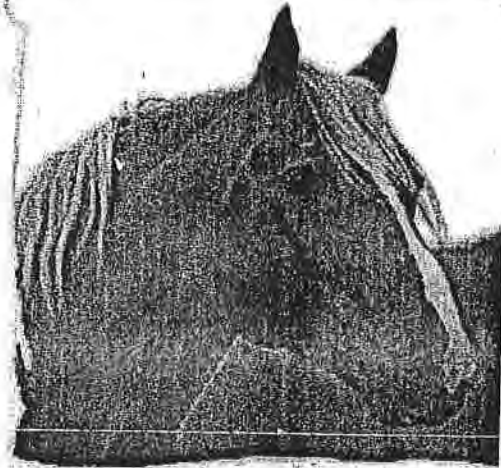
What's New?

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"Congress finds and declares that wild free-roaming horses and burros are living symbols of the historic and pioneer spirit of the West."

-Wild Free-Roaming Horse and Burro Act, 1971



The following provides the complete language of the Wild Free-Roaming Horse and Burro Act of 1971 Act, Public Law 92-195.

Please note that **bold face type** indicates revisions that were incorporated after the initial legislation. Sections 2. and 3. were modified by the Public Rangelands Improvement Act of 1978; Section 9. was modified by the Federal Land Policy and Management Act of 1976.

The Wild Free-Roaming Horse and Burro Act of 1971

(Public Law 92-195)

To require the protection, management, and control of wild free-roaming horses and burros on public lands. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress finds and declares that wild free-roaming horses and burros are living symbols of the historic and pioneer spirit of the West; that they contribute to the diversity of life forms within the Nation and enrich the lives of the American people; and that these horses and burros are fast disappearing from the American scene. It is the policy of Congress that wild free-roaming horses and burros shall be protected from capture, branding, harassment, or death; and to accomplish this

they are to be considered in the area where presently found, as an integral part of the natural system of the public lands.

Sec. 2.

As used in this Act-

(a) "Secretary" means the Secretary of the Interior when used in connection with public lands administered by him through the Bureau of Land Management and the Secretary of Agriculture in connection with public lands administered by him through the Forest Service;

(b) "wild free-roaming horses and burros" means all unbranded and unclaimed horses and burros on public lands of the United States;

(c) "range" means the amount of land necessary to sustain an existing herd or herds of wild free-roaming horses and burros, which does not exceed their known territorial limits, and which is devoted principally but not necessarily exclusively to their welfare in keeping with the multiple-use management concept for the public lands;

(d) "herd" means one or more stallions and his mares; and

(e) "public lands" means any lands administered by the Secretary of the Interior through the Bureau of Land Management or by the Secretary of Agriculture through the Forest Service.

(f) "excess animals" means wild free-roaming horses or burros (1) which have been removed from an area by the Secretary pursuant to application law or, (2) which must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area.

Sec. 3.

(a)
All wild free-roaming horses and burros are hereby declared to be under the jurisdiction of the Secretary for the purpose of management and protection in accordance with the provisions of this Act. The Secretary is authorized and directed to protect and manage wild free-roaming horses and burros as components of the public lands, and he may designate and maintain specific ranges on public lands as sanctuaries for their protection and preservation.

public lands as sanctuaries for their protection and preservation, where the Secretary after consultation with the wildlife agency of the State wherein any such range is proposed and with the Advisory Board established in section 7 of this Act deems such action desirable. The Secretary shall manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands. He shall consider the recommendations of qualified scientists in the field of biology and ecology, some of whom shall be independent of both Federal and State agencies and may include members of the Advisory Board established in section 7 of this Act. All management activities shall be at the minimal feasible level and shall be carried out in consultation with the wildlife agency of the State wherein such lands are located in order to protect the natural ecological balance of all wildlife species which inhabit such lands, particularly endangered wildlife species. Any adjustments in forage allocations on any such lands shall take into consideration the needs of other wildlife species which inhabit such lands.

(b)

(1) The Secretary shall maintain a current inventory of wild free-roaming horses and burros on given areas of the public lands. The purpose of such inventory shall be to: make determinations as to whether and where an overpopulation exists and whether action should be taken to remove excess animals; determine appropriate management levels of wild free-roaming horses and burros on these areas of the public lands; and determine whether appropriate management levels should be achieved by the removal or destruction of excess animals, or other options (such as sterilization, or natural controls on population levels). In making such determinations the Secretary shall consult with the United States Fish and Wildlife Service, wildlife agencies of the State or States wherein wild free-roaming horses and burros are located, such individuals independent of Federal and State government as have been recommended by the National Academy of Sciences, and such other individuals whom he determines have scientific expertise and special knowledge of wild horse and burro protection, wild-life management and animal husbandry as related to rangeland management.

(2) Where the Secretary determines on the basis of (i) the current inventory of lands within his jurisdiction; (ii) information contained in any land use planning completed pursuant to section 202 of the Federal Land Policy and Management Act of 1976; (iii) information contained in court ordered environmental impact statements as defined in section 2 of the Public Rangelands Improvement Act of 1978; and (iv) such additional information as becomes available to him from time to time, including that information developed in the research study mandated by this section, or in the absence of the information contained in (i-iv) above on the basis of all

of the information contained in (iv) above on the basis of all information currently available to him, that an overpopulation exists on a given area of the public lands and that action is necessary to remove excess animals, he shall immediately remove excess animals from the range so as to achieve appropriate management levels. Such action shall be taken, in the following order and priority, until all excess animals have been removed so as to restore a thriving natural ecological balance to the range, and protect the range from the deterioration associated with overpopulation:

(a) The Secretary shall order old, sick, or lame animals to be destroyed in the most humane manner possible;

(b) The Secretary shall cause such number of additional excess wild free-roaming horses and burros to be humanely captured and removed for private maintenance and care for which he determines an adoption demand exists by qualified individuals, and for which he determines he can assure humane treatment and care (including proper transportation, feeding, and handling): Provided, That, not more than four animals may be adopted per year by any individual unless the Secretary determines in writing that such individual is capable of humanely caring for more than four animals, including the transportation of such animals by the adopting party; and [PRIA 10/25/1978]

(c) The Secretary shall cause additional excess wild free roaming horses and burros for which an adoption demand by qualified individuals does not exist to be destroyed in the most humane and cost efficient manner possible.

(c) Where excess animals have been transferred to a qualified individual for adoption and private maintenance pursuant to this Act and the Secretary determines that such individual has provided humane conditions, treatment and care for such animal or animals for a period of one year, the Secretary is authorized upon application by the transferee to grant title to not more than four animals to the transferee at the end of the one-year period.

(d) Wild free-roaming horses and burros or their remains shall lose their status as wild free-roaming horses or burros and shall no longer be considered

as falling within the purview of this Act- (1) upon passage of title pursuant to subsection (c) except for the limitation of subsection (c)(1) of this section, or (2) if they have been transferred for private maintenance or adoption pursuant to this Act and die of natural causes before passage of title; or (3) upon destruction by the Secretary or his designee pursuant to subsection (b) of this section; or (4) if they die of natural causes on the public lands or on private lands where maintained thereon pursuant to section 4 and disposal is authorized by the Secretary or his designee; or (5) upon destruction or death for purposes of or incident to the program authorized in section 3 of this Act; Provided, That no wild free-roaming horse or burro or its remains may be sold or transferred for consideration for processing into commercial products.

(3) For the purpose of furthering knowledge of wild horse and burro population dynamics and their interrelationship with wildlife, forage and water resources, and assisting him in making his determination as to what constitutes excess animals, the Secretary shall contract for a research study of such animals with such individuals independent of Federal and State government as may be recommended by the National Academy of Sciences for having scientific expertise and special knowledge of wild horse and burro protection, wildlife management and animal husbandry as related to rangeland management. The terms and outline of such research study shall be determined by a redesign panel to be appointed by the President of the National Academy of Sciences. Such study shall be completed and submitted by the Secretary to the Senate and House of Representatives on or before January 1, 1983.

Sec. 4.

If wild free-roaming horses or burros stray from public lands onto privately owned land, the owners of such land may inform the nearest Federal marshal or agent of the Secretary, who shall arrange to have the animals removed. In no event shall such wild free-roaming horses and burros be destroyed except by the agents of the Secretary. Nothing in this section shall be construed to prohibit a private landowner from maintaining wild free-roaming horses or burros on his private lands, or lands leased from the Government, if he does so in a manner that protects them from harassment, and if the animals were not willfully removed or enticed from the public lands. Any individuals who maintain such wild free-roaming horses and burros on their private lands or lands leased from the Government shall notify the appropriate agent of the Secretary and supply him with a reasonable approximation of the number of animals so maintained.



Sec. 5.

A person claiming ownership of a horse or burro on the public lands shall be entitled to recover it only if recovery is permissible under the branding and estray laws of the State in which the animal is found.

Sec. 6.

The Secretary is authorized to enter into cooperative agreements with other landowners and with the State and local governmental agencies and may issue such regulations as he deems necessary for the furtherance of the purposes of this Act.

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The Secretary of the Interior and the Secretary of Agriculture are authorized and directed to appoint a joint advisory board of not more than nine members to advise them on any matter relating to wild free-roaming horses and burros and their management and protection. They shall select as advisers persons who are not employees of the Federal or State Governments and whom they deem to have special knowledge about protection of horses and burros, management of wildlife, animal husbandry, or natural resources management. Members of this board shall not receive reimbursement except for travel and other expenditures necessary in connection with their services.

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(1) willfully removes or attempts to remove a wild free-roaming horse or burro from the public lands, without authority from the Secretary, or

(2) converts a wild free-roaming horse or burro to private use, without authority from the Secretary, 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 this Act, or the remains thereof, or

(6) willfully violates a regulation issued pursuant to this Act, shall be subject to a fine of not more than \$2,000, or imprisonment for not more than one year, or both.

Any person so charged with such violation by the

Secretary may be tried and sentenced by any United States 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 for in section 3401, title 18, United States Code.

(b) Any employee designated by the Secretary of the Interior or the Secretary of Agriculture shall have power, without warrant, to arrest any person committing in the presence of such employee a violation of this Act or any regulation made pursuant thereto, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction, and shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of this Act or regulations made pursuant thereto. Any judge of a court established under the laws of the United States, or any United States magistrate may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases.

Sec. 9.

In administering this Act, the Secretary may use or contract for the use of helicopters or, for the purpose of transporting captured animals, motor vehicles. Such use shall be undertaken only after a public hearing and under the direct supervision of the Secretary or of a duly authorized official or employee of the Department. The provisions of subsection (a) of the Act of September 8, 1959 (73 Stat. 470; 18 U.S.C. 47(a)) shall not be applicable to such use. Such use shall be in accordance with humane procedures prescribed by the Secretary.

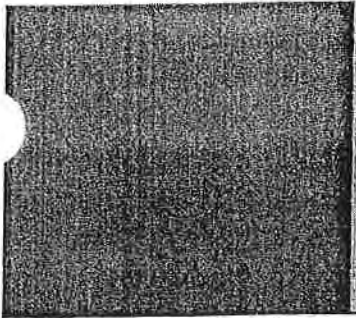
Sec. 10.

Nothing in this Act shall be construed to authorize the Secretary to relocate wild free-roaming horses or burros to areas of the public lands where they do not presently exist.

Sec. 11.

After the expiration of thirty calendar months following the date of enactment of this Act, and every twenty-four calendar months thereafter, the Secretaries of the Interior and Agriculture will submit to Congress a joint report on the administration of this Act, including a summary of enforcement and/or other actions taken thereunder, costs, and such recommendations for legislative or other actions he might deem appropriate.

The Secretary of the Interior and the Secretary of Agriculture shall consult with respect to the implementation and enforcement of this Act and to the maximum feasible extent coordinate the activities of their respective departments and in the implementation and



enforcement of this Act. The Secretaries are authorized and directed to undertake those studies of the habits of wild free-roaming horses and burros that they may deem necessary in order to carry out the provisions of this Act.

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HISTORY OF THE PROGRAM

The Wild Horse Annie Act

During the 1950s in Nevada, Velma B. Johnston, later known as Wild Horse Annie, became aware of the ruthless and indiscriminate manner in which wild horses were being gathered from the rangelands. Ranchers, hunters and "mustangers" played a major role in harvesting wild horses for commercial purposes.

Wild Horse Annie led a grass roots campaign, involving mostly school children, that outraged the public and ultimately got them fully engaged in the issue. Newspapers published articles about the exploitation of wild horses and burros and as noted in a July 15, 1959, Associated Press article, "Seldom has an issue touched such a responsive chord."



In January 1959, Nevada Congressman Walter Baring introduced a bill prohibiting the use of motorized vehicles to hunt wild horses and burros on all public lands. The House of Representatives unanimously passed the bill which became known as the "Wild Horse Annie Act." The bill became Public Law 86-234 on Sept. 8, 1959, however, it did not include Annie's recommendation that Congress initiate a program to protect, manage and control wild horses and burros. Public interest and concern continued to mount, and with it came the realization that federal management, protection, and control of wild horses and burros was essential.

The 1971 Act - Public Law 92-195 Wild Free-Roaming Horses and Burros Act

By 1971, the population of wild horses had diminished drastically due to the encroachment of man and the mustangers elimination of them.

In response to public outcry, members of both the Senate and the House introduced a bill in the ninety-second Congress to provide for the necessary management, protection and control of the wild horses and burros. The Senate unanimously passed the bill on June 19, 1971. After making some revisions and adding a few amendments, the House also passed the bill by unanimous vote. Former President Richard M. Nixon signed the bill into law on December 15, 1971. The new law became Public Law 92-195, The Wild Free-Roaming Horses and Burros Act of 1971.

The Wild Free-Roaming Horses and Burros Act was later amended by the Federal Land Policy and Management Act and the Public Rangelands Improvement Act. Public Law 94-579, the Federal Land Policy and Management Act, dated Oct. 21, 1976, allowed for the Secretaries of the Interior and Agriculture to use contract for the use of helicopters and motorized vehicles for the purpose of the management of wild horses and burros on public lands.

Public Law 95-514, the Public Rangelands Improvement Act of 1978, established and reaffirmed:

1. the need for inventory and identification of current public rangeland conditions (monitoring);
2. the management, maintenance and improvement of the condition of public rangelands to productively support all rangeland values;
3. continuance of the law protecting wild free-roaming horses and burros from capture, branding, harassment or death, while at the same time facilitating the removal and disposal of excess wild free-roaming horses and burros which pose a threat to themselves and their habitat and;
4. the transfer of title after one year to individuals who had adopted wild horses and burros removed from public rangelands, provided the animals had received proper and humane care and treatment during that year.

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Response Notes

Congressional Inquiry by Senator John McCain

MATTERS AND QUESTIONS RAISED BY PETITIONER PATRICIA HAIGHT, Ph.D.

1. A committee has not been formed by the USDA-Forest Service to deal with unauthorized grazing on the Apache-Sitgreaves National Forest by feral horses from the White Mountain Apache Reservation. However, persons having administrative responsibilities involving unauthorized grazing on the Apache-Sitgreaves National Forest have been communicating and coordinating with one another about resolving this problem and mitigating the resulting impacts to the land.
2. Dr. Haight is correct in her statement that "technically the horses belong to the White Mountain Apache tribe" or the members thereof. These horses were introduced onto Public Lands after December 15, 1971, by accidental, negligent, or willful disregard of ownership. Although the number of horses on the National Forest from the Reservation may have increased after the Rodeo-Chediski Wildfire Incident, that was not the start of the problem. Significant numbers of Reservation horses were in unauthorized grazing on the National Forest during the several years before this most recent fire incident.
3. Dr. Haight is correct in her statement that "the Forest Service is working on a plan to gather these horses currently residing on the Apache-Sitgreaves National Forest and to turn them over to the Arizona Livestock Sanitary Board of the Arizona Department of Agriculture.
4. The information that was told to Dr. Haight "that the Forest Service will not consider taking responsibility of the horses directly and doing an adoption program because it is too expensive" is not the reason the Forest Service is deferring disposition of the horses to the Arizona Livestock Sanitary Board.
 - a. There currently exists a Cooperative Agreement Between the Arizona Livestock Sanitary Board; the Bureau of Land Management, U.S. Department of Interior; and the Forest Service, Department of Agriculture.
 - b. The following Section of the Cooperative Agreement applies:
 - B. Estray Animals
 1. That unbranded, unmarked or branded of unknown ownership horses, mules, asses, cattle, sheep or goats impounded by the Agencies on Public Lands will be turned over to the Board for disposal; that when these animals and those in paragraph 3 below (swine) are disposed of in accord with State Law, the Board will first deduct its costs for holding and selling the animals from the proceeds, if any, of said disposal. Remaining funds will be used to reimburse the Agencies for their impoundment costs.

- c. With this Cooperative Agreement in effect, it is incumbent upon the involved parties to comply with the provisions as stated, wherein subject horses will be turned over to the Livestock Sanitary Board of the Arizona Department of Agriculture for disposal.
5. Our response to the three concerns expressed by (or to) Dr. Haight on page 2 of her letter, is in context with the provisions of the Cooperative Agreement as indicated above:

CONCERN 1: The Forest Service is dealing with a rather large number of horses in unauthorized grazing status, that will be processed as stray animals as prescribed in the Cooperative Agreement between the Agency and the Arizona Livestock Sanitary Board.

CONCERN 2: Under the provisions of the Cooperative Agreement, it is not within the decision authority of the Forest Service to direct the Livestock Sanitary Board of the Arizona Department of Agriculture as to how subject animals will be disposed.

CONCERN 3: As stated for Concern 2 above, it is the jurisdiction of the Livestock Sanitary Board to determine the disposition of stray animals on the Public Lands in Arizona.

NEWS RELEASE



USDA FOREST SERVICE
Apache-Sitgreaves National Forests
P.O. Box 640
Springerville, AZ 85938
928-333-4301
TTY 928-333-6292

For Immediate Release
August 30, 2005

Contact: Bob Dyson
928-333-6263

UNAUTHORIZED HORSES TO BE REMOVED FROM THE NATIONAL FOREST

Springerville, AZ (August 30, 2005).... The Apache-Sitgreaves National Forests in the next month will be removing some of the approximately 300 horses that are currently grazing a portion of the Rodeo/Chediski burned area near Heber. The horses come from adjacent lands and attempts to locate their owners have met with only limited success.

Significant numbers of stray, domestic horses were in the area before the Rodeo-Chediski Fire in 2002 but even more horses came onto the National Forests after the Forest Service had seeded the burned area. The fire destroyed boundary fencing allowing unobstructed movement of horses from adjacent lands. Some horses have been removed by their owners in the past three years but the numbers are steadily increasing. "We have tried to locate the owners of these horses and we have posted impoundment notices throughout adjacent communities in an attempt to have the owners remove these horses but people have not responded," said Elaine Zieroth, Forest Supervisor. "If the owners do not come forward, we plan to have a contractor gather the horses as humanely as possible and then we will post notices one final time to try to locate the owners. We will work with the State of Arizona Brand Inspector to locate owners of branded animals but, if we do not locate the owners, the horses will be taken to a sale barn for public auction," she said.

The horses are stray, domestic horses and are not considered wild. Forest Service regulations for handling such animals does not allow for adoption. The agency uses a Cooperative Agreement with the Arizona Livestock Sanitary Board to auction unclaimed animals. Sale receipts from the auction would be used to defray expenses incurred by the agencies in the impoundment process. A contract to gather the horses has been advertised but not yet awarded.

-more-

In the éarly 1970s a Heber Wild Horse Territory was established under the authority of Wild Horses and Burros Protection Act to protect approximately seven horses. That small group had diminished to five animals in 1991 and to only two animals in 1993. Subsequent observations have produced no evidence of y remaining animals from that group. Even so, the Forest Service will not remove any stray, domestic horses from that Territory under the upcoming contract.

Editor's Note: For more information, please contact Elaine Zieroth at 928-333-6300 or Deborah Bumpus at 928-333-6220

END

NEWS RELEASE



*USDA FOREST SERVICE
Apache-Sitgreaves National Forests*

*P.O. Box 640
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For Immediate Release
August 31, 2005

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END



Debra A. Sirower
 Direct: 602-364-7153
 Fax: 602-716-8452

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MAILROOM

August 31, 2005

By Fax (928) 333-5966 & U.S. Mail
 Elaine J. Zieroth, Forest Supervisor
 Apache-Sitgreaves National Forests
 U.S. Dept. of Agriculture
 P.O. Box 640
 Springerville, AZ 85938-0640

Bryan Cave LLP
 One Renaissance Square
 Two North Central Avenue
 Suite 2200
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 Tel (602) 364-7000
 Fax (602) 364-7070
 www.bryancave.com

Re: Removal of 400 Wild Horses from Heber Wild Horse Territory
 Apache-Sitgreaves Forest

Dear Ms. Zieroth:

Thank you for taking the time to discuss the above-matter with me yesterday afternoon. You advised that, at this time, the Forest Service intends to proceed with its bid award and that the time to award the bid has been extended from September 1 until September 8, 2005. Can you please provide me with any documentation evidencing this extension? See FOIA, 5 U.S.C. Section 552. If there is no documentation, then please identify the statute, regulation, or agency that gave authorization for this extension and any relevant authority.

We appreciate your agreement to advise us as soon as the bid is awarded. Time is of the essence in that regard. Also, you advised that we would probably not receive a written response to our letter until sometime early next week. We will await that response.

As you know we disagree and are disappointed with the Forest Service's position on this issue and its intent to move forward. As we discussed, my clients have gathered and are still gathering eye-witness accounts and testimony that will demonstrate that many of these horses are not trespass horses and are protected by the 1971 Wild Horses and Burros Act. If given the opportunity, we would gladly share these eye witness accounts and other information with you. We urge you to consider this offer of information and evidence. Also, please keep in mind that under the federal regulations, horses can gain the protection status of the 1971 Act if they intermingle with the wild horses already protected by the Act. See 36 CFR Section 222.23.

If you would like to review the information and testimony that my clients have gathered or would be amenable to a meeting, we welcome it. If not, we will look forward to your formal written response to our August 26th letter sometime next week. Also, we appreciate your agreement to timely advise us of any bid award.

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Elaine J. Zieroth, U.S. Forest Supervisor
August 31, 2005
Page 2

Bryan Cave LLP

Thank you for your time.

Very truly yours,

Debra Sirower

Debra A. Sirower

DAS:ck

cc: Senator John McCain (by mail and fax 602-952-8702)
5353 North 16th Street, Suite 105
Phoenix, Arizona 85016

-and-

241 Russell Senate Office Building (by mail and fax 202-228-2862)
United States Senate
Washington, D.C. 20510
Attention: Nick Matiella

Patricia Haight, Ph.D.
In Defense of Animals
Arizona Conquistador Equine Rescue Program
2121 South Mill Avenue, Suite 107C
Tempe, Arizona 85282

Cathy Liss
Chris Heyde
Animal Welfare Institute
P.O. Box 3650
Washington, D.C. 20027

Karen Sussman
International Society for the Protection of
Mustangs and Burros
P.O. Box 55
Lantry, South Dakota 57636-0055

520970/P006716

Deb Bumpus/R3/USDAFS

09/01/2005 09:51 AM

To Kendell L Hughes/R3/USDAFS@FSNOTES,
Randall Chavez/R3/USDAFS@FSNOTES
cc Edward Collins/R3/USDAFS@FSNOTES,
Kathleen Klein/R3/USDAFS@FSNOTES,
Elaine J Zieroth/R3/USDAFS@FSNOTES,
Robert Dyson/R3/USDAFS@FSNOTES

bcc

Subject Fw: News Release- Feral Horse Roundup

fyi

Kendell - I discussed with Elaine yesterday, your idea to contact the sale barn again. She agreed that it would be good to do that. Be sure to keep notes of your conversations in the project file. As for the State, we still need to hold off on contacting them regarding this activity. However, the letter you and Randall referred to that you got back from the State would be good to have handy for future discussions. Can you fax a copy to me here for our files. Thanks - Deb

Deb Bumpus
Ecosystem Staff Officer
Apache-Sitgreaves National Forests
PO Box 640
Springerville, AZ 85938
928-333-6220 Work
928-333-5966 FAX

----- Forwarded by Deb Bumpus/R3/USDAFS on 09/01/2005 09:49 AM -----

Gene
Onken/R3/USDAFS

To "Jo Baeza" <jobaeza@wmonline.com>
Elaine J Zieroth/R3/USDAFS@FSNOTES, Deb
cc Bumpus/R3/USDAFS@FSNOTES

09/01/2005 08:50
AM

SubjectRe: News Release- Feral Horse Roundup

Good morning, Jo. I want to thank you for sharing this good information with me. I only personally got involved with this situation yesterday when my attempt was made to clarify the earlier news release. In checking with some staff people on the Apache-Sitgreaves Forest, I did learn that the Forest's first letter and notice to the Tribal Attorney had either been misrouted or misplaced in the Tribal office. But the Forest has since followed-up by delivering another Livestock Impoundment Notice to Mr. Ritchie, who is now distributing the notice to Tribal members. Mr. Ritchie has also advised the Forest that he will talk to the Tribal Council to see if they might claim horses after the gather.

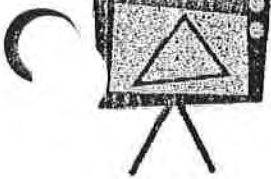
Because the contract for gathering the horses has not even been awarded yet, the Tribe and other local citizens have adequate time to disseminate the information and notify concerned persons of their opportunity to claim any horses they may own. This is all part of the impoundment process that the law requires and our regulations demand of the Agency.

We truly appreciate your concern and understanding, Jo, of the many issues involved here. It is certainly the intent of the Forest Service to resolve the resource protection problems at stake, and at the same time treat any rightful livestock owners fairly by providing them adequate opportunity to identify and claim their stock.

News Release- Feral Horse Roundup

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> Hi! The attached release pertains to a possible gathering up of domestic
> horses on the national Forests....Bob (See attached file: Feral Horses
> 8_30_05.doc)



James W Payne /R3/USDAFS

09/01/2005 07:08 PM

To Elaine J Zieroth/R3/USDAFS@FSNOTES, Deb
Bumpus/R3/USDAFS@FSNOTES, Robert
Dyson/R3/USDAFS@FSNOTES
Carrie Templin/AZSO/AZ/BLM/DOI@BLM, Dorothea
Boothe/AZSO/AZ/BLM/DOI@BLM, Carl
cc Holguin/R3/USDAFS@FSNOTES, Gene
Onken/R3/USDAFS@FSNOTES

bcc

Subject Message from wild horse advocate

See Julianne French's message below and the paragraph about visits with Congressman Kolbe, Senators
Kyl and McCain and efforts to inform Gov. Napolitano. Looks like she and her cohorts are pushing for an
EIS on horses removal. Jim

PS. I sent the her the news release without the Heber Territory paragraph!

James W. "Jim" Payne
Public Affairs, Regional Media Officer
and Arizona National Forest Issues Mgmt.
Southwestern Region, USDA Forest Service
Phoenix, Arizona
(602) 225-5291(voice)
(602) 525-2940 (cell)
(866) 649-6927 (toll-free for media)
jwpayne@fs.fed.us

--- Forwarded by James W Payne/R3/USDAFS on 09/01/2005 03:57 PM ---

"Julianne French "
<julianne9@cox.net>
08/31/2005 08:21 PM

To "James W Payne" <jwpayne@fs.fed.us>
cc

Subject Re: Unauthorized Horses news release

Thank you for sharing for the press release from the Forest Service.

As I mentioned, the heritage of the horses is disputed. Tucson Horse
advocates disagree with the Forest Service allegation that these are
trespass horses, but indeed wild horses currently living in a protected Wild
Horse and Burro Territory of 14,000 acres within the Apache-Sitgreaves
Forest designated under the 1971 Wild Horse and Burro Act as the Heber Wild
Horse Territory. We are backing the expert organizations including In
Defense of Animals (IDA), and Animal Welfare Institute, and the
International Society for the Protection of Wild Horses and Burro in
objecting to this round-up. The Forest Service asserts that, since they
consider the horses trespass horses, this allows the agency to impound and
sell the horses at auction, and exempts the agency from being required to do
an Environmental Impact Study, issue a decision memo, or submit the removal
plan for public comment.

Information obtained by IDA indicates that the Forest Service did not remove
the last two wild horses in 1993. Written and spoken histories of the area
show continuous presence of wild mustangs in the Heber Territory from their
introduction in the 17th century through the present. The evidence compiled

by IDA also shows that the Forest Service will be gathering up offspring of horses who lived in the Heber Territory prior to 1971 and are protected under the Wild Horse and Burro Act.

Tucson horses advocates are taking this issue to our Congressional representatives and Senators. As you know, I did meet with Jim Kolbe on Monday. I am meeting with Senator Kyl's staff next week. I have asked to meet personally with Senator McCain. In addition, we are pushing our objections with Governor Janet Neopolitano.

This really needs to be opened up to the public for comment and a legitimate Environmental Impact Study completed. Who else can I talk with in the Forest Service who has authority to suspend this plan until these issues are resolved?

Sincerely,

Julianne

Deb Bumpus/R3/USDAFS

09/01/2005 05:26 PM

To: Kendell L Hughes/R3/USDAFS@FSNOTES
cc: Randall Chavez/R3/USDAFS@FSNOTES
bcc:
Subject: Contact for Horses

Kendell - I talked with Tim Kessay (pronounced Ke-see) from the Corrizo Livestock Association. He had just learned of the impoundment yesterday from their brand committee president, Wilkie Griggs. He is interested in seeing the horses once the contractor has them rounded up and would like to be contacted. His phone numbers are: 928-338-4619 (H) and 928-338-4172 (W).

Elaine is going to call him tomorrow to see if he would be interested in gathering any horses prior to the contract. I think she is going to run this past Warren first. You might want to give her a call tomorrow to check up on this conversation.

Deb

Deb Bumpus
Ecosystem Staff Officer
Apache-Sitgreaves National Forests
PO Box 640
Springerville, AZ 85938
928-333-6220 Work
928-333-5966 FAX

Debbie,

I found this post on our message board today. Is this an organization like a peta and is this legit? They are asking for contributions which makes me suspicious.

Marcia

IDA has learned that the U.S. Forest Service plans to remove 400 wild Arizona horses from the Apache-Sitgreaves National Forest in Eastern Arizona and sell them at auction in Sun Valley near Holbrook, Arizona. Most or all of the 400 horses, including mares and foals, will go to slaughter. The Forest Service intends to accept a final bid on gathering these horses from the forest no later than August 31, 2005. They will then authorize the contractor to begin rounding the horses up during the second week of September.

The horses are living in a protected wild horse and burro territory designated by Congress as the Heber Wild Horse Territory under the Wild Horse and Burro Act in 1971. We must save these wild horses whose history in that area goes back to the early Spanish explorers in the 17th and 18th centuries, through the pioneer settlers and early ranches of the 19th and 20th centuries down to today. The herds include stallions and mares with foals at their side. Some of the stallions are the direct descendants of the famous black stallion who ran the Mogollon Rim years ago.

IDA is joining with the Animal Welfare Institute and the International Society for the Protection of Mustangs and Burros to stop this gathering of wild horses and to make the Forest Service manage the wild horses in this protected wild horse territory in Eastern Arizona.

IDA and its coalition of animal protection groups would like to rescue as many of the horses as possible if any go up for auction. IDA has retained an attorney and we have asked that the FS stop the gathering or we will seek court intervention.

Funds are urgently needed to support our efforts to save these wild horses. Tax-deductible donations should be marked "For Apache-Sitgreaves horses" and sent to IDA:

In Defense of Animals, 131 Camino Alto, Mill Valley, CA 94941.

Or, you can click [here](#) to send an automatic donation via credit card. Designate "Apache-Sitgreaves horses" in the First Name field of the "in honor of" section of the form.

NEWS RELEASE



USDA FOREST SERVICE Apache-Sitgreaves National Forests

*P.O. Box 640
Springerville, AZ 85938
928-333-4301
TTY 928-333-6292*

For Immediate Release
August 31, 2005

Contact: Bob Dyson
928-333-6263

UNAUTHORIZED HORSES TO BE REMOVED FROM THE NATIONAL FOREST

Springerville, AZ (August 30, 2005)... The Apache-Sitgreaves National Forests in the next month will be removing some of the approximately 300 horses that are currently grazing a portion of the Rodeo/Chediski burned area near Heber. The horses come from adjacent lands and attempts to locate their owners have met with only limited success.

Significant numbers of stray, domestic horses were in the area before the Rodeo-Chediski Fire in 2002 but even more horses came onto the National Forests after the Forest Service had seeded the burned area. The fire destroyed boundary fencing allowing unobstructed movement of horses from adjacent lands. Some horses have been removed by their owners in the past three years but the numbers are steadily increasing. "We have tried to locate the owners of these horses and we have posted impoundment notices throughout adjacent communities in an attempt to have the owners remove these horses but people have not responded," said Elaine Zieroth, Forest Supervisor. "If the owners do not come forward, we plan to have a contractor gather the horses as humanely as possible and then we will post notices one final time to try to locate the owners. We will work with the State of Arizona Brand Inspector to locate owners of branded animals but, if we do not locate the owners, the horses will be taken to a sale barn for public auction," she said.

The horses are stray, domestic horses and are not considered wild. Forest Service regulations for handling such animals does not allow for adoption. The agency uses a Cooperative Agreement with the Arizona Livestock Sanitary Board to auction unclaimed animals. Sale receipts from the auction would be used to defray expenses incurred by the agencies in the impoundment process. A contract to gather the horses has been advertised but not yet awarded.

Editor's Note: For more information, please contact Elaine Zieroth at 928-333-6300 or Deborah Bumpus at 928-333-6220

END

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Article Last Updated: 09/02/2005 03:07:58 AM

Wild-horse herd to lose W. Slope range

By Electa Draper

Denver Post Staff Writer Federal land managers will remove a herd of approximately 120 wild horses from its range in the oil and gas country just southwest of Rangely by 2007. The horses will be placed in the Bureau of Land Management

Federal land managers will remove a herd of approximately 120 wild horses from its range in the oil and gas country just southwest of Rangely by 2007.

The horses will be placed in the Bureau of Land Management's adoption program or in long-term holding facilities because the 123,000-acre area is not suitable for the long-term management of a herd, White River field office manager Kent Walter said Thursday.

Wild-horse advocates say the decision is in keeping with a BLM trend.

"The BLM is zeroing out herds or reducing them to ridiculous levels in Colorado and across the West," said Andrea Lococo, a consultant with the Washington-based Animal Welfare Institute. "This agency considers what is needed for cattle and some game animals, and wild horses are getting the

Leaving the range

Bureau of Land Management officials on Thursday announced that the West Douglas wild horse herd would be removed from its range in western Colorado by 2007.



The Denver Post

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crumbs."

BLM officials say an environmental study indicated that the agency's limited resources would be better spent managing other public land uses in the herd area. Those include energy developers and two livestock permit holders grazing some 1,200 head of cattle. About 850 oil and gas wells are in the herd area and more are in the works.

This area, west of the Douglas Divide and Colorado 139 about 50 miles north of Grand Junction, was never sanctioned by the BLM, even though wild horses historically roamed there, spokeswoman Mel Lloyd said.

The BLM concluded that only a small herd of 29 to 60 horses could be managed within the West Douglas Creek Herd Area and still be in year-round

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balance with vegetation and other land uses. But such a small herd would require intensive management, including the introduction of mares to keep it genetically viable.

BLM officials say at least 150 horses are needed for a herd to sustain genetic vigor on its own.

However, roughly three-quarters of all wild horse herds in the country have fewer than 150.

The bureau was mandated in the 1971 Wild Free-Roaming Horse and Burro Act to give wild horses the same priority as other public land uses and to manage them as self-sustaining herds, Lococo said.

Walter said he believes his office's resources are better focused on a second herd of up to 235 horses just east of Colorado 139 in the Piceance/East Douglas Herd Management Area, which encompasses 195,000 acres.

With the removal of the West Douglas Creek Herd, Colorado will still have four herds, roughly 800 horses, all on the Western Slope.

Wild-horse range in Colorado has shrunk by more than 40 percent to roughly 400,000 acres in the past few decades.

• [Dam site draws complaints](#)

There are approximately 28,000 horses and 4,000 burros in 10 Western states.

Staff writer Electa Draper can be reached at 970-385-0917 or edraper@denverpost.com.

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UNAUTHORIZED HORSES TO BE REMOVED FROM THE NATIONAL FOREST

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tried to locate the owners of these horses and we have posted impoundment notices throughout adjacent communities in an attempt to have the owners remove these horses but people have not responded," said Elaine Zieroth, Forest Supervisor. "If the owners do not come forward, we plan to have a contractor gather the horses as humanely as possible and then we will post notices one final time to try to locate the owners. We will work with the State of Arizona Brand Inspector to locate owners of branded animals but, if we do not locate the owners, the horses will be taken to a sale barn for public auction," she said.

The horses are stray, domestic horses and are not considered wild. Forest Service regulations for handling such animals does not allow for adoption. The agency uses a Cooperative

Agreement with the Arizona Livestock Sanitary Board to auction unclaimed animals. Sale receipts from the auction would be used to defray expenses incurred by the agencies in the impoundment process. A contract to gather the horses has been advertised but not yet awarded.

In the early 1970s a Heber Wild Horse Territory was established under the authority of Wild Horses and Burros Protection Act to protect approximately seven horses. That small group had diminished to five animals in 1991 and to only two animals in 1993. Subsequent observations have produced no evidence of any remaining animals from that group. Even so, the Forest Service will not remove any stray, domestic horses from that Territory under the upcoming contract.



Debra A. Sirower
Direct: 602-364-7153
Fax: 602-716-8452

RECEIVED
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MAILROOM

September 2, 2005

By Fax (928) 333-5966 & U.S. Mail
Elaine J. Zieroth, Forest Supervisor
Apache-Sitgreaves National Forests
U.S. Dept. of Agriculture
P.O. Box 640
Springerville, AZ 85938-0640

Bryan Cave LLP
One Renaissance Square
Two North Central Avenue
Suite 2200
Phoenix, AZ 85004-4406
Tel (602) 364-7000
Fax (602) 364-7070
www.bryancave.com

Re: **Removal of 400 Wild Horses from Heber Wild Horse Territory
Apache-Sitgreaves Forest**

Dear Ms. Zieroth:

We have reviewed the News Release from your office dated August 31, 2005. In this release, the Forest Service contends that the horses it intends to capture and remove "are stray, domestic horses and are not considered wild." Can you please advise or identify what steps, including any investigation or reports, that your office has undertaken to confirm that all 400 of these horses are domestic and not wild. Please consider this a request under FOIA. 5 U.S.C. Section 552. Because of the Forest Service's intent to award a bid for removal by September 8, we ask for a prompt response on this request to the extent possible.

Also, as you know, the Wild Horses and Burros Act of 1971 defines wild free-roaming horses as "unbranded and unclaimed." While some of the horses in question may have an Apache brand, numerous other horses are not branded. We have checked with the Apache Tribe and they are unsure how many of their horses are missing. We are looking for an informal resolution of these issues that would accommodate all parties' needs. In this regard, would the U.S. Forest Service consider capturing only branded horses at this time? Once it is determined how many non-branded horses remain, we could propose different means of dealing with horses depending upon their situation. My clients may be willing to assist with some of these tasks as well.

We additionally note that, to the extent that some domestic horses have intermingled with the wild horses, they gain the protection of the 1971 Act as well. Only livestock that does not "intermingle" can be viewed as "unauthorized." Specifically, 36 CFR Section 222.23 provides:

Horses and burros not within the definition in 222.20(b)(13) which are introduced onto Wild Horse and Burro Territories or ranges after December 15, 1971, by accident, negligence, or willful disregard of private

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Elaine J. Zieroth, U.S. Forest Supervisor
September 2, 2005
Page 2

Bryan Cave LLP

ownership, and which do not become intermingled with wild free-roaming horses or burros shall be considered as unauthorized livestock and treated in accordance with provisions in 36 CFR 261.7 and 262.10.

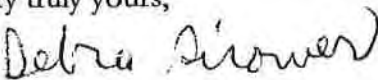
(Emphasis added.) The Heber Wild Horse Territory was designated to serve as a sanctuary for these wild horses. Your office, as well as the Secretary of Agriculture, has a duty to protect and manage the animals and give consideration to their best interests.

Again, my clients believe that if given the opportunity, they will demonstrate that many of these horses are indeed wild and have been living in this wilderness area for decades. Local residents will confirm this fact. We only ask for the opportunity to do so.

We look forward to a response to our request for information and proposed interim resolution of capturing only branded horses. If you would like to discuss this matter further or if you have any other ideas for resolution, please contact me.

Thank you for your time.

Very truly yours,

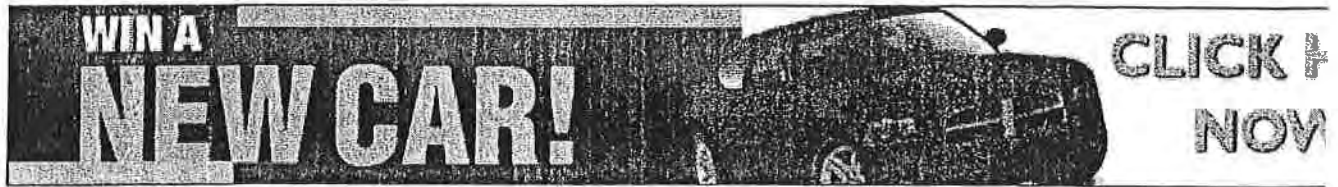

Debra A. Sirower

DAS:ck

cc: Patricia Haight, Ph.D.
In Defense of Animals
Arizona Conquistador Equine Rescue Program
2121 South Mill Avenue, Suite 107C
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Cathy Liss
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Animal groups trying to halt roundup of horses on forest land

Mary Jo Pitzl
The Arizona Republic
Sept. 3, 2005 12:00 AM

A trio of animal-conservation groups is trying to stop the roundup of several hundred horses in the Apache-Sitgreaves National Forests, claiming forest officials risk sending wild horses to slaughter.

The groups on Friday asked Forest Supervisor Elaine Zieroth to consider capturing only branded horses and letting the unbranded horses continue to run in the eastern Arizona forests.

At issue is how many of the horses are wild, which would entitle them to protection under federal law.

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Zieroth contends the horses are strays that came onto the forest land from the adjoining Fort Apache Reservation when a boundary fence was demolished in the 2002 "Rodeo-Chediski" wildfire. If they are strays, they would be rounded up and sold at auction if the Forest Service were unable to locate their owners.

"We don't believe they're wild horses," Zieroth said of the estimated 300 to 400 horses. They are a nuisance, grazing illegally on forest land, and, by policy, must be removed.

But Debra Sirower, an attorney representing the animal-defense groups, said Zieroth's office has not done the proper studies to determine how many wild horses still roam 14,000 acres in the forests that were set aside as protected horse territory in 1971.

Zieroth said a 1991 census determined the wild horses were gone; Sirower said the Forest Service needs to back that up with a current study.

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Besides, she said, area residents have said that many of the horses on the forest land are wild ones that have been there for years.

"There's been no investigations or research over the years," she said.

Sirower is representing the Tempe-based In Defense of Animals; the International Society for the Protection of Mustangs and Burros, which is based in South Dakota; and the Animal Welfare Institute, in Washington D.C.

If forest officials proceed with plans to award a bid for a contractor to do the roundup, Sirower said the groups are prepared to seek an injunction in federal court.

Zieroth on Friday said roundup plans continue, but may be slowed because the forests' business office is based in hurricane-ravaged New Orleans.

She said she hopes the contract can be awarded next week, but it might take until mid-September.

After the roundup, those horses that can't be identified and returned to their owners will be shipped to an auction lot in Holbrook.

Many of the animals sold at those auctions are ultimately slaughtered, which is why the animal groups are concerned about the sale, Sirower said.

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Public Service Ads by Google

Unit: 3C Survey Area: Decker Wash - 6 4-7 Block Number: Two Date: Sep 6-2005
 Survey Method: (circle one): Foot, Horseback, Vehicle, Fixed-wing, Helicopter, Other _____ Pilot: _____ Weather: _____
 Observer(s): Halama, Schahn, Birkeland Ship #: _____
 Time Start: 0625 Time Stop: _____ Total Time: _____
 Odometer start: 3743.3 Odometer stop: 3745.1 Total Miles: _____ GPS File #: _____
(Or Hobbs meter) (Or Hobbs meter) (Or meter hours) Observer position:

1	2
3	4

*No.	Time	ELK MULE DEER					WHITE-TAILED DEER					JAVELINA					ELK		Total Miles =		
		♂	♀	θ	Unk	Tot.	♂	♀	θ	Unk	Tot.	Ad.	Juv	Red	Unk	Tot.	♂	θ	Obsv. Pos.	Dist.	Comments:
128	0626	1	5	2		8												4	<		
129	0627		15	5		20												4	>		
—	0630						2	(MB)		2								1	>		
130	0631	1				1												4	>		
131	0633	4	3	1		8												3	>	Res.	
132	0643	1	4	3		8												1/3	>		
133	0644	2				2												3	<		
134	0646	1	2	2		5												1	<		
135	0647	2				2												1	>	Res.	
136	0647	1				1												3	>	Res.	
137	0648	1	18	6		25												4	>	Res.	
138	0652	1	4	3		8												1/3	>	Res.	
139	0655	4	13	7		24												1/3	>	Res.	
140	0702	1	16	9		26												1	>	↑	
141	0708	1				1												4	<	*Holcomb Meadow (GB)	
142	0712	4	3	2		9												4	>	Good Bull	
Totals		60 203 105					368														

1 pair of fawns Decker Wash 9/6/05

30 ♂:100 ♀:52

♂:100 ♀: θ

Juv:100 Adults
Mean Herd Size _____

*Enter way point number, or, if no way point, assign a number to the group observation.

Turkey 4 Horse's 7+12

Unit: 3C Survey Area: Secker Wash → Block Number: TWO Date: Sept 20-2005
 Survey Method: (circle one): Foot, Horseback, Vehicle, Fixed-wing, Helicopter, Other _____
 Observer(s): Halama, Schahn, Birkeland Pilot: Scarpatici Weather: Cloudy / Cool
 Time Start: 0835 Time Stop: _____ Total Time: _____
 Odometer start: _____ Odometer stop: _____ Total Miles: _____ GPS File #: _____
(Or Hobbs meter) (Or Hobbs meter) (Or meter hours) Observer position:

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*No.	Time	ELK MULE DEER					WHITE-TAILED DEER					JAVELINA					ELK		Obsv. Pos.	Dist.	Comments:
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144	0728	1	1			2												↓	↓		
145	0738	1				1												3	<		
146	0742	3				3												1	<		
147	0743	2		1		3												4	>		
148	0746	4	3	4		11												3	>		
149	0749		5	1		6												4	>		
150	0751	1	7	4		12												3	>		
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151	0758	1	7	4		12												3	>	1st Trip (105 mi.)	
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152	0840	1	10	9		20												1/3	>	GB	
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154	0849	1	2	2		5												1/3	>		
Totals																					

♂:100 ♀: _____

♂:100 ♀: _____ θ

Juv:100 Adults
 Mean Herd Size _____

*Enter way point number, or, if no way point, assign a number to the group observation.
 Horses 3+1+3
 Turkey 8

Unit: 3C Survey Area: Decker Wash West Block Number: TWO Date: Sep 6-2005
 Survey Method: (circle one): Foot, Horseback, Vehicle, Fixed-wing, Helicopter, Other
 Observer(s): Halama, Schahn, Birkeland Pilot: Scarpalatti Weather: Cloudy/Cool
 Time Start: _____ Time Stop: _____ Total Time: _____
 Odometer start: _____ Odometer stop: 3746.5 Total Miles: _____ GPS File #: _____
 (Or Hobbs meter) (Or Hobbs meter) (Or meter hours) Observer position:

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3	4

*No.	Time	MULE DEER					WHITE-TAILED DEER					JAVELINA					ELK		Obsv. Pos.	Dist.	Comments:	
		♂	♀	θ	Unk	Tot.	♂	♀	θ	Unk	Tot.	Ad.	Juv	Red	Unk	Tot.	♂	θ				
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156	0901	2	2	2		6													2	>		
157	0907		9	2		11													4	>		
—							1		(MD)	1												
158	0920	1	3	2		6													4	>		
159	0924	1	2	1		4													4	>		
160	0926		3	2		5													4	>		
161	0929	1	2			3													4	<		
162	0933	1	3	2		6													4	>		
163	0935		6	2		8													1/3	>		
164	0937	1	8	5		14													1/3	>		
165	0941	2	5	3		10													4	>	GB	
166	0943	1	5	1		7													4	>		
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		END SURVEY														2nd Trip (95) min						
Totals																						

♂:100♀: _____ ♂:100♀: _____ θ _____
 Mean Herd Size _____ Juv:100 Adults _____

*Enter way point number, or, if no way point, assign a number to the group observation.



Elaine J Zieroth /R3/USDAFS
09/06/2005 04:54 PM

To Dianne Douglas <Dianne.Douglas@asu.edu>
cc
bcc Elaine J.Zieroth/R3/USDAFS
Subject Re: FW: Wild Horses in Apache-Sitgreaves National Forests

I agree that there are a lot of strong emotions surrounding horses. We are dealing with stray horses from the reservation and trying to work out an agreement to work with the tribe on this problem. Unfortunately, many of their horses are unbranded and they have a similar problem with hundreds of horses grazing freely on the reservation. These are not wild horses, so we have to go through our legal impoundment process if the tribe does not gather up the horses. Under our agreement with the State Dept. of Agriculture, the State of Arizona has jurisdiction for stray livestock. We gather them on federal land and the State inspects them for brands and directs us to take them to a public livestock auction for sale. If the owner of branded horses can be located, they can redeem their horses by paying for the cost of rounding them up. Neither the Forest Service nor the State will make money on any horses that are sold. The sale at the auction will probably not cover the costs of impoundment, inspections and transportation. If folks are concerned about the fate of the horses, I encourage them to come purchase them at the auction, which will probably take place some time in October. Since your mission is to protect fish, wildlife and plants, you may understand the problem with having unmanaged domestic livestock competing with native wildlife and eating native plants on the public lands. Thanks for your comments.

+--+--+--+--+--+--+--+--+--+--+--+--+--+--+=
ELAINE J. ZIEROTH, Forest Supervisor
Region 3, Apache-Sitgreaves National Forest
928-333-6300
Dianne Douglas <Dianne.Douglas@asu.edu>



Dianne Douglas
<Dianne.Douglas@asu.edu>
09/06/2005 04:23 PM

To ezieroth@fs.fed.us
cc
Subject FW: Wild Horses in Apache-Sitgreaves National Forests

Ms. Zieroth,

I was very disturbed when reading the article in the Arizona Republic regarding the horses roaming the forest. I believe it is your duty to the tax payers to do a study to determine how many horses roam the forest before selling them for slaughter. I'm sure someone is going to benefit money wise for taking the life's of these beautiful creatures that deserve to be on this land. There is nothing more breath taking for the citizens of Arizona and visitors, than to see a herd of horses running free. Please remember the departments mission and especially the part that says 'working with others' and 'protect wildlife':

Our Mission

Working with others to conserve, protect and enhance fish, wildlife and plants and their

habitats for the continuing benefit of the American people.

If these horses belong to one of the tribes, let them claim their property. If the tribes want and will protect all the horses, they should have that opportunity rather than send them to slaughter. These people could use a little good will. What you consider a 'nuisance' would be of benefit to the tribes.

This sounds like a money making opportunity for someone at the cost of a magnificent animals life's and I will fight that. If you want to benefit our land, get the cattle off of public property.

Sincerely,

Dianne Douglas

2723 E. Valencia Drive

Phoenix, AZ 85042



Steve
Spangle/R2/FWS/DOI@FWS
09/06/2005 08:41 AM

To Dianne Douglas <Dianne.Douglas@asu.edu>
cc Debra Bills/R2/FWS/DOI@FWS
bcc Deb Bumpus/R3/USDAFS
Subject Re: FW: Wild Horses in Apache-Sitgreaves National Forests

Dear Ms. Douglas:

Thank you for your correspondence. I am responding to let you know that the Fish and Wildlife Service is in no way involved in the project to which you refer. I suggest you address your concerns to the Forest Supervisor of the Apache-Sitgreaves National Forest. Thank you for your concern.

Steve Spangle, Field Supervisor
Arizona Ecological Services Office
2321 W. Royal Palm Rd.
Phoenix, AZ 85021
Office: 602/242-0210, x244
Fax: 602/242-2513
Dianne Douglas <Dianne.Douglas@asu.edu>



Dianne Douglas
<Dianne.Douglas@asu.edu>
09/05/2005 04:10 PM

To steve_spangle@fws.gov
cc
Subject FW: Wild Horses in Apache-Sitgreaves National Forests

Mr. Spangle,

> I was very disturbed when reading the article in the Arizona Republic regarding the horses roaming the forest. I believe it is your duty to the tax payers to do a study to determine how many horses roam the forest before selling them for slaughter. I'm sure someone is going to benefit money wise for taking the life's of these beautiful creatures that deserve to be on this land. There is nothing more breath taking for the citizens of Arizona and visitors, than to see a herd of horses running free. Please remember the departments mission and especially the part that says 'working with others' and 'protect wildlife':

>
> Our Mission
> Working with others to conserve, protect and enhance fish, wildlife and plants and their habitats for the continuing benefit of the American people.
>
> If these horses belong to one of the tribes, let them claim their property. If the tribes want and will protect all the horses, they should have that opportunity rather than send them to slaughter. These people could use a little good will. What you consider a 'nuisance' would be of benefit to the tribes.

>
> This sounds like a money making opportunity for someone at the cost of a magnificent animals life's and I will fight that. If you want to benefit our land, get the cattle off of public property.
>

> Sincerely,
> Dianne Douglas
> 2723 E. Valencia Drive
> Phoenix, AZ 85042

P.O. Box 968
Overgaard, AZ 85933
Phone: (928) 535-4481
Fax: (928) 535-5972



Fax

To: Timmy Slade

From: Kendall

Fax:

Date: 9/7/05

Phone:

Pages: (Including Cover) 5

Re: Horses

CC:

- Urgent For Review Please Comment Please Reply Please Recycle

Comments:

I'm not sure if this is what you need, but here it is.



RANGE MANAGEMENT PLAN

for the

BUCKSKIN, GENTRY AND HEBER-MUD TANK ALLOTMENTS

HEBER RANGER DISTRICT

APACHE-SITGREAVES NATIONAL FORESTS

PREPARED by

Bruce Mortensen
BRUCE MORTENSEN, RANGE STAFF

3/1/89
DATE

EDITED by

Steve Egel
STEVE EGELINE, DISTRICT RANGER

3/28/89
DATE

AGREED to by

Rancho Milagro - Steven D. Bragg
RANCHO MILAGRO-STEVEN BRAGG,
PERMITTEE

3/28/89
DATE

APPROVED by

Nick McDonough
NICK McDONOUGH, FOREST SUPERVISOR

6-1-89
DATE

John F. Schmitt

09-10-01

I. Description

The Rancho Milagro cattle operation includes the Buckskin, Gentry and Heber-Mud Tank Allotments. These allotments range from the mixed conifer type on the South to the dense Pinyon-Juniper stands to the North. These allotments encompass 134,795 acres of National Forest Lands.

Past management on these allotments consisted of running 1047 head of cattle split into three herds for the summer season. One herd rotating on the Heber-Mud Tank Allotment, a second herd rotating on the Buckskin Allotment and a third grazing the Gentry. In 1987, due to deteriorating range conditions and a lack of forage, these numbers were reduced to a herd of 628 head 5/1 to 10/31 and 157 head of non-use until forage improvements can be made.

II. Problems and Conflicts

- A. The Forest Plan has identified the winter habitat of Pinyon-Juniper areas as limiting in suitability for forage across the forest. These allotments contain approximately 48,000 acres of winter habitat. Approximately 90% of these acres are not suitable forage acres for cattle or wildlife due to dense Pinyon-Juniper stands. These dense stands have forced heavy grazing pressure on the riparian bottoms that traverse the Pinyon-Juniper.
- B. Structural range improvements are in need of heavy maintenance. Many of the fences are in excess of fifty years old and need major maintenance or reconstruction. Water developments at the Mud Tank and Bigler Trick Tanks need considerable maintenance on the aprons. Water lines from the Bigler Well are exposed in several areas and need recovering.
- C. Lack of water in most of the pastures hinder good cattle distribution. Further water development is needed on the allotments.
- D. Trespass horses from off-forest remain as annual problem on Gentry and Buckskin Allotments. Eight horse traps have been constructed to date and trapping of these horses started this year. More emphasis needs to be put on having adjacent landowners maintain the Forest boundary fence every spring.
- E. Deteriorating conditions in riparian areas is another problem addressed in the forest plan. There are approximately 45 miles of riparian drainage on the allotments that are in poor condition. The riparian in the pine type is now heavily invaded with small pine. Riparian in the Pinyon-Juniper is overgrazed by cattle and wildlife due to invasion of Pinyon-Juniper and lack of forage in other areas.

III. Objectives of the Management Plan

- A. Implement a program in the Pinyon-Juniper that will create forage openings in the Ancient, Halter Cross, Oil Well, Red Knoll and Mud Tank pastures. This will increase winter habitat and greatly reduce grazing pressures on the riparian areas.
- B. Implement a rest-rotation grazing system that will reduce grazing pressures on key riparian areas.

Using KV collections and P&M funds, implement projects to restore riparian area in the pine type.

Develop more water in all pastures.

- C. Implement a program of allotment maintenance to restore all fences and water developments in a state of good repair.

IV. Management System

- A. It is planned to put all four allotments together as one allotment and rotate one herd through seven of the nine pastures. Two pastures will rest every year. This will give us more flexibility for rotations and reducing grazing pressures on key riparian areas. For the planned rotation see attached grazing form R3-2200-19.

V. Range Improvements

A. Non-Structural Improvements

- 1. Create 6000 acres of openings in the Pinyon-Juniper through commercial fuelwood sales, contract cutting and pushing.

B. Structural Improvements

- 1. Construction of earthen stock tanks in the following pastures:

PASTURE	# TANKS	PASTURE	# TANKS
Gentry	3	Ancient	2
Bunger	5	Mud Tank	3
Phoenix Park	8	Oil Well	3
Halter Cross	2	Red Knoll	3
Squaw	2		

- 2. Totally reconstruct apron at the Bigler Trick Tank.

VI. Maintenance of Improvements

1. Do heavy maintenance on four miles of the North boundary of the Mud Tank Pasture - 1989.
2. Do heavy maintenance on six miles of the West boundary of the Squaw Pasture - 1989.
3. Repair the apron on the Mud Tank Trick Tank - 1989.
4. Do heavy maintenance on five miles of the West boundary of the Mud Tank Pasture - 1990.
5. Do heavy maintenance on four miles of the East boundary of the Mud Tank Pasture - 1990.
6. Do heavy maintenance on six miles of the West boundary of the Bunger Pasture from the Apache Reservation boundary to the West Fork of Black Canyon - 1991.
7. Do heavy maintenance on four miles of the division fence between the Oil Well and the Red Knoll Pastures - 1991.
8. Do heavy maintenance on nine miles of the West boundary of the Ancient Pasture - 1992.
9. Do heavy maintenance on nine miles of the North boundary of the Gentry Pasture - 1993.
10. All wells and waterlines will be maintained annually. Exposed waterlines and unserviceable troughs will be maintained or replaced as soon as possible.

VII. Follow-Up Action

- A. Annual permittee instructions will be written each year to supplement this plan. Any deviation from this plan will be documented in the annual instructions.
- B. Annual inspections will be conducted on the allotment to ensure compliance with the management plan and modifications made when necessary.

PAGE 16 OF 20

PERMIT#: 02-020

Tuesday,
September 6,
2005

Tribal Housing sponsoring Boys and Girls Club

Jo Baeza
The Independent

WHITERIVER — Lives can be turned around. All some kids need is a place to go where they can be safe, be with their friends, and have something interesting to do.

The White Mountain Apache Tribal Housing Authority has reopened the Youth Center building in Whiteriver with plans to use it as a Boys and Girls Club in the hope it will be a place kids can call their own. The Housing Authority expects to have a full-time manager soon.

According to the national website, Boys and Girls Clubs of America is ranked twelfth among all American nonprofit organizations in terms of effectiveness. The club has 25 programs available to kids. The programs are as varied as Character and Leadership, Education and Career, and Health and Lifestyles. Kids also have an opportunity for sports, recreation and fitness programs as well as the arts.

Boys and Girls Clubs of America is supported by thousands of small private donations as well as large corporate donations. When the sponsor has met all the qualifications, it will be chartered as a Boys and Girls Club.

Upon receiving its charter, the club will receive a startup payment of \$25,000 plus another \$25,000 for being a Native American club. If it is successful the first year, it will receive additional funding. Once it is chartered, grants become available. For the past few years the clubs have been getting federal money through the Department of Justice.

The Housing Authority's Residents' Service coordinator has been working

Rambling horses causing damage, danger

Mara Reyes
The Independent

PINETOP — For the last three years, a pack of wild horses coming off the Fort Apache Indian Reservation almost nightly have reportedly caused accidents on Highway 260 and damaged nearby private property and a golf course in the Pinetop area. Homeowners and golf club representatives who have witnessed several accidents are frustrated over what they feel is lack of action by local, state and tribal agencies.

Tony Chalfin, Pinetop Lakes Golf Course superintendent, told *The Independent* he has documented at least three car accidents in which four horses were killed on Highway 260, in the area around The Smoke Shop, since January.

"It's a safety issue. It's a matter of when, not if, there will be a fatality. One will go through the windshield and kill someone," Chalfin said.

Jim Lewis, resident of White Mountain Country Club and a member of the Arizona Veterinary Board, has also witnessed horses repeatedly crossing the busy roadway. "I was there March 21 when another horse was killed. My greatest fear is a human being killed one day. I don't know if that's what they're waiting for," he said.

Sgt. Heather Alvarez of the state Department of Public Safety said the agency doesn't record the type of animals involved in accidents and could not specify which accidents involved horses, but she verified that a



Mara Reyes — The Independent

Tony Chalfin, Pinetop Lakes Golf Course superintendent, examines hoof prints left by wild horses that nightly trek through the fairway, causing damage to the turf and landscaping.

ment of Public Safety said the agency doesn't record the type of animals involved in accidents and could not specify which accidents involved horses, but she verified that a

March 21 accident did involve an animal. Lewis has attempted to talk to the Arizona Department of Transportation about the problem, but "they're ignoring us," he

said. "People down in Phoenix certainly have another agenda."

See HORSES, Page 3

Psychiatrist arrested on allegations of extreme violence

Jo Baeza
The Independent

PINETOP-LAKESIDE — Dr. John C. Woods was arrested by Navajo County deputies Aug. 16 on 14 charges stemming from a dispute with his wife.

Woods was charged with four counts of aggravated assault, one count of kidnapping, one count of disorderly conduct, two counts of weapons charges, one count of criminal damage, two counts of discharge of a weapon at a structure, and three counts of endangerment. He is presently in Navajo County jail with his bond set at \$1.25 million.

She ran from him again, took refuge in their truck and attempted to get away. He pointed another handgun at his wife, then fired two shots into the truck. He forced her to get out of the vehicle at gunpoint. When she got out, he told her to get back into the house, then shot at her feet to hurry her along.

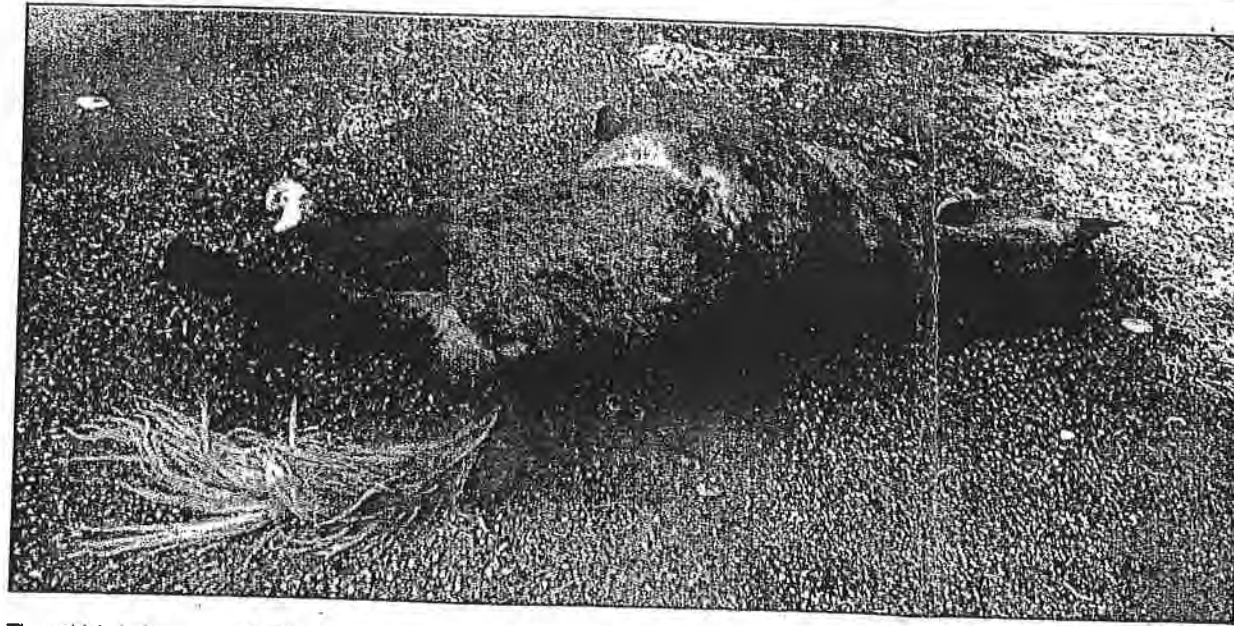
The report stated that she was able to talk with him and calmed him down, but he wouldn't let her leave the house. The following day when he was out of the house she attempted to lock up all the weapons. He was upset with her when he returned. She said she needed to go out for groceries. He allowed her to leave and she called the Sheriff's Office

During an interview, Woods' wife stated that he had prescribed medicine for her that he was taking himself. She obtained an order of protection against her husband.

The psychiatrist, a graduate of the University of Utah School of Medicine, has been working as a staff psychiatrist for the Community Counseling Center in Holbrook. According to the report, Woods resigned his position prior to his arrest because of behavioral issues. The Arizona Medical Board suspended his license after being informed that Woods had been arrested.

Although Woods has some history of violence...

HORSES, from Page 1



The vehicle below collided with and killed the horse shown above on Highway 260 near The Smoke Shop. Several accidents reportedly have been caused by wild horses coming off the reservation and crossing the busy roadway. Photos submitted



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Includes Queen Bed,
Dresser, Mirror & Nightstand
ASHLEY DIRECT PRICE
\$1999

Monarch Valley
Queen Bed
Includes Headboard,
Footboard & Rails
ASHLEY DIRECT PRICE
\$799

Paul Langseth, a Pinetop Lakes resident whose home backs the golf fairway, said having horses "galloping up and down" his property is "disconcerting." "I don't want to be picking up horse droppings in my backyard and front of the house. Those horses shouldn't be here. You wouldn't allow a pack of wild dogs loose," Langseth said.

He voiced frustration at the tribe's apparent lack of action. "They're coming across from the other side of the highway from the reservation. Are they waiting until a Native American hits a horse and three to four kids get killed?"

"I realize this is open range, but this horse thing has to be addressed," Dan Wahlin, Pinetop Lakes club director, said. "It's a public hazard. There's a lot of traffic because of the casino. What we have here is a situation that's negative for golf, the public and the public traveling the highway."

The horses have damaged the golf course, negatively affecting business, Wahlin said. Club workers need to repair damage to the turf and landscaping, pick up droppings and wipe out hoof marks each morning. Horse urine has killed grass, leaving several dry spots on the fairway and calling for repeated reseeding.

"Then there's the liability if we miss something and a golfer is injured, twists an ankle," Chalfin said. "These animals weigh thousands of pounds. They leave deep hoof prints. There are as many as 10 horses."

For a while, Chalfin and other workers were getting up at 3-4 a.m.

everyday to chase the horses away. "They show up here all hours of the night. We just ran out of steam. They would just run to another hole," he said.

"I don't know why they're coming here. There's plenty of feed on the reservation," Chalfin added. He suspects the green grass on the course and lush landscaping at some homes lure the horses.

Last winter, the club recruited volunteers to try to corral the horses. They set up corrals and three times attempted to catch them in the early morning hours, but the horses proved to be too strong. "They would ride right through and disappear when they see us coming. No luck there," Chalfin said.

Another time they set up temporary corrals with salt licks. "Again no luck. They're strong and smart and fast. It's not easy to catch one and once we

catch one, it's hard to keep it corralled. They tear it up," he said.

"My cowboy friends laugh when I tell them" Wahlin said.

Chalfin sent a letter to each tribal council member, but the only response he received was from Noland Clay who reportedly told him to shoot the horses. "I told him, 'If you give me permission, I will.' I hate to do it, but I would."

"On the reservation, a horse is a way of life, it's part of life. I don't think they get excited about it," Wahlin said.

Alex Ritchie, tribal attorney and public information officer, said he had no comment because the council had

yet to discuss the issue. A discussion on the subject is slated for Wednesday, Ritchie said.

"I don't think the tribe has funds (for a fence)," Chalfin said.

Chalfin has written to Rep. Jack Brown, Sen. Jake Flake, U.S. Rep. Rick Renzi and is now drafting a letter to Gov. Janet Napolitano. He has also written to 13 different local, state and tribal agencies. He believes his appeals have "fallen on deaf ears" and has received few responses, "form letters," he said.

"It's a frustrating situation. We just cannot find anyone to help us," Chalfin said.

"There's a lot of damage, but the greatest issue is safety. Horses are crossing the highway at night, sometimes two or three times. I feel ADOT needs to protect our highway. They are on state land. They come off the reservation, but they get on state land." Wahlin remembers a fence disappearing around the mid-80s.

Wahlin and Chalfin have repeatedly

contacted ADOT about the problem. They've been told by local ADOT representatives that they can't act without permission from their supervisors and that the agency is trying to get the tribe to put up a fence.

Bill Pederson, ADOT's public involvement officer, told The Independent the fence along the highway was originally installed by the tribe, not ADOT. "It has deteriorated to the point of allowing horses to cross the highway and causing the problem," Pederson said.

He said ADOT has "made the decision that there is a problem and since no one else is addressing the problem, we will." ADOT wants to install a fence from Hon Dah to Pinetop along the highway along with cattle guards at a cost of \$450,000.

However, funds are not available until next fiscal year which starts July 1. "Funding is allocated to each district. This is part of the Globe district which already has allocated money for this year," Pederson said.

Concerned citizens "will be pleased to know we're addressing the problem, but they probably won't be excited to hear it will take such a long time," he said.

As predicted, Chalfin isn't thrilled with the timeline. "We can't wait any more. We can't sit and watch our property get destroyed. We've decided to go ahead and take the burden on ourselves," Chalfin said.

In April, Pinetop Lakes Golf Club applied to ADOT for permission to install a 1000-foot four-wire fence and cattle guard from the reservation line to Branding Iron Loop, near The Smoke Shop. Permission was granted. The club says it will cost approximately \$5,000.

"The goal is to deny horses entry to the property. We're now taking bids," Chalfin said.

In the meantime, the problem seems to be escalating. "Every year there are more horses. They bring with them their young ones and the problem continues to grow," Wahlin said.

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James W
Payne/R3/USDAFS
09/07/2005 06:17 PM

To Elaine J Zieroth/R3/USDAFS@FSNOTES, Deb
Bumpus/R3/USDAFS@FSNOTES, Robert
Dyson/R3/USDAFS@FSNOTES, Kathleen
Klein/R3/USDAFS@FSNOTES
cc Carl Holguin/R3/USDAFS@FSNOTES, Art
Morrison/R3/USDAFS@FSNOTES, Karen M
Carter/R3/USDAFS@FSNOTES, Sheila I
Poole/R3/USDAFS@FSNOTES, pdl r3 all paos@FSNOTES

bcc

Subject AZ Republic article on unauthorized horses on A/S NF

FYI- This ran in Sundays AZ Republic. Also NBC/CH-12 ran a piece on this last Monday evening. Jim

<http://www.azcentral.com/news/articles/0903horses03.html#>

James W. "Jim" Payne
Public Affairs, Regional Media Officer
and Arizona National Forest Issues Mgmt.
Southwestern Region, USDA Forest Service
Phoenix, Arizona
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jwpayne@fs.fed.us

Animal groups trying to halt roundup of horses on forest land

Mary Jo Pitzl
The Arizona Republic
Sept. 3, 2005 12:00 AM

A trio of animal-conservation groups is trying to stop the roundup of several hundred horses in the Apache-Sitgreaves National Forests, claiming forest officials risk sending wild horses to slaughter.

The groups on Friday asked Forest Supervisor Elaine Zieroth to consider capturing only branded horses and letting the unbranded horses continue to run in the eastern Arizona forests.

At issue is how many of the horses are wild, which would entitle them to protection under federal law.

Zieroth contends the horses are strays that came onto the forest land from the adjoining Fort Apache Reservation when a boundary fence was demolished in the 2002 "Rodeo-Chediski" wildfire. If they are strays, they would be rounded up and sold at auction if the Forest Service were unable to locate their owners.

"We don't believe they're wild horses," Zieroth said of the estimated 300 to 400 horses. They are a nuisance, grazing illegally on forest land, and, by policy, must be removed.

But Debra Sirower, an attorney representing the animal-defense groups, said Zieroth's office has not done the proper studies to determine how many wild horses still roam 14,000 acres in the forests that were set aside as protected horse territory

in 1971.

Zieroth said a 1991 census determined the wild horses were gone; Sirower said the Forest Service needs to back that up with a current study. Besides, she said, area residents have said that many of the horses on the forest land are wild ones that have been there for years.

"There's been no investigations or research over the years," she said.

Sirower is representing the Tempe-based In Defense of Animals; the International Society for the Protection of Mustangs and Burros, which is based in South Dakota; and the Animal Welfare Institute, in Washington D.C.

If forest officials proceed with plans to award a bid for a contractor to do the roundup, Sirower said the groups are prepared to seek an injunction in federal court.

Zieroth on Friday said roundup plans continue, but may be slowed because the forests' business office is based in hurricane-ravaged New Orleans.

She said she hopes the contract can be awarded next week, but it might take until mid-September.

After the roundup, those horses that can't be identified and returned to their owners will be shipped to an auction lot in Holbrook.

Many of the animals sold at those auctions are ultimately slaughtered, which is why the animal groups are concerned about the sale, Sirower said.



United States
Department of
Agriculture

Apache-Sitgreaves
National Forests

P.O. Box 640
Springerville, AZ 85938-0640
(928) 333-4301 FAX: 333-5966
TTY: (928) 333-6292

File Code: 5330-4

Date: September 7, 2005

Ms. Debra Sirower
Bryan Cave LLP
One Renaissance Square
Two North Central Ave., Suite 2200
Phoenix, AZ 85004-4406

Dear Ms. Sirower:

This letter is in response to your letters of August 26 and 31, and September 2, 2005, concerning the proposed gathering of stray livestock on the Apache-Sitgreaves National Forest. Specifically you were inquiring about the approximately 300 horses that have strayed from the Fort Apache Reservation onto National Forest System lands in the area from Pinetop to Heber, Arizona. You also cited two Freedom of Information requests in your letters and those will be formally processed through our FOIA Officer.

We are confident that the horses involved in this action strayed onto the forest after the Rodeo-Chediski Fire in 2002. The fences between the reservation and the national forest were burned by the fire and were ineffective in stopping the movement of livestock. According to our Bureau of Indian Affairs and Tribal contacts, the BIA rounded up several hundred of the horses that graze freely on reservation land, to prevent damage to the areas being reclaimed following the fire. During their round-up, they indicated that hundreds of horses likely were pushed onto the national forest. The BIA then rebuilt the fences, trapping the horses on the forest.

We have very clear direction under 36 CFR 262.10 and our policy Handbook for Law Enforcement, FSH 5309.11 on impoundment procedures for stray livestock. Impoundment of stray livestock is a law enforcement activity and under 7 CFR 1b.3, the Secretary has excluded from documentation (EA or EIS) certain categories of actions, including law enforcement activities. Therefore, we are not required to complete an environmental document for this action.

I have provided Dr. Haight with a copy of our impoundment policies. We have notified the White Mountain Apache Tribal Chairman and Tribal Attorney of a Notice of Impoundment Action and given tribal members more than 30 days to come gather their horses. No horse owners have come forward. As I stated, there are hundreds of horses grazing freely on the reservation so they are not really managed there. The next step is to gather the horses and contact the State Department of Agriculture, under our Cooperative Agreement (C.A.) with the State of Arizona Livestock Sanitary Board. We have received a letter from the State concerning the procedures. The State Brand Inspector inspects the horses for brands and the owners of the brands are contacted and given five days to redeem their animals. The C.A. states: "That unbranded, unmarked or branded unknown ownership horses, mules, asses, cattle, sheep or goats impounded by the agencies on Public Lands will be turned over to the Board for disposal...".

As you are aware, we have advertised for a contractor to gather the horses. We have a FOIA request from Dr. Haight, asking for the contractor's name once the contract is awarded. You



have also asked under FOIA how the award of the bid was extended. We will formally respond to the FOIA, but let me explain that the contract itself was not extended, but our time limit for obligating Fiscal Year 2005 funds under contracts was verbally extended to September 10, 2005. With the impacts from Hurricane Katrina in New Orleans, we are not certain whether our National Finance Center there will be able to find alternative locations for processing our financial instruments. We are trying to award the bid this week, but do not know if we will be successful. I will inform you if we do award the bid.

We do not classify these stray horses as "wild and free-roaming horses", nor do they have any connection to the Heber Horse Territory of record. The 1974 report on the Heber Territory lists 7 horses within the territory. The "Ninth Report to Congress on the Administration of the Wild Free-Roaming Horse and Burro Act" (following the 1990-91 censuses) lists 5 horses. The 1991 report FS-2200-E also notes: "Approximately 5 feral horses wander along the Mogollon Rim back and forth from the White River Apache Reservation. The Indians do not manage the horses, neither does the Forest Service. Natural Attrition will eliminate the horses eventually". The 2200-E report goes on to state, under program needs: "Elimination of incidental feral horses and burros from formal management consideration to reduce impacts on management resources, personnel and time. The A/S "herd" should not be recognized at all." The 1993 letter from the Heber District Ranger lists 2 mares in the territory. We always have a certain number of stray horses from the reservation, and these are no doubt the horses that some of your contacts see in the area.

If you would like to send me any of the materials you mentioned, I would welcome seeing them. I would also be available for a meeting in my office if you wish. I do not have any plans to be in Phoenix, however, this month. Please contact me if you would be available to meet.

Sincerely,

/s/ Elaine J. Zieroth
ELAINE J. ZIEROTH
Forest Supervisor

cc:
Ralph Giffen, WO Range
Gene Onken, RO
Deb Bumpus, A-S Range Staff
Ed Collins, Lakeside District Ranger
Kate Klein, Black Mesa District Ranger

cc:

Unauthorized Horses to be Removed From National Forest Near Heber

Springerville, AZ (August 30, 2005).... The Apache-Sitgreaves National Forests in the next month will be removing some of the approximately 300 horses that are currently grazing a portion of the Rodeo/Chediski burned area near Heber. The horses come from adjacent lands and attempts to locate their owners have met with only limited success. Significant numbers of stray, domestic horses were in the area before the Rodeo-Chediski Fire in 2002 but even more horses came onto the National Forests after the Forest Service had seeded the burned area. The fire destroyed boundary fencing allowing unobstructed movement of horses from adjacent lands. Some horses have been removed by their owners in the past three years but the numbers are steadily increasing.

"We have tried to locate the owners of these horses and we have posted impoundment notices throughout adjacent communities in an attempt to have the owners remove these horses but people have not responded," said Elaine Zieroth, Forest Supervisor. "If the owners do not come forward, we

plan to have a contractor gather the horses as humanely as possible and then we will post notices one final time to try to locate the owners. We will work with the State of Arizona Brand Inspector to locate owners of branded animals but, if we do not locate the owners, the horses will be taken to a sale barn for public auction," she said.

The horses are stray, domestic horses and are not considered wild. Forest Service regulations for handling such animals does not allow for adoption. The agency uses a Cooperative Agreement with the Arizona Livestock Sanitary Board to auction unclaimed animals. Sale receipts from the auction would be used to defray expenses incurred by the agencies in the impoundment process. A contract to gather the horses has been advertised but not yet awarded.

In the early 1970s a Heber Wild Horse Territory was established under the authority of Wild Horses and Burros Protection Act to protect approximately seven horses. That small group had diminished to five animals in 1991 and to only two animals in 1993. Subsequent observations have produced no evidence of any remaining animals from that group. Even so, the Forest Service will not remove any stray, domestic horses from that Territory under the upcoming contract.

For more information, please contact Elaine Zieroth at 928-333-6300 or Deborah Bumpus at 928-333-6220.


BRYAN CAVE

Facsimile Cover

Bryan Cave LLP
 One Renaissance Square
 Two North Central Avenue
 Suite 2200
 Phoenix, AZ 85004-4406
 Tel (602) 364-7000
 Fax (602) 364-7070
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Date:	September 8, 2005	Telephone:	602-364-7153
From:	Debra A. Sirower	Sender's Direct Fax Number:	602-716-8452
To:	Elaine J. Zieroth, Forest Supervisor	Fax Number:	928-333-5966
Company:	U.S. Dept. of Agriculture	Telephone:	
Matter	N002578	Number of Pages Including Cover:	2
Message:			

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 BRYAN CAVE

 Debra A. Sirower
 Direct: 602-364-7153
 Fax: 602-716-8452

September 8, 2005

By Fax (928) 333-5966 & U.S. Mail
 Elaine J. Zieroth, Forest Supervisor
 Apache-Sitgreaves National Forests
 U.S. Dept. of Agriculture
 P.O. Box 640
 Springerville, AZ 85938-0640

Re: Removal of All Horses from Apache-Sitgreaves Forest

Dear Ms. Zieroth:

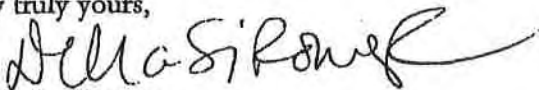
Thank you for returning my call this afternoon.

As I stated on the phone, my clients are still disappointed that the Forest Service stands by its position that all horses living within the Apache-Sitgreaves National Forests are strays and/or trespass livestock. As I advised you, we have signed affidavits of local residents who readily confirm that wild horses have lived in the area well before the Rodeo-Chediski fires in 2002 and the horses you seek to remove are not simply "stray" or "trespass." We have local eye witness reports back as early as the 1970s. Unfortunately, the U.S. Forest Service is adhering to its position that none of the horses in the forest are "wild" within the definition of the 1971 Act, despite the nearby Heber Territory Wild Horse sanctuary dedicated by Congress in the 1970s.

The purpose of this letter is to advise you that unless the U.S. Forest Service agrees to delay its award of any bid for removal indefinitely, or until we can reach amicable resolution, we have no choice but to apply for an ex parte (or without notice) temporary restraining order tomorrow in federal court. If you are willing to refrain from awarding a bid until we are able to resolve this dispute, please call me first thing tomorrow or as soon as possible. Otherwise, we will be seeking such relief tomorrow.

Thank you for your time.

Very truly yours,



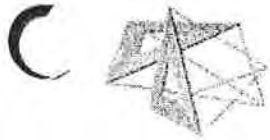
Debra A. Sirower

DAS:ck

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And Bryan Cave,
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Kathleen Klein/R3/USDAFS
09/21/2005 07:53 AM

To: Kendell L Hughes/R3/USDAFS@FSNOTES
cc
bcc
Subject: Fw: Payson Roundup: "Fate of 'wild' horses stalls in legal wrangling" 9/16/05

Just in case you haven't seen this one, here it is.

=====
Kate Klein
District Ranger, Black Mesa Ranger District
Apache-Sigreaves National Forests
PO Box 968, Overgaard, AZ 85933
(928) 535-4481
=====

----- Forwarded by Kathleen Klein/R3/USDAFS on 09/21/2005 07:53 AM -----



James W Payne/R3/USDAFS

09/20/2005 06:51 PM

To: Deb Bumpus/R3/USDAFS@FSNOTES, Robert Dyson/R3/USDAFS@FSNOTES, Kathleen Klein/R3/USDAFS@FSNOTES
cc: David M Stewart/R3/USDAFS@FSNOTES, Carl Holguin/R3/USDAFS@FSNOTES
Subject: Payson Roundup: "Fate of 'wild' horses stalls in legal wrangling" 9/16/05

Another story on A/S NF unauthorized horses. Link and I copied it to bottom of message. **Jim**

James W. "Jim" Payne
Public Affairs, Regional Media Officer
and Arizona National Forest Issues Mgmt.
Southwestern Region, USDA Forest Service
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jwpayne@fs.fed.us

The Payson Roundup

Fate of 'wild' horses stalls in legal wrangling:
http://www.paysonroundup.com/section/frontpage_lead/story/20467

The Payson Roundup



Fate of 'wild' horses stalls in legal wrangling

By Jim Keyworth, Roundup staff reporter

Friday, September 16, 2005

Three animal protection groups have joined forces to stop the Apache-Sitgreaves National Forest from auctioning 400 "wild" horses, fearing the animals will be purchased for slaughter.



Pamela L. Reed photo©

Photographing the horses roaming the Apache-Sitgreaves National Forest proved a daunting challenge for professional photographer Pamela Reed. She finally captured this and a few other images one evening at dusk after pursuing them for a week.

But forest officials call them "trespass" horses, and therein lies the dispute.

"A lot of folks are trying to paint them as wild horses because there are different laws that apply when they are wild horses," Eileen Zieroth, forest supervisor, said. "We don't consider them wild horses; they're stray horses."

The law that applies to the horses is the Wild Horse and Burro Act, passed in 1971, designating the Heber Territory as a protected wild horse and burro sanctuary. Joe Wager, editor of the statewide horse magazine "Bridle and Bit" is working with the three groups -- In Defense of Animals (IDA), The Animal Welfare Institute and the International Society for the Protection of Mustangs and Wild Burros.

"The wild horse sanctuary runs along Highway 260 from Forest Lakes to Heber, then it runs south out of Heber, winds around Black Canyon Lake, and runs over to the Gentry Watchtower," Wager said. "It's composed of 14,000 acres."

The horse population increased in the sanctuary following the Rodeo-Chediski Fire in 2002.

"The fences between the national forest and the White Mountain Apache tribal lands burned up in the fire and there are a lot of horses that run loose on the tribal lands," Zieroth said. "So when

the fences were down a lot of those animals got through that area and onto the national forest"

Forest officials claim the vast majority of the 400 horses came from tribal lands.

"All of our records indicate that the last time anyone saw any horses in (the Heber Territory) that were part of (the original group of wild horses) was about 12 years ago, and there were two mares left," Zieroth said. "Now we have hundreds of horses, and obviously those two mares didn't produce hundreds of horses."

But Wager disputes Zieroth's claim.

"The forest alleges that all the wild horses died, but everybody knows that's just a lie," he said. "Before the fire the fence was nothing, it was down everywhere, and the horses just ran back and forth."

"Some of those horses go back to 1650 when Father Keno left them, and the herd has just perpetuated itself."

Wager said the forest has a definite motive in having the horses designated as strays

"They have to come up with a new forest plan in 2006 and they'd rather not include those horses in their management plan," he said. "They thought they'd just snooker it through."

The forest was hoping to select a contractor to capture the horses by the end of September and hold the auction by the end of October. But last Friday a federal district court judge issued a temporary restraining order against the forest, pending a hearing scheduled for Sept 23.

"That will keep us from both awarding the contract and proceeding with any gathering activities until we've had time to sit down and negotiate how to work through this," Deb Bumpus, forest ecosystems staff officer, said.

Forest officials said the tribe initially indicated it wasn't interested in getting the horses back, but recently changed its position and agreed to help identify those that belong to the tribe

"The Forest Service and this forest in particular has absolutely no interest in disposing of horses that would qualify under the wild horse and burro act, but the branded ones definitely belong to somebody and we want to find their owners," Bumpus said.

If some or all of the horses end up being sold, the best way to keep them from being slaughtered is for horse lovers to purchase them and give them good homes, Zieroth said.

"There's always the potential that if they are sold at a public auction they could be bought for slaughter, but if groups are real concerned they can come and buy the horses," Zieroth said. "We have to recoup our costs. We can't give away horses. We can't put them up for adoption."

However it plays out, Zieroth is certain of one thing-- the horses can't stay in the forest

"One of the reasons the national forests were formed 100 years ago is that people were pretty much turning animals onto them to graze and there was a lot of overgrazing," she said. "We're trying to reclaim the area after the fire, and we just don't have room there for stray animals"

But if the judge rules the way Wager thinks he will, the forest will just have to make room for the horses.

"There is no way in the world the judge can find in favor of the Forest Service in the face of the quality of the affidavits, the quality of the people rendering the affidavits, and sheer logic, frankly," he said. "So what he's going to do is refer the Forest Service to the act and say you are going to have to manage these horses as per the act."

While Zieroth appreciates the zeal of the protection groups, she has a forest to run.

"Horses are a nice image and it's kind of a no-win," she said. "But we're not a sanctuary for all the stray horses, because they reproduce"

The coalition of animal protection groups is raising money to purchase the horses and to continue the legal battle. Tax-deductible donations can be sent to In Defense of Animals, 2121 S. Mill Ave., Suite 107C, Tempe, AZ 85282. For more information, call (480) 394-0578.

Mailroom WO
Sent by: olga alvarado

To: Mailroom R3 Apache Sitgreaves@FSNOTES
cc: baileywilliams@yahoo.com
Subject: Re: (OC): Apache-Sitgreaves Horses

09/16/2005 10:17 AM

FYI

Please see comments, below, received in the Washington Headquarter's Inbox.

<baileywilliams@yahoo.com>



<baileywilliams@yah
oo.com>

09/14/2005 01:55 PM
Please respond to
baileywilliams

To: mailroom_wo@fs.fed.us
cc:
Subject: (OC): Apache-Sitgreaves Horses

Below is the result of your feedback form. It was submitted on:
Wednesday, September 14th, 2005 at 1:55pm.

From: Bailey Williams <baileywilliams@yahoo.com>
subject: Apache-Sitgreaves Horses
comment: I am writing to encourage the re-evaluation of the Apache-Sitgreaves horses. A census taken 14 years ago cannot be expected to accurately determine the current status of wild horses in the area. As this is a protected wild horse and burro refuge I encourage you to reevaluate your status on this matter. As a horse owner and Arizona resident I was appalled to learn of how quickly you are attempting to dispose of these animals. I understand the current conditions of the forest and the need for regrowth but to call these animals a nuisance is a disgrace. I agree that you ought to attempt to locate the owners of branded horses but more should be done to research the presence of wild horses. It seems that this is a quick fix that is being hidden from view because it is plain wrong. Why not encourage the adoption of these animals? Please put more thought into this issue and I expect to see some attempt from your agency to protect the enviroment that it strives to preserve!

. Please help to preserve Arizona\'s western flair.

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Home > News > Regional > Horses in Arizona forest: wild or domestic strays?

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Horses in Arizona forest: wild or domestic strays?

By ARTHUR H. ROTSTEIN
Associated Press writer

TUCSON, Ariz. -- The future of several hundred horses roaming across portions of the Sitgreaves National Forest could hinge on their history and DNA.

And their fate also depends on whether a federal judge finds that officials have taken steps required to protect the animals.

U.S. District Judge Frederick Martone in Phoenix will decide at a hearing Sept. 23 whether to grant a preliminary injunction to keep the U.S. Forest Service from rounding up some 300 to 400 horses for slaughter.

Last week, Martone granted a temporary restraining order to keep the service from auctioning off those unclaimed by owners would be sold to the highest bidders.

"Buyers there are typically meat buyers," said Debra Sirower, a Phoenix lawyer representing animal welfare groups and two individuals trying to block the roundup and auction. "The horses would be sold for dog food or to Europe for restaurant tables."

Those seeking to save the animals -- including Sirower's clients -- also could bid for the horses. The government contends that most of the horses now on the forest strayed onto it due to the Rodeo-Chediski forest fire in 2002. The fire, Arizona's largest-ever blaze, burned 400,000 acres, including miles of fencing separating the Apache-Sitgreaves and the White Mountain Reservations.

"We had a lot of fences down and knew that we had a lot of animals crossing jurisdiction," said Apache Sitgreaves spokesman Bob Dyson.

Government officials contend that the horses are domestic, mostly branded animals, and that they have been roaming on the forest. That's based primarily on how many horses there were in the forest historically versus how many are there now, said Richard Patrick, an assistant U.S. attorney who represents the forest supervisor.

The Bureau of Indian Affairs and the White Mountain Apache tribe captured several hundred horses after the fire, Patrick said. But their roundup efforts also drove some horses onto the forest, and when the BIA rebuilt burned fences the horses effectively were locked in on the forest, he and Dyson added.

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"The tribe did a good job in capturing a large number of animals after the fire that the keep away from their reseeding efforts," Dyson said.

"Unfortunately, the ones that weren't caught tended to move up on the national forest. Subsequently, they've been increasing in population after the fences have been put ba

Dyson said Forest Service staffers have noticed "a significant triple-digit increase in he the last four years. Officials also insist that the horses have damaged grasses reseeded rehabilitate large burned sections of the forest.

Sirower represents three animal welfare organizations -- the Animal Welfare Institute, of Animals and the International Society for the Protection of Mustangs and Burros -- ; two individuals who have sued to protect the horses.

"It's my clients' position that there are wild horses there that have been there for dec likely hundreds of years," Sirower said. "But my clients have to be given the opportun it."

They believe that some of the horses' bloodlines can be traced to Andalusian ancestry brought to North America by Spanish pioneers or dating from Father Eusebio Kino's ar is now southern Arizona in the 1690s, she said.

The Forest Service wants to act now to ensure that money in its fiscal budget ending 5 might be used toward costs of a roundup might be lost if not obligated before then, Pa

"Brands on the horses would help identify them, and even for those unbranded, DNA t be a vehicle to establish whether they are wild or domestic," Patrick said.

Dyson said authorities believe the horses are not wild animals.

Sirower said her clients want a census done to determine which horses are wild and w branded. "Based on our investigation to date most are unbranded," Sirower said.

She contended that that means they should fall under protection of the Wild Horses ar Act of 1971.

Dyson said a survey of wild horses on the forest taken in 1971 found seven animals th qualified under the act, all of them on a 14,000-acre area subsequently designated as Horse Territory, near Heber.

But all those horses are believed to have been dead for a number of years, and the las conducted around 1993, found no wild horses on the Apache-Sitgreaves, he said.

E-MAIL THIS STORY

PRINTABLE VERSION

BRaille FILE

This will download to your computer a computer braille ASCII file of the current story translated into braille. This file may be sent to any standard braille embosser.





United States
Department of
Agriculture

Apache-Sitgreaves
National Forests

COPY
P.O. Box 640
Springerville, AZ 85938-0640
(928) 333-4301 FAX: 333-5966
TTY: (928) 333-6292

File Code: 6270-1 ✓

Date: September 22, 2005

Patricia Haight, Ph.D.
Southwest Regional Director
In Defense of Animals
2121 S. Mill Ave., Suite 107C
Tempe, AZ 85282

RE: Freedom of Information Act Request, Control No. A-S-2005-029

Dear Dr. Haight:

This is in response to your Freedom of Information Act (FOIA) requested dated August 23, 2005, in which you requested the following information regarding contracts awarded to remove horses from the Apache-Sitgreaves National Forests:

- *Name of any and all contractors*
- *Amount of payment awarded to remove horses per horse.*
- *Number of horses to be removed.*
- *Timeline for removal of horses.*
- *Plan for removal of horses including method of collection, holding, transportation, and final disposition.*
- *Information on agreements for dispersal of funds from any sales of horses removed from the Apache-Sitgreaves Forest.*

The procurement of the contract you refer to in your request has been cancelled, so no award will be made. Please find enclosed four documents regarding information for item #6 of your request ("Ninth Report to Congress on the Administration of the Wild Free-Roaming Horse and Burro Act", FSH 5309.11 Law Enforcement Handbook Chapter 20 Investigative Procedures—page 30, Region 3 supplement to FSH 2200—page 10, and the Region's report of wild horses and burros dated November 4, 1974).



Patricia Haight, Ph.D.

If you have any questions, please contact Ms. Tammy K. Slade, Forest FOIA Coordinator, at (928) 333-4301.

Sincerely,

for *Daryl D. Jernon*
ELAINE J. ZIEROTH
Forest Supervisor

Enclosures

FSH 5309.11 - LAW ENFORCEMENT HANDBOOK
CHAPTER 20 - INVESTIGATIVE PROCEDURES

An owner may redeem impounded livestock any time before the date and time of the sale by showing proof of ownership and paying costs incurred in gathering and holding the unauthorized livestock.

c. Impounded Livestock Sale. When possible, have a State Brand Inspector present at all sales. Offer impounded livestock that are not redeemed by the date and time set for sale at public auction. Prior to sale, a District Ranger shall establish a minimum price for each animal. This minimum price shall be no less than the impoundment costs, except where costs exceed the fair market value of the animals.

Sell the animals as individuals. Consider a female with dependent offspring of less than 6 months of age as one animal. Do not group the animals together and sell collectively. Keep records of each animal sold.

If a bid of the minimum redemption price is not received at the public sale, sell the animals by private sale at the established minimum price, or reoffer the animals at public sale for a progressively lower price until a bid is received. If the animals are not sold, they should be condemned and destroyed or otherwise disposed of. Agreements may be made with State agencies to dispose of unredeemed livestock (36 CFR 262.10 (f)).

d. Payments. Do not accept personal checks to cover sale or redemption of impounded animals unless delivery is delayed until collection is effected.

Payments should ordinarily be made in the form of a draft, money order, or cashier's check made payable to "Forest Service USDA." When processed, remittances should be accompanied by Form FS-6500-89, Bill for Collection, prepared in accordance with FSH 6509.11h.

Keep records for each animal sold to show the kind of livestock, brand, place and date of sale, name and address of the purchaser, sale price, and method of payment (money order, draft, and so forth).

In the event proceeds from the sale of livestock of known ownership exceed claims for damages and impoundment costs charged against the livestock, refund the money collected in excess of that owed the United States to the previous owner of the animals. However, in cases where the previous owner still owes for the value of grazing, make no refunds until such obligations have been paid.

e. Bill of Sale. Upon the sale of any impounded livestock, the Forest Supervisor is authorized to issue a bill of sale, certificate, or other written evidence of sale to the purchaser. Use Form FS-2200-31, Bill of Sale of Impounded Livestock. Although the sales shall be made by individual animals, prepare one bill of sale for all animals purchased by a buyer. Authority for issuing the bill of sale may be delegated to the District Ranger.

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

Region 3
517 Gold Avenue S.W.
Albuquerque, New Mexico 87102



NOV 08
2260
November 4, 1974

Ms. Jeanne C. Raudenbush
Research Librarian
Denver Public Library
1357 Broadway
Denver, Colorado 80203

Dear Ms. Raudenbush:

Enclosed are copies of the Forests' reports of wild horses and burros as of December 1973 and maps of territories.

A summary of numbers by territories follows:

ARIZONA

Forest

Kaibab

Prescott

* → Sitgreaves

Tonto

Territory

Double A

Limestone

Heber

Saguaro

Numbers

10 Burros

12 Burros

7 Horses

14 Burros

RECEIVED

NOV 7 1974 NEW MEXICO

TO	ACI 11370	
JFV		Forest
EF/RES		
FR		Carson
ANNE/WL		
LOP/LE/FIRE		
SEP		
W/STOOLS		
W/OC		
SEP/FNGR		
F/CONST		
RES/EDGR		
CONST		
LANDS		
DOB/OPMS		Gila
ADD/SUS		
OFF/SCRV		
B&F		
RESOURCE		
SCR/NE		
TECH		

Territory

Jicarilla

Mesa Las Viejas

Mesa Montosa

El Rito

Deep Creek

Numbers

70 Horses

8 Horses

8 Horses

12 Horses

8 Horses

2

Forest

Santa Fe

Territory

San Diego

Bandeleria

Caja del Rio

Chicama

Numbers

25 Horses

5 Burros

30 Horses

5 Horses

Total for Southwestern Region:

	173 Horses
	41 Burros
Total	<u>214</u>

These numbers do not include the 1974 foal crop or death losses.

I hope this information will be of assistance to you.

Sincerely,

W. R. Fallis

W. R. FALLIS
Director
Range Management

Enclosures

authorization to the claimant setting forth the terms and conditions of the gathering of animals.

B. Estray Animals

(This section applies to only those horses and burros which do not meet the definition of Wild Free-Roaming Horses and Burros, Section A).

1. That unbranded, unmarked or branded of unknown ownership horses, mules, asses, cattle, sheep or goats impounded by the Agencies on Public Lands will be turned over to the Board for disposal; that when these animals and those in Paragraph 3 below are disposed of in accord with State Law, the Board will first deduct its costs for holding and selling the animals from the proceeds, if any, of said disposal. Remaining funds will be used to reimburse the Agencies for their impoundment costs.

2. The Board will recognize the impoundment and sale procedure of branded horses, mules, asses, cattle, sheep or goats "of known ownership" under Secretary of Agriculture's Regulations 36 CFR 261.13 and the Bureau's authority under 43 CFR 9239.3, provided that bills of sale are notarized or acknowledged in accord with Arizona State Law. All livestock sold under this section must be inspected as per the Board's regulation and the owner issued the necessary certificate upon removal of animal(s) from Public Lands.

3. That impounded swine of unknown ownership will be turned over to the Board for disposal in a manner similar to the procedures described in Paragraph 1 above. Swine of known ownership will be disposed of by the Agencies under the provision of 36 CFR 361.13 or 43 CFR 9236.3 as shown in Paragraph 2 above.

C. Disposal of Animals

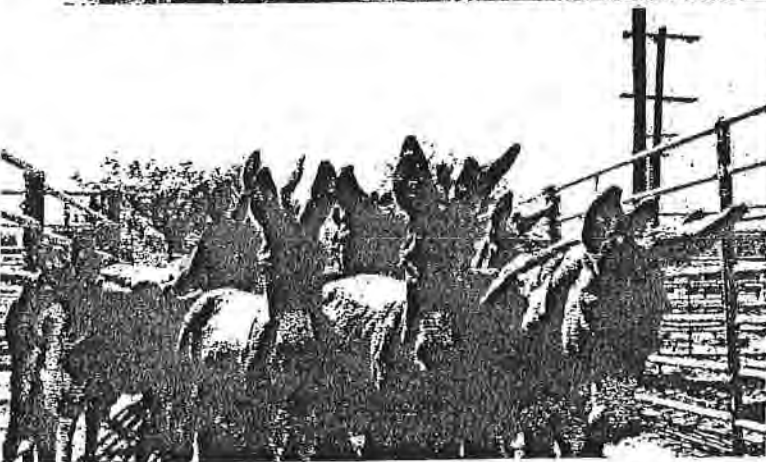
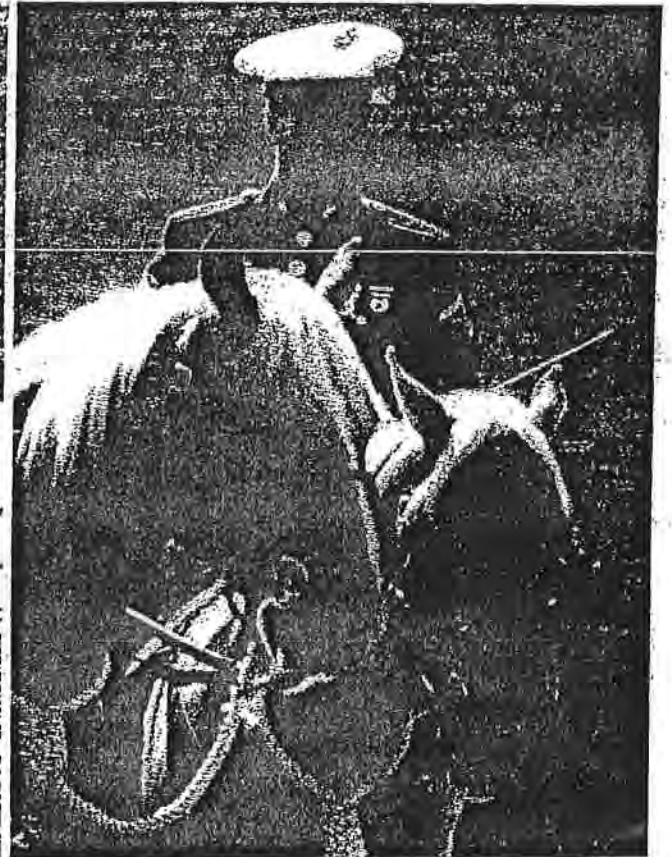
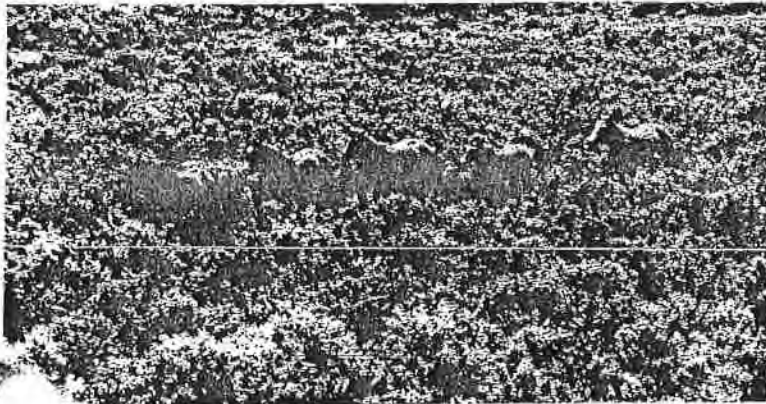
Pursuant to the Act and regulations, the Agencies may direct the disposal of animals. Prior to disposal, the Agencies will consult with the Board regarding disposal of animals except in acts of mercy requiring immediate actions. Disposal will be in accordance with State laws concerning humane treatment of animals and public health and sanitation. Horses or burros known to be infected with certain communicable or infectious diseases such as "swamp-fever" or "sleeping sickness" will be handled in accordance with applicable State laws.

D. Violations; Enforcement

In the event of alleged or known violations of the Act, the Agencies will contact the Board to validate the ownership status of the animal(s) involved according to the criteria set forth in this agreement.

The Board may assist in enforcement proceedings where wild free-roaming horses or burros are involved.

Ninth Report to Congress on the Administration of the Wild Free-Roaming Horse and Burro Act



**United States Department of the Interior
Bureau of Land Management**

**United States Department of Agriculture
Forest Service**

Executive Summary

The Wild Free-Roaming Horse and Burro Act of 1971, as amended, calls for the protection, management, and control of wild horses and burros on the public lands at population levels that assure a thriving natural ecological balance and multiple-use relationship on the range.

Fiscal Years (FY) 1990 and 1991 mark the turning point for the Wild Horse and Burro Program to address population increases in wild horse herds and the effectiveness of the Adopt-A-Horse or Burro Program to place excess animals in good homes. Recommendations were made by the Wild Horse and Burro Advisory Board, and internal reviews were conducted. These recommendations and findings resulted in major changes in all facets of the program. We began 1992 with the development of policies and procedures to ensure new and positive program thrusts.

In 1990 and 1991, the Secretary of Agriculture and the Secretary of the Interior, recommended policy initiatives for evaluating the program and for achieving the purposes of the Wild Free-Roaming Horse and Burro Act. These initiatives are now the foundation for resolving the natural resource management issues presently challenging the BLM.

To further facilitate the implementation of these new initiatives less emphasis was placed on some less essential portions of the adoption program and more effort was placed on herd and habitat management. As a result of this new emphasis, funding for herd and habitat management and for adoption was increased by 20 percent and 19 percent respectively during FY 1990/91, and adoption costs were reduced by 26 percent from funding levels during the previous 2-year period.

During the 2-year period, a total of 12,054 wild horses and burros were removed from the public lands. In spite of the increased funding for removals in FY 1990 and 1991, the population of wild horses and burros on public lands administered by the BLM increased from 46,550 at the end of FY 1989 to nearly 50,700 at the end of FY 1991. Wild horse and burro populations declined to approximately 2,100 animals on areas administered by the Forest Service (FS). The wild horse and burro population on BLM and FS administered areas is about 21,400 animals above the level estimated to be appropriate.

Almost 10,200 wild horses and burros were adopted in FY 1990 and 1991. The remaining 1,800 animals were older unadoptable animals shipped to sanctuaries in South Dakota and Oklahoma, or were being trained in prison training facilities, or died of age, injury or disease. During the 2-year period the two sanctuaries provided care for between 3,000 and 3,700 wild horses and the prison program provided over 2,000 trained animals for the adoption program.

It is the objective of both the BLM and FS to place wild horses and burros with individuals who will provide proper care to the adopted animals. To assure that adopted animals are receiving humane care, we visited over 1,500 adopters and inspected their adopted animals in FY 1990 and 1991.

WILD HORSE AND BURRO TERRITORIES
ADMINISTERED BY THE USDA FOREST SERVICE

FS REGION	STATE TERRITORY NAME	ACREAGE			TERRITORY PLAN FY COMPLETED	DESIRED POP.		CURRENT POP.		FY LAST CENSUS
		FS	BLM	OTHER		HORSE	BURRO	HORSE	BURRO	
REGION 1										
MONTANA										
(No Wild Horse and Burro Territories Administered by U.S. Forest Service)										
REGION 2										
(No Wild Horse and Burro Territories)										
REGION 3										
ARIZONA										
	DOUBLE A	29,766	0	0	84	0	20	0	26	—
	HEBER	14,000	0	0	—	—	0	5	0	—
	SAGUARO LAKE	27,092	0	0	87	0	15	0	18	—
NEW MEXICO										
	CAJA	12,928	0	0	89	48	0	48	0	88
	DOME	2,000	0	0	—	0	—	0	0	—
	JARITA MESA	19,483	0	0	82	14	0	20	0	—
	JICARILLA	75,000	0	0	78	40	0	85	0	91
	YESO-MONTOSA MESA	2,400	0	0	—	—	0	—	0	—
R-3	TOTALS	182,669	0	0		102	35	158	44	

Independent 9-27-05

Congress moves to stop horse slaughter

Jo Baeza
The Independent

WHITE MOUNTAINS — The approximately 300 horses on the Apache-Sitgreaves National Forest scheduled for roundup and auction may not spend their final days waiting to die in a slaughterhouse.

In fact, they may not be gathered any time soon. The status of the horses running illegally on the national forest is on hold.

On Sept. 9 attorneys for In Defense of Animals filed a temporary restraining order against the USDA Forest Service halting the award of a contract to gather and remove "trespass horses" from an area along the Mogollon Rim.

A spokesman for the Apache-Sitgreaves National Forest said the federal agency's attorneys filed a response to the temporary restraining order suggesting a hearing so both sides could get together and talk before a federal judge.

A spokesman for Debra Sirower, attorney for the three animal protection groups that are attempting to halt the contract for gathering the horses, said the hearing scheduled for Sept. 23 was postponed for 90 days by the judge.

In the future, contractors willing to roundup unwanted horses may not have much incentive to gather them.

According to the Society for Animal Protective Legislation, both the House and Senate have passed the Ensign/Byrd Amendment to the Senate Agricultural Appropriations Bill. The Ensign/Byrd Amendment is one of three amendments tacked onto the annual appropriations bill dealing with animal protection.

Arizona senators John McCain and Jon Kyl both voted for the amendment that bars federal funds from being used to facilitate the slaughter of horses. The amendment, introduced by Sen. John Ensign (R-Nev.) and Sen. Robert C. Byrd (D-W. Va.), was approved by a vote of 68-29 in

the Senate. A similar amendment that prevents American horses from being exported for slaughter abroad passed the U.S. House of Representatives June 8.

The amendment will now go to a conference committee composed of members of the House and Senate. If it is approved by the conference committee, it will go President Bush for his signature.

Since the Ensign/Byrd amendment is attached to Senate Agriculture Appropriations Bill, the ban on horse slaughter, if signed, will only be for one fiscal year beginning in October. However, other legislators are working on introducing a Congressional Act that would place a permanent ban on horse slaughter for consumption — the American Horse Slaughter Prevention Act. The Act would prohibit the transport, purchase, selling or donation of both wild and domestic horses to be slaughtered for human consumption here and abroad.

Individuals, legislators and animal

protection groups have been working for years to end horse slaughter. In a publication of the Society for Animal Protective Legislation, Sen. Byrd was quoted as saying: "Horses can be shipped for more than 24 hours without food, water, or rest. They can be transported with broken legs, missing eyes, or while heavily pregnant ... The cramped nature of their transport often results in trampling, with some horses arriving at the slaughterhouses seriously injured or dead."

The ban will not prevent horses from being sold at auction. It will prevent federal funds from being used to facilitate the slaughter of horses.

Ensign, one of the sponsors of the amendment, is a veterinarian as well as a senator. He is quoted in the publication of the Society for Animal Protective Legislation: "The time has come to put an end to the practice of slaughtering horses in America. Horses have an important role in the history of our country, particularly in the West, and they deserve protection."

COPY



United States
Department of
Agriculture

Apache-Sitgreaves
National Forests

P.O. Box 640
Springerville, AZ 85938-0640
(928) 333-4301 FAX: 333-5966
TTY: (928) 333-6292

File Code: 6270-1✓

Date: September 29, 2005

Ms. Debra A. Sirower
Bryan Cave LLP
One Renaissance Square
Two North Central Avenue, Suite 2200
Phoenix, AZ 85004-4406

RE: Freedom of Information Act Requests, Control No. A-S-2005-031

Dear Ms. Sirower:


This is in response to your Freedom of Information Act (FOIA) requests dated August 31 and September 2, 2005, in which you requested:

1. *Any documentation evidencing the extension of the bid award from September 1 until September 8, 2005, for the removal of horses from the Apache-Sitgreaves NF's.*
2. *Identify what steps, including any investigation or reports, that your office has undertaken to confirm that all 400 of these horses are domestic and not wild.*

The procurement of the contract you refer to in your request is in the process of being cancelled, so no award will be made. Regarding item #2, please find enclosed a copy of my September 7, 2005, letter to you in which I addressed this issue.

If you have any questions, please contact Ms. Tammy K. Slade, Forest FOIA Coordinator, at (928) 333-4301.

Sincerely,


ELAINE J. ZIEROTH
Forest Supervisor

Enclosure

cc:
A-S FOIA



have also asked under FOIA how the award of the bid was extended. We will formally respond to the FOIA, but let me explain that the contract itself was not extended, but our time limit for obligating Fiscal Year 2005 funds under contracts was verbally extended to September 10, 2005. With the impacts from Hurricane Katrina in New Orleans, we are not certain whether our National Finance Center there will be able to find alternative locations for processing our financial instruments. We are trying to award the bid this week, but do not know if we will be successful. I will inform you if we do award the bid.

We do not classify these stray horses as "wild and free-roaming horses", nor do they have any connection to the Heber Horse Territory of record. The 1974 report on the Heber Territory lists 7 horses within the territory. The "Ninth Report to Congress on the Administration of the Wild Free-Roaming Horse and Burro Act" (following the 1990-91 censuses) lists 5 horses. The 1991 report FS-2200-E also notes: "Approximately 5 feral horses wander along the Mogollon Rim back and forth from the White River Apache Reservation. The Indians do not manage the horses, neither does the Forest Service. Natural Attrition will eliminate the horses eventually". The 2200-E report goes on to state, under program needs: "Elimination of incidental feral horses and burros from formal management consideration to reduce impacts on management resources, personnel and time. The A/S "herd" should not be recognized at all." The 1993 letter from the Heber District Ranger lists 2 mares in the territory. We always have a certain number of stray horses from the reservation, and these are no doubt the horses that some of your contacts see in the area.

If you would like to send me any of the materials you mentioned, I would welcome seeing them. I would also be available for a meeting in my office if you wish. I do not have any plans to be in Phoenix, however, this month. Please contact me if you would be available to meet.

Sincerely,



ELAINE J. ZIEROTH
Forest Supervisor

cc:

Ralph Giffen, WO Range
Gene Onken, RO
Deb Bumpus, A-S Range Staff
Ed Collins, Lakeside District Ranger
Kate Klein, Black Mesa District Ranger

Southwestern Region (R3)
USDA Forest Service
Rangeland Management

333 Broadway Blvd., SE
Albuquerque, NM 87102
Fax: (505) 842-3150
Facsimile Transmittal

To: Kendell L. Hughes

Company: A-S-Black Mesa

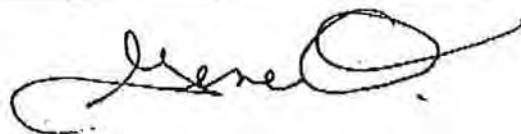
Fax Number: 91-928-535-5972

From: Gene Onken

Phone Number: (505) 842-3227

Number of Pages to Follow: 15
(Does not include cover page)

Comments: As Requested. Staple together the following pages into sets or groups of pages. Attached groupings: pp 1-2; pp 3-5; pp 6-10; pp 11-12; p. 13; pp 14-15.





Kendell L Hughes
06/12/2003 09:19 AM

To: Gene Onken/R3/USDAFS@FSNOTES
cc:
Subject: Wild horse territory

Gene,
I hope this answers your question, if not let me know. Kendell

Acres: 14,000
Allotments within the Territory: portions of the Heber and Black Canyon Allotments

Why is the population "0" and why is it being managed at "0" population: A 1974 letter indicates that the stud may be sterile, because no colts have been seen for several years and no indication of unauthorized removal. A 1991 report indicates that "approximately 5 feral horses wander along the Mogollon rim back and forth from the White River Apache Reservations. The Indians do not manage the horses, neither does the Forest Service. Natural attrition will eliminate the horses eventually." This report also states that "Elimination of incidental feral horses and burros from formal management considerations to reduce impacts on management resources, personnel and time. The A/S "herd" should not be recognized at all." A 1993 letter by the District ranger to the Forest Supervisor, indicates that "the territory was designated in the early 70's because there were "unclaimed" animals from the Fort Apache Indian Reservation and some were animals abandoned in the area when a local family left. Indian Horses have been claimed when the District has published a notice to impound estray animals. There are two mares left in the "herd". This letter also recommends this territory be removed from the records and the two remaining animals be removed by the State Livestock Sanitary Board. A letter from the Forest Supervisor to the District Ranger agreed that "the designation did not meet the intent of the law and policy. The subject was not an issue during the Forest Land management Planning process and not mentioned in the forest plan as ammended or its EIS.

Note to File: It appears Kendall may be confusing the situation of horses from Reservation unauthorized grazing on Black Mesa District where there is ~~no~~ no designated Wild Horse Territory

vs.

The Heber Wild Horse Territory on Heber RD which is a territory although only populated with feral horses at time WH&B Act was passed in 1971. Should never have been designated a territory - so $AMZ = \emptyset$

Conversation with David Stewart, R-3 Dir. Regional Mgt.
1/20/2004 Gene Onken

INFRA ERRORS

Wild Horse & Burro Data Correctly Entered Into INFRA Database											
Territories Listed in FSM R-3 Supplement 2262.1 - Inventory											
Forest	Ranger District	Territory	Responsible Person	Correct Data Entered For:							
				2002	2003	2004					
Wild Horse Territories											
Apache-Sit	Black Mesa	Heber	Kendall Hughes	N/A	N/A	Yes					
Carson	Jicarilla	Jicarilla	Stanley Dykes	Yes	Yes	Yes					
Carson	Canjilon	Mesa Las Viejas	Cipriano Maez	Yes	Yes	Yes					
Carson	Canjilon	Mesa Montosa	Cipriano Maez	Yes	Yes	Yes					
Carson	El Rito	Jarita Mesa	Ezequiel Rael	Yes	Yes	Yes					
Gila	Glenwood	Deep Creek	Allen Graves	No	No	Yes					
Santa Fe	Jemez	San Diego	Derek Padilla	No	No	Yes					
Santa Fe	Espanola	Caja del Rio**	Donald Serrano	No	No	Yes					
Santa Fe	Espanola	Chicama**	Donald Serrano	No	No	Yes	<i>Probably Should Be Deleted = Feral Horses from Reservation</i>				
<i>**In FY2001 \$21,500 was allocated for herd inventory & EA which was never started.</i>											
Wild Burro Territories											
Kaibab	Williams	Double A	Paul Webber	Yes	Yes	Yes					
Santa Fe	Jemez	Dome	Derek Padilla	Yes	Yes	Yes					
Tonto	Mesa	Saguaro	Genevieve Masters (Buck McKinney)	Yes	Yes	No	Called McKinney: Is correcting data Monday				

2



United States
Department of
Agriculture

Forest
Service

3
Washington Office

14th & Independence SW
P.O. Box 96090
Washington, DC 20090-6090

File Code: 2260
Route To:

Date: April 11, 2002

Subject: 14th Biennial Wild Horse and Burro Report to Congress
To: Regional Foresters, R-1, R-3, R-4, R-5 and R-6

It is time for the 14th Biennial Report to Congress regarding Forest Service and Bureau of Land Management (BLM) Wild Horse and Burro Management activities. The 14th Biennial Report covers the fiscal years (FYs) 2000-2001. This year we will be generating our report using information contained in Infra for Wild Horses and Burros.

Regions should complete updating the Range Infra database with current information by April 30, 2002. This requires entry of territory data and animal numbers into the Infra Range Module, utilizing the current version of Infra (v4.92). Data is entered through the Wild Horse and Burro Resource Management screen. This screen will be used to document information currently known for the territories and the animals. Regions should ensure that appropriate information is entered for all territories.

Additional information is needed in the Infra Wild Horse and Burro Resource Management screen that has no entry field. In order to complement the data fields, please enter in the "Remarks" field, the year of the latest territory census. We plan an update to this screen in the near future to enhance data collection reporting. In the future, we anticipate minimizing the use of the "Remarks" field for data entry, and instead will use that field for significant events worth noting.

Enclosed are guides with screen captures to assist you through the data entry process. If there are any questions regarding the use of this portion of the Infra Range Module, please refer to the range user guides on the Infra website at <http://pcs27.fl6.r6.fs.fed.us/infra/userguides/range.htm>, or contact the Infra helpdesk website at <http://pcs27.fl6.r6.fs.fed.us/Infra/>.

Also, enclosed is a table compilation of the previous regional reports for your reference. We will be using these as a comparison to the Infra data in order to gauge the completeness of the final report. Be sure to validate the acreage information provided in enclosed. We have found instances where our numbers do not match those of the BLM for the same territory.

We are responding to the Wild Horse and Burro Advisory Board regarding base line program information, by completing the merging of digitized territory maps provided to us by the Regions. Soon, we will be merging these maps with those of the BLM.



Regional Foresters

2

Finally, we will be developing a reporting system whereby our data can be electronically transferred to BLM for final report production. We anticipate linking the data and the GIS maps so they are available to the public via our Wild Horse and Burro Management website <http://www.fs.fed.us/rangelands/ecology/wildhorseburro.html>.

Although the data requested will provide work accomplished, you may supplement any additional information needed that gives a clear demonstration of accomplishments, barriers, or needs. If you have any significant events regarding the Wild Horse and Burro Program, for instance, BLM actions that have affected territories or herd dynamics, please provide in a narrative response.

Please send any narrative response to Ralph Giffen in the Forest and Rangelands Management Staff in the Washington Office, or to rgiffen@fs.fed.us if responding electronically.

/s/ Tom L. Thompson
TOM L. THOMPSON
Deputy Chief for National Forest System

Enclosure

Forest Service Region 3

Arizona	Acreage			Territory Plan	Desired Population	Current Population	FY Last Census
---------	---------	--	--	----------------	--------------------	--------------------	----------------

Territory Name	FS	BLM	Other	FY Completed	Horse	Burro	Horse	Burro	
Double A	29766	0	0	84	0	22	0	22	1994
Saguaro Lake	27092	0	0	87	0	15	0	21	1997
Total AZ	56858	0	0	NA	0	37	0	43	NA

New Mexico	Acreage			Territory Plan	Desired Population	Current Population	FY Last Census
------------	---------	--	--	----------------	--------------------	--------------------	----------------

Territory Name	FS	BLM	Other	FY Completed	Horse	Burro	Horse	Burro	
Caja	12928	0	0	89	48	0	48	0	1988
Dome	2000	0	0	--	0	0	0	0	1996
Jarita Mesa	19483	0	0	82	14	0	47	0	1997
Jicarilla	75000	0	0	78	75	0	125	0	1998
Yeso Montosa	2400	0	0	--	0	0	0	0	1997
Total NM	109411	0	0	NA	137	0	0	0	NA
Total R3	166269	0	0	NA	137	37	220	43	NA

C

6



United States
Department of
Agriculture

Forest
Service

Southwestern
Region

517 Gold Avenue, SW
Albuquerque, NM
87102-0084
FAX (505) 842-3800
V/TTY (505) 842-3292

File Code: 2260
Route To: 2200

Date: February 18, 2000

Subject: 13th Biennial Report to Congress on Wild Horses and Burros

To: Bertha C. Gillam, Director, Range Management

Enclosed is Southwestern Region's report covering fiscal years (FY's) 1998-1999. Included updated tables are regional "Territories Administered", "Biennial Population Estimates", and "Accomplishments". Territory maps will follow with a hard copy of this report.

/s/ Dave Stewart (for)

ELEANOR S. TOWNS
Regional Forester

Enclosure



7 ACTION PLAN II - LATE PM

United States
Department
of Agriculture

Forest
Service

Washington Office

14th & Independence SW
P.O. Box 96090
Washington, DC 20090-6090

File Code: 2260
Route To: 2200

Date:

Subject: 13th Biennial Report to Congress on Wild Horses and Burros

To: Regional Foresters R3, R4, R5, R6

REPLY DUE FEBRUARY 20th, 2000

It is time for the 13th Biennial Report to Congress regarding Forest Service and Bureau of Land Management (BLM) wild horse and burro management activities. The 13th Biennial Report covers the fiscal years (FY's) 1998-1999. Enclosed are regional "Territories Administered" tables that were included in your previous report. Review your region's tables, and using the tables, submit any updates. Complete your region's pertinent portions of the "Accomplishments" and "Biennial Population Estimates" tables, too. Please report similar information for any new territories due to a change in the lead agency roles. Be sure to validate the acreage information provided in the tables. We have found instances where our numbers do not match those of the BLM for the same territory. If you have any significant events regarding your wild horse and burro program, for instance BLM actions that have affected your territories or herd dynamics, please include a narrative with your response.

We are trying to respond to the Wild Horse and Burro Advisory Board regarding base line program information. In order to do that, we need maps showing wild horse and burro territories on National Forest System lands. For all territories on National Forest System lands, whether administered by the Forest Service or the Bureau of Land Management, please submit a one-half inch to the mile Forest map with the territory boundary on it, or send an electronic data file with the proper GIS layer map, or give us the directory from which we can retrieve such electronic data.

Please send your response to Range Management in the Washington Office, or to rge/wo if responding electronically.

/s/ Bertha C. Gillam
BERTHA C. GILLAM
Director, Range Management

Enclosure



1377

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Wild Horse and Burro Biennial Population Estimates

(Number of animals as of October 1, 1999)

State	Horses (a)	Burros (a)
Arizona	0	22
New Mexico	258	0
R-3 TOTAL (In Active Territories)	258	22

(a) Include the estimate of animals on territories on National Forest System whether the Forest Service is lead agency or not.

State Territory Name	Acreage			Territory Plan FY Completed	Desired Population		Current Population		FY Last Census
	FS	BLM	Other		Horses	Burros	Horses	Burros	
Arizona									
Double A	29,766	0	0	84	0	22	0	22	94
Heber (Inactive)	14,000	0	0	-	0	0	0	0	97
Saguaro Lake	27,092	0	0	87	0	15		22	2000
New Mexico									
Caja	12,928	0	0	91	48	0	60	0	88
Dome (Inactive)	2,000	0	0	-	0	0	0	0	96
Jarita Mesa	19,483	0	0	82*	20	0	60	0	97
Jicarilla	75,000	0	0	82**	75	0	115	0	99
Yeso-Montosa***	2,400	0	0	78	0	0	5	0	94
Mesa Las Viejas	5,000	0	0	78	0	0	3	0	92
Deep Creek (Inactive)	3,500	0	0	-	0	0	0	0	97
Chicama	2,880	0	0	-	13	0	15	0	97
R-3 TOTALS	194,049	0	0	n/a	156	37	258	44	n/a
Total Active Territories	174,549	0	0	n/a	156	37	258	44	n/a

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USDA FOREST SERVICE-FOR
 10:30 PM 03 01C 3100 749 000 YV: CC:01 00/10/01

Region 3 Accomplishments for Fiscal Years 1998-1999

State	Territories Numbers (b) (Active)	Acres (c) (Active)	Management Plans Completed (a)			1998-1999	
			Prior to 1998	1998-1999	Total	Removals (d)	Adoptions (e)
Arizona	2	56,858	2	0	2	0	0
New Mexico	6	117,691	5	0	5	4	4
R-3 Totals	8	174,549	7	0	7	4	4

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D

United States
Department of
Agriculture

Forest
Service

Washington
Office

14th & Independence SW
P. O. Box 96090
Washington, DC 20090-6090

File Code: 2260
Route To: 2200

Date: July 24, 1998

Subject: 12th Biennial Report to Congress on Wild Horses and Burros

To: Regional Foresters R-1 through R-6

REPLY DUE SEPTEMBER 10, 1998

It is time for the 12th Biennial Report to Congress regarding Forest Service and Bureau of Land Management (BLM) wild horse and burro management activities. The 12th Biennial report covers the fiscal years (FYs) 1996-1997. Enclosed are regional "Territories Administered" tables that were included in the previous report to Congress. Review your region's table and submit any updates to the information. Complete your region's pertinent portions of the "Accomplishments" and "Biennial Population Estimates" tables, too. Although Regions 1 and 2 do not have the lead for administering any wild horse or burro territories, include any information you have in the "Accomplishments" and "Biennial Population Estimates" tables, also. Finally, if you have any significant events, especially successes, regarding your wild horse and burro program, please include a narrative with your response.

If you have any questions please contact Ralph Giffen (rgiffen/wo) of the Range Management staff at (202) 205-1455.

/s/Robert C. Joslin

ROBERT C. JOSLIN
Deputy Chief, NFS

Enclosure = 1996 Data

rge/whb/rf_ltr_12th_report



Region 3 Administered Territories *from 1996 Report (Enclosure)*

State Territory Name	Acreage			Territory Plan FY Completed	Desired Population		Current Population		FY Last Census
	FS	BLM	Other		Horse	Burro	Horse	Burro	
Arizona									
Double A	29,766	0	0	84	0	20	0	20	93
Heber	14,000	0	0		0	0	0	0	
Saguaro Lake	27,092	0	0	87	0	15	0	20	93
New Mexico									
Caja	12,928	0	0	89	48	0	48	0	88
Dome	2,000	0	0		0	0	0	0	
Juarita Mesa	19,483	0	0	82	14	0	20	0	94
Jicarilla	75,000	0	0	78	75	0	125	0	94
Yeso-Montosa Mesa	2,400	0	0		0	0	0	0	
R-3 TOTALS	182,669	0	0	n/a	137	35	193	40	n/a

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E

Report George Martinez Filed in 1998

REGION 3 WILD HORSE AND BURRO ADMINISTERED TERRITORIES

Territory Name	State	Acreage FS	BLM	Territory Plan FY Completed	Desired Population Horses	Desired Population Burros	Current Population Horses	Current Population Burros	FY Last Census
Arizona									
Double A		29,766	0	84	0	22	0	22	1994
Heber	Not Active	14,000	0	0	0	0	0	0	1997
Saguaro Lake		27,092	0	87	0	15		-24 22	1997 2000
State total		70,858	0	171	0	37	0	43	
New Mexico									
Caja		12,928	0	89 91	48	0	48 60	0	1988
Dome	Not Active	2,000	0		0	0	0	0	1996
Jarita Mesa		19,483	0	82*	14 20	0	47 60	0	1997
Jicarilla		75,000	0	78 82**	75	0	428 115	0	1996 99
Yeso-Montosa	**	2,400	0	78	0	0	0 5	0	1997 94
Mesa Las Viejas		4,500 5,000	0	78	0	0	0 3	0	1997 92
Deep Creek	Not Active	3,500	0		0	0	0	0	1997
* Chicoma		2880	0		13		13 15	0	1997 Leave As Is
State Total		122,691	0	249	150	0	233	0	

Jemez District - No Burros

Region 3 Wild Horse and Burro Accomplishments for FY 1996-1997

State	Number of Territories	Acres	Territory Plans Completed Prior to 1996	Territory Plans Completed 1996-1997	Territory Plans Total Completed	1996-1997 Removals	1996-1997 Adoptions
Arizona	3	70,858	2	0	2		
New Mexico	6	122,691	3	0	3	95	79
Totals	9	193,549	5	0	5	95	79

FY 2000 Report Updated In Red

F

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United States
Department of
Agriculture

Forest
Service

Southwestern
Region

517 Gold Avenue SW.
Albuquerque, NM 87102-0084
FAX: (505) 842-3800
V/TTY: (505) 842-3292

Reply to: 2260

Date:

JAN 24 1994

Subject: 10th Biennial Report to Congress on Wild Horses and Burros

To: Chief

Enclosed are corrected, xeroxed pages of the appropriate items requiring change for Region 3. Please forward to Dave Stewart in the Range Management Staff Unit.

GERALD A. HENKE

GERALD A. HENKE
Director of Rangeland Management and Ecology

Enclosure

LMiller:ra:01/24/94

CONCUR	DATE	STAFF
OM [Signature]	1/24/94	[Signature]
[Signature]	1/1/94	[Signature]
TYPIST:	ra	1/24 Range

APPENDIX

WILD HORSE AND BURRO TERRITORIES ADMINISTERED BY THE USDA FOREST SERVICE

FS REGION STATE TERRITORY NAME	ACREAGE BLM OTHER	TERRITORY PLAN FY COMPLETED	DESIRED POP.		CURRENT POP.		FY LAST CENSUS
			HORSE	BURRO	HORSE	BURRO	
REGION 1 MONTANA (No Wild Horse and Burro Territories Administered by U.S. Forest Service)							
REGION 2 (No Wild Horse and Burro Territories)							
REGION 3							
ARIZONA							
DOUBLE A	29,766 0 0	84	0	20	0	20	93
HEBER	14,000 0 0	—	—	0	0	0	93
SAGUARO LAKE	27,092 0 0	87	0	15	0	18	93
NEW MEXICO							
CAJA	12,928 0 0	89	48	0	48	0	88
DOME	2,000 0 0	—	0	—	0	0	93
JARITA MESA	19,483 0 0	82	14	0	20	0	91
JICARILLA	75,000 0 0	78	40	0	100	0	91
YESO-MONTOSA MESA	2,400 0 0	—	—	0	—	0	—
R-3 TOTALS	182,669 0 0		102	35	158	44	

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FAX Transmittal

October 11, 2005

To: Kendall Hughes

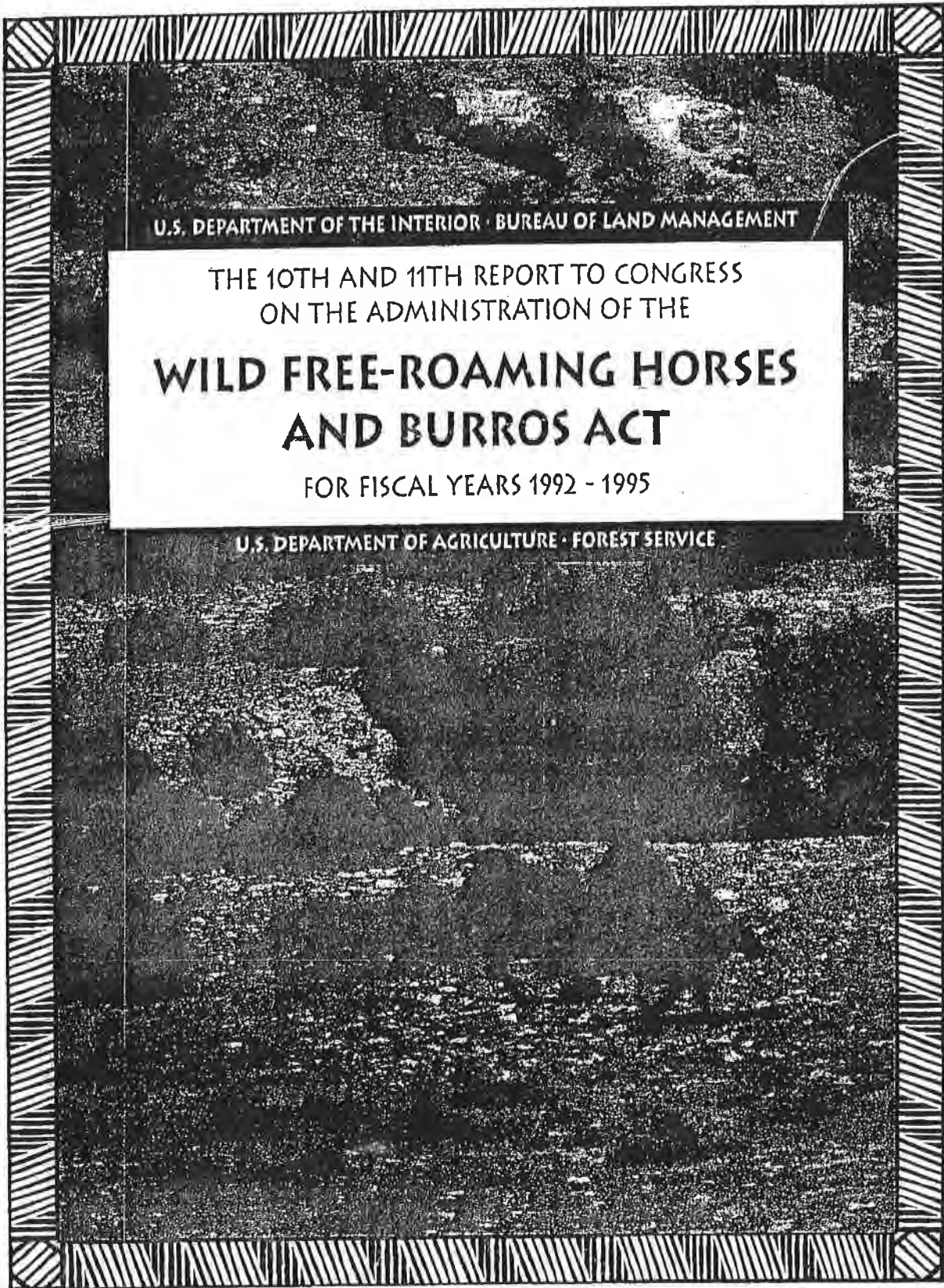
From: Ralph Giffen 202-205-1455 Office
FAX 202-205-1096 Office

Pages: 4 including cover

RE: 10th and 11th Biennial Reports.

Here is a copy of the pertinent portions of this combined report. As you can see from both data sheets, there were no AZ horses noted in the report beyond 1994. However, there was no census date either. This data pretty well tracks all the earlier reports for numbers of horses in AZ.

Ralph Giffen



U.S. DEPARTMENT OF THE INTERIOR · BUREAU OF LAND MANAGEMENT

THE 10TH AND 11TH REPORT TO CONGRESS
ON THE ADMINISTRATION OF THE
**WILD FREE-ROAMING HORSES
AND BURROS ACT**
FOR FISCAL YEARS 1992 - 1995

U.S. DEPARTMENT OF AGRICULTURE · FOREST SERVICE

APPENDIX B · TERRITORIES ADMINISTERED BY THE FOREST SERVICE

REGION 3									
FS State Territory Name	Acreage			Territory Plan FY Completed	Desired Population		Current Population		FY Last Census
	FS	BLM	Other		Horse	Burro	Horse	Burro	
Arizona									
Double A	29,766	0	0	84	0	20	0	20	93
Heber	14,000	0	0		0	0	0	0	
Saguaro Lake	27,092	0	0	87	0	15	0	20	93
New Mexico									
Caja	12,928	0	0	89	48	0	48	0	88
Dome	2,000	0	0		0	0	0	0	
Jarita Mesa	19,483	0	0	82	14	0	20	0	94
Jicarilla	75,000	0	0	78	75	0	125	0	94
Yeso-Montosa Mesa	2,400	0	0		0	0	0	0	
Region 3 Totals	182,669	0	0		137	35	193	40	

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APPENDIX E • FOREST SERVICE BIENNIAL WILD HORSE POPULATION ESTIMATES

State	1974	1976	1978	1980	1982	1984	1986	1988	1990	1992	1994	1996
	(Number of animals at start of FY)											
Arizona	7	5	3	8	5	7	5	5	5	5	0	0
California	828	1,037	1,381	1,397	1,006	496	581	500	475	612	355	583
Colorado	0	0	0	0	0	0	0	0	0	0	0	0
Idaho	34	5	0	7	7	3	4	0	6	0	0	0
Montana	8	9	8	8	8	20	0	10	12	35	35	35
Nevada	1,174	1,305	1,042	951	1,139	490	571	560	1,552 *	1,240	746	746
New Mexico	207	279	420	230	170	119	129	158	176	153	168	193
Oregon	215	295	215	225	485	205	180	170	135	162	150	175
Utah	45	90	103	121	74	47	55	50	49	58	17	25
Wyoming	23	0	0	0	0	0	0	0	0	0	0	0
Totals	2,541	3,025	3,172	2,947	2,894	1,387	1,525	1,453	2,410	2,265	1,471	1,757

* Population increase due to land being transferred from BLM to FS administration.

Independent
Horses are not "illegally" trespassing 10-11-05

To the Editor:

This letter responds to your story, Congress moves to stop horse slaughter (Sept. 27, 2005).

Some points of clarification:

It was attorneys for three organizations, the Animal Welfare Institute, In Defense of Animals, and the International Society for the Protection of Mustangs and Burros that filed on behalf of the horses.

The attorneys did not file a temporary restraining order. The attorneys filed documents asking the courts for a temporary restraining order and providing documents to the court demonstrating why the order was necessary. After reviewing the material, the court issued a restraining order and, then, extended the restraining order to the current hearing date of Dec. 9, 2005.

The second headline in the story states that the horses currently running in Apache-Sitgreaves are running "illegally." While the Forest Service alleges that the horses are running illegally, the heart of the issue is that the horses are unbranded, free-roaming horses on public lands including many foals born on public lands. Under the 1971 Wild Horse and Burro Act, the horses should be protected wild horses. It is their removal as trespass animals that is in fact what is illegal.

Attorneys for the three animal protection organizations have collected many affidavits from residents of the area for generations who state quite clearly that the horses have been there for many years prior to the Rodeo-Chediski fire and even prior to the passage of the 1971 Wild Horse and Burro Act, the historical documents of the area corroborate the presence of the horses. The very issue at hand is that the horses are unbranded, free roaming horses on public lands, the definition of a protected wild horse. Even bit of information we have demonstrates that the horses are protected wild horses and that they are not "illegally" trespassing on public lands.

Patricia Haight, Ph.D.
In Defense of Animals
Tempe



LAKESIDE RANGER DISTRICT

2022 W. White Mountain Blvd.

Lakeside, AZ 85929

Phone: (928) 368-5111

Fax: (928) 368-6476

TO: Deb Bumpus
SO.

FROM: EB/Randan

COMMENTS: _____

Deb, here is what
ed had in his planner.

The meetings where horses
were mentioned, the

Dates are referenced.

Bob Taylor is hand carrying

the original back today

OF PAGES TO FOLLOW 1



WMAT/BIA-FRA/A-SNF COORDINATION MEETINGS

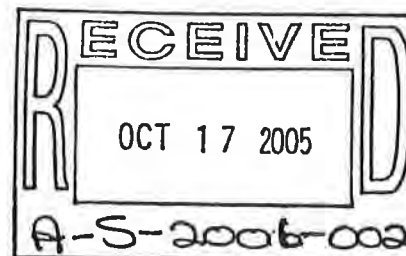
- 7/28/05 - Alpine (field) - discussed fencing issues including MOU (draft)
- 4/12/05 - Lakeside (Town Office) - discussed draft MOU on fences & feral horses update
- 9/16/04 - Hon-Dah - discussed history of MOUs including fences
- 7/2/04 - Hon-Dah - FS American Indian Coordinators & WMAT
- 4/12/04 - SAN CARLOS
- 1/14/04 - Showlow Council/Chambers - feral horses (all across forest)
- 9/14/03 - White River - Feral Horses & fence group
- 6/26/03 - San Carlos (field trip)
- 3/29/03 - Hon-Dah - BIA ER coord efforts, including 119 miles of fence
- 5/22/02 - ? - (scheduled but unable to attend)
- 1/16/02 - Hon-Dah - White Mtn fence MOU; stray livestock (horses/cattle); Fencing Mt San Carlos
- 11/7/01 - Hon-Dah - Fence Issue
- 8/29/01 - San Carlos - Fence agreement - WMAT still with attorneys
- 6/18/01 - Hon-Dah - Boundary Fence MOU - not yet presented to either council
- 3/28/01 - Hon-Dah - Fence Bdng - 2 MOUs (WMAT & San Carlos)
- 1/10/01 - Globe - (scheduled but unable to attend)
- 9/27/00 - Hon-Dah - Joint Fence Boundary MOU - WMAT; another to San Carlos
- 3/22/00 - Hon-Dah - Fencing - draft MOU handed out
- 9/21/99 - Lakeside Rgr Sta - Fences discussion

10/12/05

DEB

These are the meeting dates & locations that I found in my planner. When there were references to fences & horses, I listed that info also.

I was only able to attend about 85% of the meetings.



Bob Dyson
Public Information Officer
Apache Sitgreaves National Forests
PO Box 640
Springerville, AZ 86938

Re: Freedom of Information Act Request
October 14, 2005

Dear Mr. Dyson:

This is a request under the Freedom of Information Act, 5 U.S.C. Sec. 552, for the following information covering the period January 2000 to the date of receipt of this request:

- A list of all grazing leases in the Sitgreaves National Forests including location of area grazed, size of area, number of animals on grazing area, type of animals on grazing area;
- Type of grazing leases as cow-calf operations, steer operations, 12 month or limited leases;
- Formulas and all information used to determine holding capacity;
- Any and all information related to all grazing leases in Sitgreaves National Forest.

It is not necessary for your agency to review these materials and to sort them by date or by any other method for me. For purposes of this request, information refers to any and all hard copies of documents, computer information stored on hard-drive, floppy drive, or zip drive, videotapes, memoranda, correspondence and all other materials that relate in anyway to the Sitgreaves National Forest.

Please send material as soon as it becomes available. Please expedite this request and please do not wait until all requested material is gathered. I am willing to pay fees for this request up to a maximum of \$250.00. If you estimate that the fees will exceed this limit, please inform me first. Please fax the material to me or please use the following Federal Express account number to facilitate the delivery of all material sent under this request:

Federal Express Account Number: 239846688

I look forward to your timely response.

Sincerely,

Patricia Haight, Ph.D.

Cell: 480-232-8068

Email: pat@idausa.org

Southwestern Region (R3)
USDA Forest Service
Rangeland Management

333 Broadway Blvd., SE
Albuquerque, NM 87102
Fax: (505) 842-3150
Facsimile Transmittal

To: Deb Bumpus

Company: Apache-Sitgreaves NF

Fax Number: 928-333-5966

From: Gene Onken

Phone Number: (505) 842- 3227

Number of Pages to Follow: 22
(Does not include cover page)

Comments: As promised.
If you have questions, Deb, please call me.
Christina will FAX a copy of this to
Attorney Rich Patrick.
Gene Onken

①

Documented Wild Horse Population Numbers
Heber Wild Horse Territory, Apache-Sitgreaves National Forest
State of Arizona

Fiscal Years Reported On	Wild Horse Population	Documented Information Source	Year Biennial Report Filed
1974	7	8th Biennial Wild Horse and Burro Report to Congress, Appendix C	1990
1976	5	8th Biennial Wild Horse and Burro Report to Congress, Appendix C	1990
1978	3	8th Biennial Wild Horse and Burro Report to Congress, Appendix C	1990
1980	8	8th Biennial Wild Horse and Burro Report to Congress, Appendix C	1990
1982	5	8th Biennial Wild Horse and Burro Report to Congress, Appendix C	1990
1984	7	8th Biennial Wild Horse and Burro Report to Congress, Appendix C	1990
1986	5	8th Biennial Wild Horse and Burro Report to Congress, Appendix C	1990
1988	5	8th Biennial Wild Horse and Burro Report to Congress, Appendix C	1990
1990	6	9th Biennial Wild Horse and Burro Report to Congress, Appendix C	1992
1991	5	9th Biennial Wild Horse and Burro Report to Congress, Appendix C	1992
1992	0	10th Biennial Wild Horse and Burro Report to Congress, Appendix B	1994
1993	0	10th Biennial Wild Horse and Burro Report to Congress, Appendix B	1994
1994	0	11th Biennial Wild Horse and Burro Report to Congress, Appendix B	1996
1995	0	11th Biennial Wild Horse and Burro Report to Congress, Appendix B	1996
1996	0	12th Biennial Wild Horse and Burro Report to Congress	1998
1997	0	12th Biennial Wild Horse and Burro Report to Congress	1998
1998	0	13th Biennial Wild Horse and Burro Report to Congress	2000
1999	0	13th Biennial Wild Horse and Burro Report to Congress	2000
2000	0	Fiscal Year 2000 Wild Horse and Burro Report	NA
2001			
2002			
2003			
2004	0	USDA-FS INFRA Data Base; Region 3 Data Pull of May 25, 2004	NA
2005			

USDA-Forest Service
INFRA Wild Horse and Burro Data Base
Region 3 Data Pull of May 25, 2004

RMU_ID	RMU_NAME	ADMIN_ORG	ADMINISTERING_UNIT_NAME	FOREST_NUMBER	DISTRICT_NUMBER	FISCAL_YEAR	NUMBER_ANIMALS	BREEDING_MARE_NUMBER	BREEDING_STALLION_NUMBER	PLANNED_NUMBER
00614	CAJA WILD HORSE	031006	Espanola Ranger District	10	06	1988	45	0	0	
00614	CAJA WILD HORSE	031006	Espanola Ranger District	10	06	2001		0	0	
00614	CAJA WILD HORSE	031006	Espanola Ranger District	10	06	2002	45	0	0	0
00614	CAJA WILD HORSE	031006	Espanola Ranger District	10	06	2003	45	0	0	
00614	CAJA WILD HORSE	031006	Espanola Ranger District	10	06	2004	45	0	0	
00615	CHICOMA WILD HORSE	031006	Espanola Ranger District	10	06	1986	18	0	0	
00615	CHICOMA WILD HORSE	031006	Espanola Ranger District	10	06	1971	6	0	0	
00615	CHICOMA WILD HORSE	031006	Espanola Ranger District	10	06	2003	0	0	0	
00615	CHICOMA WILD HORSE	031006	Espanola Ranger District	10	06	2004	0	0	0	
WH416	DEEP CREEK	030604	Glenwood Ranger District	06	04	2003	0	0	0	0
WH416	DEEP CREEK	030604	Glenwood Ranger District	06	04	2004	0	0	0	0
00323	DOME BURRO TERRITO	031003	Jemez Ranger District	10	03	2002	0	0	0	0
00323	DOME BURRO TERRITO	031003	Jemez Ranger District	10	03	2003	0	0	0	0
00323	DOME BURRO TERRITO	031003	Jemez Ranger District	10	03	2004	0	0	0	0
00057	DOUBLE A WILD BURRO	030701	Williams Ranger District	07	01	2001	0	0	0	0
00057	DOUBLE A WILD BURRO	030701	Williams Ranger District	07	01	2001	23	0	0	28.5
00057	DOUBLE A WILD BURRO	030701	Williams Ranger District	07	01	2002	0	0	0	0
00057	DOUBLE A WILD BURRO	030701	Williams Ranger District	07	01	2002	32	0	0	28.5
00057	DOUBLE A WILD BURRO	030701	Williams Ranger District	07	01	2003	0	0	0	0
00057	DOUBLE A WILD BURRO	030701	Williams Ranger District	07	01	2003	34	0	0	28.5
00057	DOUBLE A WILD BURRO	030701	Williams Ranger District	07	01	2004	34	0	0	28.5
00057	DOUBLE A WILD BURRO	BLM	BUREAU OF LAND MANAGEMENT			2001	0	0	0	0
00057	DOUBLE A WILD BURRO	BLM	BUREAU OF LAND MANAGEMENT			2001	23	0	0	28.5
00057	DOUBLE A WILD BURRO	BLM	BUREAU OF LAND MANAGEMENT			2002	0	0	0	0
00057	DOUBLE A WILD BURRO	BLM	BUREAU OF LAND MANAGEMENT			2002	32	0	0	28.5
00057	DOUBLE A WILD BURRO	BLM	BUREAU OF LAND MANAGEMENT			2003	0	0	0	0
00057	DOUBLE A WILD BURRO	BLM	BUREAU OF LAND MANAGEMENT			2003	34	0	0	28.5
00057	DOUBLE A WILD BURRO	BLM	BUREAU OF LAND MANAGEMENT			2004	34	0	0	28.5
0201	HEBER TERRITORY	030102	Black Mesa Ranger District	01	02	2004	0	0	0	0
0201	HEBER TERRITORY	030102	Black Mesa Ranger District	01	02	2004		0	0	
0201	JARITA MESA WH	030202	El Rito Ranger District	02	02	2002	50	0	0	20
0201	JARITA MESA WH	030202	El Rito Ranger District	02	02	2003	79	0	0	45
0201	JARITA MESA WH	030202	El Rito Ranger District	02	02	2004	81	0	0	45

USDA-Forest Service
INFRA Wild Horse and Burro Data Base
Region 3 Data Pull of May 25, 2004

RMU_NAME	PLANNED NUMBER_ MAX	PLANNED NUMBER_ MIN	NUMBER REMOVED	HEAD MONTHS	WHB_RE MARKS	WHB_ ANIMAL TYPE
CAJA WILD HORSE			0		Ground su	HORSE
CAJA WILD HORSE			0		Territory In	HORSE
CAJA WILD HORSE	0	0	0	0	Herd was g	HORSE
CAJA WILD HORSE			0			HORSE
CAJA WILD HORSE			0			HORSE
CHICOMA WILD HORSE			0		Estimated	HORSE
CHICOMA WILD HORSE			0		Best estim	HORSE
CHICOMA WILD HORSE			0			HORSE
CHICOMA WILD HORSE			0			HORSE
DEEP CREEK	0	0	0			HORSE
DEEP CREEK	0	0	0			HORSE
DOME BURRO TERRITOI	0	0	0		0 Surveys w	BURRO
DOME BURRO TERRITOI	0	0	0		0 Surveys w	BURRO
DOME BURRO TERRITOI	0	0	0		0 Surveys w	BURRO
DOUBLE A WILD BURRO	0	0	0			HORSE
DOUBLE A WILD BURRO	35	22	0	276	Population	BURRO
DOUBLE A WILD BURRO	0	0	0		No horses	HORSE
DOUBLE A WILD BURRO	35	22	0	384	Within Fore	BURRO
DOUBLE A WILD BURRO	0	0	0		No Wild Hc	HORSE
DOUBLE A WILD BURRO	35	22	0	408	Within Fore	BURRO
DOUBLE A WILD BURRO	35	22	0	408	Estlmated	BURRO
DOUBLE A WILD BURRO	0	0	0			HORSE
DOUBLE A WILD BURRO	35	22	0	276	Population	BURRO
DOUBLE A WILD BURRO	0	0	0		No horses	HORSE
DOUBLE A WILD BURRO	35	22	0	384	Within Fore	BURRO
DOUBLE A WILD BURRO	0	0	0		No Wild Hc	HORSE
DOUBLE A WILD BURRO	35	22	0	408	Within Fore	BURRO
DOUBLE A WILD BURRO	35	22	0	408	Estlmated	BURRO
HEBER TERRITORY	0	0	0	0		HORSE
HEBER TERRITORY			0			BURRO
JARITA MESA WH	20	20	0		allotment w	HORSE
JARITA MESA WH	70	20	9		2003 surve	HORSE
JARITA MESA WH	70	20	0		2004 Surve	HORSE

2004

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USDA-Forest Service
INFRA Wild Horse and Burro Data Base
Region 3 Data Pull of May 25, 2004

RMU_ID	RMU_NAME	ADMIN_ORG	ADMINISTERING_UNIT_NAME	FOREST_NUMBER	DISTRICT_NUMBER	FISCAL_YEAR	NUMBER_ANIMALS	BREEDING_MARE_NUMBER	BREEDING_STALLION_NUMBER	PLANNED_NUMBER
0301	JICARILLA WH	030203	Jicarilla Ranger District	02	03	2002	170	0	0	80
0301	JICARILLA WH	030203	Jicarilla Ranger District	02	03	2003	218	0	0	80
0301	JICARILLA WH	030203	Jicarilla Ranger District	02	03	2004	236	0	0	80
102	MESA DE LAS VIEGAS	030201	Canjilon Ranger District	02	01	2002	0	0	0	0
102	MESA DE LAS VIEGAS	030201	Canjilon Ranger District	02	01	2003	0	0	0	0
102	MESA DE LAS VIEGAS	030201	Canjilon Ranger District	02	01	2004	0	0	0	0
101	MESA MONTOSA	030201	Canjilon Ranger District	02	01	2002	0	0	0	0
101	MESA MONTOSA	030201	Canjilon Ranger District	02	01	2003	0	0	0	0
101	MESA MONTOSA	030201	Canjilon Ranger District	02	01	2004	0	0	0	0
000001	SAGUARO WILD BURRO	031203	Mesa Ranger District	12	03	1999	5	0	0	12.5
000001	SAGUARO WILD BURRO	031203	Mesa Ranger District	12	03	2000	5	0	0	12.5
000001	SAGUARO WILD BURRO	031203	Mesa Ranger District	12	03	2001	5	0	0	12.5
000001	SAGUARO WILD BURRO	031203	Mesa Ranger District	12	03	2002	5	0	0	12.5
000001	SAGUARO WILD BURRO	031203	Mesa Ranger District	12	03	2003	5	0	0	12.5
000001	SAGUARO WILD BURRO	031203	Mesa Ranger District	12	03	2003	12	0	0	0
000001	SAGUARO WILD BURRO	BLM	Bureau of Land Management	M		1999	5	0	0	12.5
000001	SAGUARO WILD BURRO	BLM	Bureau of Land Management	M		2000	5	0	0	12.5
000001	SAGUARO WILD BURRO	BLM	Bureau of Land Management	M		2001	5	0	0	12.5
000001	SAGUARO WILD BURRO	BLM	Bureau of Land Management	M		2002	5	0	0	12.5
000001	SAGUARO WILD BURRO	BLM	Bureau of Land Management	M		2003	5	0	0	12.5
000001	SAGUARO WILD BURRO	BLM	Bureau of Land Management	M		2003	12	0	0	0
00327	SAN DIEGO WILD HORS	031003	Jemez Ranger District	10	03	2001	0	0	0	0
00327	SAN DIEGO WILD HORS	031003	Jemez Ranger District	10	03	2002	0	0	0	0
00327	SAN DIEGO WILD HORS	031003	Jemez Ranger District	10	03	2003	0	0	0	0
00327	SAN DIEGO WILD HORS	031003	Jemez Ranger District	10	03	2004	0	0	0	0

2004

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USDA-Forest Service
INFRA Wild Horse and Burro Data Base
Region 3 Data Pull or May 25, 2004

RMU_NAME	PLANNED NUMBER MAX	PLANNED NUMBER MIN	NUMBER REMOVED	HEAD MONTHS	WHB_RE MARKS	WHB_ ANIMAL TYPE
JICARILLA WH	80	80	0		with in the	HORSE
JICARILLA WH	90	70	0		2003 surve	HORSE
JICARILLA WH	80	70	0		2004 surve	HORSE
MESA DE LAS VIEGAS	0	0	0	0	PERMITTE	HORSE
MESA DE LAS VIEGAS	0	0	0	0	EIS and R	HORSE
MESA DE LAS VIEGAS	0	0	0	0	EIS and R	HORSE
MESA MONTOSA	0	0	0	0	PERMITTE	HORSE
MESA MONTOSA			0	0	No horses	HORSE
MESA MONTOSA			0	0	No horses	HORSE
SAGUARO WILD BURRO	25	0	5	60	Most recer	BURRO
SAGUARO WILD BURRO	25	0	5	60		BURRO
SAGUARO WILD BURRO	25	0	5	60		BURRO
SAGUARO WILD BURRO	25	0	5	60	Numbers r	BURRO
SAGUARO WILD BURRO	25	0	0	60		BURRO
SAGUARO WILD BURRO	0	0	0	144	Wild horse	HORSE
SAGUARO WILD BURRO	25	0	5	60	Most recer	BURRO
SAGUARO WILD BURRO	25	0	5	60		BURRO
SAGUARO WILD BURRO	25	0	5	60		BURRO
SAGUARO WILD BURRO	25	0	5	60	Numbers r	BURRO
SAGUARO WILD BURRO	25	0	0	60		BURRO
SAGUARO WILD BURRO	0	0	0	144	Wild horse	HORSE
SAN DIEGO WILD HORS	0	0	0	0	In 1978 a	VHORSE
SAN DIEGO WILD HORS	0	0	0	0	In 1978 a	VHORSE
SAN DIEGO WILD HORS	0	0	0	0	In 1978 a	VHORSE
SAN DIEGO WILD HORS	0	0	0	0	In 1978 a	VHORSE

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USDA FOREST SERVICE-FOR

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2004

Fiscal Year 2000 Wild Horse and Burro Report

Region 3 Administered Territories

Territory Name	State	Acreage			Territory Plan FY Completed	Desired Population Horses	Burros	Current Population		FY Last Census
		FS	BLM	Other				Horses	Burros	
Arizona										
Double A		29,766	0	0	84	0	22	0	22	94
Heber (Inactive)		14,000	0	0	-	0	0	0	0	97
Saguaro Lake		27,092	0	0	87	0	15		22	2000
New Mexico										
Caja		12,928	0	0	91	48	0	60	0	88
Dome (Inactive)		2,000	0	0	-	0	0	0	0	96
Jarita Mesa		19,483	0	0	82*	20	0	60	0	97
Jicarilla		75,000	0	0	82**	75	0	115	0	99
Yeso-Montosa***		2,400	0	0	78	0	0	5	0	94
Mesa Las Viejas		5,000	0	0	78	0	0	3	0	92
Deep Creek (Inactive)		3,500	0	0	-	0	0	0	0	97
Chicama		2,880	0	0	-	13	0	15	0	97
R-3 TOTALS		194,049	0	0	n/a	156	37	258	44	n/a
Total Active Territories		174,549	0	0	n/a	156	37	258	44	n/a

2000

①

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Wild Horse and Burro Biennial Population Estimates

(Number of animals as of October 1, 1999)

State	Horses (a)	Burros (a)
Arizona	0	22
New Mexico	258	0
R-3 TOTAL (In Active Territories)	258	22

* include the estimate of animals on territories on National Forest System whether the Forest Service is lead a

1999

Region 3 Administered Territories

State	Acreage			Territory Plan	Desired Population		Current Population		FY Last
Territory Name	FS	BLM	Other	FY Completed	Horse	Burro	Horse	Burro	Census
Arizona									
Double A	29,766	0	0	84	0	20 ²	0	20 ²	93 ⁴
Heber	14,000	0	0		0	0	0	0	
Saguaro Lake	27,092	0	0	87	0	15	0	20 ¹	93 ⁷
New Mexico									
Caja	12,928	0	0	89	48	0	48	0	88
Dome	2,000	0	0		0	0	0	0	96
Juarita Mesa	19,483	0	0	82	14	0	20 ⁴⁷	0	94 ⁷
Jicarilla	75,000	0	0	78	75	0	125	0	94 ⁸
Yeso-Montosa Mesa	2,400	0	0		0	0	0	0	97
R-3 TOTALS	182,669	0	0	n/a	137	35	200 193	40 ³	n/a

1996-1997

12-000
 9

PAMGD

Handwritten signature/initials

10

A	B	C	D	E	F	G	H	I	J
REGION 3 WILD HORSE AND BURRO ADMINISTERED TERRITORIES									
Territory Name	State	Acres	BLM	Territory Plan FY Completed	Desired Population Horses	Current Population Burros	Current Population Horses	Current Population Burros	FY Last Census
1									
2									
3									
4									
5									
6									
7	Arizona								
8	Double A	28,786	0	84	0	22	0	22	1984
9	Hedder	14,000	0	0	0	0	0	0	1997
10	Saguaro Lake	27,092	0	87	0	15	0	21	1997
11									
12		State totals	0	171	0	37	0	43	
13									
14	New Mexico								
15	Galena	12,928	0	89	48	0	48	0	1986
16	Domia	2,000	0	0	0	0	0	0	1996
17	Jarilla Mesa	18,483	0	82	14	0	47	0	1987
18	Jicarilla	75,000	0	78	75	0	125	0	1998
19	Yaso-Montosa	2,400	0	0	0	0	0	0	1987
20	Mesa Las Vegas	4,500	0	0	0	0	0	0	1987
21	Speed Street	3,500	0	0	0	0	0	0	1987
22	Altamira	2,880	0	0	3	0	13	0	1997
23									
24		State Total	0	249	150	0	233	0	
25									
26									
27									
28									
29									
30	STATE								
31		Number of Territories							
32	Arizona	3	2	0	2	0	0	0	
33	New Mexico	6	3	0	3	0	0	0	
34		70,858							
35		122,891							
36		193,649	5	0	5	85	79		
37									
38									
39									
40									
41									
42									
43									
44									
45									
46									
47									
48									
49	State Total	0	0	0	0	0	0	0	

Region 3 Wild Horse and Burro Accomplishments for FY 1996-1997

nothing done - do we keep?

982

A-5 - satisfaction with the horse we keep?

1996-1997

10. - Report.

APPENDIX B · TERRITORIES ADMINISTERED BY THE FOREST SERVICE

FY 92-95

10/20/05 12:29 FAX 505 842 3150
10/18/05 TUE 12:48 FAX
USDA FOREST SERVICE-FOR
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REGION 3

FS State Territory Name	Acreage			Territory Plan FY Completed	Desired Population		Current Population		FY Last Census
	FS	BLM	Other		Horse	Burro	Horse	Burro	
Arizona									
Double A	29,766	0	0	84	0	20	0	20	95
Heber	14,000	0	0		0	0	0	0	
Saguaro Lake	27,092	0	0	87	0	15	0	20	95
New Mexico									
Caja	12,928	0	0	89	48	0	48	0	88
Dome	2,000	0	0		0	0	0	0	
Jarita Mesa	19,483	0	0	82	14	0	20	0	94
Jicarilla	75,000	0	0	78	75	0	125	0	94
Yeso-Montosa Mesa	2,400	0	0		0	0	0	0	
Region 3 Totals	182,669	0	0		137	35	193	40	



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1992-1995



013

BLM Report

where from?

Region	State	National Forest	Territory	NPS Acres	BLM Acres	Other Acres	Territory Status
1	Montana	Custer	Pryor Mtn./Wild Horse 1	3800 (2510) (3800)	35503 (OK)	(10318)	BLM administers
3	Arizona	Apache-Sitgreaves	Heber/Wild Horse 2	Robert FS Rpt. 14000 (12018)	0	0 (4724)	Closed by Forest Supervisor on July 12, 1993. Horses were from the nearby Indian reservation and abandoned private stock..
		X Kaibab	Double Ar/Burro 3	Robert Rpt. 29766 (20766)	0	0 (200)	Active where none
		X Tonto	Saguaro/Burro 4	Robert 27092 (4180)	0	0	Active where none
	New Mexico	X Carson	Juarita Mesa/Wild Horse 5	Robert Rpt. 19483	0	0	Active
		X	Jicarilla/Wild Horse 6	Robert Rpt. 75000	0 (28000)	0	Active where none
		X	Yeso Montosa Mesa/Wild Horse 7	Robert Rpt. 2400 (4349)	0	0	Active where none
		Gila	Deep Creek/Wild Horse 8	OK 3500	0	0	Closed by FLRMP September 1986.
		X Santa Fe	Caja/Wild Horse 9	Robert Rpt. 12928	0	0	Active
			Mesa de las Viejas/Wild Horse 10	OK 18527	0	0	Dropped from original consideration in FLRMP.
			Chicoma/Wild Horse 11	OK 2747	0	0	Dropped from original consideration in FLRMP.
			San Diego/Wild Horse 12	OK 1400	0	0	Dropped from original consideration in FLRMP.
		X	Dome/Burro 13	Robert Rpt. 2000 (4500)	0	0	Active, however, due to the proximity of Bandelier NP it is unlikely any burros will ever be on the Territory.

1993 Note

1993 Note

APPENDIX

92 - 11/20/05

10/20/05 12:29 FAX 505 842 3150
10/18/05 TUE 12:48 FAX

WILD HORSE AND BURRO TERRITORIES
ADMINISTERED BY THE USDA FOREST SERVICE

FS REGION	STATE	TERRITORY NAME	ACREAGE		TERRITORY PLAN FY COMPLETED	DESIRED POP.		CURRENT POP.		FY LAST CENSUS	
			FS	BLM		OTHER	HORSE	BURRO	HORSE		BURRO
REGION 1											
MONTANA											
(No Wild Horse and Burro Territories Administered by U.S. Forest Service)											
REGION 2											
(No Wild Horse and Burro Territories)											
REGION 3											
ARIZONA											
		DOUBLE A	29,766	0	0	84	0	20	0	26	—
		HEBER	14,000	0	0	—	—	0	5	0	—
		SAGUARO LAKE	27,092	0	0	87	0	15	0	18	—
NEW MEXICO											
		CAJA	12,928	0	0	89	48	0	48	0	88
		DOME	2,000	0	0	—	0	—	0	0	—
		JARITA MESA	19,483	0	0	82	14	0	20	0	—
		JICARILLA	75,000	0	0	78	40	0	85	0	91
		YESO-MONTOSA MESA	2,400	0	0	—	—	0	—	0	—
R-3		TOTALS	182,669	0	0		102	35	158	44	

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11990-1991

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10/20/05 12:29 FAX 505 842 3150

USDA FOREST SERVICE-FOR

016

10/18/05 TUE 12:50 FAX

PAMGD

2000
14

United States
Department of
Agriculture

Forest
Service

Southwestern
Region

517 Gold Avenue SW.
Albuquerque, NM 87102-0084

Reply to: 2270

Date: October 20, 1988

Subject: Wild Horse and Burro Report FY 88

To: Chief

Enclosed is the FY 88 Wild Horse and Burro Report for Region 3.

Darrol L. Harrison

DARROL L. HARRISON
Acting Director of Range Management

Enclosure

Caring for the Land and Serving People



1988

FS-6200-28(7-82)

Wild and Free-Roaming Horses and Burros on Public Lands Report
 (Report FS-2200-E), FY 1984. Report management of Wild Horse and
 Burro Territories and animals as of September 30, 1984, as follows:

Part I. Territory Record. Submit the following information for each
 Wild Horse and Burro Territory:

Name Heber District
 National Forest Apache - Sitgreaves
 State Arizona
 Size (in acres) by ownership

FS 14000
 BLM _____
 Other _____

Management Plan Status
 Approved _____

Date _____

Current Population 1/

	Number of Animals			Animal Months Actual Use		
	FS	BLM	Other	FS	BLM	Other
Horse	<u>5</u>	_____	_____	<u>60</u>	_____	_____
Burro	_____	_____	_____	_____	_____	_____

Management Plan Population Level 1/ 2/

	Number of Animals			Animal Months Actual Use		
	FS	BLM	Other	FS	BLM	Other
Horse	_____	_____	_____	_____	_____	_____
Burro	_____	_____	_____	_____	_____	_____

1/ Do not duplicate animals or animal months. If animal grazed on FS and BLM prorate actual use estimate.

2/ Population level as established in territory plan or based on best estimate from existing information.

(16)

Part II. Excess Animal Removal. Submit the following information summarized by Region for the current fiscal year. Count mare or jenny with foal less than 6 months at side as one. Count weaned foals or foals more than 6 months as one.

	<u>Horses</u>	<u>Burros</u>
1. Total number captured and removed from territories (This will be the sum of items 1a, 1b, 1c, and 1d.	0	
a. Number Excess Destroyed (1) Old, sick, lame (2) Unadoptable	0	
b. Deaths after removal (1) Natural Causes (2) Accidental	0	
c. Animals transferred BLM. <u>1/</u>	0	
d. Excess animals adopted through FS or BLM programs but remain responsibility of FS. <u>2/</u>	0	

1/ Include those excess animals where followup including adoption, monitoring, and title assignments is BLM responsibility.

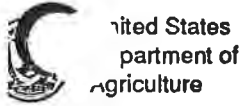
2/ Include only those animals removed from National Forest System lands and processed by FS or BLM Adopt-a-Horse Program but remain responsibility of the FS.

Part III. Status of adoptees that remain Forest Service Responsibility.

	<u>Horses</u>	<u>Burros</u>
1. Number of adopted animals that remain responsibility of FS.	0	
2. Number of titles granted this fiscal year.	0	
3. Number of deaths after adoption this fiscal year.	0	
4. Number of adopted animals eligible for granting title, but no title issued.	0	

1988

PAT Harrigan



Forest
Service

Southwestern
Region

Report No. 11



Cultural Resources Management

The Early Days: A Sourcebook of Southwestern Region History

Book 2



them a little food and water, and eventually they'd get around it. Don't pay any attention to how much it burns over; it's just old stuff anyway.

You could save a lot of expense in fighting fires on those things. The damage figures you get out of them don't anywhere near justify their cost, and they try to justify it. The only reasonable justification that they try to make out of it is that it's a matter of mental condition; they like to have people fire-conscious. Maybe there's a little excuse for it there, but I doubt it.

Where you get high values is where you get stuff around these steep foothills like over here in the Chiricahuas where the fire starts down along those foothills and will run up into the higher country; that's something else again. That's an entirely different picture. I think the Service could have saved a lot of money.

You know that of late we've been getting money for watershed work?

There's been an increase in emphasis in watershed protection. For so long we didn't get any money. We were just paying lip service. It's a step in the right direction.

I think the Indian Service boys with their burning program is something that would bear some investigation, and some of the watershed money could very well be used for that. You know, the best watershed in the world for this country would be a grass range or, that is, open pine and grass. You know the Chiricahuas and on some of these areas that have gone heavily to brush. You take some of these brush areas over here in these mountains, the Whetstones, and give them a good burning over and then put a bunch of goats to graze in there; they'd kill out that brush in a few years and convert that to grass range and it could be the best watershed protection in the world.

The mountains would serve a whole lot better for watershed purposes than it does as it is. You'd be doing away with the use of that brush on the water supply it draws out of the ground. It feeds deeper; you've got your cover on the ground; you've got your water delivery of moisture from the winter storm. The dead grass won't use any of it in the winter, but it will in the summer, but then in summer you want something that will stop the water and hold it in place.

The best watershed objective is to stop that water and get it in the ground as quickly as possible. It cuts down on evaporation. When the summer floods come down these big sand washes when they are hot and dry away down, well, just use your imagination. How much loss do we have through evaporation from those things before they get cooled off enough for the water to go on down? Get it into the ground?

In a place like the Whetstones, would you reseed that?

No, you wouldn't need to reseed it. You might want to reseed immediately after you burn it, to get a little stuff to hold it for the first year. After that, goats will eat the species of sprouts; like oak, mahogany, and that kind of stuff. The goats will feed on that rough stuff, whereas the stuff there now is so big they can't do anything with it. Eventually they would, even now, without any burning at all.

The old boy on the J-6 came over here one day. He wanted to convert his cow permit over to goats, over there on the north end of the Whetstones. Pure brushlands, that's all it is. Heinie and Ed couldn't see it; I was hoping they'd go along with it. It was the best darned thing that could happen to it.

Well, Ed was an old cowman.

Yes he was, and he didn't want any goats. But it was the best thing he could have done for the range.

I think that the Forest Service ought to start preaching a little stronger on the different types of use for the same range by the same stockmen. In other words, after he runs cattle for so many years you're going to start getting brush coming in, and weeds coming in. If he will convert it to sheep for a little while they'll clean up the weeds and some of the brush. If the brush gets too heavy, run some goats in, and they'll clean out the brush. You need diversification along the lines of that kind of use more than you do seasonal use and deferred-rotation. I think that about covers my detail.

Mr. Jesse T. Fears, born in Texas, came to Arizona in 1903 at the age of fifteen. As an orphan, he had a rough childhood and got very little schooling. He worked as a cowboy until he went into the Forest Service, except for that

period when he was in the Army in World War I. Jesse was interviewed at his home in Payson, Arizona. His story starts with his appointment as a Forest Ranger.

They sent me to the Eagle District, to the Honeymoon Station on Eagle Creek, in charge. That was my first District. I was transferred that summer to the Nutrioso Station and I was the Assistant a year or maybe two years down there. I was transferred then to Greer.

The Forest was overrun with unpermitted horses and they either had Rangers that couldn't do anything with 'em, or wouldn't do anything with 'em. We started in there. I first notified these people and tried to get 'em to get rid of their horses, and they laughed at me. Said if they had trespass horses, why didn't I get 'em for trespass, and I said, "I will when I get to it."

Then Roy Swapp and I threw in together and the first winter we gathered -- before they knew, we had 'em gathered, down on Campbell Blue (that was his District. -- He was at Alpine) over 800 horses in one bunch. Then we started and I actually gathered 2600 head of unpermitted horses on the Greer District. They were tallied and a record made of 'em before I ever killed a horse.

How did you handle these horses when you gathered them?

We threw them out on the public domain. There was loco (weed) out there, and loco got a lot of 'em. We threw 'em out there in that loco country east of Springerville.

Did you make any trespass cases out of any of them?

No, there were just too many of 'em and I just felt I wasn't capable. I hadn't had enough experience and there were just too many of them. We just threw 'em out there out of the way off of the Forest.

Now, what was it that led up to this T-12 case?

Well, I gathered this big bunch of horses and got a pasture that was a point fenced in that they seldom ever used; the Cross Bar Cattle Company -- the horses were a nuisance to them, too. They told me that I could use their pasture and I gathered these horses; I don't remember how many

horses I gathered. I sent the notices out according to the Regulations that I had these horses in trespass.

We were supposed to give them five days' notice. Well, I gave 'em 30 days' notice. I stretched it in every case. They didn't come and get any of them; oh, they may have come and got a few of the best ones.

I notified them then that the horses were in trespass and were going to be handled as trespass horses and I was gonna hold 'em 30 days. I held 'em 60 days before I ever did anything with 'em -- over 60 days. Then I advertised 'em for sale.

Well, nobody would bid on 'em except that Melvin Swapp, he did bid on a mare that was unbranded, and nobody knew who she belonged to, a great big mare. She made him a good horse. Afterwards he told me that.

When nobody would bid on them, I said, "Well, I'll just keep 'em and see what I can do with them." I turned 'em back out, but I had a man in charge of the pasture. So then when things quieted down, I got a permittee and I got a fellow that was working for me, and we went up there and rounded 'em up and we shot 'em until our shoulders were so damned sore we couldn't hold a gun. We killed 52 head of 'em. We left the best looking ones out there.

Well, it was a month or two before they discovered those dead horses, and then the fat was in the fire! This shyster lawyer got hold of it down there. He agreed to prosecute me through two courts for \$300 if they would put up and he'd be deputized. Well, they dug up the money for him and they started it, too.

The Sheriff I knew well. I told him, "Any time you get a warrant for me, just call me up. I'll come down. You won't need to come up and serve it." So he called me and I went to St. Johns and he served the warrant on me. That was the start of the court cases.

Was the first court held at St. Johns?

All of 'em were; I mean there for a while. Yes, the first one was held there. That was when the Government had this attorney from Washington and one from Tucson and one from Phoenix, besides French (the Regional Law Officer.) Well, they didn't do anything.

The Judge said he felt this was a more serious case than most people thought, and he wanted them to submit briefs. The Judge asked them how long a time they wanted to submit the briefs, and French said 24 hours. Old Ike Barth, he wanted 10 days. They argued back and forth and back and forth, and finally the Judge gave 'em ten days, that is, he gave us ten days to file our brief, and Barth ten days to answer that brief, and us another ten days to answer his brief. Well, French submitted the Government's brief within 24 hours because he had it all prepared.

The funny thing was, when we went to St. Johns afterwards, in talking about it, they didn't have anybody down there that could write shorthand. They could write just a few words of this testimony, then they just put a lot of lines out there. French got hold of this fellow and said, "Don't you remember me asking this, and him saying that?" So he put those words in afterwards -- different things that weren't in the shorthand notes. And he was supposed to be the clerk of the Court!

That wasn't a JP Court?

Oh no, it was the regular County Court.

Then they found you guilty?

No, not then. It went on quite a while.

French wrote to the Judge that he had never received Barth's brief, and the Judge then wrote a letter to Barth, and Barth said he was still preparing his brief. Then he wrote again and that time Barth said the brief was in the mail. Well, it didn't show up. French wrote him again and he said, Well, he hadn't got it prepared yet. Anyway, we went down there four times, I think it was, for me to be tried, and there was nobody there but us. The Judge wasn't there and the prosecution wasn't there. There wasn't anybody there. Then the Government drew up -- I don't know what the paper was -- saying that I was entitled to a speedy trial and they were therefore demanding that they either dismiss the charges against me or give me a speedy trial.

Then the Judge set a date for this hearing, and that is when he found me guilty. He had the decision already written up, because he said there would be a few minutes recess, and we didn't get out of the courtroom until he called us back. He had it already typed up, and he read

it. He said he couldn't see where Regulation T-12 of the Department of Agriculture had any effect in law. Therefore he would find me guilty and would fine me \$1.00.

Then French got up and said, "Your Honor, my client refuses to pay the \$1.00 fine. What will be the alternative?" The Judge turned to the Sheriff and told him to levy on any property I had for that \$1.00 fine.

French immediately filed notice of a appeal to the Supreme Court. And it went to the Supreme Court, that is, the State Supreme Court. After they had studied it, they sent it back and said that everyone knows that Federal laws are paramount to State laws. Therefore they had had no right to arrest me when I was carrying out instructions given me by the Secretary of Agriculture and they should throw out the charges against me and refund my bonds.

Well, it was over a year and we had to demand that they release my bondsmen. I had bondsmen instead of putting up bonds. It was a year before we got the bonds.

In the meantime, then, they thought, well they've got horses everywhere; the country was overrun with horses. I wanted to see somebody else start this fight instead of me. I knew I was in a hotbed with a Kangaroo Court setup, too.

Well, then they (the Government Attorneys) enjoined the County Attorney and his deputies and successors; the Sheriff and his deputies; the Governor and his successors, and the Attorney General and his assistants and successors. That's what they filed, and it went to Federal Court before three Judges sitting in banc in Los Angeles.

When we went over there the Attorney General was drunk. He got up and tried to tell that we had no business in Federal Court with a case like that. One of those old Judges -- they were all old enough to die -- he got up and jabbed his walking stick down and he stood up straight, and he said, "Do you mean to try to tell this Court that the Federal Government doesn't have any right in its own Court in the protection of its own property? Is that what you're trying to tell me?" He didn't say anything to that.

Well, then, the Judge that was to write up the decision died. So then next time it was in San

Francisco. That Judge didn't die. He wrote up a decision and gave them what they asked for -- the Government.

That set a precedent, then?

Yes, that set the precedent for getting rid of these unpermitted horses.

What year was that? When did that take place?

Well, let's see. '22, '23, '24; I'd guess it was around about 1925, or 1926.

Jim Monighan was my assistant and we had what we called the White Mountain drift fence, and no cattle were supposed to go beyond there before the first of May. I had sent Jim up there to ride that fence. I saw him comin' off the hill, his horse all in a lather. "My God," he says, "All the fences are cut down." Well, they had cut about a hundred yards where these stock could move through in three places, and had taken all the gates out and they had rolled up this wire and hauled it off some place. These cattle and horses were through on the summer range so that I couldn't count them, you see?

I called the Supervisor and told him what had happened and asked him to call a Stock Association meeting; that I wanted to come down and talk to them. So they called the meeting and I went down there to talk to them. I told them what had happened and I said, "I suspect one party of doing that, but I haven't got any proof, but I suspect this one party. "But," I said, "you people can move those cows and horses -- they are thin at this time of the year, the cattle are -- easier than I can. And if you don't move 'em, I will." And they promised me they would.

Well, I got Roy Swapp and his assistant and his brother and I had Monighan and, I think, another fellow, and we gathered about 800 head of horses and put 'em back, and we fixed the fence up. Loveridge came along about that time, and he authorized me, if I could find a man that I could depend on, when I got the fence fixed up, to hire him to ride it, to put him on and keep him on there until the first of May. And I did. I happened to have the right man; they knew they didn't dare fool with him.

I think there were 1500 or 1600 head of cattle on the summer range, and I gathered them. It wasn't

easy, but when we got through gathering them, these men from the Association showed up there to help me. They figured the stock would be scattered all over the mountain, you see. I knew they weren't scattered and that the time to get 'em was right then. And I did.

Here was the thing: When I went up there those people told me that they had taken the land away from the Indians and, "by God, there wasn't no Government and nobody else gonna tell them how to run their stock." The funny part was that my wife's people, my wife's grandfather, was in charge of an immigrant train that came across the plains from Missouri, and they came in there in August of '76. There wasn't a Mormon in that country above St. Johns, just Mexicans and a few Gentiles. That's all that was there. Now, they were there before the Mormons were.

Were the Beckers there?

Oh yes. Old Man Gus Becker, he had the store there. He came in there the same day that my wife's people came in there; he overtook them horseback comin' from Albuquerque out there about Salt Lake and rode with them all the way into Springerville. Her people camped up there in Water Canyon close to where the Ranger Station was then.

Well, had they been doing just as they pleased ever since they started there, Jesse?

Pretty much, yes pretty much. The trouble was, you know, the first Rangers they sent out here they sent them out from the east, and they didn't know anything about stock conditions or how to handle 'em or anything else. They gradually began to get men that did know, but they got men that wouldn't do. A lot of them were capable of it but they just didn't want to go up against it. It just looked like a tough proposition.

I figured that somebody had to do it and I waited for somebody to do it first before ever I killed a horse. Then when I started, why, I went on. French claims now that was the most important case he handled while he was in the Forest Service. It set precedents all over the West.

All over the West the country was covered with horses. I can remember before I went in the Forest Service up there on top of this mountain, when you'd be ridin' across there you'd see hundreds and hundreds and hundreds of horses in a

day's time. Well, it got so up there those fellows couldn't hardly round up their cattle in that open country on account of the horses running through them, turning their drives and that stuff.

Were the regular permittees pretty much behind you in that work?

Only the larger ones. The smaller ones all had excess stock. The larger ones didn't, in horses and cattle. There were a few of the smaller ones, but most of them weren't.

Were they petty hostile toward you?

Yes, someone went up there and killed my wife's saddle horse in the pasture up there at the foot of Baldy. I went up there to get him one time in a snowstorm and he had been shot right through the heart. I never thought very much about it because saddle horses were cheap then, around \$60 to \$65.

Earl Loveridge got somebody to take that up in Congress in an omnibus bill. It didn't get through one year but then next year it did, and Congress paid me for that horse. I never expected anything, you know. Earl Loveridge was the one that did it.

Earl wasn't Supervisor then, was he?

No, he was out of the Regional Office, in charge of Operations then. He was on an inspection trip. That's where so many people dreaded him, but he was a man that I sure liked. When you asked him a question you got an answer and you understood it. It might not be the answer that you wanted, but there was no dilly-dallying around. I thought a lot of Earl Loveridge.

From the Use Book, 1906 -- Each Supervisor (and Ranger) is required to keep at his own expense one or more horses, to be used under saddle or to vehicle, for his transportation in the Reserve.

I had good horses and Earl told me once, "You know it's a pleasure to be over on your District in making inspections, riding these horses of yours. You can just ride them in a long trot all day long and they're still up and coming when

night comes."

Have you had trouble with grazing permittees all through your Forest Service experience?

Oh, no. I've had very little trouble with the grazing permittees. Now you take Frank Grubb; he wanted me to go down here on the Crook. I didn't want to go down there, and he called me up and asked me to meet him in Globe. I met him there in Globe and he explained the situation, what had been going on and everything, and he said, "These people have been given a pretty raw deal, these permittees." And he said, "I think you can help me get them back as friends of the Forest Service." I don't believe there was over one down there who wasn't a friend of mine when I left that District, and he was a fellow that was kind of nutty.

One time I think he had, oh I don't know, 50 or 60 head of cattle and he was on an allotment with another permittee that had 840 head. He got a crooked lawyer and demanded a division of the allotment, and he wanted half of the allotment. Well, we explained to him that he couldn't get half of the allotment; it would be divided on a per-cow basis. We had a lot of meetings with him.

McDuff and I went over there and finally got him to agree on a line. I held a slicker over McDuff while he wrote out an agreement in the rain. It was raining like hell when he and Mac and me signed it. He kicked back on it before we got back to town.

Even though he had signed it?

Oh yes, and then the thing was, we rode over and went over it -- he was just nutty -- and he rode that line until he had a beat-out trail all around where we were going to put a fence, he rode it so much. I know one time I got worried when we were building a fence over there and I got word from the fence foreman that he had been over there and told them to stop building that fence. He told 'em to stop building it. I thought I had better go over and see about it. It's so far over there that I would have to haul a horse a long way. I hauled one in there to Louie Horrel's ranch on Pinto Creek, then I had to ride about eight or nine miles to get down there to where the start of this fence was. I asked Louie, I said, "Where's Jack Martin?" -- that's the fellow that worked for him -- and he



United States
Department of
Agriculture

Apache-Sitgreaves
National Forests

COPY

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File Code: 6270-1

Date: November 15, 2005

Patricia Haight, Ph.D.
Arizona Office
In Defense of Animals
2121 S. Mill Ave., Suite 107C
Tempe, AZ 85282

RE: Freedom of Information Act Request, Control No. A-S-2006-002

Dear Dr. Haight:

This is in response to your Freedom of Information Act (FOIA) request dated October 14, 2005, received October 17, 2005, in which you requested:

- *A list of all grazing leases in the Sitgreaves National Forests including location of area grazed, size of area, number of animals on grazing area, type of animals on grazing area;*
- *Type of grazing leases as cow-calf operations, steer operations, 12 month or limited leases;*
- *Formulas and all information used to determine holding capacity;*
- *Any and all information related to all grazing leases in Sitgreaves National Forest.*

Please find enclosed all responsive documents (43 pages) to your request, including spreadsheets that include the requested information on all grazing leases for the Sitgreaves National Forest and "Considerations Concerning Stocking Rates" for both the Lakeside and Black Mesa Ranger Districts. Regarding item #4, per your telephone conversation with Deb Bumpus, Forest Range Staff, it was clarified that the enclosed responsive documents satisfied this part of your request.

There is no charge for your request since the total number of pages was less than the 100 allowed free per FOIA. If you have any questions, please do not hesitate to contact me.

Sincerely,

ELAINE J. ZIEROTH
Forest Supervisor

Enclosures

A-S FOIA, A-S Range, Black Mesa RD, Lakeside RD





United States
Department of
Agriculture

Forest
Service

Apache-Sitgreaves
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File Code: 6270-1

Date: 11/09/05

Route To:

Subject: Re: FOIA - Haight 10/14/05

To: Forest Supervisor, Apache-Sitgreaves NF's

Enclosed is the information requested by Patricia Haight, Ph. D. on October 14, 2005:

1. A list of all grazing leases in the Sitgreaves National Forests including location of area grazed, size of area, number of animals on grazing area, type of animals on grazing area.

Information provided on spreadsheet attached.

2. Type of grazing leases as cow-calf operations, steer operation, 12 months or limited leases.

Information provided on spreadsheet attached.

3. Formulas and all information used to determine holding capacity.

Information provided in "Consideration Concerning Stocking Rates" document from 1999 for the Lakeside RD.

4. Any and all information related to all grazing leases in Sitgreaves National Forest. The district needs clarification of what exact information the requester is needed on grazing permits. This request is too broad.

This request required 8 hours of a GS -11/5 and 11 pages of information was provided.

EDWARD W. COLLINS
District Ranger

cc: Deb Bumpus, Tammy K Slade



Grazing on the Sitgreaves National Forest

Allotment ID	Year	Allotment Name	Livestock	Livestock #	Dates on	Dates off	head month	Acres
#00056	2000	Arab	non use	0			0	220
	2001	Arab	cow-calf	50	11-Jun	31-Oct	235	220
	2002	Arab	cow-calf	27	15-Jun	30-Jun	14	220
	2003	Arab	cow-calf	27	1-Jun	31-Oct	136	220
	2004	Arab	cow-calf	27	1-Jun	31-Oct	136	220
	2005	Arab	cow-calf	27	1-Jun	31-Oct	136	220
#00045	2000	Blue Ridge	cow-calf	70	1-Jun	31-Oct	352	10943
	2001	Blue Ridge	cow-calf	60	8-Jun	31-Oct	288	10943
	2002	Blue Ridge	cow-calf	60	1-Jul	15-Nov	272	10943
	2003	Blue Ridge	cow-calf	60	1-Jun	31-Oct	302	10943
	2004	Blue Ridge	cow-calf	60	1-Jun	31-Oct	302	10943
	2005	Blue Ridge	cow-calf	40	1-Jun	31-Oct	201	10943
#00051	2000	Brown Creek	cow-calf	65	1-Jun	31-Oct	327	9995
	2001	Brown Creek	cow-calf	47	1-Jun	15-Oct	212	9995
	2001	Brown Creek	cow-calf	19	1-Jun	31-Oct	96	9995 Pvt Permit
	2002	Brown Creek	cow-calf	45	1-Jun	20-Oct	210	9995
	2002	Brown Creek	cow-calf	19	1-Jun	31-Oct	96	9995 Pvt Permit
	2003	Brown Creek	cow-calf	0			0	9995
	2003	Brown Creek	non use	0			0	9995 Pvt Permit
	2004	Brown Creek	non use	0			0	9995
	2004	Brown Creek	non use	0			0	9995 Pvt Permit
	2005	Brown Creek	yearling	80	1-Jun	31-Oct	402	9995
#00048	2000	Buck Springs	cow-calf	35	1-Jun	30-Jun		8606
	2000	Buck Springs	cow-calf	70	1-Jul	31-Oct		
	2001	Buck Springs	cow-calf	70	1-Jul	20-Oct	258	8606
	2002	Buck Springs	non use				0	8606
	2003	Buck Springs	cow-calf	18	1-Jun	2-Aug	37	8606
	2003	Buck Springs	cow-calf	58	3-Aug	31-Oct	172	8606
	2004	Buck Springs	cow-calf	58	1-Jun	31-Oct	292	8606
	2005	Buck Springs	cow-calf	57	1-Jun	30-Sep	229	8606
#00032	2000	Capps	cow-calf	54	1-Nov	28-Feb	213	1830
	2001	Capps	cow-calf	20	1-Jun	31-Jul	40	1830

Grazing on the Sitgreaves National Forest

2002	Capps	non use	0	0	1830
2003	Capps	non use	0	0	1830
2004	Capps	non use	0	0	1830
2005	Capps	non use	0	0	1830

#00029	2000	Cottonwood	cow-calf	100	1-Nov	15-Jan	250	7888
	2000	Cottonwood	cow-calf	100	1-Jul	30-Sep	302	7888
	2001	Cottonwood	cow-calf	81	1-Nov	28-Feb	320	7888
	2002	Cottonwood	cow-calf	81	1-Mar	30-Apr	162	7888
	2003	Cottonwood	cow-calf	76	1-Feb	30-Apr	222	7888
	2003	Cottonwood	cow-calf	82	1-Oct	31-Oct	84	7888
	2003	Cottonwood	cow-calf	82	1-May	31-Jul	248	7888
	2004	Cottonwood	cow-calf	70	1-Nov	30-Nov	69	7888
	2004	Cottonwood	cow-calf	75	10-May	10-Oct	380	7888
	2005	Cottonwood	cow-calf	82	15-Jun	30-Sep	291	7888
	2005	Cottonwood	cow-calf	82	1-Nov	31-Jan	248	7888

Allotment ID	Year	Allotment Name	Livestock	Livestock #	Dates on	Dates off	head month	Acres
#00030	2000	Dodson	cow-calf	199	1-Mar	28-Feb	2388	17397
	2001	Dodson	cow-calf	100	1-Mar	31-May	302	17397
	2002	Dodson	cow-calf	100	1-Nov	28-Dec	191	17397
	2002	Dodson	cow-calf	100	1-Mar	31-May	302	17397
	2003	Dodson	cow-calf	120	1-Jan	30-Jun	714	17397
	2004	Dodson	cow-calf	135	1-Sep	30-Sep	133	17397
	2004	Dodson	cow-calf	120	18-May	25-Jun	154	17397
	2004	Dodson	cow-calf	120	11-Mar	17-May	268	17397
	2004	Dodson	cow-calf	135	26-Jun	31-Aug	297	17397
	2004	Dodson	cow-calf	120	22-Nov	24-Jan	252	17397
	2005	Dodson	cow-calf	120	1-Jul	31-Dec	726	17397
#00043	2000	Ellsworth	cow-calf	33	16-May	31-Oct	167	2225
	2001	Ellsworth	cow-calf	30	16-May	31-Oct	167	2225
	2002	Ellsworth	cow-calf	33	16-May	1-Jul	51	2225
	2003	Ellsworth	cow-calf	33	16-May	31-Oct	183	2225
	2004	Ellsworth	non use	0			0	2225
	2005	Ellsworth	non use	0			0	2225

Grazing on the Sitgreaves National Forest

#00044	2000	Johnson	cow-calf	14	1-Jun	31-Oct	71	879
	2001	Johnson	cow-calf	1	25-Jul	17-Oct	3	879
	2001	Johnson	cow-calf	25	25-Jul	17-Oct	70	879
	2002	Johnson	cow-calf	21	1-Nov	18-Nov	12	879
	2002	Johnson	cow-calf	21	20-Jul	31-Oct	72	879
	2003	Johnson	cow-calf	21	5-Sep	22-Oct	33	879
	2004	Johnson	cow-calf	21	15-Jul	25-Oct	71	879
	2005	Johnson	yearling	21	15-Jul	15-Nov	86	879
#00033	2000	Juniper Ridge	cow-calf	23	1-Jun	31-Oct	116	3433
	2001	Juniper Ridge	cow-calf	23	1-Jun	31-Oct	116	3433
	2002	Juniper Ridge	cow-calf	23	1-Jun	31-Oct	116	3433
	2003	Juniper Ridge	non use	0			0	3433
	2004	Juniper Ridge	non use	0			0	3433
	2005	Juniper Ridge	non use	0			0	3433
#00055	2000	Lake Mountain	non use	0			0	26677
	2001	Lake Mountain	cow-calf	110	2-Jun	6-Jul	127	26677
	2001	Lake Mountain	cow-calf	175	22-Sep	31-Oct	230	26677
	2002	Lake Mountain	cow-calf	100	10-Aug	17-Aug	26	26677
	2002	Lake Mountain	cow-calf	134	18-Aug	31-Oct	330	26677
	2003	Lake Mountain	cow-calf	105	1-Jun	7-Jun	24	26677
	2003	Lake Mountain	cow-calf	109	9-Jun	12-Jul	122	26677
	2003	Lake Mountain	cow-calf	121	13-Jul	2-Aug	84	26677
	2003	Lake Mountain	cow-calf	134	3-Aug	31-Oct	396	26677
	2004	Lake Mountain	cow-calf	134	1-Jun	31-Oct	674	26677
	2005	Lake Mountain	cow-calf	125	1-Jun	31-Oct	629	26677
#00036	2000	Linden	cow-calf	172	1-Mar	28-Feb	2064	33748
	2001	Linden	cow-calf	100	1-Mar	31-May	302	33748
	2001	Linden	cow-calf	100	1-Aug	28-Feb	697	33748

Allotment ID	Year	Allotment Name	Livestock	Livestock #	Dates on	Dates off	head month	Acres
#00036	2002	Linden	cow-calf	70	1-Nov	28-Feb	276	33748
	2002	Linden	cow-calf	100	1-Mar	20-Nov	871	33748
	2003	Linden	cow-calf	120	1-Jul	31-Dec	726	33748
	2004	Linden	cow-calf	120	1-Nov	21-Nov	83	33748
	2004	Linden	cow-calf	120	21-Nov	10-Mar	434	33748

Grazing on the Sitgreaves National Forest

	2004	Linden	cow-calf	120	25-Jan	28-Feb	138	33748
	2005	Linden	cow-calf	120	1-Jan	30-Jun	714	33748
#00046	2000	Ortega	non use				0	12837
	2001	Ortega	cow-calf	300	9-Jun	31-Oct	1430	12837
	2002	Ortega	cow-calf	350	4-May	27-Jul	978	12837
	2002	Ortega	cow-calf	50	8-Jun	30-Jun	38	12837
	2003	Ortega	cow-calf	230	24-May	14-Jun	166	12837
	2003	Ortega	cow-calf	230	15-Jun	11-Jul	204	12837
	2004	Ortega	cow-calf	260	28-May	24-Jul	496	12837
	2005	Ortega	cow-calf	320	26-May	20-Aug	915	12837
#00031	2000	Pinedale	cow-calf	62	22-Jul	31-Dec	332	33622
	2000	Pinedale	cow-calf	80	1-Jan	21-Jul	534	33622
	2001	Pinedale	cow-calf	62	1-Jan	31-Dec	744	33622
	2002	Pinedale	cow-calf	0			0	33622
	2003	Pinedale	cow-calf	0			0	33622
	2004	Pinedale	cow-calf	135	1-Oct	31-Oct	138	33622
	2005	Pinedale	non use					33622
#00049	2000	Pinyon	non use	0			0	2331
	2001	Pinyon	non use	0			0	2331
	2002	Pinyon	non use	0			0	2331
	2003	Pinyon	non use	0			0	2331
	2004	Pinyon	non use	0			0	2331
	2005	Pinyon	non use				0	2331
#00057	2000	Porter Springs	cow-calf	120	1-Jun	31-Oct	910	307
	2000	Porter Springs	cow-calf	24	1-Jul	30-Jun	118	
	2000	Porter Springs	cow-calf refund				-142	
	2001	Porter Springs	cow-calf	170	7-Jul	21-Sep	430	307
	2002	Porter Springs	cow-calf w lake mtn					307
	2003	Porter Springs	cow-calf w lake mtn					307
	2004	Porter Springs	cow-calf w lake mtn					307
	2005	Porter Springs	with Lake Mtn w lake mtn				0	307
#00041	2000	Show Low	cow-calf	288	1-Mar	28-Feb	2465	34945

Grazing on the Sitgreaves National Forest

2001	Show Low	cow-calf	250	1-Mar	28-Feb	3000	34945
2002	Show Low	cow-calf	15	15-Dec	30-Dec	8	34945
2002	Show Low	cow-calf	50	15-Jan	28-Feb	74	34945
2002	Show Low	cow-calf	50	1-Jan	28-Feb	97	34945
2002	Show Low	cow-calf	288	1-Mar	1-Jul	1165	34945
2003	Show Low	cow-calf	50	1-Nov	28-Feb	197	34945
2004	Show Low	cow-calf	75	16-Jul	15-Oct	227	34945
2004	Show Low	cow-calf	50	1-Jun	15-Jul	74	34945
2004	Show Low	cow-calf	25	1-Apr	31-May	50	34945
2004	Show Low	cow-calf	75	16-Oct	31-Dec	190	34945

Allotment ID	Year	Allotment Name	Livestock	Livestock #	Dates on	Dates off	head month	Acres
#00041	2004	Show Low	cow-calf	25	1-Apr	31-May	50	34945
	2004	Show Low	cow-calf	50	1-Mar	15-Mar	25	34945
	2004	Show Low	cow-calf	75	1-Jan	28-Feb	145	34945
	2004	Show Low	cow-calf	50	16-Mar	31-Mar	26	34945
	2005	Show Low	cow-calf	75	1-Mar	28-Feb	900	34945
#00047	2000	Sponsellor	non use	0			0	12409
	2001	Sponsellor	cow-calf	259	2-Jun	27-Oct	1260	12409
	2002	Sponsellor	cow-calf	50	1-Jul	15-Aug	76	12409
	2002	Sponsellor	cow-calf	220	16-Aug	31-Oct	557	12409
	2003	Sponsellor	cow-calf	230	12-Jul	16-Aug	272	12409
	2003	Sponsellor	cow-calf	230	22-Jul	31-Oct	771	12409
	2004	Sponsellor	cow-calf	255	25-Jul	31-Oct	830	12409
	2005	Sponsellor	cow-calf	320	21-Aug	31-Oct	757	12409
#00035	2000	Town Tank	cow-calf	14	6-Jun	30-Nov	112	3528
	2001	Town Tank	cow-calf	10	15-Jul	15-Sep	21	3528
	2002	Town Tank	non use				0	3528
	2003	Town Tank	non use				0	3528
	2004	Town Tank	non use				0	3528
	2005	Town Tank	non use				0	3528

Stocking Rates - 1999

*LAKESIDE RANGER DISTRICT
APACHE-SITGREAVES NATIONAL FORESTS
SOUTHWESTERN REGION
12/05/99*

CONSIDERATIONS CONCERNING STOCKING RATES



Prepared for:

Interdisciplinary Analysis Team
1999 Sitgreaves AMPs

INTRODUCTION

Stocking is the placement of livestock on rangeland. A *stocking rate* is the number of specific kinds and classes of animals grazing a unit of land for a specified time. The total number of animals which can be sustained on a given area based on the proper use of the total forage resources available is referred to as *grazing capacity*. This report presents various methodological factors and considerations used to determine grazing capacities for allotments scheduled for new or revised allotment management plans [AMPs] in 1999.

Capacity is based on a determination of total herbage production and of that portion which could be utilized by livestock and wildlife while achieving the Desired Future Condition (DFC) established for the allotment. Other factors affecting the capacity of an allotment include, availability of water, management techniques, allowable use levels, and class of livestock. An estimated grazing capacity for livestock will be determined for each pasture within an allotment to determine the length of time livestock may graze in that pasture. This will help the Forest evaluate whether permitted use is in balance with capacity, as directed by the Forest Plan standards and guidelines (p. 77-1). In development of an individual AMP, information presented will be used to evaluate the current management situation and differing management alternatives, including no livestock grazing.

It is important to recognize that stocking rates are but an estimate based on certain assumptions, such as an even distribution of animals or average climatic conditions. Estimation methods are designed to yield stocking levels close to what the land can appropriately carry. These levels may need to be modified after an AMP is implemented. Monitoring forage use in key areas must be done to ensure compliance with allowable use standards. Monitoring will help determine needed adjustments in stocking rates. Drought, which is fairly common in Arizona, will often necessitate temporary livestock reductions.

GRAZING CAPABILITY

Vegetation is produced on most acres of an allotment. Forage produced on every acre, however, may not be available for grazing use. In order to estimate forage available for grazing, a determination of which acreage can be grazed and of the amount of available forage will be made considering a combination of four factors: forage production, soil stability, distance from water, and steepness of slope.

A. Forage Production. Methods for estimating forage production are detailed in the following section. It should be noted here that range which produces 50 air-dried pounds or less of herbaceous forage (grass and forbs) per acre is not considered suitable for grazing. Such areas generally lack sufficient ground cover to protect the soil, or have a dense overstory canopy. This acreage is not included in the livestock capacity estimate (FSH 2209.21, Sec. 21).

B. Soil Stability. There are three classes of soil stability based on the status of current soil loss. Soil loss is expressed in tons/hectare/year (TES 1989 -- a hectare is about 2.5 acres) which can be equated to grazing capability classifications found in FSH 2209.21, Sec. 23.

Stable soils: Where the current soil loss is less than tolerance soil loss, the rangeland is considered stable and classed as full capacity [FC] range. Such areas are included in estimations of grazing capacity. These areas will be used by most animals in most situations. With proper allowable forage use, stable soils can be used without long term damage to the soil resource or plant community (FSH 2209.21, Secs. 21 and 23.1).

Impaired soils: Where current soil loss exceeds the tolerance soil loss, the rangeland has impaired soil stability and is classified as potential capacity [PC] range. Such areas usually are not included in the grazing capacity estimate. However, they may be included when the allotment is under intensive management with proper stocking and conservative allowable forage use (FSH 2209.21, Secs. 21, 23, and 53.3). For proposed actions on PC areas, the allowable forage utilization will be set at 10%, a level which will help reduce the possibility of overutilizing forage on FC sites.

Unstable soils: Where natural soil loss exceeds the tolerance soil loss, the rangeland has unstable soil conditions and is classified as no capacity [NC] range. It cannot be used by livestock without long term damage to the soil resource or plant community. These areas are not included in an estimated grazing capacity even though livestock use may occur (FSH 2209.21, Secs. 21 and 23.3).

C. Distance from Water. Holechek (1988:Table 4) cites the failure to adjust stocking rates for travel distance to water as being the cause of considerable range degradation in hot, arid rangelands such as the southwestern United States. Other authors have also identified the need to adjust stocking based on availability of water (Glendening 1944, Phillips 1965, Clary 1975, Pinchak et al. 1991, Hart et al 1991). Based on this information, adjustments to capacity were made by reducing the allowable forage use on stable, forage producing sites as shown in Table 1.

**Table 1. Reduction in Cattle Grazing Capacity
Based on Distance from Water**

Distance (miles)	Grazing Capacity Reduction
< 1	None
1 - 2	50%
> 2	100% (considered ungrazable)

Unlike cattle, sheep do not require water every day and, because of herding, will use areas up to two miles from waters. Adjustments for distance from water are normally not considered for sheep (Holechek 1988:11), however site-specific information may indicate the need to do so.

D. Steepness of Slope. Holechek (1988:Table 3) provides guidelines for grazing capacity adjustments for terrain. Other authors have also identified the need to adjust stocking based on slopes (Cook 1966, Mueggler 1965, Goodwin 1962, Glendening 1944, Phillips 1965, Clary 1975, Pinchak et al. 1991, Ganskopp and Vavra 1987). Based on this

information, adjustments were made for cattle by reducing the allowable forage use on stable, forage producing sites as shown in Table 2.

**Table 2. Reduction in Cattle Grazing Capacity
Based on Slope**

Percent Slope	Grazing Capacity Reduction
< 11	None
11 - 30	30%
31 - 60	60%
> 60	100% (considered ungrazable)

Citing a study by McDaniel and Tiedeman (1981), Holechek *et al.* (1995:198) find that "slopes greater than 45% should be considered unusable by sheep, but little or no adjustment appears necessary for slopes under 45%."

FORAGE PRODUCTION

Herbaceous forage production records for some allotments are more than 10 years old; such data are not considered usable for the present analyses. The scientific literature was reviewed to determine if methods exist to estimate forage production using vegetation data such as basal area or canopy cover. A number of studies were evaluated but not used because trial results in Forest study areas proved inconsistent with observed production (Ffolliott 1983; Bojorquez 1987; Uresk and Severson 1989; Peiper 1990, 1994; Tapia *et al.* 1990; Covington and Fox 1991; Mitchell and Bartling 1991). The studies by Jameson (1967) and Thill *et al.* (1983) did prove useful, however, Jameson's (1967) studies were conducted in northern and central Arizona, and included grass and forbs. His regression curves are used for the ponderosa pine forest and pinyon-juniper woodland. The formulas yield production data which are consistent with Forest observations; exceptions are found on volcanic soils at higher elevations (>8,000 feet) where production is generally somewhat higher.

Thill *et al.*'s (1983) studies were conducted in east-central Arizona, on the Alpine and Springerville Ranger Districts, and included browse, grass, and forbs. Their regression curves are used for the mixed conifer type. Most mixed conifer stands produce less than 50 pounds per acre.

The above formulas are used to calculate the initial production for the analysis area. This preliminary information is then incorporated into GIS and used to generate map of forage production for the allotment using the classes shown in Table 3 below. This table summarizes the regression estimations, and shows the forage production classes which are used in an initial categorization. (It should be noted that, since all the above-referenced equations are curvilinear functions, adjustments needed to be made at the upper and lower extremes; these adjustments were made based on available data.)

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Table 3. Forage Production Classes (air-dried pounds per acre)

	700	600	500	400	300	200	100	< 50
Canopy Cover - %								
Ponderosa	0	-	-	1 - 9	10 - 14	15 - 19	20 - 40	> 40
PJ / Oak	-	0	-	1 - 9	10 - 14	15 - 25	26 - 65	> 65
MC / Aspen	< 1	-	-	-	1 - 16	17 - 21	22 - 43	> 43
Basal Area - ft²/acre								
Ponderosa	-	-	1 - 14	-	15 - 24	25 - 35	36 - 85	> 85
MC / Aspen	< 15	-	-	-	15 - 25	26 - 30	31 - 60	> 60

The initial forage production map will be verified and/or modified through field observations. Corrections to the production information will be made where needed, based on field estimates of production to be conducted by Clay Baxter, Rangeland Management Specialist, and Chris Nelson, Soil Scientist. Both these individuals have extensive experience and considered factors such as weather when estimating production.

PROPER FORAGE UTILIZATION

Proper forage use refers to the degree of grazing use plus trampling damage that individual species can sustain while maintaining vigor, forage production, and reproductive capacity. *Allowable use* is determined from proper use, and is the level of grazing use that can be permitted on an area when all influencing factors are considered. Allowable use values are a tool to improve range health and plant vigor. Current range conditions are based on a professional determination of the range condition for each allotment as verified during field reviews.

Deferment means that livestock grazing is not allowed in a pasture until grass seed set occurs. Typically, this is mid to late August on ranges where warm season species dominate, or late May where cool season species dominate. *Rest* means that livestock grazing does not occur in a pasture during a calendar year.

The level of allowable use is based on existing conditions, management strategy and the desired conditions. Allowable utilization levels of 0 to 10% would improve conditions the fastest, utilization levels of 10 to 30% would also improve conditions, 30 to 35% would tend to stabilize conditions, 35 to 45% would also tend to stabilize conditions, but with a higher risk of causing a downward trend and 45%+ would not improve or maintain conditions and could cause a decline in conditions.

Allowable use will consider existing and desired conditions resource conditions, such as soils, watershed, range, wildlife, etc. If range conditions are expected to reach fair or better condition in a timely manner, a conservative allowable use should be employed.

Consideration is not provided for use levels that exceed 50%. Holechek's (1988) literature review indicates that 50% use levels appear applicable only to humid and to annual grasslands, situations not found on the Forest.

The allowable use figures are for FC range. If grazing capacity is assigned to PC range sites for analysis of alternatives, the allowable use factor will be 10% in order to assure FC range is not overused (FSH 2209.21, Sec 53.3). Some alternatives may be developed that would provide for a different allowable use because of issues brought up

during scoping. In these cases, the allowable use on PC range should remain at the lesser, more conservative figure in an attempt to change the impaired sites to stable sites.

WILDLIFE FORAGE CONSUMPTION

Wildlife, particularly large ungulates, are notable consumers of herbaceous forage. Such utilization needs to be taken into account. Estimated wildlife density data were provided by the Arizona Game and Fish Department [AGFD] in the form of seasonal density maps for deer, elk, antelope, and bighorn sheep. These maps were digitized, entered into the Forest's GIS system, and then overlain by allotment boundaries so wildlife populations for each allotment could be estimated.

Holechek (1988) notes that a wide range of studies are consistent in showing that various wildlife ruminants consume about 2% of body weight per day in dry matter when forage availability is not restricted. The average body weight for wildlife species was furnished by AGFD. The average elk weighs some 535 pounds, mule deer about 125 pounds, white tail deer about 85 pounds, and antelope about 100 pounds (figures will vary by hunt unit).

Wild ungulates' diets are not solely herbaceous forage, both shrubs and trees comprising a varying proportion. The percentage of browse use varies by season for different species. In the AMP analyses, a reduction of total herbaceous forage needed by wild ungulates will be made to reflect the browse consumption. Herbaceous forage for elk was estimated at 80% of their total intake need for summer and 60% for winter; for deer, the estimates are 50% for summer and 30% for winter (see Brown 1990; Leger 1984; Miller *et al.* n.d.; Rowland *et al.* 1983; Severson and Medina 1983; Wallace 1984). Forage requirements for antelope were not adjusted because they utilize little browse in their diets. Table 5 shows average annual forage consumption for the "typical" animal of a species; no consideration is made for gender or seasonal variations due to reproductive status or other factors. Further adjustments could be made for a specific allotment to account for local conditions.

**Table 5: Average Annual Forage Consumption for Wild Ungulates.
(Dry Matter Equivalent, in Pounds)**

Species	Summer (182 Days)	Winter (183 Days)	Annual
Elk	1558	1175	2733
Mule deer	228	137	365
White tail deer	155	93	248
Antelope	364	366	730

LIVESTOCK FORAGE CONSUMPTION

Cattle: Information provided by Rice (1995) was used to determine forage requirements for cattle. His data were derived from the National Research Council Publication for estimating feed intake of food producing animals and adjusted "for typical beef cows in

Stocking Rates - 1999

Arizona". This information may be used for livestock of various weights and for varying forage quality. For example, with medium forage quality and with a calf weighing 200 pounds, consumption of dry forage by a dry cow and cow-calf pairs of varying weight is shown in Table 6.

These figures equate to a forage requirement of 1.7% of body weight during the period calves are not with their mothers (normally the dormant plant period). This also equates to 2.9% of body weight when calves are present (normally during the plant growth period). Sprinkle (1998) indicated that an adequate estimate of forage needs for a 1,000 pound cow and calf would be 30 pounds of forage per month, or 3% of body weight, for North Central Arizona. Holechek (1988) provides comparable figures, stating that the daily forage demand is 1.5% of body weight during dormancy, while during the active growth period it is 2.5%. Utilizing this information, forage requirements for livestock will be calculated using 2.9% and 1.7% of live body weight for summer and winter respectively for all allotments analyzed.

Table 6. Seasonal Forage Intake Needs of a Dry Cow and a Cow-Calf Pair (Dry Matter Equivalent, in Pounds)

	April - October (214 Days)	September - May (151 Days)	Annual
Dry Cow			
Light (800 lbs)	2910	2054	4964
Medium (1000 lbs)	3638	2567	6205
Heavy (1200 lbs)	4366	3080	7446
Cow-Calf Pair			
Light cow/200 lb calf	5778	2054	7832
Medium cow/200 lb calf	6206	2567	8773
Heavy cow/200 lb calf	6848	3080	9928

Cattle may forage on browse species during the summer months. In most cases this use would be incidental except, perhaps, in the case of aspen. Thill *et al.*'s (1983) study includes aspen in the production data, so further consideration for browse use is not considered necessary.

Sheep: Forage requirements for sheep were derived from Ensminger (1978: Table 4-53). Daily forage demand for a ewe varies by size and reproductive status, ranging from as little as 1.6% of body weight (heavy ewe, maintenance) to as much as 4.2% (light ewe, first eight weeks of lactation). Table 7 summarizes data for ewes of different weights by reproductive period.

Table 7. Forage Intake Needs of a Ewe (Dry Matter Equivalent, in Pounds)

Ewe	Gestation I (First 15 weeks)	Gestation II (Last 6 weeks)	Lactation I (First 8 weeks)	Lactation II (Last 8 weeks)	Maintenance (15 weeks)	Annual
Light (110 lbs)	252	155	258	207	231	1,103
Medium (143 lbs)	315	185	297	246	263	1,306
Heavy (176 lbs)	347	202	319	269	305	1,441

Equivalents: An animal use month [AUM] is defined as one month's grazing by a dry cow. A permittee may prefer to graze cow-calf pairs, yearling cattle, or sheep, so there is a need to convert different kinds of livestock to equivalent AUMs. Table 8 provides the conversion factors (FSM 2200, R-3 Supp. 2200-91-1).

Table 8. Conversion Factors for Yearling Cattle and Sheep

Class	Factor	No. of Animals/AUM
Cow-calf Pair	0.76	1.32
Yearling Cattle		
<i>Light (300 - 450 lbs)</i>	0.55	1.82
<i>Medium (450 - 650 lbs)</i>	0.70	1.43
<i>Heavy (650 - 800 lbs)</i>	0.75	1.33
Sheep	0.20	5.00

LIVESTOCK CAPACITY

Livestock capacity for each alternative will be determined as follows:

1. Estimated forage production, as field verified, will be multiplied by acres and by the allowable use factor to determine the pounds of forage available for use. This will be done on FC and PC range by pasture. Further adjustments for soil stability, distance from water and/or slope may be made as described in Section II.
2. Livestock and wildlife forage requirements will be determined.
3. The available forage may be distributed for both wildlife and livestock. Alternatives may be developed to evaluate effects of forage distribution at varying ratios.
4. A capacity will be established for each pasture based on the amount of forage available for use and the forage requirements of both livestock and wildlife. The pastures' capacity (excluding holding traps) will be summed to establish a capacity for the allotment.

ACQUIRED LANDS

Since the Forest Plan was implemented (1987), a number of formerly private parcels have been acquired. Wildlife surveys indicate that some of these lands may be within big game critical winter range in some years, depending on snow level. In accordance with Forest Plan standards and guidelines (pg. 75-1), special consideration will be given to critical big game winter ranges in areas where winter range has been determined to be a limiting factor in achieving game management objectives. New land acquisitions in critical winter range areas will not be used for domestic livestock grazing unless their inclusion in a grazing system better meets big game objectives. The AMP analyses will evaluate the situation, as appropriate, and develop appropriate alternatives.

LITERATURE CITED

- Apache-Sitgreaves National Forests. 1998. Considerations concerning stocking rates 1998 allotment management plans- for allotments on Chevelon/Heber Ranger District, Lakesider Ranger District. Upubl. Ms.
- Bojorquez, L.A. 1987. Multiple-Resource Modelling in the Forest and Woodland Ecosystems of Arizona. Unpublished thesis, School of Renewable Natural Resources, University of Arizona, Tucson.
- Brown, Richard L. 1990. Effects of a Savory Grazing Method on Big Game: A Final Report. Arizona Game and Fish Department, Research Branch, *Technical Report* No. 3.
- Clary, Warren P. 1975. Range Management and its ecological basis in the Ponderosa Pine Type of Arizona: the status of our knowledge. USDA FS Research paper RM-158. Ft Collins, Colo.
- Cook, C.W. 1966. Factors affecting utilization of mountain slopes by cattle. *J. Range Manage.* 19:200-204.
- Covington, W.W. and B.E. Fox. 1991. Overstory-Understory Relationships in Southwestern Ponderosa Pine. In A. Tecle and W.W. Covington, eds. *Multiresource Management of Southwestern Pine Forests: The Status of Our Knowledge*, pp. 121-161. USDA Forest Service, Southwestern Region, Albuquerque.
- Ensminger, M.E. 1978. *The Stockman's Handbook*. Fifth Edition. The Interstate Printers & Publishers, Inc., Danville, IL.
- Ffolliott, Peter F. 1983. Overstory-Understory Relationships: Southwestern Ponderosa Pine Forests. In E.T. Bartlett and David R. Betters, eds. *Overstory-Understory Relationships in Western Forests*, pp. 13-18. *Western Regional Research Publication* No. 1. Colorado State University Experiment Station, Fort Collins.
- Forest Plan. 1987. *Apache-Sitgreaves National Forests Plan*. US Government Printing Office, Washington, D.C.
- FSH 2209.21. *Range Analysis and Management Handbook*. USDA Forest Service, Region 3, Albuquerque.
- FSM 2200, R-3 Supplement 2200-91-1. *Range Management Manual*. USDA Forest Service, Region 3, Albuquerque.
- Ganskopp, David and Martin Vavra. 1987. Slope use by Cattle, Feral Horses, Deer, and Bighorn Sheep. *Northwest Science*, Vol. 61, No. 2.

Glendening, George E. 1944. Some Factors affecting cattle use of northern Arizona pine bunchgrass ranges. U.S. Forest Service, Southwest Forest and Range Expt. Sta. Res. Rpt. 6, 9 pp., illus.

Goodwin, DuWayne L. 1962. Grazing Steep Mountain Slopes. Range Improvement Notes Vol. 7, No.3, Forest Service Intermountain Region.

Holechek, Jerry L. 1988. An Approach for Setting the Stocking Rate. *Rangelands* 10:10-14.

Holechek, Jerry L., Rex D. Pieper and Carlton H. Herbel. 1995. *Range Management: Principles and Practices*. 2nd edition. Prentice Hall, Saddle River, NJ.

Jameson, Donald A. 1967. The Relationship of Tree Overstory and Herbaceous Understory Vegetation. *Journal of Range Management* 20:247-249.

Leege, Thomas A. 1984. Guidelines for Evaluating and Managing Summer Elk Habitat in Northern Idaho. Idaho Department of Fish and Game, *Wildlife Bulletin* No. 11.

McDaniel, K.C. and J. Tiedeman. 1981. Sheep Use on Mountain Winter Range in New Mexico. *Journal of Range Management* 26:94-97.

Miller, William H., John H. Brock, and James Horsley. No date. Elk-Cattle Interaction in Central Arizona. Unpublished ms., School of Planning and Landscape Architecture, Arizona State University, Tempe.

Mitchell, J.E. and P.N.S. Bartling. 1991. Comparison of Linear and Nonlinear Overstory-Understory Models for Ponderosa Pine. *Forest Ecology and Management* 42:195-204.

Mueggler, Walter F. 1965. Cattle Distribution on Steep Slopes. *J. Range Manage.* 18:255-257.

Pinchak, William E., Michael A. Smith, Richard H. Hart, and James W. Waggoner, Jr. 1991. Beef cattle distribution patterns on foothill range. *Journal of Range Management* 44(3)267-275

Phillips, Thomas A. 1965. The influence of slope gradient, distance from water, and other factors on livestock distribution on national forest cattle allotments of the Intermountain Region. Range Improvement notes, Vol. 10, No.3 Forest Service Intermountain Region.

Pieper, Rex D. 1990. Overstory-Understory Relations in Pinyon-Juniper Woodlands in New Mexico. *Journal of Range Management* 43:413-415.

Pieper, Rex D. 1994. Understory Production and Composition in Pinyon-Juniper Woodlands in New Mexico. In D.W. Shaw et al., tech. coords. *Desired Future Conditions for Pinyon-Juniper Ecosystems: Proceedings of the Symposium*, pp. 120-124. USDA Forest Service, Rocky Mountain Research Station, *General Technical Report* RM-258.

Stocking Rates - 1999

- Rice, R.W. 1995. Letter report regarding forage requirements of range cattle. Department of Animal Sciences, College of Agriculture, University of Arizona. Unpublished ms. on file, 1999 AMP Project Record, Lakeside Ranger District.
- Rowland, M.M., A.W. Alldredge, J.E. Ellis, B.J. Weber and G.C. White. 1983. Comparative Winter Diets of Elk in New Mexico. *Journal of Wildlife Management* 47(4):924-932.
- Sprinkle, J. 1998. Response to herbaceous forage distribution for livestock and wild ungulates Game Management Unit 4A, 1998 AMP analysis. Department of Animal Sciences, College of Agriculture, University of Arizona. Letter to Black Mesa Ranger District.
- Severson, Keith E. and Alvin L. Medina. 1983. Elk and Deer Habitat Management in the Southwest. *Journal of Range Management Monograph* No 2.
- Tapia, L.A.B., P.F. Ffolliott and D.P. Guertin. 1990. Herbage Production-Forest Overstory Relationships in Two Arizona Ponderosa Pine Forests. *Journal of Range Management* 43:25-28.
- TES. 1989. *Terrestrial Ecosystem Survey of the Apache-Sitgreaves National Forests*. USDA Forest Service, Southwestern Region, Albuquerque.
- Thill, Ronald E., Peter F. Ffolliott and David R. Patton. 1983. *Deer and Elk Forage Production in Arizona Mixed Conifer Forests*. USDA Forest Service, Rocky Mountain Forest and Range Experiment Station, *Research Paper* RM-248.
- Uresk, D.W. and K.E. Severson. 1989. Understory-Overstory Relationships in Ponderosa Pine Forests, Black Hills, South Dakota. *Journal of Range Management* 42:203-208.
- Wallace, Mark Christopher. 1984. Habitat Use by Elk, Mule Deer, and Cattle in Arizona. Unpublished thesis, School of Renewable Natural Resources, University of Arizona, Tucson.
- Editor's note: This original version of this report was prepared by Clay Baxter (Forester/Range Conservationist, Lakeside RD), Chris Nelson (Soil Scientist, Supervisor's Office) and Linda WhiteTrefaro (Wildlife Biologist, Alpine RD). The present version includes contributions on sheep-grazing capacity, forage production classes, and AUM equivalents by Kendall Hughes (Range Conservationist, Chevelon/Heber RD).
- Bruce R. Donaldson, *Writer/Editor, Sitgreaves Interdisciplinary Analysis Team*



United States
Department of
Agriculture

Forest
Service

Apache-Sitgreaves
National Forests
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File Code: 6270-1
Route To:

Date: November 10, 2005

Subject: Response to 10/14/05 FOIA

To: Deb Bumpus

This letter and attachments are in response to an October 14, 2005, FOIA request made by Patricia Haight, Ph.D. Response to bullet numbers 1 and 2, can be found on the attached spreadsheet, as per your note. Bullet # 3 is also enclosed. Due to the size of the request, Bullet #4 has not been completed, nor started, as you were going to get clarification on this issue.

Time taken to complete this request

GS-11/5 - 4 hours

GS-5/9 - 24 hours

Total Pages of request: 32 pages

KENZELL HUGHES
Rangeland Management Specialist



Grazing on the Sitgreaves National Forest

Allotment ID	Year	Allotment Name	Livestock	Livestock #	Dates on	Dates off	head month	Acres
#00041	2004	Show Low	cow-calf	25	1-Apr	31-May	50	34945
	2004	Show Low	cow-calf	50	1-Mar	15-Mar	25	34945
	2004	Show Low	cow-calf	75	1-Jan	28-Feb	145	34945
	2004	Show Low	cow-calf	50	16-Mar	31-Mar	26	34945
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	2004	Sponsellor	cow-calf	255	25-Jul	31-Oct	830	12409
2005	Sponsellor						12409	

#00035	2000	Town Tank						3528
	2001	Town Tank	cow-calf	10	15-Jul	15-Sep	21	3528
	2002	Town Tank						3528
	2003	Town Tank						3528
	2004	Town Tank						3528
	2005	Town Tank						3528

#00021	2000	Park-Day Wash						26118
	2001	Park-Day Wash	cow-calf	75	1-Mar	10-May	175	26118
	2001	Park-Day Wash	cow-calf	75	11-May	30-Jun	126	26118
	2001	Park-Day Wash	cow-calf	75	1-Jul	31-Aug	153	26118
	2001	Park-Day Wash	cow-calf	75	1-Sep	15-Nov	187	26118
	2002	Park-Day Wash	cow-calf	120	1-Mar	10-May	284	26118
	2002	Park-Day Wash	cow-calf	100	11-May	28-Feb	977	26118
	2003	Park-Day Wash	cow-calf	80	21-Sep	28-Feb	427	26118
	2003	Park-Day Wash	cow-calf	100	1-Mar	31-Mar	102	26118
	2003	Park-Day Wash	cow-calf	25	7-Jul	7-Aug	26	26118
	2003	Park Day Wash	cow-calf	50	8-Aug	20-Sep	72	26118
	2004	Park-Day Wash	cow-calf	80	1-Mar	30-Apr	163	26118
	2004	Park-Day Wash	cow-calf	100	1-May	28-Feb	1013	26118
	2005	Park-Day Wash	cow-calf	100	1-Mar	Still Grazing		26118

Grazing on the Sitgreaves National Forest

Allotment ID	Year	Allotment Name	Livestock	Livestock #	Dates on	Dates off	head month	Acres
#00014	2000	Black Canyon	cow-calf	90	6-May	31-Oct	530	17240
	2001	Black Canyon	cow-calf	70	12-May	31-Oct	398	17240
	2001	Black Canyon	cow-calf	70	12-May	31-May	46	17240
	2001	Black Canyon	cow-calf	70	7-Oct	31-Oct	58	17240
	2001	Black Canyon	cow-calf	70	7-Jul	18-Aug	99	17240
	2001	Black Canyon	cow-calf	70	19-Aug	6-Oct	113	17240
	2001	Black Canyon	cow-calf	70	1-Jun	6-Jul	83	17240
	2002	Black Canyon	cow-calf	40	18-May	31-Oct	221	17240
	2003	Black Canyon	cow-calf	43	15-Jun	23-Oct	186	17240
	2004	Black Canyon	cow-calf	40	10-Jun	31-Oct	191	17240
2005	Black Canyon	cow-calf	60	1-Jun	31-Oct	306	17240	
#00028	2000	Clay Springs	cow-calf	202	1-Nov	28-Feb	797	25447
	2000	Clay Springs	cow-calf	22	1-Mar	30-May	66	25447
	2000	Clay Springs	cow-calf	38	1-Jun	31-Oct	191	25447
	2001	Clay Springs	cow-calf	18	1-Mar	31-May	54	25447
	2001	Clay Springs	cow-calf	32	1-Jun	31-Oct	161	25447
	2001	Clay Springs	cow-calf	4	1-Mar	30-May	12	25447
	2001	Clay Springs	cow-calf	6	1-Jun	31-Oct	30	25447
	2001	Clay Springs	cow-calf	18	1-Mar	31-May	54	25447
	2001	Clay Springs	cow-calf	180	23-Jan	28-Feb	219	25447
	2001	Clay Springs	cow-calf	4	1-Mar	31-May	12	25447
	2001	Clay Springs	cow-calf	180	1-Jan	22-Jan	130	25447
	2001	Clay Springs	cow-calf	18	1-Feb	28-Feb	17	25447
	2001	Clay Springs	cow-calf	4	1-Feb	28-Feb	4	25447
	2001	Clay Springs	cow-calf	32	1-Jun	31-Oct	161	25447
	2001	Clay Springs	cow-calf	6	1-Jun	31-Oct	30	25447
2002	Clay Springs	cow-calf	172	1-Nov	28-Feb	329	25447	
2002	Clay Springs	cow-calf	22	1-Mar	31-May	66	25447	
2003	Clay Springs	cow-calf	152	1-Nov	28-Feb	600	25447	
2004	Clay Springs	cow-calf	22	1-Mar	31-May	66	25447	
2004	Clay Springs	cow-calf	122	1-Nov	28-Feb	482	25447	
2005	Clay Springs	cow-calf	22	1-Mar	31-May	64	25447	
2005	Clay Springs	cow-calf	38	1-Jun	31-Oct	191	25447	
2005	Clay Springs	cow-calf	179	1-Nov	28-Feb	662	25447	
2005	Clay Springs	cow-calf	24	12-Oct	31-Oct	15	25447	
#00001	2000	Clear Creek	cow-calf	150	1-Aug	31-Oct	454	17410
	2001	Clear Creek	cow-calf	125	16-Aug	31-Oct	316	17410
	2001	Clear Creek	cow-calf	125	23-Sep	31-Oct	160	17410
	2001	Clear Creek	cow-calf	125	16-Aug	22-Sep	156	17410
	2002	Clear Creek	cow-calf	51	27-Aug	15-Oct	83	17410
	2003	Clear Creek	cow-calf	80	16-Aug	31-Oct	203	17410
	2004	Clear Creek	cow-calf	80	16-Aug	31-Oct	203	17410
	2005	Clear Creek	cow-calf	90	16-Aug	31-Oct	228	17410

Grazing on the Sitgreaves National Forest

1016	2000	Heber	cow-calf	475	1-Jun	14-Nov	2608	158628
	2000	Heber	cow-calf	350	1-Jul	14-Nov	1576	
	2001	Heber	cow-calf	300	1-Jun	31-Oct	1509	158628
	2001	Heber	"	450	15-May	31-Oct	2515	158628
	2001	Heber	"	300	1-Jun	1-Jul	306	158628
	2001	Heber	"	300	2-Jul	1-Aug	306	158628
	2001	Heber	"	300	2-Aug	1-Sep	306	158628
	2001	Heber	"	300	16-Oct	31-Oct	158	158628
	2001	Heber	"	450	1-Oct	31-Oct	459	158628
	2001	Heber	"	300	2-Sep	30-Sep	286	158628

Allotment ID	Year	Allotment Name	Livestock	Livestock #	Dates on	Dates off	head month	Acres
#00016	2001	Heber	"	300	1-Oct	15-Oct	148	158628
	2001	Heber	"	450	15-May	23-Jun	592	158628
	2001	Heber	"	450	24-Jun	11-Aug	725	158628
	2001	Heber	"	450	12-Aug	30-Sep	740	158628
	2002	Heber	cow-calf	250	20-Aug	31-Oct	600	158628
	2002	Heber	cow-calf	350	13-Aug	31-Oct	921	158628
	2003	Heber	cow-calf	196	6-Jun	23-Jul	314	158628
	2003	Heber	cow-calf	190	24-Jul	31-Oct	633	158628
	2003	Heber	cow-calf	150	15-Aug	31-Oct	385	158628
	2004	Heber	cow-calf	135	21-Jul	6-Aug	72	158628
	2004	Heber	cow-calf	250	7-Aug	31-Oct	708	158628
	2004	Heber	cow-calf	200	15-Aug	31-Oct	513	158628
	2005	Heber	cow-calf	450	16-Aug	31-Oct	1140	158628
	2005	Heber	cow-calf	150	15-Jul	15-Aug	155	158628
	2005	Heber	cow-calf	250	15-Jun	15-Aug	508	158628
	2005	Heber	cow-calf	300	16-Aug	31-Oct	760	158628

#00011	2000	Long Tom	sheep	4000	22-May	15-Sep	15386	76058
	2001	Long Tom	rested		15-May	30-Sep	64	76058
	2001	Long Tom		2000	15-May	30-Sep	13710	76058
	2002	Long Tom	0	0	0	0	0	76058
	2003	Long Tom	sheep	2000	1-Jun	15-Sep	7036	76058
	2003	Long Tom	onkies & Burros	7	1-Jun	15-Sep	25	76058
	2004	Long Tom	SHEEP	3000	15-May	15-Sep	12230	76058
	2005	Long Tom	sheep	4000	1-Jun	15-Sep	14071	76058

#00008	2000	Wallace	0	0	0	0	0	43286
	2001	Wallace	cow-calf	425	1-Jun	15-Oct	1914	43286
	2002	Wallace	0	0	0	0	0	43286
	2003	Wallace	0	0	0	0	0	43286
	2004	Wallace	0	0	0	0	0	43286
	2005	Wallace	0	0	0	0	0	43286

#00012	2000	Wildcat	cow-calf	121	28-May	28-Oct	613	21150
	2001	Wildcat	cow-calf	121	27-May	27-Oct	613	21150
	2001	Wildcat	"	121	27-May	11-Aug	306	21150
	2001	Wildcat	"	121	12-Aug	27-Oct	306	21150
	2002	Wildcat	cow-calf	121	1-Jun	31-Oct	553	21150

Grazing on the Sitgreaves National Forest

2003	Wildcat	cow-calf	110	1-Jun	31-Oct	553	21150
2004	Wildcat	cow-calf	121	1-Jun	31-Oct	609	21150
2005	Wildcat	cow-calf	121	4-Jun	31-Oct	589	21150

#00027	2000	Willow Wash	cow-calf	155	1-May	5-Dec	1132	55921
	2001	Willow Wash	cow-calf	150	1-May	19-May	94	55921
	2001	Willow Wash	cow-calf	11	1-May	30-Nov	77	55921
	2001	Willow Wash	cow-calf	150	19-Oct	3-Nov	79	55921
	2001	Willow Wash	cow-calf	11	19-Oct	3-Nov	6	55921
	2001	Willow Wash	cow-calf	150	27-Jun	17-Jul	104	55921
	2001	Willow Wash	cow-calf	150	10-Oct	18-Oct	44	55921

Allotment ID	Year	Allotment Name	Livestock	Livestock #	Dates on	Dates off	head month	Acres
#00027	2001	Willow Wash	cow-calf	11	10-Oct	18-Oct	3	55921
	2001	Willow Wash	cow-calf	150	1-May	19-May	94	55921
	2001	Willow Wash	cow-calf	11	1-May	19-May	7	55921
	2001	Willow Wash	cow-calf	150	25-Sep	9-Oct	74	55921
	2001	Willow Wash	cow-calf	11	25-Sep	9-Oct	5	55921
	2001	Willow Wash	cow-calf	150	12-Sep	24-Sep	64	55921
	2001	Willow Wash	cow-calf	11	12-Sep	24-Sep	5	55921
	2001	Willow Wash	cow-calf	150	18-Jul	16-Aug	148	55921
	2001	Willow Wash	cow-calf	11	18-Jul	16-Aug	11	55921
	2001	Willow Wash	cow-calf	150	17-Aug	11-Sep	128	55921
	2001	Willow Wash	cow-calf	11	17-Aug	11-Sep	9	55921
	2002	Willow Wash	cow-calf	150	20-May	22-Nov	930	55921
	2003	Willow Wash	cow-calf	117	2-Jun	1-Dec	714	55921
	2004	Willow Wash	cow-calf	116	1-Jun	1-Dec	712	55921
	2005	Willow Wash	cow-calf	126	12-May	Still Grazing		55921

#00018	2000	Pierce Wash	cow-mature	85	1-Nov	28-Feb	335
	2001	Pierce Wash	cow-calf	85	1-Nov	28-Feb	335
	2002	Pierce Wash	cow-calf	77	1-Mar	31-Mar	78
	2002	Pierce Wash	cow-calf	85	1-Nov	28-Feb	335
	2003	Pierce Wash	cow-calf	85	1-Nov	28-Feb	335
	2004	Pierce Wash	cow-calf	85	1-Nov	28-Mar	335
	2005	Pierce Wash	cow-calf	85	15-May	49-Sep	360

#00006	2000	Chevelon Canyon	cow-calf	127	15-Jun	20-Aug	279
	2000	Chevelon Canyon	cow-calf	12	15-Jul	20-Aug	14
	2001	"	0	0	0	0	
	2002	"	0	0	0	0	
	2003	"	0	0	0	0	
	2004	"	0	0	0	0	
	2005	"	0	0	0	0	

#00067	2000	Limestone	0	0	0	0
	2001	"	0	0	0	0
	2002	"	0	0	0	0
	2003	"	0	0	0	0
	2004	"	0	0	0	0
	2005	"	0	0	0	0

SPECIALISTS REPORT

CONSIDERATIONS CONCERNING STOCKING RATES

1999 ALLOTMENT MANAGEMENT PLANS Chevelon/Heber Ranger Districts & Lakeside Ranger District, Apache-Sitgreaves National Forests

I. INTRODUCTION

Stocking is the placement of livestock on rangeland. A *stocking rate* is the number of specific kinds and classes of animals grazing a unit of land for a specified time. The total number of animals which can be sustained on a given area based on the proper use of the total forage resources available is referred to as *grazing capacity*. This report presents various methodological factors and considerations used to determine grazing capacities for allotments scheduled for new or revised allotment management plans [AMPs] in 1999.

Capacity is based on a determination of total herbage production and of that portion which could be utilized by livestock and wildlife while maintaining long term soil stability and vegetation productivity. This determination depends on a number of factors, such as availability of water, management techniques, allowable use levels, and class of livestock. An estimated grazing capacity for livestock will be determined for each pasture within an allotment to determine the length of time livestock may graze in that pasture. This will help the Forest evaluate whether permitted use is in balance with capacity, as directed by the Forest Plan standards and guidelines (p. 77-1). In development of an individual AMP, information presented will be used to evaluate the current management situation and differing management alternatives, including no livestock grazing.

It is important to recognize that stocking rates are but an estimate based on certain assumptions, such as an even distribution of animals or average climatic conditions. Estimation methods are designed to yield stocking levels close to what the land can appropriately carry. These levels may need to be modified after an AMP is implemented. Monitoring forage use in key areas must be done to ensure compliance with allowable use standards. Monitoring will help determine needed adjustments in stocking rates. Drought, which is fairly common in Arizona, will often necessitate temporary livestock reductions.

II. GRAZING CAPABILITY

Vegetation is produced on most acres of an allotment. Forage produced on every acre, however, may not be available for grazing use. In order to estimate forage available for grazing, a determination of which acreage can be grazed and of the amount of available forage will be made considering a combination of four factors: forage production, soil stability, distance from water, and steepness of slope.

A. Forage Production. Methods for estimating forage production are detailed in the following section. It should be noted here that range which produces 50 air-dried pounds or less of herbaceous forage (grass and forbs) per acre is not considered suitable for grazing. Such areas generally lack

sufficient ground cover to protect the soil, or have a dense overstory canopy. This acreage is not included in the livestock capacity estimate (FSH 2209.21, Sec. 21).

B. Soil Stability. There are three classes of soil stability based on the status of current soil loss. Soil loss is expressed in tons/hectare/year (TES 1989 -- a hectare is about 2.5 acres) which can be equated to grazing capability classifications found in FSH 2209.21, Sec. 23.

Stable soils: Where the current soil loss is less than tolerance soil loss, the rangeland is considered stable and classed as full capacity [FC] range. Such areas are included in estimations of grazing capacity. These areas will be used by most animals in most situations. With proper allowable forage use, stable soils can be used without long term damage to the soil resource or plant community (FSH 2209.21, Secs. 21 and 23.1).

Impaired soils: Where current soil loss exceeds the tolerance soil loss, the rangeland has impaired soil stability and is classified as potential capacity [PC] range. Such areas usually are not included in the grazing capacity estimate. However, they may be included when the allotment is under intensive management with proper stocking and conservative allowable forage use (FSH 2209.21, Secs. 21, 23, and 53.3). For proposed actions on PC areas, the allowable forage utilization will be set at 10%, a level which will help reduce the possibility of overutilizing forage on FC sites.

Unstable soils: Where natural soil loss exceeds the tolerance soil loss, the rangeland has unstable soil conditions and is classified as no capacity [NC] range. It cannot be used by livestock without long term damage to the soil resource or plant community. These areas are not included in an estimated grazing capacity even though livestock use may occur (FSH 2209.21, Secs. 21 and 23.3).

C. Distance from Water. Holechek (1988:Table 4) cites the failure to adjust stocking rates for travel distance to water as being the cause of considerable range degradation in hot, arid rangelands such as the southwestern United States. Adjustment may be made by reducing the allowable forage use on stable, forage producing sites as shown in Table 1.

Table 1. Reduction in Cattle Grazing Capacity Based on Distance from Water

Distance (miles)	Grazing Capacity Reduction
< 1	None
1 - 2	50%
> 2	100% (considered ungrazable)

Evaluation of water distribution on the allotments in the 1999 analyses indicates most range is within a mile of water. Unlike cattle, sheep do not require water every day and, because of herding, will use areas up to two miles from waters; adjustments for distance for sheep are considered unnecessary (Holechek 1988:11).

D. Steepness of Slope. Holechek (1988:Table 3) provides guidelines for grazing capacity adjustments for terrain. This adjustment may be made for cattle by reducing the allowable forage use on stable, forage producing sites as shown in Table 2.

Table 2. Reduction in Cattle Grazing Capacity Based on Slope

Percent Slope	Grazing Capacity Reduction
< 11	None
11 - 30	30%
31 - 60	60%
> 60	100% (considered ungrazable)

Citing a study by McDaniel and Tiedeman (1981), Holechek *et al.* (1995:198) find that "slopes greater than 45% should be considered unusable by sheep, but little or no adjustment appears necessary for slopes under 45%."

III. FORAGE PRODUCTION

Herbaceous forage production records for some allotments are more than 10 years old; such data are not considered usable for current analyses. The scientific literature was reviewed to determine if methods exist to estimate forage production using vegetation data such as basal area or canopy cover. A number of studies were evaluated but not used because trial results in Forest study areas proved inconsistent with observed production (Ffolliott 1983; Bojorquez 1987; Uresk and Severson 1989; Peiper 1990, 1994; Tapia *et al.* 1990; Covington and Fox 1991; Mitchell and Bartling 1991). The studies by Jameson (1967) and Thill *et al.* (1983) did prove useful, however.

Jameson's (1967) studies were conducted in northern and central Arizona, and included grass and forbs. His regression curves are used for the ponderosa pine forest and pinyon-juniper woodland. The formulas yield production data which are consistent with Forest observations; exceptions are found on volcanic soils at higher elevations (>8,000 feet) where production is generally somewhat higher.

Thill *et al.*'s (1983) studies were conducted in east-central Arizona, on the Alpine and Springerville Ranger Districts, and included browse, grass, and forbs. Their regression curves are used for the mixed conifer type. Most mixed conifer stands produce less than 50 pounds per acre.

Herbaceous forage production is influenced by overstory density. Tree density is expressed in terms of either basal area or canopy cover. Current Stage 1 and Stage 2 timber stand information is used to delineate vegetation types. Where timber data are not available, information from the Terrestrial Ecosystem Survey or aerial photo interpretation is used to determine vegetation type and percent canopy cover. Acreage is then summarized by vegetation type: riparian, grassland, pinyon-juniper, ponderosa pine, or mixed conifer; in most cases aspen and spruce-fir are combined with mixed conifer because canopy closure in these two types have a similar effect on herbaceous production.

Table 3 summarizes the regression estimations, showing the forage production classes which are used in an initial categorization. (It should be noted that, since all the above-referenced equations are curvilinear functions, adjustments needed to be made at the upper and lower extremes; these adjustments were made based on available data.)

Table 3. Forage Production Classes
(air-dried pounds per acre)

	700	600	500	400	300	200	100	< 50
Canopy Cover - %								
Ponderosa	0	-	-	1 - 9	10 - 14	15 - 19	20 - 40	> 40
PJ / Oak	-	0	-	1 - 9	10 - 14	15 - 25	26 - 65	> 65
MC / Aspen	< 1	-	-	-	1 - 16	17 - 21	22 - 43	> 43
Basal Area - ft²/acre								
Ponderosa	-	-	1 - 14	-	15 - 24	25 - 35	36 - 85	> 85
MC / Aspen	<15	-	-	-	15 - 25	26 - 30	31 - 60	> 60

A map showing herbaceous forage production classes for each allotment will be developed using available or derived GIS coverages. This map will be field checked for each allotment to verify the production data; field observations for all allotments on the 1999 schedule will be made by Clay

Baxter who has more than two decades' experience in range conservation. Corrections to the production information will be made where needed.

IV. PROPER FORAGE UTILIZATION

Proper forage use refers to the degree of grazing use plus trampling damage that individual species can sustain while maintaining vigor, forage production, and reproductive capacity. *Allowable use* is determined from proper use, and is the level of grazing use that can be permitted on an area when all influencing factors are considered. Allowable use values are a tool to improve range health and plant vigor. Current range conditions are based on a professional determination of the range condition for each allotment as verified during field reviews.

Deferment means that livestock grazing is not allowed in a pasture until grass seed set occurs. Typically, this is mid to late August on ranges where warm season species dominate, or late May where cool season species dominate. *Rest* means that livestock grazing does not occur in a pasture during a calendar year.

Table 4 shows allowable forage use percentages used to determine available forage during the growing season. The level of allowable use is based on range condition and the management strategy being practiced. The prescriptions will allow for the improvement of depleted (very poor and poor) range to a satisfactory (fair) or better condition. This applies to most of the allotments being analyzed.

Table 4. Allowable Forage Use (%) during the Growing Season

Range Condition	Continuous Season-long	Management Deferment	Management Rest
Very Poor	0	20	20
Poor	10	25	30
Fair	20	35	40
Good	30	40	45
Excellent	30	45	45

Allowable herbaceous forage use outside the growing season may be higher than that allowed during the growing season, being established on allotments where winter grazing occurs or is being proposed. Allowable use will consider range condition and management strategy, *i.e.*, deferment or rest. Allowable forage utilization should not be increased on poor or very poor range on FC or PC range. If range conditions are expected to reach fair or better condition in a timely manner, a conservative allowable use should be employed.

Consideration is not provided for use levels that exceed 50%. Holechek's (1988) literature review indicates that 50% use levels appear applicable only to humid and to annual grasslands, situations not found on the Forest.

The allowable use figures are for FC range. If grazing capacity is assigned to PC range sites for analysis of alternatives, the allowable use factor will be 10% in order to assure FC range is not overused (FSH 2209.21, Sec 53.3). Some alternatives may be developed that would provide for a higher allowable use because of winter grazing and/or economic impacts. In these cases, the allowable use on PC range should remain at the lesser, more conservative figure in an attempt to change the impaired sites to stable sites.

V. WILDLIFE FORAGE CONSUMPTION

Wildlife, particularly large ungulates, are notable consumers of herbaceous forage. Such utilization needs to be taken into account. Estimated wildlife density data were provided by the Arizona Game and Fish Department [AGFD] in the form of seasonal density maps for deer, elk, antelope, and bighorn sheep. These maps were digitized, entered into the Forest's GIS system, and then overlain by allotment boundaries so wildlife populations for each allotment could be estimated.

Holechek (1988) notes that a wide range of studies are consistent in showing that various wildlife ruminants consume about 2% of body weight per day in dry matter when forage availability is not restricted. The average body weight for wildlife species was furnished by AGFD. The average elk weighs some 535 pounds, mule deer about 125 pounds, white tail deer about 85 pounds, and antelope about 100 pounds (figures will vary by hunt unit).

Wild ungulates' diets are not solely herbaceous forage, both shrubs and trees comprising a varying proportion. The percentage of browse use varies by season for different species. In the AMP analyses, a reduction of total herbaceous forage needed by wild ungulates will be made to reflect the browse consumption. Herbaceous forage for elk was estimated at 80% of their total intake need for summer and 60% for winter; for deer, the estimates are 50% for summer and 30% for winter (see Brown 1990; Leege 1984; Miller *et al.* n.d.; Rowland *et al.* 1983; Severson and Medina 1983; Wallace 1984). Forage requirements for antelope were not adjusted because they utilize little browse in their diets. Table 5 shows average annual forage consumption for the "typical" animal of a species; no consideration is made for gender or seasonal variations due to reproductive status or other factors. Further adjustments could be made for a specific allotment to account for local conditions.

Table 5: Average Annual Forage Consumption for Wild Ungulates.
(Dry Matter Equivalent, in Pounds)

Species	Summer (182 Days)	Winter (183 Days)	Annual
Elk	1558	1175	2733
Mule deer	228	137	365
White tail deer	155	93	248
Antelope	364	366	730

VI. LIVESTOCK FORAGE CONSUMPTION

Cattle: Information provided by Rice (1995) was used to determine forage requirements for cattle. His data were derived from the National Research Council Publication for estimating feed intake of food producing animals. This information may be used for livestock of various weights and for varying forage quality. For example, with medium forage quality and with a calf weighing 200 pounds, consumption of dry forage by a dry cow and cow-calf pairs of varying weight is shown in Table 6.

These figures equate to a forage requirement of 1.7% of body weight during the period calves are not with their mothers (normally the dormant plant period). This also equates to 2.9% of body weight when calves are present (normally during the plant growth period). Holechek (1988) provides comparable figures, stating that the daily forage demand is 1.5% of body weight during dormancy, while during the active growth period it is 2.5%.

Table 6. Seasonal Forage Intake Needs of a Dry Cow and a Cow-Calf Pair (Dry Matter Equivalent, in Pounds)

	April - October (214 Days)	September - May (151 Days)	Annual
Dry Cow			
Light (800 lbs)	2910	2054	4964
Medium (1000 lbs)	3638	2567	6205
Heavy (1200 lbs)	4366	3080	7446
Cow-Calf Pair			
Light cow/200 lb calf	5778	2054	7832
Medium cow/200 lb calf	6206	2567	8773
Heavy cow/200 lb calf	6848	3080	9928

Cattle may forage on browse species during the summer months. In most cases this use would be incidental except, perhaps, in the case of aspen. Thill *et al.*'s (1983) study includes aspen in the production data, so further consideration for browse use is not considered necessary.

Sheep: Forage requirements for sheep were derived from Ensminger (1978: Table 4-53). Daily forage demand for a ewe varies by size and reproductive status, ranging from as little as 1.6% of body weight (heavy ewe, maintenance) to as much as 4.2% (light ewe, first eight weeks of lactation). Table 7 summarizes data for ewes of different weights by reproductive period.

Table 7. Forage Intake Needs of a Ewe (Dry Matter Equivalent, in Pounds)

Ewe	Gestation I (First 15 weeks)	Gestation II (Last 6 weeks)	Lactation I (First 8 weeks)	Lactation II (Last 8 weeks)	Maintenance (15 weeks)	Annual
Light (110 lbs)	252	155	258	207	231	1,103
Medium (143 lbs)	315	185	297	246	263	1,306
Heavy (176 lbs)	347	202	319	269	305	1,441

Equivalents: An animal use month [AUM] is defined as one month's grazing by a dry cow. A permittee may prefer to graze cow-calf pairs, yearling cattle, or sheep, so there is a need to convert different kinds of livestock to equivalent AUMs. Table 8 provides the conversion factors (FSM 2200, R-3 Supp. 2200-91-1).

Table 8. Conversion Factors for Yearling Cattle and Sheep

Class	Factor	No. of Animals/AUM
Cow-calf Pair	0.76	1.32
Yearling Cattle		
Light (300 - 450 lbs)	0.55	1.82
Medium (450 - 650 lbs)	0.70	1.43
Heavy (650 - 800 lbs)	0.75	1.33
Sheep	0.20	5.00

VII. LIVESTOCK CAPACITY

Livestock capacity for each allotment will be determined as follows:

1. Estimated forage production will be multiplied by acres and by the allowable use factor to determine the pounds of forage available for use. This will be done on FC and PC range by pasture. Further adjustments for soil stability, distance from water and/or slope may be made as described in Section II.

2. Livestock and wildlife forage requirements will be determined.

3. The available forage may be distributed for both wildlife and livestock. Alternatives may be developed to evaluate effects of forage distribution at varying ratios.

4. A capacity will be established for each pasture based on the amount of forage available for use and the forage requirements of both livestock and wildlife. The pastures' capacity (excluding holding traps) will be summed to establish a capacity for the allotment.

VIII. ACQUIRED LANDS

Since the Forest Plan was implemented (1987), a number of formerly private parcels have been acquired. Wildlife surveys indicate that some of these lands may be within big game critical winter range in some years, depending on snow level. In accordance with Forest Plan standards and guidelines (pg. 75-1), special consideration will be given to critical big game winter ranges in areas where winter range has been determined to be a limiting factor in achieving game management objectives. New land acquisitions in critical winter range areas will not be used for domestic livestock grazing unless their inclusion in a grazing system better meets big game objectives. The AMP analyses will evaluate the situation, as appropriate, and develop appropriate alternatives.

Literature Cited

Bojorquez, L.A. 1987. Multiple-Resource Modelling in the Forest and Woodland Ecosystems of Arizona. Unpublished thesis, School of Renewable Natural Resources, University of Arizona, Tucson.

Brown, Richard L. 1990. Effects of a Savory Grazing Method on Big Game: A Final Report. Arizona Game and Fish Department, Research Branch, *Technical Report No. 3*.

Covington, W.W. and B.E. Fox. 1991. Overstory-Understory Relationships in Southwestern Ponderosa Pine. In A. Teale and W.W. Covington, eds. *Multiresource Management of Southwestern Pine Forests: The Status of Our Knowledge*, pp. 121-161. USDA Forest Service, Southwestern Region, Albuquerque.

Ensminger, M.E. 1978. *The Stockman's Handbook*. Fifth Edition. The Interstate Printers & Publishers, Inc., Danville, IL.

Ffolliott, Peter F. 1983. Overstory-Understory Relationships: Southwestern Ponderosa Pine Forests. In E.T. Bartlett and David R. Betters, eds. *Overstory-Understory Relationships in Western Forests*, pp. 13-18. *Western Regional Research Publication No. 1*. Colorado State University Experiment Station, Fort Collins.

Forest Plan. 1987. *Apache-Sitgreaves National Forests Plan*. US Government Printing Office, Washington, D.C.

FSH 2209.21. *Range Analysis and Management Handbook*. USDA Forest Service, Region 3, Albuquerque.

FSM 2200, R-3 Supplement 2200-91-1. *Range Management Manual*. USDA Forest Service, Region 2, Albuquerque.

Holechek, Jerry L. 1988. An Approach for Setting the Stocking Rate. *Rangelands* 10:10-14.

Holechek, Jerry L., Rex D. Pieper and Carlton H. Herbel. 1995. *Range Management: Principles and Practices*. 2nd edition. Prentice Hall, Saddle River, NJ.

Jameson, Donald A. 1967. The Relationship of Tree Overstory and Herbaceous Understory Vegetation. *Journal of Range Management* 20:247-249.

Leege, Thomas A. 1984. Guidelines for Evaluating and Managing Summer Elk Habitat in Northern Idaho. Idaho Department of Fish and Game, *Wildlife Bulletin* No. 11.

McDaniel, K.C. and J. Tiedeman. 1981. Sheep Use on Mountain Winter Range in New Mexico. *Journal of Range Management* 26:94-97.

Miller, William H., John H. Brock, and James Horsley. No date. Elk-Cattle Interaction in Central Arizona. Unpublished ms., School of Planning and Landscape Architecture, Arizona State University, Tempe.

Mitchell, J.E. and P.N.S. Bartling. 1991. Comparison of Linear and Nonlinear Overstory-Understory Models for Ponderosa Pine. *Forest Ecology and Management* 42:195-204.

Pieper, Rex D. 1990. Overstory-Understory Relations in Pinyon-Juniper Woodlands in New Mexico. *Journal of Range Management* 43:413-415.

Pieper, Rex D. 1994. Understory Production and Composition in Pinyon-Juniper Woodlands in New Mexico. In D.W. Shaw et al., tech. coords. *Desired Future Conditions for Pinyon-Juniper Ecosystems: Proceedings of the Symposium*, pp. 120-124. USDA Forest Service, Rocky Mountain Research Station, *General Technical Report* RM-258.

Rice, R.W. 1995. Letter report regarding forage requirements of range cattle. Department of Animal Sciences, College of Agriculture, University of Arizona. Unpublished ms. on file, 1999 AMP Project Record, Lakeside Ranger District.

Rowland, M.M., A.W. Alldredge, J.E. Ellis, B.J. Weber and G.C. White. 1983. Comparative Winter Diets of Elk in New Mexico. *Journal of Wildlife Management* 47(4):924-932.

Severson, Keith E. and Alvin L. Medina. 1983. Elk and Deer Habitat Management in the Southwest. *Journal of Range Management Monograph* No 2.

Tapia, L.A.B., P.F. Ffolliott and D.P. Guertin. 1990. Herbage Production-Forest Overstory Relationships in Two Arizona Ponderosa Pine Forests. *Journal of Range Management* 43:25-28.

USFS. 1989. *Terrestrial Ecosystem Survey of the Apache-Sitgreaves National Forests*. USDA Forest Service, Southwestern Region, Albuquerque.

Thill, Ronald E., Peter F. Ffolliott and David R. Patton. 1983. *Deer and Elk Forage Production in Arizona Mixed Conifer Forests*. USDA Forest Service, Rocky Mountain Forest and Range Experiment Station, *Research Paper* RM-248.

Uresk, D.W. and K.E. Severson. 1989. Understory-Overstory Relationships in Ponderosa Pine Forests, Black Hills, South Dakota. *Journal of Range Management* 42:203-208.

Wallace, Mark Christopher. 1984. Habitat Use by Elk, Mule Deer, and Cattle in Arizona. Unpublished thesis, School of Renewable Natural Resources, University of Arizona, Tucson.

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--Bruce R. Donaldson, *Writer/Editor, Sitgreaves Interdisciplinary Analysis Team*

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CHAPTER 50 - PRODUCTION-UTILIZATION SURVEYS

Production-utilization maps are important documents, from the standpoint of (1) talking to individual permittees, advisory boards, livestock associations, or other individuals or groups, (2) management planning; (3) structural and nonstructural improvement needs and locations.

Every range produces available forage which occurs in patches, zones, or belts depending upon the ecological site factors of each. Cattle prefer certain forage species, generally work no harder than necessary, and follow the lines of least resistance (topographically) in traveling to and from the more desirable areas. Diversity of available forage, species preferences, and livestock behavior create disparities between the areas of production and the areas of utilization. Radiating from the available waters are grazing-use patterns on these patches or zones of available forage. The production-utilization survey measures and maps these patterns. Consequently, it is important that all personnel be trained and retrained annually for conducting, mapping, and writing up these surveys to the same standards used on the range analysis. Permittees or their representatives should be invited by letter to participate.

50.2 - Objectives

1. Provide an inventory of the forage degree of livestock and wildlife and resource utilization (where and how much).
2. Establish an estimated grazing capacity or allowable forage harvest that permits plants to meet physiological growth requirements while considering associated multiple uses and set the stocking rates accordingly. Production data are not generally used in the determination of estimated grazing capacity. Production data are best used only for planning and administration.
3. Provide a tool for (1) analyzing opportunities to improve management technique; (2) correcting grazing problems; (3) establishing correct grazing management; and (4) locating needed range improvements.
4. Provide a comprehensive analysis of a grazing situation that will illustrate need for specific actions.
5. Provide a means to graphically illustrate management decisions.

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51- SURVEYS51.1 - Why Conducted. Surveys should be considered if:

1. There is a need to establish, verify, or update an estimated grazing capacity.
2. An existing or new management system needs evaluation.
3. Needed as a tool for developing and refining management plans.
4. Needed to establish wildlife forage allocations as identified in Forest plans.

51.2 - When Conducted

1. For rotational systems and seasonal allotments, the production utilization survey is to be conducted as soon as possible following removal of livestock.
2. Single pasture yearlong allotments may be surveyed when livestock are removed. This is typical shortly after the end of the grazing season.
3. For single pasture yearlong cow-calf operations, production-utilization surveys should be conducted in the spring or early summer as close as possible to but prior to initiation of growth of key forage species. Overwinter production-utilization will frequently be conducted on browse plants.
4. On identified big game winter ranges where combined use of the forage resource must be monitored closely.

As a rule, production-utilization surveys are conducted when stock is removed or at the end of the growing season. This prevents some of the utilization being obscured by regrowth. On big game winter ranges, forage should be surveyed after most big game have migrated to higher country. If this normally occurs after the onset of the spring growing season, surveys may be needed to measure both winter use and spring growing season use.

51.3 - Duration of Survey. The duration depends on the objective of the survey. The survey may be as short as 1 or 2 years if the objective is to estimate capacity. It may last as long as 5 years if the objective is to initiate and/or evaluate the grazing management being applied. A single year's survey may be sufficient for any objective when coordinated with weather records.

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51.4 - Preparation for the Production-Utilization Surveys.

1. Review all previous information collected on the allotment, especially range inspections, PU surveys, and range analyses.
2. Review soil surveys, wildlife information, material on plant requirements, or any other information that will help determine allowable forage-use levels on each area.
3. Review allotment management plan or annual instructions to help determine date of survey.
4. Request needed training.
5. Set date with permittee that will give the permittee the opportunity to be involved in the survey.
6. Outline plan of action of how PU survey will be conducted (route of travel, method of sampling, and so forth).
7. Install production cages before growth on plants begin.
8. Suggest review of the Ocular Estimate by Plot Method (from Pehanec and Pickford, 1937).

52 - FIELD PROCEDURES. Forests having TES capability can use these maps directly for PU studies as the FC, PC, and NC will have been mapped. Subdelineations of the grazing capability areas can be made on the field map depending on the patterns of use. Forests not having TES maps can use the latest range analysis maps or aerial photos. Forests having GIS capability can calculate the acres using the special graphics capability on the GIS.

52.1 - Conducting Field Estimates. Production and utilization surveys determine where the forage crop is actually being produced and how it is being used. Desirable perennial forage species preferred and used by livestock should be clipped or estimated as this is the most reliable source of forage. Because this may vary with vegetation type and condition, record information on species selection in the survey. Other species need to receive careful consideration (such as desert annuals).

1. Determine and map the percentage by weight of forage, which has been removed by grazing, to the nearest 5 percent.
2. Determine and map the relative production of the forage. Express in pounds per acre if grass, and relative production rating if browse. Include grass and browse production-utilization information on all areas. Samples should be weighed in the field rather than allowed to air dry.

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3. Observe and document other conditions that will help to initiate and evaluate management decisions (chapter 70).
4. Use the ocular estimate by plot method for forage production and utilization mapping.
5. Production and utilization should be recorded on all areas regardless of capability classification; that is, N.C., P.C., F.C. However, where utilization is present on P.C. areas, a management determination will be made. No capacity areas will be excluded from the grazing capacity determinations even though livestock may periodically graze in these areas intermittently.

52.2 - Training. Training for the ocular estimate by plot method of measuring forage production and utilization is accomplished by comparing estimates with actual weight of forage within a 9.6 or 0.96 square foot plot. This method is fast and effective as forage production and utilization can be determined at the same time. Estimates have proven to be accurate on grass and grass-forb ranges.

Training objective is to develop a mental image of the percent of forage removal and the weight of forage produced within each plot. Estimates of forage production should be rounded to the nearest 25 pounds per acre. Estimates of forage utilization percentage should be made in multiples of 5.

For training purposes, the use of ungrazed plots (either by use of cages or deferred or rested management units) is desirable but not essential.

The basic use of cages is to protect an area of range during the grazing season. Prior to the growing season, cages are located on representative sites within allowable capacity range. Cages should be securely staked down to prevent disturbance. Cages should not be left in the same spot more than one grazing season.

52.21 - Estimating Forage Production. For training purposes, estimation of forage production is best made using a number of randomly selected 0.96 square foot plots representative of the variability in the area being ocularly estimated.

1. Clipping Procedure.

- a. Select enough samples to obtain a representation of local variability. Ten (or less) is usually sufficient for training purposes. Where cages are used, place the loop inside the protected area. (Do not throw the loop in an attempt to secure unbiased selections, as it tends to fall between grass clumps or is held up by the plant.)

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- b. Estimate the weight of the current year's production of forage species within the loop.
- c. Remove litter and last year's growth from the plot by gleaning. Separate it from the current growth.
- d. With shears or knife, clip the current year's growth of perennial forage species of grasses, grasslike plants, and forbs palatable to livestock. Clip as close to the ground as livestock can graze; thus, 100 percent of current annual production may be utilized. Place clippings in a paper bag.
- e. The weight of grams (less the bag weight) from a 0.96-foot square plot multiplied by 100 gives the forage production of the plot in pounds per acre. The number of loops required to obtain a statistically valid measurement of production is not practical. Loop measurements obtained here are valid only in training for ocular estimates.
- f. Compare the actual weight with the original estimate. Samples taken after the end of the growing season are usually sufficiently dried for measurement. Samples are taken during the growing season on rotated pastures.
- g. Repeat the process until the estimate consistently matches the actual weight.
- h. The examiner should estimate, clip, and weigh enough plots each day to maintain the reliability of the estimates. Make additional checks wherever judgment is uncertain and a different vegetation type or subtype is encountered. A record of these checks may be retained.

2. Determination of Production on Grazed Areas. When grazing has occurred and part of the forage has been removed, it is necessary to adjust the estimate of the forage remaining by the degree of utilization. Use the following equation to calculate total forage production.

$$\frac{\text{Pounds of Forage Remaining}}{\text{Percent of Forage Remaining}^*} = \text{Total Forage Production}$$

$$*(100 - \text{Percent Utilization}) \quad (\text{Exhibit 1})$$

For example, if a series of clipped plots showed a production of 500 pounds of forage per acre and it was estimated the forage in the plots was 30 percent utilized (70 percent unutilized) prior to clipping, the total forage production would be:

$$\frac{500 \text{ lbs. per acre}}{70 \text{ percent}} = 714 \text{ pounds, total forage production, rounded off to 725 pounds per acre for the estimated production (round to nearest 25 pounds).}$$

Exhibit 1

PRODUCTION- UTILIZATION SURVEY
 NUTRITAS UNIT - SAN ANTOINE ALLOTMENT

<u>ACRES</u>	<u>ACTUAL USE</u>	<u>ACTUAL AREA USE FACTOR</u>	<u>PERCENT ALLOWABLE USE</u>	<u>ALLOWABLE AREA USE FACTOR</u>	<u>JUSTIFICATION</u>
188	80	15040	50	9400	Current management allows use above the physiological requirements. This site is producing at its potential and heavy use is necessary to realize moderate use on adjoining sites. The allowable use factor is set above the physiological growth requirement of the key forage plants occupying the site. The site also receives 20 months' rest following use.
120	20	2400	30	3600	Allowable use consistent with key plant physiological growth requirements. The degree of safe use is based upon the management system and the general guide to proper utilization on mountain muhly 30%, Arizona fescue 25%, Thurbers fescue 25%.
180	10	1800	10	1800	Allowable use is set low due to light use within the mixed conifer.
135	10	1350	10	1350	Allowable use is set low due to light use within the mixed conifer.
73	70	5110	50	3650	Current management allows use above the physiological growth requirements. This site is producing at its potential and heavy use is necessary to realize moderate use on adjoining sites. This site receives 20 months' rest following use.

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<u>ACRES</u>	<u>ACTUAL USE</u>	<u>ACTUAL AREA USE FACTOR</u>	<u>PERCENT ALLOWABLE USE</u>	<u>ALLOWABLE AREA USE FACTOR</u>	<u>JUSTIFICATION</u>
110	0	0	0	0	No allowable capacity - area is excluded from grazeable range due to dense stand of spruce-fir with no herbaceous understory.
528	10	5280	20	10560	Allowable use is set low due to light use within the mixed conifer.
203	5	1015	45	225	Current management allows use above the physiological growth requirements. The site is producing at its potential and heavy use is necessary to realize moderate use on adjoining sites. This site receives 20 months' rest following use.
100	20	2000	45	4500	Same as above.
158	0	0	0	0	No allowable capacity - area is excluded from grazeable range due to dense stand of spruce-fir with no herbaceous understory.
90	80	7200	50	4500	Current management allows use above the physiological growth requirements. This site is producing at its potential and heavy use is necessary to realize moderate use on adjoining sites. This site receives 20 months' rest following use.
58	40	2320	40	2320	Same as above.
443	70	31010	50	22150	Same as above.

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Exhibit 1--Continued

<u>ACRES</u>	<u>ACTUAL USE</u>	<u>ACTUAL AREA USE FACTOR</u>	<u>PERCENT ALLOWABLE USE</u>	<u>ALLOWABLE AREA USE FACTOR</u>	<u>JUSTIFICATION</u>
65	30	1950	30	1950	Allowable use consistent with key plant physiological growth requirements. The degree of safe use is based upon the management system and the general guide to proper utilization on mountain muhly 30%, Arizona fescue 25%, Thurbers fescue 25%.
223	15	3420	15	3420	Allowable use is set low due to low condition class and easy access to better forage.
70	60	4200	50	3500	Current management allows use above the physiological growth requirements. The site is producing at its potential and heavy use is necessary to realize moderate use on adjoining sites. This site receives 20 months' rest following use.
68	5	340	5	340	Allowable use set at 5% due to the steep topography (40% slope) and the light forage use within the mixed conifer.
63	35	2205	45	2835	Current management allows use above the physiological growth requirements. This site is producing at its potential and heavy use is necessary to realize moderate use on adjoining sites. The allowable use factor is set above the physiological growth requirement of the key forage plants occupying the site. The site also receives 20 months' rest following use.
30	50	1500	45	1350	Same as above.

JUSTIFICATION

<u>ACRES</u>	<u>ACTUAL USE</u>	<u>ACTUAL AREA USE FACTOR</u>	<u>PERCENT ALLOWABLE USE</u>	<u>ALLOWABLE AREA USE FACTOR</u>	
108	30	3240	50	5400	Same as above.
258	60	15480	50	12900	Same as above.
593	5	2965	5	2965	Allowable use set at 5% due to the steep topography (40% slope) and the light forage use within the mixed conifer.
170	0	0	0	0	No allowable capacity - area is excluded from graze-able range due to dense stand of spruce-fir with no herbaceous understory.
198	20	3960	45	8910	Current management allows use above the physiological growth requirements. This site is producing at its potential and heavy use is necessary to realize moderate use on adjoining sites. This site receives 20 months' rest following use.
120	5	600	5	600	Allowable use is set low due to light use expected in dense stand of ponderosa pine.
280	0	0	0	0	No allowable capacity - area is excluded from graze-able range due to dense stand of spruce-fir with no herbaceous understory.

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Exhibit 1--Continued

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<u>ACRES</u>	<u>ACTUAL USE</u>	<u>ACTUAL AREA USE FACTOR</u>	<u>PERCENT ALLOWABLE USE</u>	<u>ALLOWABLE AREA USE FACTOR</u>	<u>JUSTIFICATION</u>
43	80	3440	45	1935	Current management allows use above the physiological growth requirements. This site is producing at its potential and heavy use is necessary to realize moderate use on adjoining site. This site receives 20 months rest following use.
108	10	1030	10	1080	Allowable use is set low due to light use within the mixed conifer.
308	60	22800	45	13860	Current management allows use above physiological growth requirements. This site is producing at its potential and heavy use is necessary to realize moderate use on adjoining sites. This site receives 20 months rest following use.
53	40	2120	40	2120	Same as above.
58	50	2900	50	2900	Same as above.
133	15	1995	15	1995	Allowable use is set low due to light use within the mixed conifer.
58	20	1160	30	1160	Allowable use consistent with key plant physiological growth requirements. The degree of safe use is based upon the management system and the general guide to proper utilization on mountain muhly 30%, Arizona fescue 25%, Thurbers fescue 25%.

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<u>ACRES</u>	<u>ACTUAL USE</u>	<u>ACTUAL AREA USE FACTOR</u>	<u>PERCENT ALLOWABLE USE</u>	<u>ALLOWABLE AREA USE FACTOR</u>
75	70	5250	45	5250
70	70	4900	45	3150
63	60	3780	40	2520
308	70	21560	50	15400
68	60	4080	50	3400
<u>75</u>	<u>60</u>	<u>4500</u>	<u>50</u>	<u>3750</u>
4009		153715		118885

JUSTIFICATION

Current management allows use above the physiological growth requirements. The site is producing at its potential and heavy use is necessary to realize moderate use on adjoining sites. This site receives 20 months rest following use.

Same as above.

Same as above.

Same as above.

Same as above.

Same as above.

Exhibit 1--Continued

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52.21--7

Calculations: $\frac{153,715 \text{ Actual Use Factor}}{1,500 \text{ AUM's}} = \frac{118,885 \text{ Allowable Area Use Factor}}{X}$

X = 1,160 AUM's Desired

Thus:

1,500 AUM's grazed
1,160 AUM's desired
 340 AUM's overobligated in Nutritas Unit (San Antone Allotment)

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52.22 - Estimating Forage Utilization. Utilization estimates are useful for interpreting changes in range condition and trend, and in determining proper stocking. They are an important adjunct to condition and trend transects. Forage utilization checks during the field season will help determine when the desired forage utilization level is reached.

1. Methods Used in Training for Ocular Estimate.

a. Ocular Estimate. Use the 0.96 loop with an ungrazed plot. Use the basic procedure described in section 52:21, item 1, with the following addition to step 4:

Simulate grazing for ocular estimate training by clipping a portion of the forage in the plot; place in bag and weigh. Estimate the percent of forage removed. Clip the rest of the forage in the plot, add to bag and weigh. Deduct the weight of the bag from both weighings. Determine the percent of forage removed (utilized) by dividing the weight removed (first weight) by the sum of the weight of forage (second weight). Compare the actual weighed percent removal with the estimates. Continue to estimate, clip, and weigh forage on plots until the estimates are consistent within 5 percent of the clipped weights. Varying degrees of percent of forage utilization can be recognized by a series of estimates and checks.

b. Paired Plots. Estimate, clip and weigh a plot within a cage or unused area and a plot on a grazed area. The percentage of use is compared from the difference in weight.

c. Grazed-Plant Count Method. Percent of plants grazed versus weight removed is another method of measuring utilization on those individual species to which it is effective. It is useful on certain bunchgrass species. It is important that the cage be moved each year.

The grazed-plant count method does not require training but does require a special percent-weight relationship scale specifically worked out for each species. By reference to this previously determined relationship between number of plants grazed and weight removal, the percentage of utilization by weight can be determined.

The relationship between number of plants grazed and percentage of weight removal is curvilinear. The grazed-plant count method is based on a linear relationship. For this reason the extremes of grazing use (light and heavy) are omitted.

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This curvilinear relationship is different for each species. Therefore, the method may be effective for one species only in the 35-45 percent range of utilization, and another between 25-55 percent. This method must be used species by species and only where the method adequately covers the use ranges being encountered on that particular allotment.

52.23 - Browse-Utilization Estimates. Run a transect through a representative area of the browse stand. Select browse plants to measure on a predetermined number of paces. At each sampling point, select the nearest browse plant in a 180-degree arc in the direction of travel. Do not select the same browse plant more than once. Corresponding to the second hand on your watch, select a branch and count 10 twigs of current growth. If 10 twigs are not present, go to the next nearest branch to acquire the required number of twigs. Record number browsed of the 10 twigs. This will be the estimated percent use for this sample. Example: If 4 of the 10 twigs have received use, the estimated use is 40 percent. Continue transect until an adequate sample has been taken. If a dead plant is hit, record as dead and measure utilization on the nearest live browse plant. Browse growth in the desert in many cases is a result of current precipitation. This may result in two or more bursts of growth each year.

53 - USE (RELATIVE, PROPER, AND ALLOWABLE)

53.1 - Relative Use. Relative use by big game and livestock can be estimated from pellet-plot transects. Fecal counts for relative use may be made while conducting production-utilization surveys if so desired. Record relative abundance of wildlife and livestock fecal groups in all use zones. Tally may be made by either a plot count or an ocular estimate, as needed. Key to map. Location of counts are entered on the tally sheet so that the information can be correlated with utilization or other pertinent data. Counts should also be made on allotments or areas within allotments where big game-livestock competition exists.

Count the number of fecal groups, tallied by species, within 1/100 acre plots. Plots may be circular, 11 feet 9 inches in radius, or rectangular, 6 feet 6 inches by 66 feet. All readily identifiable groups are counted if over one-half of the group occurs within the plot. After training, an ocular estimate is used.

53.2 - Proper Use Based on Physiological Needs. For purposes of range analysis, proper use is defined as the degree of grazing use plus trampling damage that an individual species can sustain during the growing season while maintaining the vigor, forage production,

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and reproductive capacity of the plants. Proper use is based on the morphological and physiological characteristics of each species. Keep in mind that the plant needs can be provided for over several growing seasons and may not necessarily be provided each year. However, the grazing schedule must provide sufficient plant recovery time to offset those times the plant is overgrazed during the growing season.

To compensate for the poor production years, the proper use factor must be conservative when related to average annual precipitation. The proper use level may vary with differences in range condition class and season of use and intensity of management.

The proper use level of several species has been determined on fair or better condition rangelands:

A GENERAL GUIDE TO PROPER USE OF FORAGE SPECIES 1/

<u>Scientific Name</u>	<u>Common Name</u>	<u>Symbol</u>	<u>Range in Fair Condition</u>
Agropyron smithii	Western wheatgrass	Agsm	40%✓
Andropogon saccharoides	Silver bluestem	Ansa	30
Andropogon scoparius	Little bluestem	Ansc	35
Aristida divaricata	Poverty three-awn	Ardi	40
Aristida glabrata	Santa Rita three-awn	Argl	40
Aristida longiseta	Red three-awn	Arlo	30
Blepharoneuron tricholepis	Pine dropseed	Bltr	40✓
Bouteloua chondrosioides	Sprucetop grama	Boch	30
Bouteloua curtipendula	Side-oats grama	Bocu	35
Bouteloua eriopoda	Black grama	Boer	30-40
Bouteloua filiformis	Slender grama	Bofi	40
Bouteloua gracilis	Blue grama	Bogr	30✓
Bouteloua hirsuta	Hairy grama	Bohi	30
Bouteloua rothrockii	Rothrock grama	Boro	45
Danthonia	Timber oatgrass	DANT	25
Festuca arizonica	Arizona fescue	Fear	25✓
Heteropogon contortus	Tanglehead	Heco	30
Hilaria belangeri	Curlymesquite	Hibe	30
Hilaria jamesii	Galleta	Hija	30
Hilaria mutica	Tobosa	Himu	30
Koeleria cristata	Junegrass	Kocr	30✓
Lycurus phleoides	Wolftail	Lyph	30
Muhlenbergia rigens	Deergrass	Muri	30
Muhlenbergia montana	Mountain muhly	Mumo	30✓
Muhlenbergia emersleyi	Bullgrass	Muem	20
Muhlenbergia porteri	Bush muhly	Mupo	25

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<u>Scientific Name</u>	<u>Common Name</u>	<u>Symbol</u>	<u>Range in Fair Condition</u>
Poa pratensis	Kentucky bluegrass	Popr	40 ✓
Scleropogon brevifolius	Burrograss	Scbr	10
Sitanion hystrix	Squirreltail	Sihy	30 ✓
Sporobolus airoides	Alkali sacaton	Spai	25
Sporobolus contractus	Spike dropseed	Spco	25
Sporobolus cryptandrus	Sand dropseed	Spcr	25 ✓
Sporobolus interruptus	Black dropseed	Spin	30 ✓
Stipa neomexicana	N. M. feathergrass	Stne	20 ✓
Trichachne californica	Arizona cottontop	Trca	30

1/

These are guidelines as amended by nearly 50 years experience by the National Forests in Region 3 and were developed primarily under continuous year-long grazing systems. Intensive management systems with varying periods of use will provide different levels of allowable use.

53.3 - Allowable Use. Allowable use is determined from proper use and is the level of grazing utilization that can be permitted on an area when all influencing factors are considered. The individual making the initial analysis is best qualified to set allowable use factors. These may be changed based upon field experience, or by testing, but normally remain unchanged with a given management level. On most ranges, available forage is produced by a variety of species occurring in several different plant communities. These communities are located in irregular patches or zone type patterns.

The degree of grazing use and trampling that any plant can accommodate (proper use) is highly variable from species to species. It is also dependent on the time of year grazed, the severity of grazing during the growing season, the sequence of grazing use and frequently the ecotype of the species.

Within any pasture the species mix, terrain features, distances, and palatability to livestock all influence the pattern and degree of grazing use that will occur under a given stocking level. The allowable use and subsequent grazing capacity directly depend upon these factors, although this may be greatly altered by intensive management.

The total amount of forage available for grazing use is dependent upon the forage volume produced, and the pattern of use imposed upon the terrain by grazing. Use is limited by the plant association most preferable and accessible to livestock.

1. Limiting Factors Affecting Allowable Use. See tables at the end of this code for tables relating to some of the above factors.

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a. Existing Intensity of Management. Management practices and efforts by the permittee will affect the distribution of grazing use more than any other single item. The effect on allowable use will be an increase or decrease in the size of the area that receives concentrated grazing use.

b. Existing Stocking Rate. Stocking rate in balance with the grazing capacity would result in actual use levels equalling allowable use levels for a given management system. If stocking rates are too high, actual use on given units would exceed allowable use under a given management system.

c. Type and Class of Livestock. The type and class of livestock will affect the allowable use through their preferences for forage and their different responses to terrain features.

d. Grazing Conflicts. Grazing conflicts with other range uses may require adjustments in allowable use to maintain or protect resource values.

e. Capability. Allowable use will be zero on areas delineated as no capacity (NC). When grazing capacity is assigned to potential capacity (PC) areas, the allowable use factor may be lower than use factors assigned to (FC) areas in order to assure full capacity ranges are not overused. Those above mentioned (PC) areas should be closely monitored and rationale for assigned use will be documented.

f. Season of Use.

(1) Allowable use within a unit should be adjusted depending upon whether grazing is occurring during the desired forage species growing or dormant season under the existing management system.

(2) Allowable use between units should be adjusted depending on whether grazing is occurring during warm or cool seasons as this affects livestock behavior.

g. Wildlife. Allowable use levels must consider food and/or cover requirements for existing or desired wildlife species and populations. See section 54.1.

h. Other.

(1) Water availability.

(2) Sensitive, threatened or endangered plant and animal species.

(3) Soil characteristics.

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- (4) Wilderness.
- (5) Poisonous plants.
- (6) Riparian areas or other sensitive areas identified in the Forest Plan.

2. Determination of Allowable Use Level. Allowable use is the level of grazing utilization that can be permitted on an area or unit when all influencing factors are considered.

A good way to approach the problem of determining the appropriate allowable use on an area is to recognize and state the objectives that determine what percentage of forage will be removed.

These objectives are outlined in the Forest Land Management Plans and reflected in the on-the-ground implementation through the allotment management plans.

Determination of allowable use levels (percentages) cannot be absolutely expressed or specifically outlined in a chart. It must again be reiterated that factors vary greatly as to on-the-ground conditions, the level of management and its effectiveness, and the land management plan objectives.

Properly trained individuals in the field establish the allowable use levels consistent with the established objectives. It is essential that adequate documentation be made of the rationale used.

The "unit" can be an individual use zone, a combination of use zones, or an entire allotment pasture. There may be several units for an allotment pasture or one unit may give the desired results. Each unit is defined when allowable use is set and justified.

Allowable use should always be less for continual yearlong use versus rest rotation or deferred rotation grazing. Continuous yearlong allowable use estimates should never exceed the capacity estimated for a management system.

A combination of utilization intensities may be needed for an allotment. One unit may be uniform and have one allowable use zone. The same allotment may have a pasture where each use zone will need an individual allowable use figure defined and justified.

Allowable use levels are usually set as less for fixed periods of seasonal use or yearlong use, than allowable use for rest rotation or deferred rotation pastures. Allowable use for an allotment used "extensively," should never exceed allowable use for the same allotment under intensive management.

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3. Procedure.

- a. Determine the objectives for the allotment and/or each unit by reviewing the forest or the allotment management plan.
- b. Determine the limiting factor on each unit. Adjust allowable use as needed to provide for limiting factors or other management considerations.
- c. Consider condition-trend in relation to the objective of improving unsatisfactory situations.
- d. When allowable use has been established, the degree of utilization that will occur on adjacent sites may be predicted from the current grazing use pattern.

54 - GRAZING CAPACITY. Grazing capacity is the total number of domestic animal unit months an allotment can support on a sustained yield basis without damage to the range or other resources. In arriving at capacity figures from production-utilization surveys, it is recognized that utilization by wildlife is included in the data. Although estimates of utilization by herbivorous wildlife species can be estimated from pellet plot transects (section 53.1), such data is normally time-consuming to collect and is inconclusive because of differences between livestock and wildlife in grazing patterns, species utilized, seasonal variations, and related factors. Since livestock numbers and seasons of use (actual AUM's grazed) are known, levels of utilization are usually related solely to domestic livestock use and grazing capacity estimates are determined accordingly. Wildlife needs as related to the current situation then hinge on wildlife management objectives. Making more forage available for wildlife utilization, providing needed ground cover, or related factors is therefore normally accomplished in establishing levels of allowable use.

54.1 - Wildlife Factors Affecting Grazing Capacity. The wildlife objectives, standards, and guidelines outlined in the Forest plans, as well as the State Comprehensive Plans, should be thoroughly reviewed when considering capacity.

1. Grazing use by wildlife may be estimated from fecal group data gathered by ocular estimate during the PU survey for each identified use zone. These data reflect the number of fecal groups for all classes of livestock and big game species. This information can be extrapolated to assign relative estimates of forage utilization by big game and livestock. See section 53.1.

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2. The pellet group counts made in conjunction with the PU survey provides a relative estimate of large herbivorous wildlife numbers and season of use on the allotment. The desired herd size, if different from existing, should be determined jointly by both Forest Service and State Game Department personnel. This relative estimate can be helpful in evaluating conflicts of use between livestock and large herbivorous wildlife. The amount of conflict will vary with range condition and trend, and generally, as the degree of conflict increases, the needs for wildlife become more critical. If the objective is to sustain current wildlife populations, allowances for that purpose are not as great as it would be if the objective was to increase wildlife numbers. It is recognized that the grazing capacity required to sustain or increase the population levels of any given species will be different from another species and may even differ allotment from allotment. Since no formulated methodology is available by which specific allocations can be readily assigned to wildlife, it is important that all indicators be evaluated and good judgment be applied to adequately provide for all manageable species. A written documentation of wildlife needs as related to grazing capacity is important. The following example illustrates a situation and the rationale that can be used in resolving a wildlife conflict.

Example: Pellet group counts and condition and trend observations indicate a moderate deer population which potentially conflicts with livestock during spring months. It is desired to maintain existing numbers of deer. Further, on a portion of the allotment, cover needed for quail is decreasing because of livestock grazing. These are found to be major conflicts between wildlife and livestock. The range conservationist and wildlife biologist determine that it is necessary to reduce the conflict by 10 percent to provide for wildlife needs. Reaching that objective can then be accomplished through changes in livestock season of use in area of conflict, reduction/change of allowable use levels in the conflict area, other changes in management, or other coordinated/cooperative beneficial changes, and so forth.

54.2 - Determination of Estimated Grazing Capacity. Grazing capacity estimates are computed from the results of utilization surveys as compared to actual use figures.

54.3 - Permitted Number. The permitted number is the number, kind, and class of livestock units allowed for a specific season under grazing permit. If permitted numbers are adjusted to correspond to estimated grazing capacity without changing livestock management, expect that:

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1. A reduction in the permitted numbers will generally decrease the size of the grazing use pattern while utilization of favored areas will remain high. This is particularly true of bottom lands on ranges that have rugged topography, open meadows, or riparian vegetation.

2. Increases in permitted number will tend to increase use on natural concentration areas, and overuse them before an expansion of the size of grazing use pattern occurs.

Example 1: A pasture of an allotment has an important riparian area bisecting it. Above the riparian area are grassy benchlands and above the benchlands are steeper mountain slopes. The pasture is grazed in the summer. The riparian area is grazed 80 percent. The grass benches are grazed 50 percent and the slopes are grazed 30 percent. Under present management, the riparian bottom is the key area. The critical forage species in the riparian bottom could maintain their physiological growth requirements if grazed 40 percent. However, there is a fisheries resource in the stream and the area is the breeding grounds for many birds. The need for shade on streambanks and habitat for insects which feed the fish and birds requires that the forage not be grazed more than 25 percent. These types of justification for allowable use must be fully explained in each year's PU narrative writeup. The objective will be to allow grazing to an intensity that will not damage wildlife habitat. Therefore, 25 percent is established as the allowable use for the riparian area. If the riparian area is only grazed 25 percent, it can be expected use on the grass benches would be 15 percent and 10 percent on the slopes. When the capacity is calculated with these allowable use figures, it will be found that this unit is heavily overstocked by the present system of management. This information pinpoints a problem and is a tool to obtain better management. Consider the following alternatives, or combinations of, to improve management.

- a. Develop pasture management system which allows for periodic rest of the riparian area.
- b. Change season of use to fall or winter. This would encourage livestock to leave the colder bottoms and use the warmer slopes.
- c. Develop water away from the riparian area.
- d. Use better salting practices to draw livestock away from the riparian area.
- e. Reduce livestock numbers.
- f. Fence riparian areas.

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Example 2: A pasture has a key area that has a combination of grass and desirable browse. The allotment is grazed under a rest rotation management system where each unit is grazed for 6 months and rested for a full year following use. Actual use on critical areas is 30 percent. The browse is currently being grazed to 20 percent. Based on the current management, the proper use is 40 percent on the available grass. In this situation, an increase in numbers, change in season, or both would help to graze the forage (grass) resource to 40 percent. The increase should not put the browse above proper use. The amount of increase would have to be based on entire unit.

Example 3: A pasture has a combination of grass and browse forage. It is grazed from October to June. Livestock graze the grass 80 percent when first arriving in the unit, then graze browse in the winter, then return to grass when it starts to grow in the spring. The browse is vigorous and is not being damaged. The grass is losing its soil binding characteristics, and there is serious soil loss. The objective will be to stabilize the soil loss and establish an upward trend in the grasses. Therefore, the limiting use factors will be set on the grass and soil factors and not the browse. Since the grass is in a downward trend and in very poor condition, it may be determined that use should not exceed 20 percent if the objectives are to be met. With an allowable use of 20 percent, this range is heavily overstocked with the present management system. Some alternatives to consider could be:

- a. Remove livestock before grass begins to grow in the spring.
- b. Shift use to other areas.
- c. Reduce livestock numbers.
- d. Adopt management plan that provides for the above.

Example 4: The reverse of the above problem could be true on big game winter range used by sheep or cattle. In this case, browse or forbs could be the critical forage.

55 - MAPPING

1. Mapping grazing use patterns is done by ocular estimate and can be effectively accomplished while inspecting the range. If a TES map is available, PU mapping can be done directly on the capability area delineation. Further subdelineations may be necessary. The PC, FC, and NC will already be identified. However, ground proofing may be necessary.

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Mapping should be done on a 2 inches equal 1 mile, or larger scale map, or an aerial photo (as the situation dictates). The survey should be made upon removal of livestock from a unit under a pasture rotation system or at the end of the growing season. Estimates will be made by percent of current actual use, relative to forage production, estimated in pounds. Accurate actual use records are essential. Rested pastures will not be mapped unless an estimate of wildlife use, trespass, or relative production is needed. The estimates will be recorded on the map as follows:

$$\frac{(\% \text{ allowable use}) \% \text{ actual use} - \text{lbs. production}}{\text{Acres}}$$

For example: $\frac{(30) 40-450}{280}$ Full capacity.
(grass)

$\frac{(0) 20-100}{340}$ Potential capacity, or no capacity
(no use desired).

These would symbolize 30 percent allowable use and 40 percent actual use on a 280-acre area producing an average of 450 pounds of grass forage per acre. Only the allowable use, actual use, and production is entered on the map in the field.

In the above example, grass would be the critical forage. It is being grazed in excess of allowable. The acreage is determined and recorded at the office when the field survey has been completed and the data are being compiled.

(browse-) $\frac{(50) 50-M H H L}{280}$

The above would symbolize, for the same delineated area, that 50 percent use is allowable and that actual use is 50 percent with a browse rating of MHHL. See section 44.31.

*Rating Browse Production (relative)

	Composition	Density	Vigor	Availability
Browse Condition Score	H-M-L	H-M-L	H-M-L	H-M-L
Production Values Scorecard	4-2-1	3-2-1	1-1-0	3-2-1

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Example: A subtype with a browse condition score of HMLM would have a relative production rating of $4 + 2 + 0 + 2 = 8$.

2. Determine the desired intensity of mapping before field work begins. As a minimum, the mapping should be sufficiently detailed to delineate the major forage production portions of the range and how they are being used.

If the analysis typing is sufficiently detailed, it provides an excellent guide to production-utilization mapping intensity.

Utilization and production zones tend to coincide with type lines. Large type or subtype areas may include more than one utilization zone. However, do not use typed areas as a hard-and-fast standard but as a guide.

55.1 - Field Procedure. A list of equipment follows:

Reliable horse (make sure tack and horse are in safe, serviceable condition in advance).

Scales that weigh in grams.

Bag in which to weigh grass.

Instrument to cut grass (scissors, sharp knife, and so forth).

Map (base map with light contours or the latest analysis map or orthoquad).

Pocket-sized range field guide.

Camera (may want blackboard and chalk or white shoe polish to help identify pictures).

0.96 square foot loop (41.69" circumference).

Aerial photos (optional).

Clinometer or Abney.

Optional training equipment: 9.6 square foot cage(s) and loop.

With the foregoing list in mind, proceed with the following steps:

1. Plan the route of travel in advance so as to sample all of the range types with minimum amount of backtracking or unnecessary travel. Range analysis maps and soils maps are useful guides in planning travel routes.

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2. Do not be too hasty in recording the date and zone lines on the map. Proceed until there is assurance of a representative area of a distinct zone and it is significant enough to map as a separate zone.

3. At the representative point on the map (or photo), mark an identifying "X" and circle and record the actual use and production.

4. Proceed on the route of travel until well within the next use and production zone. Stop, repeat step 3 and, in addition, draw a short pencil line at the approximate midpoint of the transition between the two zones.

5. Continue route of travel repeating steps 2, 3, and 4 until each zone of production and use in the entire pasture or allotment has been sampled.

6. When the sample has been completed, the map should show a series of zone lines with recorded sample points.

7. If the route of travel and sampling was sufficiently intensive, it should be possible to complete and connect the missing zone lines by interpolation between the recorded sample points. Topography and type boundaries will often provide guidelines in making this interpolation. If the lines cannot be logically connected by interpolation, there may be a "hole" in the sample. (If so, and it appears sufficiently large, this may require some duplicate travel to fill in the missing data.) This step should be completed at the end of each day's work before leaving the area.

8. Complete the map with a suitable legend and prepare a narrative of current conditions at the time the survey was conducted. (See exhibit 1 for a completed allotment production-utilization map.)



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Exhibit 1--Continued

CHRYSOTILE

ALLOTMENT ANALYSIS MAP

GLOBE RANGER DISTRICT

TONTO NATIONAL FOREST

Field Work By: Galkowski
Raves
Fallis

legend

VEGETATION TYPES

- 1- Grassland
- 5- Browse
- 6- Conifer
- 7- Riparian
- 9- Piñon Juniper
- 12- Mesquite

QUER Gusa ACAC² - Principal species in order of abundance

CONDITION

- F - Fair
- P - Poor
- VP - Very Poor

TREND

- ↑ UP
- ↓ DOWN
- NO Apparent Trend

GRAZING CAPABILITY

- FC - Full Capacity
- PC - Potential Capacity and Identified Problem Areas
- NC - No Available Capacity

MLLH - Browse Rating in the following Order:

- Composition, Density, Vigor, Availability
- H - High
- M - Medium
- L - Low

366-30-70 = Soil# - Ground Cover(s) - Slope(s)

C4 - Clusters



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56 - PHOTOGRAPHS. Take as many photographs as needed to show problems, opportunities, comparison (fence plots or cages compared to grazing areas), production examples, use samples, and so forth. Photos are excellent for illustrating allowable use justifications. It is desirable that photos, particularly closeups, contain some common object, readily identifiable, to provide a reasonable measure of scale. A ruler, pencil, hat, and so forth, are commonly used.

57 - OFFICE PROCEDURE

57.02 - Objective. To organize all data and information gathered in the field in such a manner that anyone reviewing the report will have a good mental picture of resource conditions, resource needs, and alternatives to meet these needs.

57.1 - Map Completion

1. Measure acreage on all delineated areas and enter data on map. Note: Enter information from map and notes in a summary form for calculating capacity by the Allowable Use Method (acres, percent allowable use, percent actual use, justifications on all species).

2. Color each zone on the map with the color that indicates the degree of use:

0-5%	White
6-15%	Green
16-25%	Green
26-35%	Yellow
36-45%	Yellow
46-65%	Blue
Over 65%	Red

3. Standard map coloration: Compare the actual and allowable use for each unit; any mapping unit that is greater than 5 percent above allowable use may have red crosshatching superimposed over the actual use color. Red crosshatching will indicate what areas are being grazed above allowable use and consequently indicate overstocking in that mapping unit.

4. Optional additional map.

a. Color each zone on the map with the color that indicates the degree of use.

0-5% White. No Use

6% or more,
less than
allowable. Green. Light Use

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Proper use of individual area \pm 5%	Yellow	Moderate Use
6% or more greater than allowable	Red	Overuse

5. Standard map coloration: Compare the actual and allowable use for each unit; any mapping unit that is used greater than 5 percent above allowable will be colored red. Red indicates what areas are being grazed above allowable and consequently indicate overstocking in that mapping unit. Color the units yellow that are used at plus or minus 5 percent of allowable use. Color the units green that are used 6 percent below allowable use or lighter. Leave white those areas that are not used, 0-5 percent.

57.2 - Calculations

1. All delineated areas are entered on the form without regard to capability or utilization classification. No capacity areas are not used in the calculations.
2. Since grazing capacity will be based on allowable use of forage, browse, forb, and grass utilization, percentage information can be entered on the same summary form.
3. Do not use browse and grass information from the same map unit. The decision must be made which of the above is limiting.
4. Calculate the estimated grazing capacity. The estimated grazing capacity is calculated by a ratio comparison. The sum of the actual use factors (acres x percent actual use) is divided by actual AUM's utilized on the allotment. This equals the allowable area use factors (allowable use x acres for all units) divided by the estimated grazing capacity in AUM's. In the Production Utilization Survey example (reference exhibit 1, section 52.21), the sum of the actual factors is 153,715. This figure divided by the AUM's grazed or 1,500 equals 102.5. By dividing 118,885, the sum of the allowable area use factors, by 102.5 we obtain X, the desired capacity, 1,160 AUM's. Capacities over 100 should be rounded to the nearest 10 AUM's. Capacities under 100 should be rounded to the nearest 5 AUM's.
5. When there is more than 1 year's data, it may be handled in any one of four ways to arrive at estimated grazing capacity. See section 54.

a. Average of 2 or more years. For instance, if 3 years of PU data were available as follows, the estimated capacity would be:

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1976 = 449 AUM's estimated capacity
 1977 = 422 AUM's estimated capacity
 1978 = 461 AUM's estimated capacity
 Total = 1,332
 .3 = 444 AUM's and rounded to the nearest 10 AUM's
 Equals: 440 AUM's

b. Ninety percent of the average. In the example above, the 3 years data = 444 AUM's. Ninety percent of 444 equals 399.6, and this rounded to the nearest 10 AUM's equals 400 AUM's.

c. Use the lowest year. In example 1 above, the lowest year equals 422 AUM's estimated grazing capacity. When this is rounded to the nearest 10 AUM's, it equals 420 AUM's.

d. Percentage adjustment to "average" precipitation year. Care must be exercised in adjustment for precipitation variance.

e. As illustrated in item 5 above, the estimated gross capacity will vary depending on which of the three methods is used. Research conducted at Santa Rita indicates that stocking at 90 percent of the estimated grazing capacity appeared to be the most sound from the standpoint of long term economics and providing a desirable margin of forage cushion. However, if the PU studies were conducted during better than average years of production--or there are other compelling reasons--either of the other methods should result in reasonable "ball park" figures. The intensity of livestock management which can be applied is an all important consideration although the degree of deterioration, sensitivity of soil, and related factors must also be evaluated. Correcting deficiencies and arresting downward trends is the ultimate objective, and if a particular level of stocking does not meet that objective, a lesser one is the only alternative.

Estimated capacity in the above examples ranges from 400 to 440 AUM's. Assuming actual use average 500 AUM's, it is indicated that some adjustment is needed, but it should not exceed 20 percent under the current management. Refinements in the management system, delayed opening date, or a shorter grazing season could be logical ways to accomplish the needed changes. In working toward a solution, the permittee's input is important.

57.3 - Report. The report should give the reader a clear view of the rationale used for arriving at the recommendations and conclusions.

1. **Abstract.** The first written page of the survey tells the reader what is happening on the allotment in easy to understand, concise statements. It may include:

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- a. Accurate actual use (AUM's) from the time the stock entered the pasture until the actual day of the survey. Sometimes this is overlooked if the PU is made prior to actual removal of stock from the pasture.
- b. Present conditions and problems.
- c. Production of annuals and effect of grazing on perennials, if any.
- d. Rainfall pattern as it affects the surveys.
- e. Comparison with previous surveys.
- f. Recommendations and conclusions.

2. Narrative. The narrative should include an in depth analysis of the range management situation. It includes analyzing the grazing system and outlining information essential for management decision.

The figures arrived at from the PU studies are an approximate grazing capacity for the allotment at the management level that is being applied. Grazing capacities can be expected to be different when a different level of management is applied.

The narrative may include the following:

- a. Definition of problems and evaluation of possible solutions plus description of current management situation.
- b. Livestock distribution needs.
- c. Wildlife considerations and conflicts.
- d. Discussion and justification of allowable use.
- e. Permittee involvement in study.
- f. Livestock management.
 - (1) Kind and class of livestock on allotment.
 - (2) Season of shipping.
 - (3) Pasture moves.
- g. Weather information.

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3. Data Presentation. Include a copy of the Summary of Computations. Discuss any rationale for adjusting the capacity estimates. Compare with other surveys.

4. Photographs in Report. Attach mounted photos. Make sure writeup about each photo is clear enough that the purpose for inclusion will be evident.

5. Map. Include map with appropriate legend exhibit.

6. Forest Supervisor Review and Approval (according to Forest policy).

7. Distribution.

a. Supervisor's Office.

b. Ranger District.

57.4 - Permittee Involvement. The report should be discussed with the permittee in person so that they understand the problems and opportunities for solving problems. Encourage the permittee to suggest ideas on how to proceed. The permittee review should be documented; that is, signature on cover page of Production-Utilization Report, or letter to the permittee confirming discussion. Copy to permittee, if requested. The main idea here is to communicate with the permittee and insure that they know what is taking place and what needs to be done to improve management.

CONDITION RATING AND CAPACITY GUIDE

"Suitable Acres Per Aum, Heber RD"

Developing this guide for determining capacity, the following premise was used:

1 aum= 1 cow per month (head month)
Average consumption is 26# per cow per day, of dry feed.
Where yearlong range is utilized, the cow is not only sustaining itself but also a calf or fetus through the majority of a year, therefore a higher forage consumption rate is used. The Forest Service uses a conversion rate of 1.32 to convert 1 head month (1 cow per month) to aum's, which accounts for the calf on the ground. The 26# lbs./cow/day x 1.32 = 34.32# lbs./day/cow and calf, this figure was rounded to 35#/cow and calf. The forage requirement for 1 month is determined as 35# x 30 days/month= 1,050# of feed per cow per month. One acre of Very Poor range condition produces 50# of dry feed, which represents the lowest level of full capacity range. A total of 46.67 acres is needed to feed 1 cow/month at 50#'s/acre with a 45% maximum allowable use level. This can be determined as follows:
46.67 acres x 50#/acre = 2333.5# lbs. total x 45% allowable use = 1050.1# available for 1 cow/month.
Based on this rational, the stocking guide is scaled according to the amount of production by condition class.
It is recommended that this method be used as an initial stocking rate. Additional adjustments may be necessary due to livestock distribution, climatic conditions, livestock breed, season of use, or other factors.

<u>CONDITION</u>	<u>FORAGE, DRY WGT.</u>	<u>SUITABLE AC./AUM</u>	<u>MIDPOINT AC/AUM</u>
Very poor	0 - 175# lbs/ac.	46.67 - 13.26	29.92
Poor	176 - 300	13.26 - 7.75	10.51
Fair	301 - 600	7.75 - 3.88	5.82
Good	601 - 900	3.88 - 2.59	3.24
Excellent	901 - 1200	2.59 - 1.94	2.27

Clay Springs estimated capacity based on midpoint.

Forage weights based on February and March clippings, utilizing previous years production.

Prepared by Noe Gonzalez, Heber RD, Wildlife and Range Staff, June 15, 1994.