

**IBLA 2008-201
WATER DEVELOPMENT RECONSTRUCTION
NEVADA WILD HORSE RANGE
HERD MANAGEMENT AREA PLAN
EA-NV-052-2008-223**

Part II

1. Submission of electronic copies of:
 - a) Request for Stay/Notice of Partial Appeal by Cindy MacDonald
Water Development Reconstruction
Nevada Wild Horse Range Herd Management Plan
July 10, 2008
 - b) Request for Proper Administrative Review/No Expedited Dismissal – July 18, 2008.
 - c) Request to BLM for New Environmental Assessment Authorizing Water
Reconstruction Disconnected from Herd Management Plan Via Email – July 18, 2008.
2. Submission of electronic copies of all prior public input and communications to BLM regarding the management of the Nevada Wild Horse Range, which includes:
 - a) Letter to BLM Las Vegas Field Office - July 31, 2007
Expressed concerns for capture methods and fertility control results on wild mares.
 - b) Letter to BLM Las Vegas Field Office - August 13, 2007
Submitted public comments regarding the Scoping Period for the Preliminary Capture Plan for the Nevada Wild Horse Range wild horses.
 - c) Public Comments, RE: Bureau of Land Management, Las Vegas Field Office,
Preliminary Capture Plan for the Nevada Wild Horse Range Wild Horses,
EA # NV-052-2007-362, September 2007
 - d) Letter to BLM Las Vegas Field Office – January 3, 2008
Requested BLM address questions posed during public comment period.
 - e) Letter to BLM Las Vegas Field Office – May 29, 2008
Submitted public comments regarding the Preliminary Nevada Wild Horse Range
Herd Management Area Plan.

3. Submission of electronic copies of referenced material in appeal of Nevada Wild Horse Range Herd Management Area Plan, Water Development Reconstruction, which includes:

BLM Related Documents:

- a) Department of the Interior, Bureau of Land Management, Las Vegas Field Office, Preliminary Capture Plan for the Nevada Wild Horse Range Wild Horses, EA # NV-052-2007-362, September 2007.
- b) BLM Las Vegas Field Office Interested Party Letter, Gather Postponement/Cedar Wells Reconstruction and Development – December 18, 2008
- c) BLM Las Vegas Field Office Preliminary Environmental Assessment EA # NV-052-2008-223, Nevada Wild Horse Range Herd Management Area Plan, April 2008.
- d) BLM Las Vegas Field Office Final Environmental Assessment EA # NV-052-2008-223, Nevada Wild Horse Range Herd Management Area Plan, June 2008.
- e) BLM Las Vegas Field Office Approved Herd Management Area Plan for the Nevada Wild Horse Range Wild Horses, June 2008.
- f) BLM Las Vegas Field Office Interested Party Letter and FONSI/ROD Nevada Wild Horse Range Herd Management Area Plan, FONSI/ROD for NWHR HMAP and FONSI/ROD Water Development Reconstruction, June 23, 2008.
- g) BLM Las Field Office Question & Answer Sheet, Nevada Wild Horse Range Herd Management Area, Herd Management Area Plan and Emergency Removals of Nevada Wild Horse Range Wild Horses.

Referenced Documents:

- a) Nevada Wild Horses Found Dead in Southern Nevada, July 25, 2007.
- b) Nevada Wild Horse Range Post-Gather Report, Emergency Removals July 9, 2007 Courtesy of Nevada Wild Horse and Burro Lead, Susie Stokke.
- c) Nevada Commission for the Preservation of Wild Horses, Meeting Minutes October 10, 2007.
- d) BLMs Draft Environmental Assessment for the Integrated Natural Resource Management Plan, Nellis Air Force Base and Nevada Test and Training Range, NV, May 2007.

- e) 2006 Gather Cost Schedule, Section B – Supplies or Services and Price/Costs. Courtesy of Nevada Wild Horse and Burro Lead, Susie Stokke.
- f) BLM Las Vegas Field Office Nevada Wild Horse Range Post-Gather Report, August 2008.
- g) Bartholow, J.M., 2004, An economic analysis of alternative fertility control and associated management techniques for three BLM wild horse herds: U.S. Geological Survey, Biological Resources Discipline, Open File Report 2004-119, 33 p.

IBLA 2008-201

Appellant – Cindy MacDonald

Water Development Reconstruction FONSI/DR, June 2008

Nevada Wild Horse Range Herd Management Area Plan FONSI/DR, June 2008

REFERENCES

I. References for Request For Stay/Statement of Reasons

Water Development Reconstruction FONSI/DR

Nevada Wild Horse Range Herd Management Area Plan

Dated July 10, 2008

1. Statement of Reasons #1

“The BLM Las Vegas Field Office was in error in their assertion and publication to the general public that the No Action Alternative, a continuation of the existing management, would deny reconstruction, and improvement of the water developments in the Nevada Wild Horse Range.”

Supporting Documents:

1. BLM Interested Public Letter, December 18, 2007.

Announces the postponement of expected wild horse removals as well as plans to reconstruct water developments at Cedar Wells. Also states a fence was erected around a suspected contaminated water source that was the most likely cause of 71 wild horse deaths in July 2007. *See Electronic Submission.*

No NEPA was completed or apparently required as BLM states work had already been attempted but ground was frozen. Additionally, no NEPA was completed or apparently required to fence off the believed toxic water source to protect and preserve wild horses on the Nevada Wild Horse Range from further suffering or death.

2. “Wild Horses Found Dead in Southern Nevada” news article, July 25, 2007.

Due to wild horse deaths from unknown causes, BLM and the military initiate fencing of water source to prevent further expiration of wild horses due to possible contamination. Additionally, it is stated that water tanks were also established. *See Exhibit I. Also See Electronic Submission.*

No NEPA was completed or apparently required as BLM implemented these actions due to an emergency situation requiring BLM to protect and preserve wild horses on the Nevada Wild Horse Range from further suffering or death.

3. Nevada Commission for the Preservation of Wild Horses, Meeting Minutes October 10, 2007, Nellis, pg. 2-3. *See Exhibit II. Also See Electronic Submission.*

Relevant Quote:

“Ms. Stokke.....stated they were in the early stages of developing long term plans for Nellis. That BLM was working on Cedar and Cactus, that tanks had been ordered but were stuck in procurement. She stated they still need cost estimates, materials lists, and plan to develop other water sources.”

Proves BLM was already authorized to reconstruct and develop water systems through the 2004 RMP or else why would BLM have ordered tanks if they were unsure of their authorization to install them?

2. Statement of Reasons #2

“The BLM Las Vegas Field Office has postponed the reconstruction, design and development of water sources for at least four years since the approval of the 2004 ROD/RMP. As a result, their failure to insure adequate and dependable water sources for the Nevada Wild Horse Range Wild Horses is in violation of humane handling and accepted animal husbandry practices as cited in CFR 4700.0-5 (e) and has caused undue stress, suffering and possibly death of the Nevada Wild Horse Range Wild Horses.”

Supporting Documents:

1. Nevada Wild Horse Range Post-Gather Report, Emergency Removals July 9, 2007, Courtesy of Nevada Wild Horse and Burro Lead, Susie Stokke. *See Exhibit III. Also See Electronic Submission.*
2. BLM Las Vegas Field Office, Question and Answer Sheet Announcement of Emergency Removals, June 27, 2008.
3. Nevada Test and Training Range Proposed Resource Management Plan, Final Environmental Impact Statement, 2003.
 - a) Section 4.4.9, Livestock Grazing Management, pg. 4-9
“The springs and riparian areas are the most important resource, and could be protected by exclosures. Water could be piped outside the exclosures to ensure animals have adequate water supply, therefore not needlessly suffering from severe thirst”.
 - b) Section 4.5.2, Unavoidable Adverse Impacts, pg. 4-14
“Fencing spring and riparian areas would have a direct impact on wild horses that frequent the areas. Some springs would be closed off and no water provided for the horses. There is a direct benefit to fencing the spring area to improve the quality of the water and riparian habitat.”

3. Nevada Commission for the Preservation of Wild Horses, Meeting Minutes October 10, 2007. Nellis, pg. 2-3. *See Exhibit II. Also See Electronic Submission.*

Relevant Quotes:

“Ms. Stokke noted that 178 horses were removed from Nellis in early July, on an emergency basis due to extreme conditions....”

“Ms. Stokke explained that 71 horses died in late July around a water source that had dried up. She explained that when BLM fenced off the water and provided other water, that horses stopped dying.” (*emphasis added*)

“Ms. Stokke added that there have been concerns for water availability for years. She stated they were in the early stages of developing long term plans for Nellis. That BLM was working on Cedar and Cactus, the tanks had been ordered but were stuck in procurement. She stated they still need cost estimates, materials lists, and plan to develop other water sources.” (*emphasis added*)

“Commissioner Brehm questioned why they were concentrating on two water sources that had minimal horses versus those sources where the majority of the horses congregated.” (*emphasis added*)

Due to extensive fencing of almost all water sources within the Nevada Test and Training Range without providing any mitigation measures, wild horses were forced to drink contaminated water due to lack of any other source still available for access.

3. Statement of Reasons #3

“The BLM Las Vegas Field Office has intentionally and deliberately tiered the approval of water reconstruction, design and developments to the authorization of the arbitrary and capricious designations of invalid artificial habitat boundaries and consequently the resulting invalid Appropriate Management Levels (AMLs) for wild horse use in the Nevada Wild Horse Range.”

Supporting Documents:

1. Nevada Test and Training Range Proposed Resource Management Plan, Final Environmental Impact Statement, May 2003.
2. BLMs Draft Environmental Assessment for the Integrated Natural Resource Management Plan, Nellis Air Force Base and Nevada Test and Training Range, NV, May 2007, Chart 3.5, pg. 32. *See Exhibit IV. Also See Electronic Submission.*

3. Nevada Wild Horse Range Herd Management Area Plan, Preliminary Environmental Assessment, EA # NV-052-2008-223, General Description of Affected Environment, pg. 16. *See Electronic Submission.*

“Under the 2004 ROD, the 394,000 acre core area (1965 NWHR boundary) was used as a “key management area” in establishing the AML as a range of 300-500 wild horses.”

4. Nevada Wild Horse Range Herd Management Area Plan, Final Environmental Assessment, EA# NV-052-2008-223. *See Electronic Submission.*

Relevant Quotes:

Conformance with Existing Land Use Plans, pg. 1.

“...The RMP restricts the active management of the wild horses to the Herd Management Area (HMA) Core Area (refer to Map 1).”

5. BLM Las Vegas Field Office, Nellis Wild Horse Range, Preliminary Gather Plan Environmental Assessment EA# NV-052-2007-362, September 2007, Wild Horses, Affected Environment, pg. 12, paragraph 3.

“Continuing drought is limiting the amount of water available for wild horse use. Of the five key water sources used by wild horses, Cedar Well and the north gate pond are completely dry; water at Cactus Spring and Silverbow is very low....”

4. Statement of Reasons #4

“The BLM Las Vegas Field Office has tiered the development, design and maintenance of water sources to the authorization to eliminate the entire functioning and self-sustaining wild horse herds currently inhabiting the Nevada Wild Horse Range and replacing them with an exclusive non-functioning, non-self sustaining population of castrated stallions.”

Supporting Document:

1. Nevada Wild Horse Range Herd Management Area Plan, 2008, Actions To Be Taken (Adaptive Management), Far Right Column, Last Entry, pg. 7. *See Electronic Submission.*

Relevant Quote:

“...or alternatively, consideration could be given to managing the NWHR HMA for a non-breeding herd in its entirety.”

2. Nevada Wild Horse Range Herd Management Area Plan and Water Developments Reconstruction, Questions and Answers Sheet. *See Electronic Submission.*

Relevant Quote:

Q. Why has BLM approved a Herd Management Area Plan (HMAP) for the NWHR herd?

A. BLM has approved the HMAP for the NWHR herd in order to address the herd's management over the long-term. As a result of the approved HMAP, the existing water developments will be reconstructed and maintained annually thereafter, or as needed. (*emphasis added*)

3. Nevada Wild Horse Range Herd Management Plan, Environmental Assessment, EA#NV-052-2008-23, HMAP FONSI/DR, under Decision, first bullet point.
See Electronic Submission.

Relevant Quote:

“The selected management strategy would incorporate a number of population control methods, together with maintenance and/or reconstruction of existing water developments. Under this strategy, wild horses would be managed within the established AML range of 300-500 animals over the life of the plan”. (*emphasis added*)

5. Appellant Statement:

“As such, it favors the public interest to allow BLM to move forward on management plans in accordance with the 2004 RMP/DR to provide dependable water sources that have sat dormant through their failure to act for four years, which in turn has caused the military to haul water at the public expense of \$12k dollars a month for three years....”

Supporting Document:

1. BLM Las Vegas Field Office, Nellis Wild Horse Range, Preliminary Gather Plan Environmental Assessment EA# NV-052-2007-362, September 2007.
See Electronic Submission.

Alternative 3: No Action Alternative, pg. 8

“If drought conditions persist, included would be continuing to haul water to several locations at an expected cost of about \$12,000 per month.”

6. Appellant Statement:

“...and has caused undue and unnecessary stress to habitat, rangeland values, wildlife and the remaining existing water sources.”

Supporting Document:

1. BLM Las Vegas Field Office, Nellis Wild Horse Range, Preliminary Gather Plan Environmental Assessment EA# NV-052-2007-362, September 2007.
See Electronic Submission.

Background Information, Pg. 4

“Utilization of available forage is mostly heavy within a 1-3 mile circumference of the available water. These conditions are causing animals to travel long distances (roughly 2-8 miles) to obtain adequate forage and social space. At the present time, wild horses are mostly in good physical condition, however, the health of the current wild horse population cannot be sustained based on the current available water without continued supplementation.” *(emphasis added)*

“...Drought conditions, coupled with older/less functional water developments, have reduced available forage and depleted the available water. As a result, the Air Force has been supplementing water at several locations since July 2005 to sustain the excess wild horses on the NWHR. This shortage of water has led to wild horses concentrating around the few remaining water sources, many of which are located adjacent to roads critical to military operations.” *(emphasis added)*

In addition to violations of humane treatment and accepted standards of animal husbandry, such as outlined during BLMs analysis of cattle grazing on the range, the wild horses and burros through the continued exclusions of available water sources within wild horse and burro habitat in the Nevada Wild Horse Range without providing sufficient mitigation measures to offset this form of habitat manipulation, provides evidence that BLMs failure to act on former management strategies deemed vital to ensuring rangeland health are the true cause of rangeland degradation and deterioration.

Through the permanent removal of water sources from wild horse access, BLM has forced the Nevada Wild Horse Range wild horses to concentrate in smaller and smaller areas just to survive. No species would be immune from causing habitat disruptions if placed in a small enough area and BLM has created a self-fulfilling prophecy that supports excessive utilization levels through this stratagem.

In regards to the safety of military missions, repeatedly cited as an issue that BLM choose to resolve through a fifty percent reduction in the allowable wild horse populations, it would appear that the cumulative impacts of prior management decisions to remove water sources from wild horse access through fencing without providing any alternative has literally driven wild horses to the roadways just to get a drink of water.

Is there any wildlife species that “prefers” to hang out on roadways if they have sufficient habitat and critical resources available away from human disruptions such as roadways and vehicle traffic?

Purpose and Need, pg. 4

“By removing excess wild horses, a thriving natural ecological balance between wild horse populations, wildlife, vegetation, the available water, and safe, effective military operations would be achieved.” (*emphasis added*)

How is this a “thriving ecological balance” between wild horse populations, wildlife and vegetation, when BLM and other agency actions have so completely disrupted this ecological balance through extensive habitat manipulations?

Habitat manipulation whose goal is to provide maximization of multiple-use objectives can be a very positive management strategy, as long as those manipulation objectives are to increase productivity for all objectives (such as the range improvement will help livestock production, wildlife, wild horses and burros, disperses grazing pressure, etc.)

However, in this instance, habitat manipulations have severely impaired the health and sustainability of the wild horses on the Nevada Wild Horse Range, have caused unnecessary concentrations of wild horse use and have resulted in unnecessary excessive impacts to rangeland health values (regardless of how slight or severe these impacts may be) through improper application of habitat manipulations without implementing proper mitigation measures and BLMs failure to act appropriately as public resource stewards.

BLM is required to manage wild horses and burros within the productive capacity of their habitat. Yet habitat manipulations have altered that capacity, withdrawn critical resources from wild horse use, unbalanced the thriving ecological balance with mitigation measures and former management strategies intended to help restore that balance through water design, reconstruction and the application of additional waters having sat dormant for four years - or in the case of the 2004 RMP objective of developing additional waters to compensate for water productivity loss, totally abandoned.

7. Appellant Statement:

“For all these reasons, the Request for Stay in Part serves the public interest, serves BLM in relation to their mandates, policies and laws....”

Supporting Documents:

1. BLM Las Vegas Field Office, Nellis Wild Horse Range, Preliminary Gather Plan Environmental Assessment EA# NV-052-2007-362, September 2007.

Provide Supplemental Feed and Water, pg. 9

“Providing supplemental feed (hay) or hauling water (other than during a short-term emergency situation) does not meet the definition of minimum feasible management and is inconsistent with current law, regulation and policy. Refer to 43 CFR 4710.4.

Despite BLM admitting the military had been hauling water since 2005 to supplement BLMs failure to act in conformance with the 2004 Resource Management Plan, three years have now gone by. Three years hardly qualifies as an “emergency situation”.

Though BLM has had the authority to remedy water hauling within the Nevada Wild Horse Range, they failed to do so.

2. 43 CFR 4710.4.

“Management of wild horses and burros shall be undertaken with the objective of limiting the animals’ distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans.”

In addition to BLMs failure to attain the objectives identified in the 2004 Resource Management Plan’s Record of Decision through securing, developing, and maintaining dependable water sources for the Nevada Wild Horse Range wild horses as well as failing to address the known water hauling efforts to supplement this failure, the attainment of minimum feasible management in relation to taxpayer burdens and failing to serve the public interests from merely a fiscal responsibility perspective is astounding.

The cost for water reconstruction efforts was estimated at \$150k dollars in February, 2008 via personal communication with Nevada Wild Horse and Burro Lead, Susie Stokke. *Exhibit V. Also See Electronic Submission.*

Conversely, the cost of the capture and containment of the “excess” wild horses on the Nevada Wild Horse Range as a result of being excluded from the “thriving ecological balance” per natural water source access or even through the older/dysfunctional water systems is estimated at a minimum cost to the public of over \$2.1 million over just one years time. *Exhibit VI. Also See Electronic Submission.*

The “minimum level necessary” has been taken far from context, as its original intent was to preserve and protect wild horse and burro populations and their habitat as per the 1971 Wild Free-Roaming Horse and Burro Act. If this were not the case, PL 92-195 would have never become federal law.

Administrative law should not support the definition of “minimum levels necessary” to preserve and protect wild horse and burro populations when management actions have altered the productive capacity of that same habitat without providing mitigation measures that restore the former thriving ecological balance and its productivity for wild horse and burro preservation – as was the intent of PL 92-195.

When agency actions reduce the productivity capacity of habitat through manipulated resource yield that is now no longer capable of supporting the same optimum number of wild horses and burros their habitat use to support before agency actions were initiated, the minimum levels of management actions necessary to restore the thriving ecological balance and its former productivity should include proper mitigation measures if resource stewardship duties are to be in conformance with multiple use objective to maximize resource yield while still upholding the spirit and intent of the Wild Free-Roaming Horse and Burro Act to preserve them “where presently found”.

Reducing and removing critical habitat requirements necessary for wild horse and burro preservation while simultaneously limiting agency actions to mitigation measures that merely reduce or eliminate populations to conform to the manipulated resource withdrawals is inappropriate management and stewardship strategies.

Current policy is to alter the natural systems of public lands and its ecological balance for multiple use objectives and then cite wild horse and burro management strategies must be based on “natural” resource productivity.

This has resulted in agency interpretations of WFRHBA, FLMPA and PRIA to mean the only strategies utilized to restore the thriving ecological balance in relation to wild horse and burro management and the cumulative impacts of agency actions that have disrupted the natural balance and habitat productivity, is through providing multi-million dollar home ranges known as long and short term holding facilities for the now “excessive” animals.

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Appellant/Cindy MacDonald

- I. **References for Request For Stay/Statement of Reasons**
Water Development Reconstruction FONSI/DR
Nevada Wild Horse Range Herd Management Area Plan
Dated July 10, 2008

EXHIBIT I

“Wild Horses Found Dead in Southern Nevada” news article, July 25, 2007.

Wild Horses Found Dead in Southern Nevada

July 25, 2007 11:01 AM PDT

Federal officials are investigating the deaths of at least 55 wild horses and an antelope found near a watering hole on a ballistics and bombing range in central Nevada.

A Bureau of Land Management official in Las Vegas says tissue from the animals and water samples are being tested, and results could take up to a week.

The BLM and Air Force released a statement Tuesday saying the pond was believed to be the problem. It's on a dry lake bed on the Tonopah Test Range -- at least 210 miles northwest of Las Vegas. The area's home to about 250 wild horses.

Workers are fencing off the pond Wednesday and setting up storage tanks to offer fresh water to wild horses and burros.

The Energy Department and National Nuclear Security Administration also are involved in the probe.

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- I. References for Request For Stay/Statement of Reasons**
 - Water Development Reconstruction FONSI/DR**
 - Nevada Wild Horse Range Herd Management Area Plan**
 - Dated July 10, 2008**

EXHIBIT II

Nevada Commission for the Preservation of Wild Horses Meeting Minutes
October 10, 2007, Nellis, pg. 2-3

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Appellant/Cindy MacDonald

- I. References for Request For Stay/Statement of Reasons**
 - Water Development Reconstruction FONSI/DR**
 - Nevada Wild Horse Range Herd Management Area Plan**
 - Dated July 10, 2008**

EXHIBIT III

Nevada Wild Horse Range Post-Gather Report, Emergency Removals July 9, 2007.
Courtesy of Nevada Wild Horse and Burro Lead, Susie Stokke.

**NELLIS EMERGENCY GATHER JULY 2007
REPORT**

DAILY TOTALS

Date	# captured	# released	# shipped	# died/destroyed	# Fertility Treated Mares
7/6/07	103	0	0	0	0
7/7/07	11	0	88	1	0
7/8/07	64	0	88	0	0

Totals to date

	178	0	176	1	0
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GATHER DAILY REPORT SUMMARY (required)

Name of the HMA	NWHR
# Planned for Gather	200
Actual # Gathered	178
# Planned for removal	200
Actual # Removed	178
Date completed	7/8/07

**Las Vegas Field Office
Gather Summary
Nevada Wild Horse Range (Nellis) Emergency Gather
7/9/07**

HMA	Captured	Shipped	Released	Died/Destroyed	Removed	Left on Range within HMA
NWHR	178	176	0	1	178	0
Total	178	176	0	1	178	1100-1150

IBLA 2008-201

Appellant/Cindy MacDonald

- I. References for Request For Stay/Statement of Reasons**
 - Water Development Reconstruction FONSI/DR**
 - Nevada Wild Horse Range Herd Management Area Plan**
 - Dated July 10, 2008**

EXHIBIT IV

BLMs Draft Environmental Assessment for the Integrated Natural Resource Management Plan, Nellis Air Force Base and Nevada Test and Training Range, NV, May 2007
Chart 3.5, pg. 32.

BLMs Draft Environmental Assessment for the Integrated Natural Resource Management Plan, Nellis Air Force Base and Nevada Test and Training Range, NV, May 2007, Chart 3.5, pg. 32. *Also See Electronic Submission.*

SURFACE WATER	NUMBER	SURFACE WATER	NUMBER	SURFACE WATER	NUMBER
Unnamed Seep	1	Johnnie's Spring	32	White Rock Spring	66
Stonewall Spring	2	Black Rock Spring	33	Stinking Springs	67
Jerome Spring	3	Kihibab Spring	34	Fork Spring	68
Wildhorse Spring	4	Antelope Reservoir	35	N. Antelope Reservoir	69
Alkali Spring	5	Chalk Spring	36	Antelope Reservoir	70
Alkali Spring	6	Rock Spring	37	Nixon #1	71
Monte Cristo Spring	7	Tub Spring	38	Nixon #2	72
Rock Spring	8	Cane Spring	39	Tunnel Spring	73
Trappman Spring	9	Wire Grass Spring	40	Corral Spring	74
Tule George Spring	10	Quartz Spring	41	Reservoir #2	75
Pillar Spring	11	Indian Spring/Canyon	42	Cane Spring	76
Larry's Seep	12	Tim Spring	43	Tognoni Spring	77
Jackpot Reservoir	13	Sand Spring	44	Sundown Reservoir	78
Unknown	14	Shale Cut Spring	45	Shirley Spring	79
Antelope Spring	15	White Rock Spring	46	Indian Spring	80
Cactus Spring	16	Quail Spring	47	Live Oak Spring	81
Cactus Spring	17	Summit Spring Drainage	48	Pony Spring	82
Silverbow Spring	18	Beck Spring	49	Silverbow Canyon	83
Silverbow Creek	19	Summer Spring	50	Crescent Valley Res #2	85
Coyote Pond	20	Summer Spring	51	Pink Hills Reservoir	86
Horse Spring	21	Cedar Spring	52	Tule Spring	87
Unnamed Spring	22	Cedar Spring	53	Miners Spring	88
Unnamed Spring	23	Rose Spring	54	Disappointment Spring	89
Cliff Spring	24	Log Spring	55	Belted Reservoir #2	90
Kawich Tank	25	Stealth Seep	56	Naquinta Reservoir #1	91
Lamb's Pond	26	Urania Mine Seep	57	Indian Spring	92
Unnamed Drainage	27	Phantom Spring	58	Cattle Spring	97
Wildcat Spring	28	Sandeen Spring	59	Cliff Spring	98
Gold Spring	29	Thunderbird Spring	60	Reservoir #4	99
Indian Spring	30	Coral Spring	62	Cane Spring	100
Indian Spring	31	Granite Spring	65	Oak Springs	101
Johnnie's Water	32				

Tan Shading: Springs or seeps

Green shading: Dugouts or manmade reservoirs

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EXHIBIT V

Personal Communication

BLM Nevada Wild Horse & Burro Lead, Susie Stokke

Cost of Water Reconstruction

January 31, 2008

----- Original Message -----

From: Susie_Stokke@nv.blm.gov

To: cindy

Sent: Thursday, January 31, 2008 2:07 PM

Subject: Re: Johnnie Wild Horse Removals

BLM has not yet applied for water rights applications to facilitate development of 3-4 wells on the NWHR for several reasons. The primary reason is that BLM has focused its limited staff resources over the past 2 to 3 years on maintaining the existing water developments and developing a plan to reconstruct those existing developments which have outlived their useful life. To that end, materials have been purchased (and pending improved ground conditions, the LVFO plans to replace Cedar Well in FY2008). Also, if the necessary funding can be found, the goal would also be to reconstruct Cactus Spring in FY2008 as well. Additionally, an interdisciplinary team is evaluating Silverbow with the goal of reconstructing this development, which is of key importance to wild horses on the NWHR.

In addition to focusing on maintenance/reconstruction of existing water developments, the LVFO staff has focused on fertility control research followup, population census and on the ground monitoring as well as working toward the development of a gather plan to remove excess wild horses and a herd management area plan which would guide management of the herd over the next 10-20 year period. This work on the NWHR has been in addition to their responsibilities for the Spring Mountains and Lake Mead area HMAs.

Because of your continuing and passionate interest in Nevada's wild horses and burros, you may want to consider partnering with BLM and other interested individuals/groups by raising the funding necessary to allow us to move forward with reconstruction of the Cactus and Silverbow developments this fiscal year. **Approximately \$150,000 is needed to complete this work.** Those who are concerned about the future management of the NWHR may be interested in joining with you to support these critically needed developments.

I hope the above information is helpful.

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Appellant/Cindy MacDonald

- I. References for Request For Stay/Statement of Reasons
Water Development Reconstruction FONSI/DR
Nevada Wild Horse Range Herd Management Area Plan
Dated July 10, 2008**

EXHIBIT VI

Cost Estimate of Nevada Wild Horse Range wild horse removals and holding for one year.

Also See Electronic Submission of:

- a) 2006 Gather Cost Schedule, Section B – Supplies or Services and Price/Costs.
Courtesy of Nevada Wild Horse and Burro Lead, Susie Stokke.**
- b) BLM Las Vegas Field Office Nevada Wild Horse Range Post-Gather Report,
August 2008.**
- c) Bartholow, J.M., 2004, An economic analysis of alternative fertility control and
associated management techniques for three BLM wild horse herds: U.S. Geological
Survey, Biological Resources Discipline, Open File Report 2004-119, 33 p.**

NEVADA WILD HORSE RANGE CAPTURE & HOLDING COST ESTIMATES

GATHER COSTS:	\$ 281,421.00
TRANSPORTATION COSTS:	\$ 14,310.00
TOTAL ESTIMATED REMOVAL COST:	\$ 295,731.00
HOLDING COSTS:	\$ 1,553,805.00
MINIMUM TOTAL TAXPAYER COST	\$ 2,145,267.00

1. GATHER COSTS

Water Trapping

841 wild horses x \$160.00 = \$134,560

Helicopter Drive (1 day only)

105 from Kawich Valley @ \$225.00 = \$23,625

Daily Rate Cost for a Complete Gather

13 days @ \$8,725 = \$113,776

946 wild horses x Minimum 1 day water and feed @ \$10.00 per day = \$9,460

Minimum Estimated Gather Costs = \$281,421

- (1) Gather costs taken from 2006 Gather Cost Schedule, Section B – Supplies or Services and Price/Costs. Courtesy of Nevada Wild Horse and Burro Lead, Susie Stokke.
- (2) Gather numbers taken from BLM Las Vegas Field Office Post-Gather Report, August 2008.

2. TRANSPORTATION COSTS

Tonopah, NV to Ridgecrest, CA = 224 miles

Tonopah, NV to Palomino Valley, NV = 258 miles

Average Mileage per Load = 241 miles

Number of wild horses shipped per load: 35 horses

Number of loads required = 27

241 miles @ \$2.20 per mile = \$530.00 per load x 27 Loads = \$14,310

- (1) Mileage estimated by Google Maps/Directions
- (2) Estimated average of wild horses shipped per load based on Journal of Animal Science, Response of horses to trailer design, duration, and floor area during commercial transportation to slaughter, C.L. Stull, J Anim Sci 1999. 77:2925-2933. Table 1, pg. 4. Available at: <http://jas.fass.org/cgi/reprint/77/11/2925.pdf>

3. HOLDING COSTS

Average Holding Costs: \$4.50 per day (1)
946 wild horses @ \$4.50 per day = \$4,257
X 365 days = \$1,553,805

Holding costs were averaged and include prep costs. However, costs for removals, adoption and compliance checks have not been included. Total figure assumes an average of one year of holding for all wild horses and burro removed.

- (1) Based on figures provided in An Economic Analysis of Alternative Fertility Control and Associated Management Techniques for Three BLM Wild Horse Herds by John M. Bartholow. Cost estimates were taken from budget planning spreadsheet supplied by Linda Coates-Markle, BLM/MT (4/29/2003) as interpreted by Don Glenn, BLM/DC (6/17/2003) and Lili Thomas, BLM/NV (9/22/2003). NA means not applicable.