



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
Battle Mountain Field Office  
50 Bastian Road  
Battle Mountain, Nevada 89820  
<http://www.nv.blm.gov>



**RECEIVED**

NOV 10 2005

DEPARTMENT OF ADMINISTRATION  
OFFICE OF THE DIRECTOR  
BUDGET AND PLANNING DIVISION

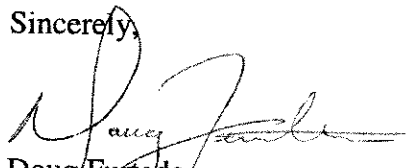
In Reply Refer To:  
NV062  
4700

NOV - 7 2005

Dear Reader:

Enclosed for your information is a copy of the Finding of No Significant Impact (FONSI) and Decision Record (DR) for the Simpson Park Range Wild Horse Removal. The public review and comment period for the Simpson Park Range Wild Horse Removal Environmental Assessment (NV062-EA04-35) ended at 4:30 p.m. on October 31, 2005. The Battle Mountain Field Office did not receive any comments from the interested parties, thus, no changes were made to the Environmental Assessment. The enclosed FONSI and Decision Record constitute my final decision and are approved for implementation upon the date of my signature.

Sincerely,

  
Doug Furtado  
Assistant Field Manager  
Renewable Resources

Enclosures: 3

1. FONSI/DR for the Simpson Park Range Wild Horse Removal
2. Interested Publics Mailing List for Simpson Park Removal Area
3. Form 1842-1 Information on Taking Appeals to the Interior Board of Land Appeals

**FINDING OF NO SIGNIFICANT IMPACT**  
**FOR**  
**Simpson Park Range Wild Horse Removal**  
**Project # NV062-EA04-35**

**Finding of No Significant Impact**

Environmental Assessment (EA) NV062-EA04-35, dated October 2005 has been reviewed through the interdisciplinary team process. After consideration of the environmental effects described in the EA and supporting documentation, it has been determined that the Proposed Action identified in the EA is not a major Federal action and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. No environmental effects meet the definition of significance in context or intensity as described in 40 CFR 1508.27. Therefore, preparation of an Environmental Impact Statement (EIS) is not required.

We have determined the Proposed Action is in conformance with the approved Shoshone-Eureka Resource Management Plan, and is consistent with the plans and policies of neighboring local, county, state, tribal and federal agencies and governments. This finding and conclusion is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and the intensity of impacts described in the EA.

**Context**

The wild horse removal proposed in the EA involves removing approximately 200 wild horses from 7 horse-free allotments administered by the Bureau of Land Management's Battle Mountain Field Office (BLM BMFO). The Simpson Park Range Wild Horse Removal is located in a rural area east of Austin, NV within both Lander and Eureka counties.

The Proposed Action is to completely remove wild horses within the identified project area which have established residence outside of any of the 14 BMFO designated Herd Management Area boundaries as well as remove all wild horses located in the portion of the Hickison HMA which extends north of Highway 50 which was identified for wild burro management in the Shoshone-Eureka Rangeland Program Summary.

**Intensity**

1) *Impacts that may be both beneficial and adverse.* The Environmental Assessment considered both beneficial and adverse impacts of the complete removal of wild horses on the Simpson Park Mountain Range. Removing wild horses from areas not within designated Herd Management Area boundaries would reduce the level of use endured by upland and riparian vegetation, and help alleviate competition for resources between wildlife, livestock, and wild horses. Adverse impacts to soils and air quality are expected to be minimal and short-term. Archaeological site clearances will be conducted

prior to the construction of temporary trap sites and holding facilities. Standard Operating Procedures will be followed to minimize stress on wild horses. Wild horses removed from the project area will be placed for adoption or long-term holding.

2) ***The degree to which the proposed action affects public health or safety.*** The Standard Operating Procedures and Great Basin Wild Horse and Burro Gather Contract will be used to conduct the maintenance gather and are designed to protect human health and safety, along with the health and safety of the wild horses.

3) ***Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.*** There are no park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas within the Simpson Park Mountain Range removal area. A cultural resources inventory will be completed prior to constructing temporary trap sites and holding facilities. If cultural resources are found in an area, a new location will be determined to set up temporary trap sites and holding corrals.

4) ***The degree to which the effects on the quality of the human environment are likely to be highly controversial.*** The Proposed Action is not expected to be highly controversial. Wild horses are inhabiting areas which were not identified as Herd Management Areas. Permittees as well as Nevada Department of Wildlife are in support of the wild horse removal.

5) ***The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.*** The Proposed Action has no known effects on the human environment which are considered highly uncertain or involve unique or unknown risks.

6) ***The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.*** Future projects occurring within the Simpson Park Mountain Range will be evaluated through the appropriate NEPA process. The Proposed Action does not set a precedent for future actions.

7) ***Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.*** The Proposed Action is not related to other actions within the project area that would result in cumulatively significant impacts. Proper NEPA analysis will be completed for all proposed actions.

8) ***The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP or may cause loss or destruction of significant scientific, cultural, or historical resources.*** The Proposed Action will not affect significant scientific, cultural, or historical resources. A cultural resource inventory will be completed by archaeologists. Temporary trap sites and holding facilities will be cleared to determine the presence of sites that are unclassified, eligible, or potentially eligible for the NRHP. Archaeological site clearances and

avoidance measures will ensure that loss or destruction of significant scientific, cultural, or historical resources does not occur.

**9) *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical in the ESA of 1973.*** The bald eagle is the only known threatened and endangered species occurring in the Simpson Park Range. Bald eagles winter at low densities in the Simpson Park Mountains. The Proposed Action has no negative implications on the bald eagle or its' winter habitat. There are no known threatened and endangered plants present in the project area.

**10) *Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.*** The Proposed Action will not violate or threaten to violate any Federal, State, or local law or requirement imposed for the protection of the environment. The Proposed Action is in conformance with all applicable 43 CFR (Code of Federal Regulations), Northeastern Great Basin Resource Advisory Council (RAC) Standards and Guidelines, and the Strategic Plan for the Management of Wild Horses and Burro on Public Lands. The Proposed Action will not violate the Migratory Bird Treaty Act or Endangered Species Act.

#### **FINDING OF NO SIGNIFICANT IMPACT:**

Based on the analysis of potential environmental impacts detailed in the attached EA, I have determined that the impacts associated with Alternative I are not significant. Therefore, preparation of an environmental impact statement is not required.

#### **Rationale:**

The Alternative I found in the accompanying Decision Record will, as best can be determined, prevent unnecessary or undue degradation of public land resources. Resource review and analyses have been coordinated with other federal and state agencies. Resources determined to be potentially impacted were analyzed in the EA specific to Alternative I. Based on the analysis, impacts to these resources are considered insignificant (see definition of significance in 40 CFR 1508.27).

#### **DECISION:**

Based on the rationale below, this constitutes my final decision to gather and remove excess wild horses and burros from the Simpson Park Range. Pursuant to Title 43 of the Code of Federal Regulations at 4770.3(c), the Simpson Park Range gather is approved for implementation upon the date of my signature below. Gather operations will begin on November 1, 2005.

## **Rationale for Placing the Decision Effective Upon Issuance:**

**1. Protection, Management, and Control of Wild Free-Roaming Horses and Burros on Public Lands and Adjacent Private Lands.** The BLM, BMFO is authorized with the protection, management, and control of wild horses and burros within designated Herd Management Areas. Wild horses within the Simpson Park Range Removal Area have established residence in horse-free allotments as such, in accordance with Public Law 92-195 (Wild Free-Roaming Horse and Burro Act) and Code of Federal Regulation 4710.2 the BMFO has made the decision to remove wild horses from these areas which do not constitute a herd management area.

This decision will allow the BLM, BMFO to respond to specific requests to remove wild horses from private lands associated with the removal area.

**2. Potential Damage to Rangeland and Riparian Resources.** Currently, the estimated wild horse population for the Simpson Park Range is 200 head. Proper Functioning Condition Assessments were completed for the Simpson Park, Dry Creek, and Santa Fe Ferguson Allotments between 2002 and 2004. Utilization currently exceeds acceptable levels, and damage to the range, riparian areas, and meadow complexes is currently occurring throughout the Simpson Park Range as a result of wild horse use.

**3. An Increase in the Cost of Conducting the Proposed Action or the Time Needed to Restore Thriving Natural Ecological Balance (TNEB) to the Range.** Current levels of wild horse use in the Simpson Park Range are negatively impacting rangeland vegetation condition and riparian resources. Livestock permittees have needed to reduce livestock numbers and modify grazing systems in response to utilization by wild horses, particularly in the Simpson Park Allotment. The removal of wild horses in the horse-free allotments is necessary to alleviate the added grazing pressure incurred by the rangeland and riparian resources as a result of wild horse use.

**4. The Importance of the Removal Action in Implementing Other Essential Management Actions.** The success of past, present, and future Rangeland Health Assessments and Multiple-Use Decisions rely on the removal of wild horses in the horse-free allotments associated with the Simpson Park Range. These decisions have or will likely incorporate livestock adjustments, conversions from type of livestock, changes in season of use, and development of grazing systems. The success of incorporating these decisions is dependent on the removal of wild horses which are contributing to current and past rangeland resource conditions.

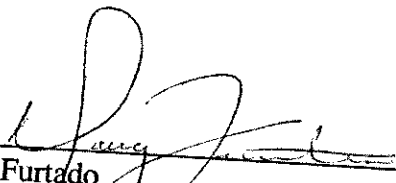
The rationale for the FONSI supports this decision. Alternative I detailed in the EA and FONSI have led to my decision that all practicable means to avoid or minimize environmental harm and unnecessary or undue degradation of the public land have been adopted. This decision is consistent with the Shoshone-Eureka Resource Management Plan (1986).

All resource values have been evaluated for cumulative impacts. It has been determined that cumulative impacts would be negligible for most resources. The implementation of Alternative I will result in short term impacts to soils, water quality, wetlands and riparian areas, vegetation, special status species, wildlife, noxious weeds, range, and wild horses.

**Appeals:**

Within 30 days of receipt of the Simpson Park Range Wild Horse Removal decision, you have the right to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with regulations at 43 CFR 4.4. If an appeal is taken, you must follow the procedures outlined in the enclosed, "Information on Taking Appeals to the Board of Land Appeals". Please also provide this office with a copy of your Statement of Reasons. An appeal should be in writing and specify the reasons, clearly and concisely, as to why you think the decision is in error.

In addition, within 30 days of receipt of this decision you have a right to file a petition for a stay (suspension) of the decision together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties identified in items 2, 3, and 4 of the enclosed form titled "Information on Taking Appeals to the Board of Land Appeals". The appellant has the burden of proof to demonstrate that a stay should be granted.

  
\_\_\_\_\_  
Doug Furtado  
Assistant Field Manager, Renewable Resources  
Battle Mountain Field Office

11/7/05  
Date

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

**INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS**

**DO NOT APPEAL UNLESS**

1. This decision is adverse to you,  
**AND**
2. You believe it is incorrect

**IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED**

- 1. NOTICE OF APPEAL**..... Within 30 days after the date of publication of a decision in the FEDERAL REGISTER, a person not served with a decision must transmit a Notice of Appeal to the office where it is required to be filed. You may state your reasons why you are appealing, if you desire.
- 2. WHERE TO FILE  
NOTICE OF APPEAL**.....  
WITH COPY TO SOLICITOR....
- 3. STATEMENT OF REASONS**... Within 30 days after filing the *Notice of Appeal*, File a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203 (see 43 CFR Sec. 4.412 and 4.413). If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary.  
WITH COPY TO SOLICITOR....
- 4. ADVERSE PARTIES**..... Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (see 43 CFR Sec. 4.413). If the decision concerns the use and disposition of public lands, including land selections under the Alaska Native Claims Settlement Act, as amended, service will be made upon the Associated Solicitor, Division of Land and Water Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. If the decision concerns the use and disposition of mineral resources, service will be made upon the Associated Solicitor, Division of Mineral Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240.
- 5. PROOF OF SERVICE**..... Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (see CFR Sec. 4.401(c)(2)).
- 6. REQUEST FOR STAY**..... Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed (see 43 CFR 4.21). If you wish to file a petition pursuant to 43 CFR 4.21 or 43 CFR 2804.1 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the Notice of Appeal and Petition for a Stay **must** also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR Sec. 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.  
  
Standards for Obtaining a Stay. Except as other provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the likelihood of the appellant's success on the merits, (2) the likelihood of immediate and irreparable harm if the stay is not granted, (3) the relative harm to the parties if the stay is granted or denied, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed your appeal will be subject to dismissal (see 43 CFR Sec. 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

**NOTE:** A document is not filed until it is actually received in the proper office (see 43 CFR 4.401(a)). See 43 CFR Part 4, subpart b for general rules relating to procedures and practice involving appeals.

## 43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 *Where are BLM offices located?* (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

### STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State--Alaska  
Arizona State Office--Arizona  
California State Office--California  
Colorado State Office--Colorado  
Eastern States Office--Arkansas, Iowa, Louisiana, Minnesota, Missouri, and all States east of the Mississippi River  
Idaho State Office--Idaho  
Montana State Office--Montana, North Dakota and South Dakota  
Nevada State Office--Nevada  
New Mexico State Office--Kansas, New Mexico, Oklahoma and Texas  
Oregon State Office--Oregon and Washington  
Utah State Office--Utah  
Wyoming State Office--Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

Sec. 1821.11 *During what hours may I file an application?* You may file applications or other documents or inspect official records during BLM office hours. Each BLM office will prominently display a notice of the hours during which that particular office will be open. Except for offices which are open periodically, for example, every Wednesday or the 3rd Wednesday of the month, all offices will be open Monday through Friday, excluding Federal holidays, at least from 9 a.m. to 3 p.m., local time.

Sec. 1821.12 *Are these the only regulations that will apply to my application or other required document?* No. These general regulations are supplemented by specific program regulations. You should consult the regulations applying to the specific program.

Sec. 1821.13 *What if the specific program regulations conflict with these regulations?* If there is a conflict, the specific program regulations will govern and the conflicting portion of these regulations will not apply.

## 43 CFR SUBPART 1822--FILING A DOCUMENT WITH BLM

Sec. 1822.10 *How should my name appear on applications and other required documents that I submit to BLM?* Your legal name and current address should appear on your application and other required documents.

Sec. 1822.11 *What must I do to make an official filing with BLM?* You must file your application and any other required documents during regular office hours at the appropriate BLM office having jurisdiction over the lands or records involved. You must file any document with BLM through

personal delivery or by mailing via the United States Postal Service or other delivery service, except for those applications that may be filed electronically under Sec. 1822.13, unless a more specific regulation or law specifies the mode of delivery. The date of mailing is not the date of filing.

Sec. 1822.12 *Where do I file my application or other required documents?* You should file your application or other required documents at the BLM office having jurisdiction over the lands or records involved. The specific BLM office where you are to file your application is usually referenced in the BLM regulations which pertain to the filing you are making. If the regulations do not name the specific office, or if you have questions as to where you should file your application or other required documents, contact your local BLM office for information and we will tell you which BLM office to file your application.

Sec. 1822.13 *May I file electronically?* For certain types of applications, BLM will accept your electronic filing if an original signature is not required. If BLM requires your signature, you must file your application or document by delivery or by mailing. If you have any questions regarding which types of applications can be electronically filed, you should check with the BLM office where you intend to file your application. When you file an application electronically, it will not be considered filed until BLM receives it.

Sec. 1822.14 *What if I try to file a required document on the last day of the stated period for filing, but the BLM office where it is to be filed is officially closed all day?* BLM considers the document timely filed if we receive it in the office on the next day it is officially open.

Sec. 1822.15 *If I miss filing a required document or payment within the specified period, can BLM consider it timely filed anyway?* BLM may consider it timely filed if: (a) The law does not prohibit BLM from doing so; (b) No other BLM regulation prohibits doing so; and (c) No intervening third party interests or rights have been created or established during the intervening period.

Sec. 1822.16 *Where do I file an application that involves lands under the jurisdiction of more than one BLM State Office?* You may file your application with any BLM State Office having jurisdiction over the subject lands. You should consult the regulations of the particular BLM resource program involved for more specific information.

Sec. 1822.17 *When are documents considered filed simultaneously?*  
(a) BLM considers two or more documents simultaneously filed when: (1) They are received at the appropriate BLM office on the same day and time; or (2) They are filed in conjunction with an order that specifies that documents received by the appropriate office during a specified period of time will be considered as simultaneously filed.  
(b) An application or document that arrives at the BLM office where it is to be filed when the office is closed for the entire day will be considered as filed on the day and hour the office next officially opens.  
(c) Nothing in this provision will deny any preference right granted by applicable law or regulation or validate a document which is invalid under applicable law or regulation.

Sec. 1822.18 *How does BLM decide in which order to accept documents that are simultaneously filed?* BLM makes this decision by a drawing open to the public.