



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Mount Lewis Field Office
50 Bastian Road
Battle Mountain, NV 89820
<http://www.nv.blm.gov>



In Reply Refer To:
NV062 (4700)

DEC 9 2008



Dear Interested Public,

DECISION

Callaghan Complex Wild Horse Gather

INTRODUCTION

This decision is being issued to gather and remove approximately 1,480 wild horses from the Callaghan Complex Herd Management Areas (HMAs) administered by the Mount Lewis Field Office (MLFO), and removal of wild horses residing outside of HMA boundaries.

The Callaghan Complex is located approximately 40 miles southeast of Battle Mountain, Nevada, and includes the Callaghan, Bald Mountain, and Rocky Hills, in addition to areas outside of HMA boundaries in the Simpson Park Mountain Range and on U.S. Forest Service lands, and the Cedar's Pasture of the South Shoshone HMA. Refer to the attached map of the gather area.

Helicopter inventory of these HMAs were completed in March 2008. The current estimated population within the Callaghan Complex is 1,826 wild horses. The established Appropriate Management Levels (AMLs) for these areas are 349-595.

Through review of census and distribution data, habitat and wild horse condition, drought conditions, and potential negative impacts to resources and wild horses, it has been determined that an excess population of wild horses exists within these HMAs. It has also been determined that a post gather population of 349 wild horses within the Callaghan Complex, would promote a thriving natural ecological balance within these HMAs, and prevent wild horses from suffering and death due to starvation through the 2009 winter.

On September 15, 2008, the MLFO, issued the Callaghan Complex Wild Horse Gather Environmental Assessment (EA) # NV062-EA08-134 to the interested public for review.

No comments were received from the interested public. A letter documenting support for the Callaghan Complex gather was received from the Nevada State Historic Preservation Office and division of State Lands. It has been determined that no changes or significant modifications to the EA are warranted.

The AML for the Bald Mountain HMA was established through Final Multiple Use Decision (FMUD) for the Carico Lake Allotments issued in 2005. The AML for the Rocky Hills HMA was established through FMUDs for the Grass Valley and JD Allotments issued in 2002 and 2004 respectively. The Callaghan HMA AML was established through FMUDs issued for the Austin Allotment (1995), Grass Valley Allotment (2002) and Simpson Park Allotment (2005). These AMLs were established as ranges. Refer to EA # NV062-EA08-134 for more detail.

Livestock use within the allotments within the Complex has been substantially reduced through FMUDs issued since the mid 1990's. Additional voluntary non-use has occurred since that time. Actual use during 2008 was in many cases 20-50% of the permitted use. Livestock have been removed from within the Callaghan and Bald Mountain HMAs, and the permittees within the Rocky Hills HMA have been hauling water for livestock.

Upon analyzing the impacts of the Proposed Action and Alternatives, and following issuance of the EA for public review, I have determined that the Proposed Action, Alternative 1 and Alternative 2 will not have a significant impact to the human environment, and that an Environmental Impact Statement will not be prepared. Please refer to Attachment 2, Finding of No Significant Impact (FONSI).

DECISION

In accordance with the Callaghan Complex Wild Horse Gather EA # NV062-EA08-134, it is my decision to implement the Proposed Action as follows:

- ***Gather the Complex to achieve low AML in accordance with BLM Selective Removal Policy with the addition of fertility control research. This decision is effective upon issuance in accordance with 43 CFR §4770.3(c).***

Fertility control research could be implemented throughout the Bald Mountain, Callaghan and Rocky Hills HMAs. Approximately 85-95% of the population would be captured. All mares released back to the range would be inoculated with an immunocontraceptive vaccine, Porcine Zona Pellucidae (PZP), for fertility control research. The fertility control vaccine can have the effect of reducing herd growth rates. The desired sex ratio of the animals remaining on the range would be 50% mares and 50% studs. Approximately 130-150 mares would be treated. The desired sex ratio of the animals remaining on the range would be 50% mares and 50% studs.

Due to the mountainous terrain, pinyon-juniper vegetative cover, and potential winter storm conditions, gather efficiency may be reduced, and it may not be possible to gather 85-95% of the horses within these HMAs. In some cases (particularly the Callaghan HMA), should an adequate portion of the population not be captured, fertility control would not effectively moderate herd growth rates. In this situation, the wild horse and burro specialist may adopt sex ratio modification in lieu of fertility control, as analyzed within Alternative 1 of the Callaghan Complex Wild Horse Gather EA # NV062-EA08-134. Sex ratio modification could be implemented within some or all of the HMAs within the Complex, depending upon the gather efficiency achieved.

The goal would be a post gather population comprised of 60% studs and 40% mares. Analysis in the Gather EA determined that population growth rates were reduced (though not quite as much as with the application of fertility control) as compared to a Gather Only scenario. In order to accomplish the post gather sex ratio, 60-100% studs could be released. The number of studs and mares released would be determined after analysis of the estimated number of mares and studs uncaptured within the HMA when compared to the low range of AML.

A trapsite adoption event could be planned to occur in conjunction with the gather activities in which selected wild horses would be adopted to qualified applicants at the gather location (refer to Gather Plan, Appendix A for more information).

The objective for a gather would be the achievement of the low end of the AML range for the HMAs within the Complex. The goal would be to reduce the population of the Complex to approximately 349 wild horses, ensuring a genetically viable population would exist within the Complex. Additionally, the population may not exceed the upper range of the established AML (595 wild horses) until three to four years (or more) following the gather. Animals selected for release would be comprised of a variety of color and good conformation and size to ensure future adoptability.

The following table displays estimated populations, and gather and removal numbers for a Fall/Winter 2009 gather of the Callaghan Complex:

Population, Gather Numbers—Callaghan Complex

HMA	AML Range	Est. Population ¹	Est. Gather Number ²	Est. to Remove	Est. to Release	Est. Post Gather
Callaghan	134-237	982	933	848	97	134
Rocky Hills	86-143	166	158	80	78	86
Bald Mountain	129-215	607	577	481	96	129
South Shoshone (Cedar Pasture Only)	0	18	18	18	0	0
Outside HMA Simpson Park Mountains	0	40	40	40	0	0
Outside HMA USFS	0	13	13	13	0	0
Complex Total	349-595	1,826	1,739	1,480	259	349

This decision constitutes my final decision to gather and remove excess wild horses and burros from within and outside the boundaries of the Callaghan Complex. Pursuant to Title 43 of the Code of Federal Regulations at 4770.3(c), the Callaghan Complex gather is approved for implementation upon the date of my signature below.

Rationale:

Removal of excess wild horses is needed to achieve a thriving natural ecological balance between wild horse populations, wildlife, livestock, vegetation, and the available water as authorized under Section 3(b)(2) of the 1971 WFRHBA and section 302(b) of the Federal Land Policy and Management Act of 1976.

A gather is necessary to achieve the established AMLs, and remove wild horses from outside of HMA boundaries in order to protect the range from deterioration associated with overpopulation of wild horses. Additionally, the BLM needs to remove excess wild horses from the Complex to preserve wild horse health in light of continuing drought conditions that have reduced available forage and water. Conditions

1. Estimated population represents the population following 2008 foaling. The most recent census was conducted March 2008.

2. Estimated gather numbers based on ability to capture 95% of the population. Gather efficiency would be influenced by time of year, snow cover and terrain.

of the rangeland and wild horse habitat are detailed in EA # NV062-EA08-134, as well as documents completed towards establishment of the Callaghan, Bald Mountain, and Rocky Hills HMA AMLs.

Due to the population size and distribution of wild horses within the Complex, in addition to the inherent obstacles of gathering horses during the winter, this Decision includes options identified under both the Proposed Action and Alternative 1 analyzed in EA # NV062-EA08-134. If the Proposed Action could not reasonably and effectively be implemented during the course of the gather, then Alternative 1 would be implemented for that HMA.

The proposed gather would:

- save wild horses from suffering starvation caused by lack of forage on the winter range,
- prevent utilization objectives from being exceeded, and reduce the amount of use during the critical growth period for perennial grasses,
- decrease forage competition among wild horses, wildlife, and livestock,
- contribute to improved vegetation density, increased plant vigor, seed production, seedling establishment, and forage production over current conditions,
- promote continued improvement of the vegetation resources throughout the HMA, resulting in upward trend and increased frequency of key species.
- slow population growth through implementation of fertility control research or sex ratio modification.

According to population modeling the application of fertility control could extend the need for a gather by 2 or more years (2013-2014) when compared to a gather without implementation of fertility control. Fertility control in conjunction with a gather could result in 3-18% smaller populations of wild horses and growth rates reduced by 6-17% than without fertility control. Fertility control application would allow the average population size to be maintained within the established AML ranges or slight above. The gather interval could be lessened and substantially fewer horses removed from the range in future gathers. Genetic health, long-term viability, and future reproductive success of mares within the herd would be sustained. Reduced growth rates and lower population sizes would also allow for improvements to range condition, which would have long-term benefits to wild horse habitat quality and contribute to the achievement and maintenance of a thriving natural ecological balance.

Sex ratio modification through attaining a post gather population comprised of 60% studs was also analyzed. Results were similar to those achieved with fertility control, however not to the same degree. Nonetheless, sex ratio modification would reduce growth rates, increase the gather interval, and result in the need to conduct fewer removals in the next 5-6 years when compared to a Gather Only scenario.

Within the Callaghan Complex, high populations of wild horses in excess of established AMLs are negatively affecting the rangeland resources. Achieving and maintaining the established AMLs through the proposed wild horse gather would ensure that allotment objectives are met and significant progress made towards achieving the Resource Advisory Council Standards for Rangeland Health.

The following constitutes the rationale for issuing this decision effective upon issuance:

(a) Potential Impacts to Animal Health.

Substantial overpopulation of wild horses above established levels in conjunction with continuing drought conditions has created the likelihood for widespread emergency conditions due to lack of winter forage.

Rangeland vegetation is limited throughout the lower elevations of the Complex due to drought and current range conditions; and waters are very limited due to drought. The nearest weather station to the Complex reports 47% (4.13 inches) of normal precipitation received as of October 31, 2008. Wild horse health is at risk under the current situation, and unless the populations of wild horses within the Complex are reduced through the proposed removals wild horse body condition will decline through the winter. In the absence of wild horse removals death due to starvation and dehydration is expected.

Since spring 2008, the MLFO has been monitoring these areas for vegetation and water availability and wild horse body condition. In some locations, wild horse condition is Moderately Thin (Henneke Body Condition Score -- 4), and is not ideal going into winter.

(b) Potential Damage to Rangeland and Riparian Resources.

Population and resource monitoring has determined that current wild horse populations are exceeding the range's ability to sustain wild horse use over the long-term. Resource damage is occurring throughout uplands and riparian areas, and will continue to deteriorate without immediate action. Riparian areas are being trampled and heavily utilized by wild horses, few watering sites are available, drought conditions are expected to persist, and native perennial grasses are very limited or absent in lower elevations and throughout essential winter habitat. Continued over population of wild horses will result in further degradation and loss of habitat utilized by wild horses, wildlife and livestock.

In accordance with 43 CFR 4720.1, upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animals immediately.

AUTHORITY

The authority for this decision is contained in Section 3(b)(2) of the 1971 Free-Roaming Wild Horses and Burros Act, Section 302(b) of the Federal Land Policy and Management Act (FLPMA) of 1976, and Code of Federal Regulations (CFR) at 43 CFR §4700.

§4700.0-6 Policy

- (a) Wild horse and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat;
- (b) Wild horses and burros shall be considered comparably with other resource values in the formulation of land use plans;
- (c) Management activities affecting wild horses and burros shall be undertaken with the goal of maintaining free-roaming behavior;
- (d) In administering these regulations, the authorized officer shall consult with Federal and State wildlife agencies and all other affected interests, to involve them in planning for and management of wild horses and burros on the public lands.

§4710.4 Constraints on Management

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.

§4720.1 Removal of excess animals from public lands

Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animal immediately in the following order.

- (a) Old, sick, or lame animals shall be destroyed in accordance with subpart 4730 of this title;
- (b) Additional excess animals for which an adoption demand by qualified individuals exists shall be humanely captured and made available for private maintenance in accordance with subpart 4750 of this title; and
- (c) Remaining excess animals for which no adoption demand by qualified individuals exists shall be destroyed in accordance with subpart 4730 of this part³

§4770.3 Administrative Remedies

(a) Any person who is adversely affected by a decision of the authorized officer in the administration of these regulations may file an appeal. Appeals and petitions for stay of a decision of the authorized officer must be filed within 30 days of receipt of the decision in accordance with 43 CFR, part 4.

(c) Notwithstanding the provisions of paragraph (a) of §4.21 of this title, the authorized officer may provide that decisions to remove wild horses or burros from public or private lands in situations where removal is required by applicable law or is necessary to preserve or maintain a thriving natural ecological balance and multiple use relationship shall be effective upon issuance or on a date established in the decision.

APPEAL PROVISIONS

Within 30 days of receipt of this wild horse 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.

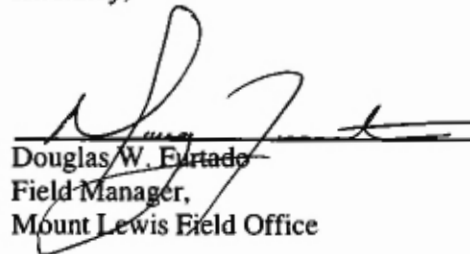
³ The Bureau of Land Management is currently not implementing this portion of the CFRs. Future decisions regarding this option would not occur before public involvement and comment.

A petition for a stay of decision pending appeal shall show sufficient justification based on the following standards:

- 1) The relative harm to the parties if the stay is granted or denied;
- 2) The likelihood of the appellant's success of the merits;
- 3) The likelihood of immediate and irreparable harm if the stay is not granted; and
- 4) Whether the public interest favors granting the stay.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.401 (c) (2)).

Sincerely,



Douglas W. Ertado
Field Manager,
Mount Lewis Field Office

12/8/05
Date

Attachments (3)

Interested Public Mailing List

American Horse Protection Assoc.
1000 29th St.NW, Suite T-100
Washington DC 20007

C Ranches Inc
John Filippini
Carico Valley No 1 HC66 - 46
Beowawe, NV 89821

Cortez Gold Mines
George Fennemore
HC 66 Box 1250
Crescent Valley, NV 89821

Duckwater Shoshone Tribe
Maurice Frank Churchill
PO Box 140068
Duckwater, NV 89314

Eureka County Dept. of Natural Resources
Jim Baumann
P.O. Box 308
Eureka, NV 89316

Eureka County Dept. of Natural Resources
John Overton
P.O. Box 343
Eureka, NV 89316

Eureka County Dept. of Natural Resources
Jacob Tibbetts
P.O. Box 682
Eureka, NV 89316

Julian Tomera Ranches Inc
Pete Tomera
PO Box 276
Battle Mountain, NV 89820

Lovelock Paiute Tribe
Chairman
PO Box 878
Lovelock, NV 89419

Natural Resources Advisory Commission
Jim Baumann, Chairman
PO Box 682
Eureka, NV 89316

Nevada Department of Wildlife
Dave Pulliam, Habitat Chief
1100 Valley Rd.
Reno, NV 89512

Nevada Department of Wildlife Eastern
Region
Steve Foree
60 Youth Center Road
Elko, NV 89801

Animal Welfare Institute
D.J. Schubert
3121 D Fire Rd PMB 327
Egg Harbor Township, NJ 08234

Center for Biological Diversity
Paul J. Spittler
P.O. Box 2175
Bend, OR 97709

Doby George, LLC
Bernard Carter
165 West Liberty Street Suite 100
Reno, NV 89501

Ellison Ranching Co.
Bill Hall
HC 32 Box 240
Tuscarora, NV 89834

Eureka County Dept. of Natural Resources
Carl Slagowski
HC 65 Box 30
Carlin, NV 89822

Synergy Resource Solutions, INC.
Jack Alexander III
5393 Hamm Rd.
Belgrade, MT 59714

Eureka Livestock
16249 Winfield Ave
Bakersfield, CA 93314

Lander County Commissioners
315 South Humboldt St
Battle Mountain, NV 89820

Mike Marvel Ranching
Mike Marvel
P.O. Box 1194
Battle Mountain, NV 89820

Nevada Cattlemens Association
Meghan Wereley
PO Box 310
Elko, NV 89803

Nevada Department of Wildlife
Jeremy Lutz , Biologist
113 Carson Road
Battle Mountain, NV 89820

Nevada State Clearing House
Krista Coulter
209 East Musser St Room 200
Carson City, NV 89701

Battle Mountain Band Council
Michael Young, Chair
37 Mountain View Dr Suite C
Battle Mountain, NV 89820

Conservation Research Center
Brenda Younkin, Stewardship Director
700 Coyote Canyon Road
Jackson, WY 83001

Dry Creek Ranch
Peter J. and Tom Damele
HC 31 Box 10
Austin, NV 89310

Eureka County Commissioners
PO Box 677
Eureka, NV 89316

Eureka County Dept. of Natural Resources
Jerry Todd
P.O. Box 73
Eureka, NV 89316

Eureka County Dept. of Natural Resources
Leo Damele
HC 62 Box 62310
Eureka, NV 89316

Filippini Ranching Co.
Henry Filippini Jr.
HC 61 Box 70
Battle Mountain, NV 89820

Lander County PLUAC
Ray Williams Jr.
PO Box 111
Austin, NV 89310

National Mustang Association
PO Box 1367
Cedar City, UT 84721

Nevada Commission for Preservation of Wild
Horses
Cathy Barcomb
885 E Lake Blvd
Carson City, NV 89704

Nevada Department of Wildlife
Mike Podborny
PO Box 592
Eureka, NV 89316

Silver Creek Ranch Inc.
Paul Inchauspe
HC 61 Box 61230
Austin, NV 89310

South Fork Band Council
21 Lee Unit B 13
Spring Creek, NV 89815

Timbisha Shoshone Tribe
785 N Main Street Ste Q
Bishop, CA 93514

University Nevada Reno
John Wilker
HC 66 Box 76
Beowawe, NV 89821

Wild Horses Organized Assistance
Dawn Lappin
PO Box 555
Reno, NV 89504

Young Brothers
Ralph Young
HC 65 Box A
Austin, NV 89310-9107

Howard and Barbara Wolf
5595 Tarzyn Road
Fallon, NV 89406

Mandy McNitt
330 W. Nye Ln. #53
Carson City, NV 89706

Vicki J. Cohen
1624 Palm Street, #242
Las Vegas, NV 89104

Citizens Against Recreational Eviction
Candace D. Oathout
4824 Georgia Ave N
Crystal, MN 55428

Summit Lake Paiute Tribe
Dallas Smales
653 Anderson Street
Winnemucca, NV 89466

Timbisha Shoshone Tribe
PO Box 206
Death Valley, CA 92328

Western Watersheds Project
Katie Fite, WWP Biodiversity Director
P.O. Box 2863
Boise, ID 83701

Winnemucca Colony
Chairman
PO Box 1370
Winnemucca, NV 89446

Chad and Rosie Bliss
P.O. Box 585
Eureka, NV 89316

Jim and Ida Gallagher
PO Box 246
Austin, NV 89310

Tom and Volina Connolly
McClusky Creek, HC 66-60
Beowawe, NV 89821

O'Toole Ranches
Todd Chambers
HC 60 Box 52624
Round Mountain, NV 89045

US Forest Service
Austin Ranger District
PO Box 130
Austin, NV 89310

Te-Moak Tribal Council
Davis Gonzales
525 Sunset Street
Elko, NV 89801

U.S. Fish and Wildlife Service
1340 Financial Blvd, Suite 234
Reno, NV 89502

Wild Horse Spirit, Ltd
Bobbi Royle
25 Lewers Creek Road
Carson City, NV 89704

Yomba Shoshone Tribe
Dennis Bill, Chair
HC 61 Box 6275
Austin, NV 89310

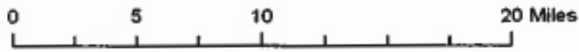
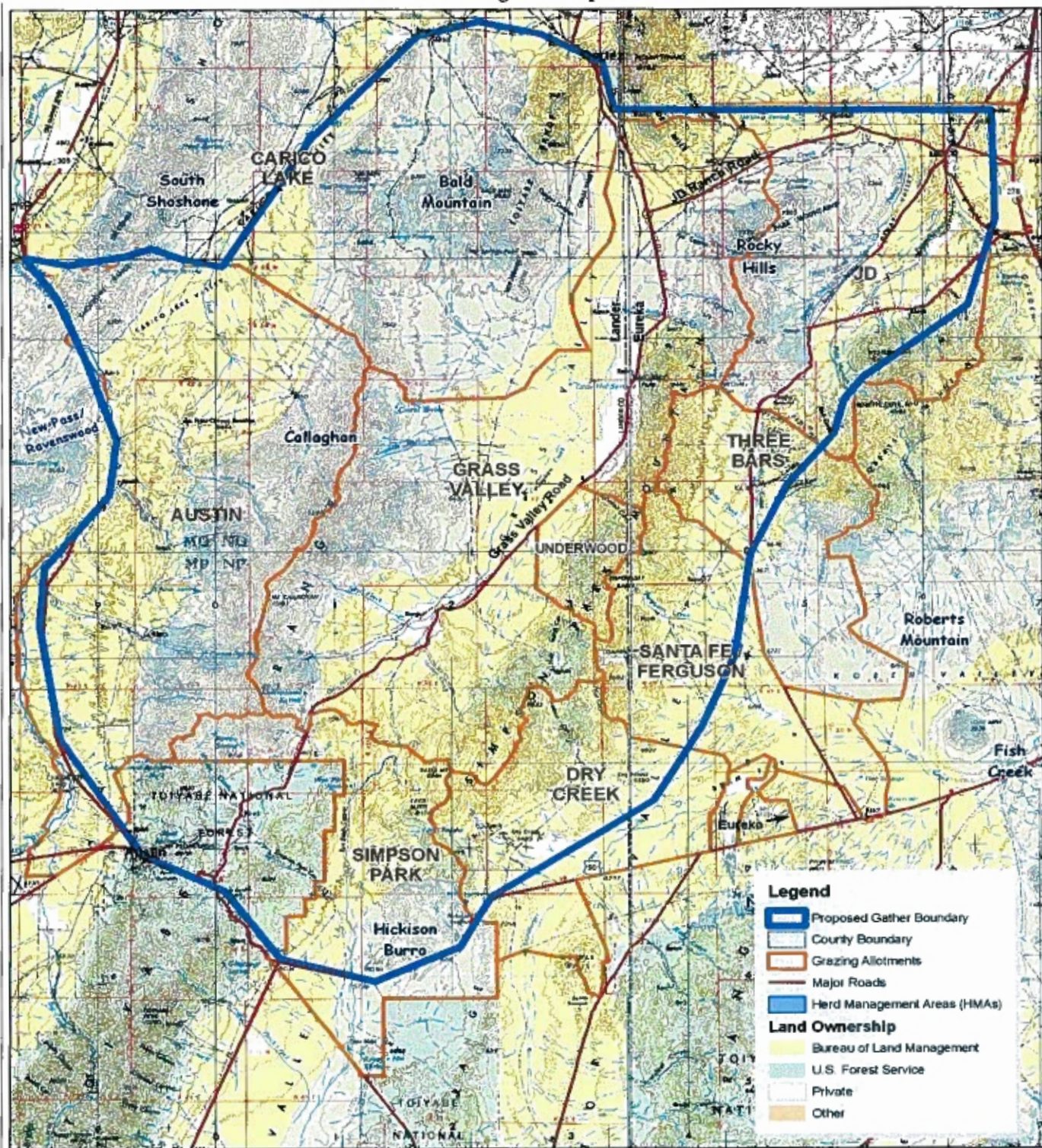
Cindy MacDonald
3605 Silver Sand Ct.
N. Las Vegas, NV 89032

Kenneth Buckingham
Box 10
Paradise Valley, NV 89426

Tommie G Lancaster
HC 65 Box 500
Austin, NV 89310

Animal Welfare Institute
Andrea Lococo
1363 Ouerbacker Court
Louisville, KY 40208

Attachment 1: Callaghan Complex Gather Areas



Battle Mountain District and Proposed Callaghan Gather Project Area



Mount Lewis Field Office
 50 Bastian Road
 Battle Mountain, NV 89820
 775-635-4000

No warranty is made by the Bureau of Land Management as to the accuracy, reliability or completeness of these data for individual use or aggregate use with other data.

Attachment 2

FINDING OF NO SIGNIFICANT IMPACT for Callaghan Complex Wild Horse Gather Project # NV062-EA08-134

INTRODUCTION

Environmental Assessment (EA) NV062-EA08-134, dated September 15, 2008, 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, Alternative 1 and Alternative 2 identified in the EA are not major Federal actions and would not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. No environmental affects 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 as per Section 102 (2)(c) of the National Environmental Policy Act (NEPA).

I have determined the Proposed Action, Alternative 1 and Alternative 2 are in conformance with the Battle Mountain Field Office (MLFO) Shoshone-Eureka Resource Area Management Plan (RMP), Record of Decision (ROD) dated 1986 and the Shoshone-Eureka RMP Amendment, ROD dated 1987. The Proposed Action and Alternatives 1 and 2 are also 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.

FINDING OF NO SIGNIFICANT IMPACT

Based on the analysis of potential environmental impacts detailed in Environmental Assessment NV062-EA08-134, I have determined that the impacts associated with the Proposed Action and Alternatives 1 and 2 are not significant. Therefore, preparation of an environmental impact statement is not required.

RATIONALE

The Proposed Action and Alternatives 1 and 2 identified in EA NV062-EA08-134 would, 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 the Proposed Action and Alternatives 1 and 2. Based on the analysis, impacts, including cumulative impacts, to these resources are considered insignificant (see definition of significance in 40 CFR 1508.27).

CONTEXT

The Callaghan Complex includes three wild horse Herd Management Areas (HMAs): Callaghan, Bald Mountain, and Rocky Hills, in addition to areas outside of HMA boundaries in the Simpson Park Mountain Range and on U.S. Forest Service lands, and the Cedar's Pasture of the South Shoshone HMA. The Callaghan HMA was last gathered in 2002, Rocky Hills HMA in 1999 and Bald Mountain HMA in 1981. A gather of the Simpson Park Mountain Range was completed in 2005.

Currently, wild horse populations are in excess of established Appropriate Management Levels (AMLs), and wild horses exist outside of HMA boundaries.

The wild horse gather proposed in the EA involves removing approximately 1,480 excess wild horses from the Complex, to result in a post gather population of approximately 349 wild horses within the Complex. The Proposed Action would result in a post gather population at the low range of AML in order to prevent the wild horse population from exceeding the upper level of AML for several years. The Proposed Action also involves treating approximately 130-180 mares to further reduce population growth rates and extend the need for another gather for 4-6 years. A post gather sex ratio of 50% mares and 50% studs would be maintained.

Alternative 1 would involve gathering the Complex as stated above with the exception that in lieu of fertility control, the post gather sex ratio would be modified to 60% studs and 40% mares. Alternative 3 does not involve fertility control or sex ratio modification and is essentially the "gather only" alternative.

The Proposed Action and Alternatives 1 and 2 would promote recovery of drought stressed rangeland vegetation communities, prevent further degradation to the range, and prevent deteriorating health of the wild horse population. The gather area is administered by the Bureau of Land Management's Mount Lewis Field Office, and is located approximately 40 miles northeast of Battle Mountain, Nevada in Lander and Eureka Counties.

INTENSITY

1) Impacts that may be both beneficial and adverse. The Environmental Assessment considered both beneficial and adverse impacts of the gather and removal of wild horses across identified HMAs. Removing excess wild horses from within the HMAs and from areas not within designated Herd Management Area boundaries would reduce the level of use endured by rangeland and riparian vegetation, and help alleviate competition for resources between wildlife, livestock, and wild horses. Removal of excess wild horses will allow for the recovery of natural resources, such as soils, vegetation, watersheds, wildlife, fisheries and wild horse habitat. The proposed wild horse gather would also prevent emergency conditions on the range for wild horses due to lack of forage and water.

Archaeological site clearances would be conducted prior to the construction of temporary trap sites and holding facilities. Standard Operating Procedures would be followed to minimize stress

on wild horses and impacts to other resources. Wild horses removed from the project area would be transported to wild horse and burro holding facilities and prepared for adoption or long-term holding.

2) *The degree to which the proposed action affects public health or safety.* The Wild Horse and Burro Standard Operating Procedures (EA, Appendix A) would be used to conduct the gather and are designed to protect human health and safety, as well as the health and safety of the wild horses and burros. The Proposed Action, and Alternatives 1 and 2 would have minimal affects to public health or safety.

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 gather area. A cultural resources inventory would be completed prior to constructing temporary trap sites and holding facilities. If cultural resources are found in an area, a new location would be determined to set up temporary trap sites and holding corrals. Wild horse gather activities would not be conducted within Wilderness Study Areas.

4) *The degree to which the effects on the quality of the human environment are likely to be highly controversial.* It was determined that the implementation of the Proposed Action and Alternatives 1 and 2 would not be highly controversial in terms of the effects on the quality of the human environment. No public comments were received following issuance of the Gather Plan/EA on September 15, 2008. Letters received since that time from UNR Gund Ranch, NDOW and grazing permittees state support for the proposed gather. Via telephone conversations, the Nevada Commission for the Preservation of Wild Horses and Wild Horses Organized Assistance have stated support for the proposed gather.

5) *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.* The Proposed Action and Alternatives 1 and 2 have no known effects on the human environment which are considered highly uncertain or involve unique or unknown risks. This is demonstrated through the effects analysis in the EA.

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 gather area would be evaluated through the appropriate NEPA process and analyzed under a site-specific NEPA document. The Proposed Action and Alternatives 1 and 2 do not set a precedent for future actions.

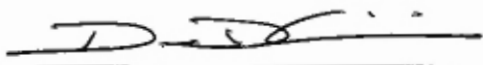
7) *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.* The Proposed Action and Alternatives 1 and 2 are not related to other actions within the project area that would result in cumulatively significant impacts. Proper NEPA analysis would be completed for all proposed actions in the future. Cumulative impacts were analyzed in the EA.

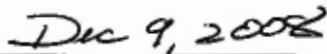
8) *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP or may cause loss or destruction of significant scientific, cultural, or historical resources.* The Proposed Action and Alternatives 1 and 2 would not affect significant scientific, cultural, or historical resources. A cultural resource inventory would be completed prior to trap and corral construction. Temporary trap sites and holding facilities would be cleared to determine the presence of sites that are unclassified, eligible, or potentially eligible for the NRHP. Archaeological site clearances and avoidance measures would 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.* 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 and Alternatives 1 and 2 would not violate or threaten to violate any Federal, State, or local law or requirement imposed for the protection of the environment. The Proposed Action and Alternatives 1 and 2 are in conformance with all applicable 43 CFR (Code of Federal Regulations). The Proposed Action and Alternatives 1 and 2 would not violate the Migratory Bird Treaty Act or Endangered Species Act.

The Proposed Action and Alternatives 1 and 2 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.


for Doug Furtado
Field Manager
Mount Lewis Field Office


Date

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	A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the <i>Notice of Appeal</i> in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a <i>Notice of Appeal</i> in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
2. WHERE TO FILE	
NOTICE OF APPEAL.....	Mount Lewis Field Office 50 Bastian road Battle Mountain, NV 89820
WITH COPY TO SOLICITOR...	Office of the Solicitor, Regional Solicitor Pacific Southwest Region U.S. Department of the Interior 2800 Cottage Way, Room E 1712 Sacramento, California 95825-1890
3. STATEMENT OF REASONS	Within 30 days after filing the <i>Notice of Appeal</i> , 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. If you fully stated your reasons for appealing when filing the <i>Notice of Appeal</i> , no additional statement is necessary (43 CFR 4.412 and 4.413).
WITH COPY TO SOLICITOR.....	Office of the Solicitor, Regional Solicitor Pacific Southwest Region U.S. Department of the Interior 2800 Cottage Way, Room E 1712 Sacramento, California 95825-1890
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 <i>Notice of Appeal</i> , (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).
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 (43 CFR 4.401(c)).
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 together with a <i>Notice of Appeal</i> (43 CFR 4.21). If you wish to file a petition 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 <i>Notice of Appeal</i> (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the <i>Notice of Appeal</i> 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 (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. Standards for Obtaining a Stay. Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 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 (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 Office ----- 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 --- New Mexico, Kansas, 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.

(Form 1842-1, September 2006)