United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Ely Field Office
HC33 Box 33500 (702 N. Industrial Way)
Ely, Nevada 89301-9408
http://www.blm.gov/nv/st/en.html

TAKE PRIDE IN AMERICA

In Reply Refer to:
NV-040-08-004

Dear Interested Party:

The Bureau of Land Management (BLM) Ely and Elko field offices are proposing to remove about 964 excess wild horses from the Antelope and Antelope Valley HMAs in December 2007. Enclosed for information is the Decision Record (DR) and Finding Of No Significant Impact (FONSI). The BLM provided the preliminary Environmental Assessment to the public for a 15 day comment period on November 16 2007. Based on the comments received some changes were made in the Environmental Assessment (E.A.) the final E.A. is posted at http://www.blm.gov/nv/st/en/fo/ely_field_office/blm_information/nepa.2.html or is enclosed for those who provided comments a hard copy of the final E.A. is available upon request.
If you have any questions, please contact Kyle Hansen, Acting Assistant Field Manager Renewable Resources. 775-289-1877

Sincerely,

Kyle Hansen
Acting Assistant Field Manager
Renewable Resources

DECISION RECORD (DR)
AND
FINDING OF NO SIGNIFICANT IMPACT (FONSI)

Final Environmental Assessment
for the Antelope and Antelope Valley Herd Management Areas
Emergency Wild Horse Gather Plan
Ely Field Office/Elko Field Office
ENVIRONMENTAL ASSESSMENT (EA)
NV-040-08-04

Introduction

The Environmental Assessment (EA) for the Antelope Herd Management Area (HMA) and that portion of the Antelope Valley HMA east of US Highway 93 Alternate (EA-NV-040-08-04) was completed to analyze the environmental impacts of conducting a gather to remove about 964 excess wild horses from the affected area beginning in December 2007.

The Proposed Action is needed at this time to prevent a catastrophic loss of wild horses within the HMAs over the winter because forage is not adequate to support the current number of wild horses. Continuous years of drought have led to poor range conditions in the HMAs, and little new forage growth in many key grazing areas. Additionally, the current wild horse population is about 5.5 times the low range of the established appropriate management level of 217-364 wild horses and resource damage is occurring.

The Proposed Action in the E.A. is to gather and remove approximately 82% of the population or about 964 wild horses. The estimated post-gather population would be approximately 194 wild horses in the Antelope HMA and 23 wild horses with in the Antelope Valley HMA east of Hwy 93 alt.(a total of 217 wild horses) as identified in the EA. During gather activities, BLM personnel would assess herd health and record data for the captured horses (i.e. age, sex, conformation, color, etc). Once captured, wild horses would be shipped to BLM facilities where they will be prepared for adoption, sale or long term holding.

The environmental assessment also analyzed a No Action Alternative (Alternative B). Under the No Action Alternative, wild horses would not be removed from the Antelope and Antelope Valley HMAs at this time.

FINDING OF NO SIGNIFICANT IMPACT

Based on the analysis of potential environmental impacts in the EA for the Antelope and Antelope Valley HMAs Wild Horse Gather Plan (NV-040-07-45), I have determined that the Proposed Action will not have a significant effect on the human environment. Therefore, the preparation of an environmental impact statement (EIS) is not required for compliance with the National Environmental Policy Act of 1969.

Reasons for this finding are based on my consideration of the Council on Environmental Quality (CEQ) criteria for significance (40 CFR 1508.27) with regard to the context and intensity of impacts.

Context: The affected region is limited to portions of White Pine and Elko Counties, where the project area is located. The gather has been planned with input from interested public and users

of public lands.

Intensity: Based on my review of the EA against CEQ's factors for intensity, there is no evidence that the severity of impacts is significant:

1. *Impacts that may be both beneficial and adverse.* The proposed gather is expected to meet BLM's resource objective for wild horse management of maintaining a thriving natural ecological balance consistent with other multiple uses. Although the gathering and removal of excess wild horses is expected to have short-term impacts on individual animals, it is expected to ensure the long-term viability of the wild horse herds and help to improve forage and habitat conditions in the herd management areas. It will also avoid the potential for suffering or a catastrophic loss of wild horses from starvation over the coming winter.

2. *The degree to which the proposed action affects public health or safety.* The proposed gather has no effect on 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.* The proposed action has no potential to affect unique characteristics such as historic or cultural resources or properties of concern to Native Americans. There are no wild and scenic rivers, or ecologically critical areas present in the areas. Maintenance of appropriate numbers of wild horses is expected to help make progress in meeting resource objectives for improved riparian, wetland, aquatic and terrestrial habitat.

4. *The degree to which the effects on the quality of the human environment are likely to be highly controversial.* Effects of the gather are well known and understood. No unresolved issues were raised following notification of wild horse advocacy groups of 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 gather includes measures for monitoring its effects on herd population dynamics and toward meeting multiple use objectives for rangeland health throughout the herd management areas.

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.* The action would not establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration.

7. *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.* The EA includes an analysis of cumulative effects which considers past, present and reasonably foreseeable future actions in the Antelope and Antelope Valley HMAs that supports the conclusion that the proposed gather is not related to other actions with individually insignificant but cumulatively significant impacts.

8. *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing on the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources.* The proposed gather has no potential to adversely affect significant scientific, cultural, or historical resources.

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 under the Endangered Species Act of 1973.*

The action is not likely to adversely affect any listed species, and the action area does not include any habitat determined to be critical under the Endangered Species Act.

10. *Whether the action threatens a violation of Federal, State, local or tribal law or requirements imposed for the protection of the environment.* The Proposed Action and Alternatives are in compliance with the Schell Management Framework Plan (MFP), Schell Grazing Environmental Impact Statement (EIS), and subsequent Record of Decision (ROD) dated 1983 and the Egan Resource Management Plan and Final Impact Statement (RMP/FEIS) Feb 3 1987. The proposed wild horse gather is in conformance with the Schell MFP as required by regulation (43 CFR 1610.5-3(a)). Further the proposed gather is consistent with other Federal, State, local and tribal requirements for protection of the environment to the maximum extent possible. The Proposed Action and Alternatives are in compliance with the Wells Resource Management Plan (RMP) approved July 16, 1985. Issue 7: Wild Horses - management decisions 1, 2, and 3 direct the management of wild horses in the project area. An amendment to the Wells RMP was approved August 1993. This amendment further outlines the level of management for wild horses within the planning area including the Antelope Valley HMA.

DECISION

It is my decision to implement the Proposed Action as described in the EA for the Antelope and Antelope Valley HMAs Wild Horse Gather Plan (Ely NV-040-08-04). Approximately 964 wild horses will be will be captured and removed within the affected area. Approximately 217 wild horses will remain in the HMAs after the gather.

Rationale

1. Gathering and removing about 964 excess wild horses would ensure a "thriving natural ecological balance" as well as preserve the multiple use relationship within the Antelope and Antelope Valley HMAs immediately and over the next several years. Further, this action is needed to prevent vegetative and riparian resources from deterioration associated with an overpopulation of wild horses.

2. The Proposed Action is subject to the Egan Resource Management Plan (RMP) and Final Environmental Impact Statement (FEIS) dated December 24, 1983, and resolution of protests received on the proposed RMP and FEIS documents dated September 21, 1984, and the Egan Resource Area Record of Decision (ROD) which was finalized February 3, 1987. The proposed wild horse gather is in conformance with the Egan RMP as required by regulation (43 CFR 1610.5-3(a)). The Proposed Action is in compliance with the Wells Resource Management Plan (RMP) approved July 16, 1985. Issue 7: Wild Horses - management decisions 1, 2, and 3 direct the management of wild horses in the project area. An amendment to the Wells RMP was approved August 1993. This amendment further outlines the level of management for wild horses within the planning area including the Antelope Valley HMA.

3. The AMLs were established through Final Multiple Use Decisions (FMUDs) for the affected Allotments within Antelope and Antelope Valley HMAs.

4. Implementation of the selected alternative should make significant progress toward attainment of site specific resource management objectives and Standards for Rangeland Health.

5. The No Action Alternative was not selected because it would not allow for the removal of

wild horses to preserve the multiple use relationship within the area and help to make progress in meeting objectives for wild horses and riparian, wetland, aquatic and terrestrial habitat. However, due to inadequate forage to support the current number of wild horses on the range, potential exists for up to 2/3 of the population to suffer or die from starvation over the winter. Additionally, implementation of the No Action alternative would be expected to result in needless suffering or death of up to 2/3 the current wild horse population from starvation over the winter. Allowing needless suffering or death to result when a reasonable alternative exists would be cruel and inhumane.

Public Involvement

The preliminary environmental assessment was provided to interested individuals, groups and agencies on November 16, 2007 for a 15-day review and comment period (refer to EA, page 38-47 and Appendix VII for additional information). Some changes were made in the environmental assessment in response to internal review and public comment. A copy of the final environmental assessment is attached for information.

Approval

The Antelope and Antelope Valley HMAs Emergency Wild Horse Gather is approved for implementation. This decision is effective on/after December 6, 2007 in accordance with the authority provided to me in Title 43 of the Code of Federal Regulations (CFR) at 4770.3(c). Removal of about 964 excess animals in December 2007 is necessary to protect animal health and prevent further deterioration of rangeland resources. This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR part 4 (see attachment).

John F. Ruhs
Ely Field Manager

12/6/07
Date

Ken Miller
Elko Field Manager

12/6/07
Date

Attachment
Antelope and Antelope Valley
WILD HORSE GATHER
Decision Record

Appeal Procedures

If you wish to appeal this decision, it may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR part 4. If you appeal, your appeal must **also** be filed with the Bureau of Land Management at the following address:

Kyle Hansen, Acting Assistant Field Manager
BLM, Ely Field Office
HC 33 Box 33500
702 N. Industrial Way
Ely, NV 89301

Your appeal must be filed within thirty (30) days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4942, January 19, 1993) for a stay (suspension) of the decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted to:

Board of Land Appeals
Dockets Attorney
801 N. Quincy Street, Suite 300
Arlington, VA 22203

A copy must also be sent to the appropriate office of the Solicitor at the same time the original documents are filed with the above office.

US Department of the Interior
Office of the Regional Solicitor
Pacific Southwest Region
2800 Cottage Way, Room E-1712
Sacramento, California 95825

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay is required to 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 appellants success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

The Office of Hearings and Appeals regulations do not provide for electronic filing of appeals, therefore they will not be accepted.