

# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

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JAN 29 2007

In Reply Refer To:  
4720/4710.4 (NV-042)

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

Wilson Creek Complex  
Ely Field Office  
ENVIRONMENTAL ASSESSMENT (EA)  
NV-040-06-047

**RECEIVED**

FEB 01 2007

DEPARTMENT OF ADMINISTRATION  
OFFICE OF THE DIRECTOR  
BUDGET AND PLANNING DIVISION

#### Introduction

The Wilson Creek Complex Gather Plan and Environmental Assessment (NV-040-06-047) was completed to analyze the impacts of conducting a gather and removal operation. The E.A. analyzes three alternatives.

BLM has determined there are excess wild horses present and the Proposed Action is needed in February of 2007 to restore wild horse herd numbers to levels consistent with the Appropriate Management Level (AML) for the Complex, which would achieve a thriving natural ecological balance as mandated by law.

The Proposed Action in the E.A. is to gather approximately 85% of the population or 800 wild horses. We would remove 710-775 wild horses within the complex, and all animals outside herd management areas. Wilson Creek Complex would be managed at a level of 125 to 190 wild horses following the gather and not to exceed 210 wild horses prior to the next scheduled maintenance gather. During gather activities, BLM personnel would assess herd health, record data for the captured horses; including: sex, age, color. Selected animals would be returned to the HMAs based on desired characteristics for each herd, and consistent with selective removal criteria. Also as part of the proposed action, BLM would conduct immunocontraceptive research and monitor results. The research would include using the immunocontraceptive drug, porcine zona pellucidae (PZP) vaccine on all of the mares released in the BLM-administered HMA's. This vaccine has been shown to be effective in preventing pregnancy for two years without undesired side effects. The gather would be conducted February 2007.

Alternative B in the E.A. is the same as the Proposed Action, except fertility control would not be applied. The same numbers of wild horses would be gathered, and selectively removed.

Alternative C analyzed is the No Action Alternative. In this alternative, wild horses would not be gathered at this time.

## **FINDING OF NO SIGNIFICANT IMPACT**

Based on the analysis of potential environmental impacts in the E.A. for the Wilson Creek Complex Wild Horse Gather (NV-040-06-047), 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 Lincoln County, 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.

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. Use of the fertility drug, PZP, to reduce the frequency of gathers and associated impacts, is part of ongoing research to verify that it does not 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.* 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 Wilson Creek Complex 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 gather conforms to the approved Schell Management Frame Work Plan and the Caliente Management Frame Work Plan. Further the proposed gather is consistent with other Federal, State, local and tribal requirements for protection of the environment to the maximum extent possible.

## **DECISION**

It is my decision to implement the Alternative B as described in the EA for the Wilson Creek Complex. Wild Horse Gather (Ely NV-040-06-047). In the E.A. Alternative B is to gather approximately 85% of the population or 800 wild horses. Remove 710-775 wild horses within the complex, and all animals outside herd management areas. Wilson Creek Complex would be managed at a level of 125 to 190 wild horses following the gather and not to exceed 210 wild horses prior to the next scheduled maintenance gather. During gather activities, BLM personnel

would assess herd health, record data for the captured horses; including: sex, age, color. Selected animals would be returned to the HMAs based on desired characteristics for each herd, and consistent with selective removal criteria.

## **Rationale**

1. The gathering and removal of excess wild horses is being selected to ensure a “thriving natural ecological balance” as well as preserve the multiple use relationship within the Wilson Creek Complex immediately and over the next several years. This action is needed to prevent further vegetative and riparian resources from deterioration associated with an overpopulation of wild horses. Based upon historical gather rates there is a high likely hood that not enough mares will be captured in order to administer immunocontraception (PZP) to inhibit population growth. Furthermore if projected numbers are captured, of the 50 horses identified for release a minimum of 38 mares would need to be treated with immunocontraception. The objective is to manage for an equal sex ratio to release 38 mares and 12 stallions would be inconsistent with this goal.
2. The Proposed Action and other action alternatives are in compliance with applicable portions of the Schell Management Framework Plan (MFP), Schell Grazing Environmental Impact Statement (EIS), and subsequent Record of Decision (ROD) dated 1983 (Wilson Creek HMA) and the Caliente Management Framework Plan (MFP), Caliente Grazing Environmental Statement (ES), and subsequent Record of Decision (ROD) dated 1982 (Deer Lodge HMAs). It is further consistent with other Federal, State, local and tribal policies and plans to the maximum extent possible.
3. The AMLs were established through Final Multiple Use Decisions (FMUD) and a Wild Horse Decision for the affected Allotments within Wilson Creek, and Deer Lodge Canyon HMAs.
4. The proposed action was selected due to meeting the need of obtaining resource objectives. Fertility control research would be appropriate for application during a winter gather.
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.

## **Public Involvement**

Public notification and scoping of E.A. Ely NV-040-06-047 was sent to the persons, groups, and agencies listed on pages 24-26, of that document on December 21, 2006, with a 30-day review and comment period. Six comment letters were received during the public scoping period. Comments pertaining to the Wilson Creek Complex Gather Plan and EA were submitted by Katie Fite of Western Watersheds Project, Boise, Idaho, Barbara Warner, Marion County Humane Society Lebanon Kentucky, Bradford Hardenbrook, Nevada Division of Wildlife, D.J. Schubert, Animal Welfare Institute, Craig C. Downer Author: Wild Horses: Living Symbols of Freedom and Nylene Schoellhorn . Comments are addressed in the final EA/gather plan pages 26-29.

All input received was considered in relation to the analysis and the formulation of a decision.

### Approval

The Wilson Creek Complex wild horse gather is approved for implementation on February 1, 2007. This decision is effective upon issuance in accordance with Title 43 of the Code of Federal Regulations (CFR) at 4770.3(c) because removal of excess animals beginning in February 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).

William E. Dunn  
William E. Dunn  
Assistant Field Manager  
Renewable Resources

2/30/07  
Date

Attachment  
**Wilson Creek COMPLEX**  
**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:

William Dunn, 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.

CC:

RETURN RECEIPT

Wild Horses Forever	70060810000571424504
George Andrus	70060810000571424511
Betty Baker	70060810000571424528
Nevada Division of Wildlife	70060810000571424535
Dept of Natural Resources Eureka County	70060810000571424542
Nevada Division of Wildlife	70060810000571424559
NDOW-Southern Region	70060810000571424566
Lincoln County Commissioners	70060810000571424573
Ken Lytle	70060810000571423866
ENLC	70060810000571423873
Eureka Producers Cooperative	70060810000571423880
Resource Concepts, Inc	70060810000571423897
Nevada State Clearinghouse	
Dept of Administration	
Budget & Planning Div., Grants	70060810000571423903
NDOW	70060810000571423910
U.S. Fish & Wildlife Ruby Lake National Wildlife Refuge	70060810000571423927
U.S. Fish and Wildlife Service Southern Nevada Field Office	70060810000571423934
Jule Wadsworth	70060810000571423941
Western Watersheds Project	70060810000571423958
Jay and Marjorie Wright	70060810000571423965
Cindy MacDonald	70060810000571423972
Animal Welfare Institute	70060810000571423989
Nevada Farm Bureau Federation	70060810000571423996
Nevada Cattle Association	70060810000571424009
Nevada Dept. Of Agriculture	70060810000571424016
Animal Protection Institute of America	70060810000571424030
Nevada Woolgrowers Assoc	70060810000571424023
U.S. Fish & Wildlife Service Reno	70060810000571424047
U.S. Forest Service Humboldt Toiyabe NATL Forest	70060810000571424054
Nevada Humane Society	70060810000571424061
Comm for Preservation of Wild Horses	70060810000571424078
John Blethen	70060810000571424085
Hal & Chris Ann Bybee	70060810000571424092
Animal Rights Law Center	70060810000571424108
Ms. Sharon Crook	70060810000571424115
Wild Horse Wildness & Wildlife	70060810000571424122
Dave Free	70060810000571424139
Dave & Jennifer Free	70060810000571423279
Steven Fulstone	70060810000571424146
U.S. Forest Service Humboldt National Forest	70060810000571423293
Wild Horse Spirit	70060810000571424153
Wild Horse Organized Assistance	70060810000571424160

Public Lands Foundation	70060810000571424177
Wildlife Consultant Animal Welfare Institute	70060810000571424184
Andy Mangum	70060810000571424191
Wild Horse Preservation League	70060810000571424214
Dr. Donald A. Molde	70060810000571424207
Great Basin National Park	70060810000571424221
Wild Horse Sanctuary	70060810000571424238
Nevada Division of Wildlife	70060810000571424245
Public Land Solutions	70060810000571423859
National Mustang Association INC	70060810000571423842
Ely Shoshone Tribe	70060810000571423835
INTL Soc. Protection of Mustang Burros	70060810000571423828
Barbara Warner	70060810000571423811
Nevada Outdoor Recreation	70060810000571423804
Eureka County Natural Resources Dept	70060810000571423798
Colorado Wild Horse and Burro Coalition	70060810000571423781
Friends of Nevada Wilderness	70060810000571423774
Laurel Marshall	70060810000571423767
American Mustang & Burro Assoc.	70060810000571423750
Western Watersheds Project	70060810000571423743
Public Lands Comm., Toiyabe Chapter – Sierra Club	70060810000571423736
US Humane Society	70060810000571423729
USFWS, Nevada Fish and Wildlife Office	70060810000571423712
Department of Agriculture	70060810000571423705
Chairman James Birchum	70060810000571423699
Great Basin National Park	70060810000571423682
Timbisha Shoshone Tribe	70060810000571423675
NV Legis. Comm on Public Lands	70060810000571423668
Nevada Farm Bureau Federation	70060810000571423651
Mr. Bill Davison	70060810000571423644
Western Shoshone Histric Pres.	70060810000571423637
Nevada Dept of Agriculture	70060810000571423620
Nevada Division of Wildlife	70060810000571423613
USFWS, Southern Nevada Field Office	70060810000571423606
Janica D. Nowak	70060810000571423590
Ms. Joneille Anderson	70060810000571423583
American Horse Protection Association	7006081000057142345
Lincoln County Public Lands Comm	70060810000571423576
Jim Baumann	70060810000571423569
Nevada High Country Sales Service	70060810000571423552
Kathleen Bertrand	70060810000571423361
Bald Mountain Mine	70060810000571423378
Ranges West Consulting	70060810000571423385
NRCS	70060810000571423392
Mr. Paul Clifford	70060810000571423408
Yomba Shoshone Tribe	70060810000571423415
Great Basin National Park	70060810000571423422
Nevada Land & Resource Co	70060810000571423439
Washoe County Library	70060810000571423453



NV Legis. Comm on Public Lands	70060810000571423460
Randy Buffington	70060810000571423477
Nevada Farm Bureau Federation	70060810000571423484
Lake Valley Cattle LLC	70060810000571423491
Paul Lewis	70060810000571423507
Orren J. Nash	70060810000571423514
Frank & Rose Delmue	70060810000571423521
William & Geniel Connor	70060810000571423538
John & Lee Mathews	70060810000571423354
L & B Farm and Cattle	70060810000571423446
Huntsman Ranch LLC	70060810000571424498
Ken & Donna Lytle	70060810000571424481
Pearson Brothers	70060810000571424474
Ray Okelberry	70060810000571424467
El Tejon Cattle Co	70060810000571424450
Blue Diamond Oil Corp.	70060810000571424443