



**United States Department of the
Interior**

BUREAU OF LAND MANAGEMENT

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**In Reply Refer To:
4710.4 (NV-042)**

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

**Wilson Creek Complex
Ely Field Office**

**ENVIRONMENTAL ASSESSMENT
NV 040/02/001**

February 6, 2002

INTRODUCTION

The Bureau of Land Management (BLM) Ely Field Office proposes a maintenance gathering of wild horses within the boundaries of the Wilson Creek, Deer Lodge Canyon, Little Mountain, and Miller Flat Wild Horse Herd Management Areas (HMAs). The area is currently being managed as a complex (or single herd) due to the unfenced boundaries between the HMAs, and the high amount of immigration and emigration between the herds. The area is known as the Wilson Creek Complex. The current population of wild horses within the complex is 935 animals. The Appropriate Management Level (AML) for the complex is 265 wild horses. The AML for each HMA within the complex is established through the allotment evaluation/multiple use decision process. The primary purpose of the proposed action is to bring the wild horse population down to the AML which will prevent deterioration of the health and condition of the wild horses, as well as the vegetative resources. Documents containing this information are filed at the Ely Field Office and/or Caliente Field Station.

The preliminary environmental assessment (EA) was sent to the persons, groups, and agencies listed on pages 17, 18, and 19 of that document on December 26, 2001, with a 30-day review and comment period. Three comment letters were received during this time.

One comment letter was received from The Fund for Animals Inc. (The Fund) concerning whether or not the AMLs had been established on each of the HMAs involved in the Wilson Creek Complex. The Fund also had several questions concerning the population model and how forage was allocated among competing users. In addition, The Fund raised the issue of genetic viability and the exchange of genetic material between the bands of horses within the complex. The Fund demanded that the BLM complete an environmental impact statement before proceeding with the Wilson Creek Complex Gather. These concerns will be addressed in a separate letter to The Fund. This response letter will be available to other interested parties upon request.

A second comment letter was received from the Commission For The Preservation Of Wild Horses concerning recruitment rates, Land Use Plan conformity, Multiple Use Decisions, herd selection criteria, and determination of AML. This response will also be available to other interested parties upon request.

A third comment letter was received from Wayne Lister in support of Alternative 1.

Additional comments were received from the BLM Office of National Wild Horse and Burro Program.

As a result of the comments received, some changes were made to the final EA/Gather Plan from the preliminary version. The final EA/Gather Plan is available upon request. The changes, except for minor editorial changes, include:

1. On page 1, a reference was added for the percent annual increase in wild horse numbers.
2. Also on page 1, the statement regarding the establishment of AMLs for the HMAs was corrected.
3. On page 3, the status of the multiple use decisions for the Deer Lodge Canyon and Little Mountain HMAs was updated.
4. On page 4, an explanation of how we would determine the horses we would retain in the herds was provided.
5. Also on page 4, the reason for gathering blood samples was added.
6. Figures in Table 1 on page 5 were corrected based on recent multiple use decisions.
7. On page 5, what is in Appendix II was clarified.

8. Under "Alternative Considered But Eliminated From Detailed Analysis" on page 6, the alternatives pertaining to a "gate cut" and to removing only adoptable horses was deleted from the document, and replaced with an alternative to do fertility control on all released mares.

SUMMARY OF PROPOSED ACTION

The proposed action is to remove all animals in excess of the established AML from the Wilson Creek Complex. This removal will remove all age classes in the following priority order:

1. Age class: 5 years old and under
2. Age class: 10 years old and over
3. Age class: 6 through 9 years old

The first animals to be removed would be five years and younger, and the second class of animals to be removed would be 10 years and older. Animals aged six to nine would be left in the field unless they need to be removed to achieve AML for that herd management area.

The proposed action for the Wilson Creek Complex would be to capture near 100 percent of the estimated 2001 population, or 935 wild horses, and remove approximately 670 horses. Data will be collected on animal sex, age, color, and assessment of herd health (pregnancy, parasite loading, physical condition, etc.). Blood samples will be taken to collect baseline data on origination of the horses, genetics, and exposure to equine diseases (such as strangles). Individual animals would be sorted as to age, sex, temperament and/or physical condition, and animals selected to be return to the range. Horses determined to be in excess of AML would be transported to BLM holding facilities.

Multiple capture sites (traps) would be used to capture wild horses from the HMAs. Whenever possible, capture sites would be located in previously disturbed areas. All capture and handling activities (including capture site selections) would be conducted in accordance with Standard Operating Procedures. Selection of capture techniques would be based on several factors such as herd health, season of the year, and environmental considerations. The removal of excess wild horses to achieve and maintain AML is tentatively scheduled to commence on February 8, 2002 and last approximately 21 days.

DECISION RECORD

As a result of the analysis presented in the EA, and to be in conformance with the Multiple Use Decision Process as well as the Court Order issued by the United States District Court for the District of Columbia, it is my decision to approve the Proposed Action as amended. Only the Wilson Creek HMA will be gathered down to the appropriate management level of 160 horses. No horses will be gathered from the Deer Lodge, Little Mountain, and Miller Flat HMAs.

Rationale: The proposed action is being selected due to the impact of the Court Order on behalf of The Fund For Animals, et al. (Plaintiffs) and the United States Bureau of Land Management

et al. (Defendants) pursuant to the parties' JOINT STATUS REPORT, STIPULATION, & MOTION FOR A STAY OF PROCEEDINGS ON PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION. This Court Order requires BLM to notify The Fund For Animals 60 days in advance of any gather where the wild horse/burro population would be reduced below AML. This Court Order pertains to all gathers that will begin between December 18, 2001 and May 1, 2002. The gathering "window" for the Wilson Creek Complex Gather would not allow adequate time for this notification and still provide enough time to complete the gather prior to shutting down for the foaling season beginning March 1, 2002.

The Wilson Creek HMA will be the only HMA gathered because the Final Multiple Use Decisions for the Deer Lodge Canyon and Little Mountain HMAs, which must provide a 30-day appeal period, have not been issued. It would not be possible to accommodate that 30-day appeal period and still have enough time to conduct a gather before the foaling season. The Miller Flat HMA will not be gathered because of its location between the Deer Lodge Canyon and Little Mountain HMAs even though the AML for the Miller Flat HMA has been established through a FMUD.

Selection of the No Action alternative would not be consistent with BLM legal mandates which state, "Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat." (Title 43, CFR, 4700.0-6(a)).

Gathering horse only from the Wilson Creek HMA portion of the complex is within the scope of the analysis of the Proposed Action. Implementation of the Proposed Action within the Wilson Creek HMA would result in short-term impacts to soils, vegetation, wildlife, and wild horses, and will restore a "thriving natural ecological balance on the public lands" in the immediate future. It has been determined the cumulative impacts would be negligible for most resources.

FINDING OF NO SIGNIFICANT IMPACT

Based on the analysis in the EA, I have determined there will not be significant impact to the quality of the human environment; therefore, an environmental impact statement is not required.

Rationale: My finding of no significant impact is based on the following:

The action will not affect public health or safety

The action will have no adverse effects on such unique characteristics as cultural or historic resources, wetlands, wild and scenic rivers, wilderness study areas, or areas of critical environmental concerns.

The action will have no adverse effects on federally listed threatened or endangered species, or on designated critical habitat for these species.

The action will not threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

REMOVAL DECISION

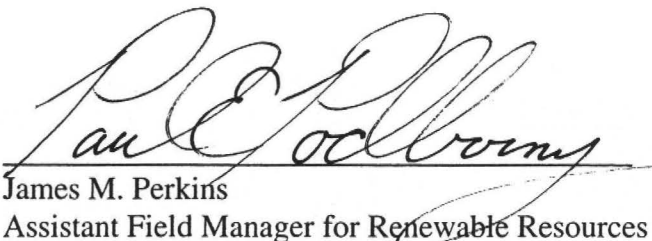
In accordance with 43 CFR 4770.3 (c), this constitutes my final decision to gather wild horses within the Wilson Creek HMA portion of the Wilson Creek Complex, and is placed in full force and effect.

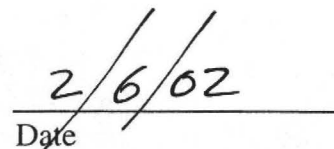
This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR, Part 4. If an appeal is taken, your appeal must be filed with the Bureau of Land Management, Ely Field Office, HC33 Box 33500, Ely, Nevada, 89301, within 30 days 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 4939, January 19, 1993) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted to the Interior Board of Land Appeals, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, and to the Office of the Solicitor, U.S. Department of the Interior, Suite 6201, Federal Bldg., 125 South State St., Salt Lake City, Utah, 84138, 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. A petition for a stay of a decision pending appeals shall show sufficient justification based on the following rules:

- (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.

for 
James M. Perkins
Assistant Field Manager for Renewable Resources


Date