

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

**Buffalo Hills Herd Management Area
Wild Horse Capture Plan and Environmental Assessment
LLNV-W03000-2009-0001-EA**

Introduction

This decision is being issued to gather up to 490 wild horses and remove 462 wild horses from the Buffalo Hills Herd Management Area (HMA) administered by the Black Rock Field Office (BRFO), Winnemucca District Office (WDO).

The Buffalo Hills HMA is located 80 miles north of Reno and 100 miles west of Winnemucca, within Washoe County, Nevada. This HMA is approximately 132,000 acres in size and lies north and west of Gerlach, Nevada.

The current appropriate management level (AML) is established as a range of 188-314 wild horses (Buffalo Hills Allotment Final Multiple Use Decision, 2/93 & EA #NV020-00-50, 11/00). Managing wild horse populations within this number is expected to assure a thriving natural ecological balance and multiple-use relationship within the Buffalo Hills area.

A helicopter aerial census completed in December 2007 revealed a direct count of 542 head. This data suggests an average annual growth rate of 21% for this herd since the last gather. With the addition of the 2008 foal crop, the current estimated population for the Buffalo Hills HMA is 650 wild horses, about 3.5 times the low range of the AML (188 head).

On December 5, 2008, the Winnemucca District Office issued the *Buffalo Hills Herd Management Area Wild Horse Capture Plan and Final Environmental Assessment* (EA) LLNV-W03000-2009-0001-EA to interested publics for review and substantive comments.

DECISION

It is my decision to select a combination of Alternative B - Remove Excess Wild Horses without Fertility Control and Alternative C - Remove Excess Wild Horses, Adjust Sex Ratio in Favor of Males (if more than 462 horses are gathered) for implementation as described in the *Buffalo Hills Herd Management Area Wild Horse Capture Plan and Environmental Assessment* (EA) LLNV-W03000-2009-0001-EA effective upon the date of my signature below. This decision is placed in Full Force and Effect in accordance with Title 43 of the Code of Federal Regulations (CFR) at 4770.3(c). It may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR part 4.

The purpose of the selected actions are to capture about 490 and remove approximately 462 excess wild horses from the Buffalo Hills Herd Management Area (HMA). If more than 462 horses are captured, up to 28 studs will be released to slightly adjust the sex ratio in favor of

males (57%, estimate). This is expected to slightly reduce the annual recruitment rate and was analyzed as Alternative C in the EA. Removal of 462 wild horses will reduce the current herd population to established appropriate management levels (AML) of 188-314 head. The estimated number of wild horses remaining within the HMA following the gather will be at least 188 animals.

Management of this wild horse population will protect wild horse health and range deterioration associated with the current overpopulation of wild horses as authorized under Section 3(b) (2) of the 1971 Wild Free-Roaming Horses and Burros Act (WFRHBA) and Section 302(b) of the Federal Land Management and Policy Act of 1976.

The following statements will also apply:

- The capture will be scheduled to occur sometime in January or February 2009 and will take about two weeks to complete. All gathering and handling activities will be conducted in accordance with the Standard Operating Procedures (SOP's) described in Appendix A. Several factors such as animal condition, herd health, weather conditions, or other considerations may result in adjustments to the gather schedule.
- The helicopter drive method will be used and will include multiple trap sites. BLM will be responsible for contractor compliance to national contract specifications, including SOPs.
- Trap sites and holding facilities will be located in previously used trap sites and other disturbed areas. Undisturbed areas will be inventoried for cultural resources. If cultural resources are encountered, these locations will not be utilized unless they could be modified to avoid impacts to cultural resources. Trap sites and holding facilities will not be placed in known areas of Native American concern.
- Information such as: age, sex, color, body condition, or other characteristics will be recorded on captured animals.
- Hair samples for genetic testing will be taken on about 50 wild horses.
- Excess animals will be sent to Bureau facilities for adoption, sale, or long-term holding.
- Noxious weed monitoring at trap sites and temporary holding facilities will be conducted in the spring and summer of 2009 by BLM. Treatment will be provided, if necessary, following guidance from the Noxious Weed Control EA# NV-020-02-19.

The following monitoring requirements will also apply:

Monitoring

The BLM Contracting Officer Representative (COR) and Project Inspectors (PIs) assigned to the gather will be responsible for insuring contract personnel abide by contract specifications and SOPs. Ongoing rangeland, riparian, and wild horse monitoring within the Buffalo Hills HMA will continue, including periodic aerial population census counts.

Monitoring the herd's social behavior will be incorporated into routine HMA monitoring. The objective of this additional monitoring will be to determine if additional studs form bachelor bands, or are more aggressive in competing with breeding bands for forage and water than at present.

Rationale

Due to the mountainous terrain, juniper vegetative cover, and potential winter storm conditions, gather efficiency is expected to be reduced, and it may not be possible to gather 80-90% of the horses within this HMA. Therefore, a combination of Alternative B – Remove Excess Wild Horses without Fertility Control and Alternative C – Remove Excess Wild Horses, Adjust Sex Ratio in Favor of Males (if more than 462 horses are gathered) will be employed as gather efficiency allows to remove excess wild horses and reduce the annual recruitment rate (see the Population Modeling results in the EA) by slightly altering the mare to stud sex ratio in favor of studs (estimate 57% studs remaining in the herd after the gather action).

After a review of the EA and FONSI, the selection and implementation of a combination of Alternatives B and C will result in the greatest potential to protect, manage, and control healthy, self-sustaining wild horse populations within the Buffalo Hills HMA at appropriate management levels (AMLs) in a manner designed to achieve and maintain a thriving natural ecological balance (TNEB) and multiple-use relationship on public lands.

(a) Potential Impacts to Animal Health.

The lack of forage and other factors present a high potential risk of starvation and/or death to wild horses and wildlife this winter. High elevation winter habitat, expected snow accumulation, overpopulation of wild horses, depletion of existing forage, competition for limited resources with wildlife, and the lack of horse movement all contribute to the high risk this herd currently faces.

Ground observations this summer indicate immature (1-3 year old) horses and many lactating mares are moderately thin (Henneke 4-4+) which is not an ideal body condition when going into the winter. Aerial observations last winter (December 07) found body conditions ranged between thin and moderately fleshy (Henneke 3 and 6); with the majority of horses estimated as moderately thin (Henneke 4). The lack of sufficient forage (energy) due to current forage depletion and/or low nutritional value - decadent browse, etc., cold winter temperatures and snow fall accumulation will stress horses over the winter months with no additional forage available until next spring (late March/April).

(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. Limited watering sites are available and drought conditions are expected to persist. Native perennial grasses are heavily utilized at higher elevations and very limited or absent in lower elevations. Continued over population of wild horses will result in further degradation and loss of habitat utilized by wild horses, wildlife and livestock.

The selected actions are in conformance with the wild horse objectives in the 1982 Sonoma-Gerlach Resource Area Management Framework Plan. Based on the environmental analysis, it is determined that these actions will not result in any undue or unnecessary environmental degradation of the public lands and is consistent with federal, state, and local laws, regulations

and plans.

Public Involvement

The BLM received comment letters from a number of individuals, organizations and agencies on the preliminary EA during a 20-day public comment period that ended on December 24, 2008. All comments received were either outside the scope of this environmental analysis or a matter of opinion which did not affect the analysis. Therefore, no changes were made to the Final EA.

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, 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 part.

§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.

FINDING OF NO SIGNIFICANT IMPACT

Based on the analysis of potential environmental impacts contained in LLNV-W03000-2009-0001-EA, I have determined that the Proposed Action (Alternative A), Alternative B and Alternative C will not have a significant impact to the human environment. Therefore, in accordance with Section 102(2) (C) of the National Environmental Policy Act, the preparation of an environmental impact statement is not required for the following reasons:

- 1) Sensitive resource values will not be adversely impacted from implementation of the selected actions;
- 2) There will be no adverse affect on threatened or endangered, or Nevada State sensitive species;
- 3) The gather will not adversely affect or cause a destruction of significant scientific, cultural, or historic resources;
- 4) The selected actions will not adversely affect public health or safety. The gather and its potential effects on the human environment are not highly uncertain and do not involve unique or unknown risks.

The BLM received comment letters from a number of individuals, organizations and agencies on the preliminary EA during a 20-day public comment period that ended on December 24, 2008. All comments received were either outside the scope of this environmental analysis or a matter of opinion which did not affect the analysis. Therefore, no changes were made to the Final EA.

Appeal Provisions

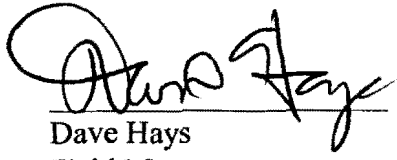
Within 30 days of receipt of this wild horse decision, you have the right to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with regulations at 43 CFR 4.4. If an appeal is taken, you must follow the procedures outlined in Form 1842-1 (enclosed or available on the web site). 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 Form 1842-1. The appellant has the burden of proof to demonstrate that a stay should be granted.

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)).



Dave Hays
Field Manager
Black Rock Field Office

1/7/09
Date