



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Elko Field Office

3900 East Idaho Street

Elko, Nevada 89801-0611

<http://www.nv.blm.gov>



In Reply Refer To:
4710.4 (NV-012)

OCT 6 1999

Wild Horse Organized Assistance
Ms. Dawn Lappin
PO Box 555
Reno, NV 89504

CERTIFIED NUMBER: P213 904 235

Dear Interested Party:

This letter is to inform you that the Elko Field Office intends to gather and remove approximately 150 wild horses impacted by the Sadler Complex Wildland Fire. This fire was started by lightning on August 5, 1999 and burned 199,198 acres before control was declared on August 12, 1999. Almost 90% of the Diamond Hills North Herd Management Area was burned, therefore, wild horses must be removed to allow natural resources to recover. The gather is to commence on or about October 20, 1999.

The Elko Field Office has prepared several documents which pertain to this action. Because this is an emergency action, the Environmental Assessment (EA), Finding of No Significant Impact (FONSI), and Decision Record (DR) are final and are being sent to you for informational purposes only. The final decision to gather and remove wild horses effected by the fire is being placed in Full Force and Effect. This decision may be appealed to the Interior Board of Land Appeals. Should you wish to file an appeal, instructions for doing so are contained in the Notice of Full Force and Effect Decision.

Please find the following documents enclosed:

1. Environmental Assessment for the Sadler Complex Wildland Fire Emergency Wild Horse Gather and Removal (EA# BLM/EK/PL-99-044);
2. Finding of No Significant Impact and Decision Record for EA# BLM/EK/PL-99-044;
3. Notice of Full Force and Effect Decision for the Sadler Complex Wildland Fire Emergency Wild Horse Gather and Removal;
4. Notice of Intent to Impound.

If you have any questions following the examination of these documents, please contact
Kathy McKinstry, Elko Field Office Wild Horse Specialist, at the above address, or telephone
(775) 753-0200.

Sincerely,

A handwritten signature in cursive script that reads "Helen Hankins". The signature is written in dark ink and is positioned above the printed name and title.

HELEN HANKINS
Elko Field Office Manager

9/30/99



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Elko Field Office
3900 East Idaho Street
Elko, Nevada 89801-0611
<http://www.nv.blm.gov>

In Reply Refer To:
4710/4120 (NV-012)

NOTICE OF INTENT TO IMPOUND DIAMOND HILLS NORTH HERD AREA

The Elko District Office is proposing to gather wild horses from public lands in the State of Nevada.

This Notice is to inform you that any unauthorized livestock grazing upon public land or other lands under Bureau of Land Management's control in the Elko District are in violation of 43 CFR 4140.1(b)(1) and may be impounded.

The unauthorized livestock may be impounded at any time after five (5) days from delivery of this notice or after five (5) days from the publishing and posting of this Notice. The owner of livestock so impounded will be permitted to redeem and regain possession of the livestock claimed upon payment of:

1. The value of forage consumed;
2. The damage to the public lands and other property of the United States; and
3. The cost of impoundment and removal thereof as provided for by regulation 43 CFR 4150.4-4.

In accordance with 43 CFR 4150.4-2, impoundment may occur without further notice within a twelve (12) month period following the effective date of this Notice.

The area affected by this Notice is specifically the following allotments:

Browne, Dixie Creek, Little Porter, Pony Creek, Robinson Creek, Union Mountain, Bruffy, Indian Springs, Pine Mountain, Red Rock, Robinson Mountain

HELEN HANKINS
District Manager

SEP 30 1999
DATE



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Elko Field Office
3900 East Idaho Street
Elko, Nevada 89801-0611
<http://www.nv.blm.gov>



In Reply Refer To:

4710.4 (NV-012)

NOTICE OF FULL FORCE AND EFFECT DECISION
SADLER COMPLEX WILDLAND FIRE
EMERGENCY WILD HORSE GATHER AND REMOVAL

MANAGEMENT ACTION: The action is to gather and remove wild horses from the Diamond Hills North Herd Management Area (HMA) and the areas north of the HMA where wild horses are currently found. Approximately 150 horses are estimated to inhabit these areas. The action would implement one of the recommendations in the Burned Area Emergency Rehabilitation (BAER) 1999 Northern Nevada Fire Complex Burned Area Rehabilitation Plan dated August 30, 1999.

BACKGROUND INFORMATION: The Sadler Complex fire was started by lightning on August 5, 1999 and burned 199,198 acres before control was declared on August 12, 1999. The fire was within the Diamond Hills North HMA which encompasses approximately 70,000 acres of public and private lands. Approximately 90% of the HMA was burned and most of the horses have moved outside of the HMA to the north in search of forage. A census flight conducted on August 25, 1999, found a total of 123 horses. 31 adults and 3 foals were found within the Diamond Hills North HMA and the remainder, 72 adults and 17 foals, were found north of the HMA. The area north of the HMA is not designated as either a herd management area nor a herd area, and therefore, the Bureau of Land Management cannot allow the horses to remain in the area.

Wild horses need to be excluded from the burned area to allow natural resources, such as soils and vegetation to recover. In most cases, it could take two growing seasons following the burn or reseeding for plant species to become established enough to withstand the impacts of grazing and still provide necessary watershed protection. Hence, the Red Rock and Brown Allotments (which make up the Diamond Hills North HMA) will be closed to both livestock and wild horses until the area has recovered. When the allotments are re-opened to livestock grazing, wild horses will be allowed to return to the HMA as well.

The gather will be an age selective removal. Mares age nine and under and studs age seven and under will be gathered and sent to the wild horse adoption program. It is anticipated that 67 horses will be eligible for the adoption program. Horses older than this age criteria will be relocated into the Diamond HMA which is administered by the Battle Mountain Field Office. It is anticipated that 58 horses will have to be relocated. Because the Diamond HMA is currently at or above appropriate management level (AML), the BLM will need to gather 58 horses from the Diamond HMA or the Diamond Hills South HMA which is administered by

the Ely Field Office.

DECISION: Enclosed is the Decision Record, Finding of No Significant Impact and the environmental assessment (EA#BLM/EK/PL-044) which analyzes the impacts of removing wild horses within and outside the Diamond Hills North HMA. Given the information contained in these documents, it is my decision to gather and remove approximately 150 wild horses from the Diamond Hills North HMA and areas outside the HMA. Approximately 58 horses will be relocated into the Diamond HMA.

METHODS: The method of capture will be to use a helicopter to herd the animals to portable wing traps. The BLM will conduct the removal through a private contractor under the current requirements contract and supervised by a Contracting Officer's Representative. It is estimated that 2-3 trap locations will be required.

DATES: The action is scheduled to begin on October 20, 1999, and will likely be ten days in duration.

LOCATION: The action will occur in the Diamond, Diamond Hills South and Diamond Hills North HMAs. Horses will also be gathered from areas north of the Diamond Hills North HMA as this area is not a designated herd area.

AUTHORITY: The authority for this decision is contained in Sec.3(a) and (b) and Sec.4 of the Wild Free Roaming Horse and Burro Act (P.L. 92-195) as amended and Title 43 of the Code of Federal Regulations. The authority for the Full Force and Effect decision can be found at 43 CFR 4770.3(c) which states:

The authorized officer may place in full force and effect decisions to remove wild horses or burros from public lands if removal is required by applicable law or to preserve or maintain a thriving ecological balance and multiple use relationship. Full force and effect decision shall take effect on the date specified, regardless of an appeal. Appeals and petitions for stay of decision shall be filed with the Interior Board of Land Appeals, as specified in the part.

APPEALS: Within 30 days of receipt of this decision, you have the right of appeal to the board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR, Part 4, Subpart E and 43 CFR 4770.3(a) and (c). Within 30 days after filing a Notice of Appeal, you are required to provide a complete statement of the reasons why you are appealing. The appellant has the burden of showing that the decision appealed from is in error. If you wish to file an appeal and petition for a stay, the petition for a stay must accompany your notice of appeal and be in accordance with 43 CFR, Part 4, Subpart E and 43 CFR 4770.3(c). Copies of the Notice of Appeal and Petition for a Stay must be submitted to (1) the Interior Board of Land Appeals, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, (2) the Regional Solicitor's Office, Western Region, U.S. Department of the Interior, Federal Building, Suite 6201, 125 S. State Street, Salt Lake City, UT 84138-1180, and (3) Elko Field Office, 3900 E. Idaho Street, Elko, NV 89801. The original documents should be 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 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.

ADDITIONAL INFORMATION: Contact Kathy McKinstry of my staff, at (775) 753-0290 or write to the above address.

Helen Hankins

HELEN HANKINS
Elko Field Office Manager

October 6, 1999

DATE



United States Department of the Interior
Bureau of Land Management
Elko Field Office

October 6, 1999

*Diamond Hills 10/6/99
HMA*



ENVIRONMENTAL ASSESSMENT
BLM/EK/PL-99-044

Sadler Complex Wildland Fire
Emergency Wild Horse
Gather And Removal

**FINDING OF NO SIGNIFICANT IMPACT
AND
DECISION RECORD**

**SADLER COMPLEX WILDLAND FIRE
EMERGENCY WILD HORSE GATHER AND REMOVAL**

BLM/EK/PL-99-044

Finding of No Significant Impact

Based on the analysis of potential environmental impacts contained in Environmental Assessment BLM/EK/PL-99-044, I have determined that the action will not have a significant effect on the human environment, and therefore, an environmental impact statement will not be prepared.

Decision

It is my decision to approve the emergency gather, removal and relocation of wild horses effected by the Sadler Complex wildland fire as described in the proposed action of BLM/EK/PL-99-044. Each of the Standard Operating Procedures described in the Proposed Action will be strictly followed.

Monitoring

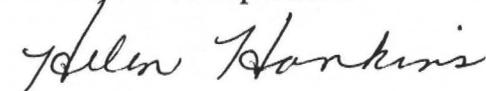
The monitoring described in the proposed action of BLM/EK/PL-99-044 is sufficient for the proposed action.

Rationale

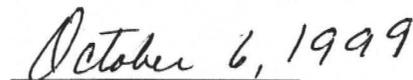
This action will allow for the gather and removal of wild horses within and adjacent to the Sadler Complex wildland fire. This will allow for the recovery of natural resources, such as soils, vegetation, watersheds, wildlife, fisheries and wild horse habitat. It will also allow for the fire rehabilitation projects to be implemented without adverse impacts to wild horses. When the area has recovered from the effects of the fires, wild horses will be returned to the Diamond Hills North Herd Management Area (HMA).

The No Action Alternative was not selected because it would not allow for the rehabilitation and recovery of natural resources with the burned area. It would also allow wild horses to inhabit areas outside of a designated HMA which is in violation of Public Law 92-195 as amended and 43 CFR 4710.4.

The proposed action is in conformance with the objectives of the Elko Resource Management Plan and is consistent with Federal, State and local laws, regulations and plans to the maximum extent possible.



HELEN HANKINS
Elko Field Office Manager


DATE

CHAPTER I - INTRODUCTION/PURPOSE AND NEED

Introduction

After a series of devastating wildland fires that burned over 735,482 acres in Northern Nevada, the Bureau of Land Management (BLM), Elko Field Office, requested the assistance of the Department of the Interior Burned Area Emergency Rehabilitation (BAER) Team, Southern States. The team arrived in Elko the following day, July 27, 1999, and the rehabilitation planning process was initiated. The team produced The 1999 Northern Nevada Fire Complex Burned Area Rehabilitation Plan dated August 30, 1999. The plan covers the rehabilitation of nearly 800,000 acres in the Elko and Battle Mountain Field Offices.

The Sadler Complex fire was started by lightning on August 5, 1999 and burned 199,198 acres before control was declared on August 12, 1999. The fire was within the Diamond Hills North Herd Management Area (HMA) which encompasses approximately 70,000 acres of public and private lands. Approximately 90% of the HMA was burned and most of the horses have moved outside of the HMA to the north in search of forage. The BAER Team recommendations for the Sadler Complex Fire are as follows:

Soil/Water Resources

- Rehabilitate 157 miles of fireline
- Reseed 332 acres of fireline
- Survey 1,025 acres of critical watershed

Wildlife Resources

- Aerial seed 35,000 acres of critical wildlife winter range
- Monitor 35,500 acres of critical wildlife winter range
- Reconstruct 16 miles of riparian fence to protect T&E Species on Dixie Creek

Forest/Woodland

- Reforestation of 875 acres of woodland
- Monitor 905 acres of aspen

Cultural Resources

- Survey 157 miles of dozerline
- Protect Historic rock shelter from post-fire vandalism
- Survey 15,986 acres for seeding site preparation
- Mitigate fire damage to Mineral Hill Cemetery and town site

Infrastructure Resources

- Replace 6 road signs
- Repair 124 miles of road
- Construct 4 flood warning signs

Vegetation Resources

- Repair 42 miles of fence
- Construct 2 miles of new fence
- Replace 60 miles of fence
- Drill seed 15,986 acres
- Aerial seed 63,150 acres

5,390 acres of green stripping
Monitor for seeding success
Monitor and inventory 12,000 acres for noxious weeds
Exclude 150 wild horses (emphasis added)

In 1997, a wild horse gather and removal was conducted in the Diamond Complex, which included the Diamond Hills North, Diamond Hills South and Diamond HMAs. These HMAs are managed by the Elko, Ely and Battle Mountain Field Offices respectively. At the completion of that gather, a total of 40 horses were returned to the Diamond Hills North HMA, however a census flight conducted on August 25, 1999 found a total of 123 horses. 31 adults and 3 foals were found within the Diamond Hills North HMA and the remainder, 72 adults and 17 foals, were found north of the HMA. Approximately 100 miles of allotment boundary fences burned, so wild horses are currently able to move about to find adequate food and water resources.

Allotments Affected: Union Mountain, Flynn/Parman/Jiggs, El Jiggs, Sleeman, Robinson Mtn., Robinson Creek, Red Rock, Browne, Indian Springs, Pony Creek, Union Mtn., Mineral Hill, Bruffy, Merkley FFR.

Purpose and Need

The proposed action is to gather and remove wild horses in the area of the Sadler Complex Wildland Fire rehabilitation project. The purpose of this capture/removal plan is to outline the methods and procedures to be used in the capture/removal process and to discuss the disposition of the older unadoptable horses removed from the area.

Wild horses need to be excluded from the burned area to allow natural resources, such as soils and vegetation to recover. In most cases, it could take two growing seasons following the burn or reseeding for plant species to become established enough to withstand the impacts of grazing and still provide necessary watershed protection. Hence, the Red Rock and Brown Allotments would be closed to both livestock and wild horses for at least two growing seasons, although site specific monitoring will ultimately determine just when resource objectives have been achieved on specific burned areas. At the end of the closure period, wild horses would be allowed to return to the Diamond Hills HMA. This may be accomplished by simply opening gates and allowing the horses to move into the HMA, or a helicopter may be utilized to herd the horses back into the HMA. Because the Diamond Hills North HMA is part of the larger Diamond Complex and the horses intermix readily, recolonization of the Diamond Hills North HMA would not be a problem.

This document will also address the proposed selective removal policy of removing mares aged 9 and under and studs aged 7 and under and placing these animals in the adoption program. Mares and studs older than this age group would be relocated in the either the Diamond HMA, administered by the Battle Mountain Field Office, or the Diamond Hills South HMA, administered by the Ely Field Office. It is anticipated

that it would be necessary to conduct gathers in both of these HMAs to accommodate the 58 older horses that would come from the burned area.

The wild horse gather would be conducted by the Bureau of Land Management (BLM) Elko, Battle Mountain and Ely Field Offices. The removal operation would begin after issuance of the final gather plan and environmental assessment by the Elko Field Office.

The proposed action(s) would: (1) allow the range to recover after a devastating wild fire, (2) prevent further deterioration of the range not affected by the wild fire but now threatened by an overpopulation of wild horses, and (3) allow the BLM to remove wild horses currently residing outside a designated HMA in accordance with 43 CFR 4710.4.

Land Use Plan Conformance Statement

The Elko, Shoshone-Eureka and the Egan Resource Area Resource Management Plans (RMPs) are silent on the proposed action and alternatives of gathering wild horses and excluding them from an area that has been burned over by a wildland fire. The proposed action and alternatives are however, consistent with the objectives of the RMPs and are consistent with Federal, State and local laws, regulations, and plans to the maximum extent possible.

Relationship to Planning

The Battle Mountain Field Office has prepared several environmental assessments, EA#N66-EA8-42 and EA#N64-EA94-37 which address the gather of wild horses from the Diamond HMA. These documents are available for review at the Battle Mountain Field Office. The Ely Field Office also has three environmental documents on file pertinent to the Diamond Complex HMAs capture/removal. These are: EA NV-040-8-15, S1-93-NV-040-8-15, S1-95-NV-040-8-15. These documents analyze the environmental consequences for the capture, removal, and release of older horses from the Diamond Hills South HMA and the Diamond horse free areas. These documents are on file at the Ely Field Office. The Elko Field Office, in conjunction with the Ely and Battle Mountain Field Offices, conducted documentation of NEPA adequacy on the 1997 gather/removal of wild horses from the Diamond Complex HMAs. The Administrative Determination is referenced as NV-040-8-15 (AD-97-1).

The capture area is not covered by a herd management area plan (HMAP). IBLA has ruled "...that it is not necessary that BLM prepare an HMAP as a basis for ordering the removal of wild horses, so long as the record otherwise substantiates compliance with the statute. Indeed, 43 CFR 4710.3-1 does not require preparation of an HMAP as a prerequisite for a removal action. Thus, we are not persuaded that preparation of an HMAP must in all cases precede the removal of wild horses from an HMA/WHT, and decline to order preparation of HMAP's." (IBLA 88-591, 88-638, 88-648, 88 679, at 127).

The removal also implements the Strategic Plan for Management of Wild Horses and Burros on Public Lands, issued on 6/92; U.S. Department of the Interior, Bureau of Land Management. The Strategic Plan states that only animals between the ages of 1 and 3 years should be removed. However, current National and Nevada policy is to remove animals up to nine years of age from HMAs and from horse free areas, and to adjust the removal criteria somewhat in cases of emergency.

CHAPTER II - PROPOSED ACTION AND ALTERNATIVES

PROPOSED ACTION

The proposed action is to gather and remove wild horses found within the Diamond Hills North HMA (approximately 49); gather and remove horses found within the Robinson Mountain Allotment (approximately 66); and gather and remove wild horses from the Indian Springs and Pine Mountain Allotment (approximately eight, four in each allotment). Each of the allotments named above are outside designated HMAs and involved checkerboard land patterns (alternating sections of public and private lands). See Map 1 for the general location for the proposed action and Map 2 for a detailed location of the Diamond Hills North HMA and the Sadler Complex Wildland Fire.

As part of the proposed action, gathers would take place in the Diamond and Diamond Hills South HMAs. Young horses (weanable foals through age 5) would be sent to PVC and the older horses would be returned to the range. This action would accommodate the older horses gathered from the burned area.

The removal would be selective by age and only healthy animals between the ages of zero to nine for mares and zero to seven for studs, would be removed from the HMA and the area outside the HMA for shipping to Palomino Valley Corrals (PVC). At PVC, the horses would be prepared for the adoption program. Mares older than nine years, and studs older than seven would be released into either the Diamond HMA or the Diamond Hills South HMA, both of which are adjacent to the areas from which the horses would be captured. Horses would be released in canyons that are well watered. Released animals will be monitored within 72 hours to ensure that they are not caught behind fences and that they have found water and forage.

Mares that are to be released/relocated would be treated with an immuno-contraceptive agent, if available, which would inhibit reproduction in the following breeding season.

Time and Method of Capture

Because the proposed action is part of the wildland fire emergency rehabilitation plan, the removal would be scheduled to commence on October 20, 1999. As there is no forage left in the HMA, it would be critical to removal the horses prior to winter to prevent starvation.

The method of capture would be to use a helicopter to herd the animals to portable wing traps. It is the intention of the BLM to conduct the removal through a private

contractor under the current requirements contract. At least one qualified Bureau employee would be supervising the capture operation and one Bureau employee would be supervising the sorting and shipping operations at all times. It is estimated that 4-5 trap locations would be required to accomplish the work.

The terrain in the proposed removal area varies from flat valley bottoms to extremely mountainous, and the horses could be located at all elevations during the month of October. There are few physical barriers and fences in the area and the contractor would be instructed to avoid them.

Administration of the Contract

BLM would be responsible for overseeing a contract for the capture, care, aging and temporary holding of approximately 200 wild horses from the capture area. BLM would also be responsible to oversee the transportation of approximately 67 wild horses to the adoption preparation facility as specified in the removal contract, which is expected to be Palomino Valley Corrals (PVC).

Within two weeks prior to the start of the contract, BLM would conduct a pre-capture evaluation of existing conditions in the capture area. The evaluation would include animal condition, prevailing temperatures, snow conditions, soil conditions, topography, road conditions, locations of fences and other physical barriers, and animal distribution in relation to potential trap locations.

The contractor would be briefed on duties and responsibilities before the notice to proceed is issued. There would also be an inspection of the contractor's equipment at this time to ensure that it meets specifications and is adequate for the job. Any equipment that did not meet specifications would be replaced within 36 hours. The contractor would also be informed of the terrain involved, the condition of the animals, the condition of the roads, potential trap locations, motorized equipment limitations, and the presence of fences and other dangerous barriers. The contractor would be provided with a topographic map of the capture area which shows acceptable trap locations and existing fences and/or physical barriers prior to any gathering operation. The contractor would also be apprised of the existing conditions in the capture area and would be given direction regarding the capture and handling of animals to assure their health and welfare is protected.

At least one authorized BLM employee, a Contracting Officer's Representative (COR) or Project Inspector (PI), would be present at the site of captures/removals. The COR/PI would be directly responsible for the capture/removal. Other BLM personnel may be needed to assist the operation (i.e., an archaeologist or an archaeological technician to conduct cultural inventories, and a BLM law enforcement agent to protect BLM personnel and property from unlawful activities).

The CORs/PIs would be directly responsible for the conduct of the capture/removal operation and for reporting progress to the Elko and Battle Mountain Field Office Managers and to the Nevada State Office.

All publicity, public contact, and inquiries would be handled through the Managers for Renewable Resources. The managers would also coordinate the contract with the National Wild Horse and Burro Center at Palomino Valley, the adoption preparation facility, to assure there is space available in the corrals for the captured horses, animals are handled humanely and efficiently, and animals being transported from the capture site are arriving in good condition.

The COR/PIs would constantly evaluate the contractor's ability to perform the required work in accordance with the contract stipulations. Compliance with the contract stipulations would be ensured through issuance of written instructions to the contractor, stop work orders and default procedures should the contractor not perform work according to the stipulations.

To assist the COR/PI in administering the contract, the BLM would have a helicopter available, if needed, at the roundup site. This helicopter would be used with discretion to minimize disturbance of horses that would make capture more difficult. However, it would be used as needed to assure that the contractor is complying with the specifications of the contract and to ensure the humane capture of animals. In the event an additional helicopter is not available to observe the project helicopter, other methods would be utilized to observe the removal operations, such as using observers on horseback or in vehicles, or by placing stationary observers in strategic locations.

If the contractor fails to perform in an appropriate manner at any time, the contract would not be allowed to continue until problems encountered are corrected to the satisfaction of the COR/PI.

Standard Operating Procedures

The following stipulations, specifications and procedures would be followed during the capture operation to ensure the welfare, safety and humane treatment of the wild horses.

A. Trapping and Care

All capture attempts would be accomplished utilizing helicopter drive-trapping and would incorporate the following:

1. **Trap and Holding Facility Locations.**
 - a. All trap locations and holding facilities must be approved by the COR and/or PI prior to construction. The contractor may also be required to change or move trap locations as determined by the COR/PI. All traps and holding facilities not located on public land must have prior written approval of the landowner.
 - b. The COR/PI would ensure that the general location of the trap is close to major concentrations of horses. General locations of traps would be

selected by the COR after determining the habits of the animals and observing the topography of the area. Specific locations may be selected by the contractor with the COR/PI's approval within this general preselected area. Trap sites would be located to cause as little injury to horses and as little damage to the natural resources of the area as possible. Sites would be located on or near existing roads.

- c. Due to the many variables such as weather, time of year, location of horses, and suitable trap sites, it is not possible to identify specific locations at this time. They would be determined at the time of the capture.
- d. Trap sites or holding corrals would not be placed in areas of any known threatened or endangered species or in areas of candidate species.
- e. A cultural resources investigation by an archaeologist or an archaeological technician would be conducted prior to trap or holding facility construction. If cultural values are found, an alternative site would be selected
- f. Trap sites for capturing horses with a helicopter would not be placed within ¼ mile of water sources such as streams, springs, reservoirs or troughs.
- g. Temporary traps and corrals would be removed and sites will be left free of all debris within 30 days following the operation.
- h. Every effort would be made to place temporary traps and holding corrals on non-erosive soils.
- i. Every effort would be made to reduce visual impacts by locating traps and holding facilities well off commonly traveled roads. The nature of capturing wild horses, itself, requires that the traps be well hidden.
- j. Prior to facility (temporary traps and holding corrals) construction, the proposed locations would be examined for the presence of noxious weeds. If it is determined that noxious weeds are present, the contractor would be instructed to located the facilities elsewhere. The contractor and his personnel would also be instructed to avoid camping in or driving through noxious weed infestations.

2. Rate and Distance of Movement.

- a. The rate of movement and distance the animals travel would not exceed limitations set by the COR/PI who would consider terrain, physical barriers, weather, condition of the animals and other factors.

- b. BLM would not allow horses to be herded more than 10 miles nor faster than 20 miles per hour. The COR/PI may decrease the rate of travel or distance moved should the route to the trap site pose a danger or cause avoidable stress (steep and/or rocky). Animal condition would also be considered in making distance and speed restrictions.
- c. Temperature limitations would be 10 degrees F. as a minimum and 95 degrees F. as a maximum. Special attention would be given to avoiding physical hazards such as fences.

3. Trap and Holding Facility Construction. All traps, wings and holding facilities would be constructed, maintained and operated to handle animals in a safe and humane manner and be in accordance with the following:

- a. Traps and holding facilities would be constructed of portable panels, the top of which would not be less than 72 inches high and the bottom rail of which shall not be more than 12 inches from ground level. All traps and holding facilities would be oval or round in design.
- b. All loading chute sides would be fully covered with plywood (without holes) or like material. The loading chute would also be a minimum of 6 feet high.
- c. All runways would be a minimum of 30 feet long and a minimum of 6 feet high and would be covered with plywood, burlap, plastic snow fence or like material a minimum of 1 foot to 6 feet above ground level.
- d. Wings would not be constructed out of barbed wire or other materials injurious to animals and must be approved by the COR/PI.
- e. All crowding pens including gates leading to the runways would be covered with a material which prevents the animals from seeing out (plywood, burlap, etc.) and would be covered a minimum of 2 feet to 6 feet above ground level. Eight linear feet of this material would be capable of being removed or let down to provide a viewing window.
- f. All pens and runways used for the movement and handling of animals would be connected with hinged self-locking gates.

4. Fence Modifications. No fence modifications would be made without authorization from the COR/PI. The contractor would be responsible for restoration of any fence modification which he has made.

5. Dust. When dust conditions occur within or adjacent to the trap or holding facility, the contractor would be required to wet down the ground with water.

6. Animal Separation. Alternate pens, within the holding facility, would be furnished by the contractor to separate mares with small foals, sick and injured animals, and estrays from the other animals. Animals would be sorted as to age, number, size, temperament, sex, and condition when in the holding facility so as to minimize, to the extent possible, injury due to fighting and trampling. The contractor would be required to restrain animals for the purpose of determining age. Alternate pens would be furnished by the contractor to hold older animals which would be relocated or returned to the herd area. Segregation or temporary marking and later sorting would be at the discretion of the COR/PI.

7. Food and Water. The contractor would provide animals held in the traps and/or holding facilities with a continuous supply of fresh clean water at a minimum rate of 10 gallons per animal per day. Animals held for 10 hours or more in the traps or holding facilities would be provided good quality hay at the rate of not less than two pounds of hay per 100 pounds of estimated body weight per day.

8. Security. It would be the responsibility of the contractor to provide security to prevent loss, injury or death of captured animals until delivery to final destination.

9. Sick or Injured Animals.

- a. The contractor would restrain sick or injured animals if treatment by the Government is necessary.
- b. Any severely injured, seriously sick, or animal with genetic defects such as club feet would be destroyed in accordance with 43 CFR Subpart 4730.1. Animals would be destroyed only when a definite act of mercy is needed to alleviate pain and suffering. The COR/PI would have the primary responsibility for determining when an animal would be destroyed and would perform the actual destruction. The contractor would be permitted to destroy an animal only in the event the COR/PI is not at the capture site or holding corrals, and there is an immediate need to alleviate pain and suffering of a severely injured animal. When the COR/PI is unsure as to the severity of an injury or sickness, a veterinarian would be called to make a final determination. Destruction would be done in the most humane method available as per Washington Office Wild Free-Roaming Horse and Burro Program Guidance dated January 1983. A veterinarian could be called from Elko if necessary to care for any injured horses.
- c. The contractor may be required to dispose of the carcasses as directed by the COR/PI. The carcasses of wild horses which die or must be

destroyed as a result of any infectious, contagious, or parasitic disease would be disposed of by burial to a depth of at least 3 feet.

The carcasses of wild horses which must be destroyed as a result of age, injury, lameness, or noncontagious disease or illness would be disposed of by removing them from the capture site or holding corral. Carcasses would not be placed in drainages regardless of drainage size or downstream destination.

10. Transportation. Animals would be transported to final destination (the National Wild Horse and Burro Center at Palomino Valley) from temporary holding facilities within 24 hours after capture unless prior approval is granted by the COR/PI for unusual circumstances. Animals to be released back into the HMA following capture operations may be held up to 21 days or as directed by the COR/PI. Animals would not be held in traps and/or temporary holding facilities on days when there is no work being conducted except as specified by the COR/PI. The contractor would schedule shipments of animals to arrive at the final destination between 6:00 a.m. and 4:00 p.m. No shipments would be scheduled to arrive at final destination on Sunday or Federal holidays. Animals would not be allowed to remain standing on trucks while not in transport for a combined period of greater than three (3) hours. Animals that are to be released or relocated back into the herd area may need to be transported back to the original trap site. This determination would be at the discretion of the COR/PI.

11. Relocation/Release of Animals onto Range. During a typical gather, older horses are usually released back into the HMA from which they were gathered. In this situation, the older animals must be relocated into a different HMA. Several individuals have been consulted on the methods of relocation that might help the horses stay in the new area. The Elko Field Office would perform the following actions:

- a. Animals which are to be released back to the range would be released in small groups to prevent a stampede.
- b. Older stud horses from the resident population in the Diamond HMA would be placed together with the older mares that are to be relocated. The studs would be allowed to bond with approximately 10 mares for a few days prior to release in order to help the relocated mares stay in the new area.
- c. The stud horses that are to be relocated would be released on water and may possibly be fed hay at the site of release.
- d. Studs would be released in small groups.

- e. Stud horses would not be released at the same time as mares to avoid fighting over mares.
- f. The horses would be released, most likely, in a canyon that is well watered, either with several springs or a creek.
- g. The relocated horses would be monitored daily for the first 72 hours after release and then once a week for the following 30 days. Monitoring would be done on the ground, weather and road conditions permitting.

12. Handling procedures for mares and foals

- a. Mares older than the target age group (over 9 years old in the HMAs and over 9 years old from the horse-free area) would be paired with their unweanable foals and both would be returned to the range. However, because of the time of the year the proposed action is to take place, the majority of the foals would be weanable and sent to PVC.
- b. If mares older than the target group do not pair with their unweanable foals, the foals would be sent to the National Wild Horse and Burro Center at Palomino Valley (PVC) for adoption or the leppy foals would be placed directly into private care at the discretion of the COR/PI, and the mares would be returned to the range.
- c. If mares older than the target group accept their unweanable foals, but either the mare or the foal or both are in poor physical condition and their survival on the range is questionable, the animals would be held on site until healthy. If at the termination of the capture operation, it still appears that the animal's survival is questionable, they would be sent to PVC.
- d. If mares within the target age group accept their unweanable foals, the pair would be held together and be sent together to PVC.
- e. If mares within the target group do not accept their unweanable foals, both the mare and unweanable foal would be sent to PVC or the leppy foal would be placed directly into private care at the discretion of the COR/PI and the mare would be shipped to PVC.

B. Capture Methods for Helicopter Drive Trapping

- 1. The primary method for gathering wild horses would be the use of helicopter drive trapping. Roping would only be used as a supplemental gather technique when determined by the on-site COR that drive trapping would not be successful and it is in the best interest of the animals being gathered to

capture them using roping techniques. Circumstances where roping may be necessary include, but are not limited to, where all wild horses must be gathered and/or removed from areas specified in the gather plan as being complete removal and those individual animals continue to elude helicopter herding operations and where it is necessary to capture an orphaned foal or a suspected wet mare. In all cases, when it is determined by the COR that a significant proportion of animals must be roped, the roping would only proceed after consultation with the Field Office Managers or their designated representative.

2. The helicopter would be used in such a manner that bands remain together. Foals would not be left behind.

3. Helicopter, Pilot and Communications

a. The contractor must operate in compliance with Federal Aviation Regulations, Part 91. Pilots provided by the contractor would comply with the Contractors Federal Aviation Certificates, applicable regulations of the State of Nevada and would follow what are recognized as safe flying practices.

b. When refueling, the helicopter would remain at a distance of at least 1,000 feet or more from animals, vehicles (other than fuel truck), and personnel not involved in refueling.

c. The COR/PI would have the means to communicate with the Contractor's pilot and be able to direct the use of the capture helicopter at all times. If communications cannot be established, the government would take steps as necessary to protect the welfare of the animals. The frequency(ies) used for this contract would be assigned by the COR/PI when the radio is used. When a VHF/AM radio is used, the frequency would be 122.925 MHz.

d. The contractor would obtain the necessary FCC licenses for the radio system.

e. The proper operation, service and maintenance of all contractor furnished helicopters would be the responsibility of the contractor. The BLM reserves the right to remove from service pilots and helicopters which, in the opinion of the contracting officer or COR/PI violate contract rules, are unsafe or otherwise unsatisfactory. In this event, the contractor would be notified in writing to furnish replacement pilots or helicopters within 48 hours of notification. All such replacements must be approved in advance of operation by the contracting officer or his/her representatives.

f. At time of delivery order completion, the contractor would provide the COR/PI with a completed copy of the Service Contract Flight Hour Report.

g. All incidents/accidents occurring during the performance of the delivery order would be immediately reported to the COR/PI.

C. Motorized Equipment

1. All motorized equipment employed in the transportation of captured animals would be in compliance with appropriate State and Federal laws and regulations applicable to the humane transportation of animals. The contractor would provide the COR/PI with a current safety inspection (less than one year old) of all tractor/stocktrailers used to transport animals to final destination.

2. Vehicles would be in good repair, of adequate rated capacity, and operated so as to ensure captured animals are transported without undue risk or injury.

3. Only stocktrailers with a covered top would be allowed for transporting animals from trap site(s) to temporary holding facilities. Only stocktrailers or single deck trucks would be used to haul animals from temporary holding facilities to final destination(s). Sides or stock racks of transporting vehicles would be a minimum height of 6 feet 6 inches from the floor. Single deck trucks with trailers 40 feet or longer would have two (2) partition gates providing three (3) compartments within the trailer to separate animals. The compartments would be of equal size plus or minus 10 percent. Trailers less than 40 feet would have at least one (1) partition gate providing two (2) compartments within the trailer to separate the animals. The compartments would be of equal size plus or minus 10 percent.

Each partition would be a minimum of 6 feet high and would have a minimum 5 foot wide swinging gate. The use of double deck trailers is unacceptable and would not be allowed.

4. All vehicles used to transport animals to final destination(s) would be equipped with at least one (1) door at the rear end of the vehicle which is capable of sliding either horizontally or vertically. The rear door must be capable of opening the full width of the trailer. All panels facing the inside of the trailers must be free of sharp edges or holes that could cause injury to the animals. The material facing the inside of the trailer must be strong enough so that the animals cannot push their hooves through the side. Final approval of vehicles to transport animals would be held by the COR/PI.

5. Floors of vehicles, trailers, and the loading chutes would be covered and maintained with wood shavings to prevent the animals from slipping.

6. Animals to be loaded and transported in any vehicle or trailer would be as directed by the COR/PI and may include limitations on numbers according to age, size, sex, temperament, and animal condition. The following minimum square feet per animal would be allowed in all trailers:

11 square feet per adult horse (1.4 linear foot in an 8 foot wide trailer);
8 square feet per adult burro (1.0 linear foot in an 8 foot wide trailer);
6 square feet per horse foal (.75 linear foot in an 8 foot wide trailer);
4 square feet per burro foal (.5 linear foot in an 8 foot wide trailer);

7. The COR/PI would consider the condition of the animals, weather conditions, type of vehicles, distance to be transported, or other factors when planning for the movement of captured animals. The COR/PI would provide for any brand and/or inspection services required for the captured animals.

8. If the COR/PI determines that dust conditions are such that the animals could be endangered during transportation, the contractor would be instructed to adjust speed to minimize dust. In general, roads in the capture area are in fair to good condition. If a problem develops, speed restrictions would be set or alternate routes used. Periodic checks by BLM employees would be made as the animals are transported along dirt roads. If speed restrictions are in effect, then BLM employees would, at times, follow and/or time trips to ensure compliance.

D. Contractor Furnished Property

1. All hay, water, vehicles, saddle horses, helicopters and other equipment would be provided by the contractor. Other equipment includes, but is not limited to, a minimum of 2,500 linear feet of 72-inch high (minimum height) panels for traps and holding facilities. Separate water troughs would be provided at each pen where animals are being held. Water troughs would be constructed of such material (e.g. rubber, galvanized metal with rolled edges, rubber over metal) so as to avoid injury to the animals.

2. The contractor would furnish an avionics system that will allow communications between the contractor's helicopter and his fuel truck.

3. The contractor would furnish a VHF/AM radio transceiver in the contractor's helicopter which has the capability to operate on a frequency of 122.925 MHz.

4. The contractor would provide a programmable VHF/FM radio transceiver in the contractor's helicopter to accommodate the COR/PI in monitoring the capture operation.

E. Government Furnished Property

The government would provide a portable "Fly" restraining chute at each pre-work conference, to be used by the contractor for the purpose of restraining animals to determine the age of specific individuals or other similar practices. The government may also provide portable 2-way radios, if needed. The contractor would be responsible for the security of all government furnished property.

Branded and Claimed Animals

A notice of intent to impound would be issued by the BLM prior to any capture operations in this area. The Nevada Department of Agriculture and the District Brand Inspector would receive copies of this notice, as well as the Notice of Public Sale, if issued. The COR/PI would contact the District Brand Inspector and make arrangements for dates and times when brand inspections will be needed.

When horses are captured, the COR/PI and the District Brand Inspector would jointly inspect all animals at the holding facility in the capture area. If determined necessary at that time by all parties involved, horses would be sorted into three categories:

- a. Branded animals with offspring, including yearlings.
- b. Unbranded or claimed animals with offspring, including yearlings with obvious evidence of existing or former private ownership (e.g., geldings, bobbed tails, photo documentation, saddle marks, etc.).
- c. Unbranded animals and offspring without obvious evidence of former private ownership.

The COR/PI, after consultation with the District Brand Inspector, would determine if unbranded animals are wild and free-roaming horses. The District Brand Inspector would determine ownership of branded animals and their offspring and, if possible, the ownership of unbranded animals determined not to be wild and free-roaming horses.

Branded horses with offspring and claimed unbranded horses with offspring for which the owners have been identified by the District Brand Inspector would be retained in the custody of the BLM pending notification of the owner or claimant.

A separate holding corral would be set up near the temporary holding corral to house these horses until the owner/claimant or BLM can pick them up.

The animals would remain in the custody of the BLM until settlement in full is made for impoundment and trespass charges, as determined appropriate by the Manager for Renewable Resources in accordance with 43 CFR Subpart 4710.6 and provisions in 43 CFR Subpart 4150. In the event settlement is not made, the horses would be sold at public auction by the BLM.

Branded horses with offspring whose owners cannot be determined, and unclaimed, unbranded horses with offspring having evidence of existing or former private ownership would be released to the Nevada Department of Agriculture (District Brand Inspector) as estrays.

The District Brand Inspector would provide the COR/PI a brand inspection certificate for the immediate shipment of wild horses to Palomino Valley (Reno), and for the branded or claimed horses where impoundment and trespass charges have not been offered or received, for shipment to public auction or another holding facility.

No Action Alternative

Under no action, wild horses would not be removed from the burned area or the area outside the HMA. This would not be acceptable for the recovery of the resource nor is this alternative legal under 43 CFR 4710.4. In addition, if those wild horses that have not left the Diamond Hills North HMA are not removed, it is highly likely that they would starve to death after they have consumed all of the available, unburned forage (i.e., riparian areas that did not burn). Heavy utilization would lead to the degradation of important watersheds and fisheries habitat, including that of the federally listed threatened species, the Lahontan cutthroat trout (LCT).

ALTERNATIVE CONSIDERED BUT ELIMINATED FROM DETAILED ANALYSIS

Water Trapping/Trapping on Horseback

Other methods of capture are not being considered further in this EA. Water trapping wild horses, though easier on the animal, is not feasible due to the large area and the number of water sources available to horses in the proposed capture area. Water trapping also takes longer and due to the emergency nature and the time of year that the gather is proposed, it is not feasible at this time.

Trapping horses by running them on horseback is not feasible because it is too easy to lose the horses after starting them towards the trap, injuries to both people and horses are more likely, and the cost factor shown from previous roundups using this method indicates that the costs are prohibitive.

CHAPTER III - AFFECTED ENVIRONMENT

General Setting

The gather area is located north of the Elko/White Pine County line and extends along the Sulphur Spring Range and then further north along the Pinon Range. The Diamond HMA would also have to be gathered to make room for the 58 older horses that would be relocated. This HMA is in the Diamond Mountain Range which begins approximately 3 miles east of Eureka, Nevada and extends approximately 48 miles to the north. The HMA consists of a relatively narrow band of allotments extending along the mountain range. The terrain within the area varies from level valleys to high mountains, with elevations ranging from 5,700 feet to over 10,000 feet, respectively.

Climate is characterized by warm, dry summers and cool, wet winters. Precipitation ranges from 8 inches in the valleys to 16 inches in the mountains. The major vegetation type of the lowlands is big sagebrush with an understory of Sandberg's bluegrass, bottlebrush squirreltail, and Indian ricegrass. At mid-elevation, the vegetation type is primarily pinyon-juniper, big sagebrush, low sage, and an understory of bottlebrush squirreltail, Thurber's needlegrass, and Nevada bluegrass. The higher elevations support pinyon-juniper, mountain mahogany, big sagebrush, and low sage communities with understories similar to those found at mid-elevations.

Critical Elements of the Human Environment

The following critical elements of the human environment are not present or are not affected by the proposed action or alternatives:

Areas of Critical Environmental Concerns

Cultural Resources - A cultural resources investigation by an archaeologist or an archaeological technician would be conducted prior to trap or holding facility construction. If cultural values are found, an alternative site would be selected.

Environmental Justice

Farm Lands (prime or unique)

Flood Plains

Native American Religious Concerns - Various tribes and bands of the Western Shoshone have stated that federal projects and land actions could have widespread effects to their culture and religion because they consider the landscape as sacred and as a provider. However, the proposed action has a low potential to negatively impact any specific Native American religious aspect or Traditional Cultural Property. Native American consultation was deemed unnecessary at this time.

Paleontology

Water Quality (drinking/ground)

Wilderness

Bureau Specialists have further determined that the following resources, although present in the project area, are not affected by the proposed action: Range (livestock operations), Lands, Recreation, Geologic Resources, Forestry and Social and Economic Resources.

Resources Present and Brought Forward for Analysis:

Air Quality

The air-shed in the project area is a Prevention of Significant Deterioration (PSD) Class II, which means temporary, moderate deterioration of air quality is allowed.

Vegetation

A portion of the proposed project area will be within the burned area of the Sadler Complex wildland fire. The fire intensity in many areas was high enough to consume and kill many brush species and the fire also set back the successional processes of many mid to late seral plant communities. A review of the photographs taken during and after the fire, shows almost a complete loss of all vegetation. These photographs are available for review at the Elko Field Office.

Vegetation in the proposed project area outside of the Sadler Complex Wildland Fire supports vegetation typical of the Great Basin region. The extremes of climate, elevation, exposure, and soil type all combine to produce a diverse environment for a variety of vegetation types. The major vegetation type found in the project area is Wyoming big sagebrush with various understories including forbs, rabbitbrush and native perennial bunchgrasses. Other prevalent vegetation types include low sagebrush, riparian vegetation and pinon-juniper woodlands.

Wildlife

Within the burned area, wildlife has been displaced and would not be affected by the proposed action. Within the Sadler fire area, extensive sage grouse habitat with critical nesting, brooding and wintering areas was destroyed. Outside of the burned area, numerous species of wildlife occur. Mule deer, pronghorn antelope, mountain lions, coyotes, bobcats and kit foxes are the main game and forbearer species present. Sage grouse, chukar, mourning doves, and cottontail rabbits constitute the major upland game species. In addition, a variety of non-game mammals, birds, and reptiles occur in the project area.

Threatened, Endangered or Candidate Species

One federally listed threatened species, the Lahontan cutthroat trout (LCT), and its habitat occurs within the Sadler fire area. LCT are known to inhabit the upper reaches of Dixie Creek. The Dixie Creek LCT population exists in isolation; no connection to other streams supporting LCT exists for the Dixie Creek drainage. Genetic work has shown the Dixie Creek population to be genetically pure.

Low numbers of what are believed to be cutthroat /rainbow hybrids have been documented in Trout Creek since 1980.

Visual Resources

Visual resources are identified through the Visual Resource Management (VRM) inventory. This inventory consists of a scenic quality evaluation, sensitivity level analysis and a delineation of distance zones. Based on these factors, BLM administered lands are placed into four visual resource inventory classes. Class I and II are the most valued, Class III representing a moderate value, and Class IV being of least value. The proposed project area consists of approximately 50% Class III and 50% Class IV. Visual resource classes serve two purposes: (1) an inventory tool that portrays the relative value of visual resources, and (2) a management tool that portrays the visual management objective. The Class III objective is to partially retain the

existing character of the landscape. The level of change to the existing landscape should be moderate. Management activities may attract attention but should not dominate the view of the casual observer. The Class IV objective is to provide for management objectives which require major modification of the existing character of the landscape. The level of change to the characteristic landscape can be high. These management activities may dominate the view and be the major focus of viewer attention.

Wetlands/Riparian Zones

The Sadler fire was intense and burned all or part of the watersheds associated with Dixie and Trout Creeks. As a result, there is a threat to water quality and fisheries, loss of surface soil that could degrade site productivity and downstream aquatic resources and a threat of sedimentation damages to sensitive areas such as springs, seeps, and riparian communities. Reconnaissance after the fire has shown that some wetland and riparian zones did not burn in the fire, but are receiving heavy use by grazing animals.

Wastes (hazardous or solid)

The existence of hazardous waste in the proposed project area at this time is unknown. This section will address potential generation of hazardous waste due to the proposed action. Syringes, darts, needles, vaccine containers, etc. used in the administration of the immuno-contraceptive vaccine are considered regulated medical waste. Regulated medical waste must be placed in leak proof containers that are contained in a red plastic bag labeled medical waste. Medical waste must be handled and transported separately from other waste to an approved disposal facility.

Wild Horses

A census conducted on August 25, 1999, found 123 horses within the Diamond Hills North HMA and areas outside the HMA. Of the 123 horses, 103 were adults and 20 were foals. The horses were mainly found in the Red Rock Allotment (49 head) which is within the HMA, and in the Robinson Mountain Allotment (66 head) which is outside the HMA. A few horses were also found in Indian Springs and Pine Mountain. The horses are generally in good health, however a field observation on September 19, 1999, found two horses in poor condition with ribs and hip bones readily visible. The horses were within the burn area but in a riparian area that did not burn. The riparian area was receiving heavy use. It was also noted that the horses did not exhibit typical behavior in that they did not run from the observers in the vehicles, but instead let the observers get very close. This indicates that the horses are concentrating on getting enough forage rather than flight behavior.

A distribution flight of the Diamond and Diamond Hills South HMAs was conducted on September 21, 1999. This flight found 54 adults and 12 foals on the Diamond HMA and 47 adults and 12 foals on the Diamond Hills South HMA. This number was lower than expected, but it should be noted that the flight was conducted in three hours versus the norm of eight hours. Many horses could have been missed.

Noxious Weeds

According to the BAER report, the Northern Nevada wildfires of the Elko BLM Field Office burned in areas infested with Nevada Listed noxious weeds. Inventory by specialists revealed that noxious weeds occur in 6 of the wildfires covered by the report, the Sadler fire included. Some of the weeds found were Scotch thistle, musk thistle, bull thistle, yellowspine thistle, Canada thistle, hoary cress, and tamarisk. The wildfire make the noxious weed situation worse, in that the very competitive noxious weeds have prepared seed be in which to grow, will have reduced competition from native vegetation, and most have the ability to begin germination after the first fall rains.

CHAPTER IV - ENVIRONMENTAL CONSEQUENCES

Proposed Action and No Action Alternative

Air Quality

The most significant impacts to air quality would be moderate increases in noise, dust, and combustion engine exhaust generated by mechanical equipment. Impacts would be temporary, small in scale, and dispersed throughout the proposed capture. Impacts would be kept to a minimum by following the standard operating procedure listed at 5. A above.

No Action Alternative - The air quality would be the same as described in the affected environment section.

Vegetation

When gathering within the Diamond Hills North HMA, the portable trap sites would likely be placed in the burned area, therefore the trap area would be void of vegetation. When gathering outside of the burned area, some vegetation may be disturbed as a result of the proposed action. Vegetation trampling may occur due to the concentration of horses within the one acre trap areas. Maximum disturbance for the proposed action would be less than five acres.

No Action Alternative - No vegetation trampling would occur as a result of trapping and holding horses in a small area, however, overall, the vegetation in the burned area would not be rested from grazing pressure. Unburned riparian vegetation would be especially heavily used during the late fall and winter. Utilization levels would be in excess of Rangeland Program Summary objectives and this increased utilization would not help maintain desirable, perennial native plant communities nor would it allow the burned area to recover.

Wildlife

When gathering within the Diamond Hills North HMA, the portable trapsites would likely be placed in the burned area, therefore, the trap area would be void of any wildlife species. When gathering outside of the burned area, some mammals, reptiles, and birds would be temporarily displaced from the trap sites and holding facilities.

Animals may also be disturbed by the low-flying helicopter; this disturbance would be of very short duration. A slight possibility exists that non-mobile or site specific animals would be trampled.

No Action Alternative - If wild horses were not removed from the burned area, watershed and vegetation resources would not recover as affectively from the wildfire. Continued grazing pressure by wild horses would lead to the degradation of the watershed and have a negative impact on fish habitat. The no action alternative would also negatively impact sage grouse habitat. In areas outside of the burn, increased competition between wild horses and native wildlife species would occur. The competition for forage, water and space would lead to increased stress and possible dislocation or death of native wildlife species.

Threatened, Endangered or Candidate Species

The Sadler fire was intense and burned all or part of the watersheds associated with Dixie and Trout Creeks. A field review by Elko Field Office and BEAR team personnel confirmed that LCT survived the Sadler wildland fire. Water was observed to be slightly to moderately turbid. The removal of grazing pressure by both livestock and wild horses would allow the area to recover more rapidly, both naturally and following rehabilitation work.

No Action Alternative - If wild horses are not removed from the area, the vegetative cover would not recover as quickly leading to increases in overland flows. This in turn could lead to accelerated channel down-cutting causing a loss of fisheries habitat in both the Dixie Creek and Trout Creek areas.

Visual Resources

The proposed project activities would result in minimal, temporary impacts. For the duration of the proposed gather, traps and corrals would introduce weak horizontal lines to the foreground. If traps are located within the burned area there would be a short-term (approximately one year or less) color change due to the mixing of lighter subsurface soils with black ash. No obvious changes in texture due to vegetation disturbance would be produced since traps and corrals would be located in previously disturbed areas. Visual resource management objectives for Class III and IV VRM areas would be met.

No Action Alternative - Under the no action alternative, the wild horse gather would not take place. This may result in heavy utilization of the vegetation which is trying to re-establish naturally or following rehabilitation. This would lead to continued visual impacts caused by the fires. There would be no temporary impacts related to the proposed action.

Wetlands/Riparian Zones

The proposed project would not impact wetlands or riparian zones as no traps or holding facilities would be built in these areas. Overall, the gather and removal of

wild horses would have a positive impact to the recovering wetlands and riparian zones.

No Action Alternative - Under the no action alternative, the wild horse gather would not take place. This would lead to heavy to severe utilization of unburned wetland/riparian zones. The riparian areas that did burn would not recover as quickly due to the continued grazing pressure. This would lead to increased erosion and decreased watershed health and function.

Wastes (hazardous or solid)

If mares over the selective removal age are to be treated with the immuno-contraceptive vaccine, bio-hazardous wastes would be generated. The waste would be handled according to Elko Field Office policy for immuno-contraceptive vaccine safety. A copy of this policy is available at the Elko Field Office upon request. Additionally, all State, Federal and local laws would be followed to the fullest extent possible. The amount of regulated medical waste that would be generated by this proposed action would be minimal and would not result in any threat to the environment.

No Action Alternative - The proposed gather would not take place, therefore, no bio-hazardous medical waste would be generated by implementing fertility control research.

Noxious Weeds

The proposed gather may spread existing noxious weeds species. This would occur if vehicles drive through infestations and spread seed into previously weed free areas. The contractor together with the COR/PI would examine proposed trap sites and holding corrals prior to construction. If noxious weeds are found, the location of the facilities would be moved.

As part of the wildland fire rehabilitation, it is proposed that noxious weeds be treated in the burned areas. Within the Sadler fire complex, it is proposed that all dozer lines be treated with herbicide to control noxious weeds. If monitoring and inventory locates more sites or an increase in existing weed populations within the burned areas, control measures will be initiated on these populations. This in addition to the measures described above, would minimize impacts of noxious weeds.

No Action Alternative - Under this alternative, the wild horse gather would not take place. The chance that noxious weeds would be spread by the contractor, his personnel and equipment would not exist.

Wild Horses

Approximately 200 horses could be affected by the proposed action. This includes the 123 found within the burned areas and areas adjacent to the burn as well as approximately 60 horses that would have to be gathered and removed from the Diamond HMA in the Battle Mountain District. The proposed action would cause

increased stress and a disruption of their daily lives. Because the Bureau is directed to conduct age selective removals, some of the horses in the Battle Mountain District would have to be gathered, sorted and aged even if they are to be returned to the range.

Helicopter Trapping

The use of helicopters to capture excess wild horses may result in leppy foals and split bands, as well as injured horses. Incidents like these tend to be increased if the animals are pushed too hard. By adhering to the Standard Operating Procedures, these impacts would be lessened.

Age Selective Removal

An age selective removal strategy would have the added impact to horses in that of gathering an animal then releasing it back to the range if it does not fall into the target age group. After spending a few days in a holding facility, separated by sex, bands may break up and there would be increased fighting among studs to reestablish their bands upon release.

Relocation of Horses

Part of the proposed action is to release the older (age nine and over) mares and the older (age seven and over) studs, into the Diamond HMA. Because the proposed action is to make room for these animals by gathering younger animals, the vegetation, soils, and water resources would not be impacted in the Diamond HMA. The precise impacts of the released horses to the existing social structure in the Diamond HMA and to the individual released horses are unknown. The animals would be monitored to insure that they become familiar with water sources and would be released along a creek or at a spring. Standard Operating Procedure A.11 would be followed.

Immuno-contraception Vaccine

Results of various fertility control research conducted to date indicate that PZP Immunocontraception is highly effective, and that the reproductive success of the mares returns to normal the year following fertility control. It has not been documented that fertility control research adds to increased stress above that normally associated with the processing and sorting of animals during a gather.

Research to date shows that there is no apparent effect on pregnancies in progress, the health of the offspring, or the behavior of treated mares.

No Action Alternative - Under this alternative, wild horses would continue to inhabit the burned area and areas outside the HMA. If wild horses stay in the burned area, chances are good that many horses would go into the winter season in extremely poor condition. This in turn would affect their ability to find adequate forage and many may possibly starve to death. Those animals that survive the first winter would have a negative effect on the recovering vegetation, soil and watershed resources. Wild horses remaining in the burned area may also become trapped in newly established,

temporary fences that may go in as part of the wildland fire rehabilitation effort. This would lead to horses fenced out of water and forage and the possible entanglement in new fences.

If the BLM failed to remove wild horse from outside the HMA, it would be in violation of Public Law 92-195, as amended, and 43 CFR 4720.2 and 43 CFR 4710.4.

Cumulative Impacts

All resource values have been evaluated for cumulative impacts. It has been determined that cumulative impacts would be negligible as a result of the proposed action or alternatives.

Monitoring Needs

The monitoring described in the Proposed Action is sufficient for this action.

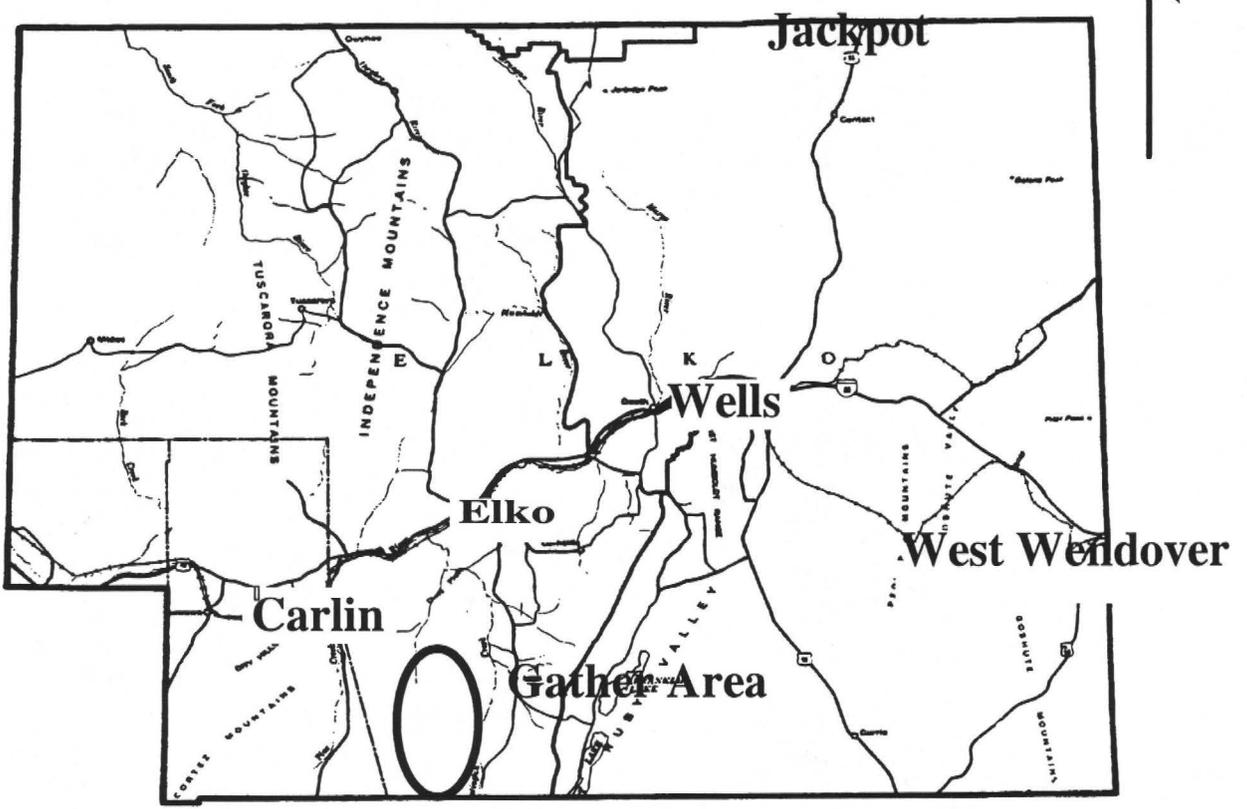
CHAPTER V - CONSULTATION AND COORDINATION

List of Preparers

Kathy McKinstry	Wild Horse Specialist	Lead Preparer
Robert Marchio	Environmental Planning	Environmental Coordination
Steve Dondero	Outdoor Recreation Planner	Visual Resources
Tim Murphy	Archaeologist	Cultural Resources
Carol Evans	Fisheries Biologist	Fisheries
Roy Price	Wildlife Biologist	T&E Species
Deb McFarlane	Hazardous Materials	Geology/Hazmat

Persons, Groups of Agencies Consulted

Bureau of Land Management - Battle Mountain Field Office
Bureau of Land Management - Ely Field Office
Dawn Lappin - Wild Horse Organized Assistance

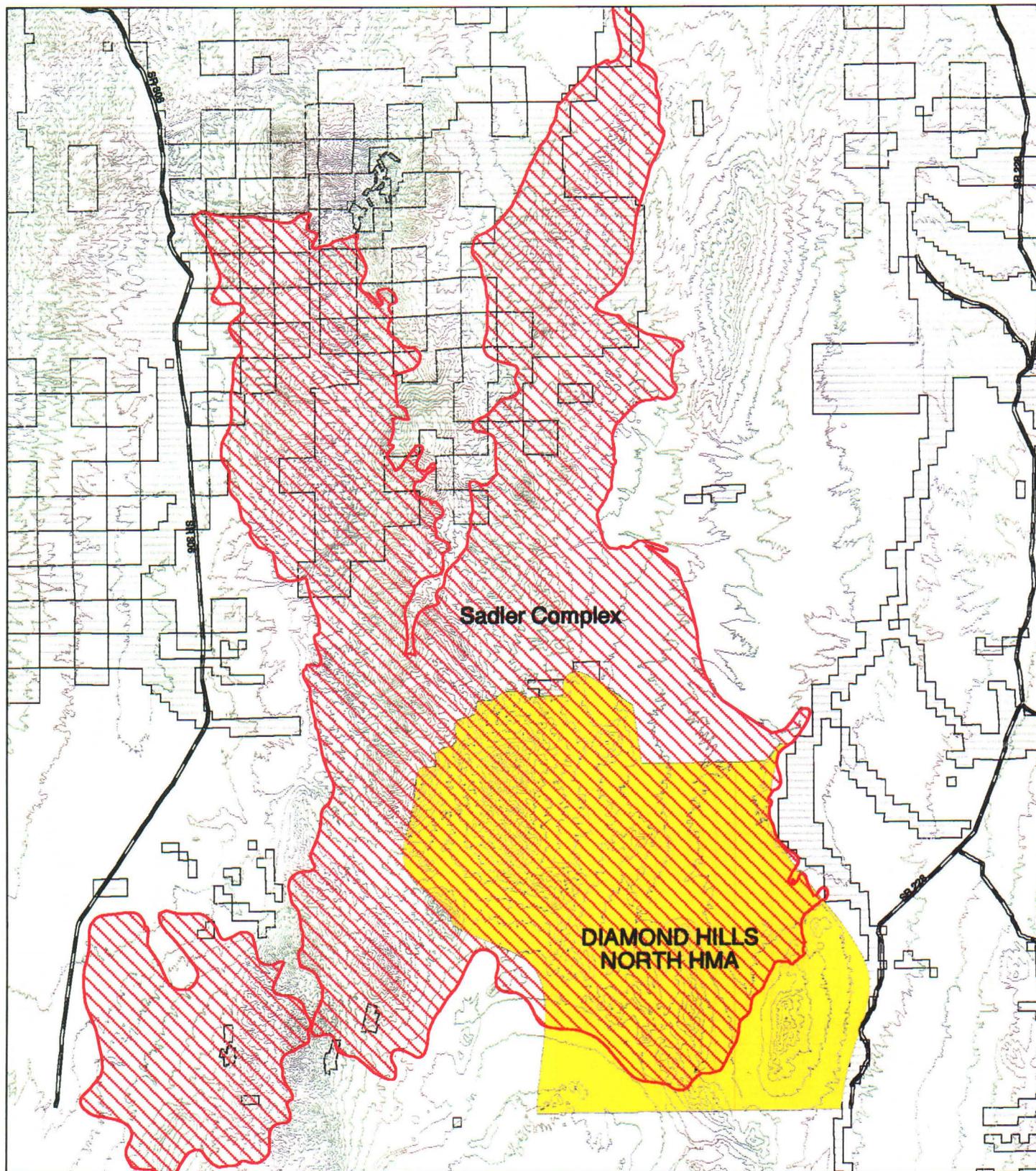


Elko District

GENERAL VICINITY

DIAMOND HILLS NORTH HERD MANAGEMENT AREA

SADLER FIRE COMPLEX



-  Sadler Fire Area
-  Private lands
-  Herd Management Area
-  Highway
-  Light Duty Road

Map 2



1 0 1 2 3 Miles

1:250000

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
ELKO FIELD OFFICE





DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
COMMISSION FOR THE
PRESERVATION OF WILD HORSES

123 W. Nye Lane, Room 230
Carson City, Nevada 89706-0818
Phone (775) 687-1400 • Fax (775) 687-6122

October 21, 1999

Ms. Helen Hankins
BLM - Elko Field Office
3900 East Idaho St.
Elko, NV 89801-0611

Subject: Emergency Gather - Diamond Complex

Dear Ms. Hankins,

Thank you for advising the Commission for the Preservation of Wild Horses of the final decision to gather horses from the North Diamond Herd Management Area. As you are aware, the Commission participated in the planning processes of the Diamond Complex in 1996. Our agency and the other participants agreed with the BLM to manage the three herd management areas as one complex that involved three BLM field offices. Despite the multitude of political boundaries, the affected interests held high expectations that the three field offices could jointly manage the Diamonds under multiple use and restore natural resources. It is our observation that since the initial wild horse gather in 1997, the separate field offices have pursued their own separate course. This emergency gather represents another unilateral decision affecting a multitude of resources.

To our best knowledge, the Elko Field Office wild horse survey on August 25, 1999 is the first effort to census any portion of the Diamond Complex since the February 1997 gather of 87% or 1,500 wild horses. The very fundamental element of the 1997 gather was to have comprehensive management and data collection to apply the best science to any action that would affect wild horses, livestock, and wildlife. While we appreciate the census data collected on less than 15% of the Complex, this data have little significance to the surviving wild horse herd in the Complex.

The final decision for an emergency gather is tiered to the BAER. BAER documents are internal BLM decision-making assessments without NEPA compliance. We cannot assess the decisions affecting wild horses in respect to other resources and their herd management areas.

Ms. Helen Hankins

October 21, 1999

Page 2

It would appear the relocation of wild horses into areas of fewer densities in the Complex would be appropriate; however, the Battle Mountain and Ely Field Offices would have had to conducted wild horse census and rangeland monitoring data. In our review of the recent Battle Mountain allotment evaluations, the majority of the Complex has not had any form of monitoring since the 1997 wild horse gather.

The main rationale for this gather is to allow for restoration and implement improvement projects on the impacted lands of the Sadler Fire. The Final Decision lacks any specific vegetation objective or project completion criteria to assess. While the present policy allows two year's rest from ungulates, the degraded range conditions prior to the fire and the impact of the fire might require more time than the arbitrary policy statement provides. Again, the BAER documents re not public and the Ely Field Office has stated that they are exempt from NEPA.

Our view of this emergency gather is that it is an independent action from the overall Complex, a one time action that may have significant impact on the surviving 13% of the wild horses that inhabited the Diamonds in 1996. We suggest the Field Offices make a more comprehensive effort to meet the Eureka Working Groups expectations.

Sincerely,



CATHERINE BARCOMB

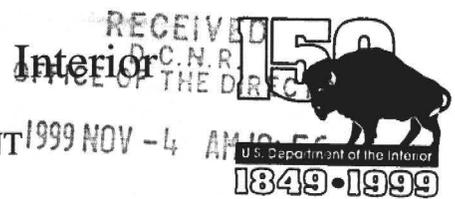
Administrator

cc: Jerry Smith, Battle Mountain Field Office Manager
Gene Kolkman, Ely Field Office Manager

11/1/99



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Elko Field Office

3900 East Idaho Street

Elko, Nevada 89801-0611

<http://www.nv.blm.gov>

In Reply Refer To:
4710.4 (NV-012)

NOV - 1 1999

Ms. Catherine Barcomb, Administrator
Commission for the Preservation of Wild Horses
123 W. Nye Lane, Room 230
Carson City, NV 89706-6122

Dear Ms. Barcomb:

We are in receipt of your letter dated October 21, 1999 and are responding to clear up some misunderstandings between the Bureau and the Commission.

As stated in the Environmental Assessment for the Sadler Complex Emergency Gather, over 90% of the Diamond Hills North HMA was burned. The Elko District conducted a census flight of the HMA and areas north of the HMA to locate wild horses and note their condition. Because the Diamond Hills South and Diamond HMA were not affected by the fire, they were not flown at that time. On September 21, 1999, Shawna Richardson and John Winnepenninx of the Battle Mountain Field Office flew the Diamond Hills South and Diamond HMA for continuing immunocontraception research. The results of this flight were made available to the Elko Field Office.

In coordination with the Battle Mountain and Ely Field Offices, the decision was made to relocate horses from the Elko HMA to either the Diamond Hills South or Diamond HMA. This decision was thought best in order to save room in the sanctuary for those other fire emergency gathers that would have many older horses and no relocation options. It was felt that because the Diamond Hills North is a part of a larger complex, the relocated horses would be familiar with the area and stay there.

As stated in the proposed action, the older Elko horses would not be released into either the Diamond Hills South HMA or the Diamond HMA without a corresponding gather in those HMAs to accommodate the Elko horses. Now that the gather has been completed, it turned out that there were 29 older Diamond Hills North horses that were suitable for relocation. In coordination with Bob Brown from the Ely Field Office, 55 horses were caught from the Diamond Hills South HMA, 26 were removed from the range and put in to the adoption program and 8 older studs were sent to the sanctuary. This left room for the 29 Diamond Hills North horses.

Your statement that "the BAER documents are not public and the Ely Field Office has stated that they are exempt from NEPA" is very curious. The BAER plan was widely distributed and if you did not receive and would like a copy, please call the Elko Office. It was not stated that the Ely Office is exempt from NEPA. On page 3 of the Environmental Assessment that was sent to you, all of the NEPA documents prepared by the Ely Field Office that analyze gathering horses from the Diamond Hills South HMA are listed. Because the action was essentially the same as past actions, no further NEPA documentation was necessary.

If you have any further questions or concerns, please don't hesitate to contact our office.

Sincerely,



HELEN HANKINS
Manager, Elko Field Office