



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Surprise Field Office
PO Box 460
Cedarville, CA 96104
www.ca.blm.gov/surprise



11-4-03

In Reply Refer To:
4720 (CA-370)

November 4, 2003

NOTICE OF FINAL DECISION **FULL FORCE AND EFFECT**

Buckhorn and Coppersmith Wild Horse Herds Capture Plan

CERTIFIED MAIL: 7160 3901 9842 5676 6983
Return Receipt Requested

Dawn Lappin
Wild Horse Organized Assistance
P. O. Box 555
Reno, NV 89504

Dear Interested Party:

Full Force and Effect Decision

Enclosed, for your review, is my Decision Record/Finding of No Significant Impact for Environmental Assessment #CA-370-03-27, Buckhorn and Coppersmith Wild Horse Herd Management Areas Capture Plan (also enclosed). This serves as my final decision for this action and is effective upon issuance, in accordance with 43 CFR 4770.3(c).

Authority

The authority for this decision is contained in Section 3(a) and (b) and Section 4 of the Wild and Free-Roaming Horse and Burro Act (P.L. 92-195, as amended), and Title 43 CFR, Part 4700, Subpart 4720.

Appeals

Within 30 days of your 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 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, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, CA 95825-1890, and (3) the Bureau of Land Management, Surprise Field Office, P.O. Box 460, Cedarville, CA 96104. 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 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.

FOR ADDITIONAL INFORMATION

Contact Rob Jeffers or Tara de Valois, of my staff, at (530) 279-6101, or write to the above address.

Sincerely,



Owen Billingsley
Surprise Field Manager

Enclosures



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Surprise Field Office
PO Box 460
Cedarville, CA 96104
www.ca.blm.gov/surprise

In Reply Refer To:
4700 (CA-370) P

November 4, 2003

DECISION RECORD/FONSI

Environmental Assessment #CA-370-03-27

BUCKHORN and COPPERSMITH WILD HORSE HERD MANAGEMENT AREAS CAPTURE PLAN

Decision

Based on all the information available to me, it is my decision to implement the Proposed Action of Environmental Assessment (EA) #CA-370-03-27, by gathering wild horses from the Buckhorn and Coppersmith HMAs. These horses will be sorted and animals will be selected for return to the HMA's. The Humane Society of the United States (HSUS) and the Food and Drug Administration (FDA) are in the process of reviewing the experimental fertility control portion of the Proposed Action. Based upon recommendations made by the HSUS and the FDA, either the remainder of the Proposed Action or Alternative #2 from the EA will be implemented. If the remainder of the Proposed Action is implemented, immuno-contraceptive vaccinations would be given to the mares selected for return to the HMA's prior to their return to the HMA's. If Alternative #2 is implemented, no immuno-contraceptive vaccinations would be administered.

Environmental Assessment #CA-370-03-27 was sent out for public review on October 3, 2003. To date, no additional mitigation measures have been identified as a result of the environmental analysis and review.

Rationale

The Proposed Action and three Alternatives were analyzed in Environmental Assessment #CA-370-03-27. The No Action Alternative #4 was not selected, as it would not result in maintaining a thriving natural ecological balance of the resources in the area of the two HMA's. As wild horse numbers continue to increase, their impacts on the vegetation, soils, and water resources would also increase, reducing the value of those resources for wildlife and wild horse habitat and for both consumptive and non-consumptive uses.

I have chosen to implement either the Proposed Action or Alternative #2 (pending HSUS and FDA review) because they will result in herd age/sex ratios that are more natural, they will result in fewer horses needing to be handled or removed from the HMA's, and they will result in

attaining wild horse numbers that are within Appropriate Management Levels (AMLs) faster than Alternative 3. The Proposed Action would have the additional benefit of contributing to research in methods of maintaining wild horses at AML's over the long term with a minimum amount of handling and removal from the range. Implementation of either the Proposed Action or Alternative #2 is consistent with land use planning goals and objectives, and is in accordance with all applicable laws and regulations.

Discussion

During the public comment period for Environmental Assessment Number CA-370-03-27, which ran from October 3, 2003 to November 3, 2003, two comment letters were received from state agencies.

The first letter asked that, if no new data has been collected to suggest a change in AML, then why consider a gather? *Data collected in the two Herd Management Areas (HMA's) since Appropriate Management Levels (AML's) were established in 1995 does not suggest that a change in AML's is needed. Since the last gather in 1997, wild horse numbers have increased to an estimated 294% of the maximum AML's. Therefore, the proposed gather is needed to return wild horse numbers to the AML's.*

The next comment in the letter stated that, during the previous gather in 1997, wild horses were processed near Gerlach, and an individual working for the Bureau of Land Management collected data on age, sex, color, and other herd population data to determine the character of these herds. The comment went on to state that this data has not been presented in this environmental assessment and that this data should assess the selective management actions taken in the previous gather. *In fact, wild horses gathered from the Buckhorn and Coppersmith HMA's in 1997 were transported to Litchfield, California for preparation. A pre-gather census was conducted, and data on age and sex was collected for the horses gathered in 1997. Only 37 horses were gathered (7 returned) from the Coppersmith HMA and only 68 horses were gathered (22 returned) from the Buckhorn HMA in 1997. This was less than 50% of the horses known to be present in the HMA's at that time. Therefore, the more complete herd structure data collected during the 1989 and 1995 gathers was used in conjunction with the 1997 data to arrive at a more accurate estimate of the current herd structure. The selective management actions, in terms of the age and sex of the horses removed and returned to the HMAs, were taken into account during the population modeling. This data is presented in Appendix A, pages 7 and 8 of the environmental assessment #CA-370-27. The quality, color, and size criteria outlined in the HMAP's, as described on page 3 of the environmental assessment, continue to be considered for each herd when animals are selected for return to the HMA's. Of particular value in making these selections are photographs taken of these horses during preparation following gathers from 1984 on. These photographs are on file in the Surprise Field Office.*

The letter stated that the proposed action to gather to the 1995 appropriate management level and release the herds' age, sex, and color composition to the herd management area has good merit. However, there is no data presented to support that this will result in a genetically viable herd. *The Buckhorn and Coppersmith HMA's are considered two separate herds. However, they are contiguous to each other. In addition, they are contiguous on the south to two larger wild horse herd home ranges, including Twin Peaks North with an AML of 155 to 288 horses and the Observation North with an AML of 150 to 218 horses. These two home ranges are part of a*

large metapopulation, with a combined AML of 448 to 760 horses. The division lines between the four herd areas consist of livestock fences in difficult, broken terrain. Wild horse trails cross these fencelines in several places where horses walk rims, cross cattleguards, or push through low spots and loose or open gates into other herd areas. Horses marked with the Coppersmith base herd "X" have been found within the Buckhorn HMA and horses with colors similar to Observation North horses have been found in the Coppersmith HMA. As a result, the opportunities for natural influx of wild horses from outside the individual HMA's are plentiful, and should result in maintaining the genetic diversity and viability of the two herds. An additional appendix has been added to environmental assessment #CA-370-03-27 (Appendix C) which summarizes wild horse genetic viability issues. The significance of wild horse herds being a part of metapopulations is discussed on page 2 of this appendix.

The author was concerned that studies to support the immuno-contraceptive treatment are not footnoted or included in this environmental assessment. *The proposal to use immuno-contraceptive treatment is a result of the need for additional data to support the ongoing research into the impacts of immuno-contraceptive treatment on wild horse herds. Thousands of wild horses have been treated, and data is beginning to become available which is helping to fine-tune population modeling. However, long-term conclusions on the impacts of immuno-contraceptive treatment on wild horse herds have not been made. Treatment levels and techniques are being applied cautiously. The National Program Office in Reno, Nevada is working closely with university researchers, the Food and Drug Administration, and the Humane Society of the United States to assess the short and long-term impacts. Under the Proposed Action, a total of 27 adult mares in the Buckhorn and Coppersmith HMA's would be gathered, treated with immuno-contraceptives, and released. A total of approximately 20 mares (43% of the breeding population of mares) would not be gathered from the HMA, or treated with immuno-contraceptives.*

The letter reminded the BLM that provisions of the Act require each herd to be managed independently to protect its uniqueness. Augmenting these herds could violate the intent of the Wild Horse and Burro Act. *As discussed above, it is not anticipated that these two herds will need artificial augmentation to maintain genetic viability. If they do not, then only wild horses from within each HMA would be selected for return to each HMA. Should genetic testing performed on the horses gathered from the two HMA's find that genetic diversity is very low, and herd augmentation is necessary, then mares chosen for placement in the herd would come from one of the adjacent herd areas in the metapopulation (Buckhorn, Coppersmith, Observation North, or Twin Peaks North) as soon as suitable candidates become available.*

The second letter that was received expressed concerns about the age of the document which established the current AML's. *The data used to establish the AML's in 1995 is still valid, and no new data has been collected that would indicate a change in AML's is needed. Therefore, the AML's are not obsolete.*

The author of the second letter was concerned that Rangeland Health Assessment data collected after 1995 was not presented in the EA. *A Rangeland Health Assessment was conducted in the area of the two HMA's in 1998. This assessment determined that all of the Standards of Rangeland Health were being met, or progress was being made towards meeting them. Yearlong wild horse use, along with hot season livestock use and road placement, was identified as a factor in the non-achievement of the Stream Health Standard. This finding further supports the*

need to maintain wild horse numbers within AML's, to ensure that progress towards meeting this Standard continues.

The second letter questioned whether the two herds would be abolished if the 1995 or future AML's placed the wild horse numbers below a genetically viable population. *As discussed above, it is not anticipated that the AML's for these two herds will ever result in a population size that would need artificial augmentation to maintain genetic viability. They are essentially the northernmost herds of a large metapopulation of wild horses that is known to have overlapping home ranges. This situation provides ample opportunities for natural and artificial genetic augmentation. In any case, decisions regarding which areas will be designated wild horse herd management areas are made in Land Use Plans (LUP's) or amendments to LUP's, not in gather plans.*

The authors of both letters were concerned that the document did not state if the 1997 gather achieved the appropriate management levels for these herds. *Based on the aerial census conducted in September of 1997, Appropriate Management Levels (AML's) were achieved in both of the HMA's following the gather in October of 1997. The census found 101 horses in the Coppersmith HMA, of which 30 horses were permanently removed, leaving 71 horses in the HMA (AML is 50 to 75 horses). The census found 125 horses in the Buckhorn HMA, of which 48 were permanently removed, leaving 77 horses in the HMA (AML is 59 to 85).*

This decision, in conjunction with the attached Buckhorn and Coppersmith Wild Horse Herd Management Areas Capture Plan Environmental Assessment #CA-370-03-27 and the three appendices to the ea (Summary of Population Modeling of Wild Horses, Standard Operating Procedures, and Summary of Wild Horse Genetic Viability Issues), constitute the gather plan for the Buckhorn and Coppersmith HMA's. The Proposed Action and Alternative #2 are in conformance with the Tuledad/Home Camp Management Framework Plan and would not cause any undue or unnecessary environmental degradation. Failure to implement one of the Action Alternatives would result in long-term damage to vegetation, soils, and water and the resources and uses that depend on them.

Based on Environmental Assessment #CA-370-03-27, and the evaluation of criteria requiring preparation of an Environmental Impact Statement, I have determined that implementation of the Proposed Action or of the Alternative #2 would not result in any significant impacts on the quality of the human environment. Therefore, an Environmental Impact Statement is not required according to Section 102(2)(c) of NEPA.

Jana M. deValois

for Rob Jeffers, Environmental Coordinator

11/4/03

Date

Owen Billingsley

Owen Billingsley, Surprise Field Manager

11/4/03

Date