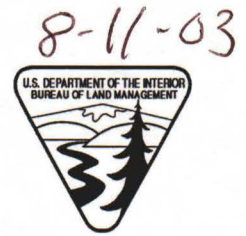




United States Department of the Interior



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

August 11, 2003

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

CARTER RESERVOIR **APPROPRIATE MANAGEMENT LEVEL/CAPTURE PLAN**

CERTIFIED MAIL: 7002 3150 0004 4371 0025
Return Receipt Requested

Cathy Barcomb
Commission for the Preservation. of Wild Horses
123 West Nye Lane, Suite 248
Carson City, NV 89706

Dear Interested Party:

Full Force and Effect Decision

Enclosed, for your review, is my Decision Record/Finding of No Significant Impact for Environmental Assessment No. CA-370-03-19, Carter Reservoir Appropriate Management Level Establishment/ 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 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 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, 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 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, of my staff, at (530) 279-6101, or write to the above address.

Sincerely,



Owen Billingsley
Surprise Field Office 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)

August 8, 2003

DECISION RECORD/FONSI

Environmental Assessment # CA-370-03-19

CARTER RESERVOIR APPROPRIATE MANAGEMENT LEVEL DETERMINATION/ CAPTURE PLAN

Decision

Based on all the information available to me, it is my decision to implement the Proposed Action of Environmental Assessment No. CA-370-03-19, which was sent out for public review on June 23, 2003. No additional mitigation measures were identified as a result of the environmental analysis.

Rationale

The Proposed Action and two alternatives were analyzed in Environmental Assessment No. CA-370-03-19. The No Action Alternative was not selected as it would not restore a natural thriving ecological balance. Available water would continue to be limited and wild horses would have to utilize private water sources to survive. Additionally, heavy use on uplands would continue during the winter period and spring growth period. As the wild horse population grew, damage to the rangeland resource would become extreme.

I have chosen to implement the Proposed Action because this alternative would lead to restoration of a natural thriving ecological balance, resulting in overall positive impacts to both the wild horses and their habitat. Implementation of the Proposed Action is consistent with land use planning goals and objectives and is in accordance with applicable laws and regulations.

Discussion

During the public comment period for Environmental Assessment No. CA-370-03-19, which ran from June 23, 2003 to July 23, 2003, three comment letters were received.

One letter, from a private individual, was supportive of the proposed action, stating that when the populations were maintained at levels as called for in the Cowhead/ Massacre Land Use Plan, the population appeared to have done very well. The letter further stated wild horses lack natural control and therefore can increase 16 to 25 percent annually. This is the case with Carter Reservoir, as during the last census, conducted On May 21, 2001, the foal crop observed was over 18%. With March 1 through June 30, being considered the foaling season, the actual foal crop likely approached 20%.

Another comment letter, from a state agency, stated that due to fact that almost all dependable waters are private, the private landowners may hold the power to determine AML. The proposed AML, as determined in the analysis, is thought to be at a level that would minimize impacts to private lands and waters.

The letter also states that the HMA might not contain suitable habitat to support a population of animals. The Carter Reservoir HMA was established in the Cowhead/ Massacre Land Use Plan and BLM is under the obligation to manage it as such. The BLM has recently begun the process of developing new Resource Management Plans for each of the Nor-Cal East Offices. The management of wild horses will be addressed in these documents.

The letter expresses concerns regarding the augmentation of the herd, stating that provision of the Wild Horse and Burro Act call for BLM to manage the herd for its unique character. As stated in the environmental assessment, the need for augmentation will be based on genetic data collected from the herd. Any future augmentations, if necessary, will be with animals which conform to those characteristics as described in the Carter Reservoir Herd Management Area Plan.

The third comment letter, received from an organized interest group, contained numerous comments that are addressed below.

It stated that the Cowhead/Massacre Management Framework Plan (MFP) is 23 years old, and is therefore outdated and should be updated. The age of this plan is recognized, and the Bureau of Land Management is beginning the process of developing new Resource Management Plans (RMPs) for the Surprise, Eagle Lake, and Alturas Field Offices. It was further stated that BLM should not establish an appropriate management level (AML) for the Carter Reservoir HMA until such time the RMP is completed. BLM, however, has the obligation to continue managing public land resources under existing land use plans until they are replaced.

The letter went on to state that, due to the age of the MFP, it cannot be used to develop an appropriate management level for the Carter Reservoir HMA. In fact, analysis of current vegetative and water source monitoring data was used in the determination of an AML for the Carter Reservoir HMA. Documentation of the analysis is contained as an Appendix to the environmental assessment.

The comment letter stated that the Cowhead/ Massacre MFP needs to be rewritten, with an alternative included to reestablish the HMA boundary for the Carter Reservoir Herd to include the acreage included in the New Years Lake Herd Area, before an AML is established. It also states that BLM has lost sight of their legal mandate to protect wild horses in the areas where they were found in 1971 as an integral part of the natural system of public lands as required by the Wild Free-Roaming Horse and Burro Act. Again, the Carter Reservoir Herd Management Area was established in the Cowhead/Massacre MFP, and BLM is under an obligation to manage land and resources as called for in this plan until a new plan takes its place.

The Susanville Wild Horse and Burro Plan, approved in June, 1976, states that many of the animals found in the New Years Lake Herd Area, during the initial inventories were, in fact, domestic and were to be completely removed and returned to the owners. This appears to, at least, partially account for the decrease in acreage between the HA and HMA. The re-establishment of HMA boundaries should be addressed in the new land use plans, if found to be a significant issue.

The comment is made that the environmental assessment does not analyze a range of alternatives with different AMLs. The proposed AML is based on current vegetative and water source monitoring. It would be inappropriate to develop alternatives with a range of AMLs that are not based on monitoring data. This was clearly specified in the June 7, 1989 ruling from IBLA.

The comment letter states that the BLM's environmental assessment must be withdrawn, and an Environmental Impact Statement (EIS) be prepared. This comment, while offering an opinion on the adequacy of the Environmental Assessment, does not identify significant impacts to the quality of the human environment that would require preparation of an EIS.

The removal of wild horses to 30% below the AML was also brought up as an issue. The proposed AML is based upon the analysis of monitoring data and is thought to be the optimum number of wild horses that could inhabit the HMA while maintaining a natural thriving ecological balance. If animals are not gathered below AML, a maintenance removal would be required on an annual basis for the populations to remain at AML. It is not practical to remove animals every year from an HMA. Furthermore, removals on an annual basis would negatively impact the animal populations, themselves, due to the frequent disturbance and the resulting stress and impact to social structure.

The BLM recognizes and states in the environmental assessment that there may be long- term impacts to genetic viability if the population is managed at a population of 25-35 animals, without further management actions. Furthermore, it is stated that, without baseline genetic data, BLM is managing the Carter Reservoir Herd blindly. This is why BLM plans to collect baseline genetic data from the herd, also as stated in the environmental statement. This data will be used to determine what actions, if any, BLM must take to maintain the-long term viability of the herd.

Finding of No Significant Impact

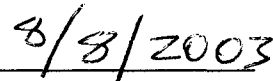
Implementation of the proposed action will result in wild horses being managed in a natural thriving ecological balance, as called for in the Wild and Free-Roaming Horse and Burro Act.

The Proposed Action is in conformance with the Cowhead/ Massacre Management Framework Plan and would not cause any undue or unnecessary environmental degradation. Failure to implement the proposed action, however, is likely to result in long- term damage to vegetation, soils, and private lands within the HMA.

Based upon Environmental Assessment No. CA-370-03-19, and the evaluation of criteria requiring preparation of an Environmental Impact Statement, I have determined that implementation of the Proposed Action of the Carter Reservoir AML Establishment/ Capture Plan 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.



Owen Billingsley, Surprise Field Manager



Date