

**Finding of No Significant Impact/Decision Record
For**

**Diamond Mountain Range Complex
Wild Horse Maintenance Gather
Battle Mountain Field Office**

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DEPARTMENT OF ADMINISTRATION
OFFICE OF THE DIRECTOR
BUDGET AND PLANNING DIVISION

ENVIRONMENTAL ASSESSMENT NO.: NV062-EA04-13

March, 2004

Introduction:

The Bureau of Land Management's Battle Mountain Field Office proposes a maintenance gather for wild horses within and outside the boundaries of the Diamond Mountain Range Complex. The removal of approximately 631 wild horses would take place within the Diamond, Diamond Hills North and Diamond Hills South Herd Management Areas (HMAs). All mares being returned to the complex would be treated with Porcine Zona Pellucidae (PZP), a vaccine for fertility control.

The Appropriate Management Level (AML) is a level of use by wild horses which results in a thriving natural ecological balance and avoids a deterioration of the range. The AML for the complex is 210 wild horses. The AMLs established for the complex represent the maximum population for which thriving natural ecological balance would be maintained. The primary purpose of the proposed action is to bring the wild horse population down to a level which will accommodate a minimum four year gather schedule, and prevent deterioration of the health and condition of the wild horses and the vegetative resources.

The AML for the wild horse population in the Diamond Mountain Range Complex has not been achieved since the completion of the Final Multiple Use Decision (FMUD) which set AML based on extensive rangeland monitoring. The current population of wild horses within the complex is estimated to be 639 horses. The AML for the Diamond Mountain Range Complex has been established at 210 wild horses. The current population is in excess of AML by 304%.

Context:

The proposed action directly involves 3 Herd Management Areas (Diamond, Diamond Hills North and Diamond Hills South HMAs), administered by the Bureau of Land Management's Battle Mountain Field Office, Elko Field Office and Ely Field Office, encompassing 255,204 acres. The Diamond Mountain Range Complex is located in a rural area in Eureka, Elko and White Pine Counties, Nevada.

The Proposed Action for the Diamond Mountain Range Complex is to complete a maintenance wild horse gather to achieve AML. The Proposed Action would decrease

the wild horse population to 126 wild horses, ensuring a genetically viable population would exist within the complex and would not exceed the established AML of 210 until the third or fourth year in which another maintenance gather would occur based on funding, population growth and site-specific qualifiers.

The implementation of the Proposed Action would allow vegetation resources to recover and prevent further deterioration of the range associated with over-population. The Proposed Action would also benefit wild horses based on Code of Federal Regulations (CFR) §4710.4, "*Management shall be at the minimum feasible level necessary to attain the objectives...*"

Intensity:

1) *Impacts that may be both beneficial and adverse.* The Environmental Assessment considered both beneficial and adverse impacts of the maintenance wild horse gather on the Diamond Mountain Range Complex. Achieving the Appropriate Management Level (AML) within the complex would reduce use on rangeland and riparian vegetation, and help alleviate competition for resources between wildlife, wild horses and livestock. Adverse impacts such as those occurring to soils, air quality and wild horses are expected to be minimal and short term. Standard Operating Procedures will be followed to minimize stress on wild horses.

Archaeological clearance of trap sites and holding corrals would occur prior to set up; if cultural resources are found within the proposed area, a new location would be selected upon clearance. To avoid disturbance to active migratory bird nests, sites containing little nesting vegetation will be selected for concentration of horses. Where this isn't possible or practical, site surveys by a qualified biologist will be conducted to determine the presence of nesting birds, and a protective buffer zone established.

2) *The degree to which the proposed action affects public health or safety.* The Standard Operating Procedures and Great Basin Wild Horse and Burro Gather Contract would be used to conduct the maintenance gather and are designed to protect human health and safety, along with the health and safety of the wild horses.

3) *Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.* There are no park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas within the Diamond Mountain Range Complex gather area. A cultural resources inventory will be done prior to setting up temporary trap sites and holding corrals. If cultural resources are found in an area, a new location will be determined to set up temporary trap sites and holding corrals.

4) *The degree to which the effects on the quality of the human environment are likely to be highly controversial.* The proposed action is not expected to be highly controversial. The Appropriate Management Level was set at 210 wild horses within the Diamond Mountain Range Complex. The current population of wild horses exceeds the

established AML by 304% (429 head). Based on Code of Federal Regulations (CFR) §4710.4, "*Management shall be at the minimum feasible level necessary to attain the objectives...*" BLM proposes to gather the wild horse population to a low management range of AML (126) enabling field offices to implement a four year gather cycle and achieve minimal management.

Individuals within Eureka County directly affected by wild horse management decisions on the Diamond Mountain Range "*agree with BLM that the proposed action will ensure that horse populations are managed in balance with other multiple- uses*". The Nevada Department of Wildlife (NDOW) has been in support of reducing wild horse populations to achieve AMLs.

5) *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.* The proposed action has no known effects on the human environment which are considered highly uncertain or involve unique or unknown risks.

6) *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.* Future projects occurring within the Diamond Mountain Range Complex will be evaluated through the NEPA process. Wild horse maintenance gathers are commonly used as a humane means of controlling wild horse populations to maintain a sustainable use by wild horses and other multiple-uses. The proposed action is in conformance with and mandated by all applicable regulations at 43 CFR (Code of Federal Regulations) §4700 and policies, Public Law 92-195 (Wild Free-Roaming Horse and Burro Act of 1971 and Northeastern Great Basin Resource Advisory Council (RAC) Standards and Guides.

7) *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.* Currently, there are no other proposed actions under consideration within the Diamond Mountain Range Complex, and overall cumulative impacts are expected to be minimal. Any future actions proposed within the complex would be further analyzed.

8) *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP or may cause loss or destruction of significant scientific, cultural, or historical resources.* The proposed action would not have any adverse affects to scientific, cultural or historical resources. Archaeological clearance of trap sites and holding corrals would occur prior to set up; if cultural resources are found within the proposed area, a new location would be selected upon clearance. To avoid disturbance to active migratory bird nests, sites containing little nesting vegetation will be selected for concentration of horses. Where this isn't possible or practical, site surveys by a qualified biologist will be conducted to determine the presence of nesting birds, and a protective buffer zone established.

9) *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determine to be critical in the ESA of 1973.* The proposed action will not result in impacts to special status species or their habitat. There are no known T&E Species within the project area.

10) *Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.* The proposed action will not violate or threaten to violate any Federal, State, or local law or requirement imposed for the protection of the environment. The proposed action is in conformance with all applicable regulations at 43 CFR (Code of Federal Regulations) §4700 and policies, Public Law 92-195 (Wild Free-Roaming Horse and Burro Act), Northeastern Great Basin Resource Advisory Council (RAC) Standards and Guidelines, and the Strategic Plan for the Management of Wild Horses and Burros on Public Lands.

FINDING OF NO SIGNIFICANT IMPACT:

Based on the analysis of potential environmental impacts detailed in the attached EA, I have determined that the impacts of the Proposed Action are not significant. Therefore, preparation of an environmental impact statement is not required.

Rationale:

The Proposed Action found in the accompanying Decision Record will, as best can be determined, prevent unnecessary or undue degradation of public land resources. Resource review and analyses have been coordinated with other federal and state agencies. Resources determined to be potentially impacted were analyzed in the EA specific to the Proposed Action. Based on the analysis, impacts to these resources are considered insignificant (see definition of significance in 40 CFR 1508.27).

DECISION:

In accordance with 43 CFR 4770.3 (c), this constitutes my final decision to gather wild horses within and outside of the boundaries of the Diamond Mountain Range Complex and is placed in full force and effect.

The rationale for the FONSI supports this decision. The Proposed Action detailed in the EA and FONSI have led to my decision that all practicable means to avoid or minimize environmental harm and unnecessary or undue degradation of the public land have been adopted. Selection of the No Action alternative would not be consistent with BLM legal mandates which state *Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat.* (Title 43, CFR, 4700.0-6(a)). This decision is consistent with the Shoshone-Eureka Resource Management Plan (1986).

All resource values have been evaluated for cumulative impacts. It has been determined that cumulative impacts would be negligible for most resources. The Proposed Action

will result in short term impacts to soils, water quality, wetlands and riparian areas, vegetation, special status species, wildlife, noxious weeds, range, and wild horses.

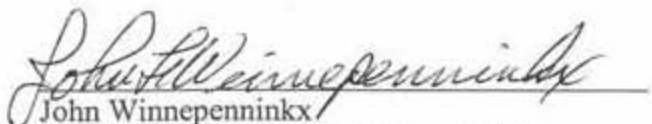
Appeals:

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR, Part 4. If an appeal is taken, your appeal must be filed with the Bureau of Land Management, 50 Bastian Rd., Battle Mountain, Nevada, 89820, within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted to the Interior Board of Land Appeals, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, and to the Office of the Solicitor, U.S. Department of the Interior, Suite 6201, Federal Bldg., 125 South State St., Salt Lake City, UT 84138, at the same time the original documents are filed with this office

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay of a decision pending appeals shall show sufficient justification based on the following rules:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success of the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.


John Winnepenninkx
Assistant Field Manager, Renewable Resources
Battle Mountain Field Office


Date