

United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Ely Field Office
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In Reply Refer To:
4720/4710.4 (NV-042)

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

Moriah Herd Management Area Gather Plan
Ely Field Office

ENVIRONMENTAL ASSESSMENT
NV 040-07-044

INTRODUCTION

The Moriah HMA Environmental Assessment (NV-040-07-044) was completed to analyze the impacts of conducting a maintenance gather of wild horses within the boundaries of the Moriah Wild Horse Herd Management Area (HMA) and any wild horses immediately outside or adjacent to the HMA. The current population of wild horses within the herd is estimated to be 74 animals. The Appropriate Management Level (AML) for the herd is 1-29 wild horses. The AML for the Moriah HMA was established through the Notice of Wild Horse Management Decision and Finding of No Significant Impact (FONSI) for the Establishment of Appropriate Management Levels for Twelve Wild Horse HMA's, and was based on analysis in Environmental Assessment NV-040-03-036. Documents containing this information are filed at the Ely Field Office.

SUMMARY OF PROPOSED ACTION

The Proposed Action is to capture about 65-75% of the current population of wild horses or about 54 wild horses. The animals gathered would be removed and shipped to BLM holding facilities where they will be prepared for adoption and/or sale to qualified individuals or long term holding. The estimated population remaining on the range following the gather would be about 15-20 wild horses. All horses residing outside the HMA would be gathered and removed.

Alternative B. analyzed is the No Action Alternative. In this alternative, wild horses would not be gathered at this time.

Context: The affected region is limited to portions of White Pine County, where the project area is located. The gather has been planned with input from interested public and users of public lands.

Intensity: Based on my review of the EA against CEQ's factors for intensity, there is no evidence that the severity of impacts is significant:

1. *Impacts that may be both beneficial and adverse.* The proposed gather is expected to meet BLM's resource objective for wild horse management of maintaining a thriving natural ecological balance consistent with other multiple uses. Although the gathering and removal of excess wild horses is expected to have short-term impacts on individual animals, it is expected to ensure the long-term viability of the wild horse herds and help to improve forage and habitat conditions in the herd management areas.
2. *The degree to which the proposed action affects public health or safety.* The proposed gather has no effect on public health or safety.
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.* The proposed action has no potential to affect unique characteristics such as historic or cultural resources or properties of concern to Native Americans. There are no wild and scenic rivers, or ecologically critical areas present in the areas. Maintenance of appropriate numbers of wild horses is expected to help make progress in meeting resource objectives for improved riparian, wetland, aquatic and terrestrial habitat.
4. *The degree to which the effects on the quality of the human environment are likely to be highly controversial.* Effects of the gather are well known and understood. No unresolved issues were raised following notification of wild horse advocacy groups of the proposed gather.
5. *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.* The proposed gather includes measures for monitoring its effects on herd population dynamics and toward meeting multiple use objectives for rangeland health throughout the herd management areas. Use of the fertility drug, PZP, to reduce the frequency of gathers and associated impacts, is part of ongoing research to verify that it does not 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.* The action would not establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration.

7. *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.* The EA includes an analysis of cumulative effects which considers past, present and reasonably foreseeable future actions in the Moriah HMA that supports the conclusion that the proposed gather is not related to other actions with individually insignificant but cumulatively significant impacts.

8. *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing on the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources.* The proposed gather has no potential to adversely affect significant scientific, cultural, or historical resources.

9. *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.* The action is not likely to adversely affect any listed species, and the action area does not include any habitat determined to be critical under the Endangered Species Act.

10. *Whether the action threatens a violation of Federal, State, local or tribal law or requirements imposed for the protection of the environment.* The proposed gather conforms to the approved Schell Management Frame Work Plan. Further the proposed gather is consistent with other Federal, State, local and tribal requirements for protection of the environment to the maximum extent possible.

DECISION RECORD

As a result of the analysis presented in the EA, and to be in conformance with the 12 HMAs Wild Horse Decision (4700) process, it is my decision to approve capture and removal of all excess wild horses. The Moriah HMA will be gathered down to a level of 15-20 wild horses.

Rationale: The gathering and removal of excess wild horses is being selected in order to achieve the established Appropriate Management Level, prevent further range deterioration, and achieve a “thriving natural ecological balance” as well as preserve the multiple use relationship within the Moriah HMA immediately and over the next several years. Further, this action is needed in order to prevent the range from deterioration associated with an overpopulation of wild horses and to remove wild horses residing off the HMA. The gather operation will leave a level of 15-20 wild horses within the HMA. Due to the nature of this gather and the implementation of a “gate cut”, immunocontraception vaccine (fertility control) is unfeasible since there will be no wild horses released. Fertility control was analyzed but eliminated from detailed analysis due to these factors. Therefore the use of fertility control will not be administered during the Moriah gather.

FINDING OF NO SIGNIFICANT IMPACT
For the
Moriah HMA Wild Horse Gather

FONSI

I have reviewed Environmental Assessment (EA) NV-040-07-044, dated May 2007. After consideration of the environmental effects as described in the EA, I have determined that the action of removing excess wild horses as identified in the EA will not significantly affect the quality of the human environment and that an Environmental Impact Statement (EIS) is not required.

Rationale

Context:

Within the Ely District, 24 HMAs encompassing 5,300,000 acres are designated for the management of wild horses as one of the multiple uses. All 24 HMAs have an established AML specifically identifying the amount of wild horse use the rangeland resource can support.

Intensity:

1) *Impacts that may be both beneficial and adverse.*

The environmental assessment has considered both beneficial and adverse impacts of removing wild horses in excess of the established appropriate management level (AML) for the Moriah HMA and the removal of wild horses outside the HMA. The removal of excess wild horses has previously occurred on 23 other HMAs within the Ely district. No significant beneficial or adverse effect will occur.

2) *The degree to which the proposed action affects public health or safety.*

My decision to remove excess wild horses will have no affect to public health or safety.

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 unique characteristics or ecologically critical areas within the gather area.

4) *The degree to which the effects on the quality of the human environment are likely to be highly controversial.*

Management of wild horses can be controversial. Continuing to manage wild horses in excess of the established appropriate management Level, as well as wild horses which reside outside the HMA as analyzed is unacceptable to many members of the public, as well as State agencies and governments. Active management of wild horses has always had proponents and opponents. Based upon public input during the review process and based upon the analysis in the EA my decision to gather and remove excess wild horses to a level of 15-20 animals will not be highly controversial to the degree that significant impacts would occur.

5) *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.*

The gathering and removal of excess wild horses within the Ely district is done on an annual basis. Therefore, my decision does not have any highly uncertain effects or involve any 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.*

My decision does not establish any precedent for future actions with significant effects and does not represent a decision in principle about future considerations. Further, all future wild horse gather actions would be subject to the same environmental assessment standards as well as an independent decision making process.

7) *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.*

No significant cumulative impacts are identified in the EA.

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.*

My decision will not cause the loss or destruction of significant scientific, cultural or historical resources nor would these resources be adversely affected since there are none known within gather area.

9) *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the ESA of 1973.*

During the time of the gather no threatened or endangered species will be present. There is no designated critical habitat in the gather area. The EA has identified that no adverse impacts would result to these species from implementing this action.

10) *Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.*

This action will not violate or threaten to violate any federal, state, or local law or requirement imposed for the protection of the environment.

Public Involvement

The preliminary environmental assessment was made available to 82 interested individuals, agencies and groups for a 30 day public review and comment period on June 15, 2007. Written comments were received from four individuals and e-mail comments were received from 149 individuals. Many of these comments contained overlapping issues/concerns which were consolidated into 15 distinct topics. Refer to EA, Appendix V for a detailed summary of the comments received and how BLM used these comments in preparing the final environmental

assessment. The final Environmental Assessment / Gather Plan for Jakes Wash is available on the BLM's web site at http://www.blm.gov/nv/st/en/fo/ely_field_office/blm_information/nepa.2.html, or contact the Ely BLM Field Office.

Approval

The Moriah HMA wild horse gather is approved for implementation upon signature and date below. This decision is made effective upon issuance in accordance with Title 43 of the Code of Federal Regulations (CFR) at 4770.3 (c). Removal of excess (Note: nowhere in the EA have we expressed any concern about protecting animal health in the short term) achieve a thriving ecological balance and multiple use relationship and to prevent further deterioration of rangeland resources resulting from the current overpopulation. This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR part 4 (see attachment).

William E. Dunn
Assistant Field Manager, Renewable Resources
Ely Field Office

Date

Attachment
Moriah
WILD HORSE GATHER
Decision Record

Appeal Procedures

If you wish to appeal this decision, it may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR part 4. If you appeal, your appeal must **also** be filed with the Bureau of Land Management at the following address:

William E. Dunn, Assistant Field Manager
BLM, Ely Field Office
HC 33 Box 33500
702 N. Industrial Way
Ely, NV 89301

Your appeal must be filed within thirty (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 4942, January 19, 1993) for a stay (suspension) of the decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted to:

Board of Land Appeals
Dockets Attorney
801 N. Quincy Street, Suite 300
Arlington, VA 22203

A copy must also be sent to the appropriate office of the Solicitor at the same time the original documents are filed with the above office.

US Department of the Interior
Office of the Regional Solicitor
Pacific Southwest Region
2800 Cottage Way, Room E-1712
Sacramento, California 95825

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay is required to 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 appellants success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

The Office of Hearings and Appeals regulations do not provide for electronic filing of appeals, therefore they will not be accepted.