

Determination of NEPA Adequacy

U.S. Department of the Interior
Bureau of Land Management

Office: Burns District Bureau of Land Management, Three Rivers Resource Area

Tracking Number (DNA #): DOI-BLM-ORWA-B050-2019-0009-DNA

Case File/Project Number: Warm Springs Herd Management Area Removals to Appropriate Management Level

Proposed Action Title/Type: Warm Springs Herd Management Area Removals to Appropriate Management Level

Location/Legal Description: 25 air miles southwest of Burns, Oregon

Applicant: Burns District Bureau of Land Management

Background: On September 12, 2018, Burns District BLM issued a decision record (DR) for DOI-BLM-ORWA-B050-2018-0016-EA (Appendix A: 2018 EA) to gather and remove excess wild horses and burros from Warm Springs Herd Management Area (HMA) and initiate a spay feasibility and on-range behavioral outcomes assessment study. The DR did not include the full 10-year population management plan portion of the environmental assessment's (EA) proposed action. Instead, the DR only approved those parts of the EA providing direction on gathering horses in 2018. Due to limited water availability in the HMA and deteriorating conditions of the natural surface roads being used for hauling water during late summer 2018, the portion of the September 12, 2018 DR to gather Warm Springs HMA became effective upon the signature date. From October 2–23, 2018, 845 horses, 2 mules, and 41 burros were gathered from the Warm Springs HMA (Appendix B: Warm Springs HMA Final Gather Report, Oct. 23, 2018) and taken to the Oregon Wild Horse Corral Facility in Hines, Oregon. Approximately 30 horses and 30 burros remained on the range following the gather (Appendix C: 2018 Warm Springs HMA Gather Summary Report).

The September 12, 2018 DR (Appendix D) was challenged in the United States District Court for the District of Oregon and the District of Columbia, as well as in the Interior Board of Land Appeals (IBLA). A motion seeking a preliminary injunction (PI) was filed in the District of Oregon. On November 2, 2018, the Court preliminarily enjoined implementation of the spay portion of the DR. On November 14, 2018, the Bureau of Land Management (BLM) filed a motion with the IBLA to remand the DR so that BLM had the authority to rescind it. On November 26, 2018, IBLA issued an order vacating the DR in its entirety. Although the DR was vacated by the IBLA, two of the three cases in district court remain active; the third litigant voluntarily dismissed its case.

Despite the DR being vacated, the conditions that caused the BLM to determine that approximately 652 animals were excess and needed to be removed from the range remain present and necessitate the current decision. To that end, this determination of NEPA adequacy (DNA) assesses whether the 2018 EA adequately analyzed the environmental impact of permanently removing wild horses and burros from the Warm Springs HMA, the proposed return of horses to low appropriate management level (AML) for the HMA, and the treatment of mares to be

returned to the HMA with porcine zona pellucida (PZP). This DNA in no part replaces or relies on the 2018 DR, which was vacated in its entirety.

A. Description of the Proposed Action and Project Design Elements

Through this DNA, the BLM is documenting that the 2018 EA (Appendix A) adequately analyzed the following actions:

- the determination that approximately 779 horses, 2 mules, and 56 burros gathered in October 2018 should be permanently removed from the Warm Springs HMA;
- the proposed return of male and female horses (50/50 sex ratio) to the low end of AML for the Warm Springs HMA in 2019; and
- the treatment of the female horses that would be returned to the HMA with PZP.

The AML for the Warm Springs HMA is 96 to 178 horses and 15 to 24 burros. The number of animals gathered combined with the estimated 30 horses and 30 burros remaining on the range indicates that there are approximately 779 excess horses (plus 2 mules) and 56 excess burros above the low end of the respective AMLs. If this decision record is approved, the estimated number of horses and burros remaining on the range is derived from the pre-gather population estimates coupled with the pilot's counts during the final days of the gather (Appendix C: Gather Summary). A spring 2019 survey of the HMA is scheduled to confirm the approximate number of horses remaining on the range.

Under the proposed action in this DNA, these excess animals would be permanently removed from the HMA and prepared for the adoption, sale, or transfer programs as described in the 2018 EA (p. 63), absent a different decision record being approved. The BLM would also return approximately 66 wild horses (depending on the results of the spring 2019 survey) to the HMA to achieve the low AML (96 horses) in calendar year 2019. As described in the proposed action of the 2018 EA, the sex ratio of wild horses on the range would be 50/50, with stallions and mares returned to the range at the same time, to the extent possible. No burros would be returned as the estimated burro population (30 burros) already exceeds the high AML for burros within the HMA. The proposed action in this DNA does not include the spay feasibility and on-range behavioral outcomes assessment portion of the proposed action in the 2018 EA, nor does it include the full 10-year population management plan portion of that proposed action.

When BLM would return approximately 66 horses to the HMA in 2019 is dependent on the following factors:

- HMA accessibility due to road conditions. During the winter and spring months the natural surface roads that provide access to the Warm Springs HMA are often impassable, especially for multiple large, heavy loads hauling horses. The roads are typically passable from May or June through November, depending on the weather conditions. The BLM would continue to monitor the road conditions.
- The potential threat of wildfire within the HMA beginning in late June through fall could influence the timing of returns. As described in the 2018 EA (pages 46, 90, 98, 103, and 108), there is a likelihood of future wildfire activity in the HMA, which has the ability to greatly alter management activities on BLM-managed land. Wildfire can quickly limit or

remove forage availability on vast portions of the HMA. This occurred in the 2012 Miller Homestead Fire that burned 58,182 acres of the HMA.

- Peak foaling season generally occurs from March 1 through June 30 for most wild horse herds. Since the majority (74 percent) of mares over one year of age were pregnant at the time of the gather, these mares will give birth in the BLM corrals in spring or early summer of 2019. The BLM would return selected mares to the HMA to achieve low AML once their foals reach approximately 4 to 6 months of age. At 4 to 6 months of age, foals can be weaned from their mare and placed in the adoption program. Mares who foal earlier in the season would be chosen as return mares in order to get horses back on the range at the earliest point, as long as mares from all age classes are available. Transporting and releasing mares with young dependent foals back to the HMA is not a best management practice for several reasons, including risk of injury to young foals during transport on rough roads; risk of mares abandoning foals once returned to the range; and the risk of injury and abandonment of foals due to releasing mares during breeding season when stallions will be trying to establish bands.
- Adequate water must be available across the HMA to return animals and maintain a thriving natural ecological balance. Distribution and quantity of water available on the HMA would be assessed by BLM staff during the June aerial survey. Based on previous monitoring experience, BLM staff would determine if water is available “in sufficient amounts to sustain healthy wild horse populations and healthy rangelands over the long term” (Wild Horse and Burro (WHB) Management Handbook, H-4700-1) (EA, p. 47).
- Stallions and mares should be released during the same general time period (approximately one week), as logistics allow, to maintain the 50/50 sex ratio objectives of the HMA. A portion of the 30 horses currently remaining on the range are mares (exact number is unknown). Peak foaling/breeding season is from March 1 through June 30. If BLM were to release only the stallions when road conditions allow (potentially May or June), then a heavily skewed sex ratio would be established in the middle of breeding season putting the few remaining mares and their dependent foals at risk of injury while these new stallions fight to establish dominance and bands.
- The BLM does not intend to return to the range only mares that were open (not pregnant) at the time of capture, if environmental conditions allow and if all age classes are available. Those mares found to be open at the time of capture may have the potential to be perpetually infertile, which could inadvertently create a very minimally reproducing herd and consequently have unforeseen and negative impacts on the population growth rate and genetic variability of the herd.
- The BLM retains the right to issue new management decisions pertaining to these horses that could rescind, nullify, set aside, supersede, or adopt this potential decision record in whole or in part. A new management decision could affect, among other things: (1) whether, and when, horses are returned to the HMA; (2) BLM’s excess determination; and (3) the population control measures that BLM chooses to utilize.

The above-mentioned factors would result in the BLM returning male and female horses to the HMA between approximately June and November of 2019. Mares returned to the HMA would be released after being treated with PZP in accordance with BLM Instruction Memorandum (IM) 2009-090, Population-Level Fertility Control Field Trials: Herd Management Selection, Vaccine Application, Monitoring and Reporting Requirements.

B. Land Use Plan Conformance

The proposed action in this DNA is in conformance with the Three Rivers Resource Management Plan (RMP) and Record of Decision (ROD), September 1992, as amended by the 2015 Oregon Greater Sage-Grouse Approved Resource Management Plan Amendment (GRSG ARMPA) and ROD.

The proposed action specifically conforms to the following components of the Three Rivers RMP, as amended by the GRSG ARMPA:

Three Rivers RMP/ROD (1992) (p. 2-43)

WHB 1: Maintain healthy populations of wild horses within the Kiger, Palomino Buttes, Stinkingwater, and Riddle Mountain HMAs, and wild horses and burros in the Warm Springs HMA.

WHB 1.1: Continue to allocate the following acres and animal unit months (AUM) in active HMAs: ... Warm Springs HMA, 456,855 ac., 2,424 AUMs. This is equivalent to an AML of 111–202 animals, including 15–24 burros (Proposed Three Rivers RMP, September 1991, Volume 1 – Text, pp. 2-43 and 3-8).

WHB 1.3: Adjust wild horse and burro population levels in accordance with the results of monitoring studies and allotment evaluations, where such adjustments are needed in order to achieve and maintain objectives for a thriving natural ecological balance and multiple-use relationships in each herd area (HA).

Permanent adjustments would not be lower than the established minimum numbers in order to maintain viability. The AML would be based on the analysis of trend in range condition, utilization, actual use and other factors which provide for the protection of the public range from deterioration.

Procedures to Implement:

1. Use currently approved methods for control of herd population levels (p. 2-44).

WHB 2: Enhance the management and protection of HAs and herds in the following HMAs: Kiger, Stinkingwater, Riddle Mountain, Palomino Buttes, and Warm Springs (p. 2-44).

WHB 2.3: Select for high quality horses when gathered horses are returned to the range (p. 2-45).

WHB 3: Enhance and perpetuate the special or rare and unique characteristics that distinguish the respective herds in the resource area (RA).

WHB 3.1: Limit any releases of wild horses or burros into an HMA to individuals which exhibit the characteristics designated for that HMA.

WHB 3.2: Manage burros for a maximum of 24 head in the west side of the Warm Springs HMA. The allocation of forage for burros is within the total allocation for the Warm Springs HMA (p. 2-45).

Oregon Greater Sage-Grouse Approved Resource Management Plan Amendment (GRSG ARMPA) (September 2015), WHB Objectives (p. 2-21)

Objective WHB 1: Manage wild horses and burros as components of BLM-administered lands in a manner that preserves and maintains a thriving natural ecological balance in a multiple-use relationship.

Objective WHB 2: Manage wild horse and burro population levels within established appropriate management levels.

MD WHB 1: Manage HMAs in GRSG habitat within established AML ranges to achieve and maintain GRSG habitat objectives.

MD WHB 3: Prioritize gathers and population growth suppression techniques in HMAs in GRSG habitat, unless removals are necessary in other areas to address higher priority environmental issues, including herd health impacts.

MD WHB 8: When conducting NEPA analysis for wild horse/burro management activities, water developments, or other rangeland improvements for wild horses, address the direct and indirect effects on GRSG populations and habitat.

MD WHB 10: When WHB are a factor in not meeting GRSG habitat objectives or influence declining GRSG populations in priority habitat management areas (PHMA), Oregon's gather priority for consideration by the Washington Office (WO) is as follows:

1. Response to an emergency (e.g., fire, insect infestation, disease, or other events of unanticipated nature).
2. GRSG habitat.
3. Maintain a thriving natural ecological balance.

C. Identify Applicable National Environmental Policy Act Documents and Other Related Documents that Cover the Proposed Actions

List by name and date all applicable National Environmental Policy Act (NEPA) documents that cover the proposed action.

- Spay Feasibility and On-Range Behavioral Outcomes Assessment and Warm Springs HMA Population Management Plan Environmental Assessment (DOI-BLM-ORWA-B050-2018-0016-EA), September 12, 2018. Hereafter, this document will be referred to as the 2018 EA.

List by name and date other documentation relevant to the proposed action (e.g., biological assessment, biological opinion, watershed assessment, allotment evaluation, and monitoring report).

See the 2018 EA (p. 8-13) for a list of specific relevant information from the following documents:

- Wild Free-Roaming Horses and Burros Act (WHB Act) of 1971 (Pub. L. 92-195), as amended.
- Wild Free-Roaming Horse and Burro Management (43 CFR 4700).
- BLM Wild Horses and Burros Management Handbook, H-4700-1 (June 2010).
- Warm Springs Equine Herd Management Area Plan (1979).
- Warm Springs Wild Horse Herd Management Area Plan – Update (December 1987).

- Warm Springs Herd Management Area Plan Update (June 2010).
- Herd and habitat monitoring data:
 - United States Geological Survey (USGS) unpublished draft statistical analysis for 2018 survey of horse abundance in Liggett Table, Palomino Buttes, and Warm Springs HMAs, Oregon (Appendix E). This June 2018 aerial survey draft analysis indicated 852 total horses (694 adults and 158 foals) prior to the end of foaling season.
 - Burro count memo to the HMA file reported an estimated 68 adults and 6 foals present in the HMA (July 18, 2018).
 - Warm Springs HMA Final Gather Report (Appendix B) shows the capture of 845 total horses, 41 burros, and 2 mules (October 23, 2018.)
 - Warm Springs HMA Gather Summary (Appendix C) reported 845 horses, 41 burros, and 2 mules captured with an estimated 30 horses and 30 burros remaining on the range (October 2018). These numbers indicate a pre-gather HMA population of 875 horses, 71 burros, and 2 mules.
 - Wilson Butte area water check memo to HMA file (July 25, 2018). This report documented the rapidly declining availability of water for the horses in this portion of the HMA (approximately 156 square miles).
 - Wild horse herd and habitat monitoring report documenting the severe utilization levels by wild horses in the Coyote Fire Emergency Stabilization Treatment area (July 26, 2018).
 - Road Lake water and Coyote Fire area visit memo to file noted low water available with indication of a large number of horses utilizing this water source. In addition, the memo documented approximately 80 horses within the Coyote Fire burned area along with heavy horse utilization, trailing, and sign in the fire rehabilitation area (July 30, 2018).
 - Water availability monitoring reports:
 - Warm Springs water hauling justification (July 10, 2014)
 - Deadhorse Lake area water check (July 24, 2014)
 - East Warm Springs water check (July 1, 2015)
 - West Warm Springs water check (August 4, 2015)
 - Warm Springs HMA Summary (2016)
 - West Warm Springs water check (June 7, 2017)
 - Warm Springs HMA water haul request (July 27, 2018)
 - Allotment utilization reports:
 - East Warm Springs (September 18, 2015)
 - West Warm Springs (September 22, 2015)
 - East Warm Springs (August 25, 2016)
 - West Warm Springs (August 30, 2016)
 - East Warm Springs (September 29, 2017)
 - West Warm Springs (October 11, 2017)
 - East Warm Springs (September 6, 2018)
 - West Warm Springs (September 18, 2018)

D. NEPA Adequacy Criteria

1. Is the new proposed action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document(s)? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document(s)? If there are differences, can you explain why they are not substantial?

The proposed actions are in the same analysis area and are a feature of the proposed action alternative analyzed in the 2018 EA (DOI-BLM-ORWA-B050-2018-0016-EA). The 2018 gather of Warm Springs HMA has already occurred, therefore this DNA proposes to permanently remove excess wild horses and burros from the HMA and return the wild horse population to low AML within calendar year 2019. These actions are described (pp. 34–41) and analyzed (beginning on pp. 56–57 and p. 60–84) in the 2018 EA, with the exception of a slight difference in the number of horses estimated in the EA to be gathered as compared to what the BLM actually gathered in October 2018. The 2018 EA estimated “approximately 694 adult horses plus 158 foals (852 total horses) could be gathered with approximately 652 excess animals removed from the range.” The October 2018 gather captured 845 horses, 41 burros, and 2 mules. (The 2018 EA did not specify gathering mules because BLM did not estimate their presence on the HMA; however, they may have been counted as horses during survey flights. Mules have been present in Warm Springs HMA in the past due to the result of horses and burros breeding.) Post-gather estimates of animals remaining on the range included 30 horses and 30 burros. These numbers provide for 779 excess horses, 2 excess mules, and 56 excess burros. However, the 10-year population management plan portion of the 2018 EA planned for and analyzed the effects of future gathers and removals through 2028 to reduce the population to the low AML of 96 horses. The EA explained that “[i]n the absence of an initial gather for the study or consecutive years, the proposed action includes gathering to low AML regardless of population size. For example, if the first gather happened in 2028, up to 5,300 horses and burros could be removed” (p. 34). The 2018 EA did not specifically state that 779 excess horses, 2 mules, and 56 burros would be removed and considered excess in 2018. However, this number of excess animals was clearly provided for in the proposed action, as well as re-establishing the population within AML.

The 2018 EA explained the on-range monitoring supporting a determination of excess animals as follows:

- EA, p. 2: Warm Springs HMA has an “AML range of 96 to 178 wild horses and 15 to 24 burros” ... “a June 18–19, 2018, simultaneous double-observer aerial survey led to an estimated population size of 852 horses (694 adults and 158 foals) (USGS unpublished data, 2018)” ... “two ground counts and the June 2018 aerial survey provided an estimated burro population of 68 adults plus 6 foals.” Further detail regarding AML and population estimates and how they support an excess determination can be found in chapter III of the EA (pp. 48–51).
- EA, p. 3: “Water availability is presently [August 2018] inadequate to support a subset of the wild horse population in the western half of the HMA, and BLM has begun hauling water to sustain a population of approximately 236 animals in this area. With an estimated 694 adult horses and 158 foals by fall 2018 (USGS

unpublished data, 2018), severe drought in coming years would likely result in loss of life especially as compared to 2014 when the estimated wild horse population was only 253 adults and 44 foals and loss was expected without water hauling.” Further detail regarding water availability and how it supports an excess determination can be found in chapter III of the EA (pp. 52–55).

- EA, p. 3: “Wild horse competition with native wildlife species for water sources is concerning especially in relation to recent GRSG lek trends in the HMA (drastic decline or loss) versus leks outside the HMA (stable). Herbaceous cover and height provide horizontal screening at GRSG nest sites, which obscures the nest from predators. Recent upland forage utilization monitoring documents moderate to high utilization levels in portions of the HMA experiencing concentrated wild horse and livestock use. In 2017 and 2018, moderate to heavy use was indicated in several areas of the HMA where lower levels of livestock use occurred.”
- EA, p. 102: “Wild horse observations show high congregation areas are occurring within 4 miles of all pending leks (range of 15–120 horses per lek; average 49 horses per lek). Continuous yearlong impacts from horses to GRSG and species mentioned is a serious concern.” ... “In general, GRSG persist when grazing regimes are managed to provide residual vegetation and seasonal rest for key forage species. Grazing animals that are well distributed across the landscape and managed to reduce the scale and duration of congregation areas will not impact GRSG habitat; but poor grazing management would result in increased areas of heavy and even severe utilization that not only reduce available cover but, in time, can cause mortality of targeted forage plant species, such as blue bunch wheatgrass.”

Additional rangeland monitoring documents not cited in the 2018 EA, due to the date they were collected in relation to the release of the EA, are listed below.¹ Although these monitoring reports were not part of the 2018 EA, they support the EA’s analyses.

The proposed action alternative analyzed in the 2018 EA included the application of PZP, which would be applied to mares prior to re-establishing AML on the range. “In order to maintain a reduced population growth rate following the study and during the 10-year timeframe, adaptive management would be incorporated to use the most promising methods of fertility control that maintain a self-sustaining herd within AML, and that maintain the free-roaming behavior of the animals” (EA, p. 34). The effects of PZP were fully analyzed in the EA (pp. 81–84).

¹ Documents:

- Wilson Butte area water check memo to HMA file (July 25, 2018). This report documented the rapidly declining availability of water for the horses in this portion of the HMA (approximately 156 square miles).
- Wild horse herd and habitat monitoring report documenting the severe utilization levels by wild horses in the Coyote Fire Emergency Stabilization Treatment area (July 26, 2018).
- Road Lake water and Coyote Fire area visit memo to file noted low water available with indication of a large number of horses utilizing this water source (July 30, 2018). In addition, the memo documented approximately 80 horses within the Coyote Fire burned area along with heavy horse utilization, trailing, and sign in the fire rehabilitation area.

2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the new proposed actions, given current environmental concerns, interests, and resource values?

The 2018 EA fully analyzed two alternatives (no action and proposed action) and considered but eliminated seven alternatives from further analysis (pp. 18–45). The proposed action analyzed in the 2018 EA included the permanent removal of excess horses and burros, re-establishing AML on the range, and the application of PZP to those mares returning to the range. The 2018 EA underwent one public scoping period followed by two public comment periods. Issues raised and alternatives provided during those public input periods were addressed in the Response to Public Comments of the September 12, 2018 DR (Appendix D). Alternatives to the gather and removals portion of the proposed action revolved around not gathering at all (considered under the no action alternative) and bait and water trapping instead of helicopter gathers (considered in Alternatives Considered but Eliminated from Further Analysis section). The remaining alternatives analyzed or considered and not analyzed further included population management actions following achievement of low AML.

The actions EA proposed in this DNA are all features of the proposed action described in the 2018 EA range of alternatives described in section II. Because the current environmental concerns, interests, and resource values have not changed since the 2018 EA (with the exception of effects caused directly by the 2018 gather), there are no additional reasonable alternatives the BLM would consider. The 2018 EA considered but eliminated seven alternatives from detailed analysis (pp. 41–45) following guidance from section 6.6.3 of BLM’s NEPA Handbook (2008). None of the factors under which BLM eliminated alternatives from detailed consideration before have changed since the final version of the 2018 EA. Of the seven eliminated, two remain in nonconformance with the existing land use plan (LUP), three remain technically infeasible, one remains remote or speculative due to no new data on the topic, and one would continue to not meet the purpose and need. Therefore, the range of alternatives examined in the 2018 EA continues to be adequate.

3. Is the existing analysis valid in light of any new information or circumstances (such as, rangeland health standard assessment, recent endangered species listings, and updated lists of BLM sensitive species)? Can you reasonably conclude that new information and new circumstances would not substantially change the analysis of the new proposed action?

The existing analysis regarding the removal of excess horses and burros remains valid since environmental conditions are basically the same as those disclosed and analyzed in the 2018 EA, Chapter III: Affected Environment (beginning on p. 45). The existing analysis is also valid for the actions of returning approximately 66 horses to the HMA and the treatment of mares returned to the HMA with PZP. The current population on the range is below AML because the gather took place in October 2018; due to the Court’s preliminary injunction order and impassable roads during the winter months, horses have been held for longer than anticipated at the Oregon Wild Horse Corral Facility. The BLM is unaware of any peer-reviewed study on the impacts of captivity at a BLM holding facility on wild horses prior to

being returned to an HMA. However, BLM routinely maintains at their holding facilities wild horses slated to be returned to the range for up to 2 years following wildfire within HMAs; this is done to allow for adequate rehabilitation of burned areas. Based on these experiences, the BLM does not believe that the extended holding of horses following the 2018 gather significantly changes the 2018 EA's analysis of impacts associated with returning horses to the HMA or treating them with PZP to slow the population growth rate (p. 34). The effects of these actions are identified on pages 35–131. Since September 2018 (final 2018 EA), there are no new circumstances or information that would substantially change the analysis of these actions.

The BLM has no new information regarding the conditions on the range since the 2018 gather that change the impacts analysis described in the 2018 EA related to the need to maintain AML. The 2018 EA proposed action included a 10-year plan (2018–2028) for management of horses within AML that included multiple events when horses and burros would be permanently removed from the HMA with PZP applied to mares returned. There was no scenario analyzed where BLM would maintain the wild horse population below AML because this would not be in conformance with the Three Rivers RMP/ROD (1992). The BLM did not anticipate litigation preventing the return of animals to within AML or over AML for the spay study and delaying the move toward achieving AML on the range. However, based on multiple years of monitoring wild horse and burro population growth, surveying the population on the range and the distribution of their use patterns, and monitoring direct and indirect impacts on range conditions and locally important wildlife, the proposed action in the 2018 EA included the ability to conduct gathers and removals of wild horses “each time the high end of AML is exceeded” (p. 34).

4. Are the direct, indirect, and cumulative effects that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?

The direct, indirect, and cumulative effects from the actions proposed in this DNA are similar to those analyzed and disclosed in section III.B of the 2018 EA (chapter III, pp. 45–131). First, the specific actions proposed in this DNA (i.e., permanent removal of animals, return to low AML, and application of PZP) are essentially the same actions that were analyzed in the proposed action of the 2018 EA.

Second, the specific numbers of animals proposed in the DNA to be both permanently removed from and returned to the range were proposed in and analyzed by the 2018 EA. This DNA proposes to remove a number of animals that is within the ranges contemplated in the 2018 EA proposed action. The proposed action of the 2018 EA had two parts: (1) Spay Feasibility and On-Range Behavioral Outcomes Assessment (2018–2022), and (2) 10-year Population Management Plan (2018–2028) (EA, pp. 19–41). Both parts of the 2018 EA's proposed action described removal of excess wild horses and burros from the Warm Springs HMA. The 2018 EA estimated 2018 removals associated with the spay study to be “approximately 652 excess animals removed from the range” (EA, p. 21) while the 10-year plan portion of the proposed action discussed multiple gathers and removals of excess animals covering the span of 2018–2028. The 10-year plan stated, “The number of horses

and burros gathered and excess removed would be adjusted based upon the estimated herd size and the number of excess animals determined at the time of the gather” (EA, p. 34). It goes on to say, “In the absence of an initial gather for the study or consecutive years, the proposed action includes gathering to low AML regardless of population size. For example, if the first gather happened in 2028, up to 5,300 horses and burros could be removed...” (EA, p. 34). The EA did not specifically state that 779 excess horses, 2 mules, and 56 burros would be removed and considered excess; however, this number of excess animals was clearly provided for in the proposed action, as well as re-establishing the population within AML.

This DNA proposes to re-establish low AML on the range with a sex ratio of 50/50 as well as treatment of mares with PZP fertility control. The 2018 EA (p. 34) explained how “potential population growth suppression actions that would be applied include... PZP.” This is followed by discussion on how many factors play into determining the number of horses that would be required to be gathered and removed to reach low AML and to treat depending on, but not limited to, climatic conditions leading up to the gather, gather efficiency, condition of animals at the time of gather, and age structure of animals captured as compared to the age structure objectives for returning to the range. Ranges for the amount of animals treated with PZP to re-establish AML anytime during the timeframe of the 10-year plan were provided on page 35. Because the proposed actions of this DNA would follow the same PZP treatment protocol (IM 2009-090) described in the 2018 EA, the potential number of animals treated with PZP would fit in the ranges described in the EA on page 35.

Third, the affected environment is similar to the one described and analyzed in the 2018 EA. In the 2018 EA, the timing for return of animals to the HMA following the 2018 gather was anticipated to be during the late fall or early winter of 2018, or “as soon as possible” following the recovery period associated with surgeries in the spay study. The conditions for when horses would be returned to the range has always been left to the discretion of the BLM staff based on professional experience regarding the welfare of the animals and environmental conditions, as well as policy guidance including the WHB Management Handbook and IM 2015-151. The timing of return following the 2018 gather was delayed due to appeals associated with the DR (vacated) for the 2018 gather and removals and the spay study. A return of horses during 2019 was not specifically described in the 2018 EA; however, the 2018 EA described the need to manage within AML and ensure the four essential wild horse and burro habitat components (forage, water, cover, and space) are present in the HMA in sufficient amounts to sustain healthy wild horse populations and healthy rangelands over the long term (EA, pp. 5, 47, and 53). The timing of return of horses in this proposed action would have the same effects to horses related to preparation, handling, and transport as those described beginning on page 63 of the EA.

The BLM is not aware of any meaningful changes to the environment that would suggest the actions proposed in this DNA would lead to different effects than those disclosed in the 2018 EA.

5. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?

All of the actions being proposed in this DNA were analyzed in the 2018 EA, which was subject to extensive public comment and review periods. On May 21, 2018, the BLM mailed a scoping letter for the 2018 EA to 127 interested individuals, groups, and agencies regarding the proposed study and population management plan. The scoping letter was also posted to BLM’s ePlanning website. Letters mailed to Burns District BLM and emails sent to blm_or_spaystudy_warmsprhma@blm.gov were received from 2,044 individuals, groups, and agencies during the scoping period. Comments received following the May 21, 2018, scoping period were incorporated into a draft EA that was mailed to 105 interested individuals, groups, tribes, and agencies for a 30-day public comment period on June 29, 2018. The announcement of the availability of the EA for public comment was also emailed to 49 interested parties. In addition, the EA and unsigned finding of no significant impact (FONSI) were posted to BLM’s ePlanning website, and a notice was posted in the Burns Times-Herald newspaper for one week, beginning on July 4, 2018. A total of 8,326 comment emails, letters, and faxes were received during the 30-day public comment period. The comments and issues identified in public letters and emails, along with the issues identified during the interdisciplinary team (IDT) meetings and through contact with other agencies, were addressed by the BLM IDT. In August 2018, the partnering university associated with the spay study analyzed in the 2018 EA withdrew from the project causing a slight update to that portion of the EA. The updated EA was released for an additional public comment period from August 22 through September 2, 2018. These documents were posted on BLM’s ePlanning website, and a notice of availability was posted in the Burns Times-Herald newspaper. Comments from this comment period were also incorporated into the final 2018 EA and the September 12, 2018 DR (since remanded).

This DNA is being released for a 30-day public comment period and will be available for review on BLM’s ePlanning website.

E. Interdisciplinary Analysis

These interdisciplinary team members conducted or participated in the NEPA analysis and preparation of this worksheet. Specialists have reviewed and will sign upon completion of decision.

Specialist Signature and Date: _____
Lisa Grant, WHB Specialist, Project Lead – Wild Horses and Burros, Economic Values

Specialist Signature and Date: _____
Chad Rott, Supervisory Fuels Management Specialist – Air Quality and Fire Management

Specialist Signature and Date: _____
Travis Miller, Wildlife Biologist – Migratory Birds, Wildlife, Special Status Species (SSS) (Fauna)

Specialist Signature and Date: _____
Carolyn Temple, Fuels Archaeologist – American Indian Traditional Practices, Cultural Resources, Paleontological Resources

Specialist Signature and Date: _____
Caryn Burri, Natural Resource Specialist (NRS) Botany – Areas of Critical Environmental Concern, Soils and Biological Soil Crusts, SSS (Flora)

Specialist Signature and Date: _____
Breanna O'Connor, Riparian Specialist – Fisheries, SSS (Aquatic), Water Quality, Wetland and Riparian Zones.

Specialist Signature and Date: _____
Dory Seeley, Outdoor Recreation Specialist – Recreation and Visual Resources

Specialist Signature and Date: _____
Thomas Wilcox, Wilderness Specialist – Wild and Scenic Rivers, Wilderness Study Areas, and Lands with Wilderness Characteristics

Specialist Signature and Date: _____
Lindsay Davies, Planning and Environmental Coordinator – Environmental Justice

Specialist Signature and Date: _____
Ty Cronin, Environmental Protection Specialist – Noxious Weeds

Specialist Signature and Date: _____
Jon Reponen, District Forester – Forestry and Woodlands

Specialist Signature and Date: _____
David King, District Engineer - Engineering

Specialist Signature and Date: _____
Tara McLain, Realty Specialist - Realty and Lands

Specialist Signature and Date: _____
*Connie Pettyjohn, Management and Program Analyst –
Transportation and Roads*

Specialist Signature and Date: _____
*Kyle Jackson, Rangeland Management Specialist – Upland
Vegetation, Livestock Grazing Management*

Specialist Signature and Date: _____
*Marsha Reponen, Resource Protection Specialist – Hazardous
Materials or Solid Waste*

Note: Refer to the 2018 EA (appendix A) for a complete list of the team members participating in the preparation of the original EA or planning documents.

F. Others Consulted

Identify other individuals, agencies, or entities that were consulted with as part of completing the NEPA analysis.

Robert Sharp, Supervisory Wild Horse and Burro Specialist, Burns District BLM

Paul Griffin, Wild Horse and Burro Program Research Coordinator

Stacy Fenton, Geographic Information Specialist, Burns District BLM

Jeffrey Rose, District Manager, Burns District BLM

Brenda Lincoln-Wojtanik, Program Analyst, OR/WA State Office

*Robert Hopper, State Wild Horse and Burro Specialist and Rangeland Management Specialist,
OR/WA State Office.*

*Burns Paiute Tribe
Fort McDermitt Paiute and Shoshone Tribes
Livestock Grazing Permittees
Surrounding Landowners
U.S. Fish and Wildlife Service
Oregon Department of Fish and Wildlife*

G. Conclusion

Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan and that the NEPA documentation fully covers the proposed action and constitutes BLM's compliance with the requirements of the NEPA.

Authorized Officer Signature and Date: _____
Jeffrey Rose, District Manager, Burns District BLM

H. List of Appendices

- A. 2018 EA
- B. Warm Springs HMA Final Gather Report
- C. 2018 Warm Springs HMA Gather Summary Report
- D. 2018 Decision Record
- E. USGS unpublished draft statistical analysis for 2018 survey of horse abundance in Liggett Table, Palomino Buttes, and Warm Springs HMAs, Oregon