

**Decision for the Humboldt River Field Office**  
**Effective Immediately**  
**Humboldt Herd Area Gather**  
**Final Environmental Assessment**  
**DOI-BLM-NV-W010-2013-0024-EA**

**INTRODUCTION**

The Humboldt Herd Area (HA), is located in Pershing County about 30 miles south of Winnemucca, NV and extends along the eastside of Interstate 80 to Lovelock, NV. The gather area is comprised of the Humboldt HA which is 431,544 acres of both private and public lands within the administrative boundaries of the Bureau of Land Management (BLM) Winnemucca District (WD), Humboldt River Field Office (HRFO).

HAs were identified in Land Use Plans (LUPs) and were limited to areas of the public land used as habitat by wild horses and burros at the time the Wild Free Roaming Horses and Burros Act (WFRHBA) was enacted (December 15, 1971). The HAs where wild horses and burros could be managed for the long term were designated as Herd Management Areas (HMAs) through the land-use planning process. The Humboldt HA was not designated for the long term management of the wild horses in the Sonoma-Gerlach Management Framework Plan (SG-MFP WHB 1.3) due to the checkerboard land ownership pattern found within the HA and therefore, is not managed for wild horses and burros. The rationale for the SG MFP WHB 1.3 states, “The HUAs designated for complete horse/burro removal are in a checkerboard land pattern. Landowners from each HUA have requested removal of wild horses/burros from their private lands. Section 4 of P.L. 92-195 and part 43 CFR subpart 4750.3 directs the authorized officer to remove wild horses/burros from private lands at the owner's request.”

Even though checkerboard lands are not managed for wild horses, based on past counts, there are currently an estimated 185 animals plus the 2014 foal crop on these lands. These estimates are based on field observations and counts conducted by the BLM in 2011, 2012 and an annual recruitment rate of 15%. The HRFO proposes to remove all excess wild horses from this HA. Follow-up gather activities will be used to remove additional excess wild horses. Bait/water trapping would be the primary gather mechanism; however, the use of helicopter gathering may be used in this phased management strategy as a supplementary gather technique to assist in bringing the herd population to zero. Due to funding, holding space limitations, and gather efficiency constraints, it may take multiple gathers over a 10 year period after the initial gather to achieve the desired population of zero. Gather dates and numbers will be posted on the BLM National Gather Schedule. The initial gather will begin as soon as funding and holding space becomes available and take approximately 30 days to complete.

**COMPLIANCE/CONFORMANCE**

I have determined that the proposed action in the Humboldt HA Wild Horse Gather Plan Environmental Assessment (EA) is in conformance with:

All applicable regulations at 43 CFR (Code of Federal Regulations) §4700 and policies, as well with the 1971 Wild Free Roaming Horses and Burros Act. More specifically, this action is designed to remove excess wild horses consistent with the following regulation:

43 CFR §4720.1: *“Upon examination of current information and a determination that an excess of wild horses or burros exists, the authorized officer shall remove the excess animals immediately...”*

The Sonoma-Gerlach Management Framework Plan (MFP) Date Approved: July 9, 1982 (as updated May 23, 1998 by Gerald Brandvold)

WHB-1.3 Remove wild horses and burros from the checkerboard Horse [sic] Areas (HAs) listed below unless a cooperative agreement providing for the retention and protection of wild horses and burros is consummated with the affected private landowner(s). Cooperative agreements have not been obtained on the following areas and wild horses should be removed.

[...] 2. Humboldt [...]

Planned Actions or Modifications

All HAs will be closely monitored, and if an unacceptable number of either wild horses or burros migrate back into a particular HA, these animals will be removed.

The Humboldt HA Wild Horse Gather Plan is consistent with the plans and policies of neighboring local, county, state, tribal and federal governments to the greatest extent practical. Under the proposed action in the Humboldt HA Wild Horse Gather Plan EA, no federal, state, or local law, or requirement imposed for the protection of the environment will be threatened or violated.

## **DECISION**

Based on the Humboldt HA Wild Horse Gather Plan Final Environmental Assessment (EA), DOI-BLM-NV-W010-2013-0024-EA, and the attached Finding of No Significant Impact (FONSI), it is my decision to implement the Proposed Action for the Humboldt HA as described in the EA to provide for an initial gather beginning on or about July 1, 2014.

This Decision constitutes my final decision to gather and remove all excess wild horses from within the Humboldt HA to achieve a zero population.

Pursuant to the criteria set forth at 43 CFR 4770.3(c), this decision is effective immediately and the gather is approved to begin as soon as funding and holding space become available.

## **RATIONALE**

Upon analyzing the impacts of all the Alternatives and following issuance of the EA for public review, I have determined that the Proposed Action will not have a significant impact to the human environment, and that an Environmental Impact Statement is not required. Refer to the attached FONSI.

Removal of excess wild horses from the gather area is necessary to comply with Section 1333(b) (1) of the Wild Free-Roaming Horses and Burros Act of 1971 (WFRHBA) and Section 302(b) of the Federal Land Policy and Management Act (FLPMA) of 1976.

The Proposed Action will remove excess wild horses to reach and maintain a zero population over multiple gathers if all excess animals are not removed during the initial gather.

The gather will also:

- Remove wild horses from private lands;
- Reduce the likelihood of wild horse/vehicle collisions;
- Reduce wild horse pressure on area around the Lovelock-Oreana Well Head Protection Area
- Promote vegetative health by preventing over utilization and/or use by wild horses during critical growth periods for perennial grasses in the upland, wetland and stream bank riparian habitats associated with the Humboldt HA;
- Decrease resource competition for space, forage and water among wildlife and livestock;
- Although impacts would still occur through livestock grazing, removal of excess wild horses will contribute to improved vegetation density, increased plant vigor, seed production, seedling establishment, and forage production over current conditions by reducing grazing pressures caused by excess wild horse numbers;
- Remove excess wild horses from public lands as required under the WFRHBA; and
- Preserve the health and wellbeing of the animals removed from the range that are competing for limited forage and water.

The action is in compliance with the WFRHBA by achieving the established zero population on areas not designated as HMAs and preventing degradation of rangeland resources resulting from excess wild horses. This assessment is based on factors including, but not limited to the following rationale:

- Based on the population inventory completed in 2011, the population of wild horses within the gather area is approximately 185 adult animals plus the 2014 foal crop.
- Water is a limited resource within the Humboldt HA. There are several small springs and seeps in the Humboldt HA that are ephemeral and dependent on yearly precipitation. The majority of the available water is unreliable and often unavailable as water sources recharge from past years of drought. Range improvements are present in the HA but most water projects are dependent on variable spring flows. Many of these range improvements are wells, which operate only while livestock are present and which the livestock operator owns the water rights to. The BLM does not hold any water rights for wild horses within the Humboldt HA.

The following constitutes the rationale for making this decision effective upon issuance:

#### Necessity of Prompt Removal of Excess Wild Horses

With the collaborative effort to uniformly gather the entire Humboldt HA, BLM seeks to bring the wild horse population in that landscape down to a zero population. The private land owners have requested, in writing, that the wild horses be removed from their properties.

Given the exceptional drought conditions, removing excess wild horses from the gather area would reduce impacts to the range and riparian resources. Due to wild horses concentrating near available water sources the range resource is being negatively impacted. This is reflected in degraded range conditions within and outside of the Humboldt HA.

In accordance with 43 CFR §4720.1, upon examination of current information, I have determined that an excess of wild horses exists outside of a designated HMA, and that the excess animals should be removed.

I selected implementation of the Proposed Action over the Alternatives for the following reason:

The Proposed Action would achieve and maintain a population of zero wild horses within the Humboldt HA consistent with the LUP and management objectives for these public lands.

I selected implementation of the Proposed Action over the No Action Alternative for the following reason (EA at Chapter 4.1.15 Wild Horses-No Action):

Under the No Action Alternative, no gather would occur and no wild horses would be removed from the Humboldt HA at this time. As stated in the Introduction, wild horse fatalities and damage to private property due to the presence of excess wild horses within the HA has been documented and would continue to be an issue. The No Action Alternative would not achieve the identified Purpose and Need and is contrary to the WRFHBA and 43 CFR Part 4700; however, it is analyzed in this EA to provide a basis for comparison with the other action alternatives, and to assess the effects of not conducting a gather at this time.

Excess wild horses would remain on public and private lands within the Humboldt HA, an area that – consistent with the LUP -- is not suitable or being managed for wild horses. BLM would continue to address safety issues regarding wild horses in and near the Humboldt HA on an ad hoc basis only.

## **PUBLIC INVOLVEMENT**

### ***Consultation and Coordination in Development of Preliminary EA***

On-going consultation with the Nevada Department of Wildlife, U.S. Fish and Wildlife Service, Pershing County, livestock operators and others, underscores the need for BLM to remove excess wild horses.

Issues identified in the EA at Chapter 1.4 were identified during internal scoping in December 2012.

Water or bait trapping can be used when trying to remove wild horses from a small distinct geographic area or when weather or environmental conditions are not conducive to helicopter gather techniques. Water/bait trapping activities would be scheduled in locations and during time periods that would be most effective to gather sufficient numbers of animals to achieve management goals. Existing watering sites would be preferred.

Public hearings are held annually on a state-wide basis regarding the use of motorized vehicles in the management of wild horses (or burros) (inventory, gather operations, and transport). During these meetings, the public is given the opportunity to present new information and to voice any concerns or opinions regarding the use of motorized vehicles in the management of wild horses and burros. Prior to gathering wild horses and burros in 2014 a state-wide hearing will be held.

The BLM has been gathering excess wild horses and burros from public lands since 1975, and has been using helicopters for such gathers since the late 1970's. Refer to Appendix A of the Humboldt HA Wild Horse Gather Environmental Assessment for information about methods that are utilized to reduce injury or stress to wild horses and burros during gathers. Since 2004, BLM Nevada has gathered over 40,000 excess animals. Of these, gather related mortality has averaged 0.5%, which is very low when handling wild animals. Another 0.6% of the animals captured were humanely euthanized due to pre-existing conditions and in accordance with BLM policy. This data confirms that appropriate use of helicopters and motorized vehicles are a safe, humane, effective and practical means for gathering and removing excess wild horses and burros from the range. BLM policy prohibits the gathering of wild horses with a helicopter (unless emergency conditions exist) during the period of March 1 to June 30 which includes and covers the six weeks that precede and follow the peak of foaling (mid-April to mid-May).

### ***Preliminary EA***

The Preliminary Humboldt HA Gather Plan EA #DOI-BLM-NV-W010-2013-0024-EA was made available to interested individuals, agencies and groups for a public review and comment period that opened on June 25, 2013, and closed July 25, 2013. This interested party list included approximately 175 individuals, organizations, county officials, and state and federal agencies. Among these was the Nevada State Clearinghouse which made the interested party letter available for review by different agencies from around the state. The EA and associated documents were also available from the BLM's NEPA Register, and a link to the NEPA Register was provided from the Winnemucca District's NEPA website.

The BLM received over 9,000 comment submissions during and after the close of the public comment period; more than 8,900 of those submissions were form letters. Form letters are generated from a singular website from a non-governmental organization, such as an animal advocacy group. Comments identified on the form letters were considered along with the rest of the comments received, but as one collective comment letter. Form letters are not counted as separate comments for purposes of review due to their duplicative nature. However, where individuals added their own comments to the form, the personalized comments were considered as separately submitted comments. All comments were reviewed and considered. Substantive

comments were utilized to finalize the EA as appropriate. Letters and e-mails were received both in support of and in opposition to the gather.

Although the BLM's review of public comments did not indicate that substantive changes to the conclusions presented in the preliminary EA were warranted, they did lead to changes throughout the document to better explain and clarify BLM's analysis in response to comments, which resulted in a more comprehensive and complete document. In finalizing the EA, the following information was updated:

- Updated the proposed action to remove the initial gather would be conducted as a helicopter drive gather;
- Information on the greater sage-grouse and other BLM sensitive species was updated;
- Public Involvement information (Chapter 6) was updated;
- Appendix C- Summary of Public Comments and BLM Responses was added to the EA;
- Updated the wild horse population numbers from 2013 to show projected populations for 2014 nation-wide; and
- Added some references to the EA and updated the reference section.

**Native American Consultation**

Table 1 below outlines the consultation activities which were conducted in conjunction with this project.

**Table 1.** Native American Consultation

Tribe	Date initial consultation letter was Mailed	Date Preliminary EA was Mailed	Date of Consultation Meeting
Battle Mountain Band Tribal Council	January 2012	June 25, 2013	None Requested
Fallon Paiute-Shoshone Tribe	January 2012	June 25, 2013	None Requested
Lovelock Paiutes	January 2012	June 25, 2013	None Requested
Pyramid Lake Paiutes	January 2012	June 25, 2013	None Requested
Winnemucca Indian Colony	January 2012	June 25, 2013	Letter returned by USPS as undeliverable

**AUTHORITY**

The authority for this decision is contained in Section 1333(b)(1) of the 1971 WFRBA, Section 302(b) of FLPMA of 1976, and at 43 CFR §4700.

43 C.F.R. §4720.1 Removal of excess animals from public lands

Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animal immediately in the following order.

- (a) Old, sick, or lame animals shall be destroyed in accordance with subpart 4730 of this title;
- (b) Additional excess animals for which an adoption demand by qualified individuals exists shall be humanely gathered and made available for private maintenance in accordance with subpart 4750 of this title; and
- (c) Remaining excess animals for which no adoption demand by qualified individuals exists shall be destroyed in accordance with subpart 4730 of this part.

#### 43 C.F.R. §4740.1 Use of Motor Vehicles or Air-Craft

Motor vehicles and aircraft may be used by the authorized officer in all phases of the administration of the Act, except that no motor vehicle or aircraft, other than helicopters, shall be used for the purpose of herding or chasing wild horses or burros for capture or destruction. All such use shall be conducted in a humane manner.

Before using helicopters or motor vehicles in the management of wild horses or burros, the authorized officer shall conduct a public hearing in the area where such use is to be made.

#### 43 C.F.R. §4770.3 Administrative Remedies

- (a) Any person who is adversely affected by a decision of the authorized officer in the administration of these regulations may file an appeal. Appeals and petitions for stay of a decision of the authorized officer must be filed within 30 days of receipt of the decision in accordance with 43 CFR, part 4.
- (c) Notwithstanding the provisions of paragraph (a) of §4.21 of this title, the authorized officer may provide that decisions to remove wild horses or burros from the public or private lands in the situations where removal is required by applicable law or is necessary to preserve or maintain a thriving ecological balance and multiple use relationship shall be effective upon issuance or on a date established in the decision.

### **APPEAL PROVISIONS**

Within 30 days of receipt of this wild horse decision, you have the right to appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with regulations at 43 CFR 4.4. If an appeal is taken, you must follow the procedures outlined in the enclosed, "Information on Taking Appeals to the Board of Land Appeals." Please also provide this office with a copy of your Statement of Reasons. An appeal should be in writing and specify the reasons, clearly and concisely, as to why you think the decision is in error.

In addition, within 30 days of receipt of this decision you have a right to file a petition for a stay (suspension) of the decision together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties identified in items 2, 3, and 4 of the enclosed form titled "Information on Taking Appeals to the Board of Land Appeals." The appellant has the burden of proof to demonstrate that a stay should be granted.

A petition for a stay of decision pending appeal 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 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.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.401 (c) (2)).

/s/ Victor Lozano

Victor Lozano  
Field Manager  
Humboldt River Field Office

May 28, 2014

Date

Attachment