

Pine Nut Wild Horse Gather

Decision Record

DOI-BLM-NV-C020-2015-0013-DNA

December 2014



Introduction

The Proposed Action is to gather up to approximately 332 wild horses and remove approximately 200 excess wild horses from outside and inside the Pine Nut Herd Management Area (HMA). Approximately 132 wild horses would be released back into the HMA after fertility treatment, after all mares one-year of age and older receive a contraceptive, porcine zona pellucide (PZP). These numbers assume a 100% gather efficacy based on the estimated current population; however, gather efficacy usually does not exceed 80% – 90% of the wild horse population (e.g., due to wild horses that are able to evade capture, that are located in areas where they cannot be readily spotted, etc.), so the exact number of horses removed, treated and released would depend upon conditions at the time of gather.

The combined appropriate management level (AML) for this HMA is 119 to 179. The AML was set through multiple use decisions for each of the nine grazing allotment within the HMA, so that the wild horse population would be maintained at a level compatible with the capability of HMA to produce forage grasses to sustain multiple use grazing and thus maintain a thriving natural ecological balance and avoid a deterioration of the range. The AMLs for each allotment were set as a range, where wild horse numbers would be reduced down to the lower range allowing gather intervals of four to five years until the wild horse population reaches or exceeds the high end of AML. Removal of all of the excess wild horses would bring the wild horse population to the lower end of the AML. However, at this time there is only enough capacity in holding facilities to remove 200 excess wild horses from this area. If there are fewer wild horses than estimated, then the lower end of the AML may be reached (119 animals).

Wild horse impacts are most severe in parts of the HMA within the Clifton and El Dorado Canyon grazing allotments. In some areas of these allotments, most of the key forage grasses have been eliminated by overgrazing attributable to excess wild horses, resulting in less productive and less desirable grass species replacing the key forage grass species. Livestock have not grazed the Clifton Allotment for at least 20 years and possibly for as much as 30 years. The only livestock use for the last 20 years within the El Dorado Canyon Allotment has been sheep trailing through the area for two to three days a year.

Most of the riparian areas in the Clifton Allotment are non-functional as a result of over use by excess wild horses, which has resulted in loss of wildlife habitat and possible diminished flows from the springs. The flows from many of the springs in the Clifton Allotment have diminished substantially. This was occurring even before the current drought. The cause is unknown though it may have resulted from excessive compaction of the water sources by wild horses, a general dewatering of the area, or a combination of the two. During the warmer months some bands of wild horses spend up to six hours at the sources to obtain enough water to survive, which is stressful to the horses especially to the foals. This prolonged use prevents other species of wildlife from obtaining water. Deer, pronghorn, bobcats, and many other species of wildlife would not water at these springs while horses are present.

Because of the exceptional resource damage occurring in the Clifton Allotment, the wild horse population in Clifton and El Dorado Canyon grazing allotments would be reduced to the lower end of the AML for those allotments.

The last gather occurred in November 2010, in which 46 excess wild horses were removed from outside of the HMA and 43 mares were treated with PZP and released back into the HMA, leaving an estimated 182 wild horses. Excess wild horses were to be removed from areas south of the HMA, however, the contractor was unable to locate these animals.

The number of excess wild horses on public lands in the Western States exceeds the current adoption demand or capacity to maintain them in existing holding facilities. This HMA is a priority for gather and removal of excess wild horses due to the resource damage occurring, because the current population exceeds the AMLs, and because of the adverse impacts from excess wild horses to Bi-State sage-grouse habitat. On October 28, 2013, the U.S. Fish and Wildlife Service (USFWS) proposed to list the Bi-State distinct population segment (DPS) of greater sage-grouse (*Centrocercus urophasianus*) as threatened and designate critical habitat under the Endangered Species Act (ESA). The proposed critical habitat identified by the USFWS includes areas within the HMA and much of the area outside of the HMA currently being used and degraded by excess wild horses. Since residual grass cover is essential for nesting success of sage-grouse and year-long grazing is most detrimental to native bunch grass species, all of the excess wild horses need to be removed from areas outside of the HMA, which are not designated for management of wild horses. The wild horse population within Bi-State sage-grouse habitat needs to be brought to as close to the lower end of the AML range as gather efficiencies permit, so as to allow the native grasses to recover from years of overgrazing

Excessive grazing from wild horses has not only degraded the sage-grouse habitat, but has also removed and reduced the number of native grass plants in areas of the HMA, which impacts the overall availability of forage grasses within the HMA and has reduced the number of wild horses that can be supported by current range conditions within the HMA.

The gather is expected to last up to 10 days during late January or early February 2015. Work would occur prior to the sage-grouse breeding season, which generally begins March 1. It is anticipated that four or five temporary trap sites would be required for the gather and one temporary holding corral. Trap sites are roughly ½ acre and corrals are roughly one acre. All sites would be cleared by an archeologist prior to approval. If cultural resources cannot be avoided, different sites would be selected. Some of these sites would likely be in proposed sage-grouse critical habitat. These sites would be located on disturbed areas more than three miles from known active leks and in areas where sage-grouse use is minimal during the month of January or February. Trap sites are located along roads of sufficient size and condition to allow access by horse trailers. Areas of concentrated use by sage-grouse would be avoided. The Bureau of Land Management (BLM) has coordinated with the USFWS on potential effects to sage-grouse.

The temporary holding corral would likely be located at either T 16 N; R21 E; Sec 24, or T 16 N; R 25 E; Sec 6. Depending on road conditions and animal locations, the temporary trap sites would likely be located at four or five of the six following locations: T 13N; R 21 E; Sec 19, T 15 N; R 22E; Sec 5, T 14 N; R 22 E; Sec 28, T 13 N; R 23 E; Sec 28, T 15 N; R 24 E; Sec 31, or T 16 N; R 22 E; Sec 16. The potential gather area and trap locations are shown on Figure 1.

During gather operations, motorized vehicles would remain on existing roads. Off-road use of motorized vehicles on public lands would not be permitted.

Mitigation measure. BLM representatives would be on site during all phases of the capture, sorting and release of animals to ensure that the animals are treated humanely (in accordance with Instruction Memorandum No. 2013-059, Wild Horse and Burro Gathers: Comprehensive Animal Welfare Policy) at all times and that the health and safety of wild horses is not jeopardized.

Incorporation by Reference

The *Pine Nut Herd Management Areas Gather Plan Environmental Assessment* issued on October 20, 2010, analyzed the environmental impacts of the same activities that would be implemented for the proposed gather. A Determination of NEPA Adequacy (DOI-BLM-NV-C020-2015-0013-DNA) documents BLM's NEPA compliance. The final EA, Finding of No Significant Impact and Decision Record (DOI-BLM-NV-C020-2010-0019-EA), approved on October 20, 2010 are hereby incorporated by reference.

Public Involvement

On August 23, 2010 the BLM provided a 30-day public comment period on the Clan Alpine, Pilot Mountain, *Pine Nut Herd Management Areas Gather Plan Environmental Assessment* (EA) (DOI-BLM-NV-C020-2010-0019-EA). A dear reader notification letter was sent to 61 individuals, organizations, and agencies on the project mailing list, including the Nevada State Clearinghouse. A news release was issued; articles appeared in the *Lahontan Valley News*, *My News 3**, *My News 4**, *Reno Gazette-Journal* (*web versions) and the *Mineral County Independent*. The comment period closed on September 23, 2010. A summary of the comments received on the 2010 EA can be found in Appendix G of the Final EA. On October 20, 2010 the BLM signed a Finding of No Significant Impact and Decision Record, which is hereby incorporated by reference.

Land Use Conformance

This action is in conformance with the Carson City Field Office Consolidated Resource Management Plan (CRMP) under the following section:

- WHB-1, objective 1: "Protect, manage, and control wild horses and burros on public lands as an integral part of the public land's ecosystem."

Authority

Implementation of the Proposed Action is consistent with the Federal Land Policy and Management Act of 1976 and the Wild Free Roaming Horses and Burros Act of 1971. Specific regulations that allow for the gather and use of PZP are covered by the following regulations:

- 43 CFR 4700.0-6 (a): "Wild horses shall be managed as self-sustaining populations of healthy animals in balance with other uses and productive capacity of their habitat."

- 43 CFR 4710.4 Constraints on management. “Management of wild horses and burros shall be undertaken with the objective of limiting the animals’ distribution to herd areas.”
- 43 CFR 4720.1 “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 animals immediately...”
- 43 CFR 4770.3 (c) “[T]he authorized officer may provide that decisions to remove wild horses or burros from public or private lands in 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.”

Rationale

The BLM is required to manage for multiple uses on Public Lands in a manner that avoids degradation of the rangelands; maintains a thriving natural ecological balance between wild horses, wildlife including Bi-State sage-grouse, livestock; and resolves public health and safety concerns. The gather and removal of excess wild horses and treatment of mares with PZP prior to release would achieve the wild horse management objectives identified in the CRMP. The gather is necessary to remove excess wild horses from within the HMA and from non-HMA areas to prevent on-going degradation of range resources and adverse impacts on proposed critical habitat, to bring the wild horse population back to AML, and to allow BLM to achieve and maintain a thriving natural ecological balance and multiple use relationship within the gather area.

Decision

My Decision is to authorize the gather and removal of approximately 200 excess wild horses and the treatment of mares to be released back into the HMA with PZP to reduce wild horse population growth. I have determined that the existing environmental analysis is sufficient for this action and that this action is in conformance with the existing land use plan.

The Pine Nut Wild Horse Gather is approved for implementation immediately, and the gather is approved to begin on or about late-January through mid-February 2015 and is projected to take approximately 10 days to complete. This Decision is effective upon issuances in accordance with Title 43 of the Code of Federal Regulations (CFR) at 4770.3 (c) because removal of excess wild horses is necessary to protect animal health, prevent further deterioration of rangeland resources, and to allow for recovery of rangeland health.



Leon Thomas
Field Manager
Sierra Front Field Office

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APPEAL PROCEDURES

This decision 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:

Leon Thomas
Field Manager
BLM, Sierra Front Field Office
5665 Morgan Mill Road
Carson City, NV 89701

Your appeal must be filed within thirty (30) days from receipt or issuance 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.

U.S. Department of the Interior
Office of the Regional Solicitor
Pacific Southwest Region
2800 Cottage Way, Room E-1712
Sacramento, CA 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. Electronically filed appeals will therefore not be accepted.