



United States Department of the Interior



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In Reply Refer To:
4720/4710.4 (NVL02000)

AUG 17 2015

DECISION RECORD (DR)
for
**Ely District Water Canyon Wild Horse Growth Suppression Pilot Program
Environmental Assessment (EA)
Ely District
DOI-BLM-NV-L020-2015-0014-EA**

INTRODUCTION

The Bureau of Land Management (BLM) Ely District (EYDO), Schell Field Office has prepared this Environmental Assessment (EA) to implement a pilot population management program to primarily bait and water trap all the wild horses within the Water Canyon portion of the Antelope HMA in order to apply fertility control treatments to all mares retained within the project area. However, helicopter-drive trapping may be needed to meet management objectives to capture the highest percentage of wild horses present. The purpose of the pilot population management program is to monitor the effectiveness of treating all mares with a fertility control vaccine and to determine the overall reduction in foaling rates that can be achieved, while minimizing the number of excess horses that need to be removed over a 10-year period (2015- 2025) by reducing the overall population growth rate and stabilizing the small wild horse population within this portion of the Antelope HMA. The program would include the initial removal of approximately 30-40 excess horses to bring the wild horse population in the project area to the high end of AML at the start of the project. An estimated 25-30 wild horses would remain in the project area following the initial trapping, removal of excess horses, treatment of captured mares, and release at an approximate 50/50 ratio of studs to mares in the area. Associated with the routine application of booster fertility shots and/or treatment of the resident mares every 20-24 months, the program would continue to remove a small number of horses (approximately 5-10 primarily young horses born within the project area) when the population exceeds 40 head of horses in the area. Horses would need to be trapped and removed back down to the target levels of 25-30 horses to ensure that the horses in the project area have sufficient resources to sustain themselves throughout the duration of the management plan.

The Water Canyon Project Area is located within northeastern White Pine County approximately 40 miles northeast of Ely, Nevada. The Water Canyon Project Area represents 10.6% of the Antelope HMA with a target management level of 25-30 wild horses within this portion of the HMA. As the appropriate management level (AML) is established for the entire Antelope HMA, the target management number for this portion of the HMA is based on professional opinion of range condition, water availability and acreage comparison. The target number also takes into account seasonal movement from the east during the summer and drier winter months. The Water Canyon

portion of the Antelope HMA is approximately 31,000 acres in size. The Antelope HMA (including Water Canyon portion) is approximately 331,000 acres in size.

BLM has prepared an environmental assessment (EA) to analyze the environmental impacts associated with the proposed gather, removal, and fertility control measures. Refer to **DOI-BLM-NV-L020-2015-0014-EA**.

DECISION

It is my decision to implement Alternative B as described in the Ely District Water Canyon Wild Horse Population Growth Suppression Pilot Program Environmental Assessment. (**DOI-BLM-NV-L020-2015-0014 EA**). This decision is effective immediately pursuant to 43 CFR 4770.3(c) 4710.4

RATIONALE

Upon analyzing the impacts of Alternative B and following issuance of the EA for public review, I have determined that implementing Alternative B provides a good opportunity to utilize GonaCon-B vaccine as a primary population growth suppression agent. The Water Canyon Project is semi isolated with the capability to support an estimated population range of 25-30 wild horses. This allows BLM to observe the effectiveness of GonaCon to maintain a target population level. The NAS Report 2013 Findings: "the most promising fertility-control methods for application to free-ranging horses or burros are porcine zona pellucida (PZP) vaccines, GonaCon vaccine, and chemical vasectomy." NAS report also found the GonaCon seems more appropriate for use in females in that some research has suggested that female's sexual behavior continues and preserving natural behaviors is important.

In accordance with the Wild Free-Roaming Horses and Burros Act of 1971, as amended (Public Law 92-195), the gather is necessary to remove excess wild horses and to bring the wild horse population back to the target population range within the Water Canyon Project Area in order to achieve and maintain a thriving natural ecological balance between wild horses and other multiple uses as required under Section 1333(a) of the 1971 Wild Free-Roaming Horses and Burros Act (WFRHBA) and Section 302(b) of the Federal Land Policy and Management Act of 1976.

The BLM is required to manage multiple uses to avoid degradation of public rangelands, and the removal of excess wild horses and control of the rate of population growth is necessary to protect rangeland resources from further deterioration or impacts associated with the presence of wild horses within the Water Canyon Project Area (which represents a portion of the Antelope HMA).

Alternative B is consistent with the wild horse management objectives identified in the Record of Decision (ROD) and Approved Ely District Resource Management Plan (August 2008). Gathering wild horses that fit under Alternative B will occur as necessary for the next 10 years following the date of the decision (approximately August 2015) or until management objectives are met.

Leaving these excess wild horses on the range under the No Action Alternative would not comply with the WFRHBA or applicable regulations and Bureau policy, nor would it comply with the Ely RMP, and Northeastern Great Basin Resource Advisory Council (RAC) Standards and Guidelines (February 12, 1997). The No Action Alternative would allow no removals of excess wild horses or fertility control treatments to take place. The population of the wild horses in the Water Canyon portion of the Antelope HMA would continue to grow at the national average rate of increase seen in the majority of HMAs of 20

to 25% per year. The No Action Alternative also increases the likelihood of emergency conditions arising, leading to the death or suffering of individual animals or to an emergency gather in order to prevent suffering or death due to insufficient forage or water.

PUBLIC INVOLVEMENT

A preliminary environmental assessment was posted on BLM's National NEPA Registrar web page, <http://on.doi.gov/1PKK0Jg>, for a 30-day public review and comment period on May 15, 2015 and closed on June 15, 2015. Written or mailed-in comments were received from two individuals and agencies. E-mail comments (majority were form letters) were received from 8,508 individuals and/or organizations. Many of these comments contained overlapping issues/concerns which were consolidated into 82 distinct topics. Refer to EA, Appendix VI for a detailed summary of the comments considered and reviewed by BLM, in its preparation of the final environmental assessment, along with BLM's responses to comments. The final Environmental Assessment/Gather Plan for Ely District Water Canyon Wild Horse Growth Suppression Pilot Program is available on the National NEPA Registrar web page at <http://on.doi.gov/1PKK0Jg>, or by contacting the Ely District Office.

AUTHORITY

The authority for this Decision is contained in Section 1333(a) of the 1971 Free-Roaming Wild Horses and Burros Act, Section 302(b) of the Federal Land Policy and Management Act (FLPMA) of 1976, and Code of Federal Regulations (CFR) at 43 CFR §4700.

§4700.0-6 Policy

- (a) 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;
- (b) Wild horses and burros shall be considered comparably with other resource values in the formulation of land use plans;
- (c) Management activities affecting wild horses and burros shall be undertaken with the goal of maintaining free-roaming behavior;
- (d) In administering these regulations, the authorized officer shall consult with Federal and State wildlife agencies and all other affected interests, to involve them in planning for and management of wild horses and burros on the public lands.

§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. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans.

§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 animals immediately ...

§4740.1 Use of Motor Vehicles or Air-Craft

(a) 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.

(b) 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.

§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.

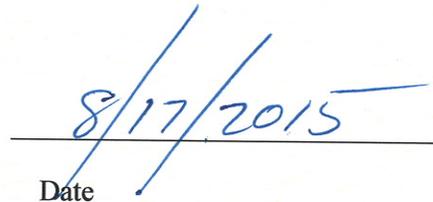
(c) Notwithstanding the provisions of paragraph (a) of §4.21 of this title, the authorized officer may provide that decisions to remove wild horses or burros from public or private lands in situations where removal is required by applicable law or is necessary to preserve or maintain a thriving natural ecological balance and multiple use relationship shall be effective upon issuance or on a date established in the decision.

APPROVAL

The Ely District Water Canyon Wild Horse Population Growth Suppression Pilot Program is approved to begin in September 2015. This decision is effective upon issuance in accordance with 43 C.F.R. §4770.3 (c) because removal of excess wild horses and fertility control treatment of mares is necessary to protect animal health and prevent further deterioration of rangeland resources. This decision may be appealed to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with provisions found at 43 CFR Part 4 (see attachment).



Paul E. Podborny
Field Manager
Schell Field Office



Date

FINDING OF NO SIGNIFICANT IMPACT (FONSI)
for
Ely District Water Canyon Wild Horse Growth Suppression Pilot Program
Environmental Assessment (EA)
Ely District
DOI-BLM-NV-L020-2015-0014-EA

Based on the analysis of potential environmental impacts in the Environmental Assessment for the Ely District Water Canyon Wild Horse Population Growth Suppression Pilot Program (DOI-BLM-NV-L020-2015-0014-EA), I have determined that Alternative B will not have a significant effect on the human environment. Therefore, the preparation of an environmental impact statement (EIS) is not required for compliance with the National Environmental Policy Act of 1969.

Reasons for this finding are based on my consideration of the Council on Environmental Quality (CEQ) criteria for significance (40 CFR 1508.27) with regard to the context and intensity of impacts.

Context: The affected region is limited to the northeastern portion of White Pine County, Nevada where the project area is located. The gather has been planned with input from the 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 impacts are significant:

1. *Impacts that may be both beneficial and adverse.* Alternative B would allow the Ely District to implement a population growth suppression pilot program within the Ely District. Allowing the capture and removal of excess wild horses as well as treating and releasing mares after application of fertility controls within the Water Canyon project area, will allow for management of wild horses in this area at AML. This is in conformance with Wild Free-Roaming Horse and Burros Act of 1971 (WFRHBA). Although the gather and removal of excess wild horses and application of fertility controls is expected to have some short-term impacts on individual animals, over the long-term, it is expected to benefit wild horse health by improving forage and habitat conditions within the Water Canyon project area and would be beneficial for rangeland resources such as vegetative communities, riparian resources and wildlife habitat.
2. *The degree to which the Alternative B affects public health or safety.* The Standard Gather Operating Procedures (EA, Appendix I and Appendix III) would be used to conduct the gather and to apply fertility controls, and are designed to ensure protection of human health and safety, as well as the health and safety of the wild horses and burros.
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.* Alternative B 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 Water Canyon project area.
4. *The degree to which the effects on the quality of the human environment are likely to be highly controversial.* Effects of the gather and application of fertility control treatments are generally well known and understood. Although GonaCon-B is not used as prevalently as PZP-22, it has been

registered for use by EPA since 2013 (includes horses and other species) and has been studied for close to a decade. No unresolved issues were raised through consultation or public comments.

5. *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.* Possible effects on the human environment are not highly uncertain and do not involve unique or unknown risks. Alternative B has no known effects on the human environment which are considered highly uncertain or involve unique or unknown risks. This is demonstrated through the effects analysis in the EA.

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 is compatible with future consideration of actions required to improve wild horse management. Alternative B does not set a precedent for future actions. Future actions would be subject to evaluation through the appropriate level of NEPA documentation

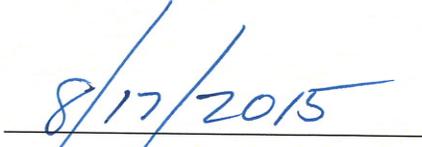
7. *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.* Alternative B is not related to other actions with individually insignificant but cumulatively significant impacts.

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 and application of fertility controls 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.* Alternative B 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.* Alternative B is in compliance with the 2008 Ely District Record of Decision and the Approved Resource Management Plan dated August 2008, and is consistent with other Federal, State, local and tribal requirements for protection of the environment to the maximum extent possible.


Paul E. Podborny
Field Manager
Schell Field Office


Date

Attachment
**Ely District Water Canyon Wild Horse Growth Suppression Pilot Program Environmental
Assessment (EA)
for the Ely District
DOI-BLM-NV-L020-2015-0014-EA
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:

Paul E. Podborny
Field Manager, Schell Field Office
BLM, Ely District Office
702 N. Industrial Way
Ely, NV 89301

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.

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.