United States Department of the Interior
Bureau of Land Management

Decision Record
Environmental Assessment
DOI-BLM-UT-C020-2015-0032-EA

September 2015

Axtell Off-Range Corral (ORC) for Wild Horses
Solicitation # L14PS00389

Location:

T20S, R01E, SLM, UT, Sec. 17
Axtell, Utah

Applicant/Address:

Kerry and Nannette Despain
13500 S 10490 W
HC 64 Box 21057
Axtell, UT 84621

U.S. Department of the Interior
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It is my decision to authorize the Proposed Action in the environmental assessment: DOI-BLM-UT-C020-2015-0032-EA, contingent upon the operators' acquisition of all required permits, including those from the Utah Department of Water Quality. This decision will fund space, feed, and care for up to 1,000 wild horses in an off-range corral (ORC), operated by Kerry and Nannette Despain, for a one-year period with a renewal option under BLM contract for four one-year extensions. The ORC is located in T20S, R01E, SLM, UT, Sec. 17, near Axtell, Utah, on approximately 32 acres of private land.

The contract requirements include specifications for the construction of corrals, chutes, runways, pens, and fences; for feed, water, minerals, and salt; and for the humane handling and care of wild horses.

Terms / Conditions / Stipulations

Operators of the facility must:

- Provide pens, feed, and water necessary for maintaining a maximum of 1,000 wild horses.
- Provide corrals and adequate working facilities to load, unload, prepare, and sort wild horses.
- Provide humane care of all wild horses during receiving, holding, and maintenance.
- Provide regular, on-the-ground observation of wild horses by the applicant's employees to ensure their well-being and safety.
- Provide management by individuals who are knowledgeable about and experienced with the behavior and nutritional requirements of wild horses.
- Obtain and abide by all required permits.
- Establish a Comprehensive Nutrient Management Plan with the Natural Resources Conservation Service.
- Acquire a Concentrated Animal Feeding Operation (CAFO) permit with the Utah Department of Water Quality.

Compliance and Monitoring

Compliance with contract terms/conditions/stipulations will be ensured and monitored by BLM personnel.

Authorities

The authority for this decision is contained in the 1971 Wild Free-Roaming Horses and Burros Act.

Plan Conformance and Consistency

The Proposed Action does not conflict with any known State or local planning or zoning ordinance. This action is not specifically addressed in the Sanpete County General Plan[1] (August 2011) or the Sanpete County Resource Management Plan[2] (June 2012); however, the proposal is consistent with the land uses occurring within the area.

The Proposed Action would occur on private land, which is not subject to conformance with the Richfield Field Office's Approved Resource Management Plan (RMP) and Record of Decision (October 2008).

Alternatives Considered

The EA considered two alternatives: the Proposed Action and the No Action alternative. The No Action alternative was not chosen because it did not meet BLM's purpose or need for action. No additional alternatives were developed because there were no potential impacts on resources to be resolved through these alternatives; only one resource was identified as having potential impacts and those were adequately addressed through compliance with required permits.

Rationale for Decision

I have reviewed the EA, including the explanation and resolution of any potentially significant environmental impacts. I have also reviewed the ten Intensity Factors for significance listed in 40 CFR 1508.27(b) and have determined that the Proposed Action does not constitute a major Federal action affecting the quality of the human environment or causing unnecessary or undue degradation of the natural environment. Therefore, an Environmental Impact Statement is not required and will not be prepared.

Response to Comments

A 15-day public comment period was offered from August 5 – 20, 2015. The following comments were received.

Comment	Commenter	Response
The water quality requirements of Utah's statutes and DWQ regulations were not included on the list of applicable federal	Utah Department of Environmental Quality, Division of Water Quality	*Added Utah Water Quality Act, Utah Code Annotated (UCA) Title 19, Chapter 5 and Utah Administrative Code (UAC),*

[1] The Sanpete County General Plan is located at http://sanpete.com/downloads/plan/Sanpete_General_Plan.pdf
[2] The Sanpete County Resource Management Plan is located at http://sanpete.com/downloads/plan/Resource_Management_Plan.pdf

and local regulations that govern the property and regulated activities.		*Title R317 to list of relevant statutes and regulations in Section 1.4.*
Any runoff from the corrals to this ditch/drainage or Olsen Slough would be an illegal discharge and require a permit. … DWQ encourages BLM to require NRCS practices be implemented at the site and to consider the requirement of obtaining a CAFO permit.	Utah Department of Environmental Quality, Division of Water Quality	*BLM requires applicant to acquire appropriate permits. Section 1.5, Required Permits, in the signed EA states, "The applicant will obtain the necessary permits required for a Concentrated Animal Feeding Operation (CAFO) in accordance with Utah state requirements. The facility would adhere to and maintain the proper reporting documents pertaining to any necessary permits. The applicant would be responsible for construction and maintenance of any infrastructure associated with these permits."*
DWQ is concerned that the facility would discharge to Olsen Slough during most years of normal precipitation and needs berming and/or a new storage pond to control runoff, even in years of average precipitation.	Utah Department of Environmental Quality, Division of Water Quality	*Site controls, if any are deemed necessary, are identified through the process of creating a Comprehensive Nutrient Management Plan with the Natural Resources Conservation Service (NRCS).*

Protest/Appeal Language

My decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR, Part 4. If an appeal is made, your appeal must be filed with the Bureau of Land Management at the following address: Richfield Field Office, 150 East 900 North, Richfield, Utah 84701. Your appeal must be filed within thirty (30) days of receipt of this decision in accordance with 43 CFR Part 4.

Standards for Obtaining a Stay

If you wish to file a petition pursuant to regulation 43 CFR 4.21, for a stay of the decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. Copies of the notice of appeal and petition for stay must also be submitted to: The Interior Board of Land Appeals, 801 N. Quincy, Suite 300, Arlington, VA, 22203.

A copy must also be sent to the Office of the Solicitor at the same time the original documents are filed with the above office. The address is: Office of the Regional Solicitor, U.S. Department of the Interior, 6201 Federal Building, 125 South State Street, Salt Lake City, Utah 84138-1180.

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a 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 on 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.

/S/ Wayne A. Wetzel September 25, 2015

Wayne Wetzel Date
Richfield Field Office Manager