

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

**Decision Record - Memorandum
Wood Hills Area Wild Horse Water/Bait Gather**

PREPARING OFFICE

U.S. Department of the Interior
Bureau of Land Management
3900 East Idaho Street
Elko, NV 89801
775-753-0200



Decision Record - Memorandum

Wood Hills Area Wild Horse Water/Bait Gather

Prepared by
U.S. Department of the Interior
Bureau of Land Management
Wells Field Office
Elko, NV

This page intentionally
left blank

Table of Contents

1. Wood Hills Area Wild Horse Water/Bait Gather DNA Decision Record (DR)	1
1.1. Introduction	1
1.2. Land Use Plan Conformance	1
1.3. Alternatives Considered	1
1.4. Decision	2
1.5. Rationale	2
1.6. Public Involvement	3
1.7. Authority	4
1.8. Approval from Authorized Official:	5
2. Appeal Procedures	7

This page intentionally
left blank

**Chapter 1. Wood Hills Area Wild Horse
Water/Bait Gather DNA Decision Record
(DR)**

This page intentionally
left blank

1.1. Introduction

The Proposed Action is to gather and remove all the excess wild horses in the Wood Hills area utilizing water and bait trapping. The Wells Field Office proposes to initially remove 150-175 excess wild horses from this area. Follow-up gather activities will be used to remove all excess wild horses from the area. Bait/water trapping would be the primary gather mechanism. Due to gather efficiency constraints, funding and holding space limitations, it may take multiple gathers over a five-year period after the initial gather to achieve the desired population of zero.

Future gather dates will be posted on the BLM National Gather Schedule and gather results will be posted on the NV BLM website. The initial gather will begin as soon as funding and holding space becomes available and will take approximately 30 days to complete.

The wild horses proposed for gather and removal from the Wood Hills area are outside of a Herd Management Area (HMA) or Herd Area (HA). The Wood Hills area was not identified as habitat used by wild horses at the time the Wild Free Roaming Horses and Burros Act (WFRHBA) was passed on December 15, 1971; nor was it identified for wild horse management in the 1985 Wells Resource Management Plan (RMP) or the 1993 Wells RMP Wild Horse Amendment and Decision Record. 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 WFRHBA was enacted. The HAs where wild horses and burros could be managed for the long term were designated as HMAs through the land-use planning process.

The current estimated wild horse population based on March 2015 inventory flights is 227 excess adult wild horses.

1.2. Land Use Plan Conformance

The Proposed Action is in conformance with the applicable LUP because the decision specifically provided for the following:

“Remove wild horses from checkerboard areas, which include all of the Toano Herd Area and portions of the Goshute and Spruce-Pequop Herd Areas and manage them as wild horse-free areas. (Wells RMP Wild Horse Amendment and Decision Record, page 3; approved August 1993 [US DOI 1993]). ”

1.3. Alternatives Considered

The Three HMA analyzed two alternatives which were the Proposed Action and No Action. The Proposed Action would be to gather and remove or relocate excess wild horses from selected sites using water or bait trapping or both. The No Action water or bait trapping of excess wild horses would not occur.

Three alternatives considered but eliminated from detailed analysis in the EA (Section 2.2 of the Three HMA Gather EA) remain impractical or infeasible. For example, the “Let Nature Take Its Course” Alternative would be inhumane treatment of the wild horses, would allow continued detrimental impacts to vegetative and water resources in contravention of BLM’s statutory and regulatory mandates, and would be contrary to the WFRHBA, which mandates removal of excess wild horses. This alternative would allow vegetative and water resources to be impacted to the

point that they have low (or no) potential for recovery. At this point, excess wild horses begin showing signs of malnutrition and starvation. When these resources are at critically low levels due to excessive utilization by excess wild horses (and exacerbated by drought conditions), the weaker animals (generally the old, mares, and foals) are the first to be impacted. It is likely that a majority of these weaker animals would die from starvation and/or dehydration.

1.4. Decision

It is my decision to implement the Proposed Action as described in the Determination of NEPA Adequacy (DOI-BLM-NV-L030-2015-0015-DNA). This Decision is effective immediately pursuant to 43 CFR § 4770.3(c) and National Historic Preservation Act Section 106.

The Proposed Action is to gather and remove all excess wild horses in the Wood Hills area over multiple gathers over the next five years using bait and water trapping, in Elko County (See Map 1.1 in Wood Hills DNA).

1.5. Rationale

The Proposed Action is necessary to comply with Section 1333(b)(2) of the WFRHBA and Section 302(b) of the Federal Land Policy and Management Act (FLPMA) of 1976.

The Proposed Action will remove excess wild horses in order to achieve and maintain a zero population in an area not identified for the long-term management of wild horses according to applicable LUP. This would happen over multiple gathers if all excess animals are not removed during the initial gather.

The gather will also:

- Remove excess wild horses from private lands;
- Promote vegetative health by preventing over use by excess wild horses during critical growth periods for perennial grasses in the upland and wetland habitats associated with the Wood Hills area;
- Decrease resource competition for space, forage, and water;
- 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 in an area not managed for wild horse use;
- Remove excess wild horses from public lands not identified for their long-term management as required under the WFRHBA; and
- Preserve the health and well-being of the animals removed from the range that are competing for limited resources and water.

The action is in compliance with the WFRHBA by achieving the established zero population in 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:

*Chapter 1 Wood Hills Area Wild Horse Water/Bait
Gather DNA Decision Record (DR)
Decision*

- Based on the population inventory completed in 2015, the population of excess wild horses within the gather area is approximately 227 adult wild horses.
- Water is a limited resource within the Wood Hills area; there is only one water source on public lands that is insufficient to provide water for the current population of excess wild horses. Range improvements are present in the Wood Hills area, but most are wells, which the livestock operator owns the water rights to and which operate only while livestock are present. The BLM does not hold any water rights for wild horses within the Wood Hills area since this area is not managed for wild horses.

The Proposed Action is consistent with all other federal, state, local, and tribal policies and plans to the maximum extent possible. The removal of excess wild horses from the Wood Hills area will alleviate large animal impact pressure on limited water resources and other resource degradation associated with the presence of the excess wild horses.

Mitigation measure.

The BLM is committed to the well-being and responsible care of wild horses and burros managed by the BLM (Instruction Memorandum [IM] No. 2013-059, Wild Horse and Burro Gathers: Comprehensive Animal Welfare Policy). The BLM is also committed to ensure humane care and treatment for wild horses and burros during gathers and following their removal from the range. At all times, the care and treatment provided by the BLM and their contractors will be characterized by compassion and concern for the animal's well-being and welfare needs. The policies and procedures followed by the BLM and its contractors will prevent or minimize fear, pain, distress, suffering and the risk of injury to the greatest extent possible while providing for the needs of the animals in a humane manner.

BLM representatives would be on site during all phases of capture and sorting of animals to ensure that animals are treated humanely at all times and that the health and safety of the wild horses is not jeopardized (in accordance with IM No. 2013-059).

Incorporation by Reference

The Three HMA Water/Bait Trapping Gather EA analyzed environmental impacts that could occur as a result of the Proposed Action.

1.6. Public Involvement

Through public involvement in the development of the Three HMA Water/Bait Trapping Gather (DOI-BLM-NV-L010-2012-0004-EA) EA, no additional public involvement is necessary for the Wood Hills Area Bait/Water Gather DNA (DOI-BLM-NV-L0300-2015-0015-DNA). The EA analyzed several different gather alternatives for a project area. A public notification on the availability of this DNA was mailed to the public and posted on the Elko District website, <http://on.doi.gov/1dMOB2a> on June 5, 2015.

BLM also consulted and coordinated with the Nevada Department of Wildlife during the development of the Proposed Action in the original EA documents.

1.7. Authority

The authority for this Decision is contained in Section 1333(a) of the 1971 WFRHBA , Section 302(b) of FLPMA, and Code of Federal Regulations (CFR) at 43 CFR § 4700 (as listed below).

§ 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 formulations 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 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 captured 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.¹

§ 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.

¹The Bureau of Land Management is currently not implementing this portion of the CFRs. Future decisions regarding this option would not occur before public involvement and comment. Healthy wild horses that are not adopted are transported to off range pastures or are sold (with limitations) to private individuals, but are not sold to slaughter nor euthanized.

§ 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.

(b) Notwithstanding the provisions of paragraph (a) of § 4.21 of this title, the authorized officer may provide that decisions to cancel a Private Maintenance and Care Agreement shall be effective upon issuance or on a date established in the decision so as to allow repossession of wild horses or burros from adopters to protect the animals welfare.

(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.

1.8. Approval from Authorized Official:

Field Office Manager Recommendation

The Wood Hills Area Water/Bait Wild Horse Gather is approved for implementation immediately, and the initial gather is approved to begin on or about July 15, 2015 and is projected to take approximately 30 days to complete. This decision is effective upon issuance in accordance with 43 CFR § 4770.3 (c) because removal of excess wild horses 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 the Secretary, in accordance with 43 CFR part 4 (see Chapter 2).

/s/ Melanie Mirati, acting for

6/5/2015

Signature

Date

Bryan A. Mulligan
Acting Field Manger
Wells Field Office

This page intentionally
left blank

Chapter 2. Appeal Procedures

This page intentionally
left blank

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 notice of appeal must be filed in the office of the officer who made the decision (43 CFR § 4.411(a)(1), at the following address:

Bryan A. Mulligan
Acting Field Manager
BLM, Wells Field Office
3900 Idaho Street
Elko, NV 89801

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 for stay pursuant to regulations at 43 CFR § 4.21, the petition for stay must be filed together with your notice of appeal.

A copy of the notice of appeal and any petition for stay must also be sent to the appropriate Office of the Solicitor at the same time the original documents are filed with the above office at the following address:

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 (43 CFR § 2.21(b):

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.

Electronically filed appeals will not be accepted.