

**United States Department of the Interior
Bureau of Land Management**

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

February 2016

**Fountain Green Off-Range Pasture (ORP) for Wild Horses
Solicitation L14PS00777**

Location:

**T13S, R02E, SLM, UT, Sections 12, 13, 14, 15, 22, 23, 24, 26, and 27
T13S, R03E, SLM, UT, Sections 6, 7, 18, and 19
Fountain Green, Utah**

Applicant/Address:

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DECISION RECORD
Environmental Assessment
Fountain Green Off-Range Pasture (ORP) for Wild Horses
Solicitation L14PS00777
DOI-BLM-UT-C020-2016-0001-EA

It is my decision to authorize the Proposed Action in the environmental assessment: DOI-BLM-UT-C020-2016-0001-EA. This decision will authorize BLM to enter into a contract for the care and maintenance of a maximum of 700 wild horses in an area referred to as an off-range pasture (ORP) facility on the Tate Farms property, managed by Scott Noll. The ORP is located on both sides of Highway 132 within T13S, R02E, SLM, UT, Sections 12, 13, 14, 15, 22, 23, 24, 26, 27, and T13S, R03E, SLM, UT, Sections 6, 7, 18, and 19, near Fountain Green, Utah, on approximately 3,900 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 land, forage, salt, minerals, water and fences necessary to properly care for and maintain a minimum of 100 up to a maximum of 700 wild horses;
- Provide corrals and adequate facilities to load and unload wild horses on as as-needed basis;
- Unload, sort and segregate animals upon their arrival, when additional horses are transported to the facility;
- Gather and move horses from pasture to pasture as needed, supervise their health and welfare, and maintain the facilities in a safe condition;
- Gather and hold in isolation horses that fall under the criterion of adoptable or saleable wild horses for a minimum of 30 days, until time for shipment;
- Provide weekly monitoring of the animals to assess their health and determine loss;
- Provide a record keeping system that identifies the location of each horse on site and other information, such as its overall condition;
- Dispose of the remains of dead horses according to their home state's requirement for disposal of dead animals;
- Locate feeding areas in areas where runoff doesn't flow to surface waters, or where runoff can be contained;
- Continue to work with BLM, the County, and the State of Utah on weed spraying, especially in circumstances where weeds spread to neighboring properties;
- Observe seasonal route restrictions;
- Remove any buildup of manure in corrals at regular intervals, especially in wet weather;
- Install signs indicating that the off-range pasture is on private property;
- Install wildlife-friendly fences, as determined by the COR/PI;

- Monitor fence lines to ensure their integrity; and
- Leave a “buffer” pasture between any areas occupied by horses and Highway 132 during the period of time that horses are acclimating to the pastures.

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 Plan¹ (August 2011) or the Sanpete County Resource Management Plan² (June 2012).

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; the issues carried into the EA for further analysis were resolved by applicant-committed design features and BLM-proposed mitigation.

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

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

A 30-day public comment period was offered from January 15, 2016 – February 15, 2016. BLM received twenty-seven (27) comment letters from twenty-six (26) unique individuals or organizations; of those letters, two (2) were from anonymous individuals. As defined in BLM Handbook H-1790-1, “Substantive comments do one or more of the following:

- question, with reasonable basis, the accuracy of information in the EIS or EA.
- question, with reasonable basis, the adequacy of, methodology for, or assumptions used for the environmental analysis.
- present new information relevant to the analysis.
- present reasonable alternatives other than those analyzed in the EIS or EA.
- cause changes or revisions in one or more of the alternatives.”

Substantive comments, and BLM’s response to them, are summarized below.

Comment	Response
<p>Various concerns relating to the safety of drivers on Highway 132 if horses were to escape from the ORP.</p>	<p><i>Concerns relating to potential release of horses from the ORP facility were raised during scoping, but dismissed from further consideration. Please see Section 1.6 of the Environmental Assessment for BLM’s rationale. In addition, after completion of the Environmental Assessment, the applicant expressed a commitment to leaving a “buffer” pasture between any areas occupied by horses and Highway 132 during the period of time that horses are acclimating to the pastures. BLM does not expect that horses would escape from pastures built to contract specifications; however, this period of time would allow that hypothesis to be tested. In the unlikely case that a horse were to leave its pasture and move toward Highway 132, it would still be contained within another pasture. If fence specifications should need to be adjusted, the COR/PI would work with the applicant to reach an agreement. This applicant-committed feature is included as a Condition in this Decision Record document.</i></p>
<p>Horses will reduce forage to a level that increases erosion and contributes to flash flooding in the area.</p>	<p><i>Please see Section 1.6 of the Environmental Assessment for BLM’s explanation of why this issue was not carried forward for analysis.</i></p>
<p>Horses will reduce the amount of forage available to deer and elk.</p>	<p><i>The Tate Farms property is currently operated as a cow-calf operation. Changes to the amount of forage on these private lands by placing wild horses on the land instead of livestock are not expected to have a meaningful impact on the</i></p>

	<i>health and welfare of deer or elk that may be in the area.</i>
Fencing the proposed property may inhibit the movement of wildlife, especially during migrations.	<i>Please see Section 1.6 of the Environmental Assessment for BLM's explanation of why this issue was not carried forward for analysis.</i>
Stock watering ponds and springs may dry up during the summer. If 10 – 15,000 gallons of water would need to be hauled each day, where would that water come from in a drought? Any request for a permit to drill a well or increase the size of an existing well would be protested.	<i>The Proposed Action does not include any new or larger wells. Furthermore, BLM would like to clarify that the applicant would not be required to haul 10-15,000 gallons of water per day: the applicant merely has the ability to move that much water, if needed.</i>
“Many residents snowmobile and ride ATVs on that very land up into the Log Canyon area. Our local canyons have become an internationally known area for rock climbing. The BLM's decision will affect the natural beauty and tourism traffic we currently have.”	<i>No access to public roads will be affected by the Proposed Action. The land offered for this proposal is private land, and access to that land is granted solely by the proprietor. There will be no known impacts to rock climbing in the area. Furthermore, the Proposed Action is consistent with other types of agricultural activities taking place in the area.</i>
“There [are] also no place[s] for ‘tourist[s]’ to stop and watch or take photos.”	<i>Please see Section 1.6 of the Environmental Assessment for BLM's explanation of why this issue was not carried forward for analysis.</i>
“Many of us have heard ... that the deal is already done.”	<i>This statement does not accurately reflect BLM's decision making and contracting processes. In 2014, BLM solicited applications from private organizations and individuals for off range pastures through Solicitation L14PS00777. Tate Farms was approved for the opportunity to enter into a contract for the care and maintenance of up to 700 wild horses, which is contingent upon the outcome of the environmental assessment of the proposal [this process]. BLM's decision does not go into effect until the 30-day protest and appeal period has ended, following a signed Finding of No Significant Impact (FONSI) and Decision Record from the Richfield Field Manager.</i>
“During the summer when the horses are free to roam they will scatter to neighbor's properties, Forest Service land, and public land. There is no way to control the expansion.”	<i>There will be no period of time during which horses will be free to roam outside the ORP facility, which is fenced. Horses must remain on fenced, private lands.</i>
“We are also very concerned with the conversion of food producing operations to operations that are not producing food and	<i>BLM is responding to the application from Tate Farms to grant them an ORP facility. BLM has no authority to decide whether private lands are</i>

<p>fiber for our country and the world. We realize that these operations are private and the owners or operators have the right to utilize their property as they see fit.”</p>	<p><i>used for food production or for other private actions.</i></p>
<p>“You are overstocking the range.”</p>	<p><i>Please see Section 1.6 of the Environmental Assessment for BLM’s explanation of why this issue was not carried forward for analysis. 700 horses is the maximum number of horses possible on this property. Most importantly, the BLM will adjust the stocking rate as necessary to ensure that horses are maintained in good condition and that vegetation utilization does not exceed the moderate level. Site visits to observe both pastures and horses will inform the number of horses placed at this off-range pasture.</i></p>
<p>If the horses escape and establish a herd in Sanpete County, what would be the process for retrieving them?</p>	<p><i>The contract specifications for fences and monitoring are intended to prevent horses from escaping. In the unlikely event that an individual horse or group of horses escapes from the off range pasture, the applicant would be responsible for contacting the COR/PI to notify the BLM of the release. A qualified person would assist the applicant in determining the best method for capture. Ultimately, the applicant is responsible for ensuring that horses remain in their pastures.</i></p>
<p>[We] did not receive a notice of the proposed action.</p>	<p><i>Please see Section 1.6 of the Environmental Assessment for a discussion of BLM’s efforts to notify the public about this project. As noted in Section 5.1, BLM did not conduct an exhaustive mailing for all neighboring private property owners during the scoping period. Instead, notice of the Proposed Action was placed BLM’s ePlanning website on November 13, 2015.</i></p>
<p>Boundary fences between the Tate Farms property and the Ivory Family property do not meet the standard as outlined in Solicitation L14PS00777. These fences would need to be upgraded to restrict wild horses to the Tate Farms property.</p>	<p><i>Prior to the placement of any wild horses at this location, all construction specifications must meet those outlined in the Solicitation. The BLM COR/PI works with the applicant and inspects new construction to ensure that it will meet requirements.</i></p>
<p>Two noxious weed species not mentioned in the EA are Musk Thistle and Scotch Thistle. These infestations would be wide spread if proper control is not taken prior to allowing the property to be used by wild</p>	<p><i>Noted; however, no change made to the Environmental Assessment since continuation of a noxious weed control program is already part of the Environmental Assessment and terms and conditions of the Decision Record.</i></p>

horses.	
<p>The Interdisciplinary Team Checklist (Appendix A) indicates that Vegetation and Wild Horses are present but not affected to a degree that detailed analysis is required. ... An Off-Range Pasture for wild horses would definitely affect vegetation being utilized by the wild horses to a degree that the vegetation resource and the effects to wild horses should be analyzed, especially in light of the condition of vegetation on the Tate Farms property. The need to feed a large number of wild horses in a confined space during the winter months would also affect the health of the wild horses. These resources were not adequately addressed in the EA.</p>	<p><i>BLM expects that wild horses will consume forage and generally affect the vegetation in pastures. The maximum carrying capacity for this off-range pasture was developed using input from the Natural Resources Conservation Service. Please see Section 1.6 of the Environmental Assessment for a discussion of why this issue was not carried forward for analysis.</i></p> <p><i>BLM's assessment of effects to these wild horses, in conjunction with the Natural Resources Conservation Service's assessment of available Animal Unit Months, is that the applicant will be able to adequately maintain them in good health. Solicitation L14PS00777 states, in Section 4, Specific Services, Subpart E, numbers 3 and 4, that "the available standing vegetation in pastures must be of sufficient nutritive quality and quantity to maintain the horses in good condition yearlong, with supplemental feeding as described in paragraph g, below. ... The stocking rate for the site shall be adjusted as necessary to assure horses are maintained in good condition, as described above." If the contract were funded and the applicant failed to meet these requirements, BLM could terminate the contract.</i></p>
Public viewing should not be restricted.	<p><i>This requirement is outlined as a requirement in Solicitation L14PS00777, Section 4, Specific Services, Subpart M: Observation for the Public. Please see Section 1.6 in the Environmental Assessment for a discussion of why this issue was not carried forward for analysis.</i></p>
Is it possible to open up the adjoining BLM land for rotational grazing? Are there cattle grazing AUMs on the adjoining BLM lands? Can cattle AUMs be converted to horse AUMs?	<p><i>Only private land may be considered for an off-range pasture under this Solicitation, so it is not possible to open nearby BLM land to wild horse grazing.</i></p>
The use of pesticides on weeds within the pasture should be questioned. What will the time frame be between spraying and availability for grazing?	<p><i>Clarification added to EA in Section 2.2, Proposed Action, Pasture Characteristics, to specify that any weed spraying within pastures where horses graze would need to be in conformance with herbicide labels and instructions for use near grazing animals.</i></p>

The EA does not address how wild horses would be safely moved from pasture to pasture when crossing county roads or when crossing Highway 132.	<i>Clarification made to EA in Section 2.2, Proposed Action, Handling, to specify how and when horses would be moved.</i>
Wild horses could be in sight of [other local roads], not just from Water Hollow Road.	<i>Clarification made to EA in Section 1.6, Scoping and Development of Issues, to generalize "Highway 132" in Issue #2 to "public roads."</i>
General support for this project and/or the BLM's management of wild horses and burros.	<i>Noted.</i>
General criticism of this project and/or the BLM's management of wild horses and burros.	<i>Noted.</i>

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.



 Wayne A. Wetzel
 Richfield Field Office Manager

29 Feb 2016

 Date