



# United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
Elko District Office  
3900 East Idaho Street  
Elko, Nevada 89801  
[http://www.blm.gov/nv/st/en/fo/elko\\_field\\_office.html](http://www.blm.gov/nv/st/en/fo/elko_field_office.html)

DEC 21 2017

In Reply Refer To:

## DECISION RECORD

### **Antelope and Triple B Complexes Wild Horse Gather Plan Environmental Assessment DOI-BLM-NV-E030-2017-0010-EA**

The BLM has prepared an environmental assessment (EA) to analyze the environmental impacts associated with the proposed gather, removal, and fertility controls. Refer to **DOI-BLM-NV-E030-2017-0010-EA**. The Antelope, Antelope Valley, Goshute, Maverick-Medicine, Spruce-Pequop, and Triple B Herd Management Areas (HMAs), collectively referred to as the Antelope and Triple B Complexes, are located 50 miles southeast of Elko, NV in the southeastern portion of Elko county and the northern portion of White Pine county.

The gather area is within the administrative boundaries of the Bureau of Land Management (BLM) Ely District, Bristlecone Field Office (BFO), and Elko District, Wells Field Office (WFO). The Antelope and Triple B Complexes include approximately 2,815,664 acres but the gather area consists of approximately 3,870,919 acres, which encompasses additional lands where wild horses are residing outside of the HMAs that make up the Complexes. Wild horses have moved outside of the HMAs in search of forage, water, and space due to the current overpopulation of wild horses in the Complexes. The estimated population of wild horses within the Antelope and Triple B Complexes is 9,525 wild horses based on population inventories conducted in February 2016 and March 2017, which is almost 11 times above the low appropriate management level (AML) of 899 wild horses.

The Wells and Bristlecone Field Offices, Bureau of Land Management (BLM) are proposing to implement Alternative A (Proposed Action). Alternative A consists of a 10-year gather plan and population control measures resulting in the removal of excess wild horses to achieve and maintain the population at AML. Under Alternative A, BLM would gather and remove approximately 9,053 excess wild horses within the Complexes to achieve and maintain AML and to implement population control measures to gathered and released horses over a period of ten years from the initial gather. This would allow BLM to achieve management goals and objectives of attaining AML, reducing population growth rates, and attaining a thriving natural ecological balance (TNEB) on the range as identified within the Wild Free-Roaming Horse and Burro Act of 1971 (WFRHBA). Funding limitations and competing National priorities may affect the timing of gather operations and implementation of population control components of the Proposed Action.

The Elko and Ely Districts would prioritize subsequent gathers and removals of excess wild horses as follows, from areas where public health and safety issues have been identified, private land and non-HMA, areas where resource degradation has been identified and then within HMAs to reach and maintain AML.

The management objective for the Antelope and Triple B Complex would be to gather and remove excess wild horses within the Complexes to achieve and maintain AML. Additionally, BLM would implement growth suppression measures to include:

- Administration of population control measures (i.e. PZP, PZP 22, GonaCon or newly developed formulations) to released horses.
- Adjustment of sex ratios to achieve a 60 % male ratio within the core breeding population of 899 wild horses.
- Some gelded horses that would otherwise be excess animals permanently removed from the range and sent to holding facilities for adoption/sales or long-term holding, may be returned to the range and managed as a non-breeding population of geldings so long as the geldings do not result in the population exceeding mid-range AML.
- To help reduce population growth rates, the Complexes would be managed to achieve a 60% male 40% female sex ratio; and all mares released back to the Complexes would be treated with fertility control (i.e. PZP, GonaCon or newly developed formulations). The combination of these actions would lower the population growth rate within the Complexes.

This component of the Proposed Action, would reduce the total number of wild horses that would otherwise be permanently removed from the range. This would allow for management of a larger total wild horse population within the Complexes while still managing population growth and achieving a thriving natural ecological balance. Primary gather methods would include helicopter, bait, and water trapping.

## **DECISION**

It is my decision to implement Alternative A as described in the Final Environmental Assessment for the Antelope and Triple B Complexes (**DOI-BLM-NV-E030-2017-0010-EA**).

My final decision is to gather and remove excess wild horses over a ten-year period from the initial gather within and outside the Antelope and Triple B Complexes, and to reduce the wild horse population growth rates to achieve and maintain established AML ranges. This action is needed to prevent undue or unnecessary degradation of public lands associated with excess wild horses, and to restore a thriving natural ecological balance and multiple-use relationship on public lands, consistent with the provisions of Section 1333(b) or the 1971 Wild Free- Roaming Horses and Burros Act (WFRHBA)

Pursuant to 43 C.F.R. § 4770.3(c), this decision is effective immediately.

## **RATIONALE**

Upon analyzing the impacts of Alternative A, and following issuance of the EA for public review, I have determined that Alternative A will not have a significant impact to the human environment, and that an Environmental Impact Statement is not required. Refer to attached Finding of No Significant Impact.

Removal of excess wild horses from the gather area is necessary to achieve a TNEB between wild horse populations, wildlife, livestock, vegetation, and the available water as mandated under Section 3(b) (2) of the Wild Free-Roaming Horses and Burros Act of 1971 (WFRHBA) and consistent with section 302(b) of the Federal Land Policy and Management Act (FLPMA) of 1976. A gather of wild horses from the area is also necessary to prevent continued degradation of rangeland resources, and the unnecessary death or suffering of individual wild horses that are being currently impacted by a lack of water and forage. The BLM is required to manage multiple uses to avoid continued degradation of the rangelands, and reduce the potential for catastrophic loss of animals.

Based on available data showing heavy and severe use of vegetative resources in many areas by the current overpopulation of wild horses, leaving excess wild horses on the range under the No Action Alternative would lead to severe degradation of the range, damage to riparian resources including the habitat necessary for the recovery of sage grouse and their habitat, and potential catastrophic die-off of wild horses as the population continues to grow in excess of available habitat resources. The No Action Alternative would also result in the continued movement of wild horses to areas outside the designated HMAs, potentially leading to severe resource degradation and competition with grazing and wildlife.

The gather will:

- Promote vegetative health by preventing over utilization (i.e., excessive use) by wild horses, including during critical growth periods for perennial grasses in the upland, wetland and stream bank riparian habitats associated with the Complexes;
- Decrease resource competition for space, forage and water among wild horses, wildlife, and livestock;
- Although impacts would still occur through wild horse and livestock grazing, 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 caused by the wild horse overpopulation;
- Slow wild horse population growth rates through implementation of the phased-in gather and fertility control treatment and sex ratio modification which could extend the amount of time between gathers to remove excess horses as required under the WFRHBA; and
- Preserve the health and wellbeing of those animals removed from the range as well as the wild horses that will remain within the Complexes.

Fertility control treatments and modification of sex ratios of released wild horses will slow population growth, reduce the number of wild horses needing to be removed through future gathers, decrease the number of excess wild horses placed in short-term or off-range holding facilities or offered for adoption or sale over the next ten years, and potentially increase the time period before removal of additional excess wild horses is necessary. The removal of excess wild horses to achieve AML and the maintenance removal of smaller numbers of adoptable wild horses from the gather area in follow-up gathers will ease pressure on short-term and off-range facilities that may have insufficient capacity to handle all of the excess wild horses if removed in a single gather, and will also provide a greater likelihood that a sufficient gather efficiency can be achieved to apply fertility controls to a larger segment of the wild horse population that remains post-gather.

Managing wild horses at the established AML will maintain genetic health and long-term viability of the herds. Reduced growth rates and lower population sizes will also allow for improvements to range condition, with long-term benefits to wild horse habitat quality, and will allow BLM to manage wild horses at a level that will ensure a TNEB.

The action is in compliance with the WFRHBA by achieving the established AML, restoring a TNEB and preventing degradation of rangeland resources resulting from an overpopulation of wild horses. This assessment is based on factors including, but not limited to the following rationale:

- Based on the population inventories completed February 2016 and March 2017, the population of wild horses in the Complexes is approximately 9,525 animals.
- Once wild horse core breeding populations are at low AML and are being managed in conjunction with a gelding component around the mid AML range, BLM will be able to collect the resource monitoring data necessary to determine if wild horses are causing impacts that lead to non-attainment of the Northeastern Great Basin Resource Advisory Council (RAC) Standards and Guidelines (February 12, 1997) for Rangeland Health and Healthy Wild Horse and Burro Populations in the allotments within the HMAs. Adjustments could be made upward or downward based on monitoring data collected once AML is being achieved and maintained. Additionally, through Standards and Guidelines Assessments for grazing allotments, livestock carrying capacity could be adjusted as well. Consideration would be given to adjustments to AML and livestock carrying capacity that are needed to maintain or improve rangeland;
- Excess wild horses have moved onto private and public lands that fall outside of designated HMA boundaries in search of additional habitat outside the Complexes, due to the significant overpopulation within the Complexes. Regulations at 43 C.F.R. § 4710.4 require BLM to manage wild horses within their HMAs and to remove wild horses that take up residence outside of HMA boundaries.
- Water is a limited resource within the Complexes and becomes a limiting factor when wild horse populations exceed high range AML.

The following constitutes the rationale for making this decision effective upon issuance:

#### 1. Damage to Rangeland and Riparian Resources

Wild horse population and resource monitoring data shows that current wild horse populations are exceeding the range's ability to sustain them and are exceeding the levels at which healthy rangelands can be maintained. Excess wild horses are now residing outside the Complexes as more wild horses compete for limited forage, space and water resources. Resource damage is occurring and native vegetative communities in parts of the Complexes have already crossed critical ecological thresholds that could prevent or significantly slow their natural recovery. This resource degradation and potential for irreversible ecological damage will continue without immediate action to remove excess wild horses and to bring the wild horse population back to AML. Riparian areas are also receiving heavy utilization and trampling impacts, and limited waters are being adversely impacted by concentrations of wild horses. Wildlife is also being adversely impacted by degradation of rangeland resources and are unable to access water in some areas due to the extended presence of wild horses at water sources.

In accordance with 43 C.F.R. § 4720.1, upon examination of current information, I have determined that an excess of wild horses exists within the project area boundaries, and that the excess animals need to be removed to achieve AML and achieve a thriving natural ecological balance.

#### **PUBLIC INVOLVEMENT**

On-going consultation with Resource Advisory Councils (RACs), the Nevada Department of Wildlife, U.S. Fish and Wildlife Service, livestock operators and others, underscores the need for BLM to manage wild horse populations within AML.

Public hearings are held annually on a state-wide basis regarding the use of motorized vehicles in the management of wild horses (or burros) (inventory, gather operations, and transport). During these meetings, the public is given the opportunity to present new information and to voice any concerns or opinions regarding the use of motorized vehicles in the management of wild horses and burros. The Ely District Office held the 2017 Nevada state-wide hearing on June 27, 2017.

The BLM has been gathering excess wild horses and burros from public lands since 1975, and has been using helicopters for such gathers since the late 1970's. Refer to Appendices I-III of the Antelope and Triple B Complexes Wild Horse Gather Environmental Assessment for information about methods that are utilized to reduce injury or stress to wild horses and burros during gathers. Since 2004, BLM Nevada has gathered over 40,000 excess animals. Of these, gather related mortality has averaged 0.5%, which is very low when handling wild animals. Another 0.6% of the animals captured were humanely euthanized due to pre-existing conditions and in accordance with BLM policy. This data confirms that appropriate use of helicopters and motorized vehicles are a safe, humane, effective and practical means for gathering and removing excess wild horses and burros from the range. BLM policy prohibits the gathering of wild horses with a helicopter (unless under emergency conditions) during the period of March 1 to June 30

which includes and covers the six weeks that precede and follow the peak of foaling (mid-April to mid-May).

The Preliminary Antelope and Triple B Complexes Gather Plan EA #DOI-BLM-NV-E030-2017-0010-EA was made available to interested individuals, agencies and groups for a public review and comment period that opened on July 21, 2017, and closed August 21, 2017 at 4:30 pm PDT. The EA and associated documents were also available from the BLM's NEPA Register, and a link to the NEPA Register was provided from the Elko District's NEPA website.

The BLM received over 4,940 comment submissions during the public comment period; the majority of those submissions (more than 4,780 or 97%) were form letters. Form letters are generated from a singular website from a non-governmental organization, such as an animal advocacy group. Comments identified on the form letters were considered along with the rest of the comments received, but as one collective comment letter. Form letters are not counted as separate comments due to their duplicative nature. However, where individuals added their own comments to the form, the personalized comments were considered as separately submitted comments. All comments received prior to the end of the public comment period were reviewed and considered. Substantive comments were used in finalizing the EA as appropriate. Letters and e-mails were received both in support of and in opposition to the gather.

Although the BLM's review of public comments did not indicate that substantive changes to the conclusions presented in the preliminary EA were warranted, they did lead to changes throughout the document to better explain and clarify BLM's analysis in response to comments, which resulted in a more comprehensive and complete document. In finalizing the EA, the following information was updated:

- The March 2017 population inventory results were incorporated into the final EA. These results furthered the BLM's understanding of the current population conditions within the Complexes. With the updated survey numbers, wild horse AUM calculations were also updated to reflect the current wild horse population numbers. This data was incorporated into Table 1. Antelope Complex Herd Management Area, Acres, AML, Estimated Population, Estimated Wild Horse Use AUMs and Estimated Numbers for Removal.
- Appendix IX was added to describe and discuss the corrected acres for some of the HMAs in the Wells Field Office.
- Clarification in Chapter 2.1 Actions Common to Alternatives A-C of the BLM gather timing requirements, avoiding the six weeks that precede and follow the peak of foaling (mid-April to mid-May).
- Clarification of the gelding component in Alternative A, to explain that the core breeding population will be brought to low AML. Some gelded horses that would otherwise be excess animals permanently removed from the range and sent to holding facilities for adoption/sales or long-term holding, may be returned to the range and managed as a non-breeding population of geldings so long as the geldings do not result in the population exceeding mid-range AML. This clarification was necessary due to lack of clarity and

discrepancies in how the gelding component was described in Chapters 2 and 3 of the preliminary EA.

Public Involvement information Appendix VIII was updated.

The final Environmental Assessment/ Gather Plan for the Antelope and Triple B Complexes is available on the National NEPA Register web page at: <http://bit.ly/2vfWTZJ>  
Or by contacting the Elko or Ely Office's.

## **AUTHORITY**

The authority for this decision is contained in Section 3(b)(2) 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 (C.F.R.) at 43 C.F.R. Part 4700.

### **43 C.F.R. § 4700.0-6 Policy**

- (a) Wild horse 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.

### **43 C.F.R. § 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.

### **43 C.F.R. § 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 animal 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 gathered 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.

#### 43 C.F.R. § 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.

#### 43 C.F.R. § 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.

### **APPEAL PROVISIONS**

Within 30 days of receipt of this wild horse decision, you have the right to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with regulations at 43 C.F.R. § 4.4. If an appeal is taken, you must follow the procedures outlined in the enclosed Form 1842-1, "Information on Taking Appeals to the Board of Land Appeals." Please also provide this office with a copy of your Statement of Reasons. An appeal should be in writing and specify the reasons, clearly and concisely, as to why you think the decision is in error.

In addition, within 30 days of receipt of this decision you have a right to file a petition for a stay (suspension) of the decision together with your appeal in accordance with the regulations at 43 C.F.R. § 4.21. The petition must be served upon the same parties identified in items 2, 3, and 4 of the enclosed Form 1842-1. The appellant has the burden of proof to demonstrate that a stay should be granted.

A petition for a stay of 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 of 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.



At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 C.F.R. § 4.401 (c) (2)).

The Office of Hearings and Appeals regulations do not provide for electronic filing of appeals, therefore they will not be accepted.

### APPROVAL

The gather is approved to begin at any time after January 1, 2018, as soon as funding and national priorities permit. This decision is effective upon issuance in accordance with Title 43 of the Code of Federal Regulations (CFR) at 4770.3© because removal of excess wild horses is necessary to protect animal health and prevent further deterioration of rangeland resources. It may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 C.F.R. Part 4, Subpart B (Attachment 1 and enclosed Form 1842-1).

*Jill C. Silvey*

Jill C. Silvey  
Manager  
Elko District Office

*12/20/2017*

Date