



# United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
Bristlecone Field Office  
702 North Industrial Way  
Ely, Nevada 89301  
<https://www.blm.gov/nevada>

In Reply Refer To: 4720/4710.4 (NVL06000)

## **DECISION RECORD: Moriah Herd Area Wild Horse Gather**

### **INTRODUCTION**

The Bureau of Land Management (BLM) Bristlecone Field Office, Ely District has determined that excess wild horses are present within and outside the boundaries of the Moriah Herd Area (HA) and that removal of excess wild horses is necessary to achieve a thriving natural ecological balance and to manage the HAs in accordance with the land-use plan. The Moriah HA is located 48 miles northeast of Ely, within White Pine County, Nevada. The HA encompasses approximately 55,300 acres. Under the 2008 Ely District Record of Decision (ROD) and Approved Resource Management Plan (RMP), no wild horses are to be managed within the Moriah HA. The Moriah HA has been gathered periodically since the 1971 Wild Free-Roaming Horses and Burros Act was passed. This area was last gathered in August 2010 when 53 horses were removed.

The Moriah HA population inventory was conducted in February of 2017. The inventory was conducted using the Double Simultaneous Count method, in which observers in an aircraft independently observe and record groups of wild horses. Sighting rates for the observers is then computed from the information collected and population estimated generated. The 2020 population estimate is 714 excess wild horses including the projected 2020 foal crop. Approximately half of these 714 excess horses regularly move or reside outside the HA in their search for forage, water, and space.

The BLM has prepared an Environmental Assessment (EA) to analyze the environmental impacts associated with the proposed gather and removal. Refer to DOI-BLM-NV-L060-2020-0010-EA, describing potential environmental impacts associated with wild horse management proposal to implement a 10-year wild horse gather plan for the Moriah HA. The Environmental Assessment is consistent with BLM's management responsibilities under the Wild Free-Roaming Horses and Burros Act of 1971, as amended (Public Law 92-195).

References to the CEQ regulations throughout this EA are to the regulations in effect prior to September 14, 2020. The revised CEQ regulations effective September 14, 2020 are not referred to in this EA because the NEPA process associated with the proposed action began prior to this date.

The Proposed Action (Alternative A) would gather and remove all existing horses located within and that have moved outside the HA to zero out the wild horse population.

**Alternative A.** The Proposed Action is designed to gather and remove excess wild horses over a 10 year time frame and would incorporate follow up gathers until management objectives are met for managing “0” wild horses within the HA. The first portion of the Proposed Action would be to gather as close to 100 percent of the current wild horse population (or approximately 714 excess wild horses) as feasible. All excess wild horses residing outside the HA boundaries will also be removed. However, the initial gather might not achieve the removal of 100% of the excess wild horses due to terrain and limited gather efficiencies. Follow up gathers over the following 10 year period would likely be needed to remove all excess wild horses within these HA and effectively return the area to HA status. All the animals gathered would be removed and shipped to BLM holding facilities where they would be prepared for final disposition, including adoption and/or sale to qualified individuals or long term holding.

## **DECISION**

It is my decision to implement the Proposed Action (Alternative A) as described in the Final Environmental Assessment for the Moriah HA (DOI-BLM-NV-L060-2020-0010-EA). This decision is effective immediately pursuant to 43 CFR 4770.3(c).

## **RATIONALE**

Upon analyzing the impacts of the Proposed Action (Alternative A) following issuance of the EA for public review, I have determined that implementing the Proposed Action (Alternative A) will not have a significant impact to the human environment and that an environmental impact statement is not required as set forth in the attached Finding of No Significant Impact.

The gather is necessary to remove excess wild horses and eliminate the wild horse population within the Moriah HA, in order to maintain a thriving natural ecological balance between wildlife, livestock, vegetation and the available water as required under Section 3(b)(2) of the 1971 Wild Free-Roaming Horses and Burros Act and Section 302(b) of the Federal Land Policy and Management Act of 1976. The HA has been determined to be unsuitable for the long-term management of wild horses due to the lack of adequate habitat, and the Ely RMP directs that BLM manage the HA for an AML of zero wild horses.

The BLM is required to manage the HA consistent with the Ely RMP and to remove excess wild horses to protect rangeland resources from further deterioration or impacts associated with the current overpopulation of wild horses within the Moriah HA.

In accordance with the Wild Free-Roaming Horses and Burros Act of 1971, as amended (Public Law 92-195), the gather is necessary to reduce and mitigate public safety concerns caused by wild horses residing along major roadways within and outside HA boundaries, decrease nuisance animal complaints on private lands, and address management issues caused by wild horses that reside within and outside HA boundaries.

The Proposed Action 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 consistent with the Proposed Action will occur as necessary over a 10- year period following the initial gather operation to achieve an AML of zero wild horses.

Leaving excess wild horses on the range under the No Action Alternative would not comply with the Ely RMP, or with the 1971 WFRHBA or applicable regulations and Bureau policy, nor would it comply with the Northern Great Basin Resource Advisory Council (RAC) Standards and Guidelines (February 12, 1997 Standards and Guidelines (February 12, 1997) for Rangeland Health and Healthy Wild Horse and Burro Populations. The No Action Alternative would allow continued deterioration of rangeland resources, including vegetative, soil and riparian resources, with potentially irreversible loss of native vegetative communities. Wild horses would continue to relocate in increasing numbers to areas outside the Moriah HA boundaries (including private lands) due to the lack of suitable habitat and competition for limited water and forage, adversely impacting public land resources not designated for wild horse management, including wildlife habitat. The No Action Alternative also increases the likelihood of emergency conditions arising that would require an emergency gather to prevent the suffering or death of individual animals due to insufficient forage or water.

## **PUBLIC INVOLVEMENT**

A preliminary environmental assessment was made available to interested individuals, agencies and groups for a 30-day public review and comment period that opened on June 25, 2020 and closed on July 24, 2020. Comments were received from approximately 800 individuals (mainly as form letters) and 6 agencies. Many of these comments contained overlapping issues/concerns which were consolidated into 34 distinct topics. A detailed summary of the comments received and BLM's responses and use of these comments in preparing the final environmental assessment is located in Appendix V of the document.

## **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.

### §4710.1 Land use planning

Management activities affecting wild horses and burros, including the establishment of herd management areas, shall be in accordance with approved land use plans prepared pursuant to part 1600 of this title.

#### §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

- (e) 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.
- (f) 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.
- (b) 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 Moriah Herd Area Wild Horse Gather plan for the Bristlecone Field Office, is approved to begin at any time after October 30, 2020, 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 (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 attachment).

Sincerely,

Leslie Riley  
Acting Field Manager  
Bristlecone Field Office  
Bureau of Land Management, Ely District

**Moriah  
HERD AREA  
WILD HORSE GATHER  
Bristlecone Field Office  
DOI-BLM-NV-L060-2020-0010-EA  
Appeal Procedures**

**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. Your appeal must be filed within thirty (30) days from receipt or issuance of this decision with the Bureau of Land Management at the following address:

Jared Bybee  
BLM Ely District Office  
702 N. Industrial Way  
Ely, NV 89301

The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition for a stay (suspension) of the decision during the time that your appeal is being reviewed by the Board pursuant to regulations at 43 CFR 4.21, the petition for stay must accompany your notice of appeal.

A copy of your 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.

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 appellant's 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 BLM Ely District does not accept the electronic filing of appeals; therefore service must be by personal delivery, registered or certified mail (return receipt requested), or by delivery service (return receipt requested) as described at 43 CFR 4.401(c).

