



# United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
White River Field Office  
220 East Market Street  
Meeker, CO 81641

In Reply Refer To:  
4700 (LLCON05000)

## **DECISION RECORD for the Piceance-East Douglas Herd Management Area Gather and Fertility Control Plan**

### **INTRODUCTION**

The Piceance-East Douglas Herd Management Area (PEDHMA) is the area identified in the White River Field Office (WRFO) for management of wild horses. Through previous analysis, the Bureau of Land Management (BLM) has determined that the Appropriate Management Level (AML) for the PEDHMA is between 135 and 235 wild horses.

The AML represents “that ‘optimum number’ of wild horses which results in a thriving natural ecological balance and avoids a deterioration of the range.” *Animal Protection Institute*, 109 IBLA 112, 119 (1989). The IBLA has also held that, “Proper range management dictates removal of horses before the herd size causes damage to the rangeland. Thus, the optimum number of horses is somewhere below the number that would cause resource damage.” *Animal Protection Institute*, 118 IBLA 63, 75 (1991).

Federal law requires that BLM establish an AML that represents a “population range with both an upper and lower limit, within which wild horses and burros can be managed for the long term.” *Am. Wild Horse Pres. Campaign v. Jewell*, 847 F.3d 1174, 1178 (10th Cir. 2016). This AML necessarily ensures that the number of wild horses within an HMA allows for a thriving natural ecological balance.

The estimated population of wild horses within the PEDHMA by the end of fall 2020 was 838 wild horses. The BLM is proposing a multi-year effort that combines gather operations and a fertility control plan to manage the wild horse population within the PEDHMA at the AML. The BLM would gather and selectively remove excess wild horses down to the low end of AML using an initial gather operation conducted as soon as possible and return periodically to gather excess wild horses to maintain the AML within the PEDHMA. An initial gather to the low end of AML would permit long term management of wild horse population that allows for a thriving natural ecological balance. The BLM would return to the PEDHMA to continue to remove excess wild horses (to the low end of AML) by conducting subsequent (follow-up) gather and removals as necessary over a 10-year period. The BLM would use a variety of gather techniques including bait trapping, helicopter drive trapping, and helicopter assisted roping (helicopter use would only be scheduled between July 1 and February 28).

The BLM would also initiate the administration of fertility control treatments to reduce the current annual recruitment rate. Fertility control treatments would primarily consist of vaccine treatments (e.g., PZP, PZP-22, GonaCon – Equine; preference is GonaCon – Equine) along with the potential use of intrauterine devices (IUDs).

Gather operations and fertility control treatments may be delayed and/or halted and then restarted depending on funding and the allocation of spaces in holding facilities.

### **EXCESS DETERMINATION**

The proposed gather is necessary to address an overpopulation of wild horses and maintain and restore a thriving natural ecological balance consistent with multiple uses by achieving and maintaining the appropriate management level (AML) for the PEDHMA, managing wild horses within designated management areas, balancing wild horse populations with other resources, restricting wild horses from areas where they were not “presently found” at the passage of the WFRHBA, reducing (slowing) population growth rates, collecting additional information on the herd’s characteristics and determining the herd’s health.

This determination is based on information, including Appendices B and C of the environmental assessment DOI-BLM-CO-N050-2020-0056-EA, which provide evidence to support the BLM’s determination of excess and proposed action to gather and remove excess wild horses from within the PEDHMA.

The BLM has reviewed the information currently available and has determined that an overpopulation exists, and action is necessary to remove excess wild horses, consistent with the authority provided in Section 1333 (b) (2) of the Wild Free-Roaming Horses and Burros Act (WFRHBA) of 1971, as amended, and BLM regulations, including 43 CFR 4710 and 43 CFR 4720. The document DOI-BLM-CO-N050-2020-0056-EA discloses the potential environmental impacts associated with the proposed action, including using helicopter drive-trapping, helicopter assisted roping, bait trapping, and the use of fertility control treatments, all of which are BLM-approved wild horse management methods.

### **AUTHORITIES**

The proposed gather and removal of excess wild horses within the PEDHMA and the use of fertility control treatments on wild horses remaining in the PEDHMA is in compliance with Public Law 92-125, the Wild Free-Roaming Horses and Burros Act (WFRHBA) as amended; the Federal Policy and Management Act (FLPMA); and Public Law 95-514, the Public Rangelands Improvement Act of 1978 (PRIA), which require the BLM to protect, manage and control wild horse (or burro) populations on public lands.

### **DECISION**

Based upon my review of the analysis in the EA, it is my decision to implement the Proposed Action (Alternative A) which is a 10-year plan to use BLM-approved methods to gather and remove excess wild horses within the PEDHMA and to use non-permanent fertility treatments to reduce the population growth rate of those wild horses remaining within the PEDHMA. The

BLM would implement the Design Features under Sections 3.1.2 (for gather operations) and section 3.1.3 (for fertility control treatments); all operations would also be in compliance with the BLM Comprehensive Animal Welfare Program for Wild Horse and Burro Gathers (CAWP Standards) listed in Appendix D in the EA. Gather, removal, and fertility control operations are planned for the next 10 years as funding and other resources (e.g., space in short-term or long-term holding facilities) become available.

This decision complies with and will best implement the land use planning decisions as documented in the White River Record of Decision and Approved Resource Management Plan (WRRMP/ROD) dated July 1, 1997, as amended.

### **ALTERNATIVES CONSIDERED BUT NOT SELECTED**

In addition to the selected alternative, the EA evaluated and analyzed two other alternatives:

1. **Alternative B – Gather to the Low End of AML and Do Not Use Fertility Control Treatments:** Similar to Alternative A, under Alternative B the BLM would gather and remove excess wild horses in order to reach the low end of PEDHMA’s AML and conduct follow-up gathers and removals when required over the next ten years to keep populations within the AML range as the population fluctuates. The primary difference between the action alternatives is that at this time the BLM would not use any fertility control treatments, which would be expected to increase the gather frequency and overall number of excess wild horses that ultimately need to be removed from the range.
2. **Alternative C – No Action:** Under Alternative C, excess wild horses would not be gathered or removed from within the PEDHMA. The introduction of fertility control treatments would not be initiated or used. Existing management and monitoring including utilization, forage condition, water availability, animal health, and periodic population census and sampling for genetic diversity would continue. This alternative would conflict with 43 CFR 4720.1 which requires the BLM to remove excess wild horses from public lands.

The EA also lists several additional alternatives that were considered by the BLM but were eliminated from detailed analysis in Section 3.4 in the EA. The rationale for not analyzing these alternatives is provided in Appendix E of the EA.

### **RATIONALE**

The decision to select Alternative A is based on the following rationale:

1. This decision is based on a Finding of No Significant Impact (FONSI) dated February 22, 2021. This decision is in accordance with the policies and requirements of 43 CFR Part 4700 and the WFRHBA.
2. This decision is in conformance with the WRRMP/ROD dated July 1, 1997 which, for wild horse management, directs: “Manage for a wild horse herd within the Piceance-East Douglas

Herd Management Area so that a thriving ecological balance is maintained for all plant and animal species on that range.”

3. This decision is in accordance with Bureau policy and complies with 43 CFR 4710.1 which states: "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." The 1997 WRRMP/ROD is the most recent approved land use plan and delineates the boundaries of the PEDHMA as shown in this EA. Furthermore, 4710.3-1 states that: “Herd management areas shall be established for the maintenance of wild horse and burro herds.” The 1997 WRRMP/ROD, as well as previous Land Use Plans established the HMA. In addition, 43 CFR 4710.4, states: “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.”
4. As defined in 16 USC § 1332(f) "excess animals" means wild free-roaming horses or burros which must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area. The excess wild horse population jeopardizes the BLM’s ability to maintain a thriving natural ecological balance for all plant and animal species in balance with other multiple resource uses. Implementation of the Proposed Action (Alternative A), provides the BLM with the best opportunity to maintain a thriving natural ecological balance on public lands, including maintaining a healthy, self-sustaining wild horse population, managing the wild horse population size within designated management areas and the established AML range of 135 to 235, achieve rangeland health as measured through the Standards for Rangeland Health and provide for a balanced multiple use relationship with other uses.
5. Alternative A best meets the Purpose and Need to address an overpopulation of wild horses and maintain and restore a thriving natural ecological balance consistent with multiple uses, balance wild horse populations with other resources, restrict wild horses from areas where they were not “presently found” at the passage of the WFRHBA, and to manage wild horses within the area designated for long-term wild horse management (i.e., the Piceance-East Douglas Herd Management Area).

After careful consideration of all the aforementioned information and relevant factors, I have determined that an overpopulation of wild horses exists, and that action is necessary to remove the excess wild horses from within the PEDHMA and the use of fertility control treatments to reduce the population growth rate of the wild horses that remain within the PEDHMA. These actions are necessary to protect land resources (upland vegetation and riparian plant communities, watershed function, habitat quality for other animal populations, along with threatened and sensitive plant and animal species), and the continued multiple use management of the public lands. This action is necessary to ensure conformance with the applicable land use planning decisions. I have carefully reviewed all the available information and determined that gathering and removing of excess wild horses from within the PEDHMA and initiating fertility

control treatments is necessary in order to maintain a thriving natural ecological balance and multiple use relationship in the area.

Based on this determination, it is my decision to implement a multi-year plan (approximately 10 years) for the PEDHMA to use fertility control treatments in addition to periodic gathers and removals of excess wild horses to manage the wild horse population within the PEDHMA at the AML.

### **CONSULTATION AND COORDINATION**

Letters describing the proposed action were sent to the Eastern Shoshone Tribes (Wind River Reservation), Ute Indian Tribe (Uintah & Ouray Reservation), Southern Ute Indian Tribe, Ute Mountain Ute Tribe on October 28, 2020.

Although the Proposed Action would overlap with previous surface disturbance, this proposal does not require additional consultation with the State Historical Preservation Officer (SHPO) pursuant to Section X.F.5 of the State Protocol Agreement between the Colorado State Director of the BLM and the Colorado SHPO, at this time. Following the completion of the Proposed Action, or at a time when the Proposed Action is determined to occur on surface that has not been previously disturbed, an information letter will be sent to the SHPO, and consultation would be reconsidered.

No formal consultation was required or conducted with the U.S. Fish and Wildlife Service because of design features that would reduce potential impacts to threatened plants. If traps or holding facilities cannot be relocated outside 300 m of habitat for threatened plants, then the BLM would conduct Section 7 Consultation with the U.S. Fish and Wildlife Service if it is determined there will be an “effect” to the species.

### **PUBLIC INVOLVEMENT**

On November 23, 2020 the WRFO made the preliminary NEPA documents available for public review and comment, with a comment due date of December 23, 2020. The public was notified by a press release and the WRFO sent letters to over 140 individuals and groups announcing the availability of the documents.

The BLM received a total of 15 public comments. Most of the comments covered broad categories (e.g., AML, gather operations, fertility control treatments, livestock grazing, population estimates, etc.) associated with the management of wild horses. In response to comments received, the BLM made minor changes in the final EA. The WRFO considered all comments received and addressed those within the scope of the analysis. Responses to comments received during the public comment period can be found in Appendix I of the EA.

Pursuant to 43 CFR 4740.2(b), the BLM will periodically hold a public hearing on the use of helicopters and motorized vehicles in conjunction with wild horse management including gather operations. The last public hearing was held in August 2019 in Craig, Colorado. Future public hearings would be announced via a press release.

The BLM will provide the public with the opportunity to observe the gather operations of wild horses in accordance with WO IM #2013-058. A schedule will be prepared and posted at <https://www.blm.gov/news/colorado> that will outline specific viewing opportunities.

### **PLAN CONSISTENCY AND STATUTORY/REGULATORY/POLICY CONFORMANCE**

Based on information in the EA, the project record, and recommendations from BLM specialists, I conclude that this decision is consistent with the White River Record of Decision and Approved Resource Management Plan (WRRMP/ROD) dated July 1, 1997, as amended; the Endangered Species Act; the Native American Religious Freedom Act; other cultural resource management laws and regulations; Executive Order 12898 regarding Environmental Justice; and Executive Order 13007 regarding the action will not limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites.

### **ADMINISTRATIVE PROCEDURES**

This decision is subject to appeal. If you wish to appeal this decision, as provided by 43 CFR 4770.3 and 43 CFR Part 4, you must file an appeal in writing within 30 days receipt of this decision with the Field Manager, White River Field Office, 220 East Market Street, Meeker, Colorado 81641.

Should you wish to file a petition for stay, the appellant 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.

If you decide to submit a petition for stay of the decision, a copy of the notice of appeal and petition for stay must be served simultaneously upon the parties identified below.

Field Manager  
White River Field Office  
220 East Market Street  
Meeker, Colorado 81641

Office of the Regional Solicitor  
Rocky Mountain Region  
755 Parfet Street, Suite 151  
Lakewood, Colorado 80215

Office of Hearing and Appeals  
Interior Board of Land Appeals  
801 North Quincy Street, Suite 300  
Arlington, Virginia 22203

You may file a notice of appeal by paper hardcopy only. The BLM Colorado will not accept a notice of appeal transmitted electronically (e.g., by email, facsimile, or social media means). Also, the BLM will not accept a petition for stay that is transmitted electronically (e.g., by email, facsimile, or social media means). Even if the BLM has previously corresponded with you by email, facsimile, or social media means, the BLM will not accept a notice of appeal transmitted electronically. Both the notice of appeal and any petition for stay must be received on paper at the office address above.

### **APPROVAL**

The Piceance-East Douglas Herd Management Area Gather and Fertility Control Plan is approved for a 10-year period effective upon issuance of this decision. Implementation of the gather to remove excess wild horses from within the PEDHMA is in accordance with the authority provided in 43 CFR 4770.3(c), which provides in part: “decisions...shall be effective upon issuance or on a date established in the decision” when removal of excess animals is necessary to ensure and maintain a thriving natural ecological balance and multiple-use relationship.

---

**Acting for** Kent E. Walter, Field Manager  
White River Field Office