

Decision Record

Bureau of Land Management Humboldt River Field Office Winnemucca Off-Range Corrals Environmental Assessment

DOI-BLM-W010-2021-0036-EA

Introduction

The Bureau of Land Management (BLM) manages wild horses and burros (WHB) as part of its overall multiple-use mission. Under the authority of the 1971 Wild Free-Roaming Horses and Burros Act, the BLM manages and protects these living symbols of the Western spirit while ensuring that population levels are in balance with other public rangeland resources and uses. To ensure that healthy herds thrive on healthy public lands, the BLM removes excess animals from the range to control the size of herds, which have virtually no predators and can double in population every four to five years.

As part of its responsibility to manage and protect WHB, including those removed from herds roaming Western public lands, the BLM has solicited proposals for new, off-range corrals (ORC) located in Idaho, Nevada, and Utah, under Solicitation #140L0120R0008. The solicitation was open between October 30, 2020, and December 4, 2020. Under the solicitation, all facility proposals must be accessible by an all-weather road or highway and each ORC must be able to provide humane care for a one-year period, with a renewal option under BLM contract for four or nine one-year extensions (option periods). The animals would remain in the ORC until they are placed into private maintenance through adoptions or sales or are transported to off-range pastures (ORP).

Decision

Based on the information contained in the Environmental Assessment (EA) and the associated Finding of No Significant Impact (FONSI), it is my decision to select the Proposed Action for implementation. This decision is contingent upon the contractor's acquisition of all required permits, including those from the Nevada Department of Environmental Protection.

The Winnemucca ORC would be constructed on 100 acres of private land in Township 39 North, Range 39 East, Section 03 (Mount Diablo Base and Meridian) in Humboldt County, Nevada between Paradise Valley and Winnemucca: six miles from Highway 95 and 28 miles from Interstate 80. This decision will fund living space, feed, and care for up to 4,000 WHB in the ORC, owned and operated by JS Livestock for a one-year period with a renewal option under BLM contract for four or nine one-year extensions (option periods).

Terms/Conditions/Stipulations

- Provide land, pens, feed, salt, minerals, and water necessary for maintaining WHB in their care.
- Provide corrals and adequate facilities to load, unload, prepare, and sort WHB.

- Provide humane care of all WHB during receiving, hold and preparation, prior to shipment to other ORC or ORP, adoption or sale.
- Provide regular, on-the-ground observation of the WHB to ascertain their well-being and safety.
- Provide facility management by individuals who are knowledgeable and experienced about the behavior and nutritional requirements of WHB.
- Maintain and prepare excess WHB for placement into private care, from BLM wide gather operations or from other western ORCs.
- Provide an office building equipped with electricity, phone, fax machine, internet, office furniture, and restrooms.
- Ensure entry gates into the ORC can be locked to provide adequate security during non-work hours.
- Obtain and abide by all required permits.

Design Features

Design Features are those specific means, measures or practices that would reduce or eliminate adverse effects. Permanent BLM Instruction Memorandum 2021-002, Wild Horse and Burro Comprehensive Animal Welfare Program consolidates current humane practices, incorporates the existing Standard Operating Procedures to ensure humane care and handling of the animals, and increases transparency concerning the humane treatment of WHB.

- Dust control measures identified in section 2.1.1 of the EA will be implemented.
- The Contractor will obtain the necessary permit required by the state of Nevada for a Concentrated Animal Feeding Operation permit (CAFO) and will maintain proper reporting documents and structures for this permit.
- To reduce the stress on horses, corrals will be cleaned regularly at least twice per year and up to four times per year.
- All corral pens will have adequate slopes for drainage and the Contractor will establish a plan to mitigate any standing water that is found to occur and implement that plan immediately
- Disposal of dead horses will be implemented as outlined in section 2.1.1.4 of the EA.
- Measures outlined in section 2.1.1.5 of the EA will be implemented to prevent the spread of invasive non-native and noxious weed species.
- Migratory bird breeding season is between March 1 and August 31. Prior to the commencement of earthwork, standard pre-construction clearance surveys for migratory bird and raptor nests will be completed and avoidance buffers implemented during the breeding season. Buffers for non-raptor migratory birds is 260 feet and buffers for raptors is 1,320 feet (0.25 mile).
- The contractor will obtain the appropriate discharge permits required by NDEP to ensure compliance with state groundwater quality standards, and to address potential stormwater runoff, drainage or additional water quality requirements, which could include berms, dikes, lined wastewater containment ponds or groundwater monitoring wells with periodic sampling and inspections.

BLM Recommended Environmental Protection Measures

The BLM does not regulate water resources within the state of Nevada, nor can it issue the permits required for mitigation measures regarding that resource. Additional mitigations noted in this section are recommendations by the BLM.

Per state law, the applicant will obtain and follow the requirements of a National Pollutant Discharge Elimination System (NPDES) permit for a Large CAFO operation issued by the Nevada Division of Environmental Protection (NDEP). Under this permit, the operator will be required to develop and comply with a site-specific Nutrient Management Plan (NMP) designed to prevent discharge of process wastewater pollutants into waters of the U.S. except in the case of a 25-year, 24-hour rain event (40 CFR § 122.42(e)(5), 40 CFR § 412.13).

- The BLM recommends the contractor work with the NDEP to design, construct, and maintain stormwater diversions and sediment collection basins to meet the 100-year, 24-hour storm criteria.
- The terms of the CAFO permit and NMP will be determined during the permitting process but must include provisions to ensure adequate storage of process wastewater, provide diversion of clean water from the production area, identify site-specific conservation practices (e.g. buffers, dikes, and berms), recordkeeping and reporting, periodic inspections, and other requirements (40 CFR 122.42 (e)(1-6)).

Authorities

The authority for this decision is contained in the 1971 Wild Free-Roaming Horses and Burros Act, as amended.

Plan Consistency and Conformance

The proposed action does not conflict with any known State or local planning or zoning ordinance. This action is not specifically addressed in the 2012 update to the Humboldt County Regional Master Plan however, the proposal is consistent with the land uses occurring within agricultural areas identified in that document.

The Record of Decision (ROD) and Resource Management Plan (RMP) for the Winnemucca District Planning Area (USDI 2015) do not address ORCs on private land; however, the proposed project is consistent with the WHB goals and objectives identified in the RMP. Relevant goals are provided below.

- Objective WHB 1: Administer HMAs to support healthy populations and achieve land health standards for WHB where a TNEB (thriving natural ecological balance) and multiple-use relationship can be achieved and maintained.
- Objective WHB 5: Maintain Appropriate Management Levels within Herd Management Areas (HMAs).

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 the action. No additional alternatives were developed because there were no potential impacts on resources to be resolved through these alternatives.

Native American Consultation

On August 25, 2021, a project proposal letter, with an ePlanning link to the preliminary draft EA, was sent to the Winnemucca Indian Colony, Burns Paiute Tribe, Summit Lake Tribe, and McDermitt Paiute-Shoshone Tribe.

No Native American religious concerns are known regarding the project area. Coordination with tribes with affinity to the project area began on August 25, 2021, and, to date, the BLM has received no comments from the tribes either in oral form, when brought up during general monthly tribal consultation meetings, or in written form.

Public Involvement

A preliminary EA was made available on the ePlanning website ([ePlanning Site](#)) to interested individuals, agencies and groups for a 15-day public review and comment period that opened on September 2, 2021 and was extended to October 1, 2021. A letter with a project description and directions on accessing the preliminary EA were delivered via mail or email to 93 individuals, organizations, and State and county agencies.

A total of 6,700 comments were received from individuals, Nevada Division of Wildlife, Eureka County, Humboldt County, and several special interest groups including Cloud Foundation, MARRPLAN.org, In Defense of Animals, Friends of Animals, and Wild Horse Education.

Concerns raised during public comment period included, flooding, wild horse and burro welfare in the ORC, potential for nutrient contamination (e.g., nitrates) of ground and surface waters by the ORC, animal waste management, and potential for a rise in hay prices in Humboldt County.

An economic analysis on hay pricing in Humboldt County was conducted to address concerns related to the issue and was included in section 3.4 of the EA. The BLM conducted a review of the requirements for Concentrated Animal Feedlot Operations (CAFO) permitting and their relationship to the Clean Water Act to address the concerns related to flooding, animal waste management, and the potential for nutrient contamination in surface and ground water. Section 1.5 was revised to include clarifying information regarding CAFO permit requirements to control the potential for water run-on and run-off from the proposed facility. Section 2.1 of the EA was revised to provide clarifying information on wild horse and burro feeding regimes. Appendix D of the EA provides the list of substantive comments and the BLM's responses to those comments.

Rationale

I have reviewed the EA and thoroughly considered public comments regarding the EA. I am incorporating Solicitation #140L0120R0008 by reference because of the specifications for construction and care of the WHB. I have also reviewed the degrees of effect of the proposed project in 40 CFR 150.3(b)(2) 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 has not been prepared.

Appeals

You have the right to appeal this decision to the Humboldt River Field Manager in accordance with the regulations contained in 43 CFR Part 4.410, 4.411, and 4.413. 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:

Kathleen Rehberg
BLM Humboldt River Field Office
5100 E. Winnemucca Blvd.
Winnemucca, NV 89445-2921

The appellant must also serve a copy of the appeal by certified mail to the Solicitor's Office at the following address:

Office of the Solicitor
Pacific Southwest Regional Solicitor
U.S. Department of the Interior
2800 Cottage Way, Room E-2753
Sacramento, California 95825-1890

Within 30 days after filing the Notice of Appeal, you must file a complete statement of reasons and a statement of standing as to why you are appealing with the U.S. Department of Interior, Interior Board of Land Appeals in accordance with 43 CFR 4.412. The Statement of Reasons and statement of standing must also be served on the Humboldt River Field Manager and the Sacramento Solicitor's offices at the addresses provided above.

Service must also be provided to each person named in the decision and must be in accordance with 43 CFR 4.401(c). Failure to file the statement of reasons and statement of standing within the time required will subject the appeal to summary dismissal as provided in 43 CFR 4.402. Failure to provide proper service of the appeal, statement of standing and statement of reasons will subject the appeal to summary dismissal as provided at 43 CFR 4.413(b) and 43 CFR 402 (b), (c), and (d).

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4942, January 19, 1993) for a stay (suspension) of the decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted to:

Interior Board of Land Appeals
Office of Hearing and Appeals
801 N. Quincy Street, Suite 300
Arlington, VA 22203

In accordance with 43 CFR 4.21(b), a petition for stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative hard 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.

In accordance with 43 CFR 4.401, the BLM does not accept fax or email filing of a notice of appeal and/or petition for stay. BLM cannot accept electronic submission (e.g. compact disk or other electronic media) of appeal documents due to the Federal Information Systems Security Awareness guidance. Please submit relevant appeal documents in hard copy form for consideration. Any notice of appeal and/or petition for stay must be sent or delivered to the office of the authorized officer by mail or personal deliver.

/s/ Kathleen Rehberg

November 3, 2021

Kathleen Rehberg
Field Manager
Humboldt River Field Office
Bureau of Land Management

Date