

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT**

Oklahoma Field Office
201 Stephenson Pkwy, Suite 1200
Norman, OK 73072

Determination of NEPA Adequacy (DNA) Worksheet

**Chigley Off-Range Pasture (ORP),
Murray County, Oklahoma
NEPA No. DOI-BLM-NM-0040-2022-0024-DNA**

Office: The Bureau of Land Management (BLM) Oklahoma Field Office (OFO), in close coordination with the BLM Headquarters Wild Horse and Burro (HQ WH&B) Program Office

Proposed Action Title/Type: Chigley Off-Range Pasture (ORP), DOI-BLM-NM-0040-2022-0024-DNA

Location of Proposed Action: One mile north of the town of Davis in Murray County, Oklahoma, approximately 75 miles south of Oklahoma City, Oklahoma

Applicant: Burgher Haggard, LLC

A. Description of the Proposed Action

The BLM HQ WH&B Program Office is proposing to continue an existing contract with the Chigley Off-Range Pasture to provide long-term care and maintenance for up to 500 excess animals on a 3,662-acre ORP sited on privately owned land in Murray County, Oklahoma. Based on current, available data the BLM OFO inter-disciplinary team (IDT) determined the Chigley ORP facility possesses sufficient carrying capacity and operational capability to humanely support the long-term physical well-being of up to 500 excess animals. This proposed Federal action would continue the use of these privately owned 3,662 acres as a long-term care and maintenance facility for excess animals, which were previously removed from BLM-administered lands. Additionally, the BLM HQ WH&B Program Office is proposing to authorize up to a 10% periodic increase in facility population to accommodate occasional shipments of excess animals to this long-term care and maintenance facility. Periodic deliveries exceeding overall carrying capacity is not projected to cause an undesirable impact on the facility's overall long-term carrying capacity or operational capability. Episodic excess animal deliveries would be short-term in nature and/or intended to replace animals the BLM anticipates to lose annually through natural attrition.

As the Federal Land Policy and Management Act (FLPMA) directs BLM to develop and maintain land use plans "for the use of the public lands," [43 USC 1712(a)], which is defined in Section 103 of the FLPMA to include any "land and interest in land owned by the United States . . . and administered by the Secretary of the Interior through the [BLM]" [43 USC 1702(e)], Resource Management Plan (RMP) conformance is not directed by the FLPMA, therefore not required for the NEPA analysis associated with this proposed Federal action to proceed. The BLM's obligation to develop and maintain land use plans is limited to the use of lands and interest in public land administered by the BLM. The obligation under section 202 of FLPMA to develop and maintain land use plans does not extend to the use of private lands.

The BLM's obligation to develop and maintain land use plans is limited to public land and interests in public land. This obligation, therefore, does not extend to animals, such as wild horses and burros. While Sec. 3 of the Wild Free-Roaming Horse and Burro Act of 1971 (the "Wild Horse Act"), as amended, refers

to wild horses and burros “as components of the public lands,” [16 USC 1333(a)], the Wild Horse Act clarifies neither wild horses or burros are considered public land or an interest in public land. Specifically, Sec. 1 of the Wild Horse Act provides that wild horses and burros are “an integral part of the natural system of the public lands.” [16 USC 1331]. Because the animals, themselves, are not public lands or an interest in public land, as defined by FLPMA, the BLM is not obligated to develop land use plans that include decisions governing the management of excess wild horses and burros on private lands, as is the case being proposed for those excess animals that would be accommodated on the Chigley ORP. The BLM is therefore not obligated to ensure that such actions conform to decisions in an approved land use plan. Only those wild horse and burro management actions that occur on public lands (e.g., gather and removing wild horses, applying fertility controls) must conform to approved land use plans.

The proposed Federal action is limited to humane long-term care and maintenance of previously removed excess animals to an ORP located on privately owned lands.

Therefore, conformance with the March 2020 Approved Oklahoma, Kansas, and Texas Resource Management Plan (A-OKT RMP), as amended, is not required by NEPA or FLPMA for this proposed action.

C. Applicable National Environmental Policy Act (NEPA) Document(s) and Other Related Documents

- Environmental Analysis, FONSI, and Decision Record for the Jameson Ranch Wild Horse and Burro Off-Range Pasture (DOI-BLM-NM-040-2015-030).
 - Date Approved: 6/08/2015
- Biological Assessment for the Chigley ORP (Project Code 2022-0052878)
 - Date: June 10, 2022
- Programmatic Biological Opinion for the American burying beetle for the Bureau of Land Management wild horse long term holding facility program, Consultation number 02EKOK00-2019-SLI-3280.
 - Date: April 1, 2010

Cultural Resources:

This proposed renewal does not propose any ground disturbing activity and is a renewal of the original contract. Based on the magnitude and nature of the undertaking and the nature and extent of potential effects on historic properties, the BLM, in consultation with the Chickasaw Nation Tribal Historic Office (Chickasaw THPO), the Oklahoma State National Historic Preservation Office (SHPO) and the Oklahoma Archeological Survey (OAS), determined that a literature search for the area, a reconnaissance visit to the ranch, and any updates on known Listed, eligible, or unevaluated sites revisited for the undertaking met the intent of 36 CFR 800.4 for this proposed WHB Off-Range Pasture Contract renewal.

The literature search took place on April 23 and August 16, 2022. The reconnaissance visit took place on July 19, 2022. No known or new cultural sites were identified, and no areas of horse congregation were noted. However, a recently built, but deteriorating movie set cabin was noted.

If future ground disturbance activities are proposed or if areas of horse concentration identified through the life of the contract, those would constitute a separate consultation/undertaking for which the BLM would perform a Class III intensive survey for those areas.

For these reasons, the BLM has determined the renewal of the this Off-Range Pasture Contract will result in *No Historic Properties Affected*, as defined in 36 CFR§800.4(d)(1).

The BLM sent a letter (NM-040-2022-036) dated October 5, 2022, which discussed this work and determination of effect, to the Tribal Historic Preservation Offices (THPO) of the following Tribes: the Alabama Quassarte Tribal Town, Caddo Nation, Chickasaw Nation, Kialegee Tribal Town, Kiowa Tribe, Muscogee (Creek) Nation, Northern Arapaho Tribe, Northern Cheyenne Tribe, Osage Nation, Quapaw Tribe of Oklahoma, Thloptholocco Tribal Town, United Keetoowah Band of Cherokee, Wichita and Affiliated Tribes, and Wyandotte Nation. The BLM also sent the letter to letter dated October 5, 2022 to the Oklahoma SHPO and OAS. The Chickasaw Nation THPO concurred with the project on October 31, 2022, Oklahoma SHPO concurred on October 18, 2022, OAS concurred on October 12, 2022, the Northern Cheyenne stated they had no concerns with the project on November 14, 2022, and the Quapaw Nation THPO responded that the Tribe did not wish to consult or comment further in accordance 36 CFR 800 on this project in a letter dated October 20, 2022.

The BLM initiated Government-to-Government consultation under Section 102 of NEPA regarding this project on November 14, 2022 with the Alabama Quassarte Tribal Town, Caddo Nation, Chickasaw Nation, Kialegee Tribal Town, Kiowa Tribe, Muscogee (Creek) Nation, Northern Arapaho Tribe, Northern Cheyenne Tribe, Osage Nation, Quapaw Tribe of Oklahoma, Thloptholocco Tribal Town, United Keetoowah Band of Cherokee, Wichita and Affiliated Tribes, and Wyandotte Nation. The BLM also cc'd the THPOs of these Tribes. The Northern Cheyenne THPO responded December 14, 2022 that it had no concern with the project. The Quapaw Nation THPO responded on December 9, 2022, that the office did not wish to consult or comment on the project in accordance with 36 CFR 800. No specific Native American traditional cultural and religious concerns have been identified.

D. NEPA Adequacy Criteria

1. Is the new proposed action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document(s)? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document(s)? If there are differences, can you explain why they are not substantial?

Yes. The proposed action would provide long-term care and maintenance of up to 500 excess wild horses on 3,662 acres of privately owned land. The existing NEPA document (DOI-BLM-NM-0040-2015-030-EA) analyzed a substantively similar alternative within the same analysis area/geographic location for the long-term care and maintenance of up to 500 excess wild horses on 3,662 acres of privately owned land in Murray County.

2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the current proposed action, given current environmental concerns, interests, resource values, and circumstances?

Yes. The range of alternatives analyzed in the Chigley ORP NEPA document (DOI-BLM-NM-0040-2015-030-EA) are substantively the same environmental concerns, interests, resource values, and circumstances associated with the proposed Chigley, OK ORP.

3. Is the existing analysis valid in light of any new information or circumstances (such as rangeland health standard assessment, recent endangered species listings, or updated lists of BLM-sensitive species)? Can you reasonably conclude that new information and new circumstances would not substantially change the analysis of the new proposed action?

Yes. The NEPA document (DOI-BLM-NM-0040-2015-030-EA developed for the Chigley ORP adequately analyzed impacts to resources and resource values, including a review of impacts to soils, vegetation management practices, rangeland management practices, water resources, air resources, wetland and riparian areas, heritage resources, wildlife, wild horse and burro management regulations and policies, and mineral resources. In addition, the BLM OFO IDT has reviewed Wild Horse and Burro Program Facilities and Horse Inspection forms from 2019-2022 (see Table 1 below). According to the inspections performed by OFO WHB staff, horse body conditions have been maintained at the required Henneke Score (body condition of horses) of 4 or better, and pastures have not shown evidence of overgrazing.

Yes. The BLM OFO IDT concluded that the new information available did not substantially change the analysis of the new proposed Federal action.

Table 1. Wild Horse and Burro Program Inspection Records, Chigley ORP, 2019-2022

Date	Inspection Type	Henneke Score	Pasture Condition	Inspector
3/22/2022	Herd Count/Health	5	Fair/Good	Kristine Dedolph
7/14/2021	Herd Count/Health	5	Good/Excellent	Kristine Dedolph
2/5/2021	Herd Count/Health	5	Good	Kristine Dedolph
3/29/2019	Herd Count/Health	4-5	Good	Kristine Dedolph

4. Are the direct, indirect, and cumulative effects that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?

Yes. Carrying capacity, stocking rates, and forage utilization calculations for the Chigley ORP were found to be within the acceptable thresholds analyzed in the Chigley ORP Environmental Assessment (DOI-BLM-NM-0040-2015-030-EA). The 2015 Chigley EA computed forage utilization calculated utilization based on a 65% utilization factor. Through adaptive management, the BLM has decided that 40% utilization would be more appropriate. The proposed 2022 stocking rate of 500 horses would provide approximately 7.3-acres of grazing pasture per horse. Further, up to four-months of supplemental feed (alfalfa, Bermuda hay, etc.) would be made available by ORP facility management during periods of reduced forage availability (i.e., winter months, natural disasters, wildfires, etc.).

5. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?

Yes. Public involvement and interagency review for the proposed Chigley ORP has been determined to be adequate for the current proposed action. The proposed action is not considered to be provocative or controversial.

E. Persons/Agencies/BLM Staff Consulted

Name	Title	Resource/Agency Represented
Rebecca Theodorakos	Planning & Environmental Specialist	BLM, Oklahoma Field Office
George Thomas	Wildlife Biologist	BLM, Oklahoma Field Office
Erin Knolles	Archaeologist	BLM, Oklahoma Field Office

Patrick Rich	Planning & Environmental Coordinator	BLM, Oklahoma Field Office
John Neill	Off-Range Pasture COR	BLM, Nevada State Office

CONCLUSION

Based on the review documented above, I conclude that the existing NEPA documentation fully covers the proposed action and constitutes BLM's compliance with the National Environmental Policy Act's mandate.

Rebecca Theodorakos, Planning & Environmental Coordinator, Project Lead Date

Robert Pawelek, Field Manager, Oklahoma Field Office Date

Note: The signed Conclusion on this Worksheet is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision. However, the lease, permit, or other authorization based on this DNA is subject to protest or appeal under 43 CFR Part 4 and the program-specific regulations.