

**U.S. Department of the Interior
Bureau of Land Management**

**Decision Record
DOI-BLM-CA-C070-2024-0001-EA**

**Removal of Wild Horses Outside the Montgomery
Pass Wild Horse Territory**

PREPARING OFFICE

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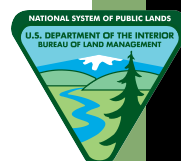


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Introduction and Background

The Inyo National Forest (INF) Mono Lake Ranger District (MLRD) and the Bureau of Land Management (BLM) Bishop Field Office (BIFO) propose to immediately gather and remove excess wild horses from outside the Montgomery Pass Wild Horse Territory (MPWHT or Territory) in accordance with the Wild Free-Roaming Horse and Burro Act of 1971 (WFRHBA). The BLM, in cooperation with the INF, prepared an Environmental Assessment (EA), *Removal of Wild Horses Outside the Montgomery Pass Wild Horse Territory DOI-BLM-CA-C070-2024-0001-EA*, to analyze and disclose the potential environmental effects of the Proposed Action and alternatives.

The United States Department of Agriculture (USDA), Forest Service (FS) INF is the lead unit for the management of MPWHT (MOU 1984). The United States Department of the Interior (DOI), BLM BIFO is the lead agency for the National Environmental Policy Act¹ (NEPA) analysis in cooperation with the INF. The EA did not revise the 1988 MPWHT Coordinated Resource Management Plan (CRMP) or associated management actions inside the Territory (e.g. establishment of Appropriate Management Levels (AML)).

The MPWHT is managed for an AML wild horse herd size of 138 to 230 animals and is a congressionally designated area where wild horses are to be managed (2019 Land Management Plan (LMP) for the INF). The most recent census of the wild horse population in the MPWHT and surrounding areas was completed in 2024, estimating that at least 694 wild horses were present in the surveyed area at the time, with at least 624 wild horses located outside the Territory boundaries (Memorandum 2024). The BIFO has determined that all the wild horses that reside outside of the boundaries of the MPWHT are in excess and must be removed in accordance with the WFRHBA.

Decision

Based on my review and consideration of the information and analyses provided in *Removal of Wild Horses Outside the Montgomery Pass Wild Horse Territory EA DOI-BLM-CA-C070-2024-0001-EA*, the Finding of No Significant Impact (FONSI), public

¹ Executive Order 14154, *Unleashing American Energy* (Jan. 20, 2025), and a Presidential Memorandum, *Ending Illegal Discrimination and Restoring Merit-Based Opportunity* (Jan. 21, 2025), require the Department to strictly adhere to the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321 et seq. Further, such Order and Memorandum repeal Executive Orders 12898 (Feb. 11, 1994) and 14096 (Apr. 21, 2023). Because Executive Orders 12898 and 14096 have been repealed, complying with such Orders is a legal impossibility. The [bureau] verifies that it has complied with the requirements of NEPA, including the Department's regulations and procedures implementing NEPA at 43 C.F.R. Part 46 and Part 516 of the Departmental Manual, consistent with the President's January 2025 Order and Memorandum.

comments, and the Project Record, I have decided to authorize all of the Proposed Action as described in Section 2.2 of the EA. As part of this decision, all design features included in Section 2.3 of the EA to protect sensitive resources are required during implementation.

In conducting my review, I determined that implementation of the Proposed Action, subject to the project design features, will not result in any significant adverse effects on the human environment and that no further analysis pursuant to the NEPA, as amended, is required.

Because various factors (e.g., lower gather efficiencies, weather and topography, hard-to-catch or trap-shy animals) could affect the ability to remove all excess wild horses outside the MPWHT in a single gather, a follow-up gather(s) may be conducted to remove any remaining excess animals outside the Territory boundary, if necessary.

Priority areas for removal include but are not limited to: horses located in the Mono Basin (i.e. horses located in wetlands along Mono Lake or near special status/T&E species habitat); horses along CA State Route 120 and U.S. Highway 6 (i.e. areas of vehicle-horse collisions in Mono County); and requests from private landowners.

Decision Rationale

As outlined in the EA, increasing numbers of wild horses have been observed spending greater amounts of time outside the MPWHT. They are creating a hazard for the public, including documented vehicle-horse and bike-horse collisions. The change in wild horse population numbers and distribution has also resulted in degradation of the natural environment, including impacts to geological resources such as Tufa at Mono Lake; trampling of vegetation in riparian areas along the shores of Mono Lake and at other natural water sources; creation of trails and soil compaction; and loss of vegetation in sagebrush systems that provide habitat for species proposed for listing under the Endangered Species Act. With the determination that excess wild horses are residing outside of the designated MPWHT, and the observed degradation to archaeological and natural resources, my decision to authorize action to remove the horses is necessary to achieve and maintain a thriving natural ecological balance. This decision is consistent with the WFRHBA, which directs the Secretaries to immediately remove excess animals from the range upon determination that excess animals are present. The gather methods authorized in this decision will follow agency policy where the primary concern is the welfare, safety, and humane handling of all animals gathered.

Throughout this process, the perspective provided by the public and stakeholders helped define both the emotional connection with the wild horses and the concern with them residing in areas outside of the Territory. The MPWHT herd is a valued resource, and both the FS leadership and I have called upon our staff to begin pre-planning for updating the Management Plan for the MPWHT to ensure the success of the herd within the Territory. For the public and stakeholders that are concerned with the expansion of the herd into the Mono Basin, this decision will allow for the immediate removal of the excess horses within the project area.

This decision focuses solely on horses residing outside of the MPWHT in areas not designated for their management. The BLM has no authority to maintain horses in these areas and no authority to change the boundary to include the entire area the horses are using. I have received requests from private landowners to address nuisance horses on private property outside of the MPWHT, and I have been informed of several vehicle-horse collisions that put public safety at risk. Although there have been requests to delay gathering the horses until the Management Plan is updated, because the horses are residing outside of the Territory and due to the ongoing impacts to resources and public safety, I have determined that all the horses residing outside the MPWHT are in excess. The need to gather and remove the excess horses that are residing outside of the MPWHT is urgent and cannot wait for a plan update. The WFRHBA directs the Secretaries to “immediately remove” excess animals to achieve appropriate management levels and this decision will implement that statutory direction.

How the Selected Action Considered Public Comments

The feedback received from the public during the comment period was invaluable while making this decision. In consideration of those comments, the Interdisciplinary Team (IDT) made modifications to the Final EA regarding issues on fire and fuels management, livestock grazing, wild horse diets, wild horse census information, wildlife, and the impacts of wild horses on rangeland ecosystems. Appendix 7 of the EA details how all comments were considered and addressed.

Numerous commentors had concern with the analysis of wild horses on rangeland resources. The analysis presented in the EA, including the Scientific Literature Review on the Effects of Wild Horses and Burros on Rangeland Ecosystems (Appendix 6), supports my decision to implement the proposed action and the responsibility of the BLM to restore a thriving natural ecological balance to the range, and protect the range from the deterioration associated with overpopulation of wild horses.

Comments were also received that expressed concern over animal welfare and the effects of gathers on wild horses. The gather methods authorized in this decision will follow agency policy where the primary concern is the welfare, safety, and humane handling of all animals gathered, and includes the requirement to follow the BLM's Comprehensive Animal Welfare Program (CAWP) for Wild Horse and Burro Gathers, and Standard Operating Procedures (SOPs) for gather operations. The CAWP and SOPs were developed to ensure safe and humane gather operations and to minimize potential stress and injury to wild horses.

Some commentors suggested that livestock grazing may be responsible for the impacts observed on natural and archeological resources in the project area, and that livestock grazing should be reevaluated before the selected action is implemented. Livestock grazing has been evaluated and authorized in prior NEPA decisions and is managed in accordance with Land Use Plans. Additionally, in some parts of the project area, wild horses are residing on public and private lands outside of the MPWHT where livestock grazing is not permitted or does not occur. A new evaluation of livestock grazing is outside the scope of this analysis and authorization and a horse gather decision is not the appropriate mechanism for adjusting livestock grazing in the project area.

Other Alternatives Considered

In addition to the Proposed Action, a No Action alternative was analyzed in the EA. The No Action alternative would not be consistent with the purpose and need would not be consistent with the WFRHBA. Additional alternatives the public recommended during scoping and comment periods were considered, including exclusive use of bait and/or water trapping, and exclusive use of wranglers on horseback drive-trapping. Neither of these alternatives would meet all aspects of the purpose and need for the project, so they were not analyzed in detail. The rationale is provided in Section 2.3 of the EA.

Public Involvement

On November 7, 2023, the BLM initiated a 30-day external scoping period via the ePlanning website at: <https://eplanning.blm.gov/eplanning-ui/project/2026934/510>. The BLM and INF issued a news release and sent a scoping letter to more than 100 individuals, organizations, and agencies. The BLM and INF received a total of 381 scoping responses, including 176 form letters. A summary of the comments can be found in Appendix 2 Montgomery Pass Wild Horse Territory Scoping Summary Report.

The INF published a legal notice of opportunity to comment on the preliminary EA in the newspaper of record on May 28, 2024, initiating a 30-day designated comment period. The preliminary EA was made available to interested individuals, agencies, and groups

for a 30-day public review and comment period that opened on May 28, 2024, and closed on June 26, 2024. Comments were received from approximately 4,540 individuals (4332 form letters), 14 organizations, and 3 agencies/local entities. Comments received and the response and use of comments in preparing the final environmental assessment can be found in Appendix 7 Preliminary EA Response to Comment.

Tribal Consultation

In October of 2023, letters were sent to twelve Tribes regarding the proposed project. Ongoing consultation through meetings, emails and phone calls continued with Tribes through January of 2025. A request for formal Consultation was received in December of 2024. The BLM and the USFS delayed their Decisions to accommodate this request. Concern was expressed from some Tribes regarding removal of the horses and the use of helicopters. The BLM and USFS considered the Tribal input and determined that not gathering the horses and not using helicopters would not meet the purpose and need of the project and would be inconsistent with law and policy. However, Tribal Representatives may observe the gathers as described in the public viewing section of the EA. Tribal Consultation is ongoing, therefore, concerns regarding Traditional Cultural Properties, Sacred Sites or issues of Tribal concern in the project area will continue to be considered.

Compliance with Other Laws and Regulations

This decision complies with all applicable laws, regulations, and policies as documented in the FONSI, as well as Section 1.4 in the EA. The Selected Action, which was the Proposed Action as analyzed in the EA, was developed in accordance with, and does not threaten to violate any, Federal, State, or local laws or requirements for protecting the environment. The activities described in the Proposed Action were also reviewed and found to be consistent with the INF LMP.

Administrative Remedies

Administrative remedies may be available to those who believe they will be adversely affected by this decision. Appeals may be made to the Interior Board of Land Appeals in strict compliance with the regulations in 43 CFR Part 4.

Authorized Officer

Sherri Lisius
Bishop Field Manager

March 7, 2025

Date