

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

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Preliminary Environmental Assessment  
DOI-BLM-NV-L000-2014-0004-EA

## Ely District Public Safety and Nuisance Gather Environmental Assessment

*Location: White Pine, Lincoln and Nye Counties*

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## **1.0 Introduction**

The Bureau of Land Management (BLM) Ely District (EYDO) has prepared this Environmental Assessment (EA) to address potential environmental consequences associated with wild horse management in order to reduce and mitigate public safety concerns along major roadways within and outside HMA/HA boundaries, decrease nuisance animal complaints on private lands, and manage wild horses that reside outside HMA/HA boundaries in accordance with the Wild Free-Roaming Horses and Burros Act of 1971, as amended (Public Law 92-195). The EYDO manages approximately 3.7 million acres comprised of Herd Management Areas and 1.8 million acres comprised of Herd Areas out of approximately 11.5 million acres of public land within White Pine, Lincoln, and Nye Counties in Nevada. The BLM administers this area through three field offices; the Egan Field Office (EFO), the Schell Field Office (SFO), and the Caliente Field Office (CFO) (see Map 1).

This EA is a site-specific analysis of the potential impacts that could result from implementation of the Proposed Action. The EA assists the EYDO in project planning, ensuring compliance with the National Environmental Policy Act (NEPA), and in making a determination as to whether any significant impacts could result from the analyzed actions. An EA provides analysis for determining whether to prepare an Environmental Impact Statement (EIS) or a statement of “Finding of No Significant Impact” (FONSI).

This document is tiered to the Ely Proposed Resource Management Plan/Final Environmental Impact Statement (RMP/EIS, 2007) released in November 2007, Ely District Record of Decision and Approved Resource Management Plan (2008) (Ely RMP).

This Environmental Assessment would be used to gather, relocate, and/or remove excess wild horses causing public safety issues and impacts to private lands as well as horses moving and residing outside HMA/HA boundaries. This Environmental Assessment would not be used as a tool for gathering excess wild horses for the achievement of Appropriate Management Level (AML). However, some horses may be gathered and relocated and/or removed from within HMA/HA boundaries in order to resolve these management issues.

## **1.1 Background**

As wild horse populations continue to increase within the Ely District’s HMAs, there is a growing population of wild horses that are becoming accustomed to highways and public. Wild horses are continually coming on to the highways in many areas during the evenings or early mornings looking for forage and salt along the pavement making them a hazard to travelers. Wild horses in search of forage and water resources have moved on to private lands causing damage to sprinkler systems, gardens, lawns and décor in rural residential areas as well as to agricultural fields. During the spring and summer breeding season, wild stallions have torn down, jumped over or ran through fences of private land owners’ facilities which have resulted in injured domestic horses and domestic mares being bred by wild horses. Occasionally on the Ely District there have been horses, generally young stud horses, leave an HMA/ HA and continue to wander in search of resources or other horses. These types of horses have been many miles from other horses or HMA/HA boundary. Many times when they are found the horses are in a poorer body

condition from lack of resources. These horses have usually crossed many fences and geographical barriers in search of resources to survive.

The Ely District lies on the eastern part of the state of Nevada. The Ely District borders the Elko district to the north, the West Desert and Color Country Districts in Utah to the east, the Southern Nevada District to the south and the Battle Mountain District to the west. The 2008 Ely RMP set boundaries and reaffirmed AML's for the Ely District as well as established 15 Herd areas for the district. The 2007 EIS evaluated each herd management area for five essential habitat components and herd characteristics: forage, water, cover, space, and reproductive viability. Through this analysis and the subsequent Final RMP and Record of Decision (ROD) , the boundaries were established to ensure sufficient habitat for wild horses, and an AML was reviewed and set that would achieve a thriving natural ecological balance and rangeland health.

Under the 2008 Ely District RMP, no wild horses are to be managed within any Herd Areas based on analysis of habitat suitability and monitoring data, which indicates insufficient forage, water, space, cover, and reproductive viability to maintain healthy wild horses and rangelands over the long-term.

Table 1 and 2 below displays the total acreage and established Appropriate Management Levels (AML) for each of the HMAs. As stated by the science review committee in the 2013 National Academy of Sciences' (NAS) report "Using Science to Improve the BLM Wild Horse and Burro Program: A Way Forward", it is the committee's judgment that the reported annual population statistics are probably substantial underestimates of the actual number of horses occupying public lands inasmuch as most of the individual HMA population estimates are based on the assumption that all animals are detected and counted in population surveys—that is, perfect detection. A large body of scientific literature focused on inventory techniques for horses and many other large mammals clearly refutes that assumption and shows estimates of the proportion of animals missed on surveys ranging from 10 to 50 percent depending on terrain ruggedness and tree cover (Caughley, 1974a; Siniff et al., 1982; Pollock and Kendall, 1987; Garrott et al. 1991a; Walter and Hone, 2003; Lubow and Ransom, 2009). The committee has little knowledge of the distribution of HMAs with respect to terrain roughness and tree cover, but state that a reasonable approximation of the average proportion of horses undetected in surveys throughout western rangelands may be 20% to 30%. An earlier National Research Council committee and a Government Accountability Office report also concluded that reported statistics were underestimates. (National Academy of Sciences, 2013)

**Table 1 Herd Management Area, Acres, AML, Estimated Population.**

<b>Herd Management Area Name</b>	<b>Estimated Total Acres</b>	<b>AML</b>	<b>Population Estimate</b>
Antelope	331,000	150-324	413
Diamond Hills South	19,000	10.-22	181
Eagle	670,000	100-210	751
Pancake	855,000	240-493	1,040-1,124

Silver King	606,000	60-128	377
Triple B	1,225,000	250-518	1,047-1,161
<b>Ely District Subtotal</b>	<b>3,706,000</b>	<b>810-1,695</b>	<b>3,900</b>

As reported in Februarys 2014 End of the year stats

**Table 2 Herd Area, Acres, AML, Estimated Population.**

<b>Herd Area Name</b>	<b>Estimated Total Acres</b>	<b>AML</b>	<b>Population Estimate</b>
Cherry Creek	27,448	0	32
Jakes Wash	153,663	0	103-125
White River	116,060	0	129-195
Seaman	358,834	0	8-23
Moriah	53,312	0	94
Mormon Mountains	175,423	0	0
Meadow Valley Mountains	94,521	0	0
Blue Nose Peak	84,622	0	10
Delamar Mountains	183,558	0	196
Clover Mountains	167,998	0	179
Clover Creek	33,056	0	32
Applewhite	30,297	0	12
Little Mountain	53,035	0	23
Miller Flat	89,382	0	44
Highland Peak	136,071	*	*
Rattlesnake	71,433	0	0
<b>Ely District Subtotal</b>	<b>1,828,713</b>	<b>0</b>	<b>908</b>

As reported in Februarys 2014 End of the year stats

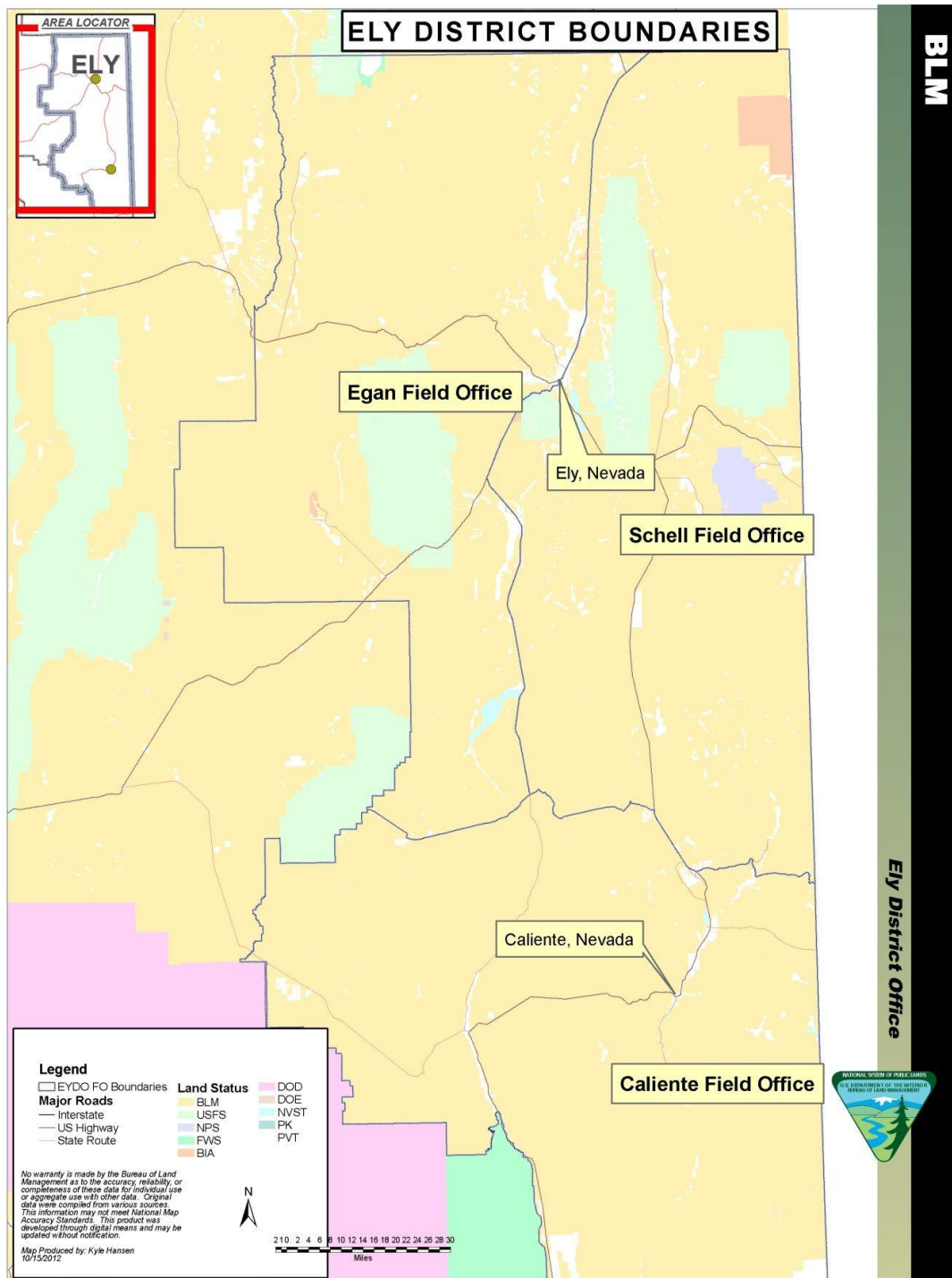
Since the passage of the Wild Free-Roaming Horses and Burros Act of 1971, management knowledge regarding wild horse population levels has increased. For example, it has been determined that wild horses are capable of increasing their numbers by 18% to 25% annually, resulting in the doubling of wild horse populations about every 4 years. The 2013 NAS Report clearly supported these population growth estimates based on the literature they reviewed. This has resulted in the BLM shifting program emphasis beyond just establishing appropriate management level (AML) and conducting wild horse gathers to include a variety of management actions that further facilitate the achievement and maintenance of viable and stable wild horse populations and a “thriving natural ecological balance”. Management actions resulting from shifting program emphasis include: increasing fertility control, adjusting sex ratio and collecting genetic baseline data to support genetic health assessments.

The AML is defined as the number of wild horses that can be sustained within a designated HMA

which achieves and maintains a thriving natural ecological balance<sup>1</sup> in keeping with the multiple-use management concept for the area. The AML range was established through prior decision-making processes and re-affirmed through the Record of Decision (ROD) and Approved Ely District Resource Management Plan (August 2008).

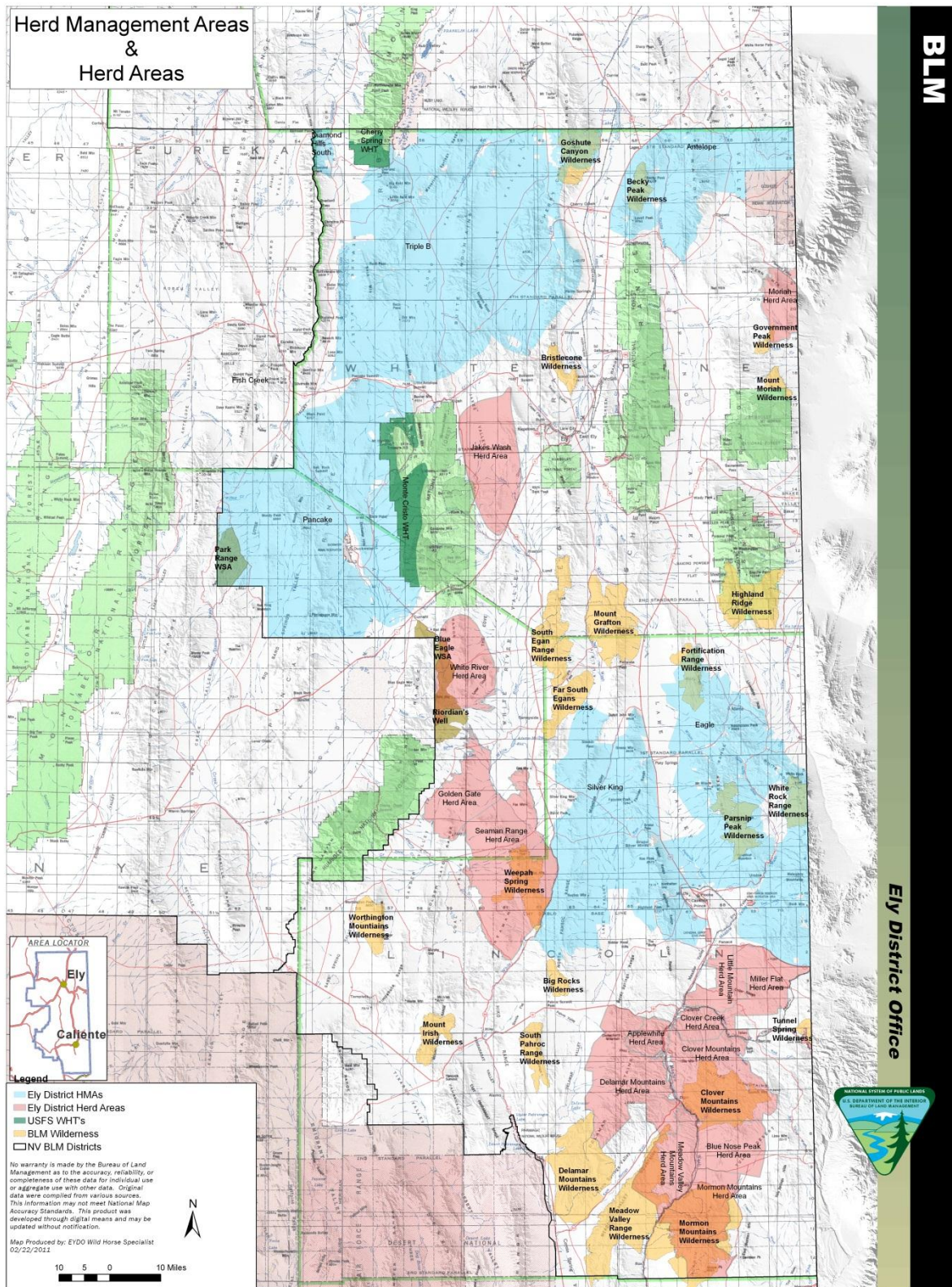
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<sup>1</sup> The Interior Board of Land Appeals (IBLA) defined the goal for managing wild horse (or burro) populations in a thriving natural ecological balance as follows: “As the court stated in Dahl v. Clark, supra at 594, the ‘benchmark test’ for determining the suitable number of wild horses on the public range is ‘thriving ecological balance.’ In the words of the conference committee which adopted this standard: ‘The goal of WH&B management \*\*\*should be to maintain a thriving ecological balance between WH&B populations, wildlife, livestock and vegetation, and to protect the range from the deterioration associated with overpopulation of wild horses and burros.’” (Animal Protection Institute of America v. Nevada BLM, 109 IBLA 115, 1989).



Map 1







## 1.2 Purpose and Need

The purpose of the Proposed Action is to address potential wild horse management actions in order to reduce and mitigate public safety concerns along major roadways within and outside HMA/HA boundaries, decrease nuisance animals complaints on private lands, and address management issues of wild horses that reside outside HMA/HA boundaries in accordance with the Wild Free-Roaming Horses and Burros Act of 1971, as amended (Public Law 92-195).

The need for the Proposed Action is to be able to gather, relocate or remove these types of problem horses that have created safety concerns, risks and problems for members of the public or the horse's health.

## 1.3 Conformance with BLM Land Use Plan(s)

The Proposed Action is in conformance with the 2008 Ely District ROD and Approved RMP (August 2008) on page 46, as required by regulation (43 CFR 1610.5-3(a)) as follows:

- **Goal:** "Maintain and manage healthy, self-sustaining wild horse herds inside herd management areas within appropriate management levels to ensure a thriving natural ecological balance while preserving a multiple-use relationship with other uses and resources."
- **Objective:** "To maintain wild horse herds at appropriate management levels within herd management areas where sufficient habitat resources exist to sustain healthy populations at those levels."
- **Management Action WH-5:** "Remove wild horses and drop herd management area status for those...as listed in Table 13."

## 1.4 Relationship to Statutes, Regulations, or other Plans

The Proposed Action is consistent with the following Federal, State, and local plans to the maximum extent possible.

- Ely District Record of Decision and Approved RMP (2008)
- White Pine County Portion (Lincoln/White Pine Planning Area) Sage Grouse Conservation Plan (2004)
- State Protocol Agreement between the Bureau of Land Management, Nevada and the Nevada Historic Preservation Office (1999)
- Northeastern Great Basin Resource Advisory Council (RAC) Standards and Guidelines (February 12, 1997)
- Mojave Southern Great Basin Resource Advisory Council (RAC) Standards and Guidelines (1997)
- White Pine County Elk Management Plan (2006 revision)
- Endangered Species Act – 1973
- Wilderness Act – 1964
- Migratory Bird Treaty Act (1918 as amended) and Executive Order 13186

(1/11/01)

- White Pine County Public Land and Natural Resource Management Plan as adopted by the Board of County Commissioners of White Pine County (2007).
- Nye County Public Lands Policy Plan (Nye County Natural Resource Management Advisory Commission, 1985)
- Nevada Statewide Policy Plan for Public Lands (Nevada Division of State Lands, 1986)
- Bureau of Land Management “Management Guidelines for Sage Grouse and Sagebrush Ecosystems in Nevada” (October 2000)
- Western Association of Fish and Wildlife Agencies (WAFWA) Guidelines to Manage Sage Grouse Population and their Habitats (2004).
- Federal Land Policy and Management Act of 1976
- Wild Free-Roaming Horses and Burros Act of 1971

The Proposed Action is consistent with all applicable regulations at Title 43 Code of Federal Regulations (43 CFR) 4700 and policies. The Proposed Action is also consistent with the *Wild Free-Roaming Horses and Burros Act of 1971 (WFRHBA)*, which mandates the Bureau to “*prevent the range from deterioration associated with overpopulation*”, and “*remove excess horses in order to preserve and maintain a thriving natural ecological balance and multiple use relationships in that area*”. Additionally, federal regulations at 43 CFR 4700.0-6 (a) state “*Wild horses shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat* (emphasis added).”

4710.4 Management of wild horses and burros shall be undertaken with the objective of limiting the animals distribution to herd areas.

According to 43 CFR 4720.2, upon written request from a private landowner, the authorized officer shall remove stray wild horses and burros from private lands as soon as practicable.

The Interior Board of Land Appeals (IBLA) in Animal Protection Institute et al., (118 IBLA 75 (1991)) found that under the Wild Free-Roaming Horses And Burros Act of 1971 (Public Law 92-195) “excess animals” must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area.

Regulations at 43 CFR 4700.0-6(a) also direct that wild horses be managed in balance with other uses and the productive capacity of their habitat. The Proposed Action is in conformance with federal statute, regulations and case law.

## **2.0 DESCRIPTION OF ALTERNATIVES, INCLUDING PROPOSED ACTION**

### **2.1 Proposed Action**

The Proposed Action is to reduce and mitigate public safety concerns along the major roadways in herd areas (HAs) and herd management areas (HMAs) within the Ely District and decrease nuisance animal complaints on private lands by removing excess wild horses, as well as removal

of wild horses residing outside HMA/HA boundaries, where BLM has not established management responsibilities for wild horses, to address safety concerns or nuisance animals.

Bands of wild horses have strayed into the vicinity of these major roadways within and outside HMAs/HAs creating an increased risk of vehicular accidents that threaten the safety of motorists and wild horses. Areas targeted for these potential removals would involve but not be limited to horses along U.S. Highway 93 and 50 where horses have been in the roadway causing vehicle collisions in Lincoln and White Pine counties. Historically there have been issues with wild horses getting on the highway between Pioche and Panaca, NV and west of Caliente, NV near Oak Springs Summit along HWY 93 as well as on Panaca Summit east of Panaca, NV on Hwy 319. During the winter months wild horses are routinely observed crossing Hwy 50 near the Ilipah Reservoir west of Ely, NV and north of Ely near Lages Junction, NV on Hwy 93.

In addition to the removal of wild horses in the vicinity of major roadways outside the HMAs, the proposed action includes removal of nuisance wild horses that repeatedly get on private land and cause private land damage. Historically wild horses have caused private land impacts near subdivisions outside Caliente, NV where they have dug up sprinkler lines looking for water, trampled gardens, and harassed domestic animals as well as utilizing agricultural fields. In Butte Valley west of Ely, NV wild studs have jumped or torn down fences to get into a private land owner's horse facility during the breeding season which has resulted in injured horses, bred domestic mares, and damaged private property.

The proposed action would also include removal of horses that leave an HMA/ HA and continue to reside for periods of time outside the HMA/HA in accordance with the Wild Free-Roaming Horses and Burros Act of 1971, as amended (Public Law 92-195). These wild horses would include but not be limited to horses crossing natural barriers where they are many miles outside of an area designated for their management or historical use. Many times these types of horses are found when their body condition has declined and the health of these types of horses has deteriorated because they are unfamiliar with the area, or the area does not have resources for year around habitat (water, forage).

These proposed gathers would involve small numbers of horses of approximately 50 or less animals in an area. The purpose of these gathers would remove horses that continue to pose safety or private property problems within the Ely District. These gathers would not be for the specific purpose of achieving the appropriate management level (AML) for the associated HMA, but rather to address nuisance and safety concerns.

Gathering of horses that fit the proposed action will occur as necessary for the next 10 years following the date of the decision (approximately August 2014) or until the safety hazard is reduced or the private property impacts are eliminated. Removal operations would occur at all times of the year to resolve any identified safety or private property concerns.

Due to the varying need for the proposed action, the primary gather technique, either helicopter-drive trapping or water/bait trapping, would be determined on a case-by-case basis following field inspections by the District WH&B Specialist to identify the accessibility of the animals, local terrain and vegetative cover. The use of roping from horseback could also be used when

necessary. Multiple temporary trap sites (gather sites), including helicopter drive and water/bait trapping sites, as well as temporary holding sites, would be used to accomplish the goals of the Proposed Action. In addition to public lands, private property may be utilized for gather sites and temporary holding facilities (with the landowner's permission) if needed to ensure accessibility and/or based on prior disturbance. Use of private land would be subject to Standard Operating Procedures (SOPs) (Appendix I) and would be in written approval/authorization of the landowner. Temporary gather and holding sites would be no larger than 0.5 acres. Helicopter drive and temporary holding sites could be in place up to 30 days. Bait or water trapping sites could remain in place up to one year. The exact location of the gather sites and holding sites would not be determined until immediately prior to the gather because the location of the animals on the landscape is variable and unpredictable. The BLM would make every effort to place temporary gather and holding sites in previously disturbed areas and in areas that have been inventoried and have no cultural resources, sacred sites or paleontological sites. If a new gather or holding site is needed, a cultural inventory would be completed prior to using the new sites. If cultural resources are encountered, the location of the gather/holding site would be adjusted to avoid all cultural resources. All gather (helicopter drive or water/bait trapping) and handling activities (including gather site selections) will be conducted in accordance with SOPs in Appendix I.

When the local conditions require a helicopter drive-trap operation, the BLM would utilize a contractor to perform the gather activities in cooperation with BLM and other appropriate staff. The contractor would be required to conduct all helicopter operations in a safe manner and in compliance with Federal Aviation Administration (FAA) regulations 14 CFR § 91.119 and BLM IM No. 2010-164.

Some of the currently identified problem areas may be able to be bait and water trapped depending on resources, weather conditions, and geography, however some may need to use a helicopter to ensure a successful gather. The most humane and efficient gather approach would be chosen when analyzing the gather area. Bait or water trapping by BLM staff or personnel authorized by the BLM would be the primary method when trying to remove wild horses from a small distinct geographic area, such as private land pastures or when weather or environmental conditions are not conducive to helicopter gather techniques. Any trapping activities would be scheduled in locations and during time periods that would be most effective to gather sufficient numbers of animals to achieve management goals for the areas being gathered.

Water/bait trapping involves setting up portable panels around an existing water source or in an active wild horse area, or around a pre-set water or bait source. The portable panels would be set up to allow wild horses to go freely in and out of the corral until they have adjusted to it. When the wild horses fully adapt to the corral, it is fitted with a gate system. The acclimatization of the horses creates a low stress trap.

When actively trapping excess wild horses the trap would be checked on a daily basis. Horses would be either removed immediately or fed and watered for up to several days prior to transport to a holding facility. Existing roads would be used to access the trap sites.

All gathered wild horses would be removed and transported to BLM holding facilities where they would be inspected by facility staff and on-site contract veterinarians to observe health and

ensure the animals are being humanely cared for. They would then be prepared for adoption and/or sale to qualified individuals who can provide them with a good home or for transfer to long-term grassland pastures.

No trap sites would be set up in sage grouse leks, riparian areas, cultural resource sites, or Congressionally Designated Wilderness Areas. Gather sites would be located in previously disturbed areas. All trap sites and holding facilities on public lands would be recorded with Global Positioning System equipment and monitored during the next several years for noxious weeds.

During helicopter drive-trapping operations, BLM would assure that an Animal and Plant Health Inspection Service (APHIS) veterinarian or contracted licensed veterinarian is on site during the gather to examine animals and make recommendations to BLM for care and treatment of wild horses. BLM staff would also be present on the gather at all times to observe animal condition, ensure humane treatment of wild horses, and ensure contract requirements are met.

Any old, sick or lame horses unable to maintain an acceptable body condition (greater than or equal to a Henneke BCS of 3) or with serious physical defects would be humanely euthanized either before gather activities begin or during the gather operations. Decisions to humanely euthanize animals in field situations will be made in conformance with BLM policy (Washington Office Instruction Memorandum 2009-041 or most current edition). Conditions requiring humane euthanasia occur infrequently and are described in more detail in Section 4.1.

Opportunities for public observation of the gather activities on public lands would be provided, when and where feasible, and would be consistent with BLM IM No. 2013-058 and the Nevada Wild Horse Observation Protocol. This protocol is intended to establish observation locations that reduce safety risks to the public during helicopter gathers (e.g., from helicopter-related debris or from the rare helicopter crash landing, or from the potential path of gathered wild horses), to the wild horses (e.g., by ensuring observers would not be in the line of vision of wild horses being moved to the gather site), and to contractors and BLM employees who must remain focused on the gather operations and the health and well-being of the wild horses. Observation locations would be located at gather or holding sites and would be subject to the same cultural resource requirements as those sites.

In general, gather sites and holding corrals would not be located where sensitive animal and/or plant species are known to occur nor within crucial intact habitat for big game species.

Activities in listed species habitat would be subject to Section 7 consultation under the Endangered Species Act with the level of consultation to be determined based upon the project site specific proposed action. BLM would complete consultation prior to implementation of any specific action which may have an effect on a listed species.

Activities within Greater Sage Grouse habitat would be in accordance with the Washington Office Instruction Memorandum (WO IM) 2012-043 and adhere to Nevada State Office IM 2012-058.

## **2.2 No Action Alternative**

### **No Action Alternative**

Under the No Action Alternative, a gather to remove nuisance and public safety horses as well as horses outside HMA/HA boundaries would not occur. There would be no active management to mitigate/control horses causing safety concerns and vehicular accidents on the highway as well as private property damage and horse deterioration due to lack of resources outside HMA/HA boundaries. Wild horses residing outside the HMAs would remain in areas not designated for management of wild horses and their numbers would continue to increase, and in many cases their health could be at risk.

Under the No Action Alternative, management responses to Safety/Private Land / Horses outside HMA/HA boundaries would require the preparation of individual, situation specific EAs for areas or circumstances across the EYDO.

### **3.0 AFFECTED ENVIRONMENT/ENVIRONMENTAL EFFECTS**

#### **General Setting**

The general setting of the project area is the administrative boundary of the EYDO. The EYDO is located in Eastern Nevada. The EFO and SFO administer the northern portion of the Ely District which is characteristic of a cooler, semi-arid Great Basin Desert ecotype. The southern portion is administered by the CFO and has characteristics of the Great Basin, Great Basin/Mojave transition, and Mojave Desert ecotypes. The Mojave Desert is a hotter, more arid ecotype restricted to a smaller area comprising about half of the CFO.

The EYDO is generally characterized as, "Basin and Range" topography with broad bedrock pediments and fault block mountain ranges predominantly running in a north-south orientation separating vast, flat playa sinks or alluvial valley bottoms. Valley and playa elevations range from 4,000-5,000 ft. with an average annual precipitation of 2-9 inches. Mountain range elevations extend from 7,500-13,000 ft. with 10-20 inches of annual precipitation.

#### **Identification of Issues:**

Internal scoping was conducted by an interdisciplinary (ID) team on May 14, 2014, that analyzed the potential consequences of the Proposed Action. Potential impacts to the following resources/concerns were evaluated in accordance with criteria listed in the NEPA Handbook H-1790-1 (2008) page 41, to determine if detailed analysis was required. Consideration of some of these items is to ensure compliance with laws, statutes or Executive Orders that impose certain requirements upon all Federal actions. Other items are relevant to the management of public lands in general, and to the Ely Districts BLM in particular.

Table 3 summarizes which of the supplemental authorities of the human environment and other resources of concern within the project area are present, not present or not affected by the Proposed Action.



**Table 3. Summary of Supplemental Authorities and Other Elements of the Human Environment**

<b>Resource/Concern</b>	<b>Issue(s) Analyzed? (Y/N)</b>	<b>Rationale for Dismissal from Detailed Analysis or Issue(s) Requiring Detailed Analysis</b>
Air Quality	N	The air quality status for the project analysis area in White Pine, Lincoln and Nye Counties is termed “unclassifiable” by the State of Nevada. No data is collected in White Pine, Lincoln County or in areas outside of Pahrump in southeastern Nye County due to the expectation that annual particulate matter would not exceed national standards. The proposed action or alternatives would not affect air quality in White Pine, Lincoln or Nye Counties.
Areas of Critical Environmental Concern (ACEC)	N	There are 19 ACECs in the Ely District. The project would not change the management of these ACECs nor have additional impacts on the characteristics of the ACECs. The BLM manages these ACECs in accordance with the management prescriptions outlined in the RMP.
Cultural Resources	N	In accordance with the SOPs for Gather and Handling Activities in Appendix I (BLM/SHPO Protocol), gather facilities would be placed in previously disturbed areas. Should new, previously undisturbed gather sites or holding facility locations be required, appropriate Class III cultural resource inventories would be conducted to avoid placing gather facilities in areas with cultural resources and to ensure that measures are taken to avoid any cultural resource impacts.
Forest Health	N	Project has a negligible impact directly, indirectly and cumulatively to forest health. Detailed analysis not required.
Livestock Grazing	N	Livestock grazing occurs year around across the Ely District depending on the allotment. Under most situations under the Proposed Action livestock grazing would not be impacted as much of gather activities would be on private lands or adjacent to highway rights of ways. Capturing wild horses may temporarily displace livestock present in the target gather area, however these gathers would usually be for a short time frame and livestock would return to the area.
Migratory Birds	Y	Effects are analyzed in this EA.
Rangeland Standards and Guidelines	N	
Native American Religious and other Concerns	N	No potential traditional religious or cultural sites of importance have been identified in the project according to the Ely District RMP Ethnographic Report (2003).
Wastes, Hazardous or Solid	N	No known hazardous or solid wastes exist in the designated HA/HMA boundaries, nor would any be

<b>Resource/Concern</b>	<b>Issue(s) Analyzed? (Y/N)</b>	<b>Rationale for Dismissal from Detailed Analysis or Issue(s) Requiring Detailed Analysis</b>
		introduced.
Water Quality, Drinking/Ground	N	The proposed action would not affect drinking or groundwater quality. The project design would avoid surface water and riparian systems and no water wells would be affected.
Environmental Justice	N	No environmental justice issues are present at or near the project.
Floodplains	N	The project analysis area was not included on FEMA flood maps.
Farmlands, Prime and Unique	N	No unique farmlands exist in the State of Nevada. Prime Farmlands would not be affected by the proposed action or other action alternatives. The characteristics which make a soil potential Prime Farmland would not be altered. The limiting factor for the soil becoming productive Prime Farmlands would remain the future application of an adequate and dependable supply of irrigation water.
Species Threatened, Endangered or Proposed for listing under the Endangered Species Act.	Y	Effects to resource are analyzed in this EA.
Wetlands/Riparian Zones	Y	Effects to resource are analyzed in this EA.
Non-native Invasive and Noxious Species	Y	Impacts under Proposed Action could result in increasing weed populations. Analysis in EA.
Wilderness/WSA	N	Wilderness areas and wilderness study areas would be avoided.
Human Health and Safety	Y	Potential effects to human health and safety are analyzed in this EA.
Wild and Scenic Rivers	N	Not Present.
Special Status Animal Species, other than those listed or proposed by the FWS as threatened or Endangered.	Y	Effects to resource are analyzed in this EA.
Special Status Plant Species, other than those listed or proposed by the FWS as Threatened or Endangered. Also, ACECs designated to protect special status plant species.	Y	Effects to resource are analyzed in this EA.
Fish and Wildlife	Y	Effects to resource are analyzed in this EA.
Paleontology	N	There are Mollusks and Brachiopods/corals identified within the Jakes Wash HA. All known Paleontology would be avoided during the gather operations, therefore, no effects are expected from the Proposed Action

<b>Resource/Concern</b>	<b>Issue(s) Analyzed? (Y/N)</b>	<b>Rationale for Dismissal from Detailed Analysis or Issue(s) Requiring Detailed Analysis</b>
Wild Horses	Y	Effects to resource are analyzed in this EA.
Soils Resources	Y	Effects to resource are analyzed in this EA.
Water Resources (Water Rights)	N	The proposed action would not affect water resources or water rights. Project design would avoid surface water and riparian systems. Permitted or pending water uses would not be affected.
Mineral Resources	N	There would be no modifications to mineral resources through the Proposed Action.
Vegetation Resources	Y	Impacts under each alternative could result in improving or deteriorating native plant communities. Effects to resource are analyzed in this EA.

#### **4.0 Environmental Effects**

The following critical or other elements of the human environment are present and may be affected by the Proposed Action or the alternatives. The affected environment is described for the reader to be able to understand the impact analysis.

##### **4.1. Wild Horses**

###### *Affected Environment*

The affected environment would encompass the Ely District, however most of the current wild horse issues reside around but are not limited to Highways 93, 319, and 50. The area would also include private lands within the Ely District including but not limited to Subdivisions around Caliente and private lands in the northern portion of Butte Valley.

The population in the Ely District is currently 6 times over the low end of AML and 3 times over the high end of AML based on the above Tables 1 and 2. Due to the overpopulation of wild horses many horses move out in search of space or resources. These horses sometimes find themselves outside the HMA/ HA boundaries and either on private lands or highways. This can create the problem of safety and nuisance with the interface of people. Many of these horses become habituated to people honking, yelling, and trying to spook them off the roadways or off their lawns and gardens. Many of the areas have fences that horses either go through gates, jump, or tear down fences to get to resources. Most groups contain approximately 5-7 wild horses but as many as 20 have been seen in these areas.

The Ely District Office has done everything it feels is possible to move the wild horses away from the highways. Resources, time, and money have been spent to keep these horses off the highways. BLM has worked with Nevada Department of Transportation (NDOT) on the construction and completion of a right of way fence north of Pioche and will continue to utilize resources to address safety concerns regarding wild horses on Hwy 93 in that particular area. Oak Spring Summit (Hwy 93) right of way fences are maintained and repaired as needed. However; due to geographical features of canyons and washes some of the highway cannot be fenced. Horses have been hazed and herded for miles back into HMA's; however, the horses return to

the highway in just a couple of days.

Private land issues have been continuing to grow with the over-population of wild horses. Many land owners in the area have fenced their private land and tried to deter the horses away. The horses continue to search for the resources and get habituated to the fences. Single horses or bands of wild horses many times find their way back into private lands where they destroy gardens, lawns, trees, haystacks and get into fights with domestic horses. The fights with domestic horses usually occur through fences causing animals to get lacerations as well as broken legs. This has been a financial burden to land owners in the area.

Wild horses leaving the HMA/ HA is not extremely common when their population sizes are within the established AML for the HMA. However, wild horses leaving the HMA/HA is becoming more common due to the increasing populations, limited space, and increased competition for forage and water resources. Wild horses have been seen as far as 40 miles outside of HMA/HA boundaries and are usually in poor body condition. In many cases the pastures or allotments outside the HMA/HA boundaries do not have active water. Wild horses will continue to search out water and forage resources until their body condition declines to the point where they lose their senses, leaving the wild horse to suffer a prolonged and inhumane death.



Horses on highway 93



Horse sign in Highland Knolls subdivision



Horse trap in subdivision



Emaciated Horses outside HMA/HA

### ***Environmental Effects***

**Proposed Action-** under the Proposed Action gathers would involve small numbers of horses of approximately 50 or less animals in each situation. The purpose of these gathers would be to remove horses that continue to pose safety or private property problems within the Ely District. These gathers would not be for the specific purpose of achieving the appropriate management level (AML) for the associated HMA/HA, but rather to address nuisance and safety concerns.

Impacts to individual animals could occur as a result of stress associated with the gather, capture, processing, and transportation of animals. The intensity of these impacts would vary by individual and would be indicated by behaviors ranging from nervous agitation to physical distress. Mortality to individuals from this impact is rare but can occur. Other impacts to individual wild horses include separation of members of individual bands and removal of animals from the population.

Indirect impacts can occur to horses after the initial stress event and could include increased social displacement or increased conflict between studs. These impacts are known to occur intermittently during wild horse gather operations. Traumatic injuries could occur and typically involve biting and /or kicking bruises. Lowered competition for forage and water resources would reduce stress and fighting for limited resources (water and forage) and promote healthier animals.

Indirect individual impacts are those impacts which occur to individual wild horses after the initial stress event, and may include spontaneous abortions in mares, increased social displacement and conflict in studs. These impacts, like direct individual impacts, are known to occur intermittently during wild horse gather operations. An example of an indirect individual impact would be the brief skirmish which occurs among studs following sorting and release into the stud pen, which lasts less than a few minutes and ends when one stud retreats. Traumatic injuries usually do not result from these conflicts. These injuries typically involve a bite and/or kicking with bruises which don't break the skin. Like direct individual impacts, the frequency of

occurrence of these impacts among a population varies with the individual animal.

Adherence to the SOPs as well as techniques used by the gather contractor or BLM Staff would help minimize the risks of heat stress if any trapping occurred in the summer.

Through the capture and sorting process, wild horses are examined for health, injury and other defects. Decisions to humanely euthanize animals in field situations would be made in conformance with BLM policy. BLM Euthanasia Policy IM 2009-041 is used as a guide to determine if animals meet the criteria and should be euthanized. Animals that are euthanized for non-gather related reasons include those with old injuries (broken hip, leg) that have caused the animal to suffer from pain or which prevent them from being able to travel or maintain body condition: old animals that have lived a successful life on the range, but now have few teeth remaining, are in poor body condition, or are weak from old age; and wild horses that have congenital (genetic) or serious physical defects such as club foot, or sway back and should not be returned to the range,

### **Helicopter**

Helicopter drive trapping involves utilizing a helicopter to herd wild horses into a temporary trap. The SOPs outlined in Appendix I would be implemented to ensure that the gather is conducted in a safe and humane manner, and to minimize potential impacts or injury to the wild horses. Traps would be set in a high probability area utilizing the topography if possible to assist with capturing excess wild horses residing within the area. Traps consist of a large catch pen with several connected holding corrals, jute-covered wings and a loading chute. The jute-covered wings are made of material, not wire, to avoid injury to the horses. The wings form an alley way used to guide the horses into the trap. Trap locations are changed during the gather to reduce the distance that the animals must travel. A helicopter is used to locate and herd wild horses to the trap location. The pilot uses a pressure and release system while guiding them to the trap site, allowing them to travel at their own pace. As the herd approaches the trap the pilot applies pressure and a prada horse is released guiding the wild horses into the trap. Once horses are gathered they are removed from the trap and transported to a temporary holding facility where they are sorted.

### **Water/Bait Trapping (if used)**

Bait and/or water trapping generally requires a longer window of time for success. Although the trap would be set in a high probability area for capturing excess wild horses residing within the area and at the most effective time periods, time is required for the horses to acclimate to the trap and/or decide to access the water/bait.

Trapping involves setting up portable panels around an existing water source or in an active wild horse area, or around a pre-set water or bait source. The portable panels would be set up to allow wild horses to go freely in and out of the corral until they have adjusted to it. When the wild horses fully adapt to the corral, it is fitted with a gate system. The acclimatization of the horses creates a low stress trap. During this acclimation period the horses would experience some stress due to the panels being setup and perceived access restriction to the water/bait source.

When actively trapping wild horses, the trap would be checked on a daily basis. Horses would be



either removed immediately or fed and watered for up to several days prior to transport to a holding facility. Existing roads would be used to access the trap sites.

Gathering of the excess horses utilizing bait/water trapping could occur at any time of the year and would extend until the target number of animals are removed to relieve concentrated use by horses in the area, and to remove animals residing outside HMA/HA boundaries. Generally, bait/water trapping is most effective when a specific resource is limited, such as water during the summer months. For example, in some areas, a group of wild horses may congregate at a given watering site during the summer because few perennial water resources are available nearby. Under those circumstances, water trapping could be a useful means of reducing the number of horses at a given location, which can also relieve the resource pressure caused by too many horses. As the proposed bait and/or water trapping in this area is a low stress approach to gathering of wild horses, such trapping can continue into the foaling season without harming the mares or foals.

The wild horses that are gathered would be subject to one or more of several outcomes listed below.

#### **Gather related Temporary Holding Facilities (Corrals)**

Wild horses that are gathered would be transported from the gather sites to a temporary holding corral in goose-neck trailers. At the temporary holding corral wild horses will be sorted into different pens based on sex. The horses will be aged and provided good quality hay and water. Mares and their un-weaned foals will be kept in pens together. At the temporary holding facility, a veterinarian, when present, will provide recommendations to the BLM regarding care, treatment, and if necessary, euthanasia of the recently captured wild horses. Any animals affected by a chronic or incurable disease, injury, lameness or serious physical defect (such as severe tooth loss or wear, club foot, and other severe congenital abnormalities) would be humanely euthanized using methods acceptable to the American Veterinary Medical Association (AVMA).

#### **Transport, Short Term Holding, and Adoption Preparation**

Wild horses removed from the range would be transported to the receiving short-term holding facility in a goose-neck stock trailer or straight-deck semi-tractor trailers. Trucks and trailers used to haul the wild horses will be inspected prior to use to ensure wild horses can be safely transported. Wild horses will be segregated by age and sex when possible and loaded into separate compartments. Mares and their un-weaned foals may be shipped together. Transportation of recently captured wild horses is limited to a maximum of 12 hours. During transport, potential impacts to individual horses can include stress, as well as slipping, falling, kicking, biting, or being stepped on by another animal. Unless wild horses are in extremely poor condition, it is rare for an animal to die during transport.

Upon arrival, recently captured wild horses are off-loaded by compartment and placed in holding pens where they are provided good quality hay and water. Most wild horses begin to eat and drink immediately and adjust rapidly to their new situation. At the short-term holding facility, a veterinarian provides recommendations to the BLM regarding care, treatment, and if necessary, euthanasia of the recently captured wild horses. Any animals affected by a chronic or incurable

disease, injury, lameness or serious physical defect (such as severe tooth loss or wear, club foot, and other severe congenital abnormalities) would be humanely euthanized using methods acceptable to the AVMA. Wild horses in very thin condition or animals with injuries are sorted and placed in hospital pens, fed separately and/or treated for their injuries. Recently captured wild horses, generally mares, in very thin condition may have difficulty transitioning to feed. A small percentage of animals can die during this transition; however, some of these animals are in such poor condition that it is unlikely they would have survived if left on the range.

After recently captured wild horses have transitioned to their new environment, they are prepared for adoption, sale, or transport to a long-term grassland pastures. Preparation involves freeze-marking the animals with a unique identification number, vaccination against common diseases, castration, and de-worming. During the preparation process, potential impacts to wild horses are similar to those that can occur during transport. Injury or mortality during the preparation process is low, but can occur.

At short-term corral facilities, a minimum of 700 square feet is provided per animal. Mortality at short-term holding facilities averages approximately 5% (GAO-09-77, Page 51), which includes animals euthanized due to a pre-existing condition, animals in extremely poor condition, animals that are injured and would not recover, animals which are unable to transition to feed; and animals which die accidentally during sorting, handling, or preparation. Approximately 12,000 excess wild horses are being maintained within BLM's short-term holding facilities.

### **Adoption**

Adoption applicants are required to have at least a 400 square foot corral with panels that are at least six feet tall. Applicants are required to provide adequate shelter, feed, and water. The BLM retains title to the horse for one year and the horse and facilities are inspected. After one year, the applicant may take title to the horse at which point the horse becomes the property of the applicant. Adoptions are conducted in accordance with 43 CFR § 5750.

### **Sale with Limitation**

Buyers must fill out an application and be pre-approved before they may buy a wild horse. A sale-eligible wild horse is any animal that is more than 10 years old or has been offered unsuccessfully for adoption at least three times. The application also specifies that all buyers are not to sell to slaughter buyers or anyone who would sell the animals to a commercial processing plant. Sales of wild horses are conducted in accordance with the 1971 WFRHBA and congressional limitations.

### **Long-Term Grassland Pastures**

Since fiscal year 2008, the BLM has removed over 31,680 excess wild horses or burros from the Western States. Most animals not immediately adopted or sold have been transported to long-term grassland pastures in the Midwest.

Potential impacts to wild horses from transport to adoption, sale or long-term grassland pastures (LTP) are similar to those previously described. One difference is that when shipping wild horses for adoption, sale or LTP, animals may be transported for up to a maximum of 24 hours. Immediately prior to transportation, and after every 24 hours of transportation, animals are

offloaded and provided a minimum of 8 hours on-the-ground rest. During the rest period, each animal is provided access to unlimited amounts of clean water and two pounds of good quality hay per 100 pounds of body weight with adequate bunk space to allow all animals to eat at one time. The rest period may be waived in situations where the anticipated travel time exceeds the 24-hour limit but the stress of offloading and reloading is likely to be greater than the stress involved in the additional period of uninterrupted travel.

Long-term grassland pastures are designed to provide excess wild horses with humane, and in some cases life-long care in a natural setting off the public rangelands. There, wild horses are maintained in grassland pastures large enough to allow free-roaming behavior and with the forage, water, and shelter necessary to sustain them in good condition. About 32,952 wild horses that are in excess of the current adoption or sale demand (because of age or other factors such as economic recession) are currently located on private land pastures in Oklahoma, Kansas, and South Dakota. Establishment of LTPs was subject to a separate NEPA and decision-making process. Located in mid or tall grass prairie regions of the United States, these LTPs are highly productive grasslands compared to more arid western rangelands. These pastures comprise about 256,000 acres (an average of about 10-11 acres per animal). Of the animals currently located in LTP, less than one percent is age 0-4 years, 49 percent are age 5-10 years, and about 51 percent are age 11+ years.

Mares and sterilized stallions (geldings) are segregated into separate pastures except at one facility where geldings and mares coexist. Although the animals are placed in LTP, they remain available for adoption or sale to qualified individuals; and foals born to pregnant mares in LTP are gathered and weaned when they reach about 8-12 months of age and are also made available for adoption. The LTP contracts specify the care that wild horses must receive to ensure they remain healthy and well-cared for. Handling by humans is minimized to the extent possible although regular on-the-ground observation by the LTP contractor and periodic counts of the wild horses to ascertain their well-being and safety are conducted by BLM personnel and/or veterinarians. A small percentage of the animals may be humanely euthanized if they are in very poor condition due to age or other factors. Horses residing on LTP facilities live longer, on the average, than wild horses residing on public rangelands, and the natural mortality of wild horses in LTP averages approximately 8% per year, but can be higher or lower depending on the average age of the horses pastured there (GAO-09-77, Page 52).

### **Euthanasia or Sale Without Limitation**

While euthanasia and sale without limitation has been limited by current Congressional appropriations, it is allowed under the WFRHBA. Neither option is available for horses under the Department of the Interior's fiscal year 2014 budgetary appropriations. Although the appropriations restrictions could be lifted in future appropriations bills, it would be contrary to Departmental policy to euthanize or sell without limitations healthy excess wild horses.

### **Wild Horses Remaining or Released into the HMA following Gather**

Under the Proposed Action, the wild horses that are not captured may be temporarily disturbed and may move into another area during the gather operations. With the exception of changes to herd demographics, direct population wide impacts from a gather have proven, over the last 20 years, to be temporary in nature with most if not all impacts disappearing within hours to several

days of when wild horses are released back into the HMAs. No observable effects associated with these impacts would be expected within one month of release, except for a heightened awareness of human presence. There is a greater potential for the horses that have been desensitized to vehicles and human activities to return to areas where they were gathered from or similar circumstances if released back into HMA's.

The wild horses that remain in the HMAs/HAs following the gather would maintain their social structure and herd demographics (age and sex ratios) as the proposed gathers would under most situations would be targeting specific individual or bands of horses. No observable effects to the remaining population associated with the gather impacts would be expected.

Indirect individual impacts are those impacts which occur to individual wild horses after the initial stress event, and may include spontaneous abortions in mares, and increased social displacement and conflict in stallions. These impacts, like direct individual impacts, are known to occur intermittently during wild horse gather operations. An example of an indirect individual impact would be the brief skirmish which occurs among older stallions following sorting and release into the stud pen, which lasts less than a few minutes and ends when one stud retreats. Traumatic injuries usually do not result from these conflicts. These injuries typically involve a bite and/or kicking with bruises which don't break the skin. Like direct individual impacts, the frequency of occurrence of these impacts among a population varies with the individual animal.

Spontaneous abortion events among pregnant mares following capture is also rare, though poor body condition can increase the incidence of such spontaneous abortions. Given the two different methods spontaneous abortion is not considered to be an issue for the proposed gather. Since helicopter/drive trap method would not be utilized during peak foaling season (March 1 thru June 30) (unless an emergency exists) and with the anticipated low stress from water/bait trapping method.

Foals are often gathered that were orphaned on the range (prior to the gather) because the mother rejected it or died. These foals are usually in poor, unthrifty condition. Orphans encountered during gathers are cared for promptly and rarely die or have to be euthanized. It is unlikely that orphan foals will be encountered since majority of the foals will be old enough to travel with the group of wild horses. Also depending on the time of year the current foal crop would be six to nine months of age and may have already been weaned by their mothers.

Gathering wild horses during the summer months can potentially cause heat stress. Gathering wild horses during the fall/winter months reduces risk of heat stress, although this can occur during any gather, especially in older or weaker animals. Adherence to the SOPs and techniques used by the gather contractor help minimize the risks of heat stress. Heat stress does not occur often, but if it does, death can result. Most temperature related issues during a gather can be mitigated by adjusting daily gather times to avoid the extreme hot or cold periods of the day. The BLM and the contractor will be pro-active in controlling dust in and around the holding facility and the gather corrals to limit the horses' exposure.

Through the capture and sorting process, wild horses are examined for health, injury and other defects. Decisions to humanely euthanize animals in field situations would be made in

conformance with BLM policy. BLM Euthanasia Policy IM-2009-041 is used as a guide to determine if animals meet the criteria and should be euthanized (refer to SOPs Appendix I). Animals that are euthanized for non-gather related reasons include those with old injuries (broken hip, leg) that have caused the animal to suffer from pain or which prevent them from being able to travel or maintain body condition; old animals that have lived a successful life on the range, but now have few teeth remaining, are in poor body condition, or are weak from old age; and wild horses that have congenital (genetic) or serious physical defects such as club foot, limb and dental deformities, or sway back and should not be returned to the range.

The BLM has been gathering excess wild horses from public lands since 1975, and has been using helicopters for such gathers since the late 1970's. Refer to Appendix I for information on the methods that are utilized to reduce injury or stress to wild horses and burros during gathers. Since 2004, BLM Nevada has gathered over 38,500 excess animals. Of these, gather related mortality has averaged only 0.5%, which is very low when handling wild animals. Another 0.6% of the animals captured were humanely euthanized due to pre-existing conditions and in accordance with BLM policy. This data affirms that the use of helicopters and motorized vehicles are a safe, humane, effective and practical means for gathering and removing excess wild horses and burros from the range. BLM policy prohibits the gathering of wild horses with a helicopter (unless under emergency conditions) during the period of March 1 to June 30 which includes and covers the six weeks that precede and follow the peak of foaling period (mid-April to mid-May).

### **No Action Alternative**

Under the No Action Alternative, a gather to remove nuisance and public safety horses as well as horses outside HMA/HA boundaries would not occur. There would be no active management to mitigate/control horses causing safety concerns and vehicular crashes on the highway as well as private property damage and horse deterioration due to lack of resources outside HMA/HA boundaries. Wild horses residing outside the HMAs would remain in areas not designated for management of wild horses and their numbers would continue to increase.

Wild horses are a long-lived species with documented survival rates exceeding 92% for all age classes. Predation and disease have not substantially regulated wild horse population levels within or outside the project area. Throughout the District few predators exist to control wild horse populations. Some mountain lion predation occurs, but does not appear to be substantial. Coyotes are not prone to prey on wild horses unless young, or extremely weak. Other predators such as wolf or bear do not inhabit the area. Being a non-self-regulating species, there would be a steady increase in wild horse numbers for the foreseeable future, which would continue to exceed the carrying capacity of the range. Individual horses would be at risk of death by starvation and lack of water as the population continues to grow. The wild horses would compete for the available water and forage resources, affecting mares and foals most severely. Social stress would increase. Fighting among stud horses would increase as they protect their position at scarce water sources, and increased injuries and death to all age classes of animals would be expected. Significant loss of the wild horses in the District due to starvation or lack of water would have obvious consequences to the long-term viability of the herd. Allowing horses to die of dehydration and starvation would be inhumane and would be contrary to the WFRHBA, which mandates removal of excess wild horses. The damage to rangeland resources that results

from excess numbers of wild horses is also contrary to the WFRHBA, which mandates the Bureau to “*protect the range from the deterioration associated with overpopulation*”, “*remove excess animals from the range so as to achieve appropriate management levels*”, and “*to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area*”. Once the vegetative and water resources are at these critically low levels due to excessive utilization by an over population of wild horses, the weaker animals, generally the older animals and the mares and foals, are the first to be impacted. It is likely that a majority of these animals would die from starvation and dehydration. The resultant population would be heavily skewed towards the stronger stallions which would lead to significant social disruption. By managing the public lands in this way, the vegetative and water resources will be impacted first and to the point that they have no potential for recovery. This degree of resource impact would lead to management of wild horses at a greatly reduced level if BLM is able to manage for wild horses at all on the HMA in the future. As a result, the No Action Alternative would not ensure healthy rangelands that would allow for the management of a healthy wild horse population, and would not promote a thriving natural ecological balance.

As populations increase beyond the capacity of the habitat, more bands of horses would also leave the boundaries of the HMAs/HAs in search of forage and water. This alternative would result in increasing numbers of wild horses in areas not designated for their use.

## **4.2. Riparian/Wetland Areas and Surface Water Quality**

### ***Affected Environment***

Riparian areas occupy a small but unique position on the landscape within the Ely District. Riparian areas are important to water quality, water quantity, and forage. Riparian sites provide habitat needs for many species and support greater numbers and diversity of wildlife than any other habitat type in the western United States. Riparian areas at high elevations support cottonwood and aspen woodlands. Small riparian areas and their associated plant species occur throughout the District near seeps, springs, and along sections of perennial drainages. Many of these areas support limited riparian habitat (forage) and water flows. In designated HMAs and HAs trampling and trailing damage by wild horses is evident around most riparian areas; soil compaction and surface and rill erosion is evident. Some of the spring sources within the HMAs/HAs are minimally functioning but with the presence of risk factors such as over utilization and trampling effects. The current over population of wild horses is contributing to resource damage and decline in functionality of spring sources.

### ***Environmental Effects***

**Proposed Action** – To avoid the direct impacts potentially associated with the gather operation, temporary gather sites and holding/processing facilities would not be located within riparian areas.

If bait and water trapping option is used, some riparian area's or springs may have a temporary corral or trap set up around it. The trap would be used to be able to capture wild horses.

**No Action Alternative** – With the No Action Alternative, increased horse use within and outside the HMAs /Has would adversely impact additional riparian resources and their associated surface



waters. Over the longer-term, as native plant health continues to deteriorate and plants are lost, soil erosion would increase. An opportunity to make progress toward achieving and maintaining riparian areas in properly functioning condition would be foregone as ever increasing numbers of wild horses continue to trample and degrade other riparian areas, springs and associated water sources. Riparian areas that are currently in a Functional at Risk with a Downward Trend state would be expected to decline to a Non-Functional state over time.

#### 4.3. Wildlife (Including Threatened and Endangered Species, Special Status Species, and Migratory Birds)

##### *Affected Environment*

Within the Ely District, wildlife includes a diverse array of species typical of the Great Basin and Mojave Desert ecosystems. Five species listed as threatened or endangered species by the U.S. Fish and Wildlife Service (USFWS) occur on BLM land within the Ely District (Table 4). More information on these species can be found in the Programmatic Biological Opinion for the Bureau of Land Management’s Ely District Resource Management Plan (Service File No. 84320-2008-F-0078). No actions are proposed for private land that contains listed species.

Table 4: Threatened and Endangered Species in the Ely District

Common Name	Scientific Name	T	E	Location
Big Spring spinedace	<i>Lepidomeda mollispinis praten-sis</i>	X		Condor Canyon
White River springfish	<i>Crenichthys baileyi baileyi</i>		X	Ash Springs
Pahrump poolfish	<i>Empetrichthys latos</i>		X	Shoshone Ponds
Agassiz’s desert tortoise	<i>Gopherus agassizii</i>	X		Mojave desert ecosystem
Southwestern willow fly-catcher	<i>Empidonax traillii extimus</i>		X	Meadow Valley Wash and Pahrana-gat Valley

In addition to federally listed species, the BLM protects, by policy (BLM Manual 6840), special status species designated as “sensitive” by the BLM Nevada State Director. Table 5 lists the special status species occurring, or likely to occur on the Ely District.

Table 5: Non-listed BLM Sensitive Species in the Ely District

	Common Name	Scientific Name
Mammals	Pallid bat	<i>Antrozous pallidus</i>
	Pygmy rabbit	<i>Brachylagus idahoensis</i>
	Townsend’s big-eared bat	<i>Corynorhinus townsendii</i>
	Big brown bat	<i>Eptesicus fuscus</i>
	Spotted bat	<i>Euderma maculatum</i>
	Silver-haired bat	<i>Lasionycteris noctivagans</i>
	Western red bat	<i>Lasiurus blossevillii</i>
	Hoary bat	<i>Lasiurus cinereus</i>
	California myotis	<i>Myotis californicus</i>

	Western small-footed myotis	<i>Myotis ciliolabrum</i>
	Long-eared myotis	<i>Myotis evotis</i>
	Little brown myotis	<i>Myotis lucifugus</i>
	Fringed myotis	<i>Myotis thysanodes</i>
	Long-legged myotis	<i>Myotis volans</i>
	Yuma myotis	<i>Myotis yumanensis</i>
	Desert bighorn sheep	<i>Ovis canadensi nelsoni</i>
	Western pipistrelle	<i>Pipistrellus heperus</i>
	Brazilian free-tailed bat	<i>Tadarida brasiliensis</i>
	Dark kangaroo mouse	<i>Microdipodops megacephalus</i>
	Pale kangaroo mouse	<i>Microdipodops pallidus</i>
	Pahranagat Valley montane vole	<i>Microtus montanus fociosus</i>
	pika	<i>Ochotona princeps</i>

	<b>Common Name</b>	<b>Scientific Name</b>
Birds	Northern goshawk	<i>Accipiter gentilis</i>
	Golden eagle	<i>Aquila chrysaetos</i>
	Western burrowing owl	<i>Athene cunicularia</i>
	Ferruginous hawk	<i>Buteo regalis</i>
	Swainson's hawk	<i>Buteo swainsoni</i>
	Greater sage-grouse	<i>Centrocercus urophasianus</i>
	Western yellow-billed cuckoo	<i>Coccyzus americanus</i>
	Peregrine falcon	<i>Falco peregrinus</i>
	Pinyon jay	<i>Gymnorhinus cyanocephalus</i>
	Bald eagle	<i>Haliaeetus leucocephalus</i>
	Loggerhead shrike	<i>Lanius ludovicianus</i>
	Black rosy-finch	<i>Leucosticte atrata</i>
	Lewis woodpecker	<i>Melanerpes lewis</i>
	Sage thrasher	<i>Oreoscoptes montanus</i>
	Brewer's sparrow	<i>Spizella breweri</i>
	Bendire's thrasher	<i>Toxostoma bendirei</i>
	LeConte's thrasher	<i>Toxostoma lecontei</i>
Reptiles	Banded Gila monster	<i>Heloderma suspectum cinctum</i>
	Sonoran mountain kingsnake	<i>Lampropeltis pyromelana</i>
	Chuckwalla	<i>Sauromalus obesus</i>
Amphibians	Relict leopard frog	<i>Rana onca</i>
	Northern leopard frog	<i>Rana pipiens</i>
Fish	Meadow Valley wash desert sucker	<i>Catostomus clarkii</i> ssp.
	Independence valley tui chub	<i>Gila bicolor</i> ssp.7
	Railroad Valley tui chub	<i>Gila bicolor</i> ssp.
	Newark Valley tui chub	<i>Gila biocolor newarkensis</i>
	Bonneville cutthroat trout	<i>Oncorhynchus clarkia utah</i>
	Relict dace	<i>Relictus solitarius</i>
	White river speckled dace	<i>Rhinichthys osculus</i> ssp 7
	Meadow Valley speckled dace	<i>Rhinichthys osculus</i> ssp 11
	Pahranagat speckled dace	<i>Rhinichthys osculus velifer</i>
Gastropods		
	Duckwater pyrg	<i>Pyrgulopsis aloba</i>
	Southern Duckwater pyrg	<i>Pyrgulopsis anatina</i>
	Transverse gland pyrg	<i>Pyrgulopsis cruciglans</i>

	Landyes pyrg	<i>Pyrgulopsis landyei</i>
	Pahranagat pebblesnail	<i>Pyrgulopsis merriami</i>
	Sub-globose Steptoe Ranch pyrg	<i>Pyrgulopsis orbiculata</i>
	Bifid Duct pyrg	<i>Pyrgulopsis peculiaris</i>
	Flat-topped Steptoe pyrg	<i>Pyrgulopsis planulata</i>
	Northern Steptoe pyrg	<i>Pyrgulopsis serrata</i>
	Southern Steptoe pyrg	<i>Pyrgulopsis sulcata</i>
	Southern Soldier Meadow pyrg	<i>Pyrgulopsis umbilicata</i>
	Duckwater Warm Springs pyrg	<i>Pyrgulopsis villacampae</i>
	Grated tryonia	<i>Tryonia clathrata</i>
Insects	Big smoky wood nymph	<i>Cercyonis oetus alkalorum</i>
	Baking Powder Flat blue	<i>Euphilotes bernardino minuta</i>
	Railroad valley skipper	<i>Hesperia uncas fulvapalla</i>
	White River Valley skipper	<i>Hesperia uncas grandiose</i>
	Pahranagat naucorid bug	<i>Pelocoris shoshone shoshone</i>
	Steptoe Valley crescent spot	<i>Phyciodes pascoensis areancolor</i>

## Mammals

Mule deer (*Odocoileus hemionus*) typically occupy high elevation summer ranges where they are nutritionally dependent on shrubs/forbs characteristic of healthy and diverse mountain brush communities. Streamside and meadow riparian habitats with aspen stands are important fawn-rearing areas.

Pronghorn antelope (*Antilocapra americana*) occupy the mid-to lower-elevations of the Ely District. Pronghorn are dependent on sagebrush/salt desert shrub communities with an understory of forbs. The distribution of water is a limiting factor for pronghorn.

Rocky Mountain elk (*Cervus canadensis*) inhabit several Nevada mountain ranges in a wide variety of habitats within the Ely District. Elk forage on grasses, forbs, and shrub species. Since the late 1990s, elk populations in Lincoln and White Pine counties have been managed under the guidance of the Lincoln and White Pine Elk Management Sub-plans to the Statewide Elk Species Management Plan.

Small mammals and fur bearers in the Ely District include but are not limited to: cottontail rabbit (*Sylvilagus audubonii*), black-tailed jackrabbit (*Lepus californicus*), bobcat (*Lynx rufus*), beaver (*Castor canadensis*), coyote (*Canis latrans*), red fox (*Vulpes vulpes*), gray fox (*Urocyon cinereoargenteus*), and kit fox (*Vulpes macrotis*).

## Birds

On January 11, 2001, President Clinton signed Migratory Bird Executive Order 13186. This Executive Order outlines the responsibilities of Federal agencies to protect migratory birds and directs executive departments and agencies to take certain actions to further implement the Migratory Bird Treaty Act. A list of the migratory birds affected by the President's executive order is contained in 50 CFR 10.13.

Major avian communities within the Ely District occur in creosote-white bursage, Joshua tree woodlands, sagebrush, phreatophyte, pinyon-juniper, montane, riparian, and aspen habitats.

Many migratory birds are heavily dependent on riparian systems. Seventy-seven bird species have been identified as either riparian obligate or riparian dependent in the western US (Rich, 2002). Willow, aspen and cottonwoods provide vital riparian under-story, mid-story and canopy cover to support a diverse bird community. Species using this habitat include northern goshawk (*Accipiter gentilis*), broad-tailed hummingbird (*Selasphorus platycercus*), northern flicker (*Colaptes auratus*), house wren (*Troglodytes aedon*), warbling vireo (*Vireo gilvus*), yellow-rumped warbler (*Dendroica coronata*), western wood pewee (*Contopus sordidulus*), lazuli bunting (*Passerina amoena*) and western tanager (*Piranga ludoviciana*).

Migratory birds occur in all habitats of the Ely District throughout the year with nesting predominantly occurring from March to July. Widely distributed species in shrub habitats include sage thrasher (*Oreoscoptes montanus*), sage sparrow (*Amphispiza belli*) and Brewer's sparrow (*Spizella breweri*), horned lark (*Eremophila alpestris*), and western meadowlark (*Sturnella neglecta*). Loggerhead shrike (*Lanius ludovicianus*), common nighthawk (*Chordeiles minor*), various wrens, warblers, and swallows are also common.

The migratory bird nesting season in the Ely District is generally from March through July. No new surface disturbance can occur during this time period without a nesting bird survey of the proposed project area.

### **Reptiles, amphibians, and fish**

A variety of non-listed fish, reptiles, and amphibians inhabit the Ely District.

### ***Environmental Effects***

#### **Proposed Action-**

Wildlife and wildlife habitat would benefit indirectly by wild horse gathers. Reduction of wild horse populations would protect rangeland habitats from overuse and reduce stress on wildlife. Implementing a gather would reduce the competition for forage and water resources. Habitat conditions in riparian areas, aspen stands, and uplands would be maintained, benefitting many wildlife species including sage grouse.

Wild horse gathers could have some, short-term negative impacts on wildlife. Wildlife present on or near trap sites or holding facilities could be temporarily displaced or disturbed during the gather activities. However, trap sites would typically be located in previously disturbed areas (i.e., gravel pits), and for short periods of time (1-3 days). Should a qualified biologist determine it to be necessary, BLM would inventory trap sites prior to selection to determine the presence of sensitive species. If BLM could not mitigate potential impacts, these areas would be avoided. Overall, improvement and/or maintenance of wildlife habitat would be expected to occur as a result of a decrease in use because of lower numbers of wild horses.

Because gather sites and holding corrals would not be located where sensitive animal and plant species are known to occur nor within crucial intact habitat, there would be no impact from the placement of or activities at these facilities. Nor would there be any impact to populations of special status species as a result of gather operations.

Individual animals of all species may be disturbed or displaced during gather operations. Large

mammals and some birds may run or fly (flush from the nest) when the helicopter flies over looking for horses, but once the helicopter is gone, the animals should return to normal activities. Small mammals, birds, and reptiles would be displaced at gather sites, but this would only be for a few days at each trap site. There would be no impact to animal populations as a whole as a result of gather operations.

Under the Proposed Action, wildlife habitat would likely see more improvement over time since the wild horse population would be gathered in increments and growth rates would be less.

#### **No Action Alternative –**

Wildlife would not be disturbed or displaced by gather operations under the no action alternative. However, competition between wildlife and wild horses for forage and water resources would continue, and may even get worse as wild horse numbers continue to increase. Wild horses are aggressive around water sources, and some wildlife may not be able to compete, which could lead to the death of individual animals. Wildlife habitat conditions would deteriorate as wild horses reduce herbaceous vegetative cover. This could result in lower nesting success for sage grouse and migratory birds.

Individual animals would not be disturbed or displaced because gather operations would not occur under the No Action Alternative. However, habitat conditions for all special status animal species would continue to deteriorate as wild horses further reduce herbaceous vegetative cover and trample riparian areas, springs, and stream banks. Sensitive plant species would be more likely to be grazed and trampled under the no action alternative because there would be more wild horses.

#### **4.4. Special Status Plant Species (Candidate species; and BLM sensitive species)**

##### ***Affected Environment***

The BLM protects, by policy (BLM Manual 6840), special status species designated as “sensitive” by the BLM Nevada State Director. Table 6 lists the special status species occurring, or likely to occur on the Ely District.

Table 6: BLM Sensitive Plant Species in the Ely District

<b>Scientific Name</b>	<b>Common Name</b>
<i>Arctomecon merriamii</i>	White bearpoppy
<i>Asclepias eastwoodiana</i>	Eastwood milkweed
<i>Astragalus calycosus</i> var. <i>monophyllidius</i>	Torrey milkvetch
<i>Astragalus ensiformis</i> var. <i>gracilior</i>	Veyo milkvetch
<i>Astragalus eurylobus</i>	Needle Mountains milkvetch
<i>Astragalus geyeri</i> var. <i>tri- quetrus</i>	Threecorner milkvetch

<i>Astragalus lentiginosus</i> var. <i>stramineus</i>	Straw milkvetch
<i>Astragalus oophorus</i> var. <i>longocalyx</i>	Long-calyx eggvetch
<i>Astragalus uncialis</i>	Currant milkvetch
<i>Botrychium crenulatum</i>	Dainty moonwort
<i>Castilleja salsuginosa</i>	Monte Neva paintbrush
<i>Cymopterus basalticus</i>	Intermountain wavewing
<i>Epilobium nevadense</i>	Nevada willowherb
<i>Ericameria cervina</i>	Antelope Canyon goldenbush
<i>Erigeron ovinus</i>	Sheep fleabane
<i>Eriogonum corymbosum</i> var. <i>nilesii</i>	Las Vegas buckwheat
<i>Eriogonum pharnaceoides</i> var. <i>cervinum</i>	Deer Lodge buckwheat
<i>Eriogonum microthecum</i> var. <i>phoeniceum</i> ( <i>Eriogonum microthecum</i> var. <i>arceuthinum</i> )	Scarlet buckwheat
<i>Eriogonum viscidulum</i>	Sticky buckwheat
<i>Frasera gypsicola</i>	Sunnyside green gentian
<i>Grusonia pulchella</i>	Sand cholla
<i>Ivesia arizonica</i> var. <i>saxosa</i>	Rock purpusia
<i>Jamesia tetrapetala</i>	Waxflower
<i>Lewisia maguirei</i>	Maquire's bitterroot
<i>Mentzelia argillicola</i>	Pioche blazingstar
<i>Mentzelia tiehmii</i>	Tiehm blazingstar
<i>Penstemon concinnus</i>	Tunnel Springs beardtongue
<i>Penstemon leiophyllus</i> var. <i>francisci-pennellii</i>	Pennell beardtongue
<i>Phacelia parishii</i>	Parish phacelia
<i>Sclerocactus blainei</i>	Blaine pincushion
<i>Sclerocactus pubispinus</i>	Great Basin fishhook cactus
<i>Sclerocactus schlesseri</i>	Schlesser pincushion
<i>Silene nachlingerae</i>	Nachlinger catchfly
<i>Sisyrinchium radicans</i>	St. George blue-eyed grass
<i>Sphaeralcea caespitosa</i> var. <i>williamsiae</i>	Railroad Valley globemallow
<i>Spiranthes diluvialis</i>	Ute ladies' tresses
<i>Trifolium andinum</i> var. <i>podocephalum</i>	Currant Summit clover
<i>Viola lithion</i>	Rock violet



### ***Environmental Effects***

**Proposed Action**—Trampling or loss of individuals of BLM sensitive plant species could occur as a result of the Proposed Action but this is highly unlikely. Because gather sites and holding corrals would not be located where sensitive plant species are known to occur, there would be no impact from the placement of or activities at these facilities. Nor would there be any impact to populations of special status species as a whole as a result of gather operations.

**No Action Alternative** – Habitat conditions for BLM sensitive plant species could deteriorate as wild horses reduce herbaceous vegetative cover. Sensitive plant species located in or near riparian areas could be impacted by degraded habitat conditions.

## **4.7. Noxious Weeds and Invasive Non-Native Species**

### ***Affected Environment***

Noxious weed and invasive non-native species introduction and proliferation are a growing concern among local and regional interests. Noxious weeds are known to exist on public lands within the administrative boundaries of the Ely District Office (Appendix II). Noxious weeds are aggressive, typically nonnative, ecologically damaging, undesirable plants, which severely threaten biodiversity, habitat quality and ecosystems. Because of their aggressive nature, noxious weeds can spread into established plant communities mainly through ground disturbing activities. In addition new weed species and sites can become established when their seeds hitchhike in on equipment or vehicles.

The proposed action covers areas throughout the entire district. Below is a list of the noxious species known to occur near roads, drainages and other transportation corridors throughout the district.

<i>Acroptilon repens</i>	Russian knapweed
<i>Ailanthus altissima</i>	Tree of heaven
<i>Brassica tournefortii</i>	Sahara mustard
<i>Carduus nutans</i>	Musk thistle
<i>Centaurea diffusa</i>	Diffuse knapweed
<i>Centaurea squarrosa</i>	Squarrose knapweed
<i>Centaurea stoebe</i>	Spotted knapweed
<i>Cicuta maculata</i>	Water hemlock
<i>Cirsium arvense</i>	Canada thistle
<i>Cirsium vulgare</i>	Bull thistle
<i>Conium maculatum</i>	Poison hemlock
<i>Euphorbia esula</i>	Leafy spurge
<i>Hyoscyamus niger</i>	Black henbane
<i>Isatis tinctoria</i>	Dyer's woad
<i>Lepidium draba</i>	Hoary cress
<i>Lepidium latifolium</i>	Tall whitetop
<i>Linaria dalmatica</i>	Dalmatian toadflax
<i>Linaria vulgaris</i>	Yellow toadflax
<i>Onopordum acanthium</i>	Scotch thistle
<i>Sorghum halepense</i>	Johnson grass
<i>Tamarix spp.</i>	Salt cedar
<i>Tribulus terrestris</i>	Puncturevine

The vast majority of the project area has been inventoried for noxious weeds in the past ten years. Below is a list of un-inventoried, invasive species found along transportation corridors throughout the Ely District.

<i>Arctium minus</i>	Common burdock
<i>Bromus diandrus</i>	Ripgut brome
<i>Bromus rubens</i>	Red brome
<i>Bromus tectorum</i>	Cheatgrass
<i>Ceratocephala testiculata</i>	Bur buttercup
<i>Convolvulus arvensis</i>	Field bindweed
<i>Elaeagnus angustifolia</i>	Russian olive
<i>Erodium cicutarium</i>	Filaree
<i>Kochia scoparia</i>	Kochia
<i>Halogeton glomeratus</i>	Halogeton
<i>Marrubium vulgare</i>	Horehound
<i>Salsola kali</i>	Russian thistle
<i>Sysimbrium altissimum</i>	Tumble mustard
<i>Tragopogon dubius</i>	Yellow salsify
<i>Ulmus pumila</i>	Siberian elm
<i>Verbascum thapsus</i>	Common mullein

These weeds occur in a variety of habitats including road side areas, rights-of-way, wetland meadows, as well as undisturbed upland rangelands.

### ***Environmental Effects***

**Proposed Action** – The proposed gather may spread existing noxious or invasive weed species. This could occur if vehicles drive through infestations and spread seed into previously weed-free areas or arrives already carrying seeds attached to the vehicle or equipment. This is especially a concern as the gather crew moves from valley to valley. The contractor, together with the contracting officer's representative or project inspector (COR/PI), would examine proposed gather sites and holding corrals for noxious weeds prior to construction. If noxious weeds are found, the location of the facilities would be moved. Any equipment or vehicles exposed to weed infestations or arriving on site carrying dirt, mud, or plant debris would be cleaned before moving into or within the project area. All gather sites, holding facilities, and camping areas on public lands would be monitored for weeds during the next several years. Despite short-term risks, over the long term the reduction in wild horse numbers and the subsequent recovery of the native vegetation would result in fewer disturbed sites that would be susceptible for non-native plant species to invade.

**No Action Alternative** – No impacts from the gather would occur. However, the wild horse populations would remain over appropriate management levels and the impacts to native vegetation from wild horse grazing or trampling would increase exponentially and impacts to the present plant communities could lead to an expansion of noxious weeds and invasive non-native species.

## **4.8. Vegetation**

### ***Affected Environment***

The vegetative plant communities within the EYDO have developed on many different soil types with several kinds of parent materials. Approximately 68 percent of the area vegetation is characterized as sagebrush, salt desert shrub or Mojave Desert. Within the shrubland vegetation type there are many plant communities described, of which creosote bush, black brush, shadscale, salt desert shrub, winterfat, and sagebrush are most widespread. Approximately 31 percent of the area or District's pinyon-juniper woodlands, is dominated by single leaf pinyon pine and/or Utah juniper. Important woody riparian plants in the District include narrow-leaf cottonwood, willows, chokecherry, water birch, and dogwood depending primarily on elevation and stream gradient.

### ***Environmental Effects***

**Proposed Action-**The proposed action is expected to have an effect on vegetative resources as follows: trampling of vegetation by wild horses at gather sites and holding locations; and crushing of vegetation by vehicles, temporary corrals and holding facilities. These disturbed areas would make up less than one acre. Gather corrals and holding facility locations are usually placed in areas easily accessible to livestock trailers and standard equipment, utilizing roads, gravel pits or other previously disturbed sites and accessible by existing roads. No new roads would be created. These impacts are temporary and vegetation is expected to recover within the next growing season.

Under the Proposed Action vegetation resources would remain at or near the current condition. Water trap sites would most likely be at locations already disturbed by wild horse and other animal activity. However, the disturbance and trampling that would occur under the Proposed Action is very similar to the disturbance and trampling that is currently taking place. It is expected that under the Proposed Action, vegetation resources would remain at or near the current condition.

**No Action Alternative** – No impacts from the gather would occur. Wild horse populations would remain over appropriate management levels. The impacts to vegetation by grazing or trampling would increase more exponentially and would result in deterioration in plant health, reproduction, diversity, and composition. As plants deteriorate they would not be able to reproduce or recover. By reducing opportunities for photosynthetic processes the plants would be susceptible to over grazing and other stressors, such as drought, and entire plant communities could die out, allowing less desired species to increase. Over time forage resources would become less available, impacting wild horse herd health, and wild horses would be more susceptible to disease and drought.

## **4.9. Soils**

### ***Affected Environment***

The extremes of climate, relief, aspect, and geologic type combine to form a wide variety of soil types. Soils vary with differing parent materials, position on the landscape (landform), elevation, slope, aspect, and vegetation cover. Soils range from those on the valley floor that are frequently deep, fine-textured, poorly drained, and alkaline with a high salt content to shallow mountain soils formed over bedrock.

Soils found in the EYDO are primarily Aridisols, Entisols, and Mollisols. The soils in the valleys are mainly mineral soils of two types: those that do not have water continuously available for three

months when the soil is warm enough for plant growth (Aridisols); and soils showing little evidence of the soil forming process, the development of horizons or layers (Entisols). Aridisols dominate deserts and xeric shrub lands and have a very low concentration of organic matter. Water deficiency is the major defining characteristic of aridisols. Entisols accumulate on land surfaces that are relatively young (alluvium), extremely hard rocks or disturbed material, mined land, and highly compacted soils.

The mountain sides consist of Aridisols and Entisols, and some mineral soils with grass cover and darker surface horizon (Mollisols). Generally, Entisols occur on steep mountain slopes where erosion is active. They also occur on flood plains and alluvial fans where new material is deposited. Aridisols and Mollisols are older and occur on more stable alluvial fans and terraces.

Average annual soil loss varies by soil-type which is related to soil texture and landscape location. Some soils exhibit high rates of erosion while others exhibit much lower erosion rates. In general, as disturbance increases and/or soil cover is reduced, soil loss increases compared to undisturbed locations. Management actions which maintain or improve vegetation cover and reduce disturbance are expected to reduce the risk and rate of wind and water erosion.

#### **Proposed Action**

Project implementation activities would primarily be limited to existing roads, washes and horse trail areas, and only relatively small areas would be used for trapping and holding operations. Horses may be concentrated for a limited period of time in traps. Traps placed on upland areas may result in some new soil disturbance and compaction, but these impacts would be temporary and would not be expected to adversely affect soil quality in the long term. Soil quality may improve in the long term since physical impacts from wild horse use would decrease due to the proposed gather.

#### ***No Action Alternative***

If the proposed gather does not occur the deteriorating conditions described under the Affected Environment would continue and would increase in intensity as the wild horse population increases, particularly in areas of congregation around water and/or in specific upland areas .

### **4.10. Human Health and Safety**

#### ***Affected Environment***

Members of the public can inadvertently wander into areas that put them in the path of wild horses that are being herded or handled during the gather operations, creating the potential for injury to the wild horses or burros and to the BLM employees and/or contractors conducting the gather and/or handling the horses as well as to the public themselves. Because these horses are wild animals, there is always the potential for injury when individuals get too close or inadvertently get in the way of gather activities.

The helicopter work is done at various heights above the ground, from as little as 10-15 feet (when herding the animals the last short distance to the gather corral) to several hundred feet (when doing a recon of the area). While helicopters are highly maneuverable and the pilots are very skilled in their operation, unknown and unexpected obstacles in their path can impact their ability to react in time to avoid members of the public in their path. These same unknown and

unexpected obstacles can impact the wild horses or burros being herded by the helicopter in that they may not be able to react and can be potentially harmed or caused to flee which can lead to injury and additional stress. When the helicopter is working close to the ground, the rotor wash of the helicopter is a safety concern by potentially causing loose vegetation, dirt, and other objects to fly through the air which can strike or land on anyone in close proximity as well as cause decreased vision. Though rare, helicopter crashes and hard landings can and have occurred (approximately 10) over the last 30+ years while conducting wild horse and burro gathers which necessitates the need to follow gather operations and visitor protocols at every wild horse and burro gather to assure safety of all people and animals involved. Flying debris caused by a helicopter incident poses a safety concern to BLM and contractor staff, visitors, and the wild horses and burros.

During the herding process, wild horses or burros will try to flee if they perceive that something or someone suddenly blocks or crosses their path. Fleeing horses can go through wire fences, traverse unstable terrain, and go through areas that they normally don't travel in order to get away, all of which can lead them to injure people by striking or trampling them if they are in the animal's path.

Disturbances in and around the gather and holding corral have the potential to injure the government and contractor staff who are trying to sort, move and care for the horses and burros by causing them to be kicked, struck, and possibly trampled by the animals trying to flee. Such disturbances also have the potential for similar harm to the public themselves.

The BLM is committed to allowing access by interested members of the public to the fullest possible degree without compromising safety or the success of operations. To minimize risks to the public from helicopter operations, the gather Contractor is required to conduct all helicopter operations in a safe manner, and to comply with FAA regulations (FAR) 91.119 (Appendix IV) and BLM IM No. 2010-164 (Appendix V) <sup>2</sup>. Public observations sites will also be established in locations that reduce safety risks to the public (e.g., from helicopter-related debris or from the rare helicopter crash landing, or from the potential path of gathered horses), to the wild horses (e.g., by ensuring observers will not be in the line of vision of horses being moved to the gather site) and to contractors and BLM employees who must remain focused on the gather operations and the health and well-being of the wild horses. The Visitor Protocol and Ground Rules for public observation found in Appendix III provide the public with the opportunity to safely observe the gather operations. Every attempt will be made to identify observation site(s) at the gather location that offers good viewing opportunities, although there may be circumstances (flat terrain, limited vegetative cover, private lands, etc.) that require viewing locations to be at greater distances from the gather site to ensure safe gather operations.

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<sup>2</sup> At recent gathers, public observers have ranged in number from only a handful of individuals to a maximum of between 15-25 members of the public. At these numbers, BLM has determined that the current level of public visitation to gather operations falls below the threshold of an "open air assembly" under the FAR regulations. 14 CFR § 91.119.

If water/bait trapping method is selected public safety concerns would be minimal. Visitors would be limited to viewing wild horses at temporary holding facilities (since human presence at trap sites would prevent wild horses from entering the trap).

### ***Environmental Effects***

**Proposed Action** -All helicopter operations must be in compliance with FAR 91.119. Public safety as well as that of the BLM and contractor staff is always a concern during the gather operations and is addressed through the implementation of Visitor and Ground Rules (see Appendix III) that have been used in recent gathers to ensure that the public remains at a safe distance and does not impede the safety of gather operations. Appropriate BLM staffing (public affair specialists and law enforcement officers) will be present to assure compliance with visitation protocols at the site. These measures minimize the risks to the health and safety of the public, BLM staff and contractors, and to the wild horses themselves during the gather operations.

If water/bait trapping method is selected spectator and viewers would be prohibited as it would directly interfere with the ability to safely capture wild horses. Only essential personnel (Contracting Officer Representative/Project Inspector (COR/PI), veterinarian, contractor, contractor employees, etc.) would be allowed at the trap sites during trapping operations. Visitors would be allowed to view wild horses once they are removed to the temporary holding facilities.

**No Action Alternative-** There would be no gather related safety concerns for BLM employees, contractors or the general public as no gather activities would occur.

### **5.0 Cumulative Effects**

Cumulative impacts are impacts on the environment which result from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. The area of cumulative impact analysis is Ely District (Map 1).

According to the 1994 BLM *Guidelines for Assessing and Documenting Cumulative Impacts*, the cumulative analysis should be focused on those issues and resource values identified during scoping that are of major importance. Accordingly, the issues of major importance that are analyzed are reduce and mitigate public safety concerns along major roadways within and outside HMA/HA boundaries, decrease nuisance animals complaints on private lands, and address management issues of wild horses that reside outside HMA/HA boundaries in accordance with the Wild Free-Roaming Horses and Burros Act of 1971, as amended (Public Law 92-195).

### **Past, Present, and Reasonably Foreseeable Actions**

The past, present, and reasonably foreseeable future actions applicable to the assessment area are identified as the following:

Project -- Name or Description	Status (x)		
	Past	Present	Future
Issuance of multiple use decisions and grazing permits for ranching operations through the allotment evaluation process and the reassessment of the associated allotments.	x	x	x
Livestock grazing	x	x	x
Wild horse and burro gathers	x	x	x
Mineral exploration / geothermal exploration/abandoned mine land reclamation	x	x	x
Recreation	x	x	x
Range Improvements (including fencing, wells, and water developments)	x	x	x
Wildlife guzzler construction	x	x	x
Invasive weed inventory/treatments	x	x	x
Wild horse and burro management: issuance of multiple use decisions, AML adjustments and planning	x	x	x

Any future proposed projects within the Ely District would be analyzed in an appropriate environmental document following site specific planning. Future project planning would also include public involvement.

### **Past Actions**

In 1971 Congress passed the Wild Free-Roaming Horses and Burros Act which placed wild and free-roaming horses and burros, that were not claimed for individual ownership, under the protection of the Secretaries of Interior and Agriculture. In 1976 the Federal Land Policy and Management Act (FLPMA) gave the Secretary the authority to use motorized equipment in the capture of wild free-roaming horses as well as continued authority to inventory the public lands. In 1978, the Public Range Improvement Act (PRIA) was passed which amended the WFRHBA to provide additional directives for BLM's management of wild free-roaming horses on public lands.

Past actions include establishment of wild horse HMAs and Wild Horse Territories (WHTs), establishment of AML for wild horses, wild horse gathers, vegetation treatment, mineral extraction, oil and gas exploration, livestock grazing and recreational activities throughout the area. Some of these activities have increased infestations of invasive plants, noxious weeds, and pests and their associated treatments.

In August 2008 the Ely District Record of Decision (ROD) and Approved Resource Management Plan (RMP) was signed. Currently, management of HMAs and wild horse population is guided by the 2008 Ely District ROD and RMP. The AML range for the Ely District is 810-1695 wild horses. The Land Use Plan analyzed impacts of management's direction for grazing and wild horses, as updated through Bureau policies, Rangeland Program direction, and Wild Horse Program direction.

The 2008 Ely RMP set boundaries and reaffirmed AML's for the Ely District as well as establish 15 Herd areas for the district. The 2007 EIS evaluated each herd management area for five essen-

tial habitat components and herd characteristics: forage, water, cover, space, and reproductive viability. Through this analysis and the subsequent Final RMP and Record of Decision (ROD) , the boundaries were established to ensure sufficient habitat for wild horses, and an AML was reviewed and set that would achieve a thriving natural ecological balance and rangeland health.

Under the 2008 Ely District RMP, no wild horses are to be managed within any Herd Area's based on analysis of habitat suitability and monitoring data; which indicates insufficient forage, water, space, cover, and reproductive viability to maintain healthy wild horses and rangelands over the long-term.

Adjustments in livestock season of use, livestock numbers, and grazing systems were made through the allotment evaluation/multiple use decision process. In addition, temporary closures to livestock grazing in areas burned by wildfires, or due to extreme drought conditions, were implemented to improve range condition.

The Mojave and Northeastern Great Basin Resource Advisory Council (RAC) developed standards and guidelines for rangeland health that have been the basis for assessing rangeland health in relation to management of wild horse and livestock grazing within the Ely District. Adjustments in numbers, season of use, grazing season, and allowable use have been based on the evaluation of progress made toward reaching the standards.

Several oil and gas exploration wells have been drilled across the Cumulative Effects Study Area (CESA) however none of these wells have gone into production. The Ely RMP/EIS summarized the history of oil and gas exploration on pages 3.18-7 to 3.18-9.

Historical mining activities have occurred throughout the CESA.

### **Present Actions**

Program goals have expanded beyond establishing a "*thriving natural ecological balance*" by setting AML for individual herds to now include achieving and maintaining healthy and stable populations and controlling population growth rates.

Though authorized by the WFRHBA, current appropriations and policy prohibit the destruction of healthy animals that are removed or deemed to be excess. Only sick, lame, or dangerous animals can be euthanized, and destruction is no longer used as a population control method. A recent amendment to the WFRHBA allows the sale of excess wild horses that are over 10 years in age or have been offered unsuccessfully for adoption three times. BLM is adding additional long-term grassland pastures in the Midwest and West to care for excess wild horses for which there is no adoption or sale demand.

The BLM is continuing to administer grazing permits and authorize grazing within the CESA. Within the proposed gather area sheep and cattle grazing occurs on a yearly basis. Wildlife use by large ungulates such as elk, deer, and antelope is also currently common in the CESA.

The focus of wild horse management has also expanded to place more emphasis on achieving rangeland health as measured against the RAC Standards. The Mojave-Southern Great Basin



and Northeastern Great Basin RAC standards and guidelines for rangeland health are the current basis for assessing rangeland health in relation to management of wild horse and livestock grazing within the Ely District. Adjustments to numbers, season of use, grazing season, and allowable use are based on evaluating achievement of or making progress toward achieving the standards.

Gold exploration and mining is on-going in the CESA, occurring primarily in Pancake Mountain Range.

Active oil and gas leases occur throughout the CESA. An oil and gas lease sale is scheduled for December 2014 and includes several parcels within the CESA.

### **Reasonably Foreseeable Future Actions**

In the future, the BLM would manage wild horses within HMAs that have suitable habitat for an AML range that maintains genetic diversity, age structure, and targeted sex ratios. Current policy is to express all future wild horse AMLs as a range, to allow for regular population growth, as well as better management of populations rather than individual HMAs. The Ely BLM District completed the *Ely Proposed Resource Management Plan/Final Environmental Impact Statement* (RMP/EIS, 2007) released in November 2007 which analyzed AMLs expressed as a range and addressed wild horse management on a programmatic basis. Future wild horse management in the BLM's Ely District would focus on an integrated ecosystem approach with the basic unit of analysis being the watershed. Currently the Egan Field Office is completing the Newark Watershed analysis. This process will identify actions associated with habitat improvement within the HMA. The BLM would continue to conduct monitoring to assess progress toward meeting rangeland health standards. Wild horses would continue to be a component of the public lands, managed within a multiple use concept.

While there is no anticipation for amendments to WFRHBA, any amendments may change the management of wild horses on the public lands. The Act has been amended three times since 1971; therefore there is potential for amendment as a reasonably foreseeable future action.

As the BLM and USFS achieve AML on a national basis, gathers should become more predictable due to facility space. Population growth suppression (PGS) should also become more readily available as a management tool, with treatments that last between gather cycles reducing the need to remove as many wild horses and possibly extending the time between gathers. The combination of these factors should result in an increase in stability of gather schedules and longer periods of time between gathers.

The proposed gather area contains a variety of resources and supports a variety of uses. Any alternative course of wild horse management has the opportunity to affect and be affected by other authorized activities ongoing in and adjacent to the area. Future activities which would be expected to contribute to the cumulative impacts of implementing the Proposed Action include: future wild horse gathers, continuing livestock grazing in the allotments within the area, mineral exploration, new or continuing infestations of invasive plants, noxious weeds, and pests and their associated treatments, and continued native wildlife populations and recreational activities historically associated with them. The significance of cumulative effects based on past, present,

proposed, and reasonably foreseeable future actions are determined based on context and intensity.

Midway Gold Company is moving into production in the Pancake Range (Pan Project).

The Duckwater Shoshone Tribe is proposing through legislative means to expand their reservation within the CESA.

The Online project (aka Southwest Inter-tie Project) southern portion Completed construction in December 2012. The Online project is a 500kV electrical transmission line located within the SWIP corridor and goes from Robinson summit near Ely to the Harry Allen substation north of Las Vegas. Modifications to the southern portion of the original right of way that was granted in the 1990's were approved in July 2008. When completed, the 500kV electrical transmission line would extend approximately 520 miles from the Las Vegas area to near Burley, Idaho. To date the segment from Ely to Burley, Idaho has not been built.

The Trans West Express Transmission Line is a 600-kV DC transmission line, approximately 728 miles in length, extending across public (state and federal) and private lands in Wyoming, Colorado, Utah, and Nevada. The transmission line ROW would be approximately 250 feet wide. The line would cross into the Ely District near Panaca Summit and travel south next to the Clover Mountains through Tule Valley to the Kern River Pipeline.

### **Impacts Conclusion**

Past actions regarding the management of wild horses have resulted in the current wild horse population within the Ely District. Wild horse management has contributed to the present resource condition and wild horse herd structure within the gather area.

The combination of the past, present, and reasonably foreseeable future actions, along with the Proposed Action, should result in more stable and healthier wild horse populations, healthier rangelands (vegetation, riparian areas and wildlife habitat), and fewer multiple-use conflicts within the HMAs and WHT.

Most past and all present and reasonably foreseeable future actions have noxious and invasive weed prevention stipulations and required weed treatment requirements associated with each project. This in combination with the active BLM Ely District Weed Management Program will minimize the spread of weeds throughout the watershed.

## **6.0 Mitigation Measures and Suggested Monitoring**

Mitigation and monitoring are incorporated into the Proposed Action through SOPs, which have been developed over time. These SOPs (Appendix 1) represent the "best Methods" for reducing impacts associated with gathering, handling, and transporting wild horses and collecting herd data.

## **7.0 Consultation and Coordination**

Public hearings are held annually on a state-wide basis regarding the use of motorized vehicles,

including helicopters and fixed-wing aircraft, in the management of wild horses and burros. During these meetings, the public is given the opportunity to present new information and to voice any concerns regarding the use of the motorized vehicles. The Winnemucca District Office hosted the state-wide meeting on June 18, 2014; the current gather operation SOPs were reviewed in response to the concerns expressed and no changes to the SOPs identified.

The use of helicopters and motorized vehicles has proven to be a safe, effective and practical means for the gather and removal of excess wild horses and burros from the range. Since 2004, Nevada has gathered over 38,500 animals with a total mortality of 1.1% (of which .5% was gather related), which is very low when handling wild animals. BLM also avoids gathering wild horses prior to or during the peak of foaling and does not conduct helicopter removals of wild horses during March 1 through June 30 unless an emergency arises.

On July 1, 2014 the Ely District sent a Notice of Proposed Action (NOPA) to the Wilderness and Wilderness Study Area interested public mailing list notifying them of the action taking place in Wilderness. A formal tribal Consultation letter was also sent on June 23, 2014

## 8.0 List of Preparers

<b>Ely District Office</b>		
<b>Name</b>	<b>Title</b>	<b>Responsible for the Following Section(s) of this Document</b>
<b>Ben Noyes</b>	<b>Wild Horse Specialist</b>	<b>Project Lead/ Wild Horse Specialist</b>
<b>Alicia Styles</b>	<b>Wildlife Biologist</b>	<b>Wildlife, Migratory Birds, Special Status Species</b>
<b>Chris McVickers</b>	<b>Noxious &amp; Invasive Weeds Specialist</b>	<b>Non-native Invasive Species Including Noxious Weeds</b>
<b>Melanie Peterson</b>	<b>Environmental Protection Specialist</b>	<b>Human Health and Safety, Hazardous Wastes</b>
<b>Emily Simpson</b>	<b>Wilderness Planner</b>	<b>Wilderness</b>
<b>Chris Mayer</b>	<b>Supervisory Rangeland Management Specialist</b>	<b>Soil, Water, Wetlands and Riparian/Flood Plans, Livestock Grazing</b>
<b>Melanie Peterson</b>	<b>Archaeologist</b>	<b>Cultural Resources</b>
<b>Elvis Wall</b>	<b>Native American Coordinator</b>	<b>Native American Religious Concerns</b>

## 9.0 REFERENCES, GLOSSARY AND ACRONYMS

### 9.1 References Cited

Coates-Markle, L. 2000. Summary Recommendations, BLM Wild Horse and Burro Population Viability Forum April 1999, Ft. Collins, CO. Resource Notes 35:4pp.

Curtis, P.D., Pooler, R.L., Richmond, M.E., Miller, L.A., Mattfield, G.F., Quimby, F.W. 2002. Comparative effects of GnRH and porcine zona pellucid (PZP) immunocontraception vaccines for controlling reproduction in white-tailed deer (*Odocoileus virginianus*). Reproduction Supplement 60:131-141.

- Floyd, Ted et al. 2007. Atlas of the Breeding Birds of Nevada. University of Nevada Press, Reno Nevada.
- Ganskopp, D.C. 1983. Habitat use and Spatial Interactions of Cattle, Wild Horses, Mule Deer, and California Bighorn Sheep in the Owyhee Breaks of Southeast Oregon. PhD Dissertation, Oregon State University.
- Ganskopp, D.C. and M. Vavra. 1986. Habitat Use by Feral Horses in the Northern Sagebrush Steppe. Journal of Range Management 39(3):207-211.
- Ganskopp, D.C. and M. Vavra. 1987. Slope Use by cattle, feral horses, deer, and bighorn sheep. Northwest Science, 61(2):74-80
- Great Basin Bird Observatory. 2003. Nevada Bird Count. A habitat-based monitoring program for breeding birds of Nevada. Instruction package and protocol for point count surveys.
- Heilmann, T.J., Garrott, R.A., Caldwell, L.L., Tiller, B.L. 1998. Behavioral response of free-ranging elk treated with an immunocontraceptive vaccine. Journal of Wildlife Management 62:243-250.
- Herbel, H. Carlton., Jerry L. Holechek., Rex D. Pieper., Range Management Principles and Practices. Fifth Edition. 2004 pg 141-142
- Interior Board of Land Appeals 88-591, 88-638, 88-648, 88-679 at 127.
- Protection Institute of America V. Nevada BLM, 109 Interior Board of Land Appeals 115 API 1989.
- 118 Interior Board of Land Appeals 75.
- Kirkpatrick, J.F., R. Naugle, I.K.M. Lui, J.W. Turner JR., M. Bernocco. 1995. Effects of Seven Consecutive years of PZP Contraception on Ovarian Function in Feral Mares, Biology of Reproduction Monograph Series 1: Equine Reproduction VI: 411-418.
- Madosky, J.M., Rubenstein, D.I., Howard, J.J., Stuska, S. In press. The effects of immunocontraception on harem fidelity in a feral horse (*Equus caballus*) population. Appl. Anim. Behavior Sci.
- McInnis, M.A. 1984. Ecological Relationships among Feral Horses, Cattle, and Pronghorn in Southeastern Oregon. PhD Dissertation. Oregon State University.
- McInnis, M.A. and M. Vavra. 1987 Dietary relationships among feral horses, cattle, and Prognhorn in southeastern Oregon. Journal of Range Mgt 40(1):60-66.
- Neel, L.A. (Editor). 1999. Nevada Partners in Flight Bird Conservation Plan. Nevada Department of Wildlife. March 2007. [www.ndow.org](http://www.ndow.org)
- Nevada Natural Heritage Program. March 2008. [www.heritage.nv.gov](http://www.heritage.nv.gov)
- NOAA. [www.cpc.ncep.noaa.gov](http://www.cpc.ncep.noaa.gov)
- Nunez, C. M.V., Adelman, J.S., Mason, C., and Rubenstein, D.I. 2009 Immunocontraception decreases group fidelity in a feral horse population during the non-breeding season. Appl. Anim. Behavior

- Sci. 117:74-83.
- Platts, W.S., and J.N. Rinne. 1985. Riparian and stream enhancement management and research in the Rocky Mountains. North American Journal of Fisheries Management 5:115-125.
- Powell, D.M. 1999. Preliminary evaluation of porcine zona pellucid (PZP) immunocontraception for behavioral effects in feral horses (*Equus caballus*). J. Appl. Anim. Welfare Sci. 2:321-335.
- Ransom JJ, Cade BS, Hobbs NT. 2010. Influences of immunocontraception on time budgets, social behavior, and body condition in feral horses. Appl. Anim. Behavior Sci. 124:51-60
- Shumake, S.A., Wilhelm, E.S. 1995. Comparisons of effects of four immunocontraceptive treatments on estrous cycle and rutting behavior in captive white-tailed deer. Denver Wildlife Research Center, Colorado, USA.
- Singer F.J., Aegnefuss L. 2000. Genetic Effective Population Size in the Pryor Mountain Wild Horse Herd: Implications for conserving genetics and viability goals in wild horses. U.S. Geologic Survey, Midcontinent Ecological Science Center, Ft. Collins CO. Resource Notes 29:2 pp.
- Smith, M.A. 1986a. Impacts of Feral Horses Grazing on Rangelands: An Overview. Equine Veterinary Science, 6(5):236-238.
- Smith, M.A. 1986b. Potential Competitive Interactions Between Feral Horses and Other Grazing Animals. Equine Veterinary Science, 6(5):238-239.
- Smith, M.A and J.w. Waggoner, Jr., et al. 1982. Vegetation Utilization, Diets, and Estimated Dietary Quality of Horses and Cattle Grazing in the Red Desert of Westcentral Wyoming. BLM Contract No. AA851-CTO-31.
- Society for Range Management, 1989. A glossary of Terms Used in Range Management (Third ed.). Society for Range Management, Denver, Colo.
- National Academy of Sciences. 2013. Using Science to Improve the BLM Wild Horse and Burro Program: A Way Forward. The National Academies Press, Washington, D.C.
- Nevada Division of State Lands. 1986. Nevada Statewide Policy Plan for Public Lands. Nevada Division of State Lands, State of Nevada, Carson City, NV.
- Turner Jr., J.W., I.K.M. Lui, Rutberg, A., J.W., Kirkpatrick. 1997. Immunocontraception Limits Foal Production in Free Roaming Feral Horses in Nevada, J. Wildl. Manage. 61 (3):873-880.
- Turner, A, and Kirkpatrick, JF. 2002. Effects of immunocontraception on population, longevity and body condition in wild mares (*Equus caballus*). Reproduction (Suppl. 60): 187-195.
- Vavra, M. and F. Sneva. 1978. Seasonal Diets of five ungulates grazing the cold desert biome. Proceedings of the First International Rangeland Congress. Society for Range Mgt. Denver, CO.
- Zoo Montana. 2000 Wildlife Fertility Control: Fact and Fancy. Zoo Montana Science and Conservation Biology Program, Billings, Mt.

USGAO. 2008. Bureau of Land Management Effective Long-Term Options Needed to Manage Unadoptable Wild Horses. GAO-09-77

USDOl, BLM. 2008. National Environmental Policy Act. Handbook-1790-1.

USDOl. 2007. Ely Proposed Resource Management Plan/ Final Environmental Impact Statement. U.S. Department of the Interior, Bureau of Land Management. BLM/EL/PL-07/09+1793. DOI No. FES07-40. November 2007

USDOl. 2008. Ely District Record of Decision and Approved Resource Management Plan. U.S. Department of the Interior, Bureau of Land Management. BLM/NV/EL/PL-GI08/25+1793.

USDOl, Bureau of Land Management. 1994. Guidelines for assessing and documenting cumulative impacts. WO-IB-94-310.

## ***9.2 Acronyms***

**BLM**-Bureau of Land Management

**CFR**-Code of Federal Regulations

**DR**-Decision Record

**EA**-Environmental Assessment

**EIS**-Environmental Impact Statement

**FLPMA**-Federal Land Policy and Management Act

**FONSI**-Finding of No Significant Impact

**HA** – Herd Area

**HMA** – Herd Management Area

**ID**-Interdisciplinary

**IM**-Instructional Memorandum

**NEPA**-National Environmental Policy Act

**RFS**-Reasonably Foreseeable Future Action

**RMP**-Resource Management Plan

## **APPENDIX I**

### **GATHER OPERATIONS STANDARD OPERATING PROCEDURES**

Gathers would be conducted by utilizing contractors from the Wild Horse Gathers-Western States Contract, or BLM personnel. The following procedures for gathering and handling wild horses would apply whether a contractor or BLM personnel conduct a gather. For helicopter gathers conducted by BLM personnel, gather operations will be conducted in conformance with the *Wild Horse Aviation Management Handbook* (January 2009).

Prior to any gathering operation, the BLM will provide for a pre-gather evaluation of existing conditions in the gather area(s). The evaluation will include animal conditions, prevailing temperatures, drought conditions, soil conditions, road conditions, and a topographic map with wilderness boundaries, the location of fences, other physical barriers, and acceptable trap locations in relation to animal distribution. The evaluation will determine whether the proposed activities will necessitate the presence of a veterinarian during operations. If it is determined that a large number of animals may need to be euthanized or gather operations could be facilitated by a veterinarian, these services would be arranged before the gather would proceed. The contractor will be apprised of all conditions and will be given instructions regarding the gather and handling of animals to ensure their health and welfare is protected.

Trap sites and temporary holding sites will be located to reduce the likelihood of injury and stress to the animals, and to minimize potential damage to the natural resources of the area. These sites would be located on or near existing roads whenever possible.

The primary gather methods used in the performance of gather operations include:

1. Helicopter Drive Trapping. This gather method involves utilizing a helicopter to herd wild horses into a temporary trap.
2. Helicopter Assisted Roping. This gather method involves utilizing a helicopter to herd wild horses or burros to ropers.
3. Bait Trapping. This gather method involves utilizing bait (e.g., water or feed) to lure wild horses into a temporary trap.

The following procedures and stipulations will be followed to ensure the welfare, safety and humane treatment of wild horses in accordance with the provisions of 43 CFR 4700.

#### **A. Gather Methods used in the Performance of Gather Contract Operations**

1. The primary concern of the contractor is the safe and humane handling of all animals gathered. All gather attempts shall incorporate the following:

All trap and holding facilities locations must be approved by the Contracting Officer's Representative (COR) and/or the Project Inspector (PI) prior to construction. The Contractor may also be required to change or move trap locations as determined by the COR/PI. All traps and holding facilities not located on public land must have prior written approval of the landowner.

2. The rate of movement and distance the animals travel shall not exceed limitations set by the COR who will consider terrain, physical barriers, access limitations, weather, extreme temperature ( high and low), condition of the animals, urgency of the operation (animals facing drought, starvation, fire rehabilitation, etc.) and other factors. In consultation with the contractor the distance the animals travel will account for the different factors listed above and concerns with each HMA.
3. All traps, wings, and holding facilities shall be constructed, maintained and operated to handle the animals in a safe and humane manner and be in accordance with the following:

- a. Traps and holding facilities shall be constructed of portable panels, the top of which shall

not be less than 72 inches high for horses and 60 inches for burros, and the bottom rail of which shall not be more than 12 inches from ground level. All traps and holding facilities shall be oval or round in design.

- b. All loading chute sides shall be a minimum of 6 feet high and shall be fully covered, plywood, metal without holes larger than 2"x4".
  - c. All runways shall be a minimum of 30 feet long and a minimum of 6 feet high for horses, and 5 feet high for burros, and shall be covered with plywood, burlap, plastic snow fence or like material a minimum of 1 foot to 5 feet above ground level for burros and 1 foot to 6 feet for horses. The location of the government furnished portable fly chute to restrain, age, or provide additional care for the animals shall be placed in the runway in a manner as instructed by or in concurrence with the COR/PI.
  - d. All crowding pens including the gates leading to the runways shall be covered with a material which prevents the animals from seeing out (plywood, burlap, plastic snow fence, etc.) and shall be covered a minimum of 1 foot to 5 feet above ground level for burros and 2 feet to 6 feet for horses
  - e. All pens and runways used for the movement and handling of animals shall be connected with hinged self-locking or sliding gates.
- 4. No modification of existing fences will be made without authorization from the COR/PI. The Contractor shall be responsible for restoration of any fence modification which he has made.
  - 5. When dust conditions occur within or adjacent to the trap or holding facility, the Contractor shall be required to wet down the ground with water.
  - 6. Alternate pens, within the holding facility shall be furnished by the Contractor to separate mares or jennies with small foals, sick and injured animals, estrays or other animals the COR determines need to be housed in a separate pen from the other animals. Animals shall be sorted as to age, number, size, temperament, sex, and condition when in the holding facility so as to minimize, to the extent possible, injury due to fighting and trampling. Under normal conditions, the government will require that animals be restrained for the purpose of determining an animal's age, sex, or other necessary procedures. In these instances, a portable restraining chute may be necessary and will be provided by the government. Alternate pens shall be furnished by the Contractor to hold animals if the specific gathering requires that animals be released back into the gather area(s). In areas requiring one or more satellite traps, and where a centralized holding facility is utilized, the contractor may be required to provide additional holding pens to segregate animals transported from remote locations so they may be returned to their traditional ranges. Either segregation or temporary marking and later segregation will be at the discretion of the COR.
  - 7. The Contractor shall provide animals held in the traps and/or holding facilities with a continuous supply of fresh clean water at a minimum rate of 10 gallons per animal per day. Animals held for 10 hours or more in the traps or holding facilities shall be provided good quality hay at the rate of not less than two pounds of hay per 100 pounds of estimated body weight per day. The contractor will supply certified weed free hay if required by State, County, and Federal regulation.
    - a. An animal that is held at a temporary holding facility through the night is defined as a horse/burro feed day. An animal that is held for only a portion of a day and is shipped or released does not constitute a feed day.
  - 8. It is the responsibility of the Contractor to provide security to prevent loss, injury or death of gathered animals until delivery to final destination.
  - 9. The Contractor shall restrain sick or injured animals if treatment is necessary. The COR/PI will determine if animals must be euthanized and provide for the destruction of such animals. The Contractor may be



required to humanely euthanize animals in the field and to dispose of the carcasses as directed by the COR/PI.

10. Animals shall be transported to their final destination from temporary holding facilities as quickly as possible after gather unless prior approval is granted by the COR for unusual circumstances. Animals to be released back into the HMA following gather operations may be held up to 21 days or as directed by the COR. Animals shall not be held in traps and/or temporary holding facilities on days when there is no work being conducted except as specified by the COR. The Contractor shall schedule shipments of animals to arrive at final destination between 7:00 a.m. and 4:00 p.m. No shipments shall be scheduled to arrive at final destination on Sunday and Federal holidays, unless prior approval has been obtained by the COR. Animals shall not be allowed to remain standing on trucks while not in transport for a combined period of greater than three (3) hours in any 24 hour period. Animals that are to be released back into the gather area may need to be transported back to the original trap site. This determination will be at the discretion of the COR/PI or Field Office horse specialist.

#### **B. Gather Methods That May Be Used in the Performance of a Gather**

1. Gather attempts may be accomplished by utilizing bait (feed, water, mineral licks) to lure animals into a temporary trap. If this gather method is selected, the following applies:
  - a. Finger gates shall not be constructed of materials such as "T" posts, sharpened willows, etc., that may be injurious to animals.
  - b. All trigger and/or trip gate devices must be approved by the COR/PI prior to gather of animals.
  - c. Traps shall be checked a minimum of once every 10 hours.
2. Gather attempts may be accomplished by utilizing a helicopter to drive animals into a temporary trap. If the contractor selects this method the following applies:
  - a. A minimum of two saddle-horses shall be immediately available at the trap site to accomplish roping if necessary. Roping shall be done as determined by the COR/PI. Under no circumstances shall animals be tied down for more than one half hour.
  - b. The contractor shall assure that foals shall not be left behind, and orphaned.
3. Gather attempts may be accomplished by utilizing a helicopter to drive animals to ropers. If the contractor, with the approval of the COR/PI, selects this method the following applies:
  - a. Under no circumstances shall animals be tied down for more than one hour.
  - b. The contractor shall assure that foals shall not be left behind, or orphaned.
  - c. The rate of movement and distance the animals travel shall not exceed limitations set by the COR/PI who will consider terrain, physical barriers, weather, condition of the animals and other factors.

#### **C. Use of Motorized Equipment**

1. All motorized equipment employed in the transportation of gathered animals shall be in compliance with appropriate State and Federal laws and regulations applicable to the humane transportation of animals. The Contractor shall provide the COR/PI, if requested, with a current safety inspection (less than one year old) for all motorized equipment and tractor-trailers used to transport animals to final destination.

2. All motorized equipment, tractor-trailers, and stock trailers shall be in good repair, of adequate rated capacity, and operated so as to ensure that gathered animals are transported without undue risk or injury.
3. Only tractor-trailers or stock trailers with a covered top shall be allowed for transporting animals from trap site(s) to temporary holding facilities, and from temporary holding facilities to final destination(s). Sides or stock racks of all trailers used for transporting animals shall be a minimum height of 6 feet 6 inches from the floor. Single deck tractor-trailers 40 feet or longer shall have at least two (2) partition gates providing at least three (3) compartments within the trailer to separate animals. Tractor-trailers less than 40 feet shall have at least one partition gate providing at least two (2) compartments within the trailer to separate the animals. Compartments in all tractor-trailers shall be of equal size plus or minus 10 percent. Each partition shall be a minimum of 6 feet high and shall have a minimum 5 foot wide swinging gate. The use of double deck tractor-trailers is unacceptable and shall not be allowed.
4. All tractor-trailers used to transport animals to final destination(s) shall be equipped with at least one (1) door at the rear end of the trailer which is capable of sliding either horizontally or vertically. The rear door(s) of tractor-trailers and stock trailers must be capable of opening the full width of the trailer. Panels facing the inside of all trailers must be free of sharp edges or holes that could cause injury to the animals. The material facing the inside of all trailers must be strong enough so that the animals cannot push their hooves through the side. Final approval of tractor-trailers and stock trailers used to transport animals shall be held by the COR/PI.
5. Floors of tractor-trailers, stock trailers and loading chutes shall be covered and maintained with wood shavings to prevent the animals from slipping as much as possible during transport.
6. Animals to be loaded and transported in any trailer shall be as directed by the COR/PI and may include limitations on numbers according to age, size, sex, temperament and animal condition. The following minimum square feet per animal shall be allowed in all trailers:
  - 11 square feet per adult horse (1.4 linear foot in an 8 foot wide trailer);
  - 8 square feet per adult burro (1.0 linear foot in an 8 foot wide trailer);
  - 6 square feet per horse foal (.75 linear foot in an 8 foot wide trailer);
  - 4 square feet per burro foal (.50 linear foot in an 8 foot wide trailer).
7. The COR/PI shall consider the condition and size of the animals, weather conditions, distance to be transported, or other factors when planning for the movement of gathered animals. The COR/PI shall provide for any brand and/or inspection services required for the gathered animals.
8. If the COR/PI determines that dust conditions are such that the animals could be endangered during transportation, the Contractor will be instructed to adjust speed.

#### **D. Safety and Communications**

1. The Contractor shall have the means to communicate with the COR/PI and all contractor personnel engaged in the gather of wild horses utilizing a VHF/FM Transceiver or VHF/FM portable Two-Way radio. If communications are ineffective the government will take steps necessary to protect the welfare of the animals.
  - a. The proper operation, service and maintenance of all contractor furnished property is the responsibility of the Contractor. The BLM reserves the right to remove from service any contractor personnel or contractor furnished equipment which, in the opinion of the contracting officer or COR/PI violate contract rules, are unsafe or otherwise unsatisfactory. In this event, the Contractor will be notified in writing to furnish replacement personnel or equipment within 48 hours of notification. All such replacements must be approved in advance of operation by the Contracting Officer or his/her representative.
  - b. The Contractor shall obtain the necessary FCC licenses for the radio system

- c. All accidents occurring during the performance of any task order shall be immediately reported to the COR/PI.
- 2. Should the contractor choose to utilize a helicopter the following will apply:
  - a. The Contractor must operate in compliance with Federal Aviation Regulations, Part 91. Pilots provided by the Contractor shall comply with the Contractor's Federal Aviation Certificates, applicable regulations of the State in which the gather is located.
  - b. Fueling operations shall not take place within 1,000 feet of animals.

#### **G. Site Clearances**

No personnel working at gather sites may excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage or otherwise alter or deface any archaeological resource located on public lands or Indian lands.

Prior to setting up a trap or temporary holding facility, BLM will conduct all necessary clearances (archaeological, T&E, etc). All proposed site(s) must be inspected by a government archaeologist. Once archaeological clearance has been obtained, the trap or temporary holding facility may be set up. Said clearance shall be arranged for by the COR, PI, or other BLM employees.

Gather sites and temporary holding facilities would not be constructed on wetlands or riparian zones.

#### **H. Animal Characteristics and Behavior**

Releases of wild horses would be near available water when possible. If the area is new to them, a short-term adjustment period may be required while the wild horses become familiar with the new area.

#### **I. Public Participation**

Opportunities for public viewing (i.e. media, interested public) of gather operations will be made available to the extent possible; however, the primary considerations will be to protect the health, safety and welfare of the animals being gathered and the personnel involved. The public must adhere to guidance from the on-site BLM representative. It is BLM policy that the public will not be allowed to come into direct contact with wild horses or burros being held in BLM facilities. Only authorized BLM personnel or contractors may enter the corrals or directly handle the animals. The general public may not enter the corrals or directly handle the animals at any time or for any reason during BLM operations.

#### **J. Responsibility and Lines of Communication**

##### **Contracting Officer's Representative/Project Inspector**

Ruth Thompson, Wild Horse and Burro Specialist, Ely District  
Ben Noyes, Wild Horse and Burro Specialist, Ely District  
Alan Shepherd, NV WH&B Program Lead

The Contracting Officer's Representatives (CORs) and the project inspectors (PIs) have the direct responsibility to ensure the Contractor's compliance with the contract stipulations. The Schell Supervisory Natural Resource Specialist and the Schell Field Managers will take an active role to ensure the appropriate lines of communication are established between the field, Field Office, State Office, National Program Office, and BLM Holding Facility offices. All employees involved in the gathering operations will keep the best interests of the animals at the forefront at all times.

All publicity, formal public contact and inquiries will be handled through the Field Manager and/or the Supervisory

Natural Resource Specialist and Field Office Public Affairs. These individuals will be the primary contact and will coordinate with the COR/PI on any inquiries.

The COR will coordinate with the contractor and the BLM Corrals to ensure animals are being transported from the gather site in a safe and humane manner and are arriving in good condition.

The contract specifications require humane treatment and care of the animals during removal operations. These specifications are designed to minimize the risk of injury and death during and after gather of the animals. The specifications will be vigorously enforced.

Should the Contractor show negligence and/or not perform according to contract stipulations, he will be issued written instructions, stop work orders, or defaulted.

## **Water and Bait Trapping Standard Operating Procedures**

Gathers would be conducted by utilizing contractors from the Wild Horse and Burro Gathers-Western States Contract, or BLM personnel. The following procedures for gathering and handling wild horses and burros would apply whether a contractor or BLM personnel conduct a gather.

Prior to any gathering operation, the BLM will provide for a pre-capture evaluation of existing conditions in the gather area(s). The evaluation will include animal conditions, prevailing temperatures, drought conditions, soil conditions, road conditions, and preparation of a topographic map with wilderness boundaries, the location of fences, other physical barriers, and acceptable gather site locations in relation to animal distribution. The evaluation will determine whether the proposed activities will necessitate the presence of a veterinarian during operations. If it is determined that capture operations necessitate the services of a veterinarian, one would be obtained before the capture would proceed. The contractor will be apprised of all conditions and will be given instructions regarding the capture and handling of animals to ensure their health and welfare is protected.

Gather sites and temporary holding sites will be located to reduce the likelihood of undue injury and stress to the animals, and to minimize potential damage to the natural and cultural resources of the area. Temporary holding sites would be located on or near existing roads.

The primary capture methods used in the performance of gather operations include:

1. Bait Trapping. This capture method involves utilizing bait (water or feed) to lure wild horses and burros into a temporary gather site.

The following procedures and stipulations will be followed to ensure the welfare, safety and humane treatment of wild horses and burros in accordance with the provisions of 43 CFR § 4700.

### **B. Capture Methods Used in the Performance of Gather Contract Operations**

The primary concern of the contractor is the safety of all personnel involved and humane handling of all wild horses and burros captured:

- a) Some trap sites will require a staging area (Temporary Holding) as determined by the COR/PI.
- b) All trap and staging areas locations must be approved by the Contracting Officer's Representative (COR) and/or the Project Inspector (PI) prior to construction. The Contractor may also be required to change or move trap locations as determined by the COR/PI. All traps and staging facilities not located on public land must have prior written approval of the landowner.
- c) The capture attempts may be accomplished by utilizing bait (feed, mineral supplement or water) or sexual attractants (mares in heat) to lure wild horses and burros into a temporary trap.

All capture attempts shall incorporate the following:

1 - All feed bait ingredients, and the formula in that bait will be given to the COR/PI one full week prior to using in the trap.

2 - When using water as the bait, other water sources shall not be cut off in the bait area. If the government determines that cutting off other water sources is the best action to take under this contract, elimination of other water sources shall not last longer than 48 continuous hours.

- d) All traps, wings, and staging facilities shall be constructed, maintained and operated to handle the wild horses and burros in a safe and humane manner and be in accordance with the following:

1 - Darting of wild horses and wild burros will not be allowed.

2 - Traps and staging facilities shall be constructed of portable panels or equal material, the top of which shall not be less than 72 inches high for horses and 60 inches for burros, and the bottom rail of which shall not be more than 12 inches from ground level. All traps and staging facilities shall be flowing design without corners. All material used will be flush at the top and bottom, no protrusions, sharp areas.

- 3 - No barbed wire material shall be used in the construction of any traps.
  - 4 - All loading alleys shall be a minimum of 6 feet high for horses and 5 feet high for burros and shall be fully covered on the sides with, tarps, plywood, etc.
  - 5 - All crowding pens including the gates leading to the alleyways shall be covered with a material which serves as a visual barrier, (plywood, burlap, plastic snow fence, tarps etc.) and shall be covered a minimum of 1 foot to 5 feet above ground level for burros and 2 feet to 6 feet for horses. Perimeter panels on the staging corrals shall be covered to a minimum height of 5 feet for burros and 6 feet for horses.
  - 6 - Self-latching gates will be used on all pens and alleyways for the movement and handling of wild horses and burros.
  - 7 - No modification of existing fences will be made without authorization from the COR/PI. The Contractor shall be responsible for restoration of any fence modification which he has made.
  - 8 - Wild horses and burros trapped at trap sites may need to be sorted into small sorting pens determined by age or sex in order to safely transport them to a BLM preparation facility or a staging area.
  - 9 - Sick and injured wild horses and burros, and strays will be separated as needed. Segregation will be at the discretion of the COR.
  - 10 - Wild horses and burros will not be held in the trap for more than 24 hours.
  - 11 - A staging area will be required away from the trap site for any wild horses and burros that are being held for more than 24 hours.
  - 12 - The contractor shall assure that wet mares and their foal shall not be separated.
  - 13 - Finger gates may be constructed of materials such as, juniper poles, pipe, etc., only with the prior approval and direction of the COR. Finger gates shall not be constructed of materials such as "T" posts, sharpened willows, etc. that may be injurious to wild horses and burros.
  - 14 - All trigger and/or trip gate devices must be approved by the COR prior to capture of wild horses and burros.
  - 15 - Traps shall be checked a minimum of once every 24 hours when traps are "set" to capture wild horses and burros.
  - 16 - Contractor will report any injuries that resulted from trapping operations as well as pre-existing injuries to the COR and BLM preparation facility.
  - 17 - The COR/PI may assist with the handling of wild horses and burros.
- e. At the discretion of the COR/PI the Contractor may be required to delay shipment of horses until the COR/PI inspects the wild horses and burros at the trap site prior to transporting them to the BLM preparation facility.

### **C. Temporary Holding and Animal Care**

The temporary holding facility area will only be used when approved by the COR

- a) Sorting pens shall be of sufficient size to minimize (minimal 100 square feet per adult horse and or burro with only having a maximum of 25 wild horses or burros being held at any other time), to the extent possible, injury due to fighting and trampling as well as to allow wild horses and burros to move easily and have adequate access to water and feed.
- b) All pens will be capable of expansion on request of the COR. Alternate pens, within the staging facility shall be furnished by the Contractor to separate mares or Jennies with small foals, sick and injured wild horses and burros, and estrays from the other wild horses and burros.
- c) The Contractor shall provide wild horses and burros held in the staging area with a supply of fresh clean water at a minimum rate of 10 gallons per animal per day.
- d) Wild horses and burros approved to be held by the COR will be provided good quality hay at the rate of not less than two pounds of hay per 100 pounds of estimated body weight per day. If the task order notes that weed free hay is to be used for this bait trap gather the contractor will provide certified weed free hay in the amounts stated above. The contractor will have to have documentation that the hay is certified weed free.
- e) It is the responsibility of the Contractor to provide security to prevent loss, injury or death of captured wild horses and burros until delivery to final destination. Animals lost from traps shall not be included in payment schedule.
- f) It is the responsibility of the Contractor to provide for the safety of the wild horses and burros and personnel working at the trap locations and staging area.
- g) The Contractor shall restrain sick or injured wild horses and burros if treatment is necessary in consultation with the COR and/or veterinarian. The contractor in consultation with the COR will determine if injured wild horses and burros must be destroyed and provide for destruction of such wild horses and burros in accordance with the BLM Euthanasia policy. (Section J) The Contractor will have the ability to humanely eu-

thanize wild horses and burros in the field and to dispose of the carcasses in accordance with state and local laws.

- h) Separate water troughs shall be provided for each pen where wild horses and burros are being held. Water troughs shall be constructed of such material (e.g., rubber, plastic, fiberglass, galvanized metal with rolled edges, and rubber over metal) so as to avoid injury to the wild horses and burros.
- i) The use of solid covered panels or visual barriers in the alley ways keeps the animals from kicking thru the panels.
- j) All gates and panels are covered with snow fence for the safety of wild horses and burros.
- k) Wild horses and burros will be fed twice a day per a schedule determined by the COR/PI and will have water in every pen.

#### **D. Transportation and Animal Care**

- a) Wild horses and burros shall be transported to BLM preparation facilities within 24 hours after capture unless prior approval is granted by the COR/PI for unusual circumstances.
- b) The Contractor shall schedule shipments of wild horses and burros to arrive at BLM preparation facilities between 7:00 a.m. and 4:00 p.m. unless prior approval has been obtained by the COR. No shipments shall be scheduled to arrive at BLM preparation facilities on Sunday and Federal holidays; unless prior approval has been obtained by the COR.
- c) Wild horses and burros shall not be allowed to remain standing on gooseneck or semi-trailers while not in transport for a combined period of greater than three (3) hours.
- d) Total drive time from the trap site or staging area to the BLM preparation facilities will not exceed 8 hours.
- e) All motorized equipment employed in the transportation of captured wild horses and burros shall be in compliance with appropriate State and Federal laws and regulations applicable to the humane transportation of wild horses and burros.
- f) All equipment used to transport wild horses and burros will be inspected and accepted by the COR/PI prior to use to avoid any injury to wild horses and burros and shall be in good mechanical condition, of adequate rated capacity, and operated so as to ensure that captured wild horses and burros are transported without undue risk.
- g) No open stock trailers shall be allowed for transporting wild horses and burros from trap site(s) or staging area to the BLM preparation facilities.
- h) Sides or stock racks of all trailers used for transporting wild horses and burros shall be a minimum height of 6 feet 6 inches from the floor. A minimum of one partition is required in each stock trailer.
- i) The rear door(s) of the stock trailers must be capable of opening the full width of the trailer. All partitions and panels the inside of all trailers must be free of sharp edges or holes that could cause injury to the wild horses and burros. The material facing the inside of all trailers must be strong enough so that the wild horses and burros cannot push their hooves through the side.
- j) All surfaces of the stock trailers shall be cleaned and a disinfectant used to eliminate the possibility of disease transmittal from domesticated horses to wild horses and burros (WH&B's) prior to the WH&B's under this contract being transported.
- k) Floors of stock trailers and loading chutes shall be covered and maintained with anti-slip materials (mats, wood shavings, sand etc.) to prevent wild horses and burros from slipping.
- l) Wild horses and burros to be loaded and transported in any size trailer shall be as directed by the COR and may include limitations on numbers according to age, sex, size, temperament and animal condition. The following minimum square feet per animal shall be allowed in all trailers
  1. 12.6 square feet per adult horse (1.8 linear foot in a 7 foot wide trailer)
  2. 8.0 square feet per adult burro (1.15 linear foot in a 7 foot wide trailer)
  3. 6.0 square feet per horse foal (0.85 linear foot in a 7 foot wide trailer)
  4. 4.0 square feet per burro foal (0.57 linear feet in a 7 foot wide trailer)
- m) The COR shall consider the condition and size of the wild horses and burros, weather conditions, distance to be transported, or other factors when planning for the movement of captured wild horses and burros. The COR shall provide for any brand and/or inspection services required for the

captured wild horses and burros. If wild horses and burros are to be transported over state lines the COR will be responsible work with the receiving state veterinarian to get permission to transport the wild horses and burros without a health certificate or coggins test. If the receiving state does not allow wild horses or burros in their state without a current health certificate or coggins test the COR/PI will obtain them through a local veterinarian prior to shipment.

- n) An electric prod, paddle or wild rag may be humanely used to work wild horses and burros during sorting and loading operations.
- o) Flagging will be used strategically so not to desensitize the animal(s).
- p) When transporting wild horses and burros, drivers shall check for downed animals.
- q) The contractor will separate the animals in trailer compartments so animals do not pile up in the rear of the trailer during transport from trap site to staging area/BLM preparation facility. Separation of animals helps prevent animals from falling down and being trampled.
- r) All sorting, loading or unloading wild horses and burros will be performed during daylight hours unless supplemental light is provided in the area to facilitate visibility.
- s) Provide a visual barrier on panels in the area where the loading is accomplished at the trap site and at the staging area to eliminate holes, gaps, or openings where horses can be injured.
- t) The contractor may dig holes at the end of the loading alley so that trailer floor is at ground level to ease the loading horses or burros at the trap site
- u) Hot shots should not be used routinely or excessively on wild horses or burros. Use of hot shots should be limited to instances of trying to protect or preserve human or animal safety (such as with animals that are down and reluctant to get up on trailers and in chutes) or as a near final resort for animals that refuse to move or load. Hot shots should only be used as follows:
- v) Hotshots should never be applied to 3 areas: the head (defined as everything above the throat-latch), anus and genitals (this includes the vulva, penis, and scrotum as well as the anogenital area which includes the anal recess, underside of the tail and the perineum which is the area between the anus and the vulva)
- w) Only unmodified, commercially available hotshots that use DC battery power may be used, batteries should be maintained fresh at all times to avoid the overuse of apparently ineffective devices
- x) A hot shot should only be used after 3 other stimuli have failed to successfully encourage forward movement (other options include use of body position and movement, use of voice or whistle, use of a wild rag to flag an animal, use of a shaker paddle as a visual and auditory stimulus, tapping animal with flag or shaker paddle, use of plastic tarp or bag, and returning animal to the point of origin and starting over.
- y) A hot shot should be used to shock an animal not more than 3 times on any single occasion
- z) A hot shot should only be used when a path of escape or movement away from the stimulus is available (animals should not be encouraged to “push-up” with or without a hotshot – this too often leads to trampling)

## **E. Safety and Communication**

The BLM/FS reserves the right to remove from service immediately any contractor personnel or contractor furnished equipment which, in the opinion of the contracting officer or COR violate contract rules, are unsafe or otherwise unsatisfactory. In this event, the Contractor will be notified in writing to furnish replacement personnel or equipment within 48 hours of notification. All such replacements must be approved in advance of operation by the Contracting Officer or his/her representative

- a) The Contractor shall have the means to communicate with the COR/PI and all contractor personnel engaged in the capture of wild horses and burros utilizing a cell/satellite phone at all times during the trapping operations.
- b) Contractor will contact the COR/PI prior to loading horses to be delivered to BLM preparation facility.
- c) Contractor will contact BLM facility manager to schedule delivery and relay information of wild horses and burros trapped (number of wild horses and burros trapped, sex, approximate age, number of pairs, etc.)
- d) Contractor will photo document all horses trapped in a digital image format and digital photos will be delivered to the COR.



- e) Contractor will be required to provide State or National Rifle Association certification or equivalent (conceal carry, hunter safety, etc.) for firearm safety.
- f) All accidents involving wild horses and burros or people that occur during the performance of any task order shall be immediately reported to the COR/PI.
- g) All domestic stock used for or around the bait trap or staging area will have current Coggins documentation and a health certificate. Trailers will be cleaned and have a disinfectant applied after any domestic horses have been hauled in it and before any WH&B's are loaded. This will help prevent transmission of disease into our populations at a BLM Preparation Facility

## **F. Use of Motorized Equipment**

1. All motorized equipment employed in the transportation of captured animals shall be in compliance with appropriate State and Federal laws and regulations applicable to the humane transportation of animals. The Contractor shall provide the COR/PI with a current safety inspection (less than one year old) for all motorized equipment and tractor-trailers used to transport animals to final destination.
2. All motorized equipment, tractor-trailers, and stock trailers shall be in good repair, of adequate rated capacity, and operated so as to ensure that captured animals are transported without undue risk or injury.
3. Only tractor-trailers or stock trailers with a covered top shall be allowed for transporting animals from gather site(s) to temporary holding facilities and from temporary holding facilities to final destination(s). Sides or stock racks of all trailers used for transporting animals shall be a minimum height of 6 feet 6 inches from the floor. Single deck tractor-trailers 40 feet or longer shall have two (2) partition gates providing three (3) compartments within the trailer to separate animals. Tractor-trailers less than 40 feet shall have at least one partition gate providing two (2) compartments within the trailer to separate the animals. Compartments in all tractor-trailers shall be of equal size plus or minus 10 percent. Each partition shall be a minimum of 6 feet high and shall have a minimum 5 foot wide swinging gate. The use of double deck tractor-trailers is unacceptable and shall not be allowed.
4. All tractor-trailers used to transport animals to final destination(s) shall be equipped with at least one (1) door at the rear end of the trailer which is capable of sliding either horizontally or vertically. The rear door(s) of tractor-trailers and stock trailers must be capable of opening the full width of the trailer. Panels facing the inside of all trailers must be free of sharp edges or holes that could cause injury to the animals. The material facing the inside of all trailers must be strong enough so that the animals cannot push their hooves through the side. Final approval of tractor-trailers and stock trailers used to transport animals shall be held by the COR/PI.
5. Floors of tractor-trailers, stock trailers and loading chutes shall be covered and maintained with wood shavings to prevent the animals from slipping.
6. Animals to be loaded and transported in any trailer shall be as directed by the COR/PI and may include limitations on numbers according to age, size, sex, temperament and animal condition. The following minimum square feet per animal shall be allowed in all trailers: 11 square feet per adult horse (1.4 linear foot in an 8 foot wide trailer); 8 square feet per adult burro (1.0 linear foot in an 8 foot wide trailer); 6 square feet per horse foal (.75 linear foot in an 8 foot wide trailer); 4 square feet per burro foal (.50 linear feet in an 8 foot wide trailer).
7. The COR/PI shall consider the condition and size of the animals, weather conditions, distance to be transported, or other factors when planning for the movement of captured animals. The COR/PI shall provide for any brand and/or inspection services required for the captured animals.
8. If the COR/PI determines that dust conditions are such that the animals could be endangered during transportation, the Contractor will be instructed to adjust speed.

## **G. Safety and Communications**

1. The Contractor shall have the means to communicate with the COR/PI and all contractor personnel engaged in the capture of wild horses and burros utilizing a VHF/FM Transceiver or VHF/FM portable Two-Way radio. If communications are ineffective the government will take steps necessary to protect the welfare of the animals.
  - a) The proper operation, service and maintenance of all contractor furnished property are the responsibility of the Contractor. The BLM reserves the right to remove from service any contractor personnel or contractor furnished equipment which, in the opinion of the contracting officer or COR/PI violate contract rules, are unsafe or otherwise unsatisfactory. In this event, the Contractor will be notified in writing to furnish replacement personnel or equipment within 48 hours of notification. All such replacements must be approved in advance of operation by the Contracting Officer or his/her representative.

- b) The Contractor shall obtain the necessary FCC licenses for the radio system
- c) All accidents occurring during the performance of any task order shall be immediately reported to the COR/PI.

#### **H. Public and Media**

Due to heightened public interest in wild horse and burro gathers, the BLM/Contractor may expect an increasing number of requests from the public and media to view the operation.

- a) Due to this type of operation (luring wild horses and burros to bait) spectators and viewers will be prohibited as it will have impacts on the ability to capture wild horses and burros. Only essential personnel (COR/PI, veterinarian, contractor, contractor employees, etc.) will be allowed at the trap site during operations.
- b) Public viewing of the wild horses and burros trapped may be provided at the staging area and/or the BLM preparation facility by appointment.
- c) The Contractor agrees that there shall be no release of information to the news media regarding the removal or remedial activities conducted under this contract.
- d) All information will be released to the news media by the assigned government public affairs officer.
- e) If the public or media interfere in any way with the trapping operation, such that the health and wellbeing of the crew, horses and burros is threatened, the trapping operation will be suspended until the situation is resolved.

#### **I. COR/PI Responsibilities**

- a) In emergency situations, the COR/PI will implement procedures to protect animals as rehab is initiated, ie. Rationed feeding and watering at trap and or staging area.
- b) The COR/PI will authorize the contractor to euthanize any wild horse or burros as an act of mercy.
- c) The COR/PI will ensure wild horses or burros with pre-existing conditions are euthanized in the field according to BLM policy.
- d) Prior to setting up a trap or staging area on public land, the BLM and/or Forest Service will conduct all necessary clearances (archaeological, T&E, etc.). All proposed sites must be inspected by a government archaeologist or equivalent. Once archaeological clearance has been obtained, the trap or staging area may be set up. Said clearances shall be arranged for by the COR/PI.
- e) The COR/PI will provide the contractor with all pertinent information on the areas and wild horses and burros to be trapped.
- f) The COR/PI will be responsible to establish the frequency of communicating with the contractor.
- g) The COR/PI shall inspect trap operation prior to Contractor initiating trapping.
- h) The Contractor shall make all efforts to allow the COR/PI to observe a minimum of at least 25% of the trapping activity.
- i) The COR/PI is responsible to arrange for a brand inspector and/or veterinarian to inspect all wild horses and burros prior to transporting to a BLM preparation facility when legally required.
- j) The COR/PI will be responsible for the establishing a holding area for administering PZP, gelding of stallions, holding animals in poor condition until they are ready of shipment, holding for EIA testing, etc.
- k) The COR/PI will ensure the trailers are cleaned and disinfected before WH&B's are transported. This will help prevent transmission of disease into our populations at a BLM Preparation Facility.

#### **J. Responsibility and Lines of Communication**

The Ely Wild Horse Specialist (COTR) or delegate has direct responsibility to ensure human and animal safety. The Wells or Egan Field Managers will take an active role to ensure that appropriate lines of communication are established between the field, field office, state office, national program office, and BLM holding facility offices. All employees involved in the gathering operations will keep the best interests of the animals at the forefront at all times.

All publicity and public contact and inquiries will be handled through the Elko District Office and Nevada State Office of Communications. These individuals will be the primary contact and will coordinate with the COR on any inquiries.

The BLM delegate will coordinate with the corrals to ensure animals are being transported from the capture site in a safe and humane manner and are arriving in good condition.

The BLM require humane treatment and care of the animals during removal operations. These specifications are designed to minimize the risk of injury and death during and after capture of the animals. The specifications will be vigorously enforced.

#### **K. Resource Protection**

Gather sites and holding facilities would be located in previously disturbed areas whenever possible to minimize potential damage to the natural and cultural resources.

Gather sites and temporary holding facilities would not be constructed on wetlands or riparian zones.

Prior to implementation of gather operations, gather sites and temporary holding facilities would be evaluated to determine their potential for containing cultural resources. All gather facilities (including gather sites, gather runways, blinds, holding facilities, camp locations, parking areas, staging areas, etc.) that would be located partially or totally in new locations (i.e. not at previously used gather locations) or in previously undisturbed areas would be inventoried by a BLM archaeologist or district archaeological technician before initiation of the gather. A buffer of at least 50 meters would be maintained between gather facilities and any identified cultural resources.

Gather sites and holding facilities would not be placed in known areas of Native American concern.

The contractor would not disturb, alter, injure or destroy any scientifically important paleontological remains; any historical or archaeological site, structure, building, grave, object or artifact; or any location having Native American traditional or spiritual significance within the project area or surrounding lands. The contractor would be responsible for ensuring that its employees, subcontractors or any others associated with the project do not collect artifacts and fossils, or damage or vandalize archaeological, historical or paleontological sites or the artifacts within them. Should damage to cultural or paleontological resources occur during the period of gather due to the unauthorized, inadvertent or negligent actions of the contractor or any other project personnel, the contractor would be responsible for costs of rehabilitation or mitigation. Individuals involved in illegal activities may be subject to penalties under the Archaeological Resources Protection Act (16 U.S.C 470ii), the Federal Land Management Policy Act (43 U.S.C 1701), the Native American Graves and Repatriation Act (16 U.S.C. 1170) and other applicable statutes.

**Appendix II**  
**RISK ASSESSMENT FOR NOXIOUS & INVASIVE WEEDS**  
**Removal of Nuisance and public safety horses as well as animals outside HMA**  
**within the Ely district**  
**Lincoln, Nye and White Pine Counties, Nevada**

The Proposed Action is to reduce and mitigate public safety concerns along the major roadways in herd areas (HAs) and herd management areas (HMAs) within the Ely District and decrease nuisance animal complaints on private lands by removing excess wild horses, as well as removal of wild horses residing outside HMA/HA boundaries to address safety concerns or nuisance animals.

Bands of wild horses have strayed outside the HMAs in the vicinity of these major roadways creating an increased risk of vehicular accidents that threaten the safety of motorists and wild horses. Areas targeted for these removals would involve but not be limited to horses along U.S. Highway 93 and 50 where horses have been in the roadway causing vehicle collisions in Lincoln and White Pine counties. Historically there have been issues with wild horses getting on the highway between Pioche and Panaca, NV and west of Caliente, NV near Oak Springs Summit along HWY 93 as well as on Panaca Summit east of Panaca, NV on Hwy 319. During the winter months wild horses are routinely observed crossing Hwy 50 near the Illipah Reservoir west of Ely, NV and north of Ely near Lages Junction, NV.

In addition to the removal of wild horses in the vicinity of major roadways outside the HMAs, the proposed action includes removal of horses that repeatedly get on private land and cause private land damage. Historically wild horses have caused private land impacts near subdivisions outside Caliente, NV where they have dug up sprinkler lines looking for water, trampled gardens, and harassed domestic animals. In Butte Valley west of Ely, NV wild studs have jumped or torn down fences to get into a private land owner's horse facility during the breeding season which has resulted in injured horses, bred domestic mares, and damaged private property.

The proposed action would also include removal of horses that leave an HMA/ HA and continue to reside for periods of time outside the HMA. These horses would include but not be limited to horses crossing natural barriers where they are many miles outside of an area designated for their management or historical use.

These proposed gathers would involve small numbers of horses of up to 50 head in an area. The purpose of these gathers would be able to remove horses that continue to pose safety or private property problems within the Ely District. These gathers would not be for the specific purpose of achieving the appropriate management level (AML) for the associated HMA, but rather to address nuisance and safety concerns.

Gathering of horses that fit the proposed action will occur as necessary for the next 10 years following the date of the decision (approximately July 2014) or until the safety hazard is reduced or

the private property impacts are eliminated. Removal operations would occur at all times of the year to resolve any identified safety or private property concerns.

The proposed action covers areas throughout the entire district. Below is a list of the noxious species known to occur near roads, drainages and other transportation corridors throughout the district.

<i>Acroptilon repens</i>	Russian knapweed
<i>Ailanthus altissima</i>	Tree of heaven
<i>Brassica tournefortii</i>	Sahara mustard
<i>Carduus nutans</i>	Musk thistle
<i>Centaurea diffusa</i>	Diffuse knapweed
<i>Centaurea squarrosa</i>	Squarrose knapweed
<i>Centaurea stoebe</i>	Spotted knapweed
<i>Cicuta maculata</i>	Water hemlock
<i>Cirsium arvense</i>	Canada thistle
<i>Cirsium vulgare</i>	Bull thistle
<i>Conium maculatum</i>	Poison hemlock
<i>Euphorbia esula</i>	Leafy spurge
<i>Hyoscyamus niger</i>	Black henbane
<i>Isatis tinctoria</i>	Dyer's woad
<i>Lepidium draba</i>	Hoary cress
<i>Lepidium latifolium</i>	Tall whitetop
<i>Linaria dalmatica</i>	Dalmatian toadflax
<i>Linaria vulgaris</i>	Yellow toadflax
<i>Onopordum acanthium</i>	Scotch thistle
<i>Sorghum halepense</i>	Johnson grass
<i>Tamarix spp.</i>	Salt cedar
<i>Tribulus terrestris</i>	Puncturevine

The vast majority of the project area has been inventoried for noxious weeds in the past ten years. Below is a list of un-inventoried, invasive species found along transportation corridors throughout the Ely District.

<i>Arctium minus</i>	Common burdock
<i>Bromus diandrus</i>	Ripgut brome
<i>Bromus rubens</i>	Red brome
<i>Bromus tectorum</i>	Cheatgrass
<i>Ceratocephala testiculata</i>	Bur buttercup
<i>Convolvulus arvensis</i>	Field bindweed
<i>Elaeagnus angustifolia</i>	Russian olive
<i>Erodium cicutarium</i>	Filaree
<i>Kochia scoparia</i>	Kochia
<i>Halogeton glomeratus</i>	Halogeton
<i>Marrubium vulgare</i>	Horehound
<i>Salsola kali</i>	Russian thistle
<i>Sysimbrium altissimum</i>	Tumble mustard
<i>Tragopogon dubius</i>	Yellow salsify
<i>Ulmus pumila</i>	Siberian elm
<i>Verbascum thapsus</i>	Common mullein

**Factor 1 assesses the likelihood of noxious/invasive weed species spreading to the project area.**

None (0)	Noxious/invasive weed species are not located within or adjacent to the project area. Project activity is not likely to result in the establishment of noxious/invasive weed species in the project area.
Low (1-3)	Noxious/invasive weed species are present in the areas adjacent to but not within the project area. Project activities can be implemented and prevent the spread of noxious/invasive weeds into the project area.
Moderate (4-7)	Noxious/invasive weed species located immediately adjacent to or within the project area. Project activities are likely to result in some areas becoming infested with noxious/invasive weed species even when preventative management actions are followed. Control measures are essential to prevent the spread of noxious/invasive weeds within the project area.
High (8-10)	Heavy infestations of noxious/invasive weeds are located within or immediately adjacent to the project area. Project activities, even with preventative management actions, are likely to result in the establishment and spread of noxious/invasive weeds on disturbed sites throughout much of the project area.

Factor 1 rates as Moderate (7) at the present time. Noxious weeds are located within or immediately adjacent to many of the areas listed in the proposed action. Transportation corridors are major vectors for weed dispersal, and it is likely that weeds will be transported to at least one capture site.

**Factor 2 assesses the consequences of noxious/invasive weed establishment in the project area.**

Low to Nonexistent (1-3)	None. No cumulative effects expected.
Moderate (4-7)	Possible adverse effects on site and possible expansion of infestation within the project area. Cumulative effects on native plant communities are likely but limited.
High (8-10)	Obvious adverse effects within the project area and probable expansion of noxious/invasive weed infestations to areas outside the project area. Adverse cumulative effects on native plant communities are probable.

Factor 2 rates as Moderate (7) at the present time. As stated above, transportation corridors are major weed dispersal vectors. Any additional noxious weed infestations that arise within these corridors increase the likelihood of further weed spread.

**The Risk Rating is obtained by multiplying Factor 1 by Factor 2.**

None (0)	Proceed as planned.
Low (1-10)	Proceed as planned. Initiate control treatment on noxious/invasive weed populations that get established in the area.
Moderate (11-49)	Develop preventative management measures for the proposed project to reduce the risk of introduction of spread of noxious/invasive weeds into the area. Preventative management measures should include modifying the project to include seeding the area to occupy disturbed sites with desirable species. Monitor the area for at least 3 consecutive years and provide for control of newly established populations of noxious/invasive weeds and follow-up treatment for previously treated infestations.
High (50-100)	Project must be modified to reduce risk level through preventative management measures, including seeding with desirable species to occupy disturbed site and controlling existing infestations of noxious/invasive weeds prior to project activity. Project must provide at least 5 consecutive years of monitoring. Projects must also provide for control of newly established populations of noxious/invasive weeds and follow-up treatment for previously treated infestations.

The Risk Rating is Moderate (49). This indicates that the project can proceed as planned as long as the following measures are followed:

- Any discovery of newly established populations of noxious/invasive weeds will be communicated to the Ely District Noxious and Invasive Weeds Coordinator.
- Noxious and invasive weed spread will be discussed during planning and implementation activities. Gather operations will be conducted in a manner that minimizes the potential for weed spread (such as: all vehicles and equipment will be kept clean of mud and dirt that could harbor weed seeds, vehicles will avoid noxious weed infestations, etc...).

For noxious weed location maps specific to individual gathers, reference the EYDO noxious weed GIS layer at:

T:\NV\GIS\_Work\EYDO\Project\weeds\Weeds Inventory\Inventory Points\MASTER\_INVENTORY\_POINTS\_DECEMBER\_2013.shp



Reviewed by: \_\_\_\_\_  
Chris McVicars  
Ely District Noxious & Invasive Weeds Coordinator

06/18/2014  
\_\_\_\_\_  
Date

## Appendix III



### Visitation Protocol and Ground Rules for Helicopter WH&B Gathers within Nevada



BLM recognizes and respects the right of interested members of the public and the press to observe the wild horse and burro gathers. At the same time, BLM must ensure the health and safety of the public, BLM's employees and contractors, and America's wild horses. Accordingly, BLM developed these rules to maximize the opportunity for reasonable public access to the gather while ensuring that BLM's health and safety responsibilities are fulfilled. Failure to maintain safe distances from operations at the gather and temporary holding sites could result in members of the public inadvertently getting in the path of the wild horses or gather personnel, thereby placing themselves and others at risk, or causing stress and potential injury to the wild horses and burros.

The BLM and the contractor's helicopter pilot must comply with 14 CFR Part 91 of the Federal Aviation Regulations, which determines the minimum safe altitudes and distance people must be from the aircraft. To be in compliance with these regulations, the viewing location at the gather site and holding corrals must be approximately 500 feet from the operating location of the helicopter at all times. The viewing locations may vary depending on topography, terrain and other factors.

#### General Daily Protocol

- A Wild Horse Gather Info Phone Line will be set up prior to the gather so the public can call for daily updates on gather information and statistics. Visitors are strongly encouraged to check the phone line the evening before they plan to attend the gather to confirm the gather and their tour of it is indeed taking place the next day as scheduled (weather, mechanical issues or other things may affect this) and to confirm the meeting location.
- Visitors must direct their questions/comments to either their designated BLM representative or the BLM spokesperson on site, and not engage other BLM/contractor staff and disrupt their gather duties/responsibilities - professional and respectful behavior is expected of all. BLM may make the BLM staff available during down times for a Q&A session on guided public-observation days. However, the contractor and its staff will not be available to answer questions or interact with visitors.
- Observers must provide their own 4-wheel drive high clearance vehicle, appropriate shoes, winter clothing, food and water. Observers are prohibited from riding in government and contractor vehicles and equipment.



- Gather operations may be suspended if bad weather conditions create unsafe flying conditions.
- BLM will establish one or more observation areas, in the immediate area of the gather and holding sites, to which individuals will be directed. These areas will be placed so as to maximize the opportunity for public observation while providing for a safe and effective horse gather. The utilization of such observation areas is necessary due to the use and presence of heavy equipment and aircraft in the gather operation and the critical need to allow BLM personnel and contractors to fully focus on attending to the needs of the wild horses and burros while maintaining a safe environment for all involved. In addition, observation areas will be sited so as to protect the wild horses and burros from being spooked, startled or impacted in a manner that results in increased stress.
- BLM will delineate observation areas with yellow caution tape (or a similar type of tape or ribbon).
- Visitors will be assigned to a specific BLM representative and must stay with that person at all times.
- Visitors are NOT permitted to walk around the gather site or temporary holding facility unaccompanied by a BLM representative.
- Observers are prohibited from climbing/trespassing onto or in the trucks, equipment or corrals, which is the private property of the contractor.
- When BLM is using a helicopter or other heavy equipment in close proximity to a designated observation area, members of the public may be asked to stay by their vehicle for some time before being directed to an observation area once the use of the helicopter or the heavy machinery is complete.
- When given the signal that the helicopter is close to the gather site bringing horses in, visitors must sit down in areas specified by BLM representatives and must not move or talk as the horses are guided into the corral.
- Individuals attempting to move outside a designated observation area will be requested to move back to the designated area or to leave the site. Failure to do so may result in citation or arrest. It is important to stay within the designated observation area to safely observe the wild horse gather.
- Observers will be polite, professional and respectful to BLM managers and staff and the contractor/employees. Visitors who do not cooperate and follow the rules will be escorted off the gather site by BLM law enforcement personnel, and will be prohibited from participating in any subsequent observation days.
- BLM reserves the right to alter these rules based on changes in circumstances that may

pose a risk to health, public safety or the safety of wild horses (such as weather, lightening, wildfire, etc.).

#### Public Outreach and Education Day-Specific Protocol

- A public outreach and education day provides a more structured mechanism for interested members of the public to see the wild horse gather activities at a given site. On this day, BLM attempts to allow the public to get an overall sense of the gather process and has available staff who can answer questions that the public may have. The public rendezvous at a designated place and are escorted by BLM representatives to and from the gather site.

Appendix IV  
Code of Federal Regulations  
Part 91 GENERAL OPERATING AND FLIGHT RULES  
Subpart B--Flight Rules General  
Sec. 91.119

Minimum safe altitudes: General.

Except when necessary for takeoff or landing, no person may operate an aircraft below the following altitudes:

(a) Anywhere. An altitude allowing, if a power unit fails, an emergency landing without undue hazard to persons or property on the surface.

(b) Over congested areas. Over any congested area of a city, town, or settlement, or over any open air assembly of persons, an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft.

(c) Over other than congested areas. An altitude of 500 feet above the surface, except over open water or sparsely populated areas. In those cases, the aircraft may not be operated closer than 500 feet to any person, vessel, vehicle, or structure.

[ (d) Helicopters, powered parachutes, and weight-shift-control aircraft. If the operation is conducted without hazard to persons or property on the surface--

(1) A helicopter may be operated at less than the minimums prescribed in paragraph (b) or (c) of this section, provided each person operating the helicopter complies with any routes or altitudes specifically prescribed for helicopters by the FAA; and

(2) A powered parachute or weight-shift-control aircraft may be operated at less than the minimums prescribed in paragraph (c) of this section.]

Amdt. 91-311, Eff. 4/2/10

Appendix V  
UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
WASHINGTON, D.C. 20240  
<http://www.blm.gov>

July 22, 2010

In Reply Refer To:  
4710 (260) P

EMS TRNASMISSION 07/23/2010  
Instruction Memorandum No. 2010-164  
Expires: 09/30/2011

To: All Field Officials (except Alaska)  
From: Assistant Director, Renewable Resources and Planning  
Subject: Public Observation of Wild Horse and Burro Gathers

Program Area: Wild Horse and Burro Program

Purpose: The purpose of this Instruction Memorandum (IM) is to establish policy for public observation of wild horse and burro (WH&B) gathers.

Policy/Action: The Bureau of Land Management's (BLM's) policy is to accommodate public requests to observe a gather primarily through advance appointment, on days and at times scheduled by the authorized officer. Planning for one public observation day per week is suggested.

Specific viewing opportunities will be based on the availability of staff with the necessary expertise to safely and effectively host visitors, as well as other gather-specific considerations (e.g., weather, terrain, road access, landownership). The public should be advised that observation days are tentative and may change due to unforeseen circumstances (e.g., weather, wildfire, trap relocation, equipment repair, etc.). To ensure safety, the number of people allowed per observation day will be determined by the District Manager (DM) and/or Field Office Manager (FM) in consultation with the Contracting Officer's Representative/WH&B Specialist (COR) for the gather.

The DM/FM has the primary responsibility for effectively planning and managing public observation of the gather operation. Advance planning will:

- Ensure that the public have opportunities to safely observe wild horse gathers;
- Minimize the potential for disruption of the gather's execution;
- Maximize the safety of the animals, visitors, and the BLM and contractor personnel;
- Provide for successful management of visitors; and
- Ensure preparedness in the event of unanticipated situations.

The authorized officer will consider the following when planning for public observation of WH&B gather operations. Also see Attachment 1 (Best Practices When Planning for Public Observation at Gathers).

A. Safety Requirements

During WH&B gathers, the safety of the animals, the BLM and contractor personnel, and the public is of paramount importance. Because of the inherent risk involved in working with WH&B, the public will not be allowed inside

corrals or pens or be in direct contact with the animals. Viewing opportunities during the gather operation must always be maintained at a safe distance (e.g., when animals are being herded into or worked at the trap or temporary holding facility, including sorting, loading) to assure the safety of the animals, the BLM and contractor personnel, and the public.

Unless an emergency situation exists, the BLM's policy prohibits the transportation of members of the public in Government or Contractor-owned or leased vehicles or equipment. Therefore, observers are responsible for providing their own transportation to and from the gather site and assume all liability for such transportation.

The helicopter/aircraft is the private property of the gather contractor. Due to liability and safety concerns, Bureau policy prohibits observers from riding in or mounting cameras onto the aircraft. Should observers create unsafe flying and gathering conditions, for example, by hiring an aircraft to film or view a gather, the COR, in consultation with the gather contractor, will immediately cease gather operations.

The COR has the authority to stop the gather operation when the public engage in behavior that has the potential to result in harm or injury to the animals, employees, or other members of the public.

#### B. Planning for Public Observation at WH&B Gathers

During advance planning for public observation at WH&B gathers, the authorized officer should consult with the State External Affairs Chief or appropriate Public Affairs office. An internal communications plan will be developed for every gather (Attachment 2). It may also be helpful to prepare answers to frequently asked questions (Attachment 3).

#### C. Law Enforcement Plan

A separate Law Enforcement Plan should be developed if the need for law enforcement support is anticipated. The Law Enforcement Plan must be approved in advance by the Special Agent-In-Charge (SAC) or the State Staff Ranger of the State in which the gather is occurring.

#### D. Temporary Closure to Public Access

Under the authority of section 303(a) of the Federal Land Management and Policy Act (43 U.S.C. 1733(a)), 43 CFR 8360.0-7, and 43 CFR 8364.1, the authorized officer may temporarily close public lands within all or a portion of the proposed gather area to public access when necessary to protect the health and safety of the animals, the public, contractors and employees. Completion of a site-specific environmental analysis of the environmental impacts associated with the proposed closure and publication of a Federal Register Notice is required.

#### E. Gather Contract Pre-Work Conference

- Talk to the contractor about how many members of the public are expected and when. Discuss, and reach mutual agreement, about where best to position the public at the individual trap-sites to allow the gather to be observed, while accomplishing the gather objectives and assuring the humane treatment of the animals and the safety of the BLM and contractor personnel, and public.
- No deviation from the selected viewing location(s) should be made, unless the gather operation is being adversely impacted. The COR will consult with the gather contractor prior to making any changes in the selected viewing locations.
- The BLM's policy prohibits it from ferrying observers in the helicopter or any other mode of conveyance unless an emergency situation exists. Review this policy with the contractor during the pre-work conference.

#### F. Radio Communication

- Assure there is effective radio communication between law enforcement personnel, gather COR or project inspectors (PIs), and other BLM staff.
- Identify the radio frequencies to be used.

- Communication with the gather contractor is through the BLM COR or PI, and from the gather contractor to the helicopter pilot. Direct communication between BLM personnel (other than the COR) and the helicopter pilot is not permitted, unless agreed upon by the BLM authorized officer and the contractor in advance, or the pilot is requesting information from the COR.

#### G. Pre- and Post-Action Gather Briefings

- Pre-briefings conducted by knowledgeable and experienced BLM staff can be helpful to the public.
- The pre-gather briefing is an opportunity to explain what individuals will see, why the BLM is conducting the gather, how the animals will be handled, etc.
- Post-action briefings may also be helpful in interpreting and explaining what individuals saw, what happened, why certain actions were taken, etc.

#### H. Summary of Individual Roles and Responsibilities

##### 1. District and/or Field Office Managers

DMs and/or FM's are responsible for keeping the State Director and State WH&B Lead fully informed about the gather operation. Included is working with State/local public affairs staff to prepare early alerts if needed. An additional responsibility is determining if a law enforcement presence is needed.

##### 2. Public Affairs Staff

The local district/field office public affairs staff is responsible for working with the COR, DM/FM, other appropriate staff, the State WH&B Program Lead, and the State Office of Communications to implement the communications strategy regarding the gather.

##### 3. Law Enforcement

Develop and execute the law enforcement plan in consultation with District/Field Office Managers, the COR/PI, and the State's Special Agent-In-Charge or State Staff Ranger.

##### 4. Contracting Officer's Representative (COR)/Project Inspectors (PIs)

The COR and the PI's primary responsibility is to administer the contract and manage the gather. A key element of this responsibility is to assure the safe and humane handling of WH&B. The COR is also responsible for working closely with the DM/FM and Public Affairs Staff to develop the communication plan, and for maintaining a line of communication with State, District, and Field Office managers, staff and specialists on the progress of, and any issues related to, the gather operation.

Timeframe: This instruction memorandum is effective immediately.

**Budget Impact:** Higher labor costs will be incurred while accommodating increased interest from the public to attend gather events. The budget impacts of unanticipated situations which can occur during WH&B gathers include substantial unplanned overtime and per diem expense. Through advance planning, necessary support staff can be identified (e.g., law enforcement, public affairs, or other BLM staff) and the cost-effectiveness of various options for providing staff support can be evaluated. In situations where public interest in a gather operation is greater than anticipated, the affected state should coordinate with the national program office and headquarters for assistance with personnel and funding.

**Background:** Heightened interest from the public to observe WH&B gathers has occurred. Advance planning for public observation of gather operations can minimize the potential for unanticipated situations to occur during WH&B gathers and assure the safety of the animals, the BLM and contractor personnel, and the public.

**Manual/Handbook Sections Affected:** No change or affect to the BLM manuals or handbooks is required.

**Coordination:** This IM was coordinated among WO-200 and WO-260 staff, State WH&B Program Leads, field WH&B Specialists, public affairs, and law enforcement staff in the field.

**Contact:** Questions concerning this policy should be directed to Susie Stokke in the Washington Office at (202) 912-7262 or Lili Thomas in the National Program Office at (775) 861-6457.

Signed by:  
Bud C. Cribley  
Acting, Assistant Director

Authenticated by:  
Robert M. Williams  
Division of IRM Governance, WO-560

