

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT – EAGLE LAKE FIELD OFFICE

DECISION RECORD FOR A CATEGORICALLY EXCLUDED ACTION

BLM Office: LLCAN05000

NEPA File #: DOI-BLM-CA-N050-2017-06-CX

Project Title: Removal of Nuisance Burros from Private Lands

Location:

Allotment or Area Name:

Stony Creek Ranch – Deep Cut Grazing Allotment
Heller and Buffalo Ranches – Twin Peaks Grazing Allotment
Bull Flat Ranch – Twin Peaks Allotment

Legal Description:

Stony Creek Ranch - Township 31 N., Range 16 E., Section 6
Buffalo Well - Township 32 N., Range 20 E., Section 18
Buffalo Meadows Ranch – Township 33 N., Range 19 E., Section 15
Heller Ranch - Township 32 N., Range 20 E., Section 32
McDonald Field – Township 31 N., Range 20 E., Section 6 and 7
Bull Flat - Township 30 N., Range 17 E., Section 7 and 8

A. Background

Land owners from Stony Creek and Heller/Buffalo Ranches have submitted written and verbal requests to the Bureau of Land Management (BLM), Eagle Lake Field Office (ELFO) for the removal nuisance burros from their private lands.

The owners of the Stony Creek Ranch have written letters and verbally expressed their concerns with nuisance burros on their private lands. The ELFO began receiving complaints from the land owner beginning in September 2014. Expressed concerns include:

- Verbal communication on 9/11/2014: Burros pushing their way through fences to utilize water and feed on private land. This destruction has caused a financial burden and has interrupted the normal cattle grazing rotation on the ranch.
- Written communication 9/19/2014: Burros have pushed the cows and calves out of prime grazing areas on the ranch into less desirable areas.
- Verbal communication 9/29/2014: Burros continue to disrupt the operation of the cattle ranch. Feed and water are crucial for the ranch operation especially in drought years, like

this one. The land owner has observed up to 20 burros at one time grazing within his private pastures.

- Verbal communication with landowner and Litchfield WH&B Corral staff, March 2015: Several attempts were made by the corral staff to bait trap the burros with zero success.
- Verbal communication June of 2015: Met with land owner to discuss livestock grazing as well as any burro issues. Land owner explained that he would be repairing the entire perimeter fence and replacing wire gates in areas where burros had been an issue.
- Verbal communication April 2016: Met with landowner to go over livestock grazing and burro issue. Landowner said he had not had any issues since he began repairs on his fencing, however he understood it was spring and the burros normally stay on public lands at that time. This allowed the completion of repairs without interference from the burros.
- Verbal communication, September 2016: Met with landowner discussing current years grazing strategy and burro use. Landowner explained there had been 0 issues with burros since fence repairs were made. Burros had been observed near gates once broken down by burros accessing private lands, but that had not pushed through any during the grazing year.
- Phone conversation, November 2016: Received phone call from landowner explaining that the burros had broken down a section of fence and were grazing within his freshly seeded pasture. The landowner was asked to express his concerns via email or in writing to the ELFO.
- Letter, received Dec 6, 2016: The letter expressed concerns of the burros grazing their private pasture and vegetation, which is intended for their livestock.

The owners of the Heller, Buffalo Meadows, and Bull Flat Ranches have expressed the following concerns with regards to nuisance burros; in written and verbal communication, dating back to 2011:

- Verbal communication, 2011: Burros have been over utilizing forage on private land that is vital to the ranch operation. Landowners requested the burros be removed from their property.
- Written communication from land owner and BLM flight inventory observations: The land owner has observed 100-120 burros grazing on private lands over the fall and winter months of 2012 & 2013. Post Rush Fire and drought conditions have intensified burro use on private lands documented in 2013 WH&B Flight Inventory counts.
- Written communication, Nov. 2013: The burros continue to over-graze the private ranch land. The land owner is extremely frustrated that the BLM was not able to remove the burros in 2012. The land owner again requests the burros be removed from his private land. The burros have damaged fences on their private ranches and were eating hay intended for livestock. The land owner has fixed the fence and gates several times and the burros continue to break them down. The land owner requests the burros be removed.
- Verbal and written communication, Sept. - Nov. 2014: The burros continue to utilize too much forage on private land. In addition to the burros, horses have broken down fences

and are utilizing private land over utilizing forage intended for livestock. The land owner requests the burros and horses be removed. This problem has been escalating the past few years and now is totally out of control.

- WH&B Flight Inventory, 2015: Over 100 burros counted between Heller and Buffalo Meadows Ranches.
- Verbal communication, spring 2016: Landowner explains due to a good winter, most burros resided on public lands and did place too much pressure on private lands. However, the landowner did express concerns of the deteriorating vegetation on public land due to the over grazing by burros.
- Verbal communication, summer 2016: Landowner complaint about burros beginning to graze private lands within the “McDonald Field” south of the main ranch. 20 or more burros had been observed on a daily basis grazing forage meant for private landowner’s livestock.
- Email and verbal communication, December 2016: BLM staff observed burros near Parker Reservoir off Smoke Creek road. BLM sent an email to landowner inquiring if the burros were on private land and if it is the same area where issues had arisen in the past. The landowner replied that the burros were in the same area, known as the McDonald Field. The landowner also added that he was having issues with burros on another private parcel located at Bull Flat.

Description of the Proposed Action

The proposed action is to remove up to 50 burros from Stony Creek, and 100 burros from Heller, Buffalo Meadows, and Bull Flat Ranches. The BLM will utilize wildlife friendly bait or water trapping techniques to capture and remove burros. The trap sites will be in use off and on again for the next 12 months and will only be active as necessary to capture the identified nuisance burros. Trap sites will be located on privates utilizing existing livestock facilities at all four Ranches. Only one trap site is located on public land, located at Buffalo Well. This site would only be utilized if trapping on private lands proves to be unsuccessful and burros are continuing to be a nuisance. Trapping will begin as early as January 2017, as weather permits. The most active trapping times will most likely take place during the winter months and late summer, as burros tend to pressure private land during those months due to availability of food and water on private lands during more severe weather conditions (hot and cold) due to feeding of private livestock. Following capture, the burros would be transported to the Litchfield Wild Horse & Burro facility.

(Note: the Wild Horse and Burro Flight Inventory conducted in April of 2015 documented approximately 100 burros between Buffalo Meadows and Heller Ranches and 100 burros between Stony Creek and Bull Flat Ranch areas. These three areas have become inundated with burros).

The Stony Creek Ranch site has been inventoried for cultural resources, BLM sensitive wildlife species and T&E species. The trap sites at Heller, Buffalo Meadows, and Bull Flat Ranches, including the trap site at Buffalo Well, have also been surveyed by BLM specialist. Each site may be surveyed again if deemed necessary by ELFO specialist and managers.

B. Land Use Plan Conformance

The proposed action is in conformance with the Eagle Lake Field Office Resource Management Plan (RMP) and Record of Decision (ROD) approved in April 2008, because it is clearly consistent with the RMP objectives as follows:

- Manage wild horses and burros in accord with the Wild Free-Roaming Horses and Burros Act (1971, as amended) and with other laws and regulations that may apply.
- The proposed action is also meets and is supported category 4 under the WH&B National Criteria for Prioritizing Gathers: Private Land Encroachment

C. Compliance with the National Environmental Policy Act

The proposed action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, D. Rangeland Management, (4) Removal of wild horses or burros from private lands at the request of the landowner and in accordance with H-1790-1-National Environmental Policy Act Handbook, Appendix 4 – 150.

D. Decision

In accordance with 43 United States Code 1701*et seq.*, it is my decision to approve the Removal of Nuisance Burros from private lands in the Stony Creek, Heller, and Buffalo Ranch areas, as reviewed in DOI-BLM-CAN-050-2017-06-CX. I find that this action falls within one of the categories of actions which the Bureau of Land Management has determined do not have a significant effect on the quality of the human environment and for which, therefore, neither an Environmental Assessment nor an Environmental Impact Statement is required (40 Code of Federal Regulations 1508.4). A categorical exclusion review has been conducted in accordance with 516 Departmental Manual Chapters 1 through 6 and no exceptions to the categorical exclusions apply.

This decision is issued Effective Immediately, in accordance with Title 43 Code of Federal Regulations 4770.3(c). Pursuant to Title 43 Code of Federal Regulations 4720.2-1, the authorized officer shall remove stray wild horses and burros from private lands as soon as practicable. This action will reduce property and resource damage on private ranches within the Twin Peaks Herd Management Area (HMA).

E. Administrative Remedies

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in Title 43 Code of Federal Regulations (CFR) Part 4 and the enclosed Form 1842-1. If an appeal is taken, a notice of appeal must be filed in the Eagle Lake Field Office, Bureau of Land Management, U.S. Department of the Interior, 2550 Riverside Drive, Susanville, California 96130, within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

Pursuant to 43 Code of Federal Regulations 4770.3(b) this decision shall remain effective pending appeal unless the Secretary of the Interior rules otherwise. If the appellant wishes to file a petition pursuant to regulation Title 43 Code of Federal Regulation 4.21 for a stay of the effectiveness of this decision during the time that the appeal is being reviewed by the Board, the petition for a stay must accompany the notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If a stay is requested, the appellant has the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and
- (4) Whether the public interest favors granting the stay.

APPROVED:



Kenneth R. Collum
Eagle Lake Field Office Manager



Date

