

**Decision for the Humboldt River Field Office
East Pershing Complex Gather Plan
DOI-BLM-NV-W010-2017-0009-EA**

INTRODUCTION

The East Pershing Complex is located from Winnemucca south to Lovelock and east of I-80 to just east of the Tobin HMA. Pershing County covers the majority of the Complex; however small portions extend into Humboldt, Churchill, and Lander Counties. Southern sections of the Augusta and North Stillwater HMAs are situated within the administrative boundaries of the Battle Mountain, Carson City, and Winnemucca Districts; however the Winnemucca District, Humboldt River Field Office is the administrative lead for this Plan. The entire Complex spans a distance of approximately 67 miles long and 70 miles wide. The East Pershing Complex totals approximately 2,191,650 acres, with roughly 50% of the land identified as checkerboard land.

The Complex encompasses three Herd Management Areas (HMAs), four Herd Areas (HAs), and non-HMA areas where wild horses migrate back and forth. The HMAs consist of: North Stillwater, Tobin, and Augusta.

The HAs within the Complex comprise: Humboldt Range, East Range, Sonoma Range, and Augusta Mountains. HAs are not managed for wild horse populations; however animals that migrate from HMAs were last removed in 2015. BLM staff has recorded wild horses in the above HAs during aerial censuses and on-the-ground monitoring.

Based on the December 2015 aerial census, the USGS data analysis, plus the 2015, 2016 and 2017 foal crops, the East Pershing Complex has approximately 1,853 wild horses.

DECISION

Based on the East Pershing Complex Gather Plan Final Environmental Assessment (EA), DOI-BLM-NV-W010-2017-0009-EA, and associated Finding of No Significant Impact (FONSI), it is my decision to select the multiple gathers and removals with fertility control (Native PZP, GonaCon, or most effective formulation) tools from Alternative B for the East Pershing Complex Gather as described in the EA. Spaying and gelding tools from Alternative B were not selected to be implemented at this time.

This Decision constitutes my final decision to implement multiple gathers and removals with fertility control within Alternative B to achieve and maintain AML.

Pursuant to the criteria set forth at 43 CFR 4770.3(c), this decision is effective immediately, and implementation of the selected tools within Alternative B is approved to begin once funding and holding space becomes available.

RATIONALE

Removal of excess wild horses from the Complex is necessary to comply with Section 1333(b) (1) of the Wild Free-Roaming Horses and Burros Act of 1971 (WFRHBA) and Section 302(b) of the Federal Land Policy and Management Act (FLPMA) of 1976.

The selected tools from Alternative B would be implemented immediately upon funding and holding space availability. Spaying and gelding components of Alternative B were not selected based on public responses received during the Preliminary EA comment period.

The tools selected will also:

- Reduce the likelihood of collisions between vehicles and wild horses;
- Promote vegetative health by preventing over utilization and/or use by wild horses during critical growth periods for perennial grasses in the upland, wetland and stream bank riparian habitats associated with the East Pershing Complex;
- Decrease resource competition for space, forage and water among wildlife and livestock;
- Although impacts would still occur through livestock grazing, implementing the selected tools will contribute to improved vegetation density, increased plant vigor, seed production, seedling establishment, and forage production over current conditions by reducing year-round grazing pressures caused by excess wild horse numbers;
- Remove excess wild horses from public lands as required under the WFRHBA; and
- Preserve the health and well-being of the wild horses removed from the range that are competing for limited forage and water.

The action is in compliance with the WFRHBA by achieving the established AML in the Complex and preventing degradation of rangeland resources resulting from excess wild horses. This assessment is based on factors including, but not limited to the following rationale:

- Based on the December 2014 aerial census, the USGS data analysis, plus the 2015, 2016, and 2017 foal crops; the East Pershing Complex has approximately 1,853 wild horses.
- Water is a limited resource within the East Pershing Complex. There are several small springs and seeps in the East Pershing Complex that are ephemeral and dependent on yearly precipitation. Range improvements are present in the Complex, but most water projects are dependent on variable spring flows.

The following constitutes the rationale for making this decision effective upon issuance:

BLM seeks to bring the wild horse population within this Complex down to low AML.

Given the previous drought conditions, reducing wild horse populations to AML from the Complex would reduce impacts to the range and riparian resources. Due to the excess numbers of wild horses, available water sources on the range resource are being negatively impacted. This is reflected in degraded range conditions within and outside of the HMAs within East Pershing Complex.

I selected implementation of the multiple gathers and removals with fertility control tools from Alternative B over the other Alternatives for the following reason:

Selected tools would achieve and maintain the established AML within the East Pershing Complex consistent with the LUP and management objectives for these public lands.

I selected implementation of the selected tools from Alternative B over the No Action Alternative for the following reason:

Under the No Action Alternative, no gathers, removals, or fertility control treatments would occur, and excess wild horses would remain on public and private lands within the East Pershing Complex. The No Action Alternative would not achieve the identified Purpose and Need and is contrary to the WRFHBA and 43 CFR Part 4700; however, it is analyzed in this EA to provide a basis for comparison with other action alternatives, and to assess the effects of not implementing management actions.

I have determined that the tools selected for implementation within Alternative B of the East Pershing Complex Gather Plan EA are in conformance with:

All applicable regulations at 43 CFR (Code of Federal Regulations) §4700 and policies, including the 1971 Wild Free Roaming Horses and Burros Act. More specifically, these management actions are consistent with the following regulations:

- Winnemucca Resource Management Plan, May 2015
- Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment, (GRSG Plan Amendment), September 2015

The East Pershing Complex Gather Plan is consistent with the plans and policies of neighboring local, county, state, tribal and federal governments to the greatest extent practical. Under the proposed action in the East Pershing Complex Gather Plan EA, no federal, state, or local law, or requirement imposed for the protection of the environment will be threatened or violated.

PUBLIC INVOLVEMENT

Consultation and Coordination in Development of Preliminary EA

On-going consultation with the Nevada Department of Wildlife, U.S. Fish and Wildlife Service, Pershing County, livestock operators and others, underscores the need for BLM to implement management actions.

Issues described in the EA at Chapter 1.5 were identified during internal scoping in February 2017.

Water or bait trapping can be used when trying to gather wild horses. Water/bait trapping activities would be scheduled in locations and during time periods most effective to gather sufficient numbers of animals to achieve management goals. Existing watering sites would be preferred. Water or bait trapping can be utilized year-round.

Public hearings are held annually on a state-wide basis regarding the use of motorized vehicles in the management of wild horses or burros (WH&B) regarding inventory, gather operations, and transport. During these meetings, the public is given the opportunity to present new information and to voice any concerns or opinions regarding the use of motorized vehicles in the management of WH&Bs.

The BLM has been gathering WH&Bs from public lands since 1975, and has been using helicopters for such gathers since the late 1970's. Refer to Appendix A of the East Pershing Complex Gather EA for information about methods that are utilized to reduce injury or stress to WH&Bs during gathers. Since 2004, BLM Nevada has gathered over 40,000 excess animals. Of these, gather related mortality has averaged 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 confirms that appropriate use of helicopters and motorized vehicles are a safe, humane, effective and practical means for gathering and removing excess WH&Bs from the range. BLM policy prohibits the gathering of wild horses with a helicopter (unless emergency conditions exist) during the period of March 1 to June 30 which includes and covers the six weeks that precede and follow the peak of foaling (mid-April to mid-May).

Preliminary EA

The Preliminary East Pershing Complex Gather Plan EA # DOI-BLM-NV-W010-2017-0009-EA was made available to interested individuals, agencies and groups for a public review and comment period that opened on June 12, 2017, and closed July 12, 2017. This interested party list included approximately 130 individuals, organizations, county officials, and state and federal agencies. Among these was the Nevada State Clearinghouse which made the interested party letter available for review by different agencies from around the state. The EA and associated documents were also available from the BLM's NEPA Register, and a link to the NEPA Register was provided from the Winnemucca District's NEPA website.

The BLM received over 10 comment submissions during the public comment period; none were form letters. Form letters are generated from a singular website from a non-governmental organization. Comments identified on the form letters were considered along with the rest of the comments received, but as one collective comment letter. Form letters are not counted as separate comments for purposes of review due to their duplicative nature. All comments were reviewed and considered. Substantive comments were utilized to finalize the EA as appropriate. Letters and e-mails were received both in support of and in opposition to the Action Alternatives.

BLM's review of public comments (See Appendix J attached) indicated that no substantive changes to the conclusions presented in the preliminary EA were warranted. Substantive comments incorporated lead to changes in the document to better explain and clarify BLM's analysis and are listed below. This resulted in a more comprehensive and complete document. In finalizing the EA, the following information was updated:

- Updated analysis of Alternatives A and B to include side effects of spaying and gelding
- Population data was updated to include recent results
- Information has been clarified throughout the EA as needed
- Replaced SOP Appendix with the CAWP

Revisions made in finalizing the EA did not result in changes to the conclusions presented.

Native American Consultation

Table 1 below outlines the consultation activities which were conducted in conjunction with this project.

Table 1. Native American Consultation

Tribe	Date initial consultation letter was Mailed	Date Preliminary EA was Mailed	Date of Consultation Meeting
Winnemucca Indian Colony	February 27, 2017	June 21, 2017	None requested
Battle Mountain Band	February 27, 2017	June 21, 2017	None requested
Lovelock Paiute Tribe	February 27, 2017	June 21, 2017	None requested
Fallon Paiute and Shoshone Tribe	February 27, 2017	June 21, 2017	None requested

AUTHORITY

The authority for this decision is contained in Section 1333(b)(1) of the 1971 WFRBA, Section 302(b) of FLPMA of 1976, and at 43 CFR §4700.

APPEAL PROVISIONS

Within 30 days of receipt of this wild horse decision, you have the right to appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with regulations at 43 CFR 4.4. If an appeal is taken, you must follow the procedures outlined in the enclosed, “Information on Taking Appeals to the Board of Land Appeals.” Please also provide this office with a copy of your Statement of Reasons. An appeal should be in writing and specify the reasons, clearly and concisely, as to why you think the decision is in error.

In addition, within 30 days of receipt of this decision you have a right to file a petition for a stay (suspension) of the decision together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties identified in items 2, 3, and 4 of the enclosed form titled “Information on Taking Appeals to the Board of Land Appeals.” The appellant has the burden of proof to demonstrate that a stay should be granted.

A petition for a stay of 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 of 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.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.401 (c) (2)).

\s\ David Kampwerth
 David Kampwerth
 Field Manager
 Humboldt River Field Office

2/1/18
 Date

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL	A person served with the decision being appealed must transmit the notice of appeal in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a notice of appeal in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413)	
2. WHERE TO FILE NOTICE OF APPEAL	US Dept of the Interior Bureau of Land Management 5100 E Winnemucca Blvd Winnemucca NV 89445	And US Dept of the Interior Office of Hearings & Appeals Interior Board of Land Appeals 801 N Quincy St MS 300-QC Arlington VA 22203
WITH COPY TO SOLICITOR	US Dept of the Interior Office of the Solicitor Pacific Southwest Region 2800 Cottage Way Rm E-2753 Sacramento CA 95825-1890	
3. STATEMENT OF REASONS	Within 30 days after filing the Notice of Appeal, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the Notice of Appeal, no additional statement is necessary (43 CFR 4.412 and 4.413)	
WITH COPY TO	US Dept of the Interior Office of the Solicitor Pacific Southwest Region 2800 Cottage Way Rm E-2753 Sacramento CA 95825-1890	And US Dept of the Interior Bureau of Land Management 5100 E. Winnemucca Blvd Winnemucca NV 89445
4. ADVERSE PARTIES	Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of (a) the Notice of Appeal, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413). If the decision concerns the use and disposition of public lands, including land selections under the Alaska Native Claims Settlement Act, as amended, service will be made upon the Associated Solicitor, Division of Land and Water Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. If the decision concerns the use and disposition of mineral resources, service will be made upon the Associated Solicitor, Division of Mineral Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240.	
5. PROOF OF SERVICE	Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).	
6. REQUEST FOR STAY	Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a <i>Notice of Appeal</i> (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your notice of appeal (43 CFR 4.21 or 43 CFR 2804.1). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the <i>Notice of Appeal</i> 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 (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have 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 regulations, 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.	

Unless these procedures are followed your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, subpart b for general rules relating to procedures and practice involving appeals.

43 CFR SUBPART 1821—GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows

STATE OFFICES AND AREAS OF JURISDICTION

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240

(Form 1842-1, September 2005)