

Background

May 1994

- o proposed management changes
- o assoc. EA for proposed management changes [EA WY-037-EA4-122]
- o capture plan
- o assoc. EA for capture plan [EA WY-037-EA4-121]

July 1994

Record of Decision and Finding of No Significant Impact. Decision to implement the proposed actions in both EAs.

Proposed Actions--EA WY-037-EA4-122

1. Revise the HMA boundaries.
2. Establish AMLs.
3. Revise Herd Management Area Plans (HMAPs).

NOTE: Plan revisions would not actually be completed until the winter of 1994-1995. Each plan would be the subject of an individual environmental review, as appropriate. In this analysis, only the effect of the AML's on the environment will be analyzed. (p. 83) Question: Have the HMAPs been revised? When? What NEPA analysis done?

4. Remove excess horses.
5. Periodically conduct round-ups to maintain AMLs.

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6. Conduct all gathers as described and analyzed in the capture plan and associated EA. Question: Will the gather this year be done in accordance with the capture plan and associated EA?
7. Avoid areas containing sensitive plant species.
8. Avoid areas with active raptor nests.
9. Obtain cultural resource clearnnces for all trap locations.
10. Continue management of horses outside the HMAs in accordance with procedures outlined in an earlier EA (1992)-removing horses that stray outside HMA.

Because of limited gathering and handling resources, it is neither appropriate nor feasible to gather horses routinely and remove the excess on an annual basis. Periodic gathering will be employed to efficiently utilize the available gathering and handling resources.(p.3)

At the present time, it is the policy of the Wyoming BLM that maintenance gathering in HMAs will be conducted every third year and that only adoptable horses will be removed. (p. 4) So, presumably, this is what is going on here-i.e., this is the third year(?)

Since all the HMAs in the state . . . must be maintained by the same crew and utilize the same facilities, the maintenance cycle must be adhered to regardless of the actual populations at the time of the scheduled gatherings. . . Thus, continued inventories are essential in insuring that the numbers gathered and removed can be continually adjusted to insure that the level of horse use in each HMA is maintained at that level represented by the AML. (p. 4)

Monitoring to continue on an annual basis..

This monitoring data and any concerns will be evaluated on five-year intervals, or in 2 years (1999) (?) from which BLM will determine if resource damage or other problems are occurring as a result of the increased AML, whether the AML needs to be adjusted, and what other actions may need to be taken. (p. 9)

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[I]t is neither appropriate nor feasible to gather horses routinely and remove the excess on an annual basis. Periodic gathering will be employed in order to respond to the requirements of the law and to efficiently utilize the available gathering and handling resources.(p.81)

The facility manager in Rock Springs would consider the current adoption demand and known population demographics in determining how many horses to round up. (So, how is it that BLM will determine the number of horses to gather this year? And, how is that decision documented?)

Subsequent inventories would be used to document success in achieving the AMLs and to identify any needs for adjustment in subsequent removals. (p. 100) (Presumably, inventories have been continuously maintained since 1994?)

Proposed Actions--EA WY-037-EA4-121

Use a combination of helicopter herding and horseback wranglers to gather both excess and strayed wild horses. "The gathering of wild horses, as described in the capture plan, will occur as necessary as long as the capture plan is in force. (So how long is the capture plan meant to be "in force"? 5 years? Or, is it something else?)

The gathering of wild horses, as described in the capture plan, will occur as necessary as long as the capture plan is in force.

Decision placed in full force and effect, with reasons given.

Timely implementation is necessary to maintain a thriving ecological balance and to sustain the multiple use relationship in the HMAs and adjacent areas where horses stray

Issue:

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The question presented for resolution is whether or not BLM can move forward on its 1997 gathers without doing anything more than: (1) filling out the "AD" form; and (2) the former notice/hearing re: helicopter gathers.

The 1994 documents clearly anticipate periodic gatherings (i.e., this year's gather). So, that is an argument in favor of using the AD. But, is it necessary for BLM to come up with additional/new documentation?

Maybe. For one, it appears that BLM ought to be able to explain what the inventory looks like now; how many will be rounded up this year and why. Two, according to the gather plan the determination of when the peak foaling period is for the year must be made on an annual basis--- "the precise determination of these windows must be made annually and specific to each location as the exact timing of this period is heavily influenced by the forage conditions of the previous spring."

So, it looks to me like the decision to conduct a gather for this year requires, at a minimum, the following 3 elements:

0 a decision document

whatever form the decision takes, I think it should:

- (1) discuss the numbers to be rounded up and why;
- (2) discuss the foaling period determination; and
- (3) I also think it needs to explicitly state that the decision is being put into full force and effect (with an explanation of the reasons why)

I also think that the involved persons should be actually reviewing the capture plan to ensure the 1997 gather will, in fact, comply with the capture plan

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o NEPA Compliance

I would say a FONSI, along with some sort of supplemental EA, is the preferred approach 1/

According to BLM's NEPA Handbook.....If an existing EA .fully covers the proposed action then a decision on the action may ne made without any further NEPA analysis.
. If an existing document does not fully cover the proposed action, then a new NEPA document must be prepared. In such cases, it is often possible and efficient for the new EA . . . to supplement . . or be tiered to... the existing NEPA document. NEPA Handbook, H-1790-1, 1-2.

It is not really necessary to formally "supplement~ an EA. An existing EA can easily be modified to reflect changed circumstances or new information. For example, an EA could be prepared by merely identifying any changes that may be warranted to an existing EA and attaching or incorporating by reference the existing EA. (III-4)

~procedural and documentation guidance for incorporating [by reference]" (III.8)

o adequate notice to interested parties

I do not think the FR notice about the helicopter hearing does it. For one, the notice gives no indication what gathers it will encompass.

1/ Possible alternarive: Use AD form; discuss pertinent issues under "mitigation measures/other remarks" (???)

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What form should the notice take?

Well, there is no one set form it must take; whatever it is; it must be designed to afford the interested parties with notice.

see BLM's NEPA Handbook, H-1790-2, p. IV-6

I do think that whatever notice is given ought to be specific enough to say, at a minimum, that BLM plans to gather X # of horses in X HMA on or about _____ (date); in accordance with EA _____ (specific NEPA documents); and that the relevant documentation can be reviewed at _____ (and/or copies provided). 2/

How much advance notice should be given?

In accordance with IM 95-87, a 30-day "courtesy period" ought to be allowed.

"Strategic Plan" from 1992----can I get a copy

Question: Has livestock use changed any?

2/ Maybe some modified version of the helicopter hearing notice (???)

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