



## United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
Schell Field Office

HC33 Box 33500 (702 N. Industrial Way)  
Ely, Nevada 89301-9408

[http://www.blm.gov/nv/st/en/fo/ely\\_field\\_office.html](http://www.blm.gov/nv/st/en/fo/ely_field_office.html)

In Reply Refer To:  
4720 (NVL02000)

Dear Interested Party,

The Bureau of Land Management (BLM) Ely District, Schell Field Office has issued the Decision Record for the Final Environmental Assessment (EA) for the U.S. Highway 93 Corridor Wild Horse Gather. The decision is for the BLM to gather and remove approximately 50 wild horses that have moved outside the Eagle and Silver King Herd Management Areas (HMAs), where their safety is threatened as well as the safety of motorists on U.S. Highway 93 north of Pioche, Nev. The BLM is aware of at least three animals that have been hit by vehicles in the past year. The gather is expected to start on or about March 15 and continue until the wild horses residing outside the HMAs are removed.

On December 28, 2009, the BLM issued the preliminary EA for the Eagle HMA Wild Horse Gather for public review and comment. In that EA, the BLM proposed to gather and remove approximately 495 excess wild horses from inside the Eagle HMA, plus the 50 wild horses that are outside the HMA alongside U.S. Highway 93. The BLM has since determined that there is not adequate time to safely conduct the proposed Eagle HMA gather prior to the start of foaling season and has deferred issuing a decision on the proposed gather until later this year, after foaling season. The BLM will conduct further environmental analysis at that time and will extend additional opportunities for public comment prior to issuing a decision to address removing excess wild horses from the Eagle HMA.

The gather and impacts are described and analyzed in the enclosed U.S. Highway 93 Corridor Wild Horse Gather Final EA. The EA and other information about the gather also are posted on the BLM Website at [http://www.blm.gov/nv/st/en/fo/ely\\_field\\_office.html](http://www.blm.gov/nv/st/en/fo/ely_field_office.html).

If you have questions or concerns, please contact Chris Hanefeld, BLM Ely District public affairs specialist, at (775) 289-1800.

Sincerely,

\s\ Jeffery Weeks  
for  
Mary D'Aversa  
Field Manager  
Schell Field Office

Enclosure



# United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
Schell Field Office  
HC33 Box 33500 (702 N. Industrial Way)  
Ely, Nevada 89301-9408  
[http://www.blm.gov/nv/st/en/fo/ely\\_field\\_office.html](http://www.blm.gov/nv/st/en/fo/ely_field_office.html)

In Reply Refer To:  
**4720/4710.4 (NVL02000)**

## **DECISION RECORD (DR)**

### **US Highway 93 Corridor Wild Horse Gather Schell Field Office ENVIRONMENTAL ASSESSMENT (EA) DOI-BLM-NV-L020-2009-0051**

#### **INTRODUCTION**

The Draft Wild Horse Gather Plan and Preliminary Environmental Assessment for the Eagle Herd Management Area (HMA) Horse Gather (DOI-BLM-NV-L020-2009-0051) was completed to analyze the impacts of conducting a gather and removal operation. The Proposed Action in the December 2009 Preliminary EA was to gather excess wild horses both within the Eagle HMA and outside HMA boundaries along Highway 93.

Due to the upcoming March 1<sup>st</sup> end date for the fall/winter gather period associated with the start of the annual foaling season, the helicopter gather of the Eagle HMA would have to begin immediately and would be limited to an approximately two week period. This does not allow sufficient time to meet the gather objectives for either the Proposed Action or Alternative B as described in the Preliminary EA. A decision on the proposed gather of the Eagle HMA has therefore been postponed until after the foaling season for a fall 2010/winter 2011 gathers. BLM anticipates conducting additional analysis under the National Environmental Protection Act (NEPA) and will provide opportunity for additional public input into that decision-making process.

Pending a decision on gathering excess wild horses from the Eagle HMA, the BLM will continue to monitor the condition of the herd, the rangelands, and the water sources. If conditions deteriorate, emergency actions will be considered for the health of the herd and the rangelands.

BLM has also determined that safety concerns associated with excess wild horses in proximity to vehicular traffic on U.S. Highway 93 needs to be addressed more quickly. In order to address these safety concerns, BLM has therefore revised the proposed action in the Final EA to a U.S. Highway 93 Corridor Wild Horse Gather only. The proposed action analyzed in the final EA is

to water and/or bait trap wild horses residing outside of the HMAs adjacent to U.S. Highway 93 beginning on or about March 15 and would continue until all animals residing outside of HMA boundaries are removed. This change in proposed action is due to the difficulty of effectively using a helicopter for this limited proposed action which is reflected in the purpose and need description in the Final EA. Bait and water trapping require sufficient time for the horses to acclimate to the corrals around existing water sources or to begin using the new water and feed sources in order for this method to be successfully used.

The future gathers of the Eagle HMA and Silver King HMA are tentatively planned to be completed in winter 2010-2011. Once these two HMAs are managed within AML, the likelihood of excess wild horses straying outside the HMAs will be reduced.

## **DECISION**

It is my decision to implement the Proposed Action as described in the Final EA for the U.S. Highway 93 Corridor Wild Horse Gather (DOI-BLM-NV-L020-2009-0051). Trapping operations may begin as early as March 15 but no sooner than 30 days from the issuance of this decision and would continue until all animals residing outside of HMA boundaries are removed. The Proposed Action would gather and remove up to 50 excess wild horses which reside outside the HMAs.

## **RATIONALE**

1. This action reduces and mitigates a public safety hazard.
2. This action reduces and mitigates potential for wild horse injury or death from collisions with motor vehicles traveling on Highway 93.
3. Trapping is a low stress and largely passive capture method that is not expected to have harmful effects to mares and/or foals.
4. This action targets excess wild horses that are residing outside of HMAs designated for wild horse management.

## **PUBLIC INVOLVMENT**

### Preliminary EA

BLM sent the interested public notification of the availability for a 30 day review and comment period for the Preliminary EA for the Eagle HMA and Highway 93 wild horse gather. The Preliminary Eagle Herd Management Area Wild Horse Gather EA was posted on December 28, 2009 on BLM's website at: [http://www.blm.gov/nv/st/en/fo/ely\\_field\\_office.html](http://www.blm.gov/nv/st/en/fo/ely_field_office.html).

Additionally, the Ely District issued a news release notifying the general public of the availability of the document for review. The comment period ended on January 27, 2010. In excess of 9,100 comments were received from individuals, organizations and agencies. The vast majority of these comments were an identical form letter. Most of the comments pertained to the gather of 495 excess wild horses from within the Eagle HMA, which is not considered as an alternative in the Final EA.

## **APPROVAL**

The Proposed Action in the Final EA to remove wild excess from public lands along Highway 93 is approved for implementation and shall be effective under 43 CFR 4770.3(c) upon the issuance of this decision. This decision conforms with the *Ely Proposed Resource Management Plan/Final Environmental Impact Statement* (RMP/EIS, 2007) released in November 2007 and the 2008 Ely District Record of Decision and Approved Resource Management Plan.

## **AUTHORITY**

The authority for this decision is contained in Section 3(b)(2) of the 1971 Free-Roaming Wild Horses and Burros Act, Section 302(b) of the Federal Land Policy and Management Act (FLPMA) of 1976, and Code of Federal Regulations (CFR) at 43 CFR §4700.

### §4700.0-6 Policy

- (a) Wild horse and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat;
- (b) Wild horses and burros shall be considered comparably with other resource values in the formulation of land use plans;
- (c) Management activities affecting wild horses and burros shall be undertaken with the goal of maintaining free-roaming behavior;
- (d) In administering these regulations, the authorized officer shall consult with Federal and State wildlife agencies and all other affected interests, to involve them in planning for and management of wild horses and burros on the public lands.

### §4710.4 Constraints on Management

Management of wild horses and burros shall be undertaken with the objective of limiting the animals' distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans.

### §4720.1 Removal of excess animals from public lands

Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animal immediately in the following order.

- (a) Old, sick, or lame animals shall be destroyed in accordance with subpart 4730 of this title;
- (b) Additional excess animals for which an adoption demand by qualified individuals exists shall be humanely gathered and made available for private maintenance in accordance with subpart 4750 of this title; and
- (c) Remaining excess animals for which no adoption demand by qualified individuals exists shall be destroyed in accordance with subpart 4730 of this part.<sup>4</sup>

<sup>4</sup> The Bureau of Land Management is currently not implementing this portion of the CFRs. Future decisions regarding this option would not occur before public involvement and comment.

### §4740.1 Use of Motor Vehicles or Air-Craft

- (a) Motor vehicles and aircraft may be used by the authorized officer in all phases of the administration of the Act, except that no motor vehicle or aircraft, other than helicopters, shall be used for the purpose of herding or chasing wild horses or burros for capture or destruction. All such use shall be conducted in a humane manner.

(b) Before using helicopters or motor vehicles in the management of wild horses or burros, the authorized officer shall conduct a public hearing in the area where such use is to be made.

#### §4770.3 Administrative Remedies

(a) Any person who is adversely affected by a decision of the authorized officer in the administration of these regulations may file an appeal. Appeals and petitions for stay of a decision of the authorized officer must be filed within 30 days of receipt of the decision in accordance with 43 CFR, part 4.

(c) Notwithstanding the provisions of paragraph (a) of §4.21 of this title, the authorized officer may provide that decisions to remove wild horses or burros from public or private lands in situations where removal is required by applicable law or is necessary to preserve or maintain a thriving natural ecological balance and multiple use relationship shall be effective upon issuance or on a date established in the decision.

#### **APPEAL PROVISIONS**

Within 30 days of receipt of this wild horse decision, you have the right to appeal to the 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 1842-1, 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/Mary D'Aversa  
Mary D'Aversa  
Schell Field Office Manager

02/12/2010  
Date

**FINDING OF NO SIGNIFICANT IMPACT (FONSI)  
FOR  
U.S. HIGHWAY 93 CORRIDOR  
WILD HORSE GATHER**

**Schell Field Office  
ENVIRONMENTAL ASSESSMENT (EA)  
DOI-BLM-NV-L020-2009-0051**

Based on the analysis of potential environmental impacts in the Final EA for the U.S. HIGHWAY 93 CORRIDOR WILD HORSE GATHER (DOI-BLM-NV-L020-2009-0051), dated February 2010, and my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR § 1508.27), both with regard to the context and the intensity, I have determined that the impacts associated with implementation of the Proposed Action are not significant. Therefore, preparation of an Environmental Impact Statement (EIS) is not required as per Section 102 (2) (C) of the National Environmental Policy Act (NEPA).

Reasons for this finding are based on my consideration of the Council on Environmental Quality (CEQ) criteria for significance (40 CFR 1508.27) with regard to the context and intensity of impacts.

Context: The Proposed Action affects public lands which abut U.S. Highway 93 and fall outside of designated herd management areas (HMAs). The affected segment of U.S. Highway 93 (see Map 1) is in proximity of both the Eagle HMA and the Silver King HMA. The current population of wild horses within each HMA exceeds AML and the safety conditions are impacted by the movement of wild horse outside of the HMAs in search of water and forage. This action has been planned with input from interested public and users of public lands. The excess wild horses residing outside the HMAs are located along Hwy 93 between the Silver King and Eagle HMAs and are causing public safety concerns.

Intensity: Based on my review of the EA against CEQ's factors for intensity, there is no evidence that the severity of impacts is significant:

*1. Impacts that may be both beneficial and adverse.* This action conforms to the Ely District Approved Resource Management Plan (August 2008). Although the gather and removal of excess wild horses is expected to have short-term impacts on individual animals, public safety will be improved. Individual animals gathered will live out their lives in a domestic environment as a result of adoption or sale with limitation, or in a large pasture environment that ensures freedom of movement and many of the characteristics of the public rangelands.

*2. The degree to which the proposed action affects public health or safety.* This action would have a beneficial effect to public health or safety. Public safety would be positively affected by the removal of excess wild horses adjacent to U.S. Highway 93 on public lands not designated for wild horse management.

*3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical*

*areas.* The action has no potential to affect unique characteristics such as historic or cultural resources or properties of concern to Native Americans. Direct impacts to cultural resources are not anticipated because gather sites and temporary holding facilities would be placed in previously disturbed areas or inventoried for cultural resources prior to construction. There are no wild and scenic rivers, or ecologically critical areas present in the areas.

4. *The degree to which the effects on the quality of the human environment are likely to be highly controversial.* Effects of the action are well known and understood. No unresolved issues associated with the proposed removal of approximately 50 excess horses adjacent to US Highway 93 were raised following notification of the interested public of the proposed gather.

5. *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.* The action has no known effects on the human environment which are considered highly uncertain or involve unique or negative unknown risks. This is demonstrated through the effects analysis in the Final EA. In fact, risks are reduced through the implementation of this action.

6. *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.* The action would not establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration. Future actions would be subject to evaluation through the appropriate level of NEPA documentation.

7. *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.* The Final EA includes an analysis of cumulative effects which considers past, present and reasonably foreseeable future actions in the Eagle and Silver King HMAs that supports the conclusion that the proposed gather will not result in cumulatively significant impacts.

8. *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing on the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources.* The action has no potential to adversely affect significant scientific, cultural, or historical resources.

9. *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.* The action is not likely to adversely affect any listed species, and the action area does not include any habitat determined to be critical under the Endangered Species Act.

10. *Whether the action threatens a violation of Federal, State, local or tribal law or requirements imposed for the protection of the environment.* The Proposed Action and Alternatives are in compliance with the following goal, objective and management action in the 2008 Ely District Record of Decision and the Approved Resource Management Plan dated August 2008. Further the proposed gather is consistent with other Federal, State, local and tribal requirements for protection of the environment to the maximum extent possible.

All practicable means to avoid or minimize environmental harm and unnecessary or undue degradation of the public land are inherent to the Proposed Action.

/s/ Mary D' Aversa  
Mary D' Aversa  
Schell Field Office Manager

02/12/2010  
Date

**Attachment**  
U.S. HIGHWAY 93CORRIDOR  
WILD HORSE GATHER  
**Decision Record**

**Appeal Procedures**

If you wish to appeal this decision, it may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR part 4. If you appeal, your appeal must **also** be filed with the Bureau of Land Management at the following address:

Mary D'Aversa, BLM Schell Field Manager

BLM, Ely Field Office  
HC 33 Box 33500  
702 N. Industrial Way  
Ely, NV 89301

Your appeal must be filed within thirty (30) days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4942, January 19, 1993) for a stay (suspension) of the decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted to:

Board of Land Appeals  
Dockets Attorney  
801 N. Quincy Street, Suite 300  
Arlington, VA 22203

A copy must also be sent to the appropriate office of the Solicitor at the same time the original documents are filed with the above office.

US Department of the Interior  
Office of the Regional Solicitor  
Pacific Southwest Region  
2800 Cottage Way, Room E-1712  
Sacramento, California 95825

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay is required to 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.
4. Whether the public interest favors granting the stay.

The Office of Hearings and Appeals regulations do not provide for electronic filing of appeals, therefore they will not be accepted.

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

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Final Environmental Assessment  
DOI-BLM-NV-L020-2009-0051-EA  
February 12, 2010

## U.S. HIGHWAY 93 CORRIDOR WILD HORSE GATHER

*Location: Lincoln County*

U.S. Department of the Interior  
Bureau of Land Management  
Ely District Office  
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## **1.0 INTRODUCTION**

This Environmental Assessment (EA) has been prepared to analyze the Bureau of Land Management (BLM) Schell Field Office proposal to gather and remove approximately 50 excess wild horses residing outside wild horse herd management areas which pose a safety hazard on US Highway 93. The excess horses have moved outside of the Eagle Herd Management Area (HMA) and the Silver King HMA. Gathering of these horses is planned to occur over a period of time beginning in March 2010 and would continue until all excess horses residing outside the HMA boundaries within the project area are removed.

The Proposed Action in this Final EA addresses public safety issues identified in the December 17, 2009 Preliminary Environmental Assessment: Eagle Herd Management Area Wild Horse Gather that was issued for public comment on December 28, 2009. BLM proposed in the December 2009 Preliminary EA to gather excess wild horses both within the Eagle HMA and outside HMA boundaries along Highway 93. However, due to the short period of time remaining prior to the foaling season which made it unlikely that BLM could gather a sufficient number of horses from the HMA during the month of February 2010 prior to the foaling season, BLM will defer further analysis and decision-making for an Eagle HMA gather until later in year, after the foaling season. As a result, BLM's revised Proposed Action is to gather only the bands of excess horses residing outside of HMA boundaries.

This EA is a site-specific analysis of the potential impacts that could result with the implementation of the Proposed Action or alternatives to the Proposed Action. The EA assists the BLM Schell Field Office in project planning and 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. "No Significance" is determined by the responses to the context and intensity in the Finding of No Significant Impact (FONSI) prepared at the conclusion of the analyses. An EA provides evidence 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 and the 2008 Ely District Record of Decision and Approved Resource Management Plan. Should a determination be made that implementation of the Proposed Action or alternative actions would not result in "significant environmental impacts" or "significant environmental impacts beyond those already addressed in the RMP/EIS", a FONSI will be prepared to document that determination, and a Decision Record issued providing the rationale for approving the chosen alternative.

### **1.1 Background**

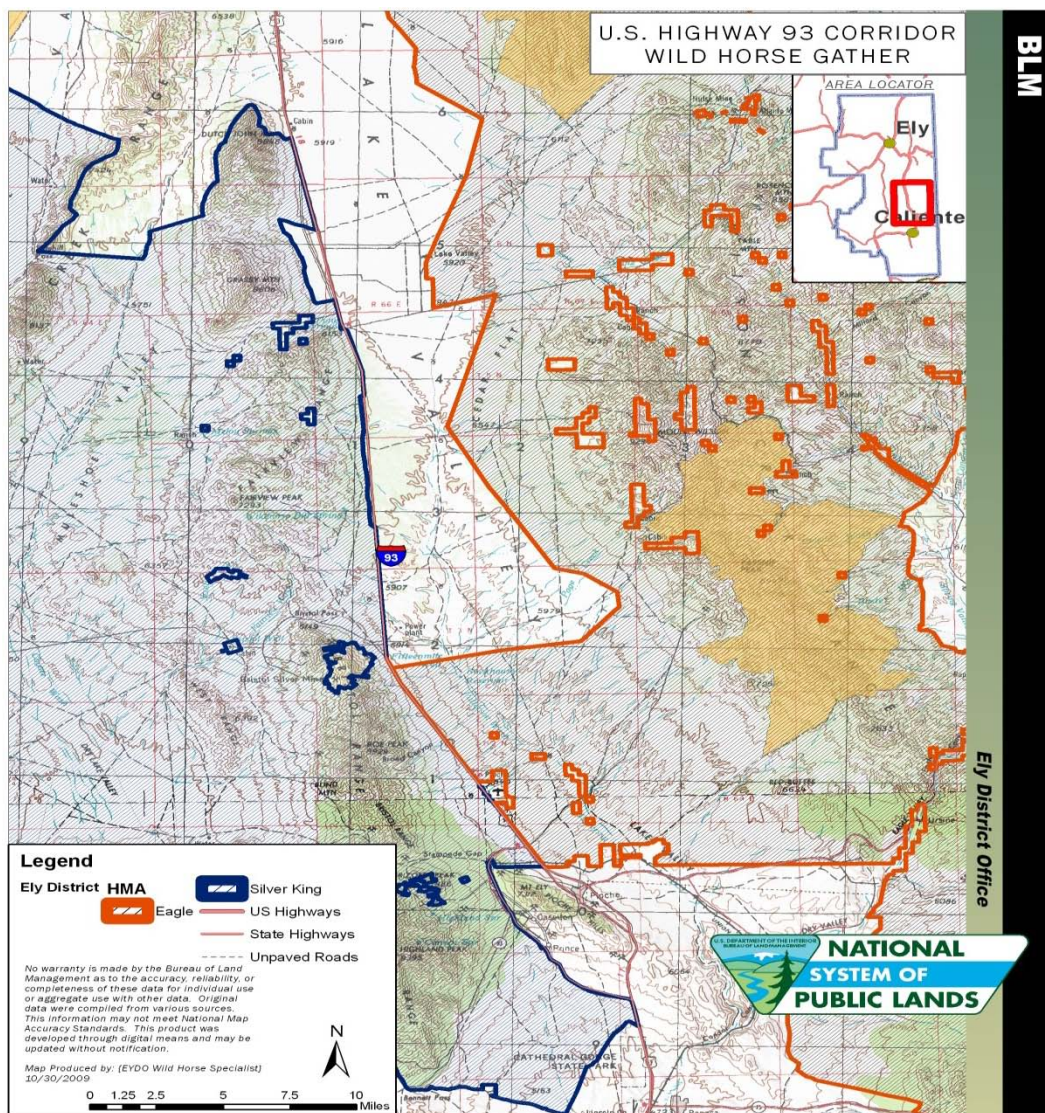
**Table 1 Nearby Herd Management Area, Acres, AML, Estimated Population**

<b>Herd</b>	<b>Total Acres Public land</b>	<b>Appropriate Management Level</b>	<b>Estimated Population</b>	<b>Projected Future Gather</b>
Eagle HMA	670,000	100-210	595	Winter 2010-2011
Silver King HMA	606,000	60-128	438	Winter 2010-2011

As the wild horse populations within the Eagle and Silver King HMAs have increased beyond the capacity of the habitat to sustain wild horses, bands of excess horses have moved outside the boundaries of the HMAs in search of forage and water. Approximately 50 excess wild horses currently reside primarily on public lands along U.S. Highway 93 that fall outside of the wild horse herd management areas. In addition to searching for additional habitat, the excess horses that reside adjacent to the highway are drawn to the road in the winter months due to the warmth and the residual salt from winter road maintenance, which increases the probability of vehicular accidents along US Highway 93.

The wild horse bands that have migrated outside of the HMAs along Highway 93 are at risk of mortality and injury from vehicular accidents and also pose a potential safety risk to motorists traveling on US highway 93. The BLM is aware of at least three animals that have been hit by vehicles during the past year. On many occasions, BLM has had to respond to reports of horses on the highway, at which time BLM employees have hazed the horses off the highway for the safety of the animals and motorists.

Map 1. Project Area Map



### **1.2 Purpose and Need**

The purpose and need of the Proposed Action is to reduce and mitigate a public safety concern by removing excess wild horses along U.S. Highway 93 on public lands that fall outside of HMAs managed for wild horses. Bands of excess wild horses have strayed outside the HMAs in the vicinity of U.S. Highway 93, creating an increased risk of vehicular accidents that threaten the safety of motorists and wild horses.

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

The Proposed Action to remove excess wild horses residing outside HMA boundaries is in conformance with the 2008 Ely District ROD and Approved RMP (August 2008) as required by regulation (43 CFR 1610.5-3(a)), and which limits wild horse management on public lands to six designated herd management areas as indicated by the following wild horse management action:

- **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.”
- **WH-4:** Manage wild horse within six herd management areas designated from herd areas based in wild horse use and habitat suitability.

### **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.

- Lincoln 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)
- Mojave/Southern Great Basin Resource Advisory Council (RAC) Standards and Guidelines (February 12, 1997)
- Lincoln 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)
- Lincoln County Public Land and Natural Resource Management Plan as adopted by the Board of County Commissioners of Lincoln County (December 5, 1997).

The Proposed Action is consistent with all applicable regulations at 43 CFR (Code of Federal Regulations) 4700 and policies. The proposed action is also consistent with the Wild Free Roaming Horse and Burro Act of 1971, which mandates the Bureau to manage wild horses only within designated ranges on the public lands. Additionally, Promulgated Federal Regulations at Title 43 CFR 4700.0-6 (a) state “*Management of wild horses and burros shall be undertaken with the objective of limiting animals’ distributions to herd areas.*”

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

### ***2.1 Introduction:***

#### **2.2 Alternative A: Proposed Action – Removal of excess wild horses adjacent to Highway 93**

The Proposed Action would gather and remove up to 50 excess wild horses located outside the HMAs. The excess horses outside the HMAs are located along Hwy 93 between the Silver King and Eagle HMAs and are posing a public safety risk (see Map 1).

The proposed gather involves a small gather area relative to the Eagle or Silver King HMAs. The area has limited water sources and because there are only a few bands of excess wild horses, this area can be effectively gathered using either bait and/or water trapping.

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 wild excess 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 these excess horses is planned to occur over a period of time beginning around the 15<sup>th</sup> of March 2010 and extending until the safety hazard is reduced. 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.

#### ***2.3 No Action Alternative – Continuation of Existing Management***

Under the No Action Alternative, excess wild horses that reside outside the HMAs along Highway 93 would not be gathered and removed. Current safety risks would remain and could increase as the number of horses increase through a combination of reproduction and the possibility of more horses leaving the Eagle and Silver King HMAs in search of suitable habitat as the HMA horse population increases. Wild horses outside the HMA would remain at risk of being involved in a highway accident.

The No Action Alternative would not be in conformance with the 2008 Ely District ROD and Approved RMP (August 2008) which limits BLM's management of wild horses to designated HMAs and therefore requires the authorized officer to remove the animals upon a determination that they are present and residing outside of a herd management area. However, the No Action Alternative is required by National Environmental Policy Act (NEPA) analysis to provide a baseline for impact analysis.

The No Action Alternative would not be in conformance with 43 CFR 4710.4 which states “Management of wild horses and burros shall be undertaken with the objective of limiting the animals’ distribution to herd areas,” or with the 1971 WFRHBA Section 2 (c.) which states “...land necessary to sustain an existing herd or herds of wild free-roaming horses and burros, which does not exceed their known territorial limits...”

#### ***2.4 Alternatives Considered But Eliminated From Detailed Analysis***

##### Use of Helicopter to Gather Horses

Helicopter-drive trapping methods were considered and evaluated in the Preliminary EA. This alternative, however, is not further analyzed here because the smaller area to be gathered and the location of the highway and adjacent HMAs would limit the practicality of this alternative for a gather limited to horses outside HMA boundaries. Use of a helicopter was eliminated from further consideration for the Proposed Action because it would likely result in the wild horses residing along the highway temporarily moving back into the HMA, making this approach impractical for a gather that does not include gathering horses from within the HMA boundaries.

##### Gathering of Horses with Release Back into HMAs Designated for Wild Horse Management

Another alternative considered by BLM was to capture the horses residing outside of the HMA boundaries, but releasing the captured horses back into a designated HMA, rather than removing the horses. If BLM were to release the gathered horses outside the HMAs back into the adjoining HMAs, there is a high likelihood of the horses returning to this area outside HMA boundaries. The wild horse populations within the HMAs are currently over AML, resulting in increased competition for forage and water and movement of horses to areas outside the HMA boundaries. These horses have also become accustomed to highway activities which have increased forage and salt accumulations along the roadsides, and would therefore likely return to the area from which they were gathered. As a result, this alternative was considered but eliminated from detailed analysis because it does not meet the purpose and need for the proposed action.

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

#### General Setting

Per Map 1, the gather area is a stretch of public lands approximately 35 miles long and 1- 4 miles wide running along either side of US Highway 93. These public lands fall outside of the Eagle and Silver King HMA boundaries.

The gather area is approximately 70 miles south of Ely, NV in northern Lincoln County. The area is within the Great Basin physiographic regions, characterized by a high, rolling plateau underlain by basalt flows covered with a thin loess and alluvial mantle. On many of the low hills and ridges that are scattered throughout the area, the soils are underlain by bedrock. Elevations within the adjacent Eagle HMA range from approximately 5,000 feet to 9,500 feet. Annual precipitation ranges from approximately 7 inches on some of the valley bottoms to 20 inches on the mountain peaks. Most of this precipitation comes during the winter and spring months in the form of snow, supplemented by localized thunderstorms during the summer months.

Temperatures range from greater than 90 degrees Fahrenheit in the summer months to minus 20 degrees in the winter. The area to be gathered is also utilized by domestic livestock and numerous wildlife species.

**Identification of Issues:**

Table 2 summarizes which of the critical elements of the human environment and other resources of concern within the project area are present, not present or not affected by the proposed action.

Internal scoping was conducted by an interdisciplinary (ID) team on Aug 10, 2009, that analyzed the potential consequences of gathering wild horses from this area. Potential impacts to the following resources/concerns were evaluated in accordance with criteria listed in the H-1790-1 NEPA Handbook (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 District BLM in particular.

**Table 2. Summary of Critical and Other Elements of the Human Environment**

Resource/Concern	Issue(s) Analyzed? (Y/N)	Rationale for Dismissal from Detailed Analysis or Issue(s) Requiring Detailed Analysis
Air Quality	Y	Analysis in EA
Areas of Critical Environmental Concern (ACEC)	N	Not present in the designated HA boundaries.
Cultural Resources	N	A Class III intensive cultural resource inventory was or will be conducted on all possible ground disturbing portions of this project. All known cultural resource sites eligible for the National Register of Historic Places will be avoided. If any cultural resource sites are discovered during the implementation of this project, all work will cease within 100 yards of the site and the BLM Archaeologist will be contacted immediately.  All known vertebrates, rare invertebrates and plant paleontological resource will be avoided. If any are discovered during the implementation of this project, all work in the vicinity will cease and the BLM Archaeologist/Paleontologist will be contacted immediately.
Forest Health	N	Project has a negligible impact directly, indirectly and cumulatively to forest health. Detailed analysis not required.
Migratory Birds	N	Traps would be set up in previously disturbed areas with little or no vegetation. Migratory birds are not expected to be present in these areas. Proposed action would have little

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		or no effect on migratory birds.
Rangeland Standards and Guidelines	N	Beneficial impacts to rangeland standards and health are consistent with the need and objectives for the proposed action. No detailed analyses necessary.
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 hazardous or solid wastes exist on the permit renewal area, nor would any be introduced.
Water Quality, Drinking/Ground	Y	Analysis in EA
Environmental Justice	N	No environmental justice issues are present at or near the project.
Floodplains	N	No floodplains have been identified by HUD or FEMA within the project area. Floodplains as defined in Executive Order 11988 may exist in the area, but would not be affected by the proposed action.
Farmlands, Prime and Unique	Y	Analysis in EA
Threatened and Endangered Species	N	Not present.
Wetlands/Riparian Zones	Y	Analysis in EA
Non-native Invasive and Noxious Species	Y	Analysis in EA
Wilderness/WSA	Y	Analysis in EA
Human Health and Safety	Y	Analysis in 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	Analysis in 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	Analysis in EA
Fish and Wildlife	Y	Analysis in EA
Wild Horses	Y	Analysis in EA
Soils/Watershed	Y	Analysis in EA
Livestock Grazing	Y	Analysis in EA
Water Resources (Water Rights)	Y	Analysis in EA

Mineral Resources	N	There would be no modifications to mineral resources through the proposed action.
Vegetative Resources	Y	Analysis in EA

**4.0 Environmental Consequences**

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.

*A. Wild Horses*

**Affected Environment**

Approximately 50 excess wild horses have strayed out of the Eagle and Silver King HMA in search of forage and water on public lands along Highway 93. Since 2008 several bands of excess horses remain in the area on a permanent basis. Additional bands move in and out of the area, especially in the winter months, due to the warmth and salt near the road.

The estimated wild horse population of the Silver King and Eagle HMAs is 438 and 595, respectively. The Appropriate Management Levels (AML) are 60-128 and 100-210 respectively. The excess number of horses in these HMAs has led to increased competition for forage and water, causing movement of horses to areas outside the HMA boundaries. The Eagle HMA gather has been postponed, as identified earlier, until winter 2010/2011 and the Silver King HMA is tentatively scheduled to be gathered during the same time period. Prior to undertaking a gather in these HMAs, BLM will complete all required NEPA analyses and provide opportunity for public input into its decision-making process.

**Environmental Impacts**

***Proposed Action*** – The Proposed Action would remove excess wild horses residing along Highway 93 that are at risk of death or injury from accidents with vehicular traffic on Highway 93 and that also pose a safety risk to motorists traveling on the highway. Based on the combined population of horses in both the Eagle and Silver King HMAs, the removal of these excess horses will not impact the genetic diversity of remaining horses in either adjacent HMA.

Bait and/or water trapping generally requires a long window of time for success. Although the trap would be set in a high probability area for capturing the excess wild horses residing outside of HMA boundaries, time is required for the horses to acclimate to the trap and/or decide to access the water/bait. Because the proposed trapping is a low stress capture method, it is not expected to be harmful to either mares or foals.

Horses that are gathered would be transported to a short term holding facility in Delta, UT or Fallon, NV. Possible post-gather outcomes to individual captured horses are listed below.

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

Wild horse removed from the range will be transported to the receiving short-term holding

facility in a goose-neck stock trailer. 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 8 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 fed 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 American Veterinary Medical Association (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 or sale. 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 rare, 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), and 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.

#### 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 become 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 3 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. Sale of wild horses are conducted in accordance with the 1971 WFRHBA and congressional limitations.

Long Term Holding

During the past 3 years, the BLM has removed 19,414 excess wild horses or burros from the Western States. Most animals not immediately adopted or sold have been transported to long-term holding (LTH) grassland pastures in the Midwest.

Potential impacts to wild horses from transport to adoption, sale or LTH are similar to those previously described. One difference is that when shipping wild horses for adoption, sale or LTH, animals may be transported for 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 2 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 22,700 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 LTH pastures was subject to a separate NEPA and decision-making process. Located in mid or tall grass prairie regions of the United States, these LTH pastures 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 LTH, 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 LTH, they remain available for adoption or sale to qualified individuals; and foals born to pregnant mares in LTH pastures are gathered and weaned when they reach about 8-12 months of age and are also made available for adoption. The LTH pasture 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 LTH contractor and periodic counts of the wild horses to ascertain their well being and safety are conducted by BLM personnel and/or veterinarians. A very small percentage of the animals may be humanely euthanized if they are in very poor condition due to age or other factors. Although horse residing on LTH facilities live longer, on the average, than wild horses residing on public rangelands, natural mortality of wild horses in LTH pastures 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 and Sale Without Limitation

While euthanasia and sale without limitation has been limited by Congressional appropriations, it is allowed under the WFRHBA. Neither option is available for horses gathered under the Department of the Interior's fiscal year 2010 budgetary appropriations.

**No Action Alternative** - Wild horses that have strayed out of HMAs and reside adjacent to US Highway 93 would not be gathered. BLM would continue to haze horses off the road when it receives reports from the public. Hazing only addresses immediate safety hazards posed by wild horses on the Highway and would not resolve the potential safety hazards posed by these horses.

**B.. Riparian/Wetland Areas and Surface Water Quality**

Affected Environment

Depending on horse location, trap sites may be located at existing man-made or natural water sources which are used by the horses.

Environmental Impacts

**Proposed Action** – Temporary trap sites may have a short term impact on natural water sources. As these water sources would be those already used by the horses, the additional impact from a potential trap site is small. Removing wild horses from this area will reduce impacts on natural water sources in the long term.

**No Action Alternative** – Riparian areas, wetlands, and water sources would not be impacted by trapping activities; however, there would be continued use and impacts from wild horses residing outside HMA boundaries in the project area.

**C. Special Status Plant and Animal Species (federally listed, proposed, or candidate threatened or endangered species; State listed species; and BLM sensitive species)**

Affected Environment

There are no known federally listed or proposed species found in the gather area. Several BLM sensitive animal species are found within the gather areas including several species of bats, raptors, and other birds.

There are several BLM sensitive plant species that may be found within the Eagle and Silver King HMAs and may also potentially be located within the adjacent gather area. These include the scarlet buckwheat, Pioche blazingstar, long calyx eggvetch, and Tunnel Springs beardtongue.

Environmental Impacts

**Proposed Action** –Removing the wild horses may result in improved habitat conditions for all special status animal species outside the HMA boundaries by increasing herbaceous vegetative

cover in the uplands and improving riparian vegetation and water quality at springs and seeps. Sensitive plant species would be less likely to be grazed or trampled after removing the wild horses.

**No Action Alternative** – Individual animals would not be disturbed or displaced because gather operations would not occur under the no action alternative. The no action alternative would result in potential for disturbance to sensitive species habitat from wild horses.

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

##### Affected Environment

The BLM defines a weed as a non native plant that disrupts or has the potential to disrupt or alter the natural ecosystem function, composition and diversity of the site it occupies. A weeds presence deteriorates the health of the site. Weeds make efficient use of natural resources difficult and the presence of weeds may interfere with management objectives for that site. Weeds are invasive species that require a concerted effort (manpower and resources) to remove from the public lands, if they can be removed at all. "Noxious" weeds refer to those plant species which have been legally designated as unwanted or undesirable. This includes national, state and county or local designations. The following noxious weed species are known to exist within the Eagle HMA. A detailed weed risk assessment is available at the Ely District Office.

No field weed surveys were completed for this project. Instead the Ely District weed inventory data was consulted. Currently, the following weed species are found within the Eagle HMA and potentially adjacent to the HMA:

<b>Scientific Name</b>	<b>Common Name</b>
<i>Acroptilon repens</i>	Russian knapweed
<i>Carduus nutans</i>	Musk thistle
<i>Centaurea diffusa</i>	Diffuse knapweed
<i>Centaurea stoebe</i>	Spotted knapweed
<i>Cirsium vulgare</i>	Bull thistle
<i>Lepidium draba</i>	Hoary cress
<i>Linaria dalmatica</i>	Dalmatian toadflax
<i>Onopordum acanthium</i>	Scotch thistle
<i>Tamarix spp.</i>	Salt cedar
<i>Tribulus terrestris</i>	Puncturevine

The following noxious and non-native, invasive species are found along roads and drainages leading to the area:

<i>Acroptilon repens</i>	Russian knapweed
<i>Carduus nutans</i>	Musk thistle
<i>Centaurea diffusa</i>	Diffuse knapweed
<i>Centaurea stoebe</i>	Spotted knapweed
<i>Cirsium arvense</i>	Canada thistle
<i>Cirsium vulgare</i>	Bull thistle
<i>Lepidium draba</i>	Hoary cress
<i>Lepidium latifolium</i>	Tall whitetop

<i>Linaria dalmatica</i>	Dalmatian toadflax
<i>Onopordum acanthium</i>	Scotch thistle
<i>Tamarix spp.</i>	Salt cedar
<i>Tribulus terrestris</i>	Puncturevine

### Environmental Impacts

**Proposed Action** – If noxious weeds are found, the location of the trap sites would be moved. Any off-road equipment exposed to weed infestations would be cleaned before moving into weed free areas.

**No Action Alternative** – Under this alternative, the wild horse gather would not take place at this time. The likelihood of noxious weeds being spread by gather operations would not exist. However, if the presence of wild horses in this area results in overgrazing or trampling of the present plant communities, this could lead to an expansion of noxious weeds and invasive non-native species due to overgrazing or trampling impacts.

### E. Vegetative Resources

#### Affected Environment

The impacts to vegetation based on the removal of wild horses from outside these two herd areas were analyzed on pages 4.5-7-27 of the Ely Proposed Resource Management Plan/Final Environmental Impact Statement (November 2007). The proposed action would impact vegetation temporarily with trampling and disturbance of vegetation occurring at trap sites. The effects would be minimal, and would not directly, indirectly, and cumulatively approach a level of significance. No further analysis is necessary.

#### Environmental Impacts

**Proposed Action-**Temporary trap sites may have a short term impact on Vegetation Resources. As these Vegetative Resources are currently being used by the horses, the additional impact from a potential trap site would be minimal.

**No Action Alternative-** Vegetative Resources would continue to be utilized, increasing over time as the population of horses increases.

### F. Soils/Watershed

#### Affected Environment

Project implementation would stay on existing roads and horse trail areas, combined with the relative small areas used for gathering and holding operations.

#### Environmental Impacts

**Proposed Action** - Horses may be concentrated for a limited period of time in trap. Potential for

soil compaction would occur but would be minimal and temporary are not expected to adversely impact soil or hydrologic function. Long term impacts may improve area due to less soil compaction from trailing.

No Action Alternative- Soils/ watersheds would continue to have horse use and as horse populations increase heavy trailing and trampling around water sources would occur.

### **G. Farmlands/ Prime and Unique**

#### **Affected Environment**

There are soils that have been designated by the Natural Resource Conservation Service as meeting the requirements to be considered prime farmlands.

#### **Environmental Impacts**

**Proposed Action-** Localized trampling of these soils may occur at the trap sites. The proposed action will not contribute either directly or indirectly to loss of these potential farmlands. The effects would be minimal and would not directly or indirectly approach any level of significance.

**No Action Alternative-** No impacts to prime and unique farmlands would occur.

### **H. Air Quality**

#### **Affected Environment**

The affected area is not within an area of non-attainment or areas where total suspended particulates or other criteria pollutants exceed Nevada air quality standards.

#### **Environmental Impacts**

**Proposed Action-** Horses would enter trap sites at a slow rate creating minimal dust. Any particulate suspension in the area would be temporary.

**No Action Alternative-** No changes in air quality would occur.

### **I. Water Quality/ Drinking /Ground**

#### **Affected Environment**

Water development projects are present in the area. A water development may be used as a trap location in order to facilitate gather efficiencies.

#### **Environmental Impacts**

**Proposed Action-** No effects to water quality are expected. Temporary disturbance in these areas may occur at some trap sites. Actions would not affect surface or ground water quality.

**No Action Alternative -** No impacts to water quality would occur.

### **J. Livestock Grazing**

#### **Affected Environment**

The affected area is within two livestock allotments (Geysers Ranch, and Wilson Creek) grazed by sheep and cattle. The seasons of use for the area is rotates throughout the allotments.

#### **Environmental Impacts**

**Proposed Action-** Areas where livestock are grazing would be avoided when possible. When actively trapping wild horses the trap would be checked on a daily basis to ensure horse safety and check for livestock in the trap if any livestock are trapped they would be released.

**No Action Alternative-** Livestock grazing would not be impacted.

### **K. Fish and Wildlife**

#### **Affected Environment**

The area provides habitat for many species of wildlife, including large mammals like mule deer, pronghorn antelope, and Rocky Mountain elk. The area serves is used seasonally when wildlife is migrating. There are no known fish in the area.

#### **Environmental impacts**

**Proposed Action-** When actively trapping wild horses the trap would be checked on a daily basis to ensure horse safety and check for Wildlife in the trap. If any Wildlife are trapped they would be released.

**No Action Alternative-** As horse populations increase competition for habitat and resources would continue to increase.

### **L. Human Health and Safety**

#### **Affected environment**

The horses outside the HMAs are located along Highway 93 between the Silver King and Eagle HMAs and are posing a public safety risk to vehicles traveling this Highway. The horses usually come down to the Highway in the night making it difficult for drivers to see them.

#### **Environmental impacts**

**Proposed Action-** Horses would be trapped and removed from the highway area reducing the risk accidents along this stretch of highway.

**No Action Alternative-** Horses would remain in the same area and would continue to pose public safety hazards to vehicles traveling this highway.

**5.0 Cumulative Impacts**

The National Environmental Policy Act (NEPA) regulations define cumulative impacts as impacts on the environment that result from the incremental impact of the Proposed Action when added to other past, present, and reasonably foreseeable future actions, regardless of what agency or person undertakes such actions (40 CFR 1508.7). Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

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.

***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
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
Spring development (fencing water sources)	X	x	X
Wildlife guzzler construction	X	x	X
Invasive weed inventory/treatments	X	x	X
Wild Horse and Burro issues, issuance of Multiple use decisions AML adjustments and planning	X	x	X

Any future proposed projects within or adjacent to the Silver King or Eagle HMAs would be analyzed in an appropriate environmental document following site specific planning. Future project planning would also include public involvement.

***Past Actions***

The Schell ( 1983) and Caliente (1982) MFPs (Ely District) designated the Deer Lodge Canyon, Wilson Creek (Fortification and Patterson-Eagle Herd Areas), Dry Lake (Cave Valley and Dry Lake Valley Herd Areas), Rattlesnake, and Highland Peak HMAs for the long-term management of wild horses. These HMAs was later combined into the Eagle HMA (Deer Lodge Canyon and Wilson Creek HMAs) and Silver King (Dry Lake, Rattlesnake, and Highland Peak HMA) in the Ely District Record of Decision (ROD) and Approved Resource Management Plan (RMP) in August 2008 due to the interchange between the HMAs. These HMAs are nearly identical in size and shape to the original Herd Areas representing where wild horses were located in 1971.

Currently, management of HMAs within the HMA and wild horse population is guided by the Ely District ROD and RMP. The AML range for the Eagle HMA is 100-210 wild horses and Silver King 60-128. The BLM also moved to long range planning with the development of Resource Management Plans and Grazing Environmental Impact Statements. These EISs analyzed impacts of the Land Use Plan's management direction for grazing and wild horses, as updated through Bureau policies, Rangeland Program direction, and Wild Horse Program direction. Forage was allocated within the allotments for livestock use and range monitoring studies were initiated to determine if allotment objectives were being achieved, or that progress toward the allotment objectives was being made.

Due to these laws and subsequent court decisions, integrated wild horse management has occurred in the Eagle and Silver King HMA. Four gathers have been completed in the past on portions of these HMAs. Future gathers would be scheduled on a 4-or 5- year gather cycle. Approximately 1252 wild horses have been removed from the Eagle HMA and approximately 1082 wild horses in the Silver King HMA within the last 20 years; populations are thriving and have not been negatively impacted. An Appropriate Management Level determination for the Eagle and Silver King HMA was established through Ely *Proposed Resource Management Plan/Final Environmental Impact Statement* (RMP/EIS, 2007) released in November 2007.

Integrated wild horse management has occurred in the Eagle and Silver King HMAs through decisions to establish the HMAs and appropriate management levels over the past two decades. Designated herd management areas were most recently identified and Appropriate Management Levels (AMLs) were established for the Eagle and Silver King HMAs through Ely *Proposed Resource Management Plan/Final Environmental Impact Statement* (RMP/EIS, 2007) released in November 2007.

The Silver State Trail is within the project area and receives visitor use. Other past activities listed in the above table occur but are not dominant uses or past actions in within the project area.

### **Present Actions**

Current BLM policy is to conduct removals targeting portions of the wild horse population based upon age, and allowing the correction of any sex ratio problems that may occur. Further, the BLM's policy is to conduct gathers in order to facilitate a four-year gather cycle. Program goals have expanded beyond establishing a "*thriving natural ecological balance*" (by setting appropriate management level (AML)) for individual herds, to include achieving and maintaining healthy, and stable populations.

The BLM is continuing to modify grazing permits and conduct vegetation treatments to improve watershed health. The focus of wild horse management has also expanded to place more emphasis on achieving rangeland health as measured through the RAC Standards. Mojave-Southern Great Basin Resource Advisory Councils (RAC) developed standards and guidelines for rangeland health that have been the current basis for managing wild horse and livestock grazing within the Ely District. Adjustments in numbers, season of use, grazing season, and allowable use are based on evaluating progress toward reaching the standards.

### ***Reasonably Foreseeable Future Actions***

It is foreseeable that Eagle and Silver King MHA will be gathered within the next 2 years which will minimize the number of horses which move out of the HMAs in search of forage and water.

In the future, the BLM would continue to manage wild horses within HMAs that have suitable habitat for a population range, while maintaining genetic diversity, age structure, and 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 would focus on an integrated ecosystem approach with the basic unit of analysis being the watershed. Both the Eagle HMA and the Silver King HMA are expected to be gathered prior to or during the Winter 2010-2011. 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.

A proposed pipeline presented by Southern Nevada Water Authority would convey water to the southern region of the state is slated to cross the north western end of the HMA. Although the pipeline should not restrict movement of wild horses some long term impacts may exist with forage and water sources. This project is being analyzed in a separate Environmental Impact Statement (EIS) titled Clark, Lincoln, and White Pine Counties Groundwater Development Project, EIS and is scheduled for a draft release to the public in April 2010.

### ***Impacts***

Past actions regarding the management of wild horses have resulted in the current wild horse population within the HMAs. Wild horse management has contributed to the presence of the number of wild horse adjacent to the highway.

The incremental effects of the proposed action, combined with past, present, and reasonably foreseeable future actions, is not expected to result in cumulative impacts.

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

Proven mitigation and monitoring are incorporated into the proposed action through standard operating procedures, which have been developed over time. These SOPs (Appendix II, III and IV) represent the "best methods" for reducing impacts associated with gathering, handling, and transporting of wild horses.

### ***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 (or 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 Nevada BLM State Office held a meeting on May 20, 2009; numerous written comments were entered into the record for

this hearing.

The Ely District BLM has coordinated with Nevada Department of Wildlife (NDOW) during the yearly coordination meeting on this gather.

A public comment period was offered for a review period for this preliminary EA between December 28, 2009 and January 27, 2010. The preliminary EA was also posted at [www.nv.blm.gov/ely](http://www.nv.blm.gov/ely). The following individuals, groups and agencies received a copy of the preliminary EA.

Craig C Downer	Theresa Monoletti	Chournos Inc
Steve Foree, NDOW	Congressman Jim	Sherie Goring
Vaugh Higbee	Gibbons	LW Peterson
Kenneth Jones	Public Lands Foundation	Charles Young
Marge Prunty	Leta Collord	H&R Livestock
RC McClymonds	Naomi Pratt	Thousand Peaks Ranch
Stuart Taylor	Rex Steninger	Ms. Sharon Crook
Rob Stokes	Kenny Merkley	Scott Merrill
John Neff	Cowboy John Tours	Steven Fulstone
Leona Rawley	Von Sorenson	John Blethen
Eureka County	Need More Sheep	Kitt Lear
Carl Slagowski	Company	Kay & Mary K Lear
Jack & Irene Walther	Pine Valley Sheep Ranch	Carol Sherman
Jack and Terry Bowers	Sterling Wines	Allen Sherman
Harvey Healey	Kyle W. Bateman	Gail Parker
Dr. Donald A Molde	Tina Nappe	Turner & Irlbeck Ran
Pelter Ranch	Barbara Warner	Kathy Bertrand
Jeffrey Roche	Diane Nelson	Herbert Stathes
Simplot Land & Cattle	Nora & Charles Watson,	Kathleen Bertrand
Ferris & Marlene Brough	Jr	Henry C. Vogler
Roger Scholl		Elnoma Reeves
Cindy McDonald		

Wilde Brough, Humboldt Outfitters, Inc  
Patience O'Dowd, Wild Horse Observers Assoc  
Cathy Barcomb, NV Wild Horse Commission  
Bobbi Royale, Wild Horse Spirit  
Tribal Chairman, Shoshone-Paiute Tribes of Duck Valley  
H. Bonnie & Chuck Matton, Wild Horse Preservation League  
Horace Smith, Cottonwood Ranch  
National Mustang Assoc Inc  
Gary Bengochea, Nevada First Corporation  
Michael Stafford, State of Nevada Clearing House  
Katie Fite, Western Watersheds Project  
Peter Mori, Mori Ranchesi

Betty Kelly, Wild Horse Spirit  
Andrea Lococo, The Fund for Animals Inc  
Joe Cumming, Boss Tanks, Inc  
Karla Jones, Nevada Ranch Service  
Dawn Lappin, Wild Horse Organized Assistance  
Friends of Nevada Wilderness  
Tom Myers, Friends of Nevada Wildlife  
Ms. Laurel Marshall, Eureka Producers Cooperative  
David Buhlig, Nevada Land and Resource Co  
Betsy MacFarlan, ENLC  
NDOW, Brad Hardenbrook  
George Lea, President, Public Lands Foundation  
John McLain, Principal, Resource Concepts, Inc  
USFWS, Southern Nevada Field Office  
Mr. Lucas J. Phillips, Ely Ranger District  
Nevada Farm Bureau Federation  
Barbara Flores, Colorado Wild Horse and Burro Coalition  
Executive Director, Animal Protection Institute of America  
Mr. Curtis A Baughman, NDOW  
Nevada Dept of Agriculture  
Jose Noriega, US Forest Service  
White Pine Co Commissioners  
National Wild Horse Assoc  
Mr. Bob Hallock, US Fish and Wildlife Service  
Roberta L. Moore, Great Basin National Park  
Jerry Reynoldson, Wild Horses Forever  
Mr. Michael J. Podborny, NDOW  
Mr. Michael S. Wickersham, NDOW  
Mr. Mike Scott, NDOW  
Friends of Nevada Wilderness  
Jim West, Double U Livestock LLC  
Chris Collis, CL Cattle Company, LLC  
Charles Baun, URS Corp  
Hawkwatch International, Inc.  
Sierra Club  
Marjorie Sill, Sierra Club - Toiyabe Chapter  
Charles Watson, Nevada Outdoor Recreation Assn.  
Sara Barth, The Wilderness Society  
Rose Strickland, Sierra Club - Toiyabe Chapter  
Johanna Wald, Natural Resources Defense Council  
Grant Gerber, Wilderness Impact Research Foundation  
John E. Hiatt, Red Rock Audubon Society  
Paul Bottari, Nevada High Country Tours  
Ronald R. McRobbie, Air Force Regional Environmental Office  
Joe Guild, Nevada Cattlemen's Association  
Jerry Goodwin, Parasol Ranching LLC

D.J. Schubert, Wildlife Biologist, Animal Welfare Institute  
 Ms Anne Charlton, Animal Rights Law Center  
 Tribal Chairman, Ely Shoshone Tribe

In response to the preliminary EA proposing to gather approximately 495 excess wild horses from the Eagle HMA and another approximately 50 wild horses outside HMA boundaries, written comments were received from 35 individuals along with approximately 9,100 emails of which approximately 9,050 were a form letter. For a detailed summary of the comments received following review of the preliminary EA pertinent to the proposed action in this EA and how BLM used the comments in finalizing the environmental assessment, refer to Appendix I.

### Internal District Review

Name	Title	Responsible for the Following Section(s) of this Document
Ben Noyes	Wild Horse Specialist	Project Lead/ Wild Horse
	Wildlife Biologist	Wildlife, Migratory Birds, Special Status Species
Bonnie Million Mindy Seal	Noxious & Invasive Weeds Specialist	Non-native Invasive Species Including Noxious Weeds
Zach Peterson	Forester	NEPA, Air Quality, Environmental Justice, Forestry
Melanie Peterson	Environmental Protection Specialist	Human Health and Safety, Hazardous Wastes
Dave Jacobson	Wilderness Planner	Wilderness
Mark D'Aversa	Hydrologist	Soil, Water, Wetlands and Riparian/Flood Plans
Shirley Johnson Chelsy Simerson	Rangeland Management Specialist	Livestock Grazing
Shawn Gibson	Archaeologist	Cultural Resources
Elvis Wall	Native American Coordinator	Native American Religious Concerns

## **8.0 REFERENCES, GLOSSARY AND ACRONYMS**

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*6.2 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**  
**Detailed Summary of Public Comments Received in Response**  
**to Review of the Preliminary EA**  
**and How BLM Used the Comments in Finalizing the EA.**

The Preliminary Eagle Herd Management Area Wild Horse Gather EA was mailed on December 28, 2009 to 129 individuals, groups and agencies for a 30 day review and comment period. 35 individual letters and approximately 9,100 emails were received in response to review of the preliminary EA. The comments addressed below are the comments which pertain to the Final U.S. 93 Highway Corridor Wild Horse Gather EA which addresses removing horses outside the HMA adjacent to Highway 93. Other comments received which were relevant only to a gather of excess horses from the Eagle HMA, will be incorporated into future NEPA documents.

Comments applicable to the Final EA are summarized below:

Comment No.	Name	Comment	How Comment Was Used
1	Individual(s) comments	The EA fails to address the long-term impacts to horses who are permanently removed from the range and placed in government holding facilities, where stallions are gelded and horses are held in Sex-segregated pastures under highly unnatural conditions.	Impacts are analyzed in Final EA Section 4.0(A).
2	Individual(s) comments	BLM also plans to gather 50 wild horses that reside outside the HMA but provides no rationale for this.	Rationale is set forth in Final EA Section 1.0.  Under the Act, the BLM may not manage for wild horses outside of herd areas. The 50 horses are not within a herd management area.
3	Individual(s) comments	In the Government Accountability Office's report titled, "Improvements Needed in Federal Wild Horse Program", GAO/RCED-90-110, August 1990, the GAO identified the following issues. How has BLM improved its methods and addressed these issues since its release.	As the GAO report is programmatic in nature, the comments contained therein are not specific to this action. This comment therefore falls outside the scope of this Environmental Analysis and proposed action.
4	In Defense of Animals	BLM did not consider the foreseeable effects on the captured horses.	Impacts are analyzed in Final EA Section 4.0(A).