



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Cedar City Field Office
176 East DL Sargent Drive
Cedar City, Utah 84721

http://www.blm.gov/ut/st/en/fo/cedar_city.html

In Reply Refer To:
4720 (UTC010)

Dear Reader:

The Final Environmental Assessment (EA) for the Sulphur Wild Horse Herd Management Area (HMA) Capture (EA) DOI-BLM-UT-C010-2010-0048-EA, Finding of No Significant Impact, and Decision Record is available on-line at <http://www.ut.blm.gov/> or at http://www.blm.gov/ut/st/en/fo/cedar_city.html. Hard copies can also be obtained, upon request, from the Cedar City Field Office.

The Environmental Assessment (EA) analyzes the Bureau of Land Management's (BLM) Cedar City Field Office proposal to gather approximately 250 wild horses from within and outside the Sulphur HMA beginning in December 2010. Up to 220 of the captured wild horses would be released; of these, about 90 mares would be treated with fertility control vaccine and 30 head of excess wild horses would be removed. The EA analyzes the potential direct, indirect and cumulative effects to the human environment associated with completion of a gather, fertility treatment and removal of excess wild horses from within and outside of the Sulphur HMA.

The Finding of No Significant Impact (FONSI) documents BLM's determination that the proposed action will not result in "significant environmental impacts," and the Decision Record approves implementation of the proposed gather.

If you have any questions on this matter, please contact Chad Hunter, BLM Cedar City Field Office Wild Horse Specialist, at (435) 586-2401

Sincerely,

Randy M. Trujillo
Acting Field Manager
Cedar City Field Office



United States Department of the Interior



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176 East DL Sargent Drive
Cedar City, Utah 84721

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In Reply Refer To:
4720/4710.4 (UTC010)

DECISION RECORD (DR)

for

**Wild Horse Gather Plan Environmental Assessment (EA) for the
Sulphur Herd Management Area Capture, Treat, and Release Plan**

Cedar City Field Office

DOI-BLM-UT-C010-2010-0048-EA

INTRODUCTION

The Bureau of Land Management (BLM) is proposing to gather approximately 250 wild horses from the Sulphur Herd Management Area (HMA) beginning on or after December 6, 2010. The gather is being done in an attempt to slow population growth by treating captured mares with fertility control vaccine PZP-22 (Porcine Zona Pellucida). It is also anticipated that this would help maintain population size within the Appropriate Management Level (AML), and extend the time before another gather to remove excess wild horses would be needed.

A majority of all wild horses captured (approximately 220 animals) would be released back to the range following the gather. Of these, about 90 would be mares vaccinated with PZP-22, with the remainder of the release horses being stallions.

Approximately 30 excess wild horses or up to 15% of those animals gathered, mostly weaned foals or young yearlings, and any wild horses residing outside the HMA boundary would be removed from the area and placed into the BLMs adoption program or into long-term pastures. This removal would help facilitate the goal of extending the time before another gather is needed, and maintain population size within the established AML while avoiding the deterioration of the range that can result from wild horse overpopulation. Weaned foals or young yearling horses are being targeted for removal specifically to help avoid any post gather concerns of animals becoming orphaned following the capture event.

The Sulphur HMA comprises approximately 265,676 acres of public and other lands (i.e. private & state). The HMA is located in Beaver, Iron, and Millard counties, about 50 miles west of Milford, Utah. The Appropriate Management Level (AML) for the HMA is 165 to 250 head of wild horses. The upper limit of the AML is the maximum number of wild horses that can graze in a thriving natural ecological balance and multiple use relationship on the public lands in the area. Establishing AML as a population range allows for the periodic removal of excess animals (to the low range) and subsequent population growth (to the high range) between removals.

BLM has prepared an environmental assessment (EA) to analyze the environmental impacts associated with the proposed gather, removal and fertility control measures. Refer to **DOI-BLM-UT-C010-2010-0048-EA**.

DECISION

It is my decision to implement the Proposed Action as described in the final Environmental Assessment for the Sulphur HMA (**DOI-BLM-UT-C010-2010-0048-EA**). This decision is effective immediately pursuant to 43 CFR 4770.3(c).

RATIONALE

This action is necessary to slow population growth and bring the wild horse population back to within the established AML range, in order to maintain a thriving natural ecological balance between wild horses and other multiple uses within the Sulphur HMA as required under Section 1333(a) of the 1971 Wild Free-Roaming Horses and Burros Act and Section 302(b) of the Federal Land Policy and Management Act of 1976.

The BLM is required to manage multiple uses to avoid degradation of public rangelands by maintaining the wild horse population within AML to protect rangeland resources from deterioration or impacts associated with the overpopulation of wild horses. This action will help maintain population size within the AML of 165-250, and extend the time before another gather to remove excess wild horses will be needed. A majority of all wild horses captured (approximately 220 animals) will be released back to the range following the gather. Of these, about 90 will be mares vaccinated with PZP-22, with the remainder of the released horses being stallions.

The Proposed Action is in conformance with the BLM's *Pinyon Management Framework Plan (MFP)* approved June 10, 1983 and the *Warm Springs Resource Management Plan (RMP)* approved April 1987. The application of fertility control and removal of approximately 30 excess wild horses as described in the Proposed Action will slow population growth, maintain population size within AML and extend the time before another gather to remove excess wild horses becomes necessary. The implementation of population control measures for wild horses gathered and released back into the HMA will result in placing fewer excess wild horses in short or long-term holding or in the adoption or sale pipelines over the next 10 year period as compared to the No Action Alternative.

Nationwide, there are more horses and burros on public lands than can "achieve and maintain a natural ecological balance." To maintain appropriate herd numbers and to reduce the need for long term pastures nationwide, the BLM must manage each of its HMAs to slow population growth.

Wild horse population numbers have the potential to double every four years. With fertility control vaccine treatment, productivity can be reduced substantially in the short term because treatments are effective for up to three years. Because only a small number of mares in the Sulphur HMA were treated in 2008 during the last removal gather, populations in the HMA are at the upper limit of AML this year. This has resulted in the need for more horses (approximately 30 head) to be removed and placed for adoption/sale or in long-term pastures. The remaining horses that are gathered will be released with sex ratio and fertility control that will slow the reproductive rate/population increase to reduce the number of wild horses that will need to be removed from the HMA in future years.

PUBLIC INVOLVEMENT

A preliminary environmental assessment was made available to the public when it was posted on the Utah BLM website at <http://www.ut.blm.gov/> and at the Utah BLM Environmental Notification

Bulletin Board (ENBB) website at <https://www.blm.gov/ut/enbb/>. Hard copies were available from the Cedar City Field Office along with the above websites for a 30 day public review and comment period beginning on September 24, 2010 and ending October 24, 2010. As of November 4, 2010, no interested public or organization has contacted the BLM CCFO about this project. The final Environmental Assessment / Capture, Treat, and Release Plan for Sulphur HMA is available on the BLM's web site at <http://www.ut.blm.gov/>, or by contacting the Cedar City Field Office.

The Utah State Office initiated public involvement at a public hearing about the use of helicopters and motorized vehicles to capture and transport wild horses (or burros) on June 9, 2010 at the BLM's Salt Lake Field Office in Salt Lake City, Utah. This specific gather was addressed at that public meeting as well as other gathers that may occur within the state of Utah over the next 12 months. This meeting was advertised in papers and radio stations statewide. The meeting was attended by 12 members of the public and media. No comments were received at that meeting specific to the use of helicopters or other motorized vehicles in the management of wild horses and burros in Utah. No comments were received about this proposed action or the alternatives in this document. The BLM reviewed its SOPs in response to the views and issues expressed at the hearing and determined that no changes to the SOPs were warranted.

AUTHORITY

The authority for this Decision is contained in Section 1333(a) 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 horses 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 animals immediately ...

§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.

APPROVAL

The Sulphur HMA wild horse capture, treat, release and removal is approved to begin on or around December 1, 2010. This decision is effective upon issuance in accordance with 43 C.F.R. § 4770.3 (c) because the action is necessary to preserve and maintain a thriving ecological balance and multiple use relationship. This decision may be appealed to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with provisions found at 43 CFR Part 4 (see attachment).



Randy M. Trujillo
Acting Field Manager
Cedar City Field Office

11/4/10
Date

FINDING OF NO SIGNIFICANT IMPACT (FONSI)
for
Wild Horse Gather Plan Environmental Assessment (EA) for the
Sulphur Herd Management Area Capture, Treat, and Release Plan
Cedar City Field Office
DOI-BLM-UT-C010-2010-0048-EA

Based on the analysis of potential environmental impacts in the Environmental Assessment for the Sulphur Wild Horse HMA Capture, Treat and Release Plan (DOI-BLM-UT-C010-2010-0048-EA), I have determined that the Proposed Action will not have a significant effect on the human environment. Therefore, the preparation of an environmental impact statement (EIS) is not required for compliance with the National Environmental Policy Act of 1969.

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 affected region is limited to portions of Iron, Beaver and Millard Counties (Utah), where the project area is located. The gather has been planned with input from interested public and users of public lands.

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.* The proposed gather would be consistent with the Pinyon Management Framework Plan (MFP, 1983), Warm Springs Resource Management Plan (RMP, 1987) and the standards for rangeland health, and would maintain a thriving natural ecological balance and multiple use relationship consistent with other resource needs as required under the WFRHBA. Although the capture, treat, release and removal of excess wild horses is expected to have short-term impacts on individual animals, over the long-term, it is expected to benefit wild horse health by extending the time between gather and removals, improving forage and habitat conditions in the herd management areas and would be beneficial for rangeland resources such as vegetative communities, riparian resources, and wildlife habitat.
2. *The degree to which the proposed action affects public health or safety.* The Standard Gather Operating Procedures (EA, Appendix 5) and Observation Day Protocol and Ground Rules (EA, Appendix 8) would be used to conduct the gather and are designed to protect human health and safety, as well as the health and safety of the wild horses and burros. The proposed action has no effect on public health or safety.
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 proposed action has no potential to affect unique characteristics such as historic or cultural resources or properties of concern to Native Americans. There are no wild and scenic rivers, or ecologically critical areas present in the areas. Maintenance of appropriate numbers of wild horses is expected to help make progress in meeting resource objectives for improved riparian, wetland, aquatic and terrestrial habitat.
4. *The degree to which the effects on the quality of the human environment are likely to be highly controversial.* Effects of the gather are well known and understood. No unresolved issues were raised through consultation or public comments.

5. *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.* Possible effects on the human environment are not highly uncertain and do not involve unique or unknown risks. The Proposed Action has no known effects on the human environment which are considered highly uncertain or involve unique or unknown risks. This is demonstrated through the effects analysis in the EA.

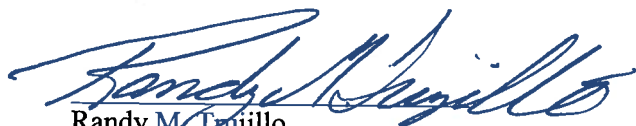
6. *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.* The action is compatible with future consideration of actions required to improve wild horse management in conjunction with meeting objectives for wildlife habitat within the herd management area. The Proposed Action does not set a precedent for future actions. 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 proposed action is not related to other actions with individually insignificant but 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 proposed gather 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 proposed 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 is in compliance with the Pinyon Management Framework Plan (MFP, 1983), Warm Springs Resource Management Plan (RMP, 1987) and is consistent with other Federal, State, local and tribal requirements for protection of the environment to the maximum extent possible.



Randy M. Trujillo
Acting Field Manager
Cedar City Field Office

11/4/10
Date

Attachment
**Wild Horse Gather Plan Environmental Assessment (EA) for the
Sulphur Herd Management Area Capture, Treat, and Release Plan
Cedar City Field Office
DOI-BLM-UT-C010-2010-0048-EA
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:

Randy M. Trujillo, Acting Field Manager
BLM, Cedar City Field Office
176 E. DL Sargent Drive
Cedar City, Utah 84720

Your appeal must be filed within thirty (30) days from receipt or issuance 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:

Interior Board of Land Appeals
Office of Hearing and Appeals
801 N. Quincy Street, Suite 300
Arlington, VA 2220

and to the appropriate office of the Field Solicitor:

Office of the Regional Solicitor
6201 Federal Building
125 South State Street
Salt Lake City, UT 84138-1180

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 appellants 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.