

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

**Decision Record
Fire Emergency Wild Horse Gather Plan
For the
Jackies Butte Herd Management Area**

**Jordan Resource Area
100 Oregon Street
Vale, Oregon 97918
July, 2012**



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INTRODUCTION

The Jackies Butte Herd Management Area (HMA) is located in the Jordan Resource Area, Vale Field Office, Bureau of Land Management (BLM). Appropriate Management Level (AML) for the Jackies Butte HMA is 75 – 150 wild horses with an estimated 90 wild horses currently residing in the HMA.

On July 8, 2012, a lightning caused wildfire named the Long Draw fire started in the Jordan Resource Area and burned approximately 75% of the 65,211 acres in the Jackies Butte HMA. Prior to the wildfire, water sources were becoming scarce due to the drought conditions this year. Currently, the unburned portions of the HMA have limited perennial water sources.

Decision:

It is my decision to implement an emergency gather of the Jackies Butte HMA. Implementation of these actions shall be effective July 27, 2012 as per authority contained at 43 CFR 4770.3(c),

Approximately 85 wild horses will be gathered using helicopter drive-trapping and transported to the Burns Wild Horse Corrals. It is estimated that roughly 5 - 15 wild horses will remain in the HMA following the gather. Depending on the number of horses remaining in the HMA following the gather, 50-75 of the removed Jackies Butte horses will be separated by sex and retained at the Burns Wild Horse Corrals. These horses will be returned to the HMA to bring the wild horse population to low AML (75 horses) following vegetation recovery and rehabilitation from the Long Draw fire. Although dependent on environmental conditions, this recovery period is generally two growing seasons for upland vegetation.

Any horses gathered and removed in excess of low AML and not retained for return to the HMA and any foals born in the corrals will be weaned and will be prepared for inclusion in the adoption program.

The potential impacts to wild horses resulting from the gather activities, transport, and preparation at the Burns Wild Horse Corrals, and all Standard Operating Procedures for gathers and Mitigation Measures will be the same as those analyzed in the 2011 Jackies Butte Wild Horse Gather Plan Environmental Assessment DOI-BLM-OR-V040-2011-010-EA.

There will be a temporary closure to public access, use, or occupancy on public lands adjacent to and within the Jackies Butte HMA for orderly administration of the gather and to ensure safety for personnel and horses during gather operations,.

Pursuant to Title 43 of the Code of Federal Regulations at 4770.3(c) and to BLM Instruction Memorandum No. 2009-085, this decision is effective immediately.

Rationale:

BLM has determined that the emergency removal of the Jackies Butte wild horse herd is needed to ensure survival of the wild horses through the remainder of the summer and upcoming winter and to promote soil stabilization, the recovery of the rangeland vegetation, and wild horse and wildlife habitat. The Long Draw fire has created a lack of forage and limited access to unburned

forage with adjacent water sources. Both congregating on existing limited water sources adjacent to the unburned portions of the HMA and traveling great distances from unburned forage and water sources will begin to negatively affect horse health.

The Long Draw fire burned the entire wild horse preferred habitat in this HMA; therefore, protection of this preferred habitat is essential to allow adequate recovery. Livestock grazing in the burned area will be removed for the same time period to allow for rangeland recovery.

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.

Appeals:

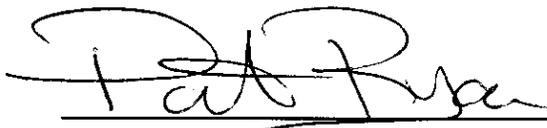
This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1. If an appeal is filed, your notice must be filed in the Vale District Office, 100 Oregon Street, Vale, Oregon 97918 within 30 days upon receipt or issuance of this decision. The appellant has the burden of showing that the decision appealed is in error.

If you wish to file a petition, pursuant to regulation 43 CFR §4.21, for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. A petition for stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

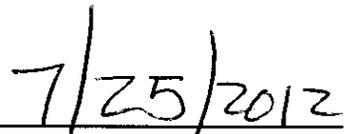
Standards for Obtaining a Stay:

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

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



Pat Ryan
Field Manager
Jordan/Malheur Resource Areas



Date: