

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

**Full Force and Effect Decision Record  
for  
Three Fingers Herd Management Area  
Emergency Wild Horse Fire Gather Plan**

**Malheur Field Office  
100 Oregon Street  
Vale, Oregon 97918  
August 28, 2016**



**Decision Record**  
**Three Fingers Herd Management Area Emergency Wild Horse Fire Gather**

**INTRODUCTION:**

On August 21, 2016, the Cherry Road wildfire started in and burned approximately 90% of the Wildhorse Basin Pasture in the Three Fingers Herd Management Area (HMA), managed by the Vale District Bureau of Land Management (BLM), Malheur Field Office, reducing available forage and water resources. This pasture represents approximately 50% of the current range utilized by wild horses within the HMA. Unburned portions of the Wildhorse Basin Pasture have limited perennial water sources with any adjacent available forage. As a result of the current situation within the HMA I am prepared to issue this decision, which is effective upon issuance, for the emergency removal of wild horses using helicopter and ground support gather methods.

**BACKGROUND:**

The Three Fingers HMA is located in the Malheur Field Office, Vale District Office, Bureau of Land Management (BLM). The 62,508 acre HMA consists of two pastures: Wildhorse Basin in the north and Riverside in the south. Appropriate Management Level (AML) for the Three Fingers HMA is 75 – 150 wild horses. The current population is estimated to have 202 adult wild horses and 77 foals currently residing in the HMA. Over half of the wild horse population resides in the northern 25% of this HMA within the Wildhorse Basin Pasture.

The Riverside Pasture has limited use by wild horses, due to various conditions across the landscape. Wild horses do not reside in the middle 25% of the HMA (Honeycombs WSA) due to lack of water and extremely steep and rugged terrain. Although wild horses historically resided in the eastern 25% of the HMA, they have not remained there since the early 2000s due to conversion of the uplands to medusahead rye. This conversion is a result of wildfires and invasion of nonnative annual grasses including cheatgrass and medusahead rye. The remaining wild horse population lives in the southern 25% of the HMA on limited upland water sources and a few canyons with access to the Owyhee Reservoir.

The Cherry Road wildfire ignited and quickly engulfed approximately 31,000 acres of public lands managed by the Malheur Field Office, BLM. The wildfire removed available forage within 90% of the Wildhorse Basin Pasture, which consists of a large percentage of range utilized by wild horses within the Three Fingers HMA. Range utilized by the wild horses within the Riverside Pasture was not affected by the Cherry Road fire.

**DECISION:**

It is my decision to authorize an emergency gather of the Three Fingers HMA as a result of the Cherry Road Fire. The Cherry Road Fire removed forage necessary to maintain wild horse herds in a thriving natural ecological balance within the Wild Horse Pasture of the HMA. Implementation of these actions shall be effective August 28, 2016.

Approximately 150 head of wild horses (including adult horses and foals) will be gathered and transported to the Burns Wild Horse Corrals. The BLM estimates that

between 80–120 wild horses will remain in the Riverside Pasture which is in the southern end of the HMA. This will allow for a population that is managed at the low range of AML, which can maintain a self-sustaining population of healthy wild horses in balance with other uses and the productive capacity of their habitat. Recovery period post-fire is generally two active growing seasons for the upland vegetation or until recovery objectives are met. The removed, excess horses will be prepared for inclusion in the adoption program. Actions regarding impacts to gathering and returning horses will be the same as analyzed in the 2011 Three Fingers Wild Horse Gather Plan Environmental Assessment DOI-BLM-OR-V040-2011-009-EA.

As needed for orderly administration of the gather and to ensure safety for personnel and horses during gather operations, there will be a temporary closure to public access, use, or occupancy on public lands adjacent to and within the Three Fingers HMA.

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:**

The BLM has determined that the emergency removal of a portion of the Three Fingers wild horse herd is needed to ensure survival of the wild horses through the remainder of the summer and upcoming winter, and to ensure the recovery of the rangelands and habitat in the Wildhorse Basin Pasture. The Cherry Road wildfire has created a lack of forage and limited access to unburned forage with adjacent water sources. Both congregation 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 wild horse health.

The Cherry Road wildfire burned the entire wild horse preferred habitat in the Wildhorse Basin Pasture. Protection of this preferred habitat is essential as a result to allow adequate recovery of the rangelands and to meet objectives for the management of the HMA. Processes to remove livestock until recovery objectives are met will occur through a separate process, but will be required to allow rangeland recovery.

**COMPLIANCE WITH APPLICABLE LAND USE PLANS:**

My decision to gather and remove wild horses from the Three Fingers HMA is in conformance with the Southeastern Oregon Resource Management Plan (SEORMP) dated September 2002 and the Oregon Greater Sage-Grouse Approved Resource Management Plan Amendment (ARMPA) dated September 2015. The SEORMP states:

- Wild Horses - Objective: Maintain and manage wild horse herds in established herd management areas (HMAs) at appropriate management levels (AML's) to ensure a thriving natural ecological balance between wild horse populations wildlife, livestock, vegetation resources, and other resource values. Enhance and perpetuate special and unique characteristics that distinguish the responsive herds.
- Vegetation - Objective 1: Restore, protect, and enhance the diversity and distribution of desirable vegetation communities including perennial native and desirable introduced plant species. Provide for their continued existence and normal function in nutrient, water, and energy cycles.

The Oregon Greater Sage-Grouse ARMPA states:

- MD WHB1: Manage wild horses as components of BLM-administered lands in a manner that preserves and maintains a thriving natural ecological balance in a multiple use relationship.
- MD WHB7: Consider removals or exclusion of wild horses during or immediately following emergency situations (such as fire, floods, and drought) to facilitate meeting greater sage-grouse (GRSG) habitat objectives where HMAs overlap with GRSG habitat.

**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.

(c) 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.

(b) 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 (IBLA), 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 with Thomas Patrick “Pat” Ryan, Malheur Field Office Manager, Malheur Field Office, Vale District Office, 100 Oregon Street, Vale, Oregon 97918 within 30 days following posting of the signed decision. The appellant has the burden of showing that the decision appealed is in error.

Standards for obtaining a stay—except as otherwise provided by law or other pertinent regulation, a petition for a stay of decision pending appeal shall show sufficient justification based on the following standards (43 CFR 4.21(b)):

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

As noted above, the petition for stay must be filed in the office of the authorized officer.

A notice of appeal and/or request for stay electronically transmitted (e.g., email, facsimile, or social media) will not be accepted. A notice of appeal and/or request for stay must be on paper and received in this office within the appeal period.

  
Thomas Patrick “Pat” Ryan  
Field Manager  
Malheur Field Office

Date 8/28/2016