



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Wells Field Office
3900 East Idaho Street
Elko, Nevada 89801

http://www.blm.gov/nv/st/en/fo/elko_field_office.html

In Reply Refer To:
4720/4710.4 (NV0300)

September 28, 2016

Full Force and Effect
Decision Record
Emergency Wild Horse Gather
For the Goshute Herd Management Area
Wells Field Office
Elko District Office

Introduction

Excessive numbers of wild horses combined with extremely limited water availability in northeastern Nevada has resulted in emergency conditions within the Goshute Herd Management Area (HMA) that threaten wild horse health and well-being. The current estimated population for the Goshute HMA is 904 wild horses. The Appropriate Management Level (AML) range for the Goshute HMA is 74-123.

Wild horses within the Goshute HMA range in Henneke body condition score (BCS) from poor (BCS 1.5) to moderately thin (BCS 4). Wild horses with a BCS of 2 or less are at risk of death if they remain on the range given the current high numbers of excess of wild horses in the HMA and extremely limited water availability. If a sufficient number of excess wild horses are not promptly removed from the area, the Bureau of Land Management (BLM) anticipates that individual wild horse body condition will continue to decline even further and that the most vulnerable horses – mares and foals in particular – will suffer and/or die.

To alleviate competition for limited water resources and prevent continued body condition decline, suffering and/or the death of the most vulnerable horses, the Bureau of Land Management's (BLM) Wells Field Office proposes to conduct an emergency operation to gather and remove 60 excess wild horses from the affected area within the Goshute HMA. The BLM Wells Field Office has determined that the situation in the Goshute HMA is an emergency situation because of the intense competition wild horses are experiencing for extremely limited water resources in the HMA. These conditions threaten the health and welfare of the wild horses. The situation is too extreme to address through the normal gather cycle (BLM 4700-1 Handbook). Given the weakened state of the horses in the Goshute HMA, a veterinarian will be on-call to provide recommendations regarding care, treatment and, if necessary, euthanasia. [Per BLM Manual 4720.23]

Although there has been some rainfall in the HMA, this has been insufficient to improve water availability or to redress the lack of water. No action other than the gather and removal of 60 excess wild horses would be implemented during this gather operation.

Due to excessive numbers of wild horses, limited water availability and dry summer conditions, BLM staff has been actively monitoring the wild horses and existing water resources during the very dry summer months. However, conditions have quickly deteriorated in the past several weeks and many horses are in such low body condition such that any further delay would result in increased suffering and/or the death of individual horses. During its monitoring, the BLM observed the decline of summer water resources, which has resulted in water becoming extremely limited and available at only a few very small seeps and springs. The majority of the at-risk wild horse herd in the HMA continues to drink out of springs/seeps that are producing inadequate amounts of water to maintain a healthy wild horse population.

Tunnel Spring has been monitored throughout the spring and summer months of 2016. There have been issues with lack of water at Tunnel Spring and the other various springs in the Goshute HMA for several years. More recently the high number of excess wild horses has exacerbated the lack of water availability and has resulted in a decline in wild horse health, along with severe overuse and degradation of riparian areas. The wild horses are not traveling to areas where feed is available because they are waiting for water to become available at the spring.

The Goshute HMA is located in Elko County approximately 10 miles southwest of Wendover, Nevada. The Goshute HMA is approximately 267,267 acres (public and private) in size. The AML is a range of 74-123 wild horses, while the current estimated population is 904 adult wild horses.

Based upon its monitoring and current observations, the BLM has concluded: (1) that an overpopulation of wild horses currently exists on the public lands in the Goshute HMA due to the non-availability of sufficient habitat resources, i.e., water; (2) that an emergency situation exists whereby individual wild horses will suffer and die if wild horse numbers are not reduced; and (3) that immediate action is necessary to remove these excess animals on an emergency basis to prevent wild horse suffering and death. Additionally, BLM must protect the range resources that are being impacted by the concentration of excess numbers of wild horses at limited water sources, in order to manage for a thriving natural ecological balance on the range. The area of greatest concern for the emergency gather is near Tunnel Spring. Wildlife cameras and on-the-ground observations reveal approximately 50-60 wild horses are congregated in this area where they are attempting to meet their water needs from a water source that falls far short of those needs.

Decision

It is my decision to implement an emergency gather of 60 wild horses in the Goshute HMA using water/bait trapping to alleviate overpopulation pressures at certain limited water sources where the wild horses are at greatest risk of experiencing further declines in body condition, leading to suffering and/or the death of individual wild horses. Generally, bait/water trapping is most effective when a specific resource is limited, such as water availability during the summer/fall months. For example, in some areas, a group of wild horses may congregate at a given watering site during the summer because few or no other perennial water resources are available nearby. Under those circumstances, water trapping is a useful means of reducing the

number of wild horses at a given location, which can relieve the resource pressures caused by too many wild horses congregating in an area with insufficient resources to meet their food and water needs. The water/bait trapping in this area is a low stress approach to gathering wild horses that are currently in poor body condition. This decision is effective immediately pursuant to 43 CFR 4770.3(c) and NHPA Section 106.

The emergency operations will result in the gather and removal of 60 excess wild horses from the most affected area within the Goshute HMA, Elko County. Given the continued decline in wild horse condition in the HMA resulting from on-going water deprivation and excessive wild horse numbers for the insufficient water resources, it is critical to immediately remove a sufficient number of wild horses to prevent suffering and/or death of vulnerable horses. Due to the extremely poor condition of some of the animals, the BLM Euthanasia Policy outlined in WO-IM-2015-070-041 and as per BLM Manual 4720.23 will be used as a guide to determine if any of the gathered animals need to be euthanized.

No population control measures would be implemented during this emergency operation, which is limited to removal of a targeted number of excess horses only from the most affected areas within the HMA.

Rationale

The emergency action is in conformance with the Wells District Record of Decision and Approved Resource Management Plan signed in August 1985 and the 1993 Wells Resource Management Plan Wild Horse Amendment. The emergency action is also consistent with all other federal, state, local, and tribal policies and plans to the maximum extent possible. The emergency removal of excess wild horses from the Goshute HMA will alleviate or prevent wild horse suffering and death; will protect the range resources that are being severely over-utilized in areas of wild horse concentration; and will decrease the extreme competition that currently exists for limited resources.

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.

43 CFR §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.

43 CFR §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.

43 CFR §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 ...

43 CFR §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.

43 CFR §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

This decision is effective upon issuance in accordance with 43 CFR. § 4770.3 (c) because the immediate removal of excess wild horses is necessary to protect animal health and rangeland resources. This decision may be appealed to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with provisions found at 43 CF.R Part 4 (see attachment).

Sincerely,

/s/ Matthew M. Murphy

Matthew M. Murphy
Field Manager (Acting)
Wells Field Office

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:

Mathew M. Murphy
Field Manager (Acting)
BLM, Wells Field Office
3900 Idaho Street
Elko, NV 89801

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:

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.