

**USDI, Bureau of Land Management
Andrews Resource Area, Burns District**

DECISION RECORD

**South Steens Herd Management Area Population Management Plan
Environmental Assessment
OR-B070-2013-0027-EA**

BACKGROUND

The South Steens Herd Management Area (HMA) Population Management Plan Environmental Assessment (EA) analyzed issues emerging from excess wild horses and the need to maintain the population within appropriate management level (AML) over a 10-year time frame in order to achieve a thriving natural ecological balance.

COMPLIANCE

The attached EA, South Steens HMA Population Management Plan OR-B070-2013-002, is tiered to the 2004 Andrews/Steens Proposed Resource Management Plan and Final Environmental Impact Statement (PRMP/FEIS) and relevant information contained therein is incorporated by reference. The Proposed Action has been designed to conform to the following documents, which direct and/or provide the framework for management of Bureau of Land Management (BLM) lands within Burns District:

1. Wild Free-Roaming Horses and Burros Act of 1971 (Public Law 92-195) as amended.
2. Wild Free-Roaming Horse and Burro Management (43 Code of Federal Regulations (CFR) 4700). The following are excerpts from 43 CFR 4700.
 - a. 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..."
 - b. 4710.3-1 - Herd Management Areas. "Herd Management Areas shall be established for maintenance of wild horse and burro herds."
 - c. 4740.1 - Use of motor vehicles or aircraft. "(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."
3. BLM Wild Horses and Burros Management Handbook, H-4700-1 (June 2010).
4. BLM Manual 6330 - Management of Wilderness Study Areas (WSA) (2012).
5. BLM Manual 6340 - Management of Designated Wilderness Areas (2012).

6. Wilderness Act, Public Law 88-577 (September 3, 1964).
7. Steens Mountain Wild and Scenic Rivers (WSR) Plan Appendix P - Cooperative Management and Protection Area (CMPA) and Andrews Management Unit (AMU) Resource Management Plans (RMP)/Records of Decision (ROD) (August 2005).
8. National Environmental Policy Act (NEPA) (42 U.S.C. 4321-4347, 1970).
9. BLM NEPA Handbook, H-1790-1 (January, 2008).
10. Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1701, 1976). Section 302(b) of FLPMA, states, "all public lands are to be managed so as to prevent unnecessary or undue degradation of the lands."
11. Public Rangelands Improvement Act (43 U.S.C. 1901, 1978).
12. Standards for Rangeland Health and Guidelines for Livestock Grazing Management for Public Lands Administered by the BLM in the States of Oregon and Washington (1997).
13. Greater Sage-Grouse and Sagebrush-steppe Ecosystems Management Guidelines (BLM 2001).
14. BLM National Sage-grouse Habitat Conservation Strategy (2004).
15. Greater Sage-Grouse Conservation Assessment and Strategy for Oregon (Hagen 2011).
16. Greater Sage-Grouse Interim Management Policies and Procedures, Instruction Memorandum (IM) 2012-043 (2012).
17. Local Integrated Noxious Weed Control Plan (EA-OR-020-98-05, 1998).
18. Vegetation Treatment Using Herbicides on Bureau of Land Management Lands in 17 Western States Programmatic Final Environmental Impact Statement (FEIS) (2010) and ROD (2010).
19. Steens Mountain Travel Management Plan (TMP) (EA OR-05-027-021, 2007) (or subsequent amendments).
20. Steens Mountain Cooperative Management and Protection Act of 2000 (Public Law 106-399).
21. South Steens Allotment Management Plan (AMP) (EA-OR-06-027-060, 2014).
22. Oregon Department of Environmental Quality (ODEQ) laws and regulations.
23. State, local, and Tribal laws, regulations, and land use plans.
24. All other Federal laws relevant to this document, even if not specifically identified.

DECISION

Having considered the Proposed Action and alternatives and associated impacts and based on analysis in EA DOI-BLM-OR-B070-2013-0027, it is my decision to implement the Proposed Action which removes excess wild horses and applies available and approved fertility treatment to maintain the wild horse population within AML over a 10-year period. Additionally, a Finding of No Significant Impact (FONSI) found the Proposed Action analyzed in DOI-BLM-OR-B070-2013-0027 does not constitute a major Federal action that will adversely impact the quality of the human environment. Therefore, an environmental impact statement (EIS) is unnecessary and will not be prepared.

The Proposed Action, Alternative A, is designed to manage wild horse populations over a 10-year time frame and will incorporate 2 to 3 gather cycles. Implementation of the Proposed Action will begin in the fall of 2015.

Based on the June 2012 census which counted 383 horses and assuming a 20 percent population growth rate, the estimated wild horse population by fall 2015 will be approximately 662 adult wild horses (plus 132 foals). An exact annual population growth rate is not available for this herd so a 20 percent population growth rate is used based on the National Academy of Sciences (NAS) (2013) explanation that growth rates approaching 20 percent or even higher are realized in many horse populations (p. 55). This annual population growth rate includes both survival and fecundity rates (NAS 2013, p. 55). The first portion of the Proposed Action will be to gather 90 percent of the total wild horse population and remove excess horses down to the low end of AML. Ninety percent of the herd is gathered in order to (1) select horses to return to the HMA to re-establish the low end of AML and (2) remove excess wild horses that will be prepared for the adoption program. This will mean if horses are gathered in 2015, approximately 715 horses, roughly 90 percent of the estimated herd size based on current estimates, will be gathered using the helicopter-drive method. Approximately 503 excess adult wild horses will be removed from the South Steens HMA, included those that have strayed outside the HMA boundary, to re-establish the herd size at the low end of AML (159 animals). No horses found outside of the HMA will be returned to the range. For future helicopter gathers under this 10-year plan, the number of horses gathered and excess removed will be adjusted based upon the estimated herd size and the number of excess horses determined at the time of the gather. Each helicopter gather will take approximately one week. BLM will plan to gather as soon as holding space becomes available and BLM's Washington D.C. Office gives authorization. The gather will be initiated following public notice on the Burns District webpage <http://www.blm.gov/or/districts/burns/index.php>.

Bait/water, horseback drive, and helicopter drive trapping will be used as tools to remove excess horses in areas where concentrations of wild horses are detrimental to habitat conditions or other resources within the HMA, to remove wild horses from private lands or public lands outside the HMA boundary, to selectively remove a portion of excess horses for placement into the adoption program, or to capture, treat, and release horses for application of fertility control. Bait/water, horseback or helicopter drive trapping will be conducted as needed between normal helicopter drive gather cycles. Bait/water trapping, horseback drive, and helicopter drive trapping operations could take anywhere from one week to several months depending on the amount of animals to trap, weather conditions, or other considerations. Operations will be conducted either by contract or by BLM personnel.

Table 1: Proposed Action methods for capturing horses for removal, relocation, and/or application of fertility treatment.

| Method | Reason | When |
|----------------------------------|--|---|
| <i>Helicopter drive gather</i> | To remove excess horses to maintain AML. | Once excess horses are determined; typical gather cycle is every 4-5 years. |
| <i>Helicopter drive trapping</i> | To remove or relocate wild horses when concentrations are causing detriment to habitat conditions or other resources within the HMA; | As needed between normal helicopter drive gather cycles. |
| <i>Bait/Water trapping</i> | To selectively remove a portion of excess horses for placement in the adoption program; | |
| <i>Horseback drive trapping</i> | To capture, treat, and release horses for application of fertility control. | |

Site-specific removal criteria were never set for South Steens HMA; therefore, animals removed from the HMA will be chosen based on a selective removal strategy set forth in BLM Manual Section 4720.33. Wild horses will be removed in the following order: (1) first priority - age class 4 years and younger; (2) second priority - age class 11 to 19 years; (3) third priority - age class 5 to 10 years; and (4) fourth priority - age class 20 years and older (should not be permanently removed from the HMA unless specific exceptions prevent them from being turned back to the range). In general, this fourth age group can survive in the HMA, but may have greater difficulty adapting to captivity and the stress of handling and shipping if removed. BLM Manual Section 4720.33 further specifies some animals that should be removed irrespective of their age class. These animals include, but are not limited to, nuisance animals and animals residing outside the HMA or in an area of an inactive Herd Area (HA). One caveat to these selective removal criteria will be the release of existing geldings back to the HMA. Following the last gather in 2009, 15 stallions were gelded and released back into the HMA. If recaptured during future gather operations, these geldings will be returned to the range regardless of age.

Captured wild horses will be released back into the HMA under the following criteria:

- Released horses will be selected to maintain a diverse age structure of 80 mares and 79 stallions (159 total = low AML), approximately a 50/50 sex ratio.
- Released horses will be selected to maintain the saddle horse conformation. The most common colors of pinto-variations, buckskins, duns, and red duns will have higher priority over the less common colors present.
- Approximately 60 mares (75 percent), age two or older, will be selected to be returned to the HMA after receiving fertility control treatment. These mares will be transported to the Burns Corral Facility where they will receive the first injection (primer dose) of their 2-injection native porcine zona pellucida (PZP) treatment. PZP is the most common form of immuno-contraception which stimulates the production of antibodies that bind sperm receptors on the egg's surface, thereby preventing sperm attachment and fertilization (AG Sacco 1977, Nunez et. al. 2010). Mares will be held at the facility and provided hay and water for 2-6 weeks until given the second liquid PZP

injection as well as 3 and 12 month time-release pellets (PZP-22). This holding period is derived from The Science and Conservation Center's protocol for initial PZP treatment (2006). Mares treated with PZP will be documented via physical description or will be hip marked for future identification. The BLM will then return the mares to the HMA. After an initial primer and booster vaccination, any mare captured during future gather operations will receive a booster of native PZP or time release pellets and be immediately returned to the range, unless population objectives could not be achieved without the removal of a previously treated mare. This type and method of fertility control treatment will be used in the initial gather but may be adjusted as advancements are made with available and approved fertility control treatments and methods. PZP will be administered following IM No. 2009-090, Population-Level Fertility Control Field Trials: Herd Management Area Selection, Vaccine Application, Monitoring and Reporting Requirements.

Post-gather, every effort will be made to return released horses to the same general area from which they were gathered.

BLM will conduct one to two future helicopter gathers, four to five years apart, over the next 10 years (following the date on the Decision Record (DR) for this document). This 10-year timeframe enables BLM to determine the effectiveness of the Proposed Action at successfully maintaining population levels within AML in South Steens HMA. During the 10-year time frame, helicopter gathers will be carried out under the same (or updated) standard operating procedures (SOP) as described in the Wild Horse and Burro Gathers: Comprehensive Animal Welfare Policy (IM No. 2013-059) and the same selective removal criteria, population control measures, release criteria, and sex ratio adjustment strategies will be applied as described in the section above. Adaptive management will be employed that incorporates the use of the most promising methods of fertility control (as long as they are approved for use and available). Future gather dates and target removal numbers for gathers within the next 10 years will be determined based on future population surveys and a determination that "excess" horses exist within the HMA. A notice to the public will be sent out 30 days prior to any future gather.

Following the initial proposed gather to return the population to within AML, adaptive management will be used to maintain a thriving natural ecological balance with periodic gathers within the HMA over the next 10 years. "Adaptive management is about taking action to improve progress toward desired outcomes." (www.doi.gov/initiatives 2007). Knowing that uncertainties exist in managing for sustainable ecosystems and healthy wild horse populations, adjustments to the locations and populations of wild horses within the HMA may be implemented. Examples of "adjustments to locations and populations of wild horses" to supplement normal helicopter gather cycles may include: bait/water, horseback or helicopter drive trapping used to relocate or remove horses outside the HMA or to reduce wild horse numbers in areas experiencing heavy utilization levels (>50 percent current year's standing crop) or other documented resource damage due to excessive concentrations of wild horses. Bait/water, horseback or helicopter drive trapping could also be used to apply fertility control to reduce the population growth rate between gathers.

1. *Project Design Features*

- Time frame for comparison of all action alternatives is 10 years.
- Helicopter drive gather and removal operations will take approximately 7 days to complete. Several factors such as animal condition, herd health, weather conditions, or other considerations could result in adjustments in the schedule.
- Helicopter gather operations will be scheduled any time from July 1 through February 28 in any year and will be conducted under contract.

- Trap sites will be approximately 0.5 acre.
- Trap sites will be selected in areas where horses are located to the greatest extent possible and will follow the appropriate Wilderness and WSA guidance set forth in BLM Manual 6340 Section 1.6(C)20(d) (pp. 1–55) and BLM Manual 6330 Section 1.6(C)10(iii) (pp. 1–36).

In WSAs, traps will be set up on primitive routes. No new routes will be created to access a trap site.

Currently wild horses are known to reside in the Steens Mountain Wilderness west of Lauserica Road and east of the Donner und Blitzen River outside the HMA boundary (near Cold Springs area). Horses are not known to reside in the Steens Mountain Wilderness east of Donner und Blitzen River inside the HMA boundary at this time, but they have been there in the past (e.g. 20 horses were observed in this area during the July 2004 census and one horse was observed in this area during a 2009 Oregon Department of Fish and Wildlife (ODFW) flight).

- Trap sites and temporary holding facilities will be located in previously used sites or other disturbed areas whenever possible. These areas will be seeded with a seed mix appropriate to the specific site if bare soil exceeds more than 10 square yards per location. The seed applied on sites within WSA and wilderness will be a mix of native species while sites outside WSA will be seeded with a mix of desirable non-native species.
- Undisturbed areas identified as trap sites or holding facilities will be inventoried, prior to being used, for cultural and botanical resources. If cultural or botanical resources are encountered, these locations will not be utilized unless they can be modified to avoid effects to these resources.
- Trap sites and temporary holding facilities will be surveyed for noxious weeds prior to gather activities. Any weeds found will be treated using the most appropriate methods. All gather activity sites will be monitored for at least 2 years post-gather. Any weeds found will be treated using the most appropriate methods, as outlined in the 1998 Burns District Weed Management EA or subsequent documents.
- All vehicles and equipment used during gather operations will be cleaned before and following implementation to guard against spreading of noxious weeds.
- Efforts will be made to keep trap and holding locations away from areas with noxious weed infestations.
- Gather sites will be noted and reported to range and weed personnel for monitoring and/or treatment of new and existing infestations.
- Maintenance may be conducted along roads accessing trap sites and holding facilities prior to the start of gather operations to ensure safe passage for vehicles hauling equipment and horses to and from these sites. Any gravel required for road maintenance is to be certified weed-free gravel. Road maintenance will be done in accordance with the Steens Mountain Travel Management Plan (TMP) (2007) or subsequent decision. A required 30-day notice of road maintenance on Maintenance Intensity (MI) 1 roads within the CMPA will be

placed on the Burns District BLM website <http://www.blm.gov/or/districts/burns/index.php> as a press release. No road maintenance will occur on ways (routes within WSAs) or closed roads in wilderness.

- Gather and trapping operations will be conducted in accordance with the SOPs described in the Wild Horse and Burro Gathers: Comprehensive Animal Welfare Policy (IM No. 2013-059) which was created to establish policy and procedures to enable safe, efficient, and successful wild horse gather operations while ensuring humane care and treatment of all animals gathered.
- An Animal and Plant Health Inspection Service (APHIS) veterinarian will be onsite during the gather, as needed, to examine animals and make recommendations to BLM for care and treatment of the wild horses.
- Decisions to humanely euthanize animals in field situations will be made in conformance with BLM policy (Washington Office (WO) IM 2015-070, Animal Health, Maintenance, Evaluation and Response). This IM was released after the public comment period for this EA and replaces IM 2009-041 which was cited in the EA. Current policy reference: http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2015/IM_2015-070.html.
- On all horses gathered (removed and returned), data including sex and age distribution will be recorded. Additional information such as color, condition class (using the Henneke 1983 rating system), size, disposition of the animal, etc. may also be recorded.

Excess animals will be transported to Oregon's Wild Horse and Burro Corral Facility via semi-truck and trailer where they will be prepared (freeze marked, vaccinated, and dewormed) for adoption, sale (with limitations), or long-term pasture.

- Hair samples will be collected to assess genetic diversity of the herd, as outlined in WO IM 2009-062: Wild Horse and Burro Genetic Baseline Sampling. Hair samples will be collected from a minimum of 25 percent of the post gather population (approximately 40 horses).
- Public and media management during helicopter gather and bait trapping operations will be conducted in accordance with WO IM 2013-058, Wild Horse and Burro Gathers [WH&B]: Public and Media Management. This IM establishes policy and procedures for safe and transparent visitation by the public and media at WH&B gather operations, while ensuring the humane treatment of wild horses and burros.
- Emergency gathers: BLM Manual 4720.22 defines emergency situations as unexpected events that threatens the health and welfare of a wild horse or burro population, its habitat, wildlife habitat, or rangeland resources and health. Emergency gathers may be necessary during this 10-year time frame for reasons including disease, fire, insect infestation, or other occurrences of catastrophic and unanticipated natural events that affect forage and water availability for wild horses. Emergency gather operations will follow the project design elements described in this section.

2. *Monitoring*

The BLM Contracting Officer's Representative (COR) and Project Inspectors (PIs) assigned to the gather will be responsible for ensuring contract personnel abide by the contract specifications and the gather SOPs described in the Wild Horse and Burro Gathers: Comprehensive Animal Welfare Policy (IM No. 2013-059) (applies to all action alternatives).

Ongoing monitoring of forage condition and utilization, water availability, and animal health, as well as aerial population surveys will continue on the South Steens HMA (applies to all alternatives). Aerial inventories are conducted every 2–3 years for each HMA on Burns District. Population estimates for South Steens will be updated as inventories are conducted in the future.

Genetic monitoring will also continue following gathers and/or trapping. If genetic monitoring indicates a loss of genetic diversity, the BLM will consider introduction of horses from HMAs in similar environments to maintain the projected genetic diversity (applies to all action alternatives, A–D).

Fertility control monitoring will be conducted in accordance with the Population-level Fertility Control Treatments SOPs found in IM No. 2009-090, Population-Level Fertility Control Field Trials: Herd Management Area Selection, Vaccine Application, Monitoring and Reporting Requirements. (Applies to Alternative C as well).

COMMENTS RECEIVED

A scoping letter was mailed to 65 interested individuals, groups, and agencies on April 12, 2013. The scoping letter was also posted on the Burns District BLM planning webpage at www.blm.gov/or/districts/burns/plans/index.php. Letters and e-mails were received from 9,902 individuals and groups during the 15-day comment period. Scoping comments voiced concerns about the authorized level of livestock and wild horse animal unit months (AUM), fences in the HMA, real-time cameras during gather operations, where excess horses will go if holding facilities are full, data on horses gathered during the 2009 gather, the cause for horses leaving the HMA, water usage from other multiple use resources, cattleguards, maintenance of social bands during gathers, the level of predator control in the area, the use of catch-treat-release methods for population management, and the effects of a gather on wilderness characteristics. A notice of availability of the EA and unsigned FONSI were mailed to 64 interested individuals, groups, and agencies on January 28, 2015, for a 30-day public comment period. In addition, a notice was posted in the *Burns Times-Herald* newspaper on January 28, 2015. The Burns District BLM received 8,551 comments in the forms of letters and emails. BLM responses to comments can be found in Appendix A - Response to Public Comments (attached).

CHANGES TO THE SOUTH STEENS HMA POPULATION MANAGEMENT PLAN EA FOLLOWING THE JANUARY 28, 2015 VERSION RELEASED FOR PUBLIC COMMENT

- Grammatical mistakes have been corrected throughout.
- Clarifications were made where needed; these did not change context.
- Added clarification on the use of a 20 percent annual population growth to estimate population size: An exact annual population growth rate is not available for this herd so a 20 percent population growth rate is used based on the NAS (2013) explanation that growth rates approaching

20 percent or even higher are realized in many horse populations (p. 55). This annual population growth rate includes both survival and fecundity rates (NAS 2013, p. 55). (EA, p. 9).

- Added the word “excess” in two locations in the second paragraph on page 9 of the EA. These additions clarify that the horses proposed to be removed will be the excess over AML.
- Added clarification to explain the rationale for gathering 90 percent of the wild horse population: 90 percent of the herd is gathered in order to (1) select horses to return to the HMA to re-establish the low end of AML and (2) to remove excess wild horses that will be prepared for the adoption program. (EA, p. 9).
- Made clarifications to the second paragraph on page 9 of the EA regarding future helicopter gathers and the amount of horses to be gathered and removed.
- Added “treat and release” to the third paragraph on page 9 of the EA.
- Added clarification to bait, water, horseback and helicopter drive trapping on page 9 of the EA.
- Added Table 1 for a summary of the proposed methods of capturing horses for removal, relocation, and/or application of fertility treatment (EA, p. 10).
- Added clarification to the bullet discussing the application of PZP to mares being released back to the HMA (EA, p. 11).
- Additional statement that, “Bait/water or horseback drive trapping could also be used to apply fertility control to reduce the population growth rate between gathers.” (EA, p. 13).
- Added a Project Design Feature (PDF): “Trap sites will be approximately 0.5 acre.” (EA, p. 13).
- Changed wording of PDF discussing the selection of trap sites; deleted “within the pastures and areas” and added “in areas”. (EA, p. 13).
- Added a sentence in the PDF discussing the selection of trap sites: “In WSAs, traps would be set up on primitive routes. No new routes would be created to access a trap site.” (EA, p. 13).
- Clarification was made in the EA (p. 14) regarding road maintenance.
- Added two sentences to clarify future aerial inventories are scheduled: “Aerial inventories are conducted every 2–3 years for each HMA on Burns District. Population estimates for South Steens will be updated as inventories are conducted in the future.” (EA, p. 16).
- Further analysis on the effects to horses during capture, transport, and short-term and long-term holding as well as during preparation for adoption and sale was added to page 30 of the EA under Effects Common to All Action Alternatives (A–D).
- Moved a paragraph discussing helicopter gathers and bait trapping being stressful to horses up to page 31 of the EA as part of the added analysis on the effects to horses during capture, transport, and short-term and long-term holding.

- A discussion on animal responses to density dependence due to food limitations, including conclusions from the 2013 NAS report, were added to page 43 of the EA.

The new IM 2015-070: Animal Health, Maintenance, Evaluation and Response, has been attached to this Decision Record, as Appendix B, to replace IM 2009-041: Euthanasia of Wild Horses and Burros for Reasons Related to Health, Handling and Acts of Mercy (EA - Appendix C).

RATIONALE

I have selected Alternative A, Remove Excess Wild Horses and Apply Available and Approved Fertility Treatment (*Proposed Action*), based on public comments, consultation with local governments and State agencies, discussions with multiple use members of the public, requirements to manage wild free-roaming horses in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands, and conformance to applicable laws and regulations. It also meets the purpose and need for action: to return and maintain the wild horse population within the established AML on South Steens HMA; to protect rangeland resources from deterioration associated with overpopulation; to restore a natural ecological balance and multiple use relationship on public lands in the area consistent with the provisions of Section 1333(b)(2) of the Wild Free-Roaming Horse and Burro Act (WFRHBA) of 1971; to achieve a thriving natural ecological balance on public lands; to manage wild horses in a manner that assures significant progress is made toward achieving land health standards for upland vegetation and riparian plant communities, watershed function, and habitat quality for animal populations; as well as other site-specific or landscape-level objectives including those necessary to protect and manage Threatened, Endangered, and Sensitive Species (H-4700-1, 4.1.5). Alternative A also conforms to the wild horse objectives of the CMPA ROD/RMP (2005, RMP-50) and the AMU ROD/RMP (2005, RMP-50).

Selecting Alternative A allows BLM to respond to the issue of excess wild horses within the HMA using various tools to reduce the populations to within AML and maintain that level over a 10-year time frame. With adaptive management that involves incorporating the use of the most promising methods of fertility control (as long as they are approved for use and available), BLM aims to extend the years between gather cycles decreasing the frequency of stressful events, such as gathers, put on horses and reducing the amount of horses being sent to holding facilities. Reducing and then maintaining wild horse numbers within AML using available and approved fertility treatments will provide for a thriving natural ecological balance within the HMA. Maintaining AML will reduce the risk of horses experiencing periods of diminished available forage and/or water (e.g. during drought).

Alternative A was chosen over Alternative B - Alternative A *without* Applying Available and Approved Fertility Treatment because the inclusion of the use of fertility treatment is needed to slow population growth. Alternative B uses the standard operating procedures of a gather every 4–5 years to maintain AML. This alternative does not address the necessity to reduce the amount of horses being sent to holding facilities. Alternative C - Alternative A *plus* Geld Up to 30 Return Stallions was not chosen because studies show there will be no population growth suppression if only up to 30 of the returned stallions were gelded. Alternative D - Gate Cut Removal, was not chosen because fertility control will not be applied and therefore no population growth suppression will occur. In addition, horses not captured during gate cut removals will likely be the more difficult horses to gather and manage, further perpetuating that trait. Gate cut removals eliminate the ability to sort wild horses based on animal health or desirable or historical characteristics, which often results in unintended impacts to the remaining herd. Sex ratios and age distributions of the un-gathered population would also be unknown. Alternative E - No Action - Defer Gather and Removal was not chosen because BLM has observed impacts from horses on riparian and upland use areas within the HMA with current horse numbers. Taking no action on reducing horse numbers or applying fertility control will only exacerbate the problem. Rangeland health, as well as food and water resources for other animals which share the range, will be affected by resource limited (i.e. lack of water, forage, space, etc.)

horse populations which could be in conflict with the legislative mandate that BLM maintain a thriving natural ecological balance (NAS 2013, p. 56). Alternative E does not meet the purpose and need of this EA.

AUTHORITY

The effective date of this decision is 30 days from the date of the authorized officer's signature on this document. The authority to provide that all or part of a decision be effective upon issuance is found in 43 CFR 4770.3(c), "Notwithstanding the provisions of paragraph (a) of 43 CFR 4.21, 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 ecological balance and multiple use relationship shall be effective upon issuance or on a date established in the decision."

APPEAL PROCEDURES

This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with regulations contained in 43 CFR 4 and Form 1842-1. If an appeal is filed, your notice of appeal should be filed with Rhonda Karges, Field Manager, Andrews Resource Area, Burns District Office, 28910 Highway 20 West, Hines, Oregon 97738 within 30 days following receipt of the final decision. The appellant has the burden of showing the decision appealed is in error.

A copy of the appeal, statement of reasons, and all other supporting documents should also be sent to the Regional Solicitor, Pacific Northwest Region, U.S. Department of the Interior, 805 SW Broadway, Suite 600, Portland, Oregon 97205. If the notice of appeal did not include a statement of reasons for the appeal, it must be sent to the IBLA, Office of Hearings and Appeals, 801 North Quincy Street, Arlington, Virginia 22203. It is suggested appeals be sent certified mail, return receipt requested.

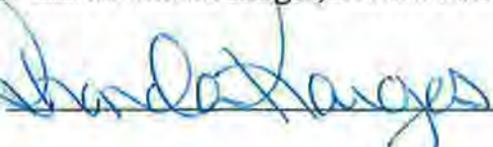
Standards for obtaining a stay—except as otherwise provided by law or other pertinent regulation, a petition for a stay of decision pending appeal shall show sufficient justification based on the following standards (43 CFR 4.21(b)):

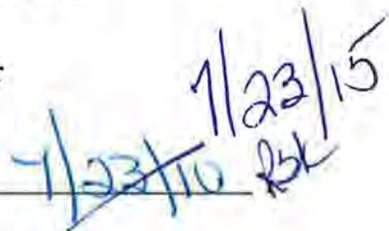
1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

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.

Authorized Officer: Rhonda Karges, Andrews/Steens Field Manager

Signature: 

Date:  ~~7/23/10~~ ^{7/23/15} RSK

Appendix A

Response to Public Comments

On January 28, 2015, a letter was mailed to interested parties informing them a copy of the Environmental Assessment (EA) and unsigned Finding of No Significant Impacts (FONSI) were available online at <http://www.blm.gov/or/districts/burns/plans/index.php> and at the Burns District Bureau of Land Management (BLM) office. The letter was mailed to 64 agencies, organizations, tribes, and other individuals. A notice was also posted in the *Burns Times-Herald* newspaper on January 28, 2015, informing the public of the availability of the EA and unsigned FONSI. The Burns District BLM received 8,551 comments in the forms of letters and email communications.

Comments are grouped by subject and have been responded to accordingly.

Urgency of Maintaining Appropriate Management Level (AML)

1. *Comment:* Overpopulation of wild horses is a significant negative impact on the viability and sustainability of grazing operations in the area. For instance, RSR has been impacted by BLM's failure to keep wild horse populations at AML for multiple years now and in relation to multiple other decisions.

Response: The EA states BLM would plan to gather as soon as holding space becomes available and BLM's Washington D.C. Office (WO) gives authorization (p. 9). All action alternatives are designed to achieve and maintain AML throughout the 10-year timeframe of this EA. Until holding space is available, various trapping methods would be used for implementation of available and approved fertility treatments (Proposed Action) to limit the increase in excess horses.

2. *Comment:* "WFRHB Act of 1971, Section 1333(b)(2)(B) requires that the "Secretary shall cause such number of additional excess wild free roaming horses and burros to be humanely captured and removed..." The law requires this to take place now, not over a 10 year period. An AML and [HMA plan] is already in place, no EA or FONSI should be required in order to comply with the AML."

Response: Refer to response to comment 1 above. Also, BLM Handbook 4700-1(2.5) directs BLM to conduct site specific analysis of population management actions (e.g. decisions to gather/remove excess WH&Bs, apply fertility control, or adjust age or sex ratios) that make progress toward achieving land use plan goals and objectives.

Wild Horse "Removal"

3. *Comment:* In your report, it states there will be 2-3 gather "cycles" in a 10 year period. What is a cycle? Are you actually stating 2-3 total gathers, or 2-3 'cycles' consisting of several gathers in each cycle?

Response: BLM Handbook 4700-1.4.4.5 defines a gather cycle as the interval between gathers. There are typically 4–5 years between gathers although the Proposed Action aims to extend the years between gather cycles using adaptive management (EA, pp.12 and 37) that involves

incorporating the use of the most promising methods of fertility control (as long as they are approved for use and available) while continuing to maintain numbers within AML and providing for a thriving natural ecological balance (TNEB) (EA, p. 38).

4. *Comment:* 90% removal is too much.

Response: In the EA (p. 9), the Proposed Action would *gather* 90 percent of the total wild horse population and *remove* excess horses down to the low end of AML. The term "excess" was added (p. 9) to clarify that the horses removed would be those over the low end of AML.

5. *Comment:* Cited from EA "Further, the Proposed Action includes a continued plan for the next 10 years in which the BLM would conduct 1-2 additional gathers, every 4-5 years, to bring population down to low AML." Unfortunately however, the proposed program focuses too heavily on removals that are unsustainable both for the Burns District Field Office, and the BLM as a whole.

Response: Refer to response to comment 1. Additional gathers within the next 10 years may be necessary if high AML is surpassed, but no more than 3 gather cycles are contemplated under the Proposed Action. Depending on the efficacy of PZP (or other available and approved fertility treatments), the time it takes to achieve the high end of AML again would vary and most likely increase with the use of fertility treatments. However, if they are not effective at slowing the population growth rate then a gather would be anticipated in 4-5 years.

Livestock Reduction and Forage Consumption

6. *Comment:* The EA must consider alternatives that would mitigate any need to remove any or all of the horses both temporarily or permanently and must provide the specific data and a complete analysis of accommodation of the present Wild Horse population without removals, making forage and water adjustments for livestock grazing, if necessary, pursuant to CRF 43 C.F.R. 4710.5(a).

Response: Closure of the HMA to livestock use was considered but eliminated from detailed analysis on page 17 and reductions in livestock animal unit months (AUM) was an issue "Considered but Not Analyzed in Detail" in Appendix D (p. 114) of the EA.

Adjustments to forage allocations are outside the scope of this analysis as forage allocations and an AML for wild horses have already been set in the Steens Mountain Cooperative Management and Protection Area (CMPA) Record of Decision (ROD) and Resource Management Plan (RMP) and the Andrews Management Unit (AMU) ROD/RMP (both August 2005). The "Purpose of and Need for Action" (EA, p. 2) identifies removals are necessary to return the population to within AML and maintain a thriving natural ecological balance.

Permitted livestock grazing is managed in response to rangeland conditions which fluctuate due to annual environmental conditions. Adjustments to permitted livestock grazing are made each year to meet utilization targets and specific resource objectives. Table 10 (EA, p. 55) documents average actual use for the three grazing allotments comprising South Steens HMA. Over the last 10 years, average actual use of permitted livestock has totaled 7,778 AUMs. The EA (p. 55) explains that voluntary reductions in permitted livestock use have occurred for a variety of reasons. The estimated population of 662 horses in 2015 equates to 7,944 AUMs of forage consumed in 12 months, which is slightly higher than the 10 year average annual use by livestock.

7. *Comment:* The EA must address adaptive management as applied to the reduction of livestock AUMs to accommodate the wild horse population.

Response: This comment is outside the scope of this project as forage allocations have already been made in the ROD/RMP. The EA (Table 10 and p. 55) addresses fluctuations in livestock actual use over the past 10 years. The EA (p. 55) explains that voluntary reductions in permitted livestock use have occurred for a variety of reasons. Therefore adaptive management has been applied over the past 10 years. The Proposed Action (p. 12) incorporates adaptive management in the management of horses to maintain TNEB over the next 10 years.

8. *Comment:* The BLM is undercharging livestock for AUM use. Forage usage by livestock, as documented by Dr. John Carter, range specialist and Utah Director for the Western Watersheds Project analyzed livestock industry data and reported that: "BLM is understating forage consumption by cow/calf pairs by a nominal 50% based on the average body condition and frame scores. The implication of this on stocking rates is obvious. Based on forage consumption alone, not considering proper utilization, forage capacity and capability factors, BLM is over stocking allotments 33% based on failure to take into account current cattle weights and calves."

Response: The AUM conversion factor for cow/calf pairs is outside the scope of this analysis as this is not a forage allocation.

Wild Horse AML Adjustments

9. *Comment:* The EA should consider and analyze raising the wild horse AML so that horses receive a fairer share of the forage allocation. The current AML of 159-304 should be raised, at minimum, to reflect a 50-50 authorized AUM split between livestock and wild horses.

Response: Raising the wild horse AML was an issue considered but not analyzed in detail in Appendix D (p. 114) of the EA. Changes to AUMs allocated to both livestock and/or wild horses would require an amendment to the Steens Mountain CMPA ROD/RMP (2005) and AMU ROD/RMP (2005), which authorize AUMs for wild horses and for livestock grazing in the allotments within South Steens HMA (Appendix A-O, pp. J-10, J-12, and J-35), and is therefore outside the scope of this EA.

Principally But Not Necessarily Exclusively...

10. *Comment:* By regulation, the BLM recognizes three types of management areas for wild horses – herd management areas (“HMAs”), herd areas, (“HAs”), and Wild Horse Territories (“WHT”). An HMA is an area “established for the maintenance of wild horse and burro herds.” 43 C.F.R. § 4710.3-1. An HA is any “geographic area identified as having been used by a [wild horse or burro] herd as its habitat in 1971” when the WH&BA was enacted. Regardless if the BLM previously decided to allow administration or multiple use of a portion of the original Herd Area where wild horses and/or burros were found at the time the law was passed, the 1971 unanimously passed Congressional Wild Horse and Burro Act gave the principal usage of that land to the Wild Horses and Burros. By law, wild horses must be allowed to remain and use the resources on their legal land. This is still federal land designated to the protection of the wild horses and burros and the

land belongs to the American people, regardless of any “agreements” regarding “control” that BLM has made – the 1971 Congressional Wild Horse and Burro Act prevails.

Response: The law's language stating that public lands where wild horses and burros were found roaming in 1971 are to be managed "principally but not necessarily exclusively" for the welfare of these animals relates to the Interior Secretary's power to "designate and maintain specific ranges on public lands as sanctuaries for their protection and preservation" - which are, thus far, the Pryor Mountain Wild Horse Range (in Montana and Wyoming), the Nevada Wild Horse Range (located within the north central portion of Nellis Air Force Range), the Little Book Cliffs Wild Horse Range (in Colorado), and the Marietta Wild Burro Range (in Nevada). The "principally but not necessarily exclusively" language applies to specific Wild Horse Ranges, not to HMAs in general. The Code of Federal Regulations (43 CFR Subpart 4710.3) describes herd management areas (§4710.3-1) and wild horse and burro ranges (§4710.3-2). In delineating each HMA, the authorized officer shall consider the appropriate management level (AML) for the herd, the habitat requirements of the animals, the relationships with other uses of the public and adjacent private lands, and the constraints contained in §4710.4. HMAs may also be designated as wild horse or burro ranges to be managed principally, but not necessarily exclusively, for wild horse or burro herds. The South Steens HMA has not been designated as a wild horse “range” and therefore must consider the factors described above in the management of the HMA.

NEPA Requirements

11. *Comment:* BLM intends to avoid the requirements of the National Environmental Policy Act (NEPA) by using this 2015 EA as the basis for 10 years of future roundups and removals in the South Steens. Current and on-going site-specific analyses will need to be conducted for each potential capture and/or removal operation that takes place in the future in this HMA or HA. The NEPA law states that the public has a right to know. Since environmental conditions change over time, the NEPA requires additional environmental analysis of and public comment on future roundups that may occur under the auspices of this proposal.

Response: This EA analyzes various wild horse management actions to meet the Purpose of and Need for Action (EA, p. 2) over the next 10 years. This 10-year timeframe enables BLM to determine the effectiveness of the Proposed Action at successfully maintaining population levels within AML in South Steens HMA (EA, p. 12). Future gather dates and target removal numbers for gathers within the next 10 years would be determined based on future population surveys and a determination that “excess” horses exist within the HMA. A notice to the public would be sent out 30 days prior to any future gather. If new information or circumstances arise during this 10-year period, a Determination of NEPA Adequacy (DNA) would be used to identify if the analysis in this EA is still valid, or if supplemental or new NEPA analysis is required. BLM Instruction Memorandum (IM) No. 2010-130 specifies a 30-day public comment period for public review of a DNA for wild horse and burro gather decisions.

Affected Environment

12. *Comment:* The EA mentions large numbers of horses disturb sage grouse, but don't excess cattle do the same?

Response: Refer to page 90 of the EA for a discussion on the effects of grazing on sage-grouse. The effects of livestock grazing on sage-grouse and their habitat are included in Rangeland Health Assessments which are discussed in the EA (p. 56) for each allotment that lies within the HMA.

13. *Comment:* Where is the detailed data and analysis of impact of all other “multiple uses” on the HMA? Examples: Water usage of each grazing allotment and oil/gas rig and wind turbine and geothermal plant and number of acres designated for buildings/equipment used in these multiple uses and all effects of these (noise and water pollution, loss of acreage, loss of water usage) on sage grouse, wildlife, and on the wild horses.

Response: Appendix D of the EA (p. 114) addressed a scoping comment regarding water usage of and acres designated to oil and gas rigs, wind turbine and geothermal plants. Chapter III. “Affected Environment and Environmental Consequences” section (EA p. 20) includes analysis of the direct, indirect, and cumulative effects on all affected resources from enacting the proposed alternatives. This section also describes the current state of the environment (affected environment by resource, Chapter III) which includes the effects of past actions. The EA (p. 21) discusses one wind energy project, the North Steens 230-kV Transmission Line Project. The project site is located completely on private land and is more than 15.5 miles from the eastern edge of the South Steens HMA. The transmission line portion runs north from the project site and crosses approximately 12 miles of BLM managed land, including portions of the Steens Mountain CMPA. Impacts from oil and gas rigs, geothermal plants, and associated infrastructure do not apply to South Steens HMA as they are not present.

14. *Comment:* Where is the accurate and comprehensible data that shows the number of animals and number of AUMs on the HMA per the 1) the Wild Horses 2) livestock and 3) foraging wildlife (deer, elk, bighorn sheep, and antelope)?

Response: Table 4 (EA, p. 28) includes data pertaining to past inventories and gathers within the IIMA since 1998. Table 10 (EA, p. 55) shows actual livestock use over the last 10 years within the allotments comprising South Steens HMA. The EA (p. 63) discusses the forage allocations for wildlife in the allotments that lie within the South Steens HMA.

15. *Comment:* EA fails to analyze and incorporate social factors affecting the Proposed Action.

Response: The EA (p. 68) fully analyzed social and economic values of the alternatives.

16. *Comment:* The EA does not sufficiently justify the Proposed Action since the law does not require that wild horses be removed merely because they are over the AML. Rather, the agency must show that the existence of the horses on the range as opposed to livestock or other factors are causing harm to the TNEB.

Response: In addition to managing the wild horse population within the AML set in the Steens Mountain CMPA ROD/RMP and the AMU ROD/RMP (both August 2005), monitoring data indicate herbaceous upland and riparian utilization levels have met or exceeded target levels. This is discussed in the “Purpose of and Need for Action” (EA, p. 2) as well as in the “Affected Environment and Environmental Consequences” section beginning on page 20.

Gather Operations

17. *Comment:* Improve transparency by installing real-time video cameras on helicopters and at trap sites and holding corrals utilized during roundups. The EA rejects this option without explanation. Given the highly controversial nature of roundups and the use of helicopters to drive horses for countless miles at unrecorded speeds, it is imperative that the BLM take this important step toward full transparency.

Response: The EA (p. 15) discusses public and media management during helicopter gather and bait trapping operations which would be conducted in accordance with Washington Office (WO) IM 2013-058 (Wild Horse and Burro [WH&B] Gathers: Public and Media Management). This IM establishes policy and procedures for safe and transparent visitation by the public and media at WH&B gather operations, while ensuring the humane treatment of wild horses and burros. The IM states, "Placement of public/media cameras or recording equipment on panels, gates and loading equipment including trucks and trailers are also prohibited". Changes to this IM are outside the scope of this EA.

18. *Comment:* We request that several basic minimum parameters are added above and beyond the Standard Operating Procedures before conducting gather operations. For instance, we encourage the BLM to cease conducting gathers at this HMA in temperatures above 90F and below 32F.

Response: Helicopter-drive captures will not occur when the ambient temperature exceeds 105°F.

19. *Comment:* Using BLM personnel and volunteers instead of contracted helicopters would save taxpayers hundreds of thousands of dollars each year.

Response: The costs associated with helicopter drive gathers and bait/water/horseback drive trapping are listed in Section G. "Social and Economic Values" (EA, p. 68). The cost of conducting each alternative is discussed in the environmental consequences portion of this section. No analysis was included in the EA regarding the use of BLM personnel and volunteers for trapping, instead of using contracted helicopters, to reduce costs because "Bait and Water Trapping Only" was an alternative considered but eliminated from detailed analysis (EA, p. 18).

Effects of Capture, Transport, and Holding on Wild Horses

20. *Comment:* Assess the impacts of short-term holding on individual wild horses. As has been demonstrated in the past, there is a significant incidence of injury and death as a result of short-term holding conditions.

Response: Further analysis on the effects to horses during capture, transport, short-term and long-term holding as well as preparation for adoption and sale was added to page 31 of the EA under "Effects Common to All Action Alternatives (A-D)".

21. *Comment:* Adequately evaluate procedures and consider new measures that would minimize potential stress and injury to wild horses during the roundup, including the standards set forth in the comments submitted by AWHPC.

Response: The EA (p. 31) discusses the risk to animals during helicopter and bait trapping and how BLM now follows IM 2013-059 Wild Horse and Burro Gathers: Comprehensive Animal Welfare Policy which was created to establish policy and procedures to enable safe, efficient, and successful wild horse gather operations while ensuring humane care and treatment of all animals gathered. The Comprehensive Animal Welfare Policy was developed through coordinated efforts from universities, government agencies, and independent equine practitioners. IM No. 2013-059 was included in the EA (p. 14) as a project design feature as well as in Appendix B (p. 107). Changes to this BLM policy are outside the scope of this EA.

22. *Comment:* The EA contains no discussion of the harmful effects of social disruption due to the shattering of family bands as a result of helicopter roundups.

Response: In the EA (Appendix D, p. 114) BLM addressed this topic, which came up during the public scoping period. As there is little to no peer reviewed publication on this topic the only effects analysis would be anecdotal.

Census

23. *Comment:* Where is the scientific monitoring research and report data for all pre and post capture actions on this HMA within the past 10 years, including but not limited to aerial and ground observation that verifies the post roundup census population of WH&B?

Response: Table 4 in the EA (p. 28) summarizes past inventories and gather events since 1998.

24. *Comment:* Provide updated and accurate census data necessary for population management and to assess efficacy of fertility control efforts and include an outline of ongoing management of the herd that includes continued monitoring of census and reproduction rates. In fact, flyovers conducted by wild horse advocates, including respected expert wildlife ecologist Craig Downer, have discovered there are far fewer mustangs and burros left in the wild than BLM claims. This inaccuracy of wild equine population numbers illustrates the dire need for an independent aerial survey to establish the actual number of wild horses in the South Steens HMA.

Response: Refer to Table 5 in the EA (p. 29). The July 2009 South Steens HMA census counted 491 horses. In November 2009, 482 horses were gathered while 22 went ungathered (9 stallions, 8 mares and 5 foals); totaling 504 horses. The July 2009 count was only 13 horses under the November gather count, thus providing confidence in the accuracy of the census count. The June 2012 census was conducted in the same manner as the 2009 census. To clarify the census schedule for HMAs in Oregon the following sentences were added to the EA (p. 16), "Aerial inventories are conducted every 2–3 years for each HMA on Burns District. Population estimates for South Steens will be updated as inventories are conducted in the future."

Census - Population Growth

25. *Comment:* "The BLM's estimate of 662 adult wild horses (plus 132 foals) is based on 2012 census data with a 20 percent population growth rate added 2013, 2014, 2015. BLM has no herd-specific data to support this population growth estimate. Further, it excludes any real or estimated

calculations for mortality rate for horses over the past five years. It appears that BLM is basing its estimate[d] horse population numbers on a zero percent mortality rate and a 100% foal survival rate. This obviously would not be based on science, and, in fact, would be based on unsubstantiated and unscientific correction factors and growth projections – for which the NAS faulted BLM in its 2013 report. Although the NAS concluded that BLM was likely undercounting horses, there is no way to know whether the BLM is undercounting or over-counting horses in this HMA, because the estimates are based on unsubstantiated estimates and outdated census counts, and actual data on population numbers is lacking.”

Response: The population estimate of 662 adult horses is based on a 2012 aerial inventory of the HMA and an estimated 20 percent population growth rate for years since. The 2012 inventory is the most recent inventory data available for South Steens HMA. The National Academy of Sciences (NAS) (CH. 2, p. 55) suggests many wild horse populations are realizing annual population growth rates of 20 percent or higher. This citation was added to the EA (p. 9) to clarify where the 20 percent annual population growth rate is derived from. This population growth rate is used to estimate wild horse populations between inventory events. This annual population growth rate includes both survival and fecundity rates (NAS 2013, p. 55); this citation was also added to the EA (p. 9) for clarification. Thus the commenter’s claim that BLM is basing its estimate on zero mortality and 100 percent foal survival is not accurate.

Aerial inventories are conducted every 2–3 years for each HMA on Burns District. Population estimates for South Steens will be updated as inventories are conducted in the future.

26. *Comment:* What is the natural attrition rate for wild horses in the HMA?

Response: These data are not available for South Steens HMA. Refer to response to comment 25 (above) for discussion on the estimated 20 percent annual population growth rate.

Compensatory Reproduction

27. *Comment:* The EA does not discuss the resultant compensatory reproduction of leaving only token populations on expansive ranges. The NAS report referred to this biological phenomenon, noting higher levels of reproduction.

Response: Acknowledgement of the NAS report’s reference to compensatory reproduction was added to the EA (pp. 34 and 43).

SpayVac, GonaCon, Chemical Vasectomy, Sterilization

28. *Comment:* Consider the use of GonaCon vaccine for mares (as an alternative to PZP) and chemical vasectomy for stallions.

Response: Both GonaCon and chemical vasectomy are forms of population growth suppression that BLM continues to look into for feasibility and effectiveness for use on wild horses. Studies of GonaCon as a contraceptive in horses are rare, as are published reports on chemical vasectomy on horses. The 2013 NAS review of the BLM WH&B program (p. 135) recommended GonaCon and

chemical vasectomy, along with PZP, as the most promising methods of fertility control however, "further research is needed before they are ready for widespread deployment for horse population management". Any new fertility treatment methods applied to the South Steens herd would be conducted following appropriate NEPA analysis, which would also include a public comment and appeal period.

29. *Comment:* Avoid using the new experimental fertility control methods such as SpayVac, GonaCon or chemical vasectomy without further analysis and public input. They may cause permanent sterility and/or changes in horse behavior.

Response: Refer to response to comment 28.

30. *Comment:* Nowhere in the 1971 Act are such horrific "management" policies [sterilization] authorized.

Response: Section 3(b)(1) of the 1971 Wild Free-Roaming Horse and Burro Act (WFRHBA) states, "The Secretary shall maintain a current inventory of wild free-roaming horses and burros on given areas of the public lands. The purpose of such inventory shall be to: make determinations as to whether and where an overpopulation exists and whether action should be taken to remove excess animals; determine appropriate management levels of wild free-roaming horses and burros on these areas of the public lands; and determine whether appropriate management levels should be achieved by the removal or destruction of excess animals, or other options (such as sterilization, or natural controls on population levels). In making such determinations the Secretary shall consult with the United States Fish and Wildlife Service, wildlife agencies of the State or States wherein wild free-roaming horses and burros are located, such individuals independent of Federal and State government as have been recommended by the National Academy of Sciences, and such other individuals whom he determines have scientific expertise and special knowledge of wild horse and burro protection, wild-life management and animal husbandry as related to rangeland management." BLM is doing just as the Act recommends of working with the National Academy of Sciences on population management.

31. *Comment:* Sterilization is not an acceptable form of wild horse population control and should not be considered under any circumstances for wild horses on the range. Sterilization cannot be safely performed in the field, past sterilization "experiments" have resulted in deaths, and sterilization destroys the unique social structure and dynamics that have insured the survival of wild horses.

Response: Sterilization in the form of gelding 30 return stallions at Oregon's Wild Horse Corrals Facility is fully analyzed in the EA, beginning on page 40.

PZP

32. *Comment:* Where is the past scientific monitoring research and report data for all contraception applications including but not limited to capture and field darting and type of fertility drug, number and estimated age of each mare darted and identifying marks of each animal for purposes of non-removal of those mares during the proposed capture and also data to include any previously castrated horses?

Response: The EA (p. 25) discusses PZP applications made following the 2009 gather.

33. *Comment:* The EA fails to explain why the BLM proposes to hold horses for four to six weeks to apply the native PZP booster when application of the booster (the second injection) can be administered two weeks after the primer is administered. The EA also fails to consider and analyze the use of the two-year PZP-22 for the Proposed Action – application of PZP-22 would eliminate the need to transport and hold horses at the short-term holding facility.

Response: The EA (p. 11) states, "Mares would be held at the facility and provided hay and water for 2–6 weeks until given the second liquid PZP injection." This holding period is derived from The Science and Conservation Center's protocol for initial PZP treatment. This citation has been added to the EA (p. 11). After an initial primer and booster vaccination, any mare captured during future gather operations would receive a booster of native PZP or time release pellets and be immediately returned to the range, unless population objectives could not be achieved without the removal of a previously treated mare. This type and method of fertility control treatment would be used in the initial gather but may be adjusted as advancements are made with available and approved fertility control treatments and methods. This clarification on the application of PZP was added to page 11 of the EA.

34. *Comment:* The EA failed to provide; the age demographic for horses returned to the range during the 2009 roundup; the reason for treating only 59 mares with PZP during the 2009 roundup, when a total of 71 mares were released; the data to support whether or not PZP-22 was effective when applied in 2009; foaling rates for mares administered PZP-22 in order to determine the efficacy and other specific data supporting the BLM position that the "ineffectiveness of treating 75 percent of mares with PZP."

Response: The protocol outlined in IM 2009-090 Population Level Fertility Control Field Trials: Herd Management Area (HMA) Selection, Vaccine Application, Monitoring and Reporting Requirements was followed in 2009. Future application of PZP would also follow this protocol or updates to the protocol as they arise.

35. *Comment:* The proposed roundup, scheduled in September, is the least effective time of the year to apply the vaccine (PZP)... However, helicopter roundups in the late winter and spring, during the optimum time of the year for an effective PZP program, would be even more inhumane th[a]n in the fall.

Response: A September gather in this area would be the most "humane" time of year to gather horses using a helicopter for several reasons. Mares have generally foaled by this time and, as compared to other times of the year, would not be likely to abort (refer to Hansen and Mosley 2000; in this study August roundups did not decrease reproductive rates); foals are generally old enough to safely travel to the trap site; and the HMA is accessible by vehicles transporting horses. These factors outweigh the additional holding costs associated with holding mares at the Burns Corrals Facility to await PZP application at the appropriate time (December through February).

PZP Plan

36. *Comment:* The South Steens HMA would qualify for the one-year dartable drug if used selectively at the appropriate time of year (late winter–early spring) with appropriate pre-darting data as well as follow-up data.

Response: Bait/water as well as horseback and/or helicopter drive trapping are included in the Proposed Action of the EA (p. 9). This section includes the capture of horses for application of fertility control as a reason for bait trapping. Intensive fertility control using remote delivery of PZP alone was an alternative considered but eliminated from detailed analysis in the EA (p. 19). Remote delivery alone, following the initial gather and application of the liquid primer of PZP, was eliminated because it is not practical due to access restrictions for timely inoculation (refer to p. 19 for this discussion).

37. *Comment:* This proposal fails to adequately describe the ongoing use of PZP to ensure the success of the fertility control program. If PZP is administered as described after the first roundup, there would be no need to roundup horses for administering the drug in the future years as it can be administered by field darting mares.

Response: Refer to response to comment 34 above. There are typically 4–5 years between gathers although the Proposed Action aims to extend the years between gather cycles using adaptive management (EA, pp.12 and 38) that involves incorporating the use of the most promising methods of fertility control (as long as they are approved for use and available) while continuing to maintain numbers within AML and providing for a thriving natural ecological balance (p. 38).

38. *Comment:* If PZP application is planned for future management, removals are not necessary and management should proceed through natural attrition and future PZP applications.

Response: The “Purpose of and Need for Action” section of the EA (p. 2) identifies removals are necessary to return the population to within AML and maintain TNEB. PZP is a tool to help get there, but removals will be necessary to bring population to AML and meet the purpose of and need for action.

39. *Comment:* The EA fails to outline in the Proposed Action the data collection on the individual horses that will be treated with PZP in order to determine the efficacy of the fertility control treatment. Without concrete and accurate data (photographs, biological information on each mare, etc.) it is difficult to impossible to evaluate the effectiveness of the Proposed Action.

Response: The EA (p. 16) as well as Appendix E (p. 119) include descriptions of how mares treated with PZP will be identified and monitored. Refer to the section titled “Monitoring and Tracking of Treatments” in IM 2009-090, Attachment 1: Standard Operating Procedures for Population-level Fertility Control Treatments.

Predator Management

40. *Comment:* While we acknowledge that the BLM does not manage wildlife on BLM lands, it is well known that the BLM routinely enters into Memorandum of Understandings (MOUs) with sister

agencies. We urge the BLM to enter into an MOU with the Oregon Department of Fish and Wildlife to limit or eliminate hunting of predators in and around the South Steens HMA.

- 40a. *Comment:* Reducing hunting tags to allow for the population of mountain lions to increase would be a natural solution to stabilizing wild horse populations... Canadian biologists found that mountain lions eat more feral horses and moose than previously thought.

Response: Cougars are the only large predator in the area that may prey on wild horses, mainly foals. Even with high cougar populations across Oregon and in the Steens Wildlife Management Unit, as described in the 2006 Oregon Cougar Management Plan, there is no evidence to suggest cougars have an effect on wild horse recruitment. Canadian biologists (Knopff et al. 2010) confirmed that wild horses were killed by cougars but all kills were of animals less than 2 years of age; "Although our seasonal result is novel, that cougar predation on large ungulate species tends to focus on animals <1 year old has been well-documented (Hornocker 1970, Turner et al. 1992, Ross and Jalkotzy 1996, Murphy 1998, Husseman et al. 2003)." They also found 0.5 percent of an adult female's diet is made up of feral horse in the summer. Thirteen percent of adult males' summer diet was feral horse while 10 percent of their winter diet was feral horse. Subadult cougars did not prey on feral horses. There was no discussion on how this amount of predation would affect wild horse population growth. In addition, the 2013 NAS report (p. 74) confirms foals are usually the prey of cougars and goes on to explain population size is not affected as much by foal survival as it is by adult survival; foal survival is strongly affected by other variables (such as weather). BLM does not make decisions on predator management but can make recommendations to Oregon Department of Fish and Wildlife. Changes to predator management are outside the scope of this EA.

Genetic Viability

41. *Comment:* Where are the detailed plans to maintain or recover the short and long term genetic diversity and health of the proposed remaining herd? Where is BLM's proof that shows that the remaining wild horse bands are able to intermingle and that there is any scientific proof that these few wild horses will remain genetically healthy? Where are the genetic testing results for this herd for the past ten years and if any genetic variation has been below mean, what the BLM has done to correct this problem to avoid further decline in genetic health of this herd?

Response: The EA (p. 25) provides a summary of past genetic monitoring performed on South Steens herd. As a project design feature in the EA (p. 15), hair samples would be collected to assess genetic diversity of the herd, as outlined in WO IM 2009-062 (Wild Horse and Burro Genetic Baseline Sampling). Hair samples would be collected from a minimum of 25 percent of the post gather population. If genetic monitoring indicates a loss of genetic diversity, the BLM would consider introduction of horses from HMAs in similar environments to maintain the projected genetic diversity (applies to all action alternatives A–D) (EA, p. 16). The EA (p. 26) discusses and compares the genetic analyses conducted from horses gathered in 2004 and 2009 and states, "Cothran (2010) summarized that current variability levels are high enough that no action is needed at this point; although, with all herds with numbers less than several hundred, the herd should continue to be monitored. If interbreeding with neighboring herds is possible, this would allow for increased variation (Cothran 2010). Full genetic reports from the 2004 gather (Cothran 2008) and 2009 gather (Cothran 2010) are available at the Burns District Office."

42. *Comment:* If a fertility control program is put in place, it is encouraged to carefully monitor the genetic viability of the herd, as there have been concerns about removing mares from the gene pool, even for a short period of time.

Response: Even with a "PZP plan" in place, genetic monitoring of the herd would continue to take place. Refer to the response to the above comment 41.

Selective Removal

43. *Comment:* During bait trapping, any select young animals can be sorted out for adoption. The band is then released as a unit. This was highly successful in the Pryor Mountains in 2012.

Response: Bait/water as well as horseback and helicopter drive trapping are included in the Proposed Action of the EA (p. 9). This section includes "to selectively remove a portion of excess horses for placement into the adoption program" as a reason for bait trapping.

44. *Comment:* Stop managing the wild horses in this HMA as a breeding population for adoption horses. Managing horses for human-based concepts such as conformation, size and color is contrary to principles of sound wildlife management. Instead, the South Steens horses should be managed in a manner that promotes natural selection and builds the natural genetic strength of this herd.

Response: Alternative D - Gate Cut Removal is analyzed in the EA beginning on page 17, description of the alternative, and page 20, Chapter III, "Affected Environment and Environmental Consequences". Gate cut removals gather excess horses to the low AML and the gather is stopped. No horses would be returned to the HMA. In this situation, wild horses would be gathered and removed regardless of age class, sex ratio, color or conformation to reach the post gather target number. Horses remaining in the HMA would not be managed to maintain the desirable characteristics of the South Steens herd.

Self-Stabilizing Population

45. *Comment:* Neither do I support the portion of the Proposed Action that implements PZP fertility control, since you should be employing Reserve Design in order to eliminate removals. ... I have visited this herd and it is in the process of filling its ecological niche in this scenic area. You should allow it to do so and then it will self-stabilize.

Response: BLM's interpretation of "Reserve Design" is hands off management of the wild horses, allowing them and all the other resources in the area to "self-stabilize" their populations. The EA (p. 43) discusses the effects to wild horses and their habitat under the "No Action Alternative - Defer Gather and Removal". The NAS report indicates rangeland health as well as food and water resources for other animals which share the range would be affected by resource limited horse populations which could be in conflict with the legislative mandate that BLM maintain a thriving natural ecological balance (NAS, p. 56). A discussion, including conclusions from the 2013 NAS report, were added to page 44 of the EA. The NAS report (p. 76) also states, "It can be expected - on the basis of logic, experience, and modeling studies that because horses or burros left to "self-limit" will be food-limited, they will also have poorer body condition on the average. If animals are in poorer condition, mortality will be greater, particularly in times of food shortage resulting from drought or severe winter weather. Indeed, when population growth rate is zero, mortality must

balance natality. Whether that is acceptable to managers or the public is beyond the purview of the committee, but it is a biological reality." Section 3(a) of the WFRHBA states the Secretary shall manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands. He shall consider the recommendations of qualified scientists in the fields of biology and ecology, some of whom shall be independent of both Federal and State agencies and may include members of the advisory board established in section 7 of this Act. BLM interprets the Act and the sciences of biology and ecology to conclude that self-limitation is not a best management practice for wild horses and burros.

Fences

46. *Comment:* Please provide information that shows fence lines and how they prevent or assist wild horses from intermingling and/or from seasonal migration as well as the purpose for each fence and the effect of each fence on the wild horses – including details with justification and impact on the horses and effectiveness of all fences for wild horse management? The EA fails to analyze and address in detail these issues and possible actions that could be taken to mitigate the negative impacts that fencing is having on wild horse movement.

Response: Appendix F (p. 120) of the EA includes a map showing locations of all fences within the HMA. The EA (p. 114) Appendix D addressed issues raised during public scoping; removal of fences was addressed. Impacts of fences or other range improvement projects are fully analyzed in site-specific NEPA analysis for the range improvement project. This EA does not propose any new fences. Current management in the area includes leaving all the internal gates open when livestock are not present to facilitate movement of wild horses across the HMA.

Euthanasia of Excess Horses

47. *Comment:* Excess horses that must be gathered, that have no demand for adoption, should be humanely disposed of. Currently, U.S. zoos buy horse meat from Canada to feed their big cats. Perhaps the older horses could be euthanized and the bodies transported to zoos. Placing horses into feedlots when there is no demand for their adoption was never a part of the "saving" of the mustangs.

Response: Analysis of euthanasia of excess horses for use as a food source for zoo animals is outside the scope of this EA.

Adaptive Management

48. *Comment:* Adaptive Management must be considered and the public must be allowed to comment and to suggest solutions on actions in a holistic manner. Piecemeal methods of public land management by the BLM are not positive for the land or the wild herds, and limit solutions to mend the situation. Adaptive Management must be considered and the public must be allowed to comment and to suggest solutions on actions in a holistic manner.

Response: Refer to response to comment 1 regarding adaptive management. Public scoping (EA, p. 6) was conducted for this project.

Wilderness, WSAs, and Road Maintenance

49. *Comment:* [Oregon Natural Desert Association] ONDA continues to have concerns about impacts to Wilderness and Wilderness Study Area (“WSA”) resources from the proposal. Similar to the concerns expressed in our comments regarding the 2009 proposal for the South Steens HMA, BLM has not disclosed and specified critical elements of the project design including surface disturbing activities within Wilderness and WSA. The EA states that activities would likely take place within both Wilderness and WSA but does not adequately explain the proposed locations of those activities or the impacts that are likely to result....

Response: Ground disturbing activities (trap sites) are described starting on page 13 of the EA. The EA has been modified to state the trap site location would be approximately 0.5 acre (EA, p. 13). The EA analyzed the effects of trap sites under “Soils and Biological Soil Crusts” and “Upland Vegetation” on pages 75 and 59, respectively. The proposed locations of these activities would occur along or adjacent to existing routes identified in the Travel Management Plan (TMP) (or subsequent amendments) including closed roads in wilderness in accordance with the Minimum Requirements Decision Guide (MRDG). However, every effort will be made to remain on open roads and within the road buffers (Loop Road bound by wilderness has a 100 foot buffer while primitive roads bound by wilderness have a 30 foot buffer (e.g. Cold Springs Road)). Because it is difficult to predict the location of the horses when it is time to gather, an exact location cannot be forecasted. Prior to the gather, a flight occurs to determine horse locations. Once the locations are known, trap sites are placed in close proximity to horses. In WSAs, traps would be set up on primitive routes. The EA has been changed on page 13 to reflect no new routes would be created to access a trap site.

50. *Comment:* The Proposed Action indicates that road maintenance activities may be conducted, but fails to specify any locations for this activity or include any information about the nature or extent of the maintenance.

Response: Please see response to comment 49 regarding locations of disturbance. Maintenance activities would follow direction from the Transportation Plan (TP) (Appendix M of the Steens Mountain CMPA RMP/ROD) and the TMP or subsequent amendments. Primitive routes (ways) within WSAs would not be maintained except by passage of a vehicle.

51. *Comment:* ONDA requests that BLM provide a map or maps in the EA identifying all roads or routes where maintenance is proposed to take place under the Proposed Action and a detailed description of the type and extent of the proposed maintenance activities.

Response: Please see response to comment 50 regarding road maintenance. Roads are generally maintained if needed for reasonable and safe passage of vehicles (depending on availability of funding). Because this is a 10-year plan, it is difficult to predict which roads would require maintenance and when. The BLM, as part of the Burnt Car Settlement, notifies the public 30 days in advance of any maintenance activities on Maintenance Intensity (MI) 1 roads.

52. *Comment:* Notifying the public about particular road maintenance activities via press release only after a final project decision has been taken prevents public review and comment on specific maintenance actions. See EA at 12 (“A required 30-day notice of road maintenance within the CMPA would be placed on the Burns District BLM website . . . as a press release.”).

Response: During the RMP and TMP processes, as well as the current Comprehensive Recreation Plan (CRP) process, there have been multiple opportunities for public review and comments regarding roads and road maintenance. The TP in the RMP defined maintenance levels. The TMP incorporated the TP into the Decision and identified routes available for public and administrative purposes.

53. *Comment:* Despite these policy citations the Proposed Action fails to acknowledge that the emphasis of Manuals 6330 and 6340 pertaining to Wild Horse gathers is to avoid the location of traps, use of motorized vehicles, and road maintenance activities in WSA and Wilderness. In particular, the EA does not adhere to Manual 6330 despite having cited, EA at 80, that direction in justifying the Proposed Action. See BLM Manual 6330, Chapter 1.6.D.10.c (“Vehicles necessary for set-up and take-down of traps and for transporting excess wild horses and burros away from the area may be driven off of existing primitive routes or boundary roads *on a route specified through the NEPA analysis.*”) (emphasis added).

Response: Road maintenance in WSAs or wilderness is not proposed nor is off-road travel.

54. *Comment:* Furthermore, the Minimum Requirements Decision Guide document (“MRDG”) completed for the Proposed Action fails to adequately assess whether the Proposed Action is the minimum necessary because there is no analysis of the specific routes to be used to locate traps or where road maintenance activities would take place. While acknowledging that new surface disturbance from maintenance to allow truck and trailer access and from vehicular traffic, the EA and MRDG fail to quantify or specify the nature of these impacts.

Response: Please see response to comments above regarding road maintenance, routes to be used, and effects to soils and vegetation. The MRDG is a document to identify the minimum tool. The specific impacts of implementing the minimum tool are described in the EA by resource.

55. *Comment:* The EA also fails to include analysis of impacts to naturalness stemming from road maintenance activities in Wilderness or WSA, instead asserting that naturalness would be maintained in the long term. The analysis must include some specific discussion of potential impacts to naturalness from road maintenance and other surface disturbing activities. The EA and MRDG also fail to analyze different access routes to support the finding that the proposed level of access is the only, and therefore necessary, means of accomplishing the gather.

Response: Please refer to response to comments above regarding road maintenance and locations. In addition, refer to page 81 (beginning of the “Environmental Consequences - Wilderness” section) of the EA regarding effects to naturalness. The purpose of the MRDG is to identify the minimum tool necessary to complete a project within wilderness, not alternatives for different access routes.

UNITED STATES DEPARTMENT OF THE INTERIOR
 BUREAU OF LAND MANAGEMENT WASHINGTON,
 D.C. 20240 <http://www.blm.gov>
 March 4, 2015

In Reply Refer To:
 4750 (260) p

EMS TRANSMISSION 03/24/2016
 Instruction Memorandum No. 2015-070
 Expires: 09/30/2018

To: All Field Office Officials (except Alaska)
 From: Assistant Director, Renewable Resources and Planning
 Subject: Animal Health, Maintenance, Evaluation and Response

Program Area: Wild Horse and Burro (WH&B) Program

Purpose: The purpose of this Instruction Memorandum (IM) is to establish policy and procedures for the proactive and preventative medical care of animals managed by the WH&B Program including deworming, vaccination, evaluation of animal condition and determination of an appropriate end-of-life action when indicated for reasons of an act of mercy, health or safety.

Policy/Action: Effective immediately, all Bureau of Land Management (BLM) Washington DC, state, district, and field offices must comply with the policies described in this IM. The key contents of this policy are:

- Deworming and vaccination schedule, diseases to vaccinate against and frequency of treatment (Attachment 1).
- Animal evaluation and response that includes evaluating animal health, body condition scoring, and the authority, training, approved methods, reporting documentation and reasons for ending an animal's life as an act of mercy, health or safety (Attachment 2, 3 and 4).

Timeframe: All portions of this policy are effective immediately with the exception of the formal training requirements identified in Attachment 2. For a period of three months from the date of issuance of this policy, personnel who already have experience performing euthanasia but have not yet received formal training may continue to do so for emergency situations when a trained person is not immediately available, as a last resort. After this time, only personnel trained by a veterinarian may end an animal's life as an act of mercy, health or safety.

Budget Impact: This memorandum is a reissuance and an update of existing policy with minimal changes. This reissued guidance does not result in costs beyond those already incurred under existing policy except for the additional training requirements for personnel authorized to end an animal's life. The cost for the required training is about \$250 per person depending on the training venue. The cost of vaccinations and deworming for animals in off-range corrals is \$85 during the first year and \$40 annually thereafter for booster vaccinations. Annual deworming and vaccinations are not administered to animals in off-range pastures. The cost to end an animal's life ranges from \$50 to \$250 depending on circumstances.

Background: The authority for ending a wild horse or burro's life is provided by Public Law 92-195, Wild Free-Roaming Horses and Burros Act of 1971 Section 1333 (b)(2)(A) and 43 CFR 4730.1. The policy contained in this IM amends and/or replaces previous policies contained in BLM Manual 4750-1 Wild Horse and Burro Preparation and Management Handbook and in BLM Manual H-4700-1 Wild Horses and Burros Management Handbook.

The administration of vaccines and dewormer to the wild horses and burros removed from the public lands and maintained at off-range corrals has been a long-standing practice within the Wild Horse and Burro Program and is a required health care standard operating procedure. Decisions to end a wild horse or burro's life for reasons related to acts of mercy, health, and safety require that the BLM evaluate individual animals affected by injury, physical defect, acute, chronic or incurable disease, severe tooth loss, poor condition, old age or behavior characteristics posing safety hazards to handlers. During gathers, the animal's ability to survive the stress of removal and its probability of surviving on the range, as well as the animal's welfare and potential for suffering if released or transported to a BLM off-range preparation facility, are all considered. Humane, long-term care of wild horses and burros located at off-range corrals, pastures, ecosanctuaries and other facilities require periodic evaluation of their condition by qualified BLM personnel or a veterinarian to provide for their well-being. These evaluations will, at times, result in decisions that require ending an animal's life.

Manual/Handbook Sections Affected: BLM Manual 4750-1 Wild Horse and Burro Preparation, Chapter III - Identification and Basic Health Care will need to be amended to provide for rabies and West Nile vaccinations required by this and previous IMs. The Wild Horses and Burros Management Handbook, H-4700-1 section 4.9 is superseded by this IM and replaced in its entirety.

Coordination: This IM was coordinated among WO-200, WO-260, WO-800, WH&B state leads, WH&B specialists, and WH&B facility managers.

Contact: Any questions regarding this IM can be directed to Joan Guilfoyle, Division Chief, Wild Horse and Burro Program (WO-260), at 202-912-7260.

Signed by:
 Shelley J. Smith
 Acting, Deputy Assistant Director
 Resources and Planning

Authenticated by:
 Robert M. Williams
 Division of IRM Governance, WO-860

4 Attachments

- 1 - De-worming and Vaccination Schedule (1p)
- 2 - Animal Evaluation and Response (9 pp)
- 3 - Henneke Equine Body Scoring Chart (1p)
- 4 - Final Gather Data Report (2 pp)

Attachment 2: Animal Evaluation and Response

A. Euthanasia for Reasons Related to Act of Mercy, Health and Safety

The Authorized Officer (AO) will euthanize or authorize the euthanasia of a wild horse or burro when any of the following conditions exist.

- (1) A chronic or incurable disease, injury, lameness, or serious physical defect (includes severe tooth loss or wear, club foot, and other severe acquired or congenital abnormalities);
- (2) A Henneke body condition score (Attachment 3) of less than three with a poor or hopeless prognosis for improvement;
- (3) An acute or chronic illness, injury, physical condition, or lameness that cannot be treated or has a poor or hopeless prognosis for recovery;
- (4) An order from a state or federal animal health official authorizing the humane destruction of the animal(s) as a disease control measure;
- (5) The animal exhibits dangerous characteristics beyond those inherently associated with the wild characteristics of wild horses and burros; or
- (6) The animal poses a public safety hazard (e.g., loose on a busy highway) and an alternative remedy (capture or return to a herd management area (HMA)) is not immediately available.

B. Authorized Delegations and Required Training

I. Authority to Authorize Euthanasia

Decisions regarding the euthanasia of a wild horse or burro rest solely with the Bureau of Land Management's (BLM's) AO, defined in 43 CFR 4700.0-5 as "any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described herein," and further defined by BLM Manual - 1203 or the Authorized Officer's Representative (AR) (persons designated by the AO as described in 43 CFR 4730.1). In some cases, the decision to euthanize an animal must be made in the field and cannot always be anticipated. To minimize suffering by providing euthanasia in a timely manner, managers should have a sufficient number of individuals trained to perform euthanasia that meet the state director's firearm standards, the requirements outlined in 43 CFR 4700, and in this Instruction Memorandum . When possible, a veterinarian should be consulted prior to euthanasia unless circumstances necessitating euthanasia are obvious (e.g., a broken leg or other severe injury) and a logistical delay in obtaining this consultation would only prolong an animal's suffering.

II. Authorization to Perform Euthanasia

Authorized Officers may delegate the authority to perform euthanasia in writing to anyone known to the AO to have the required training, skill, experience, and equipment to perform euthanasia described in this policy (See Section D, How Euthanasia Will Be Performed). Individuals to whom the AO may consider delegating this authority include: BLM employees, veterinarians, individuals under contract with the BLM, individuals performing duties under assistance agreements with the BLM, federal or state wildlife management officers, animal control officers, and law enforcement officers.

On gathers, at preparation facilities (facilities where animals are prepared for transport or adoption), at short-term holding (STH) or long-term pasture (LTP) facilities, inmate training facilities and at eco-sanctuaries, the AO is responsible for ensuring trained personnel are available to perform euthanasia at appropriate times. This includes anytime when wild horses or burros are being captured, sorted, worked, or loaded for transportation, regardless of location. At adoptions and public events, the AO will ensure that a veterinarian is on-site or on-call to perform timely and discreet euthanasia if necessary as an act of mercy.

III. Training Requirements

Only persons trained by a veterinarian will be authorized to perform euthanasia. This training may be provided by any veterinarian known to the AO to have the necessary knowledge and experience to provide this guidance to lay persons. This training will not be required to be completed on an annual basis; however, the Washington Office (WO) may direct individuals to take refresher training if there are significant changes in the acceptable practices.

When a firearm is used to perform euthanasia by a non-BLM employee, that individual must have formal training or certification in firearms safety. Appropriate certification for non-BLM personnel would include a hunter or firearms safety qualification recognized as satisfying a state-mandated hunter safety requirement or a firearms safety class certified by the National Rifle Association, law enforcement, or military program.

BLM employees performing euthanasia must be authorized to use a firearm by the state director and meet all requirements specified in the state office firearms policy. If a state has not issued a firearms policy addressing Wild Horses and Burros (WH&B) euthanasia, the BLM employees performing euthanasia must complete annual training for certification in firearms safety and shooting proficiency in accordance with the BLM Handbook H-1112-2, Safety and Health for Field Operations.

C. Euthanasia Related to Specific WH&B Management Activities

I. Euthanasia During Gather Operations

This section sets euthanasia policy during WH&B gather operations. For a description of the Organizational Chain of Command at gathers as well as roles and responsibilities of all gather personnel and contractors, see IM No. 2013-060, Wild Horse and Burro Gathers: Management by Incident Command System.

During gather operations, the Lead Contracting Officers Representative (COR), as delegated by the AO prior to the gather, will authorize the release or euthanasia of any wild horse or burro that they believe will not tolerate the handling stress associated with transportation, adoption preparation, or holding. No wild horse or burro should be released or shipped to a preparation or other facility with a preexisting condition that requires immediate euthanasia as an act of mercy. The Incident Commander (IC) or COR should, as an act of mercy and after consultation with the on-site veterinarian, euthanize any animal that meets any of the conditions described in A 1 through A6 above.

II. Euthanasia On-The-Range

This section sets euthanasia policy for the BLM in field situations associated with on-the-range WH&B management, including lands other than those administered by the BLM where WH&Bs are present.

The BLM WH&B specialist responsible for management of an HMA will evaluate the condition of wild horses and burros throughout the year during routine resource monitoring efforts. If an animal is found to be suffering from any of the conditions listed in A 1 through A6 above, the animal should be euthanized, if possible, on the range as an act of mercy. If euthanasia is not possible, humane killing as described in Section D below may be performed as an act of mercy.

On the range, the euthanasia may be performed by any BLM employee or other qualified individual that has been delegated that authority by the AO, has had the required training in euthanasia and firearms safety as described above and has the appropriate equipment available.

III. Euthanasia at Short-Term Holding, and Preparation and Inmate Training Facilities

This section sets euthanasia policy for the BLM in short-term holding (STH) facilities. If euthanasia is necessary at a STH facility, it will be performed by a trained and qualified individual as authorized by the AO. The BLM employees and contractors follow comprehensive animal welfare guidelines to protect the health and welfare of wild horses and burros under their care. However, acute or chronic problems can develop during captivity and the handling of wild animals that are most humanely addressed by euthanasia. Some conditions may not

immediately be apparent during gathers or other points of origin, require additional assessment or evaluation over time, or may best be addressed after an animal is moved to a STH or preparation facility. Euthanasia at all STH and preparation facilities will be applied as follows:

(a) If an animal is affected by any of the conditions described in A1 through A6 above that causes acute pain or suffering and immediate euthanasia would be an act of mercy, the AO or AR must ensure the animal is immediately euthanized.

(b) If an animal is affected by any of the conditions described in A 1 through A6 above, but is not in acute pain, the AO should first consult a veterinarian. For example, if the animal has a physical defect or deformity that would adversely impact its quality of life if it were placed in the adoption program or in long-term pasture facilities, but acute suffering is not apparent, a veterinarian should be consulted prior to euthanasia. If the consultation confirms the animal meets a condition described in A 1 through A6 above, the animal will be euthanized in a timely manner.

(c) If the AO or AR concludes, after consultation with a veterinarian, that an animal in a STH facility is affected by any of the conditions described in A 1 through A6 or cannot tolerate the stress of transportation to another facility or adoption preparation, then the animal will be euthanized.

IV. Euthanasia at Long-Term Pasture Facilities or Eco-Sanctuaries

This section sets euthanasia policy for the BLM at LTP and eco-sanctuary facilities.

For LTPs, the BLM COR or Project Inspector (PI), and for eco-sanctuaries, the Program Officer (PO) or PI responsible for oversight of the agreement will evaluate all horses and burros and establish their body condition periodically throughout the year, particularly if the facility is experiencing drought or some other event which might limit forage availability. During the year, if any animal is affected by any of the conditions listed in A 1 through A6 above, the COR, PO, PI, contractor, partner or another person authorized by the AO and meeting the requirements found in Section B of this IM will euthanize that animal, if possible. On an annual basis, a team will formally evaluate the condition of each animal on the LTPs and eco-sanctuaries. The evaluation team will consist of a BLM WH&B specialist and a U.S. Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) or other veterinarian acceptable to the BLM. The action plan for the formal evaluation is as follows:

(a) All animals will be inspected by field observation to evaluate their apparent health, overall condition and body condition, and identify animals that may need to be euthanized to prevent a slow death due to a

deterioration of their condition. This evaluation will be based on a visual inspection and the Henneke body condition scoring system. The evaluations should be conducted prior to severe winter weather to identify horses with body condition scores of three or less.

(b) Animals with a body condition score of three or less that appear to be acutely suffering will be euthanized in the field by the PI or designated person such as the contractor, within 24 hours of the evaluation. Animals that are chronically affected with a body condition score of less than three will be euthanized within two weeks. Horses with a score of three will remain in the field and will be re-evaluated by the contractor and the PI for that contract in 60 days to see if their condition is improving, staying the same or declining. Those that are declining in condition will be euthanized as soon as possible after the second evaluation.

(c) Arrangements for carcass disposal for euthanized animals will be in accordance with applicable state and county laws and ordinances.

V. Euthanasia During Transportation

Problems can develop during transport, or become exacerbated by transportation, of an animal. If emergency euthanasia is necessary during transportation for any of the conditions described in A 1 through A6 above, the truck driver will immediately contact the AO, the COR, or other identified BLM representative. Under these circumstances, a veterinarian should be contacted immediately to evaluate the animal and perform euthanasia if indicated as soon as possible. If necessary, the animal(s) may need to be off-loaded at the closest BLM or suitable livestock handling facility to ensure that euthanasia can be performed safely and effectively.

VI. Euthanasia at Adoptions or Public Events

The AO will ensure that a veterinarian is on-site or on-call and available to respond within two hours at any adoption or public event. If a veterinarian is unable to respond within that timeframe, the animal should be loaded on to a trailer and taken to the closest qualified veterinarian. The AO will consult with the veterinarian prior to deciding to euthanize an animal and the veterinarian will perform the euthanasia in a timely and discreet manner.

VII. Euthanasia of a Large Number of Animals

When the need for euthanasia of a large number of animals is anticipated for reasons related to acts of mercy, chronic or acute injury, disease or safety, the likely course of action should be identified and outlined in advance whenever possible. When field monitoring and pre-gather planning identify an increased likelihood that large numbers of animals may need to be euthanized during a

gather, this should be addressed in the gather plan. In an on-the-range, preparation, STH, LTP, or eco-sanctuary facility situation, where a gather is not involved, advance planning should also be completed by the AO whenever possible. Arrangements should be made for a USDA APHIS or other veterinarian experienced with WH&B to visit the site and consult with the AO on euthanasia decisions. This consultation should be based on an examination of the animals by the veterinarian. It should include a detailed, written evaluation of the conditions, circumstances or history of the situation and the number of animals involved.

Where appropriate, this information should be specific for each animal affected. During this planning stage, it is critical that the AO include the state office WH&B program lead, appropriate state office, district office, and field office managers, and any contractors that may be involved.

VIII. Euthanasia of Unusually Dangerous Animals

Unusually aggressive wild horses and burros can pose an unacceptable risk of injury to personnel when maintained in enclosed spaces where some level of handling is required. In rare cases, animals on the range can also be dangerous to domestic animals and/or people. When a horse or burro is unusually dangerous, it is reasonable to conclude that an average adopter could not humanely care for the animal as required by the regulations (e.g., provide proper transportation, feeding, medical care and handling, 43 CFR 4750.1). The BLM cannot solve the problem by removing unusually dangerous animals from the adoption system and placing them in a LTP or eco-sanctuary facility because this resolution also poses significant risk of injury, both to animals in transport, and to the BLM personnel and LTP and eco-sanctuary operators.

When deciding to euthanize an animal because it is unusually dangerous, the AO, in consultation with a veterinarian or other individuals with expertise in animal care, handling and behavior (as designated by the AO), must determine that the animal poses a significant and unusual danger to people or other animals beyond that normally associated with wild horses and burros. The AO must document the aspects of the animal's behavior that make it unusually dangerous and include this documentation in a report which should be maintained in the appropriate HMA case file and recorded in the Wild Horse and Burro Program System (WHBPS).

D. How Euthanasia will be Performed

When necessary, euthanasia will be performed in a dignified and discreet manner that is recognized and approved by the AVMA in their Guidelines for the Euthanasia of Animals: 2013 Edition. Two methods will be used as follows: 1) injection of a lethal dose of a barbiturate derivative such as sodium pentobarbital solution, or 2) gunshot to the brain of an animal that is calm and still, or humanely-restrained.

- **Injections**
Only commercially available pentobarbital products will be used for injectable euthanasia of conscious animals. Products will be administered by a veterinarian or technician working under the supervision of a veterinarian as may be dictated by state or federal regulations. Consideration must be given for timely and appropriate carcass disposal when animals are euthanized by injection of pentobarbital products. When injectable agents are used, the veterinarian supervising the euthanasia process is responsible for ensuring carcasses are properly disposed of so tissue residues do not threaten wildlife species that may be attracted to and consume blood or carrion from euthanized animals.

- **Gunshot**
A properly placed gunshot to the brain of an animal that is calm and still, or humanely-restrained, instantly produces an unconscious state followed quickly by a painless and humane death. This method of euthanizing wild horses and burros requires only a minimum of handling and restraint; and, when performed on the range, drug residues that may poison wildlife or enter the environment following carcass disposal are not a concern. Only qualified and experienced persons skilled in the safe handling and use of firearms and trained by a veterinarian will perform the procedure. The optimal placement of a gunshot is from the front of the animal, perpendicular to the skull at a point one inch above the intersection of two imaginary diagonal lines drawn like an "X" from the eyes to the base of the ears. Typically, when euthanizing a wild horse or burro in this manner, the animal will be approached to within five-to-six feet and the gun will be held within a few inches or up to two-to-three feet from the animal.

For familiarity among operators, the preferred firearm for routine use will be a 22 magnum caliber revolver. A 22 long rifle caliber revolver may also be used and some other types and calibers of firearms typical for law enforcement or self-defense use (9mm, 38, 357, 40, or 45 calibers), if they are familiar to the operator. Carbine rifles in lieu of a handgun in these same calibers can also be effective when used at the same distances described above for handguns. The 22 magnum is highly effective, easily controlled and offers the lowest risk of ricochet or having the bullet exit the carcass. Only hollow point or other controlled expansion types of bullets should be used to maximize tissue destruction while minimizing the risk of ricochet or having the bullet exit the carcass. Animals may be euthanized while standing calmly on a trailer or confined in a small pen, portion of an alleyway or chute if the operator can get adequate visual and physical access to the animal. This is most easily and safely accomplished if the operator can be positioned above the animal. Animals that may be agitated, fractious or will not stand calmly may need to be placed in a chute or tied down for restraint; and this may be preferable for safety and

reliability. Euthanasia should not be attempted when restraint is not adequate or the animal is not standing quietly. Animals moving freely in a large open pen are generally not adequately restrained and euthanasia should not be attempted. When more than one animal must be euthanized at one time, the procedure may be done at one time in the same trailer or chute, but they should be in separate compartments.

Following euthanasia, death must be verified prior to moving the carcass for disposal. The animal should be examined for cessation of vital signs including pulse and rhythmic breathing. Complete pupillary dilation and a lack of the corneal reflex are other indicators that death has occurred. Unconscious animals should only be restrained, handled and moved as if they were conscious until death is confirmed. Carcass disposal should be in accordance with state and local requirements, where applicable.

As recognized by the American Veterinary Medical Association (AVMA), circumstances exist with free-roaming wild animals where capture and chemical or physical restraint may not be practical prior to euthanasia and may only serve to prolong or exacerbate the distress of an injured or suffering animal. Under these conditions, and when an animal cannot be approached within a few feet, humane killing may be indicated to end the animal's suffering as quickly and humanely as possible. In these instances, methods typically used when hunting big-game animals of North America (e.g., elk, moose) in an ethical and responsible manner will be employed. It is not appropriate in these instances to use smaller caliber (e.g., 5.56 mm) rifles or other weapons targeted at the brain from longer distances. High-powered rifles targeted at the heart/lung or shoulder areas of an animal standing still and at typical hunting distances will be used in this circumstance.

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For familiarity among operators, the recommended firearm for this routine use is a bolt-action scoped rifle in a 30-06 caliber. Other firearm types and calibers with similar killing power typical for hunting large North American big-game animals (7mm magnum, .270, .308, .338 Win Mag, etc.) may be used if they are familiar to the operator; however a .30-06 bolt action scoped rifle sighted in for 200 yards offers a predictable and ethical means of quickly killing a large animal in the most humane manner possible under these circumstances. Only hollow point or other controlled expansion types of bullets should be used to maximize tissue destruction and minimize the risk of ricochet. It is not appropriate to substitute the use of a high-powered rifle from a distance for euthanasia using a gunshot to the brain when an animal can be restrained or in situations such as during gathers, or at temporary or STH facilities when restraint and use of a more conventional euthanasia technique can be applied.

As noted by the AVMA Panel on Euthanasia, the psychological response experienced by people when observing euthanasia or death in any form is an emotional one dependent on the background of the observer. Grief and distress over the loss of life are the most common reactions. Expert technique and maintaining a calm and professional atmosphere during the procedure can help minimize these reactions in the persons who must perform the procedures as well as co-workers or bystanders. For safety as well as discretion, only mission-critical persons should be nearby when euthanasia is performed.

The BLM employees and contractors involved in or observing the process should behave in a dignified and discreet manner that avoids public spectacle. While these considerations should not outweigh the primary responsibility of using the most rapid and painless euthanasia method possible under the circumstances, animals should be euthanized and carcasses moved away from public view whenever possible; animals may need to be moved off-site prior to euthanasia. In some circumstances, the use of tarps or vehicles as a visual screen may also be appropriate.

As noted by the AVMA, circumstances may arise that are not clearly covered by any policy or set of guidelines for euthanasia. Whenever such situations arise, a veterinarian experienced with wild horses and burros should be consulted for their professional judgment of acceptable techniques for euthanasia. The animal's species-specific physiologic and behavioral characteristics, size, approachability and degree of suffering will be taken into consideration. In all situations, the method of euthanasia that minimizes suffering and distress of the animal will be chosen.

E. Documentation and Reporting of Euthanized Animals

A record of an animal's death by euthanasia during a gather, during transport, at facilities or during an adoption event, will be maintained by the BLM within WHBPS. The death record will identify the animal by using a description and/or freeze mark if present, the date of the death, where the animal died and the reason(s) that euthanasia was performed. If the euthanasia was performed in the field or during a gather operation, then a copy of the death record should also be maintained in the appropriate HMA case file.

When euthanasia is performed at a gather, the lead COR or IC, in addition to the process detailed above, will report the actions taken during gather operations in the comment section of the Daily Gather Overview, and in the Final Gather Data Report (Attachment 4) in accordance with IM No. 2013-061, Wild Horse and Burro Gathers: Internal and External Communication and Reporting.

F. Planning and Communication

The WH&B specialist or the BLM employee responsible for an HMA, facility or public event is responsible for having a euthanasia plan of action in place at all times where there are federally protected wild horses and burros. The plan will address practical considerations such as (1) who will have designated authority to make decisions regarding euthanasia; (2) who will perform the procedure; (3) what method(s) of euthanasia will be used; and (4) how carcass disposal will be addressed.

When a large number of animals may need to be euthanized, a communications plan for internal and external contacts (including early alerts to state and Washington offices) should be developed in advance and implemented concurrently while addressing the situation at-hand. The communications plan should address the need for the action, as well as the appropriate messages to the public and the media, including why animals are

being euthanized and how the action is consistent with the BLM's responsibilities and policy.

All operation plans for gathers, adoptions and public events where it is possible that animals may need to be euthanized will include contingency plans that address the capability for performing the function. Each state will develop and implement a training and certification plan for those employees that will be tasked with euthanizing animals.

A veterinarian will be present or on-call for all gathers, adoptions, and public events.