

**United States Department of the Interior
Bureau of Land Management**

Environmental Assessment DOI-BLM-MT-0010-2015-0018-EA

Finding of No Significant Impact and Decision Record

**Pryor Mountain Wild Horse Range Non-Helicopter Gather
Environmental Assessment DOI-BLM-MT-0010-2015-0018-EA
Tiered to the
Pryor Mountain Wild Horse Range/Territory Environmental
Assessment MT-010-08-24
And Herd Management Area Plan May 2009**



**U.S. Department of the Interior
Bureau of Land Management
Billings Field Office
Billings, Montana 59101
Phone: 406-896-5013
FAX: 406-896-5281**

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Finding of No Significant Impact
Billings Field Office
Pryor Mountain Wild Horse Range Bait/Water Gather

INTRODUCTION

The Bureau of Land Management has completed an Environmental Assessment DOI-BLM-MT-0010-2015-0018 (EA) for conducting bait/water trapping gathering and removal of excess wild horses within the Pryor Mountain Wild Horse Range (PMWHR) Alternative A with mitigation is adopted as the decision and is designed to further implement the PMWHR Herd Management Area Plan (HMAP) through the use of selective removal considerations, ongoing management actions such as fertility control, range improvements, and natural management in order to maintain the appropriate management level of 90-120 wild horses, achieve a thriving natural ecological balance and multiple use relationships. Gather operations would most likely commence in July, 2015 and last for several years utilizing primarily bait trapping, limited water based trapping, and occasional herding of horses to alleviate crowding and help locate bands.

After review and analysis of comments within scope of the EA, along with questions from interested parties, refinements, small changes, and additional mitigation have been incorporated into the Proposed Action and Alternative A of the EA. Additions to the EA have been added in order to allow interested parties to better comprehend the National Environmental Policy Act (NEPA) planning processes, to address misperceptions and misunderstandings of management of the PMWHR, educate the public about misinformation, and better explain information within the document. All changes and additions to the document are highlighted in gray (within the EA) to better help interested parties track the additions and changes from the preliminary document. Comments are addressed in the consultation and coordination section of the EA.

EA DOI-BLM-MT-0010-2015-0018 dated June, 2015 is available from the Billings Field Office and immediately available on the Billings Field Office website at:

http://www.blm.gov/mt/st/en/fo/billings_field_office/wildhorses/pryorherd.html

The EA is incorporated by reference for this Finding of No Significant Impact (FONSI). Two additional alternatives were analyzed in detail, Proposed Action, and a No Action Alternative.

PLAN CONFORMANCE AND CONSISTENCY:

The Billings Resource Management Plan (RMP) Final EIS (September 1984) and amendments and Record of Decision (ROD) have been reviewed. Based upon this review, the EA is in conformance with objectives and decisions identified in RMP/ROD. On Page 23 under Wild Horse Management, the Billings ROD for the RMP/EIS states *“This action will balance population levels with the forage available for horses by herd area. The population of a herd area will be held at a level that provides opportunity for improvement of range condition, herd health and viability, wildlife habitat, and watershed condition, or maintains these in good condition”*. This action is designed to

manage for a balance between a healthy population of wild horses while maintaining multiple-use relationships.

The 2009 PMWHR/Territory EA (MT-010-08-24) and Herd Management Area Plan (HMAP) and Finding of No Significant Impact (FONSI) Decision Record (DR) (May 2009) analyzed and documented the need to manage the wild horse population between 90-120 wild horses. Pages 19 and 20 of the HMAP states “ *The population would be managed using a combination of population control techniques including gathers, fertility control, natural means or a combination of prescriptions*” Page 13 of the HMAP DR states on page 13 “*The population will not be taken to the low range of AML when fertility control is utilized.*”

FINDING OF NO SIGNIFICANT IMPACT

Based on the analysis and consideration of potential environmental impacts detailed in Environmental Assessment DOI-BLM-MT-0010-2015-0018, the context and intensity of effects, the RMP, applicable laws, regulations, policies and public comment, I have determined that the environmental impacts associated with Alternative A are not significant individually or cumulatively and will not significantly affect the quality of the human environment. After consideration of the environmental effects described in the EA and supporting documentation, I have determined that Alternative A is not a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. Therefore, preparation of an Environmental Impact Statement (EIS) is not required as per Section 102 (2)(c) of the National Environmental Policy Act (NEPA). This finding and conclusion is based on my consideration of the Council on Environmental Quality’s (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and the intensity of impacts described in the EA.

RATIONALE

Alternative A identified in the accompanying Decision Record would help reduce the wild horse population to within the appropriate management level, further implement the 2009 HMAP, maintain multiple use relationships for the area, and prevent unnecessary or undue degradation of public land resources. Resource review and analysis have been coordinated with other federal and state agencies. Resources determined to be potentially impacted were analyzed in the EA specific to the proposed action and alternatives. Based on the analysis, the impacts, including cumulative impacts, to these resources are considered insignificant (see definition of significance in 40 CFR 1508.27).

CONTEXT

The Bureau of Land Management (BLM) Billings Field Office has managed the Pryor Mountain Wild Horse Range since 1968. Since that time, the BLM’s mandates have changed from simply protecting wild horses to protection, management, and control of wild horses. Part of the current mandate directs the BLM to manage wild horses where

presently found (in 1971) as an integral part of the natural system of the public lands and protect and manage wild free-roaming horses and burros as components of public lands while managing in a manner that is designed to achieve and maintain a thriving natural ecological balance on public lands

Meeting these mandates has proven to be challenging. At times the PMWHR attracts national and international attention. Proper wild horse management sometimes evokes controversy, emotionalism, and public outcry. Balancing BLM's legal obligations with public sentiment continues to be a challenge in the management of the PMWHR. Wild horses from the PMWHR were last gathered in September 2009 with the removal of 57 animals. There have been 25 previous wild horse gathers from the PMWHR.

Appropriate management level (AML) is the number of wild horses (excluding the current year's foal crop), determined through BLM's planning process, to be consistent with the objective of achieving and maintaining a thriving natural ecological balance (TNEB) and multiple-use relationship. The Pryor Mountain Herd Management Area Plan (HMAP, BLM-MT-PT-84-019-4321/June 1984) and the Billings Resource Area Management Plan (September 28, 1984) established an initial carrying capacity (AML) for the range at 115-127 wild horses. The AML was revised in July 1992 and set at 85-105 wild horses (MT-025-2-18). The AML was revised once again in 2009 and re-established at 90-120 wild horse (excluding the current year's foal crop) and managing for 120 wild horses when utilizing fertility control.

The 2009 PMWHR/Territory EA (MT-010-08-24) and Herd Management Area Plan (HMAP) and Finding of No Significant Impact (FONSI) Decision Record (DR) (May 2009) analyzed and documented the need to manage the wild horse population between 90-120 wild horses. Pages 19 and 20 of the HMAP states “ *The population would be managed using a combination of population control techniques including gathers, fertility control, natural means or a combination of prescriptions*” Page 13 of the HMAP DR states: on page 13 “*The population will not be taken to the low range of AML when fertility control is utilized.*”

In 2012 A Non-Helicopter gather using bait and water trapping with limited herding was conducted. The response from the public regarding this type of gather versus a helicopter removal was overwhelmingly in support of this management. During the gather 148 wild horses were gathered and 38 horses with 6 foals were removed without injury to personnel or wild horses.

On April 13, 2015, the BLM issued a notice for 10-day scoping period to begin the initial stages of an environmental analysis for a proposed bait/water capture and removal operation of excess wild horses on the PMWHR. The public was asked to provide input that would help the BLM in development of a proposed action and alternatives, further identify issues, potential environmental consequences, mitigation opportunities, monitoring or provide information, data, or analysis to be used in development of an Environmental Analysis. The scoping comments and information provided from the public strongly encouraged an alternative proposed by the public that consisted of small

incremental gathers being conducted over numerous years. The scoping comments were used to further develop both a Proposed Action and Alternative A along with analysis and mitigation related to the potential effects of the Proposed Action and Alternative A.

On May 5, 2015 the BLM issued the Pryor Mountain Wild Horse Range Bait/Water Trap Gather Tiered Preliminary Environmental Assessment and unsigned FONSI for a 30 day public comment period beginning on May 5, 2015 lasting through June 6, 2015. The comment period was ended on a Saturday since day 30 ended on a business day to allow the public an additional day to mail in their comments. Based on public comment, additions and clarifications were made to the EA. Six parties decided to use the process to provide additional information to further develop the Proposed Action and more specifically Alternative A.

Alternative A in the EA involves removing approximately 20 excess wild horses from the 1-3 year old cohorts and any foals with excess mares in 2015. Followed with removals of approximately 6-12 excess wild horses annually until recruitment rates and death rates balance and forage use objectives are being met. With other population management actions occurring this is designed to help manage for 120 wild horses (excluding the current year's foal crop). Alternative A would result in a wild horse population that would achieve a TNEB and maintain multiple use relationships, and bring the BLM in conformance with the law. This action also should also result in stabilization of rangeland vegetation communities and prevent further degradation to the range.

Although the gather area is administered jointly by the Forest Service, National Park Service and BLM, the BLM Billings Field Office is responsible for maintaining and managing the wild horse population. The project area is located approximately 13 miles northeast of Lovell, Wyoming in Bighorn County, Wyoming and Carbon County, Montana.

INTENSITY

1) *Impacts that may be both beneficial and adverse.* The Environmental Assessment (EA) considered both beneficial and adverse impacts of the gather and removal of wild horses. Removing excess wild horses would reduce the level of use of rangeland vegetation and help alleviate competition for resources between non terrestrial wildlife and wild horses. Removal of excess wild horses will allow for the stabilization of natural resources, such as soils, vegetation, watersheds, wildlife, and wild horse habitat.

Site inventories for archaeological and plant species of concern would be conducted prior to the construction of temporary trap sites and holding facilities. Standard operating procedures would be followed to minimize stress on wild horses and impacts to other resources. Wild horses removed from the project area would be transported to the Britton Springs Administrative Site and prepared for adoption.

2) *The degree to which the proposed action affects public health or safety.* The Wild Horse and Burro Standard Operating Procedures (EA, Appendix I) would be used to

conduct the gather and are designed to protect human health and safety, as well as the health and safety of wild horses. Alternative A would have minimal effects to public health or safety.

3) *Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.* There are no park lands, prime farmlands, wetlands, or wild and scenic rivers within the gather area. The East Pryor's Area of Critical Environmental Concern (ACEC) along with the Burnt Timber Canyon Wilderness Study Area (WSA), Pryor Mountain WSA, Big Horn Tack-On WSA, and Bighorn Canyon National Recreation Area WSA are within the gather area.

Gather activities are designed to be minimally intrusive and would have no permanent surface disturbance or impact on these values. A cultural resources inventory would be completed prior to constructing temporary trap sites and holding facilities. If cultural resources are found in an area, a new location would be determined to set up temporary trap sites.

4) *The degree to which the effects on the quality of the human environment are likely to be highly controversial.* Effects of the gather are well known and understood. No unresolved issues were raised following public notification of the proposed gather. This is demonstrated through the effects analysis in the EA.

5) *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.* Alternative A has no known effects on the human environment which are considered highly uncertain or involve unique or unknown risks. This is demonstrated through the effects analysis in the EA.

6) *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.* Future projects occurring within the gather area would be evaluated through the appropriate NEPA process and analyzed under a site-specific NEPA document. The Alternative A does not set a precedent for future actions.

7) *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.* The Alternative is not related to other actions within the project area that would result in cumulatively significant impacts. Impacts of implementation of the HMAP have previously been analyzed and this action is not outside of that analysis. The EA also includes an analysis of cumulative effects which considers past, present and reasonably foreseeable future actions in the project area that supports the conclusion that the proposed gather is not related to other actions with individually insignificant but cumulatively significant impacts. Cumulative impacts of the Alternative A were analyzed in the EA.

8) *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP or may cause loss or*

destruction of significant scientific, cultural, or historical resources. The Alternative A would not affect significant scientific, cultural, or historical resources. A cultural and species of concern resource inventory would be completed prior to trap and corral construction. Temporary trap sites and holding facilities would be cleared to determine the presence of sites that are unclassified, eligible, or potentially eligible for the NRHP or for the presence of plant species of concern. Archaeological inventory and avoidance measures would ensure that loss or destruction of significant scientific, cultural, or historical resources does not occur.

9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical in the ESA of 1973. There are no known threatened and endangered species that may occur in the gather area; however, undesignated Canadian lynx habitat exists in the area. There are no known threatened and endangered plants present in the project area. The area is not within core sage grouse candidate species habitat.

10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment. Alternative A would not violate or threaten to violate any Federal, State, or local law or requirement imposed for the protection of the environment. The Alternative A is in conformance with all applicable 43 CFR (Code of Federal Regulations). The Alternative A would not violate the Migratory Bird Treaty Act or Endangered Species Act.

Alternative A detailed in the EA and FONSI has led to my decision that all practical means to avoid or minimize environmental harm and unnecessary or undue degradation of the public land have been adopted.



James M Sparks
Field Manager
Billings Field Office

6/16/15

Date

Decision Record
Billings Field Office
Pryor Mountain Wild Horse Range Non-Helicopter Gather

DECISION:

Based on the analysis of Environmental Assessment, tiered EA DOI-BLM-MT-0010-2015-0018-EA, it is my decision to adopt Alternative A with mitigating measures and monitoring including Appendix I for the gather and removal of selected wild horses from the Pryor Mountain Wild Horse Range as described in the EA.

This decision constitutes my final decision to gather and remove excess wild horses from the PMWHR. Pursuant to Title 43 of the Code of Federal Regulations at 4770.3(c), the bait/water trap gather is effective upon issuance. Set up will begin on the range once environmental conditions allow and removal operations will begin 30 days after issuance of this decision and continue until management objectives are attained.

Mitigating and Suggested Monitoring Measures: Mitigating measures identified in the EA and Appendix I are incorporated as part of Alternative A and are designed to reduce the impacts of management actions to excess wild horses and the herd and protect resources. Suggested monitoring for impacts from the gather are incorporated as part of the action and will continue annually after gathering has occurred.

Alternatives Considered:

Proposed Action

This alternative is for a removal of 25 excess wild horses based HMAP objectives for the herd. The gather operation would be conducted in the summer of 2015 and last until 25 excess wild horses are removed.

No Action Alternative

The no action alternative is required by the National Environmental Policy Act (NEPA) to provide a baseline for impact analysis.

Under this alternative, a gather to remove excess wild horses would not occur this year and fertility control would continue. Under this alternative, the current fertility treatment program would continue in order to further implement the 2009 PMWHR HMAP. The program began in May 2015.

Alternative Considered but Eliminated from Further Analysis

An Alternative for No Removals and No Fertility Control

This is an alternative suggested by Friends of Animals. Under this alternative no population management would occur within the PMWHR. Wild Horses would be allowed to reproduce until a population crash controls their numbers. Under this alternative there would be no way to ensure any population outcome other than after the population crash occurs as new bottleneck is created for the remaining animals as nothing is selective as to which horses are "naturally removed". Horses would be allowed to exhaust all resources, multiple use relationships would be ignored, and the public could observe horses in lower body condition until a crash occurred and individuals perished.

Authorities:

The authority for this decision is contained in the 1971 Wild Free-Roaming Wild Horses and Burros Act (as amended), Section 302(b) of the Federal Land Policy and Management Act (FLPMA) of 1976, and Code of Federal Regulations (CFR) at 43 CFR §4700 which states in pertinent parts:

4700.0-6(a): "Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat."

4700.0-6(c): "Management activities affecting wild horses and burros shall be undertaken with the goal of maintaining free-roaming behavior."

4710.4: "Management of wild horses and burros shall be undertaken with the objective of limiting the animals' distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans."

4710.7: "Individuals controlling lands within areas occupied by wild horses and burros may allow wild horses or burros to use these lands."

4720.1: "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..."

Rationale for Decision:

Implementation of this action is needed to achieve a thriving natural ecological balance between wild horse populations, wildlife, vegetation, water and other multiple uses as authorized under the 1971 Wild Free Roaming Horse and Burro Act (as amended) and section 302(b) of the Federal Land Policy and Management Act of 1976, and Code of Federal Regulations (CFR) at 43 CFR §4700.

Rangeland forage utilization monitoring studies collected since the previous 2009 gather continue to document heavy utilization of plant forage species by wild horses and correlate to the population size exceeding the AML. Use patterns of the wild horses have begun to shift as a result of water developments and habitat improvement that has occurred. Heavy utilization is being measured in these areas indicating that 170 wild horses are too many to achieve a TNEB. Fertility control has reduced the recruitment rate from 17.5% to 8%. An updated fertility control decision began being implemented in May 2015. The results cannot be realized until 2017 at the earliest due to the lag time between treatments and changing foaling rates. Implementation of Alternative A is necessary to further implement the HMAP, to help maintain the established AML, ensure wild horse health, and to protect the range from deterioration associated with overpopulation. Conditions of the rangeland and wild horse habitat are detailed in the PMWHR EA MT-010-08-24 and HMAP (May 2009), the PMWHR Evaluation of February 2008 and NRCS Survey and Assessment Report of 2004. Recent monitoring data reaffirms these conditions persist.

APPEAL PROVISIONS

Within 30 days of receipt of this decision, you have the right to appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with regulations at 43 CFR Part 4. An appeal should be in writing and specify the reasons, clearly and concisely, as to why you think the decision is in error. The appellant has the burden of showing that the decision appealed from is in error.

In addition, within 30 days of receipt of this decision you have a right to file a petition for a stay (suspension) of the decision together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties identified below. The appellant has the burden of proof to demonstrate that a stay should be granted. A notice of appeal and petition for a stay must be submitted to the authorized officer with the Bureau of Land Management at the following address:

Jim Sparks, Field Manager
BLM, Billings Field Office
5001 Southgate Drive
Billings, MT 59101

Copies of the notice of appeal and petition for a stay must also be submitted to:

U.S. Department of the Interior
Board of Land Appeals
Dockets Attorney
801 N. Quincy Street, Suite 300
Arlington, VA 22203

A copy must also be sent to the appropriate office of the Solicitor at the same time the original documents are filed with the above office.

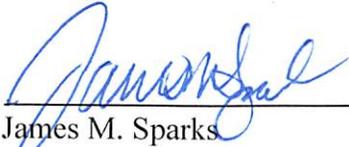
Office of the Regional Solicitor (Billings Field Office)
U.S. Dept. of the Interior,
Rocky Mountain Region,
PO Box 31394, Billings, MT, 59107-1394

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay is required to show sufficient justification based on the following standards:

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

The Office of Hearings and Appeals regulations do not provide for electronic filing of appeals, therefore they will not be accepted.

Sincerely,



James M. Sparks
Field Manager,
Billings Field Office

6/16/15
Date