

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

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**Environmental Assessment DOI-BLM-MT-0010-2015-0006-EA**

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**Finding of No Significant Impact/Decision Record**

**Pryor Mountain Wild Horse Range Fertility Control  
Environmental Assessment March 2015  
DOI-BLM-MT-0010-2015-0006-EA  
Tiered to the  
Pryor Mountain Wild Horse Range Environmental Assessment  
MT-010-08-24  
and Herd Management Area Plan May 2009**

**BUREAU OF LAND MANAGEMENT**

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**March 2015**



# **Finding of No Significant Impact / Decision Record**

## **Billings Field Office**

### **Pryor Mountain Wild Horse Range Fertility Control**

#### **INTRODUCTION**

The Bureau of Land Management has conducted an Environmental Assessment (EA) for the application of fertility control for mares within the Pryor Mountain Wild Horse Range (PMWHR) tiered EA DOI-BLM-MT-0010-2015-0008. The need is to help maintain the population in a thriving natural ecological balance by maintaining wild horse population within the confines of their habitat or the AML. The need is to develop a fertility control program that balances the recruitment rate with annual death loss. The need is also to analyze the impacts to the wild horses from utilization of a new fertility control prescription. The purpose of the Proposed Action is to further implement the 2009 PMWHR HMAP through the use of fertility control. The HMAP identified the AML at 90-120 wild horses as the carrying capacity in order to maintain ecological stability of the range. The HMAP DR stated “The population will not be taken to the low range of AML when fertility control is utilized.” The purpose is also to stabilize the population in order to reduce the need for gather and removal operations.

This action would help to preserve and maintain a thriving natural ecological balance and multiple use relationships. The program would start in 2015 and continue until adjustments are warranted. The fertility control would consist of the administration of Zonastat-H applied through remote darting in the one year liquid dose. The program would be designed to prime mares at 18 months of age, treat mares ages 2, 3, 4, ages 10 through 20. Mares 21 and older would no longer be treated as they should be infertile from at least six-10 multiple treatments. Mares ages 5-9 would not be treated unless meeting a threshold. Mares would be approached on foot or possibly baited in to be treated. The primary window for treatment would be winter/spring, although previously treated mares could receive a booster any time of the year if missed during winter/spring.

The Bureau of Land Management (BLM), Billings Field Office (BiFO) received over 5,000 responses to the preliminary Environmental Assessment (EA). After review and analysis of comments within the scope of the EA, along with questions and information presented from interested parties, refinements, adjustments and clarifications to the proposed action of this EA have been incorporated. Additions to the EA have been made in order to allow interested parties to better understand National Environmental Policy Act (NEPA) planning processes, incorporate new information and provide for better clarity. All changes and additions to the document are highlighted in gray to help interested parties follow the additions and changes from the preliminary document. Comments are addressed in the consultation and coordination section of the document.

EA DOI-BLM-MT-0010-2015-0006 dated March 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](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). One additional alternative was analyzed in detail, the No Action Alternative.

## **PLAN CONFORMANCE AND CONSISTENCY:**

The Billings Resource Management Plan (RMP) Final EIS (September 1984) and amendments and Record of Decision (ROD) has 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 Pryor Mountain Wild Horse Range EA (MT-010-08-24) and Herd Management Area Plan and Finding of No Significant Impact (FONSI) Decision Record (May 2009) analyzed and documented the need to manage the wild horse population between 90-120 wild horses. The HMAP states “manage the herd within AML either through removals, fertility control, natural means, or a combination of methods.” The Decision Record states: “The population will not be taken to the low range of AML when fertility control is utilized.” The HMAP was affirmed by the Interior Board of Land Appeals in January 2010 after ruling on an appeal.

## **FINDING OF NO SIGNIFICANT IMPACT**

Based on the analysis and consideration of potential environmental impacts detailed in Environmental Assessment DOI-BLM-MT-0010-2015-0006, the context and intensity of effects, the RMP, applicable laws, regulations, policies and public comment, I have determined that the environmental impacts associated with the Proposed Action 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 the Proposed Action 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**

The Proposed Action identified in the accompanying Decision Record would: stabilize the wild horse population, reducing the need for population wide removals, further implement the HMAP, reduce loss of genetic material; maintain multiple use relationships for the area and prevent unnecessary or undue degradation of public land resources. Resource review and analyses 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. 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 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.

Since 2001 eight separate EAs have analyzed the impacts of PZP fertility control to wild horses within the PMWHR. PZP has been utilized every year but one since 2001 (no use 2007) through 2015 in various prescriptions, applications, and in two forms; the liquid one year and 22 month pelleted version. Currently 60 mares are under treatment, which will expire in 2015. The effect of PZP on wild horses within the PMWHR has been previously analyzed prior to this action.

In 2004, the Natural Resource Conservation Service (NRCS) completed a survey and assessment of the PMWHR. The survey and assessment determined ecological conditions or difference between current vegetation communities and the historic climax plant communities (HCPC), apparent trend, and a potential stocking rate. Based upon the survey and assessment, it became apparent that management practices needed adjustment.

In February 2008, the PMWHR Evaluation was finalized. The data was analyzed and evaluated to determine if law, regulation, policy, management objectives and rangeland health standards were being met. In addition, technical recommendations were made to meet these requirements where they weren't being met. As a result of the evaluation, it was determined a revision of the existing plan provided the best opportunity to ensure conformance with public land laws, regulations, policies, and land use plans.

The 2009 PMWHR 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. The HMAP states "manage the herd within AML either through removals, fertility control, natural means, or a combination of methods." The DR states: "The population will not be taken to the low range of AML when fertility control is utilized." The HMAP was affirmed by the Interior Board of Land Appeals (IBLA) in January 2010 after ruling on an appeal.

In February, 2013 the BLM mailed out notices asking people their desire to be included in the annual Montana wild horse and burro mailing list for participation in wild horse management activities that would begin by March 1, 2013. A lack of response did not preclude any interested party from being added at a later date. Interested parties are added throughout the year per request.

On April 1, 2013 the BLM issued a Scoping Notice “For Increased use of Fertility Control Vaccine of Wild Horses within the Pryor Mountain Wild Horse Range”. 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.

Scoping comments received were in two categories; (1) place more mares on fertility control but not like Assateague National Seashore and (2) continue with the current fertility prescription in place. Concern for animal welfare in relation to the use of PZP continues to be a concern and is addressed as part of the proposed action and SOPs. No new information or studies were provided that the BLM was not aware. No new issues were identified that were not addressed in the Proposed Action and No Action alternatives or that had not already been addressed in the 2009 HMAP and EA.

In August 2013 the Pryor Mountain Wild Horse Range Fertility Control Modification Preliminary Environmental Assessment DOI-BLM-MT-0010-2013-0034-EA was made available to the public for comment. Although a decision wasn't issued this allowed the public an opportunity to share with the BLM thoughts concerning the way fertility control is used.

From January 20, 2015 to February 20, 2015 a public comment period was conducted for this EA effort. Over 5,000 members of the public commented on the preliminary EA. Due to public comments and additional information provided to the BLM, the EA was finalized with new information and clarifications were incorporated.

43 Code of Federal Regulations 4710.4 Constraints on management states: “.....Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans.” The cumulative impacts, including weather, drought and grazing, have resulted in the current ecological conditions and management situation.

## **INTENSITY**

**1) *Impacts that may be both beneficial and adverse.*** The EA considered both beneficial and adverse impacts to wild horses, social values and economic considerations. Implementation of the action will reduce the level of use of rangeland and riparian vegetation, and help alleviate competition for resources between wild horses and other multiple uses. Management of the PMWHR under this action will allow for the stabilization of natural resources, such as soils, vegetation, watersheds, wildlife, and wild horse habitat.

**2) *The degree to which the proposed action affects public health or safety.*** The application of fertility control will have minimal affects to public health or safety. As the degree to which public health and safety is affected by this action is minimal, there is no mitigation that should be applied as a result of the implementation of the proposed action.

**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 PMWHR. The East Pryor 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 project area.

Remote darting of mares for the use of fertility control is, by design, minimally intrusive and would have no permanent surface disturbance or impact on these values. Any use of bait to attract mares for treatment would occur in previously utilized areas where cultural resources and species of concern would not be impacted. If cultural resources or a species of concern are found in an area, a different location would be determined to place bait.

**4) *The degree to which the effects on the quality of the human environment are likely to be highly controversial.*** Effects of managing wild horses are well known and understood. The effects of the use of Zonastat-H ( PZP) are also well known and understood. No unresolved issues were raised following public notification of the proposed use of fertility control.

**5) *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.*** The Proposed Action 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.*** The Proposed Action does not set a precedent for future actions. Future fertility control will be evaluated through the appropriate NEPA process and analyzed under a site-specific NEPA document.

**7) *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.*** The Proposed Action is not related to other actions within the project area that will result in cumulatively significant impacts. The EA 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 action is not related to other actions with individually insignificant but cumulatively significant impacts. NEPA analysis will be completed for all proposed actions in the future that relate to management actions within the PMWHR.

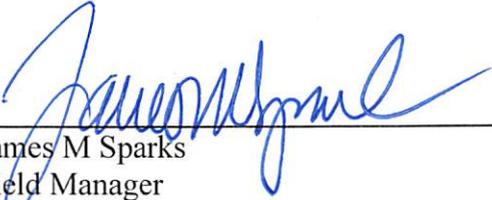
**8) *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP or may cause loss or destruction of significant scientific, cultural, or historical resources.*** Members of the Crow tribe consider the Pryor Mountain wild horses as descendents of the original Crow War ponies. The Proposed Action will not affect significant scientific, cultural, or historical resources. At the time of cultural inventory, if any sites are located, they will be evaluated for eligibility to the National Register of Historic Places. Archaeological inventories and avoidance measures will 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 known to occur in the project area; however, unoccupied Canadian lynx habitat exists in the area.

**10) *Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.*** The Proposed Action will not violate or threaten to violate any Federal, State, or local law or requirement imposed for the protection of the environment. The Proposed Action is in conformance with all applicable 43 CFR (Code of Federal

Regulations). The Proposed Action will not violate the Migratory Bird Treaty Act or Endangered Species Act.

The Proposed Action 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.

  
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James M Sparks  
Field Manager  
Billings Field Office

3/18/15  
Date

## **DECISION:**

Based on the analysis of Environmental Assessment DOI-BLM-MT-0010-2015-0006, it is my decision to accept the Proposed Action with mitigating measures, monitoring and Appendix I for the fertility treatment of wild horse mares on the Pryor Mountain Wild Horse Range. This decision constitutes the management prescription and use of fertility control described in the EA for the use of Zonastat-H (PZP).

### **Compliance and Monitoring**

The use of PZP in the field has standard operation procedures and tracking requirements incorporated as Appendix I in the EA as well as mitigation and monitoring identified in the EA and accepted as part of this Decision.

### **Mitigating Measures and Suggested Monitoring**

Mitigating and suggested monitoring identified in the EA and incorporated as part of the proposed action which is designed to reduce the impacts of management actions and protect resources.

## **Alternatives Considered:**

### **No Action Alternative**

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

The No Action alternative is the current fertility control program in place from 2011 through 2015. The No Action alternative consists of the administration of ZonaStat-H through remote darting in the one year liquid dose. The program is designed to treat mares ages 2, 3, 4, and ages 11 through 20+. Mares ages 5-10 are not treated to be infertile. Mares would be approached on foot or possibly baited in (not trapped) to be treated. The primary window for treatment would be March through June, although previously treated mares could receive a booster any time of the year.

### **Alternative Considered but Eliminated from Further Analysis**

Under this alternative, mares would not be treated with fertility control. This would require more frequent gathers, more wild horse congestion, and be inconsistent with the PMWHR HMAP which identifies fertility control as one tool for population management. This alternative was considered but eliminated from further analysis due to not meeting the need of developing a fertility control program that balances the recruitment rate with annual death loss.

### **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."

4710.3-1 "The authorized officer shall prepare a herd management area plan which may cover one or more herd management areas."

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."

#### 4770.3 Administrative Remedies

(a) Any person who is adversely affected by a decision of the authorized officer in the administration of these regulations may file an appeal. Appeals and petitions for stay of a decision of the authorized officer must be filed within 30 days of receipt of the decision in accordance with 43 CFR, part 4.

#### **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 and section 302(b) of the Federal Land Policy and Management Act of 1976, and Code of Federal Regulations (CFR) at 43 CFR §4700.

Implementation of the proposed action is necessary to implement the HMAP, to work towards the established AML, ensure wild horse health, and limit wild horses to the wild horse range boundaries 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, as well as the PMWHR Evaluation of February 2008 and NRCS Survey and Assessment Report of 2004. Additional monitoring studies continue to document heavy utilization of plant forage species by wild horses.

#### **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 4.4. If an appeal is taken, please also provide this office with a copy of your Statement of Reasons. 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. (58 FR 4942, January 19, 1993) 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. Copies

of the notice of appeal and petition for a stay must also be submitted to 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 Solicitor  
U.S. Dept. of the Interior,  
Billings Field Office  
2021 4th Ave North Suite 112  
Billings, MT, 59107

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

3/18/15  
Date