



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Billings Field Office

5001 Southgate Drive

Billings, Montana 59101-4669

www.blm.gov/mt

In Reply Refer To:

4720 (MT010.JB)

April 04, 2012

Dear Interested Party:

After considering public comments, the Bureau of Land Management (BLM) is issuing a Finding of No Significant Impact (FONSI) and Decision Record (DR) for the Pryor Mountain Wild Horse Range (PMWHR) Non-Helicopter Gather Environmental Assessment DOI-BLM-0010-2012-0001-EA. The FONSI documents the BLM determination that the proposed action will not result in "significant environmental impacts," and the DR approves implementation of the proposed gather. In addition to the FONSI/DR, the final EA is available online at http://www.blm.gov/mt/st/en/fo/billings_field_office/wildhorses/pryorherd.html.

The EA analyzes the BLM proposal to implement a non-helicopter gather using bait/water trapping and limited herding to gather and remove excess wild horses from the PMWHR during 2012. This action would begin no earlier than June 4, 2012.

As detailed in the DR, and within 30 days of receipt of the 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. You also have a right to file a petition for a stay.

Thank you for your interest in the management of the PMWHR. If you have any questions concerning the FONSI and DR, please contact Jared Bybee, Wild Horse and Burro Specialist, at (406) 896-5223.

Sincerely,



James M. Sparks
Field Manager

1 Enclosure
1-FONSI/DR

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

Environmental Assessment DOI-BLM-MT-0010-2012-0001-EA

Finding of No Significant Impact and Decision Record

**Pryor Mountain Wild Horse Range Non-Helicopter Gather
Environmental Assessment DOI-BLM-MT-0010-2012-0001-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
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April 2012



Finding of No Significant Impact
Billings Field Office
Pryor Mountain Wild Horse Range Non-Helicopter Gather

INTRODUCTION

The Bureau of Land Management has completed an Environmental Assessment DOI-BLM-MT-0010-2012-0001 (EA) for conducting a non-helicopter gather and removal of excess wild horses within the Pryor Mountain Wild Horse Range (PMWHR). The Proposed Action 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 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 June, 2012 and last for several months 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 of this EA. Additions to the EA have been added in order to allow interested parties to better comprehend National Environmental Policy Act (NEPA) planning processes, to address misperceptions and misunderstandings of management of the PMWHR, educate the public about misinformation circulating in the internet, 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-0010-2012-0001 dated April, 2012 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, Alternative A-Bait Trapping Only, 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-0010-2012-0001, 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 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.*"

On July 28, 2011, the BLM issued a notice for 30-day scoping period to begin the initial stages of an environmental analysis for a proposed non-helicopter 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 were documented in a Scoping Report Issued November, 2011 and were used to further develop a proposed action and alternatives along with analysis and mitigation related to the potential effects of the proposed action and alternative.

On December 6, 2011 the BLM issued the Pryor Mountain Wild Horse Range Non-Helicopter Gather Tiered Preliminary Environmental Assessment and unsigned FONSI for a 30 day public comment period beginning December 8, 2011. The comment period

was extended until January 20, 2012. Based on public comment, additions and clarifications were made to the EA. The majority of the comments were outside the scope of the analysis and differed only slightly from scoping comments.

The action proposed in the EA involves removing approximately 30 to 40 excess wild horses from the 1-3 year old cohorts and any foals with excess mares resulting in a post-gather population of approximately 120 wild horses (excluding the current year's foal crop). The Proposed Action and Alternative would result in a post gather 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 recovery 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 concerns 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. The Proposed Action 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.* 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.* Future projects occurring within the gather area would be evaluated through the appropriate NEPA process and analyzed under a site-specific NEPA document. The Proposed Action 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 Proposed Action is not related to other actions within the project area that would 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 gather is not related to other actions with individually insignificant but cumulatively significant impacts. NEPA analysis would be completed for all proposed actions in the future. Cumulative impacts of the Proposed Action were analyzed in the EA.

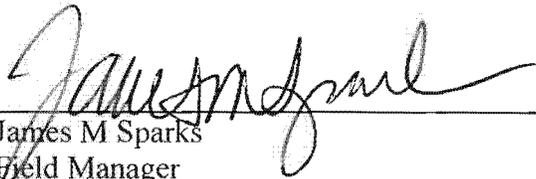
8) *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP or may cause loss or destruction of significant scientific, cultural, or historical resources.* The Proposed Action would not affect significant scientific, 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. The Proposed Action would 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 would 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.



James M Sparks
Field Manager
Billings Field Office

4/4/12

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-0010-2012-0001-EA, it is my decision to adopt the Proposed Action with mitigating measures 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 non-helicopter gather is approved for implementation. Removal operations will begin no sooner than June 4, 2012 and last until management objectives are attained.

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

Alternatives Considered:

Alternative A

This alternative is bait trapping only. This would be the same as the proposed action except under this alternative no sites with water facilities would be used to conduct trapping operations. No horseback herding would be used to manage wild horses around trap sites or towards trap sites. No trapping operation within any Wilderness Study Area (WSA) at Cottonwood Spring would occur.

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 2011 and is scheduled to last through 2015.

Alternative Considered but Eliminated from Further Analysis

An Alternative to Remove Only Ten Horses Per Year Until Fertility Control and Natural Mortality Balance.

This alternative was suggested by many members of the public during scoping. This is one item that could not be addressed through the Proposed Action, Alternative A or the No Action Alternative. This alternative consists of initially removing ten wild horses and re-assessing every year until the recruitment rate is equal to the natural mortality. This alternative was considered but eliminated from further analysis because it does not meet the purpose and need of the EA since it would not result in a thriving natural ecological landscape or maintain multiple-use relationships, nor achieve the established AML. If the population was at or near the AML it would make this a much more feasible alternative. Currently at least 166 wild horses are present on the range; a potential exists for as many as 174 wild horses based upon 2011 demographics. Also, although much of the PMWHR wild horse population is “old” not enough fertility control is prescribed to ever bring a reduction to the population. Also, for this alternative to be considered, more fertility control would need to be prescribed. BiFO has been assessing the herd since 2009 and monitoring the population growth in relation to the efficacy of fertility control to population growth and rangeland monitoring. The suggested alternative for removal of ten horses was not specifically tied to an objective, monitoring data, or how it would be consistent with the law. With current mandates the BLM would not be able to justify not maintaining the AML against all monitoring data and range studies collected since the last revision of the HMAP in 1992.

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 yet to shift as a result of water developments and habitat improvement that has occurred. The current fertility control program is not designed to reduce the population to a level consistent with the AML, but rather balance reproduction with death loss.

Implementation of the proposed action is necessary to further implement the HMAP, to 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.

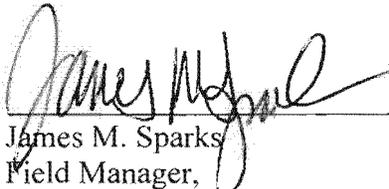
Office of the Regional Solicitor (Billings Field Office)
U.S. Dept. of the Interior,
Rocky Mountain Region,
PO Box 31394, Billings, MT, 59107-1394

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

4/11/12
Date