



United States Department of the Interior

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JAN 25 2012

In Reply Refer To:
4700 (NVB02000)

DECISION

**Bullfrog Herd Management Area
Wild Burro Gather Plan and Environmental Assessment
DOI-BLM-NV-B020-2011-0102-EA**

Dear Interested Public:

INTRODUCTION

The Bureau of Land Management (BLM) Tonopah Field Office (TFO) has determined that excess wild burros are present within and outside the boundary of the Bullfrog Herd Management Area (HMA) and are proposing to gather and remove excess wild burros through a phased approach until the low range of AML is reached. The initial gather would remove approximately 75 excess wild burros, targeting those wild burros residing in close proximity to Beatty, Nevada, along the Highway 95 corridor, and outside the HMA boundary as the first priority for removal, and then removing wild burros from within the HMA. Because there are more than 75 excess wild burros present within and outside the HMA, one or more follow-up gathers will be necessary to complete the removal of all excess wild burros and to bring the wild burro population to the low range of AML.

The proposed gather area includes the Bullfrog HMA and areas outside of the HMA boundary. The Bullfrog HMA is located in the southernmost portion of the TFO area, and is approximately 151,782 acres. The eastern edge of the HMA borders the Nevada Testing and Training Range (NTTR), where burros move easily between both areas. The southern and western borders are with the same as the TFO area boundary. The southern border is adjacent the Southern Nevada District, and the western border abuts Death Valley National Park. The town of Beatty, Nevada

lies in the center of the HMA, and Highway 95 splits the HMA into eastern and western portions. The area is characterized by Mojave Desert vegetation

The current AML for the Bullfrog HMA was established in 2007 through a Final Multiple Use Decision (FMUD) issued following completion of a Rangeland Health Evaluation (RHE) for the Montezuma Allotment Complex and a public decision-making process.

The Montezuma Complex RHE involved an analysis of monitoring data including utilization, vegetation trend, riparian functioning condition ratings, precipitation, wildlife habitat studies, and wild burro inventory data to assess rangeland health and determine whether adjustments to the AML for the Bullfrog HMA were needed. The evaluation resulted in an analysis of carrying capacity for livestock and wild burros within these areas, and identified allowable vegetative use levels for these arid ecosystems in order to prevent degradation to the vegetation and riparian resources and maintain healthy animals. Livestock grazing is allowed only within about 8% of the Bullfrog HMA, and livestock use within this area has been negligible to non-existent in recent years.

AML for the Bullfrog HMA was calculated from Ecological Site Inventory production data. A four-mile wide zone was created around known water sources in the HMA. These areas represent habitat that is accessible to burros within four miles of water and are called the "Watered" portions of the HMA. "Dry" areas are outside the 4-mile water buffer and are currently unusable by wild equids because of their distance from available water. However, these "dry" portions represent areas that could sustain wild burros if additional water sources would be developed for wild equid use. The interested public was involved throughout the decision-making process.

A helicopter population inventory flight of the Bullfrog HMA conducted in February, 2010 resulted in a direct count of 124 wild burros. As indicated in the preliminary EA, the anticipated post-foaling population in 2011 was expected to be 144 wild burros. It was also noted in the Preliminary EA that an inventory flight would be conducted before the gather to confirm the estimated population.

On January 6th and 7th, 2012, a thorough inventory flight was conducted for the Bullfrog HMA and areas outside the HMA boundary where wild burros have established residency. The population inventory resulted in 195 wild burros being directly counted, with 42 of those found residing outside of the HMA boundary. Due to the rugged terrain and poor sightability of wild burros, the population count of 195 wild burros is believed to be an under-estimate of the actual population. Future aerial inventories will be conducted to confirm or re-evaluate the estimated population after the initial gather.

BLM has prepared an environmental assessment (EA) to analyze the environmental impacts associated with the proposed gather and removal. Refer to **DOI-BLM-NV-B020-2011-0102-EA**.

DECISION

The Proposed Action in the Final EA has been slightly modified from the Proposed Action analyzed in the Preliminary EA to allow for the phased removal of excess wild burros, rather than achieving the Proposed Action in a single gather and to include the option of using bait/water trapping as a supplement to or instead of a helicopter gather after the initial gather. The Proposed Action was modified due to limited short-term holding space, which only allows for the removal of 75 wild burros at this time. However, in order to achieve and maintain the low range AML, and resolve the issues associated with the overpopulation of wild burros, follow-up gathers will be needed. Again, these follow-up efforts could include helicopter assisted trapping and/or bait and water trapping. Population inventories and routine resource/habitat monitoring would be completed between gather cycles to document current population levels, growth rates, and areas of continued resource concern (burro concentrations, riparian impacts, over-utilization, etc.) prior to any follow-up gather. The subsequent follow-up phases of the gather activities would be conducted in a manner consistent with those described in the EA for the initial March 2012 gather and the SOPs therein.

In accordance with the Final Bullfrog HMA Wild Burro Gather EA (**DOI-BLM-NV-B020-2011-0102-EA**), it is my decision to implement the Proposed Action detailed in the Final EA. The Proposed Action includes:

- Removing all excess wild burros from within and outside the HMA boundaries in order to reach the low range of AML for the Bullfrog HMA. The Proposed Action would be completed through a phased approach.
- Capturing and removing 75 excess wild burros in an initial gather that would take place in March 2012 with excess wild burros along the Highway 95 corridor and outside the HMA boundary having the highest priority for removal.
- Implementing phased gathers over the next 6-10 years by returning to the Bullfrog HMA in one or more follow-up gathers as short-term holding pen space, funding, and personnel availability allows until the low range of AML and population management objectives have been achieved.
- Achieving a post-gather population of 58 wild burros in the HMA.
- Using water/bait trapping as a supplementary mechanism to capture additional wild burros in circumstances where this approach is a feasible method to assist in achieving the low range of AML.

Pursuant to 43 CFR 4770.3(c), this decision is effective immediately and is approved to begin in or around March 2012.

RATIONALE

Based on the analysis of the impacts of the Proposed Action and following issuance of the EA

for public review, I have determined that implementing the Proposed Action will not have a significant impact to the human environment and that an environmental impact statement is not required as set forth in the attached Finding of No Significant Impact.

The gather is necessary to remove excess wild burros and to bring the wild burro population back to within the established AML range in order to achieve and maintain a thriving natural ecological balance between wild burros and other multiple uses as required under Section 1333(a) of the 1971 WFRHBA and Section 302(b) of the Federal Land Policy and Management Act of 1976.

The Proposed Action is in conformance with the Tonopah Resource Management Plan (RMP) and subsequent Record of Decision dated October 1997.

Leaving excess wild burros on the range under the No Action Alternative would not comply with the WFRHBA or applicable regulations and Bureau policy, nor would it comply with the Tonopah RMP, and the Mojave-Southern Great Basin Resource Advisory Council (RAC) Standards and Guidelines (1997) for Rangeland Health and Healthy Wild Horse and Burro Populations. The No Action Alternative would allow deterioration of rangeland resources, including vegetative, soil and riparian resources, and could potentially result in the irreversible loss of native vegetative communities and habitat for threatened wildlife species. Wild burros would continue to relocate in increasing numbers to areas outside the HMA boundary due to competition for limited water and forage within the HMA, adversely impacting public land resources not designated for wild burro management. Human-burro conflicts would continue or even increase along the Highway 95 corridor and in the city limits of Beatty, NV. The No Action Alternative also increases the likelihood of emergency conditions arising, leading to the suffering or death of individual animals due to insufficient forage or water, or to an emergency gather.

The following constitutes the rationale for issuing this decision effective upon issuance:

a). Conformance with 2007 FMUD

The current AML for the Bullfrog HMA was established in the 2007 FMUD issued following completion of a Rangeland Health Evaluation (RHE) for the Montezuma Allotment Complex. AML for the Bullfrog HMA was calculated from Ecological Site Inventory production data. A four-mile wide zone was created around known water sources in the HMA. These areas represent habitat that is accessible to burros within four miles of water and are called the "Watered" portions of the HMA. "Dry" areas are outside the 4-mile water buffer and are currently unusable by wild equids because of their distance from available water.

On January 6-7, 2012, a thorough inventory flight was conducted for the Bullfrog HMA and areas outside the HMA boundary where wild burros have established residency. The inventory resulted in 195 wild burros being directly counted, with 42 of those found residing outside of the HMA boundary. This population exceeds the low end of AML set

in the FMUD by 137 animals (336% of the low range of AML) and exceeds the high end of AML by 104 animals (214% of the high range of AML).

b). Necessity for Prompt Removal of Excess Wild Burros

Delay of a gather to remove excess wild burros would potentially result in degradation to rangeland resources. In certain areas, such as in Beatty, Nevada and along the Highway 95 corridor, human- burro conflicts would continue or increase. Habitat for the sensitive Amargosa toad and threatened Desert tortoise would continue to be impacted by the overpopulation of wild burros.

c). Potential Impacts to Animal Health.

The 2012 estimated population of wild burros would be 226 animals (based on a long-term average of 16% annual increase in population) in the Bullfrog HMA if no gather is conducted, which exceeds the established low AML by 137 wild burros. Through the analysis of monitoring data presented in the Montezuma Complex RHE, the TFO determined that achieving and maintaining an AML range of 58-91 wild burros was necessary to maintain a healthy wild burro population based on the availability and quality of forage and water within the HMA.

Failure to issue this decision effective upon issuance and continued increase of the wild burro population above AML risks over-utilization and degradation of the habitat within the HMA, continued expansion of animals outside of the HMA boundary and potential deterioration of wild burro body condition as increasing numbers of wild burros compete for limited habitat, and potential degradation or loss of Amargosa toad and threatened Desert tortoise habitat as wild burros increasingly concentrate at riparian areas.

The average precipitation in the area is approximately 5 inches annually, and forage and water are not abundant. Though emergency conditions are not anticipated at this time, individual animals could suffer reduced body condition and degraded health, especially during periods of drought or hard winters.

d). Potential Damage to Rangeland, Riparian, and Wildlife Resources.

The Bullfrog HMA is dominated by plant communities that are inherently less productive due to the climate and soils that support them. Additionally, much of the rangeland within the area is characterized by an absence of perennial grass species in the understory, with many areas dominated by shrubs and bare ground. Much of the habitat within the HMA is considered habitat for desert bighorn sheep and the threatened Desert tortoise. Many of the riparian areas in the HMA are critical habitat for the special status Amargosa toad. It is common for the riparian areas and springs within the HMA to have been heavily utilized by wild burros, particularly during drought periods. Heavy and concentrated use by wild burros has degraded many of the riparian areas within the HMA that are accessible to wild burros.

Because of the inherent low precipitation levels received in the Great Basin and the frequency of drought occurrence, improvements in vegetation condition from past grazing abuse occurs very slowly. Improvement can be further impeded and even reversed should these areas continue to receive over use by excess wild burros. Proper management of wild burros is paramount to ensure that decline of the Bullfrog HMA wild burro, Amargosa toad, Desert tortoise, and desert bighorn sheep habitat does not occur.

e.) Human-Burro Conflicts Along Highway 95 Corridor and in Beatty, Nevada

Wild burros are wandering onto U.S. Highway 95 through the town of Beatty causing collisions with motorists, resulting in a public safety hazard. At times, multiple collisions per week are reported. Many wild burros are residing inside the town of Beatty, Nevada searching for forage and water, creating hazards to citizens of Beatty, pets, motorists, and property damage. Burros residing in town and their interaction with the urban environment could threaten the health and overall well-being of the wild burros and public safety.

Failure to issue this decision effective upon issuance and continued overpopulation of wild burros will result in further degradation and loss of habitat utilized by wild burros and native wildlife, and the health and well-being of the wild burros and public safety will continue and become a growing concern.

In accordance with 43 CFR § 4720.1, upon examination of current information and a determination by the authorized officer that an excess of wild burros exists, the authorized officer shall remove the excess animals immediately.

Based on the analysis of potential environmental impacts detailed in the Bullfrog HMA Wild Burro Gather EA, it was determined that the impacts associated with the Proposed Action are not significant. This was documented in the Finding of No Significant Impact (FONSI) which is attached to this Decision.

PUBLIC INVOLVEMENT

As part of the preparation of the Bullfrog HMA Gather EA, a scoping letter dated June 29, 2011 was mailed to 20 individuals, agencies and organizations on the interested public list for the Bullfrog HMA. Among these was the Nevada State Clearinghouse which made the scoping letter available for review by Nevada State Agencies.

The preliminary EA was made available to the public on the Battle Mountain District website, www.blm.gov/nv/st/en/fo/battle_mountain_field.html, for a 30 day public review and comment period on November 30, 2011. Written, mailed-in, and email comments were received from several individuals and agencies. Many of these comments contained overlapping issues/concerns which were consolidated into distinct topics. Refer to the EA, Appendix E for a summary of the comments considered and reviewed by BLM, in its preparation of the final

environmental assessment, along with BLM's responses to those comments. The final Environmental Assessment / Gather Plan for the Bullfrog HMA is available on the BLM's web site at www.blm.gov/nv/st/en/fo/battle_mountain_field.html, or by contacting the Tonopah Field Office.

AUTHORITY

The authority for this Decision is contained in Section 1333(a) of the 1971 WFRHBA, Section 302(b) of the Federal Land Policy and Management Act of 1976, and Code of Federal Regulations (CFR) at 43 CFR Part 4700.

43 C.F.R. §4700.0-6 Policy

- (a) Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat;
- (b) Wild horses and burros shall be considered comparably with other resource values in the formulation of land use plans;
- (c) Management activities affecting wild horses and burros shall be undertaken with the goal of maintaining free-roaming behavior;
- (d) In administering these regulations, the authorized officer shall consult with Federal and State wildlife agencies and all other affected interests, to involve them in planning for and management of wild horses and burros on the public lands.

43 C.F.R. §4710.4 Constraints on Management

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

43 C.F.R. §4720.1 Removal of excess animals from public lands

Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animals immediately.

43 C.F.R. §4740.1 Use of Motor Vehicles or Air-Craft

- (a) Motor vehicles and aircraft may be used by the authorized officer in all phases of the administration of the Act, except that no motor vehicle or aircraft, other than helicopters, shall be used for the purpose of herding or chasing wild horses or burros for capture or destruction. All such use shall be conducted in a humane manner.

- (b) Before using helicopters or motor vehicles in the management of wild horses or burros, the authorized officer shall conduct a public hearing in the area where such use is to be made.

43 C.F.R. §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.
- (b) Notwithstanding the provisions of paragraph (a) of §4.21 of this title, the authorized officer may provide that decisions to remove wild horses or burros from public or private lands in situations where removal is required by applicable law or is necessary to preserve or maintain a thriving natural ecological balance and multiple use relationship shall be effective upon issuance or on a date established in the decision.

APPROVAL

The Bullfrog HMA wild burro gather is approved to begin in or around March 2012. This decision is effective upon issuance in accordance with 43 C.F.R. § 4770.3 (c) because removal of excess wild burros is necessary to protect animal health and prevent deterioration of rangeland resources, wildlife habitat, and to alleviate public safety concerns near the town of Beatty and along the Highway 93 corridor. This decision may be appealed to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with provisions found at 43 CFR Part 4.

APPEAL PROVISIONS

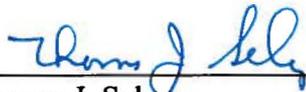
Within 30 days of receipt of this wild burro decision, you have the right to appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with regulations at 43 CFR § 4.4. If an appeal is taken, you must follow the procedures outlined in the enclosed, "Information on Taking Appeals to the Interior Board of Land Appeals." 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.

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 in items 2, 3, and 4 of the enclosed form titled "Information on Taking Appeals to the Board of Land Appeals." The appellant has the burden of proof to demonstrate that a stay should be granted.

A petition for a stay of decision pending appeal shall 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 of 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.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR § 4.401 (c) (2)).



Thomas J. Seley
Field Manager,
Tonopah Field Office



Date