

**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
BATTLE MOUNTAIN DISTRICT/TONOPAH FIELD OFFICE**

FINDING OF NO SIGNIFICANT IMPACT

I have reviewed the Final Montezuma Peak and Paymaster HMA Wild Horse and Burro Gather Environmental Assessment (EA), DOI-BLM-NV-B020-2010-0113-EA (Montezuma Peak and Paymaster HMA Gather EA), dated June 2010. After consideration of the environmental effects as described in the EA, and incorporated herein, I have determined that the Proposed Action, Alternative 1 and Alternative 2 with the project specifications, including minimization or mitigation measures identified in the EA will not significantly affect the quality of the human environment and that an Environmental Impact Statement (EIS) is not required to be prepared.

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.

Context

The gather area is administered by the Bureau of Land Management's Tonopah Field Office. The Montezuma Peak HMA is located west of the town of Goldfield, 26 miles south of Tonopah in Esmeralda County, Nevada. The area is approximately 77,931 acres in size and is approximately 9 miles wide and 21 miles long.

The Paymaster HMA is approximately 100,500 acres and is less than five miles north of the Montezuma Peak HMA and 7 miles west of Tonopah in Esmeralda County. Few fences are present in the area, which allows the wild horses and burros unrestricted movement outside the HMA boundaries as well as the adjacent Montezuma Peak HMAs. Because of steep terrain, limited forage, and few accessible perennial waters, most wild horses and burros reside in areas outside the boundaries of the HMA (see below).

The proposed gather includes areas within and outside of the Montezuma Peak and Paymaster HMAs boundaries throughout the Allotments that comprise the HMAs.

The most recent helicopter population inventory flight of the Montezuma Peak and Paymaster HMAs was conducted in February, 2010 which resulted in a direct count of 129 wild horses and 61 wild burros with 132 of the 190 animals observed (69%) located outside of the HMA boundaries. With the 2010 foaling season, BLM estimates that the post-foaling population is currently 149 wild horses and 71 wild burros.

As detailed in the preliminary Montezuma Peak and Paymaster HMA Gather EA, the AMLs for the Paymaster and Montezuma Peak HMAs were established through Final Multiple Use Decisions (FMUDs) issued following completion of Rangeland Health Evaluations, Watershed Assessments and Allotment Evaluations for the Magruder Mountain, Monte Cristo, Montezuma, Yellow Hills and Sheep Mountain Allotments between 1999 and 2007. These documents involved analysis of all or a combination of monitoring data including utilization, trend, riparian functioning condition ratings, precipitation, wildlife habitat studies, and wild horse and burro inventory data to assess these areas for rangeland health and to subsequently adjust AMLs for HMAs within these allotments if needed. Throughout all of these evaluations, a common theme

was the inherent lack of suitable habitat for wild horses, reflected by poor forage and limited water availability. The evaluations resulted in carrying capacity analysis for livestock, wild horses and wild burros within these areas, and setting a more conservative AML appropriate for these arid ecosystems in order to prevent degradation to the vegetation and riparian resources and to maintain healthy animals.

The Montezuma Peak and Paymaster Herd Management Areas Wild Horse and Burro Gather Preliminary Environmental Assessment (EA) DOI-BLM-NV-B020-2010-0113-EA (Montezuma Peak and Paymaster HMA Gather EA) was made available to the interested public on June 15, 2010 for a 30 day comment period. BLM reviewed and considered the public comments received in finalizing the Final Montezuma Peak and Paymaster HMAs Gather EA. Letters supporting, as well as opposing the gather were received as well as numerous automatically generated form letters. These comments are summarized within Appendix F of the Final EA. Minor additions for clarity have been made to the EA; however substantial modifications were not required as a result of the comments received.

The proposed gather includes the capture and removal of approximately 61 excess burros and 78 excess wild horses from the Montezuma Peak gather area and HMA leaving a post-gather population of 10 burros and 3 horses inside the HMA boundary; and capture and removal of approximately 45 excess wild horses from the Paymaster gather area and HMA, leaving a post-gather population of approximately 23 wild horses within the HMA.

Alternative 1 is the same as the Proposed Action for the Montezuma Peak HMA. For the Paymaster HMA, Alternative 1 involves capturing approximately 65 wild horses and adjusting sex ratios of released animals to favor studs (13 studs, 7 mares). Wild horses would be selected for release back to the range to achieve a post gather population of 23 wild horses assuming 95% gather success. The objective for the sex ratio of the post gather population would be 60% studs (males) and 40% mares.

Alternative 2 is the same as the Alternative 1, with the addition of fertility control to approximately 7 mares released back to the Paymaster HMA.

The Proposed Action, and Alternatives 1 and 2 would ensure healthy wild horses within the boundaries of the Montezuma Peak and Paymaster HMAs, promote improved health of rangeland vegetation communities, and prevent further degradation to the range, and loss of fragile habitat important for wild horses, burros and wildlife.

Intensity

1. Impacts that may be both beneficial and adverse.

The Environmental Assessment considered both beneficial and adverse impacts of the gather and removal of excess wild horses and burros from outside of the Montezuma Peak and Paymaster HMA boundaries and within the HMAs if necessary. Removing excess wild horses and burros from within the HMAs and from non-HMA areas would reduce the level of use endured by rangeland and riparian vegetation, and help alleviate competition for resources between wildlife and wild horses and burros. Removal of excess wild horses and burros will allow for the recovery and improvement of natural resources, such as soils, vegetation, watersheds, wildlife, fisheries and wild horse and burro habitat. A healthy population of wild horses and burros will remain in the HMAs in balance with the available forage and water, and emergency conditions and mortality of large numbers of wild horses and burros would be avoided.

Archaeological site clearances would be conducted prior to the construction of temporary gather sites and holding facilities. Standard Operating Procedures would be followed to minimize stress on wild horses and burros and impacts to other resources. Wild horses and burros removed from the project area would be transported to wild horse and burro holding facilities and prepared for adoption, sale or long-term holding pastures.

2. The degree to which the proposed action affects public health and safety.

The Wild Horse and Burro Standard Operating Procedures (EA, Appendix A) would be used to conduct the gather and are designed to protect human health and safety, as well as the health and safety of the wild horses and burros. The Proposed Action, and Alternatives 1 and 2 would have minimal affects to public health or safety.

3. Unique characteristics of the geographic area such as proximity of 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, wild and scenic rivers, or ecologically critical areas within the gather area. A cultural resources inventory would be completed prior to constructing temporary gather sites and holding facilities. If cultural resources are found in an area, a new location would be determined to set up temporary gather sites and holding corrals. Wild horse and burro gather activities would not be conducted within Wilderness Study Areas.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.

The effects that would occur from implementation 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. Some members of the public have the view that no wild horses and burros should be removed from any public lands and advocate removal of livestock or letting "nature take its course". However, the effects of wild horse and burro gathers on the *quality of the human environment* are well documented through the many years of management of wild horses and burros through gathers and other population controls, and are not highly controversial.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

The Proposed Action and Alternatives 1 and 2 have 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 and Alternatives 1 do 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 and Alternatives 1 and 2 are not related to other actions within the project area that would result in cumulatively significant impacts. Proper NEPA analysis would be completed for all proposed actions in the future. Cumulative impacts 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 National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historic resources.

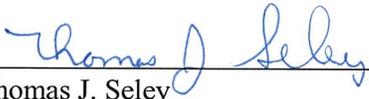
The Proposed Action and Alternatives 1 and 2 would not affect significant scientific, cultural, or historical resources. A cultural resource inventory would be completed prior to gather site and corral construction. Temporary gather sites and holding facilities would be cleared to determine the presence of sites that are unclassified, eligible, or potentially eligible for the NRHP. Archaeological site clearances 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 under the Endangered Species Act of 1973.

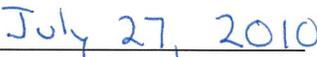
There are no known threatened and endangered plants present in the project area.

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 and Alternatives 1 and 2 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 and Alternatives 1 are in conformance with all applicable 43 CFR (Code of Federal Regulations). The Proposed Action and Alternatives 1 and 2 would not violate the Migratory Bird Treaty Act or Endangered Species Act.



Thomas J. Seley
Field Manager
Tonopah Field Office



Date

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

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- 1. NOTICE OF APPEAL**..... A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
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- 2. WHERE TO FILE**
- NOTICE OF APPEAL**..... U.S. Department of the Interior
Bureau of Land Management
Tonopah Field Office
P.O. Box 911
- WITH COPY TO SOLICITOR**... Office of the Solicitor, Regional Solicitor
Pacific Southwest Region, U.S. Department of the Interior
2800 Cottage Way, Room E-1712
Sacramento, CA 95825
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- 3. STATEMENT OF REASONS** Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).
- WITH COPY TO SOLICITOR**..... Office of the Solicitor, Regional Solicitor
Pacific Southwest Region, U.S. Department of the Interior
2800 Cottage Way, Room E-1712
Sacramento, CA 95825
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- 4. ADVERSE PARTIES**..... Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).
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- 5. PROOF OF SERVICE**..... Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).
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- 6. REQUEST FOR STAY**..... Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your *Notice of Appeal* (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* and Petition for a Stay **must** also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.
- Standards for Obtaining a Stay.** Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a 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 on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2006)