



United States Department of the Interior



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http://www.blm.gov/nv/st/en/fo/battle_mountain_field.html

In Reply Refer To:
4700 (NVB0200)

JUL 28 2010

Dear Interested Public:

DECISION

**Montezuma Peak and Paymaster Herd Management Areas
Wild Horse and Burro Gather Plan and Environmental Assessment
DOI-BLM-NV-B020-2010-0113-EA.**

INTRODUCTION

The Bureau of Land Management (BLM) Tonopah Field Office (TFO) has determined that excess wild horses and burros are present within and outside of the boundaries of the Montezuma Peak and Paymaster Herd Management Areas (HMA). The TFO is therefore proposing to conduct a wild horse and burro gather to remove excess wild horses and burros located within and outside of the Montezuma Peak and Paymaster HMAs, beginning on or about September 9, 2010.

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 Final EA and associated documents can be viewed at www.blm.gov/nv/st/en/fo/battle_mountain_field.

Based on the analysis of potential environmental impacts detailed in the Montezuma Peak and Paymaster Gather EA, BLM has determined that the impacts associated with the Proposed Action or Alternatives 1 or 2 are not significant. This determination is documented in the attached Finding of No Significant Impact (FONSI).

The Montezuma Peak HMA is located west of the town of Goldfield, 26 miles south of Tonopah in Esmeralda County, Nevada. The area encompasses approximately 77,931 acres 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 to areas 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 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. Table 1 displays the Appropriate Management Level (AML) and current population estimates for the HMA.

Table 1. Montezuma Peak HMA Summary

HMA	Acres	Allotment	AML	Current Estimated Population ¹
Montezuma Peak	77,931	Montezuma	0	70 horses, 61 burros
		Magruder Mountain	2 horses, 10 burros	
		Yellow Hills	1 horse	
		Total	3 horses, 10 burros	

Table 2. Paymaster HMA Summary

HMA	Acres	Allotment	AML	Current Estimated Population
Paymaster	100,591	Montezuma	0	59 horses
		Monte Cristo	8 horses	
		Yellow Hills	1 horse	
		Unallocated	1 horse	
		Sheep Mountain	28 horse	
		Total	38 wild horses	

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

1. The current population is based on an aerial inventory conducted February 2010 prior to the foaling season.

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 for these arid ecosystems in order to prevent degradation to the vegetation and riparian resources and to maintain healthy animals.

The BLM currently establishes AML as a range; the Montezuma Peak and Paymaster AMLs were established as a single number with provisions to allow for removal to a lower number in order to provide for up to three years of population growth without exceeding the AML between gathers consistent with BLM's management of wild horses within an AML

DECISION

In accordance with the Final Montezuma Peak and Paymaster Herd Management Area Wild Horse and Burro Gather EA DOI-BLM-NV-B020-2010-0113-EA, it is my decision to implement the Proposed Action as follows:

Proposed Action: Capture and remove approximately 61 burros and 78 wild horses from the Montezuma Peak gather area leaving a post-gather population of 10 burros and 3 horses inside the HMA boundary; and capture and remove approximately 45 wild horses from the Paymaster gather area, leaving a post-gather population of approximately 23 wild horses within the HMA.

Pursuant to Title 43 of the Code of Federal Regulations at 43 CFR 4770.3(c), this decision is effective immediately and the Montezuma Peak and Paymaster HMA gather is approved to begin on or about September 9, 2010.

RATIONALE:

Based upon all information available at this time, the TFO has determined that excess wild horses and burros are present within and outside of the Montezuma Peak and Paymaster HMAs. Removing excess wild horses and burros would comply with the Wild Free-Roaming Horses and Burros Act. The gather would also achieve a population of wild horses and burros consistent with the established AMLs, which will protect the wild horses and burros from declining body condition and poor health due to a lack of forage and water, and is necessary to restore a thriving natural ecological balance and prevent degradation of rangeland resources resulting from an overpopulation of wild horses and burros. This assessment is based on factors including, but not limited to the following rationale:

- The existing and estimated post foaling 2010 population exceeds the established AMLs (41 wild horses and 10 wild burros) as established through FMUDs.
- The 2010 aerial inventory documented 69-71% of wild horses and burros residing outside of HMA boundaries.
- Recurrent drought and sporadic precipitation patterns occur within the region.
- Attributes of the region including inherently low precipitation and undeveloped soils that result in undesirable or limited habitat for wild horses.
- Excess wild horses and burros have contributed to some of the Standards for Rangeland Health not being met in accordance with the Mojave/Southern Great Basin Resource Advisory Council (RAC; 1997), particularly where use is occurring outside of the HMA boundaries.
- History of poor wild horse health and Henneke body condition scores of 3 (thin) or less (refer to the end of Appendix A for a diagram and description of the Henneke System).
- The AMLs for Montezuma Peak and Paymaster HMAs were established at a level necessary to maintain a thriving natural ecological balance and management of wild horses and burros at AML is necessary to allow for progress towards achieving the Standards for Rangeland Health in accordance with the Mojave/Southern Great Basin RAC and to prevent diminishing animal health and death resulting from an overpopulation of wild horses and burros.

Based on the above factors, the TFO has determined that an estimated 123 excess wild horses and 61 excess wild burros are present both within and outside of HMA boundaries.

Large portions of the Paymaster and Montezuma Peak HMAs are “dry” with no water available for wild horses or burros, and many areas are inaccessible due to steep terrain. Additionally, the vegetation communities in these HMAs are affected by various climatic influences such as extremely variable precipitation, due to the transition between the Great Basin and Mohave Deserts. Soils within the HMAs are undeveloped, producing low amounts of usable forage for wild horses and burros. Condition of the rangeland resource is detailed in the documents identified in Sections 1.7, 3.5 and Appendix C.

The AMLs need to be achieved and maintained in order to manage the populations of wild horses and burros within the HMAs designated for their use through the Tonopah RMP and within the Herd Areas where these animals were originally located in accordance with the 1971 WFRHBA and CFR 4710.4. Achievement of AML is also needed to prevent diminishing animal health and to maintain healthy vegetative communities that provides important habitat to wild horses, burros, livestock and wildlife. Maintaining wild horse and burro populations consistent with the established AMLs would also ensure long-term health and fitness of the wild horses and burros through variable environmental conditions (such as in low precipitation years) and promote progress towards attainment of RAC Standards and for Rangeland Health, RMP and Allotment Specific Objectives.

The proposed gather would:

- maintain healthy wild horses and burros within the HMA boundaries which have been designated for their use.

- avoid emergency conditions caused by an overpopulation of wild horses or burros, which would be compounded under drought conditions.
- decrease forage competition among wild horses, wild burros and wildlife.
- contribute to increased plant vigor, seed production, seedling establishment, and forage production over current conditions.
- promote continued long term improvement of the vegetation resources throughout the HMAs, resulting in upward trend and increased frequency of key species, and

Leaving excess horses on the range under the No Action Alternative, as advocated by some, would lead to severe and potentially irreparable degradation of the range; damage to riparian resources and continued movement of wild horses and burros to areas outside the designated HMAs, intensifying habitat loss and competition between wild horses and burros, and wildlife. Due to the nature of the arid habitat and limited water and forage in the area, emergency conditions could occur at any time, resulting in water starved, thin and emaciated animals with potentially high mortality.

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

a). Potential Impacts to Animal Health.

The Montezuma/Paymaster area is very arid, has a history of poor animal health, and if the gather is delayed, there is a high likelihood that emergency conditions would occur and result in deteriorated body condition of the wild horses and in the death of water or forage starved wild horses. The average precipitation received at the Magruder Mountain rain gauge is just 3.51 inches annually. The rain gauge at the Tonopah Airport receives an average of 5.08 inches annually. Drought conditions occur every 3-4 years on average, and precipitation patterns fluctuate greatly. Waters are especially limited within these HMAs, and wild horses and burros are trailing long distances to locate water and forage, using waters on private lands and water from the effluent discharge of the Tonopah sewer ponds. Many of these sources are far outside the boundaries of the HMAs. Animal condition is known to decline during summer months, when numerous wild horses (especially mares with colts) are thin, with average Henneke body condition scores of 3 (thin).

The 2010 estimated post foaling population of wild horses is 149 wild horses and 71 burros between the two HMAs, which exceeds the established AMLs by 108 wild horses and 61 burros. Large numbers of wild horses and burros have been documented outside of HMA boundaries as they look for forage and water.

Failure to issue this decision effective upon issuance and to allow the current overpopulation to continue risks declining animal health and body condition, emergency conditions and mortality due to water and food starvation as the ever increasing population of wild horses and burros compete for limited resources in the hot desert environment. Other risks include degradation of the habitat within the HMAs and continued expansion of animals outside of the HMA boundaries.

b). Necessity of Prompt Removal of Excess Wild Horses

Delay of a gather to remove excess wild horses beyond the 2011 foaling season would result in a further increase in the population to an estimated 254 wild horses based on an average population growth rate of 16% for the HMAs. Not only would this require the removal of an additional 56 wild horses (above and beyond the current excess numbers) in order to be in conformance with the AML, but could result in emergency conditions due to limited forage and water to support the ever growing population, especially if drought conditions occur. Inventory flights completed February 2010 documented 70% of the wild horses and burros moving outside of HMA boundaries to access forage, water and habitat. The wild horses and burros outside the HMA boundaries are on public lands that are not designated or managed for wild horses or burros and must therefore be promptly removed.

c). Potential Damage to Rangeland and Riparian Resources.

The Montezuma Peak and Paymaster HMAs are dominated by plant communities that are inherently less productive due to the climate and soils that support them. Much of the rangeland within the area is also characterized by a lack or absence of the key perennial grass species in the understory, with many areas dominated by shrubs and bare ground.

These HMAs are on the transition between the Great Basin Desert (salt desert scrubland) and the northern edge of the Mojave Desert (hot desert). These HMAs are subjected to regular drought periods lasting more than one growing season which decreases the vigor of the plants. Improvement in these dry areas comes during above average annual precipitation years, when seedlings sprout, if there are consecutive years of above average rainfall to allow establishment.

Because of the inherent low precipitation levels received in the Great Basin/Mojave Deserts and the frequency of drought occurrence, vegetation improvement from past grazing abuse as a result of changes to historic grazing practices is very slow. Improvement in vegetative condition is impeded and may even be reversed should these areas continue to receive over use by excess wild horses and burros. Proper management of wild horses and burros is paramount to ensure that further decline of the wild horse and burro habitat and of rangeland resources does not occur.

Wild horses and burros have moved out of the HMA boundaries to access forage and water and are now utilizing areas that are not designated for their use. Monitoring has documented impacts by wild horse and burro use in these non-HMA areas. Few waters exist within the HMAs, and heavy use by wild horses and burros has been documented as well as heavy trailing. Failure to issue this decision effective upon issuance and continued over population of wild horses and burros will result in further degradation and loss of habitat utilized by wild horses, burros and wildlife.

In accordance with 43 CFR 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.

PUBLIC INVOLVEMENT

Prior to completion of this EA, a scoping letter dated April 26, 2010 was mailed to 28 individuals, agencies and organizations on the interested public list for the Montezuma Peak and Paymaster HMA. Among these was the Nevada State Clearinghouse which made the scoping letter available for review by 37 Nevada State Agencies.

Comments were received from Nevada Department of Wildlife (NDOW) in support of the gather.

On June 15, 2010, the Tonopah Field Office issued the preliminary Montezuma Peak and Paymaster HMA Gather EA along with a notification of its availability for a 30 day review and comment period to the interested public mailing list for the Montezuma Peak and Paymaster HMA. The preliminary EA was posted on BLM's website at: www.blm.gov/nv/st/en/fo/battle_mountain_field. Additionally, the Nevada State Office issued a news release notifying the general public of the availability of the document for review as well as posting the news release on BLM's external website. The news release was issued to a list of over 100 media sources in Nevada and California and Nevada Congressional representatives.

All Comments were reviewed and considered in completion of the Final Montezuma Peak and Paymaster HMA Gather EA. Several letters were received in support of the gather as well as letters against the gather, and numerous form letters were also received. These comments are summarized within Appendix F of the Final EA. Some additions were made to the EA for clarification purposes; however, no substantial modifications were made to the EA as a result of the comments received.

Most comments reviewed fell among but were not limited to the following themes:

- Support the action/promote balance with limited resources
- Herd growth/animal numbers incorrect
- Post-gather population's genetic health
- Appropriate management levels are too low
- Affected environment/monitoring data
- Concerns/effects/results of fertility control
- Outside of scope of analysis
- Viewpoint/matter of opinion
- Concerns/effects of use of helicopters
- Concerns/effects of Long Term Pastures
- Concern on population modeling program
- Develop water/range improvements

Public hearings are held annually on a state-wide basis regarding the use of helicopters and motorized vehicles to capture and transport wild horses and burros. During these meetings, the public is given the opportunity to present new information and to voice any concerns regarding the use of these methods to capture wild horses and burros. The Elko District Office held the state-wide meeting on July 1, 2010; thirteen public participants attended and their comments were entered into the record for this hearing. Most were in support of the use of helicopters and

the gathering of excess wild horses and burros. Standard Operating Procedures were reviewed in response to these concerns and no changes to the SOPs were indicated based on this review.

AUTHORITY

The authority for this decision is contained in Section 3(b)(2) of the 1971 Free-Roaming Wild Horses and Burros Act, Section 302(b) of the Federal Land Policy and Management Act (FLPMA) of 1976, and Code of Federal Regulations (CFR) at 43 CFR §4700.

43 CFR § 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 CFR § 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 CFR § 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 animal immediately.

43 CFR § 4740.1 Use of motor vehicles or aircraft

- (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 and 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 and burros, the authorized officer shall conduct a public hearing in the area where such use is to be made.

43 CFR § 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.

