



# United States Department of the Interior



BUREAU OF LAND MANAGEMENT

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[http://www.blm.gov/nv/st/en/fo/battle\\_mountain\\_field.html](http://www.blm.gov/nv/st/en/fo/battle_mountain_field.html)

**DEC 22 2011**

In Reply Refer To:  
4700 (NVB02000)

## DECISION

### **Stone Cabin Complex Wild Horse Gather Plan and Environmental Assessment DOI-BLM-NV-B020-2011-0106-EA**

Dear Interested Public:

#### **INTRODUCTION**

The Bureau of Land Management (BLM) Tonopah Field Office (TFO) has determined that excess wild horses are present within and outside the boundaries of the Stone Cabin Complex and are proposing to gather and remove up to 550 excess wild horses. The Proposed Action includes implementing PZP fertility control to mares that will be released. The sex ratio of the post-gather population of 247 wild horses will be adjusted to 60:40 to favor stallions.

The proposed gather area includes the Stone Cabin Herd Management Area (HMA), the Saulsbury HMA and areas outside of the HMA boundaries. The Stone Cabin HMA is located approximately 30 miles east of Tonopah in Nye County, Nevada, and primarily includes Stone Cabin Valley, both north and south of Nevada State Highway 6. The Stone Cabin HMA borders the Nevada Test and Training Range (NTTR) and the Nevada Wild Horse Range to the south. The Saulsbury HMA is divided into 2 parcels. The southern unit of the HMA is located immediately west of the Stone Cabin HMA, south of Highway 6. This southern portion is bordered to the east by the Stone Cabin HMA and to the south by the NTTR. The northern parcel of Saulsbury HMA is north of Highway 6, and is bordered to the east by U.S. Forest Service Administered lands and the Monitor Wild Horse Territory (WHT). The Stone Cabin HMA is 403,736 acres in and Saulsbury HMA includes 81,152 acres. The total proposed gather area represents 484,888 acres within the Stone Cabin Complex HMAs, and up to 400,112 acres

outside of designated HMAs, in areas primarily adjacent to HMAs where wild horses exist or may move to during gather activities.

The Appropriate Management Level (AML) for the Stone Cabin HMA and a portion of the Saulsbury HMA were established through a Consent Decision signed by Administrative Law Judge David Torbet on May 11, 1992, through the Department of Interior Office of Hearings and Appeals, Hearings Division. The Consent Decision established an AML for the Stone Cabin Allotment (and HMA) of 364 wild horses, and the Ralston Allotment portion of the Saulsbury HMA at 10 wild horses. The AML for the portion of the Saulsbury HMA in the Hunts Canyon Allotment was established as 30 wild horses through a Final Multiple Use Decision (FMUD) in 1996. The FMUD was issued following an interdisciplinary analysis of monitoring data, the completion of an Allotment Evaluation for the allotment, and the involvement of interested public.

The 2011 estimated population reported in the Preliminary EA was based on wild horse inventory counts in August 2009 and an estimated 16% average annual increase (long-term average from inventory flights). The 2011 post-foaling season population was estimated at 752 wild horses in the Complex with approximately 552 located within the Stone Cabin HMA and 200 in or around the Saulsbury HMA.

During December 2011, the TFO conducted an inventory flight of the Stone Cabin Complex. Results of the direct count of wild horses in the Complex confirm at least 824 wild horses in the Complex. There were 587 wild horses directly counted in the Stone Cabin HMA and 237 were counted in the Saulsbury HMA.

BLM has prepared an environmental assessment (EA) to analyze the environmental impacts associated with the proposed gather, removal and fertility control measures. Refer to **DOI-BLM-NV-B020-2011-0106-EA**.

## **DECISION**

In accordance with the Final Stone Cabin Complex Wild Horse Gather EA (**DOI-BLM-NV-B020-2011-0106-EA**), it is my decision to implement the Proposed Action detailed in the Final EA. The Proposed Action includes:

- Capturing and removing up to 550 excess wild horses from within and outside HMA boundaries.
- Treat all mares to be with PZP fertility control.
- Adjusting sex ratios to 60:40 favoring stallions in the post-gather population.
- Achieving a post-gather population of 247-274 wild horses in the Complex.
- Continuing population growth control protocols over the next 10 years by returning to the Stone Cabin Complex every 2-3 years to treat and/or re-treat mares with fertility control and to maintain AML using limited removals.

- Using water/bait trapping as a supplementary mechanism to capture additional wild horses in circumstances where this approach is most feasible to achieve and maintain AML and implement population controls if gather efficiencies utilizing a helicopter does not achieve the desired management goals.

Pursuant to 43 CFR 4770.3(c), this decision is effective immediately and is approved to begin in or around February 1, 2012.

## RATIONALE

In recent years, the public has expressed opposition to the removal of wild horses from the range in order to meet land management and herd objectives, and has instead encouraged increased use of fertility control or other population controls to reduce herd growth rates, decrease gather frequency and ultimately reduce the number of excess animals that must be removed from the range through gathers.

The BLM has been applying various formulas of the fertility control vaccine PZP to Nevada wild horse herds since 1992, and BLM's current policy direction is to increase use of fertility control and to repeat such applications as necessary to reduce the rate of wild horse population growth and to minimize the need to remove excess wild horses from the public lands.

BLM Director Bob Abbey:

*"The BLM finds itself in the predicament of needing to gather overpopulated herds from the Western range each year while its holding costs keep rising – with no end in sight. Recognizing this unsustainable situation, the Government Accountability Office, in a report issued in October 2008, found the Bureau to be at a "critical crossroads" because of spiraling off-the-range holding costs and its limited management options concerning unadopted horses.*

*In response, Secretary of the Interior Ken Salazar and I announced on October 7, 2009, a new and sustainable way forward for managing our nation's wild horse horses and burros. We recommended **applying new strategies aimed at balancing wild horse and burro population growth rates with public adoption demand to control holding costs** [emphasized in original]. This effort would involve slowing population growth rates of wild horses on Western public rangelands through the aggressive use of fertility control, the active management of sex ratios on the range, and perhaps even the introduction of non-reproducing herds in some of the BLM's existing Herd Management Areas in 10 Western states". Refer to the entire message at [http://www.blm.gov/wo/st/en/prog/wild\\_horse\\_and\\_burro/national/about/director.html](http://www.blm.gov/wo/st/en/prog/wild_horse_and_burro/national/about/director.html)*

Humane Society for the United States (HSUS):

*“The HSUS strongly supports an increase in the use of fertility control – specifically the Porcine Zona Pellucida (PZP) immunocontraception vaccine – and sex ratio adjustments to slow population growth. This work should immediately be expanded to as many herds as possible as an alternative to gathers and long term holding. With an efficacy rate of over 90%, a comprehensive contraception program could dramatically reduce the financial burden on the agency and allow the BLM to once again focus its resources and efforts on range management programs” (HSUS 2010).*

BLM Instruction Memorandum No. 2010-135 conveys this policy by directing the authorized officer to *“consider a range of alternatives to reduce (slow) population growth rates and extend gather cycles for all wild horse herds with annual growth rates greater than or equal to 5%. These alternatives may include (but are not limited to): fertility control, adjustments in the sex ratio in favor of males, a combination of fertility control and sex ratio adjustment, and management of selected HMAs for non-reproducing wild horses”.*

The Stone Cabin Complex gather is consistent with this direction. The gather is needed to slow population growth, achieve and maintain the wild horse populations within the established AMLs, and to reduce the number of excess wild horses that need to be removed from these HMAs in future gathers. The action would result in fewer wild horses being placed in short or long-term holding or in the adoption and sale programs over the next 10-20 years. By achieving and maintaining population size within AML, rangeland resources would be protected from the deterioration associated with wild horse overpopulation, and a thriving natural ecological balance and multiple use relationship on public lands would be maintained or achieved consistent with the provisions of Section 1333(a) of the Wild Free-Roaming Horses and Burros Act of 1971 (WFRHBA).

Based on the above factors, 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 horses and to bring the wild horse population back to within the established AML range in order to achieve and maintain a thriving natural ecological balance between wild horses 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. Attainment of the Proposed Action would also result in placing fewer excess wild horses in short or long-term holding or in the adoption or sale pipelines over the next 10 year period as compared to the No Action Alternative.

Leaving excess wild horses 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 continued deterioration of rangeland resources, including vegetative, soil and riparian resources, and could potentially result in the irreversible loss of native vegetative communities. Wild horses would continue to relocate in increasing numbers to areas outside the HMA boundaries due to competition for limited water and forage within the HMAs, adversely impacting public land resources not designated for wild horse management. 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 1992 Consent Decision

The AML for the Stone Cabin HMA and a portion of the Saulsbury HMA were established through a Consent Decision signed by Administrative Law Judge David Torbet on May 11, 1992, through the Department of Interior Office of Hearings and Appeals, Hearings Division. The Consent Decision established an AML for the Stone Cabin Allotment (and HMA) of 364 wild horses, and the Ralston Allotment portion of the Saulsbury HMA at 10 wild horses.

The TFO conducted an inventory flight in December 2011 of the Stone Cabin Complex during which wild horses were directly counted from a helicopter. There were 587 wild horses counted in the Stone Cabin HMA. This population exceeds the AML set in the 1992 Consent Decision by 223 animals (161% AML). Forty-five wild horses were counted in the portion of the Saulsbury HMA in the Ralston Allotment. This exceeds AML set in the Consent Decision by 35 animals (450% AML).

b). Necessity of Prompt Removal of Excess Wild Horses

Delay of a gather to remove excess wild horses beyond the 2012 foaling season would result in a further increase in the population to an estimated 955 wild horses (based on a long-term average of 16% annual increase in population) in the Stone Cabin Complex, requiring the removal of additional wild horses in order to be in conformance with the AML. This would result in additional costs and increased numbers of wild horses which must be transported to short term holding facilities, long term holding pastures, sale or adoption.

c). Potential Impacts to Animal Health.

The 2012 estimated post foaling population of wild horses would be 955 animals (based on a long-term average of 16% annual increase in population) in the Stone Cabin Complex, which exceeds the established AML (404 for the Complex) by 551 wild horses. Through the analysis of monitoring data, the TFO determined that the AML of 364 with regular (every 2-3 years) treatments PZP and limited removals to maintain AML, was necessary to maintain a healthy wild horse population based on the availability and quality of forage and water within the Complex.

Failure to issue this decision effective upon issuance and continued population above AML risks over-utilization and degradation of the habitat within the Complex, continued expansion of animals outside of the HMA boundaries and potential deterioration of wild horse body condition as increasing numbers of wild horses compete for limited habitat. The average precipitation in the area is approximately 5 inches annually, and forage and water is not abundant. Though emergency conditions are not anticipated at this time, individual animals (particularly young mares and foals) could suffer reduced body condition and degraded health, especially during periods of drought or hard winters.

d). Potential Damage to Rangeland and Riparian Resources.

The Stone Cabin Complex 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 a lack or absence of the key perennial grass species in the understory, with many areas dominated by shrubs and bare ground. Much of the habitat within the complex is characterized by a presence of key grass species far below the potential for the sites and in many cases key grass species that are important forage for wild horses are missing completely due to historical overuse, particularly by large overpopulations of wild horses. It is common for the riparian areas and springs within the Complex to have been heavily utilized by wild horses, particularly during drought periods. Heavy and concentrated use by wild horses has degraded many of the riparian areas within the Complex.

Because of the inherent low precipitation levels received in the Great Basin and the frequency of drought occurrence, vegetation improvement from past grazing abuse can be very slow. Improvement can be further impeded and even reversed should these areas continue to receive over use by excess wild horses. Proper management of wild horses is paramount to ensure that further decline of the Stone Cabin Complex wild horse habitat does not occur. Failure to issue this decision effective upon issuance and continued over population of wild horses will result in further degradation and loss of habitat utilized by wild horses, wildlife and livestock.

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 exists, the authorized officer shall remove the excess animals immediately.

Based on the analysis of potential environmental impacts detailed in the Stone Cabin Complex 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 Stone Cabin Complex EA, a scoping letter dated June 29, 2011 was mailed to 22 individuals, agencies and organizations on the interested public list for the Stone Cabin Complex. 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](http://www.blm.gov/nv/st/en/fo/battle_mountain_field.html), for a 30 day public review and comment period on October 29, 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 EA, Appendix I for a detailed summary of the comments considered and reviewed by BLM, in its preparation of the final environmental assessment, along with BLM's responses to comments. The final Environmental Assessment / Gather Plan for Stone Cabin Complex is available on the BLM's web site at [www.blm.gov/nv/st/en/fo/battle\\_mountain\\_field.html](http://www.blm.gov/nv/st/en/fo/battle_mountain_field.html), or by contacting the Tonopah Field Office.

The Notice of Availability of the Preliminary EA and Gather Plan for the Stone Cabin Complex and was sent to the interested public list for the gather area on October 28, 2011.

## **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 §4700.

### **§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.

#### §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.

#### §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.

#### §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.

#### §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 Stone Cabin Complex wild horse gather is approved to begin on or around February 1, 2012. This decision is effective upon issuance in accordance with 43 C.F.R. § 4770.3 (c) because removal of excess wild horses is necessary to protect animal health and prevent further deterioration of rangeland resources. 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

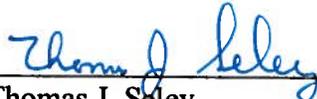
Within 30 days of receipt of this wild horse decision, you have the right to appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with regulations at 43 CFR 4.4. If an appeal is taken, you must follow the procedures outlined in the enclosed, "Information on Taking Appeals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

  
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Thomas J. Seley  
Field Manager,  
Tonopah Field Office

  
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Date