

# United States Department of the Interior



## BUREAU OF LAND MANAGEMENT

Elko District Office

3900 Idaho Street

Elko, Nevada 89801-4211

[http://www.blm.gov/nv/st/en/fo/elko\\_field\\_office.html](http://www.blm.gov/nv/st/en/fo/elko_field_office.html)



In Reply Refer To:

4700(NVE0300/NVL02000)

### DECISION RECORD

#### Antelope Complex

#### Wild Horse Gather Plan Environmental Assessment

#### DOI-BLM-NV-N030-2010-0019-EA

The Bureau of Land Management (BLM) has determined that excess wild horses are present both within and outside the boundaries of the Antelope, Antelope Valley, Goshute, and Spruce-Pequop Herd Management Areas (Antelope Complex). BLM is proposing to gather a sufficient number of the approximately 2,705 wild horses to selectively remove approximately 1,867-2,228 excess wild horses from within the herd management areas (HMAs) and approximately 50 from outside the Goshute and Spruce-Pequop HMAs for an approximate total of 1,917-2,278 excess wild horses to be removed (approximately: 339 excess wild horses in the Antelope HMA; 848 excess wild horses in the Antelope Valley HMA, 511 excess wild horses in the Goshute HMA, 530 excess wild horses in the Spruce-Pequop HMA, and 50 excess wild horses located outside of the Goshute and Spruce-Pequop HMAs) beginning in January 2011. Approximately 427 wild horses (beyond excess wild horses to be removed) would be gathered but released back to the range in order to vaccinate the mares (about 214 mares) with PZP-22 (Porcine Zona Pellucida) fertility control vaccine and adjust sex ratios closer to a 60% to 40% ratio of studs to mares. The gather, removal, sex ratio adjustment, and fertility control are intended to bring the wild horse population to the low range of the appropriate management levels (AMLs), slow population growth, maintain population size within the appropriate management levels and extend the time before another gather to remove excess wild horses would be needed.

The Antelope Complex is located approximately 60 miles south of Wells, Nevada, within Elko and White Pine Counties. The Antelope HMA is managed by the Schell Field Office in the Ely District and the Antelope Valley, Goshute, and Spruce-Pequop HMAs are managed by the Wells Field Office in the Elko District.

The BLM has prepared an environmental assessment (EA) to analyze the environmental impacts associated with the proposed gather, removal, sex ratio adjustment, and fertility control. Refer to **DOI-BLM-NV-N030-2010-0019-EA**.

## **DECISION**

It is our decision to implement Alternative A (the Proposed Action) for the Antelope Complex as described in the Environmental Assessment for the Antelope Complex (**DOI-BLM-NV-N030-2010-0019-EA**).

## **RATIONALE**

Upon analyzing the impacts of Alternative A (Proposed Action) and following issuance of the EA for public review, we have determined that implementing Alternative A will not have a significant impact to the human environment and therefore an environmental impact statement is not required. Refer to the attached Finding of No Significant Impact (FONSI).

The gather is necessary to remove excess wild horses and reduce wild horse numbers on the Antelope Complex to established AML ranges, in order to maintain a thriving natural ecological balance between wild horses, wildlife, livestock, vegetation and the available water as required under Section 1333(a) of the 1971 Wild Free-Roaming Horses and Burros Act (WFRHBA) and Section 302(b) of the Federal Land Policy and Management Act of 1976.

The BLM is required to manage multiple uses to avoid continued degradation of the rangelands. Removal of excess wild horses from the HMAs is necessary to prevent rangeland degradation and to reduce the potential for catastrophic loss of animals as a result of the present overpopulation of wild horses should drought conditions occur.

The application of fertility control and/or adjustment of the sex ratios to 60% males and 40% females within the Antelope Complex as described in Alternative A in the Antelope Complex would slow population growth, maintain population size within AMLs and extend the time before another gather to remove excess wild horses is necessary. Implementation of Alternative A would result in placing about 40% to 50% fewer excess wild horses in short or long-term holding or in the adoption or sale pipeline over the next 10 year period as compared to Alternative D (the Spruce Alternative) and the No Action Alternative.

Leaving excess horses on the range under the Spruce and No Action Alternatives, as advocated by some, could lead to severe degradation of the range, damage to the limited riparian resources, potential catastrophic die-off of wild horses under severe conditions such as the regularly occurring droughts in Nevada, and movement of wild horses to areas outside the designated HMAs, potentially leading to severe resource degradation, adverse impacts to wildlife habitat, and competition for limited forage and water with livestock and wildlife.

Under the Spruce Alternative, BLM would not remove excess wild horses to the lower limit of the AML range within the Spruce Allotment. Approximately 491 excess wild horses would remain in the Spruce Allotment. This would not conform to the mandate under the WFRHBA to manage wild horses at the appropriate management level and would require that greater numbers of excess wild horses be removed from the range in future gathers to achieve AML. This would also not comply with Bureau policy, with the Wells Resource Management Plan. Nor would it comply with the Northeastern Great Basin Resource Advisory Council (RAC) Standards and

Guidelines for Rangeland Health (February 12, 1997) and Healthy Wild Horse and Burro Populations (2000).

Under the No Action Alternative, a gather to remove excess wild horses to the lower limit of the AML ranges and to remove wild horses outside the boundaries of the Goshute and Spruce-Pequop HMAs (on public lands that are not managed for wild horses) would be delayed to an undetermined date in the future. If the delayed gather occurred in 2012, approximately 2,458 to 2,819 excess animals would need to be removed and placed in short or long-term holding, or in the adoption or sale pipeline based on projected wild horse population growth (as compared with an estimated 1,867 to 2,228 of excess animals that would be removed under the Proposed Action). Subsequent gathers would also be needed earlier than under the Proposed Action as wild horse population growth would be higher and the AMLs would be exceeded more quickly in the absence of fertility control measures.

## **PUBLIC INVOLVEMENT**

BLM sent a scoping letter to 142 interested individuals, groups, and agencies on December 14, 2009, regarding the proposed removal of excess horses from the Antelope Complex HMAs. Letters or e-mails were received from 21 individuals and groups during the 45-day comment period. In an attempt to reach a wider audience, the BLM subsequently issued a press release on January 13, 2010. From February 10 through February 12, 2010, the BLM received 8,161 comment form letters. Some members of the public submitted up to five comment form letters each, often repeating what they had already submitted.

On September 20, 2010, the Wells Field Office issued the Antelope Complex Gather Plan and Environmental Assessment, DOI-BLM-NV-N030-2010-0019-EA, along with a notification of its availability for a 30 day review and comment period. The EA was posted on BLM's website at: [http://www.blm.gov/nv/st/en/fo/elko\\_field\\_office.html](http://www.blm.gov/nv/st/en/fo/elko_field_office.html).

Additionally, the Nevada State Office issued a news release notifying the general public of the availability of the document for review on September 20, 2010, as well as posting the news release on BLM's external website.

On November 30, 2010, the Wells Field Office issued a revised EA for the Antelope Complex Gather. The revised EA incorporated analysis of an additional alternative that had been proposed during the comment period.

### *Native American Consultation*

BLM sent consultation letters to the Western Shoshone Tribes and the Shoshone-Paiute Tribe of Duck Valley in December 2009. A notification of the EA availability for a 30 day review and comment period was sent to the Western Shoshone Tribes and the Shoshone-Paiute Tribe of Duck Valley on September 20, 2010. The BLM consulted with the Shoshone-Paiute of Duck Valley on December 6, 2010. BLM received two comments from the tribes.

### *Consultation and Coordination in Development of EA*

The BLM consulted with the North Eastern Great Basin Resource Advisory Council (RAC), the Nevada Department of Wildlife, the U.S. Fish and Wildlife Service, livestock operators and others.

Public hearings are held annually on a state-wide basis regarding the use of helicopters and motorized vehicles to gather and transport wild horses and/or burros. During these meetings, the public is given the opportunity to present new information and to voice any concerns or opinions regarding the use of these methods to gather and transport wild horses and/or burros. A meeting on the state wide use of helicopters and motorized vehicles to capture wild horses and burros was held at the Elko District Office on July 1, 2010. In addition to comments made by participants at the meeting, several written comments were also entered into the record for this hearing. BLM reviewed its Standard Operating Procedures (SOPs) based on the opinions, issues and concerns raised by participants at the public meeting, and following this review determined that no changes to the SOPs were warranted.

### *Comments*

In excess of 2,800 comment letters/emails were received from individuals, organizations and agencies following the September 20, 2010 issuance of the Antelope Complex-Wild Horse Gather Plan Environmental Assessment, DOI-BLM-NV-N030-2010-0019-EA. The majority of these comments were form letters. Comments received after October 19, 2010 (the end of the comment period) were not accepted. BLM reviewed and considered all of the relevant timely submitted comment letters.

Although BLM's review of public comments did not indicate that changes to the conclusions presented in the original EA were warranted, the comments led to a revision of the document to better explain and clarify BLM's analysis. As a result, the reader should be better informed regarding the proposed gather plan and its expected impacts. The Response to Comments table is attached as Appendix M of the EA.

Comments received were organized into the following general categories:

- Herd growth/animal numbers incorrect
- Appropriate management levels are too low
- Affected environment/monitoring data
- Concerns/effects/results of fertility control
- Save Americas Mustangs
- Outside of scope of analysis
- Viewpoint/matter of opinion
- Concerns/effects of use of helicopters
- Concerns/effects of Long Term Pastures
- Concern on modeling program
- Public perception regarding other uses in the Antelope Complex

## **AUTHORITY**

The authority for this Decision is contained in Section 1333(a) 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.

### §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 in the following order.

- (a) Old, sick, or lame animals shall be destroyed in accordance with subpart 4730 of this title;
- (b) Additional excess animals for which an adoption demand by qualified individuals exists shall be humanely gathered and made available for private maintenance in accordance with subpart 4750 of this title; and
- (c) Remaining excess animals for which no adoption demand by qualified individuals exists shall be destroyed in accordance with subpart 4730 of this title<sup>1</sup>.

<sup>1</sup> The Bureau of Land Management is not implementing this portion of the CFRs. Any future decisions regarding this option would not occur before public involvement and comment.

### §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.

(c) 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.

### **APPEAL PROVISIONS**

Within 30 days of receipt of this wild horse decision, you have the right to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with regulations at Title 43 CFR § 4.4. If an appeal is taken, you must follow the procedures outlined in the enclosed Form 1842-1, "Information on Taking Appeals to the 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 Title 43 CFR 4.21. The petition must be served upon the same parties identified in items 2, 3, and 4 of the enclosed Form 1842-1. 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)).

**APPROVAL**

This decision is issued in accordance with Title 43 CFR Part 4. Pursuant to 43 C.F.R. § 4770.3(c), this decision is effective immediately, and the Antelope Complex gather is approved to begin in or after January 2011.

/S/

12/17/2010

---

Bryan K. Fuell  
Manager  
Wells Field Office

---

Date

/S/

12/17/2010

---

Mary D'Aversa  
Field Manager  
Schell Field Office

---

Date