

Guidelines (February 12, 1997)

- Lincoln County Elk Management Plan (2006 revision)
- Endangered Species Act – 1973
- Wilderness Act – 1964
- National Environmental Policy Act of 1969 (as amended)
- Migratory Bird Treaty Act (1918 as amended) and Executive Order 13186 (1/11/01)
- Bald and Golden Eagle Protection Act (16 U.S.C. 668 et seq.)
- Lincoln County Public Land and Natural Resource Management Plan as adopted by the Board of County Commissioners of Lincoln County (December 5, 1997).
- Taylor Grazing Act (TGA) of 1934
- Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1701 et seq.)
- Public Rangelands Improvement Act (PRIA) of 1978
- Title 43 CFR 4100 Grazing Administration-Exclusive of Alaska
American Indian Religious Freedom Act of 1979
- Archaeological Resource Protection Act of 1979
- National Historic Preservation Act of 1966, as amended
- Appropriations Act, 2001 (114 Stat. 1009) (66 Fed. Reg. 753, January 4, 2001)
- United States Department of the Interior Manual (910 DM 1.3).
- Fundamentals of Rangeland Health (43 CFR 4180)

The Proposed Action is consistent with all applicable regulations at 43 CFR (Code of Federal Regulations) 4700 and policies. The proposed action is also consistent with the Wild Free Roaming Horse and Burro Act of 1971, which mandates the Bureau to “*prevent the range from deterioration associated with overpopulation*”, and “*remove excess horses in order to preserve and maintain a thriving natural ecological balance and multiple use relationships in that area*”. Additionally, Promulgated Federal Regulations at Title 43 CFR 4700.0-6 (a) state “*Wild horses shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat* (emphasis added).”

The proposed action is in conformance with both statute and regulations.

2.0 DESCRIPTION OF ALTERNATIVES, INCLUDING PROPOSED ACTION

2.1 Introduction:

2.2 Alternative A: Proposed Action – Selective Removal of Excess Animals to Low Range AML; Apply Two-Year Fertility Control and Adjust Sex Ratio

The Proposed Action would gather and remove approximately 85-88% of the current population or approximately 546 excess wild horses which includes the 2010 foal crop within the Silver King HMA and apply population controls for up to 20 wild horses to be released back into the HMA. If gather efficiencies exceed 546 wild horses, selective removal criteria would be used to return horses to the range. Of the horses that would be released, about 60% would be studs, with

the remainder of these being mares treated with fertility control (Porcine Zona Pellucida (PZP-22)) prior to their return. In compliance with the Ely District RMP, the southern portions of the Highland Peak and Rattlesnake HAs that are no longer going to be managed for wild horses will be gathered to manage for zero wild horses. If gather efficiencies do not allow for the attainment of the Proposed Action in Fall 2010, the Ely District will return to the Silver King HMA in 2012 or 2013 to remove any additional wild horses necessary in order to achieve the low range of AML as well as to allow BLM to gather a sufficient number of wild horses so as to implement the population control component of the proposed action (fertility control treatments (PZP-22) and sex ratio adjustments for wild horses remaining in the HMA. Any follow-up gather activities in either Fall 2012 or 2013 would be conducted in a manner consistent with those described for the Fall 2010 gather. A follow-up gather would be implemented at least two years after the Fall 2010 gather because the remaining and released wild horses would have a heightened response to human presence and be more difficult to gather in the year immediately following the Fall 2010 gather. Funding limitations and competing priorities might also require pushing out the follow-up gather and population control component of the Proposed Action to Fall 2013.

Excess wild horses would be selected for removal from the range based on the following priority: age class 4 and younger would be removed first, animals age 5-10 are the lowest priority for removal and would only be removed if needed to achieve AML, animals 11-19 would only be removed if needed to achieve AML, and animals 20 and older should not be removed from the HMA unless specific exceptions prevent them from being turned back and left on the range. Animals displaying characteristics associated with Spanish Barb descent, regardless of age, would be selected for release back to the range, unless the lower limit of AML could not be achieved without their removal.

Due to the mountainous terrain and heavy tree cover, it may not be possible to achieve the necessary gather efficiency to achieve the proposed gather in the Fall of 2010. Population gather projections show that at 80% gather efficiency (i.e., 80% of the current population of 505 or 404 horses gathered) an insufficient number of wild horses may be gathered to allow for the release of horses back onto the range to implement fertility control and sex ratios adjustments and still achieve the low range of AML. It may therefore be necessary to return for a second, more limited, gather after BLM completes a post-gather census and the wild horses have had an opportunity to return to their normal routines. Because wild horses will remain skittish for a period following a gather, BLM would return in fall 2011 or 2012 to complete the proposed action of bringing the wild horse population to low range AML and applying population controls to slow the rate of population growth among the Silver King HMA herd.

All wild horses residing outside the Silver King HMA would be gathered and removed. Approximately fifty of these horses routinely move into the Hwy 93 corridor and cause public safety issues. Numerous reports have been brought to the Ely District's attention about horses being hit or spotted on the highway. Excess wild horses have negatively impacted the range conditions in the area.

The primary gather technique would be the helicopter-drive trapping method. The use of roping from horseback could also be used when necessary. Multiple gather sites (traps) would be used to gather wild horses both from within or outside the HMA. Bait or water trapping may be used at a later date in order to achieve AML after the initial gather attempt or to remove animals causing public safety problems. No trap sites would be set up in sage grouse leks, riparian areas, cultural resource sites, or Congressionally Designated Wilderness Areas. Gather sites would be located in previously disturbed areas. All trap sites, holding facilities, and camping areas on public lands would be recorded with Global Positioning System equipment and monitored during the next several years for noxious weeds. All gather and handling activities (including gather site selections) will be conducted in accordance with Standard Operating Procedures (SOPs) in Appendix IV.

Other data, including sex and age distribution, reproduction, condition class information (using the Henneke rating system), color, size and other information may also be recorded.

Gathered wild horses would be transported to BLM holding facilities where they will be prepared for adoption and/or sale to qualified individuals who can provide them with a good home or to long term holding (grassland pastures).

Temporary closure of roads within the HMA during gather operations may be instituted pursuant to BLM's authority under 43 C.F.R. 8364.1 if necessary to allow for safe and effective operations to proceed.

2.3 Alternative B: Remove Excess Animals to Low Range AML Without Fertility Control

Alternative B would be similar to Alternative A. Once approximately 546 excess wild horses which includes the 2010 foal crop are gathered and removed, the gather would conclude. There would be no use of population controls for the wild horses remaining in the HMA. All wild horses residing outside the Silver King HMA would be gathered and removed. All the wild horses would be transported to BLM holding facilities where they will be prepared for adoption and/or sale to qualified individuals who can provide them with a good home or to long term holding (grassland pastures). These actions would be the same as in the proposed action.

2.4 No Action Alternative – Continuation of Existing Management

Under the No Action Alternative, a gather to remove excess wild horses would be deferred. Damage to the range as a result of the current wild horse population would continue to increase as wild horse populations grow at an average rate of 20-25% per year. In two years, the wild horse population would exceed 872 head which is seven times over the upper range of AML. The BLM would continue vegetation and population monitoring. Wild horses currently residing outside the Silver King HMA would remain outside the HMA boundaries impacting rangeland resources and may continue to pose a safety concern along Highway 93.

Recent monitoring data shows rangeland deterioration resulting from the current population of wild horses. BLM has therefore determined that excess wild horses are present in the Silver King HMA and that wild horses that have moved outside of the HMA boundaries pose a public safety concern. Given this excess determination, the No Action Alternative would not be in conformance with existing law and regulation which requires the authorized officer to remove the animals immediately upon determination that excess wild horses are present. However, the No Action Alternative is required by National Environmental Policy Act (NEPA) analysis to provide a baseline for impact analysis.

The No Action is also contrary to the management prescribed in the Record of Decision (ROD) and Approved Ely District Resource Management Plan (August 2008) as it would leave wild horses remain outside the boundaries of the HMA on public lands not designated for their management, and would fail to remove excess horses so as to achieve a population range within the established AML. Under the no action alternative, the Ely RMP decision WH-4 to “Manage wild horses within six herd management areas designated from herd areas...” and WH-5 to “Remove wild horses and drop herd management area status for those areas that do not provide sufficient habitat resources to sustain healthy populations...” would not be achieved at this time.

2.5 Alternatives Considered But Eliminated From Detailed Analysis

Use of Bait and/or Water Trapping

An alternative considered but dismissed from detailed analysis was use of bait and/or water trapping as the primary gather method. This alternative was dismissed from detailed study for the following reasons: (1) the size of the area at 606,000 acres is too large to use this method; (2) access for vehicles necessary to safely transport gathered wild horses is limited; and (3) the presence of water sources on both private and public lands inside and outside the HMA would make it almost impossible to restrict wild horse access to only water trap sites to the extent needed to effectively gather and remove the excess animals. For these reasons, this alternative was determined to not be an effective or feasible method for gathering wild horses from the Silver King HMA.

Gather and Remove Excess Wild Horses Ages 0-4 years and Apply Two-Year PZP on a Three Year Gather Cycle

An alternative proposal raised in scoping comments to gather as many wild horses within the HMA as possible, apply two-year PZP (PZP-22) to breeding age mares, and only remove excess horses ranging from 0 to 4 years old was modeled using a three year gather/treatment interval over a 10 year period. Based on this modeling, this alternative would not result in attainment of the AML range for the Silver King HMA and the wild horse populations would continue to have an average population growth rate of 7.8% to 13.9%, adding to the current wild horse overpopulation, albeit at a slower rate of growth than the No Action alternative. This alternative would not resolve the existing overpopulation of wild horses, resource concerns and rangeland deterioration would continue, and implementation of this alternative would result in significantly increased gather and fertility control costs relative to the alternatives that remove excess wild

horses to AML. For these reasons, this alternative was eliminated from detailed analysis.

Gather and Release Excess Wild Horses Every Two Years and Apply Two-Year PZP to Horses For Release.

Another alternative to gather a significant portion of the existing population (90%) and implement fertility control treatment only, without removal of excess horses was modeled using a two-year gather/treatment interval over a 10 year period. Based on WinEquus population modeling, this alternative would not result in attainment of AML for the HMA and the wild horse population would continue to have an average population growth rate of 2.5-11.5% adding to the current wild horse overpopulation, albeit at a slower rate of growth than the No Action Alternative. The modeling reflected an average population size in 11 years of 560 to 1152 wild horses under a two year treatment interval. This alternative would not decrease the existing overpopulation of wild horses, resource concerns and rangeland deterioration would continue, and implementation would result in significantly increased gather and fertility control costs relative to the alternatives that remove excess wild horses to AML. In addition to not achieving AML, the time needed to complete a gather would also increase over time, because the more frequently an area is gathered, the more difficult wild horses are to trap. They become very evasive, and learn to evade the helicopter by taking cover in treed areas and canyons. Wild horses would also move out of the area when they hear a helicopter, thereby further reducing the overall gather efficiency. Frequent gathers would increase the stress to wild horses, as individuals and as entire herds. It would become increasingly more difficult over time to repeat gathers every two years to successfully treat a large portion of the population. For these reasons, this alternative was dropped from detailed study.

Remove or Reduce Livestock within the HMAs

This alternative would involve no removal of wild horses and instead address the excess wild horse numbers through the removal or reduction of livestock within the HMAs. This alternative was not brought forward for detailed analysis because it is inconsistent with the 2008 Ely District ROD Approved RMP (August 2008), and the WHBA which directs the Secretary to immediately remove excess wild horses, and is inconsistent with BLM's multiple use management for these public lands. Livestock grazing can only be reduced or eliminated following the process outlined in the regulations found at 43 CFR Part 4100 and would first require a change in the recently approved Ely RMP through a public decision-making process (43 CFR Part 1600) to implement a reallocation of multiple use of the public lands between livestock and wild horses. Such changes to livestock grazing, involving a fundamental reallocation of forage for livestock and wild horses for these public lands cannot be made through a wild horse gather decision, but must instead follow the appropriate regulatory decision-making processes.

Final Multiple Use Decisions (FMUDs) were issued for allotments within the Silver King HMA. These decisions established stocking rates for wild horses and livestock. The decisions also established seasons of use, areas of use, kind and class of livestock and management actions to improve livestock distribution. These management actions included the establishment of grazing

systems, allowable use levels, salting and herding practices. Livestock reductions through the Multiple Use Decision process were implemented on allotments within the Silver King HMA. Livestock grazing continues to be evaluated for allotments and use areas within the Silver King HMA. Monitoring and evaluation of livestock grazing is in accordance with the Ely District Record of Decision and Approved Resource Management Plan dated August 20, 2008. This action is specifically provided for in Management Decisions LG-4 and LG-5.

The goals and objectives for livestock grazing found in the Ely District Record of Decision and Approved Resource Management Plan signed August 20, 2008, states, “Manage livestock grazing on public lands to provide for a level of livestock grazing consistent with multiple use, sustained yield, and watershed function and health.” In addition, “To allow livestock grazing to occur in a manner and at levels consistent with multiple use, sustained yield, and the standards for rangeland health (p 85-86).”

Management Action LG-4 states, “Continue to monitor and evaluate allotments to determine if they are continuing to meet or are making significant progress toward meeting the standards for rangeland health. Table 4 in Section 4.0 shows the current grazing preference, season-of-use, and kind of livestock for those allotments that currently are evaluated for meeting standards, are making progress toward achieving the standards, or are in conformance with the policies as determined either through the allotment evaluation process or associated with fully processed term permit renewals. Changes, such as improved livestock management, new range improvement projects, and changes in the amount and kinds of forage permanently available for livestock use, can lead to changes in preference, authorized season-of-use, kind of livestock. Such changes will continue to meet the RMP goals and objectives, including the standards for rangeland health.”

Management Action LG-5 states, “Maintain the current grazing preference, season-of-use, and kind of livestock until the allotments that have not been evaluated for meeting or making progress toward meeting the standards or are in conformance with the policies are evaluated. Depending on the results of the standards assessment, maintain or modify grazing preference, seasons-of-use, kind of livestock and grazing management practices to achieve the standards for rangeland health. Changes, such as improved livestock management, new range improvement projects, and changes in the amount and kinds of forage permanently available for livestock use, can lead to changes in preference, authorized season-of-use, or kind of livestock. Ensure changes continue to meet the RMP goals and objectives, including the standards for rangeland health.”

The BLM is currently authorized to remove livestock from HMA “if necessary to provide habitat for wild horses or burros, to implement herd management actions, or to protect wild horses or burros from disease, harassment or injury” under CFR 4710.5. This authority is usually applied in cases of emergency and not for general management of wild horses or burros and could not be used to increase wild horse use in a manner that is inconsistent with the land-use plan and decisions establishing the appropriate levels of livestock grazing and wild horse use respectively. Available data also indicates that wild horse use has resulted in excessive vegetative utilization

and in impacts to rangelands that are recovering from wildfire and that have been closed to livestock grazing.

Gathering the HMA to upper range of AML

A post-gather population size at the upper level of the AML range would result in the AML being exceeded with the next foaling season (summer 2011). This would be unacceptable for several reasons.

The AML represents “that ‘optimum number’ of wild horses which results in a thriving natural ecological balance and avoids a deterioration of the range.” Animal Protection Institute, 109 IBLA 119 (1989). The Interior Board of Land Appeals has also held that “Proper range management dictates removal of horses before the herd size causes damage to the range land. Thus, the optimum number of horses is somewhere below the number that would cause resource damage” Animal Protection Institute, 118 IBLA 63, 75 (1991).

The upper level of the AML established for the HMA represent the maximum population for which thriving natural ecological balance would be maintained. The lower level represents the number of animals to remain in the HMA following a wild horse gather in order to allow for a periodic gather cycle, and to prevent the population from exceeding the established AML between gathers.

Additionally, gathering to the upper range of AML, would result in the need to follow up with another gather within one year (with resulting stress on the wild horse population), and could result in overutilization of vegetation resources and damage to the rangeland if BLM is unable to gather the excess horses in the HMA on an annual basis. This alternative would not reduce the wild horse population growth rate of 20-25% in the Silver King HMA and BLM would not be able to conduct periodic gathers every 3-4 years and still maintain a thriving natural ecological balance. For these reasons, this alternative did not receive further consideration in this document.

Wild Horse Numbers Controlled by Natural Means

This alternative was eliminated from further consideration because it is contrary to the WFRHBA which requires the BLM to prevent the range from deterioration associated with an overpopulation of wild horses. It is also inconsistent with the 2008 Ely RMP and 2003 Wild Horse Amendment which directs that Ely District BLM conduct gathers as necessary to achieve and maintain AML. The alternative of using natural controls to achieve a desirable AML has not been shown to be feasible in the past. Experience also shows that wild horses in the Silver King HMA are not substantially regulated by predators. In addition, wild horses are a long-lived species with documented foal survival rates exceeding 95% and they are not a self-regulating species. This alternative would result in a steady increase in numbers which would continually exceed the carrying capacity of the range until severe and unusual conditions that occur periodically-- such as blizzards or extreme drought-- cause catastrophic mortality of wild horses.