



# United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
Southern Nevada District  
4701 N. Torrey Pines Drive  
Las Vegas, NV 89130  
<http://www.blm.gov/nv/st/en/fo/lvfo.1.html>

In Reply Refer To:  
4720/4710.4 (LLNVS00000)

September 8, 2015

Decision Record (DR)  
For  
Emergency Wild Horse Gather  
For the Wheeler Pass Herd Management Area  
Southern Nevada District Office

## Introduction

Severe drought conditions and an overpopulation of wild horses have resulted in emergency conditions within the Wheeler Pass Herd Management Area (HMA) that pose an imminent threat to wild horse health and well-being. Wild horses within the Wheeler Pass HMA range in Henneke body condition score (BCS) from poor (BCS 1.5) to thin (BCS 3). Given the current drought conditions and limited forage and reduced water availability, wild horses with a BCS of 2 (in some cases 3) or less are at imminent risk of death if they remain on the range. If a sufficient number of excess wild horses are not promptly removed from the area to reduce pressure on limited forage and water resources, the Bureau of Land Management (BLM) anticipates a precipitous decline in individual wild horse body condition and that the most vulnerable horses –mares and foals in particular – will die.

To alleviate the competition for the limited forage and water resources during the extended drought conditions and prevent continued body condition decline, suffering and/or death of the most vulnerable horses, the BLM's Southern Nevada District Office proposes to continue to conduct an emergency operation to gather and remove wild horses in the poorest condition in addition to the recently gathered approximately 200 excess wild horses from the affected area within the Wheeler Pass HMA. The BLM has determined that the situation in the Wheeler Pass HMA is an emergency situation because the area is in a severe drought, the overpopulation of wild horses has resulted in extremely limited amounts of forage, and many horses are in poor or weakened body condition that will make them unable to survive the current range conditions. These conditions threaten the health and welfare of the wild horses in the area. The situation is too extreme to be addressed through the normal gather cycle (BLM Handbook 4. 7.2). given the weakened state of the horses in the Wheeler Pass HMA, a veterinarian will be onsite to provide recommendations regarding care, treatment and, if necessary euthanasia [per BLM Manual 4720.23]

Although there has been some recent rainfall in the area, the moisture has been insufficient to remedy the lack of available forage. No action other than the gather and removal of those excess wild horses would be implemented during this gather operation.

Due to drought and limited forage availability, BLM staff has been actively monitoring this area including a helicopter reconnaissance flight, part way through gather operations, to assess the remaining herd and their overall body condition. Unfortunately, conditions have visibly deteriorated in the past several weeks. Many horses are in such low body condition that any further delay is likely to result in the suffering and/or mortality of individual horses.

This decision applies to a portion of the Wheeler Pass Herd Management Area (HMA), which encompasses approximately 277,000 acres of BLM managed lands in the Southern Nevada area, northwest of the Las Vegas Valley. The Wheeler Pass HMA and adjacent herd areas have an appropriate management level (AML) of 47-66 wild horses and 20-35 wild burros. Currently the estimated population is 356-427 wild horses and 146-175 wild burros. The immediate area of concern is near the community of Cold Creek, Nevada. On-the-ground and aerial observations reveal approximately 160-200 wild horses are utilizing this limited area.

Based on current observations, the BLM has concluded that: 1) an overpopulation of wild horses currently exists on the public lands in the Wheeler Pass HMA due to the non-availability of habitat resources, 2) an emergency situation exists whereby individual wild horses will suffer and die, and 3) action is necessary to remove these excess animals on an emergency basis to prevent wild horse suffering and death. Additionally, regulations require BLM must protect the range during severe drought conditions, and to manage for a thriving natural ecological balance on the range.

### **Decision**

It is my decision to continue to implement a bait trap gather in the Wheeler Pass HMA which is the best method for conducting this emergency gather. The use of a bait trap will be effective given the temperament of the horses in this HMA and the lack of forage on the range. Bait trapping will also allow for the careful handling of these horses in their current, poor condition. This decision is effective immediately pursuant to 43 C.F.R. § 4770.3 (c) and NHPA Section 106.

The emergency gather operations would continue to gather and remove excess wild horses, in the poorest condition, from the already recently gathered approximately 200 excess wild horses from the affected area within the Wheeler Pass HMA, Clark County (See Map in Appendix I). A sufficient number of additional wild horses would be gathered due to the continued decline in animal's body condition resulting from on-going severe drought conditions which have resulted in reduced water and forage supplies. Due to the declining health of the animals, the BLM Euthanasia Policy outlined in WO-IM-2009-041 and as per BLM Manual 4720.23 would be used as a guide to determine if any of the gathered animals meet the criteria and should be euthanized.

No population control measures would be implemented during this gather operation, which would be limited to removal of a targeted number of additional excess horses only to address the emergency conditions.

### **Rationale**

The emergency action is in conformance with the Las Vegas District Record of Decision and Approved Resource Management Plan signed in 1998. The emergency action is consistent with

all other federal, state, local, and tribal policies plans to the maximum extent possible. The immediate emergency removal of excess wild horses from the Wheeler Pass HMA is necessary to alleviate wild horse suffering and death, protect the range, and decrease competition for limited resources during severe drought conditions. Delaying removal of these wild horses would risk the imminent death and suffering of animals in the gather area.

#### **Authority**

The authority for this Decision is contained in Section 1333(a) of the 1971 Free-Roaming Wild Horse and Burros Act, Section 302(b) of the Federal Land Policy 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...

#### **§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 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.

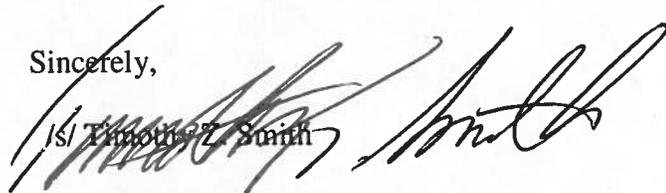
§4770.3 Administrative Remedies

- (a) Any person who is adversely affected by a decision of the authorized officer in the administration of these regulations may file and 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 the 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**

This decision is effective upon issuance in accordance with 43 CFR § 4770.3 (c) because the continued immediate removal of excess wild horses is necessary to protect animal health and 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 (see attachment)

Sincerely,



/s/ Timothy Z. Smith  
Timothy Z. Smith  
District Manager  
Southern Nevada District Office

## **Attachment**

### **Map of the Area of Concern**

#### **Appeal Procedures**

If you wish to appeal this decision, it may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR part 4. If you appeal, your appeal must **also** be filed with the Bureau of Land Management at the following address.

Timothy Z. Smith  
Southern Nevada District Office  
4701 N. Torrey Pines Drive  
Las Vegas, NV 89130

Your appeal must be filed within thirty (30) days from receipt or issuance of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4942, January 19, 1993) for a stay (suspension) of the decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted to:

Board of Appeals  
Dockets Attorney  
801 N. Quincy Street, Suite 300  
Arlington, VA 22203

A copy must also be sent to the appropriate office of the Solicitor at the same time the original documents are filed with the above office.

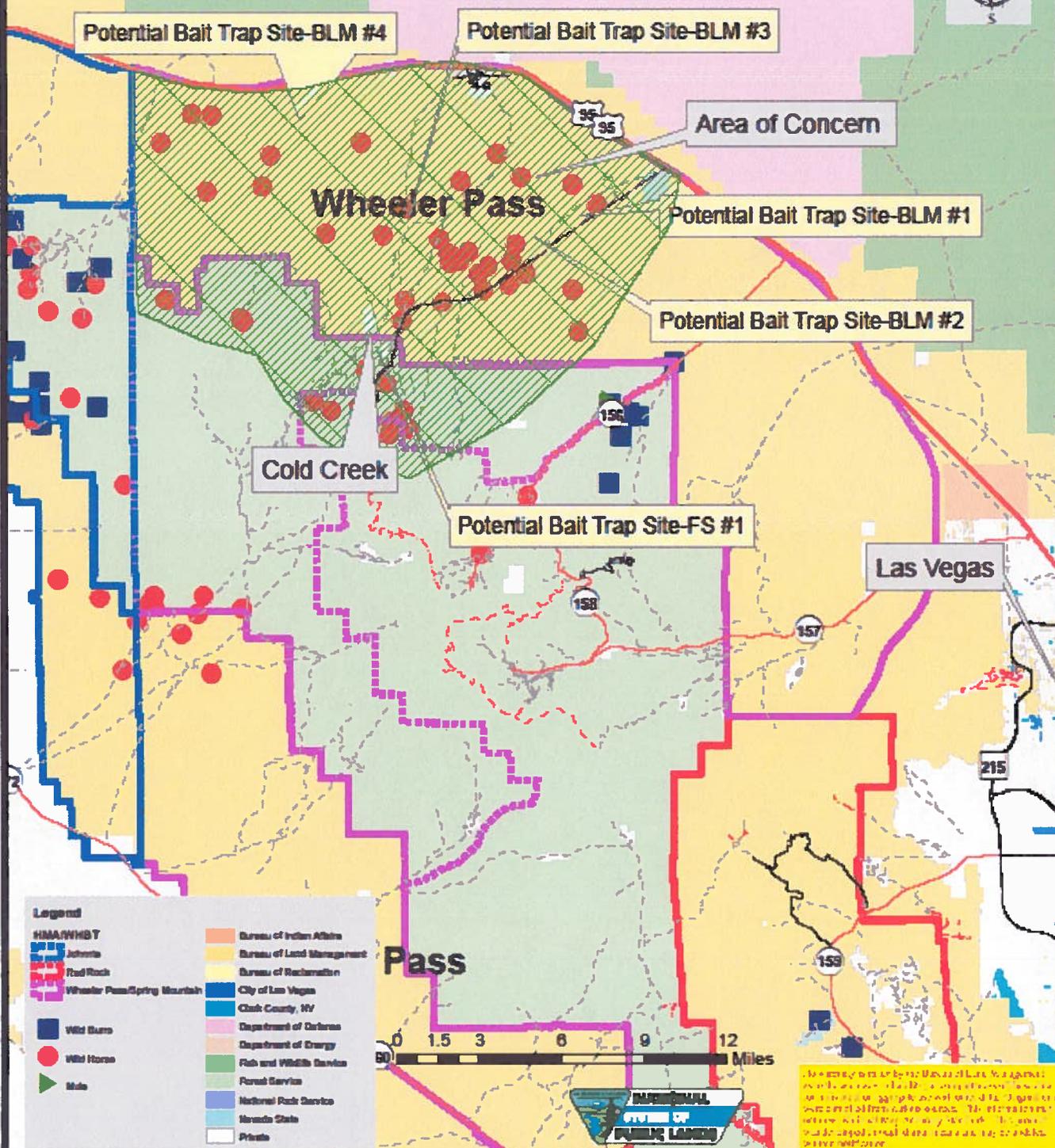
US Department of the Interior  
Office of the Regional Solicitor  
Pacific Southwest Region  
2800 Cottage Way, Room E-1712  
Sacramento, California 95825

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay is required to show sufficient justification based on the following standards:

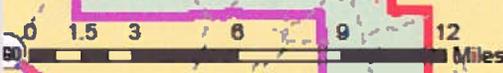
1. The relative harm to the parties if the stay is granted or denied.
2. The likelihood of the appellant's success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted.
4. Whether the public interest favors granting the stay.

The Office of Hearings and Appeals regulations do not provide for electronic filing of appeals, therefore they will not be accepted.

# Wheeler Pass HMA/Spring Mountains WHBT Area of Concern-Potential Bait Trap Locations Wild Horses Declining Body Condition



- Legend**
- |                              |                           |
|------------------------------|---------------------------|
| HMA/WHBT                     | Bureau of Indian Affairs  |
| Johnnie                      | Bureau of Land Management |
| Red Rock                     | Bureau of Reclamation     |
| Wheeler Pass/Spring Mountain | City of Las Vegas         |
| Wild Barn                    | Clark County, NV          |
| Wild Horse                   | Department of Defense     |
| Mile                         | Department of Energy      |
|                              | Fish and Wildlife Service |
|                              | Forest Service            |
|                              | National Park Service     |
|                              | Nevada State              |
|                              | Private                   |



This map is prepared by the Bureau of Land Management as a planning tool. It is not intended to be used as a legal document. The information on this map is subject to change without notice. The user should consult the appropriate agency for the most current information.