

DECISION

Augusta Mountains HMA Wild Horse Gather Plan and Environmental Assessment DOI-BLM-NV-WO10-2010-0013-EA

INTRODUCTION

The Augusta Mountains Herd Management Area (HMA) is within the administrative boundaries of the Bureau of Land Management (BLM), Battle Mountain, Carson City, and Winnemucca Districts. The Winnemucca District, Humboldt River Field Office is the administrative lead for this plan. The gather area consists of the Augusta Mountains HMA and the majority of the Fish Creek Mountains, and is located in Churchill, Lander, and Pershing Counties about 75 miles southeast of Winnemucca, Nevada.

The current estimated population of wild horses is 294 within the HMA boundary and an additional 50 wild horses residing outside of the HMA boundary. The estimated HMA population is based on the April 2009 aerial survey which counted 191 horses and the estimated 2009 and 2010 foal counts, 46 and 57 respectively. Outside the HMA, the estimated 50 wild horses are based on field observations in 2010.

Table 1: Population Estimates

HMA	Current Estimate*	AML Range	Gather	Horses Removed	Mares Treated	Horses Released
Augusta Mountains	294	185-308	235	0	≈118	235
Outside HMA	40-50	0	40	40	0	0
Total	344	185-308	275	40	≈118	235

*Population estimates are based on an annual rate of increase of 24% since the April 2009 population inventory.

The Augusta Mountains HMA was last gathered to remove excess wild horses in 2008; 267 horses were gathered and 228 of these were removed from the range in response to a wildfire which burned a portion of the HMA in 2007.

The Bureau of Land Management (BLM) Humboldt River Field Office (HRFO) is proposing to gather approximately 275 wild horses in order to treat approximately 118 mares with Porcine Zona Pellucida (PZP-22) and remove 40 excess wild horses residing outside of HMA boundaries. All horses gathered from within the HMA will be released back into the HMA following gather and treatment of mares with PZP-22. This fertility treatment would slow population growth, maintain population size within the Appropriate Management Levels (AMLs), and reduce the number of excess wild horses that need to be removed from the HMAs in the future.

The Augusta Mountains Wild Horse Gather Preliminary Environmental Assessment DOI-BLM-NV-WO10-2010-0013-EA was made available to the interested public on October 6, 2010, for a 30 day comment period. All comments were reviewed and considered prior to finalizing the Augusta Mountains HMA Wild Horse Gather Plan Environmental Assessment (EA). Several letters both in support of and opposition to the gather were received as well as numerous automatically generated form letters. Some additions were made to the EA for clarification purposes; however, no substantive modifications were made.

Based on the analysis of potential environmental impacts detailed in the Augusta Mountains HMA Wild Horse Gather Plan EA, it was determined that the impacts associated with the Proposed Action were not significant. This was documented in the attached Finding of No Significant Impact (FONSI).

DECISION

Based on the Augusta Mountains HMA Wild Horse Gather Plan EA DOI-BLM-NV-WO10-2010-0013-EA and the attached FONSI, it is my decision to implement the Proposed Action.

Proposed Action: *Under the Proposed Action, approximately 275 wild horses would be gathered from within and outside the Augusta Mountains HMA beginning in January 2011. Approximately 235 horses would be gathered from within the HMA; of those, approximately 118 mares would be treated with PZP-22 vaccine. Approximately 40 excess wild horses residing outside the HMA boundary would be removed from the range. All of the wild horses gathered from within the HMA would be released back into the HMA after all of the mares are treated with fertility control vaccine as follows:*

- All of the release mares would be treated with a two-year PZP-22 or similar vaccine and released back to the range. Fertility control treatment would be conducted in accordance with the approved standard operating and post-treatment monitoring procedures (SOPs, Appendix A).*
- Post-gather, every effort would be made to return the released horses to the same general area from which they were gathered.*
- The gather would begin in January 2011 and take about 14 days to complete.*

Pursuant to 43 CFR § 4770.3(c), this decision is effective upon issuance and the Augusta Mountains HMA gather is approved to begin in January 2011.

PUBLIC INVOLVEMENT

The Preliminary EA and Gather Plan for the Augusta Mountains HMA was sent to the interested public list for the gather area on October 6, 2010, for a 30 day review and comment period. This

list included forty eight individuals, organizations, County officials, and State and Federal Agencies. Among these was the Nevada State Clearinghouse which made the scoping letter available for review by thirty-seven Nevada State Agencies. The EA and associated documents were posted on the Winnemucca District website, and the Nevada State Office issued a news release notifying the general public of the availability of the document for review through BLM's external website. The news release was issued to a list of over 100 media sources in Nevada and California as well as Nevada Congressional representatives. The 2007 New Pass/Ravenswood HMA EA to which the draft EA was tiered was also posted on BLM's website for the public's information.

The comment period began October 6, 2010, and was open for thirty days, ending midnight November 5, 2010. All comments received during the 30-day comment period were reviewed and considered prior to finalizing the Augusta Mountains HMA Wild Horse Gather Plan EA. Letters were received both in support of and in opposition to the gather. Numerous form letters were also received which were sent by members of an animal welfare organization. Some additions were made to the EA for clarification purposes; however, no substantive modifications were made to the EA as a result of the comments received.

A public hearing is held annually on a state-wide basis regarding the use of helicopters and motorized vehicles to gather and transport wild horses and burros. During this meeting, the public is given the opportunity to present new information and to voice any concerns regarding the use of these methods to gather wild horses and burros. The Elko District Office held the state-wide meeting on July 1, 2010; thirteen members of the public attended and their comments were entered into the record for this hearing. Most were in support of the use of helicopters and of gathering excess wild horses and burros. Standard Operating Procedures (SOPs) were reviewed in response to any expressed concerns, but no changes to the SOPs were indicated based on this review.

RATIONALE:

Upon analyzing the impacts of the Proposed Action, and following issuance of the EA for public review, I have determined that the Proposed Action will not have a significant impact to the human environment, and that an Environmental Impact Statement is not required. Refer to the attached FONSI.

In recent years, animal welfare groups along with some members of the public have expressed opposition to the removal of wild horses from the range in order to meet land management and herd objectives and have 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.

The BLM has been applying various formulas of the fertility control vaccine PZP-22 to Nevada wild horse herds since 1992. The BLM's new policy direction is to increase the 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 Instruction Memorandum No. 2010-135 expresses 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.”

To further implement this strategy of increasing population controls as a management tool, the 2011 BLM wild horse gather schedule includes numerous gathers that are identified as “Capture, Treat and Release, with Limited Removals.” For such gathers, the objective is to gather areas that are not substantially in excess of AML (thus, reducing the number of excess animals that have to be removed from the range), to treat gathered mares with fertility control and to release most of the gathered horses back to the range. Properly implemented, this strategy would, over time, result in the removal of only limited numbers of excess wild horses consisting mainly of weanlings for which there is the greatest adoption demand. Excess wild horses residing outside HMAs would also be removed consistent with the Wild and Free-Roaming Horses and Burros Act (WFRHBA) and implementing regulations.

The Augusta Mountains HMA Wild Horse Gather Plan EA is consistent with this direction. The gather is needed to slow population growth, maintain population size within AML, and to reduce the number of excess wild horses that need to be removed from this HMA. 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 to 20 years. By 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 consistent with the provisions of Section 1333(a) of the WFRHBA.

The BLM intends to return to this area in three years to re-treat mares in order to continue with population control activities as well as to remove any excess wild horses. Application of fertility control in 2010 and at regular intervals in the future would potentially eliminate the need to remove wild horses that are in older age groups, typically not highly adoptable, and which the BLM currently maintains in long-term holding pastures (LTHPs).

In summary, the planned wild horse gather and application of fertility control within the Augusta Mountains HMA will:

- Maintain the populations within this HMA at a level that is consistent with the established AML,
- Reduce population growth rates; thereby, reducing the number of horses that need to be gathered and removed in the future,
- Reduce the number of wild horses that would be held in LTHPs,
- Result in the removal of excess wild horse residing outside the HMA, and
- Promote the continued improvement of wild horse and wildlife habitat within this HMA by allowing rangeland health to improve and avoiding deterioration of rangeland resources from an overpopulation of wild horses. This action would result in significant progress towards attaining the Standards for Rangeland Health and would help to ensure healthy populations of wild horses for generations to come.

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

a) Potential Damage to Rangeland and Riparian Resources

The rangeland and riparian resources within the gather area are detailed in the EAs completed for the prior gathers of this area as well as within the current Gather EA. The gather area is located within the Great Basin, known as a “cold desert”, with annual precipitation levels far below the national average ranging from 6-8 inches in the valley bottoms and up to 16+ inches in the mountains. The area is prone to drought in four of every ten years on average. As a result, the soils are generally poorly developed and native plant communities are easily degraded by overuse by grazing animals, especially during drought years.

As detailed in the Gather EAs for the prior gathers of this HMA, much of the habitat within the HMA is characterized by a presence of key grass species far below the ecological potential for the sites. It is common for the riparian areas and springs within this HMA to be heavily utilized by wild horses, particularly during drought periods. Heavy and concentrated use by wild horses has degraded many of the riparian areas within this HMA.

Some improvement in the presence and vigor of the vegetation in this HMA has been noted since the most recent gathers; however, significant improvement will require many years to attain. Proper management of grazing animals in these areas is necessary for continued and sustained improvements to rangeland health. Changes to livestock management have already been made through grazing decisions which modified the grazing systems in this area. Maintaining wild horse populations within the AML and preventing an overpopulation of wild horses is essential in order to foster improvement of the rangeland health within this HMA.

Completing the gather and applying fertility control would prevent degradation of resources. Ensuring that wild horses are managed consistent with AML would allow for a balance with other multiple uses in this area. Delaying this gather would allow the AML to be exceeded and would result in negative impacts to the upland and riparian resources through excessive utilization, trailing, and trampling, further deteriorating the health of these sensitive desert ecosystems and precluding rangeland health improvements that could otherwise occur. A delay in the gather would also mean that a larger number of excess wild horses, both within and outside of the HMA, would need to be gathered at a future date.

b) Necessity of Prompt Removal of Excess Wild Horses

Delay of a gather designed to remove excess wild horses and to administer PZP-22 vaccine to all gathered mares within the Augusta Mountain HMA at this time would result in the HMA returning to the queue for a normal gather cycle. At the earliest, the HMA could be gathered in 2012, though this could be delayed depending on other national gather priorities, contractor availability and funding. A delay in conducting the

gather would result in the need to remove a greater number of wild horses at a later date, given an estimated population growth rate of 20-24% per year, the wild horse population within the HMA will exceed AML with the 2011 foaling crop. Inventory flights document that wild horses are residing outside of HMA boundaries. As the population increases above the established AML, greater numbers of wild horses are likely to reside outside of the HMA boundaries in areas not designated for wild horse management.

In accordance with 43 CFR § 4720.1, upon examination of current information, I have determined that an excess of wild horses exists outside the HMA boundaries, and that the excess animals should be immediately removed. I have also determined that immediate action is necessary to help maintain the wild horse population within the Augusta Mountains HMA at AML to maintain or improve rangeland resources and to achieve a thriving natural ecological balance.

AUTHORITY

The authority for this decision is contained in Section 1333(a) of the WFRHBA, 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 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 captured 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 part¹

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.

(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 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 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.

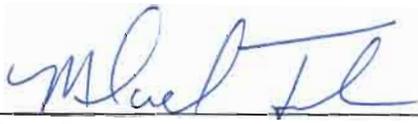
In addition, within 30 days of receipt of this decision you have a right to file a petition for a stay (suspension) of the decision *together* with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties identified in items 2, 3, and 4 of the enclosed 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.

1. The Bureau of Land Management is currently not implementing this portion of the CFRs. Future decisions regarding this option would not occur before public involvement and comment. Healthy wild horses that are not adopted are transported to long term holding pastures or are sold (with limitations) to private individuals, but are not sold to slaughter nor euthanized.

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)).



Michael Truden
Field Manager
Humboldt River Field Office



Date