



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
FILLMORE FIELD OFFICE

35 East 500 North
Fillmore, Utah 84631



In Reply Refer to:
4700 (UTW02000)

August 6, 2010

Dear Reader:

Enclosed for your review and comment is the final environmental assessment (EA) for the Conger Mountain Complex Wild Horse Gather (DOI-BLM-UT-W020-2010-010-EA).

This EA has been prepared to analyze the Bureau of Land Management (BLM) Fillmore Field Office proposal to gather and remove approximately 480 excess wild horses associated with the Confusion and Conger Mountain Herd Management Areas (HMAs), collectively referred to as the Conger Mountain Complex, beginning about September 2010.

A Finding of no Significant Impact (FONSI) has been prepared to document that determination, and a Decision Record issued providing the rationale for approving the chosen alternative.

The BLM wishes to advise the public of an emerging situation that may require emergency action within the Conger HMA.

Population numbers are currently seven times above the lower Appropriate Management Level (AML) for the Conger HMA. Available water within the Conger HMA has been dropping, as naturally occurs during the late summer months, and existing water sources may not be able to provide sufficient water for the existing wild horse population.

Improvements have been made to Skunk Springs and Willow Springs during the past year to increase water availability for the horses during the summer and fall months. More wild horses are beginning to move to Skunk Springs, causing degradation to the immediate areas around the spring itself. Large groups of wild horses are being observed around the spring for longer periods of time waiting for water levels in the trough and pond to recharge. I directed BLM staff to begin regular monitoring of the water sources within the Conger HMA on June 14, 2010, as summer temperatures began to rise. These visits will continue to monitor any changes. The conditions of the wild horses are a body class condition of a 4–5 based on the Henneke Body Condition rating. While this is a very desirable level of body condition, if the current situation with water availability continues, there is a high possibility of horses suffering from water deprivation/water starvation.

Recent storms in the area have provided some short-term relief to the water situation, but high temperatures and rapid evaporation make rain water a very temporary, unreliable source. Hauling water to the HMAs will be implemented as necessary to provide short-term mitigation.

Local residents have expressed concerns about the water supply conditions for the horses they have observed within the Conger Mountain Complex. They also expressed concerns that the number of horses is above that which the water can supply.

If the lack of available water compromises wild horse health in the Conger HMA, a decision will be issued under the "emergency situation" clause provided through policy (WO IMs 2009-85 and 2010-130). Should such a situation arise, wild horses would need to be removed quickly to a level consistent with the amount of available water. I will make this determination based on the results of regular monitoring of the situation. Any decision to conduct an emergency gather will be announced publicly. It is my hope that an emergency gather will not be needed and that the removal will be conducted during the planned time frame of early September.

Comments on the Conger Mountain Complex Wild Horse Gather Plan EA DOI-BLM-UT-W020-2010-010-EA will be accepted for 32 days until September 7, 2010. Interested individuals should mail written comments to the BLM Fillmore Field Office, 35 E 500 N, Fillmore, UT 84631 attn: Michael Gates, Fillmore Field Manager or send an email to: utconger@blm.gov. Any other comments will not be accepted. The final EA is posted at www.ut.blm.gov/ and www.ut.blm.gov/ut/st/en/fo/fillmore. Comments need to be post marked or emailed to utconger@blm.gov no later than 9-7-2010.

If you have any questions on this matter, please contact Eric Reid, BLM Fillmore Field Office Wild Horse and Burro Specialist, at (435) 743-3114.

Sincerely,



Michael D. Gates
Fillmore Field Office Manager
Fillmore Field Office

Enclosure: Decision Record Conger Mountain Complex Wild Horse Gather Plan.
FONSI Environmental Assessment DOI-BLM-UT-W020-2010-010-EA.



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BUREAU OF LAND MANAGEMENT
Fillmore Field Office
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DECISION RECORD

Conger Mountain Complex Wild Horse Gather Plan Environmental Assessment DOI-BLM-UT-W020-2010-010-EA

The Bureau of Land Management (BLM) has determined the excess wild horses are present and is proposing to gather 560 wild horses and to remove approximately 480 of the horses gathered (approximately 250 excess wild horses located in and around the Confusion HMA; 230 excess wild horses within the Conger HMA) beginning on or after about September 7, 2010. Approximately 80 wild horses would be released back to the range following the gather. Of these, 50 studs would be released back into the Confusion HMA to adjust the sex ratio and slow population growth' and 30 wild horses (10 mares vaccinated with PZP-22 (Porcine Zona Pellucida) fertility control vaccine. The purpose of the gather would be to slow population growth, maintain population size within the appropriate management level (AML) and extend the time before another gather to remove wild horse numbers in excess of the AML lower limit is needed.

The Conger Mountain Complex is located in Millard and Juab Counties, about 20 miles northeast from Garrison, Utah. The Complex comprises 464,650 acres of public, state and private land.

The BLM has prepared an environmental assessment (EA) to analyze the environmental impacts associated with the proposed capture. Refer to **DOI-BLM-UT-W020-2010-010-EA**.

DECISION

It is my decision to implement the Alternative 1 (the Proposed Action) described in the Final Environmental Assessment for the Conger Mountain Complex (**DOI-BLM-UT-W020-2010-010-EA**). This decision is effective immediately pursuant to 43 C.F.R. § 4770.3(c), and the Conger Mountain Complex Wild Horse Gather is approved to begin on or about September 7, 2010.

RATIONALE

Application of fertility control and/or adjustment of the sex ratios of 70% males and 30% females within the Confusion HMA and 60% males and 40% females within the Conger Mountain HMA as described in Alternative 1 of the environmental assessment would slow population growth, maintain population size within AMLs, and extend the time before another gather to remove wild horse numbers in excess of the AMLs lower limit would be needed.

Implementation of Alternative 1 would result in placing about 40% to 50% fewer excess wild horses in short or long-term holding, or the adoption or sale pipeline over the next 10 year period as compared to the No Action Alternative.

Leaving excess horses on the range under the No Action Alternative, as advocated by some, would lead to: severe degradation of the range; damage to riparian resources, potential catastrophic die-off of wild horses under severe conditions such as the regularly occurring droughts and movement of wild horses to areas outside the designated Herd Management Areas, potentially leading to severe resource degradation and competition with grazing and wildlife.

Under the No Action Alternative, a gather to remove excess wild horses to the lower limit of the AML range would be needed in about 2011. At that time, approximately 573 excess animals would need to be removed and placed in short or long-term holding, or the adoption or sale pipeline (as compared to the 480 excess animals that would be removed under the Proposed Action). Subsequent gathers would be needed to remove excess animals about every 4 years over the next 10-15 years.

Water resources within the Conger Mountain Complex HMAs have been dropping as is expected during this time of the year. With population numbers 3-4 times above AML, these water sources are slowly depleting and not able to provide ample water for the increased population numbers. Due to the high population numbers and decreased water flows, this has elevated the need to remove excess wild horses to an emergency level to ensure long term herd sustainability on the range. Improvements have been made to several springs (Skunk Springs and Willow Springs) during the past year to increase water availability for the horses during the summer and fall months. Wild horses are beginning to move to Skunk Springs causing degradation to the immediate areas around the spring itself. Large groups of wild horses are being observed around the spring for longer periods of time waiting for water levels in the trough and pond to recharge. The water sources within the HMAs have been monitored weekly since June 14, 2010 as summer temperatures began to rise.

The livestock grazing allotments within the Conger Mountain Complex are winter livestock grazing allotments. Water is solely being used by wild horses and wildlife during the summer and fall months. Currently there are 22 cattle authorized for grazing within the Skunk Spring Allotment but no livestock grazing is occurring within the Conger Mountain HMA boundary. Livestock permitted within the Confusion HMA are non-competitive users (i.e. sheep) where water is hauled by the permittee on the Thousand Peaks Allotment. Sustainability of wild horses and wildlife within the HMAs requires proper management and action to ensure that wild horses do not suffer from water deprivation.

PUBLIC INVOLVEMENT

On June 14, 2010, the Fillmore Field Office issued the Conger Mountain Complex Wild Horse Gather Plan and Environmental Assessment DOI-BLM-NV-2010-010-EA along with a notification of its availability for a 30 day review and comment period. The preliminary EA was posted on the BLM's website at: <http://www.blm.gov/ut/st/en.html>.

Additionally, notification of the proposed action was listed on the Environmental Notification Bulletin Board (ENBB) December 16, 2009 for public notification.

Southern Utah Wilderness Alliance (SUWA) submitted a written response from the ENBB posting supporting the need to remove excess wild horses.

Native American Consultation

Consultation letters were sent to the Paiute Tribe of Utah, Kanosh Band, Confederated Tribes of the Goshute Reservation, Skull Valley Goshute Tribe, and the Uintah Ouray Tribe. Responses from the tribes stated that they had either no comments or concerns.

The State Historic Preservation Office (SHPO) was contacted and concurrence was received on BLMs decision that no effect to Historic Properties would occur from implementation of the proposed action.

Consultation and Coordination in Development of EA

The BLM consulted with the Utah Division of Wildlife Resources (UDWR), US Fish & Wildlife Service (USFWS), SHPO, Native American Indian tribes, 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 (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 (or burros). Utah BLM held this meeting June 9, 2010 at the West Desert District Office in Salt Lake City, Utah. Primary concerns and issues discussed were: (1) how helicopters are used during gathers and their effects on wild horses, (2) appropriate management levels in HMAs and how they are established and monitored, (3) how BLM inventories horse populations and accuracies of these surveys, and (4) legal ability of BLM using motorized vehicles. BLM reviewed its Standard Operating Procedures in response to the views and the issues expressed at the hearing and determined that no changes to the SOPs were warranted.

Comments

In excess of 3,600 comment letters/emails were received from individuals following the issuance of the Conger Mountain Complex Wild Horse Gather Plan EA. The vast majority of these comments were one of two form letters. The form letters were reviewed and considered with no substantive comments. Several other comment letters/emails were reviewed and considered resulting in 13 unique, substantive comments. Substantive comments were utilized to revise the EA as appropriate.

Although BLM's review of public comments did not indicate that changes to the conclusions presented in the original EA were warranted, the comments did lead to changes in 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 to this EA.

Comments received were organized into the following general categories:

Concerns/effects/results of fertility control

Outside of scope of analysis

Viewpoint/matter of opinion

Concerns/effects of use of helicopters

Concerns/effects of Long Term Pastures

Public perception regarding other uses in the Conger Mountain Complex area

AUTHORITY

The authority for this Decision is contained in Section 3(b)(2) 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 the 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 wild life agencies and all other affected interests, to involve them in planning for the 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 title¹.

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.

§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 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 day 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 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 to the Board of Land Appeals." Please 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 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 follow 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

The gather is approved for implementation on or about September 7, 2010 for the Conger Mountain Complex. This decision is effective immediately pursuant to 43 C.F.R. § 4770.3(c), and the Conger Mountain Complex Wild Horse Gather is approved to begin on or about September 7, 2010. This decision also is issued in accordance with Title 43 of the Code of Federal Regulations (CFR) Part 4. It may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with 43 CFR Part 4, Subpart B (enclosed Form 1842-1).



Michael D Gates
Fillmore Field Manager

8/6/2010
DATE

Acting



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FINDING OF NO SIGNIFICANT IMPACT (FONSI)

Conger Mountain Complex Wild Horse Gather Plan Environmental Assessment DOI-BLM-UT-W020-2010-010-EA

Based on the analysis of potential environmental impacts in the EA, I have determined that the Proposed Action will not have a significant effect on the human environment. Therefore, the preparation of an environmental impact statement is not required for compliance with the National Environmental Policy Act of 1969.

Reasons for this finding are based on my consideration of the Council on Environmental Quality (CEQ) criteria for significance (40 CFR 1508.27) with regard to the context and intensity of impacts.

Context: The affected region is limited to the Conger Mountain and Confusion HMAs. The environmental analysis was prepared with input from the interested parties.

Intensity: There is no evidence that the severity of impacts is significant:

1. The action is expected to meet BLM's objective for wild horse management of maintaining a thriving natural ecological balance and multiple use relationship consistent with other resource needs.
2. The proposed action has no effect on public health or safety.
3. The proposed action has no potential to affect unique characteristics such as historic or cultural resources. No adverse impacts to the Conger Mountain and Confusion HMAs are anticipated. There are no wild and scenic rivers, or ecologically critical areas present in the areas.
4. The effects of the proposed action on the quality of the human environment are not considered to be highly controversial, and effects of the gather are well known and understood.
5. Possible effects on the human environment are not highly uncertain, and do not involve unique or unknown risks.

6. The action is compatible with future consideration of actions required to improve wild horse management in conjunction with meeting objectives for wildlife habitat and the military's operations mission within the herd management area.
7. The proposed action is not related to other actions with individually insignificant, but cumulatively significant impacts.
8. The proposed action has no potential to adversely affect properties listed or eligible for listing in the National Register of Historic Places, and would not cause loss or destruction of significant scientific, cultural, or historical resources.
9. The proposed action would have no effect on any other threatened or endangered species or habitat determined to be critical under the Endangered Species Act.
10. The proposed action does not threaten to violate any Federal, State, or local laws or requirements imposed for the protection of the environment.



Michael D. Gates
Fillmore Field Manager

Acting

8/6/2010
DATE

(1) Enclosure:
Form 1842-1