

# **Fertility Control Application for Wild Mares in the McCullough Peaks Herd Management Area**

**Cody Field Office, Wind River/Bighorn Basin District, Wyoming**

**March 2011**



The BLM's multiple-use mission is to sustain the health and productivity of the public lands for the use and enjoyment of present and future generations. The Bureau accomplishes this by managing such activities as outdoor recreation, livestock grazing, mineral development, and energy production, and by conserving natural, historical, cultural, and other resources on public lands.

**BLM/WY/PL-11/020+1060**

**DOI-BLM-WY020-EA11-9**

## **Finding of No Significant Impact/Decision Record Cody Field Office**

ENVIRONMENTAL ASSESSMENT (EA)  
WY-020-EA11-9

Fertility Control Application for Wild Horse Mares in the McCullough Peaks Herd Management  
Area

### **Introduction:**

The Bureau of Land Management's (BLM) Cody Field Office (CYFO) proposes to implement a fertility control field darting program for the McCullough Peaks Herd Management Area (HMA) located in Park and Big Horn Counties, Wyoming. Fertility control treatments would begin in 2011 and are expected to continue through 2015 or longer if no new information or circumstances develop in the area of analysis.

Alternatives analyzed in detail:

- Alternative I (Proposed Action) – Treat mares in the McCullough Peaks HMA with fertility control.
  
- Alternative II – No Action – Do not treat mares in the McCullough Peaks HMA

The EA is available at the Cody Field Office or at the following web address and is incorporated by reference for this Finding of No Significant Impact (FONSI).

<http://www.blm.gov/wy/st/en/info/NEPA/documents/cyfo/mcculloughpeakshma.html>

### **Plan Conformance and Consistency:**

The proposed population control is in conformance with Cody Resource Management Plan, Final EIS and Record of Decision (ROD) (1990) objectives to manage for a balance between a healthy population of wild horses and improvements in range condition, wildlife habitat, and watershed condition.

The proposed action would be in conformance with the Wild Free-Roaming Horses and Burros Act of 1971, (Public Law 92-195 as amended), and with all applicable regulations at 43 CFR (Code of Federal Regulations) 4700, and policies outlined by BLM. The Wild Free-Roaming Horses and Burros Act of 1971, (P. L. 92-195) as amended, Section 1333 (b) (1), states the Secretary of the Interior shall “determine appropriate management levels of wild free-roaming horses and burros on areas of public lands; and determine whether appropriate management levels should be achieved by the removal or destruction of excess animals, or other options (such as sterilization or natural controls on population levels).” According to 43 CFR 4700.0-6, “Wild horses shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat.”

## **FINDING OF NO SIGNIFICANT IMPACT (FONSI) DETERMINATION:**

Based upon a review of the EA and the supporting documents, I have determined that the project is not a major federal action and would not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. Environmental effects do not meet the definition of significance in context or intensity as defined in 40 CFR 1508.27 and do not exceed those effects described in the Cody RMP/FEIS. *Therefore, an environmental impact statement is not needed.*

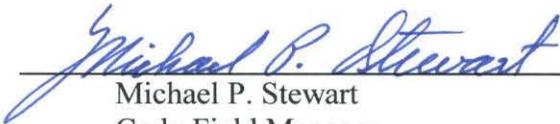
Reasons for this finding are based on my consideration of the Council on Environmental Quality (CEQ) criteria for significance (40 CFR 1508.27) with regard to the context and intensity of impacts.

**Context:** The affected region would be limited to the McCullough Peaks HMA. The environmental analysis was prepared with input from the interested parties.

**Intensity:** The following discussion is organized around the Ten Significance Criteria described in 40 CFR 1508.27, BLM NEPA Handbook (H-1790-1), and supplemental Instruction Memoranda, Acts, regulations and Executive Orders. The following have been considered in evaluating intensity for this proposal and there is no evidence that the severity of impacts would be significant:

1. **Impacts may be both beneficial and adverse.** 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 degree to which the selected alternative will affect public health or safety.** The proposed action has no effect on public health or safety.
3. **Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farm lands, wetlands, wilderness, wild and scenic rivers, or ecologically critical areas.** The proposed action has no potential to affect unique characteristics such as historic or cultural resources. No adverse impacts to the McCullough Peaks HMA are anticipated. There are no wild and scenic rivers, or ecologically critical areas present in the area.
4. **The degree to which the effects on the quality of the human environment are likely to be highly controversial.** The effects of the proposed action on the quality of the human environment are not considered to be highly controversial, and effects of fertility control are well known and understood.
5. **The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.** Possible effects on the human environment are not highly uncertain, and do not involve unique or unknown risks.

6. **The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.** The action is compatible with future consideration of actions required to improve wild horse management in conjunction with meeting objectives for wildlife habitat and achieving and maintaining a thriving natural ecological balance within the herd management area.
7. **Whether the action is related to other actions with individually insignificant but cumulatively significant impacts – which include connected actions regardless of land ownership. The proposed action is not related to other actions with individually insignificant, but cumulatively significant impacts.** The proposed action is not related to other actions with individually insignificant, but cumulatively significant impacts.
8. **The degree to which the action may adversely affect districts, sites, highways, structures, or other objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.** 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 degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973, or the degree to which the action may adversely affect: 1) a proposed to be listed endangered or threatened species or its habitat, or 2) a species on BLM's sensitive species list.** 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. **Whether the action threatens a violation of a federal, state, local, or tribal law, regulation or policy imposed for the protection of the environment, where non-federal requirements are consistent with federal requirements.** The proposed action does not threaten to violate any Federal, State, or local laws or requirements imposed for the protection of the environment.

  
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Michael P. Stewart  
Cody Field Manager

  
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Date

## ENVIRONMENTAL ASSESSMENT (EA)

WY-020-EA11-9

### Fertility Control Application for Wild Horse Mares in the McCullough Peaks Herd Management Area

#### **DECISION RECORD:**

Based on the analysis in Environmental Assessment No. WY-020-EA11-9, it is my decision to implement a fertility control program as described in Alternative I (Proposed Action) of the EA. I find this alternative best implements the planning decision to maintain the McCullough Peaks herd at or near the Appropriate Management Level (AML) while ensuring the continued viability of the herd. This decision constitutes the management prescription and use of fertility control described in the EA for the use of PZP from 2011 through 2015 or longer if no new information or circumstances develop in the area of analysis.

I have carefully considered all public comments received on the EA. I wish to thank all commenter's for their interest in public lands management and their sincere concern for the preservation of wild horses on the public lands.

I have concluded that it is necessary to treat mares over one year of age with the fertility drug porcine zona pellucida (PZP) in order to slow the population growth on the range and work towards maintaining the appropriate management level (AML) of 70 – 140 wild horses in the McCullough Peaks HMA. Maintaining the AML will help prevent deterioration of rangelands, balance wild horses with other public rangeland resources and uses, and comply with the Consent Decree between the BLM and the State of Wyoming. The fertility control program will not compromise the long-term viability of the McCullough Peaks Herd.

The decision to implement fertility control in the McCullough Peaks Herd Management Area is being issued under the regulations found at 43 CFR 4770.3(c), and will be effective the date the decision is signed.

**Compliance and Monitoring:** The use of PZP in the field has standard operating procedures and tracking requirements which are reflected in Appendices A, B, and C of the EA and are a part of this Decision.

**Project Design Features/Mitigation:** Mitigation measures identified in the EA and incorporated as a part of the proposed action are designed to reduce the impacts of management actions and protect resources. The BLM will continue with vegetation and population monitoring.

## **Authorities:**

The authority for this decision is contained in the 1971, Wild Free-Roaming Wild Horses and Burros Act (as amended), Section 302(b) of the Federal Land Policy and Management Act (FLPMA) of 1976, and Code of Federal Regulations (CFR) at 43 CFR §4700 which states in pertinent parts:

4700.0-6(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.”

4700.0-6(c): “Management activities affecting wild horses and burros shall be undertaken with the goal of maintaining free-roaming behavior.”

4710.4: “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.”

### 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, § 4.
- (c) Notwithstanding the provisions of paragraph (a) of §4.21 of this title, the authorized officer may provide that decisions...shall be effective upon issuance or on a date established in the decision.

## **Rationale for Decision:**

This decision is based on the FONSI and its compliance with policy and 43 CFR § 4700 and the Wild Horse and Burro Act of 1971.

In addition, the decision conforms to the Cody Resource Management Plan, (Record of Decision (ROD), 1990), which is to maintain 100 adult wild horses. This is within the established appropriate management level (AML) of 70 – 140 wild horses in the McCullough Peaks HMA. Maintaining the AML will help prevent deterioration of rangelands and balance wild horses with other public rangeland resources and uses and comply with the Consent Decree between the BLM and the State of Wyoming.

On January 21, 2011, the BLM mailed an EA Notice to the public. The EA was also available on the BLM Wyoming and Cody external websites. The last day for EA comments was February 22, 2011. In total, 13 letters and emails were received in the Cody Field Office.

Comments received by the Cody Field Office did not identify any new issues with relation to alternatives or impacts considered for analysis. The comments are part of the administrative record.

**Appeals Language:**

Under the regulations found at 43 CFR, Part 4, Subpart E and 43 CFR 4770.3(a) and (c), this decision may be appealed by any adversely affected party to the Interior Board of Land Appeals (IBLA). Procedures and timeframes for submitting an appeal of this decision is described at 43 CFR 4770.3(a) and (c). If an appeal is filed, the notice of appeal must be filed with or delivered to the Cody Field Office, 1002 Blackburn Street, Cody, Wyoming, 82414 within 30 days of receipt of the decision in accordance with 43 CFR Part 4. In filing a Notice of Appeal, you are required to provide a complete statement of the reasons why you are appealing. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition for a stay of the effectiveness of this decision while your appeal is under review by the Board, the petition for a stay must accompany your notice of appeal as required by the procedures and timeframes codified at 43 CFR Part 4 (58 FR 4939, January 19, 1993). Copies of the Notice of Appeal and Petition for a Stay must also be submitted to the Interior Board of Land Appeals and the appropriate Office of the Solicitor at the same time the original documents are filed with the Cody Field Office, 1002 Blackburn Street, Cody, Wyoming, 82414. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

  
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Michael P. Stewart  
Cody Field Manager

  
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Date