

**CODY FIELD OFFICE
ENVIRONMENTAL ASSESSMENT**

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT**

Special Recreation Permit No: WY020-RU07-003		EA Number: WY-020-E07-070
Proposed Action Title/Type: Red Canyon Wild Mustang Tours and Red Canyon River Trips Special Recreation Permit Renewal		
Applicant (if any): Red Canyon Wild Mustang Tours and Red Canyon River Trips		
Legal	Description	T. 52 -54 N. R. 97-100 W. – Wild Horse Tours and T. 56 N., R. 102,103 W.; T. 57 N., R. 101,102 W. – River Trips
Author: Bye-Jech		Date: June 26, 2007

INTRODUCTION

Need for Proposed Action:

Red Canyon Wild Mustang Tours and Red Canyon River Trips are permitted by one authorization. This Environmental Assessment (EA) analyzes both facets of the permit. Red Canyon Wild Mustang Tours would like to continue to conduct commercial guided interpretive tours of the McCullough Peaks Wild Horse Herd Management Area (HMA). The permittee has conducted these tours since 2002 under a Special Recreation Permit for commercial use of BLM-administered public lands. The tours would focus on educating the public about wild horses in their natural environment, how BLM manages the land and the horses, and the Adopt-a-Horse Program. This would provide a guide service to visitors who would like to participate in this type of activity and learn more about the region, local resource management issues and the management of wild horses. Red Canyon River Trips would like to continue to conduct commercial guided river float trips on the Clarks Fork of the Yellowstone River. The permittee has conducted these trips since 1996 under a Special Recreation Permit. The permits are usually issued for a five year period and can then be renewed. See Map 1: Vicinity Map.

Relationship to Statutes, Regulations, Policies, Plans or Other Environmental Analyses

The principal Bureau permitting regulations for Special Recreation Permits (SRPs) are found in 43 Code of Federal Regulations (CFR) 2932. The principal statute law governing public land management is the Federal Land Policy and Management Act of 1976. Wild Horse and Burro

management is governed by Public Law 92-125, the Wild Free-Roaming Horse and Burro Act of 1971, as amended; and Public Law 95-514, the Public Rangelands Improvement Act of 1978. Public Law 92-125, as amended, requires the protection, management, and control of wild horses on public lands. The horses are also managed under 43 CFR 4700.

The following plans and environmental documents apply to the lands where the use is proposed:

Cody Record of Decision (ROD)/Resource Management Plan (RMP), 1990

Management for Bureau of Reclamation Withdrawn Lands Restored to Bureau of Land Management Jurisdiction in the Cody Field Office Planning Area, Cody RMP amendment, 2000

McCullough Peaks Wild Horse Herd Management Plan, 1985

McCullough Peaks Travel Management Plan and Environmental Assessment, 11/29/2004

Special Recreation Permit – Commercial use of rivers and reservoirs in the Cody Field Office Area, Environmental Assessment - WY020-E01-094, 2001

PROPOSED ACTION AND ALTERNATIVES

Alternative I - Proposed Action (Description)

Alternative I would approve the Special Recreation Permit for Red Canyon Wild Mustang Tours to conduct commercial educational/interpretive tours of the McCullough Peaks HMA on BLM-managed public lands. It would also allow Red Canyon River Trips to conduct commercial river float trips on the Clarks Fork of the Yellowstone River.

Wild Horse Tours: The proposed tours would use the following types of vehicles depending upon the size of the group. A truck for a small group; a van for a group up to about 11 people; a mid-sized bus for a group size over 11 and up to 32; and a full-sized bus for rare (1-2 per season with prior BLM approval) trips of over 32 people. The authority to provide a tour for a large-sized group is being requested as the permittee may be asked by schools, Scouts, 4H, or groups such as Future Farmers of America (FFA) for a tour. Maximum total visitor use for a season would be 2000 visits. A visit is defined as one person visiting the public land for any part of a day. The current permit authorizes use of one van and a maximum group size of 15 people per trip.

Hiking for a distance of about ¼ to ½ mile from the tour vehicle with any size of group is requested. The current permit authorizes hiking with 15 people maximum. Participants would stay a minimum of 500' away from the wild horses in the Red Point Viewing Area and 1500' away from wild horses elsewhere in the herd area. When using the Whistle Creek Road outside of the Red Point Viewing Area to the Gilmore Hill Overlook in T. 53 N., R. 98 W., Section 27

SE1/4, viewing would be done from the side of the road (no hiking would be allowed).

Vehicles would be allowed on specific, existing roads only. No cross-country driving would be allowed. The proposed vehicle routes would include US Highway 14-16-20, the McCullough Peaks road (BLM road #1212), a portion of the Whistle Creek road (BLM road #1213), and several roads within the Red Point Viewing Area (see Map 2: Red Canyon Wild Mustang Tours Proposed Route Map). The McCullough Peaks road would rarely be used. Two tours per day would be offered from May 15 through September 15, one at 8:30 AM and one at 5:00 or 5:30 PM. From September 16 through October 15, tours would be offered at 11:00 AM and at 4:00 PM. One tour per week would be offered at noon for customers of a local guest lodge but this tour would be substituted for either the morning or evening tour on that day to remain within the limit of two tours per day. The tours depart and end in Cody and last about 2 to 2 ½ hours each which includes the travel time of ½ hour each way. The tours include viewing the badlands for about 15-20 minutes. High quality binoculars would be available for each guest to use.

The maximum potential visitor use from this proposal would be 2000 visits per five month season. The average number of visits per month would be 400 and per day would be 13. The proposal is for day use only on BLM-managed public land. Standard stipulations for Special Recreation Permits would be applied to the permit including those related to wild horses, travel, and the protection of cultural resources (see Appendix A). The permittee would remove any litter generated by the activity and would follow the Principles of Tread Lightly and Leave No Trace.

Prior to each use season, the permittee would be required to contact the BLM Wild Horse Specialist. This would allow the BLM to provide the permittee with up-to-date information on the BLM wild horse program and inform him of any changes in the management situation or upcoming events. This would help ensure that accurate information regarding the BLM and the management of the wild horses is available to the permittee and the visitors who participate in the guided activities. This information would be available to the permittee for use during his commercial operation. Permittee would distribute only BLM-provided or approved educational materials to his customers. A stipulation would be applied to the permit stating that the permittee shall not use advertising that attempts to portray or represent his/her activities as being conducted by the BLM or present the BLM in a negative or misleading tone. Prior to each season of use, annually, a mandatory field tour along the proposed tour route would be scheduled with the permittee, the wild horse specialist, and the recreation planner.

River Trips: River float trips would involve commercial guided rafting activities on the Clarks Fork of the Yellowstone River. See Map 3: Red Canyon River Trips Proposed Float Map. The average group size would be 7 visitors and 1 guide in one raft and the estimated visitor use would be 100 visits maximum per season. The season would be from the last week of May through August, dependent on water flows (about 13 weeks). A visit is defined as one person visiting the public land for any portion of a day. The average number of trips per week would be one (one hundred visits divided by 8 people = 12.5 trips per season). The raft would put-in at the BLM boat launch near the Clarks Fork Canyon and take out downstream at Wyoming Game and

Fish Department access points. Use the last few years has been well below the estimated maximum.

Alternative II - Deny the SRP

In Alternative II, the SRP would not be approved. Red Canyon Wild Mustang Tours/Red Canyon River Trips would not be authorized to conduct educational interpretive tours of the McCullough Peaks HMA or river trips.

AFFECTED ENVIRONMENT

Introduction:

The project area for the wild horse tours is located about 15 miles east of Cody, Wyoming near US Highway 14-16-20. The terrain is flat to gently rolling near US Highway 14-16-20 and for about 3 to 4 miles north of the highway. It becomes steep and mountainous badland country as you continue to proceed to the north. Vegetation is predominately sagebrush and grasses. The area roads are used by ranchers and private landowners; recreationists; utility companies; mineral companies; federal, state, and local agencies; and Special Recreation Permit holders. Highway traffic includes tourists on their way to or from Yellowstone National Park.

The project area for the river trips is located about 24 miles northwest of Cody on the Clarks Fork of the Yellowstone River. The road which accesses the BLM boat ramp lies on the east side of the river and travels through terrain which is flat to gently rolling with isolated hills. On the west side of the river, the terrain is mountainous. Vegetation is predominately sagebrush and grasses throughout the length of the float. The roads in the general area are used by ranchers, recreationists, private landowners, mineral companies, federal, state, and local agencies, and Special Recreation Permit holders.

The following are mandatory elements and/or environmental resources that are required for consideration in all NEPA analyses. All of these elements were reviewed against the two alternatives and any element that was affected from consideration of the special recreation permit proposal is discussed and analyzed in the narrative.

Mandatory Elements		
ELEMENT	Alt. I-Proposed Action	Alt. II-Deny SRP
Air Quality	no affect (n/a)	n/a
Areas of Critical Environmental Concern	n/a	n/a
Cultural Resources	see text	n/a
Farm Lands (prime or unique)	n/a	n/a

Flood Plains	n/a	n/a
Native American Religious Concerns	n/a	n/a
Wastes, Hazardous or Solid	n/a	n/a
Water Quality, Drinking or Ground	n/a	n/a
Wetlands/Riparian Zones	n/a	n/a
Wild and Scenic Rivers	n/a	n/a
Wilderness	see text	n/a
Environmental Justice	n/a	n/a
Invasive, Non-Native Species - Weeds	see text	n/a
Threatened or Endangered Species	n/a	n/a

In addition to the Critical Elements, the BLM may also consider other resource issues that were identified during scoping. Other resources discussed are wild horses, livestock grazing, wildlife, recreation, and Special Recreation Permits.

Weeds: Two species of noxious weeds, Canada thistle and Black henbane, have been identified along the McCullough Peaks road for several years. There has been some evidence that the weeds have been spread from the McCullough Peaks road to the Whistle Creek road. Russian knapweed is found in a few locations along the Clarks Fork of the Yellowstone River.

Wilderness Study Area: A portion of the McCullough Peaks road forms the southern boundary of the McCullough Peaks Wilderness Study Area (WSA). The WSA is managed under the Interim Management Policy for Wilderness Study Areas which states that WSAs "must be managed so as not to impair their suitability for preservation as wilderness."

Wild Horses: The proposed action for the wild horse tours includes lands within the McCullough Peaks Wild Horse Herd Management Area (HMA). The HMA is located 12 to 27 miles east of Cody, Wyoming and encompasses approximately 109,800 acres of public, private, and state land. Topography is highly variable, ranging from mostly flat to slightly rolling foothills carved by drainages, colorful badlands, and desert mountains featuring steep slopes, cliffs, and canyons. The HMA is bordered on the south by State Highway 14-16-20, on the east by State Highway 32, on the north by Bureau of Reclamation lands, and on the west partially by grazing allotment boundary fences and natural terrain features (division between the Deer Creek and Whistle Creek drainages). The Cody RMP contains a wild horse objective which strives to maintain a viable herd that will maintain the free-roaming nature of wild horses in a thriving ecological balance and to provide opportunity for the public to view wild horses. The Appropriate Management Level (AML) is 100 head of wild horses with a minimum of 70 and a maximum of 140.

Over the past ten years, viewing wild horses in the McCullough Peaks HMA has been

increasing. Research of horse behavior has also been studied intensively during 2003 through 2006. The behavior of the horses has changed in relation to their acceptance and tolerance to humans. A large portion of the herd (83+ out of 140) have lost some of their more wild characteristics and behavior. In order to provide for the safety of the public, as well as the safety of the wild horses, a viewing distance of 500 feet has been established and posted. This 500 foot distance applies within the Red Point Viewing Area which is now doubling in size to include the entire Red Point Allotment (see Map 2). The Red Point Viewing Area, historically, has had 15 to 40 horses in it. The remainder of the HMA has a viewing distance of 1500 feet that has been established and posted. This greater distance from human interaction provides the wild horses in this portion of the HMA to maintain their wild and free-roaming characteristics. The BLM has observed and documented the loss and/or abandonment of several young foals in recent years. To address concerns that the increased public pressures may have contributed to this, signs have been posted within the HMA and information included in the wild horse stipulations page of the SRP, cautioning people about the foaling season. The wild horse stipulations have also been posted on several kiosks in or near the HMA. Following is a copy of the wild horse related stipulations.

McCullough Peaks Wild Horse Herd Management Area (HMA)
Wild Horse Related Stipulations

Background: A major concern in managing all wild horse populations is that management and/or public efforts to observe and interact with these animals may contribute to long-term behavioral desensitization and a loss of certain qualities of wildness. Additionally, there is a concern for personal safety when visiting the HMA, as wild horses are unpredictable animals. Do not place yourself between members of a horse family group as you may be attacked by other group members.

1. Harassment, injury, removal, or causing the death of a wild horse is punishable by fines or imprisonment.
2. All visitors to the McCullough Peaks HMA - **RED POINT VIEWING AREA** should **not approach closer than 500 feet (167 yards or 152.4 meters)** to any wild horses in this Red Point Viewing Area (see map). However, during the **foaling season, mid-April to mid-July**, visitors to the HMA **should view** the wild horses **from inside your vehicle or standing beside it**, this will provide the safest distance and comfort for the wild horses and should reduce the potential for foal abandonments.

(500 feet is almost 2 football fields in length)

3. All visitors to the McCullough Peaks HMA – **OUTSIDE OF THE RED POINT VIEWING AREA** should **not approach closer than 1500 feet (500 yards or 457.2**

meters) to any wild horses.

4. Visitors to the HMA should **remain 1500 feet from any water source when observing** the wild horses. This will allow free access to the water by the horses.
5. **Do not feed or attempt to attract horses to approach you.** Do not engage in activity that interrupts wild horses' current behavior. If your presence causes horses to move away from you, **do not pursue them.** Conversely, if your presence causes horses to move toward you, **you should move away from the horses to maintain the appropriate distance.**
6. Wild horses are subject to natural mortality from injury or illness without medical intervention. Nonviable horses may be euthanized to end suffering by authorized personnel only.

Report sick or injured animals, or violations, to the Bureau of Land Management:

- 1) Wild Horse Specialist work (307) 578-5925, cell (307) 899-1155
- 2) Cody Field Office (8:00 – 4:30 weekdays) (307) 578-5900

DO NOT ATTEMPT TO ASSIST OR HANDLE SICK OR INJURED ANIMALS.

7. BLM does not require a film permit for casual, non-commercial photography on public lands. However, if models or props are used that are not part of the natural resource or if the location is not a place that the public is generally allowed or additional administrative costs are likely, a permit would be required. Any commercial filming activities including production of videos, movies, television, documentaries, require a film permit. Contact the local BLM office at: (307) 578-5900 for more information.
8. BLM requires a Special Recreation Permit (SRP) for recreation related commercial use, competitive use, vending, special area use, and organized group activity or event use. Contact the local BLM office at (307) 578-5900 for more information.

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Livestock Grazing: There are various grazing allotments throughout the McCullough Peaks and Clarks Fork areas.

Wildlife:

Wild Horse Tours and River Trips:

The project area has a broad diversity of habitat types but is predominantly shrub/grassland. Riparian vegetation occurs around livestock water reservoirs, a few springs, along Dry creek and Whistle creek drainages, and along the Clarks Fork of the Yellowstone River. The areas encompassed by this permit contain several important wildlife habitat features for a wide variety of wildlife species and the area's diverse topography and vegetation supports a wide variety of

wildlife species and provides important habitat for several big game species.

Portions of the area provide year-long habitat for whitetail deer (*Odocoileus virginianus*), mule deer (*Odocoileus hemionus*); spring/summer/fall habitat for pronghorn antelope (*Antilocapra Americana*) and also supports several other game species in low densities including mountain lion, bear, elk, badger, fox, and several predatory species that are also hunted such as coyotes, raccoons, bobcat, etc .

The area also supports some small game and game bird species such as; cottontail rabbits (*Sylvilagus nuttallii*); chukar partridge (*Alectoris chukar*), Hungarian partridge (*Perdix perdix*), blue grouse (*Dendragapus obscurus*), mourning doves (*Zenaida macroura*), sage grouse (*Centrocercus urophasianus*), ring-necked pheasant (*Phasianus colchicus*) and various species of waterfowl.

Raptors such as golden eagles (*Aquila chrysaetos*), red-tailed hawks (*Buteo jamaicensis*), kestrels (*Falco sparverius*), sharp-shinned hawks (*Accipiter striatus*), Cooper's Hawks (*Accipiter cooperii*), short-eared owls (*Asio flammeus*) and great-horned owls (*Bubo virginianus*), etc. use the trees and/or rock outcrops that are common in the area for nesting, roosting, hunting perches, etc.

The area also provides habitat for small mammals and rodents such as white-tailed jack rabbits (*Lepus townsendii*), yellow-bellied marmots (*Marmota flaviventris*), porcupines (*Erethizon dorsatum*), ground squirrels, chipmunks, mice, etc., and various song birds including neo-tropical migrants.

Several species of snakes, turtles, lizards, frogs, salamanders, and toads may also be present in favorable habitat niches but most would be found in site specific habitats (riparian or aquatic) that are small and located away from SRP use areas.

THREATENED AND/OR ENDANGERED (T&E) WILDLIFE SPECIES:

Wild Horse Tours:

Grizzly bears (*Ursus arctos horribilis*) have just recently (final rule effective April 30, 2007) been delisted as Threatened under the Endangered Species Act. They have been sighted occasionally on Heart Mountain and in areas west of Cody. They would be very unlikely to occur in the SRP area.

Bald eagles (*Haliaeetus leucocephalus*) are listed as a Threatened species under the Endangered Species Act. They are occasionally observed foraging or roosting in the area, but typically remain closer to the larger rivers, such as the Shoshone River. No important nesting or roosting habitat occurs in the SRP area and most use by bald eagles occurs during fall and winter months in the BLM Cody Field Office area. Any use in the SRP areas would be incidental and likely during SRP nonuse periods.

Gray wolves (*Canis lupus*) may be present but would be very uncommon in areas east of Highway 120 anytime of the year. Wolves occurring in the Cody Field office area are assumed to be descendants of the gray wolves that were reintroduced into the Greater Yellowstone Area in the 1990s and as such are managed under the Endangered Species Act as an Experimental, Non-Essential Population.

River Trips:

Each of the above species is a possible occupant in the river trip area. Grizzly bears and gray wolves are occasional visitors to the area. Bald eagles use the area primarily in winter. No important or reproductive habitat occurs for these species in that area. No SRP activities would affect any of the species. No affect would occur and US Fish and Wildlife Service (USFWS) consultation is not required.

SENSITIVE WILDLIFE SPECIES KNOWN TO PRESENT IN THE MANAGEMENT AREA:

Wild Horse Tours and River Trips:

Sage grouse (*Centrocercus urophasianus*): At least four primary sage grouse leks and secondary satellite leks, have been identified within the management area. Sage grouse use suitable areas within the management area for breeding, nesting, brood rearing, and wintering habitat.

Mountain plovers (*Charadrius montanus*) and long-billed curlews (*Numenius americanus*) also may use suitable habitat in the area for breeding, nesting, and brood rearing. These areas are mostly associated with the lower and flatter terrain, especially those areas that have short-grass vegetation types intermingled with shrub-steppe vegetation types. Benches along the Clarks Fork of the Yellowstone River are known nesting areas for mountain plover and long-billed curlews. SRP activities would not impact any of these species.

Other BLM Sensitive Species that could potentially use habitat within this area include long-eared myotis (*Myotis evotis*), Townsend's big-eared bat (*Corynorhinus townsendii*), peregrine falcons (*Falco peregrinus*), burrowing owls (*Athene cunicularia*), sage thrashers (*Oreoscoptes montanus*), loggerhead shrikes (*Lanius ludovicianus*), Brewer's sparrows (*Spizella breweri*), sage sparrows (*Amphispiza belli*), and Baird's sparrows (*Ammodramus bairdii*), but the habitat use by these species is intermittent and no important or critical habitat features for these species have been identified in this area.

Recreation:

Wild Horse Trips: Recreation use is moderate in the general area. Recreational activities include driving for pleasure, hiking, wildlife and wild horse viewing, mountain biking, horseback riding, ATV and motorcycle driving, rock hounding, photography and study of the area's history. Some antelope, deer, and upland game bird hunting also occur in the area.

River Trips: Recreation use is moderate in the general area. Recreational activities include fishing and floating, driving for pleasure, hiking, wildlife viewing, horseback riding, ATV and motorcycle driving, rock hounding, and photography. Antelope, deer, upland game bird,

waterfowl, and small game hunting also occur in the area.

Special Recreation Permits:

Wild Horse Trips: There are two other existing Special Recreation Permits that authorize commercial guided, educational activities in the McCullough Peaks area besides the permit proposed for renewal in this document; Grub Steak Expeditions, LLC and “The Humble Fly Shop.” Grub Steak Expeditions, LLC primarily views horses from the highway corridor. “The Humble Fly Shop” company has not conducted any wild horse viewing trips yet but is authorized to do so. The authorization allows 2-3 tours per week from June 15 through October 30 using one vehicle which can hold 4 people. Hunting activities: there are fifteen Special Recreation Permits for outfitting and guiding antelope and deer hunters. The hunt areas authorized are very large and they include portions of the McCullough Peaks area.

River Trips: There are seven existing Special Recreation Permits that authorize commercial, guided floating or fishing trips on the Clarks Fork of the Yellowstone River including the permit under consideration in this document. For 2006, reported visitor use for all of the permits totaled 145 visits. A visit is defined as one person visiting the public land for any portion of a day. There are numerous Special Recreation Permits for outfitting and guiding hunters. The hunt areas authorized are very large and they include portions of the Clarks Fork area.

Cultural Resources: Cultural resources are present in the general McCullough Peaks area and the Clarks Fork of the Yellowstone area. Sites consist of both prehistoric and historic locales.

ENVIRONMENTAL IMPACTS

The following impact analysis consists of those impacts that were considered to be substantial enough to warrant narrative as determined by the preparers and reviewers. The threshold of impacts is directed at real environmental issues that affect the quality of the human environment as stated in the policy of CEQ regulations 40 CFR 1500.2.

Alternative I - Proposed Action (Impacts)

Recreation:

Wild Horse Tours: All vehicle activity in the McCullough Peaks HMA will be on specific, existing roads (see Map 2: Red Canyon Wild Mustang Tours Proposed Route Map). The two main requested routes on BLM land are a portion of BLM road #1213, the Whistle Creek road, and BLM road #1212, the McCullough Peaks road and both are included in the BLM transportation system. Several other roads in the Red Point Viewing Area would also be used. Hiking would be done cross-country and/or on existing roads and trails as available. By participating in these activities, the clients would gain knowledge of the region and the environment and have a greater understanding of, and appreciation for, wild horses. Standard stipulations for Special Recreation Permits would be applied to the permit including those related to wild horses, travel, and the protection of cultural resources (see Appendix A).

River Trips: Existing, well-established roads would be used to access the BLM boat ramp and the Wyoming Game and Fish access points. Floating the river would allow customers to experience the beauty of the lands in the Clarks Fork area. The activity is expected to cause very little impact to any resource.

Wilderness Study Area: The observation of wild horses in the McCullough Peaks Wilderness Study Area will not impair the WSA values. Observations are done from the McCullough Peaks road which is a boundary road of the WSA.

Weeds and Invasive Species: There is a potential for vehicles and hikers to spread noxious weed seeds. There has been some evidence that weeds have been spread from the McCullough Peaks road to the Whistle Creek road over the last few years from general vehicle traffic in the area. The tour routes would need to be monitored to identify any noxious weed species that may be present and to ensure proper treatment to prevent the spread of noxious weeds. Educational efforts would be pursued to ensure that recreationists are aware of techniques to prevent the spread of invasive, non-native species. The access roads for the river trips would also be monitored for weeds.

There is a potential for river related recreation activities to spread not only noxious weeds but also invasive fauna, such as zebra mussels, New Zealand mud snails, and the parasite (*Myxobolus cerebralis*) causing whirling disease in trout. Weed seeds and invasive species may be spread by equipment used during river related activities such as vehicles, trailers, boats, and boots. Educational information would be provided to the permittee to share with his customers.

Wild Horses: For many years, the horses in the Red Point area have spent much of their time within sight and sound of traffic on US Highway 14-16-20. Travelers pull over to the side of the highway to view the wild horses. In recent years, horses in the Red Point area have become more habituated to human presence while the horses in the remainder of the HMA are not as habituated. The McCullough Peaks general area has many multiple uses occurring on the land including, but not limited to, recreational activities, livestock grazing, communication sites, powerlines and pipelines, oil and gas wells, seismic projects, and gravel pits. All these activities have increased vehicle traffic and human presence over the years.

There is a concern that visitors could be injured by wild horses if they put themselves in a compromising situation. Wild Horse related stipulations would be included to minimize disturbance to wild horses. The stipulations include keeping a minimum distance from horses to help eliminate the potential for physical contact.

See the Wildlife section, below, as the information on recreational viewing of wildlife also applies to recreational viewing of wild horses.

Livestock Grazing: Livestock grazing occurs throughout the McCullough Peaks area and the Clarks Fork area in numerous grazing allotments. Guided educational interpretive tours and river float trips are not expected to have a negative impact on livestock grazing operations, when conducted in compliance with the following related stipulations. Stipulations would be included

which cover such items as: not trespassing on private lands; protecting natural resource values and any improvements on both private and public lands; responsibility for the prompt repair of any damages to utilities, fences, and other improvements; no harassment of livestock or destruction of private and public improvements; and gates left open or closed, as they were found (except highway gates which should be closed).

Wildlife:

T&E and Sensitive species:

Although there is some potential for wolves, grizzly bears and bald eagles to occupy the SRP areas for brief periods, habitat for these species is limited, and most areas have wide ranges of visibility that enable individual animals to see and avoid humans. The amount of use by these species is expected to be very low and would most likely occur during periods when SRP recreational use would not take place (spring and fall through winter months). In any case, recreational activities should not have any affect to T&E wildlife species. No important habitat features would be affected and any displacement of animals would be temporary and would not affect the health or fitness of any individual. In addition, grizzly bears have been recently delisted as a threatened species by USF&W Service (Final Rule Effective 4/30/07) and both gray wolves and bald eagles are planned for delisting in the next 12 months. SRP permit renewal would not affect any T& E listed, candidate, or proposed species so consultation with USF&W service would not be required for this action.

There is some potential for human recreational activities to cause some disturbance and displacement of sensitive species including nesting birds, Yellowstone river cutthroat trout, prairie dogs, and plants. However this affect should only be incidental and is not expected to cause any impacts to populations. Individual wildlife or plant species could be harmed by human activities such as hiking but any such impacts would not have long term consequences on population viability of any BLM sensitive species and would only occur in low numbers and may not result in long term harm to individuals. Plants may be trampled from hikers but can recover and survive. Birds could be disturbed from nest site, but may return and still successfully rear young. Special stipulations attached to this SRP permit should minimize the potential affects to sensitive wildlife species and Wyoming Game and Fish Department regulations limit disturbance or harassment of wildlife.

Other Wildlife (and Wild Horses – Information in this next section also applies to wild horses)

Recreational viewing of wildlife and wild horses can generally occur without any impacts to the animals. However, at certain times of the year, most wildlife species and wild horses are more sensitive to disturbance and may be more physically stressed. This occurs primarily during winter months for species that are present in Wyoming and the SRP areas throughout the year. Because SRP activities would not occur during winter months, no additional disturbance or stress from such activities would occur in winter. Another period when wildlife and wild horses can be stressed or disturbed is during the spring and early summer reproductive periods. Both animals and birds move to preferred reproductive habitats with good food, water, cover, and

shelter features and give birth to young. Unusual disturbance or increases in number of disturbances to wildlife and wild horses during the reproductive periods can cause disruption and interference with natural reproductive cycles and may result in reduced reproductive success and/or survival. Human activities can cause such disturbances. Large numbers of vehicles and people moving around in reproductive habitats can cause additional disturbance and stress to wildlife and wild horses if these activities take place too close to the animals. Each individual species has a “personal space” distance that dictates when they will react to human activities in a negative manner and may be displaced from preferred habitat and experience physiological stress. For small species that use protective cover this distance may be very small – only a few feet. Examples would include: horned larks, vesper sparrows, prairie rattlesnakes, mice, rabbits, etc. For larger species that depend on visual and auditory senses to avoid dangers this distance will be much larger and can be 1-2 miles. Examples would include wildlife like golden eagles, antelope, mule deer, bighorn sheep, etc.

If wildlife and wild horse viewing is conducted in a manner that is considerate of and respectful to disturbance distances for each wildlife species or wild horses, then such activities can be conducted with minimal disturbance and impact to them. Recreational activities with smaller and less conspicuous vehicles and groups sizes can more readily be conducted in a non impacting way around wildlife and wild horses. Larger vehicles, more vehicles and more trips with larger numbers of people can create more problems in limiting disturbance and impacts to the animals. However, following good common sense behavior etiquette and SRP stipulations designed to minimize wildlife and wild horse disturbance impacts should allow wildlife and wild horse viewing with even larger groups to be conducted with minimal affects to the animals.

River Trips: SRP permit activities include guided float trips. No impacts to fisheries are expected from the float trips.

Cultural Resources: Cultural resources would be protected by the following stipulations.

Cultural Resources, Standard Stipulation The operator is responsible for informing all persons associated with this project that they may be subject to prosecution for knowingly damaging, altering, excavating or removing any archaeological, historical, or vertebrate fossil objects or site. If archaeological, historical, Native American, or vertebrate fossil materials are discovered, the holder is to suspend all operations that further disturb such materials and immediately contact the Authorized Officer. Operations are not to resume until written authorization to proceed is issued by the Authorized Officer (AO).

The authorized officer will evaluate, or will have evaluated, such discoveries not later than five working days after being notified, and will determine what action shall be taken with respect to such discoveries. The decision as to the appropriate measures to mitigate adverse effects to significant cultural or Paleontological resources will be made by the authorized officer after consulting with the operator.

The operator is responsible for the cost of any investigations necessary for the evaluation,

and any mitigative measures required by the Authorized Officer. The AO will provide technical and procedural guidelines for the conduct of evaluation and mitigation. Upon verification from the AO that the required evaluation and/or mitigation has been completed, the operator will be allowed to resume operations.

Cumulative Impacts: Cumulative impacts are discussed in the Cody Resource Management Plan (RMP) and Final Environmental Impact Statement (1990). Typical activities are described in that document and are incorporated by reference into this environmental analysis.

Wild Horse Tours:

Past Actions: The general area contains livestock grazing authorizations and facilities, utility lines, pipelines, gravel pits, oil and gas wells, permitted commercial recreational use, horse endurance rides, and roads.

Present Actions: A proposed seismic exploration project is currently under analysis. Several oil and gas wells are proposed.

Reasonably Foreseeable Future Actions: Additional requests for Special Recreation Permits are expected. These are expected to include commercial recreational activity, competitive events, and organized group activities. A local organization is planning a wild horse visitor center on private land near the project area. Future energy related activities and facilities are expected.

There is a concern about the cumulative impact of various recreation uses in the herd area on wild horses. There are two other SRPs that authorize similar commercial guided activities in the McCullough Peaks area. One views horses primarily from the highway. The other company has not conducted any wild horse viewing trips yet but is authorized to do so. The authorization allows 2-3 tours per week from June 15 through October 30 using one vehicle which can hold 4 people. The general area is used for many different types of recreational activities including: mountain biking, hiking, sightseeing, horseback riding, hunting, wild horse and wildlife viewing, vehicle use (ATVs, motorcycles, pickups, etc.), and various other activities. Occasionally, requests are received to hold a special event in the area such as a horse endurance ride and other trail rides. Recreation use includes both commercial activities and use by the general public. Traffic counters were placed in the HMA in 2002. The traffic counter reading for the Whistle Creek Road (north end) in 2005, was 2,246 vehicles and in 2006 was 4,662 vehicles. The reading for the Whistle Creek Road (south end) in 2005, was 2,437 vehicles and in 2006, 2,646 vehicles. These readings would include all traffic on the road, not just recreational traffic.

River Trips:

Past Actions: The general area contains livestock grazing authorizations and facilities, utility lines, permitted commercial recreational use, and roads. A seismic exploration project was conducted in the recent past and a Special Recreation Permit was issued for a weekend fly fishing competition in the spring of 2007.

Present Actions: Two other Special Recreation Permits for river activities are up for renewal.

Reasonably Foreseeable Future Actions: Additional requests for Special Recreation Permits are expected. These are expected to include commercial recreational activity and a fishing competitive event. Future energy related activities and facilities are expected.

There is a concern about the cumulative impact of various recreational uses, both commercial and public, on the river and on the lands along the river if visitor use increases substantially in the future.

Monitoring:

Wild Horse Tours: Monitoring would be done to obtain information on the amount of visitor use occurring in the area from both commercial operations and the general public. Traffic counters were installed in 2002. Regular field visits would be conducted by the recreation and wild horse staff. The field visits would be scheduled to coincide with the proposed commercial tours, when feasible. The visitor use and tour routes authorized by this SRP would be subject to revision if necessary, based on the results of the monitoring efforts, the potential for revision is included in stipulation number 27:

BLM reserves the right to alter the terms, conditions, or stipulations of a permit at any time for reasons such as significant policy, administrative procedure, or stipulation change. BLM reserves the right to make changes to the permitted use in the future. These changes may include, but are not limited to, the following: size of group, number of trips per day or per week, months or seasons of use, locations of use, duration of use. If deemed necessary, specific areas could be closed to commercial use under this permit. The upcoming Cody Resource Management Plan Revision could contain decisions which could result in changes to Special Recreation Permits.

A potential irreversible effect of the proposed activity within the McCullough Peaks HMA would be increasing the habituation of the wild horse herd to humans, a change in use of the HMA or a change in the natural behavior of the horses.

To address the increasing public viewing of wild horses, a Red Point Wild Horse Viewing Loop and interpretive trail with signs is being developed using existing roads. The Red Point Viewing Area (where persons stay 500 feet away from the horses) has increased in size (see Map 2: Red Canyon Wild Mustang Tours Proposed Route Map). All efforts are being made to focus and manage viewing of wild horses to this area where the horses have become accustomed to and tolerant of people. This leaves the remainder of the HMA to less public impacts and interactions with the wild horses and attempts to preserve the “wild characteristics” and nature of these horses.

River Trips:

Visitor use reported by commercial permittees would be monitored to determine if it is increasing and to what levels. Field visits would be made, as required during the floating season,

to check compliance with permit stipulations. Permittees would be queried periodically to obtain their feedback on resource conditions and the quality of the experience offered to their customers. Non-guided recreationists encountered during field visits would be asked about the quality of their recreational experience.

Alternative II - Deny the SRP (Impacts)

The SRP would not be authorized. No environmental impacts on public land would result from this alternative. An opportunity to educate the public about wild horses, natural resources, and land management would be lost.

CONFORMANCE WITH EXISTING LAND USE PLANS

The Cody Resource Management Plan (RMP) was originally approved on November 8, 1990, and was amended on March 3, 2000. The recreation and wild horse management objectives are as follows:

“The recreation management objective is to enhance opportunities for primitive recreation, while increasing visitor services in some areas (to meet the needs for more developed forms of recreation).”

“The wild horse management objective in the McCullough Peaks WHHMA is to maintain a viable herd that will maintain the free-roaming nature of wild horses in a thriving ecological balance and to provide opportunity for the public to view wild horses.”

Based on the above and the analysis contained in this EA, alternative one (proposed action) would be in conformance with the Cody RMP.

Other Persons and Agencies Consulted: Public information letters were sent to interested persons and organizations including: grazing permittees, nearby landowners, Special Recreation Permittees conducting wild horse viewing tours, individuals and organizations on the wild horse mailing list, and Wyoming Game and Fish Department. This project was also posted on the Cody NEPA website.

BLM Staff Review

Dennis Saville, Wildlife Biologist

Mark Bollack, Archaeologist

Tricia Hatle, Rangeland Management Specialist/Wild Horses

Criss Whalley, Rangeland Management Specialist

Bryan McKenzie, Rangeland Management Specialist

Jerry Jech, Natural Resource Specialist

Shirley Bye-Jech, Outdoor Recreation Planner

Ann Perkins, NEPA Coordinator

Alan Shepherd, BLM Wild Horse Specialist, Wyoming State Office

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

I have reviewed this environmental assessment (WY-020-E07-070) including any analysis of potentially significant impacts. I have determined the proposed action with the mitigating measures included in the proposed action (and listed in Appendix A) will not have any significant impacts on the human environment and that an Environmental Impact Statement is not required.

Rationale: The Cody RMP management objective for the recreation program is to enhance opportunities for primitive recreation, while increasing visitor services in some areas (to meet needs for more developed forms of recreation). The wild horse management objective in the McCullough Peaks HMA is to maintain a viable herd that will maintain the free-roaming nature of wild horses in a thriving ecological balance and to provide opportunity for the public to view wild horses.

Based on the above and the analysis contained in this EA, alternative one (proposed action) would be in conformance to the Cody RMP stated objectives for management. For this reason, I believe the impacts are sufficiently mitigated to preclude the need for preparation of an Environmental Impact Statement.

Authorized Officer _____ Date _____
Michael P. Stewart, Cody Field Office

APPENDIX A

CODY FIELD OFFICE - DAY USE ADDITIONAL STIPULATIONS (Stipulations 1-16 on permit back)

17. Permittee is responsible for knowing and complying with Off-Road Vehicle (ORV) designations and restrictions that may exist within the area of operation. Permit issuance does not waive any ORV use restrictions, whether local, State, or Federal. ORV information is available at the local Field Offices.

Travel on wet or muddy roads should be avoided to prevent rutting and soil erosion. If the vehicle creates ruts in excess of 4 inches deep, the road conditions shall be deemed too wet to travel.
18. Nothing in this permit will be construed as a license for the permittee, employees, or clients to use areas of the public lands which are otherwise restricted or closed.
19. Issuance of a permit by BLM does not guarantee the permittee's use of specific public land areas, nor does it grant the exclusive use or control of any area by the permittee, unless expressly stated. The United States reserves the right to use any part of the area for any purpose.
20. Permittee, employees, and clients will not interfere with other valid uses occurring on the public land such as grazing, mining, and other recreational uses (including commercial and private).
21. Issuance of a permit by BLM does not guarantee legal access to public lands. Access to public land by the permittee is assured only when legal access for the general public is available. Where legal public access is not available, it is the permittee's responsibility to obtain permission from the landowner(s) to travel through or use private lands.
22. BLM reserves the right to close various sites and/or areas of the public land to prevent resource damage and use conflicts, and to promote visitor safety.
23. Unless use allocations are in place, the public lands will generally remain available on a first-come first-served basis to as many other commercial and private users as desire to use them, except as otherwise provided for in these stipulations. Nothing herein implies that the first permittee into any area has been authorized an exclusive use privilege.
24. Permittee is responsible for all actions of employees and clients on both public and private lands.
25. The permittee will be responsible for the prompt repair of any damages to utilities, fences

and other improvements. The permittee shall take every reasonable precaution to protect natural resource values and any improvement on both private and public lands. Gates will be left open or closed, as they were found (except highway gates which should be closed).

26. Permittee will notify BLM of any accidents occurring on the public lands which result in loss of life, loss of consciousness, disabling of individuals in excess of 24 hours, having to secure medical treatment, or property damage in excess of \$100, and will submit a detailed written report to BLM within 10 days from the date of the accident.
27. BLM reserves the right to alter the terms, conditions, or stipulations of a permit at any time for reasons such as significant policy, administrative procedure, or stipulation change. BLM reserves the right to make changes to the permitted use in the future. These changes may include, but are not limited to, the following: size of group, number of trips per day or per week, months or seasons of use, locations of use, duration of use. If deemed necessary, specific areas could be closed to commercial use under this permit. The upcoming Cody Resource Management Plan Revision could contain decisions which could result in changes to Special Recreation Permits.
28. Permittee agrees to make all relevant books, documents, papers, and records of his/her operation available to BLM upon request (as outlined in 43 CFR 8372.5) for analysis by qualified representatives of BLM and other Federal agencies authorized to review BLM's permitting activities.
29. For administrative purposes, including compliance checks, the permittee shall allow the BLM and its cooperators, reasonable administrative access to private lands which are owned or utilized by the permittee for the permitted activity.
30. A Post Use Report will be submitted within 30 days after the end of your use season or no later than December 31 each year. End of season use fee payments and the next year's minimum advance fee must be received by BLM when the Post Use Report is submitted.

Late Fees: If the end of season use fee and the minimum advance fee are not received with the Post Use Report by December 31, a bill for collection will be sent. If the bill is not paid by the due date, then a late fee will be added to the permittee's bill.

- The late fee will be assessed 15 days after the due date of the bill.
- The late fee is calculated at 10 percent of the amount due or \$25 whichever is greater, not to exceed \$250.
- If the late payment and bill are not paid within 15 days, a series of demand letters will be issued with additional interest (at the current Federal Reserve rate), administrative fees (\$15 per letter) and an administrative penalty of 6 percent of the principle amount due.

- After 180 days, if the bill has not been paid, then it is turned over to the U.S. Treasury Department for collection.
- Any bill that has accrued late fees or interest is paid applying the money collected first to interest and penalties, then to principle.

Failure to pay your fees on time could result in your permit being suspended, not renewed, or terminated.

31. BLM reserves the right to put a permittee on probation, suspend, or revoke a permit for reasons such as, but not limited to, noncompliance with stipulations, failure to provide services specified in the operation plan, or untimely permit reporting or use fee payments.

Failure to meet the terms, conditions, or stipulations of the permit may result in probation or suspension of the permittee or cancellation of the permit. It may also result in BLM's refusal to issue a permit and/or Annual Operating Authorization for subsequent years.

32. An annual evaluation of each multi-year permit is required to measure performance and compliance with the terms of your permit. The review will address your post use report and to ensure that your insurance, operations plan, etc. are updated/current.
33. Permittee shall comply with all Federal, State, and local laws, ordinances, regulations, orders, postings, or written requirements applicable to the area or operations covered by the Special Recreation Permit. The permittee shall ensure that all persons operating under the authorization have obtained all required Federal, state, and local licenses or registrations. The permittee shall make every reasonable effort to ensure compliance with these requirements by all agents of the permittee and by all clients, customers, participants, or spectators under the permittee's supervision.
34. A Special Recreation Permit authorizes special uses of the public lands and related waters and, should circumstances warrant, the permit may be modified by the BLM at any time, including the amount of use. BLM reserves the right to make changes to the permitted use in the future. These changes may include, but are not limited to, the following: size of group, number of trips per day or per week, months or seasons of use, locations of use, duration of use. If deemed necessary, specific areas could be closed to commercial use under this permit. The authorized officer may suspend a Special Recreation Permit if necessary to protect public resources, health, safety, the environment, or for noncompliance with permit stipulations.
35. No value shall be assigned to or claimed for the permit, or for the occupancy or use of Federal lands or related waters granted thereupon. The permit privileges are not to be considered property on which the permittee shall be entitled to earn or receive any return, income, price or compensation. The use of a permit as collateral is not recognized by the BLM.

36. The permittee or permittee's representative may not assign, contract, or sublease any portion of the permit authorization or interest therein, directly or indirectly, voluntarily or involuntarily. However, contracting of equipment or services may be approved by the authorized officer in advance, if necessary to supplement a permittee's operations. Such contracting shall not constitute more than half the required equipment or services for any one trip and the permittee must retain operational control of the permitted activity. If equipment or services are contracted, the permittee shall continue to be responsible for compliance with all stipulations and conditions of the permit.
37. All advertising and representations made to the public and the authorized officer must be accurate. A draft advertising brochure should be submitted to BLM for review to ensure any wild horse information is accurate before the brochure is finalized. Although the addresses and telephone numbers of the BLM may be included in advertising materials, official agency symbols may not be used. The permittee shall not use advertising that attempts to portray or represent his/her activities as being conducted by the BLM or present the BLM in a negative or misleading tone. The permittee may not portray or represent the permit fee as a special Federal user's tax. The permittee must furnish the authorized officer with any current brochure and price list if requested by the authorized officer.

Permittee will distribute only BLM provided or approved wild horse educational materials to his customers.

38. The permittee must assume responsibility for inspecting the permitted area for any existing or new hazardous conditions, e.g. trail and route conditions, land slides, avalanches, rocks, changing water or weather conditions, falling limbs or trees, submerged objects, hazardous wildlife, or other hazards that present risks for which the permittee assumes responsibility.
39. In the event of default on any mortgage or other indebtedness, such as bankruptcy, creditors shall not succeed to the operating rights or privileges of the permittee's Special Recreation Permit.
40. The permittee cannot, unless specifically authorized, erect, construct, or place any building, structure, or other fixture on public lands. Upon leaving, the lands must be restored as nearly as possible to pre-existing conditions.
41. The permittee must present or display a copy of the Special Recreation Permit to an authorized officer's representative, or law enforcement personnel upon request. If required, the permittee must display a copy of the permit or other identification tag on equipment used during the period of authorized use.
42. The authorized officer, or duly authorized representative of the BLM, may examine any

of the records or other documents related to the permit, the permittee or permittee's operator, employee, or agent for up to 3 years after expiration of the permit.

43. A BLM Trip Log indicating entry onto public lands and exit off public lands, must be completed, signed, and submitted to the BLM to support permittee requests for a deduction for nonpublic land use that differs from the actual percent of BLM administered public land ownership status within the authorized use area. If the permittee would like to request off-site lodging deductions, copies of the lodging receipts should be provided to the authorized officer at the time the BLM Post Use Report is submitted.
44. Cultural Resources, Standard Stipulations. The holder is responsible for informing all persons associated with this project that they may be subject to prosecution for knowingly damaging, altering, excavating or removing any archaeological, historical, or vertebrate fossil objects or site. If archaeological, historical, Native American, or vertebrate fossil materials are discovered, the holder is to suspend all operations that further disturb such materials and immediately contact the Authorized Officer. Operations are not to resume until written authorization to proceed is issued by the Authorized Officer (AO).

The authorized officer will evaluate, or will have evaluated, such discoveries not later than five working days after being notified, and will determine what action shall be taken with respect to such discoveries. The decision as to the appropriate measures to mitigate adverse effects to significant cultural or Paleontological resources will be made by the authorized officer after consulting with the holder.

The holder is responsible for the cost of any investigations necessary for the evaluation, and any mitigative measures required by the Authorized Officer. The AO will provide technical and procedural guidelines for the conduct of evaluation and mitigation. Upon verification from the AO that the required evaluation and/or mitigation has been completed, the holder will be allowed to resume operations.

Wildlife Stipulations:

1. Avoid sensitive wildlife areas and disturbance of reproductive wildlife with young during early spring/summer periods. Do not participate in any behavior which will alter the natural tendencies of the wildlife. For example, your actions should not, in any way, disrupt their current activity or entice investigatory activity by any wildlife. If your presence causes wildlife to move away from you, do not pursue them.
2. Permittee will take appropriate safety precautions and be aware of the presence of other recreational users when conducting tours during the fall hunting seasons. Providing fluorescent orange vests to any customer who will be outside of the vehicle during this time period is recommended.

Photography/Filming Stipulations

1. This permit does not authorize commercial filming or commercial photography of public land users, such as those engaged in recreational activities, with the express purpose of selling the pictures to those same users. Any published photography of public land that results from the permitted activity will include a caption to identify the public land and its location.

Special Tour Route Stipulations

1. Vehicle tours are limited to the authorized tour routes shown on the “Red Canyon Wild Mustang Tours Route Map” in the case file. Permittee must comply with the area Off-Road Vehicle (ORV) use restrictions and is not authorized to use any routes for commercial tours that are not specifically authorized and shown on the tour route map.
2. Hiking is allowed within ¼ to ½ mile from the tour vehicle, provided that the minimum distances between people and wild horses are maintained, as specified in the wild horse stipulations. When using the Whistle Creek Road outside of the Red Point Viewing Area to the Gilmore Hill Overlook in T. 53 N., R. 98 W., Section 27 SE1/4, viewing would be done from the side of the road (no hiking would be allowed).
3. Prior to each use season, the permittee will contact the BLM Wild Horse Specialist. This will allow the BLM to provide the permittee with up-to-date information on the BLM wild horse program and inform him of any changes in the management situation or upcoming events. This would help ensure that accurate information regarding the BLM and the management of the wild horses is available to the permittee and the visitors who participate in the guided activities. Prior to each season of use, annually, a mandatory field tour along the proposed tour route will be scheduled with the permittee, the wild horse specialist, and the recreation planner.

McCullough Peaks Wild Horse Herd Management Area (HMA) **Wild Horse Related Stipulations**

Background: A major concern in managing all wild horse populations is that management and/or public efforts to observe and interact with these animals may contribute to long-term behavioral desensitization and a loss of certain qualities of wildness. Additionally, there is a concern for personal safety when visiting the HMA, as wild horses are unpredictable animals. Do not place yourself between members of a horse family group as you may be attacked by other group members.

1. Harassment, injury, removal, or causing the death of a wild horse is punishable by fines

or imprisonment.

2. All visitors to the McCullough Peaks HMA - **RED POINT VIEWING AREA** should **not approach closer than 500 feet (167 yards or 152.4 meters)** to any wild horses in this Red Point Viewing Area (see map). However, during the **foaling season, mid-April to mid-July**, visitors to the HMA **should view** the wild horses **from inside your vehicle or standing beside it**, this will provide the safest distance and comfort for the wild horses and should reduce the potential for foal abandonments.

(500 feet is almost 2 football fields in length)

3. All visitors to the McCullough Peaks HMA – **OUTSIDE OF THE RED POINT VIEWING AREA** should **not approach closer than 1500 feet (500 yards or 457.2 meters)** to any wild horses.
4. Visitors to the HMA should **remain 1500 feet from any water source when observing** the wild horses. This will allow free access to the water by the horses.
5. **Do not feed or attempt to attract horses to approach you.** Do not engage in activity that interrupts wild horses' current behavior. If your presence causes horses to move away from you, **do not pursue them.** Conversely, if your presence causes horses to move toward you, **you should move away from the horses to maintain the appropriate distance.**
6. Wild horses are subject to natural mortality from injury or illness without medical intervention. Nonviable horses may be euthanized to end suffering by authorized personnel only.

Report sick or injured animals, or violations, to the Bureau of Land Management:

- 3) Wild Horse Specialist work (307) 578-5925, cell (307) 899-1155
- 4) Cody Field Office (8:00 – 4:30 weekdays) (307) 578-5900

DO NOT ATTEMPT TO ASSIST OR HANDLE SICK OR INJURED ANIMALS.

7. BLM does not require a film permit for casual, non-commercial photography on public lands. However, if models or props are used that are not part of the natural resource or if the location is not a place that the public is generally allowed or additional administrative costs are likely, a permit would be required. Any commercial filming activities including production of videos, movies, television, documentaries, require a film permit. Contact the local BLM office at: (307) 578-5900 for more information.
8. BLM requires a Special Recreation Permit (SRP) for recreation related commercial use, competitive use, vending, special area use, and organized group activity or event use. Contact the local BLM office at (307) 578-5900 for more information.

Grizzly Bear Management

Activities authorized by your permit must be conducted in a manner which will prevent or minimize the opportunity for human/bear conflicts to occur.

The following methods are currently available and required for temporary storage facilities of human food, beverages, horse feed, un-burnable solid waste, and game meat/parts while the camp is in use.

- approved bear resistant panniers
- approved bear resistant storage boxes
- approved platforms
- approved suspension poles
- enclosed vehicle

Livestock Carcasses

1. Livestock carcasses shall be disposed of by one of the following methods, as appropriate:
 - a. Carcasses must be either packed, dragged, or otherwise transported to a location a minimum of 1/2 mile from any sleeping tent or area, developed road, trail, or recreation site.
 - b. Carcass may be otherwise disposed of as directed by the authorized officer.
 - c. Death of any livestock will be reported to the nearest BLM personnel in as timely a manner as possible.

Human Food (including all beverages) and Horse/Pet Feed

1. All human food and livestock/pet feed and garbage including cooking grease will be handled, stored, and disposed of in such a manner as to make it totally unavailable to bears. During the day, food/feed not being prepared or eaten should be kept in approved bear resistant containers, enclosed vehicles, or properly hung (hung so that the lowest portion of the food/feed is suspended ten vertical feet above the highest ground object and four horizontal feet from the nearest lateral object). Suspension ropes should be tied off ten feet or higher to trees or objects.
2. Burying food, garbage, refuse, or grease is prohibited.
3. Uneaten horse feed may not be left on the ground after feeding livestock. Feed

must be gathered and stored.

4. Horse feed will be made unavailable at trail heads/transfer corrals & all attractants will be removed from open vehicles at these areas.

Human Safety

1. Permittee will be aware of, and provide to their employees and clients, information on the status of grizzly bears and on appropriate personal safety measures and behavior in grizzly bear habitat. This includes information on how to avoid grizzly/human conflicts, assessment of risks/probabilities, and recommended action in surprise encounter situations. This information is available from the Cody Field Office, local Forest Service, Park Service and Wyoming Game & Fish Department offices.
2. Traveling alone in potential occupied bear habitat should be discouraged, especially at night.
3. Certain specific areas may be temporarily closed to all human use during specific periods of time by the Field Manager in response to unusual bear activity or user hazards.

Other Measures

1. This document may be amended to include other provisions when special orders are adopted or when technological advances provide better information.
2. Failure to comply with all the foregoing provisions or intentional or negligent acts that may result in injury to or death of a grizzly bear or other protected wildlife species may cause administrative and/or criminal action to be taken against the holder of this permit.
3. The Endangered Species Act (PL 93-205) states, in part, that any person knowingly violating any provision of the Act shall, upon conviction, be fined not more than \$25,000.00 or be imprisoned for not more than one year, or both.
4. All observations or encounters with wildlife species protected by the Endangered Species Act and any potential or existing human conflict situations with potentially dangerous wildlife such as bears, wolves, or mountain lions should be reported to the Authorized Officer in as timely a manner as possible.

Guidelines

1. First-aid equipment needs should be determined by the size of the group. A 24-unit first-

aid kit is usually adequate for most field emergencies.

2. Guides should be trained in first-aid and Cardio-Pulmonary Resuscitation procedures and hold a valid Standard American Red Cross first-aid card or its equivalent.

Sanitation and Aesthetics

1. Operation and maintenance of all sanitation, food service, and water supplies, systems, and facilities shall comply with the standards of the local department of health and the United States Public Health Service.
2. Permittee shall dispose of refuse resulting from the permitted use, including waste material, garbage, and rubbish of all kinds in the following manner, and shall guard the purity of streams and other bodies of water:
 - (a) Tin cans, spent brass, bottles, metal, foil, and other un-burnable materials will be packed out, not buried. All refuse not burned is also to be packed out.
 - (b) Day use toilet needs will be accomplished through the use of the cat-hole technique.
 - (c) No waste or byproducts shall be discharged if they contain any substances in concentrations that would result in substantial harm to fish and wildlife or to human water supplies, including streams, reservoirs, and lakes.
 - (d) Help us clean up public lands by packing out all trash. Picking up trash left by less thoughtful visitors helps maintain the scenic beauty of your public lands. Littering will not be tolerated.
3. Permittee shall protect the scenic aesthetic values of the area under permit and the adjacent lands, insofar as practical, while exercising privileges granted during setup, operation, and maintenance of the permitted operation.

Uses that are authorized: The Special Recreation Permit for Red Canyon Wild Mustang Tours/Red Canyon River Trips to conduct commercial educational/interpretive tours of the McCullough Peaks Wild Horse Herd Management Area and river float trips on the Clarks Fork of the Yellowstone River on BLM-managed public lands is authorized as follows:

The proposed tours would use the following types of vehicles depending upon the size of the group. A truck for a small group; a van for a group up to about 11 people; a mid-sized bus for a group size over 11 and up to 32; and a full-sized bus for rare (1-2 per season with prior BLM approval) trips of over 32 people. The authority to provide a tour for a large-sized group is being requested as the permittee may be asked by schools, Scouts, 4H, or groups such as Future

Farmers of America (FFA) for a tour. Maximum total visitor use for a season would be 2000 visits. A visit is defined as one person visiting the public land for any part of a day.

Hiking for a distance of about ¼ to ½ mile from the tour vehicle with any size of group is authorized. Participants would stay a minimum of 500' away from the wild horses in the Red Point Viewing Area and 1500' away from wild horses elsewhere in the herd area. When using the Whistle Creek Road outside of the Red Point Viewing Area to the Gilmore Hill Overlook in T. 53 N., R. 98 W., Section 27 SE1/4, viewing would be done from the side of the road (no hiking would be allowed).

Vehicles would be allowed on specific, existing roads only. No cross-country driving would be allowed. The vehicle routes would include US Highway 14-16-20, the McCullough Peaks road (BLM road #1212), a portion of the Whistle Creek road (BLM road #1213), and several roads within the Red Point Viewing Area (see Map 2: Red Canyon Wild Mustang Tours Proposed Route Map). The McCullough Peaks road would rarely be used. Two tours per day would be offered from May 15 through September 15, one at 8:30 AM and one at 5:00 or 5:30 PM. From September 16 through October 15, tours would be offered at 11:00 AM and at 4:00 PM. One tour per week would be offered at noon for customers of a local guest lodge but this tour would be substituted for either the morning or evening tour on that day to remain within the limit of two tours per day. The tours depart and end in Cody and last about 2 to 2 ½ hours each which includes the travel time of ½ hour each way. The tours include viewing the badlands for about 15-20 minutes. High quality binoculars would be available for each guest to use.

The maximum potential visitor use from this proposal would be 2000 visits per five month season. The average number of visits per month would be 400 and per day would be 13. The proposal is for day use only on BLM-managed public land. Standard stipulations for Special Recreation Permits would be applied to the permit including those related to wild horses, travel, and the protection of cultural resources. The permittee would remove any litter generated by the activity and would follow the Principles of Tread Lightly and Leave No Trace.

Prior to each use season, the permittee would be required to contact the BLM Wild Horse Specialist. This would allow the BLM to provide the permittee with up-to-date information on the BLM wild horse program and inform him of any changes in the management situation or upcoming events. This would help ensure that accurate information regarding the BLM and the management of the wild horses is available to the permittee and the visitors who participate in the guided activities. This information would be available to the permittee for use during his commercial operation. Permittee would distribute only BLM-provided or approved educational materials to his customers. A stipulation would be applied to the permit stating that the permittee shall not use advertising that attempts to portray or represent his/her activities as being conducted by the BLM or present the BLM in a negative or misleading tone. Prior to each season of use, annually, a mandatory field tour along the proposed tour route would be scheduled with the permittee, the wild horse specialist, and the recreation planner.

River Trips: River trips would involve commercial guided rafting activities on the Clarks Fork

of the Yellowstone River. Average group size would be 7 visitors and 1 guide. Estimated visitor use would be 100 visits maximum per season from the last week of May through August, dependent on water flows. A visit is defined as one person visiting the public land for any portion of a day. 100 visits divided by 8 people = 12.5 trips per season which averages 1 trip per week. The raft would put-in at the BLM boat launch near the Clarks Fork Canyon and take out downstream at Wyoming Game and Fish Department access points. Reported use the last few years has been well below the estimated maximum.

Guidelines for Use of Public Lands

The BLM recognizes and endorses the use of the principles of Leave No Trace and Tread Lightly as appropriate wild land ethical behavior for the recreating public. The principles of these two programs are listed below.

LEAVE NO TRACE

Plan Ahead and Prepare

Know the area and what to expect, travel in small groups, and select appropriate equipment.

Camp and Travel on Durable Surfaces

Concentrate use in popular areas, spread use in remote areas, avoid places where impact is just beginning.

Dispose of Waste Properly

Reduce litter at the source by repackaging food, pack it in, pack it out, dispose of trash and garbage properly. Practice good sanitation - dispose of human waste responsibly, minimize soap and food scraps in waste water, avoid contaminating water sources when washing, dispose of fishing and hunting waste appropriately.

Leave What You Find

Minimize site alterations, avoid damaging trees and plants, leave natural objects and cultural artifacts for others to discover and enjoy.

Minimize Use and Impact From Fires

Be aware of regulations and weather conditions. Stoves are often the best option. If you must build a fire, use existing fire rings. Collect only dead and downed wood or bring your own.

Respect Wildlife

Avoid disturbing wildlife, enjoy wildlife at a distance, store food properly.

Be Considerate of Other Visitors

Reduce your impact on other visitors, respect the privacy of others, keep noise to a minimum.

TREAD LIGHTLY!

Travel only where permitted.

Know what areas/roads/trails are open to vehicles.

Respect the rights of others.

Be considerate of others on the roads/trail that you travel. Vehicles yield the right-of-way to bicycles, hikers, and horses.

Educate yourself.

Obtain information on your destination before you go. If you have questions contact the managing agency of the area(s) you are visiting.

Avoid streams, meadows, wildlife areas, etc.

Be aware of wildlife habitat. Crashing through underbrush or across open meadows upsets the balance of nature, destroys nesting sites, and disturbs wildlife.

Drive and travel responsibly.

Use common sense. Avoid muddy roads and trails and stay out of meadows and wetlands.

These principles of Leave No Trace and Tread Lightly! programs are recommended as a guide to minimizing signs of visitation to the expansive and varied BLM-administered public lands. These principles are intended to support and complement BLM regulations. Additional information on the Leave No Trace and Tread Lightly! programs is available at the Cody Field Office.

Guidelines for preventing the spread of Invasive Non-Native Species (Aquatic)

There is a potential for river related recreation activities to spread noxious weeds and invasive fauna, such as zebra mussels, New Zealand mud snails, and the parasite (*Myxobolus cerebralis*) causing whirling disease. Weed seeds and invasive species may be spread by equipment used during river related activities such as vehicles, trailers, boats, and boots. Please learn to identify these species and ensure that your equipment is cleaned properly before you move from one body of water to another. To learn more information about invasive species in your area and how to reduce their spread, please contact the local BLM or Wyoming Game and Fish Department.

Guidelines for preventing the spread of Invasive Non-Native Species (Terrestrial)

There is a potential for recreation activities to spread noxious weeds. Weed seeds and invasive species may be spread by equipment, vehicles, clothing, and shoes. Please learn to identify these species, ensure that you avoid these weed patches, and make sure that your equipment and yourself are cleaned properly before you move from one area to another. To learn more about invasive species in your area and how to reduce their spread, please contact the local BLM or Wyoming Game and Fish Department.

I have read, understand, and agree to abide by the stipulations on the back of the Special Recreation Permit and those included in this document.

Signature of Permittee

Date Signed