Finding of No Significant Impact
Bureau of Land Management
Rock Springs Field Office

2014 Removal of Wild Horses from Checkerboard within Great Divide Basin, Salt Wells Creek and Adobe Town Herd Management Areas
WY-040-EA15-104

BACKGROUND

On July 18, 2014, BLM issued a Categorical Exclusion (WY-040-CX14-134) to remove all wild horses from the checkerboard portions of the Great Divide Basin, Salt Wells Creek, and Adobe Town Herd Management Areas in compliance with the 2013 Consent Decree (Rock Springs Grazing Association v. Salazar, Civ. No. 11-263F) and Section 4 of the Wild Free-Roaming Horse and Burro Act (WHA). The American Wild Horse Preservation Campaign, et al. (petitioners) filed a lawsuit alleging violations of the National Environmental Policy Act (NEPA), the Federal Land Policy Management Act (FLPMA) and the WHA; then sought injunctive relief. Both the U.S. District Court and the 10th Circuit Court of Appeals denied the petitioners motions for injunctive relief in August and early September 2014. The checkerboard removal was conducted from September 15-October 9, 2014. The total number of wild horses removed was 1263.

On March 3, 2015, the U.S. District Court issued a ruling affirming BLM's actions under the WHA and the FLPMA and remanding BLM's actions under the NEPA. The court stated that the BLM's decision to apply the categorical exclusion to this gather was a 'reasonable interpretation of the CX'. The court also found that BLM's conclusion that the gather would not individually or cumulatively have a significant effect on the human environment was not supported by an analysis of all relevant factors. In addition, BLM did not take into account the full range of discretion available to the agency when conducting this particular gather (e.g., whether to return any horses to the HMAs, gather scheduling, and capture methods). Therefore, the court remanded the NEPA violations to BLM with instructions to remedy the deficiencies identified. The original Decision Record, issued on July 18, 2014, was not vacated or remanded.

To comply with the court's order remanding the NEPA violation, BLM prepared the attached environmental assessment, *2014 Removal of Wild Horses from Checkerboard within Great Divide Basin, Salt Wells Creek and Adobe Town Herd Management Areas*. Consistent with the court's order, the EA contains a site-specific analysis of potential impacts that could result with the implementation of the proposed action (authorized under the Decision Record issued July 18, 2014 through CX WY-040-CX14-134) and reasonable alternatives to the proposed action that were available to the BLM at the time of the decision. As explained in more detail below, after considering the information contained in the EA, and all other information available, I have determined that the proposed action, removal of all wild horses from checkerboard lands within Great Divide Basin, Salt Wells Creek and Adobe Town HMAs, does not constitute a major federal action having a significant effect on the human environment. Accordingly, I have determined to continue implementation of the proposed action, and the July 18, 2014 Decision Record will not be modified or reissued.

PLAN CONFORMANCE AND CONSISTENCY

The proposed action is in conformance with the land use plan terms and conditions as required by 43 CFR 1610.5-3(a). Any action in the Rock Springs or Rawlins Field Offices is subject to requirements established by the Green River Resource Management Plan (RMP) (1997) and the Rawlins Resource Management Plan (2008), respectively.

FINDING OF NO SIGNIFICANT IMPACT DETERMINATION

Based upon the information contained in the attached environmental assessment, *2014 Removal of Wild Horses from Checkerboard within Great Divide Basin, Salt Wells Creek and Adobe Town Herd Management Areas*, and all other information available to me, it is my determination that: (1) the implementation of Alternative 2 (Proposed Action) will not have significant environmental impacts beyond those already addressed in the Green River and Rawlins RMPs; (2) the Alternative 2 (Proposed Action) is in conformance with the RMPs; and (3) the Alternative 2 (Proposed Action) does not constitute a major federal action having a significant effect on the human environment. Therefore, an environmental impact statement is not necessary and will not be prepared.

This finding is based on my consideration of the Council on Environmental Quality (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and to the intensity of the impacts described in the EA or as articulated in the letters of comment.

Context

The Checkerboard removal consists of three herd management areas: Salt Wells Creek, Adobe Town and Great Divide Basin HMAs. The Salt Wells Creek HMA, managed by the Rock Springs Field Office, is approximately 1,172,237 acres of which 691,283 acres are public and 480,954 acres are private. The Great Divide Basin HMA, managed by the Rock Springs Field Office, is approximately 777,164 acres of which 561,098 acres are public and 216,066 acres are private. The Adobe Town HMA, managed by the Rawlins Field Office and the Rock Springs Field Office, is approximately 469,473 acres of which 443,136 acres are public and 34,683 acres are private. The majority of the private land holdings in the HMAs are in a checkerboard land pattern with every other section alternating between public and private owned or controlled land.

The Rock Springs Grazing Association (RSGA) currently owns or controls approximately 1.4 million acres of private lands within the checkerboard, including a majority of the private lands in the checkerboard within the Salt Wells Creek, Great Divide Basin and a portion of the Adobe Town HMAs.

Intensity

I have considered the potential intensity of the impacts anticipated from Alternative A (Proposed Action), based on the ten intensity factors set forth in 40 CFR 1508.27(b). My conclusions with respect to each factor are summarized briefly below:

1. Impacts that may be both beneficial and adverse.

The proposed removal is consistent with the 2013 Consent Decree, the 1997 Green River RMP and the 2008 Rawlins RMP.

As described in the EA, potential adverse impacts from the implementation of Alternative 2 (Proposed Action) include: handling stress and injury to wild horses from the gather operations; temporary displacement of wildlife near trap sites; trampling of some vegetation and soil compaction at the trap sites; and temporary closure of habitat areas near trap sites or temporary holding facilities. However, none of these impacts would be significant at the local scale or cumulatively because of the relative scale and short duration of the project, design features of the Proposed Action, and standard operating procedures outlined in Appendices II and III.

Potential beneficial impacts from the implementation of Alternative 2 (Proposed Action) include improvements in the quality and quantity of forage in areas where excess or stray wild horses are removed. Since wildlife, livestock, and wild horses have similar dietary overlap (grasses and forbs) the removal of excess wild horses would reduce the direct competition of forage and circumvent over-utilization of forage and further reduction in vegetative ground cover. The quantity of forage throughout the HMAs could be increased. Vegetation composition, cover, and vigor could improve or be maintained near water sources where wild horses tend to congregate. Vegetative diversity and health should improve in areas where excess wild horses are removed.

2. The degree to which the proposed action affects public health and safety.

The Standard Operating Procedures (Appendices II and III of the EA) would be used to conduct the gather and are designed to protect human health and safety, as well as the health and safety of the wild horses. Alternative 2 (Proposed Action) has no effect on public health and safety.

3. Unique characteristics of the geographic area such as proximity of historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

The Alternative 2 (Proposed Action) has no potential to affect unique characteristics such as historic or cultural resources or properties of concern to Native Americans. There are no wild and scenic rivers or ecologically critical areas present in the HMAs. Maintenance of appropriate numbers of wild horses is expected to help maintain resource objectives for improved riparian, wetland, aquatic and terrestrial habitat. Under the proposed action, the suitability of the Adobe Town Wilderness Study Area (WSA) for wilderness designation would be unimpaired and no trap sites would be placed within the WSA.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.

The effects of the implementation of Alternative 2 (Proposed Action) are presented in the EA document. Department of the Interior NEPA regulations define “controversial” as referring to circumstances where a substantial dispute exists as to the environmental consequences of the proposed action and does not refer to the existence of the opposition to a proposed action, the

effect of which is undisputed. 43 CFR 46.30. *See also Missouri Coalition for the Environment*, 172 IBLA 226, 249 n.23 (2007) ("Whether a proposed action is 'likely to be highly controversial' under 40 CFR 1508.27(b)(4) is not a question about the extent of public opposition, but, rather, about whether a substantial dispute exists as to its size, nature, or effect."). The BLM has analyzed and conducted numerous wild horse gather and removals in the Checkerboard HMAs since enactment of the WHA. The effects of such gathers are well understood. Although BLM has not previously conducted a removal of this level, the analysis of the EA predicts that effects will be similar to past operations, and horse populations would rebound and continue to remain at genetically viable self-sustaining populations. The BLM has no scientific evidence supporting claims that the project will have controversial effects within the meaning of this factor.

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. The analysis for the Alternative 2 (Proposed Action) does not show that this action would involve any unique or unknown risks. The BLM RSFO and RFO have also reviewed the National Academy of Science (NAS) report, "Using Science to Improve the BLM Wild Horse and Burro Program: A Way Forward" and have determined that its recommendations do not suggest that the removal of wild horses from private lands, as proposed under Alternative 2, presents any unique or unknown risks, highly controversial effects, or would otherwise meet any other intensity factor of 40 CFR 1508.27(b). The BLM has analyzed and conducted numerous wild horse gather and removals in the Checkerboard HMAs since enactment of the WHA. The effects of such gathers are well understood. Although BLM has not previously conducted a removal of this level, the analysis of the EA predicts that effects will be similar to past operations, and horse populations would rebound and continue to remain at genetically viable self-sustaining populations.

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.

After thorough analysis, the EA properly determined that the Alternative 2 (Proposed Action) would result in no significant effects. This conclusion is based on the specific facts of this project and does not set a precedent for, or automatically apply to, future wild horse management actions. Future actions would be subject to separate evaluation through the appropriate level of NEPA analysis.

The removal is being conducted in accordance with the 2013 Consent Decree, which specifies that all wild horses be removed from checkerboard land using the identified schedule of HMAs (Adobe Town/ Salt Wells in 2013 and Great Divide Basin in 2014). Under Section 4 of the WHA, the BLM has a responsibility to remove wild horses from private lands at the request of the land owner. Not only has BLM received such a request for this private land, the 2013 Consent Decree that BLM entered into with the RSGA requires the removal of all wild horses from checkerboard land within these HMAs.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.

No project specific or cumulative impacts associated with Alternative 2 (Proposed Action) have been identified that could not be avoided through the project's design or appropriate mitigation and avoidance measures. The impacts identified do not exceed the level of impacts outlined in the Rawlins and Green River RMPs.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or 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 historic resources.

Direct or indirect impacts to cultural and historic resources are not anticipated to occur from implementation of Alternative 2. Surface disturbing activities at the trap locations would be minimal and no historic properties would be adversely affected due to avoidance and identification of conflicts. The RSFO or RFO archeologists would review all proposed temporary holding facility locations to determine if these have had a Class III cultural resources inventory, and/or if a new inventory is required. If cultural resources are encountered at proposed gather sites or temporary holding facilities, those locations would not be utilized unless they could be modified to avoid or mitigate adverse impacts to significant cultural resource site(s).

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.

The Alternative 2 (Proposed Action) is not likely to adversely affect any listed species. Additionally, trap sites will be constructed and operated under the recommendations of a wildlife biologist to avoid adverse impacts to wildlife, including known sage-grouse leks, nesting and winter concentration areas, active raptor nests, White-tail Prairie Dog towns, Pygmy Rabbit habitat, Mountain Plover nesting habitat and big game crucial winter ranges and parturition areas.

10. Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

The removal of wild horses from the checkerboard lands within these three HMAs does not threaten to violate any known federal, state, local, or tribal law or requirement imposed for the protection of the environment.

Additionally, the project is in compliance with both the Green River RMP Record of Decision approved on August 8, 1997 and the Rawlins RMP Record of Decision approved on December 24, 2008, management objectives for wild horses; and also in accordance with the 2013 Consent Decree.

Authorized Officials:

Kimberlee D Foster

Date: 1/20/16

Kimberlee D Foster
Rock Springs Field Manager

Date: JAN 20 2016

Dennis J Carpenter
Rawlins Field Manager