

**Finding of No Significant Impact
Bureau of Land Management
Lander and Rawlins Field Offices
Red Desert Wild Horse Gather – Catch, Treat and Release
WY-050-EA11-78**

BACKGROUND

The proposed action is for the catch, treat and release of wild horses with removal of wild horses outside the HMAs within the Red Desert Complex of HMAs. This proposed action will also remove wild horses to the mid-point appropriate management level (AML) as identified in the EA.

The following alternatives were analyzed in detail:

- Alternative 1 (Proposed Action) – Catch, Treat and Release Wild Horses Inside the HMAs and Remove a Limited Number of Horses Inside the HMAs and All Horses Outside the HMAs.
- Alternative 2 (No Action) – No Gather or Removal
- Alternative 3–Catch, Treat and Release Wild Horses Inside the HMAs, plus Geld Studs and Remove a Limited Number of Horses Inside the HMAs and All Horses Outside the HMAs.

Alternatives 1 & 3 were developed based on the need to re-vaccinate (booster) treated mares and remove excess animals to manage the range in a thriving natural ecological balance and multiple-use relationship and to prevent range deterioration. The catch, treat and release of wild horses will ensure that the wild horses remaining within the HMA have adequate forage and water to survive and maintain satisfactory physical condition. Removal of wild horses inside and outside the HMAs will also help to sustain the long-term productivity of the rangeland resources on the public lands that other uses and wild horses depend on. Although Alternative 2 (No Action) does not comply with the Wild Horse and Burro Act of 1971, as amended, nor meet the purpose and need for this action, nor comply with the 2003 Consent Decree Agreement with the State of Wyoming; it is included as a basis for comparison with the two action alternatives.

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 Lander or Rawlins Field Offices is subject to requirements established by the Lander Resource Management Plan, (1987) and the Rawlins Resource Management Plan, (2008). The Red Desert HMA Complex has been designated as suitable for long term, sustained wild horse use in the Lander and Rawlins RMPs. The proposed

capture, fertility control program and removal conforms to the land use decisions and resource management goals and objectives of the Lander and Rawlins Resource Management Plans.

FINDING OF NO SIGNIFICANT IMPACT DETERMINATION

Based upon a review of the EA and the supporting documents, we have determined that the implementation of the proposed action (Alternative 1) is not a major federal action and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. Environmental effects do not meet the definition of significance in context or intensity as defined in 40 CFR 1508.27, and do not exceed those effects described in the Lander and Rawlins RMPs.

Therefore, an environmental impact statement is not needed. This finding is based on the context and intensity of the project as described:

Intensity

The following discussion is organized around the ten significance criteria described in 40 CFR 1508.27, and incorporated into BLM's Critical Elements of the Human Environment list (H-1791-1), and supplemental Instruction Memoranda, Acts, regulations and Executive Orders. The following have been considered in evaluation intensity for this proposal:

- 1. Impacts may be both beneficial and adverse.** The proposed action will impact resources as described in the EA. Those resources analyzed are wild horses, soils, vegetation, riparian areas and watershed, endangered, threatened, proposed candidate and BLM Wyoming sensitive species, wildlife, heritage resources and energy development. Mitigation measures to reduce impacts have been incorporated into the proposed action in the form of the Standard BLM Operating Procedures for Wild Horse Removal. (EA, Appendix 1).
- 2. The degree to which the selected alternative will affect public health or safety.** The proposed action is designed to have minimum impact on public health. Transportation of equipment to the project location will be in conformance with state and federal laws.
- 3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wilderness, wild and scenic rivers, or ecologically critical areas.** Heritage resources program support for the wild horse capture will consist of file search (Class I) and/or intensive field (Class III) inventories, and, if necessary, mitigation of impacts, at the locations of the horse trap prior to horse capture. The following Critical Elements of the Human Environment and Other Resource Issues are not present in the project area and are not affected: areas of critical environmental concern, environmental justice, farmlands (prime or unique), flood plains, Native American religious concerns, and wild/scenic rivers.

4. The degree to which the effects on the quality of the human environment are highly uncertain or involve unique or unknown risks. Many of the comments received from the public were in support of the proposed action, and were addressed in the EA.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks. The project is not unique or unusual. We have experience implementing similar actions in similar areas. The environmental effects to the human environment are fully analyzed in the EA. There are no predicted effects on the human environment that are considered to be highly uncertain or involve unique or unknown risks.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration. The actions considered in the selected alternative were considered within the context of past, present, and reasonably foreseeable future actions. Significant cumulative effects are not predicted. A complete analysis of the direct, indirect and cumulative effects of the selected alternative and other alternatives are described in Chapter 3 of the EA.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts, which include connected actions regardless of land ownership. Significant cumulative effects are not predicted. A complete disclosure of the effects of the proposal is contained in Chapter 3 of the EA.

8. The degree to which the action may adversely affect districts, sites, highway, structures, or other objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

The project will not affect districts, sites, highways, structures, or other objects listed in, or eligible for, listing in the National Register of Historic Places, nor will it cause loss or destruction of significant scientific, cultural, or historic resources.

Consultation with SHPO has been completed in accordance with Section 106 of the NHPA and the Programmatic Agreement between the Wyoming BLM and SHPO.

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973, or the degree to which the action may adversely affect: 1) a proposed to be listed endangered or threatened species or its habitat, or 2) a species on the BLM's sensitive species list. Mitigating measures to reduce impacts to wildlife have been incorporated into the design of the proposed action. Although sensitive species may occupy habitat within the project boundary, it has been determined that they will not be affected because of measures outlined in the EA. No threatened or endangered plants or animals are known to occur in the area.

10. Whether the action threatens a violation of a federal, state, local, or tribal law, regulation or policy imposed for the protection of the environment, where nonfederal requirements are consistent with federal requirements. The project does not violate any known federal, state, local or tribal law or requirement imposed for the protection of the environment.

The Red Desert Complex HMA Wild Horse Gather does not 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 the 1987 Lander RMP and the 2008 Rawlins RMP management objectives for wild horses.

Authorized Official:

Richard Vander Voet

Richard Vander Voet, Lander Field Manager

9/02/11

Date

Dennis Carpenter

Dennis Carpenter, Rawlins Field Manager

9/2/11

Date

Decision Record
Bureau of Land Management
Lander and Rawlins Field Offices
Red Desert Complex Wild Horse Gather – Catch, Treat and Release
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Decision

Based on the analysis in Environmental Assessment No. WY-050-EA11-78, it is our decision to implement a gather and fertility control program as described in Alternative 1 (Proposed Action) of the EA. We find that this alternative best implements the planning decision to maintain the Red Desert Complex of HMA's at, or near, the Appropriate Management Level (AML) while ensuring the continued viability of the herd. We have carefully considered all public comments received on the EA, and wish to thank all commenter's for their interest in public lands management and their sincere concern for the preservation of wild horses on the public lands.

Wild horses above the AML specified in the RMP are considered "excess" and subject to gathering and removal. We have concluded that a catch, treat and release program with limited removal to the mid-point AML is necessary to preserve and maintain a thriving natural ecological balance and multiple-use relationship within the HMA's as specified in the Lander Resource Management Plan (RMP), the Rawlins Resource Management Plan, and as directed in the Wild Free-roaming Horse and Burro Act of 1971. All reasonable precautions will be taken to avoid injury to the horses, and to ensure the safety of personnel involved in the gather. The gather and fertility control program will not compromise the long-term viability of the wild horses in the Red Desert Complex of HMA's.

Authorities

Gathering wild horses is in compliance with Public Law 92-125, the Wild Free-Roaming Horses and Burros Act of 1971, as amended by Federal Land Policy and Management Act (FLPMA); and Public Law 95-514, the Public Rangelands Improvement Act of 1978 (PRIA). P.L. 92-125, as amended, requires the protection, management, and control of wild horses on public lands.

Use Authority for the PZP Vaccine

The Humane Society of the United States (HSUS) has made the PZP vaccine available to us under the Investigational New Animal Drug exemption (INAD #8857) filed with the federal Food and Drug Administration (FDA). As a condition of using the PZP vaccine, the HSUS expects us to follow the Draft Criteria for Immuno-contraceptive Use in Wild Horse Herds recommended by the Wild Horse and Burro National Advisory Board in August 1999. The Lander and Rawlins Field Offices, in their management of the Red Desert Complex of HMA's, is in full compliance with all pertaining criteria. The proposed action will also adhere to all guidance and research protocol set by our National Wild Horse Fertility Control Field Trial program.

Project Design Features / Terms / Conditions / Stipulations

Standard Operating Procedures for Wild Horse Removal can be viewed in Appendix 1 of the EA. Standard Operating Procedures for Fertility Control Treatment specific to the Red Desert Complex of HMA's can be viewed in Appendix 3 of the EA. In addition, Gather Operations and Data Collection have been incorporated as part of the proposed action.

Rationale for Decision

This decision is based on the FONSI and is in accordance with policy and 43 CFR § 4700 and the Wild Horse and Burro Act of 1971. In addition, the decision conforms to the Lander Resource Management Plan, (Record of Decision (ROD), 1987) and the Rawlins Resource Management Plan, (ROD, 2008) which allows wild horses above the AML specified in the RMP to be considered "excess" and subject to gathering and removal.

On February 25, 2011, we mailed a scoping notice to the public. The scoping notice was also available on the BLM Wyoming, Rawlins and Lander external websites. March 28, 2011, was the last day for scoping comments to be received. The BLM received approximately 2,000 comment letters or emails from individuals, organizations, and agencies following the issuance of the Red Desert Complex Wild Horse Gather Plan Scoping Letter. The majority of these approximately 2,000 letters or emails were one form letter. Substantive comments were incorporated in the EA as appropriate. Comments that were not substantive are on file and can be reviewed at the Lander or Rawlins Field Offices. Comments were received from the general public, organizations and agencies.

On June 27, 2011, we mailed a draft preliminary EA to the public. The EA was also available on the BLM Wyoming, Rawlins and Lander external websites. July 28, 2011, was the last day for EA comments to be received. There were approximately 54 comments received for the draft EA.

Public comments have been incorporated into the Decision Record/FONSI and are made part of this decision. A copy of our response to public comments is identified in Appendix 7 of the EA.

Effective Date

For the following reasons, the BLM is exercising the authority provided at 43 CFR 4770.3(c) to make this decision effective 31 days from the date of this signed decision. The BLM currently plans to commence with the gather on or about October 7, 2011 and no later than November 19, 2011, to fulfill its obligations as stated above. In the event that changes occur due to weather or other factors, this wild horse gather can occur in calendar year 2012. Washington Office Instruction Memorandum (IM) No. 2010-130 provides, subject to certain exceptions, that wild horse decisions should be issued 31 days prior to the gather implementation. The purpose of the 31-day period is to "ensure the public has an opportunity to participate in and request administrative review of WH&B gather decisions" (IM No. 2010-130).

Appeal Language

Under the regulations found at 43 CFR, Part 4, Subpart E and 43 CFR 4770.3(a) and (c), this decision may be appealed by any adversely affected party to the Interior Board of Land Appeals (IBLA). Procedures and timeframes for submitting an appeal of this decision are described at 43 CFR 4770.3(a) and (c). If an appeal is filed, the notice of appeal must be filed with, or delivered to, the Lander Field Office, 1335 Main Street, Lander, Wyoming, 82520, or the Rawlins Field Office, 1300 North Third Street, Rawlins, Wyoming, 82301 within 30 days of receipt of the decision in accordance with 43 CFR Part 4. In filing a Notice of Appeal, you are required to provide a complete statement of the reasons why you are appealing. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition for a stay of the effectiveness of this decision while your appeal is under review by the Board, the petition for a stay must accompany your notice of appeal as required by the procedures and timeframes codified at 43 CFR part 4.

If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. If you decide to submit a petition for stay of the decision, a copy of the notice of appeal and petition for stay must be served simultaneously upon the parties identified below.

Lander Field Office
1335 Main Street
Lander, Wyoming, 82520

Rawlins Field Office
1300 North Third Street
Rawlins, Wyoming, 82301

Office of Hearings and Appeals
Interior Board of Land Appeals
801 North Quincy Street, Suite 300
Arlington, Virginia 22203

Office of the Regional Solicitor
Rocky Mountain Region
755 Parfet Street, Suite 151
Lakewood, Colorado 80215

The Office of Hearings and Appeals regulations do not provide for electronic filing of appeals; therefore, they will not be accepted.

Richard Vander Voet 9/02/11
Richard Vander Voet Date
Lander Field Manager

Dennis Carpenter 9/2/11
Dennis Carpenter Date
Rawlins Field Manager