



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
White River Field Office
220 East Market Street
Meeker, CO 81641

In Reply Refer To:
4700

DECISION RECORD

to

Gather Excess Wild Horses Located Outside of the Piceance-East Douglas Herd Management Area

DOI-BLM-CO-N05-2018-0071-DNA

INTRODUCTION

The Piceance-East Douglas Herd Management Area (PEDHMA) is the area identified in the White River Field Office (WRFO) for management of wild horses. Decisions designating the areas for long-term maintenance of wild horses within the WRFO were made in the 1997 White River Resource Management Plan (RMP) and a 2007 plan amendment for the West Douglas Herd Area (WDHA). In contrast, areas outside the PEDHMA, including the North Piceance Herd Area and the WDHA were not identified in the RMP for long-term management of wild horses.

To comply with 43 CFR 4710.1, the Bureau of Land Management's (BLM) White River Field Office (WRFO) is proposing to use all approved gather methods (either individually or in various combinations) to remove all of the excess wild horses from areas located outside of the PEDHMA: west of State Highway 13, south of the White River, east of the Utah state border and north of the WRFOs southern boundary (DOI-BLM-CO-N05-2018-0071-DNA Appendix A). The proposed gather would be conducted over a period of several years using a variety of gather techniques including helicopter drive trapping, helicopter assisted roping, and bait and water trapping. All wild horse gathers are subject to funding approval and availability of short-term/long-term holding facilities.

No gathered wild horses would be returned to the PEDHMA since it is currently above the Appropriate Management Level.

EXCESS DETERMINATION

The proposed gathers are necessary to address the removal of excess wild horses to maintain and restore a thriving natural ecological balance and multiple use relationship and restrict wild horse use to areas where they were found at the passage of the WFRHBA that have been designated as

Herd Management Areas through land use planning documents. This determination is based on information including Appendix D of the environmental assessment DOI-BLM-CO-N05-2015-0023-EA and Appendix C of the DOI-BLM-CO-N05-2017-0056-EA, which provide evidence to support the BLM's determination of excess and proposed action to gather and remove excess wild horses from areas outside of the PEDHMA.

The BLM has reviewed the information currently available and has determined that an overpopulation exists and action is necessary to remove excess wild horses, consistent with the authority provided in Section 1333 (b) (2) of the Wild Free-Roaming Horses and Burros Act (WFRHBA) of 1971, as amended, and BLM regulations, including 43 CFR 4710.1 and 43 CFR 4720. The documents DOI-BLM-CO-N05-2015-0023-EA and DOI-BLM-CO-N05-2017-0056-EA disclose the potential environmental impacts associated with the proposed action, including using helicopter drive-trapping, helicopter assisted roping, and bait and water trapping, which are all BLM-approved gather methods. The BLM prepared DOI-BLM-N05-2018-0071-DNA to determine the adequacy of the environmental review in those environmental assessments to support a decision to conduct gather operations over a 10-year period in a similar area, unless the BLM determines that a change in conditions or objectives requires a new NEPA analysis.

AUTHORITIES

The proposed gather and removal of excess wild horses within and immediately adjacent to the PEDHMA complies with the WFRHBA and the Federal Land Policy and Management Act (FLPMA), both as amended by Public Law 95-514, the Public Rangelands Improvement Act of 1978 (PRIA). Together, these acts require the BLM to protect, manage and control wild horse (or burro) populations on public lands.

DECISION

Based upon my review of the DNA and previous EAs, it is my decision to implement the Proposed Action to gather and remove wild horses which have relocated outside of the PEDHMA boundary, as described in the DNA, including the utilization of all Design Features along with the BLM Comprehensive Animal Welfare Program for Wild Horse and Burro Gatherers (CWAP Standards) listed in Appendix B of the DNA. Gather and removal operations are planned for the next 10 years as funding and other resources (e.g., space in short-term or long-term holding facilities) become available.

This decision conforms with and will best implement the land use planning decisions as documented in the White River Record of Decision and Approved Resource Management Plan (WRRMP/ROD) dated July 1, 1997, as amended.

This decision supersedes the July 28, 2015, decision record authorizing the gather and removal of wild horses in the WDHA, which was rendered inoperative with respect to future gathers by a

settlement agreement, dated September 20, 2017, in *Friends of Animals v. BLM*, No. 1:15-cv-01500 (D.D.C. 2017) and No. 17-5036 (D.C. Cir. 2017).

RATIONALE

The decision to select the Proposed Action is based on the following rationale:

1. This decision is based on a Finding of No New Significant Impact (FONNSI) for DOI-BLM-CO-N05-2018-0071-DNA, dated February 14, 2020 (which is also consistent with the prior FONNSI for DOI-BLM-N05-2015-0023-EA (dated July 28, 2015), and Finding of No Significant Impact (FONSI) for DOI-BLM-N05-2017-0056-EA (dated August 10, 2017)). This decision is in accordance with the policy found in 43 CFR part 4700 and the WFRHBA.
2. This decision conforms with the WRRMP/ROD dated July 1, 1997 which, for wild horse management, directs: “Manage for a wild horse herd within the Piceance-East Douglas Herd Management Area so that a thriving ecological balance is maintained for all plant and animal species on that range.”
3. The proposed action best addresses the removal of an over population of excess wild horses outside the PEDHMA, in order to establish, preserve and maintain a thriving natural ecological balance in accordance with the WFRHBA of 1971, and to manage wild horses within the area designated in the RMP for long-term wild horse management, the PEDHMA.
4. Implementation of proposed action would remove all excess wild horses that have relocated outside the PEDHMA boundaries with a current estimate of 449 excess wild horses (includes 2019 foals). The population of any remaining excess wild horses not removed will continue to increase at approximately 20% each year until all excess wild horses are removed. Removal of excess wild horses will decrease overall forage utilization outside of the PEDHMA and would be expected to promote recovery of vegetation resources sufficient to achieve rangeland health standards and return areas to a state of a thriving natural ecological balance. The unchecked excess wild horse population jeopardizes the BLM’s ability to maintain a thriving natural ecological balance for all plant and animal species in balance with other resource uses. Implementation of the Proposed Action provides the BLM with the best opportunity to maintain a thriving natural ecological balance on these public lands.

After careful consideration of all the aforementioned information and relevant factors, I have determined that action is necessary to remove excess wild horses from areas outside the PEDHMA within the WRFO to protect land resources (upland vegetation and riparian plant communities, watershed function, habitat quality for other animal populations, along with threatened, endangered, and sensitive plant and animal species), and the continued multiple use

management of the public lands. This action is necessary to ensure conformance with the applicable land use planning decisions. I have carefully reviewed all the available information and determined that gathering and removing of wild horses from areas outside the PEDHMA is necessary in order to maintain a thriving natural ecological balance and multiple use relationship in the area.

Based on this determination, it is my decision to implement a multi-year (approximately 10-years) gather to remove excess wild horses from areas outside of the PEDHMA. The gather is necessary to comply with 43 CFR 4710.1, and 43 CFR 4720.

CONSULTATION AND COORDINATION

Letters describing the proposed action were sent to the Eastern Shoshone Tribes (Wind River Reservation), Ute Indian Tribe (Uintah & Ouray Reservation), Southern Ute Indian Tribe, Ute Mountain Ute Tribe, Pueblo of Jemez, and The Hopi Tribe on April 17, 2018.

In addition, the BLM archaeologist presented the proposed action to tribal representatives from the Ute Indian Tribe (Uintah & Ouray Reservation), the Southern Ute Indian Tribe, and the Ute Mountain Ute Tribe at the Bi-Annual Tribal Consultation Meeting April 19, 2018. No concerns have been noted by tribal authorities.

No formal consultation was required or conducted with the U.S. Fish and Wildlife Service because the known threatened or endangered populations would not be impacted by gather operations.

PUBLIC INVOLVEMENT

On June 4, 2018 the WRFO made the draft DNA worksheet available for public review and comment, with a comment due date of July 5, 2018. The public was notified by a press release and the WRFO also sent letters to approximately 100 individuals and/or groups announcing the availability of the document.

The BLM received a total of 55 comments in the form of individual letters, calls, and emails. Eight comments were specific to gather operations located in the Sand Wash Basin HMA and did not pertain to gather operations within or near the PEDHMA. BLM received no form letters. The majority of the comments were applicable to wild horses regardless of their location, and other comments advocated use of fertility control or return to the PEDHMA of wild horses gathered outside the PEDHMA. The WRFO considered all comments received. Responses to comments received during the public comment period can be found in Appendix C of the DNA.

Pursuant to 43 CFR 4740.1(b) the WRFO will announce via a press release, posting in the local newspapers, and letters to the interested public regarding the date, time, and location of a public hearing on the use of helicopters and motorized vehicles in conjunction with the gather operations.

The BLM will provide the public with the opportunity to observe the gather of wild horses and gather operations as they occur, as well as to observe horses in temporary holding during gather operations. A schedule will be prepared and posted at: <https://www.blm.gov/office/white-river-field-office> that will outline specific viewing opportunities.

PLAN CONSISTENCY AND STATUTORY/REGULATORY/POLICY CONFORMANCE

Based on information in the DNA, the project record, and recommendations from BLM specialists, I conclude that this decision is consistent with the White River Record of Decision and Approved Resource Management Plan (WRRMP/ROD) dated July 1, 1997, as amended; the Endangered Species Act; the Native American Religious Freedom Act; other cultural resource management laws and regulations; Executive Order 12898 regarding Environmental Justice; and Executive Order 13007 regarding access to and ceremonial use of Indian sacred sites on Federal lands, including protection of their physical integrity.

ADMINISTRATIVE PROCEDURES

This decision is subject to appeal. If you wish to appeal this decision, as provided by 43 CFR 4770.3 and 43 CFR 4.4, you must file a notice of appeal in writing within 30 days receipt of this decision. Your notice of appeal must be filed with the Field Manager, White River Field Office, 220 East Market Street, Meeker, Colorado 81641.

The appeal must state clearly and concisely why you think the decision is in error.

Should you wish to file a petition for stay, the appellant shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied.
2. The likelihood of the appellant's success on the merits.
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

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.

Field Manager
White River Field Office
220 East Market Street
Meeker, Colorado 81641

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

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

You may file a notice of appeal by paper hardcopy only. The BLM Colorado will not accept a notice of appeal transmitted electronically (e.g., by email, facsimile, or social media means). Also, the BLM will not accept a petition for stay that is transmitted electronically (e.g., by email, facsimile, or social media means). Even if the BLM has previously corresponded with you by email, facsimile, or social media means, the BLM will not accept a notice of appeal transmitted electronically. Both the notice of appeal and any petition for stay must be received on paper at the office address above.

APPROVAL

The Gather of Excess Wild Horses Located Outside of the Piceance-East Douglas Herd Management Area is approved for implementation for a 10-year period effective upon issuance of this decision. Implementation of the gather to remove excess wild horses from areas outside of the PEDHMA is in accordance with the authority provided in 43 CFR 4770.3(c), which provides in part: "decisions...shall be effective upon issuance or on a date established in the decision" when removal of excess animals is necessary to ensure and maintain a thriving natural ecological balance and multiple-use relationship.



Kent E. Walter, Field Manager
White River Field Office



Date