

**USDI, Bureau of Land Management
Andrews Resource Area, Burns District**

DECISION RECORD

**Kiger and Riddle Mountain Herd Management Areas
Wild Horse Gather
Determination of National Environmental Policy Act Adequacy
DOI-BLM-OR-B070-2015-0009-DNA**

BACKGROUND

The Bureau of Land Management (BLM) proposes to gather wild horses from the Riddle Mountain and Kiger Herd Management Areas (HMA), as well as those horses that have left the HMAs to surrounding lands. A Determination of National Environmental Policy Act (NEPA) Adequacy (DNA), Kiger and Riddle Mountain HMAs Wild Horse Gather DNA (DOI-BLM-OR-B070-2015-0009-DNA), has been developed for this action. This DNA confirms that the proposed action has been adequately analyzed in the Kiger and Riddle Mountain HMAs Wild Horse Gather Environmental Assessment (EA) DOI-BLM-OR-B050-2011-0006-EA (2011 Gather EA) and conforms with the land use plans (LUP) cited below.

COMPLIANCE

The attached Kiger and Riddle Mountain HMA Wild Horse Gather DNA and the 2011 Gather EA are tiered to the Proposed Steens Mountain Cooperative Management and Protection Area (CMPA) Resource Management Plan (RMP) and Final Environmental Impact Statement (CMPA PRMP/FEIS), August 2004/2005, and the Proposed Three Rivers RMP and FEIS (Three Rivers PRMP/FEIS), September 1991/1992, and relevant information contained therein is incorporated by reference.

The proposed action is designed to conform to the following documents, which direct and provide the framework for management of BLM lands within the Burns District:

- Wild Free-Roaming Horses and Burros Act of 1971 (Public Law 92-195 as amended) and Title 43 Code of Federal Regulations (CFR) Part 4700.
- BLM Wild Horses and Burros (WH&B) Management Handbook, H-4700-1 (June, 2010).
- National Environmental Policy Act (NEPA), 42 U.S.C. 4321-4347 (1970).
- Federal Land Policy and Management Act (FLPMA), 43 U.S.C. 1701 (1976). Sec. 302, 43 U.S.C. 1732 states, "The Secretary shall manage the public lands under principles of multiple use and sustained yield..." and Section 302(b) of FLPMA, states "all public lands are to be managed so as to prevent unnecessary or undue degradation of the lands."

- Public Rangelands Improvement Act, 43 U.S.C. 1901 (1978).
- Standards for Rangeland Health and Guidelines for Livestock Grazing Management for Public Lands Administered by the BLM in the States of Oregon and Washington (1997).
- Greater Sage-Grouse and Sagebrush-steppe Ecosystems Management Guidelines BLM (2001).
- BLM National Sage-Grouse Habitat Conservation Strategy (2004).
- Greater Sage-Grouse Conservation Assessment and Strategy for Oregon (Hagen, 2011).
- Local Integrated Noxious Weed Control Plan, EA-OR-020-98-05 (1998).
- Vegetation Treatment Using Herbicides on BLM Lands in 17 Western States Programmatic FEIS (2010) and Record of Decision (ROD) (2010).
- Steens Mountain Comprehensive Recreation Plan (CRP), EA-OR-B060-2009-0058 (2015).
- Steens Mountain Travel Management Plan (TMP), EA OR-05-027-021 (2007).
- Steens Mountain Cooperative Management and Protection Act of 2000, Public Law 106-399.
- Smyth-Kiger, Happy Valley, and Burnt Flat Allotment Management Plans (AMP).
- The following are excerpts from 43 CFR:
 - 4720.1 – “Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animals immediately.”
 - 4710.3-1 – “Herd Management Areas shall be established for maintenance of wild horse and burro herds.”
 - 4180.2(b) – “Standards and guidelines must provide for conformance with the fundamentals of 4180.1.”
- State, local, and Tribal laws, regulations, and LUPs.
- All other Federal laws relevant to this document, even if not specifically identified.

DECISION

Having considered the proposed action, no action, and alternatives and associated impacts and based on analysis in the 2011 Gather EA and the proposed action in DOI-BLM-OR-B070-2015-0009-DNA, it is my decision to implement the proposed action described in the DNA and in this decision record (DR), which includes gathering the estimated population on the range, removing excess horses, selecting horses that fit the characteristics of the Kiger Mustang (as described in the 1996 Riddle Mountain and Kiger Wild Horse HMA Plan), and returning those horses to the range to re-establish the low ends of the respective HMAs’ appropriate management levels (AML) following the gather.

The proposed action described in the DNA is the same as the proposed action analyzed in the 2011 Gather EA (p. 6) with two exceptions: (1) the new proposed action does not

include gelding of some of the returning stallions and (2) the 2011 Gather EA proposed to remove 120 excess horses while the 2015 proposed action includes removing 156 excess horses (these differences are not substantial as discussed in the DNA under D.1).

Additionally, a Finding of No Significant Impact (FONSI) found the proposed action analyzed in the 2011 Gather EA did not constitute a major Federal action that would adversely impact the quality of the human environment. That conclusion is still valid today for the same reasons relied on at that time. Therefore, an environmental impact statement (EIS) is unnecessary and will not be prepared.

BLM proposes to gather wild horses from Riddle Mountain and Kiger HMAs, as well as those horses that have left the HMAs to surrounding BLM, State and/or private lands. This proposed action was analyzed in the 2011 Gather EA, which stated in the Reasonably Foreseeable Future Actions (RFFA) section, “Over the next 10 to 20 year period, RFFAs include gathers about every 4 years to remove excess wild horses in order to manage population size within the established AML range” (p. 41). “The new proposed action would have the same effects as those analyzed in the 2011 Gather EA. Cumulative effects of the proposed action would be the same as those analyzed beginning on page 40 of the 2011 Gather EA...” (DNA, p. 14).

The gather is designed to re-establish the wild horse populations of Riddle Mountain and Kiger HMAs to the low ends of their respective AMLs. The helicopter drive method (as discussed on pages 5, 18, and 19 of the 2011 Gather EA) would be used to capture wild horses and would take approximately one week, depending on weather conditions.

The estimated gather start date is proposed for anywhere between the last week of July through the first two weeks of August, depending on the schedule of the gather contractor. The rationale for a late July–early August gather date includes: BLM Manual 4720.41 prohibits the use of helicopter drive trapping of horses during peak foaling season (March 1–June 30); by late July or early August, foals would be big enough to safely travel to the trap site; the HMAs are accessible by vehicles in late July and early August; the BLM Burns District has always tried to avoid helicopter gathers in September because these HMAs are high use areas for hunting; the late July or early August gather gives the Burns Corral’s facility staff adequate time to prepare the horses for the upcoming adoption; and scheduling the outdoor adoption event prior to the onset of winter weather provides safer conditions for adopters hauling horses home.

The AMLs for Riddle Mountain and Kiger HMAs are 33 to 56 horses and 51 to 82 horses, respectively. The May 6, 2014, census of these HMAs counted 56 adult horses and 10 foals in Riddle Mountain HMA and 108 adult horses and 22 foals in Kiger HMA. With an average annual population growth rate of 20 percent, by summer 2015 there would be approximately 67 adult horses and 14 foals in Riddle Mountain HMA and 130 adult horses and 26 foals in Kiger HMA.

The proposed action includes gathering the estimated population on the range, removing excess horses, selecting horses that fit the characteristics of the Kiger Mustang (as described in the 1996 Riddle Mountain and Kiger Wild Horse HMA Plan), and returning those horses to the range to re-establish the low ends of the respective HMAs' AMLs following the gather. In August 2015, approximately 73 wild horses would be gathered from Riddle Mountain HMA, with approximately 48 excess wild horses removed. Approximately 141 wild horses would be gathered from Kiger HMA, with approximately 105 excess wild horses removed.

Excess horses would be removed using a selective removal strategy. Selective removal criteria for the HMAs include: (1) First Priority: Age Class - Four Years and Younger; (2) Second Priority: Age Class - Eleven to Nineteen Years; (3) Third Priority: Age Class - Five to Ten Years; and (4) Fourth Priority: Age Class - Twenty Years and Older (which should not be removed from the HMAs unless specific exceptions prevent them from being turned back to the range). The BLM Manual 4720 - Removal of Excess Wild Horses and Burros Section 4720.33 specifies some animals that should be removed irrespective of their age class. These animals include, but are not limited to, nuisance animals and animals residing outside the HMA or in an area of an inactive Herd Area (HA). Horses are territorial creatures who establish home ranges. If these home ranges happen to be outside HMA boundaries, it is anticipated the horses would return to these home ranges even after being gathered. Therefore, animals found outside the HMAs would not be returned to the range unless it is necessary to keep them in the herd to return the population to the low end of AML.

Captured wild horses would be released back into the HMAs under the following criteria:

- Riddle Mountain HMA - Low AML would be reestablished and consist of 16 mares and 17 stallions to form a 50/50 sex ratio.
- Kiger HMA - Low AML would be reestablished and consist of 25 mares and 26 stallions to form a 50/50 sex ratio.
- Horses in both HMAs would be selected to maintain a diverse age structure and exemplify physical and conformation characteristics that would perpetuate the desirable features of the Kiger Mustang. These characteristics, as derived from the 1996 Riddle Mountain and Kiger Wild Horse HMA Plan, include:
 - Color - dun, red dun, grulla, claybank, and variations.
 - Markings - Primitive markings including but not limited to dorsal stripe; leg bars; cobwebbing, or face mask; chest, rib, and arm bars; mottling/shadowing along neck, arm, and thigh; shoulder stripe and shadow; dark ear trimming; bi-colored manes and tails; or dark hooves. Minimal to no white markings.
 - Conformation: Spanish mustang-type conformation - Not coarse or heavy-boned; light to moderately muscled; muscles in hip and thigh should be long and smooth; well-defined withers typically higher than the hind end; deep girth; low set tail; medium-size feet; hooked ear tips; and medium-size head

that tapers slightly from jaw to muzzle (fine muzzles) (head profile can be straight, concave, or slightly convex).

- Size - 13–15 hands.
- Weight - 750–1,000 pounds.

Project Design Features

- Trap sites would be selected within the pastures and areas where horses are located to the greatest extent possible and would follow the appropriate Wilderness Study Area (WSA) guidance set forth in BLM Manual 6330 Section 1.6(C)10(iii) (p. 1-36), for Riddle HMA.
- Trap sites and temporary holding facilities would be located in previously used sites or other disturbed areas whenever possible. These areas would be seeded with a seed mix appropriate to the specific site if bare soil exceeds more than 10 square yards per location. The seed applied on sites within WSA would be a mix of native species while sites outside WSA would be seeded with a mix of desirable, non-native species. Undisturbed areas identified as trap sites or holding facilities would be inventoried, prior to being used, for cultural and botanical resources. If cultural or special status botanical resources were encountered, these locations would not be utilized unless they could be modified to avoid affecting these resources.
- Trap sites and temporary holding facilities would be surveyed for noxious weeds prior to gather activities. Any weeds found would be treated using the most appropriate methods. All gather activity sites would be monitored for at least two years post-gather. Any weeds found would be treated using the most appropriate methods, as outlined in the 1998 Burns District Weed Management EA, or subsequent documents.
- All vehicles and equipment used during gather operations would be cleaned before and following implementation to guard against spread of noxious weeds.
- Efforts would be made to keep trap and holding locations away from areas with noxious weed infestations.
- Gather sites would be noted and reported to range and weed personnel for monitoring and/or treatment of new and existing infestations.
- An agreement would be in place between private landowners and BLM for any traps located on private land. Surveys for cultural resources would be conducted on trap sites located on private land.
- Maintenance may be conducted along roads accessing trap sites and holding facilities prior to the start of gather operations to ensure safe passage for vehicles hauling equipment and horses to and from these sites. Any gravel required for road maintenance would be certified weed-free gravel. Road maintenance conducted within the Steens Mountain CMPA boundaries would be done in accordance with the Steens Mountain TMP (2007). A required 30-day notice of

road maintenance on Maintenance Level 2/Maintenance Intensity 1 (ML2/MI1)¹ roads within the Steens Mountain CMPA would be placed on the Burns District BLM website, <http://www.blm.gov/or/districts/burns/index.php>, as a press release.

- Gather and trapping operations would be conducted in accordance with the Standard Operating Procedures (SOP) described in the WH&B Gathers: Comprehensive Animal Welfare Policy (Instruction Memorandum (IM) 2013-059) which was created to establish policies and procedures to enable safe, efficient, and successful WH&B gather operations while ensuring humane care and treatment of all animals gathered.
- An Animal and Plant Health Inspection Service (APHIS) veterinarian would be onsite during the gather, as needed, to examine animals and make recommendations to BLM for care and treatment of wild horses.
- Decisions to humanely euthanize animals in field situations would be made in conformance with BLM policy outlined in IM 2015-070; Animal Health, Maintenance, Evaluation and Response. This IM has been attached to this DR as Appendix A because it was released during the public comment period for the DNA and replaces IM 2009-041 (DNA Appendix B).
- Data, including sex and age distribution, would be recorded on all gathered horses (removed and returned). Additional information such as color, condition class information (using the Henneke (1983) rating system), size, disposition of animals, and other information may also be recorded.
- Excess animals would be transported to BLM's Oregon Wild Horse and Burro Corral facility where they would be prepared (freeze marked, vaccinated, and dewormed) for adoption, sale (with limitations), or long-term pasture.
- Hair samples would be collected to assess genetic diversity of the herd, as outlined in Washington Office (WO) IM 2009-062 (WH&B Genetic Baseline Sampling). Hair samples would be collected from a minimum of 25 percent of the post-gather population.
- Public and media management during helicopter gather and bait trapping operations would be conducted in accordance with WO IM 2013-058 – WH&B Gathers: Public and Media Management. This IM establishes policy and procedures for safe and transparent visitation by the public and media at WH&B gather operations, while ensuring the humane treatment of wild horses and burros.

Monitoring

The BLM Contracting Officer's Representative (COR) and Project Inspectors (PI) assigned to the gather would be responsible for ensuring contract personnel abide by the contract specifications and the gather SOPs outlined in IM 2013-059.

¹ ML2/MI1: The scope of activities described within ML2/MI1 includes: maintaining drainage, which can include grading to prevent/minimize erosion; correcting drainage problems; and protecting adjacent lands. Brushing can be performed if route bed drainage is being adversely affected and contributing to erosion. For further details on these maintenance categories refer to BLM Manual 9113 - Roads Manual (MI1) and Andrews/Steens RMP/ROD 2005, Appendix M-2 (ML2).

COMMENTS RECEIVED

A copy of the original 2011 Gather EA was mailed to 81 interested publics on March 16, 2011, for a 30-day public comment period. In addition a public notice was posted in the *Burns Times-Herald* newspaper on March 16, 2011. The EA was also posted on the Burns District website on the same date. No public comments pertaining to the EA were received.

A notice of availability of the DNA was mailed to 77 interested individuals, groups, and agencies on March 10, 2015. The DNA, along with the 2011 Gather EA, FONSI and DR, were posted on the Burns District BLM planning webpage at <http://www.blm.gov/or/districts/burns/plans/plans.php>. In addition, a notice was posted in the *Burns Times-Herald* newspaper on March 11, 2015. The Burns District BLM received 11,666 comments in the forms of letters and emails. BLM responses to comments can be found attached to this DR in Appendix B - Response to Public Comments.

CHANGES TO THE KIGER AND RIDDLE MOUNTAIN HERD MANAGEMENT AREAS WILD HORSE GATHER DNA FOLLOWING THE MARCH 10, 2015, VERSION RELEASED FOR PUBLIC COMMENT

- Added “Burns District resource staff have observed the impacts from these concentrations of horses increasing as the population increases.” (DNA, p. 8).
- Deleted the words “and subsequent decision” from the seventh paragraph in section 5 (DNA, p. 15).
- To clarify when a decision would be issued for this proposed action, the following two sentences were added to the DNA (p. 15), “A decision to implement the proposed action described in this DNA would be issued following the 30-day comment period. This decision would be issued 31 to 76 days prior to the proposed gather start as is policy in IM 2010-130 - Wild Horse and Burro Gather Decisions.”

The new IM 2015-070: Animal Health, Maintenance, Evaluation and Response, has been attached to this DR (Appendix A) to replace IM 2009-041: Euthanasia of Wild Horses and Burros for Reasons Related to Health, Handling and Acts of Mercy (DNA - Appendix B). IM 2015-070 was released during the public comment period for the DNA.

RATIONALE

In accordance with 43 CFR 4720.1, upon examination of current information and a determination by the authorized officer when there is an excess of wild horses, the authorized officer shall remove the excess animals immediately. Implementation of the proposed action will meet the BLM's objective to achieve and maintain a wild horse AML that achieves a thriving natural ecological balance and prevents resource deterioration within Kiger and Riddle Mountain HMAs.

I have selected the proposed action described in this DR based on public comments, consultation with local governments and State agencies, discussions with members of the public, requirements to manage wild free-roaming horses in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands, and conformance to applicable laws and regulations. It also meets the purpose and need for action (EA, p. 2). Because of the excess wild horses, as evidenced by the May 6, 2014, inventory, rangeland monitoring which documents heavy utilization and wild horse wallows in Kiger HMA, ongoing drought causing lack of water and the movement of horses outside the Riddle Mountain HMA boundary in search of necessary forage and water (DNA p. 6-9); the purposes of the action are to return the wild horse populations to within the established AMLs, protect rangeland resources from deterioration associated with the current overpopulation, maintain a thriving natural ecological balance and multiple-use relationship on public lands in the area consistent with the provisions of 1333(b)(2)(iv) of the Wild Free-Roaming Horse and Burro Act (WFRHBA), and to maintain Rangeland Health Standards. The term "excess animals" is defined as those animals which must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area (16 U.S.C. § 1332(f)(2)). This definition underscores the need to remove excess animals before damage to the range begins to occur (Handbook 4700-1.4.3, p. 19). Burns District resource staff has observed the impacts from the current population of horses; therefore this action is needed to prevent additional damage to the range. The selected action will achieve a balance in resource values and uses among wild horses, vegetation, water, livestock, and wildlife as directed in Section 3(b)(2) of the 1971 WFRHBA and Section 302(b) of the FLPMA of 1976. The selected action will also result in collection of data on herd characteristics, health, and genetics as well as allow maintenance of the dun factor color and conformation characteristics which are the primary management objectives for the Kiger Mustang Area of Critical Environmental Concern (ACEC).

Information contained in the DNA, Section D (pages 9–15), describes how the proposed action is the same, with two differences that are not substantial and do not change the analysis of the proposed action; the alternatives analyzed in the 2011 Gather EA continue to be adequate given current environmental concerns, interests, and resource values; new information and circumstances do not substantially change the analysis of the proposed action; effects that would result from implementation of the new proposed action would be similar to those analyzed in the 2011 Gather EA; and public involvement and interagency review associated with the 2011 Gather EA are adequate for the current proposed action.

The proposed action allows BLM to respond to the issue of excess wild horses within Riddle Mountain and Kiger HMAs while continuing to maintain the Spanish characteristics of the Kiger Mustang and closely monitor the genetic variability of the herd as recommended by E. Gus Cothran in the 2012 Kiger and Riddle Mountain Genetics Analyses (DNA p. 38 and 47).

The proposed action was chosen over the no action alternative, as the no action alternative would not make any movement to correct the rangeland degradation being observed in congregation areas in both HMAs nor reduce the water demand and resultant

movement outside the HMAs during periods of diminished water resources. Leaving excess horses on the range under the no action alternative would lead to further degradation of the range and would not meet the purpose and need for action. Leaving excess horses on the range to continue to cause resource degradation is also not consistent with the Steens Mountain CMPA RMP (2005) and the Three Rivers RMP (1992).

Alternative 3: Removal Only (gate cut removal) was not chosen because, although it would reduce the population and aid in maintaining a thriving natural ecological balance within the HMAs, it would not allow BLM to selectively remove wild horses from the herds to maintain the Spanish characteristics of the Kiger Mustang. Gate cut removals eliminate the ability to remove wild horses based on animal health or desirable or historical characteristics, which often results in unintended impacts to the remaining herd. There would be no horses released back to the HMA and therefore no selections to maintain a diverse age structure, with Dun-factor color characteristics and good saddle-type conformation (body type) (EA, p. 6). Objectives referenced in the EA (p. 2) from the 1992 Three Rivers RMP to select for high quality horses when gathered horses are returned to the range (WHB 2.3) and to enhance and perpetuate the special or rare and unique characteristics that distinguish the respective herds (WHB 3) would not be achieved under the Removal Only Alternative. In addition, the wild horse objective of the 2005 Steens Mountain CMPA RMP/ROD to maintain herd viability, genetic diversity, and the genetic and physical characteristics that distinguish the individual herds (EA p. 3) would not be achieved.

DECISION

It is my decision to implement the proposed action with Project Design Elements as described above.

AUTHORITY

Authority for the wild horse decision is found in the Wild Horse and Burro Act of 1971 (PL 92-195) as amended and 43 CFR 4700, including 43 CFR 4710.3-1, 43 CFR 4710.4, 43 CFR 4720.1, and 43 CFR 4740.1. The authority to provide that all or part of a decision be effective upon issuance is found in 43 CFR 4770.3(c), "Notwithstanding the provisions of paragraph (a) of 43 CFR 4.21, the authorized officer may provide that decisions to remove wild horses or burros from public or private lands in situations where removal is required by applicable law or is necessary to preserve or maintain a thriving ecological balance and multiple use relationship shall be effective upon issuance or on a date established in the decision." The effective date of this decision is 30 days from the date of the authorized officers' signatures.

APPEAL PROCEDURES

This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of the Secretary, in accordance with regulations contained in 43 CFR 4 and Form 1842-1. If an appeal is filed, your notice of appeal should be filed with Richard Roy,

Field Manager, Three Rivers Resource Area, Burns District Office, 28910 Highway 20 West, Hines, Oregon 97738, within 30 days following receipt of the final decision. The appellant has the burden of showing the decision appealed is in error.

A copy of the appeal, statement of reasons, and all other supporting documents should also be sent to the Regional Solicitor, Pacific Northwest Region, U.S. Department of the Interior, 805 SW Broadway, Suite 600, Portland, Oregon 97205. If the notice of appeal does not include a statement of reasons for the appeal, it must be sent to the IBLA, Office of Hearings and Appeals, 801 North Quincy Street, Arlington, Virginia 22203. It is suggested appeals be sent certified mail, return receipt requested.

Standards for Obtaining a Stay—except as otherwise provided by law or other pertinent regulation, a petition for a stay of decision pending appeal shall show sufficient justification based on the following standards (43 CFR 4.21(b)):

- (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.

As noted above, the petition for stay must be filed in the office of the authorized officer.

A notice of appeal and/or request for stay electronically transmitted (e.g. email, facsimile, or social media) will not be accepted. A notice of appeal and/or request for stay must be on paper.

Authorized Officer: Rhonda Karges, Andrews/Steens Field Manager

Signature:

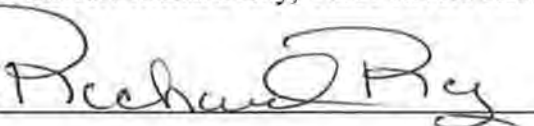


Date:



Authorized Officer: Richard Roy, Three Rivers Resource Area Field Manager

Signature:



Date:



Appendix A

4/1/2015

IM 2015-070, Animal Health, Maintenance, Evaluation and Response

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240
<http://www.blm.gov>
March 4, 2015

11 of 10

In Reply Refer To:
4750 (260) P

EMS TRANSMISSION 03/24/2015
Instruction Memorandum No. 2015-070
Expires: 09/30/2018

To: All Field Office Officials (except Alaska)
From: Assistant Director, Renewable Resources and Planning
Subject: Animal Health, Maintenance, Evaluation and Response

Program Area: Wild Horse and Burro (WH&B) Program

Purpose: The purpose of this Instruction Memorandum (IM) is to establish policy and procedures for the proactive and preventative medical care of animals managed by the WH&B Program including deworming, vaccination, evaluation of animal condition and determination of an appropriate end-of-life action when indicated for reasons of an act of mercy, health or safety.

Policy/Action: Effective immediately, all Bureau of Land Management (BLM) Washington DC, state, district, and field offices must comply with the policies described in this IM. The key contents of this policy are:

- Deworming and vaccination schedule, diseases to vaccinate against and frequency of treatment (Attachment 1).
- Animal evaluation and response that includes evaluating animal health, body condition scoring, and the authority, training, approved methods, reporting, documentation and reasons for ending an animal's life as an act of mercy, health or safety (Attachment 2, 3 and 4).

Timeframe: All portions of this policy are effective immediately with the exception of the formal training requirements identified in Attachment 2. For a period of three months from the date of issuance of this policy, personnel who already have experience performing euthanasia but have not yet received formal training may continue to do so for emergency situations when a trained person is not immediately available, as a last resort. After this time, only personnel trained by a veterinarian may end an animal's life as an act of mercy, health or safety.

Budget Impact: This memorandum is a reissuance and an update of existing policy with minimal changes. This reissued guidance does not result in costs beyond those already incurred under existing policy except for the additional training requirements for personnel authorized to end an animal's life. The cost for the required training is about \$250 per person depending on the training venue. The cost of vaccinations and deworming for animals in off-range corrals is \$85 during the first year and \$40 annually thereafter for booster vaccinations. Annual deworming and vaccinations are not administered to animals in off-range pastures. The cost to end an animal's life ranges from \$50 to \$250 depending on circumstances.

Background: The authority for ending a wild horse or burro's life is provided by Public Law 92-195, Wild Free-Roaming Horses and Burros Act of 1971 Section 1333 (b)(2)(A) and 43 CFR 4730.1. The policy contained in this IM amends and/or replaces previous policies contained in BLM Manual 4750-1 Wild Horse and Burro Preparation and Management Handbook and in BLM Manual H-4700-1 Wild Horses and Burros Management Handbook.

The administration of vaccines and dewormer to the wild horses and burros removed from the public lands and maintained at off-range corrals has been a long-standing practice within the Wild Horse and Burro Program and is a required health care standard operating procedure. Decisions to end a wild horse or burro's life for reasons related to acts of mercy, health, and safety require that the BLM evaluate individual animals affected by injury, physical defect, acute, chronic or incurable disease, severe tooth loss, poor condition, old age or behavior characteristics posing safety hazards to handlers. During gathers, the animal's ability to survive the stress of removal and its probability of surviving on the range, as well as the animal's welfare and potential for suffering if released or transported to a BLM off-range preparation facility, are all considered. Humane, long-term care of wild horses and burros located at off-range corrals, pastures, enclosures and other facilities require periodic evaluation of their condition by qualified BLM personnel or a veterinarian to provide for their well-being. These evaluations will, at times, result in decisions that require ending an animal's life.

Manual/Handbook Sections Affected: BLM Manual 4750-1 Wild Horse and Burro Preparation, Chapter III - Identification and Basic Health Care will need to be amended to provide for rabies and West Nile vaccinations required by this and previous IMs. The Wild Horses and Burros Management Handbook, H-4700-1 section 4.9 is superseded by this IM and replaced in its entirety.

Coordination: This IM was coordinated among WO-200, WO-260, WO-600, WH&B state leads, WH&B specialists, and WH&B facility managers.
Contact: Any questions regarding this IM can be directed to Joan Gullfoyle, Division Chief, Wild Horse and Burro Program (WO-260), at 202-912-7260.

Signed by:
Shelley J. Smith
Acting, Deputy Assistant Director
Resources and Planning

Authenticated by:
Robert M. Williams
Division of IRM Governance, WO-860

- 4 Attachments
- 1 - De-worming and Vaccination Schedule (1 p)
 - 2 - Animal Evaluation and Response (9 pp)
 - 3 - Henneke Equine Body Scoring Chart (1 p)
 - 4 - Final Gather Data Report (2 pp)

(last updated: 04-06-2015)

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http://www.blm.gov/wo/st/en/info/regulations/instruction_Memos_and_Bulletins/national_instruction/2015IM_2015-070.html

1/1

Attachment 2: Animal Evaluation and Response

A. Euthanasia for Reasons Related to Acts of Mercy, Health and Safety

The Authorized Officer (AO) will euthanize or authorize the euthanasia of a wild horse or burro when any of the following conditions exist.

- (1) A chronic or incurable disease, injury, lameness, or serious physical defect (includes severe tooth loss or wear, club foot, and other severe acquired or congenital abnormalities);
- (2) A Henneke body condition score (Attachment 3) of less than three with a poor or hopeless prognosis for improvement;
- (3) An acute or chronic illness, injury, physical condition, or lameness that cannot be treated or has a poor or hopeless prognosis for recovery;
- (4) An order from a state or federal animal health official authorizing the humane destruction of the animal(s) as a disease control measure;
- (5) The animal exhibits dangerous characteristics beyond those inherently associated with the wild characteristics of wild horses and burros; or
- (6) The animal poses a public safety hazard (e.g., loose on a busy highway) and an alternative remedy (capture or return to a herd management area (HMA)) is not immediately available.

B. Authorized Delegations and Required Training

1. Authority to Authorize Euthanasia

Decisions regarding the euthanasia of a wild horse or burro rest solely with the Bureau of Land Management's (BLM's) AO, defined in 43 CFR 4700.0-5 as "any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described herein," and further defined by BLM Manual – 1203 or the Authorized Officer's Representative (AR) (persons designated by the AO as described in 43 CFR 4730.1). In some cases, the decision to euthanize an animal must be made in the field and cannot always be anticipated. To minimize suffering by providing euthanasia in a timely manner, managers should have a sufficient number of individuals trained to perform euthanasia that meet the state director's firearm standards, the requirements outlined in 43 CFR 4700, and in this Instruction Memorandum. When possible, a veterinarian should be consulted prior to euthanasia unless circumstances necessitating euthanasia are obvious (e.g., a broken leg or other severe injury) and a logistical delay in obtaining this consultation would only prolong an animal's suffering.

Attachment 2-1

II. Authorization to Perform Euthanasia

Authorized Officers may delegate the authority to perform euthanasia in writing to anyone known to the AO to have the required training, skill, experience, and equipment to perform euthanasia described in this policy (See Section D, How Euthanasia Will Be Performed). Individuals to whom the AO may consider delegating this authority include: BLM employees, veterinarians, individuals under contract with the BLM, individuals performing duties under assistance agreements with the BLM, federal or state wildlife management officers, animal control officers, and law enforcement officers.

On gathers, at preparation facilities (facilities where animals are prepared for transport or adoption), at short-term holding (STH) or long-term pasture (LTP) facilities, inmate training facilities and at eco-sanctuaries, the AO is responsible for ensuring trained personnel are available to perform euthanasia at appropriate times. This includes anytime when wild horses or burros are being captured, sorted, worked, or loaded for transportation, regardless of location. At adoptions and public events, the AO will ensure that a veterinarian is on-site or on-call to perform timely and discreet euthanasia if necessary as an act of mercy.

III. Training Requirements

Only persons trained by a veterinarian will be authorized to perform euthanasia. This training may be provided by any veterinarian known to the AO to have the necessary knowledge and experience to provide this guidance to lay persons. This training will not be required to be completed on an annual basis; however, the Washington Office (WO) may direct individuals to take refresher training if there are significant changes in the acceptable practices.

When a firearm is used to perform euthanasia by a non-BLM employee, that individual must have formal training or certification in firearms safety. Appropriate certification for non-BLM personnel would include a hunter or firearms safety qualification recognized as satisfying a state-mandated hunter safety requirement or a firearms safety class certified by the National Rifle Association, law enforcement, or military program.

BLM employees performing euthanasia must be authorized to use a firearm by the state director and meet all requirements specified in the state office firearms policy. If a state has not issued a firearms policy addressing Wild Horses and Burros (WH&B) euthanasia, the BLM employees performing euthanasia must complete annual training for certification in firearms safety and shooting proficiency in accordance with the BLM Handbook H-1112-2, Safety and Health for Field Operations.

C. Euthanasia Related to Specific WH&B Management Activities

I. Euthanasia During Gather Operations

This section sets euthanasia policy during WH&B gather operations. For a description of the Organizational Chain of Command at gathers as well as roles and responsibilities of all gather personnel and contractors, see IM No. 2013-060, Wild Horse and Burro Gathers: Management by Incident Command System.

During gather operations, the Lead Contracting Officers Representative (COR), as delegated by the AO prior to the gather, will authorize the release or euthanasia of any wild horse or burro that they believe will not tolerate the handling stress associated with transportation, adoption preparation, or holding. No wild horse or burro should be released or shipped to a preparation or other facility with a preexisting condition that requires immediate euthanasia as an act of mercy. The Incident Commander (IC) or COR should, as an act of mercy and after consultation with the on-site veterinarian, euthanize any animal that meets any of the conditions described in A1 through A6 above.

II. Euthanasia On-The-Range

This section sets euthanasia policy for the BLM in field situations associated with on-the-range WH&B management, including lands other than those administered by the BLM where WH&Bs are present.

The BLM WH&B specialist responsible for management of an HMA will evaluate the condition of wild horses and burros throughout the year during routine resource monitoring efforts. If an animal is found to be suffering from any of the conditions listed in A1 through A6 above, the animal should be euthanized, if possible, on the range as an act of mercy. If euthanasia is not possible, humane killing as described in Section D below may be performed as an act of mercy.

On the range, the euthanasia may be performed by any BLM employee or other qualified individual that has been delegated that authority by the AO, has had the required training in euthanasia and firearms safety as described above and has the appropriate equipment available.

III. Euthanasia at Short-Term Holding, and Preparation and Inmate Training Facilities

This section sets euthanasia policy for the BLM in short-term holding (STH) facilities. If euthanasia is necessary at a STH facility, it will be performed by a trained and qualified individual as authorized by the AO. The BLM employees and contractors follow comprehensive animal welfare guidelines to protect the health and welfare of wild horses and burros under their care. However, acute or chronic problems can develop during captivity and the handling of wild animals that are most humanely addressed by euthanasia. Some conditions may not immediately be apparent during gathers or other

points of origin, require additional assessment or evaluation over time, or may best be addressed after an animal is moved to a STH or preparation facility. Euthanasia at all STH and preparation facilities will be applied as follows:

- (a) If an animal is affected by any of the conditions described in A1 through A6 above that causes acute pain or suffering and immediate euthanasia would be an act of mercy, the AO or AR must ensure the animal is immediately euthanized.
- (b) If an animal is affected by any of the conditions described in A1 through A6 above, but is not in acute pain, the AO should first consult a veterinarian. For example, if the animal has a physical defect or deformity that would adversely impact its quality of life if it were placed in the adoption program or in long-term pasture facilities, but acute suffering is not apparent, a veterinarian should be consulted prior to euthanasia. If the consultation confirms the animal meets a condition described in A1 through A6 above, the animal will be euthanized in a timely manner.
- (c) If the AO or AR concludes, after consultation with a veterinarian, that an animal in a STH facility is affected by any of the conditions described in A1 through A6 or cannot tolerate the stress of transportation to another facility or adoption preparation, then the animal will be euthanized.

IV. Euthanasia at Long-Term Pasture Facilities or Eco-Sanctuaries

This section sets euthanasia policy for the BLM at LTP and eco-sanctuary facilities.

For LTPs, the BLM COR or Project Inspector (PI), and for eco-sanctuaries, the Program Officer (PO) or PI responsible for oversight of the agreement will evaluate all horses and burros and establish their body condition periodically throughout the year, particularly if the facility is experiencing drought or some other event which might limit forage availability. During the year, if any animal is affected by any of the conditions listed in A1 through A6 above, the COR, PO, PI, contractor, partner or another person authorized by the AO and meeting the requirements found in Section B of this IM will euthanize that animal, if possible. On an annual basis, a team will formally evaluate the condition of each animal on the LTPs and eco-sanctuaries. The evaluation team will consist of a BLM WH&B specialist and a U.S. Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) or other veterinarian acceptable to the BLM. The action plan for the formal evaluation is as follows:

- (a) All animals will be inspected by field observation to evaluate their apparent health, overall condition and body condition, and identify animals that may need to be euthanized to prevent a slow death due to a deterioration of their condition. This evaluation will be based on a visual inspection and the Henneke body condition scoring system. The evaluations should be conducted prior to severe winter weather to identify horses with body condition scores of three or less.

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- (b) Animals with a body condition score of three or less that appear to be acutely suffering will be euthanized in the field by the PI or designated person such as the contractor, within 24 hours of the evaluation. Animals that are chronically affected with a body condition score of less than three will be euthanized within two weeks. Horses with a score of three will remain in the field and will be re-evaluated by the contractor and the PI for that contract in 60 days to see if their condition is improving, staying the same or declining. Those that are declining in condition will be euthanized as soon as possible after the second evaluation.
- (c) Arrangements for carcass disposal for euthanized animals will be in accordance with applicable state and county laws and ordinances.

V. Euthanasia During Transportation

Problems can develop during transport, or become exacerbated by transportation, of an animal. If emergency euthanasia is necessary during transportation for any of the conditions described in A1 through A6 above, the truck driver will immediately contact the AO, the COR, or other identified BLM representative. Under these circumstances, a veterinarian should be contacted immediately to evaluate the animal and perform euthanasia if indicated as soon as possible. If necessary, the animal(s) may need to be off-loaded at the closest BLM or suitable livestock handling facility to ensure that euthanasia can be performed safely and effectively.

VI. Euthanasia at Adoptions or Public Events

The AO will ensure that a veterinarian is on-site or on-call and available to respond within two hours at any adoption or public event. If a veterinarian is unable to respond within that timeframe, the animal should be loaded on to a trailer and taken to the closest qualified veterinarian. The AO will consult with the veterinarian prior to deciding to euthanize an animal and the veterinarian will perform the euthanasia in a timely and discreet manner.

VII. Euthanasia of a Large Number of Animals

When the need for euthanasia of a large number of animals is anticipated for reasons related to acts of mercy, chronic or acute injury, disease or safety, the likely course of action should be identified and outlined in advance whenever possible. When field monitoring and pre-gather planning identify an increased likelihood that large numbers of animals may need to be euthanized during a gather, this should be addressed in the gather plan. In an on-the-range, preparation, STH, LTP, or eco-sanctuary facility situation, where a gather is not involved, advance planning should also be completed by the AO whenever possible. Arrangements should be made for a USDA APHIS or other veterinarian experienced with WH&B to visit the site and consult with the AO on euthanasia decisions. This consultation should be based on an examination of the animals by the veterinarian. It should include a detailed, written evaluation of the

conditions, circumstances or history of the situation and the number of animals involved. Where appropriate, this information should be specific for each animal affected. During this planning stage, it is critical that the AO include the state office WH&B program lead, appropriate state office, district office, and field office managers, and any contractors that may be involved.

VIII. Euthanasia of Unusually Dangerous Animals

Unusually aggressive wild horses and burros can pose an unacceptable risk of injury to personnel when maintained in enclosed spaces where some level of handling is required. In rare cases, animals on the range can also be dangerous to domestic animals and/or people. When a horse or burro is unusually dangerous, it is reasonable to conclude that an average adopter could not humanely care for the animal as required by the regulations (e.g., provide proper transportation, feeding, medical care and handling, 43 CFR 4750.1). The BLM cannot solve the problem by removing unusually dangerous animals from the adoption system and placing them in a LTP or eco-sanctuary facility because this resolution also poses significant risk of injury, both to animals in transport, and to the BLM personnel and LTP and eco-sanctuary operators.

When deciding to euthanize an animal because it is unusually dangerous, the AO, in consultation with a veterinarian or other individuals with expertise in animal care, handling and behavior (as designated by the AO), must determine that the animal poses a *significant and unusual danger to people or other animals beyond that normally associated with wild horses and burros*. The AO must document the aspects of the animal's behavior that make it unusually dangerous and include this documentation in a report which should be maintained in the appropriate HMA case file and recorded in the Wild Horse and Burro Program System (WHBPS).

D. How Euthanasia will be Performed

When necessary, euthanasia will be performed in a dignified and discreet manner that is recognized and approved by the AVMA in their Guidelines for the Euthanasia of Animals: 2013 Edition. Two methods will be used as follows: 1) injection of a lethal dose of a barbiturate derivative such as sodium pentobarbital solution, or 2) gunshot to the brain of an animal that is calm and still, or humanely-restrained.

- Injections
Only commercially available pentobarbital products will be used for injectable euthanasia of conscious animals. Products will be administered by a veterinarian or technician working under the supervision of a veterinarian as may be dictated by state or federal regulations. Consideration must be given for timely and appropriate carcass disposal when animals are euthanized by injection of pentobarbital products. When injectable agents are used, the veterinarian supervising the euthanasia process is responsible for ensuring carcasses are properly disposed of so tissue residues do not threaten wildlife species that may be attracted to and consume blood or carrion from

euthanized animals.

- Gunshot

A properly placed gunshot to the brain of an animal that is calm and still, or humanely-restrained, instantly produces an unconscious state followed quickly by a painless and humane death. This method of euthanizing wild horses and burros requires only a minimum of handling and restraint; and, when performed on the range, drug residues that may poison wildlife or enter the environment following carcass disposal are not a concern. Only qualified and experienced persons skilled in the safe handling and use of firearms and trained by a veterinarian will perform the procedure. The optimal placement of a gunshot is from the front of the animal, perpendicular to the skull at a point one inch above the intersection of two imaginary diagonal lines drawn like an "X" from the eyes to the base of the ears. Typically, when euthanizing a wild horse or burro in this manner, the animal will be approached to within five-to-six feet and the gun will be held within a few inches or up to two-to-three feet from the animal.

For familiarity among operators, the preferred firearm for routine use will be a 22 magnum caliber revolver. A 22 long rifle caliber revolver may also be used and some other types and calibers of firearms typical for law enforcement or self-defense use (9mm, 38, 357, 40, or 45 calibers), if they are familiar to the operator. Carbine rifles in lieu of a handgun in these same calibers can also be effective when used at the same distances described above for handguns. The 22 magnum is highly effective, easily controlled and offers the lowest risk of ricochet or having the bullet exit the carcass. Only hollow point or other controlled expansion types of bullets should be used to maximize tissue destruction while minimizing the risk of ricochet or having the bullet exit the carcass. Animals may be euthanized while standing calmly on a trailer or confined in a small pen, portion of an alleyway or chute if the operator can get adequate visual and physical access to the animal. This is most easily and safely accomplished if the operator can be positioned above the animal. Animals that may be agitated, fractious or will not stand calmly may need to be placed in a chute or tied down for restraint; and this may be preferable for safety and reliability. Euthanasia should not be attempted when restraint is not adequate or the animal is not standing quietly. Animals moving freely in a large open pen are generally not adequately restrained and euthanasia should not be attempted. When more than one animal must be euthanized at one time, the procedure may be done at one time in the same trailer or chute, but they should be in separate compartments.

Following euthanasia, death must be verified prior to moving the carcass for disposal. The animal should be examined for cessation of vital signs including pulse and rhythmic breathing. Complete pupillary dilation and a lack of the corneal reflex are other indicators that death has occurred. Unconscious animals should only be restrained, handled and moved as if they were conscious until death is confirmed. Carcass disposal should be in accordance with state and local requirements, where applicable.

As recognized by the American Veterinary Medical Association (AVMA), circumstances exist with free-roaming wild animals where capture and chemical or physical restraint may not be practical prior to euthanasia and may only serve to prolong or exacerbate the distress of an injured or suffering animal. Under these conditions, and when an animal cannot be approached within a few feet, humane killing may be indicated to end the animal's suffering as quickly and humanely as possible. In these instances, methods typically used when hunting big-game animals of North America (e.g., elk, moose) in an ethical and responsible manner will be employed. It is not appropriate in these instances to use smaller caliber (e.g., 5.56 mm) rifles or other weapons targeted at the brain from longer distances. High-powered rifles targeted at the heart/lung or shoulder areas of an animal standing still and at typical hunting distances will be used in this circumstance. For familiarity among operators, the recommended firearm for this routine use is a bolt-action scoped rifle in a .30-06 caliber. Other firearm types and calibers with similar killing power typical for hunting large North American big-game animals (7mm magnum, .270, .308, .338 Win Mag, etc.) may be used if they are familiar to the operator; however a .30-06 bolt action scoped rifle sighted in for 200 yards offers a predictable and ethical means of quickly killing a large animal in the most humane manner possible under these circumstances. Only hollow point or other controlled expansion types of bullets should be used to maximize tissue destruction and minimize the risk of ricochet. It is not appropriate to substitute the use of a high-powered rifle from a distance for euthanasia using a gunshot to the brain when an animal can be restrained or in situations such as during gathers, or at temporary or STH facilities when restraint and use of a more conventional euthanasia technique can be applied.

As noted by the AVMA Panel on Euthanasia, the psychological response experienced by people when observing euthanasia or death in any form is an emotional one dependent on the background of the observer. Grief and distress over the loss of life are the most common reactions. Expert technique and maintaining a calm and professional atmosphere during the procedure can help minimize these reactions in the persons who must perform the procedures as well as co-workers or bystanders. For safety as well as discretion, only mission-critical persons should be nearby when euthanasia is performed. The BLM employees and contractors involved in or observing the process should behave in a dignified and discreet manner that avoids public spectacle. While these considerations should not outweigh the primary responsibility of using the most rapid and painless euthanasia method possible under the circumstances, animals should be euthanized and carcasses moved away from public view whenever possible; animals may need to be moved off-site prior to euthanasia. In some circumstances, the use of tarps or vehicles as a visual screen may also be appropriate.

As noted by the AVMA, circumstances may arise that are not clearly covered by any policy or set of guidelines for euthanasia. Whenever such situations arise, a veterinarian experienced with wild horses and burros should be consulted for their professional judgment of acceptable techniques for euthanasia. The animal's species-specific physiologic and behavioral characteristics, size, approachability and degree of suffering will be taken into consideration. In all situations, the method of euthanasia that

minimizes suffering and distress of the animal will be chosen.

E. Documentation and Reporting of Euthanized Animals

A record of an animal's death by euthanasia during a gather, during transport, at facilities or during an adoption event, will be maintained by the BLM within WHBPS. The death record will identify the animal by using a description and/or freeze mark if present, the date of the death, where the animal died and the reason(s) that euthanasia was performed. If the euthanasia was performed in the field or during a gather operation, then a copy of the death record should also be maintained in the appropriate HMA case file.

When euthanasia is performed at a gather, the lead COR or IC, in addition to the process detailed above, will report the actions taken during gather operations in the comment section of the Daily Gather Overview, and in the Final Gather Data Report (Attachment 4) in accordance with IM No. 2013-061, Wild Horse and Burro Gathers: Internal and External Communication and Reporting.

F. Planning and Communication

The WH&B specialist or the BLM employee responsible for an HMA, facility or public event is responsible for having a euthanasia plan of action in place at all times where there are federally protected wild horses and burros. The plan will address practical considerations such as (1) who will have designated authority to make decisions regarding euthanasia; (2) who will perform the procedure; (3) what method(s) of euthanasia will be used; and (4) how carcass disposal will be addressed.

When a large number of animals may need to be euthanized, a communications plan for internal and external contacts (including early alerts to state and Washington offices) should be developed in advance and implemented concurrently while addressing the situation at-hand. The communications plan should address the need for the action, as well as the appropriate messages to the public and the media, including why animals are being euthanized and how the action is consistent with the BLM's responsibilities and policy.

All operation plans for gathers, adoptions and public events where it is possible that animals may need to be euthanized will include contingency plans that address the capability for performing the function. Each state will develop and implement a training and certification plan for those employees that will be tasked with euthanizing animals. A veterinarian will be present or on-call for all gathers, adoptions, and public events.

Appendix B Response to Public Comments

A notice of availability of the Determination of National Environmental Policy Act (NEPA) Adequacy (DNA) was mailed to 77 interested individuals, groups, and agencies on March 10, 2015. The DNA, along with the 2011 Gather Environmental Assessment (EA), Finding of No Significant Impact (FONSI) and Decision Record (DR), were posted on the Burns District Bureau of Land Management (BLM) planning webpage at <http://www.blm.gov/or/districts/burns/plans/plans.php>. In addition, a notice was posted in the *Burns Times-Herald* newspaper on March 11, 2015. The Burns District BLM received 11,666 comments in the forms of letters and email communications.

Comments are grouped by subject and have been responded to accordingly.

NEPA Adequacy

1. *Comment:* The Environmental Analysis (EA) used to make the decision for this roundup is outdated, and cannot be used with any degree of certainty as it relates to population levels and land conditions.

Response: A DNA confirms that an action is adequately analyzed in existing NEPA document(s) and is in conformance with the land use plan (LUP). Regarding “population levels and land conditions”, the new proposed action estimates the need to remove 36 additional horses between the two Herd Management Areas (HMA) in order to achieve the low ends of Appropriate Management Levels (AML) (DNA p. 9). This amount is based upon the May 2014 census. The DNA (p. 10) goes on to discuss rangeland monitoring indicating the need to return the wild horse population to the low ends of AMLs. The DNA (p. 10) also discusses the changes in resource conditions within the HMA (i.e. improvements in range condition as a result of the Five Creeks Rangeland Restoration Project), yet, despite the improvements in habitat conditions in the HMA, the same wild horse issues are currently occurring as were identified in the 2011 Gather EA (p. 2, Purpose and Need for Action).

2. *Comment:* Furthermore, the Burns District Office itself noted [2011 EA, p. 41] that “Any future wild horse management would be analyzed in appropriate environmental documents following site-specific planning with public involvement.” Allowing the public to comment on a finalized Determination of NEPA Adequacy is simply inadequate.

Response: The 2011 EA and DNA are BLM's “appropriate environmental documents”. The 30-day public comment period following the availability of the DNA on March 10, 2015, was the public involvement, along with that described

in Section 5 (p. 14) and F (p. 16) of the DNA. The DNA (p. 1) also states, “The gather would be initiated following issuance of a BLM Decision on this DNA.” Changes were made to the DNA (p. 15) to clarify the decision process. The words “and subsequent decision” were deleted from the seventh paragraph in section 5. The following two sentences were also added (DNA p. 15), “A decision for this proposed action would be issued following the 30-day comment period. This decision would be issued 31 to 76 days prior to the proposed gather start as is policy in IM 2010-130 - Wild Horse and Burro Gather Decisions.”

Determination of Excess

3. *Comment:* “The gather is designed to re-establish the wild horse populations of the Riddle Mountain and Kiger HMAs to the low end of their respective AMLs. DNA, p. 1. However, BLM policy [BLM Handbook 4700-7.1.2 (p. 47)] clarifies that “[j]ustifying a removal [of horses] based on nothing more than the established AML is not acceptable.”

Response: The proposed action of the EA and DNA meet the purpose and need for action (EA, p. 2). Because of the excess wild horses, as evidenced by the May 6, 2014, inventory, rangeland monitoring which documents heavy utilization and wild horse wallows in Kiger HMA, ongoing drought causing lack of water, and the movement of horses outside the Riddle Mountain HMA boundary in search of necessary forage and water (discussed in Section C of the DNA); the purpose of the action is to return the wild horse populations to within the established AMLs, protect rangeland resources from deterioration associated with the current overpopulation, maintain a thriving natural ecological balance and multiple-use relationship on public lands in the area consistent with the provisions of 1333(b)(2)(iv) of the Wild Free-Roaming Horse and Burro Act (WFRHBA), and to maintain Rangeland Health Standards.

Population Growth Rate

4. *Comment:* The 20% growth model used by BLM to estimate populations is questionable.

Response: On May 6, 2014, BLM conducted a simultaneous double count aerial inventory of the Riddle Mountain and Kiger HMAs, with 56 adult horses and 108 adult horses observed, respectively. In estimating out year populations, Burns District BLM uses 20 percent as the annual population growth for these HMAs. Depending on climatic fluctuations, annual growth rate can fluctuate with water and forage availability and limitations associated with these resources. The National Academy of Sciences (CH. 2, p. 55) suggests many wild horse populations are realizing annual population growth rates of 20 percent or higher. This report also references studies collectively demonstrating that growth rates vary substantially from one population to another, and may also vary from one

period to another in the same population (NAS 2013, p. 55). The 20 percent annual population growth rate includes both survival and fecundity rates (NAS 2013, p. 55).

Fertility Control

5. *Comment:* The BLM has not considered the 2013 recommendations made by the National Academy of Sciences (NAS). The NAS found that the BLM's roundup-and-remove management approach was fueling high reproductive rates for the horses left on the range. The NAS recommended humane fertility control as an economically, socially and scientifically superior alternative to roundup and removal.

Response: The DNA (p. 11) explains why Porcine Zona Pellucida (PZP) is not being proposed for use on the Riddle Mountain and Kiger wild horses.

6. *Comment:* [E]ight of the released Riddle Mountain mares were injected with PZP as per http://www.blm.gov/wo/st/en/prog/whbprogram/herd_management/Data/completed_fy_11_gathers.html.

Response: The eight mares treated with fertility control on the table on the cited website was a typo. There were no mares treated with PZP from Riddle or Kiger HMAs following the 2011 gather.

Holding Availability

7. *Comment:* The BLM has nearly 50,000 wild horses in holding facilities, over 17,000 of which are in short term holding facilities and available for adoption. The agency already has a huge backlog of adoptable horses; it should not be bringing more horses into this overburdened adoption system.

Response: The DNA (pages 11–12) discusses that the Kiger horses have had an almost 100 percent adoption rate since 1986, therefore holding space for the horses removed from the HMAs is only expected to be necessary until the date of the adoption.

Selective Removal

8. *Comment:* Stop managing the Kiger and Riddle Mountain mustangs as private breeding stock and start managing them as a valuable and rare wildlife population by leaving horses on the range and allowing natural selection to work to improve the genetic strength of these herds.

Response: Burns District began protecting and managing for the Spanish type horses in Kiger HMA in 1974. Through the 1980's, BLM and the public's awareness and interest in preserving the important historic and cultural value of Spanish Mustang characteristics grew, ultimately leading to the development of the 1992 Kiger Mustang Area of Critical Environmental Concern (ACEC). These herds are not managed for private breeding stock. The primary management objective for this ACEC is to perpetuate and protect the dun factor color and conformation characteristics of the wild horses present in the Kiger and Riddle Mountain HMAs. If BLM had not noticed the unique characteristics of some of the horses in these herds and continued to manage for these important historic and cultural traits over the past 40 years, we would not have the unique and historic herds we have today. The very high public interest and absolute adoption rate speak to the success of the BLM and the public at protecting, managing, and promoting Spanish type wild horses both on and off the range.

Self-stabilizing Populations

9. *Comment:* I urge you to consider Reserve Design, such as by Craig Downer, as to reach a vision that allows our wild horses to maintain freedom, with respect to their spirits and health - instead of forcing them into captivity where they languish miserably in shelter less, barren pens, deprived from roaming and ensuring their mental health.

Response: BLM's interpretation of "Reserve Design" is hands off management of the wild horses, allowing them and all the other resources in the area to "self-stabilize" their populations. The National Academy of Sciences 2013 report (p. 76) states, "It can be expected - on the basis of logic, experience, and modeling studies that because horses or burros left to "self-limit" will be food-limited, they will also have poorer body condition on the average. If animals are in poorer condition, mortality will be greater, particularly in times of food shortage resulting from drought or severe winter weather. Indeed, when population growth rate is zero, mortality must balance natality. Whether that is acceptable to managers or the public is beyond the purview of the committee, but it is a biological reality." Section 3(a) of the WFRHBA states, "the Secretary shall manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands. He shall consider the recommendations of qualified scientists in the field of biology and ecology, some of whom shall be independent of both Federal and State agencies and may include members of the Advisory Board established in section 7 of this Act." The NAS report indicates rangeland health, as well as food and water resources for other animals which share the range, would be affected by resource limited horse populations, which could be in conflict with the legislative mandate that BLM maintain a thriving natural ecological balance (NAS, page 56). BLM interprets the Act and the sciences of biology and ecology to conclude that self-limitation is not a best management practice for wild horses and burros.

Adjustments to Wild Horse AML and Livestock AUMs

10. *Comment:* Increase the Allowable [Appropriate] Management Levels (AMLs) for wild horses in the Kiger and Riddle Mountain HMAs to more sustainable levels by reducing livestock grazing in these areas. With five times more livestock grazing in these areas than wild horses, the BLM has ample room to increase wild horse population levels in these HMAs.

Response: The 2011 EA (p. 8) had an alternative not brought forward for detailed analysis titled Remove or Reduce Livestock within the HMAs. Adjustments to forage allocations is outside the scope of this analysis as forage allocations for livestock and an appropriate management level for wild horses have already been set in the 2005 Steens Mountain Cooperative Management and Protection Area (CMPA) Record of Decision (ROD) and Resource Management Plan (RMP) and the 1992 Three Rivers RMP, ROD, and Rangeland Program Summary. The DNA (p. 10) explains how, despite successful rangeland restoration projects within the HMA since the 2011 gather, the same wild horse issues are currently occurring as identified in the 2011 Gather EA (p. 2, Purpose and Need for Action). Issues include wild horse numbers over AML, wild horse concentrations causing resource damage, and poor distribution causing heavy utilization in certain portions of the HMAs.

Permitted livestock grazing is managed in response to rangeland conditions which fluctuate due to annual environmental conditions. Adjustments to permitted livestock grazing are made each year to meet utilization targets and specific resource objectives. Annual adjustments to horse populations are not possible; therefore wild horse herds must be managed within population numbers which account for periods of environmental extremes which limit the availability of adequate forage and water.

Expansion of HMA Boundaries

11. *Comment:* With a slight re-orientation of HMA boundaries, Riddle Mountain and the Kiger range could become a contiguous HMA, the exchange of stallions would no longer be necessary. The HMA could be managed as one unit, allowing the horses from both herds to exchange naturally.

Response: Adjustments to HMA boundaries are outside the scope of the 2011 EA and this DNA; adjustments to HMA boundaries are Land Use Plan (LUP) decisions. In addition, we are limited to managing HMAs within the original Herd Area (HA) boundaries as per H-4700-1-2.1.2 Herd Areas - HAs are limited to areas of the public lands identified as habitat used by WH&B at the time that the WFRHBA passed (December 15, 1971). When preparing an LUP, identify the HAs (in whole or in part) which will not be managed as HMAs and explain the reasons they will not be managed for WH&B. The land sitting directly between

the Riddle Mountain and Kiger HMAs was never part of an HA, therefore BLM has no authority to manage these lands for wild horses. Additionally, the 1992 Kiger Mustang ACEC included the two separate HMAs (Kiger and Riddle Mountain HMAs) as a safeguard to provide protection for the Kiger Mustang's unique characteristics should something happen to one of the herds.

Principally but Not Exclusively

12. *Comment:* The HMAs were set by the Free-Roaming Wild Horse and Burro Act of 1971 and the land[s] included in these HMAs, as you know, are principally for the management of wild horses and burros. They have the principal right first before the livestock.

Response: The law's language stating that public lands where wild horses and burros were found roaming in 1971 are to be managed "principally but not necessarily exclusively" for the welfare of these animals relates to the Interior Secretary's power to "designate and maintain specific ranges on public lands as sanctuaries for their protection and preservation" -- which are, thus far, the Pryor Mountain Wild Horse Range (in Montana and Wyoming), the Nevada Wild Horse Range (located within the north central portion of Nellis Air Force Range), the Little Book Cliffs Wild Horse Range (in Colorado), and the Marietta Wild Burro Range (in Nevada). The "principally but not necessarily exclusively" language applies to specific Wild Horse Ranges, not to HMAs in general. The Code of Federal Regulations (43 CFR Subpart 4710.3) describes herd management areas (§4710.3-1) and wild horse and burro ranges (§4710.3-2). In delineating each HMA, the authorized officer shall consider the appropriate management level for the herd, the habitat requirements of the animals, the relationships with other uses of the public and adjacent private lands, and the constraints contained in §4710.4. HMAs may also be designated as wild horse or burro ranges to be managed principally, but not necessarily exclusively, for wild horse or burro herds. The Riddle Mountain and Kiger HMAs have not been designated as wild horse "ranges" and therefore must consider the factors described above in the management of the HMAs.

Genetic Viability

13. *Comment:* "The DNA is completely devoid of analysis on how the current genetic viability of the herds in the Kiger and Riddle Mountain HMAs will be impacted by the Proposed Action." "BLM solely relies on genetic reports from 2012 in the DNA, and does not provide any analysis on how the Proposed Action might affect the genetic diversity and viability of the remaining wild horses in the HMAs."

Response: Genetic Analysis (2012) conducted on the horses gathered during the 2011 gather were attachments to the DNA. Recommendations from these reports state, "Current variability levels are high enough that no action is needed at this

point but the herd should be monitored closely due to the trend for loss of variability. This is especially true if it is known that the herd size has seen a recent decline. Populations that consist of less than 100 individuals are at high risk of loss of variability and this can occur rapidly at low population numbers. It should be noted that the Riddle Mountain herd is genetically very close to the Kiger herd but different enough that exchange of a few individuals of these herds could restore variability levels.” Exchanges of horses from Riddle Mountain and Kiger HMAs occurred following the 2011 gather. Release records indicate horses were being exchanged between Riddle, Kiger, and Smyth Creek HMAs (Kiger and Smyth Creek HMAs make up the current Kiger HMA) even back in 1986. The release records following most of the gathers of these HMAs indicate an exchange or translocations of horses from other HMAs to help maintain adequate genetic variation. Genetic variability of these herds has been monitored closely since the late 1980's. BLM plans to continue to monitor the genetic variability of these herds as indicated in the project design features of the proposed action of the DNA (p. 4), “Hair samples would be collected to assess genetic diversity of the herd, as outlined in Washington Office (WO) IM 2009-062 (Wild Horse and Burro Genetic Baseline Sampling) (Appendix C).” BLM understands that the size of these small herds puts them at a greater risk of loss of variability; however, through close monitoring for the past 35 years, BLM has been able to maintain variability at adequate levels. Refer to response to comment 1(d) regarding adjustments in wild horse AML.

14. *Comment:* Questions how many horses were sampled from each HMA.

Response: As stated in the DNA (p. 35), 21 horses were sampled from Riddle Mountain HMA and 40 horses were sampled from Kiger HMA (p. 44). In 2011 BLM followed Instruction Memorandum (IM) No. 2009-062, which established program guidance and policy for the collection of genetic baseline information for wild horse and burro populations.

15. *Comment:* While discussing Gus Cothran's 2012 recommendations she cites “the Riddle Mountain herd is genetically very close to the Kiger herd but different enough that exchange of a few individuals of these herds could restore variability levels.” While that has been the practice for many years we question the legality of this practice. According to the WFRHBA the BLM is mandated to manage the herds for sustainability - i.e. self-sustaining herds.

Response: H-4700-1-4.4.6.1 Baseline Genetic Diversity suggests, “Movement of WH&B from one HMA to another may enhance genetic diversity.” The 1996 Riddle Mountain and Kiger Wild Horse Herd Management Area Plan, Horse Herd Objectives section states, “Periodically exchange stallions and/or mares between the Riddle Mountain and Kiger HMAs to maintain genetic diversity.” This HMA Plan can be found on <http://www.blm.gov/or/districts/burns/plans/activityplans.php>. The 2013 NAS

report supports such management actions. In its 2013 report, the National Research Council stated, “Although there is no magic number above which a population can be considered forever viable, studies suggest that thousands of animals will be needed for long-term viability and maintenance of genetic diversity” (NAS, page 170). The council goes on to recommend that “BLM consider some groups of HMAs to constitute a single population and manage them by using natural or assisted migration (translocation) whenever necessary to maintain or supplement genetic diversity” (NAS, page 170).

Bait Trapping

16. *Comment:* I oppose very strongly [the] use of helicopters to round up wild horses. It is expensive and inhumane. Bait-trapping is a proven low-cost method that could and should be used.

Response: In the 2011 EA (p. 8), water and bait trapping was an alternative considered but eliminated from detailed analysis: “Though water/bait trapping is an effective tool for specific management purposes, this alternative was dismissed from detailed study for the following reasons: (1) The size of the gather area is too large to make this a feasible method; (2) The presence of water sources on both private and public lands inside and outside the HMAs’ boundaries would make it almost impossible to restrict wild horse access to only selected water trap sites, which would extend the time required to remove the excess horses or make it impossible to capture all excess horses; and (3) Access for vehicles necessary to safely transport gathered wild horses is limited. The large geographic area involved, the amount of time necessary for implementing this alternative, and the difficulty of ensuring horse use of only water trap areas would make it difficult (if not impossible) to gather excess horses within a manageable gather timeframe or without an increase in gather costs. In summary, bait/water trapping would not be effective and would be much more costly and time-consuming making this alternative infeasible.” This rationale is the same in 2015 as the water sources, sizes, and accessibility of the HMAs have not changed.

Predator Management

17. *Comment:* Human-induced population control can and must be done in more innovative and honest census approaches, with objective to ensure real “maximum sustained yield” allowing population size to fluctuate around a naturally induced optimum such as leaving predation to eliminate the negative human-induced reductions.

Comment: Canadian biologist found that cougars tended to kill younger animals, especially when preying on feral horses. Nearly all of the cougars’ predation events (86%) involved animals less than 2 years old.

Response: Cougars are the only large predator in the area that may prey on wild horses, mainly foals. Even with high cougar populations across Oregon and in the Steens Wildlife Management Unit, as described in the 2006 Oregon Cougar Management Plan, there is no evidence to suggest cougars have an effect on wild horse recruitment. Canadian biologists (Knopff et al. 2010) confirmed that wild horses were killed by cougars but all kills were of animals less than 2 years of age; “Although our seasonal result is novel, that cougar predation on large ungulate species tends to focus on animals <1 year old has been well-documented (Hornocker 1970, Turner et al. 1992, Ross and Jalkotzy 1996, Murphy 1998, Husseman et al. 2003).” They also found 0.5 percent of an adult female’s diet is made up of feral horse in the summer. Thirteen percent of adult males’ summer diet was feral horse while 10 percent of their winter diet was feral horse. Subadult cougars did not prey on feral horses. There was no discussion on how this amount of predation would affect wild horse population growth. In addition, the 2013 NAS report (p. 74) confirms foals are usually the prey of cougars and goes on to explain population size is not affected as much by foal survival as it is by adult survival; foal survival is strongly affected by other variables (such as weather). BLM does not make decisions on predator management but can make recommendations to Oregon Department of Fish and Wildlife (ODFW). Changes to predator management are outside the scope of the 2011 EA and this DNA.

Eco-sanctuary

18. *Comment:* An innovative approach such as an eco-sanctuary could create a legacy for our future generations, educational learning as mustangs played a most important role in the history of this country, and it could boost economy and thus ensure many positive gains.

Response: Establishment of an eco-sanctuary is outside the scope of the 2011 EA and this DNA.

Range Improvements

19. *Comment:* Do the HMAs have perimeter fences? Do the fences need repair? Do the gates need to be checked frequently and closed? Would palatable planting draw the wild horses back inside the HMAs? Have mineral licks been placed well-inside the HMAs? Have guzzlers been installed to provide water sources within the boundaries of the HMAs?

Response: Appendix D (EA p. 56 and 57) includes HMA maps with fence and inventory information. The legend says “pasture boundary” and not specifically “fences”, but yes, the HMAs are fenced. Impacts of fences or other range improvement projects are fully analyzed in site-specific NEPA analysis for the range improvement project. Analyses of those impacts are outside the scope of the 2011 EA and this DNA.