

**Decision Record**  
**Bureau of Land Management**  
**Lander Field Offices**  
**North Lander Complex Wild Horse Gather**  
**WY-050-EA12-33**

**Decision**

Based on the analysis in Environmental Assessment No. WY-050-EA12-33, it is our decision to implement a gather and fertility control program as described in Alternative 3 (Proposed Action) of the EA. We find that this alternative best implements the planning decision to maintain the North Lander Complex at, or near, the Appropriate Management Level (AML) while ensuring the continued viability of the wild horse herd. We have carefully considered all public comments received on the EA, and wish to thank all commenter's for their interest in public lands management and their sincere concern for the preservation of wild horses on the public lands.

Wild horses above the AML specified in the RMP are considered "excess" and subject to gather and removal. We have concluded that a gather with fertility control using SpayVac® and PZP-22 to the low-point AML is necessary to preserve and maintain a thriving natural ecological balance and multiple-use relationship within the HMA's as specified in the Lander Resource Management Plan (RMP), and as directed in the Wild Free-Roaming Horse and Burro Act of 1971.

SpayVac® uses the same proteins (antigens) and adjuvant (immune response stimulant), as conventional vaccines such as PZP-22. The difference between SpayVac® and PZP-22, however, is that PZP-22 proteins in SpayVac® are encapsulated in liposomes, which protect them while they are being carried into the immune system. Liposomes have been used for many years and are recognized as safe components of therapeutics.

All reasonable precautions will be taken to avoid injury to the horses, and to ensure the safety of personnel involved in the gather. The gather and fertility control program will not compromise the long-term viability of the wild horses in the North Lander Complex of HMA's.

**Authorities**

The authority for this Decision is contained in Section 1333(a) of the 1971 Wild Free-Roaming Wild Horses and Burros Act, Section 302(b) of the Federal Land Policy and Management Act (FLPMA) of 1976, and Code of Federal Regulations (CFR) at 43 CFR §4700.

§4700.0-6 Policy

- (a) Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat;
- (b) Wild horses and burros shall be considered comparably with other resource values in the formulation of land use plans;
- (c) Management activities affecting wild horses and burros shall be undertaken with the goal of maintaining free-roaming behavior;

(d) In administering these regulations, the authorized officer shall consult with Federal and State wildlife agencies and all other affected interests, to involve them in planning for and management of wild horses and burros on the public lands.

#### §4710.4 Constraints on Management

Management of wild horses and burros shall be undertaken with the objective of limiting the animals' distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans.

#### §4720.1 Removal of excess animals from public lands

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 ...

#### §4740.1 Use of Motor Vehicles or Aircraft

(a) Motor vehicles and aircraft may be used by the authorized officer in all phases of the administration of the Act, except that no motor vehicle or aircraft, other than helicopters, shall be used for the purpose of herding or chasing wild horses or burros for capture or destruction. All such use shall be conducted in a humane manner.

(b) Before using helicopters or motor vehicles in the management of wild horses or burros, the authorized officer shall conduct a public hearing in the area where such use is to be...

### **Use Authority for the SpayVac® and PZP Vaccine**

Fertility control is used under the authority of the Wild Free Roaming Horses and Burros Act of 1971. PZP-22 vaccine is obtained through the cooperation of the Humane Society of the United States (HSUS). This cooperation is based in part on following the Considerations for Fertility Control in Wild Horse Herds, September 2009, prepared by the Bureau with review from the National Wild Horse and Burro Advisory Board.

SpayVac® will be obtained under a research protocol prepared by the US Geological Survey. This experimental use is approved by the Environmental Protection Agency and the Wyoming Department of Agriculture who issue any necessary permits or exemptions for this use. Treatment of mares will follow the procedures outlined in Appendix 3 of the EA. The Lander Field Office, in their management of the North Lander Complex is in full compliance with all applicable State and Federal laws regarding the use of fertility control agents.

### **Project Design Features including Terms, Conditions and Stipulations**

Standard Operating Procedures for Wild Horse Gathers can be viewed in Appendix 1 of the EA. Standard Operating Procedures for Fertility Control Treatment using SpayVac® and PZP-22 specific to the North Lander Complex of HMA's can be viewed in Appendix 3 of the EA. In addition, Gather Operations and Data Collection have been incorporated as part of the proposed action.

### **Rationale for Decision**

This decision is based on the attached FONSI and is in accordance with policy and 43 CFR § 4700 and the Wild Free Roaming Horse and Burro Act of 1971. In addition, the decision conforms to the Lander Resource Management Plan, (Record of Decision (ROD), 1987) which

allows wild horses above the AML specified in the RMP to be considered “excess” and subject to gathering and removal.

On February 17, 2012, the BLM mailed a scoping notice to the public. The scoping notice was also available on the BLM Wyoming, Lander website. March 19, 2012, was the last day for scoping comments to be received. The BLM received approximately 2,000 comment letters or emails from individuals, organizations, and agencies following the issuance of the North Lander Complex Wild Horse Gather Plan scoping letter. Substantive comments were incorporated in the EA as appropriate. Comments that were not substantive are on file and can be reviewed at the Lander Field Office.

On July 6, 2012, the BLM mailed a draft EA to the public. The EA was also available on the BLM Wyoming, Lander external website. August 7, 2012, was the last day for EA comments to be received. There were approximately 7,000 comments received on the draft EA. Twenty-three substantive comments were identified and incorporated into the EA as appropriate.

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

#### **Effective Date**

For the following reasons, the BLM is exercising the authority provided at 43 CFR 4770.3(c) to make this decision effective 31 days from the date of this signed decision. The BLM currently plans to commence with the gather on or about October 25, 2012, to fulfill its obligations as stated above. In the event that changes occur due to weather or other factors, this wild horse gather can occur in calendar year 2013. Washington Office Instruction Memorandum (IM) No. 2010-130 provides, subject to certain exceptions, that wild horse decisions should be issued 31 days prior to the gather implementation. The purpose of the 31-day period is to “ensure the public has an opportunity to participate in and request administrative review of WH&B gather decisions” (IM No. 2010-130).

In the event that SpayVac® is unavailable prior to the gather, the Lander Field Office will implement Alternative 1, gathering to the low end of AML (320 Horses) with fertility control using PZP-22 on all mares released.

#### **Appeal Language**

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

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

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

Bureau of Land Management  
Lander Field Office  
1335 Main Street  
Lander, Wyoming, 82520

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

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

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

Authorized Official:

Richard Vander Voet

Richard Vander Voet  
Field Manager

9/04/12

Date