

**Decision Record
Bureau of Land Management
Rock Springs Field Office**

**Adobe Town and Salt Wells Creek Herd Management Areas (Complex) Wild Horse
Gather
WY-040-EA13-82**

Based on the analysis in Environmental Assessment No. WY-040-EA13-82, it is my decision to implement a gather and fertility control program, as described in Alternative A of the Environmental Assessment (EA). This alternative implements the planning decisions from the 1997 Green River Resource Management Plan (RMP) and the 2008 Rawlins Resource Management Plan, respectively, to maintain the Adobe Town and the Salt Wells Creek HMAs at, or near, the Appropriate Management Level (AML). The populations would be monitored and the populations would be maintained within the AMLs.

I have carefully considered all public comments received on the EA, and wish to thank all commenters for their interest in public lands management and their sincere concern for the preservation of wild horses on the public lands.

As discussed in the EA and herein, based upon current inventories, information provided in the applicable land use plans, and other available information, I have concluded that an overpopulation of wild horses exists in the Adobe Town and the Salt Wells Creek HMAs. Wild horses above the AML specified in the applicable RMPs and those in areas not designated for their long term management must be removed to preserve and maintain a thriving natural ecological balance and multiple use relationship within the HMAs and surrounding areas, to prevent undue or unnecessary degradation of the public lands by protecting the range from deterioration due to this overpopulation of wild horses, and to comply with landowner requests to remove wild horses from private lands, as specified in the Green River and Rawlins RMPs, applicable court-approved settlement agreements, and as directed in the Wild Free-Roaming Horses and Burros Act of 1971 (WFRHBA). Wild horses above AML and those within areas not designated for long term management are therefore considered “excess” within the meaning of the WFRHBA and are subject to gathering and removal. All reasonable precautions will be taken to avoid injury to the wild horses, including adherence to the Standard Operating Procedures for Wild Horse Gathers (Appendix II of EA) and the Standard Operating Procedures for Fertility Control Treatment (Appendix III of EA), and to ensure the safety of personnel involved in the gather.

This decision is issued in accordance with Title 43 of the Code of Federal Regulations (CFR) at section 4770.3(c), which states in part, “decisions to remove . . . shall be effective on issuance or on a date established in the decision.” This decision will be in effect on October 1, 2013. The Adobe Town and the Salt Wells Creek HMAs gather is currently anticipated to begin in October 2013.

AUTHORITIES

Gathering wild horses is in compliance with Public Law 92-125, the WFRHBA, as amended by Federal Land Policy and Management Act of 1976 (FLPMA); and Public Law 95-514, the Public

Rangelands Improvement Act of 1978 (PRIA). Public Law 92-125, as amended, requires the protection, management, and control of wild horses on public lands.

USE AUTHORITY FOR THE PZP VACCINE

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

COMPLIANCE AND MONITORING

The BLM will monitor gather operations for adherence to the Standard Operating Procedures for Wild Horse Gathers and Fertility Control Treatment as outlined in Appendices II and III of the EA and the design of the selected action.

PROJECT DESIGN FEATURES, TERMS, CONDITIONS, and STIPULATIONS

Standard Operating Procedures for Wild Horse Removal can be viewed in Appendix II of the EA. In addition, the Selective Removal Criteria, Gather Operations, and Data Collection have been incorporated as part of the selected action.

PUBLIC INVOLVEMENT

A public scoping letter was issued on November 7, 2012, requesting comments by December 7, 2012. In excess of 5,000 comments were received from individuals, organizations, and agencies during the scoping period. The EA (WY-040-EA13-82) for gathering wild horses was available for public review on May 10, 2013. Over 8,000 comments were received from individuals, organizations, and agencies during the public review period. All of the comments received represented a range of opinions and interpretation of selected data. Appendix I of the EA provides a Summary of Scoping and Public Review Comments. Public comments have been incorporated into the EA and Decision Record/Finding of No Significant Impact as appropriate and are made part of this decision.

RATIONALE FOR ALTERNATIVE SELECTED

This decision is based on the Finding of No Significant Impact and is in accordance with applicable law and policy, including FLPMA, PRIA, the WFRHBA and its implementing regulations at 43 CFR 4700, and related policy.

In addition, the decision conforms to the Green River RMP (Record of Decision, 1997) and the Rawlins Resource Management Plan (Record of Decision, 2008), which recognizes that wild

horse numbers above the AML, as specified in the RMPs, are considered “excess” and subject to gathering and removal.

Historically, private landowners in the BLM Rock Springs management area have been concerned that wild horse gathers are not completed in a timely fashion thereby allowing wild horse numbers to exceed the AMLs. The BLM has statutory obligations under the WFRHBA to remove excess wild horses from the HMA in order to preserve and maintain a thriving natural ecological balance on the HMAs and to arrange for the removal of strayed wild horses from private lands at the request of a landowner. In addition, the rationale for this decision includes recognition that if the BLM does not maintain the low AMLs in a timely fashion then we may jeopardize our ability to meet our obligations with respect to the management of wild horses on the checkerboard lands in southwestern Wyoming.

The gather actions described in Alternative A meet the need of removing excess wild horses to achieve a thriving natural ecological balance between wild horse populations, wildlife, livestock, vegetation and water resources and to protect the range from deterioration associated with overpopulation of wild horses as authorized under Section 1333 (b) (2) of the WFRHBA.

The gather is necessary in order to protect the range resources (forage and water availability) and to prevent the significant threat of degradation to the public lands. Delaying the gather may also unduly impact the private land holders’ resources by reducing water and forage availability on their lands.

In addition, in April 2013, the U.S. District Court for Wyoming entered a consent decree between BLM and the Rock Springs Grazing Association in case 11-CV-263-NDF (2013 Consent Decree). The 2013 Consent Decree resolved litigation involving BLM’s responsibilities to remove wild horses from private lands under Section 4 of the WFRHBA, 16 USC 1334. Under the consent decree BLM committed to gather and remove wild horses from checkerboard lands within Salt Wells Creek and Adobe Town HMAs in 2013. The proposed action to remove wild horse from checkerboard lands is necessary to meet the terms of the 2013 Consent Decree.

The BLM RSFO and RFO have reviewed the National Academy of Science (NAS) report and have determined that its recommendations do not require modification of the proposed action or alteration of the range of alternatives or impact analyses of this EA. In accordance with the Purpose and Need (Section 1.2 of the EA), the BLM needs to remove wild horses from private lands as required by section 4 of the WFRHBA and the 2013 Consent Decree.

EFFECTIVE DATE

For the following reasons, the BLM is exercising the authority provided at 43 CFR 4770.3(c) to make this decision effective upon August 1, 2013. The BLM currently plans to commence with the gather in October 2013, to fulfill its obligations as stated above.

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).

ADMINISTRATIVE PROCEDURES

This decision is issued in accordance with 43 CFR 4770.3(c) which states in part: “decisions . . . shall be effective upon issuance or on a date established in the decision.” Once the decision is final, it will be subject to appeal. If you wish to appeal this decision, as provided by 43 CFR 4770.3 and 43 CFR 4.4, you must file an appeal in writing within 30 days of receipt of this decision with the Field Manager, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming 82901.

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

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

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

If you decide to also submit a petition for stay of the decision, a copy of the notice of appeal and petition for stay must be served simultaneously upon the parties identified below.

Field Manager
Rock Springs Field Office
280 Highway 191 North
Rock Springs, Wyoming 82901

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

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

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

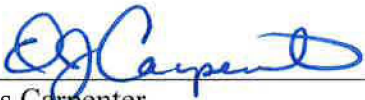
APPROVAL

The 2013 Adobe Town and Salt Wells Creek HMAs Wild Horse Gather is approved for implementation beginning on August 1, 2013. This decision issued in accordance with 43 CFR 4770.3(c) which states, in part, “. . . remove wild horses 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.”



Michael J. Phillips
Rock Springs Field Manager

Date: 7/19/2013



Dennis Carpenter
Rawlins Field Manager

Date: 7/19/13