



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Winnemucca Field Office
5100 East Winnemucca Boulevard
Winnemucca, Nevada 89445
(775) 623-1500
<http://www.nv.blm.gov/winnemucca>

In Reply Refer To:
4700 (NV-022.42)

CERTIFIED MAIL NO. 7005 1820 0005 5580 9605
RETURN RECEIPT REQUESTED

Zosia Targosz
Nevada State Clearinghouse
209 E Musser Street, Room 200
Carson City, NV 89701-4298

FEB 28 2005

RECEIVED

MAR 01 2006

DEPARTMENT OF ADMINISTRATIVE
OFFICE OF THE DIRECTOR
BUDGET AND PLANNING DIVISION

Dear Interested Public,

Enclosed is a copy of the Decision Record and Finding of No Significant Impacts (DR/FONSI) for the Hot Springs Mountains Wild Burro Gather Environmental Assessment (EA) (NV-020-06-09). Please note that the EA number was changed from NV-020-06-07 to NV-020-06-09 to correct an administrative error. The Proposed Action, Alternative 1, is approved for implementation as it is stated in the EA. Pursuant to Title 43 of the Code of Federal Regulations (CFR) at 4770.3(c) the Hot Springs Mountains gather is approved for implementation upon the date of my signature below. Gather operations will begin in early March, 2006 and last approximately four days.

Background Information

The Wild Free-Roaming Horse and Burro Act of 1971 (Public Law 92-195 as amended) mandates that wild horses and burros be protected and managed as a component of the public lands on regions where they were present in 1971, when the Act was passed. Wild horses and/or burros were not present in the Hot Springs Mountains area in 1971. This area was never designated as a Herd Area (HA) or as a Herd Management Area (HMA). Therefore, there is no Appropriate Management Level (AML) or animal unit months (AUMs) associated with the management of wild burros in the Hot Springs Mountains. In accordance with 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..."

Summary of Public Involvement

The Preliminary Hot Springs Mountains Wild Burro Gather EA was provided to the public for review on January 27, 2006. The comment period ended February 27, 2006. No comments were received.

Appeal Information

If you wish to appeal this decision, appeal procedures can be found below and on the enclosed form - *Information On Taking Appeals To The Interior Board Of Appeals* (Form 1842-1). If you

appeal, your appeal must be filed with the Bureau of Land Management at the following address:

Gail G. Givens
Field Manager
Bureau of Land Management
Winnemucca Field Office
5100 E. Winnemucca Blvd.
Winnemucca, NV 89445

Your appeal must be filed within thirty (30) days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4942, January 19, 1993) for a stay (suspension) of the decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. A petition for a stay is required to 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.

Copies of the notice of appeal and petition for a stay must also be submitted to the:

Interior Board of Land Appeals
Office of Hearings and Appeals
801 N. Quincy Street MS 300-QC
Arlington, VA 22203

and to the appropriate office of the Solicitor:

Field Solicitor
U.S. Department of the Interior
6201 Federal Building
125 South State Street
Salt Lake City, UT 84138-1180

at the same time the original documents are filed with this office.

Hard copies of the Hot Springs Mountains Wild Burro Gather Environmental Assessment are available for your convenience at the Winnemucca Field Office. If you have any questions or require further information, please contact Glenna Eckel or Heidi Hopkins at (775) 623-1500.

Sincerely,



Arlan G. Hiner
Assistant Field Manager
Renewable Resources

2 Enclosures

1. DR/FONSI Hot Springs Mountains Wild Burro Gather Environmental Assessment (2 pp)
2. *Information On Taking Appeals To The Interior Board Of Appeals*, Form 1842-1 (2 pp)

**DECISION RECORD
AND
FINDING OF NO SIGNIFICANT IMPACT**

**Hot Springs Mountains
Wild Burro Gather Environmental Assessment
NV-020-06-EA-09**

Decision

It is my final decision to select the Proposed Action, as described in the Hot Springs Mountains Wild Burro Gather Environmental Assessment (EA), EA NV-020-06-EA-09. Recommended monitoring is incorporated into this decision. The Proposed Action is to “remove all burros (approximately 92 head) from the Desert Queen Allotment.”

The Proposed Action incorporates the Standard Operating Procedures (SOPs; Appendix A of the EA) described in the Nevada Wild Horse Gather Contract. The helicopter drive method would be used for this gather and may include multiple gather sites (approximately two). Excess burros would be transported to the National Wild Horse and Burro Adoption Preparation Center at Palomino Valley, NV. SOP stipulations include BLM conducting all necessary inventories (such as archaeological and T&E) prior to setting up gather traps or temporary holding facilities. No Wilderness or Wilderness Study Areas exist in the project area.

This decision constitutes my final decision to gather and remove all burros from the Desert Queen Allotment in the Hot Springs Mountains Range area. Pursuant to Title 43 of the Code of Federal Regulations at 4770.3(c), the Hot Springs Mountains wild burro gather is approved for implementation beginning on or about March 1, 2006.

Rationale

After a review of the potential impacts of the alternatives analyzed in the EA, the selection and implementation of the Proposed Action would result in the greatest potential to achieve a thriving natural ecological balance and multiple-use relationship.

Current population estimates and ground observations indicate there are approximately 92 burros present in the Hot Springs Mountains area which is not designated as a Herd Management Area.

The proposed capture and removal is needed at this time to reduce burro grazing impacts and utilization levels. The Proposed Action is in conformance with the wild horse and burro objectives in the 1982 Sonoma-Gerlach Resource Area Management Framework Plan and with regulations (43 CFR 1610.5-3(a) and 43 CFR 4700).

4710.4 Constraints on management. Management of burros shall be undertaken with

the objective of limiting the animals distribution to herd areas.

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.

4720.2-2 Removal of excess animals from private lands. Upon determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall obtain written consent form the private land owner before entering such lands. Flying aircraft over lands dose not constitute entry.

Based on the environmental analysis, it is determined that this action would not result in any undue or unnecessary environmental degradation of the public lands and is consistent with federal, state, and local laws, regulations and plans.

Finding of No Significant Impact

Based on the analysis of potential environmental impacts contained in EA NV-020-06-EA-09, I have determined that implementation of the Proposed Action will not have a significant effect on the human environment. Therefore, in accordance with Section 102(2)(C) of the National Environmental Policy Act, the preparation of an environmental impact statement is not required for the following reasons:

- 1) Sensitive resource values will not be adversely impacted from implementation of the Proposed Action;
- 2) There will be no adverse affect on threatened or endangered, or Nevada State sensitive species;
- 3) The gather will not adversely affect or cause a destruction of significant scientific, cultural, or historic resources;
- 4) The Proposed Action will not adversely affect public health or safety. The gather and its potential effects on the human environment are not highly uncertain and do not involve unique or unknown risks.

No additional mitigation measures beyond the standard operating procedures were developed through this EA. Specific monitoring was recommended in the EA as follows:

“Noxious weed monitoring at trap sites and temporary holding facilities would be conducted in the spring and summer of 2006 by a BLM biologist, wild horse and burro specialist, or a rangeland management specialist. Treatment would be provided, if necessary, following guidance from the Noxious Weed Control EA# NV-020-02-19.”



Arlan G. Hiner

Assistant Field Manager, Renewable Resources
Winnemucca Field Office

2-27-06
Date

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

- 1. NOTICE OF APPEAL**..... Within 30 days after the date of publication of a decision in the FEDERAL REGISTER, a person not served with a decision must transmit a Notice of Appeal to the office where it is required to be filed. You may state your reasons why you are appealing, if you desire.
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- 2. WHERE TO FILE
NOTICE OF APPEAL**.....
WITH COPY TO SOLICITOR.....
-
- 3. STATEMENT OF REASONS**... Within 30 days after filing the *Notice of Appeal*, File a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203 (see 43 CFR Sec. 4.412 and 4.413). If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary.
- WITH COPY TO SOLICITOR**.....
-
- 4. ADVERSE PARTIES**..... Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (see 43 CFR Sec. 4.413). If the decision concerns the use and disposition of public lands, including land selections under the Alaska Native Claims Settlement Act, as amended, service will be made upon the Associated Solicitor, Division of Land and Water Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240. If the decision concerns the use and disposition of mineral resources, service will be made upon the Associated Solicitor, Division of Mineral Resources, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240.
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- 5. PROOF OF SERVICE**..... Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (see CFR Sec. 4.401(c)(2)).
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- 6. REQUEST FOR STAY**..... Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed (see 43 CFR 4.21). If you wish to file a petition pursuant to 43 CFR 4.21 or 43 CFR 2804.1 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the Notice of Appeal and Petition for a Stay **must** also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR Sec. 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.
- Standards for Obtaining a Stay. Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the likelihood of the appellant's success on the merits, (2) the likelihood of immediate and irreparable harm if the stay is not granted, (3) the relative harm to the parties if the stay is granted or denied, and (4) whether the public interest favors granting the stay.
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Unless these procedures are followed your appeal will be subject to dismissal (see 43 CFR Sec. 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (see 43 CFR 4.401(a)). See 43 CFR Part 4, subpart b for general rules relating to procedures and practice involving appeals.

(continued on next page)

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 *Where are BLM offices located?* (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State--Alaska
Arizona State Office--Arizona
California State Office--California
Colorado State Office--Colorado
Eastern States Office--Arkansas, Iowa, Louisiana, Minnesota, Missouri, and all States east of the Mississippi River
Idaho State Office--Idaho
Montana State Office--Montana, North Dakota and South Dakota
Nevada State Office--Nevada
New Mexico State Office--Kansas, New Mexico, Oklahoma and Texas
Oregon State Office--Oregon and Washington
Utah State Office--Utah
Wyoming State Office--Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

Sec. 1821.11 *During what hours may I file an application?* You may file applications or other documents or inspect official records during BLM office hours. Each BLM office will prominently display a notice of the hours during which that particular office will be open. Except for offices which are open periodically, for example, every Wednesday or the 3rd Wednesday of the month, all offices will be open Monday through Friday, excluding Federal holidays, at least from 9 a.m. to 3 p.m., local time.

Sec. 1821.12 *Are these the only regulations that will apply to my application or other required document?* No. These general regulations are supplemented by specific program regulations. You should consult the regulations applying to the specific program.

Sec. 1821.13 *What if the specific program regulations conflict with these regulations?* If there is a conflict, the specific program regulations will govern and the conflicting portion of these regulations will not apply.

43 CFR SUBPART 1822--FILING A DOCUMENT WITH BLM

Sec. 1822.10 *How should my name appear on applications and other required documents that I submit to BLM?* Your legal name and current address should appear on your application and other required documents.

Sec. 1822.11 *What must I do to make an official filing with BLM?* You must file your application and any other required documents during regular office hours at the appropriate BLM office having jurisdiction over the lands or records involved. You must file any document with BLM through

personal delivery or by mailing via the United States Postal Service or other delivery service, except for those applications that may be filed electronically under Sec. 1822.13, unless a more specific regulation or law specifies the mode of delivery. The date of mailing is not the date of filing.

Sec. 1822.12 *Where do I file my application or other required documents?* You should file your application or other required documents at the BLM office having jurisdiction over the lands or records involved. The specific BLM office where you are to file your application is usually referenced in the BLM regulations which pertain to the filing you are making. If the regulations do not name the specific office, or if you have questions as to where you should file your application or other required documents, contact your local BLM office for information and we will tell you which BLM office to file your application.

Sec. 1822.13 *May I file electronically?* For certain types of applications, BLM will accept your electronic filing if an original signature is not required. If BLM requires your signature, you must file your application or document by delivery or by mailing. If you have any questions regarding which types of applications can be electronically filed, you should check with the BLM office where you intend to file your application. When you file an application electronically, it will not be considered filed until BLM receives it.

Sec. 1822.14 *What if I try to file a required document on the last day of the stated period for filing, but the BLM office where it is to be filed is officially closed all day?* BLM considers the document timely filed if we receive it in the office on the next day it is officially open.

Sec. 1822.15 *If I miss filing a required document or payment within the specified period, can BLM consider it timely filed anyway?* BLM may consider it timely filed if: (a) The law does not prohibit BLM from doing so; (b) No other BLM regulation prohibits doing so; and (c) No intervening third party interests or rights have been created or established during the intervening period.

Sec. 1822.16 *Where do I file an application that involves lands under the jurisdiction of more than one BLM State Office?* You may file your application with any BLM State Office having jurisdiction over the subject lands. You should consult the regulations of the particular BLM resource program involved for more specific information.

Sec. 1822.17 *When are documents considered filed simultaneously?*
(a) BLM considers two or more documents simultaneously filed when: (1) They are received at the appropriate BLM office on the same day and time; or (2) They are filed in conjunction with an order that specifies that documents received by the appropriate office during a specified period of time will be considered as simultaneously filed.
(b) An application or document that arrives at the BLM office where it is to be filed when the office is closed for the entire day will be considered as filed on the day and hour the office next officially opens.
(c) Nothing in this provision will deny any preference right granted by applicable law or regulation or validate a document which is invalid under applicable law or regulation.

Sec. 1822.18 *How does BLM decide in which order to accept documents that are simultaneously filed?* BLM makes this decision by a drawing open to the public.