



State of Utah

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PUBLIC LANDS POLICY COORDINATION OFFICE

KATHLEEN CLARKE
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May 30, 2014

Cedar City Field Office Manager
c/o Elizabeth R. Burghard
BLM Cedar City Field Office
17 E. DL Sargent Drive
Cedar City, UT 84721

Sent via e-mail: blm_ut_biblesprings@blm.gov

Subject: Environmental Assessment for the Bible Spring Complex Wild Horse Gather and Removal and Fertility Treatment Plan DOI-BLM-UT-C010-2014-0035-EA

Dear Ms. Burghard:

The State of Utah has reviewed the Environmental Assessment for the Bible Spring Complex Wild Horse Gather and Removal and Fertility Treatment Plan (EA) prepared by the Cedar City Field Office. This letter was prepared through collaboration among the Department of Agriculture and Food, the School & Institutional Trust Lands Administration, and this Office. In addition, the state consulted with Iron County.

The state is encouraged by and supports BLM's efforts to address the overpopulation of wild horses in the Bible Springs Complex. Currently, the estimated numbers of wild horses in the area are well over the Appropriate Management Level (AML), as set by BLM's own management plans. Unfortunately, the number of wild horses on the entire range has been permitted to increase without adequate enforcement of the AML by the BLM. Enforcement of the AML, and removal of excess horses to meet that requirement, is required by the Wild Free Roaming Horses and Burros Act of 1971 (WFRHBA) and interpretive case law within the Department, such as the administrative decision in *Animal Protection Institute*.¹

Preparation of the Environmental Assessment is required by the provisions of the National Environmental Policy Act, in order to consider the environmental and social impacts of the proposal. The purpose and need for the proposal is to implement a plan to bring the number of wild horses on the range into compliance with the BLM's own plans and duly established AML. The purpose and need for the project is not to consider any other course of action,

¹ See 118 IBLA 63, 75; 1991.

specifically allowing excess horses to remain on the range. Accordingly, the only viable alternatives to consider in the EA (other than the “No Action” Alternative) contemplate complete removal of excess wild horses to attain AML for the area. Any other discussion in this or any other related documentation prepared under the provisions of NEPA related to excess animals remaining on the range would not be in accordance with the required purpose and need for the proposal.

Accordingly, the state believes the EA is an adequate and sufficient environmental review of the existing circumstances and impacts. The EA adequately considers the environmental impacts of removing excess horses from the range, in order to achieve compliance with the duly-established AML. Further consideration of the environmental impacts of allowing excess animals to remain is not relevant to the current proposal.

However, the EA does not appear to discuss the proposed action in a clear and unambiguous manner. The stated purpose of the required BLM action is to bring the number of animals on the range into compliance with the AML. This requires immediate action, followed by sufficient maintenance actions to keep the number of animals in compliance. The state believes the BLM must therefore proceed with sufficient gathers in 2014 to achieve compliance, followed by actions each and every year thereafter to maintain compliance. Language within the EA, unfortunately, may be interpreted to show that BLM is contemplating another course of action. For example, as discussed below, some of the tables within the EA imply that BLM is considering bringing the herd numbers down to the required AML over a lengthy period of time, followed by maintenance. To the extent the EA misstates the proposal to achieve compliance, the EA must be clarified.

Gathers and Removals Should Be Conducted in 2014 to Attain AML

The state supports the goal of the proposed action, that is, the **permanent** and **immediate** removal of approximately 607-697 wild horses from the Bible Spring Complex in 2014 to bring the remaining horse population into compliance with the established AML numbers (80-170). In fact, the numbers should be brought to the lower end of that range in order to allow for expected population growth in the following years. The state supports treating the remaining mares with PZP contraceptive vaccine to maintain herd numbers within the AML on a long term basis.

Unfortunately, while the EA contemplates the gather and removal of 607-697 wild horses in the summer of 2014,² the EA also states that “BLM would conduct gathers approximately two to four times over a six to ten year period, to remove excess wild horses until the Bible Springs Complex wild horse population is at the lower AML.”³

Gathers of the 697 wild horses extended over a 10 year period to bring the HMAs within AML is inadequate to meet the requirements of the WFRHBA and the existing RMP. Gathers to bring the wild horses within AML should be conducted immediately, with maintenance gathers conducted as needed.

² EA, p. 9 Table 2 “Estimated Population, Capture and Removal Numbers”

³ EA, p. 8 Section 2.2.1

The proposed action is further clouded by information from the Utah State Office of the BLM. This guidance implies that BLM will gather a hundred or so wild horses this summer.⁴ However, these gathers and removals are not mentioned or analyzed in the EA as part of the overall program, leading to a lack of clarity of the actual proposal analyzed.

For many reasons, the confusion caused by the implication that the BLM is considering the required gathers over a 10 year period must be corrected. Primarily, a long-term plan, such as 10 years, does not achieve compliance with the AML. In addition, such a plan is not one designed to succeed at the intended goal due to the increase in population that would occur between successive gathers. Failing to remove the excess horses immediately could result in BLM having to remove more than triple the number of horses as indicated in the chart prepared by Iron County.⁵ While the numbers BLM aims to gather and remove are not discussed in the EA, the chart is illustrative of the dangers and astronomical costs if BLM fails to remove all excess wild horses from the HMA immediately. Accordingly, the state requests the EA define when each gather will occur then estimate how many horses, based on those gathers and population growth, will need to be removed to achieve the lower AML.

Support within the EA for the Immediate Removal of Excess Animals

The purpose and need for the proposed action is to bring the number of wild horses into compliance with the established AML. Support for this action is adequately discussed in the EA. The EA discloses that range resources have been heavily impacted by the past several years of drought in the Bible Springs Complex. In the Bible Springs Complex, rangeland conditions are experiencing long-term damage because fragile semi-desert rangelands of the West Desert are subject to wild horses numbers in excess of the AML. In response, the BLM is violating its multiple-use mandate by reducing or eliminating livestock from allotments in the Bible Springs Complex, while wild horse numbers have continued to grow. These reductions of AUMs and forage by reason of failure to comply with the WFRHBA are beyond the control of the livestock permittees, and are a direct result of BLM's failure to carry out its mandate under WFRHBA. Instead, the ongoing drought should trigger emergency removals of wild horses in the complex. As such, the state requests the EA be clarified to reflect BLM's obligation to act immediately under these emergency circumstances to bring the wild horses within AML, rather than removing a smaller number of horses in a piecemeal fashion.

The EA indicates BLM has hauled water on the HMAs "several times during the past ten years..."⁶ 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." BLM's practice of hauling water contravenes WFRHBA in attempting to artificially control range conditions instead of maintaining a "natural ecological balance" with

⁴ See e.g. Memorandum from Juan Palma to Division Chief, Division of Wild Horse and Burrows Re: Request for Gather Removal of Nuisance Wild Horses from the Blawn Wash Herd Area, March 27, 2014; This Memo calls for gather and removal of 126 head of wild horses in or near SITLA lands within the Blawn Wash HA

⁵ See Attachment 1, Bible Springs Complex Estimated Populations, Capture and Removal Numbers over 10 Years (Prepared by Iron County); Chart is based on gathering and removing 200 horses 3 times over a 10 year period; the growth rate and base population numbers were obtained from the EA.

⁶ EA, p. 27.

respect to wild horses.

The EA mentions the presence of greater sage-grouse, and discusses management actions in response.⁷ The state is implementing its Conservation Plan for Greater Sage-grouse, which contains best management practices for actions designed to minimize or eliminate adverse effects on the bird. To that end, the state requests that the EA be amended to reflect this fact, and to utilize the terms, conditions and stipulations contained therein. The state supports the EA's requirement that BLM coordinate with the Utah Division of Wildlife Resources as these issues arise.

SITLA and Private Property Concerns

SITLA manages trust lands for the sole benefit of its beneficiaries. Excessive wild horse numbers within the Bible Spring Complex have affected SITLA's ability to fully monetize its assets for its beneficiaries and may have caused long-term rangeland health degradation and decreased forage productivity.

As the Blawn Wash HMA consists of a large area owned by SITLA⁸ along with privately owned land, this HMA should be removed from the system in order to be subject to the same management as other non-wild horse areas (in that wild horses must be removed immediately as horses move in). The EA is not clear regarding proposed actions on private/SITLA lands in Blawn Wash for the summer of 2014 -although immediate removal of wild horses as horses move in is required; it is analytically different than meeting proposed numbers where wild horses are to be retained.

Rangeland conditions are experiencing long-term damage because fragile semi-desert rangelands of the West Desert are subject to wild horse numbers which are continually allowed to exist over the controlling RMP's AML for these lands. The SITLA 800 acre chaining and seeding on trust lands within the Blawn Wash HA has been damaged by excessive wild horse numbers in the vicinity. This damage is a result of the direct failure by BLM to take action to address the presence of wild horses within the Blawn Wash HA.

Wild horses found outside of HMA boundaries within the Bible Springs complex should be removed when found and/or reported. These horses are damaging rangelands on scattered trust land sections and removing forage SITLA has sold to its grazing permittees. Wild horse numbers within the Blawn Wash HA must be kept at "zero" so the forage on trust lands can be fully available to SITLA grazing permittees, and so that the approved RMP allotment for this unit is achieved. Currently in 2014, all annual forage growth sold to SITLA grazing permittees on the Bucket Ranch Allotment has been removed (50-60% utilization) by excessive wild horse numbers.

Last, the primary focus of removing horses off private lands is not to keep horses within

⁷ "If any trap locations are proposed within greater sage-grouse habitat, or within 4 miles of a lek, informal coordination will be completed with the Utah Division of Wildlife Resource." EA, p. 10.

⁸ SITLA lands comprise 43% (25,970 acres), See EA p. 1.

AML,⁹ but to eliminate damage the horses are doing to private holdings, regardless of whether the wild horses are within AML for the area. BLM must not cause damage to private lands by its management actions, or lack thereof, due to wild horses.

Conclusion

The proposed action by the BLM is to bring wild horse numbers within the Bible Springs HMA into compliance with the established AML. The proposed action precludes consideration of any other course of action. The language in the EA casts confusion over the purpose and need for the proposed action, by implying that compliance might be achieved over a lengthy time frame. The EA adequately demonstrates that a lack of action will fail to comply with WFRHBA, and continue to stress private and public range, while causing irrevocable damage to wildlife and water resources. In conclusion, the state requests the excess wild horses be removed in 2014 and maintenance gathers performed thereafter to keep them within AML as required by law.

The State of Utah appreciates the opportunity to comment on this EA and respectfully requests BLM amend the current EA to address these issues. As comments are evaluated please coordinate with us to ensure SITLA and state wildlife management efforts are taken into consideration in the final decision.

Please direct any other written questions regarding this correspondence to the Public Lands Policy Coordination Office at the address below, or call John Harja at (801) 537-9802 or Tiffany Pezzulo at (801) 537-9823.

Sincerely,



Kathleen Clarke
Director

cc: Juan Palma
BLM Utah State Office Director

⁹ EA, p. 31, section 3.2.6

ATTACHMENT 1

Bible Springs Complex Estimated Populations, Capture and Removal Numbers Over 10 Years (Prepared by Iron County)

Year	Post Foal Pop	Removal Post Foal	Post Removal Pop	20% Increase	Post Foal/Gather Pop	Over Upper AML
2014	777	200	577		577	407
2015	577	0	577	115	692	522
2016	692	0	692	138	830	660
2017	830	0	830	166	996	826
2018	966	200	766	153	1119	949
2019	1159	0	1159	232	1391	1221
2020	1391	0	1391	278	1669	1499
2021	1669	0	1669	334	2003	1833
2022	2003	200	1803	361	2364	2194
2023	2364	0	2364	473	2837	2667
2024	2837	97	2740	548	3385	3215

Total **697**
Over ALM **2518**
Percent
Increase **361%**

Spreading out removal of 697 wild horses over 10 years does not keep up with population increases. The EA does not constitute a plan for addressing noncompliance with the requirements of applicable law regarding wild horse populations.