



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Tonopah Field Office
P.O. Box 911 (1553 South Main Street)
Tonopah, Nevada 89049
Phone: 775-482-7800 Fax: 775-482-7810
<https://www.blm.gov/nevada>



RECEIVED

AUG 19 2021

CHURCHILL COUNTY
COMMISSIONERS

In Reply Refer To:
4700 (NVB0200)

AUG 19 2021

DECISION

Wild Horse and Burro Program

Stone Cabin Herd Management Area Emergency Wild Horse and Burro Gather

INTRODUCTION

The Bureau of Land Management (BLM) Battle Mountain District, Tonopah Field Office (TFO), is proposing to conduct an emergency bait and water gather to permanently remove 450 wild horses from northern half of the Stone Cabin Herd Management Area (HMA). This gather is in response to ongoing exceptional drought conditions which have resulted in a lack of forage and vegetative resources throughout the HMA with consequential deteriorated body condition and health of the wild horses. The BLM analyzed the impacts of gathering and removing animals from the HMA in the Stone Cabin Complex Wild Horse and Gather Plan and Final Environmental Assessment (EA) DOI-BLM-NV-B020-2011-0106-EA. For this action, the BLM has completed a Determination of NEPA Adequacy (DNA) DOI-BLM-NV-B020-2021-0052-DNA which confirms that this emergency gather has already been adequately analyzed in the previous EA and is in conformance with the relevant land use plan.

BACKGROUND

The Stone Cabin HMA is located 28 miles east of Tonopah, Nevada in Nye County. The HMA encompasses an area approximately 48 miles long and 23 miles wide at its widest point and is approximately 407,851 acres in size. The HMA is divided into two portions, north and south, by US Highway 6 and right-of-way fences. This decision is only for the north portion of the HMA (Stone Cabin North), which is approximately 203,926 acres in size.

The elevation of the valley floor ranges from a low of 5,300 feet to a high of 6,300 feet. The surrounding mountain ranges vary between 8,400 feet to 9,400 feet. Mean annual precipitation averages between 4 and 8 inches per year in the valley and 8 to 16 inches in the mountains. Most of the precipitation occurs during the winter months. This HMA is part of the Great Basin, which is a cold desert biome often dominated by shrubby vegetation. Dominant vegetation communities are composed of sagebrush, white sage, shadscale, fourwing saltbush, indian ricegrass, galleta grass, and rabbitbrush. Some pinyon-juniper woodlands are found at the upper elevations. As of June 24, 2021, the entire Stone Cabin HMA is in the Exceptional Drought category according to the National Drought Monitor. As more fully described

below, the drought is causing the area to experience a severe lack of forage and reduced water availability.

The Appropriate Management Level (AML) for the Stone Cabin HMA is 364 wild horses. The AML for the northern portion of the HMA is 182. A helicopter inventory flight was completed July 24-25, 2021. At that time, 552 wild horses were identified in the northern portion of the Stone Cabin gather area which included 75 foals. The most recent gather was completed in 2016.

PUBLIC INVOLVEMENT

Prior to completion of the EA, a scoping letter dated June 29, 2011, was mailed to 22 individuals, agencies, and organizations on the interested public list for the Stone Cabin and Saulsbury HMAs. Among these was the Nevada State Clearinghouse, which made the scoping letter available for review by Nevada state agencies.

On October 29, 2011, the Tonopah Field Office issued the preliminary Stone Cabin Complex Gather EA along with a notification of its availability for a 30-day review and comment period to the interested public mailing list for the Stone Cabin Complex. The BLM reviewed and considered all comments as it completed the final Stone Cabin Complex Gather EA, including letters both supporting and opposing the gather, as well as numerous form letters.

STONE CABIN HMA EMERGENCY GATHER

The Tonopah Field Office plans to gather and remove 450 wild horses through bait and water trapping. Gather operations will begin on or around August 19, 2021, depending on conditions. Bait and water traps will be placed in an estimated four locations throughout the northern half of the HMA: Gather operations will last until objectives are met, or until conditions change (such as weather patterns) which preclude continued successful trapping. Gather operations will be conducted in accordance with the Wild Horse and Burro Program's Comprehensive Animal Welfare Policy Instruction Memorandum (PIM 2021-002). Due to the nature of bait and water trap gathers, the public is not allowed to be on-site for gather activities.

DECISION

It is my decision to implement the Stone Cabin HMA Emergency Gather under 43 CFR § 4720.1, in accordance with Stone Cabin Complex Wild Horse and Gather Plan and Final Environmental Assessment (EA) DOI-BLM-NV-B020-2011-0106-EA

RATIONALE

During Spring and Summer 2021, TFO staff conducted multiple monitoring visits at the Stone Cabin HMA and observed that the wild horses are experiencing a severe lack of forage and reduced water availability. Due to Exceptional Drought conditions, forage throughout Stone Cabin Valley either did not grow or exhibited extremely minimal growth in 2021. Through continued monitoring through the spring and summer, and during an inventory flight July 25-26, 2021, TFO staff observed declining Body Condition Scores (BCS) in the northern half of the HMA. Trail camera documentation also confirmed a decline in the average BCS throughout the HMA over time. When monitoring began, the average BCS in the HMA was in the 3 (thin) to 4 (moderately thin) range according to the Henneke Body Condition score system. By early July 2021, the average BCS had declined to a score range of 2 (very thin) to 3. Mares with suckling foals and yearlings were found to be especially thin (BCS 2-3). Monitoring also showed that horses were congregating around water sources and remaining at water sites, rather than traveling to

find forage or other productive water resources. Wild horses congregating and remaining at water sources is often an indicator of an inability to access sufficient water to meet minimal needs, or the need to travel longer and longer distances away from water to find forage, therefore needing a longer period of time to replenish at water locations.

According to the National Drought Monitor, the Stone Cabin Allotment has been in the Exceptional Drought Category since late February 2021. By mid-April, the Stone Cabin HMA was in the Severe to Extreme Drought category according to the Vegetation Drought Response Index (VegDRI). These drought conditions have resulted in little to no vegetation growth this growing season.

In response to these drought conditions, the livestock permittee has removed all of its cattle, but there is still insufficient forage for the wild horses in the northern half of the Stone Cabin HMA, which is evidenced by the decline of body condition of the horses, and the thin and very thin condition of the horses. As of August 1, 2021, it is estimated that 50-60% of all of the horses fall into a body conditions score of 3.0 (thin) or lower and are continuing to decline. Body conditions were further documented during an inventory flight conducted July 24-25, 2021.

In accordance with 43 CFR § 4720.1 and upon current monitoring information, the BLM has determined that the exceptional drought conditions that exist in within the northern half of the Stone Cabin HMA have reduced the available forage and water resources for wild horses. Body conditions of wild horses in the HMA have declined and continued to decline as drought conditions worsen, resulting in emergency conditions. Emergencies generally are unexpected events that threaten the health or welfare of a wild horse and burro population or its habitat and require immediate action, such as an unanticipated lack of water or forage, fire, or outbreak of disease. The TFO staff believes that the lack of resources observed in the northern half of the Stone Cabin HMA has developed past the point of an escalating problem, as defined in BLM Handbook H-4700-1, to an emergency situation. Immediate action is necessary to protect the welfare of wild horses and reduce further rangeland degradation.

For these reasons, the TFO is issuing this decision effective upon issuance in accordance with 43 CFR § 4770.3.

AUTHORITY

The authority for this decision is contained in Section 3(b)(1) and 3(b)(2) of the 1971 Free-Roaming Wild Horses and Burros Act (16 U.S.C. § 1333), Section 302(b) of the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. § 1732), and 43 CFR Part 4700.

43 CFR § 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.

43 CFR § 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.

43 CFR § 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 animal immediately in the following order.

- (a) Old, sick, or lame animals shall be destroyed in accordance with subpart 4730 of this title;
- (b) Additional excess animals for which an adoption demand by qualified individuals exists shall be humanely captured and made available for private maintenance in accordance with subpart 4750 of this title; and
- (c) Remaining excess animals for which no adoption demand by qualified individuals exists shall be destroyed in accordance with subpart 4730 of this part.¹

43 CFR § 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 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, the authorized officer shall conduct a public hearing in the area where such use is to be made.

43 CFR § 4770.3 Administrative Remedies

(a) Any person who is adversely affected by a decision of the authorized officer in the administration of these regulations may file an appeal. Appeals and petitions for stay of a decision of the authorized officer must be filed within 30 days of receipt of the decision in accordance with 43 CFR, part 4.

(c) Notwithstanding the provisions of paragraph (a) of §4.21 of this title, 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 natural ecological balance and multiple use relationship shall be effective upon issuance or on a date established in the decision.

APPEAL PROVISIONS

Within 30 days of receipt of this wild horse decision, you have the right to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with regulations at 43 CFR Part 4. If an appeal is taken, you must follow the procedures outlined in the enclosed, "Information on Taking Appeals to the Board of Land Appeals." Please also provide this office with a copy of your Statement of Reasons. An appeal should be in writing and specify the reasons, clearly and concisely, as to why you think the decision is in error.

In addition, within 30 days of receipt of this decision you have a right to file a petition for a stay (suspension) of the decision together with your appeal in accordance with the regulations at 43 CFR § 4.21. The petition must be served upon the same parties identified in items 2, 3, and 4 of the enclosed form titled "Information on Taking Appeals to the Board of Land Appeals." The appellant has the burden of proof to demonstrate that a stay should be granted.

¹ The Bureau of Land Management is currently not implementing this portion of the CFRs consistent with Congressional appropriations language. Healthy wild horses that are not adopted are transported to off-range pastures or are sold to private individuals but are not sold to slaughter or euthanized.

A petition for a stay of decision pending appeal must 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 of 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.

An appellant must certify that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR § 4.401(c)(2)).

APPROVAL

The Stone Cabin HMA Emergency Gather is approved for implementation **immediately** and is approved to begin on or around August 19, 2021. This Decision is effective upon issuance in accordance with 43 CFR § 4770.3(c) because removal of excess wild horses is necessary to protect animal health, prevent widespread starvation and death of wild horses, and prevent further deterioration of rangeland resources

Perry B. Wickham



Field Manager

Attachments: Appeal Instructions

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	A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that they wish to appeal. A person served with the decision being appealed must transmit the <i>Notice of Appeal</i> in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a <i>Notice of Appeal</i> in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
2. WHERE TO FILE NOTICE OF APPEAL	Tonopah Field Office 1553 South Main Street, P.O. Box 911 Tonopah, NV 89049
WITH COPY TO SOLICITOR	Office of the Solicitor, Regional Solicitor Pacific Southwest Region U.S. Department of the Interior 2800 Cottage Way, Room E 1712 Sacramento, California 95825-1890
3. STATEMENT OF REASONS	Within 30 days after filing the <i>Notice of Appeal</i> , 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. If you fully stated your reasons for appealing when filing the <i>Notice of Appeal</i> , no additional statement is necessary (43 CFR 4.412 and 4.413).
WITH COPY TO SOLICITOR	Office of the Solicitor, Regional Solicitor Pacific Southwest Region U.S. Department of the Interior 2800 Cottage Way, Room E 1712 Sacramento, California 95825-1890
4. SERVICE OF DOCUMENTS	A party that files any document under 43 CFR Subpart 4, must serve a copy of it concurrently on the appropriate official of the Office of the Solicitor under 43 CFR 4.413(c) and 4.413(d). For a notice of appeal and statement of reasons, a copy must be served on each person named in the decision under appeal and for all other documents, a copy must be served on each party to the appeal (including intervenors). Service on a person or party known to be represented by counsel or other designated representative must be made on the representative. Service must be made at the last address of record of the person or party (if unrepresented) or the representative, unless the person, party or representative has notified the serving party of a subsequent change of address.
5. METHOD OF SERVICE	If the document being served is a notice of appeal, service may be made by (a) Personal delivery; (b) Registered or certified mail, return receipt requested; (c) Delivery service, delivery receipt requested, if the last address of record is not a post office box; or (d) Electronic means such as electronic mail or facsimile, if the person to be served has previously consented to that means in writing. All other documents may be served by (a) Personal delivery; (b) Mail; (c) Delivery service, if the last address of record is not a post office box; or (d) Electronic means, such as electronic mail or facsimile, if the person to be served has previously consented to that means in writing.
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 together with a Notice of Appeal (43 CFR 4.21). If you wish to file a petition 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 (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). 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 (43 CFR 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 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.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 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 (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

43 CFR SUBPART 1821-GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Grand Junction, CO 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 Office ----- 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 ----- New Mexico, Kansas, 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 Headquarters Office, Bureau of Land Management, 7601 Horizon Drive, Grand Junction, CO 81506.