

**Department of Interior
U.S. Fish and Wildlife Service**

**Horse and Burro Management at
Sheldon National Wildlife Refuge:
Finding of No Significant Impact**

April 2008

Prepared by:
U.S. Fish and Wildlife Service
Portland, Oregon

Table of Contents

<u>Section</u>	<u>Subject</u>	<u>Page No.</u>
1.0	<u>Selected Alternative (Proposed Action)</u>	3
1.1	Proposed Action	3
1.2	Purpose of and Need for Action	4
1.3	Permits, Licenses, and Consultation	5
2.0	<u>Decision Rationale</u>	5
2.1	Alternatives Considered	5
2.2	Effects	6
2.3	Comparative Analysis	10
3.0	<u>Major Federal Action, Significant Effects, and EA/EIS Normally Required</u>	12
3.1	Major Federal Action and Significant Effects	12
3.2	EA or EIS Normally Required	17
4.0	<u>Consultation, Coordination, and Public Involvement</u>	17
5.0	<u>References</u>	18
6.0	<u>No Significant Impact</u>	19
7.0	<u>Responsible Agency Official</u>	19

1.0 Selected Alternative (Proposed Action)

1.1 Proposed Action

The U.S. Fish and Wildlife Service (Service) proposes to continue, on an interim and more-limited basis, most current standard procedures for managing feral horses and burros on Sheldon National Wildlife Refuge (Refuge) in Washoe and Humboldt counties, Nevada and Lake County, Oregon. As proposed, this program would be implemented until the Refuge comprehensive conservation plan (CCP) is completed, which is currently scheduled for 2010. The Refuge CCP will re-evaluate horse and burro management, along with management of the Refuge's other natural and cultural resources, public uses, and specially designated areas.

The estimated numbers of horses and burros currently on the Refuge are at least 800 and approximately 90, respectively. On an annual basis, the Service would gather and adopt out a limited number of horses and burros, approximately equal to the annual increase in the Refuge's populations. This would result in maintenance of relatively stable horse and burro populations on the Refuge. Based on current population and recruitment estimates, the annual removal would roughly equal 140-180 horses and 15-20 burros.

Horse gathers would occur outside of the main foaling season (February through May), and would be conducted using helicopters assisted by horseback wranglers and through use of horseback wranglers alone. Burros would be gathered through use of baited traps (corrals). Gathers would target removal and either public adoption or relocation of animals away from Refuge areas of greatest concern (such as areas near Highway 140, areas with degraded riparian habitats, and areas which had experienced recent wildfires). The next gather would occur during 2008. All animals would be processed with expert staff and a veterinarian. Horses and burros would be placed in good homes through adoption agents. Background checks would continue to be conducted before the Service contracted with adoption agents. Among other things, the agents would be responsible for carefully screening potential adopters and requiring them to sign agreements further helping to ensure that adopted animals were properly cared for and did not end up in slaughter. Standard practices would be followed for transporting animals, and monitoring population levels and associated ecosystem response. Over the next several years, a range of contraceptive techniques would be tested for feasibility and efficacy. Treated animals would be returned to the Refuge. Contraception would target those horses and burros which were considered difficult to adopt out (e.g., because they were too old or had physical disabilities, or because the adoption market was flooded with animals). Contraception would also be used to assist in maintaining stable populations. Standard operating procedures would continue to be followed to ensure that gathers and handling, including adoptions, were pursued in a manner which was humane, and minimized safety risks for humans and animals (see Appendix C of the EA).

Horses and burros which roam on and off the Refuge (to and from adjacent U.S. Bureau of Land Management [BLM] lands) would be managed in cooperation with BLM and adopted out consistent with requirements of the Wild Free-Roaming Horses and Burros Act of 1971, as amended (16 U.S.C. 1331-1340).

Other related and ongoing management actions would include: continued building, replacement, repair, and maintenance of exterior (boundary) fences and gates; continued improvements to the central horse and burro corral system and associated water-delivery system; continued exploration of techniques for marking captured animals; and continued evaluation and improvements to the Refuge's inventory and monitoring programs.

The Service developed an environmental assessment (EA), titled Horse and Burro Management at Sheldon National Wildlife Refuge, which, among other things, more specifically describes this proposal, alternatives to this proposal, and the environmental and other effects of implementing this proposal and the alternatives. See "Alternative B-2, Modified Status Quo – Proposed Action (Ongoing Program Management on an Interim and More-Limited Basis)" in subsection 2.3 of the EA for a more-detailed description of this proposal.

1.2 Purpose of and Need for Action

Sheldon Refuge was established primarily for the conservation of wildlife, with special emphasis on pronghorn antelope (see Appendix D, "Sheldon Legal History," of the 1980 Sheldon National Wildlife Refuge Renewable Natural Resources Management Plan Final EIS for more information about the Refuge's establishment, expansion, and purposes). Applicable laws, regulations, and policies guiding administration of national wildlife refuges direct the Service to give priority management attention to achieving official refuge purposes and the mission of the National Wildlife Refuge System (NWRS). For more information, see "Applicable Laws, Regulations, Policies, and Other Guidance, Plans, and NEPA Documents" in subsection 1.4 of the EA; the NWRS Administration Act of 1966, as amended (16 U.S.C. 668dd-668ee); 50 C.F.R. 25 ("The National Wildlife Refuge System, Administrative Provisions"); and 601 FW 1 ("National Wildlife Refuge System Mission and Goals and Refuge Purposes").

The Wild Free-Roaming Horses and Burros Act of 1971 does not apply to units of the NWRS, except to the extent that feral horses and/or burros roam on and off refuges from adjacent public lands administered by the BLM or U.S. Forest Service. Management of resident feral horses and burros on refuges is directed by relevant NWRS laws, regulations (including control and disposition of feral animals, 50 C.F.R. 30.11- 30.12) and policies (including "Feral Horses and Burros," 7 RM 6).

The horses and burros presently found on the Refuge are feral, that is, domestic animals gone wild and their offspring. Feral horses and burros wander freely, year-round across the Refuge. They consume forage and water, trample vegetation, compact soils, and otherwise directly and indirectly impact native fish, wildlife, plants, and their habitats. In the Refuge's high-elevation, semi-arid environment, conflicts between feral horses and burros, and native species are most severe during late summer and mid-late winter, and are prominent at the Refuge's limited water resources and adjacent meadows, wetlands, and riparian areas (see detailed discussions in section 3, "Affected Environment," and section 4, "Environmental Consequences," of the EA). Gathering and removing feral horses and burros from across this large, remote Refuge (more than one-half million acres) is very costly. Devoting the Refuge's very limited staff time and funding to management of feral horses and burros directly impacts the Refuge's ability to effectively manage native species and their habitats, and compatible wildlife-dependent public

uses, both of which are statutory management priorities (see NWRS Administration Act of 1966, as amended). During the last three years, the majority of Refuge operations and maintenance funds have directly or indirectly been devoted to management of horses and burros, instead of being directed towards achieving the official purposes of the Refuge (Steblein and Johnson 2007).

The purposes of the Refuge's feral horse and burro management program are to:

- Prevent an increase in damage to valuable and sensitive Refuge habitats, including riparian areas and areas which have experienced recent wildfires;
- Prevent an increase in collisions with vehicles on Highway 140; and
- Conduct gathers and adoptions in a humane manner.

See "Purpose of and Need for Action," in section 1 of the EA, for more detailed information.

1.3 Permits, Licenses, and Consultation

To ensure compliance with the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.), implementation of certain components of the selected alternative (e.g., further changes to the central corral system and its water supply) could require additional cultural resources surveys, and consultation with the State Historic Preservation Officer and local Tribes. Such efforts would occur prior to implementation of such components and appropriate management actions would be taken (e.g., avoidance or mitigation) if potential adverse effects were discovered.

No additional permits, licenses, or consultation would be required to implement the selected alternative. See "Federal, State, or Local Permits, Licenses, or other Consultation Requirements" in subsection 1.7 of the EA and "Environmental Compliance Statement" in Appendix D of the EA for more detailed information."

2.0 Decision Rationale

2.1 Alternatives Considered

A range of reasonable alternatives to address the needs for and purposes of managing horse and burro populations on the Refuge were considered in the EA. Three major alternatives and two additional variations on those alternatives were described and the effects of their implementation were assessed (see "Alternatives Considered" in subsection 2.2 of the EA).

Under Alternative A ("No Agency Action on Horse and Burro Management"), the Refuge would discontinue the ongoing program of horse and burro population management. There would not be any horse and burro gathers, care or management efforts, or adoption program. Horse and burro populations would be allowed to continue to grow, checked only by disease, predation, weather, forage, other natural forces, and vehicle collisions.

Under Alternative B-1 ("Status Quo [Ongoing Program Management]"), current standard procedures would continue for managing horses and burros to bring their numbers into line with Refuge objectives established in 1977 and 1980 (i.e., to maintain populations of 75-125 horses

and 30-60 burros; Service 1980, Service August 1980, Service 1977). Because current estimated numbers of horses and burros are much higher than those objectives, the Service would attempt to remove horses and burros as quickly as possible (several hundred per year).

Horse gathers would occur outside of the main foaling season (February through May). Horses and burros would be gathered using helicopter/horseback riders, horseback riders alone, and baited traps (corrals). All animals would be processed with expert staff and a veterinarian. Extra care would continue to be taken to ensure that adopted animals were placed in good homes through adoption agents. This would include background checks of adoption agents and careful screening of potential adopters. Potential adopters would also be required to sign agreements with the adoption agents further helping to ensure that adopted animals were properly cared for and did not end up in slaughter. Standard practices would be followed for transporting animals, and monitoring population levels and ecosystem response. Contraception and marking techniques would be reviewed and used if appropriate. Other related and ongoing management actions include: continued building, replacement, repair, and maintenance of exterior (boundary) fences and gates; continued improvements to the central corral system and associated water delivery system; continued exploration of techniques for marking captured animals; and continued evaluation and improvements to the Refuge's inventory and monitoring programs.

Alternative B-2 ("Modified Status Quo – Proposed Action [Ongoing Program Management on an Interim and More-Limited Basis]") is the Service's selected alternative. It was described in subsection 1.1 of this FONSI (see "Proposed Action").

Under Alternative C ("Adoption Directly from the Refuge"), Refuge staff would facilitate long-term horse care and adoptions instead of the current practice of contracting the service through adoption agents. This Alternative would be implemented in concert with Alternative B-1 or B-2, and Refuge objectives and all other aspects of the horse and burro management program would be the same as Alternative B-1 or B-2. Implementation of this Alternative would be more expensive than Alternative B-1 or B-2, and would require considerably more time from Refuge staff, and additional horse and burro holding and care facilities on the Refuge.

Under Alternative D ("Conduct Horse Gathers Solely Using Horseback Techniques"), horses and burros would be gathered solely through the use of horseback riders. Helicopters would not be used. Burros would still be gathered with baited traps (corrals). This Alternative would be implemented in concert with Alternative B-1 or B-2, and Refuge objectives and all other aspects of the horse and burro management program would be the same as Alternative B-1 or B-2. Implementation of this Alternative would be more expensive than Alternative B-1 or B-2, and would require additional horse-gathering facilities on the Refuge.

2.2 Effects

The EA also comprehensively evaluated the effects of implementing these several alternatives. See section 3, "Affected Environment" of the EA for a description of the current situation and trends regarding the physical; biological; and social, cultural, and economic environment. These descriptions provide baseline conditions against which effects were evaluated in section 4

("Environmental Consequences") of the EA. The following summarizes and compares the primary effects of implementing the alternatives.

As a result of increasing horse and burro populations, implementation of Alternative A ("No Agency Action on Horse and Burro Management") would cause the greatest adverse effects on the Refuge's physical and biological environment, and cultural resources. Implementing Alternative A would result in increased erosion, down cutting of streams, and lowered water tables, and further degradation of water quality in spring and stream systems; and increased soil compaction in riparian areas and meadows (see subsection 4.1.1). In response to the degraded environment - attributed to increased and selectively concentrated horse and burro numbers, including their grazing and trampling - the diversity, abundance, and vigor of native plants, especially in riparian areas and meadows, would be reduced; and invasive plant species would be expected to increase. Due to the above-noted adverse effects on the physical environment and vegetation, the abundance and/or diversity of a broad range of native wildlife species, especially those which use springs, streams, riparian areas, and meadows (including pronghorn antelope, sage grouse, migratory song birds, fish and other aquatic animals, and invertebrates) would be expected to diminish. Alterations of vegetation structure would further impact nesting and foraging habitats and increase vulnerability to predation. There would also be increased displacement of wildlife from water sources and, under some conditions, direct competition for forage between horses and burros, and wildlife. Restoration of the Refuge's native habitats and overall biodiversity would be delayed and be more difficult. Under Alternative A, horse and burro populations would increase rapidly until environmental and biological conditions (e.g., disease, predation, weather, forage, other natural forces, and vehicle collisions) exerted controlling pressures (see subsection 4.1.2). The increase in vehicle - animal collisions would cause increased horse and burro injuries and deaths, and result in increased damage to vehicles and the potential for human injuries or deaths. The opportunity for Refuge visitors to view and photograph free-roaming horses and burros would increase; but opportunities to view and photograph wildlife and healthy, natural habitats and landscapes, and hunt wildlife would decrease. The opportunity for the public to adopt a horse or burro would be eliminated. There would be a loss of income to a few contractors associated with the horse and burro gather and adoption program (see subsection 4.1.3). Destruction of archaeological and historic sites by horses and burros, especially in the vicinity of water sources, would increase (see subsection 4.1.4).

As a result of decreasing horse and burro populations, implementation of Alternative B-1 ("Status Quo [Ongoing Program Management]") would cause the greatest improvements to the Refuge's physical and biological environment, and cultural resources. Under Alternative B-1, the physical health of spring and stream systems, and associated riparian areas and meadows (including factors like erosion, down cutting of streams, lowered water tables, water quality, and soil compaction) would improve (see subsection 4.2.1). In response to the improved physical environment, the diversity, abundance, and vigor of native plants, especially in riparian areas and meadows, would improve; and the vulnerability of native plant communities to invasive plant species would be expected to decrease. Due to the above-noted positive effects on the physical environment and vegetation, the abundance and/or diversity of a broad range of native wildlife species, especially those which use springs, streams, riparian areas, and meadows (including pronghorn antelope, sage grouse, migratory song birds, fish and other aquatic animals, and

invertebrates) would be expected to increase. As vegetation structure improved, the quality and quantity of nesting and foraging habitats would increase. There would also be reduced displacement of wildlife from water sources and reduced competition for forage between horses and burros, and wildlife. Restoration of the Refuge's native habitats and overall biodiversity would occur passively, and these habitats and biodiversity would respond better to active restoration efforts. Current populations would be reduced by at least 675-725 horses (85-90%) and 30-60 burros (33-67%) in order to achieve Refuge management objectives. Gathering and handling of horses would cause some stress, and likely a handful ($\leq 1\%$) of injuries and deaths. With the exception of a few animals returned to the Refuge after contraception was applied, gathered animals would be adopted out. Excepting initial population reduction, gathers would not be expected to have any long-term adverse effects on the health of herds remaining on the Refuge. The remaining horses and burros would experience decreased competition for space, forage, and water; and decreased mortality from harsh winters and highway vehicles (see subsection 4.2.2). The decrease in vehicle – animal collisions would cause decreased horse and burro injuries and deaths, and result in decreased damage to vehicles and the potential for human injuries or deaths. The opportunity for Refuge visitors to view and photograph free-roaming horses and burros would be reduced; but opportunities would increase to view and photograph wildlife and healthy, natural habitats and landscapes, and hunt wildlife. The opportunity for the public to adopt a horse or burro would increase during the first few years of this Alternative's implementation and then stabilize at a lower level after that. Contracting out elements of the horse and burro gather and adoption program would continue to provide income to a few contractors (see subsection 4.2.3). Destruction of archaeological and historic sites by horses and burros, especially in the vicinity of water sources, would decrease (see subsection 4.2.4). After horse and burro population objectives were achieved, Refuge funding and staff efforts would be redirected back to other Refuge programs supportive of wildlife management and visitor services.

Because implementation of Alternative B-2 (“Modified Status Quo – Proposed Action [Ongoing Program Management on an Interim and More-Limited Basis]”) would continue the core elements of the ongoing horse and burro management program, and would stabilize populations at current levels; it would be expected to have intermediate effects between alternatives A and B-1, and cause the fewest changes from current environmental conditions. Under Alternative B-2, the physical health of spring and stream systems, and associated riparian areas and meadows (including factors like erosion, down cutting of streams, lowered water tables, water quality, and soil compaction) – associated with horses and burros - would remain degraded. Targeting gathers at these sensitive yet damaged sites would be expected to allow selected and limited passive recovery to occur, while allowing these sites to respond somewhat better to active restoration efforts (see subsection 4.3.1). In response to the degraded physical environment, the diversity, abundance, and vigor of native plants, especially in riparian areas and meadows, would remain degraded. Native plant communities would be expected to remain vulnerable to invasive plant species. Due to the continued degraded state of the physical environment and vegetation, the abundance and/or diversity of a broad range of native wildlife species, including those which use springs, streams, riparian areas, and meadows (including pronghorn antelope, sage grouse, migratory song birds, fish and other aquatic animals, and invertebrates) would be expected to remain largely unchanged. That said, targeting gathers in the vicinity of springs and streams and associated riparian areas and meadows would be expected to allow selected and limited passive

recovery of these systems, which would have limited benefits for wildlife abundance and diversity. Because vegetation structure would remain degraded, the quality and quantity of nesting and foraging habitats would remain depressed (largely unchanged). There would also be continued displacement of wildlife from water sources and continued competition for forage between horses and burros, and wildlife. Populations of horses and burros would remain approximately the same as at present. Fewer horses and burros (approximately 140-180 and 15-20 per year, respectively) would be gathered and handled than under the initial phase of Alternative B-1. This would continue to cause some stress to gathered animals, and likely a handful ($\leq 1\%$) of injuries and deaths. With the exception of a few animals returned to the Refuge after contraception was applied, gathered animals would be adopted out. Gathers would not be expected to have any long-term adverse effects on the health of herds remaining on the Refuge. The remaining horses and burros would continue to experience the same competition for space, forage, and water; and mortality from harsh winters and highway vehicles as they do at present (although targeting gathers would be expected to somewhat reduce the potential for animal – vehicle collisions and associated damage to vehicles; and injuries and deaths of horses and burros, and vehicle drivers and passengers) (see subsection 4.3.2). The opportunity for Refuge visitors to view and photograph free-roaming horses and burros, and the opportunity for the public to adopt a horse or burro would remain the same as at present. Opportunities to view and photograph wildlife and healthy, natural habitats and landscapes, and hunt wildlife would remain limited, as they currently are. Contracting out elements of the horse and burro gather and adoption program would continue to provide income to a few contractors (see subsection 4.3.3). Destruction of archaeological and historic sites by horses and burros, especially in the vicinity of water sources, would continue at a similar level as it currently occurs (although targeting gathers would be expected to result in a lessening of future damages) (see subsection 4.3.4). In sum, implementation of Alternative B-2 would maintain the status quo for horse and burro populations and associated public viewing opportunities; would result in no increase in damages to the Refuge's natural and cultural resources, and public safety; and, through targeted gathers, should result in a reduction in damages to the Refuge's natural and cultural resources, and public safety, in selected areas.

Alternative C (“Adoption Directly from the Refuge”) would be implemented in concert with Alternative B-1 or B-2. Except as follows, the primary effects of implementing Alternative C would be similar to one or the other of Alternatives B-1 or B-2, as appropriate (these effects are summarized immediately above and described in more detail in subsections 4.2 and 4.3 of the EA). Under this Alternative, Refuge staff would commit considerably more time facilitating long-term horse and burro care and adoptions. This Alternative would also require new and/or larger horse and burro holding and care facilities on the Refuge. This Alternative would be more expensive than Alternative B-1 and B-2, and require even more Refuge staff time to implement. Therefore, fewer funds and staff time would be available to conduct other important Refuge management programs. It would be expected that higher-priority Refuge biological, public use, and maintenance programs (including potential active restoration of the physical and biological environment) would receive less attention. Construction and operation of new facilities would adversely affect the physical and biological environment (e.g., soils, water, vegetation, and wildlife) in the immediate area. There would be a loss of income to a few contractors associated with the horse and burro adoption program. In light of the remoteness of the Refuge, it's unclear if this Alternative would be effective enough to achieve population objectives over the long term.

Alternative D (“Conduct Horse Gathers Solely Using Horseback Techniques”) would be implemented in concert with Alternative B-1 or B-2. Except as follows, the primary effects of implementing Alternative D would be similar to one or the other of Alternatives B-1 or B-2, as appropriate (these effects are summarized immediately above and described in more detail in subsections 4.2 and 4.3 of the EA). Under this Alternative, horses would be gathered solely by horseback wranglers and additional horse-gathering facilities would need to be constructed and operated on the Refuge. When compared with Alternative B-1 or B-2, this Alternative would be more expensive and more time would be required to achieve population objectives. Therefore, fewer funds would be available to conduct higher-priority Refuge biological, public use, and maintenance programs (including potential active restoration of the physical and biological environment). Construction and operation of new facilities would adversely affect the physical and biological environment (e.g., soils, water, vegetation, and wildlife) in the immediate area, possibly including wilderness study areas. Additionally, the increased number and extended duration of horseback wranglers and their trucks, trailers, and other vehicles on the Refuge would increase adverse effects on soils, water, vegetation, wildlife, and potentially cultural resources compared with alternatives which employed helicopters for gathering.

2.3 Comparative Analysis

Overall, relative to Alternative A (“No Agency Action on Horse and Burro Management”) and Alternative B-1 (“Status Quo [Ongoing Management Program]”), the selected alternative is intermediate in actions and effects. It would neither allow horse and burro populations to increase unchecked (as in Alternative A) nor would it greatly reduce current horse and burro populations (as in Alternative B-1, which would reduce populations of these animals by approximately 85-90% and 33-67%, respectively). Either Alternative C or D could have been combined with Alternative B-2 and selected for implementation. This was not done because Alternatives C and D would restrict management flexibility without concomitant benefits, would cost more in terms of staff time and/or funds, would have undesirable side effects, and/or would not achieve management objectives or program benefits as quickly.

More specifically, Alternative B-2, “Modified Status Quo – Proposed Action (Ongoing Management Program on an Interim and More-Limited Basis),” was selected for implementation at this time because of the following.

- It would address the purposes of the Refuge’s feral horse and burro management program. It would not allow an increase in damage to valuable and sensitive Refuge habitats, it would prevent an increase in collisions with vehicles on Highway 140, and gathers and adoptions would continue to occur in a humane manner (see “Purpose of and Need for Action” in section 1 of the EA).
- It would address the issues relevant to this management program (see “Relevant Issues” in subsection 1.6.1 of the EA).

- It would retain management flexibility and planning options into the future. It would allow use of a broad range of tools and techniques to achieve population targets. It would provide the ability to quickly achieve a range of population objectives (whether greater or less than the current populations) if new objectives are established through the Refuge CCP process.
- It would continue to supply horses and burros for the adoption market.
- It would maintain horse and burro viewing and photography opportunities on the Refuge.
- It would be of moderate cost (see “Summary of Alternatives and Effects” in subsection 2.3 of the EA).

Alternative B-1 (“Status Quo [Ongoing Program Management]”) was identified as the Service’s proposed action in the June 2007 final EA and draft FONSI. In response to public comments received on these documents, the Service crafted a new alternative (B-2, “Modified Status Quo – Proposed Action [Ongoing Management Program on an Interim and More-Limited Basis]”) which was included in the September 2007 revised draft EA and is now the alternative which has been selected for implementation. Although Alternative B-1 would achieve greater benefits for the Refuge’s natural and cultural resources, and for public safety; Alternative B-2 was selected for implementation for the following reasons.

- Alternative B-2 would not require removal of as many of the Refuge’s free-roaming horses and burros between the present time and completion of the CCP. Removal of more horses and burros is viewed negatively by some animal-welfare groups and some other members of the public.
- Alternative B-2 would maintain more horse and burro viewing and photography opportunities on the Refuge.
- Alternative B-1 could more quickly achieve future horse population levels close to the established Refuge population objective (i.e., 75-125 horses) than could Alternative B-2. However, Alternative B-2 could more quickly achieve a broader range of future horse population levels, including those close to the current level or greater population levels (e.g., several hundred to a few thousand horses).
- Implementation of Alternative B-1 would cost less to implement on an annual basis following the expensive, initial gathers to reduce current populations to the established Refuge population levels. However Alternative B-2 would cost less (in total) and require less Refuge staff effort to implement over the interim period of this proposal; that is, until completion of the Refuge CCP (see Figure 4, “Summary of Alternatives for Horse & Burro Management at Sheldon National Wildlife Refuge” in subsection 2.3 of the EA).

3.0 Major Federal Action, Significant Effects, and EA/EIS Normally Required

3.1 Major Federal Action and Significant Effects

The President's Council on Environmental Quality (CEQ) has provided guidance to help Federal agencies determine whether their selected alternative (proposed action) is a "major Federal action" and whether the effects of implementing their selected alternative are "significant" (see 40 C.F.R. 1508.18 and 1508.27, respectively). The U.S. Fish and Wildlife Service has also developed guidance to assist with these determinations (see 550 FW 3.3B.(2)).

The selected alternative is clearly a "Federal action" because it would be conducted by the Service (or with Service-authorized agents such as contractors), it would be conducted on a national wildlife refuge, and it would be conducted using Federal appropriations or other funds made available to the Service for this action.

However, as evaluated in the EA (see subsection 4.3), as explained above (see section 2.2 of this FONSI), and as discussed below, implementation of the selected alternative is not a major action and would not have significant effects on the quality of the human environment.

- **Change from Status Quo:** Although the population objectives are different, the selected alternative would continue the core action elements of a program (i.e., gathering and adopting out feral horses and burros) which has been conducted on the Refuge for the past several decades. In general, it would continue the status quo. For more detailed information on this ongoing management program, see "Alternative B-2: Modified Status Quo – Proposed Action (Ongoing Management Program on an Interim and More-Limited Basis)" in subsection 2.2 of the EA and "Feral Horses and Burros" in subsection 3.4 of the EA.

Additionally, regarding horse and burro populations, the selected alternative would also maintain the status quo. That is, the selected alternative would maintain relatively stable feral horse and burro populations at approximately their current levels (i.e., at roughly 800 horses and 90 burros). See "Horses and Burros" in subsection 4.3.2 of the EA for more-detailed information regarding the effects on horses and burros of implementing the selected alternative.

- **Magnitude and Duration of Action:** The selected alternative would continue the Refuge's modest horse and burro management program on an even more-limited basis than in the past. That is, the Service would gather and adopt out only a limited number of horses and burros, approximately equal to the annual increase in the Refuge's populations. Based on current population and recruitment estimates, the annual removal would roughly equal 140-180 horses and 15-20 burros.

The selected alternative would continue (as described in section 2.2 of this EA) for only a limited time period (a handful of years). The selected alternative would be implemented until the Refuge comprehensive conservation plan and associated NEPA document are completed, currently scheduled for 2010.

Beneficial and Adverse Effects: The selected alternative would continue – with minor changes - the core elements of an ongoing action program which has resulted in moderate adverse effects upon the Refuge’s physical and biological environment. Implementation of the selected alternative would result in the maintenance of approximately current populations of horses and burros on the Refuge. Other effects of the selected alternative’s implementation on the physical; biological; and social, cultural, and economic environment would be both beneficial (e.g., continued opportunities to view and photograph horses and burros) and adverse (e.g., maintenance of degraded water, soils, and vegetation conditions in the vicinity of springs and streams).

Targeting horse and burro gathers in the vicinity of springs, streams, riparian areas, and meadows; and in areas of recent wildfires would be expected to minimize the likelihood that adverse effects upon natural and cultural resources would grow in severity. Because implementation of the selected alternative would result in little change to the current situation, when compared with that situation, none of its effects – either beneficial or adverse - would be significant. For more information, see “Environmental Consequences” in section 4.3 of the EA.

The selected alternative would continue to have minimal effects on society and the economy because current horse and burro viewing and photography opportunities would be maintained on the Refuge, and a limited supply of horses and burros for the adoption market would continue to be provided. Additionally, targeting horse and burro gathers along Highway 140 would be expected to reduce animal – vehicle collisions. See “Social, Cultural, and Economic Effects” in subsection 4.3.3 of the EA for more-detailed information regarding the social and economic effects of implementing the selected alternative.

The upcoming Refuge CCP and associated NEPA document will evaluate this program in the context of Refuge goals, objectives, and other management programs to determine if the effects associated with continuation of the current or proposed horse and burro management program for many years into the future are acceptable. For more information, see “Environmental Consequences” in section 4.3 of the EA.

- Public Health and Safety: The selected alternative would have no effects on public health. Gathering and care of horses and burros involves some safety risks. However, standard operating procedures (see Appendix C of the EA), which in part address safety for humans and animals, have been developed and would continue to be implemented in the Refuge horse and burro management program. Refuge data reveal that animal - vehicle collisions have been reduced in the past following horse and/or burro gathers in the vicinity of Highway 140 (see section 1.6.1.4 of the EA). Therefore, as a result of targeting horse and burro gathers near Highway 140, and when compared with the present situation, implementation of the selected alternative would be expected to result in minor improvements in public safety by reducing vehicle and animal collisions. Extra care would continue to be taken to ensure that adopted animals were placed in good homes through adoption agents. This would include background checks of adoption agents and careful screening of potential adopters. Potential adopters would also be required to sign agreements

with the adoption agents further helping to ensure that adopted animals were properly cared for and did not end up in slaughter. For the foregoing reasons, implementation of the selected alternative would not have significant effects on public health and safety.

- Unique Natural Resources and Special Designation Areas: The selected alternative would be implemented on Sheldon Refuge, a unit of the NWRS. The NWRS is a unique system of Federal public lands set aside primarily for the conservation of native fish, wildlife, plants, and their habitats. Among other valuable natural resources, the Refuge includes wetlands and wilderness study areas. The selected alternative would be implemented in a manner which would cause little change to the current situation and would therefore avoid or minimize any increases in ongoing damages to Refuge resources, including wetlands and the wilderness character of wilderness study areas. Development of roads into wilderness study areas would not be allowed. Traps (corrals) would be removed from these same areas immediately after their use. Targeting horse and burro gathers in the vicinity of springs, streams, riparian areas, and meadows would be expected to result in a lessening of future damages to resources in these areas. For the foregoing reasons, implementation of the selected alternative would not have significant effects on unique natural resources and special designation areas.
- Highly Controversial Effects: In recent years, there has been considerable public interest in the Service's horse and burro management program on the Refuge. Letters and articles have been written, statements have been made, and notices (including action alerts) have appeared on the websites of animal-welfare groups. Unfortunately, some of these letters, articles, statements, and website alerts have included multiple inaccuracies, unfounded assertions, and/or misunderstandings of the ongoing and proposed programs, and their likely effects. This has generated controversy which has been targeted toward the Refuge. For example, the vast majority of comments received on the revised draft EA (which were in opposition to the Service's proposed action) were action-alert-related form letters (roughly 80%) or otherwise appeared to have been based, at least in part, on the misleading information referenced here.

Whether intentional or not, the generation of public controversy based on misinformation is not without precedent. According to Symanski (1996), "wild horse" activists have used just such tactics to generate public opposition to BLM's management of free-roaming horses in Nevada and elsewhere across the western U.S.

In the EA, the Service clearly and comprehensively described the proposed action and its likely effects. Known data and relevant studies (current and older, on-site and elsewhere) were reviewed, analyzed, summarized, and cited. These data and studies support the Service's proposed action and the assessment of effects. In their comments on the revised draft EA, some of the opponents to the program provided an, "...international reference list of studies for the management of wild equids" (Katz, 2007). The Service reviewed these references, and the results of relevant studies and other information were included in the revised final EA. These references did not contain information which contradicted or called into question the core information or analyses presented by the Service in the EA, including the assessment of likely effects of implementing the selected alternative on the Refuge.

Although some members of the public do not like the idea of gathering and removing horses and burros from the Refuge, for the reasons discussed here, there are no major scientific or technical disputes or inconsistencies over one or more environmental effects; and, therefore, the actual, likely effects on the human environment of implementing the selected alternative are not highly controversial.

- Highly Uncertain Effects and Unique/Unknown Risks: As noted earlier, implementation of the selected alternative would continue the core elements of a program which has been ongoing for several decades on the Refuge and similar programs which have been undertaken on BLM public lands across the western U.S. The effects of implementing these programs have been studied and monitored. They are well known. Therefore, the effects of implementing the selected alternative are predictable and do not present any unique or unknown risks.
- Establishes Precedent for Future Action with Significant Effects: As noted earlier, the upcoming Refuge CCP and associated NEPA document will evaluate the horse and burro management program in the context of Refuge goals, objectives, and other management programs. Decisions made at this time regarding how to manage horses and burros on the Refuge will be only of an interim nature, and will be fully reconsidered in the Refuge CCP (which is currently scheduled for completion in 2010). Therefore, implementation of the selected alternative would not establish a precedent for future action with significant effects.
- Cumulatively Significant Impacts: As discussed earlier, there are relationships between the selected alternative and other Refuge management programs, and to horse and burro population management programs undertaken by BLM on public lands elsewhere across the West (see section 4.6 of the EA). However, those programs can be undertaken independently, without regard to whether the selected alternative is implemented. There have been no major changes in the management of these programs in recent years, and there are large numbers of free-roaming horses and burros across the West. The selected alternative is not inextricably tied to other programs or projects which together would have significant impacts.
- Significant Scientific or Cultural Resources: As previously discussed and described in the EA (see subsection 4.1.4 and Appendix D), long-term grazing on the Refuge by cattle, horses, and burros - especially near water sources - has damaged cultural resources on the Refuge, including some which are eligible for listing on the National Register of Historic Places. Implementation of the selected alternative would not increase the ongoing degradation of these sites. Targeting horse and burro gathers in the vicinity of springs, streams, riparian areas, and meadows would be expected to result in a lessening of future damages. The Nevada State Historic Preservation Office has concurred with the Service's determination that gathering and removal of horses from the Refuge would, "...not pose an effect to historic properties" (Palmer, 2007). For the foregoing reasons, implementation of the selected alternative would not have significant effects on scientific or cultural resources.
- Threatened and Endangered Species: There are no listed threatened or endangered species naturally occurring on the Refuge and no critical habitat has been designated on the Refuge.

Small numbers of bald eagles utilize wetlands on the Refuge (see section 3.2 of the EA) and the bald eagle was previously listed as threatened. However the eagle was delisted effective August 2007 (72 FR 37346-37372). As noted earlier and discussed in the EA (see subsection 3.3), there is an experimental, non-essential population of Lahontan cutthroat trout which has been stocked in Catnip Reservoir on the Refuge and is utilized as a recreational fishery. The selected alternative would be implemented in a manner which would cause little change to current conditions and would therefore avoid or minimize any increases in ongoing damages to Refuge resources, including wetlands, water bodies, and the Lahontan cutthroat trout. Targeting horse and burro gathers in the vicinity of springs, streams, riparian areas, and meadows would be expected to result in a lessening of future damages to resources in these areas and downstream of those areas (e.g., wetlands, lakes, and reservoirs). For the foregoing reasons, implementation of the selected alternative would not have significant effects on threatened or endangered species.

- Violation of Environmental Protection Law or Requirement: Implementation of the selected alternative would not cause major alterations to environmental quality or threaten to violate any known Federal, State, or local laws, requirements, or standards for the protection of air or water quality, or contaminants.
- Change in Service Policy having Major Effect: The selected alternative does not propose any change in Service policy which would have a major positive or negative environmental effect.
- Conflicts with Land Use Plans or Policies Resulting in Adverse Effects: Implementation of the selected alternative would not conflict with substantially proposed or adopted local, regional, State, interstate, or other Federal land use plans or policies which are designed to avoid or minimize adverse environmental effects. The NEPA process and documentation associated with implementation of the selected alternative are being appropriately used to amend and update the Refuge's existing management plan (the 1980 Sheldon National Wildlife Refuge Renewable Natural Resources Management Plan). The Refuge CCP and associated NEPA process and documentation will be used to further amend and update this horse and burro management program, as appropriate.
- Lost Production of Prime or Unique Farmland: Implementation of the selected alternative would have no effects on designated prime or unique agricultural lands.
- Adverse Effects on Water Supply or Quality: Implementation of the selected alternative would have no effects on the quantity or quality of municipal, industrial, or agricultural water supplies; or involve major consumptive use or other long-term commitment of water.
- Property Condemnation or Relocation of People or Facilities: Implementation of the selected alternative would not involve condemnation of property rights or fee title to land; or large-scale relocation of people, homes, commercial, industrial, or major public facilities.

- **Environmental Justice:** Implementation of the selected alternative would have no disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, or Indian Tribes in the United States.

3.2 EA or EIS Normally Required

The selected alternative is not one of the few specific actions for which Department of the Interior policy states that an EA is normally required (see 516 DM 8.6). Neither is the selected alternative one of the few specific actions for which relevant law and Department of the Interior policy state that an EIS is normally required (see 42 U.S.C. 4332 and 516 DM 8.7).

4.0 Consultation, Coordination, and Public Involvement

Following are the key parties which were consulted or otherwise coordinated with in development of the EA. See “List of Agencies and Persons Consulted” in Section 6 of the EA for a more-detailed discussion.

- Bureau of Land Management
- Nevada Department of Wildlife
- Sue Cattoor (contract horse gatherer)
- Leon Pielstick (veterinarian)

The general public was provided numerous opportunities to learn more about and comment on the Refuge’s horse and burro management program. Following is a list of key documents and major events supporting public outreach. The public was advised of the availability of all key documents and meetings via Federal Register notices, dear interested party letters, new releases, and/or postings on the Refuge website (the website has continually included this type of information since late summer 2006). That website also included downloadable copies of NEPA documents, and a series of pertinent questions and answers. Official comment periods were extended in response to public requests. All substantive comments received were responded to in the EA (see section 5).

- August 2006: Notice of intent to initiate planning, NEPA compliance, and public involvement for horse and burro management program (comment period open 7 days).
- April 2007: Draft EA made available for public review and comment for 37 days, including a 7-day extension.
- May 2007: Public meeting held in Lakeview, Oregon and tour of Refuge provided.
- June 2007: Final EA and draft FONSI made available to the public for 30 days.
- September 2007: Revised draft EA made available for public review and comment for 28 days, including a 14-day extension.
- March 2008: Revised final EA and revised draft FONSI made available to the public for 30 days.

The Service believes that it has provided for a sufficient amount of public involvement in this EA process. When preparing the multiple versions of the EA, the Service provided the public with sufficient environmental information, considered in the totality of circumstances, to permit members of the public to weigh in with their views and thus inform the Service’s decision-making process for this proposed action.

5.0 References

The subject EA (see below) is the primary reference document for this FONSI. See that document for any questions or other information about this proposed program which are not answered or not completed addressed in this FONSI. "Literature Cited," in Appendix B of the EA, includes a listing of all key documents cited in or otherwise used in the EA's development. By this reference, the entire EA and its cited literature is incorporated herein. Other documents which are specifically cited in this FONSI or are not listed in the EA, but were used in development of this FONSI, are cited below.

Katz, Elliot M. October 9, 2007. Comments on Environmental Assessment for Sheldon-Hart National Wildlife Refuge. Letter. In Defense of Animals.

Palmer, Rebecca Lynn. November 28, 2007. Management of Feral Horses on Sheldon National Wildlife Refuge, Washoe and Humboldt Counties. Letter. Nevada State Historic Preservation Office, Carson City, Nevada.

Service. April 2008. Horse and Burro Management at Sheldon National Wildlife Refuge – Environmental Assessment. U.S. Fish and Wildlife Service, Lake County, Oregon.

Service. July 9, 2007. Endangered and Threatened Wildlife and Plants; Removing the Bald Eagle in the Lower 48 States From the List of Endangered and Threatened Wildlife; Final Rule. U.S. Fish and Wildlife Service, Washington, DC. Federal Register, Vol. 72, No. 130, Pgs. 37346-37372.

Service. 1980. Sheldon National Wildlife Refuge Renewable Natural Resources Management Plan – Record of Decision. U.S. Fish and Wildlife Service, Portland, Oregon.

Service. August 1980. Sheldon National Wildlife Refuge Renewable Natural Resources Management Plan - Final Environmental Impact Statement. U.S. Fish and Wildlife Service, Portland, Oregon.

Service. 1977. Sheldon Horse Management Plan Environmental Impact Assessment. U.S. Fish and Wildlife Service, Portland, Oregon.

Steblein, P.F. and D.N. Johnson. 2007. Cost Analysis for the Sheldon NWR Horse and Burro Management Program. U.S. Fish and Wildlife Service unpublished report. Lakeview, OR.

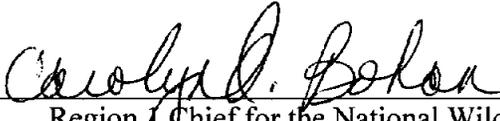
Symanski, R. June 1996. Dances with Horses: Lessons from the Environmental Fringe. *Conservation Biology*, Vol. 10, No. 3, pp. 708-712.

6.0 No Significant Impact

Based on the above analyses of effects (which are more fully described in section 4 of the EA), I have determined that implementation of the selected alternative, "Modified Status Quo – Proposed Action (Ongoing Program Management on an Interim and More-Limited Basis)," would not constitute a major Federal action with significant effects on the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321-4347). For this reason, no environmental impact statement will be prepared for this proposed action. The environmental assessment which is referenced throughout this FONSI and supports this determination of no significant impact is available at the following locations.

- Website: <http://www.fws.gov/sheldonthartmtn/sheldon/horseburro.html>.
- Office: U.S. Fish and Wildlife Service, Sheldon – Hart Mountain National Wildlife Refuge Complex, Post Office Box 111, Lakeview, Oregon 97630.

7.0 Responsible Agency Official



Region 1 Chief for the National Wildlife
Refuge System, Portland, Oregon



Date