

DECISION NOTICE
and
FINDING OF NO SIGNIFICANT IMPACT
for
Pryor Mountain Wild Horse Territory
Herd Management Area Plan EA

USDA Forest Service
Custer National Forest
Beartooth Ranger District
Carbon County, Montana

Decision in Brief

I have decided to select the Forest Service portion of Alternative B as disclosed in the Pryor Mountain Wild Horse Herd Management Area Plan Environmental Assessment (EA). I am basing my decision on findings from the analysis disclosed in the EA. My decision approves the maintenance, minor re-alignment, and extension of the north boundary fence and associated cattleguard, and improvement of one water source. These activities are on National Forest System lands within my authority as the Responsible Official. My decision and the rationale for my decision are explained in greater detail in the Decision and Rationale section of this document.

Background (EA, Section 1.5)

By 1968, wild horses were largely concentrated on the landscape east/southeast of Forest Service (USFS) lands in the Pryor Mountains (EA, 3.3) due to the Forest Service/Bureau of Land Management (BLM) boundary fence and previous actions. This general area ended up being the lands designated as the Pryor Mountain Wild Horse Range (PMWHR) originally created by order of the Secretary of the Interior, Stewart L. Udall on September 9, 1968. This was the first such designation in the United States. At the time, the 1968 PMWHR encompassed 33,600 acres of public land in Montana and Wyoming. In 1969, an adjustment occurred, adding lands administered within Wyoming.

In December 1971, the Wild Free-Roaming Horse and Burro Act (1971 Act) was signed into law. The management and protection of all unclaimed wild horses and burros was delegated to the Secretaries of the Interior and Agriculture through their agencies of the Bureau of Land Management and Forest Service as outlined in the Act. The BLM Herd Area and Forest Service Territory were identified pursuant to the 1971 Act as areas occupied by wild horses at the time of the passage of the Act.

Comprehensive agency inventories and assessments between 1971 and 1974 (Hall, 1972 and BLM/FS, 1974), and public involvement provided the basis for expanding the 1968 Refuge to the present day Herd Area and Territory boundaries (EA Section 1.5, and Section 4.1 - Response to Comment 6). The inventories and assessments were conducted in response to the 1971 Act and for the BLM / Forest Service joint Pryor Mountain land use planning at that time. The joint Forest Service and BLM decision reached in the 1974 *Pryor Mountain Complex Land Use Decisions*, allowed horse use (beyond the 1968 Refuge area) in Forest Service Lost Water Canyon area (present day Forest Plan Management Area Q), BLM Mystic Allotment area, BLM Lower Crooked Creek and BLM Upper Crooked Creek in response to the 1971 Act (Hall, 1972, URA Step 4, I.B.1-4 and Hall Appendix #8), consistent with statutory and regulatory language. Subsequent land use planning efforts in 1984 (BLM) and 1987 (USFS) validated the same wild horse herd management area and territory as being designated land uses. These land use

planning efforts again included public involvement. Adjustment to the range, on areas where the 1971 Act does not pertain, occurred in 1984 with the temporary inclusion of the Sorenson Extension, (using two five year special use permits) from the Bighorn Canyon National Recreation Area (BCNRA), and private land lease. In 1990, the last adjustment occurred when the Sorenson Extension was not re-authorized by BCNRA and resulted in present management boundary encompassing over 38,000 acres of lands.

For a variety of reasons, wild horse distribution has shifted over time where areas outside of the PMWHR are being presently used on National Forest System lands. The area outside of the PMWHR is near Dryhead Overlook and Tony Island, with some movement onto the adjacent Crooked Creek cattle allotment, Lost Water recommended wilderness, and Lost Water research natural area. Horse use in this area has grown substantially in the past 15 years from about 5 - 8 head to about 40 head, and occasionally higher numbers.

This shift in distribution corresponds with the 1980's BLM hazing of horses to the upper elevations (to retain forage for winter range), the closing of low elevation water sources (associated with mining reclamation and minimal to no maintenance of existing water guzzlers), and the 1990 National Park Service removal of the Sorenson Ranch Extension from use by the herd. Horses that once were associated with the yearlong low elevation range of the "Dryhead Unit" (located within the BCNRA) including the Sorenson Extension, have been moving westward into the lands which now tend to be used as seasonal ranges from lower elevation to higher elevation. Higher forage quality is also a factor contributing to horse distribution shifts due to poorer condition rangelands within the PMWHR.

A change in distribution pattern has occurred where there is moderate to high use in the subalpine meadows and minimal use throughout the mid slopes. The mid and lower elevations were, at one time, receiving the heavier use prior to the hazing of horses into the upper elevations of the range and prior to lower/mid elevation water sources being shut-down (guzzlers) or obliterated through rehabilitation efforts (mining-related water sources).

All of these factors have created more bands moving seasonally up to the mountain summer range of the Forest Service and BLM and in turn creating more pressure on the north boundary fence and the higher elevation rangelands. In addition, poor fence condition and location (portions in heavy snow load areas) does not provide an effective barrier to the increased pressure and wild horses are entering rangelands outside the PMWHR.

Because of the above situation, there is a need to regain management integrity of the wild horse territory and range by reinforcing the north boundary through maintenance of the existing fence and associated cattleguard, slight fence re-alignment of small portions away from heavy snow load areas, and extending the fence.

As part of overall habitat improvement, there is a need for enhanced distribution through additional water source improvement or development, as well as other habitat improvement projects. The Forest Service proposed improvement of one existing water catchment in concert with several other habitat improvement proposals made by BLM and BCNRA.

The Decision and Rationale

The EA addressed proposed actions for updating the Herd Management Area Plan for three agencies (Forest Service, BLM, and National Park Service). The BLM, as lead agency, has authority for population management, establishing appropriate management level (AML), habitat conditions, and monitoring associated with all portions of the PMWHR. Each agency has authority for management decisions (i.e. fencing, water developments) on their portion of the PMWHR.

The Forest Service has authority for decisions on proposed activities on the Forest Service Territory portion. Forest Service decision authority includes maintenance and extension of the North Boundary Fence and associated cattleguard, and improvement of one water source. This decision notice and finding of no significant effects is only for the Forest Service portion of the overall interagency HMAP EA.

I have decided to select the Forest Service portion of Alternative B as disclosed in the Pryor Mountain Wild Horse Herd Management Area Plan Environmental Assessment (EA). My decision approves the maintenance, minor re-alignment and extension of the North boundary fence and associated cattleguard, and improvement of one water source.

I am basing my decision on findings from the analysis disclosed in the EA as follows:

The Forest Service portion of Alternative B best meets the purpose and need described in the EA (section 1.0) because it provides opportunities for stabilization and improvement of ecological conditions on the Forest. Implementation of Alternative B moves habitat conditions toward a thriving natural ecological balance through application of standards of rangeland health while providing for stabilization and improvement of the PMWHR habitat (EA, 3.4.2.2). The water development provides opportunities for potential distribution shifts to lightly used areas of the habitat and can be controlled when forage exceeds allowable use levels (EA Section 2.3, HMAP section F).

Further, the decision to re-align and extend the north boundary fence reduces long-term maintenance needs, provides an effective barrier for confining wild horses to the territory and herd area, and reduces conflicts on NFS lands that are adjacent to the PMWHR. This will result in minimizing conflicts on adjacent National Forest System lands by reducing current wild horse competition for forage with permitted livestock in the nearby Crooked Creek Allotment (EA, 3.4.2.2), and reducing the need to handle wild horses (moving wild horses back into the range) (EA, 3.4.1.2). Gates and ability to open fence panels will accommodate wild horse management needs (EA, 3.5, HMAP section F and EA, 4.1, Response to Comment #66). In addition, flagging new fences will be flagged for at least a year to minimize hazards to horses until they become familiar to the fence (EA, 3.5, HMAP section F).

The Forest Service portion of Alternative B best meets Forest Plan direction for the Pryor Mountain Wild Horse Territory because the north boundary fence extension and minor realignment does not change the Territory boundary. It attempts to be as close to the boundary line, as much as is physically possible, and still be within the Territory (EA, 2.3, HMAP section F, EA, 3.4.1.2). Alternative B does not change the capacity. The fence extension would reduce approximately 25 acres of suitable range and corresponding three AUMs of forage and the minor realignment would gain approximately 25 acres of suitable range and corresponding three AUMs of forage. Therefore, changes in capacity are negligible and AML would not be affected by the change. The relationship of the north boundary fence to AML is not significant because AML would be increased from 85-105 to 90-120 under Alternative B (EA, 2.3, HMAP section F; EA, 3.4.1.2). There would be reduced

conflicts with Forest Plan direction for the Lost Water Canyon Research Natural Area and Lost Water Canyon Recommended Wilderness ecological integrity by reducing wild horse grazing impacts to vegetation composition and soil conditions in these subalpine areas that less resilient to herbivory disturbance (EA, 3.4.2.2).

An effective north boundary fence means that recreational viewing of wild horses would not be available around areas such as Dryhead Overlook, Tony Island, and Commissary Ridge. However, I would expect this to result in fewer visitor conflicts to tribal practitioners in the Dryhead Overlook area. I felt that there are many other wild horse viewing opportunities to be found within the 38,000 acre PMWHR along a variety of access points and route types such as paved, two-wheel drive, and 4-wheel drive. (EA, 3.4.4.2, and 3.4.5.2).

I find that the environmental analysis adequately considers all relevant factors including environmental considerations, reflects a reasoned analysis, and is supported by the record. The selection and implementation of the Forest Service portion of Alternative B would produce minimal disturbance of small quantities of native vegetation and soils. Range improvement maintenance would have little to no effect on vegetation and soil resources. There would be small-scale temporary impacts from new fence construction and proposed water development. North boundary fence extension and minor realignment would consist of buck and rail fence material, where wood jack legs rest above the ground. Cattleguard replacement associated with the minor realignment would be within the already disturbed prism of the road. Impacts of rangeland improvements are short-term since any site disturbance will recover to ensure native vegetation cover for the long-term (EA, 3.4.2.2).

Implementing this decision will provide healthy wild horses within healthy habitat. Based on the above rationale, it is my decision to implement the Forest Service decisions associated with Alternative B. The resulting Herd Management Area Plan serves as the Territory Plan for the Forest Service portion of the PMWHR. A complete list of mitigation measures for Alternative B is listed in section 3.5 of the EA.

Alternatives Considered

Three alternatives were considered in the EA. A Comparison of Alternatives can be found in the EA (section 2). The following outlines discussion of each alternative only as it pertains to the Forest Service decision for fencing and water enhancement.

Alternative A – No Action. The No Action Alternative would maintain the current management direction. The current Herd Management Area Plan dated 1984 and subsequent revision of 1992 would be fully implemented. No new water developments would be constructed. Maintenance of the existing boundary fence would be done in-place/in-kind, without realignment out of heavy snow load areas, and without a fence extension (limited in effectiveness). Wild horses would be limited to the boundaries of the PMWHR as much as feasible. Wild horses would be hazed immediately upon detection back to the wild horse range by the BLM.

This alternative was not selected because it does not meet the purpose and need and is not supported by the analysis contained within the EA as follows: Without effective fencing, there will likely be an increase in handling of wild horses found outside designated territory and range in efforts to move them back into the designated lands (EA, 3.4.1.2). There will also likely be continued Forest Plan conflicts in neighboring lands relative to continued use and its potential impacts on vegetation condition in the adjacent Research Natural Area, recommended wilderness, and subalpine lands which are difficult to

recover from grazing impacts (EA, 3.4.2.2). Without water improvements, opportunities for improved resource conditions would not be realized (EA, 3.4.2.2). Additionally, adjacent livestock permittees would likely continue to have conflicts with horses competing for forage and potential for requested early removal of livestock due to the competition for typically the same forage species (EA, 3.4.2.2).

Alternative B – Selected Alternative (Proposed Action – Herd Management Area Plan). The Proposed Action is designed to manage wild horses and resources within the PMWHR in order to preserve and maintain a thriving natural ecological balance and multiple use relationships. The overall goal of this alternative is to manage for healthy wild horses within healthy habitats. The proposed action is to implement the actions and objectives outlined in the Pryor Mountain Wild Horse Range Herd Management Area Plan. The north boundary buck and rail fence and a snow water catchment would be improved. The north boundary fence would be maintained (with minor realignment out of heavy snow load areas) on ~1.3 miles and extended with buck and rail fence to the west for ~0.5 miles. The snow water catchment would be fenced with jack and rail fence with water being gravity fed to an offsite tank through a short pipeline or would be fenced with a water gap, with the ability to be closed to control water use without piping to a tank (EA Section 2.3, HMAP section F).

This alternative will be implemented. See the above discussion regarding my decision rationale to implement Alternative B.

Alternative C – Continuation of Existing Management. The existing management alternative consists of managing the Pryor Mountain Wild Horse Range and adjacent areas in their current state. No new range improvement projects would be implemented.

This alternative was not selected because it does not meet the purpose and need and is not supported by the analysis contained within the EA as follows: Wild horse use outside of the PMWHR would likely continue (EA, 3.4.1.2). More wild horses would be placed at risk of complete removal as they continue to leave the wild horse range as forage conditions are fair to poor for their sustainability (EA, 3.4.1.2). Range conditions would continue to deteriorate and the forage base and ecological condition would continue to be reduced, thus reducing the health of the animals as well. Range conditions in neighboring areas outside the range would likely deteriorate (EA, 3.4.2.2). Without water improvements, opportunities for improved distribution would not be realized (EA, 3.4.2.2). Without effective fencing improvements, there will likely be an increase in Forest Plan conflicts in neighboring lands relative to continued or increased use and its potential impacts on vegetation condition in the adjacent Research Natural Area, recommended wilderness, and subalpine lands which are difficult to recover from grazing impacts (EA, 3.4.2.2). Additionally, adjacent livestock permittees would likely have conflicts with horses competing for forage and potential for requested early removal of livestock due to the competition for typically the same forage species (EA, 3.4.2.2).

Alternatives Considered but Dismissed from Detailed Study

Range Expansion. Another alternative considered was expansion of the wild horse range on BLM or National Forest System lands. This alternative is dismissed from detailed analysis since the BLM and Forest Service are prohibited by law from managing wild horses on public lands outside of areas where wild horses were documented as being “presently found” at the time of the passage of the Act in 1971 (herd areas and territories). The 1971 Act, Section 1339 Limitation of Authority, states that “Nothing in this Act shall be construed to authorize the Secretary to relocate wild free-roaming horses or burros to areas of the public lands where they do not presently exist.” (EA, 2.5.2)

Horses were in the Pryor Mountains historically, but by 1968 they were largely limited to the 1968 designated Refuge (BLM and NPS lands) (EA, 3.3). This is due to the Forest Service / BLM division fence, on the south boundary of the National Forest. There is supposition, by some, as to the extent of wild horses in 1971. Even though range expansion is outside the scope of the analysis, the related information submitted during the comment period was reviewed and assessed (EA, Response to Comment #6). Some exhibits submitted were anecdotal in nature and other information submitted was taken out of context. However, comprehensive agency inventories and assessments (Hall, 1972, URA Step 4, I.B.1-4. and Hall Appendix #8, and BLM / FS, 1974), and public involvement (1974 Interagency *Pryor Mountain Complex Land Use Decisions*) provided the basis for Herd Area and Territory boundaries per the 1971 Act. Subsequent land use planning efforts in 1984 (BLM) and 1987 (USFS) validated the same areas as being wild horse herd management area and territory, respectively. These planning efforts included public involvement and opportunities for appeal (EA, 4.1, Response to Comment 6).

Boundaries of herd areas and territories, where wild horses will be managed, consistent with statutory and regulatory language, were identified in land use plans including the 1984 Resource Management Plan and 1987 Forest Plan. These land use planning processes look at a broader-scaled analysis than the HMAP analysis. As with the HMAP analysis, land use planning processes incorporates concepts and principles of sustainable natural resource stewardship and use of best available scientific knowledge for management choices, but land use planning considers multiple use management objectives and direction across the planning area with a broad array of interested citizens, other public servants, and governmental and private entities. Range expansion onto other National Forest System lands raises issues regarding conflicts with other Forest Plan management areas, including potential conflicts to the ecological integrity of the Lost Water Canyon Research Natural Area (Management Area L) and Lost Water Canyon Recommended Wilderness (Management Areas H) (EA, 3.4.2.2), and wild horse competition for forage with permitted livestock in the nearby Crooked Creek Allotment (Management Area B) (EA, 3.4.2.2). Land use plan changes, including changes to management areas and their goals and objectives, would greatly expand this proposal beyond the scope of the analysis and purpose and need (EA, 1.8, 2.5.2, and 4.1 Response to Comment 6).

Natural Management. An additional alternative considered was to have purely “natural management” of the population. This alternative was eliminated from detailed analysis because it would not achieve the purpose or need for the action nor conform with public land law, regulation, policies, or land use plans. Although the Wild and Free Roaming Horse and Burro Act does allow for “natural means” for population control it does not allow for range deterioration. Once the range deteriorated beyond the point that forage species are eliminated or are such a small component of the plant community, wild horses would eventually start to die of starvation (EA, 2.5.1).

Public Involvement

The interagency environmental assessment (EA) for the Pryor Mountain Wild Horse Herd Management Area Plan (HMAP) documents the analysis of two action alternatives to revise the 1986 HMAP, as amended (1992) for the Pryor Mountain Wild Horse Territory and Range, and the No Action Alternative. A pre-decisional Environmental Assessment and letter indicating a tentative selection of Alternative B was sent to interested publics in June, 2008 and to those who participated during the analysis process. This decision is based on the results and findings of the EA, Response to Public Comments (section 4.1 of the EA), and a review of public land law, regulations, policies, and the 1987 Custer National Forest Land Management Plan (Forest Plan). The EA is available to the public at <http://www.fs.fed.us/r1/custer/projects/projects/index.shtml> or you may request a hard copy version by contacting the Bureau of Land Management at the Billings Field Office at 5001 Southgate, 59101. Phone 406-896-5013.

In preparation for HMAP revision analysis, the PMWHR Draft Evaluation was issued for public participation on November 19, 2007. The purpose of the evaluation was to measure if current uses were meeting existing decisions and objectives that were established in the Bureau of Land Management Billings Resource Management Plan (1984), Forest Plan (1987), Bighorn Canyon National Recreation Area laws and policies, and the Pryor Mountain Herd Management Area Plan (1984, 1992).

Interested parties were asked to review the document and provide additional relevant data, information, or analysis that could be used to measure objectives. Parties were also asked to provide technical recommendations to help meeting or making progress toward meeting decisions and objectives. Two parties provided data that was incorporated into the evaluation. Eighty-seven parties provided comments and/or technical recommendations for management of the PMWHR. Four parties provided separate interpretations of the analysis for calculating the appropriate management level (AML).

All parties who participated and their submissions were documented and incorporated into the Final Pryor Mountain Wild Horse Range Evaluation in February 2008. The public comment and involvement in the PMWHR Evaluation was used to help identify issues that relate to the effects of the proposed action. The analysis team reviewed the scoping comments and identified issues to assess:

June 2008, The Pryor Mountain Wild Horse Range Draft Herd Management Area Plan and Preliminary Environmental Assessment were issued for public comment and review. The BLM and Forest Service received letters, e-mails, phone calls, one appeal and a petition not to euthanize wild horses. Thirty-seven individual letters were received that commented on the Pryor Mountain Wild Horse Range Draft Herd Management Area Plan. Several parties provided the Cloud Foundations talking points. The comments were summarized, and are included with this Decision Notice (EA, Section 4.1).

Monitoring

All monitoring identified under the proposed action would be conducted by BLM, as the lead agency, and in consultation and cooperation with the Forest Service and National Park Service. Monitoring will be recorded in the maintenance log as completed. If within the life of the plan, the affected environment changes, revision to the herd management area plan may be warranted. The type of foreseeable actions that could dictate a revision would include the following but not necessarily be limited to what is identified or in the order listed:

- Legislative Actions including but not limited to allowing for expansion of the wild horse range, land tenure changes, laws, etc.
- Additional private lands become available for wild horse use
- Changes in the current land use plans
- Full implementation of the Herd Management Area Plan
- Shift in use patterns of wild horses
- Overall change in the natural environment that prohibits implementation of the plan

Finding of No Significant Impact

After thorough consideration of the environmental effects described in the Pryor Mountain Wild Horse Territory Herd Management Area Plan Environmental Assessment (EA), as related to the activities that will occur on the Forest, I have determined that the selected alternative, Alternative B, will not have a significant effect on the quality of the human environment based on the context and intensity of effects (40 CFR 1508.27). Therefore, an environmental impact statement will not be prepared.

I base my findings on the following context and intensity:

Context

My decision is evaluated in several contexts as outlined below:

- The context of National, regional, and local public interest in the analysis and decision.
- The short- and long-term context of making the North boundary fence effective and improving a water source.
- The social context relative to recreational opportunities and wild horse viewing.

National, Regional, and Local Context

Several strong and diverse public interest groups pressure the agencies regarding the management of wild horses on public lands. These interests include, at one extreme, those who strongly support the protection and management of wild horses with little or no human intervention. At the other end of the spectrum are those who favor intense management of wild horses and burros, with an objective to maintain very low numbers of horses. Some view wild horses as competitors for other resource uses. Roughly 10% of the overall PMWHR are National Forest System lands.

It is recognized that the Pryor Mountain wild horse herd is one of the few herds with strong Spanish ancestry and is considered one of the premier wild horse herds for viewing, photographing, filming, adopting, and researching. There is national, regional, and local interest in this particular herd. The interpretive Wild Mustang Center is located in nearby Lovell, WY.

Nationally, the Pryor herd population is less than 1% of the wild horse population (greater than 30,000) in the ten western states. Locally, the nearest wild horse herd occurs about 40 miles to the southwest (McCullough Peak herd, WY).

North Boundary Fence and Water Enhancement Context

The following outlines the short- and long-term context of impacts from fence maintenance, extension, and minor re-alignment, along with impacts of water source maintenance and enhancement.

Short-term Context.

As outlined in the EA Issues Studied in Detail (EA, 1.8), the existing north boundary fence would be repaired and maintained (~1.3 miles), with minor realignment out of heavy snow load area and in consideration of topographic features, and extended to the west (~ 0.5 miles) to allow for more effective management of wild horses within the PMWHR.

The mitigation measure of flagging new fences for at least a year and monitored for possible wild horse conflicts is required (EA, 3.5). The mitigation will be done to minimize hazards to horses as they are getting accustomed to the fence. Water source maintenance would have the same considerations as outlined for the fence regarding design for visibility, aesthetics, and minimal impacts over the short-term.

Long-term Context.

As outlined in the EA Issues Studied in Detail (EA, 1.8), buck and rail / jack leg material would be used for longer-term maintenance design, and visual consideration for the adjacent Forest Service recommended wilderness area users. Gates and ability to open fence panels will accommodate wild horse management needs (EA, 2.3, HMAP section F and EA, 4.1, Response to Comment #66).

The extension and minor realignment does not change the decision relative to the Territory boundary. It just manages the area as it has been previously. It attempts to be as close to the boundary line, as much as feasible, and still within the Territory. Given considerations of topography and long-term maintenance (i.e., not placing fence in heavy snow load areas), the fence extension and realignment location is very close to the boundary line. The extension would reduce approximately 25 acres of suitable range and 3 AUMs of forage and the minor realignment would gain approximately 25 acres of suitable range and 3 AUMs of forage. Therefore, changes in capacity are negligible and AML would not be affected by the change. The relationship of the north boundary fence to AML is not significant because AML would be increased from 85-105 to 90-120 under Alternative B (EA, 2.3, HMAP section F; EA, 3.4.1.2).

Water source maintenance would have the same considerations as outlined for the fence regarding design for visibility, aesthetics, and minimal impacts over the long-term. If future decisions dictate management changes, then fences and water developments can be removed and the sites rehabilitated.

Social Context

In a social context, some concern was expressed that access, by most types of two-wheel drive vehicles, to wild horse viewing would be altered if the North Boundary Fence were re-established as a more effective barrier. Some recreationists over the past decade have become accustomed to viewing wild horses in areas outside of the designated Territory and range due to increased pressure from past distribution shifts and ineffective fencing. Although, viewing opportunities would shift, there are still opportunities for viewing in an array of recreational and access settings ranging from 2-wheel high clearance and 4-wheel drive routes (Sykes and Burnt Timber Ridges) to paved routes with wild horse interpretive signing (Bighorn Canyon National Recreation Area). The EA addresses maintenance and enhancement for a variety of recreational opportunities to meet public demand in the PMWHR to be accomplished by

development of a Recreation Management Plan for the range. Visitor use and changes in wild horse movements and use patterns will be monitored (EA Section 2.3, HMAP Section D).

Intensity

Intensity refers to the severity of impact. I considered the following in evaluating intensity:

1. Beneficial, adverse, direct, indirect, and cumulative environmental impacts are disclosed in the EA. Analysis indicated no significant impacts on society as a whole, the affected region, or the locality. The physical and biological effects are limited to the Pryor Mountain Wild Horse range (BLM, USFS, NPS, leased private land) and adjacent land. My decision to regain management integrity of the PMWHR through effective North boundary fencing, and enhancing one water source does not indicate significant physical or biological effects.

The overall effects of implementing the Forest Service portions of Alternative B will preserve and maintain a thriving natural ecological balance and multiple use relationships per public land laws, regulations, policy, and land use plans. Management will be for healthy wild horses within healthy habitats. Treatments will be conducted in a way that minimizes impacts to other resources.

No significant adverse effects to the environment were identified in the environmental analysis. Any impacts will be localized, limited to those involved with construction and maintenance activities, and within accepted norms for such work. The majority of the fence will be above ground, with very little ground disturbance due to the nature of using jack legs (EA, 3.4.2.2). There is no irreversible commitment of resources in this project. There are no known significant irretrievable commitments of resources such as loss of soil productivity, water quality, wildlife habitat or recreational opportunities

2. Public health and safety are not adversely affected by the proposed action. There are no hazardous or solid wastes located within the planning area. The proposed action would have no affect on ground or drinking water.

3. This project will not adversely affect unique characteristics of the geographic area. There are no Wild and Scenic Rivers, wetlands/riparian zones, prime or unique farmlands, or floodplains within the Forest Service portion of the project area.

I have considered the adjacent Forest Service recommended wilderness and have found that the buck and rail design of the North boundary fence and water enhancement is consistent with management and visual considerations as described in the Forest Plan and is of a rustic design to meet visuals concerns of the adjacent recommended wilderness users (EA, 3.4.6.2). The fence is consistent with those found in rural settings and heavy snow load zones. The design would not be out-of-character or intrusive on the adjacent Forest Service Lost Water recommended wilderness when compared to a design such as barbed wire. Topography and vegetation screens much of the proposed fence from view points along the designated motorized route. Based on my analysis of the proposal and setting, I do not find that the habitat improvements would adversely affect, or change, the character of the Wild Horse Territory or adjacent Lost Water recommended wilderness.

4. Based on the environmental analysis and involvement of agency resource specialists and members of the public, I do not expect the effects of the proposed actions on the quality of the human environment to be highly controversial in a scientific context. Rangeland improvements such as fencing and water developments are routine activities and allow for habitat improvement. Impacts to resources are minimal

and only small quantities of native vegetation and soils would be disturbed temporarily during construction. The area of impact from the proposed water development is small-scaled. North boundary fence extension and minor realignment would consist of buck and rail fence material, where wood jack legs rest above the ground. Cattleguard replacement associated with the minor realignment would be within the already disturbed prism of the road. Impacts of new rangeland improvements are short-term since any site disturbance will recover to ensure native vegetation cover for the long-term (EA, 3.4.2.2).

Impacts to wild horses are minimal. The mitigation measure (EA, 3.5) of flagging new fences for at least a year will be done to minimize injury or hazards to horses as they are getting use to the fence being effective and in good repair. The north boundary fence extension and minor realignment does not change the Territory boundary. It attempts to be as close to the boundary line, as much as feasible, and still within the Territory (EA, 2.3, and 2.3 HMAP section F). Given considerations of topography and long-term maintenance, the fence extension and realignment location is very close to the boundary line. The extension would reduce approximately 25 acres of suitable range and 3 AUMs of forage and the minor realignment would gain approximately 25 acres of suitable range and 3 AUMs of forage. Therefore, changes in capacity are negligible and AML would not be affected by the change. The relationship of the north boundary fence to AML is not significant because AML would be increased from 85-105 to 90-120 under the selected Alternative.

The analysis shows that for the past several years, the numbers of horses have substantially exceeded current AML of 85 to 105 wild horses and use of National Forest System lands beyond the designated boundary contributed to the forage used that was beyond AML capacity (EA, 1.5, and EA 1.5 Tables 1 and 2). AML is not determined for lands outside of the designated PMWHR. Maintenance, minor realignment, and extension of the north boundary fence will not have an adverse effect on selected Alternative AML of 90 to 120 wild horses (see project record for AML calculations) since the selected Alternative AML is determined for current capacity within the designated PMWHR and is higher than current AML. By regaining management integrity through effective fencing and enhanced water development, historic excess beyond AML will be realigned with managing for AML.

Under the selected Alternative, there would be little to no handling (moving) of wild horses back to the PMWHR associated with an ineffective north boundary.

5. There are no known effects to the human environment that are highly uncertain or involve unique or unknown risks. Based on the environmental analysis of the selected alternative, I did not find any environmental effect other than minor disturbance during habitat improvement. Design criteria for the habitat improvements addressed concerns and reduce impacts. The majority of buck and rail fence sits on top of the ground, and the cattleguard replacement may need new disturbance within the existing road prism. Materials used are made of visible material to reduce hazards to wild horses (EA, 2.3, HMAP section F). Flagging new fence construction is a required mitigation measure for the first year after construction (EA, 3.5).

6. These actions do not establish a precedent for future actions with significant effects. Proposed uses on public land are not without precedence and are consistent with the Wild Free-Roaming Horses and Burros Act of 1971. Habitat improvements are found on many National Forest Territories and BLM Herd Management Areas across the western United States. The specific actions involved in the proposed action have all been done before, separately and collectively, in the course of management of public lands over the past 50 years. There are no irreversible commitments of resources involved with the proposed action. The structural projects involved could be eliminated and the physical disturbance rehabilitated.

7. These actions do not individually, nor with other activities taken cumulatively within the area affected, reach a level of significance (EA, Cumulative Effects in sections 3.4.1.2; 3.4.2.2; 3.4.4.2; 3.4.5.2; and 3.4.6.2). Design features were incorporated into the selected alternative and are known to keep effects to wild horses, habitat, and adjacent uses below a threshold level of significance. Use of wood buck and rail materials minimizes aesthetic concerns of the neighboring Forest Service recommended wilderness area users. Use of wood buck and rail materials will provide less maintenance required over time as opposed to a wire fence. Mitigation measures of flagging new fence address the visibility concern to minimize hazards to horses (EA, 3.4.1.2; 3.4.2.2; 3.4.4.2; 3.4.5.2; 3.4.6.2, and 3.5).

8. The Crow Tribe considers the Pryor Mountain wild horses as descendants of the original Crow War ponies. The tribe knows of no instance where wild horses have destroyed any sacred sites, but rather is it humans who disturbs, destroys and desecrates sacred sites (Project Record, Crow Tribe Executive Branch, George Reed, 2008). The Dryhead Overlook and Sykes Ridge are the primary areas for contemporary traditional cultural uses. These areas have been used for generations by Crow tribal members for traditional uses, ceremonies and vision quest sites. Although these areas occur within the project area, no Native American religious concerns are known in the area, and none have been noted by Tribal authorities. Should recommended inventories or future consultations with Tribal authorities reveal the existence of such sensitive properties, appropriate mitigation and/or protection measures may be undertaken.

The north boundary fence extension and minor realignment has been inventoried and the fence location avoids cultural sites. The implementation of this project will not have a direct effect to sites (EA, 3.4.4.2). Prior to any activity, compliance with the State Historic Preservation Act would be conducted. There would be no impacts to cultural resources as cultural inventories would occur prior to implementation of any proposed surface disturbing project related to the PMWHR HMAP and EA. If cultural resources are located during an inventory, avoidance of the site(s) is preferred. If the cultural resources cannot be avoided then impacts to the site(s) would be mitigated. Under Alternative B, the potential impacts to known sites from potential trailing or trampling would be lessened as the proposed projects would improve distribution of wild horse use over the PMWHR. The combination of management actions and design features under the proposed action will facilitate dispersed distribution of wild horses and reduce grazing effects on soils, riparian and upland vegetation, which would be beneficial for protection of cultural resources.

9. No federally proposed, threatened, or endangered species, or their habitat, will be adversely affected by the actions of this project (EA, 3.4.10). The proposed wild horse management will be beneficial for all wildlife and aquatic species present. If special status species were discovered, additional mitigation measures such as inventory and avoidance of sensitive plants, and surveys prior to land treatment, would be done in conformance with sensitive species policy.

10. The actions do not threaten a violation of Federal, State, or local laws imposed for the protection of the environment. The proposed action is in compliance with federal, state, and local law and requirements relative to environmental protection.

Findings Required by Other Laws and Regulations

I have reviewed the Forest Plan and determined that this decision is consistent with the Forest Plan's goals and objectives. The action in this project complies fully with the Forest Plan Management Area Q direction, and the Forest-wide Standard and Guidelines. I have also reviewed the Wild Free-Roaming Horses and Burros Act of 1971 (as amended), 36 CFR 222, and FSM 2260, and conclude that the decision

is consistent by regaining management integrity of the Territory and Range through effective fencing and water enhancement. The proposed action provides the opportunity to achieve wild horse management objectives as well as meet a thriving natural ecological balance through a variety of management actions, design features, and projects, without creating significant impacts. Based on the analysis of potential environmental impacts contained in the Environmental Assessment and all other available information, I have determined that the proposed action does not constitute a major federal action that would significantly affect the quality of the human environment. Therefore, an Environmental Impact Statement (EIS) is unnecessary and will not be prepared.

Review and Appeal Opportunities

This decision is subject to appeal pursuant to 36 CFR 215.11. A written appeal must be submitted within 45 days following the publication date of the legal notice of this decision in the Billings Gazette, Billings, Montana. It is the responsibility of the appellant to ensure their appeal is received in a timely manner. The publication date of the legal notice of the decision in the newspaper of record is the *exclusive* means for calculating the time to file an appeal. Appellants should not rely on date or timeframe information provided by any other source. Paper appeals must be submitted to:

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| USDA Forest Service, Northern Region ATTN: Appeal Deciding Officer P.O. Box 7669 Missoula, MT 59807 Office hours: 7:30 a.m. to 4:00 p.m. | OR | USDA Forest Service, Northern Region ATTN: Appeal Deciding Officer 200 East Broadway Missoula, MT 59802 Office hours: 7:30 a.m. to 4:00 p.m. |
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Electronic appeals must be submitted to: appeals-northern-regional-office@fs.fed.us

Faxed appeals must be submitted to: (406) 329-3411. If an appeal is filed electronically, the subject line should contain the name of the project being appealed. An automated response will confirm your electronic appeal has been received. Electronic appeals must be submitted in MS Word, Word Perfect, or Rich Text Format (RTF).

- It is the appellant's responsibility to provide sufficient project- or activity-specific evidence and rationale, focusing on the decision, to show why my decision should be reversed. The appeal must be filed with the Appeal Deciding Officer in writing. At a minimum, the appeal must meet the content requirements of 36 CFR 215.14, and include the following information:
- The appellant's name and address, with a telephone number, if available;
- A signature, or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the appeal);
- When multiple names are listed on an appeal, identification of the lead appellant and verification of the identity of the lead appellant upon request;
- The name of the project or activity for which the decision was made, the name and title of the Responsible Official, and the date of the decision;
- The regulation under which the appeal is being filed, when there is an option to appeal under either 36 CFR 215 or 36 CFR 251, subpart C;
- Any specific change(s) in the decision that the appellant seeks and rationale for those changes;
- Any portion(s) of the decision with which the appellant disagrees, and explanation for the disagreement;
- Why the appellant believes the Responsible Official's decision failed to consider the substantive comments; and

- How the appellant believes the decision specifically violates law, regulation, or policy.

If an appeal is received on this project there may be informal resolution meetings and/or conference calls between the Responsible Official and the appellant. These discussions would take place within 15 days after the closing date for filing an appeal. All such meetings are open to the public. If you are interested in attending any informal resolution discussions, please contact the Responsible Official or monitor the following website for postings about current appeals in the Northern Region of the Forest Service: http://www.fs.fed.us/r1/projects/appeal_index.shtml.”

Decision Implementation

When no appeal is filed within the 45 day time period, implementation of the decision may begin on, but not before, the 5th business day following the close of the appeal filing period (36 CFR 215.9(a). When an appeal is filed, implementation may occur on, but not before the 15th business day following the date of appeal disposition (§215.2). In the event of multiple appeals of the same decision, the implementation date is controlled by the date of the last appeal disposition (215.9(b)).

Contact Person

Mark Slacks, Custer National Forest NEPA, Appeals, and Litigation coordinator is the contact person for any questions pertaining to the Forest Service appeal process. For further information you may contact him as follows: Mark Slacks, Custer National Forest, 1310 Main St., Billings, MT 59105. Phone (406) 657-6205 x240.

Responsible Official

Mary C. Erickson, Custer National Forest Supervisor, is the responsible official for the Forest Service portion of the Pryor Mountain Wild Horse Herd Management Area Plan EA. For further information you may contact her as follows: Mary C. Erickson, US Forest Service, POB 130, Bozeman, MT 59771. Phone (406) 587-6701.

_____/s/ **Mary C. Erickson**_____

_____ **5/22/2009** _____

Mary C. Erickson
Custer National Forest Supervisor

Date