



WILDERNESS WATCH

Keeping Wilderness Wild

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June 25, 2025

BLM Bristlecone Field Office
Attn: Sadie Leyba, Wild Horse and Burro Specialist
702 North Industrial Way
Ely, NV 89301

RE: Antelope-Triple B Gather Environmental Assessment (EA)

Sent via the internet and via email to: sleyba@blm.gov, b50thomp@blm.gov, and bnoyes@blm.gov

Dear Specialist Leyba:

These are comments on the “Antelope-Triple B Gather EA.” Wilderness Watch is a national wilderness advocacy organization dedicated to the protection and proper administration of the National Wilderness Preservation System. Wilderness Watch members use and value the Goshute Canyon and Becky Peak Wildernesses for personal and professional pursuits, including hiking, plant and wildlife viewing, and plant and wildlife study. Our comments focus on these two special places.

Introduction

While we appreciate that, in this proposal, the BLM is acting in an attempt to remedy degradation caused by wild horses within the Goshute Canyon and Becky Peak Wildernesses and elsewhere, we encourage the agencies to thoroughly analyze all reasonable avenues for accomplishing this in a manner that also respects the mandates of the Wilderness Act.

“Helicopter landings would not be allowed in wilderness except in the case of an emergency.” EA at 21. By carrying out this action, any emergency, the direct result of this action, would have heavy legal and ethical baggage, particularly in designated Wilderness where landings are prohibited by statute and the use of helicopters flying at low elevations conflicts with the values embedded in that statute. “The landing of aircraft, among other activities, is banned except as necessary to meet minimum requirements for administration of the area...This prohibition is one of the strictest prohibitions in the Act. The limitation on the [agency’s] discretion to authorize prohibited activities only to the extent necessary flows directly out of the agency’s obligation under the Wilderness Act to protect and preserve wilderness areas.” *Wilderness Watch v. Vilsack*, 229 F. Supp.3d 1170, 1182 (D. Idaho 2017). This court went on to hold that landing helicopters to collar elk to study an alleged decline in elk population violated the Wilderness Act—this prohibited activity did not fit into the narrow exception for when prohibited activities might be allowed in Wilderness.

It is not clear to what extent helicopter overflight activity would occur in the Goshute Canyon and Becky Peak Wildernesses. The EA states on page 56 regarding the Goshute Canyon Wilderness, “Wild horse use of the Wilderness area is primarily located along the benches at the base of the mountain along the boundary on the east and west slopes, and into the Goshute Basin.” Goshute Basin has a cherry stem road and an exclusion at the end of approximately 80 acres. It would appear that this Wilderness could be heavily affected by helicopter gathering. The EA states (*ibid.*) regarding Becky Peak, “Wild horse use of the Wilderness area is occurring primarily along the entire boundary outside of the pinyon juniper woodlands and at all water sources.” This Wilderness may be little affected.

The absence of detail in the EA on impacts to Wilderness and the absence of a minimum requirements analysis framework (formerly, the MRDG) is also a problem. At the very least, a map of areas potentially affected by overflights (including possible “emergency” landings) could have been provided in Appendix I.

Wilderness

The following section of this comment points to our concerns for Wilderness. Even though the proposal calls for no structures in Wilderness, it does allow low elevation herding actions by helicopters and potential landing in case of emergencies, presumably for injured hoses. At the same time, the EA does not indicate horse concentrations in Wilderness. We are not told if some horses permanently inhabit the Wilderness and never leave. Without this information, informed decisions can't be made about Wilderness.

The EA also fails in some other key points. These are detailed below.

1- The EA analysis is based upon a serious misreading of the Wilderness Act.

As discussed below, the Wilderness Act does not state that there are five qualities of Wilderness, nor does it provide conflicting definitions for wilderness qualities (see EA at 55 and 56). The terms defining Wilderness in the Wilderness Act are complementary and provide a coherent reading of the Wilderness Act where natural conditions generally flow from untrammelled conditions. To the extent that there is a conflict between various uses of wilderness and preservation of wilderness, the statute and the agencies' regulations and management guidance provide direction for resolving those conflicts in favor of wilderness preservation.

The notion of five wilderness qualities came about in Landres' *Keeping it Wild* protocols—internal agency guidance documents that have not gone through formal notice and comment rulemaking. These documents are the subject of much disagreement and controversy, largely because they promote—intentionally or not—an interpretation of the Wilderness Act that is internally inconsistent and result in management actions that are antithetical to Wilderness preservation. *See, e.g.* Cole, et. al. 2015. While initially envisioned as a tool to help agencies measure wilderness character, on the ground it has had the unintended consequence of agencies (including the BLM) using the documents to creep back into active management paradigms that are predominant outside of Wilderness.

A prime example of a rapidly growing consequence from *Keeping it Wild* is the erroneous idea that managers can weigh various components of wilderness character against each other, thereby reducing the Wilderness Act to a point tallying system rather than a substantive law with cohesive goals and stringent prohibitions. This management mindset effectively and unlawfully repeals and rewrites the

Wilderness Act, yet that mindset is the very basis of the flawed MRA process and the MRAF template.

The Wilderness Act sought to remove agency bias and influence from the equation. Put another way:

In contrast to other public land management statutes, which typically authorize agencies to consider and weigh diverse values through exercise of their scientific and policy expertise, the Wilderness Act required certain areas to be managed predominantly for one use: wilderness preservation....

Unlike all other land-management statutes, the Wilderness Act's basic purpose was not to delegate authority to expert agencies, but rather, to exclude certain lands from the application of the agencies' specialized expertise, to restrain agency flexibility, and to protect (with limited, narrow exceptions) certain lands from the impact of the sort of policy choices land managers typically make.

Sean Kammer, *Coming to Terms with Wilderness: The Wilderness Act and the Problem of Wildlife Restoration*, 43 ENVTL. L. 83, 100-101 (2013).

2- The analysis of impacts in Wilderness is downplayed.

Even if we were to accept the fatally flawed process described above, the EA fails to adequately analyze impacts to Wilderness from this action. For example, the EA states on page 58, "There would be no negative effects to the untrammelled quality of wilderness character within designated Wilderness or WSAs." The herding action of the aircraft would trammel the wildlife in Wilderness.

Without this proposal, the actions described above would not happen in Wilderness. Even under the flawed process used in the EA, the BLM should have recognized this action trammels the Wilderness. Further, it likely won't be "temporary" in Wilderness (*ibid.*), as the EA tacitly admits on pages 4 to 7 and 32, detailing past gathers including 2023 and 2024. It has been an ongoing activity and will likely continue in perpetuity as burros from contiguous or adjacent HMAs will move into the project area.

3- Helicopter use in Wilderness is a significant action.

"Helicopters carry 'man and his works' and so are antithetical to a wilderness experience. It would be a rare case where machinery as intrusive as a helicopter could pass the test of being 'necessary to meet minimum requirements for the administration of the area.'" *Wolf Recovery Found. v. U.S. Forest Serv.*, 692 F. Supp. 2d 1264, 1267-68 (D. Id. 2010); *see also Mont. Wilderness Ass'n v. McAllister*, 666 F.3d 549, 556 (9th Cir. 2011) (stating that, "from a common-sense perspective," helicopter presence "would plainly degrade ... wilderness character"). Accordingly, under the Wilderness Act, the BLM may only approve helicopter activities in the Wilderness if the agencies rationally demonstrate helicopter herding of burros in Wilderness is necessary to meet minimum requirements for administration of the area for the purpose of the Wilderness Act, and there is no alternative to otherwise-prohibited uses that would achieve that purpose. *See* 16 U.S.C. § 1133(c). That is a high bar, and the EA does not provide the information to make the case.

Conclusion

The Wilderness only occupies a very small fraction of the project area. The EA does not make the case that this action is needed inside the Goshute Canyon or Becky Peak Wildernesses in large part because the EA is not site-specific enough to determine what actions are actually needed, if any, in Wilderness.

Lastly, the proposed action has been tried in the past and will likely go on, in perpetuity. Thus, the Wilderness could continually be assaulted under the proposed action.

Thank you for the opportunity to comment, and please keep us updated on this proposal.

A handwritten signature in black ink, appearing to be 'Mason Parker', with a long horizontal flourish extending to the right.

Mason Parker
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