

Exhibit B

Management Practices, Safeguards and Inspection Criteria To Distinguish Wild Horses from Domestic Horses being Gathered From Tribal and Public Lands

COOPERATIVE AGREEMENT BETWEEN Fort McDermitt Paiute and Shoshone Tribal Council USDA Forest Service - Humboldt-Toiyabe National Forest USDI Bureau of Land Management -Vale and Winnemucca Districts

Introduction

The Fort McDermitt Tribe (Tribe), USDA Forest Service (USFS) and USDI Bureau of Land Management (BLM) are working in partnership to implement management practices, safeguards and inspection criteria intended to prevent the inadvertent gather and removal of wild horses protected under the Wild Free-Roaming Horses and Burro Act (WFRHBA), 16 U.S.C. 1331, during tribal gathers to remove free ranging tribal horses from the Fort McDermitt Paiute and Shoshone tribal lands and adjoining public lands.

Under BLM regulations, *Wild horses and burros* means all unbranded and unclaimed horses and burros that use public lands as all or part of their habitat, that have been removed from these lands by the authorized officer, or that have been born of wild horses or burros in authorized BLM facilities, but have not lost their status under section 3 of the Act (43 CFR 4700.0-.5(l)). *Herd Area* means the geographic area identified as having been used by a herd as its habitat in 1971 (43 CFR 4700 0-.5(d)); the geographic areas of the public lands identified as habitat used by WH&B at the time the WFRHBA was enacted, December 15, 1971 (BLM H-4700-1 2010). *Herd Management Areas (HMAs)* are established in those Herd Areas within which WH&B can be managed for the long term. HMAs are designated through the Land Use Planning process for the maintenance of the WH&B herds. In delineating each HMA, the authorized officer shall consider the appropriate management level (AML) for the herd, the habitat requirements of the animals, the relationships with other uses of the public and adjacent private lands, and the constraints contained in 43 CFR 4710.4 (BLM H-4700-1 2010).

The closest population of wild horses to Fort McDermitt tribal lands is within the BLM administered Little Owyhee Herd Management Area (HMA) in north central Nevada. The administrative boundary of that HMA is approximately 8 air miles east of Humboldt-Toiyabe National Forest System lands and 25 air miles east of Fort McDermitt tribal lands. Due to lack of water on the north end of the Little Owyhee HMA, wild horses generally do not occupy that portion of the HMA. No wild horses have been observed or documented on Oregon or Nevada public lands adjoining the Fort McDermitt tribal lands. Also, there are no documented historic

or known current populations of wild horses, located on the Santa Rosa Ranger District of the Humboldt-Toiyabe National Forest (H-T NF). In previous tribal gathers, federal, state and tribal officials determined that the Tribe's gather and removal of unauthorized domestic horses from public lands had no potential to impact wild horses on public lands. Nonetheless, due to concerns expressed by members of the public that wild horses not be gathered under the guise of the Tribe's removal of unauthorized domestic horses, the following management steps and inspection criteria will be used to screen out any wild horses that may inadvertently be herded during a tribal gather to gather sites and to assign ownership of both branded and unbranded animals.

STEP 1. Conduct Aerial and Ground Monitoring Prior to Tribal Horse Gathers

Objective: Locate and distinguish wild horses from tribal horses in the field.

- BLM and/or USFS personnel will monitor the planned tribal horse gather area within five-mile proximity to the Little Owyhee Herd Management Area (HMA) boundary, in order to note and track locations of any horses, tribal or wild, within this five-mile distance from the HMA boundary.
- BLM and/or USFS personnel will look for wild horse behavior compared to tribal horse behavior in the field.
- The following horse behaviors help distinguish tribal horse bands from wild horse bands:
 - 1) Wild horses tend to flee and avoid being seen by approaching vehicles.
 - 2) Wild horses will start running from the sound of an approaching helicopter as much as 2 to 5 miles away. From the air they are generally spotted on the move and making a dust trail.
 - 3) Tribal horses will allow vehicles, saddled riders, and helicopters to get relatively close; they often do not run from an approaching helicopter until it is within a ¼ mile or less.
 - 4) Tribal horses will often not run away unless approached within ~50 yards or will not run when the helicopter flies over them.
 - 5) Tribal horses are generally used to being handled, especially the horses in the immediate vicinity of the populated portion of the tribal lands. Many tribal horses can be easily gathered without the aid of a helicopter.
 - 6) Tribal horse may have brands that can be detected from a short distance using binoculars.

STEP 2. Safeguards to Avoid Wild Horses during Tribal Horse Gathers

Objective: Avoid gathering any wild horses to the trap(s)

- Conduct aerial and ground monitoring just prior to helicopter gather operations of tribal horses to identify and confirm general locations of both tribal and wild horse bands. Record whether any observed horses have signs of brands or marks.
- Based on aerial and ground observations, instruct helicopter pilot and ground gather crews to avoid gathering near any likely wild horse bands i.e. those bands exhibiting wild behavior.

STEP 3. Inspection of gathered horses at trap sites

Objective: Screen out any wild horses that may be inadvertently herded to the trap(s) or holding corrals.

- BLM and/or USFS Wild horse specialist(s) and tribal brand representative(s) will observe all gathered horses at trap sites to screen out any individual horse which is determined to be defined wild horse under the WFRHBA.
- Horses herded directly to the holding corrals will be kept separate from the collective herd until evaluated and screened for wild horses as described below.
- Each individual horse will be evaluated and screened against the following criteria:
 - 1) Evidence of domestication, including: branding, castration, shoeing, bridle path marking on heads, saddle cinch marks or blemishes, and groomed manes.
 - 2) Demeanor, including: trained behavior, broken to rope or saddle, overall gentleness and lack of aggression versus fear of humans, and signs of extreme shyness, anxiety or distress.
 - 3) Phenotype expression, including: colors, marks and patterns, overall body conformation and structure, whither conditions, condition of hooves, average size, weight, height, breeding, and other factors such as individual conformity as compared to herd conformity. The tribal horses show traits of quarter horse, thoroughbred and draft horse.
- If an unbranded horse easily enters the trap and is accompanied by other branded stock then it is likely a tribal horse.
- If a trapped horse is determined to be a wild horse, it will be separated from the remaining animals and transported back to and released in the HMA.

STEP 4. Conduct detailed animal identification inspections at holding corrals by Nevada brand inspector, Tribal brand inspector, and federal wild horse & burro specialist to assign ownership.

Objective: Secondary screening for any wild horses that may have been delivered to the holding corrals following initial trap screening.

Objective: Detailed close inspection of individual horses to determine ownership or custodial control.

- Horses screened at each trap site will be transported by truck and trailer to the holding corrals.
- At the holding corral, each individual adult and juvenile horse is worked through a corral alley for a detailed inspection by the State Brand Inspector, Tribal Brand Inspector and BLM or USFS Wild Horse and Burro Specialist. The detailed inspection is intended to determine animal ownership.
- If it is determined that a horse is a wild horse based upon the collective expertise and consensus from all inspectors, then the federal government will retain possession of the animal and it will be removed from the gathering corral and returned to the HMA or to a BLM wild horse holding facility.
- Team inspection of each individual horse is based on the following criteria: 1) signs of domestication, including: branding, castration, shoeing, bridle path marking on heads, saddle cinch marks, groomed manes; 2) demeanor, including trained behavior versus panicked behavior, fear of humans, and anxiety; 3) phenotype expression, including: color, overall body conformation and structure, whither conditions, condition of hooves, weight, height, breeding, and other factors.
- Historical brand and ownership records will also be considered in these determinations. In addition to the State brand books, the Tribal brand inspector maintains a tribal brand book.
- The absence of any brands is not determinative of whether or not horses are wild. Not all domestic horses are branded by their owners. Foals of domestic horses may not be branded at all, or may not be branded for a considerable period of time after birth. Brands may fade over time and become difficult to read or practically indiscernible without close inspection. For these reasons, many factors in addition to the presence of clear brands are evaluated to determine the status of a particular horse.
- When requested and funded by either the USFS or BLM, a State brand inspection certificate will be issued for each animal gathered. Agency personnel may compile a photographic record of each inspected animal.
- Based on a consensus of the team's evaluation and claims of ownership by tribal members or other individuals, ownership of horses is determined by the State Brand Inspector and the status of the horse's inspection is documented on the brand inspection certificate.
- Anyone claiming ownership of non-branded horses can establish, by common reputation, ownership by providing an affidavit indicating a willingness to defend title and setting forth the basis for their ownership claim, including: (1) past licenses, permits or leases; (2) statements of others; (3) location of assigned or owned real property; (4)

- Past efforts to assert ownership; (5) past disposition of gathered animals; (6) other evidence supporting the claim.
- Once brand inspection confirms a horse is privately owned and not a wild horse, a brand inspection certificate is issued by NDOA to the owner, and the Tribal Council relinquishes custody of that animal to the owner.

Approved:

Tildon Smart
Tribal Chairman
Fort McDermitt Paiute and Shoshone Tribal Council

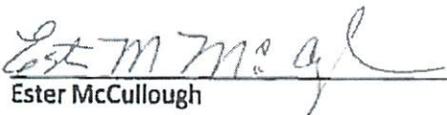
Date



William A. Dunkelberger
Forest Supervisor
Humboldt-Toiyabe National Forest

11/19/18

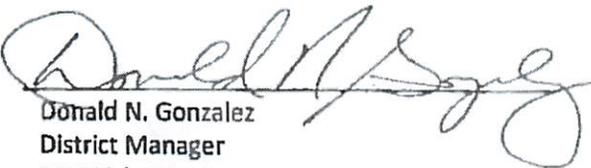
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Ester McCullough
District Manager
BLM Winnemucca Office

11/19/18

Date



Donald N. Gonzalez
District Manager
BLM Vale District

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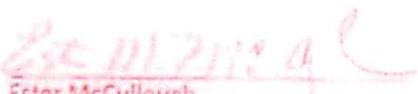
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William A. Dunkelberger
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11/19/18

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