

Heber Wild Horse Territory Plan #18916 - Comments

I am an Arizona resident and firmly believe that wild horses “enrich the lives of American people.” See Wild Free-Roaming Horses and Burros Act of 1971, 16 U.S.C. §§ 1331, *et seq.* (the “Act”). Indeed, I value the opportunity to view the Heber Wild Horses both in person and in photographs. Following, please find my specific written comments on the Heber Wild Horse Territory Management Plan Proposed Action (the “Plan”), including issues and alternatives the United States Forest Service (the “USFS”) should adequately address. Due to size restrictions, supporting documentation will be submitted in subsequent, separate electronic installment(s).

Pursuant to the Act, the Heber Wild Horse Territory (the “Territory”) was designated as a “sanctuary” for the protection and preservation of wild horses. 16 U.S.C. § 1333(a). Even designated ranges managed under a multiple use concept are to be “devoted principally” to wild horses. 16 U.S.C. § 1332(c). However, the Plan assumes, without analysis, that the Territory is “suitable” for livestock grazing. The USFS should eliminate or, at a minimum, significantly reduce livestock grazing within the Territory. To the extent any livestock grazing is permitted within the Territory, the USFS should prioritize the welfare of the wild horses, including forage allocation, *e.g.*, if it is determined over-utilization of forage exists, livestock should be removed before any removal of wild horses.

The Plan fails to provide a framework that adequately ensures the welfare of wild horses associated with the Territory. In the Stipulated Settlement Agreement (referred to as “a stipulation agreement” in the Plan at p. 6), the USFS agreed that the wild horses are by law an integral part and component of the natural system of the public lands, as expressed by Congress in the Act. Notwithstanding, while the Plan alludes to a management strategy, it focuses on the removal strategy and gives minimal consideration to keeping the wild horses thriving and healthy. For instance, the Plan should include objectives for the Territory concerning preservation of natural behaviors, including fencing to allow movement, connectivity of habitat, and minimization of impacts to the wild horses and their habitat.

The Plan fails to recognize the historical significance and presence - as well as evidence of the contemporary presence - of wild horses in and around the Territory. The Plan diminishes the existence and importance of the wild horses and the Territory, making erroneous assumptions flatly contradicted by local accounts. See Notice of Appeal regarding the Record of Decision (the “ROD”) and Final Environmental Impact Statements (the “FEIS”) for the Land Management Plan (the “LMP”) for the Apache-Sitgreaves National Forests filed on behalf of the International Society for the Protection of Mustangs and Burros and TerraWind Ranch Eco-Action Group, at p. 5-8, including referenced attachments thereto. Despite possessing such documents, the USFS has conveniently ignored these accounts and instead mischaracterized the Territory’s history based on rumors and speculation that serve its narrative. The USFS’s long-standing practice of discounting the existence of the wild horses must be corrected. At a minimum, the Plan should be revised to include an accurate and unbiased narrative of

the historical significance and presence of wild horses as well as evidence of the present inhabitation. Further, the territory history diverges dramatically from - and is hardly in good faith with - the USFS's agreed upon changes to the ROD and FEIS for the LMP for the Apache-Sitgreaves National Forests in connection with Appeal No. 16-13-00-0007.

There is a lack of reliable data to support USFS's estimated wild horse population and associated management decisions, including appropriate management level (AML). Indeed, only 3 surveys have been conducted and relied upon by the USFS. Incredibly, the 2017 survey's estimated population ranges from 270 to 420, which is a percentage difference of over 43%. The USFS, in fact, concedes the lack of data. *See, e.g.*, Plan at p. 8 (concerning lack of monitoring data regarding horse use patterns).

The plan refers to a preliminary analysis completed by the USFS to determine the proposed AML for the Territory and purports to summarize it, but fails to attach it. Consequently, it is impossible to determine whether any evidence supports the USFS's determination that the proposed AML is sufficient to maintain genetically diverse wild horse populations.

The USFS should forego cruel and senseless roundups of wild horses and instead develop humane, sustainable programs for managing the herd. Roundups (a/k/a gathers) are illogical, resulting in astronomical numbers of wild horses in long-term holding and associated costs.

The USFS should consider whether the current wild horse population can be supported and managed through the use of contraception (and without removal of wild horses).

Is there any evidence that an overpopulation currently exists? Is there evidence that action is necessary to remove excess animals?

Gathers and removals should not be considered while the population is within the AML range. *See* Plan, App. B. p. 29 ("gather actions may also be used as an ongoing maintenance action for the horse population when populations are approaching the upper quartile of the appropriate management level").

Gathers should not be utilized to administer contraceptions. Instead, vaccines should be administered using a remote delivery system similar to that utilized in management of the Salt River wild horses in the Tonto National Forest.

Determinations for removal, including determinations of excess wild horses, must be based on more than a mere number. Indeed, such determinations must be in compliance with federal law and reasoned, *e.g.*, considering whether adequate forage exists, health of herd, *etc.*

To the extent gathers are necessary, no helicopters should be used. The USFS should instead use passive gather techniques only, *e.g.*, nutrient baits and/or water trapping to

alleviate, to the greatest extent possible, the suffering, stress, and trauma associated with gathers. Additional protections in regard to gathers should also be implemented, including not conducting gathers during the hottest or coldest months and not when mares are foaling, but instead waiting until new foals are older and stronger.

Fencing within the Territory should be eliminated (or at least substantially reduced) to preserve natural behaviors, including movement, connectivity of habitat, *etc.* Additionally, and in furtherance of such objectives, the USFS should consider elimination of boundary/perimeter fencing.

I am concerned that wild horses may inadvertently be determined to be domestic animals and treated in accordance with State law. The USFS must recognize that 36 C.F.R. § 222.63 concerning the removal of other horses and burros, provides special protection for horses that do not fall initially within the protection of the Act, if they are subsequently introduced into a protected territory “by accident, negligence or willful disregard of private ownership” and become intermingled with wild free-roaming horses. The USFS should clarify the process by which horses may be determined in consultation with the Department of Agriculture to be domestic animals.

The USFS should include provisions protecting wild horses from “capture, branding, harassment, or death.” See 16 U.S.C. § 1331. In the last 2 years, over 2 dozen wild horses have been killed - most of whom were fatally shot. Shockingly, despite being subject to fine and imprisonment, such willful violations are increasing. To the extent the USFS has taken any precautions, they are clearly inadequate.

The USFS must conduct a full investigation into the effects of removing wild horses, including impacts to recreation and tourism, *i.e.*, eco-tourism.

I am concerned that input of individuals with scientific expertise or knowledge of wild horses has not been adequate, including during the collaborative working group process, and may not be adequate going forward.

The Plan should ensure that the “Apache-Sitgreaves wild horse staff” has adequate training and qualifications for decisions it is tasked with making.