

# **EXHIBIT 14**

**Determination of Whether Horses Inhabiting  
the  
USFS Heber Wild Horse Territory are  
“Wild Free-Roaming Horses”**

**Prepared By**

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## **Introduction**

This report documents the investigation and determination of the status of horses inhabiting the "Heber Wild Horse Territory" along the Mogollon Rim of the USFS Apache-Sitgreaves National Forest in Arizona.

Historically horses have inhabited the area for several hundred years dating as far back as the Spanish Missionaries in 1699. Conflict as to the status of horses currently inhabiting the area have resulted in the removal, harassment and death of several horses.

The USFS claims the horses currently on the Forest may be from the neighboring Apache Indian Reservation, as they feel there are no wild free-roaming horses in the Heber Wild Horse Territory, while others state that horses inhabiting the Mogollon Rim and Heber Wild Horse Territory resemble horses that have been there since 1971. Although no accurate estimates of horses have been made, it is thought that horses number approximately 400.

Field investigations were conducted October 3-6, 2006 of the area. Historical and social research was also conducted and assisted in the findings of this report.

## Summary of Findings

Wild free-roaming horses are inhabiting the Heber Wild Horse Territory on the Mogollon Rim of Apache-Sitgreaves Forest as documented from field investigations, photographic records, social and historical research. Data indicates that horses of similar ancestry have inhabited the area prior to the formation of the Heber Wild Horse Territory 1971, and are still inhabiting the area today as of October, 2006.

Although there is no accurate ecological or population data on the horses, it appears at least two or more distinct bands exist in this area. One group with a dominant buckskin stallion numbering from 15- 30 horses and at least one with a dominant black/ bay stallion of approximately the same number of horses. Although some pictures indicate these bands may mix, most of the photo documentation shows the bands as fairly well defined groups with normal stallion-like behavior of either a stallion standing slightly off from the group watching or a stallion demonstrating herding/moving behavior. Typical of wild horse bands, the photos used as reference for this report, indicate a mix of mares with foals at their sides, yearlings and two-year olds, as well as other young stallions with small harems moving within a larger band led by an older lead stallion. ( See Appendix- Photos)

Based on the historical and social data as well as photo and field documentation of horses located near "Buckskin Wash -Horse Ridge- Black Canyon in the Overgaard-Heber area, the horses appear to be a mixed herd of predominantly "buckskin" horses, some with dun stripes in one group and dark brown/black and bays in an another group. Sorrels and palominos are evident in the groups but do not appear to be dominant. The buckskin with dun stripes and the dark brown/ black colorations along with the apparent confirmation of the photographed horses are characteristic of wild free roaming horses and typical of "Spanish" ancestry. Photographic records from both Pamela Reed and Cheryl Crandel document these groups. Records of these horses can be documented dating back to Father Keno and the Spanish Missionaries traveling though this area in 1699. Observations by local residents indicate buckskin horses have been sited on numerous occasions in the same area over the last 10-30 years.

The dark brown, black group was photo documented between July 2003 and Oct 2005 near the Rim Road near Fort Apache Reservoir, along Joe Tank Ridge and West of Forest Road 140 on several different occasions by different Forest Service employees. Field observations from October, 2006 support these findings as fresh manure and hoof prints were observed throughout the area and especially near water sources.

Behaviorally, field observations indicate that horses in the Pinedale area also are free-roaming wild horses, although there is not sufficient data to make a determination as to the ancestry of these horses. Observations from local residents indicate horses have been in the area as long as residents "can remember" and have been sited on

numerous occasions. Based on behavioral and observational records and discussions with local residents, the horses in this area seem to be mostly young stallions or bachelors with small family bands.

No data was observed or obtained that indicated in any way that the horses inhabiting the Mogollon Plateau and the Heber Wild Horse Territory were recent feral released horses. No horses were observed with brands or with horse shoes and it is unlikely there is much permanent migration of horses from surrounding areas. The Mogollon Rim is a geographic barrier known to support wild horses through the last century. All data indicates the horses were living in stable natural family based groups mixing into larger herds at times or bachelor groups with a few young lone stallions characteristic of wild horse behavior.

Further investigations into the behavioral ecology of the horses in this area should be made to develop baseline data and determine best management practices in order to preserve the wild free-roaming horses representing the "living symbols of the historic and pioneer spirit of the West", as well as their contribution as an "integral part of the natural system of the public lands".



## **Wild Free-Roaming Horses and Burros Act of 1971**

The Wild Free-Roaming Horses and Burros Act of 1971 (Public Law 92-195) was passed to protect the wild and free roaming horses and burros of the United States of America existing on public lands. The Act specifically states :

***“ Congress finds and declares that wild free-roaming horses and burros are living symbols of the historic and pioneer spirit of the West; that they contribute to the diversity of life forms within the Nation and enrich the lives of the American people; and that these horses and burros are fast disappearing from the American scene. It is the policy of Congress that wild free-roaming horses and burros shall be protected from capture, branding, harassment, or death; and to accomplish this they are to be considered in the are where presently found, as an integral part of the natural system of the public lands.”***

“Public lands” were defined as “any lands administered by the Secretary of Interior through the Bureau of Land Management (BLM) or by the Secretary of Agriculture through the Forest Service (USFS).” The BLM designated lands inhabited with wild free-roaming horses were referred to as “Herd Management Areas”, while the USFS referred to these lands as “Wild Horse Territories”.

# **Determination of Horses Inhabiting the Heber Wild Horse Territory**

## **Methods**

A combination of data was used in determining the status of horses in the Heber Wild Horse Territory. Area maps were reviewed and historical records researched. A field investigation was made in October 2006 riding, driving and hiking through the area. Social data was obtained from people residing in the area with knowledge about the horses, their behavior and observations. Data was collected with the help of long-time resident in the area Joseph Wager who provided documentation of interviews with local residents as well as photographs of the horses in the area.

## **Field Investigation:**

A field investigation was made during Oct 3-6, 2006 by driving roads, hiking to waterholes and riding the washes and ridges within the Heber Wild Horse Territory and the Mogollon Ridge area. ( Appendix for maps) Areas where recent observations of horses had been made were transected several times by driving on the roads in the area. Washes and rims were observed by riding horses across these areas. Field data collected included habitat assessment, photo documentation of horse prints on roads and at water sources, and observation of stud piles along roads and washes.

## **Habitat**

Horses appeared to use a variety of habitats including the burned forest area and ponderosa pine forest. Manure and hoof prints were observed in both areas. Horse habitat also included the draws and washes with water, open grass meadows, sandy areas and along roads. Although the Rodeo-Chediski fire of 2002 burned a considerable portion of the habitat, sufficient habitat exists to support the number of horses in the area. Most of the habitat viewed as of Oct 4, 2006 was in good to excellent range condition, with the exception being near water sources. In some areas, cattle were grazing the area and erosion was evident in and around water holes.

Based on field observations using manure and hoof prints as well as horse hair marks on trees, it appears that the horses move throughout the area observed and may inhabit one area for several days to a couple of weeks before moving to another area. Because water sources in the area were plentiful both natural and manmade, the horses have the ability to find food, water and cover over a variety of habitats.

Based on stud piles deposited at main roads, it appears that stallions respect each other's "markings" as most stud piles amounted to only one or two droppings on opposite sides of the road. This is not unusual for horses to use roads or fence lines as delineation of "territories". Although wild free roaming horses are not particularly territorial compared to other wildlife species, they will often mark water holes and special areas so that other stallions do not challenge the existing herd.

The Pinedale area exhibited a difference in that there were more stud piles observed at the roads viewed with more droppings. This can be more characteristics of young stallions or stallions who do not have well formed harems and are more interested in marking territory rather than caring for their herds. Bachelor stallions are also known to mark more often.

It is unlikely the horses would migrate up and down the plateau as horses seem to stay in the area they feel most comfortable and usually do not move unless they are searching for food and water or being pursued and must flee. It is likely that if the horses moved as a result of the fire, that the herds associated with the area before the fire returned to their home habitat.

Recent fences and cattle guards in the area may limit horse migration to some areas, but there was not sufficient data to make any determinations of habitat use based on recent fence locations.

Seasonal ability to find and utilize forage, water and cover are the key components to investigate in order to evaluate habitat use in the area. Although wild horses may prefer grassy meadows near water, they are known to adapt to a variety of habitats from forest zones and rocky outcrops to high desert and ocean saltgrass marches. Based on field data of hoof prints, grazed areas, trails, manure droppings and observations, it appears the horses like to use ridges for viewing, washes and draws for protection and watering and forest with grass/shrubs for grazing/browsing. Migration patterns seem to have varied from up and down washes, through forest slopes and along roads in some cases. This is typical of other wild horse herds familiar with their habitat.

### ***Wild vs. Feral Horses***

Since it is thought most horses in the Western United States today were at one time domesticated, wild horses have been referred to as "feral or free-roaming". From a horse's perspective, if it was born in the wild and learned the social ecology of a herd, then it is not a feral domesticated horse, but a wild creature.

Although it has not been uncommon for ranchers to release domestic horses or for domestic horses living near wild horses to escape, these horses may be at an adaptive disadvantage compared to wild adapted horses. Since most horse behavior is learned behavior, feral horses who have learned to find food and water in a coral with friends

may try to return to corals with food and water unless they are accepted into a stable herd with good leadership. Feral domestic horses returned to the "wild" often do not survive droughts, or cold winters because they do not have the "behavioral herd wisdom" to know how to survive.

Horses have a strong need to "belong" to a social group and to most wild horses this means their friends and the herd. Although wild horses usually prefer to find food and water in their habitat, if forage is limited or water not available, they will look for sources even if it means using human related habitat. The other exceptions when wild, non-feral horses encroach upon human habitat usually are related to either a young or bachelor stallion smelling domestic mares or a lone horse with no herd looking for friends. Otherwise wild horses prefer to be safely in their stable bands with good leadership usually characterized by a lead stallion and often a lead mare with other less status mares and associated lesser stallions and small family bands as observed in both the Buckskin and Dark Brown/Bay/Black bands.

Based on habitat use, photo observations of the groups, the direct sightings and accounts of various people observing the Buckskin band and at least one Dark Brown/Black/Bay group, these bands demonstrate wild horse characteristics. Their coloring, behavior, intelligence, adaptation and their ability to utilizing the full extent of their habitat and maintain a stable and sustainable population of various aged and sexed members all contribute to this conclusion.

## **Historical Records**

### **Map Names**

Investigation of current maps ( Maps M-1) revised in 1996, with the original dating back possibly as far back as 1920s, indicate many of the geological features in the area contain horse names. It was characteristic for people to refer to features based on the what they observed in the area, a person who lived there or the activity taking place at the time of naming. Names found in the area where horses are located today, such as Buckskin Wash, Dead Horse Point, and Horse Canyon most likely were named because there were Buckskins in Buckskin Wash, a dead horse at Dead Horse Point and horses in Horse Canyon. Today, there are still buckskin horses residing near Buckskin Wash and horses in Horse Canyon.

### **Historical Literature**

Historical records were reviewed and indicate the area has had wild horse documentation since Father Keno's travels in 1699. (see Appendix). More recent documentation,(1922) of wild horses include *Hashknife Cowboy, Recollections of Mack*

*Huhges* by Stella Hughes. In a section on "wild horses" she states. " There were bands of wild horses running all the way from Mormon Lake, out of Flagstaff, clear to Heber on the Mogollon Rim." In an article from Arizona Highways in January 1988, the author states. " I gained respect for the feral horses when I lived on an old homestead near Deer Springs on the Mogollon Rim. " She goes on to tell stories of a black stallion which she encountered several times on the Rim and the other bands of horses.

It appears from historical literature that Black/Buckskin horses have inhabited the Rim since at least the early 1900s and most likely since 1699.

The US Forest Service map indicates that in 1971-72 they defined an area as the Heber Wild Horse Territory and began implementing a management plan. It appears that no Wild Horse Management Plan was ever implemented. ( See Appendix – Administrative Record)

Historical data indicates horses have inhabited the area very likely since the Spanish Missionaries travels continuously up to today. Although, ranch horses and other feral horses may have been introduced into the original population of horses, the "wild and free roaming horses" appear to have a sustainable population indicated by the color, markings and confirmation of the horses photographed recently ( See Appendix)

## **Social Research**

Interviews and information conducted by Joe Wager and others obtained through direct conversations, indicate that local residents have on numerous occasions observed horses on the Rim from campgrounds and fire towers to roads and near their homes. Trail riders, hunters, campers, and other recreational users have also observed horses and signs of horses.

Human population in the area appears to have been relatively sparse in the early 1970s but has continued to grow since that time. Hence, there are more field observations of wild horses recently in the last 10-15 years than from 1971- 1990.

Social data also supports that a fairly stable population of various bands of black/dark brown/bay horses and buckskin horses exist on the Rim within and near the original Heber Wild Horse Territory. This is based on numerous visual observations of the similar bands by various people in the same area as well as photo documentation. Bachelor stallions have also been documented particularly in the Pinedale area. (See Appendix). There is insufficient data to make any scientific findings concerning the horses in the Pinedale area, but clearly there is sufficient data to support findings of at least two or more stable groups of wild horses in or near the Heber Wild Horse Territory.

*Mary Ann C. Simonds*  
*Equine Behavioral Ecologist*  
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March 5, 2006

Anthony Merrill  
Bryan Cave. LLP  
One Renaissance Square  
Two North Central Ave Suite 2200  
Phoenix, AZ 85004-4406

Ref: Heber Wild Horse Case

Dear Mr. Merrill:

Attached is my report concerning the Heber Horses. Please let me know if I can be of any further assistance to you or your clients.

Sincerely,



Mary Ann Simonds

APPENDIX

## Appendix



# Appendix

## Photographic Records

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- P-3 Photographs by Joe Wager/Cheryl Crandel appear to be same As IDA 000212-250
- P-4 Photographs by Mary Ann Simonds, Oct 2006
- P-5 Pinedale horses –before and after shootings on CD
- P-6 Television Channel 12 News –Dec, 2005- on DVD

USFS PHOTOS

# Feral Horses Photo Log

Four sets of pictures

07/29/03 Photos

N. of Forest Road 300 (Rim Road near Fort Apache Res.) T. 10 N, R. 21 E  
Taken by Randall Chavez, Operation Team Leader, Lakeside Ranger District  
Labeled - DSCF0078 - DSCF0081

09/19/03 Photo

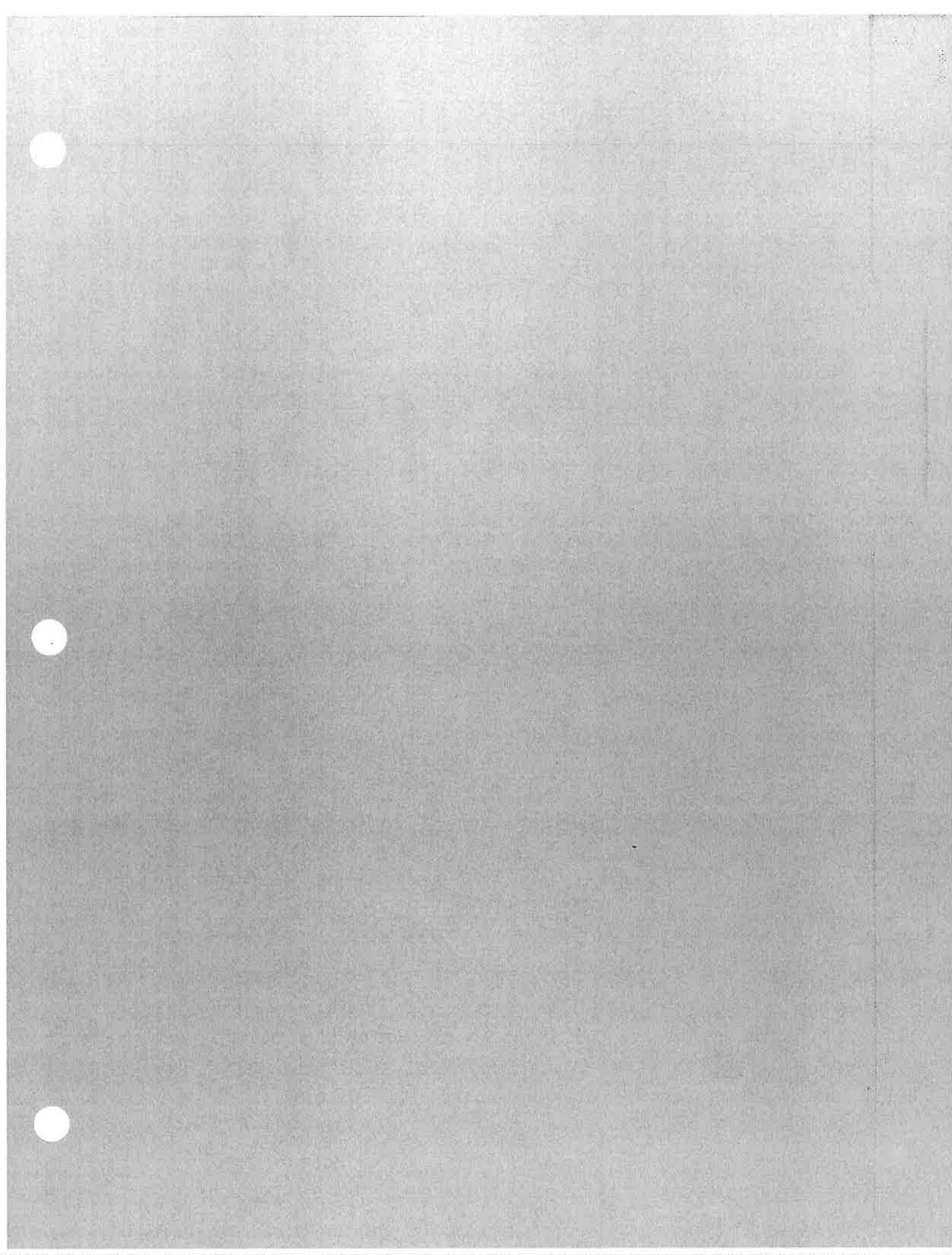
S. of Forest Road 300 & Forest Road 143, T 10 N, R 20 E  
Taken by Randall Chavez, Operation Team Leader, Lakeside Ranger District  
Labeled - DSCF0089

09/25/05 Photos

N. of Forest Road 136 (along Joe Tank Ridge) T. 10 N, R. 21 E  
Taken by Lorna McNeil-Cox, Outdoor Recreation Planner, Lakeside Ranger District  
Labeled - 09\_25\_05\_horses1 - 09\_25\_05\_horses22, & 09\_25\_05\_horses\_colts

10/19/05 Photo

W. of Forest Road 140, T 10 N, R 21 E  
Taken by Pete Padilla, Assistant Timber Sale Administrator, Lakeside Ranger District  
Labeled - DSCF0035 - DSCF0040



**In Defense of Animals Photos**

**Of the**

**Heber Horses**

**taken by**

**Pamela Reed**

**September 2005**

**IDA 000142- 000250**



