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**Western
Watersheds
Project**

Working to protect and restore Western Watersheds and Wildlife

April 20, 2021

Heber Wild Horse Territory Comments

P.O. Box 640

Springerville, AZ 85938

Submitted via the CARA database system this date.

Re: Heber Wild Horse Territory Management Plan Project Draft EA

Dear Mr. Best,

The following comments are submitted on behalf of Western Watersheds Project with regard to the Heber Wild Horse Territory Management Plan Project Draft Environmental Analysis (EA). As you are certainly aware, Western Watersheds Project is keenly interested in the ecological health of the public lands in the Apache-Sitgreaves National Forests and has a long history of advocating for protection from livestock damage to these public lands. Western Watersheds Project (WWP) is the nation's foremost conservation organization working to sustain and recovery healthy public lands from a grazing perspective. Although we do not take a position on wild horse management levels in these comments, we do seek to reduce the much more ecologically significant impacts of domestic cattle and sheep, and to ensure that federal agencies uphold the rule of law.

It is deeply troubling that livestock (specifically cows) are given such a large portion of the available forage before the analysis of whether the Wild Horse Area (WHA) can support the herd even begins. The total available forage is identified as 989,063 pounds, and half of that is 494,531 pounds. Cows are given 506,000 pounds. That leaves just 483,063 pounds remaining, after livestock get their "share."

The above numbers are confusing when considered in light of this statement on page 4 of the Draft Management Plan: "Wild ungulate, permitted livestock, and horse use does not exceed the estimated grazing capacity." Is the estimated grazing capacity the total forage, the forage allocated to livestock, to wild horses, or a combination?

This project requires an Environmental Impact Statement (EIS)

The use of an EA for this project fails to comply with National Environmental Policy Act (NEPA) requirements. The length of this EA alone is a clear indication that the Forest Service is precluded from a Finding of No Significant Impact (FONSI). As noted below, at over 150 pages, not including relevant reports and assessments, this document is a far cry from the concise document described by the CEQ that is required for an EA:

Generally, the EA includes a *brief* discussion of:

- The need for the proposal
- Alternatives (when there is an unresolved conflict concerning alternative uses of available resources)
- The environmental impacts of the proposed action and alternatives
- A listing of agencies and persons consulted.

There is nothing “brief” about this EA. What the U.S. Forest Service (USFS) has done for this project is attempt to toe the line between EA and EIS, using the shortened time frames and reduced public involvement requirements required by EAs for a project that clearly requires the more in-depth analysis and public oversight and public engagement opportunities found in an EIS. The result is the impacts of the proposed action on wild horses, federal public lands, and all other natural resources are not getting the hard look they deserve.

32 page BE for aquatic species
76 page Historic Research and Ethnographic Study
63 page Proposed AML determination
29 page WinEquus Population modeling report
24 page Terrestrial Wildlife report
22 page Rangeland Vegetation report
12 page Recreation Resource report
15 page Botany BE
13 page Cultural Resources report
47 page Watershed report
35 page Wild Horse report
30 page Vegetation Management report
146 page Draft EA
544 Total pages

The USFS acknowledges that tribal consultation for this project was hindered by, among other issues, the pandemic and the necessary closures of both federal and Tribal offices. This is yet another argument in favor of a more thoroughly vetted public input process and expanded time frames found in the EIS process. It is unclear why the USFS believes it is possible to make a Finding of No Significant Impact with all of these factors.

Drought

Another factor that indicates the need for an EIS is the historic and ongoing drought in the region. The Draft Management Plan (at page 4) appears to ignore the current ongoing, long-lasting, and severe drought occurring in the southwest and does not account for this significant issue.

Water Availability

As detailed in the *Proposed Appropriate Management Level Determination* document, there are generally enough water sources within the territory to keep horses watered year-round. Limiting factors may occur in times of extreme drought. Contributing water sources include range improvements, including the addition of tanks, all of which shall continue to be maintained by permittees, the Forest Service or volunteers.

The USFS should have acknowledged the current state of drought in the HMA and specifically addressed the issue with a specific plan for which water infrastructure projects are necessary right now *and* into the future. Again, this is a clear indication that a FONSI is not possible and the use of an EA is not appropriate.

“Excess horses”

It is troubling that horses can be considered “excess horses” based on criteria that includes “resource damage in sensitive areas such as springs, riparian areas, threatened and endangered species habitat, as well as [sic] *if horses are identified as a contributing factor.*” 2021 USFS DMP at 5, emphasis added; *also at* Table 2 of DMP. How much of a contributing factor is needed to identify horses as “excess?” Is a one percent contribution enough? How does the public know what this contribution factor is?

All of the ecological indicators (at Table 2 of the DMP) and some of the horse population numbers (at Table 3 of the DMP) the USFS will monitor to determine whether excess horses will be removed are indicators impacted by livestock use. Where the USFS allows livestock grazing in HMAs and both animals are present, how will the USFS determine which species is causing the damage that triggers a removal of wild horses? How will the USFS know if livestock have caused damage, were moved, then wild horses occupied the area?

Here, the USFS, on behalf of the livestock industry, is using wild horses as a convenient scapegoat for land health deterioration. Any high concentration of large herbivores can damage land health, but wild horse numbers are rarely permitted to get that numerous. The bulk of the damage on public lands comes from domestic livestock that outnumber wild horses, but horses are given full blame and classified as “excess” when they are just contributing to the habitat degradation. Is this because wild horses are not a commercial enterprise operated on public lands? Is it because millions of dollars can be made via helicopter-driven roundups, long-term holding facilities, and feed production? Unfortunately, wild horse populations are routinely reduced in the name of a “thriving natural ecological balance” while no such legal requirement applies to livestock. What assurances does the public have that the USFS will not simply manage wild horse populations downward then move livestock numbers upward? The USFS cannot simply swap commercial livestock for non-commercial

horses. If the lands on this allotment and HMA are degraded, livestock numbers must also be significantly reduced.

It appears the USFS will do all that is needed to appease ranchers and fund the roundup industry by aggressively identifying horses ripe for taking off the forest. We strongly encourage the USFS to take another look, and a hard look, at this project and the potential impacts.

Terrestrial Wildlife Report

WWP had expected the various specialist reports would identify the conditions on the ground, the impacts livestock grazing and wild horses were having on those resources, and then those specialist reports would be used to determine the AML. We developed this assumption because the stated purpose of the project is to develop and implement a territory management plan, and the stated need for the proposal is to establish an AML. 2021 USFS Draft EA at 6. It is therefore interesting that the various reports included in the Draft EA for this project make clear that the USFS had already determined that the AML for the Heber WHT would be between 50-104 horses. 2021 USFS Terrestrial Wildlife Report (TWR) at 1; 2021 USFS Population Modeling Report (PMR) at 1; 2021 USFS Biological Evaluation (BE) at 1; 2021 USFS Vegetation Management Report (VMR) at 19. The determination that the AML would be 50-104 horses has predetermined the breadth of the analysis the specialists conducted.

The TWR identifies the affected environment as including an AML of 50-100 horses, states that wild horses are in direct competition with domestic and wild grazing animals for forage and water, but does not address a reduction in the number of livestock as a possible solution. The analysis in the TWR also indicates that if the USFS does nothing regarding wild horse management (implements the no action alternative), the impacts will be generally the same as for the proposed action – may affect various species, but not result in a trend towards listing or loss of viability. The USFS does state that wild horse populations, unchecked, will impact two specific species – the Navajo Mogollon vole and silky pocket mouse:

Without management the horse population would continue to grow, an increase in horses on the landscape could cause a direct impacts to small mammals from trampling[.] Both Navajo Mogollon vole and silky pocket mouse rely on burrows, which can be impacted when high ungulate densities compact soils and trample burrow stands (Zwartjes et al. 2005). If the horse population increases as modeled...over grazing is likely to occur including a reduction in continuous grasses and grass height and shrub cover. In addition, both species [the vole and pocket mouse] depend on grass and forb seeds for food resources, these mammals are affected when grazing prevents these food resources from developing (Zwartjes et al. 2005).” 2021 USFS TWR at 7.

But, then the USFS changes the analysis for the Proposed Action and states: “there have been no Springerville silky pocket mice or Navajo Mogollon voles documented in the territory[.]” 2021 USFS TWR at 11. Clearly, the USFS is skewing the analysis to indicate that unmanaged wild horse populations are bad for certain wildlife, while at the same time saying managed populations will have no affect because those certain wildlife don’t actually exist in the project area and effects will only occur to those species “if present.” This is a deeply flawed NEPA analysis that must be corrected.

The USFS must correct the statements at page 15 of the TMR that implies livestock grazing has improved wildlife habitat:

The following past agency actions have potential effects on vegetation, forage and wildlife habitat: *grazing*, noxious weed treatments, range forage improvement, tree encroachment control, watershed improvements, and wildlife habitat improvement (table 5).

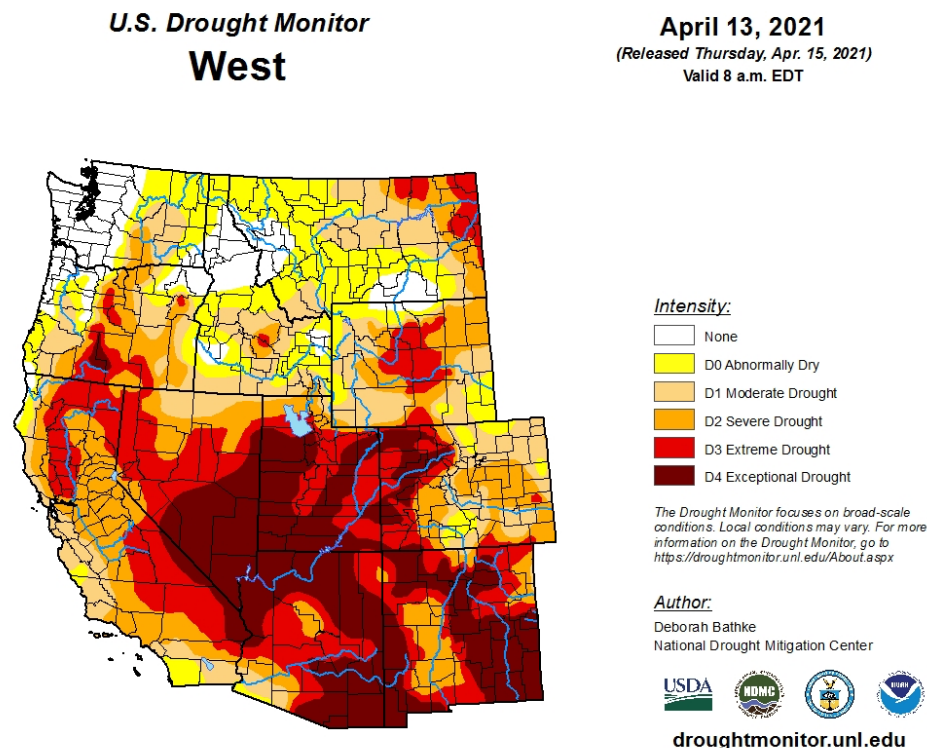
In general, these past activities have modified vegetation conditions to increase the quality and quantity of forage within the analysis area, and *improved wildlife habitat* factors such as cover and security areas. The current conditions for wild horses, wildlife and livestock present within the Heber Wild Horse Territory are a result of the effect of these activities on background natural conditions.

These activities have generally provided a benefit to the wildlife habitat and vegetation conditions in the treated portions of the territory.

There is no evidence or scientific support for the implication that livestock grazing improves wildlife habitat or vegetation conditions. Please remove “livestock” and “livestock grazing” from the above sentences.

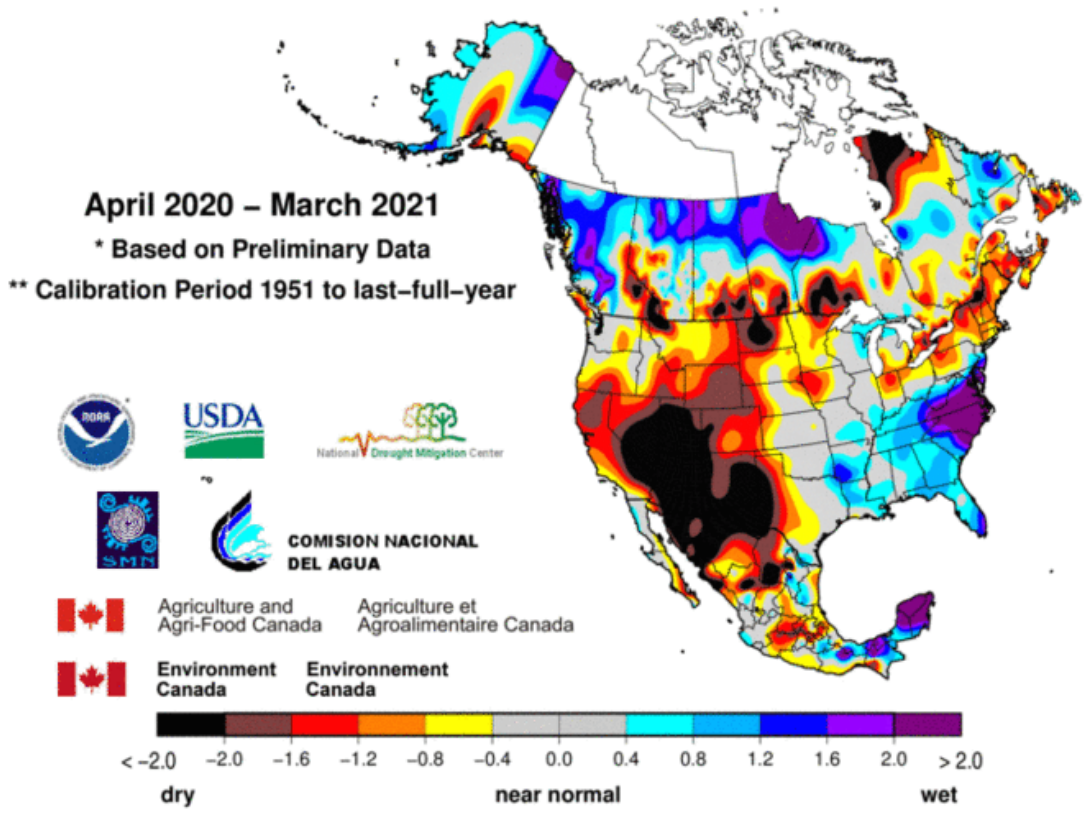
Water and Drought

The hydrology report (Appendix C of the Proposed AML) is based on field visits to water sources from 2014. This information is seven years old and outdated. The USFS should have revisited these water sources to verify their condition and capacity to support wild horses *and* livestock use. This is especially important in light of the historic and chronic drought in the region.



The Draft EA for this project states that “excess” horses will be determined, in part when the Standard Precipitation Index (SPI) reaches a value of minus 1.00 or less for the preceding 12-month period *and* forage production decreases to less than 50 pounds per acre. 2021 USFS Draft EA at 22. As the USFS must be aware, the SPI is currently well below -1.00. Forage throughout Region 3 of the USFS, and specifically on the Apache-Sitgreaves National Forests, and on these allotments, has already been impacted. It appears the USFS may have already set the AML beyond what the range can support unless the USFS plans to reduce permitted livestock grazing immediately and until the SPI reaches positive numbers or the range recovers.

12-Month Standardized Precipitation Index



Predator information is lacking

There is no information in any of the available documents and reports regarding the impact of predators on the wild horse population and how improved predator management (in other words, stop killing predators and let them do their job of maintaining healthy ecosystems) will reduce the number of wild horses annually. This information must be included and its absence precludes a FONSI.

Recreation and Cultural Resources Analysis

WWP would like the USFS to conduct the same level of recreational impacts analysis for livestock grazing that it has conducted for the wild horse EA in the Recreation and Cultural Resources Reports.

It is safe to say we have rarely, and possibly have never, seen an analysis of livestock grazing impacts that acknowledged manure in campgrounds, water quality degradation, impacts to naturalness when vegetation is denuded, and all combining into a loss of recreational opportunities. Nor have we seen such an explicit acknowledgment that grazing animals impact cultural resources directly and through soil compaction and loss, and that livestock congregate near water which is also where cultural resources are often located. All of these things happen on a much, much larger scale as a result of the ubiquitous livestock grazing authorizations forest-wide, yet the USFS ignores these impacts when it analyzes impacts from livestock grazing for permit authorizations. This is an arbitrary and capricious decision regarding which impacts are analyzed and is a clear indicator that the USFS has a preference for authorizing livestock grazing and is willing to pretend those impacts do not exist, and precludes a FONSI. We look forward to including this analysis as an example of what the USFS should be doing for each livestock grazing authorization.

Rangeland Vegetation Analysis

It appears the Heber allotments within the project area are experiencing much higher levels of utilization than the Black Canyon allotments, with 45 to 50 percent utilization recorded since 2014 on the Gentry allotment and no data collected in 2018 or 2019. In light of this information and the ongoing, long-term drought in the area, the USFS should reduce livestock grazing significantly to protect natural resources and ensure enough forage for wild horses and wildlife.

The utilization level recommended by Holecheck and Galt (2000), and cited by the USFS in the Rangeland Vegetation Report, does not take into account the reality of long-term drought in the project area, nor the impacts of fire. The USFS should not follow those recommendations without also considering drought, climate change, and additionally, the impacts of the Rodeo-Chediski fire and in anticipation of future fires that will occur in the area of the allotments.

The Draft EA and the Rangeland Vegetation Analysis, as well as other specialist reports associated with this project, repeatedly refer to the “site-specific National Environmental Policy Act analysis” on the Heber allotment that would increase utilization to 35 percent. The reference to the NEPA analysis fails to acknowledge that the NEPA process for the Heber allotment was completed in September 2020, and also ignores the fact that the analysis upon which the decision for the Heber Allotment was made is outdated. The Heber Allotment Biological Assessment was dated 2015, failed to cite more recent scientific literature after 2015, and failed to account for the presence or possible presence of Mexican gray wolves. The analysis for this project should include an accurate description of the Heber Allotment EA and decision, as well as an accurate description of the utilization levels authorized by that EA and decision. It is unclear what the utilization for the Heber allotment or pastures is or will be, into the future. This information is necessary to develop an AML for wild horses.

In WWP’s Objection in response to the Heber Allotment decision we provided references to more recent scientific information and we include that Objection here as Appendix A (including the appendices we provided with our Objection) and ask that it be included as part of this project record.

Watershed Report

The Watershed Report includes 6th HUC watershed condition indicators for all indicators *except* range health. Please explain why range health was not included. This is especially important because nearly the entire project area has watersheds classified as Functioning at Risk and “[t]he cause of the majority of the proper functioning conditions ratings being functioning at risk primarily includes effects from the 2002 Rodeo-Chediski Fire, road placement, *grazing of cattle and wild ungulates*, and mining.” USFS 2021 Watershed Report at 11.

Table 5. Existing watershed condition classes and watershed condition indicators for the Heber Wild Horse Territory Project

6th Field HUC Watershed	Aquatic Biota	Riparian	Water Quality	Water Quantity	Aquatic Habitat	Roads and Trails	Soil Condition	Fire Effects	Forest Cover	Forest Health	Invasive Conditions	Range Health	WCC*
Bear Canyon-Black Canyon	Fair	Poor	Good	Good	Good	Poor	Fair	Poor	Poor	Good	Good	*	FAR
Buckskin Wash	Fair	Fair	Good	Good	Poor	Fair	Fair	Poor	Poor	Good	Good	*	FAR
Upper Brookbank Canyon	Good	Poor	Good	Good	Fair	Poor	Fair	Poor	Good	Good	Good	*	FAR
Upper Wildcat Canyon	Fair	Good	Good	Good	Fair	Fair	Good	Poor	Good	Good	Good	*	FP
West Fork Black Canyon	Good	Fair	Good	Poor	Fair	Poor	Fair	Poor	Poor	Good	Good	*	FAR

*WCC = watershed condition class; FAR = functioning at risk (fair); FP = functioning properly (good).



The USFS has failed to respond to our prior comments

In our prior comments, WWP asked the USFS to respond to our concerns in the Environmental Assessment (EA) for this project. For the most part this has not been done. We therefore ask once more that the USFS respond to our concerns:

- Disclose and compare the number of wild horses versus livestock authorized in the project area and include a ratio of the number of livestock:wild horses
- Identify how livestock grazing is displacing wild horses
- Identify how livestock grazing is contributing to the cumulative impacts associated with wild horse use of overlapping areas
- Consider an alternative that reduces the Animal Unit Months (AUMs) allocated to livestock in areas where there are conflicts between horses, wildlife, and livestock
- Analyze how reducing the number of AUMs for livestock impacts the “appropriate management level” for wild horse populations
- Analyze an alternative that removes all livestock grazing from the project area, including the removal of livestock fencing and describe how that will impact the “appropriate management level” for wild horses
- Analyze how predators contribute to healthy wild horse populations
- Analyze how livestock management negatively impacts predator populations and how that impacts wild horse populations
- Analyze and disclose the costs associated with reducing wild horse populations through pasturing in holding pens as part of the Federal Wild Horse Program

The impact of wild horse herbivory and herbivory by livestock (both cattle and sheep) are cumulative on the health of rangelands within the project area. The USFS has a duty under NEPA to analyze these

cumulative impacts, and to answer the questions posed above, but has failed to do so. This precludes a FONSI.

WWP reiterates our concerns about the proposal to use vegetation treatments to remove juniper or other native vegetation via mechanical thinning or prescribed fire. In our experience, vegetation treatments are often used to artificially prop up the livestock grazing industry on federal public lands by removing native vegetation livestock (cows) don't eat, but that provides important habitat for wildlife. Please explain and provide scientific support that vegetation thinning or burning would support wild horse management and would not harm wildlife for any proposed alternatives that include vegetation thinning or burning.

While determining thresholds for wild horse removal, the Forest Service is apparently going to consider utilization exceeding 35% on over 30% of the key monitoring areas for two consecutive years or any 2 years out of 5 as a rationale for removing wild horses. Please explain how the Forest Service will know whether wild horses or livestock are the cause of the utilization over 35%. Will the Forest Service first consider removing livestock from the areas where utilization exceeds 35%? If not, please explain why not.

We have similar requests for other indicators of overutilization – how will the Forest Service determine that it is wild horses and not livestock and associated infrastructure that are responsible for changes in herbaceous species composition, water availability, ground cover, and forage availability.

The proposed action includes the installation of seven roadside dirt tanks, two “working facilities,” and a fence to be used as a trap or holding fence. It appears that much of this new infrastructure will be installed in the areas where wild horses are currently fenced out of due to pasture fencing. Please detail exactly how this new infrastructure will benefit wild horses or impact their movements if the pasture fences remain in place. Would any of this infrastructure be used by livestock permittees or their livestock?

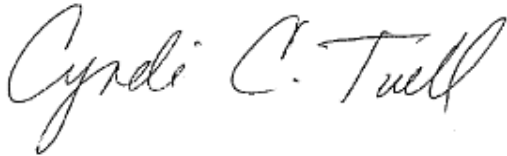
For the management tools identified in Appendix A of the scoping documents for this project, WWP asks the Forest Service to add the following:

- Tools to change patterns of horse use and to maintain horse health and habitat: *remove livestock from the landscape and remove livestock fencing*
- Tools to maintain horse health and habitat: *in times of severe drought, remove livestock from the landscape*

Conclusion

We would appreciate your full consideration of our comments and concerns. We look forward to reviewing future NEPA documents for this project. Please ensure that we are advised of the availability of any forthcoming NEPA documents and that WWP remains on the contact list/interested party list for this project.

Sincerely,

A handwritten signature in black ink that reads "Cyndi C. Tuell". The signature is written in a cursive style with a large initial 'C'.

Cyndi C. Tuell
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Western Watersheds Project
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Encl: Appendix A, WWP's Objection to the Heber Livestock EA decision.