period can vary. For complex rulemaking, agencies may provide for longer time periods, such as 180 days or more." This is further evidenced in the above-mentioned plan to modify the FSH where the public comment period allotted is 4 months .https://www.federalregister.gov/uploads/2011/01/the_rulemaking_process.pdf Furthermore, this planning process has the potential to severely impact the individual Heber Wild Horses, many other native species, and hence to affect the public which includes ourselves and those thousands we represent. Though there is a large number of issues and pages (see below) and reading materials missing, we would like to provide specific and relevant information on those that are relevant to the South West and to the species involved.

Overall Volume

- Given the sheer volume of additional materials and reports, and references which are mentioned however not provided, as well as the life and death nature of the outcome for these wild horse families, and the public impact, additional time for review is necessary.

It took 26 hours and 45-minute man-hours to search for and file references listed, and/or document those that could not be found online. This doesn't include time to read any of the reference materials found and filed to be read. For documents found, and those not found but having the number of pages listed we have summed the number of pages to be approximately 7, 271 pages of information that has to be read to make an informed and substantive public comment on this plan. (Not to mention the missing environmental information which should be included for the public.)

Two FIRST TIME Plans Included (after 50 years)

This being the first territory management plan for this herd, in FIFTY YEARS, while wild horses were not protected and were sabotaged and removed. Let us err on the side of protection of these wild horses for once, their lives and their families, during this public participation process, that is for them. There are many significant issues that need to be clear and not rushed through.

- Given the short comment period for 2 proposals, the first Territory Management Plan (TMP) for this herd, and an Environmental Assessment (EA), the first-ever for this heard after 50 years, the reading load if we included every single day of the 30 day comment period, is approximately 242 pages per day as we have counted the pages of available reference reading.

-This obviously is not possible because there needs to be time to mail this to you because CARA has too many limitations to be able to submit, and it frequently crashes

when we try to use it. Additionally, the Easter holiday is included in this 30 day comment period. Of course, this does not include all of the reference materials that are not available to the public online, or online without pay or the environmental information known to the USDA FS Region 3 that is not referenced or included for the public's review but clearly should be.

Volume Missing but specifically referenced by the USDA FS
Further, Legal obligations not met per 36 CFR § 220.4 General requirements**.**

> (h) *Incorporation by reference.* Material may be incorporated by reference into any environmental or decision document. This material must be reasonably available to the public and its contents briefly described in the environmental or decision document. (40 CFR 1502.21)

Review Time Lost to the Transmittal Process
- Again, the CARA office still has these same issues with data limitations. Hence our comment period is again further limited by forcing us to snail mail them and the USDA FS Region 3, not accepting them to be emailed to ANY other email or allowing us to have them hand-delivered this time. We address our concerns over the comment period length further below.

Social Justice - NEPA Information Availability

- Additionally, we are requesting that the list of reference materials referred to, however not available online, or, available but only if paid for, be furnished online for the public. (list attached). These documents are part of the decision-making process. They were listed in the references at the end of and throughout the multiple reports attached to the management plan proposal.

The public must be able to make substantive comments and suggest subsequent changes that influence the final decision and for this, they need the information and the time.

SUMMARY
For all these reasons above, we respectfully and in good faith ask that you:
1. Withdraw this version of Draft EA and Territory Management Plan.
2. Please include and review our comment which was timely and correctly submitted.
3. Please include links to all references you include for public accessibility.
4. Resubmit the updated Draft EA and Territory Management Plans.

5. Extend the comment period to a minimum of 2 months.

Sincerely,

Citizens Against Equine Slaughter (CAES)
PO Box 115
Drain, OR 97435

Patience O'Dowd Founder and Board Member
Stacey Sanchez Member
Theresa J. Barbour, Water for Western Wildlife Emergency Needs, consultant for CAES

Wild Horse Observer Association (WHOA)
PO Box 932
Placitas, NM 87043

Patience O'Dowd Founder and Board Member
Stacy Sanchez Member

Wildlife Protection of New Mexico (WHOA-Voters)
PO Box 932
Placitas, NM 87043

Patience O'Dowd Founder and Board Member

_ATTACHMENT AFFIDAVIT 2 MC Lester Friedlander 2...

Attachment 2 - Response From Anthony Madrid 04/06/2021

On Tuesday, April 6, 2021, 07:47:16 AM MDT, Madrid, Anthony -FS <anthony.madrid@usda.gov> wrote:

Good morning Patience,

I want to acknowledge that we received your comments on the Heber Wild Horse Territory Management Plan. Your comments were timely. I accepted the hard copy comments, provided them to my NEPA staff and they scanned them in to our database. Based on our initial research, we did not include your comments in preparing the response to comments. This was an oversight on our part. I take full responsibility and I apologize for the oversight.

I have asked my staff to review your comments and include them in our response to comments. As we move from the draft environmental assessment to the final environmental assessment we will incorporate your comments and update the environmental assessment as appropriate. We will not be withdrawing the current comment period nor will we be extending the comment period.

My folks have uploaded cited references for the following specialist reports to CARA.

- Wild Horse Report
- Botany Report
- Terrestrial Wildlife Report
- Vegetation Report
- Socio Economics Report
- Range report

My folks are working on all other references and they will be posted this week. Remaining reports to post cited references are

- Aquatics BE and Specialist Report
- Watershed Report
- Cultural Resources

- AML

Again, I apologize for the oversight and commit to incorporate your comments in to the final environmental assessment as appropriate. Thank you for your interest in the Heber Wild Horses and your engagement on the management plan.

Anthony Madrid

Forest Supervisor

Forest Service

Apache-Sitgreaves National Forests

p: 928-333-6301

anthony.madrid@usda.gov

30 S. Chiricahua Drive Springerville, AZ
85938

www.fs.fed.us

Caring for the land and serving people

Attachment 3 - Screenshot of documents available to the public

Taken on 04/19/21 from the analysis tab found at the following FS link provided to the public: https://www.fs.usda.gov/project/?project=18916&exp=overview

⊟ Draft EA Specialist Reports	
◦ Wild Horse Population Modeling (PDF 10902kb)	***03-19-2021***
◦ Range Report (PDF 642kb)	***03-19-2021***
◦ Recreation Report (PDF 1030kb)	***03-19-2021***
◦ Botany Biological Evaluation (PDF 500kb)	***03-19-2021***
◦ Cultural Resources Report (PDF 358kb)	***03-19-2021***
◦ Watershed Report (PDF 5069kb)	***03-19-2021***
◦ Wild Horse Report (PDF 564kb)	***03-19-2021***
◦ Vegetation Report (PDF 1317kb)	***03-19-2021***
◦ Terrestrial Wildlife Report (PDF 473kb)	***03-19-2021***
◦ Aquatics Biological Evaluation and Specialist Report (PDF 1569kb)	***03-19-2021***
◦ 2019HorseBandObservations (PDF 4014kb)	***04-02-2021***
◦ HWHT_SocioeconomicReport (PDF 717kb)	***04-15-2021***
⊞ Legal Notice and Cover Letter	
⊟ References Cited	
◦ Horse Report Literature Cited (PDF 48403kb)	***04-02-2021***
◦ Terrestrial Wildlife Literature Cited (PDF 26692kb)	***04-02-2021***
◦ 2017_EthnographicStudy (PDF 2835kb)	***04-02-2021***
◦ Vegetation Literature Cited (PDF 99146kb)	***04-02-2021***
◦ Range Report Literture Cited (PDF 12540kb)	***04-02-2021***
◦ Botany Literature Cited (PDF 12086kb)	***04-02-2021***
◦ Socioeconomics Literature Cited (PDF 13619kb)	***04-06-2021***
◦ Watershed Literature Cited (PDF 58921kb)	***04-06-2021***
◦ Cultural Resources Literature Cited (PDF 3077kb)	***04-06-2021***
◦ AquaticReferences (PDF 96978kb)	***04-06-2021***
◦ Shuyler1973NationalAnimalFeedlotWastesResearchProgram (PDF 52435kb)	***04-06-2021***
◦ AML_Report_literature_cited (PDF 63839kb)	***04-08-2021***
◦ How to download large (or zipped) files from the website (PDF 1600kb)	***04-09-2021***
◦ Vavra_et_al_1989 (PDF 525kb)	***04-16-2021***
◦ Jameson1967OverstoryUnderstory (PDF 697kb)	***04-16-2021***
◦ CurtisEtAl2002GnRHWhittailDeer (PDF 737kb)	***04-16-2021***
◦ AZGF2014LangleyMoserEnglebertPersonalComm2015_AnimalMovement (PDF 350kb)	***04-16-2021***

Attachment 4 - Second Letter from CAES et al to Forest Service Re NEPA Violations

On Thursday, April 8, 2021, 07:14:47 PM MDT, Patience O [redacted] > wrote:

Anthony Madrid
Forest Supervisor
Apache Sitgreaves National Forest

Re: Further Request for Re-submittal of the Draft Environmental
Date: April 08, 2021
Analysis and Draft Territory Management Plan.

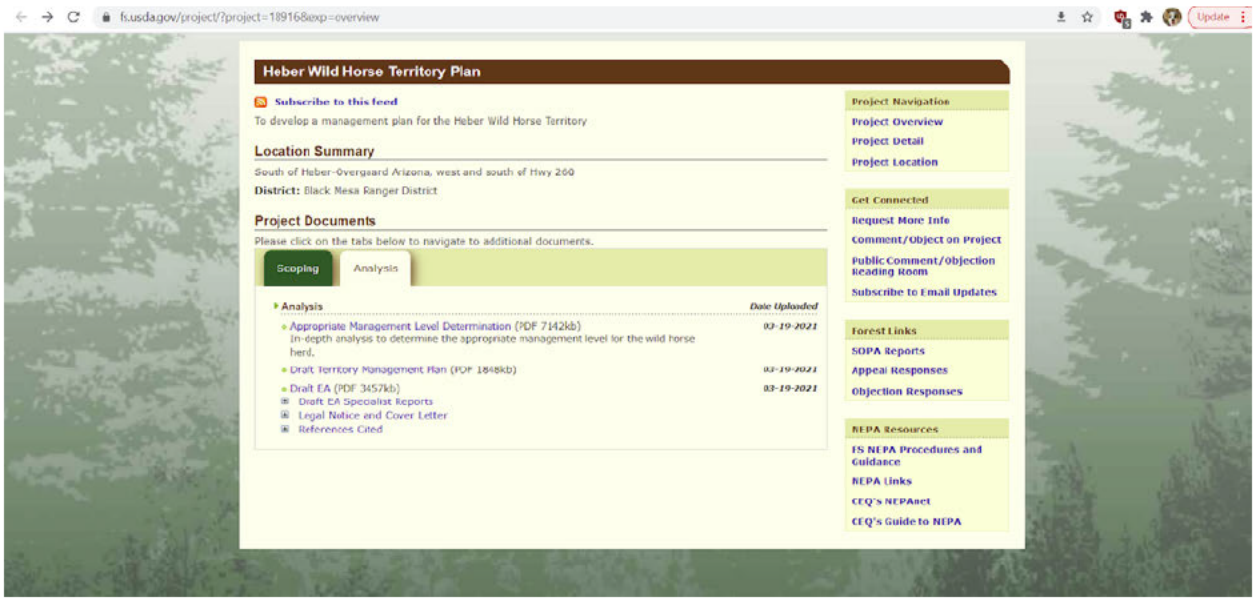
Dear Anthony,

Thank you for your April 06, 2021 response and for acknowledging receipt of our public comment in the scoping phase.

We do appreciate that you are now adding the references (and additional reports) for the public's availability as well, however there are only 14 days of 30 for public comment left and still the following issues:

1. **There is no public notice** on the initial screen of the added reference materials. See Figure 1 below. A normal person would not notice this as new and a person already done with their public comment will not likely ever see them. However, once clicked on the References Cited link, the date added, is there for each item added (in name only).

Figure 1

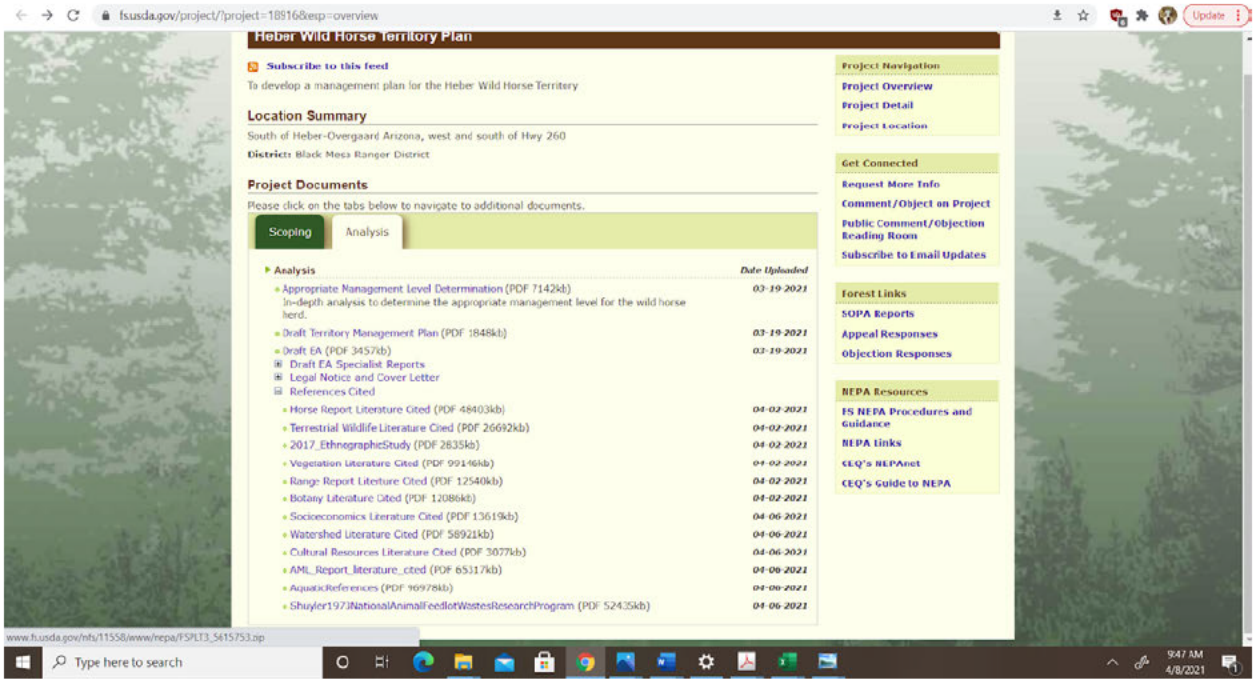


2. Of the 12 references added on 4/2/21 and 4/6/21 only one is actually available to the public: The "2017_EthnographicStudy" is the only reference added that can be opened.

> **However, pursuant to Sec. 1502.21 Incorporation by reference:**
>
> Agencies shall incorporate material into a NEPA document by reference when the effect will be to cut down on bulk *without impeding agency and public review of the action*. The incorporated material shall be cited in the statement and its content briefly described. **No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment.** Material based on proprietary data, which is itself not available for review, and comment shall not be incorporated by reference (emphasis added).

3. When one clicks on these unopenable references, the "link" that is attempting to be opened just sits down at the bottom left of the screen in a grey bar. See figure 2.

Figure 2



4. The Forest Service analysis TMP/EA and supporting reports are therefore also not currently supported by these unavailable references. Moreover, all the references you mentioned have also not yet been added as mentioned in your kind response on 4/6/21. For instance: references from the following reports:

- Aquatics BE and Specialist Report
- Watershed Report
- Cultural Resources
- AML

5.CARA is still not functional for public comment submittal. Many issues still happening even as of today, 04/08/2020.

From the screenshot below you can clearly see that we are not the only ones who have issues with submitting comments via CARA, which is part of the reason we asked that our comment period be extended to allow for comments to be sent to you via USPS.

Date submitted (UTC-11): 4/8/2021 2:37:50 AM
First name: Betty
Last name: Nixon
Organization:
Title:
Comments:
For the Administrative Record, I am hereby submitting the attached comment re: Why the Heber Wild Horses are not using their designated Territory. Mystery solved! Note: I tried multiple times to upload my comment as one document; however, the CARA system kept erroring out, even though my document size was well within the total file upload size limit. I have now separated the one document into 3 separate documents in hopes that they will now upload.
No, reCAPTCHA is still erroring out.
Note: I will now try submitting my one comment as 3 separate comments to see if the CARA system will allow the files to upload as 3 separate comments. This whole system appears to be designed to discourage public comments.

6. Our public comment having not been legally included in the public comments damages CAES et al. in this public process in a number of ways. **One**: The Forest Service has stated to the public that, " *The full text of all the comments we received is available in the project record and also online in the public reading room at this location: https://cara.ecosystem-management.org/Public//ReadingRoom?Project=18916.*". This statement is however, incorrect and is oddly tantamount to slander of CAES. **Two**: Those looking to us in this process, those who might have supported us, and those who might have learned from us etc. are instead unaware or even disappointed in CAES.

In any case, our fellow public are not seeing any substantive comments from CAES, are not benefitting from our comments at this point in the NEPA process, and this damages our abilities for involvement in administrative actions from here forward.

We also do not benefit from understanding your classification of our comments at this step.

7. Further damage will be incurred by CAES et al. by not including and responding to our scoping period public comments until the Draft Final TMP and EA are issued which also doesn't give us an opportunity to reply to your response, depriving us of this important step in the NEPA process. This leaves us to only be able to reply to your response to our scoping period comments during the Objection period, and not during this current comment period as is required per NEPA.

Again, Per our 3/31/2021 letter:

FS states

" We received 1,206 comment letters from the public and interested parties; see table 1 for a list of all scoping respondents"

" The full text of all the comments we received is available in the project record and also online in the public reading room at this location: https://cara.ecosystem-management.org/Public//ReadingRoom?Project=18916."

" The Forest Service interdisciplinary team and district ranger considered all public comments received and organized the comments into concern topics (see table 2). These concerns, associated comments, and our disposition of each concern are included in the scoping comment disposition spreadsheet available in the project record and on the project website."

Legal Obligation not met pursuant to 36 CFR § 220.4 General requirements.

(c) Agency decisionmaking. For each Forest Service proposal (§ 220.4(a)), the responsible official shall coordinate and integrate NEPA review and relevant environmental documents with agency decisionmaking by:

(1) Completing the environmental document review before making a decision on the proposal;

(2) Considering environmental documents, public and agency comments (if any) on those documents, and agency responses to those comments;

These statements from FS in the proposed plans are telling the public that we did not submit a public comment during the scoping period and thus are not actively participating in this NEPA process.

8. We again respectfully request that you issue an extension of the comment period and re-submit the Draft EA and TMP. We sent you the following:

"While Mr. Madrid stated in his letter to Forest Stakeholders, re the public comment period for this management plan that the time could not be extended per 36 CFR § 218.6 -

Computation of time periods. This regulation applies to objections NOT public comments on EA or EIS documents.

In "A Guide to the Rulemaking Process", Prepared by the Office of the Federal Register, they state "In general, agencies will specify a comment period ranging from 30 to 60 days in the "Dates" section of the Federal Register document, but the time period can vary. For complex rulemaking, agencies may provide for longer time periods, such as 180 days or more." This is further evidenced in the above-mentioned plan to modify the FSH where the public comment period allotted is 4 months .https://www.federalregister.gov/uploads/2011/01/the_rulemaking_process.pdf

Furthermore, this planning process has the potential to severely impact the individual Heber Wild Horses, many other native species, and hence to affect the public which includes ourselves and those thousands we represent. Though there is a large number of issues and pages (see below) and reading materials missing, we would like to provide specific and relevant information on those that are relevant to the South West and to the species involve"

You had responded that you will not withdraw the EA/TMP to correct the omission of our scoping period comments and add your responses or changes where appropriate. You also stated you will not consider extending the comment period. And you submitted no legal basis for this decision.

9. We would like to additionally point out that 40 CFR § 1501.5(f) states that "*an EA shall be no more than 75 pages, not including appendices, unless a senior agency official approves in writing an EA to exceed 75 pages and establishes a new page limit.*"

This document is over that limit at 116 pages versus 75. We haven't found the approval herein to be allowed to go over the 75 page limit. However, it also does not suffice for an EIS, though an EIS allows 150 pages. Was this intended to be the EIS that you published a Notice of Intent to do in the Federal Register in 2008?

Apache-Sitgreaves National Forests; Arizona; Heber Wild Horse Territory Plan

Apache-Sitgreaves National Forests; Arizona; Heber Wild Horse Territory ...

The Forest Service will prepare a Draft Environmental Impact Statement (DEIS) to evaluate the environmental impa...

With this issue and the issue of still missing references, we ask that you reconsider this request and extend the comment period for an additional 30 days even if re-submitted.

10. We just found today that the FS has also added an important report on the Census called: "**2019HorseBandObservations**" under the Draft EA Specialist Reports Section. There is again, no public notice to anyone. See Figure 3 below.

We were able to note this as an addition, mainly because one of our main reviewers (Theresa Barbour) who reads and reviews these specific reports is sight impaired, so the reports are printed up front. Normally we do not expect to have to go back without notice, to these lists and look for new documents that have been added randomly to the "public process" after the initial project is opened for public comment.

This report: 2019HorseBandObservations was uploaded on 4/2/2021, with no public notification. This after many people had already submitted their public comments. Furthermore this is another apparent zip file that also doesn't even open.

This is an unequal "public" process.

Again, given no public notice of all these documents and references and reports being added to the public record available on your website. We ourselves are not sure we have found them all but are sure that we cannot open those found except one.

Figure 3

In addition important topics like determining AML are spread into several different documents and reports, which makes it necessary to compile differing information found in each into one section of our notes, and weed out what information is repetitive from one document to the next. The CEQ regulations require NEPA documents to be "concise, clear, and to the point" (40 CFR 1500.2(b), 1502.4).

Sincerely,

Citizens Against Equine Slaughter (CAES)

PO Box 115
Drain, OR 97435
Patience O'Dowd Founder and Board Member
Stacey Sanchez Member
Theresa J. Barbour, Water for Western Wildlife Emergency Needs, consultant for CAES

Wild Horse Observer Association (WHOA)
PO Box 932
Placitas, NM 87043
Patience O'Dowd Founder and Board Member
Stacy Sanchez Member

Wildlife Protection of New Mexico (WHOA-Voters)
PO Box 932
Placitas, NM 87043
Patience O'Dowd Founder and Board Member

Attachment 5 - April 13 emails back and forth re the links and how to bypass Google Security to access them

Madrid, Anthony -FS
to Marshell, [redacted]me, Stacy, DVM, Shirley, Sandra, Richard

Apr 13, 2021, 2:05 PM (6 days ago)

Hello Patience,

I am confirming receipt.

I am in the middle of a meeting and will get back to you. In the meantime, I am going to ask Marshell Moy, our Forest NEPA Planner to reach out to you and try to help address your concerns wit CARA website.

Marshell, can you please reach out to Patience today and assist her with CARA? Thank you!

Anthony

Actual text for easier viewing :

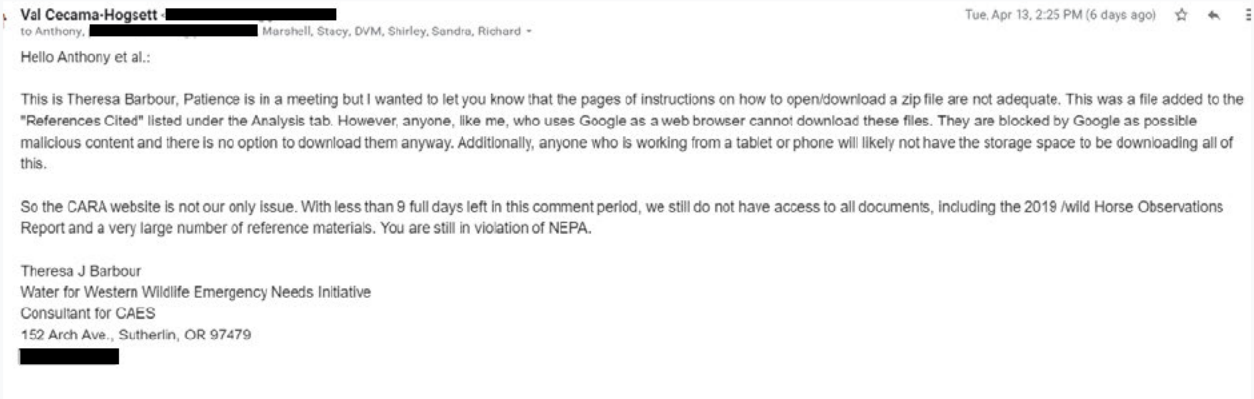
"Hello Patience,

I am confirming receipt.

I am in the middle of a meeting and will get back to you. In the meantime, I am going to ask Marshell Moy, our Forest NEPA Planner to reach out to you and try to help address your concerns with the CARA website.

Marshell, can you please reach out to Patience today and assist her with CARA? Thank you!

Anthony"



Val Cecama-Hogsett - [redacted]
to Anthony, [redacted] Marshell, Stacy, DVM, Shirley, Sandra, Richard

Tue, Apr 13, 2:25 PM (6 days ago)

Hello Anthony et al.:

This is Theresa Barbour, Patience is in a meeting but I wanted to let you know that the pages of instructions on how to open/download a zip file are not adequate. This was a file added to the "References Cited" listed under the Analysis tab. However, anyone, like me, who uses Google as a web browser cannot download these files. They are blocked by Google as possible malicious content and there is no option to download them anyway. Additionally, anyone who is working from a tablet or phone will likely not have the storage space to be downloading all of this.

So the CARA website is not our only issue. With less than 9 full days left in this comment period, we still do not have access to all documents, including the 2019 /wild Horse Observations Report and a very large number of reference materials. You are still in violation of NEPA.

Theresa J Barbour
Water for Western Wildlife Emergency Needs Initiative
Consultant for CAES
152 Arch Ave., Sutherlin, OR 97479
[redacted]

Actual text for easier viewing:

"Hello Anthony et al.:

This is Theresa Barbour, Patience is in a meeting but I wanted to let you know that the pages of instructions on how to open/download a zip file are not adequate. This was a file added to the "References Cited" listed under the Analysis tab. However, anyone, like me, who uses Google

as a web browser cannot download these files. They are blocked by Google as possible malicious content and there is no option to download them anyway. Additionally, anyone who is working from a tablet or phone will likely not have the storage space to be downloading all of this.

So the CARA website is not our only issue. With less than 9 full days left in this comment period, we still do not have access to all documents, including the 2019 /wild Horse Observations Report and a very large number of reference materials. You are still in violation of NEPA.

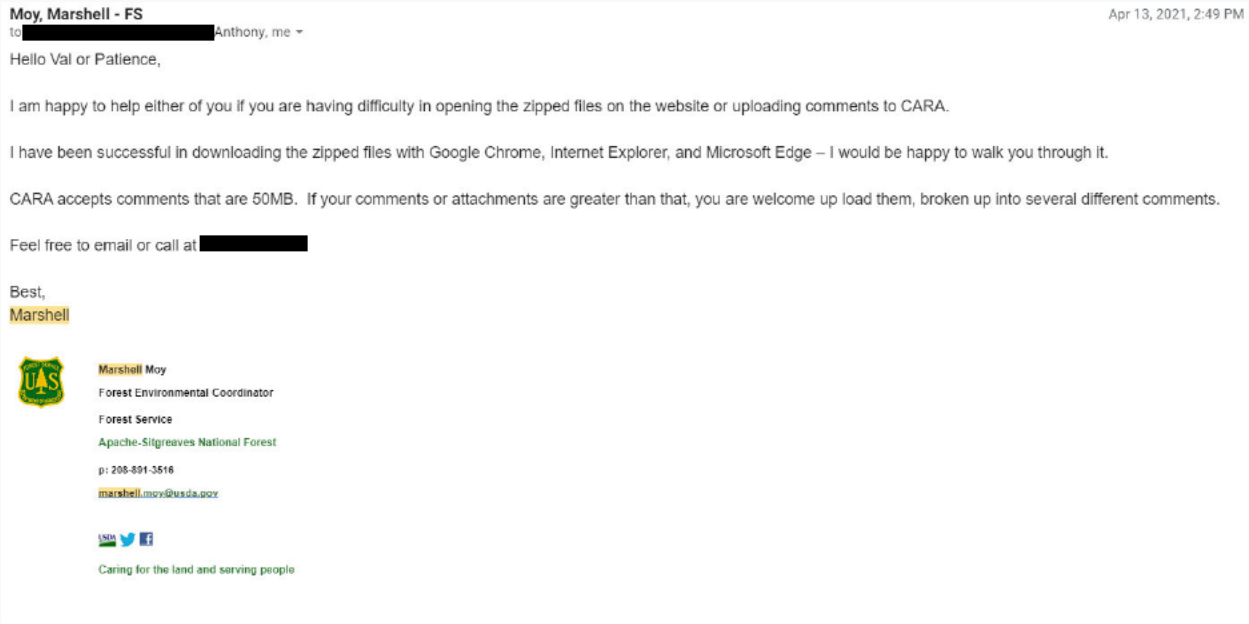
Theresa J Barbour

Water for Western Wildlife Emergency Needs Initiative

Consultant for CAES

152 Arch Ave., Sutherlin, OR 97479

[redacted]



Moy, Marshell - FS Apr 13, 2021, 2:49 PM
to [redacted] Anthony, me

Hello Val or Patience,

I am happy to help either of you if you are having difficulty in opening the zipped files on the website or uploading comments to CARA.

I have been successful in downloading the zipped files with Google Chrome, Internet Explorer, and Microsoft Edge – I would be happy to walk you through it.

CARA accepts comments that are 50MB. If your comments or attachments are greater than that, you are welcome up load them, broken up into several different comments.

Feel free to email or call at [redacted]

Best,
Marshell

Marshell Moy
Forest Environmental Coordinator
Forest Service
Apache-Sitgreaves National Forest
p: 208-801-3516
marshell.moy@usda.gov

Caring for the land and serving people

Actual text for easier viewing:

"Hello Val or Patience,

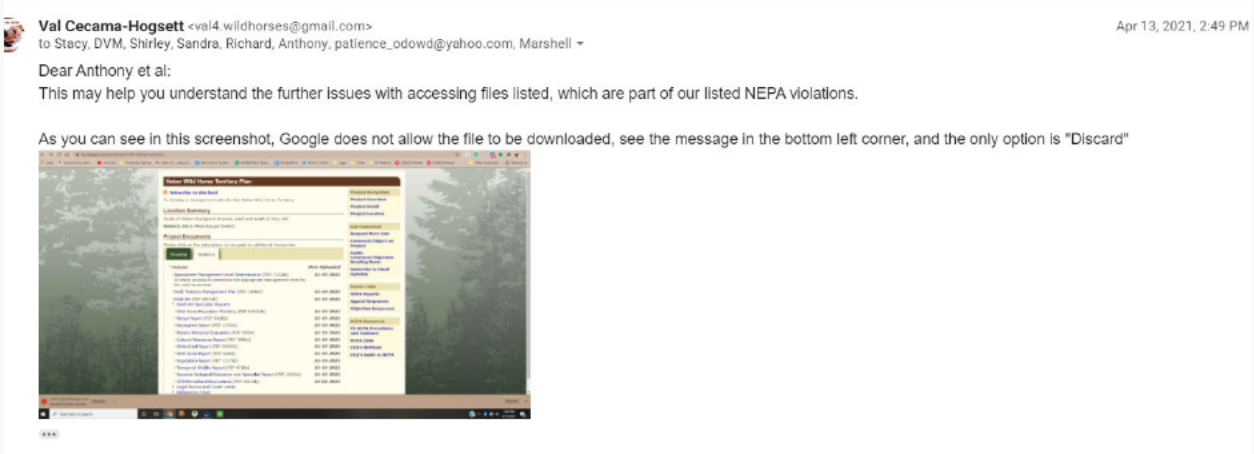
I am happy to help either of you if you are having difficulty in opening the zipped files on the website or uploading comments to CARA.

I have been successful in downloading the zipped files with Google Chrome, Internet Explorer, and Microsoft Edge – I would be happy to walk you through it.

CARA accepts comments that are 50MB. If your comments or attachments are greater than that, you are welcome up load them, broken up into several different comments.

Feel free to email or call at [redacted]

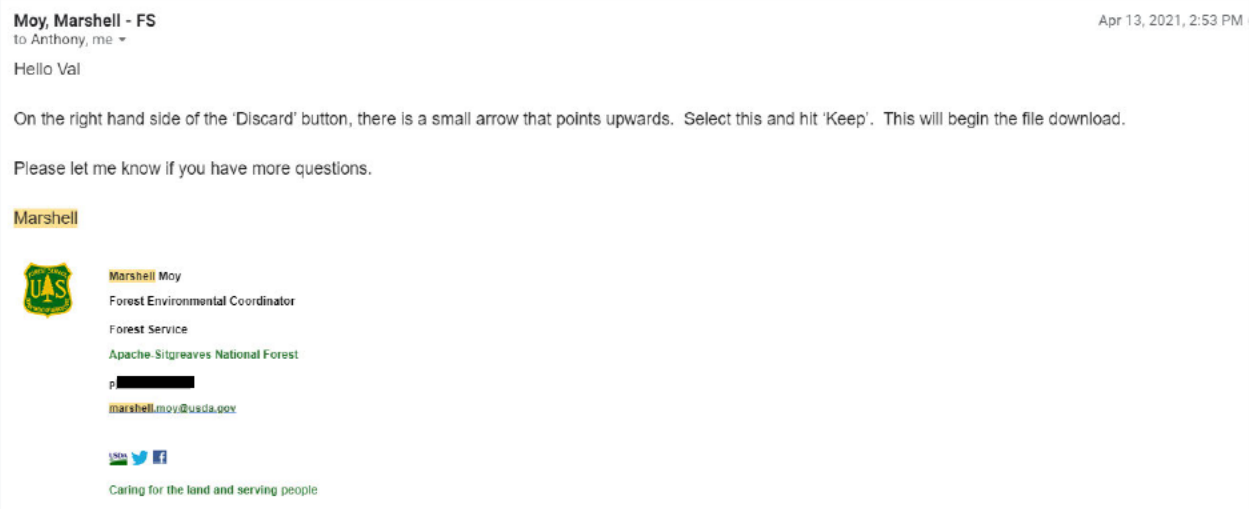
Best,
Marshell"



Actual Text for easier viewing:
"Dear Anthony et al:
This may help you understand the further issues with accessing files listed, which are part of our listed NEPA violations.

As you can see in this screenshot, Google does not allow the file to be downloaded, see the message in the bottom left corner, and the only option is "Discard"

(From Theresa Barbour to FS as shown in screenshot.)



Moy, Marshell - FS Apr 13, 2021, 2:53 PM
to Anthony, me

Hello Val

On the right hand side of the 'Discard' button, there is a small arrow that points upwards. Select this and hit 'Keep'. This will begin the file download.

Please let me know if you have more questions.

Marshell

Marshell Moy
Forest Environmental Coordinator
Forest Service
Apache-Sitgreaves National Forest
p [redacted]
marshell.moy@usda.gov

Caring for the land and serving people

Actual text for easier viewing:

"Hello Val

On the right hand side of the 'Discard' button, there is a small arrow that points upwards. Select this and hit 'Keep'. This will begin the file download.

Please let me know if you have more questions.

Marshell"

Attachment 6 - Both Reference Lists provided to FS in Email attachments

1st reference list

Heber Wild Horse Territory Management Plan 2021 References Cited Throughout & Unavailable to the Public

*Note: Many of the supplemental reports included in the documentation for this proposed plan have some references cited where links are provided, such as the Socioeconomic Report. However, this was not the case with the majority of resources cited throughout the documentation.

Number of hours spent just trying to locate and save to a file the reference materials to be read and evaluated were 26 hours and 45 minutes. This does not include reading of the materials that were found from the reference lists.

Sources cited but unavailable to the public without pay

Beever, E. 2003. Management Implications of the Ecology of Free-Roaming Horses in Semi-Arid Ecosystems of the Western United States. Wildlife Society Bulletin (1973-2006) 31:887-895.
*Note: Found making a second search on a different day and it was uploaded to a BLM site on March 30, 2021

Beever, E. A., and P. F. Brussard. 2004. Community- and landscape-level responses of reptiles and small mammals to feral-horse grazing in the Great Basin. Journal of Arid Environments 59:271-297.

Davidson, A. D., E. Ponce, D. C. Lightfoot, E. L. Fredrickson, J. H. Brown, J. Cruzado, S. L. Brantley, R. Sierra-Corona, R. List, D. Toledo, and G. Ceballos. 2010. Rapid response of a grassland ecosystem to an experimental manipulation of a keystone rodent and domestic livestock. Ecology. 91:3189.

Horncastle, V. J., C. L. Chambers, and B. G. Dickson. 2019. Grazing and wildfire effects on small mammals inhabiting montane meadows. The Journal of Wildlife Management 83:534-543

Krausman, P. R., D. E. Naugle, M. R. Frisina, R. Northrup, V. C. Bleich, W. M. Block, M. C. Wallace, and J. D. Wright. 2009. Livestock grazing, wildlife habitat, and rangeland values. Society for Range Management October:15-19

Milchunas, D. G., W. K. Lauenroth, and I. C. Burke. 1998. Livestock Grazing: Animal and Plant Biodiversity of Shortgrass Steppe and the Relationship to Ecosystem Function. Oikos 83:65-74

Olsen, F. W., and R. M. Hansen. 1977. Food relations of wild free-roaming horses to livestock and big game, Red Desert, Wyoming. Journal of Range Management 30:17-20.

Vavra, M., M. McInnis, and D. Sheehy. 1989. Implications of dietary overlap to management of freeranging large herbivores. Proceedings, Western Section, American Society of Animal Science 40:489-495.

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Second reference list

NEPA ISSUES REMAIN
Heber Wild Horse Territory Management Plan 2021 References Cited Throughout & Still Unavailable to the Public

I. **MISSING REPORTS:**

Many of the supplemental reports included in the documentation for this proposed plan have some references cited where links are provided which is reasonable. For example:

- The Socioeconomic Report had references cited which were clickable, however this report has recently vanished from the website! Is it no longer part of the moving target of the Draft EA?

- The Recreation Resource Report also has References Cited which all have clickable links and this report has not vanished. This is the way each Report should reasonably be, and, should have been posted from day one.

Here we are on day 21 playing musical and missing chairs with the public's information while we spend time trying unsuccessfully to find it, rather than to review it.

We should have 30 days under NEPA to review ALL of the relevant information at a minimum. To date, we have already lost out on that for much of the ever changing information.

Moreover, **as of 4/16/21 the majority of resources cited throughout the documentation do not have clickable links. This material is not reasonably available to the public. If one can find these references available online somewhere, it may require each member of the public to each pay a separate fee to download it. These fees are often 20 to $40 for one article or subscription. This also seems unreasonable.**

II. **INORDINATE TIME REQUIRED FOR SEARCHING FOR REPORTS/REFERENCES to MINIMAL AVAIL:**

The number of hours spent just trying to locate and save to a file the reference materials to be read and evaluated is now logged at 49 hours and 15 minutes. This also seems unreasonable.

- This does not include reading of the materials that were found from the reference lists.
- It also doesn't include the time it takes to put together these NEPA status letters, and the email communications, and
- Additionally, it does not include the 2hr virtual conference kindly scheduled for 04/16/2021 which all together take additional time away from time we would have to be reading the thousands of pages that are included in the proposed plans, supporting reports and documents, and the references cited throughout.

The website changes I have noted are:

- the 2019 Wild Horse Observations "report" was moved from the Analysis tab to the Scoping tab and is now Back on the Analysis tab.

- Most reports (Excluding the AML determination) are now under a subheader called Draft EA Specialist Reports (originally they were all just in the list and not under a clickable category)
- As mentioned above, the Socioeconomic Report is gone however the zip file with literature referenced in that report has been added!?
- A category called References Cited has also been added

III. **SECURITY WARNINGS:**

A document had to be added to that category giving people instructions on how to download these zip files because even though they are in blue text like a clickable link would be, **they are not openable**. **This requires the user/reader etc. to download them to their own device, and in doing so the person must ignore security warnings from Google and download the files anyway** if they want to access them.

With less than 7 days left to submit public comments there are still references that have not been made available. (See list below which has been updated from the first we provided to the FS)

Despite our multiple emails expressing concerns over this and other NEPA violations the FS refuses to fix these issues and restart the public comment period. No public notice of all the changes, and references added and removed, have been made, and this is after a large number of public comments are already submitted. Thus, the public has no knowledge that they did not see the entire EA and that there is information missing all along, newly missing, and information newly added.

IV. **DISABILITY DISCRIMINATION**:

I would also like to add that I am a disabled person (documentation available). As a result of previous strokes, though recovered, I now have a vision impairment, and some brain damage, both of which are worse as I get tired, hence, having to spend at least 12 hours a day trying to search for and read all of this material adds to the stress and even pain I experience from my disabilities. This uses up the useful time I have as a disabled person, so that there has been little no time left so far for the actual review especially given that the materials have not yet been provided and once provided I have to check them all again.

I feel that so far, this hide and seek process is very unfair to me with a disability. It is also unreasonable for anyone else who may be trying to put in comments for a herd they care deeply about, unless they are themselves a computer with a superhuman scan setting.

Even without having to weed through all of this and even without a disability, a 30 day review time is too short. It is surely unreasonable as there are 2 major proposals: the Territory Management Plan (TMP) and the Environmental Assessment (EA), which are both basically 50 years overdue.

Hence, this is an important process for the public and for the wild horses themselves. It should be done right after all this time. There should be a longer review period for the thousands of pages of reading alone, much less without the impossible additional time spent searching.

V. **SCATTERED, REPETITIVE, AND CONFLICTING MATERIALS:**

This NEPA process should be organized, concise and clear. For example: there are 3 reports all

on vegetation (Vegetation Report, Rangeland Report and Botany Report) which could have easily been put into one summary report. You then have issues such as forage allocation and utilization in several different reports often repeating the same information, though sometimes giving different information that contradicts what another report has stated.

This requires the member of public to attempt to flip back and forth between reports and attempt to compile the various 'stories' in each report and then to try and make their own judgement of which may be correct, in error, or just not correct based on math. Sometimes I read something, and then in a later report read something that contradicts it, and I can't remember where I read it the first time, so it takes extensive amounts of time to go back and reread to find it in the first document. Which view is the USDA FS promoting or in agreement with? I have reviewed many an EA.

This is not how these documents should be. We should not have to keep track of the different versions of the same information that are given in various reports. This makes it clear that:

1. The stories change based on the objective of the report or paragraph being written
2. Information is repetitive and when the same should have been incorporated into one place, report, or section of the EA
3. The FS did not do it's due diligence in reading the various reports and reconciling statements that contradict one another.

VI. THIRTY ONE REFERENCES STILL MISSING (SEE LIST at end.)

THOUGH THERE ARE ADDITIONAL REFERENCES NOW TOO, WHICH WE DID NOT ASK FOR EVERYWHERE:

Looking through the zip file lists, and comparing them to the references cited lists at the end of reports/documents, we found that many of the zip files contained a different number of files than there were listed on the reports/documents themselves.

In some cases there were more in the zip file list, and in other cases some of the zip files had less.

This seems to indicate that in order to provide these references someone simply uploaded the files of reports saved on a computer, but did not actually correlate these references to the actual reports referred to (in the reports and documents we are reviewing for public comment).

To wit, we found:

- The reports listed 278 references cited
- The zip files provided 257 references (though not all were cited in these documents)
- Of the 257 provided in the zip files:
    - 89 were on the list we submitted to you and were asking for
    - 20 were on our list but were provided only in part, or in name, and not adequate for reviewing the entire reference. Some were just a title page, some a partial abstract. . .
    - 124 were already available online (and hence the link could have easily been provided).
    - 20 were not even referenced in any of the reports or documents we are reviewing
    - 3 were supplied in Microsoft Word format which I/many do not have.

- 1 was a duplicate, listed twice although appearing different because of word order, however there were 2 references listed in the report by that author, one is still not available and is in the list below.
- **31 references from our original letter are still not available** or were provided only in part (There are references that were provided, ONLY in part which we kindly did not include in this list below because the information that was provided was enough for our review purposes).
- **Those 31 References listed below are missing still and are items we feel we need to have the full reference.**

VI. Missing Sources List: cited but still (as of 04/15/2021) unavailable to the public or unavailable without paying.

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UPDATE- Provided but 2 important photos appear to be redacted
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Berger, J. 1986. Wild Horses of the Great Basin: Social Competition and Population Size. University of Chicago Press. Chicago & London.

Curtis, P.D., R.L. Pooler, M.E. Richmond, L.A. Miller, G.F. Mattfeld, and F.W Quimby. 2001. Comparative effects of GnRH and porcine zona pellucida (PZP) immunocontraceptive vaccines for controlling reproduction in white-tailed deer (Odocoileus virginianus). Reproduction (Cambridge, England) Supplement 60:131-141

Goodloe, R.B., 1991. Immunocontraception, genetic management, and demography of feral horses on four eastern US barrier islands. UMI Dissertation Services

UPDATE - a partial document was provided but not the entire
Holechek, J.L., R. D. Pieper and C. H. Herbel. 2004. Range management, Principles and Practices. Fifth Ed. Pearson Prentice-Hall, Inc. Upper Saddle River, New Jersey 07458

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Knight, C.M. 2014. The effects of porcine zona pellucida immunocontraception on health and behavior of feral horses (Equus caballus). Graduate thesis, Princeton University

USDA Forest Service. 1986. Terrestrial Ecosystem Survey Handbook. Forest Service, Southwestern Region, Albuquerque, New Mexico.

USDA Forest Service. 1988. Allotment Analysis Handbook, Forest Service Handbook 2209.1. Forest Service, Southwestern Region, Albuquerque, New Mexico.

UPDATE - this file provide in the zip files is only a photo over a book cover
Flora, C., Flora, J., Fey, S., 2004. Rural Communities, Legacy and Change. Second Ed. Westview Press. Cambridge, MA

UPDATE - this file was nothing but a document of the “basic rules” for IMPLAN- no county overviews
Minnesota IMPLAN Group, 2017. Study Area Model Overview. Arizona, Gila, Apache, and Navajo Counties, Arizona

UPDATE - this document provided in the zip file was a one paragraph notification that this material is not available to public view and not eligible for FOIA. It therefore must be removed from the report in which it was referred to.
Seale, Heather. Sara Stauffer, and Esther Morgan. (2017). Archaeological Survey of the Hidden Treatment Unit of the Larson Timber Sale, Black Mesa District Apache-Sitgreaves National Forests Forest Project Number: R201403010068F

The following 8 were only provided in draft form not final documents.

Arizona Game and Fish Department. 2004. Heuchera glomerulata. Unpublished abstract compiled and edited by the Heritage Data Management System, Arizona Game and Fish Department, Phoenix, AZ. 4 pp.

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UPDATE - This reference when opened after downloading the zip file, asked me to install and Adobe app. I have that app but it still did not open

Arizona Game and Fish Department 2014. Email communication between Rick Langley, Region 1 game specialist, Arizona Game and Fish Department, Janet Moser, wildlife biologist, TEAMS

Enterprise Unit and Cynthia Englebert, botanist/rangeland management specialist, TEAMS Enterprise Unit; USDA Forest Service

UPDATE - this was only provided in 'draft' form
Lubow, B. 2014. Memorandum to Paul Griffin (USGS), statistical analysis for May 2014 horse survey of Apache-Sitgreaves horse population. IIF Data Solutions. Centreville, VA.

ATTACHMENT 7 - Final References list with annotations in red from FS and final emails between Marshell Moy and myself regarding references.

VI. Missing Sources List: cited but still (as of 04/15/2021) unavailable to the public or unavailable without paying.

Vavra, M., M. McInnis, and D. Sheehy. 1989. Implications of dietary overlap to management of free ranging large herbivores. Proceedings, Western Section, American Society of Animal Science 40:489-495.- *Uploaded 4/16/21*

Arizona Game and Fish Department [AGFD]. 2014. Lithobates pipiens. Unpublished abstract compiled and edited by the Heritage Data Management System, Arizona Game and Fish Department, Phoenix, AZ. 4 p. *This reference is not available and will be deleted from the final report.*

UPDATE- Provided but 2 important photos appear to be redacted
Beever, E. A., and P.F. Brussard. 2000. Examining ecological consequences of feral horse grazing using enclosures. Western North American Naturalist 60:236-254. *No info was redacted, this is the only reference we have.*

Erman, D. C., J. D. Newbold, and K. B. Roby. 1977. Evaluation of streamside buffer strips for protecting aquatic organisms. University of California, Davis, Water Resources Center Contribution 186. *This reference is not available and will be deleted from the final report.*

Minckley, W.L 1973. Fishes of Arizona. Arizona Game and Fish Department,Phoenix.pp.158-159 *This reference is not available and will be deleted from the final report.*

Nelson, C. 2020. Heber Wild Horse Territory Watershed Specialist Report. *This is an error, the watershed specialist report is posted on the public website.*

Shuyler, L.R. 1973. National animal feed lot wastes research program. EPA-R2-73-157. Environ. Protection Agency, Washington, D.C. 33 p *This is an error, the watershed specialist report is posted on the public website.*

U.S. Department of the Interior, Fish and Wildlife. 1984. Endangered and threatened wildlife and plants; notice of finding on 6 petitions. Federal Register 51(136): 28583-28585. *This is an error,*

the watershed specialist report is posted on the public website.

Grissino-Mayer, H.D., C.H. Baisan, T.W. Swetnam. (1995) Fire history in the Pinaleno Mountains of southeastern Arizona: Effects of human related disturbances. General Technical Report RM-GTR264, 399–407.*Uploaded 4/16/21*

Jameson, D.A., (1967). The Relationship of Tree Overstory and Herbaceous Understory Vegetation. Journal of Range Management. 20:247–49- *Uploaded 4/16/21*

Berger, J. 1986. Wild Horses of the Great Basin: Social Competition and Population Size. University of Chicago Press. Chicago & London. *This is a book*

Curtis, P.D., R.L. Pooler, M.E. Richmond, L.A. Miller, G.F. Mattfeld, and F.W Quimby. 2001. Comparative effects of GnRH and porcine zona pellucida (PZP) immunocontraceptive vaccines for controlling reproduction in white-tailed deer (Odocoileus virginianus). Reproduction (Cambridge, England) Supplement 60:131-141- *Uploaded 4/16/21*

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Knight, C.M. 2014. The effects of porcine zona pellucida immunocontraception on health and behavior of feral horses (Equus caballus). Graduate thesis, Princeton University- *We will have to check on this one*

USDA Forest Service. 1986. Terrestrial Ecosystem Survey Handbook. Forest Service, Southwestern Region, Albuquerque, New Mexico. https://www.fs.fed.us/soils/documents/gtr_wo-68.pdf

USDA Forest Service. 1988. Allotment Analysis Handbook, Forest Service Handbook 2209.1. Forest Service, Southwestern Region, Albuquerque, New Mexico. *This reference is erroneous and will be revised*

UPDATE - this file provide in the zip files is only a photo over a book cover
Flora, C., Flora, J., Fey, S., 2004. Rural Communities, Legacy and Change. Second Ed. Westview Press. Cambridge, MA- *That's all we can provide due to copyright restrictions*

UPDATE - this file was nothing but a document of the "basic rules" for IMPLAN- no county overviews This is proprietary information, we cannot post it
IMPLAN is a system of software and databases produced by the IMPLAN Group. Through an annual subscription, the USDA Forest Service holds a limited number of site licenses for the IMPLAN system. The FS uses IMPLAN to model and estimate the regional/local economic

impacts of such things as forest plan revision alternatives, policy changes, and management decisions. Since the Forest Service is using the software and data under site license, planners must be careful what information is published in the Plan and contained in the planning record. Here are the basic rules:

Minnesota IMPLAN Group, 2017. Study Area Model Overview. Arizona, Gila, Apache, and Navajo Counties, Arizona

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Seale, Heather. Sara Stauffer, and Esther Morgan. (2017). Archaeological Survey of the Hidden Treatment Unit of the Larson Timber Sale, Black Mesa District Apache-Sitgreaves National Forests Forest Project Number: R201403010068F

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Arizona Game and Fish Department. 2005. Eriogonum ericifolium var. ericifolium. Unpublished abstract compiled and edited by the Heritage Data Management System, Arizona Game and Fish Department, Phoenix, AZ. 4 pp.

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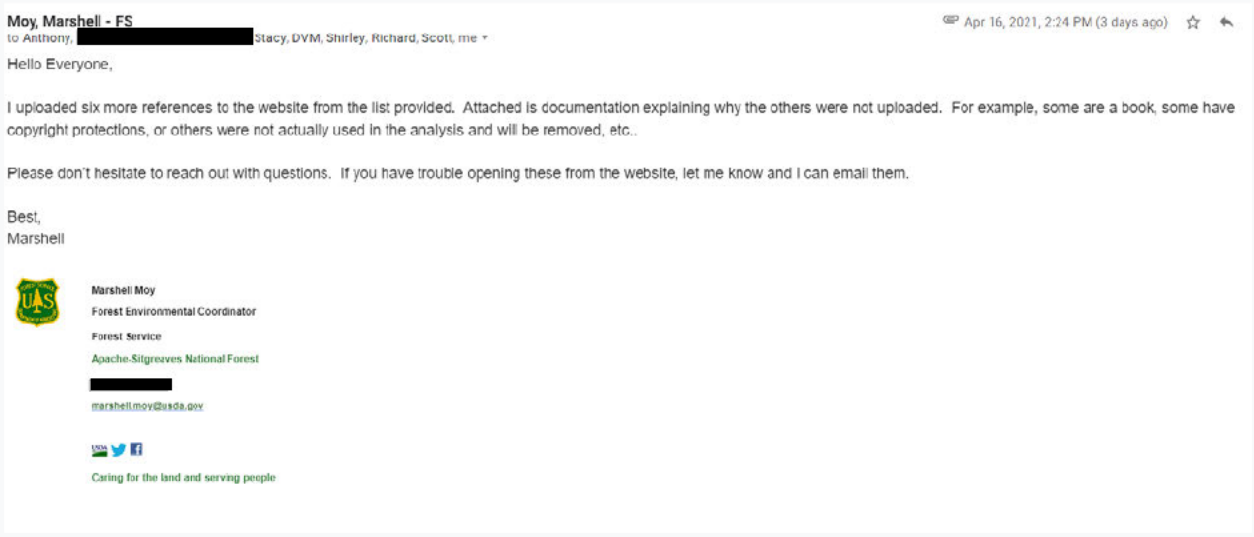
Arizona Game and Fish Department 2014. Email communication between Rick Langley, Region 1 game specialist, Arizona Game and Fish Department, Janet Moser, wildlife biologist, TEAMS Enterprise Unit and Cynthia Englebert, botanist/rangeland management specialist, TEAMS Enterprise Unit; USDA Forest Service Uploaded 4/16/21

UPDATE - this was only provided in 'draft' form

Lubow, B. 2014. Memorandum to Paul Griffin (USGS), statistical analysis for May 2014 horse survey of Apache-Sitgreaves horse population. IIF Data Solutions. Centreville, VA. No final version is available

Emails



Moy, Marshell - FS Apr 16, 2021, 2:24 PM (3 days ago)
to Anthony, [redacted] Stacy, DVM, Shirley, Richard, Scott, me

Hello Everyone,

I uploaded six more references to the website from the list provided. Attached is documentation explaining why the others were not uploaded. For example, some are a book, some have copyright protections, or others were not actually used in the analysis and will be removed, etc..

Please don't hesitate to reach out with questions. If you have trouble opening these from the website, let me know and I can email them.

Best,
Marshell

Marshell Moy
Forest Environmental Coordinator
Forest Service
Apache-Sitgreaves National Forest
[redacted]
marshell.moy@usda.gov

Caring for the land and serving people

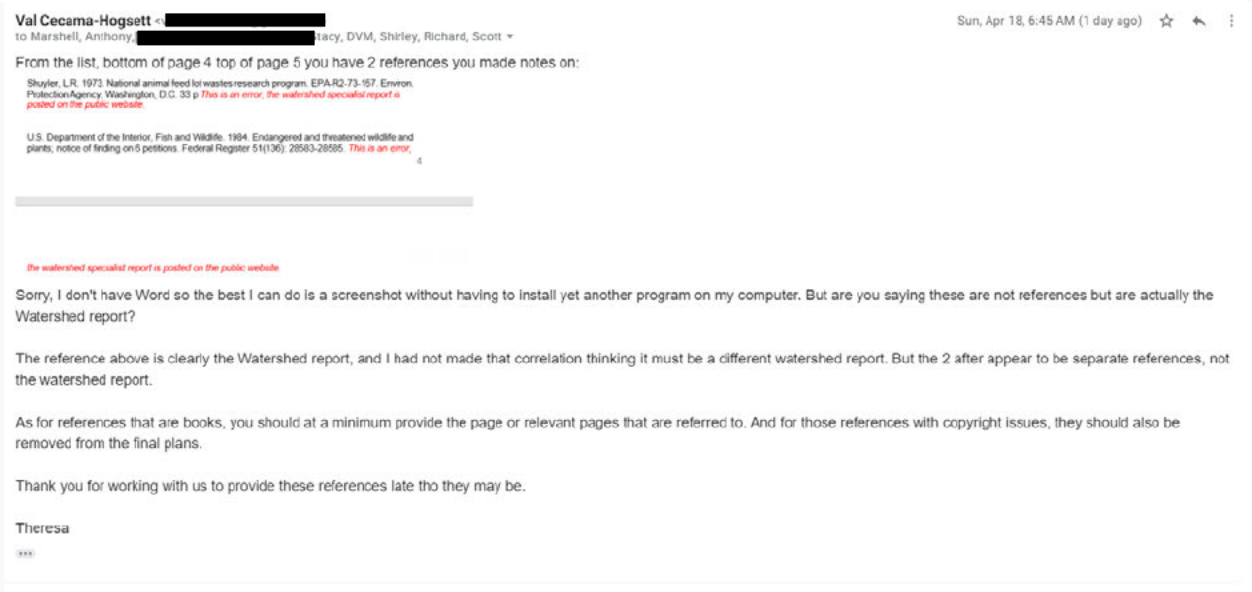
Actual text for easier viewing:

"Hello Everyone,

I uploaded six more references to the website from the list provided. Attached is documentation explaining why the others were not uploaded. For example, some are a book, some have copyright protections, or others were not actually used in the analysis and will be removed, etc

Please don't hesitate to reach out with questions. If you have trouble opening these from the website, let me know and I can email them.

Best,
Marshell”



Val Cecama-Hogsett [redacted]
to Marshell, Anthony, [redacted]tacy, DVM, Shirley, Richard, Scott
Sun, Apr 18, 6:45 AM (1 day ago)

From the list, bottom of page 4 top of page 5 you have 2 references you made notes on:

Shuyler, LR. 1973. National animal feed lot wastes research program. EPA-R2-73-157. Environ. Protection Agency. Washington, D.C. 33 p *This is an error, the watershed specialist report is posted on the public website.*

U.S. Department of the Interior, Fish and Wildlife. 1984. Endangered and threatened wildlife and plants; notice of finding on 5 petitions. Federal Register 51(136): 26583-26585. *This is an error,*

the watershed specialist report is posted on the public website

Sorry, I don't have Word so the best I can do is a screenshot without having to install yet another program on my computer. But are you saying these are not references but are actually the Watershed report?

The reference above is clearly the Watershed report, and I had not made that correlation thinking it must be a different watershed report. But the 2 after appear to be separate references, not the watershed report.

As for references that are books, you should at a minimum provide the page or relevant pages that are referred to. And for those references with copyright issues, they should also be removed from the final plans.

Thank you for working with us to provide these references late tho they may be.

Theresa

Actual text for easier viewing:

“From the list, bottom of page 4 top of page 5 you have 2 references you made notes on:”

(2 references provided in screenshot)

“Sorry, I don't have Word so the best I can do is a screenshot without having to install yet another program on my computer. But are you saying these are not references but are actually the Watershed report?

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Thank you for working with us to provide these references late tho they may be.

Theresa”

Moy, Marshell - FS 7:39 AM
to Anthony, patience_odowd@yahoo.com, Stacy, DVM, Shirley, Richard, Scott, me

Good Morning,

Any reference that is not posted (or a book or copyright violation) will be removed from the final reports.

Marshell

Marshell Moy
Forest Environmental Coordinator
Forest Service
Apache-Sitgreaves National Forest
[redacted]
marshell.moy@usda.gov

Caring for the land and serving people

Actual text for easier viewing:
"Good Morning,

Any reference that is not posted (or a book or copyright violation) will be removed from the final reports.

Marshell"

Thank you for the opportunity to submit our public comments during this phase of the NEPA process on the Draft Territory Management Plan for the Heber Wild Horses, The AML Determination and this Draft Environmental Assessment.

April 22, 2021

Theresa J Barbour
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