

Attention: Heber Wild Horse Territory Comment  
30 S. Chiricahua Dr  
Springerville, AZ 85938

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#### Public comment for the Heber Wild Horse Territory Proposed Management Plan

Thank you for the opportunity to submit this comment on this proposed territory management plan. Citizens Against Equine Slaughter (CAES) and Wild Horse Observers Association (WHOA) have been following, visiting and involved with the herd, watching, observing, enjoying, educating, and advocating since 2005. We also have been involved in getting volunteers to haul water during drought, and getting the appropriate permits from the Forest Service to do so. We have also been providing information provided to us regarding the wild horse shootings to the Forest Service, local sheriff, state and federal legislators, the FBI, media and the public, to try and assist in finding the killers. And board members of both CAES and WHOA are AZ property owners.

Our first comment is that this plan should be an EIS. This is the first ever management plan for wild horses on the territory and as such should have been done through an EIS. The human environment, as well as the resources themselves will be significantly impacted by this proposed plan and therefore require an EIS.

Additionally on your website for the Heber Wild Horse Territory, you list the steps for the process, and step one indicates this is a scoping public comment for the Territory Management Plan, step two states you will then develop an EA, then step 6 says you will develop a territory management plan. It is unclear if the EA will be for the territory management plan, or if it will be for removals based on the herd management plan outlined in step one. If it is the EA for the territory management plan discussed in step one, then why would Forest Service, in step 6 again be developing a territory management plan in step 6, AFTER objections have been heard? If the document you plan to develop in step 2, is an EA which addresses plans to be implemented, like removals, based on a document from step one, the territory management plan, then where is there opportunity to object to the territory management plan itself in this

process? This needs clarified, and the public need to know, clearly how and where to file an objection to this management plan if corrections or revisions are not made to their satisfaction.

We have been involved in providing information and photos of the herd, and of possible illegal activities against the horses in the herd (shootings and being stolen from). And one of our board members, Mary Hauser, was on the working group.

Mary was kicked off the working group via voicemail message right after she submitted our recommendations for final changes to the recommendations they submitted to you. Our comments were then sent directly to the Forest Service because the working group would not include them. We feel that the Forest Service stacked the working group with ranching interests.

By kicking Mary Hauser off the working group did not follow the stipulation agreed to between the Forest Service and the plaintiffs in development of this management plan. Intentionally and sadly Forest Service took so long to develop this plan that Pat Haight died before this draft plan was developed. Another of our board members, Patience O'Dowd worked with Pat Haight during the court case, on the court case, and subsequent Stipulation Agreement which was finally reached in 2007 (CV-05-2754-PHX-FJM). See attachments C and D.

Other issues of concern over the legalities of that working group are that there are no meeting minutes, no recordings, and the meetings were not open to the public. This was in violation of the federal open meetings laws. There were several members of the federal government who were in attendance at one point or another for every meeting, and they were involved in shaping suggestions to be made for this proposed plan, therefore they must have adhered to the law and did not.

Using Southwest Decision Resources to run the working group meant there would be a predetermined outcome for the group. No contracted mediation or arbitration group is going to disagree with what the boss wants if they want to continue getting contracts to run these working groups and we have seen this time after time. BLM was involved to lend a hand in preparing what has always been the status quo for that agency, which is often a plan or procedure that lands them in litigation. And Arizona University who facilitated the meetings insisted the meetings did not have to be open to the public when in fact, the Forest Service paid for the working group to be held and as such open meetings laws had to follow federal law, not the University's regulatory requirements. However, our complaints to Forest service and AZ University were ignored during the process.

Two of CAES board members tried to attend a phone meeting when Mary Hauser could not be in attendance, which was known to the rest of the members before the meeting was scheduled, and the members of the group in attendance that day voted to kick us off the call. Again violating open meetings laws.

This means this plan has been developed in violation of the stipulated court agreement.

The submission of comments which allow for attachments can only be done by hand, or on the CARA website. We don't know how the Forest Service gives us proof of receipt if we send it to some website we have never heard of therefore forcing us to incur costs to have it printed, and delivered to you by hand. The CAES AZ office called Heber Wild Horses on Facebook posted an update today because of problems trying to submit comments on the Cara WEBSITE:



**Heber Wild Horses**

4 hrs · 🌐

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Keep them running free!

If you have submitted a comment, please check to be sure it was posted. We are still having problems with comments.

Some comments will not submit even though they are way below the size limit of 50 MB. Some comments will not post even though they were submitted and they have to be submitted again and again. We know of one comment that was posted and now it's gone. Check here to to search for your comment, if it's not there, resubmit! Calling the contact number has not proven to be helpful for us.

<https://cara.ecosystem-management.org/Public/ReadingRoom...>

In this plan you state you will use it to guide management of wild horses and their habitat. And you state the territory is 19,700 acres. You also go on in this proposal to state that you 'think' the horses in the territory are from horses that were on the nearby reservation. This was also discussed in court and ruled that there is no distinction between the 2 populations.

By outlining only 19,700 acres as land for the horses to be managed on you have neither included the land historically used by the horses in 1971 or now, nor have you followed the definition of habitat to provide habitat for a self-sustaining and viable herd. These horses have routinely migrated between what you have outlined as the Heber Wild Horse Territory and the reservation. The Forest Service admits this historic migration back and forth. Even your census map on page 10 of this proposed plan shows the majority of the horses in the areas they were historically in 1971, which is south and east of the current outlined territory. Yet the Forest Service neglected to include the area south and east, of what you outlined as the Territory, and the reservation in the territory.

We made the following suggestion to the recommendation from the working group which was subsequently ignored:

*Per 16 CFR 30 §1322(c) "range" means the amount of land necessary to sustain an existing herd or herds ...which does not exceed their known territorial limits, and which is devoted principally..."*

*The areas of the Forest historically used by wild horses were not all included in the WHT boundaries and this must be reconciled with known historical use of the Forest which is evidenced by the FS data collected over the past 20 plus years and even included in the Teams Report. The Teams report pages 7 - 9 discuss where horses were found during specific years. It is clear by these tables that the only area observed for population census before 2005 was the current WHT, however, it is further evidence that the entire historical use of the Forest was not included by the tables that show population on and off the territory from 2005 on that the census was at that point including the historical use of the herd. This is likely exacerbated by livestock fencing however, newspaper clippings and interviews which can be found by simply using the library or even Google show that the horses have historically used a much larger portion of the forest than has been outlined in the current territory..*

Even the predetermined outcome of the working group challenged this arbitrary territory boundary by recommending "All horses within an agreed upon territory buffer zone (TBZ) beyond the HWHT will be considered to be members of the HWHT population" (FAEH); "the management proposal includes consideration of all horses currently within a territory buffer zone based on the aerial data collected by ASNFs."

On page 5 of the proposed plan you talk about the early census and do not include whether this census was only for the current outlined territory or not. We believe that if the area between the outlined territory and the reservation had been surveyed, the number of horses in the herd would have been much higher. This completely invalidates your census.

The horses outside the territory proper are still wild horses per Kleppe v NM. They have walked on and off the territory. Despite where Forest Service or community members feel they may have come from they are legally, federally protected native wildlife.

The ethnographic study is not a valid document based on only 10 persons' memories. There are no facts, and the area discussed again was not clearly defined, as being the historic area used by the horses versus your outlined territory. We have members who have followed these horses for decades and they all feel the horses were much higher than 7 to begin with, that they are one in the same with reservation horses and that for more than 40 years have always roamed between the outlined territory, the reservation and the land in between. One such observer, and herd documenter's affidavit is included with these comments. These oral histories we can provide are just as scientific and binding as your ethnographic study. Therefore the history included from this ethnographic study should be removed from this plan. The Forest Service was required to maintain a census and failed to do so, period.

The one conclusion of that study we agree with is that the Forest Service needs to develop this plan based on the current wild horse herd. That is based on the lack of census done by the Forest Service.



The forest Service must provide an explanation of the numbers you did provide. Forest Service claims there are 500 horses in the Apache-Sitgreaves, on and off the territory. Citizens Against Equine Slaughter has had several volunteers on the ground in the territory, documenting and reporting on the horses, individuals bands, births, and deaths. These people have been documenting the herd for decades and their count is closer to 200 horses (especially when you consider the shot horses, and foals in utero), how do you account for such a drastic difference in your number, when compared to people who are out there every day and can provide photographic proof of the horses? We are right now compiling our herd book for you and the public to have. We know there are not 500 horses out there.

Also according to the ethnographic study you state: speaking of the early population "they were likely Army Mounts that were turned out", and then from 1990 forward "appears to be a mixture of horses from the Fort Apache Reservation and other unidentified horses with no substantiated link with the originally designated herd." Again, you have provided NO evidence of these statements. And in fact, the courts differed with this point of view ruling they were indistinguishable. Therefore your opinion has no bearing on the management decisions to be made either.

Your census charts show that there were between 270 to 420 horses in 2017. How do you explain such a large range? We believe there were 270, then after the shootings of over 30 horses after that in 2018/19 and 15 additional shootings this year, along with foals that were in utero, and stolen horses from the forest (photos of which we sent to you and other law enforcement agencies) there cannot be 500 horses. Where is the census data for this 500 claim that you estimate are there now?

We have concerns that the actual population is being referred to as increase, when the actual population has not increased or decreased annually, more than 50 horses. These statements of problematic increase must be verified, and explained because we see a very healthy ecosystem. Predators have kept this herd within the same population range for 13 years. If you reduce the horses, you are reducing prey for the 3 apex predator species on the territory, and you will likely begin seeing predation on livestock. This typically leads to demands to destroy predators, and creates a downhill spiral.

Removing horses to the suggested AML range would throw this balanced ecosystem into an unnaturally imbalanced system, and would have serious cascading effects. As a Mexican Gray Wolf recovery area, we feel it is important to look at the role of the wild horses and other wildlife in the habitat of the wolf, and even other apex predators such as bears and cougars.

What science has been used to evaluate the impacts of reducing prey in apex predator habitat? If there is none this should be studied before any reductions are made.

You recommend an AML of arbitrary nature, with no explanation or transparency as to how many livestock, elk, or other grazing ungulates are in the territory. This is within the scope of this

plan because if there were less cattle there would be more forage, more water, and less contention for the herd overall. We know that there is a problem between permittees and wild horses. That has been documented, screenshotted, and shown to be the case on social media, newspaper article comments, and other places. That is the case specifically with this herd, not just on a national level. The Forest Service plan for wild horse management leans heavily in protection of the land use for livestock. This is also the reason the Forest Service is being sued for not protecting the habitat for the Mexican jumping mouse, and also likely the reason for recent poaching of a bear, and 3 Mexican gray wolves. This favoritism doesn't fall within your legal authority.

While multiple use is used in FLPMA and wild horses are most often managed using that mandate, the color of law of the under the law in the WFRHBA mandated that wild horses get principle use of areas they were found in 1971. Therefore, some livestock decreases may be necessary to achieve that goal. However, that is outside the scope of this wild horse management plan. FLPMA also stated that multiple use mandates of the FLPMA law did not override pre-existing Federal Land use policy, and courts have ruled that is what the WFRHBA is. Additionally, courts have ruled on this matter stating wild horses must at least get an equal footing. You do not clearly provide evidence of that equal footing. Do horses get allocated an equal share of forage, and equal number of AUM's? Elk are even outnumbering wild horses, are more damaging to fences, and more often the cause of collisions with vehicles. Yet elk get more protection than the wild horses, animals which are the only native species between the 3. There is no scientific study or evidence provided to show that wild horses are the cause of jumping mouse habitat damage, or damage to riparian areas, that must be provided.

You have stated that AML will be used to determine when wild horses are to be removed. The court ruled that AML in and of itself doesn't determine excess. The Forest Service is only permitted to remove horses if they are found to be in excess, or are a public safety hazard (i.e. horses in the road) Therefore AML cannot be the causation of determination of excess resulting in removals.

If removals will be determined by resource condition those conditions should be listed and prioritized as the order or priority in triggering removals.

While we believe that if the territory (the entire historic area) was managed principally for wild horses there would be an AML of 450 - 500 wild horses. The determination of AML should include at least 150 - 200 horses because that provides a stable breeding population, and it doesn't go against the Forest Management plan as there was no AML determined at the time of that plan implementation. If the AML of 150 - 200 horses doesn't allow for as many cattle as are out there currently the number of cattle should be reduced to accomodate a healthy, self-sustaining herd, which is what is there now. While we recognize it is not a popular action with livestock permittees, reduction or even removal of livestock is within your legal authority to provide habitat for wild horses.

Even the working group suggested an AML of 150 - 200 horses, speaking only of the current outlined territory and not the entire historical area used by the herd: *"WG recommendation: AML levels should be increased to allow for more usage and higher numbers of horses in the territory to account for genetic diversity needs of 150 horses or more, based on the most recent research"* What is the Forest Service explanation for ignoring this recommendation?

Forest Service stated, in regards to the above recommendation *"The number really depends upon each population and the original genetics present, as well as analyzing the marker alleles present within the population."*

To which we reply:

- See the recommendation to utilize the specific BLM Resource Notes below.<sup>1</sup>
- The genetic variation in the wild horses of each herd should be determined by DNA testing.
- It is important to understand the difference between an open and a closed herd. The fencing which disallows wild horses coming in from the "Apache" wild horses causes the herd to be a closed herd and therefore more DNA testing through time will be necessary.

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<sup>1</sup> <https://www.blm.gov/nstc/resourcenotes/rn23.html>

NO. 23 DATE 07/18/00; Wild Horse and Burro Population Viability; By: Linda Coates-Markle Program Specialist; Montana State Office, BLM

Resource Note #28 - Genetic Management of Small Populations: The Special Case of Feral Horses - Dr. Oliver Ryder, University of California, San Diego.

Resource Note #29 - Genetic Effective Population Size in the Pryor Mountain Wild Horse Herd - Dr. Francis Singer and Linda Zeigenfuss, Biological Resources Division, USGS.

Session 3 (Resource Notes 30-32): Define Population Viability Analysis (PVA) and identify possible benefits and limitations to modeling efforts. What types of demographic, genetic and/or ecological data are needed for these models? Compare and contrast different methods of population monitoring which are used to provide the necessary data to estimate viability.

Resource Note #30 - Population Viability Analysis - General Principles and Applications - Drs. Barry Noon, Fred Sampson and Nels Johnson, Colorado State University.

Resource Note #31 - Methods to Collect Required Data to Develop Rigorous PVA Models - Dr. Gary White, Colorado State University.

Resource Note #32 - Development and Assessment of Tools that Managers Could Use to Monitor Wild Horse Populations - Drs. Francis Singer and Ron Osborne, Biological Resources Division, USGS.

Session 4 (Resource Notes 33-35): Finally, use PVA to evaluate real-life scenarios involving wild horse populations. What are the consequences of different management alternatives? Compare and contrast the complexities of herd management, using both removals and immunocontraception, for two very different populations. Demonstrate the potential for enhancing the adaptive decision-making process through the use of PVA.

Resource Note #33 - Viability of Feral Horse Populations on Atlantic Coastal Barrier Islands: Implications for Management - Dr. Brian Underwood, USGS Patuxent Wildlife Research Center.

Resource Note #34 - Effects of Contraception and Removal Treatments on Pryor Mountain Wild Horse Population Demographics and Genetics - Dr. John Gross, Natural Resource Ecology Laboratory, Colorado State University.

Resource Note #35 - Summary Recommendations of the Wild Horse and Burro Population Viability Forum - Linda Coates-Markle, Montana/Dakotas Wild Horse and Burro Specialist, Bureau of Land Management.

- No tribal entity has claimed all their wild horses as livestock. The Apache horses are wild and wild horses in the same area are all the same herd consisting of different bands. The fencing creates an artificial genetic barrier which can endanger the wild horses and artificially reduce genetic variation and make them genetically vulnerable. The stipulated agreement spoke to this issue as well.

If the horses are managed ON THE RANGE, there is in fact, no loss of diversity. The Heber horses should be managed entirely by their predators and native PZP. There is no reason for a round ups as shown by Assateague National Park.

To perform the duties mandated to the FS to protect and preserve the herds we feel that genetic analysis is very important. If genetic analysis is not done then AML should also not be set. It is irresponsible to set an artificial range of population without first knowing if the genetic health of the herd can support such a man-made population.

- Genetic analysis is usually about \$100/horse.
- A baseline of at least 30 wild horses should be done.

CAES and WHOA is opposed to knowingly creating a population (through AML range) that will create a situation that makes it necessary to introduce mares from outside herds. The Heber wild horses have genetic markers that are unique, and these must not be watered down per the WFRHBA mandate to preserve the herds as self-sustaining populations where they have historically existed.

If there is a plan to remove horses because of decline of rangeland health there must be information which both quantifies and qualifies the damage done by horses versus other grazing ungulates to determine which species would be removed and to what level. The methodology used would have to have a baseline analysis of the riparian area and damage done before the study or analysis would be undertaken. A damaged area from grazing ungulates can take years to recover therefore not creating that baseline would give false end results. Such as removal due to protection of Mexican Jumping Mouse habitat.

Also information used for such a study would have to take into account that livestock, specifically cattle today are one third heavier than that of decades ago when earlier studies were done. This would cause substantially more damage especially to riparian areas, and involving soil erosion.

On page 12 of the proposed plan you define thriving natural ecological balance as balancing wild horse management with other multiple uses, yet this plan clearly indicates that horses will not be in balance but rather will be provided the least allocation of forage and water, with livestock having the greatest. You also list the desired ecological conditions one of which is that herbivore grazing is not contributing to reduced water quality from sediment or other non-point source pollutants. Again this objective is not met with the number of livestock permitted. And there is no qualitative or quantitative evidence showing that wild horse populations cannot be

maintained at their current levels, to meet this objective. Oppositely there is much scientific evidence available to show the severe damage done by livestock, especially heavy livestock such as cattle, that has been done to riparian areas, this prompted a lawsuit against the Forest Service in the Apache-Sitgreaves area in February of 2020. We insist that any damage blamed on horses be presented with evidence that also gives proportional data of all other herbivores using the area. If there is no data to prove such claims then it cannot be used to remove or cull this herd. Again we refer you to the law which states wild horses are to get principle use of their outlined territories. Therefore they would not be removed before livestock or elk, or other grazing ungulates, unless they have exceeded a principle use of that resource. We also request that forage allocations showing this principle allocation to horses be shown in the final draft of this plan, and listing what allocations are given to other species, including livestock.

Forest Service has not been transparent as to how many livestock are permitted in the wild horse territory, no permits or rangeland health assessments for the allotments have been provided, and they must be attached for public evaluation.

Additionally, limiting livestock would benefit the environment in many other ways including the current climate crisis, other critically endangered species in the territory as we've mentioned throughout, and also the spread of invasive flora which are causing widespread, intense fires throughout the west, such as cheatgrass. Horses have never been proven in any study to be a contributor to any of these issues. In fact the damage possible, when comparing that of wild horses to that of livestock with the existing populations numbers of both, is negligible.

We adamantly oppose the use of GonaCon for immunocontraceptive use. GonaCon is hormonal and therefore changes mare behavior and band dynamics. This is in opposition to the mandates of the free-roaming horses and burros act.

We are happy to see PZP considered as a tool if the population is ever truly over what the range can support. NOT the AML you have suggested in the HMAP. We recommend however that you change the "cons" section which reflects an outdated IM from the BLM. The use of birth control, native PZP is proactive, feasible. Darting of all mares or a large percent of mares can end the need for round ups and allow for On Range Management vs holding pens or death. If PZP native is darted scientifically and mathematically, there will be no need for round ups. Lure traps for darting can be up year round and darting can be accomplish for boosters or actual Darting should be accomplished by paid contractors that do not have a conflict of interest. CAES and WHOA have and still offer to assist in implementing this program.

The law requires that use of PZP cannot be decided based on this outdated and fraudulently used IM (including at Muddy Creek, UT, Warm Springs, OR):

[https://www.blm.gov/policy/im-2009-090?fbclid=IwAR3KxToQxxaFFwnyMK0EXIkEA0IOLGOwdmcFmjvFSevlq1yp9IV59VIGK\\_w](https://www.blm.gov/policy/im-2009-090?fbclid=IwAR3KxToQxxaFFwnyMK0EXIkEA0IOLGOwdmcFmjvFSevlq1yp9IV59VIGK_w). This IM id fraudulent and has been since 2012 because PZP was no longer registered by FDA as an experimental, but became approved and registered by the FDA as a non-experimental vaccine for on range darting without monitoring requirements.

Sterilization of stallions should not be an option as it has been proven it does not work if the goal is population reduction. It only takes one stallion!

Sterilization of mares should also not be listed as a tool. It is highly unacceptable by the public, it has been litigated every time it has been in a management plan for wild horses, it is still considered experimental on wild animals and as such must be done following AWA regulations for experimenting on wildlife. Those regulations require surgical procedures to be done in an aseptic environment which can never be done in the field or in holding facilities or corrals. Even BLM has admitted that this is not a viable option and will likely land in litigation that has merit.

Additionally, sterilization of males or females using hormonal agents is unacceptable because it changes the behavior and or has the probability of changing behaviors of individual horses, leading to changes in band and herd behaviors which is not in keeping with the mandate of the Wild Free Roaming Horses and Burros Act.

We are additionally happy to see that the use of helicopter gathers is not included in your "toolbox" for the management of this herd. We hope it does not get added, not only for the horses but for other animals that live in the area, a few species of which are critical or endangered and require other levels of federal protections and which would be adversely impacted by the use of helicopters. We are including some information on use of helicopters, as well as a statement about use of such a motorized vehicle being illegally used to move horses out of a livestock allotment in the territory. We are submitting this comment because during the working group process you stated of bait trapping: "This method is focused on avoiding crisis mode. If necessary, other removal methods may also be used." By other we assume you meant helicopter gathers.

We also sent you our thoughts on constant bait trapping during the working group's recommendation process. Constant bait trapping would create questions under NEPA, public comment for each gather, viewing of each gather etc. There is a recent poll which showed that 80% of Americans do not want more wild horses removed from the wild. Constant bait trapping is not consistent with a natural family structure and will unduly increase reproduction rate due to compensatory reproduction.

This plan proposes installing water tanks along a major road. We feel this would entice horses to be on the roadways, and those tanks should not be included in future or final plans.

This plan should include providing signage on not only the presence of a wildlife corridor but also include signage for penalties for shooting, harassing or harming wild horses. Many places are now implementing plans for over or underpasses where major issues have occurred in areas with vehicle/horse collisions. This would benefit other wildlife that are frequently hit in the road and provide safety to the public.



The plan also does not address the issue of fencing problems on the territory. We support fencing along highways, but disagree with existing fences remaining where they are.

Using fences to keep the horses on the territory is creating a sanctuary or zoo-like situation. This is in violation of protecting their free-roaming behavior (which is the exact wording in the WFRHBA.)

Water hauling by Heber Wild Horses Freedom Preservation Alliance the Arizona Office of Citizens Against Equine Slaughter was started because of issues of livestock fencing on the existing HWHT.

Wild horses will travel up to 10 miles a day for forage and water. The current territory size should have no bearing on AML based on distance to water availability, however fences are a major factor that will affect the AML through increased death as the drought continues to get worse, which it is expected to.

Drought should never be a factor when water is available on the territory, water improvements and providing water is the job of the FS pursuant to 36 CFR Ch. 11 Subpart B §222.20 (b) (6) and (8)

Fencing for cattle grazing has effectively and incredibly reduced the territory of the wild horses, therefore decreasing and removing fencing on the territory is called for and necessary. The Forest Service needs to address installing new gates where there are long fence lines with no gates. This was the original issue that caused horses to be trapped without water when water hauling by the Citizens Against Equine Slaughter volunteers.

We also made recommendations on fencing issues in the document we provided during the working group process. They were as follows:

- Fences are an issue causing the horses to move off the current territory as the boundaries are set.
- Migratory lands use needs to be added to the territory, as well as uses for roaming to water sources during a continuing drought.
- One solution to more horses leaving the territory would be to open all places where water exists, to the horses and make sure they are not fenced out (example again is the situation that first occurred this past year resulting in the beginning of water hauling. Livestock fencing, where there were not gates, had a band of horses trapped where there was no water, and the horses could see water on the other side of the fence, gates will help that situation as well)
- The fact that wild horses do get caught without water inside the territory, inside permittee fences causes death hence this is likely another cause for less horses inside the territory than outside the territory and this needs to be rectified as this is one of the very purposes of the 1971 Act. Our recommendations to solve this matter are:

- Removing all fences on the territory.
- Make sure every fenced enclosure created on the territory has a permanent/perennial water structure accessible to the horses year round.
- When cattle are removed gates must be locked open by FS or the gate is removed.
- Every fence line must have a gate(s) (at least 12 feet wide) every quarter of a mile or less.
- There must be a straight line north to south, east to west and diagonally crossing the territory to allow natural roaming and intermingling, to get to all water sources on the territory, especially Black Canyon Lake. Fences impeding this ability need to be removed and/or modified.
- All horses on the territory need to have access to all other horses on the territory. Fences impeding this ability need to be removed and/or modified.

Providing water is the job of the FS pursuant to:

<https://www.gpo.gov/fdsys/pkg/CFR-2003-title36-vol2/xml/CFR-2003-title36-vol2-sec222-20.xml>

*Code of Federal Regulations*

*Title 36 - Parks, Forests, and Public Property*

*Title: Section 222.20 - Authority and definitions. Context: Title 36 - Parks, Forests, and Public Property. CHAPTER II - FOREST SERVICE, DEPARTMENT OF AGRICULTURE. PART 222 - RANGE MANAGEMENT. Subpart B - Management of Wild Free-Roaming Horses and Burros.*

*§ 222.20 Authority and definitions. (a) Authority. The Chief, Forest Service, shall protect, manage, and control wild free-roaming horses and burros on lands of the National Forest System and shall maintain vigilance for the welfare of wild free-roaming horses and burros that wander or migrate from the National Forest System. If these animals also use lands administered by the Bureau of Land Management as a part of their habitat, the Chief, Forest Service, shall cooperate to the fullest extent with the Department of the Interior through the Bureau of Land Management in administering the animals. (b) Definitions. . . .*

*(6) Inhumane treatment means causing physical stress to an animal through any harmful action or omission that is not compatible with standard animal husbandry practices; causing or allowing an animal to suffer from a lack of necessary food, water, or shelter; using any equipment, apparatus, or technique during transportation, domestication, or handling that causes undue injury to an animal; or failing to treat or care for a sick or injured animal. . . .*

*(8) Malicious harassment means any intentional act demonstrating deliberate disregard for the well-being of wild free-roaming horses and burros and which creates a likelihood of injury or is detrimental to normal behavior pattern of wild free-roaming horses or burros including feeding, watering, resting, and breeding. Such acts include, but are not limited to, unauthorized chasing, pursuing, herding, roping, or attempting to gather wild*

*free-roaming horses or burros. It does not apply to activities conducted by or on behalf of the Forest Service or the Bureau of Land Management in implementation or performance of duties and responsibilities under the Act.*

[https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/fsbdev3\\_054750.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fsbdev3_054750.pdf)

*Sec. 261.23 Wild free-roaming horses and burros. The following are prohibited: (a) Removing or attempting to remove a wild free-roaming horse or burro from the National Forest System unless authorized by law or regulation. (b) Causing or allowing the inhumane treatment or harassment of a wild free-roaming horse or burro. (c) Removing or attempting to remove, alter or destroy any official mark used to identify a wild horse or burro or its remains unless authorized or permitted by law or regulation. (d) Violating any terms or conditions specified in a care and maintenance agreement or permit. [46 FR 33520, June 30, 1981]*

*State law means the law of any State in whose exterior boundaries an act or omission occurs regardless of whether State law is otherwise applicable.*

*Wild Horses are subject to the animal cruelty of the state once rounded up. WHOA v NMLB Wild horses are considered captured if they are trapped inside a fenced area without water. Wild horses are subject to the animal cruelty statutes of each state as well as federal. Hence also given that the ACT (1971) was passed in large part because of the brutal practices of permittees trapping horses in their permit fences, removing their livestock and turning off the water. Thus killing the wild horses. Therefore not providing water year round while providing fencing and allowing water tables to be drawn down for livestock and interfering with surface water flows and natural migration, as well as fencing off natural lakes etc., it would appear that this would be illegal activity, on both a state and federal level. Permittee fencing cannot block free movement of wild horses and then state that they should not be there due to lack of water. In this case, all fencing must be removed.*

During the working group Forest Service stated:

*"If the HWHT Management Plan triggers a change to the management of the allotment, then a supplemental NEPA could be needed.*

- *This could impact the utilization on the Black Canyon Allotment. A supplemental increase could then be tiered to match the utilization on the HWHT*
- *There is limited FS capacity for conducting multiple NEPA's at the same time."*

This clearly indicated that once the horse population was decreased Forest Service plans to increase use by livestock. This further proves that the working group outcome, and this plan to reduce wild horses to a non-genetically-viable population was all predetermined. Forest Service

needs to go back to the drawing board on this, and needs to update the Forest Management Plan to include a healthy herd of wild horses, not a trivial number to attempt to feign management of a herd. The AML needs to be based on the best available science which at this time is Dr. Gus Cothran who clearly stated the number of wild horses necessary for a healthy, self-sustaining, viable herd.

Additionally, fences were discussed in relation to permittees and fencing and we provided the following suggestions which are not addressed in this plan anywhere:

*"FS is not required to provide fencing to keep livestock from wandering on or off the National Forest, it stands to reason they would not be responsible for providing fences, gates, etc.*

*However, FS is responsible for the protection of wild horses & burros. To manage this wildlife species it also stands to reason the FS per the FSM would require permittees to leave gates open, and FS would still have the ultimate legal responsibility of making sure the horses have access to forage and water year round. Therefore we suggest it a task that should be required in the rules of the permit for permittees to leave gates open when livestock are not on the land, however it is the legal obligation of the FS to make sure they are open.*

*Because it is possible for anyone utilizing the forest to wander through an area and close an open gate we also recommend that the FS lock gates open during times cattle are off the land. Fence modifications would also fall under the obligation of the permittee for the same reason listed above for gates. We recommend that all fence designs be given a hard look, and that the migratory routes that should exist in criss-crossing patterns for the horses to be distributed throughout the territory be opened up.*

*Some modification to existing grazing allotments needs to happen for migratory and historical use by the horses to be either opened or added to the HWHT. This is permissible pursuant to the WFRHBA, FLPMA, PRIA, Taylor Grazing Act and the FSM under 2231.62(d) both as land that (already was withdrawn under CFR) is needed for another use, and continuing issues of drought, which led to scarcity of water resources (expected to get worse) Not only should this apply because of wild horse territory, but also the other wildlife species in the area that are endangered, and as we clearly saw were impacted by drought. We had evidence of bear and wolf using our water tanks, and the number of elk and other wildlife was much higher than the number of wild horses using them. Livestock water consumption must be taken into consideration for the preservation of this wild horse territory."*

On page 16 of this proposed plan under "Tools to Maintain Horse Health and Habitat" you stated vegetation treatments including items such as juniper removal and prescribed burning could be used. Neither of these items impact the range for wild horses. In fact both have been used to benefit livestock production and have created adverse results on the range. Removal of old growth junipers is detrimental to several species , especially birds, but again removal has no bearing on a healthy habitat for wild horses. Prescribed burns allow speedy introduction of invasive annual grasses, like cheatgrass, and that smothers growth of native perennial grasses.

This increases the likelihood of more severe, and quicker spreading fire. We ask these be removed from the 'tool box' or that significant evidence as to how this benefits the horses be presented for evaluation.

CAES and WHOA is adamantly opposed to radio collaring, especially in a forest where there are so many things for the horses to get collars caught on. BLM stopped the use of collars at one point because of horrible sores on the horses. The newest design has also proven problematic. So at this point they should not be included as a tool in this plan., If new technology is developed this could be readdressed in future NEPA actions.

During the working group AML was discussed in conjunction with the forage allocation task group which we were not part of and not provided any minutes of, so were not able to evaluate how they came to their recommendations and we suggested to you *"Without meeting minutes to refer to we cannot commit to agreement of forage allocation. Forage allocation must be principally given to the wild horses per current regulatory mandates"*. See Attachment A

Additionally recommendations were made on drought by that task group and we submitted the following:

*"Without again, being part of or seeing meeting minutes from the forage group, I cannot comment on those, however, given the 'principle' use mandate of the territory for wild horses, and the ASNF being critical habitat for several endangered species, we would expect that drought protocols, if suggesting reducing any number of animals would fall to livestock before any wildlife, including the wild horses.*

*FS can and must implement permanent water improvements, and it would be prudent to involve USFWS in that task as the large populations of elk, the endangered species in the territory, and the use of other native wildlife, all should be provided the same supplemental water and feed that are commonly seen for big game throughout the national forests."*

This plan was clearly predetermined, before the working group as is illustrated by our notes from the working group recommendations, the following section:

#### **HP Introduction and Executive Summary – language and interpretation**

Working Group recommendation: *"The proposal should guide management decisions for the wild horses in HWHT until such time a complete plan has been approved"; "the horses should receive priority use of the HWHT"*

To which the Forest Service, clearly worried principle(priority) use would oust some livestock, replied:

- *"WG proposals are recommendations, and should not be construed as binding in any way.*

- *“Priority use”: ASNFs is concerned about this interpretation of the Act – the HP task group’s language regarding the Act should be reviewed and edited for clarity and accuracy.*
- *Exact wording from the Act should be used where possible.”*

To which we replied: “See Attachment A” Also attachment A herein. And discussed above re: FLPMA and multiple use.

When you explain thresholds on page 18 of this plan you neglect to explain how any assessment of riparian area or forage utilization would be discernable as to what species is utilizing these areas/resources. This implies that if there are too many elk, or cattle utilizing the resources, it would be an indicator that wild horses should be removed. The Forest Service must provide a plan for how to distinguish what species is doing the damage before using this as a threshold for determining excess or modification in management.

On page 19 you mention installing 7 dirtside tanks. We find this absurd. When horses will be enticed toward a road you are inviting public safety hazards including horses in the road and motor vehicle collisions with them in the road. Additionally since most of the wild horse shootings have occurred along roadsides you would effectively be giving these uncaught shooters easier targets. If the Forest Service planned to have a presence at the roadside tanks we would agree to these water improvements, or if the shooters were actually caught and prosecuted. Additionally, if the Forest Service implemented plans to work with DOD and create wildlife under or overpasses at these locations we would be in agreement. However, these are not included and therefore dirt tanks along roads is not a good management tool.

### **Contraception**

- As stated above we do not support the use of GonaCon because of the hormonal reaction which changes the behaviors of mares, and creates a change and disturbance between the horses and familial hierarchy and harem structure.
- Vasectomy has been found ineffective as a population management tool. Unless every stallion is castrated (which would create a non-reproducing herd which is not legal under current regulations) one stallion can cover many mares and this would not create effective population size change. We do not recommend it.
- SEE: *Using Science to Improve the BLM Wild Horse and Burro Program A Way Forward (2013)* the report to the BLM by the National Academy of Sciences (NAS) which studied these options and recommended PZP birth control native or PZP 22 (which is also best used with a booster at least within the first year.

MORE ON POPULATION MANAGEMENT herein:

- We recommend predator management and protection be the number one method of wild horse population control



- If the high end AML (when one is set) is reached we recommend the use of PZP native as the first choice of immunocontraceptive
- If PZP native is not effective, or possible we recommend the next step be the use of PZP 22 with a booster within the first year.
- When utilizing either form of PZP native or 22, it is best to vaccinate all mares for 2 or 3 years in a row and then take a year off. In this manner, all mares then can have an equal chance at contributing genetically and it is then not a human choice as to which horses breed. In this manner, herd numbers can be managed without round ups and expensive holding pens, and can stay WITH their families ON THE RANGE. Also in this way, no genetics are lost from the herd.
- It is best to utilize mobile panels one family at a time to vaccinate them in lure traps ON THE RANGE. Leave a family in the trap for a few hours providing some feed and water and the wild horses will not be skittish about being darted the next time. Instead, they will remember the diversionary feed and water, salt block etc.
- When utilizing lure traps for dart and release as recommended herein, one or two people can assist in "herding" the horses into the mobile panels. Although, with the extent of the permittee fencing, in some Heber areas, mobile panels may not be necessary due to permittee fencing.
- At this time we do not recommend or support the use of any other form of population control. Predators or PZP native/22 or both.
- The first time PZP's are used, they become very effective upon a booster or upon second use. It is likely that PZP native and PZP 22 boost each other as well.

**We further comment on this plan the following:**

- There is no need to remove horses at this time if the entire 'historical' territory that was and is used by the wild horses, as evidenced by years of data of these wild horses moving on and off the territory, is included in expanded boundaries of the territory.
- In Kleppe vs New Mexico the courts made it clear that wild horses which roam off and on a wild horse territory are still the property of the people of the nation and still protected wherever they roam. This is also clear in the 1971 Act.
- Rounding up and moving horses is not acceptable. The USGS ethology on feral free roaming horses <https://pubs.usgs.gov/tm/02a09/pdf/TM2A9.pdf> shows that these wild horses have a close knit family structure and that the stallion's every waking moment is spent in keeping his family together and keeping other stallions and other harm away. While horses do form new families when their families are rounded up, this is a harmful disturbance. Due to this disturbance the remaining wild horses will reproduce at a higher rate. This is called compensatory reproduction and this is exactly counter productive to population management and is not necessary or humane. Removing older stallions is cruel and inhumane and should not be an option.
- Removing wild horses routinely every 3 yrs or so makes it clear that there is little chance any wildhorse will live out it's life on the range. This effectively makes the Wild Horse Territory into a PUPPY MILL. This is not in keeping with the spirit of the law.

- Removing a steady stream of wild horses rather than ON THE RANGE management has effectively ruined the Private industry of horse breeding Arabians etc. This constant glut on the market of horses at \$125 or less than kill buyer prices, has been very detrimental and between natural predators and PZP should NOT be occurring for the sake of the wild horse families AND for the sake of the horse industry which CAN recover.
- The USFS should spend money on jobs for people on the ground to dart rather on helicopters to round up and long term holding pens. Again, the role model for the nation is Assateague National Park. rather than try to figure out why this can't be done, figure out how this CAN be done and CONFER with Assateague as well as Citizens Against Equine Slaughter and their Veterinarian who has been trained in this area at the Science and Conservation Center in Billings Montana.
- In all cases the USDA Forest Service should do detailed cost analysis on each alternative rather than continue with off range management and round ups. In the cost, the 5% loss of life just in normal handling in long term holding pens is understood to be inhumane treatment as well as unnecessary.
- Transferring horses in trucks is harassment as is removing them from their homeland as is separating them from their stallion and families unnaturally in holding pens. Again see the USGS Ethology on Feral Horses.

### Exigent Circumstances

- We recommend a clear definition of "emergency" as it would pertain to gathers. We have brought into question recent gathers that could be challenged legally under definition or lack thereof of 'emergency'
- The plan should also clearly outline how and when the public is informed of emergency gathering etc.
- With proper and proactive use of birth control, and or natural predators, emergency gathers should become a thing of the past.
- Emergency gathers are seen as an avoidance of public input and as a biased approach to wild horse management and should not be utilized. Rather removal of cattle which are not going to be allowed to live long lives anyway is much more logical and feasible. The cattle belong to the few, the wild horses belong to the many. The cattle get tremendous amounts of money from the USDA in grants to ranchers for conservation, drought, flood, depredation, price drops, you name it. This along with loans at banks regarding grazing permits, low grazing fees. Add to this the fact that cattle far out number wild horses in this country. 93 Million cattle to less than 100,000 wild horses. We MUST conserve our public resources, the wild horse and their families.

Wild Horse Tourism was not discussed in this plan, and therefore we assume is not of value?

- The Heber wild horses should very definitely be ADVERTISED and utilized for tourism and camping facilities should be available and publicized.
- A LOOK at this page shows NO PICTURES OF WILD HORSES  
[https://www.fs.usda.gov/wps/portal/fsinternet/cs/main/!ut/p/z1/04\\_Sj9CPykssv0xPLMnM](https://www.fs.usda.gov/wps/portal/fsinternet/cs/main/!ut/p/z1/04_Sj9CPykssv0xPLMnM)

[z0vMAfIjo8zjiQwgwNHCwN DI8zPwBcqYKAfDIzgAM4GuhHEaMfj4lo\\_MaH60dhtSLM B2ECITO89KPSc KTIN51zEsytKiXjypKTUstSi3SKy0CCmeUIBQUW6kaqBqUI5frpefnpe- ek6iXn56oaYNOSkV9coh-BqIK IDc0wiDLNKfMx1ERAMzc-30l/dz/d5/L 2dBISEvZ0EBIS9 nQSEh/?position=BROWSEBYSUBJECT&pname=Apache&navtype=BROWSEBYSUBJ ECT&ss=110301&pnavid=null&navid=0910000000000000&ttype=main&cid=FSE\\_003853](https://www.fs.usda.gov/recmain/asnf/recreation)

- Or at this page <https://www.fs.usda.gov/recmain/asnf/recreation> etc etc etc.
- Wild Horses have VALUE but BIASED management removes all value by NOT utilizing them for tourism and then glutting the market with them rather than Utilizing them for international tourism and managing them ON THE RANGE.
- There should be a whole section in this plan that creatively looks at increasing the tourism value of our wild horses instead of hiding them. The public should be asked for their ideas, plans and projects for this and how to advertise in multiple languages etc. targeting other countries. This is RURAL ECONOMIC DEVELOPMENT for the people of the area as well as for the local livestock industry. It is clear that people come to this forest. It is also clear that the wild horses are not advertised as a value added, only as a glut on the market for adoption.
- Photo workshops, Educational Hikes and Jeep Tours etc. People can learn about wild horse ethology, history, biology, physiology, top down grazing, evolution (55 million years plus etc etc.
- We need to STOP vilifying the wild horse and utilize them and allow them to be VALUABLE on the RANGE as a reintroduced specie that evolved here in North America and only here, regardless of whether they were bred in captivity for a time.
- Tourism is a growth industry not limited by acreage or water as is the livestock industry and tourism drives the national economy for the many without the large subsidies provided to the livestock industry for the few.

## • ECONOMIC IMPACT OF THE TRAVEL INDUSTRY IN ARIZONA

- Arizona's warm weather and magnificent natural beauty made tourism the number one export industry in Arizona in 2017. **43.9 million people** visited Arizona in 2017 who collectively spent **\$22.7 billion** in the state. The money spent by visitors supports jobs and generates tax revenue. The **\$3.37 billion** in 2017 tax revenue equals an annual tax savings of **\$1,293 for every Arizona household** and supported **187,100** industry jobs.
- THE ABOVE IS FROM this website <https://tourism.az.gov/research-statistics/economic-impact>
- This tourism impact is still growing and again is not acreage or forage limited. These horses can be an incredible value added on our beautiful public lands and forests.
- There must be beautiful pictures of these beautiful horses on the Heber Forest Service website.

- There should be a wild horse license plate for the state of Az to fund tourism projects, advertise wild horse tourism, and assist in paying for Birth control and the JOBS it can provide for darting as well as the jobs due to tourism, hotels, rental cars, jeeps etc.

Additionally, you stated that if the herd is reduced to the proposed AML and there becomes a situation of genetic depletion the remedy could be to add horses from outside herd areas or territories. This is unacceptable for numerous reasons. One being that it waters down any unique genetics found in the herd. Secondly, horses from outside herds are often not accepted by the herd, as is evidenced in Muddy Creek, UT where the herd was reduced to well below the AML, and BLM attempted to release outside horses which were not accepted by the herd almost 2 years later still roaming alone. This does not help the genetics in any way and the Forest Service has provided no scientific evidence that this would work. However we know leaving the herd viable does work.

 shared a memory. 6 hrs · 

These horses are now gone. Thankfully, some ended up at Engler Canyon Ranch, a few were supposedly adopted, and others have most likely been slaughtered. Even the ones supposedly adopted could have been slaughtered after one year when BLM handed over the titles. The palomino stallion was rounded up and then returned to an area many miles away from where he'd been born and lived his whole life. They released him in a strange, desolate area with a mare treated with Gonacon, which causes sterility. Neither of them have ever been seen again, even in flyovers. Since so many were taken and the herd was then even further below genetic viability, BLM took a stallion from Cedar Mountain and released him with a mare who had been born in Muddy Creek. They also treated her with Gonacon. She is now continually harassed and abused by other mares and stallions. The stallion from Cedar Mesa has never been accepted by the few remaining horses and is sometimes seen with a band of bachelors, but mostly remains alone. Prior to the roundup, the rancher was seen siphoning water from the horse's pond and trucking it miles down the road to his cows. BLM initially said the horses had to be rounded up because there was no water, and later changed the reason to a land swap with SITLA. There was no water because the rancher stole it. He did not have rights to that water, but when asked, BLM said, "The rancher can do whatever he wants!" He did, and they always do. And the horses and burros always suffer. Before the roundup, someone (BLM or the rancher?) closed the gate and the horses couldn't get to water. I found a stallion who had tried to cross the cattle guard and had died a long and gruesome death. After the roundup, I discovered his entire band up the fence line, all dead. Pregnant mares and mares with foals and yearlings all dead because someone wanted them to be dead and closed them off from water. Nothing is the same in Muddy Creek anymore. There are a very few scattered horses left, and it's a depressing scene. The native grasses are mostly gone and the land is covered in cheatgrass. I don't even like to go out there anymore. With the horses gone, the rancher is happy. And that's all that matters to the ranching community and BLM.



● This is the scene now.



This proposed plan will leave the same devastation for the public, for those who love this wild herd, and it will similarly leave the territory to cows. This is not management for the protection of the species, nor is it management to keep the forest or rangeland healthy. It is favoritism for a profit making industry.

**The information we are providing in our comments are all within the scope of this management plan because they were all discussed in the working group documentation and meetings, and used to develop this plan, they are parts of existing laws, or policies, and are rulings of current cases, and finally they represent a vast number of people in our organization and general members of the public who come to us for information and with great concerns on this proposed plan.**

Citizens Against Equine Slaughter is a national 501ce non-profit organization with a mission to protect American native horses, wild and domestic and their habitats.

Wild Horse Observers Association is a 501c3 non-profit corp. Since 2004. Mission statement at [whoanm.org](http://whoanm.org). A national organization.

Wildlife Protection of New Mexico - WHOA Voters is a 501 c4 non-profit corp. Which advocates for all wildlife nationally.

Thank-you,

## **Attachment A**

### **Legal Opinion on Tiered Management Levels Used by the Bureau of Land Management and The Forest Service for the Management of Wild And Free Roaming Horses & Burros**

*The National Parks should also be tiered with the BLM and USDA Forest Service. The wild horses have fared well under the National Parks which tend to utilize birth control and be utilized for tourism in a value added manner. The BLM and USFS have much to learn from tiering from Assateague National Park and Yellowstone National Park etc. The national Parks are with the BLM under the department of Interior. If the USFS is going to tier from the BLM, they must also tier from the National Parks when it comes to wild horses as they are more applicable and do a much better job adding value to wildlife than does the BLM.*

*At Assateague National Park, there have been no round ups since PZP has been utilized since about 30 yrs ago. This park is over 40,000 acres (twice the size of the Heber WHT and is twice as large as a good number of BLM HMA's and IS remote, as can be easily seen by satellite view on google maps. The rhetoric that these horses are humanized to people is nonsense and that that is why PZP works there is nonsense. Only the few bands near the people area are used to people.*

*Tiering (sharing analysis from other areas) should not be used as an excuse to reduce public inputs. The horses are a public resource and the BLM and the USDA Forest Service are seen as biased against wild horses and hence this would not be acceptable or beneficial for these wild horses which belong to the people of the nation.*

Citizens Against Equine Slaughter and all groups, or branches of, agree to and adopt the following legal opinion on the tiered or layered management style that has developed over time



subsequent to the 1971 Wild Free-Roaming Horses and Burros Act (Public Law 92-195) referred to hereafter as the WFRHBA, and is used in the management of wild horses & burros by the Bureau of Land Management (BLM) and the Forest Service (FS).

#### Definition and Interpretation of Key Words "Range" and "Principally"

*To require the protection, management, and control of wild free-roaming horses and burros on public lands. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that Congress finds and declares the 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 area where presently found, as an integral part of the natural system of the public lands.*

The case for eliminating the various 'tiers' of management applied both by BLM and FS to their implementation of the WFRHBA is best made by the simple, unambiguous description of which lands must be legally managed for wild horses, as shown above. There is no indication that either agency has the authority to dilute the protections afforded all wild horses and burros through the devising of Wild Horse Territories, Herd Areas or Herd Management Areas. The ONLY name for the area to be managed for wild horses is "Range".

There is no authority granted to reduce the WFRHBA's intended level of protection due to renaming areas of wild horse use, nor does this authority stem from amendments to the WFRHBA resulting from the Public Rangelands Improvements Act of 1978, the Federal Land Policy and Management Act of 1976, or the Burns Amendment. In fact, the amended language found in Sec.3(b)2 speaks to removal of "excess animals from the range..." If we are to accept these unauthorized tiers of management, then this section prohibits removal of excess animals from anything but designated "Ranges", of which exist three in the whole of wild horse country. None of those are under the management of the FS.

#### Sec. 2 (c) of the WFRHBA defines "Range":

"Range" means the amount of land necessary to sustain an existing herd or herds of wild free-roaming horses and burros, which does not exceed their known territorial limits, and which is devoted **principally** but not necessarily exclusively to their welfare in keeping with the multiple-use management concept for public lands.

The FS first developed the concept of Multiple use, followed later by the BLM, when it was becoming clear that timber extraction was far outweighing every other land use to the detriment of the resources. This was one of the most constructive concepts ever to guide public land use, and yet even the Multiple-Use-Sustained-Yield Act of 1960 has been intentionally misconstrued

to allow Multiple-ABUSE of our public lands. The definition, found in Public Law 86-517 SEC. 4(a) states principle succinctly:

*“Multiple Use” means: The management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and **not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.***

By definition, the Multiple-use concept supports the designation of “Principally: as it relates to the unique value of wild horses.

As if there were insufficient clarity up to this point, the very language (a single word) used by agencies to “authorize” the creation of lower levels of wild horse protection also completely refutes their own logic.

Sec. 3 (a) of the WFRHBA:

*All wild free-roaming horses and burros are hereby declared to be under the jurisdiction of the Secretary for the purpose of management and protection in accordance with the provisions of this Act. The Secretary is authorized and directed to protect and manage wild free-roaming horses and burros as components of the public lands, and he **may** designate and maintain specific **ranges** on public lands as sanctuaries for their protection and preservation, where the Secretary after consultation with the wildlife agency of the State wherein any such **range** is proposed and with the Advisory Board established in section 7 of this Act deems such action desirable. The Secretary shall manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain a **thriving natural ecological balance** on the public lands. He shall consider the recommendations of qualified scientists in the field of biology and ecology, some of whom shall be independent of both Federal and State agencies and may include members of the Advisory Board established in section 7 of the Act. All management activities shall be at the **minimal feasible level** and shall be carried out in consultation with the wildlife agency of the state wherein such lands are located in order to protect the natural ecological balance of all wildlife species which inhabit such lands, [articularly endangered wildlife species. Any adjustments in forage allocations on any such lands shall take into consideration the needs of other wildlife species which inhabit such lands.*

First, note that the paragraph speaks to the inclusion of ALL wild horses and burros; not those residing on some tourist-oriented “wild horse preserve”. Then, it is important to see the context for the two phrases used with much elasticity when justifying management actions OUTSIDE designated “Ranges”; *thriving natural ecological balance* and *minimal feasible level*. Maintaining

their logic that few ranges exist in the wild horse management system, apparently it is not required that wild horses be managed to maintain this sacred thriving natural ecological balance, nor must wild horses be managed to a minimal feasible level. According to this context, wild horses on BLM HMAs or FS Territories could legally be given regular feeding and constructed shelter; they could push out all other uses and all other species including livestock; and could never be captured. Lastly, the word often extracted from this section is "may". Managers are fond of saying they don't have to create "ranges", that rarefied sanctuary environment where the land is managed "principally" for wild horses. That is certainly one interpretation of the word "may", but it just doesn't apply here. More accurately, this word provides agencies with the authority to fulfill the law; not an option to disregard it.

It is also silently obvious in Sec.3 of the WFRHBA that permitted livestock do not factor into the measure of a thriving ecological balance.

**\*\*The original author's name is redacted and CAES's interpretations include this interpretation currently.\*\***

## **Attachment B**

### **Citizens Against Equine Slaughter Statement on the Overall Working Group Makeup & Process**

- Several attendees are mandated to follow 5 USC § 552b and the meetings do not meet the requirements under this act for executive session therefore requiring enactment of the federal open meetings regulations as outlined in the act itself.
- Additional to the Federal laws that govern these types of meetings there are state laws and the federal employees in attendance do not create a sovereignty from following the state laws.
  - *Article I, section 8 enumerates the powers of Congress; Article I, section 9 limits the powers of Congress; Article I, section 10 limits the powers of the states; and the Tenth Amendment reserves to the states the legislative powers not delegated to Congress or prohibited to the states. Importantly, clause 2 of Article VI provides that congressional enactments consistent with the Constitution "shall be the supreme Law of the Land." Although the Supremacy Clause makes clear that congressional enactments have an extraordinary displacing effect on state law, the clause itself does not authorize Congress to preempt state laws. If the clause were an affirmative grant of authority, it would likely reside in the metropolis of congressional power, Article I, section 8, rather than in the suburbs of Article VI.*
- Several attendees of the working group are an "Officer" pursuant to ARS §§ 39-121(A)(1), and this working group meets the legal definition of a "Public body" pursuant to Arizona Public Records Law (A.R.S. §§ 39-121(A)(2)). Therefore making the working group and those members that are 'officers' responsible for maintaining records of these meetings pursuant to ARS §§ 39-121(B).

- Arizona Public Records Law
  - 39-121.01. Definitions
    - A. *In this article, unless the context otherwise requires:*
      - 1. "Officer" means any person elected or appointed to hold any elective or appointive office of any public body and any chief administrative officer, head, director, superintendent or chairman of any public body.
      - 2. "Public body" means this state, any county, city, town, school district, political subdivision or tax-supported district in this state, any branch, department, board, bureau, commission, council or committee of the foregoing, and any public organization or agency, supported in whole or in part by monies from this state or any political subdivision of this state, or expending monies provided by this state or any political subdivision of this state.
    - B. *All officers and public bodies shall maintain all records, including records as defined in section 41-151.18, reasonably necessary or appropriate to maintain an accurate knowledge of their official activities and of any of their activities which are supported by monies from this state or any political subdivision of this state.*
- Exclusion of public in the process coupled with no meeting minutes or recordings of these meetings is a violation of Arizona Open Meeting Law (A.R.S. §§ 38-431 through 38-431.09)
  - Arizona's Open Meeting Law
 

*"It is the public policy of this state that meetings of public bodies be conducted openly and that notices and agendas be provided for such meetings which contain such information as is reasonably necessary to inform the public of the matters to be discussed or decided. Accordingly, Arizona's Open Meeting Law must be construed in favor of open and public meetings."*
- Violation of the stipulated agreement of 2007 that resulted in the formation of this group. (In Defense of Animals et al v. USDA/USFS et al; CV-05-2754-PHX-FJM)
  - This stipulation states the Forest Service will both work with and involve the public in the development of the Heber Wild Horse Territory Management Plan.
  - This may have something to do with the very late and ineffectual results of this team 11 years after the stipulated agreement.
- When an employee of the FS is working during their normal work week there must be transparency because all of their documents they work on are public record. What gives these federal employees, while they are intentionally not producing documents, this lack of documentation, at least by recording creates an entire body of work that is less effective can't be reviewed, and is non-transparent and therefore violates the stipulation agreement requirement for public involvement,

- These meetings have taken place during the work hours of the federal and state employees attending, therefore paid for by the public. This mandates these meetings be documented for the public. To date there are no recordings, no minutes, and not even regular updates of working group 'deliberations' as promised on the ASU webpage.
- While wild horse advocates and wild horse experts are not called in for consultation for working groups, or as stakeholders during planning for cattle, elk, deer, in the Heber wild horse territory we note that the overwhelming makeup of this working group for determination/planning for wild horses has no wild horse specialist according to the bios/cvs of the participants of this working group, unfortunately this includes Dr. Ole Alcumbrac.
- The one local wild horse advocate that was included in the working group was not allowed to utilize her team of experts even though she works full-time and at times needed substitution
- As a result this overall team of 24 members effectively has a conflict of interest with the very plan it is tasked to draft.
- The 1971 WFRHBA requires the FS to protect and preserve the horses and to do this such a biased team is likely incapable to serve the peoples wishes for this public resource.

Citizens Against Equine Slaughter(CAES) is a national 501cs non-profit corporation, with a board member owning property in Stafford Arizona. Heber Wild Horses Freedom Preservation Alliance is the Arizona branch of CAES. Part of the mission of CAES is to protect wild horses and burros, their habitats which includes their predators (in this case bears, wolves and cougars).

**Attachment C - Stipulation Agreement 2007**



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Attorneys for Federal Defendants

**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

IN DEFENSE OF ANIMALS, a non-profit  
organization; the ANIMAL WELFARE  
INSTITUTE, a non-profit organization; and  
the INTERNATIONAL SOCIETY FOR THE  
PROTECTION OF MUSTANGS and  
BURROS, a non-profit organization;  
PATRICIA HAIGHT, an individual;  
RICHARD POTTS, an individual,

Plaintiffs,

vs.

UNITED STATES GOVERNMENT,  
DEPARTMENT OF AGRICULTURE, MIKE  
JOHANNNS, as acting UNITED STATES  
SECRETARY OF AGRICULTURE;  
UNITED STATES FOREST SERVICE;  
ELAINE J. ZIEROTH, as the acting UNITED  
STATES FOREST SUPERVISOR,

Case No. CV-05-2754- PHX -FJM

**STIPULATION AND JOINT  
MOTION FOR ENTRY OF ORDER  
ADOPTING STIPULATION AND  
DISMISSING CLAIMS**

2  
3 Plaintiffs In Defense of Animals, a non-profit organization, the Animal Welfare  
4 Institute, a non-profit organization, the International Society for the Protection of  
5 Mustangs and Burros, a non-profit organization, Dr. Patricia Haight, and Richard Potts  
6 (collectively "Plaintiffs"), and Defendant United States Government, Department of  
7 Agriculture, Mike Johanns as United States Secretary of Agriculture, United States Forest  
8 Service, Elaine J. Zieroth, as the United States Forest Supervisor (collectively "Forest  
9 Service")<sup>1</sup> hereby STIPULATE and JOINTLY MOVE for entry of an order dismissing  
10 the above-captioned action without prejudice on the terms and conditions set forth in this  
11 Stipulation.

12 Plaintiffs commenced Civil Action 05-2754 PHX-FJM against the Forest Service,  
13 on September 9, 2005, alleging violations of the Wild Free Roaming Horses and Burros  
14 Act of 1971, 16 U.S.C. Section 1331, *et seq.* (the "Act"); the National Environmental  
15 Policy Act, 42 U.S.C. § 4321 *et seq.* ("NEPA"); and the Administrative Procedure Act, 5  
16 U.S.C. § 701, *et seq.* ("APA"), in connection with the issuance of a Solicitation for Bid  
17 for the capture, relocation, and eventual sale of approximately 120 trespass horses, from  
18 an unknown number of horses residing on public lands.

19 IT IS STIPULATED by and between the parties as follows:

20 1. The Parties agree that settlement of the Civil Action on the conditions  
21 stated below is in the public interest and is an appropriate way to resolve the present  
22 dispute between them.

23 2. The undersigned representatives of Plaintiffs and the Forest Service certify  
24 that they are fully authorized by the party or parties whom they represent to enter into this  
25 Stipulation and legally bind the Parties to the terms and conditions contained herein.  
26

27  
28 <sup>1</sup> Mike Johanns is substituted for Ann M. Veneman pursuant to Rule 25(d), Fed. R. Civ.  
P.

2 and has not been dissolved.

3 4. The Parties hereby agree that wild horses are by law an integral part and  
4 component of the natural system of the public lands, as expressed by Congress in the  
5 Wild Free-Roaming Horses and Burros Act of 1971 as amended. The Forest Service will  
6 work with the public, including Plaintiffs, in the development of a written Heber Wild  
7 Horse Territory Management Strategy in accordance with the provisions of the Act.

8 5. The Forest Service agrees to refrain from any gathering or removing of  
9 horses within the Heber Wild Horse Territory, as well as, on the Black Mesa and  
10 Lakeside Ranger Districts (which are considered the Sitgreaves National Forest) until the  
11 Forest Service completes, with public involvement, an analysis and appropriate  
12 environmental document pursuant to NEPA and develops a written Heber Wild Horse  
13 Territory Management Strategy. The Forest Service will involve the public, including the  
14 Plaintiffs, in scoping for this analysis. The Forest Service will provide Plaintiffs with  
15 specific notice of the document and consider Plaintiffs' comments on the same, however,  
16 Plaintiffs' comments are not entitled to any different weight or consideration than any  
17 other member of the public.

18 6. The Forest Service will continue to coordinate with the White Mountain  
19 Apache Tribe for repair and maintenance of the boundary fence.

20 7. Plaintiffs reserve the right to object to any provision, term, or condition  
21 contained in the Management Strategy and/or the results of any study, assessment, or  
22 evaluation used to support the Management Strategy. Nothing in this Stipulation shall  
23 bar Plaintiffs from filing a new civil action in the future should there be a dispute  
24 involving this Stipulation, the NEPA process or final NEPA document, and/or the  
25 Management Strategy.

26 8. Upon approval of this Stipulation and granting of this Joint Motion by the  
27 Court, all counts of Plaintiffs' Complaint in Civil Action 05-2754 PHX-FJM shall be  
28 dismissed without prejudice and parties will agree to vacate the injunction.

1           9.     Upon dismissal of this civil action, the Forest Service will pay the Plaintiffs  
2 a total of \$3,000.00 in full and complete satisfaction of any and all claims for attorneys'  
3 fees and costs of litigation by Plaintiffs for pursuing Civil Action 05-2754 PHX-FJM.

4           10.    Plaintiffs agree that receipt of this payment from the Forest Service shall  
5 operate as a release of any and all claims for attorneys' fees and costs that Plaintiffs may  
6 seek to pursue in Civil Action 05-2754-PHX-FJM.

7           11.    The Parties agree and understand that the Forest Service's obligations under  
8 this Stipulated Settlement Agreement, with exception of those listed in Paragraph 10, are  
9 contingent upon the availability of appropriate funds, and that nothing in this Agreement  
10 shall be construed as a commitment or requirement that the Forest Service obligate or pay  
11 funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or other applicable  
12 law.

13           12.    Nothing in this Stipulation and Joint Motion constitutes an admission by  
14 any Party to any fact, claim, or defense at issue in this lawsuit.

15           DATED: this 13th day of March, 2007.

16                               s/ Paul K. Charlton  
17                               PAUL K. CHARLTON  
18                               United States Attorney

19                               s/ Richard Patrick  
20                               RICHARD PATRICK  
21                               Assistant U.S. Attorney  
22                               Two Renaissance Square  
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26                               Attorneys for Federal Defendants

27                               s/ Anthony W. Merrill  
28                               ANTHONY W. MERRILL, ESQ.  
                              BRYAN CAVE LLP  
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                              (602) 364-7000

                              Attorney for Plaintiffs

## Attachment D - Heber Court Case TRO 2005

No. 05-CV-2754-PHX-FJM  
United States District Court, D. Arizona

### Defense of Animals v. United States Government

Decided Dec 13, 2005

No. 05-CV-2754-PHX-FJM

December 13, 2005

#### ORDER

FREDERICK MARTONE, District Judge

##### I.

On July 19, 2005, defendant United States Forest Service issued a bid solicitation for the removal of horses from the Apache-Sitgreaves National Forest ("ASNF"). Complaint, Exhibit D. On September 9, 2005, plaintiffs filed this action seeking a Temporary Restraining Order ("TRO") and Preliminary Injunction to prevent defendants from removing any horses from the ASNF, or awarding a bid for the capture and removal of any horses from the ASNF, unless defendants have complied with the National Environmental Policy Act ("NEPA"), the Wild Free-Roaming Horses and Burros Act ("Wild Horses Act") and the Administrative Procedures Act ("APA"). We issued a TRO enjoining defendants from rounding up, removing, or awarding a bid for the capture and removal of horses from the ASNF (doc. 5). Subsequently, defendants lost their funding for the bid solicitation, and accordingly, it is no longer viable. Response at 2. <sup>1</sup>

We now have before us plaintiffs' application for a preliminary injunction (doc. 1), defendants' Response (doc. 13), and plaintiffs' Reply (doc. 16). We also have before us defendants' supplemental filing (doc. 17), plaintiff's supplemental filing (doc. 18), and plaintiff's motion to strike defendants' supplemental filing (doc. 20), all of which were filed the day of the preliminary injunction hearing.

##### II.

Defendants argue that the application for a preliminary injunction is moot because the July 19, 2005 bid solicitation is no longer viable. Response at 2-4. However, an action for a preliminary injunction will not become moot "merely because the conduct complained of was terminated, *if there is a possibility of recurrence*, since otherwise the defendant's [sic] would be free to return to [their] old ways," Fed. Trade Comm'n v. Affordable Media, L.L.C., 179 F.3d 1228, 1237 (9th Cir. 1999) (alteration in original) (citation omitted). To establish mootness, defendants would need to show that "subsequent events made it absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur." United States v. Concentrated Phosphate Export Ass'n, 393 U.S. 199, 203, 89 S. Ct. 361, 364 (1968). This action for a preliminary injunction is not moot because there is a possibility of recurrence, defendants are contemplating another bid solicitation under the 2006 budget. Response at 2.

Defendants also argue that the application for a preliminary injunction is not ripe because defendants have not issued another bid solicitation. Response at 3. The rationale of the ripeness doctrine is to "prevent the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements over administrative policies, and also to protect the agencies from judicial interference until an administrative decision has been formalized and its effects felt in a concrete way by the challenging parties." Abbott Laboratories v. Gardner, 387 U.S. 136, 148-49, 87 S. Ct. 1507, 1515 (1967). Defendants' argument fails because plaintiffs' claims are not based upon an abstract disagreement over policy but the very real concrete dispute over the identity of the horses, the applicability of multiple statutes and the defendants' conceded intent in soliciting bids. This action is thus ripe for adjudication. See Porter v. Jones, 319 F.3d 483, 490-91 (9th Cir. 2003).

### III.

A preliminary injunction should only be granted if the moving party "demonstrates that it is likely to succeed on the merits and may suffer irreparable injury, or that serious questions exist on the merits and the balance of hardships tips in its favor." Self-Realization Fellowship Church v. Ananda Church of Self-Realization, 59 F.3d 902, 913 (9th Cir. 1995). "These two formulations represent two points on a sliding scale in which the required degree of irreparable harm increases as the probability of success decreases." Oakland Tribune, Inc. v. Chronicle Pub. Co., Inc., 762 F.2d 1374, 1376 (9th Cir. 1985). Therefore, "[w]here a party can show a strong chance of success on the merits, he need show only a possibility of irreparable harm. Where, on the other hand, a party can show only that serious questions are raised, he must show that the balance of hardships tips sharply in his favor." Bernard v. Air Line Pilots Ass'n, Int'l. AFL-CIO, 873 F.2d 213, 217 (9th Cir. 1989).

#### A.

Plaintiffs raise at least serious questions as to the legality of defendants' actions. Plaintiffs argue that defendants violated NEPA because the removal of wild horses will significantly affect the human environment, and defendants failed to properly consider the impact, and failed to issue an Environmental Impact Statement ("EIS") or a statement of reasons as to why an EIS is unnecessary. Complaint at 9-11. Plaintiffs argue that defendants violated the Wild Horses Act because they attempted to remove the wild horses, failed to properly investigate the status of the horses, failed to keep an inventory of the horses, failed to establish an advisory committee with regard to the horses, and failed to hold a public hearing prior to the attempt to use motorized vehicles to remove the horses. Complaint at 6-9. Plaintiffs argue that defendants violated the APA because they acted arbitrarily and capriciously by failing to conduct a full investigation into the effects of the removal of the horses, and failing to comply with NEPA and the Wild Horses Act. Complaint at 11.

In response to all of these allegations, defendants merely argue that the horses at issue are not "wild horses." The Wild Horses Act defines "wild free-roaming horses and burros" as "all unbranded and unclaimed horses and burros on public lands of the United States." 16 U.S.C. § 1332(b). Defendants set forth a summary table showing that between 1992 and 2004, there were no documented wild horses in the Heber Wild Horse Territory. Declaration of Debra Bumpus, Exhibit 1. Plaintiffs' motion to strike this document is denied as moot because the evidentiary value of the table is de minimis — defendants fail to explain how these figures were derived (doc. 20). Defendants also argue that the horses at issue are domesticated and "strayed onto the forest after the Rodeo-Chediski Fire in 2002." Complaint, Exhibit C at 1. However, plaintiffs set forth six affidavits by residents of the ASNF area, who have seen unbranded "wild horses" in the ASNF area before and after the Rodeo-Chediski fire. Application for TRO, Exhibits B-G.

Defendants further argue that this evidence is insufficient, because plaintiffs must also show that the horses are unclaimed. Response at 3. However, defendants fail to argue that the horses have been claimed, and to the contrary, they state that they "notified the White Mountain Apache Tribal Chairman and Tribal Attorneys of a Notice of Impoundment Action and g[ave] tribal members more than 30 days to come gather their horses [and] [n]o horse owners [came] forward." Complaint, Exhibit C at 1. Moreover, plaintiffs argue that they are prevented from setting forth more detailed evidence as to claims because defendants failed to properly inventory the horses pursuant to the requirements of the Wild Horses Act. Application for TRO at 15; Reply at 7.

Defendants' arguments, and defendants' counsel's statements during the preliminary injunction hearing, evidence defendants' failure to have thoroughly <sup>5</sup> considered the status of the horses in the ASNF before soliciting a bid for their removal.<sup>1</sup> Accordingly, we conclude that plaintiffs have raised serious questions as to the legality of defendants' actions.

<sup>1</sup> Defendants argue that pursuant to the Wild Horses Act, they need only census horses in the Heber Wild Horse Territory, and not the entire ASNF. However, 36 C.F.R. § 222.25 requires the surveillance and protection of wild horses on national forest lands, other public lands, and lands of other ownership or jurisdiction.

#### B.

The removal of horses prior to final adjudication would cause plaintiffs irreparable harm. Defendants state that they are contemplating removing the horses if a preliminary injunction is not granted, and plaintiffs' argue that once removed, the horses will become extinct in the ASNF.<sup>2</sup> Application for Temporary Restraining Order at 17. In contrast, defendants conceded at the preliminary injunction hearing that a preliminary injunction prohibiting horse removal would not cause the defendants any hardship. Accordingly, the balance of hardships tips sharply in plaintiffs' favor.

<sup>2</sup> Defendants argue that plaintiffs will not suffer irreparable harm if the preliminary injunction is denied because defendants have not issued a new bid solicitation, and they will warn the court and the plaintiffs before issuing a new bid solicitation. We resolved this matter with regard to the mootness analysis above. Moreover, plaintiffs should not be forced to monitor defendants' activity to ensure that they have complied with their promise of pre-removal notification.

#### IV.

**IT IS ORDERED GRANTING** plaintiffs' application for a preliminary injunction and enjoining defendants from awarding a bid for the capture and removal of the allegedly wild horses from within the Apache-Sitgreaves National Forest, and from rounding up and removing the allegedly wild horses from within the Apache-Sitgreaves National Forest. This order is in effect until final judgment is entered by way of motion for summary judgment or trial (doc. 1). <sup>6</sup> **IT IS FURTHER ORDERED DENYING** plaintiffs' motion to strike as moot (doc. 20).



**Attachment E**

**Stacy Sanchez Affidavit**

## **Attachment F**

**There is no legal reason or excuse to add in helicopter roundups:**

**Why are Helicopter Roundups Illegal 1st**

**Dr. Lester Friedlander DVM Affidavit printed**

**And at: <http://whoanm.org/wordpress/?p=494>**

# Attachment E

## AFFIDAVIT

I \_\_\_ of Navajo County Arizona do swear under penalty of perjury that the following statements are true to the best of my knowledge.

I am a member of both Citizens Against Equine Slaughter, Wild Horse Observers Association and also Wildlife Protection of New Mexico- WHOA Voters. I also work with the local wild horse groups. I am a former rancher and farmer.

I have redacted all personal emails and suspects and sources or just initials. This information is readily available to the Forest Service upon request and some of it has already been given.

I have been specifically monitoring and documenting pictorially specific aspects of the Heber wild horses for 6 years of my own accord. I am out in the forest routinely for the purpose of enjoyment, over-sight, guardianship of my natural resource/s, and, for the purpose of herd number monitoring and census. At any given time, I have an accurate census within a likely 5% error.

I document and monitor wild horse health, range health, herd location, water availability, other wildlife, any signs of predation, fencing issues, and "poaching". We have coyotes, Cougar and Bears.

I am personally shocked by the cavalier attitude taken by those tasked with and paid to protect and preserve these wild horses. In the last 2 years, 35 to 40 wild horses have been brutally shot and therefore approximately another 10 foals in utero were also killed if conservatively speaking the mares have a 70% pregnancy rate. See page 13 of this affidavit for Angels foal.

The USDA FS has egregiously ignored the simple location patterns of wild horse shootings, the eye witness evidence, the tip lines, refused to do proper ballistics, have buried evidence, and have allowed those with a clear conflict of interest to perform what little investigatory work has been done. There is also a question as to conflict of interest, lack of appropriate education of those being allowed and even paid to perform this important investigatory work and this too has sent the wrong message to the lawless.

The USDA has also expended no effort for the public's safety as these shootings are happening through time with no convictions which has certainly emboldened the lawless cavalier and dangerous behaviors.

Notably, there have been no bovines shot at this territory in all the years of wild horse shooting here at the Heber Wild Horse Territory.

As if all of this apparent disrespect for the rule of law is not enough, there are way more methane producing non-native domestic bovine, elk, and deer out there, than non-ruminant, non-methane producing wild horses, and the USDA FS is unequally working to remove what the people want, wild horses, and what are unarguably native species. Though the range is healthy, except for lack of natural predators the USDA FS has acted in a special interest manner working to undermine the wild horses and their management.

### TIME WITH THIS HERD

I have noticed these horses since 1984. These horses have never had a legal management plan since 1971 when it became law that they be protected. The only legal management has been accomplished by the few remaining hunted, trapped, and poisoned predators in the area.

Most of the wild horse management has been a bucket of corrupt and inhumane variety of removals and killings with no protection by the USDA FS with the strong appearance that they are in collusion with these methods and the perpetrators, given who they utilize for their "analysis".

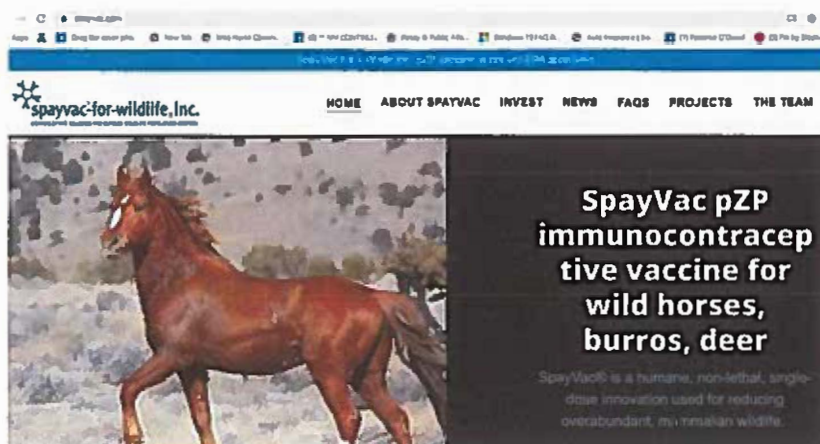
## HERD MANAGEMENT

It is my opinion based on the condition of the range and the number of wild horses, that there is currently no need for contraception as I see no evidence of over population. However, I am including information regarding population management options which are totally unacceptable and also two that are acceptable (native predators and native PZP) in the event that they are needed. I do not accept the current allowance of wild horse shooting in lieu of population management planning.

There are currently less than 200 horses in this area both on and off the so-called territory boundaries though horses supposedly double every 4 years. This doubling has *not* happened at the Heber wild horse area. This not due to legal and humane population management: darting of immune-contraception, nor is it due to natural predation.

To be clear, I cannot support contraception that sterilizes or meddles with hormones, hence because special interests work with USDA Wildlife Services to also wipe out our native predators, I can only support Native PZP or Zona Stat-H as it is not hormonal, however not Gona Con a hormonal vaccine which sterilizes both stallions and mares in 2 shots or less: ACTIVE INGREDIENT Mammalian Gonadotropin Releasing Hormone, ([https://www3.epa.gov/pesticides/chem\\_search/ppls/056228-00040-20151119.pdf](https://www3.epa.gov/pesticides/chem_search/ppls/056228-00040-20151119.pdf)) and hence will certainly change familial behaviors important to their survival, and important to those who study wild horses (as do I), as well as sterilize.

Neither can I support Spay Vac which is not yet tested or approved by the EPA and is admittedly a sterilant as a "single-dose innovation used for reducing overabundant, mammalian wildlife" "SpayVac for Wildlife Inc. pZP vaccine is not yet EPA approved." <https://spayvac.com/> and is experimentally produced out of country in Canada, but can sterilize mares by damaging their ovaries and also killing the mares and their babies.



I do understand that all birth control for wild horses is registered as if it is a pesticide no matter what is or is not in it, as the federal government considers our native wildlife pests to the livestock industry, against the law and against the science. They therefore assert that any population management vaccine mitigates a PEST to the livestock industry and is therefore a *pesticide*. I believe this is again a special interest manipulation against wild horses, at the same time the USDA Wildlife Services is wiping out their native predators. Wild horses evolved here with their natural predators for 55 million years plus, there is no question of this.

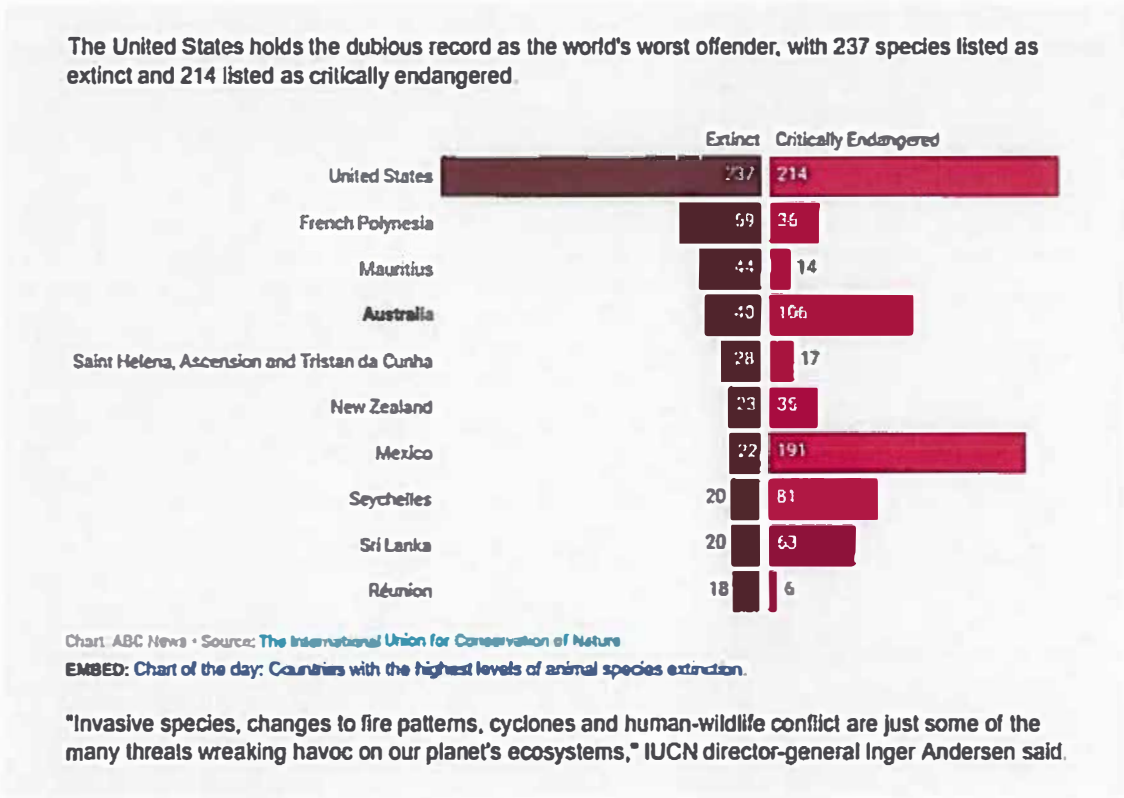
Hence, while native PZP is registered as a "pesticide" it is in fact, *not* a pesticide as the wild horses are in fact *not* a pest, and there are in fact *no* toxic chemicals contained therein. It is only protein that people eat and oil.

"Active Ingredients: Porcine zona pellucida (ZP3)(0.1%) ..... 0.071% Porcine zona pellucida (ZP1, ZP2, ZP4)(0.1%) ..... 0.029%"

Porcine Zona Pellucida is " The **zona pellucida** (ZP) is a glycoprotein membrane that surrounds all mammalian eggs." <https://www.sccpzp.org/pzp/what-is-pzp/> This vaccine being non-hormonal does not change estrus and mares live approximately 9 years longer given less stress in the winter growing babies and nursing babies. <https://www.sccpzp.org/wp-content/uploads/LongevityEquids.pdf>

There is NO PLACE in the 1971 Act where our wild horses are defined as a pest. I therefore believe this special interest labelling of birth control vaccines, no matter what they do in this case do NOT contain, is illegal as special interest unequal protection under the law, or simply put, special interest pandering.

The only actual pests are the invasive flora brought in by the livestock industry and the non-native bovine itself and their excretions filling our streams, our air, and causing dead zones in the oceans and their non-native feeds causing current mass extinction in process now as admitted by the USDA FS below:



U.S. no. 1 on massive extinctions "due to invasive species".  
<https://www.abc.net.au/news/2018-07-20/australia-fourth-on-animal-extinction-list/10002380>

HEBER HERD MIS-MANAGEMENT

This herd maintenance below 200 wild horses is due to a variety of the current cruel management practices allowed by this Heber Field Office with virtually no respect for wild horse families, the people, or, the rule of law.

1. THEFT: Mass Herding off the Heber Wild Horse Territory and surrounding areas onto Sovereign lands where they are then not protected and are subject to illegal round up and slaughter.
2. THEFT: Round up, theft, for training/ sale and/or slaughter.
3. THEFT & BRUTALLY INHUMANE: Shooting them in the chest, the head, in front of their families and leaving them to die slowly, while their unborn die in their bellies.

The USDA Forest Service has worked with a mind to deny these wild horses their legal protection by either calling them feral, intentionally not keeping an accurate census as required under the 1971 Act, and looking the other way regarding eye witness reports of poaching and killing.

The USDA forest service in Not doing proper ballistics investigations, and ignoring the over 35 tips garnered by Citizens Against Equine Slaughter.

In one case of the poaching I and my nephew personally witnessed together, and stopped saw three men JP, JR, and Renee loading wild horses into a trailer. I intervened and the wild horses was released. I then reported this to John Lopez of the USDA FS. Mr. Lopez refused to report this as an eye witness report but rather as a simple tip and the Forest Service never opened a report on it.

This lack of follow through clearly encourages further lawless behavior. In this specific instance, the next day the horses were shot and killed. For all appearances, the horses were retaliated against . . .

#### **Attachment 1 Documentation of reports**

I reported this and provided it to the sheriff who provided it to John Lopez with the USDA FS.

(See Attachment 1. ). USDA FS rep. John Lopez let me know he was reporting this as only a tip rather than as a witness statement (with two eye witness') and he did not open an investigation per his statements to me. I have never seen any follow up of this illegal incident.

Accordingly, with no follow-up, the next day on Jan 22 the horses were shot. See page 13.

All but 5 of the total shot have been shot on one permittee's allotment, A.C.'s wife. A.C. has also volunteered to do the necropsies on these wild horses. This is clearly a potential conflict of interest on a number of levels and as I mentioned, credentials for this work have never been provided to the public.

#### **Additional LIST of shootings, poisoning, issues in the last year, include:**

1. The shootings last year were January 21, late evening or the 22nd early and again late January 22nd. All were just south of Highway 260.
2. There was one on forest road 124A, which is also known as Phoenix Wash. The horse was found about a quarter mile or more west of the wash and about a quarter mile or less south of the highway. This one I believe to be the one most likely to see everything from the sky.
3. The next two were found on 144. One was right on the 144, west side maybe 200 feet in and the other was on the hill just east of 144, about 200 yards and 300 to 400 yards in from the highway.
4. The other five were on 146. This would be more difficult due to the trees but the shootings that were 3 miles in were done in an open field. The two were shot right next to a pond that's about a quarter mile east of 146 just north of 124 about a half of a mile.
5. Another woman initials K witnessed one of the shootings but the Forest Service let the suspect go because the story of shooter was different than that of the witness as expected! This clearly gives the strong appearance of actual collusion. Again, conflict of interest and ballistics could have determined

whose version was correct but were *not* done and were *not* reported to the public or the courts to my knowledge.

6. Apparently Poisoned Horse see page 14 was not tested.
7. Forest Service was not concerned with seeing and investigating the dead horses. Rather, at a very late date with respect to this NEPA process in Feb 2020. they just wanted a count of remaining horses. In the case of a census, I was invited on this "census" where the forest service personnel were attempting to quickly count the wild horses in one day or so and refused to look at the remains of those wild horses which were shot and killed, and whose numbers must then be subtracted from the total count, however they had apparently not been keeping one.

They weren't only allowing shooting of these protected wild horses they were also allowing running them on to the reservation per Mr. G. see below and pages 9 through 11. There's little to no doubt that they have acted fraudulently and have damaged our wild horses and thereby the people. If the USDA FS reported the correct number they would then need to account for them. However, by putting the lower numbers, they could better allow them to be run off and not have to explain any missing wild horses.

8. Cattlemen are leaving gates in the wrong position, mares and foals get on opposite sides of the fence. The fences should be locked in the correct position each season as well as repeatedly checked.
9. Fences are not being repaired even when reported.

**In 2017 others witnessed a helicopter chase running the wild horses off a certain allotment near or at the phoenix park allotment. I ran out there and saw the helicopter leaving.**

**A couple days later I saw a foal at two to three months old, I saw the foal had slipped her rear right hoof right off. This baby was apparently taken by a predator as I never saw it again.**

#### **Wild Horse Number Discrepancies through time.**

Again, when I first got involved with this. Each time I spoke to the opposition they would start ranting and raving about the 800 horses that were running around in 70s and how they had to do something about the over population. Now they're saying there was no over population and there were only 7? Perhaps at one point in time after running them off. . .

**Mr. G. as recently as 2019 told me himself in that he ran 180 horses, from his allotment alone, onto the reservation in 1984. He stated that they he left us 12 horses not just 7.**

**So, it would seem that they weren't counting them at all. They were just putting numbers on paper to hide the horses after they ran them off.**



Having said that. How could 7 horses breed out 192 horses in just 10 years? Or even 13 years for that matter and that was just what was on his allotment.

What I'm saying is simply this. In 1984 you could walk 20 feet into this forest, right off the highway and no one could see you. The growth was that thick. There is no way that they could've counted horses from the sky. So, if they can't do an accurate count today, even as open as it is now. Then how did they get a count at all in 1974. There were less trails and fire road back then and far less technology.

They're scrambling to come up with a different "narrative" because the feral argument didn't work for them in 2005 in court.

I have a copy of the map that was on the table in 2006 when the court case was being heard from the round up in 2005. It clearly shows that they were leaving part of the Black Mesa District open for the horses. The same document was on the table of the working group in 2016 but it was altered. THIS is not a transparent nor a legal process. **See Attachment 3.**

#### Horses being corralled etc.:

I have personally been told by a trusted source that he saw a dozen wild horses corralled. Unfortunately, people in this area do not feel safe. All this lawlessness and having horses shot five times, 3 in the face and two in the body, have people scared to speak up.

These horses have been being shot through time.

I believe they have been lured to the reservation by the addition of water holes near the reservation fence though this is not where the cattle go forage.

#### CATTLE

Between the first water tank and the Overgaard tank along the 51, I counted over 200 head of cattle. There were more roaming to the south and east in the surrounding areas. There were 100 more at or around the pasture near the chimney off of 125. So that's more than 300 head just in those three areas. I would estimate that from east of Phoenix Park to Black Canyon Lake there must have been more than 800 head of cattle.

I have pictures of cattle being released as early as May 30, 2019 and pictures of the damaged or nearly depleted waterholes due to the cattle, as early as June 14, 2019. All pictures attached are dated.

Forty four days is all it took for the cattle to deplete most of the water holes and the majority of the cattle hadn't been released until sometime in June.

The pictures taken in early August were taken after a short run of rain, so there was some water added and you can still see the damage.



2<sup>nd</sup> water tank off of rt51 July 22 2019



Overgaard Tank July 14<sup>th</sup> 2019



**Water hole of rt 51 on July 15<sup>th</sup> 2019**



**Water Tank off rt50A, August 18<sup>th</sup> 2019**



**Water tank off of rt50 about the three-mile marker. Aug 28 2019**





**Overgaard Tank August 2<sup>nd</sup>, 2019**

### **Reservation fence, and potential poaching/theft incident**

I was called to go and check on a domestic horse, I believe this was some time around October of 2018. When I arrived I saw a man that I know as [REDACTED]. A few months before this I saw this man pulling a horse trailer through the forest and started to video tape the trailer from behind. He pulled over and as I was going by he climbed out so I stopped and asked him what he was doing. This is how I met him.

On the day of the reported domestic horse he and I started talking about the day I saw him in the forest. I told him that I'd heard a little more about him and that he running around with a horse trailer made me nervous.

[REDACTED] then started to tell me that he had been offered money to catch and remove horses from the lady that runs the allotments. He then said that other people run the horses on the reservation or even shoot the horses for this same person and that he refused, saying that he would need a letter from the Governor telling him it was okay.

Later in January of 2019 around the 22<sup>nd</sup> I caught this same man with two friends trying to catch a horse. This is also part of my comments. After catching him trying to steal a horse I started thinking about the other stuff he told me.

Attached are pictures of the fence along the reservation. In April of 2019 I decided to check and see if I could find portions of the fence where someone may have cut and mended the fence. I found several places where the ties to the post were completely removed and left off. At every one of these locations at least the top two wires had been mended somewhere nearby.

The attached pictures are of the most interesting of all. What you're looking at is a run of fence appropriately fifty feet across. The post near the tree is exactly like the post you see that is cut or broken at ground level in the third picture. There's only one post holding the wire up, it's at the other end before the other broken post. By disconnecting the wire ties off of the post before the tree you can lay both broken post on the ground and you have a fifty-foot opening on to the reservation.

Across the road is a canyon that funnels up from a small valley below. The last picture is of hoof prints from sometime earlier when the ground was wet. It looked to me that at least five or six horses were run across the fence line when those tracks were made.

One would have to wonder about the rest of the stuff he said, since what [REDACTED] told me led me to check the fence near the reservation.



Reservation Fence April 15<sup>th</sup> 2019





**Reservation Fence April 15<sup>th</sup> 2019**



**Reservation Fence April 15<sup>th</sup> 2019**





**Reservation fence April 15<sup>th</sup> 2019.**

### **Wild Horses are pushed onto the Reservation**

The wild horses roam here but since two years ago people have been running these horses into the reservation and I have pictures of the post laying down.

See Pictures of fence above.

### **Cattle eat the roots of flora, wild horses do not**

Cattle eat the roots and the poison is in the roots.  
Wild Horses do not eat the roots and are good for fire control.  
The more they burn, the more the poisonous plants come up.



**Examples Horses Slaughtered Inhumanely-with no follow-up/resolution**



Unborn colt from Angel's slaughter.



Angel's two colts that were left after she was shot. One was hers the other belonged to a mare that was shot a few days before. They are both better than yearlings now, I've seen them on and off over the past few months.



Angel shot twice in the head. I believe she was suffocating before the second shot, as explained to me by a medical professional. She was shot because she had a bullet in her left hip which I felt she would have survived as she had for 4 days. She had laid down for a short rest and got up when approached her. Both her and her foal died a slow death. Her whole band had been shot. Her stallion was Big Daddy. His body was only a quarter mile away. Another red mare was shot near him. Other are missing assumed dead. They covered her with logs so that people would stop calling it in.





The lead is Yellowjacket (See also 2 pictures below). He would usually be seen with two mares, both buckskins. I'm not sure where he picked up the rest but it is concerning. He and his two mares would have most likely been in the area where the nine horses were shot and killed. His two mares were the offspring of the band that was slaughtered. It looks like one of his mares may be buried along with the six. I believe the buckskin in these pictures, is the other. I believe, he and she got away.



Yellow Jacket is seen here with other mares that are not his, and that is why he is not listed in the family bands.



## **PICTORIAL CURRENT CENSUS**

THE REMAINING NUMBER is approximately 199.

All harem family bands pictured below are specifically documented wild horses.

I have not seen Goldie and his family since June, nor Dudley and his family since September. That's 31 horses that may bring the count of documented horses down to 168.

However, adding in the Bachelor family bands brings us back to around 200. I have documented 27 bachelors, there may be a small percent more.

With horses constantly being shot, pushed through the reservation fence and stolen, I am always re-assessing the total number, and will again as the ground conditions allow, as it is always in flux.

### **BACHELOR FAMILY BANDS**

The method of keeping track of bachelors is a bit different due to their movement.



**STALLIONS**



STALLIONS



STALLIONS





STALLIONS



STALLIONS



**STALLIONS**



**STALLIONS**

### **FAMILY BANDS**

Big Red's band, taken August 22, 2019, last seen with 7 total in his band.

Blade's band, taken August 18, 2019, last seen with 3 in his band.

Diamond's band, taken July 28, 2019, last seen with 9 in his band.

Dirtyface's band, taken July 22, 2019, last seen with 3 in his band.



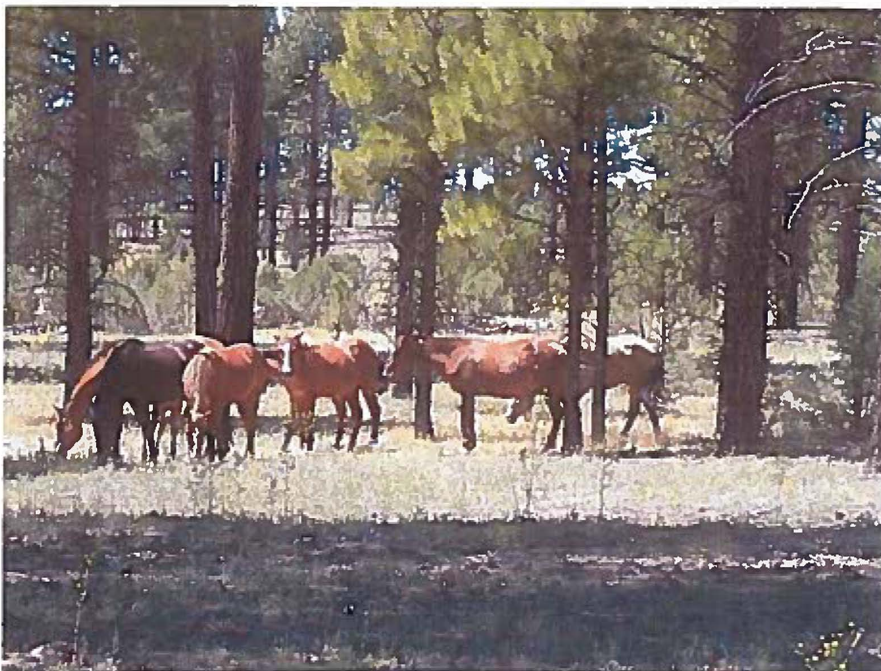
Hairdo's band, taken August 2, 2019, last seen with 15 in his band.

Legend's band, taken August 16, 2019, last seen with 8 in his band.

Merlin's band, taken July 22, 2019, last seen with 8 in his band.



MERLIN



LEGEND



Note: Legend is an older stallion, he had 14 in his band until they were separated by fence due to two gates being opened side by side. I've seen this happen many times. Unfortunately, sometime another stud will run the separated group off before the Band Stud can get back to them. That is what happened in Legend's case. I found the other 6 with a stallion that I call Chester.

I do monitor and document the separations, to ensure that the numbers stay true.



HAIRDO



DIRTY FACE



DIAMOND



BLADE





## **BIG RED**

The first is Chester, photo taken September 27, 2019 last seen with 8 total in his band.

The second is Dirk, taken November 5, 2019 last seen with 12 in his band.

The third is Harry P, taken November 8, 2019 last seen with 8 in his band.

The fourth is Junior, taken November 8, 2019 last seen with 13 in his band.

The fifth is Razor, taken November 5, 2019 last seen with 10 in his band.

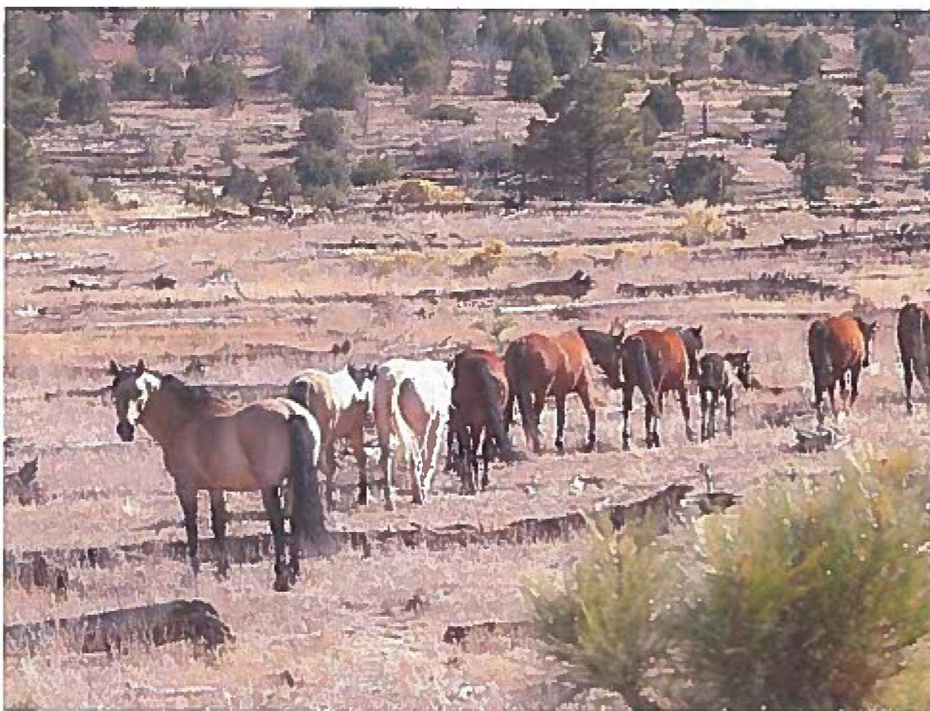
The sixth is Rock, taken October 20, 2019 last seen with 7 in his band.

The seventh is Lightning Bolt, taken November 14, 2019 last seen with 4 in his band.

The last is Rocky, taken October 17, 2019 last seen with 8 in his band.



CHESTER

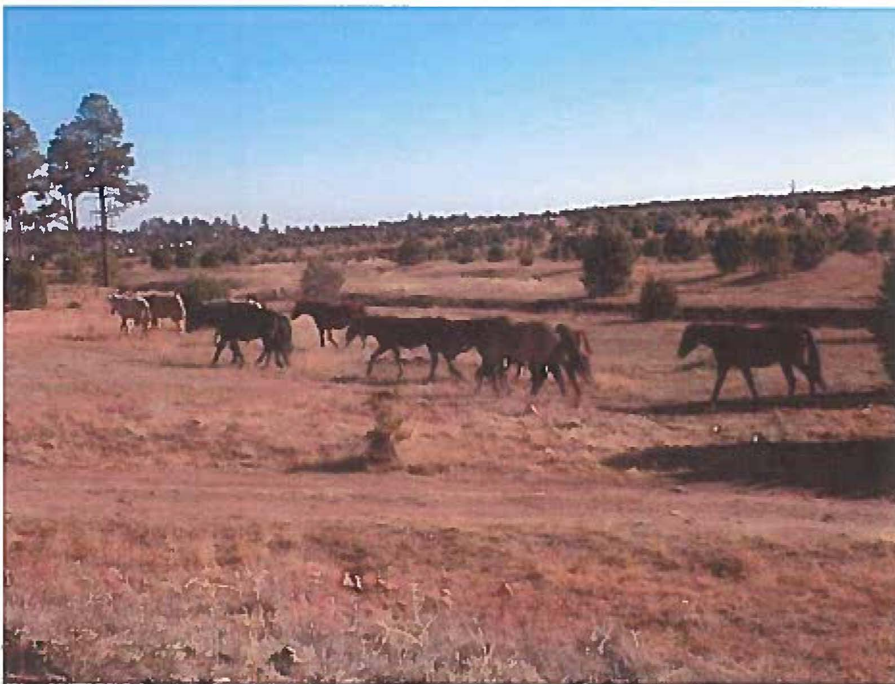


DIRK





HARRY P.



JUNIOR



RAZOR



LIGHTENING BOLT





ROCKY

The first is Alaska, photo taken October 28, 2019 last seen with 8 total in is band.

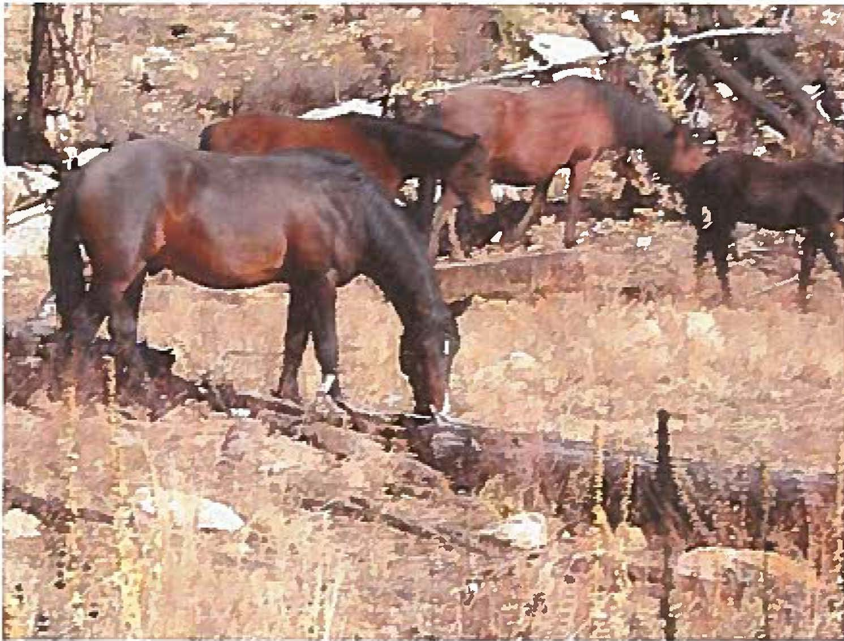
The second is Carob, taken May 25, 2019 last seen with 17 in his band.

The third is Drip, taken November 2, 2019 last seen with 13 in his band.

**The fourth is Goldie, taken June 18, 2019 last seen with 14 in his band.**

The fifth is Magwa, taken November 2, 2019 last seen with 7 in his band.

**The last is Dudley, taken September 8, 2019 last seen with 17 in his band.**

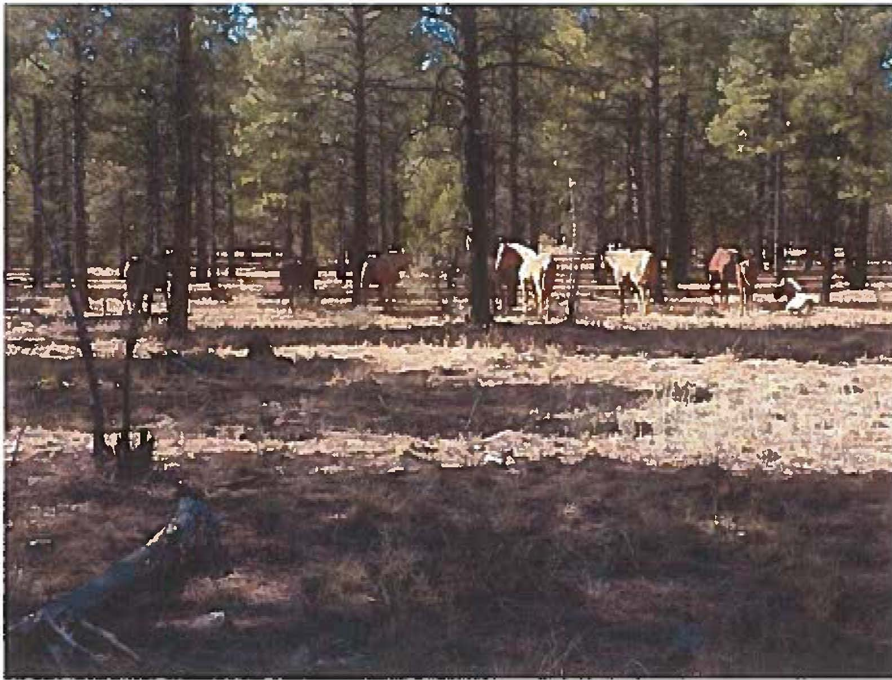


ALASKA



CAROB





DRIP



GOLDIE



MAGWA

### **My FARMING & RANCHING BACKGROUND**

When I was 17 my mother and stepfather decided to start farming to save money on meat. At the time we knew nothing about farming but my stepdad worked with a man that was a fourth generation rancher. What he told us was simple. We would need to section off our seven acres in accordance with the amount of cattle we planned to raise. He told us that we should section off a few pastures for rotation because the cattle could completely destroy an acre if left grazing too long.

The thing he said that interest me the most was that we should buy an equine. We chose a mule because he suggested that they had less complication than a horse. He told us that we would need to collect the manure from the mules pen and pill it up for when we move the cattle from pasture one. He told us that the equine manure would be the best way to rejuvenate the damage done by the cattle.

The next six years proved everything he said to be true.

We sectioned off four acres for cattle, we had seven head at our highest point which was always a few months before it was time to butcher a couple. We would rotate the seven from one pasture to the next and spread the manure in the pasture that the cattle destroyed. By the time we used the fourth pasture the grass would be growing tall in the first again.

Not only was this fourth-generation rancher correct but we were able to rejuvenate the damage done by seven head of cattle with one mule, every year that we were there. It is also important to note that the mule ate and drank much less than a full-grown cows.

Obviously. the reason I like tell this to those that would debate cattle over horses is very simple.

Since a fourth-generation rancher taught us this, one would thing that all ranchers know this.

Since one equine can rejuvenate the damage done by seven head of cattle, it would seem necessary to leave the equine or risk irreparable damage. Only a foil would suggest removing the horses for the purpose of adding cattle.

Did we not learn anything from killing the prairie dog, are we going to allow them to kill the forest just like they killed the northern prairies? DON'T KILL THE GARDNER. That was the lesson learned then and here we are again.

The cattle growers keep shooting themselves in the foot at the expense of the tax payers and federal employees keep helping them do it. A great example of this is one of the suggestions made in this management plan. As I understand it there's talk of replace the band stallion with a different stallion to prevent inbreeding. This would be a colossal mistake.

If you take a mare under three years of age out of a band, she is more likely to breed before her second year. If she were left with the band stallion, he would not allow this, he would run off any stud that tried to breed her. So once again, whom ever it is that's shooting these horses and disrupting these bands, is also shooting their buddies in the foot.

By doing either, you would be causing rampant immature breeding.

### **QUESTIONING WILD HORSE TERRITORY BOUNDARY LINES**

I believe the H.W.H. management plan scope, in and of itself, can be used to prove that the new territory line's argument is just more special interest pandering.

First off, if the USDA FS truly believed that there were no horses outside of the Black Canyon area when the Act was drafted. Why didn't they use that argument in 2007, instead of the feral argument? All they would have had to say was that the horses were not in their protected area.

Secondly, I never heard anyone talking about there being only 7 horses in the protected area back then until about two years ago. Up until then, everyone was still trying to push that the horses were feral. Pretty obvious that the apparently false documentation about there being only 7 horses in the H.W.H. Territory, when the Act was written, was more the WISH that there were only 7 wild horses after all the work undertaken to push them to reservation lands where they are NOT protected.

Lastly, the scope itself shows that they had a difficult time counting horses in the three years before the Collaborative Group started to meet. They show a head count, which is already high. Then they show an estimate that is more than twice as much!

In 2015, 2016 and 2017 the forest had fewer trees than there are today. I can tell you from being out there over the last six years, it is much more difficult to see horses today, than it was in 2015.

In 2000 the Rodeo/Chediski fire burned more than half of the trees in the Black Mesa Ranger District.

Since they have had such a difficult time counting horses for the past five years, how is it that they can tell us exactly how many horses were out there, when there were at least twice as many trees in 1971?

Please read ALL Attachments below 1 through 5.

**Attachment 1** Correspondence regarding Eye Witness Report of parties illegally loading wild horses into their trailer.

— Forwarded Message —

**From:** <[REDACTED]>

**To:** <[REDACTED]>

**Sent:** Tuesday, January 22, 2019, 7:09:51 AM MST

**Subject:** Re: Truck and trail near Band

Well we have the pictures if needed. Hopefully you and [REDACTED] will hear back from the sheriff's dept today. This horse rustling has got to be stopped.

Did you see the article that just came out in the White Mountain Independent? There are some comments from people under the article. I'm going to send in a comment. The more people who speak out for the horses the better.

On Tue, Jan 22, 2019 at 6:56 AM <[REDACTED]> wrote:

When I told [REDACTED] about it I told her I was getting picture together to send to you, she then stated that she was calling about the dead horses and coyotes and ask that I sent pictures of the remains. [REDACTED]

On Monday, January 21, 2019, 3:49:02 PM MST, [REDACTED] > wrote:

Thank you ! [REDACTED] called me after she talked to you.

Nobody goes into the forest with an empty trailer to remove a halter from a horse! [REDACTED]  
[REDACTED] We know of the guy named [REDACTED]. He was in the Collaborative working group for one or two meetings. [REDACTED] says she thinks [REDACTED] and [REDACTED] are somehow related and that they both live in [REDACTED].

I'm so glad you happened to be in the forest today when this was going on. Where was this? And did you send these pictures to [REDACTED]

On Mon, Jan 21, 2019 at 2:55 PM <[REDACTED]> wrote:

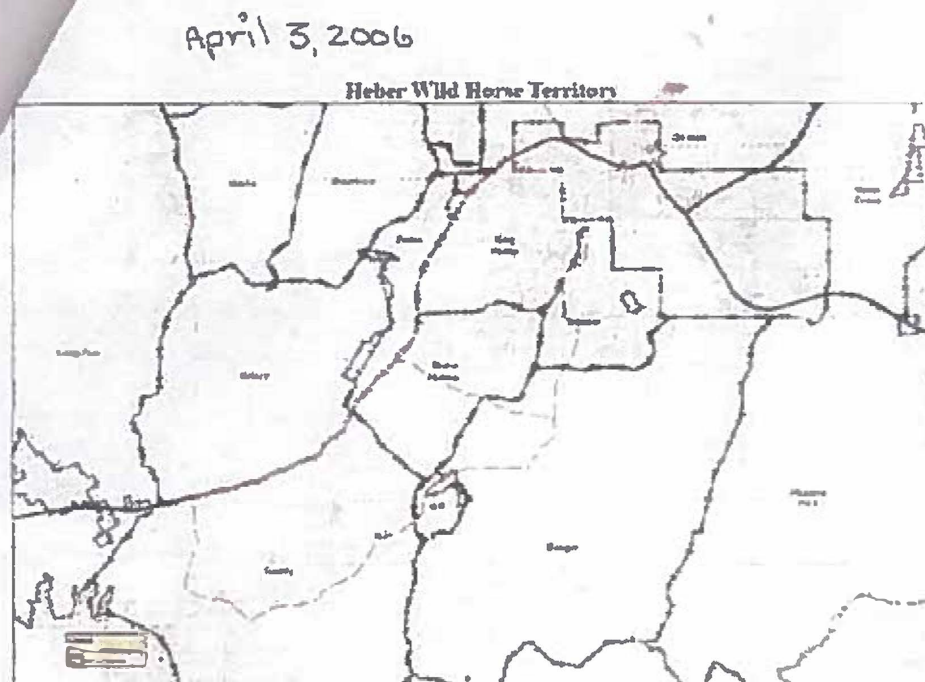
[REDACTED]

I'm sending the attached for your records not sure if we can legally post them but this is the second time I've caught this guy out near this area and this time they were definitely harassing the band. When I asked what they were doing a guy that is known as [REDACTED] said that they were taking a halter off of one of the Bays. The first is a picture of their truck leaving after we spoke to them. The next five in this punch are the horses running from the guy on the back side of the band. The rest go without saying

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**Figure 1: Heber Wild Horse Territory**

The Forage and Ecosystem Health Task Group (FAEHTG) recommends the following approach to the development of a management plan for the HWHT:

**Assumptions:**

1. There will be no defining boundary fence for the HWHT.
2. Horses will ingress and egress from the boundaries of the HWHT onto adjacent US Forest Service lands on the Black Mesa Ranger District.
3. All horses within an agreed upon Territory Monitoring Zone (TMZ) beyond the HWHT will be considered to be members of the HWHT population, if they have use affinity to the HWHT, as determined by the Horse Population Management Task Group recommendations.
4. Data provided by the HWHT Proposed Appropriate Management Level Determination (PAML) will be reassessed using adaptive management criteria and placing less emphasis on model constraints (utilization levels and foraging distribution).

### General recommendations:

- Ecosystem health will be monitored within the HWHT and the agreed upon TMZ outside of the HWHT on ASNFs lands.
- Monitoring metrics based upon adaptive management for ecosystem health will be developed.
- Livestock stocking levels and wildlife and horse numbers will be based upon trends in identified metrics of ecosystem health.
- When monitoring data and/or drought conditions are cause for downward adjustments in numbers of grazing animals (livestock, wildlife, horses) numbers will be reduced using case by case analysis

**Attachment no. 3 Excerpt Joint Report to Congress. BLM and USDA FS see below:**

The Forest is much less dense now and the USDA FS cannot get an accurate count today? How then, can they say they had only 7 horses in 1974?

When I first moved here, I was told there used to be 800 horses here! We have all kinds of evidence that over 100 wild horses were moved to Sovereign Lands at a time.

What we can say with surety is that the USDA FS picks and chooses what laws they will and will not follow. They load up their "working groups" with people that will give them the answer that they want.

The USDA FS has apparently sided with the minority special interest against the horses and against the law. This is all the more egregious as they are supposed to be "Law enforcement". I feel that the table below is evidence of falsification by the USDA FS to Congress.

**APPENDIX E - FOREST SERVICE BIENNIAL WILD HORSE POPULATION ESTIMATES**

State	1974	1976	1978	1980	1982	1984	1986	1988	1990	1992	1994	1996
(Number of animals at start of FY)												
Arizona	7	5	3	8	5	7	5	5	5	5	0	0
California	828	1,037	1,381	1,397	1,006	496	581	500	475	612	355	583
Colorado	0	0	0	0	0	0	0	0	0	0	0	0
Idaho	34	5	0	7	7	3	4	0	6	0	0	0
Montana	8	9	8	8	8	20	0	10	12	35	35	35
Nevada	1,174	1,305	1,042	951	1,139	490	571	560	1,552 *	1,240	746	746
New Mexico	207	279	420	230	170	119	129	158	176	153	168	193
Oregon	215	295	215	225	485	205	180	170	135	162	150	175
Utah	43	90	103	121	74	47	55	50	49	58	17	25
Wyoming	23	0	0	0	0	0	0	0	0	0	0	0
Totals	2,541	3,025	3,172	2,947	2,894	1,387	1,325	1,453	2,410	2,265	1,471	1,757

\* Population increase due to land being transferred from BLM to FS administration.

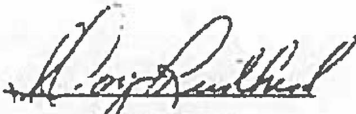
1/2/2019

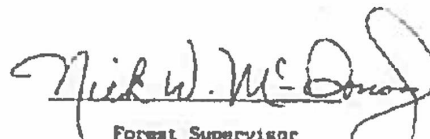
0 (783-881)

## AGREEMENT

MAY 10, 1988

This agreement authorizes Doy Reidhead to capture horses roaming at large on the Gentry and Buckskin Allotments, and transfer them to the Jeffers corrals near Winslow after May 12, 1988. For these services Doy Reidhead will be paid \$100.00 per horse captured, plus reimbursement of feed and water at \$2.00 per head per day while horses are held, pending disposal by the U.S. Forest Service. For services received, Doy Reidhead will be paid from, either receipts from horses sold, or from the Forest Service account when receipts are not sufficient to cover expenses. The Forest Service will arrange for sale of horses in lots of 10 or more. During trapping periods which will be prescheduled by Bruce Mortensen on the Heber District, traps will be checked daily.

  
Doy Reidhead

  
Forest Supervisor





## **Attachment G**

**There is no legal reason or excuse to add in helicopter roundups:**

**Why are Helicopter Roundups Illegal 2nd  
Dr. Lester Friedlander DVM Affidavit printed  
And at: <http://whoanm.org/wordpress/?p=509>**

## AFFIDAVIT

I Dr. Lester Friedlander DVM BA of Bradford County Pennsylvania do swear under penalty of perjury that the following statements are true to the best of my knowledge:

I am the president of Citizens Against Equine Slaughter (CAES) a national 501c3 non-profit based in Oregon.

The purpose of CAES is as follows:

## MISSION STATEMENT

Stop the practice of equine slaughter and protect equines from cruel and harmful practices; Monitor the government's land use and resource management activities, as well as the impacts of agency decisions on equines;

Inform and educate the public about the decisions and activities of government agencies affecting equines; Work with the government, the public, and all interested parties to promote sound policies and laws that protect equines.

This is prominently displayed at our website at [citizensagainstequineslaughter.org](http://citizensagainstequineslaughter.org)

Without a contraceptive biologic such as the immuno-contraceptive PZP wild mares can be pregnant year round. They are polyestrous and usually become pregnant between Spring and Fall. However, they can become pregnant late into fall and winter and they carry their foals for eleven months. Hence they can easily be in any stage of pregnancy at any time of year.

Prior to a Helicopter round up:

- There is no separation of *pregnant* wild mares and this is not even practical.
- There is no separation of *newly born foals* and this is not practical.
- There is no separation of *sick old or sick young foals* and this is not practical.
- There is no separation of *injured wild horses* and this is not practical.
- There is no method to ensure the very young can keep up or not wear their new hooves.
- Helicopters have generally been used for quick round ups in remote areas as was the Muddy Creek round-up.
- There are deaths caused by roundup en masse generally reported as at 1% however in the GAO report below it is clear that there is not full reporting of deaths due to helicopter

roundups. See Attachment II. There were 362 deaths due to or related to helicopter roundups between 2005 and 2007 of those reported.

- At the Muddy Creek Round up, both the Price Field office staff and the contractors left immediately after the round up and did not search for affected stragglers, injured, or dead as reported in the affidavit by CAES member Laurie McKline.
- At the Muddy Creek Round as with the other BLM roundups upon information and belief, there were reportedly no cameras reported as utilized to the public and no cameras utilizing GPS as reported to the public on the helicopter/s.
- The public is discouraged or not allowed to be out on the HMA during the round ups and are guarded by law enforcement agents.

These points are simple fact. There is no significant, or across the board categorization and sorting of wild horses prior to a helicopter round up. Wild Mares can and do give birth year round.

Given the above first 7 points alone, Helicopter roundups are by definition, and in practice, inhumane, harassing and extreme animal cruelty as they generally utilize stampede under terror of wild horses and their families over rough terrain for miles. They can and do cause deaths during and after round ups. Many of these deaths are not documented or discovered, and many are.

There are no cameras, no transparency, and no post roundup discovery over or near the route taken to look for injured or dead horses or their young and aborted.

Only the Secretary of the Interior can authorize a round up by helicopter as clearly, this is a very dangerous situation for the wild horses. However, there is no legal right to condone extreme animal cruelty, harassment and death as wild horses are not livestock and Congress has not allowed treatment as livestock or even less.

Given the availability of feasible and scientifically recommended alternatives per the NAS Report (contraception) which can be utilized proactively, there is little excuse for the unfeasible and highly probable unbridled harassment and death against the intent of the 1971 Act and the will of the people.

There is a preponderance of evidence of use of motorized vehicles and closed gates, water removals, spikes, cover-ups etc. which tend to show that the remaining wild horses at the Price HMA at Muddy Creek are in imminent danger of death by imposed lack of water and by irresponsible and illegal management actions, as shown in our membership's affidavits.

Wild horses are flight animals but that means only that they spook easily, it means in fact that they are not comfortable with aircraft swooping down on them and terrorizing them for long periods over long distances over various terrains at speed essentially on a crowded and dangerous unimproved highway situation with young and old etc.

I myself have taken the class on darting wild horses (and other mammals) with native Porcine Zona Pelucida (PZP) (now registered as Zona Stat H, by the EPA), at the Science and Conservation Center in Billings Montana from the late Dr. Jay Kirkpatrick himself.

Wild horses are easily herded or lure trapped for darting one family at a time and they can be darted without trapping up to 50 meters away. The usual excuse given for not utilizing native PZP is basically, how can we cover all the remote areas?

Importantly, wildlife is very often darted from helicopter for a variety of reasons. This is often done by a veterinarian or a biologist etc. This is done throughout the United States as well as across the continent of Africa for decades.

I too have been a trainer of Veterinarians at the USDA and am familiar with slaughtering issues. I am profoundly against horse slaughter for humane reasons as horse slaughter also cannot be accomplished humanely. I mention this because it is also illegal to slaughter a pregnant mare even in Mexico, hence, pregnant mares are rejected at the border for slaughter for human consumption.

Therefore wild horses often pregnant are not suitable or legal in either wild horse slaughter or for a helicopter round up. Both are extreme animal cruelty.

A helicopter can be more humanely and feasibly used for darting of immunocontraception which is brief, feasible, and the helicopter does not swoop down on the horses as seen here in Attachment I at Muddy Creek and all other helicopter roundups.

There are big differences between darting wild horses from a helicopter with contraception and then leaving them on the range to live out their lives, versus a helicopter stampede round-up and managing the HMA's as breeding grounds akin to Puppy Mills while torturing them and complaining about their birth rate, ignoring the will of the people, the law, and wasting the taxpayer's money.



## COMPARISON

Darting from Helicopter vs Helicopter round up.

### DARTING-

1. A mare will only be chased for seconds to minutes.
2. A family can stay together and be darted together for the most part.
3. The family does not have to leave their home and can live out their life in the wild on the range, and feasibly.
4. The helicopter does not need to swoop down to within 20 ft or less to harass and turn the horses, it can just follow them from above at their same speed and can dart from 50 meters away.
5. This distance will be less harassing, less traumatic and will not be causing/throwing the thick dust plumes full of debris at the wild horses as happened at the recent muddy creek round up. Video available by Laurie McKline. See screen shots attached.
6. It is highly unlikely that wild horses will develop a cough with this brief Protocol of darting by helicopter and he/shr subsequently remain on the range. Given GPS and cameras, darts can also be retrieved.

While it would seem that the coughing at the holding facility nine days after roundup might be due to the round itself, it is more likely that the coughing is due the the wild horses being penned in a contaminated facility where bacteria and virus' like abound due to a constant flow of horses both owned and wild.

Wild However, horses can and do suffer.

7. Darting will not cause a loss of genetics as wild horses can live out their lives on the range as intended, and no genetics will be removed. They will just take some years off from reproduction here and there as planned/needed..

I have been a race track vet and understand the injuries of stampede running of two-year old and older horses. Out on the range, there is no transparency currently with no cameras on the helicopter until they come into view at the very end of the miles long run. There Admittedly is no documentation of all the injuries or horses and foals which did not make it the miles to the gather-site. There is no documentation of the foals born on the run and no one to welcome them into the world and remove their placenta and provide critically needed sustenance and colostrum as well as protection and familial companionship. Of the pregnant mares who foal in the few days later, their foals are likely to be born dead or die shortly after birth due to the extreme stress put on their mothers in this terrifying stampede.

Wild horses live in a harem structure or in bachelor bands. They are a herd animal and live in family bands with a very hierarchical structure. These wild horses know their families and depend on them for survival, companionship, grooming, etc. The stallions spend 24x7 working to keep other stallions and danger away from his harem.

This is what the Stallion lives for. A Stallion usually follows behind his family band and ensures that the very young keep up with the herd and don't get separated. The young learn from him as they do from the hierarchy of mares and the lead mare.

Much of this is documented in the USGS Ethology of Feral Horses: Quantifying Equid Behavior— A Research Ethogram for Free-Roaming Feral Horses by the USGS and Department of Interior. See attachment 1.

In reviewing the video/screenshots of the Muddy Creek gather recently, it is clear that these horses may have long term health issues now due to the dust and the miles traveled in the dryness and temperatures in the nineties during the round up. One horse that will definitely not recover from this round up was shot.

Per the BLM's own report a stallion kicked a young horse and it had to be put down. Under the stress of the stampede roundup this is no surprise.

Horses don't usually run this far 5 miles plus switch backing under such stress. This is completely unnatural and cruel.

See Attachment 2 Pictures with statements:

While wild horses can be easily lured trapped peacefully as is done routinely at the Socorro Herd in New Mexico see BLM's youtube video  
And even in the remote and treeless areas of Nevada and Utah etc.

"helicopter darting would still be better than removals in terms of humaneness, , because the harassment is a matter of seconds to minutes, not like the misery of removals."

[https://www.youtube.com/watch?v=WQtN\\_zxjs2k](https://www.youtube.com/watch?v=WQtN_zxjs2k)



Unfortunately, a wild horse once rounded up is at tremendous risk and likelihood of injury and death by slaughter, even while in the care of the BLM itself. Much less, once it is sold or adopted out. Once the property of an individual or corporation it becomes legally livestock and though not raised as a food animal on a farm or ranch, it may be subjected to slaughter for human consumption over the US borders. A true food safety issue due to horse dumping of slaughter rejects and other

Under Kleppe, a wild horse belongs to the people of the state where ever it walks and it is protected. However, in some states and many counties, it is illegal to harass a wild horse being

considered an “animal”, wildlife, or feral and having animal cruelty laws which make it illegal to harass a wild horse even before it is rounded up. The US is a patchwork of animal cruelty laws which apply to the federally wild horses.

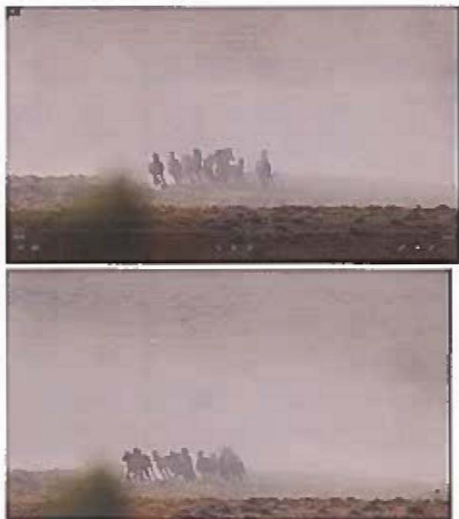
This patchwork of differing protections making it arbitrary and capricious hence, the wild horses are protected from helicopter roundups.

## ATTACHMENT I

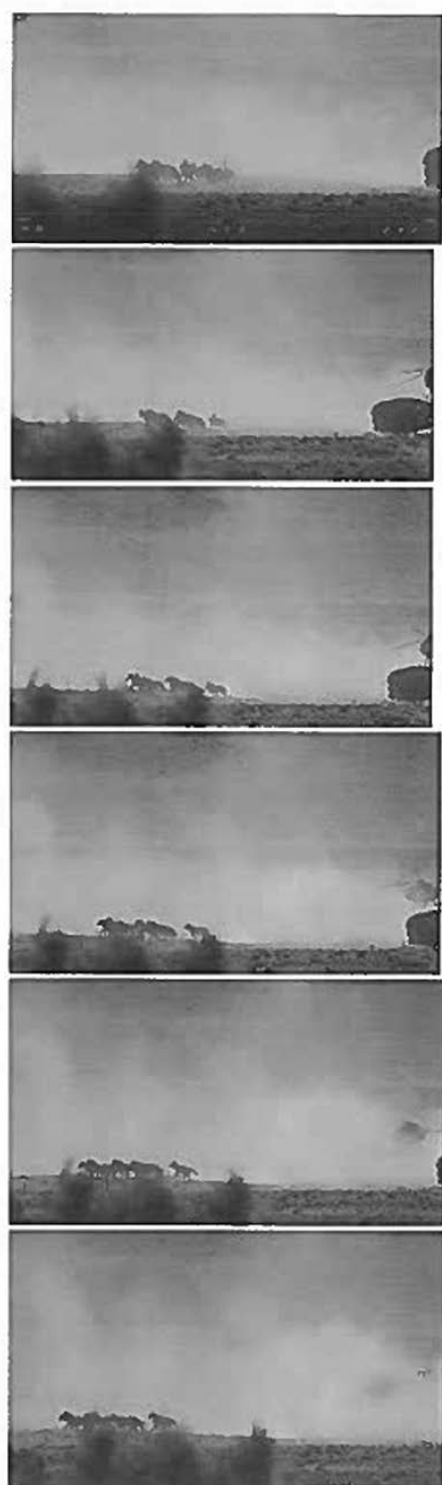
<https://pubs.usgs.gov/tm/02a09/pdf/TM2A9.pdf>

This is akin to 9/11! The helicopter goes too close and runs our natural resource the wild horse too hard and too long in adverse conditions. This is unnatural and abusive. These wild horses belong to the people. The helicopter goes too close to our property per FAA and too close to the man holding the Judas horse. In other round ups foals have come in with their hooves dangerously worn.

Screenshots from this recent Muddy Creek HMA Round up from video









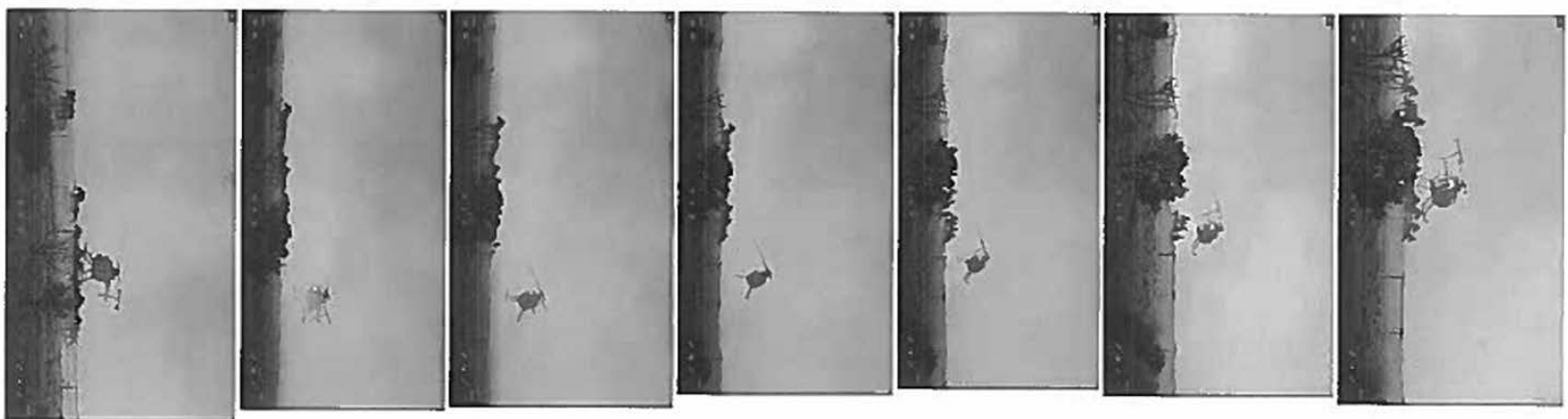


















Last one not in order



Some redundant screen shots not included

## Attachment II

Helicopter gather statistics and lack of reporting was reported in the GAO Report to the Chairman, Committee on Natural Resources, House of Representatives - BUREAU OF LAND MANAGEMENT - Effective Long-Term Options Needed to Manage Unadoptable Wild Horses  
<https://www.gao.gov/new.items/d0977.pdf>

Although BLM's controls are designed to enhance the safety of wild horses and burros during gather operations, some animals are accidentally killed in the course of gathers or are euthanized because of ill health or prior injury. Six of the 10 BLM state offices reported data about the number of animals that die as a result of their gather operations. Data collected from 6 of the 10 states from fiscal years 2005 through 2007 indicate that, of the 24,855 animals removed from these states during this period, about 1.2 percent were either euthanized or died accidentally (see table 13). Horses and burros sometimes die due to accidents during gather operations on the range or after they are brought to the holding pens. For example, wild horses will sometimes panic and break their necks against capture pens. Animals found with conditions that make it unlikely they will be able to live their life without significant pain, such as lameness or club feet, are euthanized.

**Table 13: Number and Percentage of Wild Horses and Burros That Died During Gather Operations, (for 6 of 10 States) Fiscal Years 2005 through 2007**

Fiscal year	Number removed	Number of accidental deaths	Percentage	Number euthanized	Percentage
2005	9,830	25	0.25%	46	0.47%
2006	8,081	64	0.79	79	0.98
2007	6,944	28	0.40	60	0.86
<b>Total</b>	<b>24,855</b>	<b>117</b>	<b>0.47%</b>	<b>185</b>	<b>0.74%</b>

Source: GAO analysis of BLM data.

Note: This chart is based on data reported by 6 of 10 states: California, Colorado, Idaho, Nevada, New Mexico, and Wyoming. The data provided could not be verified for its reliability. We requested this information from the other four states (Arizona, Montana, Oregon, and Utah), but the information was not provided.

Although BLM national and state officials told us that they sometimes record data about the animals accidentally killed or euthanized during gathers at the BLM state office level, BLM does not centrally compile or report these data to the public on a regular basis on a national level. A BLM official told us that although their main tracking database has the capability to record the number of animals that are killed or euthanized during gathers, they generally do not use the database to do so because it was originally intended to track adoptions. Moreover, BLM has not regularly reported to the public how many wild horses and burros are killed in the course of gathers, although BLM officials have cited the data during public hearings. Some advocates and members of the public believe that gathers are held in secret and highlight individual cases of apparent mistreatment as evidence that inhumane treatment is widespread.

Attachment III

National Academy of Science's recommendation in:

Using Science to Improve the BLM Wild Horse and Burro Program:

at [Using Science to Improve the BLM Wild Horse and Burro Program: A Way Forward](#)

Attachment IV

Abortion by Helicopter vs Normal Birth

## WITHOUT HELICOPTERS IT'S A BEAUTIFUL WONDER



Muddy Creek Herd

WITH HELICOPTERS, IT IS UNADULTERATED Cruelty



WILDHORSEEDUCATION.CMAIL19.COM

**Mare run as she gives birth by BLM helicopter!**

At the Eagle roundup yesterday the Bureau of Land Management (BL...

Sincerely,



9/25/2018





## Attachment H

### Affidavit

I \_\_\_\_\_ of Sandoval County New Mexico, also owning lands in Graham County Arizona to swear under penalty of perjury that the following statements are true to the best of my knowledge.

I have visited the Heber herd and taken pictures of many skeletons of the horses that have I believe been killed, mostly by shooting. I have taken a DNA sample from one of these horses and will have the results shortly.

Below I have pasted some of the pictures I have taken.

I worked with \_\_\_\_\_ of In Defense of Animals from May of 2005 through 2010 and have supplied her information for the court case as she requested and which assisted in the result of the stipulated agreement for this Heber herd.

I saw no lack of forage while there this winter even though it was winter. I saw ample water. I saw no evidence of overpopulation and all the wild horses I saw looked in great shape/Henneke score.

I believe that it was remiss to wait until now for a population management plan given that the stipulated agreement was almost 15 years ago and admittedly speculate this may well have exacerbated the opposition into taking the law into their own hands. The fact that the USDA Forest Service had also worked to deny their rightful status of these wild horses is in the past, and must be left there by all. Perhaps those involved at that time are no longer with the USDA FS.

I also believe that the USDA FS has not protected these wild horses nor the public from this lawless opposition since then and this tends to appear retaliatory. Hence many people are afraid to come forward with information, though obviously, not all. Those who have come forward appear to have been ignored however.

The wild horses deserve a scientifically sound management plan which takes into account climate change, which manages principally for wild horses hence at least 51% of the available forage.

The AML must be based on the amount of forage per area, the weight of the horses, and we must be transparent with ALL grazing permits themselves and their historical numbers of cattle historically and in the present. We must also be transparent with all ungulates and their hunting permits as well as trapping permits for the natural predators as this area is currently being

## VERIFICATION

I, \_\_\_\_\_ DVM BA of Bradford County Pennsylvania do

, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date: 4/3/2019

... Signature:

I am the president of Citizens Against Equine Slaughter (CAES) a national 501c3 non-profit based in Oregon.

In this affidavit, I re-assert everything I stated in my previous affidavit/s for this Muddy Creek HMA.

As I stated: "Only the Secretary of the Interior can authorize a round up by helicopter as clearly, this is a very dangerous situation for the wild horses. However, there is no legal right to condone extreme animal cruelty, harassment and death as wild horses are not livestock."

In my previous affidavit I outlined many of the atrocities of helicopter round ups and alternatives.

**BLM has two veterinary groups and the Inspector General observe from afar, helicopter round -ups" in an effort to have them declared humane. (See foot notes 10,11,12 on pg 25 of BLM Response)**

Now the BLM comes and states that two groups of veterinarians and the inspector General have studied and or declared that helicopter round ups are humane (without an actual study) and that they are necessary. However, this is wholly unreasonable without an actual study.

Again, there are alternatives for on range management as called for by these veterinarians as well as proof that the gather and removal off the range is not working, per these reports, the in state of Utah alone over 15,000 horses have already been gathered. This amount of gathers, handling, and feeding is astounding versus the ease that the originating horses could be simply darted on the range with nowhere near the amount of cost, time, harassment, and cruelty as recommended by the National Academy of Sciences.

These Veterinarians have also recommended that helicopter usage include wide angle cameras for study and documentation as has CAES repeatedly for years. This would also handle handicap access.

Simple lure traps around water sources would suffice for simple on the ground darting or darting from helicopter one family at a time. If people can go out to these places to manage their cattle, why cannot we go out to the horses and lure trap for darting and release? An example is shown in my previous Affidavit of the lure traps at the Socorro BLM in NM.

**The Inspector General states that the National Academy of Sciences should be followed as the best science however does not follow through. Excuses given that logistics are different than Assateague a 45,000 acre island. However, it is easier to design logistics at places that are not surrounded by water.**

However, this field office, this agency, and this government are essentially blocking the best alternative as recommended by the National Academy of Sciences. Be that as it may, this Secretary of State has no legal right to act inhumanely against both the 1971 Act, the animal cruelty laws of the states and the nation .

**No Veterinarian has even sat in a helicopter during any round up in these three “studies”.**

In the BLM Response to Appellees Statement of Reasons, though the BLM makes the claim that Veterinarians have studied helicopter round ups, no Veterinarian has even sat in a helicopter during a helicopter round up. They have only sat at the capture chute areas as do other citizens. The 4 independent Veterinarians did actually go for a ride in a helicopter over a number of HMA's, but not during a round-up.

**There have been no Scientific or Veterinary Study of helicopter round ups and the associated issues such as Post Capture Myopathy Syndrome or Rhabdomyolysis. (See Attachments 1, 2)**

#### **Short List of Issues**

Here is a short list of the issues with the two “Veterinary Studies” of APHA and AAEP of 2010 foot notes 10 and 12 respectively. Both show some serious effects of helicopter round ups as well which illustrate that these are inhumane and do not include the first 5 to 6 miles of wild horses falling out prior to the gather shuts.

The fact that they did these two “Veterinary Studies” lets us know that they themselves know that there should be a study and that treating wild horses in this manner is indeed extreme animal cruelty on all levels and these “studies” are little more than a cover up albeit with a few decent recommendations, though the BLM did not implement them.

1. Eleven Vets of the AAEP which are not without a conflict of interest. They are the founding member of the unwanted horse coalition which is comprised in part by pro-horse slaughter

members. Their names are not even included in the "study". Their questionnaires were not even included in the "study".

2. No AAEP Veterinarian rode/flew in a helicopter during a round-up, which are easily 5 miles.
3. There were no cameras on the helicopters monitoring and documenting what was happening during the round ups in the 5 -7 mile or so stampedes.
4. There was no statistical study showing previous vs post conditions by age, by gender, by pregnant or not pregnant, by body score, etc.
5. There was no statistical study showing White Muscle disease by distance run, number of horses run, age. There was no one on the ground to study and or follow-up with any horses which fell out.
6. There was no selection process of only healthy adults male or female, or random selection process with results tabulated.
7. There is no hypothesis.
8. No peer review.
9. There is no alternative or control studied.

## **The BLM has not implemented the AAEP recommendations underlined below as well as those of the APHA or the Inspector General.**

Here are the recommendations of 10 AAEP Veterinarians. Page

**American Association of Equine Practitioners  
Bureau of Land Management (BLM)  
Wild Horse and Burro Program  
BLM Task Force Report  
August 2011**

### **HORSES ON THE RANGE**

- The BLM should utilize the best science available to obtain accurate herd management area census information in order to determine the healthy sustainable equid numbers for each area.
- The BLM should prioritize research and application of effective methods to reduce the foaling rate in wild herds.

### **WILD HORSE GATHERS**

- The contract helicopter pilots should always maintain a safe distance between the helicopter and any horses that are being gathered, and between the helicopter and the ground.
- The capture pens should be constructed so that pen configurations include wider sections instead of narrow lanes for temporary holding of animals that have just been captured. This configuration gives passive animals a circular escape from aggressive animals.
- The trap should be constructed with solid side panels in the final capture pen to prevent



horses from getting their heads or legs outside of the pen and to discourage horses from attempting to climb out of the enclosure

- The use of existing barb wire fence as a stage for a jute wing should be discouraged. If barb wire fence must be used, any areas where the horses will be actively driven should be covered with jute to prevent injury.

## RECORDS

- The task force encourages current efforts to produce a centralized database to track the history of all horses in the BLM program. The records should include positive or negative trends in adoption programs and socially productive programs like those in place at certain prisons.

**Again, The BLM has not implemented any of the above underlined recommendations. To wit, no census at Muddy Creek, only estimates from previous estimates, and the Muddy Creek Field office rounded up 153 wild horses and released 2 with birth control. This is an insult to science and to the wild horses and the American public.**

**In this Muddy Creek “census” analysis there was no census. According to the BLM Response here is how the number of horses was estimated:**

**Page 3,4 of the BLM Response excerpt:**

“As of March 1, 2018, the BLM-estimated population of wild horses within the Muddy Creek HMA was 195, and BLM projected that the population would reach 224 horses by the end of the summer of 2018. EA at 000166, Table I. BLM based its population projection on adding a 15% foal increase for 2017 and 2018 to the April 2017 population survey estimate.

*Id.*,

see also EA Appendix C. These wild horse population projections and BLM monitoring data reflecting deteriorating range conditions led BLM to determine that excess horses existed within the Muddy Creek HMA and that excess horses needed to be removed in order to restore a thriving natural ecological balance, maintain multiple-use relationships, and prevent further degradation of rangeland resources resulting from the overpopulation of wild horses. (However Note) “This monitoring data is on file within the BLM Price Field Office.” It is not in the hands of the public.

## **Likely Exertional Rhabdomyolysis (White Muscle Disease – not communicable**

The AAEP Report also gave evidence that this helicopter gather process was unnatural and fatal to wild horses. See Excerpt below on pg. 25. This showed evidence of “Capture Myopathy” but no recommendation was made to study the humanity of the helicopter round up exertion or to condemn this process in favor of humane and feasible alternative of dartable contraception (PZP) rather than Gona Con which is hormonal and is not dartable.

**“Condition of the horses after the gather:** The condition of the horses immediately after capture was judged to be good, with the exception of the one horse that

collapsed and died right before entering the trap. There was no sign of exhaustion or medical compromise in the other horses that were observed being gathered. The gathered horses had elevated respiratory rates as expected for any exercised horse, and some had mild to moderate body coat sweat which was dependent on the weather and distance traveled.?

## **APHA Main Recommendations - Group of 4 Independent Veterinarian (From Foot note 10 on pg 25 of BLM Response) Excerpts below with emphasis added.**

### **Independent Designated Observer Pilot Program "FINAL REPORT"**

October 2010 Overview One of the American Horse Protection Association's ("AHPA") missions is the protection and preservation of America's wild horses and burros on US public rangelands. *The Bureau of Land Management's ("BLM") has the authority and responsibility to ensure, to its best ability, the welfare of wild horses and burros during the gather, holding, and transporting process when horses are removed from public rangeland.*

- *Consider installing camera monitors* in the chutes/corrals at short term holding facilities or trap sites for the public to observe gathering, loading, unloading and preparation of animals. The public could watch at the short term holding facilities and not be additionally stressful to the animals.
- *Consider mounting a wide-angle lens camera on the helicopter during gather to record movement and behavior of the horses to study the effects of the helicopter on the horses.*

In line with BLM's ongoing development of its animal welfare program, in June 2010, AHPA offered to initiate a Pilot Independent Designated Observer Program ("Pilot Program") that involved the observation and reporting on the care and handling of wild horses and burros during the gather process at three major summer gathers: Owyhee HMA (NV); Stinking Waters HMA (OR); and Twin Peaks HMA (CA). It is important to note that the Pilot Program was not intended to replace public observation days. Additionally, the Pilot Program was specific to the care and handling of the animals only. BLM policy regarding removals was not within the scope of the Pilot Program.

- *Horses travelled an average of 5-7 miles to trap site*, and a Judas (or Prada) horse was utilized. Most horses entered the trap at a trot, some at a canter.
- At the Stinking Water gather, *a 23 year old stallion jumped out of the pen* and escaped the trap site. About ½ mile from trap, he was subsequently roped and his legs were tied while in a recumbent position, and eventually was transported in a two compartment stock horse trailer back to the Burns Corrals.
- At the Owyhee gather, horses were observed to be *tucked up suggesting decreased water intake*. Some foals had mud on their faces, suggesting they had been trying to suck water because their dams

were not producing sufficient milk, and willingly drank water from a bucket which is uncommon and implies tremendous thirst.

- Hoof condition was generally good with no significant defects. One foal at the Stinking Water gather had noticeable chipping in one hoof but was not lame.
- Coat/hide condition was generally good and clean, and indicative of the summer season.
- Lameness: One mare at the Bull Flats temporary holding facility (Twin Peaks gather) was grade 3 lame at the trot, with no visible lesions. At the Litchfield short term holding facility two foals were observed to be stiff and foot sore but mobile. One stallion at the Owyhee gather came in lame with an old knee injury.
- Injuries: One mare with pre-existing injury to hind leg at the Twin Peaks gather; superficial scrapes/kick wounds and one ~4 inch laceration which was sutured by the APHIS veterinarian in the squeeze chute at the Stinking Water gather; cuts and scrapes were noted at the Owyhee gather and were most often treated with a furazone type product. • Illness: A few horses exhibited colicky signs at the Owyhee gather; one mare was observed to have symptoms of rhabdomyolysis at the Stinking Water gather.

Recommendations Based on the observations of the 4 independent designated observers, the following recommendations are offered for consideration:

- If at all possible, horses should not be roped or tied down in a recumbent position for prolonged periods of time, especially coinciding with exhaustive or over-heated conditions. Strict criteria should be established to determine the initiation and purpose of this practice. If necessary to implement these procedures, these horses should be identified, marked, and/or confined separately from the others in the gather and observed for any injuries or metabolic conditions for the next 48 hours. This could be achieved by moving these animals to designated, smaller holding corrals.
- Excessively aggressive horses (studs or mares) should be isolated as soon as possible or grouped with horses they were with before capture (i.e., a harem stallion with his foals or dry mares) rather than stand waiting in the chutes or alleyways.
- Horses held in any enclosure over 4 hours after the gather at the trap site should be provided with access to hay and water in at least 100 gallon containers unless the horses are seriously dehydrated or compromised and, in the opinion of a veterinarian, should have restricted access to reduce the risk of water intoxication. → Lidocaine spray (or other topical anesthetic) should be utilized by attending veterinarians in order to facilitate suturing of wounds in horses in the squeeze chute. → Transport (unloading and loading) of animals should be kept to a minimum.

#### **Inspector General US Dept. of Interior 2011 (Foot note 11 pg. 25 BLM Response)**

**Like the other Veterinary Reports above, the inspector general's report did not scientifically prove any of the statements regarding helicopter round ups as humane as no tests of helicopter round ups in progress were performed, only observation from the ground at the end of a 5 to 7 mile long stampede.**

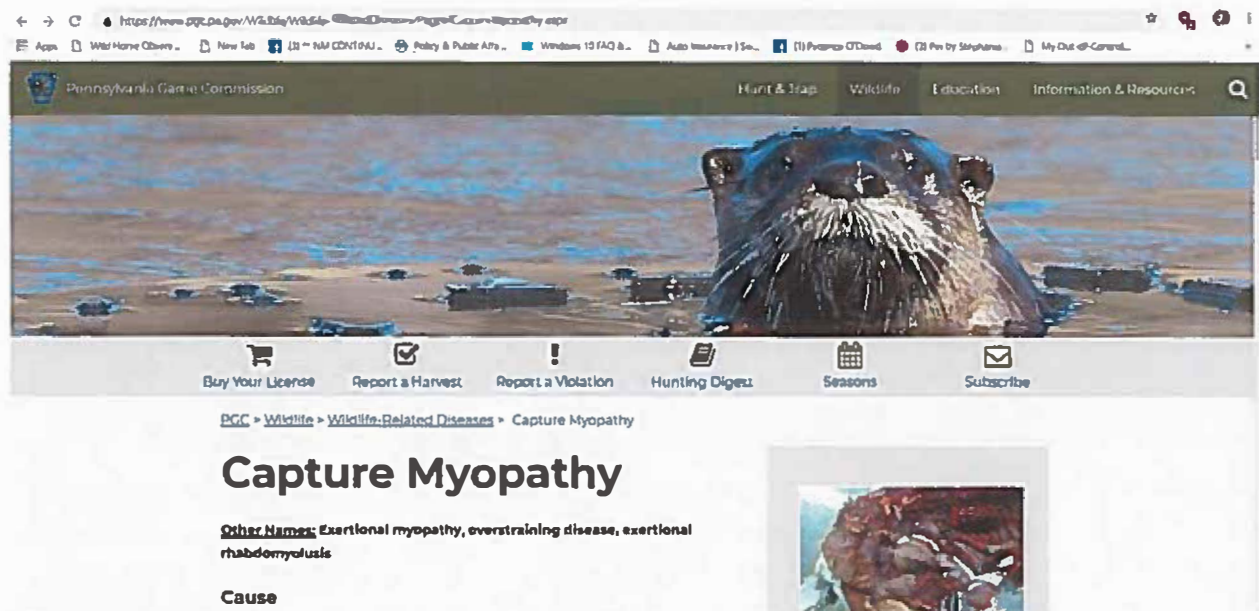


## Recommendations

To address the issues outlined in this inspection, we recommend that BLM:  
Continue moving forward with the Secretary's initiative and BLM's program improvements to the extent that:

1. There is urgent and aggressive focus on research and testing of improved population control methods to balance wild horse and burro population growth with adoption demand, thereby minimizing the need for additional long-term holding facilities and preserves.
2. There is an ambitious effort to minimize and reduce over the long term the need for short- and long-term storage facilities.
3. The best science for wild horse and burro management and needed new research is coordinated with and confirmed by the National Academy of Sciences and the results put into practice.

## ATTACHMENT I. Capture Myopathy intro.



<https://www.pgc.pa.gov/Wildlife/Wildlife-RelatedDiseases/Pages/CaptureMyopathy.aspx>

## Capture Myopathy

**Other Names:** Exertional myopathy, overstraining disease, exertional rhabdomyolysis

### Cause

Capture myopathy (CM) is a non-infectious disease of wild and domestic animals in which muscle damage results from extreme exertion, struggle, or stress. CM often



occurs as a result of chemical immobilization, capture, or transport, but it is not always associated with capture and can be the result of other causes of stress.

### *Significance*

Capture myopathy is an important cause of death in wild animals that are handled by humans, and people working with wildlife must take great care to prevent it.

### *Transmission/Disease Development*

CM can occur naturally when prey animals are attempting to avoid predation, but it is usually caused by humans. This is because animals are adapted to escape from predators, but are not adapted to struggle for long periods of time in man-made restraints. Capture myopathy occurs when animals overexert themselves (struggling in a trap for example) so much that physiological imbalances develop and result in severe muscle damage. Hotter temperatures and repeated chemical immobilization increase the risk of animals suffering from CM.

### *Clinical Signs*

Clinical signs vary depending on the species and the cause of exertion; the method of capture and restraint plays a major role in the occurrence of CM. Capture myopathy may result in sudden death, or clinical signs may develop hours, days, or up to two months following capture. Early clinical signs include elevated respiratory rate, heart rate, and body temperature. Body temperature increases during exertion and higher temperatures are often associated with death due to CM. Other clinical signs include depression, lack of response to stimuli, loss of coordination, weakness, muscle stiffness, tremors, muscle paralysis, recumbency, shock, and at times death.

### *Diagnosis*

Light-colored skeletal and sometimes cardiac muscle observed at necropsy is indicative of capture myopathy. Similar gross lesions may be found in animals with certain nutritional deficiencies, and specialized tests may be necessary to reach a diagnosis. Gross changes in muscle appearance may not be observable in animals that died acutely of CM.

### *Treatment*

Treatment of wildlife suffering from CM is rarely successful, and animals often die from this condition.

### *Management/Prevention*

Everyone who captures and restrains wildlife should be aware of the risks of capture myopathy and should make every effort to prevent its occurrence. Wild animals should only be captured when necessary, and the negative affects that capture may have on an animal's health should always be considered before beginning a management or scientific project. People should utilize capture methods that minimize animal stress, struggling, and handling time. For example, sound should be kept to a minimum, a blindfold should be placed over the animal's eyes, and workers should be efficient so that the animal may be released as soon as possible. Appropriate methods may vary for each species, so research should be conducted in order to select the ideal capture method.

**ATTACHMENT 2** Exertional Rhabdomyolysis – Wild horses are flight animals and very susceptible to this disease which can go un noticed for days and be fatal.

## **A Review of Exertional Rhabdomyolysis in Wild and Domestic Animals and Man**

R. C. BARTSCH, E. E. McCONNELL, G. D. IMES and J. M. SCHMIDT

Pathology Section, Veterinary Research Institute, Onderstepoort, Republic of South Africa

**Abstract.** Exertional rhabdomyolysis is a condition arising in several species of newly captured wild animals after some form of physical exertion and stress. It is characterized by muscle necrosis and myoglobinuria. Death may result from secondary renal failure, acute or chronic heart failure and progressive emaciation.

Exertional rhabdomyolysis is a condition commonly arising in newly captured wild animals. The syndrome ensues after physical exertion and is characterized by muscle necrosis and myoglobinuria. The condition has been referred to as muscular dystrophy [22], capture myopathy [4], overstraining disease [35], white muscle disease [18], muscle necrosis [37] and idiopathic muscle necrosis [29]. It has been described in 22 species of African ungulates and in nonhuman primates [26, 29], flamingos [36], a white-tailed deer [34] and mountain goats in British Columbia, Canada [18]. The disease caused death in six of seven newly captured pronghorn antelope purchased by the St. Louis Zoo in 1969 [2]. Possible cases of exertional rhabdomyolysis were reported in three captive harbor seals [33].

This paper presents the epidemiologic, epizootiologic, clinical and pathologic features of the syndrome in wild and domestic animals and man. It is based on a review of the literature and our observations of African wildlife.

There has been physical exertion and, to some degree, stress of capture in all cases. Methods of capture were live trapping with a trap door cage; chasing with horses, land or water vehicles and helicopters; and chemical immobilization. Rate of chase, length of chase, terrain, ambient temperature and climatic conditions varied greatly. Severe exertion for only 1 kilometer produced exertional rhabdomyolysis in zebra [16]. In mountain goats, exertion during handling and after live trapping with a trap door gate was believed to cause the condition [18].

Exertional rhabdomyolysis caused heavy mortality in flamingos captured after being chased through shallow water at night, put into small cloth bags with their legs folded, and transported for several hours [36].

This condition also has been reported in Chacma baboons (*Papio ursinus*) [26] and *Macaca actoides* [29]. The baboons were caught by chemical immobilization with no struggle and put in separate cages. Animals that developed exertional



rhabdomyolysis exerted themselves by straining against the cage doors and sides. The *M. actoides* was put in an unfamiliar type of cage.

### Clinical Observations

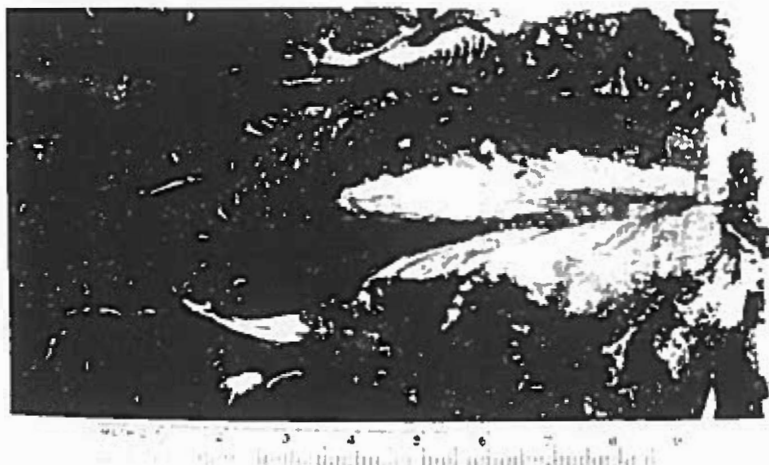
Clinical signs vary greatly. Acutely affected animals may die in a few hours with no signs of illness other than rapidly progressive depression. Other animals may have fever and muscle fibrillations, demonstrate reluctance to move, and continually shift weight. Convulsions, torticollis and opisthotonus may be followed by paralysis and death. Animals that die usually succumb 2–4 days after the onset. Some animals, however, have less severe rhabdomyolysis and die 2 weeks to 1 month after capture because of complicating factors such as heart failure [4] or progressive stiffness, lameness, paresis and paralysis, or a combination of these. Paralytic animals often demonstrate severe inanition at necropsy.

Little is known of the morbidity or mortality rates except that some species like the tsessebe are thought to be more susceptible than others. Exertional rhabdomyolysis may be more common than suspected. About 15 of 250 captured blue wildebeest were shot within 4 hours of capture because they had wounds, broken horns and legs, or were old. Necropsy revealed no macroscopic evidence of exertional rhabdomyolysis although early lesions may have been obscured by the dark red musculature of this species. When 45 others were killed and necropsied 24 hours later, however, all had macroscopic evidence of exertional rhabdomyolysis. During the week after capture, about 30 others were found to have acute clinical signs of lameness, muscle fibrillations or failure to rise. After 1 month there were only about 15 natural deaths caused by exertional rhabdomyolysis [2]. At least 90 of the 250 (36 percent) animals developed exertional rhabdomyolysis to some extent. A true mortality rate could not be obtained from this capture operation but considering the 15 losses, the rate was at least 6 percent.

### Pathologic Findings

The pathology of exertional rhabdomyolysis in captured animals has not been studied extensively. The appearance of affected muscles varies with time after onset; however, multifocal hemorrhage and necrosis have been the main macroscopic lesions. A lesion in a muscle damaged about 10 hours is apt to be dark red, dry and fairly well circumscribed. These acutely affected muscles may appear as small red-black streaks within a muscle or may involve nearly the entire muscle. By 3 or 4 days after onset the muscle lesion becomes lighter in color and soft or gelatinous (fig. 1). After 1 or more weeks, as fibrosis and repair progress, affected muscles become white and hard to cut. There is always a sharp demarcation between normal and affected muscle.

Distribution of muscle lesions varies considerably. They are usually bilateral, but not necessarily symmetrical. The most severe lesions in antelope that die from rhabdomyolysis are in muscles of the pectoral girdle and flexors of the hips. Researchers also have reported muscle lesions in the flexors and extensors of



**Fig. 1:** Focal area of necrosis within subscapularis muscle of a baboon 4 days after capture. (From *Journal of Veterinary Research* reproduced under Copyright Authority 5692 of 16.6 1976 of the Government Printer of the Republic of South Africa.)

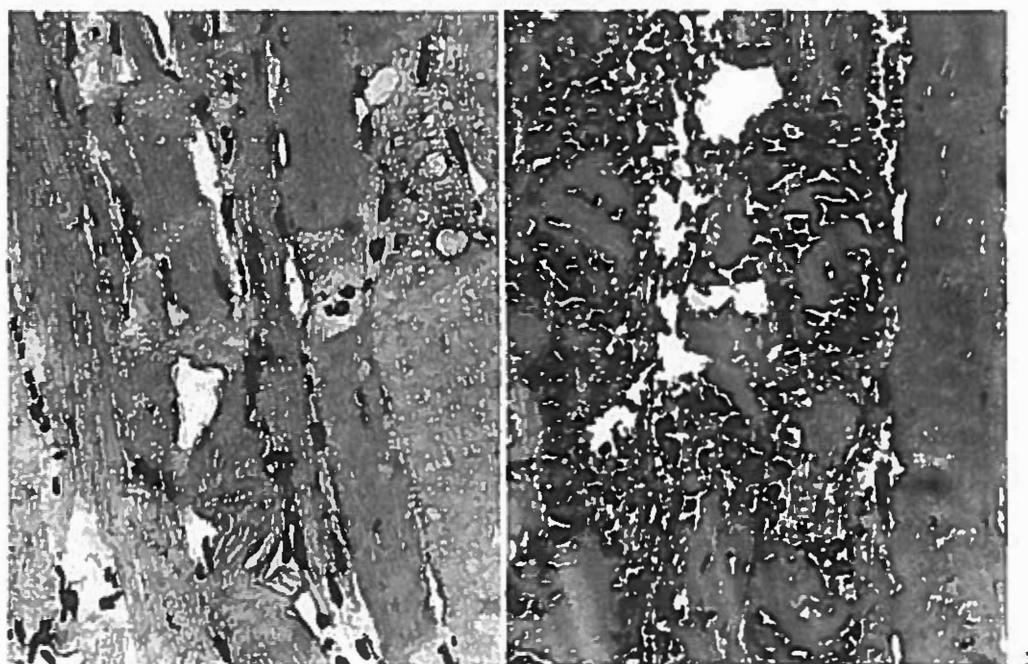
shoulders, forelimbs, thighs and in the psoas and sacrococcygeal muscles in baboons [26].

The microscopic appearance of the affected muscle depends on the time from onset of the lesion. In animals that die peracutely within a few hours of onset, muscle fibers lose striations and are hyalinized, deeply eosinophilic and homogeneous or finely granular. There may be eosinophilic globules or vacuoles within the cytoplasm, and there usually is evidence of muscle fiber fragmentation or lysis, hemorrhage, and occasionally early mineralization (fig. 2). Nuclei of affected fibers are often pyknotic, central or absent (fig. 2). Zenker's necrosis and hemorrhage are the predominant histologic findings in the most acute muscle lesions (fig. 2, 3). Similar myocardial lesions also have been described [26].

The kidneys, in acute cases, are usually swollen and dark brown and the urinary bladder may contain red-brown urine. In animals that die, many of the renal tubules, especially distal ones (fig. 6) and parts of the loops of Henle (fig. 7), contain necrotic or degenerated epithelium. Cellular and brown granular casts, presumably composed of myoglobin (fig. 6) and dilated tubules are commonly seen. The renal tubular epithelium, which is not necrotic, often contains brown granules of various sizes (fig. 6, 7). Severe, acute glomerular damage is evidenced by pyknosis and cytoplasmic hyperchromasia of the endothelial cells, glomerular collapse and dilation of Bowman's space by proteinaceous material (fig. 5).

Another common acute lesion, which may be associated with exertional rhabdomyolysis of several days duration is focal hemorrhage and necrosis of the adrenal cortex. These adrenal lesions, which are usually red-black pyramidal streaks radiating from the deeper parts of the cortex, consist of necrosis and hemorrhage in all three layers of the adrenal cortex.

Microscopic muscle lesions of longer duration have some or all changes seen in

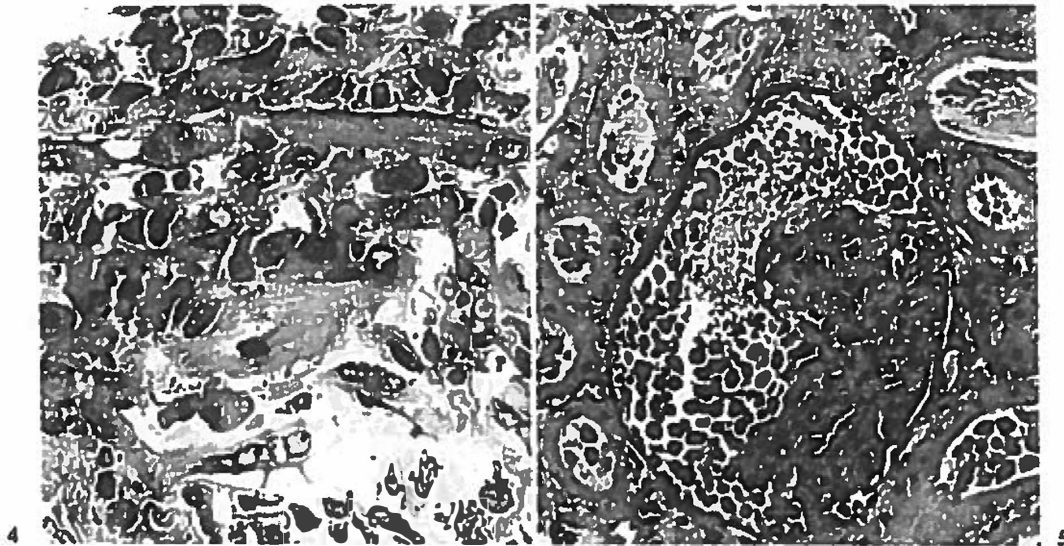


**Fig 2:** Hartbeest muscle. Zenker's necrosis and fiber hyalinization, loss of nuclei and striations, muscle fiber waviness and breakage in an acute lesion of exertional rhabdomyolysis. HE.

**Fig 3:** Muscle of hartbeest 3 days after capture. Early inflammatory infiltration by neutrophils and macrophages into the lysed and fragmented, necrotic myofibers. Early foci of mineralization (arrows). HE.

acute cases. Also, partially or wholly mineralized foci of necrotic muscle fibers, infiltration of polymorphonuclear leukocytes, proliferation of sarcolemmal cells and myoblasts, and hemorrhage (fig. 4) are common features. Interpretations of the actual degree and success of myoblastic proliferation and muscle regeneration is difficult because of the mix of degenerative, necrotic, inflammatory and repair processes. As the age of the muscle lesion increases, sarcolemmal proliferation replaces the necrotic residuum and the affected part becomes fibrous, with diminished inflammatory infiltrate. The renal lesion at this stage when present, remains one of tubular necrosis with the same characteristics described above but also includes regenerative proliferation of renal tubular epithelium and polymorphonuclear leukocytic infiltration.

Field experiments have been done by researchers on wild animals chased for various distances [16, 17]. Blesbok had elevated creatine phosphokinase, serum glutamic pyruvate transaminase and lactic dehydrogenase after short chases at high speeds. The average blood pH of blesbok chased for 2 kilometers at a rapid pace was 7.24, 7.31 for 4 kilometers and 7.35 for 6-10 kilometers [16]. Furthermore, three zebra chased for 1, 2 and 5 kilometers were acidemic (down to pH 6.50) 5 minutes after capture. Thirty minutes later one animal died. The blood pH of the other two fell to pH 6.45 and they died within 12 hours of capture (16).



**Fig 4:** Hartbeest muscle. Exertional rhabdomyolysis of 1 week duration. Proliferation of macrophages, sarcolemmal nuclei and myoblasts. HE.

**Fig 5:** Sitenbok kidney. Bowman's capsule distended with eosinophilic proteinaceous material that has collapsed and distorted the glomerulus. HE.

#### Related Conditions in Domestic Animals

The earliest reported condition similar to exertional rhabdomyolysis in domestic animals was equine paralytic myoglobinuria or azoturia. This disease has been described in some detail [24, 27]; however, the specific pathogenesis is still poorly understood. The condition is common in horses that have been resting and on a high energy diet and then are exerted. Clinically, the horses develop a stiff gait and are reluctant to move. Muscles of the pectoral and pelvic girdles may be swollen, excessively firm and tender. Myoglobinuria is not frequent but death is often ascribed to renal failure. Zenker's necrosis of the skeletal muscles and occasionally myocardial necrosis are the hallmarks of the disease.

Paralytic myoglobinuria, a syndrome similar to exertional rhabdomyolysis, has been described in draft oxen and cattle transported 2 miles and turned out to pasture after spending the winter in a barn [1]. The condition also was produced in a heifer with hereditary muscular hypertrophy by chasing her 3 kilometers for 33 minutes [19]. The hereditary defect in hereditary muscular hypertrophy is an increase in the size and number of white muscle fibers. Exertion-related glycolysis with accumulation of large amounts of lactic acid, compounded by the poor microcirculation of white muscle fibers [19] was thought to have predisposed the animal to muscle damage. A similar condition developed in two of 20 normal 10-month-old calves shortly after they were turned out to pasture from winter quarters [23]. White friable foci, 2–3 centimeters long were found in various muscles, especially in the extensors and flexors of the hindlimbs. Microscopic lesions identical to those described in wild animals were seen.



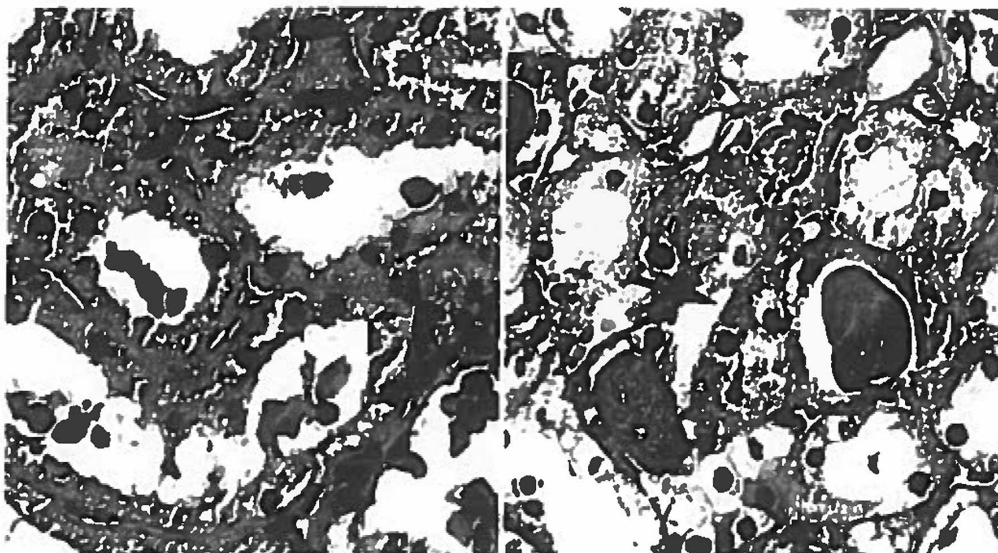


Fig. 6: Steenbok kidney. Acute necrosis of a distal tubule. Nuclei either pyknotic or absent. HE.

Fig 7: Steenbok muscle. Degenerated or necrotic loops of Henle with proteinaceous granular casts, presumably myoglobin. Renal tubular cells contain many dark brown granules (arrows) which presumably are myoglobin. HE.

One researcher described an "azoturia-like" condition in racing Greyhound dogs [13]. Others recently have reported azoturia and an exertional rhabdomyolysis-like syndrome in a Greyhound dog [5] after a 740 meter race. The dog had elevated creatine phosphokinase, serum glutamic oxalacetic transaminase, serum glutamic pyruvate transaminase and lactic dehydrogenase and there was myoglobin in the urine. The dog recovered in 12 days.

#### Related Conditions in Man

Rhabdomyolysis occurs in some apparently healthy military recruits during their early phase of physical conditioning [6, 11, 14, 30]. Although clinical histories vary, the condition usually comes after exhaustive exercise. Rarely stressed muscle groups are those usually affected [9]. One study reported 23 of 586 [3.4 percent] cases of myoglobinuria in military trainees [14]. There was elevated serum glutamic oxalacetic transaminase in 46 of 56 persons tested from this group. Thirty of these 56 trainees had significant muscle weakness for several days and 10 had edema of the upper extremities and decreased muscle function for several days. No cases of myoglobinuria were found in 175 different recruits in the same study when they were put on a gradually increasing physical training program with frequent rest periods. Of about 18 000 marine recruits in another study, 63 developed clinical exertional rhabdomyolysis [9].

Other cases of exertional rhabdomyolysis have been reported in man. The condition was precipitated by various physical activities such as university intra-

mural wrestling [15], 18 holes of golf [8], mowing a lawn, carrying a child for several hours [10] and industrial labor [10].

Clinical signs usually appear 4–6 hours after physical exertion and include swelling, tenderness and stiffness of affected muscle groups and then low-grade fever, nausea and vomiting [8–10, 14, 15]. Myoglobinuria and oliguria may occur 24–40 hours after exertion and are accompanied by general malaise [30]. Serum creatine phosphokinase, serum glutamic oxalacetic transaminase, serum glutamic pyruvate transaminase, lactic dehydrogenase and aldolase have been reported to be above normal [9, 30].

Other serious clinical problems such as respiratory distress or failure, acidosis, azotemia and hyperkalemia have been recognized in people with clinical exertional rhabdomyolysis [10, 15, 28]. The gravest threat to life, however, is renal failure related to myoglobinuric nephrosis [15, 28].

There are few descriptions of macroscopic lesions of exertional rhabdomyolysis in man. Bilateral, hemorrhagic necrosis of the iliopsoas muscles, however, was noted in a patient that died from exertional rhabdomyolysis 4 days after exertion [32]. Another patient that died 30 days after the onset of signs had irregular, linear, light gray foci within affected muscles [10].

Again, the microscopic appearance of exertional rhabdomyolysis in man is not well documented. A histologic study of muscle biopsies from a group of recruits with exertional rhabdomyolysis of 2–5 days duration showed granular, floccular and hyaline degenerative changes with basophilia in affected myofibers [19]. Loss of striation was common and was associated with degenerative and necrotic nuclear changes. In addition, edema, congestion and inflammatory cell infiltrates were seen in the interstitium. Less acute muscle lesions are phagocytosis of necrotic muscle fibers, inflammatory cell infiltrates consisting of neutrophils, lymphocytes and macrophages and muscle regeneration [14, 28].

### Discussion

Exertional rhabdomyolysis is a disease with a basic pathologic process that affects many species, including man. Muscle breakdown in exertional rhabdomyolysis seems to be caused by more than usual physical exertion. The stress of capture or of a new and unusual environment also may play a causative role. It may seem surprising that wild antelope develop exertional rhabdomyolysis after running only several kilometers. These animals in the wild, however, rarely run fast and then only for short distances (usually less than a few hundred meters) since predatory carnivores rarely pursue for more than this distance. The contribution of stress toward the development of exertional rhabdomyolysis is largely an unknown and unmeasurable factor inherent in capturing wild animals. Hyperthermia, acidosis and acute heart failure may be integral parts of the pathogenesis of exertional rhabdomyolysis [13].

Under field conditions in southern Africa, several or all of these disease producing factors may act together to complicate the pathogenesis and make it impossible

to determine if a single process led to the animal's death. It is tempting, if not correct, therefore, to propose that many animals that die peracutely at capture do so from the combined effects of stress, exhaustion, hyperthermia, acidosis, heart failure and perhaps early effects of rhabdomyolysis.

Hyperthermia and acidosis were important, if not critical, findings in the blesbok and zebra chased experimentally [16, 17]. Normal values were not reported for these species and, unfortunately, important ambient conditions and rates of chase were not reported. The animals were held in forced lateral recumbency for at least 30 minutes after exertion while specimens were taken. While the data collected were valuable, the blood pH and other data may reflect extreme stress caused by restraint under field conditions. Further, the restraint and stress may have impeded compensation of blood pH and body temperature.

Few data regarding environmental conditions have been published. We believe that capture operations done efficiently on cool mornings cause fewer deaths than those attempted during hotter parts of the day or those in which undue difficulties are encountered in handling the animals. Also, experienced capture teams that work quietly and deliberately seem to minimize mortality of captured animals. Finally, the inadvertent capture of hyperexcitable animals such as zebra or ostrich with smaller, more docile antelope seem to result in more deaths in the latter.

Information is lacking on individual behavioral dominance relationships within animal groups and on age in relation to the development of exertional rhabdomyolysis. Researchers have noted that lesions of exertional rhabdomyolysis developed less often in juvenile baboons than in adults chemically immobilized or lured into baited cages [26]. It has been speculated that adults fought the cages more than juveniles who appeared to adapt to captivity faster.

Animals that die of exertional rhabdomyolysis at less acute intervals after capture may present a complicated pathological picture. Antelope that die after a few days of lameness or paresis seem to die from combined effects of prolonged anorexia, renal failure and stress [2]. Heart failure stemming from necrotic foci in the myocardium has been reported as a cause of death in zebra [29]. Also, congestive heart failure was reported as the cause of death in gemsbok with exertional rhabdomyolysis 3 days after capture [7]. Severe pulmonary edema and congestion were prominent in these cases. Deaths have occurred from subacute congestive heart failure in which there was fibrous replacement of the necrotic cardiac muscle.

Veterinarians should become more aware of the importance of secondary renal tubular necrosis which may lead to renal failure in animals with exertional rhabdomyolysis. Renal failure is probably the most important medical manifestation of the acute disease in animals and may be confirmed by laboratory findings that indicate renal tubular necrosis and ischemia and a rise in blood urea nitrogen, proteinuria, casts, hyposthenuria, glucosuria and myoglobinuria. Although the urinary pigment in animals with exertional rhabdomyolysis has not been routinely identified, most authors have assumed it to be myoglobin [1, 3, 7, 23].

The mechanism of the nephrosis in exertional rhabdomyolysis is not understood.

Experimentally, acute tubular necrosis has been produced by heme pigment when compounded by dehydration, hypovolemia and acidemia [31]. Research has shown that renal ischemia is the initiating factor in nephrosis induced by hemoglobin in rats [21]. Aggregation of hemoglobin in the outer renal medullary vessels was evidence that local blood flow had ceased. It was not determined if the aggregation resulted from tubular epithelial changes or if it was primary and a function of renal hemodynamics [21]. Intravascular aggregation of heme pigments in exertional rhabdomyolysis of animals has not been reported and was not evident in the cases studied for this report. Renal blood flow was changed during acute oliguria in dogs given injections of hemoglobin [12]. Renal damage and effects on renal function in these dogs resulted from tubular obstruction by hemoglobin casts. Obstructed and dilated tubules frequently were seen in tissues from antelopes which indicated this mechanism is important in the pathogenesis of the disease. Therefore, nephrosis may be induced in exertional rhabdomyolysis by obstruction of renal tubules by myoglobin casts, focal ischemia that decreases blood flow to tubules or glomerular filtration rate or both, and direct toxic effects to the tubular epithelium [15, 28].

An inverse relationship between the severity of nephrosis and hemoglobinuria was noted in rats injected with hemoglobin [19]. It was postulated that the functional kidney lesion develops peracutely after injection of hemoglobin and that the concomitantly diminished filtration rate will greatly reduce excretion of hemoglobin so that hemoglobinuria does not occur. This may explain why red-brown urine is not seen in all cases of exertional rhabdomyolysis where renal lesions are severe.

Muscle phosphorylase deficiency, phosphofructokinase deficiency and a syndrome of abnormal glycolysis are metabolic diseases in man which may predispose development of exertional rhabdomyolysis [25, 28]. Discovery of similar animal metabolic defects and experimental use may elucidate some of the basic mechanisms and genesis of lesions in exertional rhabdomyolysis.

#### Acknowledgements

We thank the Department of National Parks and Wildlife, Rhodesia, and Mr. H. J. Herbert of Wankie National Park, Rhodesia, for allowing accumulation of data from the wildebeest capture and translocation operation in which one of the authors (Bartsch) was a consultant.

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Request reprints from Dr. R. C. Bartsch, 9201 North Seventh Avenue, Phoenix, AR 85201 (USA).

ATTACHMENT: An hour hearing cannot provide the experimentation and review necessary. Use of motorized vehicles that allows families to stay together reduces stress on the individuals and family. This "hearing" was not greatly advertised and I can see no follow-up.

Moreover, 4800 animals as quoted below id likely only 2,400 animals to dart. This is the creation of 5 good jobs for darting etc. rather than the helicopters, harassment, and death, and including the bird lady.

## ***BLM TO HOST STATEWIDE PUBLIC HEARING REGARDING USE OF MOTORIZED VEHICLES AND AIRCRAFT IN THE WILD HORSE AND BURRO PROGRAM***

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**VERNAL, Utah**—The Bureau of Land Management (BLM) will host its annual statewide public hearing at the BLM Vernal Field Office to discuss the use of helicopters and motorized vehicles in the management of wild horses and burros on Utah's public lands.

The hearing will take place:

**Tuesday, Dec. 11, 2018, 6–7 p.m.**

**BLM Vernal Field Office**

**170 S 500 E**

**Vernal, Utah 84078**

"Helicopter and motorized vehicle usage is a critical tool for managing wild horses and burros on public lands," said Gus Warr, BLM Utah Wild Horse and Burro State Lead. "These management tools allow us to conduct aerial population surveys, monitor animal distribution, conduct safe and effective gathers, and transport captured animals in a humane and efficient manner."

Utah's current statewide wild horse and burro population numbers currently exceed 4,800 animals, which is more than 200 percent of the approved appropriate management level of 2,000. Having an overabundance of wild horses and burros above BLM management levels may cause resource damage resulting in limited forage and water availability, which reduces the number of animals that the land can support.

To date, the BLM has removed more than 15,600 wild horses and burros from Utah's rangelands since legislated removals began in 1976. Over 8,100 of those animals have been adopted or sold locally; the remainder were shipped outside of Utah for adoption

or holding in off-range pastures. Utah's 2019 satellite adoptions start in March and continue monthly throughout the state. Adoption locations are tentatively set for Farmington, Salt Lake City, Heber City, and Delta, Utah. Animals are available for adoption on a weekly basis at the Delta Wild Horse and Burro Facility.

For additional information about the upcoming statewide public hearing, or future wild horse and burro adoptions, visit [www.blm.gov](http://www.blm.gov) or contact the Utah Wild Horse and Burro Hotline at (801) 539-4050 or Gus Warr at the BLM Utah State Office at (801) 539-4057.

Sincerely,



4/3/2019



managed for multiple use. In like manner we must have a transparent biologic report for all species here including endangered species.

It is my understanding from \_\_\_\_\_ written communications that she was expecting an EIS. From a written communication with \_\_\_\_\_ on Aug 6th 2007:

**"\_\_\_\_\_ of \_\_\_\_\_ continues representing the horse so \_\_\_\_\_ is watching closely the NEPA process. I received a timeline from the FS that indicated they would have a draft EA by May 2008. EA is not acceptable, must be an EIS so \_\_\_\_\_ is watching the FS.**

**WE have had some indication that they may try to declare them all unauthorized trespass livestock after the NEPA with, possibly, the exception of a few who may be in the Heber wild horse territory even though the court ordered stipulated agreement agrees to create a management plan for the territory, horses in the territory, and horses on adjacent land in the Sitgreaves National Forest."**

Again, the delays in this Stipulated Process need to be explained as it is very difficult to justify this and the apparent damages to the wild horses and to the people in a vacuum.

I can suggest that though we at WHOA, CAES, and WHOA-Voters are open to the automated darting station, we are not open to the use of that station with any hormonal vaccine or experimental vaccine. These wild horses have waited long enough as have the people and deserve the best known method as recommended by the National Academy of Sciences as well as a scientific and transparent determination of AML.

I suggest the use of the WHOA population modelling tables in your planning and am happy to work with you on them. See the tables below. I also suggest that your population census be pictorial and that Stacey Sanchez's affidavit and information be utilized. Clearly the helicopter use in this area has been dangerous for the horses here based on both our veterinarian's affidavits but also based on Stacy Sanchez' affidavit.

I also suggest that the full range of the wild horses be utilized and not only in the fenced in pastures where so far they have not been protected and that key learnings and team members from the working group in Region 3 at Jicarilla with Peak Facilitization be utilized *when needed* for darting.

I also suggest that the appearance of a conflict of interest on the necropsies and lack thereof be addressed as well as the previous records of lawlessness. I do understand you have a new forest supervisor and believe it will not take him long to come up to speed.

There must be transparency on the number of other ungulates in the area, the number of predators existing and the number killed, the presence of chronic wasting disease, the whereabouts of fences and gates. All gates must be locked open when the cattle are removed for the safety and ability of the wild horses and wildlife to be able to roam to water and forage.

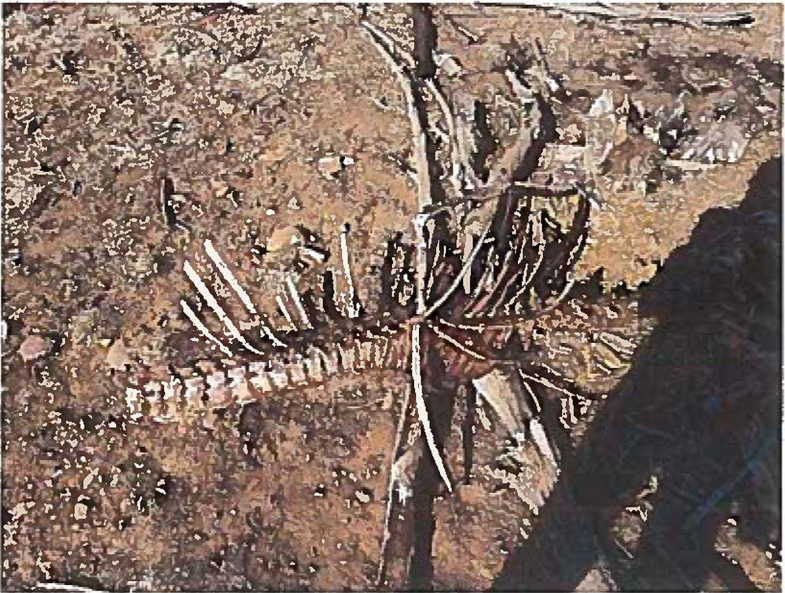
The environmental footprint of the cattle in this particular region or rather the Life-Cycle Assessment of the Beef Cattle Production should be done if this Wild Horse Territory is to be managed for multiple use including cattle especially given the IPCC Report on climate change.

I recommend the use of the WHOA National Plan however given the violence in the area, perhaps best to start out with advocate darters of which we can help provide.





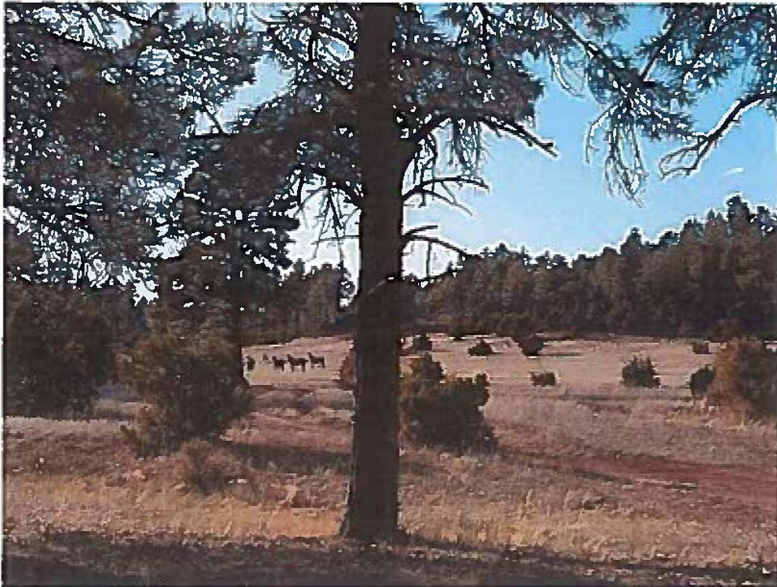






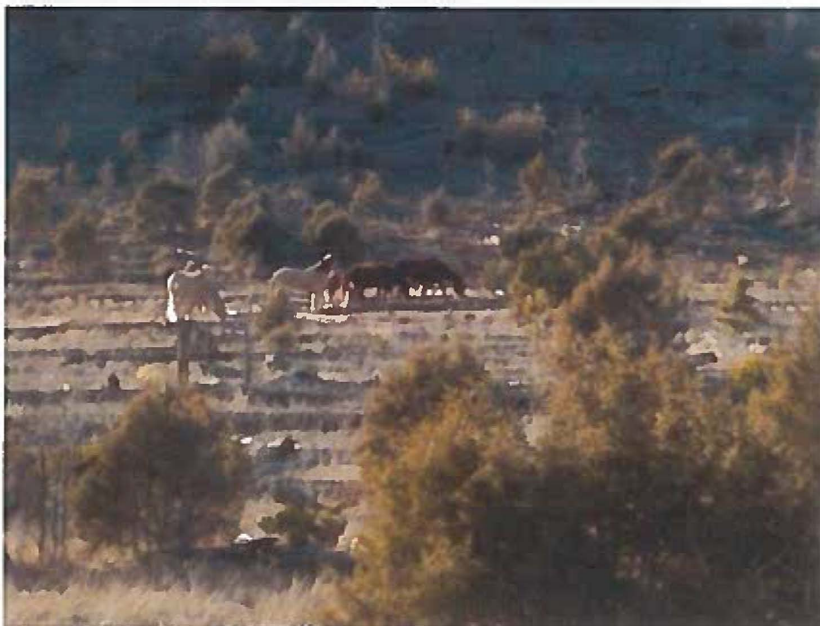
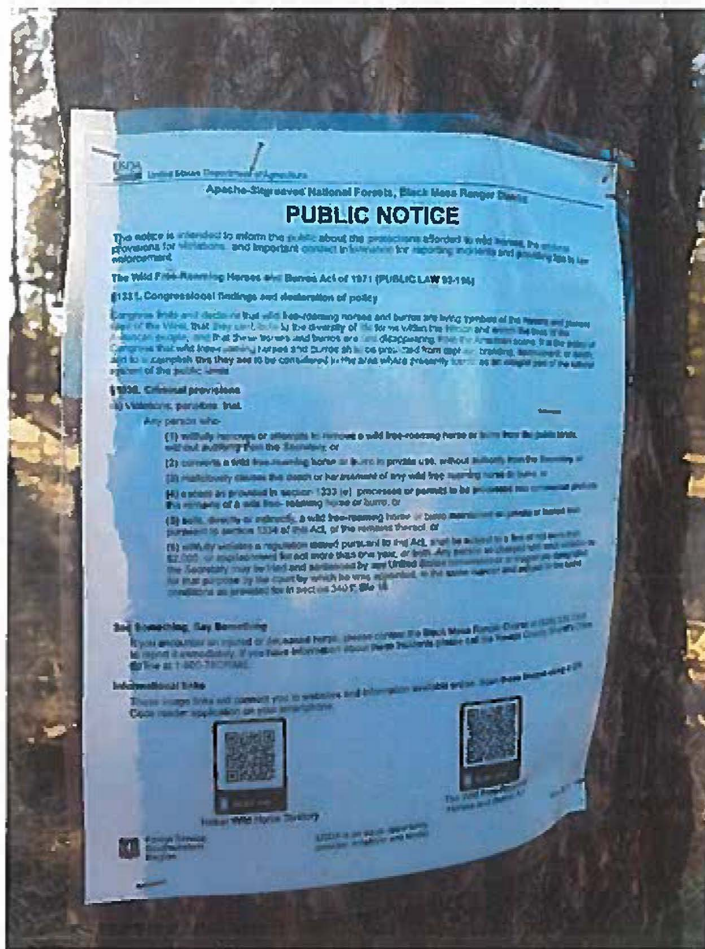
















This is what the population looks like without predators (4 legged) and without birth control. However, best if there are 4 legged predators in the area as they keep all wild ungulates healthy.

Year	No. Wild Horses	No. Mares Dated	No. Mares	Removal	Wild Horses Remainin g	No. Mares Remainin g	Birth Rate: Foals Born Post Dating	Total on Range Year end	Minus Attrition 10%
2020	210	0	81	0	210	116	81	291	262
2021	262	0	144	0	262	144	101	363	326
2022	326	0	179	0	326	179	126	452	407
2023	407	0	224	0	407	224	157	563	507
2024	507	0	279	0	507	279	195	702	632
2025	632	0	348	0	632	348	243	875	788
2026	788	0	433	0	788	433	303	1091	982
2027	982	0	540	0	982	540	378	1360	1224
2028	1224	0	673	0	1224	673	471	1695	1526
2029	1526	0	839	0	1526	839	587	2113	1902
Total Removed 10 yrs					0	Born 10yr		Attrition 10yr	
Foals Born in captivity					0	2642		547	
Total excess created, now in captivity					0				
Number Dated (10yrs)					0				
Assumptions									
- Birth Rate %					=	70			
- Ratio females to males %					=	55			



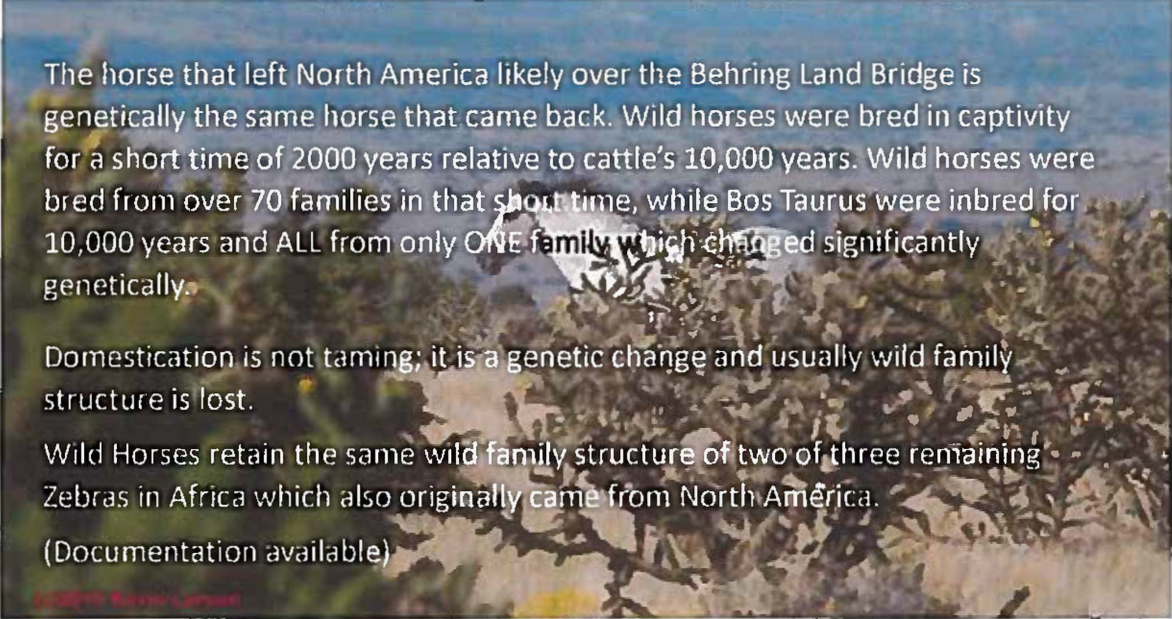
In the article below we can see that Cougars may help avoid, decrease, or stop chronic wasting disease for cervids in the ares. They would also be beneficial for wild horses genetically speaking. Moreover it is unscientific to say that native horses have no predators while saying the non-native bovine do and using wildlife services to remove them, and or state that these native predators will eat non-native bovine but not native wild horses especially the young, old, and sick or injured, the same as the cervid population, see the article below.

### Mountain lions prey selectively on prion-infected mule deer.

This study shows that Cougar kills had a significantly higher percent of Chronic Wasting Disease infected deer than hunter's kills. Krumm CE<sup>1</sup>, Conner MM, Hobbs NT, Hunter DO, Miller MW.

**Wild Horses evolved here for 55 million years while Buffalo came only 200 hundred thousand years ago and are considered native.**

**Wild horses are in fact Native. They evolved here in North America. The current horse in Placitas is 1 to 4 million years old.**



The horse that left North America likely over the Behring Land Bridge is genetically the same horse that came back. Wild horses were bred in captivity for a short time of 2000 years relative to cattle's 10,000 years. Wild horses were bred from over 70 families in that short time, while Bos Taurus were inbred for 10,000 years and ALL from only ONE family which changed significantly genetically.

Domestication is not taming; it is a genetic change and usually wild family structure is lost.

Wild Horses retain the same wild family structure of two of three remaining Zebras in Africa which also originally came from North America.

(Documentation available)

Year	No. Wild Horses	100% No. Mares Dated, but not 5th years so as not to sterilize.	No. Mares	Removal	Wild Horses Remaining	No. Mares Remaining	5% Birth Rate: Foals Born Post Dating, except 5th yr	Total on Range Year end	Minus Attrition 10% then 2% for ~ 9 yrs		
2020	210	116	116	0	210	116	81	291	262	Mares not dated in 2019 already pregnant, 11 mo. gestation	
2021	262	144	144	0	262	144	7	260	242	Must Dart by or before end of March in 2020 to reduce foal crop for next year. Boost those dated for full 90 to 95% efficacy.	
2022	242	133	133	0	242	133	7	249	244		
2023	244	134	134	0	244	134	7	250	243		
2024	245	87	135	0	245	135	48	293	287	Darting only older mares the 1st year that have surviving babies.	
2025	287	158	158	0	287	158	8	295	289		
2026	289	159	159	0	289	159	8	297	291		
2027	291	160	160	0	291	160	8	299	293		
2028	293	161	161	0	293	161	8	301	271	After 9 yrs the attrition rate goes back up to 10%, was depressed due to healthier mares since not birthing and feeding in winters	
2029	771	75	149	0	771	149	52	323	291	Attrition rate is back up to 10%	
Total Removed 4 yrs				0	Born 10yr		Attrition 10yr				
Foals Born in captivity				0	233		152				
Total excess created, now in captivity				0							
Number Dated (10yrs)				1308							
Assumptions											
Birth Rate %				= 70							
Ratio females to males %				= 55							

In this case, since these horses were not vaccinated in 2019, and horses are pregnant for 11 months, with native PZP/Zona Stat-H as registered by the EPA, there are additional births the first year as the mares are already pregnant from the last year.

If the Forest Service continues darting 100% except for the 5th year, during the second ten years the population of the horses will be reduced significantly because the attrition rate goes back up to 10% after being reduced to 2% due to darting. At some point by design, the birth rates will equal the natural attrition rates.



adoptable animals. All animals located outside of HMAs are removed. To facilitate this, animals up to 9 years of age are allowed to be put in the adoption program. All unadoptable animals and those 10 years and older are returned to the nearest HMA.

As with animals located outside the HMAs, when removal of wild horses from private land is requested by the landowner, or when animals must be removed in response to emergency conditions, adoptable animals 9 years of age and younger may be placed in the adoption program. The remaining older animals are returned to the nearest HMA.

#### **FERTILITY CONTROL AND OTHER RESEARCH**

The BLM initiated a pilot fertility control study in FY 92. The test areas included the Antelope and Antelope Valley HMAs in northeast Nevada. The study is evaluating the effectiveness of two applications of an immunocontraceptive vaccine: the first application is a two-shot protocol

where a booster shot is required after 30 days, and the second is a single-shot protocol requiring no booster. The study is also evaluating the effect of the vaccine on the animals' health and behavior. The immunocontraceptive vaccine has been shown to be a safe, humane, and effective reproduction prohibitor. Fertility control has been supported by wild horse interest groups and the public as a possible tool for improving on-the-ground management in an effective and humane way.

Under normal circumstances, approximately 53 percent of wild mares will become pregnant each year. Initial results of the research show the two-shot protocol to be 100 percent effective in preventing pregnancy, while the single-shot protocol was effective in reducing reproduction rates by 60 percent. Although effective, the two-shot protocol does not appear to be practical as a management tool because it is necessary to hold animals in pens for at least 30 days to administer the second shot.

Reading pages 1 through 9, of the JOint Report to Congress of 1995 (above is page 9) shows that adoptions are not feasible and sanctuaries fail however that PZP is effective. Only the first year requires a booster. If they do not get two shots the first year, their second year will serve as the booster shot but the efficacy will be less.

We are not recommending these horses be reduced in number. We recommend that they remain at this level or double.

It is clear that these horses have been artificially and illegally reduced through the years by moving and removal. We recommend again that this area be managed principally or therefore at least 51% minimum allocation of forage for the wild horses.

Year	No. Wild Horses	100% No. Mares Dated, but not 5th years so as not to sterilize.	No. Mares	Removal	Wild Horses Remaining	No. Mares Remaining	5% Birth Rate: Foals Born Post Dating, except 5th yr	Total on Range Year end	Minus Attrition 10% then 2% for - 9 yrs	
2020	210	116	116	0	210	116	6	216	194	Mares dated in 2019 already pregnant 2018, 11 mo. gestation
2021	194	107	107	0	194	107	5	200	180	Must Dart by or before end of March in 2020 to reduce foal crop for next year. Boost those dated for full 90 to 95% efficacy.
2022	180	99	99	0	180	99	5	185	181	
2023	182	99	99	0	181	99	5	186	182	
2024	182	0	100	0	182	100	70	252	247	Darting ZERO mares the fifth year.
2025	247	136	136	0	247	136	7	254	249	
2026	249	137	137	0	249	137	7	256	251	
2027	251	138	138	0	251	138	7	257	252	
2028	252	139	139	0	252	139	7	259	233	After 9 yrs the attrition rate goes back up to 10%, was depressed due to healthier mares since not birthing and feeding in winters
2029	233	0	128	0	233	128	90	323	291	Attrition rate is back up to 10%
Total Removed 4 yrs				0	Born 10yr		Attrition 10yr			
Foals Born in captivity				0	208		128			
Total excess created, now in captivity				0						
Number Dated (10yrs)				970						
Assumptions										
Birth Rate %					= 70					
Ratio females to males %					= 55					

IF we had dated last year before the end of March 2019, this is what the population would look like at the end of 2020. PZP works and is very effective. The BLM and USDA FS admitted this in the 1995 Joint Report to Congress. They stated 100% and 95% efficacy.

If there is a combination of darting and not darting the herd size can be designed and accomplished without removals. That is key as these wild horses must be treated as wildlife not livestock. Families must be kept together as in the:

USGS Ethology Quantifying Equid Behavior

Techniques and Methods 2-A9

U.S. Department of the Interior U.S. Geological Survey

<https://pubs.usgs.gov/tm/02a09/pdf/TM2A9.pdf>

We recommend a variation on the WHOA National Plan which Region Three USDA FS Jicarilla is familiar with and has copies of but can be found here:

<http://whoanm.org/wordpress/?p=422>

The main thing being that darters are paid by the government rather than helicopters and holding pens and that wild families be kept together but not as a Puppy Mill, without both predators or contraception (non-hormonal only). Horses unlike Kangaroos do not self regulate in any appreciable manner without either predators, contraception or lack of sustenance. They do however undergo compensatory reproduction when they are subject to round ups or removals like other wildlife.



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### Environmental footprints of beef cattle production in the United States

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#### ABSTRACT

The environmental impacts of beef cattle production and their effects on the overall sustainability of beef have become a national and international concern. Our objective was to quantify important environmental impacts of beef cattle production in the United States. Surveys and visits of farms, ranches and feedlots were conducted throughout seven regions (Northeast, Southeast, Midwest, Northern Plains, Southern Plains, Northwest and Southwest) to determine common practices and characteristics of cattle production. These data along with other information sources were used to create about 150 representative production systems throughout the country, which were simulated with the Integrated Farm System Model using local soil and climate data. The simulations quantified the performance and environmental impacts of beef cattle production systems for each region. A farm-gate life cycle assessment was used to quantify resource use and emissions for all production systems including traditional beef breeds and cull animals from the dairy industry. Regional and national totals were determined as the sum of the production system outputs multiplied by the number of cattle represented by each simulated system. The average annual greenhouse gas and reactive N emissions associated with beef cattle production over the past five years were determined to be  $243 \pm 26$  Tg carbon dioxide equivalents (CO<sub>2</sub>e) and  $1760 \pm 136$  Gg N, respectively. Total fossil energy use was found to be  $569 \pm 53$  PJ and blue water consumption was  $23.2 \pm 3.5$  TL. Environmental intensities expressed per kg of carcass weight produced were  $21.3 \pm 2.3$  kg CO<sub>2</sub>e,  $155 \pm 12$  g N,  $50.0 \pm 4.7$  MJ, and  $2034 \pm 309$  L, respectively. These farm-gate values are being combined with post farm-gate sources of packing, processing, distribution, retail, consumption and waste handling to produce a full life cycle assessment of U.S. beef. This study is the most detailed, yet comprehensive, study conducted to date to provide baseline measures for the sustainability of U.S. beef.

Thank you,

