Michiko Martin, Reviewing Officer

Attn: Administrative Review Staff

USDA Forest Service, Southwestern Region

333 Broadway Blvd. SE

Albuquerque, NM 87102

Apache-Sitgreaves National Forests

Black Mesa Ranger District

Joshua Miller, Acting Forest Supervisor, of the Apache-Sitgreaves National Forests

Matthew Bullmore, Black Mesa District Ranger

Submitted online at US Forest Service NEPA Project Public Reading Room

To whom it may concern,

This objection is based on new information that was not present during the 2021 EA comment period.

Abstract – Objection on Stale and Incomplete Population Data
The Forest Service's Draft Environmental Assessment (EA) and proposed Heber Wild Horse Territory management plan rest on population data that is badly outdated and scientifically unreliable. The last full aerial inventory was in April 2017, with only a partial aerial survey in 2021—now more than four years old. Because herd populations fluctuate annually due to foaling, mortality, predation, forage conditions, and movement across boundaries, reliance on stale data cannot provide a lawful or credible foundation for establishing Appropriate Management Levels, authorizing removals, or applying fertility control. Both the National Academies of Sciences and the U.S. Geological Survey have underscored that accurate, current inventories are essential to all management decisions. Until a comprehensive aerial and ground-based survey is completed, the Draft EA is arbitrary, capricious, and contrary to NEPA, and the management plan cannot lawfully proceed.

Formal Objection: Reliance on Stale and Incomplete Population Data

The Forest Service has not conducted a complete aerial wild horse inventory of the Sitgreaves National Forest since April 2017. The only subsequent effort was a partial aerial survey in spring 2021, which is now more than four years old and does not substitute for a full, scientifically reliable census. Proceeding with a management plan and Draft Environmental Assessment (EA) in the absence of current, comprehensive population data is arbitrary, capricious, and contrary to law. This omission is fatal to the integrity of the Draft EA and proposed management plan.

Herd populations are inherently dynamic, subject to significant annual fluctuation due to foal crops, natural mortality, predation, drought conditions, forage availability, and migration across

boundaries. Reliance on a four-year-old partial survey and an eight-year-old full inventory cannot constitute a reliable basis for determining current population levels, setting Appropriate Management Levels (AMLs), or justifying removals and fertility control measures.

Population inventories are the cornerstone of wild horse management. Without scientifically defensible data, the agency cannot credibly:

Determine herd size, demographic structure, or trends;

Establish or adjust an Appropriate Management Level (AML);

Assess spatial distribution, seasonal ranges, and movement patterns;

Distinguish whether animals are "inside" or "outside" the Territory boundary;

Model the likely effects of removals, fertility control, or other interventions;

Fulfill the National Environmental Policy Act's (NEPA) mandate to take a "hard look" at environmental consequences.

The National Academies of Sciences has emphasized that free-roaming horse management has historically lacked scientifically rigorous population monitoring, and that estimates often rely on inconsistent methods and undocumented assumptions.1 The U.S. Geological Survey (USGS) has likewise cautioned that "population estimates drive nearly all management decisions pertaining to wild horses and burros; accuracy is important."2 USGS's recently developed PopEquus modeling tool further demonstrates that projections of herd viability are only as valid as the baseline data on which they rest.3

The Forest Service's stated intent to remove all horses found outside the arbitrarily limited 19,700-acre boundary is especially indefensible in light of these data deficiencies. Horses are highly mobile, and without current, scientifically robust population and movement data, the agency has no lawful or credible basis to classify animals as "inside" or "outside" the Territory—particularly when the boundary itself is under dispute.

Remedy Requested

The Forest Service must refrain from finalizing the Heber Wild Horse Territory management plan and EA until it has:

Conducted a comprehensive, scientifically valid aerial and ground-based inventory of the Heber herd across the Sitgreaves National Forest;

Collected data sufficient to establish herd size, demographic structure, distribution, and seasonal movements;

Used this updated information to contribute to the re-evaluation of the Territory boundaries, AML, and management alternatives; and

Published the results in a revised EA (or EIS) to allow for meaningful public review and comment.

Until these steps are completed, the current plan rests on an unstable, scientifically inadequate, and legally deficient foundation.

Footnotes

National Research Council, Using Science to Improve the BLM Wild Horse and Burro Program: A Way Forward (2013), pp. 31–60, https://nap.nationalacademies.org/catalog/13511/using-science-to-improve-the-blm-wild-horse-and-burro-program
. ↩

U.S. Geological Survey, Wild Horses and Burros Research Overview, Fort Collins Science Center, https://www.usgs.gov/index.php/centers/fort-collins-science-center/science/science-topics/wild-horses-and-burros
. ↩

U.S. Geological Survey, "New Tool Models the Future of Wild Horses on Public Lands" (2023), https://www.usgs.gov/news/national-news-release/new-tool-models-future-wild-horses-public-lands

Legal Authorities Requiring a Current Inventory

The Forest Service cannot lawfully proceed with a management plan or environmental analysis without relying on a current, scientifically valid population inventory. Both statute and regulation mandate this, and courts interpreting the National Environmental Policy Act (NEPA) have consistently required the use of reliable and up-to-date data.

1. Statutory Requirement under the Wild Free-Roaming Horses and Burros Act (WFRHBA).
The WFRHBA directs that the Secretary "shall maintain a current inventory of wild free-roaming horses and burros on given areas of the public lands. The purpose of such inventory shall be to … determine appropriate management levels … and determine whether action should be taken to remove excess animals …" 16 U.S.C. § 1333(b)(1).[1] This statutory language imposes a clear, affirmative duty to maintain current information before setting an Appropriate Management Level (AML) or authorizing removals.

2. Regulatory Requirements under 36 C.F.R. Part 222, Subpart D.
Forest Service regulations implementing the WFRHBA likewise place management responsibility on the Chief of the Forest Service, who "shall protect, manage, and control wild free-roaming horses and burros on lands of the National Forest System." 36 C.F.R. § 222.60(a).[2]

That regulatory duty cannot be met absent reliable population data; "management" presupposes an understanding of the actual population to be managed.

3. NEPA's Mandate to Use Reliable and High-Quality Information.
NEPA requires agencies to take a "hard look" at the environmental consequences of their actions.[3] The Council on Environmental Quality's (CEQ) implementing regulations specify that agencies must use "reliable data, models, and resources" and ensure environmental documents are based on "high-quality information."[4] Reliance on data that is four to eight years old—especially for a population as dynamic as free-roaming horses—is inconsistent with this duty. Courts have repeatedly invalidated NEPA analyses where agencies relied on outdated or incomplete information.[5]

4. Scientific Consensus Supporting Current Inventories.
The National Academies of Sciences has stressed that wild horse management has historically suffered from inadequate and inconsistent population monitoring, concluding that scientifically rigorous, up-to-date inventories are indispensable for credible decision making.[6] Similarly, the U.S. Geological Survey (USGS) emphasizes that population estimates "drive nearly all management decisions pertaining to wild horses and burros; accuracy is important."[7]

Footnotes

16 U.S.C. § 1333(b)(1), Wild Free-Roaming Horses and Burros Act (WFRHBA).

36 C.F.R. § 222.60(a), Management of Wild Free-Roaming Horses and Burros.

See, e.g., Kleppe v. Sierra Club, 427 U.S. 390, 410 n.21 (1976) (agency must take a "hard look" at environmental consequences).

40 C.F.R. § 1502.23 (2024) (CEQ NEPA regulations requiring use of "reliable data, models, and resources").

See, e.g., Northern Plains Res. Council v. Surface Transp. Bd., 668 F.3d 1067, 1083–84 (9th Cir. 2011) (NEPA analysis arbitrary where agency relied on outdated data); Western Watersheds Project v. Kraayenbrink, 632 F.3d 472, 492 (9th Cir. 2011) (invalidating EA for failure to use best available data).

National Research Council of the National Academies, Using Science to Improve the BLM Wild Horse and Burro Program: A Way Forward (2013), at 4–5.

U.S. Geological Survey, Monitoring Wild Horse Populations Using Aerial and Ground Surveys (2020), available at: https://www.usgs.gov/centers/fort/science/monitoring-wild-horse-populations
.

Conclusion

In sum, both statute and regulation impose a clear duty on the Forest Service to maintain a current inventory of wild horses prior to establishing an Appropriate Management Level (AML), authorizing removals, or finalizing a Territory management plan. Reliance on population data that is four to eight years old is not consistent with the Wild Free-Roaming Horses and Burros Act, the Forest Service's own regulations, or NEPA's mandate to base decisions on high-quality and reliable information. Because population data forms the foundation of every management action—from boundary determinations to AMLs and removals—the absence of a current, scientifically defensible inventory renders the Draft Environmental Assessment and proposed plan legally indefensible. The only lawful remedy is for the Forest Service to refrain from finalizing the Heber Wild Horse Territory management plan until it conducts and publishes a comprehensive, up-to-date inventory that meets the statutory and scientific requirements discussed above.