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Comments: The Central Oregon Wild Horse Coalition sincerely appreciates this opportunity to provide input to the proposed Heber Wild Horse Territory Management Plan.

We also appreciate some of the aspects of the Proposed Action; details which transcend the typical approach to Forest Service Wild Horse Management.

First, we gratefully acknowledge the adherence to regulations which guide the disposition of captured Forest Service wild horses or burros:

[sect] 222.69 Relocation and disposal of animals.

1. Relocate animals to other National Forest System Lands which were identified as 1971 wild horse or burro territory, providing suitable habitat exists and relocation of animals will not jeopardize vegetation condition;
2. Relocate animals to other federally-owned lands which were identified as 1971 wild horse or burro occupied lands, providing suitable habitat exists and relocation of animals will not jeopardize vegetation condition and animals are requested by the appropriate land manager having jurisdiction;

Of course, at the writing of this direction, attitudes and practices may have been more conducive to this alternative as a reasonable course. Many Forest Service Wild Horse/Burro Territories have been "zeroed-out" and should be available for repatriation of animals from areas of presumed over-population. This is a policy our organization has been encouraging for many years. But the full inertia and force of 49 years of resistance to the Wild Free-Roaming Horse and Burros Act's intent and provisions have given the American public little reason to imagine the Forest Service actually following this rule. In fact, only recently was the agency forced by legislative action into rescinding authority to destroy healthy captured wild horses or burros. We ask that the Apache-Sitgreaves National Forests proactively engage in meaningful research to locate Federal lands which would be appropriate and available for captured Heber wild horses in the future. The adoption market is saturated, and as climate change wreaks meteorological havoc on farmlands, it is already difficult to rely on feed sources for domestic stock. This situation is not likely to improve, making it perhaps an auspicious moment in the troubled history of wild horse management for the Forest Service to set a higher standard for long-range management.

We also appreciate that the Apache-Sitgreaves National Forests have chosen to build a Wild Horse Territory Management Plan around the current resident population. It is understood that the Forests could have opted to consider these contemporary horses as interlopers, outside the governing principles of the Wild Free-Roaming Horses and Burros Act, and could have terminated the active status of the Heber Wild Horse Territory. We are grateful this was not what the Apache-Sitgreaves National Forests elected to do; instead following the will of the public through the enactment of the Wild Free-Roaming Horse and Burros Act of 1971.

However, we are uncertain why a Heber Wild Horse Territory Plan is being proposed in 2020, when it should have been written in 1974. Further, we are aware that in 1974, and in the years before and after passage of the Wild Free-Roaming Horse and Burros Act, concerted efforts were made to slash resident horse numbers by any means necessary. Though this shameful tactic, meant to reduce Federal obligations under the Wild Free-Roaming Horses and Burros Act, was common throughout the network of BLM and Forest Service field offices, it is made more profound in relation to the Heber Herd. Not only does documentation to this effect exist, but Heber staff have openly expressed disdain for the horses when interacting with public. The horrifyingly high number of recently murdered Heber wild horses is also reflective of entrenched local attitudes, and when the Apache-Sitgreaves National Forests failed to conduct substantive investigations until forced by Congressional

intervention, it suggests a systemic disregard for the welfare of these horses and casts doubt upon the accuracy with which the Forest(s) drew Territory boundaries and truthfully counted resident horses in 1974.

Whether or not there is somehow admission of past transgressions at the core of the Apache-Sitgreaves National Forests' willingness to essentially "start over" with the current resident horse population, the Proposed Action unfortunately fails to set a solid platform for the Heber Herd's lasting success.

Paramountly, the Wild Free-Roaming Horses and Burros Act must be the governing legal framework for the development of the Heber Wild Horse Territory Plan. This does not mean the subjugation of the Wild Free-Roaming Horses and Burros Act to tertiary guidance such as the Apache-Sitgreaves National Forests' Land Management Plan. It instead must mean that the Wild Free-Roaming Horse and Burros Act, as with any Congressional Act, informs the local Land Management Plan; it cannot mean that forage allocations delineated in the Land Management Plan determine wild horse Appropriate Management Levels (AMLs). It must mean that the Wild Free-Roaming Horses and Burros Act's reference to Multiple Use ([sect]1332. Definitions (c) "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 the public lands; is understood in the clear context of Multiple Use direction. The Multiple Use-Sustained Yield Act of 1960 encourages appropriate balancing of resource values, not necessarily favoring those resources having monetary return through exploitation of the land's "productive capacity" (using a phrase found in BLM's wild horse and burro management regulations).

16 U.S.C. 531

As used in this Act, the following terms shall have the following meanings:

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1. [squo][squo]Multiple use[squo][squo] 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.

There is no equal status given to every use, no preferential status given to certain commodity-based production, no demand that every human pursuit be given status as a considered resource or use. The text conveys a message which is quite the opposite of these canonized presumptions.

Finally, the Wild Free-Roaming Horses and Burros Act's ageless, but nebulous, description of a desired environmental condition - Thriving Natural Ecological Balance - must be fairly and realistically applied. Within the limited space presently allocated to the Heber Herd, there is a network of fencing and cross-fencing. Pastures are then stocked with non-native domestic cattle. These elements alone would disqualify the current Heber Wild Horse Territory from being in a state of Thriving Natural Ecological Balance. The application of Forest-level range health and utilization standards does not constitute fair metrics for determining achievement of Thriving Natural Ecological Balance, when there is no official scientific definition, much less a definition based on local ecosystems. Acting BLM Division Chief Bruce Rittenhouse stated at the 2018 Wild Horse and Burro Advisory Board meeting that "neither BLM or Forest Service has any definition of Thriving Natural Ecological Balance."

The 2013 National Research Council/National Academy of Sciences report *Using Science to Improve the BLM Wild Horse and Burro Program: A Way Forward* has much to say regarding the difficulty of describing, monitoring, and applying Thriving Natural Ecological Balance to establishment of AML; and none of it supports the approach taken in this Proposed Action. Moreover, when this Proposed Action's own discussion of Thriving Natural Ecological Balance (page 12) begins with "...balancing wild horse management with other multiple uses..." there is an admission of the extant disconnect from the natural environment. And yet, wild horses are singularly expected to somehow keep things natural, despite the presence and evidence of countless unnatural impacts and influences. Under the heading of Conformance with Land Management Plan Direction (page 13), it is stated that "The Wild Horse Territory Management Area contains landscapes that vary from moderately altered where human activities are evident (low scenic integrity) to natural appearing where human activities do not stand out (high scenic integrity)" and additionally, "Recreation opportunities range from semi-primitive non-motorized to roaded natural". Were the complete spectrum of shared "multiple uses" (in addition to permitted livestock) imposed upon the horses to be juxtaposed against the expectations of the wild horses' achievement of a Thriving Natural Ecological Balance, it would be clear that this condition is impossible - with or without wild horses. And yet, with virtually no proactive management of the Heber Wild Horse Territory since 1971, except to eliminate many of the horses, the standard of Thriving Natural Ecological Balance, as defined by Forest-level standards, will be used to determine the number of wild horses permitted to occupy their ancestral home range.

The situation on the Apache-Sitgreaves National Forests is unusual in that the wild horse population has "returned" after human-caused absence and/or failure to acknowledge residency inside and outside the arbitrary Territory boundary drawn in 1974. Other issues expressed in the Proposed Action are more broadly representative of BLM and Forest Service wild horse management for the last five decades.

Since the Proposed Action appears to effect the first formal Plan to manage the Heber Wild Horse Territory, we encourage the Apache-Sitgreaves National Forests to consider opportunities to depart from the failed years of conventional wild horse management, and instead look to the unadulterated precepts set forth in the Wild Free-Roaming Horses and Burros Act itself.

- The Preamble

[sect]1331. Congressional findings and declaration of policy

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

"Returning" wild horses are apparently choosing their own "territory" on the Black Mesa Ranger District, based upon their selection of areas providing forage, water, cover, space AND elevation change, medicinal plants, minerals, insect relief, temperature zones, predator strategies, and other aspects which mere humans know nothing about. Horses move and migrate, regardless of population numbers, seeking life's necessities and avoiding overuse of their habitat.

The Apache-Sitgreaves National Forests would be well within their delegated authority to redraw the Heber Wild Horse Territory boundary to include areas for which new populations have shown preference. This would merely realign Territory allocations in accordance with the Wild Free-Roaming Horses and Burros Act's clarification mandate; it would correct errors dating to 1974.

- Determine AML based on true carrying capacity of the land

The Proposed Action alludes to an AML determination predicated on BLM's Handbook, H-4700-1 Appendix 3.

We hope the full documentation supporting this determination will be included in the proposed management Plan's Environmental Assessment. However, it doesn't seem feasible that the data required by the BLM's analysis would be available, since neither horse numbers or locations have been firmly established and studied.

Again, in the unambiguous language of the Wild Free-Roaming Horses and Burros Act on this point, wild horse and burro areas were intended to be managed principally for the horses or burros, provided a balance could be maintained which equally supported wildlife. Notably, the words "cow" and "sheep" are not found in the Wild Free-Roaming Horses and Burros Act

Despite amendments, the Congressional intent in passing the Wild Free-Roaming Horses and Burros Act, to include the doctrine of management "principally but not necessarily exclusively" for the welfare of wild horses and burros is clear and timeless.

Following is a discussion of definitions and interpretations of the key words "range" and "principally" from Wild Free-Roaming Horses and Burros Act text: (again, quoting the first paragraph):

[sect]1331. Congressional findings and declaration of policy

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 that wild free-roaming horses and burros are living symbols of the historic and pioneer spirit of the West; that they contribute to the diversity of life forms within the Nation and enrich the lives of the American people; and that these horses and burros are fast disappearing from the American scene. It is the policy of Congress that wild free-roaming horses and burros shall be protected from capture, branding, harassment, or death; and to accomplish this they are to be considered in the 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 by both the BLM and Forest Service to their implementation of the Wild Free-Roaming Horses and Burros Act 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 Wild Free-Roaming Horses and Burros Act's intended level of protection due to renaming areas of wild horse use, nor does this authority stem from amendments to the Wild Free-Roaming Horses and Burros Act resulting from the Public Rangelands Improvement Act of 1978, the Federal Land Policy and Management Act of 1976, the Burns Amendment, or more recent language speaking to the disposition of captured animals. 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 but a few in the whole of wild horse country.

Sec. 2 (c) of the Wild Free-Roaming Horses and Burros Act 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. (emphasis added)

Sec. 3 (a) of the Wild Free-Roaming Horses and Burros Act:

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, particularly 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. (emphasis added)

This paragraph speaks to the inclusion of ALL wild horses and burros; not those residing on a tourist-oriented "wild horse preserve". It is also important to note 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 that few ranges exist in the wild horse management system, apparently it is not required that wild horses be managed to maintain a thriving natural ecological balance, nor must wild horses be managed to a minimal feasible level, except within a Range. As stated above, neither could agencies lawfully capture horses, except when found within a "range" according to agencies' interpretation. Finally, 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 does not apply here. More accurately, this word provides agencies with the authority to fulfill the law; not an option to disregard it.

Further, given the manner in which agencies prefer to apply "multiple-use" direction, multiple-use has been placed in direct conflict with the concept of Thriving Natural Ecological Balance. There is little room to reconcile these two mandates when the "natural" condition is lost to so much human activity; the primary impact being that of private livestock grazing. To base AML on stubble height, stream bank condition, or "forage allocation" is a perversion of these concepts, and certainly of the Wild Free-Roaming Horses and Burros Act.

Instead, we ask that the Apache-Sitgreaves National Forests truthfully analyze the full extent of the land base which the current wild horse population has chosen to occupy. Carrying capacity must consider the natural inclination of each horse to migrate over distances; unimpeded by fences or threatened by concentrations of any human activity. It must include diversity of ecosystems; soil types, aspect, elevation, plant communities, thermal cover, availability of minerals and salts, mud and dust, tree bark and wild flower. When the horses can choose their environment, and function naturally within it, harmony can be achieved with other native wildlife as the Wild Free-Roaming Horses and Burros Act prescribes. This has been demonstrated repeatedly, through projects in Europe (see rewildingeurope.com), as well as in limited trials in the U.S. If management conflicts preclude the dedication of a larger landscape to the wild horses, as is mandated by the Wild Free-Roaming Horses and Burros Act, then the Apache-Sitgreaves National Forests need to assess those conflicts in light of the most basic tenets of the National Forest System. The Forest Service is NOT bound by the production of commodities over the sustainable health of the land, but by achieving a balance of uses which comprise the tapestry of resources unique to each National Forest. Very few are blessed, or cursed as is the outlook of most managers, to have wild horses under their protection.

We are fortunate to be in communication with organizations which can facilitate livestock permit buy-outs, and others which specialize in working with ranchers to develop alternative agriculture products grown on Base properties. As stated in 36 CFR [sect]222.4 Changes in grazing permits (a) The Chief, Forest Service, is

authorized to cancel, modify, or suspend grazing and livestock use permits in whole or in part as follows: (1) Cancel permits where lands grazed under the permit are to be devoted to another public purpose including disposal. In these cases, except in an emergency, no permit shall be canceled without two years prior notification. And also: (7) Modify the terms and conditions of the permit to conform to current situations brought about by changes in law, regulation, executive order, development or revision of an allotment management plan or other management needs.

The Wild Free-Roaming Horses and Burros Act should constitute "another public purpose", which allows permit retirement (cancellation). Alternatively, permits can be negotiated to exclude areas where wild horses reside. Our organization would commit to exploring the possibility of partial buyouts, which would entail permanent removal of livestock and fences within a Wild Horse Territory which ensures adequate land for a sustainable wild horse population.

The AML should then be established after a period of years, and of stringent monitoring which considers the habitat requirements of wild horses, as opposed to subjective standards expressed in a Forest Management Plan. An example of this would be the type of water source "enhancement" which wild horses and burros tend to create; horses excavate ground seeps which then become mud holes or small ponds. While agencies see this as "resource damage", the horses and other wildlife species are then provided in-solution minerals, plants, invertebrates, and organisms which only thrive in these micro environments. They provide mud for pest control, and water sources which minimize trips across fragile stream banks, and which are made available to all wildlife when other sources are dry or frozen.

The Proposed Action speaks to the need to better understand wild horse movements, and this is very commendable. We would like to see this promise made more meaningful, in that the proposed AML of 50-104 should not be established until more understanding is gained, not simply of horse movements but of habits, contributions, and relationships, and then AML should be considered fluid according to changing conditions.

- Genetic diversity

If the Apache-Sitgreaves National Forests proceed with establishing the AML of 50-104, the certain outcome will ultimately be genetic collapse. No reputable study of equine population genetics supports a wild horse herd of less than 150 members. Our challenge to the Apache-Sitgreaves National Forests is to use this opportunity to rise above the current default strategy of "translocation" or "genetic augmentation" from other wild horse herds to achieve desired heterozygosity. We challenge the Apache-Sitgreaves National Forests to see the fallacy of this option, despite its broad acceptance within both agencies. The misconstruction of the 2013 National Research Council/National Academy of Sciences report Using Science to Improve the BLM Wild Horse and Burro Program; A Way Forward is rampant on this subject. Nowhere in the NAS report is it stated that "all wild horses in America comprise a single metapopulation". Instead, the NAS report suggests that in certain geographic locations, several herds could be potentially related, to the degree that translocation would be logical. This would likely also address the issue of adaptedness to localized environmental factors. In this context of a metapopulation, it suggests that some herds could be managed as a complex. The NAS report does not advise translocation between unrelated or distant populations. In the Heber Herd situation, it doesn't appear any genome data is available for the horses now residing within the Forest boundary, though speculation is that the new Heber population originated on the Fort Apache Reservation. This extreme relatedness would not alleviate a threat to genetic diversity, nor would it be lawful to translocate horses from other than Forest Service/BLM herds. When geographic proximity, adaptedness, and genetic similarity are factors, there are no options consistent with NAS guidance and that of other informed studies:

Isolated, unrelated HMAs should not necessarily be considered as a metapopulation, according to the NAS report and the Strategic Research Plan, Wild Horse and Burro Management (2005). Under D. Genetic Conservation Strategies: "Similar or closely-related herds of horses should be identified for any genetic

augmentation of wild horse herds." This same Report also admonishes under Goals 1: Manage to minimize the need for augmentation, if possible."

It must also be mentioned that without solid and accurate genome study and integrated historical data, every wild horse population is potentially invaluable in terms of preserving unique and significant ancient DNA. Robert C. Lacy, Department of Conservation Biology, Daniel F. and Ada L. Rice Center, Brookfield Zoo, states in Importance of Genetic Variation to the Viability of Mammalian Populations:

Exchange with other populations can restore variation, but only with the risk of losing genetic variants that had been unique to the local population.

We adamantly recommend the AML be established, on a trial basis, at a level which would assure an average of at least 150 horses. This would also build resiliency against unforeseen assailants such as insects, disease, and weather events associated with climate change, and sadly, continued killings at the hands of deranged humans.

Genetic diversity, or viability, can only be maintained when horses are free to associate. Installing or widening gates does not provide yearlong access to all use areas, or to all horses, and will do little to reduce overuse of resources or to increase genetic exchange. Removing fences, however, will encourage natural movement, when given time for horses to re-establish migration patterns.

Other actions which threaten genetic diversity and preservation are permanent sterilization, removal, and obeisance to hideous Agency direction such as "No emergency feeding will be authorized by agency policy." (page 21, Weeds - 2)

This incomprehensibly inhumane "policy" must be challenged; for reasons of certain genetic bottlenecks, basic humane treatment, and fundamental morality. We are all too familiar with Forest Service justification of this longstanding and unlawful practice; it is based on nothing more than Agency cultural tradition, and is completely unsupported by statute. In and of itself, it violates the Forest Service's own regulation: the FAILURE of the Forest Service to provide for the wild horses' basic needs violates the statute of Inhumane Treatment; first defined under 36 CFR 222.60 Definitions (6) Inhumane Treatment and then Prohibited under 36 CFR 261.23(b). This "policy" has been sanctioned by abject misconstruction of the Thriving Natural Ecological Balance doctrine, and by invoking 36 CFR 222.60 Definitions (8) Malicious Harassment, as if preventing cruel starvation would amount to an act of malice. It has been officially stated that providing emergency feed would cause wild horses to lose the ability to forage naturally, even though captured horses are often maintained in holding facilities for periods of years, then released back to the wild successfully. The Forest Service also ignores the guidance established by BLM Instruction Memorandum No. 83-289 Enclosure 1-25 (2.) Provisions for Natural Catastrophes. When the welfare of a herd of wild horses or burros, or the condition of its habitat, is threatened due to extreme conditions of nature such as drought, snowstorm, fire, or epidemic disease, reasonable measures may be taken to alleviate the situation. Such measures must have the effect of reducing the suffering of a large number of animals and/or controlling damage to the public lands and related resources. Reasonable measures include, but are not limited to, feeding, watering, and/or removing animals, or destruction of animals in place. Such destruction must be in accordance with section IV. (does not apply to starving animals) We will oppose any Wild Horse Territory Plan pursuant to this Proposed Action wherein the above reference to the prohibition of emergency feeding is included.

We sincerely hope that the Apache-Sitgreaves National Forests will strive for a more creative, sustainable, and humane Heber Wild Horse Territory Plan than is evident throughout much of this Proposed Action. There is vast opportunity, given the Heber Wild Horse Territory's unique circumstances, to view the development of a Territory Management Plan from a place of courage and innovation; to learn from 49 years of wild horse and burro management experience, and to do better.