Data Submitted (UTC 11): 3/16/2020 7:00:00 AM
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Comments: Please see attached PDF for the full comment letter with attachments from the American Wild Horse Campaign.

To whom it may concern:

These comments on the Heber Wild Horse Territory Plan, (#18916), are submitted on behalf of the American Wild Horse Campaign ([ldquo]AWHC[rdquo]).

AWHC is a national nonprofit organization dedicated to preserving the American wild horse in viable free[ndash]roaming herds for generations to come, as part of our national heritage. Our grassroots efforts are supported by a coalition of over 60 historic preservation, conservation, horse advocacy and animal welfare organizations.

1. OVERVIEW

AWHC strongly opposes the use of surgical sterilization techniques on either stallions or mares, mass roundups and removals, and the use of the still experimental GonaCon vaccine in the Heber Wild Horse Territory ([ldquo]Heber Territory[rdquo]). Additionally, AWHC opposes the use of roundup and removal of wild horses because it only fuels higher reproduction rates for horses left on the range. As the 2013 National Academy of Sciences ([ldquo]NAS[rdquo]) report has found [ldquo][r]emovals are likely to keep the population at a size that maximizes population growth rate, which in turn maximizes the number of animals that must be removed and processed through holding facilities.[rdquo] (Attachment 1, p. 94).

The plan to use GonaCon and surgical sterilization methods to control populations is experimental in nature and not supported by science. NAS recommended against most of these options, stating that more research was needed before such strategies could be utilized in the field because of their impacts on natural behavior and social organization. Research has not yet accurately determined the effects of any of these proposed management tools on natural wild horse behavior.

Of note, AWHC has filed litigation around the Bureau of Land Management[rsquo]s ([ldquo]BLM[rdquo]) continued proposals to experiment on wild mares in Oregon using the surgical sterilization technique, ovariectomy via colpotomy. In 2015 the BLM initially proposed the experiments, and AWHC, and coalition partners, filed suit challenging BLM[rsquo]s restrictions on public

observation and sought a preliminary injunction to protect their rights under the First Amendment to the Constitution. Rather than responding to that lawsuit or allowing for any public observation, BLM simply abandoned the proposed experiments. Then in 2018, BLM again proposed to undertake experiments with ovariectomy via colpotomy. AWHC again filed suit to protect their constitutional rights and sought a preliminary injunction to prevent the experiments from going forward before the claims could be adjudicated. The District of Oregon granted the requested preliminary injunction at a hearing on November 2, 2018. The BLM then withdrew the proposed experiment.

AWHC has also challenged a decision by BLM to geld wild horses and release them to the range, and that challenge is currently pending before the U.S. Court of Appeals for the Ninth Circuit. See Am. Wild Horse Campaign v. Bernhardt, No. 18-17403. Because the Ninth

Circuit[rsquo]s ruling regarding the degree of environmental review that must accompany a gelding decision by the BLM will likely have an extremely significant bearing on the USFS[rsquo]s decision regarding the proposed release of geldings in Heber Territory, AWHC strongly recommend that USFS drop any gelding portion of this analysis until the Ninth Circuit issues a ruling.

Instead of large-scale removals, and consideration of unproven fertility control methods, the USFS should manage this population on the range at the current level, using PZP fertility control to reduce population growth rates and the population size, if necessary, over time. The PZP vaccine is a scientifically proven and cost-effective approach for reducing wild horse population growth rates and numbers over time. It is widely supported by mainstream humane and wild horse protection organizations. However, the vaccine must be used on a sufficient scale to impact population growth rates. (Attachment 1, p. 99-112).

As such, and as described in more detail below, it is AWHC[rsquo]s position that:

* The USFS must prepare an Environmental Impact Statement ([ldquo]EIS[rdquo]) rather than an Environmental Assessment ([ldquo]EA[rdquo]) from this proposed analysis because at least four distinct NEPA [ldquo]significance[rdquo] factors are triggered, any one of which requires preparation of an EIS;
* The USFS must analyze a reasonable range of alternatives in this proposed analysis. These alternatives include (a) managing wild horses on the range with the fertility control PZP, (b) setting an Appropriate Management Level ([ldquo]AML[rdquo]) that will give wild horses their fair share of public rangelands, and (c) accommodating current wild horse numbers with range improvements and reduction or elimination of livestock grazing.
* The USFS must take the requisite [ldquo]hard look[rdquo] at the environmental impacts of its action, which will result in short-term and long-term effects to federally-protected wild horses left on the range, the family bands of wild horses that reside in these areas, the genetic diversity of these wild horse populations, and the potential measures that could mitigate the impacts resulting from the USFS[rsquo]s action.
* The USFS must analyze economic and social impacts in this proposed analysis. The USFS[rsquo]s decision to roundup and permanently remove wild horses from this area vs. the more cost-effective options of reducing livestock grazing and managing herds on the

range with PZP fertility control is irresponsible. Additionally, the proposed analysis must not ignore the social impacts at a time when most Americans support protecting wild horses on our public lands and oppose horse slaughter, while a small minority want our public lands used for livestock grazing. (Attachment 2).

The USFS must reject the use of surgical sterilization and GonaCon because of their documented negative impacts and/or lack of research on their use in wild horses and because such use without further research goes against the recommendations of the NAS. However, AWHC notes that efforts such as retrofitting cattleguards with [ldquo]Wild Horse Annie[rdquo] safety features must remain in the management plan to ensure that the Heber wild horses have a safe habitat.

For these reasons[mdash]as further articulated below[mdash] AWHC strongly urge the USFS to prepare an EIS and to engage in a meaningful analysis of the reasonable alternatives to, and impacts of, the permanent removal of wild horses from the range as well as the use of surgical sterilization and GonaCon to reach and maintain AML in the Heber Wild Horse Territory.

1. DISCUSSION

1. An Environmental Impact Statement is Required

The USFS must prepare an EIS for this proposed analysis due to the breadth and scope of the project. The proposed action will span years and impact 19,700 acres of land with the conduct of multiple roundups, removals, and other inhumane management practices of wild horses. Thus, USFS[rsquo]s decision to prepare an EA here, in lieu of an EIS, is contrary to the National Environmental Policy Act ([ldquo]NEPA[rdquo]) and its implementing regulations.

Indeed, several of the NEPA [ldquo]significance[rdquo] factors are triggered by the proposed action, although the presence of only one significance factor requires preparation of an EIS. See Pub. Citizen v. Dept. of Transp., 316 F.3d 1002, 1023 (9th Cir. 2003) ([ldquo]If the agency[rsquo]s action is environmentally [lsquo]significant[rsquo] according to any of these criteria [set forth in 40 C.F.R.

1508.27], then DOT erred in failing to prepare an EIS.[rdquo]); Humane Soc[rsquo]y of the U.S. v. Johanns, 520 F. Supp. 2d 8, 20 (D.D.C. 2007) (explaining that [ldquo]courts have found that the presence of one or more of [the CEQ significance] factors should result in an agency decision to prepare an EIS[rdquo]) (citations omitted); Fund For Animals v. Norton, 281 F. Supp. 2d 209, 218 (D.D.C. 2003) (same).

The following significant factors are triggered here. Accordingly, the USFS is required to prepare an EIS on this

extreme proposed analysis.

* 40 C.F.R. [sect] 1508.27(b)(4) [ndash] This factor addresses [ldquo][t]he degree to which the effects on the quality of the human environment are likely to be highly controversial.[rdquo]

[ldquo]Controversy in this context does not mean opposition to a project, but rather a substantial dispute as to the size, nature, or effect of the action.[rdquo] Hillsdale Environmental Loss Prevention, Inc. v. U.S. Army Corps of Engineers, 702 F.3d 1156, 1181 (10th Cir. 2012). The

USFS cannot credibly assert that the proposed analysis will not be controversial for several reasons. Significant scientific controversy over the proposed analysis already exists, as many of its components are contrary to the findings of the NAS in its 2013 report (Attachment 1). These include:

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* Setting an AML that is not [ldquo]transparent to stakeholders, supported by scientific information or amenable to adaption with new information and environmental and social change.[rdquo]
* Continuing management practices that are [ldquo]facilitating high rates of population growth on the range[rdquo] by continually rounding up and removing large numbers of wild horses from the Territory.
* The impacts of the proposed sterilization methods on natural behaviors. The percentage of the herd that will be subjected to sterilization is a determination that will have significant bearing on the effects of sterilization on the behavior of the herds in the Territory.
* USFS[rsquo]s proposal to undertake dangerous and inhumane sterilization mechanisms entails highly uncertain or unknown risks, including unknown effects on sterilized individuals (such as the mortality rate associated with the sterilization of mares or the rate at which the sterilization of mares may result in abortion of foals) as well as unknown effects on herds (including whether sterilized horses will engage in natural, free-roaming behaviors or instead concentrate in larger numbers in smaller areas, and whether herds containing sterilized members will engage in natural behaviors).
* GonaCon research in horses is extremely limited, and as such there are important remaining questions regarding negative impacts to pregnant mares (association with abortion when given in early stages of pregnancy), long-term physiological effects, and whether the vaccine is a permanent sterilant or reversible. Even the short-term social/behavior effects are not yet established.

Being as the dispute under [ldquo]controversy[rdquo] also applies to the [ldquo]size, nature, and effect of the action,[rdquo] USFS should note the extensive controversy surrounding the nature of the proposed action. Review of social acceptability as an important factor shows tens of thousands of public comments in opposition to surgical sterilization, a letter from over 80 veterinarians in opposition to the ovariectomy via colpotomy procedure (Attachment 3), and letters from members of the House and Senate opposing the surgical sterilization of mares and encouraging the agency to select a more humane and less scientifically controversial form of fertility control. (Attachments 4 and 5). Social acceptability is a factor that the USFS cannot ignore when considering the breadth and scope of controversy that surrounds some of the proposed elements in this analysis.

The EIS process contains more rigorous requirements for public participation and for the disclosure and consideration of reasonable opposing viewpoints.

Accordingly, an EIS would be a far better mechanism for the agency to use to consider the vigorous public debate over the proposed mechanisms for managing wild horse populations.

In sum, there is much scientific controversy that already surrounds the proposed analysis. The USFS cannot ignore the findings of the National Academy of Sciences 2013 report, which the agency itself commissioned and funded. These proposed management tools are unprecedented, untested, and highly controversial [ndash] both scientifically and socially.

* 40 C.F.R. [sect] 1508.27(b)(5) [ndash] This factor addresses [ldquo][t]he degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.[rdquo]

With this proposed analysis, the USFS is considering several new approaches that are controversial and untested. This level of uncertainty and unknown risk is demonstrated by the proposal to consider surgical sterilization and the use of the unproven vaccine, GonaCon. Not much is known about the long-term safety, efficacy, and impacts to wild horse behaviors and natural social behaviors when GonaCon is used. Therefore, the use of GonaCon has highly uncertain or unknown impacts.

* 40 C.F.R. [sect] 1508.27(b)(6) [ndash] This factor addresses [ldquo][t]he degree to which the action may establish a precedent for future Action with significant effects or represents a decision in principle about a future consideration.[rdquo]

With this proposed analysis, the USFS is adopting new approaches that could set precedent for how future actions proceed (whether or not they are subject to separate NEPA review) in numerous regards:

*
* USFS has never rigorously evaluated the impacts of releasing geldings onto the range. As such, the plan to release geldings in this context risks setting the precedent that USFS may release geldings even though it has no clear understanding of the impacts of this decision.
* Reducing the number of wild free-roaming, reproductively intact horses and the management of that population has never before been done in a Wild Horse Territory, there is no research regarding the impacts of the plan to maintain a portion of the wild horse population as non-reproducing, and the action will set a precedent for the management of wild horses in all areas of the West.
* The USFS has never before performed surgical sterilization procedures on mares either in the wild as a management tool or in holding facilities. There is not nearly enough research to support the use of surgical sterilization on mares as a management tool. This untested action could set precedent for the management of wild horses in all areas of the West.

* The potential use of GonaCon as a management tool in a USFS herd being implemented before research documenting its behavioral effects is completed could set a precedent for the management of wild horses in all areas of the West.

Besides being counter to scientific recommendations, these decisions, individually and combined, could set dangerous precedents for management of federally-protected horses across the West.

* 40 C.F.R. [sect] 1508.27(b)(10) [ndash] This factor is triggered if [ldquo]the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.[rdquo]

AWHC and its coalition partners have previously sued the BLM over plans to sterilize wild free-roaming horses, maintaining that such action violates the Wild Free-Roaming Horses and Burros Act. In the face of some of these lawsuits, BLM has cancelled plans to geld wild stallions and spay wild mares in the White Mountain HMA in Wyoming and to geld wild stallions in the Pancake HMA in Nevada. In the latter case, U.S. District Court Judge Beryl A. Howell (Attachment 6) warned the BLM that it [ldquo]may not simply remain studiously ignorant of material scientific evidence well known to the agency and brought directly to its attention in timely-filed comments.[rdquo] The scientific evidence that BLM attempted to ignore was in the form of expert declarations attesting to the harmful impacts of castrating wild free-roaming stallions and why such action violated the Wild Free[ndash]Roaming Horses and Burros Act.

Thus, it is in USFS[rsquo]s best interest to consider scientific input that is contrary to its desired course of action, as well as seriously grapple with the extreme degree of scientific uncertainty over the impacts of sterilization on the behavior of individual wild horses and wild horse herds threatens an ongoing violation of the Wild and Free-Roaming Horses and Burros Act

([ldquo]WHA[rdquo]). Further, unless USFS seriously considers the input of undisputed experts on wild horses, including those convened by the NAS, it will be in violation of the WHA[rsquo]s mandate that the agency must consult experts regarding any proposal to sterilize wild horses. See 16

U.S.C. [sect] 1333(b)(1).

In conclusion, an EIS is required when even one of these factors is implicated. Because at least four significance factors are triggered here, it is wholly inconsistent with NEPA and its regulations for USFS to prepare only an EA. Therefore, it would be a patent NEPA violation if BLM refused to prepare an EIS. For all of these reasons, an EIS is required for this action.

1. USFS Must Adequately Analyze a Reasonable Range of Alternatives

The following alternatives must be analyzed in the proposed actions in the USFS[rsquo]s environmental review of the Heber Wild Horse Territory Plan.

1.
1. Establish a genetically sustainable population limit.

The AML is based on the number of wild horses the USFS has decided to allow to live in the Territory after allocating the lion[rsquo]s share of forage to private livestock. However, as the NAS concluded:

How Appropriate Management Levels (AMLs) are established, monitored, and adjusted is not transparent to stakeholders, supported by scientific information, or amenable to

adaptation with new information and environmental and social change[hellip].standards for transparency, quality and equity [are needed in] establishment, adjustment, and monitoring [of AMLs]. (Attachment 1, p. 11).

The USFS should adhere to NAS recommendations for [ldquo]transparency, quality and equity[rdquo] in setting and implementing AML. This must include basing decisions on sound environmental and monitoring data, a complex understanding of herd dynamics and genetic viability needs, as well as equity in resource distribution in the Territory. Any NEPA analysis should also note that the AML range was established to allow the population to grow in the years between roundups and that if the population is being managed properly with PZP fertility control, then an AML range would be rendered obsolete and unnecessary.

The proposed AML of just 50-104 wild horses is not based on science, is too small to be genetically viable and could result in the permanent removal of 300 or more wild horses from the Territory. This AML is clearly based on the inequitable allocation of public forage resources

to privately owned livestock. Thus, the USFS[rsquo]s environmental review must analyze and designate an alternative to expand the AML to a minimum of at least 200 horses and provide a scientific rationale for the number, including full disclosure of the resource allocation between livestock and wild horses on which the AML is based.

1.
1. Use humane fertility control to stabilize the wild horse population and reduce it humanely over time.

The USFS must consider the possibility of implementing PZP at current population levels utilizing Catch Treat and Release ([ldquo]CTR[rdquo]) methods for the vaccination of all mares over 1 year of age with the PZP[ndash]22 or native PZP fertility control vaccine. The use of PZP fertility control is scientifically established, cost[ndash]effective and widely accepted in the mainstream wild horse advocacy and scientific communities. (Attachment 1, p. 99-112).

The USFS must consider that is removals must occur, they should be incremental over time. The USFS must consider all information it has available about the need to keep horse herds at certain population levels in order to prevent adverse genetic harm to the population, including inbreeding.

Further, the USFS must analyze PZP in line with the NAS findings that:

Removals are likely to keep the population at a size that maximizes population growth rate, which in turn maximizes the number of animals that must be removed and processed through holding facilities.

and

The most promising fertility-control methods for application to free-ranging horses or burros are [] PZP vaccines, GonaConTM vaccine [for females] and chemical vasectomy [for males].

This conclusion is based on criteria such as delivery method, availability, efficacy, duration of effect, and potential for side effects. Of the recommended fertility control alternatives, the NAS concluded that the only method available for use now without further research is the PZP birth control vaccine. (Attachment 1, pgs. 81 and 6).

As such, the proposed analysis must incorporate data showing that the PZP fertility control vaccination has been available for decades, has a 30-year proven history of being safe and effective in managing wild horse populations, and is supported by the vast majority of the public and an overwhelming number of animal welfare organizations. The USFS must include and analyze all current peer-reviewed literature on the use of PZP as a management tool, including its effectiveness in reducing and maintaining herd numbers, its effects on herd behaviors, its safety compared to sterilization, and the cost of its implementation compared to roundups and removals.

The USFS must also incorporate in this analysis that research also indicates that a two-shot protocol (PZP-22 followed by a native PZP booster) conveys three years or more of infertility in mares. (Attachment 1, p. 102). The use of the PZP vaccine can bring about zero population growth within 2 years and can reduce population numbers over time. The agency[rsquo]s analysis must include an alternative for an aggressive PZP fertility control program in the Territory and must allow for 5-10 years to achieve an AML of 200 horses.

Ultimately, the use of PZP within Heber Territory is the most economical and humane option for the USFS. It will preserve the natural behaviors that distinguish wild-free roaming horses from domestic horses and are protected under federal law and stabilize populations within the HMAs. Therefore, AWHC strongly urges the USFS to analyze the implementation of a comprehensive PZP fertility control program as an alternative in the analysis for the Heber Territory.

1.
1. Reject use of surgical sterilization as a management tool.
1. [ldquo]Spaying[rdquo] Mares

AWHC asks that spaying mares be eliminated from consideration in this proposal. However, if the USFS moves forward with its analysis of this method, the agency must note that the Wild Free-Roaming Horses and Burros Act requires that wild horses and burros be managed in a manner that protects their wild and free-roaming behavior. While Section 3(b)(1) as modified by the Public Rangelands Improvement Act of 1978 does specify options for population management that include sterilization, it states that such determinations must be made in conjunction with other wildlife agencies and experts independent of government, such as those recommended by the NAS.

In its final report from June 2013 (Attachment 1), the NAS/NRC concluded that spaying was [ldquo]inadvisable[rdquo] and also recommended against gelding. For example, it stated

The possibility that ovariectomy may be followed by prolonged bleeding or peritoneal infection makes it inadvisable for field application.[rdquo] (p.130).

and

Surgical ovariectomy and ovariohysterectomy are commonly used in domestic species, such as cats and dogs (including feral cats and dogs), but seldom applied to other free- ranging species.[rdquo] (p. 114).

In addition, the 2015 NRC report (Attachment 7) found:

Domestic mares are typically cross-tied (after ovariectomy via colpotomy) to keep them standing for 48 hours post-surgery to prevent evisceration through the unclosed incision in the anterior vagina. That protocol would not be possible in free-roaming mares because they cannot be held still for so long. Therefore, there is some concern that the investigator may see more fatalities after surgery than the 1% quoted in the protocol, based on domestic mares.

The NRC suggested that the less invasive sterilization techniques proposed in the last round of research [ldquo]would be safer[mdash]with less risk of hemorrhage and evisceration [ndash]and probably less painful.[rdquo]

As such, the USFS must consider the risks when analyzing ovariectomies, or other methods of mare sterilization, for use in the Heber Territory. Highlights of concern [ndash] and impacts that must be adequately analyzed in this proposed analysis [ndash] follow below:

* Impacts on physiology due to reduction of estrus and alteration of hormones.
* Risk of infection under conditions that may not be entirely sterile.
* Risk of sedation and restraint in wild horses.
* Risks of hemorrhage, evisceration, colic and infection due to inability to provide the required post-operative care.
* The risk of post-operative pain in these mares and the USFS[rsquo]s inability to provide adequate post-operative pain relief.
* Consider the risks of the procedure when performed by veterinarians that lack training in this outdated procedure.
* The risks to pregnant mares. Including but not limited to abortion, stress, and hemorrhage.
* The risks to dependent foals when the mother undergoes the procedure and due to pain or complication may not let a foal nurse, may not produce milk, or may injure the foal when reacting to pain.
* The feasibility of the proposed procedures for use on the range, including cost, and lack of sterile environment for surgery.

The USFS must acknowledge the serious health risks that ovariectomy, and other invasive surgical sterilization techniques, represent to wild mares and the careful post-operative monitoring and care, including pain relief and restricted movement, necessitated by the

procedures when performed on wild horses. Several equine veterinarians experienced with this procedure have acknowledged and warned about the impacts of ovariectomies.

In [ldquo]TheHorse.com,[rdquo] Dr. Michael Ball (Attachment 8) describes the risks of ovariectomy in domestic horses:

Regardless of the method used for ovariectomy, this procedure is generally a painful one and the use of peri-operative analgesics is important. The horses often are hospitalized for 3-7 days and very carefully monitored in the immediate post-operative period for any signs of hemorrhage, which is a serious complication that can occur.

Dr. Robin Kelly, whose northern California-based equine veterinary practice includes care of 240 wild horses and burros at the Montgomery Creek Ranch sanctuary in Elk Creek, writes in a statement (Attachment 9) her concerns about the agency[rsquo]s inability to provide post-operative care to wild mares who will be ovariectomized:

The postoperative management proposed for these mares is minimal compared to significant postoperative recommendations for domesticated mares. These recommendations include keeping mares tied in a tie stall/tie line to prevent them from laying down/rolling to reduce risk of postoperative hemorrhage or herniation of bowel thru that must be left open to second intention healing. These measures are advised since extensive post-operative hemorrhage or herniation of bowel through incisions would not be survivable.

....Domesticated mares would be treated with a more aggressive antibiotic choice for 7- 10 days post operatively (monitoring daily for complications). Insufficient anti- microbials could result in peritonitis (also likely not survivable)..... The wild mares

will not be provided with post-surgical pain relief, according to the study description, and presumably [will be] turned out in a communal paddock with no restraint.

The proposed analysis must adequately analyze the feasibility of this invasive surgical procedure for use on wild mares in the wild. The required confinement for safe recovery from this invasive surgical procedure is not possible in free-roaming mares, raising the risk of fatality. The USFS must analyze and consider how the agency plans to provide the mares with any of the required follow-up care after this procedure, including stall confinement, a period on crossties to prevent lying down or rolling, careful monitoring for hemorrhage, pain relief and antibiotic treatment.

The proposed analysis must also consider other health risks related to ovariectomy of horses, including abortion by pregnant mares as well as premature menopause that can impact to various body functions including bone conditions.

Additionally, referring specifically to the introduction of ovariectomized mares into wild herds, Dr. Kelly states,

I am concerned about the use of this procedure in the wild, due to the concerning potential disruption of the normal social behaviors of post ovariectomized mares and how this will affect their role within the herd once they return to their families.

According to the reproductive specialist I consulted, while estrogen is secreted by multiple tissues, progesterone is only produced by the ovaries. Since progesterone is the hormone that prevents mares going into estrus, ovariectomized mares frequently act like they are in heat all the time. Putting ovariectomized mares back on the range could create social havoc within wild herds. Stallions instinctively know which mares are fertile/receptive and which are not. The stallion[rsquo]s job is to breed and impregnate mares after they deliver. If he has a number of ovariectomized mares in his harem who act like they are in estrus continuously but cannot become pregnant, or some of the time would not accept his [lsquo]advances,[rsquo] the stallion[rsquo]s social behaviors could be severely disrupted or [ldquo]over used[rdquo] inappropriately. In addition, ovariectomized mares may act sexually but may not want to breed, raising the potential for serious kick injuries to stallions and mares if a stallion attempts to breed an unreceptive mare. Ovariectomized mares may also lose their status within the mare band. [lsquo]Lead[rsquo] mares would be unlikely to retain that position post-ovariectomy. Social ostracism is certainly possible for these post-operative [mares] if they are no longer accepted by the herd.

The proposed analysis must analyze the current body of research available on the effects of spaying horses and the impacts they have on horse behaviors. It is widely documented that spaying mares alters behaviors. Research shows that the primary reason domestic mares are spayed is specifically to alter behaviors. Such alteration of behaviors would be in direct violation of the WHA, which aims to protect [ldquo]wild, free-roaming[rdquo] horses. Indeed, methods that alter the natural, wild free-roaming behaviors [ndash] such as gelding or spaying [ndash] would violate the basic tenet and intention of the Act. The USFS analysis must include available research on this subject that outlines that ovariectomies, or spaying, may result in the elimination of estrus- associated behavior [ndash] a key behavior that governors the primary function of lead mares and others in the wild.

Dr. Allen T. Rutberg, a faculty member at the Tufts/Cummings School of Veterinary Medicine and a wildlife biologist and researcher who has extensively studied wild horse behavior, described the detrimental effects of sterilization on the natural free-roaming and social behaviors of these herds in AWHC[rsquo]s past comments to the agency (Attachment 10):

Wild horses typically live in reproductive bands consisting of adult mares, their dependent offspring, and one or more stallions who[se] lives revolve around trying to protect mares from harassment by other stallions and securing exclusive reproductive access to the mares for themselves; [hellip][m]ares, meanwhile, simultaneously bond to one another and compete with each other for access to water, food, and other resources for themselves and their foals. Neither geldings nor spayed mares participate in these fundamental processes of wild horse behavior.

Thus, spaying is not an appropriate management tool for wild horses due to the behavioral changes and social disruption it will undeniably cause when implemented on the range, as well

as the health risks this surgical procedure poses for mares and their unborn foals. This proposed analysis must adequately analyze these serious impacts to wild mares.

Ultimately, the USFS should drop plans to surgically sterilize federally-protected wild mares and focus instead on non-surgical methods of fertility control that preserve the natural behaviors that distinguish wild-free roaming horses from domestic horses.

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1. [ldquo]Neutering[rdquo] Stallions
1. Gelding

AWHC asks that gelding of stallions be eliminated from consideration in this proposal. However, if the USFS moves forward with its analysis of this method, the agency must note the following findings that do not support gelding stallions who live on the range. The proposed analysis should include such a lengthy discussion that acknowledges and analyzes the serious risks that gelding represents to stallions. The proposed analysis must also disclose any and all castration side effects and deaths of the stallions in holding facilities.

Additionally, the analysis should note and consider the often-severe impacts of gelding on wild stallions who will be returned to the range where they will be expected to fend for themselves and live in often-harsh conditions. In fact, the impacts cannot only affect these animals[rsquo] physiology and ability to survive but also their behavior and therefore their influence on or relationship to the herd. The USFS has no proven studies or data to show that the use of castration as a management tool helps to actually stabilize wild horse populations. The NAS also advised that castration of stallions will cause loss of testosterone and consequent reduction in or complete loss of male-type behaviors necessary for maintenance of social organization, band integrity, and expression of natural behavior repertoire.[rdquo]

The late Dr. Jay Kirkpatrick, founder of the Science and Conservation Center in Billings, Montana and a foremost authority on wildlife reproductive biology, focuses his comments (Attachment 11) on how gelding effects the herd:

The very essence of the wild horse, that is, what makes it a wild horse, is the social organization and social behaviors. Geldings (castrated male horses) no longer exhibit the natural behaviors of non-castrated stallions. We know this to be true from hundreds of years [of] experience with gelded domestic horses. Furthermore, gelded stallions will not keep their bands together, which is an integral part of a viable herd. These social dynamics were molded by millions of years of evolution, and will be destroyed if the [agency] returns castrated horses to the HMAs..... Castrating horses will

effectively remove the biological and physiological controls that prompt these stallions to behave like wild horses. This will negatively impact the place of the horse in social order of the band and the herd.

As discussed above, AWHC has challenged a decision by BLM to geld wild horses and release them to the range, and that challenge is currently pending before the U.S. Court of Appeals for the Ninth Circuit. See Am. Wild Horse Campaign v. Bernhardt, No. 18-17403. Because the Ninth Circuit[rsquo]s ruling regarding the degree of environmental review that must accompany a gelding decision by the BLM will likely have an extremely significant bearing on the USFS[rsquo]s decision regarding the proposed use of gelding in the Heber Territory, AWHC reiterates its recommendation that the USFS wait for the Ninth Circuit to issue a ruling before analyzing or implementing gelding as a management tool for the Heber Territory.

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1. Vasectomies

AWHC asks that vasectomizing stallions also be eliminated from consideration in this proposal. However, if the USFS moves forward with its analysis of this method, the agency must consider the detrimental effects that vasectomies could have on wild stallions. There is very little known about the effects of the vasectomy procedure on horses. Domesticated horses rarely, if ever, undergo this procedure. Instead, veterinarians are much more familiar with the gelding procedure.

Performing vasectomies is not a widely practiced procedure and further research is needed to perfect a safe technique for performing vasectomies in stallions and to demonstrate whether this approach will reduce population growth rates. Further, the NAS found that more research was needed before vasectomies could be used as a management tool, yet such research has yet to be conducted. (Attachment 1, p. 133). While the NAS found chemical vasectomy to be a potentially promising fertility control method, the scientific panel noted that more research was necessary and that, ultimately, successful fertility control efforts must be female directed, as one intact male can impregnate many females. Therefore, much more research and study are needed before the USFS can implement vasectomies as a viable herd management strategy.

As a result, the USFS should drop surgical sterilization from consideration as an alternative for consideration as a population management tool.

1.
1. Reject the use of GonaCon as a fertility control vaccine.

AWHC asks that the use of GonaCon in the Heber Territory be eliminated from consideration. GonaCon is an experimental fertility control vaccine that interferes with the production of reproductive hormones, which drive natural behaviors in wild horses. However, if the agency must move forward with its analysis of this method in the

proposal then AWHC asks that the agency recognize that not much is known about the long-term safety and efficacy and the impacts to wild horse behaviors and natural social behaviors, which are the differentiating factors for these federally-protected animals. In fact, the peer-reviewed article on the ongoing GonaCon study in the Theodore Roosevelt National Park emphasizes that research on the use of GonaCon as a form of fertility control for wild horses is in its nascent stage and therefore limited:

While documentation of contraceptive efficacy and side effects of GonaCon have been described for a variety of wild ungulates, similar evidence for feral horses is limited. To our knowledge, only two long-term (3 years) empirical investigations have been conducted using GonaCon-Equine[hellip]. In the study with free-ranging horses, vaccination significantly reduced foaling rates of treated females, however, effectiveness was inconsistent over time and was substantially lower than that reported for captive feral mares treated with the same vaccine [22]. Furthermore, neither of these studies integrated revaccination as a strategy to increase vaccine efficacy. Lastly, these inquiries provide little quantitative evidence of the reversibility of the effects of this vaccine, the presence or absence of adverse side effects related to inoculation of pregnant mares, and neither examined the potential for increased side effects with reimmunization.

Knowledge of the effects of GonaCon-Equine on equid fetal health, neonatal survival, and body condition is largely anecdotal[hellip].Clearly, additional research is needed to further define the long-term therapeutic effectiveness and contraindications of this potential technology before resource managers can make informed decisions regarding its practical application for stabilizing the growth rate of free-ranging feral horse populations. (Attachment 12, p.5).

Additionally, the NAS specifically responded that:

Preserving natural behaviors is important, so GonaCon seems [emphasis] more appropriate for use in females in that some research has suggested [emphasis] that female sexual behavior continues. However, further studies on behavioral effects of this product are needed. (Attachment 1, p.7).

This experimental fertility control drug is not appropriate for field use and should be dropped from consideration. At bottom, because published research on GonaCon in horses is limited, there are remaining questions regarding negative impacts to pregnant mares (association with abortion when given in early stages of pregnancy), long-term physiological effects, and whether the vaccine is a permanent sterilant or reversible. Even the short-term social/behavior effects are not yet established. Thus, this experimental fertility control drug is not appropriate for field use and should be dropped from consideration in this proposed analysis.

1.
1. Redraw the boundaries of the Territory to accurately reflect the wild horses' habitat.

The current boundaries of the Heber Territory do not accurately reflect the habitat area for these federally-protected horses, resulting in many horses being designated as [ldquo]outside the Territory.[rdquo] The management plan must identify and disclose the reasons why the Heber wild horses are currently outside of the Territory boundary, including but not limited to natural events such as fire and the construction or reconstruction of fencing. Then, the management plan must analyze where the horses are presently found and determine whether the boundaries of the Territory can be redrawn or whether horses can be moved back within the Territory. Horses outside the Territory should be relocated within the boundaries, back inside their federally designated range. Finally, the management plan must address what mitigating actions the USFS can take to make sure that the horses stay within the Territory boundaries for the foreseeable future. The USFS must consider this action as an alternative to simply removing any horses that are found outside of the Territory.

1.

1. Create protocols for the housing, care, placement and tracking of all wild horses removed from the Territory.

The USFS must fully disclose and analyze its plans for any horses removed from the Territory, including where they will be housed, how they will be cared for, and what the Forest Service plans for their long-term placement and care. By law, the USFS may not destroy healthy horses or sell them for slaughter. The USFS must create a system for placing and tracking all horses removed from the Territory. This should include, but not be limited to, the implementation of a year-long adoption process, similar to that of the BLM, by which the adopter does not gain title to the horse until one year of ownership and care. The USFS must also develop a database, ideally an agency-wide database, for tracking the disposition of each horse as well as a system for checking potential adopters or purchasers for their history regarding horse adoptions, sales and past animal abuse. Processes like these will help ensure that the USFS is complying with Congress' directive to protect federally-protected wild horses and burros from slaughter.

1. Information that must be included in the EA

As a preliminary matter, AWHC notes that, as described above, an EIS rather than an EA is both legally required and a vastly superior mechanism for analyzing the environmental impacts of, and considering alternatives for, the management of wild horses in this area. However, regardless of whether USFS opts to prepare an EIS or EA, the following information must be included in a draft document and made available to the public for review and comment:

1.
1. All information regarding previous removals in the Heber Territory, including the number of horses captured, removed and returned to the range, as well as the number of mares inoculated with fertility control, the number of stallions sterilized in past roundups (if any) and returned to the range, and the estimated post[ndash]gather population.
2. Detailed annual census information, both actual counts and projected population numbers, including information about the data on which population projections/estimates are based.
3. Complete breakdown of livestock grazing in the Territory, including active and actual Animal Unit Month ([ldquo]AUM[rdquo]) allocations for each of the past five years.
4. All rangeland health assessments for grazing allotments in each of the Heber Territory. All monitoring data should also be included and the USFS should clearly describe the data delineating the separate impacts of livestock use versus wild horse use.
5. All genetic analyses of the horses and potential effects of the proposed removal. All genetic analysis reports should be included in an appendix. All data indicating intermingling of wild horse populations should also be included.
6. Detailed information on prior use of PZP in the Heber Territory, including numbers and ages of mares vaccinated, percent of mare population treated with PZP, years of treatment, outcome of treatment, and the impacts of current treatment plans on projected population numbers.

1.
1. A detailed map of all water sources and fencing within the Heber Territory, and disclosure of water allocations for all uses, as well as an explanation of how fencing and engineering of wells and springs for livestock grazing has affected water availability for wild horses and other wildlife species.
2. Information on the hunting and killing of predators within and around the Heber Territory for each of the past three years and analysis of how these activities impact the thriving natural ecological balance in the Territory, including natural predation. This should include any predator eradication data maintained by the Fish and Wildlife Service or other government entities, including the office of Wildlife Services within the United States Department of Agriculture.

2. Improved Public Observation Must Be Considered, Analyzed and Implemented

The USFS is well aware of the significant public interest in the agency[rsquo]s management of wild horses and burros and its roundup operations. The humane treatment of the horses is paramount.

Removal of wild horses from public lands negatively impacts the human environment for those who enjoy observing, photographing and researching these wild horses. Given the tremendous public interest and the agency[rsquo]s claims to operate with full transparency, the following actions should be considered, analyzed and implemented to ensure that the proposed analysis is conducted in a manner that minimizes stress and injuries to wild horses and ensures interested parties have the ability to adequately monitor the USFS[rsquo]s actions once the proposed analysis is completed:

* Trap sites should be located on public lands to allow public observation of roundup activities. No trap site shall be located on private lands for which the owners will not give permission for public observation of roundup activities, nor shall USFS locate a trap site on public lands in a location that can only be reached by crossing private lands if the owners will not allow public passage for the purpose of observing USFS activities at the trap site.
* Real[ndash]time cameras with GPS should be installed on all helicopters used in roundup operations and video should be live streamed on the Internet. This will improve the transparency of roundup operations and enable the USFS and public to monitor the direct impact motorized vehicle usage has on wild horses and the environment.
* Real[ndash]time cameras should be installed on the trap, the corral and the temporary holding pens, and video should be live streamed on the Internet, again, so that USFS personnel, public and media can monitor the entire roundup operation and treatment of the horses and burros.

Video cameras will improve the transparency of roundup operations and enable the USFS and public to monitor the direct impact motorized vehicle usage has on wild horses and the environment. In addition, real[ndash]time cameras should be installed on the trap, the corral and the temporary holding pens, again, so that USFS personnel, public and media can monitor the entire roundup operation and treatment of the horses. AWHC would be happy to provide and financial assistance to establish these real[ndash]time cameras as described above.

1. CONCLUSION

We expect that the USFS will provide the level of detail described and requested above, which is necessary for informed decision making. We further expect that the USFS will provide a full and accurate accounting of how many public comments were submitted on this scoping plan and what positions and/or recommendations were presented in them, as the agency is legally required to do under the National Environmental Policy Act.

Our public lands and the wild horses that live on them belong to all Americans, and they must be managed in the interest of all Americans. Wild horse management must be humane, cost- effective, and based on science. The proposed management action for the Heber Wild Horse Territory must be drafted in accordance with these criteria. For this reason, AWHC, and 3,749 of our supporters (Attachment 13), request that the above information be incorporated and analyzed in the USFS[rsquo]s draft management plan for the Heber Wild Horse Territory.

Thank you for your consideration.

Attachments

Attachment 1: [ldquo]Using Science to Improve the BLM Wild Horse and Burro Program: A Way Forward,[rdquo] National Academy of Sciences, June 2013.

Attachment 2: Public Polls

Attachment 3: Veterinarians[rsquo] Letter to Secretary Bernhardt Attachment 4: House Letter to Secretary Bernhardt Attachment 5: Senate Letter to Secretary Bernhardt

Attachment 6: U.S. District Court Judge Beryl A. Howell Decision [ndash] Civil Action No. 11-02222 (BAH)

Attachment 7: 2015 National Resource Council Report Attachment 8: Statement by Dr. Michael Ball

Attachment 9: Statement by Dr. Robin Kelly (as included with AWHC[rsquo]s First 2018 Comments on the BLM[rsquo]s Oregon Spay Experiments)

Attachment 10: Statement by Dr. Allen Rutberg (as included with AWHC[rsquo]s First 2018 Comments on the BLM[rsquo]s Oregon Spay Experiments)

Attachment 11: Statement by Dr. Jay Kirkpatrick on Gelding

Attachment 12: Utility of Low-Stress Livestock Handling Techniques for Management of Feral Horses at Theodore Roosevelt National Park,[rdquo]. Blake McCann, The Stockmanship Journal, July 2015.

Attachment 13: AWHC[rsquo]s Petition and Signatures on the Heber Wild Horse Territory Management Plan