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Comments: Comments 36 CFR 218.2 Heber Wild Horse Territory Management Plan

Heber Wild Horse Territory Management Plan (HWHTMP) Comments:

The General Accountability Office reviewed the [ldquo]how and why[rdquo] so much of the wild horse and burros[rsquo] historic range had been lost since 1971 in several studies dating back to 1990. Neither the BLM, or the USFS, have ever published a detailed, evidence-based account of its decisions to eliminate, or reduce, wild horse and burro habitat and no scientific evidence to support site-by-site analysis of its decisions, nor any data to substantiate the closure of specific herd areas.

The USFS needs to provide the information used to determine how and why the Heber Wild Horse Territory (HWHT) was set up the way it was and produce any and all scientific studies and surveys and other assessments that were used in how they determined the boundaries of the HWHT and populations since 1971.

In addition, the environmental analysis of the Heber Allotment, overlapping 60% of the HWHT and which has been pending for years, must be completed.

On Hold

Heber Allotment Analysis [ndash]

Allotment analysis to determine re-issuance of a term grazing permit, what grazing management strategy will be implemented in the allotment management plan (AMP), treatments for grassland restoration and maintenance, and placement of tanks and fence (USFS Apache-Sitgreaves National Forest Projects)

The management and monitoring of livestock on the Heber allotment must be analyzed and updated. Any work on the Heber allotment AMP needs to be made public.

In addition, the 2015 Heber Livestock Grazing Allotment Environmental Analysis draft failed to include an impact study on the wild horses who are a protected resource the USFS is required, by law, to be considered comparably with resource values in the formulation, or amendment, of land use plans. The reauthorization of livestock grazing on the Heber allotment called for a new allotment management plan that would affect the HWHT and existing land use plans; therefore, an impact study should have been included in the environmental assessment (EA) draft of the Heber Allotment Project.

The responsible BLM official shall follow the established LUP procedures in 43 CFR 1600, associated BLM manual sections and policy for fulfilling the planning requirements prescribed in the statute. LUPs are the basis for every on-the-ground management decision that the BLM makes. LUPs establish goals and objectives (desired outcomes), identify the management actions needed to achieve the desired outcomes, and identify allowable uses of the public lands. (2)

2.1.1 Comparability Consideration Under 43 CFR 4700.0-6(b), WH&B shall be considered comparably with other resource values in the formulation of LUPs. This means WH&B are to be considered in the same manner as other resource values (e.g., cultural, historic, scenic, rangelands, timber, and minerals). WH&B

are a resource value, as opposed to a land use (e.g., livestock grazing or timber harvest). (2)

Therefore, land use plans that concern wild horse ranges and historic habitat must not

only be developed in accordance with FLPMA, but must also give special consideration to wild horses and burros as an integral part of those public lands. (6)

The USFS should provide all monitoring data from the onset of the Heber Allotment AMP, range of AUMs and any increases authorized during that time, and any, and all, changes to grazing management.

Internal cattle pasture fences interfere with the natural migration of horses to access forage and water. This interference often forces the horses to congregate in areas they otherwise would not have resulting in unsubstantiated signs of [ldquo]overpopulation[rdquo] in that area [ndash] later used to justify removals. The fencing also unnaturally diverts the horses to areas outside of the territory boundaries and interferes with their ability to be [ldquo]free-roaming[rdquo]. Fencing and water development to benefit livestock must be changed to accommodate the natural movement of the wild horses.

3.4.2 Structural Improvements Construct and maintain structural improvement projects (e.g., fences, cattle guards, or water developments) in a manner that protects the wild, free-roaming nature of WH&B and provides for normal herd distribution and movement as well as genetic interchange. While some projects might increase the forage, cover, or water available for WH&B, others might negatively impact individual animals or entire populations: [bull] Fences and cattle guards might restrict seasonal WH&B movement or use of critical escape (hiding) or thermal cover, key spring-summer-fall-winter use areas, or critical water sources. (2)

[bull] Water development projects might encourage use outside the HMA or concentrate use in sensitive areas. Existing projects that negatively impact WH&B should be considered for removal or modification through coordinated activity plans. Proposed projects should be analyzed and mitigation proposed to minimize adverse impacts to WH&B where possible. (2)

The Forest Service needs to do a thorough Environmental Analysis of the forest that includes all wild species and domestic cattle.

For decades a pattern has existed within the BLM and the USFS to omit the consideration of livestock as a [ldquo]change agent[rdquo] affecting the health of the land, riparian areas and wildlife habitat [ndash] including wild horses and burros [ndash] when conducting environmental reviews and studies. Looking over the Heber Wild Horse Management Plan I see this same pattern that does not include livestock in its analysis and planning:

Current studies including range analysis, soils information, production utilization studies, including levels of desired use by those herbivores competing for the forage base must fully support the action to remove excess

animals. (Heber Wild Horse Management Plan)

Resource damage is occurring in a sensitive area such as but not limited to springs, riparian areas, threatened and endangered species habitat, and horses are identified as a contributing factor (Heber Wild Horse Management Plan)

Considering that almost 70% of the Heber Wild Horse Territory is used for livestock grazing it must be a component for the management plan.

A requirement of the 1971 WFRHBA is to [ldquo]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[rldquo]. Federal regulations governing wild horse and burro management include this requirement as well.

[sect]4700.0-6 Policy. (a) Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat (2)

4.1.1 managed as [ldquo]self-sustaining population of healthy animals in balance with other uses[rldquo] (2)

4.1.5 managed to maintain [ldquo]thriving natural ecological balance on public lands? (2)

As outlined in the WFRHBA, forage is to be designated [ldquo]principally but not necessarily exclusively to wild horses[rldquo]; therefore, the wild horses and burros should be allocated 50% of the forage in their own dedicated territory to ensure the required balance exists. This may require, by law, to reduce livestock stocking levels

[sect] 4710.5 Closure to livestock grazing. (a) If necessary to provide habitat for wild horses or burros, to implement herd management actions, or to protect wild horses or burros, to implement herd management actions, or to protect wild horses or burros from disease, harassment or injury, the authorized officer may close appropriate areas of the public lands to grazing use by all or a particular kind of livestock. (b) All public lands inhabited by wild horses or burros shall be closed to grazing under permit or lease by domestic horses and burros. (c) Closure may be temporary or permanent. After appropriate public consultation, a Notice of Closure shall be issued to affected and interested parties (2)

The USFS must determine the current REAL stocking level of cattle in the HWHT including trespass cattle. In the Heber Wild Horse Management Plan, they state [ldquo]occupancy by unauthorized livestock is minimized[rldquo]. GAO reports reveal that currently the USFS does not know the extent of unauthorized grazing due to the informal approach they have been using for decades when dealing with violators so the USFS must show the data supporting this claim.

The frequency and extent of unauthorized grazing on Bureau of Land Management (BLM) and U.S. Forest Service lands are largely unknown because according to agency officials, the agencies prefer to handle most incidents informally (e.g., with a telephone call) and do not record them. The agencies' databases contained information on nearly 1,500 incidents of unauthorized grazing where formal action was taken by the agencies' range program or law enforcement staff for grazing years 2010 through 2014 (March 1 to February 28). Unauthorized grazing incidents were recorded in the agencies' databases when the agencies billed a penalty for unauthorized grazing or prepared a law enforcement report. However, agency staff told GAO that they handle

most incidents informally[mdash]their preferred practice[mdash]and do not record them in databases or consistently in paper files, because, in part, they do not consider it a priority. As a result, the agencies have incomplete information on the extent of unauthorized grazing. Federal internal control standards call for clear documentation of all transactions and other significant events. Until the agencies require that all incidents of unauthorized grazing be recorded, including those incidents resolved informally, BLM and the Forest Service will not have a complete record of unauthorized grazing incidents with which to identify any potential pattern of violations. (3)

The recent lawsuit filed in U.S. District Court in Tucson, saying the U.S. Forest Service and U.S. Fish and Wildlife Service are violating the Endangered Species Act by allowing cows to trample rivers and streams on more than 30 grazing allotments in the upper Gila River watershed on Arizona[rsquo]s Apache-Sitgreaves National Forest and the Gila National Forest in New Mexico, supports the need for a completed environmental analysis of the Heber Allotment and to determine the extent of unauthorized grazing

Much like the BLM has turned a blind eye to the damage caused by unauthorized livestock grazing [ndash] supported by years of GAO reports [ndash] so does the USFS to appease local ranchers and avoid conflict. When speaking to a reporter Forest Supervisor Steve Best stated [ldquo]The other thing here is a strong focus, politically, on industry, making sure we keep those guys in business[rdquo]. These guys, meaning ranchers.

[ldquo]Recent Forest Service Biological Assessments of allotments and our on-the-ground observations simply don[rsquo]t line up.[rdquo] (quote from The Center for Biological Diversity)

Once again, the USFS needs to explain why the analysis on the Heber allotment (Seibert Cattle Company LLC,) continues to be on hold and incomplete.

Agency obligations under the 1971 Wild Free-Roaming Horses and Burros Act must be determined as the horses, by law, are meant to be the principal presence in their herd management areas, or territories, and livestock are to be removed from these areas if the health of the herds is threatened.(4) Horses are a public resource while livestock grazing is a land use permitted when it does not cause environmental damage that cannot be undone [ndash] a violation cited in the 1991 GAO report on livestock grazing in the Southwest Region of the country where 52% of the land is classified as federal land.

(3) some damaged lands may take decades to recover if they recover at all (8)

The proposed AML of 50-104 horses, using antiquated BLM methodology which has been proven to be invalid, does not create healthy, genetically viable herds as required by law.

In addition, the management plan does not consider livestock grazing in the determination of AML as required by federal regulations.

4.1.1 Self-Sustaining WH&B shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat. (2)

4.2.2.2 when evaluating AML consider [ldquo]increase or decrease in the available forage, changes in livestock management[rdquo] (2)

#### 4.3 Determination of excess [ldquo]shall analyze grazing utilization and distribution[rdquo] (2)

The following GAO reports indicate the BLM[rsquo]s methodology, or lack of, in determining AML and removals is seriously flawed and should not be set as an example to follow.:

animals and does not provide a statistical range of population estimates. Undercounting can put animals at risk and lead to increased program costs.

Allowing The forest supervisor to decide on the components for the territory management plan and fate of the Heber wild horses is not balanced either. For a single person, who could likely have ties with the local ranching community and be biased, to have such power is irresponsible. A panel of stakeholders should be used to help determine the outcome to ensure no bias exists.

The USFS should also consider the fact that science has proven that wild horses and burros are well suited for wildfire management given their migratory patterns, consumption of ground fuels, ability to access even the roughest terrain and depositing seeds back into the land with their manure. Their cost is nothing and they do not contribute to the spread of invasive cheatgrass that doubles the likelihood of fire as cattle do.

If it truly is the policy of the USFS to [ldquo]sustain the health, diversity, and productivity[rdquo] of our public lands the wild horses and burros must be acknowledged for their contribution [ldquo] to the diversity of life forms within the Nation[rdquo] and how they [ldquo] enrich the lives of the American people[rdquo]. (4

2. H-4700-1 Federal Regulations: Protection, Management and Control of Wild Free-Roaming Horses and Burros  
H-4700-1 ? WILD HORSES AND BURROS MANAGEMENT HANDBOOK (Public) United States Department of the Interior Bureau of Land Management Wild Horses and Burros Management Handbook

3. Unauthorized Grazing Actions Needed to Improve Tracking and Deterrence Efforts

GAO-16-559: Published: Jul 7, 2016. Publicly Released: Jul 7, 2016.

4.1971 Wild Free-Roaming Wild Horse and Burro Act WH&B ACT: 43 CFR 4710.5)

5. PUBLIC LAND MANAGEMENT: Observations on Management of Federal Wild Horse ProgramT-RCED-91-71:  
Published: Jun 20, 1991. Publicly Released: Jun 20, 1991.

6. 16 U.S.C. [sect] 1331 (2017)