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Comments: Please see the attached.

Dear Mr. Madrid:

I submit the following comments, as a concerned citizen of the State of Arizona, frequent visitor to the Apaches Sitgreaves National Forest, and individual who participated in the court process initiated to stop the Forest Service's prior attempt in 2005 to round up the Heber herds without proper prior analysis and consideration of the horses' best interests.

Starting out with a positive comment, I fully support the PA's decision on page 11 to give protection under the Wild Free Roaming Horses and Burros Act of 1971 ("WHBA" or "Act") to all horses in the current unbranded unclaimed horse population on and surrounding the Heber Wild Horse Territory (the "Heber Territory" or "Territory"). The PA readily admits that as a practical matter it would be impossible to distinguish between horses of progeny originally in the Territory or surrounding areas and those horses that have been displaced from the fire years ago or otherwise abandoned by their owner over the years. And, more importantly, the WHBA does not require that the horses be of original progeny. Rather the Act protects "all unbranded and unclaimed horses and burros on public lands of the United States." Section 1332 (b). Photographs of the Heber horses in question as taken by a local resident are attached at Exhibit 1.

Unfortunately, that concludes my positive comments for the PA. Somewhat ironically or not, the Wild Free-Roaming Horses and Burros Act of 1971, declares "the policy of Congress that wild free roaming horses and burros shall be protected from capture, branding, harassment or death" and yet that is precisely what this PA would allow with a single stroke of a pen by a single government official known as a "forest supervisor." This PA should be rejected outright as inconsistent with the Wild Free-Roaming Horses and Burros Act of 1971 which protects wild horses from the very acts contemplated by this PA including capture by round ups, branding for birth control, and harassment by helicopter chases running the horses to their exhaustion and deaths.

Perhaps the most glaring flaw in the Proposed Action is its failure to identify a management plan at all. Even the Forest Service acknowledges this point in its March 4, 2020 comment letter. See P. 1 Arizona Game and Fish 3/4/20 letter at p. 1, paragraph 3, "[T]he PA does not appear to meet the settlement stipulations from the lawsuit as [Forest] Department staff have not been able to identify a clear Proposed Action. Rather, there is a very wide range of possible actions to the point where it is not clear what if any action is proposed." This is a proposal identifying a lot of possibilities yet committing to nothing — no clear path or concrete plan. There are very few details on what a plan may look like and even less conclusions about how they will manage of the current herds going forward. One theme is

clear however. The Forest Service still has an eye targeted on its ultimate goal - to remove all horses (or leave so few that they die out). Who does this benefit and why is the Forest Service so driven to eliminate the horses who compete for cattle grazing rights?

Curiously, there is another theme in the PA that the interests of livestock have some amount of priority or superiority over the horses. This is patently false. It is also incorrect and improper under the current laws to balance the livestock interests inside the Heber Wild Horse Territory as if they have some right or entitlement to be there. Absent from consideration is the concept that no livestock or cattle should be in the Territory at all. Also lacking is any discussion of the number of livestock head that are being allowed to graze in the Territory and surrounding areas competing for a food source. See Exhibit 2 which shows hundreds of head of cattle using the Territory and surrounding areas at a charge to cattle ranchers of only \$1.35/month per cow with calf. The PA at page 3 confirms that there are two existing livestock allotments in the Heber Territory. Why are there any at all within the horses' Territory and immediate surrounding public lands area? The PA purports to balance the livestock interests (exactly how many is not discussed in the PA) when cattle should not even be on the balancing scale at all within the Territory itself. The fact that the cattle grazing permits may or may not have been in place before the Territory was established in the 1970s is not relevant. Perhaps the cattle grazing should have been prohibited in the 1970s? That does not mean it cannot be addressed today. The horses use of the Territory is to be "the principal use" per the WHBA and that principal use should guide management of the Territory and surrounding public lands in the immediate area.

The mismanagement and lack of protection given by the Forest Service to date for these horses is appalling. For example, it is surprising to see all the fencing that is currently in place throughout the Territory itself. It basically divides up the Territory into three major sections and of those three sections, one section is fenced up even further. See PA at page 10, Figure 4, Pasture Fences. The excessive amount of Pasture Fences makes it impossible for the horses to "freely roam" their own Territory yet the horses are criticized for moving outside the Territory boundaries as if they had a choice. It is not natural for the horses to stay in a confined area anyway and runs contrary to the concept of being a "wild" horse in the first. There needs to be freedom to roam on Forest Service and other government public lands surrounding the Territory. If conditions were suitable for the horses within their Territory (ie not fenced and not trashed with barbed wire laying all over the forest floors, photos at Exhibit 3), the horses would likely use it more but there is no consideration given to anything affirmative that could be done to manage the horses better (or at all) within the Territory and surrounding areas.

This raises another concept that was not considered by the PA and that is redrawing or modifying the shape of the Territory such that it follows the horses' natural migratory patterns. Surely with all the ASU collaboration and input supposedly given, someone would have suggested redrawing or moving the boundaries (not reducing the size but perhaps making it larger). There is an abundance of Forest Service land around the Territory, why not lift up the Territory lines and lay it over

the horses natural migratory pattern and manage the horses in the area they historically use. Yet that concept is not discussed anywhere in the PA as an option that was given consideration.

Perhaps my strongest objection to this plan is the amount of unbridled power given to the [ldquo]Forest Supervisor[rdquo] on page 13 of the PA. A single person within the Forest Service, a [ldquo]supervisor[rdquo] will [ldquo]select a management strategy for the Heber wild free-roaming horse herd and its habitat.[rdquo] Page 14 of the PA lists the vast unchecked authority of this [ldquo]supervisor[rdquo] which includes the most significant factors

in their management [ndash] the [ldquo]appropriate management level[rdquo] or AML. The AML will then dictate how many horses the Forest Service can remove from the Territory and surrounding Forest Service lands. Notably lacking from any of the powers of the [ldquo]supervisor[rdquo] are any affirmative steps to actually protect and care the horses. This approach of having a single official with the discretion to essentially dictate the Heber Wild Horse Territory Management plan is completely unacceptable and dangerous. Instead, this PA should be rejected and officials should be required to submit a management plan that defines a clear path on what will and what will not be done to these horses. Public participation in this process is critical and should be required. This is especially true since there are no checks and balances in the system for enforcement or to confirm that the Forest Service and other government officials are following the laws and protections in place for these horses. In light of past conduct of these same government officials, a higher scrutiny is warranted going forward. Allowing one official to have the power to control the fate of the horses will surely result in the implementation of the Forest Service[rsquo]s original plan [ndash] complete removal of virtually all the horses or to an unsustainable herd level.

Due to the terrain in the area of the Heber Wild Horse Territory and surrounding areas, it would be suicidal to EVER use helicopters for any type of rounds ups whatsoever. There are numerous cliffs and ravines and mountainous areas. Having horses stampede due to fear of a noisy helicopter coming at them and breaking up their family and bands would result in the death of a significant number of the horses. For example, on page 33 of the PA, the [ldquo]Capture Technique[rdquo] says that wild horses [ldquo]must be captured by [hellip] a) helicopters.[rdquo] This approach to capture (if ever established needed) should be off limits and unthinkable in light of the potential danger and welfare of these horses. Obviously the governmental officials are considering doing a massive scale round up or this type of capture would not be in their PA. Helicopter use should be removed from any plan as not an option.

The sources of historical herd information relied upon in the PA is nonexistent. Relying on the opinions of ten (10) [ldquo]anonymous[rdquo] individuals for the history of herds is reckless at best and one could argue relied upon for only one purpose, a predetermined result. There are numerous other historical documents and articles from decades ago that are reliable and clearly document the existence of the wild horses in the Heber territory and surrounding public lands (See Exhibit 4, Holbrook newspaper article from early 1900s confirms wild horses present) yet the PA turns a blind eye to all of it. Such an approach makes the conclusions as to historical information in the PA fatally flawed and unreliable.

On page 17 of the PA, it discusses the criteria for determining [ldquo]excess[rdquo] horses. One of the first criteria is horses occupying areas outside the Heber Territory. Why would these horses be considered

excess if they are on public lands? Why wouldn't these horses be herded back towards the Territory. Why isn't the fencing removed from the Territory so that the horses can freely roam on it as they were intended to do. Another so called criteria for removal is the "utilization of key grazing areas", one would presume they are not referring to any "key grazing areas" within the Territory as surely those areas belong to the horses as of right to "principally" use the Territory. The answer is not clear and should be clarified to confirm key grazing areas are outside the Territory and even then the horses are entitled to graze on public lands as well, more so than a money making venture, called cattle. Another criteria for determining excess horses is "resource damage" and horses need only be "a contributing factor" not "THE" contributing factor in order for them to be deemed excess. No reference is made to the cattle that do far more damage to natural resources and water supply than horses do (by their very nature cows are destructive to the environment due to hygiene habits). These are overly broad and inappropriate criteria for determining whether a horse is excess and should be struck.

Another concept that is lacking from the PA, there is no affirmative positive management for the horses or their needs. No consideration to removing the miles of fencing within the Territory and surrounding public lands to allow the horses to freely roam. No consideration given to how to proactively take care of these horses by studying their migration patterns and readjusting territory boundaries if necessary or opening up nearby public lands so the horses may access them. The PA clearly views the horses as a nuisance with a desire to remove them.

The beauty that lives on in the Heber area (Exhibit 1) must be maintained for future generations. Unfortunately, this PA does not provide a clear management plan for the horses at all. One with a pessimistic view might conclude it is a mere pathway for the Forest Service to complete execution of its original plan for horse removal and extinction of the Heber herds to the benefit of interested third parties with dirt cheap grazing privileges. This PA lacks sufficient detail sufficient to allow the public and other interested parties to comment. It is vague and leaves so many questions unanswered that it is impossible to know the precise action to be taken. I hope that is not intention here and that the PA will be sent back to the drawing board for resubmission of something with a detailed plan for affirmative positive management of these beautiful "living symbols of the historic and pioneer spirit of the West." One forest supervisor should not and cannot decide their fate.

Attachments: Exhibits 1-4