Data Submitted (UTC 11): 3/16/2020 7:00:00 AM
First name: Patience
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Organization: Wild Horse Observers Association
Title: President
Comments: Thank you for the opportunity to submit this comment on this proposed territory management plan. Citizens Against Equine Slaughter (CAES) and Wild Horse Observers Association (WHOA) have been following, visiting, and involved with the herd, watching, observing, enjoying, educating, and advocating since 2005. We also have been involved in getting volunteers to haul water during drought and getting the appropriate permits from the Forest Service to do so. We have also been providing information provided to us regarding the wild horse shootings to the Forest Service, local sheriff, state and federal legislators, the FBI, media and the public, to try and assist in finding the killers. And board members of both CAES and WHOA are AZ property owners.

Our first comment is that this plan should be an EIS. This is the first ever management plan for wild horses on the territory and as such should have been done through an EIS. The human environment, as well as the resources themselves will be significantly impacted by this proposed plan and therefore require an EIS.

Additionally on your website for the Heber Wild Horse Territory, you list the steps for the process, and step on indicates this is a scoping public comment for the Territory Management Plan, step two states you will then develop an EA, then step 6 says you will develop a territory management plan. It is unclear if the EA will be for the territory management plan, or if it will be for removals based on the herd management plan outlined in step one. If it is the EA for the territory management plan discussed in step one, then why would Forest Service, in step 6 again be developing a territory management plan in step 6, AFTER objections have been heard? If the document you plan to develop in step 2, is an EA which addresses plans to be implemented, like removals, based on a document from step one, the territory management plan, then where is the opportunity to object to the territory management plan itself in this process? This needs clarified, and the public need to know, clearly how and where to file an objection to this management plan if corrections or revisions are not made to their satisfaction.

We have been involved in providing information and photos of the herd, and of possible illegal activities against the horses in the herd (shooting and being stolen from). And one of our board members, Mary Hauser, was on the working group.

Mary was kicked off the working group via voicemail message right after she submitted our recommendations for final changes to the recommendations they submitted to you. Our comments were then sent directly to the Forest Service because the working group would not include them. We feel that the Forest Service stacked the working group with ranching interests.

By kicking Mary Hauser off the working group did not follow the stipulation agreed to between the Forest Service and the plaintiffs in development of this management plan. Intentionally and sadly Forest Service took so long to develop this plan that Pat Haight died before this draft plan was developed. Another of our board members, Patience O'Dowd worked with Pat Haight during the court case, on the court case, and subsequent Stipulation Agreement which was finally reached in 2007 (CV-05-2754-PHX-FJM). See attachments C and D.

Other issues of concern over the legalities of that working group are that there are no meeting minutes, no recordings, and the meetings were not open to the public. This was in violation of the federal open meetings laws. There were several members of the federal government who were in attendance at one point of another for every meeting, and they were involved in shaping suggestions to be made for this proposed plan, therefore they must have adhered to the law and did not.

Using Southwest Decision Resources to run the working group meant there would be a predetermined outcome

for the group. No contracted mediation or arbitration group is going to disagree with what the boss wants if they want to continue getting contracts to run these working group s and we have seen this time after time. BLM was involved to lend a hand in preparing what has always been the status quo for that agency, which is often a plan or procedure that lands them in litigation. And Arizona University who facilitated the meetings insisted the meetings did not have to be open to the public when in fact, the Forest Service paid for the working group to be held and as such open meetings laws had to follow federal law, not the University's regulatory requirements. However, our complaints to Forest Service and AZ University were ignored during the process.

Two of CAES board members tried to attend a phone meeting when Mary Hauser could not be in attendance, which was known to the rest of the members before the meeting was scheduled, and the members of the group in attendance that day voted to kick us off the call. Again violating open meetings laws.

This means this plan has been developed in violation of the stipulated court agreement.

The submission of comments which allow for attachments can only be done by hand, or on the CARA website. We don't know how the Forest Service gives us proof of receipt if we send it to some website we have never heard of therefore forcing us to incur costs to have it printed, and delivered to you by hand. The CAES AZ office called Heber Wild Horses on Facebook posted an update today because of problems trying to submit comments on the Cara WEBSITE:

HEBER WILD HORSES

Keep them running free!

If you have submitted a comment, please check to be sure it was posted. We are still having problems with comments.

Some comments will not submit even though they are way below the size limit of 50 MB. Some comments will not post even though they were submitted and they have to be submitted again and again. We know of one comments that was posted and now it's gone. Check here to search for your comment, if it's not there, resubmit. Calling the contact number has not been proven to be helpful for us.

https://cara.ecosystem-management.org/Public/ReadingRoom...

In this plan you state you will use it to guide management of wild horses and their habitat. And you state the territory is 19,700 acres. You also go on in this proposal to state that you 'think' the horses in the territory are from horses that were on the nearby reservation. This was also discussed in court and ruled that there is no distinction between the 2 populations.

By outlining only 19,700 acres as land for the horses to be managed on you have neither included the land historically used by the horses in 1971 or now, nor have you followed the definition of habitat to provide habitat for a self-sustaining and viable herd. These horses have routinely migrated between what you have outlined as the Heber Wild Horse Territory and the reservation. The Forest Service admits this historic migration back and forth. Even your census map on page 10 of this proposed plan shows the majority of the horses in the areas they were historically in 1971, which is south and east of the currently outlined territory. Yet the Forest Service neglected to include the area south and east, of what you outlined as the Territory, and the reservation in the territory.

We made the following suggestion to the recommendation from the working group which was subsequently ignored:

Per 16 CFR 30 1322(c) "range" means the amount of land necessary to sustain an existing herd or herds.. which does not exceed their known territorial limits, and which is devoted principally[hellip]"

The areas of the Forest historically used by wild horses were not all included in the WHT boundaries and this must be reconciled with known historical use of the Forest which is evidenced by the FS data collected over the past 20 plus years and even included in the Teams Report. The Teams report pages 7-9 discuss where horses were found during specific years. It is clear by these tables that the only area observed for population census before 2005 was the current WHT, however, it is further evidence that the entire historical use of the Forest was not included by the tables that show population and off the territory from 2005 on that the census was at that point including the historical use of the herd. This is likely exacerbated by livestock fencing however, newspaper clippings and interviews which can be found by simply using the library or even Google show that the horses have historically used a much larger portion of the forest than has been outlined in the current territory..

Even the predetermined outcome of the working group challenged this arbitrary territory boundary by recommending "All horses within an agreed upon territory buffer zone (TBZ) beyond the HWHT will be considered to be members of the HWHT population" (FAEH); "the management proposal includes consideration of all horses currently within a territory buffer zone based on the aerial data collected by ASNFs."

On page 5 of the proposed plan you talk about the early census and do not include whether this census was only for the current outlined territory or not. We believe that if the area between the outlined territory and the reservation had been surveyed, the number of horses in the herd would have been much higher. This completely invalidates your census.

The horses outside the territory proper are still wild horses per Kleppe v NM. They have walked on and off the territory. Despite where Forest Service or community members feel they may have come from they are legally, federally protected native wildlife.

The ethnographic study is not a valid document based on only 10 persons' memories. There are no facts, and the area discussed again was not clearly defined, as being the historic area used by the horses versus your outlined territory. We have members who have followed these horses for decades and they all feel the horses were much higher than 7 to begin with, that they are one in the same with reservation horses and that for more than 40 years have always roamed between the outlined territory, the reservation and the land in between. One such observer, and herd documenter's affidavit is included with these comments. These oral histories we can provide are just as scientific and binding as your ethnographic study. Therefore the history included from this ethnographic study should be removed from this plan. The Forest Service was required to maintain a census and failed to do so, period.

The one conclusion of that study we agree with is that the Forest Service needs to develop this plan based on the current wild horse herd. That is based on the lack of census done by the Forest Service.

The Forest Service must provide an explanation of the numbers you did provide. Forest Service claims there are 500 horses in the Apache-Sitgreaves, on and off the territory. Citizens Against Equine Slaughter has had several volunteers on the ground in the territory, documenting and reporting on the horses, individual bands, births, and deaths. These people have been documenting the herd for decades and their count is closer to 200 horses (especially when you consider the shot horses, and foals in utero), how do you account for such a drastic difference in your number, when compared to people who are out there every day and can provide photographic proof of the horses? We are right now compiling our herd book for you and the public to have. We know there are not 500 horses out there.

Also according to the ethnographic study you state: speaking of the early population "they were likely Army Mounts that were turned out", and then from 1990 forward "appears to be a mixture of horses from the Fort

Apache Reservation and other unidentified horses with no substantiated link with the originally designated herd." Again, you have provided NO evidence of these statements. And in fact, the courts differed with this point of view ruling they were indistinguishable. Therefore your opinion has no bearing on the management decisions to be made either.

Your census charts show that there were between 270 to 420 horses in 2017. How do you explain such a large range? We believe there were 270, then after the shootings of over 30 horses after that in 2018/19 and 15 additional shootings this year, along with foals that were in utero, and stolen horses from the forest (photos of which we sent to you and other law enforcement agencies) there cannot be 500 horses. Where is the census data for this 500 claim that you estimate are there now?

We have concerns that the actual population is being referred to as increase, when the actual population has not increased or decreased annually, more than 50 horses. These statements of problematic increase must be verified, and explained because we see a very healthy ecosystem. Predators have kept this herd within the same population range for 13 years. If you reduce the horses, you are reducing prey for the 3 apex predatory species on the territory, and you will likely begin seeing predation on livestock. This typically leads to demands to destroy predators, and creates a downhill spiral.

Removing horses to the suggested AML range would throw this balanced ecosystem into an unnaturally imbalanced system, and would have serious cascading effects. As a Mexican Gray Wolf recovery area, we feel it is important to look at the role of the wild horses and other wildlife in the habitat of the wolf. And even other apex predators such as bears and cougars.

What science has been used to evaluate the impacts of reducing prey in apex predator habitat? If there is none this should be studied before any reductions are made.

You recommend an AML of arbitrary nature, with no explanation or transparency as to how many livestock, elk, or other grazing ungulates are in the territory. This is within the scope of this plan because if there were less cattle there would be more forage, more water, and less contention for the herd overall. We know that there is a problem between permittees and wild horses. That has been documented, screenshotted, and shown to be the case on social media, newspaper article comments, and other places. That is the case specifically with this herd, not just on a national level. The Forest Service plan for wild horse management leans heavily in protection of the land use for livestock. This is also the reason the Forest Service is being sued for not protecting the habitat for the Mexican jumping mouse, and also likely the reason for recent poaching of a bear, and 3 Mexican gray wolves. This favoritism doesn't fall within your legal authority.

While multiple use is used in FLPMA and wild horses are most often managed using that mandage, the color of law of the under the law in WFRHBA mandated that wild horses get principle use of areas they were found in 1971. Therefore, some livestock decreases may be necessary to achieve that goal. However, that is outside the scope of this wild horse management plan. FLPMA also stated that multiple use mandates of the FLPMA law did not override pre-existing Federal Land use policy, and courts have ruled that is what the WFRHBA is. Additionally, courts have ruled on this matter stating wild horses must at least get an equal footing. You do not clearly provide evidence of that equal footing. You do not clearly provide evidence of that equal footing. Do horses get allocated an equal share of forage, and equal number of AUM's? Elk are even outnumbering wild horses, are more damaging to fences, and more often the cause of collisions with vehicles. Yet elk get more protection than the wild horses, animals which are the only native species between the 3. There is no scientific study or evidence provided to show that wild horses are the cause of jumping mouse habitat damage, or damage to riparian areas, that must be provided.

You have stated that AML will be used to determine when wild horses are to be removed. The court ruled that AML in and of itself doesn't determine excess. The Forest Service is only permitted to remove horses if they are

found to be in excess or are a public safety hazard (i.e. horses in the road). Therefore AML cannot be the causation of determination of excess resulting in removals.

If removals will be determined by resource conditions those conditions should be listed and prioritized as the order or priority in triggering removals.

While we believe that if the territory (the entire historic area) was managed principally for wild horses there would be an AML of 450-500 wild horses. The determination of AML should include at least 150-200 horses because that provides a stable breeding population, and it doesn't go against the Forest Management plan as there was no AML determined at the time of that plan implementation. If the AML of 150-200 horses doesn't allow for as many cattle as are out there currently the number of cattle should be reduced to accommodate a healthy, self-sustained herd, which is what is there now. While we recognize it is not a popular action with livestock permitees, reduction or even removal of livestock is within your legal authority to provide habitat for wild horses.

Even the working group suggested an AML of 150-200 horses, speaking only of the current outlined territory and not the entire historical area used by the herd: "WG recommendation: AML levels should be increased to allow for mare usage and higher numbers of horses in the territory to account for genetic diversity needs of 150 horses or more, based on the most recent research "what is the Forest Service explanation for ignoring this recommendation?

Forest Service stated, in regards to the above recommendation "The number really depends upon each population and the original genetics present, as well as analyzing the marker alleles present within the population."

To which we reply:

- See the recommendation to utilize the specific BLM Resource Notes below.1

- The genetic variation in the wild horses of each herd should be determined by DNA testing.

- It is important to understand the difference between an open and a closed herd. The fencing which disallows wild horses coming in from the "Apache" wild horses causes the herd to be a closed herd and therefore more DNA testing through time will be necessary.

No tribal entity has claimed all their wild horses as livestock. The Apache horses are wild and wild horses in the same area are all the same herd consisting of different bands. The fencing creates an artificial genetic barrier which can endanger the wild horses and artificially reduce genetic variation and make them genetically vulnerable. The stipulated agreement spoke to this issue as well.

If the horses are managed ON THE RANGE, there is in fact, no loss of diversity. The Heber horses should be managed entirely by their predators and native PZP. There is no reason for a round ups as shown by Assateague National Park.

To perform the duties mandated to the FS to protect and preserve the herds we feel that genetic analysis is very important. If genetic analysis is not done than AML should also not be set. It is irresponsible to set an artificial range of population without first knowing if the genetic health of the herd can support such a man-made population.

- Genetic analysis is usually about $100/horse

- A baseline of at least 30 wild horses should be done

CAES and WHOA is opposed to knowingly creating a population (through AML range) that will create a situation that makes it necessary to introduce mares from outside herds. The Heber wild horses have genetic markers that are unique, and these must not be watered down per the WFRHBA mandate to preserve the herds as self-sustaining populations where they have historically existed.

If there is a plan to remove horses because of decline of rangeland health there must be information which both quantities and qualifies the damage done by horses versus other grazing ungulates to determine which species would be removed and to what level. The methodology used would have to have a baseline analysis of the riparian area and damage done before the study or analysis would be undertaken. A damaged area from grazing ungulates can take years to recover and therefore not creating that baseline would give false end results. Such as removal due to Mexican Jumping Mouse habitat.

Also information used for such a study would have to take into account that livestock, specifically cattle today are one third heavier than that of decades ago when earlier studies were done. This would cause substantially more damage especially to riparian areas, and involving soil erosion.

On page 12 of the proposed plan you define thriving natural ecological balance as balancing wild horse management with other multiple uses, yet this plan clearly indicates that horses will not be in balance but rather will be provided the least allocation of forage and water, with livestock having the greatest. You also list the desired ecological conditions one of which is that herbivore grazing is not contributing to reduced water quality from sediment or other non-point source pollutants. Again this objective is not met with the number of livestock permitted. And there is no qualitative or quantitative evidence showing that wild horse populations cannot be maintained at their current levels, to meet this objective. Oppositely there is much scientific evidence available to show the severe damage done by livestock, especially heavy livestock such as cattle, that has been done to riparian areas, this prompted a lawsuit against the Forest Service in the Apache-Sitgreaves area in February 2020. We insist that any damage blamed on horses be presented to evidence that also gives proportional data of all other herbivores using the area. If there is no data to prove such claims then it cannot be used to remove or cull this herd. Again we refer you to the law which states wild horses are to get principle use of their outlined territories. Therefore they would not be removed before livestock or elk, or other grazing ungulates, unless they have exceeded a principle use of that resource. We also request that forage allocations showing this principle allocation to horses be shown in the final draft of this plan, and listing what allocations are given to other species, including livestock.

Forest Service has not been transparent as to how many livestock are permitted in the wild horse territory, no permits or rangeland health assessments for the allotments have been provided, and they must be attached for public evaluation.

Additionally, limiting livestock would benefit the environment in many other ways including the current climate crisis, other critically endangered species in the territory as we've mentioned throughout, and also the spread of invasive flora which are causing widespread, intense fires throughout the west, such as cheatgrass. Horses have never been proven in any study to be a contributor to any of these issues. In fact the damage possible, when comparing that of wild horses to that of livestock with the existing populations in numbers of both, is negligible.

We adamantly oppose the use of GonaCon for immunocontraceptive use. GonaCon is hormonal and therefore changes mare behavior and band dynamics. This is in opposition to the mandates of the free-roaming horses and burros act.

We are happy to see PZP considered as a tool if the population is ever truly over what the range can support. NOT the AML you have suggested in the HMAP. We recommend however that you change the "cons" section which reflects an outdated IM from the BLM. The use of birth control, native PZP is proactive, feasible. Darting of

all mares or a large percent of mares can end the need for round ups and allow for On Range Management vs holding pens or death. If PZP native is darted scientifically and mathematically, there will be no need for round ups. Lure traps for darting can be up year round and darting can be accomplish for boosters or actual

Darting should be accomplished by paid contractors that do not have a conflict of interest. CAES and WHOA have and still offer to assist in implementing this program.

The law requires that use of PZP cannot be decided based on this outdated and fraudulently used IM (including at Muddy Creek, UT, Warm Springs, OR):

https:llwww.blm.gov/policy/im-2009-090?fbclid=lwAR3KxToQxxaFFwnyMKOEXlkEAOIOLGOwdmcFmjvFSevlg1yp91V59vlGK w. This IM id fraudulent and has been since 2012 because PZP was no longer registered by FDA as an experimental, but became approved and registered by the FDA as a non-experimental vaccine for on range darting without monitoring requirements.

Sterilization of stallions should not be an option as it has been proven it does not work if the goal is population reduction. It only takes one stallion!

Sterilization of mares should also not be listed as a tool. It is highly unacceptable by the public, it has been litigated every time it has been in a management plan for wild horses, it is still considered experimental on wild animals and as such must be done following AWA regulations for experimenting on wildlife. Those regulations require surgical procedures to be done in an aseptic environment which can never be done in the field or in holding facilities or corrals. Even BLM has admitted that this is not a viable option and will likely land in litigation that has merit.

Additionally, sterilization of males or females using hormonal agents is unacceptable because it changes the behavior and or has the probability of changing behaviors of individual horses, leading to changes in band and herd behaviors which is not in keeping with the mandate of the Wild Free Roaming Horses and Burros Act.

We are additionally happy to see that the use of helicopter gathers is not included in your "toolbox" for the management of this herd. We hope it does not get added, not only for the horses but for other animals that live in the area, a few species of which are critical or endangered and require other levels of federal protections and which would be adversely impacted by the use of helicopters. We are including some information on use of helicopters, as well as a statement about use of such a motorized vehicle being illegally used to move horses out of a livestock allotment in the territory. We are submitting this comment because during the working group process you stated of bait trapping: "This method is focused on avoiding crisis mode. If necessary, other removal methods may also be used." By other we assume you meant helicopter gathers.

We also sent you our thoughts on constant bait trapping during the working group's recommendation process. Constant bait trapping would create questions under NEPA, public comment for each gather, viewing of each gather etc.There is a recent poll which showed that 80% of Americans do not want more wild horses removed from the wild. Constant bait trapping is not consistent with a natural family structure and will unduly increase reproduction rate due to compensatory reproduction.

This plan proposes installing water tanks along a major road. We feel this would entice horses to be on the roadways, and those tanks should not be included in future or final plans.

This plan should include providing signage on not only the presence of a wildlife corridor but also include signage

for penalties for shooting, harassing or harming wild horses. Many places are now implementing plans for over or underpasses where major issues have occured in areas with vehicle/horse collisions. This would benefit other wildlife that are frequently hit in the road and provide safety to the public.

The plan also does not address the issue of fencing problems on the territory. We support fencing along highways, but disagree with existing fences remaining where they are.

Using fences to keep the horses on the territory is creating a sanctuary or zoo-like situation. This is in violation of protecting their free-roaming behavior (which is the exact wording in the WFRHBA.)

Water hauling by Heber Wild Horses Freedom Preservation Alliance the Arizona Office of Citizens Against Equine Slaughter was started because of issues of livestock fencing on the existing HWHT.

Wild horses will travel up to 1 O miles a day for forage and water. The current territory size should have no bearing on AML based on distance to water availability, however fences are a major factor that will affect the AML through increased death as the drought continues to get worse, which it is expected to.

Drought should never be a factor when water is available on the territory, water improvements and providing water is the job of the FS pursuant to 36 CFR Ch. 11 Subpart 8 [sect]222.20 (b) (6) and (8)

Fencing for cattle grazing has effectively and incredibly reduced the territory of the wild horses, therefore decreasing and removing fencing on the territory is called for and necessary. The Forest Service needs to address installing new gates where there are long fence lines with no gates. This was the original issue that caused horses to be trapped without water when water hauling by the Citizens Against Equine Slaughter volunteers.

We also made recommendations on fencing issues in the document we provided during the working group process. They were as follows:

Fences are an issue causing the horses to move off the current territory as the boundaries are set.

Migratory lands use needs to be added to the territory, as well as uses for roaming to water sources during a continuing drought.

One solution to more horses leaving the territory would be to open all places where water exists, to the horses and make sure they are not fenced out (example again is the situation that first occurred this past year resulting in the beginning of water hauling. Livestock fencing, where there were not gates, had a band of horses trapped where there was no water, and the horses could see water on the other side of the fence, gates will help that situation as well)

The fact that wild horses do get caught without water inside the territory, inside permittee

fences causes death hence this is likely another cause for less horses inside the territory than outside the territory and this needs to be rectified as this is one of the very purposes of the 1971 Act. Our recommendations to solve this matter are:

Removing all fences on the territory.

Make sure every fenced enclosure created on the territory has a permanenUperennial water structure accessible to the horses year round.

When cattle are removed gates must be locked open by FS or the gate is removed.

Every fence line must have a gate{{s) (at least 12 feet wide) every quarter of a mile or less.

There must be a straight line north to south, east to west and diagonally crossing the

territory to allow natural roaming and intermingling, to get to all water sources on the territory, especially Black Canyon Lake. Fences impeding this ability need to be removed and/or modified.

All horses on the territory need to have access to all other horses on the territory.

Fences impeding this ability need to be removed and/or modified.

Providing water is the job of the FS pursuant to: https://www.gpo.gov/fdsys/pkg/CFR-2003-tit!e36-vol2/xml/CFR-2003-title36-vol2-sec222-20.xml

Code of Federal Regulations

Title 36 - Parks, Forests, and Public Property

Title: Section 222.20 - Authority and definitions.Context: Title 36 - Parks, Forests, and Public Property. CHAPTER II - FOREST SERVICE, DEPARTMENT OF AGRICULTURE. PART 222 - RANGE MANAGEMENT. Subpart B - Management of Wild Free-Roaming Horses and Burros.

[sect] 222.20Authority and definitions.(a) Authority. The Chief, Forest Service, shall protect, manage, and control wild free-roaming horses and burros on lands of the National Forest System and shall maintain vigilance for the welfare of wild free-roaming horses and burros that wander or migrate from the National Forest System. If these animals also use lands administered by the Bureau of Land Management as a part of their habitat, the Chief, Forest Service, shall cooperate to the fullest extent with the Department of the Interior through the Bureau of Land Management in administering the animals.(b)

Definitions. . . .

(6) Inhumane treatment means causing physical stress to an animal through any harmful action or omission that is not compatible with standard animal husbandry practices; causing or allowing an animal to suffer from a lack of necessary food, water, or shelter; using any equipment, apparatus, or technique during transportation, domestication, or handling that causes undue injury to an animal; or failing to treat or care for a sick or injured animal. . . .

(8) Malicious harassment means any intentional act demonstrating deliberate disregard for the we/I-being of wild free-roaming horses and burros and which creates a likelihood of injury or is detrimental to normal behavior pattern of wild free-roaming horses or burros including feeding, watering, resting, and breeding. Such acts include, but are not limited to, unauthorized chasing, pursuing, herding, roping, or attempting to gather wild free-roaming horses or burros. It does not apply to activities conducted by or on behalf of the Forest Service or the Bureau of Land Management in implementation or performance of duties and responsibilities under the Act. https:l/www.fs.usda.gov/Jnternet/FSE_DOCUMENTS/fsbdev3_054750.pdf

Sec. 261.23 Wild free-roaming horses and burros. The following are prohibited: (a) Removing or attempting to remove a wild free-roaming horse or burro from the National Forest System unless authorized by law or regulation. (b) Causing or allowing the inhumane treatment or harassment of a wild free-roaming horse or burro. (c) Removing or attempting to remove, alter or destroy any official mark used to identify a wild horse or burro or

its remains unless authorized or permitted by law or regulation. (d) Violating any terms or conditions specified in a care and maintenance agreement or permit. [46 FR 33520, June 30, 1981)

State law means the law of any State in whose exterior boundaries an act or omission occurs regardless of whether State law is otherwise applicable.

Wild Horses are subject to the animal cruelty of the state once rounded up. WHOA v NMLB Wild horses are considered captured if they are trapped inside a fenced area without water. Wild horses are subject to the animal cruelty statutes of each state as well as federal. Hence also given that the ACT (1971) was passed in large part because of the brutal practices of permittees trapping horses in their permit fences, removing their livestock and turning off the water. Thus killing the wild horses. Therefore not providing water year round while providing fencing and allowing water tables to be drawn down for livestock and interfering with surface water flows and natural migration, as well as fencing off natural lakes etc., it would appear that this would be illegal activity, on both a state and federal level. Permittee fencing cannot block free movement of wild horses and then state that they should not be there due to lack of water. In this case, all fencing

must be removed.

During the working group Forest Service stated:

"If the HWHT Management Plan triggers a change to the management of the allotment, then a supplemental NEPA could be needed.

- This could impact the utilization on the Black Canyon Allotment. A supplemental increase could then be tiered to match the utilization on the HWHT.

- There is limited FS capacity for conducting multiple NEPA's at the same time.

This clearly indicated that once the horse population was decreased Forest Service plans to increase use by livestock. This further proves that the working group outcome, and this plan to reduce wild horses to a non-genetically-viable population was all predetermined. Forest Service needs to go back to the drawing board on this, and needs to update the Forest Management Plan to include a healthy herd of wild horses, not a trivial number to attempt to feign management of a herd. The AML needs to be based on the best available science which at this time is Dr. Gus Cothran who clearly stated the number of wild horses necessary for a healthy, self-sustaining, viable herd.

Additionally, fences were discussed in relation to permittees and fencing and we provided the following suggestions which are not addressed in this plan anywhere:

"FS is not required to provide fencing to keep livestock from wandering on or off the National Forest, it stands to reason they would not be responsible for providing fences, gates, etc.

However, FS is responsible for the protection of wild horses & burros. To manage this wildlife species it also stands to reason the FS per the FSM would require permittees to leave gates open, and FS would still have the ultimate legal responsibility of making sure the horses have access to forage and water year round. Therefore we suggest it a task that should be required in the rules of the permit for permittees to leave gates open when livestock are not on the land, however it is the legal obligation of the FS to make sure they are open.

Because it is possible for anyone utilizing the forest to wander through an area and close an open gate we also recommend that the FS lock gates open during times cattle are off the land. Fence modifications would also fall under the obligation of the permittee for the same reason listed above for gates. We recommend that all fence

designs be given a hard look, and that the migratory routes that should exist in criss-crossing patterns for the horses to be distributed throughout the territory be opened up.

Some modification to existing grazing allotments needs to happen for migratory and historical use by the horses to be either opened or added to the HWHT. This is permissible pursuant to the WFRHBA, FLPMA, PR/A, Taylor Grazing Act and the FSM under 2231.62(d) both as land that (already was withdrawn under CFR) is needed for another use, and continuing issues of drought, which led to scarcity of water resources (expected to get worse) Not only should this apply because of wild horse territory, but also the other wildlife species in the area that are endangered, and as we clearly saw were impacted by drought. We had evidence of bear and wolf using our water tanks, and the number of elk and other wildlife was much higher than the number of wild horses using them. Livestock water consumption must be taken into consideration for the preservation of this wild horse territory."

On page 16 of this proposed plan under "Tools to Maintain Horse Health and Habitat" you stated vegetation treatments including items such as juniper removal and prescribed burning could be used. Neither of these items impact the range for wild horses. In fact both have been used to benefit livestock production and have created adverse results on the range. Removal of old growth junipers is detrimental to several species , especially birds, but again removal has no bearing on a healthy habitat for wild horses. Prescribed burns allow speedy introduction of invasive annual grasses, like cheatgrass, and that smothers growth of native perennial grasses.

This increases the likelihood of more severe, quicker spreading fire. We ask these be removed from the 'tool box' or that significant evidence as to how this benefits the horses be presented for evaluation.

CAES and WHOA is adamantly opposed to radio collaring, especially in a forest where there are so many things for the horses to get collars caught on. BLM stopped the use of collars at one point because of horrible sores on the horses. The newest design has also proven problematic. So at this point they should not be included as a tool in this plan., If new technology is developed this could be readdressed in future NEPA actions.

During the working group AML was discussed in conjunction with the forage allocation task group which we were not part of and not provided any minutes of, so were not able to evaluate how they came to their recommendations and we suggested to you "Without meeting minutes to refer to we cannot commit to agreement of forage allocation. Forage a/location must be principally given to the wild horses per current regulatory mandates". See Attachment A

Additionally recommendations were made on drought by that task group and we submitted the following:

"Without again, being part of or seeing meeting minutes from the forage group, I cannot comment an those, however, given the 'principle' use mandate of the territory far wild horses, and the ASNF being critical habitat for several endangered species, we would expect that drought protocols, if suggesting reducing any number of animals would fall to livestock before any wildlife, including the wild horses.

FS can and must implement permanent water improvements, and it would be prudent to involve USFWS in that task as the large populations of elk, the endangered species in the territory, and the use of other native wildlife, all should be provided the same supplemental water and feed that are commonly seen for big game throughout the national forests."

This plan was clearly predetermined, before the working group as is illustrated by our notes from the working group recommendations, the following section:

HP Introduction and Executive Summary - language and interpretation

Working Group recommendation:"The proposal should guide management decisions for the wild horses in HWHT until such time a complete plan has been approved':[middot] 'the horses should receive priority use of the HWHr'

To which the Forest Service, clearly worried principle(priority) use would oust some livestock, replied:

"WG proposals are recommendations, and should not be construed as binding in any way.

"Priority use": ASNFs is concerned about this interpretation of the Act[shy] the HP task group's language regarding the Act should be reviewed and edited for clarity and accuracy.

Exact wording from the Act should be used where possible. "

To which we replied: "See Attachment A" Also attachment A herein. And discussed above re: FLPMA and multiple use.

When you explain thresholds on page 18 of this plan you neglect to explain how any assessment of riparian area or forage utilization would be discernable as to what species is utilizing these areas/resources. This implies that if there are too many elk, or cattle utilizing the resources, it would be an indicator that wild horses should be removed. The Forest Service must provide a plan for how to distinguish what species is doing the damage before using this as a threshold for determining excess or modification in management.

On page 19 you mention installing 7 dirtside tanks. We find this absurd. When horses will be enticed toward a road you are inviting public safety hazards including horses in the road and motor vehicle collisions with them in the road. Additionally since most of the wild horse shootings have occurred along roadsides you would effectively be giving these uncaught shooters easier targets. If the Forest Service planned to have a presence at the roadside tanks we would agree to these water improvements, or if the shooters were actually caught and prosecuted. Additionally, if the Forest Service implemented plans to work with DOD and create wildlife under or overpasses at these locations we would be in agreement. However, these are not included and therefore dirt tanks along roads is not a good management tool.

Contraception

As stated above we do not support the use of GonaCon because of the hormonal reaction which changes the behaviors of mares, and creates a change and disturbance between the horses and familial hierarchy and harem structure.

Vasectomy has been found ineffective as a population management tool. Unless every stallion is castrated (which would create a non-reproducing herd which is not legal under current regulations) one stallion can cover many mares and this would not create effective population size change. We do not recommend it.

SEE: Using Science to Improve the BLM Wild Horse and Burro Program A Way Forward (2013) the report to the BLM by the National Academy of Sciences (NAS) which studied these options and recommended PZP birth control native or PZP 22 (which is also best used with a booster at least within the first year.

MORE ON POPULATION MANAGEMENT herein:

o We recommend predator management and protection be the number one method of wild horse population control

If the high end AML (when one is set) is reached we recommend the use of PZP native as the first choice of

immunocontraceptive

If PZP native is not effective, or possible we recommend the next step be the use of PZP 22 with a booster within the first year.

When utilizing either form of PZP native or 22, it is best to vaccinate all mares for 2 or 3 years in a row and then take a year off. In this manner, all mares then can have an equal chance at contributing genetically and it is then not a human choice as to which horses breed. In this manner, herd numbers can be managed without round ups and expensive holding pens.and can stay WITH their families ON THE RANGE. Also in this way, no genetics are lost from the herd.

It is best to utilize mobile panels one family at a time to vaccinate them in lure traps ON THE RANGE. Leave a family in the trap for a few hours providing some feed and water and the wild horses will not be skittish about being darted the next time. Instead, they will remember the diversionary feed and water, salt block etc.

When utilizing lure traps for dart and release as recommended herein, one or two people can assist in "herding" the horses into the mobile panels. Although, with the extent of the permittee fencing, in some Heber areas, mobile panels may not be necessary due to permittee fencing.

At this time we do not recommend or support the use of any other form of population control. Predators or PZP native/22 or both.

The first time PZP's are used, they become very effective upon a booster or upon second use. It is likely that PZP native and PZP 22 boost each other as well.

We further comment on this plan the following:

There is no need to remove horses at this time if the entire 'historical' territory that was and is used by the wild horses, as evidenced by years of data of these wild horses moving on and off the territory, is included in expanded boundaries of the territory.

In Kleppe vs New Mexico the courts made it clear that wild horses which roam off and on a wild horse territory are still the property of the people of the nation and still protected wherever they roam. This is also clear in the 1971 Act.

Rounding up and moving horses is not acceptable. The USGS ethology on feral free roaming horses https://pubs.usgs.gov/tm/02a09/pdfCTM2A9.pdf shows that these wild horses have a close knit family structure and that the stallion's every waking moment is spent in keeping his family together and keeping other stallions and other harm away. While horses do form new families when their families are rounded up, this is a harmful disturbance. Due to this disturbance the remaining wild horses will reproduce at a higher rate. This is called compensatory reproduction and this is exactly counter productive to population management and is not necessary or humane. Removing older stallions is cruel and inhumane and should not be an option.

Removing wild horses routinely every 3 yrs or so makes it clear that there is little chance any wildhorse will live out it's life on the range. This effectively makes the Wild Horse Territory into a PUPPY MILL. This is not in keeping with the spirit of the law.

Removing a steady stream of wild horses rather than ON THE RANGE management has effectively ruined the Private industry of horse breeding Arabians etc. This constant glut on the market of horses at $125 or less than kill buyer prices, has been very detrimental and between natural predators and PZP should NOT be occurring for the sake of the wild horse families AND for the sake of the horse industry which CAN recover.

The USFS should spend money on jobs for people on the ground to dart rather on helicopters to round up and long term holding pens. Again, the role model for the nation is Assateague National Park. rather than try to figure out why this can't be done, figure out how this CAN be done and CONFER with Assateague as well as Citizens Against Equine Slaughter and their Veterinarian who has been trained in this area at the Science and Conservation Center in Billings Montana.

In all cases the USDA Forest Service should do detailed cost analysis on each alternative rather than continue with off range management and round ups. In the cost, the 5% loss of life just in normal handling in long term holding pens is understood to be inhumane treatment as well as unnecessary.

Transferring horses in trucks is harassment as is removing them from their homeland as is separating them from their stallion and families unnaturally in holding pens. Again see the USGS Ethology on Feral Horses.

Exigent Circumstances

We recommend a clear definition of "emergency" as it would pertain to gathers. We have brought into question recent gathers that could be challenged legally under definition or lack thereof of 'emergency'

The plan should also clearly outline how and when the public is informed of emergency gathering etc.

With proper and proactive use of birth control, and or natural predators, emergency gathers should become a thing of the past.

Emergency gathers are seen as an avoidance of public input and as a biased approach to wild horse management and should not be utilized. Rather removal of cattle which are not going to be allowed to live long lives anyway is much more logical and feasible. The cattle belong to the few, the wild horses belong to the many. The cattle get tremendous amounts of money from the USDA in grants to ranchers for conservation, drought, flood, depredation, price drops, you name it. This along with loans at banks regarding grazing permits, low grazing fees. Add to this the fact that cattle far out number wild horses in this country. 93 Million cattle to less than 100,000 wild horses. We MUST conserve our public resources, the wild horse and their families.

Wild Horse Tourism was not discussed in this plan, and therefore we assume is not of value?

The Heber wild horses should very definitely be ADVERTISED and utilized for tourism and camping facilities should be available and publicized.

A LOOK at this page shows NO PICTURES OF WILD HORSES

https://www.fs.usda,qov/wps/portal/fsinternet/cs/main/!ut/p/z1/04Sj9CPykssy0xPLMnMz0vMAf[jo8zijQwgwNHCwN Dl8zPwBcgYKAfDIZggAM4GuhHEaMfi4Io MaH60dhtSLMB2ECITO89KPSc KTIN51 zEsytkjXjypKTUstSi3SKy0CCmeUIBQUW6kagBgUl5frpefnp[shy]ek6jXn56oaYNOSkV9coh-BglK IDc0wiDLNKfMx1ERAMzc-30!/dz/d5/L2dBlSEvZ0FBIS9nQSEh/?position=BROWSEBYSUBJECT&pname=Apache&navtype=BROWSEBYSUBJ ECT&ss=110301&pnavid=null&navjd=091ooooooooooo&ttype=main&cid=FSE 003853

Or at this page https://www.fs.usda.gov/recmain/asnf/recreation etc etc etc.

Wild Horses have VALUE but BIASED management removes all value by NOT utilizing them for tourism and then glutting the market with them rather than Utilizing them for international tourism and managing them ON

THE RANGE.

There should be a whole section in this plan that creatively looks at increasing the tourism value of our wild horses instead of hiding them. The public should be asked for their ideas, plans and projects for this and how to advertise in multiple languages etc. targeting other countries. This is RURAL ECONOMIC DEVELOPMENT for the people of the area as well as for the local livestock industry. It is clear that people come to this forest. It is also clear that the wild horses are not advertised as a value added, only as a glut on the market for adoption.

Photo workshops, Educational Hikes and Jeep Tours etc. People can learn about wild horse ethology, history, biology, physiology, top down grazing, evolution (55 million years plus etc etc.

We need to STOP vilifying the wild horse and utilize them and allow them to be VALUABLE on the RANGE as a reintroduced specie that evolved here in North America and only here, regardless of whether they were bred in captivity for a time.

Tourism is a growth industry not limited by acreage or water as is the livestock industry and tourism drives the national economy for the many without the large subsidies provided to the livestock industry for the few.

Economic Impact of the Travel Industry in Arizona

- Arizona's warm weather and magnificent natural beauty made tourism the number one export industry in Arizona in 2017. 43.9 million people visited Arizona in 2017 who collectively spent $22.7 billion in the state. The money spent by visitors supports jobs and generates tax revenue. The $3.37 billion in 2017 tax revenue equals an annual tax savings of $1,293 for every Arizona household and supported 187,100 industry jobs.

- THE ABOVE IS FROM this website https://tourism.az.gov/research-statistics/economic-impact

- This tourism impact is still growing and again is not acreage or forage limited. These horses can be an incredible value added on our beautiful public lands and forests.

- There must be beautiful pictures of these beautiful horses on the Heber Forest Service website.

- There should be a wild horse license plate for the state of Az to fund tourism projects, advertise wild horse tourism, and assist in paying for Birth Control and the JOBS it can provide for darting as well as the jobs due to tourism, hotels, rental cars, jeeps, etc.

Additionally, you stated that if the herd is reduced to the proposed AML and there becomes a situation of genetic depletion the remedy could be to add horses from outside herd areas or territories. This is unacceptable for numerous reasons. One being that it waters down any unique genetics found in the herd. Secondly, horses from outside herds are often not accepted by the herd, as is evidenced in Muddy Creek, UT where the herd was reduced to well below the AML, and BLM attempted to release outside horses which were not accepted by the herd almost 2 years later still roaming alone. This does not help the genetics in any way and the Forest Service has provided no scientific evidence that this would work. However we know leaving the herd viable does work.

This proposed plan will leave the same devastation for the public, for those who love this wild herd, and it will similarly leave the territory to cows. This is not management for the protection of the species, nor is it management to keep the forest or rangeland healthy. It is favoritism for a profit making industry.

The information we are providing in our comments are all within the scope of this management plan because they were all discussed in the working group documentation and meetings, and used to develop this plan, they are parts of existing laws, or policies, and are rulings of current cases, and finally they represent a vast number of

people in our organization and general members of the public who come to us for information and with great concerns on this proposed plan.

Citizens Against Equine Slaughter is a national 501 ce non-profit organization with a mission to protect American native horses, wild and domestic and their habitats.

Wild Horse Observers Association is a 501c3 non-profit corp. Since 2004. Mission statement at whoanm.org. A national organization.

Wildlife Protection of New Mexico - WHOA Voters is a 501 c4 non-profit corp. Which advocates for all wildlife nationally.

Attachments in document

Footnotes:

1 https://www.blm.gov/nstc/resourcenotes/rn23.html

NO. 23 DATE 07/18/00; Wild Horse and Burro Population Viability; By: Linda Coates-Markle Program Specialist; Montana State Office, BLM

Resource Note #28 - Genetic Management of Small Populations: The Special Case of Feral Horses - Dr. Oliver Ryder, University of California, San Diego.

Resource Note #29 - Genetic Effective Population Size in the Pryor Mountain Wild Horse Herd - Dr. Francis Singer and Linda Zeigenfuss, Biological Resources Division, USGS.

Session 3 (Resource Notes 30-32): Define Population Viability Analysis (PVA) and identify possible benefits and limitations to modeling efforts. What types of demographic, genetic and/or ecological data are needed for these models? Compare and contrast different methods of population monitoring which are used to provide the necessary data to estimate viability.

Resource Note #30 - Population Viability Analysis - General Principles and Applications - Ors. Barry Noon, Fred Sampson and Nels Johnson, Colorado State University.

Resource Note #31 - Methods to Collect Required Data to Develop Rigorous PVA Models - Dr. Gary White, Colorado State University.

Resource Note #32 - Development and Assessment of Tools that Managers Could Use to Monitor Wild Horse Populations - Ors. Francis Singer and Ron Osborne, Biological Resources Division, USGS. Session 4 (Resource Notes 33-35): Finally, use PVA to evaluate real-life scenarios involving wild horse populations. What are the consequences of different management alternatives? Compare and contrast the complexities of herd management, using both removals and immunocontraception, for two very different populations. Demonstrate the potential for enhancing the adaptive decision-making process through the use of PVA.

Resource Note #33 - Viability of Feral Horse Populations on Atlantic Coastal Barrier Islands: Implications for Management - Dr. Brian Underwood, USGS Patuxent Wildlife Research Center.

Resource Note #34 - Effects of Contraception and Removal Treatments on Pryor Mountain Wild Horse Population Demographics and Genetics - Dr. John Gross, Natural Resource Ecology Laboratory, Colorado State University.

Resource Note #35 - Summary Recommendations of the Wild Horse and Burro Population Viability Forum - Linda Coates-Markle, Montana/Dakotas Wild Horse and Burro Specialist, Bureau of Land Management.