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Apache-Sitgreaves National Forests
Black Mesa Ranger District
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Submitted online at? ?US Forest Service NEPA Project Public Reading Room
This is a Resubmitted Objection as my first try it did not show up in the Reading Room
Originally submitted in Relation to Comment submitted 4/16/2021
FORMAL OBJECTION
To the Heber Wild Horse Territory Management Plan and Final Environmental Assessment
Submitted Pursuant to the Forest Service Objection Regulations (36 C.F.R. Part 218)
I. Introduction

This objection is filed in response to the Heber Wild Horse Territory (HWT) Management Plan and associated Final Environmental Assessment (EA). I contend that the EA and proposed plan are fatally flawed, both legally and factually, and cannot serve as a lawful basis for management of the Heber wild horse herd.

At its core, the WFRHBA requires that wild horses and burros be protected "where presently found" in 1971 and managed as an integral part of the public lands. The Forest Service has failed to comply with this statutory mandate in both the historical designation of the Heber Territory and in the present analysis. The compounded effect is a management plan untethered from the law, devoid of an accurate baseline, and incapable of sustaining judicial review under the APA, 5 U.S.C. § 706(2)(A).

II. Wrongful Pre-1971 Removals and Manipulation of the Statutory Baseline

Historical evidence, including oral testimony such as the Northern Arizona University interview with rancher Doy Reidhead (NAU Ecological Oral Histories Collection, NAU.OH.2005.111.16), establishes that prior to passage of the WFRHBA, Forest Service officials actively removed wild horses from the Sitgreaves National Forest. These actions were undertaken specifically to avoid designation of parts of the forest as a "refuge" for wild horses once the Act was passed.

No lawful authority existed for these removals. Claims that the horses originated solely from the White Mountain Apache Reservation due to a storm-damaged fence were unsupported by evidence. Moreover, such fences allow two-way movement-horses could just as easily have entered the reservation from the forest. The agency made no effort to determine whether the captured horses were originally residents of the forest, nor did it conduct a scientific survey of horse distribution as required.

The Apache horses themselves likely trace their lineage to the Spanish and European horses that spread throughout the Southwest, and thus share the same genetic stock as horses within the Sitgreaves. The removals therefore erased genetic lines integral to both forest and tribal lands.

These pre-1971 removals constitute a manipulation of the statutory baseline and render the current management

plan invalid, as it relies upon an artificially reduced population history and territory scope.

III. Wrongful Boundary Designation of the Heber Wild Horse Territory

Following passage of the WFRHBA, the Forest Service designated only 19,700 acres as the Heber Wild Horse Territory. This acreage represents a fraction of the Sitgreaves National Forest. Historical accounts and ecological evidence confirm that wild horses were broadly distributed throughout the Sitgreaves in 1971.

By failing to conduct a scientific, comprehensive survey of the lands "where presently found," the Forest Service violated the plain terms of the WFRHBA. The 19,700-acre designation is therefore unlawful and inadequate.

Today, wild horses continue to be found well beyond this artificially constrained boundary, further underscoring the error of the original designation. A lawful management plan cannot proceed without correcting this foundational flaw.

IV. Population Estimates and Data Reliability

The EA's population estimates are speculative and unreliable. Ground counts can yield accurate results only when strict protocols are followed, and aerial surveys require ground-truthing to account for horse movement and concealment in rugged timbered terrain.

Both historically and at present, wild horses have occupied areas within as well as beyond the confines of the arbitrarily designated Territory in the Sitgreaves National Forest, thereby undermining the validity and integrity of the designation itself and calling into question the adequacy of the agency's management framework.

Because AML and management actions depend on accurate population data, this failure undermines the entire plan.

V. AML, Fertility Control, and Management Actions

A. AML Cannot Be Lawfully Established.
Any AML derived from flawed boundaries, manipulated baselines, and unreliable census data is arbitrary and capricious under the APA.

B. Fertility Control is Premature and Unlawful.
Fertility control presupposes a valid AML and knowledge of genetic viability, neither of which exists. Applying fertility control risks irreparable genetic harm in violation of the WFRHBA.

C. Misplaced Priorities.
The EA prioritizes removals and fertility control over habitat improvements such as water development, fence removal, and forage restoration. This inversion of priorities contravenes the WFRHBA's mandate to manage horses as an integral part of the natural system.

VI. NEPA Violations

The EA violates NEPA by:

Failing to Take a "Hard Look." Critical baseline data are missing, boundaries are unlawfully constrained, and historic removals are ignored.

Segmenting and Limiting Scope. By confining analysis to the 19,700-acre HWT, the EA excludes significant

impacts across the broader Sitgreaves landscape.

Failure to Consider Reasonable Alternatives. Alternatives emphasizing habitat restoration, expanded territory designation, and non-lethal coexistence measures were dismissed or not considered.

Inadequate Public Disclosure. Data, methodologies, and assumptions were not fully disclosed, depriving the public of meaningful participation rights.

For these reasons, the EA fails NEPA's procedural and substantive mandates and cannot stand.

VII. Remedy Requested

For the foregoing reasons, I respectfully request the Reviewing Officer to:

Invalidate the Heber Wild Horse Territory Management Plan and Final EA as unlawful under the WFRHBA, NEPA, and APA.

Direct the Forest Service to reinitiate the process with a lawful baseline, including:

Redesignation of the HWT to encompass all areas where wild horses were "presently found" in 1971, i.e., throughout the Sitgreaves National Forest and taking into consideration where they are currently found;

Incorporation of historic evidence of pre-1971 removals and boundary manipulation; and

Recognition of the current distribution of wild horses across the forest.

We are all aware of the historical data available proving that the Heber Wild Horses have been a part of the Apache Sitgreaves National Forest decades before they were given Protected Status under the 1971 WFRHB Act

One example Doy Reidhead oral history MSU 4/3/2006 : We had lots of trees and canyons, and that Gibson Ranch was about twenty-five miles across the south boundary. And then you neighbored the Ft. Apache Indian Reservation. Fences was always in bad shape, run more wild horses up there that come over the fence than you did cows. But that's some of the political politics we was into, see. I didn't know all this when I bought the permit. I thought.... Nigel [phonetic] got up there, and he counted 180-200 wild horses there. Lowe: Oh, wow.

Reidhead: It had a big snowstorm in 1967, and just smashed the fences down, and them horses come up over there, got on the Forest Service, off the reservation. Nobody was cowboy enough to drive 'em back. They fixed the fence good, but left the horses on this side. So the old ranger that was up there, a great old guy, he just wanted the horses gone. And I'll tell you why he wanted 'em gone. This might be a.... He was afraid they'd make a wild horse refuge. Now here we're already gettin' into some stink. You see what I mean? He said, "If these horses don't get moved, we're gonna have trouble with this. They'll take this and make a wild horse refuge out of it." So he said, "I'll build the traps, and we'll [salt?] catch these horses." "All right, that's fine." "You take 'em to sale and sell 'em, and whatever you get is yours." Lowe: So they were unbranded? Reidhead: Yeah. But they'd give me a bill of sale to 'em. They was unbranded, and on Forest Service land. So we built them traps and [salted?]. We caught 187 horses. I'd unload 'em out of the traps and load 'em in a trailer and haul 'em to sale. A hundred dollars was a big price on 'em. The time was.... We had double the time we was gettin' paid for the horses, but it took a lot of time. Lowe: Oh, yeah, these were wild horses. Reidhead: Yeah, plus the traps they built. But we pretty well cleaned it up. And then today--they had the big fire, three years ago, or four, the fire took out the fence, and now the horses, they got the same problem again. Meanwhile, this Steve Bragg, he had enough of the ranchin' business, so he sold this thing to John Seibert [phonetic], a big contractor out of Phoenix,

he owns Wheeler Construction Company--a good guy, and really a good operator. And he bought the.... He [unclear] a little bigger country, so I was seventy years old, and I decided.... He wanted this piece of land I had out here at West Camp, a block of about sixty sections, and I sold that to him three or four years ago. And I kept about 20,000 acres here, and I had a section of deeded land here, with this house on it. My brother built my fireplace, and I didn't want to leave my fireplace. We was too old to go anywhere else, so we decided to raise a few horses and a few cows and settle down so we could make a livin'. That's where we are today.

Require preparation of a full Environmental Impact Statement (EIS) to address genetic viability, habitat improvements, historic context, and reasonable alternatives.

Mandate transparent disclosure of all data and methodologies to ensure compliance with NEPA's public participation requirements.

And in regards to Multi-use no where could I find any mention of the destruction done by Off Road Vehicles Please refer to photos I took 5 yrs ago and from what I have seen and heard it is much worse . I know from my own experince living in the H/O area for over 22 yrs and riding my own horses extensively on the Black Mesa Ranger District that the old logging roads that were bermmed off have become main roads for the ORV now nothning has been done to stop the destruction done to wildlife habitat . And let's not forget the endless amounts of barbedwire fencing left behind by either Forest Sevice or Permitees .

Only through these corrective actions can the Forest Service meet its statutory obligation to protect the Heber wild horses "as an integral part of the natural system of the public land