

Regional Forester (Reviewing Officer)
Pacific Northwest Regional Office
Attn: 1570 Objections
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OBJECTIONS TO OCHOCO WILD HORSE HERD MANAGEMENT PLAN
Decision Notice, Finding of No Significant Impact, Environmental Assessment
From: Melinda Kestler

January 3, 2021

To Whom It May Concern:

Purpose and Need / Range of Alternatives

(1). Comment: "The Forest Service has prepared this Draft Environmental Assessment to disclose the effects of the management plan alternatives on the human environment." Interesting statement when the subject is the wild horses and they have a duty to protect them under the WHFRBA, perhaps they should start over and look at it from that angle. [25]

Consideration: NEPA requires federal agencies to consider the environmental consequences of federal actions. 40 CFR 1500.1(c). The proposed action must be consistent with the WFRHB Act (EA p. 11) and the EA considers the effects to wild horses as part of the analysis (EA pp. 23-67).

Objection to consideration: Your consideration response to my comment "NEPA requires federal agencies to consider the environmental consequences of federal actions. 40 CFR 1500.1(c)", restates my point. The environment includes not only the areas of air, water, plants, and animals, but also other natural and human modified features which constitute the totality of our surroundings. Beauty, as well as environmental values, are very much in the "eye of the beholder". In other words, the environment is made up of a combination of our natural and physical surroundings and the relationship of people with that environment. It must also include aesthetic, historic, cultural, economic, and social aspects. Thus, in this EA all these elements should be considered. The wild horses are part of the environment, within which any effects or impacts to the horses have to be thoroughly investigated. The Forest Service has failed to represent an ecosystem-based perspective of natural population control by denying predator existence; by not performing rigorous investigation. Landscape-scale factors affecting feral horse habitat used during summer and ultimately in the winter, the adverse effects of PZP on the social behavior after administering, social effects of dismantling their bands and destroying the hierarchy, ultimately affecting their health, also did not receive rigorous investigation.

The over-all health of the herd was not investigated or researched on the dynamics of reducing the herd size to such a small population size including their survivability against extinction. There has

not been any research on what happens to the herd dynamics and overall health when a translocated horse is brought in for “gene” augmentation. Data has not been provided with supporting research for matching which HMA they will be pulling the horses out of; they just say “similar”, which does not qualify as any research. Sorry for the pun but that is putting the cart before the horse. The plan is all on paper without proving your assumption that another HMA can provide a match to ensure survivability and not negatively influence/contaminate the health of the Ochoco horses, by bringing in diseases, parasites or any other genetic defect. There is also a chance that the translocated animal that is being brought into our forest/horse territory could have been exposed to a deadly disease like Strangles, West Nile Virus or something worse at the holding facility while being processed.

Strategic Research Plan Wild Horse and Burro Management, 2003 revised 2005, The Bureau of Land Management, Wild Horse and Burro Program U.S. Department of Interior (pg. 23-24):

“While they are generally considered hardy, wild horses and burros face new challenges following capture. Even under the best conditions, simply handling wild animals to move them from pen to pen, load them on trailers or administer preventive or therapeutic medications is stressful and includes some Increased risk of injury. Physiologically, stress increases susceptibility to infectious disease. Captured animals may be naive to diseases that are common among domestic equids (e.g., strangles), and they are mixed in larger groups than are typical under rangeland conditions. The logistics of gather, preparation and adoption often include the repeated transportation of animals over long distances. These factors combine to create unique health and handling challenges for the wild horse or burro compared with their domestic cousins.... The animals are wild, handling creates some stress, and they may be injured during handling, transport, or treatment activities. Animals are also concentrated in the facilities and infectious diseases can rapidly pass through the animals... Optimal vaccination strategies and protocols to prevent certain infectious diseases (e.g., strangles, equine influenza, and herpes) and the effects of handling stress are not well understood.

Issues:

- Animals are placed in stressful circumstances during handling and transport from one holding facility to another, and illness and injuries may occur.
- Infectious upper respiratory disease, including strangles and streptococcus zooepidemicus infection, occurs in animals in some facilities; and the sources of these infections are not known.
- We need a better understanding of how to best intervene when animals are acutely or chronically exposed to extreme range conditions brought on by drought or fire including water deprivation, starvation, and plant toxicities.
- Incident clusters of plant toxicity (e.g., astragalus species), congenital or developmental abnormalities (e.g., parrot mouth, club foot) and unusual illness or death loss may need to be investigated on the range.

- Optimal vaccination strategies and protocols to prevent certain infectious diseases (e.g., strangles, equine influenza, and herpes) and the effects of handling stress are not well understood. ...”.

1508.27(2) The degree to which the proposed action affects public health or safety, (5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

By adding additional members into the gene pool, you are altering the genetic, cultural, and historical value of this herd and compromising the genetic integrity and possibly exposing the entire herd to health risks. You are also exposing the public and their horses, along with every other animal in the forest to all the various diseases brought in by the translocated horse(s).

Regardless of the statement, “The wild horses in the big summit territory are considered as part of the metapopulation of all wild horses in the United States therefore, loss of horses in one territory does not constitute loss of a population National Academy of Sciences 2013) ”, EA p.10; this statement cannot be found as stated in referenced document. Not all the HMAs were created the same. Each one has horses with their own particular DNA, which was created within the culture and history of that particular area. Just because horses have four legs, does not make them all the same or equal. There are a multitude of breeds with their own specific DNA. Has research been done on a donor herd, that it in fact does not have or could cause the alleged same “depression problem”? You have not proven this will work; it might actually bring in a bigger or worse problem. No action should even been considered before you did rigorous research on your “assumption” that this will work, what the end result would or could produce. No research has been done on the above stated concerns; it is reckless and incongruous with the protection of the horses afforded in the WHFRBA; to proceed without it is in violation of NEPA. The FS has not even followed up on any genetic diversity involving the two translocated Steens mares which were brought into this herd.

The welfare of animals as they are being handled, transported, and taken to new surroundings also has to be considered. The following is why the WFRHBA states, “minimal feasible management”. Visualize each process these horses will go through according to your plan/alternative. Is this something that wildlife should have to go through?

The 2020 Five Domains Model: Including Human-Animal Interactions in Assessments of Animal Welfare Mellor, Beausoleil, Littlewood, McLean, McGreevy, Jones, and Wilkins (Pg. 1-2)

“This also includes but not limited to animal welfare assessment especially when they are trying to implement the prescribed plan procedures.” This review outlines the latest in a succession of updates of the Five Domains Model, which, at each stage, incorporated contemporary verified scientific thinking of relevance to animal welfare assessment. The current update includes, within the structure of the Model, specific guidance on how to evaluate the negative and/or positive impacts of human behavior on animal welfare. Persons whose actions may be evaluated include, but are not limited to, livestock handlers, owners of draught animals, veterinary care staff, pound/shelter staff, zookeepers, wildlife managers, hunters, researchers, companion animal

owners, owners of sport/recreational animals, animal trainers and service animal handlers. Situations where human–animal interactions may have negative welfare impacts include; when animals have had little or no prior human contact, when human presence adds to already threatening circumstances, when human actions are directly unpleasant, threatening and/or noxious, when humans’ prior actions are remembered as being aversive or noxious and when the actions of bonded humans cause unintended harms. In contrast, situations where human–animal interactions may have positive welfare impacts include: when the companionable presence of humans provides company and feelings of safety, when humans provide preferred foods, tactile contacts and/or training reinforcements, when humans participate in enjoyable routine activities or in engaging variable activities, when the presence of familiar humans is calming in threatening circumstances and when humans act to end periods of deprivation, inhibition or harm. The explicit delineation within the Model of the potential impacts of human interactions on the welfare of animals enhances the Model’s utility. Additional updates in this latest version are also explained.

Throughout its 25-year history, the Five Domains Model for animal welfare assessment has been regularly updated to include at each stage the latest authenticated developments in animal welfare science thinking. The domains of the most up-to-date Model described here are: 1 Nutrition, 2 Physical Environment, 3 Health, 4 Behavioral Interactions and 5 Mental State. The first four domains focus attention on factors that give rise to specific negative or positive subjective experiences (affects), which contribute to the animal’s mental state, as evaluated in Domain 5. More specifically, the first three domains focus mainly on factors that disturb or disrupt particular features of the body’s internal stability. Each disturbed or disrupted feature generates sensory inputs which are processed by the brain to form specific negative affects, and these affects are associated with behaviors that act to restore the body’s internal stability. As each such behavior is essential for the survival of the animal, the affects associated with them are collectively referred to as “survival-critical affects”. In contrast, Domain 4, now named Behavioral Interactions, focuses on evidence of animals consciously seeking specific goals when interacting behaviorally with (1) the environment, (2) other non-human animals and (3) as a new feature of the Model outlined here, humans. The associated affects, evaluated via Domain 5, are mainly generated by brain processing of sensory inputs elicited by external stimuli. The success of the animals’ behavioral attempts to achieve their chosen goals is reflected in whether the associated affects are negative or positive. Collectively referred to as “situation-related affects”, these outcomes are understood to contribute to animals’ perceptions of their external circumstances. These observations reveal a key distinction between the way survival-critical and situation-related affects influence animals’ aligned behaviors. The former mainly reflect compelling motivations to engage in genetically embedded behavioral responses, whereas the latter mainly involve conscious behavioral choices which are the hallmarks of agency. Finally, numerous examples of human–animal interactions and their attendant affects are described, and the qualitative grading of interactions that generate negative or positive affect is also illustrated...”

Contrary to the EA page 11, “The basis for management and protection of wild horses and burros is determining and achieving the appropriate management level”, the FS has a duty and obligation to protect the horses under the WFRHBA. It is very apparent that the AML is your only concern; not what is best for the horses. The only concern of the agency is to make all forms of non-proven

accusations about the resource damage that is presented in your report as “solely” the horses’ fault. You are only investigating what you have to, in order to show what you need to for the demise of the horses. You have targeted only the horses, not a true and accurate combined study of all contributing factors affecting the environment, “Though other uses of the Forest can and do impact resources, the focus of this EA is on the proposed management of the wild horse herd and how management can address the purpose and need outlined on page 3 of the EA and reduce impacts that are due to the horses’ year-round use and concentrated use in riparian areas.” A collective approach is needed for a true resolution if there is truly resource damage – all contributing environmental effects have to be analyzed and applied to the data.

FS has put blinders on, with their own predetermined outcome – the demise of the horses, and are not performing their due diligence, judiciously taking a “hard look” at contradictory data that does not serve their purpose. Administrative errors, personal vendetta, sick society, overall major administrative plan, an under-the-table monetary gain for someone or just plain negligence or naivete; we will probably never know. But as citizens and the public, we have the right to inquire under the NEPA process. Why is the will of the American People not being heard? This should have been reverse engineered with the first assessment of how many horses it will take to have a viable population with minimal feasible management per the WFRHBA and then you secure their “niche” by providing an alternative of reducing the sheep or amending their grazing plan. All of this will flow into a “natural thriving ecological balance”. The FS, under law, is to protect the horses; which extends to their needs being taken care on in their dedicated habitat.

Your data falls short! For that matter all data was lacking actual reports and data with specifics as how your assumptions came to be verifiable and defensible fact.

HUMAN ENVIRONMENT 1500.1 Purpose and policy. (a) The National Environmental Policy Act (NEPA) is a procedural statute intended to ensure Federal agencies consider the environmental impacts of their actions in the decision-making process. Section 101 of NEPA establishes the national environmental policy of the Federal Government to use all practicable means and measures to foster and promote the general welfare, create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans. Section 102(2) of NEPA establishes the procedural requirements to carry out the policy stated in section 101 of NEPA. In particular, it requires Federal agencies to provide a detailed statement on proposals for major Federal actions significantly affecting the quality of the human environment.

“Effects on the Human Environment”. The “effects” on the human environment include attributes as diverse as ecological and natural resources (including the components, structures, and functions of ecosystems), aesthetic, historic, cultural, economic, and social resources and health issues.

(§1508.08). Human environment means comprehensively the natural and physical environment and the relationship of present and future generations of Americans with that environment.

§1508.01(m). *Effects or impacts* means changes to the human environment from the proposed action or alternatives that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action or alternatives, including those effects that occur at the same time and place as the proposed action or alternatives and may include effects that are later in time or farther removed in distance from the proposed action or alternatives §1508.01(g).

Context is considered, "...the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the effected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole." (§1508.27(a)).

(2). Comment: Little evidence of predation is because carcasses are eaten by bears and wolves.

Consideration: The Forest Service keeps an inventory of the wild horse herd but does not and cannot document all instances of mortality in the wild horse herd. The EA acknowledges that black bears and cougars are present, but that there are few personal observations of black bear or cougar kills on wild horses in the Territory. EA p. 27. The EA also acknowledges that, in addition to deer and elk, horses have the potential to serve as opportunistic prey for wolves, particularly at higher horse densities as well as during foaling season. EA p. 82 In addition, Table 4 in the EA (p. 29) shows the history of capture and removals of horses acknowledging that it does not include the known deaths showing that this has occurred over time but is impossible to manage for. A footnote to Table 4 in the EA states that the table does not include known or unknown deaths including shootings, euthanasia, accidents, acts of mercy. Etc.

Objection to consideration: There are wolves in the Ochocos. Only collared animals can be tracked to prove their migration patterns. But other wolves exist that they pair up with. Just because they may not be resident wolves spending their life time there, they have to eat something. Based on public opinion, the agency does not have a great presence in the wild horse territory. The majority of the horse deaths have been discovered by the Central Oregon Wild Horse Coalition and their vast number of followers or members of the public who reported findings to them. The Coalition then gets in contact with the appropriate FS personnel. Following protocol, the dead horse cannot be touched until the Law Enforcement officer has been called, in the event it is a crime; or, until such time that the FS can locate and investigate it.

The point of this discussion is it there is so much time that lapses after the body is located by the Coalition and the agency starts to locate and determine the cause of death. There is usually nothing left of the carcass to do any type of forensics on, let alone determine what might have killed it. All the scavengers had their dinner. I know that the wild horse team has not been trained in wildlife forensics; they asked me to contact the people I was trained by. If you are not trained in certain aspects of your data collection, you cannot speak to it. Knowing the subject matter would tell you that the wolves prey on young foals. They devour the entire carcass of young prey because they have soft bones leaving no evidence except in their scat. However, they have crushing jaw power

that can almost consume an entire larger animal. What is not ingested will be carried away by other scavengers.

Using Science to Improve the BLM Wild Horse and Burro Program: A Way Forward (2013) (pg.72-74)

“Wolves are quite capable of preying on equids. In southern Europe, equids constituted 6.2 percent of wolf diets (range, 0-24 percent) (Meriggi and Lovari, 1996). In Abruzzo National Park, Italy, horses constituted 70 percent of wolf diets; however, unguarded horses are commonly hobbled in that area to prevent long-range movements (Patalano and Lovari, 1993, cited in Meriggi and Lovari, 1996). In northwestern Spain, a population of free-ranging ponies is heavily preyed on by wolves (Lagos and Barcena, 2012). Foal survival rate was very low (0.41), and 76 percent of foal carcasses found were killed by wolves. Van Duyne et al. (2009) reported that wild Przewalski’s horse foals were killed by wolves in Hustai National Park, Mongolia, and cautioned that predation could influence translocation efforts. However, those horses are sufficiently vigilant to survive and reproduce, so perhaps they have not lost essential skills (King and Gurnell, 2012). Wolves in a multiprey system have been reported to prey on feral horses in Alberta, Canada. Webb (2009) reported that one of 36 kills by wolves included a feral horse. Webb (2009) located 192 ungulates that had been killed by wolves in 11 packs from 2003 to 2006. Some 7 percent were feral horses, and they made up 12 percent of the total biomass consumed (0.01 ± 0.02 feral horse/pack per day). Despite evidence that wolves prey on equids elsewhere, the committee was unable to identify any examples of wolf predation on free-ranging equids in the United States. Most predation on free-ranging equids in North America has been attributed to mountain lions. That has been reported by Robinette et al. (1959) and Ashman et al. (1983). Berger (1983c) cited an unpublished report of 21 cases of mountain lion predation on free-ranging horses in the Great Basin; those deaths spanned more than 20 years and had negligible effects on population growth. Feral (but not free ranging) horses constituted 11 percent of mountain lion diets in Alberta (Knopff and Boyce, 2009). Horses constituted 10-13 percent of adult male lion diets, but female lion diets were almost devoid of horses (Knopff et al., 2010). Overall, mountain lion predation on free-ranging equids in North America is, with few exceptions, considered uncommon (Berger, 1986). One of the exceptions is the free-ranging horse population on the central California Nevada border. Turner et al. (1992) examined foal survival rates in the area (the Montgomery Pass Wild Horse Territory managed by the U.S. Forest Service) because there was a ban on mountain lion hunting in California and low hunting pressure in Nevada that led to a high density of mountain lions. The study was conducted from May 1986 to July 1991 by examining the horse and mountain lion populations and documenting deaths of horses. The average annual cohort of foals over the 5 years was 32. The annual survival rates were calculated for foals (0.27), yearlings (0.95), and adults (0.96). From 1987 to 1990, 48 foals were lost; 58 percent were located as carcasses and 82 percent of those were killed by mountain lions. The authors concluded that mountain lion predation had a substantial effect on the demography of that free-ranging horse population. The study was continued, and Turner and Morrison (2001) used 11 years of data (1987-1997) to examine again the influence of mountain lions on the horse population in Montgomery Pass Wild Horse Territory. Their results supported the earlier work of Turner et al. (1992): mountain lions were responsible for the deaths of 45 percent of the foals that were born. Mountain lion predation was also hypothesized as a major factor in limiting horse population growth in an area of southern Nevada where they use high-elevation forested habitats

in summer (Greger and Romney, 1999). Those habitats are excellent for mountain lions because of their broken topography. By and large, research that has addressed the question of predation on free-ranging equids in North America has been limited to anecdotal observations and a few published papers, but at the time of the committee's review, studies at the University of Nevada, Reno, that should provide more quantitative data were under way. The work in several mountain ranges of western Nevada was examining predation by mountain lions in multiprey systems in which free-ranging horses had various densities. Diet data were being obtained by using information from GPS-collared mountain lions to investigate predation events; more than 700 predation events had been investigated as of June 2012. Ten of 13 collared mountain lions that had access to free-ranging horses regularly consumed horses as prey. Horses were documented to have been consumed as prey by collared mountain lions in eight mountain ranges throughout the study area in western Nevada (Virginia, Pah Rah, Fox, Lake, Wassuk, and Excelsior ranges and Virginia and Smoke Creek Mountains). Preliminary data suggest that in that study area, where free-ranging horses are available as prey, more than 50 percent of the diet of collared mountain lions is made up of horses when diet data on individual mountain lions are pooled. Preliminary results suggest that mountain lions in that multiprey system are generalists at the population level but that some diet specialization occurs at the individual level: some lions select for deer where horses are more abundant, and some select for horses to the near exclusion of other prey items where mule deer, bighorn sheep, and domestic animals are present. There is also some evidence that the magnitude of predation on horses by mountain lions may be related to the density of free-ranging horses, greater predation on horses occurring where densities of horses are higher (Andreasen, 2012). The potential for mountain lions to affect the sizes of populations of free-ranging horses in North America is limited by the fact that most HMAs are in areas that have few mountain lions. The ranges of mountain lions tend to be concentrated in forested areas and at higher elevations (Kertson et al., 2011) and in areas that have mountainous or otherwise broken topography with limited viewsheds. In contrast, many horse populations favor habitats that have more extensive viewsheds. Mountain lions are ambush predators and require habitats that provide opportunities for stalking or finding prey without being seen. Other predators, such as wolves, are more cursorial—capable of pursuing prey across open habitats."

Additional consideration has to be given to the effects of predators to ensure the survivability of the herd at any level of the population to insure against catastrophic events like what happened in 1992 (winter storm) or wildfire etc.

(3). **Comment:** The FS has failed to prove there are no other contributing factors to riparian damage.

Consideration: No cattle have been authorized or permitted within the Big Summit Territory since establishment of the Ochoco National Forest (EA p. 68). The management of sheep within the Territory is described on p. 72. The Forest Service acknowledges other ongoing uses of the Territory as well as legacy impacts from past management practices (EA p. 36, 42, 46, 70, 80). Though other uses of the Forest can and do impact resources, the focus of this EA is on the proposed management of the wild horse herd and how management can address the purpose and need outlined on page 3 of the EA and reduce impacts that are due to the horses' year-round use and concentrated use in riparian areas.

Comment: All the still-apparent legacy degradation (logging, grazing, road building) created the existing condition and is not just due to the wild horses and will not be restored to better functioning condition just by removal of wild horses. [14, 25, 44, 53, 59, 73]

Consideration: See EA p. 36, 41 for discussion of various factors leading to the current conditions in upland and riparian areas within the Territory. Wild horses are contributing to the declined riparian conditions, as riparian areas have been repeatedly over-utilized.

Objection to consideration: A balanced, thorough, rigorous, complete environmental assessment is needed under NEPA. The entire environment has to be studied, not just a small segment without analyzing all contributing factors which effect the ecosystem (further objection to this is in objection no.1) You stated other contributing factors, but you never delineated the causation or percentage of usage, providing no proof as to the percentage of each user and naming "all" the culprits. Furthermore, one key element that should have been discussed was the needs of the horses in their dedicated home range. Members of the FS wild horse team should be held to a higher standard and know what these horses are after in their actions of sourcing out the nutrients they need to survive. There are causation needs of all the wildlife who inhabit the area, for the same reason why the horses use the riparian area; it is for their survival. "Alpine meadows and barrens have undergone the least change because of their rugged topographical setting. In contrast, riparian areas are especially important to wildlife, and losses of this type of vegetation to human activities are estimated at 70% to 90% (Swift and Barclay 1980). The most severe impact in terms of supporting healthy ecosystems and native faunas on rangelands has been the loss of 70% to 90% of riparian areas to human activities (Ohmart and Anderson 1986)." HABITAT EVALUATION: GUIDANCE FOR THE REVIEW OF ENVIRONMENTAL IMPACT ASSESSMENT DOCUMENTS (resource reference in Objection no.1).

Explanation of "wildlife" in this statement as being an important component in the analysis has to be given consideration by the agency. On page 227 of the EA, the FS cites an Oregon State (ORS 499.012) to dispose of federally protected horses categorizing them under a "wildlife" statute. The term "wildlife" therefore cannot be used unilaterally at the agency's discretion for the demise of the horses only.

I recognize that there are no cattle who are permitted in the wild horse territory. However, since the subject has been broached there were cows in the wild horse territory this past year. The permittee/owner was having trouble keeping the public from opening the gates and cutting the fences which were keeping his cows in. He was having trouble finding them way into hunting season/fall.

(4). Comment: If you ignore relevant data that was produced and turned into the FS (re winter horse sightings), you are arbitrarily and capriciously "cherry picking" your data to match your predetermined Ochoco Wild Horse Herd Management Plan Draft EA alternative..... Looking at the map where they say the horses go during the winter, they blatantly ignored the data that was hand-delivered to Slater Turner on Sept. 7, 2018. [25]

Consideration: The 4,942 acres of mapped wild horse winter range is an estimate necessary for forage calculations and is not intended to represent the only places that a horse will ever occupy or cross during an above average snowfall winter. Language has been added to the EA to clarify this point. While the Central Oregon Wild Horse Coalition (COWHC) did provide a map for horses and horse trails sighted during the winters of 2016, 2017 and 2018, only two of those winters represented above average snowfall and the map provided did not differentiate which sightings occurred on which years. Since this information is necessary to make a winter range determination (EA pp. 31-32, 62, 195-198) The Ochoco National Forest requested this additional information from leadership of the COWHC in an email dated September 10, 2018 but never received a response.

Objection to consideration: First, I would like to take the opportunity to correct you – there was an email sent back to the FS on the same day, September 10th, 2018 responding to their request. (attached) Given that the FS stated they did not receive a response, they should have tried to contact the Coalition again or have spent their own time and budget on this project. In light of the data that was being collected that would prove where the horses spent the winters. The statement *“and is not intended to represent the only places that a horse will ever occupy or cross during an above average snowfall winter”*, goes without having to tell the agency, they graze as they travel. Based on the data in the EA, the majority of time the horses graze. The research data that they collected and used on the BST winter range was not included in the EA, so no one could analyze or be able to comment on it. It should have been included according to NEPA regulations as well as being “best science practices”. The statement, *“While the Central Oregon Wild Horse Coalition (COWHC) did provide a map for horses and horse trails sighted during the winters of 2016, 2017 and 2018, only two of those winters represented above average snowfall.”* imposes standards on public-supplied data which the FS itself fails to meet. The data the EA included was only for two years, 2008 and 2017 and yet 3 years of data which *“two of those winters represented above average snowfall ”* were provided to the FS. The data not only equaled but exceeded the number of years analyzed for use in the EA. The map included 3 years of data, which would constitute a trend line for this purpose and other purposes of observation trends of the wild horses.

The FS created a wild horse winter range map based not on actual aerial sightings during hard winters, but relied on random sightings at lower elevations, assumptions, and studies from completely different environments. This study done in Alberta shows that wild horses select winter areas for reasons contrary to assumptions. It is not meant to equate to BST horses, but to show that we don’t know the reasons horses go where they go. But it is the FS’s responsibility to make the effort to find out.

Seasonal Variation in Habitat Selection by Free-Ranging Feral Horses Within Alberta’s Forest Reserve (pg.428-437)

“The objective of this study was to use global positioning system (GPS) technology to 1) quantify habitat selection by feral horses within a foothill landscape of southwest Alberta, including seasonal changes in selection, and 2) evaluate potential mechanisms influencing spatio-temporal variation in habitat selection by feral horses, including the role of vegetation type, topography, water availability, travel corridors, distance to forest, and thermal characteristics Landscapes in the area

fall within the Montane and Subalpine Natural Subregions, with elevations ranging from 1 341 to 2 331 m (Natural Regions Committee 2006)”

“Finally, harvested conifer cutblocks that occur above the valley bottom are less susceptible to cold air drainage during winter (Henson 1952), and therefore have warmer conditions compared with valley bottom grasslands. Ambient temperatures from the GPS collars support this as mean temperatures during January were 48C greater for horses occupying conifer cutblocks than those in lowland grasslands.”

“Although habitat selection by feral horses differed by season, several common trends were evident. For all seasons, thermal aspects, in addition to core vegetation type, were important predictors of selection. Feral horses selected open areas away from conifer and mixed wood forests. Although forests may be used for temperature regulation by providing shade in summer and relief from wind and cold during winter (Musterud and Østbye 1999), our results indicated horses were not utilizing forest cover as expected. Instead, selection for the combined factors of solar radiation and greater distance from forested areas suggests horses may have been maximizing sun exposure, which would aid in winter thermoregulation.”

(5). **Comment:** Horses do not normally like to hang around watering holes. (Feist and McCullough 1976; Berger 1977).

Consideration: The EA (p. 30) shares several studies on habitat use by horses and one of the trends found was that riparian areas are preferred habitat for horses. In both of the observational studies cited by the commenter a portion of the methodology was to set up observation points at known watering locations because several groups of horses would regularly cycle through the area to drink, usually on a daily basis.

Objection to consideration: Yes, I admit they do have to drink to survive like any other animal. And if that means they must “cycle through the area to drink”, but they have no right to a fundamental element to live in their habitat??? See habitat needs of species in Objection no. 1. You are mandated under the WFRHBA to protect them and you harass them if you keep them from drinking or acting normally.

(6). **Comment:** Comparing 1975 riparian conditions to current conditions is inadequate research data for comparison. Data used against each other must be identically collected over a period of time as too many variables can influence the conclusion. [25]

Consideration: The EA is simply pointing out that springs and creeks that were identified as heavy to light use in 1975 are still ranging from heavy through light use. EA p. 41.

Objection to Consideration: The sentence of the paragraph immediately prior, which is the prelude to the following paragraph, contains this statement “At the current wild horse numbers, riparian areas within the wild horse winter range (and elsewhere) are showing consistent exceedance of the LRMP utilization rate standards and guideline.” This is definitely inferring that the horses are the

only contributing factor to all the damage and is totally a misrepresentation of any findings and it lends itself to unethical data reporting. Your “consideration” is trying to deflect the negative impact/impression that the public extracted/received since the FS got called out on it. Read my response to the scoping letter, which is attached. The FS has continued all the way through this process to steer the public to achieve a predetermined outcome. Therefore, my statement stands on record, Comparing 1975 riparian conditions to current conditions is inadequate research data for comparison. Data used against each other must be identically collected over a period of time as too many variables can influence the conclusion. Further, if the current use of springs and creeks is similar or identical to that described in 1975, then increased wild horse numbers may not be the problem.

The statement “.... allowable use standard and guideline for riparian communities in unsatisfactory condition is up to 30% of combined permitted livestock, wildlife, and wild horse use in the Territory”, is not proportional and not in Balance to all the uses stated., The WFRHBA states, “Thriving, Natural Ecological Balance. It is disproportionate in size to the other uses. The next statement the FS often makes is” “.... we have minimum feasible management practice direction (WFRHBA) so herding or other management practices to move horses out of riparian areas will not occur”. You can’t herd them, but you could have exclosures like they have done in allotments such as Marks Creek to keep cattle out by falling timber. That would be how to balance ways of mitigating damage to resources. The forage ratio for the horses is not proportional and out of balance to the other uses. Every resource in their habitat is out of BALANCE! The amazing take away is you cannot herd or drive them away because of the Act but you can subject them to zoo like conditions by devastating the numbers and bringing outside mares to augment the herd. If this is not a breeding farm, I do not know what you would call it. As was written in my EA response, “In the Senate Committee report accompanying the bill that became law the Senate noted., “The committee wishes to emphasize that the management of the wild free roaming horses and burros be kept to a minimum both from the aspect of reducing costs of such a program as well as to deter the possibility of “Zoo like” developments ” S. Rep. 92-242,92nd Cong.,Sess1971 at 2152. An Intensive management program of breeding, branding, and physical care would destroy the very concept that this legislation seeks to preserve...leaving the animals alone to fend for themselves and placing primary emphasis on protecting the animals from continued slaughter and harassment by man.” Your plan is not what Congress intended 49 years ago, but you are not following the intent as so described above but you are using 33 year old non site- specific data, doing your darndest to make these horses disappear???

(7.) Comment: The 1975 EA stated 2200 head of sheep; this EA states 2200 ewe/lamb pairs. [25]

Consideration: The EA (p.55) cites a study that indicates a dietary overlap of 21% between sheep and wild horses during the summertime. The Appropriate Management Level Analysis (Appendix B) calculated summer forage and determined ample summer forage further supporting the limiting factor of winter forage, during a time when sheep are not concurrently grazing. The number of livestock has not changed. The 1976 Term Grazing Permit for Canyon Creek and Reservoir allotments shows 1100 for each band. While the class of livestock (i.e. ewe/lamb pairs) was not defined on the permit other records of ewes and lambs were running on the allotments under that authorization.

While the method of calculating forage needs could have changed over time, the method described in the Draft EA is in alignment with current agency practice.

Objection to consideration: First you admit that the permit itself “shows 1100 for each band,” this is a legal FS document. Second, the 1975 EA states “Hay Creek Ranch and Cattle Company of Madras runs 1,100 head of sheep each on the two allotments,” which is a legal FS document. So, if the EA is wrong then that lends the possibility that other facts could be legally challenged. The FEIS for the 1989 LRMP plan states, “The Forest and Grassland supply forage for approximately 14,000 cattle and 3,500 sheep annually.” The calculation ratio of forage designation was not explained in the EA. No policy or law was provided to the exact differentiation of forage availability as far as what is FS primary concern. However, in the FEIS for the 1989 LRMP plan states, “The forage is utilized by deer and elk for food, however the major use is for livestock grazing....The carrying capacity for range allotments is based on forage production and the forage requirements for livestock... Currently, the Forest and Grassland provide 75 thousand AUMs annually. The Regional Guide for the Pacific Northwest Region has established a goal of 82 thousand AUMs for the Forest and Grassland to be attained in the next decade. The maximum capability of the Forest and Grassland to provide commercial livestock grazing has been estimated at 110 thousand AUMs annually (maximum livestock benchmark). Other resources will have to be managed at or near minimum levels to attain this level....Primary conflicts occur when grazing in a riparian area degrades water quality and fisheries habitat when competition exists between livestock and big game for forage and when livestock have damaged tree seeding needed for reforestation... Cattle numbers permitted on the Forest and Grassland have not varied significantly over the past decade; however, there has been a conversion from sheep to cattle. This conversion has occurred during the past twenty years. This can be attributed to economics, predator problems, and to diminishing supply of herders. Most ranching operations throughout the area remain traditional cow-calf operations where the calves are sold each fall.” This is in the 1989 FEIS but information like this appears nowhere in this EA. Considering the statements in the Plan without going through the NEPA process is alarming. This leaves the impression to the public that this is just a sociopolitical pressure to get rid of the wild horses because soon the possibility would be that there will not be any more sheep operations to bring into this allotment; only cattle. There is always a way for this permit to be bought out or retired to facilitate more forage for the wild horses and the wildlife. I know this is a viable option, and it has been discussed in other comments.

Also, the amount of forage allocated to sheep in the 1975 plan was 1,523,875 lbs., compared to 1,836,120 lbs. currently, according to EA pg. 212, Table 15.

(8.) Comment: "Horses have been documented frequently in riparian areas and some studies have shown that horses consume or otherwise impact riparian shrubs decreasing the shrubs' height or impacting shrub presence (Davies & Boyd, 2019; Beever & Brussard, 2000). In addition, both Nordquist, et.al. (2012) and Bork, et.al. (2012) found that horse use of browse increased in the winter. This is evident in the growth form and heavy browse use of hardwoods found throughout the wild horse winter range 244 (Figure 21)." This is a flagrant outright manipulation of data. The article reads, "Horses also consumed riparian shrubs and thereby greatly decreased the shrubs' height. Although the difference was not significant, the juvenile sagebrush density...." The FS misquoted and took a

quote out of context to try and make it apply to this study. However, this study was done in semi- arid climate rangeland with sagebrush (not this ecosystem or herd) and important information was intentionally omitted. [25]

Consideration: The entire paragraph in question from Davies & Boyd 2019 is as follows, “In shrub-occupied riparian and upland habitats, the exclusion of free-roaming horses increased shrub density (Beever and Brussard 2000, Davies et al. 2014a, Boyd et al. 2017). Horses also consumed riparian shrubs and thereby greatly decreased the shrubs’ height. Although the difference was not significant, the juvenile sagebrush density in areas from which horses had been excluded was 7.8 times greater than that in horse-occupied areas (Davies et al. 2014a). Juvenile sagebrush density was not significantly different between occupied and unoccupied areas because of large variability, and one of the replicates essentially had no juveniles because it was fully occupied by mature sagebrush. The results from Davies and colleagues (2014a) and Boyd and colleagues (2017) suggest that free-roaming horses limit the recruitment of shrubs and thereby prevent their recovery. Mature sagebrush was twice as dense in areas from which horses had been excluded than in those horses occupied (Davies et al. 2014a). Shrub cover was also generally greater in areas from which horses had been excluded than in those horses occupied (Beever et al. 2008, Davies et al. 2014a). The exclusion of unmanaged use by other large herbivores also increased shrub cover in shrub-steppe communities in the Rocky Mountains (Manier and Hobbs 2006).” It should be noted that “sagebrush” is an upland shrub not a “riparian shrub”. So, when Davies & Boyd 2019 state, “[h]orses also consumed riparian shrubs and thereby greatly decreased the shrubs’ height.”, they are not referring to sagebrush, but to the study by Beever and Brussard 2000 which compared shrub heights within and outside of spring enclosures which included species of Salix. However, that study was of riparian systems within greater sagebrush landscapes.

Objection to consideration: In some instances, such as this, information provided by FS is misleading or not well researched and thought out and does not accurately reflect the specific circumstances of the locations of the scientific studies they cite to support the site-specific data needed to arrive at their position. FS also makes a number of “factual” claims that are contradicted by mainstream scholastic and academic studies published in peer-reviewed scientific journals. It should be noted that all of your studies you are quoting from are not sight-specific to this forest. One aspect that was not divulged was that this range study area is shared with cattle, which could have corrupted the overall data analysis comparison. The ecosystem of their studies was in semi- arid climate rangeland and is not the same as the Ochocos. Semi- arid climate does not produce the same plant qualities as the areas have different climates, terrain, soils, season of growing, etc. The studies are done on ranges which do not afford the rich lush forage our forest provides for our animals and their habitat needs. Every environment is unique. The agency is relying on “proxy” data/research — such as grass stubble height and alteration to stream banks — They only targeted wild horses in the EA, which does not express all the causations of the conditions in the BST riparian areas. The FS is “cherry-picking” data from problematic “hot spots” that do not represent broader conditions. This comment applies to the entire way this research has been conducted. For argument sake, if the horses were doing some sort of damage contrary to their natural habitat/survival needs, it is paramount under the NEPA process that mitigation solutions be provided. Their solution is to remove the horses while not having a true concern which is their responsibility; to mitigate against ALL FORCES that effect

the riparian damages. This is an unstated, segmented procedure not allowed under NEPA. In their next attempt to figure out what is causing the damage it will be too late, after removing the horses because they did not perform their due diligence. This is a total reflection of the predetermined outcome that they wish to achieve; GETTING RID OF THE HORSES. Further investigation needs to be done by the upper levels of management not just the ID team. My first response to the EA contains conversations with a prior employee of the Ochocos which shows a clear path for a predetermined outcome. The following summary (Beever 2003) provides what I consider to be an astute and apt commentary on the complexities of determining grazing competition and range degradation by free-roaming horses and other hoofed ruminants related to controversial claims of overgrazing patterns and damage on native rangeland by free-ranging horses in North America:

"Compared to other ungulates of North America, free-roaming horses (Equus caballus) possess a unique evolutionary history that has given rise to a distinct suite of behavioral, morphological, and physiological traits. Because of their unique combination of cecal digestion, an elongate head with flexible lips, and non-uniform use of the landscape, horses represent a unique disturbance agent in semi-arid ecosystems of the western United States. Consequently, it is inappropriate to assume that influences of horses on the structure, composition, function, and pattern of arid and semi-arid ecosystems will mirror influences of cattle or other artiodactyls. Although management areas for free-roaming horses occupy 18.6 million ha of land across western North America, we know relatively little about how western ecosystems and their components have responded to this uniquely managed ungulate. I draw on my research of horse habitats in the western Great Basin (U.S.A.) to examine predictions of horses' unique influence, and advocate for continued research to refine our understanding of synecological relationships among horses and diverse ecosystem components in arid and semi-arid regions". Management Implications of the Ecology of Freeroaming Horse in Semi-arid Ecosystems of the Western United States. (pg. 887-895)n

(9.) Comment: "Data collected in the wild horse winter range in the falls of 2017 and 2018 showed riparian utilization levels ranging from just under 60% to approximately 80% with evidence of wild horses being the primary contributor of utilization". Was there any consideration of recovery since the sheep had grazed in prior years? Two years do not show a trend and inconclusive. [25]

Consideration: Utilization data is not used to determine ecological trend. It is included in many rangeland inventory or monitoring programs as an effective management tool to evaluate and modify the impact of grazing animals on vegetation resources.

Objection to consideration: It is all inclusive under the environmental engineering aspect. Where is all the data/proof which the agency reviewed to determine these results? My comment was directed at the agency's (non)investigation data that considered why, how and what animal did what! See objection no. (8.).

(10.) Comment: There are only 3 years of data collection since the inception of the 1975 plan, totally contrary to the direction as so prescribed, though 1975 EA states it would be collected on a five-year interim basis. [25]

Consideration: In the Range section of the EA (p. 71), utilization monitoring, part of the monitoring plan of the 1975 Herd Management Plan, from the late 1990s is discussed and in Table 22 (p. 71) of the EA, the last 10 years of utilization data for those sites is presented.

Objection to consideration: First, it is very difficult for the public to know exactly what the FS is measuring, how, who, and when. I was just trying to determine how you analyzed data collected from winter range, since that is how you arrived at the AML. Looking at Table 22, it appears to be measuring summer forage, which the FS states is not the limiting factor. But on page 72 we are referred to the Wild Horse Report for more information, and on pages 153, 154 there are similar utilization charts with similar descriptions, except that this reference says that 3 of the 4 sites are in the winter range. So is this how the FS is determining the amount of available forage in winter range? The EA continues to state that this is summer use and isn't really relevant to the AML. Also, the charts are similar but they don't match. In the WH Report, it says that standards were not met for 2015, but in the EA Table it says standards were met in 2015. It is also interesting that the Canyon Creek Herd exceeded standards in 2007 and 2008, when the horse numbers were supposedly 48 and 70 respectively. During the summer of both years, the horses were almost entirely counted in the Coyle Creek area, which is outside the Territory and the sheep allotment. So it is still unclear where the 3 years of data for the winter range AML are shown. It is also unclear as to how sheep compared to horse use were somehow differentiated.

(11.) Comment: Based on your data no mention of which horses or bands are present at any given time, and the frequency, just a generalized statement that they are in the area. There are some but where are the rest? Was the diet composition analyzed to determine by identification of plant fragments in the feces? [25]

Consideration: Data on individual horses and bands and determining precise diet composition through analysis of feces is unnecessary for the scope of the decision to be made. The Forest Service is not conducting research such as the studies referenced in the comment. The information presented in Appendix B and summarized in the body of the EA was determined to be adequate to assess an Appropriate Management Level. The Act requires a current inventory of horses but not specific locations of bands, frequency, etc. The EA (p. 55, 60, 66 and 91) discusses diet selection of horses based on best available science.

Objection to consideration: Just one of many examples; The statement "diet selection of horses based on best available science" leaves a lot to be desired. On page 55 "One study found a 21% dietary overlap in the summertime between wild horses and domestic sheep (Olsen and Hansen, 1977) The EA is reporting data quoted incorrectly, the studies are from (Oleson and Hansen 1977). This miss-cited information appears 3 times in this document. This is not the best up-to-date science since it is 33 years old and is done in a totally different climatic region: Red Desert in southwestern Wyoming. The public is relying on the agency to meet a high standard in giving correct information

and accurate reference. We should not have to correct your spelling errors and spend our time figuring what you did not proof read. The point to my original comment is, there are new and more advanced ways to do site-specific studies. One example: analyzing fecal samples to extract the needed genetic data for this particular herd. There is a pattern in this EA of not reaching for the NAS report which is your go-to document, When you *have* sourced it, you misrepresented it on numerous subjects. Just using antiquated modeling does not cut it for the American public anymore. We expect more, you are held to a higher standard!

(12.) Comment: According to the USFS maps provided in the EA it is clear that the wild horses utilize more than the USFS designated winter range. The survival of the horses and their general good health indicates the winter range is sufficient. [6, 25]

Comment: If the forage in a specified area is the limiting factor, then your data has to be inaccurate based on the herd's survival rate. These are assumptions with no scientific empirical data to support your alleged finding. You have not proved how, why or where the horses survive. The sustainability of the herd through the winters is scientific proof and evidence of enough winter forage, regardless of where you want to claim they stay in the winter. [25, 28, 29, 52]

Consideration: The method of determining the winter range of the Big Summit Territory is described in Appendix B pp. 194-197. The identification of the wild horse winter range is based on winters with above-average snowfall. In the EA (p. 31), we acknowledge that habitat use depends on the severity of the winter and is variable, but what is consistent is that the defined wild horse winter range shows consistent presence of wild horses during the winter regardless of the severity of snowfall. In the EA (p. 197), we discuss the request of data from the public about winter range and wild horse winter use and how useable data we received from the public aligned with the wild horse winter range determination. In the project folder, copies of letters sent to members of the public that expressed knowledge of wild horse winter use can be found as well as information received. Most of the information received was not useable because it was either information outside of the Territory, information from average or below average snowfall winters, or opinions or other sources of data without actual data point information. In addition, as the EA on pages 40 and 41 explains, survival is not the determinant of adequate forage, but the ability to generally meet riparian utilization standards as set in the LRMP. Standards have been regularly exceeded in the wild horse winter range with recent horse numbers (EA pp. 41, 45, 53, 62, 71-72, 214).

Objection to consideration: It is apparent the FS has a very divisive way to get rid of the horses. If you cannot get them on forage in the summer (which you have already admitted), you go for lack of the winter forage using some outdated out-of-area science. That is not without problems on your own gathered data in winter range, so you have reverted to "riparian damage" as a reason for reducing the number of horses, without using the latest research tools available to achieve site-specific data.

Also, in **BACKGROUND FOR NEPA REVIEWERS: GRAZING ON FEDERAL LANDS** (pg. 9) it mentions the lesser impacts of winter use of riparian areas. Use of winter range may be year-round by several

species, but it is said that the horses are in the Territory all year, therefore they do 12 months of damage. (link to article, FS probably already has this) Pages 1-39 are of particular interest.

<https://www.epa.gov/sites/production/files/2014-08/documents/grazing-federal-lands-pg.pdf>

“Winter. A form of seasonal grazing, winter grazing takes place when range vegetation is dormant and streambanks frozen. Impacts to riparian areas may diminish under these conditions, since streambanks tend to be more capable of withstanding the impacts of hooves while frozen. In riparian areas, winter grazing in areas of low temperatures but little snow can be beneficial to the extent that streambanks are sturdier, and vegetation dormant.”

(13.) Comments: One study that has not been done on the Big Summit herd is what their maximum breeding period is....The wild horses are different from the domestic ones and cannot be treated as if they will respond to a breeding farm plan. [25]

Consideration: Literature cited in the EA (p. 181) from Jay Kirkpatrick discusses the scientific findings of two different herds that were followed for birth dates and found no significant changes of birth dates between horses treated with PZP and horses not treated.

Objection to Comment: My point is that Big Summit wild horses may change foaling patterns when combined with translocated mares. All wild horse herds have different foaling times. Translocation of animals is not a proven science, but it is mainly for augmenting herds that have currently-documented low genetic variability, thereby supplementing with genetics.

Comparative Reproductive Biology of North American Feral Horses Jay F. Kirkpatrick, PhD, and John W. Turner, Jr., PhD; Equine Veterinary Science, Volume 6 Number 5, pages 224-230:

“It is noteworthy that the sharp seasonality of feral horses is in contrast to less seasonal picture in domestic horses, where the incidence of ovulation ranges from 60% in September to about 20% in December” (Pg. 225). “At present time only a single genetic study has been completed but certain genetic differences are obvious. Color patterns vary widely from herd to herd, as do average sizes and weights. The seasonal cyclic activity of feral mares, described here earlier, also varies greatly from breed to breed among domestic horses and points to the importance of genetics when examining biological difference between herds” (Pg. 229). One other fact that has not even been considered is the effective age of the breeding horses, “Sexual Maturity: Three years appears to be the age when foaling is first successful. In the Pryor Mountains mares did not foal until age three. Boyd also noted some sexually mature two-year-old mares breeding in the Red Desert, but no mares aged less than three ever foaled. It is also appears that three years is the critical age for successful reproduction among feral stallions in the Pryor Mountain herd and the Sable Island horses”, (Pg. 226). Based on these studies the FS has not performed their due diligence of the effective age or the number of effective breeding pairs.

“Recent studies have suggested that various aspects of reproductive biology and strikingly different among the many herds of feral horses and ponies(E. caballus) in North America. The greatest

differences include (1) sharply seasonal versus year-round mating and foaling patterns, (2) mare behavior at the time of parturition, (3) forced copulation and incest (exclusive breeding by a single harem stallion vs breeding by two or more stallions, and (5) fecundity. The causes for these differences are discussed in terms of genetic origins of the various herds, the length of time each herd has been in a free-roaming state and subject to the forces of natural selection the ecology of the ranges inhabited by these horses, population density and sex ratios.... Attempts have been made to structure management policies around the available biological data, but a failure to view these data in a comparative context has largely obscured the diverse nature of the feral horse herds.... Finally, the origin of most feral horse herds is unknown and speculative at best. There is little reliable data to document how long these animals have been in a free-roaming state and subjected to the forces of natural selection.... McCort reviewed the comparative behavior of North American feral horses on a comprehensive level and also suggested that there were differences among the animals from different herds and ranges.... Many aspects of the evolution and the present patterns of reproductive biology remain unaddressed", (Pg. 224) "The seasonal breeding and foaling pattern seen among most herds is most likely a function of mare reproductive physiology. Kirkpatrick and Turner examined the incidence of ovulation and behavioral estrus among Pryor Mountain mares of proven fertility" (Pg. 225). "It is clear that there is variability among the reproductive parameters studied thus far in North American feral horses. At least five major forces may be assumed to influence production to varying degrees. These forces include (1) the genetic origins of a given herd, (2) the ecology of the ranges inhabited by these animals, (3) population density, (4) age structure of the herd, and (5) sex ratios", Pg. 229 "An alternative theory to significant genetic differences is epigenesis. Behavioral plasticity and adaptational flexibility are possible, without genetic change of populations.... However, until comprehensive genetic studies carried out, both theories have little substantive evidence to support them." Habitat differences may have an important effect upon the biology of the feral horse. Availability of high-quality grass, water sources, protective topography, size of the range (and therefore herd density), and weather patterns are but a few factors which may also dictate reproductive patterns and success In addressing the importance of the above forces in moderating reproduction, population density probably plays a large a role as any. Herd densities in turn may be a function of the age-class profile of the herd.... A herd with larger numbers of older mares will have a higher fecundity rate and will increase at a faster rate than a herd with fewer older age-class mares. It is most logical however, to examine the comparative reproductive biology of the continent's feral horses as a function of all five factors mentioned above. Genetics provides the foundation or starting point from which to examine any biological variation and certainly reproductive biology. Finally, fluctuations in population densities, age-class, and sex ratios, whether man caused or natural, can bring about rapid changes which can impinge upon reproductive biology.... Information about the reproductive biology of North American feral horses has increased significantly since 1971, and it should be apparent from this review that considerable diversity exists from herd to herd. At least five factors must influence the reproductive biology of these animals, and the need exists for a model which integrates all relevant factors and seeks the correlations with reproductive parameters" (Pg. 229).

This is one example of lack of knowledge of the genetic evaluation of genes. Different herds do not foal at the same time of year. The time of foaling is crucial for these horses in the terrain/climate they are in. Baseline, site-specific information is needed for this herd on any plan and omission most assuredly will cause the extinction of this herd as so addressed in "An extreme example of outbreeding depression occurred during the restocking of ibex (*Capra ibex*) in Czechoslovakia . Ibex in the source populations, Turkey and Sinai, bred at different times than the native ibex and resulting hybrids produced offspring during winter, driving the population to extinction", Pg. 16. Biological and Social Issues related to Confinement of Wild Ungulates, The

Wildlife Society. There is an obligation to protect the horses under the WFRHBA, this includes all phases of their life cycle.

(14.) Comment: The Forest Service augmented the heard with two mares from the Steens and administered doses of PZP before studying the effects. [25]

Consideration: The augment of two mares was done in consultation with and following a recommendation from Dr. Mills after results of the genetic monitoring in 2010 indicated a low genetic diversity. The application of PZP was done as a trial under a CE. Effects and feasibility were studied during the trial as planned in the CE. Both of these actions were specifically sanctioned at the time, by the local wild horse advocacy group.

Objection to consideration: In the PZP literature that you have cited in this EA it states, Q. Does an agency have to do an environmental assessment (EA) or an environmental impact statement (EIS) prior to using PZP on a wild horse herd? A. Yes. Environmental Assessments are mandatory for any use by federal agencies. One difference between agencies is that the NPS does a single management EA, that is in force for years, while the BLM does one every five years for application in each herd management. I had personal conversations with The Science and Conservation Center, Billings, Montana office, and they were quite concerned that not all of the horses had received their second shot. Only the captured PZP mares were administered the second but the ones that you were running around the forest shooting did not. They were concerned that might have compromised the trial. In that conversation I volunteered to take the training to administer PZP in the Ochoco herd. A letter was sent from them to this FS office in regard to this, but I was never contacted at about helping. As a person present at the meeting with the COWHC, they did not sanction this. They had various unanswered questions. Your apparent solution to the lack of genetic diversity is to augment the herd *after* you take the herd size down to 12-57. Why was this not the same advice Dr. Cothran gave you?

(15.) Comment: The 2018 aerial census identified 16 horses outside of the Territory. The Forest omitted information about the 16 horses who are led by a mare that was brought in from the Steens. If augmentation is used, the whole area needs to be fenced. This is an argument against augmentation. [25]

Consideration: Personal communications with Dr. Cothran (9/13/2017, project folder) summarizes Dr. Cothran's recommendation to manage an AML that the Territory resources can support and translocate animals for maintaining genetic health. Dr. Cothran's specific recommendation for the Big Summit Territory is "...for managing the genetics of our herd based upon existing information is to maintain the herd at the maximum level provided by the resources in the territory, and introduce a new mare to the population every two to four years." This is why we are proposing in Alternative 2 to maintain at or around the high AML (EA p. 58).

Objection to consideration: Not my point. If you bring in horses from other HMAs you have a very good chance that history will repeat itself with lead mares taking the band like Roy's out of the BST because that horse does not have the genetic imprinting to align herself with this area as her home

range. It seems in this “conversation” the operative words were “the maximum level provided by the resources in the territory”. This was based on the need at the time of trying to save the herd; not taking a viable herd down and then having to augment.

(16.) Comment: The FS is not affluent enough in genetics to realize how the collection of the "entire trapped band" could or would corrupt this study's findings.... "However, given the small sample sizes, the horse's hierarchal social structure, and the serendipitous capture methods used, these results may be reflective of existing family groups being captured together", (Dr. Mills). Hair samples were pulled from bands (entire families), no wonder why they look closely related. One again flawed data that is going to be used for critical decision making. [25]

Comment: If you don't know if the herd is genetically depressed how can you proceed with monitoring program and corrective action of introducing new genes of similar territories or adjusting sex ratio (see EA p. 214 “if genetic depression has not already occurred.” [25]

Consideration: The focus of genetic management for the Big Summit wild horse herd will be to manage for an observed heterozygosity of at least 0.66. Under Alternative 2 this would be done in consultation with genetic experts, through monitoring and the translocation of animals from genetically similar herds (EA p. 16).

Objection to consideration: First, you don't know what the genetic situation is for this herd, since no samples have been taken since 2010 and that was for a very small number of related horses. If the FS waits until their AML of 12-57 is approved and implemented, that is far too late to “monitor”. It is unbelievable that the FS would not take a fresh look at the situation since bringing in 2 outside mares in 2010. This is your chance to see if augmentation works, before you cut the herd back and find out it doesn't.

(17.) Comments: “In the 1990s the origins of the Big Summit Herd were hazy, at best. Common belief was in the typical lore of local individuals losing or releasing horses to the wild, sometimes to be kept approachable by tying tires to the lead mares' legs, or by lacing her nostrils shut with barbed wire. Whether any or all of these accounts are factual, the origin story loses some credibility by factors of survival, acceptance of domestic horses, and the fact that farm/ranch horses were often the product of regional wild horse capture and training brokers. Too, as the Wild Free-Roaming Horses and Burros Act took shape, these same locals reclaimed the most desirable (domestic) horses from the Big Summit Herd. Mitochondrial DNA study since the 1990s fails to affirm predominant domestic breeds in the Big Summit lineage.” The Big Summit herd is an island population. We have key element components for keeping herd size up - APEX PREDATORS, mountain lions, bears and wolves and man. The herd by its own merits in and of itself is resilient. These horses make it through the winter because these are mountain timber horses....These are totally different horses in a totally different environment. [25]

Consideration: The goal for AML management under Alternative 2 is to maintain at or around the high AML, not get to low AML (EA p. 16, 46, 58). Also on pages 57- 58 of theEA, the preferred Alternative 2 summarizes how this alternative proposed to manage genetic health. Alternative 2 includes

translocation of animals from genetically similar herd into the Big Summit herd as recommended by genetic experts and also summarizes the recommendations of the National Research Council which includes translocation. Lastly, Cothran (2009 and personal communications) states that enlarging a population's size does not increase the population's genetic variation (p. 65) which is already below the recommended level of variation.

Objection to Consideration: The following is an excerpt which explains how wolves, cats and bears have ample opportunity to prey on the wild horses. "Parturition: Normally the harem stallion will not permit mares to stray from the band, but an exception to this rule is seen at the time of parturition. At this time, the mare will wander some distance from the band, usually to a secret or sheltered spot where she will foal. From one to three days later she will rejoin the band. This pattern has been reported in the Pryor Mountains, the Wassuk Range Stone Cabin Valley, Alberta and Sable Island", (Pg. 226) Comparative Reproductive Biology of North American Feral Horses; Equine Veterinary Science, Volume 6 Number 5.

(18.) Comment: The herd should not be augmented because of their personality traits and trainability. Anyone who has owned, worked, or trained a wild horse would understand my next point. The Big Summit Herd is known for their temperament. If you were to try and inject a Kiger or any other horse of similar traits, you would destroy this herd's likeability and trainability. [25]

Consideration: The focus of genetic management for the Big Summit wild horse herd will be to manage for an observed heterozygosity of at least 0.66. Under Alternative 2 this would be done in consultation with genetic experts, through monitoring and the translocation of animals from genetically similar herds (EA p. 16).

Objection to Consideration: The FS has an obligation to take care of the horses in the BST. It is the only animal that they are federally mandated to take care of and in charge of their care, NOT THE SHEEP OR WILDLIFE. There are other things to consider when you are planning to augment the herd included in objection (13.).

(19.) Comment: "The wild horses in the Big Summit Territory are considered as part of the metapopulation of all wild horses in the western United States therefore, loss of horses in one Territory does not constitute loss of a population (National Research Council 2013)." These horses are in OUR county, in OUR FOREST and they belong to the PEOPLE. They are part of our life, enjoyment, and culture. They are an important component of our ecosystem in our forest. The wild horses are in and of the forest. [25]

Consideration: The sample sizes of existing genetic studies of is inadequate to make definitive origin determinations for the herd but are adequate to indicate that genetic variability is lacking (Cothran personal communication 9/13/2017, EA p. 2 and 33). "Management of equids as a metapopulation is necessary for the long-term genetic health of horses and burros at the HMA or HMA-complex level." (p. 8, NAS, 2013) , was a major finding of the National Research Council committee. While there were some caveats associated with this finding, there is not adequate data to determine their application (Cothran personal communication 9/13/2017) and increasing genetic variability in the herd is an overriding concern.

Genetic monitoring under Alternative 2 and associated consultation with genetics experts is intended to provide the genetic health of the herd (EA p. 21).

Objection to Consideration: As stated in your consideration *“increasing genetic variability in the herd is an overriding concern”*, it obviously is not. Under the advice of 2 geneticists that additional studies and data was needed before you proceed. Dr. Gus Cothran (2011 report) – “The action that should be taken at this point depends upon the actual numbers of horses present within the HMA and how the two different sample periods related to each other physically within the herd area. More information is needed before specific steps can be recommended.” Also by Dr. Mills “However, given the small sample sizes, the horse’s hierarchical social structure, and the serendipitous capture methods used, these results may be reflective of existing family groups being captured together”, (Dr. Mills). The FS selectively took some of the geneticists’ advice (cherry picking again, but not all of it), showing your distinct route you are taking to get rid of the horses instead of doing it the right way with more testing. It is the best way for the horses, which you are obligated to do. This is addressed in objection (18.).

(20.) Comment: Another omission of fact which the public has the right to know is: The possibility that the FS may have the right to shoot the horses which are deemed in excess number over the AML. [25]

Consideration: Although the local wild horse advocacy group has been very successful at finding adoptive homes for all wild horses from the Big Summit Territory needing placed, the EA states, “[a]s a last resort, animals for which there is no adoption or sale demand would be euthanized in the most humane and cost efficient manner possible (36 CFR 222.69 (5)).” (EA p. 18).

Objection to consideration: The Forest Service has not had the authority to kill unadopted wild horses since the budget rider prohibiting BLM to do so was expanded to include FS. This happened in FY 2020 and continues with the 2021 budget. The language does not apply only to sale without limitation, but to unadopted horses and burros.

2021 Budget bill Page 880:

(e) Amounts appropriated by this Act shall not be available for— (1) the destruction of any healthy, unadopted, and wild horse or burro under the jurisdiction of the Secretary concerned (including a contractor); or (2) the sale of a wild horse or burro that results in the destruction of the wild horse or burro for processing into a commercial product.

(21.) Comment: Since the time that the FS could not process horses through BLM there is no data of how the horses have been successfully rescued and adopted through the Central Oregon Wild Horse Coalition. The Coalition offered to set up an adoption and training facility on one of our properties with no cost to the Forest Service. To date, no considerations or conversations have taken place. [25]

Consideration: Following response to scoping it was ensured that no statement is in the EA indicating that Big Summit wild horses are not adoptable (this statement came from the 1975 EA). Table 4 on

page 29 of the EA shows that all Big Summit wild horses removed from the Territory since 2015 were adopted.

Objection to consideration: FS combined 3 comments, 2 of which pertained to adoptability. My question related to the first meeting we had with the Forest Supervisor, where we discussed the possibility of a joint venture for a training/adoption center for FS horses. The EA states that captured horses could be transferred to a private contractor, but no more details are provided. The absence of information is concerning, as it opens the door to disaster. BLM has tried to contract training and adoption services but the price per horse has far outweighed benefit and on-range goal not achieved.

(22.) Comment: It is not humane to let an animal die just because they are in a catastrophic situation and there is no correlation to your statement of too many horses. Other wildlife is fed around the country for that reason. You are referencing ORS 499.012 under Humane Destruction of Unusually Dangerous Animals, which does not seem to exist. If the federal agency can overlook supremacy law and apply state law, then that means state laws would pertain to the FS. If that is fact, then there are numerous laws in the state which apply to animal abuse. [25]

Consideration: The EA p. 9 states, “[i]t should be noted that supplemental feeding is not consistent with Forest Service policy and has the potential to exacerbate problems within a wild horse herd. Supplemental feeding may facilitate population growth above the AML, leading to other future negative resource impacts resulting in ecological imbalance. Supplemental feeding could also lead to habituation of horses to people and disrupt the movement and migration of horses across the territory, again.” It should be noted that other options exist in such situations including the capture actions taken in the winter of 1992-1993 (Table 4, p. 29).

Objection to consideration: The remark was directed at the fact a federal agency is using state law to achieve what they want as their policy, which does not work. Federal law trumps state law and there is no provision that exists in the WFRHBA. Your use of it opens up a whole new avenue that could be applied to treatment of these wild horses under state law. ORS 499.012 does not exist as quoted, making it impossible to look up and give a responsive comment to. 1992-93 was noted as a catastrophic weather event. It would have been far better for the herd’s viability gene pool to feed the horses and try to save them, and not putting this herd into a bottleneck situation which you created by not saving them. Your plan is to basically do it all over again – IT IS NOT BEST FOR THE HERD; IT IS BEST FOR YOU! Removing the majority of the herd and then throwing the dice provides no guarantees the small population will not bottleneck or be lost in a catastrophic event again. You need to have resiliency through the numbers, especially if you do not intend to feed them to save them. As far as having horses dying in the forest in the winter, it would be best to let the Coalition rescue them early and not wait until they are within 4 days of death like KOA was in 2017.

(23.) Comment: The USFS has a statutory mandate to protect wild horses, while livestock grazing is permitted only as a discretion. Livestock grazing is not required to fulfill the agency’s “multiple use” mandate. Domestic livestock are not “authorized” on public lands, they are only “permitted.” [1, 6, 23, 24, 25, 26, 42]

Consideration: As stated in the EA (p. 43) the WFRHBA was not intended to make wild horses a single use in an area and permitted livestock grazing is one of the multiple use actions for which the Ochoco LRMP analyzed and allowed for during its analysis and subsequent decision. There are examples of case law that show the uses of permitted livestock and wild horse management compatible (American Horse Protection Ass'n Inc. v Frizzell, 1975, American Wild Horse Preservation Campaign v Vilsack, 2015)

Objection to consideration: No one has said that wild horses should be a single use in an area. FS needs to stop implying that this statement has been made by any person or organization throughout this process. Without livestock, the BST still provides for a number of other uses besides horses; many forms of year-round recreation, timber harvesting, mining, off-roading even though illegal, woodcutting, camping, hunting, wildlife habitat, and watershed protection. Multiple use has never meant ALL uses. The rule requires managers to create a balance between uses according to the unique characteristics of an area. Like it or not, wild horses are a unique feature of the Ochoco National Forest. As an act of Congress, the WFRHBA should not be the afterthought that it is on the Ochoco and in the LRMP. The references made to conference language fail to cite the entire passage:

“The principal goal of this legislation is to provide for the protection of the animals from man and not the single use management of areas for the benefit of wild free-roaming horses and burros. It is the intent of the committee that the wild free-roaming horses and burros be specifically incorporated as a component of the multiple-use plans governing the use of the public lands.” (U.S. Congress, 1971, p. 3)

The FS should note that this passage also directs agencies to specifically incorporate wild horses as a component of the multiple-use plans governing the use of public lands. The Ochoco hasn't exactly followed this direction. Wild horses are barely mentioned, and are not even given the status of a management area. Other multiple use actions don't consider needs of the horses. This EA doesn't even consider the needs of the horses.

(24.) Comment: It's pure speculation that maintenance of range improvements may be greater within the territory where horses can cause year-round damage and displacement. There is no evidence of this. [25]

Comment: "...water developments are utilized only for providing water to the sheep." Not any other animals? I guess that's why the wildlife have to use the riparian zones. Water belongs to the state, and thus belongs to the wildlife, the water developments are built with taxpayers' money on public land. There have been complaints on the annual census ride that the sheep herders will not let the riders water their horses. [25]

Consideration: There are no proposed water or range improvements associated with this project for wild horse management. All water and range improvements in the project area are assigned for maintenance to permittees under their grazing permit (EA p. 72), however wildlife and wild horses

utilize and derive benefit from them. The mechanisms by which wild horses have to potential to impact range improvements are described on page 73 of the EA.

Objection to consideration: The sheep permittee admitted publicly at one of the sounding board meetings that he did not follow his grazing plan. That does not mean that they do not use other riparian areas and the horses get blamed for the damage. It was brought to my attention that when the sheep permittee voluntarily rested his allotment, claiming there was not enough forage, the FS did not even verify the conditions. They just took his word. Also, when range improvements include fencing off sensitive areas or creating new water sources, this is to prevent or restore damage. Water troughs are not naturally occurring. But these improvements, which often involve the alteration of water sources in order to protect them, could also be built if horses are doing damage.

(25.) Comment: I have seen the sheep herders run the bands right down the riparian areas, scaring wildlife off. The FS relies on the few herders and dogs to keep track of 2200 sheep pairs which normally produce twins which would total approx. 4400 to 6600 head to keep track of. The FS cannot say that the sheep don't present problems with camps. [25]

Consideration: The sheep herders follow trailing instructions summarized in the EA p. 72. More details are located in the project folder. These trailing instructions include details on designed to address resource concerns such as sensitive plant locations, riparian enclosures and keep sheep far from public camp sites. Table 22 (EA p. 71) shows utilization levels at the Designated Monitoring Areas for sheep located in riparian areas. Most measurements indicate meeting standards.

Objection to consideration: Volunteer riders at the wild horse census base camp experienced the sheep herders intentionally running sheep through camp. Horses got loose and volunteers had to repair damage.

(26.) Comment: When the transient sheep graze in the forest they are supplemented minerals of some sort by the owner. The FS stated that they have no idea what it is and have failed to verify that it would not have adverse effect on the environment or any other animals or persons which come in contact with it. [25]

Consideration: The EA (p. 72) references the sheep trailing instructions for the two allotments which can be found in the project folder. The trailing instructions include instructions for salting sheep.

Objection to consideration: I have seen the supposed salt and I have never seen salt that looks like that. The public does not have access to “trailing instructions” which include instructions for salting sheep, making us reliant on FS word that nothing is contained in the mineral mix that would harm wildlife, including wild horses, or the environment. Cattle mineral blocks can contain urea, which is known to be harmful to young horses, while sheep can easily consume fatal amounts of copper. Rumensin is also a supplement fed to cattle, which is toxic to horses, and some sheep ranchers do supplement with rumensin. Does the FS monitor mineral supplements on the forest where wildlife could be impacted? Also, since it is not illegal to bait for big game hunting, and wouldn't stop them if it was, how does the FS know if those salt blocks are not poisoning horses, cattle or sheep? There

is also another problem with salt on the forest. Salt attracts animals. It has been used by the FS to move wild horses. It is used to keep cattle dispersed. This means it is possible to manipulate locations of animals, as the hunters do, who by the way, place salt blocks at water holes. Following is an excerpt from a letter from the sheep permittee to the FS Regional office. Full letter is enclosed as attachment.

“Most of the horses the Burns BLM deals with are truly “wild”. They have been loose since the Spanish first arrived in area. Their breed has an actual name and identified DNA. The Big Summit herd is recently abandoned domestic horses. Furthermore, there is a lot of human traffic in the area. My Herders report they can walk up close to some of them. They come into our camps at night looking for minerals. This will help trapping and processing.”

I included this letter and paragraph only as evidence that the horses seek minerals, not that the writer represents sound opinions or reality, and their movements and congregating in certain areas can be influenced by natural or human introduced salt and minerals. Again, these are often placed by hunters in riparian areas. This may also be a factor to consider when the FS assumes high forage use is always due to horse numbers. It would be possible for a livestock operator to avoid monitoring points while attracting horses to them, whether intentional or unintentional. It would also be hard to miss the evidence of salt being placed at the Douthit Spring mud hole, especially with the tree root dugout and the personal observation of horses licking the large square boulders nearby, which are also human introduced. But you refuse to see the obvious, or lack the experience to know what you’re looking at, and continue to blame the damage on too many horses. Without doing any kind of investigation you show photos of this area with captions of “horse damage” even though this is next to a denuded campsite for humans and by humans. There are many other reasons why horses would move to or from certain areas, and you have not even begun to consider anything but too many horses.

(27.) Comment: I notice you’re consistently minimizing or ignoring the horses’ value and contribution to the life community, alongside a consistent implication of blame placed upon this herd. [3, 25, 26]

Consideration: The cited publication authored by Craig Downer represents an opinion piece that was published in an open source publication. The claims in the opinion piece have no basis in the body of science; submitted science about beneficial effects are not relevant to this area.

Objection to consideration: Effects to the environment are a process required by NEPA. As explained in Objection (1.) “The environment includes not only the areas of air, water, plants, and animals, but also other natural and human modified features which constitute the totality of our surroundings”. This has nothing to do with Craig Downer, I never mentioned him in my response. That is speculative and conjectural on your part. But this does give me the opportunity to attest to the benefits as I own 4 Ochoco wild horses. They do break ice on the pond for the deer herd and make paths in the snow for all the wildlife to use. Their manure is spread for fertilizer and also provides food for birds and insects. Then, the insects provide for food for the frogs and fish. You are right, it is not our job to provide science, it is your job and you have not fulfilled your obligation under NEPA.

(28.) Comment: The study should include fuel removed off forest floor for wildfire protection, instead of using taxpayer's money to do prescribed burns with the possibility of those burns escaping. They provide a service by not having to burn off grasses and the smoke not causing a detrimental hazardous effect to humans. Special consideration should be given to the current "no Burning" due to the adverse effects of smoke on humans complicating the "current" pandemic. They may possibly aid in fighting the chronic wasting disease in the deer population (studies are being done by Colorado University). [25]

Consideration: While any grazer that removes vegetation will have some effect on fire behavior by removing some fine fuels, the EA states on page 10 that, "[a]lthough forage conditions across the territory are a primary component of the AML analysis and the effects analysis, forest vegetation management is outside the scope of this analysis."

Objection to consideration: This is all inclusive under "environmental effects" and wild horse benefits should be part of your analysis. FS made the assumption in consideration to Comment (27.) that I was referring to Craig Downer's study. Although that was not the case, Craig's contributions to wild horse history because of his lifetime of experience should be valued. He had personal knowledge of Storey County Nevada cattle ranchers begging BLM to not remove wild horses, because their presence decreased spread of range fires due to attributes possessed only by horses. This was long before the "wild horse fire brigade" hype that we do not subscribe to. This just makes the point, again, that the benefits of horses should be studied and valued.

The following publication provides direction for evaluating ecosystems:

HABITAT EVALUATION: GUIDANCE FOR THE REVIEW OF ENVIRONMENTAL IMPACT ASSESSMENT DOCUMENTS EPA Contract No. 68-C0-0070 work Assignments B-21, 1-12 January 1993 (pg. 1-129)

"-Ecosystem Services- Although the conservation of individual species and overall biodiversity are essential to maintaining the ecological integrity of a habitat, a wide range of ecosystem functions must also be protected. Using a broad definition, habitat, like the ecosystem, is characterized by a particular energy flow, nutrient cycling, and capacity for self-perpetuation (given radiant energy from the sun).Purification of resources: nutrient uptake, nutrient removal and transformation, biotic productivity, and food chain support" (Pg. 7)

The wild horses are part of the life cycle and the ecosystem. They graze on forage transforming it to manure which then becomes a food source for insects and birds. The benefits of their manure is fertilizing and spreading seeds for forage and adding additional benefits to the soil composition, in different ways that ruminants. When they expire, they also provide a food source for scavengers and a live food source for predators, compared to transient livestock which remove biomass in its prime and then leave the forest depleted of nutrients.

“Riparian Areas- The most severe impact in terms of supporting healthy ecosystems and native faunas on rangelands has been the loss of 70% to 90% of riparian areas to human activities(Ohmart and Anderson 1986)” (Pg. 84)

The majority of the damage to the riparian areas has been studied and it shows up to 90% damage was caused by humans. There is no evidence of any data on this in this EA supporting horses as the cause.

(29.) Comment: It is quite important to note that among large North American herbivores, wild horses (an American native species are uniquely immune to prions, arguably so through some evolutionary process, which we do not yet understand. And by abating grasses and brush (each horse consuming 30lbs. of dry grass and brush daily) one of the suspected vectors, wild horses can meaningfully reduce environmental prions affecting other grazing animals, including cervids. [25, 29]

Consideration: The effects the alternative actions including the effects of wild horses on invasive species and invasive species risk are discussed on pages 146 through 152 of the EA

Objection to consideration: Consideration responded to 2 different comments. My comment pertained to the potential for wild horses to reduce prion effects on deer. Studies have not proven horses’ immunity to prions but there are indications that this could be a benefit to other wildlife.

Comment: They never followed the WHBA in naming where the wild horses were found as so evidenced by the 1975 EA. [25]

Consideration: In the 1975 EA, there were 10 known bands of a total of 60 horses, all of which resided in the current Territory. According to the 1975 EA, “there was a band in the Cup Springs area but had branched off since 1971 (5 horses).” This is the documentation available to identify where the wild horses were found at the time of passage of the Act.

Objection of consideration: My comment was one of several others that called out the wrongful BST boundary. You are correct, however, in saying this is the documentation available to identify where the wild horses were found at the time of passage of the Act. This documentation clearly shows the horses used Cupp Spring and Brush Creek at the time of the passage of the Act. The 1975 plan also talks about horses going to Coyle Creek, which should also be included in the Territory. For a short time, the FS did include whole sections mentioned in 1975, which included some of Coyle Creek, but then FS changed it back so horses can’t legally eat grass on the other side of the 22 Rd.

(30) Comment: Wildlife are free to roam adjacent lands according to your own statement. Therefore, why are the horses being put in a competitive category of all the wildlife forage needs in this small territory? [25]

Consideration: In accordance with the WFRHBA, the management of wild horses and burros is limited to the areas where wild horses and burros were found in 1971, which is the area identified in the 1975 EA (EA p. 9). There are several examples of case law regarding the subject of Territory boundaries. For

example, Forest Service has interpreted the Act to mean that only public lands that were home to wild horses at the time of the passage of the Act could qualify as territory (American Wild Horse Preservation campaign v. Vilsack, 2015). Or, the [territory] is an “amount of land” within those “territorial limits” (where horses were found in 1971) that is necessary to sustain an existing herd or herds of wild horses (Habitat for Horses v. Salazar, 2010). Or, Horses “permanently residing” outside [territories] are in areas not designated for wild horses and are “excess” animals (Habitat for Horses v. Salazar, 2010). In addition, the Forest Plan states that horses that establish new territories beyond those which they inhabited prior to December 1971 are “excess” animals. Also, at the time of the 1975 EA, there were 10 known bands of a total of 60 horses, all of which resided in the current Territory. According to the EA, “there was a band in the Cup Springs area but had branched off since 1971 (5 horses)

Objection to consideration: The comment was directed at forage allocation of the area. If every other animal can leave the area to seek out sources for food and shelter, why is the forage in direct competition with them? It is like double counting animals in all the allotments because they are free to move all over the forest. It would be like having all of the neighborhood come into your house, eat your food and then be able to return to their houses for more. But you cannot go; you have to survive on whatever is left. That is not a balance and not what the WFRHBA declares.

The Act limits agency authority to manage for horses to where they occurred at the time of enactment. Therefore, the Territory must supply the complete forage needs for the horses year-round while elk and deer are free to roam to adjacent lands (see Wildlife Resource Report). Under this statement, the agency must eliminate sheep grazing in the winter range entirely if they must be prepared for an over average snow year. All data recorded in the “past” cannot be used in planning for the future, with the changing climate affecting the ecosystems. The agency has a responsibility to prepare for the worst conditions as far as forage numbers. “In Alternative 1, the AML would remain the same as established in 1975 at 55-65 horses. Riparian utilization levels at this AML when combined with the use of permitted livestock and wildlife are expected to remain at the same level.” What this statement says is, even if we take the horses from their current number of 135 down to the 1975 AML of 55-65, it has no impact on the riparian utilization levels. “Riparian utilization levels at this AML when combined with the use of permitted livestock and wildlife are expected to remain at the same level”. Therefore, one could come to the conclusion that the horses are not the problem but the other wildlife and livestock are, since reducing the number of horses does not have an effect on the riparian utilization levels.

(31.) Comment: Further, the USFS should note that roughly 80 percent of Americans want to see wild horses managed humanely on public lands and given their fair share of the resource. Thus, the social and economic analysis of the proposed action must also review how reducing livestock use could be an economic and social benefit to the agency, the horses, and the American public. [1, 25]

Comment: The cultural and economic factor has not been analyzed. There are also spiritual connections for some people with these horses, they give them solitude and help them with their PTSD. Some people can connect with these animals which provides them spiritual comfort and hope in this troubled world. [25]

Comment: There is no mention of the human component anywhere in this EA, but it is an especially important one. The people who like and want the herd to be preserved with its heritage which preserves our culture have rights under NEPA. [25]

Consideration: Under the description of the Purpose and Need for Action on page 3 of the EA it states that, "[t]he Forest Service is mandated by the WFRHBA to ensure wild horses are managed in a thriving natural ecological balance with other uses and the productive capacity of their habitat as required." It is believed that in so doing the Forest will be providing for spiritual, emotional and cultural needs of the people who enjoy this very special resource of the Ochoco National Forest.

Objection to Consideration: If they are so very special, you need to treat them as such. Words try to patronize but actions say it all. You need to keep the numbers up to guarantee the people that we will have these horses for generations to come. No economic value was even considered and the monetary resource for visitors to see them. No cost analysis was done. Taking this herd to such low numbers it will be merely a "token herd" to try and appease the American public, then the herd will soon become extinct. It is becoming very apparent in your response to our comments that your canned answer is "the Forest Service is mandated by the WFRHBA". The FS does not take it seriously to the letter of the Act. They use the Act only when they think they can use it against the horses and are using all their budget in that direction. The FS must OBEY the Act and in doing so by giving regard to the intent of Congress when it was passed. It seems the agency has taken advantage of the differences with their interpretation of the Act. The FS is also mandated to the Multiple Use at as it reads in the 89 LRMP FEIS of the Ochocos "MULTIPLE USE -The management of all the various renewable surface resources of the National Forest System so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some lands will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output", Pg. GL-15. Contrary to what the FS has alluded to in their interpretation of the MUA it states,"....with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output". The FS is also mandated in the Act "The management of all the various renewable surface resources of the National Forest System so that they are utilized in the combination that will best meet the needs of the American people". 80% of the American Public supports the use of our resources (forage and habitat requirements) for the horses. In this project out of 127 comments, 115 were in support of the horses, 12 against; that would give weight to the conclusion that the forage should be for the horses not just 1 grazing permittee. The "Balance" is off!

(32.) Comment: People can view horses from asphalt roads in this Territory....The Ochoco horses personality trait is different because they don't flee from the public....It would be sad if people wouldn't come to the forest to view our horses if you reduced the herd for extinction or your breeding

program would produce deformed horses, or zeroing out the herd, as there is no scientific proof that any of your proposed actions will work. [25]

Consideration: The Forest accepted public comment during scoping and on the EA. Many people submitted comments about their views of interactions with wild horses. Though the EA acknowledges that some members of the public enjoy viewing wild horses in the Territory, the management plan is not focused on that as a recreational activity. Rather it is focused on using science to determine the appropriate management level and to make use of new information and tools regarding fertility control and genetics. Conducting gathers and reducing the current herd size to AML would not cause extinction and there is no “breeding program” proposed that would be expected to cause deformities. Under the description of the Purpose and Need for Action on page 3 of the EA it states that, “[t]he Forest Service is mandated by the WFRHBA to ensure wild horses are managed in a thriving natural ecological balance with other uses and the productive capacity of their habitat as required.” It is believed that in so doing the Forest will be providing for spiritual, emotional and cultural needs of the people who enjoy this very special resource of the Ochoco National Forest.

Objection to consideration: Your lack of attention to major analysis for baseline genetics creates the real possibility this could be the end result. You could produce deformed horses. Words of advice from Dr. Mills 2010: “Caution has to be used, however, in that there is no 'genetic' guarantee that the other HMA herds are not also inbred and have by chance (genetic drift) had their gene pool populated with deleterious genes. While greater genetic diversity is beneficial to offset the deleterious effects of inbreeding of close relatives, relocation of horses from one HMA to another (a) will take several generations to assess the new 'gene pool' of the herds; and (b) gives no guarantee that new genes in not include deleterious ones as well as those that can offset current problems within each herd. Further studies need to be done on other HMA horse herds in close proximity to better assess their genetic relatedness within their herds and between the Ochoco herd”, Pg. 7. With this warning from Dr. Mills, I would not call this a “THRIVING natural ecological balance”, as so mandated by the WFRHBA.

(33.) Comment: There is no analysis on the impacts to the economy if the horse herd disappears or the augmentation changes their temperaments to be viewed by the public. [25]

Consideration: The EA acknowledges that some members of the public enjoy viewing wild horses in the Territory, but it is not considered a major part of the recreation on the Forest and does not produce any more economic benefit to the community than other forms of sightseeing or wildlife viewing. The effects of the alternatives analyzed to wild horse viewing are described on page 159 of the EA.

Objection to consideration: That is my point, you not producing any data on the subject because you do not believe they have value. They do! Every time I am up in the Ochocos, I see people looking for them. They do not need to come all the way over here to see wildlife, they can go to any forest. For that matter, they can just go out in the country and see wildlife and cattle. The FS has responded in this paperwork how “very special” these horses are. We are unique, we have a wild horse herd in

our backyards! If you take the herd down in size, the odds of the visitors not seeing them increases. A lot of disabled veterans and people seeking solace go to the Ochocos to view the horses. If you do not want people on closed roads looking for the horses, then there has to be the number we have currently of 135. Even at that there are times when they are hard to come by. I know there were public comments that said they could not afford to travel any where else to view wild horses and this is their family's entertainment. After all this is a low-income county. Most people do not know anything about submitting comments to the FS nor even how to write one.

(34.) Comment: Under the Civil Rights and Environmental Justice section: "Low income populations in Crook County would also not be affected by the management of the wild horses under any alternative." This is without merit and data evidence to back up such a reason for this. I am objecting to the FS not producing an EIS based on this statement.

Consideration: Agencies are to ensure minority and low-income populations do not experience disproportionately high and adverse effects of USDA programs and activities. There is no evidence that minority or low-income populations would experience disproportionate adverse effects at any scale.

Objection to consideration: I don't think you read all the comments. You didn't look for any evidence. Read: Dan Hammond and Sonya Petrusse's comments.

(35.) Comment: We have photos of wolf tracks in the winter range which took place at different times this year. They were discovered when we were checking the wild horse cameras, a volunteer program. Photos were sent to Monty at the FS, with no response back. Numerous people have seen tracks in the Ochocos. For the agency to say they do not exist or live in the forest is based on the fact they are hardly ever up in the forest, especially the wild horse team. If you don't look you won't find! That includes predators and wild horses. [25]

Comment: The Sheriff's has its own wolf tracking unit. Did the FS ask them for this data in writing the EA? [25]

Consideration: Wolves are known to periodically occur on the Ochoco National Forest, but there are no known resident wolf populations at this time (EA pp. 80 - 83). Information utilized for analysis in this EA included the most recent information from ODFW and USFWS including ODFW annual wolf reports, wolf observation reports, livestock depredation investigation reports, gps-collared wolf data, and the Forest's own remote sensor camera data from the last 5 years. ODFW works in conjunction with local law enforcement officials in investigation of livestock depredation.

(36.) Comment: An EIS is required due to the breadth and scope of the project. The proposed action will span years and impact thousands of acres of land with the conduct of multiple roundups, removals, and other largely unproven and potentially inhumane management practices on wild horses. [1, 25]

Consideration: This project does not fall within a class of action normally requiring an EIS per 36 CFR 220.5. All reasonable alternatives were considered and adequately analyzed to determine the potential for significant effects.

Objection to consideration: The agency looks suspicious here, for not determining the environmental effects of ALL consequences of the proposed action at every level.

(37.) Comment: The Forest Service did not provide a public notification of the change from an EIS to an EA. The public's response to the scoping was on a reliance of the FS doing an EIS and not dismissing certain relevant data (value of the horses to the community whether it be beliefs or based on economic factors) that might have conflicted with their desired outcome. [25]

Consideration: The Forest Service published a Notice of Withdrawal of the intent to prepare an environmental impact statement in the Federal Register on June 17, 2019. The stated purpose of the withdrawal was that upon preliminary evaluation, the Forest Service did not foresee any potential significant impacts to the human environment associated with the project.

Objection to consideration: The public relied on the statement that the FS would do their due diligence in this process and honor the intent of the WFRHBA .

(38.) Comment: No Action alternative should be actually no action (no management), and not continuation of current management. Current management is in fact no management because there have not been gathers and only one application of PZP. [25]

Consideration: The purpose of the proposed action is a new updated management plan considering current conditions and best available science. The EA describes that the No Action would mean a continuation of the existing Plan with an AML of 55-65 wild horses. The EA did consider a No Active Management alternative based on the current population, but dismissed it from detailed study as explained on EA p. 21.

Objection to Consideration: As I explained in my comments, the information was misconstrued by numerous people from your lack of explanation in the document in the various sections. I am aware of several people who supported Alternative 1 because they thought it meant “leave the horses alone and management them at current numbers”. Most people are so intimidated by this process that they didn’t read the document thoroughly enough to understand. The NEPA process is for the average citizen, not for the government to push through its desired outcome. It is the agency’s responsibility to have clear and concise information.

(39.) Comment: The FS has failed to inform the public of how the 1989 LRMP achieved their number of 60 horses. [25]

Consideration: The 1975 EA is available to the public upon request. The current EA provides a thorough description of the analysis process leading to the proposed AML.

Objection to consideration: Not my point. You did not inform the public that there was no recent analysis. You were obligated to state that you in fact were just taking that AML number right out of the 1975 plan. You failed to explain the procedure on how it was entered into the 1989 forest plan.

Regarding information that the public should have had easy access to, the conversation between FS staff and Dr. Cothran (2017) should have been available in the project file. Maybe the conversation was omitted because it doesn't make the FS look very knowledgeable about the herd they are supposed to manage. Here is one example from that conversation:

"While clustered around the Andalusian breed, Dr. Cothran indicated that the ladder chart represented in Figure 1 of his paper, placing these horses between pony breeds, is not satisfactory to him. I shared, the anecdotal story of someone dumping a trailer full of Shetland ponies onto the territory in the distant past and that just based on physical appearance the Big Summit horses appear to be an interesting mix of pony and draft horse. Dr. Cothran responded that in other herd(s) he has worked with in the past he has found that herd(s) with a pony, draft and mid-size American horse breed (like quarter horse) the similarity index displayed Andalusian association under very small sample size but resolved with more samples." Full conversation included as attachment.

Hair samples from 14 different Ochoco horses were sent to Dr. Cothran's DNA testing lab in 2012 by the Coalition, with results for 3 of the top three breeds for each horse, for a total of 42 possible breeds. 1 horse came out with "Shetland/Hackney", while none showed any draft breeds. Andalusian/Lusitano/Brazilian (Spanish) was present for 18 of the possible 42 breeds, with Irish as the second most prominent. There was no evidence to support all the origin stories, such as the one about Shetlands dumped out near Paulina, which is nowhere near the BST. The Shetland/Hackney was a horse with no name on the paperwork, so could have been from another sample set and not even Ochoco. This type of testing does not show the full range of lineage that mtDNA does, but if this herd was Shetland/Draft then there would be some showing in these samples. The samples were from horses caught in Coyle Creek, which did resemble small Clydesdales in color and conformation more than the herd now, so these horses would seem the most likely to test out Draft. This shows that assumptions have no place in management of this herd.

40.) Comment: The 1975 EA withheld information from the public...Horses were captured in the 1970s prior to the 1975 EA...No raw forage data or trend study is in the 1975 EA....Inventory of the wild horses in 1975 was inadequate. [25]

Consideration: The contents of the 1975 EA are outside the scope of this proposed action; the Decision Notice was signed some 40 years ago and opportunity for administrative review has long since passed. The purpose of the current project is to use the current conditions and best information on wild horse numbers to update the Forest's management of wild horses in the Big Summit Territory.

Objection to consideration: I beg to differ. How can you say it is outside the scope of the proposed action when in fact it is Alternative No. 1 of the proposed plan? The purpose for my comment was

for several different reasons, one of which was to point out that it didn't seem to matter that it was against the law to capture wild horses effective 1971 but that didn't stop this agency from going against federal law to lower the number of the horses that were going to be found in the territory when they did their 1975 EA (FS captured 40 horses from 1971-1975. Statement of Ochoco National Forest staff, Sounding Board Meeting) possibly and probably removing them from the areas which should have been declared part of their territory. I am still questioning the validity of the original numbers of horses in the herd under Alternative 1. "Best information" is questionable at best. The FS spent all their budget on trying to get people and other agencies' opinion to concur with their predetermined outcome for the wild horses. The budget money should have been spent judiciously to benefit the horses not for their demise. Site-specific data studies are a must on this herd.

Thank you for the opportunity to submit these Objections to the Ochoco Wild Horse Management Plan proposed action.

Respectfully,

/s/Melinda Kester

MELINDA KESTLER
(Commenter 25)