

BLM Response to April 13-14, 2016 Wild Horse and Burro Advisory Board Recommendations

Recommendation #1: The National Wild Horse and Burro Advisory Board asks the BLM to continue to work toward full implementation of previously accepted recommendations of the Board and prioritize according to BLM matrix of meeting AML.

BLM Response:

The BLM accepts this recommendation and will conduct work within the limitations of available resources that contributes to the achievement of AML in the highest priority areas. Priority work includes continuing to conduct gathers to achieve AML in all greater sage-grouse habitat sagebrush focal areas by 2020; continuing research to develop more effective contraception methods and implementing them as they become available; reducing off-range holding costs by acquiring more pastures to reduce corrals numbers freeing up funds for on-range management; increasing the number of trained animals offered for adoption; piloting an adoption incentive program; increasing animal availability to adopters through new storefronts with emphasis in the East; developing and implementing new internet adoption capability; and procuring the services of a professional marketing firm.

Recommendation #2: The National Wild Horse and Burro Advisory Board recommends BLM create a crisis/emergency plan in case of severe drought or natural disaster that necessitates removal of either over 1,000 horses or over the amount BLM can hold in short-term holding facilities. The situation would be triggered by a BLM determination that animals are ‘imperiled’.

BLM Response:

The BLM accepts this recommendation. In fiscal year 2016, \$500,000 was held in reserve for the removal of imperiled animals. In addition, fire rehabilitation funding has been available for the removal of animals from wildfire areas. To date about 200 imperiled animals have or are being removed. Larger scale removals will begin compromising the ability to conduct priority removals to achieve AML in greater sage-grouse/sagebrush focal area habitat; conduct court ordered removals; mitigate public safety and health issues; remove from private lands outside of HMAs; and initiate field research.

Recommendation #3: The National Wild Horse and Burro Advisory Board recommends BLM make it easier for trusted trainers or MHF or other organizations to acquire sale eligible and ‘riding desirable’ (based on age and adoptability) horses.

BLM Response:

BLM accepts this recommendation in part due to the Board’s suggestion during the development of the recommendation to reduce or eliminate the paperwork requirements for reliable or “trusted” trainers who purchase horses. The requirements for purchasing an animal involve the completion of an Application to Purchase and a signature on a Bill of Sale that commit the buyer to provide humane care. BLM doesn’t anticipate reducing these requirements but greater efforts will be made to increase the availability of “riding desirable” sale eligible animals for enrollment into BLM’s partnership with the Mustang Heritage Foundation, who utilizes reliable trainers for training and placement into private care.

Recommendation #4: The National Wild Horse and Burro Advisory Board support efforts by BLM to engage professional marketers to identify and attract appropriate demographic segments in order to increase mustang adoptions.

BLM Response:

The BLM accepts this recommendation and recognizes the need for a comprehensive and consistent marketing strategy that effectively supports the placement of animals into private care and raises awareness of wild horse and burro on-range management. The BLM has issued a solicitation to procure the services of a marketing firm and plans to issue a contract by October 1, 2016. The contractor will assist BLM to build on the existing brand; develop a marketing strategy; create marketing and communication products; and provide professional guidance based on recent market research acquired by BLM under a different contract.

Recommendation #5: The National Wild Horse and Burro Advisory Board recommends BLM create and pilot a Mustang Mentoring program consisting of a two-week on-site training conducted by a qualified trainer at a short-term holding facility for up to 10 horses and 10 adopters.

BLM Response:

The BLM accepts this recommendation and would like to develop this concept through additional work with the board.

Recommendation #6: The National Wild Horse and Burro Advisory Board urges BLM to institute the volunteer strategy as soon as possible (September 2015 Recommendation # 10 which states “Develop strategy to train and use more qualified volunteers to support wild horse and burro activities, off-range and on-range.”)

BLM Response:

BLM accepts this recommendation. A formalized process and strategy for a volunteer program has been discussed and will be developed when personnel are hired to lead this initiative. In the interim, field offices will be encouraged to continue using and expand the use of volunteers for both on-range and off-range management activities. The Washington Office will consider offering financial incentives through a “Division Chief Challenge” to encourage and support field offices who initiate new programs to engage community groups and/or volunteers to advance on-range population management endeavors such as those recommended in the following Recommendation #7.

Recommendation #7: The National Wild Horse and Burro Advisory Board encourages state and local BLM offices to embrace volunteers to document wild horses with photography, work with local offices to create a sustainable management plan, and enable qualified volunteers to participate in the implementation of the sustainable plan including the use of reversible contraceptives.

BLM Response:

The BLM accepts this recommendation and will provide encouragement to BLM field offices as per BLM's response to the preceding Recommendation #6. BLM retains its authority and responsibility for the development of herd management plans. Volunteers and other members of the public can contribute to the development of management plans through the NEPA process. Once management plans and implementation actions are determined, local offices can engage volunteers and community groups to assist.

Recommendation #8: The National Wild Horse and Burro Advisory Board would encourage aggressive use of all tools in the tool box as addressed in the Board's September 2015 Recommendation #16, which reads "Prioritize use of currently available tools in the field to reduce population growth **right now** and implement promising new tools as quickly as they become available."

BLM Response:

The BLM accepts the recommendation and recognizes the need to implement an aggressive fertility control program utilizing available tools and new methods as they become available.

Wild Horse and Burro Numbers in Holding Facilities
(Report Date: August 18, 2016)

	Short-Term Holding Facilities		Horses	Burros	Total
	Facility Name	Facility Cap	8/18/2016	8/18/2016	8/18/2016
Arizona	Florence Prison	1,000	576	62	638
California	Elk Grove Prison	20	27	0	27
California	Litchfield	1,000	294	18	312
California	Redlands	20	9	0	9
California	Ridgecrest	1,000	382	42	424
Colorado	Canon City/Mens Training	50	43	0	43
Colorado	Canon City Prison	3,000	1,420	10	1,430
Idaho	Boise	200	107	9	116
Idaho	Bruneau	3,500	2,043	0	2,043
Idaho	Challis	150	1	0	1
Illinois	Ewing	300	156	23	179
Kansas	Hutchinson Prison	350	277	5	282
Kansas	Scott City	1,400	386	0	386
Montana	Britton Springs	20	0	0	0
Nebraska	Elm Creek	500	241	18	259
Nevada	Carson City Prison	2,000	1,461	4	1,465
Nevada	Fallon	3,200	2,107	15	2,122
Nevada	Palomino Valley	1,850	261	6	267
Oklahoma	Pauls Valley	600	418	36	454
Oregon	Burns	800	591	0	591
Utah	Axtell/Burro	1,200	0	801	801
Utah	Axtell/Horse	1,000	809	0	809
Utah	Delta	300	313	11	324
Utah	Salt Lake Staging	0	0	0	0
Wisconsin	Mequon	20	1	1	2
Wyoming	Mantle/Chugwater Training	200	180	11	191
Wyoming	Rock Springs	800	176	0	176
Wyoming	Riverton Prison	170	152	8	160
	Total	24,650	12,431	1,080	13,511
State	Long-Term Holding Pastures		Horses	Burros	Total

Age of Horses in STH			
0-4 yrs	5-10 yrs	11+ yrs	Unmarked
3,071	7,434	1,194	732

Age of Burros in STH			
0-4 yrs	5-10 yrs	11+ yrs	Unmarked
310	598	115	16

	Facility Name	Facility Cap	8/1/2016	8/1/2106	8/1/2016
Iowa	Mt Ayr/Geldings	400	419	0	419
Kansas	Cassoday/Geldings	2,011	2,008	0	2,008
Kansas	Grenola/Mares	2,600	2,591	0	2,591
Kansas	Matfield Green/Mares	606	523	0	523
Kansas	Teterville East/Geldings	1,720	1,639	0	1,639
Kansas	Teterville West/Mares	550	633	0	633
Montana	Ennis/Geldings	1,150	950	0	950
Nebraska	Atkinson/Mares	1,000	804	0	804
Oklahoma	Bartlesville/Geldings	2,175	2,169	0	2,169
Oklahoma	Catoosa/Geldings	2,000	1,959	0	1,959
Oklahoma	Davis/Mares	200	216	0	216
Oklahoma	Foraker/Geldings	1,400	1,421	0	1,421
Oklahoma	Foster/Mares	750	752	0	752
Oklahoma	Gray Horse East/Mares	1,735	1,846	0	1,846
Oklahoma	Gray Horse West/Geldings	1,015	897	0	897
Oklahoma	Hickory/Mares	1,600	1,607	0	1,607
Oklahoma	Hominy/Mares	1,059	1,046	0	1,046
Oklahoma	Hulah/Geldings	2,648	2,497	0	2,497
Oklahoma	Nowata/Mares	900	893	0	893
Oklahoma	Pawhuska/Mares	2,800	2,740	0	2,740
Oklahoma	Stroh/Mares	850	832	0	832
Oklahoma	Tishomingo/Mares	600	663	0	663
Oklahoma	Vinita/Geldings	200	202	0	202
South Dakota	Mission Ridge/Geldings	1,000	1,025	0	1,025
South Dakota	Whitehorse/Geldings	400	378	0	378
Utah	Fountain Green/Mares	700	252	0	252
Wyoming	Horse Creek/Mares	1,200	626	0	626
Subtotal		33,269	31,588	0	31,588
State	Eco-Sanctuaries		Horses	Burros	Total
		Facility Cap	8/1/2016	8/1/2016	8/1/2016
Oklahoma	Coalgate/Mares	150	150	0	150
Wyoming	Centennial/Geldings	300	285	0	285
Wyoming	Lander/Geldings	150	127	0	127
Subtotal		600	562	0	562
	Total	33,869	32,150	0	32,150
	Grand Total	58,519	44,581	1,080	45,661

Age of Horses in LTH			
0-4 yrs	5-10 yrs	11+ yrs	Unmarked
81	6,748	25,321	0

TENTATIVE
 FY 2016 Wild Horse and Burro Removal
 and Fertility Control Schedule by Date
 as of August 23, 2016

State	Herd Management Area (HMA) or Herd Area (HA)	Start Date	End Date	Animals Proposed to be Gathered	Animals Proposed to be Removed	Animals Actually Removed	Mares Treated with Fertility Control	Gather Method	Species	Rationale
AZ	Havasu	10/1/2015	10/26/2015	50	50	51	0	Bait or Water	Burro	appr FY 2015
AZ	Black Mountain	12/10/2015	12/10/2015	8	8	9	0	Bait or Water	Burro	appr FY 2015
AZ	Outside AZ (Privates Cove)	10/1/2015	10/15/2015	40	40	8	0	Bait or Water	Burro	appr FY 2015
NV	Triple B (Buck - Bald)	10/3/2015	10/15/2015	100	100	53	0	Bait or Water	Horse	appr FY 2015
	Nuisance/Various States	10/9/2015	5/22/2016	0	0	16	0	Nuisance	Horse	
CO	Sand Wash Basin	10/1/2015	9/30/2016	0	0	0	125	None	Horse	
NV	Water Canyon (Antelope)	10/27/2015	11/30/2015	55	40	31	12	Bait or Water	Horse	Gonacon
OR	Beaty Butte	10/1/2015	6/14/2016	1,450	1,070	1,074	0	Helicopter	Horse	SG Focal Area
ID	Sands Basin (fire emergency)	12/15/2015	2/15/2016	35	35	29	0	Bait or Water	Horse	remaining animals from Soda Fire
WY	McCullough Peaks	1/1/2016	9/30/2016	0	0	0	52	None	Horse	
CA	Centennial HMA/Slate Range HA	1/15/2016	2/26/2016	86	50	57	0	Helicopter	Burro	DOD funded
CA	Centennial HMA	1/15/2016	1/17/2016	200	0	14	59	Helicopter	Horse	DOD funded
MT	Pryor Mountain Wild Horse Range	2/1/2016	5/31/2016	0	0	0	65	None	Horse	
CO	Spring Creek Basin	2/1/2016	5/30/2016	0	0	0	22	None	Horse	
ID	Challis	2/1/2016	9/30/2016	0	0	0	35	None	Horse	
NV	Outside Eagle HMA/Outside Delamar Mtns HA	2/9/2016	2/28/2016	120	120	128	0	Helicopter	Horse	Health & Human Safety
CO	Little Book Cliffs Wild Horse Range	3/1/2016	7/30/2016	0	0	0	20	None	Horse	
UT	Onaqui	3/1/2016	5/31/2016	0	0	0	40	None	Horse	
UT	Sinbad	3/21/2016	4/6/2016	126	126	77	0	Bait or Water	Burro	Research
UT	Sinbad	4/11/2016	4/19/2016	74	28	57	0	Helicopter	Burro	Research
UT	Conger*	7/1/2016	7/7/2016	316	216	257	0	Helicopter	Horse	Research
UT	Frisco*	7/8/2016	7/14/2016	275	230	112	0	Helicopter	Horse	Research
UT	Conger*	7/15/2016	8/31/2016	60	60	48	0	Bait or Water	Horse	Research
NV	Miller Flat	7/23/2016	9/30/2016	40	40	10	0	Bait or Water	Horse	appr FY 2015
NV	Rocky Hills	8/1/2016	9/30/2016	0	0	0	40	None	Horse	
NV	Outside Silver King	8/3/2016	8/13/2016	100	100	104	0	Bait or Water	Horse	Public Safety
NV	Red Rocks (outside)	8/9/2016	8/16/2016	40	40	41	0	Bait or Water	Burro	appr FY 2015
UT	Blawn Wash	8/10/2016	8/16/2016	150	150	158	0	Helicopter	Horse	Agreement w/State
NV	Outside/Inside Triple B	8/13/2016	9/15/2016	180	180	79	0	Bait or Water	Horse	Private Property
CA	Clark Mtn HA	8/15/2016	9/30/2016	120	120	0	0	Bait or Water	Burro	Public Safety
CA	Outside Chemehuevi HMA	8/15/2016	9/30/2016	20	20	0	0	Bait or Water	Burro	Public Safety
CA	Slate Range HA	8/15/2016	9/30/2016	75	75	0	0	Bait or Water	Burro	Public Safety
AZ	Chocolate Mules	8/15/2016	9/30/2016	10	10	0	0	Bait or Water	Burro	Public Safety
AZ	Cibola-Trigo	8/15/2016	9/30/2016	35	35	0	0	Bait or Water	Burro	Public Safety
AZ	Cibola-Trigo	8/15/2016	9/30/2016	25	25	0	0	Bait or Water	Horse	Public Safety
AZ	Black Mountain/Big Sandy	8/15/2016	9/30/2016	110	110	0	0	Bait or Water	Burro	Public Safety
OR	South Steens	8/18/2016	9/30/2016	200	100	39	40	Bait or Water	Horse	Resource Issues/Burn Damage/SFA
OR	Outside Three Fingers	8/29/2016	8/27/2016	100	50	0	25	Helicopter	Horse	Fire Rehab
NV	Wood Hills	8/29/2016	9/30/2016	60	60	0	0	Bait or Water	Horse	Water Concerns
NV	Stone Cabin	9/1/2016	10/30/2016	325	100	0	125	Bait or Water	Horse	Selective Removal
NV	Reveille	9/12/2016	10/30/2016	125	50	0	30	Bait or Water	Horse	Court Order
AZ	Lake Pleasant	9/12/2016	12/30/2016	70	70	0	0	Bait or Water	Burro	Research; Public Safety
OR	Cold Springs	9/15/2016	10/15/2016	150	100	0	25	Bait or Water	Horse	Zone 1 SFA
TOTAL				4,930	3,608	2,452	715			
CA/USFS	Devils Garden Territory	9/8/2016	9/30/2016	250	200	0	0	Helicopter	Horse	Private Property
NM/USFS	Jicaniilla/Carracas Mesa	5/15/2015	10/31/2016	100	100	38	0	Bait or Water	Horse	Zone 6

NM/USFS	Jarita Mesa	5/4/2016	10/31/2017	70	70	0	0	Bait or Water	Horse	Zone 6
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* Conger & Frisco will each have 100 hd returned to the range for research when the gather is completed.

Completed Helicopter Removals		1,857
Completed Bait Trap Gathers		467
Completed Fertility Control Treatments		71
Completed PZP darting		0
Gathers in Progress		128

Completed Removals and PZP treatments to Date			
	Helicopter	Bait Trap	Fertility Control Treatments
AZ	0	68	0
CA	71	0	59
CO	0	0	0
ID	0	29	0
MT	0	0	0
NV	128	229	12
NM	0	0	0
OR	1,074	0	0
UT	584	125	0
WY	0	0	0
Nuisance/Va rious States	0	16	0
TOTAL	1,857	467	71

TENTATIVE
 FY 2017 Wild Horse and Burro Removal
 and Fertility Control Schedule by Date
 as of August 23, 2016

State	Herd Management Area (HMA) or Herd Area (HA)	Start Date	End Date	Animals Proposed to be Gathered	Animals Proposed to be Removed	Animals Actually Removed	Mares Treated with Fertility Control	Gather Method	Species	Rationale
NV	Stone Cabin	9/1/2016	10/30/2016	325	100	0	125	Bait or Water	Horse	Selective Removal
NV	Reveille	9/12/2016	10/30/2016	125	50	0	30	Bait or Water	Horse	Court Order
AZ	Lake Pleasant	9/12/2016	12/30/2016	70	70	0	0	Bait or Water	Burro	Research; Public Safety
OR	Cold Springs	9/15/2016	10/15/2016	150	100	0	25	Bait or Water	Horse	Zone 1 SFA
CO	Sand Wash Basin	10/1/2016	11/5/2016	350	100	0	200	Bait	Horse	Zone 6
WY	Divide Basin	10/15/2016	11/30/2016	520	235	0	0	Helicopter	Horse	Consent Decree/SFA
WY	Adobe Town	10/15/2016	11/30/2016	150	74	0	0	Helicopter	Horse	Consent Decree/SFA
WY	Salt Wells	10/15/2016	11/30/2016	668	584	0	0	Helicopter	Horse	Consent Decree/SFA
NV	Owyhee (Complex)	11/1/2016	12/15/2016	230	125	0	50	Helicopter	Horse	SFA
NV	Rock Creek	11/1/2016	12/15/2016	450	250	0	100	Helicopter	Horse	SFA
NV	Little Owyhee	11/1/2016	12/15/2016	800	425	0	180	Helicopter	Horse	SFA
OR	???	11/1/2016	11/30/2016	100	100	0		Bait or Water	Horse	Zone 1
WY	Little Colorado	11/1/2016	11/30/2016	300	267	0	0	Helicopter	Horse	Research
WY	White Mountain	11/1/2016	11/30/2016	212	0	0	0	Helicopter	Horse	Research
UT	Bible Springs Complex	11/29/2016	12/12/2016	280	150	0	0	Helicopter	Horse	Court Order/State Lands
WY	McCullough Peaks	1/1/2017	9/30/2017	0	0	0	52	None	Horse	
UT	Frisco*	1/9/2017	1/13/2017	100	100	0	0	Helicopter	Horse	Research
UT	Cedar Mountain	2/1/2017	2/13/2017	700	200	0	150	Helicopter	Horse	Selective Removal/PZP
CO	Spring Creek Basin	2/1/2017	5/30/2017	0	0	0	22	None	Horse	
ID	Challis	2/1/2017	9/30/2017	0	0	0	35	None	Horse	
CO	Little Book Cliffs Wild Horse Range	3/1/2017	7/30/2017	0	0	0	20	None	Horse	
UT	Onaqui	3/1/2017	5/31/2017	0	0	0	40	None	Horse	
UT	Muddy Creek HMA	8/1/2017	8/3/2017	50	50	0	0	Helicopter	Horse	Court Order/State Lands
MT	Pryor Mountain Wild Horse Range	8/1/2017	9/30/2017	0	0	0	65	None	Horse	
NV	Rocky Hills	8/1/2017	9/30/2017	0	0	0	40	None	Horse	
TOTAL				5,580	2,980	0	1,134			
NM/USFS	Jarita Mesa	5/4/2016	10/31/2017	70	70	0	0	Bait or Water	Horse	Zone 6

* Frisco will each have 100 hd returned to the range for research when the gather is completed.

Litigation Update

(As of August 24th, 2016)

Bureau of Land Management

Idaho

American Wild Horse Preservation Campaign, The Cloud Foundation, Return to Freedom, and Virginia Marie Hudson v. DOI et. al., Case No.: 1:16-cv-00001-EJL (D. Id.) (filed Jan. 4, 2016). Plaintiffs filed a Complaint for Injunctive and Declaratory Relief in the Idaho District Court concerning Idaho's Jarbidge Resource Management Plan approved on September 2, 2015. The RMP includes a decision to manage the Saylor Creek HMA as a non-reproducing herd because the HMA has no natural water sources and wild horses rely solely on extensive pipelines and troughs. The groups allege BLM violated NEPA, APA, WHA, TGA, and FLPMA by conducting inadequate analysis of any significant impacts and failure to fulfill statutory obligations. The groups' allege BLM did not adequately analyze the impact of a non-reproducing status on the health of the individual horses and the herd as a whole, the potential effects on behavior and physiology, the impact to the range as a result of managing a non-reproducing herd, any relative cumulative impacts on horses from sterilization, and the claim that BLM did not consider a reasonable range of alternatives to sterilization.

Montana

Jerri Joette Tillet v. Bureau of Land Management; Interior Board of Land Appeals; and Department of Interior, Case No. CV 14-73-BLG-SPW (D. Mont.) (filed June 9, 2014). Plaintiff challenged BLM's plan to use multi-year prescribed fires on approximately 6,200 acres in the northern portion of the Pryor Mountain Wild Horse Range. Plaintiff alleged that BLM's authorization of the plan violated NEPA. On August 28, 2015, the District Court ruled that BLM complied with all but one of its NEPA obligations: the requirement to take a hard look when it considered the impacts of the prescribed burns on sensitive species in the area, in particular the Clark's Nutcracker. The Court granted in part and denied in part BLM's motion for summary judgment, vacated decisions regarding impacts on sensitive species and remanded the matter back to BLM to address the issue. The BLM has not reissued the decision as of July 25, 2016.

Jerri Joette Tillet v. Bureau of Land Management; Interior Board of Land Appeals; and Department of Interior, Case No. CV 15-48-BLG-SPW (D. Mont.). Plaintiff, a pro se litigant, filed this complaint after the IBLA denied her stay petition (See IBLA 2015-133). At issue is whether BLM's updated 5 year fertility control plan and the darting of several wild horses constitutes "malfeasant" behavior. The U.S. filed an answer to the complaint on August 7, 2015. On August 26, 2015, the Court consolidated this case with CV 15-61 (challenge to 2015 gather, described below). The U.S. filed its summary judgment brief on December 7, 2015 and the Plaintiff filed her response brief on January 15, 2016. The U.S. moved, and the Court granted, a motion to strike the brief and ordered the Plaintiff to file a new brief complying with local court rules by February 16, 2016. The U.S. reply brief was filed on March 1, 2016. The Court issued a judgment in favor of the federal defendants on May 18, 2016. On June 3, 2016, Plaintiff

appealed the judgment to the Ninth Circuit (Docket No. 16-35465). Appellant's opening brief is due September 12, 2016. The U.S.' answering brief is due October 12, 2016.

Jerri Joette Tillet v. Bureau of Land Management; Interior Board of Land Appeals; and Department of Interior, Case No. CV 15-61-BLG-SPW (D. Mont.). The Plaintiff, a pro se litigant, seeks to stop through injunction, BLM's decision to gather and remove 15 to 20 young wild horses from the Pryor Mountain Wild Horse Range. On June 16, 2015 BLM decided to gather and remove 15-20 young wild horse from the PMWHR starting in early August. The Plaintiff, who also filed an IBLA appeal, alleges that the BLM is engaging in ongoing and systematic malfeasance. On August 4, 2015 the U.S. Magistrate issued findings and recommendations that the injunctive relief be denied. On August 26, 2015 the Court consolidated this case with CV 15-48-BLG-SPW (see above). The U.S.' answer to the complaint was filed September 4, 2015. The excess wild horses were all adopted in the early fall of 2015. The U.S. filed summary judgment brief on December 7, 2015 and the Plaintiff filed a response on January 15, 2016. The U.S. moved, and the Court granted the motion, to strike the Plaintiff's brief and ordered her to file a new brief complying with local rules by February 16, 2016. The U.S. reply brief was filed on March 1, 2016. The Court issued a judgment in favor of the federal defendants on May 18, 2016. On June 3, 2016, Plaintiff appealed the judgment to the Ninth Circuit (Docket No. 16-35465). Appellant's opening brief is due September 12, 2016. The U.S.' answering brief is due October 12, 2016.

Friends of Animals v. James Sparks and Bureau of Land Management, Case No. 1:15- CV-00059-BLG-SPW (D. Mont.) (filed June 26, 2015). On June 16, 2015, BLM issued a decision authorizing the gather and removal of 15-20 young wild horses on the Pryor Mountain Wild Horse Range after finding that there was an excess of horses. The population was at 170 and the AML is 90-120 horses. On June 26, 2015, the Plaintiff filed a complaint and request for injunctive relief. At issue is whether the gather and removal of 15-20 excess wild horses from the Pryor Mountain Wild Horse Range violates NEPA and the Wild and Free Roaming Horse and Burros Act. A hearing on the injunction was held on July 29, 2015. The Court denied the injunction, and gather operations commenced on August 3, 2015. BLM's answer was due August 31 and the AR was lodged on September 30. The excess wild horses were all adopted in the early fall of 2015. Plaintiff's summary judgment brief was filed on December 18, 2015 and the U.S.' summary judgment brief was filed January 29, 2016. Plaintiff's reply brief was filed February 26, 2016 and the U.S. reply was filed March 25, 2016. The Court heard oral arguments on the cross-motions for summary judgment on June 17, 2016. We are awaiting the Court's decision.

Nevada

Nevada Association of Counties & Nevada Farm Bureau Federation v. DOI et al., Case No. 3:13-cv-00712-MMD-WGC (D. Nev.) (filed Dec. 30, 2013). Plaintiffs allege that the BLM has failed to take mandated actions under the Wild Horse and Burro Act to maintain wild horse populations in Nevada at AML. The complaint also alleges this failure to act adversely affects private property water rights, livestock grazing and public safety. Plaintiffs further claim that the BLM has no authority to "stockpile" or "warehouse" wild horses in short- and long-term holding, and that BLM has failed to destroy or sell wild horses without limitation where adoption demand for excess wild horses is insufficient. On January 26, 2014, Laura Leigh filed a motion

to intervene and on February 27, 2014, the Wild Horse Preservation Campaign (WHPC) filed a motion to intervene (in support of the Government). The District Court granted the motions to intervene on April 2, 2014. On May 29, 2014, the WHPC filed a motion to dismiss Plaintiffs' lawsuit and on June 14, 2014, the Government filed its motion to dismiss Plaintiffs' lawsuit. On March 12, 2015, Judge Du dismissed P's complaint with prejudice, finding that P's complaint failed to specify any particular agency action or failure to act which might fall with the APA's cause of action, and also rejected the Fifth Amendment claims. On March 30, 2015, Plaintiffs filed a Notice of Appeal from the District Court's decision and filed their Opening Brief on November 23, 2015. The Government and Intervenors filed their Answer on February 12, 2016. No reply brief was filed. This case is now fully briefed and awaiting ruling by the Ninth Circuit.

Eureka Co. v. BLM; Borba Land and Cattle et al. v. BLM, IBLA 2015-102 (filed February 19, 2015). BLM issued the Fish Creek HMA Gather Plan on February 9, 2015, which provides for a phased approach and multiple gathers to reach AML and for repeated applications of fertility controls. BLM gathered a total of approximately 424 wild horses from the Fish Creek HMA between February 13-18, 2015. Over 230 of these wild horses were removed to be offered for adoption and the remaining 183 horses were to be released back into the HMA following application of fertility controls. Appellants are eight ranchers and Eureka County who oppose release of the gathered horses back into the HMA before AML is reached. They have appealed from, and requested an expedited stay, from the portion of the gather decision that allows for the treatment and release of horses. BLM agreed to place the horses to be released in short-term holding pending resolution of the stay petition. A Motion for Expedited Ruling on the issue of whether gathering for fertility treatment can be implemented as a full force and effect decision and Motion to Dismiss the stay petition because it seeks relief that falls outside the Board's jurisdiction was filed on February 25, 2015. BLM's Motion to Dismiss the Appellant ranchers for lack of standing (since they failed to participate in the decision making process) along with BLM's Response (and opposition) to the Stay Petition was filed on March 2, 2015. Appellants filed a Response to the Motion to Dismiss, along with a Motion to Strike BLM's Response to Stay Petition on March 16, 2015. On March 30, 2015, the IBLA granted BLM's motion to dismiss all appellants, except Eureka County, for lack of standing. The IBLA also denied Eureka County's petition for stay, finding that Eureka County was not likely to prevail on the merits of its appeal. The IBLA did not address Appellant's claim that BLM cannot gather wild horses for purposes of fertility controls under a full force and effect decision pursuant to 43 C.F.R. § 4770.3(c). Eureka County filed its Statement of Reasons on April 23, 2015. BLM filed its Answer on June 26, 2015. This appeal is now fully briefed and awaiting ruling by the IBLA.

Oregon

Front Range Equine Rescue (FRER) v. BLM, IBLA 2015-173 (Kiger and Riddle Mountain Gather). On May 4, 2015, BLM issued a Decision Record approving the proposed action of implementing a wild horse gather in the Kiger and Riddle Mountain Herd Management Areas (HMAs) to return wild horse levels to the low ends of the respective HMA's Appropriate Management Levels. On June 8, 2015 BLM received Notice of Appeal and on July 8, 2015 received Statement of Reason from Appellant (no Stay Petition filed). FRER alleges BLMs plan to gather all horses within the HMAs and selectively return animals to the range based on color and conformation is a violation of the 1971 WHBA "minimum feasible management" standard,

claiming this is breeding program for BLM to generate profits from. FRER also claims artificially low AMLs resulting in reduced genetic viability of both herds. On July 16, 2015 BLM filed motion to dismiss based on lack of standing. From 8/31/15 – 9/6/15 BLM conducted the Kiger and Riddle Mountain gathers. On January 16, 2016 IBLA issued order dismissing the appeal based on lack of standing. On January 27, 2016 FRER filed a complaint in United States District Court (District of Oregon) challenging IBLA's order dismissing their appeal based on lack of standing (FRER Vs. BLM IBLA Case 3:16-CV-00149-AC). On July 18, 2016 BLM filed its administrative record with the court. Both parties are scheduled to file simultaneous motions for summary judgement on October 14, 2016.

Friends of Animals v. BLM, (Case 2:16-cv-01670-SI) District of Oregon (Three Fingers Gather). Filed August 22, 2016. Plaintiffs filed District Court complaint and request for temporary restraining order to halt the Three Fingers Helicopter Gather (catch 100, remove 50, PZP 25 return mares) scheduled to begin August 23, 2016. Plaintiffs allege violations of NEPA for using a DNA to a 2011 Gather Plan for the Three Fingers HMA. Plaintiffs further allege adverse effects of PZP application were not analyzed in the 2011 EA or DNA. A District court hearing on the TRO was scheduled for August 23, 2016. However, on August 21, 2016 the Cherry Road Fire burned over 30,000 acres within and adjacent to the same area this gather was scheduled to occur. In response to this turn of events, Vale District vacated its previous gather decision, and is preparing to issue an emergency gather decision to respond to this situation. It is unknown if Plaintiffs will withdraw this complaint.

Friends of Animals v. Jewell, (Case 1:16-cv-01570-ckk) District of Columbia (Spay Research). Filed August 2, 2016. Plaintiffs filed District Court complaint challenging BLM's June 2016 Decision Record to implement pen trial research on 3 methods of mare sterilization at the Hines, OR wild horse corrals. Specifically plaintiffs allege 1) BLM violated the WFRHBA claiming the act doesn't authorize BLM to conduct research on wild horses within holding facilities; 2) BLM violated the NEPA by not preparing an EIS for this research project; and 3) BLM violated the 2016 Consolidated Appropriations Act by initiating experiments which will result in the destruction of healthy wild horses. DOJ is negotiating a briefing schedule with the plaintiff.

Ginger Kathrens, et. al (Cloud Foundation, American Wild Horse Preservation Campaign) v. Jewell, et. al. (Case 2:16-cv-01650-SU) District of Oregon (Spay Research). Filed August 15, 2016. Plaintiffs filed District Court complaint and request for preliminary injunction against the BLMs decision to deny plaintiffs the ability to observe in person or live stream video feed the implementation of the research investigating 3 methods of mare sterilization planned to occur at the Hines, OR wild horse corrals. Through two separate letters to plaintiffs council, BLM denied plaintiffs request to observe or live stream these procedures citing impacts to animal, veterinarian, and employee safety. Plaintiffs claim under the first amendment of the US Constitution they have a right to observe "all aspects" of the research trials. DOJ is negotiating a briefing schedule with plaintiffs.

Front Range Equine Rescue v. Jewell, et. Al. (Case 1:16-cv-01521-CKK) District of Columbia (Spay Research). Filed July 26, 2016. Plaintiffs filed District Court complaint challenging BLM's June 2016 Decision Record to implement pen trial research on 3 methods of mare sterilization at the Hines, OR wild horse corrals. Specifically plaintiffs allege 1) BLM violated the WFRHBA's "minimum feasible level" mandate, suggesting PZP was already available to

use; 2) BLM should have prepared an EIS for this research; and 3) BLMs decision was arbitrary and capricious. DOJ is negotiating a briefing schedule with plaintiffs.

Citizens Against Equine Slaughter, et. Al. v. BLM (IBLA 2016-243) Interior Board of Land Appeals (Spay Research). Filed July 29, 2016. Appellants filed administrative appeal and stay petition challenging BLMs June 2016 Decision Record to implement pen trial research on 3 methods of mare sterilization at the Hines, OR wild horse corrals. Specifically, appellants allege this research is inhumane, violates the WFHBA, and is illegal under state animal cruelty laws. Appellants further allege BLM failed to consider impacts to genetic viability and natural behaviors in wild herds. On August 19, 2016 BLM filed its response to the stay petition and is awaiting IBLA order on this motion.

Susan Carter v. BLM (IBLA 2016-242) Interior Board of Land Appeals (Spay Research). Filed July 29, 2016. Appellant filed administrative appeal and stay petition challenging BLMs June 2016 Decision Record to implement pen trial research on 3 methods of mare sterilization at the Hines, OR wild horse corrals. Specifically, appellant alleges this research is inhumane and BLM did not fully consider impacts to genetic viability to wild herds. BLM filed a motion to dismiss based on lack of standing and IBLA has held the stay petition until the board can rule on standing.

Janet Lynch v. BLM (IBLA 2016-238) Interior Board of Land Appeals (Spay Research). Filed July 25, 2016. Appellant filed administrative appeal and stay petition challenging BLMs June 2016 Decision Record to implement pen trial research on 3 methods of mare sterilization at the Hines, OR wild horse corrals. Specifically, appellant alleges this research is inhumane and BLM did not consider safer methods of fertility control, and there is no evidence supporting the need to reduce populations on the range. BLM filed a motion to dismiss based on lack of standing and IBLA has held the stay petition until the board can rule on standing.

Utah

Western Rangeland Conservation Association (WRCA), et al. v. Jewell (Case No. 2:14-cv-00327-PMV). Filed April 30, 2014. Plaintiffs allege failure of the U.S. Department of the Interior and Bureau of Land Management (collectively “BLM”), to perform its mandatory duties to remove excess wild horses on the lands managed by BLM, “school section” lands administered by the State of Utah and on private lands pursuant to the Wild Free-Roaming Horses and Burros Act of 1971 (“WHBA”). Further, BLM has failed to comply with its duties in this respect, and its failure has resulted in an excessive wild horse population, which has severely damaged the public and private rangeland resources and has caused damage and injury to Plaintiffs, who are private landowners and federal and state grazing permittees, and to their livestock operations, livelihoods and way of life. Plaintiffs filed suit to compel agency action, they allege to be required by law, to immediately remove excess wild horses from BLM, State of Utah, and private land. On June 17, 2014 a motion to Intervene was made by the American Wild Horse Preservation Campaign, the Cloud Foundation, Return to Freedom, John Steele, and Lisa Friday. On July 15, 2014 Motion to Intervene was granted. On April 03, 2015 Judge Dee Benson DENIED a motion by the Defendant-Interveners to dismiss the case, and stated that “the court is satisfied that the Plaintiffs have met the necessary pleading requirements.” On June 05, 2015 an Administrative Record was filed by BLM (Defendants) to the Plaintiffs, Defendant-Intervener’s, and Judge’s Chambers.

Due to the fact that the parties having been unable to reach settlement in the case, an order establishing a briefing schedule was signed by Judge Evelyn J. Furse on 06/16/16 as follows: Plaintiffs' Opening Brief - 8/18/16, Amicus Brief in Support of Plaintiff's Brief - 8/25/16, Defendants/Defendant Intervenors Response Brief - 10/14/16, and Plaintiffs' Reply Brief - 11/7/16.

On 08/01/16, a motion was filed by the Counties of Beaver, Iron and Emery; and by the E&I, Twin M, Millard, San Rafael, Juab, Delta and Dixie Conservation Districts to appear as Amicus Curiae in support of Plaintiffs in this cause.

State of Utah, School and Institutional Trust Lands Administration (SITLA) v. Jewell, et al. (Case 2:15-cv-00076-BCW). Filed February 03, 2014. Plaintiffs filed suit in federal district court against Interior Secretary Jewell, BLM Director Kornze, and BLM State Director Palma (in their official capacities) for failure, under Section 4 of the WHBA, to remove wild horses from privately owned lands following a demand for removal. The complaint specifically seeks removal of wild horses from SITLA school-trust lands across the State of Utah within HMAs, and outside HMAs where wild horses have moved onto these lands. Plaintiffs claim that the Defendants' failure and refusal to immediately remove the wild horses is unlawful and is arbitrary and capricious. Plaintiffs seek a declaratory judgment from the court requiring removal of the wild horses from the SITLA school-trust lands, as well as an award of reasonable costs, litigation expenses, attorneys' fees, etc.

This case was settled and dismissed with a signed non-legal binding Agreement between BLM and SITLA on February 3, 2016. The In an unprecedented effort to work collaboratively on the issue and avoid a lengthy and expensive courtroom struggle, both parties met numerous times to come up with an acceptable solution. As a result of these efforts, the BLM and SITLA entered into an Agreement which provides for a mutual commitment to work cooperatively to manage wild horses that have entered onto SITLA lands. The agencies will meet annually to identify priority removal areas, ensure environmental review, conduct aerial population surveys jointly, and monitor rangeland resources and improvements.

The Agreement, which is subject to congressional appropriations, places priority on managing BLM herd areas (HAs) and herd management areas (HMAs) in the south central and south west areas of state, where the law suit was specifically aimed. However, the Agreement also calls for additional efforts in the rest of the state where other problems with SITLA and BLM management problems arise.

Wyoming

State of Wyoming v. USDOJ, et al., 14-CV-248-J (D. Wyo.)

On April 21, 2015, the U.S. District Court, Wyoming granted the United States' and intervening wild horse advocacy groups' motions to dismiss for failure to state a claim upon which relief can be granted. The State of Wyoming filed a Petition for Review of Final Agency Action on December 8, 2014, that sought review of a "decision" not to remove wild horses from seven herd management areas within the state upon finding that horse populations exceeded the appropriate management levels. The State contended that by failing to remove an overpopulation of wild horses, the Department violated mandatory, non-discretionary duties under the Wild Free-

Roaming Horses and Burros Act (WHA), 16 U.S.C. §§ 1331-1340, and challenged agency inaction under the Administrative Procedure Act (APA), 5 U.S.C. §§ 702 and 706(1). The motions to dismiss argued that the APA does not allow for a broad programmatic challenge, and that there was no non-discretionary duty under the WHA to remove wild horses merely upon finding that an overpopulation of horses. Rather, action is required under the WHA only after overpopulation exists and the BLM determines action is necessary to remove animals to preserve a thriving natural ecological balance. The court agreed, finding that under the WHA “action is mandatory if necessary to achieve and maintain a thriving natural ecological balance on the public lands, BLM is still left with a great deal of discretion in deciding how to achieve this Congressional objective. Therefore, ... the State's petition fails to set forth a discrete agency action that BLM is required to take.” The State filed a notice of appeal on June 19, 2015.

State of Wyoming v. USDOJ, et al., 15-8031 (10th Cir.)

Appeal of 14-CV-248-J (D. Wyo.), that ruled that the Department did not violate any mandatory, non-discretionary duties under the Wild Free-Roaming Horses and Burros Act (WHA), 16 U.S.C. §§ 1331-1340, or unlawfully withheld agency action under the Administrative Procedure Act (APA), 5 U.S.C. §§ 702 and 706(1). The District Court held there was no non-discretionary duty under the WHA to remove wild horses merely upon finding that an overpopulation of horses. The case is fully briefed oral argument is schedule for September 19, 2016.

American Wild Horse Preservation Campaign, et al. v. Jewell, et al., 14-CV-152-NDF (D. Wyo.)

On March 3, 2015, the U.S. District Court, Wyoming ruled that the BLM, Wyoming, Rock Springs Field Office, violated the National Environmental Policy Act (NEPA) by relying on a categorical exclusion (CX) for September 2014 gather and removal of wild horses. The gather removed all wild horses from portions of the Wyoming “checkerboard” (interspersed public and private lands), as provided for in the consent decree entered in Rock Springs Grazing Association v. Jewell, 11-CV-263 (D. Wyo.). The petitioners, three wild horse advocacy groups and three individuals, argued that BLM’s gather and removal violated, in addition to NEPA, the Federal Land Management and Policy Act (FLPMA) and the Wild Free-Roaming Horses and Burros Act (WHA). The Court found no violations of FLPMA or the WHA, and that BLM reasonably interpreted its CX to apply to checkerboard lands, even though it referred only to removal of strayed wild horses from private lands. But, the Court concluded that BLM did not take into account the full breadth of its discretion and the unique circumstances of this gather and removal. Therefore, its basis for relying on the CX, that the gather would not have an individual or cumulative significant impact on the environment, was not supported. The court remanded “the NEPA violation” with instructions to remedy the identified violations. On April 6, 2015, the Petitioners filed a motion for entry of judgment on their claims under the WHA and FLPMA. The Court granted petitioners' motion and entered final judgment on those claims on May 14, 2015. Petitioners filed a notice of appeal of those claims May 18, 2015.

American Wild Horse Preservation Campaign, et al. v. Jewell, et al., No. 15-8033 (10th Cir.)

In this appeal of the March 3, 2015 order in 14-CV-152-NDF, Appellants seek review of the District Court’s ruling that BLM complied with the Federal Land Management and Policy Act (FLPMA) and the Wild Free-Roaming Horses and Burros Act (WHA) when removing all wild horses from checkerboard portions of three Herd Management Areas in Wyoming. On May 27, 2015, the Tenth Circuit Court of Appeals ordered the parties to brief three jurisdictional issues:

1) whether the District Court's March 3, 2014 order was a final decision for purposes of appeal, 2) if not, whether the District Court's May 14, 2015 partial entry of final judgment complied with Federal Rules of Civil Procedure, Rule 54(b), and 3) whether the "administrative remand rule" applies. The case is fully briefed oral argument is schedule for September 19, 2016.

Friends of Animals v. BLM, 16-cv-199-NDF (D. Wyo.)

Synopsis: On July 19, 2016, Friends of Animals filed a complaint in U.S. District Court, Wyoming, challenging the BLM, Lander and Rawlins Field Offices' June 7, 2016 decision to gather wild horses from the Red Desert Herd Management Area Complex, treat mares with fertility control, and remove excess wild horses to achieve appropriate management levels. The petitioners argue that the decision violated the National Environmental Policy Act for 1) inadequately analyzing the effect on the contraceptive (porcine zona pellucida) on herd dynamics or behavior, and 2) failure to prepare a full environmental impact statement.

Colorado

Friends of Animals v. S.M.R. Jewell, et al, Case No. 1:15-cv-01500-CRC, United States District Court for the District of Columbia (filed July 28, 2016). Plaintiffs filed a motion for summary judgement of future gathers within the West Douglas Herd Area. The U.S. filed an answer to the summary judgement on August 17, 2016. The Plaintiff argues that BLM did not fully analyze the cumulative long term effects of helicopter gathers on horses over the long term, that the purpose of the gather was completed with gathering 167 horses from the herd area, and that the decision record does not authorize future gathers from that herd area.

Front Range Equine Rescue v. Bureau of Land Management, and Interior Board of Land Appeals, Case No. 1:16-cv-00969-REB (D. Co.)(filed April 29, 2016).. The U.S. issued a final Decision Record and associated EA on July 28, 2015, to remove all horses from the West Douglas Herd Area. The plaintiff filed a Notice of Appeal to the IBLA on August 28, 2015, followed by a Statement of Reasons for its appeal on September 25, 2015. The U.S. filed a motion to dismiss the plaintiffs appeal for lack of standing on November 25, 2015. The IBLA issued an order granting the Motion to Dismiss on March 31, 2016. Plaintiffs filed this Complaint for Declaratory Relief after the Plaintiff filed a notice of appeal to the IBLA (see IBLA 2015-235) which was dismissed by the Court. Plaintiffs allege that the BLM violated the WFRHBA, NEPA, and would continue to inflict economic harm to the plaintiffs if the decision to zero out the West Douglas Herd Area is carried forward.

U.S. Forest Service

California

American Wild Horse Preservation Campaign et al. v. Vilsack et al. 1:14-cv-00485-ABJ (DC). Plaintiffs filed suit March 24, 2014 against the Secretary of Agriculture and U.S. Forest Service (USFS) alleging that the agency violated the Administrative Procedure Act (APA), National Forest Management Act (NFMA), National Environmental Policy Act (NEPA, Wild Free-Roaming Horses and Burros Act (WFRHBA) and the implementing regulations for those Acts by modifying the territory boundary for the Devils Garden Plateau Wild Horse Territory and adjusting the existing Appropriate Management Levels (AMLs), to new upper and lower limits. The District Court ruled in favor of the Forest Service on September 30, 2015. Plaintiffs filed a notice of appeal to the Ninth Circuit on 11/25/15.