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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

THE CLOUD FOUNDATION, *et al.*,

Plaintiffs,

v.

BUREAU OF LAND
MANAGEMENT, *et al.*,

Defendants.

Case No. 1:26-cv-100-WWM

**DEFENDANTS' RESPONSE
IN OPPOSITION TO
PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING
ORDER AND PRELIMINARY
INJUNCTION**

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TABLE OF ACRONYMS

AML	Appropriate Management Level
APA	Administrative Procedure Act
BLM	Bureau of Land Management
EA	Environmental Assessment
HMAP	Herd Management Area Plan
MOU	Memorandum of Understanding
NEPA	National Environmental Policy Act
RMP	Resource Management Plan
USFS	U.S. Forest Service
WHA	Wild Free-Roaming Horses and Burros Act

INTRODUCTION

The Wild Free-Roaming Horses and Burros Act (“WHA”) charges the Bureau of Land Management (“BLM”) with managing wild horses “in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands.”¹ 16 U.S.C. § 1333(a). That mandate does not require BLM to wait until rangelands collapse, forage and water are exhausted, or wild horses suffer from starvation or dehydration. Once BLM determines that an overpopulation exists and removal is necessary, Congress directs BLM to “immediately remove excess animals from the range so as to achieve appropriate management levels.” *Id.* § 1333(b)(2).

The gather challenged here carries out those responsibilities. A spring 2026 census counted 187 horses—more than fifty percent above the upper end of the Pryor Mountain Wild Horse Range’s Appropriate Management Level (“AML”) of 107 to 120 adult wild horses. BLM therefore authorized an incremental gather to reduce the herd initially to approximately 150 horses, still well above AML, while continuing fertility control and genetic monitoring.

¹ In this case, the Pryor Mountain Wild Horse Range is jointly managed under a Memorandum of Understanding (“MOU”) between the BLM and the U.S. Forest Service. The MOU designates BLM as the “lead agency” for wild horse management on the Pryor Mountain Wild Horse Range. *See* Declaration of Amy Haas (“Haas Decl.”), Ex. B ¶ 5.

Plaintiffs nevertheless ask the Court to prevent BLM from implementing its Gather Decision, which BLM developed to comply with the WHA and this Court's prior decisions. Their claims do not justify that extraordinary relief. They have not demonstrated that they are likely to succeed on the merits of their claims, nor have they shown that the limited bait-and-water gather is likely to cause the irreparable injuries they predict. And an injunction would likely foreclose this fall's gather window altogether, leaving an already overpopulated herd on a forage-limited range through the winter. The WHA does not compel that result, and the Court should deny Plaintiffs' motion.

BACKGROUND

I. Statutory Background

Congress enacted the WHA in 1971 to protect wild free-roaming horses and burros as "living symbols of the historic and pioneer spirit of the West." 16 U.S.C. § 1331. But by 1978, Congress recognized that unmanaged population growth could itself harm the range, other wildlife, and the horses Congress sought to protect. *See Am. Horse Prot. Ass'n v. Watt*, 694 F.2d 1310, 1316-18 (D.C. Cir. 1982). Congress therefore amended the WHA to give BLM greater authority to remove excess animals and manage wild horses as part of a broader multiple-use system. *Id.*; *see also In Def. of Animals v. U.S. Dep't of Interior*, 751 F.3d 1054, 1060-62 (9th Cir. 2014).

The Act requires BLM to maintain a current inventory of wild horses to determine whether an overpopulation exists, how to address any such overpopulation (*i.e.*, through removal, sterilization, natural controls, or other means), and whether action must immediately be taken to remove excess animals. 16 U.S.C. § 1333(b). “[E]xcess animals” are those that “must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area.” *Id.* § 1332(f)(2). Once BLM determines “that an overpopulation exists” and “that action is necessary to remove excess animals,” the Act provides that BLM “shall immediately remove excess animals from the range so as to achieve [AMLs].” *Id.* § 1333(b)(2). The Ninth Circuit has recognized that BLM’s excess and removal determinations are reviewed under the APA’s deferential arbitrary-and-capricious standard. *In Def. of Animals*, 751 F.3d at 1061-62.

II. BLM’s Management of the Pryor Mountain Herd and the 2026 Gather Decision.

BLM has managed the Pryor Mountain wild horse herd under a series of herd-management plans for decades. *See* BLM_01462-63. In 2009, BLM adopted a Herd Management Area Plan (“HMAP”) that established an AML of 90 to 120 adult horses and contemplated managing the herd through a combination of gathers, fertility control, and other population-control measures. BLM_01462. The 2009 HMAP also established objectives concerning herd characteristics, including

phenotype, color, age and sex structure, and committed BLM to collect monitoring data and recalculate AML within five years or following revision of the Billings Resource Management Plan (“RMP”), whichever occurred first. *Id.* BLM thereafter conducted gathers in 2009, 2012, and 2015 and, in 2015, separately authorized fertility-control treatments that remain part of the herd’s management. BLM_01462-63.

BLM’s management of the Pryor Mountain herd has also been the subject of prior litigation in this Court. In *Friends of Animals v. Sparks*, 200 F. Supp. 3d 1114, 1126 (D. Mont. 2016), the Court concluded that BLM had committed to recalculating AML but had not yet done so in accordance with its Wild Horses and Burros Management Handbook. BLM_01463. BLM thereafter prepared a 2016 AML recalculation report and, in 2018, authorized a bait-and-water-trapping gather that would have removed 17 horses from a herd of approximately 154. *Id.* In *Kathrens v. Zinke*, 323 F. Supp. 3d 1142 (D. Mont. 2018), however, the Court preliminarily enjoined that gather after concluding that plaintiffs had raised serious questions concerning, among other things, whether BLM had adequately recalculated AML and whether removal of particular horses comported with the bloodline and herd-characteristic objectives of the then-operative 2009 HMAP. BLM_01463; *Kathrens*, 323 F. Supp. 3d at 1151–53.

Following *Kathrens*, BLM undertook new decision-making processes rather than simply proceeding under the management framework addressed in that case. BLM_01463-64. In these new decisions, BLM: (1) amended the Billings Field Office RMP's direction for maintaining genetic diversity; (2) adopted a new HMAP and issued a revised AML; and (3) developed and issued a multi-year gather plan for removing excess wild horses and achieving AML. BLM analyzed these components together in the EA, which evaluated revised herd-management objectives, population control and selective-removal criteria, genetic diversity, and management of rangeland and riparian resources. BLM_01462-64. BLM explained that these decisions were intended both to maintain a healthy wild-horse population and to protect the resources supporting that population by achieving a thriving natural ecological balance and making progress toward applicable Standards for Rangeland Health. BLM_01463-64; BLM_01542. The record reflected that the range was not meeting Standards 1, 2, and 5. BLM_01542.

In March 2025, BLM issued its RMP amendment, which modified the Billings RMP to establish new management direction for maintaining genetic diversity for wild horses. And in May 2026, BLM approved the new HMAP and revised AML under Alternative 2 of the EA. *Id.* BLM set AML at 107 to 120 adult horses, excluding foals less than one year old, based on its 2021 AML reevaluation. *Id.* In reaching that range, BLM applied the Handbook's multi-tiered

process, which considers whether forage, water, cover, and space are sufficient to sustain healthy horses and healthy rangelands, the amount of sustainable forage available, and whether the projected herd size will maintain a genetically diverse population. BLM_01543. BLM concluded that 120 horses represented the upper limit for achieving a thriving natural ecological balance, while the lower limit of 107 would permit the herd to grow back to the upper AML over approximately four to five years without an intervening gather. *Id.* The plan also continues fertility control as a population-management tool. *Id.*; BLM_01477-78.

The new HMAP/AML decision also addresses genetic diversity, consistent with BLM's 2025 Billings RMP amendment. BLM's objectives include maintaining genetic diversity sufficient to avoid inbreeding depression while retaining characteristics typical of Pryor Mountain horses of mixed ancestry. BLM_01543. BLM will continue to monitor observed heterozygosity and, if that measure falls below thresholds identified in the Wild Horse and Burro Handbook, may employ additional measures to maintain or increase diversity, including introducing horses from other herds with similar characteristics. *Id.*

On August 10, 2026, BLM issued the Gather Decision challenged by Plaintiffs. The Decision does not alter the approved RMP, the operative HMAP, or the revised AML; rather, it implements those decisions by authorizing gathers over a ten-year period. BLM_01631-33. As of the spring 2026 census, the Pryor

Mountain population consisted of 187 adult horses—82 males and 105 females—excluding foals under one year of age, substantially above the AML of 107-120 horses. BLM_01632.

The Gather Decision does not call for removing approximately 80 horses at once. Instead, BLM adopted an incremental approach under which the first gather is intended to reduce the population to approximately 150 horses. BLM_01632; BLM_01478. Subsequent gathers and removals may then occur as needed to bring the population within AML, with the objective of reaching the lower end of the AML range. BLM_01632. This incremental approach allows BLM to prioritize removal of younger horses over time rather than immediately removing a greater number of older animals, while fertility control assists in moderating future population growth. *Id.*; BLM_01478. BLM may adjust the timing and size of future gathers based on monitoring, current population estimates, resource conditions, funding, and operational considerations, provided implementation remains within the scope of the action analyzed in the EA. BLM_01632.

Finally, bait-and-water trapping is the preferred gather method under the Gather Decision. *Id.* Helicopter-assisted gathers may be used where emergency conditions exist, bait trapping proves ineffective, environmental conditions prevent successful bait trapping, expedited removal is necessary to protect public safety or natural resources, or other operational considerations warrant their use. *Id.* For the

gather operation scheduled to begin on October 19, however, BLM will not use helicopters. Declaration of Jace Stott (“Stott Decl.”), Ex. A ¶¶ 24-27. In any event, all gather operations must comply with BLM’s Comprehensive Animal Welfare Program and applicable safety requirements, and the authorized personnel may suspend, modify, or terminate operations if weather, wildfire, animal-welfare, public-safety, equipment, or other unforeseen circumstances create unacceptable risks. BLM_01632. BLM will monitor implementation before, during, and after each gather and may modify or suspend operations if deficiencies arise. BLM_01633.

STANDARD OF REVIEW

“A preliminary injunction is an extraordinary remedy never awarded as of right.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). Plaintiffs bear the burden of making a clear showing that they are likely to succeed on the merits, likely to suffer irreparable harm absent relief, that the balance of equities tips in their favor, and that an injunction is in the public interest. *Id.* at 20, 22. The Ninth Circuit’s sliding-scale approach does not eliminate the requirement to show likely irreparable harm, and Plaintiffs must establish at least serious questions going to the merits and a balance of hardships that tips sharply in their favor. *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131-35 (9th Cir. 2011).

Where, as here, Plaintiffs challenge agency action under the WHA, NEPA, and APA, the Court applies the APA’s deferential standard of review. 5 U.S.C. § 706(2)(A); *In Def. of Animals*, 751 F.3d at 1061. The Court may set aside agency action only if it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. *Id.* The Court does not substitute its judgment for BLM’s expert judgment, and the agency’s decision must be upheld if BLM “considered the relevant factors and articulated a rational connection between the facts found and the choices made.” *Arrington v. Daniels*, 516 F.3d 1106, 1112 (9th Cir. 2008); *see also Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

ARGUMENT

I. Plaintiffs have not shown a likelihood of success on the merits.

A. Plaintiffs are unlikely to succeed on their Wild Horse Act claims.

Plaintiffs’ WHA arguments largely depend on treating the present Gather Decision as a reprise of the decision this Court considered nearly a decade ago in *Kathrens*, 323 F. Supp. 3d 1142. In *Kathrens*, BLM proposed a gather under a 2009 HMAP while relying on an AML that this Court had previously directed BLM to recalculate and removal criteria that appeared inconsistent with the 2009 HMAP’s express commitments concerning bloodlines and rare colors. *Id.* at 1151–53. Here, by contrast, BLM undertook a multi-year plan amendment process,

separately reevaluated AML, adopted a new HMAP that supersedes the prior management framework, analyzed the herd's genetic diversity in detail, and then issued the challenged Gather Decision based on a 2026 population census and extensive information concerning the condition of the range. *See* BLM_01462-64, 01490-98, 01508-17; BLM_01542-49; BLM_01631-35. Not only did this process satisfy the requirements under the WHA, but it readily distinguished the deficiencies identified by the district courts in *Kathrens* and *Friends of Animals*, 200 F. Supp. 3d 1114. Most importantly, BLM's administrative record for the challenged Gather Decision is fundamentally different from its record in previous rounds of litigation.

1. BLM reasonably determined that the Pryor Mountain herd exceeds AML.

Plaintiffs first attack the lower end of BLM's revised AML—107 horses—principally because the herd has declined from its 2023 population peak. Pls.' Br., Dkt. No. 3 at 18-19. But that narrow focus obscures the determination BLM actually made. BLM concluded through its AML reevaluation that 120 adult horses is the maximum population that the range can sustain to achieve a thriving natural ecological balance, and set the lower bound at 107 horses to provide a management range within which population growth can occur between gathers. BLM_01542-43. The spring 2026 census counted 187 adult horses, excluding foals under one year—67 horses above the upper-AML. BLM_01632.

The record also refutes Plaintiffs' suggestion that BLM established the AML based on an assumed growth rate divorced from the Pryor herd's actual history. BLM evaluated the period in which fertility control was being administered but gathers were not occurring. BLM_01543. From 2016 through 2024, the Pryor population increased by 25 percent, or approximately 4.44 percent annually; from 2019 through 2024 alone, it increased from 160 to 200 horses—again a 25 percent increase, averaging approximately five percent annually. BLM_01499-1500. BLM nevertheless expressly recognized that wild populations do not grow linearly: survival varies year-to-year because of severe weather, drought, predation, habitat conditions, and other natural factors. BLM_01532. The HMAP/AML revision therefore retained management flexibility to respond to natural population declines rather than assuming a fixed annual increase. *Id.*

Plaintiffs rely heavily on the case of *Carter Reservoir Mustangs, Inc. v. U.S. Department of Interior*, No. 25-cv-03252, 2026 WL 1970595 (E.D. Cal. July 7, 2026), and argue that for the Pryor Mountain wild horses, BLM impermissibly relied on an assumed population growth rate. *See, e.g.*, Pls.' Br. at 18-19. On the contrary, BLM used actual Pryor Mountain population data in developing the management framework and, more importantly, did not estimate the current population through an assumed growth rate: the Gather Decision relies on the spring 2026 census of 187 horses. BLM_01632. The recent decline Plaintiffs

emphasize therefore was not ignored—it is reflected in the very population number on which BLM acted. And even after that decline, the herd remains substantially above the upper-AML.

Plaintiffs’ focus on the precise lower endpoint of 107 horses is also mismatched to the relief they seek. The initial gather operation is not intended to reduce the population to 107 horses. BLM instead adopted an incremental approach under which the initial gather will reduce the population from approximately 187 to approximately 150 horses, still thirty horses above the upper-AML. BLM_01632; BLM_01478. Thus, even if Plaintiffs could identify some uncertainty concerning how quickly the herd ultimately might grow from the lower- to upper-AML, that does not establish that BLM acted unlawfully in authorizing the imminent, much more modest reduction of a herd that remains substantially above the range’s carrying capacity.

2. BLM expressly determined that removal is necessary to protect the range.

Plaintiffs next contend that BLM impermissibly treated exceedance of AML, standing alone, as sufficient to order removals. Pls.’ Br. at 19–20. The record proves otherwise. BLM’s analysis addresses deteriorating resource conditions as well as overpopulation.

Instructive here is the Ninth Circuit’s decision in *In Defense of Animals*,⁷⁵¹ F.3d 1054. There, the court upheld BLM’s excess determination where the

population exceeded AML and BLM had documented concerns about deterioration of range resources and insufficient forage. *Id.* at 1063. The court specifically rejected the premise that BLM must wait until a thriving natural ecological balance has already been disrupted before acting: the statutory direction to “preserve and maintain” that balance permits BLM to proactively remove excess horses to prevent future deterioration. *Id.*; *see also Am. Wild Horse Campaign v. Bernhardt*, 442 F. Supp. 3d 127, 155-156 (D.D.C. 2020), *aff’d sub nom., W. Watersheds Project v. Haaland*, 850 F. App’x 14 (D.C. Cir. 2021).

BLM made precisely that kind of determination here. Its Land Health Assessment concluded, using multiple lines of evidence, that the Pryor Mountain Range is failing multiple standards, including Upland Health, Riparian/Wetland Health, and Habitat for Native Plants and Animals. BLM_01546. BLM further determined that overpopulation of wild horses was the causal factor for the failure of at least two of these standards. *Id.* The EA documented overutilization of forage, shifts from desirable perennial grasses toward less productive vegetation, increased bare ground, soil erosion, and other consequences of sustained grazing pressure, and concluded that reducing horse numbers toward AML would stabilize or improve ecological conditions and soils. BLM_01508-17.



Stott Decl. Exhibit I: Degraded range and invasive grasses.



Stott Decl. Exhibit G: Degraded range due to overgrazing.

Figure 19: The difference in vegetation within and outside the Turkey Flats grazing exclusion highlights the effects of over grazing (grazing excluded on the right side of the photo). Photo November 16017, 2021.



Figure 20: The difference in vegetation within and outside of the Turkey Flats exclusion is clearly visible on aerial imagery. (Source: NRCS ecological site descriptions maps; <https://edit.jornada.nmsu.edu/catalogs/esd>).



Plaintiffs dismiss BLM's land health assessment because some field assessments occurred during the severe 2021 drought. Pls.' Br. at 20. But, while BLM acknowledged that drought is a recurrent feature affecting the range, BLM_01490, it did not attribute the observed degradation to drought alone: its analysis identified long-term, recurring spring and year-round grazing as contributing to depleted forage, changes in plant communities, erosion, and declining ecological condition. BLM_01508-17. The agency's conclusions rested on multiple datasets collected across years, not a single drought-year observation.

Finally, evidence that individual wild horses presently appear healthy does not undermine BLM's excess determination. The WHA does not require BLM to await starving animals or ecological collapse before determining that the removal of excess wild horses is necessary. *In Defense of Animals* rejected that proposition: preservation of a thriving natural ecological balance does not require "prior destruction" of the resource BLM is charged with preserving. 751 F.3d at 1063. BLM reasonably concluded here that maintaining population levels above AML has contributed to existing range degradation and that reducing grazing pressure would stabilize or improve affected vegetation and soils. BLM_01517-19; BLM_01546-47. That is a determination of necessity based on resource conditions—not, as Plaintiffs contend, "nothing more than the established AML."

3. BLM extensively analyzed genetic viability and rationally designed the removal criteria.

Plaintiffs' genetic argument fares no better. They contend that BLM "set the AML and removal criteria without analyzing genetic viability," Pls.' Br. at 21, but the record contains an extensive analysis directed to that very question.

The HMAP/AML Decision expressly identifies the final step in BLM's AML methodology as determining whether the projected herd size is sufficient to maintain a genetically diverse population. BLM_01543. And the EA devotes a separate section to genetic diversity, analyzing fixation index, genetic similarity, allelic diversity, observed heterozygosity, different removal strategies, and management responses to potential future declines in diversity. BLM_01490-99. Thus, even accepting Plaintiffs' assertion that Appendix C itself does not reproduce every component of that analysis, the agency plainly did not "skip" genetic viability. The decision must be judged on the record as a whole, and the record squarely addresses it.

The results were reassuring. USGS developed an individual-based population model using microsatellite genotypes from 79 identifiable Pryor Mountain horses to compare changes in allelic diversity and heterozygosity under four removal strategies. BLM_01496-98. The analysis covered the ten-year life of the HMAP and Gather Plan and also projected results over a hypothetical 100-year period. *Id.* All four strategies showed a high probability of maintaining observed

heterozygosity above BLM's management threshold of 0.66 during the management period. BLM_01497-98. Indeed, even under the hypothetical 100-year simulations without new horses entering the population, average heterozygosity remained above the threshold across all four scenarios; under the most pessimistic random-removal scenario, 81.1 percent of simulations still remained above the desired level after 100 years. *Id.* Current observed heterozygosity was estimated at approximately 0.731—also above the management threshold. BLM_01498. BLM will continue genetic sampling and, should heterozygosity approach the threshold, can increase the breeding population, adjust sex ratios, or introduce animals from other herds with similar ancestry. *Id.*

For all these reasons, Plaintiffs have neither demonstrated a likelihood of success nor raised the kind of “serious questions” present in past decisions like *Kathrens*. The deficiencies that drove that decision—an outdated AML, governing commitments concerning particular bloodlines that the proposed gather appeared to violate, and an inadequate explanation of genetic consequences—are precisely the matters BLM addressed through the new HMAP, AML reevaluation, genetic analysis, and Gather Decision now before the Court.

B. Plaintiffs are unlikely to succeed on their NEPA claims.

The EA thoroughly considers impacts the gather may have on genetic impacts to the Pryor Mountain herd. Plaintiffs—pointing to two years of

handpicked data observed out of context—may disagree with the Gather Decision. But the EA’s analysis is well supported by longer term data, and Plaintiffs’ disagreement with the Gather Decision cannot overcome the significant discretion and deference afforded to agencies. *Seven Cnty. Infrastructure Coal. v. Eagle Cnty.*, 605 U.S. 168, 179–83 (2025).

Plaintiffs first argue that BLM failed to take a hard look at the gather’s genetic consequences to the overall herd because it “simply dismissed genetic risk by declaring the Pryor horses part of a ‘highly connected metapopulation.’” Pls.’ Br. at 23. Plaintiffs assert that this alleged characterization of the Pryor horses as a metapopulation conflicts with a USGS model report that describes the herd as geographically isolated. Plaintiffs’ mistaken belief that geographic isolation is necessarily incongruous with a larger metapopulation aside, Plaintiffs wholly ignore the EA’s analysis of the Pryor horses’ genetic similarity to the Cerbat Mountains, Arizona herd and the Sulphur, Utah herd—“[a]ll three herds are thought to have somewhat higher levels of Spanish ancestry, mixed with a large influence of non-Spanish breeds[.]” BLM_01492-93. The EA notes that the Cerbat Mountains, Arizona herd is, like the Pryor herd, “largely isolated[.]” but that it and many other herds are genetically similar despite that geographic isolation. The EA’s discussion of the Fixation Index values in Dr. Cothran’s data on genetic similarity between wild horse herds across the west further corroborates BLM’s

careful consideration of genetic risks that contravenes Plaintiffs’ unsupported assertion that the agency failed to take a hard look at genetic risk.

The determination that the Pryor horses are a part of a larger metapopulation which includes the Cerbat mountains, Arizona and Sulphur, Utah herds is well supported by Dr. Cothran’s data. Plaintiffs here ask the Court to “don a lab coat ... and dissect BLM’s conclusion in the EA” regarding impact to genetic diversity. *Cascadia Wildlands v. U.S. Bureau of Land Mgmt.*, 153 F.4th 869, 906 (9th Cir. 2025). However, Courts must “defer to agency decisions so long as those conclusions are supported,” as they are here, “by studies ‘*that the agency deems reliable.*’” *Native Ecosystems Council v. Weldon*, 697 F.3d 1043, 1053 (9th Cir. 2012).

Second, Plaintiffs assert that the EA acknowledges that allelic diversity has declined, that BLM has no threshold for that decline, that no law requires that it manage for rare alleles, and that if certain assumptions about bands stallions in a USGS report fail, the model understates the loss of diversity. Pls.’ Br. at 24. Again, Plaintiffs mischaracterize the EA’s analysis of this subset of data. Specifically, the EA notes that “[a]llelic diversity has not typically been used as a criterion for wild horse management decisions[.]” BLM_01493. Rather, “trends in this measure”—genetic diversity measured as the mean number of alleles—“*can* be informative.” *Id.* (emphasis added). Regardless, the EA notes that laboratory analysis shows that

both the mean number of alleles per locus and the observed heterozygosity of the Pryor herd was above the mean for feral horses. BLM_01493-94. NEPA does not require courts “to resolve disagreements among various scientists as to methodology” or even decide whether an EA “is based on the best scientific methodology available.” *Friends of Endangered Species, Inc. v. Jantzen*, 760 F.2d 976, 986 (9th Cir. 1985). Instead, “courts must also be mindful to defer to agency expertise, particularly with respect to scientific matters within the purview of the agency.” *Klamath-Siskiyou Wildlands Ctr. v. Bureau of Land Mgmt.*, 387 F.3d 989, 993 (9th Cir. 2004). Here, BLM noted that allelic diversity is not typically used as a criterion for wild horse management decisions but accounted for it anyway and, using its expertise, determined that the analysis shows that the mean number of alleles per locus of the Pryor herd was above the mean for feral horses.

Finally, Plaintiffs contend that BLM failed to account for the decline in the total number of Pryor Mountain wild horses from 2024 to 2026 and so it must supplement its EA. *See* Pls.’ Br. at 18-19. But the EA observed a longer-term, ten-year trend that showed a 5 percent growth rate—not a handpicked, two-year period showing loss in isolation. And the signed Gather Decision acknowledged that in spring 2026 the census recorded a total population of 187 wild horses, that the specific objective of the initial gather event is to reduce the population to approximately 150 wild horses, and that the gather “remain[s] consistent with ...

the environmental analysis documented in the EA.” Decision Record at 4. NEPA requires agencies to prepare a supplemental EA only when “[t]here are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.” 40 C.F.R. § 1502.9(d)(1)(ii) (2020). “New circumstances” are circumstances which significantly change the underlying project, and “new information” is intervening information not already considered. *Prot. Our Cmty. Found v. LaCounte*, 939 F.3d 1029, 1041 (9th Cir. 2019) (holding that information is not new when it merely confirms concerns that an EIS articulated and considered). Plaintiffs’ proffered “new information” neither presents a new circumstance nor represents intervening information BLM had not already considered. The longer term of observation the EA considered included years of growth, stagnation, and loss. Ultimately, however, that longer term of observation showed a larger growth trend that continues, and the type of data Plaintiffs note here was contemplated by the EA and acknowledged in the Gather Decision.

The Gather Decision and the EA supporting it are the very “fact-dependent, context-specific, and policy-laden choices about the depth and breadth” of NEPA analysis to which courts should “afford substantial deference.” *Seven Cnty.*, 605 U.S. at 183. “An agency has the discretion to rely on the reasonable opinion of its own experts” and agencies are “accorded particular deference” with respect to the

kinds of scientific issues Plaintiffs attack here that are “within their area of expertise. *In Defense of Animals v. U.S. Dep’t of Interior*, 909 F. Supp. 2d 1178, 1197 (E.D. Cal. 2012) (citing *Marsh v. Or. Natural Res. Council*, 490 U.S. 360, 378 (1989)).

II. Plaintiffs have not shown likely irreparable harm.

Plaintiffs must establish that irreparable injury is likely, not merely possible. *Kathrens*, 323 F. Supp. 3d at 1153 (citing *Winter*, 555 U.S. at 22); *see also Caribbean Marine Servs. Co. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (speculative injury does not support preliminary relief). Plaintiffs cannot make that showing here. Their irreparable-harm argument depends substantially on injuries associated with an alleged helicopter gather that BLM is not conducting, selectively describes the EA’s discussion of the risks inherent in gathering wild animals, and treats *Kathrens* as recognizing a freestanding right to preserve every Pryor Mountain bloodline. None establishes the clear likelihood of irreparable injury necessary to justify emergency relief.

First, Plaintiffs’ principal allegations concerning helicopter-related injury rest on a speculative premise that BLM refutes: the agency will not use helicopters for this upcoming fall gather. Stott Decl. ¶¶ 24–27. BLM has neither contracted for nor authorized a helicopter gather and is committed to conducting this season’s operation exclusively through bait-and-water trapping using BLM personnel. *Id.* ¶¶

25, 27. The helicopter activity Plaintiffs observed on September 9 was unrelated to the gather; BLM investigated and determined that two helicopters had been dispatched to a wildfire on Pryor Mountain that day. *Id.* ¶ 26. And the preparations Plaintiffs characterize as inconsistent with bait trapping are precisely the opposite. BLM began placing trap materials on the range on September 29, so that the horses could gradually acclimate to them, a process that can take weeks before a bait trap becomes operational. *Id.* ¶¶ 29, 32–33. Plaintiffs’ assertions about horses being driven across steep terrain, helicopter strikes, or injuries from helicopter pursuit therefore do not describe the operation scheduled for October 19. *Contra* Pls.’ Br. at 27–29. An injunction cannot rest on harms associated with activity BLM has expressly disavowed for this gather.

Second, the record does not support Plaintiffs’ assertion that the gather itself “will injure and kill horses.” *Contra id.* at 28. Plaintiffs quote Appendix H of the EA for the proposition that gather-related deaths average approximately 0.5 percent and that another 0.6 percent of captured horses are euthanized. *Id.* But they omit that the very passage they cite explains that the additional 0.6 percent consists of animals euthanized because of *pre-existing* conditions, and that a study of 70 BLM gathers found an overall mortality rate of 1.2 percent, with the majority of deaths attributable to euthanasia of animals with pre-existing conditions. BLM_01095. Appendix H likewise explains that serious injuries requiring

euthanasia occur in fewer than one horse per 100 captured and that, in many gathers, no horses are injured or die at all; overall direct gather-related mortality averages below one percent. *Id.* Those figures identify risks inherent in handling wild animals; they do not establish that serious injury or death is likely during this particular bait-and-water gather. *Accord Kathrens*, 323 F. Supp. 3d at 1153 (requiring likely, not merely possible, injury). Nor does the five-percent annual mortality figure Plaintiffs cite for off-range corrals establish otherwise. That figure encompasses animals euthanized for pre-existing conditions or extreme poor condition, as well as animals unable to transition to feed and the comparatively rare injuries occurring during handling or preparation. BLM_01097. Plaintiffs thus convert BLM's candid disclosure of low-probability risks and humane euthanasia of already compromised animals into speculation that the gather itself will kill healthy horses. This is unsupported on the record.

Finally, Plaintiffs' reliance on *Kathrens* to establish irreparable harm from the purported loss of individual bloodlines overlooks the central feature of that decision. *Kathrens* did not hold that every removal from the Pryor herd, or every potential loss of a familial line, necessarily constitutes irreparable harm. The Court was addressing the 2009 HMAP, which expressly directed BLM to manage the herd to maintain rare colors and to "prevent bloodlines from being eliminated." *Kathrens*, 323 F. Supp. 3d at 1151–53. BLM had identified particular horses for

removal even though the evidence showed that removing one would immediately extinguish an entire bloodline and removing another threatened a rare sorrel phenotype. Because BLM was bound by its own then-operative commitment to preserve those characteristics, the Court found both serious merits questions and a corresponding tangible, irreversible injury. *Id.*

That is not the management regime before the Court today. The 2026 HMAP expressly supersedes all previous HMAPs and replaces the 2009 individual-bloodline framework with management objectives directed toward maintaining population-level genetic diversity and the characteristics typical of Pryor Mountain horses. BLM_01463-64. Nothing in the WHA itself requires BLM to preserve every existing matrilineal or patrilineal line; the obligation at issue in *Kathrens* was one BLM had self-imposed in the 2009 HMAP. Indeed, *Kathrens* itself emphasized that BLM was “bound to the commitment it made in the 2009 HMAP” when finding serious questions concerning bloodline loss. 323 F. Supp. 3d at 1152. Moreover, unlike the fixed removal list Plaintiffs invoke, the final EA clarifies that the horses identified in its appendices are illustrative of how the removal criteria operate, not a predetermined list of animals that will be removed. Births, deaths, and conditions existing at the time of a gather necessarily inform the actual selection. BLM_01531-32. Thus, even assuming Plaintiffs have cognizable aesthetic interests in particular Pryor horses, they have not shown that any

particular horse they observe will be removed, much less that the October gather will cause the extinction of a protected bloodline or phenotype of the kind that supplied the irreparable injury in *Kathrens*.² Their asserted injury remains contingent on which horses enter the bait traps and which are ultimately selected for removal. That is insufficient to establish the likely, concrete, and irreversible harm required for preliminary relief. *Caribbean Marine*, 844 F.2d at 674 (“Speculative injury does not constitute irreparable injury sufficient to warrant granting a preliminary injunction”); *see also Goldie’s Bookstore, Inc. v. Superior Court of Cal.*, 739 F.2d 466, 472 (9th Cir. 1984) (same).

III. The balance of equities and public interest weigh strongly against an injunction.

When the federal government is a party, the balance of equities and public interest merge. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014). Both factors weigh strongly against an injunction and preserving the status

² It is worth noting that Courts have repeatedly rejected the proposition that plaintiffs have an enforceable right to view a particular *number* of wild horses. In *In Defense of Animals v. U.S. Department of the Interior*, the court explained that after a gather, “the animals will still be present,” and the court was “unaware of any enforceable right to observe a particular number of animals.” 737 F. Supp. 2d 1125, 1138 (E.D. Cal. 2010). Other courts have likewise held that reducing herd size does not establish irreparable aesthetic harm where horses remain available for viewing. *See, e.g., Friends of Animals v. U.S. Bureau of Land Mgmt.*, 232 F. Supp. 3d 53, 65 (D.D.C. 2017); *Colo. Wild Horse & Burro Coal., Inc. v. Jewell*, 130 F. Supp. 3d 205, 219-20 (D.D.C. 2015).

quo for months while this case proceeds to summary judgment because, on the record before the Court, delay itself carries substantial consequences.

BLM has scheduled the gather when it did because the effective window for the preferred bait-and-water trapping method is rapidly closing. Stott Decl. ¶¶ 16–17. Once winter begins in the Pryor Mountain range—generally by mid-November—the herd migrates from the upper- to lower-elevations where water and forage are more dispersed and the horses spread farther across the landscape, substantially complicating BLM’s ability to conduct a bait-and-trap gather. *Id.* Thus, an injunction would not merely preserve the status quo, it could materially impair BLM’s ability to fulfill its obligations as required under the WHA.

That consequence is particularly significant given current conditions. The Pryor Mountain Range received below-average precipitation in 2026, produced less forage than normal, and nearly all available forage has already been consumed, leaving little remaining for winter grazing. *Id.* ¶ 14. Based on recent inspections, BLM expects that, absent a reduction in the herd before winter, horses will experience substantial declines in body condition and health and that some—particularly older horses, young foals, and lactating mares—may not survive. *Id.* ¶¶ 10, 12–16. Continued overpopulation also places additional pressure on already degraded vegetation, soils, riparian resources, and wildlife habitat. The EA concluded that reducing horse numbers would stabilize or improve ecological

conditions and soil resources, whereas maintaining populations above AML would continue the range's deterioration. BLM_01515-17. And the consequences are no longer confined to the range: BLM has recently documented horses leaving the range in search of forage, causing damage and breeding with domestic animals on neighboring private property and creating risks for landowners attempting to separate them. Stott Decl. ¶ 18.

Against those concrete risks, Plaintiffs seek to prevent an incremental gather that is intended initially to reduce the herd from 187 horses only to approximately 150—still well above the upper AML of 120. BLM_01515. The Gather Decision reserves bait-and-water trapping as the preferred method, requires compliance with BLM's animal-welfare standards, and authorizes BLM to modify or suspend operations if animal-welfare, weather, or other conditions create unacceptable risks. BLM_01632-33. The public interest encompasses not only Plaintiffs' alleged interest in the Pryor Mountain horses, but BLM's statutory responsibility in carrying out Congress's directive to manage wild horses as part of a thriving natural ecological balance and multiple-use relationship on public lands. 16 U.S.C. §§ 1332(f), 1333(a), 1333(b)(2). On the present record, preventing BLM from undertaking a limited population reduction during the narrow remaining fall gather window would expose the herd and the range to the very resource pressures the

Gather Decision was designed to alleviate.³ The balance of equities and public interest therefore weigh against preliminary injunctive relief.

CONCLUSION

For all of the foregoing reasons, Plaintiffs have not shown a likelihood of success on the merits, likely irreparable harm, or that the balance of equities and public interest support the emergency relief they seek. Accordingly, their motion for preliminary injunctive relief should be denied.

Dated: October 7, 2026

Respectfully Submitted,

ADAM R.F. GUSTAFSON,
Principal Deputy Assistant Attorney General

³ If the Court does issue an injunction, it must require Plaintiffs to post a bond commensurate with the anticipated cost of the gather operation to the United States. Fed. R. Civ. P. 65(c). While the Ninth Circuit allows nominal bonds in public interest cases, each case is fact specific, and a plaintiff must produce evidence that a higher bond would constitute an “undue hardship.” *Save Our Sonoran, Inc. v. Flowers*, 408 F.3d 1113, 1126 (9th Cir. 2005); *Earth Island Inst. v. U.S. Forest Serv.*, No. 05-cv-1608-GGH, 2006 WL 3359192, at *1 (E.D. Cal. Nov. 20, 2006). Plaintiffs assert, without support, that, as nonprofit organizations and individuals, a bond would foreclose judicial review in this case. Pls.’ Br. at 34. A review of The Cloud Foundation’s 2024 Form 990 tax return reveals that it had \$581,450 in total assets—more than enough to cover the potential costs to the United States of delaying a project of national significance as outlined herein. *See* <https://projects.propublica.org/nonprofits/organizations/201740623/202513359349300916/full> (last visited October 3, 2026); *see also* Stott Decl. ¶ 17; Haas Decl. ¶¶ 32-35.

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief is proportionally spaced, has a typeface of 14 points or more, and contains no more than 6,500 words in accordance with Local Rule 7.1(d)(2).

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

THE CLOUD FOUNDATION, *et al.*,

Plaintiffs,

v.

BUREAU OF LAND
MANAGEMENT, *et al.*,

Defendants.

Case No. 1:26-cv-100-WWM

DECLARATION OF JACE R.
STOTT IN SUPPORT OF
DEFENDANTS' RESPONSE IN
OPPOSITION TO PLAINTIFFS'
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION

DECLARATION OF JACE R. STOTT

1. My name is Jace R. Stott, I am over 21 years of age and am fully competent and duly authorized to make this declaration. To the best of my knowledge and belief, the facts presented in this declaration are true and correct and are based on my own personal knowledge or are based on government documents and information available to me in the normal course of my position with the Bureau of Land Management ("BLM").

2. My current position is the Wild Horse and Burro Specialist within the Billings Field Office of the Bureau of Land Management, which I've held for the last two years. Prior to this job, I've held jobs in rangeland or livestock management through nearly my entire professional career.

Exhibit A – Declaration of Jace Stott

3. I grew up on my family's feedlot raising dairy bulls and during that time, my family owned between 60 and 70 horses. I have been around horses my entire life and used horses for riding, hunting, and for work within the feedlot.

4. I obtained my bachelor's degree in Range Ecology from Brigham Young University – Idaho, and later earned my Master of Science degree in Range and Forage from the University of Nebraska – Lincoln.

5. Since then, I spent roughly eight years in various rangeland positions, including a range technician with the Forest Service and University of Arizona-Extension, as well as a Supervisory Rangeland Management Specialist for the Forest Service and as a Rangeland Management Specialist in the BLM Kemmerer Field Office.

6. For the last two years, I've held my current role, which requires me to manage all aspects of the Pryor Mountain Wild Horse Range including: spearheading fertility treatments, maintaining range improvements, providing education to the public through range tours, and working with agency partners (Forest Service and Park Service). Although much of the analysis used in the Environmental Assessment for the Pryor Mountain Wild Horse Range Resource Management Plan, Herd Management Area Plan, Appropriate Management Level, and Gather Decision was created prior to my time with the Billings Field Office, I participated in latter stages of the decision process, including responding to public comments generated from preliminary versions of the Environmental Assessment.

7. I am very familiar with the August 10, 2026 Gather Decision that is the subject of this appeal, and with BLM's basis for adopting the gather decision.

Exhibit A – Declaration of Jace Stott

8. I also am familiar with the current rangeland conditions within the Pryor Mountain Wild Horse Range (PMWHR), as I regularly travel within the PMWHR to monitor herd and rangeland health.

9. On Monday, September 28, 2026, I personally visited several sites within the PMWHR and took photos of the current conditions of the range. These photographs are attached as exhibits to this Declaration.

Current conditions within PMWHR

10. BLM's Gather Decision is based on the poor forage and ecological condition of the PMWHR, which impacts the Pryor Mountain Herd's health and sustainability as well as the health and function of animal and plant communities within the PMWHR.

11. Currently, most horses within the PMWHR reside in the higher elevations of Pryor Mountain, around 8,500 feet. This upper elevation area is used heavily by the Pryor Mountain Herd as its primary grazing area during the spring, summer, and fall. This upper elevation zone contains a large stock pond that holds consistent water throughout the spring and fall and therefore sees high grazing utilization and horse impacts. A photo of this stock pond taken by me on September 28, 2026 can be found at **Exhibit A**.

12. Due to the sheer number of wild horses within the PMWHR and the fact that this stock pond contains reliable water for the herd for three of four seasons of the year, the vegetation near the stock pond has suffered from severe overgrazing and damage to forage resources. Attached hereto as **Exhibits B and C** are two photos of the upper elevation area near the stock pond. In **Exhibit B**, gopher mounds are visible across the range, a clear sign that forage cover has been severely depleted by overgrazing. Additionally, we see erosion from a drainage area near the bottom of the photo, due to lack of vegetative cover and poor soil stability

Exhibit A – Declaration of Jace Stott

caused by overgrazing by wild horses. **Exhibit C** depicts another view of the upper elevations of the range near the stock pond, showing almost zero forage cover and severe impacts of overgrazing by wild horses.

13. Overgrazing has also caused negative impacts to available forage and rangeland health at lower elevations, which the herd uses as its winter range, and some of the herd also utilizes year-round. In the Dryhead region within the PMWHR, the rangeland is suffering from intense grazing use resulting in failing rangeland health. **Exhibits D, E, F, and G** all demonstrate conditions within the Dryhead region of the PMWHR. **Exhibit D** depicts the PMWHR southern boundary fence in the Dryhead region. The area with limited forage on the left of the photo is within the horse range, whereas the area on the upper right side of the photos that contains ample forage and healthy plant communities are not grazed by wild horses. **Exhibit E** shows the difference in the presence of grasses and other key forage between northern Dryhead region within the PMWHR on the right, and the area outside of the PMWHR on the left. **Exhibit F** shows degraded rangeland conditions within the southern portion of Dryhead. **Exhibit G** depicts the degraded range due to overgrazing of wild horses in the northern portion of Dryhead.

Short term effects of overgrazing due to an overpopulation of wild horses.

14. In 2026, PMWHR received below-average precipitation. In the short term, this means that the range has generated less forage than normal, an abnormally high proportion of which has been consumed by the PMWHR herd already, which means that there is little available forage remaining for winter grazing. Based on the current conditions, I expect that without a reduction in the size of the herd going into the winter, horses will experience dramatic drops in body condition and health, and some horses will not survive the winter. This will be particularly

Exhibit A – Declaration of Jace Stott

true for older horses, foals born during the fall and winter, and lactating mares. A lack of rangeland resources will also negatively impact other species that depend on the forage and healthy plant communities for their survival during the winter.

15. In the Winter, the herd generally migrates to the lower elevation areas within the PMWHR, which receive less overall precipitation, resulting in less forage production. Water is present at lower elevations but is less consistent, less plentiful, and more dispersed. Tremendous strain is put on the forage and riparian resources at lower elevations during the winter, leading horses to spread out and travel farther from water sources in search of sustenance.

16. In the short term, this spreading out effect complicates BLM's efforts to use bait and water traps to gather and remove horses during the winter months, especially in years, like this one, where forage is already scarce. Thus, BLM's window to most efficiently conduct a bait and water trap gather contemplated in the Gather Decision ends at the onset of winter—generally mid-November—when the horses migrate from the upper elevations to the lower elevation range.

17. The overall costs of the gather increase if the gather is postponed past the fall gather window. Currently, the Billings Field Office estimates the gather will cost approximately \$92,000 per month for gather activities. If the planned trap and gather is postponed until the horses descend to their winter range, the overall time to capture the desired horses dramatically increases because of the dispersed nature of the herd in the winter range. An increase in time to complete the gather will result in additional costs to BLM, as staff are necessary to continue to conduct the gather.

18. Another recent impact of the overpopulation of wild horses has been an increase in horses escaping the PMWHR to seek forage on adjacent private property. This has led to

Exhibit A – Declaration of Jace Stott

documented harassment, breeding, and damage to privately-owned domestic animals and poses public safety risks to landowners who attempt to separate wild horses from their own livestock. In the past year, BLM has conducted a nuisance gather of five wild horses from private property at least three times.

Long term effects of overgrazing due to an overpopulation of wild horses.

19. In terms of long-term impacts of the overpopulation of the PMWHR herd, we primarily see ongoing shifts in the ecological communities from native communities to those that thrive on frequent disturbances. Many of the new plants are invasive. This is particularly true for the lower elevation portions of the PMWHR, which receives less precipitation.

20. For example, in a lower elevation area of the PMWHR known as the “administrative pasture,” I have documented significant changes to plant communities and ecological function due to overgrazing by wild horses. Most recently, I took photos depicting the administrative pasture on September 28, 2026, which are included as **Exhibits H, I, and J**. In **Exhibit H**, there is a noticeable lack in graminoid (grass) vegetation and instead an abundance of invasive species such as Russian Thistle and Halogeton. Both these species thrive in areas that are frequently disturbed and are a common sign of overgrazing. Halogeton is also toxic if ingested and has a sterilizing effect on the soils around it, reducing the ability for other desirable plant species to repopulate. In **Exhibit I**, Halogeton can be seen throughout the area formerly populated by seasonal and perennial grasses. In **Exhibit J**, large portions of the range are completely bare of grass forage, which have been replaced by prickly pear cactus. Although prickly pear cactus is not an invasive species, BLM considers it an indicator species of overgrazing.

Exhibit A – Declaration of Jace Stott

21. The evidence of short- and long-term effects of the overpopulations that I found during my site visit on September 28, 2026 are consistent with other site visits I frequently take to the PMWHR and are consistent with the findings within BLM's Rangeland Health Assessment, which was included as an Appendix to BLM's Environmental Assessment supporting its Gather Decision.

22. In short, the Rangeland Health Assessment found that numerous standards for rangeland health are not being met within PMWHR due to overgrazing by wild horses. This overgrazing has caused a “notable shift in the vegetative community from cool season taller bunchgrass dominated community to a cool season shorter bunch grass community dominated by cool season rhizomatous grasses, sedges and shrubs. This shift from high value to low value species indicates that the plant community is altered in ways that are neither beneficial for grazing or ecological function.” EA at Section 3.4.1. Long term, the continued overgrazing by wild horses will cause shifts away from the historic plant communities that the existing herd has depended on for decades and will fundamentally alter the ecosystem within the PMWHR. The findings and conclusions described in the Rangeland Health Assessment remain an accurate assessment of the conditions I documented in 2026. The condition of range health has not improved.

23. An immediate reduction in the number of wild horses grazing within the PMWHR is necessary to restore the presence of healthy vegetative communities that the herd depends on for forage and that is critical to maintaining a thriving natural ecological balance. A healthy ecosystem within the PMWHR will help to ensure the sustainability and health of wild horses and other wildlife into the future.

BLM is not conducting a helicopter gather at this time.

Exhibit A – Declaration of Jace Stott

24. I have read the Motion for a Temporary Restraining Order (“TRO”) filed in this matter, as well as the supporting affidavits. The TRO and supporting affidavits suggest that BLM is planning to use helicopters to conduct a gather starting this month and supports this assertion with declarations from witnesses who stated that they witnessed helicopters “working the horses’ summer range” on September 9, 2026. Motion for Temporary Restraining Order at 20.

25. Plaintiffs are mistaken. BLM has not entered into any contract to conduct a helicopter gather and BLM has not authorized any helicopter gather of any kind within PMWHR this fall. BLM is committed to a bait and water gather this season, which BLM staff will conduct “in house,” meaning without the help of government contractors of any kind. Although the BLM maintains flexibility to use a helicopter if bait trapping proves ineffective or an emergency arises where horses must be removed quickly, neither requirement has yet been met. Therefore, helicopters have not been utilized.

26. BLM staff from my office investigated what helicopters the Plaintiffs’ declarant could have witnessed on September 9, 2026. BLM staff was aware of the presence of a wildfire in the general area of the PMWHR, and staff from the United States Wildland Fire Service (USWFS) provided a copy of an incident report for a fire on Pryor Mountain on September 9, 2026. The initial incident report provided by the USWFS notes the use of two separate helicopters, which were deployed on September 9, 2026 to a wildfire reported on Pryor Mountain. Each helicopter flew to the source of wildfire smoke on Pryor Mountain. A true copy of the initial fire incident report provided to BLM is attached as **Exhibit K**. **Exhibit K** notes the presence and use of two helicopters—identified in the incident report as H-101HX and H-395M—in response to the fire on Pryor Mountain on September 9, 2026.

Exhibit A – Declaration of Jace Stott

27. At no time since the August 10, 2026 gather decision has BLM used or contracted for the use of helicopters to aid in its planned bait and water trap gather of wild horses this fall, or for any other gather within the PMWHR pursuant to the August 10, 2026 gather decision.

Planning timeline for the gather implementing BLM's Gather Decision

28. Although BLM has historically relied on its own staff to conduct bait and trap gathers within the PMWHR, BLM sometimes utilizes contractors to do so. After BLM issued the August 10 Gather Decision, it sought bids from potential contractors to complete the initial bait trap gather contemplated by the Gather Decision. Although BLM planned on conducting the gather in the Fall 2026, it did not have a solid estimate of a start date for this gather until the contract bidding process was complete. BLM closed its bidding process for this gather on Friday, September 18, 2026. On Tuesday, September 22, BLM determined that none of the bids BLM received met BLM budget and quality requirements. BLM therefore determined that it would proceed to conduct the gather with BLM personnel sometime in mid-October.

29. The success of bait and water trapping largely depends on adequate preparation. BLM employees slowly introduce trap material to the range, including fencing panels, bait, and water depending on the trap sites vicinity to a water source. This helps horses get used to feeding or drinking from within the trap without fear. This process can take weeks. Only after the herd demonstrates that it is comfortable entering the trap on a regular basis does BLM make final preparations that will allow it to capture wild horses within the trap.

30. On September 23, 2026, BLM headquarters in Washington, D.C. issued a press release that discussed wild horse gather windows for over a dozen wild horse herd areas across the west. That press release provided a window for a PMWHR gather between October 1, 2026

Exhibit A – Declaration of Jace Stott

to November 15, 2026. Regardless of the planned window for the gather, BLM's Billings Field Office did not anticipate starting a gather of horses until October 11, 2026 at the earliest.

31. On September 24, 2026 BLM agreed to postpone any gather to October 19 to accommodate the briefing in this matter.

32. Although BLM's press release offered a gather window for the PMWHR gather, BLM's local field offices generally post specific information regarding the start date of a gather within that window. In the past, this has been accomplished via a "closure notice," which essentially closes the range to the public for the specific dates of the planned gather to eliminate any conflicts between the public and the gather operations. BLM has not yet issued a closure notice for the gather but plans to do so approximately one week before BLM commences gather operations.

33. BLM began setting out staging materials for the gather on September 29, 2026. This staging began with spreading small amounts of mineral (salt) where the proposed trap site was to be located. On October 1, 2026 the staging continued with the placement of a small number of metal fencing panels to allow the horses to acclimate to the fences' presence in vicinity to the provided mineral.

34. BLM anticipates that in the coming days prior to the October 19, 2026 start of the gather, staff will slowly add additional infrastructure to the trap sites to allow the horses to get used to the traps.

35. A bait trap site is a temporary corral-like enclosure constructed in an area regularly used by the horses. The enclosure is generally made of portable panels arranged to create a holding area, with an opening that serves as the entrance and can be closed with a gate. A supplement is placed inside the enclosure to encourage horses to enter voluntarily. The trap is

Exhibit A – Declaration of Jace Stott

not used to chase or force horses into the enclosure. Before active trapping begins, the entrance remains open so horses can freely enter and leave the enclosure. BLM staff monitor the site and allow the horses time to become accustomed to the panels, entrance, and presence of supplement. Once a trap site is fully established and horses are consistently and willingly entering the enclosure, the site is ready for trapping. On an active trapping day, BLM staff wait until horses enter the enclosure and then approach the site and close the gate, securing the horses inside. Captured horses will then be loaded into stock trailers and transported to the Britton Springs Administrative Site, located at the edge of the PMWHR. At Britton Springs, BLM provides the horses with feed and water. The horses are temporarily held while trapping continues.

36. To apply the removal criteria established in the Decision Record, BLM anticipates needing to capture roughly 100 horses during this initial gather so that staff can identify those individual animals that meet the specific criteria for permanent removal. Based on the herd's current population and composition, BLM hopes to remove approximately 37 horses, though that number is subject to change depending on the identity of horses captured. The initial management objective, however, is to reduce the population remaining on the range to approximately 150 horses.

37. Hair samples will be collected from captured horses held at Britton Springs for DNA and genetic analysis. Horses selected for permanent removal will be transported to a BLM off-range holding facility. Horses not selected for permanent removal will be returned to the PMWHR. Before their release, fertility control treatment will be administered to those mares that meet the specific fertility control criteria established in the HMAP/AML Decision.

38. Euthanasia of horses during gathers is statistically rare—0.5% of all gathered horses (EA, Appendix H)—but must be planned for. Studies show that total deaths related to all

Exhibit A – Declaration of Jace Stott

types of wild horse gathers, including helicopter and motorized gathers, is only 1.2% of all horses, which is a lower rate than for other wild animals (EA, Appendix H at 1). Most of these deaths are due to euthanasia and most instances of euthanasia are due to preexisting conditions (EA, Appendix H at 1). These conditions are laid out in PIM2021-007 which is the BLM's guidelines for euthanasia. This gather will follow the established guidelines in identifying existing health conditions that could warrant euthanasia such as severe tooth loss, club feet, blindness, bilateral cryptorchidism, unilateral cryptorchidism that cannot be corrected with castration, enlarged joints or deformed limbs, extremely poor body condition with a poor prognosis for survival, old age exhibited by physical deterioration indicating a closeness to death, dangerous animals beyond characteristics inherently associated with wild characteristics, escaped horse poses a public safety hazard, or direction from a state or federal animal health official ordering euthanasia as a disease control measure.

I declare, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge and belief.

Dated this 7th day of October, 2026

JACE STOTT Digitally signed by JACE STOTT
Date: 2026.10.07 09:30:42
-06'00'



Add a Caption

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Look Up **Plains Pricklypear** >

Monday • Sep 28, 2026 • 9:52 AM

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Exhibit K - Declaration of Jace Stott

Case 1:25-cv-00150-WJM Document 20-1 Filed 10/07/26 Page 24 of 28

WindCAD Incident Card *** Billings Dispatch Center *** MTCGF - 2026 261368

Miller Trail Wildfire 09/09/2026 1023

Area

Controlled Unclassified Information/Basic

Reporting Party: BC 8

Initial Report on Conditions:

fire report out by Pryor Mt East of the Pryor Mt Wind Farm

Initial Location:

Pryor Mountain Range East of Warren, MT

Lat: D,M,S: 45°10'5" N D,dM: 45°,10.09 N dD: 45.16812 N Long: D,M,S: 108°20'22" W D,dM: 108°,20.38 W dD: 108.339617 W
T8S R28E Sec 6

Actual Location:

45 10.413 X 108 36.335

Lat: D,M,S: 45°10'13" N D,dM: 45°,10.23 N dD: 45.1705 N Long: D,M,S: 108°35'28" W D,dM: 108°,35.47 W dD: 108.591167 W
T8S R26E Sec 39

Location History:

09/09/2026 1122: 45.1705, 108.591167, RO

09/09/2026 1032: 45.107401, 108.589205, TG

09/09/2026 1023: 45.16812, 108.339617, TG

Incident Notes:

Dispatcher: Trasia Garcia - 11417 **Status:** Closed **Sub-Type:**

Numbers Tab:

Fiscal Codes:

Auto Fire Code: SZ82

Notifications Tab:

Web Comment:

Smoke Report in Carbon County, fed and local resources responding, SE of Bridger, MT

Hazards:

MTR / SUA:

Timer: CLOSED Timer for Resource H-101HX

09/09/2026 1550 RO OK OTG @ Red Lodge Airport

09/09/2026 1539 RO Model: 412EPX

Lat: 45° 17.5620'

Long: -108° 55.2606'

Time: 09/09/2026 15:36:01 UTC-0600

09/09/2026 1539 RO OK lifting Bridger Airport enr Red Lodge Airport, 6 SOB / 2 + 15 FOB / 15

ETE / +AFF

09/09/2026 1524 RO OK H-101HX relocating to Red Lodge Airport

09/09/2026 1518 RO OK AA-101: off KBIL, 2 SOB / 4 + 30 FOB / 30 ETE to Pine Grove Incident /

+ AFF

09/09/2026 1304 RO OK OTG - Bridger Airport

09/09/2026 1248 RO OK Lat: 45° 9.8262'

Long: -108° 35.8356'
Time: 09/09/2026 12:47:05 UTC-0600
09/09/2026 1231 RO OK Lat: 45° 10.2774'
Long: -108° 35.5716'
Time: 09/09/2026 12:30:04 UTC-0600
09/09/2026 1222 RO OK Lat: 45° 9.2148'
Long: -108° 30.9612'
Time: 09/09/2026 12:21:05 UTC-0600
09/09/2026 1214 RO OK Lat: 45° 10.0710'
Long: -108° 35.1048'
Time: 09/09/2026 12:12:05 UTC-0600
09/09/2026 1158 RO OK Lat: 45° 9.8868'
Long: -108° 36.1314'
Time: 09/09/2026 11:58:10 UTC-
09/09/2026 1153 LR OK On scene.
09/09/2026 1138 RO OK Lat: 45° 22.1130'
Long: -108° 55.6962'
Time: 09/09/2026 11:37:11 UTC-0600
09/09/2026 1126 LR OK Lat: 45° 33.3798'
Long: -109° 16.6320'
09/09/2026 1111 LR OK OFF BIG TIMBER WITH 6SOB, 2+30FOB, 40 MIN ETA. AFF+

Timer: CLOSED Timer for Resource H-395M

09/09/2026 1144 LR OK OTG
09/09/2026 1137 RO OK Lat: 45° 36.3630'
Long: -108° 31.1232'
Time: 09/09/2026 11:36:55 UTC-060
09/09/2026 1121 RO OK returning to KBIL
09/09/2026 1121 RO Lat: 45° 48.3378'
Long: -108° 31.4610'
Time: 09/09/2026 11:03:10 UTC-0600
09/09/2026 1121 RO OK over the incident, updated coords: 45 10.23 X 108 35.47, single tree, .1
acre, resources enr are sufficient
09/09/2026 1110 RO OK Lat: 45° 25.1244'
Long: -108° 35.9268'
Time: 09/09/2026 11:09:30 UTC-0600
09/09/2026 1100 RO OK H-95M : 4 SOB / 2 + 20 / 14 ETE / + AFF / H-101 HX also enr to site
-H95M advised

Incident Commander(s):

09/09/2026 1724 Luke Fosness Effective 9/9/26 @1620
09/09/2026 1609 FOSSNESS Effective 09/09/2026

Resource Details:

BC 8:

Committed at 09/09/2026 1028
Responding at 09/09/2026 1028
Released at 09/09/2026 1610

DIV 8:

Committed at 09/09/2026 1028
Responding at 09/09/2026 1028
Returning at 09/09/2026 1610
Released at 09/09/2026 1843

Entry Date/Time	User	From	To	Details
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Entry Date/Time	User	From	To	Details
09/09/2026 1023	TG	BC 8	TG	got a smoke report that came in as fire report out at Pryor Mt East of Pryor Mt Wind Farm, volunteers are engaged as we do not have an IA resources to respond, would like to put in a request for the Repeller's to head that way
09/09/2026 1044	AP	AP	UNIT 8 DO	Notified Bill of this smoke report. also that USFS is sending Rapellers and DNRC is sending 95M. Bill said if it lands on BLM land to launch Crow Helicopter and E2611.
09/09/2026 1047	RO			KB sent to both H-95M and H-101HX by email, DO Sciacca also wants H-95M to go due to being possibly on PVT land, DO J Robinson had previously ordered Rappeller ship and crew, Sciacca was made aware of the resources already ordered and wishes to go ahead with H-95M
09/09/2026 1048	LR	Robinson-B C-8	LR	Why is 95M being launched to a FS fire? Fire hasn't been confirmed if it is FS. Need to talk to DO of DNRC.
09/09/2026 1050	RO			notified Carbon County 911, they are advising per ground units on scene, advising fire is up in the trees near Infernal Canyon Trail and Kings Trail
09/09/2026 1059	LR			Message sent to A/C Commit Group: A/C COMMIT Resource H-101HX & H-95M, Location Inferno Canyon Area-Pryor Mtns
09/09/2026 1059	CEO	Julian	CEO	Julian spoke with DNRC DO (Sciacca) -how this was described to Sciacca; he thinks it was close to state. Julian told Sciacca this is deep in FS as I called this smoke in. I also told Sciacca if he thinks he needs to fly his ship and sees it's in green, then they will not engage.
09/09/2026 1059	RO	H-395M	REO	H-95M : 4 SOB 2 + 20 16 ETE / + AFF / H-101 HX also enr to site -H95M advised
09/09/2026 1101	RO			Message sent to A/C Commit Group: A/C COMMIT Resource H-101HX & H395M, Location SE of Bridger, MT<MapLink>: https://maps.google.com/maps?q=45.107402802,-108.589202881
09/09/2026 1121	RO			over the incident, updated coords: 45 10.23 X 108 35.47, single tree, .1 acre, resources enr are sufficient, H-95M returning to KBIL
09/09/2026 1124	RO	REO	Log	Batt 9-2 updated, USFS fire
09/09/2026 1126	AP	AP	Unit 8 DO	Updated on the lat long, size up.
09/09/2026 1131	AP	AP	Unit 8 DO	emailed wildCAD log to DO Bill.
09/09/2026 1132	RO	REO	Log	H-101HX updated with H-395M's size-up info and new coordinates
09/09/2026 1136	RO	REO	Log	Carbon County 911 updated
09/09/2026 1201	RO	H101HX	REO	update: smoke 1368, location is above Stockmans Trail, Coords accurate as N 45 10.23 X W -108 35.47, elev 7,500 feet on SW Aspect, Size: .8 to .25 acre, behavior: smoldering, no structures threatened, spread: mod to high Slope: 20 - 40 % on middle 1/3 of slope, fuel: Timber/Brush. winds: speed low & variable, 6 vol on scene with water, hazards: none
09/09/2026 1202	RO	DIV 8	REO	ordering 4 RAPS to relieve Vol FF on site, H101HX copied direct
09/09/2026 1206	DM	DIV 8	DM	Not ordering 4, giving approval for 4 additional RAPS if needed.
09/09/2026 1214	RO			Acres set to 1
09/09/2026 1220	DM			Acres set to .25

Entry Date/Time	User	From	To	Details
09/09/2026 1221	RO	H-101HX	REO	received report of possible smoke nearby and flew a quick recon, nothing new found-preparing to launch RAPS
09/09/2026 1232	DM	RAPS	DM	4 on the ground and awaiting cargo.
09/09/2026 1254	RO	H-101HX	REO	4 RAPS and gear dropped off, now ENR to Bridger Airport w/ 2 SOB / 1 FOB / 11 ETE / + AFF
09/09/2026 1317	RO	CGF RAP Crew	REO	Fire Name Miller Trail, IC Gifford, same Coords, ownership-USFS, size .1 acre, fuels: slash, no additional resources needed, requesting INV for human-caused from fire ring, Frequency: A/G 48, best ground access via Graham Trail to Stockman Trail, estimated time to containment: 1530 hours today
09/09/2026 1318	RO	DIV 8	REO	copied info direct
09/09/2026 1324	RO	DIV 8	REO	will speak directly to BLM INV Wald and determine if response beyond photos already acquired is necessary, he will notify me when a decision is reached
09/09/2026 1343	RO	Joe Rock	REO	H-N101HX will recover and RON tonight at Red Lodge Airport for centralized placement of RAPS
09/09/2026 1402	RO	Div 8	REO	USFS LE officer K Haworth will investigate this incident on Friday
09/09/2026 1511	RO	ICt	REO	fire contained at this time, remaining on scene to monitor for awhile, will be hiking out with DIV 8 later
09/09/2026 1609	DM	ICt	DM	completed grid. No heat or smoke found. Calling fire controlled at this time. Fire investigator has been ordered and will be calling fire out at appropriate time. RAPS hiking out with DIV*. New IC will be FOSSNESS
09/09/2026 1720	TG	IC	TG	all r/s off the line and back at their vehicles / transfer command DIV 8 Luke Fosness
09/09/2026 1822	RO			FireCode requested
09/11/2026 1430	CEO	PREV 8	CEO	calling this fire out @ 1430 per PREV 8.

VOR CODY, WY 37 15 BILLINGS, MT 38 168 SHERIDAN, WY 68 278 WORLAND, WY 77 330 LIVINGSTON, MT 84 101	ATB BILLINGS, MT 38 168 WEST YELLOWSTONE, MT 111 63 HELENA, MT 166 108 POCATELLO, ID 220 39 RAPID CITY, SD 246 281	Helibase Red Lodge Airport 28 81 BILLINGS, MT 38 168 CROW HELIBASE 54 233 LEWISTOWN, MT 121 148 MILES CITY, MT 132 229
Hospital	Burn Center	Trauma Center

Initial Report On Conditions**Fuels:** GRass/Timber **Acres:** .25 **W Speed:** low **Dir:** **Slope:** 20-40 %**Aspect:** SW **Spread:** mod to high **Complexity:** **Jurisdiction:**USFS**Structures:** None**Initial Strategy:** Full Suppression**Access:** RAPS**Hazards/Concerns:****Fire Report Information****Fire #:** **SubUnit:** **SubUnit #:****Acres:** 0.25 **Size Class:** A **Elevation:** **Land Status:** USFS**Contain:** 09/09/2026 1511 **Control:** 09/09/2026 1607 **Out:** 09/11/2026 1430 **Fire Cause:** Undetermined**IC:** Luke Fosness**Lat/Long:** D,M,S: 45°10'13" N x 108°35'28" W D,dM: 45°,10.23 N x 108°,35.47 W dD: 45.1705 N x 108.591167 W**Incident Command Post****Directions:****Location:****Lat/Long****Staging:**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

THE CLOUD FOUNDATION, a nonprofit corporation, CENTRAL OREGON WILD HORSE COALITION, a nonprofit corporation, LISA FRIDAY, individually and on behalf of THE CLOUD FOUNDATION, GAYLE HUNT, individually and on behalf of THE CENTRAL OREGON WILD HORSE COALITION,

Plaintiffs,

v.

UNITED STATES BUREAU OF LAND MANAGEMENT, an agency of the United States Department of the Interior, JERRY DAVIS, in his official capacity as Acting State Director for the Bureau of Land Management, Montana/Dakotas State Office, UNITED STATES FOREST SERVICE, an agency of the United States Department of Agriculture, and MATTHEW JEDRA in his official capacity as Forest Supervisor for the Custer Gallatin National Forest,

Defendants.

Case No. 1:26-CV-00100-WWM

**DECLARATION OF AMY
HAAS**

I, Amy Haas, in accordance with the requirements of 28 U.S.C. § 1746, declare as follows:

1. I submit this Declaration based on my personal knowledge of the facts set forth below.

2. I am the District Ranger for the Beartooth Ranger District of the Custer Gallatin National Forest with a duty station of Red Lodge, Montana. I have served in this position since January 2024. I have worked for the United States Forest Service for approximately 25 years. Prior to becoming District Ranger, I served as the District Timber Staff Officer and Silviculturist on the Shoshone National Forest beginning in 2011. Before that, I worked in silviculture and timber management on the Black Hills and Ouachita National Forests. I received a Bachelor of Science degree in Botany from North Dakota State University in 2001.

3. As District Ranger, I am responsible for the administration and oversight of all employees, programs, and activities on the Beartooth Ranger District. The district encompasses approximately 603,000 acres, including a portion of the Pryor Mountain Wild Horse Range. I am providing this declaration in support of the Pryor Mountain Wild Horse Joint Herd Management Area and Gather Plan and its associated Environmental Assessment (EA). The statements contained in this declaration are based on my personal knowledge, my professional experience, information provided to me by my staff in the course of my official duties as District Ranger, my review of agency records, and my direct oversight of this project.

BACKGROUND

Territory Information

4. The Pryor Mountain Wild Horse Range (the Range) encompasses approximately 39,994 acres across the southeastern portion of Carbon County, Montana and northern Big Horn County, Wyoming. The Range includes lands administered by Bureau of Land Management (BLM) (68 percent), National Park Service (20 percent), Forest Service (11 percent), and a very small portion of private land. Management responsibility corresponds to each agency's share of the Range; the Forest Service administers roughly 11 percent (4,401 acres). National Forest System lands within the Range are designated as Wild Horse Territories. The wild horses can move freely between the Range and Territory, and it is managed collectively as one management area.

5. Under the Pryor Mountain Wild Horse Range Interagency Agreement (Exhibit A), the BLM serves as the lead Federal agency for wild horse management across the Range, including the Forest Service Territory.

Associated NEPA Documents.

6. I was the decision maker and Responsible Official for the Pryor Mountain Wild Horse Joint Herd Management Area and Gather Plan Decision Notice (signed July 24, 2025). This decision addresses the portion of the herd and

Territory under Forest Service jurisdiction (approximately 11 percent) and serves as the Territory Management and Gather Plans for the Forest Service.

7. The BLM Billings Field Office and Custer Gallatin National Forest jointly prepared the EA (July 2025), establishing both short and long-term management objectives for the wild horses and the associated rangeland, vegetation, and riparian resources within the Range. The EA and Decision Notice are consistent with the goals and objectives found within the 2022 Custer Gallatin National Forest Land Management Plan (Forest Plan, January 2022).

8. The Forest Plan identifies components specific to the Wild Horse Territory, including one desired condition, two goals, six standards, and suitability of the Territory for other uses. The desired condition is that the Territory maintains a thriving ecological balance with other resources and activities (PR-DC-WHT-1). In compliance with the Forest Plan, no new range improvements were planned on National Forest System lands, and the Wild Horse Territory was not expanded on National Forest System lands.

9. My selected alternative (Alternative 2) established a Territory Plan for the Pryor Mountain Wild Horse Range on National Forest System lands and established an Appropriate Management Level (AML) of 107 to 120 wild horses. To achieve the AML, my decision authorized wild horse gathers to remove horses

from the herd, and fertility control methods to reduce population growth. My decision authorized ongoing gathers that maintain AML while also managing for healthy wild horses, maintaining a level of genetic variety that avoids inbreeding, depression, and maintaining characteristics that are typical of Pryor Mountain horses of mixed ancestry including colonial Spanish. Lastly, my decision authorized reducing population growth through the use of fertility control vaccines. ZonaStat-H (native porcine zona pellucida vaccine) remains the preferred method; however, non-responders can be treated with other BLM-approved vaccines. Mares ages four and older will not receive fertility control treatments until after they have successfully foaled once, which is defined as a foal living to one year of age.

10. The Forest Service received 19 objections (under 36 CFR Part 218 subparts A and B) to the Draft Decision Notice and Finding of No Significant Impact for the Pryor Mountain Joint Herd Management Area and Wild Horse Gather Plan during the 45-day objection period that started in April 2025. During the objection review period, the Objection Reviewing Officer considered 5 issues and 14 contentions that were identified by objectors. We determined six objections raised substantive issues and had standing to object. Among the objectors were Gayle Hunt on behalf of the Central Oregon Wild Horse Coalition and Kerry Ferguson on behalf of The Cloud Foundation. The objections focused on birth

control methods, sufficiency of the range data used in calculating AML, and genetic and habitat fragmentation. The Objection Reviewing Officer found that, as the official responsible, I provided an adequate analysis of the issues raised and provided acceptable documentation showing compliance with applicable laws and regulations.

11. I signed the final Decision Notice and Finding of No Significant Impacts for the Pryor Mountain Wild Horse Joint Herd Management Area and Gather Plan Decision Notice on July 24, 2025. This decision established AML of 107 to 120 horses for the Territory/Range. It also approves the BLM as the designated lead agency to conduct gathers and removals to achieve low AML and conduct ongoing gathers that maintain AML. The approved gather methods are detailed in the EA.

12. This decision authorizes the current gather being administered by BLM. The gathers align with the Forest Service Wild Horse and Burro program's policies under the authority of the Wild Free-Roaming Horses and Burro Act (Public Law 92-195), such as 36 CFR Part 222, Subpart D and Forest Service Manual 2260.

Appropriate Management Level Determination

13. AML was established in the Territory Plan to maintain a thriving natural ecological balance and ensure animal health and welfare. BLM used a carrying capacity calculation based on rangeland health and pounds of production as described in Appendix C of the EA to derive the AML of 107 to 120 horses for the Territory/Range. Three main factors were used to evaluate the AML: (1) changes in environmental conditions; (2) presence of newly listed threatened, endangered, or sensitive species; and (3) any additional resource monitoring, population inventory, or other relevant data collected since the AML was established. Appendix B (Rangeland Health Assessment), and Appendix M (Drought Report) were used as supporting documentation for the development of the AML. Forest Service adopted this AML in our decision.

14. The AML of 90 to 120 horses was originally established in the 2009 Pryor Mountain Wild Horse Range/Territory Environmental Assessment and Herd Management Plan, and the Forest Service Decision Notice (2009). This plan guided population management using a combination of gathers and removals and identified on-range improvements such as perimeter fencing and the development of multiple water features, and served as a basis for the current EA.

Information Specific to the Gather

15. Based on the most recent information provided by BLM, the current population is estimated at approximately 187 horses (excluding foals) which is significantly exceeding the AML, further degrading the habitat and stressing the animals. Appendix B of the EA describes in detail the range conditions within the Area. Appendix N describes the Genetic Diversity of the herd.

16. Determining excess horses is reliant on two complementary assessments. The first assessment evaluates the condition and carrying capacity of the Territory and Range. This includes the Rangeland Health Assessments (Appendix B), current wild horse numbers, forage utilization rates, and annual precipitation and drought condition data. Together, these datasets describe ecological conditions, grazing pressure, and environmental stressors that indicate when herd numbers exceed sustainable levels. The AML re-evaluation in Appendix C compiles and analyzes all inventory information and presents the summary findings used to determine the carrying capacity of the Territory/Range. The second assessment determines which specific horses should be removed from the Territory/Range following selective removal criteria that maintain a level of genetic diversity to avoid inbreeding depression and maintain characteristics that are typical of Pryor Mountain horses of mixed ancestry including Colonial Spanish as described in Appendix F. Removal criteria are based on genetic defects,

inbreeding, sex ratios, and age class as defined in the EA under the preferred alternative gather/removal section. The gather is necessary to move the herd toward the established AML, conserve public land resources, and maintain a thriving natural ecological balance, consistent with the EA. Returning the herd to the lower end of the AML supports ecological balance by reducing grazing pressure on vegetation and stabilizing use of limited water resources.

Overpopulation, further intensified by ongoing drought, has degraded forage conditions, reduced water availability, and increased the likelihood of resource damage within the Range. The EA and Appendix C address the purpose and need for the gather.

17. BLM and Forest Service anticipate conducting a gather on the Range from October 1 to November 15, 2026. BLM will conduct a gather on behalf of both agencies; they anticipate gathering 100 horses from the Territory/Range and removing 37 horses for adoption. The remaining 63 horses will be returned to the Range after processing. Under normal conditions, the BLM requires that animals be briefly restrained to determine age, sex, and ownership. In other situations, restraint may be necessary to conduct additional procedures such as veterinary treatments, fertility-control vaccinations, castration or other sterilization procedures, branding, blood draws, collection of hair samples for genetic testing,

testing for equine diseases, or the application of GPS collar or radio tags. All handling and procedures are conducted in accordance with established animal welfare standards (Appendix K). Bait and water trapping will be the preferred gather method. Four horses (11 percent) are the responsibility of the Forest Service. The gather will take place on BLM lands. National Forest System lands do not have the access or facilities needed to support the gather.

18. Objectives of the gather are to: manage horses and resources to preserve and maintain a thriving natural ecological balance and multiple use relationships; manage for healthy wild horses, maintain a level of genetic diversity that avoids inbreeding and depression, and preserves characteristics that are typical of Pryor Mountain horses of mixed ancestry including Colonial Spanish; and manage population growth using a combination of techniques including removals, fertility control, natural means, or a combination of prescriptions. The relationship between the gather and broader herd management objectives are described in the EA and its appendices.

19. The Territory on the Custer Gallatin National Forest is bordered by BLM and private land owned by Krueger Land and Livestock. This landowner was on the mailing list for the project and did not object to the Forest Service Draft

Decision Notice. They have never expressed concerns with the management of the Wild Horse Territory on the Custer Gallatin National Forest.

20. Excess wild horses are defined as those above the upper AML of 120 horses and are therefore eligible for removal. The EA outlines how wild horses are to be selected for removal using selective removal criteria. Appendices C, F, H, J, and N support the selective removal process by providing the AML reevaluation, an example gather and removal list, analysis of gathers effects on wild horses, population growth projections for each alternative, and genetic considerations relevant to maintaining a healthy, sustainable herd.

21. As the lead Federal agency, BLM provided public notice of the upcoming gather. BLM issued a press release on August 12, 2026. Several media outlets ran stories about the upcoming gather. Forest Service provided public notices, including the role of BLM as lead Federal agency, through our planning process, which included scoping (2020), a comment period (2023), and an objection period (2025). All the public comment periods included information on the gather plan. Comments addressed the Forest Service's jurisdiction and the Forest's obligations under *36 CFR § 222.69*, *222.65*, and the Forest Service Manual sections 2204, 2260, and 2261 (which includes direction for the delegation

of authority, coordination of activities, and removal of excess animals). Tribal consultation was completed in collaboration with BLM.

22. Appendices H and K of the EA describe the effects of the gathers and the Comprehensive Animal Welfare Program that will be utilized for the removal of the wild horses. Once the wild horses are transported to off-range corrals, the BLM assumes responsibility for the care and welfare of the wild horses until they are adopted or sold. Under the Interagency Agreement, Forest Service will provide designated funding commensurate to our portion of the management to support the ongoing care, feeding, and maintenance of the wild horses while they remain in BLM custody.

23. The fall 2026 gather will be the first gather conducted under the 2025 Pryor Mountain Wild Horse Joint Herd Management Area and Gather Plan Decision Notice.

Previous Communication with Central Oregon Wild Horse Coalition and The Cloud Foundation

24. I have not had any individual communication with Central Oregon Wild Horse Coalition and The Cloud Foundation.

HARMS FROM DELAYING THE PROJECT

25. If no management action is taken to reduce the Pryor Mountain wild horse population to the established AML, several harms are already occurring and will worsen.

26. The current population of approximately 187 horses—well above the AML of 107 to 120—is already degrading forage conditions, over-grazing vegetation, and damaging both upland and riparian ecosystems. One potentially impacted riparian area is Crooked Creek. Continued overpopulation will further reduce plant productivity, accelerate range deterioration, and impair long-term ecological recovery. As an example, the Shoshonea (*Shoshonea pulvinata*) – montane (a sparsely vegetated habitat guild with 6 of 12 occurrences on the Custer Gallatin) may be vulnerable to trampling by wild horses.

27. Ongoing drought combined with an excessive number of wild horses has reduced water availability and increased pressure on scarce water sources, causing impacts to both the wild horses and other wildlife species. Without action, water scarcity will worsen, threatening both ecological stability and the health of the horses themselves.

28. Overpopulation leads to greater competition for limited forage and water, increasing stress on wild horses, reducing body condition, and raising risks

of malnutrition, dehydration, and increased mortality, especially during drought years.

29. Failure to manage herd size and apply fertility control methods would hinder efforts to maintain adequate genetic diversity, raising the risk of inbreeding and long-term decline in herd viability.

30. If population growth continues unchecked, far more intrusive or frequent gathers would eventually be needed, increasing stress on the herd and raising logistical and financial burdens for managing agencies.

31. There are various costs associated with delay.

32. **Costs of the gather:** Under the existing Interagency Agreement, the Forest Service contributes funding proportionate to its management responsibility for approximately 10 percent of the Pryor Mountain herd. This contribution covers both fertility control, removal of excess horses, feed and care at the holding facility, and adoption costs. See page 12 of the interagency agreement (Exhibit A).

33. For fertility control treatments an estimated 43 treatments will be administered to 39 horses that will be returned to the territory/range. At ten percent Forest Service responsibility and \$300 per horse, the Forest Service share is approximately \$1,290. For removals, an estimated 37 horses will be removed. At ten percent Forest Service responsibility and \$500 per horse, the Forest Service

portion is approximately \$2,000. Based on these calculations, the Forest Service's total cost share for fertility control and removals is approximately \$3,290.

34. Once the animals are transported to an off-range holding facility, the Forest Service also contributes under the Interagency Agreement to cover feed, care, and adoption costs for the Forest Service horses. Feed and care are estimated at \$5 per day, and adoption preparation costs are \$500 per horse. Assuming a four month (approximately 120 days) holding and preconditioning period for four horses, feed and care costs total roughly \$2,400, and adoption costs total \$2,000, resulting in an estimated \$4,400 for this phase.

35. As such, the total costs to the Forest Service for this gather is approximately \$7,690.

36. Effects of losing a particular operational or seasonal window:

Losing a key operational or seasonal window would reduce the effectiveness of the gather and increase both ecological and management risks. Seasonal timing is critical for minimizing stress on horses, protecting sensitive habitats, and ensuring safe gather operations. Delays could result in diminished forage conditions, reduced water availability, and increased herd movement as horses search for resources, elevating the likelihood of injuries and resource damage. Missing the optimal window may also reduce the ability to meet population management

objectives, prolong overpopulation impacts on rangeland health, and require additional operational costs or more intensive gather actions later in the season.

37. **Downstream effects on other scheduled gathers or agency operations:** Losing an operational window for this gather could create cascading effects on other planned gathers and agency operations. Delays may shift staffing, equipment, and contractor availability, resulting in scheduling conflicts with other field activities or compliance timelines. Postponing this gather delays progress toward achieving standards for Rangeland Health and a thriving natural ecological balance. Additionally, if herd numbers remain above AML for a longer period, future gathers may need to be larger or more frequent, affecting the broader wild horse management schedule across all jurisdictions.

38. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 6 day of October 2026 at Red Lodge, Montana.

AMY HAAS
Digitally signed by AMY
HAAS
Date: 2026.10.06 16:11:55
-06'00'

Amy Haas
District Ranger
Beartooth Ranger District
Custer Gallatin National Forest

EXHIBIT A

UNITED STATES GOVERNMENT ORDER FORM

FS FORM 7600B



Agreement Between Federal Program Agencies for Intragovernmental Reimbursable, Buy/Sell Activity. In Accordance with TFM Volume 1, Part 2, Chapter 4700, Appendix 8.

Required fields for the FS Form 7600B are denoted with an (*)

Additional fields required when an Agency transitions to G-Invoicing are denoted by a (G)

<https://www.fiscal.treasury.gov/g-invoice/>

NEW OR MODIFIED ORDER

1.	Order Number	^G Order Number: <table border="1"> <tr> <td>Requesting Agency (Buyer)</td> <td>Servicing Agency (Seller)</td> </tr> <tr> <td>* Order Tracking Number 25-IA-11011100-037</td> <td>* Order Tracking Number LROREX504100</td> </tr> <tr> <td colspan="2">^G Modification Number:</td> </tr> <tr> <td colspan="2">^G Order Status:</td> </tr> </table>		Requesting Agency (Buyer)	Servicing Agency (Seller)	* Order Tracking Number 25-IA-11011100-037	* Order Tracking Number LROREX504100	^G Modification Number:		^G Order Status:	
Requesting Agency (Buyer)	Servicing Agency (Seller)										
* Order Tracking Number 25-IA-11011100-037	* Order Tracking Number LROREX504100										
^G Modification Number:											
^G Order Status:											
2.	^G General Terms & Conditions (GT&C) Number (Associated with this Order):										
3.	*Order Date (yyyy-mm-dd):	2025-09-01									

PARTNER INFORMATION

4.	*Assisted Acquisition Indicator	Yes	
5.	*Period of Performance	Original Base/Current Modification	New/Proposed Modification
		Start Date (yyyy-mm-dd): 2025-09-01	Start Date (yyyy-mm-dd):
		End Date (yyyy-mm-dd): 2030-4-30	End Date (yyyy-mm-dd):
		Requesting Agency (Buyer)	Servicing Agency (Seller)
6.	*Agency Location Code (ALC)	12401100	14110008
7.	*Agency Name	USDA, Forest Service	DOI, Bureau of Land Management
8.	*Group Name	Custer-Gallatin National Forest	Montana State Office
9.	^G Group Description	3710 Fallon Street, Suite C Bozeman, MT 59715	5001 Southgate Dr Billings, MT 59101
10.	Cost Center		
11.	Business Unit		
12.	Department ID		
13.	Unique Entity Identifier (UEI)	G2EGL5TJE6N3	YWM3W5LSWY51
14.	Funding Office Code (Buyer Only)		
15.	Funding Agency Code (Buyer Only)		
16.	Comments	new agreement: \$9,000.00	

AUTHORITY INFORMATION

17.	*Statutory Authority Fund Type Code	Select One: Other Authority	
18.	Statutory Authority Fund Type Title	P.L. 118-234 Service First Authority,	
19.	Statutory Authority Fund Type Citation	U.S.C. 43 § 1703	
		Requesting Agency (Buyer)	Servicing Agency (Seller)
20.	Program Authority Title		
21.	Program Authority Citation		

ADVANCE INFORMATION (Required by Servicing Agency if there is an advance.)

22.	Advance Revenue Recognition Methodology	Select One:	
23.	Advance Revenue Recognition Description (required if "Other")		
24.	Advance Payment Authority Title		
25.	Advance Payment Authority Citation		
		Original Base/Current Modification Total	New/Proposed Modification Total
26.	Total Advance Amount		
27.	Advance Amount Funding Change for this Modification [Addition (+) or Reduction (-)]		
28.	Total Modified Advance Amount		

DELIVERY INFORMATION (Requesting Agency completes.)

29.	*FOB Point	Select One:
30.	Constructive Receipt Days	(Calendar Days) *Required if Destination/Other is checked on line 29.
31.	Acceptance Point	Select One:
32.	Place of Acceptance	
33.	Inspection Point	Select One:
34.	Place of Inspection	

ORDER BILLING (Servicing Agency completes.)

35.	*Billing Frequency	Select One: QUARTERLY
36.	Billing Frequency Explanation	

ORDER BILLING (Requesting Agency completes.)

37.	Priority Order Indicator		
38.	Capital Planning and Investment Control (CPIC)		
		Original Base/Current Modification Total	New/Proposed Modification Total
39.	*Total Order Amount	\$9,000.00	
40.	Total Modification Amount		
41.	Total Modified Order Amount		\$0.00

42.	Total Modified Advance Order Amount		
43.	Net Order Amount		\$9,000.00
LINE ITEMS (Additional Lines/Schedules may be added using the + button after Block 116)			
		Original Base/Current Modification Total	New/Proposed Modification Total
44.	*Line Number	9000	
45.	Order Line Status		ACTIVE
46.	Item Code		
47.	*Item Description		Pryor Mountain Wild Horse and Burro Management
48.	*Line Costs Unit of Measure (UOM)		EA
49.	*Unit of Measure Description		Each
50.	Total Line Costs		\$9,000.00
51.	Line Cost Funding Change for this Modification [Addition (+) or Reduction (-)]		
52.	Total Modified Line Costs		
53.	Order Line Advance Amount		
54.	Order Line Advance Amount Funding Change for this Modification [Addition (+) or Reduction (-)]		
55.	Total Modified Order Line Advance Amount		
56.	Product/Service Identifier		
57.	*Capitalized Asset Indicator (Servicing Agency Only)		
58.	Item UID Required Indicator		
59.	*Type of Service Requirements		
SCHEDULE SUMMARY (Additional Lines/Schedules may be added using the + button after Block 116)			
		Original Base/Current Modification Total	New/Proposed Modification Total
60.	*Schedule Number		
61.	Advance Payment Indicator		False
62.	*Cancel Status (Schedule)		ACTIVE
63.	*Schedule Unit Cost/Price		\$9,000.00
64.	Schedule Unit Cost/Price Funding Change for this Modification [Addition (+) or Reduction (-)]		
65.	Total Modification Schedule Unit Cost/Price		
66.	*Order Schedule Quantity		1
67.	Order Schedule Quantity		

	Change for this Modification [Addition (+) or Reduction (-)]		
68.	Net Modification Order Schedule Quantity		
69.	Order Schedule Amount		
70.	Order Schedule Amount Funding Change for this Modification [Addition (+) or Reduction (-)]		
71.	Total Modified Order Schedule Amount		

SCHEDULE FUNDING INFORMATION

72.	*Agency Treasury Account Symbol (TAS)	Requesting Agency (Buyer)								Servicing Agency (Seller)							
		SP	ATA	AID	BPOA	EPOA	A	MAIN	SUB	SP	ATA	AID	BPOA	EPOA	A	MAIN	SUB
				012	2024	2027		1106	000			014			X	1109	000
73.	*Agency Business Event Type Code (BETC)	DISGF								COLL							
74.	Object Class Code	2510															
75.	Additional Accounting Classification	Job Code: 0111 NFRG1125 \$6,000 FMMI PO# TBD Job code: 0111 RBRB1124 \$3000.00 FMMI PO# TBD								LLMTC01000 L19200000.000000 XXXL1109RM LROREX504100-\$6000 LROREX50410A-\$3000							
76.	*Bona Fide Need (Requesting Agency Only)	Pryor Mountain Wild Horse and Burro Management															

STANDARD LINE OF ACCOUNTING (SLOA) INFORMATION (Accounting Flex Field Values)

To capture Agency Internal Accounting

77.	Accounting Classification Reference Number	Requesting Agency (Buyer)								Servicing Agency (Seller)							
78.	Reimbursable Flag																
79.	Federal Award Identifier Number (FAIN)																
80.	Unique Record Identifier (URI)																
81.	Activity Address Code																
82.	Budget Line Item																
83.	Budget Fiscal Year																
84.	Security Cooperation																
85.	Security Cooperation Implementation Agency																
86.	Security Cooperation Case Designator																
87.	Security Cooperation Case Line Item Identifier																
88.	Sub-Allocation																
89.	Agency Accounting Identifier																
90.	Funding Center Identifier																

91.	Cost Center Identifier		
92.	Project Identifier		
93.	Activity Identifier		
94.	Disbursing Identifier		
95.	Cost Element Code		
96.	Work Order Number		
97.	Functional Area		
98.	Agency Security Cooperation Case Designator		
99.	Parent Award Identifier (PAID)		
100.	Procurement Instrument Identifier (PIID)		
SCHEDULE SHIPPING INFORMATION			
101.	Ship To Address Identifier		
102.	Ship To Agency Title		
103.	Address 1		
104.	Address 2		
105.	Address 3		
106.	Ship To City		
107.	Ship To Postal Code		
108.	Ship To State	Montana	
109.	Ship To Country Code		
110.	Ship To Location Description		
111.	Delivery/Shipping Information for Product Special Shipping Information		
112.	Delivery/Shipping POC Name		
113.	Delivery/Shipping Information for Product POC Title		
114.	Delivery/Shipping Information for Product POC E-mail Address		
115.	Delivery/Shipping Information for Product POC Telephone Number		
116.	Agency Additional Information	Requesting Agency (Buyer)	Servicing Agency (Seller)
		Refer to Exhibit A, supplemental provisions and financial and operating plan.	

MODIFY ORDER

117.	Modification Date (yyyy-mm-dd):
118.	Brief explanation required for modifying this Order:

CLOSE ORDER

119.	Closing Date (yyyy-mm-dd):
120.	Brief explanation required for closing this Order:

REJECT ORDER

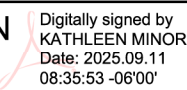
121.	Rejection Date (yyyy-mm-dd):
122.	Brief explanation required for rejecting this Order:

AGENCY POINT OF CONTACTS (POC)

		Requesting Agency (Buyer)	Servicing Agency (Seller)
123.	*Agency POC Name	Chauntelle Rock	Jace Stott
	*Agency POC E-mail	chauntelle.rock@usda.gov	jstott@blm.gov
	*Agency POC Phone No.	(406) 223-5536	406-896-5350
	Agency POC Fax No.		

AGREEMENT APPROVALS**FUNDING OFFICIAL**

The Funds Approving Officials, as identified by the Requesting Agency and Servicing Agency, certify that the funds are accurately cited and can be properly accounted for per the purposes set forth in the Order. The Requesting Agency Funding Official signs to obligate funds. The Servicing Agency Funding Official signs to start the work, and to bill, collect, and properly account for funds from the Requesting Agency, in accordance with the agreement.

		Requesting Agency (Buyer)	Servicing Agency (Seller)
124.	*Funding Official Name	Matthew Jedra	Scott Haight
	*Signature	KATHLEEN MINOR  Digitally signed by KATHLEEN MINOR Date: 2025.09.11 08:35:53 -06'00'	
	Funding Official Title	Forest Supervisor	Associate State Director
	*Funding Official E-mail	matthew.jedra@usda.gov	shaight@blm.gov
	*Funding Official Phone No.	406-587-6776	406-896-5012
	Funding Official Fax No.		
	*Funding Official Date Signed (yyyy-mm-dd)		

PROGRAM OFFICIAL

The Program Officials, as identified by the Requesting Agency and Servicing Agency, must ensure that the scope of work is properly defined and can be fulfilled for this Order. The Program Official may or may not be the Contracting Officer depending on each agency's IAA business process.

		Requesting Agency (Buyer)	Servicing Agency (Seller)
125.	*Program Official Name	Thomas Richards	Stacie Thompson
	*Signature	THOMAS RICHARDS Digitally signed by THOMAS RICHARDS Date: 2025.09.10 08:55:51 -06'00'	
	Program Official Title	Lead Grants Management Specialist	Field Manager, Acting
	*Program Official E-mail	thomas.richards@usda.gov	slthompson@blm.gov
	*Program Official Phone No.	406-494-0211	406-896-5220
	Program Official Fax No.		
	*Program Official Date Signed (yyyy-mm-dd)		

AGENCY PREPARER INFORMATION

		Requesting Agency (Buyer)
126.	*Name	Jennifer K Phillips
	*Phone No.	406-384-7719
	*E-mail Address	jennifer.phillips@usda.gov

Forest Service #
BLM #

EXHIBIT A
SUPPLEMENTAL PROVISIONS
AND
FINANCIAL AND OPERATING PLAN

TITLE: PRYOR MOUNTAIN WILD HORSE MANAGEMENT

- I. **PURPOSE:** The Bureau of Land Management (BLM) and Forest Service (FS) have many similar objectives and requirements for managing wild horses under their jurisdictions. Close cooperation in the Wild Horse Program in the Pryor Mountains has benefited both agencies. The purpose of this agreement is to set forth terms and conditions for cooperative efforts toward the management of Pryor Mountain wild horses; coordinate management activities relative to the health and well-being of wild horses; establish a coordinated, equitable interagency effort for their management; establish a process for fund transfer; and establish agency responsibilities to carry out this Agreement.
- II. **LOCATION:** The Pryor Mountain Wild Horse Range (PMWHR) is in the southeastern portion of Carbon County, Montana and extends into the northern portion of Big Horn County, Wyoming. The range is approximately 13 miles north of Lovell, Wyoming. The PMWHR was created in 1968 by order of the Secretary of the Interior, Stewart L. Udall. This designation was the first of its kind in the United States and directs that management of the wild horses be within a balanced program, which considers all public values without impairment to the productivity of the land. The 1968 order also states that the BLM will manage the range in a manner compatible with the Park Service's Bighorn Canyon National Recreational Area, which is adjacent to East Pryor Mountain. With the passage of the 1971 Wild Horse and Burro Act, National Forest System lands were some of the lands identified to be included as a wild horse territory within the PMWHR. Management objectives are to consider multiple-use concepts while maintaining a thriving ecological balance. This area has been administered for the protection and management of wild horses, wildlife, and watershed, archeological, recreational, and scenic values.
- III. **BACKGROUND:** The current interagency PMWHR Herd Management Area Plan (HMAP) was signed in May 2009. The plan established long-range objectives for the area with the intent that these objectives could be met cooperatively by all three land-ownership agencies. The 41,000-acre PMWHR is located on lands under the jurisdiction of the BLM (28265 acres), Park Service (8159 acres), Custer Gallatin National Forest (4323 acres), and private lands (Krueger – 642 acres). Natural topographical barriers (the rims of Lost Water Canyon/Crooked Creek to the west and Bighorn Canyon to the east), as well as man-made barrier fence lines to the north and south, restrict many horses to available range. Otherwise the Pryor herd freely roams throughout the range, largely unrestricted by internal fences. Within this context, the agencies have an interest in the effects of the proposals on lands administered by the respective agencies, and contiguous private properties.
- IV. **AGENCY AUTHORITIES:**
- A. Wild Free-Roaming Horses and Burros Act, 1971, as amended (P.L. 92-195, P.L. 95-514 and P.L. 108-44 7)
 - B. Federal Land Policy and Management Act, 1976 (P.L. 94-579)
 - C. Public Rangelands Improvement Act, 1978 (P.L. 95-514)
 - D. Forest and Rangeland Renewable Resources Research Act, 1978 (P.L. 95-307)

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- E. 36 Code of Federal Regulations, Part 222, Subpart B
- F. 43 Code of Federal Regulations, Part 4700
- G. Organic Administration Act (30 Stat. 11; 16 U.S.C.473-475, 477482, 551)
- H. Legislation establishing horse range (Federal Register33 (173) 9/12/68)
- I. Custer Gallatin National Forest Land and Resource Management Plan (approved 2022)
- J. Pryor Mountain Herd Management Plan (approved May 2009)
- K. Public Law 106-291, as amended, and Public Law 109-54, for Service First Authority.
- L. Billings Field Office Approved Resource Management Plan (approved March 2025)

- V. **POLICY:** The BLM and FS must properly administer wild free-roaming horses to maintain a thriving ecological balance, looking out for the animals' welfare while regulating their populations as necessary. The BLM and FS have a need to coordinate activities associated with the management of wild horses and burros on public lands due to the proximity of the BLM's herd management area and the FS territory. The goal of this Agreement is effective and efficient management of BLM and FS Pryor Mountain Wild Horse program by facilitating cooperation between the agencies and ensuring the program is accomplished in an economical manner. The BLM and FS believe conducting a locally coordinated monitoring, capture and disposition program is effective and efficient in eliminating duplication.

VI. AGENCY ROLES AND RESPONSIBILITIES:

1. THE BLM SHALL:

- a. Be designated as the Lead Agency for wild horse management on the overall PMWHR, including NFS Land within the PMWHR.
- b. Recognize that the Forest Service continues to maintain responsibility for all other activities within its jurisdiction. Such activities include, but are not limited to travel management, administration of special use permits and fuels management. These other activities not related to wild horse management should continue to be coordinated for consistency and similar messaging as has historically been done.
- c. Coordinate all management efforts directly pertaining to the PMWHR with the Forest Service in a timely manner.
- d. Responsible for ensuring the successful initiation, development and completion of any revisions deemed necessary to the existing herd management plan.
- e. Assume lead responsibility in the collection and evaluation of data pertaining directly to horse herd management and rangeland conditions/trends on lands within the designated boundaries of the PMWHR and provide timely dissemination of this information to Forest Service.
- f. Retain NEPA process oversight in direct support of herd management plans and activities.
- g. Be responsible for ensuring all BLM and USFS regulatory or procedural requirements are followed in pursuit of PMWHR management efforts.
- h. Agree that any formal press releases or responses to Congressional Inquiries regarding management efforts on the PMWHR will be coordinated with the Forest Service prior to their release.

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- i. Provide appropriate facilities, equipment, contractors, and staff for the removal, transportation, preparation, maintenance, adoption, short-and-long term care, compliance checks, and titling of wild horses to fulfill its obligations under this Agreement.
- j. Be responsible for its share for capture and disposition costs of jointly managed excess wild horses.
- k. Be responsible for maintaining records of FS/BLM animals, gathered, adopted or placed in long-term holding by the BLM consistent with records maintained on BLM animals. Upon request, the BLM will provide the FS annual reporting information necessary to conduct FS annual required reporting.
- l. Provide to the FS principal contact a detailed list of charges incurred in the previous fiscal year and an annual accomplishment report for the estimated number of FS/BLM animals gathered, adopted or placed in long-term holding by December 30 of each year.

2. THE FOREST SERVICE SHALL:

- a. Be designated as Service First Agency for wild horse management on the Forest Service portion of the PMWHR.
- b. Agree to all items that could affect their authorities, during the development of NEPA documents related to PMWHR management.
- c. Consider any written BLM request for assistance, resources, compliance (NEPA/106), coordination, interim decision or funding, responding in a timely manner.
- d. Request in writing (with original signatures) from the BLM needs for assistance, resources, coordination or funding in support of herd management activities or range improvement efforts.
- e. Be responsible for ensuring all Forest Service regulatory or procedural requirements are followed in pursuit of PMWHR management efforts.
- f. Agree that responses to any formal inquiries or comments that come through Forest Service channels, regarding management efforts on the PMWHR, will be first coordinated with the lead agency (BLM) before releasing any response. Generally, BLM as the lead agency will take the lead on responding to formal inquiries or comments.
- g. The FS principal contact will work closely throughout the year with the BLM by attending annual interagency coordination meetings and maintaining routine contact.
- h. Each Fiscal year: As soon as a reasonably firm estimate of the final budget is available, the FS will provide an estimated contribution of funds towards the project for that fiscal year based on conversations and mutual agreement between FS and BLM. Additional funds will be contingent upon the full expenditure of prior years' allocations and the submission of a comprehensive accounting of the work completed. It's essential to demonstrate our commitment to transparency and accountability to secure future funding.
- i. Pending availability of funds, contribute to BLM for FS's share of the cost of monitoring, infrastructure maintenance, contraception, gathering, preparation, adoption, holding and compliance services relative to the Forest Service Territory portion of the overall PMWHR.

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- j. Provide a FS project manager to be a liaison with BLM for gather related activities on FS lands when requested.
- k. Accept BLM procedures and forms for all activities related to BLM's disposition of FS animals.

3. IT IS MUTUALLY AGREED AND UNDERSTOOD BETWEEN THE PARTIES:

- a. This Service First agreement is for wild horse management only, including rangeland monitoring, infrastructure maintenance, contraception, gathering, preparation, adoption, holding and compliance services relative to the Forest Service Territory portion of the overall PMWHR.
- b. Each agency agrees to coordinate activities when there is a need for joint “government to government” tribal consultation.
- c. This Agreement sets general terms and conditions acceptable to both parties for a cooperative effort within the limits of available funds and personnel, to plan and execute wild horse monitoring, contraception, gathers, preparation, holding, and adoption.
- d. The Forest Service authorizes BLM to conduct nominal activities on NFS lands that may be necessary to move wild horses back onto the established range/territory if they are found outside the range/territory.
- e. Participate in the development of an annual work plan, which will include cost determination and any special funding needs. The funds provided to BLM by the FS will include, but are not limited to personnel, travel and per diem, contractor fees, and equipment purchases and rentals. See Financial Breakdown, Section XI of this document.
- f. Coordinate in the development of population management plans, environmental documents, and gather plans.
- g. Each Agency agrees to have local line officers and principle agency contacts at an annual BLM-FS coordination meeting to identify issues and seek any appropriate policy review.
- h. Each agency shall take whatever actions necessary to assure the greatest possible coordination and operational flexibility under the terms of this Agreement.
- i. Each Agency will make available, to the other, access to and the right to examine all books, papers, or documents related to this instrument.

VII. MODIFICATION: Modifications within the scope of the instrument shall be made by mutual consent of the parties, by the issuance of a written modification signed and dated by both parties, prior to any changes being performed. The FS is not obligated to fund any changes not properly approved in advance.

VIII. U.S. FOREST SERVICE ACKNOWLEDGED IN PUBLICATION, AUDIOVISUALS AND ELECTRONIC MEDIA. BLM shall acknowledge U.S. Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this agreement.

IX. TERMINATION – INTERAGENCY AGREEMENTS. This IA may be terminated upon 60 calendar days’ written notice by either party. If this agreement is cancelled, any implementation

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contract/order may also be cancelled. If the IA is terminated, both parties must agree to the terms of termination, including costs attributable to each party and the disposition of awarded and pending actions. If the Servicing Agency incurs costs due to the Requesting Agency's failure to give the requisite notice of its intent to terminate the IA, the Requesting Agency shall pay any actual costs incurred by the Servicing Agency as a result of the delay of notification, provided such costs are directly attributed to the failure to give notice.

X. COMMENCEMENT/EXPIRATION DATE. This agreement is executed as of the date of the last signature and is effective through **April 30, 2030** at which time it will expire, unless extended by an executed modification, signed and dated by all properly authorized, signatory officials.

XI. FINANCIAL BREAKDOWN.

FS Cash to Cooperator **Estimated** Expenditure Breakdown:

Range Monitoring Mgt. Area Q/Territory labor, supplies, equipment	\$2000.00
Annual Range Improvement Maintenance labor, supplies, equipment	\$2000.00
Fertility Application per horse	\$300.00-no more than 10% of horses
Inventory of Horses labor, supplies, equipment	\$2000.00
Removal of Excess Wild Horses/per head	\$500.00 –no more than 10% of horses
Feed and Care at Britton Springs/per feed day	\$5.00-no more than 10% of horses
Adoption of Excess Wild Horses at Britton Springs/head	\$500.00-no more than 10% of horses
Work Month Cost for Administration of Q	\$8800.00 1 WM per annum