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**Pro hac vice applications pending*

**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,

vs.

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. CV-26-100-BLG-TJC

**VERIFIED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

1. In 1968, the United States Secretary of the Interior set aside the Pryor Mountain Wild Horse Range (Range) as the Nation's first wild horse range. Twice since, this Court has intervened to stop the Bureau of Land Management (BLM) from unlawfully removing horses from it. On September 24, 2026, BLM announced its intention to do so again beginning on October 1, 2026, only this time it plans to permanently remove all but 107 of these iconic horses. Due to an agreement reached with Plaintiffs' counsel, BLM has agreed to delay the start of the gather operation to October 19, 2026.

2. The Pryor Mountain herd is one of the most closely studied wild horse populations in the country. BLM's own analyses recognize that the herd retains measurable Colonial Spanish ancestry, dating back to their original introduction to the Americas. In *Friends of Animals v. Sparks*, 200 F. Supp. 3d 1114 (D. Mont. 2016), and *Kathrens v. Zinke*, 323 F. Supp. 3d 1142 (D. Mont. 2018), this Court ordered BLM to recalculate its appropriate management level (AML)—or allowed population size—for the Pryors to prevent the foreseeable risk of lost bloodlines, patrilineal lines, and rare phenotypes that result from BLM's traditionally indiscriminate gather and removal operations within the range.

3. BLM moved in the opposite direction. In March 2025, it removed from its land use plan the direction to manage for all representations within the herd. In

July 2025, following the Forest Service's pre-decisional objection process, the Forest Service made its own decision governing the portion of the Range under its jurisdiction under the same joint management framework.

4. In June 2026, BLM separately adopted the HMAP and AML portions of Alternative 2, setting AML to 107-120 horses (JHMAP/AML Decision), well below BLM's own Handbook's recommended minimum population and without conducting the genetic viability analysis BLM's own Handbook requires. And in August 2026, BLM authorized a ten-year removal plan (Gather Decision) intended to reduce the herd from 187 horses to 107, using paternity data BLM itself acknowledges is unreliable.

5. Relief is urgently needed. BLM has declared the Gather Decision effective immediately, notwithstanding Plaintiffs' pending administrative appeal, and the IBLA need not rule on Plaintiffs' stay petition until after the gather window closes. Horses removed from the Range and placed with private parties cannot be returned, and the bloodlines and family bands they carry cannot be rebuilt. Plaintiffs therefore move concurrently for a temporary restraining order and preliminary injunction.

6. Plaintiffs challenge each decision under the Wild Free-Roaming Horses and Burros Act (Wild Horse Act), the Federal Land Policy and Management Act

(FLPMA), the National Environmental Policy Act (NEPA), the National Forest Management Act (NFMA), and the Administrative Procedure Act (APA).

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action under 28 U.S.C. § 1331 and 5 U.S.C. § 704.

8. This Court has the authority to review BLM's and the Forest Service's action(s) and/or inaction(s) complained of herein and grant the relief requested under 5 U.S.C. § 706.

9. The relief sought is authorized by 28 U.S.C. §§ 2201-2202, 5 U.S.C. §§ 705-706, and Federal Rules of Civil Procedure 57 and 65. Because the Wild Horse Act, 16 U.S.C. § 1331 *et seq.*, FLPMA, 43 U.S.C. § 1701 *et seq.*, NEPA, 42 U.S.C. § 4321 *et seq.*, and NFMA, 16 U.S.C. § 1600 *et seq.*, do not contain citizen-suit provisions, Plaintiffs' claims arise under those statutes and are reviewed pursuant to the APA, 5 U.S.C. §§ 701–706.

10. Venue is proper in this Court under 28 U.S.C. § 1391(e)(1)(B) because this is a civil action against agencies of the United States and officers acting in their official capacities, arising under the Wild Horse Act, FLPMA, NEPA, NFMA, and the APA, and because a substantial part of the property that is the subject of this action, i.e., the Range and its wild horses, is situated in this district. Violations of the federal law have occurred and continue to occur in this district, a substantial part of

the events or omissions giving rise to the claim have occurred in this district, and Plaintiffs have members in this district.

11. The Court's Billings Division is the proper divisional venue per Local Rule 3.2(b).

12. Plaintiffs have exhausted all available and required administrative remedies. TCF commented on the proposed RMP Amendment and the Preliminary Environmental Assessment and timely protested the proposed RMP Amendment; BLM's resolution of protests is the final decision of the Department of the Interior. 43 C.F.R. § 1610.5-2(b). Plaintiffs timely appealed the JHMAP/AML Decision to the Interior Board of Land Appeals (IBLA) and petitioned for a stay, IBLA No. 2026-0206. The IBLA denied the stay on August 19, 2026, and the JHMAP/AML Decision is in effect pending appeal and is final agency action. 43 C.F.R. § 4.21(b)(2); *Darby v. Cisneros*, 509 U.S. 137, 146–47, 154 (1993). The IBLA expressly recognized that Plaintiffs “may seek judicial review of that decision in Federal court.” Order Denying Pet. for Stay at 5 (citing 43 C.F.R. § 4.21(a), (b)(2)). Because BLM made the Gather Decision effective immediately, no administrative appeal was required to exhaust administrative remedies as to that decision, and it is final agency action. 43 C.F.R. § 4.21(a), (b)(2). Plaintiffs nonetheless timely appealed the Gather Decision and petitioned for a stay, IBLA No. 2026-0245, and the stay petition remains pending. Plaintiffs THE CLOUD FOUNDATION and

CENTRAL OREGON WILD HORSE COALITION timely objected to the Forest Service's draft decision and exhausted the Forest Service's pre-decisional administrative review process. 7 U.S.C. § 6912(e); 36 C.F.R. Part 218.

PARTIES

Plaintiffs

13. Plaintiff THE CLOUD FOUNDATION (TCF) is a 501(c)(3) national nonprofit corporation headquartered in Colorado Springs, Colorado. TCF is dedicated to protecting and preserving wild horses and burros on public lands through education, advocacy, public participation, and science-based management, and has approximately 500,000 supporters and followers.

14. TCF was founded by Ginger Kathrens, a renowned filmmaker who has observed and documented the Pryor Mountain herd, including the stallion Cloud and multiple generations of his descendants, for approximately thirty years. TCF publishes articles, photographs, videos, field journals, and educational materials documenting individual Pryor horses, their family relationships, foaling seasons, genetics, and natural behaviors. Ms. Kathrens has personally adopted twelve Pryor Mountain horses.

15. For more than twenty years, TCF's officers, board members, staff, and supporters have studied, monitored, documented, and advocated for the Pryor Mountain herd, including by assisting BLM with fence repair, water catchment

maintenance, seasonal fertility-control darting, and range studies. TCF members return to the Range each year to observe and document individual horses, family bands, and bloodlines over multiple years and generations, and they intend to continue doing so in the foreseeable future no less than once annually. Ms. Kathrens intends to continue returning to the Range to observe, photograph, and document Cloud's descendants and other Pryor horses for as long as she is able.

16. TCF was a plaintiff in *Kathrens v. Zinke*. TCF timely commented on the proposed amendment to Management Decision WH-7 on April 29, 2022, and the Preliminary Environmental Assessment on April 28, 2023, protested the proposed RMP Amendment on December 16, 2024, and objected to the Forest Service's draft decision on May 27, 2025.

17. Plaintiff LISA FRIDAY has served as TCF's volunteer Vice President for thirteen years and as its Director of Communications. Ms. Friday has adopted twelve Pryor Mountain horses. She visits the Range two to three times per year, knows the names, histories, and lineages of nearly all the horses on the Range, and intends to continue visiting to observe the same individual horses and family bands she has followed for years as long as she can.

18. Phyllis Wray is a former member of TCF's Board of Directors who continues to assist TCF with technical review and advocacy concerning the Range and who collaborates with other groups that advocate for the preservation of the

Pryor Mountain horses. She is also a former member of the Pryor Mountain Wild Mustang Center's Board of Directors and, as a volunteer, contributes to the Center's records of individual horses, births, deaths, and fertility-control treatments. For the past ten years she has visited the Range nearly every month, for four to eight days at a time, backpacking and camping in its most remote areas to photograph and document band composition, body condition, injuries, fencing, water sources, and seasonal grazing patterns. She intends to continue observing, studying, and documenting the herd for as long as she is physically able.

19. Plaintiff CENTRAL OREGON WILD HORSE COALITION (COWHC) is a 501(c)(3) nonprofit corporation with its principal place of business in Prineville, Oregon. COWHC works in partnership with the Forest Service and BLM on adoption, training, census, injury response, rescue, and rehabilitation, and conducts genetic research into the ancestry of heritage wild horse herds.

20. COWHC is engaged in ancestral genetic research to which Pryor Mountain horses have contributed DNA, including a sample from the mare Phoenix, the dam of the stallion Cloud. COWHC submitted comments opposing the proposed amendment to WH-7 on April 28, 2022, comments on the Preliminary Environmental Assessment on April 25, 2023, and formal objections on May 26, 2025, consistently objecting to reliance on observed heterozygosity, the viability of

the proposed AML, and outside introductions that would dilute the herd's characteristics.

21. Plaintiff GAYLE HUNT resides in Oregon. She is the founder and President of COWHC and a retired Forest Service employee. Ms. Hunt intends to continue studying, advocating for, and monitoring the Pryor Mountain herd and participating in research concerning its genetic heritage and long-term viability.

22. COWHC board member Elise Lowe-Vaughn resides in Colorado. She has visited the Range repeatedly over the past two decades, observing and photographing individual horses, family bands, and succeeding generations. She ordinarily visits in October and intends to return in October 2026. If horses and family bands she has followed are removed, or the herd is reduced to levels that impair her ability to find and observe them, the central purpose of her visits will be substantially diminished. The gather, now scheduled to begin on October 19, 2026, coincides with her planned October 2026 visit to the Range.

23. COWHC Executive Board member Melinda Kestler resides in Oregon, formerly lived in Bozeman, Montana, where her family still resides, and has visited the Range on numerous occasions. She intends to continue visiting the Range when she visits her family each year.

24. Plaintiffs and their members have aesthetic, recreational, scientific, educational, and conservation interests in the wild horses of the Range as they

currently exist, with specific, identifiable horses, family bands, and lineages living freely in the landscape that shaped them. These interests are not satisfied by viewing any wild horse in any location.

25. Those interests have been and will continue to be injured by Defendants' decisions, which are intended to reduce the herd to 107 animals, authorize removal of named horses that Plaintiffs and their members have observed and documented (including Ukko, Valhalla, Warrior King, Ruby, Parry, and Tierra), suppress reproduction in the herd's breeding mares, authorize the introduction of horses from other herds, and abandon management directed at preserving the herd's unique characteristics. Removed horses and extinguished bloodlines cannot be restored. Absent relief, these injuries will occur during the gather BLM has scheduled to begin on October 19, before this Court can resolve the merits of Plaintiffs' claims.

26. Plaintiffs and their members also suffer procedural injury from Defendants' failure to take the hard look NEPA requires, which deprived them and the public of accurate information and a meaningful opportunity to participate, and which increases the risk of uninformed decisions harming their concrete interests.

27. The relief requested would redress these injuries by requiring Defendants to comply with the Wild Horse Act, FLPMA, NEPA, and NFMA before

removing horses from the Range, suppressing the herd's reproduction, or managing the herd under the challenged decisions.

28. Plaintiffs are contemporaneously filing a Motion for Temporary Restraining Order and Preliminary Injunction with fulsome standing declarations in support thereof. Plaintiffs hereby incorporate those standing declarations filed on September 30, 2026, herein by reference as though fully alleged herein.

Defendants

29. Defendant BUREAU OF LAND MANAGEMENT is an agency within the Department of the Interior charged with managing, administering, and protecting the wild horses of the Range pursuant to the Wild Horse Act and FLPMA. BLM issued the RMP Amendment, the JHMAP/AML Decision, and the Gather Decision.

30. Defendant JERRY DAVIS is the Acting Montana/Dakotas State Director of BLM and is sued in his official capacity.

31. Defendant UNITED STATES FOREST SERVICE is an agency within the Department of Agriculture that manages the Pryor Mountain Wild Horse Territory on the Custer Gallatin National Forest.

32. Defendant MATTHEW JEDRA is the Forest Supervisor of the Custer Gallatin National Forest and is sued in his official capacity.

STATUTORY AND REGULATORY BACKGROUND

The Wild Free-Roaming Horses and Burros Act

33. In 1971, Congress unanimously declared that “wild free-roaming horses and burros are living symbols of the historic and pioneer spirit of the West,” that they “contribute to the diversity of life forms within the Nation and enrich the lives of the American people,” and that they “shall be protected from capture, branding, harassment, or death; and to accomplish this they are to be considered in the area where presently found, as an integral part of the natural system of the public lands.” 16 U.S.C. § 1331.

34. The Wild Horse Act defines “range” as “the amount of land necessary to sustain an existing herd or herds of wild free-roaming horses and burros, which does not exceed their known territorial limits, and which is devoted principally but not necessarily exclusively to their welfare in keeping with the multiple-use management concept for the public lands.” 16 U.S.C. § 1332(c). The Secretary of the Interior may “designate and maintain specific ranges on public lands as sanctuaries for their protection and preservation.” Id. § 1333(a).

35. Congress was clear in its directives to the Secretaries of the Interior and Agriculture when setting management criteria for wild horses in the Wild Horse Act, which provides that the Secretaries “**shall** manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain a thriving natural

ecological balance on the public lands,” and “[a]ll management activities **shall** be at the minimal feasible level.” 16 U.S.C. § 1333(a) (emphasis added). The Wild Horse Act does not authorize relocation of wild horses “to areas of the public lands where they do not presently exist.” *Id.* § 1339.

36. As the primary agency charged with administering the Wild Horse Act, BLM must “maintain a current inventory of wild free-roaming horses and burros on given areas of the public lands” in order to determine appropriate management levels, “whether and where an overpopulation exists,” and whether action should be taken to remove excess animals. 16 U.S.C. § 1333(b)(1). Only where BLM determines “on the basis of all information currently available to him” that an overpopulation exists “and that action is necessary to remove excess animals” may it remove them. *Id.* § 1333(b)(2). “Excess 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).

37. In making these determinations, BLM “shall consult with the United States Fish and Wildlife Service, wildlife agencies of the State or States wherein wild free-roaming horses and burros are located, such individuals independent of Federal and State government as have been recommended by the National Academy of Sciences, and such other individuals whom he determines have scientific expertise and special knowledge of wild horse and burro protection, wildlife management and

animal husbandry as related to rangeland management.” *Id.* § 1333(b)(1). Together, these provisions require BLM to base its AML and excess determinations on the best available science—current, reliable information and the informed judgment of independent experts—rather than on outdated or incomplete data. *See Id.* § 1333(b)(1)–(2).

38. Wild horses removed and placed with private parties lose their protected status once title passes. 16 U.S.C. § 1333(d).

39. BLM’s regulations require that wild horses “be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat,” and that management activities be undertaken “with the goal of maintaining free-roaming behavior.” 43 C.F.R. § 4700.0-6(a), (c). Management “shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans.” *Id.* § 4710.4. Wild horses “shall be managed . . . in accordance with approved land use plans.” *Id.* § 4710.1. BLM may remove excess animals only “[u]pon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists.” *Id.* § 4720.1.

40. BLM may make a removal decision effective upon issuance only “in situations where removal is required by applicable law or is necessary to preserve or

maintain a thriving ecological balance and multiple use relationship.” 43 C.F.R. § 4770.3(c).

41. BLM’s Wild Horses and Burros Management Handbook, H-4700-1 (2010) (Handbook), establishes the multi-tiered process BLM must follow to establish or adjust AML. Tier One determines whether forage, water, cover, and space are present in sufficient amounts to sustain healthy populations over the long term, Tier Two determines the amount of sustainable forage, and Tier Three determines “whether or not the projected WH&B herd size is sufficient to maintain genetically diverse WH&B populations.” Handbook at 67. The Handbook recommends a minimum of 50 effective breeding animals, i.e., a total population of about 150–200 animals, to maintain acceptable genetic diversity. *Id.* at 22. The upper limit of AML is the maximum number of animals that results in a thriving natural ecological balance and avoids deterioration of the range; the lower limit is the number that allows the population to grow to the upper limit over four to five years.

42. AMLs must be established on the basis of “evidence, analysis, or studies.” *Dahl v. Clark*, 600 F. Supp. 585, 592 (D. Nev. 1984). Where BLM relies upon an improper AML, any finding of overpopulation is unlawful. *Sparks*, 200 F. Supp. 3d at 1126. In recalculating AML for this Range, BLM must follow the Handbook’s procedures, including a separate decision process and public review of the evaluation. *Kathrens*, 323 F. Supp. 3d at 1151–52; *Sparks*, 200 F. Supp. 3d at

1125–26. BLM itself acknowledges that under these decisions it “must re-evaluate the AML in accordance with H-4700-1.” Environmental Assessment, DOI-BLM-MT-C010-2020-0004-EA (EA) at 4.

43. BLM is bound by the commitments it makes in its land use plans, herd management area plans, and decision documents. *Sparks*, 200 F. Supp. 3d at 1123–25; *Kathrens*, 323 F. Supp. 3d at 1151–52. When an agency departs from a prior policy or course of management, it must at minimum acknowledge the change and offer a reasoned explanation for it. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009); *Am. Wild Horse Pres. Campaign v. Perdue*, 873 F.3d 914, 923 (D.C. Cir. 2017).

44. Before removing horses, BLM must determine both that an overpopulation exists and that removal is necessary to achieve a thriving natural ecological balance. 16 U.S.C. § 1333(b)(2); *W. Rangeland Conservation Ass’n v. Zinke*, 265 F. Supp. 3d 1267, 1281–82 (D. Utah 2017). Once a targeted overpopulation has been removed, further “maintenance” gathers under a staged gather plan require new overpopulation and necessity determinations. *Friends of Animals v. U.S. Bureau of Land Mgmt.*, 728 F. Supp. 3d 45, 76-78 (D.D.C. 2024).

45. The Wild Horse Act applies equally to wild horses on National Forest System lands, which the Secretary of Agriculture manages through the Forest Service. 16 U.S.C. §§ 1332(a), 1333(a). The Forest Service must manage wild horses

“in the areas where they now occur (wild horse and burro territory) to maintain a thriving natural ecological balance” and develop territory management plans. 36 C.F.R. §§ 222.60–222.76.

The Federal Land Policy and Management Act

46. The Federal Land Policy and Management Act (FLPMA) requires BLM to develop, maintain, and revise land use plans, 43 U.S.C. § 1712, and to manage public lands “in accordance with the land use plans developed by him under section 1712.” *Id.* § 1732(a). Resource management authorizations and actions must conform to the approved plan. 43 C.F.R. § 1610.5-3(a). Plan amendments must follow the procedures of 43 C.F.R. § 1610.5-5 and be supported by reasoned analysis.

47. The 2015 Billings RMP directs BLM to “[m]aintain a wild horse herd that exhibits a diverse age structure, genetic diversity, and any characteristics unique to the Pryor horses” (Goal WH-2; MD WH-2), and to adjust AML as needed to ensure a thriving natural ecological balance through monitoring and data collection (MD WH-4). EA at 6.

The National Environmental Policy Act

48. The centerpiece of environmental regulation in the United States, the National Environmental Policy Act (NEPA) requires federal agencies to pause before committing resources to an action and consider its environmental

consequences and reasonable alternatives. 42 U.S.C. §§ 4331, 4332. Agencies must prepare a detailed statement for major federal actions significantly affecting the quality of the human environment, including a reasonable range of alternatives, *Id.* § 4332(2)(C) and may prepare an environmental assessment (EA) to determine whether such a statement is required, *Id.* § 4336(b)(2). Agencies must “ensure the professional integrity, including scientific integrity, of the discussion and analysis in an environmental document” and “make use of reliable data and resources.” *Id.* § 4332(2)(D)-(E).

49. Effective April 11, 2025, the Council on Environmental Quality rescinded its NEPA regulations. Removal of National Environmental Policy Act Implementing Regulations, 90 Fed. Reg. 10,610 (Feb. 25, 2025). On July 3, 2025, the Department of the Interior rescinded most of its NEPA regulations in 43 C.F.R. Part 46 and moved the majority of its procedures to the Department of the Interior NEPA Handbook. National Environmental Policy Act Implementing Regulations, 90 Fed. Reg. 29,498 (July 3, 2025). The Department of Agriculture likewise revised its NEPA regulations and rescinded various agency-specific implementing regulations, including the Forest Service’s regulations at 36 C.F.R. Part 220. National Environmental Policy Act, 90 Fed. Reg. 29,632 (July 3, 2025). In place of those agency-specific regulations, the United States Department of Agriculture adopted department-wide NEPA regulations at 7 C.F.R. Part 1b, which now govern

the Forest Service’s NEPA compliance, and it finalized those regulations, with changes, effective April 3, 2026. National Environmental Policy Act, 91 Fed. Reg. 17,092 (Apr. 3, 2026).

50. The statutory requirements remain. Courts afford substantial deference to an agency’s reasonable judgments about the scope and content of its NEPA analysis. *Seven Cnty. Infrastructure Coal. v. Eagle Cnty.*, 605 U.S. 168 (2025). But an agency must still take a “hard look” at the environmental consequences of its action, *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989), and a NEPA document must reflect reasoned decision-making supported by the record. *Marsh v. Or. Nat. Res. Council*, 490 U.S. 360, 378 (1989).

51. “Establishing appropriate baseline conditions is critical to any NEPA analysis.” *Great Basin Res. Watch v. Bureau of Land Mgmt.*, 844 F.3d 1095, 1101 (9th Cir. 2016). NEPA analyses cannot rest on “generalized conclusory statements” or “scant information,” *Klamath-Siskiyou Wildlands Ctr. v. Bureau of Land Mgmt.*, 387 F.3d 989, 996 (9th Cir. 2004), and agencies must disclose the data on which they rely. *N. Plains Res. Council, Inc. v. Surface Transp. Bd.*, 668 F.3d 1067, 1083 (9th Cir. 2011). Agencies must reasonably respond to significant comments, *Lands Council v. McNair*, 537 F.3d 981, 1001 (9th Cir. 2008), and consider viable alternatives. *Citizens for a Better Henderson v. Hodel*, 768 F.2d 1051, 1057 (9th Cir. 1985).

52. When significant new information or changed circumstances bear on the environmental effects of an action not yet complete, the agency must take a hard look at that information and supplement its analysis as necessary. *Marsh*, 490 U.S. at 371-74; *Norton v. S. Utah Wilderness All.*, 542 U.S. 55, 72–73 (2004). When a NEPA-reviewed action is adopted, the agency may not implement it in a manner that exceeds the scope of what was reviewed. *Friends of Animals*, 728 F. Supp. 3d at 79–81.

The National Forest Management Act

53. The National Forest Management Act (NFMA) requires that “[r]esource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans.” 16 U.S.C. § 1604(i).

54. NFMA is the primary statute governing the administration of the national forests, 16 U.S.C. §§ 1600–1614, and requires the Forest Service to develop, maintain, and revise a land and resource management plan, or “Forest Plan,” for each national forest. *Id.* § 1604(a). Forest Plans consist “of broad, long-term plans and objectives for the entire forest,” *All. for the Wild Rockies v. U.S. Forest Serv.*, 907 F.3d 1105, 1109 (9th Cir. 2018), and establish the standards, management goals and objectives, desired conditions, and monitoring requirements that govern the agency’s site-specific decisions. *See* 16 U.S.C. § 1604(e), (g). Forest Plans are

mandatory: every project and activity the Forest Service authorizes must be consistent with the governing Forest Plan. *Id.* § 1604(i); 36 C.F.R. § 219.15(b), (d); *Buckingham v. Sec’y of U.S. Dep’t of Agric.*, 603 F.3d 1073, 1077 (9th Cir. 2010). The Forest Service’s failure to comply with its Forest Plan violates NFMA and is arbitrary and capricious under the APA. *Native Ecosystems Council v. U.S. Forest Serv.*, 418 F.3d 953, 961 (9th Cir. 2005).

55. The 2022 Custer Gallatin National Forest Land Management Plan includes the desired condition that the Pryor Mountain Wild Horse Territory “maintains a thriving ecological balance with other resources and activities” (PR-DC-WHT-01) and goals of coordinated management with BLM to maintain or enhance wild horse habitat (PR-GO-WHT-1, -2). EA at 6.

The Administrative Procedure Act

56. The Administrative Procedure Act (APA) provides that a “person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof.” 5 U.S.C. § 702. Because neither the Wild Horse Act, FLPMA, NEPA, nor NFMA contains a citizen-suit provision, Plaintiffs’ claims are reviewed under the APA.

57. Section 706 of the APA provides in relevant part:

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of

law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall— . . . (2) hold unlawful and set aside agency action, findings, and conclusions found to be—(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; . . . (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; (D) without observance of procedure required by law

58. Agency action is arbitrary and capricious where the agency “relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). The reviewing court must engage in a “substantial inquiry.” *Citizens to Pres. Overton Park, Inc. v. Volpe*, 401 U.S. 402, 415 (1971). Courts exercise independent judgment in determining the meaning of statutory provisions. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412-13 (2024).

Exhaustion and Finality Under the Department of Interior’s Appeal Rules

59. Under the APA, an agency action is final and subject to judicial review unless a statute or rule both requires an administrative appeal before judicial review and renders the decision inoperative pending that appeal. *Darby v. Cisneros*, 509 U.S. 137, 146–47, 154 (1993).

60. The Department of the Interior’s current appellate rules implement *Darby*. Practices Before the Department of the Interior, 90 Fed. Reg. 2332 (Jan. 10, 2025) (interim final rule, effective July 21, 2025), adopted as final with changes, 91 Fed. Reg. 29,911 (May 21, 2026). An administrative appeal is not required to exhaust administrative remedies where the decision is immediately effective. 43 C.F.R. § 4.21(a). A decision “that is in effect, or goes into effect, pending completion of the appeal is final agency action for the Department,” subject to being superseded by a final decision of the Interior Board of Land Appeals (IBLA). *Id.* § 4.21(b)(2)–(3). A decision for which a stay is sought but not granted becomes effective when the IBLA denies the petition or fails to act within the time allowed. *Id.* § 4.405(a)(3), (b)(7).

61. A BLM decision resolving protests of a resource management plan amendment is the final decision of the Department of the Interior. 43 C.F.R. § 1610.5-2(b).

62. Persons challenging Forest Service project decisions must exhaust the administrative objection process, 7 U.S.C. § 6912(e); 36 C.F.R. Part 218, after which the decision is final agency action.

FACTUAL BACKGROUND

Historic Background of Wild Horse Management

63. The history and present-day status of wild horses on public lands is one of competition and conflict between use by wild horses and use by livestock.

64. Spaniards introduced horses to North America in the 1500s, and by the early 1600s, these horses could be found within the boundaries of the now-existing United States.

65. In the late 1800s and early 1900s, settlers moving westward brought livestock, primarily cattle and sheep, that grazed freely on the open range. This unregulated use led to severe land degradation.

66. In 1934, Congress passed the Taylor Grazing Act, which introduced a system of permits and fees for grazing on public lands and created a Division of Grazing, the predecessor of BLM.

67. To keep wild horses off grazing allotments, ranchers hired “mustangers” to remove wild horses by any means necessary, including fixed-wing aircraft and motorized vehicles used to chase horses to exhaustion before they were taken to slaughter.

68. It is believed that more than two million wild horses existed on public lands at the beginning of the twentieth century. By the 1950s, the population had dropped to fewer than 100,000.

69. In 1959, Congress passed the Wild Horse Annie Act, which prohibited the use of aircraft or motor vehicles to hunt wild horses and burros on public lands. 18 U.S.C. § 47. Wild horse and burro populations nonetheless continued to decline through the 1960s.

70. In 1971, Congress unanimously passed the Wild Horse Act, declaring wild free-roaming horses and burros living symbols of the West and mandating their protection “in the area where presently found.” 16 U.S.C. § 1331.

The Pryor Mountain Wild Horse Range and Herd

71. Horses have been reported in the Pryor Mountains since at least the late 1800s. In the mid-1960s, BLM proposed removing the horses, prompting a national public campaign that led BLM to abandon the plan. On September 9, 1968, Secretary of the Interior Stewart Udall established the Range.

72. The Range comprises approximately 39,994 acres in southeastern Carbon County, Montana, and northern Big Horn County, Wyoming, of which approximately 27,114 acres are managed by BLM, 7,839 acres by the National Park Service, 4,401 acres by the Forest Service, and 640 acres are privately held. EA at 28. The Range spans a cold desert at about 3,850 feet to subalpine meadows at about 8,750 feet. *Id.* It is closed to livestock grazing. EA at 29.

73. Pryor Mountain horses are generally small and many display phenotypic characteristics associated with Colonial Spanish ancestry. Genetic

analyses over three decades identified markers indicative of Spanish ancestry, and the National Research Council identified the Pryor herd as one of only three BLM-managed herds with higher-than-average levels of Spanish ancestry.

74. The Range is a destination for national and international visitors who come specifically to view the Pryor horses. The Pryor Mountain Wild Mustang Center reported visitation of approximately 4,000 people from all 50 states and 29 foreign countries in 2017, and approximately 3,000 in each of 2022 and 2023.

Prior Management and Litigation

75. In 2009, BLM approved the Pryor Mountain Wild Horse Range/Territory Herd Management Area Plan (2009 HMAP), which established an AML of 90-120 horses and managed the herd for a phenotype reminiscent of a Colonial Spanish Mustang while balancing colors, sex ratios, and age structures. The 2009 HMAP committed BLM to prevent bloodlines from being eliminated, to allow each active breeding mare at least one progeny to carry forward, and to maintain rare or unusual colors. BLM committed to recalculate the AML within five years or upon revision of the Billings RMP, whichever came first.

76. In September 2015, BLM approved the Billings RMP. It provided that the herd would “initially” be managed within a range of 90-120 horses (MD WH-1), that AML would be adjusted as needed (MD WH-4), and that “[w]ithin an HMAP, herd structure will be managed for all representations in the herd, not allowing

specific colors or bloodlines to dominate from management manipulation” (MD WH-7). EA at 4-6.

77. In July 2016, this Court held that BLM made a binding commitment to recalculate the 2009 AML within five years, that its failure to do so violated NEPA, and that its reliance on the outdated AML to find excess horses was arbitrary and capricious. *Sparks*, 200 F. Supp. 3d at 1123–26.

78. In December 2016, BLM prepared an AML Recalculation Report reaffirming 90–120 horses without a decision record or public comment. In August 2018, BLM authorized a gather based on that report.

79. In *Kathrens v. Zinke*, this Court enjoined the 2018 gather, finding serious questions whether BLM had recalculated the AML as *Sparks* required, whether its removal of specific horses complied with the 2009 HMAP’s commitment to prevent the elimination of bloodlines, and whether BLM had considered the loss of patrilineal lines, genetic lines, and rare colors. 323 F. Supp. 3d at 1149-53. The Court found that the extinction of bloodlines and reduction of rare phenotypes constituted irreparable harm. *Id.* at 1153.

The Environmental Assessment and the 2025 RMP Amendment

80. BLM, in partnership with the Forest Service and National Park Service, prepared the Environmental Assessment, DOI-BLM-MT-C010-2020-0004-EA (EA), analyzing four components: (1) amending MD WH-7; (2) adopting a new

JHMAP that would serve as BLM's HMAP and the Forest Service's Territory Plan; (3) revising the AML; and (4) a ten-year gather plan.

81. The EA analyzed four alternatives. Alternative 1 would have continued management under the 2009 HMAP, including the existing 90-120 AML, while amending MD WH-7. Alternative 2, the Proposed Action, would amend MD WH-7, set AML at 107-120 horses, adopt a fertility-control protocol under which mares age four and older are not treated until a foal survives to one year, authorize GonaCon-Equine for non-responders, and remove horses under selective removal criteria based on presumed parentage, sex ratio, and age class. EA App. F. Alternative 3 shared Alternative 2's HMAP and AML objectives but would have used PZP only, resumed treatment only after a mare's second foal, and selected horses for removal using the best available lineage data. EA App. G. Alternative 4 would have continued existing management without a plan amendment.

82. BLM scoped draft HMAP objectives from April 9 to May 15, 2020, receiving over 1,300 comments. BLM published notice of the proposed RMP amendment on March 30, 2022. 87 Fed. Reg. 18,388 (Mar. 30, 2022). BLM released a Preliminary EA for 45-day review on March 14, 2023, and received more than 13,500 comments.

83. BLM accepted protests of the proposed RMP amendment from November 15 through December 16, 2024, and resolved all protests on March 6,

2025. On March 14, 2025, BLM issued a Finding of No Significant Impact (FONSI) and the RMP Amendment Decision Record, signed by the Montana/Dakotas State Director.

84. The RMP Amendment deleted MD WH-7's direction to manage "for all representations in the herd, not allowing specific colors or bloodlines to dominate from management manipulation," and replaced it with direction to "[m]aintain desirable levels of genetic diversity, as measured by Observed Heterozygosity (H_o)." Only if Observed Heterozygosity falls below Handbook thresholds would BLM act—by maximizing breeding-age horses, skewing the sex ratio toward males, and/or introducing mares or stallions from other herds, such as the Sulphur herd in Utah or the Cerbat Mountain herd in Arizona. RMP Amendment Decision Record at 1.

85. BLM justified the amendment by characterizing this Court's interpretation of MD WH-7 in *Kathrens* as "not practical to implement." EA at 6. BLM did not analyze any alternative that would preserve lineage-based protections in the RMP while achieving population objectives.

86. Commenters warned that the amended WH-7 is reactive, acting only after genetic thresholds are breached, rather than proactive, and questioned whether Observed Heterozygosity reliably measures the diversity at risk, how it would be measured, and whether allowing older mares to reproduce would better conserve

diversity. RMP Amendment Decision Record at 2. BLM concluded these concerns were “moot” or unnecessary to address. *Id.*

87. BLM acknowledged that allelic diversity is more sensitive to population changes than heterozygosity, that Pryor herd allelic diversity declined over time and specific alleles have been eliminated, and that BLM has no threshold for allelic diversity that would trigger management action. BLM concluded that “there is no law, regulation or policy that requires BLM to manage for rare alleles.” EA at 37.

88. The amendment treats the Pryor herd as part of a “highly connected metapopulation,” EA at 32, although there is no natural exchange of horses between the Range and any other herd and the herd would be supplemented only by trucking in animals from distant herds.

The JHMAP/AML Decision

89. By Decision Record dated June 15, 2026, BLM adopted the HMAP and AML portions of Alternative 2, setting AML at 107-120 horses, excluding foals. BLM asserted that this AML was required by *Kathrens* and complied with the Handbook.

90. BLM calculated the AML using “Method 2,” a carrying-capacity calculation based on estimated forage production on five ecological sites. EA App. C. at 10-14. Method 2 assumed a 40 percent allowable use rate for horses, departing

without site-specific justification from the 45 percent utilization objective carried forward from the 2009 HMAP. It relied on forage production estimates derived in substantial part from 2004 Natural Resources Conservation Service data and Ecological Site Descriptions. EA App. C. at 13.

91. BLM derived the lower limit of 107 by subtracting from 120 “the herd growth of 13 over the past 5 years.” EA App. C. at 14. The EA itself reports that the population grew from 160 in 2019 to 200 in 2024, an increase of 40 horses.

92. Appendix C to the EA purports to address Tiers One and Two of the Handbook process, but it does not adhere to the Handbook’s guidelines for either tier, as described in the paragraphs that follow. It contains no Tier Three analysis of whether a herd of 107-120 animals is sufficient to maintain genetic diversity. BLM’s failure to follow the Handbook’s three-tier process renders its AML recalculation invalid. Although BLM raised the lower limit of AML from 90 to 107, the resulting AML remains well below the Handbook’s recommended minimum population of 150-200 animals, which the EA acknowledges but does not apply to this isolated and fragile herd.

93. BLM did not use all information currently available in setting the AML. In 2013, the National Research Council of the National Academies recommended Individual-Based Genetic Management, which relies on knowing each animal’s relationships and reproductive history, and suggested that this approach might be

possible in the Pryor Mountains. BLM acknowledged that the lineage data maintained by the Pryor Mountain Wild Mustang Center “may represent the best available information concerning relatedness of Pryor Mountain herd horses,” yet declined to use kinship-based management because it had not collected enough genetic samples to verify pedigrees. EA at 25. BLM instead relied on forage production estimates derived in substantial part from 2004 data, drought-year rangeland health assessments, and a genetic simulation whose assumptions its own record contradicts.

94. The Rangeland Health Assessment on which the AML and excess determination rest describes its core monitoring data inconsistently. Appendix C to the EA states that Assessment, Inventory, and Monitoring (AIM) data were collected at forty locations from 2017 to 2021. Appendix B states that data were collected at 61 AIM points between 2014 and 2022, depicts AIM points with data from 2012 through 2022, and reports species data from 40 points and from 37 points from 2012 through 2021. Additionally, BLM has no AIM data collected before 2015, species abundance was determined from 37 AIM sites, not 40, and species richness data were collected only from 2015 through 2021. BLM thus overstated both the number of monitoring points and the years of data underlying its Rangeland Health Assessment.

95. The Interpreting Indicators of Rangeland Health assessments were conducted in 2021, a year of extreme drought, and the Rangeland Health Assessment repeatedly attributes observed conditions to grazing “combined with drought conditions in 2021.” EA App. B at 29. The Assessment relied on a Rangeland Analysis Platform model not designed for stand-alone use and a residual production assessment conducted after the growing season.

96. Forage production depends on precipitation, yet BLM relied on precipitation data only from low-elevation areas near 3,500 feet surrounding the Pryor Mountains. It had no precipitation data for the Range’s mid and high-elevation areas, which reach approximately 8,700 feet and receive markedly different precipitation.

97. BLM’s winter-range residual forage data, on which its carrying-capacity conclusions depend, were collected over two days, November 16–17, 2021, at six key areas in a single year. Data BLM later produced under the Freedom of Information Act list seven sites and do not match the figures reported in the EA. A single sample for each key area, several of which exceed 1,000 acres, cannot support a determination of winter carrying capacity.

98. Plaintiffs, TCF’s technical reviewers, and the Pryor Mountain Wild Mustang Center raised these and other deficiencies in comments, protests, and objections, including that forage production data necessary to Method 2 were not

collected for the years relied upon, that the 40 percent utilization rate was unexplained, and that high-elevation seasonal habitat was excluded or understated. BLM did not meaningfully respond.

99. The JHMAP/AML Decision also adopted a fertility-control protocol under which mares are treated with ZonaStat-H (PZP) at 18 months through age three and, from age four, are not treated again only until they have foaled once, “defined as a foal living to 1 year of age,” after which they receive six consecutive treatments. JHMAP/AML Decision Record at 2; EA at 44-45. “Non-responders” may be treated with GonaCon-Equine or removed. BLM acknowledges that GonaCon-Equine may cause permanent sterility in some mares.

100. BLM has never defined “non-responder” or identified the criteria it will use to designate one. On information and belief, BLM darting records and Mustang Center records show that treatment failures in Pryor mares have resulted from missed treatments, long gaps between treatments, and treatment of mares that were already pregnant, rather than from any failure of the mare to respond. Without defined criteria, such application errors may lead BLM to label responsive mares as non-responders and to treat them with GonaCon-Equine or remove them.

101. The protocol makes a mare’s return to reproductive status depend on foal survival to one year. On information and belief, foal survival to one year for the 2023, 2024, and 2025 cohorts was approximately 35, 18, and 39 percent,

respectively, leaving a small fraction of mature mares presently capable of reproducing. On information and belief, of all the fillies born in 2023, 2024, and 2025, only eight have survived, further shrinking the herd's future breeding population and threatening its genetic diversity. On information and belief, between 2024 and 2026, six mares in the herd's breeding population died.

102. On information and belief, based on BLM darting records and Mustang Center records, the Range holds approximately 96 mares age four and older. Of these, approximately 31 have raised a foal to one year and are therefore back on treatment. Approximately 35 have received six or more consecutive treatments, the point at which BLM's own protocol treats further treatment as unnecessary. Approximately 10 have gone years without treatment yet have never foaled. That leaves approximately 20 mares presently capable of reproducing. Published research indicates that five or more consecutive PZP treatments are fully effective in preventing births. Only about half of the 22 surviving mares born from 2020 through 2022 had foaled by age four.

103. The herd has declined without any removal, from 205 horses in 2023 to 200 in spring 2024 and to 187 in spring 2026. The EA assumed a growth rate of approximately four to five percent per year.

104. The USGS genetic simulation on which BLM relied modeled removals to a target of 108 animals and assumed that band stallions are a random draw from

the male breeding population each year, that females are capable of reproduction every year, that no extreme weather events occur, and that there is no predation. The authors warned that violation of these assumptions would cause the model to overestimate genetic contribution and understate diversity loss, and noted that extreme weather on this Range has reduced annual survival from approximately 0.99 to 0.44 and that predation once caused “loss of 96% of the foals from a single year.” EA App. N at 15-16.

105. The EA concedes that under Alternative 2 “it is possible that entire bands would be caught in a bait/water trap and removed,” and that observed heterozygosity “could potentially decline at a faster rate under Alternative 2 with random removal.” EA at 37.

106. Plaintiffs TCF, COWHC, Friday, and Hunt timely appealed the JHMAP/AML Decision to the IBLA and petitioned for a stay on July 14, 2026. IBLA No. 2026-0206. On August 19, 2026, the IBLA denied the stay petition, stating that “the challenged decision is in effect” and that appellants “may seek judicial review of that decision in Federal court.” Order Denying Pet. for Stay at 5 (citing 43 C.F.R. § 4.21(a), (b)(2)).

The Gather Decision

107. On August 10, 2026, BLM’s Billings Field Manager signed the Gather Decision, authorizing implementation of the Gather/Removal portion of Alternative

2 over a ten-year period. The Gather Decision states that the spring 2026 census recorded 187 horses (82 stallions and 105 mares) excluding foals, that an initial gather is planned for fall 2026 to reduce the population to approximately 150, and that “[s]ubsequent gather events and removals pursuant to this decision will be carried out as needed until the population falls within the appropriate AML range, with the objective being to achieve the lower end of AML.” Gather Decision at 2.

108. The Gather Decision contains no independent finding that removal is necessary to achieve a thriving natural ecological balance, identifies no emergency, and does not state how many horses will be removed. It relies on the AML adopted in the JHMAP/AML Decision.

109. The Gather Decision directs that selection of individual horses “will follow the selective removal criteria analyzed under Alternative 2.” Gather Decision at 2. Those criteria require BLM to remove “any horse that is the result of father/daughter, mother/son, full sibling, or half sibling pairing,” then to remove horses to meet sex-ratio and age-class targets, preferring the youngest age classes. EA at 19-20. Appendix F identifies by name the horses eligible for removal in each age class and directs BLM to “[p]referentially remove” Ukko, Valhalla, and Warrior King (ages 1-4) and Ruby, Parry, and Tierra (ages 5-10). EA App. F, Tables 1-2.

110. BLM has acknowledged that presumed paternity for this herd was correct in only 72.5 percent of tested cases and that “the necessary accurate paternity

assignments do not exist at this time to implement a removal strategy that heavily relies on paternity as a definitive decision factor for removal strategies.” EA at 21-22. BLM relied on this unreliability to reject lineage-based Alternative 3 yet applied the same presumed paternity to designate named horses for removal, reasoning that removal “is desirable even if assigned paternity is incorrect and one-third to one-fourth of presumed-inbred animals are not, in fact, inbred.” EA at 22.

111. Appendix F is keyed to the spring 2024 population of 200 horses and states that removal lists “will be updated based on the best-available population information immediately prior to a gather.” EA App. F at 1. BLM has not disclosed any updated list or any age- or sex-class composition of the 2026 population.

112. The Gather Decision reserves to the Authorized Officer the power to adjust “the timing, size, and methods of future gathers, fertility control implementation, trap and holding locations, and other operational logistics” over its ten-year life without further decision. Gather Decision at 2.

113. The Gather Decision states that it is “final and effective immediately upon signature despite any pending appeals” and that 43 C.F.R. § 4770.3(c) “mandates” this result. Gather Decision at 5. It makes no finding that removal “is required by applicable law or is necessary to preserve or maintain a thriving ecological balance and multiple use relationship.” 43 C.F.R. § 4770.3(c).

114. On August 12, 2026, BLM announced that it will gather and remove about 40 horses in fall 2026 and “treat up to 43 mares with fertility control and release them back to the range.” No fertility-control number, agent, or schedule appears in the Gather Decision. BLM has since stated that the 43 figure represents treatments of 39 mares, and that the treatments are authorized by the JHMAP/AML Decision.

115. BLM’s public statements about the scope of the gather are also inconsistent. More recently, BLM’s “Gathers and Fertility Control Operations” webpage listed the Pryor Mountain herd on its schedule of upcoming wild horse and burro actions, with 37 horses planned for removal and 63 horses planned for return to the range with fertility treatment, a figure that exceeds the 39 mares BLM has said it will treat and that BLM has not explained.

116. BLM has not identified which fertility-control agent it will use during the gather or which mares it will treat. Treating mares in October and November also departs from past practice on the Range and from the guidance of the Science and Conservation Center, which developed and distributes PZP, that treatment occur one to two months before the breeding season. On information and belief, Mustang Center records show that approximately 87 percent of foals born on the Range from 2015 through 2025 were conceived before October of the preceding year. Many

mares treated during the fall 2026 gather will therefore already be pregnant, and treatment will not prevent many of the following year's births.

117. On or about September 23, 2026, BLM announced on its website that the gather will take place between October 1 and October 14, 2026 and listed the method as "Bait." Captured horses selected for removal will be transported to Britton Springs or another holding facility, where they will be prepared for adoption, sale, or off-range pastures. BLM subsequently agreed to delay the start of the gather to October 19, 2026.

118. The EA selected bait and water trapping as the gather method and allowed helicopter drive-trapping only in emergencies, when horses must be removed quickly or trapping proves ineffective. EA at 10, 14, 19. The Billings Field Office adopted bait and water trapping after 2009 in response to public concern over helicopter gathers. EA at 16.

119. On September 9, 2026, BLM's Billings Field Manager told Ms. Wray that he could not say when the gather would begin, that he was still soliciting bids from contractors, and that BLM was not considering an emergency gather. The Billings Field Office has historically conducted bait-trap gathers with its own staff, without an outside contractor.

120. On September 9, 2026, a helicopter flew low over the Range, across the upper alpine meadow and into Big Coulee Canyon, where horses were foraging. Its

colors matched those of a contractor BLM has used for helicopter gathers elsewhere. That same week, BLM reinforced the corral at Britton Springs and added a loading chute. As of September 24, 2026, BLM had set no trap panels at the high-elevation site it used for the 2015 bait-trap gather and the planned 2018 bait-trap gather. In past bait-trap gathers, BLM set panels there weeks in advance so the horses could become accustomed to them.

121. On information and belief, BLM intends to use, or has reserved the option of using, helicopters to drive horses from elevations near 8,700 feet down to Britton Springs at the base of the Range. That route crosses steep, broken terrain with cliffs, exposed roots, and downed timber. Past helicopter roundups on this Range have caused injuries and deaths, and the herd's old horses and young foals are most at risk. BLM has declared no emergency, and it has not attempted bait trapping.

122. As of the date of this Complaint, BLM has not disclosed an updated removal list or the age- and sex-class composition of the 2026 population, and has not prepared any supplemental analysis of the herd's decline since 2023, depressed foal survival, or the reproductive status of its mares.

123. Plaintiffs TCF, COWHC, Friday, and Hunt timely appealed the Gather Decision and petitioned for a stay on September 3, 2026. IBLA No. 2026-0245. In response, BLM "concede[d] that the Gather Decision is immediately effective and that BLM intends to conduct its first gather in the fall of 2026." BLM Resp. to Pet.

for Stay at 23 (Sept. 17, 2026). The IBLA has not ruled on the stay petition. Under 43 C.F.R. § 4.405(b)(7), the Board must act within 45 days after expiration of the time for filing a notice of appeal, or the petition is deemed denied, a deadline that falls in or about late October 2026, after the gather is scheduled to begin.

The Forest Service Decision

124. The JHMAP serves as the Territory Plan for the Pryor Mountain Wild Horse Territory on the Custer Gallatin National Forest. In 2025, the Forest Service issued a draft Decision Notice/FONSI selecting Alternative 2 and proposing to establish the JHMAP as the Territory Plan for the National Forest System lands within the Range.

125. TCF timely objected on May 27, 2025, and COWHC timely objected on May 26, 2025, raising, among other things, the unanalyzed permanent effects of GonaCon-Equine, the failure to consider a PZP-only public-private fertility-control alternative, reliance on incomplete and inconsistent range data, unanalyzed impacts to wild behavior and band structure, and the failure to account for the herd's functional division between the Dryhead and Sykes Ridge areas in setting AML. Following completion of the objection process, the Forest Service made its decision in July 2025. The final EA subsequently confirmed that “[t]he USFS made a decision consistent with their statutory authorities related to management of the [Range] in July 2025” (Forest Service Decision). EA at 5.

Finality and Exhaustion

126. The RMP Amendment is final agency action. BLM's resolution of protests is the final decision of the Department of the Interior, and no further administrative appeal is available. 43 C.F.R. § 1610.5-2(b).

127. The JHMAP/AML Decision is final agency action. Plaintiffs appealed and sought a stay, the IBLA denied the stay, the decision is in effect pending appeal, and the IBLA has confirmed that judicial review is available. 43 C.F.R. §§ 4.21(b)(2), 4.405(a)(3); *Darby*, 509 U.S. at 146–47, 154.

128. The Gather Decision is final agency action. BLM made it immediately effective, and BLM concedes it is in effect. An administrative appeal is not required to exhaust administrative remedies for an immediately effective decision, and a decision in effect pending appeal is final for the Department. 43 C.F.R. § 4.21(a), (b)(2). Plaintiffs nonetheless appealed and sought a stay, but no administrative forum is required to act before the horses are removed.

129. The Forest Service Decision is final agency action. Plaintiffs TCF and COWHC exhausted the Forest Service objection process. 7 U.S.C. § 6912(e); 36 C.F.R. Part 218.

130. The issues raised in this Complaint were raised in comments, protests, objections, or administrative appeals, or were otherwise known to the agencies, including through the agencies' own analysis.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

2025 RMP Amendment

Wild Horse Act, FLPMA, and APA, 5 U.S.C. § 706(2)

131. Plaintiffs incorporate by reference all preceding paragraphs.

132. The RMP Amendment abandoned MD WH-7's direction to manage the Pryor Mountain herd for all representations in the herd without a reasoned explanation for departing from that longstanding direction and from the 2009 HMAP's commitments to prevent the elimination of bloodlines, while retaining Goal WH-2 and MD WH-2's direction to maintain "any characteristics unique to the Pryor horses." EA at 6.

133. The RMP Amendment rests on BLM's characterization of this Court's decision in *Kathrens* as "impractical" rather than on any analysis of whether the herd's unique characteristics can be maintained and failed to consider an important aspect of the problem, including the loss of allelic diversity, rare alleles, and lineages in a small, isolated herd before any heterozygosity threshold is reached.

134. By making translocation of horses from distant herds a primary tool to address genetic loss that its own management will cause, the RMP Amendment is inconsistent with the Wild Horse Act's direction that wild horses be protected and managed "in the area where presently found" as self-sustaining populations at the

minimal feasible level of management. 16 U.S.C. §§ 1331, 1333(a); 43 C.F.R. § 4700.0-6(a).

135. The RMP Amendment fails to explain how its reactive framework satisfies the Wild Horse Act's requirement that the Range be devoted principally to the welfare of the herd it was designated to protect. 16 U.S.C. § 1332(c).

136. Defendants' action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, and must be held unlawful and set aside. 5 U.S.C. § 706(2).

137. Defendants' actions have injured Plaintiffs in the manner described in this Complaint.

138. This Court has the authority to vacate and set aside the 2025 RMP Amendment under 5 U.S.C. § 706(2).

**SECOND CAUSE OF ACTION
2025 RMP Amendment
NEPA and APA, 5 U.S.C. § 706(2)**

139. Plaintiffs incorporate by reference all preceding paragraphs.

140. BLM failed to take a hard look at the genetic consequences of replacing lineage-based protection with a reactive heterozygosity threshold, including loss of allelic diversity and rare alleles, effective population size, and the effects of translocation on the herd's ancestry, local adaptation, behavior, and disease risk.

141. BLM failed to consider reasonable alternatives, including an amendment that would clarify MD WH-7 while retaining proactive lineage-based protections, and failed to respond reasonably to comments identifying these issues.

142. BLM's analysis relied on the characterization of the herd as part of a connected metapopulation without addressing the absence of any natural gene flow between the Range and other herds.

143. Defendants' action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and must be held unlawful and set aside. 5 U.S.C. § 706(2).

144. Defendants' actions have injured Plaintiffs in the manner described in this Complaint.

145. This Court has the authority to vacate and set aside the 2025 RMP Amendment under 5 U.S.C. § 706(2).

THIRD CAUSE OF ACTION
2026 JHMAP/AML Decision
Wild Horse Act and APA, 5 U.S.C. § 706(2)

146. Plaintiffs incorporate by reference all preceding paragraphs.

147. The revised AML is not based on adequate evidence, analysis, or studies. Method 2 relies on an unexplained reduction of the allowable use rate from 45 to 40 percent, stale and generalized forage production data, and a Rangeland

Health Assessment whose core data sets are described inconsistently and were collected during extreme drought.

148. BLM derived the lower limit from a growth figure of 13 horses over five years that is contradicted by the EA's own report of growth from 160 to 200 horses over the same period, and by the subsequent decline of the herd to 187 without removals.

149. BLM failed to conduct the Tier Three genetic analysis required by the Handbook and by this Court's decisions in *Sparks* and *Kathrens* and set an AML well below the Handbook's recommended minimum population for genetic viability without explanation specific to this isolated herd.

150. BLM failed to base the revised AML on the best available science or on all information currently available. 16 U.S.C. § 1333(b)(1)–(2). BLM relied on stale forage data and drought-year rangeland assessments, disregarded the National Research Council's recommendation of individual-based genetic management for this herd and the lineage data BLM itself described as the best available information on relatedness, and set a population size below the Handbook's genetic-viability minimum without addressing the scientific evidence in the record.

151. BLM abandoned without reasoned explanation the 2009 HMAP's commitments to prevent the elimination of bloodlines and maintain rare colors—

commitments this Court held binding in *Kathrens*—and failed to consider the loss of patrilineal and matrilineal lines and rare phenotypes as *Kathrens* required.

152. The JHMAP’s fertility-control protocol, which ties a mare’s reproductive opportunity to foal survival, combined with management at the low end of an AML set well below the Handbook’s recommended minimum population, fails to ensure that the herd is managed as a self-sustaining population of healthy animals at the minimal feasible level of management. 16 U.S.C. § 1333(a); 43 C.F.R. §§ 4700.0-6(a), 4710.4.

153. Defendants’ action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and must be held unlawful and set aside. 5 U.S.C. § 706(2)(A).

154. Defendants’ actions have injured Plaintiffs in the manner described in this Complaint.

155. This Court has the authority to vacate and set aside the 2026 JHMAP/AML Decision under 5 U.S.C. § 706(2).

**FOURTH CAUSE OF ACTION
2026 JHMAP/AML Decision
NEPA and APA, 5 U.S.C. § 706(2)**

156. Plaintiffs incorporate by reference all preceding paragraphs.

157. BLM failed to establish an accurate baseline, relying on internally inconsistent monitoring data, drought-year assessments, and growth rates contradicted by its own population records.

158. BLM failed to take a hard look at the combined effects of reducing the herd toward 107 animals, random and band-level removals, and a fertility-control protocol dependent on foal survival, including effects on effective population size, genetic diversity, band structure, and the herd's capacity to replace itself.

159. BLM relied on a genetic simulation whose stated assumptions—random selection of band stallions, annual female reproduction, no extreme weather, and no predation—are contradicted by conditions BLM itself documents, without disclosing or analyzing the consequences of those violations.

160. BLM failed to ensure the scientific integrity of its analysis and to make use of reliable existing data and resources, 42 U.S.C. § 4332(2)(D)–(E), by relying on outdated forage data, internally inconsistent monitoring data, and a genetic simulation whose assumptions its own record contradicts, while failing to address the all information currently available, or the best available science, on the herd's genetic viability and relatedness.

161. BLM failed to analyze the acknowledged potential for permanent sterility from GonaCon-Equine and its effects on the herd's reproduction and free-roaming behavior.

162. BLM failed to consider reasonable alternatives, including an AML consistent with the Handbook's recommended minimum population and lineage- or kinship-informed management, and failed to respond reasonably to substantial scientific comments on the AML and Rangeland Health Assessment.

163. Given the permanent removal of a large proportion of a unique, isolated herd, the scientific controversy and uncertainty concerning its genetic viability, and its location on the Nation's first wild horse range, BLM's failure to prepare an environmental impact statement, or to explain convincingly why one was not required, was arbitrary and capricious.

164. Defendants' action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and must be held unlawful and set aside. 5 U.S.C. § 706(2)(A).

165. Defendants' actions have injured Plaintiffs in the manner described in this Complaint.

166. This Court has the authority to vacate and set aside the 2026 JHMAP/AML Decision under 5 U.S.C. § 706(2).

FIFTH CAUSE OF ACTION
2026 Gather Decision
Wild Horse Act and APA, 5 U.S.C. § 706(2)

167. Plaintiffs incorporate by reference all preceding paragraphs.

168. The Gather Decision’s excess and necessity determinations rest on an AML and Rangeland Health Assessment that are unlawful for the reasons stated above, and on outdated population information that does not reflect the herd’s decline and thus are not based on “all information currently available.” 16 U.S.C. § 1333(b)(2); 43 C.F.R. § 4720.1.

169. BLM designated named horses for preferential removal on the basis of presumed paternity that BLM concedes is unreliable and relied on that same unreliability to reject lineage-based management, an explanation that runs counter to the evidence and is internally inconsistent.

170. BLM’s excess and removal determinations were not based on “all information currently available,” 16 U.S.C. § 1333(b)(2), or on the best available science. BLM selected horses for removal using presumed paternity it concedes is unreliable and a removal list keyed to the 2024 population, rather than on current census, foal-survival, and genetic data.

171. The Gather Decision authorizes “subsequent gather events and removals . . . as needed” across a ten-year period, while reserving unreviewable discretion to adjust the timing, size, and methods of all future gathers and fertility-control implementation, without requiring new excess and necessity determinations and without identifying how many horses may be removed. Gather Decision at 2.

172. BLM made the Gather Decision immediately effective without the finding required by 43 C.F.R. § 4770.3(c).

173. Removal criteria prioritizing the youngest age classes, applied to a herd whose reproductive base has been reduced by fertility control, mare mortality, and low foal survival, are inconsistent with management of a self-sustaining population and with MD WH-2's direction to maintain a diverse age structure, genetic diversity, and characteristics unique to the Pryor horses.

174. Defendants' action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and must be held unlawful and set aside. 5 U.S.C. § 706(2)(A).

175. Defendants' actions have injured Plaintiffs in the manner described in this Complaint.

176. This Court has the authority to vacate and set aside the 2026 Gather Decision under 5 U.S.C. § 706(2).

**SIXTH CAUSE OF ACTION
2026 Gather Decision
NEPA and APA, 5 U.S.C. § 706(2)**

177. Plaintiffs incorporate by reference all preceding paragraphs.

178. Significant new information and changed circumstances, including the herd's decline from 205 to 187 horses without removals, depressed foal survival, the deaths of breeding mares, the reproductive status of the herd's mares, and the

obsolescence of removal lists keyed to a 2024 population that no longer exists, bear on the environmental effects of the Gather Decision, which had not been implemented. BLM failed to take a hard look at that information or supplement its analysis before scheduling the gather to begin in October 2026.

179. BLM is implementing the Gather Decision beyond the scope of what the EA analyzed and the Gather Decision disclosed, including treatment of up to 39 mares (43 treatments) with fertility control during the fall 2026 gather, and removal lists keyed to a 2024 population that no longer exists.

180. BLM is preparing to implement the Gather Decision by helicopter drive-trapping, beyond the scope of what the EA analyzed, absent the emergency conditions under which the EA allowed it, and without analyzing the effects of helicopter use on the Range's terrain and on its old horses and young foals.

181. BLM failed to take a hard look at the effects of administering fertility control in the fall, when many mares are already pregnant, and at the absence of any criteria for designating mares as non-responders subject to GonaCon-Equine or removal.

182. BLM failed to take a hard look at the effects of removing entire bands captured in bait or water traps on the herd's social structure and genetic diversity.

183. BLM failed to consider reasonable, less-extreme alternatives to permanent gather and removal.

184. Defendants' action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and must be held unlawful and set aside. 5 U.S.C. § 706(2)(A).

185. Defendants' actions have injured Plaintiffs in the manner described in this Complaint.

186. This Court has the authority to vacate and set aside the 2026 Gather Decision under 5 U.S.C. § 706(2).

SEVENTH CAUSE OF ACTION
RMP Amendment, JHMAP/AML Decision, and Gather Decision
Failure to Comply with *Kathrens* and *Sparks*
Wild Horse Act, FLPMA, NEPA, and APA, 5 U.S.C. § 706(2)

187. Plaintiffs incorporate by reference all preceding paragraphs.

188. Taken together, the challenged BLM decisions were designed to eliminate the obligations this Court identified in *Sparks* and *Kathrens*, recalculating AML in accordance with the Handbook and accounting for the loss of bloodlines, patrilineal lines, and rare phenotypes, rather than to satisfy them, and reflect a predetermined outcome of reducing the herd to the low end of an AML set well below the Handbook's recommended minimum population.

189. BLM segmented a single course of action into separate decisions issued over more than a year, and has argued that challenges to the AML, removal criteria, and fertility control may not be raised against the decision that implements them, thereby insulating the removal of horses from meaningful review.

190. Defendants' action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and must be held unlawful and set aside. 5 U.S.C. § 706(2)(A).

191. Defendants' actions have injured Plaintiffs in the manner described in this Complaint.

192. This Court has the authority to vacate and set aside the RMP Amendment, the JHMAP/AML Decision, and the Gather Decision under 5 U.S.C. § 706(2).

EIGHTH CAUSE OF ACTION
Forest Service Decision
Wild Horse Act, NFMA, and APA, 5 U.S.C. § 706(2)

193. Plaintiffs incorporate by reference all preceding paragraphs.

194. The Forest Service adopted and applied Alternative 2's challenged management framework to the Pryor Mountain Wild Horse Territory, including the same AML, removal criteria, and fertility-control protocol for the Pryor Mountain Wild Horse Territory, and its decision is unlawful under the Wild Horse Act for the reasons stated in the Third and Fifth Causes of Action.

195. The Forest Service authorized GonaCon-Equine on National Forest System lands without considering its potential for permanent sterility and effects on free-roaming behavior, inconsistent with the Wild Horse Act's requirement that wild

horses be managed at the minimal feasible level. 16 U.S.C. § 1333(a); 36 C.F.R. Part 222, Subpart D.

196. The Forest Service Decision is inconsistent with the Custer Gallatin Forest Plan's direction to maintain a thriving ecological balance and coordinate management to maintain or enhance wild horse habitat, in violation of 16 U.S.C. § 1604(i) and 36 C.F.R. § 219.15.

197. Defendants' action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and must be held unlawful and set aside. 5 U.S.C. § 706(2)(A), (C), (D).

198. Defendants' actions have injured Plaintiffs in the manner described in this Complaint.

199. This Court has the authority to vacate and set aside the Forest Service Decision under 5 U.S.C. § 706(2).

NINTH CAUSE OF ACTION
Forest Service Decision
NEPA and APA, 5 U.S.C. § 706(2)

200. Plaintiffs incorporate by reference all preceding paragraphs.

201. The Forest Service relied on the EA and failed to take the hard look required by NEPA for the reasons stated in the Fourth Cause of Action.

202. The Forest Service failed to consider reasonable alternatives raised in objections, including a PZP-only public-private fertility-control program, and failed

to analyze impacts to band structure and the herd's functional division between the Dryhead and Sykes Ridge areas.

203. The Forest Service relied on incomplete and inconsistent range data, including data first made available through FOIA after the comment period, without taking a hard look at that information.

204. Defendants' action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and must be held unlawful and set aside. 5 U.S.C. § 706(2)(A).

205. Defendants' actions have injured Plaintiffs in the manner described in this Complaint.

206. This Court has the authority to vacate and set aside the Forest Service Decision under 5 U.S.C. § 706(2).

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

- A. Declare that the RMP Amendment, the JHMAP/AML Decision, the Gather Decision, and the Forest Service Decision violate the Wild Horse Act, FLPMA, NEPA, NFMA, and the APA as alleged above;
- B. Vacate and set aside the RMP Amendment, thereby reinstating MD WH-7 of the 2015 Billings RMP as originally approved;

- C. Vacate and set aside the JHMAP/AML Decision, including the revised AML and the fertility-control protocol it adopted, and remand to BLM with direction to recalculate AML in accordance with the Wild Horse Act, the Handbook, and this Court's decisions in *Sparks* and *Kathrens*, including a Tier Three genetic viability analysis;
- D. Vacate and set aside the Gather Decision;
- E. Vacate and set aside the Forest Service Decision;
- F. Issue a temporary restraining order and preliminary injunction, and/or stay the effective date of the Gather Decision pursuant to 5 U.S.C. § 705, prohibiting Defendants, their agents, contractors, and all persons acting in concert with them from gathering, removing, transporting, or disposing of wild horses from the Pryor Mountain Wild Horse Range, and from administering fertility control to gathered mares, pending final judgment in this action, or in the alternative, prohibiting Defendants from using helicopters or other aircraft to locate, move, or capture horses on the Range;
- G. Permanently enjoin Defendants, their agents, contractors, and all persons acting in concert with them from gathering, removing, transporting, or disposing of wild horses from the Pryor Mountain Wild Horse Range, and from administering fertility control other than as authorized before the

challenged decisions, until Defendants have fully complied with the Wild Horse Act, FLPMA, NEPA, NFMA, and the APA;

- H. Retain jurisdiction to ensure compliance with the Court's orders;
- I. Issue other such relief, including preliminary or permanent injunctive relief, that Plaintiffs may request;
- J. Award Plaintiffs their reasonable fees, costs, and expenses, including attorneys' fees under 28 U.S.C. § 2412; and
- K. Grant Plaintiffs such further and additional relief as the Court may deem necessary, just, or proper.

Dated this 30th Day of September 2026.

MORRISON SHERWOOD WILSON & DEOLA, PLLP

/s/ Robert Farris-Olsen

Robert Farris-Olsen

GREENFIRE LAW, PC

/s/ Cyrus Moshiri

Jessica L. Blome*

Cyrus Moshiri*

Attorneys for Plaintiffs

**Pro hac vice applications pending*

VERIFICATION OF COMPLAINT BY JESSICA L. BLOME

I, JESSICA L. BLOME, declare:

1. I am an attorney with Greenfire Law PC, which represent the Plaintiffs in this case.
2. I have read the foregoing Verified Complaint and know the contents thereof.
3. Based on publicly available documents and information received from the Plaintiffs, I am informed and believe the matters asserted in the foregoing action to be true, and on that basis, I allege the matters stated to be true.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated this 30th day of September 2026,

/s/ Jessica L. Blome
JESSICA BLOME

VERIFICATION OF COMPLAINT BY LISA FRIDAY

I, LISA FRIDAY, declare:

4. I am a Plaintiff and the Vice President of The Cloud Foundation.
5. I have read the foregoing Verified Complaint and know the contents thereof.
6. Based on publicly available documents and information received from the Plaintiffs, I am informed and believe the matters asserted in the foregoing action to be true, and on that basis I allege the matters stated to be true.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated this 30th day of September 2026,

/s/ Lisa Friday
LISA FRIDAY