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Wild Horse and Burro Issues

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December 15, 2008

Abstract. BLM has been examining options to achieve AML and reduce program costs. One is whether to cease the removal of animals from the range. A second option is whether to destroy healthy animals, under the authority provided in the 1971 Act. A third option is whether to sell animals "without limitation," as provided in the 108th Congress changes. Thus far the agency has focused on sales with procedures to protect against slaughter. These options have been contentious. BLM also is reviewing management options included in an October 2008 report by the Government Accountability Office, and recommendations developed by the Wild Horse and Burro Advisory Board at its November 2008 meeting. The Advisory Board's recommendations primarily addressed how to reduce wild horse and burro herd sizes, population growth, and costs of management. Selling animals without limitation or euthanizing excess animals was recommended "as a last resort." Further, a private individual has expressed interest in purchasing thousands of excess animals, which possibility is being discussed and developed with BLM.

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Wild Horse and Burro Issues

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December 15, 2008

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Summary

The Wild Free-Roaming Horses and Burros Act of 1971 (the 1971 Act) protects wild horses and burros on federal lands and places them under the jurisdiction of the Bureau of Land Management (BLM) and the Forest Service (FS). Management and potential slaughter of wild horses and burros have long been controversial. A current BLM assessment of options to reduce the number of wild horses and burros on the range and reduce costs of program management has renewed focus on the issue.

Under the 1971 Act, the agencies inventory horse and burro populations on federal land to determine appropriate management levels (AMLs). They are authorized to remove animals exceeding the range's carrying capacity. First, the agencies are to destroy old, sick, or lame animals by the most humane means available. Second, they are to remove healthy animals for private adoption. Third, if adoption demand is insufficient, the remaining healthy animals are to be destroyed; however, the agencies have not used this authority since 1982. The 108th Congress enacted changes to wild horse and burro management. One change provided a tool, in addition to adoptions, for reducing wild horse and burro populations. The agencies were directed to sell, "without limitation," excess animals (or their remains) that essentially are deemed too old or otherwise unable to be adopted.

BLM has not achieved reduction to the national AML—27,219 for all herds. There were an estimated 33,000 wild horses and burros on BLM lands as of February 29, 2008. Another 30,489 animals were in agency holding facilities as of October 2008. BLM estimates that nearly three-quarters of its FY2008 appropriation for wild horses and burros is used to hold animals in facilities.

BLM has been examining options to achieve AML and reduce program costs. One is whether to cease the removal of animals from the range. A second option is whether to destroy healthy animals, under the authority provided in the 1971 Act. A third option is whether to sell animals "without limitation," as provided in the 108th Congress changes. Thus far the agency has focused on sales with procedures to protect against slaughter. These options have been contentious. BLM also is reviewing management options included in an October 2008 report by the Government Accountability Office, and recommendations developed by the Wild Horse and Burro Advisory Board at its November 2008 meeting. The Advisory Board's recommendations primarily addressed how to reduce wild horse and burro herd sizes, population growth, and costs of management. Selling animals without limitation or euthanizing excess animals was recommended "as a last resort." Further, a private individual has expressed interest in purchasing thousands of excess animals, which possibility is being discussed and developed with BLM.

Several other issues remain controversial. They include the priority given wild horses and burros in land use decisions; whether, and to what extent, to remove animals from the range; the disposal of healthy animals through the adoption and sales programs; the extent of holding animals in facilities, particularly long-term (pasture) facilities; the use of fertility control to slow the rate of reproduction; and the costs of management and whether funding is sufficient.

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Background

Horses and burros are thought to have been first brought to the Americas by Spanish explorers around 1500. Those that escaped became the first wild horse herds in North America, with feral populations spreading throughout the Southwest in the 16th and 17th centuries. Native Americans incorporated horses and burros into their culture, and wild and domesticated populations spread throughout the West. Wild populations increased when animals escaped from, or were released from, ranching and mining activities in the 19th and 20th centuries.¹

At the turn of the 20th century, an estimated 2 million wild horses may have lived on the range. By the 1950s their population was thought to be fewer than 20,000. Public concern developed over falling populations and instances of inhumane treatment by profiteers who captured and sold the animals for slaughter. A protection movement culminated in the Wild Horse Annie Act of 1959 (18 U.S.C. § 47) and later in the Wild Free-Roaming Horses and Burros Act of 1971 (hereinafter “the 1971 Act”) (16 U.S.C. §§ 1331 et seq.).² The 1971 Act seeks to preserve wild horses and burros on federal lands as “living symbols of the historic and pioneer spirit of the West.” It imposes criminal penalties for removing, converting to private use, killing, harassing, selling, or processing into commercial products wild horses and burros (with some exceptions) under federal jurisdiction unless given federal authority. Management responsibility is assigned to the Bureau of Land Management (BLM) in the Department of the Interior and the Forest Service (FS) in the Department of Agriculture. The animals are to be managed “to achieve and maintain a thriving natural ecological balance on the public lands,” according to the 1971 Act. A nine-member Wild Horse and Burro Advisory Board of private citizens advises the Secretaries.

Under the 1971 Act, the agencies inventory horse and burro populations on federal land to determine appropriate management levels (AMLs).³ They are authorized to remove animals exceeding the range’s carrying capacity to restore a natural ecological balance and to protect the range from deterioration associated with an overpopulation of wild horses and burros. First, the agencies are to destroy old, sick, or lame animals by the most humane means available. Second, they are to remove healthy animals for private adoption. BLM takes the lead in gathering animals and holding adoptions for both agencies. Third, if adoption demand is insufficient, the remaining healthy animals are to be destroyed; however, the agencies have not used this authority since 1982.

The 108th Congress enacted changes to the 1971 Act regarding wild horse and burro management on federal lands (P.L. 108-447, § 142) to provide an additional tool for reducing wild horse and burro populations. One change directed the agencies to sell, “without limitation,” excess animals (or their remains) that essentially are deemed too old (more than 10 years old) or otherwise unable to be adopted (offered unsuccessfully at least three times). Proceeds are to be used for the BLM wild horse and burro adoption program. A second change removed a ban on the sale of wild

¹ National Research Council, Commission on Natural Resources, *Wild and Free-Roaming Horses and Burros: Current Knowledge and Recommended Research*, National Academy Press, (Washington, DC: 1980); p. 21. This source also notes that equids had been present earlier in North America, disappearing approximately 11,000 years ago. See pages 21-23.

² The 1971 Act was modified by the Federal Land Policy and Management Act of 1976 (FLPMA) (P.L. 94-579) and the Public Rangelands Improvement Act of 1978 (PRIA) (P.L. 95-514), among other laws.

³ The AML is the population objective for a herd management area that is to achieve a thriving, natural ecological balance among users and resources on the land. It is generally expressed as a range, with a minimum and maximum number of animals for the area.

horses and burros and their remains for processing into commercial products. A third change removed criminal penalties for processing into commercial products the remains of a wild horse or burro, if it is sold under the new authority.

These changes have been supported as providing a cost-effective way of helping the agencies achieve AML, to improve the health of the animals, protect range resources, and restore a natural ecological balance on federal lands. The changes have been opposed as potentially leading to the slaughter of healthy animals. In the 110th Congress, the House passed H.R. 2490 to overturn the 108th Congress changes; no further action was taken. Specifically, the bill sought to repeal the sale authority, reimpose a ban on the sale of wild horses and burros and their remains for processing into commercial products, and reinstate criminal penalties for processing the remains into commercial products.⁴

Horses greatly outnumber burros on federal land. About half of all the animals are in Nevada. BLM has set the upper limit for AML for all herds at 27,219. There were an estimated 28,500 wild horses and burros on 199 BLM herd management areas (HMAs) as of April 1, 2007. This was the lowest level since the early 1970s and was the closest to AML since that time. In part due to a reduced emphasis on removals, the number of wild horses and burros on the range increased to an estimated 33,000 as of February 29, 2008. This diminished the possibility of achieving AML, at least in the near-term. There were another 3,180 wild horses and burros on 37 active *territories* (FS management areas) as of September 30, 2006.⁵ Thousands of additional animals are in agency holding facilities (see below).

Reaching the national AML has eluded BLM. BLM had reached AML in 145 of the 201 HMAs that existed in 2006, but estimated a decline to 96 of 199 HMAs for 2008.⁶ Likely reasons may include underestimates of populations on the range, the high population growth rate of horses and burros, a virtual absence of natural predators, inadequate funding, insufficient interest in adoptions and sales, and poor program management. Currently, animals that are removed are offered for adoption or sale or sent to holding facilities.

Current Issues

Overview

Federal management of wild horses and burros has generated controversy and lawsuits for years. Key issues for Congress have included the adequacy of authorities for managing wild horses and burros and achieving AML on federal lands; the effectiveness of agency management of wild horses and burros and of options for achieving AML; and the sufficiency of funding for managing wild horses and burros and achieving AML.

⁴ Some of the debate on this bill extended to horse slaughter more generally and consumption of horses by humans. These issues and related legislation are covered in CRS Report RS21842, *Horse Slaughter Prevention Bills and Issues*, by Geoffrey S. Becker.

⁵ Figures throughout this report generally represent the most recent information available.

⁶ Dept. of the Interior, Bureau of Land Management, *Budget Justifications and Performance Information, Fiscal Year 2009*, p. III-102.

A current BLM examination of options to achieve AML and reduce the cost of wild horse and burro management has renewed attention to the issue. The agency is evaluating management options on the grounds that current and projected program funding is insufficient for the ongoing removal of animals from the range and their long-term care in holding facilities. The agency cites recent increases in energy prices as a contributing factor, noting that the energy cost for transportation and feed increased by nearly \$4 million from FY2007 to FY2008. The agency further contends that additional management options are needed because leaving wild horses and burros on the range, given current rates of reproduction, would be “an ecological disaster.”⁷

The BLM has been focusing on whether to implement three specific options which have been contentious. One is whether to destroy healthy animals, under the authority in the 1971 Act. The euthanization of healthy animals has been opposed by horse advocates as inhumane, and as unnecessary given other management options. The second option is whether to sell animals “without limitation,” as provided in the 108th Congress changes in law. Thus far the agency has focused on sales to buyers intending to provide long-term care. This option has been opposed on the grounds that these animals could end up being sold for slaughter. The third option is to cease the removal of animals from the range.⁸ BLM has expressed that stopping removals would be destructive to the range, a view shared by some range users. These options are discussed in the pertinent sections below.

More recently, BLM has been evaluating options for managing wild horses and burros included in an October 2008 report by the Government Accountability Office (GAO).⁹ The agency also is examining the recommendations agreed to by the Wild Horse and Burro Advisory Board at its November 17, 2008 meeting. Further, the agency is in discussions with a private individual who has expressed interest in purchasing thousands of excess wild horses and burros. This idea, as well as the recommendations of GAO and the Advisory Board, are discussed in the final sections of this report.

Wild Horses and Burros vs. Livestock

One controversy has been the priority given wild horses and burros versus domestic livestock in decisions on forage and land allotments. Critics assert that AMLs are set low to favor livestock. The Secretaries may designate specific ranges exclusively for wild horse and burros; in practice, most areas also have livestock. Currently, livestock graze on approximately 160 million acres of BLM land and 93 million acres of FS land, while wild horses and burros roam on 29.0 million BLM acres and 2.5 million FS acres. Together with intermingled state, tribal, and private lands, wild horses and burros roam on 34.3 million acres in the West. This is a reduction of 19.2 million acres from the level that existed following enactment of the 1971 Act—53.5 million acres. Of the 19.2 million acres, about 13 million were in BLM ownership; these lands were closed to wild horses and burros by BLM due to new laws, regulations, or land use planning decisions. The remaining 6 million acres were in private or other ownership, which the owners closed to wild horses and burros.¹⁰

⁷ BLM “*Factsheet on Challenges Facing the BLM in its Management of Wild Horses and Burros*,” December 2008. Hereafter referred to as *BLM Factsheet*.

⁸ *BLM Factsheet* and conversation with Tom Gorey, Senior Public Affairs Specialist, BLM, on September 10, 2008.

⁹ U.S. Government Accountability Office, *Bureau of Land Management: Effective Long-Term Options Needed to Manage Unadoptable Wild Horses*, GAO-09-77 (Washington, DC: October, 2008). Hereafter “2008 GAO Report.”

¹⁰ BLM unpublished document, received September 11, 2008.

In FY2006, forage consumed on BLM lands was approximately 372,000 animal unit months (AUMs)¹¹ for wild horses and burros and 7.8 million AUMs for livestock. Forage consumed on FS lands was approximately 38,000 AUMs for wild horses and burros and 6.6 million AUMs for livestock.

Removal

A long-standing controversy is whether to remove wild horses and burros from the range. Some animal rights and conservation groups believe they should roam freely. Others stand by a 1990 Government Accountability Office (GAO) conclusion that removals have not demonstrably improved range conditions, in part because livestock consume more forage and cause more degradation to riparian areas.¹² Other wildlife, conservation, and livestock interests agree that reduction of horse herds protects range resources and balances wild horse and burro levels with wildlife and domestic livestock. Many livestock groups contend that wild horses and burros are more environmentally destructive than domestic stock because they graze year-round without limit, whereas the time, place, and quantity of cattle grazing is controlled. Where drought, fire, and other emergencies reduce forage, domestic livestock usually are removed first to protect forage for wild horses and burros, according to BLM. The debate on the extent of damage by wild horses and burros versus livestock continues because of value differences and lack of definitive data on forage consumed and range degradation.

Determining AMLs and removing animals to achieve AMLs are controversial. Concerns involve the lack of an overall environmental analysis of removal efforts throughout the West, removal of animals below AML, and removal of entire herds. BLM is determining AMLs based on population censuses and range monitoring in tandem with removal efforts. Objectives include establishing or maintaining an ecological balance on the land and providing for land health. The determinations involve maintaining multiple use in the area. According to BLM, the agency takes into account natural resources, such as wildlife and vegetation, and land uses, such as grazing and recreation. Other considerations include the biological and social needs of the herds and the genetic diversity needed to maintain healthy wild horse and burro populations. AMLs generally are reviewed every four years as part of horse gathers and removals, and may be revised as circumstances and conditions change.

While 317 herd areas were identified initially, BLM currently manages wild horses and burros in 199 herd management areas. Some herds were combined, while others were removed because they roamed on private lands or were not suitable to retain, according to BLM. Other removal issues have included the effect on the genetic viability of herds, increased reproduction of remaining horses, and accuracy of supporting data.

As shown in **Table 1**, more horses and burros were removed from the range in recent years than could be adopted. Specifically, over the nine-year period from FY2000 through FY2008, a total of 87,867 animals were removed while 53,738 were adopted (61%). However, the number of burros adopted during the period exceeded the number of burros removed, while only 56% of the removed horses were adopted.

¹¹ An AUM is the amount of forage to sustain an animal unit (a cow with calf) for one month.

¹² U.S. General Accounting Office (now Government Accountability Office), *Improvements Needed in Federal Wild Horse Program*, GAO/RCED-90-110 (Washington, DC: August, 1990). Hereafter "1990 GAO Report."

Table I. Wild Horse and Burro Removals and Adoptions

	FY2000		FY2001		FY2002		FY2003		FY2004		FY2005		FY2006		FY2007		FY2008		FY2000- FY2008	
	R	A	R	A	R	A	R	A	R	A	R	A	R	A	R	A	R	A	R	A
H	7,004	5,080	11,764	6,054	10,822	5,987	8,865	4,982	9,252	5,699	10,650	5,193	8,789	4,404	6,626	3,894	5,008	3,213	78,780	44,506
B	1,627	1,122	1,513	1,576	1,207	1,759	1,216	1,183	647	945	373	508	1,137	768	1,100	878	267	493	9,087	9,232
T	8,631	6,202	13,277	7,630	12,029	7,746	10,081	6,165	9,899	6,644	11,023	5,701	9,926	5,172	7,726	4,772	5,275	3,706	87,867	53,738

Source: The information is from BLM, including BLM's *Public Land Statistics*.

Notes: In the first column, "H" is for horses, "B" is for burros, and "T" is for total horses and burros. In the other columns, "R" indicates the number of animals removed, while "A" indicates the number of animals adopted. Because there are varying statistics available from BLM on removals and adoptions, these figures should be treated as estimates.

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One reason for the overall higher removal rates was enhanced efforts to reach AML. Another factor contributing to the higher removal rates was the reduction of available forage, due to fire, drought, and other weather conditions. BLM has asserted that the 2007 closing of all three commercial processing plants within the United States has put an additional 90,000 domestic horses annually in the adoption market.¹³ The competition for adoption between these domestic horses and the wild horses and burros removed from the range may increase the difficulty of adopting the wild animals. Further, BLM claims that recent higher fuel and feed costs have weakened interest in adoption. Critics contend that removals have been high because a disproportionate share of funding is used for removal versus adoption.

BLM has been considering whether to cease removing animals from the range, in part because adoptions have not kept pace with removals and because of the costs of placing removed animals in long-term holding facilities. However, the agency has expressed that this option would result in insufficient nutrition for increasing larger horse and burro herds, and would lead to damage of soil, vegetation, riparian areas, and wildlife habitat.¹⁴ Ceasing removals would likely be opposed by ranchers who depend on federal lands for forage.

Adoption

The primary disposal method for healthy animals has been through adoption. From FY1972 to FY2008, 279,961 horses and burros were removed, of which 225,420 were adopted. Others died of natural causes, were sent to holding facilities, or were sold. The base fee to adopt a wild horse or burro is a minimum of \$125, although the BLM Director may reduce or waive the fee. In most cases, competitive bidding is used and the fee is the highest bid over the base. New owners can receive title after a one-year wait, with certification of proper care during that time. An individual may receive title to no more than four animals per year. BLM has established other conditions for the transportation, feeding, and care of wild horses and burros.

The current adoption process stems in part from past concerns that some adopted animals were slaughtered. From 1984 to 1988, approximately 20,000 horses were placed with large-scale adopters, without fee. Hundreds of them died of starvation or dehydration during the one-year probationary period and thousands were slaughtered soon after title passed, according to the 1990 GAO report. Public protest led BLM to resume charging an adoption fee. Further changes followed reports in 1997 that wild horses were sold to slaughterhouses and charges, denied by BLM, of related misconduct by some employees. Changes required adopters to certify that they have “no intent” to sell their animals for slaughter; established a monitoring program with slaughterhouses and federal inspectors to return untitled animals intended for slaughter and retain records on titled, slaughtered animals; prohibited individuals from using power of attorney from others to adopt animals; and increased compliance inspections of untitled adopted animals. Also, the Wild Horse and Burro Advisory Board was reestablished to assist and advise the Secretaries on wild horse and burro policy and to conduct oversight of the wild horse and burro program.

A lingering question, despite court reviews and the changes in law in 2004, is whether wild horses and burros are protected from slaughter once adopted. The BLM asserts that it has no authority over a titled animal because the 1971 Act states that wild horses and burros “or their remains shall

¹³ BLM unpublished document, received September 11, 2008.

¹⁴ *BLM Factsheet*.

lose their status as wild free-roaming horses and burros and shall no longer be considered as falling within the purview of this chapter—upon passage of title ...”(16 U.S.C. § 1333(d)(1)). The agency seeks to protect horses and burros through efforts to place them with qualified adopters and subsequent monitoring for one year. By contrast, animal advocacy groups contend that the legislative history and intent of the 1971 Act show that titled animals were to be protected indefinitely from slaughter. They further note that adopters are to certify that they have “no intent” to sell their wild horse or burro “for slaughter or bucking stock, or for processing into commercial products ...” Controversy over this attestation has centered on how long it should last and the extent to which it can be enforced in court.

Sale

As a result of stepped up removals in recent years, large numbers of excess animals for which there is no demand for adoption are being held in facilities (see below). In this context, the 108th Congress provided a tool, in addition to adoption, to reduce wild horse and burro populations. Congress directed BLM to sell excess animals that were older or deemed unadoptable. Under law, these animals are to be sold “without limitation.” For instance, the law does not set a minimum purchase price, maximum number of animals an individual may purchase, or standards for the type or length of care to be provided. Support for the sales has been strong among livestock groups and others. Animal activists and other groups have questioned its desirability, primarily due to concerns that sold animals may end up being sent to slaughter.

According to the BLM, approximately 8,000 animals are available for sale, with approximately 2,900 sold since the inception of the program—far fewer than the agency had anticipated. BLM negotiates sales of excess animals, for instance with ranchers, tribes, and humane organizations, with the price determined on a case-by-case basis. The average price per animal sold during FY2006 was about \$15 (the most recent data available).

On April 25, 2005, BLM temporarily suspended the sale of wild horses and burros because some of the animals it sold ended up being sent to slaughter. The agency did not sell animals directly for slaughter, and was requiring purchasers to give written affirmation of an intent to provide humane care. Nevertheless, 41 sold animals were resold or traded and then sent to slaughterhouses. Another 52 animals were sold to slaughterhouses, but Ford Motor Co. committed to purchasing them. On May 19, 2005, the agency resumed sales after revising its bill of sale and pre-sale negotiation procedures to protect against slaughter. Purchasers now also must agree not to sell or transfer ownership to those intending to resell, trade, or give away animals for processing into commercial products. Sales contracts also incorporate criminal penalties for anyone who knowingly or willfully falsifies or conceals information. Some horse advocates question whether the penalties would withstand legal challenge because the 2004 law provides for the sale of animals “without limitation.” Also, according to BLM, purchased animals are classified as private property free of federal protection.

BLM currently is considering whether to sell animals “without limitation,” as specified in law. This might include discontinuing the conditions the agency has imposed to promote long-term care. This has renewed concerns among animal supporters and other groups that these animals might once again end up being sent to slaughter.

Euthanization

BLM is considering whether to use its authority in law to destroy healthy wild horses and burros. BLM had used this authority to euthanize about 2,000 healthy animals before 1982, when the agency suspended euthanization due to negative public reaction.¹⁵ The agency has focused subsequently on providing long-term care for healthy, unadoptable animals at contracted holding facilities (pastures). Further, BLM was specifically prohibited, by the annual Interior appropriations acts for FY1988-FY2004, from using its authority to destroy healthy animals.¹⁶ This prohibition was omitted from the FY2005 appropriations act (P.L. 108-447), which instead made changes to wild horse and burro management to reduce excess populations. One change directed the agencies to sell excess wild horses and burros, while another removed a ban on the sale of animals for processing into commercial products, as outlined in the “Background” section above.

Euthanization of healthy wild horses and burros has long been controversial, and the current BLM assessment of whether to use this authority has renewed the debate. The agency has expressed a need to consider all management options due to the inability to date to reach AML and the improbability of doing so under current management practices and funding levels. Some animal advocacy and other groups have opposed euthanization as inhumane. Instead, some have advocated expansion of existing programs or practices, such as fertility control, or new options, for instance tax benefits for landowners who would allow wild horses and burros to roam on their property.

Holding in Facilities

Large numbers of animals have been sent to holding facilities, and BLM continues to be responsible for these animals. Many of these animals being held may become long-term costs to the government. Initially, animals are placed in short-term holding (corral) facilities, and there were approximately 8,255 animals in 24 short-term facilities as of November 3, 2008. Animals in short-term facilities will be readied for adoption or sale or sent to long-term holding. Many more of the animals are in long-term holding (pasture) facilities (also called sanctuaries). There were 22,234 animals in 11 long-term facilities as of October 2008, exceeding their total capacity of 22,100. These pasture facilities are privately operated under contract with the U.S. government. All current long-term facilities are in Kansas, Oklahoma, and South Dakota. Any adoptable animals in long-term facilities will be put up for adoption when demand allows, which for some animals may be years. The unadoptable ones, such as older animals, will be sold or live out their lives in long-term facilities.

Extensive use of holding facilities has prompted a number of issues, including whether to remove more horses than can be adopted, whether the cost of holding is too high (see below), and whether animals in long-term facilities receive appropriate care. BLM has been soliciting bids for new long-term facilities to accommodate the increasing numbers of animals, most recently (June 2008) for one or more facilities to provide care for between 500 and 2,500 animals each.

¹⁵ Conversation with Tom Gorey, Senior Public Affairs Specialist, BLM, on September 10, 2008.

¹⁶ For instance, P.L. 108-108, the Department of the Interior and Related Agencies Appropriations Act, 2004, provided that BLM “appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau or its contractors.” (Title I, P.L. 108-108, 117 Stat. 1242.)

Fertility Control

Wild horses and burros are thought to reproduce at a rate of about 20% yearly. To slow reproduction, research is developing fertility controls. In selected areas, BLM has tested one- and two-year vaccines on mares. The primary agent being tested—Porcine Zona Pellucida (PZP)—is not commercially available, but is being tested under an investigational exemption issued by the Food and Drug Administration. Since 2004, BLM has administered the two year contraceptive to 1,808 captured mares in 47 HMAs; the animals were then returned to the range. One limitation is that the vaccine has not been approved for general use.¹⁷ A second limitation of the vaccine is that it must be administered three to four months before breeding for maximum effectiveness. Still a third limitation is the difficulty of capturing enough mares in a herd for the treatment to be effective. The extent of its effectiveness in the areas being tested will be assessed when the 47 herds are next gathered. Depending on the herd, the gather will occur between 2008 and 2012.

BLM continues to work with the U.S. Geological Survey and the Humane Society to assess the effectiveness of vaccines over several years, and to develop a vaccine that would last at least three years and could be approved as safe for general use. Other research efforts focus on improving the current vaccines and the methods of administering them, such as through remote delivery. Advocates of fertility control assert that it improves the genetic viability and health of the horses, as well as foal survival, by delaying pregnancy in younger mares. Some view fertility control as less stressful and disruptive to horses than removals, and worth more emphasis. Opponents contend that fertility control meddles with nature, and that its long-term effect on the behavior and size of herds is uncertain. Some favor natural controls such as disease and starvation.

Costs

Whether funding is sufficient to care for wild horses and burros, achieve AML, and reduce long-term budgetary needs has been unclear. Appropriations for BLM for managing wild horses and burros increased 78% from FY2000 (\$20.4 million) to FY2008 (\$36.3 million).¹⁸ The biggest increase occurred from FY2000 to FY2001, when BLM received a 69% increase (to \$34.5 million) to achieve AML over several years and, by FY2010, reduce budgetary needs below the FY2001 level. The FY2009 request of \$37.0 million would be a 2% increase over FY2008.¹⁹ An annual appropriation for wild horses and burros for FY2009 has not been enacted to date.

Concerns over costs have prompted questions about managing wild horses and burros. One question is whether the average cost of adoption, estimated at \$994 per animal, can be reduced. Another question is whether animals can be moved more quickly through the adoption and sales systems or into long-term facilities, as the cost of short-term facilities is relatively high—\$5.08 per animal per day. This cost has increased from \$3.00 per animal per day in 2001. By comparison, the average cost paid to contractors to care for animals in long-term facilities is \$1.27 per animal per day, nearly the same as the cost in 2001—\$1.22.²⁰ BLM estimates that the cost of holding animals in all facilities in FY2008 will be nearly three-quarters of its

¹⁷ BLM “*Fact Sheet on BLM’s Wild Horse and Burro Fertility Control Program*,” available on the BLM website at <http://www.blm.gov>.

¹⁸ Figures used throughout this report represent current dollars.

¹⁹ Total appropriations to the FS for wild horses and burros are not available. For FY2008, the FS expected to transfer \$1.5 million to the BLM as reimbursement for gathering, handling, adopting, and caring for FS animals.

²⁰ These costs are taken from the *2008 GAO Report*, pages 43 and 45.

appropriation for wild horse and burro management. Further, the agency estimates that to support its current removal and holding practices, the agency's appropriation would need to rise to \$85 million in FY2012.²¹

Other questions involve whether additional funds could supplement appropriations. For instance, one question is whether long-term facilities could become financially self-sufficient through fundraising and donations, as some had expected when the first facilities were created. A related issue is whether the current base adoption fee of \$125 could be increased to generate more money for the program. For FY2008, BLM estimates collecting \$650,000 in *adoption* fees. Contrarily, some support reducing the base adoption fee to promote adoptions. Collection from *sales* of wild horse and burros in FY2006 were estimated at \$9,447. This is significantly lower than expected, in large part because the number of animals sold and the purchase price per animal have been relatively low. Still other ideas have included allowing proceeds of land disposals to be used for wild horse and burro management, selling horse sponsorships, and creating privately managed sanctuaries.

Government Accountability Office Recommendations

GAO conducted a year-long review of BLM's wild horse and burro program. Specifically, the agency examined BLM's progress in setting and meeting AML; management of animals through adoption, sales, and holding facilities; controls to ensure humane treatment of animals; and long-term management challenges. GAO reached several conclusions about the program and recommended that the Secretary of the Interior direct BLM to take related actions. It found that while BLM has made significant progress in setting and meeting AML, the agency has not provided specific guidance to field offices to achieve consistency in establishing AMLs. GAO recommended that BLM issue a wild horse and burro handbook that contains a policy for determining AML to ensure that AMLs are set consistently across herds.

Further, GAO concluded that the direct-count method many BLM field offices use to conduct population counts, which reports the number of animals actually seen on the ground, results in undercounting the animals. Such undercounts in turn lead to the removal of fewer animals than needed and costlier gathers of animals in the future. GAO recommended that BLM use statistically based methods to improve the accuracy of estimations of animal populations, such as those being developed by researchers. Under one approach, for instance, two or more separate aerial counts are performed. During each count the animals are photographed, then the photos are compared to determine which animals were identified and which were not seen during each count. An estimate of the total number missed is based on the number that were missed during each count.

GAO also concluded that BLM has implemented many controls to foster humane treatment of wild horses and burros, including for animals gathered, held in facilities, adopted, and sold. The controls involved establishing standard operating procedures, conducting inspections and monitoring, collecting data, and implementing protections against slaughter of sold animals. However, BLM does not regularly provide information to the public on treatment of animals, and doing so would improve transparency, according to GAO.

²¹ *BLM Factsheet*.

The development of alternatives to caring for animals in facilities is necessary for the long-term sustainability of the wild horse and burro program, due to the cost of caring for animals in facilities, according to GAO. Some current alternatives are not being exercised. BLM is not euthanizing healthy excess animals, or selling them without limitations, as provided for in the 1971 Act. GAO recommended that BLM discuss with Congress and other interests BLM's concerns with implementing these provisions, as well as how to comply with the 1971 Act or amend it to facilitate compliance.

Wild Horse and Burro Advisory Board Recommendations

At its November 17, 2008 meeting, the Wild Horse and Burro Advisory Board made 19 recommendations to BLM regarding management of wild horses and burros. The BLM is evaluating the recommendations, and expects to address them at the next meeting of the Advisory Board, currently scheduled for February 23, 2009. The recommendations relate to enhancing the adoption and sale of animals, euthanizing animals, slowing population growth, securing sufficient funding, and providing care through livestock permits, among other matters.²²

In the area of adoptions, the Advisory Board's recommendations included that BLM explore the feasibility of semi-privatizing the adoption program. Another was that the BLM support an expansion of the work of the Mustang Heritage Foundation, a non-profit organization that facilitates the adoption of wild horses and burros.

Several recommendations pertained to increasing the sale of animals. One was for BLM to offer animals for sale if they are 10 years old or younger, if they have not been adopted after three attempts, as provided for in law. Other proposals to sell eligible animals were that BLM market them overseas and explore opportunities to sell them abroad for agricultural (nonfood) use. Still another was that BLM offer organizations with existing adoption/sale networks the option of adopting or purchasing groups of animals for virtual adoptions or sale to approved homes. Except for this last recommendation, these recommendations to boost sales included the specific proviso that the animals be sold with "the intent clause," which was designed to protect against slaughter.

The intent clause is currently used for animals sold by the BLM under the sale authority enacted in the 108th Congress. The language, which is included on the bill of sale, states that the "Purchaser agrees not to knowingly sell or transfer ownership of any listed wild horse(s) and/or burro(s) to any person or organization with an intention to resell, trade, or give away the animal(s) for processing into commercial products." BLM began using this language in 2005 after some of the animals it had sold were later sent to slaughter.

However, the board recommended that "as a last resort," animals that are eligible for sale, but that are not sold or adopted after 30 days, be offered for sale without limitation and without "the intent clause," or be humanely euthanized under current law. "Without limitation" would imply making the animals available for sale without restrictions and without provisions designed to foster humane care. For instance, the bill of sale currently also includes language that the "Purchaser agrees to provide humane care to the listed wild horse(s) and/or burro(s)." Removing the intent clause would allow for sale without a buyer's commitment not to resell for slaughter. The possibility of sale without limitations and without the intent clause has accentuated concerns

²² The recommendations are on the BLM website at http://www.blm.gov/wo/st/en/info/newsroom/2008/november/NR_11_19_2008.html.

among animal protection interests that the animals would be sold for slaughter. Further, the inclusion of euthanasia among the recommendations, even as a last resort, also has been controversial. The BLM subsequently expressed that the agency “prefers not to” sell the animals without limitation, or to humanely euthanize those for which there is no adoption demand, as provided in the 1971 Act.²³ Issues associated with selling and euthanizing healthy animals are discussed in above sections of this report.

Also with regard to euthanasia, the Advisory Board recommended that a veterinarian be present at all emergency gathers of wild horses and burros. Animals should be humanely euthanized if they show signs of disease, stress, or other conditions that would make them susceptible to life threatening illness if moved into holding facilities.

To slow population growth, the Advisory Board developed several recommendations. Among them were that BLM explore additional fertility control methods that might be permanent for stallions or mares; consider establishing non-reproductive herds; make changes to the ratio of females to males in herds to favor males; and consider and utilize unproven field techniques on a conditional basis. The board recommended that BLM not use spaying and vasectomies unless proven safe, practical, and effective.

Recommendations to secure sufficient funding included that BLM seek additional, dedicated funding for at least two herd management areas in Nevada per year. The money would be used in herds that were at or near AML in order to reduce population growth. To offset the costs of long-term holding, the Advisory Board proposed that BLM explore assistance agreements with wild horse advocacy groups, for instance, with the Save The Mustang Fund to raise money specifically for long-term care.

Two other proposals pertained to livestock permits/permittees. They involved having BLM provide information to groups and individuals who may be interested in acquiring grazing permits to provide long-term, private care for adopted or purchased animals, or in contracting with existing permittees to provide long-term care.

Establish a Wild Horse Sanctuary

A private animal activist has expressed interest in purchasing thousands of excess horses from BLM.²⁴ The goal is to prevent the animals from being slaughtered, and the idea was developed in reaction to BLM’s consideration of whether to euthanize animals or sell them without limitations. According to the proponent, the horses would be cared for in a sanctuary in order to protect the wild horse as a living icon of the American West. The sanctuary also may be a refuge for other horses, such as thoroughbred ex-racehorses. It would be open to tourists with the hope that it would be a popular tourist destination like some national parks.

No formal proposal to purchase wild horses has been made to the BLM. The agency has expressed that it would welcome such a proposal for handling its excess animals, in part because it could significantly reduce the current costs of holding animals in facilities.²⁵ Because a

²³ Statement received from the BLM Office of Legislative Affairs, December 3, 2008.

²⁴ For background as well as articles related to the proposal, see the website of its proponent at <http://www.madeleinepickens.com>.

²⁵ Statement received from the BLM Office of Legislative Affairs, December 3, 2008.

proposal is in development, details are not available. The number of animals that would be cared for may involve all or most of the more than 30,000 wild horses and burros that BLM has determined are excess. The proponent of the sanctuary has expressed a desire to get animals out of costly agency holding facilities and back on the range. The cost of purchasing the animals has not been determined. Further, it is not clear where a sanctuary would be established, and who would own the land. Land is being evaluated in different states, with possibilities including that the land would be purchased outright or leased from the government. The costs of caring for the animals may be shared with the public through a financial donation program, according to the plan's proponent.

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<http://wikileaks.org/wiki/CRS-RL34690>