

Subcommittee on Federal Lands

Tom McClintock, Chairman
Hearing Memorandum

June 20, 2016

To: All Subcommittee on Federal Lands Members

From: Majority Committee Staff – Spencer Kimball
Subcommittee on Federal Lands (x6-7736)

Hearing: Oversight hearing on “*Challenges and Potential Solutions for the Bureau of Land Management’s Wild Horse & Burro Program*”

The Federal Lands Subcommittee will hold an oversight hearing entitled “*Challenges and Potential Solutions for the Bureau of Land Management’s Wild Horse & Burro Program*” on **June 22, 2016, at 2:30 p.m. in 1334 Longworth House Office Building**. During this hearing, the Subcommittee will hear testimony on the issues and challenges facing the Bureau of Land Management’s (BLM) management of wild horses and burros on federal lands across the West and associated impacts on rangeland health, wildlife habitat, livestock ranching, agricultural development, and other natural resources.

Policy Overview

- Tens of thousands of wild horses and burros, not native to North America, are currently roaming federal lands across the western United States. Although BLM is authorized to remove excess animals to prevent overpopulation and rangeland damage, the agency recently announced that there are over **67,000 wild horses and burros** currently on western federal rangelands--a 15% increase over estimated 2015 population figures. These populations typically grow by 18-20% per year and double in size every 4-5 years. Without additional removals or other means to check exploding on-range populations, including fertility control, population figures will continue to rise steeply.
- The large number of wild horses on the range has had serious consequences, including significant rangeland degradation, overgrazing, competition for food and water among ungulates, water quality impacts, devaluation of federal lands, and deteriorating habitat for wildlife species like the Greater Sage-Grouse. In addition, there have been negative impacts to the animals themselves, including starvation, dehydration, and death.
- More than 45,000 wild horses and burros live in BLM holding facilities, costing taxpayers more than **\$49 million per year**--roughly 66% of BLM’s total program budget. BLM projects that the cost of caring for a horse in a corral facility is nearly \$50,000 over the life of each animal, which equates to **more than \$1 billion** based on the current number of animals in holding.
- Longstanding Congressional appropriations language--as well as the risk of litigation by animal rights’ groups--limits BLM’s ability to sell healthy horses and humanely dispose

of old, dying, or sick horses. While additional sales would allow for more removal of animals from the range and significantly reduce holding costs, certain animal rights groups oppose this due to concerns that buyers would slaughter or inhumanely treat sold animals. In addition, due to consumer disinterest and other economic factors, adoption of wild horses and burros plummeted in recent years.

- Available fertility controls have been largely ineffective at limiting reproduction of wild horses and burros on the range, identifying reliable alternatives has been tenuous, and the administration of existing controls has been met with litigation and resistance from animal rights' groups.
- While BLM claims it requires additional resources “to bring the program onto a sustainable path,”¹ the Department of the Interior’s FY 2017 budget request asks for *less*, not more, funding to carry out the program and is not commensurate with the challenges facing the program.
- BLM has stated it is taking a number of steps to address these concerns, including “sponsoring a significant research program focused on fertility control; transitioning horses from off-range corrals to more cost-effective pastures; and working to increase adoptions with new programs and partnerships.”² The agency also requested new legislative authority to allow for the immediate transfer of horses to other agencies that need work animals and the creation of a foundation to help fund and support adoption efforts.³ During this oversight hearing, the subcommittee will discuss and debate BLM’s ideas and solicit further solutions from other witnesses.

Invited Witnesses

Mr. Steve Ellis

Deputy Director (Operations)
Bureau of Land Management
Washington, D.C.

Dr. JJ Goicoechea, DVM

State Veterinarian and Deputy Administrator
State of Nevada Department of Agriculture
Sparks, Nevada

Ms. Callie Hendrickson

Executive Director, White River & Douglas Creek Conservation Districts
Chairwoman, American Farm Bureau Federation Federal Lands Issue Advisory Committee
Meeker, Colorado

¹ Bureau of Land Management Director Neil Kornze letter to Rep. Cynthia Lummis. May 11, 2016.

² [Wild Horses and Burros on Public Rangelands Now 2.5 Times Greater than 1971 when Protection Law Was Passed](#). Bureau of Land Management News Release. May, 11 2016.

³ *Id.*

Ms. Ginger Kathrens
Executive Director, The Cloud Foundation, Inc.
Colorado Springs, Colorado

Mr. Keith Norris
Director of Government Affairs & Partnerships, The Wildlife Society
Chair, National Horse & Burro Rangeland Management Coalition
Bethesda, Maryland

Background

Management Authority

Congress authorized BLM to protect wild horses and burros on western rangelands, establish appropriate population levels, maintain current inventory counts, and remove excess animals to prevent overpopulation and rangeland damage through several statutes. While the agency must manage these animals as part of its multiple-use mandate under the *Federal Land Policy and Management Act of 1976* (P.L. 94-579), BLM’s central management authority stems from the *Wild Free-Roaming Horses and Burros Act of 1971*,⁴ which authorizes the agency to “protect and manage wild free-roaming horses and burros as components of the public lands, and...designate and maintain specific ranges on public lands as sanctuaries for their protection and preservation.”⁵ This Act also authorizes BLM, as well as the U.S. Forest service (USFS), to remove excess animals within management areas and protect the range from deterioration resultant from overpopulation of wild horses and burros.

Out-of-Control Population Growth

BLM recently announced that, as of March 2016, there are **67,027 wild horses and burros** currently on Western federal rangelands, a **15% increase** over estimated 2015 population figures.⁶ In 1971, the year the *Wild Free-Roaming Horses and Burros Act* became law, 27,000 wild horses and burros were estimated on the range.⁷ BLM is required to manage wild horses and burros in order to “preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area”⁸ and must maintain a “current inventory of wild horses and burros on given areas of public lands,”⁹ which are known as designated Herd Management Areas (HMAs). BLM currently manages wild horses and burros in 177 HMAs that collectively comprise 31.6 million acres of federal land across the west.¹⁰

⁴ The *Wild Free-Roaming Horses and Burros Act of 1971* (P.L. 92-195) was subsequently amended by the *Public Rangelands Improvement Act of 1978* (P.L. 95-514), the *Federal Land Policy and Management Act of 1976* (P.L. 94-579); the *Omnibus Parks and Public Lands Management Act of 1996* (P.L.104-333), and the *Fiscal Year 2005 Omnibus Appropriations Act* (P.L. 108-447).

⁵ P.L. 92-195.

⁶ [Wild Horses and Burros on Public Rangelands Now 2.5 Times Greater than 1971 when Protection Law Was Passed](#). Bureau of Land Management News Release. May, 11 2016.

⁷ [Wild Horse and Burro Program Fact Sheet](#). Bureau of Land Management. Updated May 12, 2016.

⁸ P.L. 92-195.

⁹ *Id.*

¹⁰ [Wild Horse and Burro Quick Facts](#). Bureau of Land Management. Updated June 6, 2016.

In order to achieve this objective, BLM establishes an Appropriate Management Level (AML) for each HMA, which collectively amounts to 26,715 for 2016.¹¹ The current number of wild horses and burros on rangelands managed by BLM now exceeds by 40,000 the current AML, which is defined by the Interior Board of Land Appeals as “the ‘optimum’ number of wild horses or burros which results in a thriving natural ecological balance and avoids a deterioration of the range.”¹²

The current on-range population is also “two and a half times the number of horses and burros that were estimated to be in existence when the *Wild and Free Roaming Horses and Burros Act* was passed in 1971”.¹³ Removal of animals from the range does not correlate with this explosion in population growth; in FY 2015, BLM removed just 3,819 animals from the range, a **53% reduction** in removals since FY 2012,¹⁴ and spent just 2.4% of its program budget on removals.¹⁵ BLM plans to remove 3,500 wild horses and burros in FY 2016, a figure woefully insufficient to meaningfully address rangeland impacts from existing on-range animals.¹⁶ To make matters worse, BLM estimates that herds consistently **double in size every four years**.¹⁷

This largely unchecked growth severely impacts the survivability of horses on the range as competition for food and water can lead to death, starvation, and dehydration. As a result, BLM removed 9,073 animals from the range in 24 emergency gathers from 2006-2015.¹⁸ There are also increasing cases of encroachment on private lands.

Despite both BLM and Congress going to great lengths to remove excess animals from the range in the past, the efforts have not resulted in long-term reductions. In 1984, Congress tripled the funding for BLM’s wild horse and burro program and directed the agency to triple the number of removals in 1985.¹⁹ This resulted in the removal of almost 19,000 horses in 1985 after removing just 6,000 animals in 1984. As a result, the on-range population dropped from over 60,000 to just over 44,000 by March 1986.²⁰ Between 2001 and 2004, BLM, in response to growing rangeland deterioration that resulted from long-term overpopulation of wild horses and burros, removed over 45,000 wild horses and burros from public lands. As a result, on-range populations drop from 47,376 in 2000 to 31,760 in 2005.²¹

Without additional removals or other means to check exploding populations, including fertility control, the number of animals on-range will continue to skyrocket. A 2013 National Academy of Sciences study suggested that “horse populations are growing by 15 to 20 percent each year, a level that is unsustainable for maintaining healthy horse populations as well as

¹¹ *Id.*

¹² 109 IBLA 119.

¹³ [Wild Horses and Burros on Public Rangelands Now 2.5 Times Greater than 1971 when Protection Law Was Passed](#). Bureau of Land Management News Release. May, 11 2016.

¹⁴ [Wild Horse and Burro Quick Facts](#). Bureau of Land Management. Updated June 6, 2016.

¹⁵ [Horses and Burros: Overview](#). National Horse & Burro Rangeland Management Coalition. Updated March 2016.

¹⁶ [Wild Horse and Burro Quick Facts](#). Bureau of Land Management. Updated June 6, 2016.

¹⁷ [Wild Horses and Burros on Public Rangelands Now 2.5 Times Greater than 1971 when Protection Law Was Passed](#). Bureau of Land Management News Release. May, 11 2016.

¹⁸ [Horse and Burro Well-Being](#). National Horse & Burro Rangeland Management Coalition. Updated March 2016.

¹⁹ P.L. 98-473.

²⁰ [Major Policies Governing BLM’s Wild Horse and Burro Program](#). National Horse & Burro Rangeland Management Coalition. Page 1. Updated 2016.

²¹ *Id.*

healthy ecosystems.”²² Further, that study found that BLM’s previously published population estimates are likely 20–30% below the actual on-range population numbers.²³ Since its publication, BLM claims it corrected its survey methods with the assistance of the U.S. Geological Survey.

Impacts on Rangelands

Wild horse and burro overpopulation on the range, combined with severe drought conditions in many parts of the western United States, acutely deteriorated rangeland health, riparian areas, and crucial habitat areas for other non-native and native species. Because BLM cannot control where wild horses and burros roam or graze, the animals trample soils and vegetation and over-graze, impacting available forage for many species of concern, including Greater Sage-Grouse and Bighorn Sheep.

“Sage-grouse habitats overlap with 30% of BLM horse and burro rangelands, making them susceptible to the changes in vegetation composition associated with horse and burro grazing. A decrease in grass height is directly correlated with a decrease in nest survival.”²⁴ BLM admits that “[a]s wild horse and burro populations rise, there are serious consequences for the animals and the land...Land health and habitat for sage grouse and other wildlife is being compromised.”²⁵

Wild horses and burros, particularly in overpopulated areas, significantly impact riparian areas and destroy crucial vegetative cover and soils, both of which lead to proliferation of invasive species, contaminate water, and results in desertification. “Areas with an overabundance of horses and burros have fewer plant species, lower occurrence of native grasses, higher presence of invasive species, and less vegetative cover.”²⁶

Excess wild horses and burros also compete for food and water with ungulates and many other western species due in part to wild horses’ tendency to exhibit dominant behavior towards other species: “bighorn sheep, a native species in the rangelands, avoid watering sites when horses are present. The presence of horses at a resource reduces bighorn sheep willingness to approach by 76%.”²⁷ Further, areas inhabited by excess wild horses and burros typically have fewer plant species, shrub cover, and native grasses and invite more invasive plants, which together can significantly alter the functionality of ecosystems.

Despite the explosion of wild horse and burro populations across the west, cattle grazing on BLM lands declined by 30% since 1971.²⁸ Since cattle grazing permits are based on available forage, BLM adjusts animal unit months (AUM) to prevent overgrazing, notwithstanding the proliferation of wild horses and burros on allotments. Regardless, some accuse BLM of

²² [Using Science to Improve the BLM Wild Horse and Burro Program: A Way Forward](#). National Research Council of the National Academy of Sciences. June 2013.

²³ *Id.*

²⁴ [Effects on Native Wildlife](#). National Horse & Burro Rangeland Management Coalition. Updated March 2016.

²⁵ [Wild Horse and Burro Program Fact Sheet](#). Bureau of Land Management. Updated May 12, 2016.

²⁶ [Effects on Native Wildlife](#). National Horse & Burro Rangeland Management Coalition. Updated March 2016.

²⁷ *Id.*

²⁸ [Rangeland Ecosystem](#). National Horse & Burro Rangeland Management Coalition. Updated March 2016.

removing wild horses to make room for more cattle grazing on public rangelands. Further conflicts between wild horses and burros and cattle on federal allotments typically favor the former, as horses can “consume 1.25 times the amount of forage than a cow of equivalent mass.”²⁹

Short & Long-term Holding

As of May 2016, there were 45,458 wild horses and burros living in BLM off-range holding facilities, either in eco-sanctuaries, short-term corrals or long-term pastures, a number nearing the total carrying capacity of all BLM off-range holding facilities (58,519 animals).³⁰ At more than \$49 million in FY 2015,³¹ off-range holding takes up roughly 66% of BLM’s total program budget.³² To make matters worse, costs are increasing; many BLM contracts to use third party venter-owned corrals and pastures recently expired or will expire in the coming months, and the agency anticipates that holding costs in renewed contracts will increase significantly.

Further, BLM projects that the “cost of caring for a horse in a corral facility is nearly \$50,000 over the life of the animal,”³³ which equates to more than a billion dollars based on the existing number of animals in holding.³⁴ Recent declines in adoptions (see *Adoption* below) compound these issues since BLM only removes as many horses as can be adopted.³⁵ While additional on-range gathers would help restore ecological balance on the range and allow other multiple-uses within HMAs, the high costs of short and long-term holding disincentivizes BLM from doing so.

Last week, Rep. Chris Stewart (R-UT) successfully added an amendment regarding wild horse and burro transfer in the Appropriations Committee markup of the FY 2017 Department of Interior and U.S. Environmental Protection Agency Appropriations bill.³⁶ The amendment would allow BLM to transfer wild horses and burros as work animals to federal, state and local agencies and is consistent with language in BLM’s FY 2017 budget justification. If passed, this authority could do much to alleviate the number of animals currently in BLM corrals and pastures and reduce long-term holding costs.

Adoption

Despite dramatic increases in off-range populations and the growing number of animals currently in holding, adoption of wild horses and burros declined steeply in recent years. While BLM facilitated the adoption of over 231,000 animals since 1971, over the last 20 years, horse

²⁹ [Myths and Facts](#). National Horse & Burro Rangeland Management Coalition.

³⁰ [Wild Horse and Burro Quick Facts](#). Bureau of Land Management. Updated June 6, 2016.

³¹ *Id.*

³² [Taxpayer Dollars](#). National Horse & Burro Rangeland Management Coalition. Updated March 2016.

³³ [FY 2017 Budget Justification](#). Bureau of Land Management. Page I-2.

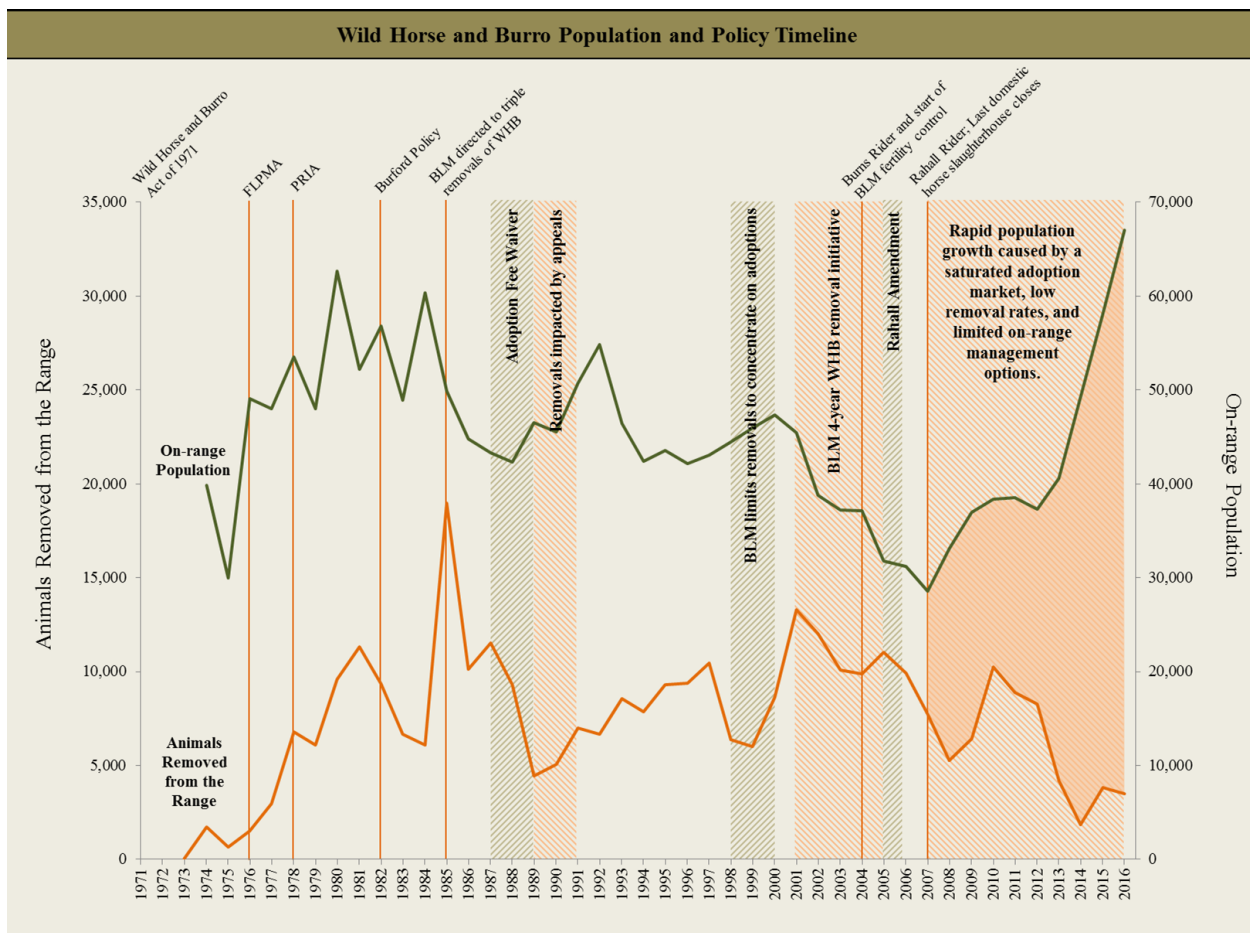
³⁴ [Wild Horses and Burros on Public Rangelands Now 2.5 Times Greater than 1971 when Protection Law Was Passed](#). Bureau of Land Management News Release. May, 11 2016.

³⁵ *Id.*

³⁶ [Party-line vote sends Interior-EPA bill to the House floor](#). Amanda Reilly and Scott Streater. E&E News. June 15, 2016.

adoptions declined by over 73%.³⁷ Due mainly to consumer disinterest and other economic factors, just 2,631 animals were adopted into private care in FY 2015.³⁸

Over the years, BLM took several actions to increase adoptions. For example, in 1987, BLM waived adoption fees for two years and the “number of adoptions increases from 7,600 in 1986 to 12,776 in 1987 (the highest level in the history of the program) and 10,646 in 1988 before dropping back down to 5,220 in 1989.”³⁹ Between 1998 and 1999, BLM limited removals and focused program resources on adoptions in order to move as many animals as possible out of long-term holding.⁴⁰ Despite these actions, waning consumer demand in adoptions continues. Even if BLM increased adoptions to 1995 levels (roughly 9,700 adoptions⁴¹), it would not be near enough to relieve the number of animals in off-range care, in addition to those that need to be removed from the range.



Source: National Horse & Burro Rangeland Management Coalition. December 2016.

BLM Authority to Sell and Destroy Animals

³⁷ [Wild Horse and Burro Program Fact Sheet](#). Bureau of Land Management. Updated May 12, 2016.

³⁸ [Wild Horse and Burro Quick Facts](#). Bureau of Land Management. Updated June 6, 2016.

³⁹ *Major Policies Governing BLM’s Wild Horse and Burro Program*. National Horse & Burro Rangeland Management Coalition. Page 1. Updated 2016.

⁴⁰ *Id.* Page 2.

⁴¹ [Wild Horse and Burro Program Fact Sheet](#). Bureau of Land Management. Updated May 12, 2016.

BLM's authority to sell wild horses and burros removed from the range has and remains a controversial topic. The FY 2005 Omnibus Appropriations Act authorized BLM to sell excess wild horses and burros if "the excess animal is more than 10 years of age; or the excess animal has been offered unsuccessfully for adoption at least 3 times" and allowed for sales to continue until "all excess animals offered for sale are sold; or the appropriate management level...is attained."⁴² This law made roughly 8,400 animals eligible for sale; since its passage BLM sold more than 5,900 horses and burros, including 267 in FY 2015.⁴³ Nonetheless, it remains BLM policy "not to sell or send any wild horses or burros to slaughterhouses or to 'kill buyers'."⁴⁴ In addition, language in subsequent Appropriations Acts prohibits BLM or its contractors from selling wild horse and burros that result in their destruction or processing into commercial products.⁴⁵ While additional sales would allow for more removal of animals from the range and significantly reduce holding costs, many animal rights' groups staunchly oppose the practice due to concerns that buyers would slaughter or inhumanely treat sold animals.

The *Wild Free-Roaming Horses and Burros Act of 1971* authorizes federal agencies to destroy "old, sick, or lame animals ...in the most humane manner possible" and "excess wild free-roaming horses and burros for which an adoption demand by qualified individuals does not exist...in the most humane and cost efficient manner possible."⁴⁶ In 2008, the Government Accountability Office (GAO) concluded that "by not destroying or selling animals without limitation, the BLM was not in compliance with the requirements of the Wild Free-Roaming Horses and Burros Act of 1971."⁴⁷ In that report, GAO recommended that BLM should "inform Congress of its concerns with (1) the act's requirement for the humane destruction of excess animals and (2) the possible slaughter of healthy horses if excess animals are sold without limitation, under certain circumstances, as the act requires."⁴⁸

Fertility Control

In 2004, BLM and Humane Society of the United States initiated a program to develop fertility control methods for wild horses and burros. The program resulted in a slight decrease in population growth rates, but due to the difficulty in broadly sterilizing tens of thousands of animals, has not resulted in significant population reductions on the range.⁴⁹

Today, BLM uses a fertility control vaccine called *porcine zona pellucida* (PZP). Effective sterilization would reduce removals from the range, the number of animals in short and long-term holding, and associated costs for both. Unfortunately, despite predictions the vaccine would result in long-term sterilization, the drug is only effective for roughly 22 months.⁵⁰ While

⁴² P.L 108-447.

⁴³ [Wild Horse and Burro Quick Facts](#). Bureau of Land Management. Updated June 6, 2016.

⁴⁴ *Id.*

⁴⁵ *Major Policies Governing BLM's Wild Horse and Burro Program*. National Horse & Burro Rangeland Management Coalition. Page 2. Updated 2016.

⁴⁶ P.L. 92-195 and 43 U.S.C. 1908.

⁴⁷ [Effective Long-Term Options Needed to Manage Unadoptable Wild Horses](#). Government Accountability Office. November 10, 2008.

⁴⁸ *Id.*

⁴⁹ *Major Policies Governing BLM's Wild Horse and Burro Program*. National Horse & Burro Rangeland Management Coalition. Page 2. Updated 2016.

⁵⁰ [Wild Horse and Burro Quick Facts](#). Bureau of Land Management. Updated June 6, 2016.

the initial PZP dose must be hand-injected into a wild horse or burro, a second application of PZP can be administered by darting, and is effective for only about a year.⁵¹ According to BLM, “this dart-deployed formulation is not a viable fertility-control option for most wild horse herds because of (1) the animals’ propensity to avoid human contact and (2) the vast sizes of most herd ranges, which make it difficult to locate and track individual horses.”⁵² In FY 2015, BLM applied PZP to just 469 horses.⁵³

The aforementioned 2013 NAS report found that “no highly effective, easily delivered, and affordable fertility-control methods were currently available to manage wild horse and burro population growth.”⁵⁴ Accordingly, NAS recommended that BLM research more effective and easily administered methods. BLM recently initiated another mare sterilization research study, but completion of that work has been delayed and potentially blocked altogether by a lawsuit that claims it poses safety risk to animals.⁵⁵ Regardless of progress made in the development and application of fertility controls, the use of such controls will not by itself relieve on-range populations of animals to a sustainable level to address current impacts on animals and rangeland health.

Budget Reductions and Cost Increases

In FY 2016, Congress allocated BLM \$80.5 million to administer its Wild Horse and Burro Program.⁵⁶ Disturbingly, BLM’s FY 2017 budget requests \$572,000 less for the program than its FY 2016 request.⁵⁷ According to BLM, this reduction “reflects the anticipated completion of short-term activities supported with the \$3.0 million increase provided in 2016.”⁵⁸ While BLM states it will continue “expanding the use of contraceptives and the application of spay and neuter treatments,”⁵⁹ the request to fund the entire program is not commensurate with the colossal challenges facing it.

Reviews of the BLM Program

The National Academy of Sciences reviewed BLM’s program in 2013 and found that continuation of BLM’s ‘business as usual’ practices will be expensive, unproductive, and unsustainable.⁶⁰ Specifically the report found that the program “has not used scientifically rigorous methods to estimate the population sizes of horses and burros, to model the effects of management actions on the animals, or to assess the availability and use of forage on rangelands.”⁶¹

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Major Polices Governing BLM’s Wild Horse and Burro Program*. National Horse & Burro Rangeland Management Coalition. Page 2. Updated 2016.

⁵⁶ [FY 2017 Budget Justification](#). Bureau of Land Management. Page V-1.

⁵⁷ *Id.* Page I-2.

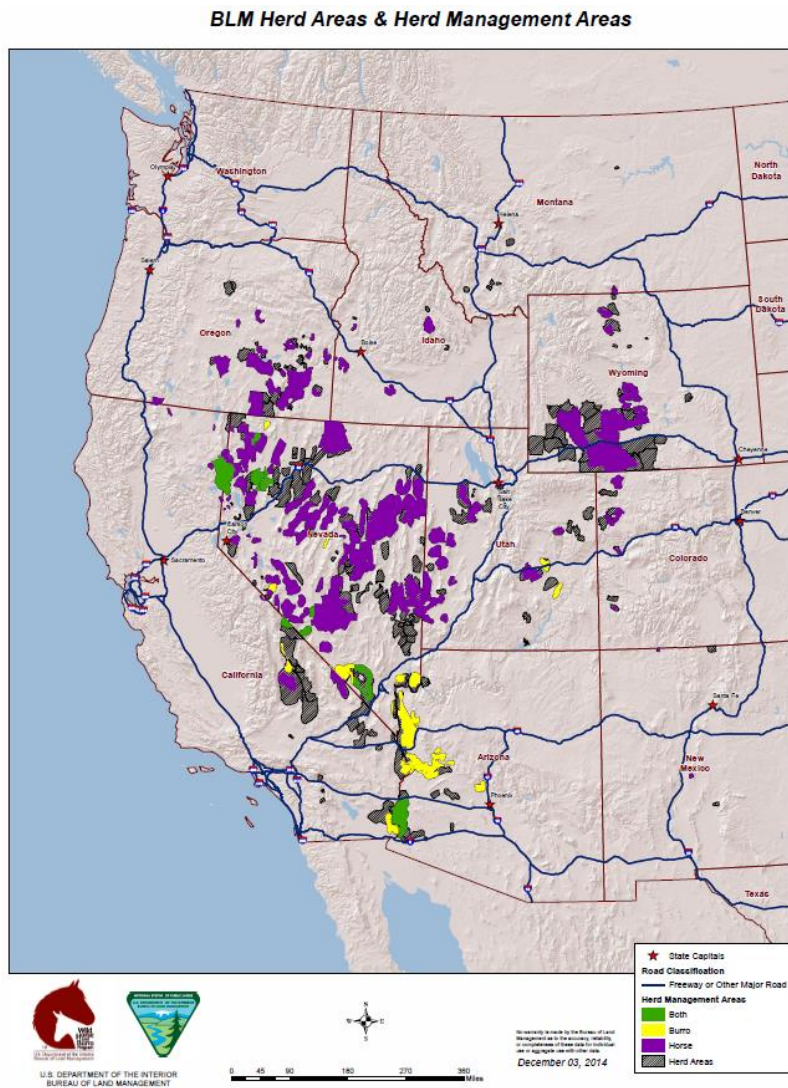
⁵⁸ *Id.* Page I-2.

⁵⁹ *Id.* Page II-7.

⁶⁰ [Using Science to Improve the BLM Wild Horse and Burro Program: A Way Forward](#). National Research Council of the National Academy of Sciences. June 2013.

⁶¹ *Id.*

In 2008, the Government Accountability Office reviewed the BLM program and made several suggestions for improvement, including: develop cost-effective alternatives to the process of caring for wild horses removed from the range in long-term holding facilities; continue to adopt and employ statistically based methods to estimate animal populations across HMAs; finalize and issue a policy for setting AML to ensure that AML is determined based on consistent factors across HMAs into the future; and identify the possible slaughter of healthy horses if excess animals are sold without limitation, under certain circumstances.⁶² While GAO asserts that BLM implemented these recommendations, many of the aforementioned issues and challenges facing the program continue to linger.



Source: BLM. December 2014.

⁶² [Effective Long-Term Options Needed to Manage Unadoptable Wild Horses](#). Government Accountability Office. November 10, 2008.