

1 JULIE CAVANAUGH-BILL, Nevada Bar No. 11533  
2 Cavanaugh-Bill Law Offices, LLC  
3 Henderson Bank Building  
4 401 Railroad Street, Suite 307  
5 Elko, Nevada 89801  
6 TEL: (775) 753-4357  
7 FAX: (775) 777-2983  
8 julie@cblawoffices.org

9 JENNIFER BEST (*pro hac vice* will be submitted)  
10 Friends of Animals  
11 Western Region Office  
12 7500 E. Arapahoe Road, Suite 385  
13 Centennial, CO 80112  
14 TEL: (720) 949-7791  
15 FAX: (888) 236-3303  
16 jennifer@friendsofanimals.org

17 *Attorneys for Plaintiff*

18 **IN THE UNITED STATES DISTRICT COURT**  
19 **DISTRICT OF NEVADA**

20 FRIENDS OF ANIMALS, a New York not-  
21 for-profit corporation,

Case No. \_\_\_\_\_

22 Plaintiff,

23 vs.

**COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

24 JILL SILVEY, in her official capacity as the  
25 Elko District Office Manager; and

26 THE UNITED STATES BUREAU  
27 OF LAND MANAGEMENT, an agency  
28 of the United States,

\_\_\_\_\_ Defendants.

## INTRODUCTION

1  
2 1. Plaintiff, Friends of Animals, files this action on its own behalf and on behalf of its  
3 adversely affected members against Jill Silvey, in her official capacity as the Elko District  
4 Office Manager and the United States Bureau of Land Management (BLM) to challenge the  
5 December 21, 2017 Record of Decision and Finding of No Significant Impact for the  
6 Antelope and Triple B Complexes Gather Plan, DOI-BLM-NV-E030-2017-0010-EA  
7 (hereinafter, "Ten-Year Wild Horse Roundup Decision"). The Ten-Year Wild Horse  
8 Roundup Decision is unprecedented in size and scope. It covers two wild horse  
9 complexes, seven herd management areas (HMAs), and over three million acres of land.  
10 The Ten-Year Wild Horse Roundup Decision authorizes rounding up and permanently  
11 removing approximately 9,525 wild horses. In addition, the Ten-Year Wild Horse  
12 Roundup Decision authorizes chemical fertility control treatments to an undisclosed  
13 number of mares; altering the natural sex ratio of wild horses on the range; and  
14 castrating an undisclosed number of stallions, some of which will be returned to the  
15 range. Finally, the Ten-Year Wild Horse Roundup Decision authorizes BLM to continually  
16 roundup, remove, drug, and castrate wild horses for ten years after the initial roundup.

17 2. The Wild Free-Roaming Horses and Burros Act (WHBA), as well as BLM's guidance  
18 documents, require that decisions to roundup wild horses be based on **current**  
19 information, and that management be at the minimal feasible level. 16 U.S.C. § 1333 (a),  
20 (b)(2). BLM must make a determination that wild horses are excess and removal is  
21 necessary prior to removing the horses. 16 U.S.C. § 1333(b). As part of removal process,  
22 BLM guidance requires that BLM provide a site-specific National Environmental Policy  
23 Act analysis for each roundup decision and provide the public with opportunity to  
24 comment on such decisions. BLM, Wild Horses and Burros Management Handbook H-  
25 4700-1 (2010).



1 advocates for the right of wild horses to live freely on public lands, and for more  
2 transparency and accountability in BLM's "management" of wild horses and burros.

3 8. Friends of Animals and its members have a significant interest in the wild horses  
4 at the Antelope and Triple B Complexes. For example, Friends of Animals' member and  
5 contributor Craig Downer, a wildlife biologist specializing in the study of wild horses and  
6 their habitats, regularly visits the Antelope and Triple B Complexes and observes and  
7 studies the wild horses that reside there. Mr. Downer has written books about wild  
8 horses, and has long evaluated the ramifications of the federal government's treatment of  
9 wild horse populations in the West. He has written articles about the benefits of wild  
10 horses to the ecosystem, including their positive role in fire suppression, as well as the  
11 impacts of the fertility control drug Porcine Zona Pellucida (PZP) on wild mares. He also  
12 personally enjoys observing wild horses. Mr. Downer's professional and recreational  
13 interest in observing, studying, and photographing the wild horses in the Antelope and  
14 Triple B Complexes would be injured if BLM proceeds with the proposed actions laid out  
15 in the Ten-Year Wild Horse Round Decision. Friends of Animals members' injuries are  
16 fairly traceable to Defendants' conduct and would be redressed by the relief sought by  
17 Friends of Animals in this case.

18 9. Defendant, the United States Bureau of Land Management, is an agency located  
19 within the Department of the Interior. The agency administers over 245 million surface  
20 acres of public lands, most of which are in twelve Western states, including Nevada. The  
21 Antelope and Triple B Complexes are located on BLM administered public land, and the  
22 agency is responsible for ensuring that federally-administered actions within the herd  
23 management areas (HMAs) comply with the requirements of all federal laws.

24 10. Defendant Jill Silvey is the Field Manager for BLM's Elko District Office. Defendant  
25 Silvey oversees wild horse management activities in the Antelope and Triple B  
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1 Complexes. Defendant Silvey authorized and signed the Ten-Year Wild Horse Roundup  
2 Decision and the corresponding Finding of No Significant Impact.

### 3 **JURISDICTION AND VENUE**

4 11. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal  
5 question). This action presents a case and controversy arising under the WHBA and  
6 NEPA, federal statutes. This Court also has jurisdiction pursuant to 28 U.S.C. § 1346, as  
7 the United States is a defendant. The relief sought is authorized by 28 U.S.C. § 2201  
8 (declaratory judgment) and 28 U.S.C. § 2202 (injunctive relief).

9 12. Venue properly lies in this Court pursuant to 28 U.S.C. § 1391(e). A substantial  
10 part of the events giving rise to these claims occurred in this judicial district, as the  
11 challenged Decision Record was issued by BLM’s Elko District Office, which is located in  
12 this judicial district.

### 13 **STATUTORY BACKGROUND**

#### 14 **A. Wild Free-Roaming Horses and Burros Act.**

15 13. In 1971, Congress passed the Wild Free-Roaming Horses and Burros Act  
16 (WHBA), 16 U.S.C. §§ 1331 *et seq.*, finding that “wild free-roaming horses and burros are  
17 living symbols of the historic and pioneer spirit of the West; that they contribute to the  
18 diversity of life forms within the Nation and enrich the lives of the American people; and  
19 that these horses and burros are fast disappearing from the American scene.” Upon  
20 finding this, Congress stated its policy was that “wild free-roaming horses and burros  
21 shall be protected from capture, branding, harassment, or death, and to accomplish this  
22 they are to be considered in the area where presently found as an integral part of the  
23 natural system of public lands.” 16 U.S.C. § 1331.

24 14. The WHBA requires BLM to “protect and manage wild free-roaming horses and  
25 burros as components of the public lands . . . in a manner that is designed to achieve and  
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1 maintain a thriving, natural ecological balance on the public lands.” 16 U.S.C. §1333(a).  
2 Additionally, the WHBA requires management of wild horses and burros to be at “the  
3 minimal feasible level.” *Id.*

4 15. To do so, for each HMA, BLM must: (1) maintain a current inventory of wild horses  
5 in the management area, (2) “determine [the] appropriate management level” of wild  
6 horses that the HMA can sustain (i.e., the AML), and (3) determine the method of  
7 achieving the designated AML and managing horses within it. 16 U.S.C. § 1333(b)(1); 43  
8 C.F.R. §§ 4710.2, 4710.3-1. An AML, according to BLM’s Wild Horses and Burros  
9 Management Handbook, is “expressed as a population range within which [wild horses]  
10 can be managed for the long term” in a given HMA without resulting in rangeland  
11 damage.

12 16. BLM must manage wild horses as self-sustaining populations of healthy animals in  
13 balance with other uses and the productive capacity of their habitat. 43 C.F.R. § 4700.0-  
14 6(a).

15 17. BLM’s management activities affecting wild horses shall be undertaken with the  
16 goal of maintaining wild horses and burros on public lands. 43 C.F.R. § 4700.0-6(c).

17 18. In limited circumstances, the WHBA allows the removal of wild horses. However,  
18 prior to gathering or removing any wild horses from the range, the WHBA requires BLM  
19 to make a determination that: (1) “an overpopulation [of wild horses] exists on a given  
20 area of the public lands,” and (2) “action is necessary to remove excess animals.” 16 U.S.C.  
21 § 1333(b)(2).

22 19. The WHBA defines the term “excess” as animals that “must be removed from an  
23 area in order to preserve and maintain a thriving ecological balance and multiple-use  
24 relationship in that area.” 16 U.S.C. § 1332(f).

1           20. The WHBA mandates that when BLM is making a determination about whether an  
2 overpopulation exists and action should be taken to remove excess animals it should  
3 consult with various individuals. For example, BLM should consult with individuals  
4 independent of Federal and State government as have been recommended by the  
5 National Academy of Sciences, and others that it determines have scientific expertise and  
6 special knowledge of wild horse and burro protection, wildlife management and animal  
7 husbandry as related to rangeland management. 16 U.S.C. § 1333.

8           21. BLM's Wild Horses and Burros Management Handbook explains that:

9                   Before issuing a decision to gather and remove animals, the authorized officer shall  
10 first determine whether excess [wild horses] are present and require immediate  
11 removal. In making this determination, the authorized officer shall analyze grazing  
12 utilization and distribution, trend in range ecological condition, actual use, climate  
13 (weather) data, current population inventory, wild horses and burros located  
14 outside the HMA in areas not designated for their long-term maintenance and other  
15 factors such as the results of land health assessments which demonstrate removal  
16 is needed to restore or maintain the range in a [thriving, natural ecological balance].

17 BLM, Wild Horses and Burros Management Handbook H-4700-1 (2010) at 19.

18           22. BLM's regulations provide that it can close public lands to grazing use by all or a  
19 particular kind of livestock "if necessary to provide habitat for wild horses or burros, to  
20 implement herd management actions, or to protect wild horses or burros from disease,  
21 harassment or injury." 43 C.F.R. § 4710.5.

22 **B.       The National Environmental Policy Act.**

23           23. NEPA is our nation's basic charter for environmental protection.

24           24. Congress enacted NEPA for two central purposes. First, Congress sought to ensure  
25 that all federal agencies examine the environmental impacts of their actions before acting.  
26 Second, Congress sought to provide the public with a statutory means to be informed about,  
27 and to comment on, the environmental impacts of proposed agency actions. NEPA requires  
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1 federal agencies to analyze the environmental impact of a particular federal action before  
2 proceeding with that action. *See* 42 U.S.C. § 4332(2)(C).

3 25. Accordingly, before a federal agency can act in a way that significantly affects the  
4 quality of the human environment, NEPA requires the acting agency to prepare a detailed  
5 environmental impact statement (EIS) that discusses, among other things: “(i) the  
6 environmental impact of the proposed action, (ii) any adverse environmental effects  
7 which cannot be avoided should the proposal be implemented, [and] (iii) alternatives to  
8 the proposed action.” 42 U.S.C. § 4332(2)(C).

9 26. Whether an agency action is “significant” enough to require preparation of an EIS  
10 involves “considerations of both context and intensity.” 40 C.F.R. § 1508.27. The context  
11 of the action includes factors such as “society as a whole (human, national), the affected  
12 region, the affected interests, and the locality.” 40 C.F.R. § 1508.27(a). Intensity “refers to  
13 the severity of the impact” and requires BLM to consider several factors including:  
14 impacts of the action, unique characteristics of the geographic area, the degree to which  
15 environmental effects of the proposed action are highly controversial; the degree to  
16 which the action may have a precedential effect; the degree to which possible effects of  
17 the action are highly uncertain or involve unique or unknown risks; whether the action is  
18 related to other actions with individually insignificant but cumulatively significant  
19 impacts; and the degree to which the action may have an adverse effect on threatened  
20 species or their critical habitat. 40 C.F.R. § 1508.27(b).

21 27. The EIS is the cornerstone of NEPA. An EIS is required for all “major Federal  
22 actions significantly affecting the quality of the human environment.” 42 U.S.C. §  
23 4332(2)(C). The requirement to prepare an EIS is broad and intended to compel agencies  
24 to take seriously the potential environmental consequences of a proposed action.  
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1       28. Agencies may prepare an Environmental Assessment (EA) to determine whether  
2 a proposed action requires preparation of an EIS or warrants a finding of no significant  
3 impact.

4       29. An EA must take a “hard look” at the potential consequences of agency actions  
5 and provide enough evidence and analysis for determining whether to prepare an EIS.  
6 Agencies must involve the public, to the extent practicable, in preparing this assessment.  
7 40 C.F.R. § 1501.4(b).

8       30. If the agency decides the impacts are not significant, it must supply a convincing  
9 statement of reasons why, and make its finding of no significant impact available to the  
10 public. 40 C.F.R. § 1501.4(e).

11       31. A significant effect may exist even if the federal agency believes that on balance  
12 the effect will be beneficial. 40 C.F.R. §1508.27(b)(1).

13       32. Whether in an EA or EIS, an agency must adequately evaluate all potential  
14 environmental impacts of the proposed action. *See* 42 U.S.C. § 4332(2)(C). To meet this  
15 obligation, the federal agency must identify and disclose to the public all foreseeable  
16 impacts of the proposed action, including direct, indirect, and cumulative impacts. *See id.*  
17 § 4332(2); *see also* 40 C.F.R. §§ 1508.7-1508.8.

18       33. After preparing an EA or EIS, an agency may not simply rest on the original  
19 document. The agency must gather and evaluate new information that may alter the  
20 results of its original environmental analysis, and continue to take a hard look at the  
21 environmental effects of its future planned actions. *See Friends of the Clearwater v.*  
22 *Dombeck*, 222 F.3d 552, 557 (9th Cir. 2000).

23       34. BLM directives state that an appropriate NEPA analysis and issuance of a decision  
24 is required prior to removing wild horses. BLM Manual 4720.2.21, 4720.3 (“[T]he  
25 authorized officers shall conduct an appropriate site-specific analysis of the potential  
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1 environmental impacts that could result from implementation of a proposed gather in  
2 accordance with [NEPA].”)

3 35. BLM’s guidance documents also specify that a key element of its analysis will be to  
4 make a determination of whether excess wild horses or burros are present that require  
5 immediate removal. BLM, Range Management Manual 4720, Removal of Excess Wild  
6 Horses at 7.

7 36. BLM’s guidelines specify that it should not issue roundup decisions more than  
8 seventy-six days prior to the proposed start date of a specific roundup. BLM, Wild Horses  
9 and Burros Management Handbook H-4700-1 (2010) at 45, 48.

## 10 **FACTUAL ALLEGATIONS**

### 11 **A. The Antelope and Triple B Complexes.**

12 37. The roundup area for the Ten-Year Wild Horse Decision is located in southeastern  
13 Elko County and northern White Pine County in Nevada. The area contains the Antelope  
14 HMA, Antelope Valley HMA, Goshute HMA, Spruce-Pequop HMA (collectively, “the  
15 Antelope Complex”), and the Triple B HMA, Maverick-Medicine HMA, and Cherry Springs  
16 Wild Horse Territory (collectively, “the Triple B Complex”).

17 38. The Antelope and Triple B Complexes are within the administrative boundaries of  
18 BLM’s Ely and Elko Districts.

19 39. The Antelope and Triple B Complexes consist of approximately 2,815,664 acres.

20 40. The roundup area for the Ten-Year Wild Horse Roundup Decision includes  
21 approximately 3,870,919 acres.

22 41. In 1971, when Congress passed the WHBA, wild horses were present in or near  
23 the area now designated as the Antelope and Triple B Complexes.

1 42. BLM originally established an appropriate management level (AML) for the  
2 Antelope and Triple B Complexes as 899 to 1,678 wild horses (427 to 789 in the Antelope  
3 Complex and 472 to 889 in the Triple B Complex).

4 43. According to BLM, the estimated population of wild horses within the Antelope  
5 and Triple B Complexes is 9,525 wild horses based on population inventories conducted  
6 in February 2016 and March 2017, and based on an assumed twenty to twenty-five  
7 percent annual growth rate.

8 **C. Environmental Review for the Ten-Year Roundup Decision.**

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10 44. A preliminary Antelope and Triple B Complexes Gather Plan EA (Preliminary EA)  
11 was made available for public review from July 21, 2017 to August 21, 2017.

12 45. The preferred alternative (Alternative A) identified in the Preliminary EA was to  
13 roundup and remove approximately 6,737 wild horses over a ten-year period, utilize  
14 population fertility control treatments (including PZP and Gonacon), adjust the sex ratio  
15 of wild horses in the HMAs, and manage a portion of the male population as geldings.

16 46. The alternatives, other than the no action alternative, contained only slight  
17 variations regarding fertility control (Alternative B would not include a non-reproducing  
18 (i.e., gelding) portion of the population and Alternative C would not utilize fertility  
19 control).

20 47. All three action alternatives included the roundup and removal of over 6,000 wild  
21 horses from the Antelope and Triple B Complexes.

22 48. BLM received over 4,940 comment submissions during the public comment  
23 period.

24 49. Friends of Animals and other commented that BLM failed to consider a reasonable  
25 range of alternatives.

1           50. Friends of Animals suggested BLM consider three reasonable alternatives  
2 including: reevaluating the AML; adjusting the forage allocated to cattle and sheep; and  
3 allowing natural controls, including the protection of predators.

4           51. Friends of Animals and others commented on the controversial impacts and  
5 unknown risks associated with fertility controls and gelding wild horses.

6           52. Friends of Animals and others commented on the inadequate analysis of the  
7 impact of the proposed action.

8           53. Friends of Animals and others commented that BLM failed to fully consider the  
9 impacts of the proposed action and alternatives on the genetic viability of wild horses in  
10 the Antelope and Triple B Complexes.

11           54. Friends of Animals and others commented that BLM failed to fully consider the  
12 impacts of fertility control measures.

13           55. Friends of Animals and others commented that BLM failed to fully consider the  
14 impacts of castrating wild horses.

15           56. Friends of Animals and others commented that BLM failed to fully consider the  
16 positive impacts of wild horses on the environment, and the impact of the no action  
17 alternative.

18           57. On December 21, 2017, BLM issued the Ten-Year Wild Horse Roundup Decision, a  
19 final environmental impact statement (Final EA), and a Finding of No Significant Impact.

20           58. The Ten-Year Wild Horse Roundup Decision authorized the removal of the  
21 majority of wild horses, over 9,000, from in and around the Antelope and Triple B  
22 Complexes.

23           59. In the Final EA, BLM did not consider the alternatives proposed by Friends of  
24 Animals.

1           60. In the Final EA, BLM did not consider any additional alternatives from the  
2 Preliminary EA.

3           61. The Ten-Year Wild Horse Roundup Decision authorizes BLM to remove over  
4 ninety percent of the wild horses currently residing in and around the Antelope and  
5 Triple B Complexes.

6           62. The Ten-Year Wild Horse Roundup Decision authorizes BLM to manage wild  
7 horses for a core breeding population of only 899 wild horses across over 2,815,664  
8 acres.

9           63. A BLM sponsored report by the National Research Council suggests that a  
10 population closer to 5,000 may be necessary to avoid inbreeding depression and other  
11 diseases.

12           64. Under the Ten-Year Wild Horse Roundup Decision, all of the HMAs in the Antelope  
13 of Triple B Complexes will be managed at levels below the recommendation of the  
14 National Research Council to avoid inbreeding depression and other diseases.

15           65. The Final EA did not include any genetic reports on the wild horses in the  
16 Antelope and Triple B Complexes.

17           66. The Final EA did not include any information about the cumulative impacts of past  
18 roundups and proposed future roundups on the genetic variability and viability of the  
19 wild horses in the Antelope and Triple B Complexes.

20           67. The Final EA did not take a hard look at the impact of the proposed action on the  
21 genetic viability of wild horses in the Antelope and Triple B Complexes.

22           68. The Ten-Year Wild Horse Roundup Decision authorizes continued use of fertility  
23 control treatments including PZP and Gonacon.

24           69. The impacts from PZP and GonaCon are controversial and involve unique and  
25 unknown risks.  
26

1           70. The Final EA concluded that PZP contraception appears to be temporary and  
2 reversible, and does not appear to cause out-of-season births.

3           71. However, there are several studies to cast serious doubt on BLM's conclusion  
4 about fertility controls.

5           72. There are several studies that fertility control treatments may cause irreversible  
6 sterility in mares. Moreover, the most recent and reliable data indicate that these fertility  
7 controls could also cause out of season births, band instability, and a general decline in  
8 immune function.

9           73. Additionally, GonaCon could cause abscesses at the injection site, negative impacts  
10 on organ systems outside the reproductive system, and long-term health effects.

11           74. Substantial disputes exists as to the size, nature, and effect of the fertility control  
12 measures approved in the Ten-Year Wild Horse Roundup Decision.

13           75. The Final EA failed to take a hard look at the impacts of administering fertility  
14 control as authorized in the Ten-Year Wild Horse Roundup Decision.

15           76. The Ten-Year Wild Horse Roundup Decision authorizes castrating up to fifty  
16 percent of the stallions returned to the HMAs in the Antelope and Triple B Complexes.

17           77. The impacts from castrating, or gelding wild horses are also controversial and  
18 involve unique and unknown risks.

19           78. A potential disadvantage of both surgical and chemical castration is loss of  
20 testosterone and consequent reduction in or complete loss of male-type behaviors  
21 necessary for maintenance of social organization, band integrity, and expression of a  
22 natural behavior repertoire.

23           79. Castration harms individual horses by altering their natural behavior and  
24 changing their social standing within the herd.

1 80. Castrating can also cause hemorrhages, infection, hydrocele (fluid accumulation),  
2 evisceration and/or death.

3 81. Castrating older horses also poses increased risks to the horses.

4 82. Castrating wild horses compromises the horse's ability to survive on the range.

5 83. Castrating a portion of the wild horses is not effective means of controlling the  
6 population growth.

7 84. Castrating wild horses is not management at the minimal feasible level.

8 85. BLM has never before released castrated stallion on the range as a population  
9 management strategy.

10 86. The Final EA did not take a hard look at the impacts of castrating wild horses and  
11 returning them to the range.

12 87. The Final EA did not consider scientific information about the positive impacts of  
13 wild horses, including that wild horses help spread and fertilize seeds over large areas,  
14 prevent fires, and can benefit ecosystems.

15 88. The Final EA did not take a hard look at the potential for wild horses to self-  
16 regulate their populations.

17 **D. BLM's Authorization to Remove Wild Horses.**

18  
19 89. Prior to making the Ten-Year Wild Horse Roundup Decision, BLM did not analyze  
20 grazing utilization and distribution, trends in ecological conditions, actual use, and  
21 climate data.

22 90. Range conditions, wild horse numbers, and the appropriate management level can  
23 change each year.

24 91. BLM does not have information that removal is necessary throughout the term of  
25 Ten-Year Wild Horse Roundup Decision.

1 92. BLM's Ten-Year Wild Horse Roundup Decision is based on AMLs established in the  
2 1985 Wells Resource Management Plan and the 2008 Ely Resource Management Plan.

3 93. The Wells Resource Management Plan and Record of Decision, approved July 16,  
4 1985, requires the monitoring of management determinations in the Resource  
5 Management Plan, including determinations regarding wild horses, be reviewed at a  
6 minimum of five-year intervals.

7 94. More than five years has passed since the Wells Resource Management Plan was  
8 approved.

9 95. BLM has not recalculated the AML for HMAs under Wells Resource Management  
10 Plan in the past five years.

11 96. In August 1993, the Wells Resource Management Plan Wild Horse Amendment  
12 and Decision Record was approved and provided that management determinations for  
13 HMAs within the Wells Resource Area of the Elko District should be monitored annually  
14 and re-evaluated at least every five years.

15 97. More than five years has passed since the Wells Resource Management Plan Wild  
16 Horse Amendment and Decision Record.

17 98. BLM has not re-evaluated the AMLs for HMAs under the Wells Resource  
18 Management Plan in the last five years.

19 99. The Wells Resource Management Plan Wild Horse Amendment and Decision  
20 Record provides that adjustments in herd numbers will be based on annual monitoring  
21 and grazing allotment evaluations. ‘

22 100. BLM has not adjusted herd numbers based on annual monitoring and  
23 grazing evaluations.

24 101. The Ely District Record of Decision and Approved Resource Management  
25 Plan (2008) requires the monitoring of management determinations in Resource  
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1 Management Plans, including determinations regarding wild horses, on a continual basis  
2 with formal evaluations every five years, or more frequently if appropriate.

3 102. More than five years has passed since the Ely District Record of Decision  
4 and Approved Resource Management Plan.

5 103. BLM has not formally evaluated its management determinations regarding  
6 wild horses, including the wild horse AMLs for HMAs covered by the Ely Resource  
7 Management Plan in the last five years.

8 104. The Ely District Record of Decision and Approved Resource Management  
9 Plan requires BLM to adjust AMLs based on monitoring data, and to perform adjustments  
10 typically, but not exclusively, in conjunction with watershed analysis process.

11 105. BLM has not adjusted AMLs since the Ely District Record of Decision and  
12 Approved Resource Management Plan went into effect.

13 106. According to the Ely Resource Management Plan, wild horse herds should  
14 be managed for herd viability and sustainability and should consist of healthy animals  
15 that exhibit diverse age structure, good conformation, and any characteristics unique to  
16 the specific herd.

17 107. The Ten-Year Wild Horse Roundup Decision does not manage wild horses  
18 for herd viability and sustainability.

19 108. The Ten-Year Wild Horse Roundup Decision does not manage wild horses  
20 to consist of healthy animals that exhibit diverse age structure, good conformation, and  
21 any characteristics unique to the specific herd.

22 109. BLM failed to consider what qualifies as a self-sustaining, healthy  
23 population of wild horses and how the Ten-Year Wild Horse Roundup Decision would  
24 impact the health and sustainability of wild horses.  
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**CLAIMS**

**FIRST CAUSE OF ACTION**

**(APA: UNEXPLAINED DEPARTURE FROM AGENCY GUIDELINES)**

110. Friends of Animals incorporates all allegations contained in the preceding paragraphs.

111. BLM's policy mandates that BLM issue a site specific NEPA document prior to each roundup.

112. BLM's policy further mandates that a removal decision should be issued thirty-one to seventy-six days prior to removal.

113. The Ten-Year Wild Horse Roundup Decision authorizes continued roundups and removals for ten years without prior notice to the public and an opportunity to comment on future roundups.

114. Defendants did not provide any explanation for departing from BLM's policy.

115. Defendants failure to follow its own policies, without explanation, when issuing the Ten-Year Roundup Decision is arbitrary, capricious, an abuse of discretion, and not in accordance with law or required procedure, and must be set aside under the Administrative Procedure Act (APA), 5 U.S.C. § 706.

**SECOND CAUSE OF ACTION**

**(VIOLATION OF THE WILD FREE-ROAMING HORSES AND BURROS ACT)**

116. Friends of Animals herein incorporates all allegations contained in the preceding paragraphs.

117. On the above facts and legal obligations, Defendants violated the WHBA by failing to make an appropriate determination that wild horses were excess and removal is necessary prior to authorizing the permanent removal of horses over a ten-year period from the Antelope and Triple B Complexes.



1 AML; adjusting the forage allocated to cattle and sheep; and allowing natural controls,  
2 including the protection of predators.

3 125. In issuing the Ten-Year Wild Horse Roundup Decision without considering  
4 a reasonable range of alternatives, Defendants actions are arbitrary and capricious, and  
5 not in accordance with law or required procedure, in violation of the APA, 5 U.S.C. §  
6 706(2).

7 **FIFTH CAUSE OF ACTION**  
8 **(VIOLATIONS OF NEPA: FAILURE TO TAKE A HARD LOOK AT THE IMPACTS OF**  
9 **PROPOSED ACTIONS)**

10 126. Friends of Animals herein incorporates all allegations contained in the  
11 preceding paragraphs.

12 127. Defendants failed to provide a full and fair discussion of the significant  
13 environmental impacts of the Ten-Year Wild Horse Roundup Decision.

14 128. On the above facts and legal obligations, Defendants violated NEPA by  
15 failing to independently and adequately analyze the direct, indirect, cumulative, and site  
16 specific effects of the decision to continually roundup, permanently remove, castrate, and/or  
17 administer fertility control to wild horses from the Antelope and Triple B Complexes for a ten  
18 year period.

19 133. In issuing the Ten-Year Wild Hores Roundup Decision without a complete  
20 and independent analysis of the direct, indirect, cumulative, and site specific impacts of  
21 the proposed action and alternative actions, Defendants actions are arbitrary and  
22 capricious, and not in accordance with law or required procedure, in violation of the APA,  
23 5 U.S.C. § 706.

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**REQUEST FOR RELIEF**

Friends of Animals respectfully requests that this Court enter judgment providing the following relief:

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- A. Declare that Defendants' Ten-Year Wild Horse Roundup Decision violated the Wild Free-Roaming Horses and Burros Act and the Administrative Procedure Act;
  - B. Declare that Defendants' Ten-Year Wild Horse Roundup Decision and Finding of No Significant Impact violated the National Environmental Policy Act and the Administrative Procedure Act;
  - C. Enjoin any action previously authorized by Defendants' Ten-Year Wild Horse Roundup Decision at issue in this case unless and until the violations of federal law set forth herein have been corrected to the satisfaction of this Court;
  - D. Vacate and remand back to BLM the Ten-Year Wild Horse Roundup Decision;
  - E. Award Plaintiff reasonable costs, litigation expenses, and attorneys' fees associated with this litigation pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412 *et seq.*, and/or all other applicable authorities; and/or
  - F. Grant such further relief as the Court deems just and equitable.

Dated: January 24, 2018

Respectfully submitted,

/s/ Julie Cavanaugh-Bill

JULIE CAVANAUGH-BILL

Cavanaugh-Bill Law Offices, LLC

401 Railroad Street, Suite 307

Elko, NV 89801

TEL: (775) 753-4357; FAX: (775) 777-2983

julie@cblawoffices.org

/s/ Jennifer Best

JENNIFER BEST

Friends of Animals

7500 E. Arapahoe Road, Suite 385

Centennial, CO 80112

TEL: (720) 949-7791; FAX: (888) 236-3303

jennifer@friendsofanimals.org

*Attorneys for Plaintiff*