November 25, 2020

The Honorable David Bernhardt
Secretary of the Interior
Bureau of Land Management
1849 C Street NW, Rm. 5665
Washington, DC 20240
Email: exsec@ios.doi.gov

Re: Bureau of Land Management Wild Horse and Burro Program - Sterilization of mares using ovariectomy via colpotomy as a management tool

Dear Secretary Bernhardt:

While the Humane Society of the United States (HSUS) and Humane Society Legislative Fund (HSLF) support the Bureau of Land Management's (BLM) efforts to explore additional on-range solutions for the humane management of wild horses and burros, our organizations are adamantly opposed to the use of surgical sterilization in mares for the reasons outlined below and request that BLM stop using its resources to pursue surgical sterilization. Most recently, surgical sterilization is being proposed for the Confusion Herd Management Area (HMA) in Utah. We are disappointed, especially given the tight fiscal constraints that the Wild Horse and Burro Program is operating under, that the agency continues to use financial and personnel resources to pursue spaying mares using ovariectomies via colpotomy as a management tool, particularly when the BLM already has proven safe and humane fertility control vaccines that it should be using on the range[1]

We are committed to advocating that the BLM receive more funding if they use proven, safe and humane fertility control tools on the range to manage wild horses and burros in their care. We are also committed to help grow the number of tools that BLM has in its proverbial toolbox as is evidenced by our partnering with the BLM to support research by Purdue University to develop a synthetic, longer-acting formulation of the fertility control vaccine Porcine Zona Pellucida (PZP). In addition, we assist BLM in using proven, safe and humane fertility control approaches on the ground through the current feasibility study on Black Mountain Herd Management Area (HMA) in northwestern Arizona studying how the immunocontraception vaccine ZonaStat-H can be used to manage a population of wild burros. However, we urge the BLM to stop pursuing surgical sterilization on the Confusion HMA and use proven safe and humane fertility control vaccines to help stabilize the on-range population of wild horses.

BLM's Previous Pursuits into Surgical Sterilization of Mares as a Management Tool

In January 2016, the Bureau of Land Management issued a draft environmental assessment (DOI-BLM-OR-B000-2015-0055-EA) evaluating methods of sterilizing wild horse mares. The agency proposed that in conjunction with Oregon State University, they would study three surgical sterilization techniques: (1) ovariectomy via colpotomy, (2) tubal ligation, and (3) hysteroscopically guided laser ablation of the oviduct papilla. All three studies were to be conducted at the Wild Horse

[1] Decision Record for the Confusion HMA Wild Horse Gather Plan Environmental Assessment (EA) (DOI-BLM-UT-W020-2018-015-EA).

Corral Facility in Hines, Oregon, and the mares involved in the research would remain at the holding facility until the research was completed. Following the completion of the studies, the mares would be placed in BLM's adoption program.

In February 2016, HSUS submitted comments on the draft environmental assessment expressing concern with the overall humaneness of field sterilization of mares, and requesting that if the BLM were to proceed with this research that they remove the ovariectomy via colpotomy procedure from the research and study the other two procedures on domestic mares first as they are less invasive techniques. On June 27, 2016, BLM released its decision to initiate the research on all three methods. However, Oregon State University withdrew from the project and in July and August of 2016, two separate lawsuits were filed against the agency relating to this research, resulting in the agency making the decision to drop the studies in their entirety.

Two years later, in July 2018, the BLM announced a draft environmental assessment (DOI-BLM-ORWA-B050-2018-0016-EA) on wild horse spay feasibility and behavioral research. BLM, in conjunction with Colorado State University and the U.S. Geological Survey, was to study only the ovariectomy via colpotomy procedure, including looking at the post-surgery welfare aspects of sterilizing wild horses including attempting to quantify, using a pain scoring system developed for domestic horses, pain and discomfort felt by mares after their surgery. The research proposal was to be conducted at Oregon's Wild Horse Corral Facility. In June 2018, HSUS submitted comments once again opposing the ovariectomy via colpotomy procedure and requesting that the agency focus its efforts on non-invasive fertility control tools such as PZP, and research on less-invasive sterilization methods that were initially proposed in the 2016 EA.

Due to reasons not made public, Colorado State University withdrew from the research in August of 2018. Then BLM issued an updated EA on August 22, 2018 proposing to conduct the research without conducting these key equine welfare observations and without the proper oversight required under the Animal Welfare Act. As a result, in September 2018, HSUS once again submitted comments reiterating our initial comments and expressing additional concern with BLM's plans to proceed with the research without the University, which was planning to provide a professor of equine surgery and an animal welfare specialist to the research study. On September 13, 2018, BLM issued its decision record that the agency would be moving forward with the proposed action. However, on September 21, 2018, litigation was filed challenging the action and as a result the BLM dropped its planned research in November of 2018.

Surgical sterilization of mares by ovariectomy via colpotomy places mares at unnecessary risk and thus, is inhumane.

Ovariectomy via colpotomy is a procedure that surgically removes both ovaries through an incision in the vaginal canal. Ovariectomy is a major procedure that requires access to the abdominal cavity and with that comes potential complications including hemorrhage, shock, post-operative colic, peritonitis, intra-abdominal adhesions, accidental trauma to intestine or other soft tissues, abscessation or hematoma formation at the surgery site, and seroma formation at or dehiscence of incisional closures.[2]

While the National Research Council (NRC) noted in its 2013 report that ovariectomy via colpotomy lowers chances of surgical complications or infection (as opposed to Laparotomy), the NRC also

[2] Santschi EM, Troedsson MHT: How to perform bilateral ovariectomy in the mare through two paramedian incisions. AAEP Proceedings 47 (2001): 420-422; Rodgerson DH, Belknap JK, Wilson DA: Laparoscopic ovariectomy using sequential electrocoagulation and sharp transection of the equine mesovarium. Vet Surg 30 (2001): 572-579.

noted that the procedure *is not without risk to the mares involved* [3] and that stall restriction for 2-7 days is recommended to reduce the chance of evisceration, as well as monitoring for 24-48 hours for signs of internal bleeding. In fact, the post-operative complication rate has been observed to be high for ovariectomy via colpotomy. Complications can include pain and discomfort, injuries to the cervix, bladder, bowels, hemotoma, adhesions, chronic pain and evisceration.[4] It has been noted that the procedure is generally painful[5], that there is a high frequency of perioperative complications - some of which can be life-threatening[6], and complication rates can reach as high as 21%.[7]

Additionally, the NRC noted that ovariectomy via colpotomy procedure can result in serious complications to a pregnant mare and its fetus. The NRC acknowledged that if this procedure is performed on mares within the first 90 days of their pregnancy, the foal would be resorbed or aborted, and further stated that the effects of ovary removal on a pregnancy at 90-120 days is unpredictable.[8] Additionally, the BLM's 2015 expert panel noted in multiple places that performing this procedure on mares in late gestation may be challenging due to lack of access to the ovaries.[9] As many mares gathered from HMAs are pregnant when gathered, it makes little sense to pursue a tool that cannot be used on the majority of those mares because it will have untenable results on the life of the foal in utero. This is simply inhumane, for both the mare and foal, as well as impractical from a management perspective.

The NRC review of the original Oregon research proposals acknowledged that care requirements typically followed will not be feasible in wild mares, stating that domestic mares are typically cross-tied to keep them standing for 48 hours post-surgery to prevent evisceration through the incision, which would not be possible with free-ranging mares, and noted that it is likely that as a result, the fatality rate may be higher than what has been observed in domestic mares.[10]

These risks show that ovariectomy via colpotomy is a complicated and risky procedure to perform on wild mares which would place the mares at unnecessary risk. Further, the Review Committee for the Oregon study itself acknowledged that the Ovariectomy via colpotomy is both risky and painful, and believed this research to be unnecessary.[11] As such, the HSUS and HSLF have objected to this procedure since 2015 as the possibility of post-surgical complications are simply too high.

Even if ovariectomy via colpotomy procedures could be done in a humane manner, it cannot be done on a scale that will be useful to the BLM in managing wild horses and burros.

Even if the research supported the use of ovariectomy via colpotomy, there is simply a lack of veterinarians who are trained on the ovariectomy via colpotomy procedure on domestic (let alone wild) mares for this to be used on a scale that would be useful for BLM. Not only will this lack of

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[3] National Research Council. 2013. Using Science to Improve the BLM Wild Horse and Burro Program: A Way Forward. Washington, DC: The National Academies Press. https://doi.org/10.17226/13511. [Hereinafter "NAS"], at 98.
[4] Loesch D.A., and D.H. Rodgerson. 2003. Surgical approaches to ovariectomy in mares. Continuing Education for Veterinarians. 25:862-871.
[5] https://thehorse.com/14853/ovariectomy/.
[6] https://www.vetstream.com/treat/equis/technique/ovary-colpotomy.
[7] Hooper RN, Taylor TS, Varner DD, et al: Effects of bilateral ovariectomy via colpotomy in mares: 23 cases (1984-1990). J Am Vet Med Assoc 203.7 (1993): 1043-1046.
[8] National Research Council. 2013. Using Science to Improve the BLM Wild Horse and Burro Program: A Way Forward. Washington, DC: The National Academies Press. https://doi.org/10.17226/13511.
[9] Confusion Herd Management Area Finding of No Significant Impact and Environmental Assessment [hereinafter "EA"], at 83, available at https://eplanning.blm.gov/public_projects/106367/200375094/20027607/250033809/Confusion%20HMA_DR_FONSI_EA_DR%20Letter.pdf.
[10] Id, at 105
[11] EA, at 105.

training make the procedure unfeasible for implementation as a management tool for the agency, but it will also increase complication rates in wild mares if and when the agency does attempt to pursue this procedure as a management tool – compounding the already unnecessarily high mortality and morbidity rates. For instance, in the expert review panel the BLM put together in 2015, it was noted that there is a "learning curve" to train veterinarians to pick up this procedure and the BLM adopting this procedure would mean that the agency would "need to find people who have gone through the steep learning curve," and that "when untrained people perform colpotomies there is in an increased risk that things will go wrong and sometimes things can go very wrong."[12] A case example of this can be seen in the review panel's discussion which noted that during training on donkeys, in one animal "they had trouble getting the left ovary out, after they finally succeeded, the donkey bled to death."[13] Our nation's iconic wild horses and burros should not be put at risk of harm including potential death to allow for "training" on a procedure that is unnecessary because the BLM already has effective and humane fertility control tools at its disposal that it has repeatedly failed to use to manage wild populations.

Further, while the 2015 expert panel noted "plenty of vets would be interested in learning this technique," this is belied by the fact that it appears that only one veterinarian in the country has experience performing this procedure on wild mares, two universities have pulled their support from this research in the past five years, and the BLM has been unable to secure additional support from the academic community. If the agency has been unable to maintain academic support, or find trained veterinarians who are willing to support or perform the procedure, this research is entirely unnecessary and the tool will never be viable in field settings due to the lack of trained personnel available to implement it.

As such, the HSUS and HSLF believe that due to lack of trained veterinarians, the ovariectomy via colpotomy procedure will never be able to be a practical or viable management tool, and in November 2019, over 80 members of the Humane Society Veterinary Medical Association (HSVMA) echoed similar concerns in a letter to members of Congress.[14] The BLM should abandon the notion that ovariectomy via colpotomy is a viable management tool.

It was improper for BLM to issue the Confusion HMA Gather Plan incorporating ovariectomy via colpotomy as a management tool.

On October 5, 2020, the BLM issued the Decision Record for the Confusion HMA Wild Horse Gather Plan and Finding of No Significant Impact (DOI-BLM-UT-W020-2018-015-EA). The Decision is for a 10-year wild horse gather plan focused on gathering and removing excess wild horses and spaying a proportion of the existing mare population by conducting ovariectomies via colpotomy, the most invasive of all the sterilization techniques on mares. It is improper for the BLM to have included ovariectomy via colpotomy as a management tool as the required research has not been completed to determine if this technique is safe and humane. Thus, it is unclear if BLM can meet its directives "of maintaining free-roaming behavior" 43 C.F.R. § 4700.0-6(c), as the necessary research into this has not been met.

The necessary research into ovariectomies via colpotomy has not been conducted, and therefore, this method of sterilization should not be considered a viable management tool.

BLM should not proceed with any on-range surgical sterilization projects because there is no evidence that these procedures can be conducted in a safe and humane manner on wild horses. With

[12] Notes from expert panel on wild horse spaying, BLM Nov 24, 2015.
[13] Id.
[14] HSVMA letter- attachment.

every other fertility control tool available for the use by the agency, multiple research trials have been required.

Since the 1970s, researchers have been working to develop fertility control methods for managing wild horse and burro populations, and during that time, the BLM has consistently required researchers to prove – through both captive and field trials – that the proposed methods are both safe and efficacious to use before deploying them to manage wild horse and burros.

For example, after the PZP-22 immunocontraception vaccine was shown to induce infertility in captive mares, the BLM required researchers to conduct a four-year field trial (from 2000-2004) in the Clan Alpine HMA in Nevada[15]. Despite the fact that the Clan Alpine field trial demonstrated that the vaccine was safe and effective to use, the BLM required researchers to conduct another field trial on PZP-22 in the Cedar Mountains HMA in Utah from 2008 to 2015.[16] The BLM also required researchers to conduct a multi-year field-trial on the use of the immunocontraception vaccine GonaCon™ on wild horses at Theodore Roosevelt National Park[17], and most recently required researchers to conduct a four-year captive trial on the use of a oocyte growth factor vaccine on wild mares at a holding facility in Nevada[18]

By not engaging in the same rigorous, scientific process for evaluating the safety, welfare impacts and efficacy of using this proposed surgical method on wild mares that it has consistently required from researchers working to develop other methods, the agency is creating a double standard that, at least on its face, appears to favor techniques the agency looks favorably on and creates additional hoops for those techniques it does not favor.

However, as noted above, the agency has tried unsuccessfully three times to study the feasibility of ovariectomies via colpotomy as a management tool and failed.[19] Without understanding the feasibility and risks to the well-being of these animals of this procedure due to lack of research, the BLM cannot use it for management purposes.

The use of surgical sterilization runs contrary to congressional intent and directives under the Wild Free Roaming Horses and Burros Act.

Congress passed the Wild Free Roaming Horses and Burros Act ("Wild Horses and Burros Act"), 16 U.S.C. §§ 1331–1340 in 1971, requiring that BLM "protect and manage" wild horses and burros through management activities at the "minimal feasible level." 16 U.S.C. § 1333(a). BLM's own regulations additionally require that "[w]ild horses and burros shall be managed as self-sustaining

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[15] Turner, J.W., I.K.M. Liu, D.R. Flanagan, A.T. Rutberg, J.F. Kirkpatrick. (2007). Immunocontraception in Wild Horses: One Inoculation Provides Two Years of Infertility. Journal of Wildlife Management, 71(2), 662-667. hΣps://doi.org/10.2193/2005-779.

[16] Rutberg, A., Grams, K., Turner, J.W., Hopkins, H. 2017. Contraceptive efficacy of priming and boosting does of controlled-release PZP in wild horses. Wildlife Research 44(2), 174-181, (27 April 2017). hΣps://doi.org/10.1071/WR16123.

[17] Baker, D.L., Powers, J.G., Ransom J.I., McCann, B.E., Oehler, M.W., Bruemmer, J.E., et al. (2018) Reimmunization increases contraceptive effectiveness of gonadotropin-releasing hormone vaccine (GonaCon-Equine) in free-ranging horses (Equus caballus): Limitations and side effects. PLoS ONE 13(7): e0201570. hΣps://doi.org/10.1371/journal.pone.0201570.

[18] United States Department of the Interior Bureau of Land Management. Final Environmental Assessment DOI-BLM-NV-0000-2020-0001-EA Oocyte Growth Factor Vaccine Study https://eplanning.blm.gov/public_projects/nepa/1502949/20014270/250019339/Final_EA.pdf.

[19] https://eplanning.blm.gov/public_projects/nepa/122022/172664/209807/EA_Spay2_051219_ab_with_appendices.pdf (BLM notes that the procedures needs to be studied before it can determine its feasibility as management tool: "Further study of this surgical method [ovariectomy via colpotomy] is needed to provide BLM more detailed quantification of the feasibility of this procedure as it relates to morbidity and mortality rates.").

populations of healthy animals," 43 C.F.R. § 4700.0-6(a), and that "[m]anagement activities affecting wild horses and burros shall be undertaken with the goal of maintaining free-roaming behavior." Id. at § 4700.0-6(c). As described herein, the use of ovariectomy via colpotomy runs contrary to this directive as this type of procedure has not been fully studied to ensure it maintains free-roaming behavior, is one of the most invasive forms of population management that BLM could employ, and is a waste of BLM's resources which should be directed towards administering already proven safe and humane fertility control vaccines such as ZonaStat-H, PZP-22 or GonaCon. By carrying out the sterilization plan despite its downfalls, BLM is likely acting in contravention of the Wild Horses and Burros Act.

Additionally, Congress continues to direct BLM to employ management techniques that are proven safe and humane as evidenced by the language included in the report accompanying the Fiscal Year 2020 Omnibus package directing BLM to create a management program based on "scientifically-sound, safe and humane fertility control tools excluding surgical sterilization."[20] It is clear that Congress also does not believe that surgical sterilization is a viable management tool.[21] Thus, it is improper for BLM to be using it before research has shown it is a safe and humane fertility control tool.

Conclusion

The HSUS and HSLF have spent years working with a diverse coalition of stakeholders to develop and promote the Path Forward – a proposal on the care of wild horses and burros on BLM public rangelands that offers a humane, nonlethal plan to sustainably manage wild horses and burros in the American West. This comprehensive proposal has gained traction with lawmakers across the political spectrum and it relies on safe, humane and proven on-range fertility control methods at great scale. Most importantly, it takes surgical sterilization off the table, and instead, scales up on-range fertility control initiatives using currently available tools, like ZonaStat-H, PZP-22, and GonaCon. The BLM should be using its resources to use these proven safe and humane fertility control vaccines instead of continuing to focus on surgical sterilization of mares using ovariectomy via colpotomy as a management tool.

In sum, the HSUS and HSLF remain concerned about the humaneness, feasibility, and legality of the plan to spay wild mares at Confusion HMA by conducting ovariectomies via colpotomy. We implore the BLM to abandon its plans to use surgical sterilization of mares using ovariectomy via colpotomy at Confusion HMA and focus its efforts on employing already available forms of proven safe and humane fertility control tools.

Sincerely,

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[20] Department of Interior Report accompanying H.R. 1865, Further Consolidated Appropriations Act, FY2020.
[21] See June 21, 2019 and July 17, 2019 letters signed by 30 U.S. Representatives and 8 Senators opposing the BLM's proposal to test ovariectomy via colpotomy on federally protected horses in the Warm Springs Heard Management Area (DOI-BLM-ORWA-B-050-2019-0013-EA); November 19, 2020 letter signed by 49 U.S. Representatives and 9 Senators opposing the BLM's decision to employ ovariectomy via colpotomy on federally protected horses in the Confusion Herd Management Area in Utah (DOI-BLM-UT-W020-2018-015-EA).

cc:
Casey Hammond, Assistant Secretary, DOI
Dr. David Jenkins, Assistant Director, Office of Resources and Planning, BLM
Gus Warr, Wild Horse and Burro Lead, Utah, BLM
Michael Gates, Acting District Manager, BLM