

DECISION RECORD
and
FINDING OF NO SIGNIFICANT IMPACT
White Mountain – Little Colorado
Herd Management Areas
Population Management Action and
ENVIRONMENTAL ASSESSMENT

WY-040-EA07-254
Rock Springs Field Office

SUMMARY

The Bureau of Land Management (BLM), Rock Springs Field Office, proposes to gather wild horses within the boundaries of the White Mountain and Little Colorado Wild Horse Herd Management Areas (HMAs) and any wild horses outside the HMAs. The primary purpose of the proposed action is to bring the wild horse population into a “thriving natural ecological balance”. This would be accomplished by reducing the White Mountain herd to 205 and the Little Colorado herd to 69 wild horses in their respective HMAs. This would prevent deterioration of the health and condition of the wild horses as well as the vegetative and riparian resources. The current population of wild horses within the White Mountain herd is estimated at 817 wild horses. The Appropriate Management Level (AML) for the White Mountain HMA was reestablished in the Green River Resource Management Plan (RMP) at 205–300 wild horses. The current population for the Little Colorado HMA is estimated at 182 wild horses and the RMP established the Little Colorado HMA with an AML of 69–100 wild horses. The current AML ranges are in conformance with the August 2003 Wyoming Consent Decree, an out-of-court settlement agreement between the State of Wyoming and the BLM, pertaining to the management of wild horses on public lands located within the state.

The BLM initiated public scoping on June 15, 2007. Eighteen comment letters were received from the public, which represented a wide range of viewpoints. All comments received during scoping were considered during preparation of the environmental assessment (EA). The EA was released to the public on September 24, 2007 for a 30-day review. Three-comment letters were received during the review of the analysis. These public comments on the analysis and BLM responses can be found in Appendix A of this decision. In addition, BLM has prepared an erratum for the analysis, found in Appendix B, and has updated the analysis with the changes. These changes are reflected in **bold** type.

SUMMARY OF PROPOSED ACTION

The Proposed Action is to gather approximately 80% (654 wild horses) of the current estimated wild horse population within the White Mountain HMA consisting of approximately 817 wild horses and to gather approximately 80% (146 wild horses) of the current estimated wild horse population within the Little Colorado HMA consisting of 182 wild horses. The total population for each HMA is based on the March 2007 survey flights, plus a 20% increase for this year’s foal

production. Of the animals gathered, approximately 612 excess wild horses in the White Mountain HMA and 113 excess wild horses in the Little Colorado HMA would be removed and shipped to BLM holding facilities in Rock Springs, WY, Canon City, Colorado, or Salt Lake City, Utah. Here the wild horses will then be prepared for adoption and/or sale to qualified individuals or sent to long term holding facilities. The projected population remaining on the range following the gather would be about 205 wild horses in the White Mountain HMA and about 69 in the Little Colorado HMA.

Of the 75 wild horses returned to the two HMAs post-gather, 50-55% would be studs (35-40) with the remainder mares (35-40). All the mares released would be subject to fertility control experimentation research protocol with a two-year treatment of Porcine Zona Pellucida (PZP). Fertility control would be conducted in accordance with Standard Operating Procedures as described in Appendix II in Environmental Assessment WY-040-EA07-254.

Wild horses captured in the White Mountain and Little Colorado HMAs would be sorted by sex and age, and selective removal criteria would be utilized in determining which 75 of the captured wild horses would be returned to the range.

DECISION RECORD

As a result of the analyses presented in the EA, and to be in conformance with the 43 CFR 4700 decision process, it is our decision to select Alternative A, Remove Excess Animals (Lower Limit of AML range); Implement Two-Year Fertility Control Protocol, which authorizes:

- capture of between 654 to 695 wild horses in the White Mountain HMA, and to remove a total of approximately 612 of those wild horses. The White Mountain HMA will be gathered down to low AML of 205 wild horses.
- capture of between 146 to 155 wild horses in the Little Colorado HMA, and to remove a total of approximately 113 of those wild horses. The Little Colorado HMA will be gathered down to low AML of 69 wild horses.
- Conduct fertility control experimentation research protocol on released mares with a two-year treatment of Porcine Zona Pellucida (PZP).

All removal operations will be conducted in accordance with the Standard Operating Procedures for Wild Horse Gathers and Standard Operating Procedures for Fertility Control Treatments as defined in Appendices I and II of the associated EA.

Rationale: The gathering and removal of excess wild horses is being selected in order to ensure a “thriving natural ecological balance” as well as preserve the multiple use relationship within the White Mountain and Little Colorado HMAs immediately and over the next several years. Further, this action is needed in order to comply with the consent decree, prevent the range from deterioration associated with an overpopulation of wild horses, to maintain horse health, and to remove all wild horses residing outside the White Mountain and Little Colorado HMA boundaries. The gather operation will leave an AML of no less than 205 wild horses within the

White Mountain HMA boundary and an AML of no less than 69 wild horses within the Little Colorado HMA boundary. Due to the prolonged drought and current resource conditions, removal of excess wild horses to these levels will ensure healthy animals and progress towards meeting rangeland health standards. Immunocontraception vaccine (fertility control) was analyzed in the EA, and will be administered during this gather in order to slow the repopulation of wild horses in these HMAs.

ADMINISTRATIVE PROCEDURES

This decision is effective upon issuance in accordance with 43 CFR 4770.3(c) which states in part: "decisions ...shall be effective upon issuance or on a date established in the decision." Once the decision is final, it will be subject to appeal. If you wish to appeal this decision, as provided by 43 CFR 4770.3 and 43 CFR 4.4, you must file an appeal in writing within 30 days of this decision with the Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming 82901.

The appeal must state clearly and concisely why you think the decision is in error. Should you wish to file a motion for stay, the appellant shall show sufficient justification based on the following standards:

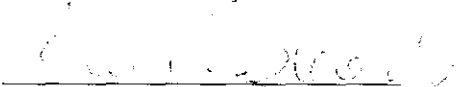
- 1) The relative harm to the parties if the stay is granted or denied.
- 2) The likelihood of the appellant's success on the merits.
- 3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- 4) Whether the public interest favors granting the stay.

If you decide to also submit a petition for stay of the decision, a copy of the notice of appeal, statement of reasons, and petition for stay should be simultaneously filed with the Office of the Field Solicitor, Rocky Mountain Region, 755 Parfet Street, Suite 151, Lakewood, Colorado, 80215.

FINDING OF NO SIGNIFICANT IMPACT

Based on the analysis presented in the environmental assessments for White Mountain and Little Colorado HMAs, EA WY-040-EA07-254, I find that the impacts to the quality of the human environment are not expected to be significant. Therefore, an environmental impact statement is not necessary.

I have reviewed my responsibilities under existing laws, regulations, policies, and land use decisions, and my decision is consistent with them.

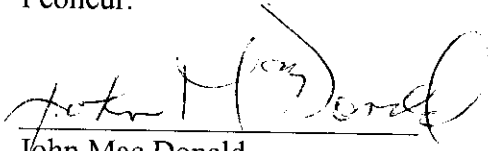


Bernard Weynand
Assistant Field Manager, Renewable Resources
Rock Springs Field Office



Date

I concur.

A handwritten signature in cursive script that reads "John Mac Donald". The signature is written in dark ink and is positioned above a horizontal line.

John Mac Donald
Acting Field Manager
Rock Springs Field Office

11.6.67
Date

**APPENDIX A
PUBLIC COMMENT AND RESPONSES**

The BLM sent out a scoping statement on June 15, 2007, describing the proposed action to gather approximately 612 wild horses in the White Mountain HMA and approximately 113 wild horses in the Little Colorado HMA. The public was encouraged to participate throughout the environmental analysis process to help in identifying the level of analysis needed, alternatives to the proposed action, other issues or concerns that should be analyzed, mitigation opportunities, and any other comments or ideas to help ensure the completeness of the analysis process.

The BLM released the White Mountain – Little Colorado Population Management Action and Environmental Assessment, WY-040-07-EA-254, to the public on September 26, 2007 for a 30-day review and comment period. Three comment letters were received in response. Comments are in italics and responses in regular font.

Wyoming Game and Fish Department

We would like to thank the BLM for addressing our concerns identified during Scoping. Since the roundup is going to occur in November, we have no terrestrial wildlife concerns pertaining to this Environmental Assessment.

Thank you for your comment.

Cindy MacDonald

Significant Impacts Regarding Inaccurate Accounting of Wild Horse Populations

The Rock Springs Field Office seems to be having a very difficult time accurately gauging wild horse populations.

The Divided Basin HMA was under counted, the Adobe Town and Salt Wells have been undercounted and now the White Mountain and Little Colorado population estimates are also being presented with severe discrepancies indicating they have been undercounted as well.

In all proposals, BLM confidently asserts the accuracy of the monitoring data, the appropriateness of the established AML, and pre-gather and post-gather population estimates.

Yet when the next census is done or the next environmental assessment is released to the public for a new management proposal, the prior figures BLM asserted with such unquestionable authority keep demonstrating that the prior information was totally inaccurate. This is a serious concern. What reasons does BLM offer as to why they believe this keeps happening?

When the White Mountain and Little Colorado HMAs were last gathered in November of 2003, BLM stated that the estimated post-gather population was 274 wild horses, 205 in the White Mountain HMA and 69 in the Little Colorado HMA.

In 2006, BLM reported a population of 295 wild horses in the White Mountain HMA. In 2007, they reported 681 through a "direct count" census. Now, with the addition of a 20% reproductive rate, the count is up to 817. That's a pretty significant discrepancy.

*How did the wild horses of the White Mountain HMA increase that much in one year?
Please address the reasons for this significant discrepancy in wild horse population numbers.*

BLM conducts census surveys prior to scheduled gathers. These surveys provide the most accurate data available in determining population numbers which in turn determines the number of wild horses that will be gathered. If the survey under counts the actual population, fewer horses would be gathered.

Though BLM states that wild horse move freely between the White Mountain HMA and the Little Colorado HMA, the population estimates don't show a dramatic increase in wild horse numbers in the Little Colorado HMA, so they could not have migrated from there, nor did many wild horses move from the White Mountain HMA into the Little Colorado HMA as their population estimates were only somewhat inflated.

This consistent lack of any sort of remote accuracy in wild horse population estimates has wide ranging impacts on public lands health, resource utilizations, accurate multiple-use management, or credibility in wild horse management.

As a result, there is significant impacts occurring to all rangeland users and to the proper maintenance of public lands health. As such, the reasons behind this consistent lack of accuracy in population estimates needs to be addressed, not only for the current proposal but to help improve effectiveness in all future public lands and resource issues.

The quality and quantity of the available forage in the Little Colorado HMA is much lower than the available forage in the White Mountain HMA. This is the reason why the AML is lower. It does not mean that the wild horses do not co-mingle between the two HMAs.

By failing to accurately gauge wild horse numbers to such a large degree, the following issues are impacted and significantly affected:

- *Wild horse populations are consistently over AML, sometimes by hundreds of wild*
- *horses, despite removal operations just being completed. This in turn causes total inaccuracy in gauging reproduction rates, ranging from projecting levels of what the reproductive rate of increase actually is within the HMAs (16%, 20%, 30%), the effectiveness of using fertility control if implemented, as well as most likely inflating reproductive rates because of failing to take into account the significant wild horse populations that actually remain after the removal operations, which causes BLM to cite a higher reproduction rate or lower mortality rate than is*

- *actually occurring. Resource utilizations are then inaccurately gauged due to hundreds of wild horses utilizing rangeland resources that are unaccounted for, which results in authorizations for livestock use becoming totally inaccurate as consumption rates now exceed acceptable standards and cause resource damage, directly violating BLM's mandates to provide good stewardship of public resources and preserve their integrity for future use. Impacts to wildlife species result because forage consumption was inappropriately allocated to livestock due to higher wild horse utilization levels resulting in significantly less resources available to properly prepare or sustain wildlife populations during harsh winter conditions.*
- *Monitoring data of wild horse use is inaccurately gauged, which in turn sets inappropriate AMLs. BLM establishes AMLs based on this monitoring data and BLM has established AMLs from data obtained on utilization levels that were deemed appropriate for a significantly greater population than BLM was aware of utilizing these resources.*
- *The failure of wild horse populations to be within the range of AML results in a direct violation of court orders and agreements that outline legal requirements for BLMs management of wild horse populations in Wyoming.*

Each and every one of these considerations has significant impacts to wild horse populations, livestock authorizations, wildlife species, habitat preservation, legal compliance on both state and national levels, direct and cumulative impacts on multiple-levels as well as budgetary impacts effecting the entire Nation.

The inaccuracy of wild horse population estimates in the White Mountain HMA is not an isolated incident but reflective of a consistent pattern being demonstrated in a variety of HMAs in Wyoming, all pointing to BLMs inability to even marginally assess the consumptive rates and population levels within any degree of accuracy.

This failure needs to be addressed with something more than, "Oops! Our bad...." time and time again or just ignoring it all together.

In addition to the inaccurate estimates of wild horses within the HMAs themselves, there is no reporting of estimated wild horse populations occurring outside the HMAs that were cited during the census flights.

This has significant impacts to removal operations and costs of implementing the removals and long-term effects to the cost of the Wild Horse & Burro Program itself.

First, if a significant population of wild horses is residing outside the HMAs, the amount of wild horses that are projected for capture and placed into the WH&B program is inaccurate and the costs of all resulting management unexpectedly increases.

Second, BLMs actions may be causing undue stress and harassment of wild horse populations due to removal operations constantly being implemented in the HMAs that are causing wild

horse populations to migrate outside of the boundaries.

For example, in the Salt Wells HMA, BLM conducted two removal operations in less than 18 months, driving and capturing hundreds of horses in the HMAs. In the spring of 2007, BLMs census reported that almost 200 wild horses were now residing outside of the HMA and this is quite possibly the direct result of being driven out by BLMs management actions.

Please include the estimated number of wild horses known to be residing outside the HMA boundaries of the White Mountain and Little Colorado HMAs so that records are available to determine population numbers.

Also, if wild horses are being driven outside HMA boundaries by BLMs actions and are not naturally occurring, then BLMs regulations regarding the removals of wild horses that reside outside HMAs are being unfairly implemented since those wild horses were driven out of their home ranges and they need to be relocated back in the HMAs to compensate for these management actions.

Since the BLM in Wyoming is required to gather to lower AML, generally gathers are scheduled in a 3-year rotation. If necessary based on post-gather census data, BLM may be required to return to the HMA before the next 3-year rotation. Use of the yearly 20% foaling increase estimate is an accepted practice in the BLM and fertility control was implemented in January 2007 in the Salt Wells Creek HMA. The Green River RMP established wild horse herd management areas and AMLs in consideration of wildlife and livestock needs. Failure by the BLM to maintain wild horse populations would be a violation of existing court orders. No horses move outside these two HMA due to barriers (i.e., highway fencing, waterways, etc).

The BLM implements precautions to prevent undo stress and harassment during gathering operations. As previously stated, the BLM in the State of Wyoming is required to gather wild horses to the lower range of AML.

Genetic Viability

White Mountain HMA

Information was provided on the results of genetic tests conducted on the White Mountain wild horse population, which stated that genetic viability was strong in the White Mountain herds. With the currently established AML, this should prove to be consistently acceptable in further genetic testing.

However, it needs to be mentioned that due to such inaccurate estimates of wild horse populations that have resulted in much higher numbers of wild horses than BLM has been aware of, the high degree of genetic viability was a direct result of a much greater gene pool than the established AML. This results in genetic tests that are inaccurate for a wild horse population being maintained at the established AMLs and basically puts the herds back at square one regarding their genetic viability.

Genetic testing is currently planned.

Little Colorado HMA

No genetic tests have been conducted on these wild horses and considering they are the smallest population of the two, testing their genetic viability should have been the first priority of these two HMAs.

Genetic tests and monitoring of the Little Colorado wild horses should be imperative, as again, the inaccurate population estimates contributed to a larger gene pool for the herds than the established AMLs, which have been established at population levels that do not support genetically viable herds according to the best available science on equine genetics.

Furthermore, Dr. Gus Cothran, who conducted the genetic tests of the White Mountain wild horses, stated that "Loss of genetic variation can occur rapidly in small populations" and he cited a "small population" as anything less than 100.

Once the BLM conducts removals again in the Little Colorado HMA, as well as again reducing the White Mountain wild horse populations that are cited as contributing to the meta-population gene pool of the Little Colorado wild horses, impacts to the genetic viability and their ability to survive and be preserved may be dramatically impacted and show rapid decline.

Genetic testing is currently planned.

While BLM cites that wild horse populations have no significant predators, obviously the areas cold temperatures and harsh winters can greatly affect population levels of all species in the area.

This is established by BLMs acknowledgement that the 74% of the pronghorn antelope population was wiped out during one particularly harsh winter and it is assumed that harsh winter conditions are the reason the Wyoming BLM does not include foals under the age of one in their estimated populations for the HMAs.

A severe winter could drastically impact the genetic viability of the Little Colorado wild horses at the established AML, especially so if it occurred right after BLM conducted removals that left a remaining population of 69 wild horses.

This could be compounded even further by the application of fertility control on the wild horse populations that could prevent recovery efforts of viable herds as well as the experimental nature of the fertility control drugs being used having unanticipated impacts to DNA and healthy reproduction that cause birth defects in young foals.

The BLM has no ability to predict future weather conditions but past experience has shown that these horses can and do survive severe winter weather conditions. Again genetic testing is planned during this gather.

Population Modeling

Please address the following issues and discrepancies used in the Population Modeling software:

a) Used an input parameter of 100% gather rates versus the Proposed Actions and Alternatives that only cited a 70-80% gather rate.

The population model is a BLM accepted tool used to estimate the effects on post gather populations. Use of the 100% parameter in the model was chosen to reflect the maximum potential impact to the herd population.

b) Under Interpretation of the Model, BLM cites using a population of 12 wild horses in the Little Colorado HMA.

The number 12 is in error and should read 182. Please see the errata in Appendix B.

c) Foals were not included in the Population Modeling inputs but they are being included in the population estimates that are triggering higher percentages of excess populations over the established AML.

The initial population number put into the model already included this year's foals, using the standard 20% increase from the spring consensus data. Thus, there was no need to use that selection when the model was run.

c)(sic) The White Mountain HMA did not use the estimated post-gather population of 205 one time in any of the trial runs presented to the public.

Please see Appendix III, page 51, item 9 of the EA.

d) The populations cited as closest to the remaining post-gather population with the use of fertility control indicated a crash in the reproduction dynamics of the wild populations cited as -6.3% and .01%.

The -6.3 and .01% reflect the lowest possible average growth rate. This particular model run also showed the 90th percentile of 11.4 and the highest trial of 14.1 average growth rate in four years. The most likely outcome would be the median trial of 7.6% average growth rate.

e) The Little Colorado HMA also did not use the estimated post-gather population of 69 in the any of the trial runs. However, two inputs in the lower trials were reasonably close in the trial runs used with the implementation of fertility control – both indicated that the wild horse reproductive dynamics would crash or severely inhibit the populations ability to reproduce through the implementation of this Proposed Action.

Please see Appendix III, page 51, item 9.

f) In the Little Colorado trial runs without the implementation of fertility control, the closest population used to the post-gather population indicated that the average growth rate, projected at 9.6% would result in the wild horse population just beginning to trigger high AML on the fifth year. Thus, no fertility control is necessary.

The respondent refers to the 10th percentile and the BLM uses the median trial which would put the population above the upper limit of AML.

*g) The No Action Alternative for the White Mountain HMA used a beginning population of 785 wild horses, 104 wild horses higher than the guidelines stated in the beginning under Interpretation of Population Modeling, which specified that the foals were not counted and the March 2007 census population would be used. Even using this inflated number, the average growth rate for the inflated population was listed as -0.1%.
Accurate program you have there. The 10th Percentile Trial Run was the closest proximity to the estimated 2007 post-foaling population and indicated a reproduction rate of 9.3% for the wild horses in the White Mountain HMA.*

The BLM uses the median trial average which would put the population above the upper limit of AML.

h) In the No Action Alternative, Little Colorado's wild horse populations were never even close to the guidelines of using the March 2007 census of 152 wild horses. The closest approximation provided was reflected in the 10th Percentile Trial Run with an estimated population of 186 (inflated by 34 wild horses) resulting in reproductive rates of 7.8%.

See response above.

i) In the No Action Alternative for the 25th Percentile Trial Run in the Little Colorado HMA, the estimated population was only increased by 3 wild horses with an input of 189 yet reproductive rates were cited as increasing by 3.5%. How did reproductive rates increase by 3.5% when there was only a difference in three wild horses?

See response above.

j) In the No Action Alternative, the Little Colorado's population under the lowest trial run was 127 wild horses – 27 wild horses over the established "high" AML. Yet the Population Modeling software indicates that reproductive rates are -1.9% for this estimated population. Does this establish the proof an AML of 100 wild horses is genetically unviable and the population will eventually crash due to BLMs establishment of these non self-sustaining numbers?

No, it does not establish any proof that the AML should be higher. It shows that reproductive rates could decrease over time if there is no gathering of wild horses.

k) Considering that the No Action Alternative showed the reproductive rates are 50% of the average reproduction rates BLM cites as occurring on wild horse populations, no implementation of fertility control is necessary as well as gather cycles can be greatly extended to 6-10 years once AML is actually achieved, based on the reproductive rates listed as occurring for the No Action Alternative wild horse population.

The BLM does not agree with the respondent's interpretation of the data.

AMLs

The BLM has stated that the appropriateness of the Little Colorado HMA was re-affirmed in the 1997 Green River Resource Management Plan.

How specifically was that established?

Based on the Rock Springs Field Offices population estimates, there have been significantly greater populations of wild horses occurring in many of the HMAs they oversee.

Obviously, something is wrong with the methods they employ to establish wild horse utilization levels of rangeland resources and AMLs can certainly be adjusted upwards based on the consistent levels of higher utilization demonstrated by actual populations than BLM was aware of.

Furthermore, much knowledge has since been gained in the field of equine genetics and genetic viability of wild horse populations since the initial AML agreements were negotiated and even within the time frame since the Green River RMP was established.

Based on the best available science, as well as the significant discrepancies in monitoring data, the AML of the Little Colorado wild horses needs to be adjusted upwards to accommodate the environmental conditions of the HMA, the inaccurate monitoring data that affirmed these AMLs as well as the best available science that has expressed "Loss of genetic variations can rapidly occur in small populations" cited as 100 or less.

BLM states that without the cooperation of the livestock operators in the area, the wild horse populations and as well as the HMAs themselves would dissolve and that it is only through their good graces that wild horses are allowed to live on public lands in Wyoming at all.

While BLM is mandated to recognize grazing as a legitimate multiple-use of public lands, may it also be said that without BLMs cooperation, the livestock operators would also have a great deal of difficulty managing their livestock. BLM has the right to exert the federal authority bestowed upon them for multiple-use applications and management on public lands – this includes viable, self-sustaining wild horse populations on those public lands managed by BLM.

BLM has been mandated to manage wild horse populations at self-sustaining numbers and there is no lack of resources to inhibit the fulfillment of this mandate nor are they under court orders

for management action in the Little Colorado HMA.

Furthermore, as I'm sure the livestock operators have long been aware of (probably the reason they began initiating lawsuits regarding BLMs wild horse management), wild horse populations have consistently been in excess of these established AMLs, their utilization of resources at these higher levels has already been occurring, the livestock operators were unaware, as was BLM, that these established AMLs poses threats to genetic viability and self-sustaining populations, and now BLM seems to be well on the path of implementing their national strategic objectives of maintaining wild horse populations at AML by conducting regular removals once the AML range has been exceeded.

All these factors support the adjustment of a higher AML for the Little Colorado wild horse population that livestock operators could live with. An increase in AML to genetically viable and self-sustaining populations with a range where the low end of AML begins at 150 within the HMA is not an excessive number in context of the resources available.

Based on the figures provided within this assessment, 40,088 AUMs are available to livestock operators in these allotments with 33,425 of these being issued from BLM while only a maximum of 1,200 AUMs have been issued for wild horse use.

The establishment of a Resource Management Plan requires BLM to follow established policies regarding wild horse management that must consider them "comparable" to other multiple-uses in land use plans. 1,200 AUMs of forage compared to 40,088 AUMs for livestock is NOT comparable, especially so when viewed in light of BLM failing to issue enough critical resources to sustain a viable wild horse population even though it was available.

Additionally, while the Taylor Grazing Act affirms livestock rights on public lands, the Federal Lands Management Policy Act also states that grazing on public lands is a "privilege" (paraphrased) and that just because BLM authorizes grazing and public resource utilizations, livestock operators are not automatically granted rights, title or interests on public lands through the authorizations of these grazing privileges.

Please see Attachment I that outlines federal laws regarding the establishment of management actions and rights on public lands with specific focus on wild horse and burro management as decreed by Public Law 92-195, the Federal Lands Management Policy Act and BLMs Code of Federal Regulations on Wild Horse and Burro Management.

Adjusting the Little Colorado wild horse AML to a range of 150-300 would keep the wild horse population at viable levels in between gather cycles with an increase in forage allocations from the maximum utilization levels now established ranging from 828-1,200 AUMs to 1,800-3,600 AUMs, which is still far, far below the allocations being given to livestock operators; still less than 10% of the available forage in the area.

This would require an 8% reduction in authorized livestock AUMs on BLM administered public lands throughout the 6 livestock grazing allotments listed as impacting the Little Colorado HMA

to increase the supporting of self-sustaining and genetically viable herds as set forth in the Green River RMP wild horse objectives.

Development of the Green River RMP provided for extensive public input before the Record of Decision was signed, reaffirmed the existing herd management areas, the establishment of the Little Colorado HMA, and their associated AMLs. This action is in conformance with and implements the decisions set forth in the RMP.

Fertility Control

Independent observations of herds treated with PZP have noted a wide variety of disturbing impacts to herd dynamics.

Some of these impacts include younger mares treated with only one injection of PZP not reproducing for several years after the injections, some finally reproduced but long after BLM stated PZPs effects would wear off, and old mares that were no longer reproducing became fertile again and began producing offspring.

Severe impacts to stallions and herd social structures have been noted as well. Natural reproduction cycles follow the path of mares coming into estrus, various mating “dances” ensuing including aggressive behavior exhibited by stallions to secure their breeding privileges and then a return to the business of survival once mares have become impregnated.

When PZP is injected, most mares do not become pregnant after coming into estrus and instead of the annual mating period being of relatively short duration, the return of the mares again and again and again to their estrus cycles has been found to cause stallions to react accordingly.

As a result, stallions are continuously and unnaturally being placed on “high alert” because the mares keep signaling it is time to mate and subjecting them to repeated attempts by stallions to fulfill nature’s “duty”.

This also has been noted to cause competing stallions to aggressively challenge the dominant band stallion, forcing him to defend his mares and breeding privileges repeatedly and excessively. Stallions become worn out, the constant battles result in a greater proportion of wounds in both frequency and severity, the wounds do not have the proper time to heal before battles begin again and even fatality was noted from this unrelenting mating cycle that can have no sense of completion due to PZPs introduction.

Additionally, some competing stallions are successful in their bid for band mares due to the former band stallion becoming worn down from the constant challenges resulting in repetitive disturbances and impacts to complex social structures and herd dynamics because the herds are being placed in a constant state of flux due to PZP triggering these wholly unnatural cycles of behavior.

While a fertility control study was cited within this proposal, it provided a rather limited scope of

the effects on wild horse populations.

The BLM in Las Vegas, NV had just recently released an environmental assessment for the Nevada Wild Horse Range that provided some pertinent information regarding the use of fertility control treatments on the wild horses within the area.

Fertility control treatments were administered to mares within the Nevada Wild Horse Range after the 2003 removal operations. The next year, BLM reported a 30% reproductive rate exhibited by the herds. As for the average effectiveness cited from administering fertility control on the wild horse population, only a 2% change in recruitment rates was noted, reducing the 24% to 22% on average.

Furthermore, BLM cited significantly higher incidents of "club-footed" wild horses with special emphasis on the current foal crop being affected. While the Las Vegas BLM was quick to provide the possibility that this was a result of a recessive gene, examining the possibility that this reaction is a result of administering experimental fertility drugs to the wild horse populations resulting in increased rates of birth defects should not be ruled out.

Considering the Little Colorado wild horse population has already had an AML established that is at risk with their genetic viability, harsh winter environmental conditions contain the possibility of severe impacts to herd populations that could potentially cause wild horse populations to crash and the experimental use of fertility control seems to indicate unforeseen problems, it is highly recommended that fertility control not be implemented on the wild horse populations within the White River and Little Colorado HMAs until further studies and research can determine its safety regarding reproduction and impacts to herd dynamics.

BLM invites the respondent to submit supporting documentation.

Wildlife

First, I would like to thank the Rock Springs Field Office for including pertinent wildlife information such as estimated populations and management objectives within the wild horse management assessment so that a proper evaluation of the multiple resources and rangeland users could be accurately assessed. However, the wildlife population numbers were overwhelming in terms of balanced multiple-use objectives. The idea that more than 400 wild horses within the two HMAs would threaten the 42,500 pronghorn (with a noted 60% dietary overlap), 31,000 mule deer, 3,900 elk and 5,400 moose was really astounding.

Throughout the assessment, BLM asserted that wild horse populations in excess of 400 individuals would begin to impact wildlife species whose total consumptive populations were cited in the tens of thousands with population objectives that have almost been achieved climaxing at 100,000 individuals and I found BLMs assertions frankly, absurd.

It is obvious that wildlife populations and management objectives are profoundly impacting viable, self-sustaining wild horse populations for the singular purpose of generating hunting

revenue at the expense of preserving the wild horse herds, a federally protected species. Requesting BLM to address this absurdity when they already have by stating that wild horse populations in excess of 400 individuals threaten these big game populations while knowing that the wild horse populations are in danger of inbreeding or crashing due to such low allowable numbers is truly stunning.

Failing to insist on viable AMLs when resources are available to support them, as BLM has been federally mandated to do, all the while citing that BLMs concerns rest only for these staggering big game populations, is a blatant admission that their federal mandates to preserve wild horses for future generations is being willfully ignored.

While other wildlife species are also cited within the environmental assessment, all of the other species listed, including vegetation of special concern, are being impacted in significantly greater degree by the sheer numbers of these big game populations than the wild horse populations could ever begin to do at their established allowable management levels.

How does BLM justify the majority of resources being consumed by livestock or big game animals through management objectives they have agreed to or authorized that results in lack of self-sustaining and genetically viable populations in the Little Colorado HMA?

Isn't BLM required to consider the needs of wild horses when establishing management plans for the HMAs? Wouldn't this include issuing forage allocations that allow the wild horse populations to thrive in self-sustaining populations?

Isn't BLM aware that a wild horse population of 100 or under can rapidly lose genetically viable populations according to our most recent and best available science?

With the mandates, laws, policies, and regulations established for required considerations and implementation in wild horse and burro management, as well as the management objectives outlined in the Green River RMP, how does BLM believe they are complying with these requirements in regards to the Little Colorado wild horses?

These two wild horse HMAs comprise a small portion of the big game herd units. For example, the HMAs occupies only a small portion (0.9%) of the Sublette Antelope Herd Unit, which encompasses 6,749,413 acres. Individually wildlife consumes less forage per animal when compared to a wild horse. The BLM is mandated to administer habitat for multiple species.

Conclusion

As this assessment strives to focus on the implementation of wild horse management as outlined in multiple documents, with the singular motive of removing "excess" populations to achieve "AML", a great deal of management requirements that have been established as necessary for BLM to adhere to before, during and after wild horse removals in relation to the management of wild horses and their federally designated habitat as a whole is being circumvented or ignored. Please address all the necessary requirements such as AML guidelines, securing of critical

resources, preserving viable populations in designated wild horse habitat and management plans that are updated on the best available science to insure the fulfillment of multiple-use mandates of public resources under BLMs administration.

Thank you for your consideration.

You're welcome.

Celeste Carlisle and Neda DeMayo, Founder, Return to Freedom

*The Wild and Free-Roaming Horse and Burro Act of 1971 states that horses and burros are "an integral part of the natural system of public lands." Indeed, page 22 of the EA states that "the public enjoys seeing wild horses roaming free in the Rock Springs Field Office areas." The alternatives listed in WY-040-EA07-254 are neither on par with the spirit nor the letter of the 1971 Act. We would recommend Alternative A – remove excess animals; implement 2-year fertility control protocol, **but only with the following clarifications:***

- The completion of an Environmental Impact Statement -too many decisions about AMLs seem to be political as opposed to being determined by sound, scientific analysis and adherence to the AFHBA.*
- AMLs are too low and should be raised to at least the upper limits established in 1979 between the Wyoming Grazing Association and Wild Horses Yes (300 horses at White Mountain, 100 horses at Little Colorado)*
- Gather fewer horses than recommended in the current EA and implement birth control on a larger population of mares*

Development of the Green River RMP provided for extensive public input reaffirming existing herd management areas, the establishment of the Little Colorado HMA, and the associated AMLs.

Population Numbers

The EA calls for AMLs of 205-300 horses at White Mountain, with the target being 205 horses; and 69-100 horses at Little Colorado, with the target being 69 horses. Managing at the lower limit of the AML does not seem genetically viable, nor can these be sustainable populations, as the AFHBA necessitates. Gus Cothran, geneticist at Texas A&M, has said that a herd group of 150 horses is genetically viable. But please also take into account that a "healthy" population means:

- (1) Genetics: what is the lowest number you need to have a healthy breeding population in perpetuity per herd area.*
- (2) Physical health, measured by such parameters as body condition, parasite load, disease*
- (3) Behavioral health, measured by normal social behaviors and organization, and*
- (4) Reproductive health, as measured by effective fertility rates and survival of the young.*

(5) *Habitat health and diversity. Establishing parameters to evaluate range health per range or per herd area which accommodates the sustainability for healthy herds and other wildlife.*

Range or Herd Area herd numbers must be evaluated through unbiased studies per area – varying climate, habitat types, precipitation patterns, vegetation, land use objectives, and other wildlife are all considerations in determining appropriate numbers per area.

The RMP established the AMLs.

Page 13 states that the total population for each HMA is based on the March 2007 survey flights. Were population numbers achieved with repeated flyovers? Was the data ground truthed? What type of method for flyover population data gathering was used - transects, quadrants, random flight paths? What is the percentage of error in flyover population data gathering?

The survey was conducted using a Cessna 210 airplane, with 4 passengers observing while flying in a grid pattern. None of the data gathered was statistically altered.

How can the current projection of 817 horses at White Mountain be correct when the following data is considered:

November 2003 post-gather numbers for the White Mountain and Little Colorado HMAs combined are listed as 274 horses. Taking into account a 20% growth in population per year, the 2007 population for both HMAs would be 569 horses:

	2003 <i>(actual)</i>	2004 <i>(projected)</i>	2005 <i>(projected)</i>	2006 <i>(projected)</i>	2007 <i>(projected)</i>
<i>White Mountain and Little Colorado HMA Population Levels</i>	274	329	395	474	569

Because of the difficulties in achieving accurate population data via flyovers, as well as for the sake of managing genetically viable and healthy, self-sustaining populations of wild horses, we recommend that the AMLs for both White Mountain and Little Colorado be increased, or at least managed at the upper limit of the current AMLs.

The 2003 data was an estimate (see page 23 in EA). The 2007 census data provides the best available data on current wild horse population numbers.

Wild Horses as Reintroduced Native Wildlife

The EA states that “historic uses by livestock, wild horse grazing, recreation, mineral

exploration, mining and vegetation harvesting have likely impacted wildlife, special status species, and migratory bird habitat within the White Mountain and Little Colorado HMAs, especially near water locations” (p. 35). While it is agreed that all of these items impact one another, it is necessary to remind BLM that wild horses are a reintroduced native wildlife species, and thus their impact on wildlife and special status species should be considered part and parcel of wildlife interactions between any grouping of native species. Dr. Jay Kirkpatrick, reproductive physiologist and Director of the Science and Conservation Center, speaks of this issue in his book Into the Wind:

The wild horse may in fact be an exotic species in Australia, New Zealand, and a few other locations around the world, but it is certainly not so in North America. Horses evolved on this continent only to later disappear, possibly at the hand of man. After what can only be viewed as seconds on the hands of evolution's clock, the horse was returned by the same hand to resume its place among the same animals and plants with which it had evolved. To label the North American wild horse as an exotic ignores the facts of time and evolutionary history.

The State of Wyoming does not recognize wild horses as native wildlife. The horses that exist today are genetically different enough that they are no longer considered the same species.

Infractions of the Wild and Free-Roaming Horse and Burro Act

In the late 70s, the State of Wyoming sued the BLM and an out of court settlement agreement was reached specifying that when information is gathered that indicates that an HMA within the State of Wyoming is determined to be over the established AML, the BLM has one year from discovery to remove wild horses to the low range of the AML. This is not sound, scientific, or even best adaptive management practice – how can the BLM justify yielding to political whimsy on a wildlife management issue? The BLM, not special interest groups, has control of wild horse management on public lands.

Further evidence of politicking is evident in the statement, on page 22, that “the Rock Springs Grazing Association has a grazing lease and is currently in control of a vast majority of the private lands in the checker board within the White Mountain HMA.” It is understood that because of private land interests, this particular BLM office must deal on many levels to manage its lands, but the 1971 WFHBA should help to guide the BLM in developing sound strategies for management of wildlife in less-than-perfect situations. For example, it is a good idea to compromise with these landowners, however, why to the lower limit of AMLs?

Again, page 23 argues that “in all cases, the grazing allotment and the authorization of livestock use predate passage of the WFHBA.” Agreed, but the Act is there presently and requires habitat for horses. Compromise must be reached with outside groups, especially the livestock industry, but this compromise can not solely be livestock industry driven. In effect, that is not a compromise.

BLM is require to gather wild horse to the low range AML according to the 2003 consent decree.

Several impacts are listed on page 39 for Alternative C: no action. They include:

- grazing pressure
- soil erosion and loss of soil productivity
- compromised plant health
- over utilization of rangeland

Are these not predicated by cows, as well – if not more? Why then is the bigger push to remove wild horses down to lower limits of the AMLs? We would encourage that the upper limits of AMLs be maintained, at a minimum, and would prefer that the upper and lower limits of AMLs be increased. It may be necessary to reach a compromise here with livestock units, allowing slightly less cow-calf pairs in order to increase the numbers of wild horses at each HMA.

Refer to the response above.

Wild Horses, Wildlife, and Riparian Issues

It is stated (p. 24) that “reduction of wild horse numbers would result in reduced competition for forage and water resources between wild horses and wildlife.” On page 26, “Stephenson (1982), found a 60% dietary overlap between pronghorn antelope and feral horses.” From what geographic location is this data from? We are familiar with research that states that there is not direct competition between horses and pronghorn: “... (Diets of) pronghorn antelope consisted primarily of browse (e.g., sagebrush) and forbs, although grasses were important in spring. Similarly, mule deer consumed about half browse and the remainder forbs and grasses (forbs during winter, grasses in spring, with forbs representing the next highest component (highest during winter and late spring). Feral horses consumed primarily grasses followed by forbs (dominant in fall and/or winter). Finally, diet of feral burros was dominated by grasses, with the remainder including shrubs and forbs. The greatest similarity in diet was observed between feral horses and burros, and bighorn sheep.” (Hanson and Anthony, 1999, at Sheldon NWR)

The Stephenson study was conducted in New Mexico. The primary competition between wild horses and antelope is expected to be over water and space. Wild horses tend to aggressively defend water sources and usually allow other ungulates to water after the horses finish drinking. Weather and water availability play a significant factor in the amount of aggression.

Similarly, we are not familiar with any evidence that horses are aggressive towards other animals at water sources, as your EA indicates on page 31 (“wild horses are aggressive around water sources and some wildlife may not be able to compete successfully”). Is there data to support this? Without data, this is speculative. While cattle forage within a mile of water, wild horses are highly mobile, grazing from 5-10 miles from water sources, at higher elevations, on steeper slopes, and in more rugged terrain. Cattle tend to linger at riparian and watering areas, while horses – being sensitive prey species – most often drink and leave. In addition, it would be unusual for them to posture or become aggressive to other types of wildlife at a drinking hole. We manage over 200 wild horses here in a much smaller environment. The horses walk to the

water in small and large bands, drink and leave. Deer, burros, birds, cattle and even bobcat all have ample water and time to drink during the day with no aggressive behaviors.

See response above.

Helicopter Gathering

We were unaware of the public hearing regarding use of helicopters for gathering purposes and did not make it to the August 1, 2007 meeting. Please accept our comments regarding helicopter gathers at this time:

While helicopters are generally accepted as the "most efficient" method of gather, from both an economic and time perspective, we encourage the Rock Springs Field Office to use the most humane methods available. Horseback gathers do take more time, but they are more-carefully executed, easier on the horses, and more-accepted by the public. In addition, it allows maintenance of intact natural bands for re-location elsewhere.

Thank you for your comment.

Gather Operation SOPs

When helicopter gathers are conducted by BLM personnel, in conformance with the Wild Horse Aviation Management Handbook, are those pilots highly qualified? When contractors are utilized, are they of sound character, with spotless records? Helicopter roundups can be brutal, pushing animals too far, too fast. A careful pilot can adjust for this, though recent reporting on helicopter gathers has pointed to precautions not being taken into consideration.

The primary methods listed for gathering include:

- 1. Helicopter Drive Trapping*
- 2. Helicopter Assisted Roping*
- 3. Bait Trapping*

Why is there no alternative for horseback-only gathers? We recommend horseback gathers for the above-stated reasons (see Helicopter Gathering section above).

The BLM utilizes the most efficient method for gathering wild horses while preventing undue stress to the animals. Limited use of horseback gathering is utilized under special circumstances but to use widely would be cost prohibited and would present a higher safety risk to those involved.

Standard Operating Procedures list that there is an evaluation prior to gathering to determine if a veterinarian is needed during gather operations. We recommend that a veterinarian always be present for all aspects of the gather operation (during the gather and at the sorting facility). Gathers are high risk activities, with confusion, trampling, disease, injuries, and separation of mares and foals to be considered.

A veterinarian is available when necessary.

Various aspects of pen layout are discussed on page 43. There is no mention of maximum number of animals per pen or minimum pen size. These measurements and limits should be established to reduce crowding, trampling, and fights.

Gathered horses are moved as soon as possible to permanent holding facilities or the pens are expanded and more room is made available.

Feed procedures establish that animals held for more than ten hours “shall be provided good quality hay...” Please note that this quality should be dependent on the condition of the animals held. Horses in very poor body condition can not handle a rich influx of high quality feed and thus should be given, free-choice, grass hay that is not of extremely high protein content. This is another reason that a veterinarian should be part of every section of a gather – so that a qualified person can assist in making judgment calls regarding proper feed and care of everything from animals in top condition to animals in poor condition.

Wild horses gathered in Wyoming are typically in very good condition.

It is listed that water shall be provided to horses at a rate of 10 gallons per animal per day. This number should be 12 gallons per animal per day.

Excess water is always provided.

The COR/PI is to determine if injured animals are to be destroyed. This is yet another reason that a veterinarian should be present at every gather. Decisions such as this should be based on sound medical knowledge. Further, should an animal have to be humanely euthanized, a veterinarian would be on hand to administer drugs in the event that drugs can be administered safely (an animal in a chute) or administer drugs in the event that a shooting does not immediately and completely kill the animal.

Please refer to Page 12, 3rd bullet. A veterinarian will be made available as necessary.

Capture techniques describe that “under no circumstance shall animals be tied down for more than one hour.” We recommend that animals never be tied down, for any reason. With careful gather techniques (horseback, bait trapping), this should not be necessary. It is helicopters, pushing too hard, that cause the confusion which leads to horses getting separated or left behind, thus encouraging the practice of tying down until the animal can be retrieved later. Tying horses down is used in very limited situations.

Fertility Control SOPs

The PZP protocol states that “at a minimum, monitoring of reproductive rates using helicopter flyovers will be conducted.” It is understood that the only data acquired by a flyover would be

that of a straight foal count and this would only be cursory data. We would recommend that data be gathered slowly and carefully from the ground, in an effort to match foals with treated vs. untreated mares and to see if treated mares are indeed foaling and at what rate (annually, every other year, never, etc.).

The data collected via field sheets will be transferred to “the authorized officer at NPO (Reno, Nevada)” and a copy will be maintained at the field office. Tracking of the actual PZP, along with numbers of treated mares, will be maintained at the NPO as well, it seems. While it is understood that data must be handled by multiple persons, being as field data must be collected and then forwarded on, this is where data gets lost, mishandled, or miscalculated. Who will ultimately be in charge of the project and do they have an adequate scientific background to initiate experimentation, track data, and analyze data? We would recommend discussing your protocol with offices that have initiated successful PZP trials so that the data will be valuable to the overall studying of PZP. Dr. Allen Rutberg, research assistant professor at Tufts Cummings School of Veterinary Medicine, can assist with protocol development:

*Dr. Allen Rutberg
Tufts Cummings School of Veterinary Medicine
508-887-4769
allen.rutberg@tufts.edu*

Thank you for your comment.

Final Thoughts

The American public expects this agency to manage our wild horses as a valued natural resource under the spirit and intent of the 1971 Wild Free Roaming Horse and Burro Act.

Our tax dollars afford us the right to expect that this agency adjust their priorities to the management of these horses to one of preservation and protection instead of the ongoing and expensive removals of horses that have nowhere to go. It is glaringly obvious that the population of the wild horses on Herd Areas designated “principally although not exclusively,” is significantly outnumbered by millions of livestock and wildlife species.

Thank you for your comment.

APPENDIX B ERRATA

Based on public comment on the EA, the BLM has updated the analysis to correct errors or to clarify text. These corrections can be found below and have been incorporated into the analysis as bolded type which has been posted on the internet with this decision and can be found at http://www.blm.gov/wy/st/en/info/NEPA/rsfodocs/whitemtn_littlecolo.html.

Page 13, Section 2.2, Alternative A: Proposed Action, sub-section entitled Alternative A: Proposed Action – Remove Excess Animals (Lower Limit of AML range); Implement Two-Year Fertility Control Protocol

The Proposed Action is to gather approximately 80-**85%** (654-**695** wild horses) of the current estimated wild horse population within the White Mountain HMA consisting of approximately 817 wild horses and to gather approximately 80-**85%** (146-**155** wild horses) of the current estimated wild horse population within the Little Colorado HMA consisting of 182 wild horses. The total population for each HMA is based on the March 2007 survey flights plus a 20% increase for this year's foal production. Of the animals gathered, approximately **610** excess wild horses in the White Mountain HMA and **115** excess wild horses in the Little Colorado HMA would be removed and shipped to BLM holding facilities in either Rock Springs, **Wyoming** or Canon City, Colorado. Once there, the horses will be prepared for adoption and/or sale to qualified individuals or sent to long term holding facilities. The projected population remaining on the range following the gather would be about 205 wild horses in the White Mountain HMA and about 69 in the Little Colorado HMA.

Of the **75 to 125** wild horses returned to the two HMAs post-gather, 50-55% would be studs (**40-70**) with the remainder mares (**35-55**). All the mares released would be subject to fertility control experimentation research protocol with a two-year treatment of Porcine Zonae Pellucida (PZP). Fertility control would be conducted in accordance with Standard Operating Procedures as described in Appendix II.

Page 13, Section 2.3 Alternative B: Remove Excess Animals (Lower Limit of AML range) Without Fertility Control

The Proposed Action is to gather approximately **75%** (**610** wild horses) of the current estimated wild horse population within the White Mountain HMA consisting of approximately 817 wild horses and to gather approximately **65%** (**115** wild horses) of the current estimated wild horse population within the Little Colorado HMA consisting of 182 wild horses. The total population for each HMA is based on the March 2007 survey flights, plus a 20% increase for this year's foal production. Of the animals gathered, approximately **610** excess wild horses in the White Mountain HMA and **115** excess wild horses in the Little Colorado HMA would be removed and shipped to BLM holding facilities in either Rock Springs, **Wyoming** or Canon City, Colorado. Once there, **the horses** will be prepared for adoption and/or sale to qualified individuals or sent

to long term holding facilities. The projected population remaining on the range following the gather would be about 205 wild horses in the White Mountain HMA and about 69 in the Little Colorado HMA.

Page 15, Table 3

Table 3. Comparison of Alternatives

Alternative	Number of Wild Horses Captured	Number of Wild Horses Removed	Number of Wild Horses Released	Data Collection	Selective Removal Criteria Implemented	Fertility Control Used	Number of Mares Treated with Fertility Control
Alternative A	850	725	125	Yes	Yes	Yes	55
Alternative B	725	725	0	Yes	Yes	No	0
Alternative C No Action Alternative	0	0	0	No	No	No	0

Page 27, Section 4.2.14, Subsection entitled Impacts of Alternative A: Proposed Action – Remove Excess Animals (Lower Limit of AML range); Implement Two-Year Fertility Control Protocol, second paragraph, second sentence

“The mares treated would equal approximately 25-35% (25 horses in the White Mountain HMA and 16 horses in the Little Colorado HMA) of post-gather mare population.”

Page, 49, Appendix II, Standard Operating Procedures for Fertility Control Treatment, 4th bullet reads

“All treated mares would be freeze-marked on the hip with a **“HB” brand** to enable researchers to positively identify the animals during the data collection phase.”

Page 50. Section entitled Interpretation of Model; first sentence should read “The estimated population of 681 wild horses in the White Mountain HMA and 182 wild horses in the Little Colorado HMA, based on a March 2007 census, was used in the population modeling”.