



# Wild Horses and Burros: Issues and Proposals

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## Summary

The Wild Free-Roaming Horses and Burros Act of 1971 (the 1971 Act) protects wild horses and burros on federal lands, and places them under the jurisdiction of the Bureau of Land Management (BLM) and the Forest Service (FS). Under the 1971 Act, the agencies are to inventory horse and burro populations on federal land to determine appropriate management levels (AMLs). They are authorized to remove animals exceeding the range's carrying capacity. First, the agencies are to destroy "old, sick, or lame animals" by the most humane means available. Second, they are to remove healthy animals for private adoption. Third, if adoption demand is insufficient, the remaining healthy animals are to be destroyed. However, the agencies have not used this authority since 1982, and the FY2011 Interior appropriations law prohibited funds from being used to slaughter healthy animals. In addition, under a 108<sup>th</sup> Congress change, the agencies are to sell, "without limitation," excess animals (or their remains) that essentially are too old or otherwise unadoptable.

BLM has not achieved reduction to the national AML, which is 26,576 for all herds. There were an estimated 38,497 wild horses and burros on BLM lands as of February 28, 2011. Another 41,874 animals were in BLM holding facilities as of September 2011. More than half of BLM's \$75.8 million FY2011 appropriation for wild horses and burros was used to care for animals in holding facilities. A much smaller number of horses and burros are on FS lands—4,700.

Management of wild horses and burros has long been controversial, with most attention centering on BLM. Among the most contentious issues are whether BLM should destroy healthy animals under the authority provided in the 1971 Act, and sell animals "without limitation" as provided in the 108<sup>th</sup> Congress change. Other controversial issues include the priority given wild horses and burros in land use decisions; whether, and to what extent, to remove animals from the range; the disposal of healthy animals through the adoption and sales programs; the extent of holding animals in facilities, particularly long-term (pasture) facilities; the use of fertility control to slow the rate of reproduction; and the costs of management and whether funding is appropriate.

Several sets of options are being considered or implemented for reaching AML, limiting the number of animals in holding, reducing program costs, and generally improving the care and management of wild horses and burros, primarily by BLM. An October 2008 report by the Government Accountability Office recommended that BLM use different methods to estimate populations, issue a policy to achieve consistency in setting AMLs, provide information to the public on treatment of animals, and develop alternatives to caring for animals in facilities. In November 2008, the Wild Horse and Burro Advisory Board made recommendations to BLM on how to reduce wild horse and burro herd sizes, population growth, and costs of management, among other issues. On October 7, 2009, the Secretary of the Interior, calling the BLM wild horse and burro program "unsustainable," announced proposals to establish wild horse preserves for the care of non-producing herds, and to reduce population growth rates through such methods as expanded use of fertility control. In February 2011, BLM released a draft strategy to advance the Secretary's proposals, pursue new options for animals removed from the range, and reduce program costs. In spring 2011, BLM began to solicit proposals to establish wild horse and burro sanctuaries, either on BLM or combined public-private land, for the long-term care of non-reproducing herds. Further, the National Academy of Sciences is developing recommendations for BLM on using the best science in caring for wild horses and burros. Two recent reports (Department of the Interior and American Association of Equine Practitioners) found overall quality care for wild horses and burros, while providing recommendations. No broad legislation to amend the 1971 Act has been introduced in the 112<sup>th</sup> Congress.

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## Background

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

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

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

The 108<sup>th</sup> Congress enacted changes to the 1971 Act regarding wild horse and burro management on federal lands (P.L. 108-447, §142) to provide an additional tool for reducing wild horse and burro populations. One change directed the agencies to sell, “without limitation,” excess animals (or their remains) that are deemed too old (more than 10 years old) or otherwise unable to be

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

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

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

adopted (offered unsuccessfully at least three times). Proceeds are to be used for the BLM wild horse and burro adoption program. A second change removed a ban on the sale of wild horses and burros and their remains for processing into commercial products. A third change removed criminal penalties for processing into commercial products the remains of a wild horse or burro, if it is sold under the new authority.

These changes have been supported as providing a cost-effective way of helping the agencies achieve AML, to improve the health of the animals, protect range resources, and restore a natural ecological balance on federal lands. However, the changes have been opposed as potentially leading to the slaughter of healthy animals. Legislation in the 110<sup>th</sup> and 111<sup>th</sup> Congresses had sought to repeal the sale authority and overturn the other 108<sup>th</sup> Congress changes. Such legislation has not been introduced in the 112<sup>th</sup> Congress as of December 2, 2011, although measures pertaining to horse slaughter and consumption more generally have been introduced.<sup>4</sup>

BLM has set the upper limit for AML for all wild horse and burro herds at 26,576.<sup>5</sup> Of the total, the AML for horses is 23,672 and the AML for burros is 2,904. The number of animals on BLM lands significantly exceeds this figure; there were an estimated 38,497 wild horses and burros (145% of AML) on BLM land as of February 28, 2011. Horses greatly outnumber burros on federal land. The total of 38,497 includes 33,014 horses (86%) and 5,483 burros (14%). Horses on the range exceeded the horse AML by 9,342 (39%), while burros on the range exceeded the burro AML by 2,579 (89%). About half of all the animals are in Nevada. Another 4,700 wild horses and burros were on 32 active *territories* (FS management areas) as of September 30, 2010. Thousands of additional animals—41,874 as of September 2011—are in agency holding facilities. (See the section of this report entitled “Holding in Facilities.”)

Paring the number of wild horses and burros to the national AML has eluded BLM. There were an estimated 28,500 wild horses and burros as of April 1, 2007. This was the lowest level since the early 1970s and was the closest to AML since that time. The possibility of achieving AML subsequently diminished, in part due to a reduced emphasis on removing animals from federal lands. The number of wild horses and burros on the range subsequently increased by 9,997 animals (35%) as of February 28, 2011.

Wild horses and burros are managed in 179 herd management areas (HMAs) in 10 western states, as shown in **Figure 1**. BLM had reached AML in 72% of the HMAs that existed in 2006, but there was a decline to 45% of HMAs in 2011. Likely reasons that have been cited include underestimates of populations on the range, the high population growth rate of horses and burros, a virtual absence of natural predators, inadequate funding, insufficient interest in adoptions and sales, little emphasis on fertility control, and poor program management. Currently, animals that are removed from the range are offered for adoption or sale or sent to holding facilities. BLM projected it would achieve AML in fewer HMAs during FY2012, based on the Administration’s request for funding for wild horse and burro management. Specifically, the agency expected to be at AML in 39% of HMAs in 2012.<sup>6</sup>

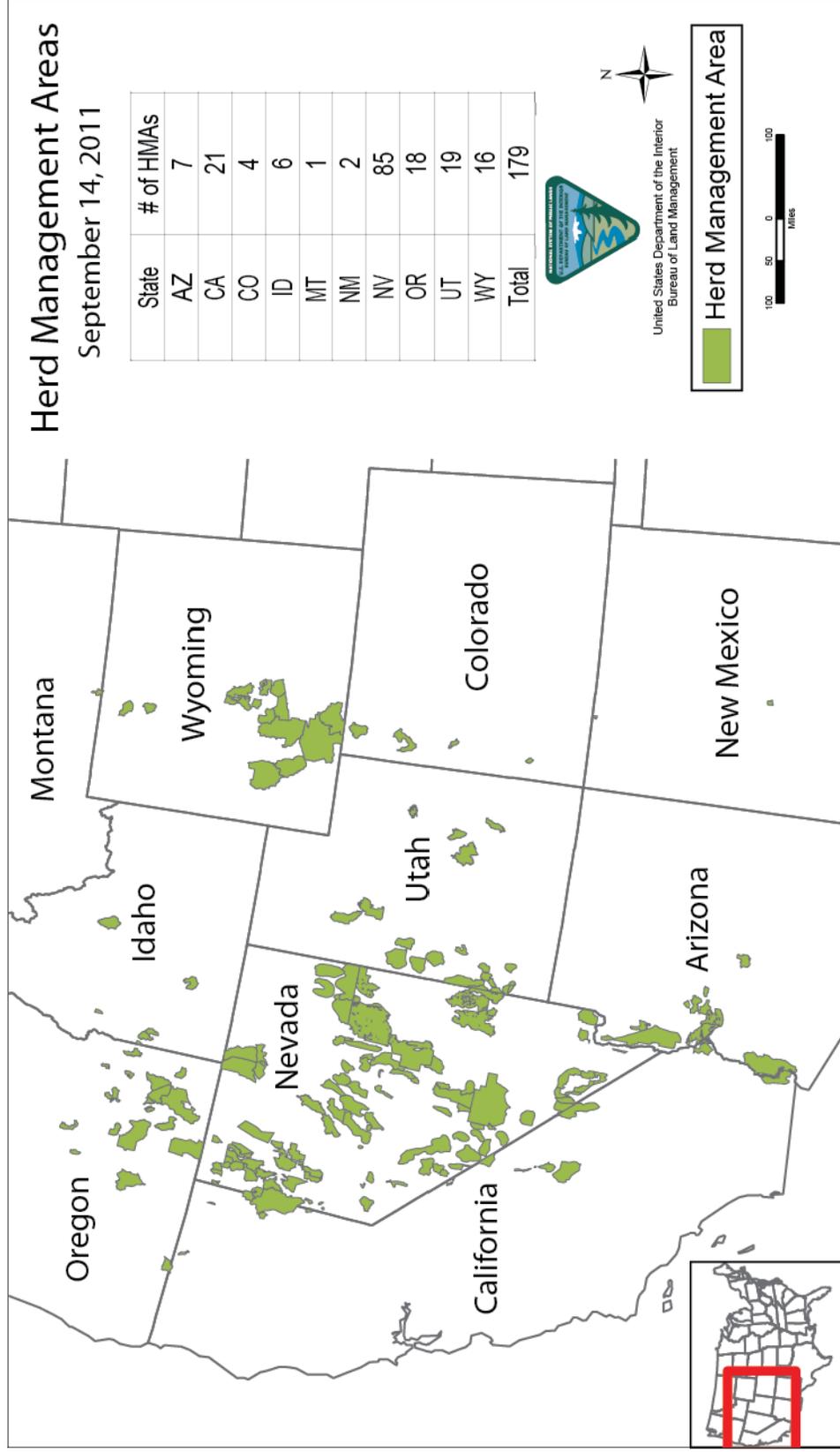
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<sup>4</sup> For a discussion of issues and bills pertaining more generally to horse slaughter and consumption, see CRS Report RS21842, *Horse Slaughter Prevention Bills and Issues*, by Tadlock Cowan.

<sup>5</sup> Figures throughout this report generally represent the most recent information available.

<sup>6</sup> Dept. of the Interior, Bureau of Land Management, *Budget Justifications and Performance Information, Fiscal Year 2012*, p. IV-66. Hereafter *FY2012 BLM Budget Justification*.

Figure 1. Herd Management Areas for BLM Wild Horses and Burros



Source: Department of the Interior, Bureau of Land Management.

## Current Issues

### Overview

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

Currently, the number of animals on BLM lands significantly exceeds the agency's estimate of the appropriate management level, causing concerns about the health of both animals and rangelands and about increased conflicts with other land uses. Adoptions and sales of animals have not kept pace with the numbers removed from the range, leading to high numbers of animals held in agency facilities. In recent years, the cost of caring for animals in facilities has been about half to three-quarters of the annual BLM appropriation for wild horses and burros, prompting uncertainty about the sustainability of these long-term costs. Some existing authorities for reducing wild horse and burro populations on the range are not being used, fostering debate over whether they should be or whether additional authorities for managing wild horses and burros are needed. Specifically, among the most contentious issues are whether BLM should destroy healthy animals under the authority provided in the 1971 Act, and sell animals "without limitation" as provided in the 108<sup>th</sup> Congress changes. Thus far the agency has focused on sales with procedures to protect against slaughter.

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

Concerns about management of wild horses and burros, particularly by BLM, have become pronounced in the past few years. While varying concerns have been expressed, with differing proposals to address them, there has been considerable agreement that management of wild horses and burros could be improved. A number of governmental agencies or entities appear to share this view. For instance, Secretary of the Interior Ken Salazar called the "current path" of BLM's wild horse and burro program "not sustainable for the animals, the environment, or the taxpayer."<sup>7</sup> A BLM statement noted, "It is clear that the Bureau cannot continue its current removal and holding practices; neither can the BLM allow horses to multiply unchecked on the range without causing an environmental disaster."<sup>8</sup> The Government Accountability Office (GAO) observed that the wild horse and burro "program is at a critical crossroads," where cost-effective alternatives to holding animals are needed because that cost is "overwhelming the program."<sup>9</sup> The Senate Appropriations Committee similarly noted that the costs of gathering

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<sup>7</sup> Letter from Secretary of the Interior Ken Salazar to Senate Majority Leader Harry Reid, October 7, 2009, on the BLM website at [http://www.blm.gov/pgdata/etc/medialib/blm/wo/Planning\\_and\\_Renewable\\_Resources/wild\\_horses\\_and\\_burros/salazar\\_proposals.Par.51495.File.dat/Salazar\\_Reid%20Letter.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Planning_and_Renewable_Resources/wild_horses_and_burros/salazar_proposals.Par.51495.File.dat/Salazar_Reid%20Letter.pdf).

<sup>8</sup> BLM, *Factsheet on Challenges Facing the BLM in Its Management of Wild Horses and Burros*, September 29, 2009. Hereafter referred to as *BLM Factsheet*.

<sup>9</sup> U.S. Government Accountability Office, *Bureau of Land Management: Effective Long-Term Options Needed to* (continued...)

horses and burros to control populations on federal lands “have risen beyond sustainable levels.”<sup>10</sup> The House Natural Resources Committee expressed that “underfunding and charges of mismanagement have plagued the BLM since passage of the 1971 Act, and have undermined the BLM Wild Horse and Burro Program and the intent of the law.”<sup>11</sup>

Nongovernmental organizations also have expressed varying concerns about management of wild horses and burros. For instance, the president of the Public Lands Council stated that while wild horses and burros “are an integral part of the Western landscape ... at their current population levels, they are damaging our rangelands and making it difficult for ranchers to graze cattle in the West.”<sup>12</sup> A representative for the Western Association of Fish and Wildlife Agencies observed that BLM has underestimated wild horse and burro populations, and that “wild horse and burro impacts on the West’s wildlife habitats continue to be of significant concern to the state and federal land and resource agencies.”<sup>13</sup> The Humane Society of the United States has asserted that wild horses and burros “deserve first to be given every chance to live out their lives wild and free” and that BLM “has failed time and again to protect these creatures.” They contend that BLM has favored livestock over wild horses and burros and has neglected to use fertility control as a humane management tool.<sup>14</sup> A representative for The Animal Welfare Institute stated that while the organization has “significant concerns about all aspects of the BLM’s wild horse and burro management program, overlying everything is a fundamental lack of transparency and accountability within the program.”<sup>15</sup>

These concerns have fostered evaluation of alternatives, development of proposals, and implementation of actions for improving the care and management of wild horses and burros.<sup>16</sup> Most of the focus has been on BLM, since the number of wild horses and burros under BLM care is far greater than that under FS jurisdiction. For instance, an October 2008 report by GAO recommended that BLM use different methods to estimate populations, issue a policy to achieve consistency in setting AMLs, provide information to the public on treatment of animals, and develop alternatives to caring for animals in facilities. Also, in November 2008, the Wild Horse

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(...continued)

*Manage Unadoptable Wild Horses*, GAO-09-77 (Washington, DC: October, 2008), p. 62. Hereafter “2008 GAO Report.”

<sup>10</sup> S.Rept. 111-38 on H.R. 2996, p. 11.

<sup>11</sup> H.Rept. 111-177 on H.R. 1018, p. 7.

<sup>12</sup> This quote is from Skye Krebs, President of the Public Lands Council, as reported in a News Release of October 9, 2009 on the website of the National Cattlemen’s Beef Association at <http://www.beefusa.org/NEWSPLCReleasePLCApplaudsSecretarySalazarsPlantoManageWildHorsesandBurros39630.aspx>.

<sup>13</sup> Testimony of Larry D. Voyles, Director of the Arizona Game and Fish Department, on behalf of the Western Association of Fish and Wildlife Agencies, on March 3, 2009, before the House Natural Resources Committee, Subcommittee on National Parks, Forests, and Public Lands, p. 2, available on the committee’s website at [http://resourcescommittee.house.gov/images/Documents/20090303/npfpl/leg/testimony\\_voyles.pdf](http://resourcescommittee.house.gov/images/Documents/20090303/npfpl/leg/testimony_voyles.pdf).

<sup>14</sup> Testimony of Wayne Pacelle, President and CEO of The Humane Society of the United States, on March 3, 2009, before the House Natural Resources Committee, Subcommittee on National Parks, Forests, and Public Lands, pp. 1-2, available on the Committee’s website at [http://resourcescommittee.house.gov/images/Documents/20090303/npfpl/leg/testimony\\_pacelle.pdf](http://resourcescommittee.house.gov/images/Documents/20090303/npfpl/leg/testimony_pacelle.pdf).

<sup>15</sup> Testimony of D.J. Schubert, Wildlife Biologist, of the Animal Welfare Institute, on March 3, 2009, before the House Natural Resources Committee, Subcommittee on National Parks, Forests, and Public Lands, p. 4, available on the Committee’s website at [http://resourcescommittee.house.gov/images/Documents/20090303/npfpl/leg/testimony\\_schubert.pdf](http://resourcescommittee.house.gov/images/Documents/20090303/npfpl/leg/testimony_schubert.pdf).

<sup>16</sup> Additional information on the alternatives and proposals in this overview, including on their implementation, is discussed in the “Recent Proposals/Initiatives” section below.

and Burro Advisory Board made recommendations to BLM on how to reduce wild horse and burro herd sizes, population growth, and costs of management, among other issues. Selling animals without limitation or euthanizing excess animals were presented “as a last resort.”

BLM has been developing options internally. From late 2008 through late 2009, the BLM focused on whether to implement three specific options that have been contentious. One was whether to destroy healthy animals, under the authority in the 1971 Act. The agency expressed a need to consider all management options due to the inability to date to reach AML and the improbability of doing so under current management practices and funding levels. The euthanization of healthy animals has been opposed by horse advocates as inhumane, and as unnecessary given other management options. The second option was whether to sell animals “without limitation,” as provided in the 108<sup>th</sup> Congress changes in law. Thus far the agency has focused on sales to buyers intending to provide long-term care. This option has been opposed on the grounds that these animals could end up being sold for slaughter. The third option was to cease the removal of animals from the range, in part because adoptions have not kept pace with removals and because of the costs of placing removed animals in long-term holding facilities.<sup>17</sup> However, the agency expressed that this option would result in insufficient nutrition for increasingly larger horse and burro herds, and would lead to further damage of soil, vegetation, riparian areas, and wildlife habitat.<sup>18</sup> Ceasing removals would likely be opposed by ranchers who depend on federal lands for forage.

Proposals by the Secretary of the Interior, released on October 7, 2009, had a different approach. The Secretary proposed the creation of a set of wild horse preserves, primarily on the grasslands of the Midwest and East, for non-reproducing horses. Fertility control and other actions would seek to reduce population growth rates. Neither the slaughter of healthy animals nor the sale of animals “without limitation” would be used to control or reduce the number of wild horses and burros, according to the Administration. These proposals met with mixed reaction. Differences of opinion centered on the expanded use of fertility control, relocation of animals from the West, and lack of sales without limitation, among other issues. Others expressed that the proposals could be too costly.

Currently, BLM is finalizing a new strategy for managing wild horses and burros, in part to advance Secretary Salazar’s proposals to reduce wild horse and burro populations and to respond to congressional direction to publish a new long-term plan. Under the proposed strategy, BLM would take a variety of actions intended to reduce gathers, strengthen the care of animals, increase fertility control treatments, use the best science and research in program management, establish sanctuaries for the long-term care of animals, increase adoptions, encourage volunteerism, and improve program transparency. BLM has begun initiatives in furtherance of the strategy. For instance, the agency has asked the National Academy of Sciences (NAS) to study the science being used in managing wild horses and burros and to make recommendations on how to use the best available science. BLM also is pursuing partnerships with other landowners for the establishment of ecosanctuaries, to be located solely on BLM land or on a combination of BLM and non-BLM land.

In addition, the treatment of wild horses and burros was examined in two recent reports: a December 2010 report of the Department of the Interior, Office of Inspector General, and an

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<sup>17</sup> *BLM Factsheet* and conversation with Tom Gorey, Senior Public Affairs Specialist, BLM, on September 10, 2008.

<sup>18</sup> *BLM Factsheet*.

August 2011 report of the American Association of Equine Practitioners. While determining that overall care was humane, the reports contained various recommendations for BLM. For example, the report of the American Association of Equine Practitioners included recommendations as to the structure, capacity, and biosecurity standards for short-term holding facilities.

No broad legislation to amend the 1971 Act has been introduced in the 112<sup>th</sup> Congress as of December 2, 2011. In the 111<sup>th</sup> Congress, House and Senate companion bills (H.R. 1018 and S. 1579) would have made significant changes to the 1971 Act. Provisions of the bills would have prohibited the slaughter of healthy wild horses and burros, removed agency authority to sell animals, limited the removal of animals from the range, created wild horse and burro sanctuaries, and expanded the areas available for herds, among other changes.

Subsequent sections of this report discuss current issues of controversy. The final sections of the report provide additional information on recent proposals and initiatives for managing wild horses and burros, including on aspects of their implementation.

## **Wild Horses and Burros vs. Livestock**

One controversy has been the priority given wild horses and burros versus domestic livestock in decisions on forage and land allotments. Critics assert that AMLs are set low to favor livestock. The Secretaries may designate specific ranges exclusively for wild horse and burros; in practice, most areas also have livestock. Currently, livestock may graze on approximately 157 million acres of BLM land and 85 million acres of FS land,<sup>19</sup> while wild horses and burros roam on 26.9 million BLM acres and 2.0 million FS acres.

Together with intermingled state, tribal, and private lands, wild horses and burros roam on 31.6 million acres in the West. This is a reduction of 22.2 million acres from the level that existed following enactment of the 1971 Act (53.8 million acres). Of the 22.2 million acres, 15.5 million was in BLM ownership; these lands were closed to wild horses and burros by BLM due to new laws, court decisions, or land use planning decisions. The remaining 6.7 million acres were in private or other ownership, which the owners closed to wild horses and burros.<sup>20</sup> Under the 1971 Act, wild horses and burros may not be relocated “to areas of the public lands where they do not presently exist.”<sup>21</sup> Thus, the animals could roam on a maximum of 53.8 million acres.

In 2010, forage consumed on BLM lands was approximately 432,342 animal unit months (AUMs)<sup>22</sup> for wild horses and burros and 8.2 million AUMs for livestock. In 2009, forage consumed on FS lands was approximately 56,200 AUMs for wild horses and burros and 5.0 million AUMs for livestock.

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<sup>19</sup> These figures represent the acreage available for livestock, not the acreage actually being grazed. Some acres are not grazed due to drought, fire, the economy, and other reasons. Of the 157 million acres of BLM land available for grazing, the number actually grazed is not readily available. For the FS, of the 85 million acres available for grazing, 76 million were under permit.

<sup>20</sup> Herd area statistics are available on the BLM website at [http://www.blm.gov/pgdata/etc/medialib/blm/wo/Planning\\_and\\_Renewable\\_Resources/wild\\_horses\\_and\\_burros/statistics\\_and\\_maps.Par.67883.File.dat/HAHMA\\_stats2011.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Planning_and_Renewable_Resources/wild_horses_and_burros/statistics_and_maps.Par.67883.File.dat/HAHMA_stats2011.pdf). The acreage reported as available following enactment of the 1971 Act has changed, and the most current estimates are reflected in this CRS report.

<sup>21</sup> 16 U.S.C. §1339.

<sup>22</sup> An AUM is the amount of forage to sustain an animal unit (e.g., a cow with calf) for one month.

## Setting AML and Removal of Excess

A long-standing controversy is whether to remove wild horses and burros from the range. Some animal rights and conservation groups believe they should roam freely. Others stand by an older (1990) GAO conclusion that removals have not demonstrably improved range conditions, in part because livestock consume more forage and cause more degradation to riparian areas.<sup>23</sup> By contrast, a 2010 report by the DOI Office of Inspector General concluded that wild horse and burro gathers are “necessary and justified” because BLM lands cannot sustain the growing number of animals.<sup>24</sup> Some wildlife, conservation, and livestock interests agree that reduction of horse herds protects range resources and balances wild horse and burro levels with wildlife and domestic livestock. Many livestock groups contend that wild horses and burros are more environmentally destructive than domestic stock because they graze year-round without limit, whereas the time, place, and quantity of cattle grazing is controlled. Where drought, fire, and other emergencies reduce forage, domestic livestock usually are removed first to protect forage for wild horses and burros, according to BLM. The debate on the extent of damage by wild horses and burros versus livestock continues because of value differences and lack of definitive data on range degradation.

Determining AMLs and removing animals to achieve AMLs have been part of the controversy. AMLs are set through BLM’s land use planning process. Under BLM guidance, they are established as a population range, wherein the lower limit is set to allow growth to the upper limit between gathers. BLM determines AMLs based on population censuses and range monitoring in tandem with removal efforts. Objectives include establishing or maintaining an ecological balance on the land and providing for land health. The determinations involve maintaining multiple use in the area. According to BLM, the agency takes into account natural resources, such as wildlife and vegetation, and land uses, such as grazing and recreation. Other considerations include the biological and social needs of the herds and the genetic diversity needed to maintain healthy wild horse and burro populations. BLM guidance establishes that a minimum of 50 breeding animals (with a total herd size of about 150-200 animals) is generally required to maintain genetic diversity. AMLs generally are reviewed every four to five years as part of horse gathers and removals, but may be revised as circumstances and conditions change.

There were 347 herd areas<sup>25</sup> at the time of enactment of the 1971 Act. Herd areas are defined as areas of the public lands identified as habitat used by wild horses and burros at the time of the 1971 Act. BLM currently manages wild horses and burros in 179 herd management areas. Herd management areas are areas designated for the management of wild horses and burros *within* herd areas. This is a 48% reduction in areas managed for wild horses and burros. This reduction is attributed to the combining of some herds, and the removal of others because they roamed on private lands or areas transferred to the National Park Service, according to BLM. In other cases, the areas were not suitable to retain because of a lack of critical habitat components (i.e., forage,

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<sup>23</sup> U.S. General Accounting Office (now Government Accountability Office), *Improvements Needed in Federal Wild Horse Program*, GAO/RCED-90-110 (Washington, DC: August, 1990). Hereafter “1990 GAO Report.”

<sup>24</sup> Dept. of the Interior, Office of Inspector General, *Bureau of Land Management Wild Horse and Burro Program*, December 2010, p. 1, on the website of the Office of Inspector General at <http://www.doioig.gov/images/stories/reports/pdf/BLM%20Wild%20Horse%20and%20Burro%20Program%20Public.pdf>.

<sup>25</sup> BLM has revised the figure upwards from 317 to 339 to 347 in recent years, for instance, following reviews of historical records and planning documents. See the agency’s website at [http://www.blm.gov/pgdata/etc/medialib/blm/wo/Planning\\_and\\_Renewable\\_Resources/wild\\_horses\\_and\\_burros/statistics\\_and\\_maps.Par.67883.File.dat/HAHMA\\_stats2011.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Planning_and_Renewable_Resources/wild_horses_and_burros/statistics_and_maps.Par.67883.File.dat/HAHMA_stats2011.pdf).

water, cover, or space), a resource conflict with endangered species, or a conflict with military reservations.<sup>26</sup>

Concerns with removal to AML have included the lack of an overall environmental analysis of removal efforts throughout the West, removal of animals in some herds to a level lower than AML, and removal of entire herds. Other removal issues have included the effect on the genetic viability of herds, increased reproduction of remaining horses, and accuracy of supporting data. Still other concerns have focused on whether wild horses and burros have consistently received humane care when being removed from the range and at holding facilities following their removal.

As shown in **Table 1**, more horses and burros were removed from the range in recent years than could be adopted. Specifically, over the 10-year period from FY2001 through FY2010, a total of 95,904 animals were removed, while 54,097 were adopted (56%). However, the number of burros adopted during the 10-year period from FY2001 through FY2010 exceeded the number of burros removed, while only about half (52%) of the removed horses were adopted. Burros have a higher adoption rate because they have strong popular appeal, there are fewer of them than horses, they are less expensive to care for than horses, and they are good guard animals.

**Table 1. Wild Horse and Burro Removals and Adoptions**

		Horses	Burros	Total
<b>FY2001</b>	<b>Removed</b>	11,764	1,513	13,277
	<b>Adopted</b>	6,054	1,576	7,630
<b>FY2002</b>	<b>Removed</b>	10,822	1,207	12,029
	<b>Adopted</b>	5,987	1,759	7,746
<b>FY2003</b>	<b>Removed</b>	8,865	1,216	10,081
	<b>Adopted</b>	4,982	1,183	6,165
<b>FY2004</b>	<b>Removed</b>	9,252	647	9,899
	<b>Adopted</b>	5,699	945	6,644
<b>FY2005</b>	<b>Removed</b>	10,650	373	11,023
	<b>Adopted</b>	5,193	508	5,701
<b>FY2006</b>	<b>Removed</b>	8,789	1,137	9,926
	<b>Adopted</b>	4,404	768	5,172
<b>FY2007</b>	<b>Removed</b>	6,626	1,100	7,726
	<b>Adopted</b>	3,894	878	4,772
<b>FY2008</b>	<b>Removed</b>	5,008	267	5,275
	<b>Adopted</b>	3,213	493	3,706
<b>FY2009</b>	<b>Removed</b>	5,961	452	6,413
	<b>Adopted</b>	3,210	277	3,487
<b>FY2010</b>	<b>Removed</b>	9,715	540	10,255
	<b>Adopted</b>	2,742	332	3,074
<b>FY2000- FY2010</b>	<b>Removed</b>	87,452	8,452	95,904
	<b>Adopted</b>	45,378	8,719	54,097

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

<sup>26</sup> Communication received from the BLM Legislative Affairs Division, November 23, 2009.

Most recently, in FY2010, 10,255 animals were removed and 3,074 were adopted.<sup>27</sup> BLM anticipated removing approximately 10,000 horses and burros, with 3,500 being adopted, in FY2011. The agency further projected reducing the number of animals removed for at least FY2012 and FY2013 from 10,000 to 7,600, pending a review of the National Academy of Sciences that will examine the number of animals that could remain on the range. BLM further projected an increase in adoptions for FY2012 and FY2013 to 4,200, by offering more trained animals.<sup>28</sup>

One reason for the overall higher removal rates over the past decade was additional and more aggressive efforts to reach AML. Another contributing factor was the reduction of available forage, due to fire, drought, and other weather conditions. Further, BLM has asserted that the 2007 closing of all three commercial processing plants within the United States put an additional 90,000 domestic horses annually in the adoption market.<sup>29</sup> The competition for adoption between these domestic horses and the wild horses and burros removed from the range may have increased the difficulty of adopting the wild animals. Further, BLM claims that high fuel and feed costs have weakened interest in adoption. Critics contend that removals have been high because a disproportionate share of funding is used for removal versus adoption.

## **Adoption**

The primary disposal method for healthy animals has been through adoption. From FY1972 to FY2009, 296,629 horses and burros were removed, of which 227,383 were adopted. Others died of natural causes, were sent to holding facilities, or were sold. Adoptions have been declining over the past several years due to factors including increased costs of care. The base fee to adopt a wild horse or burro is a minimum of \$125. In most cases, competitive bidding is used and the fee is the highest bid over the base. New owners can receive title after a one-year wait, with certification of proper care during that time. An individual may receive title to no more than four animals per year. BLM has established other conditions for the transportation, feeding, and care of wild horses and burros.

The BLM Director may reduce or waive the minimum fee or provide other adoption incentives. For instance, currently in the New Mexico region an adopter pays the standard \$125 fee, but is eligible for a \$500 payment from BLM after receiving title to the animal.

The current adoption process stems in part from past concerns that some adopted animals were slaughtered. From 1984 to 1988, approximately 20,000 horses were placed with large-scale adopters, without fee. Hundreds of them died of starvation or dehydration during the one-year probationary period and thousands were slaughtered soon after title passed, according to the 1990 GAO report. Public protest led BLM to resume charging an adoption fee. Further changes followed reports in 1997 that wild horses were sold to slaughterhouses and charges, denied by BLM, of related misconduct by some employees. Changes required adopters to certify that they

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<sup>27</sup> Statistics for each state on removals and adoptions during FY2010, and on adoptions since 1971, are on the BLM website at [http://www.blm.gov/pgdata/etc/medialib/blm/wo/Planning\\_and\\_Renewable\\_Resources/wild\\_horses\\_and\\_burros/statistics\\_and\\_maps/transparency\\_page.Par.5661.File.dat/10pls5-13Template.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Planning_and_Renewable_Resources/wild_horses_and_burros/statistics_and_maps/transparency_page.Par.5661.File.dat/10pls5-13Template.pdf).

<sup>28</sup> These figures are taken from the *BLM Proposed Strategy*, February 28, 2011, on the BLM website at [http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications\\_Directorate/public\\_affairs/wild\\_horse\\_and\\_burro/documents.Par.86602.File.dat/Proposed\\_WHBStrategy.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications_Directorate/public_affairs/wild_horse_and_burro/documents.Par.86602.File.dat/Proposed_WHBStrategy.pdf). Hereinafter *BLM Proposed Strategy*.

<sup>29</sup> BLM unpublished document, received September 11, 2008.

have “no intent” to sell their animals for slaughter; established a monitoring program with slaughterhouses and federal inspectors to return untitled animals intended for slaughter and retain records on titled, slaughtered animals; prohibited individuals from using power of attorney from others to adopt animals; and increased compliance inspections of untitled adopted animals. Also, the Wild Horse and Burro Advisory Board was reestablished to assist and advise the Secretaries on wild horse and burro policy and to conduct oversight of the wild horse and burro program.

A lingering debate exists, despite court reviews and the changes in law in 2004, over whether wild horses and burros are protected from slaughter once adopted. The BLM asserts that it has no authority over a titled animal because the 1971 Act states that wild horses and burros “or their remains shall lose their status as wild free-roaming horses and burros and shall no longer be considered as falling within the purview of this chapter—upon passage of title”(16 U.S.C. §1333(d)(1)). The agency seeks to protect horses and burros through efforts to place them with qualified adopters and subsequent monitoring for one year. By contrast, animal advocacy groups contend that the legislative history and intent of the 1971 Act show that titled animals were to be protected indefinitely from slaughter. They further note that adopters are to certify that they have “no intent” to sell their wild horse or burro “for slaughter or bucking stock, or for processing into commercial products.” Controversy over this attestation has centered on how long it should last and the extent to which it can be enforced in court.

## **Sale**

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

According to the BLM, approximately 16,120 animals were available for sale (as of September 2011). Since the inception of the program in March 2005, 5,088 have been sold—far fewer than the agency had anticipated. BLM negotiates sales of excess animals, for instance with ranchers, tribes, and humane organizations, with the price determined on a case-by-case basis. The average price per animal sold during FY2011 was about \$10.

On April 25, 2005, BLM temporarily suspended the sale of wild horses and burros because some of the animals it sold ended up being sent to slaughter. The agency did not sell animals directly for slaughter, and was requiring purchasers to give written affirmation of an intent to provide humane care. Nevertheless, 41 sold animals were resold or traded and then sent to slaughterhouses. Another 52 animals were sold to slaughterhouses, but Ford Motor Co. committed to purchasing them to prevent their slaughter. On May 19, 2005, the agency resumed sales after revising its bill of sale and pre-sale negotiation procedures to protect against slaughter. Purchasers now also must agree not to sell or transfer ownership to those intending to resell, trade, or give away animals for processing into commercial products. Sales contracts also incorporate criminal penalties for anyone who knowingly or willfully falsifies or conceals information. Some horse advocates question whether the penalties would withstand legal

challenge because the 2004 law provides for the sale of animals “without limitation.” Also, according to BLM, purchased animals are classified as private property free of federal protection.

## **Euthanization**

The 1971 Act provides authority to BLM to destroy excess healthy animals. BLM had used its authority to euthanize about 2,000 healthy animals before 1982, when the agency suspended euthanization due to negative public reaction.<sup>30</sup> The agency has focused subsequently on providing long-term care for healthy, unadoptable animals at contracted holding facilities (pastures). Further, BLM was specifically prohibited, by the annual Interior appropriations acts for FY1988-FY2004, from using its authority to destroy healthy animals.<sup>31</sup> This prohibition was omitted from the FY2005 appropriations act (P.L. 108-447), which instead made changes to wild horse and burro management to reduce excess populations. One change directed the agencies to sell excess wild horses and burros, while another removed a ban on the sale of animals for processing into commercial products, as outlined in the “Background” section above.

The FY2010 Interior appropriations law (P.L. 111-88) reestablished a prohibition on using funds in the bill for the slaughter of healthy, unadopted wild horses and burros under BLM management. It also prohibited funds in the bill from being used for the sale of wild horses and burros that resulted in their slaughter for processing into commercial products. This prohibition was continued in FY2011. Further, BLM is not considering euthanization or sale without limitation under the agency’s 2011 proposed strategy for managing wild horses and burros.<sup>32</sup>

Euthanization of healthy wild horses and burros has long been controversial. At times, BLM, GAO, and others have asserted that all management options need to be considered because of significant funding shortfalls and because the 1971 Act provides for the humane destruction of excess animals. Some animal advocacy and other groups have opposed euthanization as inhumane. Instead, some have advocated expansion of existing programs or practices, such as fertility control, or new options, for instance tax benefits for landowners who would allow wild horses and burros to roam on their property.

## **Holding in Facilities**

Large numbers of animals have been sent to holding facilities, and BLM continues to be responsible for these animals. Many of these animals being held may become long-term costs to the government. In total, there were 41,874 animals in short- and long-term holding as of September 2011. Nearly all of the animals were horses—41,245—and there were 629 burros.

Initially, animals are placed in short-term holding (corral) facilities. Of the 41,874 animals in holding, 11,862 (28%) were in 23 short-term facilities. Younger animals tend to be in short-term

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<sup>30</sup> Conversation with Tom Gorey, Senior Public Affairs Specialist, BLM, on September 10, 2008.

<sup>31</sup> For instance, P.L. 108-108, the Department of the Interior and Related Agencies Appropriations Act, 2004, provided that BLM “appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau or its contractors.” (Title I, P.L. 108-108, 117 Stat. 1242.)

<sup>32</sup> See BLM’s *Proposed Strategy*, February 28, 2011, p. 6, on the agency’s website at [http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications\\_Directorate/public\\_affairs/wild\\_horse\\_and\\_burro/documents.Par.86602.File.dat/Proposed\\_WHBStrategy.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications_Directorate/public_affairs/wild_horse_and_burro/documents.Par.86602.File.dat/Proposed_WHBStrategy.pdf). Hereinafter referred to as *BLM Proposed Strategy*.

holding, with 9,759 (82%) of the horses and burros between 0 and 4 years old. Animals in short-term facilities will either be readied for adoption or sale or sent to long-term holding. Typically, it takes BLM two to three months to prepare these animals for adoption/sale or for long-term holding.<sup>33</sup> However, in 2008 and 2009, the average time an animal spent in short-term holding was six months, primarily due to a lack of sufficient long-term holding facilities. BLM has been seeking to reduce the time animals spend in short-term facilities due to their higher cost, by contracting for additional long-term facilities.<sup>34</sup>

Many more of the animals in holding are in long-term holding (pasture) facilities. Of the 41,874 animals in holding as of September 2011, there were 30,012 animals in 21 long-term facilities. All of these animals were horses. Nearly all animals in long-term holding were 5 or more years old, with about half being 11 years old or older. Pasture facilities are located on private ranch lands and are privately operated under contract with the U.S. government. All current long-term facilities are in Iowa, Kansas, Oklahoma, and South Dakota. Groups of horses are maintained in large pastures. The number of acres needed to maintain a wild horse varies among the facilities based on the vegetation; currently the average is seven acres per horse. Any adoptable animals in long-term facilities are to be put up for adoption when demand allows, which for some animals may be years. The unadoptable ones, such as older animals, are to be sold or live out their lives in long-term facilities.

Extensive use of holding facilities has prompted a number of issues, including whether to remove more horses than can be adopted, whether the cost of holding is too high (see below), and whether animals in long-term facilities receive appropriate care. Over the past several years, BLM has continued to acquire capacity in new long-term holding facilities to accommodate the increasing numbers of animals removed from the range. For instance, on July 5, 2011, BLM issued a solicitation for one or more pasture facilities accommodating 800 to 5,000 animals.

## **Fertility Control**

Wild horses and burros are thought to reproduce at a rate of about 20% yearly. To slow reproduction, research is developing fertility controls for wild horses. Advocates of fertility control assert that it improves the genetic viability and health of the horses, as well as foal survival, by delaying pregnancy in younger mares. Some view fertility control as less stressful and disruptive to horses than removals, and worth more emphasis. Opponents contend that the long-term effect of fertility control on the behavior and size of herds is uncertain. Some favor natural controls such as disease and starvation.

## **PZP Vaccine**

In selected areas, BLM has tested one- and two-year contraception vaccines on mares. The primary agent being tested—Porcine Zona Pellucida (PZP)—is not commercially available, but is being tested under an investigational drug exemption issued by the Food and Drug Administration and held by The Humane Society of the United States. The formulation that has appeared to be

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<sup>33</sup> Mares that foal at short-term facilities can not be moved to long-term facilities until after about five months.

<sup>34</sup> It is unclear if the average length of time in short-term facilities has been reduced, as information since 2009 is not publically available.

most effective is a one-year vaccine. However, it is not feasible to administer, because it is not possible to gather herds yearly or to get close enough to wild horses on the range to use darting.

Instead, BLM has been using a two-year contraceptive, and since 2004 the agency has administered it to 3,866 mares during gathers in dozens of the 179 HMAs.<sup>35</sup> The animals were then returned to the range. The treatment has several limitations. One limitation is the difficulty of capturing enough mares in a herd for the treatment to be effective. To effectively reduce population, 60% to 90% of breeding-age mares in a herd must be treated, according to BLM.<sup>36</sup> A second limitation of the vaccine is that it must be administered three to four months before breeding (i.e., November-February) for maximum effectiveness. A third limitation is that if enough mares were captured and treated so as to reduce the herd population to AML, it would be difficult to capture the remaining scattered horses to continue treatments, especially in very large herds.

The extent of the effectiveness of the two-year vaccine in the areas being tested will be assessed when the herds are next gathered. This usually occurs every three to five years. Overall, there has not been a significant reduction in the rate of population growth in herds where the contraceptive was applied, according to BLM, in part due to the relatively small number of mares receiving the treatment in each herd and the duration of the contraceptive. However, preliminary analysis of the data from one herd indicates a foaling rate of 28%-38% for treated mares and 69%-83% for non-treated mares.<sup>37</sup> BLM considers this to be a significant reduction in population growth.<sup>38</sup>

BLM has determined from studies and modeling that PZP alone would not reduce wild horse populations to AML, but would control the rate of population increase once AML is achieved in a herd. For this reason, beginning in FY2011 the agency adopted a new approach, called “catch, treat, and release,” to administer PZP to mares in HMAs that are at or near AML. Gathers in these HMAs are being done for the primary purpose of administering the contraceptive rather than for removing excess animals to achieve AML. BLM’s goal is to treat 70%-80% of a herd’s mares during catch, treat, and release gathers and then return the animals to the range.<sup>39</sup>

The agencies continue to seek a more effective, longer-lasting fertility drug. BLM, in cooperation with the Humane Society of the United States,<sup>40</sup> has contracted with the U.S. Geological Survey<sup>41</sup>

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<sup>35</sup> Communication received from the BLM Legislative Affairs Division, December 1, 2011.

<sup>36</sup> These limitations are derived primarily from the BLM website at [http://www.blm.gov/wo/st/en/prog/whbprogram/science\\_and\\_research/fertility\\_control.html](http://www.blm.gov/wo/st/en/prog/whbprogram/science_and_research/fertility_control.html). In some cases the percentage of mares needing treatment to effectively reduce population is identified as 60%-80%, while in other cases it is identified as 70%-90%. The range reported here reflects the lowest and highest estimates.

<sup>37</sup> Specifically, in the McCullough Peaks Herd Management Area, PZP reduced the foaling rate in mares from 80% to 28% in 2006, from 83% to 38% in 2007, and from 69% to 29% in 2008. Information is from the Dept. of the Interior, Bureau of Land Management, *Budget Justifications and Performance Information, Fiscal Year 2011*, p. IV-72. Hereafter *FY2011 BLM Budget Justification*.

<sup>38</sup> One ongoing study by The Humane Society of the United States is evaluating the use of the two-year PZP drug in two HMAs in Colorado and Utah. The research is focused on the drug’s effectiveness, means of being administered, and effect on behavior in treated mares. Preliminary results suggest that darting can be used in some areas and that “population growth was slowed but still significant over time.” See “Fertility Control” on the BLM website at [http://www.blm.gov/wo/st/en/prog/whbprogram/science\\_and\\_research/fertility\\_control.html](http://www.blm.gov/wo/st/en/prog/whbprogram/science_and_research/fertility_control.html).

<sup>39</sup> Information in this paragraph is taken from a June 4, 2010, communication received from the BLM Legislative Affairs Division and a November 24, 2010, news release on the BLM website at [http://www.blm.gov/wo/st/en/info/newsroom/2010/november/NR\\_11\\_24\\_2010.html](http://www.blm.gov/wo/st/en/info/newsroom/2010/november/NR_11_24_2010.html).

<sup>40</sup> For information on wild horse contraception on the organization’s website, see <http://www.humanesociety.org/> (continued...)

to research and develop PZP. The focus is on assessing the effectiveness of vaccines over several years and developing a vaccine that would last at least three years and could be approved as safe for general use. Other research efforts focus on improving the current vaccines and the methods of administering them, such as through remote delivery.

### **Other Methods<sup>42</sup>**

Other methods of population control are being considered currently by BLM or are being researched by government agencies and other organizations for possible future consideration. Beginning in 2011, BLM has been placing greater emphasis on assessing two population control techniques other than PZP.<sup>43</sup> One technique is sex ratio management. While herds typically produce roughly equal numbers of males and females, under the proposal the sex ratio of a herd would be adjusted in favor of males to reduce the number of pregnancies on the range. BLM suggests considering an adult herd makeup of 60%-70% males, either by releasing a greater number of stallions to the range following a gather or by releasing geldings back to the range following castration. This option is thought to be most applicable to large herds—those with 150 or more horses—where AML has been reached, in order to maintain AML. Changes in herd dynamics may result from a change in sex ratios, and an increase in the proportion of stallions may have more of an effect on social structure than releasing geldings to the range, according to BLM.

A second technique for managing population increase is to establish non-reproducing herds (or minimally reproducing) herds in some areas. Among the criteria that might be used to select a herd as non-reproducing are having no special or unique characteristics, having limited public water, and being in poor condition ecologically. Under this option, captured horses would be sterilized before being released back to the range. Gelding (castration) of stallions has been determined to be a safe, effective, and humane means of sterilization, so BLM is focusing on returning geldings to the range. By contrast, sterilizing mares through spaying is considered risky, and requires major abdominal surgery and good post-operative care, so it is not currently regarded as safe, effective, and humane for wild horses.

Research continues to develop and test new fertility control treatments. In one study, the BLM and USGS are evaluating whether two types of SpayVac, an investigational vaccine, can reduce foaling in mares. The goal is to see if SpayVac will have a longer effect than other PZP vaccines currently being used by BLM. Begun in 2011, this five-year study is being conducted at one BLM

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(...continued)

[issues/wild\\_horses/facts/hsus\\_wild\\_horse\\_management.html](http://www.blm.gov/foia/20110628/201106280001.pdf).

<sup>41</sup> For information on wild horse fertility control research and activities of the USGS, see the agency's website at <http://www.fort.usgs.gov/WildHorsePopulations/Contraception.asp>.

<sup>42</sup> Information in this section is derived primarily from the BLM website, at [http://www.blm.gov/wo/st/en/prog/whbprogram/science\\_and\\_research.html](http://www.blm.gov/wo/st/en/prog/whbprogram/science_and_research.html), and pp. 25-26 of BLM's "Wild Horses and Burros Management Handbook" on the agency's website, at [http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information\\_Resources\\_Management/policy/blm\\_handbook.Par.11148.File.dat/H-4700-1.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information_Resources_Management/policy/blm_handbook.Par.11148.File.dat/H-4700-1.pdf).

<sup>43</sup> These two techniques, adjusting sex ratios in favor of males and establishing non-reproducing herds, are identified in BLM's news release of June 20, 2011, announcing the summer 2011 gather schedule and BLM's news release of October 7, 2011, announcing the fall and winter 2011 gather schedule. These releases are on the agency's website at [http://www.blm.gov/wo/st/en/info/newsroom/2011/june/NR\\_06\\_20\\_2011.html](http://www.blm.gov/wo/st/en/info/newsroom/2011/june/NR_06_20_2011.html) and [http://www.blm.gov/wo/st/en/info/newsroom/2011/october/NR\\_10\\_08\\_2011.html](http://www.blm.gov/wo/st/en/info/newsroom/2011/october/NR_10_08_2011.html).

short-term holding facility using animals that already were in holding. If effective in this controlled setting, the vaccine would be considered for use on wild horses on the range.<sup>44</sup>

Other options for fertility control might be considered in the future, according to BLM. One question is whether vasectomies for stallions could be done safely and whether such fertility control focused on males would reduce population growth. A second future option could be use of intrauterine devices. Barriers to using this method include a lack of success in pilot studies and the difficulty of timing the application of the devices to when the mares are not pregnant. A third possible option might be use of an experimental vaccine called GonaCon. However, thus far it appears that GonaCon does not provide longer-term fertility control than the PZP vaccine currently in use.<sup>45</sup>

## Costs

Whether funding is appropriate to care for wild horses and burros, reach AML, and reduce long-term budgetary needs has been unclear. Appropriations<sup>46</sup> for BLM for managing wild horses and burros doubled from FY2000 (\$20.4 million) to FY2009 (\$40.6 million).<sup>47</sup> The biggest increase during that period occurred from FY2000 to FY2001, when BLM received a 69% increase (to \$34.5 million) with a goal of achieving AML over several years and, by FY2010, reducing budgetary needs below the FY2001 level. These goals have not been achieved. Instead, the FY2010 Interior appropriations law included \$64.0 million for wild horse and burro management, a \$23.4 million increase (58%) over FY2009.<sup>48</sup>

The conferees on the FY2010 Interior appropriations bill also required BLM to follow the Senate's directions on wild horses and burros. Noting that the costs of gathering and holding wild horses and burros "have risen beyond sustainable levels," the Senate Appropriations Committee had directed BLM to develop and publish a new, long-term plan for management of wild horses and burros that included private proposals.<sup>49</sup> (See "BLM Strategy Proposal," below.)

For FY2011, the appropriation for BLM wild horse and burro management was higher still—\$75.8 million. The Obama Administration had sought an increase<sup>50</sup> in part to implement Secretary Salazar's proposals for wild horse and burro management, including increased fertility control treatments. The Administration also requested an additional \$42.0 million to acquire lands for a wild horse preserve, as proposed by the Secretary. (See "Secretary Salazar's Proposals," below.) However, the FY2011 appropriations law did not include these acquisition funds.

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<sup>44</sup> Additional information on this study is contained in an April 26, 2011, BLM news release on the agency's website at [http://www.blm.gov/wo/st/en/info/newsroom/2011/april/NR\\_04\\_26\\_2011.html](http://www.blm.gov/wo/st/en/info/newsroom/2011/april/NR_04_26_2011.html).

<sup>45</sup> This information on potential future options for fertility control is drawn from pp. 53-55 of BLM's "Wild Horses and Burros Management Handbook," on the agency's website at [http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information\\_Resources\\_Management/policy/blm\\_handbook.Par.11148.File.dat/H-4700-1.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information_Resources_Management/policy/blm_handbook.Par.11148.File.dat/H-4700-1.pdf).

<sup>46</sup> Figures used throughout this report represent current dollars.

<sup>47</sup> In addition, in recent years funds sometimes have been reprogrammed from other activities to the wild horse and burro activity. For instance, BLM estimated that in FY2009, \$9.3 million was reprogrammed.

<sup>48</sup> Total appropriations to the FS for wild horses and burros are not available. For FY2011, the FS transferred \$1.75 million to the BLM as reimbursement for gathering, handling, adopting, and caring for FS animals.

<sup>49</sup> S.Rept. 111-38 on H.R. 2996, p. 11.

<sup>50</sup> The Administration sought \$75.7 million for FY2011, slightly less than the enacted level.

Concerns over increasing costs have prompted questions about managing wild horses and burros. One question is whether the average cost of adoption can be reduced. In 2010, the cost was estimated at \$2,210 per animal adopted, more than double the 2007 estimate of \$994 per animal adopted. The average cost increased because in 2010 BLM spent more on promoting and advertising adoptions than in 2007, but the number of animals adopted in 2010 was lower than in 2007.

Another question is whether animals can be moved more quickly through the adoption and sales systems or into long-term facilities, as the cost of short-term facilities is relatively high—\$5.30 per animal per day in 2010. This cost has increased from \$3.00 per animal per day in 2001, in part due to increased fuel costs. By comparison, the average cost paid to contractors to care for animals in long-term facilities was \$1.27 per animal per day in 2009, nearly the same as the cost in 2001—\$1.22.

In recent years, a significant portion of the appropriation for wild horses and burros has been used for the costs of holding animals in facilities. BLM estimated that the cost of holding animals in all facilities in FY2009 was about \$29 million, or 71% of the appropriation of \$40.6 million. The estimated cost of holding was higher for FY2010, approximately \$37 million, although the percentage of the total appropriation (58%) used for holding was lower because of the larger FY2010 appropriation for wild horses and burros (\$64.0 million). The agency estimated even higher holding costs for FY2011—\$43.2 million—which would constitute 57% of the \$75.8 million appropriated for wild horse and burro management. One BLM estimate had been that, to support its removal and holding practices, the agency's appropriation would need to rise to \$94.6 million in FY2014. Of this amount, the cost of holding animals in facilities was estimated at \$65 million (69%).<sup>51</sup> These relatively high costs of holding have fostered debate and proposals about expanding or developing other options, such as fertility control and privately managed sanctuaries.

Other questions involve whether additional funds could supplement appropriations. For instance, one question is whether long-term facilities could become financially self-sufficient through fundraising and donations, as some had expected when the first facilities were created. A related issue is whether the current base adoption fee of \$125 could be increased to generate more money for the program. For FY2011, BLM estimated collecting \$0.5 million in *adoption* fees. Contrarily, some support reducing the base adoption fee to promote adoptions. Collections from *sales* of wild horses and burros have been significantly lower than expected when the sales program was created. This is in large part because the number of animals sold and the purchase price per animal have been relatively low. For instance, with an average sale price of \$10 in FY2011, collections from *sales* of wild horses and burros were estimated at \$8,956. Still other ideas have included allowing proceeds of land disposals to be used for wild horse and burro management, and selling horse sponsorships.

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<sup>51</sup> *BLM Proposed Strategy*, pp. 16-17.

## Recent Proposals/Initiatives

### Government Accountability Office Recommendations

In 2008, GAO conducted a year-long review of BLM's wild horse and burro program. Specifically, the agency examined BLM's progress in setting and meeting AML; management of animals through adoption, sales, and holding facilities; controls to ensure humane treatment of animals; and long-term management challenges. GAO reached several conclusions about the program and recommended that the Secretary of the Interior direct BLM to take related actions. GAO tracked specific agency actions on its recommendations, and reports that BLM has implemented all of its wild horse and burro recommendations.<sup>52</sup>

Among other findings in the 2008 report, GAO found that while BLM had made significant progress in setting and meeting AML, the agency had not provided specific guidance to field offices to achieve consistency in establishing AMLs. GAO recommended that BLM issue a wild horse and burro handbook that contains a policy for determining AML to ensure that AMLs are set consistently across herds. In June 2010, BLM issued a handbook that outlines the authorities, objectives, policies, and procedures for managing wild horses and burros. The handbook includes information on establishing AMLs, gathering horses and burros, designation of HMAs through the land use planning process, management of habitat, using fertility controls, and other issues.<sup>53</sup>

Further, GAO concluded in 2008 that the direct-count method many BLM field offices used to conduct population counts, which reports the number of animals actually seen on the ground, resulted in undercounting the animals. Such undercounts in turn lead to the removal of fewer animals than needed and costlier gathers of animals in the future. GAO recommended that BLM use statistically based methods to improve the accuracy of estimations of animal populations, such as those being developed by researchers. BLM has begun using two methods to achieve greater accuracy in determining herd size. The simultaneous double-count method, which is most effective in open terrain and short vegetation, uses two observers to simultaneously observe herds and record data. The results are compared using statistical modeling to estimate the number of animals not observed. Under the photographic mark-resight method, which is most effective in steep terrain and tall vegetation, two or more separate aerial counts are performed. During each count the animals are photographed, then the photos are compared to determine which animals were identified and which were not seen during each count. An estimate of the total number missed is based on the number that were missed during each count.<sup>54</sup>

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

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<sup>52</sup> See the GAO website at <http://www.gao.gov/products/GAO-09-77#recommendations>.

<sup>53</sup> The handbook is available on the BLM website at [http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information\\_Resources\\_Management/policy/blm\\_handbook.Par.11148.File.dat/H-4700-1.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information_Resources_Management/policy/blm_handbook.Par.11148.File.dat/H-4700-1.pdf).

<sup>54</sup> BLM guidance on estimating wild horse populations is contained in Instruction Memorandum No. 2010-057 on the agency's website at [http://www.blm.gov/wo/st/en/info/regulations/Instruction\\_Memos\\_and\\_Bulletins/national\\_instruction/2010/IM\\_2010-057.html](http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2010/IM_2010-057.html).

protocols for reporting information on wild horse and burro gathers, including the number of animal deaths, and currently publishes this information on its website.<sup>55</sup>

According to GAO, the development of alternatives to caring for animals in facilities is necessary for the long-term sustainability of the wild horse and burro program, due to the cost of caring for animals in facilities. GAO cited Secretary Salazar's 2009 proposals and the BLM's ongoing strategy initiative (both discussed below) as implementation of this recommendation. Further, GAO observed that some current alternatives for managing wild horses and burros are not being exercised. BLM is not euthanizing healthy excess animals, or selling them without limitations, as provided for in the 1971 Act. GAO recommended that BLM discuss with Congress and other interests BLM's concerns with implementing these provisions, as well as how to comply with the 1971 Act or amend it to facilitate compliance. GAO cited congressional testimony and correspondence with Members during the 111<sup>th</sup> Congress and discussions with the Wild Horse and Burro Advisory Board as addressing this recommendation.

## **Wild Horse and Burro Advisory Board Recommendations**

At its November 17, 2008, meeting, the Wild Horse and Burro Advisory Board made 19 recommendations to BLM regarding management of wild horses and burros. The recommendations related to enhancing the adoption and sale of animals, euthanizing animals, slowing population growth, securing sufficient funding, and providing care through livestock permits, among other matters.<sup>56</sup> BLM has been evaluating these recommendations, and Secretary Salazar's October 2009 proposals and BLM's 2011 proposed strategy and other actions incorporate some of them.

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

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

The intent clause is currently used for animals sold by the BLM under the sale authority enacted in the 108<sup>th</sup> Congress. The language, which is included on the bill of sale, states that the

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<sup>55</sup> The protocols are contained in BLM Instruction Memorandum No. 2010-162 on the BLM website at [http://www.blm.gov/wo/st/en/info/regulations/Instruction\\_Memos\\_and\\_Bulletins/national\\_instruction/2010/IM\\_2010-162.html](http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2010/IM_2010-162.html). Information on the number of wild horses and burros that died during the gather process is available on the BLM website at [http://www.blm.gov/wo/st/en/prog/whbprogram/herd\\_management/Data/completed\\_fy\\_11\\_gathers.html](http://www.blm.gov/wo/st/en/prog/whbprogram/herd_management/Data/completed_fy_11_gathers.html).

<sup>56</sup> The recommendations are on the BLM website at [http://www.blm.gov/wo/st/en/info/newsroom/2008/november/NR\\_11\\_19\\_2008.html](http://www.blm.gov/wo/st/en/info/newsroom/2008/november/NR_11_19_2008.html).

“Purchaser agrees not to knowingly sell or transfer ownership of any listed wild horse(s) and/or burro(s) to any person or organization with an intention to resell, trade, or give away the animal(s) for processing into commercial products.” BLM began using this language in 2005 after some of the animals it had sold were later sent to slaughter.

However, the board recommended that “as a last resort,” animals that are eligible for sale, but that are not sold or adopted after 30 days, be offered for sale without limitation and without “the intent clause,” or be humanely euthanized under current law. “Without limitation” would imply making the animals available for sale without restrictions and without provisions designed to foster humane care. For instance, the bill of sale currently also includes language that the “Purchaser agrees to provide humane care to the listed wild horse(s) and/or burro(s).” Removing the intent clause would allow for sale without a buyer’s commitment not to resell for slaughter. The inclusion of euthanization and sale without limitations and without the intent clause, even as a last resort, was controversial. The Administration is not using these options, as noted above. Issues associated with selling and euthanizing healthy animals are discussed in above sections of this report.

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

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

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

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

## **Secretary Salazar’s Proposals**

On October 7, 2009, Secretary Salazar issued *Proposals to Create a Sustainable National Wild Horse and Burro Program*.<sup>57</sup> The proposals were aimed at reducing wild horse and burro

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<sup>57</sup> Documents about this proposal are on the BLM website at <http://www.blm.gov/wo/st/en.html>. They include a news release, a questions and answers document, and a letter from Secretary of the Interior Ken Salazar to Senate Majority Leader Harry Reid. The information in this section is drawn primarily from these documents and the Administration’s (continued...)

populations, both on and off the range; developing new options for animals removed from the range; and reducing the costs of wild horse and burro management. Central to the initiative is applying new approaches to align population growth with adoptions, to minimize the number of animals that need to be removed from the range and cared for in long-term holding. According to DOI, the Secretary's proposals would enable BLM to achieve AML by 2013<sup>58</sup> and eliminate the need for any additional holding by 2014.<sup>59</sup>

The Secretary called for the establishment of a set of wild horse preserves throughout the United States, particularly on the grasslands of the Midwest and East. A preserve would be similar to a long-term holding facility in that it would provide lifetime care in pastures for animals that are not adopted or sold. However, a preserve would differ from a long-term holding facility because it would be open to the public for viewing, tourism, and education.

Areas in the Midwest and East were promoted as potentially more suitable than areas in the West, where in some cases there is a scarcity of water and forage and threats to the animals from drought and fire. The wild horses in these preserves would be non-producing. Land for the preserves would be acquired by BLM or "partners," and the preserves would be managed either by BLM or through cooperative agreements between BLM and other entities. Specifically, BLM was interested in acquiring private land to establish two preserves, with a total capacity of about 7,200 horses. In furtherance of this effort, BLM's FY2011 budget request included \$42.0 million to acquire land to establish one new preserve. However, the FY2011 appropriation to BLM did not include funds for this acquisition. Further, BLM is not currently pursuing this option, due to opposition to federal purchase of lands to establish the preserves. Under the Secretary's proposal, BLM also hoped that its partners would acquire and privately own five other preserves, with a total capacity of about 17,800 horses, that would be managed cooperatively with the agency. BLM currently is pursuing public-private partnerships through the establishment of ecosanctuaries. (See the section of this report entitled "Ecosanctuaries.")

Several proposals were aimed at reducing population growth. They included enhanced use of the fertility control drug PZP and efforts to develop longer-acting treatments. The Administration's budget request for FY2011 proposed an increase for costs of fertility treatments, from \$1.0 million in FY2010 to \$4.2 million in FY2011. Under the proposal, 1,990 mares were to be treated in FY2011, compared with 463 in FY2010 and 582 in FY2009. The focus of fertility control thus far has been on mares in herds that exceed AML. Of the 1,990 mares, 750 were to receive the drug during regular gathers of these overpopulated herds. However, in FY2011 the BLM also would begin a new program of gathering herds already at AML, or near AML, to apply the treatment to mares and then return them to the range. Of the 1,990 mares to be treated, 1,240 were to be in herds at or near AML.<sup>60</sup>

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(...continued)

FY2011 budget request.

<sup>58</sup> Dept. of the Interior, *Fiscal Year 2011, The Interior Budget in Brief*, p. DH-48.

<sup>59</sup> See BLM, *Questions and Answers on Secretary Salazar's Proposals to Create a Sustainable National Wild Horse and Burro Program*, p. 3, on the BLM website at [http://www.blm.gov/wo/st/en/prog/wild\\_horse\\_and\\_burro/wh\\_b\\_information\\_center/questions\\_and\\_answers0.html](http://www.blm.gov/wo/st/en/prog/wild_horse_and_burro/wh_b_information_center/questions_and_answers0.html).

<sup>60</sup> *FY2011 BLM Budget Justification*, p. IV-73. More recent information from BLM (received December 1, 2011) shows that a total of 1,015 mares were treated in FY2011, consisting of about 550 mares in herds over AML and 465 mares in herds at or near AML.

The Secretary also proposed reducing population growth by managing the sex ratios of herds; introducing non-reproducing herds (geldings) in selected HMAs (which would require congressional authorization, according to BLM); and expanding the number of adoptions. The Administration indicated that it had “no intention” of using authorities in the 1971 Act (as amended) to reduce the number of wild horses and burros through euthanasia or sale without limitation.<sup>61</sup>

The Secretary also proposed “showcasing” herds that “deserve recognition” through secretarial or congressional designations. The designations would be intended to “highlight the special qualities” of the herds and foster tourism. The types of designations were not specified, nor whether they would confer or be facilitated by different management. Designations under the proposal have not been made as of December 2, 2011.

## **BLM Strategy Proposal**

To accelerate reforms in wild horse and burro management, BLM is finalizing a new strategy for managing wild horses and burros. The emphasis of the proposed strategy, issued on February 28, 2011, is on advancing Secretary Salazar’s proposals to reduce wild horse and burro populations, pursue new options for animals removed from the range, and reduce program costs.<sup>62</sup> The strategy is intended to respond to congressional direction to BLM to develop and publish a new long-term plan and policy for management of wild horses and burros that included private proposals.<sup>63</sup> BLM expects to issue the strategy in final form after considering public comment on the proposal.<sup>64</sup>

Under the proposed strategy BLM would seek to take a number of actions, including the following:

- Reduce the number of wild horses and burros gathered during at least each of the next two years (FY2012 and FY2013) from approximately 10,000 to 7,600, pending the findings of a National Academy of Sciences study on how BLM should proceed based on the best available science and research.

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<sup>61</sup> Communication received from the BLM Legislative Affairs Division, November 3, 2009.

<sup>62</sup> The Proposed Strategy is available on the BLM website at [http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications\\_Directorate/public\\_affairs/wild\\_horse\\_and\\_burro/documents.Par.86602.File.dat/Proposed\\_WHBSstrategy.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications_Directorate/public_affairs/wild_horse_and_burro/documents.Par.86602.File.dat/Proposed_WHBSstrategy.pdf).

A summary of the proposed reforms is on the BLM website at [http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications\\_Directorate/public\\_affairs/wild\\_horse\\_and\\_burro/documents.Par.32058.File.dat/WHB\\_Fundamental\\_022411.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications_Directorate/public_affairs/wild_horse_and_burro/documents.Par.32058.File.dat/WHB_Fundamental_022411.pdf).

The Proposed Strategy was issued following public comments on a June 2010 BLM strategy development document that contained draft goals, objectives, and possible management actions. This document is available on the BLM website at <https://www.blm.gov/epl-front-office/projects/lup/4900/13613/13852/default.jsp?projectName=Wild+Horse+and+Burro+Strategy+Development+Document>.

<sup>63</sup> This direction was contained in documents on the FY2010 Interior, Environment, and Related Agencies Appropriations legislation, specifically the conference report on the bill (H.Rept. 111-316 on H.R. 2996, p. 78) and the Senate Appropriations Committee report on the bill (S.Rept. 111-38 on H.R. 2996, p. 11).

<sup>64</sup> The June 2010 strategy development document is available on the BLM website at <https://www.blm.gov/epl-front-office/projects/lup/4900/13613/13852/default.jsp?projectName=Wild+Horse+and+Burro+Strategy+Development+Document>.

- Strengthen the humane treatment of animals in both gathers and care in holding facilities, such as through development and implementation of a comprehensive animal welfare program.<sup>65</sup>
- Increase fertility control over the current estimated level of 1,015 animals in FY2011<sup>66</sup> to 2,000 animals in each of FY2012 and FY2013, and, over the longer term, use fertility control as the primary means of maintaining AML on the range. Also, consider other population control measures such as adjustment of herd sex ratios to favor males and introduction of non-reproducing animals.
- Use the best science and research in managing wild horses and burros. Also, continue existing research and conduct new research, such as on fertility control methods.
- Pursue partnerships with private landowners and other entities for the establishment of sanctuaries for the long-term care of wild horses and burros removed from the range. Partnership sanctuaries would be pursued as an alternative to federal acquisition of preserves, which had been proposed as part of Secretary Salazar's initiatives.
- Increase adoptions, from approximately 3,000 to at least 4,000 annually, for instance by training more wild horses and burros.
- Encourage volunteering with wild horses and burros and partnerships to increase ecotourism involving wild horse and burro herds.
- Improve transparency and openness of the wild horse and burro program, for instance through opportunities for public viewing at gathers and holding facilities and release of information on wild horse and burro management.

Implementation of the strategy is contingent upon an appropriations level of approximately \$76 million for wild horse and burro management for each of FY2011-FY2014, according to BLM. The agency intended to prioritize funding for enhancing fertility control, increasing adoptions, and conducting the study by the National Academy of Sciences.<sup>67</sup>

## **National Academy of Sciences Study**

In early 2011, BLM asked NAS to review the science that BLM is using in managing wild horses and burros and to make recommendations on how to use the best available science. The study is expected to examine the science used in various areas, such as population estimation, gather decisions, herd growth, and fertility control. The NAS will review their earlier reports on wild horses and burros<sup>68</sup> as well as current science and research, and identify areas needing further

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<sup>65</sup> Information on BLM's development of a comprehensive animal welfare program is on the BLM website at [http://www.blm.gov/wo/st/en/prog/whbprogram/comprehensive\\_animal.html](http://www.blm.gov/wo/st/en/prog/whbprogram/comprehensive_animal.html).

<sup>66</sup> This estimate is taken from a communication received from the BLM Legislative Affairs Division, December 1, 2011.

<sup>67</sup> Department of the Interior, Bureau of Land Management, *Caring for America's Wild Horses and Burros: Fundamental Reforms—An Overview*, February 2011, p. 7, on the BLM website at [http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications\\_Directorate/public\\_affairs/wild\\_horse\\_and\\_burro/documents.Par.32058.File.dat/WHB\\_Fundamental\\_022411.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications_Directorate/public_affairs/wild_horse_and_burro/documents.Par.32058.File.dat/WHB_Fundamental_022411.pdf).

<sup>68</sup> These reports are about 20-30 years old.

research. It is anticipated that the study will be completed in early 2013. Following the study, BLM is expected to assess whether there is a need for a comprehensive environmental impact statement (EIS) to analyze impacts of wild horse and burro options, or if changes in law are needed to alter management of wild horses and burros.

## **Ecosanctuaries**

### **2011 Solicitation of Proposals to Establish Ecosanctuaries**

BLM has begun to pursue partnerships with other landowners for the establishment of wild horse ecosanctuaries for the long-term care of wild horses and burros determined to be excess and removed from the range. Ecosanctuaries are to provide opportunities for public viewing with a potential for ecotourism. They are to consist exclusively of non-reproducing herds in an effort to limit population growth. The age range of animals in ecosanctuaries will vary. Horses with the most potential for adoption typically would be cared for at ecosanctuaries that contain an outlet for adoption.

Ecosanctuaries could be located solely on non-BLM land, such as private, tribal, state, or other lands, or on a combination of non-BLM and BLM lands. A landowner could propose that a third-party organization manage the horses. Ecosanctuaries located on combined BLM and non-BLM lands are required to be located within established herd areas, while ecosanctuaries established on non-BLM land could be located anywhere.

In general, the goal is for the ecosanctuaries to be less costly to the federal government than long-term holding facilities. The amount BLM will pay sanctuary operators per horse is likely to vary among sanctuaries, depending on the services BLM provides and the services the other land owners provide (e.g., forage). Proposals that include a visitor center or visitor facilities are to identify the expected costs of such facilities and the financial contributions of each party.

In spring 2011, BLM solicited proposals for the establishment of ecosanctuaries.<sup>69</sup> The agency currently is evaluating proposals received as to their cost and technical merit, and will evaluate under the National Environmental Policy Act those determined to have merit. That analysis is expected to take at least 6 months for private land proposals and at least 18 months for public-private land proposals. BLM anticipates the establishment of the first ecosanctuary on private lands in 2012, as this land is not subject to the same laws, regulations, and policies affecting BLM lands.<sup>70</sup> The agency anticipates the establishment of the first ecosanctuary on public-private lands in 2013.<sup>71</sup>

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<sup>69</sup> Notices soliciting proposals for the establishment of ecosanctuaries are on the BLM website at [http://www.blm.gov/wo/st/en/info/newsroom/2011/may/NR\\_05\\_12\\_2011.html](http://www.blm.gov/wo/st/en/info/newsroom/2011/may/NR_05_12_2011.html), [http://www.blm.gov/wo/st/en/info/newsroom/2011/march/NR\\_03\\_25\\_2011.html](http://www.blm.gov/wo/st/en/info/newsroom/2011/march/NR_03_25_2011.html), and [http://www.blm.gov/wo/st/en/info/newsroom/2011/march/NR\\_03\\_15A\\_2011.html](http://www.blm.gov/wo/st/en/info/newsroom/2011/march/NR_03_15A_2011.html).

<sup>70</sup> For more information on ecosanctuaries, see “Questions and Answers Regarding Ecosanctuaries” on the BLM website at [http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications\\_Directorate/public\\_affairs/news\\_release\\_attachments.Par.3429.File.dat/Q\\_A\\_ecosanctuaries.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications_Directorate/public_affairs/news_release_attachments.Par.3429.File.dat/Q_A_ecosanctuaries.pdf).

<sup>71</sup> Communication received from the BLM Legislative Affairs Division, October 27, 2011.

## **Earlier Proposal**

One proposal for the establishment of an ecosanctuary had been evaluated before the 2011 initiative to solicit proposals.<sup>72</sup> Specifically, in November 2008, a private animal activist first expressed interest in purchasing thousands of excess horses from BLM.<sup>73</sup> The idea was to prevent the animals from being slaughtered, and was developed in reaction to BLM's consideration at that time of whether to euthanize animals or sell them without limitations. According to the proponent, the horses would be cared for in a sanctuary in order to protect the wild horse as a living icon of the American West. The sanctuary would be open to the public with the hope that it would be a popular tourist destination like some national parks.

Under one version of the proposal, once the Secretary of the Interior agreed to the establishment of an ecosanctuary, the proponent would deed a privately owned ranch to Saving America's Mustangs (or another Nevada nonprofit corporation) to be operated in perpetuity as a sanctuary for wild horses. The sanctuary would be populated initially with up to 10,000 horses currently in BLM holding facilities, with additional excess horses gathered from the range to be added in the future. The horses in the sanctuary would be managed as a non-reproductive herd. The BLM would pay Save America's Mustangs a per head per year fee of the lesser of \$500 or the long-term holding cost. The sanctuary also would be available for short-term holding of horses. The proposal included a horse receiving, training, and clinical facility as well as a range of public amenities, such as overnight accommodations, a learning center, trails, and campgrounds.<sup>74</sup>

Proponents of the proposal contended that it had several advantages over current wild horse management, including that it would be much less costly. For instance, cost savings would be derived from removing animals from short-term holding, which has an estimated annual cost of \$1,935 per horse, and keeping animals in the West, rather than paying for their transport to the central states for long-term care. Further, the proposal would remove animals from corral facilities and allow them to roam on their natural rangelands. Supporters predicted increased stability of management through care in a permanent sanctuary, rather than uncertainty stemming from the continuing need to seek and renew contracts for care in long-term facilities. Showcasing wild horses in a sanctuary open to the public would have the benefit of promoting American heritage as well, advocates contended.

BLM and others raised concerns about the feasibility of the proposal. One was that the proponents did not provide a detailed enough proposal to allow for a comprehensive feasibility analysis. A second was that BLM did not have authority under law to implement the proposal, (e.g., to reimburse a private party for grazing titled horses<sup>75</sup> on deeded land). A third concern was that the proposed payment would not provide a financial advantage to the government for animals currently in long-term holding, and that BLM could not commit to such lifetime payments

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<sup>72</sup> The prospectus evaluated by the BLM is on the agency's website at [http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications\\_Directorate/public\\_affairs.Par.76646.File.dat/SAM\\_pospectus.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications_Directorate/public_affairs.Par.76646.File.dat/SAM_pospectus.pdf).

<sup>73</sup> For background on this effort, see the website of the sanctuary's proponent at <http://www.madeleinepickens.com>.

<sup>74</sup> The proposal discussed here is on the BLM website at [http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications\\_Directorate/public\\_affairs.Par.76646.File.dat/SAM\\_pospectus.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications_Directorate/public_affairs.Par.76646.File.dat/SAM_pospectus.pdf).

<sup>75</sup> Under the proposal, BLM would transfer title of wild horses by sale or adoption to a private individual, hence the reference to "titled horses."

because appropriations are provided annually. Other concerns were that the proposed ranch area did not contain sufficient water and forage to support 10,000 animals.<sup>76</sup>

## **Office of Inspector General Report**

A December 2010 report of the DOI Office of Inspector General (OIG) evaluated whether wild horse and burro gathers are “necessary and justified” and whether wild horses and burros are being mistreated. As mentioned above, the report concluded that the gathers are necessary and justified to control herd populations at a level the range can support as well as to maintain a balance of uses of the range. Over the years, at times there have been concerns expressed about the treatment of animals, including stress and risk to horses at gathers and the quality of care of animals in holding. The OIG also expressed that they did not find evidence that BLM or its contactors inhumanely treated wild horses and burros during gathers or at holding facilities.

The OIG recommended that BLM continue implementing program improvements and Secretary Salazar’s initiatives, particularly:

- research and testing of improved population control methods so as to balance population increases with adoption rates, minimizing the need for holding;
- efforts to reduce the need for holding facilities; and
- coordinating and confirming science and research with the National Academy of Sciences and using the best science and research in program management.<sup>77</sup>

## **American Association of Equine Practitioners Report**

At the request of BLM, a task force of the American Association of Equine Practitioners evaluated BLM’s treatment of wild horses and burros at gathers and in short- and long-term holding facilities. BLM sought the independent study in an effort to improve the health and welfare of wild horses and burros, in part in light of ongoing concerns over the treatment of animals. The task force was made up of 10 veterinarians from private practice, universities, and industry involved with equine medicine and surgery throughout the country. Their August 2011 report described the condition of animals during gathers, transport, medical procedures, and holding as observed during site visits. The panel concluded that the “care, handling and management practices utilized by the agency are appropriate for this population of horses and generally support the safety, health, and welfare of the animals.”<sup>78</sup>

The task force documented many practices of quality care for wild horses and burros. The panel also made recommendations for improvement. They included:

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<sup>76</sup> A BLM statement on the proposal is available on the BLM website at [http://www.blm.gov/wo/st/en/info/newsroom/2011/january/nr\\_01\\_21\\_2011.html](http://www.blm.gov/wo/st/en/info/newsroom/2011/january/nr_01_21_2011.html). It is unclear whether a revised proposal was submitted to the BLM during the 2011 proposal solicitation period.

<sup>77</sup> Dept. of the Interior, Office of Inspector General, *Bureau of Land Management Wild Horse and Burro Program*, December 2010, p. 1, on the website of the Office of Inspector General at <http://www.doiig.gov/images/stories/reports/pdf/BLM%20Wild%20Horse%20and%20Burro%20Program%20Public.pdf>.

<sup>78</sup> American Association of Equine Practitioners, *Bureau of Land Management (BLM), Wild Horse and Burro Program, BLM Task Force Report*, August 2011, Executive Summary, on the web at <http://www.aaep.org/images/files/AAEP%20Report%20on%20the%20BLM%20Wild%20Horse%20&%20Burro%20Program%20Final.pdf>.

- using the best available science for determining a healthy and sustainable number of animals for each HMA;
- prioritizing research on and use of fertility controls to reduce wild horse populations;
- adopting conservative helicopter flying patterns during gathers to ensure a safe distance between helicopters and horses or the ground;
- changing the configuration of capture pens for gathered animals to enhance safety (for instance, to discourage horses from climbing out);
- providing areas of solid footing in all short-term holding facilities so horses can lie down;
- ensuring a uniform protocol for anesthesia for all surgical procedures on horses;
- adjusting numbers of animals at short-term holding facilities as needed to avoid overcrowding, and adopting biosecurity standards for short-term facilities to reduce outbreaks of infectious disease; and
- continuing agency efforts to establish a centralized database to track wild horses and burros that includes trends and outcomes of programs such as adoption and training at prisons.

## Legislation

Congress has considered the extent to which funding for wild horse and burro management is appropriate for a number of sometimes conflicting goals: caring for wild horses and burros, reaching AML on the range, and reducing long-term budgetary needs, as discussed above. Congress also has provided guidance and direction to the agencies on managing wild horses and burros, and considered whether alternative authorities would be desirable.

Currently (as of December 2, 2011), legislation to amend the 1971 Act has not been introduced in the 112<sup>th</sup> Congress. Legislation in the 111<sup>th</sup> Congress had sought to make many changes to wild horse and burro management. Specifically, H.R. 1018 had passed the House and was referred to a Senate Committee, while S. 1579 was introduced in the Senate and referred to committee. The bills sought to prohibit the slaughter of wild horses and burros, unless the animal is terminally ill or fatally injured, and to remove agency authority to sell excess wild horses and burros. They would have limited the removal of wild horses and burros from the range to certain circumstances: (1) the immediate health or safety of the animals is threatened; (2) the health and well-being of native plants or wildlife is threatened; or (3) the Secretary “has exhausted all practicable options” of maintaining the animals on the range, has determined that there is an “adoption demand” for the animals, and can “ensure humane treatment and care” through specified requirements.

Other provisions were intended to expand the area available for wild horses and burros. To the extent practicable, the acreage was not to be less than the acreage where the animals roamed in 1971—53.8 million acres; currently, wild horses and burros roam on 31.6 million acres. The prohibition on relocating wild horses and burros to public lands where they did not exist in 1971 would have been stricken. The bills sought to facilitate the establishment of wild horse and burro sanctuaries or exclusive use areas, and to identify new rangelands for wild horses and burros,

including on private lands. They would have required an assessment of the effects of creating new ranges, sanctuaries, or exclusive use areas for wild horses and burros, including on range health, water quality, and threatened and endangered species.

Still other provisions aimed to improve the methods for estimating animals on the range and determining AMLs. The Secretary was to employ the best scientific methods for estimating populations, develop a policy and standards for setting AMLs, and distribute standards so that the methodology for estimating populations and determining AMLs is consistent. To reduce populations on the range, the Secretary was to research, develop, and implement fertility control. The Secretary also was to maintain an inventory of wild horses and burros and update it every two years.

To promote wild horse and burro adoptions, the Secretary was to take several actions. They included implementation of creative and more aggressive marketing strategies, exploration of agreements with local and state organizations that use horses, provision of resources for screening and training potential adopters, and development of a program of economic incentives for adopters. Adopters would have been required to sign an attestation affirming that neither the adopted animals nor their remains would be sold or transferred for consideration for processing into commercial products. Wild horses and burros could not be held in short-term holding facilities for more than six months while awaiting disposition.

Further, the bills would have required annual reports to the House and Senate authorizing committees<sup>79</sup> with information on animal populations, AMLs, acres of land for wild horses and burros, sanctuaries (or exclusive use areas), and fertility control, among other topics. The Secretary also was to track the number of animals injured or killed during gathering and holding, and determine what information on treatment of animals held and adopted could be provided to the public.

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<sup>79</sup> The committees are the House Committee on Natural Resources and the Senate Committee on Energy and Natural Resources.