

Joint Organizational Letter to Dr. Drotar Regarding Proposed April 27, 2026 Heber Horse Gather

April 21, 2026

Dr. Drotar
Program Director, Wild Horse and Burro Program
U.S. Forest Service

Re: Heber Wild Horse Territory; April 27, 2026 announced start date for impound/gather of horses the agency is characterizing as “unauthorized livestock”

Dear Dr. Drotar:

This letter is submitted on behalf of American Wild Horse Conservation, The Cloud Foundation, and Wild Horse Education regarding the U.S. Forest Service’s announced April 27, 2026 start date for impound and gather activity associated with horses in and around the Heber Wild Horse Territory.

The April 2, 2026 notice, as publicly described, indicates that after April 27 federal officials and contractors may begin impounding animals identified as “unauthorized livestock,” while broader removals under the recently approved management framework are expected to proceed through bait trapping, helicopter-assisted gathers, and associated holding infrastructure.

The organizations object to any implementation that rests on an opaque and legally unsupported distinction between protected wild free-roaming horses and so-called “unauthorized livestock,” particularly where the agency has not publicly disclosed the operative criteria, evidentiary basis, geographic methodology, or animal-by-animal protocol for making that determination.

The governing Forest Service regulation defines wild free-roaming horses and burros as “all unbranded and unclaimed horses and burros and their progeny that have used lands of the National Forest System on or after December 15, 1971, or do hereafter use these lands as all or part of their habitat,” excluding only animals introduced onto National Forest System lands after that date “by accident, negligence, or willful disregard of private ownership.” That definition is critical here. The position that a horse located outside an administratively preferred boundary, or descended from a horse that moved beyond that boundary, automatically ceases to qualify as a wild free-roaming horse and instead becomes “unauthorized livestock” does not comport with 36 C.F.R. § 222.60(b)(13), particularly where the horse is unbranded, unclaimed, and has used National Forest System lands as all or part of its habitat. The same regulation also states that the Chief of the Forest Service “shall

protect, manage, and control” wild free-roaming horses and burros on National Forest System lands and “shall maintain vigilance for the welfare” of animals that wander or migrate from those lands.

The Final EA and Decision Notice state that horses not meeting the regulatory definition of wild horse would be treated as unauthorized livestock and removed under 36 C.F.R. § 222.63 and state law, in consultation with brand inspectors and related officials. Yet the agency has not publicly disclosed the actual standards, thresholds, or field methodology that will be used to distinguish protected Heber wild horses and other federally protected wild horses occupying lands outside the WHT, from purported unauthorized livestock before capture or impound occurs.

The announced action also raises serious concern regarding potential noncompliance between the 2025 EA, the pending removal and the 2007 stipulated settlement and subsequent court order arising from litigation over the Heber horses.

The court-approved settlement established that the Heber Wild Horse Territory still exists and has not been dissolved, recognized that the Heber horses are by law an integral part and component of the natural system of the public lands, and required the Forest Service to refrain from gathering or removing horses within and outside the Heber Wild Horse Territory and on the Black Mesa and Lakeside Ranger Districts until it completed NEPA review with public involvement and developed a written Heber Wild Horse Territory Management Strategy.

Although the Forest Service now relies on the Final EA and Territory Management Plan as the basis for implementation, the selected alternative appears to create substantial tension with both the text and protective purpose of the 2007 stipulation.

In particular, the decision to begin removals across the broader Sitgreaves National Forest, working inward toward the territory, creates a material risk that horses historically associated with the Heber herd and protected landscape will be removed first under a newly asserted “unauthorized livestock” label before the agency has demonstrated a lawful basis for excluding them from the protected wild horse population.

That risk is especially acute because the stipulation was not merely procedural. It did not only require the Forest Service to complete paperwork. It also memorialized core substantive protections: the continuing existence of the Territory and the legal status of the Heber horses as an integral component of the natural system of the public lands. A management regime that relies on undefined criteria to reclassify unbranded, unclaimed horses using National Forest System lands as unauthorized livestock may therefore violate not only the spirit of the stipulation, but potentially its operative protections as well.

The EA also rejects, from detailed study, alternatives such as expanding the territory, increasing AML, or reducing livestock grazing to accommodate a larger wild horse population. That choice further underscores the need for the agency to explain why the selected action does not functionally subordinate the Heber horses to competing land uses in a manner inconsistent with the stipulation's recognition that these horses are an integral component of the public lands system.

Welfare concerns are equally serious.

Where traps are accessible to any unbranded, unclaimed horse moving across the landscape, and the agency has not disclosed a pre-capture sorting methodology capable of distinguishing alleged unauthorized livestock from protected wild horses before entry into the trap, the risk of unlawful and inhumane capture is obvious.

Reliance on generalized references to comprehensive animal welfare standards does not answer the threshold problem: *there is still no disclosed protocol showing how the Forest Service will ensure that horses captured in mixed-status areas are correctly identified before they are processed, removed, sold, adopted out, relocated, or otherwise permanently separated from the range.*

Accordingly, the organizations demand that the Forest Service immediately disclose, before any April 27 implementation begins, the following information and suspend impound or gather activity unless and until that information is produced and subject to public scrutiny:

- The complete written criteria, decision tree, and evidentiary standards used to classify any horse as “unauthorized livestock” rather than a protected wild free-roaming horse.
- The precise legal authority the agency contends permits it to classify unbranded and unclaimed horses using National Forest System lands as unauthorized livestock notwithstanding 36 C.F.R. § 222.60(b)(13), and how that interpretation is reconciled with the 2007 stipulated settlement and court order.
- A horse-by-horse or band-by-band accounting of all animals already determined to be unauthorized, including number, date of determination, specific location, basis for the determination, and whether any ownership claim, brand inspection, or other documentation exists.
- All maps, GIS layers, survey data, inventory data, observation logs, photographs, videos, contractor guidance, and internal memoranda used to distinguish alleged unauthorized livestock from federally protected Heber wild horses.

- The specific protocol the agency will use to ensure that any capture of horses outside federal lands, or capture of horses moving between land jurisdictions, complies with humane handling requirements and does not result in the unlawful take of protected horses.
- The agency's explanation of how any bait trap or other capture device can be operated in a manner that is compliant with humane wild horse handling standards when protected and allegedly unauthorized horses cannot reliably be separated prior to entry.
- The agency's written analysis of how the selected alternative and contemplated April 27, 2026 implementation are consistent with the 2007 stipulated settlement and court order, including the across-Forest removal strategy and the treatment of horses outside the mapped territory as potentially unauthorized livestock.

Absent immediate disclosure, any impound or gather proceeding under the current notice would be arbitrary, legally vulnerable, and irreparably harmful to protected Heber horses.

The Forest Service should therefore suspend the April 27, 2026 implementation date unless and until it provides transparent criteria, supporting data, humane capture protocols, and a written legal explanation reconciling its proposed action with both the governing regulation and the 2007 stipulation and court order.

Please direct a written response and all responsive records on an expedited basis.

Respectfully,

American Wild Horse Conservation
The Cloud Foundation
Wild Horse Education