

IN THE HOUSE OF REPRESENTATIVES

February 12, 2009

Mr. RAHALL (for himself and Mr. GRIJALVA) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Wild Free-Roaming Horses and Burros Act to improve the management and long-term health of wild free-roaming horses and burros, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Act of December 15, 1971 (commonly known as the Wild Free-Roaming Horses and Burros Act; 16 U.S.C. 1331 et seq.).

SEC. 2. POLICY.

The first section is amended by striking ` in the area where presently found, as'.

SEC. 3. DEFINITIONS.

Section 2 (16 U.S.C. 1332) is amended--

(1) in paragraph (c), by striking ` which does not exceed their known territorial limits,'

(2) in paragraph (d), by striking ` and' after the semicolon;

(3) in paragraph (e), by striking the period and inserting a semicolon;

(4) by amending paragraph (f) to read as follows:

`(f) `excess animals' means wild free-roaming horses or burros which must be removed from an area, in accordance with section 3(d), in order to preserve and maintain a thriving natural ecological balance and multiple use relationship in that area.'.

SEC. 4. INVENTORY AND DETERMINATIONS.

Section 3 (16 U.S.C. 1333) is amended to read as follows:

`Sec. 3. (a) All wild free-roaming horses and burros are hereby declared to be under the jurisdiction of the Secretary for the purpose of management and protection in accordance with the provisions of this Act. The Secretary shall--

`(1) protect and manage wild free-roaming horses and burros as components of the public lands;

`(2) designate and maintain specific ranges on public lands as sanctuaries for the protection and preservation of wild free-roaming horses and burros, where the Secretary, after consultation with the wildlife agency of the State where any such range is proposed and with the Advisory Board established in section 7, considers such action desirable.

`(3) manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands;

`(4) consider the recommendations of qualified scientists in the field of biology and ecology, some of whom shall be independent of both Federal and State agencies and may include members of the Advisory Board established in section 7;

- ` (5) ensure that management activities related to wild free-roaming horses and burros are at the minimal feasible level and carried out in consultation with the relevant State wildlife agency in order to protect the natural ecological balance of all wildlife species, particularly endangered wildlife species; and
 - ` (6) ensure that any adjustments in forage allocations are made after taking into consideration the needs of other wildlife species.
- ` (b) In order to determine if an overpopulation of wild free-roaming horses and burros exists, the Secretary shall--
- ` (1) maintain an inventory of wild free-roaming horses and burros on the public lands;
 - ` (2) update the inventory annually; and
 - ` (3) make the inventory by herd management area available to the public on the Website of the Bureau of Land Management at no cost.
- ` (c) In order to better manage wild free-roaming horses and burros, the Secretary, not later than one year after the date of the enactment of this section, shall take the following actions:
- ` (1) Adopt and employ the best scientific, peer-reviewed methods to accurately estimate wild free-roaming horse and burro populations on public lands.
 - ` (2) Employ scientifically sound methods to develop a policy for setting consistent, appropriate management levels.
 - ` (3) Provide a public process, including a period for notice and comment, for finalizing appropriate management level standards.
 - ` (4) Publish and distribute these standards to each field office so that the methodology for estimating population and determining appropriate management levels is consistent across public lands.
 - ` (5) Train Bureau of Land Management personnel on the use of these standard techniques to estimate population and determine appropriate management levels.
 - ` (6) Consult with--
 - ` (A) the United States Fish and Wildlife Service;
 - ` (B) wildlife agencies of the State or States where wild free-roaming horses and burros are located;
 - ` (C) individuals independent of Federal and State governments who have been recommended by the National Academy of Sciences; and
 - ` (D) individuals who the Secretary determines to have scientific expertise and special knowledge of wild horse and burro protection, wildlife management, and animal husbandry related to rangeland management.
 - ` (7) Identify new, appropriate rangelands for wild free-roaming horses and burros, including use of land acquisitions, exchanges, conservation easements, and voluntary grazing buyouts, and negotiate with private landowners to allow for the federally supervised protection of wild horses and burros on private lands.
 - ` (8) Establish sanctuaries or exclusive use areas; and
 - ` (9) Research, develop, and implement enhanced surgical or immunocontraception sterilization or other safe methods of fertility control.
- ` (d) If the Secretary has exhausted all practicable options of maintaining populations of wild free-roaming horses and burros on the range, the Secretary may provide that excess wild free-roaming horses and burros are humanely captured and removed for private maintenance and care, so long as the Secretary has determined an adoption demand exists by qualified individuals and the Secretary can ensure humane treatment and care by requiring that--
- ` (1) no more than four wild free-roaming horses and burros may be adopted per year by any individual, unless the Secretary determines, in writing, that the individual is capable of humanely caring for more than four wild free-roaming horses and burros, including the transportation of such animals by the adopting party;
 - ` (2) each individual adopter shall execute an appropriate attestation, pursuant to section 1001 of title 18, United States Code, affirming that adopted animals shall not be used for purposes of slaughter for human consumption;
 - ` (3) methods for removing wild horses and burros shall not include the use of helicopters or any other airborne devices; and
 - ` (4) wild horses and burros shall not be contained in corrals or other holding facilities for more than 6 months, while awaiting disposition.

`(e) When an excess wild free-roaming horse or burro has been transferred to a qualified individual for adoption and private maintenance pursuant to this Act and the Secretary determines that such individual has provided humane conditions, treatment, and care for such animal for one year, the Secretary may, upon application by the transferee, grant the transferee title to that animal.

`(f) Not later than one year after the date of the enactment of this subsection, for the purposes of carrying out a successful wild free-roaming horse and burro adoption program the Secretary shall--

`(1) implement creative and more aggressive marketing strategies for the adoption program, including the use of the Internet or other media to showcase horses and burros and the adoption program;

`(2) explore public outreach opportunities, including agreements with local and State organizations that are using horses and burros for rehabilitation, therapy, or prisoner programs;

`(3) provide resources to properly screen and train potential adopters;

`(4) conduct tours of Bureau of Land Management facilities for interested parties; and

`(5) develop volunteer mentor and compliance check programs for assisting the agency in facilitating successful adoptions.

`(g) The Secretary may not destroy or authorize the destruction of wild free-roaming horses or burros unless the Secretary--

`(1) determines that the wild free-roaming horse or burro is terminally ill; and

`(2) ensures that the terminally ill wild free-roaming horse or burro will be destroyed in the most humane manner.

`(h) If the immediate health or safety of wild free-roaming horses or burros is threatened, such as in severe drought conditions, the Secretary shall temporarily remove animals from the range.

`(i) Except in cases of removal under subsection (g) or subsection (h), if the Secretary removes wild free-roaming horses or burros from the range or decreases the range of the wild horses and burros, the Secretary shall provide a public notice on the Website of the Bureau of Land Management 30 days prior to the planned removal.

`(j) The Secretary shall--

`(1) track the number of wild free-roaming horses and burros injured during gathering or holding in a centralized database system;

`(2) determine what information on the treatment of gathered wild free-roaming horses and burros in holding and adopted wild free-roaming horse and burros could be provided to the public to help inform the public about the treatment of wild free-roaming horse and burros; and

`(3) ensure that such information is easily accessible on the Website of the Bureau of Land Management.'

SEC. 5. PRIVATE MAINTENANCE.

Section 4 (16 U.S.C. 1334) is amended--

(1) by striking 'animals removed' and inserting 'animals returned to public lands'; and

(2) by striking 'In no event shall such wild free-roaming horses and burros be destroyed except by the agents of the Secretary.'

SEC. 6. COOPERATIVE AGREEMENTS.

Section 6 (16 U.S.C. 1336) is amended by inserting 'and other private entities' after 'landowners'.

SEC. 7. JOINT ADVISORY BOARD.

Section 7 (16 U.S.C. 1337) is amended--

(1) by striking 'nine members' and inserting '12 members';

(2) by striking 'Governments' and all that follows 'management.' and inserting

'Governments and shall include at a minimum three representatives of the livestock

industry; three representatives of the environmental community; three representatives of the humane community; and three scientists with doctorate degrees who have expertise in wildlife management.'; and
(3) by adding at the end the following new sentence: `Selection of members of the board shall be conducted by notice and comment rulemaking in accordance with the Administrative Procedure Act (5 U.S.C. et seq.) shall be for a term of four years. No individual shall serve more than two consecutive terms.'

SEC. 8. CRIMINAL PROVISIONS.

Section 8(a)(4) (16 U.S.C. 1338(a)(4)) is amended--

- (1) by striking `3(e)' and inserting `3(d)';
- (2) by inserting `, transports for processing,' after `processes'; and
- (3) by striking `the remains of' and inserting `a live or deceased'.

SEC. 9. TRANSPORTATION OF CAPTURED ANIMALS.

Section 9 (16 U.S.C. 1338a) is amended--

- (1) by striking `helicopters or, for the purpose of transporting captured animals, motor vehicles.' and inserting `motor vehicles for the purpose of transporting captured animals.'; and
- (2) by striking `The provisions of section 47(a) of title 18 shall not be applicable to such use.'

SEC. 10. LIMITATION OF AUTHORITY.

Strike section 10 (16 U.S.C. 1339) and redesignate section 11 as section 10.

SEC. 11. REPORTS.

Amend section 10 (as so redesignated by section 10 of this Act) as follows:

- (1) Insert `(a)(1)' before `After the expiration'.
- (2) Insert `(2)' before `The Secretary of the Interior'.
- (3) Add at the end the following:

`(b)(1) Not later than one year after the date of the enactment of this subsection and annually thereafter, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that contains the following:

- `(A) The number of acres managed by the Bureau of Land Management for wild free-roaming horses and burros.
- `(B) The appropriate management levels on public rangelands.
- `(C) A description of the methods used to determine the appropriate management levels and whether it was applied consistently across the agency;
- `(D) the number of wild free-roaming horses and burros on public lands;
- `(E) a description of the methods used to determine the wild free-roaming horse and burro population;
- `(F) any land acquisitions, exchanges, conservation easements, and voluntary grazing buyouts that the Bureau of Land Management has acquired or pursued for wild free-roaming horses and burros;
- `(G) any sanctuaries or exclusive use areas established for wild free-roaming horses and burros;
- `(H) programs established for enhanced surgical or immunocontraception sterilization research and development;
- `(I) the extent to which fertility control is being used by the Bureau of Land Management to control the population of wild free-roaming horses and burros;
- `(J) the percentage of the Bureau of Land Management budget devoted to contraception annually;

- `(K) the ratio of horses the agency has contracepted and put back on the range; and
 - `(L) which herds contraception has been administered and with what results.
- `(2) Each report submitted under paragraph (1) shall be made available to the public on the Website of the Bureau of Land Management.'.