

PETITION

To Create Rules and Regulations Governing the Sale
of Wild Horses and Burros for Slaughter as Food

Before the United States Department of Interior
United States Bureau of Land Management

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To:

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On behalf of
FRONT RANGE EQUINE RESCUE

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I. INTRODUCTION

Front Range Equine Rescue (“Petitioner”) petitions the United States Bureau of Land Management (“BLM”), an agency of the United States Department of Interior (“DOI”), pursuant to the requirements for such petitions under the Wild Free-Roaming Horses and Burros Act, 16 U.S.C. §§ 1331, *et seq.* (“Wild Horse Act”), its accompanying regulations, 43 C.F.R. §§ 4700.0-1, *et seq.*, and the Administrative Procedure Act, 5 U.S.C. § 553(e). Petitioner requests that the Secretary of Interior, Ken Salazar, and the Acting Director of BLM, Mike Pool, classify all wild horses as “U.S. Condemned” and unusable for consumption. Petitioner also requests that BLM engage in administrative rulemaking, in order to ensure that BLM policies are carried out and that wild horses are not sold for commercial slaughter. Petitioner makes this request because (1) the Wild Horse Act is intended, in part, to protect wild horses from commercial exploitation, and (2) BLM policy prohibits the sale of wild horses for commercial slaughter. Clear regulations are needed so that BLM can enforce its anti-slaughter policy in a meaningful way, and prevent the sale of wild horses for consumption.

Congress enacted the Wild Horse Act in 1971 in response to overwhelming public support for the law, and after decades during which America’s wild horse population was decimated by individuals who harassed and killed them for sport and profit. Congress aimed to preserve wild horses for future generations, to allow us to watch them as they roam in herds across the American West as symbols of freedom and independence, subject to oversight by the BLM. While management of wild horses is one major aspect of the Wild Horse Act, the law was also intended to prohibit all commercial exploitation of horses when they have been removed from the range; this prohibition clearly extends to their slaughter for consumption.

The BLM—consistent with the purpose of the Wild Horse Act and its own policy—requires those who purchase wild horses to agree not to sell the animals for commercial slaughter. In direct contravention of the purpose of the Wild Horse Act and BLM policy,¹ a rider to a 2004 appropriations bill, known as the “Burns Amendment,” enabled the sale of wild horses

¹ *See infra* Section V.

for slaughter.² But consistent with the purpose of the Wild Horse Act, BLM continues to oppose the slaughter of wild horses, requiring those who purchase wild horses under the Burns Amendment to agree not to sell their animals for commercial slaughter.³ Yet despite the Wild Horse Act's controlling purpose, longstanding BLM policy, and public opposition, wild horses are still sold for slaughter. This Petition and the rules suggested herein provide a means by which the BLM can fulfill the intent of the Wild Horse Act and enforce its own policy.

BLM has jurisdiction to enforce its policy prohibiting the sale of wild horses for slaughter, which current BLM regulations and guidance do not address. FRER requests that the BLM engage in rulemaking to ensure that wild horses are no longer sold to be slaughtered for food.

II. INTERESTS OF THE PETITIONER

Petitioner FRER is a Colorado-based nonprofit group incorporated under Section 501(c)(3) of the Internal Revenue Code. FRER is actively involved in the rescue, rehabilitation, and adoption to good homes of domestic and wild horses found at auctions and horses destined for slaughter; and in educational efforts regarding responsible horse ownership, the cruelty of horse slaughter, and wild horse roundups.⁴ FRER has assisted thousands of horses through its rescue and educational programs.⁵ While some of FRER's horses are surrendered by their owners or saved when abandoned, many are rescued from livestock auctions; others are purchased at feed lots before they are sent to slaughter.⁶

² 16 U.S.C. § 1333(e) (the "Burns Amendment").

³ See, e.g., "Prepared Remarks of BLM Director Bob Abbey at 'Summit of the Horse,'" Bureau of Land Management (Jan. 4, 2011), <http://www.blm.gov/wo/st/en/info/newsroom/extras/summitstatement.print.html> (last accessed Nov. 27, 2012) ("I want to be clear about one thing. Secretary Salazar and I have consistently stated since taking on our current roles that we do not support nor are we willing to incorporate into any wild horse or burro strategy that we pursue . . . the unlimited sale of older horses. . .").

⁴ Declaration of Hilary Wood ("Wood Dec."), attached hereto as Exh. 1, at ¶ 2.

⁵ *Id.*

⁶ *Id.*

III. ACTION REQUESTED⁷

Based on the facts and law presented here, Petitioner requests that BLM issue a rule that no wild horses or burros be sold for slaughter, rendering any wild horse or burro “U.S. Condemned” for use as food for consumption. Petitioner also requests that BLM adopt rules and regulations that prevent any wild horses or burros from being exported for slaughter.

Based on the Factual and Legal Background and Statement of Grounds below, Petitioner requests that BLM adopt the following regulations:

1. Slaughter Prohibited. No wild horse or burro shall be approved for slaughter for consumption in America, or for export intended for consumption elsewhere.
2. Written Records. To ensure that no wild horses or burros are slaughtered for consumption in America or exported for slaughter for consumption elsewhere, the following steps must be taken whenever a wild horse or burro is sold: (a) A Wild Horse Passport shall accompany each wild horse or burro, attesting to the ownership of the wild horse or burro at all times from when the animal is gathered and freezemarked until the wild horse or burro’s death; (b) Each and every owner of a wild horse or burro shall sign the Wild Horse Passport accompanying the animal, signifying agreement with the following statement, which shall be printed in each Passport: “Purchaser/transferee agrees not to process this animal into commercial products. Purchaser/transferee also agrees not to knowingly sell or transfer ownership of this animal to any person or organization with an intention to resell, trade, or give

⁷ On March 27, 2012, Petitioner, along with The Humane Society of the United States, filed a Petition with the Department of Health and Human Services and the Food and Drug Administration (“FDA”), requesting that FDA enact certain rules and regulations regarding horses and horse meat intended for human consumption. *See* FDA Docket Number FDA-2012-P-0299-0001/CP. On April 9, 2012, the same two Petitioners filed a Petition with the Department of Agriculture (“USDA”) and the Food Safety Inspection Service (“FSIS”), requesting that USDA and FSIS enact certain rules and regulations regarding horses and horse meat intended for human consumption. *See* USDA Petition Number 12-04. The prior Petitions request separate actions based on different legal authority under the Federal Food, Drug and Cosmetic Act, 21 U.S.C. §§ 301, *et seq.*, and FDA regulations under that law, and the Federal Meat Inspection Act, 21 U.S.C. §§ 601, *et seq.*, and FSIS regulations under that law. The acts and rules requested in this Petition are solely within the jurisdiction of BLM, separate and apart from any FDA or FSIS action, and are necessary regardless of FSIS’s and FDA’s responses to the prior Petitions.

away the animal for processing into commercial products. Purchaser/transferee agrees to obtain on this document the signature of any subsequent purchaser of this animal and shall be considered the owner of the animal until such signature is obtained. Violators are subject to criminal prosecution under 18 U.S.C. § 1001.” (c) All Wild Horse Passports shall prominently state: “This animal may have been treated with dangerous substances, including those prohibited by law for use on food animals. No individual or entity may make any contrary sworn statements as to the drug treatment history of this animal.”

3. U.S. Condemned. Any wild horse or burro, or meat from such animal intended for consumption, shall be labeled and certified as “U.S. Condemned.” Wild horses and burros designated “U.S. Condemned,” and meat from such animals, shall be prohibited from sale or transport to slaughter for consumption, and labeled as such.

IV. FACTUAL BACKGROUND

A. Americans Love Wild Horses and Oppose Their Slaughter.

Wild horses are icons of America’s past and symbols of the freedom and individualism at the core of American idealism. Descendants of horses who escaped Spanish explorers, as well as from other origins, wild horses roamed the Western frontier before there was a United States of America.⁸ Wild horses were a permanent and integral part of the landscape during the Nation’s expansion across the continent. We have admired and continue to admire their wildness and herd cultures where they are left alone on the open range.

As representatives of America’s heritage and symbols of the American spirit, horses in general and wild horses in particular are different than other animals, especially those we typically include in our diets. Just as Americans do not view dogs, cats, or domesticated horses as sources of meat, they do not eat or want others to eat their wild horses.⁹ The role of horses

⁸ 92 CONG. REC. 34779-80 (1971) (“In the remaining bands of free-roaming horses that still graze our western plains are the descendants of the stock brought to this continent by the first Spanish settlers in the 16th and 17th centuries. Over the years, these hardy animals mixed with the horses owned by the earliest American settlers until today, there remains a conglomeration of mustangs, burros, and several varieties of wild horses.”) (statement of Congressman Wolff).

⁹ See, e.g., *Cavel Int’l., Inc. v. Madigan*, 500 F.3d 551, 545 (7th Cir. 2007) (“Americans do not eat horse meat. . . .”); see also Terry L. Whiting, *The United States’ prohibition of horse meat for* (Footnote continued on next page)

throughout American history,¹⁰ and in contemporary culture, makes their slaughter something that most Americans oppose.

Nevertheless, when Americans have lost interest in their horses or when wild horses are captured on public land, the slaughter industry is ready: “killer-buyers” purchase them and send them off to be killed. Horses are transported to Canada and Mexico, where they are slaughtered and butchered, and their meat eaten or exported to be eaten. Horse meat is a common food, even a staple, in many regions, from China and Southeast Asia to Europe.¹¹ Between 100,000 and 200,000 American horses, from a variety of sources, are slaughtered outside of the United States and end up in restaurants and markets each year, and hundreds of thousands of people eat American horse meat annually.

Because Americans view horses as somewhat totemic or “sacred” animals, horse slaughter for consumption is overwhelmingly unpopular in the United States.¹² A January 2012 poll confirmed that eighty per cent of Americans strongly oppose horse slaughter.¹³ The survey found that “Americans oppose horse slaughter overwhelmingly regardless of their gender,

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consumption: *Is this a good law?*, 48 CANADIAN VET. J. 1173, 1174 (Nov. 2007) (“A commercial market for horse meat as food has never emerged in the USA.”), available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2034431/>.

¹⁰ Kurt Brungardt, *Gallop Scared*, VANITY FAIR, Nov. 2006, <http://www.vanityfair.com/politics/features/2006/11/wildhorses200611> (“Celebrated in film, literature, and our nation’s history, the mustangs helped Lewis and Clark complete their historic expedition, and during the opening of the frontier, they pulled plows, delivered mail, and carried soldiers in battle.”).

¹¹ *Cavel Int’l.*, 500 F.3d at 552.

¹² Christa Weil, *We Eat Horses, Don’t We?*, NY TIMES, March 5, 2007, www.nytimes.com/2007/03/05/opinion/05weil.html (“Weil”); Josh Ozersky, *The Case for Eating Horse Meat*, TIME (Dec. 28, 2011), <http://ideas.time.com/2011/12/28/the-case-for-eating-horse-meat/>.

¹³ <http://www.prnewswire.com/news-releases/aspca-research-confirms-americans-strongly-oppose-slaughter-of-horses-for-human-consumption-138494089.html> (“ASPCA Survey”); see also Press Release, The Humane Society of the United States, USDA Threatened with Suit if Court Order Not Followed Before Horse Slaughter Resumes (Feb. 3, 2012), http://www.humanesociety.org/news/press_releases/2011/11/usda_threatened_02032012.html.

political affiliation, whether they live in an urban or rural area, or their geographic location,” or whether they own horses themselves.¹⁴

Americans oppose horse slaughter and consumption for a variety of reasons. Some attribute this opposition to culture.¹⁵ Others credit the opposition to the role of horses in American history, from the founding era to westward expansion.¹⁶ Another factor deterring American consumption of horse meat is the level of cruelty inherent in the slaughter of horses, who are especially combative and frightened in slaughterhouses.¹⁷ Yet others do not even attempt to explain their view, simply calling the eating of horse meat “repulsive[]” and “gross.”¹⁸

Regardless of the rationale, Americans do not eat horse meat and do not want their wild horses slaughtered and exported for others to eat either.¹⁹

Americans did eat horses in decades past, but consumption has dropped off to almost nothing in the past thirty or forty years.²⁰ At this point, horse meat is almost never eaten in America. But because of recent legal changes and a commercial desire to slaughter horses for profit, the business of slaughter could soon reappear.²¹ Further, American horses may continue to be shipped over our borders, north and south, for slaughter and export to foreign markets.

¹⁴ *ASPCA Survey*, *supra* Note 13.

¹⁵ Nicholas Day, *They Eat Horses, Don't They?*, *CHOW*, Nov. 17, 2006, <http://www.chow.com/food-news/53692/they-eat-horses-dont-they/>; Dan Flynn, *Horse Slaughter Issue Won't Go Away*, *FOOD SAFETY NEWS*, Oct. 25, 2011, <http://www.foodsafetynews.com/2011/10/horse-slaughter-issue-wont-go-away/> (attributing Americans' opposition to eating horse meat to the country's "Cowboy Culture").

¹⁶ Brian Palmer, *The Delicious Mr. Ed*, *Slate Magazine*, Oct. 24, 2011, http://www.slate.com/articles/health_and_science/explainer/2011/10/slaughtering_horses_for_meat_is_banned_in_the_us_why.html.

¹⁷ See Declaration of Peggy W. Larson (“Larson Dec.”), attached hereto as Exh. 2, at ¶¶ 11-21.

¹⁸ *Weil*, *supra* Note 12.

¹⁹ *Id.*

²⁰ *Cavel Int'l.*, 500 F.3d at 552.

²¹ In an amendment to the 2006 Agricultural Appropriations Act, on November 10, 2005, Congress withdrew funding for the inspection of horses transported for slaughter, and at slaughterhouses where horses were going to be slaughtered for consumption, effectively ending horse slaughter for consumption in America. Pub. L. 109-97, § 794, 119 Stat. 2120, 2164 (A.R. 51); *The Humane Society of the United States v. Johanns*, 520 F. Supp. 2d 8, 19, (D.D.C. 2007). In November 2011, Congress removed the prohibition on funding of FSIS inspections for horse

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B. Commercial Slaughter Cannot Be Accomplished Without Horrendous Treatment of Wild Horses.

From their acquisition at livestock auctions and other sources to their death at the slaughterhouse, horses destined for consumption are subject to mistreatment and cruelty.²² Transportation to a slaughter facility is frightening for most horses but is especially traumatic for wild horses, due to their unique temperaments.²³ Because of their wildness, the fear they display in response to proximity to people in strange environments, and their resistance to handling and transport, wild horses experience extremely high levels of distress and injury during the events leading up to slaughter.²⁴

At slaughter facilities, horses are often subject to appalling abuse before and during their slaughter.²⁵ Some horses may even be slaughtered while still conscious.²⁶ Each aspect of this treatment increases the possibility that their meat is inappropriate for consumption.²⁷

Poor conditions during transportation result in slaughter facilities filled with frightened, food- and water-deprived, sick, and injured horses.²⁸ Federal law usually requires transported horses to be off-loaded for food and water every twenty-eight hours, but horses are often transported continuously for over thirty hours.²⁹ Some horses arrive at slaughterhouses with

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slaughter in America. 2011 FD H.B. 2112 (NS) (H.R. 2112). At least two applications for inspection of horse slaughter facilities are currently pending before FSIS.

²² See Larson Dec., *supra* Note 17, at ¶¶ 12-13, 15-16, 18-19, 25.

²³ *Id.* at ¶¶ 12-13, 16, 25; see C.L. Stull, *Response of Horses to Trailer Design, Duration, and Floor Area During Commercial Transportation to Slaughter*, J. ANIM. SCI. 77:2925-2933 (1999), <http://jas.fass.org/content/77/11/2925> (“Horses tend to travel longer distances to slaughter than other livestock, because there is a limited number of equine slaughterhouses.”).

²⁴ Larson Dec., *supra* Note 17, at ¶ 25.

²⁵ *Id.* at ¶¶ 15, 18-19.

²⁶ *Id.* at ¶ 18.

²⁷ *Id.* at ¶¶ 14, 16.

²⁸ *Id.* at ¶¶ 16, 18.

²⁹ T.H. Friend, *A Review of Recent Research on the Transportation of Horses*, J. ANIM. SCI. 79:E32-E40 (2001), <http://jas.fass.org/content/79/E-Suppl/E32> (“Continuous transport of slaughter horses for 30 hours is common, and some trips last 36 hours or longer.”).

their backs broken or with other serious injuries.³⁰ And the lack of proper food and water in already weakened horses can lead to further injuries and death during extended transport. According to a 1999 study of sixty horses transported for slaughter, one animal had to be removed from the transport trailer after twelve hours of transport, dying two days later.³¹ Eighty-one injuries were identified (with many others likely undiscovered) in the fifty-nine arriving horses on just that one truck.³²

The mistreatment continues at the end of the transport phase. Many horses are not given hay or water in overnight holding pens.³³ Many of the horses in holding pens are “downers”—animals too sick or injured to stand up and walk, some of whom may be dragged or pushed into the pen.³⁴ Many of these ill, diseased, and injured animals are unfit for food under the Federal Meat Inspection Act (“FMIA”) and Federal Food, Drug and Cosmetics Act (“FDCA”) and should not be slaughtered for consumption.³⁵

³⁰ See Larson Dec., *supra* Note 17, at ¶ 13; see also 151 CONG. REC. H4247 (finding that horses are “transported in excess of 1,000 miles in the most inhumane conditions perceived”).

³¹ Stull, *supra* Note 23, at 2925-2933.

³² *Id.*

³³ See *Pasture to Plate: A Report by the Canadian Horse Defence Coalition on Equine Slaughter*, at 5 (July 2011), <http://canadianhorsedefencecoalition.files.wordpress.com/2011/12/pasture-to-plate.pdf> (“*Pasture to Plate*”).

³⁴ Larson Dec., *supra* Note 17, at ¶ 14; see also Gary D. Anderson & Don R. Lee, *Salmonella in Horses: A Source of Contamination of Horse Meat in a Packing Plant Under Federal Inspection*, 31 *Applied and Environmental Microbiology* 661 (1975), <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC291172/> (“[S]laughter horses have usually been trucked for extensive distances. Many times they are injured or unhealthy, housed poorly, fed and watered improperly, and sometimes held for long times, as much as a week, in dirty confined pens at the slaughter plant.”).

³⁵ See 21 U.S.C. § 601(m)(3), (4) (FMIA) (defining “adulterated” to include animals or meat that are (a) “for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food,” or (b) “held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health”); 21 U.S.C. § 342(a)(3)-(5) (FDCA) (categorizing food as “adulterated” if it “consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food;” “has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;” or “is, in whole or in part, the product of a diseased animal or of an animal which has died otherwise than by slaughter. . .”).

Because they frighten more easily than cows, horses—and especially wild horses—are unsuited to be processed at a slaughter plant.³⁶ As horses are more sensitive to odors than cows, the scent of blood that necessarily exists in the slaughter facility exacerbates their fright.³⁷ Some horses slip and fall in the stun box.³⁸ As a result of their keen perception and subsequent fear, horses are more likely to injure themselves trying to escape the slaughter plant.³⁹ Wild horses, of course, generally have had even less exposure to humans, and are therefore even more hypersensitive to the handling necessary in commercial slaughterhouses.

Under federal law, horses must be rendered unconscious prior to slaughter,⁴⁰ but because of their natural agility and flight instinct (undoubtedly heightened in wild horses to avoid predators and capture), many horses are improperly stunned and remain conscious when they are hoisted to have their throats cut.⁴¹ According to a recent report, almost half of the horses going to slaughter had to be stunned more than once.⁴² The desire to slaughter as many horses as quickly as possible inevitably contributes to the inaccuracy and cruelty of the slaughtering process.

The United States Department of Agriculture (“USDA”) is aware of and has documented appalling cruelty at horse slaughter plants, including gruesome descriptions and photographs of the mistreatment inherent in horse slaughter.⁴³ The suffering seems to be an inevitable

³⁶ See Larson Dec., *supra* Note 17, at ¶¶ 18, 25.

³⁷ See *id.* at ¶ 18.

³⁸ See *Pasture to Plate*, *supra* Note 33, at 4.

³⁹ See *id.* at 5.

⁴⁰ See Humane Methods of Slaughter Act, 7 U.S.C. § 1902(a).

⁴¹ See 151 CONG. REC. S10,220 (daily ed. June 8, 2005) (“[H]orses sometimes remain conscious throughout the slaughter process. . . .”); see also Larson Dec., *supra* Note 17, at ¶ 18.

⁴² *Pasture to Plate*, *supra* Note 33, at 4.

⁴³ See, e.g., USDA, Food Safety & Inspection Service, Noncompliance Record No. 0019-2005-8243 (Apr. 13, 2005); see also, e.g., Noncompliance Record Nos. 00 18-2005-8243 (Apr. 4, 2005) (“Nine horses were overcrowded in the alleyway causing undue excitement which was further exacerbated when two more employees from the kill floor began yelling and hitting these horses causing the one in the end of the line to slip and fall.”); 0013-2006-8243 (Oct. 9, 2006) (“horse was down” . . . “in the upper middle compartment of a pot bellied trailer” and “[o]ther horses within the compartment were trampling the downed horse”); 0006-2007-8243 (Jan. 24, 2007) (“two downed horses being trampled upon by the other horses as well as the front horse

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occurrence anytime that horses are slaughtered, as documented recently in Canada.⁴⁴ The examples cited in this section, which are only those that were discovered in a small sampling of plants, speak volumes for the absolute terror that slaughterhouses are for wild horses, and the danger to them and to the public in processing them for meat.

V. **LEGAL BACKGROUND**

A. **Federal Regulation of Wild Horses Under the Wild Free-Roaming Horses and Burros Act, 16 U.S.C. §§ 1331, et seq.**

Congress enacted the Wild Horse Act in 1971 to protect wild horses from “capture, branding, harassment, [and] death.”⁴⁵ In recognition of wild horses as “living symbols of the historic and pioneer spirit of the West” and in order to stop their exploitation and to “take immediate and effective action to halt the cruel and senseless slaughter to which they are subjected,”⁴⁶ Congress established a framework through which the Secretary of the Interior must protect wild horses from human exploitation.⁴⁷ Under the Wild Horse Act, the Secretary of the Interior has delegated DOI’s authority to BLM.⁴⁸

The historical and symbolic importance of wild horses prompted Congress to enact the Wild Horse Act. Throughout debate over the bill, members of Congress celebrated wild horses as “living symbols of . . . the nobility of freedom,”⁴⁹ “a symbol of American freedom and

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being kicked with the hind feet from another horse”); Press Release, Animals’ Angels (Nov. 2008), <http://www.kaufmanzoning.net/nov24/pressrelease.pdf>; see also Mary Nash’s Horse Meat Website, <http://www.kaufmanzoning.net/foia.htm> (making available for download USDA documents describing and depicting regulatory violations, mistreatment, and cruelty).

⁴⁴ See generally *Pasture to Plate*, supra Note 33.

⁴⁵ 16 U.S.C. § 1331.

⁴⁶ *Id.*; 92 CONG. REC. 34780 (1971) (statement of Congressman Anderson).

⁴⁷ SEN. REP. NO. 92-242, at 3-4 (1971).

⁴⁸ See, e.g., 43 C.F.R. § 4770.4 (“The Director of the Bureau of Land Management may authorize an employee who witnesses a violation of the Act or these regulations to arrest without warrant any person committing the violation, and to take the person immediately for examination or trial before an officer or court of competent jurisdiction.”); 43 C.F.R. § 4700.0–5 (“Authorized officer means any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described herein.”).

⁴⁹ 92 CONG. REC. 5028 (1971) (statement of Senator Jackson).

liberty,”⁵⁰ “synonymous with ultimate freedom,”⁵¹ “a symbol of the Old West,”⁵² “living reminders of our great Western heritage,”⁵³ and “living symbols of the pioneer spirit of the West.”⁵⁴

As a result of wild horses’ historical importance, Congress determined that wild horses deserve to be protected from abuse and exploitation.⁵⁵ Fewer than 17,000 wild horses roamed the western plains before passage of the Wild Horse Act in 1971,⁵⁶ with “harassment, abuse, and wanton killing” and “inhumane commercialization” responsible for their near extinction.⁵⁷ Consequently, Senator Henry M. Jackson introduced the Act to end the “senseless slaughter” of wild horses.⁵⁸ The Senate Committee on Interior and Insular Affairs intended the Wild Horse Act to “remove the possibility of monetary gain from exploitation of these animals.”⁵⁹

Beyond its concern for the welfare of wild horses, Congress was aware of what its failure to act would say about the nation, and our values and appreciation of these animals who had given us so much.⁶⁰ If wild horses were not protected and preserved, we would be rejecting the “spirit which has kept them alive and free against almost insurmountable odds”—“the national spirit which led to the growth of our Nation.”⁶¹ The Wild Horse Act serves to “reaffirm[] or

⁵⁰ *Id.* at 34775 (statement of Congressman Baring).

⁵¹ *Id.* at 34774 (statement of Congressman Conte).

⁵² *Id.* at 34775 (statement of Congressman Johnson).

⁵³ *Id.* at 34779 (statement of Congressman Ryan).

⁵⁴ *Id.* at 34780 (statement of Congressman Anderson).

⁵⁵ *Id.* at 34773 (statement of Congressman Wiggins).

⁵⁶ *Id.* at 5028 (statement of Senator Jackson).

⁵⁷ *Id.* at 34772, 44317 (statements of Congressman Wiggins and Baring, respectively).

⁵⁸ 92 CONG. REC. 5028 (1971) (“It is the purpose of my bill to end this senseless slaughter of the animals which played such a major role in the exploration and settlement of the Great Plains and the Far West with the refuges and sanctuaries they need and to place these animals under the protection of the Secretary of the Interior.”).

⁵⁹ SEN. REP. NO. 92-242, at 4 (1971); *id.* at 44536.

⁶⁰ *See* 92 CONG. REC. 22670 (1971) (“We are dealing with not only the welfare of these animals but with an important part of our history. Boys and girls in our country grow up with tales of pioneers, Indians, and wild horses. This is part of the dream of growing up in America.” (statement of Senator Jackson)).

⁶¹ SEN. REP. NO. 92-242, at 1 (1971).

restor[e] the faith of our Nation’s young people” that the government was “concerned with protecting our Nation’s wildlife and our national heritage.”⁶² Mahatma Gandhi is famous for stating that the greatness of a Nation is reflected by the way in which it treats its animals. Congress’s enactment of the Wild Horse Act embodied that sentiment—the way we treat our wild horses will determine how we feel about America’s heritage and future.

Under the Wild Horse Act, Congress authorized DOI to fulfill the Act’s purposes. Specifically, Congress directed DOI to manage wild horses “in a manner that is designed to achieve and maintain a thriving ecological balance on the public lands.”⁶³ DOI’s maintenance activities were to be limited to “the minimal feasible level . . . in order to protect the natural ecological balance of all wildlife species which inhabit such lands. . . .”⁶⁴ Congress gave BLM the authority to remove certain horses from overpopulated areas and humanely destroy them.⁶⁵ This allowance was limited, however, both by the policy and the language of the Act.⁶⁶

The 2004 Burns Amendment—“inserted behind closed doors,” without a single hearing, and in opposition to the will of a majority of legislators⁶⁷—permits the sale of a limited number of “excess” animals.⁶⁸ But since April 2005, it has been and remains BLM policy to uphold

⁶² 92 CONG. REC. 34774 (1971) (statement of Congressman Seiberling); *see also* 92 CONG. REC. 34781 (1971) (“sav[ing] and protect[ing] the free roaming horses and burros” would reaffirm “the pioneer spirit and the love of freedom that built this great land of ours.” (statement of Congressman Hogan)).

⁶³ 16 U.S.C. § 1333(a).

⁶⁴ *Id.*

⁶⁵ SEN. REP. NO. 92-681, at 1 (1971) (Conf. Rep.).

⁶⁶ *Id.*; 92 CONG. REC. 34779 (1971) (“Wild horses and burros are hardly the domain of any commercial enterprise but rather as representatives of our western history and descendants of the first horses brought to the new world by the Spanish, they are a natural resource and as such belong to all of us.” (statement of Congressman Ryan)).

⁶⁷ 150 CONG. REC. E2174-03, 2004 WL 2805157 (2004) (speech of Congressman Whitfield).

⁶⁸ “Excess animals” are “wild free-roaming horses or burros (1) which have been removed from an area by the Secretary pursuant to applicable law or, (2) which must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area.” 16 U.S.C.A. § 1332(f). Only a fraction of excess animals are eligible for sale under the Burns Amendment—those who are “more than 10 years of age” or who have been “offered unsuccessfully for adoption at least 3 times.” 16 U.S.C. § 1333(e)(1).

congressional intent and prohibit the sale of wild horses for slaughter.⁶⁹

B. BLM Policy Continues to Prohibit the Sale of Wild Horses for Slaughter.

Following the passage of the Burns Amendment, BLM began selling wild horses pursuant to its terms.⁷⁰ While a Wyoming horse protection group purchased the first excess wild horses sold by BLM in 2005, some of these horses were eventually sold for slaughter.⁷¹

Recognizing that most Americans oppose the slaughter of wild horses and that the Wild Horse Act was passed to prevent the commercial exploitation and slaughter of wild horses, the BLM has subsequently condemned that practice, and has acted to prevent the recurrence of wild horses being sold for slaughter.

In May 2005, BLM reaffirmed its intention to prevent wild horses from going to slaughter. At that time, BLM began requiring purchasers of excess wild horses to agree, in the bill of sale, to not sell wild horses for slaughter. BLM's sample bill of sale states that "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."⁷² Any purchaser who misrepresents intent to sell wild horses for slaughter is subject to criminal prosecution.⁷³

BLM has also confirmed its policy with action. It enforced its ban on selling wild horses for slaughter in 2010, investigating two purchasers of wild horses in rural Utah—Robert Capson

⁶⁹ James R. Carroll, *House OKs horse protections*, THE COURIER-JOURNAL, May 20, 2005 (attached hereto as Exh. 3); United States Government Accountability Office, Report to the Chairman, Committee on Natural Resources, House of Representatives, "BUREAU OF LAND MANAGEMENT: Effective Long-Term Options Needed to Manage Unadoptable Wild Horses," GAO-09-77, at 43 (Oct. 2008) ("GAO Report") ("To reduce the likelihood that a buyer would purchase these animals and then sell them for slaughter, BLM changed its sales process to require buyers to sign a 'statement of intent' that they *do not intend to sell the animals for slaughter.*" (emphasis added)).

⁷⁰ GAO Report, at 43.

⁷¹ *Id.*

⁷² BLM Form 4710-23, Bill of Sale for Wild Horse(s) and Burro(s) (May 2005), http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications_Directorate/public_affairs/wild_horse_and_burro/documents.Par.37342.File.dat/sample_bill_sale.pdf (attached hereto as Exh. 4).

⁷³ *Id.*; 18 U.S.C. § 1001.

and Dennis Kunz.⁷⁴ After signing the bill of sale, Capson and Kunz were caught transporting 64 wild horses to holding pens in Presidio, Texas, the last stop before crossing the border to Mexico, where the horses were to be slaughtered.⁷⁵ According to a BLM Wild Horse Program director, BLM acted quickly to protect the horses because the agency takes the “care and responsibility of these horses very seriously.”⁷⁶ Capson and Kunz ultimately pled guilty to the federal criminal charges associated with the sale of horses to slaughter.⁷⁷

BLM recently reaffirmed its anti-slaughter policy by stating that it is investigating Tom Davis, purchaser of over 1,700 excess wild horses from BLM since 2009, including 560 in 2009, 332 in 2010, 599 in 2011, and 239 through April of 2012.⁷⁸ When buying excess wild horses from BLM, Davis agreed not to “sell to slaughter buyers or anyone who would sell the animals to a commercial processing plant.”⁷⁹ It is unknown what Davis had done with each of these 1,700 horses, but he admits to selling at least 700 of them to buyers in Kinney County, Texas, near the Mexican border.⁸⁰ Kinney County is just 20 miles north of Eagle Pass, a small town on the Mexican border and “the only crossing for horses going to slaughter in Mexico for hundreds

⁷⁴ Steven Long, *Utah Indictments Come Down in BLM Mustang Killer Buyer Case*, HORSEBACK MAGAZINE, Sept. 11, 2011, <http://horsebackmagazine.com/hb/archives/11468>.

⁷⁵ *Id.*; Indictment, *United States v. Capson and Kunz*, 2:11-cr-00813 (D. Utah, Sept. 14, 2011) (attached hereto as Exh. 5).

⁷⁶ Alex Cabrero, *2 Utahns indicted for alleged role in horse slaughter operation*, KSL.COM, Sept. 14, 2011, <http://www.ksl.com/?nid=148&sid=17247912>.

⁷⁷ Statement by Defendant in Advance of Plea of Guilty, *United States v. Capson and Kunz*, 2:11-cr-00813 DAK-1 (D. Utah, Feb. 15, 2011) (Capson) (attached hereto as Exh. 6); Statement by Defendant in Advance of Plea of Guilty, *United States v. Capson and Kunz*, 2:11-cr-00813 DAK-2 (D. Utah, Nov. 14, 2011) (Kunz) (attached hereto as Exh. 7).

⁷⁸ “From the Public,” Bureau of Land Management, http://www.blm.gov/wo/st/en/prog/whbprogram/history_and_facts/from_the_public.html#davis (last accessed Dec. 10, 2012) (attached hereto as Exh. 8) (“The Office of Inspector General at the Department of Interior has initiated an investigation into the situation. We look forward to the results of that inquiry.”); Dave Philipps, *All the Missing Horses: What Happened to the Wild Horses Tom Davis Bought from the Gov’t?*, PROPUBLICA, Sept. 28, 2012, <http://www.propublica.org/article/missing-what-happened-to-wild-horses-tom-davis-bought-from-the-govt> (“*Philipps Article*”) (attached hereto as Exh. 9).

⁷⁹ Tom Davis Bills of Sale (attached hereto as Exh. 10).

⁸⁰ *Philipps Article*, *supra* Note 78.

of miles.”⁸¹ Like the two suspects from BLM’s Utah investigation, Davis is an avid proponent of horse slaughter and may have been undertaking this practice for years.

BLM announces its vehement opposition to the sale of wild horses for slaughter on its website. In response to the charge that it sells wild horses to slaughter, BLM responds that it “care[s] deeply about the well-being of wild horses, both on and off the range” and “does not and has not sold or sent horses or burros to slaughter.”⁸² Further, on its general adoption and sale webpage, BLM states—in bold and italicized font—that it “has not been selling any wild horses to slaughterhouses or to ‘killer-buyers.’”⁸³ And at the 2011 “Summit for the Horse” conference, a gathering of horse slaughter advocates, guest speaker and BLM Director Bob Abbey reiterated BLM’s anti-slaughter policy, declaring “slaughter is not an option for America’s wild horses.”⁸⁴

BLM’s conduct, statements, and requirements unequivocally establish that the agency has interpreted the Burns Amendment in such a way that it does no harm to BLM’s continued official opposition to and prohibition of the sale of wild horses for slaughter.

VI. STATEMENT OF GROUNDS

A. Contrary to BLM Policy and in Violation of Federal Law, Wild Horses Are Sold for Commercial Slaughter.

1. It Is Indisputable that Wild Horses Are Sold for Slaughter.

Both proponents and opponents of horse slaughter acknowledge that wild horses are slaughtered for consumption. At the 2011 “Summit for the Horse” conference, Bill desBarres,

⁸¹ *Id.*

⁸² “Myths and Facts,” Bureau of Land Management, http://www.blm.gov/wo/st/en/prog/whbprogram/history_and_facts/myths_and_facts.html (last accessed Nov. 9, 2012) (attached hereto as Exh. 11).

⁸³ “BLM Wild Horse and Burro Adoption and Sales Information,” Bureau of Land Management, http://www.blm.gov/wo/st/en/prog/whbprogram/adoption_program/sales.html (last accessed Dec. 10, 2012) (attached hereto as Exh. 12).

⁸⁴ “Horse Killer Summit,” <http://wildhorseinvestigationteam.wordpress.com/the-horse-killer-summit/> (last accessed Nov. 27, 2012); *see also* “Prepared Remarks of BLM Director Bob Abbey at ‘Summit of the Horse,’” Bureau of Land Management (Jan. 4, 2011), <http://www.blm.gov/wo/st/en/info/newsroom/extras/summitstatement.print.html> (last accessed Nov. 27, 2012) (“I want to be clear about one thing. Secretary Salazar and I have consistently stated since taking on our current roles that we do not support nor are we willing to incorporate into any wild horse or burro strategy that we pursue . . . the unlimited sale of older horses. . .”).

Executive Director of a Canadian horse advocacy group and consultant for Bouvry Exports, Canada's largest horse slaughterhouse, acknowledged that BLM wild horses are slaughtered in Canada.⁸⁵ "We do see them in plants in Canada. . . . Lots of BLM horses" are slaughtered in Canada, according to desBarres.⁸⁶ More recently, a September 2012 investigation of Mexican horse slaughter plants uncovered, and took photographs of, numerous wild horses with BLM freezebrands being transported from the United States to an Inter Meats plant in Mexico.⁸⁷ Even USDA employees admit that wild horses are sometimes exported to Mexico for slaughter. Specifically, USDA veterinarians stationed in Eagle Pass, Texas "sometimes see wild horses bearing the BLM brand in slaughter export pens."⁸⁸

Hundreds of the wild horses sold by BLM since 2005 have likely been slaughtered in the United States, Canada, and Mexico. Wild horses purchased by Tom Davis from 2009 to the present are particularly likely to have been sold for slaughter. Davis admits to moving horses across state lines in violation of Colorado law and admits to buying wild horses for slaughter from Indian reservations.⁸⁹ He has solicited investors to start his own slaughterhouse and does not hide his affinity for horse meat: "Hell, some of the finest meat you will ever eat is a fat yearling colt. What is wrong with taking all those BLM horses they got all fat and shiny and setting up a kill plant?"⁹⁰

Although Davis has not publicly admitted selling to slaughter any of the 1,700 wild horses he has purchased from BLM since 2009, it is unclear what he has done with these horses if he has not sold them for slaughter. Davis purchases the horses from BLM for \$10 each,⁹¹ and

⁸⁵ "Horse Killer Summit," *supra* Note 84.

⁸⁶ *Id.*

⁸⁷ Investigation of Mexican Horse Slaughter Plants approved for export to the European Union, Animals' Angels, at 2-3, <http://library.constantcontact.com/download/get/file/1101655399670-322/Investigation+at+Mexican+horse+slaughter+plants.pdf> (last accessed Dec. 10, 2012) (attached hereto as Exh. 13).

⁸⁸ *Philipps Article*, *supra* Note 78.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*; Tom Davis Bills of Sale, *supra* Note 79.

he does not maintain ownership of most of the horses he buys.⁹² Unlike most purchasers of wild horses from BLM, who buy a few horses at a time, “Davis averages 35 per purchase and has bought up to 240 at a time.”⁹³ It would be illogical for anyone to purchase wild horses from Davis for any purpose besides slaughter because they could purchase wild horses from BLM themselves for any other purpose for \$10 per horse.⁹⁴ And it would be illogical for Davis to sell wild horses for \$10 or less per horse because he incurs expenses in maintaining and transporting wild horses after he obtains them from BLM. Consequently, those who purchase wild horses from Davis almost certainly pay him more than \$10 per horse,⁹⁵ and they probably purchase the horses to make available the type of profits associated with selling horses for slaughter.

Davis’ stated “intended use[s]” for the wild horses he has purchased from BLM are also unconvincing. In January 2008, he sought to purchase “35 & more” wild horses for “use for movies.”⁹⁶ And in January 2011, he claimed that horses he sells are “turned out to pasture [and] put on oil fields and used to graze to keep grass controlled.”⁹⁷ With Davis selling almost half of the wild horses he has purchased to buyers near “the only crossing for horses going to slaughter in Mexico for hundreds of miles,”⁹⁸ the conclusion that at least some of these wild horses are slaughtered in Mexico is unavoidable.

2. *BLM Lacks an Enforcement Regime Sufficient to Prevent the Sale of Wild Horses for Slaughter.*

In connection with its policies discussed above, BLM requires purchasers of excess wild horses to agree not to sell the horses for slaughter. Clearly the agency wants and is motivated to prevent the sale of wild horses for slaughter. But there do not seem to be any effective

⁹² See *Philipps Article*, *supra* Note 78.

⁹³ *Id.*

⁹⁴ See *id.*; Tom Davis Bills of Sale, *supra* Note 79.

⁹⁵ See *Philipps Article*, *supra* Note 78 (1,700 horses could “fetch \$300,000 to \$600,000 on the open market, according to sales prices from regional livestock auctions.”)

⁹⁶ Tom Davis Bills of Sale, *supra* Note 79.

⁹⁷ *Id.*

⁹⁸ *Philipps Article*, *supra* Note 78.

enforcement mechanisms for this policy. Regardless, BLM's *actual* enforcement of its policy is inadequate. Under current procedures, when BLM sells wild horses, it appears to take no action to ensure that the purchasers use them for the purpose(s) for which they were bought, or even retain ownership of the horses beyond a nominal period of time. Given this lack of safeguards, it is unsurprising that wild horses are sold for slaughter and somewhat surprising that BLM was able to uncover the Utah horse slaughter scheme in 2010.

Unlike *adopted* wild horses, who BLM tracks to ensure they are properly cared for and not sold for slaughter,⁹⁹ excess horses sold by BLM receive no attention or oversight to ensure their purchasers comply with BLM policy. And because those who adopt wild horses only become owners of the animals after one year of demonstrating humane care, adopters are less likely to purchase wild horses with the intent to sell them for slaughter, as the year of maintenance costs makes adopted wild horses more expensive for commercial slaughter than other horses.¹⁰⁰ The greater expense and established monitoring associated with the adoption of wild horses, compared to the bargain price and absence of safeguards associated with the sale of wild horses, makes the purchase of wild horses an attractive option for killer-buyers and slaughter establishments eager to make a quick profit by selling wild horses for meat.

BLM could take simple, obvious measures to enforce its policy. For example, with domestic horse slaughter effectively outlawed for the immediate future, virtually all slaughter of American horses, including wild horses, occurs in Canada and Mexico.¹⁰¹ Consequently, all wild horses exported for slaughter are examined by USDA's Animal and Plant Health Inspection Service ("APHIS") veterinarians, who must certify their fitness for travel to be slaughtered. But while these government employees observe wild horses with BLM freezebrands being exported

⁹⁹ See BLM Manual Handbook 4760-1, Conducting Compliance Checks for BLM's Wild Horse and Burro Adoption Program (June 17, 2004), http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information_Resources_Management/policy/blm_handbook.Par.48728.File.dat/h4760-1.pdf.

¹⁰⁰ See *id.* at II-1.

¹⁰¹ See *supra* Section IV.A.

for slaughter,¹⁰² APHIS “does not monitor whether BLM horses are crossing the border.”¹⁰³

There is no evidence that BLM has asked APHIS to share information regarding these wild horses being sent to slaughter, which BLM could use to investigate the horse’s purchasers and, upon investigation, enforce its stated policies. BLM’s lack of active enforcement of its prohibition of the sale of wild horses for slaughter enables unscrupulous purchasers to violate BLM policy and federal law, and to send American horses to European consumers as meat.

B. The Sale of Wild Horses for Commercial Slaughter Can Only Be Prevented if BLM Requires Purchasers of Wild Horses to Maintain Passports for Each Animal.

Based on the foregoing, the only way to provide some assurance of compliance with BLM’s anti-slaughter policy is to require documents (“Wild Horse Passports”) that manifest the agreement of all owners of wild horses to adhere to BLM’s commercial slaughter prohibition. This method avoids some of the problems inherent in the current system, and recognizes and tries to accommodate for the fact that BLM lacks the resources to otherwise ensure purchasers’ compliance. By requiring owners of wild horses to transmit such documents to subsequent purchasers, BLM will prevent the sale of wild horses to third parties who sell them to slaughter. This will largely suppress the secondary market that feeds into the horse slaughter pipeline for wild horses. These Passports will prevent both the domestic and foreign slaughter of wild horses by allowing BLM to easily trace a wild horse to the purchasers who sent the horse to slaughter and hold the purchasers accountable.

Wild Horse Passports will also prevent the sale of wild horses to domestic slaughter facilities, should domestic horse slaughter be reinstated, because any individual who knowingly sells a wild horse for slaughter will be in violation of federal law. Accordingly, purchasers of wild horses will be unlikely to sell their animals to known killer-buyers because that would be a crime.¹⁰⁴ And killer-buyers will be unlikely to purchase wild horses because their sale of the

¹⁰² *Philipps Article, supra* Note 78.

¹⁰³ “Horse Killer Summit,” *supra* Note 84.

¹⁰⁴ *See* Proposed Regulation at *supra* Section III.

animals to a slaughterhouse would be a crime.¹⁰⁵ Similarly, slaughterhouses will be unlikely to purchase wild horses for slaughter, as meat from wild horses will be condemned.¹⁰⁶ If a wild horse is slaughtered, BLM could enforce its policy based on information obtained by FSIS inspectors assigned to slaughter establishments, using the Wild Horse Passport to trace the horse to the purchaser(s) who sold the animal for slaughter and reporting the violation to the relevant U.S. Attorney.

Wild Horse Passports will also prevent the sale of wild horses to Mexican and Canadian slaughter facilities. The European Union, the primary export market for American horses slaughtered in Mexico and Canada, requires exporters of horse meat to Europe to ensure that (1) no drug or other substance that the EU prohibits for use on food animals has ever been administered to the horse and (2) withdrawal limits for other drugs administered to their horses have been met.¹⁰⁷ As drafted, the proposed regulation prohibits individuals or entities from making sworn statements as to the treatment history of the animal,¹⁰⁸ because of the known (and unknown) administration of prohibited drugs to most wild horses. Consequently, knowledge that a wild horse has not been administered banned and dangerous substances will be mostly unavailable, wild horses will be ineligible for the EU market, and Mexican and Canadian slaughterhouses will not accept wild horses for slaughter.¹⁰⁹ Moreover, purchasers will be

¹⁰⁵ *See id.*

¹⁰⁶ *See id.*

¹⁰⁷ *See* EUROPA, *Residues of Veterinary Products – Third Countries*, http://ec.europa.eu/food/food/chemicalsafety/residues/third_countries_en.htm (last accessed Mar. 21, 2012) (attached hereto as Exh. 14); *see also* Council Directive 96/22/EC, Annexes II, III (banning numerous classes of drugs for administration to horses whose meat is sold within the European Union).

¹⁰⁸ *See* Proposed Regulation at *supra* Section III.

¹⁰⁹ *See id.* While the EU reluctantly accepts unreliable sworn statements made by American killer buyers to Mexican and Canadian slaughterhouses, the accuracy of which the United States government refuses to affirm, it is unlikely to accept similar sworn statements explicitly disaffirmed by BLM, in each Passport. *See* European Commission Food and Veterinary Office, Final Report of an Audit Carried Out In Canada From 23 November to 6 December 2010, Ares(2011)1101887, at 12-16; European Commission Food and Veterinary Office, Final Report of a Mission Carried Out in Mexico From 22 November to 3 December 2010, Ares(2011)398056, at 6-9.

unlikely to sell wild horses to foreign slaughterhouses because that will be a crime, which BLM can easily trace to the offending purchaser(s) via the Passport system.¹¹⁰

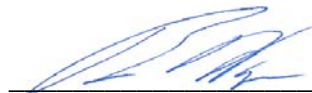
VII. CONCLUSION

Wild horses are icons of American history—symbols of freedom and independence. To preserve wild horses and protect them from commercial exploitation, Congress enacted the Wild Horse Act in 1971. BLM policy is consistent with this purpose. Yet, wild horses are transported to slaughterhouses in Canada and Mexico, killed, and exported to Europe to be eaten. BLM has the power to enforce its policy and uphold the purpose of the Wild Horse Act, ensuring that wild horses are protected from commercial exploitation. BLM should act to save the wild horses.

VIII. CERTIFICATION

The undersigned certifies, that, to the best knowledge and belief of the undersigned, this Petition includes all information and views on which the Petition relies, and that it includes representative data and information known to the Petitioners which are unfavorable to the Petition.

Dated: December 14, 2012



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¹¹⁰ Records of American horses exported to Mexico for slaughter are available via Mexico's access to information law. *See* "LEY FEDERAL DE TRANSPARENCIA Y ACCESO A LA INFORMACIÓN PÚBLICA GUBERNAMENTAL," http://www.freedominfo.org/wp-content/uploads/documents/mexico_ley.pdf.

CITATIONS, BIBLIOGRAPHY, AND EXHIBIT LIST

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EXHIBIT LIST

1. Declaration of Hilary Wood.
2. Declaration of Peggy W. Larson.
3. James R. Carroll, *House OKs horse protections*, THE COURIER-JOURNAL, May 20, 2005, 2005 WLNR 26758898.
4. BLM Form 4710-23, Bill of Sale for Wild Horse(s) and Burro(s) (May 2005), http://www.blm.gov/pgdata/etc/medialib/blm/wo/Communications_Directorate/public_affairs/wild_horse_and_burro/documents.Par.37342.File.dat/sample_bill_sale.pdf.
5. Indictment, *United States v. Capson and Kunz*, 2:11-cr-00813 (D. Utah, Sept. 14, 2011).
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