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4 IN THE CIRCUIT COURT OF THE STATE OF OREGON  
5 FOR THE CROOK OF DESCHUTES  
6

7 CENTRAL OREGON WILD HORSE  
8 COALITION, an Oregon nonprofit  
corporation,

9 Plaintiff,

10 vs.

11 CROOK COUNTY COURT, SETH  
12 CRAWFORD, Crook County Judge, JERRY  
13 BRUMMER, Crook County Commissioner,  
14 BRIAN BARNEY, Crook County  
15 Commissioner, and the CROOK COUNTY  
16 NATURAL RESOURCES ADVISORY  
COMMITTEE, aka the CROOK COUNTY  
NATURAL RESOURCES  
COORDINATION ADVISORY  
COMMITTEE,

17 Defendants.

Case No. 20CV23467

**COMPLAINT**  
**(Violations of the Oregon Public Meetings**  
**Law and Declaratory Relief)**

**NOT SUBJECT TO MANDATORY**  
**ARBITRATION**

**Fee Authority: ORS 21.135(1)**

18 Plaintiff Central Oregon Wild Horse Coalition alleges:

19 **1.**

20 Plaintiff Central Oregon Wild Horse Coalition is an Oregon nonprofit corporation, with  
21 its principal place of business located in Crook County, Oregon. Plaintiff is dedicated to  
22 protecting and preserving the Ochoco wild horses that roam in Crook County, Oregon.

23 **2.**

24 Defendant Crook County Court is the three-person governing body for Crook County,  
25 state of Oregon, and a public body with the authority to make decisions on behalf of Crook  
26 County.

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**3.**

Defendant Seth Crawford is the Crook County Judge and/or a Crook County Commissioner, serving as an elected member of the Crook County Court. Defendant Jerry Brummer is a Crook County Commissioner, serving as an elected member of the Crook County Court. Defendant Brian Barney is a Crook County Commissioner, serving as an elected member of the Crook County Court. These three (3) defendants shall hereinafter be referred to as the “Crook County Court.”

**4.**

The Crook County Natural Resources Plan (County Order # 2017-74) was adopted by the Crook County Court in 2017. It provides (without limitation) that it is the position of the Crook County Court and Crook County that Crook County’s Ochoco wild horse herd will be preserved and maintained as a valuable public resource, including maintaining total herd numbers to genetically viable levels.

**5.**

Defendant Crook County Natural Resources Advisory Committee (also known as Crook County Natural Resources Coordination Advisory Committee) (hereafter referred to as the “NRAC”), is a governing public body of Crook County, currently composed of nine (9) members appointed by the Crook County Court. The NRAC is authorized to advise and make recommendations to the Crook County Court on issues related to the Crook County Natural Resources Plan (County Order # 2017-74), including Crook County’s Ochoco wild horse herd.

**6.**

On or about April 17, 2020, the United States Forest Service (USFS) opened a thirty (30) day comment period for its draft Environmental Assessment for the Ochoco Wild Horse Management Plan Project (hereinafter the “EA Wild Horse Management Plan” or the “Plan”). The EA Wild Horse Management Plan sets forth three (3) alternatives for the Ochoco wild



1 horses. Alternative (option) number 2 provides for the substantial reduction of the Ochoco wild  
2 horses to a degree that it could result in the Crook County wild horse herd's eventual extinction.

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4 **7.**

5 On May 12, 2020, the Crook County Court held a "Work Session" to deliberate toward a  
6 decision on its response to the USFS EA Wild Horse Management Plan. A quorum of the Crook  
7 County Court was in attendance at this Work Session. At the May 12 Work Session, as part of  
8 its deliberations, the Crook County Court considered a draft letter from the full Crook County  
9 Court to the USFS in response to EA Wild Horse Management Plan (referred to as the "Ochoco  
10 National Forest's Wild Horse Management Project – Draft Response" (hereinafter the "Draft  
11 Wild Horse Plan Response")). In direct contradiction of the previously adopted 2017 Crook  
12 County Natural Resources Plan, the Crook County Court's Draft Wild Horse Plan Response  
13 considered at the May 12 Work Session advocated for and endorsed Option 2, which could result  
14 in the ultimate extinction of the Ochoco wild horse herd.

15 **8.**

16 Upon information and belief, the Crook County Court did not provide for or give any  
17 public notice, notice to the general public, and/or any notice reasonably calculated to give actual  
18 notice to interested persons (including Plaintiff), of the time and place for holding the May 12,  
19 2020 Work Session described herein. In addition, upon information and belief, no public notice  
20 or notice to the general public was provided that included the list of the principal subjects  
21 anticipated to be considered at the May 12 meeting, including the Crook County Court's Draft  
22 Wild Horse Plan Response.

23 **9.**

24 On or about April 20, 2020, Tim Deboodt, Crook County's Natural Resources Policy  
25 Coordinator ("Deboodt"), transmitted the EA Wild Horse Management Plan to the NRAC for its  
26 review, and advised that a meeting of the NRAC would be scheduled on May 13, 2020 to



1 consider and deliberate on the three options set forth in the Plan.

2 **10.**

3 On May 13, 2020, Deboodt sent a copy of the Crook County Court's Draft Wild Horse  
4 Plan Response via electronic mail to the full NRAC for the purpose of it deciding and/or  
5 deliberating toward a decision, and/or a recommendation to the Crook County Court, on the  
6 USFS Wild Horse Management Plan and/or the Crook County Court's Draft Wild Horse Plan  
7 Response. The full Crook County Court was copied on this May 13 electronic communication.  
8 Thereafter, in a series of electronic communications with the full NRAC and Crook County  
9 Court included, at least five of the nine NRAC members commented on the Plan, and indicated  
10 their recommendation and/or decision on (support or opposition to) the Crook County Court's  
11 response to the EA Wild Horse Management Plan, its Draft Wild Horse Plan Response, and/or  
12 whether to substantially deviate from and/or disregard existing policy on the preservation of  
13 Crook County's Ochoco wild horses (Crook County Natural Resources Plan (County Order #  
14 2017-74)). The full Crook County Court was included in the NRAC member's electronic  
15 responses, deliberations, recommendations and/or decisions. In addition, at least one Crook  
16 County Commissioner, Jerry Brummer, responded to and the participated in NRAC's electronic  
17 deliberations.

18 **11.**

19 Upon information and belief, neither the Crook County Court nor the NRAC provided or  
20 gave any public notice, notice to the general public, or any notice reasonably calculated to give  
21 actual notice to interested persons (including Plaintiff), of their electronic deliberations,  
22 recommendations and/or decisions on the Plan and Draft Wild Horse Plan Response as described  
23 herein. In addition, upon information and belief, no public notice or notice to the general public  
24 was provided that included the list of the principal subjects anticipated to be considered at the  
25 May 13 electronic meeting. Instead, a quorum of both the Crook County Court and the NRAC  
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1 met in private over email, and without any public notice or public inclusion, for the purpose of  
2 deciding on and/or deliberating toward a recommendation and/or decision on the County Court's  
3 response to the Plan, including the Crook County Court's Draft Wild Horse Plan Response.  
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5 **12.**

6 On May 14, 2020, a quorum of the Crook County Court held a meeting purportedly for  
7 the purpose of deciding on and/or deliberating toward a decision on its response to the USFS  
8 Plan. At the May 14 meeting, the Crook County Court deliberated on and then decided to  
9 approve a letter to Slater Turner, District Ranger for the Lookout Mountain Ranger District  
10 (hereinafter the "County's Wild Horse EA Response Letter") on behalf of Crook County. A true  
11 and correct copy of the approved County's Wild Horse EA Response Letter is attached hereto as  
12 Exhibit 1. The Crook County Court then submitted the County's Wild Horse EA Response  
13 Letter dated May 14, 2020, to Mr. Slater and the USFS for its consideration as part of the EA  
14 Wild Horse Management Plan. In direct contradiction of the 2017 Crook County Natural  
15 Resources Plan, the County Wild Horse EA Response Letter advocates for and endorses Option  
16 2, which could result in the eventual extinction of the Ochoco wild horse herd.

17 **13.**

18 Upon information and belief, no public notice or notice to the general public was given,  
19 nor was any public notice reasonably calculated to give actual notice to interested persons  
20 (including Plaintiff) given, of the time and place for the May 14, 2020 meeting of the Crook  
21 County Court described herein. In addition, no public notice was provided that included the list  
22 of the principal subjects anticipated to be considered or decided at the May 14, 2020 meeting,  
23 including the County's Wild Horse EA Response Letter.

24 **14.**

25 On June 2, 2020, and two times thereafter, Plaintiff submitted a public records request to  
26 Crook County, requesting copies of the public notice(s), audio-recordings and minutes for the

1 May 12, May 13 and May 14, 2020 meetings referenced herein, and for any other meetings of  
2 the Crook County Court and/or the NRAC relating to the Plan and/or their response to the Plan.  
3 Plaintiff has also requested communications relating to the NRAC's and Crook County Court's  
4 May 13 private electronic deliberations, recommendations and/or decisions, and other  
5 communications relating to the Crook County Court's Draft Wild Horse Plan Response. To date,  
6 responsive documents have been provided. In addition, to date, no minutes or recordings have  
7 been made available to the public for the May 12, May 13 or May 14 meetings, as required by  
8 ORS 192.650.

9 **FIRST CLAIM FOR RELIEF – VIOLATION OF ORS 192.640 (MAY 12, 2020**  
10 **MEETING OF THE CROOK COUNTY COURT)**

11 **15.**

12 Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1  
13 through 14 of this Complaint.

14 **16.**

15 Pursuant to ORS 192.620, “[t]he Oregon form of government requires an informed public  
16 aware of the deliberations and decisions of governing bodies and the information upon which  
17 such decisions are made. It is the intent of ORS 192.610 to 192.690 that decisions of governing  
18 bodies be arrived at openly.”

19 **17.**

20 The Crook County Court did not provide for or give public notice, notice to the general  
21 public, and/or public notice reasonably calculated to give actual notice to interested persons  
22 (including Plaintiff), of its May 12, 2020 Work Session, wherein it met for the purpose of  
23 deciding on or deliberating toward a decision on the County's response to the EA Wild Horse  
24 Management Plan, its Draft Wild Horse Plan Response, and/or on whether to substantially  
25 deviate from and/or disregard the County's previously enacted policy on the preservation of the  
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1 County's wild horses (Crook County Natural Resources Plan (County Order # 2017-74)).

2 **18.**

3 The Crook County Court's failure to provide public notice or notice to the general public  
4 of its May 12, 2020 Work Session, including the time and place for the meeting, and the list of  
5 principal subjects anticipated to be considered at this meeting, constitutes a violation of ORS  
6 192.640. Plaintiff seeks an order that the Crook County Court has violated the Oregon public  
7 meeting laws as described herein and an order directing and requiring the Crook County Court to  
8 comply with Oregon's public meeting laws.

9 **19.**

10 Plaintiff is entitled to an award of its costs, expenses and reasonable attorney fees  
11 pursuant to ORS 192.680.

12 **SECOND CLAIM FOR RELIEF – VIOLATION OF ORS 192.630 (MAY 13, 2020**  
13 **PRIVATE MEETING OF THE CROOK COUNTY COURT AND THE NRAC)**

14 **20.**

15 Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1  
16 through 19 of this Complaint.

17 **21.**

18 In violation of ORS 192.630 and 192.670, with a quorum of both governing public bodies  
19 present, starting on May 13, 2020, the Crook County Court and the NRAC met in private via a  
20 series of electronic communications, for the purpose of deciding on and/or deliberating toward a  
21 decision, and/or the NRAC's recommendation to the Crook County Court on, the Crook County  
22 Court's response to the EA Wild Horse Management Plan, its Draft Wild Horse Plan Response,  
23 and whether to substantially deviate from and/or disregard existing County policy on the  
24 preservation of the its wild horses (Crook County Natural Resources Plan (County Order # 2017-  
25 74)). Contrary to ORS 192.630, this electronic meeting was not open to the public and the public  
26

1 was not invited or permitted to attend the meeting.

2 **22.**

3 Plaintiff seeks an order that the Crook County Court and/or NRAC have violated the  
4 Oregon public meeting laws as described herein and an order directing and requiring the Crook  
5 County Court and/or the NRAC to comply with Oregon's public meeting laws. In addition, any  
6 decision or recommendation made by the NRAC and/or the Crook County Court as part of the  
7 May 13 private electronic meeting should be voided pursuant to ORS 192.680 because they were  
8 in direct violation of ORS 192.630 and 192.670.

9 **23.**

10 Plaintiff is entitled to an award of its costs, expenses and reasonable attorney fees  
11 pursuant to ORS 192.680.

12 **THIRD CLAIM FOR RELIEF – VIOLATION OF ORS 192.640 (MAY 13, 2020**  
13 **MEETING OF THE CROOK COUNTY COURT AND THE NRAC)**

14 **24.**

15 Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1  
16 through 23 of this Complaint.

17 **25.**

18 The Crook County Court and/or the NRAC did not provide for or give public notice,  
19 notice to the general public, and/or public notice reasonably calculated to give actual notice to  
20 interested persons (including Plaintiff), of their May 13, 2020 private electronic meeting,  
21 wherein: (a) the NRAC deliberated toward a decision on its recommendations to the Crook  
22 County Court on its response to the EA Wild Horse Management Plan, its Draft Wild Horse Plan  
23 Response, and/or on whether to substantially deviate from and/or disregard its previously  
24 enacted policy on the preservation of the County's wild horses (Crook County Natural Resources  
25 Plan (County Order # 2017-74)); and (b) the Crook County Court decided and/or deliberated  
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1 toward a decision on its response to the EA Wild Horse Management Plan, its Draft Wild Horse  
2 Plan Response, and on whether to substantially deviate from and/or disregard the County's  
3 previously enacted policy on the preservation of the County's wild horses (Crook County  
4 Natural Resources Plan (County Order # 2017-74)).

5 **26.**

6 The Crook County Court's and NRCA's failure to provide public notice, notice to the  
7 general public, and/or public notice reasonably calculated to give actual notice to interested  
8 persons of their May 13, 2020 electronic meeting, including the time and place for the meeting,  
9 and the list of principal subjects anticipated to be covered at this meeting, constitutes a violation  
10 of ORS 192.640.

11 **27.**

12 Plaintiff seeks an order that the Crook County Court and/or NRAC have violated the  
13 Oregon public meeting laws as described herein and an order directing and requiring the Crook  
14 County Court and/or the NRAC to comply with Oregon's public meeting laws. In addition, any  
15 decision or recommendation made by the NRAC and/or the Crook County Court as part of the  
16 May 13 private electronic meeting should be voided pursuant to ORS 192.680.

17 **28.**

18 Plaintiff is entitled to an award of its costs, expenses and reasonable attorney fees  
19 pursuant to ORS 192.680.

20 **FOURTH CLAIM FOR RELIEF – VIOLATION OF ORS 192.640 (MAY 14, 2020**  
21 **MEETING OF THE CROOK COUNTY COURT)**

22 **29.**

23 Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1  
24 through 28 of this Complaint.

25 **30.**

1 The Crook County Court did not provide for or give public notice, notice to the general  
2 public and/or public notice reasonably calculated to give actual notice to interested persons  
3 (including Plaintiff), of its May 14, 2020 meeting, wherein it met for the purpose of deciding  
4 and/or deliberating to toward a decision on the County's response to the EA Wild Horse  
5 Management Plan, its Draft Wild Horse Plan Response, and/or to substantially deviate from  
6 and/or disregard the County's previously enacted policy on the preservation of the County's wild  
7 horses (Crook County Natural Resources Plan (County Order # 2017-74)). Upon information  
8 and belief, at this meeting, the Crook County Court approved its Wild Horse EA Response Letter  
9 to the USFS, wherein it simultaneously decided (without any prior public notice) to substantially  
10 deviate from the County's Natural Resources Plan regarding the preservation of Crook County's  
11 wild horses.

12 **31.**

13 The Crook County Court's failure to provide public notice, notice to the general public  
14 and/or public notice reasonably calculated to give actual notice to interested persons (including  
15 Plaintiff) of its May 14, 2020 meeting, including the time and place for the meeting, and the list  
16 of principal subjects anticipated to be covered at this meeting, constitutes a violation of ORS  
17 192.640.

18 **32.**

19 Plaintiff seeks an order that the Crook County Court has violated the Oregon public  
20 meeting laws as described herein and an order directing and requiring the Crook County Court to  
21 comply with Oregon's public meeting laws. In addition, pursuant to ORS 192.680(1), the Crook  
22 County Court's decision to approve the Wild Horse EA Response Letter to the USFS ("Letter")  
23 and the Letter itself should be voided, and the Crook County Court should be ordered and  
24 directed to immediately withdraw the Letter from the USFS and from the USFS's consideration  
25 of its Plan.



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**33.**

The Crook County Court's violations of the public meeting laws as described herein were the result of an intentional disregard of the law or willful misconduct of a quorum of the members of the Crook County Court. Consequently, pursuant to ORS 192.680(3), the Crook County Court's decision to approve the Wild Horse EA Response Letter to the USFS and the Letter itself should be voided, and the Crook County Court should be directed to immediately withdraw that Letter from the USFS and/or from the USFS's consideration of its Plan.

**34.**

The Crook County Court's decision to approve the Wild Horse EA Response Letter and to transmit it to the USFS on or about May 14, 2020, cannot properly be reinstated pursuant to ORS 192.680(1). The deadline for the Crook County Court (on behalf of the County) to submit comments to the USFS on its Plan has expired and the record is closed. Consequently, even if the Crook County Court were to try (after the fact) to reinstate its approval of the Letter while in compliance with ORS 192.610 to 192.690, any public participation or comments, and/or recommendations from the NRAC, as part of that reinstatement process would be pointless because the Letter cannot be modified or resubmitted to the USFS, as the deadline to do so has passed. In short, the opportunity for meaningful public and/or NRAC comment on the Letter (and the Crook County Court's bona fide consideration of those comments) is over. Therefore, the only remedy for the Crook County Court's repeated failures to comply with the Oregon public meeting laws as described herein is to void its approval of the Letter and to direct it to immediately withdraw the Letter from USFS consideration.

**35.**

To the extent a quorum of the Crook County Court held other private or other meetings for the purpose of deciding or deliberating towards a decision on its response to the Plan, its Draft Wild Horse Plan Response and/or its Wild Horse EA Response Letter of which the public

1 and/or the Plaintiff were not lawfully informed, aware of and/or allowed to attend, or that were  
2 otherwise in violation of the Oregon open meeting laws, then Plaintiff reserves the right to  
3 amend this Complaint to add additional violations of the Oregon open meeting laws.

4 **36.**

5 Plaintiff is entitled to an award of its costs, expenses and reasonable attorney fees  
6 pursuant to ORS 192.680.

7 **FIFTH CLAIM FOR RELIEF – VIOLATION OF ORS 192.650 (CROOK**  
8 **COUNTY COURT)**

9 **37.**

10 Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1  
11 through 36 of this Complaint.

12 **38.**

13 Pursuant to ORS 192.650, the Crook County Court is required to provide for the sound,  
14 video or digital recording or the taking of written minutes of all its meetings. Further, “[a]ll  
15 minutes or recordings shall be available to the public within a reasonable time after the meeting,”  
16 and must include the information required by ORS 192.650(1)(a)-(e).

17 **39.**

18 The Crook County Court is in violation of ORS 192.650 because it has not made  
19 recordings or minutes of its May 12, May 13, or May 14 2020 meetings available to the public  
20 within a reasonable period of time after the meetings. Fifty-five (55) days have now passed  
21 since the May 14, 2020 meeting, and minutes or recording from all three of these meetings have  
22 still not been made available to the public, including Plaintiff despite its repeated requests.

23 **40.**

24 Plaintiff seeks an order that the Crook County Court has violated the Oregon public  
25 meeting laws as described herein and an order directing and requiring the Crook County Court to  
26



1 comply with Oregon's public meeting laws. In addition, the Crook County Court should be  
2 ordered to make recordings and minutes of its May 12, May 13 and May 14, 2020 meetings  
3 immediately available to the public, in accordance with ORS. 192.650.  
4

5 **41.**

6 Plaintiff is entitled to an award of its costs, expenses and reasonable attorney fees  
7 pursuant to ORS 192.680.

8 WHEREFORE, Plaintiff prays for the following relief:

- 9 a. An order and/or judgment that the Crook County Court and/or the NRAC have  
10 violated the Oregon Public Meeting laws, as described herein;  
11 b. An order directing the Crook County Court and/or the NRAC to comply with Oregon  
12 Public Meetings laws, as described herein;  
13 c. An order voiding the Crook County Court's approval of the Wild Horse EA Response  
14 Letter to the USFS and its Wild Horse EA Response Letter;  
15 d. An order directing the Crook County Court to immediately withdraw its Wild Horse  
16 EA Response Letter from the USFS and from any further consideration by the USFS  
17 as part of the Plan.  
18 e. An order directing the Crook County Court to make recordings and/or minutes of its  
19 May 12, May 13, or May 14 2020 meetings immediately available to the public and  
20 Plaintiff;  
21 f. An award of Plaintiff's costs, disbursement and reasonable attorney fees incurred

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g. herein; and

h. Such other relief as the court deems just and equitable.

Dated this 8th day of July, 2020.

TANK LAW, PC

By: /s/ Katherine C. Tank  
Katherine C. Tank, OSB #883199  
ktank@tanklawpc.com  
Attorney for Plaintiff





# Crook County

Mailing: 300 NE 3<sup>rd</sup> Street • Prineville, Oregon 97754  
Physical: 203 NE Court Street • Prineville, Oregon 97754  
Phone (541) 416-6555 • FAX (541) 416-3891

May 14, 2020

Slater Turner, District Ranger  
Lookout Mountain Ranger District  
3106 NE 3<sup>rd</sup> Street  
Prineville, OR 97754

Response to: Draft Environmental Assessment (EA) for the Ochoco Wild Horse Management Plan Project

Dear Mr. Turner,

The following comments are on the proposed Ochoco Wild Horse Management Plan Project draft Environmental Assessment (EA). Crook County has interest in this project because of the Ochoco Wild Horse herd as an economical, recreational and aesthetical resource within the County.

Based on the evidence presented in the draft EA and the supporting documents associated with it including the Hydrology and Aquatic Species Report, the Range Resource Report, the Wild Horse Report for the Ochoco Herd, and the Resource Report for Wildlife, **Crook County supports the AML and associated management activities under Alternative 2 with additional recommendations for dealing with genetic variability.**

Within the County's Natural Resource Policy, the chapter on wild horses speaks to the importance of these horses to the custom and culture of the County and how these horses are part of the recreational economy of the County, with visitors coming world-wide to see them. Crook County recognizes that these horses and the associated Big Summit Territory are to be managed under the 'Wild Free-Roaming Horses and Burros Act' of 1971 (WFRHBA) and as a result of that Act, establishes the Big Summit Wild Horse Territory within the Ochoco National Forest (ONF). Further, Crook County recognizes that the Forest Service is mandated by the WFRHBA to ensure wild horses are managed in a thriving natural ecological balance with other uses and the capacity of their habitat.

The Crook County Natural Resources Policy (pgs 53 and 54) states that:

- The wild horse herd be maintained as a County Resource with the protections and considerations set forth within the Federal Wild Horse Act,
- When possible, Territory boundaries should be reviewed and correct administrative errors associated with the 1975 management plan,
- Address genetic viability in Herd numbers regardless to AML standards that are based on "resource damage". Herd numbers should be achieved through fertility control, maintaining band structure and strategic captures,
- Develop innovative adoption programs to include value-added training,

Seth Crawford, Judge • Jerry Brummer, Commissioner • Brian Barney, Commissioner

EXHIBIT 1  
PAGE 1 OF 3



- Consider wild horses when planning all public events and commercial activities within the territory,
- Create and maintain habitat within the Territory as specified within the Wild Horse Act,
- Establish local protocols for humane and consistent responses to short and long term incidents and trends,
- Improve monitoring of permitted livestock use within the Territory,
- Improve monitoring and tracking of the bands of horses,
- Use funding to improve habitat including increase forage base, remove hazards (retrofit unsafe cattle guards), etc. for the well-being of the herd,
- Public education as a means of improving herd acceptance and sustainability,
- Utilize partnerships to utilize best practices for the improved vigor and sustainability of the herd,
- Manage the herd in coordination with Crook County

Crook County, through its employees and agency partners has participated in the Plan Project since its inception (2014) as a member of the Community Advisory Committee and the Wild Horse Working Group. Crook County recognizes that the Forest Service is mandated by the WFRHBA to ensure wild horses are managed in a thriving natural ecological balance with other uses and the productive capacity of their habitat as required. This mandate requires a balanced approach in consideration of permitted livestock grazing and other wildlife including elk and deer. Currently, the Herd population is greater than the Appropriate Management Level (AML) established in 1975 and more than twice the allowable number outlined in the Ochoco Forest Plan (1989).

**Findings of fact:** Wild horse management is not an easy task, with minimal human intervention being required. The Territory marks the boundary for which the horses must be managed under. Forage availability within the Territory is most limited during winter. Severe winters limit feed availability even more so and result in some of the horses leaving the Territory and trespassing on adjoining federal and private lands. The grazing permittee whose Allotment overlays the Territory has voluntarily reduced AUM's by half, implementing a rest-rotation grazing plan due to forage availability and resource conditions. Management objectives (MO) and herd populations for deer and elk have increased since the 1980's. Current deer populations are well below MO in the Ochoco Unit but elk are at or near their MO. Current genetic viability of the horse herd is at critical levels with observed heterozygosity values at .65 and .58 (values less than .66 are identified by Bureau of Land Management as being at critical risk).

As stated earlier, based on the evidence presented in the draft EA and the supporting documents including the Hydrology and Aquatic Species Report, the Range Resource Report, the Wild Horse Report for the Ochoco Herd, and the Resource Report for Wildlife, **Crook County supports the AML and associated management activities under Alternative 2** with additional recommendations for dealing with genetic variability. While Alternative 2 requires a significant reduction in current herd numbers over time which will present the Forest with challenges in public reaction, as well as horse gathering/removal and adoption activities. It is the only alternative that addresses the balanced approach required by the WFRHBA in dealing with resource capacity, existing resource condition and other requirements (example, forage allocation to deer, elk and permitted livestock grazing).

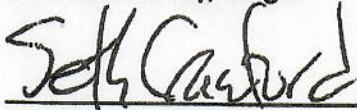


The WFRHBA does not permit the Forest Service to create a plan that excludes other uses of the resource and exceeds the standards for which the resources are managed (utilization, resource condition and trend, riparian stability, etc). Both Alternative 1 and 3 allow for continued downward trend in resource condition and reduced forage availability for other uses. These alternatives lead to significant reduction or exclusion of wildlife and permitted livestock grazing from the Territory.

The lack of genetic diversity (inbreeding) is identified within the Big Summit Wild Horse Territory. Inbreeding has been associated with decreased vigor and health of the horse population. Simply increasing the number of horses within the territory does not reduce the incidence of inbreeding. As identified in the National Research Council's report, "Using Science to Improve the BLM Wild Horse and Burro Program" (2013) genetic diversity is important for the health of free-ranging horses within their territories. And in small, isolated herds such as the Ochoco herd, inbreeding is inevitable and will occur within several generations. Thus it is important to constantly monitor heterozygosity. While balancing the needs to maintain breed ancestry of the herd, the introduction of limited "new" genetics will be critical. New genetics can be introduced very slowly through the introduction of young mares as outlined in the EA or more quickly through the introduction of stallions. Both options need to be evaluated and used appropriately.

Thank you for your consideration of these comments. If you have any questions, please contact Tim Deboodt, Crook County Natural Resources Policy Coordinator, 541-903-5903 or [tim.deboodt@co.crook.or.us](mailto:tim.deboodt@co.crook.or.us).

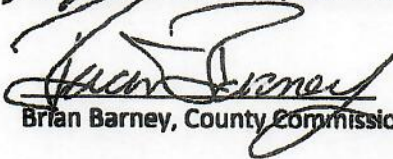
For Crook County, Oregon



Seth Crawford, County Judge



Jerry Brummer, County Commissioner



Brian Barney, County Commissioner

Cc: Tim Deboodt, Natural Resources Policy Coordinator – Crook County