

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

OREGON WILD HORSE ORGANIZATION, a non-profit organization; **CENTRAL OREGON WILD HORSE COALITION**, a non-profit organization; and **WESTERN WATERSHEDS PROJECT**, a non-profit organization

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT; and **BARRY BUSHUE**, in his official capacity as Bureau of Land Management State Director for Oregon and Washington,

Defendants.

Case No. 2:24-cv-01673-HL

**OPINION AND ORDER GRANTING
MOTION FOR PRELIMINARY
INJUNCTION**

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Jacob Jose, U.S. Department of Justice, Wildlife & Marine Resources Section, and Kyle Lyons-Burke & Gabriel Lopez, U.S. Department of Justice, Natural Resources Section, P.O. Box 7611, Washington, DC 20044. Attorneys for Defendants.

IMMERGUT, District Judge.

This preliminary injunction concerns the Bureau of Land Management’s planned emergency gather of wild horses in the Riddle Mountain Herd Management Area. Notice of Emergency Gather, ECF 87. Plaintiffs seek a preliminary injunction to prevent Defendants from conducting any emergency gather that reduces the wild horse population below 278 horses. Motion for Temporary Restraining Order and Preliminary Injunction (“Mot.”), ECF 88. For the following reasons, this Court GRANTS Plaintiffs’ motion for a preliminary injunction.

BACKGROUND

The Kiger and Riddle Mountain Herd Management Areas (“HMA”)—both home to wild horses—are in Harney County, Oregon. *See* AR_00034. In 2024, the Bureau of Land Management (“BLM”) announced the 2024 Gather Plan to conduct gathers of wild horses in the Kiger and Riddle Mountain Herd Management Areas (“HMA”). *See* AR_00001-AR_00019. Concerned about the impending gathers, Plaintiff organizations sued, seeking declaratory and injunctive relief against the 2024 Gather Plan as well as related prior administrative actions. First Amended Complaint, ECF 41. When BLM announced a July 21, 2025 gather, Plaintiff organizations sought a preliminary injunction. Motion for Preliminary Injunction, ECF 48. Before this Court needed to rule on the Preliminary Injunction, the parties reached an agreement. Joint Stipulation and Notice of Withdrawal of Preliminary Injunction Motion, ECF 57. Under that agreement, Plaintiff organizations would withdraw their motion for a preliminary injunction

and in return, BLM would not conduct gathers in the Kiger or Riddle Mountain HMAs until July 2026 or until this Court issued a ruling on the merits of the underlying litigation, whichever was earlier. *Id.*

That agreement expired in July 2026. *Id.* On September 3, 2026, shortly before Labor Day weekend, the BLM announced an emergency gather in the Riddle Mountain HMA. Notice of Emergency Gather, ECF 87. BLM maintained that the emergency gather was necessary in light of the Bald Mountain Wildfire, which had burned large parts of the Riddle Mountain HMA. Notice of Emergency Gather, ECF 87 at 1. The Plaintiffs sought a temporary restraining order, ECF 88, which this Court granted. ECF 95.

Now before this Court is Plaintiffs' Motion for a Preliminary Injunction, ECF 88. On October 7, 2026, this Court held a Preliminary Injunction Hearing and heard testimony from Adam Bronstein, the Oregon Director of the Western Watersheds Project, and Erik Molvar, Executive Director of the Western Watersheds Project. ECF 113. Defendants did not present any witness testimony at the hearing. This Court then took the motion under advisement. ECF 113.

DISCUSSION

After concluding that this Court has jurisdiction, this Court finds that the familiar *Winter* factors justify a preliminary injunction against the emergency gather in the Riddle Mountain HMA.¹

A. Standing

While Defendants do not contest standing at this stage of the proceedings, this Court has “an independent obligation” to assure itself of its jurisdiction. *See Rivas v. Rail Delivery Serv.*,

¹ Plaintiffs clarified at the hearing that they only seek to ensure that 278 horses remain in Riddle Mountain HMA. Accordingly, this Court's preliminary injunction does not preclude Defendants from gathering horses above the 278-horse threshold.

Inc., 423 F.3d 1079, 1082 (9th Cir. 2005). To establish standing, Plaintiffs must show that they have (1) suffered an “injury-in-fact” that is (2) fairly traceable to the challenged conduct of the defendant and (3) likely to be redressed by a favorable judicial opinion. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992).

Plaintiffs have met their burden. First, the injury-in-fact requirement is met. “[T]he desire to use or observe an animal species, even for purely [a]esthetic purposes, is undeniably a cognizable interest for purpose of standing.” *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 562–63 (1992); see *Friends of Animals v. Burgum*, 164 F.4th 738, 747 (9th Cir. 2026) (finding standing for organizational plaintiffs who described interest in wild horses and connections to the state in which the agency had taken action). Here, Plaintiffs have shown that their members have aesthetic interests in the wild horses in the Riddle Mountain HMA. They have specific connections to the Riddle Mountain HMA. See Declaration of Tenaya Jewel, ECF 51; Declaration of Paul Ruprecht, ECF 53; Declaration of Kyle Caraher ECF 54. Second, harm to those aesthetic interests is “fairly traceable” to the Emergency Gather. *Lujan*, 504 U.S. at 560–61. Removing the horses means that Plaintiffs would lose the opportunity to interact with the Riddle horses. Third, and finally, the redressability requirement is met because a preliminary injunction would prevent the BLM from removing the horses up to 278. Assured of its jurisdiction, this Court turns to the merits.

B. The *Winter* Factors Justify a Preliminary Injunction.

A preliminary injunction is “an extraordinary remedy never awarded as of right.” *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 24 (2008). Plaintiffs must therefore demonstrate that “(1) they are likely to succeed on the merits; (2) they are likely to suffer irreparable harm in the absence of preliminary relief; (3) the balance of equities tips in their favor; and (4) an injunction is in the public interest.” *Nw. Ass’n of Indep. Schs. v. Labrador*, 166 F.4th 1148, 1156 (9th Cir.

2026). “Likelihood of success on the merits is a threshold inquiry and is the most important factor.” *Id.* (internal quotation marks omitted). The Ninth Circuit has also stated that plaintiffs can justify a preliminary injunction if they demonstrate “serious questions going to the merits[,]” show that the balance of hardships tips sharply in their favor, and prevail on the other two *Winter* factors. *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134–35 (9th Cir. 2011). Serious questions are those “which cannot be resolved one way or the other at the hearing on the injunction.” *Bernhardt v. Los Angeles County*, 339 F.3d 920, 926 (9th Cir. 2003) (cleaned up).

1. Serious Questions on the Merits

Plaintiffs have shown serious questions going to at least three independent claims. Those are: 1) that BLM improperly calculated the Appropriate Management Level (“AML”) for the Riddle Mountain HMA in violation of the Wild and Free-Roaming Horses and Burros Act (“Wild Horse Act”); 2) the 2024 Gather Plan was predetermined in violation of the National Environmental Policy Act (“NEPA”); and 3) that BLM did not take the requisite “hard look” at the 2024 Gather Plan’s impacts on wild horse genetic diversity.

a. Improper AML Determination

Plaintiffs have shown serious questions as to whether the AML for the Riddle Mountain HMA was improperly calculated in violation of the Wild Horse Act. AML sets the “optimal population range of horses that can live on the HMA while maintaining” a Thriving Natural Ecological Balance (“TNEB”). *Friends of Animals v. Bureau of Land Mgmt.*, No. 2:16-CV-1670-SI, 2018 WL 1612836, at *3 (D. Or. Apr. 2, 2018) (cleaned up). AML is thus “a vehicle used to move towards a TNEB, and a trigger by which [] the BLM is alerted to address population imbalance.” *See In Def. of Animals, Dreamcatcher Wild Horse & Burro Sanctuary v. U.S. Dep’t of Interior*, 751 F.3d 1054, 1063–64 (9th Cir. 2014) (cleaned up). BLM must base the AML on site-specific data that addresses the optimal population levels to maintain a TNEB. *See*

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Dahl v. Clark, 600 F. Supp. 585, 592–95 (D. Nev. 1984). For the same reasons, BLM cannot base its AML determinations on 1971 wild horse population numbers alone. *See id.* at 594.

Here, the Emergency Gather in the Riddle Mountain HMA is based on the 2024 Gather Plan, which is in turn based on the 2005 Steens Mountain Cooperative Management and Protection Area (“CMPA”) Resource Management Plan/Record of Decision (“RMP/ROD”). Determination of NEPA Adequacy Worksheet, ECF 92-1 at 2, 6. But, development of the 2005 Steens Mountain CMPA does not appear to have included an independent site-specific analysis; rather, the plan simply incorporated earlier AML determinations that were originally based on 1971 wild horse population numbers, which similarly do not appear to rely on an independent site-specific analysis. The 2005 Steens Mountain CMPA “reaffirmed” the 1992 Three Rivers Resource Management Plan (RMP), AR_22452; AR_22588, which in turn “reaffirmed” a 1984 AML determination. AR_25727. But, that 2005 Steens Mountain CMPA AML assumed the validity of a 1979 AML determination, AR_28398-AR_28399, which was based on 1971 wild horse population numbers. AR_29791. Reliance on 1971 wild horse population numbers would violate the Wild Horse Act because no apparent site-specific analysis was performed as required by the Wild Horse Act. *See Dahl*, 600 F. Supp. at 594.

In response, BLM does not attempt to defend any AML determination besides the 2005 determination. Response in Opposition to Motion for Temporary Restraining Order/Preliminary Injunction (“Opp.”), ECF 103 at 20. But, the evidence that BLM points to is either a) outside this case’s record of decision (*e.g.*, BLM’s reliance on a one-page document describing a land use allotment for the “Burnt Flat Allotment”), and does not appear to have been relied upon in setting the Riddle Mountain HMA AML, *see Ctr. for Biological Diversity v. United States Fish & Wildlife Serv.*, 450 F.3d 930, 943 (9th Cir. 2006) (cleaned up) (explaining that “[p]arties may

not use post-decision information as a new rationalization either for sustaining or attacking the Agency's decision"); b) relevant to Kiger, not Riddle Mountain, HMA, *see, e.g.*, AR_05227-79; or c) unlikely to have guided BLM's decision-makers given that BLM has had repeated difficulty locating those documents throughout this litigation. *See Thompson v. United States Dep't of Labor*, 885 F.2d 551, 555 (9th Cir. 1989) ("The 'whole' administrative record, therefore, consists of all documents and materials directly or indirectly considered by agency decision-makers and includes evidence contrary to the agency's position"); *see, e.g.*, ECF 60, 62, 69, 72, and 76. Thus, there are serious questions as to whether BLM, in setting the AML determination in the 2005 Steens Mountain CMPA, ever conducted a site-specific analysis as required by the Wild Horse Act.²

b. Predetermination in Violation of NEPA

Second, Plaintiffs have shown serious questions as to their claim that the 2024 Gather Plan was predetermined in violation of NEPA. BLM must take a "hard look" at the environmental consequences of conducting a gather. *See Marsh v. Or. Nat. Res. Council*, 490 U.S. 360, 373–74 (1989). That "hard look" requires an agency to "consider the direct, indirect, and cumulative impacts of its proposed action." *California v. Bernhardt*, 472 F. Supp. 3d 573, 618 (N.D. Cal. 2020) (cleaned up). Here, to comply with its NEPA obligations, BLM conducted and released a Final Environmental Assessment ("FEA" or "Final EA") to support the 2024 Gather Plan. AR00026-354.

² BLM also argues that it had no obligation to update the AML before its 2024 removal decision. Opp., ECF 103 at 21. That is true, but irrelevant. Plaintiffs' contention is not that the AML determination was valid in 2005, but has become invalid over time. Rather, Plaintiffs argue that the AML was invalid from the start because BLM never conducted a site-specific analysis.

NEPA requires that a FEA be more than merely “a subterfuge designed to rationalize a decision already made.” *See Metcalf v. Daley*, 214 F.3d 1135, 1142 (9th Cir. 2000). Thus, an FEA prepared after the agency has already determined the outcome of its analysis violates NEPA. *See City of Los Angeles, Calif. v. Fed. Aviation Admin.*, 63 F.4th 835, 848 (9th Cir. 2023). Evidence showing an “irreversible and irretrievable commitment of resources” to a proposed action before preparing the FEA can demonstrate predetermination. *Friends of Southeast's Future v. Morrison*, 153 F.3d 1059, 1063 (9th Cir. 1998).

Here, multiple pieces of evidence raise serious questions as to predetermination. To start, this Court finds the Declaration of Kylie Caraher to be persuasive. Declaration of Kylie Caraher in Support of Plaintiffs’ Motion for Preliminary Injunction (“Caraher Decl.”), ECF 54.³ Caraher was a former Wild Horse and Burro Specialist, who was assigned to the Kiger and Riddle Mountain HMAs and assisted in the Environmental Assessment for the 2024 Gather Plan. *See* Caraher Decl., ECF 54, ¶¶ 2–3. Caraher has stated that on December 8, 2023, BLM released the FY2024 Tentative Wild Horse and Burro Gather and Fertility Control Schedule, which set a planned gather in the Kiger and Riddle Mountain HMAs for early September 2024. Declaration of Kylie Caraher in Support of Motion to Complete Administrative Records, ECF 39-1 ¶ 10. At that time, BLM had not created an EA; the draft EA was created on April 25, 2024. *Id.* ¶ 12. Then, BLM’s Burns District Office received a call from BLM’s headquarters, stating that the planned gather needed to be removed from BLM’s schedule. *Id.* ¶ 14. BLM’s headquarters

³ Defendants object to the Caraher Declaration as extra-record evidence, but the Caraher Declaration falls within the exception permitting extra-record analysis of an agency decision “when plaintiffs make a showing of agency bad faith.” *Center for Biological Diversity*, 450 F.3d at 943 (cleaned up).

maintained that “[t]he reason given for removing the planned gather was that the schedule would show predetermination, which violates NEPA.” *Id.* ¶ 15.

In addition, this Court finds BLM employee Rick Knox’s contracting activity to be persuasive evidence of predetermination. In July or August 2024, before the Decision Record for the 2024 Gather Plan was released, BLM created two separate Task Order Contracts for a) a gather in the South Steens HMA; and b) gathers in Kiger and Riddle Mountain HMAs. *See* Second Declaration of Kylie Caraher, ECF 44-2, ¶¶ 8–10. In conjunction with the Caraher Declaration, these commitments of resources raise serious questions as to whether there was “a subterfuge designed to rationalize a decision already made.” *Metcalf*, 214 F.3d at 1142.

c. Failure to Take a Hard Look at Impacts on Genetic Diversity

Plaintiffs have also shown serious questions as to whether the 2024 Gather Plan did not take the requisite “hard look” at the 2024 Gather Plan’s impacts on wild horse genetic diversity as required by NEPA. *Marsh*, 490 U.S. at 373–74 (1989). NEPA requires an agency to “consider the direct, indirect, and cumulative impacts of its proposed action.” *Bernhardt*, 472 F. Supp. 3d at 618. In addition, the agency “must provide ‘a reasonably thorough discussion of the significant aspects of the probable environmental consequences.’” *Cascadia Wildlands v. United States Bureau of Land Mgmt.*, 153 F.4th 869, 902 (9th Cir. 2025) (cleaned up).

In determining whether an environmental consequence is significant, an important reference point is relevant substantive environmental law. *See id.* at 880 (“[A]n agency may weigh environmental consequences as the agency reasonably sees fit under its governing statute and any relevant substantive environmental laws.”) (emphasis added)). Here, the Kiger and Riddle Mountain HMAs are designated by law as part of an Area of Critical Environmental Concern (“ACEC”). *See* AR_00034. When an area is designed as an ACEC, it is given enhanced protection over and above “BLM’s default management for ‘multiple [land] use[s].’” *S. Utah*

Wilderness All. v. Burke, 981 F. Supp. 2d 1099, 1113 (D. Utah 2013) *vacated sub nom. S. Utah Wilderness All. v. U.S. Dep't of the Interior*, No. 2:12CV257 DAK, 2017 WL 11516766 (D. Utah May 17, 2017). The designation of the Kiger Mustang ACEC occurred because the Kiger and Riddle horses “are an important historic and cultural value, as they represent a genetic heritage that originated from some of the Spanish Mustangs introduced by European explorers. This area provides a good location for preserving the primitive markings and features these wild horses exhibit.” AR_26082. Accordingly, the ACEC determination serves as “substantive environmental” law that makes protecting the unique genetic characteristics of these specific horses a significant environmental issue under NEPA. *See Cascadia Wildlands*, 153 F.4th at 880.

Here, this Court concludes that there are “serious questions” regarding whether BLM met its obligations under NEPA to consider wild horse genetic diversity. To start, BLM did not respond to comments about wild horse genotype in its environmental assessment, which is inconsistent with NEPA’s “broad and important public information purpose.” *WildEarth Guardians v. U.S. Dep't of Agric. Animal & Plant Health Inspection Serv. Wildlife Servs.*, 135 F.4th 717, 728 (9th Cir. 2025). “A NEPA document is an important ‘springboard for public comment’ and engagement.” *Id.* (citing *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989)). For that reason, “NEPA generally requires the agency to ‘engage with ... contrary scientific and expert opinion’ and uncertainty as part of its duty to ‘consider all important aspects’ of a proposed agency action.” *Id.* at 736 (cleaned up). Courts have found EAs to fail NEPA’s requirements if the EA fails to sufficiently respond to public comments that were supported by scientific literature. *Id.* at 737 (explaining that EA did not satisfy NEPA’s requirements when it responded to only two scientific articles out of over 10 identified in public comments).

In comments to BLM in response to the draft Environmental Assessment, members of the public maintained that BLM must consider genotype (*i.e.*, the genetic makeup of the herds) because BLM’s ACEC determination had previously recognized the unique “genetic heritage” of the Kiger mustangs. *See* AR_01192–AR_01193. Because BLM did not respond to these comments, and those comments were important given the prior ACEC determination about the importance of wild horse genetic diversity, there are serious questions as to whether BLM violated NEPA.

Moreover, even just looking at wild horse phenotype (*i.e.*, the observable characteristics of the horses), Defendants may not have met their NEPA obligations because they relied on “incorrect assumptions” about the Riddle Mountain wild horse population. *See Native Ecosystems Council v. U.S. Forest Serv.*, 418 F.3d 953, 964 (9th Cir. 2005). In analyzing the potential impacts on wild horse genetic diversity, BLM relied on the assumption that Kiger horses are part of a metapopulation that includes horses without Spanish Mustang ancestry. AR_00046. But, that assumption is contradicted by BLM’s own evidence including the report of BLM’s own consultant, Mr. Cothran. Cothran has stated that “[i]n comparison to other Oregon herds, the Kiger and Riddle herds again are very similar to each other but do not necessarily show close similarity to geographically close herds.” AR_20314. Accordingly, the lack of evidence for this key assumption raises serious questions as to whether ACEC failed to account for genetic diversity as required by NEPA. *See Native Ecosystems Council*, 418 F.3d at 964 (“To take the required ‘hard look’ at a proposed project's effects, an agency may not rely on incorrect assumptions or data[.]”) (cleaned up).

d. Deference due to BLM

In response to Plaintiffs’ various challenges, Defendants repeatedly emphasize the deference that BLM is due both under the Wild Horse Act and under NEPA. Opp., ECF 103 at PAGE 11 – ORDER

13. Wild Horse Act and NEPA claims are “reviewed under the same judicial review provisions as claims brought directly under the APA.” *Friends of Animals v. Silvey*, 353 F. Supp. 3d 991, 1003 (D. Nev. 2018). Accordingly, “[courts] must consider whether the agencies complied with” the Wild Horse Act’s and NEPA’s requirements “under the APA’s deferential arbitrary and capricious standard.” *Env’t Def. Ctr. et al. v. Bureau of Ocean Energy Mgmt. et al.*, 36 F.4th 850, 871 (9th Cir. 2022) (NEPA); *Silvey*, 353 F. Supp. 3d at 1003 (Wild Horse Act). An agency’s action is arbitrary and capricious “only if the agency relied on factors Congress did not intend it to consider, entirely failed to consider an important aspect of the problem, or offered an explanation that runs counter to the evidence before the agency or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Defs. of Wildlife v. Zinke et al.*, 856 F.3d 1248, 1257 (9th Cir. 2017) (cleaned up).

This Court recognizes the importance of deference, but BLM’s decisions must still fall within “a broad zone of reasonableness.” *Seven Cnty. Infrastructure Coal. v. Eagle Cnty., Colorado*, 605 U.S. 168, 183 (2025). Here, all this Court decides is that there are serious questions as to whether BLM’s actions exceeded the scope of that deference. If BLM a) did not conduct any site-specific analysis in its AML determinations; b) made a predetermined decision before its Environmental assessment or c) did not account for Riddle Mountain HMA’s status as an ACEC where wild horses enjoy enhanced protection, then BLM may have exceeded the scope of the deference it is due. That narrow ruling is fully consistent with the “broad zone of” deference that Congress has provided BLM. *Id.*

2. Irreparable Harm

Plaintiff organizations have demonstrated irreparable harm in the form of the loss of opportunities to interact with wild horses. “Environmental injury, by its nature, can seldom be adequately remedied by money damages and is often permanent or at least of long duration, i.e.,

irreparable.” *Amoco Prod. Co. v. Vill. of Gambell*, AK, 480 U.S. 531, 545 (1987). The Ninth Circuit has found irreparable harm from reduced opportunities to view a species of animals in which one has an aesthetic interest. *Nat'l Wildlife Fed'n v. Nat'l Marine Fisheries Serv.*, 886 F.3d 803, 822 (9th Cir. 2018) (cleaned up) (finding irreparable harm based on an affidavit, stating that “[f]ewer salmon mean fewer opportunities to see them.”). Here, that principle applies as removing all horses from the Riddle Mountain HMA as Defendants propose—even temporarily—would reduce Plaintiffs’ opportunities to interact with the wild horses.

That irreparable harm is amplified by the consequences that an emergency gather would likely have for wild horses in the Riddle Mountain HMA. At the hearing, Erik Molvar testified credibly that based on the current academic literature, a minimum population of 278 horses is necessary for the Riddle Mountain wild horse population to be genetically viable. Anything less would create problems related to in-breeding and genetic bottlenecks that would threaten the genetic viability of the Riddle Mountain HMA’s wild horse population. Thus, a preliminary injunction to keep the wild horse population at or above that 278-horse threshold is necessary to prevent irreparable harm.

In response, Defendants offer two main counterarguments. Neither is persuasive. First, relying principally on *Kohleriter v. Dep't of Agric.*, No. 2:25-CV-02446-DJC-JDP, 2025 WL 2986725 (E.D. Cal. Oct. 23, 2025), Defendants argue that temporary gathers do not result in irreparable harm. Opp., ECF 103 at 29. But, *Kohleriter* relied on “the rapid reproduction of [w]ild [h]orses” in the HMAs in question. *Id.* at *4. By contrast, here, the record demonstrates that the reduction of horses below the 278-horse threshold will damage the genetic viability of the specific protected wild horse population. Additionally, here, BLM intends on sterilizing a number of the mares before returning a minimum number of horses under the current AML,

which may further limit the genetic viability of the Riddle Mountain horses. Notice of Emergency Gather, ECF 87 at 2.

Second, Defendants contend that there is no right to view a specific number of wild horses. Opp., ECF 103 at 29–30. But, that contention is inconsistent with both Ninth Circuit caselaw and the record here. For one, Defendants’ argument is contradicted by precedent that reduced opportunities to view an animal species constitutes irreparable harm. *Nat’l Wildlife Fed’n*, 886 F.3d at 822. For another, the proposed emergency gather would not just reduce opportunities to view wild horses. It would eliminate them, at least in the short-term. And, given the consequences for genetic viability, it would likely threaten the ability for Plaintiff organizations and their members to interact with the Riddle horses at all.

3. Balance of Equities and the Public Interest

Plaintiffs have also shown that the balance of equities and public interest weigh in their favor. “When the government is a party, the last two factors (equities and public interest) merge.” *E. Bay Sanctuary Covenant v. Biden*, 993 F.3d 640, 668 (9th Cir. 2021). Here, the balance of the equities and the public interest favor a preliminary injunction. First, “the equities and public interest favor government agencies complying with environmental rules and regulations.” *Kohleriter*, 2025 WL 2986725 at *5. Second, the equities and the public interest are informed by the Wild Horse Act, which explains that “wild free-roaming horses and burros are living symbols of the historic and pioneer spirit of the West,” and that “they contribute to the diversity of life forms within the Nation and enrich the lives of the American people.” 16 U.S.C. § 1331. Here, for the reasons explained above, the emergency gather would threaten the wild horse population’s genetic viability, justifying Plaintiffs’ proposed preliminary injunction.

Defendants offer two sets of equitable considerations to balance against the considerations above. Neither is persuasive. To start, Defendants point to reduced forage

availability after the Bald Mountain Fire. Opp., ECF 103 at 7. This argument is of limited persuasive value because Defendants rely on flawed methodologies for measuring available forage. Defendants' reliance on ocular estimation is little more than a guess, Second Declaration of Erik Molvar, ECF 108-2 ¶ 10, and is contradicted by Plaintiffs' own observations on the ground. *Id.* ¶ 21. Defendants' reliance on RAVG data conflates tree canopy with forage on the ground. But, as Melissa Foster, one of Defendants' declarants admits, there is an imperfect correlation between burned tree canopy and burned forage on the ground. Declaration of Melissa Foster, ECF 100 ¶ 27. Finally, to the extent that there is a valid concern about forage availability, that concern is addressed by the fact that Plaintiffs' proposed preliminary injunction would allow Defendants to remove all horses above the 278-horse threshold, easing pressure on available forage.

In addition, Defendants maintain that an emergency gather will assist with the regeneration of vegetation. Opp., ECF 103 at 11. However, this evidence is mitigated by credible evidence that wild horses are not correlated with the growth of invasive species like cheatgrass. Second Declaration of Erik Molvar, ECF 108-2 ¶¶ 2, 22. Also, if the removal of wild horses is necessary to get funding for revegetation, as BLM claimed during oral argument, that concern can be addressed through an expedited trial if necessary. Finally, to the extent that revegetation is a concern, Defendants can gather and remove horses above the 278-horse threshold, which will aid in revegetation efforts.

In sum, an emergency gather would likely pose an imminent threat to the genetic viability of the Riddle Mountain HMA's wild horse population based on credible expert testimony presented at the Preliminary Injunction hearing. Defendant's equitable concerns—to the extent

they are valid—do not outweigh the equitable considerations favoring a preliminary injunction here.

CONCLUSION

For the reasons described above, this Court GRANTS Plaintiffs' Motion for a Preliminary Injunction, ECF 88. To be clear, this Court decides this issue on the limited factual record before it alone. If the parties return to this Court with new or different evidence, then this Court will give full and fair consideration to that evidence. Likewise, this Court expresses no view on the ultimate merits of this case, which will be determined only after a trial on the merits. This Court is willing to hold an expedited trial if the parties request it. But at this stage, based on the limited record before it, this Court only decides that Plaintiffs' proposed preliminary injunction should be GRANTED.

IT IS SO ORDERED.

DATED this 15th day of October, 2026.

/s/ Karin J. Immergut
Karin J. Immergut
United States District Judge