

Battle Mtn. Reveille Allot 1/10/84 Dawn

LAW OFFICES
BARRETT, HANNA, DALY & GASPAR

SUITE 100
2555 M STREET, N.W.
WASHINGTON, D. C. 20037

(202) 293 3204
TELEX 90-4058 HCLAW WASH
FRANKFURT, GERMANY OFFICE
6 FRANKFURT AM MAIN
AM SALZHAUS 4
WEST GERMANY
(061) 28 647 48

DAVID M. BARRETT
ROGER V. BARTH
FRED H. DALY
RUSSELL J. GASPAR
RAY L. HANNA
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CALVIN P. JOHNSON*
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ROBERT L. OSWALD
JOSEPH E. SCHULER
NANCY A. MURRAY

January 10, 1984

OF COUNSEL
MARIO T. NOTO
EDWARD J. BELLEN
FRANKFURT, WEST GERMANY

*ADMITTED TO PRACTICE
IN MISSOURI ONLY

Jim Fox
District Manager
United States Bureau of Land Management
P.O. Box 194
Battle Mountain, Nevada 89820

Dear Mr. Fox:

I am writing on behalf of the American Horse Protection Association, Inc., concerning the activities of Joe B. Fallini, Jr., on the Reveille Allotment of the Tonopah Resource Area.

AHPA is aware that Mr. Fallini claims to own or control all of the waters in the Reveille Allotment, and that he is engaged in a dispute with the Bureau over the provision of water to the wild horses that inhabit the Allotment. The Association further understands that in late October Mr. Fallini caused barricades to be placed across the entrances of corrals surrounding at least ten wells and pipelines in an effort to restrict wild horses from entering to drink. The barricades appear to be intended as a weapon in Mr. Fallini's efforts to compel BLM to remove most of the wild horses in the Allotment, and to compensate him for providing water to wild horses since 1971.

As I am sure you know, unauthorized modifications of range improvements such as corrals are prohibited by 43 C.F.R. §4140.1(b)(2)) and subject the violator to both civil and criminal penalties under 43 C.F.R. §§4170.1 and .2 -- including cancellation of his grazing permits.

Furthermore, Mr. Fallini's conduct "maliciously causes ... harassment" of the wild horses on the Allotment. 43 C.F.R. §4760.2(c). "Malicious harassment" is defined as "any intentional act which demonstrates a deliberate disregard for the well-being of wild free-roaming horses and burros ... or is detrimental to

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normal behavior patterns including feeding [and] watering"
Id. §4700.0-5(k). Mr. Fallini's actions undoubtedly are intentional; a more cold-blooded instance of deliberate disregard for the animals' well-being cannot be imagined.

It may be that adequate temporary water sources are available to the horses as a result of winter precipitation, and that the horses are not in any immediate danger. That condition certainly will change by late spring. In any event, by forcing the horses out of their established ranges to look for water Mr. Fallini's actions are "detrimental to [their] normal behavior patterns," especially if they concentrate horses in the few remaining areas surrounding water. Therefore, they constitute a current and ongoing violation of the Wild Free-Roaming Horses and Burros Act as well as BLM's range management regulations.

The Association also has learned that BLM intends to remove all of the wild horses from at least one area adjacent to the Reveille Allotment on the grounds that the area was not used by wild horses in 1971. To the extent that horses were forced out of Reveille into those areas due to Mr. Fallini's illegal conduct, the removals are without authority. Furthermore, the coincidence of these events leads AHPA to believe that BLM is intentionally taking advantage of Mr. Fallini's actions to serve its own ends.

Finally, the Association understands that the Bureau has recently directed Mr. Fallini to remove the barricades. Should he refuse to do so, AHPA demands that BLM pursue all available legal remedies to insure his compliance or to penalize his misconduct, including cancellation of his grazing permits. In the event that BLM does not act, AHPA will bring suit to enjoin Mr. Fallini's conduct and to compel BLM to enforce the law.

Very truly yours,



Russell J. Gaspar
Attorney for American Horse
Protection Association, Inc.

cc: Joan R. Blue