

Battle Mtn Dist  
Diamond HMA

7/15/88



# ANIMAL PROTECTION INSTITUTE OF AMERICA

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July 15, 1988

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Terry L. Plummer  
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BLM  
P. O. Box 1420  
Battle Mountain, NV 89820

RE: DESOTAYOA/DIAMOND/  
NEW PASS-RAVENSWOOD, &  
REVELLE HMAs

Dear Mr. Plummer:

Thank you for responding to the objections we raised on the proposed removal plan from the above HMAs within your District. We are still not convinced that these roundups are fully justified. For instance, in your letter you refer to the AMLs that were identified for these HMAs as being a management decision. But you don't say what that decision is based on. According to the Nevada Instructional Memo NV 82-305, wild horse and burro numbers are to be based on specific conditions otherwise the current number is to be used as a starting point number for the purpose of monitoring to determine AML. The numbers you have listed are starting point numbers for the purpose of beginning monitoring in order to determine AML, they are not AML.

Also in your letter, you state (P.1, #4) that "the current gathering efforts (e.g., the proposed removal plan) are to achieve or maintain AML and provide data to analyze habitat monitoring studies. These data will indicate if grazing-use needs to be adjusted." I don't mean to appear dense, but it is not at all clear how a gathering effort (e.g., removal of horses) will provide data on which to determine if an adjustment (e.g., reduction of horses) is needed. It is our understanding that the monitoring studies are to provide the data which will or will not support this proposed removal of horses from the areas listed. But the removal plan does not any evidence of supporting range data nor does it environmentally assess a reasonable alternative.

Because the law lists very specific criteria for determining when an excess of horses exists in a given



area and the Dahl v. Clark ruling clarifies when removals are allowed, range data showing damage caused by horses is a prerequisite for any removal decision.

We have reviewed the range data on the Gilbert Creek Allotment (which is in the NEW PASS-RAVENSWOOD HMA) in conjunction with the consideration of livestock grazing adjustments. We raised several questions (in a telephone conversation with the Area Manager) with regard to the extent to which horses contribute to overgrazing in this allotment. We are waiting to receive the minutes from the recent meeting to learn what kinds of management options are being considered. The situation there was that both horses and livestock were concentrated in the north and the permittee did not want to move his cattle to the south because he preferred grazing them in the north--even though the north end of the allotment would not support them and the south would.

In response to "proportionate" adjustments, we do not understand how BLM can reconcile that with the Dahl v. Clark ruling which essentially requires that a removal be a remedial action. Proportionate reductions are a kind of "no-fault" policy that won't solve the problems. We believe that Dahl v. Clark is consistent with the intent of public land laws and sound management principles aimed at protecting the public lands from overgrazing and related damage.

It makes no sense to reduce the number of horses if the damage is caused by cattle. REVEILLE is a good example. The 1987 EA (that accompanied the court ordered reduction and which was testified to in court) clearly pinpointed the damage as caused by cattle while horses were evenly distributed throughout the area and not contributing to the damage. Removing the horses had no effect whatsoever on the condition of the range. We believe the intent of FLMPA--with which the wild horse Act was made consistent when amended by PRIA--is a management program of sustained usage under multiple use, sustained yield principles. FLMPA does not suggest or support a "proportional" reduction when there is damage. We believe remedial action--not proportionate reductions--to be the appropriate management decision supported in the law and in both the grazing and wild horse regulations.

According to the grazing regulations BLM can reduce livestock usage within an HMA. Section 4110.3-2 says the authorized officer shall reduce usage to maintain



or improve productivity unless a change would achieve management objectives. We hope you are not considering wild horse reductions as that change. If so, we believe 4710.5 precludes it.

The wild horse regulations (4710.5) say if [it is] necessary to provide habitat for wild horses or burros or to implement herd management area plans or to protect horses, their habitat area may be closed to grazing use by livestock. Our interpretation of that, along with the above grazing regulations is that it would be sound management to remove livestock from HMAs when they cause the damage and to reduce wild horse numbers if and when they cause damage. We believe the meaning of 4710.5 is that livestock reductions within HMAs are required before wild horse reductions. We also believe 4710.5 needs to be environmentally assessed as an alternative to the proposed action.

With regard to the REVEILLE HMA, we are amazed that the Judge would order annual roundups to maintain 165 animals when it is so clearly contrary to the principle of dynamic and flexible numbers related specifically to range conditions expressed in FLMPA, the 1971 Act, and other public land laws. Our understanding of the order is that it did not include a set figure but required BLM to establish an "optimum" number. Optimum is by definition a flexible figure meaning the best or the most under specific and changing conditions. It is the conditions that determine what is the optimum number.

We believe this interpretation of optimum is the whole purpose of range monitoring studies aimed at determining what is the condition of the range and how many animals it can support. If one species of animals causes damage because of how they graze and where they graze, how and where are the very facts needed to determine how many of these destructive animals should be allowed. When they graze an area specifically designated as a wild horse use area (HMA) where the plant community provides more than forage for native species, we believe range managers have to look very closely at the meaning and intent of multiple use/sustained yield principles and the legal constraints on them to control destruction in order to protect the natural system and public land values. Wild horses are a public land value and "to be considered as integral components of the natural system."



On the other hand, if wild horses space themselves in relation to the forage and are well adapted to their habitat area their optimum numbers are to be determined on the basis of what constitutes excess. The law addresses precisely that question.

We are requesting BLM to close Reveille HMA to livestock (4710.5) and maintain the existing number as an optimum number on that HMA. Unless there is range damage which can be directly attributed to their numbers, there is no reason to reduce those numbers. If it is determined that there is an excess of horses in the HMA--meeting all statutory criteria, then a removal supported by range data should be considered. At this particular time this is not the case and there is no justification for the removal while there is overwhelming evidence to support imposing 4710.5.

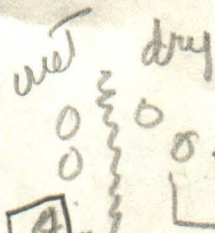
And so we feel we would be remiss on the mandate to us from our members if we did not continue to oppose these roundups when we believe the AMLs have not been established, the proposed removal plans are not justified on the basis of range data, and there is no indication that these proposed removals are remedial actions.

Sincerely,

*Nancy Whitaker*  
Nancy Whitaker  
Program Assistant



AM2 - 20



minus [19] dead = 9+4 left

31 in North

27  
59 total HMA#

run trucking to cows

Bhm Trucking to horses

Bob Braun in cellar = B Burtonwood for Antelope deer

Emergency removal for 9+4 in north?  
Pool south the south

well with good water supply  
rancher = rights pumping for  
horses & cows

Week later

Water trapping recommended

45 more horses reported at water ponds  
winter water more at least 25 reported

10 trapped	2 Traps	Zuder Beudich for Tuesday	4 left in north
8 trapped			23 left in So
31 trapped			
49 total	8 to PV	2 adopted	Shipping all to PV if possible NSO recommends contractor for truck
102 horses in HMA			

Questions

the horses from So move north if good water  
to go to no water? 20 miles away?

Bob Braun left emergency crew situation  
to help Eldo when there were  
no problems?

boxed: Rounded all horses do "Emergency"

Vegetation is green, plenty of forage  
surrounding areas not experiencing same situation  
winter rains normal maybe above average  
no further rain since March - that's not a drought  
do they usually get rain after March?