

Carson City Dist.
Clan Alpine HWA

8/15/86

DATE: August 15, 1986
TO: E. F. Spang, State Director, and all Districts scheduling capture operations
FROM: Wild Horse Organized Assistance, Inc. (WHOA)
Dawn Y. Lappin, Director
SUBJECT: Wild Horse Capture Operations and Environmental Assessments

In my attempt to review and comment on the Clan Alpine Wild Horse Removal Plan and Environmental Assessment, it became clear from observation over the past few months, that ALL capture plans were fatally flawed. Experience in Buck & Bald, Nellis AFB, New Pass, Fish Creek, Seven Mile, and Buffalo Hills, point to severe problems, of which commenting on one, the Clan Alpine, will not correct. Therefore I am notifying all Districts that WHOA intends litigation on the capture operations until these issues are addressed and resolved. The following information may help the District understand our purpose.

ISSUE NUMBER ONE

WHOA strongly objects to the language in the Clan Alpine, and others, that imply the BLM employees supervise the helicopter at all times during the gathering process. Sec. 404 (16 USC 1338a) of PL 94-579, Sec. 9., states "In administering this Act, the Secretary may use or contract for the use of helicopter or, for the purpose of transporting captured animals, motor vehicles. Such use shall be undertaken only after a public hearing and under direct supervision of the Secretary or of a duly authorized official or employee of the Department."

EXAMPLE

BLM authorized officials are at the trap site, have no access to the helicopter during capture operations; nor do they monitor the capture operation from any other aircraft. The BLM employees must accept the word of the contractor on the mileage the horses are being brought, their condition, and whether during that process, they are being stressed. Air miles versus ground miles, with mountain, ravines, and obstacles, could mean the difference in the end condition of the animals.

CONCLUSION

WHOA's comments on the Final Rule dated 1/22/85, stated, "It appears BLM has gone to considerable effort to set guidelines

through regulations on the adoption program, yet attempts to convince the public that important management guidelines, now in regulation, (such as 4730.7-2) should be in manuals. It is apparent that it is BLM, not the public, who wishes to escape regulatory burden by deleting language in regulation. Regulations require public notice, whereas, manuals and policies do not. Rather than clarifying management procedures to the public, the rule making will instead remove BLM management from public scrutiny." Part 4700, Sec. 4740.1 (3/1/86) is inconsistent with PL 92-195, as amended, and PL 94-579, which gave helicopter authority only under "direct supervision."

ISSUE NUMBER TWO

BLM claims that stipulations, most of which are actually law, reviewed by the public in the capture plans, will insure the proper supervision of capture and transporting operations. The facts are that stipulations (or laws) are not being enforced and reveal the following:*

- o Sub-standard, or improper vehicles used in transport. (Buck & Bald)
- o Rate of movement which shall not exceed limitations (what limitations), shall consider terrain, condition, (how can he consider, what he doesn't see). (Soldier Meadows, Calicos, Buffalo Hills)
- o Humane transportation of animals. (Buck & Bald)
- o Non-skid flooring provided. (New Pass)
- o Number of animals to be loaded. (Buck & Bald, New Pass)

*Redundant to list more.

EXAMPLE

BUCK & BALD: Approximately 20 animals trampled; overloaded trucks; substandard equipment; improper loading age, sex, and condition.

NELLIS AFB: Approximately 100-150 animals suffering from dust pneumonia, brought about by transporting animals on dusty roads, no mitigation measures; exceptionally large number of orphan colts, with no explanation.

Page three

NEW PASS: Approximately 20-30 animals trampled; overloaded trucks; failure to use partitions in trucks; transporting over dusty roads.

FISH CREEK/ Failure to identify in stipulations the use of netting for trap; the unnecessary weaning of colts; failure to set limitations for dust hazard.

SEVEM MILE

BUFFALO HILLS/ 760 animals captured until shut-off
SOLDIER MEADOWS/ 120 of which were foals
CALICO/* 2/3 of which were in varying degrees of lameness (some of which had separation of hoof wall from coronet), or abscesses.
50 were severe
25 animals destroyed, 1/2 of which were colts*

15 animals with barb wire injuries

*None of the above figures include animals received at Litchfield, a copy of which is attached; nor does it include any of the 6 animals cared for by WHOA, one of which died.

CONCLUSION

The stipulations in the Clan Alpine do nothing to alleviate our concerns, for these same stipulations or similar ones, were present in other capture plans, as described previously. The fact that BLM employees lack knowledge of the wild horses, their herd use areas, have no access to helicopter to evaluate; puts the BLM employee in the position of abrogating his responsibility to the contractor, wherein minor infractions of stipulations appear inconsequential. The employee is clearly at a disadvantage, even though he alone, must take responsibility for all actions taken.

- o He has no access to helicopter; no means to supervise the helicopter operations.
- o He must take word of contractor on distance, speed, terrain, and condition.
- o He has only radio supervision, and in my observation of two operations, this was sporadic, and only when horses were near trap site.

ISSUE NUMBER THREE

There is a definite lack of pre-capture evaluation of herd location, possible movement patterns, terrain, condition of animals, intra-district coordination, and obstacles. Some employees appear to be genuinely concerned for the welfare of the animals, other appear insensitive. In at least two Districts it appears they have been initiating two management actions for the same herd of wild horses. Their definition of coordination appears to be one of notification, rather than actual planning. It does not appear to me that immediately prior to capture, the project inspectors or coordinating officers are in fact inspecting the capture site with any type of forethought on what problems might arise.

EXAMPLE

Pre-contract evaluation of roads in capture areas would have resulted in mitigation that would have perhaps saved countless dollars from a standpoint of rehabilitation at the central corrals the pre-capture evaluation of terrain and obstacles would have resulted in less injuries from barbed wire, and decreased the injuries from internal barbed wire fences, and decreased the number of sore-footed colts (this I am not sure, as the District insisted there was no way to mitigate the sore feet.)

Certainly, if the capture site was not properly evaluated, neither was the sensitivity of the program.

CONCLUSION

Despite the fact that during the land use process BLM insisted they knew where the horses were, and when they were there; how much vegetation they were eating and when they ate it. The problem of the capture plan is they tend to show how much isn't known, for the end product of not knowing, are animals unnecessarily being injured, dying, or having to be destroyed. The BLM employees are either not getting adequate money, time, or equipment to do their job, or they are and are not using it. It appears there is no one to address job knowledge or performance either prior to filling the position or during his/her tenure.

SUMMARY

Public Law 92-195, Sec.3(B); 43 CFR Subpart 4700, 4700.0-5(e); Subpart 4720, 4720.1(b); dictate the method for the removal of (excess) SHALL be humane. Nevada Revised Statutes, Chapter Chapter 504, 504.430 to 504.490, inclusive, provide penalties for the inhumane removal of wild horses from public lands. There is no question in WHOA's mind that some of the preceeding incidents described were inhumane. Someone must take responsibility.

Page five

Despite repeated warnings from many areas, the BLM has failed to address the inadequacies in staffing, planning, contracting, and transporting arenas. District employees, defensive regarding their own role, tried unsuccessfully to place blame on the receiving facility for reporting the seriousness of the situation to their superiors. One might wonder if they realize they are all working for the same agency. Not once, did I hear anyone take direct responsibility for the actions taken. So who is at fault? Had Palomino Valley facilities not taken steps to correct the problems, WHOA would have filed an injunction immediately. Every wild horse specialist, project inspector, or coordinating officer should have to work at Palomino, and euthanize the very animals they have sent in that have been unnecessarily injured.

As a direct result from the foregoing, WHOA protests the Draft Clan Wild Horse Removal, the Environmental Assessment, and all future capture plans within the State of Nevada, until such time as these inadequacies are addressed:

- 1) Lack of direct BLM supervision of contracted helicopter, whether in that particular aircraft, or additional aircraft needed to supervise.
- 2) Explanation as to how BLM intends to compensate for a lack of access, if not provided.
- 3) Insufficient State Office instruction or guidance, and inadequate pre-contract evaluation of timing, condition, terrain, obstacles (fences), speed, distance, and equipment.
- 4) Loosely worded stipulations, contracts, that abrogate BLM responsibility and supervision of animals.

It is my opinion, that hundreds of wild horses were unnecessarily injured because someone did not do their job. Those people are hereby put on notice that WHOA will publicize all future capture operations, the parties involved, and the injuries sustained. We'll see if the public can succeed in sensitizing the Bureau, where WHOA has failed.

Most sincerely,

Dawn Y. Lappin (Mrs.)
Director

cc: Board of Trustees
David A. Hornbeck