



ANIMAL PROTECTION INSTITUTE OF AMERICA

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*Jiji -
to see know anything
about Sen. Boyan's
safety proposals
campaign by BLM or
other Ewe-owners*

November 27, 1991

Jerry Smith
Schell Resource Area
BLM
NV 33, Box 150
Ely NV 89301

RESPONSE
WILSON CREEK ALLOTMENT
1991 DRAFT DECISION

We appreciate the opportunity to respond to your Management Selection decision on the Wilson Creek Allotment while it is still in draft form. Chances are API will not be able to attend your meeting on December 4 due to budget and staff constraints. But we do have questions and concerns that we feel need to be addressed in the final decision.

We need a recap of your time frame. For the sake of the record, we feel this should be incorporated into the decision document. The following is our understanding and we're not sure if we've got it right. The MFP-III decision for the 12 livestock operators was to stock at the three year average (1977 through 1979) in 1981 to begin monitoring for initial adjustments. This average totaled 53,337 AUMs. The initial adjustments were to be made based on three years of monitoring (plus the range condition survey) in time for the 1984 permit renewals. Then the monitoring period toward the short term objectives would begin. Future adjustments would be based on that monitoring data. The time frame for the short-term monitoring was to begin in 1989 to allow for the 5-year phase-in of adjustments in time

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Countess of Kinnoull

for the 1994 permit renewals. Then, a new phase would begin in which these adjusted uses would be monitored for the long term objectives in time for the 2004 permit renewals.

If our understanding of the time frame is correct, then this Management Selection decision should make adjustments that bring the AUMs of the new 10-year grazing permit into line with the carrying capacity of the Allotment by 1994.

Our question is whether or not all terms and conditions attached to the current 10-year permit expire with it? Our answer to that would be yes because where FLPMA says "the holder of the expiring permit shall be given first priority for receipt of the new permit" it means there is a start and an end to each 10-year permit. Also, because FLPMA directs the Secretary to list terms and conditions as well as specify the numbers of animals to be grazed and season of use in the 10-year permit and then has the right to reexamine the range at any time and require the permittee to adjust his use if needed, we take this to mean AUMs go with the ten year permit, active/inactive adjustments go with the ten year permit, and any adjudication related to those terms and conditions, AUMs or active/inactive adjustments go with the ten-year permit. When the ten-year permit expires so do all that go with it.

If this is the case, then the current livestock adjustment should not be expressed in "active/suspended nonuse" language held over from the previous ten-year permit. Also, if the ten year permit is not brought in line with range condition, carrying capacity, and authorized use at this time, from our point of view, there is a permanent over-obligation and commitment of forage for livestock that is irretrievable in the sense BLM is either unable, incapable, or unwilling to get it back. It means there can never really be an allocation of forage for wild horses except in rhetorical language on paper because all of the available forage is attached to the base property as preference. Wild horse use is AUMs from the livestock category of suspended nonuse carried over from the 1960 ten-year permit allocation--the adjudication of which ended when the ten-year permit expired in 1974.

Since there was a delay in the evaluation process, now the phase-in overlaps the expiration date. It would make sense to correct this by limiting the phase-in time period.

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Otherwise, one might think this is actually a clever ploy to carry over AUMs so as never to be in the position of making adjustment in conjunction with expiring permits.

With regard to the draft management selection document, our first problem is that the table on Page 38 of the grazing evaluation summary shows that the proper stocking level in 1964-65 was 43,207 AUMs. The three-year average use of 1977 through 1979, which was the stocking level for livestock used in 1981, was 53,000 (rounded off for the sake of discussion). Now your current adjustment of active/inactive add up to 53,000 not the 43,000 that you estimate as carrying capacity. We're not sure what it all means. It looks like all the seedings, fences, water developments, wild horse removals, EIS and EAs, monitoring time and effort plus thousands upon thousands of dollars in other services brings you to the same place you were twenty-six years ago despite the range conditions. Worse, in 1985, the total livestock usage was licensed at 66,753 AUMs.

The evaluation of the monitoring data on the Wilson Creek Allotment shows that the grazing pressure is 98.8 percent livestock and 1.2 percent wild horses in the winter use area west of the highway. In the area east of the highway, it is approximately 99.5 to .5 percent. In 1987, there were 90 horses in the entire area east of the highway plus the 48 in the Patterson seeding. In 1988, this number more than doubled to 187 plus the 48 in the Patterson seeding. There is no possible way 90 horses can produce 97 foals in one season, even if the sex ratio were skewed to 89:1. The census maps show a cluster of horses down in the south east corner of the Pioche Bench. Your far-reaching 1981 URA description of movement [by Lisa Diercks] refers to extensive movement back and forth to the Highland Peaks in Caliente District.

We note that your data in Appendix 5 of the evaluation included foal counts in estimating the total number of horses. BLM policy prohibits that.

We protest your proposed removal of horses. Your own EA is the strongest argument against this proposed removal. EA NV-0-040-0-1, that accompanied the 1989 Removal Plan, says [Page 10]: "Analysis of monitoring data shows that the area [Wilson Creek HMA] should be managed for 198 wild horses, and this number will remain after the removal is completed."

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If your own data analysis precludes the removal of horses what new information changes that? When you re-adjust your population counts to adults only, there are not 198 adults there.

The removal plan refers to the "forthcoming adjustment to livestock in the Wilson Creek Allotment." It says when this livestock adjustment [that we're now looking at] is made, together the two will attain the ecological balance for the area. We have difficulty accepting another reduction of wild horses when their adjustment has already been made, and now we're suppose to be looking at the other half of the same adjustment. To attempt another reduction of wild horses from the same evidence is like double jeopardy--how many times can you use the same evidence against them? In coming up with new evidence, how really significant can it be when their contribution to the damage [east of the highway] is about 99.5 to .05 percent; and 98 to 1.2 percent west of the highway?

But what is a real grievance for us is the statement in the evaluation that says "every effort [will] be made to reduce wild horses from areas where AUL objectives are not being met." We don't know how to respond to such an overt negative bias against wild horses. Especially when the problem is already stated as uneven distribution of livestock, unauthorized overstocking of livestock, and the grazing use is 98.8 to 1.2 percent.

Because we are concerned with the condition of the range, with biological diversity, and ecosystem management of these public lands, we think two specific things need to be looked at very closely. They are riparian areas (as watershed, soil erosion, and wildlife habitat) and the ecological condition in terms of plant and animal diversity.

There are over 300 springs in the Allotment but you are only monitoring 34 total, 13 of these are west of the highway with 7 of these in the Fairview area which according to your Lisa Dierck's information is year long range for wild horses.

Your utilization data lists 10 horses in Fairview. Of the seven Fairview springs, only Lower Fairview is listed as trampled and Wild Horse Springs is only "fair" condition, the others are either "good" or no comment. Page 8 of

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your selection report lists Scotty Springs as needing a fence when the grazing evaluation listed it as good condition. Nothing is listed to protect the Lower Fairview or Wild Horse which are the two in need of attention.

There are no horses using Scotty Springs. What this looks

like is money being spent to make Scotty Springs available to livestock but no money spent to correct or improve what needs fixing. We suggest that the two springs that need fixing should be fixed--fencing and piping out waters on them. The data in Appendix 4 show livestock usage in the Fairview area from 1983 through 1988 as 442, 840, 8,208, 4,344, 6,008, and 0, respectively. The data in Appendix 3 for Calculated Stocking Rates shows 0 livestock and 139 wild horse AUMs as the average stocking level from 1983 through 1988. This raises the question of how valid is the utilization data for calculating the stocking rates if it was done only when no livestock were there. We question which species is really being monitored because the arguments in support of your 1990 removal declared that your monitoring is "multiple use monitoring" and covers both wild horses and livestock.

The data on the springs says wild horses are found in the unnamed spring at R. 63 E, T 1 N, Sec. 28. The census maps disclose there were 4 horses in that area in 1987. Coal Springs is the closest named spring near Sec. 28. But in the entire Thorley area, where 18 horses were counted, there are Hamilton, Deson, Black Rock, Cabin and Coal springs plus Ely springs. Presumably these 18 horses could move easily among and between these six springs. None are being monitored.

In the Dry Lake Valley, your decision is to allow 233 head of cattle from Nov. 1 through April 30 reduced in 5 years to 173 head. Season of use is still at the Nov through April season of use. It seems to us that a seasonal use adjustment would make more sense on the turn out date than the take off time. In Fall you can judge seed ripe and available forage, but in March, spring greenup is hidden and more damage can be done in the wet, muddy ground than could be done in an October 1 turn out. What rationale is there for season of use adjustment being 11/1 to 3/31 rather than 10/1 to 3/1? In fact, turn out might even be earlier with proper monitoring at that end unless there is a conflict with summer range for wild horses and other wildlife.

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Page 10 of the selection refers to 12,510 AUMs available in the Dry Lake Valley area, page 21 of the grazing evaluation refers to 15,987 AUMS available with the deferred grazing system.

This brings up the question of TNRs.

We oppose the use of TNRs. If there is uncontrolled trespass already, we say enforce that and let the TNRs go for ground litter, nongame habitat, and the possibility of range recovery during the five-year monitoring period.

This brings up the question of the time frame for reviewing monitoring data during the next phase and under the new 10-year permit. We would like to see more information specified, on Page 22 of the decision document, for the wild horse monitoring that is to be reviewed at the five year interval. We would want to specify that the average actual use and utilization for both livestock and wild horses for the five years be used. Then, if there are extra AUMs, that could have been given as TNRs, their average over the five years could be considered as permanently available. Adjustments at this mid-review time period (5 years) would be made on the basis of number of animals, utilization measurements and use pattern maps with certain key areas for horses being monitored for the actual impact of wild horses--all adjustments--reductions or increases--would be based on monitoring. [This brings the invention of a permanent "AML" back into line with statute and sound range management.] If cows are reduced, the reduction would go into their inactive category, horse reductions would be in terms of a removal. If horses do not over-utilize the range and are not causing damage it makes no difference if their numbers have increased because sound range management is not doling out AUMs like poker chips.

This brings us to our objection to your using the "proper" stocking rate formula to compute a "desired" stocking rate.

Page 16 of the grazing evaluation refers to unauthorized livestock use in the Dry Lake Valley and the problem of trying to control a large common use area. It seems to us that catching and penalizing trespass would help. It's our understanding ear tags are already used. We would like to know the codes and colors. That way when our own investigator or members are in that area, they can identify who is where and when they are suppose to be there. This would aid with your enforcement of the trespass rules.

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We agree with fencing the source and the piping waters to troughs outside the enclosure but question piping from Littlefield Springs at 65 E, T 4 N, Sec.5 to 64 E, T 4 N Sect 17. [Our map lists this spring as Garden Patch Spring rather than Littlefield and in the Maloy/Muleshoe grazing

area.] The grazing evaluation [page 23] describes the cows as congregated between the Maloy ranch, the reservoir, and Mud Springs. Being monitored are Big Mud (T 5N. R 64 E, Sec 18), North Mud (R 65 E, T 5 N, Sec. 15), and South Mud (R 65 E, T 5 N, Sec 16), no horses are at these springs.

Still on the west side of the highway, the census maps show there are 8 horses near Hidden Sheep springs, Sec. 10 and 4 horses at Steward Spring further north--neither of these springs are monitored.

What it looks like to us is livestock monitoring pressed into use to meet requirements for the 1990 removal. That is why we want to press for specific monitoring for wild horses during this next monitoring phase.

In the summer use area, east of the highway, there are 21 springs being monitored. The Atlanta area contains 14 wild horses in 1987 and 20 in 1988 (168, 240 AUMs). No springs are monitored in this area. Livestock use in this area for 1983 through 1988 is shown as 914, 7,894 2,505, 2,863, 0, and 0 AUMs, respectively. The average is calculated as 3,544. But the use data in Appendix 3 shows only 463 AUMs in 1984 and 629 in 1985 and 132 AUMs for wild horses. Page 26 of the evaluation says there are only 3,736 AUMs and no water. Utilization in this area is far below the 55 percent allowable use level. The selection is to allow 746 AUMs of sheep and 787 AUMs for cows but it requires hauling waters in the short term and a reservoir and spring development in the long term. Our map shows several springs in Sections 14 and 15 at T 5 N, 67 E. We would guess horses use these. We would want you to identify a key area and monitor springs such as these which horses use in this Fortification Mt./Atlanta. This would aid in the placement of hauled waters when distribution is the problem.

In the South Lake Valley, no springs are monitored. The census maps show 11 wild horses in 1987 and 35 in 1988.

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Appendix 3 shows livestock use from 1983 through 1987 as 11,176, 6003, 21,437, 16,228, 7,519, 9,521 and 0, respectively. But the utilization data shows 0 livestock usage from 1985 through 1988. The utilization never exceeds 10 percent. On page 14 of the selection document, you set an "AML" of 44 horses or 523 AUMs for this area in order to

allow 2,752 AUMs for cattle and 529 AUMs for sheep. Long term objective will be to protect Willow Springs and improve deteriorated range.

We see this an arbitrary setting of an AML for wild horses. The utilization is less than 10 percent. If the range is deteriorated and in need of treatment, wouldn't it make sense to do the treatment before putting 3,000 AUMs of livestock here?

No horses are in the Meadow Valley area. No springs are shown as being monitored except in the White Rock Mountains. We can't discern if these mountains are considered as part of Meadow Valley. There are eight springs being monitored in the White Rock Mountains. No horses are allowed. This enclave of the public land was already fenced for exclusive livestock use before 1971. We have no comment. We want to ask about the rights of wild horses to use the Fall pasture. Since there was some discrepancy in the census as to whether horses were in Patterson seeding or this Fall pasture area, which is now completely fenced off, we want to make sure the area remains open to horses and that the selection decision specifies this.

In the entire Mt Wilson area (excluding the Mt. Wilson Burn, Table Mt., Burnt Canyon Chaining, W.R. Mt./Lion) the springs are listed as being in the Native Summer Range. Nine are monitored. There are only 57 horses in this entire area--livestock use is over 12,000 AUMs. Even though the area looks enormous, we don't know how many actual usable acres of forage are here.

The Willow Tub Spring on Table Mountain is listed as in poor condition. The census maps indicate there were only 6 horses anywhere in the entire area around Table Mt. in 1988 there were 4 were in the vicinity. Appendix 4 shows 584 and 321 livestock AUMs in 1986 and 1988 respectively. Appendix 3, utilization data shows 600 AUMs and 400 AUMs in 1986 and 1988, respectively; utilization is at 51 and 63 percent, respectively. The description on page 33 for

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Table Mt. states that the use pattern indicates poor distribution and heavy use on some springs. It refers to one spring/wet meadow [e.g., Willow Tub Springs] as in poor condition. The recommendation is salt placed 3/4 mile from water to improve cattle distribution plus a reduction in both season of use and stocking level to 400 AUMs, with a utilization limit of 50 percent. This area is simply referred to as part of the summer area in the grazing selection document (p. 20). The legal description goes from this tree to that rock but never mentions how many USABLE acres or how many available livestock AUMs in the area are actually available for livestock. The selection decision is for 1,304 AUMs on part of it and 1,498 on another portion from July through September. Unless suitability criteria is applied in this area, or herding of cows required, the areas actually grazed will be overstocked--and not by wild horses! That area will be the Willow Tub Springs area of Table Mt.

In this huge summer native range area our tally of the census shows up to 54 horses here. Page 21 of the selection uses 1979 data that identified 1,498 livestock and 384 wild horses. Your response to our previous request for suitability criteria being applied said it is inherently included in your current calculations. If you use 1979 data, we don't see how that's possible. We would appreciate your showing it in the selection document.

In the Mt. Wilson Burn there are two springs and wet meadows listed as in poor condition. It's difficult to discern exactly how many horses are inside the fenced burn. The 1987 map shows 2 (24 AUMs) wild horses anywhere near the vicinity, the 1988 census shows 20 (240 AUMs) anywhere in the vicinity of Mt. Wilson. The actual use data in Appendix 4 shows it was used four of the seven years by livestock with an average of 1,672 AUMs. Pages 34-35, supply more discrete information on the impact of grazing use. The selection decision is 1,466 cattle and 144 AUMs wild horses but it requires a fence, a grazing system, development of three springs with waters piped plus construction of a reservoir in order to make it usable for livestock. It says monitoring indicates 12 wild horses maintains a thriving natural ecological balance here. This renders that phrase absolutely meaningless. It becomes a rhetorical garble of words without any semblance of logic or intelligent, reasoned, rational comprehensible coherent

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significance to reality. How can 12 horses maintain a thriving ecological balance in a totally deteriorated area?

BLM is no longer managing for biological diversity or the ecological balance of a mid-late seral stage of a low shrub/bunch grass ecosystem. A "thriving natural ecological balance" is the seral stage at which you chose to manage for. If you're at the seral stage you want then any overutilization of the forage causes an imbalance. If you're not at the seral stage, maybe the proper utilization level needs adjustment or other management actions taken that will get you there.

You mention that fire suppression was a major factor in preventing the area from moving toward the seral stage you hope to achieve. The encroachment of pinyon-juniper you report makes this entire allotment so far from the dynamic equilibrium you're managing for that eliminating every horse would not be a spit in the ocean toward achieving or maintaining a thriving natural ecological balance in the area. But wild horses are to be recognized as part of that biological diversity--livestock are not. To remove wild horses requires showing that the removal corrects overutilization and remedies damage. Your 1990 removal was not to achieve an ecological balance but to maintain an estimated sustainable yield and remedy damage you claimed they caused in the Grassy Mt. spring area.

Sustained yield ought to be based on some baseline that indicates that it is sustaining a healthy, dynamic system at or headed toward the appropriate seral stage. If juniper-pinyon encroachment is increasing, then the yield you are now sustaining, because of increasing encroachment, is lower than that which you were sustaining back in 1964--when the recommended usage was also at 43,000 livestock AUMs. The very same usage you are recommending today. This doesn't make sense to us in terms of sound range management.

If our understanding of the pinyon-juniper encroachment is correct--that is, that you're headed toward a closed-tree mono-culture of an invader species, your current sustained yield is at a level that can never in and of itself achieve the seral stage you hope to manage for. The successional stage of a low shrub/bunch grass system isn't even on the same path your trend is headed. That system bottomed-out back in the 1920s--now you're headed toward an entirely

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different climax. [In other words, if you started in Chicago headed toward San Francisco, you are about in New Jersey.)

We don't see how your management selection is going to turn that around. Your desired stocking rates need to be calculated for proper stocking rates. We continue to think suitability criteria needs to be applied to determine how many usable livestock acres there are and what the production/acre is in these areas. We don't have a clear picture of how much of the range is deteriorated and the extent of it. We disagree that when the impact of grazing species is 99.5 to .5 east of the highway and 98 to 1.2 percent west of the highway, that reducing wild horses has any affect whatsoever on the range and ~~their impact on riparian areas is not monitored at all--other than the~~ Grassy Mt. area. We protest a further wild horse reduction and setting an "AML" in the Dry Lake area. We want to make sure that the next time around wild horses are properly monitored and that this selection decision spells out what is to be done five years from now. We urge you to express the livestock adjustment without carry-over AUMs from the expiring and soon to be defunct permit but as the terms and conditions of the new permit.

We apologize for the length of this.

FOR THE ANIMAL PROTECTION INSTITUTE

Sincerely,

Nancy Whitaker

Nancy Whitaker

Assistant Director of Public Land Issues
Specializing in Wild Horses