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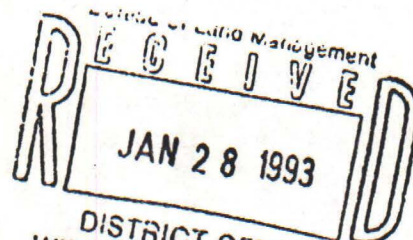
COLETTE C. FABER

VELMA JOHNSTON
"Wild Horse Annie"

CHARLOTTE L. B. PARKS

January 21, 1993

Bud Cribley
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BUFFALO HILLS, etc.
Grazing
and
FULL FORCE & EFFECT
DECISIONS

Dear Mr. Cribley:

We appreciate the opportunity to review and comment on your proposed FULL FORCE AND EFFECT grazing decision that affects the Buffalo Hills, Calico Mt., and Granite Range Wild Horse Herd Management Areas and includes a decision to reduce wild horses to the stocking level listed as being based on monitoring but not determined by that monitoring.

It was decided during the evaluation that the horse numbers exceeded the "recommended evaluation and LUP level of 7,164 AUMs" and have made a "disproportionate use for the forage during the evaluation period." "Disproportionate" to what?

CHRONOLOGY OF EVENTS

Because there are so many extenuating circumstances related to the Buffalo Hills Allotment, we feel a review of the events here is warranted.

The 1982 land use plan said "There are 7,806 inactive AUMs out of a total of 11,920 (originally allocated on the revoked permit of John Casey) within the Buffalo

Hills Allotment which may be available for livestock, wild horses and wildlife use at a future time...they have been inactive since November 15, 1982.

December 1987 Immediately before the 1988 monitoring evaluation and adjustment, BLM signed a private agreement with the two adjacent permittees as an Allotment Management Plan and accompanying Monitoring Plan. This agreement granted the two adjacent permittees the revoked AUMs on Buffalo Hills as temporary nonrenewables (TNRs) "until data collected through monitoring confirms that the forage is permanently available." However, Page 17 of that AMP stated that "any increase in forage which is determined to be permanently available as determined through monitoring will be allocated to Livestock, Wild Horses, and Wildlife on a proportionate share basis. Any reduction will be reduced on a proportionate share basis."

The AMP also combined the Buffalo Hills and Calico Allotments into a single grazing unit to get around base property requirements and pave the way for the adjacent permittees to hold the AUMs on the Buffalo Hills Allotment. The original Calico Allotment for which one of these adjacent ranchers held the base property grazing privilege was abolished in 1982 as too small. By combining areas, including the Coyote Allotment to the south, a four pasture grazing unit was created.

Casey originally held two permits--one for cows, one for sheep. The sheep permit (11,156 AUMs) was cancelled February 12, 1975. An IBLA decision four years later (February 15, 1979) imposed a 40 percent reduction as a penalty for willful trespass on the cow permit. That left 11,112 active cow AUMs which were revoked on November 15, 1982. BUT, the 1987 AMP allowed Donna Casey to run 200 cows on the Granite Range as an exchange-of-use on the original sheep permit (11,156 AUMs) which had been cancelled February 12, 1975. Of these, only 45 AUMs show up in the today's (1993) monitoring evaluation and adjustment decision.

1988 The 1988 evaluation and adjustment document authorized 639 cows to be turned out, with no mention of the TNRs in the AMP. Instead wild horses were to be reduced to a number set in the land use plan by the local folks. The two adjacent permittees' operations went from 739 AUMs and 69 AUMs in 1987 to 1,400 AUMs and 130 AUMs in 1988 to 4003 and 156 AUMs today; this included 45 exchange-of-use AUMs.

API appealed the 1988 wild horse reduction on the grounds the number set in the land use plan was to be the outcome of monitoring and not a number picked by a group of local folks. BLM moved to put their removal decision into FULL FORCE AND EFFECT. They based that Motion on a review of the range conditions by outside consultants (Saare, Burkhardt, et al) who found that there was

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insufficient forage to carry the horses through the winter (despite five years with no use of Casey's AUMs). But the final IBLA ruling was against reducing to numbers picked by local folks. It requires excess be determined on monitoring and that the number of excess wild horse/burros removed meet the 1984 Dahl v Clark benchtest of restoring the thriving ecological balance.

The 1982 land use plan listed 555 horses for Buffalo Hills Allotment and 42 for Calico Allotment as the number picked by the local folks in a CRMP group. The land use plan stated that these numbers were "thought to be compatible with the livestock operation as planned..."

The 1987 AMP says no CRMP agreement was signed but everyone seemed to agree there should be 149 horses in Calico Mt., 121 on the Granite Range, and 272 in Buffalo Hills (542 total). The draft CRMP agreement said (Page 31) "manage a base level of approximately 542 ...set zero for burros and remove all that stray into the CRMP area...set a management level of zero in the Coyote Allotment...prepare an HMAP (in FY85)...[which] will provide subsequent biological data needed to build the foundation for sound management of the wild horse population. The data are necessary to achieve and maintain a thriving natural ecological balance." The action plan (Page 33) said "Develop a coordinated, (interdisciplinary) resource monitoring plan which will address specific management objectives for livestock, wildlife, and wild horses...monitoring plan will provide needed data to set appropriate stocking levels...determine if management objectives are being accomplished...will be summarized, analyzed, and interpreted in accordance with the evaluation schedule..." That Monitoring Plan was attached to the 1987 AMP agreement. It does not mention wild horses. There is no Resource Management Plan.

TODAY'S DECISION (1993)

In late November 1992 we received the draft Wild Horse Removal "Plan" and an unnumbered EA. This was to remove horses from the Buffalo Hills and Granite Range HMA plus horses from outside the HMA This draft removal plan was not presented as a proposed action decision but a draft plan that presumably was implementing a decision that we had not seen. It said the intent of the plan was to outline methods and procedures to be used in removing a total of 1,244 horses from the two HMAs and strays outside HMAs:

"to take the horse population in the Buffalo Hills HMA down below the appropriate level, down to the appropriate level in Granite [and remove all outside the HMAs]."

What are these appropriate and "below appropriate" levels and how were they arrived at? We asked for the decision and were sent the 1992 "re-evaluation." On Page 53 is a list of those who were mailed the "re-evaluation" document. API is conspicuously missing from the list!!! Why? We believe it is to avoid a close scrutiny of the decision. Page 54 states the decision as changing and modifying the objectives.

This 1992 "re-evaluation establishes the number of wild horses as 314 for Buffalo Hills and 258 for the Granite Range. It also sets a new utilization level of 20 percent for when wild horses are on the land without livestock. It is to be measured in July. It also establishes an new "interim livestock grazing system in which livestock are turned out on Buffalo Hills from April to July [where horses are taken down below their "appropriate" number], and on the Dolly Varden pasture of the Granite Range on July 15 while Calico Mt is to be rested to accommodate "excess horses."

To be in compliance with the wild horse LAW, BLM must determine on the basis of monitoring utilization and current range condition the extent to which wild horses contribute to resource damage (over-utilization), to assure that the removal corrects damage and that "all excess have been removed so as to restore a thriving natural ecological balance to the range and protect the range from the deterioration associated with overpopulation..."

Page 9 of the current re-evaluation refers to the total number of wild horses in the HMAs and Pages 18-25 and 79-86 refer to their distribution. Since animal distribution is listed in both the 1982 land use plan (MFP-III) and the 1988 evaluation as the Number One problem, animal distribution information is the number one piece of information needed to adjust grazing pressures to correct resource damage. It is critical to a wild horse removal decision. Attached are BLM's wild horse census/distribution maps of 1990.

Page 15, paragraph 2, of the re-evaluation, interjects a confusion between the terms "use" and "utilization." "Use" refers to numbers of animals, "utilization" is the amount of forage eaten. Utilization is the allowable forage take off. It is the acceptable utilization level (AUL) which for management purposes is synonymous with the thriving ecological balance. In that respect "AUL" not only says what gets to be taken off the annual growth as forage, more important is what has to be left to provide for watershed, habitat, soil stability and composition plus a diverse plant community.

Re-setting the AUL to grant wild horses only 20 percent of the annual growth from January to July is a critical decision. It is the measurement that determines excess. It is the measurement put through the proper stocking rate formula that determines "AML."

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The rationale for that decision is quoted in the box

* * * * *

High levels of use in "rest" years or before livestock turnout indicate UNCONTROLLED WILD HORSE NUMBERS ARE A MAJOR CONTRIBUTOR TO HEAVY USE AREAS.

* * * * *

The question we ask is whether or not the data support this claim? Page 26 evaluates the Creek data.

CREEKS:

Red Mountain: AUL is not to exceed 30% for forage take-off. During livestock use year AUL was exceeded; in the rest year it was 7%.

Cottonwood: During the livestock use-year, utilization was exceeded, during the rest year it was 5%.

Wagon Tire Creek: During the livestock use-year utilization was 55%, in the non-use year it was 22 percent.

Granite Creek: During the livestock use year utilization was 67 percent on Willow and 64 percent on Carex.

Donnelly Creek: In the livestock use year it was 90 percent on Aspen BUT it was also 77 percent on Salix in the off year.

BLM's Analysis:

Damage to Cottonwood and Wagon Tire Creeks is attributed to livestock. Damage in Donnelly is attributed to a combination of wild horse numbers and poor livestock distribution. API's latest census/distribution map shows nine (9) horses near Donnelly Creek. A proportionate reduction would be some portion of these nine.

PASTURES

This information is on Pages 71-78.

Dolly Varden Pasture (Granite Range HMA-northern portion)

AUL was met in the livestock rest year on six springs. It was not met in another four areas in the livestock use-year of 1989. It was also not met in any of these ten areas in 1990. Your evaluation says spring flow was low and this concentrated livestock onto three of the springs in 1989 and 1990 and on Page 72, livestock are shown to have used the Dolly Varden both of these years.

By comparing the 1990 wild horse census/distribution map with the map identifying the summer/winter use areas in Dolly Varden that you attached to the evaluation, and the information on Page 72, we see very few or no horses in each of the ten spring areas.

1989 PRE-LIVESTOCK TURNOUT utilization was 55 percent light, 8 percent moderate, 0 heavy. WITH livestock utilization as 53% light, 5% moderate and 18% heavy.

1990 PRE-LIVESTOCK TURNOUT light 67%, moderate 32%, Heavy 1%; WITH livestock utilization was 64% light, 12% Moderate and 22% heavy.

This information does not support the statement in the box above. IN FACT IT IS THE VERY OPPOSITE.

Granite Pasture (Granite Range HMA--southern portion)

1989 REST YEAR FOR LIVESTOCK, 38% no-use, 39% light use, 22% moderate and 1% heavy.

1990 SUMMER USE - no livestock. 83% light, 1% moderate, 16% heavy. (Heavy use was at the higher elevation wet meadow and lower meadow north of Granite Basin and on top of Granite Peak. The census map shows three (3) horses within two miles of Granite Peak in any direction and the only "concentration" is twelve horses (12) three miles nnw by a fenced enclosure.

When livestock were turned out in November 1990, there was 34% light, 12% moderate and 54 % HEAVY. Four areas are listed as receiving this HEAVY utilization. Twenty six horses (26) are shown in a 4 sq mi area of Wagon Tire Mt and 0 in Wagon Tire Pass (these are shown as part of the Dolly Varden Pasture); 0 in Squaw Valley; 20 are in a 4 sq mi area of the Granite Basin; 16 are in The Banjo; the Hualapai Flats are cut off by a fence line and the flight pattern circles around at T 34 N, R 24 E where there are two bands totalling 16 horses.

1991 July, Pre-livestock 94 percent light, 5 percent Moderate and only 1 percent HEAVY.

This utilization information doesn't support the statement in the box above. By re-setting the AUL to leave 80 percent of the annual growth on the vegetation will assure that monitoring in the future will pinpoint wild horses as "over-utilizing" the range. The handbook lists One percent to 20 percent as slightly grazed, 21 to 40 percent as lightly grazed; 41 to 60 percent is moderate, 61-80 as heavy and 81 to 100 percent as severe. It

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lists allowable use on perennial grasses as 50 percent Spring and Summer, 60 percent in Winter; shrubs as 30 percent in spring, 50 percent Summer, Fall, and Winter; annuals are higher. The description for a 20 percent utilization level is that key plants may be topped or slightly used but current seedstalks and young plants are little disturbed, leaders of browse are little disturbed.

Space precludes our reviewing all four pastures. Suffice to say the picture is the same. The monitoring data do not support the statement in the box and they do not support the removal of some 1200 horses or establish a proper stocking level for the next monitoring period.

Your decision refers to now looking forward to quantifying desired plant community objectives (e.g., seral stage) in 1992 and developing actions to attain them. Page 10 of the Monitoring Plan that accompanied the 1987 AMP ALREADY lists the key species of the desirable plant community (seral stage) plus the quantified frequency/trends and the ecological status objectives in quantifiable terms for each site.

Our January 1993 letter, requesting the decision document, protests the planned exchange of old for young animals as implementing BLM's new "Strategy Plan for Wild Horses." It is our contention that the Strategy Plan is a gross and abject violation of the protection law.

The livestock portion of the decision lists five sections of the grazing regulations as the authority for having allocated forage for 639 cows to the grazing permit in 1988 and carrying it over without adjustment on the new ten year permit.

4110.3 Changes in grazing preference. According to the final rulemaking of March 1988 section 4110.3 is to be called "changes in grazing preference status" because there is some confusion over the term grazing preference. It is our contention that BLM's definition of preference and permit are not Taylor Grazing's and FLPMA's.

We contend, first, that AUMs are to be specified in ten year permits and NOT permanently attached to base property. Second, we contend that the term "active/inactive AUMs" referred to in "status of preference" is relevant to FLPMA's reference to a mid-term adjustment of the ten year permit (e.g., a temporary change) and not the AUMs allocated on the ten year permit.

Another contention is that land use planning does not replace statutory management restriction or directives and cannot pre

scribe proportionate use. Otherwise monitoring and inventory as the basis of grazing adjustments (NEPA, PRIA, FLPMA) to correct damage and over-utilization has no meaning at all.

We protest the decision [with the intent to appeal] as failing to base a determination of excess on the monitoring data and failing to determine the appropriate management level on the monitoring data. While we do not disagree that a grazing adjustment might be needed that requires reducing the current wild horse population, you have failed to show the extent to which wild horses contribute to overgrazing to say how much of a reduction there should be. The data clearly indicate heavy utilization occurs when livestock come on the land at the same there is almost no change in the percent listed as light--where wild horse graze. The forage allocated for livestock is not based on range condition and actual use.

IBLA has ruled against full force and effect and against the new rulemaking that you list as authorizing your decision.

FOR THE ANIMAL PROTECTION INSTITUTE

Nancy Whitaker
Nancy Whitaker
Director, Public Land Issues