



ANIMAL PROTECTION INSTITUTE

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DRAFT

WILD HORSE REMOVAL DECISION EA CA-028-95-08

We've received the draft Environmental Assessment (CA 028, 95-08) of your proposed decision to remove wild, free-roaming horses from two Herd Management Areas within the Surprise Resource Area.

Buckhorn HMA Total census count = 176; remove 117 leave 59

Coppersmith HMA count = 137; remove 87, leave 50

According to the Removal Decision, the number of excess was determined from an analysis of current monitoring and inventorying. However, after careful study of the material enclosed with the proposal as "current monitoring and inventorying data," we question the data and your conclusions. We have two major concerns with this proposed reduction: (1) the failure to determine on current range and utilization data that an overpopulation exists, how many need to be removed to restore the "thriving natural natural ecological balance," and how many are to remain as optimum; and (2) the Susanville policy to create a structured herd and manage for adoptability violates the intent of "wild, free-roaming" as well as the "least feasible management activity" clause of the law.

FAILURE TO DETERMINE OVERPOPULATION

Two data sheets were enclosed with your proposal and draft EA that describe trend studies from 1980-1986 for the north and south pastures of Tuledad Allotment. At least one reduction was already made on this ten year old information. It does not describe today's conditions or current utilization levels.

Also the table, you enclosed, describes the spring, summer, and fall wild horse use areas. It

declares that 70 percent of wild horse use is in the upland areas (Elevation 5500 to 7000) during the season from March 15 to November 30. While 25 percent is in the Foothills (Elevation 4500 to 5000) (Dec 1 to Feb 28.) Livestock use is said to be 10 percent on valley slopes between 4500 and 5000 feet and 5 percent on bottom lands [one month in April (early), one month 9/15 -10/15 (late)]. The actual use information appears to contradict the distribution of use depicted in this table.

The actual-use data show 200 of Wes Cook's cows are in Rye Patch in June, July, and August and 2000 sheep moving on and off from March through July. G. Nolon runs 585 cows in the northside from April to August and up to 317 from August to October. There are up to 160 cows from the Lazy SJ Ranch turned out from May to July in the North Pasture, and up to 150 from July to October in the South Pasture. This is well over 6,600 AUMs of livestock use [not counting the 2000 sheep] grazing between the 4800-4500 ft elevation, ten percent of which falls within the HMAs during the growing season to 940 AUMs of wild horse use below the 5,000 ft elevation during the dormancy season.

The field data of 1980-86, lists eleven trend plots by name and number without description of elevations or other indication of where they are located in relation to the above livestock schedule. If punching wet meadows results from horse use (e.g., standing water in hoof prints), mitigation measures could include fencing the wet meadows and piping waters.

While livestock actual-use records show three permittees run over 800 cows and 2000 head of sheep on the portions of the two grazing allotments that are within the HMAs, the census distribution maps show NO wild horse numbers. The maps of August 24, 1995 show only the location of bands that day, at that time. There is no description of migration routes and of the terrain or daily grazing patterns to indicate how wild horses impact the vegetation as they move from summer to winter range or are distributed in relation to overgrazed areas on their winter range.

The map showing "heavy horse use" in Buckhorn HMA is not collaborated by the census/distribution map. No utilization or range condition data for Buckhorn is included with the EA. The range condition field data collected in October 1994 show the following percents for utilization in Coppersmith:

Post Canyon spring	42%	(October)
Ant Spring	9 %	"
Bud Brown	----*	"
Cereosaypus Pit(?)	78 %	"
Cele Pit	40%	(July 13) (The average of this field data is 42% = 144 horses)

But Page 3 of the Appendix on Monitoring describes utilization for the Coppersmith HMA as

Desired utilization - 50 percent.
Actual use was 121 horses x 12 months = 1452 AUMs
Actual utilization (no date):

Cele Spring	78%
Ant Spring	70%
Bud Brown	80%
Post Spring	65 %
Average Utilization 70%; equals 86 horses	

This description in the proposal does not match the information in the actual field data sheets. The actual field data sheets show that the grazing impact of the actual number of horses is well within the grazing capacity of the Coppersmith HMA. The actual field data do not justify the proposed reduction.

THREE ALTERNATIVE ACTIONS CONSIDERED

The EA evaluates the consequence of three alternatives (1) Proposed action to reduce to "recommended" minimum levels; (2) No Action is to delay until the East Lassen EIS is completed or until monitoring data show that there has been a degradation in the condition of the upland vegetation; (3) to reduce wild horse populations without restructuring the herds.

(1) The "recommended" population level is found in the range con's notes to file. He declares that the HMAs support more horses than the resources can support without adverse impacts. We suggest that perhaps it supports more cows and sheep than the resources can support without adverse impacts. This counter declaration is exactly why Congress requires decisions to reduce wild horses be based on scientific methods, monitoring and inventorying with measurements that are standardized and quantifiable. The range con's declaration is NOT supported by the utilization measurements. He describes winter use in Coppersmith HMA during a severe winter as occurring below 4800 feet with several wild horses concentrated in one corner of the HMA. His observations describe horses as being in excellent shape going into winter and only fair shape by early Spring. He says there are no deaths. In Buckhorn horses were located below 4800 feet along the north and east edge of the HMA and scattered at the lower end of Tuledad Canyon to Rye Patch. Several horses were outside the HMA boundary; again no deaths. His recommendation is that horse numbers not exceed the carrying capacity of the winter range. But the carrying capacity of the winter range area has not been determined. It cannot be determined without taking into account livestock use and utilization data; which includes up to 2000 sheep and well over 800 cows.

(2) No Action until monitoring shows degradation in the upland areas OR the East Lassen EIS is completed. The table, Page 23-24 of the EA, shows an increase in livestock use since the 1989 wild horse reduction.

What does that mean? If a protected animal species was reduced to enable livestock use to increase, the very purpose of their protection law has been disregarded. If the range con declares there now are more animals than the range can support, the implication really is too many livestock. Now, according to the proposed action there is to be a one horse increase over the "AML" that was set through the planning process. Not only does this increase

NOT support the proposed decrease, an "AML" set in the planning process violates the statutory requirement to base the determination of excess and "aml" on monitoring and inventorying data.

The data show the 137 horses within Coppersmith are well within the 50 percent allowable utilization limit. Horses spotted outside the boundary of Buckhorn, may or may not have established a new area that expands their home range. It might be a temporary compensation for the unusually severe winter in which deep snows temporarily blocked normal winter grazing patterns. More than a one point in time observation is needed.

Since, there are no measurements to show what the Buckhorn utilization was in winter or how many were where in relation to range condition readings or how much forage was available after livestock use, we believe the information is insufficient for declaring wild horses have increased their home range.

While we applaud the range con's careful observations of the wild horses in the two HMAs during the harsh winter of 1992-93 we disagree it constitutes an evaluation of the carrying capacity of the winter range in an above normal season. We question whether the distribution of animals would be similar in a regular season. Also, "evaluating" the carrying capacity of a given area requires making a calculation based on data--either the dry weight measurement times usable acres or applying the stocking level equation using utilization and actual use.

The statement on Page 28 of the EA related to wild horse use near water sources is misleading. The amount of vegetation consumed or trampled around water sources by wild horses depends on the number of horses in the bands and the duration of their stay near the waters. Because the daily grazing patterns of wild horses is dictated by their digestive system, they are highly mobile grazers compared with cows that congregate near water chewing their cud--dictated by their very different digestive system. Wild horses graze up to 10-12 miles from a water source within a 24-hour period. They move in to water, drink, and move out again. Their time at the water has been clocked by various observers. Wild horses build stud piles near water sources and where trails intersect. Finding horse manure near a water source only indicates that wild horses drink there. It says nothing about their impact or the impact from livestock including the 2000 sheep.

Page 28 of the EA also refers to the poor condition and deaths of wild horses following the winter of 1992-93. The notes to file of the range con state: "no deaths." Who should we believe?

Delaying a wild horse reduction is not a case of waiting until actual range damage occurs. It is a case of managing for the AUL and imposing Sec. 4710.5 of the wild horse/burro Regs, (closure to livestock) for the purpose of protecting wild horse/burro habitat. It is a case of bringing the definition of "preference" back into line with its statutory meaning and not using "preference" for livestock and "AML" for wild horses as management objectives in resource management plans. Neither the proposed decision or any of the alternatives meet statutory requirements.

STRUCTURED HERD

We've always had difficulty responding to the Susanville wild horse program because it does not follow the law. This District has consistently ignored IBLA rulings and court decisions. There is no statutory authority for a wild horse "stewardship" program or its structured herd management program. In fact both violate the least feasible management activity clause. **We object to the implementation of the structured herd policies. They violate the least feasible management activity clause.**

In 1983, this controversial experiment to turn wild horse management into a breeding program to produce "adoptable" foals began with no statutory authority. This program is based on a private breeding farm program not a public land wildlife program. It is the very thing the Senate Committee Report warned against. It is why that clause is in the law. It is why wild horse advocates have demanded the program be run by wildlife ecologists and not wranglers from the holding facilities.

OUTLAW PROGRAM

The EA on the 1989 removal of 220 horses (CA-028-89-12) says the Susanville policy is to have "District LUP's" allocate sufficient forage to properly maintain the planned population levels established for each HMA. In 1989, fifty horses were returned to each area as the least feasible number. They did this at the very time, IBLA ruled that "AML" is synonymous with optimum (not least feasible numbers) and setting AMLs as land use planning decisions violates the law. Susanville ignored the law and disregarded the IBLA rulings to continue its outlaw program and crooked practices. We hope those days are gone.

In reviewing your current documents we see that you have quoted extensively from the laws. But PRIA deleted some of what you quote. It is confusing to quote the sections in the 1971 law that were deleted by the 1978 amendment. However, if you explained what was changed, the concerned public would then understand exactly how Congress intended for the rangelands and wild horses to be managed. Subsections 3(b)(c) and (d) of the 1971 Act were replaced by two lengthy paragraphs that give the Secretary no discretionary authority on removals. **IBLA said "The sole and exclusive authority on removals is in the law."**

We believe the important statutory directives are NEPA's requirement to manage from an ecological perspective, FL.PMA's sustained yield, and PRIA's requirement to manage at the most productive level (e.g. the seral stage that provides the broadest diversity of species). For wild horse management, we believe the critical clause is that which says BLM is authorized to remove the number of excess "until all excess have been removed so as to restore a thriving natural ecological balance to the range" is specific and restrictive. This means **ONLY** the number needed to restore the thriving natural ecological balance can be removed. For management purposes the thriving natural ecological balance is synonymous with the allowable utilization level (AUL).

Managing for the thriving natural ecological balance (AUL) requires setting the allowable utilization level (AUL) in the land use plan as an objective. You quote IM 90-30 as defining

thriving natural ecological balance as "the condition of the range when resource objectives related to wild horses and burros in land use plans have been achieved." That definition is not in accordance with law or any of the administrative rulings and judicial findings by IBLA or the federal court [Dahl Clark, 10th Circuit]. That memo, like the Strategic Plan, was written by BLM officials in defiance of the law. We hope the current Administration brings BLM's range program into full compliance with law.

We urge you to delay wild horse reductions until management objectives for AULs on winter range are established in your integrated, coordinated management plan/EIS then consider grazing reductions as multiple-use decisions based on the evaluation of monitoring utilization and inventorying ecosystem conditions in a systematic program.

FOR THE ANIMAL PROTECTION INSTITUTE

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