

NEVADA'S RESPONSE TO CERTAIN ALLEGATIONS BY A WILD HORSE INTEREST GROUP-April 8, 1998

Introduction:

The Bureau of Land Management received a letter from the Executive Director of the Nevada Commission for the Preservation of Wild Horses on February 4, 1997. The letter made certain allegations ranging from malfeasance to poor resource management. This document answers those allegations. The original allegation is followed by a response from the office(s) involved in the allegation. A summary is also presented for each allegation.

ALLOCATION OF FORAGE

A) WILD HORSES AND BURROS SUFFER THE "SCAPEGOAT ROLE" ON PUBLIC LANDS

Commission Statement: Spruce-Pequop Interim Allotment Management Plan- Elko District Office

*The Spruce-Pequop Interim Allotment Management Plan was contracted for by the private interest and prepared by Resource Concepts Consultants. This domestic sheep allotment had been authorized for **temporary livestock use pending an environmental assessment and decision for 29 years**. To my knowledge it is still in this status today. The majority of the "temporary" conversion from sheep to livestock was done at a one to one conversion instead of a five to one conversion. Livestock use is in direct competition with wild horse use and the impacts should have been analyzed prior to authorization, even temporary authorization. The Wells Resource Management Plan of 1986 was completed which still didn't address this conversion. Since grazing practices were not consistent with the land use plan and the desire for the allotment to be horse free, private interests paid the consultant firm to prepare necessary environmental documents to justify the ongoing cattle operation. As a part of this plan, the BLM was to provide \$200,000 in range improvement projects that included a fence barrier severing approximately one half of the Spruce-Pequop Wild Horse Herd Area. The Interim Plan was implemented without consultation with interest groups or the appropriate State of Nevada agencies.

Response: Elko Field Office

The permittee hired Resource Concepts Incorporated to, prepare the Spruce (not Spruce-Pequop) Interim Allotment Management Plan (AMP). However, the interim AMP was reviewed and approved by the BLM. The Spruce Allotment was adjudicated a sheep allotment in the late 1960's/early 1970's. Cattle have been authorized as temporary use since 1964. Completion of the action has been pending completion of an environmental analysis since 1969.

The Wells Resource Management Plan (RMP) was approved on July 16, 1985. Following approval of the Wells RMP, the Wells Rangeland Program Summary (RPS) was issued on September 16, 1986, which outlined specific management objectives for each allotment. This included considering a formal conversion from sheep to cattle on the Spruce Allotment and development of an AMP.

Since 1986, the BLM has attempted, through AMPs and Environmental Assessments (EA), to formalize the conversion from sheep to cattle without success. On December 15, 1993, an EA for a change-in-kind of livestock and implementation of the Spruce Interim AMP was finalized and the Finding of No Significant Impact/Decision Record (FONSI/DR) was sent to all affected interests, including the Nevada Commission for the Preservation of Wild Horses hereinafter referred to as "the Commission". This decision allowed for continuation of licensing cattle grazing as temporary until the most current data could be analyzed through the completion of the allotment evaluation process. No protests or appeals were received. On May 2, 1995, the BLM mailed the Spruce Allotment Evaluation to the public for comment. Currently, the Elko Field Office is in the process of issuing the Management Action Selection Report (MASR). The final MUD is expected to be issued in FY97.

The adjudicated active use on the Spruce Allotment is 35,565 sheep Animal Unit Months (AUMs). Since 1964, prior to establishment of the four wild horse Herd Management Areas (HMAs) in the Wells Resource Area, cattle have been licensed as temporary use. It is true that a determination of the carrying capacity for the allotment for cattle grazing (i.e. a conversion from adjudicated sheep AUMs to cattle AUMs) was never done. However, until 1991, both sheep and cattle were grazing on the allotment and not all available AUMs were scheduled for use each year. Since the first year cattle were licensed, actual use has averaged 10,540 AUMs, with a high of 14,220 AUMs and a low of 7,269 AUMs.

The Spruce Allotment Evaluation summarized current management on the allotment, determined whether or not adequate progress was being made toward achieving multiple use objectives, and provided recommendations for future management of the allotment. One of the recommendations included determining the total number of animal unit months of specified livestock grazing using the most current available monitoring data. The allotment evaluation identified three options for grazing use varying from 14,155 cattle AUMs to 15,577 cattle AUMs.

SUMMARY- SPRUCE-PEQUOP INTERIM ALLOTMENT MANAGEMENT PLAN

Commission:

- A. The Spruce-Pequop Interim AMP was contracted for by a private interest and prepared by Resource Concepts [Incorporated] consultants;
- B. The Spruce-Pequop sheep allotment has been authorized for temporary livestock [cattle] use pending an environmental assessment and decision for 29 years;
- C. Conversion of sheep to livestock was done at a 1:1 ratio rather than the standard 5:1 ratio;
- D. Livestock use is in direct competition with wild horse use and the impacts should have been analyzed prior to authorization, even temporary authorization.
- E. BLM helped pay for a fence which split an HMA;
- F. An AMP was implemented without consultation.

BLM Response:

- A. *True, however; the interim Spruce Allotment Management Plan (AMP) was reviewed, found to meet Bureau of Land Management (BLM) standards as was subsequently approved by the BLM.*
- B. *True, but it's been 33 years. Many attempts to adjudicate the conversion have failed or been abandoned. The process should be completed with the Multiple Use Decision (MUD) scheduled for 1997.*
- C. *Partially true, mathematically the conversion works out to be 3.5 sheep to one cow. However, conversions are more importantly based on the amount of forage available, forage preference, suitability, and monitoring data. The final conversion will be decided in an evaluation and MUD to be completed in 1997.*
- D. *At the initial conversion 33 years ago, analysis was not required. A full analysis will be completed in 1997 as part of the MUD process.*
- E. *Partially true. BLM paid for part of the fence that formed the southern boundary of the HMA. The fence did not split the HMA. Land use planning eliminated a part of the allotment as a HMA.*
- F. *Allegation is true. The Elko District Office approved an interim AMP developed by the permittee's consultant without review/input by the general public. This was contrary to policy and was initially authorized by the Nevada State Director in 1991. The approval decision was rescinded and a draft allotment management plan issued for public review and comment.*

The Wells RMP, approved on July 16, 1985, established wild horse areas of which portions of four herd areas are located in the Spruce Allotment. The RPS for the Wells Resource Area, dated September 15, 1986, outlined specific management objectives for each allotment, including a formal conversion from sheep to cattle and development of an AMP for the Spruce Allotment. The Wells RMP Wild Horse Amendment, approved August 2, 1993, established HMAs; four of which are located in the Spruce Allotment. The Spruce Allotment

Evaluation proposes establishment of a wild horse Appropriate Management Level (AML) for the allotment. Therefore, the conversion from sheep to cattle is consistent with all land use planning documents. No completed document (RMP, RPS, Wild Horse Amendment, AMPs, and allotment evaluation) has ever inferred that the Spruce Allotment would be horse free.

One purpose of the allotment evaluation process is to determine the carrying capacity of the range resource. Based on analysis of available monitoring data, necessary adjustments in grazing uses for livestock, wild horses, and wildlife would be made. The Wells RMP established the initial herd size for each of the wild horse herd areas within the Wells Resource Area. The Spruce Allotment Evaluation analyses 20 years of monitoring data and proposes adjustments in livestock use and establishment of wild horse AML by applying the Wells RMP ratio of livestock authorized use and wild horse initial herd size to available forage.

The fence referred to is a fence to divide the allotment in two parts. The fence would not split the Spruce-Pequop HMA. The proposed location is on the southern boundary of the HMA. This fence was first proposed in the interim AMP in 1993 and also proposed in the Spruce Allotment Evaluation. When constructing fences in or near HMAs, BLM uses standard operating procedures to reduce hindrances to wild horse movements. In this case, there is wild horse movement between more than one HMA.

Commission Statement: Wells Resource Management Plan Wild Horse Amendment- Elko District Office

*In conjunction with the Spruce-Pequop Allotment Management Plan, the BLM amended the Wells RMP to eliminate portions of the HMA's and establish strict management criteria for future actions affecting wild horses. We were informed that an allotment management plan had been arranged without public consultation which severely affected wild horse management. We learned that the State and Associate Directors of Nevada had instructed the District Manager to implement the AMP (without consultation), which was written by Resource Concepts, the private interests paid consultant. While eliminating portions of the wild horse herds based upon the unmanageableness of fragmented ownership had some logic, the Bureau implemented an allocation criterion of only 10% use of key winter forage. This was within their surviving herd area and in the key critical winter range for wild horses, prior to livestock turnout. With the combination of these factors and the Spruce-Pequop AMP, the Bureau established a clear pathway to first abolish one half of the herd area and additionally justify over a 90% removal of wild horses from the surviving herd area.

Upon detection of the AMP implementation without consultation, numerous appeals were filed by not only the Commission and WHOA, but the Sierra Club, NRDC, NDOW, etc.. After the public found out and filed appeals, the District immediately withdrew the AMP thus canceling all appeals. However, in our opinion, the LUP, which is still currently in place was really the ultimate goal in reducing wild horse habitat and use.

Response: Elko Field Office

The Wells Resource Area Staff began work on the Wild Horse Amendment to the Wells RMP in December of 1991. A Notice of Intent was published in the Federal Register on January 27, 1992. This notice also included a scoping period during which the public was requested to assist the BLM in identifying planning issues, planning criteria, and identifying alternatives they wished to be analyzed in the amendment. A News Release was prepared and sent to all newspapers in Northern Nevada. The Proposed Amendment was sent to the public on October 1992. BLM received three protests on the Amendment from Wild Horse Organized Assistance (WHOA), the Commission, and Sorensen Ranches. These protests were answered by the Director. The Wells Wild Horse Amendment became final on August 2, 1993. The Wild Horse Amendment was a completely separate action from the Spruce Interim AMP. The development of an AMP for the Spruce Allotment began in 1986 and culminated with an interim AMP being approved and then rescinded in 1993.

The Spruce-Pequop HMA as identified by the Wells

SUMMARY- WELLS RMP WILD HORSE AMENDMENT

Commission:

- A. An AMP was developed without consultation;
- B. BLM failed to use proper ecological criteria to determine HMA boundaries.

BLM Response:

- A. *The allegation has nothing to do with the Wells Resource Area Management Plan Wild Horse Amendment (see previous allegation).*
- B. *The amendment established HMA boundaries and AMLs using available monitoring data.*

least two growing seasons after a fire. The entire west side of the Henrie Complex was closed to livestock grazing on Nov. 24, 1993 (2210 AUMs were placed into temporary suspended use) through a Full Force and Effect Grazing Decision, and it remains closed at the present date. An emergency wild horse gather was initiated under Full Force and Effect Decision guidelines on September 29, 1993. Due to gather contractor commitments to the Nevada Wild Horse Range (Nellis) in August and September, the gather operation was not initiated until September 29, 1993.

Response: Las Vegas Field Office

This action was a full force and effect decision because of the emergency conditions caused by the fire. The action was appealed by the Commission and WHOA in 1993 and was only recently settled. The two grazing decisions both closed the burn to livestock grazing and the emergency removal insured that wild horses would not adversely effect the recovering vegetation in the spring. Livestock and wild horse management was consistent with the objective of managing and protecting the vegetation and soil resources after a major fire that consumed 27,186 acres of Public Lands.

Most of the issues raised are addressed in the Las Vegas Districts Report on Actions Leading to the Appeal and Answers to the Allegations for appeals NV-050-94-01 through 06, for the grazing decisions and emergency removal. Actions concerning events that may have occurred in the field during the removal were not part of the appeal process. The Meadow Valley Complex is now under the administrative jurisdiction of the Caliente Field Station, Ely Field Office.

Commission Statement: Buffalo Hills Final Multiple Use Decision- Winnemucca District Office

*Multiple Use Decisions for each allotment allocate available forage to livestock and wild horses. Computations determining available forage and carrying capacities are usually disclosed in allotment evaluations for the decisions. In examination of the data and procedures it was found that the Districts seek "data where livestock and wild horse use cannot be distinguished. This allows wide discretion in data use and more "social" influence on the allocation of resources. social decisions are just that and not always in the best interest of the habitat. The Buffalo Hills allotment evaluation did not disclose how the data was analyzed for decisions that sustained the livestock numbers and the system at the expense of wild horses. Combined stocking levels were above the levels documented to cause serious damage to riparian systems in the HMA. Data is available to determine an appropriate management level and a livestock stocking level to meet allotment specific objectives, however, the Bureau chose to sustain livestock practices at the expense of wild horses. *During the early 1980's approximately 700 horses died from starvation in the Buffalo Hills HMA. Between a livestock fence and insufficient winter range, the wild horses had nowhere to go to escape heavy snows. The deaths were blamed on a gate that had not been opened at the beginning of winter.

Again, during the late 80's and early nineties, horses and livestock were trapped against the fence due to severe winter storms. The permittee cut the fence. The Commission, WHOA, permittee and BLM met in the field over proper placement of a new fence. Because neither permittee agreed on a change, BLM put the fence back in the same place it had trapped animals before.

The BLM issued a MUD in March 1993, which the Commission and WHOA appealed. The AML was artificially high to justify the current stocking levels for livestock. The issue was insufficient winter habitat for the level of horses to be kept on the allotment. During mild winters these animals remain on the mountain, but periodically, once a decade, excessive numbers of horses die. In addition, the fence at Frog Creek traps livestock and horses from conditions as previously described. The agency agreed that the fence needed to be relocated; however, because the permittee could not agree on a relocation of the fence the Bureau, with opposition from the permittee, the environmental community and wild horse groups rebuilt the fence.

Since the beginning of the Act, the Buffalo Hills HMA has suffered three major die offs due to the insufficient winter range for horses, overstocking, and the fence. Even with these past lessons experienced but not learned, the Bureau continues the same management actions that have been documented to kill horses.

Response: Winnemucca Field Office

The Final Force and Effect Multiple Use Decision for the Buffalo Hills Allotment was issued February 9, 1993. The Multiple Use Decision adopted all recommendations made in the Buffalo Hills Allotment Evaluation. The allotment evaluation analyzed all available monitoring data, recommended a stocking level for livestock and wild horses, recommended management actions for livestock to meet riparian and upland habitat objectives, and recommended modifications to the livestock grazing strategy. The analysis complied with BLM policy, grazing regulations, and followed procedures outlined in BLM Technical Reference TR 4400-7.

The Commission, WHOA, Nevada Department of Wildlife, and the Sierra Club appealed the Final Multiple Use Decision based on the stocking level calculations, data analysis, and their perception that the AML was artificially high to justify the current stocking level for livestock. A hearing before an Administrative Law Judge was held in January 1995. The final ruling issued on November 22, 1995 affirmed the Multiple Use Decision for the Buffalo Hills Allotment. The Administrative Law Judges decision is currently under appeal to the Interior Board of Land Appeals by the Commission, and the Nevada Division of Wildlife.

The District maintained contact with all affected interests, including the Commission and WHOA, throughout the allotment evaluation process. Carrying capacity calculations were not included in the allotment evaluation, but were provided upon request after issuance of the Final Multiple Use Decision.

There have been several meetings to discuss the Frog Creek Fence issue. The Commission and WHOA have participated in these meetings to develop a solution. At the July 28, 1994 meeting, the Commission and WHOA agreed to the fence location alternatives as well as the original location, as long as the gates were opened by November 1st and closed no earlier than April 1st to ensure that livestock and wild horses were not trapped during the winter months. A Proposed Decision to repair the fence on the original location and assign maintenance responsibility was issued March 12, 1996. Neither the Commission or WHOA protested the Proposed Decision. The only protest received was from one of the permittees. The fence was repaired during the summer of 1996 and gates opened as described in the Proposed Decision.

A report dated March 28, 1978 documented the significant death losses in the Buffalo Hills HMA during the winter of 1977/78. This death loss occurred at a time when there had been large numbers of trespass livestock owned by John Casey, and the wild horse population was approximately 900 head. We are not aware of significant death losses at any time in the 1980's or 1990's as the report alleges. It is probable that a significant loss of wild horses would have occurred had we not gathered the area during the winter of 1992/93.

Since the winter of 1977/78, livestock numbers were significantly reduced in the Buffalo Hills

SUMMARY- BUFFALO HILLS FINAL MUD Commission:

- A. The Buffalo Hills Allotment Evaluation did not disclose how data was analyzed;
- B. BLM has intentionally allowed high wild horse populations in order to justify high livestock levels;
- C. A fence, overstocking, and insufficient winter range has caused three major die-offs in 26 years;
- D. The BLM rebuilt a fence in disagreement with all interested parties.

BLM Response:

- A. *The allegation is partially true. The BLM evaluation analyzed all sensitive habitat issues such as riparian areas, deer winter ranges, etc. but did not specifically show stocking calculations in the evaluation document.*
- B. *The allegation is not true, the analysis process used all available data to arrive at recommended stocking levels for both Livestock and wild horses. Future monitoring information will be used to adjust stocking levels. An Administrative Law Judge (ALJ) decision (11/22/95) affirmed BLM's decision. The decision has been appealed to the IBLA.*
- C. *Only one significant die off is known to have occurred (Winter 1977/1978), the reasons were trespass cattle and severe weather.*
- D. *The interested parties agreed that the original fence location was a good alternative if gates were opened and closed by specific dates. The decision to reconstruct/maintain the fence was not protested or appealed by the Commission or WHOA.*

HMA by the cancellation of one grazing permit in November 1982 that removed 11,112 AUM's. In addition to the cancellation of the grazing permit, the District changed the grazing management from season long use to a deferred rotation system where the Buffalo Hills HMA is grazed by livestock for 2 years and rested for 2 years.

B) FAILURE TO PROVIDE ADEQUATE MANAGEMENT ACTIONS LED TO INHUMANE CONDITIONS AND ACTS.-

Commission Statement: Fox/Lake HMA- Winnemucca District Office

*The Nevada Division of Wildlife (NDOW), was conducting a water survey in Nevada in the spring/summer of 1994. The Division called the Commission to relate that they anticipated serious problems for wild horses in the Winnemucca District due to lack of forage and water. This was in early June and immediately prompted a call to the Winnemucca District Wild Horse and Burro Specialist. The response to the concerns of NDOW, WHOA, and the Commission was "I don't know what they're referring to... I've just been out there and everything is okay, horses aren't in any trouble." Again in August and October reports from the field indicated that horses were in poor condition and forage was at a minimum. Again, twice, the Commission called the District only to be told "the horses are fine."

Dawn Lappin, WHOA, made arrangements with the District to accompany the wild horse specialist on a flight to assess the range and forage condition. "After driving 2 ½ hours to Gerlach, Nevada, the helicopter was just setting down. The horse specialist and a woman that had been doing the use pattern mapping deplaned and I approached them. The specialist then informed me that due to new policies, I would be unable to fly with them on the monitoring trip. I knew of no such policy, but did not argue. I had been flying with the Bureau for over 20 years and this was the first time it was a problem and even after I had called and we made arrangements for me to go to Gerlach and fly. It made me wonder if there was something the District did not want me to see." The monitoring person then approached me and stated, "What are you going to do about this situation?" When I told her that I had just been advised that I could not accompany them, and that I was unsure why she would be upset at this she replied, "They know now and have known these animals would be in trouble this winter, as I have told them all along." She informed me that she had advised the specialist of the starvation these animals would suffer, the response from the horse specialist was "out of sight, out of mind." They are in an area not commonly visited by the public and no one would know about the deaths." Heretofore, I had never met this lady, did not even know her job description and it was the one and only time I had ever met or talked to her.

I came back to Reno and reiterated my concerns to the State Office. I was then contacted by the District to accompany the District personnel and the NSO staff to the Fox/Lake HMA where the concerns regarding the herd would be discussed. Flights taking all observers indeed showed animals in severe starvation condition, trapped in canyons and on the mountain, and unable to move. The agreement was indeed that it was an emergency, though the District continued to downplay the number of animals in trouble. Once the NSO became involved, the "new policy" that had supposedly prohibited me from flying initially, evaporated. No one had ever heard of such a policy, however, refusal of the first flight achieved it's goal; I was unable to see prior to the declaration of an emergency, the conditions the specialist knew were out there, which would have confirmed what I had been told by numerous BLM and NDOW personnel.

I returned to the Fox/Lake HMA at the onset of the capture, and flew with the contractor pilot and another specialist. of the animals we had seen, more than three-fourths were in starvation mode, some on side hills that could not move, others urinating blood, which the veterinarian advised me was the result of consuming large amounts of greasewood. There was virtually no forage left which forced the horses to eat greasewood to survive. This destroys the animals insides resulting in' cruel and painful deaths.

It took approximately one week for the District to receive authorization to humanely destroy those animals that could not be brought out through the capture techniques. I was forced to threaten the Bureau with media publicity in order to get those animals humanely destroyed (this is reminiscent of Nellis 96 & 97, and Goldfield 96). I was present in the helicopter when at least 50 of those animals were shot and I know of at least 35 - 40 additional animals that were shot. Afraid of the negative publicity stating that approximately 100 had been shot, NSO released the information to the public that only 35 - 40 animals had to be destroyed. No admission was

made of any mismanagement, they only blamed the situation on the environment and said that the Bureau came in at the end to rescue the horses from death. The most excruciating fact here is that this didn't need to happen and was entirely preventable.

It is the estimate of more than one person in the Bureau and myself, that at the very least 75% of the herd had been lost from starvation, including those that had to be put down. The District attempted to authorize grazing the following spring for livestock use. It was, in our opinion, the continued authorization of high levels of cattle, and horses, that failed to reserve sufficient forage for the remaining wild horses over the winter months. It is still our opinion that the District was successful in failing to disclose to the public the large number of deaths of wild horse in this HMA. During that emergency, one horse was found that had been caught, supposedly by the Indians (next to Pyramid Lake Reservation) that had been captured alive and its legs wrapped together with wire. The horse died tied up. The District people told me that "the reservation fence was a nightmare, that the Indians would not agree to maintain the fence and no one in the BLM enforced it." To my knowledge, the horse tied up to be retrieved at some time later, that instead died-was never turned over to law enforcement. Nothing has been done to stop this action or repair the fence to prevent movement.

Response: Winnemucca Field Office

The Commission contacted the District in August 1992 (not 1994 as stated in the letter) to see if we had received a report prepared by the Nevada Department of Wildlife (NDOW) that assessed the effects of the drought on wildlife and wildlife habitat. We informed the Commission that we had not and asked if they would send us a copy of the report. We discussed the water situation and told the Commission that we felt the amount of available water was much less than in a normal year, however there appeared to be adequate water to support the existing wild horse population.

Upon receipt of the report, the District contacted the Commission to determine if NDOW had informed them of any specific HMA's, and they indicated they had not. The District contacted the NDOW biologists for Washoe and Pershing Counties to discuss the assessment report. From those discussions it was determined that they did not look at the Fox & Lake Range area, but had primarily focused on the areas to the north of the HMA.

On October 15, 1992 BLM conducted a census on the Fox & Lake Range. The census found that approximately 30 percent of the horses were showing ribs and back bone and the remainder of the horses were classified as thin. Water was found through out the area. However, flows were low. Based on this information it was decided to conduct an emergency gather in conjunction with a gather scheduled for the Buffalo Hills HMA in January 1993.

The situation on the Fox & Lake Range HMA during the early winter of 1992/93 was critical. It must be noted that at the time we were at the end of a seven year drought and a period of expanding horse populations. During the fall preceding this gather, we conducted an emergency gather in the Lake Creek portion of the Little Owyhee HMA due to scarce forage supplies. That gather averted major death losses as did the Fox & Lake Range gather. Our estimate of actual death loss on the Fox & Lake Range was 16.9% over the winter of 1992/93. These numbers include the 27 horses that were destroyed on the range. Sixty-five wild horses were shipped to PVC where they were held until the range greened up and adequate forage was available. Sixty-five adults and 2 foals born in captivity were released back into the HMA on May 7 and June 15, 1993.

The Fox & Lake Range HMA Emergency Gather was conducted from January 26 through February 8, 1993.

The first time Ms. Lappin, of WHOA, flew with the District to observe conditions was on February 1, 1993. Ms. Lappin was taken on an additional flight on February 3, 1993 to look at conditions on the west side of the

SUMMARY- FOX AND LAKE HMA

Commission:

- A. BLM refused to admit horses were in very poor condition;
- B. BLM did not allow one of the authors to fly in a BLM contracted helicopter;
- C. BLM management actions caused cruel deaths;
- D. 100 horses were shot for humane reasons and 75% of the herd perished;
- E. BLM refuses to stop harassment by Native Americans or repair the fence.

BLM Response:

- A. *The allegation is not correct. The event occurred in 1992-1993. The Winnemucca District was aware of potential problems in several HMAs, including Fox and Lake, and decided to focus emergency removal operations on another area which was felt to be in greater danger. Over Christmas 1992, a large winter storm dropped between 3 and 4 feet of snow on the Fox/Lake HMA exacerbating the emergency situation and forced the animals onto the surrounding playa. Some animals were trapped in deep snow up to their stomachs on the mountain and were humanely destroyed. Animals were destroyed after moving to the playa and began eating greasewood; the only forage available on the edges of a playa.*
- B. *Ms. Lappin was precluded from flying on the census flight because aviation policy at the time prohibited volunteers from flying in hazardous conditions. Census is classified as hazardous because of the low altitudes flown.*
- C. *See A.*
- D. *Allegation is partially true, 27 horses were shot for humane reasons on the range, whereas another 9 head were destroyed after capture. About 17% of the herd perished that winter*
- E. *Evidence was turned over to law enforcement officials. A person was convicted for this and other violations. The fenced is owned and maintained by the tribe.*

Fox and Lake Range. On this flight one horse was observed near the mouth of Wild Horse Canyon that was in poor condition

and near death. Ms. Lappin requested that the horse be destroyed. The helicopter was landed and the specialist on board destroyed the horse. Investigation did reveal what appeared to be blood in the urine of the horse. This was the only horse destroyed on the range in the presence of Ms. Lappin. Allegations that she was present when fifty were shot and "at least 35-40 additional animals that were shot" simply are not accurate.

On February 5, 1993 Richard Sanford- DVM, Ron Hall- WH&B Specialist, Tom Seley- WH&B Specialist, and pilot- Jeff Cain flew the Fox and Lake Range. During the flight there were a total of 22 horses destroyed that were in poor condition and could not be gathered. Three horses were destroyed on the range prior to this time, including the one observed by Ms. Lappin. Later, two additional horses were destroyed, for a total of 27 destroyed on the range. Nine horses were either destroyed or died after capture for a total of 36 during the emergency removal. This was the information that was released to the public.

Two horses were found tied down on the Boundary of the Pyramid Lake Indian Reservation. Tracks indicated the horses were chased from the Reservation onto BLM administered land by motorcycles. The horses were tied down approximately 6-10 feet from the fence on the BLM side. One horse was tied down with a rope and the other with smooth wire. Both horses were alive but were in poor condition so they were humanely destroyed. This incident was reported to Law Enforcement and combined with other incidents in the Blue Wing area eventually resulted in a conviction of an individual believed responsible for all of the violations in this area.

Ms. Lappin did not make arrangements with the District to assess range and forage conditions until after the emergency gather had been completed. In April 1993 the District arranged for Ms. Lappin to participate in a census flight to be conducted on April 22, 1993. At the completion of the census we intended to check forage conditions on the Fox Range if there were enough flight time remaining for the day. After a discussion between the District Manager and State Director, a decision was made not to take Ms. Lappin on the census flight. When Ms. Lappin arrived in Gerlach she was informed that the Nevada State Office had decided that we would not take her along. Ms. Lappin stated that she was signed up as a volunteer, had been on numerous flights and felt that she should be allowed to fly based on her volunteer status.

The DOI Departmental Manual for Aviation Management 350 DM 1.7 a. (3) allows Non-Federal passengers to participate in DOI flights when engaged in missions which enhance accomplishment of a Departmental program. The BLM Manual 9400 - Aviation Management states that volunteers cannot be aboard BLM aircraft during any special use mission. Helicopter census is considered a special use mission.

Ms. Lappin was invited and declined to accompany us to check forage conditions on the Fox Range that were accessible by vehicle after the census flight was completed. The purpose for checking forage conditions at this time was to determine if there was adequate forage production to allow the turn out of 67 horses that were being held at the Palomino Valley Wild Horse and Burro Center.

The permittee in the Rodeo Creek Allotment voluntarily reduced the number of livestock from 485 to 350 cattle on May 1, 1992. On July 2, 1992 livestock were reduced to 100. In November the remaining livestock were removed from the allotment. There were no livestock in the Pole Canyon Allotment, and there had been no livestock use for the previous 10 years.

On March 16, 1993 the District issued a Proposed Full Force and Effect Decision to temporarily close the Rodeo Creek and Pole Canyon Allotments to livestock grazing to prevent further deterioration of the vegetative resource. The decision became final on March 31, 1993, after the 15 day protest period had expired. The decision contained specific vegetative criteria that must be met before livestock grazing could resume. On June 24 and 25, 1993 an inspection of the livestock summer use area found that the plant growth requirements contained within the Full Force and Effect Decision had been met. On July 12, 1993 livestock grazing was authorized on the Rodeo Creek Allotment for 250 head of cattle from July 15 to October 31 within the summer use area. On October 21, 1993 an inspection of the livestock winter use area in the Rodeo Creek Allotment found that the plant growth requirements contained within the Full Force and Effect Decision had been met. Livestock were authorized to graze the winter use area on November 1st. The permittee in the Rodeo Creek Allotment voluntarily used less than his permitted use for the 3 years following the emergency gather to allow plants to regain their vigor and health. The livestock closure on the Pole Canyon Allotment is still in effect.

The Pyramid Lake Indian Reservation Boundary fence was constructed and is owned by the tribe. BLM has never had any cooperative agreements or responsibility for maintenance of the fence. The tribe has been unwilling to enter into a cooperative agreement to maintain the fence.

Commission Statement: Emergency Gather Goldfield HMA - 1990/91- Battle Mountain District

We were called to an emergency field tour of the Goldfield HMA by the Tonopah wild horse and burro specialist, to review and support the need for an emergency gather of horses. We (API, Nancy Whittaker and the Commission, Cathy Barcomb), were informed by the specialist that there was inadequate water and forage to sustain the current number of horses. There were approximately 800 horses with adequate water supply for 200. Water was already being hauled to keep the horses alive at that point. There was no forage available and we were informed that the rancher had been permitted, by the Bureau, to "range feed" his livestock because there was no forage and "he had no place to go with his cattle." The range was severely above carrying capacity. This "range feeding" was authorized by the Tonopah BLM office to create horse and land emergency. Horses were in equally critical condition to those removed during the summer of 1996 (see Goldfield 1996). Even though the Bureau was aware that for years prior to this emergency there was inadequate forage to sustain livestock, wildlife, and wild horse/burro use they continued to license livestock use on the allotment. Instead of adjusting use to protect the habitat it was allowed to be destroyed beyond repair with continued year round use and documented "range feeding." If range feed is necessary it is our opinion that its obvious that the habitat cannot support the use. In addition to range feeding being a violation of policy and regulation, this continued for 2 years after the habitat was destroyed which further created the man caused emergency for wild horses and wildlife.

Response: Battle Mountain Field Office

The eastern edge of the Goldfield HMA adjoins the Nellis Range Complex. A boundary fence was completed by the military along the boundary between Nellis and the Goldfield HMA in 1985. Prior to completion of the fence, wild horses and burros drifted between the Goldfield HMA and the Nellis Range Complex. The continuous movement of wild horses and burros across the boundary resulted in better dispersal of grazing pressure and minimized the dependence of the animals on any one water source. The Nellis fence, constructed for Nellis Range Complex security reasons, disrupted the movement patterns of the wild horses and burros and confined a large portion of the population in the Goldfield HMA causing excess demand for available resources in the HMA. The area was closed to livestock grazing prior to the fence construction of 1985. After construction of the fence, the livestock permittee was permitted to graze 214 cows yearlong on 100,000 acres within the Goldfield and Stonewall HMAs. The availability of water within the HMAs is provided by only three perennial springs. All three springs are located within the central portion of the Goldfield HMA and are within several miles of one another. To utilize the available forage and distribute his livestock over the entire area, the permittee hauled water to his livestock.

**SUMMARY-EMERGENCY GATHER
GOLDFIELD HMA 1990**

Commission:

- A. BLM allowed the permittee to sustenance feed his livestock for two years at the expense of the Wild horses.
- B. BLM has allowed livestock to severely deplete the range.

BLM Response:

- A. *Not correct. The large Horse population and low forage supply was a result of an appeal of a removal decision preventing the removal of horses for three years. The permittee was allowed to feed and water his livestock while he removed the animals from the range. The forage and water was also made available to the wild horses.*
- B. *Livestock use has been minimal, and no grazing has occurred the last three years.*

The gathering of wild horses in the Goldfield HMA was proposed for FY 1988. This decision was appealed by the Animal Protection Institute of America (APIA) which stopped the gather operation until the Interior Board of Land Appeals could hear the case (A policy was not in place at that time to place the gathers in full force and effect). In May of 1990 the situation had worsened into an emergency. At the time of the emergency conditions, there were 579 wild horses and 71 burros in the HMA. The permittee had already removed most of

his livestock. The permittee asked permission of the local BLM office to haul water and feed to the remaining animals during his removal operation. Water and feed was also made available to the wild horses and burros during this time. No long term feeding was authorized and no long term feeding occurred over any two year period as is stated in the subject letter.

Since the removal of livestock in the Goldfield HMA in April of 1990, there have not been more than 20 head of cattle within the boundaries of the HMA and these animals were only there on a rotational basis. There has not been any cattle in the HMA for the last three years.

Commission Statement: Goldfield HMA - 1996- Battle Mountain District Office

*Severe range conditions continued from the 1990/91. Lack of responsible Bureau management and monitoring has resulted in current conditions of 95% utilization of the habitat. In addition, lack of Bureau monitoring of the wild horse herd resulted in dead and dying animals causing the emergency gather that could have been prevented. This has resulted in their annihilation from their entire herd management area with a current population of zero! Removal of excess livestock and horses prior to entire depletion of the range would have saved this habitat and the base population. The wild horse herd in this HMA has been "managed" out of existence by the Bureau.

Response: Battle Mountain Field Office

The gathering of wild horses and burros in the Goldfield HMA was initiated by the Tonopah Field Station after a review of the forage and animal conditions. Since the removal of livestock in the Goldfield HMA in April of 1990, there have not been more than 20 head of cattle within the boundaries of the HMA and these animals were only there on a rotational basis. There have not been any cattle in the HMA for the last three years.

SUMMARY- GOLDFIELD HMA 1996

Commission:

- A. BLM failed to detect poor habitat conditions in a timely manner;
- B. BLM annihilated the herd by not removing livestock and horses.

BLM Response:

- A. *True, BLM was remiss in detecting a situation that deteriorated very rapidly. The specialist involved in this action has since retired.*
- B. *Not True. Census information shows that horses from the Goldfield HMA intermingle with horses from surrounding HMAs. Horses are expected to re-inhabit the Goldfield HMA within 2-3 years. Few cattle were grazing the allotment and did not significantly contribute to poor forage conditions.*

Commission Statement: 1991 Nellis Emergency Gather- Las Vegas District Office

*The Nellis Air Force Base has a Natural Resource Plan and Nevada Wild Horse Range Management Plan with the BLM. According to previous planning, the Nevada Wild Horse Range could support 1,000 head. Drought conditions persistently cycle this portion of Nevada causing boom and bust populations of wild horses and wildlife. Summer kills of wild horses are common. Public access and awareness of wild horses on Nellis are limited and easily overseen. Though 10,000 horses have been removed from Nellis since 1986, annual recruitment maintained over 4,000 head. Reoccurring droughts and die offs of wild horses are predictable under these conditions without management. In 1990, we requested census information from the Bureau, Las Vegas District, wild horse specialist, for the Nellis Wild Horse Range. The information supplied documented approximately 6,200 horses on Nellis both inside and outside the HMA in August. In January of 1991, the Bureau supplied new census information showing only 4,300 horses. WHAT HAPPENED TO 2,000 HORSES? There was no explanation given other than death. The Bureau declared an emergency to gather horses in December 1990. The emergency gather was conducted and then suspended for the holidays - Christmas and New Years. We questioned the validity of the emergency status if it could be suspended for the holidays. Further documentation showed over 4,000 horses still on Nellis. The Commission held an emergency meeting in Las Vegas with the Bureau, DOD, and DOE present. Again, there was no explanation given other than death. With the public scrutiny and Urging to rescue the animals DOE, DOD, and the Bureau immediately started hauling water to keep the animals alive until the Bureau could do an emergency gather. This was done during foaling

season because the animals would not have survived until summer. Lack of Planning and management caused this emergency situation to escalate. The Bureau's trust is to maintain habitats within their carrying capacity, not allow animals to overpopulate to predictable starvation.

Response: Las Vegas Field Office

The removal in May and June, 1991 was not an emergency removal but one that had a standard removal plan, environmental assessment, and proper public review and comment.

Six years have lapsed since the last discussion on the census. The census method used by the Bureau then required an actual count as the official estimate of population numbers. In 1989, 6,255 wild horses were counted. In 1990, 4,302 horses were counted. This variation was due to the sampling error inherent in actual count surveys. Research and BLM data show that population sampling, using actual counts, should not be interpreted as absolute population figures but rather estimates. Variables such as the time of day, season, temperature, rainfall, conditions of water sources, etc. can effect the actual count figures. The very high density of horses common in the Nellis HMA add another variable that can cause differences in actual counts.

The BLM conducted an intensive helicopter, vehicle and horseback survey of the Nellis Range in 1991. The Department of Defense and BLM did not find any sign of a major die-off of wild horses. This supported the interpretation above. This information was openly shared with both Ms. Barcomb and Ms. Lappin.

Removals in the Nellis HMA were postponed due to an appeal of the State Directors decision to capture wild horses. BLM actions were stayed prior to June 1989 for Nellis, as well as three other HMAs in Caliente. IBLA's decision issued on June 7, 1989, favored the appellants, the Animal Protection Institute of America. The IBLA set aside BLM decisions to remove wild horses unless data determined that the removal was needed to restore the range to a thriving natural ecological balance.

In order to comply with the IBLA court order and support the needed removal of horses on Nellis without receiving an appeal, data was collected and analyzed for vegetative condition and utilization, water locations (quantity and quality), herd seasonal distribution and density, including herd characteristics (male to female ratio, band size, adult to young ratio, horse condition etc.). The analysis identified an AML of 1,000 head for the Nellis Range and supported the uncontested 1991 removal. This information supplied the quantified support for subsequent removals in order to help return the Nellis habit to a natural thriving ecological balance.

Commission Statement: Nellis 1996- Las Vegas District Office

*Nellis (the Nevada Wild Horse Range), has been critical for the habitat conditions, lack of water, and dead and dying horses for more years than should be allowed. Starting with the winter of 1990/91 and being allowed to continue until currently being gathered now, in January 1997.

SUMMARY- NELLIS 1991 EMERGENCY GATHER

Commission:

- A. 2000 horses were unaccounted for;
- B. The 1990/1991 gather should not have been declared an emergency;
- C. Lack of planning caused the emergency.

BLM Response:

- A. *Inherent error in aerial census surveys, no access to certain areas of the Nellis WHR, and other factors may have caused the discrepancies, a reconnaissance survey in 1991 failed to find any abnormally high numbers of dead animals.*
- B. *The 1990/1991 gather was not an emergency, halting operations for two days (holidays) is not unusual.*
- C. *Horse populations increased on Nellis and throughout the west as a result of the 1989 IBLA decision that stated that BLM must have data to show that there are animals in excess of the AML.*

SUMMARY- NELLIS 1996

Commission:

- A. BLM has caused the deaths of many horses;

BLM Response:

- A. *Allegation untrue. Since 1991, BLM has conducted 1 or 2 gathers per year, removing over 8,000 animals. Other factors have also contributed to the difficulties in managing the Nellis HMA including weather (drought and severe winter weather), legal requirements, and inaccessibility.*

Response: Nevada State Office

Since 1991 BLM has placed high priority on removing excess wild horses from the Nevada Wild Horse Range (Nellis) conducting 1-2 gathers per year. True the range has been over-populated at times, but death loss since 1991 is not considered high. In fact there are few facts supporting high death loss in recent years. Management of the NWHR is complicated by National security issues/access, extreme climatic conditions, and difficulty in developing rangeland improvements such as fences and waters. The current AML of 1000 head for the 1,000,000 acre use area is considered low, mainly because of no competition with livestock, when compared to other HMAs..

DISCRETIONARY USE OF LAWS, REGULATIONS, AND POLICIES; AND NEPA INFRACTIONS

Commission Statement: Nellis 1991- Las Vegas District Office

*We found that during the gather the horse specialist had instructed other Bureau personnel and the contractor's crew to cut off the horses tails at the flesh. Also, he had instructed that the tails be saved, bagged, and held for him to pick up. We were told by Bureau personnel that the tails were being sold and used for commercial purposes. Upon finding this situation which was illegal and intolerable the Commission and WHOA demanded this be halted immediately. Not only was this illegal but the tails of the horses were the only defense they had for insects that are such a problem during the summer months. Not only were the animals in extreme distress through lack of forage and water but must endure the inability to protect themselves from insects with anything other than their mouths. We immediately went to the Associate State Director, who supported the Commission and WHOA and decided to subsequently remove the specialist from the gather operation and wild horse program. However, we know of no other repercussion or accountability brought to bear on his activities. In fact this person, by the accounts of numerous District BLM personnel is still active in the wild horse program in Las Vegas.

Response: Las Vegas Field Office

The BLM took proper administrative action on the actual issues associated with the 1991 Nellis removal. The employee involved was assigned to other duties and officially reprimanded. Reprimands are removed from personnel files after two years. In order to get the job done under the heavy workloads and demands, a Bureau manager is and must be able to make an effective use of their employees skill mix. This is appropriate and needed to meet work plan commitments.

<p>SUMMARY- NELLIS 1991</p> <p>Commission:</p> <p>A. BLM employee may have committed acts considered illegal.</p> <p>BLM Response:</p> <p>A. Allegation is true. The employee was removed from the program and reassigned to other duties.</p>

Commission Statement: Nellis 1996- Las Vegas District Office

Since we have touched on Nellis emergencies earlier in this report we will focus on the past year at Nellis now. In December of 1995 a gather was conducted that had been planned for at least 1/2 a year prior to that date. It had been on the gather schedule and planned especially since the Bureau was going to instigate a trial fertility control program at Nellis. I don't have the exact dollar amount spent but the plan was to treat with fertility control approximately 400 mares. You may want to investigate that amount. To instigate a fertility control program on such a critical population that was continually crashing didn't seem feasible at the time but since Nellis had such a high fertility rate it seemed necessary. Two weeks prior to the actual gather date, the Commission had to call the Caliente District to ask for the gather plan and EA for the gather. This was no normal gather and should have had extensive work on population modeling done since treating 400 mares was no minor environmental action. In violation of NEPA and BLM policy two weeks prior to such a major actions no public consultation was initiated and had to be requested. It was fortunate that we knew about the action to be able to request the information.

This seems to be a common problem in Nevada where we either get the information as an action is occurring without comment time prior to the action or just before, again without time to analyze the action. We had brought this to the attention of the State Director Billy Templeton after 5 after-the-fact incidents in a row. He wrote a Nevada policy which guarantees the public a minimum of 30 days comment time on a gather document prior to the action unless it is an emergency.

Even with that additional policy and NEPA we are still fighting the public consultation issue. We received the Proposed gather documents approximately one week prior to the gather starting. That leaves no time to comment on the proposed actions for the Bureau to consider any changes to the final prior to start. Each document should have had a 30 day comment period with sufficient time between documents for the Bureau to analyze the comments and recognize which suggestions have merit and which do not. This would enable the Bureau to incorporate the comments provided by the public which that participation the law allows. The Bureau continues today to violate NEPA and BLM policy on this issue.

SUMMARY- NELLIS 1996

Commission:

- A. BLM spent an exorbitant amount on the Nellis fertility control field trial;
- B. BLM withheld the gather plans until just before the gather began;
- C. BLM violates NEPA and BLM policy.

BLM Summary Response:

- A. *The entire amount for the fertility control study is about \$220,000 per year. Most of which goes to laboratory development of a long term fertility drug.*
- B. *Allegation is partially true. The budget for the immunocontraception study was unavailable until just prior to the gather. A gather plan discussing the study was issued with little time for comment. Nevada does have a policy establishing a 30 day comment period except in emergency situations. Comments were received and incorporated into the final documents.*
- C. *NEPA has not been violated. Analysis of the environmental consequences has occurred.*

Response: Las Vegas Field Office

The decision concerning the immunocontraceptive field study did have a short time frame; however, the Commission was notified of this and did comment on the decision and the comments were incorporated into the final gather decision documents.

Response: Nevada State Office

The annual budget for the cooperative research grant with the University of Nevada cost about \$200,000 per year. A considerable portion of the funding was spent on laboratory and pen studies related to the development of the vaccine. Nevada does have a policy establishing a 30 day comment period except in, emergency situations for all horse actions.

Commission Statement: Buffalo Hills Gather - 1996- Winnemucca District Office

In a continued effort to sporadically monitor capture operations we attended the Buffalo Hills capture in the spring of 1996. In attendance was the Commission, Cathy Barcomb and Roy Leach, the Nevada Humane Society, Mark McGuire, and WHOA, Dawn and Bert Lappin. Upon our arrival just outside of Gerlach, Nevada, a group of us met a BLM representative at the holding site about 1 mile from the town. The BLM representative was sorting animals for shipment. I (Dawn Lappin), inquired where the trap site was and the specialist in charge of the capture operation? I was told that the BLM specialist was a Bruno's cafe/bar doing paperwork and that the capture was proceeding without Bureau attendance at the site. He radioed the specialist that we were present at the holding site and informed me that he really did not have the time to show me the capture site. I informed him that he needn't take his time, just give me directions. He proceeded to talk me out of going out to the trap site, that they were nearly finished and I would be wasting my time and his. I persisted. It turned out to be a familiar trap site, having been on previous captures in this

area. The specialist finally agreed to lead us to the trap site. It should be noted that in all capture plans and BLM policy, the COR or PI must be physically present whenever capture operations are being completed. This is to insure that BLM captures are in compliance with BLM policy and plan as well as the safety of the animals and personnel.

The specialist ended up not accompanying us to the trap site but giving us directions. He was too busy with paperwork and phone calls at Bruno's. I knew within half a mile of the trap site, the specialist had not wanted our group to observe the capture operations. Very neatly flagged was a barbed-wire fence, being used as a wing trap for the capture. This is in violation of the capture contract and Nevada BLM policies. The capture was proceeding, the helicopter was bringing approximately 7 horses in to the site. However, when we arrived we stayed off in the distance watching with binoculars

noting the number of animals. Just as they got close to the trap, where we could obviously be seen, the helicopter pulled back, 2 horses were captured and the others were allowed to escape. I have never seen this highly experienced pilot... lose horses so close to the trap without going out to pick them up again.

It was apparent that 1) no one was observing the contractor, as required, instead the contractor was being left on his own, 2) that BLM should have required the elimination of the barbed wire as a trap wing, and 3) if they would violate such an obvious restriction, could they be trusted to abide by other restrictions in the law. This specialist, and this particular contractor have been repeatedly warned from similar incidents in the past. Animals injured severely by barbed wire fences are well documented in WHOA's files, and most if not all required extensive medical care, which the BLM is unwilling to provide, therefore the animals are destroyed.

The barbed wire use was brought to the attention of the Associate State Director in Nevada as well as NPO. No disciplinary actions were taken and within one month of this incident the capture crew in Colorado on a BLM gather was also caught using a barbed wire fence as the wing trap. Again, no actions were taken against the Bureau personnel involved or either capture crew.

Another note ... the Del Rio Grand Jury investigation contained allegations of BLM contractors and personnel taking horses out the "back door" at trap sites when no outside people were watching. The allegations were that horses were being trailered from trap sites to other locations where later they would be taken to sale yards. While we are certainly not alleging this happened at this particular gather ... the trap site was in the desert, an hour away from any live person or holding site... ½ an hours drive from the California border and especially with no Bureau personnel present to 1) count the number of horses brought in to the trap, 2) assure that the same number of horses made the trip from the trap to the BLM holding corral, he safety and well being of animals in his charge, and 4) validate the capture as was -his job. This scenario contributes to the perceptions of improprieties which have led to other allegations in the past.

Response: Winnemucca Field Office

The capture of wild horses in the Buffalo Hills HMA was conducted from November 1 through November 6, 1995. On November 5, 1995 Ms. Barcomb contacted the COR at a local motel and said that she would like to bring Mr. Roy Leach out to observe the capture operation since he had never had the

SUMMARY- BUFFALO HILLS GATHER 1996

Commissions

- A. The CORs were not on site;
- B. Barbed wire was being used as a wing on a trap;
- C. BLM employees and/or contractor could be illegally taking horses.

BLM Response:

- A. *Partially true. There were two CORs's on duty, one at the holding facility and one at the trap site. The trap site CORS left the gather location to assist the group in reaching the site.*
- B. *True. The trap site CORS decided to use the barbed wire fence, contrary to policy, as a wing but mitigated the affects with double layers of jute covering on the fence. He received a reprimand. A meeting was held for all Nevada wild horse and burro specialists where their responsibilities as contracting officer representatives was reiterated.*
- C. *Not True.*

opportunity to observe one before. Ms. Barcomb was informed that capture operations would be completed in the Buffalo Hills HMA the next day and we did not anticipate catching many, if any horses. It was suggested that they wait for a few days until capture operations began

in the Granite Range HMA because they would definitely be able to observe the capture and processing procedures that we use. Ms. Barcomb was also told to stop at Brunos Cafe/Motel to get directions to the holding site and that we would take them from the holding site to the trap site.

On November 6, 1996 Ms. Barcomb, Roy Leach, Mark McGuire, and Ms. Lappin and Burt Lappin arrived at the holding facility west of Gerlach NV. at approximately 9:00 AM. The COR at the holding facility was busy and could not leave to guide the group to the trap. The COR at the trap site was called on the radio and told who was at the corral and that they wanted to come to the trap. (At no time did the COR indicate that the trap site COR was at Brunos Cafe.) The radio reception was not good so the holding facility COR had difficulty communicating with the trap. Directions to the southern trap were given to the group. In the meantime, the trap site COR had arrived from the trap and directed the group to the Frog Creek trap after a quick briefing. The COR left ahead of the group and while driving to the capture area became aware, through radio communications, that the contractor was capturing a band of horses and that they would be captured prior to the COR's arrival at the trap. The allegations that the contractor could have transported horses to California are not true. Even if the Contractor had been so inclined, there would not have been time to transport horses out of this remote area. Standard procedure in the Winnemucca District is to have COR's at both the trap site and holding facility at all times.

When the group neared the trap site, they stopped on a hill above the trap to observe the contractors pilot herding a group of horses to the trap. Only two of the horses were captured. After the 2 horses were captured, the group drove down to the trap site, looked around briefly and as the COR was walking toward their vehicles, they turned around and left the area.

The Buffalo Hills HMA is contained within a Wilderness Study Area with very few access roads. The Frog Creek Trap was selected because it was the only feasible trap location in the area. The trap was located 30 yards from a fence and the last 35 yards of the wing were not on the fence. The portion of fence used as a wing was covered for 200 yards with two layers of jute matting to protect the horses from the wire. No injuries resulted from using the fence. The Capture Contract states that wings may be constructed along existing fence lines, at the discretion of the COR, only if the fence wire is removed from the fence posts and laid on the ground for the length of the wing, or if portable panels are placed along the inside of the fence to protect the animals from injury. The COR determined that covering the fence with 2 layers of jute matting afforded horses greater protection from injury than removing the wire or lining the inside of the fence with portable panels. After the capture contract was complete the District Manager verbally reprimanded the COR for using part of the fence for a wing.

Commission Statement: Meadow Valley Mountain HMA- Las Vegas District

Approximately June of 1993, Meadow Valley Mountains experienced a fire (of questionable origin), burning approximately 20% of the HMA. A verbal emergency was declared in June but not acted upon until October. Apparently the "emergency" was not that critical since it could wait 4 to 5 months, but used as a way to gather without data. The gather was completed in early October, no allotment evaluation, no gather plan, no data evaluation to determine carrying capacity nothing. It should also be noted that the livestock grazing permit for exactly the same area was renewed fully for the permittee at the same time. Not one cow was removed but it was serious enough to remove all the horses. The gather was contracted for and monies committed through NSO, and the gather completed without public notice. Two weeks after the gather was completed a letter was sent to the affected public noticing the gather and that only a portion of the HMA was burned but stating that the balance of the HMA was severely utilized and from a population of 289 horses ALL WERE REMOVED WITH THE EXCEPTION OF 15. The entire herd was annihilated. Older horses were trailered to various herd areas that had no AML and were dumped out. No evaluations, no notice, no thoughts were given to the affects of dumping those horses on non-evaluated habitat and unknown populations of other horses. One of those locations included NELLIS, where there was an AML but the horses on Nellis far exceeded that AML prior to dumping more on the area. There were no EA's completed, no evaluations done to insure that the new areas could support the extra "mouths" or that the horses would survive. There were no evaluations after the fact to determine if this action was appropriate or that it would not further stress already overpopulated areas. This was all done behind closed doors within the Bureau. We did not learn of the "dumping" of horses until almost 2

years after the incident, this was withheld from the public.

We questioned the Area Manager, regarding the letter stating that the majority of the HMA was severely over utilized which was the excuse used to gather all of the horses. We requested a copy of the data that was analyzed to determine this utilization level. He told us that they did not have any data collected and through checking with his people that "no one knew how that sentence got in there."

We started checking the locations horses had been shipped to from this gather ... Palomino Valley and Ridgecrest, and found a discrepancy in the number gathered versus the animals received at the BLM holding facilities. Through further investigation, we learned that 27 horses had been "given" to the permittee. You must realize that the Bureau legally has the first determination if a horse is wild or estray and then it is up to the State of Nevada Division of Agriculture to determine private ownership once the Bureau releases those to the State Brand Inspector. In violation of BLM regulations, domestic horses had been licensed for 25 years on that allotment within the HMA.

Besides paying the nominal AUM fee for the "domestic" horses there was no evidence that could be produced that the permittee had ever turned loose any horses to graze. Under Nevada law, all animals turned out to open range MUST be branded. We requested that the BLM provide documentation that the 27 horses given to the permittee had indications under Nevada law and MOU with BLM to indicate prior ownership. There was none that either the BLM or the State Agriculture Department could provide. The permittee was claiming these animals as progeny of horses he had turned out in years past, again, with no proof of ownership! The ability to claim horses from public lands ended in 1975. As you will see through investigation of Bureau records that the horses were given to the permittee by the BLM first, Nevada Brand Inspector second, for expediency and "good public relations."

We further questioned the Area Manager and wild horse specialist regarding ... what if... "Any permittee never turned out a horse but only paid for the AUM fee? Since it was in an HMA that the permittee, on his own, could go into the HMA at his convenience and gather 27, 50, or 75 horses as a weekend outing ... that the permittee then could take those horses to the sale yard and made themselves quite a fee for a weekend get together. , In addition, who is to say how many horses the permittee took each time since there was no person to check the gathers. The response from the Area Manager was "Well ... we sort of suspected that this was going on ... but... it won't happen anymore because we're canceling his permit for domestic horses!" The Bureau "suspected" this was going on, continued licensing horses, and released horses to a private individual without documentation.

Another point to be noted is that through investigation of this issue we learned that the entire Caliente District had never had a horse gather done since the passage of the Act in 1971. There are 13 HMA's in the Caliente Resource Area under the Las Vegas District. It also raises questions as to why the people in other areas of this District were not complaining of excess wild horses unless somebody was also taking the "gathering" of

SUMMARY- MEADOW VALLEY MOUNTAIN HMA

Commission:

- A. A gather was completed without proper documentation and consultation;
- B. Horses were introduced to other HMAs without proper documentation;
- C. Horses were given to the permittee;
- D. A horse permit was authorized in violation of the regulations;
- E. Permittees were/are gathering horses illegally;
- F. The permittee was allowed to graze an area closed to livestock grazing.

BLM Summary Response:

- A. Documentation was proper under the fire rehabilitation procedures (plan and EA). This incident led to Nevada policy requiring a 30 day comment period except in emergencies;
- B. True;
- C. Horses were claimed by the permittee, and state brand inspector under proper procedures;
- D. The HMA has never had a horse permit. The allotment adjacent to the HMA has had a horse permit for a number of years, but not recently;
- E. Investigations of illegal activities have occurred over the years. There are other reasons why populations do not increase including poor weather, predators, and poor forage conditions as a result of inherent poor site potential.
- F. The permittee was not allowed to graze, the range closure is still in effect.

wild horses into their own hands. You must really speculate why no gathers were done in over 25 years and why horse populations remained static without gathers. We learned that there was more than enough data collected to make grazing decisions, set carrying capacity and set AML's on the allotments for grazing livestock and horses at least three to five years ago. The data showed that not only would horses be reduced but the monitoring data indicated that 65-80% reductions were necessary for livestock. We believe it is apparent why the monitoring data was not analyzed and reductions made even though the Bureau's job is to protect the habitat.

At the same time as the reduction, the permittee was given full license for his livestock on this purported emergency range situation. The Commission, HSUS, and WHOA appealed this decision. With this attention drawn to the permit, the District reviewed the decision and immediately canceled the Area Manager's decision and reissued a new permit reducing the livestock use within the burn area. The following year the Area Manager attempted, again, to increase the permit level. The District caught this again, and negated the decision.

Response: Ely Field Office

The Henrie Complex Allotment and the associated Meadow Valley Mountains HMA experienced two wildland fires in 1993, the first starting on July 28 and the second on August 7. These fires consumed approximately 21,000 acres within this area. The Las Vegas District Fire Rehabilitation Plan and EA identifies the management options of closure to livestock grazing and wild horse use for a period of at least two growing seasons after a fire. The entire west side of the Henrie Complex was closed to livestock grazing on Nov. 24, 1993 (2210 AUMs were placed into temporary suspended use) through a Full Force and Effect Grazing Decision, and it still remains closed at the present date. An emergency wild horse gather was initiated under Full Force and Effect Decision guidelines on September 29, 1993. Due to gather contractor commitments to the Nevada Wild Horse Range (Nellis) in August and September, the gather operation was not initiated until September 29, 1993.

During the gather operation, 312 wild horses, burros, and mules were gathered, not 289 as identified. Of these, 101 wild horses were gathered within the HMA and 211 were gathered outside the HMA within the Breedlove Allotment. The Breedlove Allotment is outside the Meadow Valley Mountains HMA, but horses leave the HMA and establish home ranges within the Breedlove Allotment. The following is a concise breakdown of the animals gathered: 222 shipped to PVC, 13 died (euthanasia and self-inflicted), 4 foals sent to National Wild Horse Association for further care and then adopted locally in Las Vegas, 27 horses identified (claimed) by Breedlove permittee as his, 2 branded horses returned to Henrie Complex permittee, 2 horses (1 branded & 1 gelded) claimed as domestic livestock by the Nevada State Brand Inspector, and 42 released. Of the 42 released, 15 horses were released back to the HMA and 27 were released onto the Nevada Wild Horse Range. The horses were released within Nellis due to the completion of the recent gather that removed over 700 horses. Other HMAs within Caliente Resource Area lacked sufficient data to allow release there. All horses released to the Breedlove permittee were approved by the Nevada State Brand Inspector and as directed by Las Vegas District Office management.

Only problem animals were removed from the former Caliente Resource Area in the decade prior to 1996. Based upon monitoring data, removals were not justified. Data was insufficient to issue Final Multiple Use Decisions and thereby set AMLs. Illegal removal or shooting of wild horses and burros has been investigated many times within the former Caliente Resource Area. Information obtained by a Bureau employee led to arrests and convictions resulting from an illegal burro round-up in Clark County.

The Commission and the BLM reached an out-of-court settlement on October 8, 1996 to withdraw appeals to the Emergency Removal Plan and the Area Manager's Full Force and Effect Decision, dated November 24, 1993.

Commission Statement: Dann Sisters Gather- Elko District Office

BLM files document the Dann sisters (Native Americans), historically ran large numbers of animals in trespass on Bureau managed public lands. The Bureau finally took action to impound these animals. Since the Dann area is on the Elko District boundary line it also borders various Battle Mountain District HMA'S. When the Bureau started gathering Dann livestock (cattle and horses), the Dann family called WHOA and the Commission stating that the Bureau was "gathering wild horses and taking them to slaughter." Upon investigation we found that 17 miles of border fence between Battle Mountain and Elko had been down for many years. No one could

tell us how many years the fence had been down. This fence would have prohibited wild horses in the adjoining HMA from migrating onto the Dann allotments. The Commission had just recently funded \$14,000 to the Battle Mountain District for wild horse censuring and distribution mapping. The Commission then called the Battle Mountain District asking if that mapping documented the horse use within traveling distance to the Dann ranch. The horse specialist immediately collected that data and sent it overnight to us. The data clearly documented horses on the range around the Dann area, right up against the fence line that wasn't there anymore. When asked why the documentation stopped at the fence line we were told that this was the District Boundary and they did not monitor any further. The mapping showed the date and the number of animals by group that were right on that boundary. From that fence line, the land goes uphill to go back to Battle Mountain and downhill to enter the Dann area. The District Specialist told us that they knew for years that the horses had been going into the Dann area, the fence was down for many miles, and it was downhill from there.

WHOA and the Commission immediately took the Bureaus own maps and data to a meeting with the Associate State Director in Nevada. We presented the maps showing the location of the horses and presented all we had learned. The Associate Director, was silent, he looked at all of the information, looked up at me and told me "This is none of your business, they are not wild horses and I will not discuss this any further because again, this is none of your business." Needless to say, we had a few words as to whose business it was. The relationship between the State and the Associate Director and ourselves was damaged beyond repair as of that meeting. In fact, I later learned later that a call had been placed to the Chairman of the Commission to have me replaced because of this incident. The horses were gathered along with the Dann livestock, they were sent to sale and went to slaughter. I don't have the exact number but know it was in the hundreds.

Response: Battle Mountain Field Office

The fence between the Dann sisters and the HMAs in the Battle Mountain District was not down as is stated in the letter. The fence was in good repair at the time of the trespass livestock removal. No wild horses were captured during the impound. A census figure of 205 animals in the HMA bordering the Elko District - Battle Mountain District. boundary fence was determined by the Battle Mountain District in 1991 prior to the impound. At a reproductive rate of 17 percent per year, based on historic data, we would expect to have 449 wild horses in the HMA in 1996. In February of 1997 (before spring 1997 foaling) we captured 445 wild horses in the Grass Valley Allotment portion of the HMA. The HMA is made up of two allotments, the Grass Valley and JD. The statement made by the authors that hundreds of wild horses went to slaughter is not correct as our records verify.

SUMMARY- DANN SISTERS GATHER

Commission:

- A. BLM gathered wild horses and livestock and sent them to slaughter.

BLM Response:

- A. Allegation is not true. No wild horses were gathered during the impoundment. District Court records confirm this.

Response: Elko Field Office

Mary and Carrie Dann (hereafter referred to as the Danns) are Shoshone Indian sisters that live and operate a horse and cattle ranch in Crescent Valley, NV. During the claiming period following the passage of the Wild Horse and Burro Act, the Danns filed a claim (November 14, 1973) for 400-600 horses which grazed open range in and around what is currently known as the South Buckhorn Allotment (primarily the Dry Hills and the Cortez Mountains adjacent to the Elko and Battle Mountain District boundary). BLM issued an Authorization to Gather Claimed Horses between the period of February 21, 1974 and April 1, 1975. As a standard practice, the BLM assessed the Danns trespass fees following their capture of 41 claimed horses in April, 1974. The Danns refused to settle this and a subsequent cattle trespass, claiming tribal aboriginal title to these public lands. During the eighteen years of litigation which followed, the Danns continued to make periodic gathers of the horses in the South Buckhorn and surrounding Allotments in the Elko District, but always maintained a large horse herd in the area.

The Elko Resource Management Plan was approved March 11, 1987. This area of the Elko Resource Area was not designated a wild horse herd area.

On June 6, 1991 the U.S. District Court issued a ruling which allowed the BLM to enforce the grazing regulations and hold the Danns accountable for any future unauthorized grazing use. This U.S. District Court ruling also required the BLM to allow the Danns the opportunity to remove any unauthorized livestock prior to initiating any trespass action. At that time, it was estimated that approximately 1,800 horses under the control of the Danns were being grazed in the South Buckhorn and adjacent allotments without authorization.

Following the 1991 U.S. District Court ruling, BLM again issued trespass notices to the Danns for allowing unauthorized cattle and horses to graze on public land without a permit. BLM gave the Danns an opportunity to gather their unauthorized livestock. In September, 1991 the Danns agreed to remove a minimum 75 percent of the unauthorized horses and all of their cattle from the South Buckhorn and surrounding allotments in the Elko District. Between November, 1991 and January, 1992 the Danns removed a total of 1,502 horses from the South Buckhorn and surrounding allotments.

The BLM was in contact with the contractor hired by the Danns, and the Brand Inspector throughout the Dann's gather operation. In addition, BLM personnel monitored portions of the gather in the field. It was determined through conversations with the Dann's contractor that the remaining horses were too difficult and expensive for them to gather and that they were finished gathering. Not all of the horses gathered by the Danns were sold. Some horses were kept at the Dann Ranch and it is thought that some of these horses were later turned out on BLM land in the summer of 1992.

Beginning In February, 1992 the BLM began impounding the remaining horses. A total of 430 horses were impounded by BLM between March and November, 1992. It was during these impoundments that the Danns made accusations that the BLM was removing wild horses. BLM's Contracting Officer Representative for the gather contract investigated the allegation and found them to be false. The Danns did not claim ownership of those horses impounded by the BLM. These horses were identified as estray by the State Brand Inspector and subsequently turned over to the state for proper disposition.

The South Buckhorn Fence referred to in the letter was built in the early 1980's. This fence is functional and serves as an allotment and District boundary. The portions of this fence that have been visited by BLM personnel in both Elko and Battle Mountain Districts have been found to be in good condition. There has, however, been a problem with people leaving the gate open on the road near Willow Spring. There may be sections of the fence that are in need of repair, but what has been seen both from the ground and the air has been satisfactory. The Elko District has planned to ride the entire length of this boundary fence this spring and summer and will ensure it is maintained to BLM standards. The South Buckhorn fence was tied to natural rock barriers and there are segments of the boundary that are not fenced. Future fence inspections will also identify any segments along the boundary that need additional fencing.

The Danns continue to question the land ownership issue and the authority of the BLM on public lands in the Crescent Valley area. As of January, 1997 BLM has counted 272 unauthorized horses in the South Buckhorn and adjacent allotments. All horses counted are unauthorized and are subject to impoundment by BLM. If another impoundment is implemented by the BLM, it is expected the Danns and their supporters will do everything they can to stop the BLM from accomplishing this task, including, but not limited to, falsely accusing the BLM of gathering wild horses.

Commission Statement: New Pass/Roberts Mountain- Battle Mountain District Office

*Battle Mountain District censured the herd in 1992 and observed 527 horses. This was done prior to a proposed gather to reduce the herd to 271 horses. With the rate of increase that is predictable to wild horse herds in Nevada, approximately 18%, you could assume a large herd by 1996.

For the past year and even prior to this, WHOA and the Commission had been receiving reports of horses being "poached" from this area. The District horse specialists had been notified as well as continuous calls to law enforcement over the last year. Reports had come in as to specific illegal captures and when horses would be arriving at the sale yard for disposal at auction. Immediately BLM law enforcement was notified ... to no avail. Traps have been observed set up around water sources as recently as the past two months. When brought to the

attention of the Battle Mountain horse specialist he expressed that he knew the traps were up but had not been able to make the permittee take them down. Bureau personnel were aware that horses were vanishing from the HMA.

At the Reno meeting of the "emergency task force", the District Manager was responding to questions by the task force on horse issues specifically in the Goldfield area. when asked why excess Goldfield horses were being released in the New Pass/Ravenswood area, he expressed that they were releasing horses there because they were so far under AML in that area that other horses could be brought in and released. When asked why they were so far under AML when every other place was over AML, he blatantly told the group that it "was because all of the horses have been stolen from the range."

If you calculate how many horses there were in 1992 (527), add the recruitment, add the 53 Goldfield horses relocated to that area ... you would have quite an increased number. In August of 1996 the area was censused and BLM found only 73 horses! How many times must a crime be reported before BLM takes any action or is the Bureau deliberately turning their heads in this matter because it solves a removal and placement problem for them. In our opinion, placing critical Goldfield horses in this area would then also put these animals in jeopardy of disappearing as other New Pass horses have vanished.

Response: Battle Mountain Field Office

The allegations about the bureau not taking any actions to deter unlawful removal of animals in New Pass/Ravenswood HM are not correct. This issue was turned over to our law enforcement division and continues to be an ongoing investigation. If the authors have received other calls concerning horses arriving at sale yards, the Battle Mountain District was not notified of this situation.

The "horse traps" referred to in this letter are actually livestock corrals and are located on private land. No horse traps or other corrals are set up on public lands within the New Pass/ Ravenswood HMA. The BLM does not have the authority to remove corrals from private lands nor has the Battle Mountain District requested such action.

The BLM has aggressively pursued capture and prosecution of any person(s) suspected of illegally removing wild horses in the Battle Mountain District. In May of 1994 the District Wild Horse Specialist drove to Rock Springs, Wyoming at his own expense to learn how to microchip wild horses for the purposes of implanting them for positive identification. A plan had been discussed to microchip wild horses in the New Pass/Ravenswood area. Before the horses could be microchipped, Ms. Lappin commented to one of the Winnemucca Wild Horse and Burro Specialists that she had told an individual in the Austin area about the plan. The microchipping plan was then canceled.

D) STRATEGIC PLAN FOR THE MANAGEMENT OF WILD HORSES

*The Strategic Plan for Wild Horses established a strict adoption age criterion for excess horses. This action requires the removal of all horses five years of age and younger with exceptions allowing removal up to nine years for emergency gathers. The Strategic Plan then required all older horses be released back into the herd areas, thus increasing densities at levels known to significantly exceed carrying capacity.

Commission Statement: Wells Resource Area- Elko District Office

*In the case of Spruce-Pequop wild horse herd, the AMP and land use plan amendment allowed for the elimination of approximately one half of the herd area. Again, the Strategic Plan required all older horses released into the surviving herd management area, thus increasing densities at levels known to significantly exceed 10% utilization of key winter forage in the fall. It is predictable that procedurally the BLM has the land

SUMMARY- NEW PASS/ ROBERTS MOUNTAIN

Commission:

- A. BLM is allowing outside interests to illegally capture wild horses.;

BLM Response:

- A. Allegation's partially true. BLM has been aware of wild horse poaching in the area around Austin, Nevada, and BLM law enforcement has tried to apprehend the individual/s involved.

use planning to reduce the 270 head of wild horses to less than 15 head of old age class horses in the Spruce-Pequop HMA.

Response: Elko Field Office

The Spruce-Pequop Herd Area as identified by the Wells RMP contained 34,000 acres of private land mixed with 172,000 acres of public lands in a checkerboard pattern. The BLM had received numerous requests from the private land owner to remove wild horses from the private lands. Within this area, the BLM is required by law to remove wild horses from private lands at the landowners request. The Wells RMP Wild Horse Amendment indicated that wild horses would be removed from the checkerboard lands within the HMAs and these lands be managed as wild horse free areas. This management determination would reduce complaints from private landowners. The Spruce-Pequop HMA currently stands at 138,000 public land acres, down from 172,000 public land acres as given in the original RMP. Over half the herd area was not "abolished" when only public land is considered in the calculations.

**SUMMARY- WELLS
RESOURCE AREA**

Commission:

A. BLM intends to effectively eliminate the Spruce-Pequop Herd.

BLM Response:

A. Allegation is false. Land use planning properly considered all resource values. The Spruce Pequop HMA was reduced in size because of a checkerboard land ownership pattern. The AML is 82 head, not 15 head.

The original Wells RMP set wild horse numbers at 80 head in the Spruce-Pequop herd area. The Wells RMP Wild Horse Amendment sets the initial herd size in the Spruce-Pequop HMA at 82 head, an increase of 2 horses over the original plan. The Wild Horse Amendment also established the management of 10% maximum utilization by wild horse in winter use areas prior to livestock turnout. The authors confuse the limiting of wild horses to 10% utilization on key forage species prior to livestock turnout in combined winter use areas as a 90% reduction in wild horse numbers. This is simply not correct. Limiting wild horses to 10% utilization prior to the turnout of livestock in combined winter use areas should result in utilization objectives being met at the end of the grazing season by both species of grazing animals. Limiting use to 10% does not mean that horses cannot continue to utilize the winter areas after the livestock have been turned out. Horses can continue to use the area in conjunction with livestock until the 55% objective has been reached. If utilization exceeds this level then adjustments need to be made to both wild horse numbers and livestock numbers.

Following approval of the Wells RMP Wild Horse Amendment, the BLM began gathering horses from the checkerboard land patterns in the Spruce-Pequop herd area on October 22, 1993.. A total of 62 horses were gathered from these lands and all but 16 were placed in the adoption program. The 16 horses were relocated to the newly designated Spruce-Pequop HMA. The horses were placed on water in the summer range of the Spruce-Pequop HMA. The nearest key areas (Sp-12 and Sp-23) have never been recorded to receive over 10% utilization by wild horses on key winter forage species prior to the turnout of livestock. In fact wild horse utilization is commonly 0-5% at these two key areas prior to livestock turnout. Information on pre-livestock turnout by livestock was presented in the Spruce Allotment Evaluation sent to the Commission for comment on May 2, 1995.

It is unclear what horse numbers the letter is referring to. There have never been 270 wild horses in the Spruce-Pequop HMA. On one occasion in the past 19 years and 20 census flights, over 200 hundred horses were counted in the Spruce-Pequop herd area. It must be noted that this count included all of the private lands (34,000 acres) in the Pequop Mountains and encompassed all of the Wood Hills which has always been outside of the designated herd area. Census flights normally find fewer than 100 horses in the HMA and since 1993, approximately 80 horses have been inhabiting the HMA.

The Spruce Allotment Evaluation (sent to the Commission for comment on May 2, 1995) included technical recommendations for adjustments in grazing to achieve multiple use objectives. These technical recommendations included establishment of a wild horse AML for the Spruce Allotment portion of the four HMAs. The recommended AML for that portion of the Spruce-Pequop HMA in the Spruce Allotment was 82 wild horses; the same as the initial herd size identified in the Wells RMP Wild Horse Amendment.

Commission Statement: Nellis 96- Las Vegas District Office

The gather proceeded, approximately 800 horses were removed, we have pictures of those animals and they were in poor condition in December 95. More animals were returned to the range than carrying capacity could support. By February/March the Bureau already knew they would be in emergency conditions by summer. In the beginning of July an emergency gather was conducted again on Nellis. 600 horses were brought in for adoption and over 1,000 horses were released back on the habitat the Bureau knew could not support them. They were turned back to certain death. Again, the adoption program was driving the range program as to what will be brought in from the range. We learned of this action at the subsequent Goldfield gather and immediately called NPO. From that call many calls were made to Washington and the Emergency Task Force was formed. Another gather which was to take place by September 1996 and was continually delayed is occurring now, January 1997.

We were told by NPO that emergency gathers cost approximately 2 to 1 in dollar figures. With three gathers in one years time, two of those being "emergency gathers", an expensive fertility control study which now has questionable results, and inhumane treatment to the horses, how much of this could have been averted with proper planning. How grossly much more did this cost on this one HMA in one year than would have been spent if the initial gathers had taken the animals down to carrying capacity? This doesn't even factor in the inhumane treatment associated with overgrazing and starvation or lack of water. This must stop! We would really be curious to know how much Nellis has cost just

since December 1995 and with the realization that with proper management of the habitat and the herds that this could have been prevented and never should have happened. Even the July 1996 gather... if the animals had been removed to carrying capacity you would not be going through another expensive gather right now.

We were just notified that the January 1997 gather which hasn't been completed on Nellis resulted in 84 horses having to be destroyed. We have been advised that there are approximately 80 to 100 more in the trap for whom the veterinarian will confirm whether their condition warrants destruction. This is a disgrace that these animals were forced to suffer this long when in fact the Bureau should have addressed these issues at the last gather in July 1996!

Response: Las Vegas Field Office

This gather adhered to existing Bureau Policy of removing those animals that met the removal criteria. Also, a member of the Commission visited the holding facility where approximately 800 horses were corralled. We showed the problems of poor horse conditions, surplus horses, skewed sex ratios, and explained the limitations of the Bureau's removal age requirement. The bureau monitored precipitation during the spring. Normally spring showers occur and produce forage which would alleviate the situation. However, by May it became evident that normal conditions would not occur and an emergency was declared. The gather was delayed until the majority of the foals were old enough to be gathered without injuring them.

This HMA was selected for this [fertility control] study because the herds acceptance of people and vehicles; the large number of horses available; and the need to control the increase of horse numbers.

Bureau policy was followed concerning the euthanasia of wild horses. However, this action was only enacted after a close physical inspection (teeth, condition, eyes, feet etc.) of the horse while subdued in a chute.

SUMMARY- NELLIS 1996

Commission:

- A. BLM returned more animals to the range than it could support, some suffering could have been avoided;
- B. BLM's actions resulted in higher costs than necessary.

BLM Response:

- A. *True, in hindsight. However, at the time, the growing season had not yet begun and there was still a good chance of an abundant forage crop. The December and July gathers adhered to BLM policy in effect at the time;*
- B. *True, but with 15,000-20,000 excess animals and a budget to remove only 6,000-9,000 per year, choices have to be made; part of the decision has to be whether to pay for the perpetual maintenance of older horses, or spend the same money on removal of younger more adoptable horses.*

Commission Statement: Goldfield 1996- Battle Mountain District Office

After the summer Nellis 1996, emergency gather, the Bureau went to Goldfield to gather horses under emergency criteria. We had not attended the gather until we received two internal BLM phone calls notifying us that horses were critical. They stated that the District was being "ordered" by NPO to turn back approximately 130 older horses that didn't fit the Strategic Plan guidelines of age adaptability, regardless of condition on to a range that couldn't support any of them. We immediately drove down to Goldfield that evening and were on the gather the next morning.

What I found was corrals full of horses in critical condition and dying. I was informed that the younger adoptable horses had already been shipped to Palomino Valley Corrals but that the horses I was witnessing were scheduled to be released back into the HMA. At that point I declared that they would be turned back on the range "over my dead body." The horses were critical but because the Bureau didn't want to take responsibility for those animals they would be turned back on a depleted range that could not support them to begin with. They were being turned back to certain death.

I talked with the permittee, the brand inspector, and the capture crew. All noted the condition of the animals and the depleted range (95% utilization). They also noted they had witnessed the Nellis horses gathered the month

before and stated that the Nellis horses were in much worse condition than the Goldfield horses but that NPO-BLM had ordered those 1,000 plus horses turned back on the range as well. Again, the Strategic Plan and adoption program dictated the public lands management and forced animals to be turned back on the range to certain death.

Response: Battle Mountain Field Office

The gathering of wild horses and burros in the Goldfield HMA was initiated by the Tonopah Field Station after a review of the forage and animal conditions. No "order from the NPO" to turn back 130 older horses occurred. The decision to remove all of the horses within the Goldfield and Stonewall HMAs was made by the Field Station Manager after an evaluation of the conditions within the HMA was completed. The Commission and WHOA agreed with that decision. The NPO backed the decision and authorized shipping of older horses to the National WH & B Center at Palomino Valley.

The statement made by the authors that the gold field gather crew had witnessed the Nellis horses and the 1,000 plus animals turned back is not correct. The gather crew gathering wild horses on the Nellis Complex was a different contract [crew] than the gather crew used at Goldfield. Because of extremely tight security, the Goldfield gather crew was not authorized on the Nellis Complex.

SUMMARY- GOLDFIELD 1996

Commission:

- A. The National Program Office (NPO) ordered 130 head be returned to Goldfield HMA's depleted rangeland;
- B. The NPO ordered 1000 head be returned to Nellis HMA's depleted rangeland.

BLM Response:

- A. *Allegation is partially true. The selective removal policy is designed to slowly reduce herd numbers. Immediate removal of all excess animals would result in BLM holding large numbers of unadoptable animals. No other legal outlets remain for the unadoptable animals except for the sanctuary. The numbers used are not accurate;*
- B. *See A.*

INHUMANE TREATMENT

A) QUESTIONABLE CAPTURE TECHNIQUES AND POLICY/CONTRACT VIOLATION Also See Buffalo Hills under Allocation of Forage © Use of Barbed Wire as Capture Wings. Also See Fox/Lake under Allocation of Forage (B)

Commission Statement: Blue Wing/Seven Troughs- Winnemucca District Office

***Abusive Roping** In January of 94, the Winnemucca District gathered the Blue Wing/Seven Troughs HMA. Paper was in place, however, the AE, proposed and final Multiple Use Decision (MUD), was based on 2,500 horses and (xxx) cows. When the gather was in progress the District discovered there were actually 3,600 horses. In regards to seasonal movement, were there excess horses there because of the time of the year the gather was being conducted? Is this because of a lack of censuring and coordination by the District? How valid are the MUD evaluations and carrying capacity when the District was off by over 1,100 horses? The Decision has not been re-evaluated since that time and the carrying capacity remains unchanged.

Post-gather we received an anonymous call informing the Commission and WHOA that in excess of 700 horses had been roped at the Blue Wing/Seven Troughs gather. You must fully realize how significant this is in that the roping at the gather was at the end of February. BLM does not gather wild horses from March 1 through June 30, because of foaling season. Can you imagine a woman, 9 months pregnant being roped, dragged, knocked down on her stomach and tied up WITHOUT ABORTING HER BABY! Bureau policy does not allow for cowboying and roping horses as a sole method of capture, and certainly not on an excessive basis. The gather plan as in all others proposed by the Bureau dictates that roping is only to be used "as extremely necessary", ie: mare and foal separated, lone horse outside trap, etc. Roping is not to be used as a sole capture method, ever! When questioned, the District admitted to gathering by roping method over 700 animals.

Through investigation of daily work logs, we discovered an excessively high death loss and an insupportable excuse that roping was necessary. Weather conditions were blamed for using the roping technique, however, not bad enough to cancel or delay the capture. We were told by the District, in hindsight, that the capture probably should have been delayed for better weather conditions.

In conversations with the BLM wild horse specialist for the 1995 capture of wild horses from the Blue-Wing, I was told personally that the total horses that had to be roped was done because of weather conditions. First, I

was that it was too muddy to get the trucks into different areas, therefore they could not move the trap sites. But anyone who has experienced a capture operation knows that even with roping animals, a truck and trailer needs to be able to get in to pick up the roped animals. So much for the muddy conditions. I was told that several "local ranchers and their wives" came by to help out with the roping, something the Bureaus daily logs admit. This is not legal and what is the thought of liability? It is apparent that not only are the specialists still heavily influenced in their decisions and fulfillment of their legal obligations under the law, by contractors, but that they are willing to compromise the animals welfare and humane treatment, to satisfy their demands. If the weather was that "foul" the operations should have been shut down for a couple of days.

We did a FOIA request of the Bureau asking how many mares aborted their fetuses as well as death loss to foals/mares. Records had not been kept at the trap site documenting abortions or dead foals, nor was there any request from the District for Palomino Valley to record these deaths. To record the deaths at the site as well as stress deaths at Palomino Valley would have documented the deaths resulting from the roping and further confirmed why the Bureau no longer allows roping. Not only is it dangerous for broken legs and necks for the wild horses but also life threatening to the domestic horses. If you will remember the last Pryor Mountain gather allowing roping not only killed wild horses but three domestic horses as well.

We checked with our State Commission Veterinarian and he expressed that the resulting stress from being so close to term for births and being roped could affect the mares at Palomino Valley by aborting the fetuses. We were unable to determine death loss to mares/foals and abortions at the trap site because of lack of recording but asked Palomino Valley to record deaths as best they could so late in the capture. Palomino Valley did not record many of the aborted fetuses, or dead foals found in the corrals in the morning rounds. We were told at the time that as many as 10 DEAD FOALS PER DAY WERE BEING PICKED UP. Of the ones they could document, the last approximate 300 mares, (100 of those were under 1 year of age so were determined not to be carrying foals), 200 mares were potentially pregnant in the age group of 2 to 5 year Olds. The resulting 200 mares lost 53 foals that were documented. That is only what could be documented, we know the number was much higher considering how many foals per day were being picked up. This is not normal for mares gathered by helicopter even so close to full term in their pregnancy.

One excuse by the Bureau for the high death loss was weather and corral conditions at Palomino Valley Corrals. They said that foals were dying because they were being born in the mud and in water puddles and drowning. If this was a severe condition at the time why were not emergency measures taken to move pregnant mares to better corral areas with proper drainage to prevent this.

Through thorough investigation of the capture logs we learned that many, many horses were adopted at the trap site. This is in violation of policy in every state unless it is a "leppie" foal that must have emergency care to survive.

We requested that NSO investigate this incident. Six months after the gather, we learned the adopted horses were not freeze marked and some of them had left the state. The internal investigation reported no wrong doings and actions were attributed to interpretation of "grey" areas. There was no accountability or repercussions for inhumane treatment or violations causing excessive deaths of wild horses.

Response: Winnemucca Field Office

The Blue Wing/Seven Troughs Allotment contains 6 HMA's and 2 HA's. The area is made up of approximately 1.3 million acres of public land and 230,000 acres of private land.

The Final Full Force and Effect Multiple Use Decision for the Blue Wing/Seven Troughs Allotment was issued December 6, 1994. The Multiple Use Decision adopted the carrying capacity for livestock and wild horses and burros recommended in the Blue Wing/Seven Troughs Allotment Evaluation. The allotment evaluation analyzed all available monitoring data collected from 1989 through 1992, recommended a stocking level for livestock and wild horses, recommended management actions for livestock to meet riparian and upland habitat objectives, and recommended modifications to the livestock grazing strategy. The analysis complied with BLM policy, grazing regulations, and procedures outlined in BLM Technical Reference TR 4400-7. The Blue Wing/Seven Troughs Evaluation used the same methodology in calculating carrying capacity as the Buffalo Hills Allotment

Evaluation.

The Multiple Use Decision phased the reductions for livestock, wild horses, and burros over a 6 year period. All phased in reductions may not be necessary to meet allotment objectives. Monitoring data is being collected and will be analyzed to determine if the 1997 reduction is necessary.

The District maintained contact with all affected interests, including the Commission and WHOA, throughout the Allotment Evaluation process. C-Punch Ranch Inc. (permittee) appealed the Multiple Use Decision, the Commission and WHOA did not.

C-Punch Ranch Inc. initiated a lawsuit in Federal Court which resulted in the Bureau entering into a stipulated agreement dated December 16, 1994. The stipulated agreement ordered the removal of 1,900 wild horses and burros, or the number necessary to reduce the population to 764 wild horses and burros to begin on January 9, 1995 and to be completed by March 6, 1995. The removal plan and stipulated agreement were based on an August 1994 census of the area.

The capture started on January 9, 1995 and was completed on February 25, 1995. There were a total of 2,272 wild horses and 561 burros captured. A total of 1,780 wild horses and 520 burro were shipped.

A post removal census to determine compliance with the stipulated agreement was originally scheduled for April 1995. The Commission and WHOA expressed concern that a census conducted during the foaling period could have an adverse impact on animal welfare. Based on those concerns the census was delayed until June 1995. The census found that there were 546 more horses than estimated at the completion of the removal in February 1995.

The Commission requested copies of the contract diaries, which were provided to them on March 31, 1995. The contract diaries indicated that:

- Death loss for the capture was 1.1% (32 Head).
- There were 5 aborted fetuses during the capture.
- 524 horses and 232 burro were roped during the capture.
- Additional gather crew members (all were highly experienced and most had worked for the contractor before) were employed by the contractor.
- There were 16 burros and 5 horses adopted on site. Three horses were leppy foals, which included one born at the holding facility on February 20.

In a letter dated May 5, 1995 the National Wild Horse and Burro Center at Palomino Valley provided information

SUMMARY- BLUE WING/ SEVEN TROUGHS

Commission:

- A. BLM did not correctly census the Blue Wing/Seven Troughs gather area;
- B. BLM used roping as a primary means to capture horses and burros causing extremely high death loss;
- C. Ranchers were allowed to assist BLM contractors in roping wild horses and burros;
- D. Many, many horses were adopted at the trap site, a violation in every state.

BLM Response:

- A. *Not correct. A census was conducted five months prior. It is not uncommon to have populations fluctuate from the summer season to the winter season through migratory habits. Census error generally ranges between 10-20% over and under. The BLM tends to underestimate rather than overestimate.*
- B. *Allegation is partially true. BLM issued policy after this clarifying when roping could occur. The number of foal deaths was a combination of factors, according to the Palomino Valley veterinarian, including stress, weather conditions, lack of nutrition (4,000 animals in an area with an AML of 700) and toxic plants.*
- C. *True, however they were hired by the contractor to perform said work;*
- D. *Allegation is not correct. Five horses were adopted on-site, three of which were leppy foals. On-site adoptions are not prohibited in every state; the policy states that all parties must have equal opportunity and that the horses receive the proper preparation prior to adoption. Many locations prepare their animals on-site or at a nearby facility. In Nevada virtually all horses are shipped to PVC for preparation.*

related to foal death. The letter stated mares from the Winnemucca District made up the largest concentration of mares at the facility. Due to that fact, the largest number of foals that have died were from those mares. There was a total of 51 recorded foal deaths from the entire inventory of mares at the facility, not just those from the Winnemucca District. It is also very important to note that the largest concentration of foal deaths correspond to when the facility was experiencing wet, cold weather.

In a letter dated May 17, 1995 the Commission expressed concerns regarding the administration of the gather. To answer the concerns raised, the District Manager requested that a team investigate all aspects of the capture operation. The report was completed July 7, 1995 and made the following conclusions:

1. There was no evidence of added stress or injuries caused by roping. A larger than normal number of horses were roped, but implementation of innovative capture procedures resulted in fewer burros being roped.
2. The fact that more burros were trapped using the helicopter than normally occurs indicated that helicopter-drive trapping was the preferred capture method considered.
3. Captured animals were handled and treated safely and humanely
4. Contract diary entries did not always accurately describe contractual issues. Many entries needed further clarification to eliminate misconception or misinterpretations of what actually occurred.
5. Death loss, injuries, leppy foals, and aborted fetuses were not excessive for a gather of this size. In addition, no problems with animal condition was reported by the adoption preparation facilities to the capture crew, nor were there any concerns expressed by any on site visitors, which included a veterinarian and a representative from the International Society for the Protection of Mustangs and Burros.

Response: National Program Office

During the Blue Wing/Seven Troughs gather, the Winnemucca wild horse and burro specialist contacted PVC to discuss the number of mares foaling and foals dying either at birth or shortly thereafter. Ms. Barcomb called requesting similar information. PVC reviewed records back to January 1, 1994, regarding the number of foals that had died at PVC.

Ms. Barcomb's original request was for the number of mares received from the gather, as well as the number of foals dying. There appears to be a difference of opinion between PVC personnel and Ms. Barcomb regarding the differences between: a fetus, a premature foal, and a foal born at term but too weak to survive. PVC normally does not track fetus being aborted during the early stages of the mare's gestation period. Because of bad weather and the sensitivity of the issue, PVC tracked premature or weak foals. Aborted fetus were not tracked because the mares were too far into their gestation period, or too close to foaling to consider aborted animals as a fetus.

It is alleged that 10 foals per day were dying; this is untrue. A letter was sent to Ms. Barcomb which includes the number of animals and the dates on which they died. The letter also included information from necropsies conducted to determine cause of death. The death rate was abnormally high and included losses from not just the Winnemucca gather, but also from other gathers which had occurred recently in Nevada.

Weather during February and March that year was abnormally wet and cold and many foals were being born in muddy conditions. While fetus and foal mortality was above average, many healthy foals were being born and surviving. The pens housing the pregnant foals have areas of high ground, however, it is the discretion of the mare where she foals within the pen and many mares chose to foal in muddy, low areas. When it became apparent that a mare was about to foal, she would be moved to a sheltered, small pen.

B) RESEARCH STUDIES

Commission Statement: University of Minnesota Fertility Control Study- Carson City District, Battle Mountain District

Collars were installed improperly on younger animals that "grew" into those collars prior to the next evaluation. The collars not only came up over the horses ears and eyes but "embedded" themselves into to flesh on their necks. Many of those animals died of slow suffocation as a result. Many animals had to be put down and animals that did survive had collars surgically removed with infestations of maggots underneath eating tissue.

There were many frequent spring evaluation flights that violated Bureau policy regarding low level flights during the foaling season. This resulted in orphaning many foals. As the mares were being run under these low level flights to identify their freeze mark the foals could not keep up and were left behind, orphaned to die a slow death. In addition, this was a fertility control study...killing foals ... how badly did this skew the data from the

research study? At the recent Goldfield gather (summer 96), I was personally informed that the helicopter pilot expressed his concerns for orphaning those foals to the Bureau personnel conducting those flights, he told me he was ignored. The Bureau representative told him to continue, stating that he felt they would be okay, not ever confirming this. The Bureau Chief of Resources, NSO, warned Bureau personnel and documented the file that these flights were orphaning and killing foals. The Bureau representative on those flights was the wild horse specialist from the Tonopah Resource Area. WHOA and the Commission protested these flights for many years to no avail. During the duration of the study and continued spring flights many foals died. Finally, the Governor of the State of Nevada intervened to request a cessation to these spring flights as they were killing animals and at that point, finally, the flights were stopped.

The University of Minnesota requested a large block of mares that were needed for the implantation of the fertility drug and the Bureau proposed a capture in the Clan Alpine HMA. An insufficient number of mares were captured in the Clan Alpine HMA and a Bureau employee without authorization directed the contractor to cut the fence and retrieve mares from the Augusta HMA. Animals not needed for the research project, captured in the Augusta HMA, were released in unfamiliar territory, on the wrong side of a fence after being driven during capture that same day in excess of 100 degree heat. This led to all of those 48 animals dying from lack of water. All 48 animals stood on one side of the fence within sight of the water but had no ability to reach it. *Shortly after this, WHOA visited Nevada Nile Holding Facility and found that 80 - 90 rod implanted mares were missing from the study and had gone into the adoption program. These animals were considered "toxic" and were never to be allowed entrance into the adoption program or potential food chain through slaughter. To our knowledge, these animals were never tracked or attempted to be recovered.

Response: National Program Office

Some of the mares involved in the University of Minnesota study were adopted. The National Research Council evaluated the University of Minnesota study and published *Wild Horse Populations, Field Study in Genetics and Fertility*. In this publication, it recommended that the study mares be kept on the sanctuary until such time as blood samples showed hormone levels to be normal. Some of the mares have been removed from the sanctuary and adopted as brood mares. The adopters have been notified of the animal's history of participation in the fertility control study.

Response: Battle Mountain Field Office

We do not have files in the Battle Mountain District pertaining to the University study. The study was conducted through the Washington Office. Gathers that have been conducted during and since the study have found horses with collars. Some of the animals did have serious sores and infections from the collars and some did not. Every effort has been made to capture those animals during subsequent gathers and remove the collars.

SUMMARY- UNIVERSITY OF MINNESOTA FERTILITY CONTROL STUDY

Commission:

- A. Animals were collared and eventually the collars caused disease and death through suffocation.
- B. Spring reconnaissance flights caused many foals to become orphaned and perish.
- C. A fence was cut and animals were used in the study without following proper procedures. Eventually some of the horses perished.
- D. Contraceptive implanted mares were allowed to be placed into the adoption program.

BLM Response:

- A. True. BLM has made attempts at every opportunity to remove collars.
- B. Allegation is partially true. The Minnesota study protocol was approved by the National Academy of Sciences. BLM did not approve the methodology. From the beginning of the study, BLM field personnel complained of the treatment of the animals.
- C. The field specialist responsible was reassigned to other duties.
- D. Some mares were adopted, but only after the hormones had cleared their blood chemistry. Adopters were notified of the animal's history.

Commission Statement: Study Horses - Herpes Vaccine- Winnemucca District/NPO

When the Blue Wing-Seven Troughs gather was completed two years ago, (the gather where over 700 horses were roped) , there was a discrepancy in the number -gathered versus what reached the holding corrals. upon investigation, we learned that NPO had authorized 50 horses to be shipped out of state to a medical study on a herpes vaccine. When NPO was questioned, they replied that they were well within their legal rights to send the horses to a medical study. We had agreed that they may be in their rights to allow a study but asked where they could take the horses without public

disclosure. We reiterated that there was no public disclosure in the gather plan, no EA, or no proposal presented that 50 horses would be taken away, out of state, to a medical study. NPO agreed, apologized, and promised not to do that again.

Two weeks ago, we learned that at the current Winnemucca gather (November 1996), horses were being taken again to a medical study authorized by NPO. Again, there was no public disclosure as to the study or in the gather plan that wild horses were being taken away. NPO lead called us last week, after they were caught, again sending horses away to a medical study without disclosure, to inform us that "oops, we forgot to tell you that horses were being sent to the study."

The point here is not only as to whether the study was valid or humane, but more that there was no public disclosure. The public has the right to know where the horses are going and what studies are being done. The public can then decide if the study is warranted, is humane, or is necessary. There is no excuse for NPO for not disclosing the study, especially a second time after it was brought to their attention the first time.

We understand the study had positive results but again, the point is no public disclosure which continues to breed mistrust of the program.

**SUMMARY- STUDY HORSES HERPES
VACCINE**

Commission:

A. BLM failed to perform full public disclosure.

BLM Response:

A. Allegation is true.

Response: National Program Office

Although BLM conducted an internal evaluation of the study, no public consultation was held. BLM realized this error and for the second phase of the study prepared public documents. However, NPO failed to send the documents to the public. The Chief of the National Wild Horse and Burro Program called all wild horse and burro advocacy groups and apologized and the information was then made available.

C) INHUMANE TREATMENT

Commission Statement: Nellis 1991- Las Vegas District Office

*There was not adequate funding to support this gather and Senator Reid convened a special oversight hearing to document the situation and help provide funding. The horse specialist was contacted by WHOA and the Commission to help document the situation to bring to Washington for testimony. The specialist arranged a field tour with pictures to be taken by the military to supply to the oversight hearing. The specialist knew full well that the gather was being conducted at the urging of the Commission and WHOA and that we were responsible for the implementation and securing appropriate funding. We were on the Bureaus side and they knew it.

When we arrived at Nellis with the Deputy State Director, Lands and Renewable Resources, NSO, we were shocked to see in excess of 1,000 animals waiting for water at the delivery site. Prior to this day, 1,700 gallons of water was being delivered daily to keep the horses alive. The specialist, knowing that we were coming on that Monday morning, ordered that the water be withheld from the horses to create an accumulation of animals thus creating a panic situation waiting for water. Not only did excess numbers of animals stay at the site waiting for water that never arrived, most were too weak to leave, but creating the panic among stallions caused much infighting. This resulted in broken legs, jaws, and ribs, in addition to many foals being caught in the fighting and trampled. Later we learned that the horse specialist had represented his girlfriend as a member of the local wild horse interest group to gain her clearance for access to the Nellis complex. However, the actual fact was that the girlfriend was a local media reporter who gained access for her own personal "scoop" on the story. The Department of Defense had threatened legal action against the Bureau for such breach of security.

The situation on Nellis was such that horses were forced to travel in excess of 15 miles each way between forage and water. Newborn foals could not keep up this pace to stay with their mothers. There were many orphan foals traveling by themselves, coyote bait, or 6 to 7 foals disoriented following one horse. The Bureau

did not alert anyone to this situation. An anonymous source called WHOA and the Commission to alert us that this was occurring and that the Bureau intended to leave the orphans out on the range. We immediately went to Nellis and found this to be true. The Bureau stated that "they had no way to feed or care for the approximate 150 foals that would be orphaned by this emergency." WHOA offered to care for the foals, feed to be supplied by the Bureau, and then adopt them to the public under the Bureau's criteria. As it turned out approximately 500 foals were placed in WHOA's care in a three month period of time. The Bureau did not supply any feed or reimbursement for that cost, WHOA estimated the cost was approximately \$18,000.00. Bureau personnel were not supportive, did not offer physical assistance, and in fact we were treated as more of an embarrassment to the Bureau rather than helping. Of the 500 orphans, miraculously only 11 died, and many needed treatment from coyote and mountain lion attempts. All of these orphans needed milk every two hours round the clock. BLM did allow for limited veterinary treatment after many strong requests.

It was reported to us that BLM personnel were using some of the foals at the Palomino Valley Adoption Center for roping practice. This practice resulted in broken legs and necks resulting in their deaths. I, personally (Cathy Barcomb) caught the Supervisor, Palomino Valley Corrals, engaged in this activity on two occasions.

Response: Las Vegas Field Office

The Bureau wild horse and burro specialist and management were very concerned with the deplorable vegetative, water, and horse conditions identified by the data in 1991. This is what prompted the actual removal. In March and April of 1991, the BLM wild horse and burro specialist and the Department of Defense and Energy cooperated with hauling water to a number of different locations to stabilize the horses. Conditions began to deteriorate in June of 1991, even with the water hauling. The BLM wild horse and burro specialist working with management determined that there was a special need to deal with the orphan foal issue. This action was initiated prior to the BLM Director receiving similar concerns from the public.

The Bureau was and still is very appreciative of the assistance provided by the Commission and WHOA, as well as, the National Wild Horse Association in Las Vegas, in caring for the orphan foals. We are not aware of the assistance they requested in Reno.

Response: National Program Office

The current PVC manager on several occasions observed the past facility manager roping foals, to prevent them from getting trampled by adult mares. This is safer for the foals than running them through a chute, and having a hundred mares smash a newborn against the side of the chute wall. The usual method for separation is to bring them out by herding or using a truck. Most mare and foal pairs separate fairly well on their own.

SUMMARY- NELLIS 1991

Commission:

- A. Specialist ordered water withheld from the horses;
- B. Specialist sneaked girlfriend into military base;
- C. BLM intended to leave horses on the range;
- D. BLM did not provide any support for foals;
- E. Personnel at PVC were using foals for roping practice.

BLM Response:

- A. Allegation's true. Specialist did withhold water and other actions. The person was reassigned to other duties;
- B. Allegation's true. The person was reassigned to other duties;
- C. BLM was dealing with the foal issue;
- D. WHOA did not request assistance in caring for the orphaned foals. In addition, BLM also cared for foals at Palomino Valley and provided veterinary assistance to WHOA;
- E. Probably true, employee has since retired.

Commission Statement: Goldfield 1996- Battle Mountain District Office

*I went with the capture crew out to the trap site, they were water trapping the horses. on the way there I witnessed a horse crossing our path only to collapse in front of us, unable to go any further. The horse could not get up and was later destroyed by shooting to end his suffering. The contractor immediately tore down the trap around the water declaring that he didn't care what the Bureau wanted him to do he would not continue the "intentional inhumane suffering" that was being done to these animals. Of the three water sources in the area,

only one was open to horses and the other two were completely fenced so as to force horses to the third location. If the horses did not know of the other waters or were not strong enough to journey the miles away to the other site, (maybe they were traveling between the two sites that were completely fenced), they would die in the desert looking at the water but unable to get that drink to keep them alive.

At the trap site I witnessed horses barely able to drag themselves in to get that drink of water. By the end of the day, only about 12 horses were caught. The capture crew felt this was much more inhumane than quickly gathering them with a helicopter. They felt the horses would wait one to two days to allow their thirst to displace their intense fear before entering the trap. This stressed them further when they were barely surviving as it was.

I took two rolls of film, drove back to Reno, developed them the next morning, and made an appointment with the Associate State Director to discuss this critical matter. This was especially critical since the dying horses were slated to be released back on the range immediately. The Area Manager from the District was there as well. I showed them the pictures, the release of the animals was canceled. All of the horses, 100% removal from the range to a zero population herd management area occurred.

The important factor here is that NPO had ordered those critical horses released back on a range that could not support them fully knowing the condition of the animals and the range. The only time the Bureau "did what was right" for the animals and the range was after they were caught.

The Nellis gather and subsequent release of those animals occurred. The animals were critical, they were worse than the goldfield horses, and NPO ordered them released back on the range ...to certain death. The difference being, the Bureau only did what was right when caught.

SUMMARY- GOLDFIELD 1996

Commission:

- A. Water trapping was inhumane;
- B. NPO ordered horses be turned back on range in very poor forage condition;

BLM Response:

- A. *Partially true. Water trapping is less stressful but is time consuming. The decision to use water trapping or drive trapping (helicopter) is a decision that must be made based on local conditions. The trap was not torn down;*
- B. *Partially true. In non-emergency situations BLM policy (Strategic Plan) states that older horses must be returned to the range. In emergency situations animals of all ages may be removed for the short term or permanently. The Field office did not initially report the situation accurately. The Specialist was reprimanded for this and other issues and immediately retired.*

Response: Battle Mountain Field Office

Ms. Barcomb personally operated the gates on the water trap for 3 days after the animal died in front of her truck. The decision to stop the water trapping was made entirely by the District Wild Horse and Burro Specialist who became the project COR/PI after the Tonopah Field Station Wild Horse and Burro Specialist was relieved of her duties in the program for turning animals back into the HMA. This action was affirmed by the Assistant District Manager, Renewable Resources and the Tonopah Field Station Manager.

Commission Statement: Duckwater Indian Incident/Sand Springs Horses- Elko District Office

*The Duckwater Indian tribe had boldly advertised the need for a contract capture crew for wild horses. The Bureau contractor, answered the advertisement and agreed to be hired to gather horses for the tribe. Since there had been so much publicity the Bureau knew full well the intent of the tribe. It should be noted that it is not illegal for native Americans to round up wild horses that reside on their legally bounded native lands. The problem in this specific incident is that they were capturing horses outside the reservation and driving them on to

reservation land. The contractor used his helicopter pilot to drive the horses from outside the reservation in to traps on reservation lands. BLM law enforcement was there, viewing this from the hilltops, and recording the incident. Catching them, the law enforcement went in, ordered the helicopter to stop gathering, impounded the animals, filed charges, and informed the individuals not to "do anything with the animals, that they would be back the next day to pick the horses up." It should be highly noted that he claimed he did not realize he was gathering off reservation land. However, only months before, the BLM contractor had done a gather for BLM on those same Sand Springs horses.

Obviously not leaving anyone to watch the animals overnight was an extremely bright idea. Much to their amazement, all the animals were gone the next morning. As it turned out 117 horses were crammed into a 75 cattle stock hauling rig and transported them overnight straight to a Texas slaughter yard. This was done completely illegally, no brand inspections and no coggins tests which are all required for crossing state lines, stolen horses inhumanely crammed into a small inadequate truck to transport to slaughter caused many injuries and deaths from trampling, and illegal sale to the Texas plant. Thankfully BLM law enforcement called all slaughter yard and found a shipment of horses from Nevada that fit the description of the stolen horses.

At tremendous expense, BLM immediately went to Texas and impounded the horses, transported them to a prison contract facility in New Mexico, and proceeded to prosecute the native Americans at fault and the (BLM) , contractor. The animals were held for approximately one year (at great expense) since they were evidence. They were finally documented for the trial and allowed to go for adoption. As relayed from the U.S. Attorney in Del Rio Texas, a truly disgusting fact is that some of those very same horses ended up at that same sale yard and did eventually go to slaughter after all that attempt to save them.

The results were that the contractor and pilot plead guilty to the crime and received probation and this same individual is currently under contract to the Bureau to gather horses. The Duckwater Indians on the other hand claimed they were forced to do this gather to protect forage on public lands for their cattle. They claimed the Bureau was not doing their job in protecting the habitat for their use by gathering excess horses even though a gather had just been completed. They were found not guilty.

It is important to note that the Duckwaters have not paid a grazing fee for many years yet they are allowed to exercise a grazing privilege in areas used in common with wild horses. It should also be noted that there are approximately 20 other permittees in Nevada, that continue to enjoy a grazing privilege on public lands in Nevada claiming that the Federal Government has neither the jurisdiction nor the authority to charge them a fee to use the public lands. The Bureau has not impounded any of the animals and they continue to graze in trespass.

Response: Ely Field Office

The incident in question occurred in the Ely District. On July 26, 1990, the Ely District Wild Horse Specialist received an anonymous telephone call from a woman residing in Duckwater. She stated that the tribe was planning to gather wild horses near the Reservation and she didn't feel that they should be removing BLM wild horses. She did not elaborate further. This call was discussed with Ely District management immediately. BLM law enforcement was then notified and field checks by Ely District staff were made periodically to the area to look for any sign of

SUMMARY- DUCKWATER INDIAN INCIDENT

Commission:

- A. Native Americans illegally captured Wild horses on Public Lands;
- B. BLM continues to contract with a person a party to the illegal gathering;
- C. The Duckwater Tribe and others do not pay grazing fees, are in trespass, and the BLM refuses to impound livestock.

BLM Response:

- A. *Partially true. The Duckwater Indian Tribe had members indicted but none were found guilty.*
- B. *True. BLM contractor was involved in the incident and plead guilty to a misdemeanor charge. BLM contracting stated that because it was a misdemeanor the individual could not be barred from submitting bid proposals for BLM gather contracts.*
- C. *True. However the cases/actions are part of court actions, settlements, or a result of Department of Justice recommendations.*

illegal gather activities. No illegal activities were noted.

The details of the illegal gather that did occur and the shipment of wild horses to the slaughterhouse in Texas are generally as stated in the January 28, 1997 letter from the Commission, with a few exceptions. The horses were removed from the Monte Cristo HMA, not Sand Springs as the letter states. The Ely District did not know full well the intent of the tribe. The illegal capture of 117 wild horses occurred on August 11 and 12, 1990 (Saturday and Sunday). The Ely District did not know of the gather until the Duckwater Shoshone Tribal Chairman telephoned the Egan Resource Area Manager to tell him of about 100 wild horses in a pen outside his office. BLM law enforcement had already shut down the gather. The 117

wild horses were shipped to Texas for slaughter on Monday, August 13, 1990, where they were intercepted and impounded as stated. The Ely District had no involvement in the matter; it was handled entirely by BLM law enforcement and the Nevada State Office.

Indictments were handed down to individual members of the Shoshone Nation, and a trial was held in Federal District Court from September 28, 1992 through October 1, 1992. The defendants invoked the "Necessity Defense" and they were found "Not Guilty" by Lawrence R. Leavitt, United States Magistrate Judge, by order dated January 4, 1993 (Order No. CR-S-92-064-LRL). The contractor and pilot were not indicted in the above case. They did plead guilty to lesser charges, were each fined (amount not known), and may (not known) have received probation as the Commission states.

The Commission states a gather had just been completed there by BLM. This is not correct. The Monte Cristo herd had been last gathered in July 1985, five years earlier. The Sand Springs East HMA had been gathered three years before the illegal gather, in July 1987. Both HMAs lie adjacent to Duckwater.

The final statement regarding Duckwater grazing privileges/fees is true. This issue is currently in the settlement process. The issue is related to the Western Shoshone's 1979 claim of land ownership. A 1982 U.S. Department of the Interior Office of Hearings and Appeals settlement provided for the Duckwater Stockmen's Association to place the grazing fees in an escrow account until such time as the Western Shoshone claims to the lands in the Duckwater Allotment is resolved.

D) HIGH GRADING

Commission Statement: Blue Wing/Seven Troughs- Winnemucca District

*High grading NPO NPO had written a policy allowing adoptions at trap sites in Nevada which the State Director had signed. After the incidents at Blue Wing and Roberts Mountain we questioned NPO.

When NPO was questioned about this the reply was that, unknowingly to the public, NPO wrote a policy for the State Directors signature, allowing for adoptions at the trap site (see attached Exhibit 4). Approximately 5 months post gather is when we learned of this new policy. We asked why this policy was not told to the public or the groups to allow them to "cash in" on this new form of "High grading" wild horses. This was kept from the wild horse interest groups and the public for obvious reasons. When asked why again, the reply was that they "didn't want the public to know because could you imagine what would happen at the site if the public knew. We wouldn't be able to handle the public showing up with that many trucks and trailers, we wouldn't be able to conduct the gather, and then there's the safety issue as well." We accused the NPO of creating this policy for Bureau employees, capture crew, and the local rancher at the site to be able to "high-grade horses before the public ever knew. At this specific capture many horses were adopted to the Bureau personnel, the rancher took 6, and the capture crew adopted as well. Some of these animals were even delivered to peoples homes by the Bureau personnel. According to the policy memo ... no horses were to ever leave Bureau possession without prior branding and signed PMAC'S. As of 6 months after the gather, those horses, some 13 having left the state of Nevada, had still not been freeze branded by the Bureau.

When NPO was asked about allowing this to continue with no public announcement of the new adoption procedure which promoted High grading ... the response was "what wrong with that!" Of course this was not a policy for Kiger or Pryor horses... only Nevada horses in Nevada trap sites. They did not want to rescind the policy. We were forced to threaten to notify the public immediately of the availability of adoption of horses at trap sites to make this fair to the public and not just Bureau personnel.

Fully realizing the ramifications of 50 trucks and horse trailers showing up at any site with an anxious public storming the corrals was enough for the NPO to immediately withdraw the policy. This was not done however, in enough time for the Roberts Mountain horses to be victimized, please read "Roberts Mountain HMA".

Response: Winnemucca Field Office

At the time of the Blue Wing/Seven Troughs Wild Horse and Burro gather, Instruction Memorandum No. NV-95-025 allowed for the adoption of wild horses and burros at trap sites. There were 16 burros and 5 wild horses adopted at the trap site. Applications for adoption, and Private Maintenance and Care Agreements were completed for each and every animal adopted during the gather. The contractor and contractors family adopted 4 burros and 2 horses (mare and foal) that were transported to Utah after the gather was completed. As stated in the contract diaries, the animals were branded and the applications for adoption and Private Maintenance and Care Agreements were completed on February 25, 1995. These were the only animals adopted during the gather that were transported out of state, not 13 as stated in the letter.

For the remaining animals, 1 burro died a month after adoption, and the applications for adoption, and Private Maintenance and Care Agreements were completed on the remaining 11 burros and 3 horses by June 9, 1995. All of these animals were branded, except for 7 burros.

Of the 2,272 wild horses and 561 burros captured, the following wild horses and burros were adopted on site:

Contractor*	2 horses and 6 burros
BLM Employees	1 horse and 2 burros
Public	2 horses and 8 burros

* includes the immediate family of the contractor and the contractors employees.

Commission Statement: Roberts Mountain Gather*- Battle Mountain District Office

As stated above, the adoption policy at trap sites was still in place for the Battle Mountain, Roberts Mountain HMA gather. Approximately 60 horses were adopted to Bureau personnel, the rancher, and the gather contractor. Again, this was not for the public but for internal Bureau personnel only!

When the Commission learned of the discrepancy in numbers from horses gathered to horses reaching Palomino Valley Corrals we called the District. In talking to the wild horse and burro specialist from the gather, I informed him that "I would like to get some information on horses adopted out at the recent gather." He told me "I don't have to talk to you or give you any information." I informed him that as the State of Nevada and an interested party that he was responsible to answer me, and if he didn't want to freely give me the information I would call his District Manager and the State Director. He quickly changed his attitude and begrudgingly answered my questions. I asked him how many animals had been adopted out at the trap site and how many Bureau personnel adopted horses. He told me horses adopted by the permittee, horses adopted by the contractor, and NO horses had been adopted by Bureau personnel. We later found out that 16 horses had been adopted by 4 Bureau personnel from the District but they had put all of the horses in their wives names. AGAIN, none of these horses had been freeze branded as of transfer of possession. It is the Bureau's responsibility to determine the status of a horse at a gather under previously established criteria in an MOU with the State of Nevada. That criterion also matches the States determination of unbranded but domestic horses, indication of prior domesticity, ie: saddle marks, roached mane, horse shoes, gelding, etc. This is to determine if a horse that may have wandered in with a wild horse herd is a "estrays" and not a wild horse. This is especially necessary when horses wander outside of the HMA. Also, this is critical since the Bureau does not always adhere to their own policy and regulations and continues to license domestic horses in areas inhabited by wild horses We have found this in

SUMMARY- BLUE WING/SEVEN TROUGHS

Commission:

- A. BLM allowed personnel and other individuals to high-grade animals.
- B. Some horses may have been taken into private use and were never freeze marked.

BLM Response:

- A. Allegation's true. Nevada has issued policy (IM-NV-96-004) prohibiting personnel from allowing high grading, employees must use the same procedures as the public.
- B. Allegation is untrue. All horses adopted were properly freeze marked and had the proper paperwork completed.

approximately five areas in Nevada over the past 7 years. Upon notification, we learned that on this particular gather the Bureau gave 16 horses to the State Brand Inspector who took them to the local sale yard. We sent a representative to the sale yard to inspect the horses, they were beaten up pretty badly, scarred, and bleeding. There was not one indication on those 16 animals that would flag them as being domestic. We called both the Associate State Director and the State Brand Division requesting immediate review of those animals and requested that they be held and not sold until review could be made. We were promised by the Associate State Director in Nevada that the animals would not be sold and that further review would be made to assure the "classification" of the animals. That assurance was given to us on Wednesday morning, the weekly sales were on Wednesday evening. If in fact they would be domestic but gathered with the wild horses they would be able to be sold the next week. All we had asked is that proof could be established to assure they were not wild horses. We also called the Humane Society as to the condition of these animals and no medical treatment. On Thursday morning we were informed..OOPS, sorry, the animals were accidentally sold the previous evening...evidence gone! This was never turned over to law enforcement.

Response: Battle Mountain Field Office

The statement that 60 horses were adopted at the trap site are not accurate. The Horse Specialist in charge of the Roberts Mountain Gather adopted 32 wild horses to local citizens, and Bureau personnel on a first come first served basis in compliance with Bureau policy. Four of the 32 were adopted to a local rancher, nine of the 32 were adopted to Bureau personnel and/or their families, the rest were adopted to local and Nevada citizens. Ms Barcomb was notified of these figures quite some time ago. The account of the conversation between Ms. Barcomb and the Horse Specialist as stated in the first paragraph is not correct. No such exchange took place.

The statement that the Bureau gave the State Brand Inspector 16 horses is not correct. The State Brand Inspector determined several animals to be estrays under the laws of the state of Nevada. Many of these animals were branded, had halters or remnants of halters still on them or were offspring still accompanying branded animals. The animals were gathered outside the HMA boundary and did not match the color and characteristics of the wild horses in the area.

Several of the animals were gentle. The statement "There was not one indication on those 16 animals that would flag them as being domestic" is not correct. The State of Nevada brand inspection certificates # 3703-23 and 3703-24 will certify the brands and Bureau's position. The statement that the animals were beaten up pretty badly, scarred and bleeding implies that BLM abused the animals. This is not true.

Commission Statement: Goldfield 1996- Battle Mountain District

* Another incident from this gather, the adoption at trap sites policy had been rescinded at least one year prior to this gather. As I drove in that morning a BLM horse trailer was pulling out and I heard noises coming from the trailer and saw something small and white. I asked the horse specialist what was in the trailer..her reply... "what trailer." I said "obviously the one that just left with an animal in it." She replied "that's nothing, just a leppie foal that I found a home or in Tonopah.

As it turned out I found another "leppie foal hidden in a back corral. What we actually found was that the specialist personally picked three albino baby burros, which are very valuable, took them from their mothers to "highgrade" and give them to personal friends. We wonder why a small brown foal that was a leppie and critical in the corral that day could not be placed in a leppie home but three albino burros could. That small brown foal by the way died.

I took pictures to document the fact that the baby burro in the back corral was not truly a leppie foal. The foal was more than old enough to be separated from its mother, was in healthy condition, and was purposely taken

SUMMARY- ROBERTS MOUNTAIN GATHER

Commission:

- A. BLM conspired with the State Brand Inspector to put animals up for sale.
- B. BLM allowed personnel and other individuals to high-grade animals.

BLM Response:

- A. Allegation is untrue;
- B. Allegation's true. BLM has issued policy prohibiting personnel from allowing High grading.

from its mother for the purposes of "High grading" by the Bureau staff to adopt that "valuable" foal to a friend.

Response: Battle Mountain Field Office

Any animals that were considered to be orphaned and needing special care were placed in private care to individuals who expressed an interest in caring for such an animal. No leppies were hidden at the trap site and allowed to die. We can not confirm or deny the allegation about the Wild Horse and Burro Specialist taking two white baby burros from their mothers and giving them to friends. We can confirm that one white baby burro that was a leppy was adopted at the trap site and the adopters were not friends of the Wild Horse and Burro Specialist.

SUMMARY- GOLDFIELD 1996

Commission:
A. BLM allowed personnel to high-grade animals.

BLM Response:
A. *Untrue, or cannot be confirmed.*

Response: Nevada State Office

There is a conflict with the allegation. The second paragraph states that there was one leppie foal hidden in a back corral. The foal was supposedly in "critical" condition and eventually dies. Yet the third paragraph states that the leppie was actually a weanling in healthy condition. We cannot confirm the condition of the foal.

Commission Statement: Palomino Valley High Grading- Nevada State Office

*On another occasion I was walking in the back corral area after a gather of Lahontan horses approximately 2 years ago, which are typically paint horses. There was an entire corral hidden away from the public containing hand picked paint horses which the Nevada Associate Director had chosen to be separated. These were exceptional animals. When I questioned why these animals were separated and where they were going... I was told that the Associate Director had hand selected to be 1) shipped to his brother in Utah for a "special adoption" or 2) they were being shipped to his brother in- Utah and were going to be released in herd areas in Utah to upgrade the herd. Neither one of the two options is legal or ethical and at Bureau expense on top of it. We don't know the final disposition of those animals.

There were many allegations of the State Director, Associate State Director, and the Supervisor at the Palomino Valley Corrals of capitalizing on the system and adopting "special" horses. They were also having week-end "rodeos" out at the corrals using the areas for and the facilities for training their personal horses which with that training made them much more valuable for re-sale. This was done on Bureau time and at Bureau expense for feeding, caring, and training the horses.

Response: Utah State Office

In March of 1993, we contacted Bob Sellers about the possibility of obtaining some paint mares for introduction into a HMA in Utah. On the ground observations and discussions with our local wild horse interest groups, had indicated the need for consideration of upgrading the size and colors of the wild horses in the herd unit.

Mr. Sellers said that he would look over animals as they came into the corrals and see what might become available. We agreed with him, that wild horses under consideration should not be in the adoption system. He would look for animals that

SUMMARY- PALOMINO VALLEY HIGH GRADING- NSO

Commission:
A. BLM may have shipped animals to an HMA in other states.
B. BLM allowed personnel and other individuals to high-grade animals and some personnel used government facilities for personal benefit.

BLM Response:
A. *True. Introducing animals into other herd areas is not unethical or illegal. The action must be addressed in the Herd Management Area Plan and an Environmental Assessment;*
B. *Allegation's true. BLM has issued policy prohibiting personnel from allowing High grading. It should be noted that both Ms. Barcomb and Ms. Lappin have adopted animals through the previously allowed High grading system.*

were scheduled to be returned to herd areas.

A couple of weeks later Mr. Sellers informed us that K. Lynn Bennett had looked over a number of horses over the weekend and located some older paint mares that had outstanding color, size and conformation. He agreed to hold these animals for us for introduction into the Cedar Mountain HMA.

On April 6, 1993 we shipped 9 of the 12 paint mares held for us, freeze mark numbers 87539814, 87539827, 88539935, 87539955, 88539963, 83539964, 78539965, 83539966, 78539967. The horses were released on April 8, 1993, after being held for a couple of days in a portable corral which had been constructed around the overflow pond from Henry Spring on the east side of the Cedar Mountains.

Three mares were too heavy with foal to ship and were shipped after foaling. The mares were hauled to Utah by volunteers who were interested in wild horses on Cedar Mountain. These mares: 87539734, 87538780, and 87539781 were held on water at Cochrane Spring for a few days and released on April 22, 1993.

All of the mares have been seen during the past 4 years and are in good condition. They are now located in a number of different bands and are generally found within 5 miles of the location that they were released from. The influence of the mares has grown greatly since the time that they were released. Many of them will be having their 3rd or 4th foal this spring since being released. Some of the female foals of 1993 will be having their first foal this year.

Response: National Program Office

Since issuance of the policy prohibiting BLM personnel to pre-select animals for adoption, no highgrading occurred at PVC. In the past, BLM employees were allowed to select animals for adoption. The majority of these animals were used by the employees of PVC for training and use at the facility. This was an acceptable practice of the time and preselection was extended to non-BLM employees at times, including members of wild horse and burro advocacy groups, veterinarians, contractors, and the public. New policy prohibits all of these preselections.

The previous Nevada State Director and Associate State Director visited PVC many times after work hours and on weekends. They generally assisted in the vaccinations and sorting animals for shipment. Roping was, and continues, to be used only when other options for capturing animals in the corrals would not be feasible. It should be noted that both Ms. Barcomb and Ms. Lappin have adopted animals through the previously allowed high grading system.

Commission Statement: Palomino Valley Adoption Center- National Program Office

We believe the BLM has set up Palomino Valley Corrals, the Nevada Holding Facility for disaster to strike. It is woefully understaffed, and the few employees, while devoted to the welfare of the animals, can only do so much. One issue, the premature separation of foals from mares, we believe is because of the inability to monitor with so few employees. It is understandable and supportable that foals be separated when the health of the mare is in question, or whether the foal is receiving adequate nutrition; however, many are separated because after they get to the holding facility the mares refuse to "mother-up." If mares and foals were marked, even by a color code or numerical code at the trap site, they Palomino could mother-up the animals. Since the animals must be put through a chute at the trap site for ageing and sexing, it is just as easy to identify those pairs, so that Palomino doesn't have an "additional" problem to handle.

We also believe that the contracting changes for the veterinarian services does not allow the selection of unique or experienced veterinarians that BLM requires.

Response: National Program Office

Foals are not being weaned too early as alleged. At times, it is difficult to get a mare to accept her foal. The trauma of the gather and new surroundings sometimes results in mares abandoning their foals. The suggestion of marking mares and foals as pairs is already being tried. The Districts and contractors are working hard to keep animals properly paired at the trap site. Also, animals are paired when they first arrive at PVC and the veterinarian has final say on which animals should be weaned and those which may not survive

SUMMARY- PALOMINO VALLEY ADOPTION CENTER- NPO

Commission:

- a. BLM fails to provide a system whereby foals and mares are not separated.
- b. BLM's contracting procedures do not allow for selecting a experienced veterinarian for PVC.

BLM Response:

- a. *Allegation is partially true. Districts do sort animals and attempt to pair the mares with their foals. Marking systems are used by some offices, and documentation includes comments about individual animals;*
- b. *BLM's contracting procedures provide for an extensive review of each bidder's qualifications. The veterinarians qualifications are considered along with the financial requirements.*

the weaning process.

Since the feeding contract, the two animal caretakers are no longer feeding in the mornings, so they are doing more maintenance duties, graining foals, cleaning water trough on a weekly, and or daily routine. There is always someone on-site to inspect the horses everyday.

The new veterinarian contract is specifically written to allow for technical evaluations. Before these changes, the contract was awarded strictly on low bid. With the new Request for Proposals contract, a team does an evaluation of experience, qualifications, and technical procedures along with price. This provides for the selection of experienced, and competent veterinarian skills at the best price. However, in the last award, there were only two bidders, and price did play a major roll. One bid was extremely high and the contractor selected presented prices comparable with the government estimates.

Response: Winnemucca Field Office

The allegation that mares and foals are separated at Palomino Valley because they are not identified and marked in the field is not true of the Winnemucca District. We spend time pairing up mares and foals that are too young to wean. These pairs are then marked with grease paint and specifically identified on the shipping forms. Shipping records held at PVC or discussions with PVC personnel will verify these points.

Commission Statement: Summary

This report has been prepared as a compilation of questionable practices in Nevada that have continued to erode away at the public's trust in the Bureau horse program. We are not interested in grandstanding and drawing media attention to these issues. More so we strive to bring these continuing issues to your attention in hopes of correcting the problems for a better more credible horse program that we can all be proud of. The program lacks credibility which is so necessary for the public's trust. We are willing to work with you in any way necessary to help correct these problems.

We have left out the names of the individuals involved. We have named the positions that were directly involved in the issues since the incidents are more important than the individual. However, it is sadly noted by us that most of the incidents quoted above are by the same individuals repeatedly abusing the program.

We do want to thank those responsible for pulling together the Task Force, including those that agreed to serve. The purpose behind this report is not to hang people but identify issues that can be addressed through managers, policies, instruction memorandums, and guidance manuals. Again, our purpose is to tell you why there is no trust left with the advocacy groups; what has happened and what can be done about it. In each incident we do not know whether the person that actually implemented the deed is the one who actually made the decision to follow that course of action.

We want policies that bring about accountability once policies are on board. Frankly, between not having a State Director between Spang and Templeton for a long period; not having a State Director between Templeton and Morgan for a long period, and having all the policies designed over the years evaporate from the time Spang left and Morgan arrived, contributed to this chaos. The National Program Office absorbed the State of Nevada's BLM wild horse specialist which left no specialist to monitor the Districts. The Chief was then moved to the south, and the previous wild horse specialist was left to handle both national and state issues, resulting in neither position getting the attention needed. When Washington, D. C. relegated resource decisions to the District level, they emasculated, to a large extent, what influence the State Director had with the Districts. Range management decisions should be at the local level, but not if they conflict with national policies, laws, or regulations, ie NEPA and FLPMA requirements. It is the parameters of policies, regulations, IM's, and guidelines that keep recalcitrant employees in line with the laws they are sworn to uphold.

Commission Statement: Solutions

1) Address the issues of stocking level formulas (all formulas should use as actual), paper cows vs actual use for horses'

Response: Nevada State Office

Under the current grazing regulations, field office managers have the authority to make reductions from actual use. In addition, the BLM organized a task group to address the issue in 1994. The executive Director of the Commission was a member of that Task Group. The report was published in 1996.

2) Determine proper conversion rates, ie cow/calve = 1 AUM, mare/foal = 1 AUM. If change is needed bring consistency among all users.

Response: Nevada State Office

Livestock conversions vary based on topography, suitability, vegetation, available forage, the kind or class of animal involved, and other factors. The 5 sheep:1 cow ratio is considered a "rule of thumb" and can vary based on the above stated factors.

3) Enforce policies that reflect compliance with NEPA.

Response: Nevada State Office

Virtually all actions have complied with NEPA requirements. Where there has been non-compliance, managers and specialists alike have received reprimands, reassigned to other duties, or retired.

4) Provide training for horses specialists to include but not limited to population dynamics.

Response: Nevada State Office

Agree! Training in many aspects of the program have been deferred for years. Technical training is needed. The NPO coordinated a training session for most of the Nevada Wild Horse and Burro specialists in August 1996. Wyoming held a training session in October 1996.

5) Prohibit management actions that design a) release animals into other areas without monitoring that supports forage and water availability, and b) dumping of excess animals to foreign herd areas.

Response: Nevada State Office

Nevada agrees with item a) and monitors release locations regularly. Nevada disagrees with b) BLM does not "dump" horses. We release horses into new habitat at water holes only when HMAPs and associated environmental documents are approved. Usually the horses are held 24-48 hours at the new location before release. Introducing "new blood" into herds to improve vigor, vitality, or phenotypic characteristics is an effective management tool (option) the BLM must retain.

6) Develop emergency criteria and protocols consistent with land use planning and federal regulations.

Response: Nevada State Office

Nevada will rediscuss emergency criteria and protocols in Fiscal Year 1997 and develop policy where necessary.

7) Eliminate all releases or adoption of animals at capture sites with an exception for "leppy foals" or injured animals. Prohibit any animal from leaving the State without a freeze brand.

Response: Nevada State Office

Release of animals back to the range, consistent with the gather plan and the Herd Management Area Plan, should continue. Adoption of animals at capture sites has been suspended in Nevada since October 30, 1995. However, in other states, on-site adoptions are still allowed and should continue as long as their adoption process complies with National policy. Nevada may clarify it's on-site adoption policy to require a two week, nationwide public notice be given in a National news release prior to the adoption event. On-site adoptions save the BLM approximately \$500.00-\$700.00 per animal when compared to average National costs.

8) Require an authorized BLM employee be present at trap sites during all capture operations to assure policy and decision compliance.

Response: Nevada State Office

This is the existing policy.

9) Investigate the inappropriate use of weight averaging and yield indexing that manipulates the data and stocking levels. Review a percentage of plans that use these techniques and compare those with the actual use formulas.

Response: Nevada State Office

Weight averaging and yield indexing are useful analytical tools and are accepted by the range science academic community. These methods appear in Nationally accepted BLM technical references and are only two of many analysis methods discussed.

A number of solutions have been recommended to help resolve some of the alleged issues and problems. We appreciate the concern and the time taken by the authors to resolve problems in the wild horse and burro program. The Nevada staff recommends and is willing to meet and discuss the issues and recommendations in an effort to improve the program wherever possible.

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2. Spruce Interim Allotment Management Plan, Resource Concepts Inc.,
3. EA for a Change-in-kind of Livestock and Implementation of the Spruce Interim AMP, BLM,
4. Finding of No Significant Impact/Decision Record- Change-in-kind of Livestock, BLM,
5. Spruce Allotment Evaluation, BLM,
6. Wells RMP Wild Horse Amendment, BLM,
7. Notice of Intent- Wells RMP Wild Horse Amendment, BLM,
8. News Release Wells RMP Wild Horse Amendment, BLM,
9. Full Force and Effect Decision- Meadow Valley, BLM
10. **Report on Actions Leading to Appeal and Answers to Allegations in Appeals NV-050-94-01, 02, and 03 of the Meadow Valley Mountain Herd Management Area Emergency Removal Plan and Environmental Assessment Finding of No Significant Impact and Record of Decision No. NV-055-93-31**, BLM, 1994, 12pp.
11. **Report on Actions Leading to Appeal and Answers to Allegations in Appeals NV-050-94-01, 02, and 03 of the Grazing Decisions for the Henrie Complex Allotment**, BLM, 1994, 9pp.
12. **Full Force and Effect Regulations** (43 CFR 4770.3)
13. Las Vegas District Fire Rehabilitation Plan and E.A., BLM,
14. **Buffalo Hills Final Multiple Use Decision**, BLM, 1993, 2pp.
15. Buffalo Hills Allotment Evaluation, BLM,
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26. **Nellis Air Force Base Natural Resource Plan**, BLM, 1992,
27. Nevada Wild Horse Range Management Plan
28. Nevada Wild Horse Range Gather Plan and EA- 1991
29. **Animal Protection Institute of America (IBLA 88-591, 88-638, 88-648, 88-679)**, Interior Board of Land Appeals, 1989, 16pp.
30. **Pre-capture Evaluation Summary for Nellis Air Force Range Wild Horse Removal**, BLM, 1991, 16pp.
31. Nevada Wild Horse Range Gather Plan and EA- January 1996
32. **Public Involvement Process . . . (IM NV-94-073)**, BLM, 1994. 7pp.
33. Authorization to Gather Claimed Horses- Danns
34. Elko Resource Management Plan BLM, 1987
35. U.S. District Court Ruling June 6, 1991
36. **Strategic Plan for Management of Wild Horses and Burros on Public Land**, BLM, 1992
37. **Policy on Selective Removal of Wild Horses (IM-93-30)**, BLM, 1992. 3pp.
38. **BLM Policy- Destruction of WH&Bs . . . (.Manual 4730)**. BLM, 1988, 7pp.
39. **Blue Wing/Seven Troughs HMA Final Multiple Use Decision**, BLM, 1994, 2pp.

40. BLM Policy- Re: Roping
41. **Nevada Policy- Adoption of Wild Horses and Burros at Gather Sites (IM NV-95-025)**, BLM, 1995, 2pp.
42. **Nevada Policy- BLM Employees Adopting Wild Horses and Burros (IM NV-96-004)**, BLM, 1995, 2pp.
43. **Blue Wing/Seven Troughs HMA Removal Plan**, BLM, 1994, 7pp.

44. BlueWing/Seven Troughs Allotment Evaluation, BLM,
45. **BlueWing/Seven Troughs Court Order (Stipulated Agreement)**, U.S. District Court, 1994, 2pp.
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48. **Letter (From Commission to Winnemucca District Office)**, Nevada Commission for the Preservation of Wild Horses, 1995, 3pp.
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54. State of Nevada Brand Inspection Certificates # 3703-23 and 3703-24- (NV06)

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2. **October 1992 Census of Buffalo Hills Planning Unit (Memorandum)**, BLM, 1993, 4pp.
3. **Fox and Lake Range HMA Census (Memorandum)**, BLM, 1993, 3pp.
4. **Letter (Rodeo Creek Allotment)**, BLM, 1993, 3pp.
5. **Letter (BlueWing/Seven Troughs Census)**, BLM, 1995, 1p.
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12. **Memorandum (Buffalo Hills Frog Creek Fence)**, BLM, 1995, 2pp.
12. **Memorandum (Buffalo Hills Range Condition)**, BLM, 1978, 6pp.
13. **Memorandum (Buffalo Hills Horse Condition)**, BLM, 1978, 2pp.
13. **Memorandum (Buffalo Hills Horse Condition)**, BLM, 1986, 4pp.