



**WHITE**

**PAPER**

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***HORSES TO  
SLAUGHTER***

**Anatomy of a Coverup  
within the**

**Wild Horse & Burro Program  
of the  
Bureau of Land Management**

April 1997

## About PEER

**Public Employees for Environmental Responsibility (PEER)** is an association of resource managers, scientists, biologists, law enforcement officials and other government professionals committed to upholding the public trust through responsible management of the nation's environment and natural resources.

PEER advocates sustainable management of public resources, promotes enforcement of environmental protection laws, and seeks to be a catalyst for supporting professional integrity and promoting environmental ethics in government agencies.

PEER provides public employees committed to ecologically responsible management with a credible voice for expressing their concerns.

PEER's objectives are to:

1. **Organize** a strong base of support among employees with local, state and federal resource management agencies;
2. **Inform** the administration, Congress, state officials, the media and the public about substantive issues of concern to PEER members;
3. **Defend** and strengthen the legal rights of public employees who speak out about issues of environmental management; and
4. **Monitor** land management and environmental protection agencies.

PEER recognizes the invaluable role that government employees play as defenders of the environment and stewards of our natural resources. PEER supports resource professionals who advocate environmental protection in a responsible, professional manner.

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## About This Report

This PEER white paper documents the institutional complicity of the Department of Interior in the continuing slaughter of federally protected wild horses.

This report is not as much about horses as it is about human integrity. The documents in this report detail the inability of the Department of Interior to police its own misconduct. Consequently, the failings reported are not principally those of the Wild Horse & Burro program but are those of the Bureau of Land Management (BLM) Law Enforcement program, the Department of Interior Inspector General, the Office of the Solicitor and the Secretary of Interior, himself.

This white paper was prepared by current and former Special Agents and investigators

within the BLM. Several were participants or eyewitnesses to the events described in this report. These individuals represent more than a century of law enforcement experience.

The authors of this report remain anonymous in order to avoid further retaliation from the Department of Interior and because they do not want the Department of Interior to distract attention from the subject matter of this white paper. The authors strongly feel the documents displayed within this report speak for themselves and do not depend upon the identity of the publisher.

PEER is proud to serve conscientious public employees who have dedicated their careers to faithful execution of the laws that protect our public lands and the resources therein.

**Jeff DeBonis**  
**PEER Executive Director**

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# BLM's Wild Horse & Burro Program

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INTERNATIONAL SOCIETY FOR THE PROTECTION OF MUSTANGS & BURROS (ISPMB)



White Paper

## I. Executive Summary

The Bureau of Land Management (BLM) within the Department of Interior is the agency mandated by law "to protect and manage wild free-roaming horses...as components of the public lands." Yet, the BLM has tolerated and in some instances facilitated the routine and illegal trafficking of wild horses to slaughter. The agency has obstructed efforts by its own law enforcement officers to expose commercial theft of wild horses, fraudulent adoption schemes and fictitious "sanctuary" herds not only to avoid embarrassment but also to maintain the flow of horses off the range.

Despite legal mandates, political pressure from the livestock industry creates a powerful institutional incentive within BLM to remove wild horses from the range whenever and however possible. The fierce competition for forage on overgrazed public rangelands combined with the lucrative market for horsemeat creates an irresistible economic opportunity for theft and fraud.

In order to remove thousands of mustangs deemed "excess," BLM has turned a blind eye to a variety of transparent mechanisms, some involving its own employees and contractors, to place significant numbers of wild horses into the stream of commerce. In an effort to square the requirements of law with the reality of the trade in wild horses, the agency has embraced the fiction that very few horses under its legal jurisdiction are commercially exploited. In February of 1997, the agency issued a public statement that less than one percent of wild horses go to slaughter yet their own employees reported several wild horses going to slaughter during the very week the agency prepared its disclaimer.

The BLM began a crackdown on wild horse-to-slaughter operations in 1993 under former Director Jim Baca. BLM investigators began compiling evidence documenting:

- theft of wild horses during BLM sponsored "gathers" or captures;
- "black booking" or phony double branding of horses so that duplicate branded horses

could disappear without a paper trail;

- manipulation of wild horse adoptions where one person holds the proxies for a group of supposedly separate adopters and the horses all end up at slaughter;

- use of satellite ranches to hold horses for days or weeks as stopping points on the way to slaughter;

- fraudulent use of wild horse sanctuaries—ranches subsidized by the federal government to care for unadoptable wild horses deemed excess and removed from the range—as fronts for commercial exploitation.

Baca's campaign on behalf of wild horse protection worried top Interior officials and, according to Baca, played a major role in his abrupt removal from office in 1994 by Interior Secretary Bruce Babbitt.

One investigation backed by Baca had already been accepted for prosecution by the U.S. Attorney's Office in the Western District of Texas by the time he had left office. This investigation, developed by law enforcement agents from BLM New Mexico, centered around the direct participation of BLM employees and contractors selling wild horses for slaughter with the knowledge and approval of BLM managers. Their scheme involved the use of satellite ranches and horse sanctuaries to hide the horses for profit operation.

One particularly troubling aspect of this investigation was the apparent obstruction and witness tampering by BLM managers. In some instances, BLM officials warned suspects of impending search warrants and the revealed the identity of undercover investigators.

In Baca's absence, the Department of Interior began a campaign to shut down the U.S. Attorney's investigation although a grand jury had already been convened to hear evidence in the case. Using lawyers from the Interior Solicitor's Office and the agency's civil legal representatives in the Department of Justice, pressure was brought upon the U.S. Attorney to

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limit the scope of the investigation to the actions of low level BLM employees.

Once the investigation was limited, BLM re-assigned investigators working on the case and began a campaign to drive these original investigators out of the agency altogether.

When agency lawyers were able to block execution of subpoenas it struck the death blow to the grand jury probe. The grand jury was cut off from the evidence it needed to continue.

Lawyers from the Department of Justice also urged that the case be dropped because the tolerance within BLM for the horse to slaughter trade was so widespread that it would be unfair to single out any one person for prosecution. Over the objections of the Assistant U.S. Attorney who led the case, the recommendations of the Justice Department lawyers was accepted and the grand jury was dismissed.

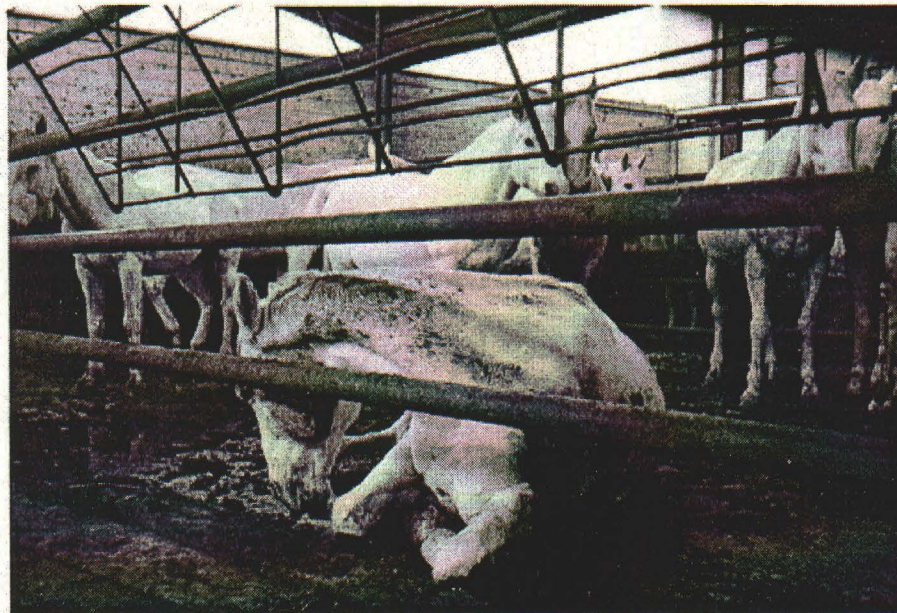
The Office of Inspector General (OIG) of the Department of Interior is supposed to be an independent monitor of agency actions but when it came to wild horses this watchdog ran for cover. The OIG answers to the Secretary of Interior and declined even a request for assistance from the Chief of BLM Law

Enforcement who acknowledged that his program lacked the independence to investigate its own agency.

In 1996, the Department of Justice itself asked OIG to review employee allegations of improprieties in connection with the termination of the Texas grand jury. In order to prevent another probe by any branch of the Department of Justice, OIG accepted the investigation it had been avoiding for three years.

Despite this new probe, OIG's reluctance to proceed continues. An OIG analyst counseled a former BLM Special Agent against sending documents to the watchdog agency saying, "Don't send the evidence here. They will lose it. This is not what they want to hear."

BLM has not had a permanent director since the departure of Jim Baca, more than three years earlier. The agency under interim leadership is simultaneously denying the existence of any problem while announcing multiple paper reforms to improve the performance of its Wild Horse & Burro program. The problems within BLM are not administrative or budgetary in nature. The problems stem from failure to faithfully execute the law regardless of political consequences.



HUMANE SOCIETY OF THE US (HSUS)

**HORSES GO TO "MARKET."** Downed horse lies in manure at Texas slaughterhouse. Horses often go without water or food during the trip from auction to the "killer plant."

## II. Law & Politics

### ***"Nobody Gives a Damn About These Horses"***

-BLM Deputy State Director

Mustang. The word conjures up the spirit of the Old West.

To most Americans, the mere mention of wild horses brings visions of free-roaming herds thundering off a mesa in a cloud of red dust. That image has captured the hearts of millions of Americans and led to the adoption of one of the strongest animal protection laws in the United States: the Wild Horse & Burro Act of 1971.

Wild horses on the western range are descendants of horses brought by Spanish explorers in the 16th century. Over time, the herds grew, supplemented by stock belonging to Indian tribes and settlers. By the beginning of the 20th century, an estimated 2 million horses roamed the American range.

### ***The Wild Horse & Burro Act of 1971***

As the West was settled, the wild horse herds diminished. Individuals captured wild horses for domestic use but many more were shot or otherwise cleared off the land to make room for sheep and cattle.

Documented abuse of wild horses and questionable removal methods led to the enactment in 1959 of federal legislation banning the use of aircraft, motor vehicles and poisoned water holes to trap or kill wild horses on federal lands. This law did little to stop the exploitation of wild horses or to stem the decline in the mustang population.

By 1970, authoritative estimates put the number of wild horses on federal rangelands below 10,000 leading many to question whether the free-roaming herds would soon be eradicated altogether.

Humane organizations and concerned individuals organized a groundswell of popular support for wild horses, producing a torrent of mail that helped persuade Congress in 1971 to pass the Wild Free-Roaming Horses and Burros Act. The law declared that the mustangs were "an integral part of the natural system of the public lands" and directed the Secretary of Interior to "protect and manage free-roaming horses and burros as components of the public lands."

The original act allowed the Secretary to humanely remove or destroy wild horses "when in his judgment such action is necessary to preserve and maintain the habitat in a suitable condition for continued use." Underlying this safety valve, however was the prohibition that the horse or its parts could not be sold "for any consideration, directly or indirectly." In other words, the traffic of wild horses to slaughter was to end.

### ***No Home on the Range - The Incentive to Remove Horses***

Deteriorating range conditions in the west led to the enactment of the Federal Land Policy and Management Act (FLPMA) in 1976. FLPMA charged the Bureau of Land Management (BLM) with managing federal rangeland using scientifically generated data to achieve both multiple use and sustained yield from those uses.



**"EXCESS" HORSES BEING REMOVED FROM THE RANGE.** A wild horse "gather" in Nevada.

# BLM's Wild Horse & Burro Program

BLM was also the agency within the Department of Interior delegated wild horse management responsibilities. Accordingly, BLM was to treat and balance the wild horses as part of the mix resource values.

The Rangeland Improvement Act of 1978 contained amendments to the Wild Horses and Burros Act to strengthen this new science-based regime of sustained multiple use. These amendments required BLM to develop an inventory of wild horses and determine the carrying capacity of their range. Carrying capacity refers to the available forage to support life on a sustained yield basis. BLM was directed to remove excess wild horses, with excess being defined as those animals whose removal is necessary to preserve a thriving ecological balance in that area.

The deteriorating range conditions also made public land ranchers increasingly supportive of wild horse removals. BLM has approximately 22,000 grazing allotments on the lands it manages. With a majority of this public rangeland still in poor or declining condition, decades after these range protection laws were enacted, the competition for limited forage remains fierce. Understandably, many of these ranchers with allotments within wild horse ranges prefer to see horses removed before any cattle allocations are reduced.

An August 1990 General Accounting Office (GAO) report entitled *Rangeland Management: Improvements Needed in Federal Wild Horse Program* concluded that BLM horse removal decisions are often not based upon "solid information concerning range carrying capacity or the impact of wild horses on range conditions." Rather, the report found BLM relying upon "recommendations from BLM advisory groups largely composed of livestock permittees."

Little has changed since the 1990 GAO report. Formal BLM determinations of wild horse range carrying capacities are as elusive as the creatures themselves. Wild horse management decisions continue to be made within the BLM on a political rather than a scientific basis and in the political balance between horse and cow, the cattle industry almost always wins.

## *The Adoption Pipeline*

In the last two decades BLM has declared tens of thousands of wild horses to be excess and ordered their removal from the range. While the law allows destruction of excess animals by BLM, the agency has been reluctant to have wild horses shot on the range. Consequently, the principal avenue for removal is the Adopt-A-Horse program which allows individuals to adopt up to four horses per year for \$125 each.

A backlog of excess horses led the BLM in 1984 to start a "fee-waiver" adoption program for horses determined unadoptable because of age or physical condition. Title to the horses would pass to the adopter after a one-year waiting period. This fee-waiver program was designed for large, group adopters and it immediately created controversy.

In November of 1987, the son of a North Dakota rancher told a local newspaper he planned to turn BLM horses he had adopted into "dog food...or steak for Europeans." These public remarks caused BLM to deny title to the horse but when the elder rancher disassociated himself from his son's statement, BLM issued him the titles in July of 1988. Father and son sold their horses for slaughter that fall.

In December of 1987, BLM learned through bankruptcy records that another adopter intended to sell his horses to a slaughter plant. Again, BLM threatened to withhold title. In a letter to the BLM, the adopter changed his story, stating he intended to use his horses for breeding purposes. In March of 1988, BLM issued title finding that the adopter's bankruptcy records did not constitute sufficient evidence of his intent. During the following eight months, the adopter sold 122 mustangs for slaughter.

GAO itself discovered that two group adopters had sold 678 wild horses to slaughter and possessed an additional 394 untitled horses. BLM made inquiries of the adopters and received assurances they did not intend to use the remaining horses for commercial purposes. BLM again issued title. Within weeks virtually all of the remaining horses were slaughtered.

In September 1988, BLM eliminated the fee-waiver program.



BLM then turned to a second means of disposing of excess horses considered unadoptable. It allowed certain private ranches to serve as sanctuaries with BLM paying for the upkeep of the animals. The amount of BLM sanctuary support was pegged at a "dollar and a dime a day" and was intended to ensure life-long care in a natural setting off the public range.

## *Title Passes*

As BLM struggled to find politically safe removal mechanisms, it kept confronting the issue of its responsibility to protect horses from commercial exploitation once the horses have left public lands.

The purpose of the Wild Horse & Burro Act is quite clear: "It is the policy of Congress that wild free-roaming horses and burros shall be protected from capture, branding, harassment or death..."

The act provides however that a wild horse "shall no longer be considered as falling within the purview of this Act..." upon death or "upon passage of title." That same section ends with a proviso: "Provided that no wild free-roaming horse or burro or its remains may be sold or transferred for consideration for processing into commercial products."

The appearance of these two seemingly conflicting provisions within the same section have

led to differing interpretations of the scope of the Act. Animal rights advocates and a number of private attorneys, as well as many BLM staff, read the law as saying that even where title has passed the animal may not be commercially exploited.

BLM, through the Department of Interior Department of Solicitor, adopts a different reading. As one Deputy Solicitor wrote to "extend the protections of the statute to former wild horses and burros after title has passed to a private owner, and that even if Congress had intended for such protections, the statute is so poorly worded as to make such intent unclear. It is my opinion, in order for the criminal provisions of the statute to be applied against someone, and for the BLM to extend its jurisdiction to private property, the law must be so clear as to be unambiguous."

BLM is so set in this interpretation that even the hint of a contrary view must be stamped out. One BLM Special Agent wrote a memo expressing the legal basis post-title protection viewpoint and his argument was accepted by a local Assistant United States Attorney. The acting BLM State Director reacted with alarm in requesting immediate contrary legal guidance from the Department of Interior:

"It has long been held, according to Bureau of Land Management policy, that our responsibility for the welfare of wild and free roaming horses and burros ends once title has passed. If AUSA [a reference to the local Assistant United States Attorney]'s opinion is correct, the BLM must change its fundamental approach to the protection of wild horses and burros."

Regardless of the outcome of the narrow legal question, the fundamental problem is that BLM's "fundamental approach" to enforcement has been "see no evil." The BLM has used the argument about post-title jurisdiction as an excuse to, in essence, cease enforcing the Act altogether.



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**A Survivor.** Wild horse named "Marley" shown eight months after his rescue from a slaughterhouse holding pen. This horse was abandoned after adoption.

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Many wild horses go to slaughter directly from the range, and thus title is not an issue. Others go to slaughter before title has passed. Even where title has passed, the adopter may face criminal penalties for knowingly making a false certification to an agency of the United States, in that each application for adoption requires the adopter to certify that he or she has no intent to commercially exploit the animal.

It has been pointed out that an adopter who later sells his horses to slaughter can argue

that he had no such intent at the time of adoption but later changed his mind. While that argument may technically be a defense, the circumstantial evidence in cases involving group adoptions, involving tens or hundreds of horses, followed quickly by shipment to slaughter would be so overwhelming that such a defense would not be credible.

The key point is the willingness, or lack thereof, of BLM to try to enforce the law even according to their limited interpretation of it.



**THE COUNT.** Wild horses awaiting processing by BLM contractors before transshipment.

ISPMB

## III. The Investigation

### *"Who's Going To Say It Ain't a Legitimate Horse?"*

*-Confidential Informant*

Law Enforcement officials within BLM answers directly to the organizational chain-of-command. This lack of independence for law enforcement becomes acutely problematic when investigations involve BLM operations. BLM is, in essence, called upon to investigate itself with predictable results.

The Wild Horse and Burro program is administered directly by BLM personnel. Law Enforcement investigations into possible violations of the Wild Horse & Burro Act often are viewed defensively by BLM program staff. In some instances that defensiveness translates into obstructive conduct. As one 1990 official BLM "Summary of Findings" following an investigation into abuse of wild horses concluded:

"Some Wild Horse & Burro (WH&B) personnel did influence the investigation. The IRT [Investigative Review Team from Law Enforcement] believes this interference was to prevent the discovery of the concealing of a material fact in the facility inspection report. Also, some WH&B personnel may have impeded the continuing investigation because they felt their judgment being questioned."

With the termination of the fee-waiver program in 1988, the wild horse market for "killer buyers" and other commercial users depended increasingly upon manipulation of Wild Horse & Burro program administration. This, in turn, increased tensions between Law Enforcement and the Wild Horse & Burro program and between Law Enforcement and the BLM chain-of-command.

### *How the Scams Work*

The following excerpts are taken from an interview between a BLM Special Agent and a confidential informant outlining how various wild horse-to-market schemes actually work. The informant, who did not want his identity known, agreed to speak candidly with the Spe-

cial Agent in the hope that "something would be done to straighten out" the Wild Horse & Burro program.

### **The Numbers Game**

**Agent:** *Let's say you run 65 head in down here. You've got the BLM guy up on a mesa somewhere and he is watching with binoculars, you go and tell him there's 50 head. Is that the way it works?*

**Informant:** *Right.*

**Agent:** *When in fact there's 65? What happens to that other 15 head?*

**Informant:** *The horses will all be taken down to load out. Fifty head will be left there. The excess horses will be transported immediately out of there.*

### **Satellite Ranches**

**Agent:** *What do you do with them then?*

**Informant:** *They'll go to satellite ranches around the country.*

**Agent:** *Explain that to me, satellite ranch.*

**Informant:** *Well, a satellite ranch is a number of ranches throughout the different areas that we catch horses that we distribute horses to, and it's just holding pens. They are paid so much money to just hold these horses for a certain time period until we come and pick them up again. Depending on what we want done with them, or where those horses are going, some of the horses may be hot-branded with different distributors' brands, or the horses will just be transported as slick.*

**Agent:** *Slick, no brand at all?*

**Informant:** *No brand at all.*

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**Agent:** *Where would they go, the slick?*

**Informant:** *Well, they'll – most of them will go to a distributor somewhere and in a time period be hot-branded, or some of them may just be distributed out as slicks, and let the general public, common ranchers, dude ranches, whatever, put their brands on them.*

*Some of them, if they're decent stock, will go to regular cattle ranches. Most of them, over a time period, will go to the killers, you know. They'll be sold to somebody and they'll find out, well, this son-of-a-bitch ain't worth a shit, so they go down the road.*

**Agent:** *What was the largest amount stolen – horses you saw stolen from the BLM at one time on one gather?*

**Informant:** *Around 60, 70 head.*

**Agent:** *How much would the contractor get for these 60, 70 head of horses?*

**Informant:** *Oh, he'll get anywhere from \$300 to \$500 a horse, depending on their size and what the horse looks like. If he's a well-built horse, he's going to get more. If he's a scrawny old nag, he ain't going to get as much.*

**Agent:** *Have you ever personally drove any of those horses to a satellite ranch?*

**Informant:** *More than once.*

**Agent:** *How does that work? You don't do it during working hours; how does it work?*

**Informant:** *It depends. Sometimes we do it during working hours, you know. If they're paid to be gone, that's when we go. Most of the time it's been at night, you know, after the counts been jimmed around, those horses are moved. And you strictly drive down there to a certain location, open a gate and dump those horses out in with a bunch of other horses.*

**Agent:** *At the satellite ranch?*

**Informant:** *At the satellite ranch.*

**Agent:** *The BLM guy goes home around 4:30, that's when you guys would load up the stolen horses, take them to the satellite ranch, and then be back by the next morning –*

**Informant:** *Yes, sir.*

**Agent:** *– business as usual?*

**Informant:** *Business as usual.*

## Black-Booking

**Agent:** *We talked about double-booking or black-booking, we call it, when there is more than one horse branded. Explain that operation to me.*

**Informant:** *Well, when we're branding horses –*

**Agent:** *Are we talking about freeze-branding horses for the BLM?*

**Informant:** *Right. We'll brand more than one horse with the same brand. And one set of paperwork is filled out legitimate, and they go with one horse. Now, depending on how many horses are wearing that same brand, where those other horses go. And a fake set of paperwork is usually made up for them, and they are sold as legitimate horses. The way it's setting – no one to contest it, you know.*

*If the agent does look those horses over, unless he goes way back in the books, you know, and finds the color of this horse and everything, he's not going to be able to know whether that horse has another horse running around wearing the same brand, you know. And very seldom will they go that far back into the books. They just check them. As long as the paperwork is legit, it's fine. Those horses are sold.*

**Agent:** *So you've seen guys brand two and three horses with the same brand*



*while the BLM people are standing right there watching?*

**Informant:** *Sure.*

**Agent:** *And they would take the paperwork then? So if they branded three horses with the same brand, they just stole two horses from the Government?*

**Informant:** *Yeah. Very easy to process.*

**Agent:** *And then those horses are taken to where?*

**Informant:** *Oh, they'll be taken to local sale barns or -*

**Agent:** *How quick?*

**Informant:** *Within a week.*

**Agent:** *Nobody asks any questions? What about brand inspectors, things like that?*

**Informant:** *Well, most brand inspectors are well known to the guys that are selling the horses. With a phone call, you can sell a damn horse sight unseen. You don't have any problem, I mean there's nobody there to contest it. Who's going to say that it ain't a legitimate horse?*

## Group Adoptions

**Agent:** *You were telling me another way to take horses to sales and things like that is through adoptions. Tell me about that.*

**Informant:** *Well, a lot of people go in there, you know. They'll have five or six good friends or relatives, or whatever, and they'll go in there and adopt five or six horses apiece, or whatever they can get. And then they'll turn right around and take them to the sale barn and sell them.*

**Agent:** *Before they get title?*

**Informant:** *Sure.*

**Agent:** *You've got personal knowledge of that, you've seen that happen?*

**Informant:** *Yeah.*

**Agent:** *More than once?*

**Informant:** *Oh, yeah.*

**Agent:** *Do you think the BLM's aware of that?*

**Informant:** *Well, I don't think they have any choice about it, you know, cause their manpower and stuff to check on these horses - I've never had horses checked yet, and I've traded a lot of damn wild horses. I've never ever had a horse checked. Never been even asked for paperwork on them, you know. So they go and adopt these damn horses, you know, take the son-of-a-guns home and keep them a day or two, and the next thing you know you sell them to a sale barn. The odds of you ever being checked are 100 to one.*

**Agent:** *You told me that you dealt in wild horses for years, how many of them have you ever seen titled?*

**Informant:** *I've never seen a title on a wild horse.*

**Agent:** *With years of working with wild horses, you've never seen a title on a wild horse?*

**Informant:** *Never seen one.*

**Agent:** *They're not needed then?*

**Informant:** *I've seen adoption papers, but I've never seen a horse titled. I've sold hundreds of the damn things and never had a title for one of them.*

## Pick of the Litter

**Agent:** *Do they always pick the better horses to steal?*

**Informant:** *Always. If there's any horses with any size, any weight to them there, or any looks at all, those*

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*horses are guaranteed to be the ones going.*

**Agent:** *It seems like most of what I've seen the common public have adopted are the old rangs, the smaller horses.*

**Informant:** *Well, 90 percent of the horses caught are just rangs, you know. But if there's a herd that they tap into that has some well-bred horses, good-looking horses, very seldom will those horses ever go to the general public.*

## Inside Job

**Agent:** *Do you think the BLM is aware of what's going on with this thing, with the jimmy and the count?*

**Informant:** *I know some of them are.*

**Agent:** *Some of the inside – like the people that are supposed to be watching you guys, or the gather crew knows about it, you think?*

**Informant:** *Sure. Some of those guys are truck drivers, and they inform as to different guys that want horses. They supply names and addresses and stuff, and they receive a small percentage of the sale price for that information.*

**Agent:** *So they're brokers actually? They'll give the contractors names to take stolen horses to?*

**Informant:** *Sure.*

**Agent:** *You told me that you observed the contractor pay the BLM agent with a check – a check for him. Is that correct?*

**Informant:** *Yeah.*

**Agent:** *You told me that this agent that is supposed to be watching it, agreed to go off somewhere, find something else to do, so you guys could actually steal the horses. Is that correct?*

**Informant:** *Well, we just removed the horses when they was gone. He was to be gone for a certain amount of time. When he was gone, we loaded up and those horses was gone.*

**Agent:** *Do you think this is – is this a big money deal?*

**Informant:** *We're well paid.*

**Agent:** *I'm talking about for the contractor. Is there a lot of money in this for the contractor?*

**Informant:** *He's making a lot of money.*

**Agent:** *Is this a pretty good organization? This sounds like something that's pretty well planned out, it's a big organization.*

**Informant:** *Well, it's very well set up, you know. There's nobody that participates in it that isn't well known and don't know what's going on.*

**Agent:** *Do you feel like there's people inside the BLM that know about this practice, that are a part of this practice?*

**Informant:** *Sure. We can't operate unless they're standing there.*

## Everybody's Doing It

**Agent:** *The law says that you can't sell the horse until you've had it for a year. The law says that the horses can't be taken to a slaughter house. The law says you can't use it in a rodeo. But you've seen all of that?*

**Informant:** *Sure.*

**Agent:** *So pretty much the law is pretty ineffective, or our enforcement of the law is pretty ineffective?*

**Informant:** *How can you enforce a common practice that's been going on for years and years. You can't stop everybody that's in it. You catch one*



*guy, so there's 50 more out there doing the same thing.*

**Agent:** *So it's a pretty common deal that these horses are just pretty much exploited and do whatever you want to with them?*

**Informant:** *That's right.*

## **"A Way of Life"**

**Agent:** *Tell me about the mind-set of the cowboy. How does this work in you guys' mind? I mean, do you feel like it's stealing? Do you feel like the BLM condones it, or what?*

**Informant:** *Well, it's not actually stealing in our way of looking at it. It's just a way of life, you know. It's been a common practice for numbers and numbers of years, you know. There's never been any paperwork ever required. If we wanted to trade horses, move horses, you know, it's just a way of life, you know.*

*You've got ranchers out there that are paying the permit fees on grazing, and then they have a bunch of wild horses move in, you know, they're losing money because they're paying for that grass. These wild horses come in and are eating up the grass, so sure they're pissed off. It's our job to disburse those horses, you know, so we do our best to get rid of as many as we can. I don't really consider it stealing."*

## **A Three Pronged Probe**

It all began with 36 head of horses.

In August of 1992, a report came in to BLM New Mexico Law Enforcement concerning a BLM wrangler who had arranged for friends and neighbors to sign adoption paperwork in order



ISFMB

**MODERN ROUNDUP.** Helicopters are often used to drive wild horses to a capture area. This mechanized gather took place on the Nevada range.

to obtain 36 wild horses. These horses were placed on the ranch of the wrangler's father-in-law. BLM Special Agents approached the wrangler on an undercover basis and were told that the 36 horses were going to slaughter.

The wrangler's willingness to discuss his plans and the open method of his operation caused the probe to widen to include other "gathers" on which the wrangler had worked. One recent adoption involved the Choctaw Nation which had adopted 116 horses with help from this wrangler. An informant who worked for the Choctaw Nation told BLM investigators that the wrangler had outlined for Choctaw officials how to obtain horses at a reduced fee and then sell them for slaughter at a substantial profit.

Horses for the Choctaw Nation were taken from the sanctuary in Bartlesville, Oklahoma. An animal abuse complaint concerning the death of a horse at this same sanctuary prompted a visit by BLM New Mexico Special Agents. In trying to trace mortality problems at the sanctuary, the agents discovered that the books could be padded to show dead horses as still on the books with the operator collecting federal payments for the upkeep of phantom horses.

## **A New Sheriff Comes to Town**

Jim Baca was a BLM Director like no other. Baca was a plain-spoken, some would say blunt, man

## BLM's Wild Horse & Burro Program

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with an agenda – to reform the BLM. Honed in the land use politics of New Mexico, Baca was appointed by President Bill Clinton to transform the traditionally special-interest dominated BLM into a progressive land management agency.

Baca took an expansive view of his job and he considered wild horse protection as part of that job. In early July of 1993, just weeks after his appointment, Baca heralded in a national press release the conviction of three Kentucky residents charged with mistreatment of 72 wild horses that were illegally adopted for sale and witness tampering saying:

“The Bureau of Land Management takes very seriously its responsibility to protect and manage the wild horses and burros on public lands and those adopted through the Adopt-A-Horse program. The investigation by BLM-Eastern States that led to the prosecution and conviction in this case is a shining example of fulfilling our trust to these animals.”

In that same month, Baca took steps to inform himself concerning the full scope of the unfolding New Mexico investigations. Briefing materials put together for the new Director included the following overview memo:



## SUMMARY

### NEW MEXICO WILD HORSE AND BURRO INVESTIGATION

JULY 27, 1993

Case Number: RP-05-93-021-01

On May 21, 1993, BLM Special Agent GREG ASSMUS began an extensive investigation of possible violations of the Wild Horse and Burro Act, 18 USC 641, conversion of government property, 18 USC 1001, falsification of government documents, and 18 USC 1512, interference with a criminal investigation (see Attachment 1, Criminal Case Syllabus). On June, 1993, BLM Special Agent JOE LEAF was detailed to the National Office to assist with the investigation of the case.

During the preliminary investigation, allegations of administrative improprieties and irresponsible on-the-ground management also surfaced. The case (a combination of the cases described below) has previously been investigated, in part, by the following agents and rangers:

1. May 10, 1993, case # RP-05-93-021-01 was opened by SA GARY WHITE and SA GREG AUMANN - alleged violation of interference and misconduct by BLM management.
2. March 24, 1993, case # NM-960-03-93-021-021SA was opened by NOEL JOHNS, et. al. - alleged violations of fraud and related activity in connection with Federal computer crimes. Additionally, to preserve and identify possible evidence in the form of computerized data.
3. March 19, 1993, case # NM-960-03-021-020 was opened by SA JOHN FRYAR, SA STEVE SEDERWALL, et. al.- alleged administrative improprieties in violation of BLM policies, and alleged criminal violations of the Wild Horse and Burro Act at the Bartlesville, Oklahoma Sanctuary for wild horses.
4. August 21, 1992, case # NM-960-08-92-021-805 was opened by SA STEVE SEDERWALL - alleged violations of the Wild Horse and Burro Act involving wild horses pastured at the 17 Ranch, in Terrell County, Texas.

As the investigation progressed, information and facts revealed that portions of the case should be referred to the Office of Inspector General (OIG). On June 18, 1993, a memorandum was sent to OIG requesting their assistance into allegations of fraud and improprieties by government employees. In July of 1993, OIG was briefed on the investigation. OIG-Audit elected to pursue alleged improprieties associated with the Bartlesville, Oklahoma Sanctuary and the three New Mexico State Prison wild horse program contracts.

# BLM's Wild Horse & Burro Program

The scope and complexity of BLM's investigation increased to include scores of individuals, including allegations against private citizens, BLM personnel and BLM management. The primary focus of the investigation is the alleged criminal activity associated with the Wild Horse and Burro Program. To adequately separate the criminal activity from other aspects of the program, a review of the Wild Horse and Burro Program, specific to the administrative responsibilities of the New Mexico State Office, was also conducted.

As a result of the criminal investigation and a review of the programmatic and administrative facets of the program, the investigation has been separated into three separate sections as described below:

(note: specific examples for each category i.e., 1A, 1B, 2A, 2B, etc. are listed in Attachment 2, Specific Cites)

1. Alleged misconduct, improprieties, and interference by BLM management.
  - A. BLM management personnel have authorized the transportation of wild horses to group adopters at the expense of the government.
  - B. BLM management personnel have authorized the fee waiver and/or fee reduction of wild horses without delegated authority.
  - C. BLM management failed to inspect and prepare written reports for group adopter facilities and property prior to receiving adopted wild horses.
  - D. BLM personnel publicly and openly promoted the commercial use of wild horses, i.e., bucking stock and slaughter house.
  - E. BLM personnel in concurrence with BLM management, entered false information regarding the wild horse documents into the BLM DPS-8000 data base.
  - F. BLM personnel, through their government positions, arranged for special privileges and allowances pertaining to wild horse adoptions.
  - G. BLM personnel and management knowingly converted to the use of another, wild horses belonging to the United States.
  - H. BLM personnel and management did knowingly attempt to interfere with an ongoing investigation by discussing privileged information regarding the investigation with other BLM personnel, some of whom were subjects of the investigation.

2. Alleged irresponsible program management.
  - A. BLM District management personnel decided not to comply with ADP Policy as outlined in Instruction Memorandum No. NM-92-105.
  - B. BLM management failed to complete inspections or document inspections assuring that wild horse applicants adopting more than four wild horses had satisfied the requirements outlined and required by 43 CFR 4750.3-3(a).
  - C. Throughout the course of the investigation, BLM criminal investigators working in cooperation with the Assistance Officer (AO) were unable to locate the following documentation regarding the Bartlesville, Ok. Sanctuary Assistance Agreement as stated and required by the Assistance Agreement.
    1. Documentation on wild horse observations, frequency, and results of observations which were to occur a minimum of 4 times/week.
    2. Only four out of the required 16 quarterly reports were located in the Bartlesville, Oklahoma Sanctuary file.
    3. Over the course of the initial three year Agreement, a program review and progress report was not completed on the fund raising activities proposed to make the sanctuary financially solvent without additional BLM funding in the final 12 years of the Assistance Agreement.
    4. The Assistance Representative (AR) is scheduled to make monthly compliance inspections of the Bartlesville, Oklahoma Sanctuary. A search of the sanctuary file produced no documentation of compliance inspections. The lack of documentation was later confirmed by an interview with the AR.
  - D. Management has failed to provide formal training for compliance inspectors, wranglers, and field level administrators of the wild horse and burro program which has resulted in a lack of knowledge concerning the laws and regulations governing the wild horse and burro program.
3. Alleged excessive financial obligations associated with the Bartlesville, Oklahoma Sanctuary contract and the three New Mexico State Prison wild horse program contracts.

## BLM's Wild Horse & Burro Program

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Director Baca intended to take action and to support the pursuit of the investigations against managers within his own agency. Baca felt a need to inform his superior, Interior Secretary Bruce Babbitt, of his plans. Within months, Baca was forced to resign under threat of reassignment and he ascribed his termination in part to the wild horse investigation. As Baca told the Associated Press:

"The orders were: 'Don't make waves, we've got enough problems.' Babbitt thought it might cause problems and he didn't want any controversy, he didn't want to make anybody unhappy, and so this program just festered. When they wanted me to leave BLM, that was one of the reasons they gave me: 'Why the hell are you raising problems about horses?'"

## IV. Grand Juries Come and Go

***"BLM will not be able to comply with the subpoenas. We request that the subpoenas be withdrawn."***

*-Interior Deputy Solicitor Grant Vaughn  
writing to the  
Assistant U.S. Attorney in Del Rio*

Before Jim Baca left the scene, he ordered BLM Law Enforcement to prepare a final case report for presentation to the U.S. Attorney's office in Albuquerque, New Mexico. In December of 1993, the case report was presented but the U.S. Attorney in Albuquerque raised venue concerns in that the majority of targeted transactions took place outside of New Mexico. The U.S. Attorney's Office in the Western District of Texas located in Del Rio was contacted because the satellite ranch was located in that jurisdiction.

In May of 1994, the U.S. Attorney in Del Rio accepted the case and in October of that year a grand jury was empaneled to hear evidence. The Assistant U.S. Attorney (AUSA) assigned to the case was Alia Ludlum.

This case going to a grand jury sent shock waves up the chain of command at BLM and the Department of Interior. It involved ex-

amination of the role BLM managers played in facilitating the trafficking of wild horses to slaughter. In a real sense, BLM as an agency felt under siege and reacted accordingly.

With Jim Baca's departure, this investigation lost whatever institutional support it had within the Department of Interior. In Baca's absence there grew a high level consensus to shut down the investigation through a bureaucratic pincer movement: attacking it from above by calling in Interior and Department of Justice officials to limit the investigation or quash it altogether and from below by undermining its investigative resources.

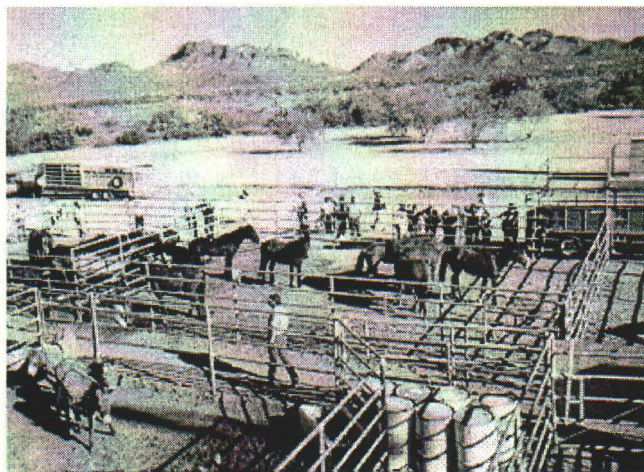
### ***Attack From Above***

The most acute problem facing Interior officials was how to contain the grand jury inquiry to the low level BLM employees who directly were involved in the trade. Don Galloway, a BLM Wild Horse compliance officer, had stated to investigators that his actions were approved by his superiors who asked that Galloway get rid of the original 36 horses which sparked the investigation. Moreover, Galloway also freely admitted that his superiors at BLM warned him that he was the target of a Law Enforcement investigation, told him the name of the confidential informant in the case and alerted him about an impending search warrant to be served upon him.

Many in Interior became quite concerned that the grand jury would begin to explore just how high or how widespread such institutional complicity ran in the Department.

The Office of the Solicitor for the Department of the Interior which serves as the legal representative for BLM and other Interior agencies became involved to represent their client's interests. They, in turn, contacted their counterparts in the Civil Division of the Department of Justice (Main Justice).

Like the Solicitor, the Environment and Natural Resources Division houses Justice attorneys who represent the Depart-



ISPMB

**BLM ADOPTION.** Horses and burros on display for prospective adopters in Apache Junction, Arizona, at March 1997 BLM adoption.

ment of Interior in civil court proceedings. By deploying their government lawyers the Department of Interior was able to place their own defense counsel at the prosecutor's table.

In February 1995, representatives of the Solicitor's office, Main Justice and BLM met with the U.S. Attorney (USA) and AUSA Ludlum. The meeting accomplished its purpose – limiting the scope of the grand jury inquiry. In the words of one participant:

“At a meeting in San Antonio in February 1995 attended by local and Washington DOJ [Department of Justice] attorneys, the local USA, and officials from BLM and DOI [Interior], it was decided that the investigation in the Western District of Texas would be limited to the Western District of Texas case.”

With the mission accomplished of keeping the investigation from reaching too high or wide, the Department of Interior could rest easier. The scope of the west Texas case, however, included the allegation that phantom herds of wild horses were being fraudulently subsidized at the Bartlesville, Oklahoma sanctuary. A grand jury subpoena and seizure warrant for the sanctuary records, for an actual count of horses there and for the testimony of responsible BLM managers caused bureaucratic blood pressures to soar. This line of inquiry could have uncovered government contract fraud, including the collection of “a dollar and a dime per day” of federal support payments for an unknown number of horses that had been sold to slaughter. It also could uncover mismanagement and perhaps the corruption of top BLM officials.

The Department of Interior simply refused to honor the subpoena, citing expense:



IN REPLY REFER TO:

## United States Department of the Interior

### OFFICE OF THE SOLICITOR

Field Office, Southwest Region

P.O. Box 1042

Santa Fe, New Mexico 87504-1042

January 31, 1995

Allia Ludlum  
Assistant U.S. Attorney  
Western District of Texas  
111 E. Broadway, Room 306A  
Del Rio, Texas 78840

Re: Wild Horse Investigation - Subpoenas for Bartlesville  
Round-up

Dear Ms. Ludlum:

This is to inform you that the BLM cannot comply with the subpoenas issued for Lili Thomas, Bruce Dawson and Bill Calkins to conduct a round-up at the Bartlesville sanctuary. For the reasons listed below, the round-up will not be accomplished:

1. BLM estimates the cost of the round-up and associated activities may be as much as \$500,000, more than is available in the budget of the BLM for the Wild Horse and Burro Program. Hence, in light of the Anti-deficiency Act, the BLM will not be able to respond.
2. The subpoenas are vague and not answerable. For instance, the officials subpoenaed are commanded to appear to testify on February 8, but commanded to turn over information to the "Law Enforcement" Officers for presentation to the Grand Jury the week of February 6.
3. What the subpoenas demand is physically impossible to accomplish in the time provided.
4. What the subpoenas demand will be dangerous to the wranglers and traumatic for the horses BLM is obliged to protect. In view of the fact that the ultimate goal is to protect the horses, by uncovering the alleged violations of law (which allegedly are resulting in the deaths of horses), we are concerned about violating law by answering the subpoenas.
5. We understand a similar subpoena was served on the contractor at Bartlesville, but was withdrawn at the request of his private attorney.

# BLM's Wild Horse & Burro Program

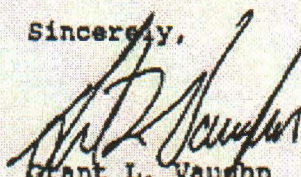
6. We are informed by John Brenna that the subpoenas for Bruce Dawson and Bill Calkins are not to require them to participate in the round-up, but to hold them answerable in the event the round-up does not occur or does not satisfy you and the grand jury.

For these reasons, BLM will not be able to comply with the subpoenas. We request that the subpoenas be withdrawn.

The Department of the Interior, through the Office of the Solicitor, is in consultation with officials of the Department of Justice in Washington, D.C., in order to establish a reimbursable detail or inter-agency task force for this investigation under the Economy Act. This is necessary to resolve the serious legal, budgetary and personnel problems faced by the BLM in this investigation.

We thank you for your attention to the Wild Horse and Burro Program. However, the BLM's willingness to participate in the investigation is necessarily limited by law and its appropriations. We hope an arrangement with the Department of Justice will resolve the issues before us.

Sincerely,



Grant L. Vaughn  
Attorney-Adviser

cc:

Chief of Staff, Office of the Director, Bureau of Land Management  
State Director, New Mexico State Office, Bureau of Land Management  
Director, Wild Horse and Burro Program, Bureau of Land Management  
Deputy Associate Solicitor, Division of General Law

This act of defiance by Interior would force the U.S. Attorney to move for contempt charges or back down. It was the equivalent of a legal game of chicken and it worked. The U.S. Attorney blinked.

This refusal to comply with the subpoena or to offer any reasonable substitute for the subpoenaed information broke the back of the inquiry. As Alia Ludlum later wrote:

"I believe that my investigation was obstructed all along by persons within the BLM because they did not want to be embarrassed. The bottom line is that we would not be at that point if BLM had honored the first seizure warrant issued in this case. It was when BLM, through Grant Vaughn, began questioning the Magistrate Judge's authority to issue the warrants and orders that the problems began."

## *Attack From Below*

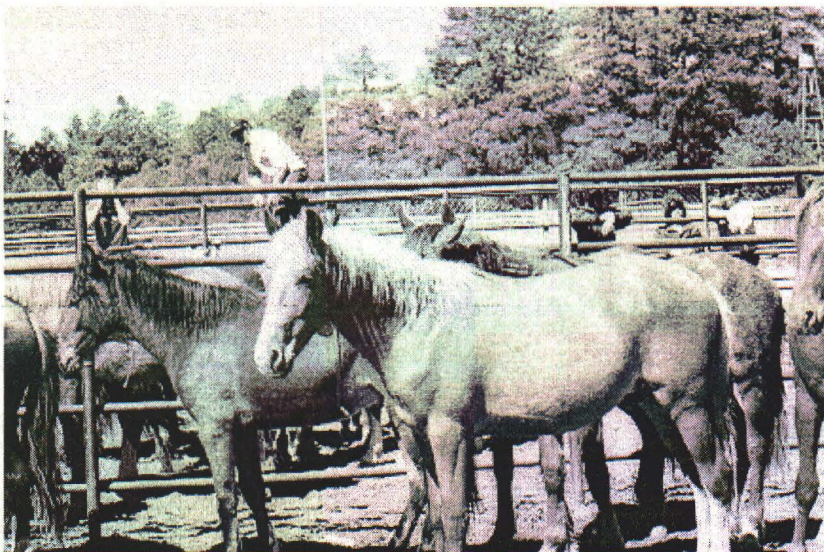
Special Agents and other criminal investigators who had developed the wild horse cases were assigned to assist the grand jury. Not surprisingly, these investigators became increasingly unpopular within BLM. Their assignment to assist with the grand jury also put the agents out of direct control by their superiors with the agency. For BLM, this was an intolerable situation.

The agents and investigators were ordered removed from the wild horse case and were replaced by representatives from BLM's Chief of Law Enforcement, Walter Johnson.

Despite requests by the AUSA that these original investigators continue to assist in the grand jury probe because they were the most experienced and knowledgeable about the case and



**OFF THE RANGE.**  
Wild horses shown at  
BLM adoption in Flag-  
staff, Arizona, in May  
1996.



ISPMB

the underlying issues, the matter was nonnegotiable by BLM. The issue was discussed at the February 1995 case summit in San Antonio. One participant, a Deputy Field Solicitor, recorded the outcome:

"One other issue we discussed was the continued use of the law enforcement and other BLM employees who had been involved in the investigation... As you may recall, Denise Meredith [of BLM] emphasized that that was not an option...[W]e do not intend...BLM employees who have heretofore been involved in the investigation to continue working on the case."

Thus, BLM could hand pick the agents assigned to the case. In an inquiry whose targets possibly included BLM managers and which had already been plagued by agency officials warning suspects, this development further crippled the grand jury inquiry.

On November 29, 1995 one of the original BLM Special Agents who had developed the wild horse case resigned and submitted a letter to the U.S. Attorney specifying his agency's obstruction of the investigation and retaliation against those pursuing it. The obstruction tactics included:

- attempts by BLM managers to learn about sealed grand jury information;
- participation by BLM managers in destruction of evidence;
- alerting suspects concerning impending search warrants;

- release of confidential informant and undercover investigator identities (actions which, he noted, threatened the lives of both the informant and the investigating agent).

The range of reprisals against the original investigators included retaliatory investigations into various acts of misconduct (none sustained), involuntary reassignment, reduction-in-force, and spreading of discrediting rumors, including rumors of a sexual nature. By the time this Special Agent resigned, however, the grand jury investigation was already moribund.

## *Ending With A Whimper*

The Office of Professional Responsibility (OPR) investigates alleged misconduct by Department of Justice attorneys. During 1995, OPR received a complaint concerning the conflict of interest or the appearance of a conflict presented by Main Justice attorneys who represent Interior serving as part of the grand jury legal team conducting a criminal investigation of their client-agency.

While the OPR finding is shielded from release by the Privacy Act, the issue raised by the complaint remained. Charles Brooks, one of the Main Justice attorneys working on the wild horse case, formally recommended against undertaking any prosecution in an April 22, 1996 memo to the U.S. Attorney. He concluded that the Wild Horse and Burro program was so tainted that it would be unfair to single anyone out for prosecution:



# BLM's Wild Horse & Burro Program

Conclusion. The Adopt-a-Horse program is clearly seriously flawed. Faced with the need to remove 10,000 horses a year from public lands, BLM has an unstated policy of not looking too closely at proposed adoptions. GALLOWAY reports that only training he had in doing adoptions was watching others in the agency do them. Prospective adopters were asked whether they had read and understood the prohibited acts and terms of adoption, and if the prospective adopter answered yes, the questions ended. If the agency learned that the prospective adopter was planning to use the adopted horses in ways prohibited by the Act and the regulations, the agency could not transfer title. This presents a problem. On the one hand, it is obvious to everyone involved in the program that there is a very limited market for adopted horses to be maintained for a life which could last 30 years by adopters, and that everyone who wanted a horse as a pet would have soon have one. On the other hand, thousands of horses a year, far more than could be taken care of by legitimate adoptions, have to be moved off the range.

The agency's approach to this was its version of "don't ask, don't tell"--that is, do not ask the follow up questions which might elicit information that would preclude transfer of title. So while both GALLOWAY and SHARP freely admit that everyone "knows" as a general proposition that most of the horses adopted out go to slaughter eventually, the agency tries to avoid finding out that this will happen in any given adoption. Typical is an Oklahoma adoption, unrelated to this case. The probationary period inspector wrote: "[The adopter] stated that the horse was mean and who would be very scared to have it around kids or people with dark skin. [She] stated that was going to sell this horse at the sale barn when she got title. I explained to [her] that the horse should not go to the killer [plants, ie, the slaughterhouse]. She replied she understood." This adopter was approved for title transfer. Or, again, in another Oklahoma adoption, where the inspector reported, "[the adopter] stated that he would keep the Greyhorse sell the other two, the black and the sorrel to someone to train for riding (sic)," transfer of title was approved.

GALLOWAY's position would be that he simply was doing what everyone in the agency was doing, and that everyone above him in the agency knew what he was doing. In fact, before this investigation, he had been commended for his work. Once the investigation began, he was fired for doing the same work. He has a point.

AUSA Ludlum replied to Brooks:

"I have read your draft report. I was not surprised at the conclusions, even though I do not agree with the assessment.

I will do what I am told to do by my supervisors concerning this case. I may

not agree or like the decision, but I will do as told. I need to know what to tell the grand jury; they ask about this case at every session."

The Del Rio probe ended in July of 1996 without the grand jury hearing evidence in the case.

# V. The Interior Inspector General – A Sleeping Watchdog

***“Don’t send the evidence here. They will lose it. This is not what they want to hear.”***

*-Interior Inspector General investigator warning against turning over evidence to the IG concerning wild horses*

The Office of Inspector General (OIG) of the Department of Interior is charged by law “to conduct, supervise, coordinate audits and investigations relating to the programs and operations...” within its jurisdiction. With respect to

the Wild Horse & Burro program, the OIG has spent three years avoiding opening any kind of substantive inquiry into the swirl of misconduct allegations emanating from that program.

In May of 1993, in an effort to pass the hot potato of the wild horse investigation at an early stage, Walter Johnson, Chief of BLM Law Enforcement, literally begged OIG to take over the case. His follow up letter makes a compelling case for the sort of independent review which OIG is supposed to provide:



United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
Washington, D.C. 20240



JUN 18 1993

9262 (RP-110)

Memorandum

To: Deputy Assistant <sup>Galloway</sup> Inspector General - Investigations  
From: Chief, Law Enforcement and Resource Protection  
Subject: New Mexico Wild Horse and Burro Program

This memorandum confirms our telephone conversation of May 11, 1993, and our meeting last week, in which I notified you of, and we discussed allegations of improprieties in the New Mexico State Office of the Bureau of Land Management (BLM). Specifically, allegations of criminal violations of the Wild-Free Roaming Horse and Burro Act of 1971 (16 USC 1338), Tampering with a Witness, Victim, or Informant (18 USC 1512 (b)), and Conspiracy (18 USC 371). These allegations extend to a former BLM employee, current employees, and private citizens. During our telephone conversation we also agreed BLM would conduct a preliminary investigation to determine if further investigation is warranted. We have now completed the preliminary investigation and determined the need for further investigation. Because of the nature and extent of the allegations we request the assistance of your office in joining with us in a cooperative investigation. Further, it may be prudent for the Assistant Inspector General - Audit, to also review these matters.

Initially, this office assigned a Special Agent to assist the New Mexico State Office, BLM, in conducting an investigation focusing on a BLM seasonal wrangler, DON GALLOWAY. GALLOWAY, whose job responsibilities included the administration of Private Care and Maintenance Agreements (PMCA) of wild horses and burros adopted by citizens of the United States, is alleged to have violated criminal laws and administrative procedures in the execution of his duties.

As the investigation continued, the scope and complexity of the investigation also increased to include scores of individuals, including allegations against private citizens, and middle and upper management of the BLM. The primary focus of the investigation is alleged criminal activity associated with the Wild Horse and Burro Program. To adequately separate the criminal activity from other aspects of the program, a review of the Wild Horse and Burro Program specific to the administrative responsibilities of the New Mexico State Office has been initiated.



# BLM's Wild Horse & Burro Program

We are continuing to investigate allegations of improprieties within the Wild-Free Roaming Horse and Burro program in New Mexico. The preliminary investigation identified potential criminal activity, administrative performance inadequacies, possible interference in the criminal justice process, and necessitated a review of programmatic policy and guidance by our investigators for reference.

I have assigned Special Agent GREG ASSMUS of my office as the case agent. He has separated the case into three categories:

1. Criminal - those activities which are in violation of Federal laws and regulations.

2. Administrative - those actions by BLM employees who manage the program. Policy guidance and direction to manage and administer the Wild Horse and Burro Program is found, in part, in the following documents:

- a) The Wild-Free Roaming Horse and Burro Act
- b) The United States Code
- c) The Code of Federal Regulations
- d) The Federal Land Policy Management Act
- e) The Department of the Interior Department Manual
- f) The BLM Manual
- g) The BLM Manual Handbook H-4750-1,2,3

3. Programmatic - the Acts, Law, Regulations, and Policies by which the Wild Horse and Burro Program is managed. These documents provide the guidance and direction for BLM managers to administer the program.

The following is a brief discussion of each of the three categories.

## CRIMINAL

Through the review of investigative reports to date, it appears that criminal violations of the following laws have occurred:

1. 18 USC 641; Public money, property or records; whoever receives, conceals, or retains the same with intent to convert it to his use or gain ...

2. 18 USC 1512 (b); Tampering with a Witness, Victim, or Informant (Obstruction)

3. 18 USC 371; Conspiracy to commit offense or to defraud United States; conspiracy to obstruct a criminal investigation ...

4. 16 USC 1338(a)(1); Wild Horses and Burros: Protection, Management, and Control; any person who sells, directly or indirectly, a wild free-roaming horse, or burro maintained on private or leased land ....

The violations of criminal law were allegedly committed by employees of the BLM. Violations were also allegedly committed by citizens, but the violations appear to have occurred as a result of information provided to the public by an employee(s) of the BLM. As a result of this interference by BLM employee(s), the criminal aspect of this case is difficult to separate from the internal investigative component.

## ADMINISTRATIVE

Through the initial phase of the New Mexico Wild Horse and Burro Investigation, it is apparent that administrative actions by some BLM wranglers and program administrators have not been in compliance with the direction and guidance provided by the aforementioned programmatic documents. Below is a brief description of apparent non-compliant administrative actions:

1. Promoting and organizing group adoptions for the intended purposes of selling the wild horses to slaughter plants or rodeo circuits for commercial gain, once the wild horse has been titled.

2. Approving PMCA's without complying with the administrative requirements outlined in the PMCA.

3. Reducing adoption fees for group adoptions without following guidelines established for fee reductions.

4. Organizing and promoting group adoptions (groups of 4 to 24 wild horses and groups of 25 wild horses or more) not in compliance with policy and manual direction.

5. Transporting adopted horses to the care facility of the adopter at the expense of the government.

6. Satellite adoptions and adoption centers not administering and managing the wild horse adoptions according to policy and manual direction.

7. Computer security regulations not being complied with by some BLM personnel within the Albuquerque District Office.

# BLM's Wild Horse & Burro Program

In many of the adoptions and group adoptions reviewed, personnel from BLM apparently promoted the adoption of horses for commercial gain. This required that adopters pay the standard adoption fee of \$125/horse. When these adopted wild horses are repossessed for non-compliance with the PMCA, many adopters may openly complain and potentially file suit against BLM for providing false/misleading information during the administration and management of the Wild Horse and Burro Program.

## PROGRAMMATIC

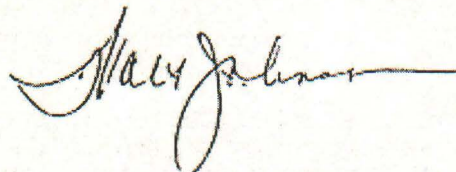
In the review of the program and administrative documents described above, it is my opinion that there is adequate guidance and direction provided for the management of the Wild Horse and Burro Program by the BLM. In addition, there is adequate regulation to provide for the conformance to policy and direction as set forth in Bureau manuals and handbooks.

As set forth in the Wild-Free Roaming Horse and Burro Act, an Advisory Board was established to oversee the program and provide a written report to Congress. In 1990, the Secretary of the Interior and the Secretary of Agriculture appointed nine members to complete a program review of the Wild Horse and Burro Program. Recommendations by the Advisory Board were published in a report dated January 30, 1992. The report did not identify any programmatic deficiencies.

I have discussed this matter with Assistant U.S. Attorney Rhonda Backinoff, District of New Mexico, and have attached a copy of a letter from her which sets forth the need for further investigation.

These matters have also been presented to our Deputy Director, Pete Culp; and Assistant Director, Fire and Law Enforcement, Steve Robinson, who concur with the appropriateness of a cooperative investigation with your office.

After your review of this memorandum, please call me at (208) 334-1260 to discuss participation by your office and strategy in this investigation. I look forward to hearing from you at your earliest convenience.



Attachment

cc:  
AD, Fire and Law Enforcement  
AUSA Rhonda Backinoff, District of NM  
SA Greg Assmus

One month after this letter from the head of agency law enforcement, OIG declined to participate, let alone take over the investigation. The only OIG involvement offered was to conduct an audit of wild horse sanctuary funding in response to a request accorded the status of almost an afterthought in Walter Johnson's letter.

Even that minor involvement by the OIG, the sanctuary financial audit, uncovered enough problems to cause BLM to phase out the sanctuary system.

With the advent of the Del Rio grand jury, OIG had a legitimate excuse to avoid any further involvement with the wild horse issue. In 1996, that excuse vanished with the grand jury.

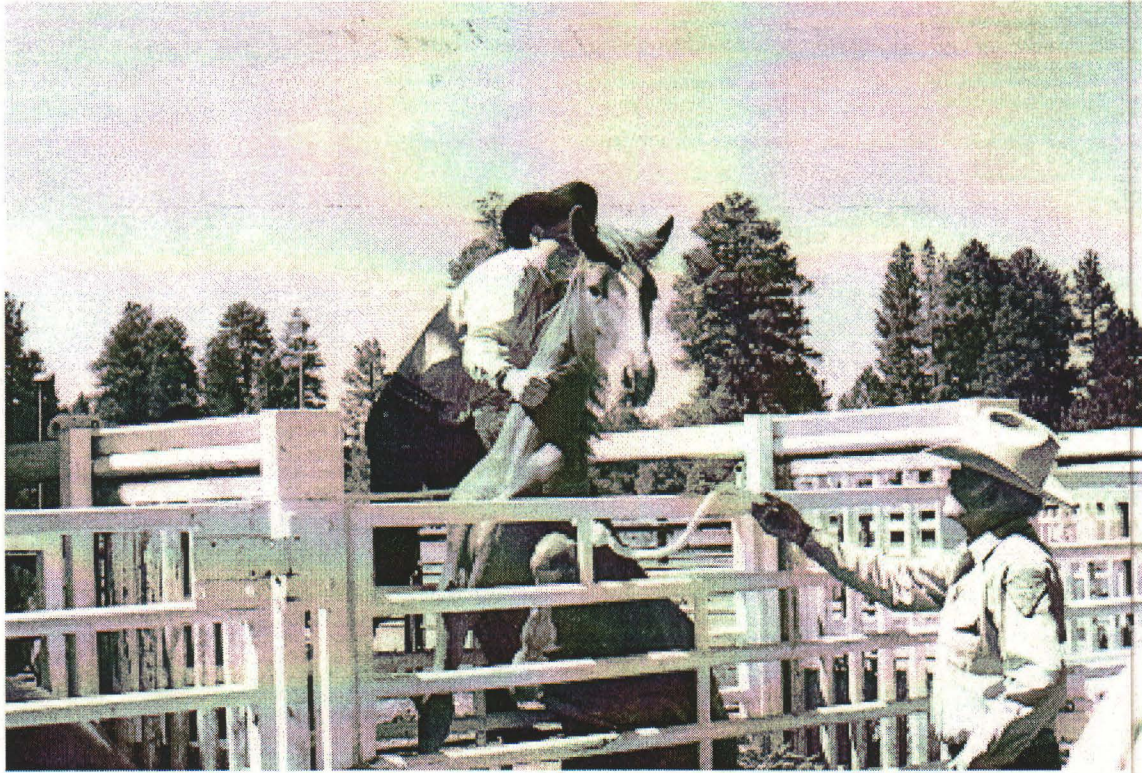
In May of 1996, nine present and former BLM employees wrote an extraordinary letter to Attorney General Janet Reno detailing the internal agency abuses and failures with respect to the wild horse investigation and asking her to order

a new criminal probe into the entire matter. Attorney General Reno declined involvement and formally referred the letter to the Interior Inspector General for investigation.

After more than three years of avoiding the investigation, it was again handed to OIG, the place where it should have begun. This past year has revealed little evidence of OIG investigative activity.

One of the former BLM Special Agents who sent the letter to Attorney General Reno has been contacted by an OIG investigator. When the former BLM employee offered to send documents concerning the wild horse case directly to the OIG, the OIG investigator said: "Don't send the evidence here. They will lose it. This is not what they want to hear."

While the OIG is appointed by the President, the position answers to, and works at the direction of, the Secretary of Interior. Little is expected from the current inquiry.



ISPMB

**UNTAMED.** Wild horse rears as BLM employees attempt to lead it to adoption corrals.



## VI. The More Things Change, the More They Stay the Same

***"In that the matters discussed in the letter dated May 25, 1996, to the Attorney General, have been referred to the Inspector General...we will not be able to discuss those matters... While there will be no media or cameras present at our meeting, we will tape record the audio portion of the meeting... The Acting Director looks forward to the meeting and hearing about their insights into the BLM Law Enforcement Program and the Wild Horse and Burro Program, except as outlined above."***

*—Letter laying out ground rules for former  
Special Agents to meet with  
Acting BLM Director Sylvia Baca*

In a ground breaking series of articles beginning in January 1997, Martha Mendoza of the Associated Press documented through independent research how thousands of wild horses were still going to slaughter. Her widely distributed articles touched off a firestorm of public outrage.

On February 19, 1997, the BLM issued a press release announcing the results of an internal investigation "which contradicts recent press allegations that wild horses are routinely sent to slaughter." Despite this self-proclaimed clean bill of health the BLM simultaneously announced a series of 20 reforms in the Wild Horse & Burro program and promised more reforms to come.

The lead result of the BLM internal investigation was the claim that only 350 horses that "were at any time wild" went to slaughter in 1996 and wild horses account for only "one quarter of one percent" of horses slaughtered in North America.

According to the BLM the number is based on an investigation in the past two years by law enforcement agents and wild horse experts at eight slaughter plants in the United States and Canada. The principal data "reviewed" by the BLM agents was a list of titled horses that were taken to the slaughter plants.

In reality, many more wild horses are slaughtered at slaughter plants than the BLM reports:

- No law requires horse owners to present a title at the slaughter plant when selling a horse for slaughter, nor are slaughter plants required to ask for titles. Slaughter plant operators are not required to keep records.
- Because titles are not uniformly required, untitled wild horses "slip through the cracks." The BLM data show that only 350 titled horses whose owners had the title with them at the time of sale were killed last year. The data will not show how many untitled horses were killed last year.
- Bel-Tex, a slaughter plant in Texas, reports it received between 100 and 200 horses in 1996 that had a BLM freeze brand on their necks but did not have a title with them. These horses were not included in the BLM press release data.
- Bel-Tex also told the BLM agents that in the two weeks immediately prior to the BLM press release, 14 wild horses were delivered to the slaughter plant without a title. These horses were not included in the BLM press release data.
- On February 19, 1997, five horses were delivered to the Bel-Tex plant by a buyer of horses. All five horses had titles accompanying them, but only two were in fact wild horses. The buyer was asked where the titles came from. He said he pulled them out from under the counter of the sale barn after he bought the horses. None of the titles matched the two horses.

# BLM's Wild Horse & Burro Program

Many horses are slaughtered illegally but shoddy record keeping by the BLM prevents accurate accounting.

- If horses are stolen off the range, they will not have a freeze brand on their necks. In 1995, 260 horses were stolen off the range in Nevada. BLM management would not allow their agents to pursue the case. The horses were taken to a slaughter plant in Canada. The horses were not included in the BLM report.
- If horses are brought into the slaughter plant at night, titles will not accompany them. Any horses brought in at night would not be in the BLM report.
- Horse owners have been observed by BLM investigators attempting to cover up the freeze mark in order to sell the horse without anyone knowing it was a wild horse. Horses with a covered-up freeze mark will not be in the BLM report.

At the same time BLM engages in damage control, the agency also takes the position that because the allegations of coverup and complicity made by former Special Agents are under investigation by the Inspector General that it will not discuss any matter touching upon that investigation. As a consequence, external and internal dialogue on problems within both the Wild Horse & Burro program and the agency's Law Enforcement program has been shut off.

BLM has not had a permanent director for more than three years, since the departure of Jim Baca. The most recent appointee, Sylvia Baca (no relation to Jim Baca), has been given the directorship on an interim basis and has signalled her intention to "stay the course" until a permanent successor is named.

Until new leadership comes to the Department of Interior committed to the purpose and not merely the grudging administration of the Wild Horse and Burro Act, nothing essential will change out on the range.



HSUS

**DEATH WATCH.** Injured pony awaits transport to slaughter.