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February 12, 1992

Hon. Manual Lujan
Secretary of Interior
Department of Interior
Washington, DC 20240

COPY FOR YOUR
INFORMATION

WILD HORSE PROGRAM
Fertility Control

Dear Mr. Secretary:

API serves on the task force overseeing the pilot project of fertility control as a possible management tool in the wild horse program. Even though we are serving on this task force, we believe there are many unanswered questions surrounding its use that should have been openly addressed and debated before this tool was even considered. More important, it needs to pass a statutory check list to make sure it is consistent with the policies of FLPMA and NEPA and the directives of the 1971 law and PRIA.

Because API speaks for the preservation of biological diversity and specifically for nongame wildlife as well as wild horses, we see the existing wild horse program as a model applicable to other nongame wildlife under FLPMA. We are staunch supporters of the existing public land policy laws, NEPA and FLPMA, and what remains of Taylor Grazing and PRIA. We are convinced that these implementation directives to you, the Secretary, set forth a sound and rational ecosystem management framework. They require the periodic and systematic inventorying of range condition and the technical assessment of grazing impacts in an integrated, coordinated program using an interdisciplinary team approach to range management. These policies and directives would, if put into practice by BLM, guarantee sustainable usage of the vegetative resource and offer the possibility of actually restoring the range to a thriving system at the most diverse ecological stage. We view the underlying commonsense logic of this

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integrated, coordinated, planned management approach as creating a management model (framework) that specifically avoids hit and miss, pillar- to-post, fragmented, and irrational management or politically biased and arbitrary decision making. But it has been consistently resisted by BLM beginning with the separation of the HMAP (wild horse Herd Management Area Plans) and the HMP (wildlife Herd Management Plans) from the Allotment Management Plan (AMPs). BLM's response has been toward piecemealing, fragmenting, and separating the grazing species for the sole purpose of avoiding today's decisions which require finally bringing the livestock permit into line with authorized use and making current adjustments from actual use.

When one considers the fact the Regulations, established by the Administration during the past twelve years, allow terms and conditions of the livestock grazing permit to be either a 2-party agreement with interested parties or a technical decision based on range condition inventories and monitoring, it is easy to see why livestock interests would want to keep other interested parties separate and decisions affecting the three grazing users isolated from each other. It is the difference between range management by agreements with ranchers versus sound range management based on technical decisions derived from monitoring and inventorying.

When we look at the way in which statutory required monitoring and inventorying were deleted from the wild horse program by these Regulations (first, the planning Regs in 1981, then from being implemented in the wild horse/burro program in 1984 rulemaking change of the wild horse Regs.) and all of the events surrounding the removal of 40,000 horses between 1985 and 1988 (such as funding by Continuing Resolutions) plus the fact the "AML set in land use plans" (which was ruled by the IBLA as violating the law which the GAO investigation confirmed) remains unchanged in the 1988 revision of the program guidance to the field, we believe it is imperative to scrutinize every action that affects wild horses and burros in the middle of the livestock permit review and forage allocation process now underway and ask why? What real purpose is being served?

We are particularly leery of a management tool that requires setting a static management number. We view it as compatible and consistent with the idea expressed in the 1982 rulemaking of an unchangeable allocation of forage to

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livestock, called "preference." We view this as going backwards to the old Grazing Service not forward toward the ecosystem management Congress mandates.

The first thing about this particular management tool that we react to is that it needs a different management model from that which requires excess be determined on inventorying range condition and monitoring utilization and impact. It requires a management number be set (e.g., the "AML in the land use plan") then "excess" becomes any number above that set management number. To implement fertility control as a management tool would require changing the statutory directive to manage wild horses as "integral components of the natural system" and deleting the sections in PRIA requiring population adjustments be based on monitoring and inventorying data not a number set in the land use plan. In fact, it is our understanding that grazing permits are no longer an "allocation" of forage but a specification of terms and conditions regarding level of use since the idea of "allocation" was construed as possession or ownership rights to the forage--an "unchangeable" allocation, that happens to be the 1964 allocation in which ALL forage belongs to the permittee, comes even closer to ownership of the forage by the permit holder.

The fertility control tool requires extensive and intensive handling of horses. All horses and/or burros in a given area need to be captured, transported to a process site, inspected, handled, treated, permanently marked for identification then transported back to the HMA for release. But the law stipulates the least interference, manipulation, and intrusion. Fertility control requires the most interference and intrusion. The "least feasible management activity" clause is in the law specifically to prohibit the kind of interference of the Susanville herd manipulation program and the kind of intrusive band destruction inherent in the implementation of the fertility control program. Unless a roundup is designated as a band by band removal, the helicopter automatically sacrifices band-integrity. Induced panic is part of the capture process.

It is obvious that fertility control fails to meet statutory requirements in NEPA and FLPMA as well as the wild horse law (amended by PRIA). Extensive legislative changes would be required to authorize it.

BLM has managed wild horses on the assumption that the law will be changed ever since its enactment. First it was to

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be deemed unconstitutional (Kleppe v N. Mexico). Then repealed by Congress (Steven's 1981 bill). Next it was to be amended (McClure's 1982 and 1983-84 bills). Then rewritten (McClure's 1985 omnibus rangeland draft). The fact is the existing range protection laws, which are judicious, prudent, and circumspect, were enacted [between 1966 and 1976] in response to a broad public mandate that spanned the political spectrum as a nonpartisan outcry for environmental protections. In fact, every time permits expire grazing interests desperately launch legislative initiatives. Congress could only fund fertility control as an experiment because it lacks legislative authority otherwise. We view it as one more initiative attempt to disrupt permit renewals in the middle of that process now in progress in the allotment evaluations.

Fertility control is also based on a long list of unsupported assumptions. Both the Turner-Kirkpatrick and Garrott studies (reported in the October 1991 Journal of Wildlife Management) are based on the assumption that there is an 18-20 percent annual increase (both agree this is at the biological maximum) and that wild horses are the cause of extensive range damage. Yet they don't know why wild, free-roaming horses are at their biological maximum. If they are then density dependency would mean the more that are removed, the more they will fill in the population sink. But neither study team seems willing to arrive at that conclusion. Instead they tacitly assume wild horses possess no built-in population defense mechanisms and exercise a runaway sex drive that serves no reason or purpose in nature. They also assume numbers, per se, cause damage. One has only to look at the human population in which less than 10 percent consumes over 60 percent of world resources and causes more environmental damage than the other 90 percent combined, to realize it is not numbers, per se, that cause damage. It is HOW those numbers utilize renewable/nonrenewable resources and their impact on life systems (soil, water, air) that causes overuse and damage. BLM's current management model and methodology is based on inventorying range condition and monitoring species-specific use and impact for the very reason that it is not numbers per se but how and to what extent they impact their habitat that needs to be controlled and managed.

The conclusion in the NAS Phase I field study--which says knowing how and where horses graze is the crux of a sound management program--is consistent with this. Reverting to the old Grazing Service is not.

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Another assumption, that is implied [and might be more accurately termed a viewpoint than an assumption] in the intensive and intrusive management models BLM now endorses, is to view horses and burros as individuals as if a population in a given area were a single herd rather than a grouping of bands. The fact is wild, free-roaming horses and burros live in bands. When considering population adjustments, an alternative that is based on that fact, plus collecting distribution and census data and monitoring impacts at the band level, makes sense to us. Removals in terms of bands from a given area rather than individual horses makes sense to us. It would require converting the proper use level equation to number of bands [this information is already on census maps] and collecting certain band structure and size fluctuation data. It requires no handling beyond removal. No handled horse would be returned. No extensive release safety program would be needed. It meets every statutory constraint, restriction, and directive. It is based on fact not assumption. It requires no change in the management model.

Of those removed, the 0-3 age group would go immediately to Adopt-A-Horse, the potentially trainable [4-13 yr old] would go to a MUCH increased prison training including youth authority facilities (funding shared with inmate correction and rehabilitation programs). This would be in keeping with the recommendation of both Advisory Boards on this placement-enhancement program. The remainder (14-25 yr old) to the McGregor Range or other federally owned site as an "old folks home" without interfering with existing HMAs. We believe BLM needs to fully assess both state and federal wildlife, fire control, forestry, and park agencies as potential users of pack animals and wagon horses (in trail building and repair work) before turning to intrusive management practices that threaten to destroy the wild, free roaming characteristic of horses on the land or shipping horses out of the country. An expanded prison program would double as a holding area allowing a control over release as work horses. At the 1991 wild horse staff meeting in Reno, BLM's own specialists brainstormed a long list of potential dispersal outlets which in combinations would solve the "problem."

The fact is, all problems in the program stem directly from the mass removals of 1985-88 which glutted the adoption program without forethought depending on illegal or expedient disposal systems that were invitations to corruption. BLM was told in December 1987 by the majority of wild horse protection groups that the collapse of the

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sanctuary program was a foregone conclusion. When we protested, before final decisions, we were told "the train has left the station."

Other aspects of the fertility control project alarm us, in addition to suspecting we're looking at another version of the "train has left the station." When this program is used in conjunction with selective removal [which was tentatively suggested by humane groups and which BLM seized upon and put into instant use without adequate standards or guidelines or forethought], the age structure of the population is so seriously skewed toward older horses the population's viability is seriously threatened.

That this "pilot" program is being implemented as a management tool in the highly controversial Antelope HMA of the Ely District of Nevada, where wild horses were traded-off in a revised decision, after ugly political pressure was brought to bear by livestock interests, makes this entire project incredible and suspect on that count alone.

We want it clearly understood that we serve on the task force because Congress funded it not because we condone it or agree with it. We oppose it.

FOR THE ANIMAL PROTECTION INSTITUTE

Sincerely,



Nancy Whitaker

Assistant Director of Public Land Issues
Specializing in Wild Horses