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SUGGESTED LEGISLATION FOR INTRODUCTION INTO 92ND  
SESSION OF CONGRESS, BASED UPON THE HANSEN BILL S.3358

Following introduction of the above numbered bill in January, 1970, I was invited to meet on two occasions with representatives of: The Public Lands Sub-Committee of the Nevada Cattlemen's and Woolgrowers' Association; State Office of BLM; Nevada State Fish & Game Commission; Humboldt National Forest; for the purpose of discussing the provisions of the bill, point by point. Dr. Michael J. Pontrelli, Assistant Professor of Biology of the University of Nevada was also in attendance at both meetings. On a third occasion, we met briefly with three of the members of the Special Wild Horse Sub-Committee of the American Cattlemen's Association.

I have also had considerable correspondence with the Bureau of Land Management, and have talked at length with other knowledgeable individuals as to what provisions should be included in the drafting of legislation to be introduced into the 92nd Session of Congress, based upon the provisions contained in the Hansen Bill S.3358 which did not come up for hearing during 1970.

I have endeavored to evaluate the many suggestions, and have had the able assistance of Dr. Pontrelli. I submit them for consideration, as they are extremely important if there is to emerge from the enactment of legislation an adequate protection, management and control program for the wild horses and burros on federal land.

  
Velma B. Johnston



## REASONS WHY FEDERAL LEGISLATION MUST BE ENACTED

Public demand for a protection and management program brought about through increasing awareness of atrocities perpetrated against the wild horses and burros as follows:

a. Massive roundup operations in past years for a two-fold purpose:

- (1) Expedient range clearance for the benefit of private interest groups.
- (2) Cheap marketable commodity for commercial exploitation through conversion into pet food.

NOTE: Lack of enforcement of Public Law 86-234 enacted in 1959 prohibiting airborne and mechanized roundups has seriously weakened the intent of that law to provide a measure of protection.

- (3) Reduction of numbers to approximately 17,000 wild horses and 8,100 wild burros in the United States

- b. Encroachment of man upon the habitat of the wild horses and burros in a number of ways, among them: Domestic grazing, recreation, reclamation resulting in seriously curtailing forage and water available to these animals through fencing, diversion of water flow for commercial use, cultivation of the land. Slow starvation and death from lack of water follows.
- c. Individual reprisals against the wild horses and burros by hunting them down, shooting them, trapping.
- d. Recognition that in view of our diminishing land resources, in order to save any of them there must be controls based upon sound management, with specific protection provisions set out.



PROVISIONS OF HANSEN BILL S3358 - PURPOSE OF SUCH PROVISIONS, AND SUGGESTED REVISIONS

S. 3358 - A bill to authorize the Secretary of the Interior to protect, manage and control free-roaming horses and burros on public lands.

COMMENT

It has been pointed out that these animals also inhabit National Forest Lands, administered by the Department of Agriculture. Therefore, some provision is required that would include the Secretary of Agriculture along with the Secretary of the Interior in order to provide the necessary authority to carry out the terms of the bill in both categories of land involved, that under the jurisdiction of the Bureau of Land Management, and that under the jurisdiction of the National Forest Service.

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Lines 1 through 7 acknowledge these animals to be living symbols of the historic and pioneer spirit of the West and call for their protection as a "national heritage", in order to remove them from the category of "feral", a limbo that is neither "wild" nor "domestic", in which their survival has been threatened and the intent of protection efforts lost in debates on semantics and definitions.

COMMENT

Because the animals have not been considered "wildlife" in the sense that deer, elk, antelope, etc. are considered wildlife, they have not come within the scope of wildlife management agencies which now have jurisdiction over all of the animals other than domestic, yet they cannot be considered domestic. By declaring them to be a "national heritage wildlife species" to be protected by the Secretary of the Interior (and Secretary of Agriculture), the door is opened to conflict with state administration of regulations regarding "all of the animals other than domestic" thereby requiring a complete revision of State Fish and Game Laws, a procedure that would be vehemently opposed by that agency.

Since the public thinks of these animals as "wild", that word should be used throughout the bill preceding the term "free-roaming horses and burros", thus making it read: "wild free-roaming horses and burros". Use of the term "wild" designates a state of being, but it does not bring the confusion into the picture as the word "wildlife" would.

The suggested terminology of lines 6 and 7 could be ". . . wild free-roaming horses and burros shall be protected as a national heritage species and national esthetic resource." This would therefore designate a new category that would not be in conflict with present regulations. Other heritage species such as buffalo and American Eagle could be then placed in this category.

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Section 2. Defines the terms used in the body of the bill, and further specifically identifies the animals referred to.

COMMENT

See foregoing paragraphs as to further definitions and identifications such as "wild free-roaming".

To the often-asked question "What is a wild horse?" a NEWS RELEASE from the Office of the Secretary of the Interior, December 27, 1962 (LEE-Interior 3609) gave this definition of a wild horse: "Only one generation is needed to change a domestic bred horse into a wild one." That is an acceptable simplification of definition.

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Section 3. Places exclusive jurisdiction in the domain of the Secretary of the Interior and further authorizes disposal of those found to be in excess.

COMMENT

Include Secretary of Agriculture, unless some other means of establishing jurisdiction is arrived at, such as agreement, etc.

The reason for designating a federal agency or agencies is:

Little or no enforcement of Public Law 86-234 on the local level during the past decade has indicated almost total lack of concern for the animals in question. The reason is obvious. The habitat of the wild horses and burros is on the vast open rangelands of the West where use of the land is coveted by the domestic livestock interests and the target animal interests.

Local officials are dependent upon those interests for election to public office. The fate of a species that belongs to ALL of America, ranging on lands that belong to ALL of America, should be in the hands of those who represent ALL of America, rather than in the hands of those in the specific areas of their habitat . . . areas in demand by a constituency that for the most part favors the removal of the wild horses and burros in order to provide maximum grazing for their own specific interests . . . in the case of the domestic livestock industry personal financial gain and in the case of the hunting interests added revenue to the state Fish and Game agencies through hunting licenses and tax on ammunition.

Section 3 - Lines 7 through 11 on page 2 of the bill authorize the establishment of specific ranges for those animals which are deemed susceptible and worthy of protection.

COMMENT

No provision is made for those in areas where they are not of prime concern as designated in the bill. The public will not support a program which



calls for the elimination of all but those wild horses and burros located on specific ranges and given prime consideration. It expects the animals outside those areas to be managed as a component of the range in a multiple use concept, and their thousands of letters reflect this belief. The sentence ending on Line 11, therefore, should continue ". . . and in addition, shall manage wild horses and burros as a component of the range in areas where they are not of prime concern."

However, this provision will have strong opposition from the domestic livestock people and from the federal land management agency. In a belated effort to restore the range that has become dangerously depleted through over-use and abuse by private interests during past decades, a "rest rotation program" is scheduled for the public lands, and is in operation in many areas of the West. Such a program necessitates the fencing of the open range into designated parcels in order to prohibit use of an area during its "rest" period, thus dividing the public lands into small pastures (for private use). The program, while beneficial to the vested interest involved, will effectively cut off the wild horses and burros from their watering places and from their grazing areas. Regardless of what the livestock people argue, or what amount of pressure they put on the management agency, the public will not support a program that reduces the open range to a series of pasture complexes with the resulting damage to the natural resource, specifically the fauna.

Our Public Domain is for all the people for all uses. There must be good management of the various species on the range, but there must not be livestock use as primary, with all other species then having to adjust to that use (or be eliminated). Of all the cattle in the United States, only about 1% use the federal range land (and about 6% of the sheep). (Note: From "Statement of Boyd L. Rasmussen, Director, Bureau of Land Management, Department of the Interior, before the Subcommittee on Public Lands, Committee on Interior and Insular Affairs, United States House of Representatives, March 4, 1969, on Grazing Fees").



The public is increasing its use of the federal range and they demand that wild horses have a place along with the other uses of the range. Nothing else is acceptable.

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Section 4 provides for cooperative agreements.

COMMENT

This section could well be combined with Section 3, and is a logical provision for entering into cooperative agreements to insure smooth functioning in carrying out the intent of the bill, namely protection, management and control.



Section 5 is what could be termed a "watchdog provision".

COMMENT

There have been reservations expressed to me as to the extent of power given to the federal management agency under the terms of the Act.

The appointment of the 7-member advisory board to advise on all matters relating to the wild horses and burros and their management and protection would become a fair and equitable representation of the PUBLIC interest, and a necessary provision in view of the strong lobby groups representing the private interests. The public endorses this provision.

Precedent has already been set with the appointment of the Special Wild Horse Advisory Committee for the Pryor Mountain Range, and the committee has functioned most successfully in working out a program that is acceptable to all interests involved.



Section 6 provides penalties for violation of regulations, including the processing or permitting to be processed into commercial products any animals the subject of this legislation.

#### COMMENT

The intent of this provision is to provide a deterrent to over-zealous control measures by eliminating a potential for financial gain. Capture for processing into pet food has been a profitable venture and has presented an opportunity for widespread exploitation, far exceeding any limits that would be approved under a bona-fide "control program".

It has been pointed out by those not espousing the cause of the wild horses and burros that by eliminating the commercial factor (for petfood or other processing), the cost involved in disposing of the animals would be excessive.

There are a number of factors that should be considered before the term "excessive cost" is applied to the disposal, among them:

1. The public's reaction to commercial slaughter of the animals.
2. The public's reaction to tax dollars spent in the predator control program carried out for the benefit of the comparatively few private users of the range.
3. The low grazing fees charged the domestic industry for its use of the public lands which in effect has become a subsidy of the industry by the public.

It would be well at this point to go into some of the misconceptions\* that have been allowed to exist in regard to the domestic livestock industry and its continued monopolistic use of the open range. \*(Note: From statement of BLM Director Rasmussen set forth on page 7.)

ANY CURTAILMENT OF USE EITHER THROUGH INCREASED GRAZING FEES OR DECREASED GRAZING ALLOTMENTS WOULD CREATE A SERIOUS ECONOMIC HARDSHIP FOR MEAT CONSUMERS THROUGHOUT THE COUNTRY BY CAUSING A



MAJOR RISE IN MEAT PRICES. Comment: This is a gross exaggeration, as on a nation-wide basis, only 1% of food cattle and 6% of food sheep are grazed on the public lands. The rest are raised in pastures or feed lots.

ONE OF THE NATION'S LARGEST INDUSTRIES WOULD BE DEALT A SEVERE FINANCIAL BLOW. Comment: As of March, 1969, there were 14,419 permittees utilizing the open range for livestock grazing.

THE DOMESTIC LIVESTOCK INDUSTRY IS THE LIFE BLOOD OF SMALL COMMUNITIES IN THE WEST, BY PROVIDING A MARKET FOR COMMODITIES SUPPLIED BY LOCAL RETAILERS. Comment: 52% of Bureau of Land Management forage is allotted to fewer than 700 permittees. In most instances these are absentee operators whose profits in the main are certainly not seen in the local communities. Furthermore with increased mechanization, there is less and less need of manpower on these large ranch operations.

FURTHER COMMENT: In keeping with recommendation pertaining to Lines 7 through 11 on page 2 of the bill in Section 3, and the continuation of Line 11 to read: ". . . and in addition, shall manage wild horses and burros as a component of the range in areas where they are not of prime concern." the following should be inserted on line 10 of Section 6: "both on and off the range". The provision would then read: "Any person who violates the regulations issued by the Secretary (or Secretaries) pursuant to this Act or who processes or permits to be processed, into commercial products, in whole or in part, any (wild) free-roaming horse or burro, whether lawfully acquired or not, both on and off the range etc., etc."

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Section 7 provides penalties for allowing a domestic horse to run with, or taking possession of, or molesting, (wild) free-roaming horses or burros.

COMMENT

Prohibiting the release of domestic horses to run with wild horses and burros under the jurisdiction of the Secretary (or Secretaries) is intended to put an end to the operations of those who use this means of harvesting all horses and burros within an area, on the pretext of rounding up their own domestic animals and progeny, for sale to processing centers, thus realizing a profit on a commodity that has cost them nothing to raise, and upon which no tax or other fee has been levied. In many areas of the West, this is a common practice, particularly with the use of airborne and mechanized vehicles, as their use is not prohibited in the gathering of privately owned animals, and the latter provide an excuse in the event an operator is apprehended.

The domestic livestock industry takes the position that it will suffer financially if it is obliged to pasture and "feed-lot" the domestic horses they use for their operations. In the same breath, they complain of a neighbor who has a permit for twelve domestic horses and is grazing forty, eating their own cattle out of existence. It is this abuse that Section 7 would also eliminate, along with halting the operators who are commercially harvesting the animals.

Strong objection has been registered to the size of the proposed fine of \$1000.00 for violations as set forth in Sections 6 and 7. My position is that any lesser fine would be little or no deterrent to violations.

In the Nevada meetings on the Hansen Bill, the livestock representatives asked if we would yield on Section 7 if they provided strict regulatory provisions to govern domestic horse release. We said we would yield if the regulations were strict and clear enough. We have not yet seen these proposals from the livestock industry yet and therefore we will hold to Section 7.

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## CONCLUSION

Following is my commentary on specific points in my role as liaison between the public that asks for protection for their national heritage, with assurance of its future well-being, and those who eliminate the species to make a fast dollar, or whose sporting instincts are gratified through using them as targets, or who shoot them just to get rid of them, or who are reluctant to share the forage supply of our public lands with other than food-producing animals, or who look upon any animal not edible nor of trophy value to be a trespasser on lands inhabited by huntable species. I include also an evaluation of the reaction of the public, expressed through its letters regarding S3358.

Because it has always thought of the wild horses and burros as a national heritage, the public is satisfied that they be considered that in the text of the bill.

The section dealing with processing the horses and burros into commercial products, whether lawfully acquired or not, is supported as a deterrent to over-zealous control measures, which this elimination of a potential for financial gain would curtail.

Having learned of the practice of releasing domestic horses in order to harvest all horses and burros within an area, and/or to obtain free grazing, people are enraged and support without reservation the provision prohibiting such release.

I have been asked to report on provisions that might be made more flexible. Insofar as the majority of those who contact me are concerned, the bill is not strong enough. They are adamant that the bill be enacted to include the wild horses and burros in management of public land, and consider a weak point of the bill to be that it proposes to set aside only specific areas in which wild horses and burros are the prime animals. They support specific areas, but they want all wild horses and burros to be included under federal management and protection by law in the multiple use concept of the range.



Insofar as flexibility is concerned, we already have that in the Wild Horse Annie Law, the intent of which has been virtually negated through manipulations of that flexibility. Any more flexibility in legislation would result in equal abuse and distortion.

There has been the suggestion advanced that in lieu of federal legislation, specific areas be designated by the Secretary of the Interior, as was done in the Pryor Mountains along the Montana-Wyoming border, resulting in the establishment of the wild horse range there. It was only after four years of bitter controversy that this was finally done. While in the meantime, efforts were accelerated to dispose of as many of the animals in other areas as possible before they could come under any protection and management program through federal legislation or by specific designation. Enactment by the State of Arizona of a bill in early 1970 is one example. Under its terms, practically an open season has been declared on wild horses and burros, with a minimum of requirements to be met.

It has also been suggested that regulations be enacted by the separate states, in lieu of federal legislation. Because the habitat of the wild horses and burros is comprised of lands already in demand by other interests within the separate Western states, such legislation would have as much chance of being enacted on a state basis as would one of the animals landing on the moon without benefit of a space vehicle.

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I would hope that the livestock and hunting industries would recognize the interest of the public in these animals, but if they cannot do so, it will have to be left up to the people of America, who have already abundantly indicated their interest in and support of a protection, management and control program. The livestock industry has benefitted from the use of the open range for so many years that it has come to consider it to be its private domain. The Fish and



Game agencies have emphasized the elimination of non-target animals and an increase in huntable species, as their revenue is in direct proportion to the number of hunting licenses sold and the amount of ammunition expended.

But as the resource diminishes, public concern increases, and only an equitable consideration of all interests involved will save any of it for our own and coming generations.

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