

6/14/90

COPY FOR YOUR INFORMATION

ANIMAL PROTECTION INSTITUTE OF AMERICA

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June 14, 1990

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To	BLM	From	N. WHITAKER
Co.	Caliente	Co.	API
Dept	new	Phone #	
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new to follow

Curtis Tucker
 ARea Manager
 BLM
 P.O. Box 237
 Caliente, NV 89008

COPY FOR YOUR INFORMATION

NELLIS EVALUATION AND PROPOSED REMOVAL

Dear Curtis:

We appreciate the opportunity to respond to your proposed removal of horses from the Nellis wild horse area. Even though the data appears to support that degradation exists, they do not support your determination that there are 1,520 EXCESS horses in need of removal.

Since the law, clarified by the two IBLA orders, is very restrictive about removing only EXCESS horses, your determination of the number of excess is critical for us.

The size of the habitat area and amount of water and food in that area are plainly the basic factors in making that determination. In fact, it goes without saying that one cannot begin to determine the amount of water and forage available without knowing the size of the area.

The original 5-Party Agreement, eliminated the old Nevada Range, in order to recognize and identify where horses existed in December 1971 and where BLM would manage horses. This agreement very clearly lists the size of the area as including the entire Nellis Complex including the Tonopah Test Range, the Bombing Range, the Nevada Test site and area that had been designated before the law as the southern Nevada special range. This describes the legal area where horses are to be managed by BLM. It has been officially recognized, officially designated, and officially agreed to as the area where horses are to be managed. This area, we are told by the 5-Party Agreement, is where wild horses will be protected by

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"Wild Horse Annie"
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- CLAUDE
"The Boss of Kimmoull"

BLM. The elimination of some 1.5 million acres of that habitat without proper public notification or input on that major decision (which is protested by all interested and affected wild horse advocates) precludes BLM from determining what amount of forage and water is available to horses until the size of the area is known.

We view this proposed decision as jumping the gun, so to speak, in terms of addressing horses that are in the Cactus Flats and Kawich Valley based on monitoring only the section identified as the Nevada Wild Horse Range (NWHR). There is no monitoring data at all for the entire southern half of the habitat area.

In reviewing the evaluation of this one section of the entire habitat area (as identified by the 5-Party agreement); that is the NWHR, we note certain discrepancies and other questionable statements. We fail to grasp exactly what supports the determination that the optimum number for horses in this specific portion should be 997 or that the removal of horses within this specified area down to that 997 level will correct the resource damage. Because the law requires, IBLA orders, and the expectation of our 150,000 members is, that a decision to remove wild horses from the public lands be very carefully weighed, we believe the burden is on BLM to be very, very clear about determining optimum and excess and how, by removing horses, resource damage will be corrected.

The following is our response to the three major issues of water, forage, and animal condition.

FORAGE

First, we need to stress the free-roaming nature of these horses and their "right" to all parts of their identified habitat area. Movement in and out of the specified portion being addressed in the Evaluation (NWHR) has not been considered a factor in determining the number of animals using the amount of forage in this area. Nor has the number of horses or other animals in relationship to the damaged areas been considered. For instance, the vet reports visiting Tunnel Springs for 30 minutes during the field inspection tour during which time a large herd of antelope were observed leaving the spring but saw no horses at all in or around the spring. The evaluation (p. 7) shows that antelope are in the northern portion of Cactus Flat and all of Kawich Valley. The utilization levels on forage do not show any species specific percentages. We assume the antelope and mule deer eat the bud sage since horses normally would not. But we don't know what percent of the grasses and winterfat is taken by mule deer and antelope or rabbits and other small rodents.

I puzzled for sometime over the utilization monitoring schedule attempting to figure out when the readings were taken in the 31 utilization sites. Only 8 of these were inside the area

depicted as the "NWHR" and 11 were in the area in the northern section of the habitat outside the "NWHR" which is referred to as the "AWL" area. This section on utilization begins on page 15.

The data separates the 8 sites within the "NWHR" into two separate readings (table 7--reports 2 sites; Table 8 reports 6 sites). Table 7 says:

Site 2	4 species were measured in 1986
Site 6	2 species were measured in 1986

With regard to Table 8 it says the specialist saw 5 species 18 times during 1986 through 1989; in 12 of these times there was moderate to severe utilization; and that these 12 observations were averaged [presumably as the basis for the utilization pattern map reported in Table 12, page 21]. This immediately raised the question of why the other six observations were not part of the average. In looking more closely at those observations in fact 5 species were not observed 18 times during 1986 through 1989.

The actual schedule for measuring utilization on these 6 sites looks like this:

Site A	saw 4 species	one sighting in 1988
Site 1	saw 3 species	in 1986, 1987, 1988, 1989
Site 9	saw 3 species	in 1987, 1988, 1989
Site 10	saw 4 species	in 1987, 1988, 1989
Site 11	saw 2 species	in 1987, 1988, 1989
Site 12	saw 2 species	in 1987, 1988, 1989

Comparing this layout with Table 12, only winterfat is shown as having SEVERE utilization in Site A in 1988.

THERE IS NO SEVERE UTILIZATION IN 1989 AND ONLY THREE SITES ARE REPORTED AS BEING IN THE HEAVY UTILIZATION ZONE in 1989.

Site A, Site 1, Site 10 show utilization on the Indian Ricegrass as HEAVY; site 1 and 10 show winterfat also as HEAVY. All other sites show utilization as moderate or less on key species. We wonder why utilization on winterfat is severe in Site A back in 1988.

Now, we look at the frequency charts to see how abundant these key species are. The notation in the frequency section explains that to give a proper reading the frequency of key species should be between 20 and 80. The frequency chart covers six areas identified by letters A-F. The four key species are HIJA--galleta grass; SIHY bottlebrush; ORHY--Indian Ricegrass; and CELA which is winterfat. The data show only Area #F has an amount of CELA that falls within the 20-80 range for measuring.

	# A	#B	#C	#D	#E	#F
HIJA	26	5	24	40	54	--
SIHY	35	25	--	19	1	6
ORHY	13	11	31	6	19	6
CELA	5	2	16	.5	7	72

Of the six Sites CELA appears in a significant amount only in Area F. There is really insufficient information to construct a Use Pattern Map within the "NWHR" area.

These data are the result of 2,517 horses (plus other wildlife) currently using the NWHR area. They do not support the declaration in the EA that accompanies the proposed removal plan which says the NWHR range will only support 997 horses. If the above underlined statement is true, these readings say the NWHR will not support either horses or wildlife. But horses and wildlife are there. Instead of the above underlined statement being true, it should say out of a total of 31 sites, five of eight sites within the NWHR were measured in 1987, 1988, and 1989. No one key species was seen in every site.

If a forage plant, such as Indian Ricegrass, is so scant and scarce that horses walking by results in overutilization, it isn't a realistic picture of what really sustains a population. Looking at the frequency measurements laid out above in a chart form, we note the majority of readings fall far below BLM's own criteria (between 20 and 80). If the purpose of monitoring utilization is to measure actual forage consumption by wild horses, it would make sense to measure what species actually sustain them. If the purpose is to measure the impact on these key species as indicators of a healthy range, lowering utilization levels is geared for continuous decreases in the population of users while fencing and piping waters to disperse usage would have the possibility of decreasing usage and increasing the frequency of these species. The reason for this is that simply reducing current use levels will not prevent other horses from migrating to these areas and filling in the gap created by the removal. A removal under these circumstances will not achieve a thriving ecological balance of the natural system, lower utilization levels will not achieve a thriving ecological balance, piping waters to disperse herds from the area will achieve a thriving ecological balance.

WATERS

We know from previous BLM reports and the actual use pattern map plus photos that the area around Tunnel Springs, Rose Springs and Breen Creek are listed as severe and possibly degraded in a radius up to 1.5 miles with heavy utilization as

far out as 3 miles. These conditions were first reported to API in 1981 after the official removal of cattle grazing from Nellis (see the documentation that accompanied API's 1988 appeals.) We know from complaints and informal reports that trespass cattle sometimes outnumbered horses until the northern boundary fence was built in 1985. The vet report accompanying your EA reports that the area around Breen Creek and Rose Spring was severely overgrazed for up to a mile and more out from the water source. The vet also reports the pipeline at Tunnel Springs broken and we know the flash flood of July 1989 wiped-out the Breen Creek water system. We do not disagree that conditions around major perennial water sources are degraded and in need of rehabilitation and restoration. However, a reduction in the number of horses will not do it. Spreading a reduction over five years with no other repair will increase degradation. Fencing the spring and piping water out would be an immediate end to the degradation.

The evaluation (page 6) refers to horses ranging up to 15 miles from water and even further during winter when snow is on the ground.

We also have reports from Craig Downer that during his own extensive observations of the wild horses in Nevada he has on several occasions observed horses pawing down to sub-terrain waters where no evidence of moisture exists at the surface. BLM refuses to acknowledge any report that doesn't fit a predetermined management scheme geared for domestic cows and now, a new management scheme geared to providing horses for the adoption program.

Wild horses have been observed going more than one day between visits to a major water source. They have been observed "tanking up" to limit return visits. There are informal reports that wild, free-roaming horses are able to stay away from major waters for up to two days. These observations suggest that either horses have a hollow leg or other anatomical storage tanks or that they meet their water needs from a variety of sources other than these flowing, perennial springs identified by BLM as the "only waters in a given area." Sucking mud is considered neurotic for one's saddle horse but might very well be a survival adaptation for wild horses. Because we don't feed our pets dirty, contaminated water, the domestic vet refers to wild horses needing "clean" water. But the ability to replenish moisture from many sources including dirty water, urine, plant moisture, and tiny seeps, might be a survival adaptation and the obvious explanation for informal observations. By imposing predetermined expectations and domestic standards on this wild, free-roaming species, BLM's management program fails to consider natural mechanisms and processes at work. Millions of dollars are spent for roundups that VIOLATE the law while pennies are spent for the implemen

tation of the law--including gathering information on which to develop a sound wild horse program.

The proposed decision recognizes a six mile radius from perennial waters as the limit for wild horse grazing even though it contradicts the professional observations and reports of your own wild horse specialist that says these horses graze up to 12-14 miles out. That six mile decision is clearly not based on the real grazing habits and patterns of these horses.

If it doesn't fit, it won't work! We can't accept it as sound management.

When the first snows arrived in early 1990, the Breen Creek "water crisis" ended. Nature contradicted BLM's prediction of winter die off and population collapse. Unless BLM's predictions are based on reality, nature will always contradict them. We cannot accept an objective based on perennial water supplies dictating population numbers or "CONTROL HORSE MOVEMENT." These recommendations are so clearly dictated by the perspective within BLM to manufacture a market for wild horses and a policy that places the emphasis on providing horses for the adoption program, it becomes easier for area managers to disregard the professional observations of their own wild horse staff and propose out-and-out blatant violations of law than defy the powers that be inside BLM. Interfering with the wild, free-roaming nature of these protected species, is against the law.

Even after determining that excess horses exist, the law advises BLM to consider "other options" before removing wild horses from the public lands. However, in reviewing this evaluation of the data the information and monitoring studies do not support a clear determination of excess nor do they support 997 as the optimum number inside the area called the "NWHR." Where degradation of the range exists around major perennial water sources, the alternative action in need of consideration is to pipe waters beyond the 6 mile radius and fencing the spring to exclude animals from the potential riparian zone. This would save both the riparian area and the wild horses. Failure to consider it (but instead suggest building corrals for capture) is geared for a program of continued degradation of the water system and the need for continued reduction of horses.

ANIMAL CONDITION

The evaluation refers to an arbitrary set of numbers to quantify the "condition" of horses. Several future considerations lay the ground work for nothing short of a breeding farm. They go far beyond the "hands off" policy of the least feasible management that Congress intended. There is no explanation of where this scale for fat, happy, backyard pets-on-the-range originated or the criteria for distinguishing condition in various seasons, whether they are temporary or long term, or if

mortality and foal rates or other population dynamic factors are included in this grading system.

However, there is a ruling from the Tenth Circuit Court of Appeals regarding the management of wild horses as wildlife. We find this grading system in violation of the intent of the law for least feasible management, hands off, keep breeding-farm domestic-standards out, let nature determine these things, manage wild horses as wildlife are managed and not as domestic cows are managed which is the clear mandate to BLM from Congress in the 1971 Act as amended. It is the clear message we, at API, continue to hear from our own members.

We disagree with every objective in the evaluation that stems from that perspective of providing horses for the adoption program or looking at animals as a tourist attraction on the land (the zoo-like attitude), we do agree with BLM's own draft habitat evaluation handbook that is currently circulating and believe quantifiable objectives for the habitat based on this handbook should be listed. We agree with BLM's 1982-85 program guidance and the Nevada State BLM's field manual and believe population dynamics information--biotic needs and habitat requirements--can be developed that fit the intent of the law. We question whether this evaluation is the proper place for listing these long term future objectives.

In summary we believe this proposed roundup and evaluation jumps the gun with regard to the boundary and is an invalid attempt to reduce wild horse populations. It is, we believe, a political decision not based on technical recommendations or completed range monitoring studies. The monitoring data provided in the evaluation do not support 997 as an "AML." The evaluation process shows objectives not met but that raised the more critical question of what has been done to meet them (e.g., the broken pipeline at Tunnel Springs, the creation of a crisis at Breen Creek by failure to address the problem). It underscores the fact that the objectives are geared toward removals. This management proposal would turn Nellis into nothing more than a source of horses for the adoption program. We do object also to eliminating burros; they are as protected as the horses. Therefore, API protests this decision with the intent to appeal unless it is altered and modified considerably to bring it into compliance with law.

Sincerely,

Nancy Whitaker
Nancy Whitaker
Program Assistant