

COMMISSION
DRAFT

Nellis

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Mr. Jeffrey G Steinmetz
Bureau of Land Management
4765 West Vegas Drive
Las Vegas, Nevada

Nellis

12-2001

Subject: Draft Nevada Text and Training Range Resource Management Plan and EIS

Dear Mr. Steinmetz:

Natural resource management of the Nellis Air Force Range has been dependent on the effectiveness of the Five Party Agreement and varying degree of opportunities that were allowed by the Air Force's under their ever-changing mission. The affected parties include wild horse interests, livestock permittees, the Bureau of Land Management and the Division of Wildlife. Realizing that all natural resources are secondary concerns of the Air Force, this environmental impact statement cannot establish the imminent impacts by the Air Force activities due to its classified nature of its mission. As a result of this land withdrawal, wild horse management has been a function of emergency actions to prevent massive die-offs of wild horses subject ephemeral nature of the Mojave Desert.

The draft environmental impact statement establishes the fact the present Nevada Wild Horse Range is not consistent with the Herd Area and thus the Wild Horse and Burro Act. Recently, the " ", took a credible assessment of the NWHR suitability and wild horse use of key forage species. According to this document, only percent of the NWHR was suitable and the appropriate management level was estimated at wild horses. This assessment did not take into account the suitability of the Herd Area or realignment of the NWHR or Herd Management Area.

Data presented in the DEIS indicate the extreme ephemeral nature of the Stonewall and Cactus Flat herds. Gather data and emergency actions strongly suggest that these areas can create excessive numbers of wild horses that are in jeopardy during repetitive drought conditions. We would conclude that these areas are unsuitable for wild horses.

The redefinition and expansion of the herd management area or NWHR to the east to include perennial waters and adequate forage would be consistent with Act and reasonable for practical management. An overriding factor, and not established in the DEIS, is the mission and commitment of the Air Force to allow proper management of the wild horse herd. Management of the new wild horse herd will require rangeland monitor data and wild horse census on a more regular basis. Given the nature of Nellis Air Force Range, the appropriate management level must be at the minimum genetic threshold of the herd. This management criteria was not assessed in the DEIS. It would

appear that data collected from 15 gathers over the past 15 years, the BLM should have enough age, genetic and recruitment data to determine the appropriate composition of the herd. We would suggest that these additional factors be assessed and determined in the final documents.

The DEIS focuses on the ephemeral nature of the water and seasonal migrations of wild horses throughout the herd area or Nellis Range. Range conservationists have long observed the ephemeral-perennial nature of key forage species, Galeta grass. During above average precipitation, galeta grass supports the wild horse herds throughout the NWHR and beyond into the Nellis Range. During the severe drought conditions, wild horses must survive on spiny hop-sage that contain high auxins. The result of this poor forage and lack of water is the rapid decline in body condition and catastrophic die-off of wild horses. This situation continues to repeat itself over and over again. We feel that this supports the present position to re-delineate the herd management area and establish an appropriate management level at the genetic threshold of the herd.

In general, the DEIS discussions of livestock grazing and wildlife habitats are speculative at best. No range monitoring data or Rangeland Health Criteria were conducted to substantiate any conclusions or recommendations of the proposed alternative. Most professionals realize the habitat overlap of wild horses and pronghorn antelope, but no population data or habitat assessments can determine the real impacts of wild horses on wildlife populations. Livestock have been allowed to graze yearlong or in trespass of the two allotments. It would be reasonable to prescribe livestock grazing systems that are consistent with the phenology of the key forage species. It is probable that the Bureau of Land Management's land use plans has these prescriptions in the preferred alternatives, but these actions were not implemented.

Please consider these matters in the Final Environmental Impact Statement and Resource Management Plan. We would appreciate a Record of Decision that establishes the herd management area and appropriate management level for the herd.

Nellis
STATE OF NEVADA

12-20-01
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December 20, 2001

Mr. Jeffrey G. Steinmetz
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USDI Bureau of Land Management
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Re: Draft NTTR RMP/EIS

Dear Mr. Steinmetz:

We are greatly disappointed in the *Draft Nevada Test & Training Range Resource Management Plan and Environmental Impact Statement* (Draft NTTR Plan) prepared by the Bureau of Land Management (Bureau) to replace the 1992 *Approved Nellis Air Force Range Resource Plan and Record of Decision* (1992 Plan). There was little need to completely rewrite the 1992 Plan. An update of the successes, failures, and challenges of implementing wild horse management along with the proposed alternatives (which were consistent with the 1992 Plan) to rectify management shortfalls would have sufficed. Instead, what resulted was an unnecessary effort to: 1) deny certain truths about wild horse management on the Nevada Test and Training Range (NTTR) for at least the past 9 years; 2) rationalize need for a new, expanded 1971 horse use area; and, 3) present an expanded scope and complexity of wild horse management alternatives. In view of the Air Force mission, we believe the management tact taken is detrimental to habitat, horses, and wildlife, and demonstrates risk-taking by the Bureau concerning its management credibility and accountability regarding compliance with the Wild Free-Roaming Horse and Burro Act of 1971 (1971 Act). Hence, the Division supports the Governor's position statement which selects Alternative D concerning wild horse management.

Most troubling about the Draft NTTR Plan is the expanded Herd Area (HA) proposed for Alternatives B, C and D. It is unacceptable. As presented later in this letter, the Bureau has not produced substantial documentation supporting a more expansive horse use area at the time of the 1971 Act (i.e. December 15, 1971). As such, we believe the reasonable and appropriate HA for all alternatives in the Draft NTTR Plan is the combination of the Nevada Wild Horse Range and the 1971 Horse Use Area identified in the 1992 Plan's Record of Decision (ROD).

We are aware of the Fund for Animals filing a motion in U.S. District Court last September for a preliminary injunction to stop the Bureau's plan to reduce wild horse numbers to Appropriate Management Level (AML) throughout the West. While the process cannot and should not limit public oversight, we foresee the consequences will be further range deterioration and increases in the costs of future horse removals.

If horses are to remain on the NTTR, the Division supports in concept the Governor's position statement to support Alternative C. However, we have the following *provisos*:

1. The Herd Area (HA) boundary must reflect that which was properly delineated in the 1992 Plan (i.e. combination of the 1971 wild horse use area and Nevada Wild Horse Range);
2. Water available to wild horses will be limited to those sources within the 1992 HA as well as those available at the time of the 1971 Act.
3. Do not restrict wild horses from the southern portion of the Kawich Valley in the NWHR. (A concern with Alternative C in the Draft NTTR Plan is discouragement of horse use in there. The Draft NTTR Plan has not clearly demonstrated that such a restriction is necessary. No where is there identification of horse use conflicts with the military mission, or conflicts with access to monitoring that portion of the NWHR.); and,
4. The southwest boundary of the 1992 Plan's HA be modified to accommodate the Herd Management Area (HMA) as proposed in Alternative C.

Supportive Detail

Division's participation in development of this Draft NTTR Plan began with our firm support of the 1992 Plan, i.e. the Nevada Wild Horse Range as the agreed Herd Management Area (HMA), the associated management guidance and direction, and the 1971 wild horse use area defined in the Record of Decision (ROD). While the 1992 Plan became alternative "A" in the Draft NTTR Plan, our assertion was meant to question the quick abandonment of the 1992 Plan by the Bureau and its persistent pursuit of a new NTTR-wide Herd Use Area and management alternatives based thereon. Unfortunately, our experience with the Bureau and Air Force to partake in open, reasonable, and objective review of the best available information (including ours), and consider plausible and effective management approaches finds us with the Draft NTTR Plan, clearly crafted to perpetuate the *status quo* of not living up to previously agreed management commitments.

We believe that wild horse management as suggested in the Draft NTTR Plan under Alternatives B, C, and D to varying extent:

- 1) abandons a consistent management direction having a 39 year history on the Nevada Test and Training Range (NTTR) without adequately proposing or justifying the need for any changes;
- 2) was predetermined regardless of the information and data produced during development of the Draft NTTR Plan;
- 3) is based on erroneous mandate interpretation, and uses misleading inaccuracies resulting in arbitrary and capricious management justifications;
- 4) indicates that in development of the Draft NTTR Plan, historic information regarding wild horses on the NTTR was improperly evaluated and utilized by the Bureau;

- 5) suggests that the Bureau's preferred Alternative B is unrealistic and fiscally unsound; and,
- 6) the process and product fail to comply with the Wild Free-Roaming Horse and Burro Act (1971 Act).

Elaboration of the above 6 points:

- 1) The difficulty of limiting management of wild horses to the Nevada Wild Horse Range (NWHR) was identified as an initial issue in the Draft NTTR Plan (1.6.1.1, page 1-5; 2.2.8.3, Wild Horses paragraph). However, there is neither specification as to what those difficulties were or are, nor discussion as to what steps were taken to comply with past direction but which proved unsuccessful. Prior to proffering a notable departure from previous management direction, the Bureau should have presented and analyzed new or persuasive information that clearly supported change. Unfortunately, the Bureau does not offer any substantive information, administrative or scientific, as to why expanded management of wild horses on the NTTR is justified along with re-delineation of the present Herd Area (HA). While there are claims made of conclusive and/or supportive information (page 2-10, Section 2.3, paragraph 2; page 3-49, Section 3.6.8.2, paragraphs 3 and 4; page 3-52, Section 3.6.8.3, paragraph 1), we can find nowhere in the Draft NTTR Plan any such information. Nor was such information supplied to the working group involved in developing the Draft NTTR Plan.
- 2) It is evident that the Bureau has attempted to bias the Draft NTTR Plan toward validating management of a predetermined number of horses. Earlier chapter versions prepared for the Draft NTTR Plan obviously denigrated management alternatives other than the Bureau's preferred Alternative B. Additionally, the Bureau continually asserted an Appropriate Management Level (AML) of 600-1,000 horses derived from that set in a 1995 removal plan. Although the AML numbers are not now identified, the "Core Area" has remained in the Draft NTTR Plan and is presented as having the ability to accommodate approximately 1,000 horses. A point to note, the Bureau's relatively recent but persistent encouragement for horse use of the Cactus Range waters and associated forage located on the western edge of the proposed Core Area, is the focus of our disagreement with Environmental Assessment NV-052-98-009, which has been on appeal to the Interior Board of Land Appeals (IBLA) since 1999.
- 3) From the beginning of the working group's development of the Draft NTTR Plan, the Bureau asserted an interpretation of the 1992 Plan mandating a new delineation of the 1971 use area for wild horses. In the April 13, 2001 working group meeting, the Division pointed out that the Record of Decision for the 1992 Plan clearly identified that the Bureau's Director instructed the Bureau's Nevada State Office Director to "include a map delineating the 1971 Wild Horse Use Areas" in the approved 1992 Plan in order to resolve two protests of the proposed plan by wild horse advocacy groups (see *Approved Nellis Air Force Range Resource Plan and Record of Decision (ROD)*, pg. 20, Section E). Indeed, Map 5 in the 1992 Plan shows the 1971 use area. However, the Bureau did not agree. Subsequently, the Division's representative on the working group repeatedly submitted written comments regarding the fact that the 1992 ROD did legally delineate a 1971 horse use area and no further clarification was directed. Our comments have been ignored. In fact, the Draft NTTR Plan still misstates that the 1971 Horse Use Area had yet to be delineated (see page 3-48, Section 3.6.8.2, paragraph 1; page 4-14, Section 4.6.8.2, paragraph 2).

The Bureau and its contractor (Desert Research Institute) go further in misrepresenting the 1971 delineation shown on Map 5 in the 1992 ROD (see Draft NTTR Plan, page 2-6, Section 2.2.5.7, paragraph 1; page 3-49, Section 3.6.8.2, paragraph 2). The Bureau argues that the 1971 use area was hastily added and does not fully overlap with the NWHR. As such, it creates only a sliver of 99,630 acres within the NWHR, which would qualify for the legal HMA. It should be noted that this *predicament* was only developed after the April 2001 meeting and was not identified as a problem for horse management during the previous nine years. Since 1992, the Division, USAF and Bureau have all understood that the 1971 horse use area included the Map 5 delineation and the entire NWHR. If there was an error in management oversight, why it was not "corrected" through a land use plan amendment prior to this time. To argue in the Draft NTTR Plan that the Bureau's previous designation was illegal and allowed to stand for almost ten years is spurious. There has been no valid, legal opinion ruling the Alternative A (1992 Plan) illegal or invalid. Therefore, the 1992 Plan should not be misrepresented as such in this document.

Both the cornerstone and fundamental weakness for wild horse management in Alternatives B, C and D of the Draft NTTR Plan is the Bureau's presentation of the 1971 distribution of wild horses. To further an acceptance of a NTTR-wide HA, the Draft NTTR Plan discusses out of context the 1985 Herd Management Area Plan (HMAP), the 1992 Plan (and draft thereof), Division's antelope and bighorn sheep surveys, and cattle numbers on the NTTR. Thorough review of the available information will show the Bureau's assertions for an expansive, NTTR-wide 1971 horse distribution are not substantiated in the Draft NTTR Plan or elsewhere.

According to the Draft NTTR Plan, the 1985 HMAP is quoted as proposing "managing the horses where they were found in 1971,....." (Page 3-49, Section 3.6.8.2, paragraph 1). The 1985 HMAP contains neither such wording nor implication. The 1985 HMAP does not even attempt to estimate the 1971 wild horse use area, or HA. Map 3 of the 1985 HMAP (page 22) does, however, show horse home range and use areas. Although no time period is designated, they are identified in Appendix I as "Home Range and Herd Use Areas" and the only reference in the 1985 HMAP text is in the presentation of 1985 conditions, not 1971 conditions. It is reasonable that the map presents the situation at the time the 1985 HMAP document was produced (circa 1984-85). The 1985 HMAP does list under Management Objectives: "Manage wild horses on the NRC (*Nellis Range Complex*) with the objective to maintain the home range wholly within the NWHR." (page 13, Section #6). This is clearly not the context inferred in the Draft NTTR Plan, or by the suggested NTTR-wide horse distribution suggested therein.

The Draft NTTR Plan also states several times that the 1992 Plan does not comply with the Act (page 3-49, Section 3.6.8.2, paragraph 2; page 4-14, Section 4.6.8.2, paragraph 2). It is

suggested that a NTTR-wide, 1971 horse distribution was identified but was ignored in the 1992 ROD. The Draft NTTR Plan states, "The 1989 *Draft Nellis Air Force Range Resource Plan and Environmental Impact Statement* (NAFRRP) which was sent out for public review and comment, contained a map of the 1971 Herd Use Area that encompassed most of the NTTR North Range."

Our review of the 1989 NAFRRP and the approved 1992 Plan and ROD shows that a 1971 NTTR-wide horse distribution was never an alternative or even suggested. Even the No Action Alternative proposed to continue existing management, i.e. restrict horses wholly to the NWHR.

The map showing NTTR-wide horse distribution (1989 Draft Plan, page 1-14, Map 8) is plainly identified in the text as the distribution of horses in the early 1980's (1989 Draft Plan, page 3-7, Wild Horses, paragraph 4). Nowhere is it suggested that Map 8 is the 1971 wild horse distribution. From all Bureau documents reviewed relating to the NTTR, it appears that the NTTR-wide HA/HMA has been invented within the Draft NTTR Plan.

Additionally, on page 3-7 (Wild Horses, paragraph 2), the 1989 Draft NAFRRP states, "A census conducted on the ground in 1973 revealed 800 horses on the Nevada Wild Horse Range. Since that date, wild horse herds have expanded their numbers and currently roam over most of the north portion of the Nellis Air Force Range." The Draft NTTR Plan provides no substantiated information which counters or "corrects" this statement.

The Draft NTTR Plan interprets Division survey information to imply expanded horse use. An antelope survey of 8/16/1974 reported groups of 79 and 17 horses in the "Cactus Peak" area. This information has been added to Figure 3-12 to literally suggest horse use of the Cactus Range proper. The inappropriate context of survey information is stated, "Areas on Figure 3-12 that indicate an absence of horses, may indicate 'no horses' simply because the areas were never visited. Data provided by the Nevada Division of Wildlife (see table on Figure 3-12) support this possibility. The elevation and physiographic identifiers (i.e. valley bottoms) suggest these bands were located on alluvial landforms below the mountains, but above the low point of Stonewall Flat." (page 3-49, Section 3.6.8.2, paragraph 3). We disagree, the Division's fixed-wing aircraft surveys did not cover specific positions, but covered vast areas utilizing prominent features and well-known localities for reference points. For example, the adjacent west-central Kawich Range survey area was identified as "Stinking Spring" on the same survey sheet. The implication that horses can be placed in the Cactus Range (almost three years after the 1971 Act) by utilizing this antelope survey data is not well founded. In view of the 1968 pronghorn distribution map and mapped survey routes produced for later flights (which were supplied to the BLM and DRI), the likelihood of finding antelope in poorly watered, mountainous terrain at the north end of the range, during the hot late-summer period leads to the reasonable deduction that limited time would have been spent surveying the Cactus Peak portion of the Cactus Range. From the location noted as Cactus Peak, we can only confer that 96 horses and no antelope were seen in the broad vicinity of Cactus Peak, not Cactus Peak proper.

The use of the elevational information from the same survey to imply that horses were observed on alluvial areas of Cactus Peak is an even broader interpretation of very little data. The elevations noted as "6000 ft. to Valley Bottoms" applied to a vast, general portion of Nye and Esmeralda counties that supported antelope populations. There are no suggestions from the survey data where the horse groups were located. It might be possible, from looking at the data points on Figure 3-12 that the two groups of 96 horses could be represented by the point representing 51-100 horses observed during the summer. The closest geographic feature is Cactus Peak. However, the point is approximately 14 miles north-northwest of Cactus Peak and several miles outside of the NTTR.

As for the 67 horses seen near Stonewall Mountain during antelope surveys two years later on 7/23/1976, this "best information" infers horse use was only on the western half of the Stonewall HMA; and, because the survey flight was for antelope, biologists would have explored the

perimeter of the range. In fact the primary biologist for the flight delineated the survey area on a map that shows it was limited to the northern and western periphery of Stonewall Mountain. Bighorn sheep helicopter flights made on 1/12/1975, 2/23/1976, 7/27/1976 and 9/29/1976 reported 65, 38, 74 and 53 horses, respectively. These flights would have been restricted to Stonewall Mountain itself. This information about the Stonewall area neither supports a NTTR-wide horse distribution, nor does it support as expansive a Stonewall HA as that shown in Figure 3-11.

The Draft NTTR Plan attempts to correlate the excessive horse numbers of the late 1980's and early 1990's with the combination of cattle and horse numbers in the 1970's. The document states, "potentially 6,000 to 8,000 or more cattle may have grazed on portions of the northern planning area," in addition to several hundred horses (Section 3.6.8.2, paragraph 4). The implication is that this total number of livestock in 1971 would mirror the NTTR-wide distribution of 8,000 to 10,000 wild horses documented in the late 1980's and early 1990's. We disagree with the notion that a significant number of trespass cattle existed on the NTTR to force wild horses to expand their home ranges across the entire NTTR. First, the *estimated* total number of cattle that could have been on the NTTR is hypothetical. These numbers were generated from the number of cattle that could have been permitted upon all grazing allotments adjacent to the NTTR. There is no determination as to season of use for the allotments, nor determination of the annual use level, both of which could have widely varied. Second, it may be possible but highly improbable that all or even most of the cattle cited were in trespass on the NTTR at the same time to force an expanded horse distribution. However, we do know that the vast majority of the horse population in the late 1980's and early 1990's ("as high as 10,000") was on the NTTR all year long. The massive trespass speculated would have required ranchers to have had unlimited access to high security areas in order to continually gather their stock. Third, the allotments encompassed large areas outside the NTTR. For example, the Montezuma Grazing Allotment extends over 80 miles from Tonopah to Beatty. Cattle grazing near Beatty and other perimeter areas would not have been associated with NTTR trespass and horse use areas in 1971. Finally, the broader distribution of cattle would have dictated a more extensive Bureau survey of the NTTR on the eight counts from 1972 to 1974. Should the Bureau's speculation have credence, then the compilation of horse and cattle survey maps on Figure 3-12 should have reflected this broader distribution of horses. Furthermore, had data from the original maps been used in developing Figure 3-12, we would have had a better presentation of the number of trespass cattle on the NTTR circa 1971. Our observation of the 1971 and 1990 comparison having little utility was made early during the draft development process, but ignored.

Most disappointing regarding wild horse management issues in the Draft NTTR Plan are the inappropriate and misleading statements and unsupported speculation promulgated as fact in a Federal land use plan. Some of these are (emphasis is added):

- a) "This alternative identifies a herd area (HA) consistent with *data that suggest* wild horses used much of the North Range in 1971." (page 2-10, Section 2.3, paragraph 2).
- b) "The BLM and Nevada Wild Horse Commission have *a variety of qualitative and quantitative data* about wild horse numbers, and or locations from throughout the 1970's and early 1980's that can be used to identify the approximate area wild horses used in 1971." (page 3-49, Section 3.6.8.2, paragraph 3).

- c) "**Information on file** with the Nevada State Horse Commission **suggests** that wild horses **probably** used much of the northern planning area in 1971." (page 3-49, Section 3.6.8.2, paragraph 4).
- d) "The large number of cattle and horses in 1971, **is likely to have resulted in** one or both species having to range across most of the northern planning area to meet their forage demands, since both species primarily consume grasses." (page 3-49, Section 3.6.8.2, paragraph 4).
- e) "The availability of forage and seasonal water at the south end of Gold Flat, the northern rim of Pahute Mesa, Tolicha Peak, and northward to Stonewall Mountain (personal communication, Gary McFadden, BLM wild horse specialist), combined with high grazing pressures in 1971, **most likely would have resulted in** wild horses using much of the northern planning area, from Kawich Valley to the western boundary." (page 3-49, Section 3.6.8.2, paragraph 4).
- f) "The BLM Las Vegas Field Office wild horse and burro specialist **believes** that three largely independent herds exist on the NTTR." (page 3-52, Section 3.6.8.3, paragraph 1).
- g) "The Las Vegas Field Office **does not believe** that an appropriate herd area was previously established (page 4-1, Section 4.1.1.2, paragraph 1). {Note: Both 1992 and 2001 Plans were generated out of the same district office and no solicitor's opinion was ever produced to back this contention.}
- h) "**Data** from Figures 3-11 and 3-12, and from letters and memos on file with the Nevada Wild Horse Commission, **indicate** that horses were found in much of the proposed HA. Other areas have no records of being searched for horses, thus, they may, or may not, have been present. The presence of feed and water and the absence of physical barriers **suggest** that most, or all, of the proposed HA/HMA was used by horses in 1971." (page 4-14, Section 4.6.8.2, paragraph 2).

Assertions of 1971 horse use areas, seasonal movements and the practicality of continuing current management direction for horses on the NTTR are based upon unsubstantiated statements in the Draft NTTR Plan. Several times during development of the Plan (at least twice in written comments), the Division asked to view the data and information upon which these statements are based. Information proffered by the Nevada Wild Horse Commission at meetings in 2000 consisted of undated newspaper articles, memos and letters which were non-specific as to horse locations or distribution and failed to mention an NTTR-wide distribution of horses. However, none of this information or any other pertinent data or information has been supplied or referenced in the Draft NTTR Plan such that it could be reviewed. This is inexcusable and those statements and dependent speculations should be removed.

In its effort to steer management toward acceptance of the proposed 1971 NTTR-wide HA, the Bureau has fatally flawed the Draft NTTR Plan. Alternatives B, C, and D for wild horse management in the Draft NTTR Plan rely wholly on the unsubstantiated NTTR-wide HA. In fact, the newly proposed 1971 horse use area has management implications for all resources on the NTTR. The Division finds that these differences should have been resolved through interagency consultation, or at the least, the Bureau should have requested a solicitor's opinion prior to producing this draft.

4) As we previously noted, and contrary to statements and implications within the Draft NTTR Plan, no prior NTTR-wide, 1971 horse use area proposals exist. We find it difficult to believe that the Bureau has new, substantial information, or a clearer understanding of wild horse distribution on the NTTR at this point, 30 years after the 1971 Act, than it did in 1992 or 1985. The only new data brought forth in the development of the Draft NTTR Plan contradicts the proposed, new horse management alternatives.

The new data and information was incorporated into two maps in the Draft NTTR Plan, Figures 3-11 and 3-12. The purpose of Figure 3-11 is questionable, and more importantly, the Draft NTTR Plan concedes that the data source for this presentation is unknown (page 3-49, Section 3.6.8.2, paragraph 3). Although there were no fences to influence horse movement across NTTR boundaries, this map shows substantial misalignment of adjacent 1971 HA's. The offsets appear separated by as much as 20 miles, where wild horse use is purported on one side of an imaginary line but not on the other side. Although this questionable depiction might seem to support horse use of the eastern Cactus Range waters, it also indicates neither a NTTR-wide distribution nor any north-south seasonal horse movement, critical aspects to the Draft NTTR Plan's new management delineations.

The Division finds that the data most pertinent to 1971 wild horse distribution was reviewed in the development of the Draft NTTR Plan and is included as Figure 3-12. That map illustrates a compilation of eight out of nine BLM ground survey maps dated 09/29/1972 to 06/28/1974 and used for review concerning cattle and horse numbers and their distribution on the NTTR (see table below). Data from a May 1970 map were not included.

MAP DATE	SURVEY DATE LISTED	OBSERVED HORSES
5/70	-	-
9/29/72	8/21/72	259
No Date	11/12/72	275
2/10/73	2/10/73	239
5/12/73	5/ 6/73	447
8/ 7/73	8/ 7/73	542
12/73	11/10/73	422
3/21/74	3/21/74	515
6/28/74	6/28/74	?

The information documenting horse use on the NTTR in the early 1970's correlates closely with the combination of the NWHR and the 1971 HA produced as Map 5 in the 1992 Plan. Figure 3-12 displays approximately 143 horse group locations within the NTTR. Eighty locations are within the NWHR and 54 locations are given for the 1971 use area. Only 9 of the total NTTR

locations occur outside the 1992 Plan HA. The 95.1% correlation is very high and contradicts the proposed NTTR-wide HA/HMA.

The data depicted in Figure 3-12 clearly do not corroborate a NTTR-wide horse distribution circa 1971. Nor do the data support contentions of broad seasonal movements reported in the 1985 HMAP and detailed in the Draft NTTR Plan (page 3-52, Section 3.6.8.3). The proposed seasonal movements, which the new "Core Area" scenario of Alternative B accommodates, would appear unrelated to the 1971 horse numbers and distribution. If there is any validity to the speculation that 6,000 to 8,000 cattle once occupied the NTTR concurrently with 500 to 800 horses and also reflect the distribution of 8,000 to 10,000 horses in the late 1980's and early 1990's, a reasonable person would be led to believe that the Bureau range conservationists or wranglers performing the counts would have had to searched much more of the range than the area where horses were identified. If the latter is so, the 6,000 to 8,000 head of cattle theory and the data used to create Map 3-12 at minimum would more strongly counter the Bureau's speculation of an NTTR-wide distribution of wild horses circa 1971.

Seasonal horse distribution speculated for 1971 as detailed in Section 3.6.8.3 (pages 3-52 and 3-53) is unsupported by Map 3-12 data or any other data. Horse movement data documented nearest to 1971 show limited seasonal movement. In Kawich Valley, the movement even appears to have been summer – south, winter – north; clearly opposite of speculation within the Draft NTTR Plan speculation. The seasonal movements described are contemporary and are not relevant to establishment of a herd area or herd management area based on use patterns as of 1971.

On page 3-49 of the Draft NTTR Plan, there is an attempt to dismiss the Map 3-12 data as incomplete. Paragraph 3 of Section 3.6.8.1 of the Draft Plan states, "Areas on Figure 3-12 that indicate an absence of horses, may indicate 'no horses' simply because the areas were never surveyed." We understand that the extent of the surveys are unknown, and areas may have gone without survey. However the facts remain, the data used to create Map 3-12:

- a) represent the best available that the Bureau has for the time closest to the December 15, 1971 date in the 1971 ACT;
 - b) comprise a good cross-section of seasonal wild horse distribution;
 - c) fail to show southward cool-season or opportunistic movement of horses in the early 1970's; and,
 - d) fail to support the contention of an NTTR-wide distribution or the expansive HA required to carry forth management of Alternatives B, C, or D in the Draft NTTR Plan.
- 5) There are several significant problems with the Bureau's Alternative B proposal in the Draft NTTR Plan. Primarily, the Bureau has not made a supportable case to adopt the NTTR-wide horse use area. Once the broad speculation is removed and the data is objectively evaluated, we are confident that the 1971 HA delineated in the 1992 Plan will remain valid. As such, Alternatives B, C and D are untenable with the expanded HA proposed.

Beyond the HA/HMA issue, the "Core Area" proposal again appears biased by speculation. The Division interprets this concept to be a larger scale version of the current management the Bureau

has described as difficult and which it has failed to accomplish. As such, it is unlikely that the Bureau has the ability to set and meet the more expansive, long-term wild horse management objectives proposed in Alternative B. The Division believes that the demonstrated, long-term record of the Bureau in regard to management of horses in this area from 1962 to the present is sufficient to warrant elevated concern. In 1962, a level of 200 animals was set for the NWHR in a Memorandum of Understanding (MOU) with Nellis Air Force Base. A Bureau survey in September 1972 recorded a number well in excess of the 200 horse limit. Although the 1971 Act nullified any previous population limits, data presented in the Draft NTTR Plan show a distribution and numbers in excess of the 1962 (and 1964) MOUs.

In 1974, the Bureau and U.S. Air Force agreed in a separate MOU that horses would be managed within the limits of the Wild Horse Management Area (i.e. Nevada Wild Horse Range) and excess animals would be removed "to protect the soil, vegetation, watershed or other resource values in the area." However, horse numbers continued to rapidly increase. By March of 1984, numbers had increased such that 4,890 horses and 118 burros were observed across the NTTR during a BLM wild horse survey.

In 1985, the Bureau developed a Herd Management Area Plan that stated its intent "to manage wild horses on the Nellis Range Complex with the objective to maintain the home range wholly within the NWHR." A gather plan was developed that same year, set an administrative level of 2,000 for the NWHR. The plan acknowledged the need to remove 3,500 to 4,000 wild horses from the NTTR-wide wild horse distribution. However, the removal and AML were not predicated on monitoring data and were denied by appeal to the Interior Board of Land Appeals (IBLA 88-591, 88-638, 88-648, 88-679). The ruling stated, "In addition, the plan indicates that no vegetation inventory has been conducted and trend studies had not yielded any results."

A 1991 wild horse gather plan adjusted the AML to 1,000 horses on the NWHR. The AML was based on water availability. Although water availability was only estimated, and there was still no accumulation of vegetative monitoring data, the gather plan was not appealed and horses were removed. The 1992 Plan and ROD stated an intent "to maintain and manage populations of wild free-roaming horses only on the Nevada Wild Horse Range."

In 1995, a lower limit of the AML was set at 600 (with a maximum of 1,000) in a gather plan, again without appropriate vegetative monitoring data. Soon after this activity plan, the U.S. Air Force began protecting riparian areas outside the HA and HMA in the Cactus Range. Fencing was used to prohibit horse use of riparian areas. The Bureau produced an Environmental Assessment (EA NV-052-98-009) which proposed to supply water outside the exclosures for wild horses. The Cactus Range lies outside the Nevada Wild Horse Range and the 1971 wild horse use area designated in the 1992 Plan. The 1992 Plan did not allow for promoting horse use outside of the NWHR. The Division appealed the proposal. One basis for appeal was 43 CFR Ch II 1610.5.5-3 (a), which states: "All future resource management authorizations and actions, as well as budget and other action proposals to higher levels in the Bureau of Land Management and the Department, and subsequent and more detailed or specific planning, shall conform to the approved plan." The activity was counter to the approved land use plan. The appeal decision is pending with the Interior Board of Land Appeals.

This history demonstrates an inability and an unwillingness to manage according to previous agreements and plans. While horse numbers have been adjusted through removals, the Division is unaware of any removal on the NTTR which has not been preceded by significant range damage and peril to animal health. Additionally, there has been no known effort to limit the distribution of horses to the NWHR as required under the 1992 Plan and all others to this point.

The Division is well aware that conflicts with the U.S. Air Force's mission have hindered the Bureau's ability to manage wild horses on the NTTR. The Division also encourages the Bureau to be innovative in its management. However, the Bureau's "AML Core Area" management proposal actually increases the opportunity for conflicts. Rather than manage horses on the 394,000-acre NWHR, as under past management direction, Alternative B will allow for horse movement and use across 1,330,540 acres of the NTTR. This expansive proposal would legitimize horse use of many areas with bombing ranges and sensitive sites where horse use is undesired and management activities are subject to inhibitive restrictions. This credible possibility would increase the level of conflict with the Air Force mission far beyond that to be expected with the No Action Alternative. The Division is perplexed as to why the Bureau would propose an obviously more difficult management scheme.

The Draft NTTR Plan has identified that water sources are the centers for horse activity and that horses range out widely from waters (page 3-52, 2nd paragraph). By gerrymandering the boundary of the experimental monitoring tract (Figure 2-3) in order to place waters from the Cactus Range on the edge of the "AML Core Area", the Bureau is calculating to promote significant horse use outside the area. This proposal will surely promote horse expansion onto Stonewall Mountain. To use the Draft Plan's own wording, "the presence of feed and water and the absence of physical barriers suggest", horses will readily expand to Stonewall Mountain. Although animals establishing home ranges on Stonewall Mountain would theoretically be removed under the Draft NTTR Plan, the Division finds this eventuality as calculated. Animals drifting to Stonewall on a seasonal basis would have no reason to leave. Forty years of errant wild horse use there has demonstrated that adequate water, forage and space would exist for the establishment of home territories. The resulting situation would require the expenditure of funds for removals almost annually.

The key for management of wild horses is the control of numbers through removals that are founded upon science-based monitoring data. In this case, the Division has no confidence that the Bureau can or should predicate removals upon wild horse use outside this experimental designation. Basing removals upon seasonal horse use outside the Core Area, the Bureau assumes that: 1) it can detect wayward horses in areas with poor ground access and high vegetative and topographic visual screening; 2) it can remove animals from an HMA without showing use in excess of habitat objectives; and 3) there will be no legal challenges.

The NTTR is a vast area with poor ground access into much of the supposed winter-use areas. The Draft Plan barely discusses annual surveys. Untimely surveys could allow horses to maintain trespass home territories during the critical summer period. Use of direct counts from ground and/or aerial surveys for large mammals by nature cannot depict the absolute number of animals within an area. "Sightability" varies due to a number of factors. To actually prevent the establishment of errant home ranges outside the AML Core Area requires extensive and more

numerous surveys of the entire NTTR. We believe this is unlikely to occur.

The assurance that animals will be removed when horse numbers exceed the AML or when horses establish home territories outside the AML Core Area does not appear to follow regulatory guidance. CFR.4710.4 states, in part: "Management of wild horses and burros shall be undertaken with the objective of limiting the animals distribution to herd areas." It is doubtful that animals which have every right to stray within an HA per the 1971 Act and CFR, and even more so within the HMA, will be removed for seasonally errant movements. There is no precedence for removing animals from an HMA without a monitoring-based determination of use approaching or in excess of either a thriving, natural ecological balance, or a quantitative and qualitative evaluation regarding established habitat objectives. The simple use of numbers to justify removals has not been upheld upon appeal.

IBLA 90-419 identifies the guidelines as: "A BLM decision to gather wild free-roaming horses from within and outside a wild horse herd management area will be affirmed on appeal when: (1) a conclusion that the dormant season utilization levels have exceeded the utilization levels called for in an approved resource management plan is supported by field monitoring data; (2) the actual size of the wild horse herd exceeds an appropriate management level identified in approved land use plans; and it is necessary to remove excess horses to restore and maintain a thriving natural ecological balance to the range and protect it from deterioration associated with overpopulation." Since horse use will be permitted and encouraged outside the core area, there is no mention of how, or even if, use will be monitored across the entire range. Although removals may be pursued when animals establish home ranges outside the Core Area, according to CFR and IBLA rulings, horses are entitled to exist in the HA and more so in the HMA until the Bureau can demonstrate through monitoring that the use outside of the Core Area exceeds a thriving, natural ecological balance.

Unless the Bureau can demonstrate that wild horse use is beyond or has potential to exceed a thriving, natural ecological balance outside of the HA, removals would not withstand appeal. Based upon the proclivity of wild horse advocacy groups to contest plans to control horse numbers and distribution, the Division believes the AML Core Area proposal is lacking in regulatory and legal foundation. This Core Area proposal would be vulnerable by either side in the wild horse management arena. Maintaining a fidelity to this proposal will eventually expose it as weak and problematic.

Addressing allowances for horse movement across the entire NTTR also exposes one of the noteworthy and false benefits attributed to Alternative B in the Draft NTTR Plan. The Draft NTTR Plan states, "Excluding water and forage from outside the proposed area for calculating AML, would reserve scarce water supplies for other wildlife in much of the planning area." (page 4-14, section 4.6.8.2, paragraph 6). The logic here is not based on the reality of the situation. Wild horses, when present, are a dominant presence in the ecological systems of the United States. Studies by Joel Berger, (University of Nevada, Reno) and others have documented inter-specific behavioral dominance and territorial aggression that negatively impact wildlife use of the resources. Allowing NTTR-wide distribution increases the chances of competition between wild horses and wildlife. Also, the Bureau's history of wild horse management in this area has demonstrated that unnecessary competition and range degradation are not always easily detected

and corrections are not necessarily made in a timely manner. The NTTR-wide dispersal proposed in this alternative, will reduce the chances of negative impacts being located. There are no guarantees that annual surveys will be conducted and would be thorough enough to locate situations compromising a thriving, natural ecological balance.

Monitoring required under section 3(b) of the 1971 Act relies on "an intensive monitoring program involving studies of grazing utilization, trend in range condition, actual use, and climatic factors." Alternatives B and C using the NTTR-wide HA/HMA would require the Bureau to perform consistent, science-based monitoring to meet pre-determined objectives across the entire area. Based on the Bureau's monitoring record when the AML area was the NWHR, it is uncertain that adequate monitoring would be accomplished in the Core Area, much less the entire NTTR.

The Division strongly opposes the drilling of wells (Page 2-16 Management Directions - A. (4)). The Bureau has utilized water twice to determine the AML for the area (1991 Removal Plan, 1995 Removal Plan). Clearly, the Bureau recognizes the importance of water as a component of habitat. As such, water is subject to consideration under 43 CFR 4700.0-6(a), which states that wild horses and burros "shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat." Drilling wells to increase the amount of water available for wild horses and manipulate their distribution is definitely outside the thriving, natural ecological balance described within the 1971 Act and goes beyond "the productive capacity of their habitat." The reticence of the Bureau to manage to these standards is well documented, as water has been hauled for horses on the NTTR regularly on an "emergency" basis. Rather than reduce the AML to match "the productive capacity of their habitat", the Bureau's endeavors have served to exceed that capacity. This also exceeds the direction of the 1971 Act, wherein Section 3(a) says in part, "All management activities shall be at the **minimal feasible level** (emphasis added) and shall be carried out in consultation with the wildlife agency of the State wherein such lands are located in order to protect the natural ecological balance of all wildlife species which inhabit such lands, particularly endangered wildlife species."

The Division finds the direction to drill wells curious. Calculating the need for water wells in advance concedes that the Bureau is attempting to designate a core area that does not have adequate water supplies to either support horses in general or a certain number of horses. The action will further complicate wild horse management with increased expense and maintenance demands.

As much as conflicts with the Air Force mission, the funding and staffing limitations have hampered the Bureau in its attempts to manage wild horses according to the 1971 Act and subsequent land use plans. If it does not address budget considerations, the Division believes that the Bureau is remiss in its proposed wild horse management on the NTTR. All plans are only good intentions if the Bureau does not secure adequate funds to effect meaningful wild horse management on the NTTR.

The Bureau has demonstrated a very limited ability to make necessary removals statewide on any regular basis as is described in the Draft NTTR Plan. It seems that emergency gathers in various parts of Nevada, annually mandate the diversion of limited funds for planned horse removals.

Management of wild horses and burros must be based upon sound science and in recognition of the demonstrated performance and limited fiscal capabilities of the Bureau. Thirty years of good intentions have damaged the range. This condition cannot be tolerated further.

6) The Division's opposition to this Draft NTTR Plan relates to the failure to adequately consult and consider wildlife as required in Section 3(a) of the Free-Roaming Wild Horse and Burro Act of 1971. Although the Division participated in the development of this plan, the process and resulting document demonstrates the Bureau's resistance to our consultation. The Division's concerns and comments have been dismissed out of hand and without recourse until this Draft NTTR Plan was produced. There must be a means of ensuring an equitable allotting of the resources between wild horses and wildlife.

We look forward to the next NTTR RMP/EIS review.

Sincerely,



D. Bradford Hardenbrook
Supervisory Biologist - Habitat

CS/DBH:dbh

cc: Director, DCNR
Administrator, NDOW
Nevada State Clearing House
Administrator, Nevada Wild Horse Commission
U.S. Air Force, Nellis

Nellis

12-21-01



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS 99TH AIR BASE WING (ACC)
NELLIS AIR FORCE BASE, NEVADA

Colonel Delwyn R. Eulberg
Commander
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~~DEC 21 2001~~

Mr Robert V. Abbey
State Director, Nevada
P.O. Box 1200
Reno NV 89520-0006

Dear Mr Abbey

We have reviewed the *draft* BLM Resource Management Plan and Environmental Impact Statement for the Nevada Test and Training Range, Northern Ranges (dated September 2001). I've attached our detailed comments for incorporation into the document. While our comments are extensive, I would like to highlight the following points of concern:

- a. The proposed expansion of the 1971 Wild Horse Use Area remains untenable. As the 1971 Wild Horse Use Area was legally defined in the 1992 BLM Resource Management Plan (RMP), the area must not be changed. That basis wasn't apparent in this draft plan. Furthermore, operational and environmental constraints to the Air Force mission preclude implementation of Alternative B. Therefore, the AF strongly advocates for Alternative C, keeping the 1971 Wild Horse Use Area as legally defined in the 1992 RMP's Record of Decision.
- b. We do not agree with BLM's stance that there are no scientific or biological data available for analysis. A host of studies, related directly to resources specifically delineated in the RMP, have been completed and establish the baseline for the current stewardship programs managing the environment for sustainability. Many of these reports are referenced in the comment sheets for your incorporation in the analysis. Just as critical to address in the BLM document is that the Nellis Integrated Natural Resource Management Plan (January 1999 with updates) and the Nellis Cultural Resource Management Plan (August 1998 with updates) remain the guiding documents for the Nevada Test and Training Range. The BLM Resource Management Plan should place greater emphasis on the importance of integrating AF planning efforts (range and airspace management plans, INRMPs, CRMPs) with BLM's RMP and Wild Horse Management Plan.
- c. There are various entries in the document discussing possible changes to range access requirements for BLM staff and contractors. Due to safety and security reasons, there will be no changes to the current requirements.

- d. Public Law 106-65 did not alter or eliminate existing Federal reserved water rights.
This fact needs to be pointed out in the document (see comment # 58).

While our comments are extensive and by their volume, may seem overly critical, I must commend your staff for their efforts in developing a plan under a relatively short suspense. Should your staff seek clarification regarding our comments, my point of contact is Ms. Susan Barrow, 99 CES/CEVN, at (702) 652-4354.

Sincerely



DELWYN R. EULBERG

Colonel, USAF

Commander

Attachment:

Air Force Review Comments (19 pages)

cc:

Mr. Mark Morse, Manager Las Vegas Field Office

Mr. Jeffrey G. Steinmetz, Team Leader

AIR FORCE REVIEW COMMENTS
PUBLIC DRAFT NEVADA TEST AND TRAINING RANGE RESOURCE MANAGEMENT PLAN AND
ENVIRONMENTAL IMPACT STATEMENT

September 2001

#	Page/Sec/Para.	Reviewer	Comment	Response
1.	General Comment	ACC/CEVPP	Text needs to reflect that this document is a Resource Management Plan and an Environmental Impact Statement. Beyond the title and Intro pages, supporting text does not reflect this.	
2.	General Comment	99 CES/CEV	The Commander, 99 Air Base Wing, in response to a request from the Las Vegas BLM Office District Manager's planning team, forwarded a letter on March 23, 2001, identifying two critical Air Force resource management plans to be used in the development of BLM's plan in accordance with PL 106-65. The Air Force approved plans are: Integrated Natural Resources Management Plan (INRMP) (Jan 99, rev. Feb 01) and the Cultural Resources Management Plan (CRMP) (Aug 98, rev. Dec 00). These plans were prepared according to Air Force Instructions 32-7064 and 32-7065, respectively, and are the official Nellis plans for the Nellis Air Force Range (also known as the Nevada Test and Training Range). The INRMP was reviewed and accepted by the U.S. Fish and Wildlife Service and the Nevada Division of Wildlife per the Sikes Act, PL 86-797, as amended by the Sikes Act Improvement Amendments of 1997, PL 105-85. The BLM's proposed plan must be consistent with these two Air Force official plans.	
3.	General Comments	ACC/CEVPP	Suggest greater emphasis on the importance of integrating AF planning efforts (range and airspace management plans, INRMPs, CRMPs) with BLM's RMP and Wild Horse Management Plan.	
4.	General Comment	ACC/JAV	<u>The Sikes Act and Integrated Natural Resource Management Plans.</u> The Air Force has a requirement under the Sikes Act, 16 U.S.C. § 670a, to "prepare and implement an integrated natural resource management plan for each military installation in the United States." Based on a "interdisciplinary approach to ecosystem management," the integrated natural resource management plan (INRMP) "ensures the successful accomplishment of the military mission by integrating all aspects of natural resource management with each other and the rest of the installation's mission." Integrated Natural Resource Management, AFI 32-7064, para 2.1 (1997). These INRMPs must be prepared in cooperation with the USFWS as well as the appropriate State fish and wildlife agency. 16 U.S.C. § 670a(2). Nellis Air Force Base has prepared an INRMP for the NTTR in compliance with the Sikes Act. The draft RMP and EIS is basically silent on this subject. Perhaps the most logical course would have been to prepare a joint RMP and INRMP. Failing that, the BLM draft RMP and EIS, at a minimum, should have discussed the interaction between the Nellis INRMP and the draft RMP in the cumulative impacts section.	

#	Page/Sec/Para.	Reviewer	Comment	Response
5.	General Comment	98 RANW/XPL	Several of the paragraphs supporting alternatives other than the BLM Preferred Alternative are written in a negative tone. Specific comments are cited elsewhere in these comments but this trend should be modified throughout the document.	
6.	General Comment	ACC/CEVPN	Recommend environmental consequences reported for each Alternative. Allows for more accurate evaluation of alternatives by decision makers and reviewers.	
7.	General Comment	ACC/JAV	<p><u>Alternatives.</u> The EIS does not adequately address alternatives to the proposed action. According to the Council on Environmental Quality (CEQ) regulations at 40 CFR § 1502.14(b), an EIS should “[d]evote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.” The document must “present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public.” § 1502.14.</p> <p>This document, as currently drafted, does not provide sufficient information about each alternative and their associated environmental consequences to make a reasoned comparison. This is due to several deficiencies. First, the document never outlines exactly what actions will take place under Alternatives A, B, C, and D. Chapter 2 only outlines some very vague objectives that the alternatives will try to accomplish. For example, in section 2.2.5.3 Sensitive Species (discussing the current RMP, Alternative A), the objective is to “protect threatened and endangered species and their habitat.” The corresponding section for Alternatives B, C, and D, section 2.3.5.4, has similarly vague language such as “manage habitat for special status species at the potential natural community or the desired plant community, according to the needs of the species.” Yet, section 4.6.4.2 comes to the sweeping conclusion that “[a]lternatives B, C, and D meet the management needs of a broader suite of sensitive species than the No-Action alternative.”</p> <p>It is impossible to logically make that type of statement without more detail on exactly what actions will take place under Alternatives B, C, and D versus what actions are currently programmed under Alternative A.</p> <p>Additionally, other than in section 4.6.8 Wild Horses, very little distinction is made between Alternatives B, C, and D. Again taking the discussion of Sensitive Species as an example, section 4.6.4.2 analyzes the environmental consequences of Alternatives B, C, and D on sensitive species as if they would be the same. Yet, even this section acknowledges this is not the case since it states, “a reduction in the area where grazing animals primarily would be managed, as well as the reduction of number of grazing animals, would greatly enhance the potential for improved habitat conditions.” Thus, Alternative B (proposes a herd management area (HMA) of 1,330,540 acres), Alternative C (proposes a HMA of 325,220 acres), and Alternative D (would remove all wild horses and burros from the planning area), should have varying degrees of impacts on sensitive species.</p>	

#	Page/Sec/Para.	Reviewer	Comment	Response
			<p>Another reason it is difficult to compare the alternatives is this EIS never adequately outlines selection criteria. How can a decisionmaker “[r]igorously explore and objectively evaluate all reasonable alternatives” if there are no standards to judge the alternatives against? 40 CFR § 1502.14(a). Section 1.6.1.2 purports to outline “planning criteria” but none of the criteria even mentions wild horses and burros. How then can the relative merits of a 1,330,540 acre HMA be compared to a 325,220 acre HMA or no HMA?</p> <p>There is one selection criteria that is clearly delineated. Proposed planning criteria A states that the “primary use of the withdrawn area is military training and testing. The management of specified natural resources is subservient to the military mission.” Unfortunately, Chapter 4 has little to no discussion of how each of the proposed alternatives would impact the ability to conduct military training and testing. Selection standards need to be properly drafted and included in this EIS to explain for the decisionmaker and the public how and why the proposed action and reasonable alternatives have been analyzed, and why other alternatives were eliminated from detailed analysis.</p> <p>As stated in NEPA’s implementing regulations, at 40 CFR § 1502.14, the alternatives section is “the heart of the environmental impact statement.” Specific information on what is proposed under each alternative, more detailed discussion on the different environmental consequences of each alternative, and clearly articulated selection criteria to compare the alternatives against must be added to this document to satisfy the requirements outlined in the CEQ regulations.</p>	
8.	General Comment	ACC/JAV	<p>b. <u>Wild and Free-roaming Horses and Burros Act</u>. The Wild and Free-roaming Horses and Burros Act (WHBA) states that it is “the policy of Congress that wild free-roaming horses and burros shall be protected from capture, branding, harassment, or death; and to accomplish this they are to be considered in the area where presently found, as an integral part of the natural system of the public lands.” 16 U.S.C. § 1331 (emphasis added). The section of the Act that outlines the powers and duties of the Secretary of the Interior mandates that the Secretary “shall maintain a current inventory of the wild free-roaming horses and burros on given areas of the public lands.” 16 U.S.C. § 1333(b)(1). The purpose of this inventory shall be to: make determinations as to whether and where overpopulation exists and whether action should be taken to remove excess animals; determine appropriate management levels of wild free-roaming horses and burros on these areas of the public lands; and determine whether appropriate management levels should be achieved by the removal or destruction of excess animals, or other options (such as sterilization, or natural controls on population levels).</p>	

#	Page/Sec/Para.	Reviewer	Comment	Response
9.	General Comment	ACC/JAV	<p>16 U.S.C. § 1333(b)(1). There is no requirement in the WHBA to “define the Herd Area and Herd Management Area, for all horse herds that existed in 1971.” Draft EIS, page 3-48, section 3.6.8.2. Likewise, there is no such mandate in the implementing regulations, 43 CFR Part 4700. The year 1971 does have significance in the definition of the term “herd area.” At 43 CFR § 4700.0-5(d), herd area is defined as “the geographic area identified as having been used by the herd as its habitat in 1971.” No specific timeframe is associated with the connected term “herd management area.” Discussion of herd management areas is contained in 43 CFR § 4710.3-1, which states: “Herd management areas shall be established for the maintenance of wild horse and burro herds. In delineating each herd management area, the authorized officer shall consider the appropriate management level for the herd, the habitat requirements of the animals, the relationships with other uses of the public and adjacent private lands, and the constraints contained in 4710.4. The authorized officer shall prepare a herd management area plan, which may cover one or more herd management areas (emphasis added).”</p>	
10.	General Comment	ACC/JAV	<p>Section 4710.4 Constraints, contains the following Congressional intent: “Management of wild horses and burros shall be undertaken with the objective of limiting the animals’ distribution to herd areas. Management shall be at the minimum level necessary to attain the objective identified in approved land use plans and herd management area plans.”</p>	
11.	General Comment	ACC/JAV	<p>As stated in <i>Blake v. Babbitt</i>, 837 F. Supp. 458 (D.D.C. 1993): Because over population of wild horses and burros resulted from passage of the 1971 Act, Congress amended the Act through the Public Rangelands Improvement Act of 1978. These amendments seemed to strike a new balance between “protecting wild horses and competing interests in the resources of the public range.” <i>American Horse Protection Association v. Watt</i>, 694 F.2d at 1316. The amendments made clear the importance of management of the public range for multiple uses, rather than emphasizing wild horse needs. <i>Id.</i> The legislative history makes clear that one of Congress’ goals was to “deal with range deterioration in areas where excess numbers of wild-free roaming horses and burros exist.” H.R. Rep. No. 1122, 95th Cong., 2nd Sess. 9 (1978). The House Report indicated that the Wild Horse Act had been so successful that the numbers of wild horses and burros “now exceed the carrying capacity of the range. Excess numbers of horses and burros pose a threat to wildlife, livestock, the improvement of range conditions, and ultimately their own survival.” <i>Id.</i>, at 21. . . . Another part of the legislative history of the 1978 Amendments clearly sets forth Congress’ goal: “The goal of wild horses and burro management, as with all range management programs, shall be to maintain a thriving ecological balance between wild horse and burro populations, wildlife, livestock, and vegetation, and to protect the range from the deterioration associated with overpopulation of wild horses and burros.” H.R. Rep. No. 1737. 95th Cong., 2nd Sess., 15 (1978).</p>	

#	Page/Sec/Para.	Reviewer	Comment	Response
			<p><i>Blake v. Babbitt</i>, 837 F. Supp. 458, 459-460 (D.D.C. 1993) also stated: It is clear that the intent of Congress is not to take an expansionist view towards the management of wild horses and burros. Rather, the current focus of the WHBA and its implementing regulations is on balancing interests and protecting public lands from deterioration. Thus, any assertion in this EIS that an expansion of the herd area and herd management area to 1,330,540 acres is required to be in compliance with the WHBA is inaccurate. Likewise, trying 30 years after the passage of the Act to expand the herd area based on "unknown" data sources (draft EIS, page 3-49, section 3.6.8.2), is not consistent with current Congressional goals.</p>	
12.	General Comment	99 CES/CEVN	<p>BLM advocates expanding the Horse management area significantly yet does not reflect increased personnel, budgets, or close proximity to the area to adequately manage the horse herds in the best interest of horse health, wildlife health, and stewardship. Therefore, reducing the area and numbers of horses appears a logical selection due to the constraint of BLM time, range access, financial resources, and long term financing of stewardship.</p>	
13.	General Comment	99 CES/CEVN	<p>Wildhorse Issues: BLM advocates for a greatly expanded area to use in calculating the AML. It appears expanding the acreage will increase BLM's AML of horse numbers, thus decline the available feed and water available for mule deer, antelope, coyotes, rabbits, birds, the total spectrum of natural wildlife. There are no calculations showing environmental impacts on natural wildlife populations from the increases in horse populations. Please portray this data in the document in detail. Evidence of the 1990's horse population explosions showed a marked decline in horse health, wildlife prosperity, vegetation, and water availability.</p>	
14.	General Comment	99 CES/CEVN	<p>BLM advocates expanding the previously declared "1971 Wild Horse Herd Use Area". This area was declared in the 1992 RMP and should be left as depicted in that document. Having each generation of BLM planner revise decisions is ineffective in making progress. It is doubtful that the cattle grazing data, which BLM is using to enhance the expanse of area, adequately portrays Wild Horse Herds. The horses indicated during the cattle grazing studies may have been those of ranchers and cattle herd managers - not necessarily wild horses. A decision was made in 1992 declaring specific property as the 1971 Horse Use Area and evidence presented lacks reliability and validity. Thus the 1971 Horse Use Area must stand as shown in the 1992 BLM document. Make alterations to the document for Alternative A, C, and D. Only Alternative B can reflect the expansion of the declaration of the "1971 Horse Use Area".</p>	
15.	General Comment	98 RANW/XPL	<p>This plan does not adequately explain how BLM will manage, both physically and fiscally, their preferred Alternative B, a herd area increased from 325,220 acres to 1,330,540 acres. The local BLM horse manager cited economic and manpower limitations in properly managing the horses today (Conversations Lt Col Scarine and with Mr. Garv McFadden during the August 2000 horse gather). Without</p>	

#	Page/Sec/Para.	Reviewer	Comment	Response
16.	General Comment	99 CES/CEVN	<p>these details, Alternative B may not be actionable.</p> <p>Many studies and research events have been completed providing background data for ecosystem management. Many of the studies have not been consulted in the document, therefore, add these references and incorporate the information into the context of the overall environmental analysis. By identifying that a baseline has been established gives the plan credibility and supports a detailed listing of future work, research, and studies for the NTTR.</p> <ul style="list-style-type: none"> - Mineral and Energy Resource Assessment of the Nellis Air Force Range, Nov. 1997 - Bird Survey Report, Air Force project No. RKXF956145, Oct. 1997 - Bat survey Report, RKXF956140, Nellis Air Force Base, Nellis Air Force Range, NV, Mar. 1997 - Wetland Survey Report, RKXF956044, Nellis Air Force Base/Nellis Air Force Range, Mar. 1997 - Nevada Division of Wildlife Antelope Surveys - Nevada Division of Wildlife Big Horn Sheep Surveys - Range Vegetation Surveys and Mapping, through Sept 2001 - Range Condition Survey, November 1999 	
17.	General Comment	AWFC/PA	There are numerous typographical errors throughout document	
18.	General Comment	AWFC/PA	Since this document does not cover the entire Nevada Test and Training Range, the title should be changed to reflect the fact that only portions of the range are covered.	
19.	Page S-1 thru S-2	ACC/CEVPP	Provide legal requirement for completing an environmental impact statement-both federal requirements as well as agency level requirements.	
20.	Page S-1, 1 st Para, 1 st sentence, 3 rd line	ACC/JAV and 98 RANW/XPL	Add "testing weapons systems and" between "... specific mission of" and "training...". Delete the word "pilots" and replace with "ground and aircrews." A similar correction should be made at page 1-1, section 1.1.	
21.	Page S-1, Para 2, 6 th line and Page 1-1, Section 1.1	98 RANW/XPL	Do Nye and Lincoln counties have any "responsibilities to public resource management or public health and safety on the NTTR". See comment 28 below.	
22.	Page S-1, Para 2, 12 th line and Page 1-1, Section 1.2	98 RANG/XPL	TTR is not Dept of Energy. DOE has a Land Use Permit that allows them use of R-4809.	

#	Page/Sec/Para.	Reviewer	Comment	Response
23.	Page S-1 Para 5	98 RANW/XPL	One relevant point missing here is PL 106-65, Sec 3014(a)(2) and (3) and (c). This states that the military mission is first and BLM must manage the lands and resources to ensure the AF mission can continue.	
24.	Page S-2, Para 3 and page 2-1, Para 3	98 RANW/XPL	The second sentence appears to be an opinion. Sentence three is unclear; are you stating that the Air Force requirements as listed, are the reasons that BLM has little leeway in resource management?	
25.	Page S-2, Para 7 and page 2-17 Para 2.4	98 RANW/XPL	The first sentence is ok. However the rest of the paragraph needs work. Recommend: "With respect to wild horses, Alternative C represents an area where wild horses can be managed to minimize the conflicts with the Air Force mission. This proposed HMA encompasses 325,220 acres (figure 2-4). Horses would be allowed to move outside the HMA provided they did not establish permanent home ranges outside the HMA. The Air Force would be able to request removal of horses outside the HMA."	
26.	Page 1-1	ACC/CEVPP	Need to state that this document serves as a Draft RMP and a Draft EIS (see comment above).	
27.	Page 1.1, Section 1.2, lines 2-9	ACC/CEVPP and 98 RANW/XPL	Does the local government have regulatory or other legal jurisdiction over the Range? Clarify exactly what they have regulatory responsibility over, versus state or federal. Add a table defining each agency's specific responsibility and jurisdiction. Note that Section 1.4 could be deleted with the addition of this table. See comment 31 below.	
28.	Page 1.1, Section 1.3, Line 1	99 CES/CEVN	Insert "Allied" in front of "Air crews..."	
29.	Page 1.1, Section 1.3, Last para	98 RANW/XPL	Add the excerpt from PL 106-65, Section 3014, (a)(3)(A). "(3) Nonmilitary uses.- (A) In general.--All nonmilitary use of the lands referred to in paragraph (2), other than the uses described in that paragraph, shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this subtitle." This is a key provision for any nonmilitary use on NTTR.	
30.	Page 1-3, Section 1.4	99 CES/CEVN and 98 RANW/XPL	Delete this paragraph and add table described in Comment 28 above.	
31.	Page 1-3, Section 1.5, Para 2	99 CES/CEVN	Delete from "...while accommodating..." to the end of the sentence. Grazing, agriculture, mineral exploration etc. does not currently occur on NTTR and are typically incompatible with the military mission.	

#	Page/Sec/Para.	Reviewer	Comment	Response
32.	Page 1-3 and 1-4, Section 1.6	ACC/CEVPP and 98 RANW/XPL	<p>The Keystone Dialogue on Nellis Air Force Range Stewardship, 1998 was not affiliated with the Withdrawal Renewal requirements. This was an AF initiative, not an initiative associated with withdrawal renewal requirements.</p> <p>The Keystone dialogue, while a great idea, did not provide a document that "articulated the planning objectives, issues and principles that the public and concerned agencies believed to be appropriate and desirable for the NTTR." Rather it produced a document that reflects many different voices, each with a special interest, and none viewing the complete complex issue of total eco-system resource management. It is impossible to make a single plan that heeds all voices of the Keystone Dialogue.</p>	
33.	Page 1-4, para 1.6.1.1	98 RANW/XPL	<p>In this area, Step One, identifies "Issues". In two of the issues, Cattle Grazing and Land/Access, further discussion states that this was eliminated by the Air Force. If it is allowable to refute issues right here and now, then why not refute/discuss other cut and dry points here? I.E.</p> <ul style="list-style-type: none"> - Economic Concerns – discussed in LEIS. - Access – closed to public access IAW PL 106-65. - Cultural Resources – USAF work covered by SHPO approved CRMP - Livestock Grazing – existing allotments allowed by Congressional actions will continue and will be IAW current laws/procedures. - Air Quality – all work IAW EPA, NDEP and CCHD as jurisdiction warrants. - Timber Mountain – all actions IAW ACEC limitations. - Water Resources – water allocations/issues worked with State Engineer. - Hazardous Material – all handled IAW FED, State and AF guidance. Oversight by EPA and State. 	
34.	Page 1-6, Section 1.6.1.2, A.	ACC/CEVPP	<p>If the primary use of the withdrawn area is military training and testing and the management of specified natural resources is subservient to the military mission, why does the BLM alternative involve increasing the HMA, thereby having a greater potential for impact military missions involving testing and training.</p>	
35.	Page 1-6, Section 1.6.1.2, J	ACC/CEVPP	<p>The Keystone Dialogue report was not coordinated with the public. It was prepared with coordination of various interested private organizations, as well as local state and federal agencies. Additionally, not all these groups agreed on the best way to manage the resources.</p>	
36.	Page 1-6, Section 1.6.1.2, N	ACC/CEVPP	<p>Believe you mean BLM will follow federal and state air quality laws and implementing regulations.</p>	

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37.	Page 1-7, Section 1.6.1.4	ACC/JAV	Don't understand the correlation between the resource issues and questions included in this section with the objectives of various alternatives outlined in Chapter 2.	
38.	Page 1.7, Section 1.6.1.4	98 RANW/XPL	By this question: "On what portion of the NTTR will BLM manage for wild horses?" and "How will BLM provide quality habitat for wildlife and wild horses...?" It appears the decision has already been made to keep wild horses. Therefore, why the facade of Alternative D?	
39.	Page 1-8, Section 1.6.1.7.	ACC/CEVPP	This paragraph does not make it clear which step the RMP is at now? If it is Step 7, the preferred alternative could not be based on input from public meeting and written comments, or consultation with other agencies, since we have not had public meetings (beyond scoping), nor written comments, nor does any documentation provided in the Draft RMP/EIS reflect that the Air Force or NDOW support Alternative B.	
40.	Page 1-9, Section 1.6.2, 1 st Para	ACC/CEVPP	The Nellis Air Force Range Withdrawal Renewal LEIS should be included as one of the plans. Additionally, there is a discrepancy between the RMP's alternatives and the LEIS, which proposes withdrawal for the main purpose of military testing and training.	
41.	Page 1-9, , Section 1.6.2, Para 2	ACC/CEVPP	Is line 2 in error. Currently it states that the draft RMP/EIS will come before the Preliminary RMP/Final EIS. Typically the preliminary comes out before the draft.	
42.	Page 2-1, Section 2.1, Paras 3 and 4	ACC/CEVPP	If BLM has little "leeway on how different resources are to be managed", why does their preferred alternative reflect expanding the horse management area, which increases the potential for conflict with military testing and training, as stated in para 4	
43.	Page 2-1, Section 2.1, Para 4	AWFC/PA	Change the line to read "...bombing ranges where live bombs are dropped for testing and training. Operational..."	
44.	Page 2-2, Section 2.2.3.1, number 1	ACC/JAV	Cite should be to current Military Lands Withdrawal Act, PL 106-65.	
45.	Page 2-9, Section 2.2.8.1	98 RANW/XPL	What "planning process" are you referring to?	
46.	Page 2-9, Section 2.2.82.	98 RANW/XPL	Change sentence to a positive spin. Explain that the LV basin reached non-attainment status recently. Prior to this no discussion of Air Quality was warranted.	
47.	Page 2-9, Section 2.2.8.3, Wild Horses	98 RANW/XPL	"Wild Horses. Management objectives in the existing plan are difficult to meet..." This statement is made with no explanation or documentation.	
48.	Page 2-10, Section 2.2.8.4	98 RANW/XPL	Change paragraph to a positive spin. Get rid of "did in fact" and "anticipates". Look to use information presented in page 3-56, paragraph 3.8.4. This explains the issue in a positive manner.	

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49.	Page 2-10, Section 2.3	99 CES/CEVN	Since the basis of this alternative is historic data, shouldn't figure 3-12 be referenced or shown in this section	
50.	Page 2-10, Section 2.3, Para 1, lines 5-6	ACC/CEVPP and 99 CES/CEVN	Whose interpretation of available data? Interpretation based on what? Also, remove word "IMPORTANTLY". The relative significance of the point being made is unsupported in the document. The data does not "suggest" anything. It would be more accurate to say that the BLM interprets the data in this way, or BLM is making assumptions based on its knowledge of wild horse behavior.	
51.	Page 2-10, Section 2.3, Para 2, lines 7-8	ACC/CEVPP	Explain how BLM proposes to closely monitor and adjust horse numbers based on habitat conditions if, as states in the Draft document, BLM has difficulty accessing the range.	
52.	Page 2-10, Section 2.3	98 RANW/XPL	A point not discussed but very relevant: The north boundary fence was constructed in the mid 1980's. Prior to that, horses and cattle roamed the area. Horses followed the water and feed. The fence introduces an artificial boundary that does not permit management of the horses as they roamed in 1971. Per this document, paragraph 3.6.8.2; the horse population exploded in the mid 1980s reaching an estimated 10,000 head. This was after the fences were constructed and the cattle removed from the range. Perhaps the cattle and ranchers kept the water and forage limited and kept the horse more in balance than is done now.	
53.	Page 2-10, Section 2.3.2.1	98 RANW/XPL	Why do you include the word "tribal"?	
54.	Page 2-10, Section 2.3.2.2	98 RANW/XPL	Why not include "weed control"?	
55.	Page 2-11, Figure 2-3	ACC/CEVPP	Change title of this figure to indicate that it is the 'BLM preferred alternative'.	
56.	Page 2-12, Section 2.3.4.1, Para 4	AWFC/JAV	The federal reserved water rights of the NTTR are a function of the establishment of the training range, and Public Law 106-65 did not alter or eliminate those rights. The statement in the RMP which states that "there are no federally reserved water rights on the NTTR" is incorrect (see page 2-12). This should be revised to say that the federal reserved water rights on the NTTR are not effected by Public Law 106-65. For your reference Public Law 106-65 states as follows, with regard to federal reserved water rights: - Sec. 2019. WATER RIGHTS. -- Nothing in this subtitle shall be construed to establish a reservation to the United States with respect to any water or water right on lands covered by section 3011. No provision of this subtitle shall be construed as authorizing the appropriation of water on lands covered by section 3011 by the United States after the date of the enactment of this Act, except in accordance with the law of the State in which such lands are located. This section shall not be construed to affect water	

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			rights acquired by the United States before the date of the enactment of this Act.	
57.	Page 2-14, Section 2.3.5.5	98 RANW/XPL	Management Directions: Does a "Fire Management Action Plan" exist for NTTR?	
58.	Pages 2-16, Section 2.3.5.7, line 1	ACC/CEVPP	The horse heard area mapped in 1971 was revised under Alternative B based on what scientific data specific to horse populations in the area?	
59.	P. 2-16, Section 2.3.5.7, Wild Horses, Management Direction B	ACC/CEVPP	Expansion of the wild horse herd, as described in Alternative B, will likely negatively impact military testing and training mission requirements, as well as the biodiversity and ecological condition of the region.	
60.	Page 2-17, Section 2.4	99 CES/CEVN	The "conflict with the Air Force Mission" should also include environmental conditions, also see previous comment.	
61.	Page 2-17, Section 2.4, 1 st para, last line	ACC/CEVPP	Define "home range issue". Is the AF the only cooperating agency that supports this alternative?	
62.	Page 2-18, Figure 2-4	ACC/CEVPP	Title should be similar to the one given for Alternative B. Additionally, it is not a reduced wild horse herd management area. It is however less than Alternative B.	
63.	Page 2-19, Section 2.4.1.1	98 RANW/XPL	Put positive spin on this paragraph. Change to: " This alternative includes most of the Northern Range. It defines a HMA that encompasses a total of approximately 325,220 acres. This HMA would be used to calculate the AML for the proposed HMA."	
64.	Page 2-19, Management Direction B	ACC/CEVPP	The capability of the BLM to effectively and timely remove wild horses outside the HMA or when population is above the AML is important to protect future military testing and training requirements and the environmental quality of the Range.	

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65.	Page 2-19, para 2.5	98 RANW/XPL	This mentions poor water quality due to contaminants. This is inflammatory to most readers. Pull the data from the later section (pg 4-4, paragraph 4.5.3.1) and explain the contaminants in a sentence to eliminate the inflammatory perception this sentence leaves a reader.	
66.	Page 2-19, para 2.5.1.1.	98 RANW/XPL	Change sentence to read "This alternative revises the mapped 1971 wild horse herd area to include all of the NTTR North Range." Change the map at figure 2-5 to include all the withdrawn lands outside the DNWR.	
67.	Page 2-20, Figure 2-5	98 RANW/XPL	Change the map at figure 2-5 to include all the withdrawn lands outside the DNWR.	
68.	Page 3-1, Section 3.2.1, Para 4, line 4	98 RANW/XPL	"widespread". This is a subjective evaluation. What is your source document for this statement?	
69.	Page 3-1, Section 3.2.1, last Para, last sentence	ACC/CEVPP	Figure 3-1 does not seem to reflect statement that the majority of the disturbed area is in the South Range. Understand the reason the statement is made—most of north range is used for electronic training, whereas south range is used for inert and live ordinance training. Suggest either removing map, or revising to actually support statement.	
70.	Page 3-1, last line in map title	ACC/CEVPP and 98 RANW/XPL	Last line in title has a misspelling and is misleading. This figure generally shows the roads, trails, power lines and communications lines. Provide a drawing at an appropriate scale to discern the targets, threat sites, and industrial areas. The appropriate pictorial representation will allow the readers to visualize the true picture.	
71.	Page 3-6, Section 3.4.2.1, Para 5	98 RANW/XPL	Borrow Pits: The batch plant at TTR was operated until 1995.	
72.	Page 3-8 Section 3.4.3. para 4	ACC/CEVPP	This paragraph gives the reader the impression that the AF caused the contamination, whereas in reality it is DOE created contamination and DOE's responsibility for cleanup.	
73.	Page 3-14, Section last paragraph, last two lines	98 RANW/XPL	I do not see the relevancy of these last two lines. Please explain why the equipment used by the author of this plan is more accurate? Delete the last two lines. A statement that discusses inaccuracies of the surveying and recording practices is relevant.	

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74.	Page 3-15, Section 3.5.3.1, last paragraph, last line	98 RANW/XPL	Change "three" to "four".	
75.	Page 3-16, Section 3.5.3.1, Para 1, line 1	98 RANW/XPL	To complete the discussion and answer the question; "why were they constructed?" The man-made reservoirs were constructed for cattle.	
76.	Page 3-16, Section 3.5.3.3	AWFC/JAV	The discussion of water rights under section 3.5.3.3. is incomplete, as it does not reference the federal reserved water rights that are held by the Air Force, and it also incorrectly concludes that none of the water sources provide direct support for military missions (see pages 3-16 and 3-17). This section should be corrected to add the Air Force's federal reserved water rights, and to delete the statement that none of the water sources provide direct support for military missions.	
77.	Page 3-18, Section 3.6.1.2, Para 2, line one	ACC/CEVPP	Define "poorly documented". What studies have been completed, or at least support statement by referring to the lack of age of past studies.	
78.	Page 3-26, Section 3.6.2	ACC/CEVPP	Recommend BLM obtain copy of The Nature Conservancy Report conducted on the Range during 1994-1997.	
79.	Page 3-20, Figure 3-5	98 RANW/XPL	Where is this data from? There have been very limited surveys accomplished over the last ten years. Definitely no long term monitoring for herd movements.	
80.	Page 3-26, Section 3.6.1.6, 1 st sentence	ACC/JAV	Before "Eagle Act" insert "Bald and Golden"	
81.	Pg 3-26, line 3	ACC/DOR	. Change "aircraft noise have been shown to cause physiological responses" to read "Low flying jet aircraft noises have caused sheep heart rates to increase from an average 52.6 beats/min to 73.5 beats/min (Weisenberger et al. 1996, and Kausman et al. 1996). However, 73.5 beats/min is only slightly higher than the average walking heart rate for sheep (71.2 beats/min). Weisenberger et al. (1996) noted that bighorn sheep heart rates returned to baseline conditions within 3 minutes after being exposed to aircraft noise and that the study animals habituated rapidly."	

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82.	Page 3-35, Section 3.6.4, last sentence above Section 3.6.4.1	ACC/CEVPP	There are no floral species listed in Table 3-7. Additionally the reader should be referred to Appendix E, not C and D as stated.	
83.	Page 3-35, Invasive Species	ACC/DOR	<p>This entire discussion is problematic. Executive Order 13112 of February 3, 1999 Sec. (2)(a)(3) describes Federal Agency duties in that each Federal agency whose actions may affect the status of invasive species shall, to the extent practicable and permitted by law, not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere unless, pursuant to guidelines that it has prescribed, the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measures to minimize risk of harm will be taken in conjunction with the actions.</p> <p>The question is "are wild horses invasive species ?" Horses are by definition alien species in respect to the Nellis ecosystem which is any species, including its seeds, eggs, spores, or other biological material capable of propagating that species, that is not native to that ecosystem. Invasive species means an alien species whose introduction does or is likely to cause economic or environmental harm or harm to human health. In light of Pg 3-37. Line 36 which states "All springs on the west side of the Belted Range, the Kawich Range, the Cactus range, and Stonewall Mountains have been affected by wild horses during the past 30 years. Excessive grazing by wild horses has degraded most, if not all riparian areas in these mountain ranges."; and likewise, Pg 3-38 Line 44 speaks to "...improper grazing management of feral ungulates increases the risk to endangered species." These statements suggest that the agency need to determined and make public its determination that the benefits of clearly outweigh the potential harm</p>	
84.	Page 3-44, Para 5	98 RANW/XPL	I disagree with the statement "There are no bombable targets in the PJ woodland type." We have targets in range 74 near Cliff Springs and along the Old Rachael Highway.	
85.	Page 3-45, Section 3.6.7 and page 3-55, Section 3.7.4		<p>Check dates on grazing rights buy-out. See the following cases:</p> <ul style="list-style-type: none"> - Grazing rights were canceled on North Ranges in a court case, 1964. Federal Court Order to buy out the following grazing rights. Case #518, 22 Jul 1964. - Purchase of water and grazing per RE-D 5922, for: <ul style="list-style-type: none"> o Real property voucher RE-65-D-14, Buckhorn Investment, 9 Jul 64, \$65,225.00 o Real property voucher RE-65-D-13, for James M. Daniel's, 9 Jul 64, \$90,000.00 o Real property voucher RE-65-D-36, C/O PTP, for William B. Terry, 9 Aug 1964 (revision) \$255,950.00 	

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			<ul style="list-style-type: none"> o Real property voucher RE-67-D-83, for Fallini Brothers, 30 Mar 65, \$77,100.00 - Lamb Case. Kawich Valley, Oct 72 - Jul 69. Buckhorn Investment Co refused to consent to 1964 injunction; legal battle erupted--solved out of court, 22 Jul 69, 474 CSG/JA Ltr to HQ TAC/JA forerunner of USAFWTC/JA. Trespass of cattle on the Nellis Range finally solved by 1978. 	
86.	Page 3-45, Section 3.6.7	98 RANW/XPL	The Stonewall/Mud Lake fence was installed mid 1980's.	
87.	Page 3-49, Section 3.6.8.2, Para 3, line 6	ACC/CEVPP	How can data be used in this report, when you have no documentation as to where it came from, or if it is valid.	
88.	Page 3-52, Para 3, last sentence	ACC/CEVP	Does the Wild Horse and Burro Act require that water be pumped to locations outside the WHMA? Additionally recommend that copies of the Wild Horse and Burro Act and it's implementing regulations be included as an appendix in the RMP/EIS.	
89.	Page 3-53, "Historically", appears 3 places	98 RANW/XPL	We have already said we do not have sufficient/quality records. These paragraphs that discuss the historical herds in Stonewall, Cactus Flat and Kawich are conjecture. The purpose of Section 3 is to present scientific/factual description and discussion of the "Affected Environment"? If you are speaking conjecture, then preface it with a disclaimer.	
90.	Page 3-56, Section 3.8.1, Para 2, line 6	98 RANW/XPL	Change word "eliminates" to "reduces".	
91.	Page 3-56, Section 3.8.2, Para 1, line 3	ACC/CEVPP	Define "impossible". Impossible for who, the AF or BLM?	
92.	Page 3-56, Section 3.8.4	ACC/CEVPP	Include co-use of Mud Lake, Kawich Range and EC South, as analyzed in the NAFR Withdrawal Renewal LEIS.	
93.	Page 3-56, Section 3.8.4	98 RANW/XPL	Good write up on Recreation.	
94.	Page 3-58, Section 3.9.2, 1 st full para, 2 nd sentence	ACC/JAV	Delete reference to practice and live ordinance ranges. In accordance with 40 CFR 266.202(a)(1)(i), "a military munition is not a solid waste when used for its intended purpose, including: (1) use in training military personnel."	
95.	Page 3-58, Section 3.9.2, Para 3, line 2	98 RANW/XPL	The 90-day accumulation point at Tolicha Peak is closed	
96.	Page 3-58, Section 3.9.3	98 RANW/XPL	"The use of HEI ammunition also appears to cause relatively high and widespread contamination... " Please provide the details for this statement and/or explanation of the terms "relatively high" and "widespread". This statement	

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			sounds emotional. The paragraph states: "...and two targets where HEI is authorized (71-12, AND 74-4)..." There are 3 HEI strafe targets on the North Range, 71-09, 71-13, and 74-04.	
97.	Page 3-59, Para 1, line 2	98 RANW/XPL	"This conclusion may be inaccurate." This is an opinion and does not belong in this document. Section 3 should provide the scientific/factual description/discussion of the "Affected Environment"?	
98.	Page 3-59, Para 2	98 RANW/XPL	Include the DOE rocket impact area in southern R4809 or the DOE impact area in the north east corner of range 76 north of Mountain Helen.	
99.	Page 3-59, Section 3.9.4, last sentence	ACC/JAV	Delete this sentence since it is not relevant to resource management on NTTR.	
100.	Chapter 4 General Comment	ACC/CEVPP	This chapter does not provide an environmental analysis for potential impacts of managing resources on the land. It appears that it attempts to brush off any real analysis as not necessary since there will be no changes or impacts more than what currently occurs by military activity. An EIS should provide more than trust me statement summaries.	
101.	Chapter 4. Environmental Consequences of Alternative Action	ACC/DOR	<p>This whole section needs to be reworked. There is very little analysis and only general statements with little or no scientific backing. Example: Pg 4-3 – section 4.2.3- Line 1. "Disturbances are widespread and common". What does widespread mean? What is common?</p> <p>Also there are contradictions. Example: Pg 4-7 Section 4.6.1 "Air Force and BLM actions in the planning area have few direct adverse impacts on most, if not all wildlife species in the planning area." However, Pg 3-27 Line 3.states "No quantitative studies have been conducted on the range to identify the species present." How can you have no impact if you do not know what you have?</p> <p>The impacts to military mission have not be analyzed: wild horse/vehicle accidents, animals in the target areas, the handling of animals on target ranges.</p>	
102.	Page 4-1, Section 4.1.1.2	ACC/CEVPP	Whose preferred alternative is it? If a preferred alternative is identified, it should be reflected in the Executive Summary.	
103.	Page 4-1, Section 4.1.1.2, line 7	ACC/CEVPP	What data are you using, or what studies have you accomplished to warrant the statement that "the Las Vegas Field Office does not believe an appropriate herd area was previously established.	
104.	Page 4-3, Section 4.3.2	98 RANG/XPL	Sand and gravel pits are used throughout the range and comply with EPA, NDEP as well as CCHD regulations. Include this fact in the discussion.	
105.	Page 4-5, Section 4.5.3.21, last Para	ACC/CEVPP	Are the writers suggesting that BLM and the State of Nevada intend to file for water rights on the NTTR?	
106.	Page 4-5, Section	.99 CES/CEVN	The BLM states, "This assumes that past constraints imposed by access restrictions	

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	4.6.1.1		<p>in the Groom Range (and other area) to inventory, assess and monitor wildlife habitat and populations are alleviated." No known USAF policy document has noted changes in BLM access and/or changes in restrictions, as the property remains withdrawn for the testing and training mission of the USAF. Therefore, delete all references to changes in such requirements so skillful analysis can be applied to the environmental questions.</p> <p>Consider access requirements to remain the same and evaluate environmental impact based on the current access restrictions for the management of Big Horn Sheep, wild horses and burros, vegetation, water, etc.</p> <p>Alternatives A,B & C are assumed to have different outcomes in environmental impact due to the access and range use restrictions. Please scan the document in total and all analysis that implies change in access shall be altered so alternatives are addressed evenly.</p>	
107.	Page 4-5, Section 4.6.1.1, Para 2, 1 st sentence	ACC/CEVPP	How can expanding the potential area of impact improve wildlife populations. This analysis needs to specifically state what changes/impacts would occur that would support this statement. Chapter 4 provides no details on the management of resources, so it is difficult to differentiate between one Alternative and another in regards to severity of impacts.	
108.	Page 4-5, Section 4.6.1.1, Para 2, 2 nd sentence	99 CES/CEVN	The document notes, "Alternative B directs more attention to high profile species and habitat types". It is believed that Alternative C directs more attention and biological health support for Big Horn Sheep, antelope, sage grouse, raptors, mule deer, and other species. Additionally, Alternative C provides enhanced vegetation throughout the properties of Alternative B providing soil stabilization, a natural environment, in addition to food and habitat for these mentioned species thus enhancing biodiversity. Modify the document to include this analysis.	
109.	Page 4-5, Section 4.6.1.1, Para 3	99 CES/CEVN	Concur that "fencing spring sources will directly benefit wildlife by improving cover at the spring source, providing a protected area to drink a higher quality of water and potentially more abundant higher nutritious forage." However, Alternatives A, B, & C would provide varying degree of protection to the water sources. Therefore define the differences between the alternatives and the associated impacts in this discussion.	
110.	Page 4-10, section 4.6.5, 3 rd Para, last sentence	ACC/JAV	Don't understand what this sentence is trying to state other than there is no scientific data on this subject. Recommend deletion	
111.	Page 4-13, Section 4.6.8.1, Para 1, 2 nd sentence	ACC/CEVPP	Where does the law or implementing regulations say the HMA cannot be outside the HA?	
112.	Page 4-14 and 4-15,	98 RANW/XPL	This plan poorly advocates Alternate C. Removal of horses outside the 325,220	

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	Section 4.6.8.3		<p>acre area (except for seasonal drifts) would prevent the mass casualties of the mid 90's when populations went unchecked and horses were forced to range for food/water that wasn't there. Insert the following arguments for support of Alternative C:</p> <ul style="list-style-type: none"> - The Herd Management Area depicted by Alternative C contains 95% of the current horse population locations (see page 3-51). The 325,220 acres outlined in Alternative C will not significantly change the horse population when increased to 474,370 acres outlined in Alternative B. - As stated on page 3-52 the water sources are where the horses tend to congregate. Most of the major riparian seeps and springs west of Cactus Flats are now fenced off (except for Cactus Springs), prohibiting horses from water sources. Alternative C eliminates these restricted springs from the HMA. - Alternative C keeps the horses in a safer area by minimizing their exposure to the bombing ranges west of R-4809. - Range fences restrict cattle and horses from moving the greater distances in search of food and water. The fences have drastically altered the landmass available to sustain the horse populations. Alternative C is the most realistic reaction to these fenced areas. <p>Bottom line: The RMP must be actionable. Even though the details of how BLM will manage the lands will be in future plans, this RMP must lead the reader to believe and understand how BLM will execute the plan both physically and fiscally. Please explain or support assertions in the documents, and insert the argument above for Alternative C.</p>	
113.	Page 4-17, Section 4.9.1.1	98 RANW/XPL	Please explain this statement. I do not understand why would I look to BLM (1992 ROD) for guidance on hazardous material management? Hazardous materials guidance is from Fed and state laws.	
114.	Page 4-18, Section 4.11, Cumulative Impacts	ACC/CEVPN	Recommend greater discussion on the potential changing future AF requirements (in general), including realignment and/or beddown of new weapons systems, and construction and/or installation of new range facilities and equipment, actions due to base closure and realignments. Good opportunity to go on record that the range is a dynamic environmental for expanding new AF test and training range technologies to improve current NTTR activities.	
115.	Page 5-3a, Table 5-2	ACC/CEVPP	List of agency reviewers and technical support and guidance providers includes someone from the National Wild Horse Association. Were these meeting open forum, or were those invited limited to those on this list? If the latter is the answer, potential Sunshine Act violation.	
116.	Page 5-3a, Table 5-2	ACC/CEVPP	List of agency reviewers and technical support and guidance providers includes someone from the National Wild Horse Association. Were these meeting open forum, or were those invited limited to those on this list? If the latter is the answer.	

<i>#</i>	<i>Page/Sec/Para.</i>	<i>Reviewer</i>	<i>Comment</i>	<i>Response</i>
			potential Sunshine Act violation.	
117.	Page B-2, Table B-1	AWFC/PA	Under the column for silver, two numbers are formatted improperly "14,5279" and "9,5976"	
118.	Page G-9	AWFC/PA	Definition for long term planning: a 20-year outlook would make the year 2021, not 2012.	

**DEPARTMENT OF ADMINISTRATION**

209 E. Musser Street, Room 200

Carson City, Nevada 89701-4298

Fax (775) 684-0260

(775) 684-0222

December 20, 2001

Jeffrey G. Steinmetz
Bureau of Land Management
Las Vegas Field Office
4701 N. Torrey Pines Drive
Las Vegas, NV 89130-2301

Re: State of Nevada Comments, Draft Nevada Test and Training Range Resource Management Plan and Environmental Impact Statement, SAI#E2002-037

Dear Mr. Steinmetz:

Thank you for briefing state officials on the alternatives detailed in the referenced Draft Resource Management Plan and Environmental Impact Statement (RMP/EIS). The RMP/EIS describes various alternatives for managing and protecting the natural resources, with emphasis on wild horses, on the Nellis Air Force Range in south central Nevada.

This letter transmits the State of Nevada's comments on the referenced RMP/EIS. It contains the collective views and concerns of the effected state agencies, including the Office of the Governor.

RMP/EIS Alternatives (Management of Wild Horses on the Nellis Range)

With all due respect for the challenges the Bureau of Land Management (BLM) faces in managing wild horses, the State of Nevada is recommending that BLM select Alternative D as the preferred alternative in the referenced RMP/EIS. This alternative proposes the removal of all wild horses and burros from the Nellis range.

While the removal of all horses may be unpopular for some, there are clear and substantive reasons why the State of Nevada has taken this position. First, removal of wild horses will eliminate the ongoing (if not historic) conflict between the Air Force's training and

testing mission at Nellis, and BLM's legal mandate to manage wild horses on the withdrawn lands encompassing the range. Secondly, removal of the horses would eliminate reoccurring events when horses needlessly endure extended periods of hunger and thirst followed by numerous deaths. Removal of the horses would also produce long-lasting positive effects for soils and vegetation. This is particularly important for maintaining ecological health in riparian zones where natural and man-made water sources occur. Furthermore, removal of the horses will reduce conflicts with sensitive species and wildlife throughout the region.

State officials further believe that removal of the horses is directly related to the federal government's inability to define the "Appropriate Management Level" (AML) for sustaining wild horses on the Nellis range. Statements in the referenced RMP/EIS clearly document substantial gaps in basic scientific information needed to define the AML. While the document does state that wild horse use, mapping, and utilization studies have occurred on portions of the range, we call attention to other statements that soil mapping, ecological status inventories, forage production, water production, and seasonal horse movement data is lacking (page 4-13). According to the document, quantitative inventories, assessments, and regular monitoring of habitat composition and conditions have not been conducted (page 3-42). Furthermore, the document states only nine of about 65 riparian areas have been assessed for proper functioning condition, though observations of the others indicate widespread degraded conditions (page 4-7).

Hence, BLM has not been able to effectively manage wild horses on the Nellis range. Moreover, given the ongoing problem of range access, which is imposed by the Air Force for safety, national security, and training purposes, BLM personnel have been unable to routinely conduct gathers, improve forage vegetation, and protect water resources on the range. Since priority use of the Nellis range will remain with the military, at least for the next 20 years (as per PL 106-65), State officials are skeptical that BLM can manage the horses on the range in a viable and sustainable manner. It should further be noted that removal of wild horses would not affect horse populations statewide. Recently, BLM was quoted in the media, emphasizing that about 22,000 wild horses and burros roam on BLM land in Nevada, and that the current plan is to reduce the number to about 15,000 animals (see Las Vegas Review – Journal, 12/06/01).

Recognizing that complete removal of wild horses on the Nellis range may not be acceptable to the BLM and other stakeholders, State officials would support adoption of alternative C as a second choice. Alternative C would create a new wild horse herd management area (HMA) that will reduce conflicts with wildlife and protect important riparian areas throughout the Nellis range. This alternative would also enhance the horse management situation for BLM by removing wild horses from high-use and sensitive military training areas. Alternative C is the preferred alternative for the United States Air Force.

We note that alternative C greatly expands the boundary of the Herd Area (HA) that had been identified in the 1992 approved Nellis Air Force Range Resource Plan and Record of Decision (1992 ROD). The State cannot support the proposed HA in any RMP alternative unless additional substantiated, credible scientific data are provided (i.e., additional to the data used in the 1992 ROD). Such data are absent from the Draft RMP/EIS.

State support of Alternative C is contingent upon an adaptive management strategy being adopted in the proposed ROD. The purpose of the adaptive management strategy would

be to establish monitoring requirements and performance measures to evaluate success at meeting water, vegetation, wildlife, riparian, sensitive species, and wild horse management direction and objectives in the ROD. The ROD should include provisions for the implementation of alternative D if implementation of alternative C and the adaptive management strategy results in findings that management direction and objectives are not being met.

If alternative C is selected, State officials still believe the long standing difficulties of gaining sufficient access to monitor herd movement and vegetation utilization, as well as to conduct timely gathers if necessary, may prove too great an obstacle to successful implementation of a viable horse management program. Without timely access to the range and without adequate funding, State officials believe that the BLM's objectives to define, achieve and maintain the AML for the alternative C HMA would be thwarted. Needless to say, defining and maintaining the AML is a critical function for understanding and sustaining the carrying capacity on the Nellis range for wildlife and wild horses.

Should the BLM decide to keep wild horses on the Nellis range – over the State's objection – then we must insist that BLM provide regular briefings on the wild horse situation and other natural resource concerns on the Nellis range. Such briefings to state and federal officials could be accomplished through the regularly scheduled intergovernmental meetings hosted through the JMAC process (i.e., the biannual Joint Military Affairs Committee meeting).

Other Concerns

The aforementioned deficiency of information on the natural resources of the NTTR is an ongoing concern that apparently has not been resolved with development of the referenced RMP/EIS. The document fails to offer a programmatic approach to the inventory and assessment of vegetation resources. It also fails to address specific solutions to overcome problems with coordination and cooperation between the Air Force and the BLM. Such cooperation is needed to support field research on the Nellis range. Resource inventory, assessment and monitoring is important since general observations made in the Draft RMP/EIS about the status of vegetation indicate that serious problems exist that could affect wildlife and vegetation resources not only within, but also beyond, the boundaries of the withdrawn area.

Apparent problems cited in the Draft EIS include expansion and canopy closure of Pinion Juniper woodlands, loss of shrub species, expansion of cheatgrass, lack of perennial forbs and grass species at lower elevations, expansion of invasive weeds and the establishment of perennial noxious weeds. Deteriorated vegetation conditions are stated to have potentially negative impacts on mule deer, antelope, sage grouse (if present), and desert tortoise.

The final RMP/EIS should address the identified shortcoming and present a programmatic approach for enhanced resource study, management, and rehabilitation activities throughout the Nellis range. Since a limiting factor in the enhancement of resource programs is range access and BLM and Air Force coordination and cooperation, the RMP/EIS should also address approaches to improving this relationship.

4

Again, thank you for providing the briefing on the referenced RMP/EIS. You should know that Nevada Divisions of Water Resources and Wildlife are submitting additional comments under separate cover that address technical details not discussed in this letter for the sake of brevity. If you have any question about the comments herein, please contact me at 684-0209.

Sincerely,



Heather Elliott, Coordinator
State Clearinghouse

cc: Governor Guinn
Mike Turnipseed, Director CNR
Terry Crawford, Administrator, NDOW
Pamela Wilcox, Administrator, State Lands
Catherine Barcomb, Wild Horse Commission
Glenn Clemmer, Natural Heritage
Allen Biaggi, Administrator, NDEP
Hugh Ricci, Administrator, NDWR
BLM, State Director
Commander, Nellis AFB
Manager, NNSA - NTS (DOE)

Mellis

12-2601

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Wednesday, December 19, 2001

RECEIVED

DEC 26 7 30 AM '01

Vernon J. Brechin
255 S. Rengstorff Ave. #49
Mountain View, CA 94040-1734
650/961-5123

Jeffrey G. Steinmetz - Team Leader
Bureau of Land Management (U.S. Department of the Interior)
Las Vegas Field Office
4765 West Vegas Drive
Las Vegas, Nevada 89108
702/647-5097

Re: Comments on the "Draft Nevada Test and Training Range Resource Management Plan and Environmental Impact Statement" report issued by the BLM's Las Vegas Field Office on September 2001 (D-RMP/EIS)

Dear Mr. Steinmetz:

Thank you for this opportunity to comment on the "Draft Nevada Test and Training Range Resource Management Plan and Environmental Impact Statement" report. Over the past decade I have developed an extensive, broad, understanding of issues, associated with these withdrawn public lands, which few, special interest organizations have. I have noticed numerous historical administrative irregularities which are rarely mentioned in agency reports such as this proposed resource management plan / EIS. Executive Orders and congressional legislative actions, which gave the Secretary of Defense custody and control over these "public lands" has led to a situation that has made it nearly impossible for the U.S. Department of the Interior to effectively carry out its mandates, specified under this nation's environmental laws and regulations. I shall begin with several key issues which should be resolved before the final report is issued. As with the previous BLM issued EIS's and land management plans, far too much emphasis has been focused on the issue of managing the wild horses, to the exclusion of many other egregious environmental issues associated with the approximately four million acres of public lands originally reserved for hazardous military activities.

Area scope should be expanded.

The final report (F-RMP/EIS) should provide a full analysis of all the lands withdrawn under the Sec.3011(b) provisions contained in the Military Lands Withdrawal Act of 1999 (P.L. 106-65, Title XXX) (MLWA-99).(1) That withdrawal involved approximately 2,911,654 acres of public lands.(2) The D-RMP/EIS states in Section 1.2

"This plan does not cover any lands within the P.L.106-65 withdrawal that are administered by the USFWS as part of the DNWR."

The legal description, for the NTTR BLM Planning Area covered by the D-RMP/EIS, appears in Appendix A. That description excludes approximately a million acres covered by the Act. The BLM failed to provide any explanation as to why this large area of withdrawn public land was excluded from this report. If that exclusion is associated with any unresolved agency jurisdictional conflicts over the use of the Desert National Wildlife Range (DNWR), then the BLM should clearly state that, as well as provide details on why it has taken so long to comply with the 1993 settlement agreement requiring the U.S. Department of the Interior to ban activities that are incompatible with the provisions in the National Wildlife Refuge System Administration Act of 1966.(3) If bad congressional decisions have prevented the DOI from carrying out its mandate, then it should make that perfectly clear to the public and to the public's elected representatives. The BLM should provide a full explanation as to how the decision was made to exclude the lands which are under co-use by the Air

Force and the U.S. Fish and Wildlife Service (USFWS). Was the decision, to exempt approximately one-million acres, conducted as a result of public input, or was that decision primarily done internally?

This report tardy, other MLWA provisions delinquent

The completed RMP is now more than two-months tardy and should not be issued until the involved executive agencies have publicly explained their tardiness on two other provisions of the MLWA-1999, informed all members of Congress of the violations, and then produced the data that the 1999 Act required.

The Act states that the management plans "be developed not later than two years after the date of the enactment of this Act."(4) That date occurred on October 5, 2001. The BLM should explain the delay and make extra efforts to redeem the public for that violation.

The Act requires each military department involved, in the MLWA-1999, to provide an annual report to congress describing ongoing decontamination efforts and decontamination plans for the next year.(5) Two reports, on the NTTR should have already been generated and delivered to congress, the first by the end of March 2000 and the second around the end of March 2001. The F-RMP/EIS should provide the title and issue dates of those two reports. If one, or both, of those reports was not generated and delivered to congress then that should be clearly stated in the F-RMP/EIS, with an explanation as to why that did not occur. If such a violation took place then the F-RMP/EIS should state whether the Secretary of the Air Force and/or the Secretary of the Department of the Interior (DOI) informed congress of the violation. Sec.7 of the previous Act (MLWA-86) required that congress be provided with a similar annual report. At least 13 of those reports should have been generated and provided to congress. How many were and what were there titles?

It appears that congress passed the MLWA-99 though they were only presented with a crude map, of the NTTR, which was not backed up by a formal boundary legal description. The Act did specify that the legal descriptions, for the approximately 7-million acres of total land being withdrawn, be published in the Federal Register and filed with congress, "[a]s soon as practicable after the date of the enactment of this Act..."(6) In the case of the MLWA-86 the filing occurred approximately 2-1/2 months after the enactment of the Act. Twenty-six months have now passed since the enactment of the MLWA-99 and still there has been no publication and filing of the legal description for the NTTR. After lengthy delays, the legal descriptions for the other military ranges, covered by the MLWA-99, have finally been published.(7) The Secretary of the Interior should immediately inform congress that the NTTR boundaries are still not legally described, he should explain why that is, and he should explain what is being done to comply with this provision in the Act. The F-RMP/EIS should not be completed until this provision of the Act has been fulfilled and then the lengthy delay should be fully described in the F-RMP/EIS.

Major changes in boundary lines and land uses need to be addressed

As a result of the MLWA-99, major boundary changes occurred. In addition, land use designations and jurisdictions were quietly shifted from those designations published in the Federal Register. Since these changes took place after the previous RMP's, EIS's, and EA's were published, these major changes must be addressed in the F-RMP/EIS. I failed to see any description of these issues in the D-RMP/EIS. One of those changes involved the transfer of approximately 127,620 acres of Pahute Mesa from the jurisdiction of the Air Force to the jurisdiction of the DOE.(8)(9) Though the BLM records indicated that this withdrawn public land was used for military training, in fact, its primary use, for decades, was the conduction of high-yield underground nuclear explosions. This resulted in the permanent contamination of the subsurface environment, including the groundwater that many of the nuclear tests were conducted in. The MLWA-99 included a revision of the Pahute Mesa test boundaries, such that contaminated areas, that once extended outside the previous boundary line, are now enclosed within the revised, and expanded acreage. That was very clever since the DOE had been claiming that its contamination had not drifted beyond the site boundaries. When it became apparent that that statement might be found false, the boundary was expanded beyond the edges of the contamination plumes. This is a topic that deserves to be addressed in the F-RMP/EIS.

Another result, of the MLWA-99, was the addition of 155 sq. km of withdrawn public lands into the Air Force range.(10)(11)(13) Previous to the MLWA-99 this land was publicly listed as being assigned to the DOE as a part of the NTS operations.(12) This land has never been subjected to any public environmental analysis, and as such, it deserves special attention in the F-RMP/EIS. It appears that almost all aspects of this land, including who and how its administered, has been kept secret from the public, and from most of their elected representatives. The BLM F-RMP/EIS should cite the titles of all administrative memorandums that apply to this large plot of land and to the vast array of permanent structures that make up the large air base on the southern edge of Groom Dry Lake. If the BLM is unable to cite such documents, then it should at least cite all the executive orders and laws which, specifically, prevent it from doing so. In a country, based upon the rule of law, the public should have access to those laws under which the nation is ruled.

Previous, to the enactment of the MLWA-99, the Legislative EIS for the Nellis Range was published. There was an obscure statement in the appendix that indicated that a portion of the report was contained in a classified annex.(14). A great many people and offices, in the DOI and congress, were involved in the preparation of the legislative package. The BLM should explain, in the F-RMP/EIS, if they, the DOI's legislative division, and the staff members of most members of congress, were made aware of this classified annex and were offered access to it?

Many years ago a lawsuit was filed, alleging personal harm due to toxic burning on lands, popularly known as Area 51. One result of that lawsuit was the issuance of annual Presidential Determinations that exempts the Air Force from releasing to the public, environmental reports on these withdrawn public lands. The F-RMP/EIS should provide a list of all the Presidential Determinations, issued since September 29, 1995 (No. 95-45) that involve the Air Force's operating location near Groom Lake, Nevada. The BLM should indicate whether it has been receiving copies of these Presidential Determinations and whether it has been filing them for public viewing. The F-RMP/EIS should also provide an explanation as to how the revelation, of almost any aspect of that environment, could result in grave damage to this nation's security. All justifications should be backed up by highly specific legal citations.

National sacrifice zones need to be fully described in F-RMP/EIS

As with previous reports, the affected environment, of these public lands, withdrawn for hazardous military activities, has been minimized. At the end of section 3.4.3 SOILS, is a very brief mention of nuclear testing and soil contamination. Its suggested that the spatial areas affected are in the tens of square feet. The end of section 3.7.6 MILITARY ACTIVITIES states:

The Atomic Energy Commission (AEC) also conducted nuclear activities on the NTTR. Most activities were located on the Nevada Proving Ground, a part of the Las Vegas-Tonopah Gunnery Range withdrawn by the AEC. Three non-nuclear safety shots were conducted in the planning area between 1954 and 1963 to determine the behavior of nuclear weapons in conventional accidents, and the biological uptake of plutonium by plants and animals located downwind from release points. Underground nuclear testing after 1962 resulted in research about the movement of contaminants to aquifers beneath the Nevada Test Site and adjacent areas.

The Air Force loaned the AEC use of the lands that were assigned to it, including Pahute Mesa for the AEC's deep, high-yield nuclear explosive testing program. In addition, the AEC was allowed to conduct five (not three) plutonium-239 dispersal tests in what the D-RMP/EIS describes as the "planning area." These experiments, that would be regarded a insane today, involved using large amounts of high-explosives to blast nuclear weapons plutonium-239 fuel into the desert air so the particles would drift downwind, settling on the desert surface. After the tests, only minor cleanups were performed and then the sites were fenced and allowed to sit fallow for decades. The Project 57 site fence encloses a contaminated area of approximately seven square kilometers. Only recently have some of the sites been subjected to more rigorous, intrium clean-up actions, largely driven by legal actions brought by Nevada State environmental regulators. At two of the smallest sites, soils containing more than 200 pCi/g of Pu-239 radioactivity was removed for disposal. The removal level, for residential

use areas, is often set at below one-tenth that value. Plutonium-239 has a half-life of about 24,000 years. In the form of fine particles it represents a cancer causing, inhalation hazard for more than a quarter-million years. Apparently, the involved federal agencies feel confident that they will be able to prevent public access, to these, still contaminated public lands, for that length of time.

The AEC/ERDA/DOE (now the NNSA) nuclear explosive testing program (~228 tests) left massive deposits of radioactive fission products and unfissioned Pu-239 fuel debris buried beneath these withdrawn public lands.(15) This included Pahute Mesa which were NAFR lands under loan to the AEC by the Air Force. At Pahute Mesa the majority of the test debris lies in, and just above, the local water table. A recent DOE study evaluated various conceptual plan options for "remediating" the vast network of contaminated blast pockets, and the contaminated groundwater.(16) In that report the Open-Pit Mine option was estimated to cost around \$7.2 trillion dollars. All the expensive options were judged to be impractical so long-term Institutional Control was chosen to be the remedial option, at 1/8,000th the cost of the Open-Pit Mine option. I view that high figure as being an indicator of the level of environmental damage rendered to these public lands.

This same remediation study report proposed future diversions of the regional groundwater around the contaminated underground test areas of the NTS. The conceptual plan proposed drilling 248 deep recovery wells, in what is now described as the NTTR planning area, so that the area's groundwater could be extracted for pipe transport to regions south of the major testing areas, in, and around, Pahute Mesa. The F-RMP/EIS should look into, and analyze the environmental impacts of implementing such a scheme.

The F-RMP/EIS scope should be expanded beyond the wild horse issue

As with the previous RMP and environmental assessment reports, the primary focus has been on the management of horses. Apparently, some of those horses get in the way of the Air Force mission, which has resulted in an alternative to eliminate the horses from the Nevada Wild Horse Range (NWHR). That is absurd, and serves as a reflection of how minimized the BLM has become under the mighty force of the U.S. Air Force. Eliminating the wild horses would limit the BLM to little more than wildfire control functions on the restricted military range. The introduction to the D-RMP/EIS stated that it was largely programmatic, rather than dealing with specific issues and sites. The report indicates that those issues will be left to later reports. Many of such issues should be explained, in some detail, in the F-RMP/EIS. The BLM should not put such issues off, due to things like its lack of free access to the withdrawn public lands it is supposed to protect for future generations.

My comments should not be ignored

I urge the BLM team to carefully consider each of my numerous comments, taking into account that I have distributed copies to other officials who will be involved in the final report, and the Record of Decision (ROD) approval process. I hope that the final result will be a plan that demonstrates that the BLM can be far more candid, and that justifies the label, public servants.

Sincerely,



Vernon J. Brechin

CC:

Kenny Guinn - Governor, State of Nevada
 Shelley Berkley - U.S. Representative, Nevada
 Paul J. Liebendorfer, P.E.
 Nevada Division of Environmental Protection, Bureau of Federal Facilities
 Horst Greczmiel - Associate Director for NEPA Oversight
 Council on Environmental Quality (CEQ)
 Ann Aldrich - Bureau of Land Management
 David Tomsovic - U.S. EPA, Region 9
 Kalynda Tilges - Nuclear Issues Coordinator for Citizen Alert

References

(1) P.L. 106-65, Div. B, Title XXX, Subtitle A, § 3011(b)(4), Oct. 5, 1999, 113 Stat. 885.

(2) "Renewal of the Nellis Air Force Range Land Withdrawal: Legislative Environmental Impact Statement," U.S. Department of the Air Force, 99th ABW, Nellis Air Force Base, March 1999. (Volume 2, page A.10-6, Alternative 2B)

(3) In 1992, National Audubon Society, The Wilderness Society and ten other groups sued the U.S. Department of the Interior and U.S. Fish and Wildlife Service for authorizing activities within the National Wildlife Refuge System without ensuring that such uses are compatible with the primary purposes of the refuges as required by the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.). The lawsuit also challenged the government's failure to assess the environmental impacts of such activities as required by the National Environmental Policy Act.

In 1993, the Department of the Interior settled the lawsuit by agreeing to review all uses of national wildlife refuges within a year and "expeditiously terminate any use that is not determined in writing to be compatible with the primary purposes of the refuge on which it occurs, or regulate, control, or modify such use to the point that it is compatible with those purposes." The Department also agreed in the settlement to make such evaluations in full compliance with the National Environmental Policy Act.

Later suit efforts were undertaken in an attempt to force the DOI to comply with the above settlement agreement.

(4) P.L. 106-65, Div. B, Title XXX, Subtitle A, § 3014(c)(4), Oct. 5, 1999, 113 Stat. 892.

(5) P.L. 106-65, Div. B, Title XXX, Subtitle A, § 3017(b), Oct. 5, 1999, 113 Stat. 894.

(6) P.L. 106-65, Div. B, Title XXX, Subtitle A, § 3012(a), Oct. 5, 1999, 113 Stat. 890.

(7) U.S. Army ranges, Alaska - 65 FR 49012; Naval Air Station Ranges, Nevada - 65 FR 59867; U.S. Army McGregor Range, New Mexico - 66 FR 26881; U.S. Air Force Goldwater Range - 66 FR 59813.

- (8) "Renewal of the Nellis Air Force Range Land Withdrawal: Legislative Environmental Impact Statement," U.S. Department of the Air Force, 99th ABW, Nellis Air Force Base, March 1999. (Volume 2, page A.10-6, Pahute Mesa)
- (9) P.L. 106-65, Div. B, Title XXX, Subtitle A, § 3011(b)(2)(B), Oct. 5, 1999, 113 Stat. 886.
- (10) "Renewal of the Nellis Air Force Range Land Withdrawal: Legislative Environmental Impact Statement," U.S. Department of the Air Force, 99th ABW, Nellis Air Force Base, March 1999. (Volume 2, page A.10-6, Public Land Order 1662)
- (11) P.L. 106-65, Div. B, Title XXX, Subtitle A, § 3011(b)(2)(A), Oct. 5, 1999, 113 Stat. 886.
- (12) 23 FR 4700
- (13) Geographic coordinates (1927 North American datum)
NW corner: 37.2810° N / 115.9283° W
NE corner: 37.2810° N / 115.7473° W
SW corner: 37.1942° N / 115.9287° W
SE corner: 37.1942° N / 115.8139° W
The area enclosed has been referred to as "Area 51" in the past.
- (14) "Renewal of the Nellis Air Force Range Land Withdrawal: Legislative Environmental Impact Statement," U.S. Department of the Air Force, 99th ABW, Nellis Air Force Base, March 1999. (Volume 2, Responses to Comments on the Draft Legislative Environmental Impact Statement, Air Force, page 5, Comment code AF-2)
- (15) "Nevada Test Site Radionuclide Inventory, 1951-1992" (LA-13859-MS), September 2001, Scott M. Bowen et al., Los Alamos National Laboratory, Los Alamos, New Mexico, USA.
- (16) "Focused Evaluation of Selected Remedial Alternatives for the Underground Test Area" (DOE/NV--465), April 1997, U.S. DOE, Nevada Operations Office, Las Vegas, NV.
This report can be viewed at:
<http://www.osti.gov/servlets/purl/469154-II8yqP/webviewable/>
The summary table, on page 8-3, indicates that the partial environmental remediation of the southern Nevada underground testing areas could cost as much as \$7.2 trillion.



Nellis

12-26-01

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

RECEIVED
Dec 26 7 30 AM '01

December 18, 2001

Jeffrey G. Steinmetz, Team Leader
Las Vegas Field Office
U.S. Bureau of Land Management
4765 West Vegas Drive
Las Vegas, NV 89108

Dear Mr. Steinmetz:

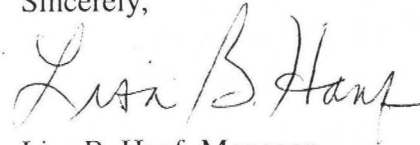
The U.S. Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS) for the **Nevada Test and Training Range Resource Management Plan (RMP), Clark, Lincoln, and Nye Counties, Nevada** (CEQ #010348. #D-BLM-K81027-NV). Our comments are provided under the National Environmental Policy Act (NEPA), the Council on Environmental Quality's (CEQ) NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act.

This DEIS and RMP are the first steps in developing a management plan to guide applicable Bureau of Land Management (BLM) policy and decisions over the next 20 years on approximately 2,000,000 acres of BLM land that have been withdrawn for military purposes. The plan describes and analyzes the options to manage natural resources on the withdrawn public lands in Clark, Lincoln, and Nye Counties, Nevada. Due to the nature of this withdrawal, the use of some resources is either restricted or controlled. As one example, the entire withdrawn area is closed to casual recreational use.

Based upon our review, we have assigned a rating of EC-2, Environmental Concerns - Insufficient Information. Please refer to the attached "Summary of Rating Definitions" for a detailed explanation of EPA's rating system. Our primary environmental concern is potential impacts to water quality associated with the proposal. EPA believes that BLM should undertake all reasonable efforts to protect and enhance water quality within the land withdrawn for military purposes in a manner that comports with the Clean Water Act (CWA), including CWA Section 101's mandate "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." We also believe that BLM should identify and implement all reasonable measures to prevent pollution in the withdrawn area by incorporating the requirements of NEPA, Executive Orders, and CEQ's guidance on pollution prevention. Please refer to our attached detailed comments for additional information on specific issues of concern to EPA.

We appreciate the opportunity to comment on the DEIS. Please send one copy of the Final EIS (FEIS) to me at the letterhead address (mailcode: CMD-2) when it is filed with EPA's Washington, D.C. office. If you have any questions, please call me or David Tomsovic of my staff at 415-972-3858.

Sincerely,

A handwritten signature in cursive script that reads "Lisa B. Hanf". The signature is written in black ink and is positioned above the typed name.

Lisa B. Hanf, Manager
Federal Activities Office

Attachments: 2

- Summary of Rating Definitions
- EPA's Detailed Comments

SUMMARY OF EPA RATING DEFINITIONS

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

ADEQUACY OF THE IMPACT STATEMENT

Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."

WATER QUALITY

The Draft Environmental Impact Statement (DEIS) indicates that “many” seeps and springs are affected by improper grazing from wild horses or cattle, although recent water quality sampling indicates that Water Quality Standards are being met (p. 4-4). The DEIS indicates that ungulate grazing impairs water quality due to reduced vegetative cover at or near the spring sources, with horses and cattle introducing sediment, pathogens and nitrogen contaminants into surface waters. This can harm or impair protected beneficial uses, and potentially contribute to violations of State-adopted, EPA-approved Water Quality Standards. Page 4-17 indicates that hazardous contaminants associated with military activities are “concentrated at a few major industrial sites, several air-to-ground live bombing ranges, several hundred electronic warfare sites, and power substations.” Page 4-17 indicates that these hazardous contaminants are located upgradient of terminal playas, and that hazardous liquids and solids become concentrated in the playas. Page 4-4 informs the reader that implementing Best Management Practices (BMPs) “would maintain or improve water quality.”

The goal of the Clean Water Act (CWA) is to “restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” [CWA Section 101(a) - underline added]. Based on the statement in the DEIS (p. 4-4) that Water Quality Standards “are being met,” we assume that BLM has water quality data indicating the current condition of all surface waters in the Nevada Test and Training Range. In order to facilitate informed public comment under the National Environmental Policy Act (NEPA), the Final EIS (FEIS) should identify which water bodies BLM intends to “maintain” in their present condition and those which BLM intends to “restore,” as envisioned by CWA Section 101(a). The FEIS should identify which water bodies that would be maintained or restored are potentially contaminated by hazardous materials from military exercises, compared to those potentially harmed by grazing. EPA encourages and supports an appropriate range of additional measures to bring these waters back to their former state.

In order to be effective, BMPs should be a component of a broader water quality management plan. The plan should include ongoing monitoring and analysis that refines implementation strategies. We recommend that the FEIS discuss the specific BMPs that BLM intends to adopt and how they can be expected to “maintain or improve water quality,” as indicated on page 4-4. The FEIS and Record of Decision should incorporate potential contingency measures in case the BMPs are not fully successful or if monitoring detects additional, more severe water quality problems, either from grazing or military activities. The FEIS and Record of Decision should provide a clear commitment for an effective monitoring program to detect adverse water quality effects from sources contributing to water quality degradation. BLM’s coordination with the Nevada Division of Environmental Protection is recommended to ensure that Water Quality Standards are maintained, and beneficial uses fully protected. This is especially important for beneficial uses (e.g., the propagation of aquatic

resources, the propagation of wildlife, and public drinking water supplies) that may be sensitive to any potential water quality deterioration. Federal agencies need to comply with all Federal and State requirements regarding water quality protection to the same extent as a private party [CWA Section 313(a)].

Lastly, page 4-17 mentions the presence of plutonium associated with tests in the 1960s conducted by the U.S. Atomic Energy Commission (under the U.S. nuclear weapons program). The FEIS should address remediation efforts that may be planned or underway for plutonium contamination, including remediation to protect water quality. The FEIS should specifically address if monitoring has detected radioactive contamination of surface waters in the Nevada Test and Training Range, and, if so, whether this contamination comports with Nevada's Water Quality Standards.

BIOLOGICAL RESOURCES

Page 2-13 states that Management Direction (A) intends to "Protect water resources that may benefit or harm wildlife by providing a minimum buffer for permitted activities, consistent with the military mission of the withdrawal." We are concerned that such an approach may not give proper weight to biological features associated with water resources. The FEIS should address how BLM's determination regarding the length, width and other characteristics of buffer zones considers the relationship between water quality and biological resources. At least two beneficial uses related to wildlife (propagation of wildlife, and propagation of aquatic life) are identified in Nevada's Water Quality Standards, which were adopted by the State of Nevada and approved by U.S. EPA pursuant to the CWA.

The FEIS should clarify the distinction between a "Desired Plant Community" and a "Potential Natural Community," and if BLM considers one as more preferable. Page 2-13 states, "When rehabilitating disturbed areas, manage for a desired plant community by seeding native species, except where non-native species are more appropriate." The FEIS should identify the circumstances when BLM determines that non-native plant species to be "more appropriate" than native species, in a manner reflecting BLM's consideration of Executive Order 13112 (Invasive Species). The potential role of the U.S. Fish and Wildlife Service and the State of Nevada in making such a determination should also be addressed.

HAZARDOUS WASTE AND HAZARDOUS MATERIALS

Page 4-17 states, "The No Action alternative does not address the management of contaminants. It provides no guidance to manage hazardous materials in the planning area." The FEIS should acknowledge that even if BLM selects the No Action Alternative, existing State and Federal laws and regulations on contaminants, hazardous materials, hazardous waste, and hazardous substances are applicable and will be followed by BLM.

POLLUTION PREVENTION

The 20-year time frame outlined in the DEIS may present a significant opportunity to further integrate pollution prevention measures and resource management improvements in the withdrawn areas. Pollution prevention encompasses the protection and conservation of natural resources, such as reducing or eliminating contributions to point and non-point source pollution, including water pollution. It can include reductions in the use of hazardous materials and toxic substances in carrying out an agency's daily operations, including a decreased reliance on pesticides and herbicides or by using less toxic alternatives. Pollution prevention can be implemented at any stage of a project using techniques such as 'good housekeeping' or BMPs, waste minimization, and water conservation.

For example, as noted above, effective mitigation and monitoring for adverse water quality effects is a critical consideration from EPA's perspective. To the fullest extent, the FEIS and Record of Decision should integrate the principles in the Council on Environmental Quality's 1993 guidance, "Pollution Prevention and the National Environmental Policy Act," which seeks to incorporate pollution prevention in NEPA planning and NEPA decisions.

Pollution prevention can be an effective way to mitigate adverse effects under NEPA. CEQ instructs Federal agencies to include pollution prevention to the extent practicable in the proposed action and in the reasonable alternatives (40 CFR 1502.14(f), 1502.16(h) and 1508.20). The FEIS and Record of Decision should state if all practicable means to avoid or minimize environmental harm were adopted, and, if not, why not. If appropriate, a monitoring and enforcement program must be adopted for mitigation [40 CFR 1505.2(c)].

APPLICABLE OR POTENTIALLY APPLICABLE EXECUTIVE ORDERS

The DEIS does not specifically address consistency with the following Executive Orders (EO), all of which may be applicable as BLM moves forward in developing this RMP and managing the withdrawn land and BLM facilities over the next 20 years:

- ▶ EO 13007 - Indian Sacred Sites (May 24, 1996).
- ▶ EO 13101 - Greening the Government Through Waste Prevention, Recycling and Federal Acquisition (September 14, 1998).
- ▶ EO 13112 - Invasive Species (February 3, 1999).
- ▶ EO 13123 - Greening the Government Through Efficient Energy Management (June 3, 1999).
- ▶ EO 13148 - Greening the Government Through Leadership in Environmental Management (April 21, 2000).

The FEIS and Record of Decision should address the project's consistency with these and other potentially applicable Executive Orders. As appropriate, we urge BLM to fully implement these Executive Orders' goals and requirements in developing and implementing the RMP.

BLM
att: Jeff Steinmetz
4765 W. Vegas Drive
Las Vegas, NV 89108



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U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
LAS VEGAS OFFICE

ESTABLISHED 1971

January 13, 2002

Dear Mr. Steinmetz

The National Wild Horse Association has followed the development of the Draft Nevada Test & Training Range Resource Management Plan and Environmental Impact Statement. This plan is critical to the livelihood of wild horses on the Nellis Herd Area and delineates where the wild horses will be managed.

Alternative "A" - the "no action" alternative is inadequate to achieving and maintaining a healthy and viable ecosystem. Therefore, Alternative "A" is unsatisfactory.

Alternative "C" limits the area that determines the Appropriate Management Level (AML). This option excludes a large amount of water sources, thereby lessening the number of wild horses. Excluding water where horses have traditionally existed is not acceptable. The military has suggested safety and military operational concerns yet provided no evidence to support their claims. Concerns of human and horse interactions were purported, specifically, accidents of persons driving to and from the airfield (the airfield itself is fenced). The wild horses DO NOT range in the bombing areas and it is our opinion there is little-to-no risk from operations. Certainly, far less risk than being hit by a vehicle on normal roadways in other Herd Areas. While recognizing the importance of the military operations, it is our duty to be sure that the wild horses are treated properly and fairly. Interface issues must be dealt with on an individual level. Removal of the wild horses should be the last consideration. Adjustments can and should be made by people as well as developing management plans to encourage or discourage roaming of wild horses to the benefit of all.

Alternative "D" - representing total removal of the wild horses, is publically viewed as a biased and lazy approach to managing wild horses. It is the BLM's duty to manage wild horses as directed by Congress. Complete removal of wild horses from their traditional habitat while the lands, resources and wild horses are all in good health is unlawful.

Alternative "B" recognizes the traditional areas the wild horses have predominantly roamed using key water sources. This alternative also allows the greatest opportunities to adjust the management plans to achieve and maintain a healthy ecosystem while accommodating military operations.

The National Wild Horse Association favors Alternative "B". This is the only fair and acceptable option.

Sincerely,

Billie Young, President
National Wild Horse Association

Nellis
RMP

Comments to the BLM RMP:

General Comments:

1. The tone throughout is AF vs. BLM in particular to the wildhorses. This leads to reader to believe the report is particularly biased and therefore does not meet NEPA requirements to objectively and fairly analyze the alternatives.
2. The document is difficult to follow, there are no subchapter headings and it is nearly impossible to follow a resource area analysis through chapters 2, 3, and 4. Recommend using subchapter headings.
3. Chapter 3 is somewhat voluminous and brings up issue areas which are neither mentioned in Chapters 2 or 4. This questions whether the issues brought up are, in fact, issues the BLM has no intention of addressing them as management actions nor analyzing the impacts. Each resource area in Chapter 3 needs to be purged of impertinent details and/or Chapters 2 and 4 need to address these issues.
4. Chapter 4 needs to be completely rewritten; it is full of supposition and provides more of a rationalization for the alternatives vice a true analysis.
5. Legal references, i.e. references to the Wild Horse and Burro Act, generally state that something is illegal or incompatible, but do not cite specific references to the law.
6. PL 106-65 states the Secretary of the Interior may manage activities as described in Sec 3014, (a)(2) and develop a management plan iaw Sec 3014(c). This brings up two important questions. First, this plan does not address the Desert National Wildlife Range, therefore the plan neither complies nor fulfills the requirements of PL 106-65. Secondly, the plan primarily focuses management efforts of wild horses at the expense of other wildlife, PL 106-65 requires "provisions as may be necessary for proper management and protection of the resources and values of such area". Managing solely for horses undermines the provision for the protection of wildlife and wildlife habitat.
7. This document requires enough significant changes to warrant an additional internal review to ensure comments are incorporated and agreed upon.
8. The AWFC/JAV has reviewed the document with the comment that this document does not legally meet NEPA requirements and did supply specific comments.

Specific Comments:

1. Page 1, lines 19-20: The Planning area includes the Desert National Wildlife Range, but the map exclude the DNWR. Which is it? (See General Note 6 above)
2. Page 1, lines 28-; This is not a direct quote of PL 106-65. Make reference to that fact.
3. Page 1-2, lines 40-42; If all alternatives are prepared so that they are legally feasible... Why does Chapter 4 state they are not consistent with the Wildhorse and Burro Act.
4. Page 1-3, line 29; Are there Amargosa Toads on the NTTR?
5. Page 1-3, line 32; Change to read "Need to continue to be identified and protected." The plan is silent to the many efforts already completed for cultural resource management.
6. Page 1-3, last paragraph. Air Force management of hazardous materials and waste is in accordance with NAFI 32-7086 and NAFB Plan 12. Suggest deleting last sentence and replacing it with verbiage stating the plans already in place to deal with clean up of spills and releases, such

as the Facility Response Plan, Spill Prevention and Control Plans. Additionally, DOE and Sandia have similar plans. As a result, the only activities which would not be covered by existing plans are activities allowed and permitted by BLM.

7. Page 1-4, lines 30-31; There are additional qualifiers for a parcel of land to be qualified as Wilderness.
8. Page 1-4, lines 34-35: The statement that data proves that wild horses were present throughout the north range is incorrect. Data presented in Chapter 3 or 4 do not prove anything except perhaps the data does not prove that horses did not exist in some areas of the north range. This is a big difference. Rewrite entire paragraph to express the issue vice stating the difficulty the BLM has in managing their own plan. The horse issue is only an issue because the BLM has been remiss on their existing management responsibility.
9. Page 1-5, paragraph D. By this statement this RMP will not make any decisions? Why do the plan? Yet subsequent paragraphs discuss Wild Horses and make decisions on habitat areas. This does not make sense; the level of detailed discussed is not consistent.
10. Page 1-5, line 41; In addition to methods to amend the plan, there should be a method to evaluate monitoring progress on management decisions on a regular basis.
11. Page 1-5, line 44; Spell out IRMP
12. Page 1-6, line 13; Add ""identified and" before deferred.
13. Page 1-6, line 24; should read "These data provide..."
14. Page 1-6, line 40-44; Paragraph calls out four items yet lists five and then only asks four questions.
15. Page 1-7, line 38; Change "...based on public comments.." to "... considering public comments..."
16. Page 1-8, line 14; Capitalized NEPA
17. Page 1-8, line 42; Insert ".. the planning area and .." after cover.
18. Pages 2-1 through 2-6; The No-Action alternative should be verbatim with the 1992 ROD. In italics or bold or some other distinguishing typeface, list any changes to the 1992 plan to reflect current management activities: Including, Page 2-1, "Cultural Resources: add - "and the Nellis Air Force Base Cultural Resources" Management Plan (1998) and Page 2-2 (top of page) 3. Paleo - add "in accordance with 43 CFR 3622.4."
19. Page 2-1, paragraph 2. The "no action" alternative is the current Resource Plan/ROD? If so, state the "no action" keeps the existing plan with no changes.
20. Page 2-1 paragraph 6. Could not locate the Timber Mountain Caldera National Natural Landmark map.
21. Page 2-3, paragraph 4. The Stonewall Sheep hunt has happened since 1994. This is another example why the No Action Alternative must be updated with notes if it is an alternative (See note 18).
22. Page 2-7, lines 2-6; The resource management codes don't seem to add anything to the document and do not show up anywhere else in the document, suggest numbering and lettering as in Alternative A.

23. Page 2-7, line 11; "...BLM's interpretationfor management of wild horses..." This is too blunt, this implies that the only reason for this plan is to manage wild horse, not to manage the natural resources in the land withdrawn by PL 106-65 (as stated in the PL).
24. Page 2-7, line 17-18; Delete this sentence. Who believes there is no negative impact? There have been several memos, meetings etc. which the AF has stated it's operational impacts from horses. Furthermore, the AF recognizes that natural and cultural resource management is extremely important for proper land stewardship, but these activities can and often do have mission impacts. More often than not, when a range user proposes an action, consultation with environmental professionals at NAFB suggest more environmentally friendly alternatives. These often do have mission impacts, sometimes the impacts are in the form of schedule, others in terms of location.
25. Page 2-9, Line 11; Change NAFA to NAFB
26. Page 2-10, line 22; Revise this sentence. Section 3022 of PL 106-65 already provides for the extraction and use of sand and gravel. Also, please define what is "orderly extraction of sand and gravel".
27. Page 2-10, line 29; Hunting is also allowed in the DNWR.
28. Page 2-10, line 38; The reference to VG-1 occurs before the first use.
29. Page 2-15, paragraph 1. The alternatives should be generic, without a label. For Alternative C, you have labeled it the USAF alternative. This makes this plan a us vs. them plan. John Q Public will see this. All alternatives should not be labeled with a sponsor. The plan should state the pro/con of the action, keeping politics and special agendas out of the picture. (See what happens as a result of meeting on 8 June)
30. Page 2-16, paragraph 1. This alternative is very weak. What is the issue about water quality? There could be other reasons to eliminate horses besides water quality. Where is the discussion of the areas: wildlife, wilderness, vegetation, visual, soil, special status species, minerals, etc?
31. Page 3-1, first paragraph. This is written in a negative tone. This land is withdrawn for use by the Secretary of the Air Force for use as an armament and high hazard testing area; for training for aerial gunnery, rocketry, electronic warfare and tactical maneuvering and air support; for equipment and tactics development and testing; and for other defense related activities. So tell the whole story as to why access is restricted, for safety and security. Though access is restricted, rarely do exercises completely close the range for weeks. Flexible resource specialists who don't mind working weekends, can schedule range time and time is generally available. Access to EC East and EC West is even easier unless certain activities are occurring, these activities only occur about five to ten days per year.
32. Page 3-1, paragraph 2. The lands are withdrawn from use by Private citizens and local governments. Again, this was evaluated and Congress and the President approved the need for these lands for defense related activities. Again, find a better way to word this. It is too negative and does not portray the whole story.
33. Page 3-3, line 18; Capitalize Cultural resource Management Plan
34. Pages 3-5 to 3-8; Very interesting discussion about wildfire potential but does not mention anything about Fire Management until the last paragraph, this section could be edited to a more concise

35. Page 3-6 line 22-26; Delete these sentences, it assumes there is a need and/or requirement to have these studies and the SAIC study was not performed for the purpose of fire management. The wording is negative for no apparent reason.
36. Page 3-8, lines 16-18; Delete this sentence, again the mapping, inventories and monitoring were/are not accomplished for this purpose, so why have the negative connotation that the studies are insufficient????
37. Page 3-10, line 11; Add "staging areas" after target debris.
38. Page 3-10, line 17; The LEIS (USAF 1999) identifies 30 sites not 40.
39. Page 3-10, paragraph 5. I would recommend changing the sentence to read, "Electronic warfare sites typically consist of a small graded area with *either* manned *or* unmanned mobile..."
40. Page 3-10, paragraph 6. First sentence; please explain "a large volume".
41. Page 3-10, para7. You state that these metals are a result of military activities, however you failed to explain that some levels exist naturally in the soils of this region.
42. Page 3-11, paragraph 1. Why are we saying there are three live targets in the "affected Environment"? The lead-in paragraph in Section 3 needs to explain the bounds of the affected environment?
43. Page 3-11, paragraph 2. "This conclusion maybe inaccurate". What are you basing this on? Do you have conclusive data to make this statement? What lakes in the NTTR contain Brine Shrimp? Does this pathway phenomenon occur on NTTR and often enough to raise the threshold of significance?
44. Page 3-11, lines 17-30; Identify these activities as DOE.
45. Page 3-11, paragraph 4. This paragraph is confusing. DOE accomplished surface tests on the NTTR, underground tests were accomplished on the NTS. If there is water radiological contamination, it is coming from the NTS underground tests. DOE has left surface contamination on the NTTR.
46. Page 3-11, line 35; Construction debris is allowed in our landfills.
47. Pages 3-12-3-18: See General Note 3 above. There is no mention
48. Page 3-18, paragraph 3. The 27 Jul 1979 Final EA, page 2-30, states that in 1956 the AF paid \$708K to revoke the grazing and mineral rights on the NAFR.
49. Page 3-27, Para 2. Do we have Osprey on the NTTR?
50. Page 3-40, para2. There is also a pond at TPECR.
51. Page 4-1, paragraph 3. Remove reference to "Nellis Air Force Base's". This is just another alternative.
52. Page 4-1, paragraph 6. I disagree with the statement, "nearly impossible". If the requestor has a valid reason to access the range, a valid clearance then we can find some time for them to access the range. As a non-paying requestor (BLM does not pay for range time), and one with a low priority, you will most likely end up gaining access on weekends/holidays.
53. Page 4-1, last line. Why the negative tone?

54. Page 4-3: 2nd paragraph, second sentence: I suggest deletion of the sentence stating that the government is not responsible to protect ineligible resources. While this is technically accurate, it is assumed, and there would not be anything positive for federal agencies by making such a statement. The CRMP (1998)
55. Page 4-4, lines 9-10; NAFB does not agree with the statement, please identify specifically where the CRMP does not comply with the directives.
56. Page 4-5, paragraph 3. Why are not Alternative C and D applicable to Fire Management?
57. Page 4-5, para5. Please define "many" hazardous products.
58. Page 4-8, paragraph 1. We use more than 11 borrow pits. These are the recent ones approved.
59. Page 4-17 paragraph 1. When did the AF not allow the BLM in for 3-5 months?
60. Page 4-19, paragraph 1. Remove reference to AF alternative.
61. Page 4-20, paragraph 4. "Management direction is unclear"? What is purpose of this plan?
62. Page 4-21, paragraph 4 and 5. Remove discussion about Groom access issues.
63. Page 5-2, table. Why list years of experience? Not applicable. Please move Jim Campe's from Table 5-1 to Table 5-2.
64. Page 5-4, Table 5-4; Scoping meetings occurred in 2000.
65. Page 5-6, line52, finish sentence
66. Page 6-1, line 24; Add "adverse" after significant. Why mitigate a significant beneficial impact?
- 67.

NOTE: Chapter 4 is too raw at this point to provide any more detailed comments until it can be revised and another check draft can be issued.