11-6-91

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November 6, 1991

Curtis G. Tucker, Area Manager
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TRANSMITTED BY FACSIMILE: (702)726-8111

Dear Mr. Tucker:

This letter represents the views of the American Horse Protection Association, Inc. ("AHPA") and The Humane Society of the United States ("HSUS") concerning the October 1991 Removal Plan/EA for the Nellis Air Force Range Wild Horse HMA. On behalf of our combined constituency of more than 1.4 million membership nationwide, we would like to take this opportunity to express our concerns about this proposal. These comments are also offered on behalf of the American Humane Association.

I. Population Data

Based on a census taken in September of this year, the Removal Plan/EA states that the current population of wild horses in the Nellis removal area is 5,219. This population figure has been used to calculate the number of horses proposed for removal from the range to reach the AML of 1,000 for the Nevada Wild Horse Range ("NWHA"). Although this figure has been presented in the EA as a "count," in fact it is an estimate.

We understand that the actual number of horses and burros counted was 3,643, approximately 70 percent of the number claimed. The actual census apparently was increased to compensate for a presumed undercount. However, the Removal Plan/EA does not disclose this fact. In addition, it does not explain why the September census is believed to be inaccurate, or why an additional 1,600 animals (as opposed to 200 or 500, for example) are believed to be on the range. The failure of the documents to address this issue at all is a serious deficiency.

The historic population data for Nellis is wildly inconsistent: 6,255 animals in 1989, but only 4,302 in 1990. We cannot tell from the documents if these are actual counts, or

estimates similar to the fall 1991 numbers; therefore, it is impossible to tell what (if anything) this data shows. [1] The fall 1991 estimate of 5,219 implies a population of approximately 7,500 prior to the summer roundups, which is impossible if the 1990 population is correct.

Similarly, the data on recruitment rates is contradictory. If the percentage of animals younger than two years old (foals and yearlings) during the 1987 and 1989 removals was 16-20%, the recruitment rate for the herd was about 8-10%. Of the horses handled during the summer 1991 roundup, about 14.5% were foals. None of the data seems to support the contention that there is anything near a 25% foal rate.

Based on the available data, however, there is reason to believe that the August 1990 census, and the September 1991 actual count, are fairly accurate. Taking the fall 1986 post-roundup census of 4,178 as a starting point, using a 16-percent recruitment rate (the upper limit suggested by the data in the EA), and subtracting all removals since 1986, the arithmetic computation arrives at a fall 1991 population of about 3,350 -- close to the actual number counted this September. The details of this calculation are attached as Exhibit 1.

While this population analysis does not track exactly with BLM's population counts, it provides some consistency to the various years' data and shows rather convincingly that BLM's assumption of a large undercount in the fall of 1991 is incorrect. We believe, based on this analysis, that the total current wild horse population in the Nellis area probably cannot exceed 4,000.

II. Number of Horses to be Removed

The summer 1991 roundup removed 2,269 horses from the Nellis range. The Removal Plan/EA proposes to remove another 3,175 horses to reach the 1,000-animal AML established for the NWHR. We interpret the Removal Plan/EA to assume that another 1,044 horses will remain on areas of the Nellis Air Force Range outside

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[1] Page 12 of the EA (note 2) suggests that the August 1990 census number is an actual count. It attempts to reconcile the 1989 and 1990 numbers by stating that horses are frequenting inaccessible parts of the Nellis RAnge during the 1990 census. However, as Exhibit 1 demonstrates, an analysis of the available population data indicates that the 1990 count was substantially accurate.

the boundaries of the NWHR. [2]

The number of horses to be removed is based on the assumption that 80 percent of the estimated 5,219 horses on Nellis will migrate to summer range located in areas R-4809A, EC West and EC East.

There is no information in the Removal Plan/EA to document the 80 percent estimate. The data set forth on pages 12-13 of the EA shows that only 33-56% of the herd distribution is found in the three areas. While the EA states generally that "data from the 1990 [sic; should be 1991?] removal and Nellis information" supports the 80 percent estimate, that information is not summarized or described in any detail. In short, there is no basis for concluding that the 80 percent estimate is valid.

In our view, the 1991 roundup data actually suggests a lower estimate. As Exhibit 1 tends to show, the summer 1991 pre-gather population in Nellis was probably between 5,500 and 6,000. BLM handled about 3,600 horses on the summer range during its removals this year. We understand that the removal effort was very extensive, and that most of the horses on the critical summer range were gathered and handled. If so, the number of horses handled represented about 65% of the total population, not 80%. Obviously, if the actual summer population was higher than 6,000, the percentage of the herd on the summer range would be lower than 65%.

Therefore, we challenge the proposed removal of 3,175 horses this winter for two serious reasons: the likelihood that the current population is substantially below 5,219; and the likelihood that the percentage of horses using the summer range is well below 80 percent.

Given the inconsistencies in the data in the Removal Plan/EA, it is impossible for us to determine how many horses should be removed, even assuming that the 1,000-horse AML for the NWHR is accurate. However, the data suggests clearly that 3,175 is far too many. If the current population is close to the number actually counted by BLM this September, and if about 65% of the herd uses the summer range, that equates to fewer than 2,500 horses on the summer range. Using a 1,000-horse AML, only about 1,500 should be removed.

We want to stress, however, that <u>any</u> decision regarding further removals must await clarification of the data

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[2] We are aware that the Director's determination of the boundaries of the Nevada Wild Horse Range has been appealed to the Interior Board of Land Appeals. We agree with the appellants that the Director's decision is in error.

inconsistencies outlined above. We believe that a rational decision regarding the number of horses to be removed cannot be made with the existing information. While our organizations want to avoid further threats to the horses' welfare due to inadequate water or forage, and recognize that there are limits on both resources in Nellis, we cannot support any particular level of additional removals at this time.

III. Accuracy of the AML

There is also reason to question whether the 1,000-horse AML is appropriate.

The AML is based on calculations of available perennial water in the three areas used as summer range. It assumes that a wild horse needs 10 gallons of water per day, and that about 10,000 gallons of water are available per day.

However, the information on pages 15-16 of the EA show that nearly 15,500 gallons per day are availble in areas EC East, EC West and R-4809A. The EA's calculations of water availability apparently has not included water sources numbered 16-21 in EC West/R-4809A, despite the fact that they are used by horses. It is not clear from the EA why these water sources should not be used in computing the AML. If they were, the AML should be increased to about 1,550 horses.

Furthermore, it is clear that the water flow measurements were made during a dry year, following several drought years. The heavy rains of this fall may have improved conditions somewhat. It appears from the EA that the condition of the horses during the September 1991 census was good (as it was in April); therefore, if summer water conditions improve, the threat to the horses should diminish.

The establishment of an AML should anticipate normal precipitation and water availability, and not be based exclusively on drought conditions. While these conditions may justify a temporarily lower population, the herd should be allowed to increase to the level sustainable by normal water availability once those conditions return.

Therefore, we believe that the EA should include and analyze, at a minimum, an alternative that sets an AML for normal precipitation conditions, possibly subject to a lower population made necessary by drought. Unless this is included, the analysis of alternatives to the proposed action is incomplete. To consider only the proposed action, and a "no action" alternative, is not the formulation of "all reasonable resource management alternatives" required by NEPA. See 43 C.F.R. 1610.4-5.

Finally, the EA does not address longer-term issues such as water development or other mechanisms to encourage horses to use the 316,000 acres of range than have experienced slight to moderate utilization. It is apparent from the EA that resource problems in the Nellis range will persist unless efforts are made to improve horse distribution by making dependable water available where adequate forage exists, thereby reducing grazing pressures on degraded range. A long-term AML (as opposed to an AML established in response to atypical conditions) will depend on these efforts. We urge BLM to begin them this fiscal year.

III. Air Force Security Clearance and Public Access

One of our fundamental concerns revolves around the unique nature of the relationship between the Bureau of Land Management and the Nellis Air Force Base in terms of jointly managing wild horse and burro resources in the Nellis Wild Horse Herd Management Area as set forth in the 1977 Five-Party Cooperative Agreement. This is especially critical as it relates to implementing removal plans.

Recognizing that the Nellis AFB Commander reserves the right to restrict public access to areas due to military operations, public safety, or national security according to P.L. 99-606 Sec. 3(b), we question whether the Removal Plan/EA can be properly and safely implemented in accordance with the Wild, Free-Roaming Horses and Burros Act without a more thorough discussion of public access. As the Bureau is aware, the lack of adequate and timely security clearance has already proven to be a problem in past roundups, most notably during the summer 1991 removal.

Both the Removal Plan and the EA make reference to potential conflict with Air Force security restrictions in the areas earmarked for removal. In fact, the Removal Plan on page 4 lists as its first objective, "To avoid or eliminate conflict with military use..." We believe that these objectives are not listed in an appropriate order. The Nellis range is a special area specifically set aside to protect wild horses. Therefore, we believe that objective c) "To protect and manage wild free roaming horses in accordance with P.L. 92-195" should be BLM's primary objective. Objective d) "To prevent deterioration of the rangeland resources in accordance with various statutes" should be next, followed by objectives b), e), and a).

Further, while both documents state that both potential trap sites and holding facilities may be located on lands withdrawn for military purposes, and that public access will be controlled by the USAF, it makes no determination as to whether this will be the case. All areas which require security clearance should be identified well in advance of the removal so that all requests for public access can be made to the USAF. At the very minimum,

the COR/PI must be granted security clearance in order that they be present during all aspects of the removal process, including at the capture sites and holding facilities, in order to ensure Contractor compliance, as specified in the Removal Plan/EA. In addition, appropriate arrangements should be made to obtain security clearance on behalf of attending veterinarian(s), member(s) of the Wild Horse Advisory Board, and representative(s) of humane organization(s).

We are particularly concerned with the discussion of destruction of animals at the capture site. Both the Removal Plan and the EA provide that because of security restrictions, Advanced Security Inc. (ASI) supervisory personnel will perform the actual destruction. Although the Removal Plan states that the COR/PI will provide training to ASI personnel it does not specify what type of training this entails. Further, we understand that the COR/PI will have the sole responsibility for determining when an animal will be destroyed; if this is not the case, it should be. Also, if a veterinarian is needed to make a determination as to destruction at either trap sites or holding facilities, it is imperative that the veterinarian have security clearance.

Regarding capture methods, the Removal Plan/EA also require that any and all use of helicopters be coordinated with the AFB, and further state that all removal and helicopter activities will be subject to Nellis security requirements. Again, arrangements for security clearance should be made well in advance of removal activities in order to ensure that appropriate personnel are employed.

IV. Removal Process

One of our major concerns regarding the removal process is the level of "stress" on the animals. If the "level of activity associated with the removal operation" will cause undue stress to the animals (see paragraph 3, page 5 of the Removal Plan), it simply should be postponed or not conducted at all. It is unclear from this discussion exactly how the presence of a veterinarian could mitigate high levels of stress. Therefore, we request further clarification of the phrase "such stress could be tolerated by the horses if a veterinarian is utilized." We believe that if horses will be placed under undue stress, the capture operation should, at the minimum, be postponed and question why the BLM states that the presence of a vet will reduce this stress.

A. Trapping and Capture Methods

AHPA and The HSUS strongly endorse the use of water traps as the primary method of gathering horses off of Nellis. We share

the concerns of most other humane and wild horse protection groups that helicopter gathers can negatively impact individual wild horses, as well as bands of horses. We are concerned that the BLM has inappropriately prioritized the trapping methods, and urge BLM to use bait (water) trapping to the fullest extent possible before turning to other, more invasive methods such as helicopter-drive and helicopter-roping. We believe helicopter use must be viewed only as a last resort where water trapping has failed. The BLM must utilize water trapping to the fullest extent possible before utilizing more stressful methods.

Additionally, we request the BLM to clarify what criteria are used to determined when bait (water) trapping has "failed," and request that horses in traps are monitored every eight hours. Further, because of its potential misuse, we urge BLM to give the use of roping more judicious consideration and discussion. Specifically, we believe that horses should not be "tied down" at all, and that detailed conditions are associated with the use of roping.

We also request clarification of the following factors: terrain, physical barriers, weather and condition of the animals. Importantly, we believe that the current herding parameters of "no more than 10 miles nor faster than 20 miles per hour" are too extreme, and may cause stress, accidents, injury and even death. We believe that horses should travel no more than 6 miles nor faster than 12 miles per hour, and urge the BLM to adopt these guidelines.

Further, we believe that the range of "10 degrees F. as a minimum and 95 degrees F. as a maximum" is too extreme and may cause horse health problems; we urge the BLM to adopt 25 degrees F. as a minimum and 85 degrees F. as a maximum. Similarly, we believe that the phrase "weather and wild horse conditions" needs to be further defined, and request that the BLM clarify these terms and the criteria by which such conditions are determined.

We also are strongly opposed to the use of barbed wire for any structures used for horses, either wild or domestic. Therefore, we commend the BLM for disallowing barbed wire for wing construction, and urge you to prohibit its use for any wild horse structures.

B. Sorting Process

We are concerned that the BLM has not fully defined several aspects of this process. Specifically, we request definition of the use of the phrase "positive qualities," as used throughout the Removal Plan/EA. Further, the term "sufficient health" is vague. We also request the guidelines utilized by the BLM to determined whether an animal is lame, old or sick.

We are also concerned about the language, "Mares with foals too young to be shipped," on the top of page 7 of the Removal Plan. Specifically, we request clarification of the phrase "too young," and ask the BLM to explain why there would be mares with young foals this late in the season.

C. Transportation

We strongly commend the BLM for stating that the use of double deck trailers is unacceptable and not allowable, as we believe that these vehicles are inherently unsafe. However, we would question the final paragraph on page 14 of the Removal Plan which discusses the authority to off-load animals should there be too many horses on the trailer/truck. How could such a circumstance occur? We also believe that the period of three hours is too long for animals to remain standing on trucks while not in transport, and urge the BLM to reduce this period to not longer than two hours.

Thank you for the opportunity to comment.

Respectfully submitted,

BY

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BY

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cc: John Boyles, BLM
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EXHIBIT 1 - NELLIS POPULATION ANALYSIS

Fall 1986	4,178	
Recruitment (16%)	668	
Summer 1987	4,846	
1987 Removal	(1,210)	
Fall 1987	3,636	
Recruitment (16%)	582	
Summer 1988	4,218	
Recruitment (16%)	675	
Summer 1989	4,893	
1989 Removal	(683)	
Fall 1989	4,210	
Recruitment (16%)	674	
Summer 1990	4,884	
Death Loss 1990	(50)	
Fall 1990	4,834	(count 4,302)
Recruitment (16%)	773	
Summer 1991	5,607	
1991 Removal	(2,269)	
Fall 1991	3,338	(count 3,643)

A Fall 1991 population of 5,219 could be reached only if one or more assumptions used in this example were seriously in error. One is that the recruitment rate has been substantially and consistently higher than 16%. This does not seem possible based on information in the EA, as well as general information on wild horse reproduction. The other is that the starting population of 4,178 is significantly below actual numbers. This, too, seems unlikely given the census data for 1984-86 and the large removals that took place in 1985 and 1986.