

Nellis

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January 27, 1971

BOMBING RANGE MEETING  
BLDG. T-2  
NELLIS AFB, NEVADA

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The meeting had been called by the Air Force for 3 p.m. Col Drake chaired the meeting.

Present were:

BLM - George Lea, Ed Spang, Ross Ferris, Dennis Hess, Jim Brunner  
AEC - Gen. Hillyer, Col. Marks, Mr. Eppley  
AF & GSA, Washington, D. C. - Mr. Mooney, Mr. Lunger, Mr. Rainey.  
AF, Nellis - Col. Drake, Col. Frost, Maj. Daniels, Col. (lawyer),  
Capt. Tucker (law), plus 8 or 10 others  
BSW&W - Roger Johnson

Col. Drake stated the purpose of the meeting was to discuss the Bombing Range and the cattle trespass problem. BLM had made a staff study which had been earlier presented to the Air Force for their consideration. Maj. Daniels gave a brief history of the trespass problem. The Air Force inherited the cattle when they took the land in 1949. In 1954 some \$500,000 were paid for water rights to extinguish grazing on the Range. A map showing the areas of use of the 6 persons who graze on the Range was exhibited. Have had mining encroachment (which has been quieted) but still have cattle encroachment. The Mustang Range is located within the range. Wildlife such as antelope, deer, and bighorn sheep use the area. A court injunction has been issued requiring the cattle to be removed. Although conferences with the U. S. Attorney have been held, no further legal action has occurred.

Col. Drake said we hope today to get a consensus of direction of further action. GSA has been requested to try to cut each agency's land holdings by 10%. They are reviewing land use and needs. The District of Columbia people are here reviewing Nellis' need for the Bombing Range.

Col. Drake said the principles of AF policy are: (1) to retain present boundary and (2) no decrease in size of the Range. They are considering a physical barrier where trespass occurring. (3) How to control the mustangs to proper numbers for the range. This area has been designated for mustangs, so the cattle must be removed.

Col. Drake asked the group to consider some means to discourage and control trespass. If a physical barrier is involved, the cost of construction and maintenance is important and how it can be financed is essential.

Mr. Ferris' figures of the cost of fence construction were thought to be a more accurate figure than the AF's figure since BLM has had major experience. Mr. Ferris stated that BLM's major concern is our total responsibility to manage the ranges outside of and adjacent to the Range. Currently it is virtually impossible to manage our lands because of the continued drift back

and forth across the line. BLM is looking for a solution. The problem appears to be that people are licensed on BLM lands just outside of the Range and cattle drift is continuing, admittedly much of it with the assistance of horses and riders. BLM is in total agreement on the need for a fence. One alternative in the Staff Study considered licensing the cattle within the Range. If this is not feasible, a fence would make enforcement possible. Major Daniels stated that innocent trespass by persons and groups would also be halted.

Col. Drake noted that it appeared that a physical barrier was essential. How the fence could be funded for construction and maintenance should be considered. Mr. Spang stated that Nevada is, by state law, an open range state. If a landowner does not want livestock on his private land, he must fence against them. Under this principle, it would appear to be the primary responsibility of the AF-AEC to construct the fence. Should BLM become involved in the construction, BLM would not want to divert its appropriations for this purpose because this money is already earmarked for specific projects through 1973 FY. BLM may submit a request for additional appropriations for this purpose.

Col. Drake noted the Staff Study indicated the lost revenues could pay for the fence. Mr. Ferris replied that this figure is not valid unless grazing is allowed and paid for inside of the Range. Cattle licensed outside of the range are now being paid for. There is no additional feed on BLM land to take care of the cattle running on the Range. A barrier would assist our intensive management outside of the Range.

Col. Drake asked if Senator Lamb was drifting onto the Range.

Mr. Hess replied that Senator Lamb had no BLM use adjacent to the range and trucked or drove his cattle in and out.

Col. Drake asked if the others outside would then be able to run less cattle.

Mr. Hess thought this would be the case. These persons are licensed outside but have additional numbers which run on the Range. Estimated that Burns may have 25 head drift, Moser possibly 25, Colvin 3,500, Lida 100, Lamb 700-1,500, Arcularis 1,400, Clifford 1,500, Fellini 600.

Major Daniels asked how much income per year outside and could this be used for fence? Can't BLM require the range user to fence as a condition to running outside of BLM?

Mr. Ferris pointed out that BLM can and occasionally does this on lands under the Taylor Grazing Act. The Bombing Range is not under the Taylor Grazing Act, therefore BLM cannot require such a boundary fence, being statutorily incompetent to do so. Col. Drake said it looked as if BLM and AF must budget to accomplish the fence.

AF: Perhaps a Red Horse project would be the answer.

Gen. Hillyer: Has AF considered grazing under license on the Range.

Col. Drake: AF does not want cattle grazing on the Range.

Col. Frost: There are many precedents for loss of Ranges through other uses creeping in. Regardless of any other item, if grazing use is permitted, we will lose this Range.

Major Daniels: Maintenance may be a problem.

Mr. Spang noted that when and if the boundary of the Range is fenced, BLM will have a tremendous investment needed to intensify management outside to try to take care of the cattle removed from the Range.

Major Daniels asked if BLM would accept responsibility for maintenance of the fence.

Mr. Ferris replied that he had not the authority to commit BLM. He pointed out that BLM lands contain thousands of miles of fence. Fences are retained and respected because there is a sufficient penalty on trespassers. A well constructed fence should require only minor maintenance for the first 20 to 30 years. Certainly the trespassers, who have had free grazing for 20 years are going to try you out when the fence goes in. Prompt legal action against trespass will convince them it is economically unfeasible to graze on the Range.

Col. Drake asked Gen. Hillyer for the AEC position.

Gen. Hillyer stated that AEC was an innocent bystander, that there were no cattle on AEC, that cattle would be destructive to AEC installations and there were no cattle on AEC. (NB: The General is differentiating between AEC-Las Vegas and Sandia. Sandia has perhaps 80% of the trespass cattle on the Range).

Col. Frost noted that they have had to abort missions because of livestock trucks near the targets and that only a few aborted missions would pay for the fence.

Col. (lawyer): Had one U.S. Attorney all ready to go on contempt proceedings, but he left. The U.S. Attorney seems reluctant to help us. We plan to try Justice Dept. Fenced or not fenced, it is a boundary, it shouldn't be violated, we shouldn't reward trespassers. Even if we couldn't charge the cattle trespass, we could charge the people in trucks with trespass. (NB: It is well settled in Federal Courts (Elko cases and Pyramid Lake case) that Federal lands need not be fenced to sustain trespass on Federal lands. Principle and dicta ruled that private persons are responsible for keeping their livestock off Federal lands. State law is moot.)

AF: Noted that BLM study indicated water developments, houses, corrals, etc. had been placed on the Range. If these improvements were removed, would this restrict cattle use on the Range? Would this affect wildlife detrimentally?

Mr. Hess stated that there are several situations concerning water. There are new reservoirs within the range, there are springs outside of the range which service areas within the range, there are springs within the range that have been developed for cattle, and some springs have been trampled in and ruined by the cattle.

Mr. Rainey asked what assistance to wildlife would accrue if the boundary was fenced.

Mr. Johnson said there is some competition between cattle and antelope and cattle and horses for water.

Mr. Ferris said he has seen deer, quail, chukar, antelope, and tracks of bighorn sheep. Livestock utilize all the feed around the water. Horses can and must range far out from water to get feed. The horses are forced to utilize wildlife feed. This is detrimental to expanding wildlife populations.

Mr. Johnson said the Desert Wildlife Range was closed to grazing when BSWF took exclusive control because (a) there wasn't enough forage to support a livestock operation and (b) because of the competition for water.

Mr. Rainey asked if the fence was important enough to BLM that they would help pay for the fence.

Mr. Ferris said the big question was who would be responsible for the wild horses. Wild horse jurisdiction is now with the State Department of Agriculture and the County Commissioners. Neither BLM nor AF now has any jurisdiction over wild horses. Bills now in Congress may define responsibility. This is a related problem but not immediately important.

Mr. Hess stated that when the range was set up, horse number estimated. Now we know there are 500-600 head of wild horse. The waters on the range have deteriorated and been denied to cattle pre-emption of the waters, and this plus lack of forage also pre-empted by cattle, has forced most of the horses off west and north.

Mr. Ferris stated that if the cattle were removed there would presently be ample feed for the horses. Eventually population pressures would be a problem, but not for several years.

AF: What would happen if we took a hard line, went to Justice Department, confiscated cattle, and other property?

Col. Drake said this had been discussed. No help was offered or received from the U. S. Attorney. Plan to go to AF law section for assistance.

AF: Need a profit-loss motive to get people to build fence.

Col. Frost stated that one who trucks in livestock is blatantly defying the injunction. If fences were constructed first, we would only be protecting him. Removal of this operator should be a first step.

Col. Drake summarized the consensus as being:

- (1) continue legal steps
- (2) seek long-range funding for fence.

Mr. Spang asked clarification of Col. Drake's earlier principle of no change in the boundary and if it would be possible to make minor alterations to use natural boundaries. The Colonel stated that he meant no boundary changes due to loss by attrition.

Col. Frost explained that this is a weapons test area. Weapons are used at high altitudes at high speeds, now supersonic, someday hypersonic. A tremendous air space is essential and must have protected ground space below the test. AF can lose this range and they will never get another.

Major Daniels asked if BSWF was interested in the wildlife on the Bombing Range.

Mr. Johnson replied to the effect that BSWF is statutorily incompetent except on the Desert Game Range.

Mr. Spang stated that BLM is vitally interested in the fence and would like to help plan the type and location of the fence. He would not like to see a large investment in fence until Senator Lamb's operation has been removed from the range.

Mr. Johnson noted that if Senator Lamb was evicted from the Bombing Range, he would move onto the Desert Game Range and this would require fences to protect the Game Range.

Col. Frost stated that the solution to fencing would probably be to build the drift fence in increments. When fencing was proceeding, continued drift would be actionable.

Col. Drake stated the AF was interested in protection of the range and fence to keep off trespass. AF will redouble efforts in legal actions. May be able to Red Horse incrementally.

Major Daniels asked if AF constructed, would BLM maintain the fence.

Col. Drake noted that the nearest AF installation was at Indian Springs. It takes a week just to drive from there to the north end of the Range, do minor work and return.

Mr. Brunner asked if Wackenhut and AF guards could help on fence maintenance.

The Commander of Area 51 and Gen. Hillyer both replied in the negative.



AF: Noted that a helicopter patrol would be the simplest way to check the fence.

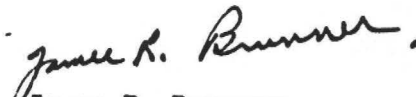
Mr. Hess noted that a road would have to be constructed along the boundary on the most feasible route, sometimes inside the boundary, sometimes outside the boundary to allow for ground maintenance.

Col. Drake felt BLM could assist in maintenance with greater efficiency than could AF, although the most efficient maintenance would be by the range user.

Mr. Ferris said that as Allotment Management Plans are developed in certain areas along the perimeter, it may be possible to shift maintenance responsibility to the range user as these are cooperative plans. This would be a small part of the boundary in the foreseeable future. If the range user will agree to the maintenance, it could be written into the plan. Such a provision could not be forced on the range user. BLM will cooperate to the full extent possible. BLM is obligated to cooperate.

The meeting adjourned at about 5 p.m.

Respectfully submitted,

  
James R. Brunner