

12/5/89



United States Department of the Interior

NATIONAL PARK SERVICE

LAKE MEAD NATIONAL RECREATION AREA

601 Nevada Highway

BOULDER CITY, NEVADA 89005

IN REPLY REFER TO:

N1615(LAME-R)

December 5, 1989

Mr. Bob Hillman
Animal Protection Institute
2831 Fruitridge Road
Sacramento, California 95820

Dear Mr. Hillman:

Thank you for your participation, as well as that of Nancy Whitaker, in facilitating the recent meeting in Phoenix. All of us felt that it was extremely helpful in outlining those areas where cooperation can help achieve management objectives of all concerned.

Enclosed for your information is our summary of the meeting, as well as a draft Interagency Agreement for Burro Management, which we are sending to each of the involved Bureau of Land Management Districts. We feel confident that we can work quickly with Bureau of Land Management for final agreements.

We appreciate your interest in Lake Mead National Recreation Area and look forward to our meeting in March, 1990.

Sincerely,

Alan O'Neill
Superintendent

SUMMARY
LAKE MEAD NATIONAL RECREATION AREA
BURRO MANAGEMENT MEETING
NOVEMBER 30, 1989

PRESENT: Karen Sussman, International Society for the Protection of Mustangs and Burros (ISPMB); Bob Hillman and Nancy Whitaker, Animal Protection Institute (API); Rathbun, Bisson, Collins, Marquis, Fry, Walker, and Weiss, Bureau of Land Management; O'Neill, Sikes, Turner, and Coffey, Lake Mead National Recreation Area.

The participants met in the Bureau of Land Management, Arizona State Office, on November 30, 1989. The meeting was convened and facilitated by Karen Sussman, President, ISPMB; the purpose (agenda enclosed) of the meeting was to address ecological problems in the Lake Mead National Recreation Area in relation to the burro population and grazing management issues. The following is a summary of key points from the meeting.

After Ms. Sussman opened the meeting, Superintendent O'Neill summarized National Park Service mandates and management philosophy.

Kent Turner presented a Lake Mead Briefing paper (enclosed) which outlined the framework of policy and concerns necessitating a burro management plan. It discussed National Park Service law and policy, Lake Mead's stated goals from the Strategic Plan, and the four management alternatives proposed for evaluation in the upcoming draft Burro Management Plan.

Each of the Bureau of Land Management Districts represented (Las Vegas, Phoenix, Arizona Strip) then presented questions or concerns they have relative to the burro management planning process.

Henri Bisson asked when a completed draft plan was expected. Mike Coffey responded, "by the end of fiscal year 1990." Bisson requested that prior to the final draft that we (Bureau of Land Management and Lake Mead National Recreation Area) get together to discuss the alternatives and any preferred alternative identified in the planning process. Dan Rathbun stated we should have a common definition of the four alternatives to be analyzed. He further stated that Bureau of Land Management is willing to assist and lend expertise in development of the plan. In answer to a question regarding scoping, Lake Mead responded that a minimum of three public hearings were planned.

Karen Sussman stated that it was important to consider both burro and grazing impacts and management within the plan.

Dan Rathbun stated that Bureau of Land Management has an obligation to maintain rangelands in a "thriving ecological agreement." To that end, the Las Vegas District is preparing to gather approximately 250 burros from the Gold Butte area in FY 1990. Milt Fry and Henri Bisson provided their (BLM's) contention that while the National Park Service lands are not "public lands" as defined within the Wild Horse and Burro Act, and therefore, not subject to the Act, the burros which move between Bureau of Land Management and National Park Service lands are protected under the Act and their management is Bureau of Land Management's responsibility. National Park Service personnel chose not to debate the subject at this time.

Discussion then centered on the Interagency Agreements (specifically the need to execute new ones) and a map presentation of the various herd management units designated by Bureau of Land Management which include areas within Lake Mead National Recreation Area.

The following action items were agreed upon:

- The Las Vegas, Phoenix, and Arizona Strip Bureau of Land Management District Offices would work with Lake Mead National Recreation Area to execute Interagency Agreements prior to January 30, 1990 (agreements would be based upon the 1989 model within the Arizona District).
- Lake Mead National Recreation Area will make a formal request to the Phoenix District for inclusion within their work plan for gathering approximately 140 burros within the Bonelli Landing/Gypsum Flats area (not covered by any herd management plan).
- Bureau of Land Management and Lake Mead staffs will work together for a joint definition of the four alternatives to be evaluated in the draft burro management plan.
- Lake Mead will not issue or develop a preferred alternative prior to discussions with Bureau of Land Management Staffs.

A consensus was reached on the two-phased approach to ecological concerns within Lake Mead:

1. In the short term, Bureau of Land Management will work within stated goals and objectives, as funding is available, to gather burros within Lake Mead to work towards "thriving ecological balance."
2. Lake Mead will develop a draft Burro Management Plan and Environmental Assessment; Bureau of Land Management will be given ample opportunity for input, as stated above.

Coffey asked if Bureau of Land Management would accept Lake Mead personnel's burro population estimates for the Gold Butte area if funding was available to conduct a trapping project. Karen Sussman asked if the Phoenix District could remove additional burros from Gold Butte if there was additional money. The consensus appeared to be that following the trapping of 250 burros in Gold Butte, should Lake Mead have funds to census, and should such census figures show the herd was still not within the range of animals established by range data to achieve ecological balance, procedurally it was possible (pending funds) for Phoenix District to trap in the Gold Butte area.

The group agreed to conduct a follow-up meeting on March 15 and 16, 1990, at Tassi Ranch, which is located in the Gold Butte area of the recreation area.

The agenda would include a field trip the first day, staying overnight at Tassi Ranch and concluding discussion the second day before returning home.

More details of the meeting will follow as we get closer to the date.

DRAFT
MCoffey:sfw
12-05-89

INTERIM INTERAGENCY AGREEMENT
BETWEEN
LAKE MEAD NATIONAL RECREATION AREA
AND THE
BUREAU OF LAND MANAGEMENT

Article I, Background and Objectives

WHEREAS, it is jointly recognized that wild, free-roaming burros inhabit lands that are administered by the National Park Service, Lake Mead National Recreation Area (NPS), and the Bureau of Land Management, Phoenix District (BLM), and there is a mutual desire to work cooperatively in the management of burros that utilize the lands identified above.

WHEREAS, capture of wild, free-roaming burros on public lands was authorized by Congress under the Act of December 15, 1971, 16 U.S.C, 1331-1340, as amended with implementation regulations found in 43 C.F.R., Part 4700. Public lands are defined as lands administered by the Secretary of the Interior through the Bureau of Land Management. Lake Mead National Recreation Area, a unit of the National Park System, does not come within that category, and is not covered by the Act (Public Law 92-195). Therefore, any capture of burros must be by means of a Cooperative Agreement as provided in 43 C.F.R., 4720.2.

WHEREAS, the National Park Service is mandated to manage Lake Mead National Recreation Area to conserve its scenic, natural, cultural, and wild-life resources, and to provide for public enjoyment of those resources in such a manner as to leave them unimpaired for the enjoyment of future generations. To meet this mandate Lake Mead National Recreation Area is currently preparing an Environmental Assessment and Burro Management Plan.

WHEREAS, both agencies have determined a need for removal of burros from respective lands this year.

Article II, Statement of Work

THEREFORE, it is agreed that:

1. Interim reductions in the numbers of burros within the Lake Mead National Recreation Area are necessary to meet the goals and objectives of each party. The most efficient and cost effective time to capture wild burros is during the summer months when the burros are concentrated near permanent water sources, including Lake Mead National Recreation Area lands adjacent to Lake Mead and Lake Mohave.
2. Removal of excess burros is in accordance with approved capture plans and will be accomplished through the Bureau of Land Management capture and adoption program. Removal may include habitual problem animals around human developments as well as excess burros.
3. The area identified for capture is that area within Lake Mead National Recreation Area.
4. Bureau of Land Management will be the lead agency in capture operations and will supply personnel, equipment and funding. National Park Service will supply personnel and equipment when requested, as available.
5. That no member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this cooperative agreement, or to any benefit that may arise therefrom.

Article III, Term of Agreement

This interim agreement shall become effective when signed by both parties and shall terminate on September 30, 1990.

This agreement may be extended by the execution of a Reaffirmation Memorandum for a period not to exceed one (1) year.

Article IV, Key Officials

- a. Superintendent, Lake Mead National Recreation Area
- b. Manager, Phoenix District, Bureau of Land Management

Article V, Payments

Parties to this agreement are not obligated to expend funds for the execution of this agreement unless funds are appropriated and are available for the purpose of this agreement.

Article VI, Property Management and Disposition

Not applicable.

Article VII, Prior Approval

Not applicable.

Article VIII, Reports

Not applicable

Article IX, Termination

This agreement may be terminated by either party upon 15 days written notice. During the performance of this agreement, the participants agree to abide by the terms of Executive Order 11246 on non-discrimination and will not discriminate against any person because of race, color, religion, sex, or national origin.

No member or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom.

FOR LAKE MEAD NATIONAL RECREATION AREA:

Alan O'Neill, Superintendent
Lake Mead National Recreation Area

Date

FOR THE BUREAU OF LAND MANAGEMENT:

Henri Bisson, Manager
Phoenix District Office

Date

AGENDA

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|---|--|
| DATE: 11/30/89 | <u>INTRODUCTION & WELCOME:</u> 1:00 P.M. |
| TIME: 1:00 P.M. to 4:00 P.M. | Karen Sussman ISPMB |
| PLACE: Phoenix State Office, Bureau of Land Mgt. 3707 N. 7th Street Phoenix, Arizona | <u>PRESENTATIONS:</u> 1:15 P.M. to Park Service 2:30 P.M. BLM |
| PURPOSE: Discussion of problems involving grazing priviledges on Lake Mead National Recreation Area | <u>BREAK:</u> 2:30 P.M. to 2:45 P.M. |
| GOALS: Identify problems. Work together for resolution of problems. | <u>PROBLEM SOLVING:</u> 2:45 P.M. to 4:00 P.M. All Participants |
| DESIRED OUTCOME: Arrive at resolutions agreed upon by all participants | |

PARTICIPANTS:

PARK SERVICE LAKE MEAD NATIONAL RECREATIONAL CENTER

Alan O'Neill Superintendent
Newton Sikes Chief Ranger, Supervisor of Resource Mgt.
Kent Turner Chief of Resource Management
Mike Coffee Resource Manager

BUREAU OF LAND MANAGEMENT

Marvin Weiss Phx. State Office, Horse & Burro Program Leader
Henri Bisson Phx. District Office, District Manager
Dan Rathbun Nevada State Office, Deputy State Director
Milt Fry *Fry Frei* Nevada, Wild Horse and Burro Specialist
Ben Collins Las Vegas District, District Manager
L.D. Walker Arizona Strip, Wild Horse & Burro Specialist
Elaine Marquis Kingman Resource Area, Area Manager

FACILITATORS

Karen Sussman International Society for the Protection of
Mustangs and Burros (ISPMB) President
Bob Hillman Animal Protection Institute (API), Field
Field Representative.
Nancy Whitaker API, Program Assistant

Lake Mead Burro

Lake Mead Burro

12-19-89

COPY FOR YOUR
INFORMATION



ANIMAL PROTECTION INSTITUTE OF AMERICA

2831 Fruitridge Road, P.O. Box 22505, Sacramento, CA 95822 (916) 731-5521 FAX (916) 731-4467

December 19, 1989

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HARRY DEARINGER

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CLAUDE,
Countess of Kinnoull

Marvin Weiss
Phoenix Wild Horse and Burro
Program Leader

BLM
3707 N. 7th Street
Phoenix, AZ 85014

Dear Marv:

I've reviewed the draft interagency agreement on the Lake Mead Burro habitat area in Arizona and Nevada which Park Service sent for our review. Enclosed is a copy of the two recent IBLA rulings that are pertinent to BLM's mandate to protect burros in their designated habitat areas. We urge you to insist these be recognized in this agreement as interpreting the constraints under which wild horses/burros are to be managed

The third paragraph of the agreement omits the word "historic" from the list of values that Park Service is mandated to protect. Since the word is so specific to the status of wild burros, the omission of this key word is somewhat glaring. The enabling legislation for Parks requires that they also protect burros. API believes both of these mandates to protect burros need to be spelled out in the agreement.

On Page Two it says: "Whereas, both agencies have determined a need for removal of burros from respective lands this year." This is confusing with regard to the meaning of removal. We think the word "reduce" would better clarify the intent of ~~the~~ both parties in the management of burros in this area.

Again in Article II of the agreement, the wording needs to reflect the protections granted to wild burros under the law. The term "interim reductions" has no meaning. There is only one authority, according to the IBLA ruling, for removing these protected animals from public lands and that is Sec. 3 (b). The Solicitor General ruled on the situation where wild horses/burros are partly on BLM land and partly on another agency's land. The ruling confirmed BLM's authority over wild horses and burros and their responsibility to them. Our understanding of the

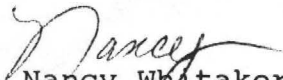
explanation given by the Nevada State wild horse official at the meeting was that BLM cannot abdicate its authority and responsibility to protect these wild burros. This is not clearly addressed in the agreement. Without it, the agreement seems fuzzy on the most pertinent point.

Under Sec. 2 of Article II it states removal of excess burros is in accordance with approved capture plans. This section needs to spell out the public comment process that is part of an "approved" capture plan. Otherwise, we--who are the public interest groups involved, are not recognized as having a legitimate, and duly authorized, role in the decision making process.

I'm confused as to why the Nevada BLM is not a party to this agreement since the Gold Butte burros are an integral part of the proposed Lake Mead plan.

We want to re-iterate as strongly as possible that we expect BLM to speak for every protection granted to these wild burros in keeping with the mandate to BLM that is in the IBLA ruling and that was expressed at the meeting. This includes establishing optimum numbers and determining excess before any removal action is taken. We look forward to the March meeting.

Sincerely,


Nancy Whitaker
Program Assistant