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February 23, 1990

Cy Jamison, Director
Bureau of Land Management
U.S. Department of the Interior
18th & C Streets NW
Washington, D. C. 20240

Dear Director Jamison,

The Commission for the Preservation of Wild Horses is writing to protest the final Nellis Air Force Range Proposed Resource Plan and Final Environmental Impact Statement. The RMP proposes to eliminate a substantial portion of wild horse habitat, habitat that has been clearly identified as 1971 area of use.

The Commission is mandated by the Nevada Revised Statutes (NRS 504.470(1.)), to (a) "Promote the management and protection of wild horses;" (g) "Monitor the activities of state and federal agencies, including the military, which affect wild horses;" and (h) "Participate in programs designed to encourage the protection and management of wild horses." Therefore, we are an interested and effected party.

We protest the content of the Proposed Resource Plan and Final EIS in the following parts of the document:

- 1) Table S-2 - Summary of Impacts To Vegetation, Wildlife, and Wild Horses
- 2) Chapter 1, Introduction, Planning Process Overview, Issue 3 - Wild Horse and Burro Management
- 3) Chapter 2, Proposed Resource Plan Issue 3: Wild Horses
- 4) Chapter 3, Revisions and Errata for Chapter 2, Chapter 3 - references to population number and levels; Chapter 4, all references to population numbers and levels due to new estimates of only 3000 wild horses.

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In our comments, we questioned WHAT is the Nevada Wild Horse Range, as several maps that we have received, all from BLM, show different areas. I feel the response we received in the final version, inadequately addresses the question we raised. (See Comment Letter 5 and Response, page 4-30 through 4-37) I feel the response, "as recognized by BLM," does little to eliminate the confusion between the 1971 area of use (as required by law), and what is being proposed as where horses will be managed.

In the Proposed RMP and Final EIS, the true impacts of the elimination of over one million acres of habitat are not listed under impacts to wild horses, but under impacts to vegetation and wildlife. (See Table 5-2, pages S-4, and S-5)

On page 2-2, Issue 3: Wild Horses, Objectives: There is no legal justification for managing wild horses ONLY on the Nevada Wild Horse Range. Also, on page 2-2 of the same document, Management Direction for wild horses, item 3 states, "Develop and implement a gathering plan for the removal of all wild horses outside the Nevada Wild Horse Range Herd Management Area."

It is our understanding that under CFR, 4710.1 "Management activities affecting wild horses and burros, including the establishment of herd management areas, shall be in accordance with approved land use plans..."

We have been unable to locate either an MFP or RMP. Therefore, we must assume that the 1971 area of use as required by law has never been established. Any management direction toward "removing horses outside of the Herd Management area" is invalid since no 1971 area of use has EVER been established.

According to the Wild Horse and Burro Act, wild horses shall be considered IN THE AREA WHERE PRESENTLY FOUND (at passage of the act.)

The CFRs also define "Herd Area" as the "geographic area identified as having been used by a herd as its habitat in 1971". A BLM document, (4112.18 N-600), dated May 14, 1970, states, "A substantial population of horses were found in the northern portion of the range and the area adjacent to it. In actuality, the bulk of the horses' range is either not used or is lightly used by the horses. The bulk of the horses heavily use the north end of the Kawich range and the valleys on the east and west sides. This is mostly outside of the horse range and partly outside of the bombing range boundary."

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Comments were also noted that, "Horses would make greater use of the portions of the bombing range with decreased use from trespass livestock and improved water." And, "This area could support many more horses."

In a report of the 1971 Bombing Range Meeting, called by Colonel Drake of the USAF, the comment was made that, "Cattle use has forced wild horses off the Wild Horse Range to the west and north."

Here we have two specific instances that demonstrate that wild horses existed outside of the Nevada Wild Horse Range at passage of the Act.

In discussing the boundary issue with the Area Manager, Curtis Tucker, Mr. Tucker explained that they (BLM) do not have the money or manpower to manage wild horses where they existed in 1971, which is throughout the Nellis Range Complex. Lack of money or manpower is not an excuse to deny wild horses of habitat they are entitled to by law.

This excuse may also be the reason the local BLM wishes to reduce the area for horses. If money and manpower are constraints, then this will limit the amount of essential monitoring data that they will be gathering. No monitoring data, no removal. But, if a smaller area was designated for wild horses, then all horses outside of the boundary become fair game for removal, without the data required for herd area removals. This is unacceptable.

The Commission is also concerned that proper notice was not given on a decision that has serious ramifications for the wild horses. The July 1988 scoping document, which lists the reasons for the preparation of the Nellis RMP, also lists the issues to be addressed. It does not list changing boundaries nor does it list elimination of over one million acres of wild horse habitat.

Public Law 99-606, otherwise known as the Military Lands Withdrawal Act, stipulates that this RMP shall be developed AND shall "be consistent with applicable law." This includes the 1971 Wild Horse and Burro Act which states that "wild horses shall be managed WHERE THEY WERE FOUND AT PASSAGE OF THE ACT."

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The Five-Party Cooperative Agreement, in it's statement of purpose and authority, states that the purpose is to protect, develop and manage the natural resources of fish and wildlife, vegetation, watershed and wild horses and burros ON the Nellis Air Force Range, the Nevada Test Site and Tonopah Test Range, within the purview of various laws, including the Wild Horse and Burro Act.

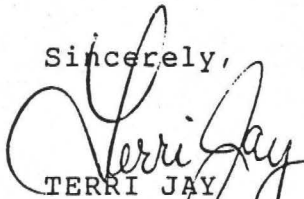
Also contained in the Draft RMP, was a "Summary of Agreements" on the Nevada Wild Horse Range. This title in itself is a misnomer since it specifically states in the November 12, 1973 Cooperative Agreement, that it cancelled the two previous agreements (1965 and 1969) which in essence eliminated the "Nevada Wild Horse Range" and called for management of wild horses and burros under the provisions of the 1971 Act.

In summary, we feel that the State Director was in error in approving the Proposed Resource Plan and Final EIS for the following reasons:

- 1) The 1971 area of use by wild horses has never been established as required by law.
- 2) The Five-Party Cooperative Agreement stipulates where horses will be managed - which is throughout the Nellis Range Complex where they existed in 1971.
- 3) The Proposed Resource Plan fails to address where horses existed in 1971 as an issue of the Plan.
- 4) The "Nevada Wild Horse Range" was eliminated by passage of the 1971 Wild Horse and Burro Act.
- 5) The document fails to address the impacts to the wild horses of the elimination of over one million acres of habitat.

Thank you for the opportunity to participate in the Land Use Planning Process.

Sincerely,



TERRI JAY
Executive Director