



Nellis
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ANIMAL PROTECTION INSTITUTE OF AMERICA

COPY FOR YOUR
INFORMATION

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March 20, 1991

Michael Satchell
9511 St. Charles Place
Fairfax, VA 22032

WILD HORSES & NELLIS AFB

Dear Mr. Satchell:

There is a clash between the rights of wild horses and the status of the Defense and Energy Departments' usage on 1.9 million acres of public lands in southern Nevada.

The purpose of API's wild horse campaign is to put the law back in the wild horse program. We actively seek its full implementation using the established system, acting through established procedures with faith that our system works. This brings us to this head-on collision in Nellis.

API is presently being accused by BLM of obstructing a roundup of horses from the Nellis wild horse area. But it is not API obstructing the removal. It is the BLM Director, Cy Jamison, by his refusal to render a timely decision on a 1989 protest, who has blocked the channel of established procedure for removing horses from Nellis. This obstruction forces the field staff to violate the Administrative Procedures Act in order to reduce the wild horse population in Nellis. Jamison's decision has to do with the elimination of 1.5 million acres of wild horse habitat in a management plan that violates a 5-Party Agreement between government agencies. This agreement clearly identifies those acres as wild horse habitat in accordance with the 1971 Wild, Free-Roaming Horse and Burro Protection Act. Essentially there is no controversy or question about where horses are to be allowed and managed. Why then, we wonder, has the director made it a controversy, holding up his decision, blocking proper procedure and blaming API. A copy of the 5-Party agreement is enclosed for your information.

We believe the real controversy lies in the status of the military in Nellis. While controversies over the size of the military/defense programs are beyond API's purview, our pursuit of wild horse protections brings us to this clash with it in Nellis.

The review of withdrawal lands by the Secretary, as required by the Federal Land Management Policy Act, is due in Congress in 1991. The 1986 Military Land Withdrawal Act gave further instructions to the Secretary with regard to four areas including Nellis and White Sands, New Mexico. (The FLPMA provisions on withdrawal and the 1986 law are enclosed for your information.)

The usage of the withdrawal lands by the Departments of Defense and Energy is at stake. The Secretary of Interior, through the Nevada Special Report (in keeping with the 1958 Engle Act, FLPMA, and the 1986 Military Land Withdrawal Act) is to make recommendations to Congress on both DOD and DOE. To renew the withdrawal requires that those specific areas being used are still being used for the original purpose for which the land was originally withdrawn. The question that needs to be asked by the media and the public is whether DOD, and especially DOE, expanded, increased, and changed their programs since the original withdrawal and if the Nevada Special Report adequately addresses this in the Secretary's recommendation or is it hidden in a sufficiently confused document to move routinely through Congress for a rubber stamp without scrutiny in the public spotlight.

The deadline for the Nevada Special Report on the military/energy usage of Nellis is November 6, 1991. It looks to us like BLM Director Jamison is purposely holding up the decision on the elimination of the 1.5 million acres as wild horse habitat in a race against that time schedule for the review of withdrawal lands.

The GAO has presented Congress with a series of highly critical reports on public lands: grazing, riparian areas, and their wild horse program. Congress has yet to call for a full Congressional investigation of BLM on their management goals and the regulation of public land users.

API's series of appeals through the established administrative process to the Interior Board of Land Appeals ended the massive wild horse removal program of 1985-87. The violations of law were so glaring, the solicitors who represent BLM in the administrative process refused to defend them. BLM refuses to implement the IBLA rulings. (An informal summary of the rulings is enclosed.) Instead a new head solicitor came in recently--one supported by Senators McClure and Wallop. We were warned the IBLA would change its decisions. BLM continued to submit illegal removal plans, we appealed, IBLA ruled until finally a new judge began to hear the cases. He contradicted all previous rulings and misquoted the law in one case to justify

his findings. API's request for reconsideration is pending at IBLA at the present time.

Back in September 1984, the illegal roundup program and the illegal disposal system [the mass adoption program] was launched. To do this two things were required: (1) unauthorized funds provided on Continuing Resolutions of FY-85, '86 and '87 budgets and (2) the law bypassed through a proposed rulemaking to change the words of the law then allow "interim" action be taken on this bogus rule change. (This was the December 1984 rulemaking]. By holding up the finalization of the rulemaking, 30,000 horses were removed from their public land habitat areas as interim action under the proposed rulemaking. When the rulemaking was final, BLM was instructed to drop the bogus provision and return to statutory language. Even though it was clear a decision had been made to violate the law, API did not pursue prosecution of individuals for two reasons: (1) the administration changed and we believed the top policy makers would leave; and (2) securing the rulings, not prosecuting individuals, served our goal to secure the full implementation of the protections granted to wild horses by law. However, we find the same individuals remain and nothing has changed at all.

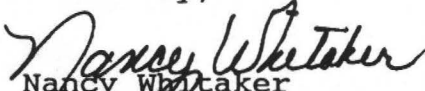
Nothing can or will change until the public is fully aware of exactly what is going on behind the scenes in the Department of Interior with regard to its management of the public lands and failure (or refusal) to regulate the users of resources. We find that in our pursuit of the full implementation of a federal law, that law itself disrupts and interferes with a very powerful politically astute group of vested interests (gas/oil exploration, mining, livestock, timbering, and now the military/energy defense industry) that have enormous power and influence in the Department of Interior. Unfortunately, the media can never quite get past the "thundering hooves and flying manes" of the wild horses themselves to dig into the facts of public land laws, how the wild horse law is integrated into those laws (NEPA, FLPMA, Wilderness Act, the Multiple Use, Sustained Yield Act) to provide the basis of a sound management program consistent with sound range management principles, and how the Department of Interior--run by political appointees--gets around implementing those laws, bypassing their Congressional mandate, and ignoring the overwhelming mandate from the public for conserving natural resources, wildlife habitat, and protecting wild, free-roaming horses as a public land value.

We often call the wild horse issue a classic case of government against the people--taking advantage of the fact the vast majority trust the Executive Branch to fully implement and enforce the law fair, square, and honest. What we see is shocking and outrageous. We hope the head-on clash in Nellis between wild horses and the review of withdrawal lands will be a window through which the media can get to the core of the ways laws are subverted by the failure of implementing agencies to implement them. Without public scrutiny and support, Congress cannot and will not take up the GAO reports.

If you would like to explore this further, we would appreciate hearing from you. There is enormous intrigue and much at stake here. You could give it the proper exposure that is needed to focus the spotlight of public attention on dark dealings inside BLM forcing Congress to act on the GAO reports.

FOR THE ANIMAL PROTECTION INSTITUTE OF AMERICA

Sincerely,



Nancy Whitaker
Assistant Director of Public Land Issues,
Specializing in Wild Horses