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U.S. DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS & APPEALS
INTERIOR BOARD OF LAND APPEALS
801 N. QUINCY ST. MS 300-QC
ARLINGTON, VA 22203

August 13, 2008

RE: IBLA 2008-233
EA-NV-052-2008-223

NEVADA WILD HORSE RANGE
IMPROPER PROCEDURE
WILD HORSE REMOVALS & EUTHANASIA
AND
PETITION FOR RELIEF

NOTICE OF INTENT TO RESPOND

IBLA 2008-233

August 13, 2008

RE: Notice of Intent to Respond – IBLA 2008-233

Dear Honorable Judges of the Interior Board of Land of Appeals:

Over the course of the last year, I have been very active in my public participation with the BLM Las Vegas Field Office's stewardship of the Nevada Wild Horse Range wild horses, burros and their habitat. This has included extensive communication efforts through submission of public comments, letters, requests for additional information and relevant related documents as well as emails with BLMs Nevada Wild Horse and Burro Lead, Susie Stokke.

Despite my best efforts, these interactions have left much to be desired from a public perspective.

In August 2007, I requested the documents that reset the Nevada Wild Horse Range Appropriate Management Level and received no response until I submitted a Freedom of Information Act request to obtain them.

My communications have generally been limited to Nevada WH&B Lead Susie Stokke versus any response from the Las Vegas Field Office because on February 13, 2007, BLM Nevada State Director Ron Wenker assigned Ms. Stokke as my "point of contact" and requested that I limit my inquires to her in any matters pertaining to WH&B issues rather than the Field Offices themselves. Copies of Director Wenker's letter was sent to all Nevada Field Offices and since then, response from individual Field Offices has been extremely limited or not at all.

The relevance of this is that the Court will find all communications and information regarding the Nevada Wild Horse Range were directed to and responded from (or not) Ms. Stokke over the course of the last year.

During the time that I was working on submitting my appeals regarding BLMs recent decisions authorizing the Nevada Wild Horse Range Herd Management Plan and its related Reconstruction of Water Developments, I became aware that I had no paperwork regarding the actual removals of the NWHR wild horses.

At first, I thought perhaps I had missed them as two BLM proposals that needed signatures were sent back during this same approximate time. I then checked BLMs website and the Nevada State Clearing House, also a known posting location of BLM documents, but found none.

Because Ms. Stokke is often very busy, I try not to bother her unless I have to, so I then checked with members of the interested public that I know who also receive BLM EAs but after a few days, they too could not locate any paperwork, documents or decisions.

I finally contacted Ms. Stokke and her email response confirmed that no additional paperwork had been completed for the NWHR removals besides the announcement in the Las Vegas Field Offices Question and Answer Sheet with her citing they were removed under an "Emergency Authorization". I received Ms. Stokkes reply on July 21, 2008.

While I am aware this form of wild horse removal has become quite common place in BLM management, I also knew from my prior involvement that BLM had more than sufficient time to prepare the proper documents for wild horse removals.

I then contacted IBLA by phone and attempted to find out if I could file ANY paperwork regarding BLMs circumvention of an EA but only Charlie was there at the time and he didn't know the answer to the question, "Can I file a grievance if no decision was signed or issued?"

I also tried to contact Margaret Walsh but she was unavailable during the last 24 hours I had to submit my Appeal for the NWHR HMAP and Water Development Reconstruction.

After I had finished preparing the rest of my Appeal (IBLA 2008-201) for the NWHR HMAP, I finally had a chance to review IM2004-151 and BLMs removal policies just hours before sending IBLA my Full Appeal submission. It was there I realized that BLM had failed to follow even their own policies regarding NEPA requirements and I firmly believe this was done to circumvent having to answer the public or have any accountability for their actions.

So with just a few hours to go, I threw together the Petition For Relief, not even sure if IBLA could do anything if BLM had failed to sign a decision to remove the NWHR.

Three days ago I learned that IBLA had indeed accepted it and even docketed it as an appeal, appeal #IBLA 2008-233.

It is my contention that BLM intentionally did this because they were very clear I had planned to appeal any actions taken on the NWHR because of the 2004 Resource Management Plan and ROD. I firmly believe that BLM has insufficient data to support their new AMLs.

Through this circumvention of appropriate NEPA processes, BLM has denied me the opportunity to Request a Stay on the removal of 300 additional wild horses and any burros in the NWHR. BLMs former management policies have returned mostly older horses (over 10) with a BLM Evaluation done in 1997 stating that the average age was 14 years old.

The likelihood is very high that the additional 300 wild horses BLM removed during between June 27 and July 10, 2008 are now at serious risk of being sold unconditionally or euthanized within the next few months.

While I understand that BLM has the legal authority to do both of these actions, it is my understanding that this authority only extends to excess wild horses and BLM has not convinced me that the previous AML of 600-1,000 wild horses was excessive at all in the Nevada Wild Horse Range habitat (if one doesn't count all the water sources wild horses have been excluded from over the years).

If appropriate processes had been followed, NEPA documents and FONSI's signed, I at least had a chance of trying to save these 300 horses from death. BLM has denied both me and the NWHR wild horses that opportunity due to their willful circumvention of these same processes.

It is my goal to prepare a "proper" appeal for the NWHR removals, now that I know it has been accepted for consideration by IBLA. I am aware that time is limited and intend to submit additional supporting evidence to be received by the Court by Wednesday, August 20, 2008.

It is my intent to include:

1. All public comments, letters, and emails I have submitted to the Las Vegas Field Office and/or Nevada WH&B Lead Susie Stokke regarding the management of the NWHR habitat and populations to show that BLM was very aware of my involvement and concerns and deliberately set about to deny me an opportunity to appeal a FONSI through their willful circumvention.
2. Evidence that BLM may have euthanized more wild horses than they are reporting due to a condition known as "club foot" and that BLM routinely euthanizes club-footed wild horses, even though this condition is generally accepted as correctable.
3. Evidence that the removal of 300 additional wild horses from the NWHR that I believe were not excessive, are now at risk of death if they are not returned immediately to their home ranges.

Additionally, I have also sent a letter to BLM Wild Horse and Burro Division Chief, Don Glenn dated July 29, 2008 with copies to BLM Director Jim Caswell, Deputy Director Henri Bisson, Nevada State Director Ron Wenker and Las Vegas Field Manager Mary Jo Rugwell requesting a response to the apparent NEPA and BLM policy violations regarding the removal of the Nevada Wild Horse Range wild horses, which commenced on June 27, 2008, and am waiting for their response.

If this time frame is unacceptable to the Court, please refer to evidence submitted for IBLA 2008-201, Appeal of the NWHR Herd Management Plan and Water Development Reconstruction for supporting documents as to these statements above.

Thank you for your patience and consideration.

Copies are being sent to the Regional Solicitor as required.

Sincerely,

Cindy MacDonald

August 13, 2008