

Bureau of Land Management
Las Vegas Field Office
Patrick Putnam/Assistant Field Manager
4701 N. Torrey Pines Drive
Las Vegas, Nevada 89130-2301

May 29, 2008

RE: Nevada Wild Horse Range Herd Management Area Plan (HMAP)
Preliminary EA# NV052-2008-223

Dear Mr. Putnam:

Please accept my comments, input and suggestions for consideration in the development of BLMs wild horse and burro management for the Nevada Wild Horse Range and the proposed HMAP.

Before embarking on the specifics of the proposal, I am compelled to express the opinion that, the magnitude of malice being levied against the wild horses of the Nevada Wild Horse Range as evidenced throughout this proposal and prior management plans is truly heart wrenching.

Because of the transparency of BLMs intent as expressed in the Alternatives proposed in this HMAP, as well as the approved objectives within the Resource Management Plan in 2004, radical revisions are necessary on multiple levels and BLM is urged to return to the drawing board, this time with the intent of providing viable plans in conformance with established mandates, laws, policies and regulations governing the protection and preservation of America's wild horses and burros and their habitat.

Sincerely,

Cindy MacDonald

Summary of Conclusions

- The BLM has no precedent or policy to support the introduction of an additional third boundary in wild horse and burro management cited as a “Core Management Area” (CMA), the basis of this proposal. A Herd Management Area designation is the appropriate form of classification for areas deemed suitable for long-term management of wild equid populations as established through 43 CFR 4710.2, 43 CFR 47.10.3, and 4710.3-1.
- The arbitrary creation of a Core Management Area within a Herd Management Area within a Herd Area indicates the BLM has attempted to overstep their authority through the alteration of accepted definitions and practices, thereby also circumventing appropriate NEPA review through this radical revision of management techniques with its associated profound potential and significant impacts to the national Wild Horse & Burro Program as a whole and the future maintenance and definitions of wild equid habitat.
- Since BLM exceeded their authority through the creation of the CMA, which was used to determine the Allowable Management Levels (AMLs) of wild horses within the proposal area, the AMLs themselves become invalid as they were determined through manipulated and wholly incomplete data supported solely through the artificial habitat limits defined in the CMA. As a result of invalid AMLs, any management proposal that seeks to build upon the basis of these AMLs is invalid by default.
- The BLM knowingly and with intent, proposed the elimination of historical wild equid populations occurring within the Nevada Wild Horse Range. The BLM has failed to provide substantiation, data or valid documentation to support BLM decisions approving their arbitrary elimination and the consequent removals.
- BLM has provided historical evidence that wild burro populations occurred within the Nevada Wild Horse Range through the 1974 agreement, which placed the protection and preservation of wild equids and their habitat within BLMs care - that included wild burros populations occurring within the area. BLM has not provided any reason or evidence why an AML was not established for wild burros or under what authority they continue to remove them.
- Serious concerns have developed regarding BLMs use of the Winn Equus Population Modeling techniques used to determine examine BLMs management proposals. Research indicates that BLM personnel are inaccurately applying the trial runs in relation to the actual proposals. BLM has also failed to provide evidence that the modeling programs are accurate in relation to “real world” results.
- The BLM has historically and consistently demonstrated inhumane treatment of the wild horses populations within the Nevada Wild Horse Range. The Alternatives presented within this proposal indicate this trend continues unabated as little regard for wild horse welfare is again, amply demonstrated throughout this proposal.

RESOURCE MANAGEMENT PLAN (RMP)

While the current proposal seeks to provide a guiding management plans for the wild horses and their habitat within the Nevada Wild Horse Range, it is tiered to the foundation of resource management plans approved through the 2004 Decision Record for the Nevada Test & Training Range, Resource Management Plan and Final Environmental Impact Statement.

As such, the Alternatives offered through the Proposed HMAP are merely extensions of, or in some instances denial of, newly approved management directions established through the Decision Record (DR) that have yet to provide the public with any opportunity to challenge the legal validity of those approved plans since 2004.

The Proposed Decision was Protested and dismissed by the BLM Director. Since this dismissal, this is the first opportunity for the public to address the egregious plans that the BLM is attempting to set into motion through the 2004 RMP's Decision Record.

No Herd Management Area Plan can be set into motion without first conforming to the established land use policies approved in the RMP and it appears that BLM is attempting solidify those approved uses, despite their egregious nature, and thus deny further opportunity of public protest of the RMPs failure to conform to laws, regulations and policy that mandate BLMs required actions as public resource stewards through the approval and establishment of land use plans.

The HMAP is akin to a coat of paint on a house but changing the color won't change the structure of the house. The foundation of BLMs management plans, as expressed through the 2004 RMP/DR, are seriously flawed and attempts to establish an HMAP that provides additional plans tiered to those flaws, invalidates the Alternatives presented in this proposal because the very foundation the HMAP is being built upon is in error.

As a result of these errors, no examination or analysis of the Alternatives presented in the HMAP is possible without first considering what was approved of in the 2004 RMP DR because several issues approved in the RMP were insufficiently addressed and/or defied laws, regulations and requirements that bind the Department of the Interior (DOI) and BLM in their actions regarding the establishment of land use plans and the management of public resources.

Because of this obvious fact, I am challenging the legality of the 2004 DR for the RMP through the HMAP document and no additional plans that are tiered to it can be approved or implemented "after the fact" because of the necessary and legally required associations with that RMP.

Since the RMP fails to comply with federal regulations governing the management, protection, control and preservation of wild horses and burros on public lands and their habitat held in trust for the American people through the DOI and BLM, future proposals that seek to build upon the approved plans of the RMP also fail to comply with those laws by default.

As a result, until these issues are addressed and remedied, no further progress can be made within the management of the proposal area.

THE NEVADA WILD HORSE RANGE

Background Information and Historical Overview

The Nevada Wild Horse Range (NWHR) was established in June 1962 in response to America's overwhelming love of wild horses and was created through a cooperative agreement between the BLM Nevada State Director and the Commander of Nellis Air Force Base. The original designated habitat covered 435,00 acres but was reduced to 394,000 acres in June of 1965.

In 1971, BLM inherited the NWHR due to the passage of the Wild Free-Roaming Horse and Burro Act (WFRHBA) and in 1974, a new cooperative agreement was established canceling and superceding all other previous agreements regarding the management of the NWHR.

The NWHR Herd Area/Herd Management Area

In May 2003, BLM provided documentation as to the historical presence of free-roaming populations at the passage of the Act within the proposal area and this historical documentation identified boundaries that demanded the addition of approximately 700k acres to be acknowledged as the original Herd Area of the NWHR wild horses and burros, as required by legal definitions set forth by the United States Congress through Public Law 92-195.

Through evaluations as provided in the Draft and Final Environmental Impact Statement, BLM went even further and asserted that not only was the now identified 1.3 million acres an identified Herd Area (HA), they also proposed that the entire area was suitable for long term management for wild horses and designated the entire HA as a Herd Management Area (HMA) as well.

The BLM Director found the historical evidence sufficient to both acknowledge and establish that indeed, wild horses and burros were occupying this area at the passage of the Act and approved the status of the entire 1.3 million acres as both a HA and HMA.

The NWHR Core Management Area (CMA)

However, the Director also approved of an unprecedented management plan that defied BLM regulations regarding the establishment and maintenance of an HMA that has no legal basis. This of course was the creation and approval of the "Core Management Area" within the HMA that was hundreds of thousands of acres less than either the HA or HMA, despite just approving the HMA status was sufficient to establish long-term management plans for these historical herds spanning over 1.3 million acres.

There is no precedent, no legal basis, no supporting laws nor regulations for this concept or the decision to attempt to implement it but quite the contrary, as the creation of a HMA within the originally identified HA is BLMs response to areas that are deemed suitable for long-term management of wild equids and their habitat in relation to the originally identified HAs.

Yet the RMP and DR seek to add a radical revision to existing policy and law by attempting to establish yet another layer to an already complex tangle of resource administration policies. Once allowed to be implemented, precedence would be set in defiance of already well-established regulations regarding HMA status and cause the dissolution and/or redefinition of a Herd Management Area on any future proposal pertaining to wild horses and burros and their protected habitat throughout BLMs Wild Horse and Burro Program.

So too, this would be accomplished with little to no public awareness or opportunity to dispute the creation of a third layer of policy, of creating Core Management Areas inside Herd Management Areas created inside Herd Areas, like some surreal Russian doll, until no area is left that BLM has deemed “appropriate” for wild horse or burro use.

Approval of this redefinition contrary to the established regulations that has defined what a Herd Management Area is, violates both NEPA requirements and a wide variety of “sunshine in government” laws that were established to protect the public from subversive actions by government agencies attempting to manipulate, abuse and hide their actions through just this sort of circumvention of public awareness or involvement.

No Alternative in this HMAP that is dependent on the unprecedented creation of a Core Management Area within an already legally affirmed, established and defined Herd Management Area is valid and therefore cannot be supported, established or implemented.

The Original Range

Through email dialogue with Nevada WH&B Lead Susie Stokke, the explanation has been offered that the creation of the “new” CMA was based on the historical boundaries of the originally established NWHR in 1962 and revised in 1965.

There is no validity to this statement. All prior legal agreements were dissolved in 1974 as the NWHR became incorporated into the National Wild Horse and Burro Program managed under BLMs federal jurisdiction.

The BLM accepted this agreement over 30 years ago and all subsequent management strategies and actions within the NWHR have been based on the stipulations required of them through federally established laws such as the WFRHBA, the Federal Lands Management Policy Act (FLMPA) and the Public Rangelands Improvement Act (PRIA) throughout all these years on the NWHR.

BLM cannot arbitrarily decide they no longer wish to honor the dissolution of that agreement or that they are no longer bound by the mandates established in PL 92-195 while still embracing laws that authorize wild horse and burro removals. They are bound by all the laws, not just those they find to be most convenient.

The mandates of the WFRHBA declared that the areas where wild horses and burros were presently found were to be established for their protection and preservation. BLM has established their historical presence was found far outside the originally designated Range established in 1962 and this presence has been reasonably well documented. As a result, 1.3 million acres has been legally affirmed as the NWHR Herd Area as well as the BLM determining that the entire historical HA is indeed suitable for long-term management of free-roaming wild horses and burros through the designation of its HMA status in 2004.

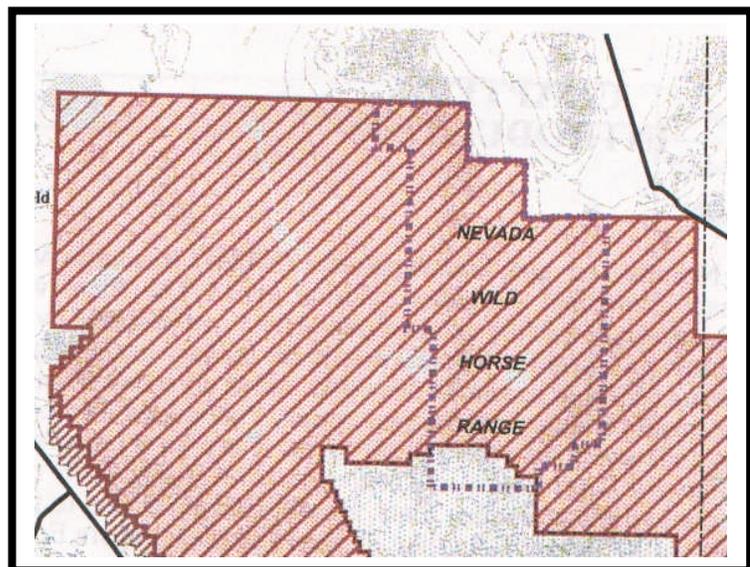
In an email from BLM NV WH&B Lead Susie Stokke dated 2/01/08, Ms. Stokke provided the following historical description of prior attempts by BLM to establish the NWHR Herd Area and Herd Management Area boundaries. The explanation offered was:

“One of the things the 2003/2004 planning effort attempted to address was to actually designate an HMA boundary for the Nellis herd -- something that had never been done in previous planning documents. This was, in large part, attributable to the fact that the designation of the Nevada Wild Horse Range pre-dates the 1971 WFRHBA by nearly a decade. As a result, when the Act passed in 1971, a Herd Area boundary was not designated (the NWHR range of 394,000 acres was assumed to be the “herd area”).”

“An attempt was made to designate an HMA boundary in about 1991-1993, but the boundary identified was largely non-coincident with the NWHR (394,000 acre area). As a result, no decision was made.”

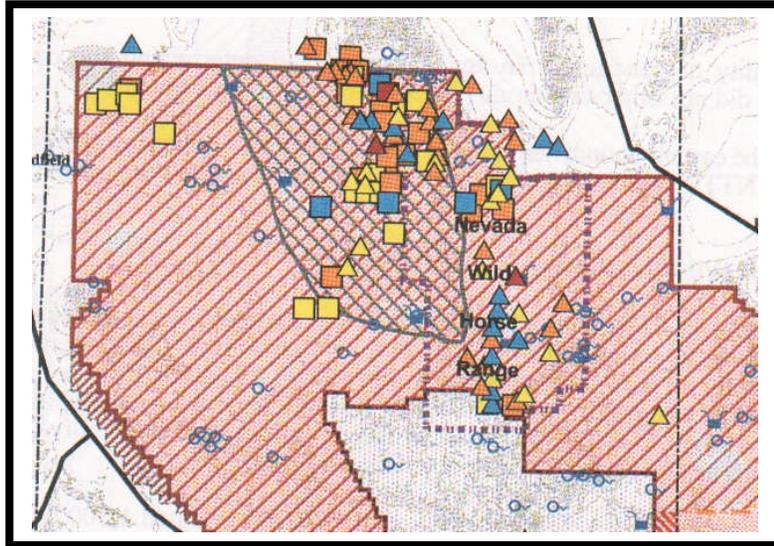
Yet evidence presented in the 2003 Proposed RMP indicates this historical accounting of events regarding the boundaries of the NWHR management areas is incorrect.

First, a decision was made in a RMP ROD issued in 1992 and is referenced on numerous occasions throughout the 2003 PRMP as well as being referred to by Nevada Department of Wildlife (NDOW) and the U.S. Air Force (USAF) (throughout Appendix E, also specifically pg. E-33, Comment 3, BLM Response). Here is a map illustrating the designated wild horse use area prior to the approval of the 2004 RMP/DR, Pg. 1-2, Figure 1-1, Map of Nevada Wild Horse Range.



From the boundaries outlined in Figure 1-1, the BLM managed the NWHR wild horses, determined appropriate management levels (AMLs) and authorized wild horse removals periodically when these AMLs had been exceeded.

Here is a map identifying historical wild horse use in the NWHR cited as “Ground survey point counts of wild horses in the planning area, 1972 and 1974”, pg. 3-45, Figure 3-11.



Based on these documented and historical census counts of wild free-roaming populations, which had obviously firmly established a thriving, viable presence long before the passage of the WFRHBA, while the boundaries of the NWHR did fail to encompass those documented populations in their entirety, there is no question that the prior management boundaries were “very coincident” with the original herds BLM assumed responsibility for in 1974.

This was further substantiated by Ms. Stokkes own statement that “a Herd Area boundary was not designated (the NWHR range of 394,000 acres was assumed to be the “herd area”).” This reinforces the fact that BLM operated from the beginning by assuming the prior established boundaries of the NWHR were the boundaries as illustrated here.

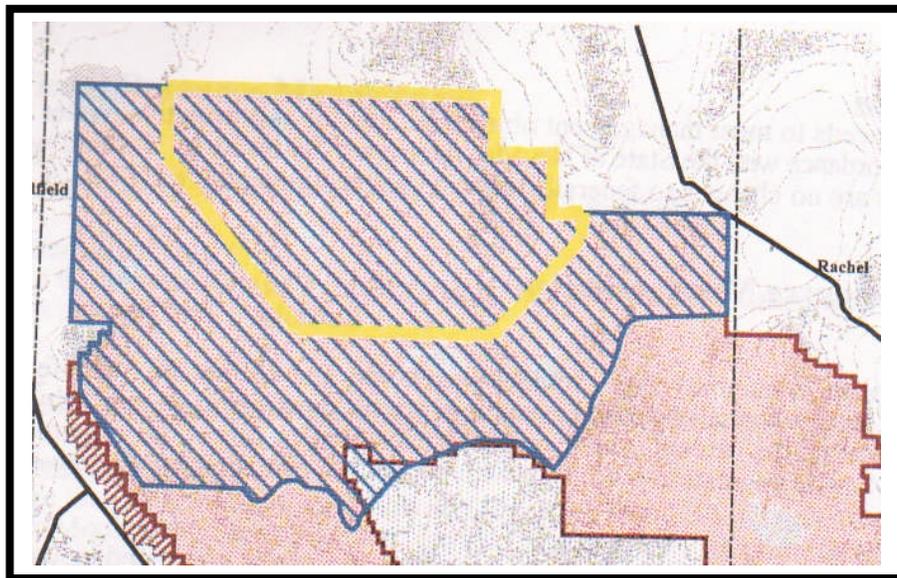
Therefore, based on the evidence BLM has provided, prior management proposals and wild horse boundaries were more coincident with actual historical wild horse populations than the currently artificially created CMA BLM is using to base the new AMLs on.

CMA Definition

In an email response from NV WH&B Lead Susie Stokke on 2/27/08 regarding various questions about the prior management plans BLM is attempting to establish for the NWHR through the 2004 RMP, a definition was provided as to what and why BLM asserts the creation of a CMA was necessary. The definition was described as:

“The core management area comprising 394,000 acres for the NWHR is outlined in yellow on this map. The core management area was used as a key management area in establishing the AML as a range of 300-500 wild horses. A key management area is an area of land that influences or limits the use of the land surrounding it. Management actions (i.e. setting AML as a range of 300-500 animals) are based on the key management area.”

Here is an illustration of the map being discussed by Ms. Stokke as found in the Proposed Nevada Test & Training Range RMP/FEIS, May 2003, pg. 2-5, Figure 2-1



First, what is immediately apparent from this map is a large section of documented historical wild horse use areas have been withdrawn through the creation of these new boundaries. What was BLM's basis for determining this withdrawal, for the creation of new boundaries?

Ms. Stokke defined it as, “The core management area was used as a key management area in establishing the AML as a range of 300-500 wild horses. A key management area is an area of land that influences or limits the use of the land surrounding it. Management actions (i.e. setting AML as a range of 300-500 animals) are based on the key management area.”

So the first explanation offered as to why BLM redrew the historical boundaries is, “the CMA was used as a key management area in establishing the AML as a range of 300-500 horses.” Why? Why did BLM use this key management area? And the answer provided was, “to establish the AML range of 300-500 horses”.

Prior to the approval of the 2004 RMP/DR, the wild horse AML had been established as a range of 600-1000 wild horses. In order for BLM to reduce AML, they had to eliminate critical habitat components found within the historical use areas, therefore it became necessary to redraw the boundaries wild horses would be allowed permanent residence in.

This is the reason BLM redrew the boundaries, not to preserve and protect them “where presently found” but to eliminate critical habitat components to reduce populations to conform to a predetermined agenda running rampant in the WH&B Program, which I specifically refer to as The Three R’s: Reform (land use plans), Reduce (habitat and AMLs), and Remove (the goal of the first two R’s).

Once new boundaries were established, BLM can then say with confidence that the “new” boundaries fail to provide the critical habitat needs of the wild horses and therefore the AMLs must be reduced and the wild horses must be removed.

Key Management Areas (KMA)

The other definition/description Ms. Stokke offered regarding the creation of the new CMA was connecting its creation to a Key Management Area, defined as, “A key management area is an area of land that influences or limits the use of the land surrounding it. Management actions (i.e. setting AML as a range of 300-500 animals) are based on the key management area.”

And what exactly made this a “Key Management Area” besides BLMs arbitrary designation?

Are wild horses incapable of crossing topographical barriers located outside the KMA? No, as the historical use map clearly shows, they were well populated in the areas withdrawn before BLM decided to draw new boundaries approved of in 2004. Does there fail to be critical resources in the areas withdrawn from use? No, as again historical maps clearly show habitat was available and sufficient to support wild horse populations and have been doing so for almost 40 years.

What evidence can BLM offer as to why they determined the newly defined boundaries were established due to geographical or habitat limits that was not solely a result of BLM wanting to define new habitat limits?

The only “habitat limits” I have been able to find is fencing off the majority of water sources on the NTTR and not providing any outside access for the wild horses.

The other reference BLM has repeatedly made cites vague and nebulous concerns about interference with military operations. Yet, despite a documented history of wild horse populations peaking to approximately 10,000 wild horses at one time on the Range, here is what BLM had to say in regards to specific data on the subject.

Appendix E, pg. E-15, Comment 36, BLM Response

“To date, there has been no documented conflict between the Air Force and wild horses in the area.”

What was also apparent in reviewing the extensive comments and concerns cited by the individual representing the USAF during the RMP planning process was a marked prejudice and negative tone regarding wild horses on the base at all such as, “wild horses are an alien species in the Nellis ecosystems” (Appendix E, pg. E-24, Comment 87) as well as providing definitive in depth information and analysis for big horn sheep compared to any other species commented on in the NTTR (pg. E-24, Comment 85) and expressing the opinion that BLMs section on Recreation was “a good write up.” The only recreational activity allowed on the NTTR and the sole focus of the Recreation section was the opportunity to hunt big horn sheep.

This suggests the “real” military conflict and concerns as expressed by this individual revolve around more habitats for hunting oriented activities than actual military mission conflicts with wild horses in the area.

The evidence provided so far indicates the new boundaries were drawn, not because the habitat was limited but to limit wild horse populations through the arbitrary and artificial creation of habitat boundaries that justified the decision to reduce wild horse populations by 50%.

Eliminating Historical Herds

The Kawich Herd

BLM has provided ample evidence that the creation of the new CMA was designed to do just that – arbitrarily eliminate wild horse populations on the NWHR. Here are a few of the excerpts provided in the 2003 Proposed RMP that support this conclusion.

The following information indicates that BLM knowingly changed boundaries of historical use areas of both wild horse herds and migratory routes in the NWHR for the deliberate purpose and expressed intention of eliminating them for no apparent reason, other than just to “reduce the AML” on the NWHR.

Pg. 3-46, Section 3.3.11.2, Identification of Wild Horse Use Areas

“A Wild Horse Management Area Plan was finally prepared and approved by the BLM, USAF, DOE, USFWS, and NDOW in 1985. Three home ranges were identified (Kawich, Stonewall, and Goldfield Hills) and it was estimated that 4,000 to 5,000 horses were utilizing approximately 1,165,000 acres. While the 1985 plan proposed managing for the horses where they were presently found in 1971, it also called for reducing the number of horses to 1,000 on the Kawich Home Range and removing all animals from the Stonewall and Goldfield ranges. An AML of 2,000 was also proposed. It also proposed maintaining and/or improving existing water sources.”

Page 3-48 Section 3.3.11.3 Seasonal Wild Horse Movements

”The BLM Las Vegas Field Office Wild Horse & Burro specialist believes that three largely independent herds exist on the NTTR. One is located in the Kawich Valley...”

Page 3-46, Section 3.3.11.2 Identification of Wild Horse Herd Areas, last paragraph:

“...Wild horses were widespread from the west slope of the Belted Range across Kawich Valley into Cactus and Gold flats.”

This is also further confirmed due to a long history of wild horse removals in Kawich Valley found on pg. 3-48, Table 3-8, Annual Wild Horse and Burro Removals from NTTR, 1985-2000.

However, despite the recognition and acknowledgement that three independent herds historically occurred in the area, here is what BLMs “new” boundaries will do about some of these historic herds, specifically the Kawich herd.

Page 4-9 Section 4.4.10 Wild Horse and Burro Management, last paragraph:

“...but the unpredictable free-roaming nature of wild horses does not ensure animals will not attempt to establish herds (seasonal or permanent) in Kawich Valley which would have to be gathered periodically.”

Though BLM clearly stated that the Kawich herd was already established and recognized as one of the three main herds on the NWHR, the “new” boundaries and the resulting management that extends by default now authorizes their removals. How exactly does the “attempt to establish herds (seasonal or permanent) in Kawich Valley coincide with the, “wild horses were widespread...across Kawich Valley” and “One is located in Kawich Valley...”

Also, please define what an “attempt to establish a seasonal herd” means and how does that authorize BLMs action, management and removal policy?

Correct me if I’m wrong but isn’t it called the FREE-ROAMING Wild Horse & Burro Act? Aren’t there specific regulations regarding the need to consider migratory routes and free-roaming behavior as exhibited by seasonal movements of foraging patterns well acknowledged throughout both the entire WH&B Program as well as the Proposed RMP in the NWHR itself?

As currently defined, BLM has authorized the removals of wild horses that merely enter the historical use areas as they “attempt” to establish a “seasonal herd”, aka, disperse their forage activities based on seasonal critical habitat requirements commonly known as food and water so that they may survive in KNOWN seasonal migratory areas! That’s some pretty broad authority the BLM has authorized for BLM. Have any legal basis for that definition or that authorization?

Additionally, on page 4-4 Section 4.4.4 Riparian Resources, paragraph 3, BLM states:

”Keeping the herd at the proposed population size of 300-500 or smaller and keeping most of the herd in Cactus Flat (particularly the north and east areas) should reduce grazing pressure at riparian areas located in the Cactus Range, east slope of the Kawich Range, Kawich Valley”

This statement clearly illustrates, it’s not just the Kawich herds BLM has proposed to eliminate, it’s the whole historical use area with the exception of Cactus Flat and even then, they are seeking to keep the populations limited to the north and east areas.

But wait, there's more. It's not enough that BLM redraws historical boundaries in order to authorize the removals and elimination of 50% of this historical population, or that they grant themselves unprecedented broad legal authority to redefine "what" an HMA is by creating a "sub-HMA" now called the CMA, or even that they grant themselves the authority to remove wild horses in seasonal migratory areas that are known as necessary for their survival, BLM then brazenly and openly states, "they will try to keep the wild horse population smaller than the newly established AMLs of 300-500".

This point is so blatantly illegal and glaringly apparent as to the prejudice being applied to the "established management" of these historical wild horses, it deserves mentioning again.

The BLM will try to keep the wild horse population even SMALLER than the established AML range.

Chew on that for a while and let the reality of that statement sink in.

Wild Burros

Though censusing and management of wild burro populations located on the NWHR was identified in the 1974 agreement, the federally protected status of the NWHR burros was somehow circumvented and despite federal law that mandated wild free-roaming horses and burros were to be preserved where presently found at the passage of the Act in 1971, BLM implemented a policy that failed to conform to this mandate and has since approved plans that denied the historical presence and valid existing rights of wild burros occurring within the NWHR, a policy that continues to this day.

The evidence that wild burro populations were present at the passage of the Act was presented on pg. 3-44, Section 3.3.11.1, Creation of the Nevada Wild Horse Range, in which it is stated, "After the passage of the WHBA in 1971, a new cooperative agreement, finalized in February of 1974, cancelled and superseded the previous agreements, but did not change the location or size of the "Wild Horse Management Area". That agreement also called for the joint development and implementation of a management plan that included an annual inventory on horse and burro populations, a continuing review of their habitats, and the determination of necessary management/facilitation projects."

Pg. 4-9, Section 4.4.10, Wild Horse and Burro Management, "All burros and most horses were removed from the Stonewall Mountain Area, sharply reducing competition with big horn sheep."

Wild burro presence was again cited on pg. 3-48, Section 3.3.11.2, Identification of Wild Horse Use Areas, when BLM states, "The 1980 burro population was estimated at 69 individuals and increased to a maximum of 195 individuals in 1982. Removals decreased the population to four burros in 1987 (USAF, 1997a). Ten to 12 burros were observed on the northern planning area during the April 1997 aerial surveys (personnel communication, McFadden, 1997).

Now how did the burro population jump from 69 to 195 in just two years? Obviously they didn't, BLM just actually located them and they are historically much more difficult to census than wild horses.

BLM states about wild horses on pg. 3-46, Section 3.3.11.2, Identification of Wild Horse Herd Areas that, “The absence of data from the Cactus Range, Stonewall Flat, Stonewall Mountain, and Pahute Mesa areas cannot be used to definitively conclude that horses were absent from those areas. None of the original maps from which the count data were obtained were accompanied by meta data about which areas were, and were not, surveyed. Areas on Figure 3-11 that indicate an absence of horses, may indicate “no horses” simply because the areas were never visited. Data provided by Nevada Division of Wildlife (see the table on Figure 3-11) support this possibility.

And the same applies to wild burros as they have been referenced as having an occurring population that needed annual inventory in 1974 and continued known presence in the NTTR ever since.

Again, there is no legal precedent for BLM to arbitrarily decide they do not “wish” to manage wild burros in the NWHR. Historical evidence has proven that wild burros were occurring in 1974 when BLM assumed responsibility for the protection and preservation of the free-roaming equid populations and their habitat as per PL 92-195.

As a result, unless BLM can produce substantial documentation and reasons that are supported by law as to why wild burros have been eradicated from their lawfully designated and protected territory, just as BLM was required to establish the appropriate Herd Area boundaries as of 1971, they are also required to establish an appropriate management level for wild burro populations in the NWHR.

Appropriate Management Levels (AMLs)

Water Availability

NDOW Protested this point, of which the BLM Director dismissed. But just because the BLM Director dismissed it does not change the fact that BLM has no scientific basis for the establishment of these new AMLs. In fact, they had to jump through hoops to get it brought down to 300-500 by first declaring that 1.3 million acres were historically identified as the areas where wild horses and burro were present at the passage of the Act, causing NDOW and USAF to sputter in absolute disbelief at this assertion. But this was necessary to expand their authority to redraw the new “CMA” so that they could cut out water sources, which would become the “limiting factor” in determining AML, since forage is more than abundant to support a wild horse herd at the old AMLs of 600-1000 throughout the 1.3 million acre HMA.

Here is the proof that BLM needed this “core area” to limit AMLs. Remember, this is the area BLM proposed, not anyone else.

Appendix E, pg. E-10, Comment 14, BLM Response

“The existing AML was determined using the entire NTTR. Any new AML would be determined using the core area only.”

Now here is the proof that the new CMA would reduce and remove the critical habitat component of water from “allowable” horse use to determine those AMLs.

Pg. 4-4, Section 4.4.4 Riparian Resource Management

“The proposed HMA reduces the number of water sources in the area used to determine AML. This may, or may not affect the AML. Flow data are necessary to determine how many animals (of all species) a water source can support when environmental conditions are poor. Most of the springs in the Cactus Range are protected by exclosures, thus changing the HA, the HMA, and the area for AML determination is unlikely to adversely impact those riparian areas.”

Pg. 4-6, Section 4.4.7 Wildlife Resource Management

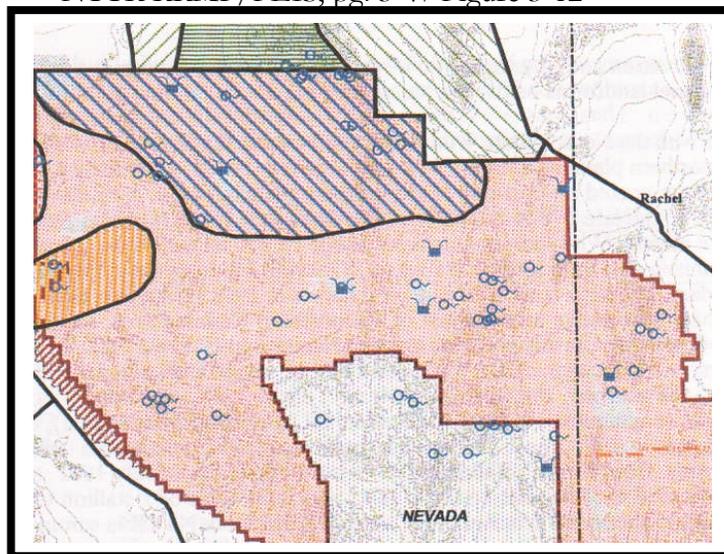
“The amount and spatial distribution of water is the most limiting habitat feature in the planning area. Breen Creek is the only perennial stream and its flow into Cactus Flat often ceases by early to mid summer. In dry years flow into Cactus Flat may be completely absent.”

Isn't the Cactus Flat area the only area BLM is now allowing wild horses due to the creation of the new CMA with its corresponding AMLs?

First, BLM states the reduction of water sources used to determine AML may or may not affect the AML. Then they say they use water sources and production as the “limiting factor” to determine AML (see pg. 2-1, Section 2.1, Introduction). Then they use the water flow estimates for the CMA only (see Appendix F, Water Sources in the Core Area) but the data shows that at 50% utilization of water sources, the CMA can still support 734 wild horses.

Here is a map of the water sources BLM has documented in the area. Notice how a great big section of water sources were withdrawn from historic wild horse use when BLM created the artificial habitat boundaries being promoted as a CMA?

NTTR RRMP/FEIS, pg. 3-47 Figure 3-12



After BLM excluded historical water sources from further wild horse use, they then offered an analysis of the availability of water through the newly created CMA and asserted the water sources available in this new area would determine AML. BLM made sure that the other water sources would now be excluded from consideration in wild horse management from the area despite declaring the entire area to be an HMA.

Pg. 4-9, Section 4.4.10, Wild Horse and Burro Management

“Incorporating the needs of wildlife located in the area for AML determination would reserve adequate forage and water for them. Excluding water and forage outside the proposed area for calculating AML, would reserve scarce water supplies for other wildlife in much of the planning area.”

In BLMs projections (Appendix F), the water flow was charted within the CMA only and then wild horses were to be limited to 50% of the water sources available to provide adequate water for other wildlife in the planning area. Yet, the water outside the CMA is for exclusive wildlife use, the whole 100%, even though this area was designated as a Herd Management Area.

Further examination indicates that the reality of the actual water use allotted to wild horses through the new AML (300-500) only allows them 21%-34% of the available water in “their” CMA while simultaneously denying them any rights to additional waters in the HMA area.

Also, BLM failed to provide any reference as to what the total availability of water sources as expressed as gallons per minute were in the entire HA/HMA, this way no one can scientifically examine the validity of their statements as to “limited water” because it was only “limited” by the CMA data offered - no other data was provided for the express purpose to support BLMs administratively convenient conclusion of the new AMLs.

Where is the water availability data for the entire HA/HMA and NTTR, not just the CMA? Wasn't this an Environmental Impact Statement? Isn't the totality of water availability required in a comprehensive planning document such as this?

Fencing

The creation of “limited resources” based on new habitat boundaries wasn't the only part of the strategy to justify continued wild horse decline with “supporting documentation”. The majority of water sources throughout the entire NNTR have been or are in the process of being fenced with many not providing any water at all outside the enclosures.

This ensures the absolute certainty that indeed, water becomes the limiting factor for the wild horses.

Pg. 3-48, Section 3.3.11.2, Identification of Wild Horse Herd Areas

“The Air Force has constructed enclosures around some seeps and springs located outside the current Wild Horse Management Area to eliminate all grazing of the riparian area by horses. The intent is to allow the riparian vegetation to fully express itself and improve habitat for other types of wildlife. This effort did not include piping any water to locations outside the enclosures so that the horses still have a water source.”

Appendix E, pg. E-29, Comment 116

“As stated on page 3-52 the water sources are where horses tend to congregate. Most of the major riparian seeps and springs west of Cactus Flats are now fenced off (except for Cactus Springs), prohibiting horses from water sources.”

Pg. 3-49, Section 3.3.11.3 Seasonal Wild Horse Herd Movements, Stonewall Flat Herd

“Most of the water has been fenced by the Air Force and the BLM has removed most of the resident horses.” I wonder why most of the horses were removed? Did it have anything to do with not having any water due to being fenced out?

Why is all that fencing necessary? To protect resources from degradation, of course! Except there is no proof that resources are degraded at the AML of 600-1000 beside BLMs unsubstantiated assertions. Here is what BLM is saying as to why they need fencing...

Pg. 4-4, Section 4.4.4 Riparian Resource Management

“Unfenced riparian areas in the AML determination unit are likely to remain degraded. They are small in number, but are attractants for wild horses because they provide water and high quality forage. An appropriate practice would be to fence these areas and pipe some of the water to a trough located at some distance from the enclosure. Riparian areas in the remainder of the planning area would have a positive response.....As riparian areas move towards PFC, the potential is very high that water flows would increase as evaporation is reduced by increased vegetative cover. Another benefit would be better water quality as sediment movement into the water sources is significantly reduced by re-established native riparian plant communities.”

Notice too that the “unfenced riparian areas are small in number in the AML determination unit.”, aka the CMA.

While the description of degradation and potential improvement may sound impressive, it is the exact carbon copy cut-n-paste used in every BLM document that assert wild horse use is degrading the area, causing rangeland deterioration, etc.

Actually scientific statistics and data conducted by the Desert Research Institute failed to support the “water quality” issue BLM is so redundantly fond of.

Water Quality

Appendix E, pg. E-4, Comment 2, BLM Response

“However, water quality data collected by the Desert Research Institute scientists within the past few years, reported in Appendix C, indicated water quality standards are being met, despite the potential for negative impacts due to improper grazing.”

Appendix E, pg. E-21, Comment 69, BLM Response

“However, based on a 1997 survey results of all identified springs on the NTTR, water standards are being met (Appendix C).” This suggests the horse population level in 1996 was not, in general causing contamination of springs nor were horses drinking naturally contaminated waters.”

And what was the wild horse population in 1996? BLM failed to mention this in their 2003 FEIS but prior reports state it was approximately 5,000.

End of the Line

So this is where BLM finishes with a flourish as their “well managed” proposals and plans solidify the Nevada Wild Horse Range wild horses fate.

It starts with BLM stating the unfenced springs and riparian areas outside Cactus Flat (the primary horse congregation area) are increasingly vulnerable to excessive grazing. Therefore, the Proposed AML of 300-500 would improve overall habitat quality.

Why are they increasingly vulnerable? Because almost all the existing water sources have been fenced and has failed to provide mitigation measures to allow that water out. In order to survive, there is no question that the few remaining unfenced sources are now increasingly vulnerable because they are all that has been left for wild horses to access to prevent them from dying of dehydration.

Then BLM moves on to state they will provide mitigation measures by applying for water rights on 3-4 wells and repair the dysfunctional water systems to compensate for all this water loss and relieve grazing pressure on the few riparian areas now left.

Pg. 4-3, Section 4.4.3, Water Resource Management

“Filing for water rights on behalf of the BLM will ensure that water remains available for wild horses, wildlife and livestock. Potential adverse effects from improper grazing can be mitigated by implementing appropriate management strategies and actions, such as development of new waters to disperse utilization by grazing animals.”

Except they don't. For four years BLM fails to apply for water rights with Ms. Stokke providing an estimate of merely \$250.00 per well – a whole \$1,000 dollars. Even if they ran into problems with funding for well pumps and other needed material, they didn't even try to apply for that water for the last four years, despite it being clearly stated in the ROD, pg. 15, that it was part of their objectives in the “20 year management plan” – apparently BLM figured they still had 16 years left.

However, it would appear that BLM never had any intention of adding additional water sources, it was all just smoke and mirrors to pretend they were “managing” when they were really focused on eliminating. Why would I say that?

In response to the concerns I have been expressing every since October, BLM provided an answer as to what the problems are with developing those wells in this proposal (Preliminary EA# NV052-2008-223, NVWHR Management Plan, pg. 24)

“While development of additional water would avoid the need to supplement water even during extreme drought periods, relying on developed water sources requires constant monitoring to assure the development remains functional and that horses do not die of thirst due to damaged or nonfunctioning developments. This level of monitoring would be intensive and would require the military to conduct the monitoring on behalf of BLM or continuous daily access to all the newly developed waters on the range by BLM personnel. Given current and expected future funding, staffing and the military's mission that can limit access to the range by BLM personnel, this level of monitoring would probably not be feasible.”

Yet just four years ago when BLM was proposing this mitigation measures to offset the continuous loss of access to water for wild horses, not one single word was mentioned anywhere about any of these “problems” today – not one.

While BLM acknowledged that the military has been hauling water for wild horses for over two years, apparently they can haul the water, they just can’t check on water systems. Having had some experience with well systems, I don’t remember a need to monitor them daily for extended periods of time. Generally, once it’s functionally, it’s pretty much up and running.

While occasional checks and maintenance is necessary, just how often does BLM believe they need to access the area? A couple times a year? Aren’t you required to monitor resources occasionally anyway, meaning you are required to be in the areas by law to actually measure and survey what is going on with public resources, aren’t you?

But it gets better still. State Director Ron Wenker, in a letter dated on June 13, 2007, stated that “generally, BLM didn’t like to develop artificial water sources” in case they broke and caused the wild horses to die of thirst but instead preferred to use the “natural spring sources”. Yet hasn’t the majority of “natural spring sources” also been withdrawn?

The natural sources are fenced off or dried up due to agriculture or other underground aquifer draws and then they are simultaneously denied any water developments to compensate for this equating to - no available water for wild horse or burro use.

So how exactly are wild horses supposed to live? Oh, that’s right, they are not, that’s the point. Except that’s in violation of the WFRHBA so BLM has to fabricate rangeland health issues to authorize their removals and elimination.

The level of concern for wild horses having access to water and dying of thirst is well illustrated in the following two statements found in the PRMP.

BLM addresses the consequences of removing known critical water sources to animals, specifically livestock, but NOT to wild horses in the NWHR with the following statements.

Pg. 4-9, Section 4.4.9, Livestock Grazing Management

“The springs and riparian areas are the most important resource, and could be protected with exclosures. Water could be piped outside the exclosures to ensure animals have adequate water supply, therefore not needlessly suffering from severe thirst.”

For livestock, the removal of THE MOST IMPORTANT RESOURCE, springs and riparian areas, was acknowledged as causing “needless suffering from SEVERE THIRST”

However, on page 4-14, Section 4.5.2 Unavoidable Adverse Impacts (Really?), BLM states: “Fencing spring and riparian areas would have a direct impact on wild horses that frequent the areas. Some springs would be closed off and no water provided for the horses. There is direct benefit to fencing the spring area to improve the quality of the water and riparian habitat.”

Would this indicate that wild horses excluded from these springs do not "needlessly suffer from severe thirst" as livestock do and therefore, piping water to them was not required when access to these springs was terminated through fencing?

It also shows BLM was completely unconcerned with the impacts to wild horses nor did they bother to address their suffering at all. What mattered most were the plants, not the animals, well, not the wild horses anyway.

Let's see. Then BLM cancelled the wild horse round up in December 2007 and stated they would fix the water systems there. Except the ground was frozen so they would begin again when it thawed. Except they didn't do that either, at least not that anyone has heard about and it was certainly not included in the HMAP.

And still this level of concern just goes on and on. Now BLMs "new plans" include extortion.

Despite being approved for the "20 Year Plan" of fixing dysfunctional water developments and developing an additional 3-4 wells, now the HMAP proposes to do no such thing under the No Action Alternative, aka the existing management.

BLM describes their Alternatives are in conformance with the 2004 ROD yet the No Action Alternative states it will NOT fix water sources nor will it apply for those 3-4 wells. That is in direct defiance of the RMP/ROD. No worries though, who hold BLM accountable anyway, right?

Pg. 4-1, Section 4.3, Assumptions for Analysis

"The effective life of The Plan is anticipated to be 20 years."

Cumulative Impacts

Pg. 4-13, Section 4.5

"Beneficial cumulative impacts are centered around intensive wild horse management. By reducing the herd size to 300-500 animals and developing waters to reduce wild horses densities near existing water sources, impacts to vegetation, riparian areas, the military mission, safety concerns and interactions with wildlife species will be significantly reduced. Existing conditions have improved since removal of over 8,000 horses in the recent past. We expect the ecosystem to continue to improve by reducing the herd to an even lower number. The wildlife as well as the horses will have more abundant forage and water, which will ensure healthier herds of animals."

Plus, BLM **is** offering to fix water sources, but BLM will only offer water to wild horses if geldings are incorporated as part of the free-roaming herd. God forbid they provide an Alternative that is actually humane and will support viable healthy herds without somehow extolling a price in wild horse lives.

Furthermore, the original plan for the NWHR removal policies as cited in the PRMP were in accordance with the nationally implemented strategic gather cycles of wild herds every 4-years

Pg. 4-9, Section 4.4.10, Wild Horse and Burro Management

“The Plan specifies repeated “gathers” on a four-year cycle to maintain a population size of between 300 and 500 horses.”

Yet now, BLM wants to change that policy again before it barely got off the ground by citing a desire to extend that gather cycle to 6-7 years through the implementation of gelding components in free-roaming herds used in conjunction with fertility control, yet another deviation and attempt to implement subversive practices from nationally “approved” standards of wild horse and burro management and maintenance.

Every Alternative offered is the worst possible scenario BLM could think of with not one offered that actually proposes sane, reasonable and standard wild horse management choices such as a 50/50 gender ratio (unlike the incredibly skewed current ratio 36/64 stallion/mare ratio orchestrated to test PZP since 1996), four- year gather cycles and providing water to support healthy, functioning wild populations.

Forage

When it comes to forage availability, BLM provided no riparian measurements on any area, no stubble heights, no photographic evidence and no reference to any monitoring data or dates whatsoever. There were no Use Pattern Maps and no Utilization Patterns offered either. In fact, there was hardly a reference to forage found throughout the whole document.

Is it any wonder though, as bringing up available forage would defeat the whole purpose of arbitrarily reducing AMLs, which were only possible through redrawing boundaries that removed historical water sources and then using those water sources to “support” BLMs predetermined decision, a blatant fact of which both NDOW and the USAF also noted in their comments.

Here is what BLM projected as to the forage utilization levels at the new AML of 300-500.

Pg. 4.4.5 Vegetation Resource Management

“Impacts of the size of the proposed wild horse population (300-500) on forage utilization would be slight, except at select locations adjacent to water sources. At slight to light forage utilization, plant vigor and production are expected to improve.”

And it is not wonder a wild horse population at 300-500 would barely register as utilizing forage compared to what has occurred on the NTTR.

Appendix E, pg. E-31, Comment 1, BLM Response

“Date collected for grazing allotment surveys after 1971 by BLM and NDOW at least showed horses occurred outside of the 1992 ROD herd area, but also in competition with potentially 6-8,000 cattle on much of the northern planning area.”

There is also the fact that wild horse populations themselves peaked at 10,000. This is not to say that the appropriate management level is 10,000 wild horses, but it is useful for comparison purposes as to the abundance of forage that is available for 600-1,000 wild horses that are properly managed.

It is also interesting to note that the CMAs focus of keeping wild horses within the boundaries of Cactus Flat, noted as limited on water, but is also noted as limited on forage.

Pg. 4-9, Section 4.4.10, Wild Horse and Burro Management

“Winter feed is more limited in Cactus Flat, because of grazing from spring through fall.”

While BLM asserts the new AMLs were based on data from years with low forage production (yet no evidence or data is provided to support this assertion in the PRMP/FEIS), BLM then contradicts themselves by stating the collection of information and data is necessary to determine actual capacity levels in water flow data for these same “low production” years.

Pg. 4-9, Section 4.4.10, Wild Horse and Burro Management

“This population size is the estimated AML for the entire North Range and is based on data from years with low forage production and water availability, to reduce possible adverse impacts to critical resources.”

Pg. 4-4, Section 4.4.4 Riparian Resource Management

“Flow data are necessary to determine how many animals (of all species) a water source can support when environmental conditions are poor.”

Additionally, BLM is also making sure that wild horses have very limited access to the highest quality forage in the areas but instead must survive outside all the “good areas” being reserved yet again, for those nebulous wildlife populations.

Wildlife

Throughout this proposal, there is a continuous thread of the need to consider wildlife in the planning area and rightly so. Except much of the assertions are vague, general and broad and provide no definitive information besides these broad sweeping strokes.

Personal research has also shown that “wildlife” generally translates into hunting species unless the species has been listed somewhere under T&E, Special Status, Priority Management, etc. That research has also revealed that BLM and other public resource agencies are “partnering” with Fish & Game Departments and various wildlife organizations that help “fund” rangeland projects and turning public lands into approximations of private hunting reserves at the expense of wild horses and burros because “their” resources are much easier to confiscate than a ranchers or a mining operations is.

This trend seems to be continuing in the NWHR as the “needs” of wildlife are considered paramount to all management considerations. While BLM maintains they have no jurisdiction over wildlife numbers, they do very, very much have jurisdiction over habitat and who gets what when BLM slices the resource pie.

Here is what the PRMP/FEIS had to say about “Wildlife”.

Pg. 4-7, Section 4.4.7.2, Wildlife

“Implementation of The Plan will benefit wildlife populations and their habitat, provided access constraints on the Groom Range and other areas are improved. The Plan directs more attention to high profile species (e.g., bighorn sheep, antelope, sage grouse, raptors) and habitat types (riparian), but there are significant benefits to all other wildlife species as a consequence of focusing management on the high profile species.”

“Mule deer are not expected to interact with horses, due to a differential use of habitat. Most deer use the mountainous terrain yearlong. Horses concentrate their use in the valley bottoms. Incorporation of water and forage requirements for antelope into the AML determination should minimize adverse impacts on that species.”

The fact that little evidence of competition between mule deer and wild horses has yet to be found is also provided in NDOWs Mule Deer Report, Population Dynamics: Issues and Influences (Wasley, 2004)

Evidence suggests the exclusive “high priority” wildlife species being managed for within the NTTR is pronghorn antelope and from the looks of the antelope use areas cited in Figure 3-6, pg. 3-27, THIS is the species of wildlife that is getting the 100% of the water and forage outside the CMA as well as the 64%-79% of the water IN the CMA.

Pg. 4-7, Section 4.4.7.2, Wildlife

“Fencing spring sources will directly benefit wildlife by improving cover at the spring source, providing a protected area with high quality water and potentially more abundant higher nutritious forage to those species capable of access despite fencing.”

This provides additional verification as to the validity of this conclusion regarding pronghorn antelope, as they require a special kind of fence around springs that allow them access to crawl underneath to eat and drink while wild horses remain locked out.

Yet the truth of the matter is, as BLM admits here, they have no idea if competition exists, would increase, decrease, what relationships these species have to each other, etc. and just like to randomly through around the assertion that less wild horses has to equal better conditions for every other species.

Pg. 4-7, Section 4.4.7.2, Wildlife

“Reduction of the wild horse population to 300-500 should decrease any significant competition with bighorn sheep, antelope, and mule deer for habitat, water and forage. The extent to which these population would increase, or if they would increase at all, is unknown. Relationships among these ungulates in the planning area are uncertain.”

What we can say with certainty is that big game populations are noted by NDOW as expanding throughout the NTTR, DESPITE the wild horse populations generally being maintained at approximately 1,000 for several years as well as throughout the state of Nevada overall.

Within the NTTR, no known populations big game populations have been cited nor was a population objective outlined within the 2003 PRMP/FEIS or the 2004 ROD. There is currently an open-ended management plan for all big game species within the planning area that allows for continued unchecked or monitored expansions of these same species.

Despite BLM being required to manage public lands in a manner that promotes a thriving ecological balance, the continued habitat enhancements and expansions of big game species as well as population objectives, continue to fly “under the radar” so to speak in management proposals and considerations, despite documented evidence that many of these species are also capable of habitat degradation and resource deterioration in populations that exceed the productive capacity of the environment.

While failing to provide population objectives or current populations levels within the planning area, BLM has also issued the vague and nebulous proposal that rangeland utilization levels will not exceed 50% on grass species for all herbivores or 35% on shrubs.

Yet without data of any sort to support methods to distinguish grazing utilization by varied species or providing even the most remote potential of species occurring in the area contributing to this utilization level, BLM authorizes this utilization level as a measure of “management” for wild horse utilization within the NWHR.

What if pronghorn antelope are already so excessive in population numbers within the proposal area that these limits will automatically be exceeded from their grazing pressure alone? Pronghorn diets have been cited as utilizing approximately 17% grasses, which equates to 5 pronghorn for every wild horse. Pronghorn populations were at an all time state high as of 2006, listed by NDOW as now peaking at 23,500 just within Nevada, nearly twice as high as the state AML for wild horses.

Yet BLM has provided no distinction between these species in their consumption rates, have no data as to what their estimated populations might be to even provide an approximation of utilization levels between the two species, have admitted they don’t have available data in relationship to these species within the proposal area nor are they authorized to reduce wildlife populations even if they are found to be exceeding carrying capacity in relationship to the “thriving ecological balance”.

Humane Treatment

The treatment of wild horses within the Nevada Wild Horse Range has been reprehensible and this is not solely due to “military missions” preventing access but as this proposed HMAP continues to demonstrate, are often a result of BLMs genuine lack of concern for distress, suffering and hardship their management proposals and decisions inflict on the wild horse population.

In July 2007, BLM implemented an emergency wild horse removal due to failed water systems that resulted in the necessity of water hauling to keep them alive. Yet, rather than utilize a more humane capture method by utilizing water luring techniques easily implemented due to the wild horses being tied to that hauled water for survival, they chose instead to drive them with helicopters during a period that was tying all time temperature highs for Nevada.

This same time frame saw multiple health issues for humans and pets due to the record tying heat. Yet, BLM failed to see any problem with driving wild horses during this same time frame. While BLM cited “no deaths” as occurring from this capture, there is absolutely no way to determine the truth of this statement because BLM has the sole monopoly on “what” information was reported due to the restrictive nature of the military base this capture operation was conducted in.

The North Dakota Fish & Game Department has issued guidelines for pronghorn antelope captures in a document titled, Capture & Translocation, that both acknowledges the stress placed on the wild animals during helicopter driving as well as seeking to alleviate this stress. Recommendations include temperatures not to exceed 70F (21C) and have noted that temperatures rising later in the day during transport have had lethal results.

In February 2005, Alberta Canada adopted Class Protocol #008-Capture of Ungulates, which outlined specific methods for wild animal capture that included capture operations should be avoided when ungulates are pregnant, breeding or tending young, not subjecting animals to heat or cold stress by performing captures during inappropriate seasons or times of day, as well as avoiding areas of rough terrain, fences, active roads, cliffs, thin ice or deep water, and to generally avoid driving animals aerially that appear aged, crippled or in poor body condition.

In bold letters, pursuit of animals at a full run was limited to less **than 1 minute and no more than 2 minutes** and should occur in relatively open areas away from topographic features that may be dangerous to ungulates **with a total handling time of less than 20 minutes and a maximum time limit of 30 minutes** unless complicating factors involving the safety and welfare of the animal arises.

(4)

However, when it comes to wild horses and burros, no such restrictions on methods have yet to be established. BLM routinely drives wild horses and burros for extended periods of time with full runs especially noted at the end of the drive, no topographical area is considered “off limits” such as the steep terrain cited in the West Douglas wild horse removals and BLM routinely drives equids in all manner of weather through all seasons and include all classes of wild horses/burros including those tending young, are aged, crippled or in poor body condition with BLM providing little to no follow up reports on pathology, autopsy’s to determine cause of death, or capture related myopathy.

While BLM continues to assure the public that every effort is made and all possible solutions considered for the humane treatment of America’s wild horses and burros, the evidence continues to mount that this is not the case.

A testament to the lack of standards being applied or general concern for humane handling, reduced stress and/or mortality rates by BLM for wild horses and burros placed within their care was readily apparent in the Jackson Mountain wild horses in Nevada throughout the summer and fall of 2007, which resulted in the known deaths of at least 185 wild horses.

In the Preliminary Gather Proposal (EA# NV-05202007-362) issued in September 2007, BLM cited that wild horses were suffering due to drought conditions that were impacting foals, especially club footed foals, as they were being forced to travel 8-10 miles from water to obtain forage. The concerns were so great about the condition of the club footed foals that veterinarian treatment was deemed necessary at the expense of \$500.00 per foal.

Yet evidence obtained from multiple capture operations has shown that BLM considers clubfeet a life-threatening condition that causes club footed horses to be euthanized during capture operations due to its severity of impairment. Still, knowing all this, BLMs capture proposal intended to drive these same threatened foals by helicopter for unspecified distances, only to be euthanized at the end of the drives.

On January 29, 1997, BLM published an article regarding a Wild Horse and Burro Evaluation. At the time of this evaluation, the NWHR wild horse population was estimated to be approximately 5,000 wild horses and an AML was recommended with a maximum wild horse population of 1,000.

The "Team" that did this evaluation also stated that:

"The evaluation also expressed additional concerns that previous gathers manipulated the age structure to create a population with an approximate age of 14 years old, excluding the foal crop. These gathers disrupted normal age band structures for herd interaction, causing additional stress to already critically stressed animals. Also, there are some concerns regarding the sex ratios of the herd."

Notice how no details as to what the implications and recorded impacts of these profound statements might be?

While it has been established for 10 years that BLMs management strategies manipulating age structures and sex ratios have caused "concern" regarding placing additional stress on already critically stressed animals (at a population of 5,000), BLM continues to propose skewed gender ratios, despite the clear acknowledgement that this management strategy is causing dysfunction and adding "stress" (such a kind word for what is really going on.) to the wild populations placed within their care.

To illustrate BLMs lack of concern for humane treatment even further, the issue of attitudes being directed towards wild horse suffering as completely non-consequential is best apparent through the re-examination of the difference between wild horses being locked out of water versus livestock.

Pg. 4-9, Section 4.4.9, Livestock Grazing Management

"The springs and riparian areas are the most important resource, and could be protected with exclosures. Water could be piped outside the exclosures to ensure animals have adequate water supply, therefore not needlessly suffering from severe thirst."

For livestock, the removal of THE MOST IMPORTANT RESOURCE, springs and riparian areas, was acknowledged as causing “needless suffering from SEVERE THIRST”

However, on page 4-14, Section 4.5.2 Unavoidable Adverse Impacts (Really?), BLM states: “Fencing spring and riparian areas would have a direct impact on wild horses that frequent the areas. Some springs would be closed off and no water provided for the horses. There is direct benefit to fencing the spring area to improve the quality of the water and riparian habitat.”

BLM is required to provide humane treatment and care for wild horses and burros placed within their charge as per 43 CFR 4700.0-2, which specifically outlines, “The objectives of these regulations are management of wild horses and burros as an integral part of the natural system of the public lands.... and humane care and treatment of wild horses and burros” and is further reinforced through 43 CFR 4700.0-5(e)(f), which stipulates, “*Humane treatment* means handling compatible with animal husbandry practices accepted in the veterinary community, without causing unnecessary stress or suffering to a wild horse or burro” and “*Inhumane treatment* means any intentional or negligent action or failure to act that causes stress, injury, or undue suffering to a wild horse or burro and is not compatible with animal husbandry practices accepted in the veterinary community.”

Obviously, accepted standards of animal husbandry are being circumvented when it comes to the NWHR wild horses as BLM has clearly acknowledged that it is INHUMANE to cut off cattle from water without providing an alternative and causes them to SUFFER while simultaneously denying such suffering is occurring to wild horses through BLMs management of them and failing to mitigate that suffering.

Population Modeling

After reviewing a variety of BLM proposals over the last few years, concern has developed regarding both BLMs application and the lack of verified accuracy regarding the Winn Equus Population Modeling software, which has fast become a foundational tool in analysis of management actions with little data to substantiate its actual effectiveness in relation to “real world” results.

It is a relatively new management tool and the Strategic Research Plan (revised 2005) posted on BLMs website also mentions a need/desire to verify how the program is doing in relationship to actual results with improvements being added to the software that have yet to be fully evaluated (see pg. 33) (http://www.blm.gov/pgdata/etc/medialib/blm/wo/Planning_and_Renewable_Resources/wild_horses_and_burros.Par.91906.File.dat/Strategic%20Research%20Plan.pdf)

The potential impacts to self-sustaining herds through improper application, inputs and parameters, especially when combined with fertility control drugs and/or the most recent consideration of including castrated stallions as a component of wild free-roaming herds, has potential to cause irreparable damage through inbreeding, population crashes and violations of federal law requiring BLM to manage herds in such a manner as to preserve them for future generations.

While it is completely understood that the concept can be very useful and the model itself MAY BE extremely accurate, if its not being applied properly, it will have little value. The most specific concerns for now include:

1. Inconsistent Application.

This includes a wide range of projection fields that have been used on the wild horse removals ranging from 4 years to 20 years. There are even proposals examined that had "split" Field Office jurisdiction where one Field Office ran the model for 11 years and one ran it for 5 years - on the same proposed management action.

Recommendation: Utilize an analysis that fits that actual proposal being considered. If the objective is to maintain AML through a cyclic gather process of every 3, 4 or 5 years, run the model on the actual proposal to determine results. The additional inclusion of running a separate 20-year projection may be useful in determining the outcome of the proposals cumulative impacts but using it as a substitute for the actual proposal provides no data as to the appropriateness of the management actions and their implementation.

2. Unrelated Input

There has been such a HUGE variation by BLM personnel throughout the Wild Horse & Burro Program in the numbers they use as their "starting base" in the Winn Equus trial runs that many times, the output by the program is completely useless in terms of relative value to the actual proposals.

For example, let's say the proposal plans to leave 100 horses post-gather. There will be inputs that may range from 40 to 500 as the starting base. This is NOT to be confused with the different alternatives such as No Action with the "500" starting base. This is about the ACTUAL proposal where BLM will say "We will leave a 100" and then start the model off on the proposed action with a population number that is nowhere near what they are proposing to do.

It is understood that slight variations in populations are necessary, such as starting with 90 because maybe, unexpectedly they took a little more than planned, or 115 to account for some they may have missed, etc. but BLM has issued such proposals as, "We propose to leave 100" but then they will start with a minimum population of 185, 200 and then it just keeps going up from there. Of course, then they use the median numbers, which are higher still and well, what good is that in determining outcomes of the specific proposal and it's impacts?

Recommendation: Make sure starting population levels and all population inputs used in the analysis are in a REASONABLE RANGE of populations relative to the alternatives and proposed actions for a more accurate projection. There should also ALWAYS be an input used that is identical to the proposal. Such as, if the proposal is projecting on leaving 100 post-gather, at least one trial for each Alternative considered should include 100 as the starting population input.

3. Cherry Picking

Too often, BLM has "cherry picked", for lack of a better term, what graphs they include while omitting other pertinent graphs and/or information that is necessary to assess the impacts of the entire projected proposals as a whole.

Recommendation: Include the full spectrum of trial runs used in each proposal AS RUN by the model itself without censoring data to lead the proposal to preformed conclusions.

4. Results In Their Own Image

BLM personnel creating their own graphs and inputs while claiming these are the results of the trial runs. While a summary graph may be useful for easy comprehension and overview of the proposals, it also allows the opportunity for BLM personnel to skew data and inputs that may not be tied to the actual data used or the results of the trial runs.

Some prior proposals have used numbers in their own created tables/graphs that were NOT used in the trial runs or they will again omit certain statistical data when creating their own graphs.

For example, in the trial runs personnel will NOT use the proposed post-gather population but in their own created graphs, they will. At the very least, this is misleading idea because it implies that the proposed population was the one the trial runs were computed on when in fact, that population was never used except in their own created graphs.

Recommendation: If BLM would like to include a chart of their own making to help clarify for easy comprehension, there is nothing inherently wrong with that but it should not be allowed to replace the full spectrum of trial runs usually included as an Appendix in removal activities. It is essential that the trial runs as computed by the software be fully published so that the numbers can be compared and verified as accurate. The data provided in self-created graphs should also contain the full spectrum of information obtained from the trial runs, including the actual numbers used to conduct the projections.

5. Complexes

While is understandably a useful tool, to project meta-population results through alternatives, how accurate is this technique in terms of individual populations?

Just because gathering an area for administrative convenience causes BLM to issue proposals as "Complexes" within a FO's jurisdiction, it does not necessarily accurately reflect the populations interactions as "one herd" or the accuracy of projecting outcomes based on HMAs that are not truly connected or interactive.

Additionally, there can be issues of fencing, roadways and topographical barriers that prevent any significant genetic interchange OR proposals may come up that BLM has no control over that radically alter herds migratory routes during the life of the projections that may cause the populations to crash through unforeseen actions.

A good example of this would be the Antelope and Antelope Valley HMAs where Nevada Department of Transportation put a roadway and fencing in that cut the traditional migratory route of the herds off and consequently trapped horses that historically moved between Antelope and Antelope Valley during summer/winter migration patterns.

Also, until BLM can ascertain with some degree of certainty the AMOUNT of interchange between the HMA populations and use that as an input, combining total populations is relatively useless. Even if using inflated "Complex" numbers with unknown interchanges appeared to provide for viable herds, it does nothing for projecting outcomes of individual herds that may experience population "crashes" because they never really mixed in the first place.

A recent example of how on paper populations may provide interchange but actual data fails to support the theory is the White Mountain and Little Colorado HMAs in Wyoming. These two HMAs are actually fairly well connected (at least according to the maps) so interchange should be fairly high. This fact was cited in context with genetic viability and herd health due to this potential interchange.

However, while both HMAs were last gathered together about 4 years ago, the White Mountain HMA had a huge jump in population while the Little Colorado HMA, at least by comparison, was considerably more stable and failed to reflect the same increases by a fairly large margin. In other words, the population expansion was not equal between the HMAs in real world results indicating very little actual interchange among the herds in this area were occurring despite theories and projections of potentially high interchange.

Additionally, the Silver Peak/Paymaster HMA in Nevada, which conducted the last and final round up for the now zeroed out Silver Peak wild horses in September 2006, cited the then current population of 79 wild horses were showing signs of inbreeding. This reason was used as one of the reasons to permanently eliminate this free-roaming herd and there are scores of HMAs that BLM has now established maximum allowable management levels of 79 wild horses and/or burros or lower.

Recommendation: IF BLM wants to use trial runs to project "meta-population" projections as a useful tool under a Complex, they should ALSO be required to run to trial runs for each specific HMA as well, just in case something unforeseen happens or in case the migration and herd movement is less than expected. Plus, research has revealed that very few of the HMAs gathered as a Complex have significant access to other HMAs so the actual usefulness of using trial runs in this manner in "real world" terms needs supporting data to substantiate its effectiveness before confidence can be placed in the current strategy of just considering "potential" as actual and viable.

The fact that managers lack data on which herds are genetically isolated has also been cited and substantiated in the Strategic Research Plan (see pg. 35) and this fact needs to be appropriately incorporated in management strategies to ensure long-term viability and health in management actions and proposals.

6. The Nevada Wild Horse Range

These considerations and proper utilization of the population modeling trial runs is absolutely vital to determine if management actions being considered are appropriate for self-sustaining herds as the BLM seeks to use the NWHR as a population management experiment through the addition of geldings as a non-breeding component to free-roaming herds.

If BLM fails to properly input or assess their management actions through the Winn Equus Population Modeling Program so no supporting data can verify its effectiveness all the while continuing to insist that its inclusion is all that is necessary to justify their proposals, serious damage can be done to self-sustaining herds.

Because BLM has already identified the NWHR for consideration in this latest round of population control techniques, it is imperative that BLM personnel accurately and consistently apply proper data and statistics when using trial runs to project outcomes and population crashes.

One recent example of this is the Nevada Callaghan and Bald Mountain HMAs scoping proposal for removals as previously published trial runs for their recruitment rate is a “poster child” for the problems being outlined here regarding the verification of the programs actual relativity to “real world” applications.

In the 2002 Callaghan wild horse gather plan, trial runs were conducted to determine the viability of wild horse management alternatives. Yet, the trial runs produced reproduction rates that exceeded the 17.5% cited as known to occur in the Callaghan HMA and ranged from 19% to as high as 24%.

In other words, if the recruitment rate of 17.5% IS accurate, the population modeling software was not accurately projecting outcomes based on verifiable and historic recruitment results for the actual functioning wild horse populations in the HMA.

The same thing occurred when examining the Bald Mountain HMA, cited as having a reproduction rate of 12% (though also known to have a 13% rate in one year). Yet the Median average used to project population increases from the proposed action cited a 19.9% growth rate for the Proposed Action.

Additionally, though BLM cited a 12% recruitment rate for the Bald Mountain HMA, when running the trial runs, the Median Average that BLM projected a growth rate of 20.1% (the highest projecting over 31%) - far removed from the documented and asserted historical reproduction rates and clearly reflect the ineffectiveness of the software in predicting outcomes if they are not in alignment with the actual real world results occurring in the actual populations.

6. Additional Considerations

Since its use is still fairly new, many of the initial gathers that began incorporating population projections took 3-4 years to go by before the accuracy of their application could be evaluated in each HMA or area. As a result, only recently has BLM had the opportunity to go back and verify, adjust, modify and evaluate the effectiveness of its application in relation to site-specific proposals.

Because of such wide variations used by BLM personnel in different FO's on different proposals over these crucial years, the issuance of many of them as "Complexes" and the instances where only partial data was entered, the BLM has missed a great opportunity to have acquired 3-4 years of data to now evaluate and perhaps modify the software and/or their management actions based on current real world results.

BLM should develop a consistent policy regarding it's use with the goal in mind of being able to use these trial runs later to analyze the effectiveness of the proposals. As it stands, because of BLM not developing a consistent policy of application, all potential data and projections are still relatively useless in terms of analysis and subsequent modifications if needed.

It would behoove BLM and the WH&B Program to address these issues on a broad basis so that the usefulness of the Winn Equus software can be assured with confidence. Incorporating these recommendations would help assure both BLM and the public that the statistics and data backs up the actual usefulness of the trial runs in "real world" applications so projected outcomes can be assessed fairly and confidently for healthy, sustainable herds.