

Wild Horse and Burro Management

Betsy A. Cody

Specialist in Natural Resources Policy
Environment and Natural Resources Policy Division

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Summary

In 1971, Congress passed the Wild Free-Roaming Horses and Burros Act to protect wild horses and burros on western public lands, whose numbers were dwindling. Since 1971, the number of horses and burros allowed to remain on the range, the agencies' management methods, and the plight of animals removed from public lands have been topics of considerable debate. Recent controversies stem from accusations that many wild horses have ended up in slaughterhouses and that federal employees may have sold horses for profit. The Bureau of Land Management (BLM) has investigated these allegations and flatly denies that "thousands" of horses from BLM lands end up in slaughterhouses each year. Additionally, BLM officials have been accused of hindering agency law enforcement efforts and of interfering with a grand jury investigation of agency activities.

Background

The "wild" horses on the western range are descendants of horses brought to North America by Spanish explorers. Over time they mixed with domestic horses and burros that had escaped from or were released by settlers and Native Americans. At the turn of the century, an estimated two million wild horses roamed America's rangelands. By the 1950s, their population was thought to have dropped to fewer than 20,000. Public concern developed over falling populations and inhumane treatment by profiteers who captured and sold the animals for slaughter. A protection movement led by Velma "Wild Horse Annie" Johnston culminated first in the enactment of the Wild Horse Annie Act of 1959 (P.L. 86-234, 18 U.S.C. 47), and later in the Wild Free-Roaming Horses and Burros Act of 1971 (P.L. 92-195, 16 U.S.C. 1331 *et seq.*).

The 1971 Act sought to preserve wild horses and burros on federal lands as "living symbols of the historic and pioneer spirit of the West," and placed them under federal jurisdiction. It imposes criminal penalties for removing, converting to private use, killing, harassing, selling, or processing the remains of wild horses and burros under federal jurisdiction without federal

authority. Management responsibility was assigned to the Bureau of Land Management (BLM) in the Department of the Interior and the Forest Service in the Department of Agriculture. About 96% of wild horses and burros live on BLM lands (43,563 in FY1995), with most of the rest on Forest Service lands (1,611 in FY1995) (1). Horses on federal land outnumbered burros by nearly 5 to 1 in 1995.

Although the 1971 Act emphasizes animal protection, the two agencies are authorized to remove animals from overpopulated areas by the most humane means available, including killing old, sick and lame animals. The agencies have removed "excess" animals since 1973; well over 80,000 were removed during the 1980s according to a 1990 report by the General Accounting Office (GAO).(2)

Guidelines for removing "excess" animals are outlined in the Public Rangeland Improvement Act of 1978 (PRIA; P.L. 95-514, 16 U.S.C. 1331 *et seq.*). PRIA requires the agencies to inventory horse and burro populations, and to remove animals exceeding the range's carrying capacity. The primary disposal method for healthy animals is the Adopt-a-Horse (or Burro) Program.(3) New owners may request title to the animals after one year only if they have demonstrated proper care for them during that time.(4) More than 150,000 horses have been adopted by the public since the start of this program in 1973(5); 8,074 animals were adopted in FY1996. (See table 1.) If adoption demand is insufficient, the remaining healthy animals are to be destroyed; however, the agencies have not used this authority since January 1982, and have been prohibited from doing so annually by Congress since 1988.

Table 1

Wild Horse and Burro Adoptions

	FY1992	FY1993	FY1994	FY1995	FY1996
Horses	7,312	6,103	6,810	7,706	6,821
Burros	783	1,148	1,057	1,949	1,253
Total	8,095	7,251	7,867	9,655	8,074

Source: BLM, *Tenth Report to Congress*. Draft. Figures for FY1996 were obtained January 15, 1997.

Concern developed in the early 1980s that, despite agency efforts, expanding wild horse and burro populations were damaging rangelands and competing with domestic livestock. In 1985, Congress directed BLM to increase removal efforts and tripled the agency's appropriations, from \$5 million in FY1984 to more than \$17 million in FY1985 in part to cover removal costs.(6) Since destruction of healthy animals was no longer considered acceptable, almost 10,000 animals (a record number) were being kept in corrals awaiting adoption by 1985.

BLM used several methods to reduce the number of animals held in government corrals: it waived fees for adoption, used prisoners to gentle and train horses, and moved horses to special sanctuaries. In 1984, BLM started to allow individuals to adopt large numbers of animals for free. Approximately 20,000 horses were adopted while this fee-waiver program was in effect and several thousand of these animals reportedly ended up in glue or pet-food

factories.(7) The program was stopped in 1988 due to public outcry. The BLM now charges \$125 per adopted animal.(8) Although the agency monitors adoptions for 1 year (9), once someone gains title to an animal it is no longer protected by the 1971 Act and the agency has no control over its use. Recent reports that horses originally from BLM lands have shown up in slaughterhouses have again generated public concern about the program.

Current Issues

For years, BLM has been accused of mismanaging wild horses and burros, and particularly of letting animals end up in slaughterhouses. Most of the controversy stemmed from the fee-waiver policy and the large number of horses adopted between 1984 and 1988. BLM apparently attempted to address this controversy by instituting the \$125 fee, requiring 1 year of ownership before granting title to the animals, and requiring that a veterinarian (or local humane official) certify proper care during this time.

However, recent reports indicate that even with these safeguards, some horses are sold at auction and then sold to slaughterhouses. An Associated Press (AP) article in January 1997 reported that 57 formerly wild horses had ended up in western slaughterhouses, that 80% of these were less than 10 years old, and 25% were less than 5 years old.(10) The AP article also said more than 200 BLM employees had adopted animals and some could not account for the animal while "others acknowledged some were sent to slaughterhouses." It also reported that the director of the wild horse and burro program (without quoting him directly) "conceded that about 90 percent of the horses rounded up -- thousands of horses each year -- go to slaughter." In a statement issued by the BLM, the director denies that he said or implied this. (11) (Some of the confusion appears to come from an undocumented estimate that 90% of all domestic horses end up in slaughterhouses or rendering plants (12); however, we were unable to verify this percentage.) The BLM reports its own investigation of all U.S. slaughterhouses that processed horses in 1995 and 1996 showed 600 of the 243,000 (0.25%) slaughtered were former wild horses. BLM noted that about 16,000 wild horses were adopted during the same period.(13)

In response to the questions raised in the AP story, an Assistant Interior Secretary has "ordered an immediate investigation" into the allegation that BLM employees may have benefitted from the sale of horses for slaughter. Critics of the BLM wild horse and burro program contend this is not adequate in light of earlier complaints that BLM officials have not heeded its own law enforcement officers' findings. For example, *The New York Times* has reported that several current and former BLM law enforcement officers lodged a complaint with the Department of Justice accusing the agency of 1) falsifying financial records, and 2) scheming to sell animals for slaughter and obstructing federal investigations into the program (14). BLM consistently denies such allegations, maintaining that its regulations prohibit commercial exploitation of untitled animals and that it will not issue title if the agency "discovers that an adopter intends to sell the animal for slaughter." (15) Further, the agency maintains it costs more to house and care for horses before titling than slaughterhouses are likely to pay for an animal raised on public lands.

Nonetheless, questions remain: how many healthy former wild animals are eventually slaughtered; how can the BLM stem such action, given that titled horses are private property; can the BLM feasibly prevent such slaughter without discouraging participation among care giving adopters; are BLM employees directly or indirectly facilitating such action; and have

BLM employees benefitted financially from such action? BLM is currently reviewing procedures for adoption and whether employees should continue to be allowed to adopt animals.

It has been reported that the Department of Justice is investigating allegations against the BLM; however, Justice has dismissed one case and will not confirm or deny that it is currently investigating the BLM.

Appropriate Population Management Levels

Regardless of the controversy surrounding treatment after leaving BLM jurisdiction, many oppose removing large numbers of the animals from the range in the first place. Others agree that removal is necessary to protect the range resources and to balance levels with wildlife and domestic livestock.

In response to formal complaints about BLM horse removal policies, the Department of the Interior's Board of Land Appeals (IBLA) ruled in 1989 that BLM must demonstrate that the animals it removes exceed appropriate management levels (AMLs) -- the target number of horses and burros for each herd area (16) -- and that removing the animals will restore "a thriving natural ecological balance to the range and to prevent range deterioration, as required under the 1971 Act. (17)

The debate over removal now centers on AML determination. AMLs are based on completed resource management plans (RMPs) for BLM and land management plans for the Forest Service. AML determinations rely heavily on population estimates and rangeland monitoring data. In 1992, BLM estimated that approximately 55,000 wild horses and burros were living on federal rangelands.(18) However, some experts believe the 1971 estimated population of 17,000 (used as the baseline for subsequent population estimates) was too low. Furthermore, the population growth rate is uncertain. The National Academy of Science has estimated that annual growth rates fall between 3% and 20% (19). The BLM reported a population of approximately 43,600 wild horses and burros in 1996. (20)

Nearly 10 years ago, GAO reported that more than 40% of BLM's carrying capacity data were over 10 years old.(21) BLM claims it has since updated its monitoring procedures, in part in response to an IBLA decision, and that it has completed 80% of the RMPs where wild horse and burros are found. The agency stated in 1992 it hoped to establish AMLs for all herd areas by 1995, but has not. Some still believe agency inventory data on wild horses, burros, other wildlife populations, current range condition, and sensitivity of rangelands to deterioration are inadequate. The Animal Protection Institute calls these estimates "arbitrary" and argues that more forage should be made available for wild horses instead of domestic livestock.(22) Thus, competing interest groups do not agree with either the agency's current population estimates or population management levels.

Arguments Against Removal

Some animal rights and conservation groups believe wild horses and burros should be left to roam with little or no interference. They also assert that the agencies' have overestimated populations, so removal of animals is unwarranted. Since they disagree fundamentally with

BLM's population estimates and AMLs, they also disagree with resulting decisions. Some groups, such as the American Horse Protection Association, contend that the animals are not "excess" and that BLM cannot demonstrate that their removal is tied directly to rangeland improvement. They argue that private livestock interests (primarily cattle and sheep owners) have prevailed at the expense of other wildlife considerations and that wild horses and burros have not been allocated their fair share of public rangeland resources.(23)

Horse-protection groups and others have argued successfully against removal in appeals before the IBLA. In 1989, IBLA found that BLM had improperly: (1) determined "excess"; (2) analyzed removal and range decisions; (3) established AMLs for removal purposes; and (4) justified removals.(24)

Arguments For Removal

Other wildlife, conservation, and livestock interest groups believe, in the absence of predators, wild horses and burros will exceed range carrying capacity. They assert these animals overgraze and trample vegetation, and out-compete domestic livestock and indigenous wildlife for forage. They cite studies that reveal horses graze more closely to the ground than cattle, giving a competitive advantage to horses where forage is limited. Also, horses are said to require approximately 20% more forage per pound of body weight. Livestock groups generally accept the agencies' population figures and stated need to remove more wild horses and burros from federal lands. They believe that unconstrained population growth of these non-indigenous animals is not sound management.

Footnotes:

1 U.S. Dept. of the Interior, Bureau of Land Management. *Tenth Report to Congress, Fiscal Years 1992-1995*. (Draft report, March 29, 1996.) Appendix A. (Hereafter referred to as *Tenth Report to Congress*, draft.) Because horses dominate the wild horse and burro program, this paper focuses on management of horses. BLM handles most USFS adoptions through its Adopt-a-Horse (or Burro) program.

2 U.S. General Accounting Office. *Improvements Needed in Federal Wild Horse Program*. GAO/RCED-90-110, p.24. (Hereafter referred to as GAO Report.)

3 The BLM brochure, *So You'd Like To Adopt A Wild Horse Or Burro*, contains information about how to adopt and lists locations of adoption facilities.

4 Adopters must have a letter from a veterinarian, local humane official, or BLM official verifying that the animal has been treated humanely.

5 Statement of Tom Pogacnik, Chief Wild Horse and Burro Program. Obtained from BLM January 9, 1997. p.3. (Hereafter referred to as Tom Pogacnik statement.)

6 GAO Report, pp.11 and 51.

7 GAO Report, p.31.

8 On February 5, BLM issued a final rule authorizing BLM managers to increase adoption fees via competitive bidding for adopted animals. The minimum fee will remain \$125. (*Federal Register*, vol.62, no.24 (Feb. 5,1997): p.5338.)

9 The BLM claims it "spot checks" adopters and regularly inspects facilities that have more than five untitled animals. Adoptions totaled about 34,752 horses from FY1992 through FY1996 and BLM conducted inspections of approximately 12,846 adopted horses during that time. The agency notes it has a "goal to inspect a minimum of 5% of all untitled animals each year to insure that adopted animals are receiving proper care." BLM, *Tenth Report to Congress*, draft.

10 Martha Mendoza, Associated Press. "Plan to protect horses leads them to slaughter." *The Miami Herald*, Jan. 6,1997. pp. 1A and 7A.

11 Tom Pogacnik statement.

12 Verbal communication with Martha Mendoza, Associated Press, January, 1997.

13 *The New York Times*, Maitland Sharpe, assistant director, renewable resources and planning, Bureau of Land Management. "Letter to the Editor," Feb. 5,1997.

14 Doug McInnis. "Employee's Letter Accuses Land Agency of Illegal Practices." *The New York Times*, July 2,1996. A similar article appeared in the same paper on Dec. 17,1995.

15 *Infra*, note 5. p. 2.

16 The Act restricts management of wild horses and burros to areas where they were found in 1971. A total of 189 territories or herd areas were established; 142 administered by the BLM and 47 by the Forest Service.

17 Animal Protection Institute of America, 109 IBLA 112, June 7,1989.

18 U.S. Dept. of the Interior, Bureau of Land Management. *Strategic Plan for Management of Wild Horses and Burros on Public Lands*. June 1992. p.6.

19 National Science Foundation. *Wild and Free-Roaming Horses and Burros; Current Knowledge and Recommended Research*. Washington, DC: National Academy Press, 1980. p.44.

20 U.S. Dept. of the Interior, Bureau of Land Management. *Budget Justifications, FY1997*. p. 111-36.

21 GAO Report, p. 24.

22 Animal Protection Institute of America. Memorandum to "Members, Committee for Dept of

Interior Appropriations." Sacramento, CA. April 1996. p.1.

23 Livestock are permitted to graze on approximately 167 million acres of BLM land and 95 million acres of Forest Service land under decades-old permitting and leasing programs. (For more information on these programs, see CRS Report 96-450 ENR, *Grazing Fees: An Overview*.) Wild horses and burros are primarily found in herd areas on 33 million BLM acres and 2 million Forest Service acres.

24 Animal Protection Institute of America, 109 IBLA 112, June 7, 1989.