

COMMISSION FOR THE PRESERVATION

OF

WILD HORSES

Minutes of the Open Meeting
Reno, Nevada

August 21, 2006

Commission Members Present:

Commissioner Mike Kirk, Chairman
Commissioner Christine Brehm
Commissioner Sharon Brandsness (via phone conference call)
Commissioner Gracian Uhalde
Cathy Barcomb, Administrator

Other Present:

Allen Biaggi, Director, Department of Conservation and Natural Resources
Nhu Nguyen, Deputy Attorney General
Susie Stokke, BLM Wild Horse and Burro Lead, Nevada

9AM, Commissioner Kirk, Chairman, opened the meeting with Commissioners Brandsness, Brehm, and Uhalde present. Commissioner Brandsness was present via telephone conference call from Las Vegas. A quorum was present with 4 of the 5 Commissioners in attendance. Cathy Barcomb, Administrator, was present. Allen Biaggi, Director of the Department of Conservation and Natural Resources (DCNR) was present as well as the Commission's legal counsel, Nhu Nguyen, Deputy Attorney General.

1) *Discussion and Decision: Approval of the Minutes of the Commission meeting held on June 16, 2006.

After discussion of the draft minutes of the June 16, 2006, Commission meeting, Commissioner Uhalde motioned to accept the minutes, seconded by Commissioner Brehm, unanimously approved.

2) *Discussion and Decision re: Presentations of updates and quarterly reports by Patti Colbert, Executive Director of the Mustang Heritage Foundation. Actions may be taken by the Commission on the Foundation and its recommendations.

Patti Colbert, Executive Director discussed the close communication and working relationship she had been having with the Commission and BLM. She noted regular conversations with Cathy Barcomb from the Commission, Susie Stokke from Nevada BLM, and Sally Spencer from the National BLM Program.

Mrs. Colbert discussed the new leadership with the Foundation Board members and the tremendous experience in the wild horse adoption program these new members brought to the table. She noted there were three key points they were working on:

- 1) a focus on the Eastern States Adoption Program;
- 2) marketing wild horses and developing a "value" to the mustangs;
- 3) and working relationships between the Foundation, the BLM, and the Commission.

She noted she has been working hand in hand with all the BLM regional offices and that a "post card" promotional program was going out in the mail as we were speaking. She explained that 7,000 post cards to the past 4 years adopters on the east coast were being mailed in a cooperative effort with BLM. The post cards urged people to complete the online survey at the Foundations website. She explained the survey had been developed by the Eastern States BLM program and was intended to help in looking for better adoption sites and better adopter information.

Patti Colbert discussed the tremendous contacts she had made this past weekend at the Western States Wild Horse and Burro Expo. She noted that over 300 of their postcards had been distributed to people stopping to talk to them.

Mrs. Colbert discussed working very closely with Nevada and National BLM offices on the “Extreme Mustang Makeover Challenge”. She explained it was a program designed to work with 100 mustangs and 100 trainers. The horses would be assigned to the trainers by lottery drawing and the trainers would take the horse’s home to work with them. She explained that she had requested funding from Ft. Dodge Medical as a sponsor of the event and that Ft. Dodge had expressed serious interest in becoming a title sponsor for the event. All the horses would be brought back to a big adoption event wherein the trainers would be highlighted and all horses put up for adoption. There would be cash prizes to the trainers for their competitions in the training levels of the horses. Mrs. Colbert added that she had been working very closely with David Foley and Keith Cline from the American Association of Equine Practitioners on this as well.

Dr. Kirk noted that he knew these people very well.

Patti Colbert thanked Susie Stokke for facilitating a \$500 per trainer reimbursement for their expenses. She noted that eventually they would like to be hosting large mustang adoption events 2-3 times per year around the nation.

Mrs. Colbert noted that they were striving to give Nevada mustangs a tremendous value “outside” of Nevada, as the adoption market in Nevada is saturated. She stated they felt “the minute we give these horses value, the ranching industry will take notice.”

Mrs. Colbert gave a brief overview of the Board Members and their backgrounds.

Cathy Barcomb remarked on all the hard work and effort that Patti Colbert and Weslie Elliot had been putting into getting the new marketing programs and adoption promotions off the ground, as well as organizing the Foundation, the website, obtaining new Board members, fundraising, and various other programs being developed.

Allen Biaggi, Director, DCNR, asked if Mrs. Colbert could report on the actual number of adoptions impacted by actions of the Foundation, can they capture that in the monthly reports?

Mrs. Colbert replied that it was very hard to capture an actual number, numbers coming in on the short term versus the long term. She recognized that it was a measuring tool but will take time. Events such as the 100 horses in the Extreme Mustang Challenge could be measured but the outreach would be impossible to actually capture in numbers. She stated they were working on measurement indicators. She noted that the key is a database, creating partnerships, creating comfort levels, and getting feedback.

Commissioner Gracian Uhalde noted that he was impressed at the rejuvenation of the Foundation and that even though there had been a stall at one time, you build an organization one piece at a time. He added he thought the Foundation was up and running full speed now.

Commissioner Brandsness stated it was a pleasure to know Patti Colbert and that she was an extremely accomplished woman and go-getter. She asked Patti if she thought the name "extreme mustang makeover" might be a name infringement and copyrighted.

Mrs. Colbert replied that she didn't believe so but would check with their attorney.

Commissioner Brandsness asked about the original reports stating funds would be raised and she stated she has not seen any funds raised, which concerns her.

Mrs. Colbert replied that the Foundation needs to develop a track record...a flag to raise before any major fundraising can occur. She stated that you can't just go out and expect large corporations to give you money as an unknown with no track record or flag to raise on accomplishments. Mrs. Colbert noted that her past experience in fundraising spoke for itself and that her experience with donors was that they looked for "performance". She stated she needed time to create relationships and long range funding partnerships. She added that her reputation in the horse industry was very important and she realizes the heat is on her but to give her the time to develop these relationships, that she believes in these horses and they will succeed.

Commissioner Brandsness asked how many of the 7,000 people on the mailing did the Foundation think had computers?

Mrs. Colbert noted that on the post card, people could reply on the internet, or call the 800 number for the Foundation and a survey would be mailed to them, she felt this would facilitate all users. She also stated the Foundation was using www.zommerang.com to host/post the summary. For a fee of \$95, they do all the work.

Dr. Kirk asked how the Foundation felt the adoption they were hosting in St Cloud, Minnesota, would be impacting Nevada wild horses. He also asked what they felt the dollars spent would be doing to enhance that adoption.

Mrs. Colbert replied that since past studies have shown a severe lack of an adoption market in Nevada, that a market must be created in other parts of the country to absorb Nevada's mustangs. There really hasn't been an adoption market and they would like to work on that as well, but studies have shown the adoption market is strongest on the east coast. She stated the monies would be used for "time" for a creative wrap to "bring people" in to the adoption.

Dr. Kirk agreed that the demand is in the Eastern States and felt we need to get the numbers going there and supporting more programs in the east.

Mrs. Colbert stated they were working on big numbers for the east, their dream is to say they increased adoptions by the end of 2007 by 1,000 animals and it all takes planning, procurement, then results.

Susie Stokke, BLM, stated that Patti Colbert leads horses to water to make it work. She added that the Eastern States BLM morale is very low. She stated that the Foundation is here to get them excited again about the program. She added that the Foundation has been developing the mentoring program, increasing trained horses available to the public, and that Patti Colbert has a huge job and is confident that Patti will get the horses to drink, they will get excited, and want to promote the program.

Commissioner Uhalde questioned, “what about the unwanted horses”?

Patti Colbert stated that it is across the board in the horse world, in every industry, that there is a very serious decline in quality of life for horses, that horses are getting returned to smaller sale barns where care is declining. She assured Mr. Uhalde that this issue was at the “top of the heap” of issues for the American Horse Council (AHC).....disposal and euthanasia. She went on to explain that the Foundations mission is to “increase adoptions” and not get political. The Foundation will re-join the AHC but at the lower membership level, not higher member which buys a spot at the table for political issues. Patti stated that “somebody” needs to be at the table for the unwanted wild horses as part of the issue, but not the Foundation.

Dr. Kirk stated, “the domestic industry takes care of itself for the most part, but I feel the wild horse industry can impact this hugely.”

Cathy Barcomb, Administrator, reminded the Commissioners that when the articles of incorporation and by-laws were created for the Foundation, it was made very clear that the Foundation was created to increase adoptions and marketing, and the articles and by laws clearly state that the Foundation is to stay away from any political involvements.

Christine Brehm asked the Foundation if the Commissioners could be on the list to receive the monthly reports Mrs. Colbert had mentioned earlier that she send to their Board. She also stated she would like to see Nevada horses represented at the Texas adoption the Foundation was planning and wondered what the Foundation was planning on doing to increase adoptions in the east and central US?

Patti Colbert replied that “she needs more Cathy’s, Christine’s, and Dawns of the world”, to assist in promoting and marketing this program. That it is logistically impossible for her to stay on an airplane all the time and must use BLM’s access to past adopters and our website to develop partnerships to create new locations and adopter markets. She added, that by searching out new board members, they all know people in this industry and in their area’s and it just keeps spreading from there. The Foundation is moving forward and trying to avoid stepping on any landmines in the process.

Dr. Kirk thanked Patti for her presentation and stated he felt happy to see the Foundation was off and running and offered anything the Commission could do to help.

3) *Commissioner Brandsness: Discussion and Decision regarding possible request for an Attorney Generals Office Opinion on whether the Heil Trust funds are being

spent appropriately for the Mustang Heritage Foundation. Action may be taken by the Commission.

Commissioner Brandsness opened by saying the funding of the Foundation from Heil Trust monies had long been a concern of hers and that monies are being spent outside of the state of Nevada. She added that she felt the original Attorney Generals Office opinion which Cathy had supplied to her was intended that the monies be spent inside the state of Nevada, not outside and wants to make a motion that we ask the Attorney Generals office for an opinion if the funds can be spent outside of Nevada.

Commissioner Brehm stated, “that for the sake of discussion, I will second the motion”.

Cathy Barcomb, Administrator, suggested that the motion needed to be restated as the Commission does not have the ability to authorize such an action, the Commission is advisory only to Allen Biaggi, Director of DCNR, and to Cathy Barcomb, Administrator. She added that Mr. Biaggi had the final say on any expenditures or actions on the Heil Trust monies, the Commission was only advisory.

Mrs. Brandsness restated her motion to request Mr. Biaggi to ask for an AG’s opinion on the expenditure of the monies, seconded again by Commissioner Brehm.

Mrs. Brandsness stated that “one way or another, this opinion will be asked”.

Cathy Barcomb asked Mrs. Brandsness to share with the Commission, “who would be asking the question”.

Mrs. Brandsness stated, “no”.

Allen Biaggi, Director, asked Mrs. Brandsness “are you seeking an opinion in regard to the Heil trust itself, or the action by the Legislature”?

Mrs. Brandsness stated that she felt it was the intent of the trust and Mr. Heil that the monies be spent in Nevada, not outside the state.

Commissioner Brehm asked what was involved in an Attorney Generals Office Opinion (AGO)?

Nhu Nguyen, Deputy Attorney General (DAG), state that if the Commission made the recommendation, that Allen Biaggi would have to approve this request before it could move forward. She stated that the AGO, was just that, an opinion, that it was not valid for any court or action, that it was just a letter of opinion and not binding in a court of law or agency.

Allen Biaggi asked what would be the outside time frame and expense?

Nhu Nguyen, DAG, replied that she would not be able to estimate that expense at this time until she understood the full extent of the question and was able to verify how much research it would take to come to an opinion. She added that then an opinion would be finished and then would have to go all the way up the chain to the Attorney General for review prior to being published. She added that it was a very expensive project and in a very rush possibly could be completed in 30-90 days but that would be a very ambitious deadline.

Nhu Nguyen suggested that Commissioner Brandsness had mentioned “her research” on the subject numerous times during the meeting. She suggested that Commissioner Brandsness should share that research with the other Commissioners to help them make a better decision and understand where her concerns are coming from. She felt the other Commissioners were somewhat in the dark at this point not knowing what Commissioner Brandsness was basing her opinion on.

Commissioner Brandsness stated that she felt the information was out there and the Commissioners could research it as she did.

Cathy Barcomb stated that quite a few years ago, an AGO had been requested by the Legislative Council Bureau as well as one from the Governors office and that the Commission’s budget had been charged for that expense. She stated that the Commissions charges from the AG’s office had been in excess of \$20,000 that year.

Commissioner Brandsness stated that she disagreed with Ms. Barcomb, that an AGO was not nearly that expensive.

Allen Biaggi stated that the attorney generals office charges \$185 to \$200 per hour for work and that a reasonable assumption would be an expense of approximately \$15,000 for this AGO.

Dr. Kirk stated that he felt the Heil Trust stated to preserve and protect Nevada’s wild horses but that it doesn’t stipulate “how” the trust is to be spent to accomplish this. He added that the Foundation is a Nevada Foundation.

Commissioner Brandsness stated that the Executive Director is not located in the state and that the monies are not being spent solely in the state of Nevada.

Dr. Kirk stated again that he felt the trust did not specify “where” the monies were to be spent to preserve and protect Nevada’s wild horses.

Commissioner Brandsness asked if a copy of the will were available? Cathy Barcomb stated it was and would provide it to all the Commissioners.

Commissioner Brehm stated that “if the AGO is not binding, it seems to just be only as good as the paper it’s written on.”

Commissioner Brandsness stated that it “will be binding for the Legislature”.

Nhu Nguyen, DAG, stated that the “AGO is not binding and can only serve as an opinion for direction, but is not binding in any legal sense.”

Commissioner Brandsness stated it “will be looked at respectfully and my experience as a lobbyist is that the Legislature does respect an AGO.”

Nhu Nguyen stated again that the AGO is not binding but is used for direction to debate agreement or disagreement of the issue.

Dr. Kirk asked Commissioner Brandsness if she felt looking at the old will would help her?

Nhu Nguyen stated again that she felt some Commissioner may have information that others do not and has done research that others have not seen.....she suggested that Commissioner Brandsness share any documents with the other Commissioners.

Cathy Barcomb requested that Commissioner Brandsness provide her with a list of what documents she is reviewing and that she would then compile a packet for the other Commissioners to review.

Commissioner Brandsness agreed to provide a list and then stated that even if the Commission didn't ask for an AGO that the Legislators she is working with will ask.

Allen Biaggi stated that the previous Director of DCNR recognized and felt the creation of this Foundation would be the “best bang for the buck” in the long term of helping wild horses and be self sustaining.

Dr. Kirk suggested that the motion be rescinded to give all the Commissioners further time to research the document list provided by Commissioner Brandsness and review the will.

Commissioner Brandsness rescinded the motion, Commissioner Brehm rescinded the 2nd.

Dr. Kirk directed Cathy Barcomb to put this agenda item on the next Commission agenda and to get all the information mentioned and provided by Commissioner Brandsness to the Commissioners for review..

4) Public Comment Period

Commissioner Brandsness stated that she was an experienced lobbyist in many different scenarios and usually Legislators will also plan to re-allocate funds. She felt the Commissions thought process should be what the allocation of those funds could or

should be used for if not the Foundation, that the Commission should prepare for that scenario.

Cathy Barcomb reported on the accomplishments of the Commission from the Strategic Plan that was developed by the Commission and the public and accepted by the Legislature in 1999.

Commissioner Uhalde stated that he felt Cathy Barcomb had exhausted herself on the statewide appropriate management levels (AML's) and that we were just going day by day on all the issues. He further stated the mission of this Commission and main objective was helping the horses.

Dr. Kirk stated that Commissioner Uhalde was exactly right. That it was the Commissions intent of keeping what was best for the wild horses first and he felt with all the years work on the Strategic Plan that the Commission and the Legislature did just that. Dr. Kirk felt we could resolve the question of the expenditure of Heil monies with an open book and sharing of information between all the Commissioners.

Commissioner Uhalde suggested that the Commission re-visit the Strategic Plan that we had developed and take a look at what we've done and where we can still continue to help.

Commissioner Uhalde also brought up a concern he had with a fence project that was supposed to be completed and had not been done and that horses are being killed on that roadway every week, sometimes multiples, twice last week. He stated it was between the White Pine and Elko HMA's and at Dolly Varden, there was a cow catcher but the open fencing was still allowing animals to get hit.

Susie Stokke, NV BLM horse lead stated she would look into it. Susie went on to report that many fires had occurred in that area of the State and that BLM was forced to do multiple emergency gathers due to loss of habitat. She stated that Little Owyhee, Little Humboldt, Seaman HMA, Dry Lake, and Rock Creek were all affected.

Ms. Stokke also added that Nevada was almost complete in setting of AML's. She stated that 3 of 102 HMA's still needed to be done, Rock Creek was not set because of NEPA issues, and the other two were Bullfrog and Montgomery Pass.

Commissioner Brehm stated that she had gotten a call from a woman concerned about the shot horses in Nevada and that hunters were to blame.

Susie Stokke reported that the "rumor" was completely unfounded. The horses had been shot in February 2006 and that many rumors have been flying around the internet but to date, law enforcement has no leads nor any solid allegations as to who killed those horses. She added that some of the interest groups and BLM had put together a reward fund for information leading to the arrest and conviction of the guilty parties but so far, no information has come forward.

Ms Stokke added that they BLM was still working on getting the waters done on the Nellis range. That some work had been done but the logistics of working on the test site and their schedules has hampered their efforts. She stated that Nellis was spending more time on the war effort and that was their priority. She informed the Commission that they would be doing a tour in September to look at the developments, that she expected 1,000 – 1,200 horses by next summer and that the BLM wanted to have more waters in place ahead of time for next year in case water would have to be hauled. She added that they would be flying over the labor day weekend for a foal count and current AML on Nellis was 3-500 animals.

Allen Biaggi reported that the State agencies were in the process of getting ready for the next Legislative Session and that the Commissions budget was a “hold the line” budget. Basically its keeping expenditures status quo and he had authorized a commitment to a \$1,000 reward fund for the Commissions budget.

Patti Colbert stated that the Foundation would work with the Commission to prepare for the session and if there was a “mustang day”, that they would be happy to attend and give reports.

5) *Set Next Meeting Date

It was suggested that the next Commission meeting be held in conjunction with the Foundation for a “workshop” day and it be held during Cowboy Poetry in Elko at the end of January, if at all possible. Cathy Barcomb stated she would look into it and be in touch with all the Commissioners and Foundation.

6) *Adjournment

Commissioner Uhalde motioned to adjourn the meeting, seconded by Commissioner Brehm, unanimously approved.