United States Department of the Interior

BUREAU OF LAND MANAGEMENT
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To: Field Manager, Las Vegas Field Office

From: Red Rock HMA Range Assessment Team (Ron Hall, Wild Horse and Burro Specialist, National Program Office; Valerie Metscher, Rangeland Management Specialist, Tonopah Field Station; Paul Podbomy, Lead Natural Resource Specialist, Ely Field Office; Duane Wilson, Rangeland Management Specialist, Nevada State Office)

Subject: Condition of the Rangeland and Wild Horses within the Red Rock HMA

This team of Bureau specialists was asked to evaluate the current condition of the rangeland and the wild horses within the Red Rock HMA. We were asked to determine the number of wild horses the HMA could support without supplemental waters, with the existing supplemental waters, and with the development of new waters. We were also asked to look at the condition class of the existing wild horses in the HMA. We reviewed existing monitoring data collected in the HMA, and toured the areas currently being used by the wild horses.

Extensive efforts to preserve the wild horses in the Red Rock HMA have been made by the National Wild Horse Association, BLM, and others. All involved are to be commended for their concern, dedication, and resolve on behalf of these animals.

This team did not consider the social-political issues involved with managing wild horses in close proximity to Las Vegas. We were only concerned with rangeland health and the wellbeing of the wild horses in the long-term. In accordance with the wild horse regulations, we considered whether wild horses could be "managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat" Listed below are our findings and recommendations.

VEGETATION RESOURCE

Findings

1. The area around the proposed Wild Horse Valley Well Pipeline is a Limy 5” – 7” range site dominated by creosotebush and white bursage with less than 10 percent perennial grasses at potential natural community (PNC). Normal year production for all vegetation would be about 300 pounds per acre. During our field tour, we observed less than one percent perennial grasses in the plant

community, primarily big galletta. Estimated stocking rate (at 50 percent

utilization based on the allowable use level (AUL) in the RMP) for a normal year would be approximately 520 acres per AUM; for a dry year it would be 780 acres per AUM.

2. The Bird Springs area including the galleta flat east of the spring is a Shallow Gravelly Loam 5" - 7" range site dominated by blackbrush. We estimated there is less than five percent big galleta in the plant community. Normal year production for all vegetation would be about 350 pounds per acre. There appeared to be no forage available this year due to heavy and severe use in the past few years with only 8-10 wild horses and the current drought conditions. No green-up was observed. There is no forage value left in the dry grass plants. Drought and heavy/severe use has resulted in numerous dead or dying grass plants.

3. The large galleta flat near the proposed Wild Horse Valley Well is a Gravelly Fan 5" — 7" range site with up to fifty percent perennial grasses at PNC. Normal year production for all vegetation would be about 600 pounds per acre. We observed moderate use of the galleta which is the AUL in the RMP. This area only covers about 300 acres which would mean there would only be about 38 AUMs of forage available in a dry year (at 50 percent use). However, proper range management would suggest an AUL of only 30 percent.

4. The area around Tunnel Spring is a blackbrush range site with little perennial grass similar to the area around Bird Spring. There was no forage observed in the immediate area around the spring. The main forage area is the galleta flat near the proposed Wild Horse Valley Well.

5. The southern portion of the HMA near Rainbow Quarry is a Shallow Gravelly Loam 8" -10" range site almost completely dominated by blackbrush and yucca. Normal year production for all vegetation would be about 500 pounds per acre with 15 percent perennial grasses at PNC. There is a burned area that has more perennial grass, mostly Indian ricegrass and some big galletta, than unburned sites. There was a small amount of winterfat observed with light to moderate use. Use on Indian ricegrass was severe. We found many plants with dead crowns and only some live growth around the edges. There was some recent green-up. (This was the only area where we saw any green-up except on annual grasses.) There were 12 wild horses observed in the area. The only available water is being hauled by the mine company.

6. Most of the area north and south of Highway 160, including the Cottonwood Valley Burn, is a Shallow Gravelly Loam 8" — 10" range site. Normal year production for all vegetation would be about 500 pounds per acre with 15 percent perennial grass in PNC. The only perennial grass observed (Indian ricegrass) was inside the study exclosure. This area burned in the seventies, and the exclosures shows limited recovery even with thirteen years of rest. No forage is available outside the exclossire. Potential for recovery of this site is

there based on the exclosure, but the area would require years of rest from grazing.

7. . The area immediately around the Mud Spring Exclosure No. 1 north of Highway 160 is a Coarse Gravelly Loam 5" — *7″* range site with 45 percent perennial grass in PNC. We observed only a trace of perennial grasses outside the exclosure which appeared to be dying because of the drought More grass was observed inside the exclosure where there is no grazing, but it too was dying because of the drought. There is no forage presently available for wild horses.

Summary .

Majority of the range sites in the HMA have low potential for perennial grasses. Most of the sites currently have little to no perennial grasses present. Currently little to no forage is available because of past and current heavy to severe use and present drought conditions.

Potential to recover/restore these range sites is limited because of the low precipitation. It is even more limited with continued overgrazing by wild horses. Even with no grazing, these sites would not recover much because there is only a trace of perennial grasses in the plant communities at the present time. Sites with any potential for recovery are very small in size and are also degraded.

There appears to be no reason to develop water (Wild Horse Valley Well and Goodsprings Well) because there is essentially no forage available for wild horses in these areas.

WATER RESOUCE

Findings

1. Water is currently being hauled to several locations (i.e., Tunnel Spring, Rainbow Quarry and Bird Spring) to supplement marginal water sources.

2. The tanks at Bird Springs were nearly **full** and the estimated use by wild horses is only 4- 5 animals. Historically this spring produces. 1 gallon per minute. The present number of wild horses is taking all the water being produced and not diminishing storage capacity.

3. Tunnel Spring is non-functional and water is being hauled to the site periodically. Present use level is estimated at less than 3 -5 animals.

4. The Rainbow Quarry site is not a traditional watering area, but is presently the concentration area for the majority of the wild horses in the HMA. Water is being hauled by the "good will" of the mine company. The pond was nearly dry on

12/2/03 and completely dry on 12/3/03. Reportedly the truck had mechanical problems. On 12/3/03 the tanker was parked at the edge of the mine and water was running from a drain valve onto the ground. No catchment/trough was provided; however, tracks indicate wild horses are watering at a shallow depression in the ground where water puddles.

Summary - The present population of ~ 25 wild horses would not survive at this time without supplemental water.

ANIMAL CONDITION

Findings

1. Three wild horses were observed in the vicinity of Bird Spring. One was in Henneke Condition Class 4, and the other two were not classified.

2. Fifteen animals were observed in the vicinity of Rainbow Quarry in Henneke Condition Class 4-5 with one in' Condition class 3 and one in condition class 6.

Summary - All wild horses observed were in good condition probably because of the low number of animals, supplemental feeding that is occurring (although we do not know how extensive this is), and moving into areas not traditionally used.

HUMAN CONFLICT

Findings

1. Recreational use (bicycle riding and horseback riding) within the HMA in the vicinity of Highway 160 is heavy and has resulted in increased conflicts between humans and wild horses especially with regard to use of underpasses and trails.

2. The existing population is located as far from recreation use as resources will allow. All horses north of Highway 160 were removed in 2002.

3. Wild horses are very approachable because of the constant contact with humans.

4. The underpasses on Highway 160 are available for wild horses to use; however, if animal's are not familiar with underpasses they may not be used in the future.

5. Wild burros have adapted very well to human activities in the HMA and all animals observed were in good condition.

Summary - Conflicts between wild horses and humans have occurred mainly at the underpasses and on trails used by mountain bikers and horseback riders. These, conflicts will only increase especially as Las Vegas expands to the edge of the HMA.

RECOMMENDATIONS

1. It is our recommendation that the 22 wild horses currently being held at Oliver Ranch not be released back into the HMA. Forage and water are not adequate to maintain the existing population of wild horses in the HMA let alone these additional animals. In addition, these horses have been held for over a year. Releasing them back into the HMA would be inhumane.

2. It is our recommendation that wild horses should not be managed within the Red Rock HMA. Whether existing water sources are supplemented or not, or new waters developed, there is not sufficient forage available to maintain any wild horses in the HMA on a yearlong basis. The vegetative resource has already been severely impacted, and continued grazing by wild horses would not maintain rangeland health and a thriving natural ecological balance within the area. We do feel the HMA can be managed for burros.

3. It is our recommendation that the wild horses presently in the HMA be removed. These horses are only being maintained because of water hauling. If this stops these horses will deteriorate quickly. In addition, forage is in poor condition and limited, and there may not-be enough to carry these animals into the next growing season. If the drought continues into next year, there will definitely not be enough forage for these ~25 animals to prevent these animals from losing body condition.

Ron Hall
Valerie Metscher

TO: NEVADA STATE WATER ENGINEER

The State of Nevada's Department of Wildlife protests the Bureau of Land Management's (Bureau) application (S.O.N. Water Res. Ser. #70316) for rights to underground water. The Bureau proposes that groundwater made available from the development of a new well and associated water storage and distribution appurtenances would serve approximately 40 wild horses and an unidentified number of wildlife. The Department of Wildlife maintains that any benefits from a well at the site identified will be far outweighed by negative impacts to various wildlife species and their habitats by this action.

The Department also asserts that Bureau's ground water (well) application:

- Is contrary to Nevada Revised Statutes and interagency agreements; and,
- Does not comport with federal statutes and judicial direction, which when considered as a whole, clearly prohibit providing food and water for wild horses and burros beyond the resources naturally available.

Impacts on Wildlife

As the agency with primary authority regarding wildlife in Nevada, the Department of Wildlife maintains that the benefit to wildlife identified in Item 12 of the application is exaggerated and in error. Birds and medium to small sized mammals will undoubtedly use water at the location proposed. However, this site is away from good habitat for mule deer and bighorn sheep as stated in the application. The concentration of wild horse use created by development of the proposed water would directly result in additional grazing pressure in this desert habitat and that this use would further deteriorate habitat conditions for native wildlife species presently occupying the area. The Department does not foresee that wildlife use at this well site will prove significant.

Bighorn sheep and mule deer, as cited in the application, will not receive significant benefit. The proposed well location is in a relatively flat, open area close to a well-traveled road and well distanced from the preferred habitats for both species. Any use of the artificial water by deer or bighorn would be in passing or by chance and not provide consistent, measurable benefit to those species, especially in the presence of horses and burros.

The primary concern for wildlife relates to the increased number and distribution of wild horses. Physiologically, horses are capable of drinking only three to four gallons of water at one time. Horses in the Mojave Desert may require from 15 to 20 gallons per day in the summer period. Meeting these needs would require either substantial loafing periods around the water or numerous trips to the water each day, particularly during the critical summer period. This presents a problem for water use by many wildlife species as well as creating significant grazing pressures on this fragile desert habitat. This grazing pressure will reduce available forage and degrade habitat structure important to native wildlife in the area. Among these species are several State Protected and/or Threatened species as identified in NAC 503.020 through 503.080. These include Gila Monster, Desert Tortoise, Burrowing Owl, and Golden Eagle. As NRS 501.100 states that "The preservation, protection, management and restoration of wildlife within the state contribute immeasurably to the aesthetic, recreational and economic aspects of these natural resources", the degradation of the desert habitats associated with the proposed development and use of water at this site would not be consistent with this legislative declaration and therefore not in the public interest. NRS 503.584 also reaffirms the commitment to the "conservation, protection, restoration, and propagation of selected species of native fish and other vertebrate wildlife...."

Wild horses and burros, when present, become dominating species in the ecological systems of the United States. Studies by Joel Berger (University of Nevada, Reno) and others [Summer (1959); Weaver, R. A. (1959); Weaver, R. A. (1972); Dun and Douglas, (1982)] have documented interspecies dominance and territorial aggression that can negatively impact use opportunities of the natural resources by other animals. With regard to interspecies social interactions, Berger (1986) reports on pages 254-255 of his book, Wild Horses of the Great Basin: Social competition and population size, "In fact, in virtually all cases, native species were subordinate to exotics (table 11.1), that is, horses supplanted deer 11 times, bighorns 2 times and pronghorn 6 times." Department of Wildlife personnel have observed similar social interactions where wild horses have displaced elk.

In the Bureau's own *A Guide to Managing, Restoring, and Conserving Springs in the Western United States* (Technical Reference Manual 1737-17, 2001), advisement on wild horses included, "Unlike domestic livestock, wild horses and burros are not usually subject to grazing systems that would afford some protection or rest for springs. As a result, their activities frequently reduce or eliminate riparian vegetation, pollute aquatic habitats and impact functioning condition." The manual proceeds to point out, "In addition, springs are areas of social interactions for wild horses and burros where the dominant males protect their bands of females. This territoriality tends to keep horses or burros using the same spring, increasing the negative impacts to these areas."

The Bureau's proposed well would result in an expanded wild horse distribution and establish year-round use in an area that currently receives predominately cool season use. Wildlife would certainly be negatively impacted by competition resulting from these changes to increased equine use.

Stated Beneficial Use

Item 3 of the water application is in error. The assertion that beneficial use is wholly for wildlife implies that wild (i.e. feral) horses and burros are wildlife. NRS 501.100 recognizes wildlife as "part of the natural resources belonging to the people of the State of Nevada." Because feral equines associated within the area of this application are not under direct management by the State (i.e. Department of Wildlife), they are not wildlife per NRS.

In contrast, a "wild horse" is defined in NRS 504.430 as, "a horse, mare or colt which is unbranded and unclaimed and lives on the public land." Although designated as "wild" by Federal law, wild horses and burros in Nevada more aptly fit the definition for livestock found in NRS 561.025; i.e. "All horses, mules, burros and asses or animals of the equine species." Further, NRS 576.0117 reads, "Livestock includes all kinds and ages, both sexes, singular and plural, of the bovine and equine species and sheep, goats and hogs."

Clearly, in no manner have "wild" horses been classified as wildlife under Nevada Revised Statutes. Therefore, the Bureau's water application should list the beneficial use as *livestock* and the well development would be for *stock water.*

Wild Free-Roaming Horse and Burro Act of 1971

The State of Nevada through its Wild Horse Commission commits to the standards of the Wild

Free-Roaming Horse and Burro Act of 1971 (Act). NRS 504.470 states in part, "The primary duties of the commission are to preserve viable herds of wild horses on public lands designated by the Secretary of the Interior as sanctuaries for the protection of wild horses and burros pursuant to 16 U.S.C. | 1333(a) at levels known to achieve a thriving natural ecological balance within the limitations of the natural resources of those lands and the use of those lands for multiple purposes, and to identify programs for the maintenance of those herds."

The State of Nevada is also committed to uphold the tenants of the Act by: 1) virtue of the Act granting standing to State wildlife agencies (i.e. the Department of Wildlife); 2) the Memorandum of Understanding between the Department of Wildlife and the Bureau; and, 3) through the Nevada Wild Horse Commission per Nevada Revised Statutes.

The Act [aka Public Law 92-195 and 16 U.S.C. | 1333] states in part, "The Secretary is authorized and directed to protect and manage wild free-roaming horses and burros as components of the public lands, and he may designate and maintain specific ranges on public lands as sanctuaries for their protection and preservation, where the Secretary, after **consultation with the wildlife agency of the State** wherein any such range is proposed and with the Advisory Board established in section 7 of this Act deems such action desirable. ..." (emphasis added).

While query was made to the Department of Wildlife for input concerning what wildlife might use the proposed well site, no consultation was initiated by the Bureau to discuss at length the water application purpose and goals. We believe the Bureau has purposely avoided a formal consultation as intended per the Act.

The Act also reads, "The Secretary shall manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain **a** thriving natural ecological balance on the public lands." While the Act protects wild horses and burros, they are held to different standards of management and accountability compared to other Bureau programs. Most notably, the Bureau must manage wild horses and burros to the standard of *thriving natural ecological balance.* The Department maintains that this standard restricts wild horse and burro managers to a portion of the natural resources available and precludes the Bureau from providing additional feed or water by unnatural means, the exception being for short periods in emergency situations.

The Act further reads, "All **management activities shall be** at **the minimum feasible level** and shall be carried out **in consultation with the wildlife agency of the State** wherein such lands are located ***to*** **protect the natural ecological balance of all wildlife species** which inhabit such lands, particularly endangered wildlife species. Any adjustments in forage allocations on any such lands shall take into consideration the needs of other wildlife species which inhabit such lands." (emphases added). Consistent with the Act, the Department of Wildlife has a long-standing Memorandum of Understanding (MOU) with the Bureau. Master MOU Supplement #5 directly recognizes the Department of Wildlife's right of consultation to represent the best interests of wildlife in consideration of wild horse and burro management.

Besides the conflict with Federal law, the Department of Wildlife finds that a water well, consequent to approval of the Bureau's application, would allow for the expansion of wild horse numbers and distribution in excess of what could be supported by otherwise natural water sources. Such changes constitute practices otherwise intended for commercial livestock operations. Granting a water right for wild horse use that would supply water in excess of the natural carrying capacity of the habitat would establish a precedence which could result in

widespread increases in wild horse and burro distribution and population numbers statewide while concurrently harming Nevada's wildlife resources.

The Bureau's 1998 Las Vegas Resource Management Plan clearly identified water as a component of habitat to be analyzed in monitoring wild horse and burro populations (RMP directive WHB-l-a). Water was recognized as an important, natural habitat variable in finite or limited supply. As such, water is subject to consideration under 43 Code of Federal Regulations §4700.0-6(a), which states in part, that wild horses and burros "shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat." Although the Bureau is applying for water in the subject water application for 40 wild horses, it has not produced a Herd Management Area Plan required by Federal regulation to address issues and define management of wild horses and burros within the Red Rock Herd Management Area. Nonetheless, the Bureau is currently attempting to establish an appropriate management level (AML) for horse and burro numbers in the absence of a defined management area; and the animal calculations do not include consideration of water availability as a limiting resource.

The Bureau's proposal to develop a well to artificially enhance water availability and facilitate wild horse redistribution calls into question the Bureau's compliance with the directives of *thriving natural ecological balance, the productive capacity of their habitat* and *minimal feasible level of management.* When ecological limits are exceeded, the Bureau is mandated to remove excess animals to prevent a deterioration of the range associated with overpopulation. Calculating the need for drilling a well is an admission by the Bureau that it is attempting to establish and maintain a wild horse population where there is not an adequate, natural water supply to support those animals in a thriving natural ecological balance. Interestingly, Bureau resource specialists from outside the Las Vegas Field Office recently evaluated and concluded that the Red Rock HMA was unsuitable for wild horses (see attached).

Summary

Under certain situations, water wells can be a practical solution to shortages. And while wells are an accepted practice for domestic livestock management, the Bureau's water application is an inappropriate and unacceptable measure for Federal wild horse and burro management. Such an action clearly exceeds thresholds for management at a minimum feasible level or thriving natural ecological balance as specified in the Act.

In view of the Bureau's application, the Department asserts that based upon knowledge regarding wild horse & burro interactions with wildlife and the coincident expansion of horse numbers and distribution associated with the proposed development and use of water, negative impacts to wildlife and wildlife habitat in the area will occur. The implementation of the proposed project and the associated use of water identified in this application would set a precedence for managing wild horses and burros beyond the natural capacity of their habitat, clearly in contradiction of the intent of both Federal and State laws. The implication is widespread negative impact to Nevada's wildlife. We ask the Nevada State Water Engineer to concur with our opinion that the Bureau's Application 70316 threatens to prove detrimental to the public interest.