

ISPWHB-Karen Sussman  
1995

[http://commdocs.house.gov/committees/resources/hii50579.000/hii50579\\_0.HTM](http://commdocs.house.gov/committees/resources/hii50579.000/hii50579_0.HTM)

*This is a report, prepared by the ISPMB, for the Subcommittee on National Parks and Public Lands and presented to Chairman James V. Hansen - June 5, 1998*

## STATEMENT BY KAREN A. SUSSMAN, PRESIDENT

### INTERNATIONAL SOCIETY FOR THE PROTECTION OF MUSTANGS AND BURROS

As president of the International Society for the Protection of Mustangs and Burros (ISPMB), and a member of the past National Wild Horse and Burro Advisory Board, which is mandated by Congress, I welcome this opportunity to give testimony.

ISPMB is the oldest wild horse and burro organization in the United States. Our first president, "Wild Horse Annie," and ISPMB were instrumental in rallying support for the passage of the Free-Roaming Wild Horse and Burro Act of 1971. In thirty-eight years of our organization's history, we have a strong historical perspective and understanding of the successes and failures of the BLM's Wild Horse and Burro program.

It is a real tragedy for the American people and our Nation's National Heritage Species, the wild horses and burros, so declared by Congress in 1971, that we are here on a two-fold mission. This mission is to dispel allegations that this Sub-Committee is investigating and to offer solutions for improving the management of wild horses and burros on public lands for the BLM. It is an irony that after twenty-seven years of the enactment of a law which clearly tells the BLM how they should manage wild horses and burros that this should be our mission today. BLM's program should have been milestones ahead as one of its most successful and visible programs and might I add, a program which could operate in the black. Instead, on BLM's present day course, we believe that ***wild horses and burros are being managed out of existence.***

In 1971, 303 wild horse and burro ranges (herd areas) existed. Today, we have lost 40% of these ranges and over 10 million acres of land where wild horses and burros once roamed. Out of the remaining 180 plus ranges, nearly half of those ranges have populations with so few numbers that populations will not be sustained over time. Another 20% of these ranges have AML set at numbers which will not sustain viable populations. This adds up to nearly 70% of the herd areas left in danger of eventual elimination. BLM's target population level for horses is projected at 12,044 and burros at 4,396 which is far less than the numbers present in 1974 when the official count was approximately 67,000 wild horses and burros and at which time the Act stated that these animals were "*fast disappearing from the American scene.*" This target population is not based on monitoring data which is required by the statutory language of the law. Out of the remaining 30% of ranges, we believe that sex ratios may be so skewed due to selective removals that population numbers will drop drastically with stallion ratios far greater than mares.

Simply, there is no over-population of wild horses and burros. We are in real danger of losing one of America's great resources, a part of our Western heritage, a part of our history.

By design, BLM has not made great strides at trying to make this program work. In 1992, the National Wild Horse and Burro Advisory Board recommended that BLM create a training program for its specialists and hire a person to concentrate solely on marketing their program.

BLM declined doing this at late as 1995. How can any business survive for 27 years or let alone be successful, without a training program for its employees and a quality marketing program for its valuable product. It wasn't until Associated Press reporter, Martha Mendoza, uncovered how thousands of wild horses were going to slaughter that the BLM acquiesced to creating a very low budget training program slated for this year.

In spite of BLM's attempt to sabotage this unique program, five-hundred years of nature's breeding program has created extremely healthy animals. Dr. Gus Cothran from the University of Kentucky asserts that wild horses are more genetically diverse compared to any particular breed of horse in the United States. Wild horses and burros by nature are healthier and stronger and can subsist on much less food than their domestic counterparts. Disease is practically unheard of in the wild and only if they have been exposed to domestic stock.

Wild burros have helped other wildlife survive by digging for water as deep as four feet. These little springs that burros have created actually water other wildlife in the worst of droughts. In Montana, Big Horn sheep have increased their habitat areas by staying close to the wild horse herd for protection. An experimental program is being created as we speak where wild burros will be used in herds of livestock to protect them from wolf predation. Most studies show that other wildlife and wild burros share watering holes. It is a fallacy that wild burros defecate in water holes. Wild burros will go at any length to avoid stepping in water. The problem is not *competition* between the animals but *conflict* created by the users of public lands. The term "feral" is a word which denigrates wild horses and burros and keeps conflict high. To label these animals in any other category except wild diminishes their importance and creates more conflict. This conflict must be resolved and it cannot be resolved using wild horses and burros as scapegoats for declining habitat. The greatest cause of declining habitat and riparian damage can be attributed to domestic livestock grazing not wild horses and burros.

The real travesty is that the American public believes our wild horses and burros are being protected because there is a law designed to protect them. This law is a sound law which requires BLM to be good stewards of the land but BLM has ignored this law. The lack of enforcement of this law has created the systematic elimination of wild horses and burros from their rightful lands. We ask that members of this oversight hearing bring BLM to accountability and require them to adhere to the letter of the law. We ask that a separate oversight hearing commence to review all allegations of corruption within the BLM especially the closure of the Grand Jury Investigation in Del Rio, Texas in 1995 investigating corruption within the Bureau's Wild Horse and Burro program. Not one shred of evidence was ever allowed to be presented to the jury. We know that without justice there is no freedom.

**Implementation of the Wild Horse and Burro Act:** In understanding the problems pertaining to the implementation of the Act, it is paramount to understand the history of the BLM and its attitude towards wild horses and burros. **We contend that the future of wild horses and burros is bleak at best and likely that they will be managed out of existence if BLM is not**

**held accountable to the implementation of the Wild Horse and Burro Act.** When an agency's attitude is so ingrained in the extermination of wild horses as it was with the BLM leading up to the 1971 Wild Horse and Burro Act, it is little wonder that these animals received little protection from the agency mandated by law for their safekeeping.

Prior to the passage of the Taylor Grazing Act (TGA) of 1934, wild horses were being exploited by mustangers for profit in the pet food industry and by cattlemen who suspected wild herds of competing with cattle for range. The TGA created the Division of Grazing under the department of Interior with Colorado Stockman, Farrington Carpenter as its first director.

, Rey states, *"Although this act regulated grazing in the West, its administration strongly reflected grazing interests. Consequently, the Grazing Service was an agency somewhat dominated by stockmen."* (1975 - University of Michigan).

, The Grazing Service policy, as quoted by its first director, was .. *"the removal of wild horses from public ranges..."* (Wyman, 1975) *"This unregulated exploitation of the wild horse herds constituted the Grazing Service's policy for nearly thirty years"* (Rey, 1975).

During this thirty year period, the Division of Grazing became the Grazing Service in 1939 which later combined with the General Land Office in 1946 and became known as the Bureau of Land Management.

, *"After the TGA, the government worked to exterminate the feral horse and thousands were taken off the ranges... Old timers that ran range horses are still bitter about having to give up their horses under pressure from the government, and many felt that the government men were brutal in the way they handled the removal. One man remembers a government plane chasing horses off a 400 foot cliff."* (Wild Horse Controversy -Thomas 1979)

, *"In a classic example of western control of federal lands, the Taylor Grazing Act retained the elite stock raisers' dominance using a permit system, a small grazing fee and a weak agency to manage the program."* (This Land is Your Land, Shanks, 1984)

, *"The TGA of 1934 gave the ranching industry added organization to and the government means to destroy free-roaming horses. By the 1940's the horse population was so low that people began to worry (or hope, in the case of most stockmen) that free-ranging horses would be extirpated completely from the West."*( Waste of the West - Jacobs 1991)

, *"Agency corruption and pro-ranching biases have remained prevalent all along, though things have begun to change somewhat in recent years."* (Waste of the West - Jacobs 1991)

, Wild Horse Annie testified before Congress in 1971 prior to the passage of the Wild Free-Roaming Horse and Burro Act stating, *"And it climaxed ten years of struggle against the powerful forces aligned against effort to curtail the slaughter - forces comprised of domestic livestock industry, the target animal industry, and pet food manufacturers, and the Department of Interior's Bureau of Land Management - custodian of the public lands- which looked upon the commercial harvesting of the animals as an expedient means of range clearance to make more forage available to the vested interest groups. From an estimated two million at the turn of the century, their numbers have been reduced to an estimated 25,000 in the late 1950's."* "Decades of

*bloody and indiscriminate annihilation of wild horses and burros, under the agency's direction in order to make more grazing land available for domestic livestock, was a black chapter in the history of man's abuse of animals until an act of Congress in 1959 outlawed that expedient means of 'management and control'."*

Wild Horse Annie's June 4<sup>th</sup>, 1976 presentation to the National Wild Horse and Burro Advisory Board, "*Shortly after the Wild Horse and Burro Act was passed, I was asked if I believed it could be effectively administered, and my reply was that it all depended on attitudes.. attitudes of those actually involved in administering the Act, including those at the field level. Subsequent developments have confirmed that opinion.*" Wild Horse Annie was chastising the BLM for its numerous unjustified accounts of wild horses overgrazing on public lands as quoted in public documents and newspapers. She goes on to document that in spite of BLM's accounts of over grazed ranges permitted use increased in 1973 and 1974. Annie stated that these distortions about wild horses would lead to a dangerously high animosity among all interests involved in national resource land use and preservation. Precisely, this is what has happened today. We are here once again to clear distortions about wild horses and burros.

BLM's *laissez faire* attitude in administering the Act is acknowledged by some employees as the agency's hope that the Act would somehow disappear. On June 17, 1976, the constitutionality of this law was challenged in the Supreme Court in *Kleppe v's New Mexico*. The stalwartness of the Wild Free-Roaming Horse and Burro Act did not waver. The PRIA amendment passed in '78 which eliminated the Secretaries' discretionary authority for removal and disposal of wild horses and burros and laid out a clear definition of excess. Regulation changes proposed in 1984 which were contrary to statutory language of the Act by trying to circumvent PRIA allowed BLM to gather an unprecedented number of wild horses during the two year period that the rule changes were pending. However, at the end the 16 month period, the BLM reverted back to the statutory definition of excess and dropped this proposed rule change on the definition of excess.. With approximately 40,000 horses sitting in BLM corrals and feedlots, BLM was saddled with disposal of massive numbers of horses which should not have been removed from public lands in the first place. Another 1984 regulation was implemented known as fee-waivers/mass adoptions which allowed 100 or plus horses to be given to adopters. Ranchers adopted them and turned around and sold many to slaughter after title passed. An estimated 20,000 horses ended up in fee-waivered programs. A lawsuit against BLM halted the mass adoptions and forced the agency to develop alternatives such as the prison training program and sanctuaries for unadoptable horses. During these years, with BLM's approval, several attempts were made to allow BLM to sell "unadoptable" horses for slaughter by initiating language which never got out of committee in Congress. The Range Omnibus bill which included the slaughter provision made it to the floor of Congress but was defeated. The fallacious term "*unadoptable*" which BLM labeled horses over the age of seven, created a quagmire for the BLM in its ability to market such horses. (In our 38 year history, we have not found any horse or burro to be unadoptable.)

In 1989, Animal Protection Institute successfully challenged BLM's arbitrary and capricious decisions for removal of wild horses and burros from public lands. The Interior Board of Land Appeals (IBLA) required BLM to monitor and inventory habitat to determine if an excess wild horse population existed. This is precisely the strength of the Wild Horse and Burro law because it **requires** BLM to fulfill their mandate as stewards of the land. Because BLM did not have

monitoring data in 1989 to comply with the IBLA ruling, BLM created the Full Force and Effect ruling which allowed them to remove horses immediately as a decision was rendered. In many cases, removal crews were removing horses as the ink was drying on the decision document. This rule was an attempt to remove IBLA out of the decision process. It would even be too late to be granted a stay. Most decisions were now rendered in “full force and effect.” During the 1991 Advisory meeting in Colorado, BLM’s asserted that this rule making would only be employed in the most extreme of cases. I projected that in the very near future BLM would use this as a tool for removals and circumvent IBLA decisions. Such was the case. The burden of proof in IBLA cases no longer was the agency’s responsibility but transferred to the appellant which made cases fall in the favor of the BLM.

BLM reduced herd sizes more by creating a “herd management area” inside of the herd area or range. If animals strayed out of the herd management area even though they were within the herd area, they were removed. BLM soon promoted the fact to the nearby land users that if wild horses strayed on their land, they could be removed. Wild horses and burros could be removed without declaring excess. BLM did not look to see if the animals were permanent residents outside of the boundaries nor did they look at factors which caused the animals to move out of their herd management areas. There is no statutory language in the law to reduce management in herd areas to herd management areas.

BLM violated law by circumventing determining excess number of horses when “emergency gathers” commenced to save wild horses from many contrived dire conditions. The emergencies were in direct opposition to the definition of emergency as was proposed by the Nevada BLM and Wild horse interest groups at a meeting in Reno in 1990. (Information Bulletin No. NV -91-070).

In many cases, after wild horses and burros were removed, cattle were restocked shortly thereafter. BLM conveniently forgets to impose 4710.5 CFR, Closure to Livestock Grazing which states, *“If necessary to provide habitat for wild horses and burros, to implement herd management actions, or to protect wild horses or burros from disease, harassment or injury, the authorized officer may close appropriate areas of the public lands to grazing use by all or a particular kind of livestock.”*

The BLM had over a ten year period where advertising for wild horses and burros stimulated ongoing conflict by falsely asserting “too many wild horses and burros overgrazing on public lands.”

It was in 1990 through 1992 that we had a window of opportunity and a glimmer of hope that the wild horse and burro program was going to change and be given the long overdue recognition it deserved. The Assistant Director for Lands and Renewable Resources, Mr. Mike Penfold, made extraordinary changes in the Wild Horse and Burro program. RMP’s which were not consistent with applicable law were rewritten (Kingman RMP), gathers which did not have supporting field data were shut down (West Douglas Creek, CO), language of employees was scrutinized. An awareness that words create reality took place. Employees who spoke of “getting rid” of wild horses and burros at adoptions suddenly were challenged with language of the intent of the law such as adopting a “national treasure” or having the privileged to share your

life with a wild horse or burro. Advertising changed from negative to positive. For the first time in the Act's history, a meeting took place in New Mexico where all Wild Horse and Burro Specialists would come together to share ideas and develop a consistent program throughout the states. A strategic plan was started with a mission in compliance with the law and goals which elevated the stature of the program. However, this plan soon became the formula for removal of wild horses and burros from public lands when it was handed to employees to come up with objectives. The mentality of the organization was based on removals, and the adoption program and little on range management.

The National Wild Horse and Burro Advisory Board of 1990-92 recognized the great potential of the Wild Horse and Burro program and stated in its introduction, *"It is ironic that the Wild Horse and Burro Act was passed in 1971 with virtually no congressional dissent. Yet in the 20 years since passage of Public Law 92-195, the wild horse and burro management has become mired in nearly continuous controversy. The program has largely been characterized by bad press, legal entanglements, humane and ecological disasters, and growing public disillusionment and polarization. This becomes even more remarkable considering that the wild horse and burro program has the potential to be the Bureau's "show case" program. It could generate a more positive public image and wider public recognition than any of the Bureau's other activities will ever accomplish.*

*Affinity for the wild horse and burro is pervasive throughout the American public. This interest in wild horses and burros cuts across virtually all segments of our society; urban and rural or eastern and western folks all share this interest. No other Bureau activity has the potential for such a positive public identity and appeal. The mythical wild horse is inexorably interwoven into the fantasy and fascination the American society has for the "Ole West" and "Cowboys." Wild horses and burros are a symbol of our roots. Adding to this special identity is the unique opportunity for people through adoption and volunteerism to be a part of the wild horse program. As an image maker, the wild horse and burro program should have exceeded Smokey Bear.*

*In the absence of a common philosophical foundation on how free-roaming large grazing animals should be managed, the wild horse and burro program has instead been tugged to and fro by conflicting special interest agendas to no one's satisfaction. The wild horses and burros have literally been used to create conflict over public rangelands use."*

A new era of trust and credibility was spawning in Washington's BLM. There was hope for the Wild Horse and Burro program. The new Director, Jim Baca of New Mexico talked about making the wild horse the symbol of the BLM. According to PEER's (Public Employees for Environmental Responsibility) White Paper published in April of 1997, *"The BLM began a crackdown on wild horse-to-slaughter operations in 1993 under the new director. BLM investigators began compiling evidence documenting theft of wild horses during BLM sponsored gathers or captures; black booking or phony double branding of horses so that duplicate branded horses could disappear without a paper trail; manipulation of wild horse adoptions where one person holds the proxies for a group of supposedly separate adopters and the horses all end up at slaughter; use of satellite ranches to hold horses for days or weeks as stopping points on the way to slaughter; fraudulent use of wild horse sanctuaries- ranchers subsidized by the federal government to care for unadoptable wild horses deemed excess and removed from the range- as fronts for commercial exploitation. Baca's campaign on behalf of wild horse protection worried top Interior officials and, according to Baca, played a major role in his abrupt removal from office in 1994.*

*One investigation backed by Baca had already been accepted for prosecution by the U. S. Attorney's Office in the Western District of Texas by the time he had left office. This investigation, developed by law enforcement agents from the BLM New Mexico, centered around the direct participation of BLM employees and contractors selling wild horses for slaughter with the knowledge and approval of BLM managers. Their scheme involved the use of satellite ranches and horse sanctuaries to hide the horses for profit.*

*One particular troubling aspect of this investigation was the apparent obstruction and witness tampering by BLM managers. In some instances, BLM officials warned suspects of impending search warrants and the revealed identity of undercover investigators. In Baca's absence, the Department of Interior began a campaign to shut down the U.S. Attorney's investigation although a grand jury had already been convened to hear evidence in the case. Using lawyers from the Interior's Solicitors Office and the agency's civil legal representatives in the Department of Justice, pressure was brought upon the U. S. Attorney to limit the scope of the investigation to the actions of low level BLM employees.*

*Once the investigation was limited, the BLM reassigned investigators working on the case and began a campaign to drive these original investigators out of the agency altogether. When agency lawyers were able to block execution of subpoenas it struck the death blow to the grand jury probe. The grand jury was cut off from the evidence it needed to continue. Lawyers from the Department of Justice also urged that the case be dropped **because the tolerance within BLM for the horse to slaughter trade was so widespread** that it would be unfair to single out any one person for prosecution. Over the objections of the Assistant U. S. Attorney who led the case, the recommendations of the Justice Department lawyers was accepted and the grand jury was dismissed.*

*The Office of the Inspector General (OIG) of the DOI is supposed to be an independent monitor of agency actions but when it came to wild horses this watchdog ran for cover. The OIG answers to the Secretary of the Interior and declined even a request for assistance from the Chief of BLM Law Enforcement who acknowledged that his program lacked independence to investigate its own agency."*

The final paragraph of this report sums up with clarity the problems of the Wild Horse and Burro program. ***"The agency under interim leadership is simultaneously denying the existence of any problem while announcing multiple paper reforms to improve the performance of its Wild Horse and Burro program. The problems are not administrative or budgetary in nature. The problems stem from failure to faithfully execute the law regardless of political consequences."***

The planned strategy by the BLM to diminish the importance of wild horses and burros is seen recently in the revision of BLM's mission statement in 1991 where wild horses and burros were excluded as a resource on public lands. Although we can assume that they should fall under the category of wildlife, it would give greater emphasis standing alone since the law deems them a National Heritage Species and the Supreme Court case, *Kleppe v's New Mexico* clearly defines them as wild animals. Director Jamison was unable to adequately defend BLM's position of omission to two Wild Horse and Burro Advisory members when he said then the BLM would have to list wild turkeys etc. Since wild horses and burros have their own specific law and wild turkeys do not, this does not make sense. In April of 1994, Acting Director, Mike Dombeck lists ten visions for public lands all of which do not include any mention of wild horses and burros.

BLM has not had a Director since 1994 until recently when Pat Shea was appointed in 1997. During the period of interim directors, there was literally no attention placed on the Wild Horse and Burro program until Associated Press articles forced BLM's attention to the program.

Because BLM is required to monitor and inventory the habitat to determine if wild horses and burros are excess, the latest scam is allowing variable utilization levels depending on which species it will impact. Usually in any area where livestock graze, utilization of the plants is allowed to be 50% while in areas where only horses or burros graze, utilization levels are sometimes as low as 10%. The realization is that rabbits and grasshoppers can eat 10% of the plants. This is nothing more than manipulation of field data to promote more removals.

The implementation of the Wild Horse and Burro Act is not difficult. It requires the BLM to monitor and inventory wild horses and burros and habitat. It requires BLM to report to Congress biannually. BLM violated the law by not reporting to Congress in 1994 and 1996 which would have been the 10<sup>th</sup> and 11<sup>th</sup> report to Congress. This report was combined and came out in 1997.

Congress created a superb law which not only protects wild horses and burros but protects habitat and is consistent with other applicable laws such as NEPA, FLPMA, and PRIA. The Wild Horse and Burro Act implements NEPA but its strongest point is that it requires BLM to be good stewards of the land because it requires monitoring and inventorying of habitat and wild horses and burros.

Suggestions for solutions for implementation of PL 92-195 include stronger whistle blower laws to prevent retribution of field employees who try to make decisions favorable to the health of the range and are not supported by management. (Our supporting documentation follows in the next paragraph under Degradation of Riparian Habitat.) Secondly, heads of federal agencies should not be political appointees such as the Director of the BLM, Forest Service etc. Thirdly, that a moratorium on gathers be initiated through the Appropriation bill for a minimum of one year and those monies be used for monitoring of the ranges, determining sex ratios, eliminating fences where possible which prohibit the movement of wild horses and burros, monitoring behaviors and other activities which would protect wild horses and burros on the range. Finally and most importantly, that Congress call a special oversight hearing to review all allegations of corruption within the BLM and its failure to implement the Act including but not limited to the closure of the Del Rio investigation in Texas. If violations of the Act persist within the BLM, that Congress take swift action against the violators.

**Riparian Damage on public lands:** Wild horses and burros contribute little to riparian damage. GAO (1988b) reported that federal lands managed by BLM and the Forest Service had degraded riparian communities, largely due to extensive overuse by livestock. *“Once a riparian community has been or is being degraded and its banks and channels are unstable, excessive use by livestock will not allow the area’s vegetation to recover. Riparian areas degraded by livestock will continue to degrade through accelerated erosion until grazing management is changed. Riparian areas will not recover on a large scale without changes in policy, regulations and management.”* (Draft EIS, BLM’s Rangeland Reform ‘94 from Elmore and Beschta 1987) Cooperrider et al 1986 claims that most riparian areas are in poor condition because of past management practices. Excessive amounts of plant biomass have been removed from riparian areas by livestock grazing and timber harvesting for the past 100 years or more. Major causes of damage to riparian areas include land clearing, irrigation and related water projects, and flooding under impoundments. Livestock, especially cattle will spend a disproportionate amount of time in riparian areas compared to uplands (GAO 1988b, Clary and

Webster 1989, Platts 1990). Riparian communities are critically important and are the most severely altered ecosystem in the U. S. (Brinson et al 1981) Cooperrider and other in a 1986 report estimate that 70 to 90 percent of the natural riparian ecosystems have been lost because of human activities. Riparian communities make up one percent of federal land (Draft EIS, Rangeland Reform, BLM). *“Rangeland riparian communities have been influenced by many factors, including flood control and irrigation impoundments, but they have been most affected by livestock grazing. Livestock tend to spend a lot of time in riparian areas because of the lush vegetation, shade, and water. Livestock remove protective vegetation, trample streambanks, and defecate near streams, degrading water quality.”* (Draft EIS, Rangeland Reform, BLM ‘94) *“Even a handful of cattle will on a vast range will concentrate in riparian areas”* (Chaney, 1990) *“Cattle are relatively lethargic, and once settled into this pleasant environment they stay indefinitely unless strongly induced to move. The BLM found that in the Great Basin all riparian land covers less than 2% of the area, yet receives 50% of the livestock pressure.”* (Waste of the West, Jacobs 1991).

In observations by Seegmiller, wild horses spend little time at watering holes. During the summer months, wild horses will water two times a day at perennial streams. However, during rainstorms, wild horses may not come to water at all but use ephemeral sites or seeps. Wild horses and burros may range up to fourteen miles for forage. Winter time according to Berger, wild horses may not come in at all for water because they eat the snow or drink at ephemeral sites. Wild horses migrate to high ridges in the summer to escape the heat and flies.

The GAO 1988 report on Riparian Areas gives numerous reports of BLM employees fearing retribution by their area managers as they try to implement formal policy. The staff stated that without more specific BLM support from top to bottom for their efforts, it is very doubtful that any worthwhile riparian policy will ever be in place. Some BLM staff stated that they are reluctant to go too far with riparian management programs. They said management has taken reprisal against staff who tried to implement riparian management programs in areas with politically powerful permittees. These permittees can overturn field-level decisions through contacts with higher levels of management. Further reported in this GAO report is the livestock industry’s political power and ability to influence BLM decisions has been documented in general studies. An example used is Audubon’s *Wildlife Report* which stated that the livestock industry intimidates BLM into transferring, demoting, or firing field staff who take actions that upset local ranchers. The study also states that the industry applies pressure to have decisions by BLM field staff overturned at upper agency levels. This makes BLM field staff wary about making tough land management decisions. The GAO also reported that during the years of 1980 and 1988, that technical staffing positions were greatly reduced and therefore BLM was unable to implement the Director’s policy pertaining to riparian management. During the same time, staffing levels of both wildlife and fisheries biologists were reduced by 34 to 56 percent respectively. The GAO reported in 1989 that *“the BLM has often placed the needs of commercial interests... ahead of other users as well as the long-term health of the resources.”* (Knickerbocker, 1990) According to Bernard Shanks (1984) 85% of BLM line managers hold degrees in range management, forestry, or agriculture. Almost all were educated in western universities, especially land-grant colleges that collaborate closely with the livestock industry.

**Disease:** It is rare that wild horses carry disease unless exposed to domestic stock. We do report that when wild horses are contained in BLM's holding facilities that they have suffered from strangles and ringworm which are prevalent in this facilities. Although BLM requires its adopters to have shade and protection from the elements for the wild horses and burros, BLM's facilities fail their own standards. We also are aware that BLM has knowingly sent sick horses from these facilities to adoptions without regard for the welfare of the horses or the transmittal of these illnesses to other horses. According to Dr. Gus Cothran, a leading geneticist in equine research, "*Wild horses are far more genetically diverse compared to any particular breed of horse in the United States.*" This means that wild horses for the most part are not inbred as particular breeds of domestic horses are in our country. Genetic testing has also revealed that many of the herds carry Spanish characteristics and genes from the reintroduction of Spanish horses into the U. S. in 1493.

**Habitat destruction:** Destruction of the habitat occurs mainly around water sources. These areas were covered under riparian destruction. According to GAO's 1990 Wild Horse Report, wild horse removals have not significantly improved range condition. The following reasons were given: 1.) Wild horses are vastly outnumbered on federal rangelands by domestic livestock. There are an estimated 4.1 million domestic livestock compared to approximately 25,000 wild horses and 5,000 wild burros. In total the domestic livestock consume 20 times more forage than wild horses which means reductions in wild horse populations will not substantially reduce total forage consumption. 2.) Wild horse behavior patterns make the horses somewhat less damaging than cattle especially to vulnerable ranges. Available horse behavior studies demonstrate that, unlike cattle which concentrate on lower elevations, wild horses range widely throughout both steep, hilly terrain and lower more level areas. Range conditions in steep hilly areas where cattle do not frequent are generally better than in lower areas. Reducing horse populations in these areas has been shown by experience to have a negligible effect on the resource. In the lower level areas, especially ecologically important riparian areas adjoining streams and other water sources, cattle do more damage because they tend to "camp" in the areas instead of watering and moving on. GAO again reiterates in this report that livestock grazing is the primary cause of damaged riparian areas. 3.) Conflicting BLM reports gave reasons why wild horses were removed in an area in Wyoming for damage to the riparian areas however, other documentation showed this location was over grazed by livestock and not wild horses. 4.) In many areas where wild horses removals have taken place, BLM authorized grazing levels have either not been reduced or have been increased thereby negating any reduction in forage consumption. Examples are given by the GAO where 349 wild horses (or 4,188 AUMs) were removed in 1986 and in 1987 the rancher was granted a temporary increase of 2,266 AUMs for livestock in the same area. Another case involved a heavily over grazed range where the Nevada State office recommended removing 176 horses and in addition reducing livestock grazing by almost 80%. The BLM District office planned to remove the horses but had no plans to remove the permittee's authorized livestock. Another Nevada case sites the removal of over 2,800 wild horses from a herd area over 4 years based, in part, on a Nevada district court's ruling in favor of the permittee. After the horses were removed BLM found that overgrazing persisted and that 18% cattle reductions needed to take place. Instead, BLM is collecting more data to strengthen support for "negotiated" grazing reductions with the permittee in the future.

To restore damaged habitat several solutions should be employed. According to the above GAO report, reducing authorized grazing levels would likely be cheaper than wild horse removals to achieve the same reduction in forage consumption. BLM's domestic livestock grazing program currently operates at a substantial loss to the federal government. For example, in 1993, BLM and Forest Service spend an average of \$3.99 per AUM of forage grazed by livestock on lands they administer. The grazing fee charged was \$1.86. This represents a loss of \$2.13 per AUM. BLM alone administers 15 million AUMs of forage on its lands representing a loss of nearly 32 million dollars. Secondly, suspended use of AUMs should not be allowed. Suspended AUMs are those AUMs representing forage that is not there for grazing either because rangelands are over grazed or too many AUMs were allotted in the 1964 allocations and forage is not available. It is these suspended AUMs in which "paper" cuts are made by the BLM showing that cattle have been reduced when in essence actual cows were never there to be reduced. The reduction is a paper reduction only. Jacobs reports, "*Cattle alone now eat a greater relative percentage of Western vegetation than did all native large ungulates combined when they roamed in great herds and scattered bands 150 years ago.*" (1991) The Committee on Government Operations in 1986 reported that the actual number of permittees grazing on BLM and FS lands in 16 western states is about 23,000. In the 11 western states it is 22,000. The 23,000 permittees represent **less than** 2% of the 1.6 million livestock producers in the U.S. Less than 15% of original permits issued by BLM or FS remain with the family to which they were issued. Jacobs reports that the notion that most public lands ranching is done by descendants of the original settlers is another powerful myth associated with the grazing industry. Ferguson reports in 1983 that 40% of federal grazing is controlled by only 3% of the permittees. There are small public lands ranchers but corporate ranchers and large individual operators predominate. On BLM lands according to Atwood, 1990, 5% of cattlemen, those with a herd size over 500, control 58% of all herbage allotted to livestock, 32% goes to medium-sized operations of 100-499 animals and 10% goes to the small rancher who owns less than 100 cattle. Thirdly, more of BLM's budget should be used for monitoring range impacts by herbivores and determining which herbivore is causing damage. According to the GAO Rangeland Management Report, 1988, carrying capacity information is not available on 30% of BLM cattle allotments. Range managers of both agencies disclosed that no adjustments of the number of livestock on grazing permits were scheduled for 75% of the allotments the managers believed were over grazed. Fourth, base value of ranches should not be tied to the value of the permit. This means that because grazing fees are so low as compared to the true market value of the herbage they represent, government AUMs are sold as if they were part of private property. Combined with the value represented by other subsidies, this is generally known as "permit value". Often the value of the public grazing allotment exceeds the value of the deeded property, house and improvements. Public lands ranchers can take out loans using permits as collateral. **Eliminating this subsidy would reduce the number of lawsuits** against the BLM for reductions taken in the permittees permit and would take the vested interest pressure out of BLM's grazing decision. Fifth we would encourage that a better distribution of the grazing fees be designed so that most of the fees go back into the Federal Treasury. As it stands now, permittees actually pay more than half of their federal grazing fees right back to themselves for ranching development. This means that a grazing permit of \$1.81 per AUM actually only costs the permittee 90 cents. (Jacobs, 1991)

**Competition with other wild life and users of the range:** Competition in its most simplistic terms means that two animals are in the same place at the same time consuming the same food

which is unable to sustain both animals. By the very nature of movement and feeding patterns, it is highly unlikely that wild horses and burros compete with other wildlife or domestic animals such as cattle and sheep. In Arizona in the Black Mountains, Big Horn Sheep are found in the highest elevations, burros are found in the foothills and cattle are in the lowest elevations. Because burros can travel large distances within their ranges, they are more likely not to over graze in one area such as Big Horns or cattle. The majority of Big Horns reside in lambing grounds while cattle camp in areas near water in lower elevations. With proper monitoring of rangeland habitat for each species, there should never be competition. We have already stated our case about riparian areas where cattle tend to “camp.” In order to correct high utilization use in riparian areas cattle will have to be reduced. In 1984 with the regulation changes, suitability criteria was thrown out. Obviously for reasons which would allow more cattle on public lands. In determining the carrying capacity of the land, the entire land is figured into the equation. However, if cattle do not use the entire area, they are still apportioned AUMs from the entire area. This presents an inaccurate assessment of use by cattle by giving more AUMs to cattle than they should receive since they congregate in lower areas and not in high terrains such as wild horses and burros do. If suitability criteria were figured into BLMs equation, we would have far less cattle and more wild horses and burros. It is no wonder that suitability was thrown out in 1984. However, the proper management of public lands should require suitability’s reentry into the carrying capacity equation.

Finally, the Wild Horse and Burro Act specifically states that ranges or what BLM calls herd areas should be devoted *principally* from not necessarily exclusively to their welfare in keeping with the multiple-use management concept for public lands. The ‘multiple use’ concept is defined as the management of public lands and their various resource values so they can be utilized in the combination which best meet the present and future needs of the American people. Consideration is given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

#### SUPPLEMENTAL SHEET

NAME: KAREN ANN SUSSMAN

ADDRESS: 15850 N. THOMPSON PEAK PKWY APT #1040

SCOTTSDALE, AZ 85260

TELEPHONE: 602-502-7900

SUMMARY OF COMMENTS AND RECOMMENDATIONS:

, We contend that the future of wild horses and burros is bleak at best and likely that they will be managed out of existence if BLM is not held accountable to the implementation of the Wild Horse and Burros Act.

, The historical and philosophical background of the BLM prior to 1971 showed an agency determined to exterminate wild horses and burros from public lands to allow for increased cattle grazing.

, Attitudes within the BLM about wild horses and burros after the passage of the Act were relatively unchanged.

, The chronology of events from 1980 on shows how BLM circumvents the Wild Horse and Burro Act to facilitate removals of wild horses and burros.

, Wild horse and burro populations are in jeopardy. Population size is so minimal that genetic viability is threatened.

, Closure of the Del Rio, Texas Grand Jury which was never allowed to hear one shred of evidence alleging BLM corruption within their own Wild Horse and Burro program because agency lawyers were able to block execution of subpoenas.

, GAO reports show that wild horses and burros contribute little to riparian damage. Livestock, especially cattle spend a disproportionate amount of time in riparian areas and cause the majority of riparian damage.

, Wild horses and burros are extremely healthy. They are far more genetically diverse compared to any particular breed of horse in the United States. Nature's breeding program has created a healthy animal. They may pick up disease if exposed to domestic stock.

, Habitat destruction occurs mainly around water sources. Massive removals of wild horses has not significantly improved range condition for the following reasons. Domestic livestock consume 20 times more forage: Domestic livestock vastly outnumber wild horses and burros - approx 4.1 million livestock to approx. 25,000 wild horses: Wild horse grazing patterns are less damaging than domestic livestock: when wild horses are removed either cattle are increased or not removed significantly to make an impact.

, Because of wild horse and burro grazing patterns, there is little competition with other wildlife or domestic cattle.

, Conflict is a problem not competition

, Suitability criteria was eliminated from monitoring to allow for increased cattle grazing.

, The Wild Horse Act requires the BLM to be good stewards of the land

, Enforcement of the Act is the real issue

#### SOLUTIONS:

, Congress must hold BLM accountable for the implementation of the Wild Horse and Burro Act.

, We ask that a separate Congressional Oversight Hearing commence to review all allegations of corruption within the Bureau's Wild Horse and Burro program and BLM's failure to implement the Act including but limited to the closure of the Del Rio investigation in Texas

, If violations of the Act persist within the BLM, that Congress take swift action against the violators.

, Stronger whistle blower laws are needed to prevent retribution of field employees who try to make decisions favorable to the health of the range and not supported by management.

, Heads of federal agencies such as the BLM, Forest Service, etc. should not be political appointees.

, More money should be appropriated to manage wild horses and burros on the range. This can be done by placing a moratorium of gathers for a minimum of one year while BLM collects field data. The monies used to collect and place animals can be used to gather monitoring data, and other activities which would protect wild horses and burros on the range.

, More field monitoring is needed to include monitoring livestock, wild horses and burros and wildlife. Field monitoring of habitat should determine which herbivore is causing damage. Suitability criteria must be reinstated into monitoring data.

, Eliminate suspended use of AUMs.

, Base value of ranches should not be tied to the value of the permit.

, A better distribution of grazing fees so that the majority of fees go back into the Federal Treasury.

