

COMMISSION FOR THE PRESERVATION
OF
WILD HORSES

MINUTES OF THE OPEN MEETING
TELEPHONE CONFERENCE CALL
CARSON CITY, NV
JUNE 25, 2008

Commission Members Present:

Commissioner Mike Kirk, DVM, Chairman
Commissioner Christine Brehm
Commissioner Jim Evans
Commissioner Gracian Uhalde

Others Present:

Allen Biaggi, Director, Department of Conservation and Natural Resources
Cathy Barcomb, Administrator (physically present)
Colleen Hemingway, Deputy Attorney General (physically present)
Susie Stokke, Nevada BLM
Mike Holbert, Nevada BLM
Joe Tague, Nevada BLM
Heather Emmons, Nevada BLM Public Relations

Chairman Mike Kirk opened the meeting at 10AM, with Commissioners Brehm, Evans, and Uhalde present using phone conference ability. Cathy Barcomb, Administrator, and Colleen Hemingway, Deputy Attorney General were present physically at the Carson City meeting address. Susie Stokke, Mike Holbert, and Joe Tague from BLM were present on phone. No members of the public were present.

Cathy Barcomb, Administrator, suggested that Allen Biaggi had not phoned in to the meeting yet and that it might be in the best interest of the meeting to wait for Mr. Biaggi to phone in to the meeting before Agenda Item number 4 is discussed. The Commissioners agreed.

1) Roll Call and Inductions

Chairman Kirk conducted a verbal roll call of all Commissioners present and verified attendance.

2)* Approval of the Agenda

Commissioner Evans motioned to approve the agenda, Commissioner Brehm seconded the motion, Chairman Kirk called for a roll call phone vote.....Commissioner Evans yes, Commissioner Brehm, yes, and Commissioner Uhalde, yes. Motion carried.

3)* Discussion and Possible Action: Approval of the Minutes of the Commission Meeting, April 11, 2008

Commissioner Brehm suggested that the minutes should reflect that even though the Agenda stated Robin Lohnes would be in attendance on a phone call in, however, due to technical difficulties were unable to connect her to the meeting. She also suggested that at the end of the draft minutes it was too casual in noting comments from Chris and Susie and that those should be changed to Commissioner Brehm and Susie Stokke.

Commissioner Uhalde motioned to approve the minutes with suggested changes. Commissioner Evans seconded the motion, Chairman Kirk called for a roll call phone vote.....Commissioner Brehm, yes, Commissioner Evans, yes, and Commissioner Uhalde, yes. Motion carried.

5) Discussion and Update: A Report on the Status of Wild Horse Herd Area's in Nevada, Emergency Conditions and Scheduled Gathers, BLM

Susie Stokke, NV BLM, reported that the BLM would be initiating an emergency gather on Nellis starting June 27th, with approximately 300 horses being shipped to Ridgecrest in California and 800-850 going to the Palomino Valley Corrals. She added that the BLM will also be starting an emergency gather on the North Stillwater HMA on July 1, with an emergency gather on the Fox and Lake HMA right after the North Stillwater gather. Ms. Stokke added that approximately 1,700 horses would be removed in the gathers and were necessary due to no food or water in any of these locations. She noted that there were 10-12 HMA's in Nevada that they were concerned about not making it through the fall and winter of 2008-09.

Commissioner Uhalde asked how these emergency gathers would interfere with the scheduled gathers?

Susie Stokke responded that “we really didn’t have any regular gathers planned since we had no money allocated.”

Chairman Kirk asked if there was enough funding allocated for these emergency gathers?

Ms. Stokke replied yes, just for these emergency gathers.

Cathy Barcomb, Administrator, asked Susie for a clarification of the allocated funding. She quoted Ms. Stokke as saying there was enough funding allocated for these emergency gathers.....but does that mean the 10-12 you just mentioned for the upcoming fall and winter potential emergencies, or do you have just enough funding for the three summer emergency gathers?

Ms. Stokke replied that no, there was just enough funding in this fiscal year 2008, up to September 30 for these three emergency gathers. She added that the new fiscal year starts October 1 and there is no funding allocated for any gathers.

Commissioner Evans asked about the additional 25 HMA’s that were reported as over AML and not gathered because of lack of funds, he asked what about those gathers?

Ms. Stokke explained that of the original 25 HMA’s, the three that are being gathered currently are part of that 3, so now there are still 22 HMA’s still over AML.

Commissioner Brehm asked if the BLM would be water trapping on Nellis and will there be an APHIS vet on site.

10:20AM, Allen Biaggi, Director, DCNR, called in and joined the meeting.

Commissioner Kirk asked how many were going to be gathered?

Ms. Stokke replied that they would be gathering between 1,100 to 1,150 and leaving about 250-300 horses. She explained that they were going approximately 10% below the low end of the AML to facilitate not needing a gather for 4 years, not until 2012. She added that they have the funding of \$160,000 to rehabilitate 5 of the water sources on Nellis. She explained that they had not started those projects yet but expected to start this summer after the gather.

Commissioner Kirk asked if they would be constructing new water developments?

Ms. Stokke replied no, that they will be reconstructing old sites and waters and not creating new ones. She explained that guzzlers, similar to what wildlife agencies use, will be installed as well, that the floats are on the internal area of the tanks and horses will not be able to break them.

Chairman Kirk asked if anybody could stop these water developments and appeal it?

Ms. Stokke replied that anybody could appeal it so stop the water developments, that it is always possible.....she added that the Nevada Department of Wildlife consistently opposes these projects because they want the Appropriate Management Level (AML) based on natural waters, not artificial waters.

Chairman Kirk asked how many horses could be supported on natural waters? Ms. Stokke replied that they thought 250-300 horses.

4)* Discussion and Possible Action: Report the Commission and Discussion and Possible Action of Litigation Options Regarding BLM's Management of Wild Horses in Nevada, Allen Biaggi, Director, Department of Conservation and Natural Resources

Allen Biaggi, Director, DCNR, reported that he had met with Colleen Hemingway, Wayne Howle, and Cathy Barcomb, regarding potential litigation against the BLM on the horse program in Nevada. He explained that they came up with a litigation strategy and tried to focus on what the complaint might look like. He stated that Ms. Hemingway can explain where the draft litigation is at, and outline what she, Ms. Barcomb, and Wayne Howle have in mind. Mr. Biaggi stated that he would like to see the Commission affirm what was discussed in the December meeting regarding litigation.

Colleen Hemingway, Deputy Attorney General, explained that it was appropriate to address this on 3 counts to compel compliance.....

- 1) a violation of the Administrative Procedures Act for delay of required action – unlawfully withheld or unreasonably delayed. Then excess horses shall be removed.
- 2) declaratory relief, that they are in violation of the law;
- 3) and an injunction that they come into compliance.

Ms. Hemingway explained that this is actually a pretty simple argument requiring them to come into compliance with the law.

Mr. Biaggi discussed the need for long term oversight which could include reports to the court, and possible funding appropriated to Nevada to oversee compliance.

Chairman Kirk asked if there was any public comment, there was none.

Commissioner Evens motioned to request the Director, Allen Biaggi, to proceed with the lawsuit. Seconded by Commissioner Uhalde, Chairman Kirk called for the roll call vote....Commissioner Evans, yes, Commissioner Uhalde, yes, Commissioner Brehm, yes. Motion passed.

10:35AM, Director Biaggi was at a meeting at Lake Tahoe and explained he needed to return to the meeting. Mr. Biaggi left the meeting.

6) Public Comment

None

7)* Set Next Meeting Date

Commissioner Uhalde requested the meeting be held in Fallon, all agreed. July 18th was suggested as the next meeting date in Fallon, NV, for a late morning start to facilitate Commissioner Brehm flying up from Las Vegas. All agreed.

8)* Adjournment

Commissioner Uhalde motioned to adjourn the meeting, seconded by Commissioner Evans, Chairman Kirk called for a roll call vote, Commissioner Evans, yes, Commissioner Uhalde, yes, and Commissioner Brehm, yes.....motion passed. 10:40AM