

Bureau of Land Management
Thomas J. Seley, Assistant Field Manager
Tonopah Field Station
P.O. Box 911
Tonopah, Nevada 89049

September 26, 2007

RE: 4400 (NV065.06)
Proposed Final Multiple Use Decision
Montezuma Complex Rangeland Health Evaluation and
Environmental Assessment #NV065-2005-042

Dear Mr. Seley:

This letter is to serve as protest for the Proposed Final Multiple Use Decision regarding the Montezuma Complex Rangeland Health Evaluation, Environmental Assessment NV065-2005-042.

This protest is based on the following factors:

1. The majority of data supplied within this proposal is too old to be considered valid or reflective of current conditions. The limited current data supplied within the Montezuma Rangeland Health Assessment indicate that riparian areas are rated at PFC, vegetative communities have shown improvement, upward trends and are meeting rangeland health standards and therefore does not support the assertions that wild horses cannot be managed within the proposal areas.
2. The permanent and irrevocable loss of a federally protected species and their habitat (333 wild horses and 5 Herd Management Areas) is a major federal action of significant impact, a violation of the Wild Free Roaming Horse and Burro Act, contrary to Nevada Revised Statutes (NRS) governing wild horse preservation, and requires an Environmental Impact Statement (EIS) before issuing a decision of this magnitude.
3. The development of the new Tonopah Resource Management Plan (RMP) is just a little over a year away. A variety of management options such as additional water sources being implemented in the HMAs, redrawing of HMA boundaries that provide more quality forage, current data and comprehensive planning of resources within the proposal area or other options, public input, review and suggestions would all be more accessible and available through the RMP.

The Tonopah Field Office acknowledges that many of the management options being considered through the proposed decision of the Montezuma Rangeland Health Assessment and FMUD would require renegotiation, adjustments, amendments and authorizations in the 2009 RMP anyway.

Based on all of these factors, the permanent decision of no wild horse management issued in this proposal are protested until a more comprehensive evaluation and current rangeland data is supplied through the RMP and its associated EIS.

4. No forage allocations, current populations or population objectives have been established for large wildlife species such as big horn sheep, mule deer, pronghorn antelope or elk. The lack of any wildlife management plans or objectives within the FMUD is protested until they are included within the FMUD.
5. The restructuring of the allotment boundaries is protested until the following modification is incorporated within the FMUD.

BLM has issued several "sidenotes" regarding wild horse and burro management within the Proposed FMUD that indicated modifications, re-evaluations, and implementation of management objectives will be reviewed and established in the 2009 RMP. The modification to the livestock allotment boundaries must also include these same stipulations, which they are subject to review, evaluation, changes and amendments through the development of the 2009 RMP.

6. The proposed forage allocations and livestock numbers for permanent grazing during the course of the 10-year permit is protested. Due to the proximity of the RMP, when more current data and statistics will be made available for public review and comment, the proposed livestock allocations within the proposal area should be issued on a Temporary Non-Renewable basis, thus affording the permittees the continued economic benefits of the livestock operations without interruption but permanent resource allocations will be set in the RMP so that current statistics and data can be incorporated into the final decisions through the planning process.

Wild Horses

Wild horses within the proposal area are a federally protected species as is their habitat. This habitat has been legally reserved and devoted towards a specific public use as designated within the Wild Free-Roaming Horse and Burro Act of 1971, affirmed within the Federal Lands Management Policy Act of 1976 and in compliance with various Nevada Revised Statutes (NRS) that govern the preservation of wild horses and their habitat within Nevada.

As a result of these public laws and reservations, for thirty-six years, these wild horses have been managed under an umbrella of federal and state protection and this recent determination that

their “managed extinction” through this proposal is not a significant federal action warranting an Environmental Impact Statement is invalid.

Furthermore, the Tonopah Field Station commonly acknowledges that they are and will be in the process of developing a new RMP for the Tonopah area in 2009, merely 15 months away.

Attempting to push through a proposal of this magnitude by withdrawing critical habitat and creating self-authorization of the eradication of a federally protected species, which attempts to circumvent Congressional intent, lawful entitlements and reservations is unacceptable.

It is of considerable significance and impact to the American public, who were promised that these wild horses would be “managed” for their preservation and protection, now and for future generations, when the BLM so issues a determination such as this - this decision should not be allowed to be implemented until current data and reasonable alternatives can be reviewed and considered through an EIS and the RMP process.

While proper and current environmental data *may* support the proposed action regarding wild horse use in the area, it is unknown if there actually is substantial support for this decision as much of the critical data necessary used as validation to make this determination is too old to base current management actions and decisions on, as is highlighted by the Proposed FMUD, which clearly states: “*Since 1994 when much of this area was last evaluated....*”

These measurements and evaluations were done two years before BLM removed hundreds of wild horses and burros from the area and therefore are completely invalid for evaluating current rangeland conditions, utilization levels and trends.

Considering all phases of land and resource management will be thoroughly reviewed and examined in merely 15 months that will provide a much more comprehensive and current evaluation of rangeland health factors, data, measurements, management plans, goals and multiple use objectives, as well as providing a wide array of public input regarding the planning area, this attempt to “manage” wild horses into irrevocable and permanent removals before this current data is made publicly available is unacceptable stewardship of these resources that have been placed in your care.

What current data was provided left reasonable doubts as to the validity of the assertions made within this proposal that management for wild horses to insure their preservation, protection, health and self-sustaining populations was impossible.

For example, the Tonopah Field Stations stated that, “*the majority of riparian acreage is currently rated at PFC.*”

Almost all references and data used within this proposal are based on actions taken in 1996 or prior years and what little information provided that references current conditions indicate that vegetative communities have shown upward trends, improvements and have reached desired conditions due to management actions implemented since 1996.

The Tonopah Field Station states that conditions are too dry, water is too scarce, and vegetation composition is inappropriate for management of wild horses within the proposal area.

Yet they also state that wild horse survived in all these “limited conditions” between 1971 (and before) until 1988 with no removals, no starvation, and no deaths.

BLM continues to state that it was BLM itself that issued forage allocations for the livestock allotments that were “over-allocated”.

Is it possible that the “starving wild horses” so graphically depicted from the 1996 removal operations were a direct result of BLMs miscalculations in livestock utilization levels that prevented healthy forage production in previous years that could have sustained the wild horses and burros during those drought conditions?

This miscalculation of forage allocations, in combination with failure to remove excess wild horses and burros in a timely manner and compounded by intensely severe drought conditions during 1996 all indicate that it was BLMs own lack of appropriate management actions that resulted in this extremely unfortunate situation, not the implied and asserted conclusion now being presented that it is the wild horses themselves that are the problem.

While BLM is supported in adjusting their management actions to better support rangeland health and its users, and it is understood that we are “only human”, that BLM is entitled to “learn” that stocking levels were too high, wild horse and burro numbers increased through lack of management until unsustainable levels were achieved and that proper and timely management is critical in their administrations, too much evidence indicates that prior management was at fault for the conditions now being cited, not the current conditions.

Again, BLM is encouraged to TRY the strategic plans formulated for wild horse and burro management before they issue decisions that do not allow the new strategies to be implemented to gauge their effectiveness.

Furthermore, BLM believes they removed all wild horses and burros from the majority of these HMAs in the 1996 removals yet wild horses and burros from adjacent areas *have moved back into* the HMAs, HMAs that BLM continues to assert are “unsuitable” for wild horse use.

In one section of the RHA BLM states that areas will continue to be monitored and yet in another section BLM states that once livestock was removed from the areas, no monitoring was done.

This doubt regarding the Tonopah Field Stations current assertion that wild horse management is impossible within the HMAs is compounded by the fact that hundreds of pages have been presented for public review but only 15 days in both assessments were provided for study, research, investigation and response.

By authorizing the elimination of all wild horse use within the proposal area using almost all old data to justify the proposal before any current data can be supplied or before a current RMP or EIS is proposed and developed, it casts further suspicion that the assertions made and data presented would not hold up under serious scrutiny. Therefore, it appears that BLM is attempting to circumvent Congressional intent, public laws, federal and state regulations and BLM policy that require them to manage, preserve and protect wild horses and their habitat.

BLM admits that changes and evaluations in the upcoming RMP will most likely happen anyway to this proposal by stating, *“A revision to the RMP, scheduled for approximately 2009 would address this issue and amend it to allow for burros in both of these HMAs. The proposed AML above is subject to change per the RMP amendment.”*

BLM also states *“Horses would temporarily be permitted inside this HMA until the RMP is amended.”* again recognizing changes must be made to the RMP anyway, that this proposal may or may not be temporary because BLM *also* authorizes removal of wild horses between now and the RMPs development.

If BLM acknowledges that changes are going to be required again in just a relatively short period of time, why are they attempting to push through what amounts to nothing more than a temporary grazing proposal whose significant impact is the permanent and irrevocable elimination of wild horses in the area, a proposal that *does* qualify as a major federal action deserving of a EIS?

The EIS and RMP would address many of these issues, provide more current data, and give a much more comprehensive evaluation of the proposal areas before a decision is rendered. Within these documents BLM can provide available forage per acre in both “normal” and “dry” years, water flow data, can recommend changes to HMA boundaries, propose water developments, etc.

Because of the proximity of the development of the new RMP, the BLM needs to wait before authorizing the elimination of wild horses in the area until the evaluations and completion of the new RMP.

Livestock

If BLM believes the restructuring of allotment boundaries for livestock utilization would better serve both the permittees and rangeland health, *without compromising any availability or quality to the critical habitat requirements of wild equids within the HMAs* within the restructuring proposal, then no protest of this portion of the proposal is being contested, provided the BLM modifies the current terms to include, as they have done for wild horse and burro use, that the new allotment boundaries will also be subject to review within the RMP so current and pertinent data can be reviewed as to the impacts this restructuring has on the HMAs (forage availability, water sources, quality, flow rates, etc.)

The BLM has been authorizing livestock utilization under Temporary Non-Renewable permits for several years. Therefore, the BLM can continue to employ this method to allow livestock operators the economic benefits of public grazing without committing to ten years of forage allocations before current data, statistics and public review provided in the EIS and RMP is released in 2009. This would also fulfill the conditions that livestock grazing is a valid multiple use of public resources without permanently and irrevocably committing public resources under the proposed guidelines until the RMP and EIS is completed.

Wildlife

When this issue was addressed in the preliminary comments, the Tonopah Field Station has responded by assuring the public that no resource damage is currently occurring due to wildlife populations within the area. While this is certainly good news, the accounts of wildlife damage done in other areas of Nevada were provided to illustrate that without establishing population objectives and resource allocations of wildlife species within the proposal areas, damage *may* be incurred on sensitive riparian areas, key forage species, etc. at future dates and BLM will have no legal recourse for excessive wildlife populations within the proposal area.

It is BLMs responsibility to insure that this does not happen in the future by failing to provide proper management objectives and forage allocations within the FMUD. Other grazing allotment decisions by BLM incorporate this information and management objectives within their FMUDs and these allotments should not be exempt from this proper planning and maintenance of resources necessary for all rangeland users.

As a result, the lack of any wildlife management objectives within the Proposed FMUD Decision is protested until BLM provides current wildlife populations of all significant rangeland users, population objectives of these species, any future species that are being considered for introduction in the planning area, forage and water allocations that support balanced multiple-use relationships to other rangeland users in the proposal area.

Summary of Protests

- Authorization of no wild horse use must be withdrawn and evaluation of this management action must be reviewed during the 2009 Resource Management Plans.
- The majority of data used within the Rangeland Health Assessment is too old, no longer valid and does not reflect current rangeland health conditions. The Tonopah Field Station is therefore urged to use the time between now and the RMP planning and development to gather current data and statistics within the proposal area.
- The livestock forage and resource allocations and allotment boundary changes must be issued with the inclusion of the modification that terms and conditions will be subject to further review and possible amendments as a result of the development of the RMP and/or as Temporary Non-Renewable grazing to support the economic welfare of the permittees during the planning process.
- The inclusion of wildlife populations, population objectives and resource allocations need to be included within the FMUD to prevent resource damage from excessive populations.

I deeply appreciate the opportunity to participate in the good stewardship and proper planning of our Nations resources and strongly urge the Tonopah Field Station to adjust the proposed FMUD based on the considerations submitted.

Sincerely,

REMOVED