

Analysis of Roberts Mountain HMA from research on the Birch-Willow Creek Fencing Proposal Protest - To be applied to Roberts Mountain HMA statistics.

This letter is to serve as verification of the withdrawal of my protest regarding the implementation and decision to erect a drift fence around the Birch-Willow Creek area in efforts to improve riparian areas and LCT habitat improvement.

Based on the assessments and documents provided, the proposal area and JD Allotment does not fall within the boundaries that the Bureau of Land Management designated for long-term management of wild horses within the Roberts Mountain Herd Area by restructuring their habitat into what is now known as Roberts Mountain Herd Management Area.

Based on research within the area, the proposal will affect wild horses and their access to a critical habitat requirement necessary for self-sustaining populations, specifically, water.

However, BLMs past management actions and decisions removed over 125,000 acres of the originally identified Herd Area (more than 50% of their reserved habitat) from any wild horse use. (See National Program Office Records, Fiscal Year 2006).

This originally reserved Herd Area habitat would appear to include portions or all of the JD Allotment, as wild horse use was cited within the 2004 environmental assessment (NV062-EA04-78) under the No Action Alternative (pg. 11), was cited as occurring in 1994 “outside the HMA” for the Roberts Mountain Final Multiple Use Decision, and was cited as occurring “outside the HMA” within the JD Allotment in the Roberts Mountain Complex, Wild Horse Gather Plan and Environmental Assessment, NV062-EA07-120, (pg. 3) issued on May 2007,

Having examined the data provided in the wild horse gather plan, it was apparent due to several repeated references that critical habitat requirements, specifically, known water sources, were not included within the Herd Management Boundaries established by the BLM, now known as the Roberts Mountain HMA, a direct violation of CFR 4710.3-1.

According to the Bureaus Code of Federal Regulations, the BLM is required to establish Herd Management Areas and their boundaries for the *maintenance* of wild horse and burro herds. It is impossible for wild horse and burros to be maintained *within these boundaries* without critical water sources available.

The BLM was also required to delineate herd management areas through consideration of *the habitat requirements of the animals*.

All relative documents clearly indicate that there is, and has always been, known wild horse use of the riparian areas, springs, creeks and other water sources within their originally reserved habitat known as the Herd Area acres, which spanned 225,908 acres but has been reduced to only 99,992 acres deemed suitable for long-term management through HMA status.

It is also clear that, despite BLMs knowledge that these critical habitat requirements were being consistently utilized and were necessary for maintenance of existing herds at self-sustaining populations, prior land use designations withdrew the legal rights for the wild horses to continue to occupy or utilize resources within their originally reserved and designated habitat and access water sources within the JD Allotment.

In addition to withdrawing critical habitat components within the Herd Areas that has prevented self-sustaining wild horse populations, research also strongly points to other prior BLM decisions that have contributed to driving wild horses outside the HMA boundaries in search of water.

The 1994 FMUD for the Roberts Mountain Grazing Allotment stated that wild horses had “established residence outside the HMA” (yet still part of their Herd Area that BLM withdrew from use), that aerial census records showed wild horses were grouped in the southern portion of the HMA, in the Coils Pasture/Kobeh Valley as a result of “range improvements” (like the Birch-Willow Creek Drift Fence), that the *water sources* in the north-central portion of the HMA were not always available, as horse movement to this portion of the HMA is often impeded (from the fences and activities BLM authorized), that only *one year round water source is now available to wild horses*, that this lack of water within the Coils Pasture (the southern portion they have now been confined too) caused horses to extend into the Roberts Mountain allotment and also southward, outside the HMA boundaries, (also known as the JD Allotment) and that, if the current pathetic state of affairs wasn’t enough, a fence would be erected between the Coil Pasture (their last hold out) and Horse Pasture after issuing the 1994 FMUD.

Though it is known that they are *still* residing “outside the HMA” thirteen years later, admittedly in the JD Allotment (and they will be removed because of it this fall), that they are *still* accessing and utilizing the water at the site of the fencing proposal of Birch-Willow Creek (as indicated by “horse use” at the Birch Creek area in the JD allotment), it is also recognized that BLMs prior management actions have provided insufficient legal standing to continue to protest this decision that will most assuredly impact their populations and survival.

Birch Creek-Willow Creek Draft Research

No Action Alternative

Adverse impacts may occur from trampling and erosion from livestock, horse, and wildlife. If a cultural site is discovered and determined to be eligible or remains unevaluated, additional mitigation may be required.

The JD Allotment resides outside of the Roberts Mountain HMA but includes the Roberts Pasture, which is the location of the Birch Creek fence. The original HA acres spanned 225,908 while the HMA acres only included 99,992, a loss of 125,916 acres.

Roberts Mountain Grazing Allotment FMUD 1994 - Excerpts

Roberts Mountain AML is 150. AUMS = 1,800 throughout entire HMA.

Roberts Mountain Grazing Allotment issues 984 AUMs for wild horse use = 82 wild horses.

Objectives for Wild Horses as outlined on page

D.

1. Initially manage to provide 984 AUMs of forage within the Roberts Mountain HMA. 64.6% of the HMA is within this allotment.
2. Maintain or improve wild horse habitat in a condition which enhances their wild and free-roaming behavior, in conformance with other objectives of the RMP.
3. Maintain or improve wild horse habitat by ensuring free access to water, in conformance with other objectives of the RMP.

Horse use averaged 1,296 AUMs of forage per year during the ten year monitoring period. Use pattern maps of the part of Roberts Mountain Allotment, which is within the HMA documents actual use as being light to moderate, with the exception of Nichols Seeding, which is classified as heavy.

Wild Horse Management Decision

Monitoring data reflects that a thriving ecological balance is not being obtained in the Roberts Mountain Allotment primarily due to wild horses establishing residence outside the HMA. Based on the information provided, wild horse use shall be adjusted and managed at 1,106 AUMs (92 horses).

This regulation was cited within the 1994 FMUD

§4710.3–1 Herd management areas.

Herd management areas shall be established for the maintenance of wild horse and burro herds. In delineating each herd management area, the authorized officer shall consider the appropriate management level for the herd, the habitat requirements of the animals, the relationships with other uses of the public and adjacent private lands, and the constraints contained in §4710.4. The authorized officer shall prepare a herd management area plan, which may cover one or more herd management areas.

Counter it with-

§4710.4 Constraints on management.

Management of wild horses and burros shall be undertaken with the objective of limiting the animals' distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans.

Big game total AUMs 2,450.

These figures are a total for both the Roberts Mountain allotment and the Three Bars Allotment.

7. To provide forage for 1,710 mule deer (2,992 AUMs) from April 1 to October 31 and for 480 mule deer (600 AUMs) from November 1 to March 31.

*Indicates that mule deer require 1.25 to 1.7 AUMs per deer in this allotment.

The existing use by big game species has decreased from 1,735 AUMS to 1041. (As of 1994)

LCT was in area in 1994, have not been recently introduced. Plan to increase carrying capacity to 1,500 LCT per mile of stream.

Cattle authorized use is 11,362 AUMs for a 2 year evaluation period.

This FMUD period ended in 2004.

Three Bars FMUD 1994

Big Game

1,415 AUMs of big game use.

Existing big game numbers have declined by 40% since the RMP was written in 1986.

Wild Horse

Initially manage to provide 540 AUMs of forage within the Three Bars Allotment portion of the Roberts Mountain Herd Use Area. 45 wild horses.

Aerial census records throughout the evaluation period show wild horses grouped in the southern portion of the HMA, in the Coils Pasture/Kobeh Valley area. Horse use averaged 668 AUMs (55 wild horses) during the ten year monitoring time period. Use pattern maps formulated for the Coils Pasture throughout the monitoring process reflect only slight to moderate use within the Coils Pasture.

Due to range improvements and mining activity, horses concentrate within the southern portion of the HMA. Water sources in the north-central portion of the HMA are not always available, as horse movement to this portion of the HMA is often impeded.

Within Coils Pasture, only Mud Springs has water available on a year around basis. This spring is not located within the Three Bars Allotment. It is in the adjoining Roberts Mountain Allotment, within the Kobeh Valley. Other water sources within the Coils Pasture are controlled by the permittee. Lack of water within Coils Pasture causes horses to extend into Roberts Mountain Allotment, as stated above and also southward, outside the Roberts Mountain HMA boundary.

Until the pasture fence is constructed between Horse and Coils pasture did they ever construct it?

Monitoring data reflects that a thriving ecological balance is being obtained in the Coils Pasture, but is not being maintained in the Cottonwood and Meado pastures. Based on the information provided, wild horse use in the Three Bars Allotment for this portion of the Roberts Mountain HMA shall be adjusted and managed at 697 AUMs (58 horses for 12 months)

Livestock Grazing

FMUD changed grazing from:
7,255 AUMs to 4,589 AUMs

Roberts Mountain Habitat Management Plan – No objectives have been achieved yet.