

PRESENTATION BY CRAIG C DOWNER, WILDLIFE ECOLOGIST, CO-PLAINTIFF IN CIVIL CASE NUMBER 0:20-cv-00191-SWS in support of earlier submitted Complaint.

For delivery at Hearing of Wyoming Federal District Court commencing at 9 AM on October 29, 2020, Casper, Wyoming (via Zoom)

Honorable Judge Scott W. Skavdahl:

Thank you for considering this motion for a Temporary Restraining Order, hopefully leading to a Preliminary Injunction of BLM's Red Desert Complex wild horse roundup. For your review, we have already submitted many Exhibits to the Court in support of this case.

Co-plaintiff James Kleinert and I move to stop the roundup of 2,400 wild horses -- removals initiated by the Bureau of Land Management Lander and Rawlins Field Offices as well as the Wyoming State Office.

Substantial evidence proves that BLM is abrogating its responsibility to protect, preserve and defend vital and viable herds of wild horses within their five legal Herd Management Areas (HMAs) in the Red Desert Complex. These are, in alphabetical order: Antelope Valley, Crooks Mountain, Green Mountain, Lost Creek, and Stewart Creek. Together, these HMAs encompass 753,000 acres.

In BLM's most recent Environmental Assessment, there are glaring omissions concerning the primary ecosystem disturbance factors that impact a Thriving Natural Ecological Balance (TNEB) within this Complex, and that affect the USFWS Endangered Species candidate Greater Sage Grouse. Those disturbance factors also affect many other wildlife and plant species, soils and the aquifer. In particular,

the large-scale issuing of oil and gas drilling permits in the Complex is not addressed. Also not addressed is the lopsided proportions of livestock use versus wild-horse use regarding the allocation of forage, water, and other habitat resources. Finally, not addressed are the serious discrepancies in reported wild horse population estimates and growth rates (see Exhibits). BLM appears to be in clear violation of both NEPA and WFHBA, and I am concerned about possible dishonesty as is covered by 18 U.S. Code 1519.

Concerning the Sagebrush Focal Area, which is critical to the survival of the Sage Grouse, BLM again singled out the wild horses for blame while overlooking the major factors impacting this important habitat for grouse survival. Additionally, BLM ignored the many positive contributions of the wild horses to the ecosystem, such as:

Improving the health of the soil -- their droppings build humus and this bolsters aquifers;

Dispersing intact seeds that can successfully germinate, including the seeds of native flora that, in turn, support native fauna;

Mitigating or even preventing catastrophic wildfires by grazing dry flammable vegetation;

Fulfilling their role as prey and scavenged species;

Breaking open frozen water holes or ice-and snow-encrusted vegetation for access by other species.

As a wildlife ecologist, I have investigated and confirmed these contributions by the naturally living horses. I would also point out that horses are a returned native species to North America -- the horse's evolutionary cradle. I have researched and written extensively about the above and other aspects of the wild horses in popular as well as scientific, peer-reviewed publications. I understand that the presence of the wild horses in the Red Desert Complex re-activates mutualistic symbioses with many native species with which the horse has co-evolved for thousands and even millions of years. The very fact that

the horse is not a ruminant but a post-gastric, cecal digester signifies that its presence in the ecosystem provides a much-needed balance in the Red Desert, as documented in similar areas.

What BLM calls the “appropriate management levels” (AMLs) – population restrictions imposed by the Agency on the five HMAs of the Red Desert Complex -- are extremely inequitable. Thus, they violate the Wild Free-Roaming Horses and Burros Act (WFHBA) as to its core intent (see Section 2 c) concerning land and resources that are to be “devoted principally” to the wild horses, not to livestock, nor to oil and gas companies. The combined AML ranges from a low of 480 to a high of 724 for a mean of 602 horses. This corresponds to 1,846 acres, or 2.9 square miles, per individual wild horse at the low AML; 1,251 acres, or 2.0 square miles, per individual horse at the mean, or average, AML, and 1,040 acres, or 1.6 square miles, per individual horse at high AML. The absurdity of such stocking densities speaks for itself: the so-called “appropriate” wild horse population would result in practically empty wild horse HMAs! Even if BLM’s evidently-exaggerated wild horse population of 3,000 were correct, it would actually represent a moderate population level, one that would be just and fulfilling of the original intent of the WFHBA.

The IUCN Species Survival Commission Equid Specialist Group recommends a population of 2,500 wild horses for survivability in the world of nature (Duncan, 1992, IUCN, Page 5). If there were, indeed, 3,000 horses present in the Red Desert Complex, as BLM claims, though for several reasons I seriously question this (see Exhibits), the stocking density would be 251 acres per individual horse, or fewer than 3 horses per square mile. Such a sparse dispersal cannot be deemed an overpopulation in a habitat where the horses -- not livestock -- are legally the principal resource recipients. In contrast, BLM authorizes cow-and-calf pairs to be stocked per a density of between 30 and 50 acres per pair, or 13 to 21 pairs per square mile.

Also, very questionable is the use of 20% annual increase in estimating wild horse population-growth, as was used in the Environmental Assessment for this draconian roundup. This rate of increase ignores high foal mortality in the first year of life, which can reach 50%, as well as adult mortality, which ranges from at least 8% to 20% annually.

BLM's "Fact Sheet Red Desert Wild Horse Herd Management Area Complex," indicated that there are 65,346 cattle animal unit months (AUMs) and 25,484 sheep AUMs. The combined cattle and sheep forage-allocations yield a total of 90,830 AUMs within the wild-horse habitat of the Red Desert. So, in terms of forage, water and other habitat utilization and impact, by dividing 90,830 by 12 months, we reveal the equivalent of 7,569 year-round cow-calf pairs (or several times this the number of sheep) occupying, stripping forage, consuming water, trampling soils, and so forth, within the Complex. Thus, livestock are allotted nearly 13 times the forage, water, and other resources as are apportioned to the wild horses within the Complex.

As far back as 2009, I responded to BLM's request for scoping comments concerning a proposed roundup in the Red Desert Complex. My comments (see Exhibit) advised that the AMLs were completely inadequate to preserve genetic viability. I also pointed out that in Wyoming, the BLM had already eliminated wild horses from at least 54% of their original Herd Areas. Thus, the majority of the land where the wild horses retain the legal right to free-roam in a natural, peaceful habitat has been closed to them. The 54% figure equates to 5,552,337 wild-horse-empty yet still legal acres for the herds. In those few-remaining HMAs still populated to some extent with wild horses, this "national heritage species" should not continue to be even further marginalized – squeezed out by livestock, oil and gas

leasing, and other monopolizing interests. The Federal government is duty-bound ethically to curb exploitation of the Commons on behalf of the Common Good.

Disappointingly, BLM continues to permit massive numbers of oil and gas drilling projects within the Red Desert Complex (see Exhibits provided). This intrusion spoils what should be a peaceful, pristine habitat for the wild horses. The wells pollute the water, the soil, and the air, and they ruin the experience of visitors that come to see the wild horses. What could have been a tourist-destination has been industrialized. This reflects poorly on BLM.

My co-plaintiff, James Kleinert, and I have visited the Red Desert Complex herds dating back many years. We have provided extensive input to BLM in their defense (see Exhibits). We are available to clarify any of the above and further related points the Court may have.

We move for an urgent, expedited, immediate Temporary Restraining Order to halt the wild horse roundup in the Red Desert Complex.

Sincerely and respectfully delivered this 29th day of October, 2020, at the hearing of the Wyoming Federal District Court by,

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