

(BASED PRIMARILY ON BUREAU OF LAND MANAGEMENT INFORMATION SHEETS)

## Virginia Range Horses -- Introduction and Background

There are two distinctly separate BLM Herd Use Areas (HUA) areas located near the large block of private lands currently holding estray horses managed by the State of Nevada. They are known as the Jumbo and Horse Springs HUAs. The Jumbo HUA is located west and south of the aforementioned private lands, and the Horse Springs HUA is located to the east. Following extensive planning and public input all horses were captured from both areas and both were declared horse free following completion of the removals. BLM received only positive responses to its capture plans with no one objecting to either the removals or the horse free designations. The rationale behind each removal was somewhat different but both were backed by not only the law and regulation but extensive case law as well.

No federally protected horses occurred within the Jumbo HUA at the time the Act was passed in 1971. The law specifically restricts (BLM's) management to those areas where horses occurred in 1971 thus Jumbo was eliminated from consideration for long-term management. The horses remaining within the Jumbo HUA had relocated there from the Pinenut HMA after passage of the Act and as a result were removed in late 1984, and the area was declared horse free.

The land use patterns within the Horse Springs HUA are heavily skewed toward private holdings with 15,000 acres of BLM lands as compared with 37,000 acres of private lands. Written requests from the private landowners, and several traffic accidents involving wild horses, necessitated the removal of all of the horses from the HUA. Again, extensive public input and planning were completed prior to the removal of the horses with no entity opposing BLM's proposed removal. All horses were removed in 1983 and the area was declared horse free.

At the time of the removals a Mr. Woodrow Cox ran horses on the adjoining Curtis Wright lands leased by Nick Mansfield. The horses now present are believed to be descendents of these horses. Prior to the State of Nevada assuming management of these horses, several large removals were conducted by Nick Mansfield that held their numbers in check. At that time the State of Nevada recognized Mr. Mansfield as the owner of these horses. A lack of any substantial removal effort since has resulted in the numbers now present.

Over the years the BLM has worked extensively with the all divisions of the State of Nevada concerning the remaining horses located on the private lands and have on numerous occasions reaffirmed our position that all remaining horses are not under the protection of the BLM.

## Historical Documentation

A research of historical information including BLM planning documents, internal and external memoranda, State of Nevada legal opinions and correspondence and letters from the Virginia Range Wildlife Protection Association (VRWPA) clearly support the Carson City Field Office's position concerning the horses located north of the Carson River. Following is a summary of the information researched:

**1. MFP Decision #3:** Clan Alpine/Ft. Churchill dated 3/26/76 states: "remove all wild horses from the Stockton Flat-Horse Springs Herd Units." Requests from private landowners within the Stockton Flat-Horse Springs allotments required removal of the horses.

**2. Memorandum dated 5/22/78 states:** "A small group of wild horses came from the Pinenut Mountain area and moved across Highway 50 into the McClellan Peak area."

**3. Letter dated 8/27/80 received from the VRWPA states:** "... have formed an organization known as the Virginia Range and Wildlife Protection Association. Purpose of the organization is to prevent trespassers from hunting, trapping or removing horses..."

**4. Letter from the BLM to VRWPA dated 11/7/80 states:** "After careful review and consideration of all available information, we have re-affirmed that the horses in the VRWPA continue to be privately owned."

**5. Opinion No. 82-9 dated 5/25/82 from the Office of the Attorney General states:** "...Since the federal government disavows jurisdiction over wild horses or burros customarily residing exclusively on private lands ... the State regulation contemplated by the estray law may be exercised."

"Estrays necessarily include unbranded and unclaimed wild horses or burros running at large which are determined by the Secretary of the Interior not to be wild-free roaming horses within the meaning of the Wild Free-Roaming Horses and Burros Act. In this regard, it has been held that the Secretary of the Interior has the final authority, if the status of any horse or burro is contested to decide whether it is wild and free-roaming within the meaning of the Act."

"The State of Nevada, Primarily through the Department of Agriculture's administration of the estray provisions of NRS Chapter 569, may exercise jurisdiction over wild horses and burros..."

**6. MFP Decision #23;** Reno Planning Area dated 12/21/82 states: "Wild horse numbers will be totally removed...from the Jumbo WHA as there were no wild horses there prior to 1971..."

**7. The Capture Plan and ROD for the Stockton Flat-Horse Springs** area was signed on 12/10/82 with the removal completed in January of 1983. No appeals were filed. The area was declared horse free by memo dated 1/19/83.

**8. The Capture Plan and ROD for the Jumbo area** was signed on 8/23/84 with the removal completed in October of 1984. No appeals were filed. The area was declared horse free in memo dated 10/10/84.

**9. Letter from the Governor of Nevada states:** "In checking with the Director of the Nevada Wild Horse Preservation Commission, I was informed that the BLM removed the wild horses from your area several years ago. Therefore, the unbranded unclaimed horses that roam where you live are estrays. Estrays are the responsibility of the Nevada Department of Agriculture."

**10. Letter from BLM to Department of Transportation states:** "There are also horses that live and roam north of Highway 50. These are not wild horses as defined by the WH&B Act because their range is predominately private land. When the WH&B Act was passed in 1971, there were free roaming horses north of Highway 50, but, as a result of the transfer of thousands of acres of public land to the Curtis Wright Corporation in 1957, they were not roaming on public land; consequently, there is no basis on which to designate a Herd Area and these horses were, from the outset of federal management, identified as feral, not wild."

**11. VRWPA-A History states:** "The Association, Storey County, and Assembly Speaker Joe Dini worked for years to get the Nevada State Legislature in 1993 to pass a law, AB 291 that would allow for local management of our horses."

**12. VRWPA Action Plan of January 1995 states:** " **F. Management of wild horse herds.** Work with Storey County Wild Horse Control Committee to achieve the ideal range population and then maintain the herd at that level to prevent over grazing and to insure maximum survivability."

"At our November meeting, horse and range experts suggested a combination of methods to achieve and maintain the wild horse herd at a nominal level to include: removal through adoptions to decrease the herd size to 100 to 150 animals..."

**13. 569.110. Escaped or removed estray may be recovered by taken-up**

If any such estray or estrays, after having been taken up in accordance with the provisions of NRS 569.040 to 569.130, inclusive, escape or are removed from the custody of the taker-up before being disposed of under the provisions of NRS 569.040 to 569.130, inclusive, then such taker-up shall have the legal right to recover the same wherever found, to be held by such taker-up until disposed of as provided for in NRS 569.040 to 569.130, inclusive."

The Nevada Department of Agriculture recognized historic claims of ownership for the horses inhabiting the area north of highway 50. The BLM did not dispute this ruling. Mr. Nick Mansfield, Ernie Fanning and Billy Boegle were several of the claimants and were allowed to capture their "privately owned" horses over an extended period of time. In fact, Mr. Mansfield hired outside helicopter contractors to complete two separate large removals, one in excess of 600 head in the late 1980s and early 1990s. The sole reason for the cessation of these activities was pressure from the interest groups in the Virginia Highlands. The entire operation was approved and monitored by the Department of Agriculture.

**Authority**

**4720.2-1:** Removal of strayed animals from private lands. Upon written request from the private land owner to any representative of the Bureau of Land Management, the authorized officer shall remove stray wild horses and burros from private lands as soon as practicable. This regulation was affirmed in the U.S. Court of Appeals Tenth Circuit case # 82-1485.

**4700.0-5(d).** Herd Area means the geographic area identified as having been used by a herd as its habitat in 1971."

**4710.4.** Management of wild horses and burros shall be undertaken with the objective of limiting the animal's distribution to the herd areas.

The foregoing regulations were affirmed in District Court ruling R-85-535.

The following Nevada Revised Statutes were added or amended in 2003 whereupon the State of Nevada asserted legal ownership over the Virginia Range horses.

**14. 569.008 "Feral Livestock" Defined.**

“Feral livestock” means any formerly domesticated livestock or progeny of domesticated livestock which have become wild and are running at large upon public or private lands in the State of Nevada, and which have no physical signs of domestication. The term does not include horses or burros that are subject to the jurisdiction of the Federal Government pursuant to the Wild Free-Roaming Horses and Burros Act, 16 U.S.C. §§ 1331 to 1340, inclusive, and any regulations adopted pursuant thereto, or any other federal statute or regulation.

This definition excludes livestock identified in the Act.

**15. 569.010 Estrays and feral livestock deemed property of Department; control, placement and disposition of estrays and feral livestock; disposition of money; liability.**

1. Except as otherwise provided by law, all estrays and feral livestock within this state shall be deemed for the purpose of this section to be the property of the Department.

2. The Department has all rights accruing pursuant to the laws of this state to owners of those animals, and may:

(a) Dispose of estrays and feral livestock by sale through an agent appointed by the Department; or

(b) Provide for the control, placement or disposition of estrays and feral livestock through cooperative agreements pursuant to NRS 569.031.

3. Except as otherwise provided by law, all money collected for the sale or for the injury or killing of any such animals must be held for 1 year, subject to the claim of any person who can establish legal title to any animal concerned. All money remaining unclaimed must be deposited in the Livestock Inspection Account after 1 year. The Department may disallow all claims if it deems the claims illegal or not showing satisfactory evidence of title.

4. The Department or any political subdivision of this state is not liable for any trespass or other damage caused by any of those estrays or feral livestock.