



Nevada Association of Counties  
304 South Minnesota Street  
Carson City, NV 89703  
(775) 883-7863

[www.nvnaco.org](http://www.nvnaco.org)

## **NACO's Wild Horse Lawsuit**

The Nevada Association of Counties, along with the Nevada Farm Bureau Federation, have filed a lawsuit in the Federal District Court of Nevada seeking an order to require the U.S. Department of the Interior and the Bureau of Land Management to comply with the requirements of the Wild Free-Roaming Wild Horse and Burro Act of 1971 as Amended (WFRWH&BA).

### **Background**

Wild horses and burros have long been an integral part of the landscape and heritage of Nevada. As the state with the highest percentage of public lands under federal management in the U.S. (over 80%), Nevada also has, by a large margin, the largest population of wild horses and burros. According to the WFRWH&BA, it is the responsibility of the federal agencies that manage public land in Nevada to maintain the balance of species and uses on our State's public lands. To that end, the BLM established Appropriate Management Levels (AMLs) for wild horse and burro populations and is tasked with inventorying the animals and maintaining population levels (AMLs) that maintain a thriving ecological balance on the range. Unfortunately, wild horse and burro populations have far exceeded AMLs for some time - management practices have not kept pace with population growth.

### **Why is NACO concerned about wild horses and burros?**

NACO has been concerned about the overpopulation of wild horses for a number of years. Most of Nevada's counties contain wild horse Herd Management Areas (HMAs), that have horse populations far in excess of BLM determined AMLs. This situation affects counties in a number of ways: wild horse overpopulation creates serious environmental concerns for horses, wildlife, and ecology of rangelands, and creates both direct and indirect economic impacts. Loss of use of public lands as well as the cost of services associated with the health and safety impacts created by the overpopulation of wild horses and burros decreases tax revenues and yet increases the costs that counties must bear.

NACO members, individually and collectively, have a commitment, as well as a legal obligation, to protect the environment and economic viability of counties as well as the health, safety, and welfare of residents.

### **Why did NACO file a lawsuit?**

NACO has consistently reached out to the DOI seeking to discuss wild horse and burro management. The hope of NACO and its members was that something could be done to move the DOI and the BLM both to engage stakeholders in Nevada and also to begin to take action to improve wild horse and burro management strategies to comply with the WFRWH&BA.

In September of 2012, NACO sent a letter then U.S. Department of the Interior Secretary Salazar that outlined many of the issues associated with the lack of consistent and effective management of wild horses in Nevada. Having received no response, NACO sent a second letter in January 2013. Having still not received a response the NACO Board voted on April 19, 2013 to pursue legal action. NACO did receive an eventual response from the BLM; however, after NACO welcomed an offer to meet, no further communication from the BLM has been received.



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### **Does NACO support wild horses on public lands?**

NACO recognizes wild horses as an iconic symbol of the landscape and heritage of Nevada and supports their presence on public lands; however, it is imperative that horses be maintained at Appropriate Management Levels and within properly established HMAs. There is a sad irony in the fact that the failure and delay of the DOI and the BLM to comply with the duties imposed on them by the WFRWH&BA gravely harms the horses themselves – the very animals that the Act was designed to protect. Nevada’s free-roaming horse and burro herds are frequently observed to be in malnourished condition, with the ribs and skeletal features of individual animals woefully on view and other signs of ill-health readily observable.

### **What specifically is NACO asking the court to do?**

NACO is asking the Court to issue an injunction and/or Writ of Mandamus requiring DOI to promptly and fully comply with all the provisions of the Act and specifically to do the following:

- Immediately, upon the filing of the Order, conduct gathers of all excess animals on public lands in Nevada, which exceed the currently established AMLs, both inside and outside of established HMAs.
- On a continuing basis thereafter, no less frequently than every 2 (two) months, determine the current populations of animals in Nevada and promptly conduct gathers of excess animals on public lands in Nevada, which exceed currently established AMLs.
- Immediately, upon the filing of the Order, cease the long-term warehousing of animals removed from excess populations of animals on public lands in Nevada and to instead promptly and without delay proceed to auction, sell and otherwise properly dispose of such animals in accordance with the Act.
- Adhere to multiple use principles in carrying out their responsibilities under the Act in Nevada including, but not limited to, compliance with the laws of the State of Nevada as they pertain to water rights.
- Cease interfering with Nevada water rights owned by third parties by preventing their owner’s access to and use of waters and to cease favoring horses and burros, particularly excess animals, over other users of the lands including wildlife.

### **About NACO**

NACO is a non-profit, non-partisan association that represents Nevada’s 17 counties. NACO’s Board of Directors is comprised of commissioners from each of the counties.

## **Overpopulation of Wild Horses and Burros in Nevada Has Severe Impacts on Both Health of Horses as Well as the Ecological Health and Sustainability of Nevada's Rangelands**

The significant and continued overpopulation of wild horses and burros in Nevada has had a dramatic impact on the ability to manage Nevada's rangelands for rangeland health and a thriving natural ecological balance. Examples abound of the severe degradation of natural springs and riparian areas, unhealthy or dying horses, and negative effects on wildlife and native vegetation. The examples below are from geographic areas where livestock grazing is documented to be very limited (especially during vegetation growing season and/or summer months) or has been removed altogether, and where horses are so overpopulated that they are found starving and competing with native wildlife for forage and water.

### **Health of Horses and the Landscape**

The following photos were all taken at the Cold Creek Herd Management Area (HMA) in Eastern Nevada in 2012. This area is overpopulated with wild horses who compete with each other and with wildlife for food and water.



*Photo by Savannah Sturm (used w permission)-taken at Cold Creek HMA, Eastern Nev, 2012.*



*Photo taken by Julie Gleason (used with permission) - taken at Cold Creek HMA, Eastern Nevada, 2012.*



*Photo obtained from Eureka County Dept. of Natural Resources - taken at Cold Creek HMA, Eastern Nevada, 2012.*

## **Impacts to Landscape and Ecology**

The photo below shows horses at the Deer Springs Area Conveyance in Eastern Nevada. Ribs and other bones show the poor body condition and compromised physical health of the horse due to insufficient forage. Horses in this condition are ill prepared for winter months. The photo also shows a spring that has been completely denuded by horses as well as “stomped down” so that the water is no longer accessible.



*Mare and foal at Deer Spring conveyance (September 2010). Permitted livestock season of use is from 11/1 to 5/15.<sup>1</sup>*

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<sup>1</sup> “Antelope Complex Capture Plan And Environmental Assessment,” United States Department of the Interior, Bureau of Land Management, Wells and Schell Field Offices, November 2010, page 27.

In the photos below, the population of wild horses in this geographic area was at 142% - 239% of what the BLM had determined was sustainable. This was an area within which livestock use had not “generally occurred ... since 1994.”<sup>2</sup> Grazing that has occurred is permitted for use during the dormant season only. The degraded condition of the native salt desert shrub plant community due to the overuse from horses is apparent.



*Photo by Callie Hendrickson – taken at Fish Creek Allotment, Antelope Valley, Eureka County, NV, July 2012.*



*Photo by Callie Hendrickson – taken at Fish Creek Allotment, Antelope Valley, Eureka County, NV, July 2012*

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<sup>2</sup> “Fish Creek Complex Conformance Determination”, Bureau of Land Management, Battle Mountain, Nevada, District, June 2004, page 100.

## **Environmental Impacts ~ Sheldon National Wildlife Refuge**

In the Sheldon National Wildlife Refuge in Northwestern Nevada the U.S. Fish and Wildlife Service has documented extensive resource damage resulting from the overpopulation of wild horses. Please follow the link below to U.S. Fish and Wildlife webpage on wild horse and burro management in the Refuge. The page includes data as well as pictures illustrating damaged riparian areas and native vegetation and wildlife, in an area with no livestock grazing.

<http://www.fws.gov/sheldonthartmtn/Sheldon/horseburro.html>

### **Documentation of Overpopulation**

The Diamond Complex consists of the Diamond, Diamond Hills North, and Diamond Hills South HMAs in Eureka, Elko, and White Pine Counties in Nevada. The HMAs border one another and wild horses move east-west and north-south through the HMAs throughout the seasons. The upper range Appropriate Management Level (AML) for the entire Diamond Complex is 210 horses. In November 2012, the BLM estimated the horse population of the Diamond Complex to be 813 horses, or 387% of the established AML, with an additional 311 horses outside of the Diamond Complex HMA boundaries. The horses outside the HMA cause public safety issues by congregating on the Strawberry Highway, and several have been hit by vehicles. All of the ranchers on the Diamonds have taken reductions in grazing allotments (the grazing duration and/or number of cattle they are allowed to have on the range) due to drought conditions and horse impacts, yet horse populations have not been managed or reduced even down to the BLM-determined levels that can be sustained by the ecology of the Diamond Complex. One ranching family on the Diamonds was so severely overrun by wild horses on their allotment, over multiple years, that they were unable to continue grazing and were forced out of the ranching business altogether.

Between January 18 and February 7, 2013 the BLM gathered 792 horses from the Diamond Complex. More horses were gathered than anticipated due to poor physical health as well as compromised range conditions. The BLM estimated 78 horses remained on the entire Complex after the gather; however, to better understand the number of horses remaining on the Complex, the BLM completed a census flight in July, 5 months after the gather was completed. What the census found was that a much greater number of horses remained on the Complex than the BLM had estimated – they counted at least 450 horses...a number that was 214%-233% of AML.

*~ Source, Eureka County, Contact: Jake Tibbitts, (775) 237-6010*

### **Feral Horses**

Finally, please see the attached article containing information as well as photographs, from a publication of the Wildlife Society (TWS), the internationally recognized professional organization for certified wildlife biologists. TWS has passed a resolution<sup>3</sup> calling for very aggressive action to manage wild horses, based on the threat they pose to wildlife and western ranges. TWS refers to the animals not as wild, but instead feral, horses, based on their status as a non-native species that are not a natural part of the existing Western ecosystem.

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<sup>3</sup> [http://joomla.wildlife.org/documents/policy/feral\\_horses\\_1.pdf](http://joomla.wildlife.org/documents/policy/feral_horses_1.pdf)