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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING

Rock Springs Grazing Association,

Plaintiff,

v.

Ken Salazar, et al.,

Defendants,

Case No. 2:11-cv-00263-NDF

**DECLARATION OF LLOYD EISENHAUER**

I, Lloyd Eisenhauer, declare as follows:

1. I live in Cheyenne, Wyoming. I am a former Bureau of Land Management (“BLM”) official with extensive experience in the Rawlins and Rock Springs Districts in Wyoming and intimate familiarity with the public lands under BLM management in those areas. I have reviewed the consent decree proposed by BLM and the Rock Springs Grazing Association (“RSGA”) in this case and provide this declaration based on my longstanding knowledge of, and management of, wild horses and livestock grazing in the Rock Springs and Rawlins Districts.

2. I grew up in Pine Bluffs, Wyoming with a livestock and farming background, served in the Marines for four years, and then owned a livestock business from 1952-1958. I enrolled in college in 1958, studying range management. From 1960-1961, BLM hired me to assist with collecting field data for vegetation assessments and carrying capacity surveys related to livestock and wild horses. These surveys were conducted in the Lander, Kemmerer, and Rawlins Districts. When I graduated in 1962, BLM hired me full-time to serve in the Rawlins District in Wyoming, where most of my work focused on grazing management involving sheep, cattle, and wild horses. From 1968-1972, I was Area Manager of the Baggs-Great Divide Resource Area in the Rawlins District. In 1971, the Wild Free-Roaming Horses and Burros Act was enacted, and in the spring of 1972, on behalf of BLM, I conducted the first aerial survey of wild horses in Wyoming, recording the number of horses and designating the Herd Management Areas (“HMAs”) for the Rawlins District. After a stint as an Area Manager with BLM’s Albuquerque, New Mexico office, in 1975 I took over as the Chief of Planning and Environmental Analysis in BLM’s Rock Springs District for three years. I was the lead on all planning and environmental assessments. During that time, I also served as the Acting Area Manager of the Salt Wells Resource Area, which is located in the Rock Springs District. In 1979, BLM transferred me to its Denver Service Center to serve as the Team Leader in creating the agency’s automated process for data collection. I received an excellence of service award from the Secretary of the Interior commending me for my work as a Team Leader. In 1982, I became the Head of Automation in BLM’s Cheyenne office, where I managed and implemented the data collection and processing of various systems related to BLM programs. I retired from BLM in 1986, and have stayed very involved in the issue of wild horse and livestock management on BLM lands in Wyoming, and have written articles about the issue in local and

other newspaper outlets. I have won various journalistic awards, including a Presidential award, for my coverage of conservation districts in Wyoming. Along with a partner, I operated a tour business (called Backcountry Tours) for six years, taking various groups into wild places in Wyoming – without a doubt wild horses were the most popular thing to see on a tour, in large part due to their cultural and historical value. I also served six years on the governor’s non-point source water quality task force.

3. Based on my longstanding knowledge of wild horse and livestock management in the Rawlins and Rock Springs Districts, and in the Wyoming Checkerboard in particular, I am very concerned about BLM’s agreement with RSGA, embodied in the proposed Consent Decree they have filed in this case, under which BLM would remove all wild horses located on RSGA’s private lands on the Wyoming Checkerboard.

4. The Checkerboard is governed by an exchange of use agreement between the federal government and private parties such as RSGA. However, due to state laws, property lines, and intermingled lands, it is impossible to fence the lands of the Wyoming Checkerboard, which means that both the wild horses and the livestock that graze there roam freely between public and private lands on the Checkerboard without any physical barriers. For this reason, it is illogical for BLM to commit to removing wild horses that are on the “private” lands RSGA owns or leases because those same horses are likely to be on public BLM lands (for example, the Salt Wells, Adobe Town, Great Divide, and White Mountains HMAs) *earlier in that same day or later that same evening*. Essentially, in contrast to other areas of the country where wild horses still exist, on the Wyoming Checkerboard there is no way to distinguish between horses on “private” lands and those on public lands, and therefore it would be unprecedented, and indeed impossible for BLM to contend that it is removing all horses on RSGA’s “private” lands at any

given time of the year, month, or day, considering that those horses would only be on the strictly “private” lands very temporarily and intermittently on any particular day .

5. Another major concern with BLM’s agreement to remove all horses from the private lands of the Wyoming Checkerboard is that BLM is undermining the laws that apply to the Checkerboard, and wild horse management in general, which I implemented during my time as a BLM official. Traditionally, BLM officials (myself included) have understood that, pursuant to the Wild Horse Act, wild horses have a right to use BLM lands, so long as their population numbers do not cause unacceptable damage to vegetation or other resources. In stark contrast, however, livestock (sheep and cattle) have no similar right to use BLM lands; rather, livestock owners may be granted the privilege of using BLM lands for livestock grazing pursuant to a grazing permit that is granted by BLM under the Taylor Grazing Act, but that privilege can be revoked, modified, or amended by BLM for various reasons, including for damage to vegetation or other resources caused by livestock, or due to sparse forage available to sustain livestock after wild horses are accounted for. BLM’s tentative agreement here does the opposite and instead prioritizes livestock over wild horses, by proposing to remove hundreds of wild horses from the Wyoming Checkerboard without reducing livestock numbers – which, in my view, is contrary to the laws governing BLM’s actions as those mandates were explained to me and administered during the decades that I was a BLM official.

6. While I do not agree with every management action taken by BLM over the years in the Rock Springs District, I can attest – based on my longstanding employment with BLM and my active monitoring of the agency’s activities during retirement – that BLM has generally proven capable of removing wild horses in the Rock Springs District, including by

responding to emergency situations when needed and removing horses when necessary due to resource damage.

7. Considering that wild horses exhibit different foraging patterns and movement patterns than sheep and cattle, and also than big game such as antelope and elk, no sound biological basis exists for permanently removing wild horses from the Wyoming Checkerboard at this time. In particular, wild horses tend to hang out in the uplands at a greater distance from water sources until they come to briefly drink water every day or two, whereas livestock congregate near water sources and riparian habitat causing concentrated damage to vegetation and soil. For this reason, the impacts of wild horses are far less noticeable on the Checkerboard than impacts from livestock.

8. In addition, because livestock tend to eat somewhat different forage than wild horses (horses tend to eat coarser vegetation such as Canadian wild rye and other bunch grasses, whereas cattle and sheep mostly eat softer grasses), there is no justification to remove wild horses on the basis that insufficient forage exists to support the current population of wild horses. Also, because cattle and sheep have no front teeth on the front part of their upper jaws, they tend to pull and tear grasses or other forage out by the root causing some long-term damage to vegetation, whereas wild horses, which have front teeth on both their front upper and lower jaws, act more like a lawnmower and just clip the grass or forage (leaving the root uninjured), allowing the vegetation to quickly grow back. These differences are extremely significant because if there were a need to reduce the use of these BLM lands by animals to preserve these public lands, it might be cattle and sheep – not wild horses – that should be reduced to gain the most benefit for the lands, and which is why BLM, during my time as an agency official, focused on reducing livestock grazing.

9. BLM's agreement with RSGA states that RSGA's conservation plan limited livestock grazing, primarily by sheep, to the winter months to provide sufficient winter forage. This is a good example of "multiple use" management, since wild horses and sheep have very little competition for the forage they consume and the seasons during which they use parts of the Checkerboard. During winter, sheep use the high deserts and horses utilize the uplands and breaks (i.e., different locations) for forage and protection. During the summer, when sheep are not present, wild horses use various landscapes on the Checkerboard. This multiple use should continue for the benefit of the livestock, the wild horses, and the public and private lands involved.

10. I am also very concerned about BLM's agreement with RSGA to permanently zero out the Salt Wells HMA and the Divide Basin HMA, leaving no wild horses in those areas that have long contained wild horses. I have been to fifteen of the sixteen HMAs in Wyoming, and to my knowledge none has ever been zeroed out by BLM. It is my view, based on everything I know about these areas and the way these public lands are used by wild horses and livestock, that BLM has no biological or ecological basis for zeroing out a herd of wild horses in an HMA that existed at the time the wild horse statute was passed in 1971, as is the case with both the Salt Wells and Divide Basin HMAs. And, again, because the wild horses have a statutory right to be there, whereas livestock only have a privilege that can be revoked at any time by BLM, there also is no authority or precedent, to my knowledge, for the agency to zero out these two longstanding wild horse herds simply to appease private livestock grazers.

11. The zeroing out of wild horses in the Salt Wells and Divide Basin HMAs is also concerning because it would mean that, in those two longstanding HMAs, there would no longer be the "multiple use" of these public lands as required by both the Wild Horse Act and the

Federal Land Policy and Management Act. Currently, while there are other uses of this public land, such as by wildlife, hunters, and recreational users, the two *primary* uses in those HMAs are by wild horses and livestock. If BLM proceeds with its agreement with RSGA to zero out wild horses in those HMAs, the only major use remaining would be livestock use, meaning that there would be no *multiple* use of those BLM lands. Not only will that potentially undermine the laws that BLM officials must implement here, but it has practical adverse effects on the resources – multiple use is very beneficial for the environment, and particularly for sensitive vegetation, because different users (e.g., livestock, wild horses) use the lands and vegetation in different ways. When that is eliminated, the resources are subjected to an unnatural use of the lands which can cause severe long-term damage to the vegetation. As a result, zeroing out these herds would likely be devastating for the vegetation in these two HMAs, because livestock would be by far the predominant use in this area.

12. Turning the White Mountain HMA into a non-reproducing herd, as the agreement between BLM and RSGA proposes to do, is also a farce, and violates the meaning of a wild and free-roaming animal. This is essentially a slow-motion zeroing out of this HMA, and is inconsistent with any wild horse management approach I am familiar with that BLM has implemented on public lands.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

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Lloyd Eisenhauer

Date: \_\_\_\_\_