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**U.S. House of Representatives**  
**Committee on Resources**  
**Washington, DC 20515**  
**July 19, 2006**

NICK J. RAHALL II, WV  
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**Mr. Dale Hall**  
**Director**  
**U.S. Fish and Wildlife Service**  
**U.S. Department of the Interior**  
**1849 C Street, NW**  
**Washington, DC 20240**

**Dear Director Hall:**

I am in receipt of your agency's letter dated July 12, 2006, in response to my letter dated June 14, 2006, regarding the controversial wild horse removal operation at the Sheldon National Wildlife Refuge in Nevada. In this regard, on July 13, 2006, members of my committee staff engaged in a telephone conference call with officials of the Fish & Wildlife Service to further gain a better understanding of the situation. I deeply appreciate your agency's response and the time spent by these Service employees on this matter.

With that noted, based on your agency's response to my initial inquiry and other material provided, I respectfully request that the Service cease and desist from any further wild horse removals at the Sheldon National Wildlife Refuge based on the following reasons:

1. The Service is relying on a 26-year-old Environmental Impact Statement finalized in 1980 as the basis for its current wild horse removal operation from the Sheldon National Wildlife Refuge. Suffice to say, a great deal has changed at this particular refuge during that period including but not necessarily limited to, the population level of wild horses and the fact that cattle grazing took place within the Refuge at the time and is no longer the case.

In this regard, the Service admits that over the course of these 26 years no formal additional or updated environmental analysis has taken place. Even when an EIS has been prepared in the past, a supplemental EIS is required under Council on Environmental Quality regulations when: (A) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (B) There are significant new circumstances or information relevant to environmental concerns and bear on the proposed action or its impacts

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**(40 C.F.R. Section 1502.9). In *Marsh v. Oregon Natural Resources Council*, 490 U.S. 360 (1989), the Supreme Court determined that federal agencies must take a “hard look” at whether they should do a supplemental environmental analysis. When, as in this case, the original environmental impact statement was completed 26 years ago, the newly proposed 2006 action should be reviewed with a “hard look” at whether a supplemental EIS is required under the CEQ regulations.**

**As such, I would contend that the current wild horse removal operation at the Sheldon National Wildlife Refuge, based on a 26-year-old EIS, is in contravention of CEQ regulations, Supreme Court guidance, and the Service’s own Planning Policies as contained in Part 602 FW 1 of the refuge manual.**

**2. The Service has failed to initiate or complete two key analyses for the Sheldon NWR as required under the National Wildlife Refuge Administration Act (16 U.S.C. 668dd), as amended. These analyses are the development of a Comprehensive Conservation Plan (CCP) for the refuge, and more specifically, the completion of a compatibility determination for wild horse management activity.**

**When Congress passed the National Wildlife Refuge Improvement Act in 1997, the development of CCPs for each refuge was considered essential towards both fulfillment of the “wildlife first” mission of Refuge System and the appropriate resolution of complex wildlife resource and public use issues. In many respects, CCPs may ultimately prove to be the single most important function that transforms our diverse and dispersed national wildlife refuges into a genuine system of public lands devoted to fish and wildlife conservation.**

**The Sheldon NWR wild horse management program is, in fact, just the type of controversial activity which should be resolved through the CCP process. As you know, this process integrates the best available science, the mission and purposes of a refuge, and robust public involvement to determine long-term management policies that are defensible, publicly supported, and consistent with the “wildlife first” mission of the System. It is disheartening to find that ten years after the Congress required the development of CCPs that the Service has failed to even initiate the CCP process, especially at a prominent refuge experiencing degradation of fragile range habitat. At the very least, completing a CCP would provide the proper context for the Service to fully develop a management plan for wild horses as required under Part 620 FW 1 of the Service’s refuge manual, and as envisioned under the 1997 Improvement Act.**

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**I also urge the Service to reconsider its decision to not complete a compatibility determination for this contentious action. The Service's stated reason for its noncompliance is that the program is considered to be a management activity exclusively, not a wildlife-dependent use or an economic use, and therefore, not subject to this requirement. I do not dispute the Service's contention that the management of wild horses are a legitimate habitat concern, yet this management activity does have a connection to public use as expressed through public information released by the Service itself. The Sheldon NWR's web page specifically includes the viewing of wild horses as a wildlife viewing and photography opportunity – one of the "big six" preferred public recreational uses. Moreover, the Service's own stated intention under its wild horse management plan is in part to maintain a smaller herd expressly for public viewing. I fail to see how the Service can ignore the fact that wild horses provide the basis for wildlife viewing, and therefore, this activity should be subject to a compatibility determination.**

**3. The Service has deemed wild horses located within Sheldon NWR to be "feral" while other wild horse populations on adjacent federal lands are not labeled as such. No one disputes that the Service has the authority under its regulations (50 CFR 30.11-12) or under the refuge manual (7 RM 6), to manage or remove feral animals, or for that matter, that the Service has had to manage wild horses since establishment of the refuge in 1931. There is dispute, however, with the adequacy of the scientific analysis used to justify this discretionary decision. As previously noted, this entire management activity is based upon data developed more than a quarter-century ago; data which is assuredly obsolete, inaccurate or downright wrong. In the absence of definitive population data that demonstrates no cross breeding between Sheldon NWR wild horses with populations found on adjacent federal lands, and that proves that these populations do not roam outside of the Sheldon NWR boundaries which would trigger protections afforded under the Wild Free-Roaming Horse and Burro Act (P.L. 92-195, 16 U.S.C. 1331-1340), the continued labeling of these animals as "feral" appears contrary to sound professional judgment and the principles of wildlife management.**

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**It is for these reasons that I respectfully request that the Service immediately suspend any further wild horse removal operations until such time as the issues raised in this letter are addressed.**

**With warm regards, I am**

**Sincerely,**

A handwritten signature in black ink, appearing to read "Nick Rahall". The signature is fluid and cursive, with a large initial "N" and a long, sweeping underline.

**NICK J. RAHALL, II**

**Ranking Democratic Member**

**NJR/jz**