

Vermont Law and Graduate School Files Motion For Preliminary Injunction In Federal Court To Stop BLM Wild Horse Roundup

CA wild horse and burro advocacy org. Wild Horse Fire Brigade alleges illegal roundup by Bureau of Land Management in Oregon, temporarily halting roundup

YREKA, CALIFORNIA, UNITED STATES, October 17, 2022 /EINPresswire.com/ -- A team of legal scholars at the Vermont Law and Graduate School, led by Professor-Litigator Michael Harris, have filed a Motion For Preliminary Injunction against the Bureau of Land Management ('BLM') in the federal court of Washington, D.C. on Friday, October 14, 2022.

Vermont Law and Graduate School client Wild Horse Fire Brigade ('WHFB'), believes that the BLM's actions are illegal



A herd of wild horses seen in an alpine riparian area of a wilderness area. Documented evidence proves wild horses have been using this riparian area and spring for centuries without any ill effects. Photo: William E. Simpson II

"We don't like seeing tax-dollars used to defend the Bureau of Land Management against lawsuits that have little or no chance of success. However, we believe this case has a compelling fact-set", said Deb Ferns, President of Wild Horse Fire Brigade, an all-volunteer California-based 501-c-3 nonprofit wild horse and burro advocacy organization.

As a part of the entire 26-page legal filing and 300-pages of supporting documents, the Motion contains and alleges the following:

"As an initial matter, counsel for WHFB has had ongoing discussions since October 4, 2022, with the U.S. Department of Justice regarding WHFB's intent to file this motion. Specifically, the parties have discussed whether the timing of the action being challenged could be changed to allow for a hearing on a Motion for a Preliminary Injunction. BLM has agreed to "pause" the round-up and

removal of wild horses from the HMA until at least October 24, 2022. BLM has also agreed to file a response to this Motion on or before October 21, 2022.

Plaintiff Wild Horse Fire Brigade (WHFB) seeks a preliminary injunction against the Bureau of Land Management (BLM) to stop the ongoing capture and removal of wild horses from private property within and adjacent to the Pokegama Herd Management Area (HMA), located near Klamath Falls, Oregon.

Through this roundup, BLM intends to permanently remove over 200 wild horses from an estimated population of 230 in the HMA.

BLM initiated this roundup after receiving at least one complaint on April 24, 2020, from a private landowner, the Green Diamond Resource Company (GDRC), which owns a significant amount of land within and around the HMA.

In responding to the GDRC complaint, BLM announced on August 20, 2022, in a press release that it would both respond to the complaint by removing horses from the private property and permanently remove them from the HMA by sending the trapped horses to a BLM holding facility in Burns, Oregon.



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Deb Ferns, MBA & President of Wild Horse Fire Brigade

Environmental Policy Act (NEPA); and,

It is the decision to permanently remove the horses in violation of the Free Roaming Wild Horse and Burro Act (WHBA), 16 U.S.C. §§ 1331 et seq., and applicable BLM regulations and guidance, that is being challenged here.

In making this decision to permanently remove the horses, BLM failed to:

(1) conduct and make the legally required excess determination; and,

(2) conduct a review of the decision under the National

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WILD HORSE FIRE BRIGADE) Case No. 22-3006-RBW
404 South Main Street)
Yreka, CA 96097)

Plaintiff,) **MOTION FOR A PRELIMINARY**
) **INJUNCTION**

v.)

THE UNITED STATES BUREAU OF)
LAND MANAGEMENT, an agency of)
the United States)
1849 C Street, N.W.)
Washington DC 20240)

**MOTION FOR A PRELIMINARY INJUNCTION, REQUEST FOR ORAL
ARGUMENT AND MOTION FOR A TELEPHONIC HEARING**

Come now, through its counsel, Plaintiff Wild Horse Fire Brigade (WHFB) seeking a preliminary injunction to prevent the U.S. Bureau of Land Management (BLM) from continuing the roundup and permanent removal of up to 200 wild horses from private property in and near the Pokegama Wild Horse Management Area (HMA) in Southern Oregon and Northern California. This motion is supported by the Memorandum of Points and Authorities below and the Declaration of William E. Simpson II.

As an initial matter, counsel for WHFB has had ongoing discussions since October 4, 2022, with the U.S. Department of Justice regarding WHFB's intent to file this motion.

Specifically, the parties have discussed whether the timing of the action being challenged could be changed to allow for a hearing on a Motion for a Preliminary Injunction. BLM has agreed to "pause" the roundup and removal of wild horses from the HMA until at least October 24, 2022. BLM has also agreed to file a response to this Motion on or before October 21, 2022.

Vermont Law School files Motion For Preliminary Injunction in Federal Court, Washington, D.C.

(3) provide the public reasonable notice and an opportunity to comment, as required by the Administrative Procedure Act (APA), BLM guidance applicable to decisions to remove wild horses from the range, and/or NEPA.

BLM and the courts have repeatedly concluded that the agency is required to conduct an excess determination, to provide the public with draft environmental documentation for review, and to provide the public with thirty days to comment on the proposal before issuing a final decision on a wild horse roundup. In addition, BLM must issue a proper Final Decision thirty-one to seventy-six days before the proposed roundup.

Here, BLM did none of these things. Instead, after receiving a complaint from a local landowner that horses had strayed from the HMA onto private property, BLM chose to bypass the required process and initiate a permanent removal of the horses.

While BLM is authorized to remove wild horses under its jurisdiction from private property, they must be returned to the HMA. That authority does not provide BLM an alternative to the required process for deciding to permanently remove wild horses as excess from an HMA.

This is made clear by BLM's own regulations, which distinguish between responding to a complaint of a landowner to remove "nuisance" horses, and the decision by the agency to remove "excess" horses from private land in and around a herd management area. See 43



Professor-Litigator, Michael R Harris J.D.



Wild Horse Fire Brigade Org. - California-based all-volunteer 501-c-3 nonprofit

C.F.R. §§ 4720.1-.2."

"The BLM has a history of cutting corners and ignoring their legal obligations in a rush to get rid of wild horses in the west," Professor Michael Harris, director of the Environmental Advocacy Clinic at Vermont Law and Graduate School said. "Horses are native to the west and are an important aspect of the ecosystem. We need to work to increase their numbers to ensure healthy, stable herds."



BLM photo shows burned forest and downed fences in Pokegama HMA in Oregon

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About Vermont Law and Graduate School:

Vermont Law and Graduate School, a private, independent institution, is home to the nation's premier environmental law program. The school features innovative experiential programs and is home to the Environmental Law Center, South Royalton Legal Clinic, Environmental Advocacy Clinic, Energy Clinic, Food, and Agriculture Clinic, Environmental Justice Clinic, and Center for Justice Reform. For more information, visit vermontlaw.edu, find us on Facebook, and follow us on Twitter and Instagram.

About Wild Horse Fire Brigade:

Wild Horse Fire Brigade (WHFB) is a California-based 501-c-3 all-volunteer nonprofit organization. WHFB is working to save native species American wild horses by rewilding them away from Bureau of Land Management holding facilities as well as relocating wild horses away from areas where they are deemed to be in conflict, and humanely reestablishing these American icons into ecologically and economically appropriate wilderness areas as keystone herbivores where they will reduce the frequency, size and intensity of catastrophic wildfire by reducing grass and brush wildfire fuels. For more information visit WildHorseFireBrigade.org.

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