

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

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FRONT RANGE EQUINE RESCUE,)	
<i>et al.,</i>)	
)	
)	
Plaintiffs,)	
v.)	Civ. No. 1:13-cv-00639-MCA-RHS
)	
TOM VILSACK, Secretary,)	
U.S. Department of Agriculture, <i>et al.,</i>)	
)	
)	DECLARATION OF JAMES
)	STEPHENSON IN SUPPORT OF
)	YAKAMA NATION’S OPPOSITION
)	TO MOTION FOR TEMPORARY
Federal Defendants.)	RESTRAINING ORDER AND/OR
)	PRELIMINARY INJUNCTION

DECLARATION OF JAMES STEPHENSON

I, JAMES STEPHENSON, declare as follows:

1. I am currently employed by the Confederated Tribes and Bands of the Yakama Nation (“Yakama Nation”) as a Big Game Biologist. I am authorized to act and make statements on behalf of the Yakama Nation on the matters contained herein. I have personal knowledge of the facts set forth in this declaration. The facts set forth are true to the best of my knowledge. If called, I can and will testify to these facts in a court of law. I submit this declaration in support of the Yakama Nation’s Motion to Intervene.

2. I hold a B.A. in Zoology from Oregon State University (1965) and a M.S. in Wildlife Management from Oregon State University (1970). I have an extensive background in wildlife management and more limited experience as a range manager. I have college training in range management from both Oregon State University and Eastern Oregon College in LaGrande,

Oregon. In the early part of my career I worked on captive propagation of endangered species with the US Fish and Wildlife Service, worked for the Idaho Department of Fish and Game on a fisheries project and then worked again on a fisheries project in Washington State. I then took a job with the Department of the Army at Fort Lewis as the Fish and Wildlife Administrator. I was in this position for 21 years and worked on a variety of projects including big game management, waterfowl and upland game management, non-game management, fisheries management and spent part of the time administering a cattle grazing lease. I began my employment with the Yakama Nation in 1996. I assumed my current position in 2002. My primary responsibility is to manage big game resources on the Yakama Nation's reservation. This includes deer, elk, bighorn sheep, mountain goats, pronghorn antelope, a captive herd of buffalo and wild/feral horses.

3. I was raised in eastern Oregon and worked on ranches from the time I was twelve years old until I started college in my early 20's. We occasionally encountered wild horses and I assisted on a couple of roundups in my early years.

4. The Yakama Nation owns and manages approximately 1.3 million acres of land in south-central Washington State. The Yakama Nation relies on the natural resources of its land for subsistence hunting and fishing as well as gathering of food and medicine plants. Livestock grazing and timber harvest also generate income to house, clothe, feed, and educate its members. Until recently the free-range horses on the reservation also generated badly needed income for tribal members. Many of these horses were used or sold for saddle horses but a significant number were also sold for meat processing. Approximately 400,000 acres of Yakama Nation land are managed rangelands. Rangeland consists of grasslands populated by native plants that are suitable for grazing by both livestock and wild game. The rangeland area is where the

majority of food and medicine plants occur and also has populations of deer, pronghorn antelope and bighorn sheep. This rangeland area is very sensitive to overgrazing.

5. According to the Bureau of Indian Affairs range management program the Yakama Nation's land could adequately support a population of 1,000 horses during the 1990's.

6. I participated in a Yakama Nation survey of our feral horse population in 2006. At that time, we estimated that the feral horse population was approximately 6,000 head. Based on our estimates, we project that the current population is 12,000. Given our observations of colt production, we estimate the population will double every four years because we have no economically viable opportunity to humanely reduce this population, namely horse slaughter.

7. Before cessation of horse slaughter in the United States, members of the Yakama Nation could sell horses at a price of approximately \$150 to \$400 per animal. Now, if you can find a buyer, such horses are often sold for prices of \$5 to \$20 per head. Many of these horses cannot be given away.

8. Since the cessation of horse slaughter in the United States, I have witnessed domestic horses that have been abandoned on Yakama Nation land. I know these horses are abandoned because of these horses' demeanor, size, and color. Some of these abandoned horses still bore evidence of previously wearing halters; in some cases the horses were still wearing halters when I found them. I have witnessed abandoned domestic horses that appeared on the verge of starvation.

9. The increased number of horses on the reservation is causing compaction on the soil and is destroying traditional food and medicinal plants, such as camas, bitterroot, Indian celery, wild onions and many other plants of significance to tribal members by trampling and

overgrazing. These plants are sacred to the Yakama Nation and play an important role in the subsistence and cultural life of the Yakama Nation.

10. Overgrazing by excess horses is destroying forage plants. Overgrazing by horses has decimated the forage resources used by the Yakama Nation's cattle. In addition, the denudation of rangeland has substantially decreased Yakama Nation's big game resources. I have observed elk and deer vanish from the rangeland areas, replaced by feral horses. Without an economically viable outlet, such as domestic horse slaughter, the effects of overgrazing by horses will continue to worsen. For reasons I explain below, euthanasia with drugs is not viable, either practically or economically.

11. The denuding of the rangeland by overgrazing caused by the excess horse population is the cause of increased silt runoff into nearby streams. This silt runoff harms Yakama Nation's fishing resources as well as listed salmonid species. These listed salmonids are Mid-Columbia steelhead and are listed as threatened under the Endangered Species Act.

12. The federal government spent \$70,000,000 in FY 2012 to manage wild/feral horses on public lands. The total number of horses on these public lands and in holding facilities is over 70,000 animals. The Yakama Nation completed a comprehensive management plan for its horse herd in September 2007. Upon completing the plan, the tribe prepared a request to the regional office of the Bureau of Indian Affairs for \$518,000 to assist in managing the horse herd. Money was not made available at that time, nor was it made available after a later date when a request was made to the Secretary of Indian Affairs. The only money BIA has made available to date was "year end money" that amounted to slightly over \$200,000 in 2011. We basically have no money for horse management on the Yakama Reservation and I believe this same situation is occurring in regard to horse management on other reservations in the U.S.

13. I am aware that some members of the animal humane community who have expressed concern for the welfare of feral horses have suggested that euthanization of horses with the drug of choice (sodium pentobarbital) would be preferable to the methods for killing the horses used by slaughterhouses. However, the use of such drug-based euthenization is not practical and carries with it its own adverse consequences. A recent article, "Quantification of Sodium Pentobarbital Residues from Equine Mortality Compost Piles," written for presentation at the 4th International Symposium: Managing Animal Mortalities, Products, By-Products and Associated Health Risk Connecting Research, Regulations and Response, held May 21-24, 2012, discusses the potential for contamination of the environment by sodium pentobarbital used to euthanize horses. The article explains that this drug, which is used to euthanize horses, remains persistent in the flesh of dead horses for up to 180 days and likely much longer. Euthanization of several thousand horses, which would be necessary to reduce our horse herd to carrying capacity, would entail prohibitive expense and also contaminate the environment at a scale that would not be acceptable to tribal members or to any responsible land owner or public agency. In my opinion, the study and associated article I identify in this paragraph are authoritative and reliable. I have attached a copy of it to this affidavit as Exhibit "A."

14. With an overpopulation of horses there are more and more incidents of tribal members gathering food and medicine plants having encounters with harem stallions which endanger their safety.

15. I have taken pictures, and have had others take pictures under my direction, of the damage that the feral horses have caused to the Yakama Nation's reservation. The following pictures demonstrate the environmental degradation occurring on the Yakama Reservation due to an excess of feral horses. This degradation covers a very large area of the reservation's

rangeland and includes our grazing pastures and wild game habitat. These photographs accurately show the damage that the feral horses have caused due to overgrazing. They also accurately show damage that the feral horses do to our stream banks.

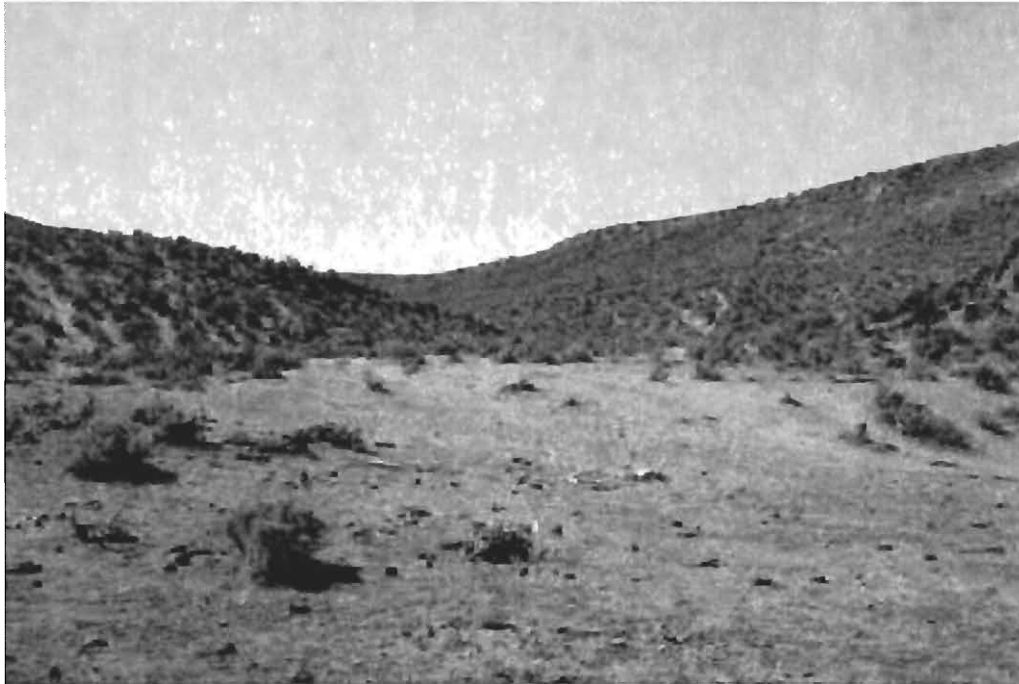


Photo 1: Denuded range land near the mouth of Mule Dry Creek



Photo 2: Denuded hillside in same area



Photo3: Tributary of Mule Dry Creek



Photo 4: Denuded hillside

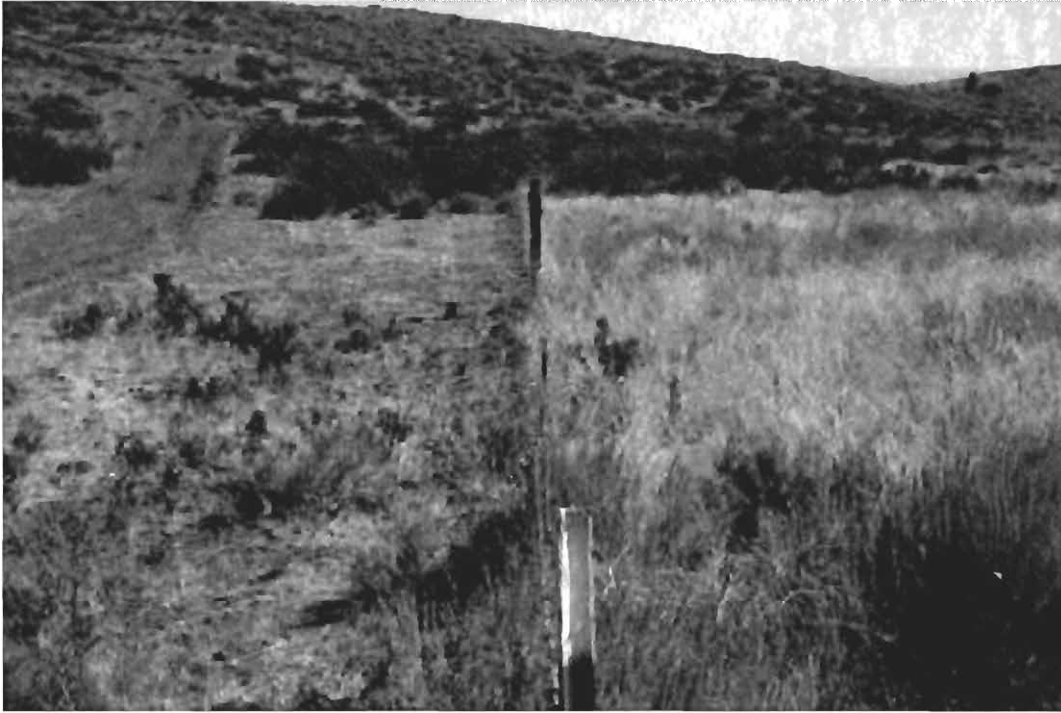


Photo 5: Exclosure on Oak Springs Road with no horse grazing in exclosure



Photo 6: Near Seattle Springs



Photo 7: Seattle Springs Exclosure showing no horse grazing inside exclosure

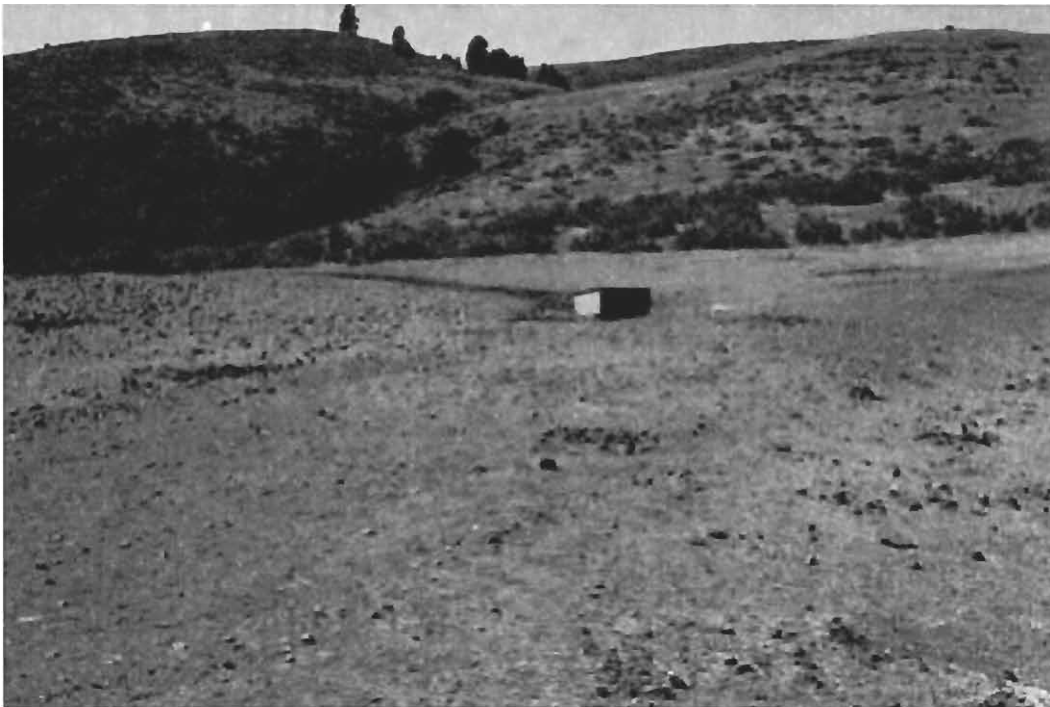


Photo 8: Watering trough near Seattle Springs

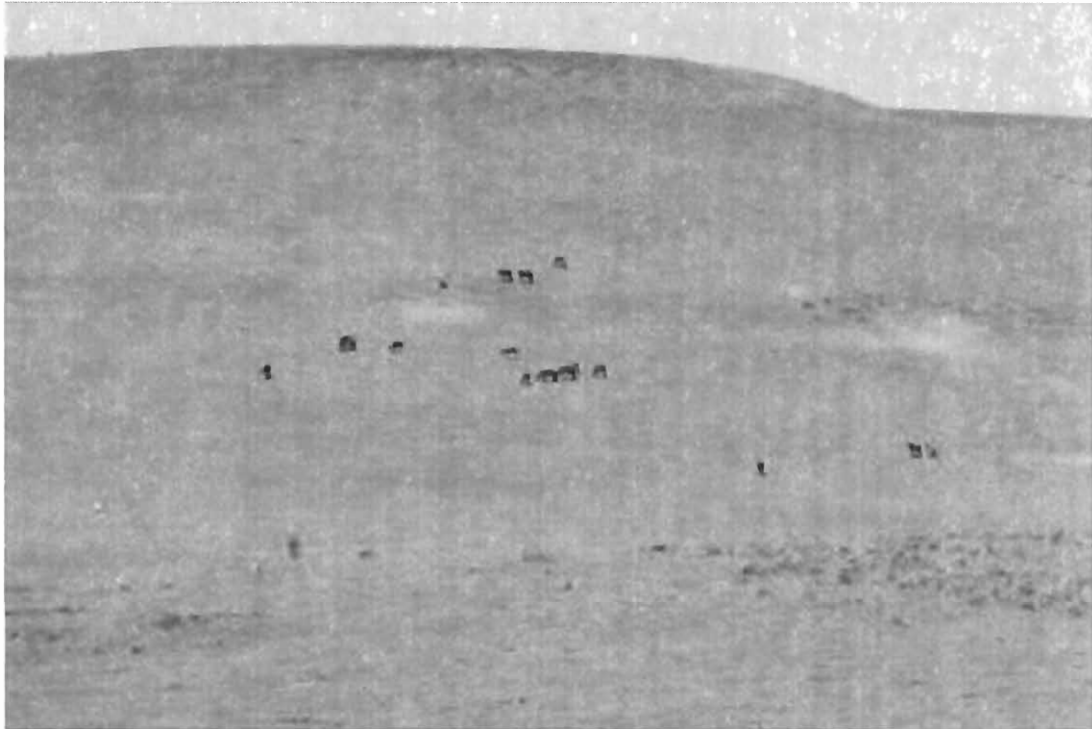


Photo 9: Denuded hillside near Oak Springs Road

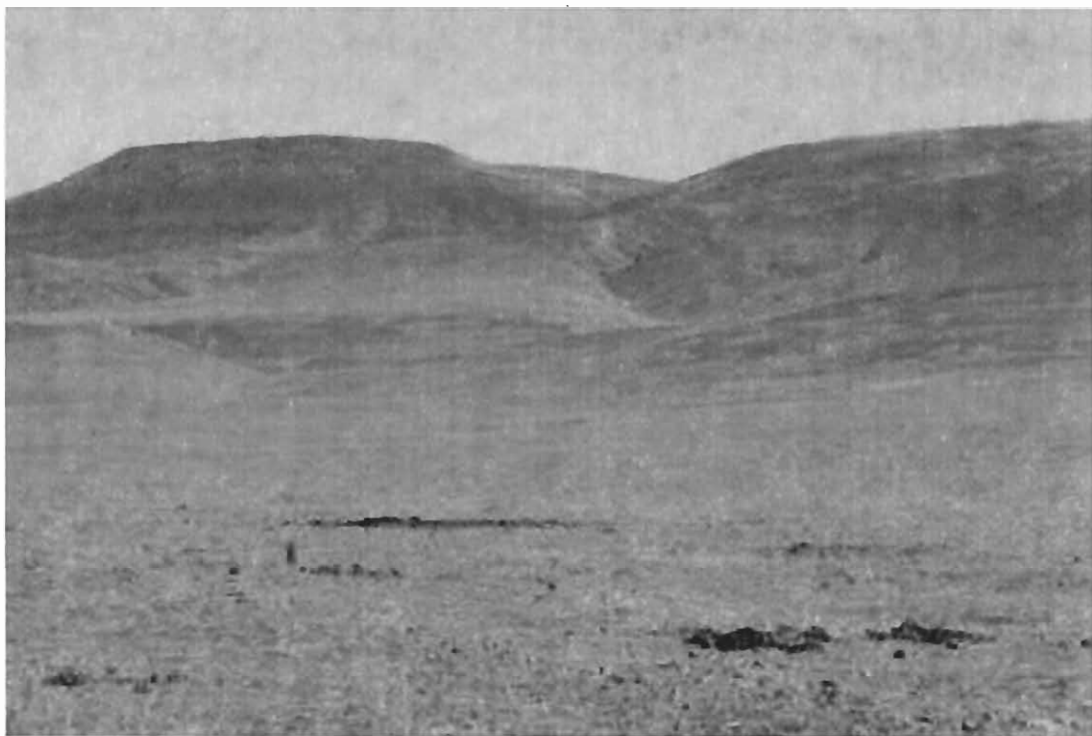


Photo 10: More denuded hillside



Photo 11: More denuded range land

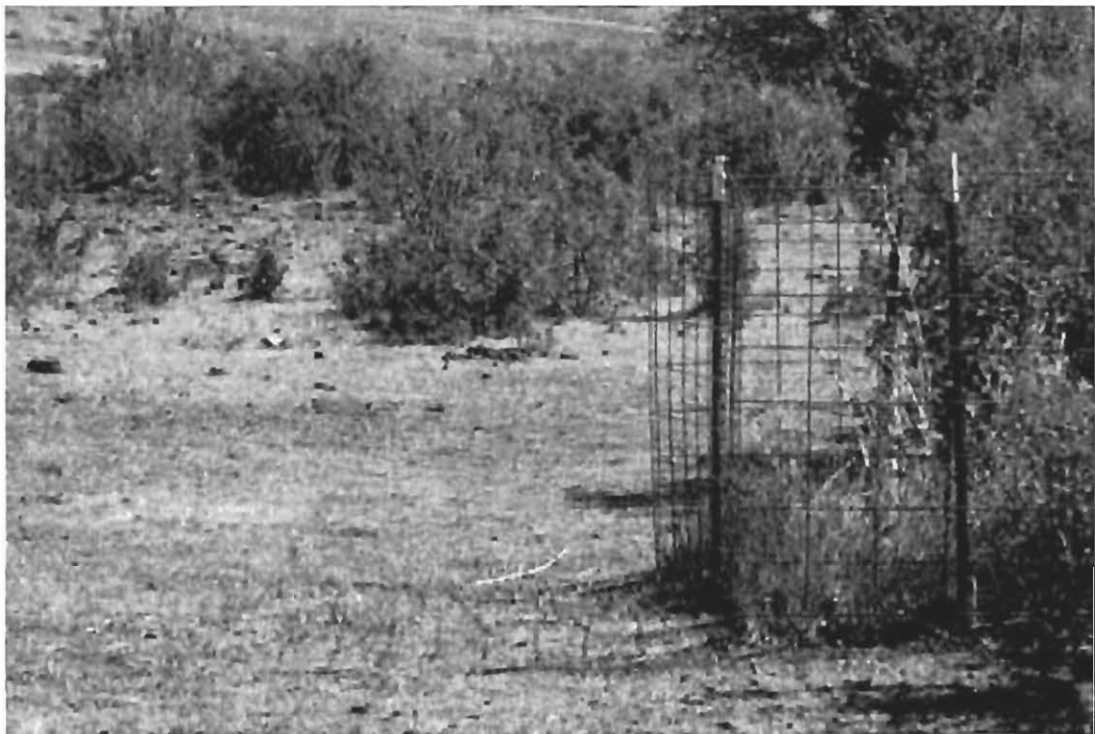


Photo 12: Small exclosure

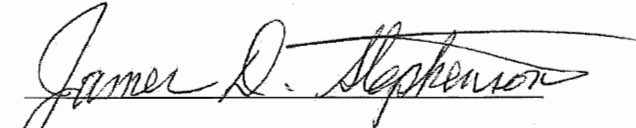


Photo 13: More denuded rangeland

16. I believe it critical to allow horse slaughter again in the United States because without it, the Yakama Nation is suffering massive economic and environmental damage. These damages are, in part, set forth in the 2011 Government Accountability Office report, *HORSE WELFARE: Action Needed to Address Unintended Consequences from Cessation of Domestic Slaughter*, which is available online at <http://www.gao.gov/new.items/d11228.pdf>.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, based on my own personal knowledge and experience.

Executed this 1st day of August 2013, in Toppenish, WA.


JAMES STEPHENSON