

UNITED STATES COURT OF APPEALS

October 14, 2016

TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

AMERICAN WILD HORSE
PRESERVATION CAMPAIGN;
CLOUD FOUNDATION; RETURN
TO FREEDOM; CAROL
WALKER; KIMERLEE CRYL;
GINGER KATHRENS,

Petitioners-Appellants,

v.

No. 15-8033
(D.C. No. 2:14-CV-00152-NDF)
(D. Wyo.)

SALLY JEWELL, in her official
capacity as Secretary of the United
States Department of the Interior;
NEIL KORNZE, in his official
capacity as Bureau of Land
Management Acting Director,

Respondents-Appellees.

ROCK SPRINGS GRAZING
ASSOCIATION; STATE OF
WYOMING,

Intervenor Respondents -
Appellees.

NATURAL RESOURCES AND
ADMINISTRATIVE LAW
PROFESSORS; MOUNTAIN
STATES LEGAL FOUNDATION;

WYOMING STOCK GROWERS
ASSOCIATION,

Amici Curiae.

ORDER AND JUDGMENT

Before **BRISCOE, McKAY** and **MATHESON**, Circuit Judges.

In July 2014, the Bureau of Land Management (BLM), acting through a contractor, removed approximately 1,263 wild horses from sections of public and private lands in an area in southwestern Wyoming known as the “Checkerboard.” Shortly thereafter, petitioners American Wild Horse Preservation Campaign, The Cloud Foundation, Return to Freedom, Carol Walker, and Kimerlee Curyl filed this action against Sally Jewell, the Secretary of the Department of the Interior, and Neil Kornze, the acting director of the BLM, seeking review of BLM’s decision to remove wild horses from public land sections of the Checkerboard. Petitioners alleged, in pertinent part, that the removal violated the Wild Free-Roaming Horses and Burros Act (Act), 16 U.S.C. §§ 1331–1340, and the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. §§ 1701–1787. The district court rejected these claims. Petitioners now appeal.

Exercising jurisdiction pursuant to 28 U.S.C. § 1291, we conclude, for reasons to be more fully explained in a forthcoming opinion, that the case is not

moot, and that, as alleged by petitioners, the BLM violated both the Act and the FLPMA in carrying out the 2014 removal of wild horses from the Checkerboard. Accordingly, we **REVERSE** the judgment of the district court.

Entered for the Court

Mary Beck Briscoe
Circuit Judge