

**FILED**  
United States Court of Appeals  
Tenth Circuit

**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.

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**ORDER AND JUDGMENT**

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

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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