

Texas Parks and Wildlife Department

Internal Affairs

Report # I07-014

RE: The shooting of Burros at Big Bend Ranch State Park (BBRSP)

MAJ Grahame Jones

December 4, 2007

Introduction:

On 11/01/07, TPWD State Park Peace Officer Robert Garcia notified Game Warden CPT Robert Newman that he (Garcia) was conducting an investigation into the killing of burros at Big Bend Ranch State Park (BBRSP). On 11/01/07, CPT Newman notified Game Warden MAJ Steve Whitaker who in turn called LTC Craig Hunter. On 11/01/07, LTC Craig Hunter notified me personally. I immediately met with Deputy Executive Director Gene McCarty and received approval to proceed with an Internal Affairs investigation. IA formally opened an investigation on 11/01/07. The focus of the investigation centered on criminal allegations of animal cruelty as per Officer Garcia.

Complaint / Allegations (Attachment 7):

CPT Robert Newman wrote the following in a memorandum to LTC Craig Hunter on 11/01/07:

"I received a call today from Big Bend Ranch State Natural Area Park Security Officer Robert Garcia. He wanted advice on a case that had been given to him. He [Garcia] stated:

- *That he had information that wild burros were being killed on the park by Dan Sholly (Deputy Director of Parks).*
- *He had heard that Mike Hill ((Regional Park Superintendent) had also been involved.*
- *That some of the burros were being shot and left to wander off and die.*
- *That many employees already knew of this and wanted something done about it (cruelty to animals?).*
- *That he had taken some pictures of 12 carcasses, some that appear to be shot in the belly with no final kill shot.*
- *That he made his supervisor aware of it yesterday.*
- *That Sholly had checked into the Park on October 28 and when he opened the door bullets fell out on the ground."*

On 11/01/07, this investigator called State Park Peace Officer Robert Garcia.

Garcia stated the following in a telephone conversation:

- *Things are going to hit the fan.*
- *A lot of the shots are not kill type deals... they are wounded in the stomach and rear.*
- *Some of the guys have been telling me that there are over 100 burros that have been killed out there.*
- *I have photographed 12 [dead].*
- *Could be a cruelty to animals deal, because they are shooting the animals without killing them.*
- *They are a resource that I've got to protect, that's my job.*

Investigation:

TPWD IA considered the allegation involving animal cruelty to be extremely serious. On 11/01/07, two TPWD IA Investigators (CPT Jeff Gillenwaters and CPT Joe Carter) were directed to travel to BBRSP and conduct an investigation into the burro incident; specifically, as it related to the cruelty to animals statute (Texas Penal Code). CPT Gillenwaters and CPT Carter interviewed BBRSP employees which resulted in sworn affidavits, and returned from BBRSP on 11/06/07. While at BBRSP, CPT Gillenwaters and CPT Carter documented evidence with digital video,

digital photographs, and GIS / GPS technology. IA personnel conducted additional interviews in Austin. (GIS / GPS – Attachment 13)

1. Antonio Manriquez State Parks Sworn Affidavit 11/02/07

Before me, the undersigned authority in and for the State of Texas, on this the 2nd day of November, A.D. 2007 personally appeared Antonio Manriquez Jr., who, after being by me duly sworn, deposes and says: My name is Antonio Manriquez Jr. My date of birth is March 23, 1971. My cell phone number is [REDACTED] I am employed by the Texas Parks and Wildlife Department as a Unit Manager at Fort Leaton State Historic Site. I suspected that the reason I was being interviewed today was the killings of the burros on the Big Bend Ranch State Park. Raul Martinez told me that he had smelled something dead while working and walked over to see what it was and found the dead burros. I told my supervisor, Luis Armendariz, what I had heard and he said to take pictures of the dead burros the next time I was out there. Luis had previously mentioned to me that Senior Staff had been out at the Ranch killing burros. I carry a camera with me every time I work at the Ranch for documenting the campsites and signs. On 10-25-2007, I went back to work at the Ranch and Raul said he had found where the dead burros were. Raul gave me directions how to get there. Sammy and I followed

his directions and easily located the dead burros. I photographed the 4 dead burros and left the area. I have not been back since that day. The dead burros I photographed are the only ones I have seen. The biologists have told us that at one time there was close to four or five hundred burros at the park. I am guessing, but the month of October seems to have been a busy time for the shooting of burros on the Ranch. I have not personally seen anyone shooting burros but, the Park staff says it is Austin Senior Staff, Mr. Sholly and Mike Hill. Everywhere I go the employees are talking about the burros being shot. The employees are very upset about it. They don't like just shooting the animals and leaving them lie. They say it is just not right even though it is an animal. Everybody believes they, whoever "they" are, are trying to eradicate the burros, by shooting them. That is against the mission statement of our Department. Who ever it is that is killing the burros. I am a Wildlife Biologist. I do not believe in wasting anything; shooting something and leave it lying. It is inhumane to do this. This also brings down morale of the employees. You are working trying to do a good job for the Department and then someone comes in and just shoots something to kill it. I have heard they pay up to five hundred dollars for a burro in Mexico. I told Luis the other day that this was not right. This statement

is true and correct to the best of my knowledge. I have voluntarily given this statement to Captain Jeff Gillenwaters, TPWD Internal Affairs.

<END>

2. Samuel Marquez State Parks Sworn Affidavit 11/02/07

Before me, the undersigned authority in and for the State of Texas, on this the 2nd day of November, A.D. 2007 personally appeared [Samuel Marquez] who, after being by me duly sworn, deposes and says: My name is Samuel Marquez. My date of birth is February 11, 1972. My cell phone number is [REDACTED] I am employed by the Texas Parks and Wildlife Department as the Lead Ranger for Fort Leaton State Park. I have worked for the Department for almost 13 years. I have been working back and forth between Fort Leaton and Big Bend Ranch State Park for the last month. Sometime, around the second week of October, 2007 Park Ranger Raul Martinez mentioned to me and to Park Manager Tony Manriquez that the Los Grandes or Los Jeffes were shooting burros. I took him to mean the head men or bosses. Raul told me and Tony the names of the shooters as being Mr. Sholly and Mr. Hill. Raul mentioned that the two men had killed a number of burros. I do not remember the number exactly, but I think Raul told me it was 40 or 60 burros. Sometime, I think week before last, Complex Manager Luis

Armandariz requested that Tony take pictures of the carcasses. Raul gave Tony directions on how to get there. Last week, Tony and I went to the location and found some decayed burro carcasses. Tony took some digital pictures of the carcasses. I am not sure exactly how many carcasses were there, I saw three or four. The carcasses appeared to me to have been there a month or less. The carcass's had been scattered a little bit by predators. It appeared the burros had been shot while they were going down a trail. They were scattered along the trail. I walked up the little ways and saw part of a leg from a burro. I went and told Tony about it and I mentioned that could have been shot off one of the burros. To go the location, go into the park and go to La Posta campsite, turn right towards Fresno Canyon, stay on the main road down into the canyon and you'll see a wire gap/gate, then look to the left about 100 yards up the hill. This is the only time that I have any knowledge of any burros being shot at the park. I have no another knowledge about the burros being shot. It made me feel sorry that the burros had been shot. It made me sad. The burros were not hurting anything. The burros are worth about \$300 apiece. There is other ways of removing them from the property without shooting them. I caught one burro by roping its leg from horseback. Another way would be to bait them into a trap. This

statement is true and correct to the best of my knowledge. I have voluntarily given this statement to Captain Jeff Gillenwaters, TPWD Internal Affairs. <END>

3. Luis Armendariz State Parks Sworn Affidavit 11/02/07

Before me, the undersigned authority in and for the State of Texas, on this the 2nd day of November, A.D. 2007 personally appeared Luis Armendariz who, after being by me duly sworn, deposes and says: My name is Luis Armendariz. My date of birth is November 23, 1943. My cell phone number is [REDACTED] I am employed by the Texas Parks and Wildlife Department as the Complex Manager for the Big Bend Ranch State Park Complex. Big Bend Ranch State Park is one of the parks under my supervision. I have worked for the Department for over 35 years. I know why I am here today; it is in reference to the massacring or killing of burros. The Wildlife Division did a management plan for Big Bend Ranch State Park for mountain lions about 10 years ago. They also do a survey on the mule deer on the ranch. I have heard from some of the staff at Big Bend Ranch State Park that Mr. Dan Sholly and Mr. Mike Hill have been shooting burros at the park. I was told by Park Superintendent Tony Gallego and Park Ranger Raul Martinez this was occurring. On at least 2 occasions I have seen Dan Sholly coming into

the park with a rifle case in his truck; and on at least 3 occasions I have seen Mike Hill coming into the park with a rifle case in his trucks. I don't remember the day, but Mike Hill told me, "I have gotten rid of 15 of your problems." I asked Tony Gallego about what that meant and he told me Mike Hill and Dan Sholly had been shooting burros. The only one that comes out here and shoots alone is Dan Sholly. He camps out in the boonies; we do not know exactly where he goes. He loves to go out to Fresno Canyon. I have heard from my staff that Bundy Phillips has referred to himself and the others (Walt Dabney, Mike Hill, and Bundy Phillips) as the "Yosemite Mafia." I do not remember the date maybe three years ago, Commissioner Parker came to the park and we both saw a group of burros. I saw maybe 35 burros. The burros were about 28 miles into the park. I had never seen burros that far into the park. I notified my superiors about seeing the burros. I later talked to Dr. W.H. Brown, with the United States Department of Agriculture about it. The doctor said they would capture the animals and quarantine them. We bought portable pens to catch the burros. The pens were never used. We still have them. Mike Hill told me that he and David Riskind had spoke with Dr. Brown and everything was taken care of. Later, I spoke to an individual with USDA and asked him when they were going to use the

pens, and he told me that they did not have time to come out because they were inspecting cattle from Mexico. I called Dr. Brown and advised him I had the pens and the feed and he was welcome to it at anytime. To date, the USDA has not come out to the park to trap the burros. The Big Bend Ranch State Park Advisory Board came to the ranch for a meeting. It may have been the first meeting of the board. The President, James King arranged for a helicopter to come to the ranch to fly the board members around for a tour of the park. Sometime after the meeting, maybe the next day, Park Peace Officer Robert Garcia told me that he watched the helicopter fly and hover over the park and that he heard gunshots come from inside the park. Robert told me that he believed the shots came from the helicopter. Robert told me that Raul had told him that Raul had seen Dan Sholly and Mike Hill get off the helicopter, go to their trucks, get two rifles cases and went back and got on the helicopter. Later, Park Peace Officer Robert Garcia told me that Walt Dabney, Dan Sholly, and Mike Hill were in the helicopter. I don't think that Walt Dabney was with them. I do not remember seeing Walt Dabney in the meeting before they went to fly. There has been one other occasion where a helicopter showed up at the park. I do not know what happened on that occasion. I asked Park Peace Officer Robert Garcia to look into the

reported shooting of the burros. I told him to do what ever has to be done and not to cover anything up. I know that Robert has taken pictures of dead burros in the park. Robert told me that Park Ranger Tony Manriquez took some pictures of some dead burros. I have received a call from the press, it was approximately 3 months ago, and I think the person was with the Alpine newspaper. The person wanted to know if we had a plan on how to get rid of the burros and what we would do with them. I told the man that we did not have a plan that I know of, but I would check it out to see and if there was I would notify him. I called Mike Hill and told him about the inquiry. About a month ago, I received a second call from the press in reference to what we were going to do with the burros on the park. I told that person to call Mike Hill. Mike Hill later told me that person had called and he took care of it. I have expressed my feelings about shooting the burros to Mike Hill and maybe Dan Sholly. I used an analogy of how a burro carried on its back the Mother of the King of King's. I think those animals should be respected. I grew up with burros. They are good animals. They protect themselves and other animals from mountain lions. The burros migrate between Mexico and Texas; they are looking for food and water. That is why I think the USDA should be involved in the control of the burros. Dan

Sholly has been here at the park for about two weeks now. About a week ago, Dan Sholly stopped by my office. I followed him out to his vehicle and he opened the door. He was driving an extended cab pickup truck. I looked inside his truck and saw a red rifle case inside the cab. He has been at the park ever since. I am providing you with a copy of an email that I received from Dan Sholly on October 31, 2007. This statement is true and correct to the best of my knowledge. I have voluntarily given this statement to Captain Jeff Gillenwaters, TPWD Internal Affairs. <END>

4. Raul Martinez State Parks Sworn Affidavit 11/03/07

Before me, the undersigned authority in and for the State of Texas, on this the 3rd day of November, A.D. 2007 personally appeared Raul Martinez who, after being by me duly sworn, deposes and says: My name is Raul Armando Martinez Sanchez. My date of birth is 2-5-62. I my address is [REDACTED] Texas. I have been employed by the Texas Parks & Wildlife Department for 8 years 10 months, and 2 years 5 months at Big Bend Ranch State Park. My title is Ranger II. Luis Armendariz told me that someone would be talking to me today about the animals that were dead in the canyon. I have not seen a written Wildlife Management Plan for the Ranch. I think it should be to take care of everything in the Park. I have never seen anyone shooting

burros, and have not heard anyone talking about shooting burros in the Park. About the 22nd of October I was working on the road and smelled something dead. I walked over to see what was dead and found 7 dead burros but had to leave because the smell was so bad. The Burros were approximately 200 yards off the road. I think the burros had been dead about 2 weeks. The next morning I told Tony Manriquez that I had found the dead burros. Two days after finding the dead burros, I took Robert Garcia to the location of the burros to show him. There were a total of 10 dead burros at the location. Robert Garcia took photographs of the burros and we left. Most burros looked to be adult burros except one seemed to be younger than the rest. One of the burros had been shot in the neck by a big gun because of the size of the hole. It looked that whoever shot the burros must have shot them from the road. They were all lined up in a row, facing the same direction, up the hill. I think someone shot them from the road because the burros won't run from a vehicle. I have never heard gun shots or seen anyone on the Ranch with guns. I feel bad about the burros being killed. I think they are beautiful. I think they are an attraction for the people that visit the Park. The visitors photograph the burros and like to see the wild burros in the Park. The burros move back and forth across the river from Mexico. The

person that shoots a burro in the Park does not have a heart. I do not understand why someone would shoot a burro in the Park. The people that shoot the burros had to come from inside the Park so that they can come and go. In conversations with other employees about the dead burros, Ruben said that he didn't like that it happened. Ruben has been on the Ranch all his life and it is their job to take care the wildlife on the Ranch. Tony said that it was not right the burros had been killed and he wanted me to take him to where the burros were. I could not take him there so Robert Garcia took him. This statement is true and correct to the best of my knowledge. I have voluntarily given this statement to Captain Jeff Gillenwaters, TPWD Internal Affairs. <END>

5. Ruben Hernandez State Parks Sworn Affidavit 11/03/07

Before me, the undersigned authority in and for the State of Texas, on this the 3rd day of November, A.D. 2007 personally appeared Ruben Hernandez who, after being by me duly sworn, deposes and says: My name is Ruben Hernandez. My date of birth is May 27th of 1947. I live both on the Big Bend Ranch State Park and at [REDACTED] TX. I have been working on the Ranch for 37 years and have worked for TPWD for 20years. I don't know why I was asked to come here and talk to the investigators. I have not seen or heard of anyone shooting burros

at the Ranch. I have not seen any dead burros on the Ranch. No one has told me anything about the killing or seeing of dead burros. I have not seen any helicopters lately. It was about a year ago that a helicopter was at the Ranch and I don't know who was in the helicopter. I never saw the helicopter land at the Ranch but just fly the edge of the river where the aoudad and burros are found. Tony Gallegos told me that he thought that the helicopter was trying to gather the aoudad. I figure there are 5 to 6 hundred burros on the Ranch. The burros migrate seasonally back and forth from Mexico to the Ranch. I've seen 15 to 30 burros in a herd at a time. When the river is low, the burros cross more frequently. I have seen the burros on the Ranch since I started working here 37 years ago. I don't feel strongly one way or another about the burros on the Ranch, but I think the burros "fit" on the Ranch along with the rest of the animals. There is a lot of land on this Ranch so I see no reason to kill them. I haven't heard any gun shots on the Ranch lately. I would not like anyone shooting the burros, it would make me feel bad because they don't harm anything, they were born here, and run wild here. The burros live all their life here and I would not like people killing them. They roam from mostly on the edges of the Ranch but free roam in herds anywhere there are no fences. This statement is true and correct to the

best of my knowledge. I have voluntarily given this statement to Captain Jeff Gillenwaters, TPWD Internal Affairs. <END>

6. Robert Garcia State Parks Sworn Affidavit 11/03/07

Before me, the undersigned authority in and for the State of Texas, on this the 3rd day of November, A.D. 2007 personally appeared Robert Garcia who, after being by me duly sworn, deposes and says: My name is Robert Garcia. My date of birth is 08-04-1960. My address is [REDACTED]

[REDACTED] I have been employed by the Texas Parks & Wildlife Department for 17 years. My title is Park Specialist/State Park Peace Officer at Big Bend State Park Complex. I have been a Peace Officer for 23 years. I know why I am here, because I started an investigation and now it's coming to a head. There is a Wildlife Management Plan in place for game animals for Big Bend Ranch State Park. I am the hunt coordinator for deer, quail, and aoudads at Big Bend Ranch State Park. I do not know of any other plans for other species. I have been told by other employees that there have been parties of individuals shooting burros and wounding them. The parties I'm speaking of are Dan Sholly, and Mike Hill. They (other employees) said that they shoot the burros in the belly, rear end, and other areas of the bodies and let them run off. Raul Martinez told me that he was a party to

one trip where burros were shot by these individuals. On Oct 18, 2007, Raul told me that was with Dan Sholly and Mike Hill when burros were shot. Raul told me that he was there when they shot burros. He had escorted them to the area. Ruben told me sometime in August 2007, that he knew about people shooting burros. Things started to pop around Advisory Meetings because that's when Dan Sholly and Mike Hill show up and camp out. They usually come in a couple of days early before the meetings and leave afterward. Employees started talking. The Advisory board meeting dates were August 7 and 8, 2007; September 4, 5, and 6, 2007; October 30 and 31, 2007. Dan Sholly came into the ranch on October 23rd and is still here as far as I know. The last time I heard shots at the ranch, I think it was August 7th. A helicopter came into the ranch sometime this summer. I was parked at the Orosocos Property and I heard a helicopter and few gun shots. In September of 2007 I notified Luis that there were parties shooting burros at the ranch. The parties involved were the State Parks Deputy Division Director and Regional Park Director. I told him that I was starting an investigation and these were the parties involved. Luis told me to take it where ever it needed to go. I started to really work on this investigation last month. All I have at this is pictures. I have no formal statements or an offense report

completed. I called Captain Robert Newman at approximately 9am, Thursday, November 1, for direction on the investigation. I was very leery of going to people about the investigation because the parties involved are in the same division as mine and higher ranking than me. I called Newman because I know him and wanted him to be aware of the situation. I am retiring in 5 months and have nothing to lose. I did not want this covered up. I feel the reason Raul confides in me is because he feels I'm a fair person so that's why he came to me. I think if someone is doing something wrong something needs to be done about it. On October 18th, I took Raul Martinez to Fresno Canyon to photograph the massacred burros. Raul mentioned to me that Bundy asked him about whether some manure was horse or donkey manure and Raul told him that it was burro manure. Bundy told him that the burros were not worth anything. Raul had found the dead burros while working because the bad odor. I think the burros had been dead a little over a month. We found 7 to 10 dead burros. They were different sizes from large to small. I can not prove who shot them, but I suspect Dan Sholly and Mike Hill. Luis told me that he has seen Sholly, Hill, and Bundy with gun cases in Sholly's truck. He also said that ammunition fell to the ground out of the truck when they were parked at the Complex. No one is supposed to

carry guns in the park except for Peace Officers. I know people who have permission to kill animals in the park but they are usually peace officers. The commission has to grant and sign off on taking care of nuisance animals within state parks. It must be done in a humane manner and the animal not made to suffer. I feel that you don't have to shot the burros, you can capture them instead. The National Park Service captures wild horses all the time. They left the burro carcasses out there to rot. You should do what's right and dispose of the animals. What happens if a tourist finds the dead burros? That area of the Park is open to the public. Luis told me that Mike Hill commented to Luis that he (Hill) had eliminated 15 of his problems. I understand from Luis, that he had received complaints from motorcyclists that something smelled funny in Fresno Canyon. Raul told that one of the gun shots in the dead burros was right in the stomach and one was hit in the buttocks. I was told that over a 100 burros have been shot. I don't know of anyone from the advisory board shooting the burros. I don't think any other employees have shot the burros except Sholly, Hill and I suspect Bundy because he doesn't like those animals. On October 18, 2007, Sammy Marquez showed me pictures of dead burros he had on his cell phone. I saw maybe 2 pictures on his phone. Tony Manriquez showed me pictures of

dead donkeys he had taken with a digital camera. On the same day Sammy and Tony asked me what I was going to do about it. I told them I was looking into it. Those are the only pictures of the dead donkeys that I know of. I think the donkeys were shot from the road. I looked for shell casings but did not find any. I could tell the donkeys were going in different directions by where they were lying. They were scattered out on that hill. Sholly and Hill usually get around the ranch by vehicle. Ruben and Raul have told me they saw Sholly and Hill with guns getting off the helicopter. My personal opinion is that the burros did not deserve to die that way. They could have been tranquilized or cowboys could catch them. I feel it's just a waste. It's not a game animal, it's a burro. The way the donkeys were scattered out on that hill, they must have been pretty frightened. I think the burros were shot somewhere around September 4th. I'm leaving you a 2 page email I received from Tony Gallego on October 25, 2007, at 9:02pm. Tony has told me on 3 or 4 different occasion that he suspected that Dan Sholly and Mike Hill were shooting the burros. He also told me that he knew of an area where about 39 burro carcasses were located. I have not been to that location. This statement is true and correct to the best of my knowledge. I have

voluntarily given this statement to Captain Jeff Gillenwaters, TPWD Internal Affairs. <END>

7. Michael Hill State Parks Sworn Affidavit 11/04/07

Before me, the undersigned authority in and for the State of Texas, on this the 4th day of November, A.D. 2007 personally appeared [Michael Hill] who, after being by me duly sworn, deposes and says: My name is Michael Hill. My date of birth is May 6, 1948. My address is P.O. Box

[REDACTED] I have been employed by the Texas Parks & Wildlife Department for almost 2 years. My title is State Parks Region I Director. I do know why I am being interviewed today. It is in regards to allegations that have been made of animal cruelty here at the Big Bend Ranch State Park in relation to the control of feral burros at the park. There is a draft of a Desert Big Horn Sheep Restoration Plan for the park and I am providing you a copy of it. It was drafted by Biologist Calvin Richardson who is involved with the Big Horn sheep program. The State Parks Division also has a policy for the control and removal of feral and exotic species on park property. The State Parks Division does have designated shooters for the control of feral and exotic species. It requires the shooter to qualify once a year. TPWD employee Wes Masur qualified State Parks Deputy Director Dan Sholly as a shooter. TPWD

employee Tracy Ferguson qualified me as a shooter. I last qualified a couple of months ago. I have shot burros inside the park. Dan Sholly has also shot burros inside the park. When I shot the burros, Dan always accompanied me; I never shot them by myself. We have shot the burros on 6 or 7 occasions. TPWD employees Bundy Phillips, David Riskind, Tim Roberts, and Brad (Last name unknown; TPWD park manager) have accompanied Dan and me on one occasion each. I do not remember if TPWD employee Mark Lockwood ever accompanied us when any burros were shot. It occurred anytime Dan and I were traveling in the park. We never deliberately went out to hunt the burros. We shot them incidental to traveling in the park. Dan and I would usually be in the park for an Advisory Board or Department meeting when it did occur. The only person I have spoken with outside the Department about shooting the burros was Advisory Board Chairman James King. King recently retired from the Nature Conservancy. The Conservancy has experienced problems with feral hogs. King stated that the cowboys at the Adams Ranch could rope the burros. I have not spoken with or heard anything from any park employees about the shooting the burros. When Dan and I would shoot the burros, we would shoot any one we saw. We shot any burros close enough to hit. Dan and I were both expert marksmen in the

United States Marine Corps. I am good to 500 yards with my rifle. I can shoot 80% with my rifle at 800 yards. Dan can shoot as good as I can. Dan and I are the only people that have shot burros and aoudads in the park. No Advisory Board members or park staff have shot any burros to my knowledge. Dan and I began to shoot the burros about a year ago; I think it was October of 2006. We started it because of the Big Horn sheep plan for restocking at the park. We needed to get the competitors out and burros are a competitor. The burros ruin the watering holes because they muddy them up and defecate in them. They also prevent other wildlife from using the watering hole until the burros are done with it and leave. The burros also destroy cultural, archeological, and natural resources sites. We also saw the need to get the burros out before the new public use plan goes in to effect at the park and public use increases. We were trying to do what needs to be done quietly, without attracting attention. The last burro I killed in the park was on Friday, October 26, 2007. Dan and Brad were in a truck in front of me when I shot it. I shoot a pre-64 Winchester Model 70 bolt action rifle in 30-06 caliber with a Model 56 short barrel with a Leupold 3x9 scope. I have it zeroed in at 300 yards. I use my 30-06 because it has the most killing power of any rifle that I have. I shoot Hornady 30-06 ammunition with a

150 grain bullet. It is very accurate and can reach out pretty far. TPWD employee Wes Masur purchased the ammunition for us. The ammunition was purchased by the Department. I go for head shots on the burros. It is usually either a clean miss or a kill. If you hit the head they go down. If they move I follow up with a second shot. I have never intentionally wounded a burro and not finally dispatched it. I am certain of it. It is bad enough having to kill them in the first place. On a couple of occasions, I had to shoot a burro more than one time. That was never intentional. Some I did hit in the shoulder instead of the head, I did not lead them far enough. Dan also shoots a pre-64 Winchester Model 70 bolt action rifle in 30-06 caliber. Dan got his rifle from his father. To my knowledge, approximately 71 burros have been shot between October 2006 and today. I was keeping a file on the total of burros shot. I forward copies of it by email to TPWD employees Walt Dabney, David Riskind, and Dan. July of 2007, is the last record I have on file of the burros that have been shot. Dan told me to keep killing the burros and not to write anything down about it. Dan told me that something had been said about killing the burros in Austin. I am speculating, but how it was relayed to me was that Walt Dabney and Scott Boruff went to sight in their hunting rifles and some of the employees were asking why they were

doing it. To my knowledge, approximately 20 burros have been killed since July of 2007. I have only killed one since that time. I do not know of anytime that any dead burros were buried. We have moved dead burros that we shot away from the road and put them in a ravine. We covered the dead burros with brush and let the predators take care of the carcass. Fresno Canyon is the only place to my knowledge that burros have been shot. I do not know of any other locations where you would find dead burros laying. Dan and I drove vehicles when we traveled through the park, but we never shot from the vehicles. Dan would sometimes pursue them on foot, I usually didn't. I had my hip replaced and I don't want to get injured going up and down the rocks. At one Advisory Board meeting, Michael Luigs volunteered his services and brought out two of his helicopters to fly board members around the park. One of Michael's helicopters is a Roberts 44 and is white and blue in color. The day after the meeting, Michael again volunteered his services and he kept one helicopter at the park and he flew Dan and me around the park to look for aoudad sheep. We located some sheep from the helicopter and Michael landed. Dan and I shot 8 of the 10 aoudad sheep we saw. We shot the aoudad sheep because they are an exotic and they compete with the Big Horn sheep. We killed the aoudad's about 2 miles

southeast of Panther Peak. We did not see any burros from the helicopter and we did not kill any burros that day. This is the only time that we have used a helicopter to hunt anything in the park. Burros are part of the State Park policy on the control of exotic species because they are not native to North America. I have heard a rumor, I am not for sure, but the first manager here at the park had his own private herd of burros he grazed in the park on State grass. I am not sure what his name was. He left the park around 1990. I was told that the burros that are here in the park are descendents of his burros. I have been told that Park employee Ruben Hernandez has said that you cannot herd the burros. I do know that some panels and feed were purchased and an attempt was made to trap some of the burros inside park property in Colorado Canyon, with no success. Some of those panels should still be at the Complex Office and some may still be in the canyon. The panels were purchased specifically to trap burros. The panels were paid for with Department funds. Park employee Luis Armendariz should still have the receipt for the purchase. We have tried to trap them and we have talked to Animal Plant Health Inspection Service, United States Department of Agriculture about them. The Service is concerned about the burros in the park because they have not been inspected or quarantined and the burros

could be carriers of equine infectious diseases. The park does have horses. The horses are used in the daily operations of the park. I do not like it much that we have to shoot the burros. There is no fun in it. It is slaughter. Like when the buffalo stray out of Yellowstone Park and are shot by the park rangers to keep the buffalo from spreading disease to beef cattle. I have worked with burros. It is not the burro's fault that they are here. It is the people's fault for not rounding them up. The timing of this complaint is a coincidence. I have told park employees Tony Gallego and Luis Armendariz about killing the burros. On Tuesday, October 30, 2007, Dan had a meeting with park managers and office staff. Luis was insubordinate during the meeting regarding the new public use plan for the park. Luis stated he did not like it and he would not comply with it. It is the timing of the whole thing. Dan told the managers about upcoming Management Review and Luis was present. The next day, these allegations come up. Luis has referred to Dan as God. I think Luis hopes Dan will leave the Department and things at the park will go back to its sleepy little way. That is why I put a project manager in place at the park. Walt Dabney advised me on Wednesday that Dan and I were being accused of animal cruelty. Under the Big Horn sheep management plan, the park is the next location where

Big Horn sheep will be stocked. This statement is true and correct to the best of my knowledge. I have voluntarily given this statement to Captain Jeff Gillenwaters, TPWD Internal Affairs.

Addendum to Affidavit -Michael O. Hill - Re: Burro Reduction - After reviewing contemporaneous notes to refresh my memory, I would like to submit the following corrections to my affidavit dated November 4, 2007.

My first firearms qualification for feral/exotic animal control was on October 12, 2006. On January 10, 2007, I participated in the removal of 6 aoudad from Big Bend Ranch State Park. On April 9, 2007, I participated in the removal of 8 burros. Sometime during the periods of August 3-6, 2007 and September 3-7, 2007 I participated in the removal of burros. I don't recall and did not note the total number. On October 9, 2007, I participated in the removal of 11 burros. On October 26, 2007, I removed one burro. That is the last one. <END>

8. Tony Gallego State Parks Sworn Affidavit 11/05/07

Before me, the undersigned authority in and for the State of Texas, on this the 5th day of November, A.D. 2007 personally appeared [Tony J. Gallego] who, after being by me duly sworn, deposes and says: My name is Tony J. Gallego. My date of birth is August 18, 1953. My address is

 *I have been employed by the*

Texas Parks & Wildlife Department for almost 13 years. I am the Manager of Big Bend Ranch State Park Saucedo Unit. I do know why I am here today. It is in regards to the feral burros in the park. Last week, Luis Armendariz mentioned to me that you would be coming out here. I do know of a management plan for the park and I do have a copy of it. Part of it does address feral burros. I will get you a copy of the plan. The only knowledge I have of burros being shot on the park is from what I was told to me by Regional Director Mike Hill. Mike told me he had gotten rid of some of my burros or problems. I have never shot or assisted with the shooting of any burros at the park. I do not know how many occasions that burros have been shot at the park. I know that Mike has shot some burros, I am not sure if Dan Sholly was involved in shooting any burros. About 2 or 3 weeks ago, park employees working the road in Fresno Canyon, mentioned to me that they had smelled something bad. They stated they looked around and found 7 dead burros that appeared to have been shot. I later went to the area and I found 3 of the dead burros. The only other talk I have heard from park employees about the burros being shot, I heard from Park Peace Officer Robert Garcia. Robert asked me about it in the last week or so. I know that Robert went to the location and took pictures of the dead burros. I do not

know of any other pictures or video being taken. I think the burros in the park were first shot in March of this year. There had been some talk about getting rid of the aoudad sheep that are in the park. I do know that a helicopter came to the park on one occasion. A friend of the Advisory Board brought the helicopter in. Mike and Dan had a rifle case and they got on the helicopter and flew the park. I know that Dr. Brown with the United States Department of Agriculture came out to the park in regards to the feral burros. The USDA went once to trap the burros, but I don't think they had any luck. I am not against removing the burros from the park. But more the way it is done. It is cruel to the burros. They need to be removed. They are affecting the environment in the park. I believe there should be a balance. Too many burros will impact the land. I feel sad for the whole thing. I am sad for the burros, for the people involved, and for the park. I don't like investigations. I guess it has to be done. It is not right the way the burros are being removed. I wonder who authorized it. This statement is true and correct to the best of my knowledge. I have voluntarily given this statement to Captain Jeff Gillenwaters, TPWD Internal Affairs. <END>

9. Alvin "Bundy" Phillips State Parks Sworn Affidavit 11/05/07

Before me, the undersigned authority in and for the State of Texas, on this the 5th day of November, A.D. 2007 personally appeared [Alvin Bundy] who, after being by me duly sworn, deposes and says: My name is Alvin Bundy Phillips. My date of birth is April 18, 1950. My address is [REDACTED]. I am retired from the United States Park Service with about 29 years of service. Part of my responsibilities included law enforcement duties. I have been employed by the Texas Parks & Wildlife Department for 4 weeks. My title is Project Manager for the public use plan implementation process at Big Bend Ranch State Park. I think I know why I am here. I think it is over burros being shot here at the park. As far as I know, there is a wildlife management plan for the park. I have heard other people talking about it, but wildlife management is not part of my responsibilities at the park. I do have personal knowledge of one occasion that feral burros were shot here in the park. I did not shoot, but I did see Dan Sholly and Mike Hill shoot burros recently. We were not hunting for burros that day; we came across the burros while headed into a canyon to camp. I arrived at the park on October 9, 2007. That afternoon, Dan, Mike, and I met up at the park and we headed to Fresno Canyon to camp. The trip was part of my

orientation to the park, to describe my responsibilities to me, and discuss the public use plan I would instituting at the park. We traveled to the camping spot in a Suburban. On the way to the camping spot, we spotted a group of 11 feral burros standing near the road about a mile and a half in front of us. We drove to within about 150 yards of the burros. Dan and Mike got out with rifles and used the Suburban for a rifle rest. Dan and Mike shot the burros. I am trained as a sniper by the U.S. Park Service and I have had to dispatch a number of large animals as part of my job. I was taught to control my shots and put the animal down as quickly as possible. Dan and Mike took the animals down quickly. It was completely over in 7 to 9 minutes. Dan and Mike did not fire many more than 11 shots. One young burro was wounded and there was concern it might get out of range. The young burro was dispatched quickly after that. We camped out in the park until October 11th when we returned to the park headquarters. No pictures were taken at the time these burros were killed. I did take a ride on my mountain bike back into Fresno Canyon a week or so after the burros were shot. I did take some pictures of the decaying burro carcasses. I took the pictures for use in future planning for the park. The carcasses were close to the trail and I wanted to see how long before the carcass decays. I am providing the

pictures I took of the carcasses. I know that the Department is re-establishing Desert Big Horn sheep. The park is being considered for restocking. The burros compete with Desert Big Horn sheep and the burros need to be removed from the park. Until the burros and aoudad sheep are eradicated from the park, there is not much hope for the Big Horn sheep. It is sad it has to be done. This statement is true and correct to the best of my knowledge. I have voluntarily given this statement to Captain Jeff Gillenwaters, TPWD Internal Affairs. <END>

10. Dan Sholly State Parks Sworn Affidavit 11/06/07

Before me, the undersigned authority in and for the State of Texas, on this the 6th day of November A.D. 2007 personally appeared [Dan Russell Sholly] who, after being by me duly sworn, deposes and says: My name is Dan Russell Sholly. My date of birth is 02-24-1945. My mailing address is [REDACTED] I have been an employee of the Texas Parks and Wildlife for approximately 3 years, 11 months. I was hired by TPWD as the Deputy Director of Texas State Parks and hold that position at present. I know why I am being interviewed today. It is in regards to a Cruelty to Animals allegation or complaint. I do not know what the cruelty was and that truly is the nature of what I know. On Thursday, November 1st, Walt and Scott

advised me that a complaint had been lodged against Mike Hill and me. I do not know of a specific Wildlife Management Plan. I do know of a Resource Management Plan but do not know if it is current or not, or in draft. The Resource Plan deals with all natural resources. I have never read the Natural Resource Plan. David Riskind's staff works on the Resource Plan for the Park. It is correct, that Mike Hill and I have shot burros on Big Bend Ranch State Park. I have shot burros on approximately 5 or 6 trips to the Park. I did not shoot burros every time I went to the Park because I did not see burros every time I was there. The purpose of the trips was not to just shoot burros and aoudads. When we're down there, we are working on the Public Use Plan and park operations and if we saw the burros or aoudads, we would shoot them. On one occasion, during one of the Advisory Board meetings, we used a free helicopter to find and shoot aoudads in the park. I believe we killed approximately 6 to 8 aoudads that day. All that were killed were in the south central mountains in the general Panther Peak area. I told Tony Gallego, the Superintendent of the Park, the first time we shot the burros, so he would know what we were doing and the purpose of it in case an employee or visitor found burros that were dead, they would understand what it was about. Tony was the only one at the Ranch that I told. I told

my boss Walt Dabney, Wes Masur, Brent Liesure, Tim Roberts, and Bundy Phillips. I'm pretty sure that I never told Luis what we were doing; I assumed the Superintendent would tell him. I never discussed it with anybody else in that park. I know that David Riskind and Bundy Phillips have been with us while shooting the burros. Mike Hill took care of the report writing regarding the documentation of the numbers of burros killed. He copied me, Walt, and Riskind. The last couple of months I'm not sure I have seen all the reports he had. I did not write any personal reports. He cc'd me at least on a couple of the reports. I have one electronic copy of one report from back in April. I have not instructed any employee, including Mike Hill, to stop documenting the killing of Burros at the park. There was discussion with Walt, Mike Hill and me about whether or not we should continue to report because the policy says, this should be done discretely. We're following the policy and should there ever be an open records request or anything else, we're following the policy. Having a record of the burros shot was following policy. We never finalized the conversation, that I remember, that we weren't going to report it anymore. I felt we had nothing to hide. This is above board but nothing we're waiving a flag about, but if asked, we should be able to show them what we did. I do not recall a decision ever

made about the stopping of the documentation. It was like a hanging conversation that we never decided one way or the other. These were not always three-way conversations. That's not to say that we have kept up with all with the report writing; with all the training, SAO, and everything we have going. We are behind in a lot of things. Writing those down is not a priority for us. We discussed the reporting issue in the last month or two. I don't recall it being more than two months ago. I would guess, sometime between August and September. Approximately last month or so, we discussed with Scott Boruff at one point, about stopping the shooting of burros. Scott had been asked by someone, maybe from the Nature Conservancy, if we were shooting the burros. Scott felt we should hold off until we could meet with Wildlife and make sure of what we're doing. I think Walt talked with Berger but I'm not sure, you'll need to talk with Walt about that. Walt told me, that Berger said, that the only way to take care of these things is to shoot them. Since that conversation with Scott, I think 16 to 18 burros were shot. The reason why we continued to shot the burros was because I was told by Walt that we should continue to discretely shoot them. No one else has shot burros in my presence or that I am aware of besides Mike and me. The best I can recall and with the report that I found; I think we started shooting the

burros in April of 2007. The last burros I shot when I was by myself, was the 23rd of October. The last burros shot were Friday the 26th. I was with Mike. There was a small burro that had got away when I shot its mother the 23rd. It was back with its mother and Mike shot that one. The last burro was shot on the way out about 30 minutes later. Those are the last two I know of. It was Thursday or Friday, but I know there was nothing after that. No burros were intentionally shot and not tracked down. That was a high priority, and I did a lot of hiking and tracking to follow up shots. I can not guarantee that there are no wounded burros, but we used maximum effort to put anything down that we thought was wounded. The only burro that I might have been wounded and got away was the young burro that Mike shot. No burros were intentionally shot and not followed up on. We had kept a running total in our mind, and initially in our reports, the number we had shot was 71 burros. I shoot a model 70, 30-06 rifle with soft point ammunition. That is the only weapon that I have shot burros with in the park. No full metal jacket bullets were used. Wes Masur purchased the ammunition. I usually shoot for the head, but sometimes had to shoot for the neck and shoulders when the animals were moving. I have been shooting professionally since 1968 both in the military and The National Parks service. I

qualified as an Expert Marksman while in the Marines. That qualification requires shooting and consistently hitting the bull's-eye at 500 yards. My longest shot was approximately a 300 yard head shot that we verified with a range finder. I have a current Resource Management Certification qualification and Wes has the records. I know that Mike is also qualified but I'm unsure which instructor has his records. We would have had Bundy shooting but he had not qualified. Mike and I were both qualified before we began shooting the burros. The only pictures of dead burros that I am aware of were taken by Bundy Phillips, though I never saw those photos. The only place that I have shot burros was Fresno Canyon. I saw some in Rancherias Canyon one day at a distance but they were too far to shoot. Those were the only burros I have seen outside of Fresno Canyon. We exited the vehicle and shot the burros from one end or the other of the vehicle, either using the hood or the rear of the vehicle or off-hand. I would then follow up on foot. We never shot from inside the vehicle. The intent of shooting the burros and aoudad first off, it's against the policy of Texas Parks & Wildlife SP to allow feral or exotic animals to continue in the park because of their impact on cultural and natural resources. It is important to the parks to eliminate feral and exotic animals to protect the cultural and natural resources.

Burros are no exception. They mess up the water holes, they eat the vegetation, they scare off deer and Javelina, many that have come from Mexico, have hoof and mouth disease, aoudads carry disease and compete, and in addition, we're trying to restore Big Horn sheep back to the park. Wildlife tells us that we have no chance of getting a population of Big Horn sheep established as long as we have aoudads and burros in the park. It is a priority with the Wildlife and Parks division to restore the Big Horn sheep in the park. Burros and aoudads typically trash the natural and cultural resources of the park. The policy referring to the control of all feral and exotic animals says that the Superintendent is responsible for the removal of all exotic and feral animals and it should be discretely accomplished. If you are going to have a coordinated effort with a lot of people and guns, it should be coordinated with the Wildlife Division. We were not doing a coordinated effort. We were taking targets of opportunity as we were doing other things. So it's not the same thing. As far as I know, there have not been any other methods attempted to control burros at the park. I have not spoken to other people about other options to control the burros because it has not become a major undertaking. Walt, Mike Hill, and I determined that we could impact the population by taking targets of opportunity but it has

not been a coordinated effort. It's my opinion, or best guess, that there are approximately 100 burros left in the park. I think we've made a serious impact on the population. Shooting burros is a distasteful thing. The first ten years of my life, I grew up with a burro named "Croppy." I grew up riding burros and loving burros and this is an extremely sad and distasteful thing to do. I have never told anyone that this is a fun thing to do and there is no sport to it what so ever. I don't do sport hunting. I have hunted for something to eat but never for sport. The shooting of the burros and aoudads was not for sport but done as a control technique. We have been met with resistance from Superintendent Luis Armendariz for implementation of the Public Use Plan since we began implementing it in September 2007. I feel the cruelty to animals allegation is based on us putting the squeeze on Luis from a performance stand point, and holding him and other park staff accountable for getting the job done. This statement is true and correct to the best of my knowledge. I have voluntarily given this statement to Captain Jeff Gillenwaters, TPWD Internal Affairs. <END>

11. *Walt Dabney* State Parks Affidavit 11/09/07

Before me, the undersigned authority in and for the State of Texas, on this the 9th day of November, A.D. 2007 personally appeared [Walt

Dabney] who, after being by me duly sworn, deposes and says: My name is Walter D. Dabney. My date of birth is 06-29-1946. I my address is [REDACTED]. I have been employed by the Texas Parks & Wildlife Department since May of 1999. My title is State Parks Director. I do know why I am here today. It's to talk about the Big Bend Ranch and the burros. I have not read a Wildlife or Resource Management Plan for Big Bend Ranch State Park. It is correct, that Mike Hill and Dan Sholly have shot burros at Big Bend Ranch State Park. I don't know exactly how many burros have been killed. I think about 70. I don't know exactly when they started shooting the burros; my guess is last spring of 2007. I think there are records but I really don't know a date. I don't know the date when the last burro was shot but I think it was late October 2007. I'm sure none were shot in November. I have not shot burros or aoudads at the Big Bend Ranch State Park. I have not ever instructed Mike Hill or Dan Sholly to stop documenting the killing of burros at Big Bend Ranch. I don't think the documentation was stopped. I've never heard that they stopped documenting the killing of burros. I don't know whether all the reports are done or not, but if they haven't, I'm sure they will. We discussed stopping the documentation at one time but it was decided that this is being done according to our

policy, this is a legitimate thing to be doing and there is no sense in trying to hide this. As far as I know we are documenting what's been done. As far as I know, Mike or Dan was taking care of the documentation or whoever did the shooting. I think there are records. I was advised by Scott Boruff to hold off for a while on the shooting of burros at Big Bend Ranch State Park. I'm not sure exactly when he advised me, and I don't have it written down, but guessing around the 20th of October. Scott may know. I am aware that one more group was dispatched after being advised to stop. The reason they continued to shoot after being advised not to do so was because the park was about to open November 1, and once visitors got into the area, I knew it would be difficult to do it safely and discretely. I knew it was going to happen, or I knew it was likely to happen, and I did not tell them not to do it. I spoke with Mike Berger and he did not suggest doing anything as it relates to our current efforts. Conceptually, Mike said that the only way to control feral and exotic animals out there was to shoot them. Afterwards, they (Mike and Dan) asked what I thought, and I told them that if they came across the burros and it could be done discretely, go ahead. We have not attempted any other method to control the animals in that park since I've been here other than public hunts for aoudads. Feral and exotic species

are incompatible with the natural systems. They can change the ecology and they can change the habitat. Our policy is a good one at the State Parks. We use trained people to do this. I feel that we have to continue to control feral and exotic animals. If we stop the control of these animals, the parks will become a brood area that will affect other people's land after they have hammered the park habitat. The burro shooting was not a hunt; it was a control technique, done incidental to what they were involved in at that time. I don't think anybody likes getting rid of those animals. There is no fun in it at all. This is not a sport situation. I do not believe Mike or Dan relished getting rid of these animals. I know that's the case because I've talked to them about it. Both Mike and Dan are highly trained riflemen, and both are qualified to do this as efficiently and effectively as possible. I've know Dan since 1971 and Mike since the mid 1980's. It's my opinion, that neither Dan nor Mike would intentionally wound an animal and allow it to get away. Not a chance that would happen. In fact, they would be sick about it. I know that they would spend a lot of time following to make sure. Absolutely, not a chance that would happen. I don't think Dan even hunts recreationally. I was not there while they were shooting the burros, but I feel sure it was done discretely, but the problem is that if you

knocked them down in the wrong place, you were sure going to have a hard time moving them to some place else. If you knocked one down and found out it was close to the road, you had some work cut out to get them out of public view. This statement is true and correct to the best of my knowledge. I have voluntarily given this statement to Captain Jeff Gillenwaters, TPWD Internal Affairs. <END>

TWD Wildlife Division / Related Resource Management Issues

Mike Berger (G. Jones) Wildlife Notes 11/05/07

Berger is the TPWD - Wildlife Division Director.

Additional Telephone Call: 11/14/07

- *Aoudad Sheep are the primary problem. Burros do pose some threats, but aoudads are the main focus. The aoudads are a more distinct threat.*
- *Aoudads carry a lot of diseases that could be transferred to Desert Bighorn Sheep.*
- *Aoudad Sheep will dominate a water hole and are more aggressive than the Desert Bighorn Sheep.*
- *Aoudads can disrupt the social behavior of Desert Bighorn Sheep.*
- *Large numbers of burros will damage water holes by defecating in the water.*

- *Both burros and aoudad compete for the same food as do Desert Bighorn Sheep, and other native species.*
- *Regarding the burros at BBRSP – not sure if they are in the area where Desert Bighorn Sheep would be stocked; if they are, they need to be controlled.*

Clay Brewer, recent program leader for the TPWD Desert Bighorn Sheep Program, explained the following during telephone interviews on 11/06/07 and 12/03/07:

- *The control of exotics, mainly aoudad sheep is a very important component to the restoration process of Desert Bighorn Sheep.*
- *The public, however, needs to be educated and aware of control techniques relating to the lethal removal of exotic species. The public needs to understand why exotic and feral species need to be controlled. We (TPWD) are aware of 11 different parasites and diseases that aoudad sheep carry. We need to have the support of the public. One way to gather support for our programs is through education.*
- *Burros do disrupt Desert Bighorn Sheep; they destroy the water holes.*
- *Other States do consider burros a problem as they relate to Desert Bighorn Sheep reintroduction and management and have designated*

personnel to work through the issues; they take the burro issue seriously.

In an e-mail sent to the TPWD Wildlife Division on 11/13/07, I requested the primary reason(s) for the control of exotic and feral livestock species within BBRSP; namely, burros and Aoudad Sheep. The e-mail was based upon the assumption that the control techniques were being utilized for the pending reintroduction of Desert Bighorn Sheep to BBRSP. The e-mail response was generated from the following TPWD Wildlife Division Employees: Mike Berger, Clayton Wolf, Clay Brewer, Ruben Cantu, and Mike Pittman. The primary reasons for exotic / feral animal control as per the Wildlife Division are as follows:

- *Aoudad Sheep and burros compete with native species for food.*
- *Aoudad Sheep socially disrupt Desert Bighorn Sheep, burros may socially disrupt Desert Bighorn Sheep, but to a lesser degree.*
- *Aoudad Sheep pose a risk of spreading disease to Desert Bighorn Sheep.*
- *Aoudad Sheep and Burros destroy and degrade watering holes used by native wildlife including Desert Bighorn Sheep. Aoudad Sheep set up social territories which exclude Desert Bighorn Sheep from water holes due to their aggressive behavior [these points were also*

referenced during telephone conversations with Cantu, Berger, and Brewer].

The aforementioned four points were also discussed with Wildlife Regional Director Ruben Cantu during telephone conversations on 11/05/07 and 12/03/07. Cantu stated the following:

- *There is a plan to reintroduce Desert Bighorn Sheep to BBRSP. Prior to reintroduction, the exotic species need to be controlled. Species that need to be controlled include Aoudad and burros and any other exotic species.*
- *In the Spring of 2007, I met with State Park RD Mike Hill. I was focused on aoudad control, because I had not seen the burros. Still, if they are there, they need to be controlled. We did talk about the potential reintroduction plan for the Bighorn Sheep.*
- *Controlling exotics after reintroduction is not as successful as pre-control; it disrupts the Desert Bighorn Sheep. Controlling the exotics prior to reintroduction is a much better plan.*
- *The burros do compete for food with native species.*
- *If Desert Bighorn Sheep are reintroduced into BBRSP the Wildlife Division needs to oversee the program.*

Background: Sierra Club Policy on Feral Burro Management

The Sierra Club calls for the control of feral burros in a manner that protects native flora, fauna and soils. Feral Burro Management Policy was adopted by the Board of Directors, May 3, 1975

I. Recommendations: Species recognition

- 1. The Sierra Club recognizes that feral burros and feral horses are two distinct species. Ecological niches are dissimilar.*

II. Recommendations: Management and Control

- 1. The feral burro must be strictly managed and controlled.*
- 2. Federal and state agencies must ensure that burro management methods are humane.*
- 3. The Sierra Club recognizes the necessity of utilizing mechanized transportation (helicopters) for management purposes, i.e. for censusing, reconnaissance and access to habitat areas.*
- 4. The use of firearms by competent federal agencies or their appointees is a humane method of direct reduction of feral burro population.*
- 5. The Sierra Club endorses the concept of private ownership of feral burros as pets or pack animals.*

6. *The Sierra Club opposes the utilization of feral burros for sporting purposes, including wrangling or mustanging of herd, burro racing, or for any similar activity.*
7. *The Sierra Club suggests that, when feasible, carcasses resulting from burro reductions be donated to government institutions.*

III. Recommendations for Protection of Native Ecosystems and Fragile Resources

1. *Burro herds must be culled in areas where native habitats have become impoverished because of overpopulation, and where overgrazing is evident. Burro herd numbers should be maintained at a level that would minimize impact on native habitat.*
2. *The burro must be eliminated from all federal and state lands where they pose a threat to habitats in which rare, endangered, threatened, or endemic species of flora or fauna exist.*
3. *The feral burro must be eliminated from all areas protected by the Antiquities Act.*
4. *The feral burro must be eliminated from all national parks and monuments.*

5. *Burros must be managed and controlled in national recreation areas, and removed from those sections of the NRAs in which they pose a threat to rare, endangered, threatened, or endemic biota, or cultural sites protected under the Antiquities Act.*

Adopted by the Board of Directors, November 21, 1981

Policy on Public Range

Feral horses and burros should be eliminated from key wildlife habitat, including the desert bighorn habitat of the American Southwest, and from designated natural areas. In other situations, their numbers should be carefully regulated to minimize conflict with wildlife, livestock and other range values. Adopted by the Board of Directors, November 21-22, 1981

Additional Background Information – Sources

In addition, IA has discussed this matter in person or via e-mail with the following individuals in order to obtain background and historical data, and information related to specific areas of expertise:

Ann Bright	General Counsel, Legal	Multiple	Office
Boyd Kennedy	Attorney, Legal	Multiple	Office
Peter Flores	COL, Law Enforcement	Multiple	Office
Craig Hunter	LTC, Law Enforcement	Multiple	Office
David Sinclair	MAJ, Law Enforcement	11/06/07	Office
Steve Whiteaker	MAJ, Law Enforcement	Multiple	Telephone
Ruben Cantu	RD, Wildlife	11/05/07	Telephone
Clay Brewer	RD, Wildlife	11/06/07	Telephone
Wes Masur	Law ENF Coordinator, SP	Multiple	Office
David Riskind	Natural Resource Dir, SP	11/06/07	Office

Findings:

The findings of this report are based on State law, TPWD policy, TPWD management plans, sworn affidavits, interviews, e-mails, photographs, video, and background data.

1. Approximately 71 burros were killed by State Parks Deputy Division Director Dan Sholly and Regional Director Michael Hill beginning in October 2006 and continuing through October 2007.
2. Dan Sholly and Mike Hill did not violate the animal cruelty criminal statute (Texas Penal Code: 42.09 or 42.092), or any other criminal statute regarding the shooting of burros at BBRSP. All burros were killed as quickly as possible, and not intentionally left to linger, die slowly, or made to suffer in any way. In consultation with IA, MAJ David Sinclair, TPWD Chief of Wildlife Enforcement stated Sholly and Hill did not violate the Texas Parks and Wildlife Code regarding killing the Aoudad Sheep or the burros. TPWD IA concurs with MAJ Sinclair. The criminal allegations are not sustained.
3. No burros were killed from an aircraft.
4. Sholly and Hill stated they shot the burros as a means to control nuisance and/or feral livestock (burros), and/or exotic species

(aoudad) and not as a hunting or sporting event. TPWD IA concurs with Sholly and Hill.

5. On or about 10/17/07, Deputy Executive Director Scott Boruff directed State Parks Director Walt Dabney to have State Park Personnel stop shooting burros at BBRSP. The last burro killed at BBRSP occurred on 10/26/07.
6. According to Sholly and Hill, the burros were killed because they compete with native wildlife species and their existence on BBRSP conflicts with a pending program aimed at reintroducing Desert Bighorn Sheep into the Park; titled, "Desert Bighorn Sheep Restoration Plan - Big Bend Ranch State Park - 2007".
7. As per OIN 0019, State Park personnel do have the authority to control exotic and nuisance animals within Park property. However, some sections of State Parks Operating Instruction Number (OIN) 0019 were not followed by State Park Personnel. OIN 0019 relates to the removal of exotic, feral, and nuisance wildlife. Section III of State Parks OIN 0019 states the following, "Implementation, direction of park staff, as well as concurrent liabilities for controlling exotic, feral, and nuisance wildlife within the park are the sole responsibility of the Park Manager. Notification prior to a coordinated effort should be

made to the local Game Warden, Wildlife Division personnel, Sheriff's Department, and/or City Police, along with the Regional office as appropriate." Notification was not made to the aforementioned personnel, although some general discussions occurred between the Wildlife Division and State Parks. Follow up memorandums outlining the removal results were not forwarded to the Public Safety Program (now referred to as the State Parks Law Enforcement Program) as per the OIN (section 3-d). In some cases, memorandums were not routed to the State Parks Natural Resources Program Director as per OIN (section 3-d). Attachment 8-A, 8-B, 8-C, and 8-D.

8. Sholly and Hill both hold hunter education certificates, and qualified with their weapons as per OIN 0019.

Recommendations

1. The State Parks Division should create an updated Exotic, Feral and Nuisance Animal Control Plan (OIN - 0019). The terminology and specific animal definitions should coincide directly with the Texas Penal Code, Texas Parks and Wildlife Code, and the Texas Agriculture Code. The plan should be updated after each legislative session and should involve input from the Wildlife Division.

2. An effort should be made to destroy or remove the burro carcasses where possible and in a scientifically approved manner, especially in areas easily accessible by the public. The risks posed (if any) by the decomposing carcasses should be addressed and dealt with properly.
3. Increase the opportunities for public discussion and input regarding State Park resource management; specifically, as it relates to OIN 0019.
4. Provide more training and education to BBRSP employees in order to help them understand their roles and responsibilities regarding resource management.

Attachments

1. Big Bend Ranch Public Use Plan "Draft" 09/07
2. Big Bend Ranch Public Use Plan 11/07
3. Desert Bighorn Sheep Restoration Plan – BBRSP 2007
4. OIN – 0019 – Exotic, Feral, and Nuisance Wildlife 1999
5. The Wild Free-Roaming Horse and Burro Act of 1971
6. Sierra Club – Feral Burro Management Policy
7. Newman Memorandum – Containing Garcia's Allegations 11/07
8. Hill / Sholly Memos Regarding Burro Control 4/07, 8/07, 11/07
9. E-mails
10. Law / Regulations - TX Penal Code, TPW Code, Ag Code, CFR
11. IA Sample Question List
12. Masur Qualification Memorandum 12/07
13. Maps / Waypoints of burro carcasses / remains / locations 11/4, 11/5
14. Hill Memorandum Subject: Burro Trapping 12/3//07
15. Photographs – Taken by CPT Gillenwaters / CPT Carter 11/07
16. Photographs – Taken by Antonio Manriquez, SP Employee
17. Photographs – Taken by Bundy Phillips, SP Employee
18. Background / Miscellaneous