



U. S. Department of Justice

United States Attorney
District of New Jersey

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September 11, 1998

RECEIVED

Hon. Anne E. Thompson
Chief, United States District Judge
United States District Court
402 East State Street
Trenton, New Jersey 08068

9-17
Chambers of

Anne E. Thompson, Chief Judge

RE: Establishment of the Collateral Forfeiture
Schedule Governing Violations Investigated
By the Bureau of Land Management

Dear Chief Judge Thompson:

Pursuant to Rule 58.1(c)(4) of the Local Criminal Rules of the United States District Court for the District of New Jersey,¹ and at the behest of the United States Department of the Interior, Bureau of Land Management ["BLM"], I respectfully request that the Court adopt a Collateral Forfeiture Schedule applicable to violations of various statutes that the BLM enforces.

The BLM has the authority to enforce the laws that protect subsurface mineral rights on federal land. In addition, the BLM enforces provisions of the Wild Free-Roaming Horse and Burro Act. This Act governs the ownership of wild horses, a number of which are adopted by individuals and stables in New Jersey. The proposed schedule, which is attached hereto as Exhibit A, includes fines for violations of this Act as well as other statutes within the jurisdiction of the BLM.

According to the BLM and as more fully reflected in its letter, which is attached hereto as Exhibit B, the Eastern States Law Enforcement Office of the BLM has asked the thirty-four judicial districts east of the Mississippi to adopt a uniform

¹Subsection (c)(4) of Rule 58.1 provides that:

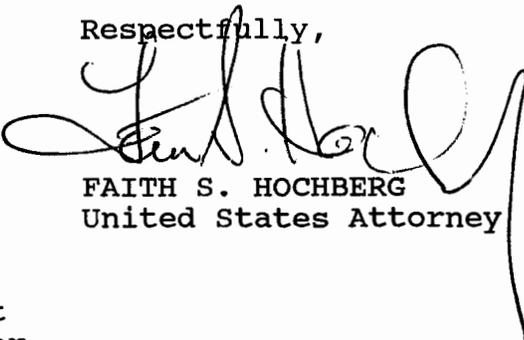
Amendments and revisions to the list of offenses and fines set forth in Appendix E may be made from time to time by the Court.

Collateral Forfeiture Schedule to permit expeditious and consistent dispositions of petty and misdemeanor violations of the laws it enforces. I have been advised that the Western District of Pennsylvania and the Western District of New York have adopted the proposed schedule. Requests for adoption of the schedule are pending in the Eastern District of Pennsylvania, the Southern and Eastern Districts of New York, and the District of Rhode Island. It is my understanding that the Districts of Delaware and Vermont have declined to adopt a uniform schedule, in favor of individually evaluating any case that arises in those districts and proceeding by way of criminal Information. The BLM believes that, unlike Vermont and Delaware, this District is the home to a sufficient number of horses covered by the Wild Free-Roaming Horse Act that a uniform schedule is warranted.

If the proposed schedule meets with the approval of the Court, then it must be made part of its local rules. To this end, enclosed please find a proposed form of Order directing that the proposed schedule become part of the Rules of this Court. If the Order meets with your approval, please execute the Order and arrange for the schedule to be made part of the Local Rules. To facilitate this process, a computer disk containing the schedule is also enclosed.

If you need any additional information or assistance, please do not hesitate to contact me or AUSA Patty Shwartz at (973) 645-2728.

Respectfully,



FAITH S. HOCHBERG
United States Attorney

cc: Scott Peace, Special Agent
U.S. Department of Interior

EXHIBIT A

BUREAU OF LAND MANAGEMENT

VIOLATIONS OF UNITED STATES CODE:

<u>TITLE/SECTION</u>		<u>Collateral fine</u>
16/433	American Antiquities	\$200.00
18/1361	Vandalism	\$200.00
18/1852	Timber removed or transported	\$250.00
18/1853	Trees cut or injured	\$250.00
18/1856	Fires left unattended	\$100.00
18/1857	Fences destroyed; livestock entering	\$100.00
18/1858	Survey marks destroyed or removed	Mandatory Appearance
43/1061	Unlawful enclosure	\$250.00
43/1063	Obstruction of transit over Public Lands	\$100.00

VIOLATIONS OCCURRING WITHIN LANDS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT
CHARGED UNDER CITED SECTIONS OF TITLE 43, CODE OF FEDERAL REGULATIONS.

4140.1(b)(1)(i)	Allowing livestock on Public Land without permit or lease.	\$100.00
4140.1(b)(2)	Disturbing or installing range improvements	\$100.00
4140.1(b)(3)	Cutting, burning, spraying, destroying or removing vegetation	\$100.00
4140.1(b)(4)	Damaging or removing U.S. Property	Mandatory Appearance
4140.1(b)(5)	Molesting livestock	\$100.00
4140.1(b)(6)	Littering	\$100.00
4140.1(b)(7)	Interfering with lawful uses or users	\$100.00
4140.1(b)(8)	False statements	\$200.00
4770.1(a)	Maliciously or negligently injuring or harassing a wild Horse or Burro	\$150.00
4770.1(c)	Destroying wild Horse or Burro w/o authorization except as act of mercy	\$150.00
4770.1 (d)	Selling Wild Horse or Burro	\$300.00
4770.1(e)	Uses Wild Horse or Burro for Commercial exploitation	\$250.00
4770.1(f)	Inhumane treatment of Wild Horse or Burro	\$300.00

4770.1(g)	Violating term or condition of private maintenance and care agreement	\$150.00
4770.1(h)	Branding a Wild Horse or Burro	\$200.00
4770.1(i)	Removal or alteration of official mark	Mandatory Appearance
4770.1(j)	Violating an order, term, or condition established by the Authorized Officer under this part.	\$200.00
8365.1-4(a)(2)	Creating a hazard or nuisance	\$100.00
8365.1-4(a)(3)	Refusing to disperse	\$100.00
8365.1-4(a)(4)	Resisting arrest, citation; interfering with officer	\$500.00
8365.1-4(a)(5)	Assault or battery on BLM Employee	Mandatory Appearance
8365.1-4(a)(6)	False emergency or crime report	\$250.00
9262.1	Unauthorized use, occupancy, or development of public lands	\$250.00
9264.7(a)(2)	Converts Wild Horse or Burro to private use	\$200.00
9264.7(a)(3)	Causing death or harassment of Wild Horse or Burro	\$250.00
9264.7(a)(4)	Processes Wild Horse or Burro into Commercial products	\$150.00
9264.7(a)(8)	Use of Wild Horse or Burro for Bucking stock	\$150.00
9264.7(a)(9)	Fails to produce Wild Horse or Burro for inspection	\$100.00
9264.7(a)(10)	Failure to notify of death of Wild Horse or Burro	\$100.00
9264.7(a)(12)	Abandoning Wild Horse or Burro	\$200.00
9264.7(a)(13)	Failure to attempt to capture Wild Horse or Burro	\$100.00
9264.7(a)(14)	Accepting Wild Horse or Burro for slaughter or destruction	Mandatory Appearance
9264.7(a)(15)	Failure to retain Wild Horse or Burro certification	\$100.00

EXHIBIT B



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

411 Briarwood Drive, Suite 404
Jackson, Mississippi 39206

IN REPLY REFER TO:

August 14, 1998

The Honorable Faith Hochberg
United States Attorney
District of New Jersey
970 Broad St. Fed. Bldg. 7th Flr.
Newark, NJ 07102

Dear Ms. Hochberg:

The following information has been provided to your office in letters dated February 3, 1992, February 10, 1993, and March 9, 1994. As of this writing, this office has failed to receive any response. Both the aforementioned letters and this letter are in reference to establishing a Collateral Forfeiture Schedule for the Bureau of Land Management within your District.

As an agency of the United States Department of the Interior, the Bureau of Land Management is responsible for the management of the public lands and their resources. BLM's role is defined by the Federal Land Policy and Management Act of 1976 (90 STAT. 2743; 43 U.S.C. 1733). This act established the policy that the public lands will be retained under Federal Ownership and managed in the public interest under the principles of multiple use and sustained yield.

BLM programs in the 31 states adjoining or east of the Mississippi River are the responsibility of the Bureau's Eastern States Office located in Springfield, Virginia. In these 31 states BLM oversees approximately 30,000 acres of widely-scattered surface, and 33.3 million acres of federally-owned minerals, most of which are located under surface administered by other federal agencies or owned by the states or private parties.

BLM has two District Offices, the Milwaukee District Office at Milwaukee, Wisconsin and the Jackson District Office at Jackson, Mississippi. The Milwaukee District administers BLM programs in 20 Northern States and includes the Rolla Project Office in Rolla, Missouri. The Jackson District covers 11 Southern States. Both of these offices report to the Eastern States Office in Springfield, Virginia.

Special Agents of the Eastern States Law Enforcement Office perform a full spectrum of investigative duties and are authorized to enforce all Federal laws and regulations pertaining

to the use, management, and development of the public lands and their resources.

Eastern States Law enforcement officers have full arrest authority and are responsible for the enforcement of the following Federal laws and regulations in addition to the above:

The Archaeological Resources Protection Act of 1979 (93 STAT., 721, 16 U.S.C. 470 aa et seq.).

The Federal Land Policy and Management Act of 1976 (90 STAT. 2743; 43 U.S.C. 1733).

The Wild Free-Roaming Horse and Burro Act of 1971 (85 STAT. 649; 16 U.S.C. 1331-1340 (Supp. I, 1971)).

The Land and Water Conservation Fund Act of 1965 (78 STAT. 897, as amended; 16 U.S.C. 4601-6a).

The Sikes Act (88 STAT. 1369; 16 U.S.C. 670j).

The Antiquities Act (34 STAT. 225; 16 U.S.C. 433).

The National Trails System Act (82 STAT. 919; 16 U.S.C. 1241-1246).

The Taylor Grazing Act (48 STAT. 1269, as amended; 43 U.S.C. 315a).

The Unlawful Enclosures of Public Lands Act (23 STAT. 321; 43 U.S.C. 1061-1064).

The Act of June 3, 1878 (20 STAT. 89, as amended; 16 U.S.C. 604-606).

Sections 47, 111, 641, 1001, 1361, 1510, 1851-1861, and other Sections of Title 18 U.S.C.

The Migratory Bird Treaty Act (16 U.S.C. 703, 705, 1918)

The Lacey Act (16 U.S.C. 3372, 3373(d), 1900)

The Endangered Species Act (16 U.S.C. 1538(a), 1540(b), and 1540(e))

Various Sections of 43 C.F.R.

Other Laws as they may apply to Public Land Use

The Eastern States Law Enforcement Office is directly responsible for the enforcement of a variety of violations of Federal Law in 62 Judicial Districts including yours.

Due to the large number of Federal Judicial Districts for which

the Eastern States has investigative responsibility, it is crucial that a means by which misdemeanor offenses falling under BLM jurisdiction may be handled in an efficient, appropriate, and expeditious manner. Therefore, the adoption of a standard Collateral Forfeiture Schedule for minor offenses within those Federal Judicial Districts that the Eastern States is responsible for would be an invaluable tool for the enforcement operations of this office.

A memorandum from the Director of BLM directed each State Office Law Enforcement Staff to make contact with the U.S. District Courts in their respective areas of responsibility for the purpose of developing a Forfeiture/Collateral System for BLM regulations contained in CFR Title 43.

Guidelines for the BLM District Offices defining "Probable Cause" and the elements needed to establish probable cause has been prepared. The purpose of the guidelines (copy attached), with your concurrence, will allow issuance of citations, via U.S. Mail (certified), from our offices in Virginia, Mississippi and Wisconsin without having to physically witness the offense and provided that probable cause does in fact exist.

Enclosed is a copy of those violations and their respective monetary fines and/or mandatory appearance that we are seeking to establish in your District.

In the interest of economy and justice it is respectfully requested that you present to the Chief Judge in your District, the attached Collateral Forfeiture Schedule for adoption and approval by your District.

Please bear in mind that the Collateral Forfeiture Schedule is a tool to assist in the performance of our duties but should not preclude us from filing a complaint and information or seeking Grand Jury indictment(s) depending on the type and magnitude of the offense(s).

Should you have any questions please contact Special Agent Scott Peace at 601-977-5458.

We look forward to a congenial, productive, personal and professional relationship with you and your staff.

Sincerely,

Scott Peace

Scott Peace
Special Agent

Enclosures