

m 2-18-97



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Attorney General

February 18, 1997

Bruce Hill  
Office of the Regional Solicitor  
6201 Federal Building  
125 South State Street  
Salt Lake City, UT 84138-1194

RE: *CPWH v. BLM*  
NV-04-95-09


Dear Mr. Hill:

Enclosed is the original Stipulation and Withdrawal of Appeal with regard to the above-stated case. Upon completion of your review, if the Stipulation meets with your approval, please sign where appropriate and return it to our office for signature and filing.

If you have any questions regarding the enclosed Stipulation, please feel free to contact our office.

Sincerely,

FRANKIE SUE DEL PAPA  
Attorney General  
C. WAYNE HOWLE, Deputy Attorney General

By:   
Amy V. Huber  
Legal Secretary II

/avh  
enclosure: as stated  
cc: Cathy Barcomb  
Roy Leach

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Preservation of Wild Horses, Appellant  
6

7 UNITED STATES DEPARTMENT OF THE INTERIOR  
OFFICE OF HEARINGS AND APPEALS  
8 HEARINGS DIVISION

9 COMMISSION FOR THE : NV-04-95-09  
PRESERVATION OF :  
10 WILD HORSES :  
: Appellant :  
11 : :  
v. :  
12 BUREAU OF LAND MANAGEMENT, :  
13 : Respondent :  
14 .....

15 STIPULATION AND WITHDRAWAL OF APPEAL

16 The Commission for the Preservation of Wild Horses (CPWH) is an agency of the State of  
17 Nevada, whose duty it is to ensure the preservation, protection, and management and restoration  
18 of wild horses within the State of Nevada. Subject to the following conditions, CPWH hereby  
19 withdraws its appeals from the decision in the Railroad Pass Allotment, in case no. NV-04-95-09:

- 20 A. **BINDING OBJECTIVES.** The objectives set forth in the Egan Resource Management  
21 Plan/Record of Decision and Railroad Pass Allotment Multiple Use Decision (1995) are  
22 commitments binding upon the BLM. Decisions establishing appropriate management levels  
23 for wild horses and stocking rates for livestock must be consistent with achieving these  
24 objectives.
- 25 B. **MONITORING.** BLM is obligated to monitor in order to determine whether the objectives  
26 identified in paragraph A above are being met. The BLM therefore shall monitor the actual  
27 use of livestock and wild horses and their impacts on the vegetative resources of the Rail

1 Road Pass Allotment in a manner which will ensure early detection of nonattainment of  
2 wildlife habitat, riparian and range objectives.

3 Specifically BLM shall monitor wild horse habitat and rangelands within the Rail  
4 Road Pass Allotment. BLM will continue to collect utilization data. Wild horse census data  
5 will include accurate population estimates, distribution, annual recruitment rates, age  
6 composition and mortality data throughout the allotment.

7 C. **ADJUSTMENTS IN USE.** Part of BLM's efforts to achieve the objectives set forth in  
8 paragraph A above is the adjustment of active livestock grazing use and appropriate  
9 management levels for wild horse herds when monitoring data indicates adjustments are  
10 necessary to achieve allotment-specific objectives within a reasonable time.

11 Desired Stocking Rate computations for the Rail Road Pass Allotments will be  
12 concurrent with multiple allotment decisions affecting the Diamond, South Diamond Hills  
13 and North Diamond Hills Herd Management Areas; the computations will be presented in  
14 allotment evaluations or environmental assessments no later than 1997. Computations and  
15 assumptions will be consistent with established procedures found in BLM manual *Rangeland*  
16 *Monitoring Analysis, Interpretation, and Evaluation, Technical Reference 4400-7.*

17 The following procedures will be applied:

- 18 1. All available rangeland monitoring and actual use data collected in the Diamond,  
19 South Diamond Hills and North Diamond Hills herd management areas will be  
applied.
- 20 2. Summer and winter range Key Management Areas will be established with allowable  
21 use levels for key forage pertinent to wild horses.
- 22 3. Weight averaging and use pattern mapping will not be used in a way that would  
23 compromise the effect of heavy and severe use data collected on the allotment.  
Management actions will be based upon Key Management Areas.
- 24 4. If it is determined that any Key Management Area is not properly functioning or  
25 functioning at risk, the BLM shall take appropriate action no later than the start of  
the next grazing season.
- 26 5. Allocation of forage must make proportional adjustments based upon actual use and  
27 the ungulate-specific objectives established for key forage species. If monitoring

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indicates that reductions in forage use are necessary, reductions will be taken from actual use.

- 6. An appropriate management level will be established by concurrent multiple use decisions for affected allotments. The District will consider a meta-population of the Diamond, South Diamond Hills and North Diamond Hills herd management areas.
- 7. Concurrent interim management actions will be taken to address livestock use of the herd management areas.
- 8. Long term planning will consider adjustment of herd management area boundaries to increase efficiency of management.

D. **RANGE IMPROVEMENT PROJECTS.** A comprehensive fence analysis of all herd management areas will be completed through, and included in, activity level planning for both livestock grazing and wild horse management. Wild horse passage will be assured through all herd management areas to preserve free-roaming behavior and migration to summer and winter ranges.

E. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties. This Agreement shall become effective on the date on which the case is ordered dismissed by the Administrative Law Judge.

Dated this \_\_\_\_\_ day of February, 1997.

\_\_\_\_\_  
C. WAYNE HOWLE  
Attorney for NDOW

\_\_\_\_\_  
BRUCE HILL  
Attorney for Respondents



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FRANKIE SUE DEL PAPA  
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100 North Carson Street  
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May 27, 1997

Mr. Bruce Hill, Esq.  
Office of the Regional Solicitor  
6201 Federal Building  
125 South State Street  
Salt Lake City, UT 84138-1194

Re: *Commission for the Preservation of Wild Horses v. BLM*, Nos. NV-04-95-09  
and NV-04-95-10 (Railroad Pass Allotment and Diamond Hills South HMA)

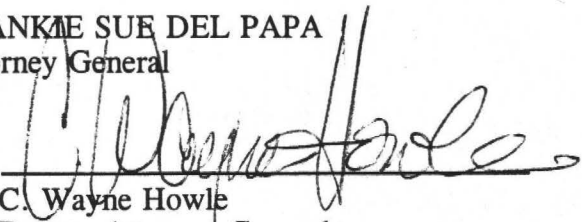
Dear Bruce:

My client and I have reviewed your proposal to settle the above-referenced matters. In general the proposal is acceptable, with a number of changes as indicated on the mark-up copy, in which additions are italicized and deletions are indicated with strike through. A clean copy is provided for your signature if you find it acceptable.

If you have any questions, or need to discuss any provisions, please call me at tel. 702-687-4449.

Sincerely,

FRANKIE SUE DEL PAPA  
Attorney General

By:   
C. Wayne Howle  
Deputy Attorney General  
Conservation & Natural Resources  
(702) 687-4449

CWH/avh  
Enclosures: as stated