

G

10-10-96
RECEIVED
R. Bowman
OCT 10 1996
OFFICE OF HEARINGS & APPEALS
HEARINGS DIVISION
SALT LAKE CITY, UTAH

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

**UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS
HEARINGS DIVISION**

COMMISSION FOR THE PRESERVATION OF WILD HORSES,	:	NV-050-94-02 IBLA 94-448
	:	
Appellant	:	Emergency Removal Plan
	:	
v.	:	
BUREAU OF LAND MANAGEMENT,	:	
	:	
Respondent	:	
.....	:
COMMISSION FOR THE PRESERVATION OF WILD HORSES,	:	NV-050-94-05
	:	
Appellant	:	Appeal from the Area Manager's Full Force and Effect Decision dated November 24, 1993, Caliente Resource Area, Las Vegas District, Nevada
	:	
v.	:	
BUREAU OF LAND MANAGEMENT,	:	
	:	
Respondent	:	
.....	:

STIPULATION AND WITHDRAWAL OF APPEALS

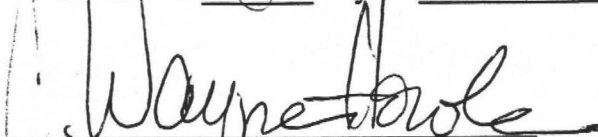
Subject to the following conditions, the Nevada Commission for the Preservation of Wild Horses (hereinafter "Commission") hereby withdraws its appeals from decisions in the Henrie Complex Allotment, in case nos. NV-050-94-02 (IBLA 94-448) and NV-050-94-05:

- The Bureau of Land Management, Ely District (BLM) agrees to include Commission personnel in at least one wild horse census for the Meadow Valley Mountain Herd Management Area (MVM-HMA) in 1997. BLM otherwise agrees to promptly share with


- 1 the Commission the results of any data collected in future MVM-HMA censuses.
- 2 2. BLM agrees to introduce additional wild horses into the MVM-HMA if, once it has decided
3 on an Appropriate Management Level (AML) for the MVM-HMA, BLM determines that
4 the population of wild horses at the time it issues the MUD is less than 75% of the AML.
- 5 3. BLM agrees to follow the policy set forth in IM 95-87 regarding public review of wild
6 horse gather plans. Specifically, BLM agrees that the 30-day comment and appeal periods
7 will only be waived when immediate action is required due to sudden and unforeseen animal
8 or habitat conditions. Even if the comment or appeal periods are waived, BLM agrees to
9 provide as much advance notice as possible to the Commission once it decides to implement
10 an emergency gather in the MVM-HMA.
- 11 4. BLM agrees to write a NEPA conformance statement after an emergency gather, which
12 would discuss any resource impacts of a gather and consider mitigation measures where
13 appropriate. BLM will consult with the Commission during preparation of the conformance
14 statement.
- 15 5. BLM will make every reasonable effort to complete a Multiple Use Decision (MUD) for
16 the Henrie Complex Allotment in 1997, which will include an AML for the MVM-HMA.
17 BLM does not make an absolute commitment in this regard, because unforeseen budgetary
18 or resource requirements may necessitate delaying the MUD. BLM hereby declares that
19 the Henrie Complex MUD is its top priority for MUDs in the Ely District.
- 20 6. Horses which are determined to be wild by the Ely District Bureau of Land Management,
21 in consultation with the State Brand Inspector and the contractor for the gather, will only
22 be turned over to private parties under the adoption program. In general, horses which are
23 branded are returned to the registered owner, and horses which show physical signs of
24 domestication (such as brands, horseshoes, saddle marks, roached manes or docked tails,
25 gelding or other signs of surgical treatment, or presence of tack) are turned over to the State
26 if no owner can be found. Documentation will be retained by BLM for each horse turned
27 over to a private owner.

1 7. BLM agrees to consider issuing specific MUDs within the Ely District on a HMA basis,
2 rather than on an allotment-specific basis. BLM further agrees that maintaining an
3 indigenous herd is an important factor to consider in wild horse decisions. Any relocation
4 will be preceded by analysis and consultation as required by NEPA.

5 Dated this 8 day of October, 1996.

6 
7 _____

8 C. WAYNE HOWLE
9 Deputy Attorney General
10 Office of the Attorney General
11 Capitol Complex
12 Carson City, Nevada 89710
13 Telephone: (702) 687-3700
14
15
16
17
18
19
20
21
22
23
24
25
26
27
Attorney for Commission for the Preservation
of Wild Horses, Appellants

6 
7 _____

8 JOHN PAYNE
9 Assistant Regional Solicitor
10 Office of the Regional Solicitor
11 U.S. Department of Justice
12 2800 Cottage Way, Rm. E-2753
13 Sacramento, CA 95825
14 Telephone: (916) 979-2157
15
16
17
18
19
20
21
22
23
24
25
26
27
Attorney for the Bureau of Land
Management, Respondent

1 CERTIFICATE OF MAILING

2 I hereby certify that I am an employee of the Office of the Attorney General, State of
3 Nevada, and that on this 9th day of October, 1996, I sent the original and two copies
4 of STIPULATION AND WITHDRAWAL OF APPEALS, via facsimile and Federal Express,
5 addressed to the following:

6 Office of Hearings and Appeals
7 Hearings Division
8 6432 Federal Building
9 Salt Lake City, UT 84138

9 and a true and correct copy of STIPULATION AND WITHDRAWAL OF APPEALS, via facsimile
10 and certified mail, return receipt requested, addressed to the following:

11 David Nawi
12 Regional Solicitor
13 Pacific Southwest Region
14 John R. Payne
15 Assistant Regional Solicitor
16 Office of the Regional Solicitor
17 U.S. Department of the Interior
18 2800 Cottage Way
19 Sacramento, CA 95825

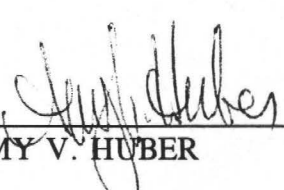
Dawn Y. Lappin
Wild Horse Organized Assistance
P.O. Box 555
Reno, NV 89504

Allen T. Rutberg
Humane Society of the United States
2100 L. Street, N.W.
Washington, D.C. 20037

20 State Director
21 Bureau of Land Management
22 P.O. Box 12000
23 Reno, NV 89520-0006

District Manager
Bureau of Land Management
HC 33 Box 33500
Ely, NV 89031-9408

24 U.S. Department of the Interior
25 Board of Land Appeals
26 4015 Wilson Blvd.
27 Arlington, VA 22203



AMY V. HUBER