



Back & Bald Hill Newark Allot. COLD CREEK XHOT need

L 11/24/93

United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS

Hearings Division
6432 Federal Building
Salt Lake City, Utah 84138
(Phone: 801-524-5344)

November 24, 1993

DANIEL H. RUSSELL,	:	IBLA 92-276
	:	(NV-04-92-1)
Appellant	:	
	:	Wild Horses
v.	:	
	:	Referral for Hearing
BUREAU OF LAND MANAGEMENT,	:	
	:	
Respondent	:	

ORDER OF DISMISSAL

The parties hereto have filed a duly executed stipulation whereby the above captioned appeal is withdrawn on the condition the matter be remanded to the Bureau of Land Management for implementation of the provisions of the said stipulation, a copy of which is attached hereto.

It appearing that the parties have amicably settled their differences, this case is DISMISSED, and the matter remanded to the respondent as above provided.

Dated: November 24, 1993


Ramon M. Child
Administrative Law Judge

Attachment

Distribution
By Certified Mail:

Thomas S. Van Horne, Esq.
708 10th Street, Suite 250
Sacramento, California 96814

Burton J. Stanley, Esq.
Office of the Regional Solicitor
U.S. Department of the Interior
2800 Cottage Way, Room E-2753
Sacramento, California 95825-1890

UNITED STATES DEPARTMENT OF THE INTERIOR

OFFICE OF HEARINGS AND APPEALS

HEARING DIVISION

DAN RUSSELL,)	STIPULATION TO VACATE AND
)	SET ASIDE IN PART NOTICE
Appellant,)	OF FINAL MULTIPLE USE
)	DECISION AND TO WITHDRAW
vs.)	
)	
BUREAU OF LAND MANAGEMENT)	NV-04-92-1
)	NV-04-92-2
)	
Respondent.)	

The parties above named, stipulate that the above appeal NV-04-92-2 be withdrawn and the matter remanded to the Bureau of Land Management (BLM) upon the following terms and conditions:

The Bureau will manage the Cold Creek Allotment in accordance with the Notice of Final Multiple Use Decision dated January 23, 1992 with the following modifications:

- (1) The permittee agrees to take voluntary non-use for conservation and protection of the federal range in the four Strawberry Pastures, the four Griswold Pastures, and the four Diamond Pastures, beginning March 1, 1994, to an extent necessary to assure that the active preference used by the Permittee during the term of this stipulation shall be limited as follows:

<u>PASTURE</u>	<u>USE OF ACTIVE PREFERENCE (AUMS)</u>
Strawberry NW	701
Strawberry SW	460
Strawberry NE	349
Strawberry SE	621
SUBTOTAL	2131
Griswold NW	479
Griswold SW	504
Griswold NE	449
Griswold SE	552
SUBTOTAL	1984
Newark #1	292
Newark #2	150
SUBTOTAL	442

*In Buck +
Bald*

Huntington #1	294	
Huntington #2	90	
Huntington #3	291	
Huntington #4	405	
SUBTOTAL	1080	
Diamond #1	241	
Diamond #2	274	
Diamond #3	403	
Diamond #4	292	
SUBTOTAL	1210	
TOTAL ACTIVE AUMS OF USE	6847	(Cattle Use)
TOTAL VOLUNTARY NON-USE	2282	(Cattle Use)

Seasons of Use will be the same as those shown in the Decision dated January 23, 1992.

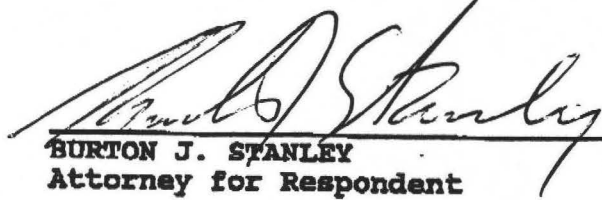
At the end of the second grazing year (February 1996), the allotment will be re-evaluated to determine if management objectives are being met. If objectives are being met, grazing use will continue at the above levels. If objectives are not being met, a new decision will be implemented March 1, 1997.

- (2A) The Bureau will consider the proposals for additional water developments and/or maintenance of existing projects in the Griswold unit if funded solely by the permittee.
- (2B) The Bureau will investigate the perceived problem caused by ingress and egress to the seedings by wild horses caused by individuals leaving gates open. The Bureau will review and, if appropriate, place signs in the area and/or suggest the closure of roads. The Permittee agrees to increase management to help alleviate the above problem.
- (3) The Bureau is committed to achieving and maintaining appropriate management levels of wild horses in the Cold Creek Allotment within the constraints of the wild horse program. Upon settlement of the Cold Creek grazing decision, the Bureau's intent is to issue, within a year of signing this agreement, removal plans in the appropriate HMA's as full force and effect decisions, and further issue removal plans in a similar fashion to remove all horses from existing horse free areas, including, but not limited to, the Strawberry seedings, the Griswold seedings, the Newark seedings, the Diamond pastures, and Huntington Pasture #4.

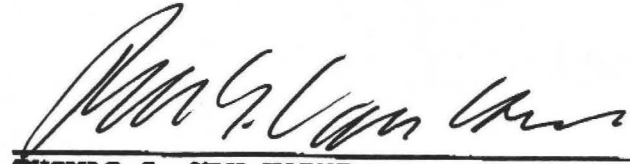
(4) General Provisions

- (A) It is the intent of the parties that this agreement shall be binding upon and shall inure to any successor in interest pending a new decision, if any.
- (B) This agreement is a voluntary settlement of a contested decision and the act of entering into this agreement shall not be interpreted in the future to be an admission by the Permittee that the monitoring data giving rise to the decision is sufficient, nor that the conclusion drawn therefrom are justified.

11/10/93
DATE


BURTON J. STANLEY
Attorney for Respondent

11/1/93
DATE


THOMAS S. VAN HORNE
Attorney for Appellant Russell