

ANTELOPE HMA

m 8-16-91



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

ELY DISTRICT OFFICE  
HC33 BOX 150  
ELY, NEVADA 89301-9408



IN REPLY REFER TO:

4160  
(NV-046)

AUG 16 1991

CERTIFIED MAIL NO. P776 533 789  
RETURN RECEIPT REQUESTED

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

Dear Ms. Lappin:

Enclosed for your information is an out-of-court settlement (stipulation) proposal with Reed Robison and Western Farm Credit Bank.

On July 16, 1990 a Notice of Final Multiple Use Decision for The Chin Creek Allotment was sent to all affected interests. The aforementioned decision was appealed by Reed Robison (permittee) on August 13, 1990 and one lien holder (Western Farm Credit Bank) on August 24, 1990.

On June 19, 1991 our office received an out-of-court settlement proposal from Reed Robison through his attorney. Subsequent to receipt of Reed Robison's out-of-court settlement proposal, several negotiation meetings have taken place.

The primary side boards placed on our negotiations with Reed Robison and his representatives were: (1) any out-of-court settlement must be as good or better for the natural resources than the present decision, (2) negotiations must remain within the original scope of the livestock decision and the appeals by both parties, and (3) affected interests be informed through consultation on the settlement prior to our approval.

The terms and conditions as stipulated in the out-of-court settlement in conjunction with the decision are expected to make progress towards accomplishment of the long term multiple use objectives for the Chin Creek Allotment. The stipulation initiates

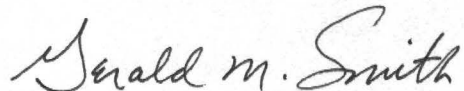
the management actions necessary to improve resource conditions as identified in the allotment evaluation i.e. implement grazing system to rest Antelope Valley (North and South Pastures) during the critical spring growth period.

The enclosed stipulation to withdrawal both appeals has been signed by Reed Robison's attorney and has been sent to Western Farm Credit Bank for their consideration. Our Solicitor will not sign the enclosed stipulation until my staff and I have had a chance within the specified time period below to complete the consultation process with affected interest groups.

The main purpose of this consultation letter is to solicit your comments and/or recommendations on the enclosed out-of-court settlement proposal within the next 15 days. Based on written and verbal comments from affected interests, the Schell Resource Area may schedule a consultation meeting on September 12, 1991 at the Nevada State Office in Reno Nevada. Therefore, in addition to your comments, please notify me, or Bill Coulloudon of my staff, whether you could attend such a meeting on September 12, 1991.

In closing I would like to say that my staff and I have appreciated your past involvement in the Chin Creek Allotment Evaluation and look forward to your future support.

Sincerely yours,



Gerald M. Smith, Manager  
Schell Resource Area

1 Enclosure

1. Stipulation to Withdrawal Appeals

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JOHN W. BURKE, III  
Regional Solicitor  
Pacific Southwest Region  
Burton J. Stanley  
U.S. Department of the Interior  
2800 Cottage Way, Rm. E-2753  
Sacramento, CA 95825

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

Reed B. Robison,	)	NV-04-90-5
Appellant	)	
v.	)	
BUREAU OF LAND MANAGEMENT,	)	
Respondent	)	
.....	)	.....
WESTERN FARM CREDIT BANK,	)	NV-04-90-11
Appellant	)	
v.	)	
BUREAU OF LAND MANAGEMENT	)	
Respondent	)	STIPULATION TO WITHDRAWAL APPEALS

The undersigned parties hereby stipulate that the above appeals (NV-04-90-05) and (NV-04-90-11) be withdrawn and the matter remanded to the Bureau of Land Management (BLM) upon the following terms and conditions:

The Bureau will manage the Chin Creek Allotment in accordance with the Notice of Final Multiple Use Decision dated July 16, 1990 with the following modifications.

1. The Bureau will restore that portion of the permittee's active preference that was suspended by the decision dated July 16, 1990 in return for the permittee agreeing to take a minimum of 44% nonuse for resource conservation/protection purposes until the authorized officer determines through monitoring data that active use may resume.
2. The Bureau commits to work on wild horse management in the entire Antelope Wild Horse Herd Management Area, i.e., physical boundaries, availability of water, migration routes, etc.
3. Authorized livestock use will be as follows for the Chin Creek

Allotment:

Total Preference	Active Preference	Suspended Preference	Active Use	Nonuse	Voluntary Nonuse
13,245	13,115	130	7,372	5,743	189

Use Area	No.	Kind	Period of use	%PD	Active	Nonuse	Voluntary Nonuse
Spring Valley	3,600	S	04/15-06/15	100	1,468	779(CP)	178(V)
	1,000	S	06/16-07/15	100	198		
Antelope Range	1,000	S	07/16-09/19	100	434	2,446(CP)	5(V)
Black Hills	1,000	S	09/20-10/31	100	277		
	1,043	S	11/01-04/30	100	1,242	442(CP) <sup>1/</sup>	6(V)
Antelope Valley	718	C	11/01-05/31	100	3,564	2,076(CP) <sup>2/</sup>	
Total =					7,183	5,743	189(V)

<sup>1/</sup> Active authorized use in the Black Hills use area not to exceed 1,525 AUMs. A temporary season of use from 09/20 to 10/31 is in effect for the interim period until the AMP is developed.

<sup>2/</sup> Use in Antelope Valley shall not exceed 5 months as stipulated below under number 4.

(CP) Nonuse for Conservation/Protection of the Federal range.

(V) Regular Voluntary Nonuse which can be activated on an annual basis by the livestock operator.

At the beginning of each grazing season flexibility within the terms and conditions of the grazing permit will be determined through an

1 annual field inspection by the permittee and Bureau of Land Management.  
2 Any flexibility must be consistent with the accomplishment of the  
3 multiple-use-objectives for the Chin Creek allotment.

4  
5 4. An interim three pasture deferred-rotation grazing practice is in  
6 effect for Antelope Valley use area.

7  
8 Antelope Valley Use Areas

9 Antelope Valley Allotment (Elko)

10 North Pasture (Ely)

11 South Pasture (Ely)

12  
13 Treatments

14 A: 718 Cattle 11/01 to 01/15 100% = 1,794 AUMs

15 B: 718 Cattle 01/16 to 03/31 100% = 1,770 AUMs

16 C: 718 Cattle 04/01 to 05/31 100% = 1,440 AUMs

17 5,004 AUMs

18  
19 Grazing Formula

<u>Year</u>	<u>South Pasture</u>	<u>North Pasture</u>	<u>Antelope Valley Allot</u>
1	A	B	C
2	C	A	B
3	B	C	A

20  
21  
22  
23 In a given year two pastures will receive two and a half months winter  
24 grazing use and one pasture will receive a maximum of two months of

1 spring grazing use. A light grazing use prescription (35% on winterfat)  
2 will be applied to all three pastures to improve resource conditions in  
3 the Antelope Valley Use Area. The grazing formula set forth above may be  
4 modified by agreement of the parties during any given grazing year.  
5 Permittee shall haul water during the dry period for the Antelope Valley  
6 Allotment at Bureau designated haul sites until permanent water sources  
7 are developed.

- 8
- 9 5. Until such time as an allotment management plan is developed and  
10 management facilities are installed in the Spring Valley use area the  
11 1,080 AUMs of active cattle use will be converted to sheep AUMs.
- 12 6. BLM stipulates that the maximum season of use is 11/01 through 05/31  
13 in the Antelope Valley Use Area. Permittee agrees to move off the  
14 allotment prior to 05/31 should the authorized officer determine,  
15 after consultation with the permittee, that meadow grasses on  
16 permittee's private lands reach 6" in height.
- 17 7. The Bureau, the permittee, and any other interested parties will  
18 jointly participate in the conduct of an intensive five year  
19 monitoring program which considers all rangeland users. BLM may  
20 utilize monitoring data provided by the permittee and/or any other  
21 affected interests if done in accordance with BLM standards.
- 22 8. The Bureau agrees to target development of an Allotment Management  
23 Plan (AMP) for the Chin Creek Allotment within the next three years  
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1 if sufficient funding and manpower are available. The AMP will address  
2 the administration of both the Elko and Ely District Allotments under one  
3 District's administration and management. The AMP process will consider  
4 development of a cross fence on the Badlands Allotment in the Elko  
5 District. The AMP will be developed utilizing all available information  
6 (i.e., existing as well as new information gathered) through consultation  
7 with the permittee and other affected interests.

8 9. The Bureau will initiate the three year coordinated planning process  
9 with all affected interests concerning the development of the  
10 Antelope Range drift fence and the extension of the Antelope Valley  
11 north-south pasture cross fence (JDR #4522) to control grazing  
12 distribution.

13 10. There will be an informal annual end of the grazing season review  
14 including all affected interests of the resource conditions,  
15 management strategies, monitoring data collected, season of use, and  
16 actual use for all users. The Bureau will prepare a written annual  
17 summary through consultation with the permittee and other affected  
18 interests.

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11. Upon Elko District (Wells Resource Area) completion of the allotment evaluation process and multiple use decision for the Antelope Valley Allotment, these documents will be incorporated for use in the development of the AMP and may be used to amend the current decision and/or this stipulated settlement.

\_\_\_\_\_  
Date

\_\_\_\_\_  
BURTON J. STANLEY  
Attorney for Respondent

\_\_\_\_\_  
Date

\_\_\_\_\_  
JOHN MARVEL, ESQ.  
Attorney for Appellant Robison

\_\_\_\_\_  
Date

\_\_\_\_\_  
JAMES CONNELLY, ESQ.  
Attorney for Appellant  
Western Farm Credit Bank



8/16/91



# United States Department of the Interior



## BUREAU OF LAND MANAGEMENT

ELY DISTRICT OFFICE  
HC33 BOX 150  
ELY, NEVADA 89301-9408

IN REPLY REFER TO:

4160  
(NV-046)

**AUG 16 1991**

CERTIFIED MAIL NO. P776 533 788  
RETURN RECEIPT REQUESTED

Commission for the Preservation  
of Wild Horses and Burros  
C/O Kathy Barcomb, Executive Director  
Stewart Facility  
Capitol Complex  
Carson City, NV 89710

Dear Ms. Barcomb:

Enclosed for your information is an out-of-court settlement (stipulation) proposal with Reed Robison and Western Farm Credit Bank.

On July 16, 1990 a Notice of Final Multiple Use Decision for The Chin Creek Allotment was sent to all affected interests. The aforementioned decision was appealed by Reed Robison (permittee) on August 13, 1990 and one lien holder (Western Farm Credit Bank) on August 24, 1990.

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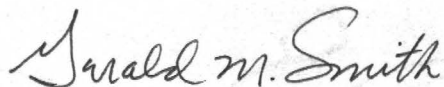
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In closing I would like to say that my staff and I have appreciated your past involvement in the Chin Creek Allotment Evaluation and look forward to your future support.

Sincerely yours,



Gerald M. Smith, Manager  
Schell Resource Area

1 Enclosure

1. Stipulation to Withdrawal Appeals

Final draft? without review

Signatures <sup>↑</sup> no reactivation w/out decision document

authorizing non use w/out review & commit

decision doesn't mean that he's bound to it

only way to quantify non use is to make it suspended

we want AML lifted for horses  
in preparation for increases

no AMP

reactivation needs to be proportionate  
immediate proportional not after preference  
is reached

how many wells dog (Reserve)

BOB MILLER  
Governor

STATE OF NEVADA

8/29/91  
8/29  
FAXED  
CATHERINE BARCOMB  
Executive Director



COMMISSION FOR THE  
PRESERVATION OF WILD HORSES

Stewart Facility  
Capitol Complex  
Carson City, Nevada 89710  
(702) 687-5589

August 29, 1991

COMMISSIONERS

Dan Keiserman, Chairman  
Las Vegas, Nevada

Michael Kirk, D.V.M., Vice Chairman  
Reno, Nevada

Paula S. Askew  
Carson City, Nevada

Steven Fulstone  
Smith Valley, Nevada

Dawn Lappin  
Reno, Nevada

Gerald M. Smith, Manager  
Schell Resource Area  
Ely District Office  
HC33 Box 150  
Ely, Nevada 89301-9408

Dear Mr. Smith,

Thank you for the opportunity to comment on the out-of-court settlement (stipulation) proposal with Reed Robison and Western Farm Credit Bank.

The Schell EIS identified the over-allocation of forage in 1974. Since that time there has been no reduction in preference on livestock but there have been reductions to wild horses.

We clearly do not understand why the wild horses are treated so differently when the Bureau went full force and effect on horses but negotiated a settlement in their full force and effect decision on livestock. Representatives of the wild horses have not had the opportunity or been given the option of negotiated settlements regarding grazing numbers of horses as have the representatives of livestock.

We fully support the monitoring data that has been thusfar presented despite the fact that it does not document the movements of the horses. We feel that more information is needed on the movement from Antelope into the Elko area (Sampson Creek).

We refuse to recognize a stipulated agreement that does not afford representatives of the multiple uses the opportunity to comment and participate when these numbers are due to be reactivated. This stipulated agreement does not afford us the opportunity to determine if the Bureau has done the monitoring to enable an increase in use before the AUM's are reactivated to the permittee.

We would strongly suggest that if the Bureau believes that this is to be in the best interest of the multiple uses of the public lands that any future reactivation of non-use AUM's be through a multiple use decision document. Any future increases should be allocated proportionatly between wild horses, wildlife, and livestock.

Gerald M. Smith  
August 29, 1991  
Page 2

Any acceptance of this "settlement proposal" would be on the incorporation of the concerns mentioned above. Otherwise we feel that we cannot accept this document as written.

In your letter you mentioned a tentative consultation meeting on September 12, 1991. We would be most interested in attending such a meeting.

Again, thank you for the opportunity to comment. If you have any questions, please feel free to call.

Sincerely

A handwritten signature in cursive script that reads "Catherine Barcomb".

CATHERINE BARCOMB  
Executive Director

Anything to resolve resource conflicts  
we ~~think~~ <sup>feel</sup> this approach to resolving the  
conflicts between the permittee, the BLM, &  
the interest groups <sup>is a positive direct step</sup>  
BUT

positive gains  
want to prevent ↑ from slipping

as written w/out ~~for~~ multiple use decision  
to reactivate AUM's we cannot &  
WILL NOT support

increase animals but decrease  
season of use

we support the range staff but personnel  
come & go, who will be there in  
many years.

BACK out of AML

THEY WILL BE ASKING THE COMMISSION FOR \$36,000<sup>00</sup> to do  
monitoring; NOT ENOUGH MONEY TO DO WORK WITH THE PROJECTED  
MONIES FOR NEXT YEAR.