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8 UNITED STATES DEPARTMENT OF THE INTERIOR

9 OFFICE OF HEARINGS AND APPEALS

10	NEVADA DEPARTMENT OF WILDLIFE,)	Case Nos. CA-02-92-08 and CA-
)	02-92-09
11	Appellant,)	
)	
12	v.)	STIPULATION AMONG PARTIES FOR
)	CHANGE IN DECISION AND
13	BUREAU OF LAND MANAGEMENT,)	WITHDRAWAL OF APPEAL
)	
14	Respondent.)	
)	
15	_____)	
)	
16	AND CONSOLIDATED CASES)	
)	
17	_____)	

18 RECITALS

19 The parties to this agreement are the CALIFORNIA
20 DEPARTMENT OF FISH AND GAME (CDFG), the NEVADA DEPARTMENT OF
21 WILDLIFE (NDOW), and the UNITED STATES BUREAU OF LAND MANAGEMENT
22 (BLM). CDFG is the appellant in United States Department of
23 Interior Case No. CA-02-92-09, which is an appeal from the
24 District Manager's Decision, dated April 15, 1992, Surprise
25 Resource Area, Susanville District, California. NDOW is the
26 appellant in United States Department of Interior Case No. CA-
27 02-92-08, which has been consolidated with Case No. CA-02-92-09
28 and other appeals from the District Manager's Decision, dated

1 April 15, 1992. BLM is a respondent in each of the appeals.

2 The parties have reached the following compromise,
3 settlement and dismissal agreement in order to avoid further
4 litigation and to carry out the resource management objectives
5 that are set forth in the 1979 Tuledad/Home Camp land use plans
6 and other applicable BLM resource management goals and policies.

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AGREEMENT

9 1. Alteration of Decisions. By February 15, 1994,
10 BLM shall supplement and modify the Interim Grazing Decision,
11 dated April 15, 1992, for the Tuledad Allotment in accordance
12 with the provisions of this Stipulation. The modified Interim
13 Grazing Decision shall be in effect until the earlier of either
14 the adoption of a decision implementing an Integrated Activity
15 Plan covering the Tuledad Allotment, or December 31, 1995.

16 2. Annual Grazing Authorization. Prior to the 1994
17 turn out in the Tuledad Allotment, BLM shall issue annual grazing
18 authorizations for the allotment. BLM shall continue to issue
19 annual grazing authorizations until the earlier of either the
20 adoption of a decision implementing an Integrated Activity Plan
21 covering the Tuledad Allotment, or December 31, 1995. The 1994
22 grazing authorizations and any subsequent grazing authorizations
23 shall carry out all of the applicable terms and conditions of
24 this Stipulation.

25 3. Terms and Conditions for Annual Grazing.
26 Beginning in 1994, the following terms, conditions, and actions
27 shall apply to any annual grazing authorizations and to any BLM
28 action in the Tuledad allotment:

1 a. Livestock will not be turned out before either
2 (1) the soils in the uplands are sufficiently dried to support
3 livestock use without compaction damage, or (2) April 15,
4 whichever is later. Livestock turnout will occur in those areas
5 that (1) had less than light use overall as measured at the end
6 of the previous growing season, or (2) have a minimum of 4 inches
7 of growth on the most prevalent of the following species:
8 bottlebrush squirreltail and Thurber's needlegrass.

9 Notwithstanding the above provisions, sheep turnout for the
10 purpose of lambing will occur between March 26 and April 30.
11 Areas used for lambing shall not be used for livestock grazing
12 for the remainder of the growing season.

13 b. Utilization of herbaceous vegetation in the
14 following key riparian-wetland areas in the Tuledad allotment
15 shall result in a minimum average stubble height of 4-6 inches in
16 each such key area at the end of the grazing season: Ant Spring,
17 Barber Creek, Boot Lake, Bryant Spring, Chalk Hill Spring,
18 Express Canyon, Post Canyon, Pryor Spring, Rowland Spring,
19 Runyon Spring, and Worland Canyon. BLM shall require the
20 permittees to use the other riparian-wetland areas in the Tuledad
21 Allotment in such a way that they will have a minimum overall
22 average stubble height of 4 inches at the end of the grazing
23 season. If the riparian-wetland utilization limits for the key
24 riparian-wetland areas are not met at the end of the 1994 grazing
25 season, BLM shall make such adjustments in livestock seasons of
26 use, livestock numbers and other factors as may be necessary to
27 achieve these utilization limits in the 1995 grazing season.

28 c. Utilization of each of the key browse species

1 (bitterbrush, aspen, and curlleaf mountain mahogany) in the
2 Tuledad allotment shall not exceed 45% annually. Utilization
3 estimates in each of the nine use areas of the allotment shall be
4 based on methods described in BLM technical references. The
5 utilization estimates shall be obtained in areas of
6 representative livestock use in each of the nine use areas.

7 d. BLM shall monitor in-season use patterns
8 throughout the allotment. When monitoring shows that the limits
9 for riparian-wetland or upland utilization by herbivores are
10 being approached, BLM will notify the permittees that livestock
11 must be removed from the affected area to an area where
12 utilization limits are not being exceeded. Such removal shall be
13 in a manner that prevents livestock from returning to the
14 affected area. When BLM determines that utilization limits in an
15 area are exceeded or will be exceeded by herbivores, that area
16 shall not be used by livestock. Livestock removal shall occur
17 within seven days of BLM notification.

18 e. Livestock seasons of use and numbers shall be
19 adjusted annually and wild horse numbers shall be adjusted as set
20 forth in subparagraph 3(f) of this Stipulation to satisfy the
21 riparian-wetland or upland utilization limits set forth in this
22 Stipulation and to meet any other applicable terms of this
23 Stipulation. Livestock and wild horse numbers shall be
24 calculated as set forth in BLM Handbook TR 4400-7, and shall
25 consistent with page 8 (Section IX) of the Tuledad Environmental
26 Assessment Decision Record. The actual number of livestock
27 grazed, duration of grazing, utilization data, and precipitation
28 data shall be used in making the calculations.

1 f. Wildhorse appropriate management levels shall
2 be calculated and used to determine the extent of wild horse
3 gathering needed to meet the utilization limits set forth in this
4 Stipulation. Any such adjustment in wild horse herds shall occur
5 in 1994 in a manner consistent with federal law.

6 g. Livestock grazing shall be prohibited in the
7 Buckhorn key bitterbrush area (CA-02-020-92-07, Appendix 8) in
8 1994 and 1995. Livestock grazing shall be permitted in 1994 in
9 the Wire Lake and Cottonwood Mountain key bitterbrush areas. If
10 browsing on bitterbrush in one of the key bitterbrush areas
11 exceeds 15% at the time livestock are removed from the area,
12 livestock grazing shall be prohibited in these areas in 1995.
13 Livestock grazing in these areas shall cease when bitterbrush has
14 reached the red juice stage or July 1, whichever is earlier.

15 h. Late summer and fall sheep use shall be
16 conditioned on the availability of adequate forage, as set forth
17 in subparagraphs 3(b) and 3(c) of this stipulation, in the areas
18 proposed for sheep use. BLM shall make the determination of
19 whether there is adequate forage for sheep grazing based on their
20 in-season monitoring.

21 i. BLM shall complete a habitat inventory for the
22 willow flycatcher in 1994. Upon the completion of that
23 inventory, BLM, in consultation with CDFG, shall identify willow
24 dominated riparian-wetland habitat within the Tuledad allotment.
25 To minimize disturbance to willow flycatchers and to preserve
26 their habitat in accordance with state and federal laws
27 protecting threatened and endangered species, livestock use shall
28 be adjusted in any identified willow dominated riparian-wetland

1 habitat within the Tuledad allotment.

2 j. BLM shall make a good faith effort to fence the
3 Bud Brown and Ant Spring riparian areas during the effective
4 period of this Stipulation.

5 k. Prior to the start of grazing, BLM and the
6 permittees shall develop a plan for the movement of livestock to
7 show how the terms and conditions of the grazing permit will be
8 met. That plan shall cover each band of sheep and all cattle
9 movement between use areas. Any changes in the planned movements
10 shall receive prior BLM approval. Sheep operators shall notify
11 BLM of all sheep band locations at least once every three weeks.

12 4. Timing of Decisions. Annual grazing
13 authorizations issued pursuant to this Stipulation shall be
14 issued by no later than February 15, 1994 and February 1, 1995
15 and shall be placed in full force and effect to the extent
16 permitted by federal law.

17 5. Technical Support. CDFG and NDOW shall provide
18 technical support to BLM so that BLM can implement the provisions
19 of this agreement.

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1 6. Withdrawal of Appeals. Upon execution of this
2 agreement, CDFG shall withdraw, without prejudice, its appeal in
3 United States Department of Interior Case No. CA-02-92-09; and
4 NDOW shall withdraw, without prejudice, its appeal in United
5 States Department of Interior Case No. CA-02-92-08.

6 Date: December 21, 1993
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9 Mark J. Urban
10 Deputy Attorney General
11 State of California
12 Attorney for the California Department of Fish and Game

13 Date: December 22, 1993

14 C. Wayne Howle
15 C. Wayne Howle
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17 State of Nevada
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19 Date: December 28, 1993

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