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UNITED STATES DEPARTMENT OF THE INTERIOR
OFFICE OF HEARINGS AND APPEALS

Hearings Division
6432 Federal Building
Salt Lake City, UT 84138

Von L. and Marian Sorenson)
)
 v.) NV-020-94-06
)
 Bureau of Land Management.)

- - -

Request for postponement of hearing.

1. Von L. and Marian Sorenson, HC 60, Box 165, Wells, NV 89835, hold a preference to graze the Spruce Allotment of the Wells Resource Area of the Elko Grazing District (Nevada). On April 13, 1993 the preference holder and the Bureau of Land Management made the Interim Allotment Management Plan for Spruce Allotment, Wells Resource Area, Nevada, dated March 9, 1993) and the Spruce Allotment Valley Mountain Allotment Range Line and Allotment Agreement.

2. Wild Horse Organized Assistance and Commission for Preservation for Wild Horses (hereinafter called "horse groups") filed identical notices of appeal dated July 7, 1993 which pend for hearing on March 21. 1995. The claim for relief is to "stop this action". See, par. 2. The statement of reasons is ambiguous except that appellants claim that they were entitled to participate in the development of the agreements described.

3. On January 12, 1994 the Bureau of Land Management proposed a decision. It stated, inter alia that on August 23, 1993
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said Sorensons were notified that the Bureau was "rescinding authorization of" said agreements. In fact, the Bureau notified said Sorensons on August 23, 1993 that the Bureau was suspending the said agreements until the appeals of the horse groups were resolved. Said appeals remain unresolved. Sorensons duly appealed from the decision which became the final decision after the expiration of 15 days from the date of said proposed decision, there being no intervening protest. The Sorensons' appeal pends for hearing on March 21, 1995.

4. The final decision from which Sorensons appeal confess error of the Bureau of Land Management as to the claims of the horse groups as a justification for making the final decision from which Sorensons appeal. The Bureau of Land Management was not in error in the respects confessed by it, and there is no justification for making the final decision from which Sorensons appeal, on that account. Sorensons have simultaneously filed a notice of their intent to intervene in the hearings of the appeals of the horse groups and to move for dismissal of said appeals on the grounds stated within their notice. A copy of said notice is attached and made a part hereof. The horse groups were not entitled to participate in the development of the agreements described in paragraph 1, or have no standing to appeal.

5. The appeals of the horse groups should be heard and decided before Sorensons' appeal is heard, because if it is finally decided that the agreements which are the subject of the appeals were made in violation of the rights of the horse groups, there is

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no reason to hear the appeal of Sorensens. If, however, it is finally decided that the agreements which are the subject of the appeals are valid agreements, the issues of Sorensens' appeal turn upon the post agreement actions of the Bureau of Land Management, specifically whether the management of the Spruce Allotment should occur as provided in the agreements or whether an environmental assessment justifies deferring the agreements.

6. Resolving the appeals of the horse groups will require an evidentiary hearing of one day or less because it will pertain to whether the conditions prescribed by 43 CFR 4100.0-5 (Affected interest) existed at the relevant time. The legal issues are more expanded, as introduced by the notice of intent to intervene.

However, if the agreements are determined to be valid ones, the factual questions presented by Sorensens' appeal require extensive presentation, as indicated by the statement of reasons for Sorensens' appeal, items 3, 4, 5, 6, 9. An evidentiary hearing of 3-4 days will be required to produce the evidence upon these issues.

7. Judicial economy and the time and expense of all parties will be served by postponing the hearing of the Sorensens' appeal until after the appeals of the horse groups are heard and finally decided. Appellants request postponement of the hearing of the above appeal pursuant to 43 CFR 4.432.

February 11, 1995.
William F. Schroeder
W. Alan Schroeder

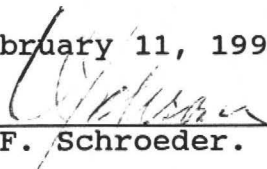
By  _____

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Certificate of Document, Filing and Service

My signature certifies this document as provided by 43 CFR 1.5. The document was transmitted to the office in which the filing is required (identified in the caption), such transmission being by delivery on February 11, 1995 to the United States Postal Service at Boise, Id. the original of said document within an envelope with postage prepaid thereon addressed for mailing to said office. The service required by 43 CFR 22(b) and 4.27(b) has been made as permitted by 43 CFR 4.401(c) and 4.473 by sending a copy of said document to each of the following by delivery on February 11, 1995 to the United States Postal Service at Boise, Idaho said copy within an envelope with postage prepaid thereon addressed for mailing to each, as follows: Burton J. Stanley, Esq., Office of the Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, CA 95825-1980; Dawn Y. Lappin, Director, Wild Horse Organized Assistance, P.O. Box 555, Reno, NV 89504; Catherine Barcomb, Executive Director, Commission for the Preservation of Wild Horses, 255 W. Moana Lane, Reno, NV 89509.

February 11, 1995.



W.F. Schroeder.

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