

1990
DISTRICT
FILE

DEAN RHOADS 1990 TRESPASS CASES

Elko Daily Free Press 5/21/90: Rhoads statement - Denied getting trespass notice on 10 cows, as reported in media (although BLM records show it being sent by registered mail) said he received no notice of trespass and learned charges would be filed only when he read about it in the news media.

He is licensed from march 15-Nov. 15

Transferring cows and baby calves.

Asked for "more flexibility" in BLM enforcement: "All that we, as ranchers, ask for is some flexibility when such incidents occur"

Denies there was a trespass.

BLM cited him for 10 cows for three days. at the nonwillful rate of only \$8.70 for a single AUM.

He claims he turned back the cows to find their calves, which became separated during the gathering.

The first notations in the BLM file called for a fine of \$100 (?) "for willful unauthorized use of public lands.

Les Sweeney said the March incident he put 750 cattle onto BLM land a day before his permit authorized him to do so; but Harris decided to issue no citation then, after Rhoads complained about Sweeney's handling of trespass cases to high BLM officials in Washington.

Rhoads : unauthorized use of public lands: Case # NV010-90-3-02 - 3/23/90 Packer's Boulderfield.

Exchange of use Agreement was received by 11/30 letter from Les Sweeney: "Also be aware that any trailing of livestock on public land outside your designated allotment or area of use needs to be applied for and approved by the BLM" Contact Matt Renace.

3/12/90 Memo from Rendace on Rhoads Grazing application says Rhoads' grazing application showed he was licensed over his "active preference and contacted his wife at the post office (where she works) who said they were going to the Boulderfield EOU Area by "trailing through the country." When told a permit was necessary to trail across public ground "she said they never had to get a permit before."

Rhoads later said that they need no permit because the cattle are trailed down a county road and through private lands, to get to his public range.

AN earlier inventory shows 762 cattle on Packer Seeding, 277 on Indian Creek Seeding, 4517 on "FFR, 3,613 on Indian Creek Natural Area and 3,196 on Tuscarora Pasture for a grand total of 8,299 cattle in the permit.

3/14/90 Grazing Trespass Report (Form 4150-1

Dean and Sharon Rhoads received notice of trespass on 3/15/90. ownership determined by talking with the cowboy moving the livestock, 750 cattle on 3.4.90. area boundaries were marked. Rhoads had applied for use for 750 cattle but authorization had not been granted as of 3.5/90

Witness Staney Jaynes and Terry Knutson.

non-willful = \$8.70. Willful would = twice that amount, or \$17.40

Initial Report on Unauthorized Use, 3/15/90 by Matt Rendace, range conservationist, reported 3/12/90; confirmed or verified 3/13/90. Through telephone call and observance of trailing cattle to Packer's Bioulderfield. Reporting Officer, Hank Riek, range conservationist.

A license not yet issued to authorize grazing in the 25 Allotment. Observed trailing cattle 3/14/90. "They were seven miles from the field."

Near the Bootstrap Mine in Little Boulder Basin of Boulder Creek. Independence Valley. Knutson, on 3/14/90 reported he and another BLM employee drove through the cattle drive on March 14 south of Dee Gold. "the cows were spread out for ½ to one mile with two cowboys. Ahead of the cows was a wagon and a pickup truck." estimated at least 300 cattle.

on 3/16/90 field trip, Hank Riek in memo to Sweeney said he saw cattle tracks where they went through the gate to Packer's Boulderfield.

Had started trailing three days earlier than "turn-in date."

Certified letter # 3741 was sent to Rhoads and wife was prepared but not sent, 3/20/90. it was to give them five days to notify BLM....but ...Case DROPPED.

LES SWEENEY: "There is no doubt in my mind. We returned to the area and there were no cattle tracks leading in or out of the private pasture."

But Harris wouldn't allow him to proceed. The citation was dropped. The "charges (NOTE: BLM people don't refer to it as a fine: but as charges for AUMS, nevertheless it is punitive!)

Rhoads Trespass case # T-NV-010-03-009: Unauthorized Use Case and Order to Remove, May 4, 1990, second incident, also received notice form 4130

Memo from Kimberly Hackett, range conservationist, May 7, to file: Unauthorized use in Packer Seeding of the Tuscarora Allotment.

Grazing Trespass Report:

Notice of trespass - 5/4/90

Notes two previous cases that were dropped: 6/30/89 and 3/15/90

10 cattle from 5/2/90 to 5/4/90

Licensed dates for grazing 4/1/90 to 5/1/90: Rhoads said Cattle were "tight bags" that he was on his way to pick up.

Another May 4 memo from Hackett and Rendace says there were eight cows

and six calves under six months of age.

They discovered them while conducting "utilization studies" in the Tuscarora allotment.

May 4 notice of trespass sent by certified mail #3818 and signed by Sharon Rhoads.

Estimated "charges" = 10 cows X 3 days divided by 30.41666 = 1 AUM (always rounded off to nearest AUM) = \$17.40 for WILLFUL.

5/4/90 memo from Sweeney to file: "Mr. Rhoads called me about 9:30 a.m. Friday May 4th concerning 10 head of cows Matt and Kimberly had counted in the Packer Seeding. He said we turned back some tight-bagged cows to pick up their calves that were missed when they gathered the field... He said yes, it is a common practice to turn back cows to find their calves when the calves are missed during a gathering."

Sweeney said he would decide the case after talking with Matt and Kimberly. He tried to call Rhoads that night but the line was busy.

See next memo, May 17, from Rendace: Note receipts attached to certified letter showing Sharon Rhoads signed it, although Rhoads claims it was never sent.

The other receipt (in the other case never signed since it was never sent.

File also contains memos, and reports from a meeting with Rhoads and Van Norman Ranches. 5/9/90 memo on evaluation meeting to discuss management alternatives. All discussions stalled. "They said they we had not responded in writing.

Willis and Sharon Packer & Van Norman Ranches.

The case was sent in as a "willful" status one AUM rounded off to \$17.40

At ISSUE is whether it's WILLFUL, because if there are repeated offenses, the BLM can take action against the permit (reducing numbers or season!!!.

SWEENEY: "If you catch 'em early you can thus reduce the AUMs lost. also you get small no. AUMs because they often are noticed only a few days.

1989 case dropped is case # NV-010-89-3-012 for June 19, 1989.

memorandum

DATE: March 16, 1990

REPLY TO
ATTN OF: Matt Rendace, Range Conservationist

ELKO DISTRICT OFFICE
P.O. Box 831
Elko, Nevada 89801

SUBJECT: Dean Rhoads' Suspected Unauthorized Use in Boulder Field

TO: The file

Several phone calls were made to Dean Rhoads on 3/12/90, 3/13/90, 3/14/90 and 3/15/90, and messages left regarding his grazing application. He had applied for AUMs over his active preference within Tuscarora Allotment and his exchange-of-use within Boulder Field (also known as Packer's Field). Dean tried to call back on 3/13/90 at 16:20 P.M. after I had already gone home. Dean's earliest turn-in date is 3/15/90 in Boulder Field, however, we had learned through a telephone conversation with Mrs. Rhoads, that he had started on the trail to the Boulder Field three days earlier than his turn-in date. Subsequent field checks on the trailing cattle indicated that he was within three to four hours time away from the Boulder Field on 3/14/90 which would put him in a day earlier than shown on his application.

As a result, it was presumed that he was in trespass. He came in today at 15:30 P.M. to change his application and change numbers/dates, so he wouldn't be over his preference. At this time, I told him that he was suspected of being a day early in Boulder Field and therefore in trespass for one day. He became very upset and claimed that he was going to Washington, D.C., tomorrow to talk with Cy Jamison about Les Sweeney. I told Dean that we would issue him a license to authorize future grazing.

He asked to see Les Sweeney. I told him he could see Les around 17:00 P.M., when he gets back from Reno. Dean left approximately at 16:30 P.M. after I issued him a license.

He came back around 17:15 P.M. and met with Les Sweeney concerning the unauthorized use. He asked Les if anyone actually saw the cattle within the Boulder Field. Les explained that no one actually saw the cattle within the pasture, however, they were seen on the trail approximately five or six miles from the pasture.

Dean said they were a long ways from the Boulder Field, and that they never got there on 3/14. He claimed that they stayed in a private 320 acre field on 3/14 and turned into Boulder Field on 3/15.

Les said that they were seen close to the Boulder Field and presumed to have arrived at the pasture on 3/14.

Dean said he would deny being in the Boulder Field and therefore deny the trespass.

With that, Les said he would not pursue the trespass, since we did not have evidence indicating that the cattle were actually on Boulder Field on 3/14.

Conceder Star Kemmerer

Matt Rendace

memorandum

4150(NV-014)
(T-NV-010-90-3-02)

DATE: March 15, 1990

REPLY TO
ATTN OF: Les Sweeney, Elko Area Manager

ELKO DISTRICT OFFICE
P.O. Box 831
Elko, Nevada 89801

SUBJECT: Dean Rhoads' Suspected Unauthorized Use in Boulder Field

TO: Unauthorized Use File T-NV-010-90-3-002

Stan Kemmerer called me in the State Office about 3:15 asking whether they should issue a notice of unauthorized use to Dean Rhoads as he was coming in to straighten out his grazing license which hadn't been paid yet as he had applied for more AUMs then he had active preference. I told him to issue the notice.

Dean waited for me to get back to Elko. I met with him about 5:30 p.m.

Stan Kemmerer and Matt Rendace were present.

Dean asked if we had ever been to the Boulder Field and I said no but we saw him (his cattle) on the road headed to the field. He said I deny having any cattle up there the 14th. Then he asked if we knew he had 2 fields along the Boulder Flat Road just below where his cattle were last seen? I said no and he said again, I deny the trespass charges that he never went up into field on the 14th. He asked how did we know whether he went into his private fields or not. I said I didn't.

I asked Matt to get a map so Dean could point out the private fields. He located the fields with his finger on the map and then traced the route he claims the cattle were taken, starting at the field where they kept the cattle the night of March 13. He traced the route down the Boulder Flat Road to his two 160 acre fields and said we went in here and then on up to the Boulder Field the next day tracing the route with his finger.

Based on this information I told him I would dismiss the notice of unauthorized use.



memorandum

DATE: March 16, 1990

ELKO DISTRICT OFFICE
P.O. Box 831
Elko, Nevada 89801

REPLY TO
ATTN OF: Les Sweeney, Elko Area Manager

SUBJECT: Verification of Permittee Statements

TO: Unauthorized Use File T-NV-010-90-3-002

Hank Riek and myself drove to upper end of Boulder Valley to check Dean Rhoads' story that he went into private fields before going on to the Packer's Boulder Field.

We checked two 160 acre private fields (T. 36 N., R. 49 E., sec. 22, SW $\frac{1}{4}$ and sec. 28, NE $\frac{1}{4}$) and no cattle had been in either field. There was a Buckaroo camp in the upper private field. Obviously someone was staying there as there were some horses in the corral.

We checked five gates around the private fields to make absolutely sure no cattle had gone in or out of the fields. We took pictures at all gates that we checked. (Nos. 1 through 8 also see attached map.)

We then drove up the Boulder Valley Road to the Twenty-Five Field where the cattle were held through the night of the 13th. We tracked the cattle back down the county road and up to Packer's Boulder Field. They did not stop overnight along the way. They went directly into the Packer's Boulder Field (see attached map for fields and route cattle were driven on March 14th). A light snow or rain shower had occurred after the cattle had passed through the gate located on the road leading to the Boulder Field where it joins the Boulder Valley Road.

We clocked the distance with the odometer from the overnight (3/13/90) stop in the Twenty-Five Field (sec. 35, T. 37 N., R. 49 E.) to Packer's Boulder Field. Total distance is approximately nine miles. Approximately 6.2 from the Twenty-Five Field to the turnoff from the main road and approximately 2.8 miles up to Packer's Boulder Field.



20.



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
ELKO DISTRICT OFFICE
3900 E. IDAHO STREET
P.O. BOX 831
ELKO, NEVADA 89801



IN REPLY REFER TO:

4150 (NV-014)
T-NV-010-90-3-02

CERTIFIED MAIL NO. 3741
RETURN RECEIPT REQUESTED

Dean and Sharon Rhoads
Tuscarora
Nevada 89834

Dear Mr. & Mrs. Rhoads:

You are hereby notified that the Bureau of Land Management has made an investigation and evidence tends to show that you are making unauthorized use of the public lands. We allege that you are violating the law(s) specified below and the regulation(s) approved by the Secretary of the Interior pursuant to the authority vested in him by said law. Therefore, it is our opinion that you have committed the following act(s):

Allowing cattle with brands and earmarks owned by you to graze on federal lands without authorization.

That you are in violation of the following law(s):

Taylor Grazing Act of June 28, 1934, as amended;
Section 2, 48 Stat. 1270; 43 U.S.C. 315a.

Federal Land Policy and Management Act of October 21, 1976, Sec. 303 and 402, 43 USC 1733 and 1152 respectively.

And that you are in violation of the following regulation(s):

43 CFR 4140.1(b)

- (1) Allowing livestock on or driving livestock across public lands:
 - (i) Without a permit, lease or other grazing use authorization.
 - (ii) In violation of the terms and conditions of a permit, lease, or other grazing use authorization including, but not limited to, livestock in excess of the number authorized.
 - (iii) In an area or at a time different from that authorized.

These acts and violations have occurred on the following described land:

Twenty Five Allotment/Packer's Boulder Field

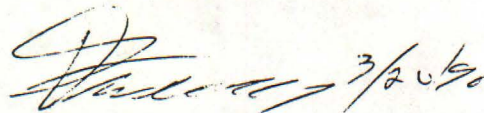
X Violations, if continuing, must stop immediately.

If you have evidence or information which tends to show you are not an unauthorized user of the public lands as we have alleged, you are allowed 5 days from receipt of this notice to present such evidence or information at the Bureau of Land Management office shown on the front of this letter.

If allegations we have made are correct, you must permanently cease and desist from the violations charged, if you have not already done so. You are allowed 5 days from receipt of this notice to notify the Bureau of Land Management office shown on the front of this letter to effect a settlement for unauthorized use damages.

Failure to comply with this notice will result in further action to protect the interest of the United States. You are further advised that the authorized officer may refuse to issue a permit, lease, or license to an unauthorized user who has failed to make satisfactory arrangements to satisfy his liability to the United States, as provided in 43 CFR 4170.1-1.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Les Sweeney', with a date '3/20/90' written to the right of the signature.

LES SWEENEY, Manager
Elko Resource Area

memorandum

4150 (NV-014)

DATE: May 9, 1990

REPLY TO
ATTN OF: Area Manager, E.R.A.SUBJECT: Phone Calls Pertaining to Unauthorized
Livestock UseELKO DISTRICT OFFICE
P.O. Box 831
Elko, Nevada 89801

TO: The File - T-NV-010-0-3-009

Summary of 2 phone calls from Dean Rhoads concerning unauthorized use in the Packer Seeding.

May 4, 1990

Mr. Rhoads called in regards to our people counting unauthorized cattle in the Packer Seeding. He said they were tight bagged cows that were turned back into the seeding to pick up their calves. I asked him if there were 10 cows in the seeding and he said yes.

He asked what I was going to do pertaining to the trespass. I told him I wouldn't make that decision until the folks counting the cattle came in from the field.

May 7, 1990

I talked to Dean Rhoads on phone concerning the unauthorized use on the Packer Seeding. He said he felt he was being harassed and that it is common practice to turn cows back to pick up their calves. I told him it shouldn't take 3 or 4 days in a 3,000 acre seeding to mother up 10 calves. He said he was going to deny the trespass and if this is the way it is going to be he would have to amend his license. We set a meeting for 8 a.m., May 17, 1990, to discuss the issue.



TO: Dean & Sharon Rhoads Grazing Case File
FROM: Kimberly Hackett, Range Conservationist
DATE: May 7, 1990
SUBJECT: Unauthorized use in the Packer Seeding of the Tuscarora Allotment

On May 4, 1990 Matt Rendace and I ran into Dean Rhoads after investigating unauthorized use in the Packer Seeding. We told him that he had cows in the Packer Seeding and we were out counting them. Dean Rhoads responded by saying that there were tightbags that they had put back in there, and he was on his way to pick them up. Matt told him that Les was notified on 5/03/90 of the cattle and that if he (Rhoads) had any questions he should contact Les. Rhoads said that he would call Les immediately from the Tuscarora Post Office.

M. Rendace
K. Hackett

4120

May 17, 1990

Matt Rendace, Range Conservationist

ELKO DISTRICT OFFICE

P.O. Box 831

Elko, Nevada 89801

Unauthorized Use

File

Attending: Les Sweeney, Bill Baker, Dean Rhoads, and Matt Rendace

Rhoads came in today to discuss the the Unauthorized Use (T-NV-010--0-3-009) which occurred in Packer Seeding. Prior to discussing the Unauthorized Use, he wanted to make changes on his 1990 grazing license for flexibility.

I told him he needs to make changes on a grazing application and submit it with \$10.00 since it appeared there would be a change in AUMs. He gave me the dates verbally so I could calculate the AUMs beforehand to make sure he didn't go over his active preference.

He also inquired about possible range improvements in Boulder Field and what would be required. I suggested that a land exchange would be beneficial for Boulder Field. Dean also asked about the possibility of an upward adjustment within Boulder Field. We told him that if monitoring supports an increase

that it would be possible, however we don't have any studies in Boulder Field due to the exchange-of-use situation. I mentioned again that a land exchange would be beneficial and may be just as fast as trying to establish sufficient monitoring. He was interested and asked about the procedures for initiating a land exchange. I told him to submit a proposal in writing showing offered and selected lands.

We discussed the procedures for making changes to grazing licenses. He asked why we haven't responded to his letter dated October 8, 1989 (we have no record of this letter in our files) asking for a refund of the end of the 1989 grazing season. He said he had made arrangements with Waive Stager to reconcile at the end of the year. Dean said this was necessary since he never knows the exact on-off dates. We explained that we must know of any changes made to the grazing license prior to the turn on date indicated on the license. Baker found a memo from Stager to the file which stated that she notified Dean to let us know by phone about any changes prior to the dates identified on the license. I suggested that he notify us by phone as well as send us a letter or applicaiton. Also, if there has been a change in AUMs, he would need to send a \$10 service charge.

We then discussed the unauthorized use involving ten head of cows. He felt that the trespass was not intentional and it is a standard management practice to turn back cows when separated from the calves. He said he is going to deny the trespass since it was only 10 cows. He also said common sense should be used when issuing a trespass.

Les explained that it is difficult to determine when to draw the line when trying to assess each trespass trying to use common sense. If people call beforehand and explain why they aren't able to remove livestock, then we would tend to be more lenient (if the reasons are good). Otherwise, if livestock aren't removed as per the license, then they are in trespass. Dean said go ahead with the trespass, he is going to deny it and wait for the hearing. Also told him a phone call could have taken care of this situation, but we would have only given 1 day to remove the 10 head, since it only involved a 3,000 acre fenced seeding.

We then discussed riparian issues within the Tuscarora Allotment and possible range improvements which would assist in improving riparian areas. He understands the problems and what causes them and was very interested in some alternatives to protecting riparian areas. This part of the meeting was very cordial and reflected a genuine interest in working with BLM on the riparian problems.

Willis Factor

GRAZING TRESPASS INL.

Control Number	Date	Type	Remarks
T-NV-010-80-3-005	10/31/79	Non-willful	Simco Seeding - closed \$22.68 3-4-80
T-NV-010-80-3-006	11/2/80	Non-willful	Packer Seeding - closed \$45.36 2-4-80
T-NV-010-80-3-032	5/21/80	Non-willful	Simco Seeding - closed \$120.96 6-10-80
T-NV-010-82-3-004	12/7/81	"	Tuscarora Allot. closed \$12.78 12-15-81
T-NV-010-83-3-010	11-19-82	repeated non-willful	Tuse. Allot closed \$50.16 11-20-83 VIII
NV-010-84-3-003	10-25-83	repeated non-willful	Packer Sdg. \$35.40 11-17-83 VII
NV-010-86-3023	10-29-85	repeated non-willful	Pen. Route Seed. DROPPED
NV-010-86-3-006	11-25-85	"	Packer Cyn. (HORSES) \$120 12-2-85 VI
NV-010-7-3-0258	6-9-87	Non-willful	TUSCARORA FLAT-CLOSED \$32-40 6-12-87 V
NV-010-88-3-010	4-13-88	WILLFUL	TUSCARORA FLAT \$113.25 4-27-88 IV
NV-010-88-3-012	4-20-88	*WILLFUL III	TAYLOR CYN. PLOT IN STARYATION PASTURE 22.65 5-6-88 I
T-NV-010-89-3-011	7-11-89	NONE	4 head of livestock observed - removed a few days later. No grazing trespass. Memo written to Clark file. II
T-NV-010-89-3-018	7-26-89	NONE	HORSES IN WRONG PASTURE TAYLOR CANYON ALLOT DROPPED III

LES SWEENEY, Elko Resource Area manager:

Looks like Robert Duvall with glasses, getting ready to retire that day. Talked to a reporter as he emptied his desk of private possessions and took his pictures and plaques off the wall.

"Rhoads went and talked to someone...Laxalt's nephew or son. He called directly back to the district, which can be intimidating. I consider it to be intimidating, but others don't. You can't make those kind of waves if you're thinking of going back to Washington or thinking of a long career." Unless you're almost ready to retire. Rhoads had threatened the staff with going to talk to somebody in Washington.

"There's a lot of pressure on Rod to go easy on this. I think there was a lot of hope I would drop it instead of pushing it as far as I did." "It would be interesting to talk to acting state director Wolf (about it) I heard he stated I shouldn't have done this because it embarrassed the bureau and put it in a bad position."

Next two sentences off the record:

"I think there's pressure coming to Rod. I was told we want to try to stop this stuff in the paper."

On the trailing violation (day early) Rhoads never got cited for trailing because "he stayed on a county road and private land the whole way. The only area off-road was private land.

Rhoads' father-in-law Willis Packer has a nearby ranch, the Taylor Canyon Bar L, adjacent to Rhoads Tuscarora spread.

Sweeney said Rhoads has uttered "totally false" statements in response to the incidents.

"The tracks weren't made the day we went up there, but after a light shower...further evidence that he went straight up there." (A day early and not to private pasture as he claimed.)

"I had no problem at all (with the trespass) There is no question in my mind. I went and tracked him straight to the Boudler Field a day early. There is no question about it."

He came in and talked to me a day after I issued the notice. When we were checking tracks. That's the day he went to Washington the first time" as he threatened to do to the other employees. That day I told the state director (then Ed Spang) I was issuing a trespass. he said to check it out good. Rhoads doesn't seem to be that type of person.

On the mother cows case: "In a small seeding (a mother cow) should find her calf in 30 minutes. If they were tight-bagged cows they would make a beeline back to that cow. You would find them in 30 or 40 minutes, if not sooner. Then you should have gathered them (all that same day). For the sake of efficiency, I think they would have gotten them (rather than returning another day. You don't know how long they would have left them out their, too."

Does system work? "It's a hassle. It's a confrontation. and despite what Washington says, they really don't support you 100 percent of the time." And if you are tough on trespassers, they'll be far less (supportive)."

well. We're not geared or funded to do a good job with trespass."
But he hopes range monitoring will be the answer.

"Now we are getting calls from ranchers that their cows are out late. they're self-policing."

Ellison (Satterthwaite) did that. when his sheep headed up the wrong canyon. He took the courtesy to notify us so we didn't (cite him for a willful violation) It can be self-policing " (If you show them you intend to enforce the regulations. and they show "common courtesy.

"If you only catch them one day that's the only way you can prove it. That's why we try to issue willful trespass violations if it's repeated. then you can start taking a bite out of their (grazing) privileges."
You can go after a certain percentage, say 20 % or take non voluntary use, rather than the larger (number) Might take them off earlier....

CHECK FOR DICK GRIFFON, DOING A GAO AUDIT OF TRESSPASS SYSTEM. Brad Hines has his tele. no.

"If we had the money and manpower, we would do a good job on trespass."If you're not getting out there and they know it... A lot will com in and raise hell and get willful reduced to non-willful."

Determining factos : Willful: If they were aware of it and it's not beyond their means to take care of the problem."
and if it's repeated.

For example "Rhoads had a confrontation (before the first incident this springs) and he turns right around and turns the cows out.

Or like Russell. beyond an extended time (they are out there) there is no doubt they were in trespass."

Or for example Glaser: determined to be a non-willful because when they found out about it, they immediately got them off. and the foreman's wife was in the hospital. they had 140-170 head for three or four days beyong the time they were supposed to be out."

"If it happens again, to me, it's an easy willful. That doesn't mean the next one won't be a nonwillful. The regulations clearly allow you to charge a willful trespass (to nonwillful) unless it's...beyond the control (of the rancher) or there's a death in the family or a wrecked truck" some extenuating circumstances.

"Active preference" term established in the 1934 Taylor Grazing Act based on the "priority years" at that time. Depositions and statements were given on the numbers. where they ran, where they got the AUMs in the grazing district, with the grazing advisory boards, they were established then adjusted for different reasons,.. during range inventories.

Maybe an individual (rancher)does not have enough AUMs available. so a number of AUMS are put in "suspended non-use

Satterthwaite. His first (time this year)some sheep strayed.
Second time they were outside allotment.

"I said (1) you had no right (to be in that area under your license (2)

special considerations, (bighorn sheep area) and (3) Last year, you had a problem in the same area (they had some question where the boundary was . lots of conversations and clarification at that time where the boundary was so I gave them the benefit of the doubt once.")

"I said in my notes this was clearly a willful trespass."

"they are usually forewarned (before that happens) It depends on how blatant it is and some of them just don't care. The willful ones are the only ones they need to be concerned about."

Russell Ranches grazes in four districts. all over the state with cattle and sheep and 160,000 AUMs. HQ in Calif. Dan Russell; Meekum is foreman.

The "Sagebrush Rebellion mentality"

is mixing the land exchange for riparian area of Mary's River Ranch.

Sweeney considers his transfer from resources man in the state office to Elko Resources Area a "demotion."

The "gutting of our staff. There was a lot of pressure from Washington.

"We were hanging tough on regulations on monitoring, so something could bring about the proper management of public lands. So we were not appreciated by the livestock industry . We were told we were being negative and not accepting what I call 'the whitewash' coming down." A lot of it came from Dave Tidwell, special assistant to Burford."

"They didn't like our position on the horse issue either. When it went to trial in Fallini, they wouldn't appeal and we thought we had lots of grounds for an appeal. They took a bigger bite on wild horses than even the judge ordered. I testified and talked to GAO investigator on this but it never saw the light of day."

ROD HARRIS, Elko District manager, BLM

"This year, Les Sweeney might have trespassed more because of personality."

"I just hink he followed more to the letter of the law. I just think every peron brings a personal approach (to do the job)."

It calls for a lot of leeway in administration, says Harris: "for example, a lot of plaes have gates, but some hunter may come by and throw that gate down, so the next thing you know, somebody's cows are in that field."

(But it was noted that there was no mention of hunters being responsible for any of the trespass cases.)

The "charges" are low for trespass, Harris agrees, but "it's just a collection of fair market value for the forage consumed anyway."

Just like discretion...many BLM personnel just give warnings. "It's a tough thing to operate nowadays..." "If you find one cow out, do you trespass him? "It's a nuisance, really, unless it's out there for a little while. If you can determine that."

Denies there was pressure from Washington: "They called me and asked me what's going on and I just faxed them a file and they decided what was going on was ordinary. I've never been asked to change anything like that."

"Lots of times, ranching in terests will co through Congress. That's their right to do so. I don't see anything wrong with it. It's not out of the ordinary. it's not surprising when it happens."

The BLM officials contacted by congressmen include the BLM national directors "special assistants. "If people call for him, they have to report."

One of them is John Laxalt, former U.S. Sen. Paul Laxalt's son. According to Harris, that's who Rhoads talked to.

"He's actually really reasonable. I thought he was really reasonable. He's quite middle-of-the-road and tries to look out for the resources." Not like other special assistants who "worry about specialties."

Says the BLM is really more flexible than ranchers give it credit for..."The BLM carries a bad rap for being a bully," but they are accommodating. For example, if fence maintenance or gate problems are the reason for stray cattle, the ranchers usually aren't cited.

"There is strong feelings on both sides.

"It's a possessory feeling the ranchers have for the land."

It's an extremely broad law.

DOES THE (GRAZING TRESSPASS) SYSTEM WORK?

The trouble is, moving livestock is not like moving a computer program from A to B. if you have 4,000 or 5,000 head and 'closing day' is Oct. 31, it's not possible to move them all at one time. They probably started moving cattle Oct. 1st and by the end of the month, they still may have some in

there. That's something we have to watch, and if they have a few stragglers left over, we're not going to do anything...not at the start. But a week or so later, we will probably fly to see if the area's cleaned up. If not, they would pay."

"Most of these guys operate under their license."

GENERALLY, THE FORAGE LOSS IS NOT SIGNIFICANT, HE SAYS:

"It depends on the extent of the trespass. Most of the time. 15 days or over, for example, we can pretty well prove those cows were not taken off...but in the spring, it's harder to prove(If they were turned out early) We do have trespasses that have impacted us."

(It's not like the Dann case, for example where 1934-35 grazing levels were 79 horses and 29 cows and now they claim grazing rights for 2,000 animals. The judge said to cut it to around 800 horses and 800 cows...etc.)

"We run large numbers of livestock for long periods of time. It's difficult to count livestock, but we monitor the range for condition, and if somebody is running too many livestock, it would necessitate adjusting numbers. So they (the ranchers) might gain something by not paying the (grazing) fee, but they're going to lose by taking more forage."

There are ways to check, issuing x no. of ear tags, for example, but they are still hard to count and fall off, or get knocked off, during the season. The trespass process is not foolproof, by any means. Several operators run between 4,000 and 6,000 head and if there are 50 over or under, there'd be no way in the world we'd know about it."

Which speaks all the more for rangeland monitoring, he agreed).

"Monitoring is a better answer than trespassing (enforcement) If the trend is going down, that shows over-utilization. We might say you can't run 1,000, you can only run 800. If, in fact, he's been running 1,200" that would cut it back to what it was supposed to have been in the first place.

ALSO., chronic trespassers are watched more carefully: "If you get an idea somebody is trying to beat you, you spend more time on him than others. But we don't like to single out anybody for special treatment."

Is it stealing forage from wildlife and wild horses: Yes. there are balanced uses. More lately, yeh it's going to." But in the Elko district: "we don't have that many wild horses."