

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Worland Field Office
P.O. Box 119,
Worland, Wyoming 82401-0119

August 4, 2003

IN REPLY REFER TO:

Memorandum

To: Alan Kesterke, Associate State Director

From: David Wallace, Supervisory Rangeland Management Specialist

Subject: Identification of Worland Field Office monitoring efforts regarding the Settlement Agreement with Frank Robbins

As per your request in our July 23, 2003 meeting, I am providing a summarization of documented monitoring efforts found within the Worland Field Office administrative record. Additionally, please find enclosed a monitoring report, with pictures, by John Elliot (Rangeland Management Specialist) for the Mill Iron East (#00582) and Curtis (#00569) allotments. The succeeding information indicates that further discussions may be warranted and the potential invoking of the Informal Dispute Resolution process as identified in paragraph 3 (page 5 of 15) of the Settlement Agreement, dated January 15, 2003 with Mr. Robbins. If you have any questions, please do not hesitate to contact me.

Item 1. February 26, 2003 Owl Creek Grazing Permit Issuance

In accordance with paragraph 8 [page 9 of 16], "...Robbins shall first submit to the BLM an appropriate and acceptable grazing or pasture plan detailing Robbins' contemplated uses under this grazing permit." The WFO never received an acceptable grazing or pasture plan as identified in 43 CFR Part 4100 previous to the issuance of the conditional grazing permit. A letter from Budd-Falen Law Offices stated that Mr. Robbins want to substantially use the permit as the previous permittee. The Grazing permit was authorized February 26, 2003. In accordance with Robbins actual use, his cattle were grazing Coal Draw allotment (#00574) on February 18, 2003.

Item 2. March 24, 2003 Grazing Fee Payment Analysis

No grazing authorization was approved by the WFO to H. Frank Robbins during the 2002 grazing fee year. Mr. Robbins was under a FFE & Emergency Closure in which vegetative conditions had to meet Livestock Forage Availability Guidelines prior to any grazing authorization. All grazing use made in 2002 was unauthorized. In May of 2002, the WFO was directed by WSO and the WO to not pursue any unauthorized use cases against Mr. Robbins because a Settlement Agreement that would resolve all issues was being constructed. The Settlement Agreement, dated January 15, 2003 abated these issues but an issue of grazing bills remained in-tact.

John Elliott and Frank Robbins worked cooperatively to determine a grazing bill for 2002 and early 2003 grazing fee years. Permitted use was predominantly billed for. The Grazing bills were paid during May 2003 (personal communications with Resources Assistant).

Item 3. March 24, 2003 Humane Society of the United States (HSUS) Inquiry

David Wallace (Supv. Rangeland Spec.) was contacted by Sylvia Lee (HSUS) regarding a report she received that HD cattle on the Coal Draw allotment were in extremely poor body condition. She requested any photographs that the BLM might have regarding animal condition. I responded that the BLM only manages public land resource conditions not animal health. However, the BLM monitoring file had 2-3 photographs depicting animals. I sent these photographs to her. Lastly, I offered BLM assistance for a public land tour in their potential investigation. Monitoring information collected on the Coal Draw allotment the week previous to Sylvia's inquiry stated that utilization on key forage species varied from moderate to severe, predominantly heavy to severe. Photographs of range condition and livestock forage availability would suggest available livestock forage issues (conversation record, dated 3/26/03).

Item 4. March 31, 2003 SRUP Violations; Conversations Record

At the BLM/Robbins meeting in Cheyenne to discuss the Settlement Agreement and surrounding issues, Robbins stated that he would not apply for a SRUP in accordance with paragraph 14 [page 14 of 16]. He then stated that he has been conducting his Cattle Drives and his Outfitting business without such a permit and it would be more trouble to him than its worth. The business activities continue and the BLM has not received nor approved a SRUP application (meeting notes and documentation, 3/31/03).

Item 5. April 15, 2003 Summary of Grazing Permit Violations from 1/15/03 to 4/15/03
Certificates of Livestock Counts

In accordance with submitted actual use reports, Robbins cattle were in unauthorized use on:

- A. Coal Draw allotment (*actual use: 650 cattle 2/18/03 – 04/02/03 * Permitted Use: 360 cattle 11/01 – 02/06*),
- B. Wagonhound Bench (*actual use: 330 cattle 3/24/03 – 04/24/03 * Permitted Use: 173 cattle 09/15 – 02/28*),
- C. West Cottonwood (*actual use: 250 cattle 02/10/03 – 02/17/03 & 650 cattle 05/01/03 – 05/08/03 * Permitted Use: 330 cattle 11/20 -02/28 & 03/01 -04/23*)
- D. East Cottonwood allotments (*actual use: 330 cattle 02/10/03 – 02/17/03 & 650 cattle 04/03/03 – 05/01/03 * Permitted Use: 330 cattle 09/16 -11/19*)

Excluding East Cottonwood allotment, the above allotments should be grazed in accordance with the grazing permit in accordance with paragraph 4.b(2) of the Settlement agreement. East Cottonwood allotment is permitted at 48% PL from a forage base perspective but has 50% public land acres. According to monitoring data, livestock use levels on key forage species surpass criteria outlined in either the Grass Creek RMP or the Settlement Agreement, dated January 15, 2003 (Memo to John Kunz from Dave Wallace, dated April 14, 2003). Several verbal actual use reports for spring of 2003 grazing use submitted to John Elliot contradict themselves (conversation records).

Item 6. May 30, 2003 Report of Unauthorized Livestock Use

An anonymous report of the use alerted the BLM of the unauthorized use (conversation record and personal communications with John Elliot, dated 5/30/03). John Elliott contacted Josh Longfellow (Frank Robbins' son-in-law) and Frank Robbins and informed him that he had unauthorized use livestock on the Hamilton Dome allotment (#00504: Permitted to Legend Rock). No field inspections were made and no Certificate of Livestock Count was completed.

Item 7. June 11, 2003 Report of Unauthorized Livestock Use

Cam Henrichsen, Rangeland Specialist, was contacted by Charlotte Hart and she reported that Frank Robbins had numerous cattle (30 cattle for 3 weeks) on her BLM allotment (i.e., Home Ranch allotment [#00533]) that is in voluntary nonuse due to lack of vegetative production and resource impacts caused by drought (conversation record, dated 6/11/03). John Elliot contacted Frank Robbins and requested that he remove his livestock from the Home Ranch allotment #00535. Frank Robbins told John Elliott that he would immediately remove the livestock (conversation record, dated 6/11/03). No field verification was made.

Item 8. June 11, 2003 Report of blocking public access

The WFO (Roger Bankert) received an anonymous report that Robbins had mechanically filled in 4 cattle guards on the main Rock Creek public access road through two allotments: Curtis allotment (#00569) and Basin allotment (#00568). Additionally, the cattle guards were reported to be gated off. Monitoring data and pictures dated July 1, 2003 by John Elliot, appear to suggest that such activity was conducted mechanically. Wire gates were in place and attached to the cattle guards but were open at the time of monitoring. Robbins reported to the Neutral Monitoring Team from the BLM during the fall of 2002 that he desired to have the cattle guards removed and swinging gates constructed in their place.

On July 8, 2003, John Elliot contacted Frank Robbins and inquired as to how the cattle guards were filled. Frank admitted that he had filled the cattle guards with dirt because he had 3 cows break legs on the guards last year and has had 1 cow break a leg on them this year. Frank stated that the cattle guards' design is flawed (conversation record, dated 07/08/03).

On July 10, 2003, Roger Bankert contacted Frank Robbins regarding the cattle guards. Roger stated that the cattle guards would not be replaced with another design because they are standard SD20 rated cattle guards that the BLM and USFS uses throughout the west. Frank stated that he wanted to put gates up on the cattle guards. Roger told Frank to submit a written proposal and he would look at it. Roger stated that this act was unauthorized and the BLM would clean the guards, this time. However, if they are filled in again, he would have to take action. (conversation record, dated 07/10/03).

Item 9. July 14, 2003 Third party anonymous report of livestock trespass by Frank Robbins

A member of the public reported that HD cattle are constantly trespassing on the Lime Ridge allotment (#00615) which is permitted to Pennoyers. The Pennoyers found 35 cattle on 6/28 or 6/29 and telephoned Frank for the removal of the cattle. Pennoyers mended all fences on the allotment. On 7/5/03, Pennoyers found 44 cattle on Lime Ridge allotment, again. Pennoyers contacted Robbins. Robbins ranch hands and Pennoyers removed the cattle. On 7/13/03, Pennoyers found another 30 cattle on Lime Ridge allotment. Pennoyers contacted Josh Longfellow and requested that he remove the cattle.

Cattle are believed to be coming from the Slab Creek (#00575) or Three Peaks Anchor (#00661) allotments. The report also states that HD cattle are in poor body condition and there is no forage on Frank's allotments (conversation record, dated 7/14/03). The member of the public would not identify themselves. No field verification was made.

Item 10. July 22, 2003 Monitoring Report on Mill Iron East (#00582) and Curtis (#00569) allotments (only public land monitored)

Mill Iron East allotment (#00582): Leaf length is about 3" on key forage plants in the open while leaf length is about 5-6" on plants within cacti patches. In accordance to reports from Frank, the allotment

was used this spring but has had good vegetative re-growth (monitoring report/pictures, dated 7/22/03). Monitoring data reports suggest that key forage species utilization was in excess of that identified in the Settlement Agreement but the use was masked by vegetative re-growth previous to official monitoring.

Curtis allotment (#00569): Difficult to find any residual grass with stubble height being less than 1 inch. Unable in some areas and difficult in other areas to find ungrazed grass plants and unable to identify grass due to the level of grazing in many areas of the allotment. Uprooted grasses found. Abundance of mormon crickets and grasshoppers monitored. Utilization on public land is estimated at heavy to severe (monitoring report/pictures, dated 7/22/03).

David J. Walker