



# TE-MOAK TRIBE OF WESTERN SHOSHONE

## TE-MOAK TRIBE OF WESTERN SHOSHONE Special Open Meeting – May 19, 2014 Battle Mountain Band Administrative Conference Room

Davis Gonzales, Chairman	Present	Alice Tybo, Vice-Chairman	Present
Gerald Temoke, Member	Present	Mark Oppenheim, Member	Present
Michelle Cure, Member	Present	Evelyn Temoke-Roche, Member	Present
Nick Knight, Member	Absent	Wayne Bill, Member	Absent
Lydia Johnson, Member	Present		

### ROLL CALL:

Chairman Davis Gonzales called the meeting to order at 5:09 P.M. with seven (7) members present with six (6) voting constituting a quorum.

### AGENDA APPROVAL:

### BUSINESS-RUTH LEE BURTON

Chairman Davis Gonzales informed all participants that this is a Special Meeting set by Council action on April 15, 2014, to have an Exclusion Hearing of Ruth Lee Burton who is residing on the Battle Mountain Colony. The Tribal Council have received a letter from the Battle Mountain Band Council requesting this hearing because they have made numerous attempts to Ruth Lee Burton to work on her solutions of concerns that the residents have with the animals that she have in her custody.

Chairman Davis Gonzales asked each party if they prefer the Hearing be in Closed or Open. Both parties agree to have it Open. Battle Mountain Band Council was represented by Chairman Joseph Holley along with their Attorney Rollie Wilson.

Ms. Ruth Lee Burton did not have anyone representing her other than she had a friend with her. Chairman Gonzales asked Ruth if she prefer having (friend) assist her, she agreed to the offer.

Chairman Gonzales allowed Battle Mountain Band to present their case since this request was coming from the Band.

Rollie Wilson, Attorney for Battle Mountain Band Council presented their case to the Te-Moak Tribal Council.

Rollie stated that I am with Chairman Holley, Chairman for the Battle Mountain Band. Chairman Gonzales, there needed to be evidence provided for both parties ahead for this hearing, the only information what we are relying on was what is included in the Bands request march 31, 2014. He then asked Ruth if she had a copy of the letter. This letter has reasons and requests.

With the materials you have in front of you. I'm going to do an overview of the Bands reasons and request for Exclusion.

The Battle Mountain Band is asking the Te-Moak Tribal Council to exclude non-member, Ruth Lee Burton from the bands land under the Te-Moak Non-Member Exclusion Ordinance 04-ORD-TM-02, The tribes constitution provides authority to exclude non-members, and the tribes Ordinance, has a response exercise of that authority. The ordinance providing notice and due process to the non-member, and requires Good Cause for Non-Member Exclusion. The issue today is squatter on these lands reserved by us. Ruth was welcome to these lands, through her late husband Bill Burton, a Tribal Member. Upon the passing of her husband, Ms. Burton need to come to two (2) agreements with her husband to continue her residence here on tribal land. In fact, the Battle Mountain Band has made reasonable attempts, to an agreement with Ms. Burton, but as a squatter, Ms. Burton refused to reach agreement and to pay the bands natural resources, and according to the Battle Mountain Band, she is to be excluded off the bands land. Ms. Burton only needs to meet one of the Good Cause of the Ordinance, but we have found she meets all 3 of the Good Cause.

Battle Mountain Bands concern is that it threatens the health and welfare of the Band, this is important to them.

Both Battle Mountain Band lands do use the water from their water tower. This water comes from this tank which is a treated water system.

Ms. Ruth Lee Burton responded to Battle Mountain Band's issue by stating that "when I first moved here with my husband, we had horses. We got a hold of Stan who is now gone, when he was chairman, they gave us the right to build out of the boundary. Because everyone has had big land behind their homes."

What year was that? She responded "That was in 2000, when we moved here." Alice Tybo, Tribal Council member asked "was there a resolution that gave you the right to do that?" My husband took care of the paperwork with Stan, since then he has died, he told us we could go clear down to highway fence." But you do not have any documents of any kind? "No, because he went to a meeting, and gave them the paperwork and turned around few years later when we moved the new house in. They destroyed 3 quarters of his paperwork in his file. As to the lot they let him have the property to the highway." That's when I went to the council last summer and asked if I can have the extra property that he was promised, and the council said no. I said fine, I asked them then if they wanted me to pay for extra water, I would, they said no. I would not have to as long as I paid for my garbage, and that was it, and that was all was said.

When the fire happened, it was a lightning strike, and it was not a person throwing a cigarette. I have this on the police reports when they came out. They came out 3 times to help us put out the fire. None of the colony people helped, besides that we lost a horse because of the hydrant in front of the house was turned off. They had to find someone to turn it on. That's why we lost the horse. The fire only lasted 3 days. We had the rest of our horses back in less than 5 days of the fire; there was no 'smoldering' as they called it. So as of this issue in taking the water out of the colony, Bill had 2 horses that he had brought in from another place and had them out on Mote Road, he took water to them. Then we asked if Lillian, can I have water, and they said no. We didn't take any water from the place; it was over 3 years ago.

I am not taking water, and I'm not using as much water as one of the colony person has who has a broken valve on their place. The water has been dripping nonstop for all the years since I have

been here. Tribal Council Member asked "Do you know who that is?" I know who that is, a tribal member.

The money wise, I do not have money to pay \$500 rent. The lot was turned over to the sister who is now lives in California, so I can still stay here as a member or nonmember.

I know, I want to leave, I don't want to live here anymore, as soon as I get my money my husband left me, I will be gone. The Judge, I called last Wednesday, told me they were working on the probate cases, and it will take 3 weeks to a month. When I can get my money, I will move my house.

Chairman Gonzales informed Ruth that there are procedures of Probate Hearings. Once the person(s) have the hearing, until you receive an Order from the Judge, then there's a 45 day period. One will be for 30 days which allows for one of the probate participant to disagree. If no one objects, then the 15 days will be for funds to be released the funds. This information is in the CFR. Ruth stated that she already have a person lined up to take the house away, I have to get the money first

It was asked to Ruth, "Why do you have so many horses?" She said that they are supposed to go out by Friday. The people that we are purchasing the property from are being evicted and they are having Court today. As soon as their eviction notice ends Friday, Sheriff Unger said after 15 days, he can go in and then we can move the animals out. We are waiting for them to leave the 80 acres

It was asked to the Battle Mountain Chairman Joe Holley, has each one of the lots surveyed or measured? So where Ruth is staying, is that piece of land, the corral, is that part of the survey lot?

Chairman Holley stated "what had happened that when the survey came through rather than coming to us, he went to each individual home and asked what lot is yours, and that's what he surveyed. When the houses were put in. it was 3 foot from the road in from the sidewalk and then everybody from that fence line went back to the freeway fence, that's the way them lots are set up. Then on the far corner it comes to a small point, an elder lady lived there before and she didn't need a big yard. Questions were asked about the boundaries.

Chairman Holley stated that we have been working with Ms. Burton for 8 months, asking her to address the issues on her property and if not to vacant the bands lands. We have been working with her in a reasonable fashion because the band is concerned. Ms. Burton was married to a former band member and they are elderly. We could have shut the water off a long time ago, but we do not want the horses not have water to drink. We have been trying to work with her. But every time we do that, there's a reason why she can't pay rent and come up with the money to pay for the house, but yet she is able to maintain all the horses. It is going to the point where we can't put up with it any longer and she has to go.

Ruth stated that the lot belongs to Bill's sister, Pearl. They did the paperwork two months before he died. They came in and did the lot. Tribal Council Member asked "Is there any paperwork?" Ruth stated "I have not seen anything. They came in and we asked right after that." It was told to Ruth that we know how tribal lands operate, you can't leave that to anybody and not even transferring it over, the Band Council's has to do that, and is there a resolution? We didn't know that, the assumption I had was my husband and Pearl took care of that. Is Pearl here today? No, she lives in California. None of this information has been provided to the Battle Mountain Band Council.

Tribal Councilman Mark Oppenheim stated that this has been going to long, we wanted to see the brand from these horses. Ruth stated that she asked the law enforcement and they stated that I didn't have to have one. The Officer said that there is no Law to enforce and the tribe don't have anything on Brands. Mark said, if we asked for it, we should get it. We don't understand people here have 1 or 2 horses, and why do you have 17 horses. Ruth said "right". Mark further said If everybody work together we would not be here. There is non-members living here, it got worse and worse, then with lawyers, we started pushing back. Where do the horses get their exercise? Ruth stated that we walk them around, and having fouts, we are selling them. I have had one left today we sold one from Utah.

You said that Law enforcement said that you don't have to show what the brand was, I would assume they have your brand. Do you have a brand? I have a registered brand with Nevada, I don't have it on any of the horses I have.

Mark said, so you can't really know if someone came over there and, you can't say that's my horse, and somebody can take it. How do you protect that animal? Ruth said we have papers that say the markings and we have the bloodlines and, where they're registered at. Mark ask, why didn't you provide that to the Band Council when they asked you? Ruth said because I don't have all the horses put in my name. Mark said you could have given them what you had. So you denied their request. Now at this Hearing, if the tribe wanted to, we can step in and seize all those horses because there are no brands on them. Ruth said that there is only a couple that has brands, and they are registered as having those brands. Mark asked how many are registered to you. How many do you have? Ruth said I have 4 or 5 mares in my name. Mark asked who does the other ones belong to? Ruth said that the others I'm trying to gather money from my paperwork from the Paint Horse Association, Quarter Horse Association, and the Appaloosa Club Association, it takes time and money. Mark said back to our request, if you would have come to us and told us like Joe said, we wouldn't be sitting here today. If you would have worked with us and not fight with us, this would have been taken care of. We were willing to work with you.

Ruth said that, I think it's frustrating to gather this money and I to leave after Bill died. I thought money was going to be here last summer, we never heard from probate, and it's going to cost \$11,000 to move the house. Waiting for that probate for 8 months, and now they tell us no, minimum 3 months, then another 30 days. Then I call in 3 weeks, still the same answer. What was your councils vote? To go forward with it.

After hearing both sides, the Te-Moak Tribal Council members asked for any clarifications of each side presentations. Following the questions from the Tribal Council, the Te-Moak Tribal Council went into the Senior Center Lunch Room for deliberation.

Returning from the deliberation, Chairman Gonzales asked the Council for a Motion. Mark Oppenheim made a Motion to adopt Resolution No. 14-TM-18, that Ms. Ruth Lee Burton be given seven (7) calendar Days for Exclusion, and the Resolution will read:

**THEREFORE BE IT RESOLVED:** having met the good cause standards set out in Section 4 of the Tribe's Non-Member Exclusion Ordinance 04-ORD-TM-02, and all other procedures under the Ordinance being met, the Tribal Council finds that Ruth Lee Burton is excluded from the Battle Mountain Band's lands for a period of 2 years as provided in Section 6 of the Ordinance.

**BE IT FURTHER RESOLVED,** that Ruth Lee Burton will be provided a period of 7 calendar days beginning May 20, 2014 to arrange for the transport of the doublewide mobile home, animals and property located at 20 Mountain View Drive as well as the disposal of any trash.

BE IT FINALLY RESOLVED, any items left behind by Ruth Lee Burton shall be disposed of by the Battle Mountain Band and any expenses related to their disposal shall be charged to Ms. Burton. Lydia Johnson seconds the motion. VOTE: 6 FOR, 0 AGAINST, 0 ABSTENTIONS

**Meeting Adjournment:**

Gerald Temoke made a motion to adjourn the Exclusion Hearing at 6:12 p.m. Michelle Cure second the motion. VOTE: 6 FOR; 0 AGAINST; 0 ABSTENTIONS

Respectfully Submitted:



Nikki Jackson  
Recording Secretary