



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS

Interior Board of Land Appeals
4015 Wilson Boulevard
Arlington, Virginia 22203

IN REPLY REFER TO:

NOV 28 1994

IBLA 94-633, 94-634 : N2-94-13, N2-94-16
: :
COMMISSION FOR THE PRESERVATION :
OF WILD HORSES : Wild Horse Removal Plan
: :
WILD HORSE ORGANIZED ASSISTANCE :
: Appeals Dismissed

ORDER

The Commission for the Preservation of Wild Horses (CPWH) and Wild Horse Organized Assistance (WHOA) have each appealed the Decision Record and Finding of No Significant Impact for the final Winter 1994 Wild Horse Removal Plan issued by the Winnemucca District Manager, Nevada, Bureau of Land Management (BLM), on January 24, 1994. In the plan BLM outlined the methods and procedures to be used in the capture of approximately 2,100 wild horses and the removal of approximately 1,200 horses from the East Black Rock Range Herd Management Area (HMA), the West Black Rock Range HMA, the Calico Mountains HMA, and the Warm Springs Canyon HMA. The removal was to take place in January, February, and March 1994. In accordance with 43 CFR 4770.3(c), the District Manager placed his decision into immediate full force and effect.

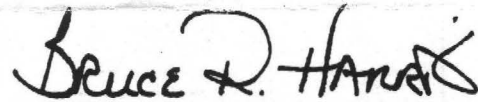
CPWH and WHOA filed virtually identical statements of reasons. Although each organization generally is critical of the decision to proceed with the removal plan, the specific errors assigned do not relate to the decision appealed. Instead, the alleged errors are, in each case, a verbatim repetition of the grounds assigned by CPWH and WHOA for appealing the wild horse portion of BLM's January 19, 1994, Notice of Final Full Force And Effect Multiple Use Decision Leadville Allotment (Multiple-Use Decision), issued by the Sonoma-Gerlach Resource Area Manager. The appeals of WHOA and CPWH from the Multiple-Use Decision were docketed by the Board as IBLA 94-385 and IBLA 94-386, respectively.

In an order dated July 21, 1994, the Board referred those appeals and certain others from the Multiple-Use Decision to the Hearings Division, Office of Hearings and Appeals, Salt Lake City, Utah, for consolidation with an appeal of the livestock portion of the Multiple-Use Decision, which had been forwarded to the Hearings Division by BLM in accordance with 43 CFR 4160.4. Our rationale for doing so was that the appeal pending in the Hearings Division and the appeals before the Board all involved the same underlying question of the amount of available forage and its proper allocation among livestock, wild horses, and wildlife within the Leadville Allotment. 1/

The specific concerns raised by appellants in the instant appeals all address the Multiple-Use Decision, appeals of which are pending before the Hearings Division. Appellants have failed to point out any errors in BLM's January 24, 1994, decision.

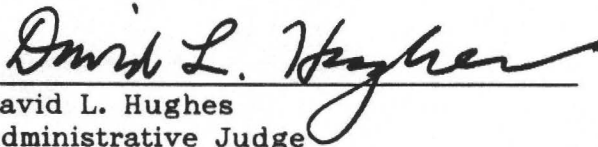
It is well established that the failure on appeal to point out affirmatively why the decision appealed from is in error may be treated in the same manner as an appeal in which no statement of reasons has been filed. The appeal may be dismissed. United States v. De Fisher, 92 IBLA 226, 227 (1986), and cases there cited. Appellants' statements of reasons do not address the decision purportedly appealed and therefore do not meet the requirements of the Board's rules.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeals are dismissed.



Bruce R. Harris
Deputy Chief Administrative Judge

I concur:



David L. Hughes
Administrative Judge

1/ In situations involving multiple-use decisions, we have held that it is appropriate to refer an appeal from such a decision pending before the Board for consolidation with an appeal from the same decision pending in the Hearings Division. Animal Protection Institute of America, 118 IBLA 345, 348 (1991).

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