

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
NEVADA STATE OFFICE
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In Reply Refer To
4720.1 (NV-960)

December 9, 1993

Instruction Memorandum No. NV-94- 032
Expires 9/30/94

To: District Managers, Nevada
Deputy State Directors and Staff Chiefs, NSO
Manager, National Wild Horse and Burro Center

From: State Director, Nevada

Subject: Issuance of Wild Horse and Burro Decisions under Full Force and Effect

Under 43 CFR 4770.3(c), the authorized officer may place a decision to remove excess wild horses and burros in full force and effect. Nevada Instruction Memorandum NV-94-011, details the conditions under which a full force and effect removal decision may be issued.

In an effort to provide the interested public with notification of impending gathers to be implemented under full force and effect, the following policy will apply to all Nevada wild horse and burro removal decisions issued under those rules.

Affected interests will be provided a period of time to review all final gather plans issued under full force and effect. The length of time afforded to affected interests will be commensurate on the conditions mandating issuance of the decision under full force and effect.

All draft gather plans will be made available to affected interests for a 30-day comment period except when herd or habitat conditions are critical and immediate action is required. The cover letter transmitting the draft capture plan will identify that, after consideration of all comments, the final removal decision will be placed in full force and effect.

The final removal decision/gather plan will provide for a full 30 day delay from the date of issuance when such a delay will not jeopardize the health of the animals or their habitat. When herd or habitat conditions preclude allowing the normal 30 day delay in removing

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animals, the time allowed between issuance of the final removal decision/gather plan and the effective date of the decision will be based upon the severity of animal or habitat conditions. This waiting period may range from the full 30 days to implementation on the date of issuance. When conditions do not allow the full 30 day delay in taking action, those affected interests which have provided comment on the draft plan will be contacted to inform them of the need to expedite the proposed action.

The public shall be notified that there will be no extension of the delay period and that the proposed action will begin on or about the specified date. The public shall also be notified that any request for stay must comply with 43 CFR 4.21(b) and that it is commensurate upon the appellant to provide factual support for that request. The intent of this policy is to ensure that affected interests are afforded advance notification of our placing a removal decision/gather plan in full force and effect. Specialists in contact with affected interests should emphasize the importance of their participation in the establishment of an appropriate management level (the allotment evaluation and multiple-use decision) and the draft gather plan. Affected interests should be discouraged from waiting to comment until issuance of the final decision because input at this time limits their capability to influence the decision and our ability to incorporate any new data in the decision. In addition, failure to comment on a draft decision may limit an affected interest's ability to prevail on appeal to the Interior Board of Land Appeals (IBLA).

Because this policy is new and provides managers some discretion and flexibility, it is important that the Districts coordinate very closely with the Wild Horse and Burro National Program Office to ensure consistency in its application.

In addition to the normal rationale for placing a removal decision in full force and effect, Nevada Districts will also identify the anticipated amount of time which will be provided between the issuance of a decision and the initiation of the proposed removal action. The policy incorporated in this memorandum does not change the time frame or procedures for filing an appeal of wild horse and burro removal decisions.

If you have any questions concerning this policy please contact Tom Pogacnik at (702) 785-6476.

Billy R. Templeton
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