

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Nevada State Office
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January 2, 2008

In Reply Refer To:
4710 (NV-930) P

EMS Transmission 01/03/2008
Instruction Memorandum No.NV-2008-017
Expires: 09/30/2009

To: Field Managers, Nevada

From: Ron Wenker
State Director, Nevada

Subject: Making Wild Horse and Burro Gather Decisions Effective Upon Issuance

This Instruction Memorandum provides policy and guidance regarding public participation and review requirements for all Nevada wild horse and burro removal decisions placed in “*full force and effect*” under the authority provided in 43 CFR 4770.3 (c). Under this provision, removal decisions shall be effective upon issuance or on a date established in the decision. Removal decisions may include release or relocation of selected animals, fertility control and any other action integral to the successful completion of the planned removal. All other actions (i.e. establishing appropriate management levels, range improvements and herd area or population management plans) are to be issued under 43 CFR 4.21.

To encourage and facilitate public involvement in the decision-making process, the authorized officer may elect to informally contact interested public and other government agencies or organizations to determine the issues and concerns relevant for analysis in the Gather Plan Environmental Assessment (EA). Refer to H-1790-1, IV-2, for additional information.

When electing to make removal decisions effective upon issuance, the following is required:

Field offices will make the preliminary EA available to the public for a 30 day review, except when herd or habitat conditions are being adversely impacted and immediate action is required. To facilitate public review, the EA should be posted on the office’s external web page,¹ and a hard copy either mailed or made available upon request.

Affected and interested public must be notified of the availability of the EA. This will be accomplished by sending a notice of availability to individuals and organizations on the field office’s wild horse and burro mailing list. Notification letters will also specify the timeframe for comment, advise the public that any comments received will be considered during the decision making process, and briefly summarize the proposed action and alternatives.

¹ Due to Cobell, external web access may not be available, or if available, may be shut down during a public review period. In that case, a hard copy should be made available to interested publics upon request.

In accordance with the Memorandum of Understanding between the State of Nevada and BLM (BLM MOU 1600-NEV-008-3), copies of the notification letter and the Gather Plan EA will be provided to the Nevada State Clearinghouse for distribution to state agencies. Electronic copies of the notification letter and EA may be provided to the Clearinghouse if prior arrangements are made and documented for the administrative record.

Soliciting public comments comes with an obligation to review and give fair consideration to the input we receive. Anyone commenting on the proposed action will be advised of the effect of their input. Affected and interested public will be provided with a copy of the final Decision Record/FONSI via certified mail with a return receipt requested, regardless of whether or not the individual/organization commented on the Gather Plan EA. The signed Decision Record/FONSI may also be transmitted electronically provided that receipt of the letter can be documented for the administrative record.

Transmittal letters shall clearly state the decision will be effective upon issuance or on a date established in the decision. The letter should also outline procedures for filing an appeal and petition for stay of a decision within 30 days of receipt of the decision in accordance with 43 CFR part 4 and 43 CFR 4770.3 (a), or alternatively, reference where in the DR/FONSI this information can be found. The transmittal letter will also notify the affected and interested public as to whether or not substantial changes were made in the EA as a result of public comments. Substantial changes should be documented in the EA. Minor changes may be documented in the transmittal letter accompanying the signed Decision Record/FONSI or in an errata sheet.

In issuing the final decision, the authorized officer is required to document his/her rationale for making the decision effective upon issuance.

Field offices should keep their wild horse and burro mailing list current. Suggested is annually contacting all individuals and groups to verify their continued interest in remaining on the list and the accuracy of their information. Returned letters identified as undeliverable due to incorrect address shall be sufficient cause to remove that individual or group from the mailing list. All field offices should ensure that individuals/groups with longstanding interest in wild horse and burro management or removal decisions within your jurisdiction as well as the Nevada State Clearinghouse, Nevada Commission for the Preservation of Wild Horses and the Nevada Department of Wildlife are retained on their mailing lists.

In order to comply with Section 9 of the Wild Free-Roaming Horses and Burros Act, the Nevada State Office will continue to conduct an annual public hearing regarding the use of helicopters or motorized vehicles for wild horse and burro management as prescribed in BLM Manual 4740. Organizations and individuals on the statewide mailing list shall be informed of the meeting and a notification published in the local newspaper(s). A notice in the Federal Register is not required.

If you have any questions regarding this memorandum, please call Susie Stokke at (775) 861-6469.

Signed By:
Ron Wenker
State Director, Nevada

Authenticated By:
Ellyn Darrah
Administrative Assistant

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