

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
APPLEGATE FIELD OFFICE

DECISION RECORD

Surprise Complex Area Wild Horse and Burro Gather Plan

DOI-BLM-CA-N020-2021-009-EA

INTRODUCTION

The Bureau of Land Management (BLM) Applegate Field Office prepared an Environmental Assessment (EA) (No. DOI-BLM-CA-N020-2021-009-EA) analyzing the environmental impacts of the proposed gather, removal, and fertility control measures. The purpose of the proposed action is to achieve and maintain wild horse and burro populations to be within the established Appropriate Management Levels (AML) for the Massacre Lakes, Bitner, Nut Mountain, Wall Canyon, High Rock, and Fox Hog Herd Management Areas (HMAs), collectively known as the Surprise Complex over a period of 10 years. The Surprise Complex comprises approximately 377,063 acres of BLM-administered public land located mostly in Washoe County, Nevada with a small portion in Humboldt County, Nevada.

The BLM has determined there are excess wild horses and burros within and outside the Surprise Complex. The most recent (June 2019) aerial population estimate from within and outside the Surprise Complex indicate there are approximately 1,301 wild horses and 11 burros. This number of estimated animals is more than 400 percent over the low end of AML for wild horses while the burro AML is zero since the Complex is not managed for burros. Monitoring data indicates excess wild horses and burros are contributing factors for sites not achieving the Riparian/Wetland Standard for Rangeland Health (refer to EA Section 3.2.4 for riparian functional assessment results). Thus the proposed action is necessary to reduce population growth, protect rangeland resources from further degradation, and achieve and maintain a thriving natural ecological balance within the Surprise Complex as mandated under Section 3(b)2 of the Wild Free-Roaming Horses and Burros Act of 1971.

The proposed action would gather and remove as many excess wild horses and burros as feasible during the initial gather from within and outside the Surprise Complex to bring the population closer to low AML is reached. Phased gathers over a period of 10 years would allow BLM to remove excess animals to achieve low AML and to apply fertility control. All wild horses and burros residing in areas outside of the HMA would be gathered and removed. After each gather, an aerial survey would be completed to count and locate the remaining population, as funding allows. Summer and fall gathers are preferred, to allow for foaling and provide better access to trap sites.

During gathers conducted over the 10-year period, the BLM would attempt to gather a sufficient number of wild horses to allow for the application of fertility control methods (PZP, PZP-22, GonaCon, IUD, or other approved formulation) to all mares that are released to slow population

growth. All mares trapped and selected for release would be treated or boosted with fertility control treatments such as GonaCon and/or Porcine Zona Pellucida -22 (PZP-22), ZonaStat-H (native PZP), or the most current approved formulations to prevent pregnancy in the following year(s).

The HMA would be gathered to low AML (283 horses, 0 burros) which would comprise the minimum number for the on-range population. All animals treated with any type of fertility control would be freemarked and identified according to current policy. Intact studs and mares released back to the Complex would be selected so as to maintain a diverse age structure, historical herd characteristics, and correct conformation.

Animals identified for permanent removal would be transported from the capture/temporary holding corrals to the designated BLM off-range corrals, and from there would be made available for adoption or sale to qualified individuals or would be cared for in off-range pastures, as further described in the EA (refer to Section 2.2.3).

DECISION

It is my decision to authorize and implement Alternative 1 (proposed action) *Phased-in Gather and Removal of Excess Wild Horses and Burros to Low-AML, Sex Ratio Adjustment, and Population Growth Suppression*, as described and analyzed in the Final EA (No. DOI-BLM-CA-N020-2021-009-EA) for the Surprise Complex Wild Horse and Burro Gather Plan.

Modifications to the final EA in response to public comments on the preliminary EA are described below. This decision is effective immediately pursuant to 43 C.F.R. § 4770.3(c). The BLM's funding and competing national priorities may affect the timing of gather operations and population control components of the proposed action.

RATIONALE

Upon consideration of the impacts of the selected Alternative 1 (proposed action), recommendations from the BLM interdisciplinary team of specialists, and following the issuance of the preliminary EA for public review, I have determined that Alternative 1 will not have a significant impact on the human environment, as indicated in the Finding of No Significant Impact (FONSI) determination.

In addition to the proposed action, the EA evaluated and analyzed three other alternatives that were considered but not selected:

- Alternative 2 would gather and remove excess wild horses and burros from within and outside the Surprise Complex over a 10-year period to achieve and maintain low AML, but would not include sex ratio adjustment (refer to EA Section 2.2.4).
- Alternative 3 would gather and remove excess wild horses and burros from within and outside the Surprise Complex over a 10-year period to achieve and maintain low AML,

however fertility control methods would not be applied and there would be no change to the existing sex ratio (refer to EA Section 2.2.5).

- **Alternative 4** (no action) would neither gather nor implement population management to control the size of the wild horse and burro population within the Surprise Complex. Alternative 4 would not achieve the identified purpose and need; however, it was analyzed in the EA to provide a basis for comparison with the other action alternatives (refer to EA Section 2.2.6).

The EA also describes seven additional alternatives considered by the BLM that were eliminated from further detailed analysis (refer to Section 2.3 for reasons why these alternatives were not analyzed further in the EA).

Based on information in the EA and associated administrative record, I conclude the proposed action is in conformance with the Surprise Resource Management Plan and Record of Decision (April 2008) and the Nevada and Northeastern California Greater Sage-Grouse Record of Decision and Approved Resource Management Plan Amendment (2015). This decision is also consistent with BLM's management responsibilities under the Wild Free-Roaming Horses and Burros Act of 1971, as amended (Public Law 92-195) and the Federal Land Policy and Management Act (1976). Removal of excess wild horses and burros from within and outside the Complex is necessary to achieve a thriving natural ecological balance between wild horse and burro populations, wildlife, livestock, vegetation, and available riparian sources as mandated under Section 3(b)2 of the Wild Free-Roaming Horses and Burros Act. The BLM is required to manage for multiple uses to avoid continued degradation of rangeland.

I did not select Alternative 2, 3, or 4 based on the following rationale:

Alternative 1 (proposed action) was chosen over Alternatives 2 and 3 because Alternative 1 best meets the Purpose and Need of the proposed action and among the other alternatives allows the BLM to better respond to the issue of excess wild horses and burros, using various tools to reduce populations to achieve and maintain AML over time. Alternative 1 would promote vegetative and riparian health by reducing impacts from excess wild horses and burros and preserve the health of animals on the range. Fertility control treatments and modification of sex ratios of released wild horses would slow population growth and reduce the number of excess wild horses placed in short-term or off-range holding facilities or offered for adoption or sale over the next 10 years. Managing wild horses at the established AML is expected to maintain adequate genetic diversity of the herds, which can be augmented if necessary by introduction of additional fertile animals if the results of genetic monitoring indicate that would be prudent.

I did not choose Alternative 3 or Alternative 4 (no action) because these alternatives would result in wild horse and burro populations not achieving and/or maintaining AML, resulting in the continued and exacerbated degradation of rangeland resources (refer to EA Chapter 4). Over time, drinking water for wildlife would become nonexistent in some areas, or be of very low quality due to the high amount of sediment in the water from wild horse and burro trampling. A decrease in native perennial species in upland sites with an increase in non-native annual species,

such as cheatgrass, would also result from these alternatives due to the high amount of disturbance and trampling from excess wild horses and burros.

Alternative 4 (no action) poses the greatest risk to rangeland health of the Surprise Complex, as well as the horses and other animals that share the Complex that would be affected by the degradation of their habitat and limited resource availability. Under this alternative, wild horse and burro populations would continue to grow in excess of available habitat resulting in the potential catastrophic die-off and increased movement to areas outside the HMA due to competition for limited forage and resources. This alternative would be contrary to BLM's mandate to maintain a thriving natural ecological balance and provide for the multiple-use of BLM-administered public lands.

In addition, my decision to select Alternative 1 (proposed action) is based on the following rationale:

1. *Riparian:* Wild horse and burro population surveys and resource monitoring data indicate current wild horse and burro populations are exceeding levels for healthy riparian areas, as heavy use and trampling from excess wild horses and burros is adversely impacting riparian areas within the Complex. Most of the riparian and wetland sites are currently rated as "Functioning At Risk" or "Non Functioning" (refer to EA Section 3.2.4). Gathering horses over a 10-year period would maximize the recovery of these ecosystems. Implementation of Alternative 1 would better improve and protect riparian areas by managing wild horses and burros within established AMLs. This would minimize impacts to many riparian areas from the current high utilization rates, year-round grazing, and ground disturbance from use by excess wild horses and burros. Enhanced conditions at these sites would include increased water holding capacity and additional amounts of plant cover and litter (refer to EA Section 4.4.4)
2. *Wild Horse and Burro Health:* Implementation of Alternative 1 would reduce competition for resources to allow wild horses and burros to use preferred, quality habitat. Forage and water resources would be able to improve promoting healthy populations of wild horses and burros. A thriving natural ecological balance between wild horses and burros and other resource uses could be achieved throughout the Complex, and future deterioration of range resources resulting from excessive grazing and trampling would be avoided.

Managing wild horse and burro populations in balance with their habitat and with other multiple uses would ensure that the populations are less affected by drought or other climate fluctuations, and that emergency gathers are either avoided or minimized. This would result in reduced stress to the animals on the range, which would increase the long-term success of the herds (refer to EA Section 4.4.7).

3. *Cultural Resources:* Alternative 1 would result in a decrease in disturbance to cultural resources by reducing the number of excess wild horses and burros within the Complex. Impacts to cultural sites from excess wild horse trampling and displacement would be reduced, especially in riparian areas where concentrations of horses and burros can

lead to modification and displacement of artifacts and features. Alternative 1 would afford more protection to cultural resources (refer to EA Section 4.4.1).

4. *Upland Vegetation and Soil:* Alternative 1 would result in decreased impacts to upland vegetation throughout the Complex. The removal of grazing pressure from excessive numbers of wild horses and burros would reduce impacts to perennial grasses allowing them to recover from natural disturbances and compete with non-native annual grasses such as cheatgrass and medusahead. Removing excess wild horses and burros would also reduce damage to soils that is occurring from trampling and overgrazing of vegetation by preventing additional loss of plant cover and litter, and by reducing the amount of bare ground which makes sites susceptible to soil erosion (refer to EA Sections 4.4.3 and 4.4.5) Gathering horses over a 10-year period would maximize the recovery of these ecosystems.
5. *Wildlife:* Alternative 1 would provide the greatest benefit to wildlife, including Greater Sage-Grouse. Under Alternative 1, wildlife habitat would be expected to recover and improve the most quickly, and there would be less competition for resources between wild horse and wildlife populations. Perennial grasses and forbs would benefit, as would the conditions of riparian areas and meadows—these are all indicators of desired habitat objectives for Greater Sage-Grouse (refer to EA Section 4.4.6).
6. *Wilderness:* Alternative 1 would preserve the natural quality of wilderness character for the East Fork High Rock Canyon, High Rock Canyon, and Little High Rock Canyon Wilderness Areas. As excess wild horses may compete with native populations of wildlife, over-utilize riparian areas, and trample native vegetation near springs and other water sources, Alternative 1 would maintain wild horse populations within AML and reduce these impacts in wilderness areas to preserve the natural quality of wilderness. The Minimum Requirements Analysis (MRA) determined the use of helicopter overflights, minimal motorized vehicle use, temporary installations and temporary road were determined to be the minimum necessary to manage wild horses at AML in the Surprise Complex, with the implementation of the stipulations identified in the Minimum Requirements Decision Guide (refer to EA Section 4.4.8 and Appendix P).

In accordance with 43 C.F.R. 4720.1, upon examination of current relevant information, I have determined that an excess of wild horses and burros exist within and outside the Complex, and that excess wild horses and burros need to be removed to achieve and maintain AML and a thriving natural ecological balance.

PUBLIC INVOLVEMENT

The BLM began consultation on the Surprise Complex Gather in early 2020 with numerous in-person and regularly scheduled consultation meetings. On September 14, 2020, the following tribes were invited to consult on the Surprise Complex Gather via formal letter: Alturas Rancheria, Cedarville Indian Rancheria, Klamath Tribes, Fort Bidwell Tribe, Modoc Nation, Pit River Tribe, Reno-Sparks Indian Colony, Summit Lake Tribe, and Susanville Indian Rancheria.

Each Tribe was invited to respond within 30 days of receiving the letter if they wished to consult on the undertaking further; to date, no replies related to the consultation letter request have been received (refer to EA Chapter 6: Consultation and Coordination). None of the tribes identified any Traditional Cultural Properties or issues of cultural concern in the project area.

The preliminary EA was made available to the public via the project's webpage on the National NEPA Register for a 30-day comment and review period that opened January 14, 2021 and closed February 14, 2021. In addition to a BLM News Release, the BLM sent notifications for the public comment period via mail and email to the most current interested public mailing list for both Applegate Field Office and Surprise Field Station.

The BLM received approximately 8,165 submissions during the public comment period, and more than 7,300 of those submissions were form letters. All comments received prior to the end of the public comment period were reviewed and considered. The BLM's response to comments received are detailed in Appendix Q of the EA. The BLM's review of public comments did not indicate that substantive changes to the conclusions presented in the preliminary EA were warranted, however they did lead to changes in the EA to better explain and clarify BLM's proposed action and analysis, which resulted in a more comprehensive and complete assessment.

A summary of changes from the preliminary EA as reflected in the final EA are as follows:

- Clarifications were made where needed; these did not change context.
- Added information about public comments and clarifications about scoping in Section 1.8.
- Added "Effects of Wild Horses and Burros on Rangeland Ecosystems" to Section 3.2.7.
- A list of references added to the EA can be found in Attachment 1 of this document.
- A map of proposed trap site locations in the Massacre Lakes HMA was added in Appendix E.
- Massacre Lakes HMAP (1989) was added to Appendix C. 43 CFR § 4700 Applicable Regulations.
- Appendix O was amended to include further citations from research on fertility control methods that have become available since the preliminary EA was posted on ePlanning for public comment.
- Appendix Q: The BLM's response to public comments on the preliminary EA was added as an appendix to the EA.

I have considered these changes from the Preliminary EA to Final EA, have considered public comments received during the public comment and review period on the preliminary EA, as well as reviewed past public comments received on the last gather for the 2011 High Rock Complex Wild Horse Population Management Plan EA (No. DOI-BLM-CA-N070-2011-04-EA). The Final EA for the Surprise Complex Wild Horse and Burro Gather Plan (No. DOI-BLM-CA-N020-2021-009-EA) is available on the NEPA Register by selecting "text search," "California," "Applegate," and fiscal year "2021."

The BLM will provide a schedule to allow members of the public to observe the Surprise Complex gather operations as they occur, and to observe horses and burros in short term holding at the BLM wild horse and burro facilities in Litchfield, California and Palomino Valley, Nevada. Prior to any helicopter gather activity, the BLM will issue press releases and other notifications as appropriate.

AUTHORITY

The authority for this decision is contained in the 1971 Free-Roaming Wild Horses and Burros Act, as amended (16 U.S.C. 1333(b), Section 302(b) of the Federal Land Policy and Management Act (FLPMA) of 1976, and Code of Federal Regulations (CFR) at 43 CFR §4700.

§4700.0-6 Policy

- (a) Wild horse and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat;
- (b) Wild horses and burros shall be considered comparably with other resource values in the formulation of land use plans;
- (c) Management activities affecting wild horses and burros shall be undertaken with the goal of maintaining free-roaming behavior;
- (d) In administering these regulations, the authorized officer shall consult with Federal and State wildlife agencies and all other affected interests, to involve them in planning for and management of wild horses and burros on the public lands.

§4710.4 Constraints on Management

Management of wild horses and burros shall be undertaken with the objective of limiting the animals' distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans.

§4720.1 Removal of excess animals from public lands

Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animal immediately in the following order:

- (a) Old, sick, or lame animals shall be destroyed in accordance with subpart 4730 of this title;
- (b) Additional excess animals for which an adoption demand by qualified individuals exists shall be humanely captured and made available for private maintenance in accordance with subpart 4750 of this title; and
- (c) Remaining excess animals for which no adoption demand by qualified individuals exists shall be destroyed in accordance with subpart 4730 of this part.

§4740.1 Use of Motor Vehicles or Air-Craft

- (a) Motor vehicles and aircraft may be used by the authorized officer in all phases of the administration of the Act, except that no motor vehicle or aircraft, other than helicopters,

shall be used for the purpose of herding or chasing wild horses or burros for capture or destruction. All such use shall be conducted in a humane manner.

- (b) Before using helicopters or motor vehicles in the management of wild horses or burros, the authorized officer shall conduct a public hearing in the area where such use is to be made.

§4770.3 Administrative Remedies

- (a) Any person who is adversely affected by a decision of the authorized officer in the administration of these regulations may file an appeal. Appeals and petitions for stay of a decision of the authorized officer must be filed within 30 days of receipt of the decision in accordance with 43 CFR, part 4.
- (c) Notwithstanding the provisions of paragraph (a) of §4.21 of this title, the authorized officer may provide that decisions to remove wild horses or burros from public or private lands in situations where removal is required by applicable law or is necessary to preserve or maintain a thriving natural ecological balance and multiple-use relationship shall be effective upon issuance or on a date established in the decision.

ADMINISTRATIVE REMEDIES

You have the right to appeal this decision to the Applegate Field Manager, in accordance with the regulations contained in 43 C.F.R. §§ 4.410, 4.411, 4.412, and 4.413. Your appeal must be filed within **thirty (30) days** from receipt or issuance of this decision with the BLM at the following address:

Craig Drake
Field Manager
Applegate Field Office
Bureau of Land Management
708 West 12th Street
Alturas, CA 96101

The appellant must also serve a copy of the appeal on the appropriate Solicitor's Office (43 C.F.R. §§ 4.401(c)(ii) and 4.413(c)) at the following address:

U.S. Department of the Interior
Office of the Regional Solicitor
Pacific Southwest Region
2800 Cottage Way, E-1712
Sacramento, CA 95825

Within **30 days** after filing the Notice of Appeal, you must file a complete statement of reasons and a statement of standing as to why you are appealing with the U.S. Department of Interior, Interior Board of Land Appeals in accordance with 43 CFR § 4.412. The Statement of reasons

and statement of standing must also be served upon the District Manager and the appropriate Solicitor's office at the addresses provided above.

Service must also be provided to each person named in the decision and must be in accordance with 43 C.F.R. § 4.401(c). Failure to file the statement of reasons and statement of standing within the time required will subject the appeal to summary dismissal as provided in 43 C.F.R. § 4.402. Failure to provide proper service of the appeal, statement of standing and statement of reasons will subject the appeal to summary dismissal as provided at 43 C.F.R. § 4.413(b) and 43 C.F.R. §§ 4.402 (b), (c) and (d).

If you wish to file a petition pursuant to regulation 43 C.F.R. § 4.21 (58 FR 4942, January 19, 1993) for a stay (suspension) of the decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted to:

Interior Board of Land Appeals
Office of Hearing and Appeals
801 N. Quincy Street,
Suite 300 Arlington, VA 22203

In accordance with 43 C.F.R. § 4.21(b), a petition for stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) the relative harm to the parties if the stay is granted or denied;
- (2) the likelihood of the appellant's success on the merits;
- (3) the likelihood of immediate and irreparable harm if the stay is not granted; and
- (4) whether the public interest favors granting the stay.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 C.F.R. § 4.401 (c) (2)).

In accordance with 43 C.F.R. § 4.401, the regulations do not provide for electronic filing of appeals, therefore they will not be accepted. Please submit relevant appeal documents in hard copy form for consideration. Any notice of appeal and/or petition for stay must be sent or delivered to the office of the authorized officer by mail or personal delivery.

APPROVAL

The 2021 Surprise Complex Wild Horse and Burro Gather Plan is approved for implementation. This decision is effective upon issuance in accordance with 43 CFR at § 4770.3(c) because removal of excess animals is necessary to protect animal health and prevent further deterioration of rangeland resources.



Craig Drake
Field Manager



Date

Attachment 1: Additional/Added References

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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL..... A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that they wish to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).

2. WHERE TO FILE

NOTICE OF APPEAL..... US Bureau of Land Management, Applegate Field Office
708 W. 12th Street
Alturas CA 96101

WITH COPY TO SOLICITOR..... Regional Solicitor, Pacific Southwest Region, U.S. Department of Interior,
2800 Cottage Way, B-1712
Sacramento, CA 95825

3. STATEMENT OF REASONS Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).

WITH COPY TO SOLICITOR..... Regional Solicitor, Pacific Southwest Region, U.S. Department of Interior,
2800 Cottage Way, B-1712
Sacramento, CA 95825

4. SERVICE OF DOCUMENTS A party that files any document under 43 CFR Subpart 4, must serve a copy of it concurrently on the appropriate official of the Office of the Solicitor under 43 CFR 4.413(c) and 4.413(d). For a notice of appeal and statement of reasons, a copy must be served on each person named in the decision under appeal and for all other documents, a copy must be served on each party to the appeal (including intervenors). Service on a person or party known to be represented by counsel or other designated representative must be made on the representative. Service must be made at the last address of record of the person or party (if unrepresented) or the representative, unless the person, party or representative has notified the serving party of a subsequent change of address.

5. METHOD OF SERVICE..... If the document being served is a notice of appeal, service may be made by (a) Personal delivery; (b) Registered or certified mail, return receipt requested; (c) Delivery service, delivery receipt requested, if the last address of record is not a post office box; or (d) Electronic means such as electronic mail or facsimile, if the person to be served has previously consented to that means in writing. All other documents may be served by (a) Personal delivery; (b) Mail; (c) Delivery service, if the last address of record is not a post office box; or (d) Electronic means, such as electronic mail or facsimile, if the person to be served has previously consented to that means in writing.

6. REQUEST FOR STAY..... Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a Notice of Appeal (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your Notice of Appeal (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the Notice of Appeal and Petition for a Stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted. Standards for Obtaining a Stay. Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

(Continued on page 2)