



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Washington, D.C. 20240

In Reply Refer To:

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JUN 10 2004

Memorandum

To: Regional Director, Regions 1, 2, 3, 4, 5, 6, and 7
Manager, California Nevada Operations Office

From: Director

Subject: Update Concerning "No Surprises" Litigation

This memorandum supersedes my January 28, 2004, memorandum providing direction on how to proceed in the face of the September 30, 2003, order from Judge Sullivan granting plaintiffs' motion for summary judgment in the Spirit of the Sage Council v. Norton case (Civil Action No. 98-1873). On June 10, 2004, Judge Sullivan issued a court order responding to plaintiff's request for clarification of the original court opinion and order issued on December 11, 2003. Judge Sullivan granted all of the plaintiff's requests for clarification. To comply with the June 10, 2004, order, I am providing the following updated direction.

Effective immediately, Regions are to cease issuance of any new incidental take permits, amendments, renewals, and transfers under the authority of section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended, until further notice. Please notify the Assistant Director for Endangered Species if you have issued any 10(a)(1)(B) permits since June 10, 2004.

You may continue to work with applicants in developing HCPs and to take all steps necessary to process applications for 10(a)(1)(B) permits up to the point of permit issuance.

This direction will remain in effect until further notice. Please direct any questions regarding this issue to Patrick Leonard, Chief of the Consultation, Habitat Conservation Plans, Recovery and State Grants at 703-358-2171.