

**UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT**

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**In Reply Refer to:**  
3715 (932)P

June 11, 2001

EMS TRANSMISSION:  
Instruction Memorandum No. AZ-2001-023  
Expires 09/30/2002

To: Field Managers

From: State Director

Subject: The Seizure of Property Under 43 CFR 3715

**Purpose:** Removal and reclamation of illegal occupancies on mining claims. This can take the form of abandoned mining equipment, vehicles, trash and occasionally houses, trailers and other structures used as primary or secondary residences for operators/ mining claimants.

**Background:** Our authority to deal with this type of property under 43 CFR 3715 is clear. 43 CFR 3715.5-2 states "Any property you leave on the public lands beyond the 90-day period described in §3715.5-1 becomes the property of the United States and is subject to removal and disposition at BLM's discretion consistent with applicable laws and regulations. You are liable for the costs BLM incurs in removing and disposing of the property." This regulation, in and of itself, gives BLM the authority to seize property "left behind" on public lands.

**Policy/Action:** Under BLM Arizona policy, property is left behind when one of the following conditions have been met:

1. The claimant/operator cannot be found and property has been clearly abandoned on public lands or,
2. The claimant/operator has been issued an order requiring the removal of property under 43 CFR 3715.7-1 (a) or (b) and has not removed the property and:
  - ▶ The time allowed for compliance under the order issued has lapsed **and**
  - ▶ The 90 day period specified under 43 CFR 3715.5-1 has lapsed **and**

- ▶ The operator has not been granted a stay of the order pending appeal to IBLA or a court of competent jurisdiction has not intervened suspending the order.

When property is left behind, the following procedure applies to the seizure and/or removal/demolition of the property including “permanent structures”:

1. After issuing the initial order requiring that the property be removed, follow with at least two additional letters each containing the original order and reiterating the time frame for removing the property.
2. In instances where there are permanent structures of obvious value, especially when they are used as a residence, the Field Office Manager is to prepare a briefing paper for the State Office and the Solicitor’s Office.
3. The Solicitor’s Office may, at their discretion, brief the Justice Department, and in conjunction with the State Office will advise the Field Office Manager how to complete the removal of the residence.

The above procedures apply to all permanent structures. In this context, permanent structure means any structure fixed to the ground by any of the various types of foundations, slabs, piers, poles, or other means allowed by building codes. The term also includes a structure fixed to the ground that lacks foundations, slabs, piers, or poles, and that can only be moved through disassembly into its component parts or techniques commonly used in house moving. The term does not apply to tents, lean-tos or poorly constructed huts or shanties.

**Contact:** Refer any comments or inquiries to Ralph Costa (602) 417-9349.

SIGNED BY:  
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