FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

COLVIN & SON, LLC; STONE CABIN RANCH, LLC,

Plaintiffs - Appellants,

v.

DOUG BURGUM, in his official capacity as Secretary of the United States Department of the Interior; STEVAN PEARCE, in his official capacity as the Director of the Bureau of Land Management; JON RABY, his official capacity as the Nevada State Director of the Bureau of Land Management; JON SHERVE, in his official capacity as District Manager for the Battle Mountain District, Nevada, Bureau of Land Management; DALTREY BALMER, in his official capacity as the Acting Field Manager for the Tonopah Field Office, Battle Mountain District, Nevada, Bureau of Land Management,

Defendants - Appellees,

No. 25-1888

D.C. No. 3:23-cv-00204-ART-CLB

OPINION

Appeal from the United States District Court
for the District of Nevada
Anne R. Traum, District Judge, Presiding

Argued and Submitted March 11, 2026
Las Vegas, Nevada

Filed October 29, 2026

Before: Mark J. Bennett and Gabriel P. Sanchez, Circuit Judges, and John W. Holcomb, District Judge.[*]

Opinion by Judge Holcomb

SUMMARY[**]

Wild Free Roaming Horses and Burros Act

The panel affirmed the district court's summary judgment in favor of the Secretary of the United States Department of the Interior and other federal officials in an action brought by Colvin & Son, LLC and Stone Cabin Ranch ("Plaintiffs") challenging a plan to gather and remove excess horses (the "Gather Plans") as contrary to the Wild Free Roaming Horses and Burros Act.

[*] The Honorable John W. Holcomb, United States District Judge for the Central District of California, sitting by designation.

[**] This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

Plaintiffs challenged Gather Plans for the Little Fish Lake Joint Management Area and for the Stone Cabin Complex in Nye County, Nevada. Plaintiffs challenged the Gather Plans as agency action, seeking review under §§ 706(2)(A) and (2)(C) of the Administrative Procedure Act. At issue on appeal was whether the Bureau of Land Management ("BLM") violated the Wild Horses Act by promulgating Gather Plans that failed to require it to act more quickly, not whether BLM in fact acted quickly enough. The parties sought interpretation of the statutory language "immediately remove excess animals from the range so to achieve appropriate management levels." 16 U.S.C. § 1333(b)(2).

The panel held that the Wild Horses Act requires BLM to remove excess animals from the range to achieve appropriate management levels as promptly as logistically and reasonably possible, taking into account the humane treatment of the wild horses and burros and other considerations required by the Act.

The panel concluded that the Gather Plans complied with the Wild Horses Act's immediacy requirement. The panel rejected Plaintiffs' argument that the Gather Plans violated the immediacy requirement because the Plans lacked any timing requirement for conducting the prescribed initial gathers. The Act does not require BLM to set a specific time frame for removal actions. The panel also rejected Plaintiffs' argument that the Gather Plans violated the immediacy requirement because they conditioned population control measures and follow-up gathers upon off-site conditions. The immediacy requirement was inapplicable to those maintenance actions and their attendant conditions.

Accordingly, the panel affirmed the district court's summary judgment.

COUNSEL

W. Alan Schroeder (argued), Schroeder Law, Boise, Idaho; Laura A. Schroeder, Therese A. Ure Stix, and Caitlin R. Skulan, Schroeder Law Offices PC, Reno, Nevada; for Plaintiff-Appellants.

Tamara N. Rountree (argued) and Thekla Hansen-Young, Attorneys; Environment & Natural Resources Division; Robert N. Stander, Deputy Assistant Attorney General; Adam R.F. Gustafson, Acting Assistant Attorney General; United States Department of Justice, Washington, D.C.; Janell Bogue, Attorney, United States Department of the Interior, Washington, D.C.; Nicole Leibow, Assistant United States Attorney, Office of the United States Attorney, United States Department of Justice, Las Vegas, Nevada; for Defendants-Appellees.

OPINION

HOLCOMB, District Judge:

In 1971, Congress passed the Wild Free Roaming Horses and Burros Act ("the Wild Horses Act" or "the Act"), to protect wild horses and burros on the Nation's public lands. 16 U.S.C. § 1331. The Act instructs the Bureau of Land Management ("BLM") to regulate those populations, including by removing excess animals when an overpopulation exists. *Id.* § 1333(b)(2). In that circumstance, Congress directed BLM "immediately [to] remove excess animals." *Id.* In carrying out Congress's statutory directive, BLM determined on two separate occasions relevant here that an overpopulation existed and issued plans detailing the procedures for gathering and removing excess horses (the "Gather Plans").

Plaintiffs-Appellants Colvin & Son, LLC and Stone Cabin Ranch brought this action under 5 U.S.C. §§ 706 (2)(A) and (2)(C) of the Administrative Procedure Act (the "APA"), challenging the Gather Plans as contrary to the Wild Horses Act's immediacy requirement. The district court granted summary judgment in favor of Defendants-Appellees, and Plaintiffs-Appellants timely appealed. This appeal presents the question of the meaning of Congress's command to remove excess animals "immediately." 16 U.S.C. § 1333(b)(2).

We hold that the Wild Horses Act requires BLM to promulgate plans that remove excess animals as promptly as logistically and reasonably possible. Because the Gather Plans meet that standard, we affirm the district court's grant of summary judgment for Defendants-Appellees.

I

A

When Congress enacted the Wild Horses Act, it declared that "wild free-roaming horses and burros are living symbols of the historic and pioneer spirit of the West" that "contribute to the diversity of life forms within the Nation and enrich the lives of the American people." *Id.* § 1331. Out of concern "that these horses and burros [were] fast disappearing from the American scene," Congress instructed that the animals "be protected from capture, branding, harassment, or death . . . in the area where presently found." *Id.* Through the Act, Congress "empowered [the Secretary of the Interior through] BLM to manage horses roaming public ranges as part of its management of public lands." *Am. Wild Horse Campaign v. Bernhardt*, 963 F.3d 1001, 1004 (9th Cir. 2020).

Indeed, the Wild Horses Act was "so successful at replenishing the population of wild horses that 'action [was] needed to prevent [the] program from exceeding its goals and causing animal habitat destruction.'" *Id.* at 1004–05 (alteration in original) (quoting H.R. Rep. No. 95-1122, 95th Cong., 2d Sess. at 23 (1978)). Accordingly, in 1978 Congress amended the Act to enable BLM more effectively to "'manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands.'" *Friends of Animals v. Burgum*, 164 F.4th 738, 745 (9th Cir. 2026) (quoting 16 U.S.C. § 1333(a)).

To fulfill that mandate, BLM follows a multi-step process. First, for population management purposes, BLM divides public lands into herd management areas ("HMAs"). *See* 43 C.F.R. § 4710.1. Next, after BLM designates HMAs, the Act requires it to "maintain a current inventory of wild

free-roaming horses and burros on [those HMAs]." 16 U.S.C. § 1333(b)(1). Additionally, for each HMA, BLM "determine[s] appropriate management levels of wild free-roaming horses and burros." *Id.* BLM bases its appropriate management level ("AML") determinations on scientific recommendations, and it establishes the number of wild horses that can be sustained within a designated HMA "in a manner that . . . achieve[s] and maintain[s] a thriving natural ecological balance." *Id.* § 1333(a) (BLM "shall consider the recommendations of qualified scientists in the field of biology and ecology."). Finally, for each HMA, BLM periodically compares the current inventory population to the AML to ascertain whether excess animals are present on that HMA. *See id.* § 1333(b)(1). Through such comparisons, BLM determines whether "an overpopulation exists on a given area" and thus whether "action is necessary to remove excess animals." *Id.* § 1333(b)(2).

If BLM makes an overpopulation finding and thereby concludes that action is necessary to remove the excess animals, the Act provides that BLM "shall immediately remove excess animals from the range so as to achieve appropriate management levels." *Id.* § 1333(b)(2). Those efforts must continue "until all excess animals have been removed so as to restore a thriving natural ecological balance to the range, and protect the range from the deterioration associated with overpopulation." *Id.* The Wild Horses Act directs BLM to relocate or destroy the removed animals, in a humane manner and subject to certain constraints. *See id.*

To effectuate a removal, BLM devises a gather plan, which includes an environmental assessment in compliance with the National Environmental Policy Act of 1969 ("NEPA"), 42 U.S.C. §§ 4321–4370. *See generally* Bureau of Land Mgmt., U.S. Dep't of the Interior, *Wild Horses and*

Burros Management Handbook H-4700-1 (2010) (setting forth the relationship between NEPA's environmental-review requirements and BLM's management decisions under the Wild Horses Act). The environmental assessment identifies the proposed action, considers alternatives, and analyzes potential environmental effects. *See* 43 C.F.R. § 46.310(a). BLM then makes the proposed environmental assessment available for 30 days of public review and comment. *See* Bureau of Land Mgmt., U.S. Dep't of the Interior, *Wild Horses and Burros Management Handbook H-4700-1* § 7.2 (2010). After considering the comments received, BLM issues a final environmental assessment and decision record, which together finalize the gather plan and authorize its implementation. *See* Bureau of Land Mgmt., *Issuance of Wild Horse and Burro Gather Decisions*, Bureau of Land Management Policy (Mar. 15, 2019), https://www.blm.gov/policy/pim-2019-004 [https://perma.cc/4KVK-7N9Q]. Plaintiffs-Appellants challenge two final gather plans that BLM issued pursuant to that process.

B

The Little Fish Lake Joint Management Area ("Little Fish")[1] covers 117,041 acres in Nye County, Nevada, and it is jointly managed by BLM and the United States Forest Service. The AML for Little Fish is 79 to 132 wild horses. An aerial survey conducted in March 2021 counted 242 adult

[1] Little Fish includes two distinct areas: (1) the Little Fish HMA managed by BLM; and (2) the Little Fish Wild Horse Territory managed by the Forest Service. Under an inter-agency agreement, Little Fish is subject to a single gather plan. As pertains to this case, Little Fish is managed similarly to an HMA—*i.e.*, an AML is set and, if BLM determines that the wild horse population in the area exceeds the AML, BLM implements a removal plan.

wild horses in Little Fish, and based upon that count, BLM estimated that the entire population in 2021 was 291 wild horses—well exceeding the higher end of the AML range. Accordingly, BLM determined "that excess wild horses exist within Little Fish Lake" and that "[t]hese excess wild horses need to be removed in order to achieve the established AML, restore a thriving natural ecological balance[] and prevent further degradation of rangeland resources." Subsequently, BLM developed a proposed gather plan to remove the excess horses and, as part of that process, prepared an environmental assessment analyzing the proposed gather, its environmental effects, and alternatives. Following that review, BLM issued a final environmental assessment and Decision Record authorizing the gather.

The Little Fish Gather Plan "involve[s] three distinct types of activities over the 10-year life of the plan:"

> 1. Initially, gather and remove excess wild horses to achieve low AML either in a single first gather or over multiple follow-up gathers. Several factors could affect the ability to achieve AML with a single first gather, including: lower gather efficiencies, an expected population undercount, and limited contractor availability. If AML cannot be achieved through a single first gather, multiple follow-up gathers may be used to achieve AML.
>
> 2. Administer and/or booster population control measures to gathered and released horses, along with sex ratio adjustment, to slow population growth and maintain the wild horse population within AML.

> 3. Conduct additional/maintenance gathers after the initial gather(s) to bring wild horse population back to low AML if the population grows to again exceed AML during the 10-year plan life after low AML was achieved.

U.S. Dep't of the Interior, Bureau of Land Mgmt., *Little Fish Lake Joint Management Area Wild Horse Gather Plan Final Environmental Assessment* (2022).

With respect to the implementation of those three types of activities, the Little Fish Gather Plan explains that:

> While ***the agency's plan is to promptly remove all excess animals above low AML***, it is unlikely that a single gather can achieve this because of gather efficiency limitations (animals evading capture during the gather operations), logistical limitations (e.g. weather conditions, terrain and large geographic area to be gathered), population inventory undercounts, space capacity limitations (for holding removed animals), and limited contractor availability and expertise that limit the number of gathers that can be conducted annually at the national level. As a result, it often requires more than a single gather to bring the population to low AML, if only to capture animals that would have been removed if they had not evaded capture during the gather, or because a gather was ended early due to inclement weather conditions. BLM's management to achieve a

> thriving natural ecological balance is also not limited to removing excess animals, but also including measures to reduce annual population growth and to allow for recovery of degraded vegetation and riparian areas impacted by the wild horse over population—which requires a sufficient time frame of active management to achieve these objectives.
>
> For these reasons, a ten-year gather plan is needed to (1) remove excess wild horses and burros and bring the population down to low end of AML ***as expeditiously as possible***; (2) implement population control measures over a sufficient period of time to reduce population growth and measurably reduce the number of excess animals that would need to be removed from the [area]; and (3) to manage the wild horse population at AML so as to provide sufficient time for vegetation and riparian resources to recover and reestablish.

Id. (emphasis added).

The Little Fish Gather Plan further clarifies that "[t]he management objective for the Little Fish Lake . . . is to achieve low AML ***as immediately as possible*** and to maintain AML over the 10-year plan period through population controls and removal of additional excess animals if the population again exceeds AML." *Id.* (emphasis added).

C

The Stone Cabin Complex, which includes the Stone Cabin HMA and the Saulsbury HMA, encompasses over 540,000 acres in Nye County, Nevada, and it has an AML range of 242 to 404 wild horses. Based upon a 2021 count, BLM estimated that the total population of wild horses was 1,097. Relying on that estimate, BLM determined that an overpopulation of wild horses existed and that removal actions were necessary to achieve AML. Accordingly, BLM issued a final decision and accompanying environmental assessment for the Stone Cabin Complex, which describes the plan for removing excess animals from the Stone Cabin Complex.

As with the Little Fish Gather Plan, the Stone Cabin Gather Plan consists of "three distinct types of management activities." Those three activities are as follows:

> 1. ***Initially, gather and remove excess wild horses to achieve low AML within the proposed gather area either in a single first gather or with a follow-up gather(s) if all excess animals are not captured and removed in a single initial gather***. Based on BLM's experience over the past decades, there are a number of logistical and operational factors that can affect BLM's ability to achieve AML with a single gather, including (but not limited to): that gathers typically achieve less than a 100% gather efficiency (i.e., all wild horses in the herd cannot be gathered or observed to determine how many remain in an HMA since wild horses evade capture or remain hidden from

view during a helicopter gather); the likely population undercount can result in additional excess wild horses being identified in a follow-up inventory even when the targeted numbers of estimated excess wild horses have been removed; weather conditions may impede achieving the targeted removal numbers during gather operations, and limited contractor availability that impacts the ability to continue with a gather until all excess animals have been removed. For this reason, if low AML cannot be achieved through a single first gather, a follow-up gather(s) may be necessary to achieve low AML.

2. Over the 10-year period, ***apply population growth suppression methods*** (i.e. fertility control vaccines, gelding, adjustment of sex ratio, and/or flexible intrauterine devices), including administering vaccine initial doses and booster doses to gathered and released horses over multiple gathers, to slow population growth and maintain the wild horse population within AML to allow for resource recovery and reduce the number of excess animals that have to be removed from the public range over time . . . . Fertility control measures will be applied even if low AML is not reached during an initial gather.

3. Over the 10-year period, manage for a population that ensures a thriving natural ecological balance by ***conducting additional/maintenance gathers after the***

> ***initial gather(s)*** to bring wild horse population back to low AML if the population grows to again exceed high AML during the 10-year plan life after low AML was achieved, in order to provide a sufficient period of time for degraded range resources to recover.

U.S. Dep't of the Interior, Bureau of Land Mgmt., *Stone Cabin Complex Wild Horse Gather Plan Environmental Assessment* (2023) (emphasis added).

With respect to timing, the Stone Cabin Gather Plan declares that it is consistent with 43 C.F.R. § 4720.1, which requires BLM to "remove the excess animals immediately" upon its determination that such excess animals exist. *Id.* Additionally, in its discussion of why BLM did not analyze certain alternative action plans, the Stone Cabin Gather Plan repeatedly clarifies that those alternative plans were inconsistent with the directive "immediately [to] remove excess wild horses."

Plaintiffs-Appellants challenged the Little Fish Gather Plan and the Stone Cabin Gather Plan in separate lawsuits, which the district court consolidated given the similarity of those plans. In their respective complaints, Plaintiffs-Appellants asserted a single claim under § 706(2) of the APA, alleging that the Gather Plans violated the Wild Horses Act's immediacy requirement. After the district court bifurcated the case into a merits and a remedies phase, the parties cross-moved for summary judgment. The district court then granted summary judgment in favor of Defendants-Appellees. Plaintiffs-Appellants timely appealed.

II

We have jurisdiction over this appeal under 28 U.S.C. § 1291. We review "de novo a district court's grant of summary judgment." *All. for the Wild Rockies v. Petrick*, 68 F.4th 475, 485 (9th Cir. 2023) (citation modified).

Plaintiffs-Appellants challenge the Gather Plans as agency action, seeking review under §§ 706(2)(A) and (2)(C) of the APA. 5 U.S.C. §§ 702, 706. A reviewing court must set aside an agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law" or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." *Id.* §§ 706(2)(A), (C). An agency violates the APA when it "has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins.*, 463 U.S. 29, 43 (1983).

When a party argues that an agency has acted in violation of a statute, we "exercise independent judgment in determining the meaning of statutory provisions." *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 394 (2024). In exercising such judgment, we may "seek aid from the interpretations of those responsible for implementing particular statutes." *Id.*

When reviewing a grant of summary judgment, we "determine, viewing the evidence in the light most favorable to the nonmoving party, whether the district court correctly applied the relevant substantive law and whether there are

any genuine issues of material fact." *In Def. of Animals, Dreamcatcher Wild Horse & Burro Sanctuary v. U.S. Dep't of Interior*, 751 F.3d 1054, 1061 (9th Cir. 2014) (quoting *Balint v. Carson City*, 180 F.3d 1047, 1050 (9th Cir. 1999) (en banc)).

III

The issue on appeal is whether the Gather Plans comply with BLM's statutory directive "immediately [to] remove excess animals from the range so as to achieve appropriate management levels." 16 U.S.C. § 1333(b)(2). In other words, the relevant inquiry is whether BLM violated the Wild Horses Act by promulgating Gather Plans that fail to require it to act more quickly, ***not*** whether BLM in fact acted quickly enough. Because our review is limited to "the administrative record in existence at the time of the agency's decision," we analyze the administrative record in existence at the time that BLM promulgated the Gather Plans. *See Friends of the Clearwater v. Dombeck*, 222 F.3d 552, 560 (9th Cir. 2000) (citing *Citizens to Pres. Overton Park, Inc. v. Volpe*, 401 U.S. 402, 420 (1971), *overruled on other grounds by Califano v. Sanders*, 430 U.S. 99 (1977)).

A

Both sides call upon us to interpret the statutory language "immediately remove excess animals from the range so as to achieve appropriate management levels." 16 U.S.C. § 1333(b)(2). Plaintiffs-Appellants argue that the Gather Plans failed to comply with the Act's immediacy requirement because they permitted some delay before the removal of animals. Defendants-Appellees respond that the district court correctly determined that BLM was obligated to require the removal of animals only as "promptly" as reasonably possible, even if some delay resulted.

As with all questions of statutory interpretation, we begin with the text of the statute. *Lackey v. Stinnie*, 604 U.S. 192, 199 (2025). The plain, ordinary meaning of "immediately" contemplates prompt action. Black's Law Dictionary defines "immediately" as "without delay; instantly, directly, or straightaway." *Immediately*, *Black's Law Dictionary* (12th ed. 2024).[2] But the Black's Law Dictionary definition hastens to add that "[i]n temporal terms, the sense of immediately can vary according to context," such that "the term has a great deal of elasticity." *Id.* In view of the plain, ordinary meaning of the text, BLM must act as promptly as possible to remove excess animals. However, that is not the end of the inquiry because we must also look to the context of that statutory directive to determine its meaning.

"It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme." *San Francisco Herring Ass'n v. U.S. Dep't of the Interior*, 33 F.4th 1146, 1152 (9th Cir. 2022) (quoting *Davis v. Mich. Dep't of Treasury*, 489 U.S. 803, 809 (1989)) (citation modified). Adjoining provisions of the Wild Horses Act grant BLM discretion and condition the speed of removal on other mandated considerations.

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[2] Black's Law Dictionary is consistent with other, lay dictionaries. Webster's Third New International Dictionary, published 10 years before the passage of the Wild Horses Act, defined "immediately" as "without interval of time; without delay; straightaway." *Immediately*, *Webster's Third New International Dictionary* (3d ed. 1961). The Compact Edition of the Oxford Dictionary, issued in the same year as the Wild Horses Act, defined "immediately" as "[w]ithout any delay or lapse of time; instantly, directly, straightaway; at once." *Immediately*, *The Compact Edition of the Oxford English Dictionary* (1971).

While the Wild Horses Act directs BLM to remove excess animals immediately, it then prescribes a multi-step process to effect removal. *See* 16 U.S.C. §§ 1333(b)(2)(A)–(C). First, the Act instructs BLM to order the destruction of old, sick, or lame animals "in the most humane manner possible." *Id.* § 1333(b)(2)(A). Next, the Act directs BLM to cause any additional excess animals "to be humanely captured and removed for private maintenance and care for which [BLM] determines an adoption demand exists by qualified individuals, and for which [BLM] determines [it] can assure humane treatment and care (including proper transportation, feeding, and handling)." *Id.* § 1333(b)(2)(B). Finally, the Act directs BLM to "cause additional excess wild free-roaming horses and burros for which an adoption demand by qualified individuals does not exist to be destroyed in the most humane and cost efficient manner possible." *Id.* § 1333(b)(2)(C).

Such a segmented process, by its very nature, acknowledges that removal cannot be accomplished instantaneously. The Wild Horses Act not only requires BLM to follow a specific sequence of removal actions, but it also conditions those actions on the humane treatment and care of the animals, on the qualifications of the individuals adopting those animals, and on the cost-efficiency of actions to destroy excess animals. Therefore, practically, BLM must devise and enact removal strategies that encompass multiple steps and balance immediacy with conditions related to animal wellbeing and cost-efficiency.

Moreover, the Wild Horses Act expressly mandates that BLM shall "manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands." *Id.* § 1333(a). In service of that purpose, the Act requires BLM

to "consider the recommendations of qualified scientists in the field of biology and ecology, some of whom shall be independent of both Federal and State agencies and may include members of the Advisory Board established [by the Wild Horses Act]." *Id.* In addition to considering those recommendations, "[a]ll [of BLM's] management activities . . . shall be carried out in consultation with" relevant state wildlife agencies. *Id.* An overly rigid immediacy requirement would prevent BLM from considering the recommendations of qualified individuals and complying with its other statutory obligations, and would thus constrain BLM's ability to achieve and maintain a thriving ecological balance on public lands.

In sum, the Act's detailed and potentially competing procedural mandates create practical realities that temper BLM's duty "immediately [to] remove" excess animals. BLM cannot simply snap its fingers, Thanos-like, and thereby remove all excess animals from the contemplated range. So while BLM must remove excess animals as promptly as possible, the Act's express and implicit conditions provide BLM with discretion to do so in a manner that makes it possible to implement Congress's other directives.

Ultimately, the provisions of the Wild Horses Act that surround the immediacy requirement make clear that Congress delegated to BLM significant authority to condition the timing of its removal actions on its other statutory obligations and practical constraints. Because it is our role to "police the outer statutory boundaries of [that] delegation[]," *Loper Bright*, 603 U.S. at 404, we adopt an interpretation that leaves ample room for BLM to craft the specific timing requirements in its gather and removal plans. Accordingly, we read the Wild Horses Act to require BLM

to remove excess animals from the range to achieve appropriate management levels as promptly as logistically and reasonably possible, taking into account the humane treatment of the wild horses and burros and other considerations required by the Act.

B

Having decided that the immediacy requirement leaves room for BLM to modulate the speed of its removal actions on practical realities and statutorily required considerations, the question remains whether the Gather Plans at issue here violate the immediacy requirement. Plaintiffs-Appellants contend that the Gather Plans violate the Wild Horses Act in two specific ways. First, Plaintiffs-Appellants argue that the Gather Plans violate the immediacy requirement because the Plans lack any timing requirement for conducting the prescribed initial gathers. Second, Plaintiffs-Appellants assert that the Gather Plans violate the immediacy requirement because they condition population control measures and follow-up gathers upon off-site conditions, such as funding limitations and competing national priorities, that are not included in the Wild Horses Act. We conclude that both Gather Plans comply with the Wild Horses Act's immediacy requirement.

The first argument fails to persuade because the Wild Horses Act does not require that removal actions occur within a specific time frame. Nor does the Act require BLM to set a specific time frame for removal actions. Rather, as discussed above, the Wild Horses Act delegates to BLM significant discretion regarding timing. In this instance, BLM acted comfortably within its statutory authority. Both Gather Plans expressly direct BLM to undertake the initial gather activity—which is designed to achieve low AML—

promptly, and the Plans do not condition the initial gather on any external consideration. At most, the Plans acknowledge potential practical difficulties in achieving low AML through a single gather. The Plans acknowledge, for example, that weather conditions can thwart an initial gather. Those are precisely the kinds of practical constraints that the Wild Horses Act grants BLM the discretion to consider. *See, e.g.*, 16 U.S.C. § 1333(b)(2)(B).

Beyond the absence of elective delay, the Little Fish Gather Plan declares that "[BLM]'s plan is to promptly remove all excess animals above low AML" and that the Plan is needed to "remove excess wild horses and burros and bring the population down to low end of AML as expeditiously as possible." The Little Fish Gather Plan further clarifies that "[t]he management objective for [Little Fish] is to achieve low AML as immediately as possible." Similarly, the Stone Cabin Gather Plan declares that it is consistent with 43 C.F.R. § 4720.1, which requires BLM to "remove the excess animals immediately" upon its determination that such excess animals exist. Both Gather Plans contextualize the promptness language by discussing the possible logistical barriers to achieving AML quickly. Those discussions do not constitute evidence of delay; instead, they demonstrate that BLM seriously considered its statutory mandate and acted reasonably in its effort to achieve AML promptly.

Contrary to Plaintiffs-Appellants' suggestion, the absence of a concrete temporal requirement does not allow for the indefinite deferral of an initial gather. Instead, the Gather Plans' promptness language makes clear that BLM cannot infinitely defer initial gathers without violating the Gather Plans. Additionally, an appropriate party may bring a challenge under § 706(1) of the APA if that party believes

that BLM has unreasonably delayed in fulfilling its statutory obligation to remove excess animals with sufficient speed.

Plaintiffs-Appellants' second argument is outside the scope of the Wild Horses Act's immediacy requirement. Plaintiffs-Appellants argue that BLM violated the Wild Horses Act by conditioning follow-up gathers and population control measures on funding limitations and competing national priorities. But the Act requires BLM "immediately [to] remove excess animals from the range so as to *achieve* appropriate management levels." 16 U.S.C. § 1333(b)(2) (emphasis added). The conditions to which Plaintiffs-Appellants object concern population-maintenance strategies implemented after a low AML has already been achieved, rather than the initial activities undertaken to reach that low AML. The Gather Plans do not subject the initial gathers to any such conditions, and Plaintiffs-Appellants point to no other statutory authority that would prohibit BLM from considering such conditions in its maintenance actions. Thus, the immediacy requirement is inapplicable to those maintenance actions and their attendant conditions.

C

In sum, the Wild Horses Act's immediacy requirement mandates that BLM promulgate gather plans that remove excess animals as promptly as logistically and reasonably possible. But the Wild Horses Act grants BLM significant discretion to determine what is logistically and reasonably possible, provided that the considerations are grounded in the text of the Act. Neither of the Gather Plans at issue here runs afoul of the outer limits of BLM's discretion.

AFFIRMED.