

4/22/10

ASDO NEPA DOCUMENT ROUTING SHEET

NEPA Document Number: DOI-BLM-AZ-A010-2010-0005-CX

Project Title: Fredonia Agricultural Tract Roads/Utility Right-of-Way Amendment AZA-35400

Project Lead: Laurie Ford

Date that any scoping meeting was conducted:

Date that concurrent, electronic distribution for review was initiated: February 3, 2010

Deadline for receipt of responses: **February 24, 2010**

ID Team/Required Reviewers will be determined at scoping meeting or as a default the following:

Gloria Benson, Tribal Liaison
Diana Hawks, Recreation/Wilderness/VRM
Laurie Ford, Lands/Realty/Minerals
Karen "Kitti" Jensen, Wildlife/T&E
John Herron, Cultural
Lee Hughes, Special Status Plants
Ray Klein, GCPNM Supervisory Ranger
Linda Price, S&G
Whit Bunting, Range/Vegetation/Weeds
Richard Spotts, Environmental Coordinator
John Sims, Supervisory Law Enforcement
Lorraine Christian, ASFO Field Manager

Required Recipients of electronic distribution E-mails only (not reminders):

Andi Rogers (E-mail address: arogers@azgfd.gov)

Sarah Reif (E-mail address: sreif@azgfd.gov)

LeAnn Skrzynski (E-mail address: lskrzynski@kaibabpaiute-nsn.gov)

(Ms. Rogers and Ms. Reif are Arizona Game and Fish Department (AGFD) habitat specialists. Ms. Skrzynski is Environmental Program Director for the Kaibab Paiute Tribe (KPT). They may review and/or forward on ASDO NEPA documents to other employees. If a Project Lead receives comments from any AGFD employee on their draft NEPA document, they should include them in the complete set/administrative record and share them with Kitti Jensen as the ASDO Wildlife Team Lead. Ms. Jensen will then recommend how these comments should be addressed. If a Project Lead receives comments from any KPT employee, they should include them in the complete set/administrative record and share them with Gloria Benson as the ASDO Native American Coordinator. Ms. Benson will then recommend how these comments should be addressed.)

Discretionary Reviewers:

None

**Fredonia Agricultural Tract Roads/Utility
Right-of-Way Amendment AZA-35400**

NEPA Document Number: DOI-BLM-AZ-A010-2010-0005-CX
Categorical Exclusion Documentation

A. Background

BLM Office: Arizona Strip Field Office

Case File No.: AZA-35400

Proposed Action Title/Type: Fredonia Agricultural Tract Roads/Utility Right-of-Way Amendment

Location of Proposed Action: The proposed action is located within the following described area and as shown on the map in Attachment 1 (dimensions are approximate):

Gila and Salt River Meridian, Arizona

- T. 41 N., R. 2 W.,
 - sec. 16, unlotted 3 (49.50 feet wide by 1,436.54 feet long – 1.63 acres)
 - sec. 20, lot 2 (39.60 feet wide by 1,355.00 feet long – 1.23 acres)
 - lot 3 (39.60 feet wide by 2,856.48 feet long – 2.57 acres)
 - lot 4 (49.50 feet wide by 1,479.06 feet long [Hwy 389 portion]
and 36.96 feet wide by 2,700.06 feet long – 3.77 acres)
 - lot 6 (36.96 feet wide by 3,405.27 feet long – 2.83 acres)
 - lot 8 (39.60 feet wide by 2,530.00 feet long – 2.30 acres)
 - sec. 21, unlotted 3 (49.50 feet wide by 1,699.78 feet long – 1.93 acres)
 - sec. 29, unlotted 1 (33.00 feet wide by 4,071.87 feet long – 3.08 acres)
 - unlotted 2 (33.00 feet wide by 4,031.28 feet long – 3.05 acres)

Containing 22.39 acres, more or less.

Background:

The Act of July 28, 1914, authorized the survey and sale of the Fredonia townsite and associated agricultural tracts. When the agricultural tracts were surveyed, lanes 33 to 49.5 feet wide were not included in the tracts and were used then and today as access lanes to the various tracts. Most of the lanes fall within the limits of the town of Fredonia; those lying in section 29 are south of the town limits and are solely subject to Coconino County control. The town of Fredonia received patent to the public reserves, streets, and canals within the townsite limits, and to a reservoir site south of the agricultural tracts, but the Act did not provide for the disposition of the access lanes. Subsequent to the townsite and agricultural tract patents in the 1920s, the land immediately surrounding Fredonia was patented under various laws (mostly Homestead and Stock Raising Homestead) and is now either private or owned by the State of Arizona. The access lanes remain the only Federal land (except for a Forest Service Work Station) in the immediate vicinity of Fredonia; are isolated, difficult and uneconomical to manage; and most are used for various access purposes by the local populace.

These access lanes are identified for disposal by sale or exchange in the Arizona Strip Field Office Resource Management Plan, dated January 29, 2008. The town of Fredonia and Coconino County have previously resisted transfer of the lanes due to the poorly developed or undeveloped conditions of the lanes as streets and they were concerned with the cost of bringing the lanes up to road standards.

However, with its interests in the water, sewer, and power lines along some of the lanes, the town of Fredonia has a specific interest in the ultimate ownership of the lanes and acknowledges that the BLM will not "bring the lanes up to town standards" prior to conveyance. There is no apparent reason that the lanes should remain in Federal ownership and efforts to transfer title to the town of Fredonia have been initiated but this process may be lengthy and time consuming. In the meantime, the following action has been proposed to authorize use of the access lanes by the town of Fredonia.

Description of Proposed Action:

The town of Fredonia has applied for a right-of-way grant for all lanes of public land within the town of Fredonia and agricultural tracts as described above. The right-of-way grant would authorize the access and maintenance of the lanes, any existing unauthorized public utility systems, and any future public utility systems owned and operated by the town of Fredonia, including the installation of new pipelines to carry wastewater to the wastewater treatment facility south of town. Utility lines could include water, sewer, and gas pipelines; electric distribution and transmission lines; and telephone and fiber optic lines, among others, owned and operated by the town of Fredonia.

A cultural resource project record has been completed documenting no cultural properties are present. The lanes are not within or do not include areas of critical environmental concern, lands supporting listed species, National Historic Trails, riparian areas, or areas managed to maintain wilderness characteristics. The right-of-way grant would be subject to all provisions of 43 CFR 2800 including the terms and conditions identified in 43 CFR 2805 and the special conditions listed in Attachment 2.

B. Land Use Plan Conformance

Land Use Plan (LUP) Name: Arizona Strip Field Office Resource Management Plan

Date Approved: January 29, 2008

The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decision:

MA-LR-06 – Individual land use authorizations (ROWs, permits, leases, easements) will be evaluated on a case-by-case basis in accordance with other RMP provisions and NEPA compliance. New land use authorizations will be discouraged within avoidance areas (i.e., ACECs, lands supporting listed species, NHTs, riparian areas, and areas managed to maintain wilderness characteristics) and allowed in such areas only when no reasonable alternative exists and impacts to these sensitive resources can be mitigated. New ROWs will be routed away from high-density listed species' populations and cultural sites, and along the edges of avoidance areas. In addition, mitigation measures may include underground placement of linear ROWs along existing roads in the House Rock Valley area and special protection measures for archaeological resources (See Special Status Species and Cultural decisions).

In addition, the proposed action does not conflict with other decisions in the LUP.

C: Compliance with NEPA:

The proposed action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, E(16) which provides for the issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes.

This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 apply (Attachment 3). In addition, I considered the existing use of the lanes for access and utility purposes, that almost all are paved or unpaved roads, that some are included in a maintenance agreement between Coconino County and the town of Fredonia, and that all lanes are within the town of Fredonia or the agricultural tracts and are being used as ingress-egress/utility rights-of-way as intended by the Act of July 28, 1914, and that previous rights-of-way have been granted for utilities for almost all of the lanes (AZA-30866 sewer lines, AZA-26095 telephone line, AZPHX-063034 telephone line). I also considered the additional special conditions identified in Attachment 2.

D: Signature

Authorizing Official: Lorraine M. Christian Date: April 22, 2010
Lorraine M. Christian, Field Manager

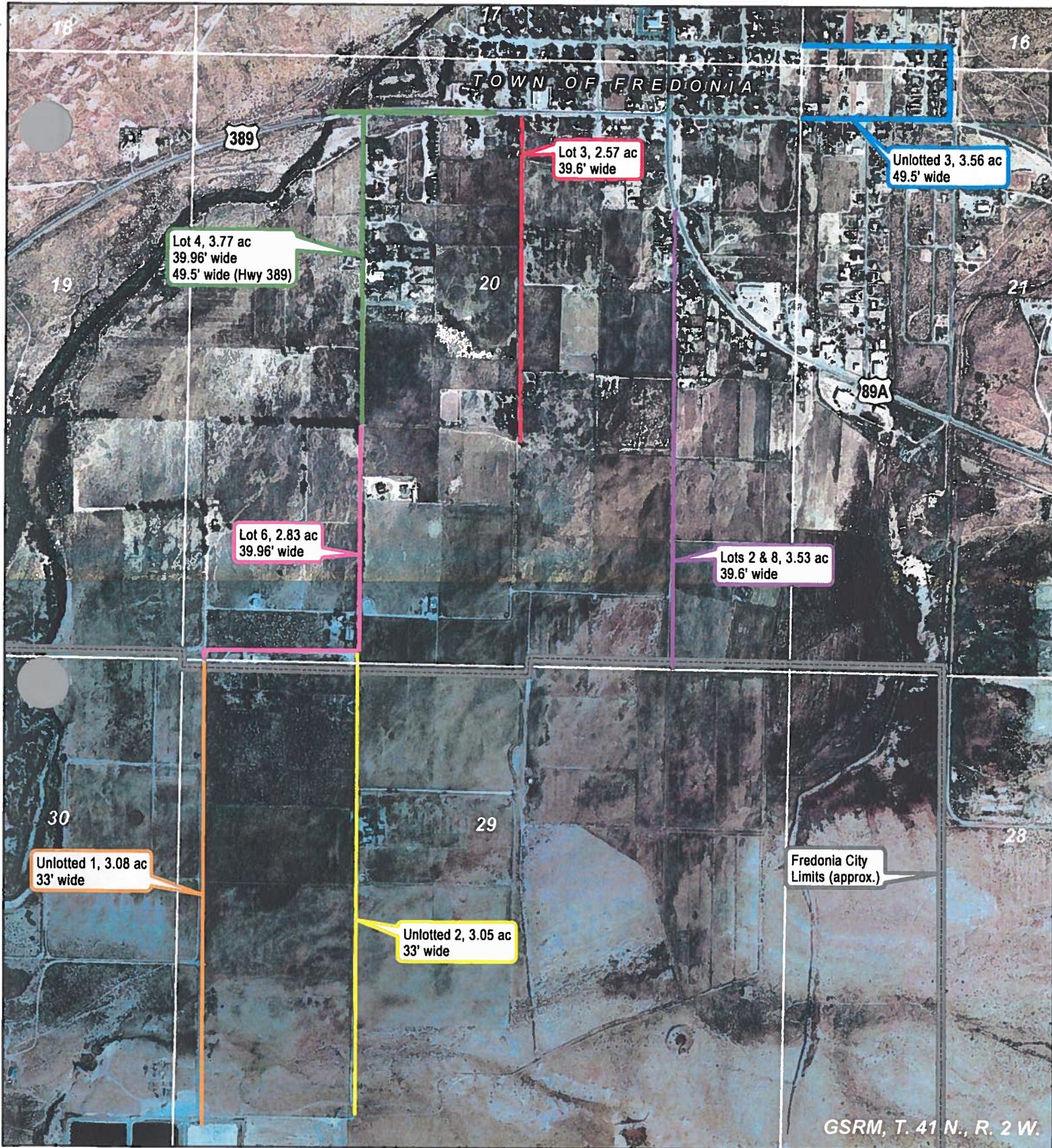
Contact Person

For additional information concerning this CX review, contact Laurie Ford, Team Lead, Lands and Geological Sciences, BLM, Arizona Strip Field Office, 345 East Riverside Drive, St. George, Utah 84790; phone (435) 688-3271.

Attachment 1

Location Map

Fredonia Agricultural Tract Roads/Utility Right-of-Way Amendment AZA-35400



United States Department of the Interior
 Bureau of Land Management
 Arizona Strip Field Office

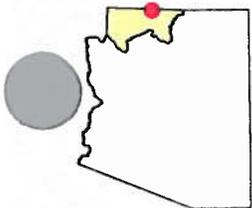


Town of Fredonia Agricultural Tract Roads

Map created on January 7, 2010

0 330 660 1,320 Feet

CAUTION: Land ownership data is derived from less accurate data than the 1:24000 scale base map. Therefore, land ownership may not be shown for parcels smaller than 40 acres, and land ownership lines may have plotting errors due to source data. No warranty is made by the Bureau of Land Management for the use of the data for purposes not intended by the BLM.



Attachment 2

Special Conditions

Fredonia Agricultural Tract Roads/Utility Right-of-Way Amendment AZA-35400

1. Right-of-way area/construction sites would be maintained in a sanitary condition at all times; waste materials at those sites would be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment. "Waste" also includes the creation of micro-trash such as bottle caps, pull tabs, broken glass, cigarette butts, small plastic, etc. No micro-trash would be left at construction sites and trash receptacles used at construction sites would be wildlife proof.
2. At no time would vehicle or equipment fluids (including motor oil and lubricants) be dumped on public lands. All accidental spills would be reported to the authorized officer and be cleaned up immediately, using best available practices and requirements of the law, and disposed of in an authorized disposal site. All spills of federally or state listed hazardous materials which exceed the reportable quantities would be promptly reported to the appropriate state agency and the authorized officer.
3. The holder of Right-of-Way AZA-35400 would agree to fully indemnify or hold harmless the United States against any liability, damage, or claims arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601 et seq. or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq.) on the right-of-way. This agreement applies without regard to whether a release is caused by the holder, its agent, or third parties.
4. Any surface or sub-surface archaeological, historical, or paleontological remains not covered in the Cultural Resource Project Record discovered during preparation or actual work would be left intact; all work in the area would stop immediately and the authorized officer (435-688-3323) would be notified. Commencement of work would be allowed upon clearance by the authorized officer in consultation with the archaeologist.
5. If in connection with this work, any human remains, funerary objects, sacred objects, or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (P. L. 101-601; 104 Stat. 3048; 25 U.S.C. 3001) are discovered, the holder would stop operations in the immediate area of the discovery, protect the remains and objects, and immediately notify the authorized officer. The holder would continue to protect the immediate area of the discovery until notified by the authorized officer that operations may resume.
6. The holder would be responsible for the eradication of noxious weeds within the right-of-way area throughout the term of the right-of-way and would be responsible for consultation with the authorized officer and local authorities for implementing acceptable weed treatment methods. Any use of chemical treatments would be made using only chemicals approved in the *Final Vegetation Treatments Using Herbicides on Bureau of Land Management Lands in 17 Western States Programmatic Environmental Impact Statement* (June 2007b), by a state certified applicator who would abide by all safety and application guidelines as listed on the product label and Material Safety Data Sheet.
7. Use of herbicides would comply with the applicable Federal and state laws. Herbicides would be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of herbicides, the holder would obtain from the authorized officer written approval of a plan showing the type and quantity of material to be used, weed(s) to be controlled, method of application, location of storage and mixing areas, method of cleansing and disposing of containers, and any other information deemed necessary by the authorized officer. Emergency use of herbicides would be approved in writing by the authorized officer prior to such use.

Attachment 3

Extraordinary Circumstances Described in 516 DM 2 Fredonia Agricultural Tract Roads/Utility Right-of-Way Amendment AZA-35400

EXTRAORDINARY CIRCUMSTANCES REVIEW AND CHECKLIST		
<p>IMPORTANT: Appropriate staff should review the circumstances listed below, and comment for concurrence. Rationale supporting the concurrence should be included where appropriate.</p>		
EXTRAORDINARY CIRCUMSTANCES Does the proposed action...	YES/NO & RATIONALE (If Appropriate)	STAFF
1. Have significant impacts on public health and safety?	No	LFord
2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness or wilderness study areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds (Executive Order 13186); and other ecologically significant or critical areas?	No	DHawks JHerron KJensen
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)]?	No	LFord
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?	No	LFord
5. Establish a precedent for future action, or represent a decision in principle about future actions, with potentially significant environmental effects?	No	LFord
6. Have a direct relationship to other actions with individually insignificant, but cumulatively significant, environmental effects?	No	LFord
7. Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by either the Bureau or office?	No	JHerron
8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species?	No	KJensen LHughes
9. Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment?	No	LFord GBenson
10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898)?	No	LFord
11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners, or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007)?	No	GBenson
12. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area, or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112)?	No	WBunting

Decision Memorandum

Fredonia Agricultural Tract Roads/Utility Right-of-Way Amendment AZA-35400

DOI-BLM-AZ-A010-2010-0005-CX

U.S. Department of the Interior

Bureau of Land Management

Arizona Strip Field Office

Approval and Decision

Based on a review of the project described in the attached Categorical Exclusion (CX) documentation and field office staff recommendations, I have determined that the project is in conformance with the Arizona Strip Field Office Resource Management Plan (approved January 29, 2008) and is categorically excluded from further environmental analysis. It is my decision to approve the action as proposed with the special conditions identified in Attachment 2 of the CX.

Administrative Review or Appeal Opportunities

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in the Arizona Strip Field Office, 345 East Riverside Drive, St. George, Utah 84790 within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

In accordance with 43 CFR 2801.10(b), this decision remains in effect pending appeal unless a stay is granted. If you wish to file a petition pursuant to regulations at 43 CFR 2801.10 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. 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 Department of the Interior, Office of the Field Solicitor, Sandra Day O'Connor U.S. Court House #404, 401 West Washington Street SPC44, Phoenix, AZ 85003-2151 (see 43 CFR 4.413) at the same time the original documents are filed in 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 regulations, 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.

Lorraine M. Christian
Lorraine M. Christian, Field Manager

April 22, 2010
Date

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 he wishes 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**..... Field Manager, Arizona Strip Field Office
Bureau of Land Management
345 East Riverside Drive
St. George, Utah 84790
- NOTICE OF APPEAL**.....
- WITH COPY TO SOLICITOR**..... Office of the Field Solicitor
Sandra Day O'Connor US Courthouse, Suite 404
401 West Washington Street, SPC-44
Phoenix, Arizona 85003-2151
- 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**..... Office of the Field Solicitor
Sandra Day O'Connor US Courthouse, Suite 404
401 West Washington Street, SPC-44
Phoenix, Arizona 85003-2151
- 4. ADVERSE PARTIES**..... Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).
- 5. PROOF OF SERVICE**..... Within 15 days after any document is served on an adverse party, file proof of that service 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. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).
- 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 regulations, 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.