

3-29-2010

ASDO NEPA DOCUMENT ROUTING SHEET

NEPA Document Number: DOI-BLM-AZ-A010-2010-0012-CX

Project Title: Ellis Arvada Parking Permit AZA-35316

Project Lead: Laurie Ford

Date that any scoping meeting was conducted: N/A

Date that concurrent, electronic distribution for review was initiated: March 8, 2010

Deadline for receipt of responses: March 24, 2010 (NOTE: SHORTENED REVIEW TIME). Review time shortened to accommodate applicant timeframes and was approved by the Field Manager.

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 Wildlife
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

Ellis Arvada Parking Permit AZA-35316

NEPA Document Number: DOI-BLM-AZ-A010-2010-0012-CX
Categorical Exclusion Documentation

A. Background

BLM Office: Arizona Strip Field Office

Case File No.: AZA-35316

Proposed Action Title/Type: Ellis Arvada Parking Permit

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

Gila and Salt River Meridian, Arizona

T. 39 N., R. 16 W.,
sec. 4, lot 2.

containing 15.00 acres, more or less

Description of Proposed Action: Jason M. Ellis has applied for a permit to use the area shown on the attached map (Attachment 1) for a parking area between the dates of April 1, 2010 to April 18, 2010 in conjunction with an event at the adjacent motocross track on private land. The applicant proposes to scrape the vegetation in the area using a Cat 140H so vehicles and trailers could be parked in association with the event to occur on private land. All vehicles and trailers would be removed from the parcel prior to the permit expiration date and all materials, trash, etc. would be removed and disposed of at an authorized waste disposal site. The 40-acre parcel described above has previously been cleared of vegetation, and unauthorized dumping and OHV use have taken place. The applicant would not be required to remove a large tank that is currently located on the parcel. The parcel is identified for disposal in the Arizona Strip Field Office Resource Management Plan (2008) and is proposed to ultimately be offered for competitive sale. The permit would be subject to all provisions of 43 CFR 2920 including the terms and conditions identified in 43 CFR 2920.7 and special conditions listed in Attachment 2; and rental payments as provided by 43 CFR 2920.8.

B. Land Use Plan Conformance

Land Use Plan 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).

The proposed permit area does not occur within any avoidance area. 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(19), which provides for the issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition.

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).

I considered the short duration and low/minimum impacting nature of the proposal along with the additional special conditions identified in Attachment 2 which would not cause appreciable damage or disturbance to the public lands, their resources, or improvements in accordance with 43 CFR 2920.2-2. All vehicles and trailers would be removed from the parcel prior to the permit expiration date and all materials, trash, etc. would be removed and disposed of at an authorized waste disposal site returning the permitted area to near its original condition. Vegetation, similar to the existing situation, is expected to re-establish after spring/fall precipitation.

D: Signature

Authorizing Official: Lorraine M. Christian Date: March 29, 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.

Ellis Arvada Parking Permit

AZA-35316

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



Map created on March 5, 2010



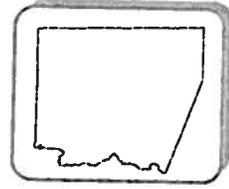
Legend

Proposed Parking Area
(approx. 15 acres)

Bureau of Land Management

State of Arizona

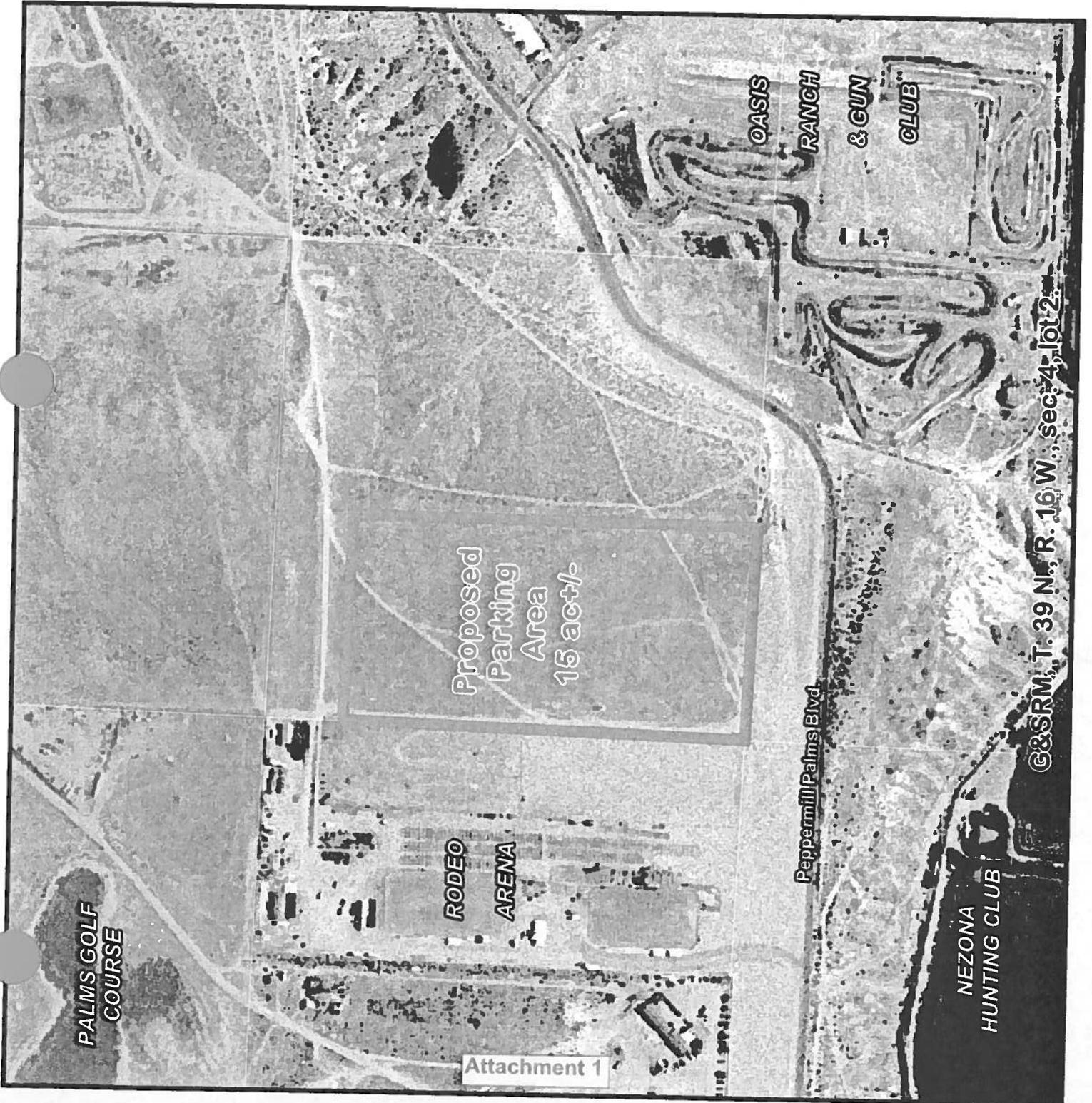
0 140 280 560 Feet



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

Ellis Arvada Parking Permit AZA-35316

1. This permit would be issued subject to the holder's compliance with all applicable laws and regulations and, in particular, with the regulations contained in Title 43 Code of Federal Regulations part 2920.
2. All vehicles and trailers would be removed from the public lands prior to permit expiration and any materials and/or waste left behind would be collected and properly disposed of at an authorized waste disposal facility or as directed by the authorized officer.
3. The holder would conduct all activities associated with the clearing, operation, and termination of the permit within the authorized limits of the permit.
4. Permitted area would be maintained in a sanitary condition at all times; waste materials 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, 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 the permitted area.
5. 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.
6. The holder would not use the public lands for any purposes other than those specified in the permit without the approval of the authorized officer.
7. Liability provisions of 43 CFR 2920.7(f) would apply as follows: "(1) Holders of a land use authorization and all owners of any interest in, and all affiliates or subsidiaries of any holder of a land use authorization issued under these regulations shall pay the United States the full value for all injuries or damage to public lands or other property of the United States caused by the holder or by its employees, agents or servants, or by a contractor, its employees, agents or servants, except holders shall be held to standards of strict liability where the Secretary of the Interior determines that the activities taking place on the area covered by the land use authorization present a foreseeable hazard or risk of danger to public lands or other property of the United States. Strict liability shall not be applied where such damages or injuries result from acts of war or negligence of the United States. (2) Holders of a land use authorization and all owners of any interest in, and affiliates or subsidiaries of any holder of a land use authorization issued under these regulations shall pay third parties the full value of all injuries or damage to life, person or property caused by the holder, its employees, agents or servants or by a contractor, its employees, agents or servants. (3) Holders of a land use authorization shall indemnify or hold harmless the United States against any liability for damages to life, person or property arising from the authorized occupancy or use of the public lands under the land use authorization. Where a land use authorization is issued to a State or local government or any agency or instrumentality thereof, which has no legal power to assume such liability with respect to damages caused by it to lands or property, such State or local government or agency in lieu thereof shall be required to repair all damages."

8. Reclamation of all surface disturbances would be initiated immediately upon completion of activities, unless otherwise approved by the authorized officer. Reclamation of disturbed areas would, to the extent practicable, include contouring disturbances to blend with the surrounding terrain, removing any foreign materials and returning the permitted area to the original condition or better. The holder would not be required to remove the large tank already in place on the parcel.
9. 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.
10. 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.
11. The holder would install temporary fencing (snow fence) to delineate the boundaries of the permitted area and the entrance to and exit from the parking area would be clearly marked. Temporary fencing would clearly establish where users are permitted to park and prevent users from parking in washes or up hills that may provide habitat for sensitive species. Parking would remain on the flat, disturbed part of the BLM site and avoid the hills where wildlife is present. Installing the plastic snow fencing would help direct traffic to a controlled area. Holder would maintain all boundary fencing in place until final cleanup and reclamation activities commence as directed by the authorized officer.
12. If California condors are encountered while permitted activities are underway, the permittee would notify the BLM wildlife team lead at (435) 688-3239.
13. No hazing or harassment of wildlife would be permitted.
14. Any scraping of the vegetated area should, to the extent possible, avoid removing and/or damaging large shrubs, particularly creosote bush.

Attachment 3

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	KJensen 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

Ellis Arvada Parking Permit AZA-35316

DOI-BLM-AZ-A010-2010-0012-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 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 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 2920.2-2(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 2920.2-2 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

March 29, 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).
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- 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)).
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- 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.