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14 UNITED STATES DISTRICT COURT  
15 FOR THE DISTRICT OF ARIZONA

16 WESTERN WATERSHEDS PROJECT,  
17 Plaintiff,  
18 vs.  
19 BUREAU OF LAND MANAGEMENT,  
20 Defendant.

21 Case No.:

22 **COMPLAINT**

23 **(Declaratory and Injunctive Relief)**

24 **INTRODUCTION**

25 1. Plaintiff Western Watersheds Project (“WWP”) challenges Defendant  
26 Bureau of Land Management’s (“BLM”) mismanagement of the Sonoran Desert National  
27 Monument with respect to livestock grazing. BLM continues to authorize livestock  
28 grazing on the monument that damages the soil, plant, wildlife, and historic resources  
there, in violation of the Presidential proclamation that set aside this monument to protect  
the values of this special desert ecosystem.

29 2. The Sonoran Desert is the most biologically diverse desert in North  
30 America. President Clinton established the 496,337 acre Sonoran Desert National  
31 Monument in January 2001 to protect the biodiversity of plants and animals and their

1 habitats, as well as the numerous historic sites, found in this desert setting. According to  
2 the proclamation that established the monument, this newly protected area in the heart of  
3 Arizona has “an extraordinary array of biological, scientific, and historic resources” that  
4 provide for a “spectacular diversity of plant and animal species,” including imperiled  
5 species such as desert bighorn sheep, Sonoran pronghorn, Sonoran desert tortoise, and many  
6 other birds, reptiles, and plants.

7         3. Recognizing the harmful impacts that livestock grazing was having on this  
8 ecosystem, the proclamation closed all grazing allotments in the southern portion of the  
9 monument, and allowed grazing to continue on the northern portion of the monument  
10 **only** if BLM determined that grazing is compatible with the “paramount purpose of  
11 protecting the objects identified in this proclamation.”

12         4. More than seven years later, BLM still has not determined that livestock  
13 grazing is compatible with protecting the native habitats, vegetation, wildlife, and historic  
14 sites on the monument, yet it continues to authorize grazing. Despite scientific studies  
15 showing that livestock are degrading soils, reducing plant diversity, increasing weeds and  
16 non-native plants, and damaging wildlife habitat on the monument, BLM renewed  
17 numerous grazing permits for additional ten-year terms in 2005 and has continued to  
18 issue annual authorizations for grazing on allotments within the northern portion of the  
19 monument.

20         5. BLM has failed to make the mandatory determination as to whether  
21 livestock grazing is compatible with the stated purpose of protecting the fragile desert  
22 ecosystem, in violation of the Sonoran Desert National Monument proclamation.  
23 Furthermore, BLM’s continuing authorization of grazing on the monument through  
24 permit renewals and subsequent annual authorizations despite no determination that this  
25 grazing is compatible with monument objectives, and studies showing that in fact this  
26 grazing is damaging monument resources, is arbitrary and capricious and contrary to the  
27 proclamation.

28         6. WWP thus seeks judicial review and relief compelling the BLM to conduct

1 expeditiously the required livestock grazing compatibility determination and setting aside  
2 the renewed grazing permits and annual authorizations until the BLM has properly  
3 determined that grazing is compatible with the purpose of protecting the resources on the  
4 Sonoran Desert National Monument.

### 5 **JURISDICTION AND VENUE**

6 7. Jurisdiction is proper in this Court under 28 U.S.C. § 1331 because this  
7 action arises under the laws of the United States, including the Antiquities Act, 16 U.S.C.  
8 § 431, and the Sonoran Desert National Monument Proclamation, Proclamation No.  
9 7397, 66 Fed. Reg. 7354; the Administrative Procedure Act, 5 U.S.C. § 701 et seq.; the  
10 Declaratory Judgment Act, 28 U.S.C. § 2201 et seq.; and the Equal Access to Justice Act,  
11 28 U.S.C. § 2214 et seq. An actual, justiciable controversy now exists between Plaintiff  
12 and Defendant, and the requested relief is therefore proper under 28 U.S.C. §§ 2201-02  
13 and 5 U.S.C. §§ 701-06.

14 8. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e) because a  
15 substantial part of the events or omissions giving rise to the claims herein occurred within  
16 this judicial district and a substantial part of the public lands and resources at issue are  
17 located within this district.

18 9. The Federal Government has waived sovereign immunity in this action  
19 pursuant to 5 U.S.C. § 702.

### 20 **PARTIES**

21 10. Plaintiff WESTERN WATERSHEDS PROJECT (“WWP”) is a regional,  
22 membership, not-for-profit conservation organization, dedicated to protecting and  
23 conserving the public lands and natural resources of watersheds in the American West.  
24 WWP has offices throughout the West, including in Tucson, Arizona, and more than  
25 1,300 members located throughout the United States. Through agency proceedings,  
26 public education, scientific studies, and legal advocacy conducted by its staff, members,  
27 volunteers, and supporters, WWP is actively engaged in protecting and improving plant  
28 and animal communities and other natural resources and ecological values of western

1 watersheds.

2 11. WWP has actively participated in management of livestock grazing on the  
3 Sonoran Desert National Monument through letters, comments, field trips, and oral  
4 communications to the BLM, expressing its concerns over livestock grazing on the  
5 monument. WWP staff and members use and enjoy the wildlife, public lands, and other  
6 natural resources on the Sonoran Desert National Monument for many health,  
7 recreational, scientific, spiritual, educational, aesthetic, and other purposes. WWP staff  
8 and members pursue activities such as hiking, wildlife viewing, biological and botanical  
9 research, photography, and spiritual renewal on the Sonoran Desert National Monument.  
10 Livestock grazing that degrades this fragile ecosystem impairs the use and enjoyment of  
11 this monument by WWP staff and members.

12 12. WWP staff, members, and supporters will continue to visit the Sonoran  
13 Desert National Monument in the future for many purposes such as hiking, wildlife  
14 viewing, photography, scientific study, spiritual renewal, and to otherwise enjoy the  
15 natural scenery and beauty of the Sonoran Desert. WWP, both organizationally and on  
16 behalf of its staff, members, and supporters, has an interest in the preservation and  
17 protection of the Sonoran Desert National Monument, which interest is directly harmed  
18 by Defendant's violations of law challenged herein.

19 13. The above-described conservation, recreational, scientific, and aesthetic  
20 interests of WWP and its staff, members and supporters have been, are being, and, unless  
21 the relief prayed for is granted, will continue to be adversely affected and irreparably  
22 injured by Defendant's violations of law. WWP has no adequate remedy at law, and thus  
23 the requested relief is appropriate.

24 14. Defendant BUREAU OF LAND MANAGEMENT ("BLM") is an agency  
25 or instrumentality of the United States, and is charged with managing the public lands  
26 and resources of the Sonoran Desert National Monument, in accordance and compliance  
27 with federal laws and regulations.

28

## FACTUAL BACKGROUND

### A. Sonoran Desert National Monument

15. The Sonoran Desert is a hot, arid region that stretches between southwest Arizona, southeast California, and northern Mexico. Although it is the hottest of our North American deserts, the Sonoran Desert has remarkably high biological diversity for both plants and animals. This desert is well-known for its “forests” of saguaro cactus, but is also home to other trees such as palo verde, desert ironwood, and mesquite, a variety of shrubs, and many species of ephemeral plants that arise after seasonal rains.

16. These varied plant communities provide habitat for a plethora of wildlife. The Sonoran Desert has over 2000 native plant species in total, many of which are endemic to the Sonoran Desert, as well as 60 mammals, 350 birds, 20 amphibians, and more than 100 reptiles that inhabit the area. The Sonoran Desert is one of the richest and most exceptional birding areas in the United States.

17. One of the defining characteristics of the upland Arizona portion of the Sonoran Desert is the biseasonal rainfall pattern, with winter rains coming from the Pacific and summer moisture coming from tropical monsoons. Years with good precipitation result in large populations of annual plants while other years result in drought and much less annual production. The mild winters rarely experience frost and thus almost half of the biota of this region is tropical in origin.

18. Livestock grazing, off-road vehicle use, encroachment of agriculture and human development, and introduction of non-native species are the primary threats facing the Sonoran Desert ecosystem.

19. Amidst this unique ecosystem, President Clinton established the Sonoran Desert National Monument pursuant to his authority under the Antiquities Act. In Presidential Proclamation 7397, President Clinton set aside this area to protect its resources from development and degradation.

20. The monument is located about 60 miles southwest of Phoenix, Arizona and encompasses 496,337 acres. Three mountain ranges dominate the landscape on the

1 monument, with intervening valleys that biologically link these ranges.

2 21. The proclamation begins by noting that the monument is a “magnificent  
3 example of untrammelled Sonoran desert landscape.” This desert ecosystem has “an  
4 extraordinary array of biological, scientific, and historic resources. The most biologically  
5 diverse of the North American deserts, the monument consists of distinct mountain  
6 ranges separated by wide valleys, and includes large saguaro cactus forest communities  
7 that provide excellent habitat for a wide range of wildlife species.”

8 22. The proclamation continues by discussing the “spectacular diversity of  
9 plant and animal species” here. The higher peaks on the monument contain unique  
10 woodland communities, while lower elevation lands “offer one of the most structurally  
11 complex examples of paloverde/mixed cacti association in the Sonoran Desert.” The  
12 proclamation highlights the saguaro cactus forests, stating that these forests, with their  
13 signature saguaro plants together with a wide variety of other trees, shrubs, and  
14 herbaceous plants, are “an impressive site to behold” and “a national treasure.”

15 23. In discussing the lower elevation, flatter areas of the monument, the  
16 proclamation notes the creosote-bursage plant community, which thrives in open  
17 expanses between mountain ranges and acts as a connector to other plant communities.  
18 The monument also contains desert grasslands as well as washes, which support denser  
19 vegetation such as mesquite, ironwood, paloverde, desert willow, and a variety of  
20 herbaceous plants. This vegetation provides dense cover for bird species for nesting,  
21 foraging, and escape, and “birds heavily use the washes during migration.”

22 24. Of particular relevance here, the proclamation remarks on the rich diversity,  
23 density, and distribution of plants in the Sand Tank Mountains area on the monument,  
24 which is due to the management regime in place in that particular area that has excluded  
25 livestock grazing there for more than fifty years.<sup>1</sup>

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26  
27  
28 <sup>1</sup> This area was withdrawn for military purposes in 1941. Pursuant to the proclamation,  
the military withdrawal terminated on November 6, 2001 and BLM has assumed  
management responsibility.

1           25.     Wildlife diversity is also a focal point of the proclamation. “The diverse  
2 plant communities present in the monument support a wide variety of wildlife, including  
3 the endangered Sonoran pronghorn, a robust population of desert bighorn sheep,  
4 especially in the Maricopa Mountains area, and other mammalian species such as mule  
5 deer, javelina, mountain lion, gray fox, and bobcat.”

6           26.     The proclamation makes note of other mammals, birds, reptiles, and  
7 amphibians on the monument. It mentions several bat species found here, including the  
8 endangered lesser long-nosed bat. More than 200 species of birds are found on the  
9 monument as well as many raptors and owls. Reptiles such as the red-backed whiptail  
10 and the Sonoran desert tortoise inhabit the monument, and 25,000 acres of land in the  
11 Maricopa Mountains has been designated as critical habitat for the desert tortoise. The  
12 Sonoran green toad is also found in parts of the monument.

13           27.     In addition to the biological resources on the monument, the proclamation  
14 also stresses the importance of the “many significant archaeological and historic sites,  
15 including rock art sites, lithic quarries, and scattered artifacts.” The monument contains  
16 remains of prehistoric travel corridors and villages as well as remnants of several  
17 important historic trails, including the Juan Bautista de Anza National Historic Trail, the  
18 Mormon Battalion Trail, and the Butterfield Overland Stage Route.

19           28.     In light of these biologic and historic values, President Clinton used his  
20 authority under the Antiquities Act to create the Sonoran Desert National Monument “for  
21 the purpose of protecting the objects identified above.”

22           29.     To further this purpose, the proclamation prohibited motorized and  
23 mechanized vehicle use off roads and withdrew the land from any form of entry, sale,  
24 leasing, or other disposition, including for mining or mineral development.

25           30.     The proclamation prohibited BLM from renewing grazing permits for all  
26 allotments within the monument south of Highway 8 at the end of their term; and stated  
27 that grazing north of Highway 8 “shall be allowed to continue only to the extent that the  
28 Bureau of Land Management determines that grazing is compatible with the paramount

1 purpose of protecting the objects identified in this proclamation.”<sup>2</sup>

2 31. According to the proclamation, the BLM must also prepare a management  
3 plan that addresses the actions, including road closures or travel restrictions, necessary to  
4 protect the objects identified in the proclamation. In light of the proclamation  
5 designating this area as a national monument, BLM no longer manages this area on a  
6 multiple use basis but instead must manage it for the protection of the objects of interest  
7 identified in the proclamation.

8 32. The Sonoran Desert National Monument Proclamation was signed by  
9 President Clinton on January 17, 2001.

10 **B. Livestock Grazing on the Monument**

11 33. The majority of the land now encompassed within the Sonoran Desert  
12 National Monument has been grazed by livestock for many decades. The Sand Tank  
13 Mountains area, mentioned above, in the southwest corner of the monument is the only  
14 substantial area that has not been impacted by grazing over the past fifty years.

15 34. All or parts of ten grazing allotments occur on the monument. The  
16 allotments south of Highway 8 consist of the Vekol, South Vekol, Table Top, and Santa  
17 Rosa allotments as well as a portion of the Big Horn allotment. Pursuant to the  
18 proclamation, the Vekol, South Vekol, and Table Top allotments were closed on  
19 February 29, 2008 and the Santa Rosa and southern portion of the Big Horn allotments  
20 are scheduled to close on February 28, 2009. To the north of Highway 8 is the remainder  
21 of the Big Horn allotment, and the Lower Vekol, Conley, Hazen, Beloat, and Arnold  
22 allotments.

23 35. Grazing permits for these allotments allow for two types of grazing:  
24 perennial and ephemeral. Perennial grazing authorization allows for a certain number of  
25 cattle to graze the allotment during a certain period of time each year for the ten year  
26 term of the permit.

27  
28 <sup>2</sup> Highway 8 crosses the Monument from east to west. Slightly more than half of the  
Monument occurs north of the Highway.



1           36. Ephemeral grazing authorization allows for additional grazing on a seasonal  
2 basis when rainfall provides adequate forage. Depending on the seasonal forage  
3 production, BLM authorizes a certain number of cows to graze for a limited time in that  
4 season. On the monument, ephemeral grazing occurs if seasonal winter or summer rains  
5 provide sufficient forage production.

6           37. Of the allotments on the monument, the Santa Rosa and Arnold allotments  
7 have only ephemeral grazing permits. The remainder of the allotments have permits that  
8 authorize both perennial and ephemeral grazing. Each of the perennial permits has a  
9 year-long season of use, meaning that the allotted number of cattle can use the allotment  
10 all year, and varies in number of cattle permitted from 70 cattle up to 559 cattle. Each  
11 permit also identifies the permitted animal unit months, or AUMs, allowed on an  
12 allotment. An AUM is the amount of forage needed to sustain a cow and calf pair for one  
13 month. The perennial permits for the allotments on the monument range from 832 to  
14 6104 AUMs.

15           38. The ephemeral grazing that occurs on the monument varies by year, with  
16 BLM often allowing hundreds, and in some cases thousands, of cattle to graze for several  
17 weeks or months under ephemeral permits. This type of permit authorizes grazing of  
18 AUMs in addition to the AUMs authorized by the perennial permits, which has been as  
19 many as several thousand additional AUMs on the monument allotments.

20           39. Livestock grazing on the area that is now within the Sonoran Desert  
21 National Monument has caused significant impacts to the natural and cultural resources  
22 there. Most of the grazing occurs on the lower elevation lands within desert scrub and  
23 cactus communities, mesquite woodlands, and floodplains and washes. The higher  
24 elevation mountain uplands and rocky slopes receive little grazing use. This dichotomy  
25 in use has resulted in heavier impacts to the vegetation and soils of the lowlands while the  
26 uplands have undergone much less disturbance.

27           40. Grazing use in the lowlands has resulted in compaction and erosion of soils,  
28 destruction of biological soil crusts, reduction in vegetation cover, loss of native plant

1 diversity, increase in non-native plants, and altered plant community structure and  
2 composition. This damage to vegetation also degrades wildlife habitat.

3 41. Livestock grazing compacts soils, making the soils denser and less  
4 permeable. Compacted dense soils inhibit water infiltration and increase surface water  
5 run-off, thereby increasing erosion of surface soil. Depletion of vegetative cover by  
6 livestock and the resultant increase in bare ground also increases soil erosion. This loss  
7 of vegetation cover and soil has long-term impacts to soil and plant productivity and the  
8 hydrology of watersheds.

9 42. Biological soil crusts on the soil surface are important assets to plant  
10 growth, enhancing plant uptake of nutrients and nitrogen, which is particularly important  
11 in nitrogen-limited desert ecosystems. These crusts provide favorable sites for  
12 germination of native plant seeds, and hinder germination of non-native seeds that prefer  
13 invading disturbed sites. Soil crusts also help prevent water and wind erosion. Livestock  
14 trampling and compression of soils damages or destroys these crusts, which results in  
15 impaired ecological functions. Recovery of soil crusts from disturbance can take years or  
16 even decades.

17 43. Plant community structure on the Sonoran Desert National Monument  
18 generally consists of an understory of perennial and annual grasses and forbs<sup>3</sup>, a mid-  
19 story of shrubs, cacti, and small trees, and an overstory of somewhat larger trees as well  
20 as columnar cacti like saguaro. In the driest areas of the monument, trees and tall shrubs  
21 are confined to drainages. Because of the dry climate, plant productivity is low,  
22 particularly during periods of drought.

23 44. Cattle usually prefer to eat grasses, but will also eat forbs and browse  
24 shrubs and small trees if grasses are unavailable. Grazing this vegetation reduces plant  
25 cover and density, increasing the amount of bare ground. Because of normally low  
26 productivity in the desert, vegetation may not recover unless grazing is discontinued.

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27  
28 <sup>3</sup> Forbs are broad-leaved herbaceous plants other than grasses, sedges, or rushes, and  
include a variety of wildflowers.

1 Cattle also alter the natural structure of communities by grazing the understory or mid-  
2 story more heavily, reducing the abundance of plants in the understory and favoring  
3 expansion of trees and shrubs.

4 45. Grazing significantly reduces native plant diversity, changing the  
5 composition of the plant community by eliminating plants that are sensitive to grazing  
6 and allowing only those plants more adapted to disturbance to grow. Likewise, grazing  
7 replaces native species, especially native grasses, with non-native invasive species  
8 because cattle prefer the native species, selecting them for eating and allowing invasive  
9 species to spread. These non-native species often increase the risk of wildfire.

10 46. Livestock grazing is detrimental to saguaro cactus communities because  
11 cattle trample and eat saguaro seedlings, and graze understory plants and grasses that  
12 provide protection and shade for saguaro seedlings. Grazing also increases wildfire risk  
13 through spread of exotic species, and saguaro cacti are intolerant of wildfire.

14 47. These impacts to soils and plant communities occur most severely in  
15 proximity to watering points and riparian areas where cattle congregate to find water,  
16 food, and shade. In contrast, upper elevation areas and rocky slopes that are much less  
17 accessible to cattle have greater plant diversity, greater abundance of rare plants, more  
18 natural plant composition and structure, and less soil disturbance.

19 48. Cattle grazing degrades wildlife habitat for many species of wildlife.  
20 Consumption and trampling of vegetation by livestock reduces forage and cover for many  
21 animals, including birds, small mammals, insects, and other native herbivores like deer  
22 and pronghorn. Many animals are highly dependent on seasonal pulses of plant  
23 productivity that occur in the Sonoran Desert in response to rain events, and ephemeral  
24 grazing that occurs during those same periods is particularly detrimental to the survival  
25 and reproduction of those species. Many wildlife species also heavily rely upon riparian  
26 areas and washes for protection and food, and livestock typically congregate there,  
27 removing forage and eliminating protective cover for wildlife.

28 49. Grazing structures such as water developments and fences can indirectly

1 harm wildlife. Water developments that remove water from washes impact downgradient  
2 riparian vegetation, which is heavily relied upon by wildlife for food and cover. These  
3 developments also create “hot spots” of extreme vegetation and soil degradation by  
4 livestock and high levels of non-native plants that are usually of lower value for wildlife.  
5 Fences also fragment habitat and limit movement of large mammals.

6 50. Many of the species directly named in the Sonoran Desert National  
7 Monument proclamation are impacted by livestock grazing, such as Sonoran pronghorn,  
8 Sonoran desert tortoise, and desert bighorn sheep. For instance, cattle compete with  
9 pronghorn for forage and reduce hiding cover for fawns. They eliminate nutritionally  
10 important forage for desert tortoise adults and hatchlings, which depend heavily on  
11 availability of plants after seasonal rainfall events. Thus, ephemeral grazing is  
12 particularly detrimental to the tortoise. Livestock grazing impacts desert bighorns by  
13 competing with bighorns for forage, impairing their movements with fences, and  
14 excluding bighorns from suitable habitat, movement corridors, or water sources because  
15 cattle are using those areas and bighorns often avoid cattle.

16 51. Finally, cattle damage cultural and historical sites by trampling artifacts and  
17 other features on the soil surface. They also induce changes in plants and soils that lead  
18 to erosion and gullyng which can displace or bury archaeological sites.

### 19 **C. BLM Management of Grazing on the Monument**

20 52. BLM is the agency responsible for managing the Sonoran Desert National  
21 Monument. This entails managing livestock grazing on the monument, among other  
22 things. Since the establishment of the monument in 2001, BLM has made no changes in  
23 grazing management on the monument allotments north of Highway 8 despite studies and  
24 data showing that grazing is impairing monument resources. BLM also has never  
25 completed the compatibility determination required under the proclamation.

26 53. Not long after the Sonoran Desert National Monument was established,  
27 BLM entered into contracts with The Nature Conservancy and the Pacific Biodiversity  
28 Institute to study the ecological condition of and livestock grazing impacts to the

1 monument. Several reports were issued as a result of these contracts.

2 54. The first study assessed the natural communities and ecological condition  
3 of the Sonoran Desert National Monument and adjacent areas. Field work for this study  
4 occurred in 2002 and the report was completed in October 2003, which included maps of  
5 the various natural communities on the monument as well as assessments of the  
6 ecological condition of each community and the stressors that affected each community.

7 55. The results of this study indicated that the communities most impacted by  
8 livestock grazing had the most disturbance in the form of low vegetation cover, low  
9 native species diversity, high levels of non-native species—especially in herb and grass  
10 cover, and soil erosion and compaction. These communities consisted of creosote-  
11 Bursage desert scrub, Paloverde-mixed cacti-mixed scrub on Bajadas, Mesquite  
12 woodlands, and braided channel floodplains.

13 56. The creosote-Bursage desert scrub community, one of the primary  
14 communities on the monument, is where most of the livestock grazing occurs and  
15 likewise is one of the most disturbed communities. As noted by the report, “[t]he  
16 influence (stresses) of livestock extends throughout most of the community, as few of the  
17 regions we visited within the study area are without some indication of livestock  
18 influence.”

19 57. In contrast, the communities least accessible to livestock, such as the higher  
20 elevations of Paloverde-mixed cacti-mixed scrub on rocky slopes, mountain uplands, and  
21 rocky outcrops, had the least disturbance, with few exotic species, high diversity of native  
22 plants, and little soil disturbance.

23 58. The desert grasslands also showed a similar contrast, with the grazed  
24 grasslands on the monument showing significant disturbance and poor conditions while  
25 ungrazed grasslands on adjacent property were in much better condition and had much  
26 higher levels of native grasses.

27 59. The report also documented that within communities most affected by  
28 grazing, the areas around livestock congregation areas, such as water sources and other

1 range developments, had the most severe degradation, with highly altered vegetation  
2 composition and structure and altered soil surfaces.

3 60. The second report, issued by The Nature Conservancy in February 2005,  
4 assessed existing research on impacts of livestock grazing in the Sonoran desert and its  
5 implications for grazing management on the monument. This report considered the prior  
6 2003 study on the monument as well as numerous other studies conducted in desert  
7 ecosystems.

8 61. Based on the synthesis of all existing research, the February 2005 report  
9 described livestock grazing impacts to plants, soils, wildlife, and cultural resources in the  
10 Sonoran desert. It then assessed current grazing management strategies used by BLM  
11 and other land managers.

12 62. The report stated that:

13  
14 The unique ecological characteristics of the Sonoran Desert require  
15 specific attention when considering development and  
16 implementation of a grazing management strategy. Current  
17 approaches to grazing in the Sonoran Desert mostly seem to follow  
18 the conceptual thinking underlying grazing management strategies  
19 developed and tested for ecosystems typically of higher productivity  
20 and of significantly different ecosystem dynamics. As a result, **no  
21 currently described approach, including continuous grazing and  
22 each of the specialized grazing systems, is completely applicable  
23 to or appropriate for the Sonoran Desert ecosystem within the  
24 current formulations.**

25 63. In sum, this report concluded that no known system of grazing is  
26 compatible with protecting the Sonoran Desert ecosystem and its resources.

27 64. BLM has also collected some data on the allotments within the monument  
28 and found altered plant composition compared to natural values on many transects, with  
some areas of moderate to high alteration. This alteration often consists of higher than  
normal percentage of shrub and tree cover. Some transects also showed very low overall  
vegetation cover, with results as low as zero to four percent total vegetation cover. And

1 BLM documented several species of non-native grasses on numerous allotments,  
2 particularly red brome, filaree, and Mediterranean grass.

3 65. Despite all of these studies showing that livestock grazing is having  
4 significant impacts on resources on the monument, including resources specifically  
5 named in the monument proclamation such as the creosote-bursage and paloverde-mixed  
6 cacti plant communities, saguaro cactus forests, desert washes, and habitat that supports a  
7 variety of wildlife species, BLM has not changed grazing management at all for the  
8 allotments north of Highway 8 and has not even conducted the compatibility  
9 determination required under the proclamation.

10 66. Instead, upon expiration of the permits for those allotments in 2005, BLM  
11 simply renewed the permits for another ten years, carrying forth the same grazing  
12 management and level of use without ever determining that such grazing is compatible  
13 with the monument objects. Since then, BLM has issued annual authorizations for both  
14 perennial and ephemeral grazing on those allotments.

15 67. In contrast, upon expiration of permits for allotments south of Highway 8,  
16 BLM did not renew those permits and terminated grazing on those allotments as required  
17 by the proclamation.<sup>4</sup>

18 68. For the past several years Plaintiff and other groups have expressed their  
19 concern about the resource damage that is occurring on the monument due to livestock  
20 grazing and the need for a compatibility determination. Letters to the BLM described  
21 overgrazed and degraded conditions on the monument and documented numerous  
22 livestock carcasses strewn across the almost barren landscape, and repeatedly asked BLM  
23 to conduct the necessary compatibility determination.

24 69. BLM has responded by asserting that it will include the compatibility  
25 determination within a new Resource Management Plan (“RMP”) for the monument.

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27 <sup>4</sup> Permits for two additional allotments south of Highway 8 will expire in February 2009  
28 and BLM has sent notice that those permits also will not be renewed and grazing will be  
terminated on those allotments as well.

1 However, BLM has repeatedly delayed issuing the RMP over the past three years and has  
2 yet to release even a draft. Furthermore, it is not unusual for BLM to take an additional  
3 two or more years between issuing a draft RMP and a final RMP and Record of Decision.  
4 Thus, a compatibility determination could still be years away from implementation.

5 70. Seven and a half years have already passed since President Clinton issued  
6 the proclamation establishing the Sonoran Desert National Monument and requiring the  
7 BLM to determine whether grazing on allotments north of Highway 8 is compatible with  
8 the purposes of the monument. BLM has not done this analysis and no clear timeframe  
9 exists for its issuance or implementation. In the meantime, BLM has renewed grazing  
10 permits for another ten years and issued annual grazing authorizations for these very  
11 allotments, allowing the same grazing to continue that studies have found to be damaging  
12 resources and that is not compatible with protecting monument objects.

13  
14 **FIRST CLAIM FOR RELIEF**  
15 **Violation of the Sonoran Desert National Monument Proclamation for Failure to**  
16 **Complete the Compatibility Determination**

17 71. Plaintiff realleges and incorporates by reference the preceding paragraphs.

18 72. This first claim for relief challenges the BLM's failure to issue a  
19 determination as to whether livestock grazing is compatible with the purpose of  
20 protecting the natural and historic resources on the Sonoran Desert National Monument,  
21 as required in the monument proclamation signed on January 17, 2001. Sonoran Desert  
22 National Monument Proclamation, Proclamation No. 7397, 66 Fed. Reg. 7354 (Jan. 22,  
23 2001).

24 73. This claim is brought pursuant to the judicial review provision of the  
25 Administrative Procedure Act, 5 U.S.C. § 706(1).

26 74. BLM's failure to complete the compatibility determination constitutes a  
27 failure to act and/or unreasonable delay under the Administrative Procedure Act, which  
28 has caused or threatens serious prejudice and injury to Plaintiff's rights and interests.





1 law; and reverse and set aside these renewed permits and authorizations.

2 C. Grant such preliminary or permanent injunctive relief as requested hereafter  
3 by Plaintiff.

4 D. Award Plaintiff its reasonable costs, litigation expenses, and attorneys' fees  
5 associated with this litigation pursuant to the Equal Access to Justice Act, 28 U.S.C. §  
6 2412 et seq. and/or all other applicable authorities; and

7 E. Grant such further relief as the Court deems just and proper in order to  
8 provide Plaintiff with relief and protect the public interest.

9  
10 Dated this 6th day of August, 2008

11  
12 /s/Lauren M. Rule

13 Lauren M. Rule (ISB # 6863)  
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