ASDO NEPA DOCUMENT ROUTING SHEET

NEPA Document Number: DOI-BLM-AZ-A010-2014-0004-CX

Project Title: Temporary Closure of Virgin River Corridor for Rotenone Treatment

Project Lead: Richard Spotts

Date that any scoping meeting was conducted: N/A

Date that concurrent, electronic distribution for review was initiated: March 21, 2014

Deadline for receipt of responses: Friday, April 04, 2014

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

Gloria Benson, Tribal Liaison
Whit Bunting, Range/Vegetation/Weeds/S&G
Laurie Ford, Lands/Realty/Minerals
Jon Jasper, Recreation/Wilderness/VRM
John Herron, Cultural Resources
Ray Klein, GCPNM Supervisory Ranger
Jace Lambeth, Special Status Plants
John Sims, Supervisory Law Enforcement
Richard Spotts, Environmental Coordinator
Jeff Young, Wildlife/T&E Animals
Lorraine Christian, Field Manager, ASFO

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

Steve Rosenstock (E-mail address: srosenstock@azgfd.gov)
Daniel Bulletts (E-mail address: dbulletts@kaibabpaiute-nsn.gov)
Peter Bungart (E-mail address: pbungart@circaculture.com)
Dawn Hubbs (E-mail address: dawn.hubbs101@gmail.com)

(Mr. Rosenstock is an Arizona Game and Fish Department (AGFD) Habitat Program Manager. Mr. Bulletts is acting Environmental Program Director for the Kaibab Paiute Tribe (KPT). Mr. Bungart and Ms. Hubbs are cultural staff for the Hualapai Tribe. 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 Jeff Young as the ASDO Wildlife Team Lead. Mr. Young will then recommend how these comments should be addressed. If a Project Lead receives comments from any KPT or Hualapai Tribe employee, they should include them in the complete set/administrative record and share them with Gloria Benson as the ASDO Tribal Liaison. Ms. Benson will then recommend how these comments should be addressed.)

Discretionary Reviewers:

Jimmy Tyree, Field Manager, SGFO
Luke Thompson, AGFD

NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)
COMPLIANCE RECORD FOR CATEGORICAL EXCLUSIONS (CX)
U.S. Department of Interior
Bureau of Land Management

PART I. – PROPOSED ACTION

BLM Offices: Arizona Strip Field Office and St. George Field Office

NEPA No.: DOI-BLM-AZ-A010-2014-0004-CX
Case File No.: 6840:AZA010

Proposed Action Title/Type: Temporary Closure of Virgin River Corridor for Rotenone Treatment

Applicant: None

Location of Proposed Action:

Salt Lake Meridian, Washington County Utah

T. 43 S., R. 16 W., secs. 29, 30, and 31.
T. 43 S., R. 17 W., secs. 25 and 36.

Gila and Salt River Meridian, Mohave County Arizona

T. 42 N., R. 13 W., secs. 32 and 33.
T. 41 N., R. 13 W., secs. 4, 5, 7, 8, and 18.
T. 41 N., R. 14 W., secs. 11, 12, 13, 14, 15, 16, 20, 21, 22, 23, 28, 29, 30, 31, and 32.
T. 41 N., R. 15 W., secs. 25, 26, 34, 35, and 36.

The closure extends from the first narrows upstream of the confluence of the Virgin River and West Mountain Valley Wash in Utah, downstream to the BLM/private land boundary in Arizona (T. 41 N., R. 15 W., sec. 34). Specifically, the closure area is described as:

Beginning at the confluence of West Mountain Valley Wash and the Virgin River, extending upstream to the first narrows and crossing the Virgin River to the south; continuing southwesterly (downriver) at a distance of 600' south from the centerline of the Virgin River and ending at the BLM/private land boundary in T. 41 N., R. 15 W., sec. 34. This includes the Virgin River Gorge Recreation Area and the BLM administrative site at Cedar Pockets but excludes private lands within T. 41 N., R. 14 W., sec. 30 and T. 41 N., R. 15 W., sec. 36.

From the BLM/private land boundary in T. 41 N., R., 15 W., sec. 34, continuing northeasterly (upstream) at a distance of 600' north from the centerline of the Virgin River to Interstate 15's Bridge 4. Thence continuing upstream from Bridge 4, 1000' north from the centerline of Interstate 15's southbound lanes to Bridge 7. In addition, from Bridge 4 to Bridge 7, all lands between the centerline of Interstate 15 southbound lanes and the centerline of the Virgin River.

Thence continuing upstream from Bridge 7, 600' north from the centerline of the Virgin River into Utah to the confluence of the Virgin River and West Mountain Valley Wash. All lands within the described boundaries are closed, excluding the paved portions of Interstate 15 to allow for routine interstate travel.

Description of Proposed Action: The proposed action is to temporarily close the Virgin River corridor, including roads and trails that provide access to the river, within the area described above, and as shown on the attached map. The closure would occur from June 16, 2014 through July 3, 2014. This action would be taken to help ensure public safety and prevent access to the Virgin River for the duration of a rotenone treatment effort. This closure is also necessary to ensure compliance with Arizona Revised Statutes (ARS) 17-481. The proposed rotenone treatment was previously analyzed in the Virgin River Gorge Rotenone Treatment EA (DOI-BLM-UT-C030-2010-09-EA). After the FONSI/DR for this EA was approved, ARS 17-481 (*Use of Aquatic Poisons in Arizona)* was enacted as a result of concerns over the potential human health and ecological impacts that may result from rotenone exposure. Although Arizona has affirmed that rotenone is a safe, effective fisheries management tool, the Arizona Game and Fish Commission requires that the Arizona Game and Fish Department (AGFD), the agency that will be applying the rotenone, conduct a full impact analysis of any risks posed to the environment and to downstream potable water supplies and livestock water sources from any proposed rotenone application. Public safety is the primary consideration during the rotenone treatment phase of the project. AGFD has therefore requested a temporary closure of the affected public lands to provide for the safety of Virgin River users and casual public land users by preventing exposure to rotenone and potassium permanganate (the chemical used to neutralize rotenone) during the treatment effort. Only product applicators will be allowed in the treatment area during the application of the chemicals. Access to the river within the project area will also be heavily signed and patrolled during the treatment. Since the EA did not analyze a closure of any kind, this CX therefore serves as the environmental review and documentation for the proposed temporary closure.

PART II. – PLAN CONFORMANCE REVIEW

This proposed action is subject to the following land use plans: Arizona Strip Field Office (ASFO) Resource Management Plan (RMP) and St. George Field Office (SGFO) RMP

Decisions and page nos.:

ASFO RMP: MA-TE-56 and SD-TE-12, page 2-49;

SGFO RMP: FW-24, page 2.30

Date plans approved/amended: ASFO RMP - January 29, 2008; SGFO RMP – March 15, 1999

This proposed action has been reviewed for conformance with these plans (*43 CFR 1610.5-3, BLM Manual 1601.04.C.2).*

PART III. – NEPA COMPLIANCE DETERMINATION REVIEW

A. The proposed action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, G.3. "Temporary closure of roads and trails";

And

B. Extraordinary Circumstances Review: In accordance with **43 CFR 46.215**, any action that is normally categorically excluded must be subjected to sufficient environmental review to determine if it meets any of the 12 Extraordinary Circumstances described. If any circumstance applies to the action or project, and existing NEPA documentation does not adequately address it, then further NEPA analysis is

required.

IMPORTANT: Appropriate staff should review the circumstances listed in Part IV, check the appropriate box (yes/no), comment and initial for concurrence. Add any appropriate additional reviewers and applicable manager. Rationale supporting the concurrence should be included in the appropriate block. If no response is received from a mandatory reviewer, enter the comment due date along with the notation "No response received."

PART IV. – EXTRAORDINARY CIRCUMSTANCES DOCUMENTATION

PREPARERS/REVIEWERS:	DATE:
Richard Spotts, Project Lead	March 21, 2014
Gloria Benson, Tribal Liaison	April 4, 2014 No response received
Whit Bunting, Range/Vegetation/Weeds/S&G	March 25, 2014
Jon Jasper, Recreation/Wilderness/VRM	March 25, 2014
John Herron, Cultural Resources	March 21, 2014
Ray Klein, GCPNM Supervisory Ranger	March 24, 2014
Jace Lambeth, Special Status Plants	March 24, 2014
John Sims, Supervisory Law Enforcement	April 1, 2014
Laurie Ford, Lands/Realty/Minerals	April 1, 2014
Jeff Young, Wildlife/T&E Animals	March 21, 2014
Lorraine M. Christian, ASFO Field Manager	March 27, 2014
Jimmy Tyree, SGFO Field Manager	April 4, 2014 No response received
Robert Douglas, SGFO Wildlife Biologist	April 3, 2014

The action has been reviewed to determine if any of the extraordinary circumstances (43 CFR 46.215(a)-(l)) apply. The project would:

(a) Have significant impacts on public health or safety.

Yes	No	
☐	☒	**Rationale:** This proposed temporary closure is intended to protect public health and safety by eliminating public access to this stretch of the Virgin River during rotenone treatments. There have been a number of previous rotenone treatments along other stretches of the Virgin River without any public health or safety problems. In addition, Arizona has affirmed, after careful study and review, that rotenone is a safe, effective fisheries management tool. However, closure of the affected public lands would ensure the safety of Virgin River users and casual public land users by preventing exposure to rotenone and potassium permanganate (the chemical used to neutralize rotenone) during the treatment effort. Preparer's Initials RS/LC

(b) Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness 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; and other ecologically significant or critical areas.		
Yes ☐	**No** ☒	**Rationale:** The proposed action was reviewed by a team of resource professionals who determined that there would be no significant impacts to these resources due to the short-term nature of the closure and the high temperatures at this time of year which should minimize effects on recreational uses. Preparer's Initials JH/JJ/JY
(c) Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)].		
Yes ☐	**No** ☒	**Rationale:** Closure of public lands has the potential to be controversial. However, since the closure would occur during the hottest time of the year (June/July), when visitation to the area by the recreating public would be minimal, this proposed temporary closure is not anticipated to be controversial. Preparer's Initials RS/LC
(d) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		
Yes ☐	**No** ☒	**Rationale:** Similar temporary closures have occurred in the past, either to protect resources or respond to emergencies, with no significant environmental effects, nor involving any unique or unknown environmental risks. Preparer's Initials RS
(e) Establish a precedent for future action or represent a decision in principal about future actions with potentially significant environmental effects.		
Yes ☐	**No** ☒	**Rationale:** The proposed action is not precedent-setting and is considered to be a routine management measure necessary to protect public health and safety. Preparer's Initials RS
(f) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		
Yes ☐	**No** ☒	**Rationale:** The proposed action is a temporary closure and not connected to other broader actions which could affect recreation and public access. Preparer's Initials RS
(g) Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau.		
Yes	**No**	**Rationale:** There would be no significant impacts due to the absence of any ground

☐	☒	disturbing activities. See John Herron CRPR dated March 21, 2014. Preparer's Initials JH
(h) 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.		
Yes ☐	**No** ☒	**Rationale:** This proposed temporary closure would not have significant impacts on listed species or designated critical habitat. The closure would simply allow AGFD to implement the treatment with a minimal risk for public exposure to the chemicals. Preparer's Initials JY
(i) Violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.		
Yes ☐	**No** ☒	**Rationale:** The proposed action would be in compliance with all laws, including the recent Arizona law that requires AGFD to conduct a full impact analysis of any risks posed to the environment and to downstream potable water supplies and livestock water sources from any proposed rotenone application. The proposed temporary closure of the affected public lands would provide for the safety of Virgin River users and casual public land users by preventing exposure to rotenone and potassium permanganate. Preparer's Initials RS/LC
(j) Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		
Yes ☐	**No** ☒	**Rationale:** Low income or minority populations are not present in or near the temporary closure area and would not be disproportionately affected by the closure. Preparer's Initials RS
(k) 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).		
Yes ☐	**No** ☒	**Rationale:** The proposed action would not limit access to and ceremonial use of Indian sacred sites nor significantly adversely affect the physical integrity of such sacred sites. Preparer's Initials RS
(l) 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).		
Yes ☐	**No** ☒	**Rationale:** The proposed action would not contribute to any noxious weed or non-native invasive species; it is intended to facilitate the ability of AGFD to implement the rotenone treatment project which would reduce the presence of a non-native fish species (red shiner) that is considered the major threat to the Virgin River chub and woundfin (both federally-listed fish species) in this portion of the Virgin River.

Preparer's Initials RS/WB

PART V. – COMPLIANCE REVIEW CONCLUSION

We have reviewed this plan conformance and NEPA compliance record, and have determined that the proposed project is in conformance with the approved land use plans and that no further environmental analysis is required.

MITIGATION MEASURES/OTHER REMARKS:

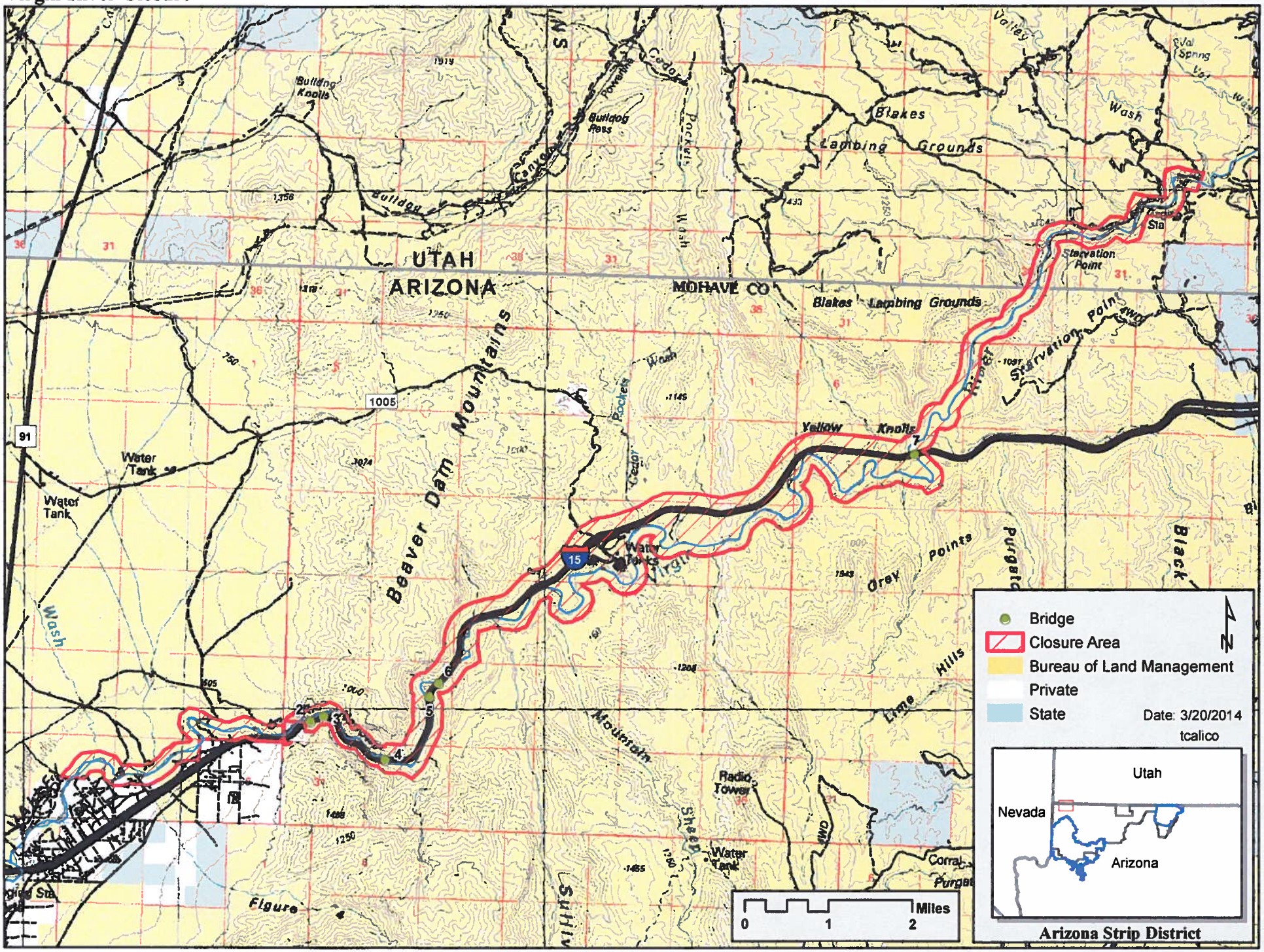
APPROVING OFFICIALS:

Lorraine M. Christian DATE: 4/7/2014
Lorraine M. Christian, Arizona Strip Field Office Manager

Jimmy Tyree, St. George Field Office Manager DATE: 4/7/14

Note: The signed conclusion on this compliance record is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision. A separate decision to implement the action should be prepared in accordance with program specific guidance.

Virgin River Closure



While every effort has been made to ensure the accuracy of this information, the BLM makes no warranty,expressed or implied, as to the accuracy and expressly disclaims liability for the accuracy thereof. No warranty is made by the BLM for the use of this map for purposes not intended by BLM.

DECISION MEMORANDUM

Temporary Closure of Virgin River Corridor for Rotenone Treatment
NEPA No.: DOI-BLM-AZ-A010-2014-0004-CX
U.S. Department of the Interior
Bureau of Land Management
Arizona Strip Field Office
St. George Field Office

Approval and Decision

Based on a review of the project described in the attached Categorical Exclusion (CX) documentation and resource staff recommendations, we have determined that the project is in conformance with the Arizona Strip Field Office and St. George Field Office Resource Management Plans (approved January 29, 2008 and March 15, 1999, respectively) and is categorically excluded from further environmental analysis. It is our decision to approve the action as proposed.

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 attached Form 1842-1. If an appeal is taken, your notice of appeal must be filed at 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.

If you wish to file a petition (pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) for a stay (suspension) 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 Office of the Solicitor (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 with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

<u>Standards for Obtaining a Stay</u>

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 — April 7, 2014
Lorraine M. Christian, Arizona Strip Field Office Manager — Date

Jimmy Tyree — 4/7/14
Jimmy Tyree, St. George Field Office Manager — Date

Attachment: Form 1842-1

Form 1842-1
(September 2006)

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

NOTICE OF APPEAL..... Field Manager, Arizona Strip Field Office
Bureau of Land Management
345 East Riverside Drive
St. George, Utah 84790

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

AND COPY TO.....Field Manager, Arizona Strip Field Office
Bureau of Land Management
345 East Riverside Drive
St. George, Utah 84790

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.

(Continued on page 2)

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ---------- Alaska
Arizona State Office --------- Arizona
California State Office ------- California
Colorado State Office -------- Colorado
Eastern States Office --------- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ---------- Idaho
Montana State Office --------- Montana, North Dakota and South Dakota
Nevada State Office ---------- Nevada
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ---------- Oregon and Washington
Utah State Office ---------- Utah
Wyoming State Office -------- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.