

Lauren M. Rule (OSB # 015174), *pro hac vice*  
ADVOCATES FOR THE WEST  
3701 SE Milwaukie Ave, Suite B  
Portland, OR 97202  
(503) 914-6388  
lrule@advocateswest.org

Cynthia C. Tuell (AZSB # 025301)  
WESTERN WATERSHEDS PROJECT  
738 N. 5<sup>th</sup> Ave., Suite 206  
Tucson, AZ 85705  
(520) 272-2454  
cyndi@westernwatersheds.org

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Western Watersheds Project and Grand Canyon Chapter of the Sierra Club;	}	Case No.:
Plaintiffs,		<b>COMPLAINT</b> <b>(Declaratory and Injunctive Relief)</b>
vs.		
U.S. Bureau of Land Management;		
Defendant.		

**INTRODUCTION**

1. Plaintiffs Western Watersheds Project and Grand Canyon Chapter of the Sierra Club (hereafter “WWP”) challenge the revised livestock grazing analysis completed by Defendant Bureau of Land Management (“BLM”) for the agency’s Sonoran Desert National Monument Resource Management Plan (“RMP”). BLM revised its grazing analysis after this Court ruled the prior analysis completed in 2012 was seriously flawed and unlawful under the National Environmental Policy Act. *W. Watersheds Proj. v. BLM*, 2015 WL 846548, No. CV-13-01028-PHX-PGR (D. Ariz. Feb. 26, 2015); *W. Watersheds Proj. v. BLM*, 181 F. Supp. 3d 673 (D. Ariz. 2016). Rather

1 than addressing the problems of the prior analysis, BLM conducted a new analysis that is  
2 equally flawed and allows for even more future livestock grazing that will degrade the  
3 biological and cultural resources on the Monument, in violation of the proclamation that  
4 established the Sonoran Desert National Monument.

5         2.       The Sonoran Desert is the most biologically diverse desert in North  
6 America. President Clinton established the 496,337 acre Sonoran Desert National  
7 Monument in January 2001 to protect the biodiversity of plants and animals and their  
8 habitats, as well as the numerous historic and cultural sites, found in this desert setting.  
9 According to the proclamation that established the Monument, this newly protected area  
10 in the heart of Arizona has “an extraordinary array of biological, scientific, and historic  
11 resources” that provide for a “spectacular diversity of plant and animal species,”  
12 including imperiled species such as desert bighorn sheep, Sonoran pronghorn, Sonoran  
13 desert tortoise, and many other birds, reptiles, and plants.

14         3.       Recognizing the harmful impacts that livestock grazing was having on this  
15 ecosystem, the proclamation closed all grazing allotments in the southern portion of the  
16 Monument, and allowed grazing to continue on the northern portion of the Monument  
17 *only* if BLM determined that grazing is compatible with the “paramount purpose of  
18 protecting the objects identified in this proclamation.” It also required BLM to prepare a  
19 management plan that addresses the actions “necessary to protect the objects identified in  
20 the proclamation.”

21         4.       Shortly after designation of the Monument, rigorous scientific studies found  
22 that livestock were degrading soils, reducing plant diversity, increasing weeds and non-  
23 native plants, and damaging wildlife habitat on the Monument. Yet, BLM determined in  
24 the previously-challenged grazing analysis for the Monument RMP that livestock grazing  
25 was compatible with protecting the objects identified in the proclamation on the majority  
26 of lands within the northern portion of the Monument and that therefore grazing could  
27 continue on those lands. This Court held that determination was arbitrary and capricious  
28 because it was based on a flawed and unsupported analysis. Because the 2012 RMP

1 Record of Decision relied on the arbitrary compatibility determination to allow continued  
2 livestock grazing on the Monument, the Court ruled that aspect of the decision was  
3 unlawful and remanded it to the agency to conduct a proper livestock compatibility  
4 determination.

5         5. Since the agency issued its prior analysis in 2012, little or no grazing has  
6 occurred on the allotments within the Monument. After five to ten years of non-use,  
7 many areas are recovering from the prior degradation caused by livestock, with  
8 increasing vegetation and reduced signs of cattle impacts. Rather than furthering this  
9 recovery, BLM's new grazing analysis uses it as an excuse to allow future grazing across  
10 *all* lands in the northern part of the Monument—expanding use beyond that allowed  
11 under the 2012 decision. This new decision is just as flawed as the prior one, again  
12 incorporating irrational and unsupported analysis and conclusions—including relying  
13 entirely on new data collected after years of no grazing to assess the impacts of grazing.  
14 Even areas that still have degraded ecological conditions due to prior cattle use are  
15 available for future grazing under BLM's new decision.

16         6. Rather than fixing its prior analysis to adequately protect the Monument  
17 objects, BLM chose to issue yet another unscientific grazing decision that protects *no*  
18 land from livestock grazing—ensuring that the recovery occurring over the past ten years  
19 will be reversed and grazing will again harm many of the biological and cultural  
20 resources on the Monument. This new decision, which relies on an equally flawed and  
21 unsupported analysis that fails to protect the Monument objects, violates the Federal  
22 Land Policy and Management Act (“FLPMA”), the National Landscape Conservation  
23 System (“NLCS”) Act, the National Environmental Policy Act (NEPA), and the National  
24 Historic Preservation Act (“NHPA”). Accordingly, this Court should once again hold  
25 BLM's livestock grazing compatibility analysis, environmental assessment, and RMP  
26 amendment arbitrary, capricious, an abuse of discretion, and contrary to law, and under 5  
27 U.S.C. § 706(2)(A) set them aside as unlawful agency action.

28

## JURISDICTION AND VENUE

7. Jurisdiction is proper in this Court under 28 U.S.C. § 1331 because this action arises under the laws of the United States, including the Federal Land Policy and Management Act, 43 U.S.C. § 1701 *et seq.*; the National Landscape Conservation System Act, 16 U.S.C. § 7202; the Sonoran Desert National Monument Proclamation, Proclamation No. 7397, 66 Fed. Reg. 7354; the National Environmental Policy Act, 42 U.S.C. § 4321 *et seq.*; the National Historic Preservation Act, 54 U.S.C. § 300101 *et seq.*; the Administrative Procedure Act, 5 U.S.C. § 701 *et seq.*; the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*; and the Equal Access to Justice Act, 28 U.S.C. § 2214 *et seq.* An actual, justiciable controversy now exists between Plaintiffs and Defendant, and the requested relief is therefore proper under 28 U.S.C. §§ 2201-02 and 5 U.S.C. §§ 701-06.

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

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

## PARTIES

10. Plaintiff WESTERN WATERSHEDS PROJECT (“WWP”) is a regional, membership, not-for-profit conservation organization, dedicated to protecting and conserving the public lands and natural resources of watersheds in the American West. WWP has offices throughout the West, including in Tucson, Arizona, and more than 12,000 members and supporters located throughout the United States. Through agency proceedings, public education, scientific studies, and legal advocacy conducted by its staff, members, volunteers, and supporters, WWP is actively engaged in protecting and improving plant and animal communities and other natural resources and ecological values of western watersheds. Since 2007, WWP has actively participated in management of livestock grazing on the Sonoran Desert National Monument through

1 letters, comments, field trips, and oral communications to the BLM, expressing its  
2 concerns over livestock grazing on the Monument. WWP provided extensive comments  
3 on the draft environmental assessment (“EA”) challenged here and submitted a timely  
4 protest of the Proposed RMP amendment and Final EA.

5 11. Plaintiff GRAND CANYON CHAPTER OF THE SIERRA CLUB is one  
6 of the oldest grassroots environmental organizations in the country. The Sierra Club’s  
7 mission is to explore, enjoy, and protect the wild places of the earth; to practice and  
8 promote the responsible use of the earth’s ecosystems and resources; and to educate and  
9 enlist humanity to protect and restore the quality of the natural and human  
10 environments. The Grand Canyon Chapter has long been committed to protection of  
11 Arizona’s lands, wildlife, water, and communities and has been significantly involved in  
12 activities related to the Sonoran Desert National Monument, including the management  
13 of livestock grazing. The Sierra Club has participated in the planning process for the  
14 Monument, including participating in public meetings, submitting comments on the Draft  
15 EA at issue here, and a protest of the proposed RMP amendment and Final EA.

16 12. Plaintiffs’ staff and members regularly use and enjoy the public lands,  
17 wildlife, and other natural resources on the Sonoran Desert National Monument for many  
18 health, recreational, scientific, spiritual, educational, aesthetic, and other purposes. WWP  
19 and Sierra Club staff and members pursue activities such as hiking, wildlife viewing,  
20 biological and botanical research, photography, and spiritual renewal on the Sonoran  
21 Desert National Monument. Livestock grazing that degrades this fragile ecosystem  
22 impairs the use and enjoyment of this Monument by Plaintiffs’ staff and members.  
23 Plaintiffs’ staff and members have observed grazing impacts that have adversely affected  
24 native plants, desert soils, and wildlife habitat on the Monument, which reduces their  
25 enjoyment when they visit the Monument for their various activities. WWP and Sierra  
26 Club have submitted to BLM photographs of livestock impacts on the Monument on  
27 numerous occasions.

28 13. Plaintiffs’ staff, members, and supporters will continue to visit the Sonoran



# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.