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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

WESTERN WATERSHEDS PROJECT,

Plaintiff,

v.

JAMES KENNA, in his official capacity as  
Arizona State Director of the BUREAU OF  
LAND MANAGEMENT

Defendant.

No. 2:10-cv-1096

**COMPLAINT**

**(Declaratory and Injunctive Relief)**

Plaintiff, by and through their attorney, Erik B. Ryberg, allege as follows:

**INTRODUCTION**

1. This action challenges a land-use plan that has been approved by the Arizona State Director of the Bureau of Land Management (“BLM”) for the Yuma Field Office of the BLM. The land-use plan, or “Resource Management Plan,” will govern how the BLM will manage about 1.3 million acres of extremely arid desert lands near Yuma, Arizona. These public lands are used for a variety of purposes including motorized and non-motorized recreation, hunting, backpacking, sightseeing, wildlife viewing, and protection of cultural and archaeological sites. The landscape is also used for commercial and industrial purposes such as mining, energy transmission, and livestock grazing.

1           2.       The Resource Management Plan at issue here was prepared in accordance with  
2 the Federal Land Policy and Management Act, which requires the BLM to develop and  
3 maintain land use plans. 43 U.S.C. § 1712(a). This act also requires the BLM to “take any  
4 action necessary to prevent unnecessary or undue degradation of the lands.” 43 U.S.C. §  
5 1732(b). (The BLM has also adopted land use planning regulations at 43 C.F.R. § 4100 et  
6 seq. and rangeland management regulations at 43 C.F.R. § 4180 et seq. that mandate  
7 protection for natural resources.)

8           3.       Because of the size of the landscape involved and the sweeping management  
9 implications of this multi-year land-use plan, the BLM prepared an environmental impact  
10 statement to analyze the effects of the agency's new planning regime on the environment.  
11 This impact statement was prepared in accordance with the National Environmental Policy  
12 Act, or NEPA, at 42 U.S.C. § 4321 et. seq.

13           4.       Unfortunately, the Bureau of Land Management all but completely ignored the  
14 potential environmental impacts of one of the most important elements of its plan: the  
15 decision to allocate over 600,000 acres of this arid landscape to year-long livestock grazing.

16           5.       It is past dispute that commercial livestock grazing in the extremely arid  
17 Sonoran Desert ecosystems (there is no perennial water at all in the areas slated for livestock  
18 grazing in the Yuma resource Area) can have serious, chronic, long-term, and possibly  
19 permanent effects to the natural landscape.

20           6.       But the BLM all but completely failed to analyze or acknowledge these  
21 impacts in its environmental impact statement. In fact, only a half dozen or so pages in two  
22 thick volumes are devoted to discussing the effects of livestock grazing, and the bulk of  
23 those pages involve the potential economic impacts to livestock operators from permitting or  
24 not permitting livestock grazing to occur.



1 California, Montana, Wyoming, and Utah. WWP is dedicated to protecting and conserving  
2 the public lands and natural resources of watersheds in the American West. WWP, as an  
3 organization and on behalf of its more than 1,400 members, is concerned with and active in  
4 seeking too protect and improve the wildlife habitat, soil productivity, riparian areas, water  
5 quality, and other natural resources and ecological values throughout the West, including  
6 Arizona. WWP is also active in monitoring ecological conditions in Arizona, including the  
7 Yuma Field Office; in reviewing and commenting upon agency grazing and other resource  
8 decisions; in advocating for the protection of wild populations of bighorn sheep, desert  
9 tortoises, and other desert wildlife; and in publicizing the ecological effects of grazing in this  
10 region.

11 12. WWP has actively participated in management of livestock grazing in the  
12 Yuma Field Office and other Arizona State BLM offices through letters, comments, field  
13 trips, and administrative protests of BLM actions. WWP has taken many opportunities to  
14 express its concerns over management of the Arizona's BLM lands. WWP, and its staff and  
15 members, use and enjoy the wildlife, public lands, and other natural resources managed by  
16 the Yuma Field Office for many health, recreational, scientific, spiritual, educational,  
17 aesthetic, and other purposes. WWP and its staff and members pursue activities such as  
18 hiking, wildlife viewing, biological and botanical research, photography, and spiritual  
19 renewal on the subject BLM lands. WWP and its staff and members also derive personal  
20 enjoyment, educational, recreational, and aesthetic benefits from observing desert wildlife in  
21 their native habitat, and observing desert landscapes in a natural, undegraded condition.  
22 Livestock grazing that degrades this fragile ecosystem and threatens animal populations, soil  
23 conditions, and vegetation, impairs the use and enjoyment of this public landscape by WWP  
24 staff and members.  
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1           18.     On January 29, 2010, Arizona State BLM Director James G. Kenna denied the  
2 administrative protest and signed a Record of Decision approving the RMP.

3           19.     The RMP is a long-term land-use plan that governs management decisions in  
4 the approximately 1.3 million acres of lands managed by the Yuma Field Office of the BLM.  
5 The landscape is generally bordered by the Colorado River to the West, the Mexico-America  
6 border to the South, the Maricopa County line to the East, and, for the most part, Interstate  
7 10 in the North. This landscape encompasses the Kofa Wildlife Refuge, all or parts of five  
8 designated Wilderness Areas, the Lower Colorado River, and the Lower Gila River.

9           20.     One feature of the RMP is land allocation. The RMP allocates 643,000 acres,  
10 in five separate grazing allotments, to livestock grazing. The allotments are the Eagletail, K  
11 Lazy B, Bishop, Crowder-Weisser, and Calhoun. Each of these allotments has been  
12 available for grazing for decades; the RMP allocation does not make any change to the  
13 allotments as they have historically been grazed.

14           21.     The BLM describes the landscape has having “hot summers, mild winters, low  
15 rainfall, high evaporation rates, and low humidity. Approximately 110 days per year have  
16 average temperatures over 100 degrees. . . . The average annual precipitation within the  
17 planning area is 3.5 inches . . .” Yuma Field Office Proposed RMP and EIS Vol. 1 at ES-  
18 15. This is less than half the annual rainfall of Phoenix, Arizona; the Yuma Field Office  
19 manages some of the most arid lands in North America.

20           22.     Some wildlife thrives in this environment. The desert tortoise, for example, is  
21 one, and is found in the project area. Sonoran pronghorn, though “rare and infrequent,” have  
22 also been found there. Desert bighorn sheep, the Southwestern willow flycatcher, the  
23 Sonoran Desert bald eagle, the burrowing owl, cactus ferruginous pygmy owl, and flat-tailed  
24 horned lizard are all species that, because of their rarity, enjoy a special legal or  
25 administrative status and occupy or have habitat within the project area.  
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1           23. But these species are all negatively affected by livestock grazing either through  
2 trampling, erosion of the soil, competition for scarce forage, or, most importantly, through  
3 the introduction and spread of invasive, non-native vegetation that alters the natural fire  
4 regime and can result in widespread and permanent damage to the Sonoran desert.

5           24. Livestock grazing in arid environments has significant deleterious effects on  
6 soil quality and long-term soil productivity. These effects include losses to biological soil  
7 crusts, diminished infiltration rates, and accelerated erosion. Studies have also found  
8 profound adverse impacts from livestock trampling microbotic crusts, which in turn affects  
9 soil's ability to fix nitrogen and support vegetation that relies on that nutrient. These effects  
10 can be long lasting or even permanent, because soil development and nutrient-cycling in arid  
11 environments is a slow and fragile process. This is especially significant in areas of low  
12 precipitation like the Yuma Resource Area because soil structure influences the ability of the  
13 land to absorb and retain water, which in turn limits moisture available to vegetation.

14           25. Aboveground, livestock grazing effects are similarly significant. Livestock  
15 impact vegetation communities directly through trampling and mechanical disturbance,  
16 indirectly through impacts to soil and hydrologic regimes, and through the associated range  
17 developments. Grazing can disrupt ecological succession and community structure, and  
18 change diverse vegetation communities with plants of various ages into homogeneous  
19 monocultures. Scientists have reported that livestock grazing can reduce biomass and cover,  
20 decrease vegetation diversity, and decrease seedling survival.

21           26. Livestock grazing has also been linked to increases in the distribution and  
22 abundance of non-native vegetation species, many of which can be extremely detrimental to  
23 the Sonoran desert ecosystem. These species are nearly impossible to eradicate once they  
24 are in place, and they pose one of the largest threats to ecosystem integrity. The most  
25 profound effect of non-native plant species is their tendency to disrupt the natural ecosystem  
26 through increased flammability. Invasive alien grasses especially benefit from fire,

1 displacing native species and leading to habitat type conversions from desert to annual  
2 grasslands.

3 27. Species such as buffelgrass, Mediterranean grass, red brome, and Sahara  
4 mustard, which are all found in the Yuma Resource Area, increase the abundance of fine  
5 fuels and increase the risk of wildland fires. Livestock grazing is a known vector for the  
6 spread of invasive species, either through seed transport through animal fur or feces, or due  
7 to disturbance from soil trampling. Worse, livestock's destruction of soil crusts facilitates  
8 establishment of invasive species.

9 28. Changes in vegetation communities affect the food that is available to wildlife,  
10 and this has consequences up the food chain. For example, desert tortoise diets can be  
11 impaired when non-native species predominate formerly native ecosystems. Livestock also  
12 compete with animals for the sparse vegetation that is available, and the BLM has identified  
13 competition for forage between livestock and desert bighorn sheep and desert tortoise on two  
14 allotments within the Yuma Project area. There is also a risk of disease transmission between  
15 bighorn and livestock on these same allotments; interactions between bighorn sheep and  
16 livestock can compromise bighorn health, possibly due to nutritional deficiencies or stress.

17 29. Because of the potential for commercial livestock grazing to impair natural  
18 resources, the BLM has adopted a body of standards called the Arizona Standards for  
19 Rangeland Health. These standards require, among other things, that management activities  
20 such as livestock grazing "maintain or promote ground cover that will provide for  
21 infiltration, permeability, soil moisture storage, and soil stability appropriate for the  
22 ecological sites." The standard also requires that the ground cover maintain soil organisms,  
23 plants and animals, and nutrient cycles, and that sufficient forage remain for wildlife.

24 30. But in its decision to allocate over 600,000 acres of this landscape to livestock  
25 grazing, the BLM did not analyze whether this livestock grazing will meet or has met those  
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1 standards in the past. Nowhere are there studies that show that ground cover has been  
2 maintained, or that soils are healthy and stable, or that nutrient cycles are being maintained.

3 31. The BLM stated that it would conduct these studies prior to October 1, 2009,  
4 and thus prior to adopting the RMP and allocating this land to livestock grazing. But the  
5 studies were not done, and thus the lands have been allocated to continued grazing without  
6 conducting the analysis to determine whether grazing is appropriate there.

7 32. What studies the BLM can point to are very old. Soil studies for the allotments  
8 are nearly 30 years old. There are no studies to monitor long-term soil or vegetation trend  
9 and condition. There are no current data to support the BLM's conclusion that livestock  
10 grazing in the area is benign, or to support the determination to allocate so much of this  
11 environment to livestock grazing.

12 33. Because the BLM did not collect the needed data to take a hard look at the  
13 current environment, it could not logically make a determination about the effects on the  
14 environment from livestock grazing in 615,000 acres that it intends to continue grazing. And  
15 because it calls for no changes in that grazing, it did not evaluate a reasonable range of  
16 alternatives to the grazing, such as a reduction in season of use, numbers, or land area that is  
17 to be grazed; or a declaration that grazing would not continue until required monitoring is  
18 finally completed.

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21 **FIRST CLAIM FOR RELIEF**  
22 **(VIOLATION OF NEPA AND THE APA)**  
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24 34. Plaintiffs reallege and incorporate by this reference the allegations contained  
25 above as though fully set forth herein.  
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1           35.     The fundamental purpose of the National Environmental Policy Act is to  
2 ensure that federal actions receive appropriately detailed environmental review. 42 U.S.C. §  
3 4332. The NEPA requires federal agencies to take a “hard look” at their actions, and to  
4 assess the environmental impacts of those actions in a forthright and public manner. When  
5 analyzing projects that “may” have a significant effect on the environment, agencies are to  
6 consider various alternatives to the project that might be environmentally preferable to the  
7 original proposal. 42 U.S.C. § 4332(A); 40 C.F.R. § 1502.14.

8           36.     NEPA requires federal agencies to prepare a detailed Environmental Impact  
9 Statement (“EIS”) prior to taking an action that could “significantly” affect the quality of the  
10 human environment. 42 U.S.C. § 4332(2)(C).

11           37.     Environmental Impact Statements are required to be prepared for actions that  
12 may have a significant effect on the environment; they exist to show that the agency took a  
13 "hard look" at the effects of its actions and revealed those actions to the public and the  
14 decision-maker.

15           38.     NEPA and its implementing regulations require federal agencies like the BLM  
16 to conduct a thorough and public analysis of the environmental consequences of proposed  
17 federal actions, and this analysis must use high quality information and accurate scientific  
18 analysis. 40 C.F.R. 1500.1(b). The analysis must include a consideration of a reasonable  
19 range of alternatives. *Id. at* 1502.14.

20           39.     Defendants violated the NEPA and its implementing regulations by preparing  
21 and relying on the defective EIS for the Yuma Field Office RMP.

22           40.     Defendants violated NEPA by failing to take a “hard look” at the direct,  
23 indirect, and cumulative impacts of livestock grazing in the subject area.  
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4. Enter such other declaratory and/or injunctive relief as WWP may specifically request hereafter;

5. Award Plaintiff its reasonable costs, litigation expenses, and reasonable attorney’s fees associated with this litigation and the related administrative proceedings pursuant to the Equal Access to Justice Act, 28 U.S.C. 2412 et. seq., and/or all other applicable authorities; and/or

6. Provide such other relief as the court deems just and proper to remedy Defendant's violations of law, vindicate the interests of WWP and the public, and preserve and protect the public lands and resources at issue.

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Dated this 19th day of May, 2010.

s/Erik B. Ryberg  
Erik B. Ryberg

Attorney for the Plaintiff

# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p><b>I. (a) PLAINTIFFS</b></p> <p><b>(b)</b> County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p><b>(c)</b> Attorney's (Firm Name, Address, and Telephone Number)</p>	<p><b>DEFENDANTS</b></p> <p>County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p><b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <p>(For Diversity Cases Only)</p> <table style="width:100%;"> <tr> <td style="width:30%;"></td> <td style="width:10%;"><b>PTF</b></td> <td style="width:10%;"><b>DEF</b></td> <td style="width:40%;"></td> <td style="width:10%;"><b>PTF</b></td> <td style="width:10%;"><b>DEF</b></td> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated <i>or</i> Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated <i>and</i> Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		<b>PTF</b>	<b>DEF</b>		<b>PTF</b>	<b>DEF</b>	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <p><b>CIVIL RIGHTS</b></p> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<p><b>PERSONAL INJURY</b></p> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p><b>PERSONAL PROPERTY</b></p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <p><b>PRISONER PETITIONS</b></p> <input type="checkbox"/> 510 Motions to Vacate Sentence <p><b>Habeas Corpus:</b></p> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <p><b>LABOR</b></p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <p><b>IMMIGRATION</b></p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p><b>PROPERTY RIGHTS</b></p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p><b>SOCIAL SECURITY</b></p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <p><b>FEDERAL TAX SUITS</b></p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN** (Place an "X" in One Box Only)

1 Original Proceeding     2 Removed from State Court     3 Remanded from Appellate Court     4 Reinstated or Reopened     5 Transferred from another district (specify)     6 Multidistrict Litigation     7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): \_\_\_\_\_

Brief description of cause: \_\_\_\_\_

**VII. REQUESTED IN COMPLAINT:**     CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23    DEMAND \$ \_\_\_\_\_    CHECK YES only if demanded in complaint: JURY DEMAND:     Yes     No

**VIII. RELATED CASE(S) IF ANY** (See instructions):    JUDGE \_\_\_\_\_    DOCKET NUMBER \_\_\_\_\_

DATE \_\_\_\_\_    SIGNATURE OF ATTORNEY OF RECORD \_\_\_\_\_

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_    AMOUNT \_\_\_\_\_    APPLYING IFP \_\_\_\_\_    JUDGE \_\_\_\_\_    MAG. JUDGE \_\_\_\_\_

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553  
Brief Description: Unauthorized reception of cable service

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

WESTERN WATERSHEDS PROJECT

Plaintiff

JAMES KENNA, in his official capacity as
Director of the Arizona BLM, and THE BUREAU
OF LAND MANAGEMENT

Defendant

Civil Action No. 2:10-CV-1096

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Bureau of Land Management
1849 C Street NW, Rm. 5665
Washington DC 20240

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you
are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ.
P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of
the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney,
whose name and address are:

Erik Ryberg
312 S. Convent Ave
Tucson, AZ 85701

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint.
You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

WESTERN WATERSHEDS PROJECT

Plaintiff

JAMES KENNA, in his official capacity as  
Director of the Arizona BLM, and THE BUREAU  
OF LAND MANAGEMENT

Defendant

Civil Action No. 2:10-CV-1096

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) James Kenna  
One North Central Avenue  
Suite 800  
Phoenix, AZ 85004-4427

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Erik Ryberg  
312 S. Convent Ave  
Tucson, AZ 85701

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Clerk or Deputy Clerk