



# United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
Tucson Field Office  
12661 East Broadway Boulevard  
Tucson, Arizona 85748-7208  
[www.blm.gov/az/](http://www.blm.gov/az/)

July 25, 2008

In Reply Refer To:  
AZA 34643  
9230, 1874 (AZ-910)

**CERTIFIED MAIL No. 7005 3110 0001 1372 8885**  
**RETURN RECEIPT REQUESTED**

## TRESPASS DECISION

Pinal County Board of Supervisors  
P. O. Box 827  
Florence, AZ 85232

On May 7, 2008, the United States of America, through the Bureau of Land Management (BLM) notified Pinal County in writing that Pinal County was in trespass on public lands. Several attempts to resolve the trespass failed, which now has resulted in BLM proceeding with this Trespass Decision against Pinal County for unauthorized use of public lands pursuant to 43 C.F.R. § 2808.11 under the authority of the Federal Land Policy and Management Act of 1976 [See in particular 43 U.S.C. §§ 1702(e), 1733(a), and 1761(a)(6)].

BLM acquired a conservation easement (CE) from The Nature Conservancy in 1997. The conservation easement includes approximately 1.3 acres in T. 6 S., R. 16 E., Sec. 17, NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ , Gila & Salt River Meridian, known as San Pedro Road. BLM acquired the CE in part to protect the riparian values associated with the San Pedro River, which bisects the CE. The CE granted BLM "the right to control access" across the lands involved, while clarifying "that public access shall be by non-motorized means only." The CE was encumbered with a revocable Temporary Highway Easement Agreement over San Pedro Road. That authorization was properly revoked, effective December 31, 2007.

On January 31, 2008, without proper authorization, Pinal County, by and through the members of the Pinal County Board of Supervisors, removed a barrier across; entered, graded, and deposited fill material upon; and constructed vehicle pullouts along San Pedro Road. Pinal County also deposited fill material in the San Pedro River bed, which caused blockage and realignment of natural flow channels. On February 13, 2008, BLM installed signs along San Pedro Road stating, "No Motor Vehicles-Administrative Use Only." On March 3, 2008, Pinal County conducted further improvements to San Pedro Road.

Pinal County's actions were unauthorized and in direct trespass of BLM's right under the CE to prohibit motorized public access along San Pedro Road. Therefore, in accordance with 43 C.F.R. § 2808.11(a), you are responsible for reimbursing BLM for total damages to date in the amount of \$21,660.22, as indicated on the enclosed itemized Table of Damages. Reclamation costs may be assessed at a future date, if necessary. You also must immediately cease your unauthorized use, as future unauthorized use could result in BLM instituting a willful trespass action, as defined at 43 C.F.R. § 2808.10(c)(1).

Failure to comply with this Notice and resolve your trespass liability also may result in a citation for your appearance before a designated United States magistrate who may impose a fine of not more than \$1,000 or imprisonment of not more than 12 months, or both, under 43 C.F.R. § 2808.11(d).

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from the 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 Federal Register 4939, January 19, 1993) or 43 CFR 2804.1 for a stay of the effectiveness of this decision during the time 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 appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed in this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

#### Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, 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.



Brian B. Bellew  
Tucson Field Manager

**Table of Damages (Pinal County Trespass) A-34643**

<b>Administrative Costs</b>	<b>Hours</b>	<b>Hour Wage</b>	<b>Total</b>
<b>Labor:</b>			
Realty Specialist	144	\$49.26	\$7,093.44
Park Ranger	29	\$30.40	\$881.60
Park Ranger	10	\$31.00	\$310.00
Natural Resource Advisor	8	\$47.22	\$377.76
Law Enforcement Officer	16	\$51.01	\$816.16
Assistant Field Manager	50	\$55.90	\$2,795.00
Field Manager	24	\$60.95	\$1,462.80
District Manager	28	\$66.78	\$1,869.84
Law Enforcement Officer	16	\$42.57	\$681.12
ASO - Realty Specialist	6	\$58.79	\$352.74
ASO - Management	6	\$90.00	\$540.00
<b>SubTotal</b>			<b>\$17,180.46</b>
<b>Vehicle costs:</b>			
Vehicle Mileage 2380 @ \$0.54 mile			\$1,285.20
170 miles per round trip from Tucson			
<b>SubTotal</b>			<b>\$18,465.66</b>
BLM Denver Surcharge 17.3%			\$3,194.56
<b>Total</b>			<b>\$21,660.22</b>