

Bureau of Land Management & Category Exclusions

Avoiding Scrutiny & Permitting Harm

The Bureau of Land Management has proposed a new policy that could eliminate many of the rules that now protect our public lands from harmful grazing, logging and energy development by excluding these practices from review under the National Environmental Policy Act (NEPA). NEPA allows federal agencies to "categorically exclude" small specific projects from extensive environmental review—Christmas tree cutting and mushroom picking being obvious examples. The category exclusion process also affords the agency the convenience of not having to study a proposal or solicit public input. The long standing standard for adopting a category exclusion is that the action in question must not have an "appreciable effect individually or cumulatively on the environment." Oil and energy exploration, grazing, and logging usually do not meet that standard.

The following are just a small sampling of harmful practices that would be eligible for a category exclusion based upon BLM's current plans.

OIL & GAS EXPLORATION

In 2002, BLM issued a permit that allowed 60-thousand-pound "thumper trucks" to cross huge areas in search of oil and gas just north of Utah's Arches National Park. These trucks, with tires 67 inches high and 34 inches wide, can leave a wake of deep ruts, crushed soil and destroyed wildlife habitat.

In one particularly notorious incident, conservationists discovered that exploration conducted by WesternGeco had left fifteen-inch ruts in the Utah region. Given the revelations of severe damaged caused by WesternGeco trucks, a federal administrative appeals officer ruled in favor of a petition filed by a number of environmental groups which resulted in the immediate halt of the exploration project. The judge found that the BLM had violated federal environmental laws by ignoring concerns raised by conservation groups, the U.S. Fish and Wildlife Service, the Environmental Protection Agency and others.

BLM claims that these thumper trucks do not pose a significant harm to the environment. Future exploration will be categorically excluded and the BLM will free themselves from further scrutiny.

GRAZING

In the summer of 2005 Idaho based environmental groups sued the BLM asserting that the agency's decision to increase grazing in the Jarbidge region of south-western Idaho would cause irreparable harm to the environment. In a series of agency authored Environmental Analyses (EA's), BLM claimed that an increase in grazing would cause "no significant harm." The agency made their decision to permit future grazing despite the fact that these EA's also established that "A sampling of the allotments in question found that up to 78% of the rangeland was found to be 'in Poor condition' and none of the acres met 'Good or Excellent condition.'"

Federal District Court Judge B. Lynn Winmill ruled against the BLM and issued an immediate halt to grazing. The Judge found that BLM was "like a horse with blinders" and that "nobody has looked at the big picture here."

Given a repeat of the same circumstances, BLM will now be able to categorically exclude grazing allotments like the ones disputed in the Jarbidge—without having to provide documentation to justify the agency's decisions.

SALVAGE LOGGING

In July of 2002, the High Roberts Fire burned almost 14,000 acres in the Malheur National Forest in Oregon. Immediately following, the Forest Service proposed to log over 200 acres of the burned forest, under what is known as a "salvage" log. The agency determined that such an action could be 'categorically excluded' from NEPA because it involved the salvage of dead and/or dying trees on less than 250 acres.

Fortunately, conservationists stepped in and demonstrated that many of the trees up for sale were actually alive and healthy and had diameters exceeding 21 inches. Based on the conservationists' arguments, a district court judge ruled that the Forest Service had violated its duty by putting healthy trees up for sale.

The BLM now wants to have the same discretion that the Forest Service has in concluding that salvaging dead or dying trees on less than 250 acres should be categorically excluded from environmental and public review. From this one example, it becomes obvious that giving agencies the right to categorically exclude such activities could prove catastrophic to valuable public lands.



Above & Right: Thumper truck exploration leaving 15-inch deep ruts in the Utah desert. (photo. Southern Utah Wilderness Alliance)

Above: Trough in the Jarbidge where grazing levels were to be increased by the BLM. (photo. Western Watersheds Project)

Above: According to the Forest Service these trees are dead, but just don't know it yet. (photo. Forest Service Employees for Environmental Ethics)