

SOUTHERN CALIFORNIA TRIALS ASSOCIATION

IBLA 86-1281

Decided September 2, 1988

Appeal from a decision of the Area Manager, Indio Resource Area, California, Bureau of Land Management, rejecting application for special recreation use permit No. CA-060-SR6-7.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Permits--Public Lands: Special Use Permits--Special Use Permits

The issuance of special use permits is discretionary, and BLM may properly reject a permit application for an organized off-road motorcycle observed trials event when there is evidence that the proposed use would result in significant impacts to sensitive wildlife species and would be inconsistent with the management objectives, responsibilities, or programs for the impacted public lands.

APPEARANCES: Jack Volder, Location Coordinator, for appellant.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

The Southern California Trials Association (SCTA) has appealed from a March 17, 1986, decision of the Area Manager, Indio Resource Area, California, Bureau of Land Management (BLM), rejecting special recreational use permit application No. CA-060-SR6-7.

Appellant filed its application for a special use permit to conduct an off-road vehicle (ORV) observed trials event near Perris, California. ^{1/} The event was to take place on April 7, 1986, as a 1-day motorcycle trials competition with 60 competitors, 15 judges, and 20 spectators. SCTA also sought permission for overnight camping for 15 vehicles on the night preceding the event.

After receipt of the application, BLM prepared an environmental assessment report (EAR). The EAR, dated March 5, 1986, described the proposed

^{1/} The application involved BLM lands in sec. 32, T. 4 S., R. 4 W., San Bernardino Meridian.

action and existing management and environmental considerations, outlined the anticipated environmental impact of appellant's proposed action, and examined mitigating measures designed to lessen that impact.

The study team found that the proposed action would significantly affect the human environment and recommended rejection of the application. Of special concern to BLM was its finding that the event activities in the area of a grass field, which would be used for parking and staging activities, for rider warmups, for the course beginning, and possibly for camping, would present significant direct impacts upon the Stephen's Kangaroo Rat and/or its habitat. The U.S. Fish and Wildlife Service considers the Stephen's Kangaroo Rat a category 1 candidate species and the State of California has listed the Stephen's Kangaroo Rat as an endangered species (EAR at 10). BLM also expressed concern that the event would adversely impact local vegetation and other local wildlife, directly as a result of the event and indirectly as a result of increased ORV use of the area after the event, stating:

Authorizing a competitive ORV event on this BLM parcel would increase off-road activity, both trials and other types of riding. New potential riders would be introduced to the area and other riders, unassociated with trials, would see the new trail(s) and seek out [the] area's increased riding opportunities.

Increased ORV use, beyond its present low levels, would lead to management problems. Of particular concern are the potential conflicts with neighboring landowners. Complaints about the possibility of an observed trials event taking place have already been expressed by adjacent landowners. These concerns must be carefully considered, especially in light of the fact that the BLM administers a small amount of acreage that is completely surrounded by private residences and agricultural lands.

Increased ORV use could also lead to problems for the new owners of the land, once BLM disposes of it. If and when BLM disposes of this property, it should be as unencumbered with management problems as possible.

(EAR at 11). BLM's conclusion was based on the environmental impact if the mitigating measures designed to lessen the impact of the event were imposed.

On March 17, 1985, the Area Manager issued a decision rejecting the application. Her decision was based on the finding that the event SCTA proposed would result in "[s]ignificant impacts to sensitive wildlife species that cannot be sufficiently mitigated." Her decision further states:

In addition to our specific objections due to impacts to the Stephen's Kangaroo Rat and the necessity for cross-country travel in an area not designated "open" for ORV use, the scattered parcels that make up the Bureau's Metro Project usually have inherent management restraints that make approval of events such as yours, unlikely.

(Decision at 1).

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In its statement of reasons for appeal, SCTA contends that the rejection of its special use permit was "[i]nfluenced by personal prejudice rather than lawful restrictions." Responding specifically to the EAR, appellant argues that the Stephen's Kangaroo Rat has not been classified as either a threatened or endangered species by the U.S. Fish and Wildlife Service. Appellant also contends that, contrary to BLM's conclusion, the introduction of new motorcyclists to the area would not damage the Stephen's Kangaroo Rat habitat or population, but has submitted no evidence in support of this contention. Appellant is of the position that any new "trespassing motorcyclists" would be attracted to the open country in the immediate area and that this area has less underbrush, fewer mining hazards, and faster trails. Appellant argues that observed trials riders represent approximately 0.1 percent of the motorcycling public and, therefore, it is unlikely that they would be responsible for any proliferation of motorcyclists in the area. Appellant asserts these riders are not likely to practice on or cross over flat grassy areas, and that any impact on any landowners or miners in the area would be minimized by the topography of the area and the distance of the trials site from inhabited areas. Appellant also contends that the area of the proposed trials event has been used for trash dumping, target practice, and contains abandoned mine diggings. Appellant argues that the present condition of the land would not be exacerbated by the proposed motorcycle trials.

[1] Special use permits are issued under the general authority of the Secretary of the Interior to regulate the use of the public lands, pursuant to section 302(b) of the Federal Lands Policy and Management Act of 1976 (FLPMA), 43 U.S.C. | 1732(b) (1982). Special recreation use permit requirements are set forth in 43 CFR Subpart 8372. See 43 CFR 8344.1 (ORV use). 43 CFR 8372.3 provides: "The approval of an application and subsequent issuance of a special recreation permit is discretionary with the authorized officer." Accordingly, BLM has the discretion to reject a special recreation use permit application if the proposed activity conflicts with BLM objectives, responsibilities, or programs for management of the public lands involved. Cascade Motorcycle Club, 56 IBLA 134 (1981); see also Whitewater Expeditions & Tours, 52 IBLA 80 (1981).

In the absence of compelling reasons for modification or reversal, a rejection of an application for a special recreation use permit will be affirmed if the decision is supported by facts of record. See California Association of Four-Wheel Drive Clubs, Inc., 38 IBLA 361 (1978) 2/; cf. Dell K. Hatch, 34 IBLA 274 (1978). In California Association of Four-Wheel Drive Clubs, the appellants had appealed from two decisions of the California State Director closing two corridors in the California desert to ORV use. Four endangered and one threatened species of plants had been found in the closure area. Closure was ordered by BLM, invoking the Endangered Species Act, 16 U.S.C. | 1531 (1976), and the National Environmental Policy Act of 1969, 42 U.S.C. | 4321 (1976). At pages 367-68 of that decision we said:

2/ Affirmed, California Ass'n of Four-Wheel Drive Clubs v. Andrus, (9th Cir. Jan. 22, 1982).

Where conflicting uses of the public lands are at issue and the matter has been committed to the discretion of the BLM, the Board will uphold the decision of the BLM unless appellant has shown that the BLM did not adequately consider all of the factors involved, including whether less stringent alternatives would accomplish the intended purpose, or that there is sufficient reason to change the result. Cf. Questa Petroleum Co., 33 IBLA 116 (1977); Rosita Trujillo, 20 IBLA 54 (1975).

An appellant fails to show that BLM did not adequately consider all factors involved before rejecting an application for a special use permit by merely advancing another point of view. It is not enough on appeal to simply express disagreement with BLM's actions. The record clearly indicates that BLM has reasonably considered the impact of the proposed event, including mitigating measures, and has justified its decision to reject appellant's special recreation permit application. We find no compelling reason to reverse that determination.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

R. W. Mullen
Administrative Judge

I concur:

Bruce R. Harris
Administrative Judge