

SIERRA CLUB

IBLA 82-457

Decided March 18, 1983

Appeal of issuance of special use permit by the Barstow, California, Resource Area Office, Bureau of Land Management. #CA-060-SR1-8(D).

Appeal dismissed.

1. Appeals -- Rules of Practice: Appeals: Dismissal

An appeal to the Board will be dismissed where the issues on appeal are moot and where relief sought by appellant has been granted by a court.

APPEARANCES: Laurens H. Silver, Esq., San Francisco, California, for appellant; Lawrence A. McHenry, Esq., Office of the Solicitor, Riverside, California, for Bureau of Land Management.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

On February 10, 1982, the Barstow Resource Area Manager, Bureau of Land Management (BLM), authorized the Four Aces Motorcycle Club to conduct a motorcycle race in the Lane Mountain -- Murphy's Well Area. The race was scheduled to be held on February 14, 1982, as authorized by Special Recreational Use Permit #CA-060-SR1-8(D). Appellant protested issuance of the permit by filing a notice of protest which was received by BLM on February 10, 1982. On the same day, the BLM Area Manager issued a Decision on Protest and Petition for Order Declaring Decision to be in Full Force and Effect Immediately, 43 CFR 4.21(a). This decision anticipated the merits of appellant's protest and responded thereto. Appellant's "Preliminary Statement of Reasons," dated February 9, 1982, was filed with the Board on February 11, 1982. The Director, Office of Hearings and Appeals, issued an order dated February 13, 1982, giving the Area Manager's decision full effect pending appeal.

Concurrently with the above-described action, appellant and other environmental organizations filed actions in Federal District Court, (D.C. California), challenging the route designation criteria contained in the California Desert Conservation Area Plan, and asking for declaratory and injunctive relief. On July 1, 1982, the Federal District Court rendered a decision granting injunctive relief and partial declaratory judgment in favor of the plaintiffs. (American Motorcyclist Association v. Watt, 543 F. Supp. 789 (C.D. Cal. (1982))).

On July 16, 1982, BLM moved to dismiss the appeal for mootness and other reasons. Appellant opposed the motion, citing American Motorcyclist Association v. Watt, *supra*.

In that case, the court granted the plaintiffs summary judgment, limited declaratory and injunctive relief, stating as follows:

V. SCOPE OF RELIEF

Although plaintiffs have requested a writ of mandate compelling federal defendants to revise the [California Desert Conservation Area] Plan so as to make it consistent with E.O. 11,644 and 43 C.F.R. § 8342.1, the Court concludes that declaratory and injunctive relief alone will be sufficient to adequately protect the interests of both plaintiffs and the public.

Accordingly, for the reasons stated above, the Court will enter judgment declaring that the route selection criteria for Class L areas contained in the Plan are inconsistent with 43 C.F.R. § 8342.1 and, therefore, invalid. The Court further will enjoin federal defendants from approving any route of travel in Class L areas, on either a one-time or permanent basis, without complying with the selection criteria set forth in 43 C.F.R. § 8342.1.

American Motorcyclist Association, 543 F. Supp. at 797-98.

The issue of the granting of the permit is moot and other relief sought by appellant was granted by the court.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal is dismissed.

R. W. Mullen
Administrative Judge

We concur:

C. Randall Grant, Jr.
Administrative Judge

Edward W. Stuebing
Administrative Judge

