

CASE FILE COPY

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Form 4130-2a  
(February 1999)

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT

STATE AZ  
OFFICE LLAZG02000  
AUTH NUMBER 0205208  
PREFERENCE CODE 15  
DATE PRINTED 02/23/2010  
TERM 03/01/2010 TO 02/28/2020

GRAZING LEASE

MICHAEL J. HAYHURST  
2238 BOWERS ROAD  
HUACHUCA CITY AZ 85616

BUREAU OF LAND MANAGEMENT  
TUCSON FO  
12661 E BROADWAY  
TUCSON AZ 85748-7208

THIS GRAZING LEASE IS OFFERED TO YOU UNDER 43 CFR PART 4100 BASED ON YOUR RECOGNIZED QUALIFICATIONS. YOU ARE AUTHORIZED TO MAKE GRAZING USE OF LANDS, UNDER THE JURISDICTION OF THE BUREAU OF LAND MANAGEMENT AND COVERED BY THIS GRAZING LEASE, UPON YOUR ACCEPTANCE OF THE TERMS AND CONDITIONS OF THIS GRAZING LEASE AND PAYMENT OF GRAZING FEES WHEN DUE. CONTACT YOUR LOCAL BLM OFFICE AT 520-258-7200 IF YOU HAVE QUESTIONS.

MANDATORY TERMS AND CONDITIONS

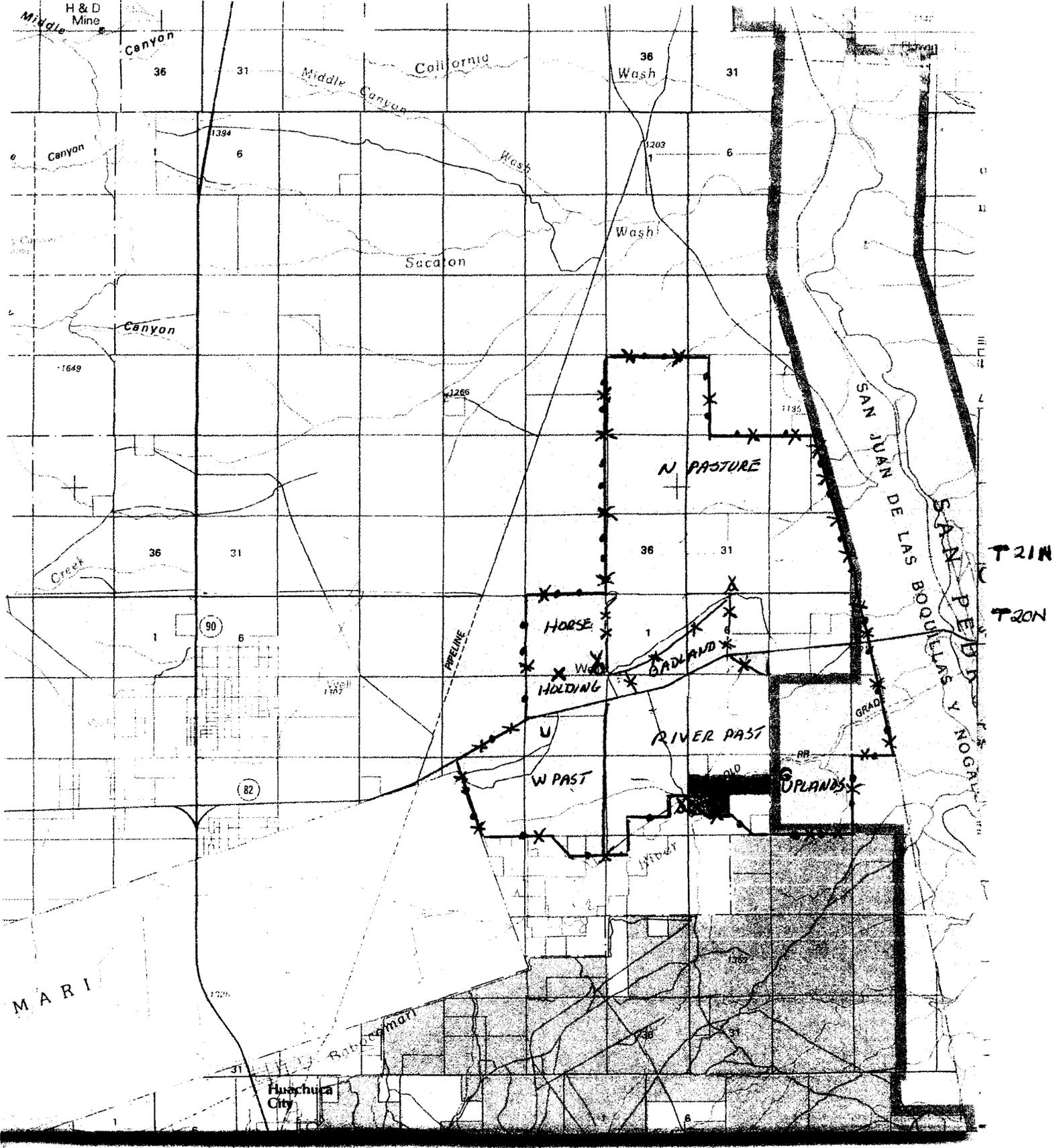
ALLOTMENT	PASTURE	LIVESTOCK		GRAZING PERIOD		% PL TYPE USE	AUMS
		NUMBER	KIND	BEGIN	END		
52080	BABOCOMARI	15	CATTLE	03/01	02/28	100 ACTIVE	180

OTHER TERMS AND CONDITIONS:

THIS LEASE IS ISSUED UNDER THE AUTHORITY OF SECTION 416, PUBLIC LAW 111-88, AND CONTAINS THE SAME MANDATORY TERMS AND CONDITIONS AS YOUR EXPIRING LEASE. THIS LEASE MAY BE CANCELED, SUSPENDED, OR MODIFIED, IN WHOLE OR IN PART, TO MEET THE REQUIREMENTS OF APPLICABLE LAWS AND REGULATIONS.

ALLOTMENT SUMMARY (AUMS)

ALLOTMENT	ACTIVE AUMS	SUSPENDED AUMS	TEMP SUSPENDED AUMS	GRAZING PREFERENCE
52080 BABOCOMARI	180	0	0	180



R20E

R21E

HAYHURST - BABOCOMARI ALLOT # 5208

## Attachment A

### **Babocomari Allotment No. 5208 Grazing Lease - Terms and Conditions**

This Grazing Lease is issued subject to the following conditions:

1. Any changes in grazing use must be applied for prior to the grazing period.
2. Each year billing notices are issued which specify, for the current year, the allotment(s), number and kind of livestock, period(s) of use, animal unit months of use, and the grazing fees due. These billing notices when paid, become a part of this grazing permit/lease.
3. Grazing fees are due upon issuance of a billing notice and must be paid in full prior to making any grazing use under this grazing permit/lease, unless otherwise provided for in the terms and conditions of this grazing permit/lease.
4. This grazing permit/lease is subject to the terms and conditions of an allotment management plan if such plan has been prepared. If an allotment management plan has not been prepared, it must be incorporated in this permit/lease when completed.
5. No grazing use can be authorized under this grazing permit/lease during any period of delinquency in the payment of amounts due in settlement for unauthorized grazing use.
6. Grazing use authorized under this grazing permit/lessee may be suspended, in whole or in part, for violation by the permittee/lessee of any of the provisions of the rules or regulations now or hereafter approved by the Secretary of the Interior.
7. This grazing permit/lease is subject to cancellation, in whole or in part, at any time because of:
  - a. Noncompliance by the permittee/lessee with rules and regulations now or hereafter approved by the Secretary of the Interior.
  - b. Loss of control by the permittee/lessee of all or a part of the property upon which it is based.
  - c. A transfer of grazing preference by the permittee/lessee to another party.
  - d. A decrease in the lands administered by the Bureau of Land Management within the allotment(s) described herein.
  - e. Repeated willful unauthorized grazing use.
8. This grazing permit/lease is subject to the provisions of executive Order NO. 11246 of September 24, 1965, as amended, which sets forth nondiscrimination clauses. A copy of this order may be obtained from the authorized officer.
9. The permittee/lessee must own or control and be responsible for the management of the livestock authorized to graze under this grazing permit/lease.
10. The authorized officer may require counting and/or additional or special marking or tagging of the livestock authorized to graze under this grazing permit/lease.
11. The permittee's/lessee's grazing case file is available for public inspection as required by the Freedom of Information Act.

12. Actual Use information, for each use area, will be submitted to the authorized officer within 15 days of completing grazing use as specified on the grazing lease and/or grazing billings in accordance with 43 CFR 4130.3-2(d).

13. In order to improve livestock distribution on the public lands, all salt blocks and/or mineral supplements will not be placed within a 1/4 mile of any riparian area, wet meadow, or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision in accordance with 43 CFR 4130.3-2(c).

14. In Accordance with 43 CFR 4130.8-1(F): Failure to pay grazing bills within 15 days of the due date specified in the bill shall result in a late fee assessment of \$25.00 or 10 percent of the grazing bill, whichever is greater, but not to exceed \$250.00. Payment made later than 15 days after the due date, shall include the appropriate late fee assessment. Failure to make payment within 30 days may be a violation of 43 CFR Sec. 4140.1(b)(1) and shall result in action by the authorized officer under 43 CFR Secs. 4150.1 and 4160.1-2.

15. Grazing in this allotment shall strictly adhere to the Arizona Standards for Rangeland Health and Guidelines for Grazing Administration, the Safford Upland Livestock Utilization and Drought Policies.

## Attachment B.

### **Babocomari Allotment No. 5208 Other Measures**

#### **To Protect the Lesser Long-nosed Bat:**

1. Prior to construction of range improvement projects, pre-construction surveys shall be conducted for paniculate agaves and saguaros that may be directly affected by construction activities, or in the case of new water sources, may occur within 0.5 mi of the proposed water source. If agaves or saguaros are found during pre-construction surveys, the following measures shall be implemented:
  - a. Fences, pipelines, waters, and other range improvement projects shall be located to reduce as much as possible injury and mortality of agaves and saguaros.
  - b. Disturbance shall be limited to the smallest area practicable and projects shall be located in previously-disturbed areas whenever possible.
  - c. Vehicle use shall be limited to existing routes and areas of disturbance except as necessary to access or define boundaries for new areas of construction or operation.
  - d. All workers shall strictly limit their activities and vehicles to designated areas. Construction workers shall be informed of these terms and conditions.
2. No seeding/planting of nonnative plants shall occur on any public lands in the allotment.
3. Any chemical and mechanical vegetation manipulation, or use of prescribed fire shall be designed and planned to minimize adverse effects to lesser long-nosed bat forage plants. Measures shall be developed to ensure that no more than 20 percent of agaves that are burned during prescribed fire are killed by the fire and that injury and mortality of saguaros are negligible.
4. A mitigation plan shall be developed by the Bureau in coordination with the Service for each prescribed fire or chemical or mechanical vegetation management project within 0.5 mile of a lesser long-nosed bat roost or in areas that support paniculate agaves or saguaros. The mitigation plan shall ensure that effects to lesser long-nosed bat roosts and forage plants are minimized and shall include monitoring of effects to forage plants. The plan shall be approved by the Service.

#### **To protect Jaguar**

5. Jaguars will not be subjected to any predator control activities on this allotment.

**Attachment C**  
**Babocomari Allotment No. 5208**  
**Measures From Biological Opinion**

## **5. HUACHUCA WATER UMBEL**

### **Reasonable and Prudent Measures and Terms and Conditions**

None

### **Conservation Recommendations**

CR 5.1 In developing plans for improving range condition in the allotments in Table 7, the Bureau should seek out partners in the Sierra Vista Subwatershed that have an interest in enhancing groundwater recharge.

CR 5.2 The Bureau should establish cattle enclosure plots in a variety of situations to document the rate of recovery of vegetation and soils in portions of the allotments in poor condition.

CR 5.3 The Bureau should evaluate aquatic habitats on the Babocomari River, in the Babocomari allotment, as potential habitat for the Huachuca water umbel, and coordinate with the Service on actions to enhance any such habitat found there.

CR 5.4 In order for the Service to be kept informed of actions minimizing or avoiding adverse effects or benefitting listed species, the Service requests notification of implementation of any conservation actions.

### **Mitigation**

M 5.1 The Bureau will take immediate action to remove trespass cattle from the San Pedro River RNCA as soon as possible, and measures will be implemented, including continuing to construct, inspect, and maintain fences to ensure that trespass does not continue. The Bureau will immediately initiate trespass procedures and a 12-month closure to livestock under 43 CFR 4150 to remove all unauthorized livestock from the public lands in the San Pedro RNCA. If ownership of the livestock cannot be determined, the Bureau will issue a "Notice and Order to Remove the Livestock" and initiate impoundment of the animals within 30 days.

M 5.2 The Bureau will continue to work diligently with the Arizona State Land Department, and other adjacent landowners to minimize future unauthorized livestock use. The Bureau will proceed with construction of new fencing and fence maintenance as necessary to ensure protection of the resources in the San Pedro RNCA. The Bureau will coordinate with the Service through the NEPA process on these actions.

M 5.3 The Bureau will work with private landowners in the Brunchow Hill allotment to exclude livestock from Bureau-administered lands in that allotment within the riparian zone of the RNCA.

M 5.4 AMPs will be completed in accordance with the following schedule for those allotments in the improve category listed in Table 7 that currently do not have them:

5208 Babocomari	1998
5251 Brunchow Hill	1999
5132 Joseph J. Escapule	2000
5268 Ramirez	2002
5284 Albert Thomas	2002

M 5.5 Existing AMPs for any allotments in Table 7 will be implemented no later than October 1998.

M 5.6 AMPs developed pursuant to item d. will be implemented no later than two years after completion.

M 5.7 The Bureau will take action by October 1998 that will result in a long-term upward trend in range condition (see footnote on page 43) in areas of "improve" allotments listed in Table 7 that are in fair or poor condition.

M 5.8 For allotments in the "custodial" category in Table 7, the Bureau will work with other landowners in the allotment to improve range condition (see footnote on page 43) in areas of fair or poor range condition. Actions the Bureau could take with others may include developing grazing strategies, planning and developing range improvement projects and vegetation management, and providing technical assistance.

M 5.9 The Bureau will work with Natural Resource Conservation Service and landowners in the allotments to develop and implement watershed improvement projects that will increase infiltration.

M 5.10 The Bureau will not develop or maintain range improvement projects in the riparian corridor of the San Pedro River, except for fences, cattle guards, and gates to exclude and better manage cattle. Also, the Bureau will not conduct chemical or mechanical vegetation management or prescribed fire in the riparian zone of the San Pedro or Babocomari rivers for the purpose of managing livestock.

Table 7: Range condition and trend, and management category of allotments in the watershed of the San Pedro RNCA.

Allotment	Condition (acres)				Trend	Management Category	
	Excellent	Good	Fair	Poor			
Powers (5205)	100	500	3405	426	Static	Custodial	
Babocomari <sup>1</sup> (5208)	0	0	816	1000	Upward	Improve	
Cleveland (5219)	0	0	182	100	Static	Custodial	
Monzingo (5226)		0	0	1260	598	Static	Custodial
Powers (5227)	250	3760	540	290	Static	Custodial	
Joseph J. Escapule (5232)	0	0	730	2001	Static	Improve	
47 Ranch (5233)		0	0	300	1186	Static	Custodial
Susnow (5240)	0	40	78	0	Static	Custodial	
Hopp (5242)	0	0	1300	577	Static	Custodial	
Brunchow Hill (5251)	0	0	608	430	Upward	Improve	
Lucky Hills (5252)	0	100	4160	5188	Upward	Improve	
Marco (5255)	0	0	135	265	Upward	Custodial	
Wildcat Canyon (5258)		0	400	300	645	Static	Custodial
Q Miller (5261)		0	0	200	356	Static	Custodial
Ramirez (5268)	0	0	312	680	Upward	Improve	
Cox (5274)	0	0	920	628	Static	Custodial	
Sands Investment (5277)	100	400	900	300	Static	Custodial	
Albert Thomas (5284)	0	0	1033	3140	Downward	Improve	
J.E. Warren Jr. (5295)	0	0	1000	1503	Upward	Custodial	
Totals:	450	5200	18180	19313			

<sup>1</sup>The permittee reports that range condition trend is upward (undated letter from Mike Hayhurst to Grant Drennan, Bureau, Tucson, AZ), although the Bureau reports the trend as static (Bureau 1996a).

M 5.11 The Bureau will authorize no grazing in the riparian zone of the San Pedro River in the San Pedro RNCA for the life of the project.

M 5.12 Grazing on Bureau-administered lands in the allotments in Table 7 will adhere to the Bureau's Arizona Standards and Guidelines, Upland Livestock Utilization Standard, Safford Drought Policy, Arizona Ephemeral Policy, and Riparian Area Policy.

M 5.13 Inventory, monitoring, and evaluations as described in the Bureau's proposed action (Bureau 1996a) and applicable sections of the Bureau Manual, will be conducted in the allotments in Table 7. Inventory, monitoring, and evaluation activities and results; removal of trespass cattle; fence

construction; and AMP development will be summarized in an annual report to the Service, due March 15 of the year following the calendar year in which such activities occurred. The first report will be due March 15, 1998.

## **14. JAGUAR**

### **Reasonable and Prudent Measures/ Terms and Conditions**

RPM 14.1 Jaguars will not be subjected to any predator control activities, by any entity, associated with the project.

TC 14.1.a Predator control activities associated with livestock grazing (including those conducted by APHIS-ADC or the permittees) and authorized by the Bureau shall require identification of the target animal to species before control activities are carried out. If the identified animal is a jaguar, that individual shall not be subjected to any predator control actions. If, when using dogs to tree mountain lions, a jaguar is inadvertently chased and/or treed by the dogs, the dogs shall be called off immediately once it is realized the animal is a jaguar.

RPM 14.2 Permittees will be informed by the Bureau of the status of the jaguar and the specifics of its protection under the Act.

TC 14.2.a Permittees shall be informed by the Bureau by letter within 30 days of receipt of this biological opinion that take of jaguar, including harm and harassment, is prohibited under the Act and could result in prosecution.

RPM 14.3 All appropriate permits will be obtained prior to any predator control activities associated with the project.

TC 14.3.a Any predator control activities authorized by the Bureau and associated with this project shall be conducted only after all appropriate permits (whether Federal, State, or other) have been obtained.

RPM 14.4 Jaguar habitat will be maintained in identified locations.

TC 14.4.a Dense, low vegetation (mesquite, saltcedar, cottonwood, willow, etc.) in major riparian or xero-riparian corridors on Bureau-administered lands south of Interstate 10 and Highway 86 shall be maintained.

RPM 14.5 The Bureau will investigate reports of any and all observations of jaguars or their sign in the project area and will provide the Service with a report of such investigations.

TC 14.5.a The Bureau, in coordination with the Service and Arizona Game and Fish Department, shall investigate all reports that it receives of observations of jaguars in the project area. The investigation shall include appropriate field collection of data. The Bureau is encouraged to enlist the expertise of the Arizona Game and Fish Department. The Bureau shall provide a detailed report of each observation and investigation to the Arizona Ecological Services Office within 30 days of the occurrence of each incident. Such information shall also be included for the previous calendar year in an annual monitoring report to be submitted to the Service by March 15 of each year, beginning in 1998.

## **Conservation recommendations**

CR 14.1 The Service recommends that the Bureau fund and/or carry out research to (1) determine the distribution of jaguar habitat within the project area, (2) determine the possible or actual distribution of jaguars within that habitat, and (3) determine means by which that habitat can be maintained and protected.

CR 14.2 In order for the Service to be kept informed of actions minimizing or avoiding adverse effects or benefitting listed species or their habitat, the Service requests notification of implementation of any conservation actions.

## **Mitigation**

M 14.1 The Bureau will inform permittees by letter within 90 days of the date of this opinion that the jaguar is listed as endangered under the Act, take of jaguar is prohibited under the Act, and violators are subject to prosecution and substantial fines.

M 14.2 The Bureau will require that all appropriate State permits are obtained prior to authorizing any control activities.

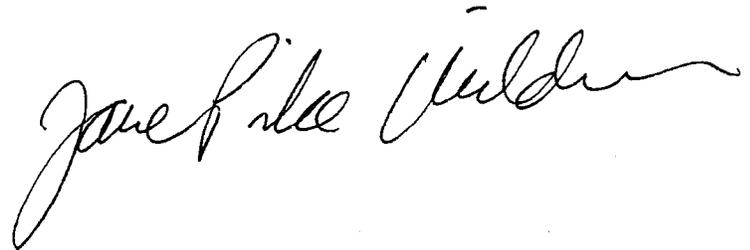
M 14.3 Dense, low vegetation in major riparian corridors within allotments on Bureau-administered lands south of Interstate 10 and Highway 86 will be maintained.

MEMORANDUM

May 22, 2000

To: Darrell Tersey  
From: Jane Childress  
Subject: Babocomari Allotment Grazing Renewal

A records search (class I archaeological survey) revealed that the subject allotment area contained some archaeological resources. I had a face-to-face discussion with Mike Hayhurst, the rancher regarding the areas of impact due to cattle congregation and trampling (i.e. water developments, fence lines and other waters), specific to the archaeological sites. We were prepared to visit sites on the ground to make field assessments. Based on the conversation with Mike and examining the topographic maps with the archaeological sites plotted on it, I decided that field visits would not be necessary. The only water tank he uses is on his private land, and there are no sites in the river bottom where the cattle usually water. One site is near the fence line between his allotment and the SPRNCA but it is not an area the cattle use often due to topography and lack of feed. My opinion is that cattle grazing on this allotment is not unduly impacting any cultural resources.

A handwritten signature in black ink, appearing to read "Jane Childress". The signature is written in a cursive, flowing style with a long, sweeping tail.