

# Wilderness Law and Arizona Ranchers

By Suzanne McCormick and Lorraine Kingdon

**N**ature at its most untouched — pristine — untraveled. This is the way most people would define a wilderness area.

But from the very earliest such official designation in 1924, miners and ranchers could legally continue to use the wilderness.

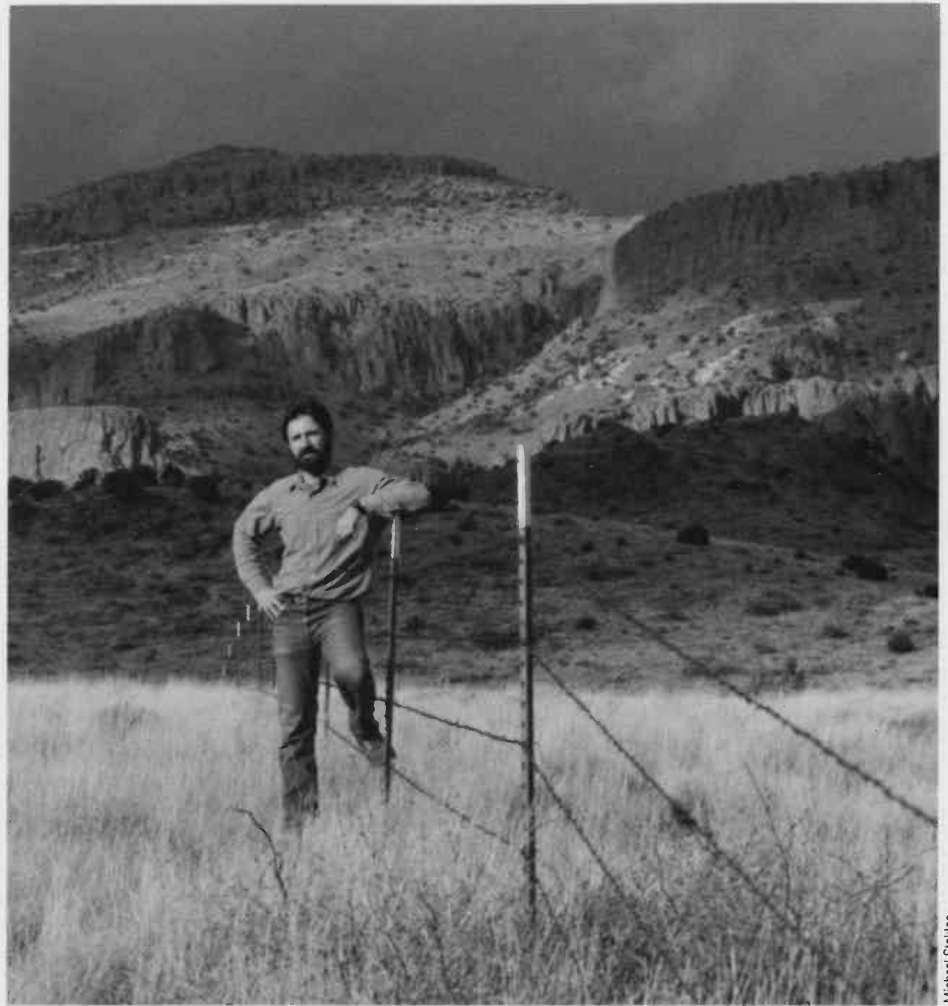
"Grazing livestock in wilderness areas is legal, and it always has been," says Mitchel P. McClaran, an assistant professor of range management in the School of Renewable Natural Resources. His research followed the legal history concerning livestock in wilderness, and he studied the effects of wilderness legislation on ranchers' use of their grazing allotments.

Livestock grazing continues after areas are declared a wilderness. However, ranchers may experience less flexibility in their operations or face an increase in operating costs. The operation of more than 100 ranches is affected by all wilderness-designated areas in Arizona, McClaran estimates.

The first wilderness was established in 1924 by the U.S. Forest Service to protect 500,000 acres at the headwaters of the Gila River in New Mexico. It was the only agency to designate wilderness — a decision it made, not Congress. Permitted uses included grazing livestock, constructing primitive cabins for recreational use and making water developments. Only commercial timber harvesting and road building were prohibited, McClaran said in an environmental law review and forecast of livestock in wilderness for the Northwestern School of Law of Lewis and Clark College, in Portland, Ore.

Until 1964, the Forest Service was the only federal agency in wilderness areas. A rift was developing between congressional sentiment — caused by public discontent — and Forest Service policies.

"Under Forest Service discretion, wilderness designation was considered insufficient in extent, insecure in permanence, and too permissive in allowing nonconforming uses," McClaran says. "Livestock grazing is one such nonconforming use originally permitted by the Forest Service and continued under congressional authority, presumably to stave off potentially significant opposition to the Wilderness Act and



Mitchel P. McClaran stands near the boundary of the Peloncillo Mountains Wilderness, on the border of Graham and Greenlee counties in Arizona.

designation of wilderness areas."

Finally, in 1964, Congress directed the Forestry Service, Park Service, and Fish and Wildlife Service to manage wilderness areas designated by Congress with passage of the Wilderness Act.

McClaran's examination of policy statements between 1966 and 1976 shows that the Forest Service planned to grandfather the presence of livestock, but not necessarily the associated structures, facilities and motorized equipment use.

Complaints about Forest Service management increased drastically, particularly from the livestock industry. Local administrators were inconsistent: some wanted to eliminate barbed wire fences; some wanted ranchers to remove small cabins or maintenance sheds; some made it difficult to take care of

water improvements, such as tanks. Ranchers wanted a more benign interpretation of the laws; other groups protested for other reasons. What McClaran calls the "extreme zeal to create wilderness" has resulted in politics more often determining wilderness boundaries and acreage, rather than necessity.

Congress listened and compromised. In 1980, Congress changed their usual approach of allowing federal agencies to make specific guidelines to enforce laws. In wilderness legislation, Congress laid down very specific regulations, particularly concerning grazing livestock.

"In prescribing exact guidelines for managing cattle in wilderness areas, Congress took discretionary powers away from local administrators,"

**"Grazing livestock in wilderness areas is legal, and it always has been."**

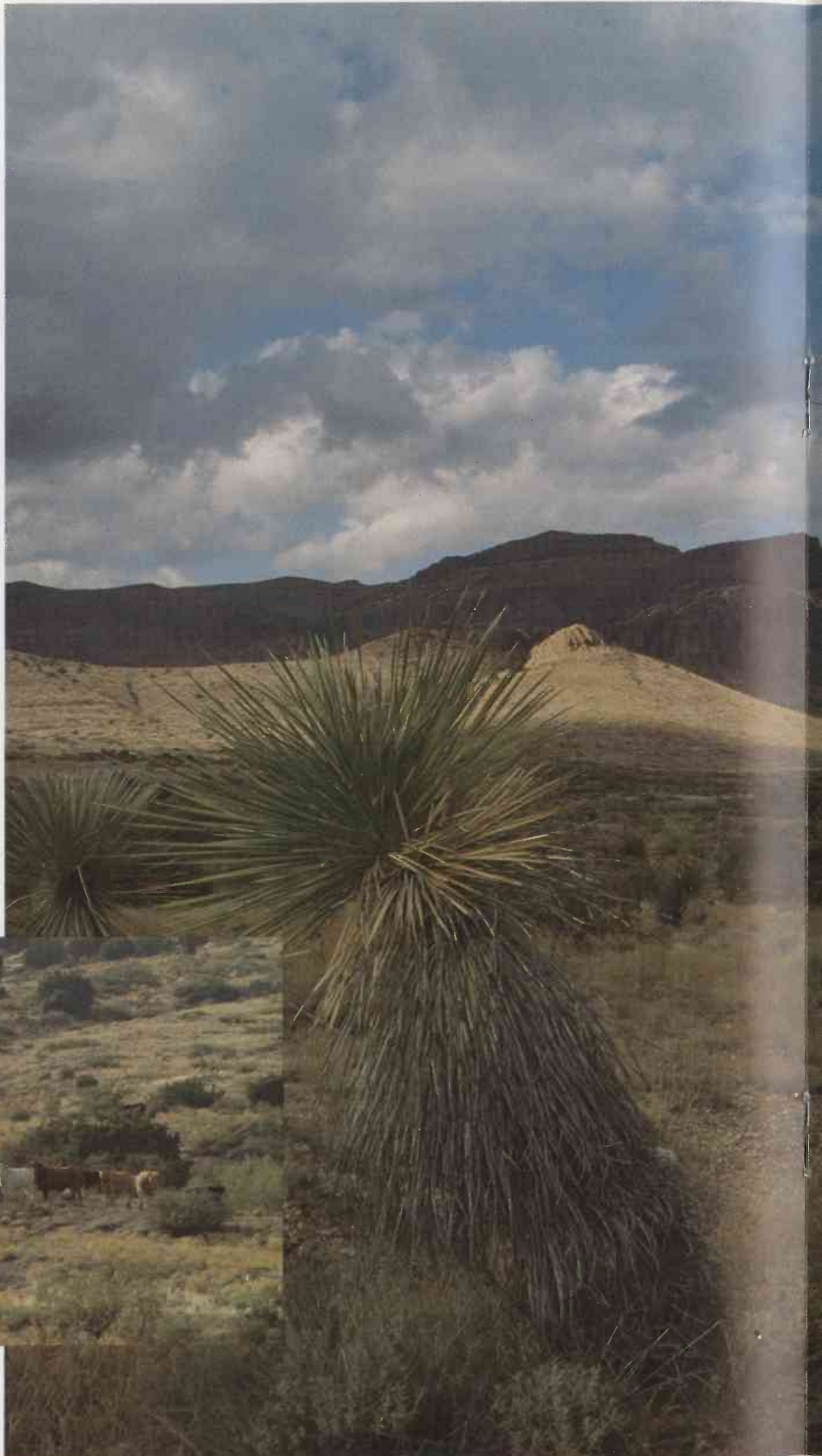
McClaran says. The law specified that wilderness designations could not be used as criteria to reduce grazing animal numbers and said that such numbers could be increased.

"In essence these guidelines grandfathered, indefinitely, nearly all grazing practices, structures, facilities and motorized equipment use in existence at the time of wilderness designation," McClaran says.

In 1990, the Arizona legislature passed a state BLM wilderness bill designating more than 1 million acres — prohibiting mining, road construction, timber cutting and motorized access on the land. But the bill continued the tradition of restating grazing guidelines in wilderness legislation when livestock use already existed.

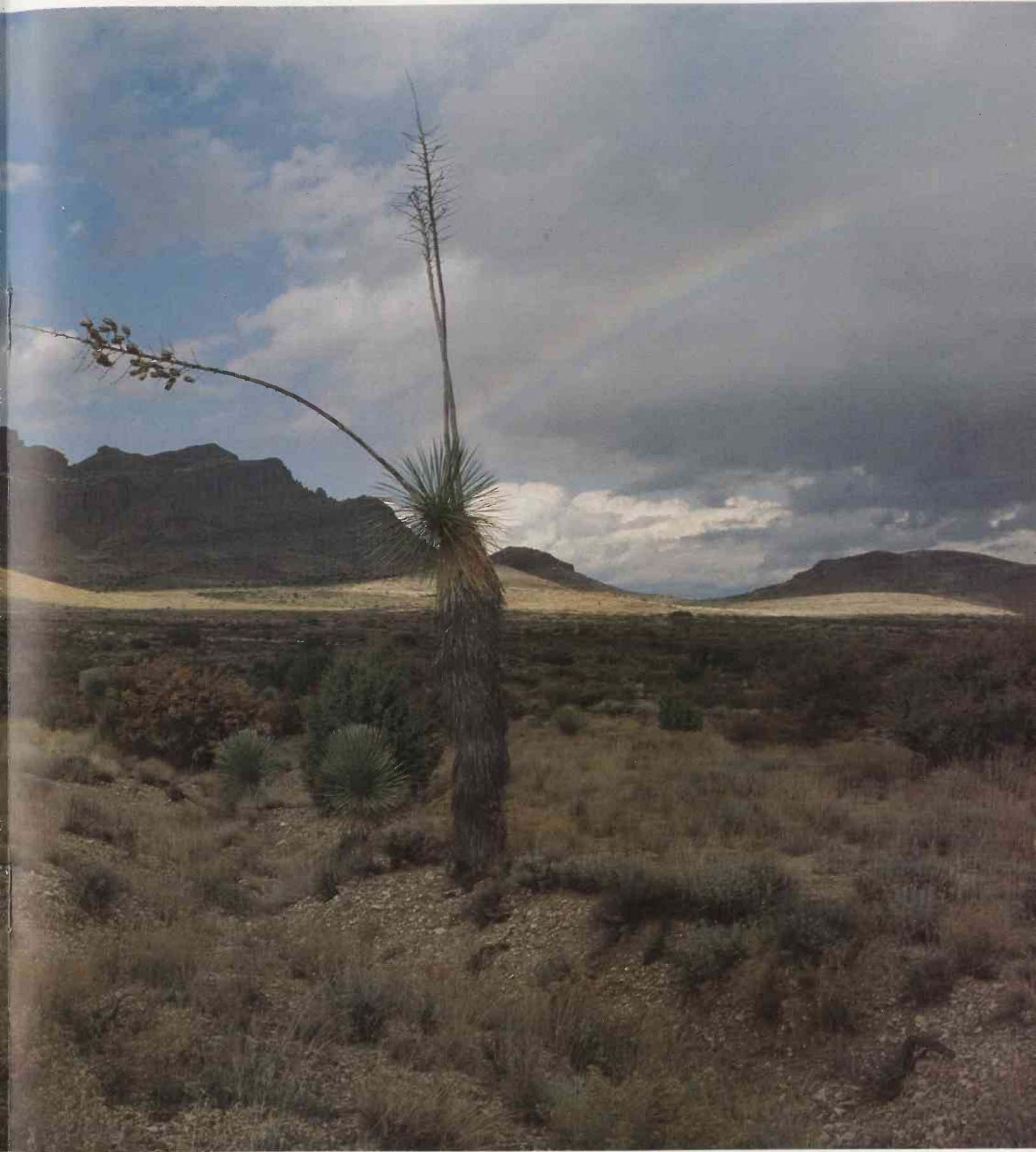
"The extent and intensity of livestock grazing on BLM lands are equal to or greater than on Forest Service lands," McClaran says. He predicts that BLM-designated wilderness areas will increase greatly to more than 10 million acres. In 1988, the Forest Service administered more than 32 million acres of wilderness.

Ranchers face limits on the way they manage cattle grazing in wilderness areas. McClaran took a systematic look at the effects on ranchers with allotments in the Tonto National Forest in Central Arizona and the Coronado National Forest in Graham County. In an article



Michael Stokios





published in the "Journal of Range Management," he compared ranches with wilderness grazing allotments with ranches with similar types of allotments on non-wilderness areas from 1964 to 1984.

In his analysis of Forest Service behavior, McClaran found that wilderness designation was not followed by reductions in permitted livestock use by livestock. "Instead there was a slight increase in stocking in wilderness relative to non-wilderness allotments," he says. This demonstrates a lack of bias against livestock use on the part of the agency.

He compared the actual use of allotments by ranchers with the stocking

rate allowed by the Forest Service and discovered no difference.

"Changes in permitted cattle numbers and in rancher willingness to use their full stocking opportunities appear to be independent of the proportion of an allotment in the wilderness, or the allotment size and location," McClaran says.

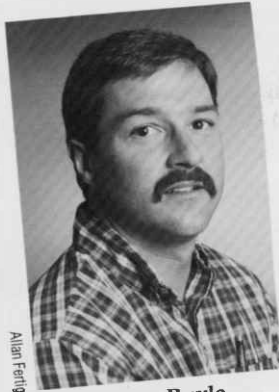
The one significant difference he found related to turnover in ownership of the permit allowing the rancher to graze livestock on these allotments.

"The average permit for allotments with some wilderness had at least one ownership change from 1965 to 1984," McClaran says. In the Tonto National Forest, 5 out of 12 permits changed

hands two or more times. In the Coronado National Forest 5 of 8 permits have had a similar level of change.

"There is evidence that the expectations of newer owners may not always be met," McClaran concludes. "This suggests that the expectation of ranchers with some amount of wilderness in their allotment may not be reached, but because there has always been a rancher willing to purchase these allotments, livestock grazing in the wilderness has continued."

Contact McClaran at Range Management, School of Renewable Natural Resources, 112 Bio Sciences East, University of Arizona, Tucson, AZ 85721, or call (602) 621-1673.



Allen Ferris

George Ruyle

## OVERVIEW

# Arizona's Rangelands

By George Ruyle

Arizona is a land of wide topographic variety, largely dominated by rangeland, which makes up approximately 85 percent of the land area. Rangeland is a kind of land, not a definition of a particular use. These vast areas are primarily grasslands, shrublands, woodlands, open forests and some deserts.

Vegetation and soil types are as diverse as the complex land ownership patterns. The wide variety of environmental conditions, roughly expressed as interactions between elevation and precipitation, result in innumerable combinations of plant species and of the animals that depend on the plants.

In a general sense, the lower-elevation areas of the state usually get less than 10 inches of annual rainfall and support desert scrub-type vegetation. As elevation increases, with higher precipitation and cooler temperatures, the amount of effective moisture also increases. The vegetation changes successively to grassland, woodland and forest — providing wildlife habitat, forage for grazing animals, a source of water and watershed, recreational opportunities, and simply, open space.

In a more global view, rangelands are critical as human habitat, and they serve as an environmental buffer.

The majority of Arizona rangelands are not privately owned. To begin with, only about 18 percent of Arizona land is held by individuals or corporations. The state owns 13 percent of the land; Native American tribes own 26 percent; and the federal government owns the remaining 43 percent.

The percentage of privately owned rangeland is even smaller since much of the private land is urban or farmland.

This pattern of ownership requires considerable coordination and cooperation among owners to properly manage rangeland resources.

The management of publicly held natural resources increasingly has come under the influence of federal and state legislation and under the scrutiny of special interest groups and the interested public. Federal land management agencies are required to seek public input before acting on resource management plans. In Arizona, citizen's groups are actively taking part in the public land management arena, and they represent a wide variety of viewpoints.

Perhaps the most recognizable use of rangelands is as an important source of livestock forage. Range livestock production in Arizona originated with the 16th Century Spanish explorations; it continues today as one of the most widespread uses of the state's rangeland. In fact, cattle production is the single most important agricultural commodity in the state, in terms of cash receipts.

Historically, Arizona's rangelands were grazed by livestock as an un-managed commons. Such uncontrolled use was later regulated as a system of grazing allotments under a permit system. Today, public and state grazing permits and leases account for more than 85 percent of the grazed areas of the state.

The disturbance to rangelands caused by unrestricted livestock grazing has largely been reduced through applying ecologically sound management practices. Environmental standards for livestock grazing are increasingly being developed and applied to ensure that these lands continue to meet growing demands for wildlife habitat, water production and recreational opportunities — in concert with producing food and fiber.

People have always had differences of opinions about publicly held resources. However, if Arizona rangelands are going to meet the diverse needs of the state, an improved understanding of ecological processes must be applied through appropriate management practices. Federal and state policy, market forces and public input will ultimately determine the mix of resource uses.

Ruyle is an associate research scientist in range management at the University of Arizona. Contact him at the School of Renewable Natural Resources, 301B BioSciences East, University of Arizona, Tucson, AZ 85721, or call (602) 621-1384.