

Director's Protest Resolution Report

**Agua Fria National
Monument and Bradshaw-
Harquahala
Resource Management Plans**

February 2, 2009



Contents

Reader's Guide.....	3
List of Commonly Used Acronyms	4
Protesting Party Index.....	5
Issue Topics and Responses.....	6
Lands, Realty	6
Livestock Grazing - Riparian.....	9
Livestock Grazing - Allocation.....	11

Reader's Guide

How do I read the Report?

The Director's Protest Resolution Report is divided up into sections, each with a topic heading, excerpts from individual protest letters, a summary statement (as necessary), and the BLM's response to the summary statement.

Report Snapshot

Issue Topics and Responses

NEPA — Topic heading

Submission number

Protest issue number

Issue Number: PP CA ESD 08 0020-10

Organization: The Forest Initiative

Protester: John Smith — Protester's name

Protesting organization

Direct quote taken from the submission

Issue Excerpt Text:

Rather than analyze these potential impacts, as required by NEPA, BLM postpones analysis of renewable energy development projects to a future case-by-case analysis.

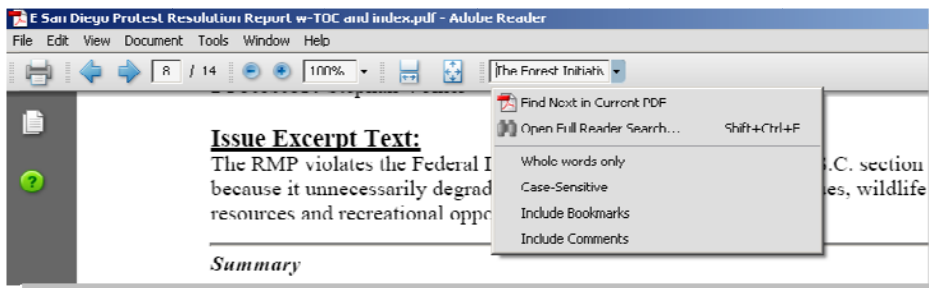
Summary — General statement summarizing the issue excerpts (optional).

There is inadequate NEPA analysis in the PRMP/FEIS for renewable energy projects.

Response — BLM's response to the summary statement or issue excerpt if there is no summary.

How do I find my Protest Issues and Responses?

1. Find your submission number on the protesting party index which is organized alphabetically by protester's last name.
2. In Adobe Reader search the report for your name, organization or submission number (do not include the protest issue number). Key word or topic searches may also be useful.



List of Commonly Used Acronyms

ACEC	Area of Critical Environmental Concern	IB	Information Bulletin
APD	Application for Permit to Drill	IM	Instruction Memorandum
BA	Biological Assessment	MOU	Memorandum of Understanding
BLM	Bureau of Land Management	NEPA	National Environmental Policy Act of 1969
BMP	Best Management Practice	NHPA	National Historic Preservation Act of 1966, as amended
BO	Biological Opinion	NOA	Notice of Availability
CAA	Clean Air Act	NOI	Notice of Intent
CEQ	Council on Environmental Quality	NRHP	National Register of Historic Places
CFR	Code of Federal Regulations	NSO	No Surface Occupancy
COA	Condition of Approval	OHV	Off-Highway Vehicle (has also been referred to as ORV, Off Road Vehicles)
CSU	Controlled Surface Use	RFDS	Reasonably Foreseeable Development Scenario
CWA	Clean Water Act	RMP	Resource Management Plan
DM	Departmental Manual (Department of the Interior)	ROD	Record of Decision
DOI	Department of the Interior	ROW	Right-of-Way
EA	Environmental Assessment	SHPO	State Historic Preservation Officer
EIS	Environmental Impact Statement	SO	State Office
EO	Executive Order	T&E	Threatened and Endangered
EPA	Environmental Protection Agency	USC	United States Code
ESA	Endangered Species Act	USGS	U.S. Geological Survey
FEIS	Final Environmental Impact Statement	VRM	Visual Resource Management
FLPMA	Federal Land Policy and Management Act of 1976	WA	Wilderness Area
FO	Field Office (BLM)	WSA	Wilderness Study Area
FWS	U.S. Fish and Wildlife Service	WSR	Wild and Scenic River(s)
GIS	Geographic Information Systems		

Protesting Party Index

Protester	Organization	Submission Number	Determination
Waugh, Steve & Barbara	Prescott Open Trails Association	PP-AZ-AguaFria-08-01	Dismissed Only Comments
Cohen, Sanford	Prescott Open Trails Association	PP-AZ-AguaFria-08-02	Dismissed Only Comments
Swenson, Carl	City of Peoria	PP-AZ-AguaFria-08-03	Dismissed-Only Comments
Cothorn, Robert	Black Canyon Trail Coalition, Inc.	PP-AZ-AguaFria-08-04	Denied-Issues Comments
Bahr, Sandy	Sierra Club-Grand Canyon Chapter	PP-AZ-AguaFria-08-05	Denied-Issues Comments
Goodroad, Shareen	New River/Desert Hills Community Association, Inc.	PP-AZ-AguaFria-08-06	Denied-Issues Comments

Issue Topics and Responses

Lands, Realty

Issue Number: PP-AZ-AGUAFRIA-08-0004-10
Organization: Black Canyon Trail Coalition
Protester: Robert Cothorn

Issue Excerpt Text:

1) The plan has inconsistent statements related to the Corridor. On one hand, it says no new corridors are needed and then it proposes new and/or expanded corridors. a. Volume 1, Executive Summary, Section Lands and Realty, page ES-xiii states that meetings with the public and energy utilities indicated that the existing corridor system was sufficient to meet future demands contradicts "Utility and Transportation Corridors "p. 196" which includes two new corridors for the Canamex and Wickenberg Bypass.

Issue Number: PP-AZ-AGUAFRIA-08-0004-12
Organization: Black Canyon Trail Coalition
Protester: Robert Cothorn

Issue Excerpt Text:

2) In addition, Volume 1, Chapter 2, Section 2.6.2.2.1.2 Lands and Realty, page 199–200 states that "A new corridor southwest of AFNM would be added to extend the Black Canyon utility corridor completely across the land south and west of Black Canyon City." Volume 1, Chapter 2, Section 2.9.3 Standard Operating Procedures (SOPs), page 309 under "Utility and Transportation Corridors and Communication Sites" goes on to state that transportation routes should be co-located with utilities in designated corridors. Taken with the above statement 1) a. and the statement in 2) a. below, it appears that in addition to shifting the west boundary of the I-17 transportation corridor, another new corridor will be provided within the new Black Canyon Management Unit.

Issue Number: PP-AZ-AGUAFRIA-08-0004-13
Organization: Black Canyon Trail Coalition
Protester: Robert Cothorn

Issue Excerpt Text:

3) The plan does not clearly define the corridor.
a. Volume 1, Chapter 2, Section 2.6.2.2.1.2 Lands and Realty, page 199-200 also states "... The eastern boundary of the middle portion of the revised corridor has been shifted to the west to put the

majority of the corridor below the rim of the Black Mesa, away from the edge of I-17. .. with the east boundary following the southbound lane of I-17 from near the Sunset Point Rest Area, south to Black Canyon City." What happened to the northbound lanes? Are they not the east boundary of the current alignment of I -17? This whole paragraph is confusing and needs further clarification.

Issue Number: PP-AZ-AGUAFRIA-08-0004-23
Organization: Black Canyon Trail Coalition
Protester: Robert Cothorn

Issue Excerpt Text:

The Proposed RMP contradicts itself in that it says in one part (see comment above) that current transportation corridors are sufficient, yet Alt. E shows substantial widening of the western boundary of the I-17 corridor from New River Road to Bloody Basin. This was not indicated in the final Draft RMP review.

Issue Number: PP-AZ-AGUAFRIA-08-0004-24
Organization: Black Canyon Trail Coalition
Protester: Robert Cothorn

Issue Excerpt Text:

We believe that Alternative D as it relates to the Utility and Transportation Corridors in the area of New River to the point where the corridor verves to the west to follow route 69 was not adequately considered. See Map 2-62.

Issue Number: PP-AZ-AGUAFRIA-08-0004-25
Organization: Black Canyon Trail Coalition
Protester: Robert Cothorn

Issue Excerpt Text:

4) The Plan introduced a change that was far different from what we had seen and commented on previously.
a. Volume 1, Chapter 1, Section 2.1.1 Summary of Changes, page 47 states that A change was made from the Draft to the Proposed RMP to Alternative E to adjust the boundary of Black Canyon Corridor on Map 2-79, but was "... not substantial." Volume 3,

Chapter 5, Section 5.4 Public Comments and Responses, Subsection 5.3.1 Alternatives and proposed management actions, Response (LR-23), page 705 points out that "... conditions since publication of the Draft RMPs/Draft EIS have resulted in reconsideration of the Black Canyon Corridor". We disagree and feel that a significant change was made to the map as well as to the proposed alternative after release of the final draft affecting transportation corridors in the Black Canyon Management Unit.

Protester: Robert Cothorn

Issue Excerpt Text:

The Black Canyon Trail Coalition, Inc. (BCTC) objects to the significant widening of the utility/transportation corridor between Black Canyon City and Cordes Junction (Hwy 69). A one to three mile wide corridor will adversely impact viewsheds and recreational opportunities as well as cause unwarranted disruption of wildlife and destruction of cultural and soil/air/water resources. It is incompatible with wildlife protection particularly for the pronghorn antelope.

Issue Number: PP-AZ-AGUAFRIA-08-0004-4

Organization: Black Canyon Trail Coalition

Summary

The BCTC objects to the significant widening of the utility/transportation corridor between Black Canyon City and Cordes Junction (Hwy 69) and confusion on map 2-79.

Response

As described in section 2.7.1.2, Land Use Allocations, utility corridors are allocated to identify locations for future development of significant facilities including natural gas and other pipelines, electric transmission facilities accommodating 115 kV lines or greater voltage, and significant canals delivering water to urban areas. The existing Black Canyon utility corridor was originally identified in the Phoenix RMP and was carried forward in the DRMP/DEIS as Alternative A, No Action. This corridor contains several major utility lines that serve the Phoenix metropolitan area.

In the Affected Environment chapter of the PRMP, section 3.3.4, Table 3-3 describes the existing utility corridors in the planning area. Each corridor contains active, authorized rights-of-way for major utility lines or canals. Section 2.6.2.1.1 states "new utility corridors would be designated for future expected demands". However, except for a westward shift in the location of the Black Canyon utility corridor, the "new" corridors that are identified in the PRMP are composed of the existing corridors and areas that have already been impacted by the development of major utility lines. The PRMP includes modifications to the boundaries of the Black Canyon Corridor, as identified in the Phoenix RMP, which are described in the PRMP and will be further clarified in the ROD.

Both the DRMP and the PRMP include modifications to the originally designated Black Canyon corridor. The original corridor, established in the Phoenix RMP in 1989, extended into the Agua Fria National Monument (AFNM), which was designated in 2001. The BLM determined that further development of utilities, in the portion of the corridor within the monument, would conflict with the protected monument values. Therefore, to place it outside the monument, the eastern boundary of the Black Canyon Corridor was adjusted to the western edge of the Interstate

17 right-of-way, (ranging from 0.5 to 1.5 miles west of its prior boundary) in the Preferred Alternative E of the DRMP/DEIS (Response LR-23 at p. 704 through 705).

In both the DRMP and PRMP, the proposed Black Canyon utility corridor included an additional modification to the corridor originally designated. The Phoenix RMP formally identified corridors only within the boundaries of “Resource Conservation Areas.” The designated Black Canyon corridor was bounded by Cordes Junction on the north and Black Canyon City on the south, within the Black Canyon Resource Conservation Area (Phoenix RMP 1989, Map 2-13). The proposed corridor defined in the PRMP extends to the south, incorporating the existing utility lines across public lands between Black Canyon City and New River.

North of Black Canyon City, the boundary of the Black Canyon Corridor was modified from the DRMP/DEIS to the PRMP/FEIS in order to avoid impacts to significant cultural resources and in response to public comments, which pointed out that rugged topographic conditions posed severe technological constraints to the construction and maintenance of utility lines (Response LR-22 at p. 703 and Response LR-23 at p. 704). These modifications are described in section 2.6.2.2.1.2 of the PRMP/FEIS. The land included in the modified corridor presented in the PRMP/FEIS overlaps the corridor analyzed in the DRMP/DEIS, and the differences between the corridor presented in the DRMP/DEIS and the modified corridor in PRMP/FEIS are not substantial changes (Appendix V at p. 1158 through 1162 and Response LR-39 at p. 713). The associated NEPA analysis is summarized in Appendix V. The environmental impacts of the modified corridor described in the PRMP were determined to be similar to those that were projected for the corridor defined in the DRMP.

The potential adverse impacts of development within utility corridors are described in Chapter 4 of the PRMP in the following sections: section 4.15.2 (impacts on visual resources); section 4.14.2 (impacts on recreation); section 4.11.2 (impacts on wildlife); section 4.12.2 (impacts on cultural resources); section 4.8.2 (impacts on soil resources); section 4.9.2 (impacts on air quality); and section 4.10.2 (impacts on water resources). Specific implementation actions, including the authorization of new rights-of-way for utility lines, will be subject to project-specific NEPA analysis. Measures to mitigate any adverse impacts will be considered and may be required as stipulations in right-of-way grants.

The BLM evaluated all reasonable alternatives in the PRMP/FEIS, and concluded the proposed plan, Alternative E, meets the stated purpose and need and minimizes environmental impacts. The boundary of the Black Canyon Corridor will be clarified in the ROD for the Agua Fria National Monument and Bradshaw-Harquahala PRMP/FEIS. Additionally, the scale of Map 2-79 does not accurately depict the modifications to the Black Canyon Corridor in the PRMP/FEIS. An accurate map of the corridor, at a more readable scale, will be included in the ROD.

The Black Canyon corridor is not proposed as a new transportation corridor. The PRMP does designate two new transportation corridors, to accommodate the proposed Wickenburg Bypass and the Canamex Corridor highways west of Phoenix (section 2.6.2.1.1, at page 196). Existing transportation corridors follow existing highways and are listed in section 2.13, page 318 of the PRMP/FEIS.

Livestock Grazing - Riparian

Issue Number: PP-AZ-AGUAFRIA-08-0005-12
Organization: Sierra Club
Protester: Sandy Bahr

Issue Excerpt Text:

Thus, the decisions in the PRMP that allow for this use are currently in violation of the plain language, intent, and spirit of the Proclamation.

Issue Number: PP-AZ-AGUAFRIA-08-0005-15
Organization: Sierra Club
Protester: Sandy Bahr

Issue Excerpt Text:

Given the degraded conditions of riparian areas on the monument, the BLM should have selected an alternative that would have prioritized recovery of these systems

Issue Number: PP-AZ-AGUAFRIA-08-0005-20
Organization: Sierra Club
Protester: Sandy Bahr

Issue Excerpt Text:

So many of the riparian areas in the Monument are functioning at risk, and it would behoove the agency to consider removing livestock as a temporary or permanent tool for riparian recovery

Issue Number: PP-AZ-AGUAFRIA-08-0005-24
Organization: Sierra Club
Protester: Sandy Bahr

Issue Excerpt Text:

Some of these impacts might be mitigated by the proposed action, but given the declining conditions over wide areas of the riparian resources, the BLM should have provided a certain proactive strategy to conserve and restore the monument's precious resources. These resources include federally listed and sensitive wildlife species, the Gila mountain sucker, the Gila chub, the speckled dace, and the longfin dace. By allowing livestock degradation of their habitat and compromising the ecological integrity of their habitat, the BLM is failing to protect these species.

Issue Number: PP-AZ-AGUAFRIA-08-0005-25
Organization: Sierra Club

Protester: Sandy Bahr

Issue Excerpt Text:

The BLM seems to be relying on an increase in riparian vegetation to protect these resources. RMP at 4.16.9. This ignores stream-bank shearing, trampling of vegetation, impacts to water quality, and the lack of a strict and distinct growing season in Arizona.

Issue Number: PP-AZ-AGUAFRIA-08-0005-28
Organization: Sierra Club
Protester: Sandy Bahr

Issue Excerpt Text:

The BLM's proposal actually incurs more harm to the wildlife species beyond riparian impacts: it entails more fencing, which causes the fragmentation of wildlife habitat and can restrict movement of native species, including the pronghorn which are present in the project area.

Issue Number: PP-AZ-AGUAFRIA-08-0005-30
Organization: Sierra Club
Protester: Sandy Bahr

Issue Excerpt Text:

The BLM overestimates what complete closure of riparian areas would cost. By stating that this would equal a 36 percent loss, the agency is effectively equating the land area with year-round use. If the BLM had accurate carrying capacity and forage production estimates for the riparian areas and the allotments, this loss may actually be a less significant impact and would provide a more rational basis for the decision-maker.

Issue Number: PP-AZ-AGUAFRIA-08-0005-31
Organization: Sierra Club
Protester: Sandy Bahr

Issue Excerpt Text:

The BLM errs in both underscoring and overestimating the significance of allowing use in these areas; on one hand, the agency is alleging a lack of harm due to limited use, and on the other, asserting the importance of maintaining this substantial forage resource. We protest this double-talk, and we request that the agency revisit the analysis of impacts and importance of riparian areas on the monument.

Issue Number: PP-AZ-AGUAFRIA-08-0005-39
Organization: Sierra Club
Protester: Sandy Bahr

The majority of the riparian areas on the Agua Fria National Monument are functioning at risk, with half of these either trending downward or without an "apparent trend." Appendix Q.1, p. 1041.

Issue Excerpt Text:

Summary

The plan (2.6.1.8) proposes to "limit livestock grazing in riparian areas to the winter season (Nov. 1 to Mar. 1)" and this action will cause undue degradation, ongoing harm to rare and imperiled species, ignores the best available science, and fails to provide protection to the objects that the monument proclamation should protect.

Response

The PRMP/FEIS limits livestock grazing in riparian areas to winter season only (November 1 to March 1). This action will promote recruitment and survival of cottonwood, willow, ash, and sycamore trees; reduce livestock congregating along creek bottoms, which degrades stream banks and alters channel morphology, thereby increasing the channel width-depth ratio and creating a deeper channel with more pools; and allow the accumulation of vegetation in the herbaceous layer that protects the natural function of streams (section 4.11.9 at p. 519). These effects will increase the diversity and abundance of plant species and the complexity of wildlife habitat, benefitting a number of wildlife species, including endangered fish and migratory birds. These effects will protect and enhance the ribbons of valuable riparian forests and increase the diversity of vegetative communities, which the Agua Fria National Monument Proclamation (AFNM), dated January 11, 2000, identifies as objects of scientific interest (Appendix A at p.939 through 941).

Implementation of winter only grazing in AFNM riparian areas will facilitate the attainment of properly functioning conditions (PFC). The ecological and PFC results are evidenced on three AFNM allotments where winter only grazing has been implemented as early as 1997 (Response GM-6 at p. 794 through 795). These riparian management actions, in concert with assurance that Fundamentals of Rangeland Health are being met through the allotment evaluation process of Standards for Rangeland Health and Guidelines for Grazing Administration (USDI-BLM, Arizona, 1997), will protect upland and riparian wildlife habitat, including habitat of native fish in the Agua Fria River and its tributaries. The US Fish and Wildlife Service concluded (conference opinion, dated July 20, 2004, at p. 19) that "[i]mplementation of these restrictions is expected to improve Gila chub habitat by helping to increase the recruitment and survival of cottonwood tree seedlings" (Response GM-6 at p. 794 through 795).

By following established regulations and policies, the Phoenix District Office will ensure that the AFNM is managed consistent with the PRMP/FEIS, the AFNM Proclamation, the multiple-use and sustained-yield principles of FLPMA, and other environmental values and objectives (Response GM-6 at p. 794 through 795). Specific implementation actions, including permit renewals and other grazing decisions implementing RMP decisions, may be subject to further

site-specific NEPA analysis as explained in section 2.12 of the PRMP/FEIS.

Livestock Grazing - Allocation

Issue Number: PP-AZ-AGUAFRIA-08-0005-33

Organization: Sierra Club

Protester: Sandy Bahr

Issue Excerpt Text:

Furthermore, we object to the BLM's deferment of meaningful management to the Standards and Guidelines evaluation process. This would use the allotment evaluation process to determine where the Land Health standards are not being met and livestock management actions that may be needed to achieve them, and supposedly this would provide for stocking rate adjustments, pasture rest, or conversion to ephemeral use only based on the Special Ephemeral Rule. RMP at 4.16.9. This contradicts the

practice of permit renewals as they occur on-the-ground. The site-specific analyses almost universally state that grazing is provided for at a certain level within the RMP and therefore the current levels of grazing have already been analyzed.

Issue Number: PP-AZ-AGUAFRIA-08-0005-41

Organization: Sierra Club

Protester: Sandy Bahr

Issue Excerpt Text:

We protest that the BLM did not provide sufficient, meaningful analysis of the proposed action in regard to grazing levels and authorizations in this RMP.

Summary

This issue protests the designation of forage allocations in the RMP and the use of the allotment evaluation process to determine management actions via the Standards and Guidelines process to adjust stocking rates, season of use or conversion to ephemeral use. Most site-specific analysis state that grazing levels are analyzed within the RMP.

Response

Land use plans provide broad-scale decisions that guide future land management actions and subsequent site-specific implementation decisions. Land use plans also allocate uses by geographic area and provide overall guidance for implementation of management decisions. The amount of existing forage available for livestock grazing by allotment is allocated and analyzed in the PRMP (sections 4.11.9 at p.518, Alternative A at p. 519, Alternative B at p.520). However, livestock forage amounts based on monitoring and assessment information are implementation-level decisions and are based on site-specific allotment evaluations which comply with statutory mandates, regulatory requirements and policy guidance provided in the RMP (see Land Use Planning Handbook H-1601-1, Appendix C). The site-specific allotment evaluations could determine a change in the amount of existing forage available for livestock grazing that is appropriate to meet Arizona Standards for Rangeland Health and Guidelines for Grazing Administration (USDI-BLM, Arizona, 1997), or the Desired Future Conditions found in the PRMP/FEIS (sections 2.21.4 at p.50; 2.2.1.9 at p. 52; 2.2.2.4 at p. 57 through 60; 2.2.2.8 at p. 65) and potentially require an amendment to the PRMP/FEIS depending on the temporal scale of the grazing reduction.

Federal regulation directs the authorized officer to take appropriate action to ensure that the

Fundamentals of Rangeland Health, as identified in the grazing regulations, are being met (43 CFR § 4180.1). Federal regulation requires that the authorized officer take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management practices or levels of grazing use on public lands are significant factors in failing to achieve standards and conform with guidelines (43 CFR § 4180.2(c)). Appropriate action means implementing actions that will result in significant progress toward fulfillment of the standards and significant progress toward conformance with the guidelines. Regulation further states that practices and activities subject to standards and guidelines include the development of grazing-related portions of activity plans, establishment of terms and conditions of permits, leases and other grazing authorizations, and range improvement activities such as vegetation manipulation, fence construction and development of water (43 CFR § 4180.(c)).

Pursuant to the allotment evaluation process, if the authorized officer determines that livestock grazing is a significant factor in failing to achieve Arizona Standards for Rangeland Health and Guidelines for Grazing Administration (USDI-BLM, Arizona, 1997), or if the Desired Future Conditions found in the PRMP/FEIS (sections 2.21.4 at p.50; 2.2.1.9 at p. 52; 2.2.2.4 at p. 57 through 60; 2.2.2.8 at p. 65) are not being met, then BLM will develop and implement appropriate management actions. Such actions may include reduced livestock numbers, allotment pasture rest/closure or implementation of ephemeral allotment designations. Affected permittees, applicants, lessees, and the interested public will be offered the opportunity to review, protest, and appeal these management actions, which will be implemented via decisions issued in accordance with 43 CFR § 4160. (Response GM-13 at p. 798).