



***Bureau of Land Management  
Director's Summary Protest Resolution  
Report***

**Sonoran Desert National  
Monument Proposed  
Resource Management Plan  
Amendment and Final  
Environmental Assessment  
(PRMPA and Final EA)**

September 11, 2020

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## *Acronyms*

<b>AUM</b>	animal unit month
<b>BLM</b>	Bureau of Land Management
<b>CCA</b>	Candidate Conservation Agreement
<b>CEQ</b>	Council on Environmental Quality
<b>CFR</b>	Code of Federal Regulations
<b>DRMPA</b>	Draft Resource Management Plan Amendment
<b>EA</b>	Environmental Assessment
<b>EIS</b>	environmental impact statement
<b>ESA</b>	Endangered Species Act
<b>FLPMA</b>	Federal Land Policy and Management Act
<b>FONSI</b>	Finding of No Significant Impact
<b>GCA</b>	Grazing Compatibility Analysis
<b>I-</b>	Interstate
<b>LHE</b>	Land Health Evaluation
<b>NEPA</b>	National Environmental Policy Act
<b>NHPA</b>	National Historic Preservation Act
<b>PM10</b>	particulate matter 10 microns or less in diameter
<b>PRMPA</b>	Proposed Resource Management Plan Amendment
<b>RMP</b>	Resource Management Plan
<b>RMPA</b>	Resource Management Plan Amendment
<b>ROD</b>	Record of Decision
<b>SDNM</b>	Sonoran Desert National Monument
<b>SDT</b>	Sonoran desert tortoise
<b>WWP</b>	Western Watersheds Project

## *Protesting Party Index*

<b>Letter ID</b>	<b>Protester</b>	<b>Organization</b>	<b>Determination</b>
PP-AZ-SDNM_RMPA-20-001	Gordon Whitlock		Dismissed – Comments only
PP-AZ-SDNM_RMPA-20-002	Jean Poubliee		Dismissed – Comments only
PP-AZ-SDNM_RMPA-20-003	Carolyn DeJonge		Dismissed – Comments only
PP-AZ-SDNM_RMPA-20-004	Dr. Amy Eisenberg		Dismissed – Comments only
PP-AZ-SDNM_RMPA-20-005	John Alcock		Dismissed – Comments only
PP-AZ-SDNM_RMPA-20-006	Rosemary Haas		Dismissed – Comments only
PP-AZ-SDNM_RMPA-20-007	Jacob Quartuccio		Dismissed – Comments only
PP-AZ-SDNM_RMPA-20-008	Douglas Newton		Dismissed – Comments only
PP-AZ-SDNM_RMPA-20-009	Cyndi Tuell*	Western Watersheds Project et al.	Denied – Issues and Comments
PP-AZ-SDNM_RMPA-20-010	Chris Krupp	WildEarth Guardians	Denied – Issues and Comments
PP-AZ-SDNM_RMPA-20-011	Chris Bugbee	Center for Biological Diversity	Dismissed – Invalid submission**

\* This letter had multiple signatories in addition to Cyndi Tuell (Western Watersheds Project). They included Sandy Bahr (Sierra Club – Grand Canyon Chapter) and Gary MacFarlane (Wilderness Watch).

\*\* This letter was not submitted per instructions provided on public notices at the start of the protest period and per planning regulations (43 CFR 1610.5-2). Protests must be in writing and filed with the BLM Director, either as a hard copy by mail or electronically via BLM's ePlanning website by the close of the protest period. The only electronic protests BLM will accept are those filed through ePlanning. This letter was submitted to the project's email address at the BLM's Phoenix District Office and is considered invalid and therefore was dismissed from consideration. Although this letter was invalid and dismissed, the BLM reviewed their comments and addressed them in the Decision Record.

## *Sonoran Desert Tortoise*

### *Western Watersheds Project et al.*

*Cyndi Tuell*

**Issue Excerpt Text:** The BLM has an obligation to analyze how livestock grazing would impact the Sonoran desert tortoise in terms of competition for forage. This was not done.

In our prior comments, we attached a complaint (as Appendix E to our scoping comments and attached again to our EA comments) filed in a lawsuit against the U.S. Fish and Wildlife Service for failure to list the Sonoran Desert tortoise under the Endangered Species Act. We asked the BLM to include this information in the analysis of the alternatives for this project but this has not been done. As noted in the complaint, livestock grazing remains a significant and unaddressed threat to the tortoise, including in Wilderness areas, and the Candidate Conservation Agreement is insufficient to keep the tortoise from its rapid slide towards extinction. If the BLM authorizes livestock grazing in the SDNM, the tortoise will suffer significant negative impacts and this will result in a violation of the BLM's duty to protect Monument objects.

Further, the BLM has failed to acknowledge that the outcome of this pending litigation may alter the BLM's responsibility to consult with the U.S. Fish and Wildlife Service regarding the impacts of the proposed project on this species, despite our request in our prior comments that it do so.

These are significant oversights on the part of BLM, rendering the EA and FONSI invalid, and threatening a potential violation of the ESA, as described above.

### *Western Watersheds Project et al.*

*Cyndi Tuell*

**Issue Excerpt Text:** This change threatens a violation of the ESA, which also threatens a violation of NEPA because the BLM did not consider the candidate species designation of the tortoise when making a determination to proceed with an EA and to a FONSI.

### *WildEarth Guardians*

*Christopher Krupp*

**Issue Excerpt Text:** the CCA did not consider whether livestock grazing impacted SDT habitat within the analysis area because there was no grazing within the analysis area at the time the CCA was created. This EA therefore cannot legitimately 'tier' to the CCA or otherwise rely on it as evidence the resumption of livestock grazing within the portion of SDNM north of I-8 will not negatively impact the Sonoran desert tortoise. The failure to specifically analyze the impacts to SDT within the analysis area violates the National Environmental Policy Act (NEPA).

This failure to consider the RMPA's impacts to SDT within the EA analysis area is a critical defect, given that the SDNM proclamation recognizes the tortoise as an object to be protected by the monument designation. BLM's failure to protect the SDT violates its obligation under the Antiquities Act to protect objects of biological importance.

### **Summary:**

The Bureau of Land Management (BLM) failed to analyze impacts on Sonoran desert tortoise (SDT) annual forage from livestock grazing. The BLM failed to consider the candidate species designation of SDT when making the determination to proceed with an Environmental Assessment (EA)/Finding of No Significant Impact (FONSI).

The BLM improperly tiered to the Candidate Conservation Agreement (CCA) to determine whether to make the area available for grazing because the CCA made the determination based on no grazing. Therefore, the BLM failed to adequately analyze the impacts on SDT from livestock grazing and

failed to protect SDT in violation of the Antiquities Act (protecting an object of biological importance).

**Response:**

NEPA directs that data and analyses must be commensurate with the importance of the impact (40 Code of Federal Regulations [CFR] 1502.15), and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The BLM is required to take a “hard look” at potential environmental impacts of adopting the Sonoran Desert National Monument (SDNM) Livestock Grazing Proposed Resource Management Plan Amendment (RMPA)/Final EA.

The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action.

This Proposed RMPA/Final EA is typical of planning-level analysis—broad in scope and qualitative rather than quantitative—as the planning decisions under consideration (i.e., the allotments available or unavailable for grazing and range of animal unit months [AUMs] available on all allotments north of Interstate [I-] 8) are not implementation of site-specific actions and do not specifically authorize grazing, in contrast to the approval of grazing permits, which do authorize grazing but are outside the scope of this planning effort. As the decisions under consideration by the BLM would not result in on-the-ground implementation actions, the analysis was conducted at a programmatic level. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse.

The BLM analyzed the impacts on SDT from livestock grazing in Sections 3.5.1 and 3.5.2. The BLM considered the CCA for SDT during the EA analysis (pp. 22 and 26 of the EA); the CCA was not tiered to in the EA analysis. As noted in the CCA for SDT (USFWS 2015) “there is little overlap in the habitat shared by livestock and SDT in most areas in Arizona, and because livestock grazing in Arizona is actively managed by land management agencies, livestock grazing is not currently thought to affect populations in Arizona.” As done when the CCA analyzed impacts, livestock grazing permit approval and other authorizations will continue to be reviewed and modified to ensure adequate cover and forage for SDT are maintained or improved. Based on the planning-level analysis, implementation-level actions, such as livestock grazing permits, are not within the scope. The BLM complied with NEPA’s requirement to analyze the environmental consequences/impacts on SDT from livestock grazing in the Proposed RMPA/Final EA.

The Antiquities Act of 1906 gives the president the ability to “declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated on land owned or controlled by the Federal Government to be national monuments” (16 United States Code 431–433, Sec. 2). The SDNM was designated under this authority in Presidential Proclamation 7397 on January 17, 2001, whereby the BLM is required to manage the SDNM to provide for the care and management of the monument objects and values identified in the Presidential Proclamation (EA, p. 1). Additionally, the purpose of the BLM’s action was to consider the compatibility of livestock grazing with monument objects for which the SDNM was established; the objects and elements to be considered in the compatibility analysis were listed in Table 1 of the EA and included SDT (EA, pp. 1–2). As noted in the Grazing Compatibility Analysis (GCA), “The LHE [Land Health Evaluation] and compatibility analysis suggest that livestock grazing can remain available on the SDNM north of Interstate 8 ranging from ephemeral use only to 4,232<sup>[1]</sup> perennially authorized animal unit months (AUMs)” (Appendix 1, p. 26). Should the BLM select Alternative B

the Proposed Action, through Alternative D the Reduced Grazing Alternative in the Record of Decision (ROD), the decision would not exceed the GCA determination, because these alternatives are below the GCA's determination. Therefore, grazing would not be incompatible with the protection of the monument's objects including SDT and would not violate the Antiquities Act or Presidential Proclamation. Accordingly, this protest is denied.

## *Socioeconomics*

### *WildEarth Guardians*

#### *Christopher Krupp*

**Issue Excerpt Text:** the Final EA did not use the Maricopa County economy to describe the socioeconomic effects of grazing. Rather, it described impacts to individual permittees, their employees, and the ranching community. It is unhelpful because it does not aid the decision-maker in comparing the overall socioeconomic effects between the proposed action and the No Grazing alternative. Without a like comparison, the decision-maker cannot make an informed, rational decision regarding the impacts of the RMPA to socioeconomic impacts. This is especially important because purported socioeconomic benefits are the only justification for the RMPA.

#### **Summary:**

The BLM's impact analysis is inadequate, as it did not include economic information from Maricopa County and did not provide comparative effects between alternatives.

#### **Response:**

NEPA directs that data and analyses must be commensurate with the importance of the impact (40 CFR 1502.15), and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The BLM is required to take a "hard look" at potential environmental impacts of adopting the SDNM Livestock Grazing RMPA.

The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action.

This Proposed RMPA /Final EA are typical of BLM planning-level documents: broad in scope and qualitative rather than quantitative, as the decisions under consideration are not implementation of site-specific actions. As the decisions under consideration by the BLM would not result in on-the-ground implementation actions, the analysis was conducted at a programmatic level. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse.

The BLM analyzed socioeconomic impacts in Sections 3.4.1, 3.4.2, and 4.5.2 of the Proposed RMPA/Final EA. These sections analyze potential impacts on regional economic activity and are based on the range of potential use in AUMs and permittee spending in the local economy. Additionally, cumulative impacts on socioeconomics, including impacts on Maricopa County, can be found in Section 4.5.2. Furthermore, as described in response to comments in Appendix 5, due to low visitation numbers, economic input into the economy of Maricopa County from dispersed recreational use of the SDNM is considered negligible.



The BLM complied with NEPA's requirement to "take a hard look at" and analyze the environmental consequences/impacts on socioeconomics in the Proposed RMPA/Final EA. As such, this protest is denied.

## ***Range of Alternatives***

### ***Western Watersheds Project et al.***

***Cyndi Tuell***

**Issue Excerpt Text:** As noted in our prior comments, the range of alternatives for this project is inadequate, especially because a recommended and reasonable alternative was arbitrarily rejected by the BLM. WWP et al. 2020 at 11. BLM did not adequately respond to our concerns regarding this deficiency, instead referring us back to the section of the document that caused us to raise this concern. PRMPA- EA at Appendix 5, p.9. Contrary to BLM's claim, the reason for rejecting this alternative was not explained in section 2.2 of the Draft RMPA/EA, which is repeated in the PRMPA-EA, and said simply "[a]llocating portions of allotments not meeting Standards due to livestock grazing unavailable to grazing would be impractical to implement in lieu of other management options." PRMPA-EA at 10. The BLM further states that this alternative would require intensive management and fencing, which in fact is what will be required throughout the entire SDNM if BLM intends to reduce the impacts of livestock grazing as proposed. The BLM did consider a "reduced grazing" alternative that prohibits grazing in some allotments where the standards are not being met, but refused to do this for the entire SDNM without explanation. Therefore, the rejection of this alternative is arbitrary and capricious and in violation of NEPA.

### ***WildEarth Guardians***

***Christopher Krupp***

**Issue Excerpt Text:** The SDNM' proclamation to protect monument objects takes precedence over the general management requirement of multiple use found in FLPMA. BLM is not required to permit grazing everywhere inside the monument north of I-8. It is required to protect the monument's objects. Given these two different levels of import, BLM must at least analyze an alternative that takes precautionary measures to protect monument objects when Rangeland Health Standards are not being met. Untested Bureau conclusions that factors other than livestock grazing are the reason that rangeland health standards are not being met are not a sound basis for decision-making here, if BLM has not at least evaluated a precautionary protection management alternative that prohibits grazing on rangeland where health standards are not currently being attained.

### **Summary:**

The BLM failed to consider an adequate range of alternatives and improperly eliminated an alternative from detailed analysis that would take precautionary measures to protect monument objects when standards are not being met from detailed analysis.

### **Response:**

When preparing an environmental assessment, NEPA requires an agency to rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives that were eliminated from detailed study, to briefly discuss the reasons for their having been eliminated (40 CFR 1502.14(a)). When there are potentially a very large number of alternatives, the BLM may only analyze a reasonable number to cover the full spectrum of alternatives (BLM Handbook H-1790-1, Section 6.6.1 quoting Question 1b, Council on Environmental Quality [CEQ], Forty Most Asked Questions Concerning CEQ's NEPA Regulations, March 23, 1981).

As noted in the response to comments (Appendix 5) and as stated in the BLM NEPA Handbook, H-1790-1, Section 6.6.1, the range of alternatives explores alternative means of meeting the purpose and need for the action; the broader the purpose and need statement, the broader the range of alternatives that must be analyzed. Here, the purpose of this action is to consider the compatibility of livestock grazing with monument objects for which the SDNM was established and to amend the 2012 SDNM Resource Management Plan (RMP)/ROD to identify lands available or not available for livestock grazing. The range of alternatives analyzed reflect the reasonable means of accomplishing this purpose and need. Appendix G of the BLM's land use planning handbook (H-1610 1-1) described the objective of land use plan decisions for livestock grazing to "identify lands available or not available for livestock grazing" and "For lands available for livestock grazing, identify on an areawide basis both the amount of existing forage available for livestock (expressed in animal unit months)." Appendix G of the BLM's land use planning handbook (H-1610 1-1) also states: "For areas available for grazing, identify allotment-specific (for one or several allotments) grazing management practices and livestock forage amounts based on monitoring and assessment information..."

The alternative noted by the protestor included specific livestock management measures and considered implementation-level actions including intensive management, fencing, and making allotment adjustments should it be determined that the allotment(s) is not meeting the grazing standards. Analysis for the Proposed RMPA/Final EA was done programmatically and noted that future implementation-level decisions (allotment-specific) would be analyzed in future implementation-level NEPA analysis (Proposed RMPA/Final EA, p. 10). As a result, this protest is denied.

## ***Livestock Grazing***

### ***Western Watersheds Project et al.***

***Cyndi Tuell***

**Issue Excerpt Text:** Furthermore, the BLM's NEPA analysis ignored, and continues to ignore, a key aspect of the Monument proclamation. The proclamation clearly states the Sand Tank Mountains diversity and distribution of plants is protected from livestock grazing and "[t]o extend the extraordinary diversity and overall ecological health of the Sand Tanks Mountains area, land adjacent and with biological resources similar to the area withdrawn for military purposes should be subject to a similar management regime to the fullest extent possible." Emphasis added. The area north of I-8 is both adjacent to and biologically similar to the Sand Tank Mountains and the area withdrawn for military purposes and therefore should be subject to similar management and protected to the fullest extent possible. BLM did not address our concerns regarding this failing in any way.

The BLM has data from the Sand Tank Mountains with which to compare SDNM plots, but instead, the BLM downward adjusted these data due to a purported difference in rainfall between the sites. See PRMPA-EA at Appendix 1, p. 5. But BLM has consistently based this explanation on the statement of a single peer reviewer for the difference, and at no time has provided additional evidence that the Sand Tank Mountains are so markedly different that the rest of the similar ecological sites on the SDNM should not be held to the standards. The changes are arbitrary and capricious, and we protest on this basis.

### ***Western Watersheds Project et al.***

***Cyndi Tuell***

**Issue Excerpt Text:** Section 5.0 of the grazing compatibility analysis does not include any compatibility determination. Nowhere in the grazing compatibility analysis does the BLM indicate what actual level of livestock grazing is compatible. This lack of an actual compatibility determination renders the PRMPA-EA and FONSI invalid.

***Western Watersheds Project et al.***

***Cyndi Tuell***

**Issue Excerpt Text:** We are concerned the BLM has relied on scientific research that is almost a decade old for the modeling and analysis. Equally disturbing is the use of ten year-old livestock water development use for this same modeling, especially because livestock have not been permitted in the vast majority of the SDNM since 2015. Certainly, there are studies that are more recent that could provide a more accurate assessment of livestock impacts using modern technology and more accurate information. The BLM's reliance on outdated science and data violates the BLM's obligation to use the best available science, and information, when engaging in informed decision-making.

The Final Grazing Compatibility Analysis is largely unchanged from the original. It fails to take into consideration the latest available science, citing nothing from after 2009, despite WWP and others providing much more recent scientific information and research relevant to this Sonoran Desert from after 2009 up until as recently as 2020. PRMPA-EA, Appendix 1, p. 27. The BLM has used the same information it relied upon in its 2012 determination to find that livestock grazing, which was then having significant deleterious impacts on monument objects, is not going to have negative impacts. This is in spite of the fact that the BLM has documented the ongoing negative impacts of livestock grazing on monument objects nearly a decade after livestock grazing had ceased.

***Western Watersheds Project et al.***

***Cyndi Tuell***

**Issue Excerpt Text:** The Grazing Compatibility Analysis does not appear to include any analysis of invasive species of non-native plants.

Our prior comments and annotated bibliography identify the relationship between livestock grazing and the spread of invasive and highly flammable species. The BLM has failed to take a hard look at the issue of invasive plants, and must take a look at this issue as it relates to the new information regarding recent wildfires, and use a science-based process to analyze how the proposed action could contribute to wildfires on the SDNM.

**Summary:**

1. The BLM has flawed analysis assumptions by not considering the area north of I-8 as biologically similar to the Sand Tank Mountains and therefore subject to similar management.
2. The BLM failed to include a compatibility determination in the GCA.
3. The GCA is inadequate as it does not use current scientific information in its analysis, resulting in inaccurate conclusions of compatibility.
4. The GCA is inadequate as it does not include analysis of nonnative invasive species, resulting in inaccurate conclusions of compatibility.

**Response:**

1. As noted in the GCA, the monument objects of the SDNM as described in the Presidential Proclamation can be categorized as physical, biological, and cultural. Physical monument objects such as the Sand Tank Mountains are the landscape on which livestock grazing occurs and are unlikely to be adversely affected by livestock grazing. There is no evidence in the existing literature suggesting livestock grazing can physically alter the overall form or existence of mountains or valleys. The focus of this analysis is how livestock influences the resources that are present on or within these features rather than the physical features themselves. These physical features are likely to persist through any unnatural impacts short of extreme human intervention, such as open pit or mountain top removal mining. For these reasons, the physical objects were not assessed. Livestock grazing is inherently intertwined with the ecosystems in which grazing

occurs; therefore, the biological monument objects are the focus of this analysis. Additionally, the Sand Tank Mountains are south of I-8, which is not part of the planning analysis area and is unavailable for grazing.

As stated in the responses to comments (Appendix 5, p. 9), the ecological sites south of I-8 are different from those north of I-8 and cannot be compared due to differences in soil composition, elevation, and annual precipitation. The Sand Tank Mountains are also outside the Analysis Area. As noted in the GCA's Appendix C, *Final Land Health Evaluation*, the area south of I-8 is in the 7-inch to 10-inch precipitation zone and composed of different parent materials and soils. The Maricopa Mountains north of I-8 are granitic whereas the Sand Tank Mountains are largely composed of younger volcanic rock. These differing parent materials produce different soils that support different vegetation communities. This, along with differences in elevation and precipitation, prevents an apples-to-apples comparison between the two areas' vegetation communities. The BLM considered appropriate management in the areas north of I-8 in light of the different vegetation community, elevation, and precipitation level.

2. The BLM made compatibility determinations in the GCA. See Section 3.0, *Discussion of Biological Object Indicators by Allotment*, and Table 4, *Compatibility Determination by Allotment* (based on grazing as historically authorized); Section 4.0, *Archaeological and Historic Objects*, and Table 5, *Results of the Class I and III inventories (Archaeological/Historical Objects)*; and Section 5.0, *Assess Compatibility of Livestock Grazing on SDNM*. The GCA's conclusion was that "based on the results of this analysis, including the findings of the SDNM Complex LHE, livestock grazing as previously authorized is determined to be incompatible with protection of the biological objects and some of the cultural objects of the SDNM in areas where Standards 1 and 3 of the Arizona Standards for Rangeland Health are not achieved, portions of saguaro cactus forest with low recruitment, and portions of the three cultural trails near livestock waters...For grazing to exist on the SDNM, north of I-8, the management and/or level of livestock grazing must be altered to make significant progress towards the achievement of Standards. The LHE and compatibility analysis suggest that livestock grazing can remain available on the SDNM north of Interstate 8 ranging from ephemeral use only to 4,232 perennially authorized animal unit months (AUMs)" (Appendix 1, p. 26).
3. The CEQ regulations implementing NEPA require that agencies use "high quality information" (40 CFR 1500.1(b)). NEPA regulations require the BLM to "ensure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements" (40 CFR 1502.24).

The BLM NEPA Handbook also directs the BLM to "use the best available science to support NEPA analyses, and give greater consideration to peer-reviewed science and methodology over that which is not peer-reviewed" (BLM Handbook H-1790-1, p. 55). Under the BLM's guidelines for implementing the Information Quality Act, the BLM applies the principle of using the "best available" data in making its decisions (BLM Information Quality Act Guidelines, February 9, 2012).

As described in Section 2.0, *Methodology*, of the GCA, the BLM made a review of existing literature and studies provided by the protestor and other commenters, and conducted additional studies to adequately assess livestock grazing on monument objects because of differing and unrepeatably monitoring techniques conducted in the past. The objects included in the studies included functioning desert ecosystem, diversity of plant and animal species, saguaro cactus forest, scientific analysis of plant species and climates in past eras, the SDNM vegetation communities, wildlife, and archaeological and historic sites (see Table 1 in the GCA, p. 6).

4. As noted above, the BLM conducted a review of the existing studies for the SDNM area in order to understand the available information and condition of the landscape as the first step in making

compatibility determinations. The BLM considered the area vegetation communities as a whole, which included the presence of exotic species (also known as nonnative invasive species). Perennial invasive species would have been recorded in the monitoring data of the 124 rangeland monitoring plots. Monitoring protocols are described in the GCA's Appendix C, *Final Land Health Evaluation*, and associated appendices. No perennial invasive species were observed during field surveys by the BLM (field data are available from BLM Phoenix District Office). This constitutes monitoring of invasive species. The Proposed RMPA/Final EA in Section 3.5.1 states there are some small infestations of invasive plants on the monument that were not captured by the monitoring plots. Invasive annual grasses and forbs are largely naturalized in this area and uncontrollable, as they are in areas that are unavailable for livestock grazing. Additionally, extensive studies on invasive species are not needed because both annual and perennial species are not directly attributed specifically to livestock, in that the invasive annuals are considered to be naturalized over the area and buffelgrass (perennial species) is primarily associated with blacktop roads.

Furthermore, analysis of nonnative invasive (exotic) species was considered in the Proposed RMPA/Final EA in Sections 3.5.1 and 3.5.2 (pp. 21–28) and Section 4.5.3 on pages 51–53. Accordingly, these protests are denied.

## ***NEPA Inadequacy***

### ***Western Watersheds Project et al.***

***Cyndi Tuell***

**Issue Excerpt Text:** As we stated in our prior comments, BLM's land-use planning regulations require a 90-day comment period for draft resource management plan amendments and associated environmental impact statements. 43 C.F.R. § 1610.2(e). NEPA's implementing regulations further require agencies to "prepare, circulate, and file a supplement to a statement in the same fashion...as a draft and final statement unless alternative procedures are approved by the Council." 40 CFR § 1502.9. Thus, the BLM should have provided a 90-day comment period in order to meet the requirement of 43 C.F.R. § 1610.2(e). The BLM argues here that it is required to provide only a 30-day comment period for public review and comments on an EA, but as detailed below and in our prior comments, BLM clearly should have prepared an EIS for this amendment. Furthermore, this comment period has occurred during one of the most challenging times in the history of the United States and the world. There is a world-wide pandemic, many individuals are juggling multiple life changes and some are battling illness, either personally or in their families. The extremely short comment period for this project denies the public the appropriate opportunity to engage in this important planning process unnecessarily. The public has not had an adequate opportunity to review and scrutinize the information provided by BLM, and the shortened time frame made clear that BLM did not have time to incorporate important information provided by the public, as evidenced by the outdated scientific literature cited in the reference section that ignores much more recent and highly relevant literature provided during the scoping and EA comment periods.

### ***Western Watersheds Project et al.***

***Cyndi Tuell***

**Issue Excerpt Text:** As we noted before, the BLM chose to proceed with the target shooting amendment via an EIS, yet chose to proceed with the livestock grazing amendment via an EA. This supports our position that an EIS should have been prepared for this decision and appears to be an arbitrary and capricious decision to use a lower level of environmental analysis for livestock grazing than was used for target shooting. We asked the BLM to explain the rationale for the use of an EA for one amendment and an EIS for another amendment but the BLM has not provided this explanation.

We alerted the BLM to the fact that the lack of adequate NEPA analysis in this amendment process will result in uninformed decision-making and creates an increased risk of actual, threatened, and imminent harm to Monument objects and other natural resources found in the Monument, and significantly increases the risk of unnecessary and avoidable harm to the Monument's resources that we have an interest in protecting, preserving, and using.

***Western Watersheds Project et al.***

***Cyndi Tuell***

**Issue Excerpt Text:** As we noted in our prior comments, the use of an EA for this project fails to comply with NEPA requirements. WWP et al. 2020 at 5-11. The scope of this project alone is enough to require the preparation of an EIS. In other livestock grazing projects for a single allotment the environmental analysis documents can include between 50 and 100 pages of analysis and information (see, for example, the Bureau of Land Management's EA for the Mt. Logan allotment (October 2018)). There is no explanation as to how, or why, this EA, covering six allotments and more than 252,400 acres within a National Monument that includes designated Wilderness, has such cursory information about the allotments and so little analysis included in the EA. Furthermore, the project area includes habitat for threatened and endangered species, BLM special status species, designated Wilderness areas, and is surrounded by Tribal lands and rapidly expanding urban centers. The project area includes historic trails, cultural artifacts, and irreplaceable native vegetation.

**Summary:**

1. The BLM improperly relied on a 30-day public comment period for the land use plan amendment process rather than 90 days as required in regulations.
2. The BLM improperly conducted an EA for analysis rather than using an environmental impact statement (EIS) for the plan amendment.

**Response:**

1. As noted in the BLM Land Use Planning Handbook (H-1610-1), "If the BLM prepares a draft RMP amendment and EA/FONSI, it must offer a minimum 30-day public comment period" (p. 28). The BLM distributed the document to the public and stakeholders and made the document available on the BLM's ePlanning project website. The BLM provided notification to individuals, organizations, and agencies on the mailing list. The BLM also published a news release and legal notice in the Arizona Business Gazette on May 14, 2020, announcing the comment period. There was also an article on the RMPA/EA in the Arizona Republic on May 27, 2020. The comment period ended on June 7, 2020. The 30-day comment period for the RMPA/EA provided by the BLM was sufficient and consistent with BLM policy. The duration did not prevent the general public from providing comments on the available documents (Appendix 4, Volumes I–III). Both the LHE and GCA had been previously made available for review and comment between December 2019 and April 2020.
2. NEPA allows for actions to be analyzed in an EA to determine if the action would have significant effects: "Agencies may prepare an environmental assessment on any action at any time in order to assist agency planning and decision making" (43 CFR 1501.3). Furthermore, the EA should "briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact...[and] aid an agency's compliance with the Act" (43 CFR 1508.9). Additionally, the BLM has the option to conduct land use plan amendments through the EA process rather than an EIS (BLM Land Use Planning Handbook, H-1610-1, p. 44).

When conducting a planning amendment, such as in this instance, whether to prepare an EIS or an EA/FONSI depends on the scope of the planning effort and on the anticipated impacts. As

noted in the EA, the need for the analysis was to address the March 31, 2016, ruling by the U.S. District Court – District of Arizona concluding that the BLM did not provide adequate explanations for determining livestock grazing compatibility on the SDNM in the 2012 SDNM RMP/ROD (Proposed RMPA/Final EA p. 2). The purpose of the action was to consider the compatibility of livestock grazing north of I-8 with monument objects for which the SDNM was established, to determine whether allotments were available/unavailable and what appropriate range of AUMs could be available, and to amend the 2012 SDNM RMP/ROD. As a result of the analysis and as documented in the FONSI, the BLM found that the proposed action did not constitute a major Federal action having a significant effect on the human environment (see p. 2 of the FONSI). The finding was based on the criteria for significance (40 CFR 1508.27) with regard to context and intensity. For example, the proposed action would have no effect on public health or safety, is not highly controversial (as defined in the BLM NEPA Handbook H-1790-1, Section 7.3, “substantial dispute as to the size, nature or effect of a major federal action rather than to the existence of opposition to a use”), and does not have proposed or designated critical habitat or proposed or listed endangered or threatened species in the analysis area, to name a few. Therefore, an EIS was not required. Accordingly, these protests are denied.

## *Air Quality*

### *Western Watersheds Project et al.*

*Cyndi Tuell*

**Issue Excerpt Text:** While we appreciate that BLM finally addressed issues related to air quality in response to our concerns, but we are confused as to how the BLM came to the conclusion that with the No Grazing alternative (which would contribute nothing towards fugitive dust, methane emissions, or vehicle exhaust related to livestock grazing) would result in adverse, negligible, and long-term impacts, which is exactly the same outcome from all of the alternatives that include livestock grazing, including at the historic levels which BLM documented as causing significant adverse impacts. We further question why BLM did not analyze PM10 contributions from soil disturbance by livestock as part of the air quality analysis for the alternatives. It could perhaps be due to the fact BLM did not actually read any of the scientific literature we provided regarding livestock hoof action impacts to soils. We know this because the section on soils does not include any references to scientific literature after 2005, though we provided references for 2012-2020. Giving lip service that simply recognizes potential impacts to soils and air quality is insufficient under NEPA. Here, the BLM should have analyzed and disclosed to the public how much more fugitive dust would result from livestock use of each allotment under each alternative, especially because the SDNM allotments (Arnold, Hazen, and Beloit) overlap with non-attainment areas for PM10, or fugitive dust. PRMPA-EA at 38. The failure to conduct this analysis could result in repeated violations of the Clean Air Act. The BLM has failed to adequately identify how this project will affect public health via air quality impacts. For all of these reasons, a FONSI is precluded and EIS should have been prepared.

### *Western Watersheds Project et al.*

*Cyndi Tuell*

**Issue Excerpt Text:** In our prior comments we noted that NEPA expressly calls on agencies to provide for intergenerational equity, stating that it is intended to “fulfill the responsibilities of each generation as trustee of the environment for succeeding generations” which is particularly relevant as it relates to climate change. WWP et al. 2020 at 18-19. We provided scientific literature specific to the southwest and climate change impacts and BLM has failed to incorporate this into the project record or analysis. We asked the BLM to include a thorough analysis of the impacts of livestock grazing on the environment in light of the compounding impacts of climate change.

The BLM claims to have addressed our concerns in section 4.4, 4.5.1, and 4.5.3. However, nothing in section 4.4 addresses our concerns, BLM has failed to address how livestock grazing will exacerbate the impacts of climate change or drought in this analysis, and instead discusses how livestock grazing is impacted by climate change and drought. PRMPA-EA at 47. BLM does not address its duty to future generations.

**Summary:**

The BLM's analysis of air quality across alternatives is inadequate in violation of the Clean Air Act. The BLM's climate change impact analysis is inadequate, as it does not use the best available information and found no differences between alternatives.

**Response:**

NEPA directs that data and analyses must be commensurate with the importance of the impact (40 CFR 1502.15), and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The BLM is required to take a "hard look" at potential environmental impacts of adopting the SDNM Livestock Grazing Proposed RMPA/Final EA.

The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action.

This Proposed RMPA/Final EA is typical of planning-level analysis: broad in scope and qualitative rather than quantitative, as the decisions under consideration are not implementation of site-specific actions. As the decisions under consideration by the BLM would not result in on-the-ground implementation actions, the analysis was conducted at a programmatic level. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse.

Between draft and final analysis, the BLM reviewed additional information provided by the protestor and other commenters, and revised the climate change discussion to describe the influence of drought and climate change in Sections 3.5.7, 3.5.8, 4.5.1, and 4.5.3, as noted in the response to comments, line 70, page 9 in Appendix 5. The BLM included distinctions for the No Action Alternative as well as the action alternatives. Under the No Action Alternative, grazing of five of the six allotments would continue to be available for livestock grazing, although no grazing has occurred since 2015. Should grazing begin, the potential impacts would be limited to short-term, localized increases in fugitive dust. The potential impacts of fugitive dust contribution (particulate matter 10 microns or less in diameter) from grazing and hoof action would be negligible and do not contribute to the areas non-attainment status. Because the potential impacts would be negligible, conducting modeling would not inform the choices between the alternatives analyzed in the Proposed RMPA/Final EA.

The BLM complied with NEPA's requirement to analyze the environmental consequences to climate change and air resources in the Proposed RMPA/Final EA. Accordingly, these protests are denied.



## ***Cultural Resources***

### ***Western Watersheds Project et al.***

***Cyndi Tuell***

**Issue Excerpt Text:** The BLM denies there will be significant impacts to cultural resources as a result of this decision, but admitted that it was difficult to accurately identify the source of the impacts on cultural resources, and has conducted cultural surveys on just four percent of the SDNM. PRMPA-EA at Appendix 5, p. 4, 8, 10. Yet, according to the BLM’s own analysis (Appendix 1) concentrated livestock use at watering facilities, congregation areas, and trailing along fencing can be incompatible with cultural monument objects and “[r]oughly nine of the documented cultural sites within the six allotments show some level of impact from livestock grazing[,]” and the 19th century trails show impacts from livestock use, including damage from erosion. PRMPA-EA at 36-37.

The BLM claims to have incorporated a report submitted by Archeology Southwest with their April 2020 comments, but nothing in the analysis nor alternatives has changed as a result of that information being “incorporated” into the project record, and we find no information regarding this report in the References section of the PRMPA-EA. PRMPA-EA at Appendix 5, p. 4. We remain concerned about violations of the National Historic Preservation Act when livestock damage cultural resources, whether from authorized use or trespass use.

### ***Western Watersheds Project et al.***

***Cyndi Tuell***

**Issue Excerpt Text:** We are also concerned that BLM appears to have removed information documenting impacts to cultural sites. In our prior comments we noted that Table 6 from the Draft EA showed livestock grazing was impacting cultural sites. DRMPA at 34: [Table 6] This table, and this information no longer appears in the PRMPA-EA. So, we note again that despite the BLM’s clear understanding and acknowledgment that livestock grazing, especially near waters, will have significant negative impacts on historic and cultural resources, the BLM has proposed to not only authorize livestock grazing throughout the project area, but also add water sources for livestock which it admits will cause harm to Monument objects. The BLM cannot knowingly move forward with a decision that violates federal regulations. Nor can the BLM simply remove information that is contrary to its preferred course of action in order to falsely justify its position.

### **Summary:**

The BLM’s cultural resources impact analysis is inadequate, as it does not support the conclusion there would be minimal impacts on cultural resources. The BLM’s cultural resources impact analysis is inadequate, as it removed information that showed cultural resources were being affected by livestock grazing between draft and final documents.

### **Response:**

NEPA directs that data and analyses must be commensurate with the importance of the impact (40 CFR 1502.15), and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The BLM is required to take a “hard look” at potential environmental impacts of adopting the SDNM Livestock Grazing Proposed RMPA/Final EA.

The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the

proposed action. Analysis of land use plan alternatives is typically broad and qualitative rather than quantitative or focused on site-specific implementation actions. The baseline data provide the necessary basis to make informed land use plan-level decisions.

The BLM described the observed impacts on cultural and historic resources from historic livestock grazing in the GCA in Section 4.0 and Table 5, as well as in Sections 3.5.5 and 3.5.6 of the Proposed RMPA/Final EA. As outlined in Appendix 5, “future allotment-specific activities will require additional environmental review and authorization, including all applicable procedures to comply with the National Historic Preservation Act (NHPA). Specifically, the BLM will conduct appropriate NHPA and NEPA analyses for implementation-level decisions that would authorize specific uses in specific allotments, and complete consultation as necessary.”

As part of the review of the proposed action and alternatives effects on cultural resources, the BLM initiated consultation with the State Historic Preservation Office on March 17, 2020, under Section 7 of the BLM-Arizona State Protocol and, thus, Section 106 of the NHPA; additional meetings and conference calls occurred on April 1, 2020, and June 5, 2020. On June 12, 2020, the BLM consulted with the State Historic Preservation Office for concurrence with the adequacy of efforts to identify cultural resources, and the determinations of eligibility and finding of effect. On June 29, 2020, the BLM received concurrence from the State Historic Preservation Office that the Proposed RMPA/Final EA would have “no adverse effects” on cultural sites (BLM-200-12-369).

The BLM complied with NEPA’s requirement to analyze the potential impacts to cultural resources from livestock grazing in the Proposed RMPA/Final EA.

The information in Table 6 of the Draft RMPA/EA was taken from available site forms and other confidential data as well as a draft version of the Archaeology Southwest report *Meandering the Maricopas: An Archaeological Survey of 135 km of Roads within the Sonoran Desert National Monument, Maricopa County, Arizona* (December 2019). Between the Draft and Final EA, the BLM received the completed Archaeology Southwest report and incorporated its information along with updated site forms and other confidential survey findings into the Final EA. Furthermore, information in Table 6 of the Draft RMPA/EA was site specific, which is not the appropriate scale of analysis for an RMPA/EA. Section 7 of the BLM-Arizona State Protocol requires the BLM to analyze broader historic preservation considerations that may influence large-scale decisions and inform the analysis of more routine decisions before the BLM makes key commitments and its management options become limited. Installation of new waters, or any new range improvement, will be subject to additional environmental and Section 106 review at the time those activities are proposed. Accordingly, this protest is denied.

## ***Wilderness***

### ***Western Watersheds Project et al.***

***Cyndi Tuell***

**Issue Excerpt Text:** We Protest the BLM’s Failure to Comply with the Wilderness Act. We asked the BLM to include an analysis of Wilderness in our scoping comments and the DRMPA-EA. Wilderness Watch EA comments, submitted April 30, 2020, “WW 2020” hereinafter, and WWP et al 2020 at 25-27. There was no analysis in the draft EA that was released for public comment but a section on Wilderness was included in the EA, including a part in the cumulative impacts section. This is the first opportunity the public has to see that analysis. Aside from the fact the public has not had a chance to comment on the Wilderness analysis in the final EA due to BLM’s omission of it during the public involvement phase of NEPA compliance, there are other obvious deficiencies.

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***Cyndi Tuell***

**Issue Excerpt Text:** In sum, the EA provides an inadequate basis upon which to make a decision regarding grazing in Wilderness. The cursory analysis lacks any basis on which to make a comparison between alternatives. We don't know the what percentage of the North and South Maricopa Mountains Wildernesses affected by each alternative or the current condition, in terms of acreages, meeting or not meeting standards. The analysis is sorely lacking useful information.

**Summary:**

The BLM failed to conduct adequate analysis of wilderness and the public was not provided an opportunity to comment on the wilderness analysis due to its absence in the Draft RMPA/EA.

**Response:**

NEPA directs that data and analyses must be commensurate with the importance of the impact (40 CFR 1502.15), and that NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail (40 CFR 1500.1(b)). The BLM is required to take a "hard look" at potential environmental impacts of adopting the SDNM Livestock Grazing RMPA.

The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable significant effects of the proposed action.

A land use planning-level decision is broad in scope. For this reason, analysis of land use plan alternatives is typically broad and qualitative rather than quantitative or focused on site-specific actions. The baseline data provide the necessary basis to make informed land use plan-level decisions.

The BLM met the requirements of NEPA by considering and analyzing the potential impacts of grazing on wilderness via a range of alternatives (see Section 3.6, *Special Designations*) in the Draft RMPA/EA. The BLM acknowledges the potential impact of grazing on wilderness through a range of alternatives that includes No Action, Proposed Action, No Grazing, and Reduced Grazing Alternatives (see Section 3.6.2, *Environmental Consequences - Wilderness*). Additionally, cumulative impacts on special designations, including wilderness, were considered and discussed in the Proposed RMPA/Final EA for the range of alternatives (see Section 4.5.4, *Special Designations*).

The BLM received, reviewed, and responded to comments on the Draft Proposed RMPA/EA related to impacts on wilderness from grazing (see Appendix 5) As a result, the BLM included additional analysis of the environmental impacts and cumulative effects on wilderness areas in the Proposed RMPA/Final EA (see Sections 3.6.1 and 3.6.2, pp. 41–44).

As the decisions under consideration by the BLM are programmatic in nature and would not result in on-the-ground decision or actions (e.g., the BLM is not approving grazing permits), the analysis was conducted at a programmatic level. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse. Accordingly, this protest is denied.

## ***References***

- Wright, Aaron M. 2019. *Meandering the Maricopas: An Archaeological Survey of 135 km of Roads Within the Sonoran Desert National Monument, Maricopa County, Arizona*. Technical Report No. 2018-102. Archaeology Southwest, Tucson.
- U.S. Fish and Wildlife Service (USFWS). 2015. *Candidate Conservation Agreement for the Sonoran Desert Tortoise (Gopherus Morafkai) in Arizona*. May. Available: [https://www.fws.gov/southwest/es/arizona/Documents/SpeciesDocs/SonoranTort/Final\\_SDT-CCA\\_201500527%20v2.%20all%20signatures.6.19.2015.pdf](https://www.fws.gov/southwest/es/arizona/Documents/SpeciesDocs/SonoranTort/Final_SDT-CCA_201500527%20v2.%20all%20signatures.6.19.2015.pdf).