



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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October 21, 2016



AR 10/21/16
JSM 10/21/16
AT 10/21/16
SJC 10/21/16

In Reply Refer To:
4100 (G010)

CERTIFIED MAIL – RETURN RECEIPT REQUESTED NO. 7015 1730 0000 3735 3294

Manuel and Carolyn Manuz
P. O. Box 1692
Clifton, Arizona 85533

NOTICE OF FINAL DECISION

Twin C Allotment (No. 40210) Grazing Permit Renewal and Goat Camp Well

Dear Mr. and Mrs. Manuz:

A Notice of Proposed Decision (NOPD) and Finding of No Significant Impact (FONSI) was issued to you on July 29, 2016, for the Twin C Allotment grazing permit renewal and Goat Camp Well range improvement project analyzed in Environmental Assessment (EA) # DOI-BLM-AZ-G010-2015-0029.

INTRODUCTION

The Bureau of Land Management (BLM) is charged with evaluating public lands on an allotment basis, in accordance with the current regulations, to determine if the rangelands are meeting the Arizona Standards for Rangeland Health. The information collected in the standards and guidelines evaluations are used as a basis to evaluate the renewal of livestock grazing leases and authorizations of any other uses on the public lands, consistent with the land use plan documents.

The BLM grazing permit for the Twin C Allotment expired on August 31, 2014, and is currently authorized under section 402(c)(2) of the Federal Land Policy and Management Act (FLPMA) of 1976, as amended under Public Law 113-291, Section 3023. Permits issued under FLPMA are meant to be temporary pending the completion of the formal permit renewal process, which includes completing Land Health Evaluations (LHE) to determine if an allotment is meeting the standards of rangeland health as described in the Arizona Standards for Rangeland Health and Guidelines for Grazing Management, and completing any environmental analysis and documentation for the permit or lease as required under the National Environmental Policy Act of 1969 (NEPA).

BACKGROUND

On May 30, 2014, a letter was sent to you, the interested public, and other stakeholders informing of plans for the BLM to initiate the NEPA process to renew the grazing permit for the Twin C Allotment and complete the construction of the Goat Camp Well.

On January 25, 2016, the BLM announced the availability of the draft EA and LHE for a 30-day public review and comment period pertaining to the proposed permit renewal and well construction. The draft EA and LHE were made available via BLM's ePlanning website (<http://bit.ly/TwinCGoatCampEA>). Comments were received; however, no new substantive information was received as a result.

On July 14, 2016, BLM received USFWS concurrence on BLM's determination that the proposed action may affect, but is not likely to adversely affect, the endangered razorback sucker (*Xyrauchen texanus*) (and its critical habitat), or the threatened yellow-billed cuckoo (*Coccyzus americanus*) (and, in conference, its proposed critical habitat), per informal consultation pursuant to 50 CFR 402.13(a).

On July 29, 2016, the LHE concluded that the standards for rangeland health are being met and was signed by the Authorized Officer.

On July 29, 2016, a FONSI was signed for EA # DOI-BLM-AZ-G010-2015-0029.

On July 29, 2016, a NOPD for the Twin C Allotment Permit Renewal and Goat Camp Well Project analyzed in EA # DOI-BLM-AZ-G010-2015-0029 was sent to you, the interested public, and other stakeholders, subject to a 15-day protest period.

On August 16, 2016, a timely protest to the Proposed Decision was received from the Western Watersheds Project (WWP). I have carefully considered each protest statement of reasons why the Proposed Decision was considered in error and have responded to these reasons below. One protest resulted in a clarification to the Other Term and Condition regarding supplemental and maintenance feeding as discussed in Protest Point #3 herein.

BLM RESPONSES TO PROTEST

Protest Point 1: The proposed decision misstates and misrepresents the need for the Goat Camp Well by asserting it is necessary under the Gila Box Riparian National Conservation Area (RNCA) Management Plan ("Gila Box Plan").

The EA states that the "need for development of upland water sources was identified in the Gila Box Riparian NCA Management Plan. EA at 4. The Gila Box Plan actually says, "Construction and installation of fences, cattle guards, and upland water developments will be necessary. The allotment will have only the one existing pump on the river, located near the mouth of Deadman Canyon, to pump water to the uplands." Gila Box Plan at 82. No new well construction was identified in the "specific management actions" (p. 83) except two miles of water pipeline, one storage tank, and three miles of fence.

Existing range improvements already far exceed this list. The EA reports 19 miles of pipeline, three wells, 11 storage tanks, 12 troughs, 16 dirt tanks, and seven corrals, one cattle guard, and

allotment boundary fences and pasture fences. EA at 4. Nothing in the EA identifies which of these have been built to facilitate riparian exclusion since the Gila Box Plan was finalized in 1998, and no evidence that the Gila plan required new wells to be developed on the Twin C allotment has been presented. Thus, the rationale provided in the NOPD for the construction of the Goat Camp Well. The drilling of Goat Camp Well directly responds to the management objectives outlined in the Gila Box RNCA Management Plan "to implement upland water development for the Twin C Allotment to facilitate the deferral of livestock grazing from the Gila River riparian area due to the Gila Box RNCA designation" is inaccurate, and the basis of the decision-making to do so is flawed. WWP protests on this basis.

WWP also protests the "need" for the Goat Camp Well as being a post hoc rationalization for a project the BLM decided to do in 2009 under a different guise. In the 2009 EA, the BLM alleged that the need for the well was to save permittee time and money from having to manually turn the River Well on and off. In 2012, the justification changed to needing to cease operating the River Well in order to protect the Gila River from hazardous spills and surface water depletion. In 2013, the well was considered necessary because the existing water system was unreliable, especially the Headquarters Well. Now, in 2016, the "need" is that the "other upland water sources of existing water - Headquarters Well and Lower Borrego Well...-do not provide a sufficient supply of perennial water to provide for the whole system. "Id. at 4. No mention is made of the function or sufficiency of the River Well as driving the need for the proposed action, no assessment of impacts to the permittee or the economic impact of the various alternatives has been completed, and importantly, none of the alternatives discuss or analyze complete mandatory cessation of the River Well operation to prevent against hazardous spills and surface water depletion.

The BLM is simply practicing revisionism and completing grudging, *pro forma* NEPA compliance to supplement the rubberstamp it has already given for the half-completed taxpayer-funded well project. By doing so, it has failed to provide an honest and fair discussion, and has arbitrarily and capriciously revised the "need" for the project to justify its existing plan, both in violation of the letter and spirit of federal laws and agency policy.

BLM Response:

Appendix C of the Gila Box RNCA Management Plan (Plan), "Specific Management Actions," disclosed anticipated needs of various affected allotments, including Twin C, at the time of the Plan's approval. Such needs, if implemented, would be subject to appropriate NEPA review subsequent to the Plan's approval. Identifying specific management actions in the Plan's appendix does not establish a requirement that specific infrastructure be implemented, nor does it restrict the BLM from considering other actions that meet the goals and objectives of the Plan, and ultimately the goals and objectives of the Safford District Resource Management Plan (RMP).

The Plan specifies the need for upland water development for the Twin C Allotment (pp. 54 and 82), and states that the loss of the river itself as a water source for cattle (due to grazing deferment) will be offset by upland water source development.

In accordance with the Council of Environmental Quality (CEQ) NEPA regulation, "The purpose and need briefly specifies the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action." As per BLM NEPA Handbook H-1790-1 (p. 35), "The purpose and need statement for an externally generated action must describe the BLM

purpose and need, not an applicant's or external proponent's purpose and need (40 CFR 1502.13)." As described in the EA (pp. 3-4):

"The purpose of this proposed action is to provide an upland perennial source of water to supplement the existing upland water infrastructure of the Twin C Allotment, providing adequate water facilities for existing authorized grazing management activities. The need for the proposed action is that the other upland sources of existing water on the allotment – Headquarters Well [Arizona Department of Water Resources (ADWR) Well Registration No. 55-631495] and Lower Berregero Well (ADWR Well Registration No. 55-631496) – do not produce a sufficient supply of perennial water to provide for the whole system. The need for the development of upland water sources was identified the Gila Box Riparian National Conservation Area (RNCA) Management Plan."

The BLM's "need" for the well is in conformance with the Plan and the goals and objectives the Safford District RMP.

While economic effects may be relevant, "those economic effects matter only when they are 'interrelated' with natural or physical environmental effects". 40 CFR 1508.14. NEPA does not require an agency to assess all impacts of a project, only those that have a reasonably close causal relationship with a change in the physical environment which BLM did through the environmental analysis. Socioeconomic values were identified in Table 3. Summary Evaluation of Elements/Resources of the Human Environment of the EA (p.26). As noted, socioeconomic values were considered and determined to be present, but not affected to a degree that would mean detailed analysis is required. The rationale for this determination was stated in the table.

Protest Point #2: The Informal consultation on this project is inadequate because of substantial and repeated trespass in the Gila Box RCNA that cumulatively harms some of the federally protected species, violating NEPA and ESA.

The proposed decision states that BLM conducted an informal evaluation with the U.S. Fish and Wildlife Service regarding the impacts to the razorback sucker, yellow-billed cuckoo, and their habitats. NOPD at 2. The proposed decision states that the potential effects of the well production are "discountable." NOPD at 5. This conclusion is based on the unchanged number and management of livestock to be authorized in the permit renewal. *Id.* But what about unmanaged livestock that are a constant problem in the Gila Box? The management plan says that there will be incidental breeches of the RNCA, but that BLM will work closely with livestock operators to remove livestock and repair fencing as quickly as possible when incidental trespasses occur." Gila Box Plan at 10. There is no analysis of this in the EA, and indeed, the only mention of trespass is the threat of what could happen if the BLM were not to renew the permit. It is clear that BLM has not analyzed this action in the context of current conditions, violating NEPA, or adequately assessed potential cumulative impacts to listed species, violating the ESA, and WWP protests on this basis.

BLM Response:

The BLM evaluated the direct and indirect effects of the Proposed Action as well as effects from interrelated and interdependent activities and determined that the Proposed Action may affect, but is not likely to adversely affect, listed species or their designated or proposed critical habitat. The U.S. Fish and Wildlife Service (USFWS) concurred in writing with the BLM determinations. No further consultation action is necessary as per 50 CFR 402.13(a).

As described in the EA (pp. 15, 27 (Table 3), 52), the riparian area within the Gila Box RNCA is physically inaccessible to livestock on the Twin C Allotment due to terrain features and fencing installed in approximately 2000. Although there have been some occurrences of unauthorized livestock within the Gila Box RNCA, none have been correlated to livestock from the Twin C Allotment based on cattle breed, brand identification, or vicinity of occurrence.

Further, unauthorized livestock from areas excluded or otherwise closed to grazing to provide a benefit to listed species and their habitat was addressed in the USFWS' Biological Opinion on the [BLM] Gila District Livestock Grazing Program issued May 21, 2012. This biological opinion is applicable to all BLM-managed lands throughout the Safford Field Office, including the Gila Box RNCA. The BLM exercises its authority to resolve unauthorized grazing per 43 CFR 4150 et seq.

Protest Point #3: The proposed decision authorizes supplemental feeding without an analysis of the potential impacts of this action, in violation of NEPA.

The proposed decision contains the following Term and Condition: "Maintenance feeding of livestock with access to public land is prohibited. Maintenance feeding shall be defined as providing livestock with feed to assist in meeting their basic caloric needs, provided at a rate of 3lbs/day/head or more." NOPD at 3. The EA states that this stipulation is listed as "a matter of practice" and that maintenance feeding of livestock on the Twin C allotment has not been known to occur. EA at 15.

It is unclear if "maintenance feeding" has occurred or is authorized under a different definition or below the rate that the NOPD specifies. There are 160 head (152 cattle and 8 horses) authorized by the proposed decision. NOPD at 2. Maintenance feeding as defined in the Twin C docs would entail more than 480 lbs. of supplemental feed per day. The permittee could still put out four and a half bales of hay every day or under a half a ton per month and be under that level. There are no stipulations in the EA or proposed decision discussing whether feeding is happening at a lower level and/or whether there are any restrictions on the type of feed. There is no analysis of this practice on vegetation composition, the spread of weeds, or how this need for some level of maintenance feeding corresponds to the authorized forage use of the allotment. The only discussion of weeds and the potential for infestation is in regard to the well construction and the stipulation to power wash equipment. NOPD at 4. There is no discussion of where this definition of maintenance feeding comes from. Maintenance feeding is not defined in the grazing regulations, but "supplemental feed" is. 43 CFR §4100.0-5. In order to comply with NEPA, the BLM needs to better explain past and current levels of feeding, anticipated levels of feeding, the environmental impacts of such feeding, and its use of this novel term and condition, and we protest on the basis that the current decision fails to do so.

BLM Response:

Maintenance feeding is providing feed to supplement the forage in meeting the dry matter requirement for adequate livestock nutrition beyond the period of emergency feeding. An example is feeding hay during periods of drought when available forage is not adequate. Maintenance feeding is not accepted on the public lands. When maintenance feeding is occurring, appropriate action must be taken under 43 CFR 4110.3-2 or 4110.3-3(c). The BLM has not found any instances of maintenance

feeding on the allotment which is a prohibited act. Therefore, any reference to maintenance feeding has been deleted.

The placement of supplements is addressed in the environmental assessment (EA p. 13). "Supplemental feed" is defined at §4100.0-5 to mean "a feed which supplements the forage available from the public lands and is provided to improve livestock nutrition or rangeland management." An operator may place livestock feed supplements on BLM rangelands only when the BLM provides this authorization. Managers have the discretion to decide whether to allow supplemental feeding and when allowed, and what form that feeding may take, §4130.3-2(c). The authorized officer can specify under the terms and conditions of a grazing authorization that:

- supplemental feeding is authorized;
- the types or categories (e.g. salt, other minerals, vitamins, protein, energy) and form (e.g. block, grain, liquid, granular) of supplemental feed that are allowed; and,
- placement directions or location limitations (e.g. distance from water sources, riparian zones, other specified plant or animal habitats, cultural or historic sites).

Therefore, the "Other Terms and Conditions" specific to supplemental feeding has been revised in this Final Decision (see page 8 of this Decision).

Protest Point #4: The proposed action authorizes livestock beyond what the governing land use plans anticipated and premises its doing so on a misrepresentation of the Grazing Regulations, in violation of FLPMA.

The current proposed decision is for 160 animals yearlong or 1920 AUM. NOPD at 2. The Upper Gila-San Simon Grazing Environmental Statement of 1978 estimated the grazing capacity of the Black Canyon allotment (now the Twin C) as 1245 AUM. UG-ES at A-16. The current proposed Action authorizes grazing in excess of the carrying capacity calculated the last time such an analysis was undertaken. It is unclear where the additional AUM come from or why. Two years of utilization data on two sites (as included in the LHE) is not enough information to support a nearly 700 AUM increase. It appears that no new carrying capacity analysis has been conducted since 350 acres of the Gila River riparian area were withdrawn from the allotment under the Gila Box RNCA designation. Paired with the apparent permission to supplemental feed up to 2lbs/head/day (see above), real questions arise about the carrying capacity of the Twin C allotment, questions that are not answered by the existing LHE or EA.

Moreover, the EA states that the purpose of the grazing permit renewal is to fully process the permit because, "Grazing permits and leases shall be issued to qualified applicants to authorize use on the public lands and other lands under the administration of the BLM that are designated as available for livestock grazing through land use plans." 43 C.F.R. 4130.2(a). But, § 4130.3-1(1) further states, "the authorized livestock grazing use shall not exceed the carrying capacity of the allotment." The BLM has not provided a carrying capacity analysis that supports the proposed action, in violation of the grazing regulations and FLPMA, and we protest on this basis.

WWP encourages BLM to withdraw the proposed decision and focus on completing the proper NEPA analyses concerning the future of the Twin C allotment before adding expensive infrastructure to public lands.

BLM Response:

The 2015 Land Health Evaluation (LHE) indicates that Arizona Standards for Rangeland Health are being achieved (LHE p. 3 of EA Appendix A). Based on actual use and utilization data, permitted AUMs have resulted in slight to light utilization.

Prior to the 1978 Upper Gila-San Simon Grazing Environmental Statement (ES), the original permitted use was authorized at 2,397 AUMs. The 1,245 AUMs was an ES estimated grazing capacity but was never implemented via a decision. Subsequently on April 12, 1981, a decision was issued reducing the authorized grazing use on the Twin C Allotment. The reduction was scheduled over a period of five years with a targeted final reduction to 1,440 AUMs by 1986. The decision stated that "monitoring studies would be conducted to evaluate progress toward meeting objectives for the allotment and determining modification in grazing use." Following the 1981 decision, utilization studies were conducted for a period of five years in which the studies indicated that the targeted final reduction to 1,440 AUMs was not necessary. Therefore, BLM issued a Proposed Decision on January 7, 1986, to authorize 1,800 AUMs. The Proposed Decision was protested on January 17, 1986. In light of the protest received, BLM issued a Final Decision on February 2, 1986, authorizing 1,920 AUMs. The authorized AUMs for the Twin C Allotment have remained at 1,920 since that time.

The Twin C Allotment contained 11,337 public land acres prior to making 350 acres unavailable to grazing along the Gila River as per the Gila Box RNCA Management Plan decision record issued in 1998. This was a minor loss of acres/forage available for grazing; therefore, it did not merit a reduction in permitted use (LHE p. 4 of EA Appendix A). The Plan also states that the AUMs lost are minor and will be absorbed by other portions of the allotment (p. 54).

FINAL DECISION

Therefore, it is my Final Decision to authorize the renewal of the Twin C Allotment grazing permit for 152 Cattle and 8 Horses for a total of 1,920 Animal Unit Months (AUMs) at 100% Public Land (PL) from March 1 to February 28 for a 10-year term. This decision also authorizes the drilling of the Goat Camp Well located at T.6 S., R.29 E., NE ¼ of Section 30. With implementation of this Final Decision, there will be no changes in livestock grazing on the Twin C Allotment from current authorized management. All Mandatory Terms and Conditions will remain the same. Other Terms and Conditions described below will be implemented, which will administratively convey requirements regarding livestock use and management on public land managed by the BLM.

Mandatory Terms and Conditions for the Twin C Allotment

Allotment	Livestock Number	Grazing Period Begin - End	% Public Land	Animal Unit Months (AUMs)
Twin C (No. 40210)	152 Cattle 8 Horses Total = 160	03/01- 2/28 Year Long	100	1,824 Cattle 96 Horse Total = 1,920 AUMs

Other Terms and Conditions

The 10-year term grazing permit renewal for the Twin C Allotment will be issued with the following terms and conditions.

- If in connection with allotment operations under this authorization, any human remains, funerary objects, sacred objects, or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (P.L. 101-601; 104 Stat. 3048; 25 U.S.C. 3001) are discovered, the Permittee shall stop operations in the immediate area of the discovery, protect the remains and objects, and immediately notify the Authorized Officer of the discovery. The Permittee shall continue to protect the immediate area of the discovery until notified by the Authorized Officer that operations may resume.
- In accordance to the Gila Box RNCA Management Plan Final Decision (EA AZ-040-08-03) issued in January 1998,¹ grazing of livestock along the riparian zone of the Gila River within the Gila Box Riparian National Conservation Area is not permitted.
- This permit is subject to future modification as necessary to achieve compliance with the standards and guidelines (43 CFR 4180).
- Permittees shall maintain all range projects for which they have maintenance responsibilities.
- All troughs shall be outfitted with wildlife escape structures to provide a means of escape for animals that fall in while attempting to drink or bathe.
- The Permittee shall submit a report of the actual grazing use made on this allotment, by pasture, for the previous grazing period, March 1 to February 28. Failure to submit such a report by March 15 of the current year may result in suspension or cancellation of the grazing permit.
- Feed supplements are authorized on public lands within the Twin C Allotment. Feed supplements may include salt, other minerals, vitamins, protein, energy in block, grain, liquid, or granular form. In order to improve livestock distribution on the public lands, supplements shall not be placed within a 1/4 mile of any riparian area, wet meadow, or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision in accordance with 43 CFR 4130.3-2(c).

Design Features and Best Management Practices to be Implemented

The following design features and best management practices (BMPs) will be applied to the Goat Camp Well development.

- Construction activities will be limited to daylight hours to minimize impacts to wildlife.
- Construction activities will be limited to periods when the soil and ground surface are not wet in order to avoid road damage (e.g., ruts).

¹ The Proposed Decision had incorrectly stated that the Gila Box RNCA Management Plan was issued on June 27, 2000.

- Well construction requirements will comply with ADWR specifications per A.A.C. R12-15-801 et seq. and A.R.S. § 45-594 and 45-595.
- In order to reduce the potential for the spread of noxious and invasive weeds from construction equipment used for implementation of the Proposed Action, either from contamination with weed seed and/or biomass, all vehicles will be thoroughly power washed off-site to remove all vegetative material and soil before transporting equipment to the construction site. This includes trucks, trailers, and all other machinery.
- Leftover materials pose a hazard to public safety and also to wildlife. Thus, construction debris will be removed to an appropriate landfill location. This includes any unused, replaced, or discarded materials such as pipes float valves, wire, and other miscellaneous supplies. BLM staff will conduct site visits to the area to ensure adequate clean-up measures are taken.
- Any cultural (historic/prehistoric site or object) or paleontological resource (fossil remains of plants or animals) discovered during operations will immediately be reported to the authorized officer or his/her designee. All operations in the immediate area of the discovery shall be suspended until written authorization to proceed is issued. An evaluation of the discovery shall be made by a qualified archaeologist or paleontologist to determine appropriate actions to prevent the loss of significant cultural or scientifically important paleontological values.
- At no time will vehicle or equipment fluids (including motor oil and lubricants) be dumped on public lands. The BLM accepts the spill management plan complying with ADWR well drilling requirements as sufficient best management practice. In addition, in the case of a hydrocarbon spill (e.g., fuel), the BLM will be notified and spilled fluids will be excavated to a depth of 12 inches beyond contaminated material, removed from the work location and disposed of properly. If no water is developed after drilling to the maximum depth, the drill hole will be capped and abandoned according to ADWR requirements.
- Drilling waste, such as drilling fluid and drill cuttings, will be removed so that wastes do not pollute surface waters or cause contamination of the well.
- No water pumped to the surface at Goat Camp Well will be allowed back into the subsurface flow.

Monitoring to be Implemented

Permit Renewal

The terms and conditions of the permit, livestock numbers, and kind of livestock will be monitored through routine compliance inspections conducted by the BLM. Other monitoring data will be collected in accordance with BLM policy and guidance.

Goat Camp Well

The BLM will conduct inspections of the well site during drilling to ensure compliance with the BMPs listed. Periodic inspections will subsequently be conducted by BLM specialists to ensure appropriate operation and maintenance. The project area will be periodically monitored by the BLM for noxious weeds after construction while conducting routine land management activities, including long term rangeland monitoring.

RATIONALE

Permit Renewal

The Twin C Allotment LHE was completed in accordance with BLM policy and regulations, and examined and evaluated all applicable monitoring data to determine progress in meeting Arizona Standards for Rangeland Health and other land use plan objectives. In addition, the Twin C Allotment was evaluated to determine if any new information, issues, or concerns have been identified. An interdisciplinary team completed the analysis of the resource data and developed a formal evaluation which determined that the Twin C Allotment is achieving Standards 1 and 3 of the Arizona Standards for Rangeland Health; Standard 2 does not apply for this allotment. The issuance of a 10-year term permit renewal will continue the Mandatory Terms and Conditions. It will also reflect recommendations made in the evaluation and carried forward in the Other Terms and Conditions of the permit renewal. Issuance of the 10-year permit renewal with the Mandatory Terms and Conditions, Other Terms and Conditions, design features and BMPs, and monitoring will ensure that the allotment continues to meet those standards which were addressed. Renewal of the permit under this Final Decision is in accordance with BLM Grazing Regulations and other applicable laws, regulations, and policies.

Goat Camp Well

The drilling of Goat Camp Well directly responds to the management objectives outlined in the Gila Box RNCA Management Plan to implement upland water development for the Twin C Allotment to facilitate the deferral of livestock grazing from the Gila River riparian area due to the Gila Box RNCA designation. Only the Proposed Action responds to implementing this management objective. Whereas the efficacy of the new well is currently not ascertainable, it is known that the total annual water production for livestock and wildlife use of 1.28 million gallons on the Twin C Allotment will remain at preexisting levels irrespective of well source. This is due to unchanged numbers and management of livestock to be authorized in the permit renewal.

The Final Decision to renew the grazing permit and develop Goat Camp Well is in conformance with the Safford District RMP. These actions have been evaluated in an environmental assessment that resulted in a FONSI pursuant to the National Environmental Policy Act of 1969. BLM determined, in concurrence with USFWS, that the potential effects of livestock grazing and current well production on the Twin C Allotment to the listed razorback sucker, yellow-billed cuckoo, and their associated critical habitats are discountable.

AUTHORITY

The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR), which states in pertinent parts:

§4100.0-3 (a) The Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a through 315r); (b) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) as amended by the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.).

§4100.0-8 "The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans...Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b)".

§4110.3 The authorized officer shall periodically review the permitted use specified in a grazing permit or grazing lease and shall make changes in the permitted use as needed to manage, maintain or improve rangeland productivity, to assist in restoring ecosystems to properly functioning condition, to conform with land use plans or activity plans, or to comply with the provisions of subpart 4180 of this part. These changes must be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer.

§4110.3-2(b) When monitoring or field observations show grazing use or patterns of use are not consistent with the provisions of subpart 4180, or grazing use is otherwise causing an unacceptable level or pattern of utilization or, when use exceeds the livestock carrying capacity as determined through monitoring, ecological site inventory or other acceptable methods, the authorized officer shall reduce permitted grazing use or otherwise modify management practices.

§4110.3-3(a) After consultation, cooperation, and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §§4110.3-2 shall be issued as proposed decisions pursuant to 4160.1 of this part, except as provided in paragraph (b) of this section.

§4130.2(b) The authorized officer shall consult, cooperate, and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.

§4130.3 Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve the management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.

§4130.3-1(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock carrying capacity of the allotment.”

§4130.3-1(c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.

§4130.3-2 The authorized officer may specify in grazing permits or leases other terms and conditions which will assist in achieving management objectives, provide for proper range management, or assist in the orderly administration of the public rangelands. These may include but are not limited to: ... (d) A requirement that permittees or lessees operating under a grazing permit or lease, submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, the actual use made; ... (f) Provisions for livestock grazing temporarily to be delayed, discontinued, or modified to allow for the reproduction, establishment, or restoration of vigor of plants ... of for the protection of other rangeland resources and values consistent with objectives of applicable land use plans,”

§4130.3-3 Following consultation, cooperation, and coordination with the affected lessees or permittees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may modify terms and conditions of the permit or lease when the active grazing use or related management practices are not meeting the land use plan, allotment management plan, or other activity plan, or management objectives, or is not in conformance with the provisions of subpart 4180 of this part. To the extent practical, the authorized officer shall provide to

affected permittees or lessees, States having lands or responsibility for managing resources within the affected area, and the interested public an opportunity to review, comment and give input during the preparation of reports that evaluate monitoring and other data that are used as a basis for making decisions to increase or decrease grazing use, or to change the terms and conditions of a permit or lease.

§4160.2 "Any applicant, permittee, lessee, or other interested public may protest the proposed decision under §4160.1 of this title in person or in writing to the authorized officer within 15 days after receipt of such decision."

§4180.2(c) The authorized officer shall take appropriate action as soon as practicable, but not later than, the start of the next grazing year upon determining that existing grazing practices or levels of grazing use on public lands are significant factors in failing to achieve the standards and conform to the guidelines that are made effective under this section. Appropriate action means implementing actions pursuant to 4110, 4120, 4130, and 4160 that will result in significant progress toward fulfillment of the standards and significant progress toward conformance with guidelines.

§4120.3-1(a) "Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple-use management."

§4120.3-1 (f) " Proposed range improvement projects shall be reviewed in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 et seq.). The decision document following the environmental analysis shall be considered the proposed decision under 4160 of this part."

RIGHT OF APPEAL AND PETITION FOR STAY

Any applicant, permittee, lessee, or other person whose interest is adversely affected by the Final Decision may file an appeal of the decision in accordance with 43 CFR 4.470 and 43 CFR 4160.4. The appeal must be filed within 30 days following receipt of the Final Decision. The appeal may be accompanied by a petition for a stay of the decision in accordance with 43 CFR 4.471 and 4.479, pending final determination on appeal. The appeal and any petition for stay must be filed in the office of the authorized officer: US Department of Interior, Bureau of Land Management, Safford Field Office, ATTN: Scott C. Cooke, Field Manager, 711 South 14th Avenue, Safford, Arizona 85546. The person/party must also serve a copy of the appeal to the Office of the Solicitor in accordance with 43 CFR 4.413: US Department of Interior, Office of the Field Solicitor, Sandra Day O'Connor U.S. Courthouse, 401 W. Washington St. SPC 44, Suite 404, Phoenix, AZ 85003-2151. The BLM does not accept appeals by facsimile or email.

The appeal shall state the reasons, clearly and concisely, why the appellant thinks the Final Decision is in error and also must comply with the provisions of 43 CFR 4.470.

Should you wish to file a petition for a stay, see 43 CFR 4.471 (a) and (b). Pursuant to 43 CFR 4.471(c), a petition for stay, must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

Any person named in the decision that receives a copy of a petition for a stay and/or an appeal and wishes to respond, see 43 CFR 4.472(b) for procedures to follow.

Finally, in accordance with 43 CFR § 4.472(b), any person named in the decision from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with the Hearings Division a motion to intervene in the appeal, together with the response, within 10 days after receiving the petition. Within 15 days after filing the motion to intervene and respond, the person must serve copies on the appellant, the appropriate Office of the Solicitor in accordance with Sec 4.413 (a) and (c), and any other person named in the decision.

If you have any questions, please feel free to call Amelia Taylor, Assistant Field Manager, or myself at (928) 348-4400.

Sincerely,

Scott C. Cooke
Field Manager

Enclosure: FONSI

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