



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

**San Pedro Riparian National  
Conservation Area Proposed  
Resource Management Plan  
and Final Environmental  
Impact Statement  
(PRMP/FEIS)**

July 30, 2019

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## **Acronyms**

<b>ACEC</b>	Area of Critical Environmental Concern
<b>AICA</b>	Arizona-Idaho Conservation Act
<b>AUM</b>	animal unit month
<b>BLM</b>	Bureau of Land Management
<b>CEQ</b>	Council on Environmental Quality
<b>CFR</b>	Code of Federal Regulations
<b>DEIS</b>	Draft Environmental Impact Statement
<b>DRMP</b>	Draft Resource Management Plan
<b>EIS</b>	Environmental Impact Statement
<b>FEIS</b>	Final Environmental Impact Statement
<b>FLPMA</b>	Federal Land Management Policy Act
<b>LWC</b>	lands with wilderness characteristics
<b>MOU</b>	Memorandum of Understanding
<b>NCA</b>	National Conservation Area
<b>NEPA</b>	National Environmental Policy Act
<b>PL</b>	Public Law
<b>PRMP</b>	Proposed Resource Management Plan
<b>RMP</b>	Resource Management Plan
<b>RNCA</b>	Riparian National Conservation Area
<b>ROW</b>	right-of-way
<b>SPRNCA</b>	San Pedro Riparian National Conservation Area
<b>U.S.C.</b>	United States Code
<b>VRM</b>	Visual Resource Management
<b>WWP</b>	Western Watersheds Project

## Protesting Party Index

<b>Protester</b>	<b>Organization</b>	<b>Determination</b>
Brian Sullivan	N/A	Dismissed – No Standing
John Alcock	N/A	Dismissed – Comments Only
Brian Jones	N/A	Dismissed – Comments Only
Jeffrey Burgess	N/A	Denied – Issues and Comments
Withheld	Lower San Pedro Watershed Alliance	Denied – Issues and Comments
Sara Thompson	N/A	Dismissed – No Standing
Christie Brown	Water Sentinel	Dismissed – Comments Only
Withheld	N/A	Dismissed – Comments Only
Withheld	N/A	Denied – Issues and Comments
Withheld	N/A	Dismissed – Comments Only
Christopher Long	N/A	Dismissed – Comments Only
Jonathan Lutz	Tucson Audubon	Dismissed – Comments Only
Withheld	N/A	Dismissed – No Standing
Danielle Murray	Conservation Lands Foundation	Denied – Issues and Comments
Robert Weissler	Friends of the San Pedro River	Dismissed – Comments Only
Katie Meehan	The Wilderness Society	Denied – Issues and Comments
Laura Mackin	San Pedro House	Dismissed – Comments Only
Mary McCool	Community Watershed Alliance	Dismissed – Comments Only
Clay Crowder	Arizona Game and Fish Department	Dismissed – Comments Only
Robin Silver	Center for Biological Diversity Maricopa Audubon Society	Denied – Issues and Comments
Jeff Sturges	N/A	Denied – Issues and Comments
Tricia Gerrodette	N/A	Dismissed – Comments Only
Sandy Bahr	Sierra Club – Grand Canyon Arizona Chapter	Denied – Issues and Comments
Michael Gregory	N/A	Denied – Issues and Comments
Christine Rhodes	N/A	Dismissed – Comments Only
Greta Anderson	Western Watersheds Project	Denied – Issues and Comments
Sharon Rock	N/A	Dismissed – Comments Only
Pearl Mast	Cascabel Conservation Association	Dismissed – Comments Only

## **FLPMA—Areas of Critical Environmental Concern**

### ***The Wilderness Society***

#### ***Katie Meehan***

**Issue Excerpt Text:** In developing land use plans, the Federal Land Policy and Management Act (FLPMA) requires the Bureau of Land Management (BLM) to “give priority to the designation and protection of areas of critical environmental concern.” 43 U.S.C. § 1712(c)(3) (emphasis added). This requirement is not nullified or diminished by designation of a National Conservation Area (NCA). 43 U.S.C. § 1712(c)(3). In other words, even though BLM must manage the SPRNCA to protect its natural values, it must nevertheless prioritize designation and protection of ACECs within the monument boundaries.

### ***Sierra Club – Grand Canyon (Arizona Chapter)***

#### ***Sandy Bahr***

**Issue Excerpt Text:** As noted in our previous comments, replacing all ACECs with “priority habitats” is inconsistent with the San Pedro RNCA enabling legislation and FLPMA. The proposed action is contrary to FLPMA’s requirement that BLM “give priority” to ACEC designation and protection. 43 U.S.C. § 1712(c)(3). BLM has not justified replacing ACECs with a new type of allocation such as priority habitat, when the agency already has a legislated planning tool that is sufficient to address specific management concerns, and further has not demonstrated how the new designation will meet the requirements to conserve, enhance, and protect the unique and fragile resources of the San Pedro RNCA.

### **Summary:**

1. The BLM has violated FLPMA by:
  - a. eliminating current ACECs and
  - b. failing to give priority to the designation and protection of ACECs.
2. The BLM cannot replace ACEC designations with “priority habitat” allocations, and such allocation is inconsistent with the SPRNCA enabling legislation.

### **Response:**

1. In FLPMA Section 103(a), an ACEC is defined as “an area on BLM-administered lands where special management attention is required to protect and prevent irreparable damage to important historic, cultural, or scenic values; fish and wildlife resources; or other natural systems or processes, or to protect life and ensure safety from natural hazards.” This special designation is used to delineate areas for special management to protect important and relevant resource values. Furthermore, FLPMA Section 202(c)(3) requires that, in the development and revision of land use plans, the BLM give priority to the designation and protection of ACECs. The implementing regulations at 43 Code of Federal Regulations (CFR) § 1610.78-2 provide the agency with guidance for the identification and consideration of ACECs for designation and protection during the resource management planning process. However, there is no statutory or regulatory requirement that the BLM designate any or all ACECs identified or considered during the planning process.

In accordance with BLM Manual 1613, Areas of Critical Environmental Concern (BLM 1983), the BLM interdisciplinary team reviewed BLM-administered lands in the planning area to determine whether new areas should be considered for designation as ACECs, and whether existing ACECs should continue to be managed as ACECs, or if they should be expanded or reduced to protect the ACEC values. Three ACECs (which are also Research Natural Areas),

totaling 2,170 acres of BLM-administered lands, are currently found on the SPRNCA (Figure 2-32, Appendix A of the SPRNCA Proposed Resource Management Plan [PRMP]/Final Environmental Impact Statement [FEIS]). Based on the relevance and importance criteria defined in BLM Manual 1613, the review determined that the three existing Research Natural Areas/ACECs could be considered for designation and expansion in this planning process. In addition, the BLM identified two other areas that would be considered for potential ACEC designation and analysis: the Curry-Horsethief and Lehner Mammoth areas. See Section 3.4.1, *Areas of Critical Environmental Concern* (pp. 3-137 to 3-143), for more information about potential ACECs within the SPRNCA PRMP/FEIS.

As detailed in the PRMP/FEIS, the BLM determined that designation of an ACEC would not provide any different or enhanced administrative options, restrictions, or protections of relevant and important values in addition to those of the authorities granted through congressional designation of the planning area as an NCA (p. 3-142). Relevant and important resource values would still be protected where areas are Visual Resource Management (VRM) Class I or II, not available for livestock grazing, and/or managed as right-of-way exclusion (p. 3-143). Consistent with BLM Manual 1613.51, the management attention provided for under the Congressional designation is adequate to protect the relevant and important values; therefore, it is not necessary or appropriate to designate the ACECs.

The BLM has discretion to select all, some, or none of the ACECs within the range of alternatives and there is no requirement that the agency carry forward potential ACECs into the SPRNCA PRMP (see BLM Manual 1613.33.E). A comparison of estimated effects and trade-offs associated with the alternatives led to development and selection of the final alternative within the SPRNCA PRMP/FEIS (see pp. 2-2 to 2-8).

2. During the early development of alternatives, the BLM released draft alternatives for public review. In the communication materials that were released with the draft alternatives, the BLM noted that it may consider allocating priority habitat areas within the SPRNCA. However, this was later dismissed from consideration and neither the Draft Resource Management Plan (RMP)/Environmental Impact Statement (EIS) nor the Proposed PRMP/FEIS carried forward this language or allocation. The BLM has not replaced ACEC allocations with priority habitat allocations.

## **FLPMA—Livestock Grazing**

### ***Individual***

#### ***Jeffrey Burgess***

**Issue Excerpt Text:** As you can see in my comments, I raised the issue of the illegality of the BLM allowing leased livestock grazing to continue on 7,303 acres of the SPRNCA, especially the grazing that's allowed along the Babocomari River. But despite the significance of this issue, the only place the Proposed RMP/FEIS directly addresses it is on page 2-43 where it states, "Livestock grazing would continue on the added 7,030-acre area in accordance with the State exchange agreements." The suggestion that these 7,030 acres were "added" after the creation of the SPRNCA is inaccurate and misleading.

### ***Individual***

#### ***Jeffrey Burgess***

**Issue Excerpt Text:** This decision to maintain the state grazing leases on the SPRNCA's former state lands was a product of the 1985 Memorandum of Understanding (MOU) between the Arizona BLM and the Arizona State Land Department (AZ-85-152) to facilitate the exchange of lands between the two agencies. The MOU stated that, "The exchanges should not interfere with ranching operations."

This was the BLM's justification for continuing to recognize the former state leases - despite the fact the federal law that created the SPRNCA superseded the MOU. Consequently, the BLM's 1992 decision in the Safford District RMP to override the Arizona-Idaho Conservation Act in order to honor the leases and allow livestock grazing to continue on the SPRNCA's former state lands was illegal, thus making the continuation of it in the SPRNCA's Proposed RMP/FEIS illegal too.

### ***Individual***

#### ***Jeffrey Burgess***

**Issue Excerpt Text:** But the most important thing the Proposed RMP/FEIS still fails to recognize is the fact that, in order to fully comply with the 1988 Arizona-Idaho Conservation Act, the BLM is required to only allow such uses of the SPRNCA that “will further the primary purposes for which the conservation area is established,” which was primarily “to protect the riparian area.” There is no scientific evidence that livestock grazing benefits desert riparian habitats. The BLM's proposal to allow grazing to continue in the River Pasture of the BLM's Babocomari Grazing Allotment is especially egregious because this pasture contains important desert riparian. There is no legal reason for Babocomari River to receive less protection from grazing than the San Pedro River.

#### ***Center for Biological Diversity and Maricopa Audubon Society***

##### ***Robin Silver***

**Issue Excerpt Text:** This decision to maintain the state grazing leases on the SPRNCA's former state lands was a product of the 1985 Memorandum of Understanding (MOU) between the Arizona BLM and the Arizona State Land Department (AZ-85-152) to facilitate the exchange of lands between the two agencies. The MOU stated that, “The exchanges should not interfere with ranching operations.” This was the BLM's justification for continuing to recognize the former state leases - despite the fact the federal law that created the SPRNCA superseded the MOU. Consequently, the BLM's 1992 decision in the Safford District RMP to override the Arizona-Idaho Conservation Act in order to honor the leases and allow livestock grazing to continue on the SPRNCA's former state lands was illegal, thus making the continuation of it in the SPRNCA's Proposed RMP/FEIS illegal too.

#### ***Western Watersheds Project***

##### ***Greta Anderson***

**Issue Excerpt Text:** The BLM 4180 Manual includes the provision, “State or regionally developed Standards may be amended if and when they are found to be inadequately defined to determine conformance with the four fundamentals. The same process used to develop the Standard should be used to develop the amended Standard.” BLM 4180 Manual at 11-2. 43 CFR 4180.2(a) and (b). At a minimum, any changes must be approved by the State Director and developed in coordination with the RAC. Here, the BLM has simply modified the Arizona Standards in the appendices to the San Pedro RNCA plan between the draft and proposed versions. without discussion, disclosure, or analysis. PRMP/FEIS at 1-13. The BLM simply added two sections - 1.9 and 1.10 - to the approved Standards and Guidelines to address biological vegetation treatments and targeted grazing. Ibid. Nowhere does the BLM disclose how these activities will be evaluated or how the standards and guidelines will be applied to these types of grazing use. It is confounding how the BLM has even amended the Arizona Standards without following the protocols for doing so, and we protest this as unlawful under the Fundamentals of Rangeland Health, 43 CFR 4180 et seq.

#### ***Western Watersheds Project***

##### ***Greta Anderson***

**Issue Excerpt Text:** As we note above, Public Law 100-696 Sec. 460xx establishes the San Pedro RNCA “in order to protect the riparian area and the aquatic, wildlife, archaeological, paleontological, scientific, cultural, educational, and recreational resources of the public lands surrounding the San Pedro River[.]” Only “where not inconsistent with” the San Pedro RNCA proclamation may BLM manage the area by the provisions of the Federal Land Policy and Management Act of 1976



(FLPMA). P.L. 100-696 Sec. 460xx-1 (a). There is thus a prohibition on activities that would impair the San Pedro RNCA’s resources, unless BLM can demonstrate that such activities would not only protect but further enhance San Pedro RNCA’s values.

### ***Western Watersheds Project***

***Greta Anderson***

**Issue Excerpt Text:** BLM cannot therefore allow grazing unless BLM demonstrates that grazing would cause no harm to the San Pedro RNCA’s resources (i.e., the activity...conserves” and “protects” the conservation area). Furthermore, BLM must demonstrate that grazing is necessary to enhance the ecological health of the conservation area.

### ***Center for Biological Diversity and Maricopa Audubon Society***

***Robin Silver***

**Issue Excerpt Text:** Nonetheless, BLM ignores AICA and its legislative history in the RMP/FEIS by continuing to authorize grazing within SPRNCA: “Grazing is currently authorized on four allotments overlapping the SPRNCA, for a total of 592 AUMs. They are the Babocomari, Brunckow Hill, Lucky Hills, and Three Brothers (Figure 3-4). Grazing is authorized through a grazing lease. Grazing leases are issued for a period not to exceed 10 years. Each of these leases has been renewed for a new period of 10 years in accordance with Section 402(c)(2) of the FLPMA, as amended by PL No. 113-291. ...” [Page 3-106.] The RMP/FEIS fails to address BLM malfeasance that, contrary to Congress’ AICA legislative direction, promoted, approved and illegally perpetuated SPRNCA cattle grazing.

### ***Center for Biological Diversity and Maricopa Audubon Society***

***Robin Silver***

**Issue Excerpt Text:** With respect to RMP/FEIS’ Livestock Grazing “Goal 1” is to, “Manage livestock grazing in a manner consistent with other multiple-use needs and other desired resource condition objectives to ensure that they are compatible with the established conservation values.” (Page 2-42) As documented above, AICA and AICA’s legislative history precludes typical BLM “multiple use management for SPRNCA. “Goal 1” is not applicable to SPRNCA.

### **Summary:**

The BLM has:

- unlawfully ignored Public Law (PL) 100-696 (also known as the Arizona-Idaho Conservation Act [AICA]) by continuing to authorize livestock grazing within SPRNCA;
- unlawfully deferred to the state of Arizona’s grazing leases on the SPRNCA’s former state lands rather than follow Federal law regarding livestock grazing on public lands; and
- violated AICA by continuing to authorize livestock grazing under its multiple use mandate.

### **Response:**

The AICA, Section 102, states “management shall be guided by this title and, where not inconsistent with this title, by the provisions of the Federal Land Policy and Management Act of 1976” (FLPMA). The PRMP/FEIS manages the conservation area in accordance with the primary purposes for which it was established—to conserve, protect, and enhance “the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources.” The plan also conforms to both AICA Section 102 and FLPMA Section 302, which when read together provide that the Secretary shall manage the NCA under the principles of multiple use and sustained yield, where not inconsistent with the conservation purposes set out in the NCA’s designating legislation.

The BLM analyzed a full range of alternatives for livestock grazing including an alternative that makes all lands available for grazing (Alternative B), one that makes no lands available for grazing (Alternative D), and one that includes a mix of available and unavailable grazing lands (Alternative

C). After review of the Draft EIS, the BLM modified Alternative C by setting availability to Alternative A levels and providing a framework for the development of a collaborative, adaptive management strategy for outcome-based livestock grazing on the existing allotments to ensure compliance with the AICA statute that SPRNCA must “contain provisions designed to assure protection of the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreation resources and values of the conservation area” (FEIS, p. 2-5).

The BLM will also continue to implement and modify its grazing permit administration to ensure the agency achieves land health standards and continues to conserve, protect, and enhance the “riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources of the conservation area” as prescribed by AICA Section 102. The Record of Decision will be updated to state that livestock grazing on existing allotments complies with the above language in this statute.

As a clarification, the BLM made an editorial mistake in the PRMP/FEIS that was not addressed before it was published. It was not the BLM’s intention to edit and/or modify the Arizona Standards and Guidelines. Sections 1.9 and 1.10 were meant to go in the “watershed improvements” appendix rather than in the Standards and Guidelines appendix; the correction will be made in the appendices with the Record of Decision.

## **National Conservation Lands**

### ***Lower San Pedro Watershed Alliance***

**Issue Excerpt Text:** The SPRNCA was not authorized for “multiple use” as is typical of other BLM lands. The RMP/FEIS provides no justification for opening up the remaining areas of SPRNCA to hunting.

### ***Lower San Pedro Watershed Alliance***

**Issue Excerpt Text:** Public Law 100-696 allows only uses found to further the purposes for which the SPRNCA was established. Grazing was not designated, nor will it further the purpose.

### ***Conservation Lands Foundation***

#### ***Danielle Murray***

**Issue Excerpt Text:** BLM also concluded that eliminating current ACECs, including the St. David Cienega ACEC and not adding new ACECs “could result in degraded ACEC values, although values would generally still be protected.”(6) DRMP pg 3-134. This clearly would not meet the standards set by congress to “conserve, protect and enhance” the riparian area. (7) “The Secretary shall manage the conservation area in a manner that conserves, protects and enhances the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources of the conservation area. Such management shall be guided by this title and, where not inconsistent with this title, by the provisions of the Federal Lands Policy and Management Act of 1976.” Public Law 100-696; Arizona-Idaho Conservation Act of 1988, Sec. 102(a) General Authorities; “the secretary shall only allow such uses of the conservation area as he finds will further the primary purposes for which the conservation area is established” Sec. 102(b) Uses.

## **Summary:**

The BLM has unlawfully ignored the AICA or PL 100-696 by:

- managing the SPRNCA for multiple use, including hunting; and
- not limiting grazing within the SPRNCA, which will result in degradation of resources the SPRNCA was established to protect.

**Response:**

The AICA, PL 100-696, which designated the SPRNCA, directs the BLM to conserve, protect, and enhance certain resources across the entire planning area, including recreational resources. As part of this planning effort, the BLM weighed the impacts from proposed recreational activities, including hunting, on the other resource values as well as impacts from other resources and resource uses on recreation values. Even though hunting and other recreation activities may have adverse impacts on the other values listed in the designating legislation, recreational resources would be enhanced through hunting, a limited use off-highway vehicles on designated roads, hiking trails, camping, etc. The balance between the types and extent of recreational activities and the other values was made based on the analysis in the EIS (see pp. 3-120 to 3-127 of the FEIS).

The AICA does not specifically allow or prohibit livestock grazing within the SPRNCA. Rather, PL 100-696 Section 102 requires that the BLM manage the NCA to conserve, protect, and enhance “the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources.” The BLM analyzed a full range of alternatives for livestock grazing, including an alternative that makes all lands available for grazing (Alternative B), one that makes no lands available for grazing (Alternative D), and one that includes a mix of available and unavailable grazing lands (Alternative C). The agency determined that it could allow grazing within the NCA and ensure compliance with the requirements of AICA by modifying Alternative C to set availability to Alternative A levels and providing a framework for the development of a collaborative, adaptive management strategy for outcome-based livestock grazing on the existing allotments (see FEIS pp. 3-106 to 3-107). Therefore, the management decisions related to livestock grazing are consistent with the purposes for which Congress established the SPRNCA and do not violate the terms of the AICA.

***Lands with Wilderness Characteristics******Lower San Pedro Watershed Alliance***

**Issue Excerpt Text:** The decision to not manage the SPRNCA for wilderness characteristics is yet another example of BLM’s disregard of their responsibility to protect and manage the resource values of the SPRNCA and appears to be in non-compliance with BLM’s manual 6320 - Considering Lands with Wilderness Characteristics in the BLM Land Use Planning Process. BLM is putting the development of recreation sites, roads, and grazing features above the values for which the SPRNCA was established. We do not believe that wilderness values will be indirectly protected by the management of other resource values as stated in the RMP/FEIS. Fifty three percent (13.)40 acres) of the acreage identified as suitable for wilderness would be managed as VRM Class III. Page 3-95 of the FEIS states that: “Managing as VRM Class III could impair the naturalness of the area and would provide minimal protection.” In addition, the FEIS states on Page 3-96: “Implementation of motorized route designations would reduce the size and roadlessness of the Cereus unit. Allowing potential ROW development on a case-by-case basis could impair the unit’s naturalness due to vehicle access, clearing of vegetation, and placement of structures.” The analysis of impacts in this document indicates that BLM is failing to manage lands within the SPRNCA for wilderness characteristics.

***The Wilderness Society******Katie Meehan***

**Issue Excerpt Text:** The Proposed RMP does not designate qualified SPRNCA land as LWC. As articulated in our comments on the Draft RMP, FLPMA requires BLM to inventory and consider LWCs during the land use planning process. 43 U.S.C. § 1711(a); see also *Ore. Natural Desert Ass’n v. BLM*, 531 F.3d 1114, 1119 (9th Cir. 2008). Manuals 6310 and 6320 contain mandatory guidance on implementing that requirement. Manual 6310 provides detailed guidance on identifying lands with wilderness characteristics. Manual 6320 requires BLM to consider lands with wilderness

characteristics in land use planning, both in evaluating the impacts of management alternatives on lands with wilderness characteristics and in evaluating alternatives that would protect those values.

### **Summary:**

The BLM has not adequately considered the designation or management of qualified SPRNCA areas for wilderness characteristics.

### **Response:**

There is no affirmative requirement for the BLM to protect lands for their wilderness characteristics. Consistent with agency policy, the BLM conducted a wilderness characteristics inventory for the SPRNCA following the requirements outlined in Manual 6310 (see *Lands with Wilderness Characteristics Inventory Report San Pedro Riparian National Conservation Area*, May 2016) and considered lands with wilderness characteristics in the planning process per Manual 6320.

The BLM considered the results of the wilderness characteristics inventory in the planning process, consistent with BLM Manual 6320, which provides for several potential outcomes, “including, but not limited to: 1) emphasizing other multiple uses as a priority over protecting wilderness characteristics; 2) emphasizing other multiple uses while applying management restrictions (conditions of use, mitigation measures) to reduce impacts to wilderness characteristics; and 3) the protection of wilderness characteristics as a priority over other multiple uses.” The agency considered a number of factors in deciding whether to protect an area for its wilderness characteristics, including whether it has wilderness characteristics to begin with; whether the area can be effectively managed to protect its wilderness characteristics; the extent to which other resource values and uses of lands with wilderness characteristics would be foregone or adversely affected if the wilderness characteristics are protected; and whether the area has been previously considered as a Wilderness Study Area (see pp. 3-100 to 3-101 of the FEIS). The presence of wilderness characteristics in an area is only one of many factors that the agency considered in deciding whether to manage lands within the SPRNCA for their wilderness characteristics.

The PRMP/FEIS also analyzes a reasonable range of alternatives for protection of areas with wilderness characteristics, ranging from 0 acres in Alternatives A, B, and C (the Proposed Plan) to 23,810 acres in Alternative D (PRMP/FEIS Section 3.2.11, *Lands with Wilderness Characteristics*). Approximately 23,810 acres as shown on Figure 2-13 (Appendix A) was inventoried and considered as lands with wilderness characteristics.

Accordingly, the PRMP/FEIS adequately followed the process required by FLPMA, the National Environmental Policy Act (NEPA), and BLM Manual 6320 to consider whether to manage lands for protection of wilderness characteristics during the planning process.

## **NEPA—Best Available Science**

### ***The Wilderness Society***

#### ***Katie Meehan***

**Issue Excerpt Text:** The BLM’s decision to remove mesquite in an effort to restore the upland Chihuahuan desert scrub to grassland is not sufficient. Despite the agency’s requirement to incorporate science into its decision-making processes, cited above in Statement “2”, BLM has not provided scientific evidence that corroborates cattle business assertion that mesquite are an invasive and are not supposed to be part of the Chihuahuan desert scrub. With their financial bias, their argument is spurious at best.

***Western Watersheds Project******Greta Anderson***

**Issue Excerpt Text:** First and foremost, we notified the BLM that the DRMP/DEIS failed to disclose the effects that livestock grazing are already having on the San Pedro RNCA. For example, by combining all four allotments and classifying the relative erosion hazard to soils by total acres (Table 3-5, page 3-10 of the DRMP/DEIS), we noted that BLM did not sufficiently break out the impacts by area or distinguishing the predicted impacts of continued grazing. WWP 2018 at 25. There is no change to this table in the PRMP/FEIS (Table 3-5, page 3-11).

***Western Watersheds Project******Greta Anderson***

**Issue Excerpt Text:** [T]he BLM is citing a non-published, non-peer reviewed advocacy paper for an important assumption BLM used. “In areas where grazing is properly managed, impacts would be limited (Smith 2014).” PRMP/FEIS 3-53. This misplaced assumption has resulted in BLM improperly, and illegally, allowing continued livestock grazing, which is demonstrated to cause degradation of this San Pedro RNCA as shown by myriad peer-reviewed, published articles cited throughout the rest of the PRMP/FEIS.

***Western Watersheds Project******Greta Anderson***

**Issue Excerpt Text:** The PRMP/FEIS has failed to identify a minimum perennial flow for the San Pedro River and has failed to provide any rationale as to why this analysis was not provided. WWP asked BLM to make this determination in our prior comments. WWP 2018 at 26. BLM has not responded to our comments on this issue, has not provided any information regarding minimum perennial flow for the San Pedro RNCA.

**Summary:**

The BLM failed to use best available science by:

- not disclosing impacts from livestock grazing on the SPRNCA;
- failing to consider studies and evidence that properly managing livestock grazing does not limit the potential for adverse impacts from livestock grazing;
- failing to include information on minimum perennial flow for the San Pedro River; and
- classifying mesquite as an invasive species.

**Response:**

The Council on Environmental Quality’s (CEQ) regulations implementing NEPA require that agencies use “high quality information” (40 CFR 1500.1(b)). NEPA regulations require the BLM to “insure 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).

The BLM disclosed past, present, and projected future effects from livestock grazing using multiple peer-reviewed and agency-internal data sources. The BLM also identified documented incidences of adverse impacts on resources from livestock grazing throughout Chapter 3, *Affected Environment and Environmental Consequences* (see pp. 3-9 to 3-13 for impacts on soil, pp. 3-19 to 3-23 for impacts on water, and pp. 3-49 to 3-57 for impacts on vegetation). Discussions of effects from livestock grazing

appear in the Soil Resources, Water Resources, Vegetation, Fish and Wildlife, Special Status Species, Cultural Resources, and Lands with Wilderness Characteristics sections of the PRMP/FEIS. These discussions cite documented effects from livestock grazing in the planning area, in addition to analyses explaining the likely effects (both adverse and beneficial) from changes to livestock grazing management under each alternative. Between the draft and final EIS, the BLM also considered and added other relevant information and analysis related to the effects of livestock grazing. This information includes documented instances within the planning area where changes to livestock grazing management has improved vegetation conditions and hydrologic stability (see p. 3-32 of the PRMP/FEIS for example).

The Water Resource section discusses current conditions, including trends in base flow, for the San Pedro River on pages 3-15 through 3-16 of the PRMP/FEIS. The Water Resource, Cumulative Impacts section also describes other projects and activities that could affect base flow in the San Pedro River. The BLM has not provided a quantification of the minimum base flows for the river in the PRMP/FEIS because such information is irrelevant to the decision and that amount was quantified and previously claimed by the BLM in the filing of the reserved rights (Statement of Claimant no. 39-13610, as amended) as required per PL 100-696. The final determination on the amount of water reserved is currently being made in the ongoing Gila River General Stream Adjudication. NEPA directs that data and analyses in an EIS 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 SPRNCA RMP is not authorizing any projects, let alone specific water withdrawals or other actions that could alter San Pedro River base flows. Should such projects be proposed in the future in the planning area, the subsequent NEPA analysis may consider effects on base flow.

The BLM does not identify mesquite bosques as an invasive species or identify it for removal in the PRMP/FEIS. The PRMP/FEIS identifies mesquite bosques as one of the rarest habitat types in the southwest (PRMP/FEIS p. 1-1) and lists mesquite bosques as a priority habitat under Alternatives B, C (the Proposed Plan), and D (PRMP/FEIS p. 2-23). The BLM identifies upland removal of mesquite as one tool that could be used to achieve management goals and objectives. Site-specific NEPA analysis would take place, using the best available science, prior to the removal of any upland mesquites.

## **NEPA—Impact Analysis: Grazing**

### ***Western Watersheds Project***

***Greta Anderson***

**Issue Excerpt Text:** The Arizona Standards and Guidelines were established in order to address “the basic components of healthy rangelands and in order to establish a general baseline for range conditions, but not to serve as the “terms and conditions of various authorizations.” 60 FR 9956, February 22, 1995, emphasis added. Here, the BLM has used the Land Health Evaluations (LHE) as the entire basis for its analysis of the impacts of grazing on the San Pedro RNCA and whether currently grazed areas should be kept open to livestock grazing. This narrow lens with which to evaluate range conditions also does not sufficiently assess things like impacts to cultural and paleontological resources that the BLM is supposed to be conserving, protecting, and enhancing at the San Pedro RNCA. The PRMP/FEIS does not discuss how the Arizona Standards are sufficient proxy for truly considering livestock impacts to the full range of resources on the San Pedro RNCA.

### **Summary:**

The BLM’s use of the Standards and Guidelines assessments to make grazing management decisions is improper and does not sufficiently assess impacts on cultural and paleontological resources.

**Response:**

NEPA directs that data and analyses in an EIS 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 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. As the decisions under consideration by the BLM are programmatic in nature and would not result in on-the-ground implementation decisions or actions (e.g., the BLM is not filing a Notice of Intent for a water well), the scope of the analysis was conducted at a regional, programmatic level. The analysis focuses on the direct, indirect, and cumulative impacts that could potentially result from on-the-ground changes. 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 PRMP/FEIS analyzes the impact of livestock grazing on cultural resources (see p. 3-85, Table 3-38) and paleontological resources (see p. 3-93, Table 3-41). Both sections identify the indicators and assumptions used in determining effects on these resources from various uses including livestock grazing and are not reliant on grazing-specific Standards and Guidelines and/or Land Health Evaluations (see pp. 3-82 and 3-90 for cultural and paleontological indicators and assumptions, respectively). The BLM has adequately analyzed the impacts of livestock grazing on resources in the NCA.

**NEPA—Public Participation*****Western Watersheds Project******Greta Anderson***

**Issue Excerpt Text:** WWP has had no opportunity to ask, and the BLM has not proactively answered, questions about fencing requirements, “range improvements” such as water developments, goals, or any other questions related to the use of targeted grazing for vegetation management.

***Western Watersheds Project******Greta Anderson***

**Issue Excerpt Text:** In the PRMP/FEIS the BLM, for the first time, notifies the public that it “added targeted grazing as a vegetation management tool” on an undisclosed number of acres. PRMP/FEIS at ES-4. This new concept for management was highlighted as a change from the Draft EIS and added to Alternatives Band Casa “management tool for restoration and fuels management.” PRMP/FEIS 2-4, 2-5. WWP was unable to comment on this earlier because BLM did not disclose it prior to the PRMP/FEIS.

***Western Watersheds Project******Greta Anderson***

**Issue Excerpt Text:** In the PRMP/FEIS the BLM, for the first time, notifies the public that “outcome based grazing” will be a management tool in the PRMP. PRMP/FEIS ES-4. None of the Alternative descriptions from the Draft EIS included any reference to “outcome based grazing.”

**Summary:**

The BLM added new content and management to the PRMP/FEIS relating to range improvements, vegetation management, and outcome-based grazing that were not presented in the DEIS and available for public review and comment.

**Response:**

Text was added to the PRMP as a result of comments received on the Draft Plan (see ES.5.1, pp. ES-4, 1.6.1, and 1.6.2, and Appendix V). During review of the PRMP/FEIS, “Outcome Based Grazing” was identified as a grazing system that is currently being piloted. It is considered an implementation-level decision. Because the RMP contains only planning-level decisions, the Plan will be updated to remove any reference to that phrase. For example, the Proposed Plan provides a framework for the development of a collaborative, adaptive management strategy for livestock grazing on the existing allotments, which would be done to ensure compliance with the enabling legislation (p. 2-5 of the PRMP/FEIS). Then, during implementation of the RMP, the BLM will work with stakeholders to ensure grazing on the existing allotments complies with the enabling legislation. This may include consideration of adaptive management strategies.

NEPA requires agencies to prepare supplements to either a draft or final EIS if the agency makes substantial changes to the proposed action that are relevant to environmental concerns, or if there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts (40 CFR 1502.9(c)). “Substantial changes” in the proposed action relevant to environmental concerns are changes that would result in significant effects outside the range of effects analyzed in the draft or final EIS (BLM Handbook H-1790-1, p. 29).

The BLM added targeted grazing as one of the tools that could be used to achieve the RMP goals and objectives. At the planning level, the addition of targeted grazing as one of the possible vegetation management tools does not substantially change the decision or the effects, as they fall well within the described impacts, included in the DRMP, of livestock grazing generally (see, e.g., p. 3-12). Additionally, before targeted grazing is implemented, the BLM will conduct site-specific NEPA analysis that would disclose the effects from targeted grazing. The same is true of outcome-based grazing.

**NEPA—Purpose and Need*****Western Watersheds Project******Greta Anderson***

The narrowness with which the need is defined - to identify where and how to manage livestock grazing, not whether livestock grazing should be allowed - clearly predicted the outcome, which violates NEPA. 40 C.F.R. § 1502.13.

**Summary:**

The purpose and need for the SPRNCA PRMP/FEIS is too narrow.

**Response:**

In accordance with NEPA, the BLM has discretion to establish the purpose and need for a proposed action (40 CFR 1502.13). The BLM must construct its purpose and need to conform to existing decisions, policies, regulation, or law (BLM Handbook H-1790-1, Section 6.2).



The purpose and need may not be so narrow that only one alternative becomes a foreordained outcome, and may not be so broad that an infinite number of possibilities could accomplish the goals of the project.

As noted on pages ES-2 and 1-2 of the SPRNCA PRMP/FEIS, the purposes of the SPRNCA RMP are to guide the management of BLM-administered lands on the SPRNCA and to provide a framework for future land management in the decision area. The need described in the plan is broader than just identifying whether and how to manage livestock grazing as stated by the protesting party. The purpose and need for the PRMP also conforms with existing decisions, policies, regulations, and laws through consistency with the requirements of the enabling legislation and by ensuring that management conserves, protects, and enhances the riparian area and the aquatic, wildlife, archaeological, paleontological, scientific, cultural, educational, and recreational resources of the public lands surrounding the San Pedro River in Cochise County, Arizona.

The underlying purpose and need to which the BLM is responding also is stated on pages ES-2 and 1-2 of the SPRNCA PRMP/FEIS: the “current land use plans covering the SPRNCA are more than 25 years old.” During the time these plans have been in effect, new management issues have surfaced and existing management decisions are no longer responsive to current resource conditions. This is because the SPRNCA resource conditions have changed over time, new technologies have emerged, and demands on resources surrounding the SPRNCA also have changed. The BLM’s commitment to evaluating the effects of livestock grazing on the SPRNCA for the portions of the SPRNCA that were not acquired through the state land exchange is not the sole need for the SPRNCA PRMP/FEIS, nor is the purpose of the plan to only evaluate the effects of livestock grazing on the SPRNCA and to determine where and how livestock grazing could be compatible with the values of the SPRNCA. Rather, the purpose of the RMP is to address changing circumstances, including increased population growth surrounding the SPRNCA, increased demand for access and public use of the SPRNCA, and increased demand for water, which could affect the riparian values of the SPRNCA, in addition to the need to evaluate the effects of livestock grazing on the SPRNCA. The purpose and need provided the appropriate scope to allow the BLM to analyze a reasonable number of alternatives that represent alternative approaches for managing the public lands in the planning area, and thus was properly established.

## **NEPA—Range of Alternatives**

### ***The Wilderness Society***

#### ***Katie Meehan***

**Issue Excerpt Text:** The fundamental purpose of NEPA is to ensure that federal agencies analyze potential environmental impacts in decision-making, and to disclose those impacts to the public. As part of this process, NEPA requires that federal agencies articulate “a rational connection between the facts found and the choice made.” *Baltimore Gas and Elec. Co. v. Natural Res. Def. Council*, 462 U.S. 87, 105 (1983). Here, the Proposed RMP fails to adequately articulate the agency’s rationale in determining that no identified wilderness-quality lands nor areas of critical environmental concern should be managed for protection in the proposed action.

### ***The Wilderness Society***

#### ***Katie Meehan***

**Issue Excerpt Text:** Analyzing alternatives that would “avoid or minimize” adverse environmental effects is a requirement of NEPA, and current guidance outlined in Manual 6320 states that land use planning efforts should consider several outcomes for lands with wilderness characteristics. BLM is not required to only analyze alternatives that would protect or leave unprotected lands with wilderness characteristics, and may consider additional management options for these lands, where other multiple uses are emphasized “while applying management restrictions (conditions of use,

mitigation measures) to reduce impacts to wilderness characteristics.” Manual 6320 at .06(A). Therefore, even for areas where BLM specifically decides to not prioritize protection of wilderness characteristics, BLM is still required to “consider measures to minimize impacts on those characteristics.” Manual 6320 at .06(A)(2)(d).

### **Summary:**

The SPRNCA PRMP/FEIS range of alternatives is inadequate because there is no consideration of minimizing adverse environmental effects on lands with wilderness characteristics.

### **Response:**

The BLM must analyze a reasonable range of alternatives, but not every possible alternative to a proposed action: “In determining the alternatives to be considered, the emphasis is on what is ‘reasonable’ rather than on whether the proponent or applicant likes or is itself capable of implementing an alternative. ‘Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant.’” BLM NEPA Handbook, H-1790-1, at p. 50 (citing Question 2a, CEQ, Forty Most Asked Questions Concerning CEQ’s NEPA Regulations, March 23, 1981); see also 40 CFR § 1502.14.

The BLM analyzed a full range of alternatives for lands with wilderness characteristics. The analysis included an alternative to manage identified areas to protect wilderness characteristics as a priority over other uses. In the other alternatives, wilderness characteristics would be indirectly protected by management for other resource values.

BLM regulations (43 CFR 46.10 and 40 CFR 16.1) and policies (MS 6320 and H-1601-1) require the BLM to consider wilderness characteristics in land use planning. The BLM evaluates the extent to which managing to protect wilderness characteristics affects other resources or resource uses and the effects of the alternatives on wilderness characteristics. Section 3.2.11, *Lands with Wilderness Characteristics* (pp. 3-101 to 3-105), discloses the acres of lands with wilderness characteristics that overlap allocations that could diminish wilderness characteristics (see Table 3-45, p. 3-102). In addition, the SPRNCA PRMP/FEIS does analyze impacts on lands with wilderness characteristics that would not be managed to protect those characteristics and determines that actions that disturb land surface (e.g., vegetation or watershed treatments, and development of facilities) degrade the naturalness of lands with wilderness characteristics. The BLM has therefore fulfilled its obligations under NEPA and the BLM’s own lands with wilderness characteristics policy.

## **NEPA—Cumulative Effects**

### ***Western Watersheds Project***

#### ***Greta Anderson***

**Issue Excerpt Text:** The BLM Failed to Analyze and Disclose Cumulative Impacts. NEPA requires agencies to analyze and disclose cumulative impacts. 40 C.F.R. § 1508.25. Western Watersheds Project raised the issue of BLM’s failure to consider the cumulative impacts of livestock grazing in our prior comments. WWP 2018 at 27-41. Western Watersheds Project asked BLM to analyze and disclose whether, on lands failing to meet Land Health standards, adding livestock grazing to those already degraded conditions would hinder the attainment of land health standards in the future. BLM did not answer this question, nor did it analyze and disclose the cumulative impacts of allowing livestock grazing to continue. For example, BLM failed to admit that by continuing livestock grazing on the allotments within the San Pedro RNCA, it is also maintaining grazing on non-RNCA BLM-managed acres adjacent to the project area, in addition to authorized grazing elsewhere in the

watershed. The PRMP/FEIS makes no mention of the regional extent and condition of permitted grazing that can and does affect the San Pedro RNCA, including the groundwater withdrawals on BLM-managed allotments that may contribute to dewatering the aquatic environment.

**Summary:**

There is no discussion of cumulative effects of livestock grazing on lands failing to meet land health standards. The BLM did not adequately analyze cumulative effects of groundwater withdrawals on BLM management allotments.

**Response:**

The BLM has complied fully with the requirements of 40 CFR 1508.7 and prepared a cumulative impact analysis based on the broad nature and scope of the proposed management options under consideration at the land use planning level. The cumulative impact analysis considered the effects of the planning effort when added to other past, present, and reasonably foreseeable (not highly speculative) Federal and non-Federal actions. The cumulative impacts section for livestock grazing and water resources identifies all actions that were considered in the cumulative impacts analysis and provides a basis for the cumulative impacts analysis for each affected resource.

The analysis accounted for the relationship between the proposed action and these reasonably foreseeable actions. This served as the determining factor as to the level of analysis performed and presented. The information presented in the SPRNCA RMP/FEIS enables the decision-maker to make a reasoned choice among a range of alternatives.

The SPRNCA Proposed Plan does not include adding any additional livestock grazing. All livestock grazing levels proposed under the RMP are the continuation of existing livestock grazing levels. Therefore, under the Proposed Plan, the BLM would not add livestock grazing to lands that are failing to meet land health standards. The SPRNCA PRMP also includes a management action that would require land health evaluations before issuance of new leases with terms and conditions designed to achieve specific objectives (p. 2-45 of the SPRNCA PRMP/FEIS). After land health evaluations are completed, implementation-level planning with allotment-specific objectives would be done. Renewed leases would include terms and conditions that would ensure grazing management maintains conservation values (see p. 3-108 of the SPRNCA PRMP/FEIS). Consistent with the Arizona Standards for Rangeland Health and Guidelines for Grazing, grazing management would be adjusted in cases where land health standards are not being met due to grazing. These adjustments could include changes in stocking rate, the timing of grazing, and additional terms and conditions to maintain appropriate vegetation species, vegetation density, and bank conditions (p. 3-147 of the SPRNCA PRMP/FEIS). The SPRNCA PRMP/FEIS analyzes groundwater withdrawals on the SPRNCA for use on administrative sites, wildlife, and livestock use and notes that the pumping of groundwater under the Proposed Plan for BLM-authorized actions would be designed to be the minimum amount necessary to reduce impacts on base flows (p. 3-19).

Section 3.1.2 discuss how cumulative impacts were analyzed in the RMP. “Cumulative impacts on the environment result from implementing any one of the RMP alternatives in combination with other reasonably foreseeable future actions outside the scope of this plan, either in the planning area or outside of it.” Table 3-1 defines past, present, and reasonably foreseeable future actions. “Cumulative impact analysis areas are defined on a resource-by-resource basis and are discussed under each resource section. Many of these analysis areas coincide with the Upper San Pedro watershed, excluding Mexico” (water and grazing—pp. 3-24, 3-25, 3-112).

NEPA directs that data and analyses in an EIS 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)).

Groundwater pumping for livestock is analyzed under the broader category of all groundwater pumping in the Sierra Vista Subwatershed of the Upper San Pedro Watershed; livestock groundwater pumping is responsible for less than 0.5% of all groundwater pumping in 2012 (Gungle et al. 2016). The BLM is required to take a “hard look” at potential environmental impacts of adopting the SPRNCA PRMP. 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. As the decisions under consideration by the BLM are programmatic in nature and would not result in on-the-ground planning decision or actions, the scope of the analysis was conducted at a broader programmatic level.

The BLM complied with NEPA’s requirement to analyze the environmental consequences/impacts of livestock grazing in the SPRNCA PRMP/FEIS planning effort.