



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Arizona Strip Field Office
345 East Riverside Drive
St. George, Utah 84790
www.az.blm.gov

In Reply Refer To:
LLAZA01000: 4160

Peart Ranch LLC
6450 Manhead Rd.
Randolph, UT 84064

Certified #773372518270
RETURN RECEIPT REQUESTED

NOTICE OF PROPOSED DECISION

Lower Hurricane Valley Water Catchments Project

NEPA #DOI-BLM-AZ-A010-2022-0012-DNA

This decision only applies to the project proposed within the Clay Spring Allotment.

INTRODUCTION

The Bureau of Land Management (BLM) has conducted an environmental review (DNA No. DOI-BLM-AZ-A010-2022-0012-DNA) to evaluate the proposal to construct seven water catchments with associated infrastructure on the Clay Spring, Lower Hurricane, and Mainstreet allotments – this Notice of Proposed Decision only applies to the project proposed on the Clay Spring Allotment. The BLM, Arizona Strip Field Office, and the grazing permittee are working cooperatively to improve grazing management, watershed conditions, and rangeland health within the Clay Spring Allotment. The proposed action is essentially similar to, but not specifically a feature of, the proposed action analyzed in an existing environmental assessment (EA) #DOI-BLM-AZ-AZ010-2016-0027-EA. The DNA prepared for the proposed water developments (DOI-BLM-AZ-A010-2022-0012-DNA) was tiered to that EA. This proposed decision is the result of my review and consideration of the Determination of NEPA Adequacy (DNA) and its associated Finding of No Significant Impact (FONSI).

BACKGROUND

The proposed action is to construct one water catchment with associated infrastructure on the Clay Spring Allotment. The purpose of this project is to encourage and achieve better livestock distribution within the allotment; it is not to increase permitted use or increase animal unit months (AUMs). This improved livestock distribution will enhance rangeland vegetation by accelerating

plant succession while increasing plant diversity and vigor. Water distribution in this allotment is limited because the existing reservoirs are unreliable, lack in water storage capabilities, and leak due to the soils' inability to retain water. Construction of the new water catchment and associated infrastructure will benefit rangeland health by providing a reliable year-round water source, which will aid in keeping livestock dispersed throughout the allotment, resulting in more uniform utilization of forage (while not exceeding the maximum utilization level of 50%). The catchment location will allow better livestock distribution and achieve better grazing management as shown on the map in Attachment 1. The proposed action will provide a reliable water source and ensure the permittee is able to implement his grazing system. The proposed catchment project will also provide an additional (reliable) water source for wildlife (including pronghorn and mule deer).

The purpose of this action is to respond to an external request to construct one new water catchment and associated infrastructure (see below). The need for this action is established in 43 CFR 4120.3-1(f) which states that proposed range improvement projects shall be reviewed in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4371, et seq), and management objectives established by the Arizona Strip Field Office Resource Management Plan (RMP).

This catchment will have five basic structures: apron, storage system, pipeline, trough, and fencing. The apron will be made up of a plastic material, approximately two acres in size, that will shed water to a storage tank or lined pond. The storage tank or lined pond's size will be approximately 80,000 gallons plus. A pipeline will be installed from the storage system to a trough. The pipeline will be made from plastic material and will be placed 18-24 inches in the soil using a ripper tooth attached to a track vehicle. The pipeline will be along a 10-foot-wide path; however, actual disturbance will only occur at the dozer tracks and a 12 to 16-inch point of impact from the ripper tooth. A water trough will be placed at a location that will allow the water to flow from the storage system to the trough; the trough will have a float valve to prevent overflowing. The trough will be available to livestock and wildlife. A wildlife escape ramp will be placed and secured in the trough at the time of installation. The apron and storage system will have a fence built around the structures to prevent animals from entering the storage structure.

The proposed action includes future maintenance activities for the life of the catchment and associated infrastructure, which is expected to be at least 20-50 years. The exact maintenance requirements are not known but are expected to include annual inspections and replacing or patching material when repairs are needed, and annual inspections of the pipeline to the trough, which includes digging to find and repair leaks or clogs in the pipe.

Project Design Features:

The proposed action is subject to the following project design features in order to minimize the impacts of the projects to social and natural environmental resources.

Cultural Resources

- Any surface or sub-surface archaeological, historical, or paleontological remains discovered during construction, operation or maintenance activities shall be left intact. Photographing/filming, collection, excavation, defacement, and/or damage to any archaeological, historical, or paleontological remains is prohibited. Obtaining and sharing

locational information (i.e., geospatial data, location drawn on map) other than with the BLM – Arizona Strip District is also prohibited. This information is confidential and protected under the Archaeological Resources Protection Act (16 USC 470aa-mm, 43 CFR 7).

- If in connection with this work any human remains, funerary objects, sacred objects, or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (Public Law 101-601; 104 Stat. 3048; 25 U.S.C. 3001) are discovered, operations in the immediate area of the discovery will stop, the remains and objects will be protected, and the Arizona Strip Field Office Manager (or her designee) will be immediately notified. The immediate area of the discovery will be protected until notified by the Arizona Strip Field Office Manager (or her designee) that operations may resume. Collection, photographing/filming, and/or additional disturbance of any human remains and/or objects is prohibited. The locational information (i.e., geospatial data, location drawn on map) will be provided solely to the BLM Authorized Officer and the BLM Archaeologist. This information is confidential and is also protected under the Archaeological Resources Protection Act.

Wildlife

- Construction will be limited to daylight hours to minimize impacts to wildlife.
- Open trenches have the potential to trap and injure wildlife. During construction of the water catchment, these risks will be mitigated by minimizing the length of time trenches are left open, providing escape avenues (lateral trenches) for wildlife when left overnight, and inspecting the trenches prior to backfill activities.
- The work crew chief must notify the BLM wildlife team lead if California condors visit the worksite while construction is underway. Project activities will be modified or delayed until condors vacate the area.
- If an active bird nest is located within the project area, the Arizona Strip Field Office Manager (or her designee) will be immediately notified in order to develop appropriate measures to avoid disturbance to the nesting birds.
- No hazing or harassment of wildlife is permitted.
- The project site will be cleaned up at the end of each day the work is being conducted (e.g., trash removed, scrap materials picked up); waste materials will be disposed of promptly at an appropriate waste disposal site. “Waste” means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment. “Waste” also includes the creation of micro-trash such as bottle caps, pull tabs, broken glass, cigarette butts, small plastic, food materials, bullets, bullet casings, etc. No micro-trash will be left at the project site in order to minimize the likelihood of condors visiting the site. BLM staff may conduct site visits to the area to ensure adequate clean-up measures are taken.
- Wildlife escape ramps will be secured in each trough before it is filled; water tanks will either have lids or wildlife escape ramps and floating bird ladders installed to prevent wildlife from becoming trapped.

- No smooth or barbed wire t-posts structures will be used to strengthen the integrity of the troughs to keep them from moving. Instead, heavy equipment sized tires will be secured using concrete. This will facilitate ingress and egress of wildlife, particularly bat species.
- Any hollow metal and/or plastic (PVC) pipes and posts used or stored temporarily during construction or left permanently in place will be capped to prevent birds, small mammals, or reptiles from becoming entrapped.

Soils

- Construction activities will be limited to periods when the soil and ground surface are not wet in order to avoid soil compaction.
- During construction, vehicular traffic will be restricted to existing roads or along the 15-foot wide route of each proposed project.
- To minimize impacts to biological soils crusts, care will be taken during construction activities to avoid disturbance of this resource to the greatest extent practicable. This may involve slight adjustments for construction equipment access and/or final locations, within the areas “cleared” for cultural resources.

Vegetation including Invasive Species

- Construction activities will be conducted in a manner that will minimize disturbance to existing vegetation by limiting vegetation thinning where possible.
- Vehicles and equipment will be power washed off-site before construction activities begin to minimize the risk of spreading noxious weeds. This will include cleaning all equipment before entering the Arizona Strip. The project areas will be monitored for noxious weeds for two years following completion of the project.

Hazmat

- At no time will vehicle or equipment fluids (including motor oil and lubricants) be dumped on public lands. All accidental spills will be reported to the authorized officer and be cleaned up immediately, using best available practices and requirements of the law, and disposed of in an authorized disposal site. All spills of federally or state listed hazardous materials which exceed the reportable quantities would be promptly reported to the appropriate agency and the authorized officer.

FINDING OF NO SIGNIFICANT IMPACT

After consideration of the environmental effects described in the existing EA to which the project DNA is tiered to and supporting documentation, I have determined that the action is not a major Federal action and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the area. Using the criteria defined in the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations (40 CFR 1501.3(b)), I have determined the proposed action identified in the DNA will not have significant adverse effects on the human environment (see attached Finding of No Significant Impact). Therefore, the preparation of an Environmental Impact Statement is not required as per Section

102(2) of NEPA. A detailed analysis of the potential impacts can be found in Chapter 4 of the existing EA.

RATIONALE FOR DECISION

This proposed decision has been made after considering impacts to resources, such as vegetation, wildlife, cultural resources, and soils, while also meeting the purpose and need for agency action. The water development approved by this proposed decision will support responsible livestock grazing on public land and will allow the vegetation in the pastures to maintain at or better progress toward its natural potential by increasing plant diversity and vigor. As stated above, the purpose of the action is to encourage and achieve better livestock distribution within the allotment; it is not to increase permitted use or increase AUMs. The uniformity in livestock distribution will enhance rangeland vegetation by accelerating plant succession while increasing plant diversity and vigor. Water distribution in the allotment is limited because the existing reservoirs are unreliable, lack in water storage capabilities, and leak due to the soil's inability to retain water.

The Clay Spring Allotment is meeting the applicable standards for rangeland health. However, construction of the new water development will still benefit rangeland health by providing a reliable year-round water source in the allotment which will aid in keeping livestock dispersed throughout the allotment, resulting in more uniform utilization of forage (while not exceeding the maximum utilization level of 50%). Providing a reliable water source and will also ensure the permittee is able to implement his respective grazing system.

The catchment project will also provide an additional (reliable) water source for wildlife (including pronghorn and mule deer). The Arizona Strip Interdisciplinary Mule Deer Management Plan 2015-2019, which was developed jointly by the BLM and AGFD, states that "water distribution should be improved in [Unit 13B] by utilizing both cooperative projects and wildlife catchments". The Arizona Statewide Pronghorn Management Plan (2009) identifies several management objectives, including objectives related to water availability. The catchment locations fall within pronghorn and mule deer habitat. Thus, pronghorn, and mule deer (along with other wildlife species) will benefit from the catchment by improving water distribution and improving habitat use, which are also objectives contained within the Arizona Strip Field Office RMP. The project DNA indicates that the action is in conformance with the Arizona Strip Field Office RMP, approved on January 29, 2008.

AUTHORITY

The authority for this decision is found in a number of statutory and regulatory authorities contained in the Taylor Grazing Act, as amended; the Federal Land Policy and Management Act of 1976, as amended; and throughout Title 43 of the Code of Federal Regulations (CFR), Part 4100 (Grazing Administration-exclusive of Alaska). The following sections of Part 4100 are noted below, although other subparts of Part 4100 are used to authorize grazing activities, with this list not meant to be exhaustive.

- 43 CFR §4100.0-8: Land use plans
- 43 CFR §4120.3-1: Conditions for range improvements.
- 43 CFR §4120.3-4: Standards, design, and stipulations.

- 43 CFR §4160.1: Proposed decisions.
- 43 CFR §4160.2: Protests.
- 43 CFR §4160.3: Final decisions.
- 43 CFR §4160.4: Appeals.

RIGHT OF PROTEST AND/OR APPEAL

Any applicant, permittee, lessee, or other interested public may protest the proposed decision in accordance with 43 CFR 4160.2 in person or in writing within 15 days after receipt of such decision to:

Lorraine M. Christian
Field Manager
345 East Riverside Dr.
St. George, UT 84790

If protest is sent by facsimile or email, the date filed is not official until the BLM receives the original by mail. Electronic dates of submissions are not acceptable. The protest should clearly and concisely state the reason(s) as to why the proposed decision is in error.

In accordance with 43 CFR 4160.3(a), in the absence of a protest, the proposed decision will become my final decision without further notice, in accordance with 43 CFR 4160.3(a). Should a timely protest be filed, I will consider the points of the protest and other pertinent information and issue my final decision to all persons named in this decision in accordance with 43 CFR 4160.3(b).

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file a notice of appeal in writing for the purpose of a hearing before an administrative law judge in accordance with 43 CFR 4160.3(c), 4160.4, and 4.470. The notice of appeal must be filed within 30 days following receipt of the final decision or within 30 days after the date the proposed decision becomes final. The notice of appeal may be accompanied by a petition for a stay of the decision in accordance with 43 CFR 4.471 pending final determination on appeal. The notice of appeal and petition for a stay must be filed in the office of the authorized officer, as noted above.

The BLM cannot accept electronic filing of appeal documents by any other means, including compact disc, thumb drive, or similar media due to Federal Information Systems Security Awareness policies. As defined in 43 CFR 4.22(a), "A document is filed in the office where the filing is required only when the document is received in that office during its regular business hours and by a person authorized to receive it. A document received after the office's regular business hours is considered filed on the next business day."

Within 15 days of filing the appeal, the appellant must provide the BLM with proof of service to the other persons named in this decision (Attachment 2 - List of all Persons or Groups Receiving this NOPD) in accordance with 43 CFR 4.470(a). A copy of the appeal must also be served on the Office of the Solicitor located at the address below in accordance with 43 CFR 4.413(a).

Sandra Day O'Connor
US Courthouse, Suite 404
401 West Washington Street, SPC-44
Phoenix, Arizona 85003-2151

In accordance with 43 CFR 4.413(b), failure to serve a notice of appeal will subject the appeal to summary dismissal as provided in 43 CFR 4.402. Appellants are responsible for determining whether the Office of the Solicitor or other persons named in the decision will accept service of a notice of appeal and/or petition for stay electronically via email.

The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error and otherwise complies 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). In accordance with 43 CFR 4.471(c), a petition for a 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.

As noted above, the petition for stay must be filed in the office of the authorized officer and served in accordance with 43 CFR 4.471.

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


Digitally signed
by Lorraine M
Christian
Date: 2023.12.13
08:58:17 -07'00'

Lorraine M. Christian
Field Manager
Arizona Strip Field Office

Attachments:

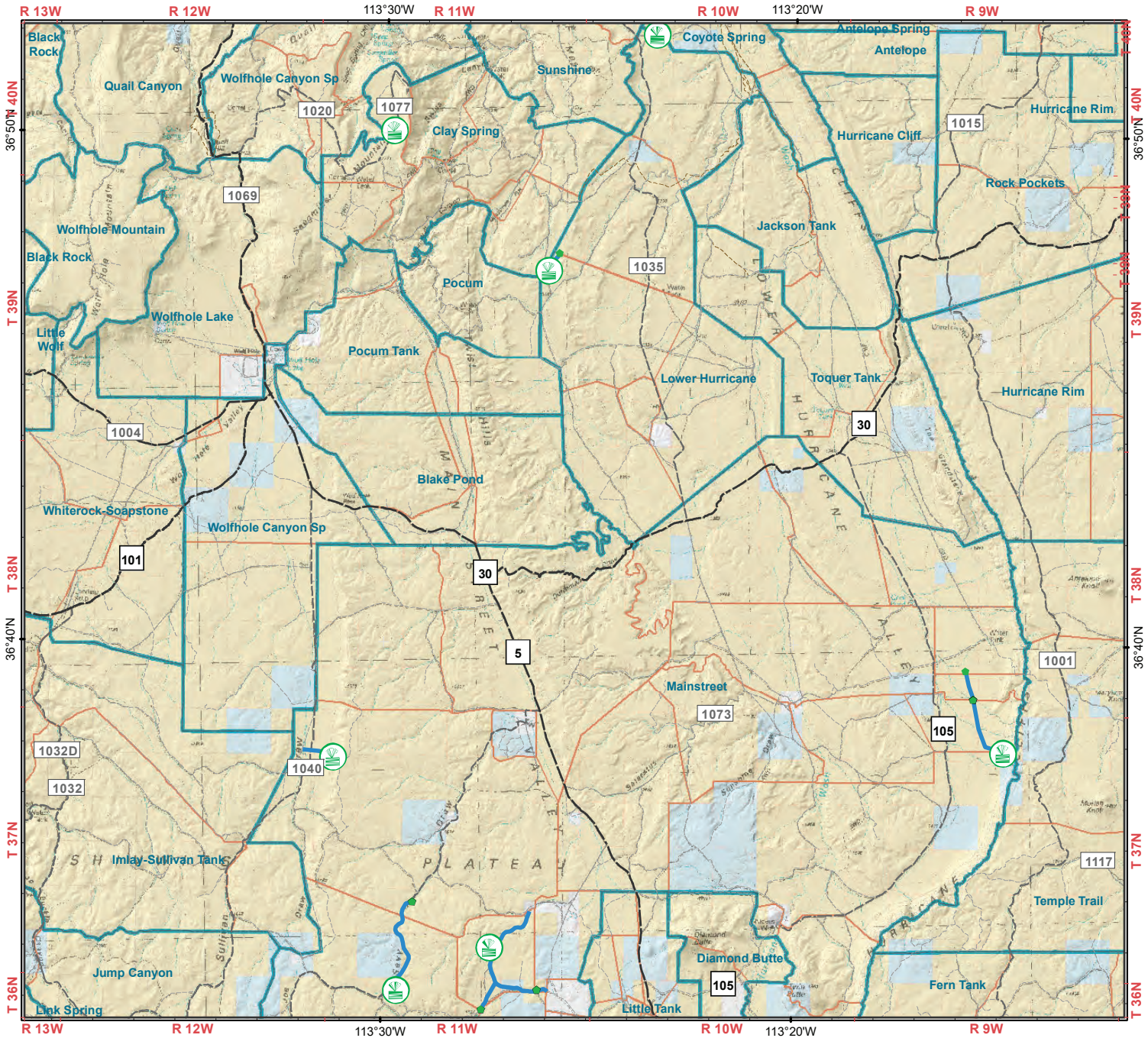
- Attachment 1 – Lower Hurricane Valley Water Catchments Location Map
- Attachment 2 – List of Persons or Groups Receiving this NOPD



Hurricane Valley - Proposed Range Development Catchments

NEPA Project DOI-BLM-AZ-A010-2022-0012-DNA

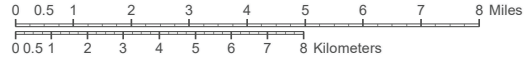
Bureau of Land Management - Arizona Strip District - Arizona Strip Field Office



- Proposed Catchment
- Proposed Pipeline
- Grazing Allotment
- Grazing Pasture
- Proposed Trough

- Surface Management Agency**
- Bureau of Land Management
 - State
 - Private

- Arizona Strip Routes**
- Primary Road Paved
 - Secondary Road Paved
 - Primary Road Unpaved
 - Secondary Road Unpaved
 - Tertiary Road Unpaved
 - Single Track



Map Produced by BLM Arizona Strip District
 File: Hurricane_valley_catchments_2022.mxd
 Coordinate System: NAD 1983 UTM Zone 12N
 Reference System: U.S. PLSS GSRB&M
 Scale: 1:209,968 at 8.5x11 page output
 User: jreeve
 Date: 11/30/2023



No warranty is made by the Bureau of Land Management (BLM) regarding the accuracy or completeness of this map. This map is representational and is to be used as intended by the BLM. Map data compiled from various sources. This map and the data from which it was derived are not binding on the BLM and may be revised at any time.



List of all Persons or Groups Receiving this NOPD

Rudger C Atkin, LLC
2555 S 3430 E
St. George, UT 84790

VL Livestock LLC
261 N 600 W
Richfield, UT 84701

Chris Bugbee
Center for Biological Diversity
Tucson, AZ 85707

Cyndi Tuell
738 North 5th Ave., Suite #206
Western Watershed Project
Tucson, AZ 85707

Bryan Thiriot
Five County Association of Governments
St. George, UT 84770

Gary Esplin
City of St. George
St. George, UT 84770

Mr. Curtis Anderson
Chairman Las Vegas Paiute Tribe
Number One Paiute Drive
Las Vegas, NV 89106

Mr. Glenn Lodge
Chairman Chemehuevi Indian Tribe
P.O. Box 1976
Havasu Lake, CA 92363

Mrs. Laura Parry
Chairwoman Moapa Band of Paiute Indians
P.O. Box 340
Moapa, NV 89025

Ms. Corrina Bow
Chairwoman Paiute Indian Tribe of Utah
440 North Paiute Drive
Cedar City, UT 84720

Mr. Timothy Nuvangyaoma
Chairman The Hopi Tribe
P.O. Box 123
Kykotsmovi, AZ 86039

Ms. Johnny Lehi, Jr.
President San Juan Southern Paiute Tribe
P.O. Box 2950
Tuba City, AZ 86045

Mr. Thomas Siyuja, Sr.
Chairman Havasupai Indian Tribe
P.O. Box 10
Supai, AZ 86435

Ms. Ona M. Segundo
Chairwoman Kaibab Band of Paiute Indians
Hc 65 Box 2
Fredonia, AZ 86022

Dr. Damon Clarke
Chairman Hualapai Indian Tribe
P.O. Box 179
Peach Springs, AZ 86434

Mr. Richard Begay
Director Navajo Nation Heritage & Historic
Preservation
P.O. Box 4950
Window Rock, AZ 86515

Mr. Val Panteah, Sr.
Governor Pueblo of Zuni
P.O. Box 339
Zuni, NM 87327

Ms. Amelia Flores
Chairwoman Colorado River Indian Tribe
26600 Mohave Road
Parker, AZ 85344