



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Arizona Strip Field Office
345 East Riverside Drive
St. George, UT 84790
www.blm.gov/az/

IN REPLY REFER TO: 4160
LLAZA01000

FedEx # 777584206592

Kelly Heaton
Heaton Cattle Co.
1825 East 2450 South
St. George, Utah 84790

July 24, 2024

NOTICE OF PROPOSED DECISION **Clayhole Pipeline Phase 3** **NEPA # DOI-BLM-AZ-A010-2024-0008-DNA**

INTRODUCTION

The Bureau of Land Management (BLM) has conducted an environmental review (DNA No. DOI-BLM-AZ-A010-2024-0008-DNA) to evaluate the proposal to install 16 miles of pipeline (connecting to existing pipelines) and 8 water troughs with potential water storage tanks within the Clayhole Allotment. The BLM and the grazing permittee are working cooperatively to improve grazing management, watershed conditions, and rangeland health within the Clayhole 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-A010-2021-0008-EA. The DNA prepared for the proposed water developments (DOI-BLM-AZ-A010-2024-0008-DNA) is tiered to the EA. This proposed decision is the result of my review and consideration of the Determination of NEPA Adequacy (DNA).

PROPOSED DECISION

Based on my review and consideration of the DNA, it is my decision to approve the Clayhole Pipeline Phase 3 project (see Figure 2 of the DNA) as described in the DNA. The action is to construct 16 miles of pipeline and 8 water troughs with potential 5-10,000 gallon water storage tanks at each trough. The proposed pipelines and troughs will be connected with phase 1 and phase 2 of the Clayhole pipeline (previously approved). The pipeline within the Baaj Nwaavjo I'tah Kukveni – Ancestral Footprints of the Grand Canyon National Monument is a key part to the Clayhole Pipeline project as it will provide water from Yellowstone Spring to the Childers Well, Little Clayhole, and Little Warren pastures. The proposed action will be subject to the best management practices described in the DNA to minimize the impacts of the proposed action to the social and natural resources.

The proposed action includes future maintenance activities for the life of the project, which is expected to be up to 50 years. The exact maintenance requirements are not known but are expected to include annual inspections using all-terrain vehicles or pick-up trucks to access the site via existing roads. The water storage tank and lined pond will be monitored on a yearly basis by the grazing permittee to ensure they are functioning properly. In addition, rangeland monitoring (to evaluate compliance, utilization, composition, and long-term trend) will continue in the allotment.

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)), the BLM has determined the action will not have significant adverse effects on the human environment. Therefore, the preparation of an Environmental Impact Statement (EIS) is not required as per Section 102(2) of NEPA. This finding and conclusion is based on the consideration of the Council on Environmental Quality's criteria for significance (40 CFR 1508.27), both with regard to the context and the intensity of impacts described in the attached Finding of No Significant Impact.

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 as described below and in the DNA. The water developments 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. 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 animal unit months. The uniformity in livestock distribution will enhance rangeland vegetation by accelerating plant succession while increasing plant diversity and vigor. Water distribution is limited in the Childers Well, Little Clayhole, and Little Warren pastures because the existing reservoirs are unreliable, lack in water storage capabilities, and leak due to the soil's inability to retain water.

These pipelines and troughs will benefit rangeland health by providing reliable year-round water sources which will aid in keeping livestock dispersed throughout the respective pastures, resulting in more uniform utilization of forage (while not exceeding the maximum utilization level of 50%). The action will also ensure the permittee is able to better implement the grazing system established in the allotment management plan.

The land health evaluation for this allotment was signed in 2008. It was recommended by the interdisciplinary assessment team that the allotment was making significant progress toward meeting standards for rangeland health. The evaluation identified desired plant community objectives for the allotment and determined that these objectives are partially met. Long-term trend monitoring in conjunction with composition and utilization monitoring conducted since the evaluation document was signed reconfirms the 2008 land health evaluation recommendation for this allotment.

While the water developments included in this decision were not specifically identified in the land health evaluation, lack of reliable water for wildlife was identified as an issue; additional water sources will result in more uniform distribution of livestock, and thus more uniform utilization of forage and more even use within each pasture, which should benefit rangeland health. These water developments will provide additional (reliable) water for wildlife (including mule deer and pronghorn). The *Arizona Strip*

Interdisciplinary Mule Deer Management Plan 2015-2019 (AGFD and BLM 2015), which was developed jointly by the BLM and AGFD, states that “water distribution should be improved in [Unit 13A] 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. Thus, pronghorn and mule deer (along with other wildlife species) will benefit from the proposed water developments by improving water distribution and improving habitat use, which are also objectives contained within the Arizona Strip Field Office Resource Management Plan (RMP). The action is in conformance with the Arizona Strip Field Office RMP, approved on January 29, 2008¹.

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 §4120.3-2: Cooperative range improvement agreements.
- 43 CFR §4120.3-3: Range improvement permits.
- 43 CFR §4120.3-4: Standards, design, and stipulations.
- 43 CFR §4120.3-5: Assignment of range improvements.
- 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 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.

¹ Baaj Nwaavjo I'tah Kukveni National Monument was designated on August 8, 2023, by Presidential Proclamation 10606. A resource management plan for this new monument has not yet been developed. Until a new RMP is developed, the lands are managed under the Arizona Strip Field Office RMP unless there is a conflict with the Proclamation. This proposed action does not violate the proclamation – the Proclamation specifically states that the Secretary of the Interior shall “provid[e] appropriate access for livestock grazing” within the monument. Management of livestock grazing on the public lands includes providing reliable waters to promote uniform utilization of forage, as proposed in this current action.

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 (see attached List of all Persons or Groups Receiving this Notice of Proposed Decision (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

Lorraine M Christian

Date: 2024.07.24

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Lorraine M. Christian

Field Manager

Arizona Strip Field Office

Attachment

List of all Persons or Groups Receiving this NOPD

Enclosure

Finding of No Significant Impact

ATTACHMENT 1

List of all Persons or Groups Receiving this NOPD

Kelly Heaton
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