



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 # 7729-6024-5639
RETURN RECEIPT REQUESTED

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

NOTICE OF PROPOSED DECISION **Clayhole Allotment Tank and Lined Pond** **NEPA # DOI-BLM-AZ-A010-2023-0020-DNA**

INTRODUCTION

The Bureau of Land Management (BLM) has conducted an environmental review (DNA No. DOI-BLM-AZ-A010-2023-0020-DNA) to evaluate the proposal to construct a water storage tank (to connect to an existing pipeline) and a lined pond to serve as water storage, both within the Clayhole 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 Clayhole Allotment. The proposed action is essentially similar to, but not specifically a feature of, the proposed action analyzed in existing environmental assessments (EA) #DOI-BLM-AZ-AZ010-2016-0027-EA and #DOI-BLM-AZ-A010-2021-0008-EA. The DNA prepared for the proposed water developments (DOI-BLM-AZ-A010-2023-0001-DNA) is tiered to these EAs. 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 water storage tank (see Figure 3 of the DNA) and lined pond (see Figure 2 of the DNA), as described in the DNA. The action is to construct a water storage tank, with a capacity of up to 200,000 gallons, in the Bundy Pond Pasture of the allotment. The storage tank will be located just west of Nyborg Pond, located in T. 37 N., R. 07 W., Section 13. It will be located along and connected to the previously approved Clayhole Water Development. This will serve as a storage station from Nyborg Pond as well as a pumping station from the Black Point storage tank to the Hat Knoll storage tank. The 200,000-storage tank will sit above ground and is approximately 15 feet tall. Either lids or wildlife escape ramps and floating bird ladders will be installed. Up to half an acre of new disturbance will occur with the construction of this storage tank.

The lined pond, located in T. 36 N., R. 07 W., Section 20, with a capacity of up to 500,000 gallons will serve as the water storage for this portion of the Clayhole Allotment. The lined pond will be connected to the previously approved Clayhole water development and will be able to gravity flow water throughout the allotment. An excavated pond with flexible liner is typically 8-10 feet deep and begins at ground level using heavy equipment. It is then lined with plastic to keep the water from absorbing into the ground. An enclosure fence would be constructed around the perimeter of the lined pond to prevent animals from entering the lined pond. Up to half an acre of new disturbance will occur with the construction of this lined pond. The water storage tank and lined pond will be constructed, used and maintained in accordance with the Best Management Practices described in the DNA.

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.

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 pasture 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 AUMs. The uniformity in livestock distribution will enhance rangeland vegetation by accelerating plant succession while increasing plant diversity and vigor. Water distribution in the Bundy Pond Pasture 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 storage tank will be located along and connected to the approved Clayhole Water Development; it will serve as a storage station from Nyborg Pond as well as a pumping station from the Black Point storage tank to the Hat Knoll storage tank.

These water developments will benefit rangeland health by providing a reliable year-round water source 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.

This proposed decision also best addresses the goals and objectives of the Arizona Strip Field Office Resource Management Plan (RMP), the *Arizona Strip Interdisciplinary Mule Deer Management Plan 2015-2019* and all applicable statutes, regulations, and policies. 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 §4120.3-2 – 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.

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
Date: 2023.08.18
16:23:22 -06'00'

Lorraine M. Christian
Field Manager
Arizona Strip Field Office

Attachments

List of all Persons or Groups Receiving this NOPD

List of all Persons or Groups Receiving this NOPD

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