



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

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In Reply Refer To:
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Return Receipt Requested

June 28, 2022

NOTICE OF FINAL DECISION

Clayhole Allotment Water Developments
DOI-BLM-AZ-A010-2021-0008-EA

INTRODUCTION

A Notice of Proposed Decision (NOPD) and Finding of No Significant Impact (FONSI) were signed February 18, 2022, for the Clayhole Allotment Water Developments. Western Watersheds Project (WWP) received notification of the NOPD on February 21, 2022. The Bureau of Land Management (BLM) received a timely protest to the NOPD from WWP on March 8, 2022 (postmarked March 8, 2022).

The protest reasons are addressed below in the section titled “Response to Protest Statements of Reasons”. Addressing the protest reasons did not cause substantive changes to the Environmental Assessment (EA) analysis; however, additional narrative (for clarification purposes) was added to the EA and a new FONSI has been issued. The specific changes to the EA are noted in the Response to Protest Statements of Reason below.

After considering the protest reasons, this Notice of Final Decision (NOFD) is the final administrative step in the environmental review process for the Clayhole Allotment Water Development Project. The final decision is to select Alternative A (proposed action) in part. More specifically, my decision is to approve the construction and maintenance of the water developments identified on the attached map as “Phase I”

projects, in the Bundy Pond, Larimore, and South pastures, as described in the “Final Decision” section below.

BACKGROUND

The BLM, Arizona Strip Field Office, along with Heaton Cattle Company, the rancher who holds the grazing permit, have been working cooperatively to improve grazing management, watershed conditions and rangeland health within the Clayhole Allotment. The allotment consists of 115,552 acres and has 13 pastures (see EA Appendix A, Figure 1). There are 9,371 active animal unit months (AUM) authorized; cattle are grazed year-round (December 1 through November 30) and are rotated through the pastures on a best pasture rotation as specified in the allotment management plan (AMP).

Water distribution within the allotment is limited because most of the existing reservoirs are unreliable, dependent on rainfall events to refill, lack in water storage capabilities, and leak due to the inability of soils to retain water. Currently, there are six large reservoirs within the allotment that historically hold water. Other reliable water sources include Yellowstone Spring, Clayhole Well, and Black Point Well. The current locations of the reliable water sources listed above do not provide adequate water distribution throughout the allotment. Therefore, the grazing permittee along with the Natural Resources Conservation Service (NRCS) have proposed to construct approximately 92 miles of pipeline to connect the above-mentioned reservoirs, wells, and Yellowstone Spring, to locations within all thirteen pastures of the Clayhole Allotment. The project is designed to use these reliable water sources to provide water throughout the allotment for both livestock and wildlife. Water from these sources would be piped into storage tanks from which water would gravity flow to troughs throughout the allotment. The current water distribution makes it difficult for the permittee and BLM to best plan and adhere to the grazing system contained within the AMP. The action would result in a more uniform utilization of forage, which would aid in maintaining and improving the desired plant community (DPC) objectives. The uniformity in livestock distribution would enhance rangeland vegetation by accelerating plant succession while increasing plant diversity and vigor.

The land health evaluation report for the allotment was completed in 2008. Based on analysis of allotment monitoring data (including data collected since the land health evaluation was completed) and supporting documentation contained in the land health evaluation report, it has been determined that the allotment is making significant progress towards meeting the Arizona Rangeland Health Standards. While these water developments were not specifically identified in the land health evaluation, lack of reliable water for wildlife was identified as an issue. The project would address this issue and be beneficial to land health – reliable water sources would result in more uniform distribution of livestock use and thus more uniform forage utilization.

The intention of the water developments is not to increase permitted use (AUMs), but to encourage and achieve better livestock distribution within the Clayhole Allotment.

The project would also provide additional water sources for wildlife (including mule deer and pronghorn). The *Arizona Strip Interdisciplinary Mule Deer Management Plan 2015-2019*, which was developed jointly by the BLM and Arizona Game and Fish Department (AGFD) states that “water distribution should be improved in [Units 12B, 13A, and 13B] by utilizing both cooperative projects and wildlife catchments”. The *Arizona Statewide Pronghorn Management Plan* identifies a number of management objectives, including objectives related to water availability. It should be noted that habitat management for non-listed, non-game species are typically provided in the form of supplemental benefits from actions designed to address other, targeted (i.e., threatened, endangered, candidate, or game species). These most often take the form of water developments or vegetative treatment projects. Thus, other wildlife species (along with mule deer and pronghorn) would benefit from the proposed water projects by improving water distribution and improving habitat use by these species as well, which are also objectives contained within the Arizona Strip

Field Office Resource Management Plan (RMP).

The purpose of this action is to respond to an external request to place and use a water pipeline, water storage tanks and livestock water troughs in the Clayhole Allotment. 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 RMP.

The EA prepared for the proposed water developments (DOI-BLM-AZ-A010-2021-0008-EA) constitutes the BLM's environmental review of the proposed action in accordance with the National Environmental Policy Act (NEPA) and other relevant federal and state laws and regulations.

The Bureau of Land Management (BLM) received a timely protest to the NOPD for the Clayhole Water Developments Environmental Assessment (DOI-BLM-AZ-A010-2021-0008-EA) on March 8, 2022 (postmarked March 8, 2022). The BLM has carefully considered each protest statement of reasons as to why the proposed decision was in error and has responded to each reason below.

RESPONSE TO PROTEST STATEMENTS OF REASONS:

General Protest Points

Protest Reason #1. With this proposed decision, the Bureau has improperly decided to split the project into two phases but has not provided a rationale for doing so other than a conversation with the permittee. We elaborate on this protest point more fully below.

Response: The selected action described in the NOPD includes features of the proposed action (Alternative A) analyzed in the EA. The BLM is not required to select an EA alternative in its entirety, but can select portions of any alternative, as long as those separate portions are analyzed in the EA. In this case, the entire project was analyzed in detail in the EA, including direct, indirect, and cumulative effects. Selecting a portion of the proposed action, as demonstrated in the associated Finding of No Significant Impact (FONSI), would not result in any significant effects. The BLM did explain why the project was being split into phases. As stated in the rationale for decision in the NOPD, "The BLM, in consultation with the grazing permittee, has determined that implementation of the water developments should be completed in phases, due to the extent of the developments proposed and the length of time it may take to construct them. Once the Phase I projects (those approved by this proposed decision) are constructed, the BLM would issue a separate decision(s) to approve any other water developments." It is not improper for the BLM to approve the project in phases.

Protest Reason #2. The Bureau has relied upon an outdated Land Health Evaluation from 2008 [in this EA process].

Response: As described in Sections 1.2 and 3.4.1 of the EA, the land health evaluation for this allotment was completed in 2008; the interdisciplinary assessment team recommended that the allotment was making significant progress toward meeting the applicable standards for rangeland health. While this determination was made based upon monitoring data collected in 2004, it is important to note that the BLM has performed a variety of monitoring since that time. Long-term (trend) monitoring and composition data collection (which is performed every five years) was conducted most recently in 2019; allotment inspections and utilization monitoring were conducted in 2021. This data is analyzed periodically, and additional data collected on a regular basis, so that rangeland health and condition of the vegetation communities is kept current. This monitoring reconfirmed the 2008 land health evaluation determination.

Protest Reason #3. The Bureau has failed to analyze the expanded and intensified impacts of livestock grazing around the proposed waters.

Response: It has been emphasized throughout the EA that no changes in permitted use or increases in utilization limits would be authorized as a result of the proposed waters. The BLM does not disagree that there would be more impact close to water than far away; however, the scope of these impacts would be limited because many of the troughs would be located either next to existing reservoirs or along existing roads, and most (approximately 29.5 of 32 total miles) of the pipeline approved in this decision would also be along existing roads where disturbance to vegetation has already occurred. The high use near waters would be offset by better distribution of livestock grazing in the allotment from the proposed project. The BLM assesses overall utilization by considering utilization patterns across an entire use area (in this case, individual pastures). In accordance with direction found in BLM Technical Reference 4400-3, unused or lightly used areas suitable for grazing and areas of animal concentration help identify range improvements needed to change grazing use distribution, which is the case for this allotment. The grazing management system identified in the AMP would continue to be followed, and with more reliable waters within each affected pasture, more uniform distribution and utilization would occur across each pasture, thus reducing long-term effects close to each water.

Protest Reason #4. The Bureau did not consider the cumulative impacts associated with the historic and ongoing livestock grazing which has contributed to the degraded conditions on the allotment.

Response: The BLM did consider and analyze cumulative impacts associated with the historic and ongoing livestock grazing – see Section 4.3 of the EA.

Protest Reason #5. The Bureau did not discuss a 2019 Determination of NEPA Adequacy used to authorize 4.5 miles of pipeline (the Bobcat Pipeline) in this EA.

Response: In response to this comment, the BLM has revised the cumulative impacts section of the EA to include a discussion of the 2019 decision to authorize the Bobcat Pipeline.

Protest Reason #6. The 2019 DNA states the Clayhole Allotment is 103,345 acres and has 12 pastures. Between 2019 and 2021 this allotment grew to 115,552 acres and now has 13 pastures. This is not explained in the 2021 or 2022 EA, nor the DNA from 2019. How did this allotment grow and where did the extra pasture come from?

Response: The Finding of No Significant Impact (FONSI) for the 2019 Determination of NEPA Adequacy (DNA) Bobcat Pipeline and Troughs stated that the Clayhole Allotment was approximately 103,345 acres of ***federal*** land (emphasis added). The 115,552 acres described in this EA includes the federal, state and private acres within the allotment that are grazed by the permittee. The FONSI also clarified/corrected the statement made in the DNA about the number of pastures in the allotment (which is 13, not 12). No additional pastures have been added to the Clayhole Allotment.

Protest of the Change to the Best Management Practices Language

Protest Reason #7. We protest the change to the Best Management Practices (BMP) language directing construction and maintenance to avoid pronghorn fawning. 2022 EA at 9, 2021 EA at 9. In the 2021 EA the BMP stated simply: “Construction and maintenance activities should avoid pronghorn fawning (May 1 – June 30).” The 2022 EA has added the clause “to the extent possible.” This addition should be removed to ensure the actual protection of pronghorn and their fawns. This change to the

EA BMPs is significant and the addition of the “extent possible” clause changes the analysis of the impacts to pronghorn, which is not reflected in the EA.

Response: The clause “to the extent possible” was included because there may be circumstances (such as a pipeline rupture) when the water facilities must be repaired or otherwise maintained during pronghorn fawning season (May 1 – June 30). Construction and maintenance of the proposed waters during this time period would be limited to those actions required to maintain function of the project and ensure water is available to both wildlife and livestock. This does not change the analysis of impacts to pronghorn.

Protest of the Bureau’s Decision to Select an Alternative the Public Did Not Have an Opportunity to Review and Comment Upon

Protest Reason #8. *This environmental review process has two major purposes: ensuring that agencies consider the environmental consequences of proposed actions and informing the public about their decision making. The purpose of an EA is to determine the significance of the potential environmental effects of a proposed action and to look at alternative means to achieve the Bureau’s objectives. Here, the Bureau has issued a Notice of Proposed Decision that selects an “alternative” that does not actually exist and was not disclosed nor analyzed in the NEPA process.*

Response: The proposed action was not changed from that described and analyzed in the EA. It is anticipated that the entire proposed action will be implemented over time. The BLM can choose to implement an alternative in whole, in part, or select portions of various alternatives as long as those actions are analyzed in the subject EA. As stated in 43 CFR 46.20(d), “*The Responsible Official's decision on a proposed action shall be within the range of alternatives discussed in the relevant environmental document. The Responsible Official's decision may combine elements of alternatives discussed in the relevant environmental document if the effects of such combined elements of alternatives are reasonably apparent from the analysis in the relevant environmental document*”. The BLM has done this with the selected action described in the Notice of Proposed Decision.

Protest Reason #9. *The Bureau has selected “Alternative A in part” and has decided at this late stage (the decision-making stage) to divide this project into two phases. The partially selected Alternative A is Phase I. 2022 NOPD at 3. This newly developed Phase I approves 3 of the 4 storage tanks, 29 of the 60 water troughs, twenty new ten-thousand-gallon storage tanks, and 32 of the 92 miles of pipeline. Nearly all of the proposed 2.5 miles of fencing will be constructed. Id. However, WWP is unable to find any analysis of the proposed phased project in the EA. Indeed, the word “phase” does not appear in the EA at all. The alternatives in the EA are:*

- *Alternative A - the proposed project as described and fully implemented, or*
- *Alternative B - No Action.*

There is no alternative that identifies a phased project. There is no analysis of a phased project.

Response: See response to Protest Reason #8.

Protest Reason #10. *Given that the analysis in the EA, and the rationale for the project itself, is based on the need to spread livestock more evenly throughout the allotment and the Bureau identified all of the proposed tanks, troughs, pipeline and fencing as necessary to meet that need, it appears that this phased project does not meet the stated purpose and need. Either all of the tanks, troughs, and pipeline are necessary to improve livestock distribution on the allotment, or they are not. If livestock distribution*

can be achieved by implementing just a portion of the proposed infrastructure, then the Bureau should adopt only those portions necessary and does not need a Phase II.

Response: The actions selected in the proposed decision are all specific features of the proposed action analyzed under Alternative A (proposed action) in the EA. As stated above, once the Phase I projects (those approved by this grazing decision) are constructed, the BLM would issue a separate decision(s) to approve any other water developments.” It is anticipated that the entire proposed action will be implemented over time. The selected action (Phase 1) would address the stated purpose and need by improving livestock distribution in the Bundy Pond, Larimore and South Pastures of the allotment. Refer to Phase 1 Map attached to the Notice of Final Decision.

Protest Reason #11. Alternatively, and WWP believes more accurately, the most appropriate action the Bureau can take is to reduce the number of livestock using the allotment to better reflect the capacity of the allotment to support livestock. While the Bureau may believe it is appropriate to change the purpose and scope of this project “in consultation with the grazing permittee” to determine the need for a phased project, the Bureau must also engage in consultation with the public and here it has not done so. The Bureau cannot hold a backroom or closed-door meeting with a permittee late in the NEPA process and suddenly change course based on that private conversation.

Response: As stated in section 2.4.2 of the EA, the issue of considering reduced livestock numbers would be addressed during the permit renewal process, when a variety of information (including the land health evaluation and allotment monitoring data) is considered and evaluated. It should be noted that there must be valid data to suggest that reducing livestock use is warranted. Current monitoring data does not suggest that a reduction in grazing preference is necessary. This action is outside the scope of this EA as it would not respond to the purpose and need for action, and is therefore not appropriate for analysis in this EA.

The purpose and need are clearly stated in section 1.2 of the EA. The decision to approve Alternative A in part does not change the purpose and need for this project.

Implementation of the proposed project is the responsibility of the grazing permittee; as such the permittee was consulted to determine the length of time it would take to construct the proposed project. As stated previously (see response to Protest Reason #8), the BLM can choose to implement an alternative in whole, in part, or select portions of various alternatives as long as those actions are analyzed in the subject EA, which is the case with this selected action.

Protest Reason #12. The Bureau has provided no rationale for its decision to implement this project in two phases other than this phased-project decision was made in consultation with the permittee “due to the extent of the developments proposed and the length of time it may take to construct them.”³ 2022 NOPD at 4. There is no information provided on what that length of time is, and no timeline for implementation of Phase II other than “[o]nce the Phase I projects...are constructed...” Id. The Bureau asserts there is some need to distribute livestock throughout the allotment to improve conditions, but this need is not urgent, which begs the question as to whether the project is necessary at all.

Response: As stated above (see response to Protest Reason #11), implementation of the proposed project is the responsibility of the grazing permittee; as such the permittee was consulted to determine the length of time it would take to construct the proposed project. Once the Phase I projects (those approved by this proposed decision) are constructed, the BLM would issue a separate decision(s) to approve any other water developments. The selected action (Phase 1) would address the stated purpose and need by improving livestock distribution in the Bundy Pond, Larimore and South Pastures of the allotment.

Protest Reason #13. *There are no maps showing where the Phase I project infrastructure will be located, nor where any Phase II infrastructure will be. The Bureau attempts to reassure the public, in the EA at page 73 (in the response to comments) that “[t]he uniformity in livestock distribution would enhance range land vegetation by accelerating plant succession while increasing plant diversity and vigor.” However, with just a portion of the project’s troughs (just under half) installed as part of Phase I, there is nothing in the EA to indicate that there will in fact be uniform distribution of livestock. Where exactly will these newly reliable waters be located?*

Response: A map showing the location of the Phase I proposed action was attached to the Notice of Proposed Decision (NOPD). The map also indicated the locations of the proposed new reliable waters. Phase 2 is the unshaded portion of the map within the allotment.

Protest Reason #14. *WWP agrees with the Bureau that this project is indeed extensive and that the use of an EA is likely inappropriate. We protest the failure to prepare an Environmental Impact Statement (EIS). NEPA requires the preparation of an EIS for an action whose environmental effects “are likely to be highly controversial” or “are highly uncertain.” 40 C.F.R. §§ 1508.27(b)(5)-(6).*

Response: NEPA requires the preparation of an EIS for an action whose environmental effects “are likely to be highly controversial” or “are highly uncertain.” 40 C.F.R. §§ 1508.27(b)(5)-(6). The effects of installation, maintenance, and use of range improvements (such as those proposed for the Clayhole Allotment) are not unknown (or uncertain) or highly controversial. There are also no anticipated effects of the proposed projects that involve unique or unknown risks – the effects of developments such as these are well known and well documented since fences and pipelines have been in use for many years all across the western U.S., including on the Arizona Strip. The projects are therefore not unique or unusual.

The environmental effects of the proposed water developments are fully analyzed in the EA (Chapter 4). The BLM conducted an interdisciplinary review for the proposed developments. After consideration of the environmental effects described in the EA and supporting documentation, the BLM determined that the action is not a major Federal action and will not have a significant effect on the quality of the human environment, either individually or cumulatively with other actions in the area. No environmental effects meet the definition of significance in context or intensity, as defined at 40 CFR 1508.27. Therefore, the preparation of an EIS is not required. This finding is based on the context and the intensity of the project as described in the attached Finding of No Significant Impact (FONSI).

Protest Reason #15. *In the revised EA the Bureau inserts a post hoc rationalization for the project at 3.4.1, page 23, stating that “lack of reliable water for wildlife was identified as an issue.” If that is true, this decision does not address that issue because just half of the troughs will be available for wildlife. Is the Bureau prioritizing waters that will be beneficial to wildlife? How is the Bureau prioritizing which waters will be included in Phase I?*

Response: Stating that “half of the troughs would be available” for wildlife is a misleading statement. All of the water sources built would be available as described in section 2.2 of Alternative A – Proposed Action (“When cattle are removed from a pasture, troughs would be left full of water and available to wildlife”). Therefore, all waters under Phase 1 (Bundy Pond, Larimore and South pastures of the Clayhole Allotment) are prioritized and beneficial to wildlife. It is anticipated that the entire proposed action will be implemented over time. As stated in the Rationale for Decision section of the Notice of Proposed Action, “Once the Phase I projects (those approved by this decision) are constructed, the BLM would issue a separate decision(s) to approve any other water developments” which then addresses the other “half” the protester claims the BLM is not addressing.

Protest Reason #16. With the significantly reduced number of waters identified in Phase I of the project, how does this change the analysis for how livestock distribution will impact plant succession, diversity, and vigor?

Response: The phased approach does not change the analysis for how livestock distribution would impact plant succession, diversity, and vigor but rather addresses the purpose and need in a time frame that reflects the extent of development. As stated in the Notice of Proposed Decision, “The BLM, in consultation with the grazing permittee, has determined that implementation of the water developments should be completed in phases, due to the extent of the developments proposed and the length of time it may take to construct them. Once the Phase I projects (those approved by this proposed decision) are constructed, the BLM would issue a separate decision(s) to approve any other water developments.” Phase I will achieve more uniform distribution and subsequently more positively affect plant succession, diversity, and vigor in a more expedited time frame than that of a subsequent phase. The BLM analyzed the effects to vegetation across the various pastures in the allotment, including the Bundy Pond, Larimore and South Pastures. It is anticipated that the entire proposed action will be implemented over time.

Protest Reason #17. Are those areas with the waters installed as part of Phase I going to be more heavily impacted by livestock than was anticipated in the analysis in the EA?

Response: As stated in section 1.2 of the EA, “The intention of the proposed project is not to increase permitted use (AUMs), but to encourage and achieve better livestock distribution within the allotment.” In addition, as stated in section 2.2 Alternative A – Proposed Action, “The proposed fencing and water facilities (pipeline, troughs, and storage tanks) would improve the management of livestock as specified in the AMP and benefit rangeland health by providing reliable year-round water sources. This, in turn, would disperse livestock throughout each pasture instead of congregating livestock around the unfenced reservoirs, which are often the only available water sources during the summer months. Cattle would be better able to access areas within the allotment which have been underutilized due to distance from water and reduce the utilization of forage near current reliable water sources, resulting in a more uniform utilization of forage while not exceeding the maximum utilization level of 50%.” Areas with waters installed are still held to the 50% maximum utilization level and therefore would not be “heavily impacted” by the phased approach but rather would achieve more uniform utilization across those pastures where the waters are constructed.

Protest Reason #18. Which areas will still have inadequate water? How will pasture rotations be impacted by the reduced number of waters available with implementation of Phase I? Or, did the permittee discover there are not enough EQIP, HPC, or NRCS funds available to complete the project as planned within a grant fund year and therefore the plans needed to change? None of this information is available in the EA, FONSI, or Notice of Proposed Decision.

Response: Livestock distribution within the Bundy Pond, Larimore, and South pastures would be improved as is stated in the EA and in the Notice of Proposed Decision. Areas that would still need improved water availability (i.e., reliable water sources) are outside of these pastures, as shown on the map in Attachment 1. These remaining 10 pastures will remain under current management and pasture rotation as specified in the AMP. The purpose and need to improve livestock distribution and water availability in these pastures is stated in section 1.2 of the EA. It is anticipated that the entire proposed action will be implemented over time.

As stated in section 2.2 of the EA, “Materials for construction of the proposed projects would primarily be provided by the NRCS. Additional funding may be provided by the permittee, Arizona Strip Grazing Board, AGFD, and the BLM. Labor is typically provided by the grazing permittee as part of the cost sharing agreement.” The protester states, when questioning the phased approach, “Or, did the permittee

discover there are not enough EQIP, HPC, or NRCS funds available to complete the project as planned within a grant fund year and therefore the plans needed to change?” This is irrelevant, as shown in the Rationale for Decision within the Notice of Proposed Decision which states: “The BLM, in consultation with the grazing permittee, has determined that implementation of the water developments should be completed in phases, due to the extent of the developments proposed and the length of time it may take to construct them.” As stated previously, it is anticipated that the entire proposed action will be implemented over time.

FINDING OF NO SIGNIFICANT IMPACT

After consideration of the environmental effects described in the EA 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. No effects identified in the EA meet the definition of significant in context or intensity as described in 40 CFR §1508.27. Therefore, the preparation of an environmental impact statement 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 EA and as described in the attached Finding of No Significant Impact.

FINAL DECISION

Based on my review and consideration of the EA and FONSI, it is my final decision to select Alternative A (proposed action) in part. More specifically, my decision is to approve the construction and maintenance of the water developments identified on the attached map as “Phase I” projects, in the Bundy Pond, Larimore, and South pastures, and as identified below.

Water Storage Tanks

Three water storage tanks (of four analyzed in the EA) – Black Point, Hat Knoll, and Larimore.

Water Troughs

29 new livestock water troughs (of 60 analyzed in the EA).

Ten Thousand Gallon Water Tanks

Twenty new 10,000-gallon water storage tanks, installed next to corresponding water troughs

Pipeline

Thirty-two miles of new pipeline (of 92 miles analyzed in the EA) – this new pipeline will start at Black Point well in the Bundy Pond Pasture and traverse south and east, through the Larimore Pasture and into the South Pasture

Fencing

Approximately 2.25 miles of fence (of 2.5 miles analyzed in the EA)

- **Cabin Valley Fence** – In the Bundy Pond pasture of the allotment, two miles of new barbed-wire pasture fence will be installed. The Cabin Valley Fence will start at Cabin Valley Pond and run east then south to connect to Hat Knoll.
- **Nyborg Reservoir Fence** - Approximately 0.25 miles of fence will be constructed around the Nyborg Reservoir to control livestock access to the reservoir.

Range improvements will be designed, constructed, and maintained according to the description in Section 2.2 of the EA, including the best management practices outlined in Section 2.2.1.

RATIONALE FOR DECISION

This 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 in Section 1.2 of the EA. This decision also best addresses the goals and objectives of the Arizona Strip Field Office RMP, the *Arizona Strip Interdisciplinary Mule Deer Management Plan 2015-2019* and the *Arizona Statewide Pronghorn Management Plan*, and all applicable statutes, regulations, and policies. The water developments approved by this 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. Thus, ecological status of the allotment will be maintained and/or improved due to flexibility for grazing use to allow for periodic rest of each pasture. In addition, the water developments will increase the availability of water for wildlife, including being available year-long.

It should be noted that this decision does not approve Alternative A – Proposed Action in its entirety. The BLM, in consultation with the grazing permittee, has determined that implementation of the water developments should be completed in phases, due to the extent of the developments proposed and the length of time it may take to construct them. Once the Phase I projects (those approved by this decision) are constructed, the BLM would issue a separate decision(s) to approve any other water developments.

Alternative B (No Action) was not selected as it would not support the purpose and need for action, as described in Section 1.2 of the EA.

The NEPA analysis, documented in the project EA, indicates that the action is in conformance with the Arizona Strip Field Office RMP. Impacts from the action are either minimal or mitigated through design features incorporated into the action. The EA constitutes the BLM's compliance with the requirements of NEPA, and procedural requirements as provided in the Council on Environmental Quality regulations.

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 §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 §4160.3 – Final decisions.

RIGHT OF APPEAL

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 (Appendix A - 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.

BRANDON Digitally signed by
BOSHELL BRANDON BOSHELL
Date: 2022.06.28
12:45:01 -06'00'

acting for Lorraine M. Christian,
Field Manager
Arizona Strip Field Office

Attachment:

List of all Persons or Groups Receiving this NOFD
Clayhole Allotment Pipeline Installation & Water Developments Project Phase 1 Map

Enclosures:

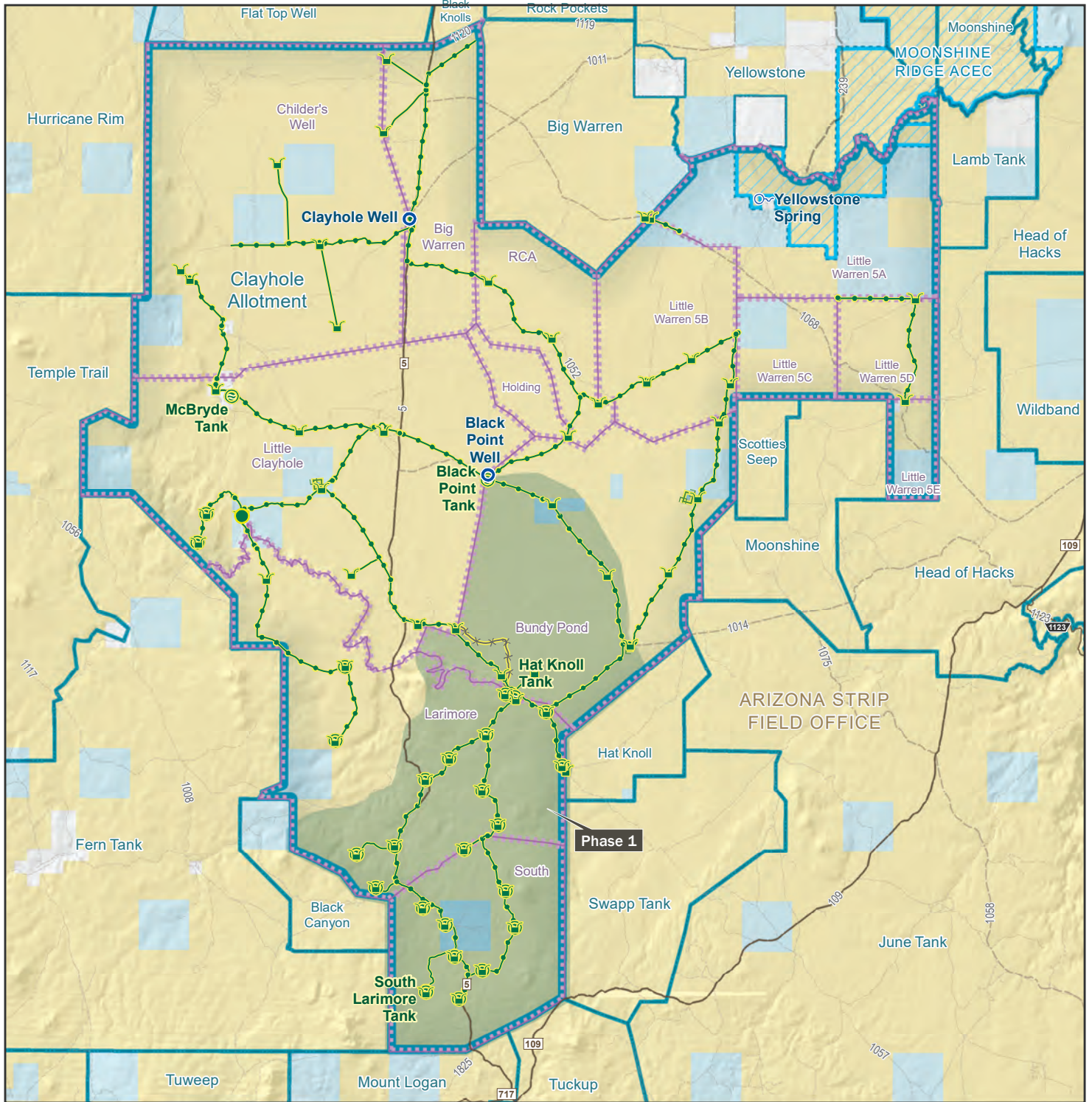
Finding of No Significant Impact



Clayhole Allotment Pipeline Installation & Water Developments Project Phase Map

NEPA Project DOI-BLM-AZ-A010-2021-0008-EA

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



Project Phase

Phase 1

Proposed Range Developments

- Developed Spring (new connection to existing)
- Well (new connection to existing)
- └ Trough
- ⊕ Storage Tank
- Pumping Station

Proposed Pipelines and Fences

- Pipeline - Primary
- Pipeline - Spur
- Fence - Enclosure
- Fence - Division

Grazing Allotment

Grazing Pasture

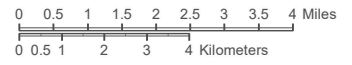
Surface Management Agency

- Bureau of Land Management
- State
- Private

Area of Critical Environmental Concern

Arizona Strip Routes

- Primary Road Unpaved
- Secondary Road Unpaved
- Tertiary Road Unpaved



Map Produced by BLM Arizona Strip District
 File: Clayhole_Pipeline_Overview_Proposed_Phase_2021.mxd
 Coordinate System: NAD 1983 UTM Zone 12N
 Reference System: U.S. PLSS GSRB&M
 Scale: 1:178,000 at 8.5x11 page output
 Date: 2/2/2022

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