



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Arizona Strip District

Grand Canyon–Parashant National Monument

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Arizona Cottonwood Ventures, LLC  
Derick Blake  
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## **NOTICE OF PROPOSED DECISION**

*Cottonwood (West) Allotment Cattleguard Installations*  
*DOI–BLM–AZ–A030–2022–0004–CX*

This is in response to your request to install four cattleguards in the Cottonwood (West) Allotment (AZ04809).

### **PROPOSED DECISION:**

Based on a review of the project described in the Categorical Exclusion (CX), I have determined that the project is in conformance with the Grand Canyon–Parashant National Monument Resource Management Plan (RMP) (BLM 2008) and is categorically excluded from further environmental analysis. It is my decision to approve the action as proposed. The CX and this decision are available on the project’s BLM ePlanning website at:  
<https://eplanning.blm.gov/eplanning-ui/project/2016941/510>.

The proposed action is to replace the existing gates with 15–foot cattleguards referenced below at pasture boundaries within the Cottonwood (West) Allotment and at allotment boundaries shared by the Cottonwood (West), Mosby–Nay, and Mud & Cane Spring allotments (CX, Figure 1–Location Map). Installation of cattleguards will follow the Mitigation Measures/Design Features/Stipulations described in the CX (see below).

The proposed action is in conformance with the RMP decision number MA–TM–12. This states that, “Installations/structures (e.g., unobtrusive barriers, gates, signs) on or along routes will be allowed when they are the minimum necessary to control unauthorized use and when consistent with Travel Management Area (TMA) objectives.” These cattleguards are the minimum

necessary to control livestock drift when visitors leave gates open. This action does not conflict with other decisions in the GCPNM RMP, Monument Proclamation, related plans, agency goals and objectives.

#### **LOCATIONS OF PROPOSED ACTION:**

The Cottonwood (West) Allotment is located approximately 40 miles south, southwest of St. George, Utah. The allotment is wholly within the Bureau of Land Management (BLM), Grand Canyon–Parashant National Monument (GCPNM) in northwestern Arizona.

The cattleguards will be located in the following described areas (CX, Figure 1–Location Map):

- 1) Road 1122, where it intersects the shared allotment boundary fence of Cottonwood (West) and Mosby–Nay Allotments along Cottonwood Ridge.
- 2) Road 101, about two miles south of Jacobs Well or the intersection of Roads 101 & 1004.
- 3) Road 101K, where it intersects the shared allotment boundary fence of Cottonwood (West) and Mud & Cane Spring Allotments.
- 4) Road 1122, about one mile west of where Road 1122 intersects Road 1027.

The following are legal descriptions of the proposed project areas:

Gila & Salt River Meridian, Mohave County, Arizona.

- 1) Township 36 North, Range 15 West, Section 08 NWNW
- 2) Township 37 North, Range 15 West, Section 04 NESW
- 3) Township 38 North, Range 15 West, Section 36 SWNW
- 4) Township 37 North, Range 15 West, Section 19 SESE

#### **MITIGATION MEASURES / DESIGN FEATURES / STIPULATIONS:**

##### Wildlife Resources

To the extent possible, cattleguard installation for proposed cattleguards one, two, and four would occur during desert tortoise inactive season (10/15–3/15). If installation occurs during the desert tortoise inactive season (10/15–3/15), a pre–construction survey would be completed by a BLM Wildlife Biologist within a week of installation. If installation occurs during the desert tortoise active season (3/15–10/15), then a BLM Wildlife Biologist would be present during the installation.

Where California condors visit a work site while activities are underway, the on-site supervisor would avoid interaction with condors. Authorized activities would be modified, relocated, or delayed if those activities have adverse effects on condors. Authorized activities would cease until the bird leaves on its own or until techniques are employed by a permitted wildlife biologist that result in the individual condor leaving the area.

California condors are highly susceptible to the effects of micro–trash. Micro–trash includes small and easily ingestible materials such as bottle caps, broken glass, cigarette butts, small plastic bits, bullets, and bullet casings, even food materials. All project sites will be cleaned up at the end of each day of use (e.g., trash removed, scrap materials picked up) to minimize the likelihood of condors visiting the site.

### Cultural Resources

Any surface, or sub-surface archaeological, historical, or paleontological remains not covered in the CRPR discovered during use, new construction, or additions shall be left intact; all work in the area shall stop immediately and the Monument Manager shall be notified immediately. Recommencement of work shall be allowed upon clearance by the Monument Manager in consultation with the Archaeologist.

If in connection with use any human remains, funerary objects, sacred objects or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (P.L. 101-601; 104 Stat. 3048; 25 U.S.C. 3001) are discovered, the onsite project manager or the equipment operator shall stop use in the immediate area of the discovery, protect the remains and objects, and immediately notify the Monument Manager. The onsite project manager or the equipment manager shall continue to protect the immediate area of the discovery until notified by the Monument Manager that use may resume.

### Soils

To minimize soil compaction, heavy equipment use would be limited to periods when the soil and ground surface are not excessively wet. Mechanical work will cease when ruts greater than four inches deep form on road surfaces.

### **RATIONALE:**

Installation of new cattleguards will facilitate uninhibited movement of traffic along access roads in GCPNM. This will allow vehicle use to bypass the gates that are frequently left open on existing fence lines. These cattleguards are the minimum necessary to prevent livestock from drifting between neighboring allotments or pastures (that results from visitors leaving gates open), while maintaining traffic flow.

### **AUTHORITY:**

Statutory and regulatory authorities for this decision are in the Taylor Grazing Act as amended, the Federal Land Policy and Management Act of 1976, and 43 CFR 4100 and 46.125.

The proposed action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, G2 which states: Installation of routine signs, markers, culverts, ditches, waterbars, gates, or cattleguards on/or adjacent to roads and trails identified in any land use or transportation plan, or eligible for incorporation in such plan.

**43 CFR 4100.0-8:** “The authorized officer shall manage cattle grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans.”

**43 CFR 46.215:** Extraordinary Circumstances Review: In accordance with 43 CFR 46.215, any action that is normally categorically excluded must be subjected to sufficient environmental review to determine if it meets any of the 12 Extraordinary Circumstances described. If any circumstance applies to the action or project, and existing NEPA documentation does not adequately address it, then further NEPA analysis is required. The action has been reviewed and determined that no extraordinary circumstances exist for the proposed project.

### **§4120.3–1 Conditions for Range Improvements**

- (a) Range improvements shall be installed, used, maintained, and/or modified on the public lands, or removed from these lands, in a manner consistent with multiple–use management.
- (b) Prior to installing, using, maintaining, and/or modifying range improvements on the public lands, permittees or lessees shall have entered into a cooperative range improvement agreement with the Bureau of Land Management or must have an approved range improvement permit.
- (c) The authorized officer may require a permittee or lessee to maintain and/or modify range improvements on the public lands under §4130.3–2 of this title.
- (d) The authorized officer may require a permittee or lessee to install range improvements on the public lands in an allotment with two or more permittees or lessees and/or to meet the terms and conditions of agreement.
- (e) A range improvement permit or cooperative range improvement agreement does not convey to the permittee or cooperator any right, title, or interest in any lands or resources held by the United States.
- (f) Proposed range improvement projects shall be reviewed in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 *et seq.*). The decision document following the environmental analysis shall be considered the proposed decision under subpart 4160 of this part.

### **§4160.1 Proposed Decisions**

- (a) Proposed decisions shall be served on any affected applicant, permittee or lessee, and any agent and lien holder of record, who is affected by the proposed actions, terms or conditions, or modifications relating to applications, permits and agreements (including range improvement permits) or leases, by certified mail or personal delivery. Copies of proposed decisions shall also be sent to the interested public.
- (b) Proposed decisions shall state the reasons for the action and shall reference the pertinent terms, conditions, and the provisions of applicable regulations. As appropriate, decisions shall state the alleged violations of specific terms and conditions and provisions of these regulations alleged to have been violated and shall state the amount due under §4130.8 and §4150.3 and the action to be taken under §4170.1.
- (c) The authorized officer may elect not to issue a proposed decision prior to a final decision where the authorized officer has made a determination in accordance with §4110.3–3(b) or §4150.2(d).

### **§4160.2 Protests**

Any applicant, permittee, lessee, or other interested public may protest the proposed decision under §4160.1 of this title in person or in writing to the authorized officer within 15 days after receipt of such decision.

### **§4160.3 Final Decisions**

(a) In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision.

(b) Upon the timely filing of a protest, the authorized officer shall reconsider her/his proposed decision in light of the protestant's statement of reasons for protest and in light of other information pertinent to the case. At the conclusion to her/his review of the protest, the authorized officer shall serve her/his final decision on the protestant or her/his agent, or both, and the interested public.

(c) A period of 30 days following receipt of the final decision, or 30 days after the date the proposed decision becomes final as provided in paragraph (a) of this section, is provided for filing an appeal and petition for stay of the decision pending final determination on appeal. A decision will not be effective during the 30-day appeal period, except as provided in paragraph (f) of this section. See §4.21 and §4.470 of this title for general provisions of the appeal and stay processes.

(d) When the Office of Hearings and Appeals stays a final decision of the authorized officer regarding an application for grazing authorization, an applicant who was granted grazing use in the preceding year may continue at that level of authorized grazing use during the time the decision is stayed, except where grazing use in the preceding year was authorized on a temporary basis under §4110.3-1(a). Where an applicant had no authorized grazing use during the previous year, or the application is for designated ephemeral or annual rangeland grazing use, the authorized grazing use shall be consistent with the decision pending the Office of Hearings and Appeals final determination on the appeal.

(e) When the Office of Hearings and Appeals stays a final decision of the authorized officer to change the authorized grazing use, the grazing use authorized to the permittee or lessee during the time that the decision is stayed shall not exceed the permittee's or lessee's authorized use in the last year during which any use was authorized.

(f) Notwithstanding the provisions of §4.21(a) of this title pertaining to the period during which a final decision will not be in effect, the authorized officer may provide that the final decision shall be effective upon issuance or on a date established in the decision and shall remain in effect pending the decision on appeal unless a stay is granted by the Office of Hearings and Appeals when the authorized officer has made a determination in accordance with §4110.3-3(b) or §4150.2(d). Nothing in this section shall affect the authority of the Director of the Office of Hearings and Appeals or the Interior Board of Land Appeals to place decisions in full force and effect as provided in §4.21(a)(1) of this title.

### **§4160.4 Appeals**

Any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge by following the requirements set out in §4.470 of this title. As stated in that part, the appeal must be filed within 30 days after receipt of the final decision or within 30 days after the date the proposed decision becomes final as provided in §4160.3(a). Appeals and petitions for a stay of the decision shall be filed at the office of the authorized officer. The authorized officer shall promptly transmit the appeal and petition for stay and the accompanying administrative record to ensure their timely arrival at the Office of Hearings and Appeals.

## **DECISION PROTEST AND APPEAL PROCEDURES:**

In accordance with 43 CFR 4160.2, any applicant, permittee, lessee, or other interested public may protest the Proposed Decision under 4160.1 of this title, in person or in writing to the authorized officer (Brian Tritle, Monument Manager, Grand Canyon–Parashant National Monument, 345 E Riverside Dr., St. George, Utah 84790) within 15 days after receipt of such decision. The protest, if filed, must clearly and concisely state the reason(s) as to why the Proposed Decision is in error.

In accordance with 43 CFR 4160.3 (b), should a timely protest be filed with the authorized officer, the authorized officer, at the conclusion to his review of the protest shall serve the Final Decision on the protestant and the interested public.

In the absence of a protest, the Proposed Decision shall constitute the Final Decision without further notice unless otherwise provided in the Proposed Decision in accordance with 43 CFR 4160.3(a).

In accordance with 43 CFR 4.470, 4160.3(c), and 4160.4, any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge. The appeal must be filed within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision. In accordance with 43 CFR 4.470, the appeal shall state clearly and concisely the reason(s) why the appellant thinks the final decision of the authorized officer is wrong.

Pursuant to 43 CFR 4.471 and 4160.3(c), an appellant also may petition for a stay of the final decision pending appeal by filing a petition for stay along with the appeal within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision.

The appeal and any petition for stay must be filed at the office of the authorized officer (Brian Tritle, Monument Manager, Grand Canyon–Parashant National Monument, 345 E Riverside Dr., St. George, Utah 84790). Within 15 days of filing the appeal and any petition for stay, the appellant also must serve a copy of the appeal and any petition for stay on any person named in the decision and listed at the end of the decision, and on the Office of the Field Solicitor located at U.S. Department of the Interior, Sandra Day O’ Connor U.S. Courthouse, 401 W Washington St., SPC 44, Suite #404, Phoenix, Arizona 85003–2151. Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, 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.

43 CFR §4.471(d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.



Any person named in the decision from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with the Hearings Division in Salt Lake City, Utah, a motion to intervene in the appeal, together with the response, within 10 days after receiving the petition. Within 15 days after filing the motion to intervene and response, the person must serve copies on the appellant, the Office of the Solicitor and any other person named in the decision (43 CFR 4.472(b)).

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).

**AUTHORIZED OFFICER'S SIGNATURE:**

**BRIAN TRITILE**  
Digitally signed by  
BRIAN TRITILE  
Date: 2022.02.28  
15:09:24 -07'00'

Brian A. Tritle  
Monument Manager  
Grand Canyon-Parashant National Monument

Attachments:  
Persons or Groups Receiving this NOPD

Persons or Groups Receiving this NOPD

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