



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Arizona Strip Field Office
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St. George, UT 84790
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IN REPLY REFER TO: 4160
LLAZA01000

NOTICE OF PROPOSED DECISION (NOPD) PROPOSED HEAD OF HACKS AND LOCO POINT ALLOTMENTS WATER DEVELOPMENT PROJECT DECISION

This NOPD will Authorize the following Water Catchment Projects for construction within the Head of Hacks and Loco Point Allotments. (Refer to Project Map attached to this NOPD.)

Loco Point Water Catchment	T. 39 N., R.03 W., Sec. 9, W ½;
North Cedar Knolls Water Catchment	T. 39 N., R. 05 W., Sec. 34, E½;
Wildband Water Catchment	T. 38 N., R.05 W., Sec. 07 E½;
North Hacks Canyon Water Catchment	T. 38 N., R.05 W., Sec. 33 W½;

These Water Catchment Projects within the Head of Hacks and Loco Point Allotments will be Subject to the Following Project Standards:

The proposed action is to fence off approximately two acres for each catchment. Within the enclosure a water catchment apron will be constructed, up to 1½ acre in size; a lined pond or storage tank will be constructed to hold 80,000 to 200,000 gallons of water, and water will be piped from the apron to a tank or pond. An option to be included with the proposed action is either the construction of excavated ponds with flexible liners or large storage tanks. The excavated ponds with flexible liners are typically eight to ten feet deep and begin at ground level using heavy equipment. The slope ratio around the entire pond will be 1:1. The pond will then be lined with a plastic Firestone product called EPDM 45 mil. This plastic comes in approximately 50' widths and is bonded together using an adhesive. A fence will be constructed around the perimeter of the

pond impeding animals from entering, and preventing them from getting trapped in the pond. If the storage tank option is chosen it will consist of a tank which will sit above ground approximately 15' tall. Either lids or wildlife escape ramps and floating bird ladders will be installed.

Water from the pond or tank will be piped to troughs adjacent to the catchments, which will be available to livestock and wildlife. The troughs will be constructed using a heavy equipment sized tire and secured to the proposed location using concrete. Wildlife escape ramps will be secured in each trough before it is filled. No new structures will be placed around the trough.

The North Cedar Knoll catchment will be near a pasture boundary fence and will have two livestock water troughs, one trough in the North Cedar Knoll pasture and one in the South Cedar Knoll pasture of the Head of Hacks Allotment. The Wildband catchment will be near a pasture boundary fence and will have two livestock water troughs, one trough in the Wildband pasture and one in the South Cedar Knoll Pasture of the Head of Hacks Allotment. The North Hacks Canyon and Loco Point catchments will pipe water into one trough each.

The proposed action includes future maintenance activities for the life of the catchments, 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 pipelines to the each trough, which includes digging to find and repair leaks or clogs in the pipe.

Best Management Practices:

The proposed action will be subject to the following best management practices in an effort to minimize the impacts of the projects to social and natural environmental resources.

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 catchments, 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 where adverse effects to condors may result.
- 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 and special status species.

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

Cultural Resources

- Any cultural (historic/prehistoric site or object) or paleontological resource (fossil remains of plants or animals) discovered in the project areas will immediately be reported to the Arizona Strip Field Office Manager or her designee. All operations in the immediate area of the discovery shall be suspended until written authorization to proceed is issued. An evaluation of the discovery shall be made by a qualified archaeologist or paleontologist to determine appropriate actions to prevent the loss of significant cultural or scientifically important paleontological values.
- 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.

Rationale

The Head of Hacks Allotment consists of 12,631 acres of federal land. This allotment has six pastures and is used seasonally in the winter and spring. Water distribution in these pastures is limited because the existing reservoirs are unreliable, dependent on rainfall events to refill, lack in water storage capabilities, and leak due to the soil's inability to retain water.

The Loco Point Allotment consists of 6,219 acres of federal land. This allotment has one pasture and is used seasonally. There are no existing water sources on the southern end of the allotment – the nearest water source is an earthen reservoir located 1.5 miles from the proposed catchment site which is near the allotment's southern boundary.

The lack of water in these allotments makes it difficult to remain on the current grazing cycle as outlined in the allotment management plan (AMP).

The Bureau of Land Management (BLM), Arizona Strip Field Office, along with the grazing permittee, have therefore proposed four water catchments with troughs on public lands, in order to provide additional (reliable) water sources in the Head of Hacks and Loco Point Allotments. The proposed catchments will be located in the following pastures: North Cedar Knoll, Wildband, and North Hacks Canyon of the Head of Hacks Allotment, and the Loco Point Pasture of the Loco Point Allotment (see attached map). The catchment projects will benefit rangeland health by providing reliable year-round water sources in these pastures that will aid in keeping livestock dispersed throughout the pastures as specified in the AMP, resulting in more uniform utilization of forage (while not exceeding the maximum utilization level of 50%). Reliable water sources at the proposed locations will ensure the permittee is able to implement the grazing system established in the AMP.

The purpose of the proposed action is to encourage and achieve better livestock distribution within the pastures; it is not to increase permitted use or increase animal unit months.

The proposed water catchments will provide additional (reliable) water sources for wildlife (including pronghorn and mule deer). The *Arizona Strip Interdisciplinary Mule Deer Management Plan 2015-2019* (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 a number of management objectives, including objectives related to water availability. The Head of Hacks Allotment is categorized as limited habitat for mule deer and moderate quality with portions of high quality habitat for pronghorn. The Loco Point Allotment is categorized as winter crucial habitat for mule deer. Thus, pronghorn, and mule deer (along with other wildlife species) will benefit from the catchment projects by improving water distribution and improving habitat use, which are also objectives contained within the Arizona Strip Field Office RMP.

AUTHORITY

- The authority for this decision is contained in part in Federal Land Policy and Management Act of 1976 (43 United States Code [USC] 1707 et seq.) and Title 43 of the Code of Federal Regulations (CFR), which state in pertinent parts:

§4100.0-8 Land Use Plans

The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).

§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.

§4180.1 Fundamentals of Rangeland Health

The authorized officer shall take appropriate action under subparts 4110, 4120, 4130, and 4160 of this part as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management needs to be modified to ensure that the following conditions exist.

(a) Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant

conditions support infiltration, soil moisture storage, and the release of water that are in balance with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.

(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.

(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.

(d) Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal Proposed, Category 1 and 2 Federal candidate and other special status species.

§4180.2 Standards and Guidelines for Grazing Administration

(c) The authorized officer shall take appropriate action as soon as practicable but not later than the start of the next grazing year upon determining that existing grazing management practices or levels of grazing use on public lands are significant factors in failing to achieve the standards and conform with the guidelines that are made effective under this section. Appropriate action means implementing actions pursuant to subparts 4110, 4120, 4130, and 4160 of this part that will result in significant progress toward fulfillment of the standards and significant progress toward conformance with the guidelines. Practices and activities subject to standards and guidelines include the development of grazing-related portions of activity plans, establishment of terms and conditions of permits, leases and other grazing authorizations, and range improvement activities such as vegetation manipulation, fence construction and development of water.

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 (Lorraine M. Christian, Field Manager, Arizona Strip Field Office, 345 East Riverside Drive, 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 her 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 (Lorraine M. Christian, Field Manager, Arizona Strip Field Office, 345 East Riverside Drive, 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 West Washington Street, 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.

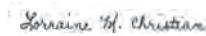
43 CFR 4.471(d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

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:

The decision is consistent with 43 CFR 4100 and 43 CFR 4180 and the Standards and Guidelines for Healthy Rangelands.

 Digitally signed by
LORRAINE CHRISTIAN
Date: 2020.01.17
11:36:49 -07'00'

Lorraine M. Christian
Field Manager
Arizona Strip Field Office

Date

Attachment:

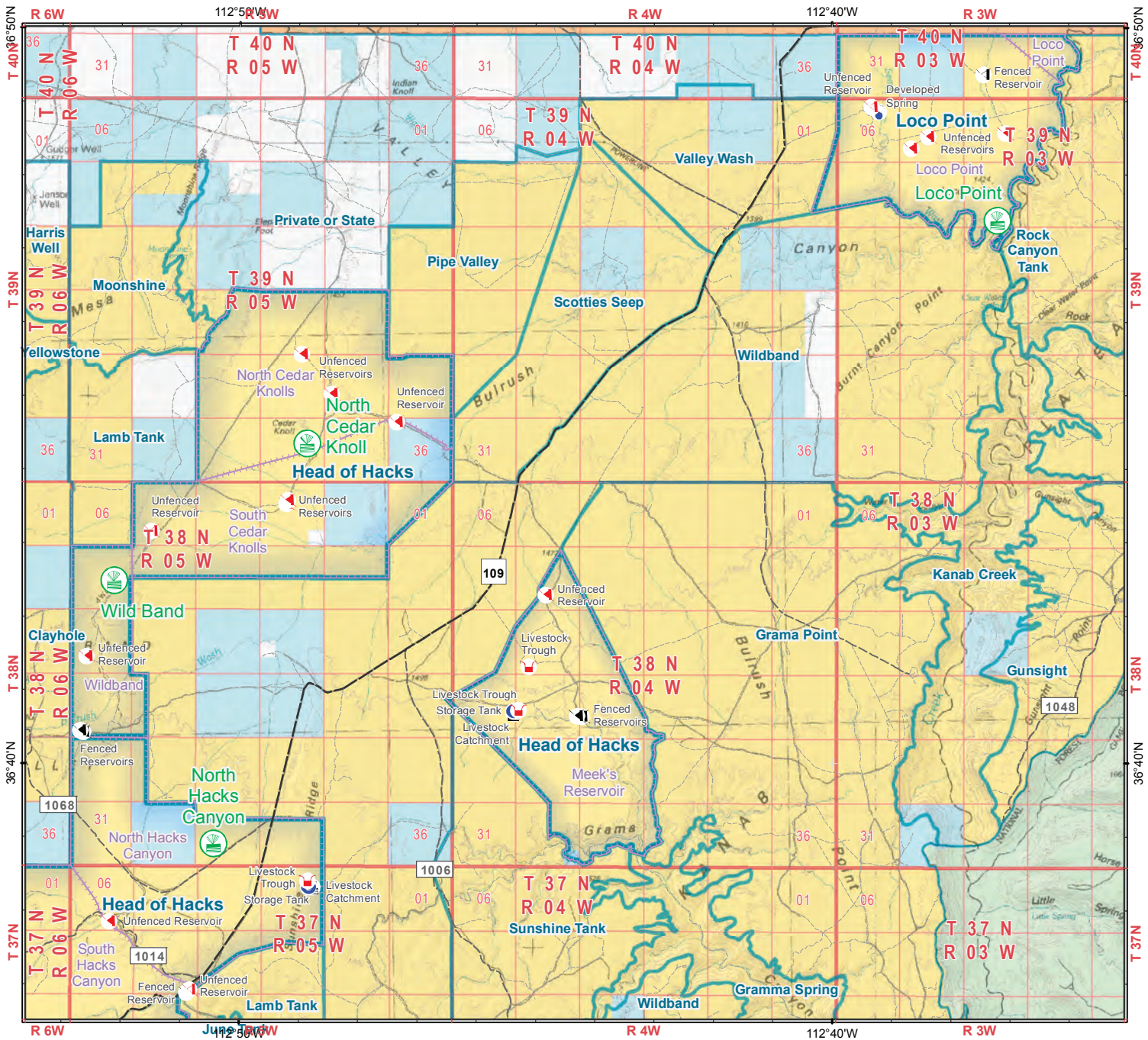
Head of Hacks Water Developments Location Map



Head of Hacks & Loco Point Location Map

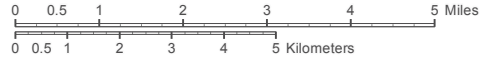
NEPA Project DOI-BLM-AZ-A010-2019-0027-DNA

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



- Proposed Catchment
- Grazing Allotment
- Grazing Pastures within Head of Hacks and Loco Point Allotments
- Range Developments within Head of Hacks and Loco Point Allotments**
 - Developed Spring
 - Fenced Reservoir
 - Livestock Catchment
 - Livestock Trough
 - Unfenced Reservoir
 - Water Storage Tank

- Surface Management Agency**
- Bureau of Land Management
 - Indian Reservation
 - US Forest Service
 - 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: Head_of_Hacks_catchments_2019.mxd
 Coordinate System: NAD 1983 UTM Zone 12N
 Reference System: U.S. PLSS GSRB&M
 Scale: 1:145,000 at 8.5x11 page output
 User: bhansen
 Date: 10/29/2019



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