



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

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Safford, Arizona 85546
928-348-4400
www.az.blm.gov



November 8, 2013

In Reply Refer To:
4120 (G010)
4602

CERTIFIED MAIL RETURN RECEIPT REQUESTED NO. 6532 6646

CUP Ranch LLC
P.O. BOX 456
Pima, Arizona 85543

FINAL DECISION

Dear Permittee:

INTRODUCTION

The Bureau of Land Management (BLM) issued revised grazing regulations in 1995, which set forth the process of establishing Standards for Rangeland Health (Title 43 Code of Federal Regulations [CFR] 4180.2). The purpose for setting standards and identifying their indicators was to provide BLM with a rational basis for determining whether current management is meeting the Fundamentals of Rangeland Health as described under 43 CFR 4180.1.

Arizona Standards and Guidelines (S&G) for grazing administration have been developed through a collaborative process involving the Bureau of Land Management State S&G Team and the Arizona Resource Advisory Council. Together, through meetings, conference calls, correspondence, and Open Houses with the public, the BLM State Team and RAC prepared Standards and Guidelines to address the minimum requirements outlined in the grazing regulations. These S&G evaluations were conducted using interdisciplinary teams (IDTs) with various resource specialists, representing the biological and physical science disciplines. The IDTs collected, reviewed and analyzed the available data for the purpose of completing range health evaluations.

This document addresses the issuance or renewal of your grazing permit. A proposed decision is required by the Code of Federal Regulations (CFR) 4100 to be served on any affected applicant, permittee or lessee who is affected by the proposed actions, terms, conditions, or modifications relating to issuance of a grazing permit.

BACKGROUND

The Bureau of Land Management grazing permit for the Tom Springs allotment expired on 04/15/2005 and is currently authorized under a temporary permit renewed under Public Law 108-108, Section 325. The temporary permit will expire on 02/28/2015. Under Public Law 108-108, Section 325, permit renewals were meant to be temporary pending the completion of the formal permit renewal process, which includes completing rangeland health assessments, evaluating current livestock practices, and determining range health and compliance with the National Environmental Policy Act (NEPA).

The Rangeland Health field evaluation for the Tom Springs allotment was completed in 2011; and a preliminary determination on the results of the assessment was made March 25, 2011. The final determination documented concluded that all key areas are meeting standards of 43 Code of Federal Regulations (CFR) 4180 and all Standards and Guidelines found in the *Fundamentals of Rangeland Health and Standards for Rangeland Health and Arizona Standards for Rangeland Health and Guidelines for Grazing Administration (1997)*.

The current grazing permit for Tom Springs (#46020) allotment expired on 04/15/2005 and you, the permittee for this allotment, have requested a renewal. An Interdisciplinary team completed Environmental Assessment #DOI- DOI-BLM-AZ-G010-2013-0018-EA for this proposed permit renewal.

FINAL DECISION

In accordance with 43 Code of Federal Regulations 4130.2, and based upon the allotment evaluation, consultation with affected permittee, interested publics, and recommendations from the Interdisciplinary Assessment Team, our decision is to offer the grazing permit for the Tom Springs allotment for a period of 10 years with the terms and conditions identified in the Proposed Action of the EA, and listed below in Table 1, which will become effective upon acceptance of the permit. Your grazing permit shall be for a period of ten years and will reflect the mandatory terms and conditions.

Tom Springs would incorporate the principles of rest –rotation grazing, using a four pasture system. This system would best meet the resource needs within the allotment.

All pastures would receive spring and summer rest every other year. Cattle would be moved March 1st and again on October 1st of each year. Pastures would be rested for a seven month period. Day Mine and Porter Wash pastures would be grazed and rested on the same schedule. The Carland Wash and Headquarters pastures would also be rested and grazed concurrently. The grazing of the Headquarters and Porter Wash pastures would be closely monitored. They are not strictly ephemeral, however both pastures lack the perennial vegetation cover found in the upper pastures. The proposed grazing rotation with the included periods of rest should allow for recruitment and retention of warm and cool season grasses.

Table 1. Mandatory terms and conditions for the Tom Springs Allotment.

Allotment	Livestock number	Kind	Grazing Period		Type %PL	Use	AUMS
			Begin	End			
46020	97	Cattle	03/01	02/28	100	Active	1164

As a term and condition of this permit, you are required to do the following:

- The permittee is required to submit a report of the actual grazing use made on this allotment for the previous grazing period, March 1 to February 28. Failure to submit such a report by March 15 of the current year may result in suspension or cancellation of the grazing permit.
- This permit is subject to future modification as necessary to achieve compliance with the standards and guidelines (43 CFR 4180).
- In order to improve livestock distribution on the public lands, all salt blocks and/or mineral supplements shall not be placed within a ¼ mile of any riparian area, wet meadow or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision in accordance with 43 CFR 4130.3-2c.
- Permittees are required to maintain all range projects for which they have maintenance responsibilities.
- All troughs will be outfitted with wildlife escape structures to provide a means of escape for animals that fall in while attempting to drink or bathe.
- If in connection with allotment operations under this authorization, 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 permittee shall stop operations in the immediate area of the discovery, protect the remains and objects, and immediately notify the Authorized Officer of the discovery. The permittee shall continue to protect the immediate area of the discovery until notified by the Authorized Officer that operations may resume.
- This permit is subject to all terms and conditions found on the back side of the permit.

RATIONALE

The actions in this decision respond to the Purpose and Need explained in DOI-BLM-AZ-G010-2013-0018-EA to keep the current grazing rotation schedule in order to maintain rangeland health. Furthermore, the renewal conforms to the applicable land use plan and the NEPA

documentation fully analyses the proposed action and alternatives and constitutes BLM's compliance with the requirements of NEPA.

FINDING OF NO SIGNIFICANT IMPACT (FONSI)

A finding of no significant impact (FONSI) was signed on August 29, 2013, and concluded that the decision to implement the selected action, is not a major federal action that will have a significant effect on the quality of the human environment, individually or cumulatively with other actions in the general area. That finding was based on the context and intensity of impacts organized around the 10 significance criteria described at 40 CFR § 1508.27. Therefore, an environmental impact statement is not required. A copy of that FONSI was sent with the proposed decision.

AUTHORITY

My authority for this decision is found in statutory and regulatory authorities contained in the Taylor Grazing Act as amended, the Federal Land Policy and Management Act of 1976, as amended, and Title 43 of the Code of Federal Regulations (CFR), Part 4100 (Grazing Administration-exclusive of Alaska), including but not limited to the following sections:

§4100.0-2 The objectives of these regulations are to promote healthy sustainable rangeland ecosystems; to accelerate restoration and improvement of public rangelands to properly functioning conditions; to promote the orderly use, improvement and development of the public lands; to establish efficient and effective administration of grazing of public rangelands; and to provide for the sustainability of the western livestock industry and communities that are dependent upon productive, healthy public rangelands. These objectives shall be realized in a manner that is consistent with land use plans, multiple use, sustained yield, environmental values, economic and other objectives stated in 45 CFR part 1720, subpart 1725; the Taylor Grazing Act of June 28, 1934, as amended (43 U.S.C. 315, 315a-315r); section 102 of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1740).

§ 4100.0-8 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...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).

§4110.3 The authorized officer shall periodically review the permitted use specified in a grazing permit or grazing lease and shall make changes in the permitted use as needed to manage, maintain or improve rangeland productivity, to assist in restoring ecosystems to properly functioning condition, to conform with land use plans or activity plans, or to comply with the provisions of subpart 4180 of this part. These changes must be supported by monitoring, field observations, ecological site inventory or other data acceptable to the authorized officer.

§4110.3-2(b) When monitoring or field observations show grazing use or patterns of use are not consistent with the provisions of subpart 4180, or grazing use is otherwise causing an unacceptable level or pattern of utilization or, when use exceeds the livestock carrying capacity

as determined through monitoring, ecological site inventory or other acceptable methods, the authorized officer shall reduce permitted grazing use or otherwise modify management practices.

§4110.3-3(a) After consultation, cooperation, and coordination with the affected permittee or lessee, the State having lands or managing resources within the area, and the interested public, reductions of permitted use shall be implemented through a documented agreement or by decision of the authorized officer. Decisions implementing §§4110.3-2 shall be issued as decisions pursuant to 4160.1 of this part, except as provided in paragraph (b) of this section.

§ 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) The authorized officer will review proposed range improvement projects as required by the National Environmental Policy Act of 1969 (42 U.S.C. 4371 et seq.). The decision document following the environmental analysis will be issued in accordance with § 4160.1.

§ 4120.3-2 Cooperative range improvement agreements.

(a) The Bureau of Land Management may enter into a cooperative range improvement agreement with a person, organization, or other government entity for the installation, use, maintenance, and/or modification of permanent range improvements or rangeland developments to achieve management or resource condition objectives. The cooperative range improvement agreement shall specify how the costs or labor, or both, shall be divided between the United States and cooperator(s).

(b) Subject to valid existing rights, title to permanent range improvements such as fences, wells, and pipelines where authorization is granted after August 21, 1995 shall be in the name of the United States. The authorization for all new permanent water developments such as spring developments, wells, reservoirs, stock tanks, and pipelines will be through cooperative range improvement agreements. The authorized officer will document a permittee's or lessee's interest in contributed funds, labor, and materials to ensure proper credit for the purposes of §§4120.3-5 and 4120.3-6(c).

(c) The United States will have title to nonstructural range improvements such as seeding, spraying, and chaining.

(d) Range improvement work performed by a cooperator or permittee on the public lands or lands administered by the Bureau of Land Management does not confer the exclusive right to use the improvement or the land affected by the range improvement work.

§ 4120.3-4 Standards, design and stipulations.

Range improvement permits and cooperative range improvement agreements shall specify the standards, design, construction and maintenance criteria for the range improvements and other additional conditions and stipulations or modifications deemed necessary by the authorized officer.

§4130.2(b) The authorized officer shall consult, cooperate and coordinate with affected permittees or lessees, the State having lands or responsible for managing resources within the area, and the interested public prior to the issuance or renewal of grazing permits and leases.

§4130.3 Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve the management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.

§4130.3-1(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock carrying capacity of the allotment.”

§4130.3-1(c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.

§4130.3-2 The authorized officer may specify in grazing permits or leases other terms and conditions which will assist in achieving management objectives provide for proper range management or assist in the orderly administration of the public rangelands. These may include but are not limited to: ... (d) A requirement that permittees or lessees operating under a grazing permit or lease submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, the actual use made; ... (f) Provisions for livestock grazing temporarily to be delayed, discontinued or modified to allow for the reproduction, establishment, or restoration of vigor of plants ... of for the protection of other rangeland resources and values consistent with objectives of applicable land use plans,”

§4130.3-3 Following consultation, cooperation and coordination with the affected lessees or permittees, the State having lands or responsible for managing resources within the area, and the interested public, the authorized officer may modify terms and conditions of the permit or lease when the active grazing use or related management practices are not meeting the land use plan, allotment management plan or other activity plan, or management objectives, or is not in conformance with the provisions of subpart 4180 of this part. To the extent practical, the authorized officer shall provide to affected permittees or lessees, States having lands or responsibility for managing resources within the affected area, and the interested public an opportunity to review, comment and give input during the preparation of reports that evaluate monitoring and other data that are used as a basis for making decisions to increase or decrease grazing use, or to change the terms and conditions of a permit or lease.

§4160.2 “Any applicant, permittee, lessee or other interested public may protest the 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.

§4180.2(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 practices or levels of grazing use on public lands are significant factors in failing to achieve the standards and conform to the guidelines that are made effective under this section. Appropriate action means implementing actions pursuant to 4110, 4120, 4130, and 4160 that will result in significant progress toward fulfillment of the standards and significant progress toward conformance with guidelines...”

RIGHT OF PROTEST AND/OR APPEAL

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal of the decision for the purpose of a hearing before an administrative law judge. A period of 45 days from your receipt of the proposed decision is provided for filing an appeal and petition for a stay of the decision pending final determination on appeal, as provided in 43 CFR § 4.470 and 43 CFR § 4160.4. An appellant may also file a petition for stay of the decision pending final determination on appeal. The appeal and petition for stay must be filed in the office of the authorized officer, as noted above, within 30 days following receipt of the final decision, or within 30 days after the date the proposed decision becomes final.

The appeal must be in writing and shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error and also must comply with the provisions of 43 CFR 4.470. Any appeal should be submitted in writing to:

Scott C. Cooke
Safford Field Office Manager
711 South 14th Ave
Safford, Arizona 85546-3321

Filing an appeal does not by itself stay the effectiveness of the final BLM decision. The appeal may be accompanied by a petition for a stay of the decision pending final determination on appeal, in accordance with 43 CFR § 4.471 and 4.479. Any request for a stay of the final decision in accordance with 43 CFR § 4.21 (b) (1) must show sufficient justification based on the following:

- (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 additionally to:

- (1) All other parties named in the cc section of this Decision; and
- (2) The appropriate Office of the Solicitor as follows, in accordance with 43CFR § 4.413(a) and (c):

US Department of Interior
Office of the Field Solicitor
Sandra Day O'Connor U.S. Courthouse
401 W. Washington St. SPC 44 Suite 404
Phoenix, Arizona 85003-2151

Finally, in accordance with 43 CFR § 4.472(b), 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 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 respond, the person must serve copies on the appellant, the appropriate Office of the Solicitor in accordance with Sec 4.413 (a) and (c), and any other person named in the decision.

Sincerely,



Scott C. Cooke
Field Manager

Attachments

1 – Protest Responses

cc:

Western Watersheds Project
c/o Greta Anderson and Erik Ryberg
P. O. Box 2264
Tucson, AZ 85702

Habitat Program Manager
c/o John Windes
Arizona Game and Fish Department
555 North Greasewood Road
Tucson, AZ 85745

Arizona State Land Department
c/o Stephen Williams
1616 West Adams
Phoenix, AZ 85007

Arizona Cattle Growers
1401 North 24th Street
Phoenix, Arizona 85008

Larry Humphrey
P. O. Box 894
Pima, Arizona 85543

	Document	Comment	Response	Change made
1	EA	<p>We protest the removal of a permit stipulation regarding supplemental feeding between the draft and final EA/proposed decisions. Previous iterations of the EA included a prohibition on supplemental feeding on public lands, “with the exceptions of salt and mineral blocks... unless prior approval is requested and given by the authorized officer.” Draft EA at 9. Neither the final EA nor either proposed decision includes this term and condition. If the BLM believes that it needs to ease the regulatory burden of asking permission to supplemental feed, it should describe the context in which that is burdensome, i.e. is the use of supplemental feed so frequent on these degraded lands that the permittee needs carte blanche to keep the cattle and horses alive? The omission of this between drafts raises a flag that should be further clarified and the condition should be reincorporated in the final decision. This is important because the RHE relies on BLM’s not allowing supplemental feeding on public land to support its claim that grains are not a source of cowbird concentration within the allotment. Tom Springs RHE at 32. The Mandatory Terms and Conditions of the Final Decision should include this.</p>	<p>This is a standard term and condition that was considered in the environmental analysis and will be on the permit. The Final Decision includes the stipulation that standard term and conditions located on the back of the permit are incorporated in the decision.</p>	<p>Add stipulation referencing standard terms and conditions to the final decision language.</p>
2		<p>We protest the proposed decisions’ based on EAs that fail to analyze the actual use data for either allotment. Because the monitoring data in the appendices corresponds to lower than authorized levels of livestock use, the analysis of the proposed action should include different expectations regarding impacts. The “No Action” alternative does not describe the current livestock management or how this relates to the key areas that were monitored in support of the current management. EA at 11. The March 2011 Bryce RHE followed six years of less than 70 percent use. Bryce S&G at 67. The 2011 RHE on Tom Springs followed two years of voluntary nonuse and previously years of lowered stocking rates. The EA fails to make this fact explicit when it states, “Under the proposed action... there is little evidence that continued yearlong grazing at the current stocking rate would alter the vegetation community or preclude the community from change within the constraint of the ecological site.” EA at 16. In reality, the monitoring data should be extrapolated to predict the impacts of running the full authorized use, something that hasn’t been done during recent years. This violates</p>	<p>The EA proposed action clearly stated the authorized AUMs to be 1164 for Tom Springs allotment and 1678 for Bryce allotment in Table 1 on page 9. This was the proposed action that was screened for issues during scoping and from which the analysis within the EA was directed.</p> <p>Reductions were</p>	

		<p>the National Environmental Policy Act (NEPA) and fails to provide the decision maker with enough information about what the proposed action would do. BLM defended this failure in response to comments by saying that the EA did analyze actual use and that extrapolation to full use is not possible until full use is observed. Response to Comments at 3. If that is the case, the proposed action has never been analyzed, violating NEPA. The claims that BLM cannot "extrapolate" do not hold; nor has the "No Grazing" alternative been in place in recent years but the BLM does not hesitate to make predictions about the consequences of that. Thus, BLMs failure to consider the likely effects of stocking the allotments at the authorized levels (including utilization levels, increased soil compaction, increased water consumption, etc) is a fundamental failure of the EA and the proposed decision is without sufficient basis to be carried forward.</p>	<p>done during drought conditions as a temporary measure based upon seasonal conditions identified on a yearly basis. Stocking levels were reduced by 30% in past years to protect vegetative communities in consultation and coordination with the permittee and resource specialists through the authority of the authorized officer identified in the standard terms and conditions. These terms and conditions are incorporated in the final decision.</p>	
<p>3</p>		<p>We protest the failure to include utilization data. The BLM has failed to provide information about the effects of the permitted levels of livestock grazing on the annual growth of plants. Utilization data are important indicators about the appropriateness of the stocking rates of an allotment, and the failure to even mention utilization results here is a serious omission. The BLM defended this failure in the response to comments by saying, "Use over the long term on key species is reflected in the frequency data." Response to Comments at 4.</p>	<p>Frequency data may indicate changes in affected key plant species. Utilization monitoring is scheduled and will be incorporated into management</p>	

		<p>The issue is not the long-term composition in the community, but the year-to-year impacts of grazing on wildlife habitat. If utilization were not important information, the BLM would not be collecting it on nearly every other allotment and offering it as evidence of an appropriate stocking rate. BLM attributes shifts in frequency data to things other than livestock, including drought, invasive species, inappropriate original site classifications, etc. It is the year-by-year use on palatable forage species that ties this to livestock use and the agency's failure to provide it here for the Tom Springs or Bryce allotments is problematic.</p>	<p>decisions in the future. The Bureau (SFO) uses ocular estimates of utilization as a tool in the day to day management of allotments in coordination with the permittees. Use over the long term on key species is reflected in frequency data.</p> <p>There is little potential for direct competition for forage between wildlife and Livestock (S&G 4.3). Livestock management under Bureau policy, land use plans and activity plans limit the potential conflict.</p>	
4		<p>We protest the failure of the BLM to demonstrate that the proposed action is within the carrying capacity of the allotments. The overarching environmental analyses are outdated. In the EA, the BLM ties the proposed grazing actions to the authority provided by the Safford RMP (1991) that adopted the grazing analysis of the Upper Gila River EIS (1978). EA at 5. Thus, the governing land use plan is already over twenty years old and the analysis to which is ties is 35 years old. The BLM defends this by saying the old decisions are still applicable and further analysis necessary for site-specific analysis was</p>	<p>The proposed action was identified as in conformance with the existing land use plan, which adopted the Upper Gila River EIS. Though the land use plan was</p>	

	<p>completed in the EA. Response to Comments at 9. The BLM has very little evidence that the proposed action is within the carrying capacity of the allotment, given its failure to assess the actual on-the-ground forage conditions that currently exist, after decades of drought. The estimated carrying capacity for the Tom Springs allotment was 802 or a high of 1010 after 15 years of reduced levels; the EA does not explain how the proposed decision to authorize 1164 AUM comports with this land use plan. Tom Springs NOPD at 3. Another commenter apparently raised this issue but the BLM did not refine the EA to go into detail as to why the Tom Springs permit is currently higher than the overarching LUP allows. Response to Comments at 2.</p>	<p>completed in the dates referenced, the decisions are still applicable and further analysis necessary for site-specific analysis was completed in the EA.</p>	
<p>5</p>	<p>We protest the failure to update the analysis for the Porter Wash Complex on the Tom Springs allotment. The Tom Springs S&G states that Standard #2 is "Not Applicable." Tom Springs S&G at 41. The Porter Wash Complex has had Proper Functioning Condition (PFC) ratings in the past, and in 2004 it was considered to be Functional At Risk with no apparent trend. Tom Springs S&G at 39. The BLM describes the early PFC as influencing the subsequent exclosure of the Porter Wash Complex. Response to Comments at 5. But the BLM has not explained why it doesn't need to conduct a PFC at the Complex now. The official elimination of livestock grazing doesn't exempt the BLM from taking a look and seeing whether it is working; before renewing the livestock grazing permit on the Tom Springs allotment, the agency should ensure that livestock aren't having adverse effects on adjacent areas or through trespass and unauthorized entry into the exclosure. The EA doesn't discuss how well the exclosure has been working to protect this habitat and BLM's failure to conduct another PFC here is problematic. The RHE for the allotment states that PFC "will be conducted every three years." Tom Springs RHE at 39. It hasn't been conducted since 2004. We protest for this reason.</p>	<p>The EA for construction of the exclosure was developed in 2010. Exclusion fencing was constructed in 2012. The three year PFC monitoring schedule was committed to in the 2013 S&G evaluation. Three years after exclosure (2015) would be the appropriate time to repeat PFC, and assess effectiveness.</p> <p>The Porter Wash exclosure has been inspected routinely since construction and no unauthorized use or other impacts</p>	

			have been documented.	
6		<p>We protest the failure of the EA to analyze the potential for restoration of seeps and springs should livestock grazing cease under the "No Grazing" alternative. EA at 19. Rather than provide an analysis of how much water is withdrawn for livestock use and developed into infrastructure unsuitable as habitat for aquatic or riparian species, the EA only identifies the effects of water maintenance that would be assumed by the BLM. Ibid. The EA does not indicate that in the absence of livestock waters, natural restoration of flows could occur. Because no hydrologic analysis is presented in the RHEs or the EA, the conclusions about impacts to aquatic habitats are unsupported. The BLM did not respond to this comment by changing the EA to provide more information, and we protest the agency's failure to respond and the failure to take a hard look at the potential impacts of the "No Grazing" alternative and to compare it with the proposed action.</p>	<p>Hydrologic function was considered. A hydrologist was included in the interdisciplinary team. Impacts to water quality and hydrologic function were not identified as issues. Absent water quality and hydrologic impacts, there are no impacts to aquatic or riparian species and no expected difference between the proposed action and the alternatives.</p>	
7		<p>The EA contains insufficient information about the soil conditions of the allotments. The EA states that soil loss and erosion are not a problem on either the Tom Spring or Bryce allotments. EA at 13. Livestock grazing is a known cause of soil degradation, through compaction, trampling of soil crusts, and disturbance. The S&Gs do not provide sufficient detail to determine whether soil condition on these allotments has even ever been quantitatively measured. There are a number of large washes on both allotments that would be where evidence of headcutting and erosion occurs; the RHEs are not measured in the places most likely to show heavy erosion.</p>	<p>The soils are listed in the ecological site descriptions and were studied in the Upland Health Assessment to verify each site. The interdisciplinary team determined through</p>	

			soil stability tests that each ecological site was meeting standards.	
8		We protest the failure to analyze erosion in and around the livestock concentration areas and water developments, and the failure to assess conditions at Porter Aquatic Complex is but one example of a place that BLM knows there has been a problem and which the agency simply ignores in this analysis.	BLM did assess conditions at Porter Aquatic Complex. See response to protest point # 5.	
9		We protest the failure to survey for Pima Indian Mallow on the Tom Springs allotment, and thereby fail to take a hard look at the proposed action. WWP commented to this effect; BLM responded the "best available information ... states, 'Grows on steep habitat, eliminating grazing pressure.'" The BLM does not provide any information as to whether it has ever surveyed for Pima Indian Mallow on this allotment, whether it grows in its typical habitat on this allotment, and whether it is grazed on this allotment. That is what NEPA requires and what the BLM's Special Status Species Policy mandates. The failure here that the agency "extrapolated" general impacts to a species somewhere without looking at this species, here. We protest on this basis.	Though there have been no surveys or other data collection specific to Pima Indian mallow on the Tom Spring allotments in relation to the S&G evaluation or associated EA, the Bureau considered the information available about the species in making its determination (NI in Table 2). Further, the determination that additional data will not define a meaningful difference between alternatives is indeed consistent with NEPA.	

			<p>Implementation of the proposed action or alternatives will not preclude or alter the Bureaus implementation of its Special Status Species Management policy (Manual Section 6840). The Bureau will continue to implement the policy as prescribed on a priority basis.</p>	
10		<p>The EA contains insufficient information about the impacts to Bylas spring snail habitat or the potential habitat on the Tom Springs allotment, and the proposed decision is faulty on this basis. The EA reports that the one location of Bylas spring snail on Porter Wash Pond is fenced to livestock. EA at 13. In the S&G for the Tom Springs allotment, the text indicates that there are four ponds and refers to this hydric complex in the plural. Tom Springs S&G at 33. The BLM summarized WWP’s comments as, “Have the impacts and all suitable habitat for the Bylas Spring snail been fully analyzed?” Response to Comments at 8. The BLM then states, “The bureau assesses potential habitat for sensitive species on a priority basis.” Id. This is unclear but suggests that perhaps the bureau has not already assessed all the potential habitat for the Bylas springsnail on the Tom Springs allotment, and therefore it is possible that grazing is having an impact or poses a threat to the species that the BLM is not considering in this EA or elsewhere. Because the BLM has not been direct about this in its answers, Western Watersheds Project protests the failure to take a hard look at the potential habitat on the allotment or to provide proactive mitigation measures to ensure against harm to this species.</p>	<p>The Bureau, with the assistance of personnel from the Arizona Game and Fish Department, documented spring snails at the Porter Wash complex on the Tom Springs allotment for the first time in July 2013. Snails collected from the site are suspected to be Bylas spring snails and collected specimens were sent off for positive identification. To date, this is the only</p>	

			<p>known location on the allotment for spring snails and all known habitat on public land, is fenced off from livestock use.</p> <p>There have been no surveys or other data collection specific to Bylas spring snails in relation to the S&G evaluation or associated EA. The Bureau considered available information in making its sensitive species determination (NI in Table 2).</p> <p>A Bureau determination that additional data will not define a meaningful difference between alternatives is consistent with NEPA.</p> <p>Implementation of the proposed action</p>	
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			or alternatives will not preclude or alter the Bureaus implementation of its Special Status Species Management policy (Manual Section 6840). The Bureau will continue to implement the policy as prescribed on a priority bases and as practicable.	
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