



***Bureau of Land Management
Director's Summary Protest Resolution
Report***

**Sonoran Desert National
Monument Recreational
Target Shooting Resource
Management Plan
Amendment and
Environmental Assessment**

May 28, 2024

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Acronyms

Term	Definition
A.R.S.	Arizona Revised Statutes
BLM	Bureau of Land Management
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
Dingell Act	John Dingell Jr. Conservation, Management, and Recreation Act of 2019
EA	Environmental Assessment
EIS	Environmental Impact Statement
FEIS	Final Environmental Impact Statement
FLPMA	Federal Land Policy and Management Act
FOIA	Freedom of Information Act
FONSI	Finding of No Significant Impact
IBLA	Interior Board of Land Appeals
NEPA	National Environmental Policy Act
RMP	Resource Management Plan
RMPA	Resource Management Plan Amendment
ROD	Record of Decision
SDNM	Sonoran Desert National Monument
U.S.C.	U.S. Code

Introduction

The Bureau of Land Management (BLM) Lower Sonoran Field Office released the proposed Sonoran Desert National Monument (SDNM) Recreational Target Shooting Resource Management Plan Amendment (RMPA) and Environmental Assessment (EA) on January 22, 2024. The BLM received nine unique protest letter submissions during the subsequent 30-day protest period.

The planning regulations at 43 Code of Federal Regulations (CFR) 1610.5-2 outline the requirements for filing a valid protest. The BLM evaluated all protest letters to determine which protest letters were complete and timely, and which persons have standing to protest. Six letters were complete and timely, but the persons who submitted the letters did not have standing to protest as they did not previously participate in the planning process. These six letters were therefore dismissed from consideration due to lack of standing. The remaining three letters were complete and timely and were from parties who had standing to protest. The BLM documented the responses to the valid protest issues in this protest resolution report. The protest decision was recorded in writing along with the reasons for the decision in this protest resolution report.

After careful review of the report by the BLM's Assistant Director for Resources and Planning, the Assistant Director concluded that the BLM Arizona State Director followed the applicable laws, regulations, and policies and considered all relevant resource information and public input. The Assistant Director addressed the protests and issued a Protest Resolution Report to protesting parties and posted the report on the BLM's website. The decision was sent to the protesting parties by certified mail, return receipt requested. Resolution of protests is delegated to the BLM Assistant Director for Resources and Planning whose decision on the protest is the final decision of the U.S. Department of the Interior (43 CFR 1610.5-2(b)) consistent with the BLM Delegation of Authority Manual (MS-1203 Delegation of Authority).

The report is divided into sections each with a topic heading, excerpts from individual protest letters, a summary statement of the protest issue raised by the protesting parties, and the BLM's response to the protest issue.

Protesting Party Index

Letter Number	Protester	Organization	Determination
PP-AZ-SD-EA-24-01	Corey Allhands		Dismissed: No Standing
PP-AZ-SD-EA-24-02	Jacob Clingman		Dismissed: No Standing
PP-AZ-SD-EA-24-03	Jerad Fond		Dismissed: No Standing
PP-AZ-SD-EA-24-04	Daniel Blodgett		Dismissed: No Standing
PP-AZ-SD-EA-24-05	Jacob Galvez		Dismissed: No Standing
PP-AZ-SD-EA-24-06	Bryan Saba		Dismissed: No Standing
PP-AZ-SD-EA-24-07	Clay Crowder	Arizona Game and Fish Department	Remanded in part and resolved; denied in part
PP-AZ-SD-EA-24-08	Russell McSpadden	Center for Biological Diversity	Denied
	Laiken Jordahl	Center for Biological Diversity	
PP-AZ-SD-EA-24-09	Taylor Schmitz	Congressional Sportsmen's Foundation	Denied
	Ronald Regan	Association of Fish and Wildlife Agencies	
	Jeff Crane	Congressional Sportsmen's Foundation	
	Tom Allen	--	
	Joe Betar	Houston Safari Club Foundation	
	Randy Kozuch	National Rifle Association	
	Joseph Bartozzi	National Shooting Sports Foundation	
	Ryan Bronson	Rocky Mountain Elk Foundation	
Benjamin Cassidy	Safari Club International		

NEPA – Range of Alternatives

Congressional Sportsmen’s Foundation

Taylor Schmitz

Issue Excerpt Text: The protesters can only conclude that the selection of Alternative C by the State Director reflects a predetermined outcome of the Plan Amendment following the BLM’s settlement agreement with plaintiffs whose interests have long been to close the entire SDNM to recreational shooting. The plaintiffs have been assisted in this objective by BLM staff who structured the BLM’s 2012 resource management plan to close the entire SDNM to target shooting, but that in ensuing years was overturned by later plan amendments. The plaintiffs’ original objective has nearly been achieved with the selection of Alternative C that will close all but 1% of the SDNM to target shooting.

Arizona Game and Fish Department

Clay Crowder

Issue Excerpt Text: The Purpose and Need for the SDNM RMPA/EA is outlined in Section 1.2 of the EA: The purpose of the RMPA is to establish management guidance specific to dispersed recreational target shooting on public lands within the Monument while ensuring the decisions are consistent with Presidential Proclamation 7397 and other resource decisions in the 2012 Approved RMP. The need for this planning effort is to fulfill requirements of the April 2022 settlement agreement that the BLM entered into to resolve litigation concerning the BLM’s 2018 Approved RMPA for the Monument. [Emphasis added]. BLM’s internal Need was to include the Settlement Alternative in its planning process - and to select the “Settlement Alternative” as the preferred alternative to avoid further litigation. The Settlement Agreement in Section C.7 states that if BLM issues a decision approving a land use plan amendment that adopts the Settlement Alternative outlined in the Agreement, Plaintiffs commit to not pursue any administrative protests, IBLA appeals or judicial challenges, or fund other entities to challenge the BLM decision provided BLM’s “choice” conformed to the Settlement Agreement’s exact terms. The Settlement Agreement contains pro forma language in Section C.10 that nothing in the Agreement limits BLM’s discretion to adopt the land use plan amendment of its choice among the alternatives analyzed. But, after two lawsuits challenging the SDNM RMP, there was little suspense which Alternative BLM would prefer. While Alternative D (total closure of Monument to recreational shooting) arguably could have met the Purpose and Need, BLM determined in the 2017 Monument Target Shooting RMPA/FEIS Record of Decision that a complete closure of the Monument to target shooting was contrary to Section 101 of NEPA and would have “limited recreational opportunities that were analyzed and determined compatible in some areas of the SDNM”. As only Alternative C accomplishes the stated Purpose and BLM’s internal Need, BLM’s choice of this alternative is a “foreordained formality”. *Friends of Southeast’s Future v. Morrison*, 153 F.3d 1059, 1066 (9th Cir.1998). Furthermore, the Settlement Agreement represents an irreversible and irretrievable commitment of resources in violation of NEPA as BLM committed to a decision to fulfill the terms of the Settlement Agreement before BLM prepared the EA/FONSI. See *Metcalf v. Daley*, 214 F.3d 1135 (9th Cir. 2000). The Purpose and Need statement is directed at implementing BLM’s prior commitment to the Settlement Alternative as a means to avoiding future litigation.

Arizona Game and Fish Department

Clay Crowder

Issue Excerpt Text: While a federal agency has considerable discretion in defining the purpose and need of a project, it cannot unreasonably narrow the agency’s consideration of alternatives “so that the outcome is preordained”. *Envtl. Def. Ctr. v. Bureau of Ocean Energy Mgmt.*, 36 F.4th 850, 876 (9th Cir. 2022), cert. denied sub nom., *Am. Petroleum Inst. v. Env. Def. Ctr.*, 2023 WL 3801206

(U.S. June 5, 2023); *Accord, Nat'l Parks & Conservation Ass'n v. Bureau of Land Mgmt.*, 606 F.3d 1058, 1070 (9th Cir. 2010). This occurred here. The pre-decisional choice of Alternative C is telegraphed in the EA: 1.6 Planning Criteria - The planning criteria that defines the scope of the RMPA/EA consists of the following: The BLM will make plan-level decisions for dispersed recreational target shooting consistent with the U.S. District Court for the District of Arizona Order (The National Trust for Historic Preservation, et al., v. David Bernhardt, as Secretary of the Department of the Interior, et al., CV-19-5008-PHX-MHB) and April 2022 Settlement Agreement. [Bolded added]. EA at 10.

***Arizona Game and Fish Department
Clay Crowder***

Issue Excerpt Text: BLM has the discretion to combine aspects of the various alternatives. The BLM NEPA Handbook (H-1790-1) states that “various parts of separate alternatives that are analyzed in the draft can also be ‘mixed and matched’ to develop a complete alternative in the final” (see also 43 CFR 1503.4[a]). BLM may also consider management approaches from protest resolutions. The alternative BLM must evaluate is an alternative that affords the public a reasonably accessible shooting area to alleviate the creation of new and unpredictable user-created shooting areas and user routes within the Monument with the concomitant damage to natural resources, wildlife habitat and risks to public safety that will ensue. NEPA requires BLM to examine a new alternative that (1) protects Monument Objects and public safety (2) substantially achieves the terms of the Settlement Agreement, and (3) reevaluates the suitability analysis to open more of the Monument to lawful recreational shooting. The absence of this unexamined but viable alternative renders this RMPA/EA inadequate. See *Westlands Water Dist. v. U.S. Dep’t of the Interior*, 376 F.3d 853, 868 (9th Cir.2004).

***Arizona Game and Fish Department
Clay Crowder***

Issue Excerpt Text: The Purpose and Need Statement Was So Narrow that Consideration of a Range of Appropriate Alternatives was Foreclosed A purpose and need statement cannot be drafted so narrowly that it precludes consideration of a reasonable range of alternatives. *City of Carmel-by-the-Sea v. U.S. Dep’t of Transp.*, 123 F.3d 1142, 1155 (9th Cir.1997) (“The stated goal of a project necessarily dictates the range of ‘reasonable’ alternatives and an agency cannot define its objectives in unreasonably narrow terms.”); BLM NEPA Handbook, H-1790-1, 6.6.1 Reasonable Alternatives. *Muckleshoot Indian Tribe v. U.S. Forest Serv.*, 177 F.3d 800, 813 (9th Cir. 1999) involved a proposed Forest Service land exchange with the Weyerhaeuser Company. The Ninth Circuit held that the Forest Service had not considered an adequate range of alternatives where the EIS had three alternatives: a “no action” alternative and two “virtually identical” action alternatives. Here, Alternatives C and D differ only by closing 100% of the Monument (Alternative D) versus 99% of the Monument (Alternative C). Alternative C does potentially make 5295 acres available for dispersed recreational shooting (1% of Monument). However, on closer inspection those 5295 acres involve forty-one geographically separated parcels scattered across the 485,791-acre Monument, many of which are at a significant distance from population centers, not readily accessible by any designated road, and highly unlikely to be used by the public. RMPA EA, Figure 5 (Alternative C). The difference between the two alternatives is negligible. BLM has an obligation under NEPA to “provide legitimate consideration to alternatives that fall between the obvious extremes.” *High Country Conservation Advocates v. U. S. Forest Serv.*, 951 F.3d 1217, 1223 (10th Cir. 2020). A reasonable alternative exists between Alternative B and Alternative C. See the discussion in Issue 5 below.

***Center for Biological Diversity
Russell McSpadden and Laiken Jordahl***

Issue Excerpt Text: Secretarial Order 3308 states that the National Conservation Lands “shall be managed as an integral part of the larger landscape, in collaboration with the neighboring landowners and surrounding communities, to maintain biodiversity, and promote ecological connectivity and resilience in the face of climate change.” BLM’s 15-Year Strategy for the National Conservation Lands discusses utilizing large-scale assessments to identify how to connect and protect resources at the landscape-level: “Recognizing that the NLCS [National Landscape Conservation System] represents a small portion of the land managed by the BLM and other federal, state, tribal, and local government entities, these special conservation areas must be managed within the context of the larger landscape.” BLM, *The National Landscape Conservation System 15-Year Strategy 2010-2025* (2010) at 12, available at https://www.blm.gov/sites/default/files/documents/files/NLCS%20Strategy_0.pdf. As such, to take the hard look NEPA requires at the proposal’s impacts, BLM must analyze the issue of recreational target shooting at a regional or landscape level, rather than just inside the Monument. For example, around 2,356,600 acres, or approximately 78 percent, of BLM-managed lands adjacent to the monument are open for target shooting within the Lower Sonoran and Bradshaw-Harquahala planning units. The amount left open under Alternative C would be less than two-tenths of one percent of that figure. Closing the Monument entirely to shooting would thus have a trivial impact on shooting opportunities while protecting Monument objects from considerable damage. As BLM accurately noted on the Sonoran Desert National Monument home page in the past, approximately 95 percent of the 12.2 million acres of lands managed by the agency in Arizona remains open to recreational target shooting. This includes places like the Table Mesa recreation area where a BLM plan was completed in 2010 to allocate recreational zones for a variety of uses including recreational target shooting. Combined with gun ranges and other areas, the public has ample and significant opportunities for recreational target shooting in the immediate area, opportunities that do not directly harm protected objects, wildlife and natural resources within SDNM. As a result, there is no need to allow target shooting anywhere within Monument boundaries, as shooting is a discretionary use contrary to the purpose of the monument and harms the values and objects the monument was established to protect.

Summary:

The BLM violated the National Environmental Policy Act (NEPA) by drafting an overly narrow purpose and need to meet the April 2022 Settlement Agreement that can only be met through the selection of Alternative C.

The BLM violated NEPA by failing to analyze a reasonable range of alternatives because Alternatives C and D are too similar, as Alternative C would close 99 percent of the Monument to recreational target shooting and Alternative D would close the Monument entirely to recreational target shooting. Additionally, the BLM must select Alternative D because recreational shooting is a discretionary use at odds with the protection of the Monument objects and values and closing the Monument to shooting will have a trivial impact on shooting opportunities when considering the opportunities for shooting within the surrounding area.

Response:

In accordance with NEPA, the BLM has discretion to establish the purpose and need for a proposed action (40 CFR 1502.13). The BLM must construct its purpose and need to conform to existing decisions, policies, regulation, or law (BLM Handbook H-1790-1, Section 6.2). The purpose and need may not be so narrow that only one alternative becomes a foreordained outcome and may not be so

broad that an infinite number of possibilities could accomplish the goals of the project. The BLM established the purpose and need for the SDNM RMPA/EA, which is described in Section 1.2, *Purpose and Need* (SDNM RMPA/EA p. 6), to establish a framework for managing dispersed recreational target shooting within the Monument as established in the Proclamation for the Monument and with Section 302(a) of the Federal Land Policy and Management Act (FLPMA). The purpose and need provided the appropriate scope to allow the BLM to analyze a reasonable number of alternatives that represent alternative management approaches for dispersed recreational target shooting to assist in the protection of Monument objects by determining where this type of activity can be conducted without increased risk of damage to Monument objects. All alternatives within the considered range of alternatives met the purpose and need, and neither the purpose and need nor the Settlement Agreement required the BLM to select one alternative over another. The process of developing and analyzing alternatives for managing dispersed recreational target shooting was not predetermined; instead, it enabled a thorough NEPA analysis to inform the final agency decision. The Settlement Agreement mandated that the BLM analyze a particular alternative for managing dispersed recreational target shooting within defined parameters. However, this agreement did not limit the BLM from considering additional alternatives, nor did it prevent the selection of the No Action Alternative or any other action alternative in the final decision.

The BLM developed a reasonable range of alternatives that meet the purpose and need of the SDNM RMPA/EA. The SDNM RMPA/EA analyzed four alternatives, which are described in Chapter 2 of the SDNM RMPA/EA (pp. 15–25). The alternatives analyzed in the SDNM RMPA/EA cover the full spectrum of approaches to management for dispersed recreational shooting. Alternative A is the No Action Alternative and would carry forward the existing management of only 10 percent of the Monument being unavailable to dispersed recreational shooting. Alternative B represents the minimum level of lands made unavailable to dispersed recreational shooting that would protect Monument objects and meet the objectives of Presidential Proclamation 7397 based on the best available scientific information and results of the suitability analysis in Appendix A of the SDNM RMPA/EA. The suitability analysis in Appendix A of the RMPA/EA details the BLM’s criteria for ensuring that dispersed recreational target shooting is consistent with the proper care and management of Monument objects. The BLM is required under Section 302(a) of FLPMA and Proclamation 7397 to manage SDNM consistent with the protection of Monument objects. As a result, the BLM would not be able to select an alternative that made more of the Monument available for dispersed recreational shooting than Alternative B. Accordingly, Alternative B set the floor for the range of action alternatives that could be analyzed in this planning process. Alternative C represents the Settlement Agreement that mandated that the BLM analyze a particular alternative for managing specific areas as unavailable for dispersed recreational target shooting. Alternative D analyzes a full closure of the Monument to dispersed recreational target shooting. These alternatives represent a full range of viable alternatives available for BLM decision makers to manage the National Monument.

The BLM considered a reasonable range of alternatives in the SDNM RMPA/EA in full compliance with NEPA. Accordingly, this protest is denied.

NEPA – Alternative Proposed

Arizona Game and Fish Department Clay Crowder

Issue Excerpt Text: Alternative B, the Monument Object Protection Alternative, was developed based on the results of BLM’s suitability analysis (Appendix A) representing the maximum level of dispersed recreational target shooting, based on the best available scientific information, that allows for proper care and management of Monument objects needed to meet the objectives of Presidential

Proclamation 7397. Alternative B would have closed 66% of the Monument to shooting and kept 34% of the Monument open to shooting. As both Alternatives B and C are compatible with the protection and restoration of the Monument objects and values outlined in Presidential Proclamation 9232, a reasonable alternative exists between Alternative B and Alternative C that BLM did not analyze. This reasonable alternative should have included one or more areas available for dispersed recreational shooting close to population centers and accessible by roads. The Department proposed a reasonable Alternative. In its April 14, 2023 Administrative Draft EA Comments, the Department asked for additional alternatives to be identified and analyzed within the EA as the current alternatives “do not provide a reasonable range of alternatives”. In its August 4, 2023 Comments, the Department noted that the public and Monument Objects are better served by concentrating recreational shooters at popular, high-use locations instead of imposing such draconian conditions that shooters will naturally displace to unauthorized areas of the Monument. The Department requested BLM to re-evaluate areas within the Monument with current high levels of dispersed shooting use, such as the areas around the Booth Hills and areas along the northern boundary of the SDNM boundary. Both areas provide easy public access, have locations for safe target shooting, have been impacted by recreation of all types, have lower quality wildlife habitat, are on the outer perimeter of the Monument, and are not within wilderness areas. The EA/FONSI does not reflect that BLM considered the Department’s alternative as required by NEPA, 40 C.F.R. 1505.2(b). The RMPA/EA, Section 2.9 (Alternatives Considered but Eliminated from Further Study) does not acknowledge or reference the Department’s proposed alternative.

Summary:

The BLM violated NEPA by failing to consider a reasonable alternative that the Arizona Game and Fish Department submitted during the public comment period on the SDNM Draft RMPA/EA.

Response:

The BLM must consider all substantive comments received before reaching a decision to the extent feasible (40 CFR 1503.4). All substantive and timely comments are attached or included in a final EA (40 CFR 1503.4(b)). Comments may be summarized if they are especially voluminous (see Question 29a, Council on Environmental Quality [CEQ] Forty Most Asked Questions Concerning CEQ’s NEPA Regulations [March 23, 1981]).

When preparing an EA, NEPA requires Federal agencies to study, develop, and describe technically and economically feasible alternatives (NEPA Section 102(2)(f)). The BLM must analyze those alternatives necessary to permit a reasoned choice (40 CFR 1502.14). When there are potentially a very large number of alternatives, the BLM may only analyze a reasonable number to cover the full spectrum of alternatives (BLM Handbook H-1790-1, Section 6.6.1 quoting Question 1b, CEQ, Forty Most Asked Questions Concerning CEQ’s NEPA Regulations, March 23, 1981). Agencies may dismiss an alternative from detailed analysis (40 CFR 1502.14). An alternative may be eliminated from detailed study for several reasons including, but not limited to, if it does not to meet the proposed action’s purpose and need; if it is determined to be unreasonable given the BLM mandates, policies, and programs; if it is substantially similar in design to an alternative that is analyzed; if its implementation is speculative or remote; or if it is technically or economically infeasible (BLM Handbook H-1790-1, Section 6.6.3). The agency must briefly discuss the reasons for having dismissed the alternative from detailed analysis (40 CFR 1502.14).

As outlined in SDNM RMPA/EA Section 2.9, *Alternatives Considered but Eliminated from Further Study* (SDNM RMPA/EA p. 25), the BLM evaluated proposed alternatives and provided rationale as to why they were eliminated from further analysis. Additional detail regarding dismissal of specific

alternatives proposed by various parties can be found in Appendix B, *Public Comment Report*; specifically see responses to comments 10, 13, and 14 (SDNM RMPA/EA pp. B-3 and B-5).

The BLM did not initially include a specific description of the Arizona Game and Fish Department’s proposed alternative or clearly explain the rationale for dismissing the alternative in Section 2.9, *Alternatives Considered but Eliminated from Further Study* (SDNM RMPA/EA p. 25), because the BLM did not recognize this comment as a new alternative proposal. As such, the protest issue was remanded to the state director for consideration, clarification, further planning, or other appropriate action. The state director provided additional explanation in Section 2.9, *Alternatives Considered but Eliminated from Further Study* (SDNM RMPA/EA p. 25), explaining why this alternative submitted during the public comment period was not carried forward for detailed analysis. Accordingly, the BLM has complied with NEPA and this protest is resolved.

NEPA – Impacts Analysis

Congressional Sportsmen’s Foundation Taylor Schmitz

Issue Excerpt Text: The EA does not explain how the environmental analysis for the 2018 plan amendment that left open nearly 90% of the SDNM for target shooting was flawed, and in what manner it was flawed. Appendix A does not provide an impartial, objective analysis using sufficient data to determine the suitability of land in the SDNM for target shooting. The appendix continues the use of a flawed understanding of target shooting and does not support its conclusions with applicable facts and data to support the statements and conclusions contained within.

Congressional Sportsmen’s Foundation et al. Taylor Schmitz et al.

Issue Excerpt Text: Section 2.1.2 Slope Analysis underscores the EA’s lack of understanding of target shooting and the misuse of data as a pretext for closure. It recognizes that guidance for backstops for target shooting is not available for dispersed shooting (p.4), but then creates criteria that could be considered for more intensive target shooting or for some form of developed shooting range. It then applies these criteria across the SDNM. The criteria prejudice the target shooters who can take advantage of undulating landscapes and who in practice shoot down not upward, as the criteria assumes. The use of slope analysis to serve as a basis for closing public land to target shooting is ill conceived and is suggestive of a precedent for closing public lands to target shooting and hunting anywhere arbitrary slope features might be applied. The analysis fails to factor actual use by target shooters and other recreational users of these lands and the incidence of conflict among them, history of injury or death from shooting where these activities occur away from roadways on land with less than 15% slope.

Arizona Game and Fish Department Clay Crowder

Issue Excerpt Text: BLM acknowledges that shooters will disperse to other areas within the Monument: The 2017 Monument Target Shooting RMPA/FEIS concludes that population growth and development has resulted in changing opportunities for dispersed recreational target shooting (BLM 2017a: 3-59). Urban growth and development have made it increasingly difficult for recreational target shooters to find unstructured areas without affecting other users or natural resources, and the BLM expects this trend to continue. (BLM 2017a: 3-59). Target shooters displaced from the areas that would be made unavailable under these alternatives would likely relocate to the remaining available areas in the Monument or seek similar opportunities on nearby lands outside the Monument (BLM 2017a: 5-56). Making the majority of the popular dispersed recreational target shooting areas

unavailable would result in moderate to major cumulative impacts on dispersed recreational target shooting opportunities in the Monument (BLM 2017a: 5-55). The displacement of dispersed recreational target shooting activities to other areas within and outside the Monument could, over time, result in more crowded target shooting locations and inadvertently push dispersed recreational target shooting into new areas or cause target shooters to stop engaging in this activity. Proposed Resource Management Plan Amendment and EA, Sections 3.2.7.1 at 75 and 3.2.7.3 at 81 (emphasis added). The RMPA/EA fails to adequately describe the likely adverse environmental and safety consequences of this expected dispersal of recreational shooters into new and unauthorized areas within the Monument. BLM must take a “hard look” at the impacts of the preferred Alternative C. See BLM Handbook H-1790-1, Section 6.8.1.2.

Arizona Game and Fish Department Clay Crowder

Issue Excerpt Text: Several Areas Identified in Alternative C as Available for Recreational Target Shooting Have No Legal Road Access Figure 5 of the RMPA/EA shows the areas available for recreational target shooting under Alternative C. The Suitability Analysis at 2 states it “did not consider motorized access to the areas that may be considered as available for dispersed recreational target shooting”. The desktop analysis could not “accurately evaluate proximity of slopes to roads”. EA at 10. The Department’s own analysis shows that of the 41 geographically-isolated areas open under Alternative C for recreational target shooting, twelve have no designated road access. The distances between a designated road and these twelve areas range from one-tenth of a mile to well over a mile. See the maps illustrating the distance from a road to an open area in the Department’s August 23, 2023 comment letter. Presidential Proclamation 7397 establishing the Sonoran Desert National Monument (January 17, 2001) states that to protect Monument objects, “all motorized and mechanized vehicle use off road will be prohibited, except for emergency or authorized administrative purposes”. BLM must manage the SDNM in compliance with the Proclamation. Designating shooting sites where no convenient road access exists will encourage the development of numerous user-created routes, in violation of 43 C.F.R. § 8341.1 (operation of off-road vehicles on BLM lands allowed only on those areas and trails designated as open to off-road vehicle use; 43 C.F.R. § 8340.0-7 (violation of 43 C.F.R. § 8341 may result in prosecution); ARS § 17-454 (prohibiting motorized cross-country travel on public lands where prohibited by rule or regulation). The Department is charged with enforcement of A.R.S. § 17-454. Alternative C will impose regulatory burdens on the Department’s post-certified law enforcement officers to enforce BLM laws prohibiting cross-country travel.

Center for Biological Diversity Russell McSpadden and Laiken Jordahl

Issue Excerpt Text: While the EA considers some baseline conditions in its analysis, BLM has failed to fully account for the existing baseline conditions of the Monument, which are severely impacted by target shooting. The courts have clearly established that “NEPA requires that the agency provide the data on which it bases its environmental analysis.” *N. Plains Res. Council, Inc. v. Surface Transp. Bd.*, 668 F.3d 1067, 1083 (9th Cir. 2011). They have determined that “[s]uch analyses must occur before the proposed action is approved” because “once a project begins, the pre-project environment becomes a thing of the past and evaluation of the project’s effects becomes simply impossible.” *Id.* (quoting *LaFlamme v. FERC*, 852 F.2d 389, 400 (9th Cir. 1988)). Thus, “[e]stablishing appropriate baseline conditions is critical to any NEPA analysis.” *Great Basin Res. Watch v. BLM*, 844 F.3d 1095, 1101 (9th Cir. 2016). “Without establishing the baseline conditions which exist ... before [a project] begins, there is simply no way to determine what effect the [project] will have on the environment and, consequently, no way to comply with NEPA.” *Id.*; *Half Moon Bay Fisherman’s Marketing Ass’n v. Carlucci*, 857 F.2d 505, 510 (9th Cir. 1988). The BLM has failed to fully disclose

the existing baseline conditions, including the severe and omnipresent past impacts of recreational target shooting within SDNM on wildlife, plants, cultural resources, and other protected objects. While some baseline conditions are addressed in the EA, it is clear that BLM has failed to provide a full accounting of the severe harms target shooting has already caused to Monument resources and values.

***Center for Biological Diversity
Russell McSpadden and Laiken Jordahl***

Issue Excerpt Text: Despite this wealth of scientific literature document the adverse impacts of lead on wildlife, BLM failed to analyze how lead ammunition at areas deemed available for target shooting in Alternative C would be compatible with protecting Monument objects, namely wildlife and vegetation. Lead has long been recognized as a poison to wildlife (Grinnell 1894; Engstad 1932; Horton 1933). Lead was highlighted as an important cause of mortality in wildlife populations in the late 1950s, when ingestion of spent hunting lead pellets was recognized as causing death in a wide range of wild waterfowl (Bellrose 1959). Reports of poisoned wildlife have continued frequently since that time (e.g. Bates et al. 1968; Irwin and Karstad 1972; Sanderson and Bellrose 1986; Kramer and Redig 1997; Schulz et al. 2006). In emails obtained through FOIA, BLM partner Jeff Grush shared concerns of lead poisoning to wildlife within SDNM with Matthew Plis, and environmental engineer for the BLM’s Lower Sonoran Desert Field Office. Grush stated: [I] continue to have problems with target shooters bringing produce to shoot at with shotguns ... the lead shot is eaten with the produce by small animals that die or are shot while eating the produce on site... and I now have a large number of Vultures dying... cant [sic] prove but think that Vultures are dying from the lead shot from the dead small critters. (Email dated Sep. 23, 2016 from Jeff Grush to Matthew Plis, Eric Zielske, Edward Kender, David Hawes, and Leon Thomas Jr. titled “Shooting Areas Risk Assessment question,” obtained through FOIA) Despite this clear threat of lead poisoning to wildlife as both a direct and cumulative impact of management action or inaction, BLM has offered not even a mention of this in its EA.

***Center for Biological Diversity
Russell McSpadden and Laiken Jordahl***

Issue Excerpt Text: Long-lived species are particularly susceptible to bioaccumulation of lead in bone tissues, and repeated lead ingestion and accumulation in long-lived species can reduce bone mineralization, which may signal an increase in bone fragility (Gangoso et al. 2009). Gangoso et al. (2009) found an unusually high level of frequency of fractures and even leg amputations in an Egyptian vulture (*Neophron percnopterus*) population with high exposure to ingestion of lead ammunition. Lead poisoning due to ingestion of spent shot or bullet fragments has had population-level effects for some bird species with low recruitment rates, depressed populations, or that are in recovery, such as the California condor, bald eagle, trumpeter swan, sandhill crane, and spectacled eider (Hennes 1985; Grand et al. 1998; Church et al. 2006, Slabe et al. 2022). Because target shooting will result in reasonably foreseeable impacts to wildlife via the ingestion of lead, the BLM must disclose these impacts in any subsequently prepared NEPA document. Because BLM failed to do so, despite public comments identifying this omission, BLM has violated its NEPA obligations.

Summary:

The BLM failed to analyze actual use by target shooters within the SDNM in its slope analysis and to document the incidence of conflict, as well as disclose the baseline conditions including the ingestion of and pollution by lead shot or bullet fragments on wildlife, plants, cultural resources, and other protected objects both within high-traffic areas and inaccessible areas. The BLM did not conduct an impartial scientific analysis to determine the suitability of land in the SDNM for target shooting,

making the analysis in the EA flawed. The designation of recreational target shooting areas without road access, along with the failure to make areas with convenient road access available to recreational shooting, would encourage the development of user-created routes and place additional burdens on law enforcement as well as increase the potential for damage within the Monument or on similar, nearby lands outside the Monument.

Response:

The effects analysis must demonstrate that the BLM took a “hard look” at the impacts of the action (BLM NEPA Handbook, H-1790-1, 6.8.1.2, *Analyzing Effects*). The environmental information made available to public officials and citizens before decisions are made must be of “high quality” (40 CFR 1500.1(b)). A “hard look” is a reasoned analysis containing quantitative or detailed qualitative information (BLM NEPA Handbook, H-1790-1, 6.8.1.2, *Analyzing Effects*). The BLM must use information of high quality and scientific integrity in its NEPA analysis, including information provided as part of public involvement (40 CFR 1500.1(b)). The NEPA documents are to be analytic, rather than encyclopedic (40 CFR 1500.4(b)).

The level of detail of the NEPA analysis must be sufficient to support reasoned conclusions by comparing the amount and the degree of change (impact) caused by the proposed action and alternatives (BLM Handbook H-1790-1, Section 6.8.1.2). The BLM need not speculate about all conceivable impacts, but it must evaluate the reasonably foreseeable effects of the proposed action. A land use planning-level decision is broad in scope. For this reason, analysis of land use plan alternatives is typically broad and qualitative rather than quantitative or focused on site-specific actions. The baseline data provide the necessary basis to make informed land use plan-level decisions.

As the land use planning decisions under consideration by the BLM are programmatic in nature, the scope of the analysis was conducted at a regional, programmatic level. The analysis focuses on the direct, indirect, and cumulative impacts that could potentially result from planning-level changes. This analysis identifies impacts that may result in some level of change to the resources, regardless of whether that change is beneficial or adverse.

The BLM’s slope analysis is described in Section 2.1.2 of SDNM RMPA/EA Appendix A (Appendix A p. 4) and was conducted using a geographic information system analysis of 5-meter digital surface model data to distinguish areas where the natural slope of the terrain indicated that target shooting might safely be conducted. Specific guidance for backstops is only available for managed shooting ranges and not for dispersed recreational target shooting on public lands, and this guidance as well as the 2012 Monument Resource Management Plan (RMP)/Final Environmental Impact Statement (EIS) recommends a minimum slope of 45 degrees for construction of backstops on managed shooting ranges and for suitable user-selected dispersed recreational target shooting backstops (SDNM RMPA/EA Appendix A, p. 4). However, a minimum of 15 degrees was utilized for the desktop analysis to identify all possible areas with suitable slopes within the Monument for additional analysis both in the 2012 Monument RMP/Final EIS (BLM 2012:Appendix G, p. 4) and for this effort (SDNM RMP/EA Appendix A, p. 4), which represents a broader range of topography than a 45-degree slope threshold. The 2012 Monument RMP/Final EIS can be found on the ePlanning website at the following link: <https://eplanning.blm.gov/eplanning-ui/project/11856/570>. Therefore, the BLM used the best available information to inform its slope analysis as discussed in Section 2.1.2, *Slope Analysis* (SDNM RMPA/EA Appendix A, p. 4) and cited in Section 5, *Literature Cited* (SDNM RMPA/EA Appendix A, p. 24).

The SDNM RMPA/EA provides management for recreational shooting at a landscape scale by making areas available for dispersed recreational shooting. Not all areas available to dispersed recreational shooting in the RMP/EA are immediately accessible by road. However, making areas available for dispersed recreational target shooting does not permit off-road motorized access.

Participants must use non-motorized methods, like hiking, to reach these areas from roads open to motorized or mechanized travel. Users are responsible for adhering to relevant laws, regulations, and best management practices outlined in the 2012 Approved RMP, Appendix H. Nevertheless, the potential impacts from members of the public engaging in unauthorized off-highway vehicle use on access portions of SDNM that are available to dispersed recreational target shooting has been clarified in the EA.

Enforcement activities are a component of the BLM’s management but cannot be used as a substitute for proactive land management. Additionally, the monitoring and mitigation plan outlined in Appendix B of the 2017 Monument Target Shooting RMPA/Final EIS would be used to monitor ongoing recreational activities and evaluate disturbance within the Monument. This document is incorporated by reference into Section 2.8, *Monitoring and Mitigation Protocol*, of the SDNM RMPA/EA (pp. 24–25). The mitigation and monitoring plan has identified levels of acceptable change within the Monument, and management action would be taken in the future if areas are determined to exceed these limits. The 2017 Monument Target Shooting RMPA/Final EIS can be found on the ePlanning website at the following link: <https://eplanning.blm.gov/eplanning-ui/project/55195/570>.

The BLM analyzes the potential impacts from dispersed recreational shooting in the SDNM RMPA/EA and in the 2017 Monument Target Shooting RMPA/Final EIS (pp. 5–53), which is incorporated by reference into Section 3.1.3, *Cumulative Effects Analysis*, of the SDNM RMPA/EA (p. 30). This section describes the cumulative effects of the alternatives when added to other past, present, and reasonably foreseeable future actions. The addition of five new developed recreational shooting sites is also discussed in Section 3.1.3.1, *Recreation* (SDNM RMPA/EA p. 30), and analyzed in Section 3.2.8.3, *Cumulative Effects*, of the SDNM RMPA/EA (pp. 92–94). Potentially displaced recreational target shooters may choose to utilize these designated shooting sites. The BLM will continue to monitor for unauthorized use within the Monument per the monitoring and mitigation plan detailed in Appendix B of the 2017 Monument Target Shooting RMPA/Final EIS. As described above, users are responsible for adhering to relevant laws, regulations, and best management practices, and the BLM would take management action in the future if areas are determined to exceed levels of acceptable change as defined in the monitoring and mitigation plan.

In the establishment of baseline conditions, the BLM utilized the best available scientific information, incorporating previous studies and information in the SDNM RMPA/EA as appropriate from the 2012 Monument RMP/EIS and the 2017 Monument Target Shooting RMPA/Final EIS. In 2022, the BLM also conducted a site assessment of previously inventoried recreational sites, identifying damage to Monument objects in areas with high dispersed recreational target shooting activity, as detailed in the SDNM RMPA/EA, Section 1.4 (p. 6), and referenced in relevant resource sections. These site assessments identified additional areas where high levels of dispersed recreational target shooting use was observed. The purpose of the CEQ regulations at 40 CFR 1502.22 is to advance decision-making in the absence of complete information regarding the environmental effects associated with the proposed action. The prerequisite level of information necessary to make a reasoned choice among the alternatives in an EA is based on the scope and nature of the proposed decision. A land use planning–level decision is broad in scope and therefore does not require an exhaustive gathering and monitoring of site-specific baseline data. The analysis of land use plan alternatives is presented at a broad landscape scale in the SDNM RMPA/EA. The BLM’s baseline data were sufficient to compare and contrast the impacts of the range of alternatives and make informed land use plan–level decisions.

The potential for impacts on wildlife related to lead and other hazardous materials has been sufficiently identified to the extent that an informed decision can be made. These impacts were disclosed in the 2017 Monument Target Shooting RMPA/Final EIS (Section 4.2.3, *Priority Wildlife and Habitats*) and incorporated by reference into the SDNM RMPA/EA (Section 3.2.2, *Priority*

Wildlife Habitat and Species, pp. 37–56). Additional discussion regarding the presence and impacts of lead, arsenic, and other hazardous materials is presented in Section 3.2.10, *Hazardous Materials and Public Safety*, of the SDNM RMPA/EA (pp. 97–98), and additional context regarding the analysis of the effects of bioaccumulation of lead in wildlife has been provided in Section 3.2.2, *Priority Wildlife Habitat and Species* (SDNM RMPA/EA pp. 37–58). The BLM will continue implementation of the existing Monument Monitoring and Mitigation Protocol (Appendix B of the 2017 Monument Target Shooting RMPA/Final EIS) and following best practices (Appendix D of the 2012 Approved RMP). These documents are incorporated by reference into Section 2.8, *Monitoring and Mitigation Protocol*, of the SDNM RMPA/EA (pp. 24–25) and would apply to all alternatives proposed in the SDNM RMPA/EA. The BLM’s future management actions regarding the use of lead ammunition will be guided by the Department of the Interior’s directives. Users are responsible for using approved ammunition and associated materials, following the best management practices outlined in the 2012 Approved RMP, Appendix H. The SDNM RMPA/EA establishes a framework for managing dispersed recreational target shooting activities within the Monument, rather than managing individual use or the use of specific ammunition.

While additional clarification has been added to the EA, no substantive changes were made and the SDNM RMPA/EA adequately complied with NEPA’s requirement to analyze the environmental consequences/impacts associated with recreational target shooting in the SDNM RMPA/EA. Accordingly, this protest is denied.

NEPA – Cumulative Effects

***Center for Biological Diversity
Russell McSpadden and Laiken Jordahl***

Issue Excerpt Text: The court has previously held BLM in violation of NEPA for not adequately assessing the cumulative impacts of recreational target shooting on the Monument. Nat’l Trust for Historic Preservation, 2015 U.S. Dist. LEXIS 39380. at *34-*38. The court focused on the example of wildlife impacts, stating that “[a] reader is left uncertain of the cumulative impacts of all activities to be permitted under the ROD, including target shooting, on wildlife. Thus, while this analysis does contain more than “perfunctory references” to cumulative impacts, it nevertheless is not “useful to a decisionmaker in deciding whether, or how, to alter the program to lessen cumulative environmental impacts.”“ Id. at *37. The EA and RMPA fail to assess the cumulative impacts of I-11 which is proposed to flank the northeastern boundary of Sonoran Desert National Monument. Further, the impacts of lead poisoning in areas deemed suitable for target shooting in Alternative C could be considered indirect impacts of allowing target shooting to continue because such poisoning is “caused by the action and [is] later in time or farther removed in distance, but [is] still reasonably foreseeable.” 40 C.F.R. § 1508.8 (2019); see also 40 C.F.R. § 1508.1(g)(2) (2023) (using similar language), and target shooting will leave lead strewn around the landscape where it is likely to be ingested by wildlife. BLM must account for the direct, indirect, and cumulative impacts of recreational target shooting in the Monument including the cumulative and/or indirect harms caused by lead poisoning to wildlife, which the EA entirely fails to consider. Examples of direct, indirect and cumulative impacts of recreational target shooting the EA fails to consider are impacts to packrat middens, geologic formations and landscape features that BLM calls backstops and slopes, as well as lead contamination of soils that may be spread by wind or other means across the Monument could impact the public, wildlife and Monument objects.

Summary:

The BLM has failed to consider the direct, indirect, and cumulative impacts of recreational target shooting in the Monument, including the cumulative and/or indirect harm caused by lead poisoning to wildlife.

Response:

The BLM must discuss the cumulative effects of the proposed action and the alternatives when preparing an EA (BLM Handbook H-1790-1, Section 6.8.3). Cumulative effects are “the effects on the environment which results from the incremental effect of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such actions” (40 CFR 1508.1).

The BLM has prepared a cumulative impact analysis based on the broad nature and scope of the proposed management options under consideration at the land use planning level. The cumulative impact analysis considered the effects of the planning effort when added to other past, present, and reasonably foreseeable (not highly speculative) Federal and non-Federal actions. Cumulative impacts under each alternative were disclosed in detail in Chapter 3 of the SDNM RMPA/EA in their own cumulative effects sections after the individual alternatives analysis sections for each resource or resource use. These cumulative effects sections identify all reasonably foreseeable actions that were considered in the cumulative impacts analysis and provide a basis for the cumulative impacts analysis for each affected resource and resource use.

The BLM acknowledges that activities, including dispersed recreational target shooting, can potentially affect Monument objects. The suitability analysis detailed in Appendix A of the SDNM RMPA/EA outlines the BLM’s requirements for the care and management of these objects and their compatibility with dispersed recreational target shooting. The BLM conducted a comprehensive assessment of the potential impacts on Monument objects across all alternatives. Potential lead-related impacts on wildlife were disclosed in the 2017 Monument Target Shooting RMPA/Final EIS (Section 4.2.3, *Priority Wildlife and Habitats*) and incorporated by reference into Section 3.2.2, *Priority Wildlife Habitat and Species*, of the SDNM RMPA/EA (pp. 37–56). Cumulative effects related to recreational shooting, including contamination from ammunition that can contain lead and abandonment of targets, were disclosed in the 2017 Monument Target Shooting RMPA/Final EIS across all alternatives as they relate to water resources (Section 5.2.6) as well as hazardous materials and public safety (Section 5.5.2). The 2017 Monument Target Shooting RMPA/Final EIS can be found on the ePlanning website at the following link: <https://eplanning.blm.gov/eplanning-ui/project/55195/570>.

The analysis in the SDNM RMPA/EA took into account the relationship between the proposed action and these reasonably foreseeable actions. This served as the determining factor as to the level of analysis performed and presented. The information presented in the SDNM RMPA/EA enables the decision-maker to make a reasoned choice among alternatives.

The BLM adequately analyzed cumulative effects in the SDNM RMPA/EA. Accordingly, this protest is denied.

Dingell Act Violation

Congressional Sportsmen's Foundation

Taylor Schmitz

Issue Excerpt Text: The BLM states in the Notice of Public Comment Period on the proposed recreational shooting closure in the SDNM that “The proposed closure is for the smallest area necessary to ensure compliance with Presidential Proclamation 7397 and protect the objects and values for which the monument was designated.” It is understood that the BLM has a lot of leeway in the Proclamation and the Dingell Act to determine what is the “smallest area necessary”, but it defies credulity that the smallest area necessary has now shrunk from the 2018 amended plan of a 10% closure of monument lands to a 99% closure. There is no evidence proffered by the Plan Amendment and the EA to suggest that such significant change has occurred in five years, since 2018, to expand the “smallest area necessary” by nearly ten-fold. Clearly, the State Director’s decision in selecting Alternative C violates the spirit and intent of the Dingell Act, and stretches the Supreme Court’s decision in *Chevron v Natural Resources Defense Council* (Chevron Doctrine) giving deference to an agency’s interpretation when statutory language is not precise, as in this instance, the lack in the Dingell Act of a definition for “smallest area necessary.”

Summary:

The BLM’s proposed amendment (Alternative C) violates direction in the John Dingell Jr. Conservation, Management, and Recreation Act of 2019 (Public Law 116-9, Section 4103) (Dingell Act) to close the “smallest area necessary” to recreational shooting. The BLM has not provided sufficient evidence that a closure from 10 percent in the 2018 amended plan to 99 percent in the proposed amendment (Alternative C) is necessary.

Response:

The Dingell Act requires the BLM to provide public notice and comment before closing public lands to hunting, fishing, or recreational shooting. The Dingell Act also stipulates in Section 4103(a)(2) that any area designated for a shooting closure be the smallest area that is required for public safety, administration, or compliance with applicable laws.

The 60-day Dingell Act comment period for the SDNM RMPA modification to areas available and unavailable for dispersed recreational target shooting within the Monument began on January 22, 2024 (*Federal Register* 89:3949), and ended on March 22, 2024.

The RMPA makes 480,496 acres of the 485,791 acres of the Monument unavailable for dispersed recreational target shooting. This closure results in a reduction of 429,905 acres of the 435,200 acres previously available for dispersed recreational target shooting. In total, 5,295 acres of BLM-administered lands within the Monument would remain available for dispersed recreational target shooting.

The land use plan and management direction for a National Monument must comply with the purposes and objectives of the establishing Proclamation. Multiple uses are allowed to the extent they are not inconsistent with the establishing Proclamation. The intent of formulating management direction for dispersed recreational target shooting is to assist in the protection of Monument objects by determining where this type of activity can be conducted in a manner that is consistent with the protection of Monument objects.

The 2018 Approved RMPA made 50,592 acres of the Monument (10 percent of the Monument) with high recreational use unavailable for dispersed recreational target shooting in consideration of public

safety. The RMPA considered the 2018 decision and incorporates some of the analysis supporting that decision-making process but also considered additional issues not adequately addressed in that decision, including Monument objects and administration of the Monument. The suitability analysis presented in Appendix A of the RMPA/EA documents where dispersed recreational target shooting activities are consistent with the protection of Monument objects identified in Proclamation 7397. The BLM also determined that aligning areas made unavailable to dispersed recreational target shooting around water sources to protect wildlife identified in the Proclamation with the existing state law (Arizona Revised Statutes 17-308) that prohibits camping within 0.25 mile of a water source would facilitate consistent administration of these areas. Based on that analysis, the BLM determined that dispersed recreational target shooting was inconsistent with the protection of Monument objects on 270,069 acres (56 percent of the Monument).

As part of its suitability analysis, the BLM also determined that public health and safety concerns made additional areas of the Monument unsuitable for dispersed recreational target shooting. The suitability analysis identified an additional 145,797 acres (30 percent of the Monument) beyond those areas containing Monument objects as lacking suitable topography (i.e., backstops) for dispersed recreational target shooting activities. These areas were made unavailable in consideration of public safety.

Based on a site evaluation conducted in 2022, the BLM determined that administrative concerns made areas such as designated wilderness areas and lands with wilderness characteristics unavailable for dispersed recreational target shooting. The BLM documented damage and trash accumulation in areas used for dispersed recreational target shooting along cherry-stem roads accessing designated wilderness areas in the Monument and within areas with wilderness characteristics. As the Wilderness Act prohibits the use of motorized and mechanized equipment within designated wilderness areas and topography makes accessing these areas on foot challenging, the BLM must conduct cleanup efforts via helicopter, which is cost prohibitive. The BLM determined that aligning the area made unavailable with existing boundaries for designated wilderness areas and lands with wilderness characteristics would facilitate consistent administration of dispersed recreational target shooting activities within the Monument, which accounts for the remaining 11,945 acres (3 percent of the Monument) made unavailable for dispersed recreational target shooting.

The areas made unavailable for dispersed recreational target shooting also include a 77,958-acre area that was formerly part of the Barry M. Goldwater Range (known as Area A), which requires a permit for public access due to the potential presence of unexploded ordnance. Area A was made unavailable for dispersed recreational target shooting in consideration of public safety. Approximately 60,681 acres of Area A contain Monument objects that are not compatible with dispersed recreational target shooting activities (included in the 56 percent of the Monument made unavailable) and 11,519 acres lacking suitable topography (included in the 30 percent of the Monument made unavailable) that would otherwise not be made available. An additional 3,553 acres of the remaining portion of Area A with suitable topography is within lands with wilderness characteristics (see discussion below for more information regarding administrative concerns, included in the 3 percent of the Monument made unavailable). The final remaining 2,093 acres of Area A were made unavailable solely due to public safety concerns related to unexploded ordnance (less than 1 percent of the Monument).

Finally, because Monument objects identified in the suitability analysis as incompatible with dispersed recreational target shooting activities are present and vulnerable to damage year-round (i.e., saguaro cactus forests, Sonoran desert tortoise, and cultural and heritage resources) and public safety concerns (i.e., suitable topography, unexploded ordnance) do not have a seasonal component, the BLM determined that year-round restrictions were necessary to address public safety concerns and meet the BLM's management responsibilities for Monument objects. As such, the BLM has appropriately determined that making the 480,496 acres of the Monument unavailable for dispersed recreational target shooting for the life of the current RMP represents the smallest area for the least

amount of time that is required for public safety, administration, or compliance with applicable laws, in accordance with the provisions of the Dingell Act. Accordingly, this protest is denied.

National Monuments - Failure to Protect Monument Objects and Values

Center for Biological Diversity

Russell McSpadden and Laiken Jordahl

Issue Excerpt Text: As directed by the Federal Land Planning Management Act (FLPMA) and Presidential Proclamation 7397 (Monument Proclamation), the Bureau of Land Management (BLM) is charged with protection of resources and Monument objects. While the Center recognizes that BLM's proposed Alternative C is a vast improvement on the status quo and would significantly reduce the impacts of recreational target shooting at SDNM, the EA nevertheless excludes important Monument objects from its analysis that will continue to be harmed under Alternative C, in violation of the Monument Proclamation. BLM's duty to balance multiple uses and discretionary uses outside of SDNM are unjustly applied to SDNM through every alternative except for Alternative D. Allowing recreational target shooting to continue within SDNM, even in only 1 percent of the Monument as BLM's proposed action would do, would lead to the degradation and harm of the values and objects SDNM was designated to protect and therefore adversely affect the Center and our supporters. We also recognize that there has likely been incredible pressure from the gun lobby to persuade BLM to allow shooting to remain on the Monument. The Center encourages BLM to follow the rule of law regardless of gun lobby pressure. Together, BLM's EA and FONSI and RMPA include incomplete analyses-and omissions of information and analyses therefrom-through which BLM continues to propose unlawful recreational target shooting in SDNM that would further harm monument objects. The Monument was created to protect an array of scientific, biological, archaeological, geological, cultural, and historic objects (66 Fed. Reg. 7354, 7354-58 (Jan. 22, 2001)) and Alternative C would allow shooting to impact the scientific, biological and geological objects in 1 percent of the Monument.

Center for Biological Diversity

Russell McSpadden and Laiken Jordahl

Issue Excerpt Text: In the RMPA and EA, BLM provides Figure 5 map showing areas "Available for Recreational Target Shooting" for Alternative C.1 According to BLM's own analysis several validation points deemed suitable for target shooting under Alternative C overlap with protected Monument objects. In BLM's Final Sonoran Desert National Monument Recreational Target Shooting Suitability Analysis Report, BLM's Figure 4 map of validation points and subsequent analysis determined that validation point SA 16 is a Sonoran pronghorn use areas; validation point SA10 includes creosote bush-bursage; and validation point SA 01 includes palo verde/mixed cacti vegetation at Validation point SA 01.3 Other locations deemed "Available for Recreational Target Shooting" in Figure 5 map of the RMPA and EA concerning Alternative C simply do not have validation points at all in the Suitability Analysis Report. Analysis is lacking to make any justification for these locations without validation points, specifically, three unnamed points west of Booth Hills and east of validation point SA16; one point west of Area A, south of White Hills and north of the Barry M. Goldwater Range; and two points-one along the southern edge of Table Top Wilderness and one along the southeastern edge of Table Top Wilderness. BLM fails to provide any analysis justifying these areas for target shooting. Nor does the EA address the impacts target shooting (from noise, errant bullets, etc.) is likely to have on nearby recreation areas and values, such as the wilderness areas. These area also include Monument objects which BLM is required to protect. The areas identified as available for shooting in Figure 5 of the RMPA and EA fail to analyze impacts to packrat middens or the landscape values of the geologic formations described as

backstops and slopes. Geologic formations that are wrongfully used as backstops are most certainly one of the main Monument objects at SDNM that will continue to be harmed by target shooting in Alternative C. Personal visits have shown examples of geological formations with slopes used as backstops full of thousands or even tens of thousands of bullet holes, their structures crumbling away from shooting. These and future destroyed and trampled geologic features deemed slopes and backstops by BLM are in fact foundational to the landscape of the Monument. The Monument was established as “a magnificent example of Sonoran Desert landscape” but target shooting at geologic formations, incorrectly identified as “back stops” is directly damaging the landscapes within the Monument and diminishing the landscape and geologic values that the Monument was designated to protect. The EA must disclose impacts to these geologic formations and landscape features.

Center for Biological Diversity

Russell McSpadden and Laiken Jordahl

Issue Excerpt Text: The discretionary use of recreational target shooting, even restricted to a reduced area as suggested in Alternative C, directly conflicts with the directives and values of the Monument Proclamation and should be eliminated within SDNM. The following is a list of objects and values identified in the 2001 Monument proclamation, the protection of which must be prioritized over discretionary, recreational target shooting that would still be impacted by Alternative C in areas BLM has wrongly identified as suitable for target shooting. * Untrammelled Sonoran Desert landscape * Functioning desert ecosystem * Extraordinary array of biological, scientific, and historic resources * Excellent habitat for a wide range of wildlife species and spectacular diversity of plant and animal species * Fauna including endangered Sonoran pronghorn, Sonoran desert tortoise, bighorn sheep, mule deer, javelina, mountain lion, gray fox, bobcat, lesser long-nosed bat, California leafnosed bat, cave myotis bat, red-backed whiptail * Packrat middens * Flora such as: Kofa mountain barberry, Arizona rosewood, junipers, palo verde trees, ironwood trees, prickly pear, cholla, desert honeysuckle, chuparosa, desert willow * Vegetation communities of Woodland assemblages, mixed cacti associations, dense stands of leguminous trees, creosote-bursage plant communities, desert grasslands, mesquite forests * Washes * Over 200 species of birds, including raptors and owls (elf and western screech) * Archeological and cultural resources While BLM has listed a number of these objects in the EA, not all of these objects have been included in BLM’s analysis and the EA fails to disclose the impacts of target shooting on some of them such as geological features, the landscape and packrat middens BLM failed to take the hard look NEPA mandates and failed to disclose the potential impacts of recreational target shooting on all of these objects. Even under the reduced acreage of allowed target shooting in Alternative C, BLM has not sufficiently shown that impacts will be truly avoided nor that it can protect these objects and values from harm caused by the discretionary use or recreational target shooting.

Center for Biological Diversity

Russell McSpadden and Laiken Jordahl

Issue Excerpt Text: The Federal Land Policy and Management Act (FLPMA) requires BLM to manage public lands under multiple use principles unless an area has been designated by law for specific uses, in which case BLM must manage the land for those specific uses (43 U.S.C. § 1732(a)). Accordingly, BLM must manage national monuments like SDNM not under FLPMA’s multiple use mandate, but rather under the establishing proclamation. This is expressly provided for in FLPMA itself: The Secretary shall manage the public lands under the principles of multiple use and sustained yield, in accordance with the land use plans developed by him under section 1712 of this title when they are available, except that where a tract of such public land has been dedicated to specific uses according to any other provisions of law it shall be managed in accordance with such law. FLPMA, 43 U.S.C. § 1732(a) (emphasis added). Pursuant to the legal authority granted by

Congress in the Antiquities Act of 1906 (16 U.S.C. § 431-433), the President designated SDNM for the explicit purpose of protecting and preserving identified historic and scientific objects. Accordingly, the standard approach to multiple use management does not apply to SDNM, and any effort to adopt such a management approach to the detriment of its natural and cultural objects and values would be in violation of the Monument Proclamation and the mandates of FLPMA. BLM must manage the Monument for the protection and preservation of its natural, cultural, historic, and scientific values, and only allow uses other than those needed for protection of monument objects when those uses do not conflict with the directives of the Proclamation. BLM can only do this by selecting Alternative D, which would finally place the protection of Monument objects above the discretionary and destructive use of recreational target shooting.

Center for Biological Diversity
Russell McSpadden and Laiken Jordahl

Issue Excerpt Text: The Center protests all portions of the EA and FONSI for the proposed RMPA including BLM’s proposed Alternative C that would allow recreational target shooting with the use of “backstops,” which are most often natural, topographical landscape features which are geological in nature and which are part of the Monument landscape, which is a protected object of the Monument. The Monument proclamation makes clear that the Monument is intended to protect the “untrammelled Sonoran desert landscape” within its boundaries. BLM went to great lengths to conduct slopes analysis to map out areas with a “total area within 500 yards of slopes of 15 degrees or greater” and proximity to Monument objects but failed to analyze impacts to the slopes themselves. Slope, which BLM calls “backstops” if deemed potentially suitable for target shooting are themselves part of the Monument landscape, are often geologic features and protected Monument objects. Landscape features, which BLM describes as slopes and “backstops” in the EA and RMPA may also be situated at or near packrat middens, another Monument object the BLM failed to analyze altogether. The Monument proclamation specifically identifies the scientific value of packrat middens. In our Scoping and Draft EA comments the Center brought up the issue of the potential impact of shooting on packrat middens and yet BLM failed to analyze the presence of, and potential impacts to these protected monument object when identifying suitable recreational target shooting areas

Center for Biological Diversity
Russell McSpadden and Laiken Jordahl

Issue Excerpt Text: Last year, the Department of Interior entered into a settlement agreement in which BLM agreed to undertake a new land use planning process to consider amending the Monument RMP (Nat’l Trust for Historic Preservation, et al. v. Haaland, et al., 19-cv-5008-PHX-MHB (D. Ariz., April 14, 2022), Doc. No. 88). This led to the BLM’s draft EA and analysis of alternatives that were released to the public June 14, 2023. The most important aspect of this plan amendment was to ensure that the objects that these areas were designated to protect are conserved and restored over the life of the plan, clearly prioritizing the protection of these objects over discretionary uses like recreational target shooting. As such, the only suitable alternative to safeguard the Monument’s objects and values over discretionary uses presented was Alternative D, Monument Unavailable for Dispersed Recreational Target Shooting. On January 19, 2024, BLM published notice of the availability for the proposed EA and RMPA along with an unsigned FONSI and identified Alternative C as the preferred alternative. While Alternative C, limiting target shooting to 1 percent of the Monument, is indeed an improvement to the status quo of the vast majority of acreage of the Monument being open to target shooting, it is, nevertheless, a failure to prohibit uses that conflict with the values that SDNM was designated to protect.

Summary:

The BLM is obligated to adhere to the Monument Proclamation, superseding the management practice of managing under FLPMA for multiple use, and the BLM should only allow multiple uses when they do not conflict with the directives of the Monument Proclamation. In the analysis for the proposed amendment (Alternative C), the BLM has not sufficiently shown that impacts from target shooting will be consistent with Proclamation 7397 and the protection of monument objects, such as packrat middens and geologic formations being used as backstops.

Response:

SDNM was established under Presidential Proclamation 7397 in 2001. This proclamation established approximately 486,400 acres of BLM-administered lands for the protection of scientific, biological, archaeological, geological, cultural, and historic objects outlined in the Proclamation (*Federal Register* 66(14):7354–7358). Land use plans for a National Monument must analyze and consider measures to ensure that objects are conserved, protected, and restored (BLM Manual Section 6220.1.6.G.4). Through the land use planning process, the BLM identifies specific and measurable goals and objectives for each object (BLM Manual Section 6220.1.6.G.4.a).

Proclamation 7397 does not require the BLM's management decisions to be those that are the most protective of Monument objects. Instead, it requires that, on balance, the BLM's management decisions be consistent with the overall protection of the identified objects. The SDNM RMPA/EA must comply with the purposes and objectives outlined in Proclamation 7397, but multiple uses are allowed to the extent they are not inconsistent with Proclamation 7397.

The BLM developed the management under each action alternative with the purpose of protecting Monument objects and values as described in the purpose and need for the SDNM RMPA/EA (see Section 1.2, p. 6). Based on the impacts analysis conducted, the BLM included measures in the SDNM RMPA/EA that protect monument objects and contribute to meeting the goals and objectives for objects as set forth in the SDNM RMPA/EA. In addition to the impacts analysis in Chapter 3, Appendix A of the SDNM RMPA/EA provides the Final Sonoran Desert National Monument Recreational Target Shooting Suitability Analysis Report. This report specifically analyzes the impacts of dispersed recreational target shooting in the Monument to determine where dispersed recreational target shooting is not compatible with proper care and management of Monument objects and those areas unsuitable for dispersed recreational shooting due to health and safety concerns. This analysis includes detailed rationale and documents those areas where dispersed recreational target shooting is not compatible with the protection of Monument objects. Specifically, to make these determinations the analysis compares the relative resiliency of listed Monument objects to dispersed recreational target shooting disturbance, and includes protection criteria for those Monument objects as described in the 2012 Monument RMP/Final EIS (Table 13, pp. 1-18–1-20) and incorporated by reference into the SDNM RMPA/EA (Appendix A, *Suitability Analysis Report*). The 2012 Monument RMP/Final EIS can be found on the ePlanning website at the following link:

<https://eplanning.blm.gov/eplanning-ui/project/11856/570>. The analysis in the suitability report includes field validations to determine the suitability of backstops in areas open to recreational shooting including the determination of the presence of Monument objects. As outlined in the SDNM RMPA/EA (Appendix A, *Suitability Analysis Report*, p. 4), the BLM compiled and reviewed guidance for determining the minimum appropriate slope conditions for safe recreational shooting backstops. These guidance documents included the following:

- *Environmental Aspects of Construction and Management of Outdoor Shooting Ranges* (National Shooting Sports Foundation 2011)
- *Range Design Criteria* (U.S. Department of Energy 2012)

- *Range Source Book: A Guide to Planning and Construction* (National Rifle Association 2012)

Monument objects and the potential effects of recreational shooting on Monument objects were identified and analyzed throughout Chapter 3, *Affected Environment and Environmental Consequences*, of the SDNM RMPA/EA (pp. 26–110). The analysis discloses the potential for effects on Monument objects related to recreational target shooting including, but not limited to, the improper use of off-highway vehicles and the bioaccumulation of lead as a result of recreational target shooting. Additionally, the potential for impacts on recreation from recreational shooting–related noise were disclosed in the 2017 Monument Target Shooting RMPA/Final EIS (Section 4.3.2, *Recreation Management*) and incorporated by reference into the SDNM RMPA/EA (Section 3.2.7, *Recreation*, pp. 78–85). Additionally, as detailed in the 2017 Monument Target Shooting Draft RMPA/EIS Appendix B, should impacts exceed established thresholds, the BLM would provide a scaled response proportionate with the level of impacts detected.

Potential impacts related to errant bullets and public health and safety were analyzed in the 2012 Monument RMP/EIS and the 2017 Monument Target Shooting RMPA/Final EIS (Section 3.5.2., *Hazardous Materials and Public Safety*). Additional best management practices are also outlined in the 2012 Monument RMP/EIS (Appendix A, *Best Management Practices and Standard Operating Procedures*).

Packrat middens protection criteria were disclosed in the 2017 Monument Target Shooting RMPA/Final EIS (Table 3-14, Sonoran Desert National Monument Objects) and analyzed in the SDNM RMPA/EA (Section 3.2.2, *Priority Wildlife Habitat and Species*, pp. 37–56). The species (*Neotoma cinerea*) continues to be present within the Monument and has been documented in caves and dry rock shelters. Caves were analyzed in the SDNM EA Appendix A, *Suitability Analysis Report*, for bat species and therefore were taken into consideration in this analysis.

Based on the analysis conducted in the SDNM RMPA/EA and associated Suitability Analysis Report in Appendix A, potential impacts on Monument objects from the proposed alternatives have been sufficiently identified to the extent that an informed decision on where recreational target shooting would not impair BLM’s responsibility to conserve and protect objects and values can be made. To provide better understanding, language was added to the EA. The addition of clarifying language to the EA did not result in substantive changes and the SDNM RMPA/EA adequately protects Monument objects and values. Accordingly, this protest is denied.

References

- National Rifle Association. 2012. *Range Source Book: A Guide to Planning and Construction*. National Rifle Association Range Services.
- National Shooting Sports Foundation. 2011. *Environmental Aspects of Construction and Management of Outdoor Shooting Ranges*. Newtown, CT: National Shooting Sports Foundation.
- U.S. Department of Energy. 2012. *Range Design Criteria*. Washington, DC: U.S. Department of Energy Office of Health, Safety and Security.
- U.S. Department of the Interior, Bureau of Land Management (BLM). 2012. *Lower Sonoran and Sonoran Desert National Monument Proposed Resource Management Plan and Final Environmental Impact Statement*. June. <https://eplanning.blm.gov/eplanning-ui/project/11856/570>.
- . 2017. *Sonoran Desert National Monument Target Shooting Proposed Resource Management Plan Amendment and Final Environmental Impact Statement*. October. <https://eplanning.blm.gov/eplanning-ui/project/55195/570>.