



March 22, 2024

Submitted via email: BLM_AZ_SDNMtargetshooting@blm.gov

Bureau of Land Management (BLM)
Sonoran Desert National Monument
Attn.: RMPA EA
2020 E Bell Road
Phoenix, AZ 85022

RE: Docket # BLM_AZ_FRN_MO4500176275

The John D. Dingell, Jr. Conservation, Management, and Recreation Act of 2019 (Dingell Act) and the Proposed Recreational Shooting Closure on the Sonoran Desert National Monument

Arizona Sportsmen for Wildlife Conservation (AZSFWC) is a 501c-3 organization dedicated to wildlife conservation, habitat improvement, youth recruitment and retention, as well as educating outdoor enthusiasts on issues important to their passions. AZSFWC's 40 member, associate and affiliate organizations reach across the spectrum of wildlife conservation, hunting, angling, shooting sports, and outdoor recreation groups from Arizona, representing more than 30,000 people.

AZSFWC provided comments regarding a Finding of No Significant Impact (FONSI) for the Sonoran Desert National Monument (SDNM) Recreational Target Shooting Resource Management Plan Amendment (RMPA) and Environmental Assessment (EA) on August 4, 2023 (attached). In those comments AZSFWC urged the BLM to "remain vigilant in keeping [the Dingell Act] provisions in perspective."

AZSFWC provided comments regarding the Notice of Intent to Amend the Resource Management Plan for the SDNM on September 23, 2022 (attached). Included in these comments were references to specific Dingell Act requirements regarding recreational shooting opportunities which were omitted from the planning process.

Unfortunately, despite our earlier pleas to comply with the Dingell Act, the RMPA, and Final Environmental Assessment (FEA) fail to comply with statutory mandates. As representatives of the sporting community who fought long and hard for the protections in the Dingell Act, we have a vested interest in seeing it applied properly. As stated in our previous comments, AZSFWC understands the resource damages to the SDNM that irresponsible actions have caused. However, these bad actors are not reason to subvert the clear Congressional mandate of the Dingell Act and we ask that the BLM properly apply it to this management decision.

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The closure actions recommended in the RMPA violate the Dingell Act (16 USC 7912(a))

As described in detail below the BLM analysis has failed to demonstrate that a closure is required. And even if it had been shown that a closure is required, the analysis fails to show that such a closure is for "the smallest area for the least amount of time." The requirements in the Dingell Act are very clear as to what must be shown in order to implement a new closure of Federal land to hunting, fishing, or recreational shooting. Because the BLM's analysis fails to meet those requirements implementing a closure is a clear violation of the mandates of the Dingell Act.

1. The BLM has not shown that a closure is "required for public safety, administration, or compliance with applicable laws."

The proposed RMPA and FEA fail to adequately establish a relationship between legal recreational shooting and "public safety, administration, or compliance with applicable laws." The analysis fails for three reasons – 1) it fails to accurately assess the impacts of legal recreational shooting, 2) it goes beyond "public safety, administration, or compliance with applicable laws," and 3) it relies on speculative relationships.

1.A. The analysis fails to accurately assess the impacts of legal recreational shooting.

Rather than consider the impacts of the activity which the RMPA purports to regulate ("where dispersed recreational target shooting should be available", RMPA/EA page 6), the analysis inappropriately expands to include the impacts of illegal recreational shooting and legal and illegal vehicle travel.

1.A.1. The analysis conflates the potential impacts of legal recreational shooting with illegal actions taken by those who are not engaged in legal recreational shooting.

The RMPA and FEA explicitly states that "[p]otential impacts from both legal (following all federal, state, and local laws and regulations) and illegal dispersed recreational target shooting are discussed in the impact analysis as one general activity" (RMPA/FEA page 28). This conflation results in including the "potential for mortality from gunfire and vehicles" on Sonoran pronghorn (RMPA/FA page 46). Because "recreational target shooting" is defined to not include "the lawful taking of a game animal" (RMPA/FEA page 2) gunfire mortality of Sonoran pronghorn would be the illegal take of a game animal, which is already prohibited under Arizona law. Similarly, the RMPA/FEA improperly considers illegal taking of the Sonoran Desert Tortoise (gunfire mortality, RMPA/FEA page 48) as an impact of recreational target shooting. The analysis also improperly attributes illegal dumping of solid waste (RMPA/FEA pages 78 and 98) and illegal off-road travel (RMPA/FEA page 29) to legal recreational shooting. Undoubtedly there are illegal activities occurring on the SDNM, and the previous AZSFWC letters have acknowledged this, but the analysis fails to establish how implementing new restrictions on legal activity will lead to any increased compliance by those already violating state and federal laws and regulations.

1.A.2 The analysis conflates the potential impacts of legal recreational shooting with the impacts of vehicle traffic.

The analysis explicitly attributes vehicle-related impacts, both legal (for example RMPA/FA pages 33, 46, 89) and illegal (for example RMPA/FA page 29) to legal recreational shooting. While we agree with the assertion that dispersed recreational shooting is heavily dependent on motorized vehicle access, it is inappropriate to manage vehicular impacts through regulation of recreational shooting. The BLM has a well-established Travel and Transportation Management approach – a “comprehensive approach to planning, on-the-ground management, and administration of travel networks and transportation systems, which includes areas, roads, primitive roads, trails, rivers, and other managed travel routes” (BLM Manual 1626, Travel and Transportation Management Manual, Release 1-1778, page 1-14). The BLM policy of using a Travel Management Plan allows a comprehensive look at all transportation-related impacts, rather than addressing them individually by user group. Managing vehicular impacts through a Travel Management Plan also allows a more efficient use of regulations by directly addressing the vehicles themselves, rather than trying to use a proxy like recreational shooting or other incidental activities. AZSFWC agrees that the BLM should consider and manage the impacts of vehicular traffic, but the BLM should use established processes to do so, not this current RMPA.

1.B. The analysis fails by going beyond “public safety, administration, or compliance with applicable laws” by relying on a settlement.

Alternative C analyzed in the RMPA / FA goes beyond the Alternative B’s focus on “protection of Monument objects that are considered incompatible with dispersed recreational target shooting” (RMPA/FA page 16) to create additional restrictions “following the requirements of the April 22 settlement agreement” (RMPA/FA page 19). The basis for the geographic limits contained in Alternative C do not derive from “public safety, administration, or compliance with applicable laws.” While these geographic limits may serve to comply with an agreement to avoid future litigation, they do not have a basis in any of the three areas cited as allowable rationale for closing new lands to recreational shooting under the Dingell Act (16 USC 7913(a)(2)).

1.C. The analysis fails by relying on speculative relationships without any evidence of actual impacts.

The Dingell Act is clear – it must be shown that there is a requirement in order to close lands to recreational shooting (“In making a designation under paragraph (1), the Secretary shall designate the smallest area for the least amount of time **that is required** for public safety, administration, or compliance with applicable laws.” 16 USC 7913(a)(2), emphasis added). It is not sufficient to opine that something might happen or there is a remote change of something occurring. There must be a clear requirement to take action.

In the Final Sonoran Desert National Monument Recreational Target Shooting Suitability Analysis Report (“Suitability Analysis Report”, RMPA/EA Appendix A) several studies are cited to asset the incompatibility of recreational shooting with

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particular monument objects. The Larkin et al 1996 study is used to bolster the claim that recreational shooting causes wildlife to avoid certain areas. The study is a non-peer-reviewed technical report. The abstract of the report states that "The literature contains a preponderance of small, disconnected, anecdotal or correlational studies as opposed to coherent programs of controlled experiments. Future research should stress quantification of exposure of subjects to noise, experimental approaches such as broadcasting accurate recordings of sounds, and observer effects." This is hardly an authoritative study to rely on in order to show a **requirement**. The other authorities cited to demonstrate alleged incompatibility between recreational shooting and monument objects is a 2022 Recreational Target Shooting Site Evaluation Summary (RMPA/EA Appendix A, pages 15 and 17) which purports to document resource damage and litter. There are also other uncited assertions of documented resource damage (RMPA/EA Appendix A, page 14). Unlike the Larkin et al 1996 study which claims a causal relationship between an action (small arms fire) and a result (wildlife avoidance), the other citations used to make a compatibility determinations are, at best, simply documentation of past actions and they fall well short of establishing a requirement on future action.

Like the unsupported compatibility determinations in the Suitability Analysis Report, the analysis in Chapter 3 "Affected Environment and Environmental Consequences" of the RMPA/FEA lacks any support for the speculative claims. For example, in comparing the impacts to Cultural and Heritage Resources under Alternatives B and C the BLM goes far beyond what is known and documented to hypothesize what "potential impacts" there might be "to any yet-to-be identified, unrecorded sites, and sites that are not classified as Monument objects" (RMPA/EA page 34). Similarly, when evaluating impacts to Tribal Interests the BLM states that there are "risks to impacts from dispersed recreational target shooting on the integrity and setting of tribal interests, sacred sites, and traditional use areas" but that the BLM is "unable to specify where traditional resources are located" or even "which traditional practices could be affected by any of the alternatives" (RMPA/EA page 95). The BLM goes on to attempt to assess impacts on "traditional use areas and sacred sites that have not been disclosed to the BLM" (RMPA/EA page 95). The BLM essentially asserted that a closure is "required" to protect objects that have not been shown to actually exist.

The BLM's analysis of impacts on Visual Resources provides another example of very speculative relationships. The definition of visual resources is so encompassing that "pockmark creation in rock formations" or "vegetation trampling" is defined as an impact on visual resources (RMPA/EA page 104). The analysis concludes that prohibiting recreational target shooting would provide the BLM the ability to "meet VRM objectives more effectively" because "visual resources of the Monument ... *would be susceptible* to changes in the visual landscape" (emphasis added) and that "[c]hanges in the visual landscape ... *could have* long-term effects to visual resources" (emphasis added, RMPA/EA pages 104-105). This logic sets an impossible standard that could be used to prohibit nearly any human activity which *could have* the ability to result in any broken rock, trampled vegetation, or litter. These impacts could also be created by people engaging in hiking, hunting, camping, or bird watching. The hypothetical impacts of the most minor human impacts on the natural landscape is a far cry from demonstrating a closure is "required."

2. Even if the BLM could demonstrate a closure is “required” it has failed to show that the proposed closure is the “smallest area for the least amount of time” as required by 16 USC 7913(a)(2).

The Dingell Act sets forth the general policy that all Federal land shall be open for hunting, fishing, and recreational shooting, and then sets forth pathway to close certain lands. In addition to placing limits on the reasons for a closure, the Dingell Act also places limits on the geographic and temporal scope of such closures. The BLM analysis has failed to show their proposed closure complies with these limits.

2.A. Neither the proposed RMPA nor the Final EA adequately evaluate the size of the area which would be “required for public safety, administration, or compliance with applicable laws.

The inclusion of the word “smallest” in 16 USC 7913(a)(2) must be given meaning. The phrase “smallest area” implies that there is a range of closure sizes that could comply with a closure “required for public safety, administration, or compliance with applicable laws” and that Congress directed that among the range of sizes, the BLM is prohibited from selecting any but the smallest in size. In order to demonstrate it is the smallest size, the BLM must clearly articulate a relationship between the size of a closure and a requirement (as discussed in 1 above) and then show how any smaller size of a closure would fail to meet that requirement. Only then will they have shown that a proposed closure is the smallest required.

The size of the closures are described in Chapter 2 (Alternatives) of the RMPA/EA. The geographic limits of Alternative B are described as the full range of specific habitat types, as well as buffers of a specific size around specific locations. The justification for those areas are provided in the Suitability Analysis Report. Table 3 of the Suitability Analysis Report describes the geographic limits or buffer sizes for each monument object (RMPA/EA Appendix A pages 14-18). Nowhere in Appendix A or in any of the cited sources is a rationale for the specific buffer zone size. Instead, there is simply an unsupported assertion that recreational target shooting is not compatible within a distance of a particular object. The geographic limits of Alternative C are even more arbitrary. Alternative C incorporates the limitations in Alternative B, which at least have unsubstantiated rationale for the limitations. In addition to these limitations Alternative C adds several other areas, the rationale for which appears to be only that it was agreed to in a settlement agreement. There is no attempt to demonstrate why any specific buffer zone size is the “smallest” area, and no analysis of the effects of an area smaller than the arbitrary one that is asserted.

2.B. Neither the proposed RMPA nor the Final EA adequately evaluate the closure duration which would be “required for public safety, administration, or compliance with applicable laws.

Like the spatial limitation of “smallest” in the Dingell Act, there is also a limitation on duration of any closure expressed by the requirement that any closure be “for the least amount of time that is required.” None of the Alternatives evaluated include a consideration of time-limited or seasonal closures. In fact, the only mention of a temporal aspect of the proposed closure is a statement making clear that additional closures could be implemented over time (for example “[i]f an area

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is determined to have become incompatible with dispersed recreational target shooting or has received extensive damage, a temporary or long-term closure could be implemented" RMPA/EA page 17).

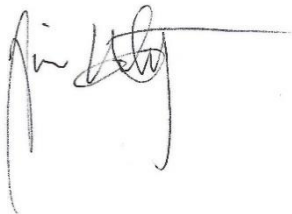
As sportsmen and sportswomen familiar with these areas we know that there is a strong seasonality to certain habitat uses, water source uses, and human activities. We are familiar with temporary closures on public lands for temporary activities or during times when demonstrated wildfire risk is excessive. This analysis ignores these types of current practices and fails to consider alternatives with time-limited or seasonal restrictions. Without any consideration of shorter duration limitations, it cannot be shown that the proposed closures are "for the least amount of time that is required."

3. Without a clear showing that both 1) a new closure is required and 2) the closure is for the "smallest area for the least amount of time" such a closure is clearly a violation of the Dingell Act. The current RMPA has failed to demonstrate either of these two criteria and is therefore not permissible in its current form.

AZSFWC is familiar with the SDNM and the resource damages that have occurred as a result of past bad actors and we sympathize with the BLM officials charged with protecting our public lands. We believe that the intent and protections of the Dingell Act are critical to maintain access of the sporting community to our public lands.

We are concerned that flagrant disregard for the unequivocal protections for hunting, fishing, and recreational shooting access, so clearly articulated by Congress in 2019 demonstrated in this RMPA may indicate BLM's waning support for hunting and fishing on public lands. That would be a fundamentally unacceptable outcome!

AZSFWC and the list of our member organizations that follows strongly urge you to reconsider this RMPA and manage the SDNM in accordance with the clear Congressional direction.



Jim Unmacht
Executive Director



**AZSFWC Member Organizations Supporting Dingell Act
Comments on the Proposed Recreational Shooting Closure on
the Sonoran Desert National Monument**

Anglers United
AZ Antelope Foundation
AZ Mule Deer Organization
AZ Chapter of National Wildlife Turkey Federation
AZ Chapter of Safari Club International
AZ Council of Trout Unlimited
AZ Deer Association
AZ Desert Bighorn Sheep Society
AZ Elk Society
AZ Houndsmen's Association
AZ Outdoor Sports
AZ Predator Callers
Christian Hunters of America
Conservation First USA
Conserve and Protect AZ
Diablo Trust
Mogollon Sporting Association
Outdoor Experience 4 All
Southern AZ Quail Forever
Southwest Wildlife Foundation
Theodore Roosevelt Conservation Partnership
Valley of the Sun Quail Forever
Wildlife for Tomorrow
Yuma Valley Rod & Gun Club