



August 4, 2023

Submitted via email: BLM_AZ_SDNMtargetshooting@blm.gov

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**RE: DOI-BLM-AZ-P040-2022-0001-RMP-EA
Sonoran Desert NM Recreational Target Shooting Resource Management Plan
Amendment and Environmental Assessment – Finding of No Significant Impact**

Arizona Sportsmen for Wildlife Conservation (AZSFWC) is the leading 501c-3 non-profit organization in Arizona dedicated to wildlife conservation, habitat improvement, youth recruitment and retention, as well as providing educational opportunities for outdoor enthusiasts on issues important to their passions. AZSFWC consists of 39 member, affiliate, and associate groups that reach across the spectrum of conservation, hunting, angling, shooting, outdoor recreation, and businesses from across Arizona. Our member groups alone represent over 28,500 people from Arizona.

AZSFWC believes responsible recreational shooting is a traditional and appropriate activity on federal public lands in Arizona. This activity also plays an important economic and social role across the state, and we have advocated accordingly on land managed by the Bureau of Land Management (BLM), as well as the Sonoran Desert National Monument (Monument) for many years.

While we appreciate the opportunity to comment on yet another round of recreational shooting activity being assessed by the BLM on this Monument, the Finding of No Significant Impact (FONSI) following the April 2022 settlement agreement doesn't give us a great deal of confidence our comments will have any bearing on the FONSI decision.

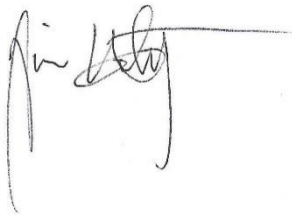
Notwithstanding, AZSFWC agrees recreational shooting must be managed in a way that protects public safety as well as any resources that might be at risk. We also believe the BLM must adhere to requirements in Section 4103 of the 2019 John D. Dingell Jr. Conservation, Management, and Recreation Act (Dingell Act), and we urge the BLM to remain vigilant in keeping these provisions in perspective not only in the planning process, but also once a decision has been made and a plan has been completed.

AZSFWC clearly supports responsible, legal, and safe target shooting, and we draw a distinction when the opposite ensues; illegal and/or irresponsible actions that compromise public safety and those that would put resources at risk. Clearly the latter has brought us to this point in the Monument, and we can't dispute the adverse impact. However, we would urge you to support the former when and where possible as you have demonstrated in the past!

Finally, we also request the Arizona Game and Fish Department continue to serve as a Cooperating Agency for this Monument and future RMP's as they bring a wide range of on-the-ground knowledge that would be invaluable to any planning process.

AZSFWC and our member organizations appreciate your consideration of our comments.

Thank you!

A handwritten signature in black ink, appearing to read "Jim Unmacht", with a long horizontal line extending to the right.

Jim Unmacht
Executive Director

CC: Ray Suazo, State Director
Jerry Davis, Deputy State Director, Resources and Planning
Ty Gray, Director, Arizona Game and Fish Department



August 4, 2023

BLM Sonoran Desert National Monument
Attn: RMPA
2020 East Bell Road
Phoenix, Arizona 85022

Electronically submitted to: BLM_AZ_SDNMtargetshooting@blm.gov

RE: Arizona Game and Fish Comments to the Sonoran Desert National Monument Target Shooting Resource Management Plan Amendment Draft EA

Under Title 17 of the Arizona Revised Statutes, the Department, by and through the Arizona Game and Fish Commission (Commission), has jurisdictional authority and public trust responsibilities to conserve and protect the state fish and wildlife resources. In addition, the Department manages threatened and endangered species through authorities of Section 6 of the Endangered Species Act and the Department's Section 10(a)(1)(A) permit. It is the mission of the Department to conserve and protect Arizona's diverse fish and wildlife resources and manage for safe, compatible outdoor recreation opportunities for current and future generations.

The Arizona Game and Fish Department reviewed the Sonoran Desert National Monument (SDNM) Target Shooting Resource Management Plan Amendment (RMPA) Draft Environmental Assessment (EA) and the following comments reflect the Department's interest in the protection of wildlife and wildlife habitat, as well as its support for meaningful opportunities for responsible recreational target shooting on public lands.

When existing laws are followed, recreational shooting has little to no impact on Monument resources. The Department does not advocate for irresponsible shooters engaging in illegal activities such as littering, poaching, and intentional destruction of Monument objects. The Department supports the closure of specific areas to recreational target shooting where the Bureau of Land Management (BLM) demonstrates unacceptable impact to cultural resources and/or monument objects. Because Section 4104 of Public Law 116-9, the *John D. Dingell Jr. Conservation, Management, and Recreation Act of 2019* was signed into law after the 2018 Record of Decision (ROD) and approved RMPA had been completed, any alternative that closes lands to recreational target shooting beyond those lands closed in the 2018 ROD and ARMPA must comply with the Dingell Act. See 16 U.S.C. § 7913(a)(2) and 16 U.S.C. § 7913(b).

BACKGROUND TO COMMENTS

The SDNM comprises 485,791 acres. BLM's proposed action (Alternative C) would make 480,990 acres (99%) of the Monument unavailable for dispersed recreational target shooting and 4,802 acres – only 1% of the Monument - available for that activity. To reach that result, BLM

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GOVERNOR: KATIE HOBBS **COMMISSIONERS:** CHAIRMAN TODD G. GEILER, PRESCOTT | CLAY HERNANDEZ, TUCSON | MARSHA PETRIE SUE, SCOTTSDALE
JEFF BUCHANAN, PATAGONIA | JAMES E. GOUGHNOUR, PAYSON **DIRECTOR:** TY E. GRAY **DEPUTY DIRECTOR:** TOM P. FINLEY

first excluded 380,884 acres (78% of the Monument) as unavailable for target shooting under the settlement agreement between BLM and the plaintiffs resolving *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. Next, ten percent (10%) more of the Monument was eliminated as not available for recreational target shooting under the 2018 SDNM RMPA Decision (EA at page 18, Table 2-2). BLM then, through desktop analysis, used a revised methodology to evaluate what part of the remaining 11% of the Monument could remain open for recreational shooting. BLM decided that an eligible area had to have a natural backstop with a slope of at least 15 degrees, out to 500 yards. The value of 500 yards was selected to provide “a reasonable line of sight to areas with a potential backstop slope”. Further eliminated were areas near stock tanks, flood structures, Monument Objects and slopes with a ricochet risk (Suitability Analysis, page 4-6).

The desktop analysis resulted in about 41 small areas scattered across the 485,791 acre Monument, comprising only 1% of the Monument where legal recreational shooting may occur under BLM’s preferred Alternative C (EA, Figure 5, Alternative C, page 19). What is striking about the text of the EA and the desktop analysis is the absence of any meaningful analysis of BLM’s policies favoring recreational shooting on BLM-managed lands or the Dingell Act as factors in BLM’s decision to close off nearly the entire Monument to responsible shooters.

COMMENT 1. The Selection of Alternative C is Predecisional

Alternative B, which does not close the Settlement Agreement areas, is designed to protect Monument Objects, leaving 31% of the Monument, or 147,975 acres, open to dispersed recreational target shooting (EA, page 14) while Alternative D would close the entire Monument. BLM’s preferred alternative, the proposed action, is Alternative C. This Alternative retains the Alternative B resource buffers for the protection of Monument Objects, closes all areas identified in the Settlement Agreement to recreational shooting, and uses desktop analysis to further reduce areas for lawful shooting.

The EA states on page 18 that the Settlement Agreement does not preclude the BLM from selecting the Alternative A “no action” alternative or a different action alternative in its decision. This statement is supported by the language of the Settlement Agreement in Section C.9:

“The Parties acknowledge that nothing in this Agreement limits or otherwise affects BLM’s discretion to adopt the land use plan amendment of its choice among the alternatives.”

Under the Settlement Agreement’s terms, if BLM issues a plan decision that closes all the areas the Plaintiffs identify in the Settlement Agreement as unavailable to target shooting, Plaintiffs agree not to pursue any further appeals or judicial challenges to BLM’s decision, nor fund any third parties to pursue such appeals (Settlement Agreement, Sections C.7 and C.8). The Settlement Agreement further states in Section D. 12:

“This Agreement was negotiated for the purposes of avoiding future litigation.”

The BLM’s preferred Alternative C reflects two goals. First, the Settlement Agreement undoubtedly reflects an acknowledgment by BLM that its 2018 RMPA, which would have

allowed dispersed recreational target shooting on about 435,000 acres, or 90% of the Monument, was not as protective of Monument Objects as it should have been. But the second goal is BLM's desire to avoid further legal challenges by closing all areas to recreational shooting in strict conformity with the Agreement. This assures that the other alternatives in the EA are not viable ones.

The Purpose and Need for this 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.”

Since the entire Need, the *raison d'être* of this 2023 draft RMPA/EA, is to “fulfill the requirements” of the April 2022 Settlement Agreement, no other alternative can be considered possible except Alternative C.

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”. *Env'tl. 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 define the scope of the RMPA/EA consist 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, page 10).

As only Alternative C accomplishes the stated Purpose and 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). BLM must consider more than one alternative that meets the Purpose and Need, achieves the purposes of the Settlement Agreement and the needs of lawful recreational shooters. NEPA, 42 U.S.C. §4332(C).

COMMENT 2. Alternatives C and D are Virtually Identical

Under Alternative D, all 485,791 acres of the Monument would be unavailable for dispersed recreational target shooting (EA, page 20, and Figure 6). Alternative C “differs” from Alternative D because while Alternative D proposes no part of the Monument (0%) to dispersed recreational shooting, Alternative C offers only 1% of the Monument, with many of the so-called available areas under Alternative C not even accessible by any designated road. *See* Comment 4 below.

An EIS or EA violates NEPA where two action alternatives are “virtually identical”. *Muckleshoot Indian Tribe v. U.S. Forest Serv.*, 177 F.3d 800, 813 (9th Cir. 1999). Neither alternative achieves the Federal Land Policy and Management Act’s (FLPMA) policy of management of public lands for both protection of resources and for outdoor recreation [43 U.S.C. § 170(a)(8)]. BLM’s general policy is to “avoid a net loss of shooting opportunities” in its land use planning decisions. BLM Instruction Memorandum IM2021-010: *Implementation of the John D. Dingell, Jr. Conservation, Management and Recreation Act*.

Nor does either alternative meet the directive of the Dingell Act, which states that federal lands should generally be open to recreational target shooting and directs the Secretary, when closing public lands to recreational target shooting, “to designate the smallest area for the least amount of time that is required for public safety, administration, or compliance with applicable laws”.

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.

COMMENT 3. The RMPA/EA Fails to Analyze the Environmental Impacts of Recreational Shooters Displacing to Other Areas Within the Monument

Alternative C would close recreational target shooting areas “heavily concentrated at locations” next to the Monument’s northern boundary along the El Paso Natural Gas Company pipeline road and at smaller sites next to Arizona State Route 238 and Vekol Valley Road (FONSI, page 2). Alternative C offers as the preferred alternative small, remote locations scattered at distant points across the Monument.

The EA notes that BLM is developing new recreational shooting ranges, including two closest to the Monument (Box Canyon and Narramore Road). While some shooters displaced from the Monument may shift their use to one of these new BLM ranges, “increased use of informal dispersed recreational target shooting areas on public land adjacent to the Monument would still be expected”(EA, page 97). In the Department’s view, frustrated displaced shooters are equally likely simply to move to other areas *within* the Monument, creating new risks to Monument Objects and public safety.

The Department enforces several Title 17 state laws governing the discharge of firearms on public lands (A.R.S. § 17-301; 17-308; 17-309) as detailed in the Suitability Analysis Report at page 2. Enforcement of BLM rules implementing Alternative C will place an undue burden on

the Department's law enforcement personnel, and cause disturbance to wildlife and damage to wildlife habitat.

In addition, Chapter 3 of the EA, Affected Environment and Environmental Consequences, does not address the foreseeable impacts of displaced and dispersed recreational shooting within the Monument. The analytical assumptions of the 2017 RMPA/FEIS, carried forward into this 2023 RMPA EA, note that recreational target shooters prefer to travel less than one hour to participate in their activity. And:

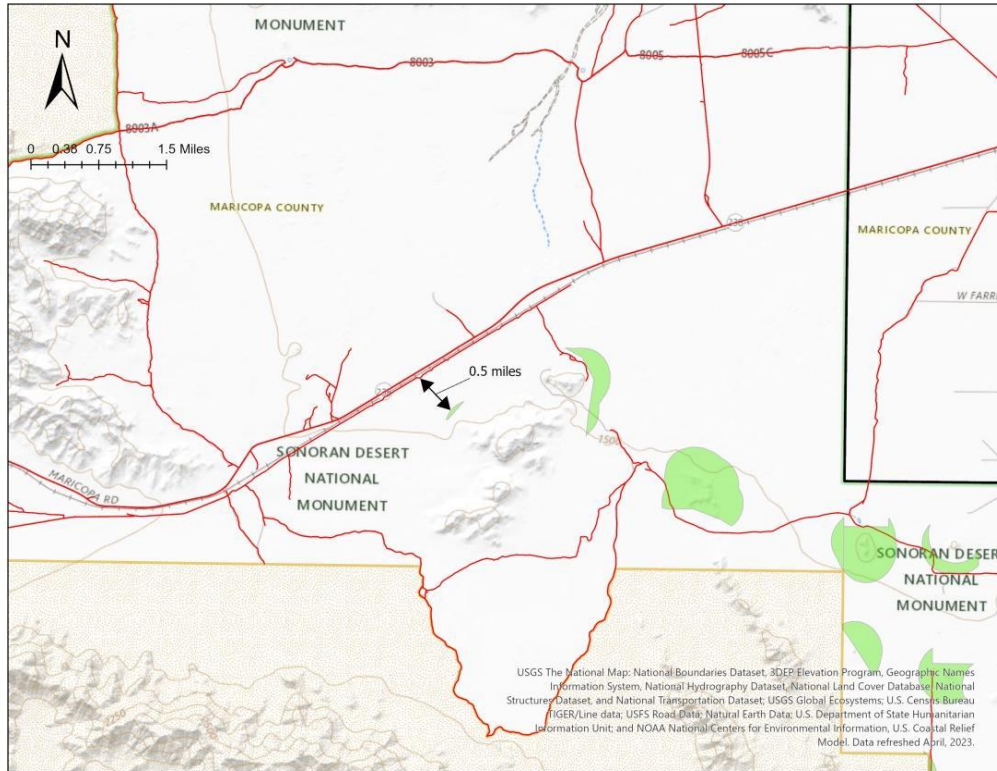
“Based on field observations by BLM staff, dispersed recreational target shooting is heavily dependent on motorized vehicles for access. As a result, very little dispersed recreational target shooting and associated impacts occur in wilderness, lands managed to protect wilderness characteristics *and other remote areas far from residential areas and designated routes.*” (EA, page 26 (emphasis added)).

The EA needs to acknowledge the fact that Alternative C's extremely small, remote, and hard-to-locate areas available for recreational shooting will displace shooters to areas perceived as more accessible elsewhere on the Monument. The EA requires a discussion of the adverse environmental impacts of such displacements on Monument Objects. The absence of this discussion is not the “hard look” that NEPA requires. *Kern v. U.S. Bureau of Land Mgmt.*, 284 F.3d 1062, 1066 (9th Cir. 2002).

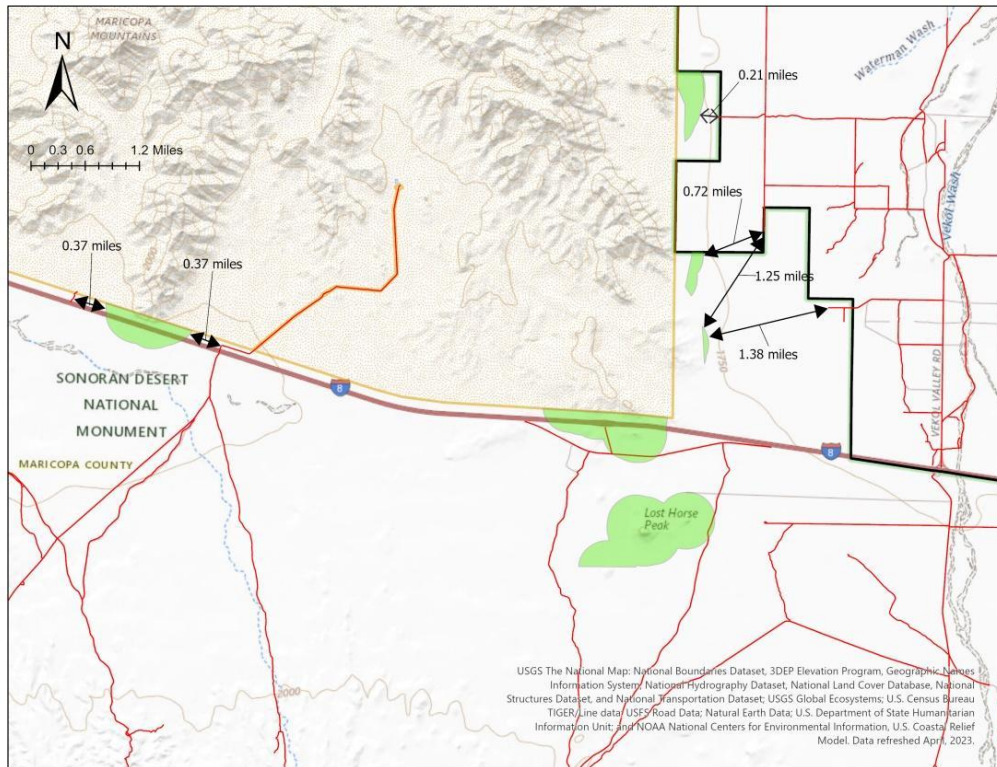
COMMENT 4. Several Areas Identified in Alternative C as for Recreational Target Shooting Have No Road Access

The Suitability Analysis at page 22 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, Suitability Analysis, page 10).

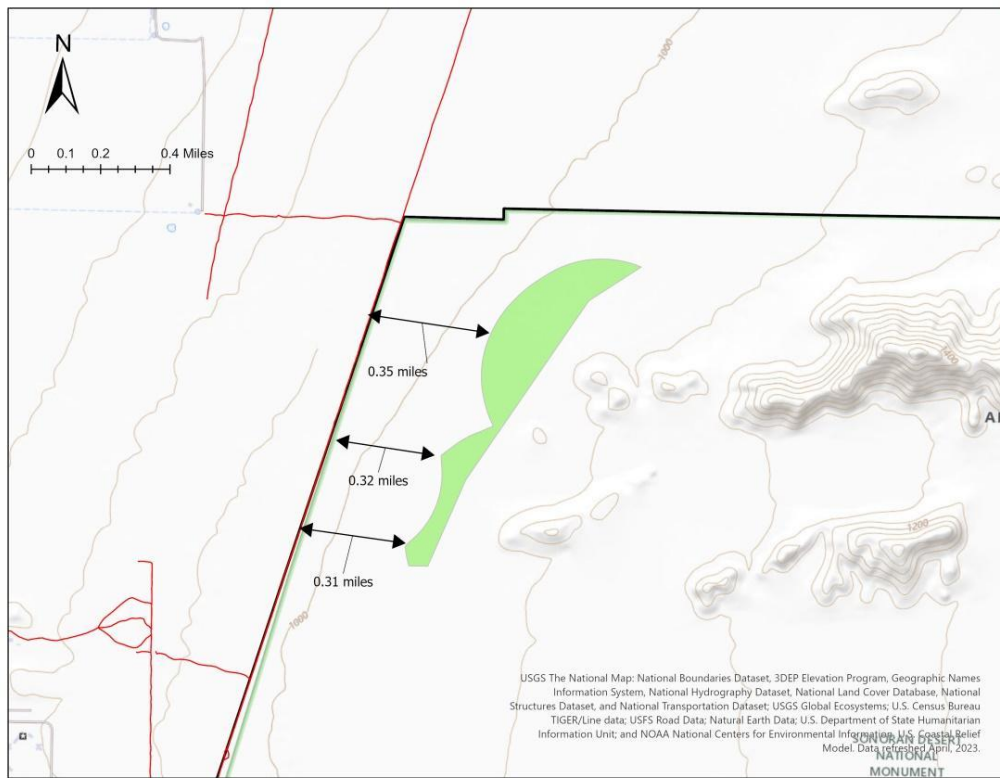
The Department's own analysis shows that of the 41 areas open under Alternative C for recreational target shooting, twelve have no designated road access. The distances between a designated road and these twelve areas range from one-tenth of a mile to well over a mile. One area, located southeast of Table Top Wilderness, has only partial vehicular access. Here are illustrations of distances between available areas and roads:



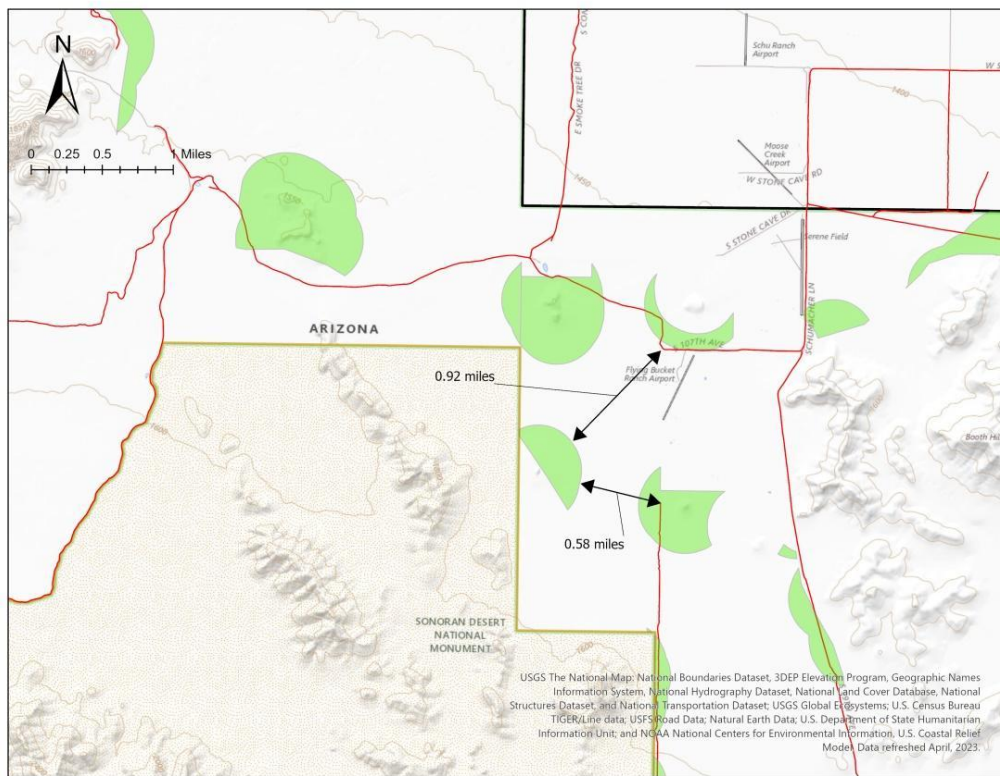
Between 238 and South Maricopa Wilderness distance road access



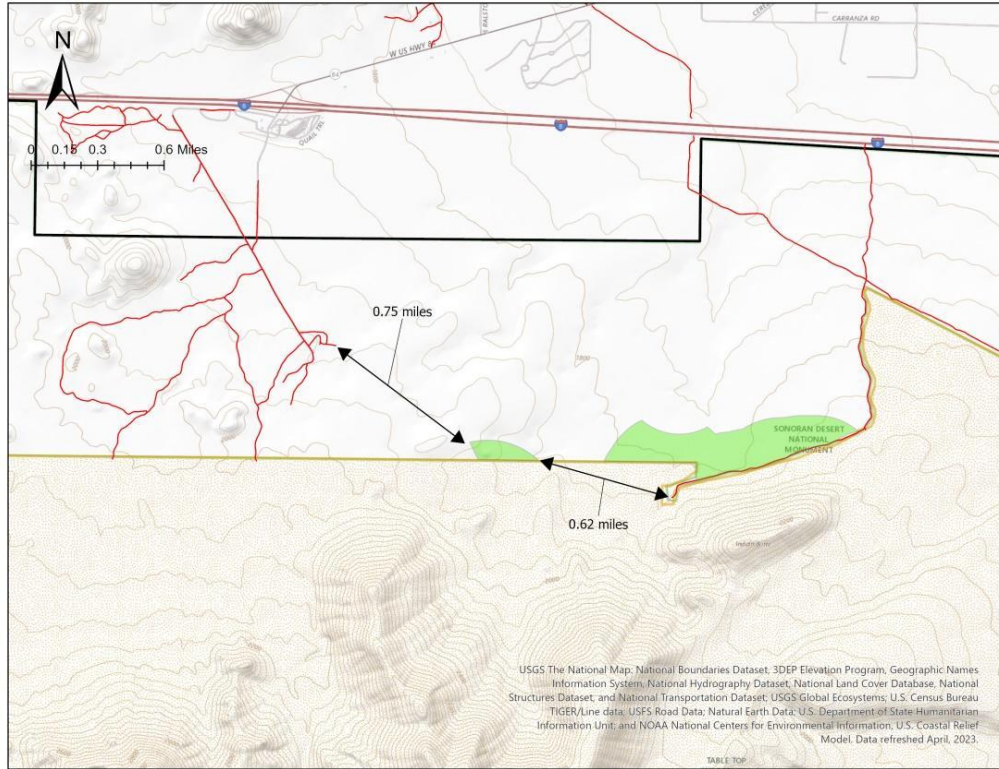
Distance to roads south east corner of South Maricopa Wilderness



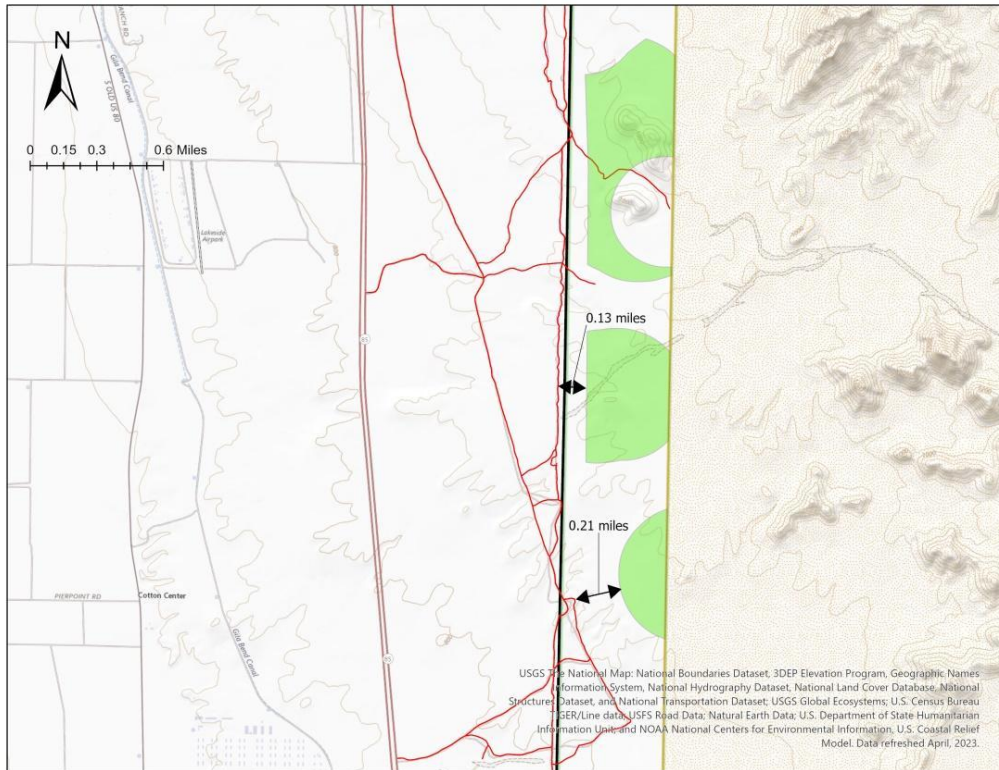
Northwest corner of Monument road access



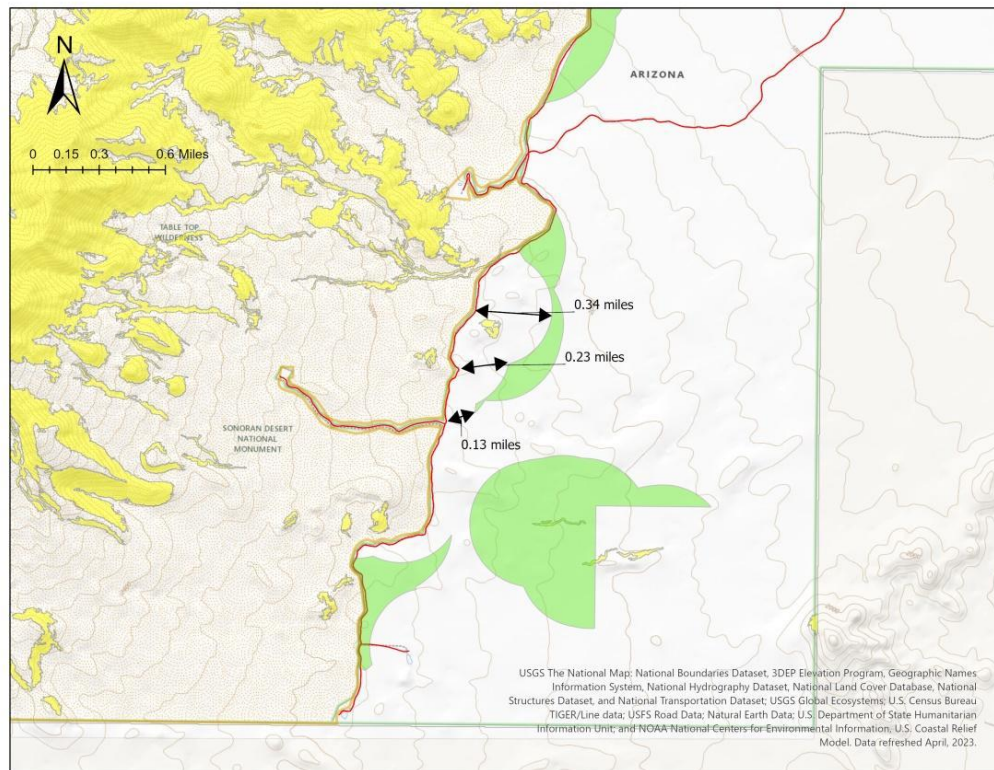
Booth Hills



North Table Top Wilderness distance to road access



West SDNM boundary North Maricopa Wilderness distance road access

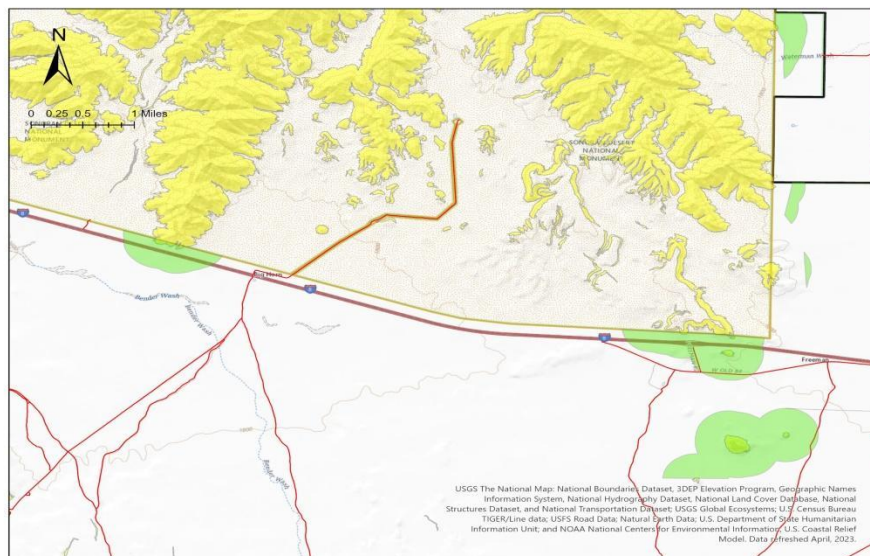


South East Tabletop Wilderness distance to road access

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. Alternative C does not comply with Presidential Proclamation 7397. Designating shooting sites where no 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). Off-road use will also affect the quality of wildlife habitat and cause disturbance to BLM sensitive species and the Department’s Species of Greatest Conservation Need.

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. Alternative C must be changed to eliminate all sites not accessible by a designated road.

COMMENT 5. Two Areas in Alternative C Open to Recreational Target Shooting Rely on Backstop Slopes Across the I-8 Interstate



Open areas across Interstate from backstop

Shooting across a road is unlawful (A.R.S. § 17-301(B) - no person may knowingly discharge any firearm upon, from, across or into a road). These areas should be redrawn to remove the freeway or be eliminated from Alternative C.

COMMENT 6. The Areas in Alternative C Open to Recreational Target Shooting Accessible by a Designated Road or Do Not Front the I-8 Are Less than the 4,802 Acres Claimed in the EA and FONSI as Available for Dispersed Recreational Target Shooting

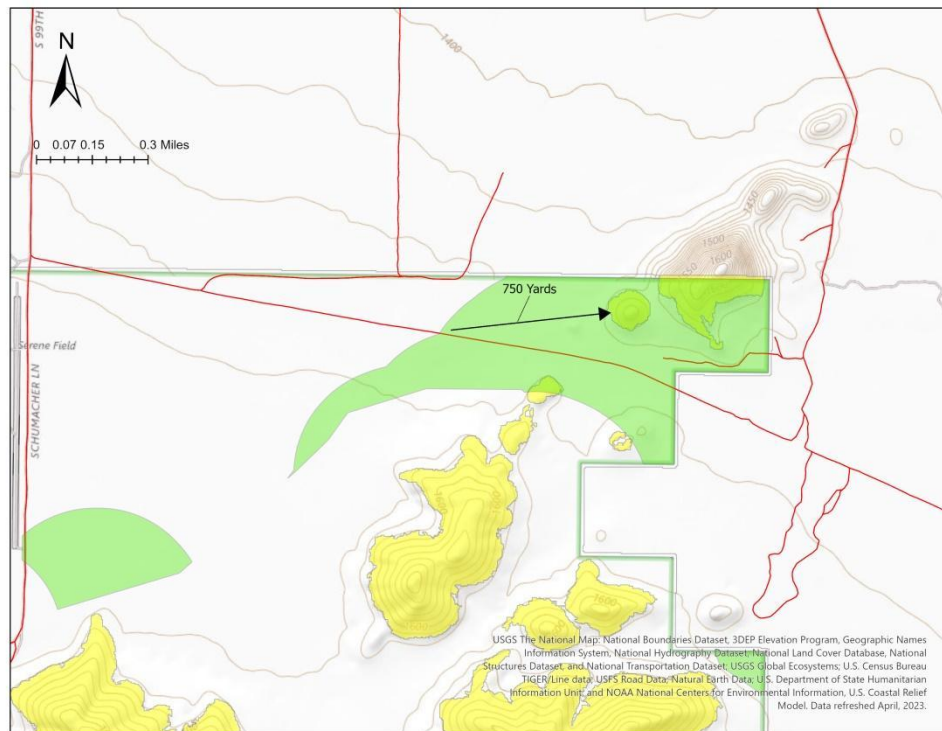
The actual acreage available for shooting under Alternative C is less than 1% of National Monument due to the lack of motorized access. An EIS/EA must be factually accurate. The public must be informed of the actual acreage available.

COMMENT 7. The 500 Yard Limit From a Suitable Slope Defining the Suitability of an Area for Dispersed Recreational Shooting Unnecessarily Restricts Areas Eligible for Shooting

The Suitability Analysis at page 4 defines areas suitable for dispersed recreational target shooting as those with a suitable slope (backstop) of at least 15 degrees, with the shooting area not more than 500 yards from the slope. The 500-yard limit was selected “to provide a reasonable line of sight to areas with a potential backstop slope within which to evaluate for presence of Monument objects”.

The Suitability Analysis at page 10 states that BLM first considered a 1,000-yard area beyond areas of suitable slope to accommodate large caliber rifle use, but during field validation, this distance was found to be too far for a user to make sure the area between the shooting location and the backstop was free of people or livestock due to variable topography and vegetation, thus

creating, in BLM's opinion, a safety hazard. BLM thus eliminated the 1,000-yard area from consideration. However, BLM did not conduct field validations of all available areas (EA, Suitability Analysis, Table 2, page 10). The 500-yard restriction is an arbitrary and unnecessary one-size, fits-all standard for all available recreational target shooting sites identified in Alternative C. This restriction is not imposed on any other BLM-managed lands in Arizona and is impossible to enforce. Here is an example of an area open for recreational shooting under Alternative C that was not field validated. This area seems to provide good opportunity to safely shoot at distances well over 500 yards:



It is the responsibility of every shooter to know the applicable state and federal laws and to shoot in a safe manner. BLM's website, [Recreational Shooting | Bureau of Land Management \(blm.gov\)](https://www.blm.gov/recreational-shooting), states:

- Know your target and what is beyond it. Shots fired across the open desert can travel for more than a mile. Find a safe backdrop. A spot with a large mound, hill, or cliff behind the target is ideal.
- You **must not** discharge firearms within 150 yards of residences, buildings, campsites, occupied areas, recreational areas, or domestic livestock.
- Shooting across a road, trail, or wash is prohibited.
- Shooting should only take place in areas well away from other concentrations of people and property.

The Decision to be made in this RMPA/EA (Section 1.3 at 5) is “where dispersed recreational shooting should be available on BLM-administered lands in the Monument”, not to arbitrarily impose a standardized safe shooting distance for all situations. BLM should only place the 500

yard limitation to those field-validated sites which reflect Monument or public safety risks beyond 500 yards.

COMMENT 8. BLM Must Expand Areas Available for Lawful Recreational Target Shooting in a Revised Alternative C or in a New Alternative

BLM's Instruction Memorandum IM2021-010 states that recreational target shooting is an important part of BLM's land management mission under FLPMA. Shooting is allowed on over 99% of the 245 million acres the BLM manages. BLM's proposed RMPA/EA veers from this memorandum and the 2018 RMPA that would have allowed dispersed recreational target shooting on 435,000 acres (90%) of the Monument, to one that opens less than 1% of the Monument to this form of recreation, primarily in scattered and obscure locations distant from major metropolitan regions.

Additionally, 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. BLM must re-evaluate those areas within the Monument with current high levels of dispersed recreational target shooting use. These areas include areas around the Booth Hills and an area along the northern boundary of the SDNM which have historically been popular areas for target shooting. This second area is specifically identified in the EA, Figure 2, and outlined in pink as available for recreational target shooting in 2018 RMPA. 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. These areas remain especially suitable for target shooting, and should be identified as open to recreational shooting within the alternative chosen.

Thank you for the opportunity to provide comments to this RMPA/EA for the Sonoran Desert National Monument. For further coordination, please contact Luke Thompson at Lthompson@azgfd.gov or 928-856-0724.

Sincerely,



Clay Crowder
Assistant Director, Wildlife Management Division

Cc: Ty Gray, Director Arizona Game and Fish Department
Luke Thompson, Habitat Evaluation and Lands Branch Chief