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**RE: Comments in response to EA for Authorizing Helicopter Use by the Arizona Game and Fish Department within Pusch Ridge Wilderness**

Dear Ms. Guy,

Thank you for including the following comments in the project record and taking them into consideration as you review the Draft EA and make a decision on whether to authorize helicopter use and landings in the Pusch Ridge Wilderness of the Coronado National Forest. Friends of Wild Animals has prepared these comments on behalf of State Senator Olivia Cajero Bedford, SPEAK, and Western Watersheds Project. Collectively, we encourage you to reject this project.

Friends of Wild Animals (Friends) believes in the intrinsic value of wildlife. Wild animals are entitled to live without significant human interference in their basic activities, including foraging, feeding, mating and social behavior. We believe in the importance of balanced ecosystems with healthy predator-prey relationships and in the importance of preserving such ecosystems and wild areas for future generations. Friends is a group made up of hikers, backcountry guides, animal rights advocates, environmentalists and natural historians. We all have connections to the Santa Catalina Mountains and many of us have spent time in the Pusch Ridge Wilderness enjoying non-mechanized activities and experiencing the beauty, peace and solitude found there. Many of us plan to return to the Pusch Ridge Wilderness regularly.

Friends came together in response to the bighorn sheep relocation program in the Catalina Mountains. In November 2013, Arizona Game and Fish oversaw the rounding up, prodding, collaring, transportation, relocation and release of thirty bighorn sheep from near Yuma, Arizona to the Santa Catalina mountain range near Tucson, Arizona. Of the thirty sheep relocated, more than half have been lost to depredation. Arizona Game and Fish has hunted and killed three mountain lions they believe to have preyed on the sheep.

Friends has grave concerns about the relocation project and adamantly oppose violating the Wilderness Act in furtherance of the project. Arizona Game and Fish, in collaboration with an Advisory Committee made up of several stakeholder groups, plans to relocate at least sixty more sheep over the next three years and now plans to use helicopters to further “manage” this already fragile population of sheep. These sheep are known to be sensitive to human interference and noise, especially from

helicopters, as documented in several reports which we are attaching to these comments for your review (Brown 2010; Radle 2007; Schoenecker and Krausman 2002.) The range allocated for the bighorn sheep is simply too small, too heavily used for recreation, and too close to a major metropolis and the addition of helicopter landings and repeated moving of sheep via helicopter is highly likely to result in a high level of sheep mortality.

The Wilderness Act was passed in 1964 and created a legal definition for wilderness. When President Johnson signed the bill, which provided guidance for the federal government to designate wilderness areas, he famously stated, “If future generations are to remember us with gratitude rather than contempt, we must leave them a glimpse of the world as it was in the beginning, not just after we got through with it.” Sec. 4 (c) of the Wilderness Act included specifications of non-mechanized use of these areas:

*...there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area.*

The Wilderness Act has been vigorously defended by the public and continues to be upheld as one of our nation’s most visionary and important environmental laws. The proposed exemptions to non-mechanized prohibition is a significant action by the U.S. Forest Service.

We have serious concerns about: (1) the efficacy of this proposal for recovering bighorn sheep; (2) the certain significant impacts of the proposed action to an area designated by Congress as Wilderness; (3) the necessity of authorizing helicopter landings to net, move, and monitor sheep; (4) additional GPS radio collars placed on wilderness sheep, and; (4) the cumulative impacts of this proposal on the other bighorn sheep populations in the state of Arizona.

### **An Environmental Impact Statement Must Be Prepared**

As we stated in our scoping letter, we have grave concerns about the lack of environmental review for the bighorn relocation program. This project falls squarely within the Coronado National Forest. Its impacts on the stewardship of the Coronado National Forest are far reaching. In addition, the scope of this project has expanded from 4 years to 10 years and requires the use of helicopters to trap sheep in Wilderness areas across the state, including the Tonto National Forest, designated wilderness areas in Yuma.

The National Environmental Policy Act (NEPA) requires federal agencies to prepare a detailed Environmental Impact Statement (EIS) for all major Federal actions significantly affecting the quality of the human environment. (42 U.S.C. § 4332[2][C]). If an agency decides not to prepare an EIS, it must supply a “convincing statement of reasons” to explain why the project’s impacts will be insignificant (Blue Mountains Biodiversity Project, 161 F.3d at 1212). “The statement of reasons is critical to determining whether the agency took a ‘hard look’ at the potential environmental impact of a project” (Id).

In considering whether an EIS is required for a proposed action, the Council on Environmental Quality regulations direct agencies to consider ten “significance factors” (40 C.F.R. § 1508.27[b]; *Sierra Club v. Bosworth*, 2007 U.S. App. LEXIS 28013 [9th Cir. 2007]). “[Any] of these factors may be sufficient to require preparation of an EIS in appropriate circumstances” (*National Parks and Conservation Assoc. v. Babbitt*, 241 F.3d 722, 731 [9th Cir. 2001]). Criteria for determining when a full EIS is required include: “unique characteristics of the geographic area such as proximity to historic or cultural resources, parklands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas”; “whether the action is related to other actions with individually insignificant but cumulatively significant impacts”; “the degree to which the action may adversely affect an endangered...species”; and “whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.”<sup>1</sup> An EIS is also required where impacts are “highly controversial,” i.e., implicate “a substantial dispute [about] the size, nature, or effect of” the agency’s actions – or otherwise implicate “highly uncertain” or “unknown risks.”<sup>2</sup> Moreover, agencies must consider “context” and, thus, whether impacts are significant relative to the affected region, interests, or locality, and in light of both short- and long-term effects. Thus, an action could raise concerns about purely local resources, or purely short term effects, but nonetheless require preparation of an EIS. In the end, any one of these criteria can compel preparation of an EIS if they raise substantial questions that a project may cause significant degradation of some human environmental factor.<sup>3</sup> It is, of course, the agency’s burden to provide a convincing statement of reasons justifying a decision to rely on a lesser EA and not an EIS; we need not show that significant effects will in fact occur.<sup>4</sup>

NEPA emphasizes “coherent and comprehensive up-front environmental analysis” to ensure an agency “will not act on incomplete information, only to regret its decision after it is too late to correct” (*Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1216 [9th Cir. 1998]). NEPA thus requires federal agencies to analyze the direct, indirect, and cumulative impacts of the proposed action (42 U.S.C. § 4332[C]; 40 C.F.R. §§ 1508.7, 1508.8, 1508.25 [the scope of a proposed action must include connected, cumulative, and similar actions]; *Sierra Club v. Bosworth*, 2007 U.S. App. LEXIS 28013 [9th Cir. 2007]). Cumulative impacts include the impact on the environment that results from the incremental impact 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 other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time (40 C.F.R. § 1508.7). A cumulative effects analysis must also provide detailed and quantifiable information and cannot rely on general statements and conclusions (*Neighbors of Cuddy Mountain v. U.S. Forest Service*, 137 F.3d 1372, 1380 [9th Cir. 1998]).

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<sup>1</sup> 40 C.F.R. §§ 1508.27(b)(3), (7), (9), (10)

<sup>2</sup> 40 C.F.R. 1508.27(b)(4), (5); *Blue Mts. Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1212 (9th Cir. 1998)

<sup>3</sup> *NPCA v. Babbitt*, 241 F.3d 722, 731 (9th Cir. 2001); *Idaho Sporting Congress v. Thomas*, 137 F.3d 1146, 1149 (9th cir. 1998)

<sup>4</sup> *Idaho Sporting Congress*, 137 F.3d at 1150

Under the National Environmental Policy Act, the proposed use of helicopters in wilderness in furtherance of the relocation project is a major federal action that would result in significant adverse effects to the environment. Unique characteristics include the project location entirely within a designated Wilderness area in close proximity to a wildland urban interface within a mountain range with a fire regime that is unpredictable. This project involves the repatriation of a species extirpated from the area due, most likely, to human actions, though the science on this issue is unresolved and remains highly controversial. The project location is also suitable habitat for threatened and endangered species such as ocelot<sup>5</sup> and is currently occupied by Mexican spotted owl, lesser long-nosed bat, and sensitive species such as American peregrine falcon. This action is related to projects across the state of Arizona involving the removal of desert bighorn sheep, a species listed by the Arizona Game and Fish Department as a Species of Greatest Conservation Need, from designated Wilderness areas using helicopters (in both Yuma and the Tonto National Forest.) This project requires the use of mechanized and motorized equipment within a designated Wilderness area, which is a violation of the Wilderness Act unless a proper Minimum Requirements Decision Guide analysis is completed. It is unknown and extremely uncertain if the sheep relocation project will be successful and there are unknown risks to the land, the sheep, and personnel who will carry out the relocation tasks such as monitoring, re-collaring, and repeatedly moving these sheep.

Therefore, the Forest Service must prepare an environmental impact statement for this project. There has been no disclosure or analysis to date by Arizona Fish and Game describing and justifying the need for this project. The Draft EA does not justify a Finding of No Significant Impact. As such, an EIS under NEPA and in collaboration with each of the federal and state agencies involved in bighorn sheep management and this project must be prepared.

### **Our Questions and Concerns are Not Addressed in the Draft EA**

We submitted a list of questions and concerns for consideration in the environmental analysis for this project. Many of our concerns and questions were not addressed in the Draft EA, in violation of NEPA. We again ask that our questions and concerns be addressed:

- What are the long-term impacts of radio collars on wildlife?
- What is the decibel range of helicopters?
- What are the impacts of noise from helicopters on wildlife?
- Will there be economic impacts from the impact on recreation?
- Are horse riders being consulted on the impacts to horses from helicopters?
- What is the monitoring plan for assessing impacts in the future?
- Will this proposal eventually include an allowance by Arizona Game and Fish or their contractors to pursue, monitor or kill mountain lions?
- It has been reported that the collars being used have had significant malfunctions. This proposal allows for Arizona Game and Fish to use helicopters to replace the collars. We believe that there is a severe lack of protocol around these collars at the point that they are purchased and placed on the sheep. Has the U.S. Forest Service or the Arizona Game and Fish

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<sup>5</sup> <http://media.jrn.com/documents/Santa+Catalina+Mountain+Lion+Management+Plan.pdf>

Department consulted with the staff of other relocation project on the effectiveness or longevity of the collars being used for this project?

- How does the Forest Service intend to analyze the effects of increased helicopter use under recent climate change impact NEPA requirements?
- What best available science has been used to understand the impacts on wild animals from stress caused by helicopters as it relates to noise, vibration, human contact and interference on natural predation systems?
- What best available science has been used to understand the effects of recurring capture of relocated animals?
- How do the benefits outweigh the harms to the bighorn sheep from disturbance and recapture?

We have the following additional question: The Memorandum of Understanding (MOU) between U.S. Forest Service (USFS) and Arizona Game and Fish Department (AZGFD) at page 6, section IV(B)(12) says the AZGFD is supposed to coordinate with the USFS on any proposals to release, introduce, or establish fish and wildlife on USFS lands. Please provide documentation on how this occurred for the sheep relocation project prior to 2013.

#### **Use of Helicopters for this Project is Arbitrary and Capricious**

We note that the Mexican gray wolf reintroduction and recovery project does not use helicopters despite the fact that the Mexican gray wolf is a species listed as endangered under the Endangered Species Act, has a population of less than 100 wild individuals in the entire state and country, and requires large, wild areas of land to support healthy populations of wolves. We therefore question why this project requires the use of helicopters while that project does not. Additionally, we note that the Arizona Game and Fish Department (AZGFD) is arbitrary and capricious about which species of threatened, endangered or state listed or Forest Service Sensitive species it supports relocation.<sup>6</sup>

#### **Violations of the Wilderness Act Should Not be Authorized for this Project**

The Forest Service should not authorize the use of helicopters in the Pusch Ridge Wilderness because to do so would violate the Wilderness Act as well as the Act's purpose, which will also violate the Forest Service's own policies and guidelines.

From the Policies and Guidelines for Fish and Wildlife Management in Wilderness areas, page 4, section E: "Fish and wildlife management activities in wilderness will be planned and implemented *in conformance with the Wilderness Act's purpose of securing an "enduring resource of wilderness" for the American people*. The Wilderness resource is defined in section 2(c) of the Act, as an area "untrammeled by

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<sup>6</sup> Arizona Daily Sun. March 6, 2014. *Anti-wolf Bills Clear Case of Over Reaction*. [http://azdailysun.com/news/opinion/editorial/anti-wolf-bills-clear-case-of-over-reaction/article\\_d3648d84-a4ea-11e3-bb67-001a4bcf887a.html](http://azdailysun.com/news/opinion/editorial/anti-wolf-bills-clear-case-of-over-reaction/article_d3648d84-a4ea-11e3-bb67-001a4bcf887a.html), Arizona Daily Sun. May 11, 2014. *State: No Mexican gray wolves for Flagstaff area* [http://azdailysun.com/news/local/govt-and-politics/state-no-mexican-gray-wolves-for-flagstaff-area/article\\_0ab3ab7a-d8e0-11e3-a3d8-001a4bcf887a.html](http://azdailysun.com/news/local/govt-and-politics/state-no-mexican-gray-wolves-for-flagstaff-area/article_0ab3ab7a-d8e0-11e3-a3d8-001a4bcf887a.html), Tucson Weekly. January 31, 2013. *Bad Habitat*. <http://www.tucsonweekly.com/tucson/bad-habitat/Content?oid=3632279>, Animal Defense League of Arizona. December 14, 2011. *AZ Game and Fish Commission Approves Extreme Hunting Proposals* <http://www.adlaz.org/news/az-game-and-fish-commission-approves-extreme-hunting-proposals>. All attached.

man,” *where natural ecological processes operate freely and the area is “affected primarily by the forces of nature.”* The National Wilderness Preservation System will be managed to ensure that ecological succession, including fire and infestation of insects, *operate as freely as possibly with only minimal influence by humans.*” And that “fish and wildlife management activities will emphasize the conservation of natural processes, to the greatest extent possible.” *“Management activities will be guided by the principle of doing only the minimum necessary to conserve, and if necessary, to enhance fish and wildlife resources, and to manage the area as wilderness.”* There shall be no use of motorized equipment or other form of mechanical transport within any wilderness area *except as necessary to meet the minimum requirements for the administration of the area.* (Emphasis added.)

U.S. Department of Agriculture Forest Service Manual Direction: 2323.33 – Wildlife Management & Reintroductions states: “motorized and mechanical transport may be permitted *if it is impossible to do the approved reintroductions by non-motorized methods.*”

We point out that the heavy handed management of bighorn sheep planned by the AZGFD does not allow the natural ecological processes to operate freely nor be primarily affected by the forces of nature in the Pusch Ridge Wilderness. The authorization of at least 200 helicopter trips over a period of 10 years does not allow the Pusch Ridge Wilderness to operate with only minimal influence by humans and does little to manage the area as Wilderness. Additionally, this project is completely unnecessary for the *administration* of the Pusch Ridge Wilderness.

The MOU between USFS and AZGF at page 7, section IV(C)(10) states both agencies will: “recognize fish and wildlife as important wilderness resources and work collaboratively to ensure that within designated wilderness, fish and wildlife management programs are consistent with the Wilderness Act (1964), and to work cooperatively in following the purpose and intent of the “Policies and Guidelines for Fish and Wildlife Management in National Forest and Bureau of Land Management Wilderness (as amended June, 2006)” The MOU between USFS and AZGF at page 9, section IV(C)(23) states that all work performed under the MOU shall be in compliance with all applicable state and federal laws and regulations. However, now that the relocation project has begun, the AZGFD is requesting permission to violate the Wilderness Act and the USFS Policies and Guidelines to continue the project. The USFS is under no obligation to authorize this project and has the discretion, indeed the obligation, to decline to authorize the use of helicopters in the Pusch Ridge Wilderness.

Nothing in the Draft EA or project documents provided to the public indicate that this reintroduction project is “impossible” without motorized methods. Therefore, the Forest Service should not authorize the use of helicopters or landings in the Pusch Ridge Wilderness Area.

### **This Project Does Not Comply with the Minimum Requirements Decisions Process**

The AZGFD and the USFS must comply with the Minimum Requirements Decisions Process (MRDP) and must use the minimum tool necessary for the project. This does not allow the USFS or the AZGF department to use helicopters in Wilderness for a

project simply because not using helicopters makes the project more difficult or inconvenient. Wilderness Act 1964 Section 4(C).

The use of motorized or mechanized equipment can only be authorized “if these devices are *necessary* to meet the minimum requirements for the administration of the areas as wilderness or are specifically permitted by other provisions” of the Wilderness Act and any such use “*should be rare and temporary*.” Policies and Guidelines for Fish and Wildlife Management in Wilderness areas, section F(1). Research and management surveys related to fish and wildlife must be compatible with managing the area *as Wilderness* and methods that infringe on Wilderness may be authorized *only if alternative methods or other locations are not reasonably available*. Policies and Guidelines for Fish and Wildlife Management in Wilderness areas, section F(3). Population sampling should only use methods compatible with the Wilderness environment when possible. Policies and Guidelines for Fish and Wildlife Management in Wilderness areas, section F(7). Specific to transplanting wildlife, such activities “shall be made in a manner compatible with the Wilderness character of the area.” Policies and Guidelines for Fish and Wildlife Management in Wilderness areas, section F(12).

Given that this project has been ongoing since late 2013 without the use of helicopter landings, there is a demonstrated *lack* of need for helicopter use in the Pusch Ridge Wilderness. The plan to allow at least 200 helicopter trips and landings over the course of 10 years, at minimum, is neither rare nor temporary. There clearly exist alternative methods for managing the bighorn sheep population. The only quantifiable rationale provided by the AZGFD for the use of helicopters is that so doing would possibly be less expensive and less time consuming than using ground personnel to monitor the sheep population. This single rationale is specifically not authorized by the Wilderness Act of 1964.

Using an outline of the MRDP, we demonstrate that the Minimum Requirements have not been met:<sup>7</sup>

Step 1a: Determine if the action proposed is NECESSARY to manage the area as Wilderness

- a. Are there options outside Wilderness? Can the proposed action safely, successfully, and reasonably be accomplished outside wilderness?
  - a. Yes. The bighorn sheep population can be monitored remotely, using satellites. Additionally, improving and restoring wildlife corridors adjacent to the project area will allow sheep to naturally migrate back into the Pusch Ridge area, eliminating the need for future reintroductions and excessive monitoring by the AZGFD.
- b. Is the proposed action consistent with law, regulations, policies, and plans?
  - a. No. The cumulative impacts for this project, on a state-wide level, have not been evaluated. There has never been any NEPA analysis for the reintroduction project despite the use of federal funds, taking place entirely within federal lands, the highly controversial nature of the project, and the impacts to threatened and endangered species and the impacts to protected federal lands.

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<sup>7</sup> We elaborate on this more fully below.

- c. Any violations of other laws? ESA, etc.
  - a. Yes. See above.
- d. Any other guidance to consider?
  - a. Yes. As we explain in the sections above, authorization of this project will violate USFS Policies and Guidelines.
- e. Does the proposed action contribute to preservation of wilderness character?
  - a. No. For two reasons: 1) the sheep are currently present in the Wilderness and heavy handed management by the AZGFD may actually cause their extirpation; and 2) the project requires repeated incursions into the Wilderness area over the course of 10 years, degrading rather than preserving the Wilderness character.
- f. Is the proposed action necessary for the purpose of Wilderness?
  - a. No. See above. In addition, there is no requirement that the USFS support a project to restore an extirpated species when to do so would cause excessive degradation of the Wilderness character.

Step 2a: Determine the minimum tool

- a. Analyzed at least one feasible alternative that does not involve a generally prohibited act.
  - a. This was not done for this project. The USFS should have analyzed an alternative that did not authorize the use of helicopters in any manner for this project.
- b. Are the tools and techniques used to accomplish the Proposed Action the least degrading to Wilderness characteristics? Criteria such as time, convenience, and cost effectiveness may be considered but are less significant than the potential for impacts to Wilderness characteristics.
  - a. No. The AZGFD can and has been using field personnel on foot to monitor the sheep populations. This should be the preferred method for such monitoring in the Pusch Ridge Wilderness. As stated by AZGFD in the documents provided to the public with this Draft EA, cost, time and convenience are the driving factors for the use of helicopters for this project.

Therefore, the Forest Service should reject this project.

**Additional Concerns Regarding the MRDG**

First, the MRDG for the landing of helicopters is not completed or has not been provided. Without this document, provided to the public for review and comment, this project cannot proceed. The MRDG that is provided with this Draft EA, dated June 9, 2014, states that 31 sheep were released and 30 collared sheep need monitoring, which fails to reflect the fact that at most 14 of the original sheep reintroduced to the area remain and only 13 are collared. MRDG at 3. Why is the information in the MRDG apparently inaccurate and/or out of date?

While the terrain of the Pusch Ridge Wilderness is challenging, it is not impossible or extremely dangerous for researchers and scientists to walk into the Wilderness area to obtain signals from sheep collars. The “increased risk” to AZGFD personnel is not quantified in any way. For Step 1 of the MDRP, the agency must determine whether the action can be taken outside wilderness to adequately address the situation. For this step, it is unclear what the action is. Is the action the restoration of bighorn sheep to



the Pusch Ridge Wilderness, or the monitoring of the sheep population that was relocated into this Wilderness area, or is it the use of helicopters to monitor the sheep? If it is the third of these actions, while it is true that monitoring of this particular sheep population necessarily must occur where the sheep are located, the use of helicopters is not “necessary” because the collars are equipped to upload information via satellite and if the collars malfunction in this uploading, Game and Fish personnel can enter the Wilderness area on foot. If the action is the restoration of the sheep population to the Pusch Ridge Wilderness, this also could be accomplished with actions fully *outside* the designated wilderness area. Sheep populations could be established in other areas, or corridors connecting existing populations to the project area could be established or improved and when conditions were suitable sheep would naturally migrate into the Pusch Ridge Wilderness area. Therefore, the MRDG assessment and determination that this project cannot be taken outside of Wilderness is incorrect.

This same rationale is applicable to Step 1A of the MRDG. Administering the Pusch Ridge Wilderness to preserve its Wilderness character can be accomplished without helicopter intrusions. Sheep can be monitored by personnel on foot; sheep migration into the Pusch Ridge Wilderness could be facilitated by improving or restoring natural migration corridors connecting existing sheep populations with the project area. It appears that Section 4(D)(7) of the Wilderness Act, which states “nothing in this act shall be construed as affecting the jurisdiction and responsibilities of the several states with respect to wildlife and fish in the national forests,” is being used to justify this project. While this section of the Wilderness Act grants broad authority to state wildlife agencies over the wildlife within National Forests, it does not give them any authority to manage wildlife in the easiest manner possible, nor does it require the Forest Service to authorize unnecessary violations of the Wilderness Act. The AZGFD is allowed to manage wildlife in the Pusch Ridge Wilderness, but the Forest Service is not required to allow them to use helicopters to do so. This step in the MDRP is not met and the analysis in the MRDG is incorrect.

The use of helicopters is not required by other laws or regulations. The use of helicopters is not necessary to preserve wilderness character, including “naturalness” and “solitude or primitive and unconfined recreation.” In the MRDG at page 6, for both of these characteristics, both the YES and NO boxes are checked. Regarding naturalness, there is no reason to use helicopters in Wilderness to restore naturalness to the Pusch Ridge Wilderness because: 1) the sheep are already in the project area, and; 2) sheep could potentially migrate back into the area naturally, especially if actions were taken to restore and re-establish wildlife corridors to existing sheep populations. In fact, allowing natural migration to occur would be the best method of restoring the character of Naturalness to the Pusch Ridge Wilderness Area. Regarding the character of solitude or primitive and unconfined recreation, while seeing a big horn sheep in Wilderness does enhance a primitive experience, it is not required for such an experience. In fact, wilderness visitors who are aware that the sheep population has been artificially restored and who are bombarded with the noise of helicopters while in the wilderness will have their primitive experience very negatively impacted. If the existing, restored sheep population is allowed to follow a natural course, without human interference, and additional sheep are naturally migrating to this area, the Wilderness visitor’s primitive experience will be vastly enhanced.

It is incorrect to state that re-establishing the bighorn sheep is a *necessary* administrative action. While a full suite of species would enhance wilderness experiences and characteristics, it is not *necessary*. And, as stated repeatedly above, allowing a natural reintroduction of this species by connecting existing populations to the project area would in fact enhance wilderness characteristics without sacrificing those same characteristics.

The MRDG states that “without the data from radio collars, there is a chance the reestablishment of bighorn sheep within the Santa Catalina’s will not succeed, degrading the Natural characteristic of wilderness by failing to reestablish native species.” MRDG at 25. We point out that this necessarily means that the character of naturalness has already been reestablished. In the alternative, and because the AZGFD insists that disturbing the natural character of Wilderness is necessary for this project in order to add to the natural character by reintroducing sheep to the project area, naturalness already exists in the project area and to use helicopters for this project will degrade that characteristic. Failing to reintroduce a species will not have the effect of “degrading” the natural character because that species was already missing from the suite of species in the project area.

And again, we note that the sheep are already present in the project area. No further action is necessary to return them, they can simply be left alone. If the AZGFD is indicating that at this point the relocation is *not successful*, this should be stated more clearly rather than the cloaked statement that “*in order for the reestablishment of bighorn sheep in the Santa Catalina’s to be successful*” signals must be retrieved via helicopter. MRDG at 7. As we have repeatedly heard from the bighorn sheep Advisory Committee members, if the project is not deemed as successful at this point, an additional relocation is unlikely and unwise. However, the AZGFD and Advisory Committee members are publicly stating that this project *is* successful.<sup>8</sup>

For the section of the MRDG indicating that the AZGFD and the USFS must authorize this violation of the Wilderness Act because both agencies must follow various guidance including direction to cooperate to reintroduce extirpated species to historical habitats, the public would find this argument (proffered by AZGFD) more believable if it were applied to all species under the management of the agency (as explained above). For example, the AZGFD has made no secret of its opposition to the reintroduction of Mexican gray wolves or other much more critically endangered species. It is arbitrary and capricious of the AZGFD to push for violations of the Wilderness Act to restore bighorn sheep to the Pusch Ridge Wilderness area while at the same time opposing similar restoration projects for other species. Additionally, the guidelines, standards and other regulations cited in the MRDG by AZGFD ***do not require*** the USFS to sanction a violation of the Wilderness Act so that the AZGFD can attempt to accomplish its arbitrarily selected species reintroduction program.

The MRDG only evaluates the use of helicopters to locate signals from failing collars, to confirm the status of big horn sheep, and evaluate recovery options *when access*

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<sup>8</sup> AZGFD website, link to OpEd in AZ Daily Star. May 8, 2014. *Bighorn sheep project needs patience but moves in the right direction*. <http://www.catalinabighornrestoration.org/Op-Ed-DailyStar050814.html>; AZ Daily Star. July 18, 2014. *Bighorns Find Their Footing*. [http://tucson.com/news/local/bighorns-finding-their-footing-wildlife-officials-say/article\\_1585eca5-ff60-5f59-8273-e584028deac1.html](http://tucson.com/news/local/bighorns-finding-their-footing-wildlife-officials-say/article_1585eca5-ff60-5f59-8273-e584028deac1.html). All attached.

*cannot occur safely on the ground.* MRDG at 16. Landing and long lining are not part of the MRDP request (MRDG at 4), yet landing in Wilderness is discussed in the BA and the Draft EA for this project. We note that there has been no explanation as to why actions on the ground (walking/hiking) are not safe other than to state that they are unsafe. There is no documentation of this assertion. Why has walking been deemed unsafe? At page 16 of the MRDG there is a statement that it can be “time consuming” and “somewhat hazardous” but the hazards are not identified or quantified.

For the analysis of positive and negative effects of the proposed use of helicopters to retrieve collar signals, there are 4 negative effects and just 2 positive benefits: economic savings to AZGFD (\$300/person/day for hiking vs. \$1000/hour for helicopter use) and an unexplained safety effect and we note the safety effect fails to quantify the risk to personnel of the helicopter travel. Additionally, the risks to personnel are not actually reduced by using helicopters unless each helicopter landing occurs precisely where the netted sheep is located which, given the topography of the Pusch Ridge Wilderness area (very steep, rugged), is nearly impossible. Personnel will have endured the risks of helicopter flight in addition to the risks of hiking to the location of the netted sheep because it is unlikely that sheep will be netted on flat ground allowing the helicopter to land precisely next to the netted sheep. In fact, the sheep are likely to be fleeing the helicopter noise and in doing so they will seek rugged territory making retrieving sheep likely *more* dangerous.<sup>9</sup>

The only unmanageable risks attributed to hiking or walking to accomplish the goals of the reintroduction project are related to heat in the months May through September. This is understandable, however, the helicopter netting is largely planned during the cooler months, making this risk attributed to the no action alternative a red herring, rendering the analysis invalid. While we can agree that hiking into the Pusch Ridge Wilderness area to retrieve collar signals is going to be more challenging and time consuming than using a helicopter for the same purpose, this is not a legitimate rationale for authorizing use of helicopters in the Wilderness area. Convenience and costs savings are not valid reasons for violating the intent of the Wilderness Act nor do these reasons rise to the level of a “need” or “requirement” to justify this violation.

### **Danger to Bighorn Sheep are Increased with this Project**

The risks to the bighorn sheep are increased if the methods described on page 20 of the Draft EA are utilized. This method involves using a helicopter to net-gun the sheep, transporting the sheep to a staging area, examining/collaring the sheep, then transporting the sheep back to the area where it was captured. This is far more dangerous and stressful to the sheep than observations from the field, or a capture/examine/re-collar on the site of capture using ground personnel method. This is also a large expansion of the AZGD’s management of the sheep population and is likely to cause considerable controversy with the public.

### **Failure to Consult with FWS**

This project has the potential to negatively impact the following federally listed species: Mexican spotted owl, lesser long-nosed bat, Gila chub, Sonoran desert

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<sup>9</sup> Video of bighorn sheep netting from helicopter provided by AZGFD: <https://www.youtube.com/watch?v=WpA4ZtsAe3Q> Please note that the area this video is taken is much less rugged than the Pusch Ridge Wilderness area.

tortoise. BA page 2. Forest Service Sensitive species that could be impacted by this project include: American peregrine falcon, Bells' vireo, common black hawk, Gould's wild turkey, northern goshawk, northern gray hawk, western yellow-billed cuckoo, lowland leopard frog, and Pima orange tip. BA page 2-3. Management Indicator Species potentially impacted include: cavity nesters, Montezuma quail, northern gray hawk, sulphur-bellied flycatcher, blue-throated hummingbird, Gould's turkey, Peregrine falcon, desert bighorn sheep, black bear, and white-tailed deer. BA at page 3.

The biological assessment inadequately analyzed the impacts to these species and erroneously discounts the effect helicopter use will have on these species. For example, the BA indicates no effect to Mexican spotted owl because flight paths will avoid Mexican spotted owl Protected Activity Centers (PACs.) Unfortunately, there is no analysis at all on how this species will be affected outside PACs. The use of helicopters only during the day is used to completely discount impacts to lesser long-nosed bats which fails to consider that bats are impacted by noise, vibrations and debris during the day while the bats are roosting. Despite the fact that helicopter trips are designed to get personnel within close proximity to bighorn sheep, the BA states that bighorn sheep will not be impacted because there won't be any ground disturbing activity. This analysis fails to consider the impacts of noise and human disturbance to the sheep. Equating a lack of impact to habitat to no impact to species fails to analyze the actual impacts of the proposed use – helicopters make noise and create downdrafts which will impact and disturb sheep and other species. The impacts to sheep from noise of the aircraft are briefly listed, but there is no information in the BA on the scientific research on these impacts. How many sheep mortalities are expected with the use of helicopters to repeatedly net the sheep over the course of the proposed 10 year project?

The statement that helicopter landings for net gunning are the least degrading to Wilderness characteristics is untrue. BA at 7. These landings will create noise disturbance and the least degrading method for capturing sheep would be to have nets hiked into the project area. There are three common methods of capturing sheep identified in the BA, but only netgunning using a helicopter is described. BA at 7. The public has no way to analyze or comment upon the other two methods which are not described. Netgunning from a helicopter is described as causing "fewer and lower-level stress physiological parameters, the lowest mortality rate, and the lowest combined mortality and morbidity rate" but compared to what? There is no information on the mortality and morbidity rates for the other, unidentified, methods of capture. The BA should disclose the mortality and morbidity rates of the other methods, should identify the other methods of capture, and should identify and quantify the physiological stress parameters of the other methods of capture.

Because the analysis in the BA is flawed and incomplete, as described above, a finding of no effect or not likely to affect is invalid. Consultation with the U.S. Fish and Wildlife Service is necessary.

### **Timing of Surveys is Contradictory**

In the BA, fall surveys and spring lamb surveys are described as typically starting at 7:30am on weekend days to coordinate volunteer support with the Desert Big Horn Sheep Society. BA at 6. However, in the Draft EA, at page 20, captures are to "be

scheduled for weekdays, but in the event weather conditions or equipment and personnel availability postpone or require quick response, helicopter flights and landings may occur on a weekend.” Please clarify whether week days or weekend days are the preferred timing of helicopter trips and ensure that the analysis of impacts to Wilderness visitors is accurate in terms of likely impacts (i.e., weekends usually see more visitors to the project area thus more visitors will be impacted.)

### **Water Catchments**

The use of helicopter operation and landing to “asses the redevelopment of existing water catchments” is not appropriate and certainly not the minimum tool necessary. BA at 7.

### **Circular logic**

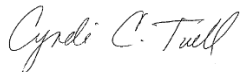
The Forest Service cannot use circular logic to authorize this project. To say that the violation of Wilderness restrictions is required in order to protect Wilderness character does not make sense. BA at 7. This is especially true when the justification for violating Wilderness character is to protect the health of sheep populations, though the use of helicopters will be to *investigate mortality signals and determine causes of mortality for sheep* or to relocate sheep. This use does not in fact protect the health of the sheep that are already deceased and puts the sheep being relocated at risk of capture myopathy, injury, or risk of mortality from becoming prey to other species after relocation into a new and unfamiliar environment.

**Conclusion**

This project will have major, long-term impacts to wilderness characteristics and should not be approved. There is no basis for a Finding of No Significant Impact for this project. The Forest Service should reject this project, or in the alternative, prepare an Environmental Impact Statement.

We request that you keep Friends of Wild Animals informed of this process moving forward and all other projects associated with the relocation, management and monitoring of bighorn sheep in the Santa Catalina Mountains.

Thank you for considering our concerns.



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