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July 30, 2014

Shalonda Guy
Deputy District Ranger
5700 N. Sabino Canyon Road
Tucson, AZ 85750

Sent Via Email

Dear Deputy District Ranger Guy:

Wilderness Watch submits the following comments on the Draft Environmental Assessment Authorizing Helicopter Use by the Arizona Game and Fish Department within Pusch Ridge Wilderness. Wilderness Watch is a national wilderness conservation organization dedicated to the protection and proper stewardship of the National Wilderness Preservation System. Wilderness Watch appreciates the concern for long-term viability of bighorn sheep expressed by this proposals, however we believe the project, and activities implemented thus far relating to the project, are contrary to the letter and spirit of the Wilderness Act.

Attached is our earlier scoping comment on this proposal to ensure you include it as part of the project record. Please note we have yet to receive a response to the questions we raised in our June 13 scoping letter.

Our comment letter is divided into two main categories, Wilderness and National Environmental Policy Act issues.

Wilderness

The EA states on page 7 regarding wilderness, "Wilderness is a unique and vital resource; offering opportunities for primitive recreation, for scientific and educational uses, as a benchmark for ecological studies, and for the preservation of historical and natural features." What is omitted is the key value of untrammeled wilderness. This statement misses what Wilderness is really about, wildness, and sets an improper tone for the analysis in the EA.

There are several issues that are inadequately considered in the EA regarding Wilderness. It should be noted that the bighorn sheep were reintroduced outside of Wilderness, without any Forest Service analysis. However, both the Forest Service (FS) and Arizona Game and Fish Department (AGF) were aware at the time that the intent was for the bighorn sheep to reside in the Wilderness. For example, the scoping letter states, "Arizona Game and Fish Department (AGFD), in collaboration with the Santa Catalina Bighorn Sheep Restoration Project Advisory

Committee are working to reintroduce desert bighorn sheep to the Santa Catalina Mountains and Pusch Ridge Wilderness.” Why didn’t the agency evaluate the impacts to Wilderness, including connected actions (which the EA leads one to believe is the case) associated with that reintroduction? Are more reintroductions planned?

The EA does not make the case that helicopters are needed to make sure bighorns survive in the Pusch Ridge Wilderness. Our scoping letter noted:

We understand bighorns are a native species, but the scoping letters do not explain why these actions would meet the minimum requirement for protecting and preserving the Wildernesses. The Arizona Game and Fish Department’s Statewide Action Plan is not a Wilderness Plan; please clarify how these activities are necessary to meet minimum requirements for the administration of the area as Wilderness.

The EA sheds no more light on this question. In particular, the EA does not evaluate whether bighorn sheep can even survive in the area, given the kind of use in and around the Wilderness, that currently takes place. That is vital before even asking the question whether this action is necessary to preserve Wilderness. Over half of the reintroduced bighorn have died within the first four months of reintroduction, including all but one male ram, and the few lambs born face a tough 25% survival statistic. It appears that predation has been the primary source of mortality prompting another issue of great concern for designated wilderness: the subsequent tracking and killing of predators within the Wilderness boundaries.

Perhaps exacerbating predation mortality are the other habitat and disturbance impacts that have not been adequately analyzed. These issues were well covered in regional dialogue when the herd neared its disappearance in the 1990s. See <http://www.tucsonweekly.com/tw/01-23-97/cover.htm>; http://tucson.com/news/blogs/morgue-ales/tales-from-the-morgue-the-end-of-the-bighorns-on/article_707b9f80-a497-11e3-ab79-0019bb2963f4.html. Notable concerns include the loss of secure habitat through fire suppression efforts, encroaching human developments that disrupt migration corridors and increase human presence at the edge of the Wilderness, and increased human traffic for hunting and recreation within the Wilderness. Because the prior die-off of bighorn herds in Wilderness suggest that the area may no longer be able to support a population of bighorn sheep and/or that AGF has mismanaged the bighorn sheep, and since habitat manipulation for bighorn sheep would not be consistent with Wilderness, it is imperative that a thorough and scientifically valid assessment of why the sheep disappeared needs to be made before the actions that are expressly prohibited by the Wilderness Act are authorized. This is particularly true where the EA indicates that extensive helicopter capturing, transporting, and monitoring will be required. This type of activity is inherently offensive to Wilderness character both through aerial intrusion and through extensive manipulation of wildlife (netting, lifting sheep from one location and flying and dropping them in another location, monitoring sheep with electronic devices and helicopter flights and landings, etc). See example: <https://www.youtube.com/watch?v=jUbhQCRObO8> The Forest Service must also clarify whether the agencies anticipate a need to modify habitat, add structures, or continue with motorized access to encourage viability for this population.

The evidence before the agency at this point in time should raise serious concerns over whether

or not this reintroduction is viable. While the bighorns could disappear and return in a different part of Santa Catalina Mountains--as they did in Zion National Park a couple of decades after what appeared to be failed reintroduction efforts in the 70s--the EA does not analyze whether there is currently viable bighorn habitat. Even if it is currently viable habitat, it would likely benefit both Wilderness and bighorns to eliminate the intrusive capturing, collaring and monitoring or allow for natural re-colonization. It seems it takes time for bighorn sheep to become accustomed to new terrain.

It is clear from the EA that the Forest Service believes “gathering of data needed to support State wildlife management objectives” is far more important than complying with the Wilderness Act. While the Wilderness Act allows for scientific study of wildlife populations, the gathering of data and monitoring must be done in a Wilderness compatible manner. The Forest Service’s management direction also dictates that, wildlife “[r]esearch methods that temporarily infringe on the wilderness character may be used, provided the information sought is essential for wilderness management and alternative methods or locations are not available.” FSM 2323.37. The FSM also prohibits “the use of motorized equipment or mechanical transport unless the research is essential to meet minimum requirements for administration of the area as wilderness and cannot be done another way (sec. 4(c) the Wilderness Act).” As noted above, meeting AGF’s desires and plans is in no way essential to wilderness preservation. As such, the Forest Service must independently demonstrate that its authorization of a decade of helicopter use with up to 200 landings, predator control activities, and active manipulation of the bighorn population is *essential* to administer the area as wilderness.

The EA does not explain how AGF’s desires can legally outweigh the FS’s duty to preserve wilderness character. Thus, the premise of the EA and analysis is flawed.

The EA notes:

Management of wilderness must preserve its wilderness character and allow for visitor enjoyment. There are six specified purposes of wilderness: scenic, scientific, recreation, education, conservation, and historical use.¹⁷ Land managers can approve and implement activities in wilderness provided that the activities further one or more purposes of wilderness without degrading wilderness character. Under Forest Service policy, an action must be analyzed using the Minimum Requirements Decision Guide (MRDG) before it is implemented. The MRDG is a two-step process that first requires the agency to determine if any administrative action is necessary to meet minimum requirements to administer the area for the purposes of the Wilderness Act. If action is deemed necessary, the second step is to determine the minimum activity, method or tool needed to accomplish the action that would have the least impact to the wilderness resource, character, and purposes. The analyses of both helicopter hovering and landings in Pusch Ridge Wilderness occurred under the MRDG process. The signed MRDG approving helicopter hovering can be found in Appendix B. The Forest Service is in the process of drafting the MRDG for approval of helicopter landings.

The paragraph notes the MRDG for helicopter use is the only one in the files at present. How can

the public adequately comment on this proposal absent such a key document the EA claims will be the basis for the regional forester's decision?

More importantly, this paragraph misstates wilderness policy and law. Most importantly, it conflates the purpose of the Wilderness Act with the public uses or purposes of Wilderness. The first sentence of Section 2(a) of the Wilderness Act describes the purpose of the Act: "to secure for the American people of present and future generations the benefits of an enduring resource of wilderness" through the establishment of "a National Wilderness Preservation System" and that system "shall be administered for the use and enjoyment of the American people in such a manner as will leave them unimpaired for future use and enjoyment **as wilderness** and so as to provide for the protection of these areas, the preservation of their **wilderness character** . . .". (emphasis added). It is instructive that recreation does not appear in this purpose.

Further Congress defined wilderness in section 2(c) as a place "in contrast" to areas where humans and their works dominate, "where the earth and community of life are untrammelled by man, where man himself is a visitor who does not remain." Thus, there is a clear intention that Wilderness remain in contrast to modern civilization, its technologies, conventions, and contrivances. Congress also intended that Wilderness remain untrammelled, meaning free of intentional human manipulation. In Wilderness, the forces of nature and natural processes would be allowed to unfold without intentional human interference. In this definition, Congress defines not only qualities of Wilderness but also provides statutory direction for how humans interact with Wilderness, and what our relationship will be with these places. In Wilderness, Congress clearly intended that humans will not dominate or develop the landscape, and will not control natural processes.

Section 4(b) states:

*"Except as otherwise provided in this Act, each agency administering any area designated as wilderness shall be responsible for preserving the **wilderness character** of the area and shall so administer such area for such other purposes for which it may have been established as also to preserve its **wilderness character**."* (emphasis added)

The mandate is to administer all activities so that this Wilderness will remain "unimpaired for future use and enjoyment as wilderness". It is also clear that this mandate applies to the setting rather than to any particular use. The wilderness character will not be preserved if one or more element(s) of character is allowed to degrade.

The Wilderness Act is explicit in section 4(c):

... except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act (including measures required in emergencies involving the health and safety of persons within the area, 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."

Purpose is singular in Section 4(c), and that is crucial to understanding the Act. Thus, a clear direction is established in law. The benefits of an enduring resource of wilderness through the establishment of the National Wilderness Preservation System which is to be administered to protect its wilderness character for the American people now and in the future is the singular and overriding purpose for the Wilderness Act. The public [purposes in section 4b are allowed, but only if they preserve wilderness character. The EA leads one to believe wilderness administration derives from these public purposes. As Zahniser noted in a hearing on the Act, the purpose is to preserve wilderness, not establish any particular use. These public purposes come under the overall mandate to preserve an untrammelled wilderness.

Thus, the Wilderness Act clearly requires the federal land management agencies not manipulate or dominate the wilderness. This mandate is reflected in the epigram written by the drafter of the Wilderness Act, Howard Zahniser of the Wilderness Society, who wrote, “With regard to areas of wilderness, we should be guardians not gardeners.”

Also, visitor enjoyment of Wilderness is not mandated in the Act. Rather the overriding factor is the preservation of wilderness character in perpetuity as noted above. Visitor use is administered in such a way to preserve wilderness character. Indeed, visitors are not allowed in some Wildernesses because they are sensitive nesting grounds for seabirds. In any case, enjoyment of Wilderness does not derive solely from visitation.

Later on that same page, the EA conflates wilderness character monitoring with wilderness resource values in an effort to set them up against each other. This is contrary to the Act, which sets up untrammelled wild wilderness in section 2a as the key characteristic of wilderness. This faulty thinking played out in the EA analysis of Untrammelled, Undeveloped and Natural on pages 33 to 34. For example:

Use of helicopters will be short-term and infrequent, lasting from 1 to 3 days for desert bighorn sheep capture. Accessing mortalities via helicopter will also be short-term and infrequent, estimated at less than 20 landings per calendar year. Helicopters would land on established helisites or bare ground whenever possible to avoid disturbing vegetation at the site. Vegetation and other natural characteristics within the wilderness will not be intentionally modified for any activities. These impacts are considered a moderate, short-term trammeling of the wilderness characteristics.

This statement turns the Wilderness Act on its head. It completely misses the point that helicopter use is illegal in wilderness because it is antithetical to what the Wilderness Act sought to preserve. The same argument could apply to motorized use on trails. Any passing motor vehicle is only temporary. Yet the essence of wilderness is destroyed by motorization, regardless of how temporary.

In any case, this is not a temporary use of helicopters. It is a ten-year plan that would allow up to 200 helicopter landings. If more bighorn sheep are reintroduced, that number could increase.

Perhaps the best example of how misdirected the EA is with regard to Wilderness character is the EA's comparison of impacts from trails vs. helicopters on Wilderness. The EA alleges trails (in

this case unauthorized trails) have a huge negative impact on the untrammeled nature of Wilderness whereas helicopters have a minimal one. Trails are not prohibited in Wilderness; even animals make them. Helicopters are expressly and emphatically prohibited.

Even mitigation measures are mis-directed. While leaving nets that didn't capture bighorn sheep is problematic, the EA leads one to believe that would result in additional helicopter landings In Wilderness. That is not mitigation.

While bighorn sheep are an important wildlife species, it is not essential they be in the Pusch Ridge Wilderness, particularly if the area can no longer support them and even more particularly if their presence requires such extensive, heavy handed, and enduring management as the activities proposed here. As noted above, the EA does not make the case that this helicopter use needs to be done in order for bighorns to survive in the Wilderness. There is only this unsupported statement in the EA on page 34, "Helicopter use in support of bighorn sheep management in the PRW will have a beneficial effect on visitors' opportunities for the primitive recreational experiences." In any case, that statement is more directed at visitor use, rather than viability of bighorn sheep. This section of the EA completely omits any mention of the fact that the decline of the bighorns might be due to predation or influences outside of Wilderness. In any case, those factors are only mentioned in passing.

With regard to predation, it is crucial to note that foreseeable impacts may be more manipulation in Wilderness to control another native species (cougar), ostensibly for bighorn sheep. This is a serious failing in looking at potential cumulative impacts to Wilderness from this project

The EA refuses to look at alternatives that would have less manipulation and trammeling of Wilderness than what is proposed in the EA. For example, there is no alternative that amends the MRDG for the hovering approval (erroneously done without any public involvement or NEPA) to require mitigation for spotted owl or other wildlife species. There is no alternative that looks doing all the helicopter work outside the Wilderness as some bighorn habitat exists outside. Indeed, the reintroduced bighorns were released outside of the Wilderness. This leads to the second issue.

NEPA

The EA fails to comply with NEPA's "hard look" mandate in several respects. These problems are explored below.

The proposal, which would have a ten-year impact on Wilderness, is not analyzed in an EIS. This is an action that would significantly affect the environment. It is not one landing of helicopters, but 200 landings over a period of ten years. That has a significant impact on Wilderness by virtue of the fact helicopter landings are prohibited in Wilderness. The scoping letter talked about a four-year project, not a ten-year one.

There are connected actions to this project, which are not analyzed. These could include aerial gunning of predators in Wilderness or other anti-predator measures that would negatively affect Wilderness. Other possibilities include an expansion of helicopter use for supplemental reintroductions of bighorn, or expanded helicopter use to track newly reintroduced sheep.

Indeed, the connected action (the helicopter MRDG) had led to this proposal. The AGF and FS have allowed incremental decisions to be made without any NEPA analysis of cumulative impacts analysis.

Further, it seems there is an overall programmatic plan to heavily manipulate bighorn populations in various Wilderness areas (e.g. Tonto, Pusch Ridge, and others) by the Arizona Department of Game and Fish. It would behoove the federal agencies that have jurisdiction over these Wildernesses to look at the overall plan through an environmental impact statement (EIS) as the site-specific projects appear to be inextricably linked and are likely to have a significant impact given the potential duration and extent of activities and given the number of protected areas impacted. Even if the agencies were able to legally extract an independent NEPA analysis for just the Pusch Ridge Wilderness, the proposed action would necessitate the preparation of an EIS due to the extensive and prolonged nature of activities that are expressly prohibited by the Wilderness Act due to impacts on Wilderness character. Impacts to wildlife are also likely to be significant.

There is also not an adequate range of alternatives presented. The EA does not even look at an alternative that conducts activity outside the Wilderness even though the bighorns were reintroduced outside the Wilderness. The EA does not look at a non-motorized option, stating instead it is covered under the no-action alternative. However, amending the helicopter hovering MRDG was not done in the no-action alternative, making it look more harmful for wildlife. An alternative that looked at a non-motorized option that put more constraints on the hovering MRDG was not done. Even the original proposed action was not analyzed! Only no-action and the proposal were considered. This completely fails accountability to the public and our nation's environmental laws.

The drop net alternative “was dropped” in the EA “because it does not meet the purpose and need of the analysis in that it does not provide for timely retrieval of malfunctioning collars or timely gathering of data needed to support State wildlife management objectives.” Again, stated objectives cannot dictate federal wilderness policy or NEPA compliance. Yet, that seems to be what is occurring in this instance. The purpose and need was so narrowly defined as to preclude a reasonable range of alternatives.

The EA fails to provide the public with credible and reliable information required under NEPA. There is no thorough analysis or conclusion as to why the bighorns disappeared and whether they can even survive under current conditions in Pusch Ridge. Online articles quoting scientists suggest that either bighorns won't survive here or that die-offs and re-colonization are routine and may occur yet again (see <http://www.tucsonweekly.com/tw/01-23-97/cover.htm>). There is no analysis of how long it may take the reintroduced bighorns to adapt to a new place. For example, after a couple of supposed failed reintroductions in Zion National Park in the 70s, the desert bighorns miraculously showed up in significant numbers in the part of the Park furthest from communities and development.

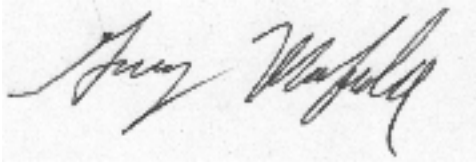
The EA does not mention the fact that guzzlers exist in the Wilderness, ostensibly for bighorn sheep. What other cumulative impacts and connected actions did the EA miss?

Summary

The EA is inadequate. Incremental “decisions” that did not go through NEPA are wrongly directing this issue, to the detriment of Wilderness. Assumptions that make helicopter use more desirable in Wilderness than natural processes of predation, extirpation and re-colonization miss the mark. An EIS is needed to consider the impacts of this proposal and more site-specific data required. AN EIS that looks at the entire bighorn program in Arizona seems in order as these proposals are occurring in other places as well.

Please keep us updated on this proposal.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gary Macfarlane", is written over a light gray rectangular background.

Gary Macfarlane
Board Member

cc: Dana Johnson, Staff Attorney