



Sent via email.

September 25, 2015

Mr. Champe Green, Forest Planner Cibola National Forest and National Grasslands 2113 Osuna Rd. NE. Albuquerque, NM 87113 Email: <u>comments-southwestern-Cibola@fs.fed.us</u>

RE: Draft Forest-wide Ecological and Socioeconomic Desired Conditions

Dear Mr. Green and Forest Planning Staff,

Please accept the following comments submitted on behalf of the Center for Biological Diversity in response to the notice the Draft Forest-wide Ecological and Socioeconomic Desired Conditions for the Cibola National Forest Mountain Ranger Districts. The public notice for this document stated that comments received by September 25, 2015 would be most useful, making these comments timely.

The Center for Biological Diversity (the Center) is a national, nonprofit conservation organization with more than 900,000 members and online activists dedicated to the protection of endangered species and wild places. The members and activists of the Center are concerned with the management of our federal public lands, including our national forests, especially as that management relates to the protection, recovery, and viability of native species and habitat. While we maintain members and supporters within the counties where ranger districts of the Cibola National Forest are located, our national public lands are to be managed for the benefit of all Americans, and we therefore speak for all our members and supporters throughout the United States.

The Center intends for these comments to be comprehensive and easily understandable, however, if the Forest Service requires additional information about a recommendation or proposed course of action, the Center requests the opportunity to elaborate and provide additional information.

# **Table of Contents**

I.	Introduction
a.	Landscape-Scale Desired Conditions and Forest Planning3
II.	Comments on Draft Desired Condition Statements
a.	Forest-Wide Vegetation Type Desired Conditions
b.	Surface and Groundwater5
c.	Aquatic Species and Habitats6
d.	Terrestrial Species and Habitats6
e.	Nonnative Invasive Species6
f.	Fire and Fuels6
g.	Range and Grazing7
h.	Forest Products
i.	General Recreation
j.	Dispersed Recreation
k.	Roads, Facilities, and Other Infrastructure9
III.	Conclusion

## I. Introduction

### a. Landscape-Scale Desired Conditions and Forest Planning

The 2012 Forest Planning Rule applicable to the plan revision process being undertaken by the Cibola National Forest states that the purpose of the planning rule is to guide development of plans that "promote the ecological integrity of national forests."<sup>1</sup> Ecological integrity has been defined by the Forest Service as ecosystems which occur within natural ranges of variation and can withstand natural and anthropogenic disturbances.<sup>2</sup> Further, the 2012 Rule states that plans should guide management that will result in a forest with "diverse plant and animal communities" that will provide "ecological benefits for the present and into the future."<sup>3</sup> Taken together, these mandates require for the Forest Service to prepare forest plans that are forward-looking, do not prioritize short-term economic exploitation over long-term ecological sustainability, and contain standards and guidelines that promote the health of diverse native flora and fauna and functioning ecosystems, allowing for change over time.

Many of the desired conditions presented in draft form meet this mandate. However, some do not. Additionally, many of the desired conditions for various management categories fail to provide a vision that promotes long-term sustainability or provides adequate protections for species, ecosystems and landscapes. While forest management allows for multiple-uses, it cannot do so at the expense of the larger forest ecosystem. Moreover, with increasing, and often uncertain, impacts from climate change and other natural processes influencing forest ecosystems, it is paramount that the Forest Service creates desired conditions that will lead to standards and guidelines geared to preventing and minimizing human impacts. And finally, the desired conditions identified for this forest plan must be conducive to the implementation of a monitoring plan, and therefore cannot be so vague that they are impossible to actually measure or meet in a meaningful way.

With these concepts in mind, we provide comments on the draft desired conditions provided. We also again request that the Forest Service consider the desired conditions we submitted during previous commenting opportunities as part of evaluated alternatives during the planning process.

## II. Comments on Draft Desired Condition Statements

## a. Forest-Wide Vegetation Type Desired Conditions

## General Comments

*Reference Conditions* – Within every vegetation type identified by the Forest Service, the desired conditions on various scales contain specific ranges, percentages, proportions, numbers and other measurements for vegetation characteristics and conditions, such as old growth, basal area, and seral stage, among others. However, the Forest Service provides no data, documentation or citation for these specific desired conditions within any of the vegetation types. We concur that a range of conditions, stages, and structures are appropriate for each type of vegetation found on the forest.

However, without understanding the scientific basis for these desired conditions, we cannot at this time determine whether they are appropriate or based on best-available science. We also note, as a general matter, that attempting to recreate specific historical conditions may not lead to conditions that promote ecological sustainability long-term, especially in light of the impacts associated with climate change.

<sup>&</sup>lt;sup>1</sup> 36 C.F.R. § 219.1(c) (2015).

<sup>&</sup>lt;sup>2</sup> See id. § 219.19.

<sup>&</sup>lt;sup>3</sup> 36 C.F.R. § 219.1(c).

Rather, we suggest creating desired conditions for vegetative types that focus on characteristics of functional ecosystems, such as functional fire regimes, increases or sustained population numbers for native species, rates of natural disturbances and recovery from such disturbances, and maintenance of key habitat components. Moreover, we urge the Forest Service to create desired conditions that cut across vegetation type, and focus on creating sustainable ecosystems as a whole across various scales.

As written, many of the desired conditions for vegetative types that rely on arbitrary basal area limitations, seral stage proportions, tree age percentages, and other measurements are not clearly linked to the requirements of the 2012 Rule, or best-available science. And there is no indication that project or standards and guidelines created or implemented to meet these desired conditions will in fact lead to sustainability, diversity of plant and animal species, watershed and ecosystem health, resiliency, or meet the requirements of other federal laws, including the Endangered Species Act.

*Habitat Requirements* – Given the 2012 Planning Rule's specific instruction that the forest plan must "provide for the diversity of plant and animal communities," "contribute to the recovery of federally listed threatened and endangered species, conserve proposed and candidate species, and maintain a viable population of species of conservation concern," we find the current desired conditions for all vegetative types do not meet the Forest Service's legal obligations because they do not mention or attempt to provide for habitat requirements or needs for native species. The current vegetative desired conditions are written and structured to achieve desired visual or structural goals, with no explanation as to their basis, that provide no certainty for species habitat needs within these vegetative types.

While we realize that such explanatory information may be contained within an EIS, we note that federal courts reviewing Forest Service plans and projects have stated that when the Forest Service uses a "habitat as proxy" approach to maintaining species viability, which it seems to be doing here, such an approach will be found arbitrary and capricious if the Forest Service does not "both describe the quantity and quality of habitat that is necessary to sustain the viability of the species in question and explain its methodology for measuring this habitat."<sup>4</sup> To meet its obligations under federal law, the Forest Service must identify desired conditions for vegetative types that support habitat needs for the recovery of listed, proposed, and candidate species, and the viability of species of conservation concern. Such desired conditions are currently missing from this draft.

**Desired Conditions for Goshawk** – Various vegetation types identified within the document contain draft desired conditions specifically for goshawk habitat components. We believe more desired conditions aimed at preserving, protecting and restoring wildlife habitat, as well as specific and enforceable standards and guidelines (especially for identified management strategies taken from recovery plans and best-available science) to reach them for specific species, are needed within the forest plan.

For the identified goshawk desired condition, we believe the following sentence should also be included: Goshawk population numbers and makeup are maintained at or restored to conditions that promote genetic diversity, success of breeding pairs, and long-term viability of the species within the Cibola National Forest.

#### Wildland-Urban Interface Desired Conditions

**Definition of the Wildland-Urban Interface (WUI)** – For the purposes of this plan revision, the Forest Service has not identified what definition, both in geographical terms and in general terms, it is using for the WUI. Defining this area is important to understanding the context for the draft desired conditions for the WUI area, which we agree will be unique from desired conditions for other forest areas. Without an

<sup>&</sup>lt;sup>4</sup> The Lands Council v. McNair, 537 F. 3d 981, 998 (9th Cir. 2008).

understanding of how and why the Forest Service is defining WUI in this context, however, we cannot adequately comment on the desired conditions or future plan components for this area.

#### Adjusting Desired Conditions to Account for Vulnerability to Climate Change

Planning for Climate Change - We have identified various potential pitfalls, and potential for violations of federal law, associated with the Forest Service's discussion about climate change in this draft desired conditions document. According to the 2012 Rule, the Forest Service must include plan components "to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds . . . taking into account: ... climate change."<sup>5</sup> The Forest Service in this case does not appear to have incorporated this direction into the desired conditions for vegetation types and other forest management activities; rather, it seems to have merely addressed climate change in one general desired condition that is vague and potentially inconsistent with other desired conditions. The general desired condition that "tree basal area is restored or maintained at the low end of the desired range to mitigate water stress and increase resiliency to climate change," is also lacking any citation to best-available science or application to specific vegetation types or habitat. Under this desired condition, it appears the Forest Service will aim to reduce basal area in select areas (not identified within the desired conditions) as a general climate change adaptation strategy. Such a general desired condition, which also does not account for natural disturbance phenomena that may assist in the shift to more appropriate vegetative conditions in light of climate change, has the potential to drive projects and decision making based on an inappropriate one-size-fits-all management approach. Numerous studies have shown that "intact ecosystems that retain their full complement of species are more likely to be buffered from the effects of climatic change."<sup>6</sup> Additionally, climate change impacts ecosystems as a whole, not only specific areas or types of vegetation within the forest. Science-based climate change adaptation and mitigation desired conditions, standards and guidelines should be incorporated into specific vegetation type plan components to maintain whole, functioning ecosystems, rather than a separate vague desired condition for the entire forest. The current desired condition for climate change vulnerability should be removed.

Moreover, we again point out that climate change adaptation can take numerous forms and management approaches, but should primarily begin with a strategy to mitigate and prevent stressors other than climate change that may make adaptation for plant and animal species more difficult. Two key strategies that scientists recommend be employed to facilitate protection of intact ecosystems and viability of species in light of climate change are: (1) "including the widest possible altitudinal range within protected areas" and (2) increasing the connectivity and permeability of protected areas, for instance by creating buffer zones.<sup>7</sup> Desired conditions that will lead to standards and guidelines implementing these strategies are needed in the draft forest plan.

#### **Riparian Vegetation Types**

The following general desired condition should be added to the Riparian Vegetation Types section: Dominant vegetation within riparian zones consists of existing, naturally regenerated, or seeded/planted native trees and shrubs suited to the soil and hydrology of the site.

## b. Surface and Groundwater

<sup>&</sup>lt;sup>5</sup> 36 C.F.R. § 219.8(a).

<sup>&</sup>lt;sup>6</sup> Gillson, Lindsey, et al. "Accommodating climate change contingencies in conservation strategy." *Trends* in ecology & evolution 28.3 (2013): 135-142.

<sup>&</sup>lt;sup>7</sup> *Id.* at 138.

The following desired condition should be incorporated into a revised forest plan: *Sources of water pollution are identified and subsequently prevented or minimized to the extent practicable.* 

### c. Aquatic Species and Habitats

#### Listed Species and Species of Conservation Concern

The following desired condition should be incorporated into the forest plan, and guide the creation of specific, enforceable standards and guidelines to achieve it: *Federal listed, candidate and proposed species are trending toward recovery, supporting the goal of eventual delisting, while species of conservation concern exist at levels that support long-term population viability.* 

#### d. Terrestrial Species and Habitats

#### Listed Species and Species of Conservation Concern

The following desired conditions should be incorporated into the forest plan, and guide the creation of specific, enforceable standards and guidelines to achieve them:

Federal listed, candidate and proposed species are trending toward recovery, supporting the goal of eventual delisting, while species of conservation concern exist at levels that support long-term population viability.

Previously extirpated species, for which there is federal plan for recovery applicable to the Cibola National Forest, become established on the landscape, supporting species viability and recovery long-term.

Native species are found and protected throughout their historic range within the Cibola National Forest.

#### e. Nonnative Invasive Species

We agree that nonnative invasive species pose a threat to ecosystem function and native species viability in many instances. We also agree that management to remove or reduce the presence of nonnative invasive species is also important. We are encouraged to see that the Forest Service is prioritizing prevention and early detection to address this problem. With that in mind, we suggest the following changes to the draft desired conditions (additions noted in bold):

Invasive species, and management projects and tools used to extirpate or minimize them, do not disrupt the structure or function of ecosystems or impact native wildlife or plant species.

#### f. Fire and Fuels

We commend the Forest Service for highlighting the need for and role of wildland fire for ecosystem health throughout the Cibola National Forest. To capture the importance of this natural disturbance process, we recommend the addition of the following desired conditions:

Wildland fire, as appropriate, is utilized as the primary management tool to meet restoration objectives and goals for vegetation structure, wildlife habitat, and ecosystem function.

We also note that because historic fire regimes are not without controversy or uncertainty, and in light of potential shifts in vegetation structure and composition due to climate change, historic fire regimes may

not be the most appropriate reference condition on which to base desired conditions. In fact, shifts in fire regimes resulting in shifts in vegetation classes, structure, or composition may facilitate natural adaption to climate change. Therefore, we propose the following edit to the desired condition identified on pg. 61, lines 15-17 (additions shown in bold):

Wildland fires burn within a natural range of intensity and frequency of the historic fire regime for the vegetation community. Uncharacteristic-High-severity fire rarely occurs occurs at intervals and scales appropriate for relevant ecosystems and is managed to promote ecosystem health and restoration goals, as appropriate. High-severity fire that threatens human structures or facilities is prevented and controlled.

### g. Range and Grazing

Under the 2012 Rule, multiple uses, including livestock grazing, on the Cibola National Forest must be managed using standards and guidelines that apply integrated resource management.<sup>8</sup> Integrated resource management means "multiple use management that recognizes the interdependence of ecological resources and is based on the need for integrated consideration of ecological, social, and economic factors."9 The factors considered in creating and evaluating plan components that apply this type of management must include species and habitat needs, dominant ecological processes and other system drivers, and foreseeable risks, among other things.<sup>10</sup> In other words, the Forest Service must take a holistic approach to managing livestock grazing, rather than merely continuing to allow current use or ignoring the very real risks that grazing poses to other forest resources.

The Center acknowledges that the Forest Service operates under a multiple-use mandate and that livestock grazing is a legal use of public land. However, this does not mean that livestock grazing must take place on all lands of the Cibola National Forest, or that new and better restrictions on grazing practices cannot be implemented through this plan revision process. Given the significant impacts to grasslands, riparian ecosystems, and species from historical grazing and climate change, the Forest Service must re-evaluate its current approach to livestock grazing on the Cibola National Forest and implement plan components to protect species and habitat. It is unlikely that rangelands in the planning area ever will return to historical norms that supported forage production capacity over the past century.

Updated management direction for grazing has also been identified as a need for change during the assessment process: "The revised plan needs to provide management direction to the livestock grazing program that incorporates adaptive management toward ecosystem-based desired conditions, with particular emphasis on management in times of drought or other extreme weather-related events."

The current desired conditions do not adequately respond to the need for additional guidance and regulation for livestock grazing identified by the need for change. Moreover, the desired conditions seem to require and invite a long-term commitment to all current grazing practices and conditions, even though best-available science and current and predicted conditions suggest such practices will need to be reformed and limited. For instance, including the phrase "natural range of variability (NRV)" in desired conditions for livestock grazing is problematic because it is vague and does not ensure the long-term sustainability of forest ecosystems, including allowing for natural fire, wildlife forage, and watershed health. Under this desired condition, it would likely be possible for native plan communities to be managed in such a manner that grass communities are perpetually stressed, which would fall within the NRV, but would not promote ecosystem health or restoration. Livestock grazing, like any other forest

<sup>&</sup>lt;sup>8</sup> 36 C.F.R. § 219.10(a). <sup>9</sup> *Id.* § 219.19.

<sup>&</sup>lt;sup>10</sup> *Id.* § 219.10.

activity, must be managed to support forest ecosystem health, not the economic interests of the livestock community. Therefore, we suggest the following changes and additions (in bold) to the desired conditions:

*Proper* livestock stocking rates and associated management activities **conform** *contribute* to **standards** *and guidelines that ensure healthy, diverse plant communities, soil stability, and wildlife habitat, viability, and recovery*.

Livestock management includes range improvements such as but not limited to fences and water developments that do not impede the viability or recovery of native species and which are removed when no longer needed.

*Livestock grazing and associated management practices are in balance with* the needs of wildlife forage, watershed ground cover, natural fire regime, and resilience to climate variability *drive and inform livestock grazing suitability determinations, practices and associated management*.

Herbaceous native plant communities are functional and support ecosystem restoration goals and native wildlife, while disturbances occur within the natural range of variability (NRV).

Soils and biological crusts are intact and contribute to functioning watersheds and ecosystems, while sedimentation and soil run-off is limited and subject only to natural processes.

Native wildlife, including ungulates and predators, are widespread on the landscape and free from conflict with livestock operations.

Flexibility is maintained in management of livestock operations and plans so as to prevent and resolve conflicts between native wildlife and livestock in an efficient manner while preserving and protecting native species habitat.

Invasive species do not become established or continue to spread through forest ecosystems where livestock grazing occurs.

#### h. Forest Products

As described above, plans must provide standards and guidelines to maintain and restore ecological integrity, landscape connectivity, water quality, and species diversity.<sup>11</sup> Those requirements simply cannot be met absent integrated plan components in all management areas that are directed at making multipleuse activities considerably more sustainable to promote ecosystem resilience and restoration. As relates to the removal of forest products from the Cibola National Forest, the Forest Service has created broad desired conditions that need to be followed by the incorporation of specific standards and guidelines that will ensure that multiple-use activities are indeed consistent with restoration and sustainability objectives. Additionally, we urge the Forest Service to make sure such desired conditions, standards and guidelines are applicable across the forest landscape to prevent "sacrifice zones" from developing in some areas of the forest. All forest products should be carefully managed, and restricted if necessary, to prevent damage to wildlife habitat and forest health.

One key piece of this that is missing from the current desired conditions for forest products is the need to limit the creation of additional roads and access points in those areas where forest products are being removed. There are very limited circumstances when additional roads are needed to harvest forest plants,

<sup>&</sup>lt;sup>11</sup> *Id.* § 219.8(a)

including in thinning or logging projects, and we urge the Forest Service to incorporate direction in the plan that will prevent the creation of unnecessary roads and trails, whether created by the Forest Service or users. The Forest Service's final directives on infrastructure recognize this: "[t]he central consideration in land management planning for infrastructure is that the integrated desired conditions and other plan components set a framework for the sustainable management of the plan area's infrastructure and mitigation of adverse impacts."<sup>12</sup>

We, therefore, recommend the inclusion of the following desired condition within the forest products section:

Harvesting and collection of forest products does not result in the creation of new roads, trails, or access points on the forest landscape.

### i. General Recreation

As written, the desired conditions identified for general recreation on the forest focus primarily on ensuring access for all types of recreation and relying on visitors to prevent conflicts and unsustainable recreation practices. We understand the need to provide sustainable recreation opportunities to many different segments of the population, but we also want the Forest Service to ensure that opportunities for quiet recreation, including the opportunity to experience natural soundscapes, night skies, and natural landscapes free from interference by human activities (whether recreational, commercial, industrial, or of some other nature), are preserved and maintained into the future. Due to the ever increasing amount of people, organizations, groups, and corporations seeking to recreate or use the forest in some manner, we believe that there is the potential for ever decreasing opportunities to truly escape human development and presence and experience dispersed quiet recreation and wild areas.

We recommend the inclusion of the follow desired conditions to capture the need to protect and preserve natural, wild landscapes on our public lands.

*Opportunities for quiet recreation, observation of night skies, and enjoyment of wild and natural landscapes free from human development and infrastructure are preserved and protected.* 

## j. Dispersed Recreation

We ask that the following desired condition for Motorized Recreation be added:

Motorized recreation is not occurring off designated roads and trails. Areas where illegal or inappropriate use is occurring are efficiently closed and rehabilitated before further use is allowed.

## k. Roads, Facilities, and Other Infrastructure

The revised plan is the logical and appropriate place to establish a framework for management of the forest road system. Plans "provide[] a framework for integrated resource management and for guiding project and activity decisionmaking."<sup>13</sup> Plans allow the Forest Service to comprehensively evaluate the

<sup>&</sup>lt;sup>12</sup> Forest Service Handbook (FSH) 1909.12, ch. 20, § 23.231.

<sup>&</sup>lt;sup>13</sup> 36 C.F.R. § 219.2(b)(1); *see also id.* § 215(e) (site-specific implementation projects, including travel management plans, must be consistent with plan components); *see id.* § 219.1(f) ("Plans must comply with all applicable laws and regulations . . . .", including the Clean Water Act, Clean Air Act, Endangered Species Act, and other federal environmental laws relevant to the road system and its environmental impacts.

road system in the context of other aspects of forest management, such as restoration, protection and utilization, and fiscal realities, and to integrate management direction accordingly.

The Forest Service's final directives on infrastructure recognize this: "[t]he central consideration in land management planning for infrastructure is that the integrated desired conditions and other plan components set a framework for the sustainable management of the plan area's infrastructure and mitigation of adverse impacts."<sup>14</sup> To that end, plan components should "reflect the extent of infrastructure that is needed to achieve the desired conditions and objectives of the plan" and "provide for a realistic desired infrastructure that is sustainable and can be managed in accord with other plan components including those for ecological sustainability."<sup>15</sup>

The Forest Service's current roads management policy framework is generally aimed at shrinking the agency's vast and decaying road system and its host of adverse environmental and social impacts. Accordingly, the desired future condition for transportation infrastructure should include a well-maintained system of needed roads that is fiscally and environmentally sustainable and provides for safe and consistent access for the utilization and protection of the forest. That forest road system is designed and maintained to withstand future storm events associated with climate change and to prioritize passenger vehicle access to major forest attractions.

We recommend the following changes and additions (in bold) to the draft desired conditions for roads:

The Forest's transportation system and infrastructure **are the minimum necessary to allow for appropriate** *are sufficient to support the* multiple uses of the Forest.

NFS roads decommissioned per a travel management decision, identified as likely not needed for future use as part of the travel analysis process, and/or not recommended as part of the minimum necessary road system are either converted to other uses in a timely manner or physically blocked, obliterated and restored treated in an effective way to eliminate motor vehicle traffic use.

Unauthorized roads that are causing environmental impacts are **identified**, **closed to use and** rehabilitated in a timely manner.

The National Forest Road System meets density standards, based on the best available science, for all motorized routes in important watersheds and wildlife habitat, migratory corridors, and general forest matrix, and for relevant threatened and endangered species and species of conservation concern.

Habitat loss and fragmentation is reduced and permeability is enhanced by conserving and restoring habitat linkages within and, where possible, between the national forests and other public and privately conserved lands. Fences, roads, and other man-made features do not impede wildlife movement or contribute to habitat fragmentation.

## III. Conclusion

In summary, the Center again recommends the Forest Service take a species and habitat protection and restoration approach within the revised Cibola National Forest land and resource management plan. Desired conditions for all planning areas should be crafted with the goal of protecting and restoring ecosystems, watersheds, and wildlife habitat. We look forward to reviewing a draft plan which also

<sup>&</sup>lt;sup>14</sup> Forest Service Handbook (FSH) 1909.12, ch. 20, § 23.231.

<sup>&</sup>lt;sup>15</sup> *Id.* § 23.23l(1)(b); *see also id.* § 23.23l(2)(a) (desired condition for roads "should describe a basic framework for an appropriately sized and sustainable transportation system that can meet [identified access and other] needs"). $\setminus$ 

includes specific and enforceable standards and guidelines that will lead to the achievement of desired conditions. Without such standards and guidelines any desired conditions or vision, not to mention legal requirements for forest planning and resource management, for the forest will be impossible to meet.

Sincerely,

Kal Li

Katherine Davis, Public Lands Campaigner Center for Biological Diversity P.O. Box 710 Tucson, AZ 85702 kdavis@biologicaldiversity.org