



MODRALL SPERLING

L A W Y E R S

September 25, 2015

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Via E-Mail comments-southwestern-Cibola@fs.fed.us and Via Hand Delivery

Mr. Champ Green
Forest Planner
2113 Osuna Road, NE
Albuquerque, NM 87113

Re: **Comments to July 21, 2015 Draft Forest-Wide Ecological and Socioeconomic Desired Conditions**

Dear Mr. Green:

This firm represents Rio Grande Resources Corporation ("RGR"), which owns substantial uranium mining facilities and related properties near and on Mt. Taylor, New Mexico. On behalf of RGR, the following comments are submitted in response to the Cibola National Forest's request for comments to its July 21, 2015 Draft Forest-wide Ecological and Socioeconomic Desired Conditions ("Draft").

I. RGR Comment regarding Draft page 64, lines 3-4. Subject of Comment: revision/clarification.

Comment: The Draft proposes the following desired condition: "Sacred sites are considered during the planning, and are protected during the implementation of management activities." There is no definition of "sacred sites" in the Draft. Apparently, the term is a reference to Executive Order 13007 (May 24, 1996) ("EO 13007"), which addresses the accommodation of Indian "sacred sites." The Draft should be clarified accordingly.

In this same regard, the Draft's statement is overbroad and contrary to EO 13007, in that it appears to require that "sacred sites" **"are protected"** during implementation of management activities. (Emphasis added.) EO 13007, by contrast, requires certain federal agencies to accommodate access to sacred sites and avoid adversely affecting the physical integrity of such sacred sites only "to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions" The Draft should be revised accordingly.

The Draft should be revised as follows: "Sacred sites, as defined by and addressed in Executive Order 13007 (May 24, 1996), are considered during the planning, and are protected during the implementation of management activities to the extent

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practicable, permitted by law, and not clearly inconsistent with essential agency functions."

II. RGR Comment regarding Draft page 64, lines 7-8. Subject of comment: revision/clarification.

Comment: The Draft proposes the following desired condition: "Requests for temporary closure orders for cultural and traditional purposes are accommodated and facilitated." The Draft could be taken to mandate that any request for temporary closure is to be "accommodated and facilitated," regardless of who makes the request, of who may be adversely affected by the requests, and of whether the request is even reasonable. Such a result would be unreasonable and arbitrary, and could result in unreasonably infringing the rights of persons or entities that may be affected by such closures.

The Draft should be revised accordingly, as follows: "Reasonable requests for temporary closure orders for cultural and traditional purposes may be are accommodated and facilitated. Persons or entities that may be adversely affected by such closures shall be given notice of and a reasonable opportunity to respond to such requests."

III. RGR Comment regarding Draft page 64, lines 12-14. Subject of comment: clarification and possible revision.

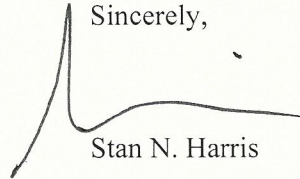
Comment: The Draft proposes the following desired condition: "Areas with a primary management emphasis on the protection of natural and cultural resources important to tribes, based upon their value as traditional places of tribal importance and tribal contemporary use, are designated as management areas." A "management area" is defined in the Draft as "[a] land area identified within the planning area that has the same set of applicable plan components. A management area does not have to be spatially contiguous." Draft, p. 86.

What is unclear, however, is what effect, if any, the designation of an area as a "management area" will have. Does a "management area" have regulatory requirements, restrictions, or prohibitions? If so, what are those requirements, restrictions, or prohibitions, and what might their effect be on persons or entities conducting activities on or near "management areas"?

The Draft should clarify what, if any, effect the designation of such a "management area" might have on persons or entities conducting activities on or near such "management area." After this clarification is given, the public should be allowed further opportunity to comment on the clarification.

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RGR appreciates this opportunity to submit these comments to the Draft. If you have any questions regarding any of the above, please do not hesitate to contact me at your convenience.

Sincerely,

Stan N. Harris

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