



**Western
Watersheds
Project**

Arizona Office

738 N 5th Ave, Suite 200

Tucson, AZ 85705

tel: (520) 623-1878

fax: (208) 475-4702

email: arizona@westernwatersheds.org

web site: www.westernwatersheds.org

Working to protect and restore Western Watersheds and Wildlife

August 3, 2019

Adam Mendonca
Forest Supervisor
Gila National Forest
3005 E. Camino del Bosque
Silver City, NM 88061
objections-southwestern-gila@fs.fed.us
Sent via email this date

RE: Black Bob and Lower Plaza Allotment EA Project, Reserve Ranger District, Gila National Forest

Dear Mr. Mendonca,

The following objection is submitted on behalf of the members and staff of Western Watersheds Project (WWP) who are concerned with the management of our public lands in New Mexico and specifically in the Gila National Forest and the Reserve Ranger District.

This Objection is filed pursuant to, and in compliance with, 36 C.F.R. Part 218, Subparts A and B. All parties to this objection have filed timely, specific and substantive written comments in accordance with 36 C.F.R. 218(a).

As required by 36 C.F.R. § 218.8(d), Objector provides the following information:

1. The name and contact information for the Objector is listed below.
2. This Objection was written on behalf of Objector by Cyndi Tuell whose signature and contact information is listed below.
3. Western Watersheds Project is the Objector for purposes of communication regarding the Objection.

Western Watersheds Project
Cyndi Tuell
738 N. 5th Ave
Tucson, AZ 85705

4. The project that is subject to this Objection is “Black Bob and Lower Plaza Project EA, Reserve Ranger District, Gila National Forest.” The Responsible Official is John Pierson, District Ranger for the Reserve Ranger District.
5. Objector submitted, timely, specific, and substantive comments during the Public Comment Period on January 16, 2019.¹ All points and issues raised in this objection refer to issues raised in that comment letter or are related to new information.
6. In the following Statement of Reasons, Objector provides the specific reasons why the decision is being appealed and the specific changes or suggested remedies that he seeks, along with the related evidence and rationale on why the decision violates applicable laws and regulations.

NOTICE OF OBJECTION

Pursuant to 36 C.F.R. § 218, Western Watersheds Project is filing an Objection regarding the Draft FONSI/DN for the Black Bob and Lower Plaza Project EA on the Reserve Ranger District of the Gila National Forest.

INTRODUCTION

This project covers more than 30,000 acres of National Forest Service lands, including more than 16,700 acres located within Inventoried Roadless Areas (IRAs). Two important riparian systems are located within the project area: the San Francisco River and the Tularosa River. While livestock are technically excluded from both of these rivers, the incidence of trespass or unauthorized livestock is high. The project area is located within the Mexican gray wolf recovery area and several other threatened and endangered species and their habitat are located within the project area.

As we stated in our prior comments, we are deeply concerned about the decision framework for this project. The Forest Service should consider *whether or not* livestock grazing should take place in the project area, not just where and when. Unfortunately, our concerns have not been addressed.

STATEMENT OF REASONS

I. The Impacts of an Increase in Livestock Grazing Have Not Been Adequately Analyzed

WWP staff visited the Lower Plaza and Black Bob allotments in late June 2019. In the Lower Plaza allotment we found riparian areas heavily grazed, stream banks trampled, and cow dung on the banks and in the river. We also found the uplands heavily grazed. *See* report with photos attached as Appendix B. This visit confirmed that livestock management in the Gila National Forest on the Black Bob allotment is not adequately protecting riparian areas. During our field visit we noted there does not appear to be a fence between the Frisco Plaza allotment and the Lower Plaza allotment.

¹ Attached as Appendix A.

As we said in our prior comments, the plan to increase the number of livestock and the time of year they may graze throughout the project area has not been adequately addressed. WWP and WildEarth Guardians at 2. In response to our concerns the Forest Service avows that “[h]aving the management flexibility to stock each allotment with a maximum AUMs up to yearlong” will improve management flexibility and this will have a positive impact by reducing the impacts of livestock. Doc. 57 pp. 32, 34. This circular argument that creating management flexibility will increase management flexibility does not address the concern that the Forest Service has failed to address the environmental impacts of quantitative and temporal increases in grazing. This rationale also belies the fact that this decision will significantly increase grazing on the East Largo pasture from the current 20 AUMs authorized, and slightly increase AUMs on the Lower Plaza allotment. Doc. 57 p. 2, 3, 25, 26, 31. The Forest Service has not explained how having more livestock on allotments for longer periods of time will be less impactful to native plants and wildlife and instead states that an increase in AUMs and yearlong grazing would result is “less number of livestock on the allotment at once.” Doc. 57 p. 32. This more-is-less fiction is supported with statements that more cows will result in an increase in forage. Compounding matters, there is no discussion in the EA about the adjacent and apparently unfenced Frisco Plaza allotment and how livestock on this allotment may impact the Lower Plaza allotment.

To address the need for additional livestock waters, and our concerns about the impacts of those new waters, the Forest Service states that water developments will disperse both livestock and wildlife. Doc. 57 at 34. However, the Forest Service EA states that recent field reviews and monitoring indicate heavier livestock use is found near salt grounds or watering points and results in less herbaceous vegetation and soil compaction. Doc. 57 at 37. The Forest Service has not provided an explanation as to how added livestock waters will reduce impacts when the Forest Service has documented that livestock waters are sites of significant and increased impacts.

It appears that the phrase “adaptive management flexibility” is being used to artificially minimize the impacts of an increase in livestock grazing, especially in the East Largo pasture. What this phrase appears to actually mean is that the rancher may place their cows anywhere at any time of year and there are no restrictions on where livestock may be located. This is the opposite of management and actually creates a free-for-all for the livestock industry. While “monitoring” is identified as a way to facilitate this adaptive management, there is a long history of Forest Service failures to actually monitor allotments and turning a blind eye to trespass and overgrazing.²

The Forest Service specialists minimize the impacts of more and longer livestock grazing with hopeful statements that “the potential for less number of livestock at once” and the possibility of proposed range improvement implementation” make it “likely” that desirable forage would increase and this appears tied to average or above average precipitation years, which in light of drought and climate projections, is unlikely. Doc. 57 at 32. These aspirations are not analysis.

As WWP stated in our prior comments, the purpose of this project should have been first to determine whether or not to allow livestock grazing to continue. WWP and WildEarth Guardians at 1. The response to comments includes a statement that indicates the Forest Service believes it is required to authorize livestock grazing on all allotments: “it is Forest Service policy to make forage for lands suitable for grazing available...” Doc. 74 at 7. This statement is qualified by the caveat that compliance with the LRMP is required, but the Forest Service has rarely, if ever, identified an

² www.gao.gov/products/GAO-16-559 at 1.

allotment where displacement of recreational users or destruction of habitat was prioritized over authorizing yet another livestock permit. Additionally, the Forest Service should not have relied upon the 1986 LRMP for the Gila National Forest identification of these allotments as suitable and capable for livestock grazing because this LRMP is outdated (33 years old) and conditions on the ground have most certainly changed in the last three decades. Furthermore, sanctioning livestock grazing on these allotments while the Gila National Forest is in the midst of Forest Plan revisions could be viewed as predecisional and making commitments about the use of natural resources in violation of NEPA. The reference to the existing standards and guidelines fails to acknowledge the ongoing Forest Plan revision as well, which will certainly alter those standards and guidelines.

Prior to authorizing additional livestock grazing on these allotments the Forest Service should have consulted with the U.S. Fish and Wildlife Service as to the anticipated impacts to threatened and endangered species and should have engaged in this consultation with an accurate description of the level of trespass livestock that have been ongoing in the project area. Indeed, at page 21 and 22 of the Response to Comments (Doc. 74), the Forest Service makes excuses for trespass livestock and the lack of enforcement actions or even documentation, blaming everyone except the livestock permittee for problems with fences, even going so far as to note that cows learn to jump fences or blaming elk.

Given the known lack of attention to reporting and documenting trespass livestock by the Forest Service, it is clear that the U.S. Fish and Wildlife Service concurrence for this project was based on biased and flawed information.

II. The Analysis of Range Improvements and Infrastructure Changes is Flawed

As WWP stated at page 2 of our prior comments, range improvements are a key component to the analysis of impacts for this project. Unfortunately, the range improvements are not required prior to implementation of the increase in AUMs and the year-long grazing regime. In response to our concerns the Forest Service admits that funding is not yet identified, then states that funding for improvements will come “from a variety of sources as necessary” as yet unidentified. It “is anticipated that upon completion of this analysis” allotment divisions fences will be a priority for the district and permittees, but again, this is not required. Doc 74 p. 36. And, again, the Frisco Plaza allotment boundary fence is not discussed.

Again, this hopeful and aspirational approach to livestock management is not acceptable. The analysis in the EA relies upon pasture and allotment improvements that may never actually be implemented. This renders the analysis deeply flawed and the impacts are artificially minimized. If the permittee is going to keep cows in some pastures and out of others, how will he do this if fences are not constructed and waters are not developed? How can the adaptive management work if there are no tools in place to actually implement it? How can the purpose and need be met if the implementation is purely aspirational?

III. National Environmental Policy Act (NEPA) Violations

NEPA is “our basic national charter for protection of the environment.” *Center for Biological Diversity v. United States Forest Serv.*, 349 F.3d 1157, 1166 (9th Cir. 2003) (quoting 40 C.F.R. § 1500.1). In enacting NEPA, Congress recognized the “profound impact” of human activities, including “resource exploitation,” on the environment and declared a national policy “to create and maintain conditions under which man and nature can exist in productive harmony.” 42 U.S.C. § 4331(a).

The statute has two fundamental two goals: “(1) to ensure that the agency will have detailed information on significant environmental impacts when it makes decisions; and (2) to guarantee that this information will be available to a larger audience.” *Envtl. Prot. Info. Ctr. v. Blackwell*, 389 F. Supp. 2d 1174, 1184 (N.D. Cal. 2004) (quoting *Neighbors of Cuddy Mt. v. Alexander*, 303 F.3d 1059, 1063 (9th Cir. 2002)); *see also Earth Island v. United States Forest Serv.*, 351 F.3d 1291, 1300 (9th Cir. 2003) (“NEPA requires that a federal agency ‘consider every significant aspect of the environmental impact of a proposed action ... [and] inform the public that it has indeed considered environmental concerns in its decision-making process.’”). “NEPA promotes its sweeping commitment to ‘prevent or eliminate damage to the environment and biosphere’ by focusing Government and public attention on the environmental effects of proposed agency action.” *Envtl. Prot. Info. Ctr. v. Blackwell*, 389 F. Supp. 2d 1174, 1184 (N.D. Cal. 2004) (quoting *Neighbors of Cuddy Mt. v. Alexander*, 303 F.3d 1059, 1063 (9th Cir. 2002)); *see also Earth Island v. United States Forest Serv.*, 351 F.3d 1291, 1300 (9th Cir. 2003) (“NEPA requires that a federal agency ‘consider every significant aspect of the environmental impact of a proposed action ... [and] inform the public that it has indeed considered environmental concerns in its decision-making process.’”). Stated more directly, NEPA’s “‘action-forcing’ procedures ... require the [Forest Service] to take a ‘hard look’ at environmental consequences” *Metcalf v. Daley*, 214 F.3d 1135, 1141 (9th Cir. 2000) (quoting *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 348 (1989)), before the agency approves an action. “By so focusing agency attention, NEPA ensures that the agency will not act on incomplete information, only to regret its decision after it is too late to correct.” *Marsh*, 490 U.S. at 371 (citation omitted). To ensure that the agency has taken the required “hard look,” courts hold that the agency must utilize “public comment and the best available scientific information.” *Biodiversity Cons. Alliance v. Jiron*, 762 F.3d 1036, 1086 (10th Cir. 2014) (internal citation omitted).

In this decision, the Forest Service has violated NEPA is several ways.

A. Terrestrial Ecosystem Survey Information is Missing

As we stated in our prior comments the lack of Terrestrial Ecosystem Surveys (TES) renders the analysis and decision invalid. WWP and WildEarth Guardians at 3. The Forest Service response that this is opinion is incorrect – there is in fact no TES for these allotments. Pointing to other, non-site-specific analyses to justify this decision is not adequate to address the lack of necessary information for this project.

B. Failure to respond to comments/consider comments

It appears that the Forest Service failed to respond to comments submitted by WWP and others: “Responses to all comments received during the designated comment period was completed,” and separated into two groups – significant and non-significant – and “no significant issues were

identified.” Final EA at 24. There does not appear to be any change in the EA in response to public comments.

An agency’s failure to adequately consider public comments can result in a NEPA violation. *See International Snowmobile Mfrs. Ass’n v. Norton*, 340 F. Supp. 2d 1249 (D. Wyo. 2004) (concluding that it appeared that while the agency responded to comments on a proposal, in made no attempt to actually consider them.) NEPA requires agencies to explain opposing viewpoints and their rationale for choosing one viewpoint over the other.³ Federal courts have set aside NEPA analysis where the agency failed to respond to scientific analysis that calls into question the agency’s assumptions or conclusions⁴ and here, the EA does not address the science we cited nor did it respond to aspects of our comments, particularly regarding impacts to Mexican gray wolves and the need to include specific AOIs.

C. An Environmental Impact Statement (EIS) is Required

As the Forest Service is aware, NEPA mandates that an agency must consider the environmental effects of its actions. Under NEPA, the U.S. Forest Service must prepare an EIS for any major federal action significantly affecting the quality of the human environment. An EIS serves a different purpose than an EA. *Evans v. Anderson*, 314 F.3d 1006 (9th Cir. 2002). An EA simply assesses whether there will be a significant impact on the environment while an EIS weighs those significant impacts against the positive objectives of the project. Here, the Forest Service has ignored the long-term significant impacts of livestock grazing in order to rubber stamp a livestock grazing decision based on outdated information in an area of critical ecological importance.

1. Significance Criteria for FONSI are not met:

The use of an EA for this project fails to comply with NEPA requirements. These allotments are adjacent to, or overlapping with, important areas such as the Frisco Box and Devils Creek Inventoried Roadless Areas, critical habitat for threatened and endangered species such as the narrow-headed garter snake, the Mexican spotted owl, and the Mexican gray wolf.

The proximity to and overlap with specially designated areas require a higher level of analysis in light of the intensity and context of this specific project. Similarly, the presence of threatened and endangered species and designated critical habitat covering vast swaths of the project area raise the level of analysis necessary to ensure compliance with federal regulations. *See* 40 C.F.R. §§ 1508.27(a) (context), b (intensity)). In assessing “context,” agencies must look at different geographic scales and the short- and long-term impacts of the proposed action within those different geographic scales (40

³ 40 C.F.R. § 1502.9(b) (requiring agencies to disclose, discuss, and respond to “any responsible opposing view”).

⁴ *See Ctr. for Biological Diversity v. U.S. Forest Serv.*, 349 F.3d 1157, 1168 (9th Cir. 2003) (finding Forest Service’s failure to disclose and respond to evidence and opinions challenging EIS’s scientific assumptions violated NEPA); *Seattle Audubon Soc’y v. Moseley*, 798 F. Supp. 1473, 1482 (W.D. Wash. 1992) (“The agency’s explanation is insufficient under NEPA – not because experts disagree, but because the FEIS lacks reasoned discussion of major scientific objections.”), *aff’d sub nom. Seattle Audubon Soc’y v. Espy*, 998 F.2d 699, 704 (9th Cir. 1993) (“[i]t would not further NEPA’s aims for environmental protection to allow the Forest Service to ignore reputable scientific criticisms that have surfaced”); *High Country Conservation Advocates v. Forest Service*, 52 F. Supp. 3d 1174, 1198 (D. Colo. 2014) (finding Forest Service violated NEPA by failing to mention or respond to expert report on climate impacts).

C.F.R. § 1508.27(a)). In assessing “intensity,” agencies must look at the severity of the impact based on several factors:

1. The fact that impacts “may be both beneficial and adverse” and that “[a] significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.” 40 C.F.R § 1508.27b(1).

As stated in the Decision Notice and FONSI, “[t]he proposed range improvement infrastructure identified will play a key role in meeting the purpose and need” and essentially forms the basis for the finding of no significant impact. DN/FONSI at 5. Yet, these range improvements are not required, there is no timeframe for their installation, and the funding necessary for these improvements has not been identified and is speculative at best. Thus, the impacts of increasing the number of livestock and allowing year-long grazing without the necessary infrastructure to keep livestock where they are “wanted” are likely to be significant and not beneficial, as described in the project record.

2. “The degree to which the proposed action affects public health and safety.” 40 C.F.R § 1508.27b (2).

As the Forest Service acknowledges, livestock grazing in the project area is a source of *e. coli* bacterial contamination of the San Francisco River, Negrito Creek, and Tularosa River. EA at 18. This poses a significant threat to recreational users of the waters in the project area. Rangeland grazing is identified as a source of impairment for these waters.

3. “Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.” 40 C.F.R § 1508.27b (3).

As we address above, this project is located adjacent and overlapping with Inventoried Roadless Areas. The DN/FONSI strangely states that “[t]here are no known unique characteristics” associated with the allotments but then does acknowledge the inclusion of 15,146 acres of the Frisco Box Inventoried Roadless Area and 1,599 acres of the Devils Creek Roadless Area. DN/FONSI at 5. The importance of these areas is dismissed because “no new road construction” is proposed in the project area. *Id.* This flawed analysis completely ignores the importance of roadless areas as refuges for wildlife, providing spaces where natural processes may proceed with minimal intrusion by humans. This project proposes significant infrastructure within these roadless areas which will have significant impacts to the roadless character. This precludes a FONSI.

4. “The degree to which the effects on the quality of the human environment are likely to be highly controversial.” 40 C.F.R § 1508.27b (4).

Unfortunately, the environmental impacts associated with livestock grazing are not scientifically controversial because they are well studied and the impacts are well-

known to be highly detrimental to wildlife and watersheds.⁵ However, livestock grazing on federal public lands is a highly controversial issue, especially in recent years with ranchers taking over a wildlife refuge in Oregon, failing to remove their errant livestock from federal public lands in Arizona and Utah, among other states, and with livestock ranching “advocates” threatening violence against federal employees for trying to enforce livestock grazing regulations designed to protect those federal lands. In areas where Mexican gray wolf reintroductions have occurred or where the wolves are likely to be found, livestock grazing is even more controversial because grave concessions to livestock ranchers are often made to the detriment of the wolf. This controversy over how federal public lands should be used and managed has not been addressed in the EA.

5. “The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.” 40 C.F.R § 1508.27b (5).

See above.

6. “The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.” 40 C.F.R § 1508.27b (6).

The authorization of livestock grazing by federal land managers does appear to ensure that future livestock grazing will continue, even when doing so is outside the law and regulations the agency is bound to follow.

Furthermore, public lands ranching provides an economic boon to livestock operators and entrenches the concept of welfare ranching, which is made explicit in the Preliminary EA as we noted with the problematic “purpose and need” statements.

Because the Gila National Forest is in the midst of revising the 1986 Forest Plan, decisions made for this project must not foreclose management decisions that are yet to be made to update this 33-year-old plan. As we noted in our prior comments, at page 11, it is important that decisions made regarding these allotments not foreclose any pending management changes in the revised Forest Plan. Areas that were found suitable and capable for livestock grazing in the 1986 plan could be found unsuitable in the new plan. Management emphases could change, and desired conditions, standards and guidelines are likely to change. Land managers must exercise great caution when making livestock grazing decisions using a 20th century Forest Plan in light of 21st century environmental concerns. As just one example of an issue in need of urgent updating in Forest Plans is grazing in riparian zones. The 1986 plan states that “[g]razing in riparian zones will be managed to provide for the maintenance and improvement of riparian areas. 1986 Forest Plan at 21. However, there is a large volume of scientific research making clear that livestock grazing and southwestern riparian ecosystems cannot co-exist which we attached as Appendix C, Literature Review, in our prior comments and attached again here as Appendix C.

⁵ Fleischner, T.L. 1994.

7. “Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.” 40 C.F.R § 1508.27b (7).

The Forest Service’s usual policy of authorizing livestock grazing on an allotment-by-allotment basis using EAs is a clear example of breaking down an action into small parts or determining it is temporary in order to render the impacts individually insignificant. Here, the Forest Service is combining the significant negative impacts of these allotments and attempting to frame the impacts as “less” despite adding AUMs and authorizing livestock grazing for more months of the year.

Additionally, the Forest Service is also in the midst of analyzing the impacts of livestock grazing on 14 allotments in the Stateline project, also using an EA. Beyond the confusion regarding why those 14 allotments were combined into a single (and inappropriate) EA analysis and these two were separated out, the Forest Service has not addressed the cumulative impacts of these two related, connected actions.

The Forest Service must also address the cumulative impacts of unauthorized grazing by permittees as well. In 2016, the Government Accounting Office (GAO) identified actions needed by federal agencies to improve the tracking and deterrence efforts on this front. *See* Appendix D, GAO Report to the Committee on Natural Resources, House of Representatives: Unauthorized Grazing: Actions Needed to Improve Tracking and Deterrence Efforts, also cited above in footnote 1, above. This 2016 GAO report found that the frequency and extent of unauthorized livestock grazing on Forest Service lands is largely unknown because agencies “prefer to handle most incidents informally” with a phone call and these violations of law are not recorded, and yet despite this vast underreporting of livestock grazing violations the report indicates 1,500 incidents of unauthorized grazing where formal action was taken between 2010 and 2014, with more than 600 incidents reported on Forest Service lands and a large number of those occurring in Region 3. 2016 GAO report at 1, 57-58. With this information in mind, the Forest Service should have, for this project, disclosed the level of unauthorized grazing that has occurred on this allotment over the past 10 years, including incidents that were handled “informally,” including willful and non-willful incidents. Several members of the public did ask for this analysis and it has not been provided. The cumulative impact of unauthorized livestock grazing is a necessary part of the analysis of the impacts of this project.

Additionally, the EA here fails to disclose past livestock fencing, water and other infrastructure projects that have altered the landscape and changed the way wildlife are able to move about the project area. This information should have been and the public allowed to review and comment upon that information.

8. “The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause

loss or destruction of significant scientific, cultural, or historical resources.” 40 C.F.R § 1508.27b (8).

9. “The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.” 40 C.F.R § 1508.27b (9).

The U.S. Fish and Wildlife Service has identified livestock grazing as having significant impacts on listed species and even identified livestock grazing as a potential cause for the need to list species. There are several federally listed threatened or endangered species within this project area. The EA minimizes the impacts of livestock grazing on these species and fails to adequately address the significance of the existence of these species and their habitat in the project area.

In light of the well-documented ongoing inability of livestock operators and Forest Service personnel to prevent trespass livestock in riparian areas within the project area, the Forest Service cannot rely upon “well managed” livestock operations to artificially minimize the impacts of this project.

The presence of federally listed threatened and endangered species in the project area elevate the significance of this project considerably, precluding a Finding of No Significant Impact. We address this issue more below.

10. “Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.” 40 C.F.R § 1508.27b (10).

See below, in addition to NEPA and state water quality violations.

D. The Proposed Decision Will Violate the Endangered Species Act

Generally, it appears the Forest Service has relied upon the proposed improvements in Alternative 2 to justify findings of May Affect, Not Likely to Adversely Affect species listed under the Endangered Species Act. Given that the Forest Service acknowledges that there is no funding available for the proposed improvements found in Alternative 2, the reliance upon those improvements to minimize impacts to listed species is misplaced.

As we stated in our prior comments, the supposed benefits of Alternative 2 for the Mexican gray wolf appear to be aspirational and speculative. WWP and WildEarth Guardians at 10-11. The management flexibility needed to reduce the potential for conflicts and protect the Mexican gray wolf are dependent upon the range improvements which are unlikely to be implemented, as we discuss above. Given this, and the failure of the Forest Service to analyze the actual and likely impacts of implementing the aspects of Alternative 2 such as increased time of year for livestock grazing and changes in AUM distribution and allocation without the necessary infrastructure, the EA as it stands now, and the project as proposed, preclude a Finding of No Significant Impact. Similarly, the determination that this project is not likely to jeopardize the continued existence of the wolf is without foundation.

The analysis of impacts to the narrow headed garter snake and loach minnow species is based upon the assumption that the entire San Francisco and Tularosa River within the project area has been excluded from livestock grazing through riparian exclosure fencing since the late 1990s except at designated water access points. However, as we note above, trespass livestock are well known and the agency has a documented history of failing to adequately manage trespass livestock. Therefore, the analysis of impacts to these species is deeply flawed and thus, invalid.

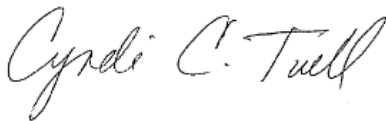
The flawed analysis resulted in an inaccurate determination of impacts to threatened and endangered species. The information provided to the U.S. Fish and Wildlife Service resulted in a flawed determination that formal consultation was not required. This is a violation of the Endangered Species Act.

V. Conclusion

For all of the foregoing reasons, a Finding of No Significant Impact is precluded and for these reasons we object. We ask that this decision be withdrawn and the Gila National Forest begin to prepare an Environmental Impact Statement for this project.

In closing, thank you for your consideration of this Objection. If you have any questions, or wish to discuss the issues raised in this objection letter in greater detail, please do not hesitate to contact me.

Thank you,



Cyndi Tuell
cyndi@westernwatersheds.org
738 N. 5th Ave
Tucson, AZ 85705
520-272-2454
Western Watersheds Project

Attachments:
Appendices A-D

Reference:

Fleischner, T.L. 1994. Ecological Costs of Livestock Grazing in Western North America. Conservation Biology 8:629-644.