



July 31, 2019

Forest Supervisor, Objection Reviewing Officer  
Gila National Forest  
3005 East Camino del Bosque  
Silver City, NM 88061  
Via Email: [objections-southwestern-gila@fs.fed.us](mailto:objections-southwestern-gila@fs.fed.us)

**Re: OBJECTIONS Pursuant to 36 C.F.R. § 218.8 on Black Bob and Lower Plaza Allotments EA, Reserve Ranger District, Gila National Forest**

Dear Reviewing Office:

The Center for Biological Diversity (“the Center”) hereby submits these objections to the Gila National Forest’s Draft Decision Notice and Finding of No Significant Impact (FONSI) and Final Environmental Assessment (Final EA) for the Black Bob and Lower Plaza Allotments NEPA analysis.

Project Objected To

Pursuant to 36 C.F.R. § 218.8(d)(4), the Center objects to the following project:

*Project:* Black Bob and Lower Plaza Allotments EA, Catron County, New Mexico, Gila National Forest

*Responsible Official and Forest/Ranger District:* John D. Pierson, District Ranger, Gila National Forest, Reserve Ranger District

Timeliness

These objections are timely filed. Notice of the Draft Decision Notice and Finding of No Significant Impact (FONSI) and Final Environmental Assessment (FEA) was published in the Silver City Daily Press on June 19, 2019.<sup>1</sup>

Lead Objector

As required by 36 C.F.R. § 218.8(d)(3), the Center designate the “Lead Objector” as follows:

Joe Trudeau, Southwest Advocate  
Center for Biological Diversity

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<sup>1</sup> See Legal Notice, Silver City Daily Press and Independent (May 22, 2019), reproduced at [https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/fseprd632595.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd632595.pdf) (last viewed July 6, 2019). The 45<sup>th</sup> day after the date of the May 22 notice falls on Saturday, July 6, and so the objection period expires at 11:59 PM Mountain time on the next business day, Monday July 8. See 36 C.F.R. § 218.6(a).

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### Interests and Participation of the Objectors

The Center for Biological Diversity is a non-profit environmental organization with over 61,000 members, and 1.6 million activist-supporters nationwide who value wilderness, biodiversity, old growth forests, and the threatened and endangered species which occur on America's spectacular public lands and waters. Many of the Center's members and supporters frequently use and enjoy the spectacular landscapes of the Gila National Forest landscape for recreation, sustenance, nature study, and spiritual renewal.

At the Center for Biological Diversity, we believe that the welfare of human beings is deeply linked to nature — to the existence in our world of a vast diversity of wild animals and plants. Because diversity has intrinsic value, and because its loss impoverishes society, we work to secure a future for all species, great and small, hovering on the brink of extinction. We do so through science, law and creative media, with a focus on protecting the lands, forests, waters and climate that species need to survive. The Center has and continues to actively advocate for increased protections for species and their habitats in New Mexico and across the American Southwest.

### **INTRODUCTION**

The Black Bob and Lower Plaza Allotments contain critical habitat for loach minnow, narrow-headed gartersnake, and Mexican spotted owl. Critical habitat for the southwestern willow flycatcher and spikedace is nearby and potentially affected by the management of this allotment. The Center has long maintained an interest in this allotment and the species which reside therein.

The Final EA fails to comply with the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), and fails to address a number of issues we raised in past comments. Thus, the selected alternative will not move towards recovery of imperiled species nor will it protect public lands from the harmful effects of livestock grazing. We are therefore objecting on the following grounds:

- I. The Black Bob and Lower Plaza Allotments EA fails to respond to comments we made in both scoping and on the draft EA.
- II. The Black Bob and Lower Plaza Allotments EA fails to describe baseline conditions particularly for riparian areas.
- III. The Biological Assessment incorrectly claims that riparian critical habitats are not grazed.
- IV. The Black Bob and Lower Plaza Allotments EA fails to analyze an alternative proposed by the Center in scoping.

Below we will expand on these objection issues.

**I. The Black Bob and Lower Plaza Allotments EA fails to respond to comments we made in both scoping and on the draft EA.**

**A. Inventoried Roadless Areas and Proposed Wilderness**

In our scoping comments we pointed out that The Black Bob Allotment includes a large portion of the Frisco Box IRA as well as lands proposed by the Center and New Mexico Wilderness Alliance for wilderness recommendation (Upper San Francisco Box unit) in the ongoing forest plan revision process. We also pointed out that The Lower Plaza Allotment includes a portion of the Devils Creek IRA as well as lands proposed by the Center and New Mexico Wilderness Alliance for wilderness recommendation (Frisco Canyons unit) in the ongoing forest plan revision process. In addition, two miles of the proposed San Francisco Wild and Scenic River flow through the Black Bob Allotment. The current forest plan revision is identifying impacts that would disqualify the consideration of an area for wilderness recommendation. The proposed action recommends construction of a number of range improvements that could potentially disqualify an area from wilderness recommendation; many of these pipelines, troughs, tanks and other elements would occur within these identified units. We asked that the EA clearly map out, describe, and disclose the effects of proposed infrastructure on current and future Inventoried Roadless Area qualities as well as wilderness characteristics. The EA failed to address our concern about the impacts of range improvements on areas under analysis in the Forest Plan Revision for wilderness characteristics or wild and scenic river recommendation.

**B. Reliance on unfunded range improvements to move towards desired conditions**

In our comments on the Draft EA, we said:

*The EA states that “With the split of the Black Bob Allotment, the additional watering points and fences, enhanced permittee operations, and adjusted AUMs should provide for improved livestock distribution and less conflicts in cattle/pasture movement and rotations. Such improvement is projected to reduce, but not eliminate, livestock concentration in the areas with observed heavier use” (page 37). However, the EA admits at several places that there is no money available to build the proposed infrastructure.*

We asked how Alternative Two can be shown to have any positive effect if the requisite range improvements may never be built because of limited funding.

The Final EA perpetuates this ambiguity over range improvements, using language such as:

*“There are no funds to implement the improvements and there are no management components contingent on these improvements (i.e. Intensity, frequency and timing, numbers or period of use). These proposed improvements will be prioritized based on management objectives, should funding become available, and would increase adaptive management flexibility and improve livestock distribution. Improved livestock distribution would promote lower intensity disturbance of soil and vegetation resources” (Final EA at 38).*

The Final EA repeatedly asserts that improved livestock distribution would benefit the range,<sup>2</sup> but because there is no funding the improvements may not be made. Therefore, the livestock operator enjoys increased stocking and flexibility while the associated infrastructure is not constructed. Of added concern is that the Final EA does not provide any direction for repairing, maintaining, and enforcing the existing failing riparian enclosures.

The FEIS also fails to address the financial or other costs to taxpayers (if any) of constructing the range developments. Because the developments are likely to have little if any ecological value, the added potential cost to the taxpayer may demonstrate to the public and/or the decisionmaker that the costs of these developments far outweighs the benefit. The Forest Service's failure to include the potential financial costs of the developments violates NEPA's hard look mandate.<sup>3</sup> Further, the Forest Service does not state whether the Forest Service or the livestock permit-holder will hold water rights to the water provided by the new facilities.

The Final EA also contains no meaningful analysis of impacts to recreation or scenic values (caused by copious feces and urine and flies caused by congregating livestock; creation of de facto sacrifice zones; creation of obviously altered landscapes with fences, pipelines, etc.).

*Suggested Remedy for failure to address our comments:*

Failure to respond to our comments violates NEPA. We could not identify in the response to comments document (project record document #74) where these issues were addressed in any meaningful fashion. A revised NEPA document should address these concerns.

**II. The Black Bob and Lower Plaza Allotments EA fails to describe baseline conditions for riparian areas.**

The Final EA makes more than fifty references to the exclusion of livestock from riparian areas including the San Francisco River, the Tularosa River, and Cienega Creek. Claims such as "*Riparian areas along the San Francisco River and a small reach of Cienega Creek are excluded from livestock grazing*" (Final EA at 7) are commonly stated. These are completely untrue and disregard actual conditions on the ground. We find it incredibly disturbing that the Forest Service maintains that these "management and compliance issues" are outside the scope of this analysis. If this is the case then why have these permittees not had their permits revoked?

*"In analyzing the affected environment, NEPA requires the agency to set forth the baseline conditions."*<sup>4</sup> Specifically, NEPA requires agencies to "*succinctly describe the environment of*

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<sup>2</sup> For example, page 37: "*These proposed improvements will be based on allotment monitoring and management objectives and would increase Adaptive Management possibilities and improve livestock distribution,*" and page 41: "*With the additional range improvements proposed under this alternative, livestock distribution is anticipated to improve. Such improvement is projected to reduce, but not eliminate, livestock concentration in these isolated areas with observed heavier use.*"

<sup>3</sup> When federal agencies prepare an EIS, NEPA requires that they must take a "hard look" at the project's environmental impacts and the information relevant to its decision.

<sup>4</sup> *Western Watersheds Project v. BLM*, 552 F.Supp.2d 1113, 1126 (D. Nev. 2008)

*the area(s) to be affected or created by the alternatives under consideration.”<sup>5</sup> The Council on Environmental Quality, the agency charged with interpreting NEPA, has explained that “[t]he concept of a baseline against which to compare predictions of the effects of the proposed action and reasonable alternatives is critical to the NEPA process.”<sup>6</sup> Federal courts hold that “[w]ithout establishing ... baseline conditions ... there is simply no way to determine what effect [an action] will have on the environment and, consequently, no way to comply with NEPA.”<sup>7</sup>*

In our scoping comments of January 5, 2018 we submitted photographic evidence and data to show that heavy grazing was occurring in these riparian areas to a chronic and widespread degree. Again, in our Draft EA comments of November 1, 2018, we stated again at page 3:

*“The Center’s own field surveys have documented livestock grazing impacts in the San Francisco and Tularosa Rivers in these allotments. Our scoping comments for this analysis included photographic evidence, as did the Gila Cattle Impacts Survey delivered to the Forest Service in March of 2018. Additional documentation is available by request. We maintain our position that chronic abuse of the exclosures is degrading habitat for riparian obligate species, water quality, and watershed conditions. The record of Sec. 7 Consultation on these allotments may be fundamentally flawed as the assumption that the riparian areas are not grazed is untrue.”*

We recently resurveyed these riparian areas and have again documented chronic and significant livestock grazing in riparian areas. On May 31, 2019 we visited these same areas and again photo-documented this abuse of critical habitat. Impacts observed included trampling of streamside vegetation, shearing of streambanks, grazing and browsing on riparian vegetation including suppression of woody regeneration, wallowing in sandy and muddy areas, and displacement of soil. Selected photographs from these river segments are provided at the end of this letter showing tracks, trails, wallows, grazed and browsed vegetation, and other significant impacts.

In the response to comments documents the Forest Service suggests that our data show “occasional” livestock entry into these riparian areas, and the Forest Service seems to cast doubt on ability to discern between elk and livestock impacts. We hope that the additional survey information from this May might suggest to the Forest Service that the occurrence of livestock in these areas is more than just occasional.

*Suggested Remedy for failure to establish baseline conditions:*

The Forest Service’s failure to accurately set forth baseline conditions in riparian areas violates NEPA. It is further problematic that in the Final EA the Forest Service refuses to admit that

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<sup>5</sup> 40 C.F.R. § 1502.15.

<sup>6</sup> Council on Environmental Quality, *Considering Cumulative Effects Under the National Environmental Policy Act* 41 (1997), [https://ceq.doe.gov/publications/cumulative\\_effects.html](https://ceq.doe.gov/publications/cumulative_effects.html) (last visited July 5, 2019).

<sup>7</sup> *Half Moon Bay Fishermans’ Mktg. Ass’n v. Carlucci*, 857 F.2d 505, 510 (9th Cir. 1988); see also *N. Plains Res. Council, Inc. v. Surface Transp. Bd.*, 668 F.3d 1067, 1084–85 (9th Cir. 2011) (holding that agency did not take a sufficiently “hard look” at environmental impacts because it did not collect baseline data).

grazing is ongoing in riparian areas, and even worse, rates heavily grazed areas at *Proper Functioning Condition*. The Forest Service must prepare new or supplemental NEPA analysis that accurately describes baseline conditions, and as we requested in our comments on the Draft EA (page 3 of our comments of November 1, 2018), any subsequent NEPA document must explain exactly what will be done to protect riparian areas from grazing (including Ulibarri Spring, Tularosa River, San Francisco River, Largo Creek, Cienega Creek and others), including when the action will be taken, how it will be paid for, who will complete the work, and what the monitoring schedule will be to enforce the closures.

### III. The Biological Assessment incorrectly claims that riparian habitats are not grazed.

Effects determinations in the Biological Assessment (BA) for the Black Bob and Lower Plaza Allotments are predicated on faulty statements and assumptions. This undermines the US Fish and Wildlife Services concurrence of effects determinations. We are astonished that even now, after we have shown the Forest Service the proof of chronic cattle use of purportedly closed riparian areas, and with the recent filing of a notice of intent to sue over this issue, that no effort was made to remedy this faulty assumption.

The BA incorrectly states numerous times phrases like the following:

*“The San Francisco River is excluded from livestock grazing on both the Black Bob (Cienega) and Lower Plaza Allotments”* (BA at 37, 38).

*“The San Francisco River runs through the middle of the Black Bob (Cienega) and Lower Plaza allotments and it both [sic] are excluded from livestock grazing”* (BA at 37).

*“The entire San Francisco River within the project area has been excluded from livestock grazing through riparian fencing since the late 1990s...Therefore a **May Affect, Not Likely to Adversely Affect** determination is made for the loach minnow and its designated critical habitat for the Black Bob (Cienega) and Lower Plaza Allotments”* (BA at 42).

Statements similar to these are made numerous times in the BA. As we have continued to show the Forest Service, and as we have again in this objection with data collected just 60 days ago, these statements are factually incorrect. These riparian areas are excluded on paper only, but in real life, the fences and barriers are porous and ineffective.

The US Fish and Wildlife Services concurrence of effects determinations in a letter to District Ranger Pierson, dated July 12, 2018, relies on the faulty statements asserted in the BA.<sup>8</sup> In that letter, the US Fish and Wildlife Services stated (at page 2):

*“The Service concurs with your determination of “may affect, is not likely to adversely affect” for the Loach minnow and its designated critical habitat. The Service bases this conclusion and concurrence on the implementation of yearlong exclusion of cattle from the San Francisco River and other areas of designated critical habitat on both allotments.”*

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<sup>8</sup> Cons. # 02ENNM00-2018-I-0453

A similar concurrence was made for narrow headed gartersnake. Because yearlong exclusion has not been maintained, and the Final EA does not provide a clear plan for achieving yearlong exclusion because no funding is allocated to maintaining the exclosures, the BA and concurrence determination are rendered invalid.

*Suggested Remedy for the issue of false claims in the Biological Assessment:*

The Forest Service's incorrect use of baseline data in making effect determinations violates the Endangered Species Act. This requires that consultation is reinitiated and incorporates current factual information that riparian areas on the San Francisco and Tularosa rivers are in fact grazed by livestock on a regular basis.

**IV. The Black Bob and Lower Plaza Allotments EA fails to analyze a reasonable alternative proposed by the Center in scoping.**

**A. NEPA Mandates That Agencies Analyze All Reasonable Alternatives.**

When federal agencies prepare an EIS, NEPA requires that they must take a “*hard look*” at the project’s environmental impacts and the information relevant to its decision.<sup>9</sup> In taking the required “*hard look*,” an EIS must “*study, develop, and describe*” reasonable alternatives to the proposed action.<sup>10</sup> This alternatives analysis “*is the heart of the environmental impact statement.*”<sup>11</sup>

As a result, agencies must “[r]igorously explore and objectively evaluate all reasonable alternatives.”<sup>12</sup> “*To comply with the National Environmental Policy Act and its implementing regulations, [agencies] are required to rigorously explore all reasonable alternatives ... and give each alternative substantial treatment in the environmental impact statement.*”<sup>13</sup> “*Without substantive, comparative environmental impact information regarding other possible courses of action, the ability of an EIS to inform agency deliberation and facilitate public involvement would be greatly degraded.*”<sup>14</sup>

Federal courts have struck down Forest Service EISs where the agency evaluated several alternatives, but where those alternatives were all fairly similar. *See, e.g., California v. Block,*

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<sup>9</sup> *Wyoming v. U.S. Dep’t of Agriculture*, 661 F.3d 1209, 1237 (10th Cir. 2011).

<sup>10</sup> 42 U.S.C. §§ 4332(2)(E); 4332(2)(C)(iii).

<sup>11</sup> 40 C.F.R. § 1502.14; *see also All Indian Pueblo Council v. United States*, 975 F.2d 1437, 1444 (10th Cir. 1992).

<sup>12</sup> 40 C.F.R. § 1502.14.

<sup>13</sup> *Custer County Action Ass’n v. Garvey*, 256 F.3d 1024, 1039 (10th Cir. 2001) (emphasis added). *See also New Mexico ex rel. Richardson v. Bureau of Land Management*, 565 F.3d 683, 703 (10th Cir. 2009) (“[A]n EIS must rigorously explore and objectively evaluate all reasonable alternatives to a proposed action, in order to compare the environmental impacts of all available courses of action.”); *Colo. Envtl. Coalition v. Dombeck*, 185 F.3d 1162, 1174 (10th Cir. 1999) (explaining reasonable alternatives).

<sup>14</sup> *New Mexico ex rel. Richardson*, 565 F.3d at 708.

690 F.2d 753, 767-69 (9th Cir. 1982) (setting aside Forest Service EIS that evaluated eight alternatives because all of the alternatives considered protecting less than 34% of eligible lands as potential wilderness).

In addition, NEPA “does not permit the agency to eliminate from discussion or consideration a whole range of alternatives, merely because they would achieve only some of the purposes of a multipurpose project.”<sup>15</sup> If a different action alternative “would only partly meet the goals of the project, this may allow the decision maker to conclude that meeting part of the goal with less environmental impact may be worth the tradeoff with a preferred alternative that has greater environmental impact.”<sup>16</sup>

B. The Center requested analysis of a reasonable alternative

In our scoping comments (January 5, 2018) we specifically addressed the need for a conservation alternative:

*“The EA should provide science-based alternatives that recognize the impact livestock grazing has had on these ecosystems, and lower livestock numbers, shorten duration of grazing season, decrease allowable utilization, add more periods of pasture rest, and ensure cattle are not using excluded riparian areas”* (Scoping comments at 3).

And

*“This EA should include analyzing a full range of alternatives, including one or more enhanced conservation alternatives which includes continued/expanded pasture rest and exclusion, reduced or eliminated stocking, a robust monitoring plan with at least one exclosure per pasture, no construction of new water or fence systems, and herding of cattle versus reliance on technological systems. All alternatives should be rigorously explored and objectively evaluated per 43 CFR § 46.310(c) and 40 CFR § 1502.14”* (Scoping comments at 3).

To summarize, we requested an alternative that would include the following:

- Reduced stocking
- Shortened grazing season duration
- Decreased allowable utilization
- Added periods of pasture rest
- Full riparian exclusion
- A robust monitoring plan with at least one exclosure per pasture
- No new construction of water of fence systems (except for exclosures)

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<sup>15</sup> *Town of Matthews v. U.S. Dep’t. of Transp.*, 527 F. Supp. 1055, 1057 (W.D. N.C. 1981).

<sup>16</sup> *North Buckhead Civic Assoc v. Skinner*, 903 F.2d 1533, 1542 (11th Cir. 1990). See also *Natural Resources Defense Council v. Callaway*, 524 F.2d 79, 93 (2d Cir. 1975) (“the EIS must nevertheless consider such alternatives to the proposed action as may partially or completely meet the proposal’s goal and it must evaluate their comparative merits”); *Natural Resources Defense Council v. Morton*, 458 F.2d 827, 836 (D.C. Cir. 1972) (“(it is not) appropriate, as Government counsel argues, to disregard alternatives merely because they do not offer a complete solution to the problem.”).



The final EA and FONSI do not provide analysis of the proposed alternative with the constituent parts above, nor does it explain why this alternative was not considered. In fact, the proposed action would do the opposite of some of these recommendations:

- **Reduced stocking:** Lower Plaza Allotment is currently authorized at 220 AUMs but proposed action increases to 300 AUMs (a 35% increase in stocking, despite claim that capacity was reduced by 60% due to steep slopes [EA at 12]). The Final EA (at 4) states that in the 2016 monitoring, the Black Bob allotment condition was ranked at 78% poor, that 63% of soils were in unsatisfactory condition (per Table 1 on page 5-6), that only 3% of the allotments watersheds are functioning properly (per Table 2 on page 6-7), and that utilization exceeded permitted use 17% of the time (page 3). Despite this, total AUM's were reduced by only 1.5% for the Black Bob allotment.
- **Shortened grazing season duration:** Both Allotments move from less than a year to full 12 month authorization.
- **Decreased allowable utilization:** Both allotments currently allow 35% utilization but the selected alternative allows up to 40% utilization. The selected alternative, allowing up to 40% utilization, contradicts the BA which states that in order to make a determination of May Affect, Not Likely to Adversely Affect for narrow headed gartersnake, allowable use is set "up to 35%" (BA at 38).
- **Added periods of pasture rest:** The proposed action is not clear on this, but it does seem to show that more rest will be achieved than under current management.
- **Full riparian exclusion:** The proposed action does not specify that riparian areas will be fully excluded, and our data shows that current exclosures are failing.
- **A robust monitoring plan with at least one exclosure per pasture:** No additional upland exclosures are proposed. Upland exclosures are needed as comparison sites for the general area which is grazed.
- **No new construction of water of fence systems (except for exclosures):** The proposed action includes approximately 7 miles of fencing, 9 new tanks, over 5 miles of new pipeline, at least 2 wells, over a dozen troughs, several dirt tanks, water lots and corrals.

C. The Center's alternative would meet the project purpose and need.

When a federal agency prepares an EIS, it must consider "*all reasonable alternatives*" which are consistent with its stated purpose and need.<sup>17</sup> The Center's alternative is consistent with the purpose and need in that the reduction of grazing and elimination from riparian areas would accomplish the purposes listed below. The Final EA states that the project purpose is to authorize livestock grazing consistent with US Forest Service policy and in a manner that:

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<sup>17</sup> 40 C.F.R. § 1502.14(a). *See also Colorado Environmental Coal. v. Salazar*, 875 F. Supp. 2d 1233, 1245 (D. Colo. 2012) (stating that the agency's objectives dictate the range of reasonable alternatives).

- maintains or improves project area resource conditions
  - ▶ reduction in grazing would improve resource conditions
- promotes ecological resiliency across the landscape
  - ▶ reduction in grazing would promote resiliency
- achieves the objectives and desired conditions described in the Gila National Forest Plan
  - ▶ reduction in grazing would achieve numerous desired conditions, especially related to riparian systems and wildlife habitat
- provide long-term management direction for domestic livestock grazing through an AMP
  - ▶ reduction of grazing could be managed through an AMP

Our alternative would reduce grazing substantially, and eliminate it from riparian areas, to the benefit of vegetation, watershed, riparian and soil quality, and recreational use. Our alternative is closest to Alternative One (no grazing) which is why we supported that in our comments on the Draft EA. The final EA asserts that:

- With livestock removal *“physiological growth requirements of the forage plants would be favored in all key areas in the absence of livestock grazing”* (Final EA at 35).
- Livestock removal would *“meet the desired range resource objectives and would also provide sufficient fine fuels in the future to support natural fires regimes presumably faster than implementation of any of the action alternatives”* (Final EA at 38).
- Removing livestock would *“result in a upward trend in both soil and range conditions”* (Final EA at 43).
- *“The elimination of stocking would maintain or improve watershed conditions and would maintain or improve soil conditions across the allotments over the next ten years. This improvement would be a result of reduction in forage removal, increased vegetative ground cover, improved vigor on herbaceous and woody riparian plants, and removal of hoof compaction in areas that currently receive livestock concentration. An increase in infiltration and reduction in soil bulk density (compaction) would be achieved from the above-mentioned improvements to watershed condition. Forage plants in the uplands would retain several years’ growth as a standing crop of litter. This would provide additional cover to protect soils, and to help to reverse current erosion levels observed on the allotments”* (Final EA at 38).
- Continued grazing *“would result in little to no change in overall watershed conditions”* but *“Implementation of Alternative One would result in a upward trend in both soil and range conditions...”* (Final EA at 43).
- The BA frankly states that *“selection of a “no livestock grazing” alternative on the Allotments would most likely improve watershed condition”* (BA at 43).

That the Forest Service disregards the value of Alternative One by repeatedly claiming that “*Alternative One would result in a upward trend in both soil and range conditions, however, not at a magnitude great enough to change the indicator rating for either one within the project period of 10 years*” is a short-sighted judgement call. This assumption allows the Forest Service to repeat the status quo of continued watershed degradation without ever confronting the most manageable aspect of the problem: livestock. This acceptance of the status quo will maintain these watersheds in a perpetual state of Functioning At Risk, which the EA admits in many places. The EA admits on page 44 that the range of forest management activities occurring in these primarily federally-owned watersheds is minimal (timber, mining, fuelwood cutting, wildfires) but assumes that grazing will continue per plan direction.

D. The Centers proposed alternative is significantly distinguishable from the other alternatives.

An agency may dismiss a reasonable alternative if it is not “*significantly distinguishable from the alternatives already considered.*”<sup>18</sup> The Final EA provides three alternatives:

- No grazing
- Proposed Action
- Current direction

The Centers alternative is distinguishable from these three in the following ways:

- It does not propose no grazing, but rather a reduction in stocking, utilization, and duration.
- It would exclude livestock from all riparian areas, not just rely on claims of exclusion.
- It would not construct additional range infrastructure.

*Suggested Remedy for failure to analyze the Centers alternative:*

The Forest Service’s failure to analyze in detail our proposed alternative violates NEPA. Our alternative would meet the project purpose by reducing and in some areas eliminating grazing, making it a reasonable alternative. The Forest Service must either: (1) prepare new or supplemental NEPA analysis that analyses our proposed alternative; or (2) modify the proposed action in the final record of decision to reduce stocking, shorten duration, decrease utilization, eliminate riparian grazing, add upland exclosures as part of monitoring, and eliminate range infrastructure.

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<sup>18</sup> *Colorado Environmental Coal. v. Salazar*, 875 F. Supp. 2d at 1245 (quoting *New Mexico ex rel. Richardson*, 565 F.3d 683, 708-09 (10th Cir. 2009)).

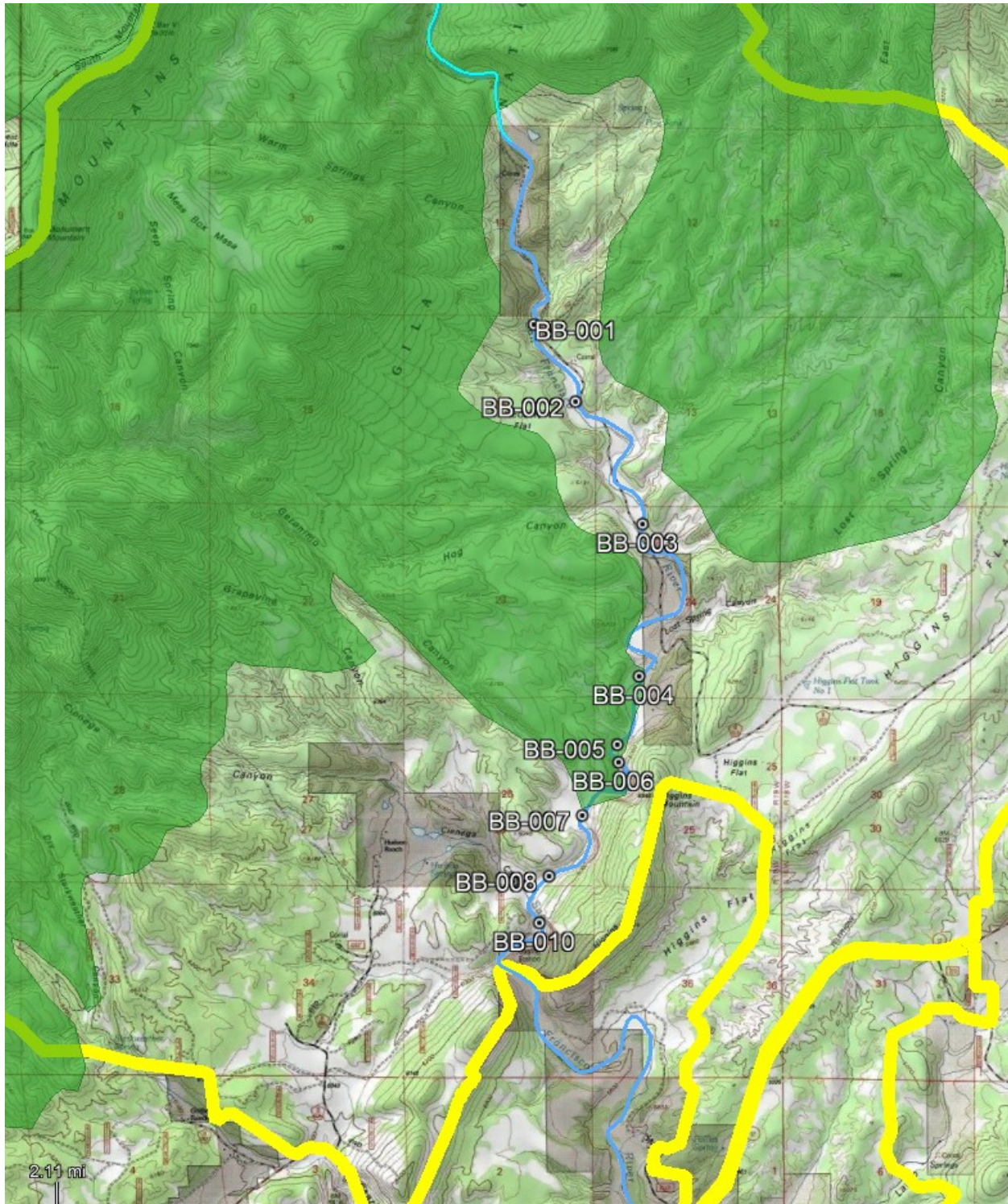
**CONCLUSION.**

We appreciate your consideration of the information and concerns addressed in this objection, as well as the photographs and data included in this letter. Pursuant to 36 C.F.R. § 218.11, we respectfully request to meet with the reviewing officer to discuss these concerns and suggested resolutions. Should you have any questions, please do not hesitate to contact Mr. Trudeau at the number provided below.

Respectfully,

A handwritten signature in black ink, appearing to read "Joe Trudeau", followed by a long horizontal line.

Joe Trudeau, Southwest Advocate  
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**Location of selected photopoints from May 31, 2019 riparian surveys of the Black Bob Allotment. Allotment boundary in yellow. Inventoried Roadless Area in green.**



<b>Project</b>	<b>2019 Gila National Forest Cattle Impact Survey</b>
<b>Photopoint #</b>	<b>BB-001</b>
<b>General Location</b>	<b>San Francisco River, at edge of private land north of McCarty Flat</b>
<b>Allotment/Pasture</b>	<b>Black Bob Allotment/East Mess Box Pasture</b>
<b>Date &amp; Time of Photo</b>	<b>5/31/2019 1:37 pm</b>
<b>Latitude</b>	<b>N 33°47'14.24"</b>
<b>Longitude</b>	<b>W 108°46'16.75"</b>



1. Evidence of Cattle Use	Yes
2. Evidence of grazing on grasses and herbaceous vegetation	Yes
3. Evidence of Browsing on multiyear woody vegetation	Yes
4. Evidence of browsing on woody regeneration at greenline or flood channels	Yes
5. Evidence of Cattle Trails	Yes
6. Evidence of Trampling and Ground Cover Disturbance	Yes
7. Evidence of Shearing and Bank Degradation	Yes
8. Presence of invasive trees	No

<b>Project</b>	<b>2019 Gila National Forest Cattle Impact Survey</b>
<b>Photopoint #</b>	<b>BB-002</b>
<b>General Location</b>	<b>San Francisco River, due east of McCarty Flat</b>
<b>Allotment/Pasture</b>	<b>Black Bob Allotment/East Mess Box Pasture</b>
<b>Date &amp; Time of Photo</b>	<b>5/31/2019 1:59 pm</b>
<b>Latitude</b>	<b>N 33°46'53.35"</b>
<b>Longitude</b>	<b>W 108°46'3.16"</b>



1. Evidence of Cattle Use	Yes
2. Evidence of grazing on grasses and herbaceous vegetation	Yes
3. Evidence of Browsing on multiyear woody vegetation	Yes
4. Evidence of browsing on woody regeneration at greenline or flood channels	Yes
5. Evidence of Cattle Trails	Yes
6. Evidence of Trampling and Ground Cover Disturbance	Yes
7. Evidence of Shearing and Bank Degradation	Yes
8. Presence of invasive trees	No



<b>Project</b>	<b>2019 Gila National Forest Cattle Impact Survey</b>
<b>Photopoint #</b>	<b>BB-003</b>
<b>General Location</b>	<b>San Francisco River, at confluence with Hog Canyon</b>
<b>Allotment/Pasture</b>	<b>Black Bob Allotment/West Largo Pasture</b>
<b>Date &amp; Time of Photo</b>	<b>5/31/2019 2:26 pm</b>
<b>Latitude</b>	<b>N 33°46'20.15"</b>
<b>Longitude</b>	<b>W 108°45'41.28"</b>



1. Evidence of Cattle Use	Yes
2. Evidence of grazing on grasses and herbaceous vegetation	Yes
3. Evidence of Browsing on multiyear woody vegetation	No
4. Evidence of browsing on woody regeneration at greenline or flood channels	Yes
5. Evidence of Cattle Trails	Yes
6. Evidence of Trampling and Ground Cover Disturbance	Yes
7. Evidence of Shearing and Bank Degradation	Yes
8. Presence of invasive trees	No



<b>Project</b>	<b>2019 Gila National Forest Cattle Impact Survey</b>
<b>Photopoint #</b>	<b>BB-004</b>
<b>General Location</b>	<b>San Francisco River, at west edge of private land</b>
<b>Allotment/Pasture</b>	<b>Black Bob Allotment/Frisco Box Pasture</b>
<b>Date &amp; Time of Photo</b>	<b>5/31/2019 5:14 pm</b>
<b>Latitude</b>	<b>N 33°45'38.91"</b>
<b>Longitude</b>	<b>W 108°45'42.42"</b>



1. Evidence of Cattle Use	Yes
2. Evidence of grazing on grasses and herbaceous vegetation	Yes
3. Evidence of Browsing on multiyear woody vegetation	Yes
4. Evidence of browsing on woody regeneration at greenline or flood channels	Yes
5. Evidence of Cattle Trails	Yes
6. Evidence of Trampling and Ground Cover Disturbance	Yes
7. Evidence of Shearing and Bank Degradation	Yes
8. Presence of invasive trees	No



<b>Project</b>	<b>2019 Gila National Forest Cattle Impact Survey</b>
<b>Photopoint #</b>	<b>BB-005</b>
<b>General Location</b>	<b>San Francisco River, northwest of Higgins Mountain</b>
<b>Allotment/Pasture</b>	<b>Black Bob Allotment/Frisco Box Pasture</b>
<b>Date &amp; Time of Photo</b>	<b>5/31/2019 4:54 pm</b>
<b>Latitude</b>	<b>N 33°45'20.39"</b>
<b>Longitude</b>	<b>W 108°45'49.52"</b>



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| 1. Evidence of Cattle Use  | Yes |
| 2. Evidence of grazing on grasses and herbaceous vegetation                  |     |
| 3. Evidence of Browsing on multiyear woody vegetation                        |     |
| 4. Evidence of browsing on woody regeneration at greenline or flood channels |     |
| 5. Evidence of Cattle Trails   |     |
| 6. Evidence of Trampling and Ground Cover Disturbance                        |     |
| 7. Evidence of Shearing and Bank Degradation                                 | Yes |
| 8. Presence of invasive trees  |     |



<b>Project</b>	<b>2019 Gila National Forest Cattle Impact Survey</b>
<b>Photopoint #</b>	<b>BB-006</b>
<b>General Location</b>	<b>San Francisco River, northwest of Higgins Mountain</b>
<b>Allotment/Pasture</b>	<b>Black Bob Allotment/Threesection Pasture</b>
<b>Date &amp; Time of Photo</b>	<b>5/31/2019 4:47 pm</b>
<b>Latitude</b>	<b>N 33°45'15.60"</b>
<b>Longitude</b>	<b>W 108°45'49.09"</b>



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| 1. Evidence of Cattle Use  | Yes |
| 2. Evidence of grazing on grasses and herbaceous vegetation                  |     |
| 3. Evidence of Browsing on multiyear woody vegetation                        |     |
| 4. Evidence of browsing on woody regeneration at greenline or flood channels |     |
| 5. Evidence of Cattle Trails   |     |
| 6. Evidence of Trampling and Ground Cover Disturbance                        |     |
| 7. Evidence of Shearing and Bank Degradation                                 | Yes |
| 8. Presence of invasive trees  |     |



<b>Project</b>	<b>2019 Gila National Forest Cattle Impact Survey</b>
<b>Photopoint #</b>	<b>BB-007</b>
<b>General Location</b>	<b>San Francisco River, west of Higgins Mountain</b>
<b>Allotment/Pasture</b>	<b>Black Bob Allotment/Threesection Pasture</b>
<b>Date &amp; Time of Photo</b>	<b>5/31/2019 4:34 pm</b>
<b>Latitude</b>	<b>N 33°45'1.19"</b>
<b>Longitude</b>	<b>W 108°46'0.95"</b>



1. Evidence of Cattle Use	Yes
2. Evidence of grazing on grasses and herbaceous vegetation	Yes
3. Evidence of Browsing on multiyear woody vegetation	No
4. Evidence of browsing on woody regeneration at greenline or flood channels	Yes
5. Evidence of Cattle Trails	Yes
6. Evidence of Trampling and Ground Cover Disturbance	Yes
7. Evidence of Shearing and Bank Degradation	Yes
8. Presence of invasive trees	No



<b>Project</b>	<b>2019 Gila National Forest Cattle Impact Survey</b>
<b>Photopoint #</b>	<b>BB-008</b>
<b>General Location</b>	<b>San Francisco River, west of Higgins Mountain</b>
<b>Allotment/Pasture</b>	<b>Black Bob Allotment/Threesection Pasture</b>
<b>Date &amp; Time of Photo</b>	<b>5/31/2019 4:07 pm</b>
<b>Latitude</b>	<b>N 33°44'44.73"</b>
<b>Longitude</b>	<b>W 108°46'11.78"</b>



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| 1. Evidence of Cattle Use  | Yes |
| 2. Evidence of grazing on grasses and herbaceous vegetation                  | Yes |
| 3. Evidence of Browsing on multiyear woody vegetation                        |     |
| 4. Evidence of browsing on woody regeneration at greenline or flood channels |     |
| 5. Evidence of Cattle Trails   | Yes |
| 6. Evidence of Trampling and Ground Cover Disturbance                        |     |
| 7. Evidence of Shearing and Bank Degradation                                 | Yes |
| 8. Presence of invasive trees  |     |



<b>Project</b>	<b>2019 Gila National Forest Cattle Impact Survey</b>
<b>Photopoint #</b>	<b>BB-009</b>
<b>General Location</b>	<b>San Francisco River, west of Higgins Mountain</b>
<b>Allotment/Pasture</b>	<b>Black Bob Allotment/Threesection Pasture</b>
<b>Date &amp; Time of Photo</b>	<b>5/31/2019 5:54 pm</b>
<b>Latitude</b>	<b>N 33°44'43.29"</b>
<b>Longitude</b>	<b>W 108°46'23.64"</b>



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| 1. Evidence of Cattle Use  | Yes |
| 2. Evidence of grazing on grasses and herbaceous vegetation                  | Yes |
| 3. Evidence of Browsing on multiyear woody vegetation                        |     |
| 4. Evidence of browsing on woody regeneration at greenline or flood channels |     |
| 5. Evidence of Cattle Trails   | Yes |
| 6. Evidence of Trampling and Ground Cover Disturbance                        | Yes |
| 7. Evidence of Shearing and Bank Degradation                                 | Yes |
| 8. Presence of invasive trees  |     |



<b>Project</b>	<b>2019 Gila National Forest Cattle Impact Survey</b>
<b>Photopoint #</b>	<b>BB-010</b>
<b>General Location</b>	<b>San Francisco River, west of Higgins Mountain</b>
<b>Allotment/Pasture</b>	<b>Black Bob Allotment/Threesection Pasture</b>
<b>Date &amp; Time of Photo</b>	<b>5/31/2019 3:53 pm</b>
<b>Latitude</b>	<b>N 33°44'32.09"</b>
<b>Longitude</b>	<b>W 108°46'14.94"</b>



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| 1. Evidence of Cattle Use  | Yes |
| 2. Evidence of grazing on grasses and herbaceous vegetation                  | Yes |
| 3. Evidence of Browsing on multiyear woody vegetation                        |     |
| 4. Evidence of browsing on woody regeneration at greenline or flood channels |     |
| 5. Evidence of Cattle Trails   | Yes |
| 6. Evidence of Trampling and Ground Cover Disturbance                        | Yes |
| 7. Evidence of Shearing and Bank Degradation                                 | Yes |
| 8. Presence of invasive trees  |     |



<b>Project</b>	<b>2019 Gila National Forest Cattle Impact Survey</b>
<b>Photopoint #</b>	<b>LP-001</b>
<b>General Location</b>	<b>Tularosa River, just east of Negrito Spring</b>
<b>Allotment/Pasture</b>	<b>Lower Plaza Allotment/Kiehne North Pasture</b>
<b>Date &amp; Time of Photo</b>	<b>5/31/2019 10:00 am</b>
<b>Latitude</b>	<b>N 33°40'31.59"</b>
<b>Longitude</b>	<b>W 108°45'32.43"</b>



1. Evidence of Cattle Use	Yes
2. Evidence of grazing on grasses and herbaceous vegetation	
3. Evidence of Browsing on multiyear woody vegetation	Yes
4. Evidence of browsing on woody regeneration at greenline or flood channels	
5. Evidence of Cattle Trails	
6. Evidence of Trampling and Ground Cover Disturbance	Yes
7. Evidence of Shearing and Bank Degradation	
8. Presence of invasive trees	