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June 1 2020

United States Forest Service
Attn: Josh Hall
Natural Resource Staff Officer, Santa Fe National Forest
Santa Fe National Forest Supervisor's Office
11 Forest Lane,
Santa Fe, New Mexico 87508

Submitted Via Email to: SM.FS.NNMRAWR@usda.gov

Re: Comments on Draft Environmental Assessment: Northern New Mexico Riparian, Aquatic, and Wetland Restoration Project #56975

Dear Mr. Hall:

The New Mexico Interstate Stream Commission ("NMISC") hereby submits these formal comments (hereinafter "Comments") pursuant to the National Environmental Policy Act, 42 U.S.C. §§ 4321-4370h ("NEPA"). These Comments address the May 1, 2020, U.S. Forest Service ("USFS") Draft Environmental Assessment ("Draft EA") for the Northern New Mexico Riparian, Aquatic, and Wetland Restoration Project.

The USFS proposes to restore riparian, aquatic, and wetland habitats on the Carson, Cibola, and Santa Fe National Forests and the Kiowa Grassland in New Mexico by implementing a variety of restoration activities. Five project categories with fifteen project types are covered by this environmental assessment. We want to thank the USFS for the opportunity to comment on the Draft EA. The NMISC recognizes the need and generally supports USFS's proposed action to restore riparian, aquatic, and wetland habitats on the Carson, Cibola, and Santa Fe National Forests and the Kiowa Grassland, as long as the projects have been constructed so as to minimize depletions of water, have secured water rights, or do not impound water for more than 72 hours.

Introduction and Interest of Party

The NMISC is charged with administration of all interstate water compacts for New Mexico, as well as protecting, conserving and developing the waters and stream systems of the State.

NMSA 1978, § 72-14-3 (1943). In the Rio Grande basin, the NMISC performs numerous activities, some of which might be affected by the Project.

Issues of Concern

Based on our review, we are concerned that the Draft EA does not adequately examine and address the potential effects of the water resource and hydrological projects on state water administration and water management and operations. It is our hope that these comments will assist the USFS in modifying the Draft EA to meet the requirements of NEPA.

Impact to State Water Administration

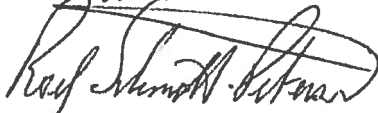
The Draft EA has no discussion of project impacts to State water administration, water management and operations. There is also not sufficient information in the Draft EA effects analysis about proposed water operation, diversions and mitigation measures for the NMISC to determine whether the projects complies with State law. Specifically, the Draft EA does not provide detailed analysis and modeling of the effects the proposed projects' diversions and mitigation measures will have on local depletions of water, downstream surface flows in the Upper Rio Grande Basin, and the potential for impairment of downstream senior water right owners.

Based on its review of the Draft EA, the NMISC is concerned that the proposed action could have detrimental impacts upon downstream management and administration of water on the Rio Grande and its tributaries for Rio Grande Compact compliance if the impacts are not appropriately offset and permitted. These concerns include, but are not limited to, projects that divert water and put that water to use for different purposes and at different places of use; and new depletions caused by temporary holding ponds, wildlife ponds, tanks and wetlands. Such activities and projects may be subject to compliance with State Engineer rules and state statutes and may require permits from the Office of the State Engineer. Accordingly, the NMISC suggests that the USFS confer with the District 6 Office of the State Engineer at 505-827-6120 to work with them to minimize the impacts of the proposed action on State water resource administration and water management and operations, and file application(s) for permits as appropriate.

Conclusion

For the reasons discussed above, the proposed action does not adequately examine or address the effects of the water resource and hydrological project and mitigation measures on State water administration. The NMISC is hopeful that its feedback and USFS's coordination with the Office of the State Engineer on this issue will result in the USFS's modification of the Draft EA to adequately address the NMISC's concerns. We thank you again for this opportunity to provide comments on the Draft EA. Please keep us informed of any decisions and actions related to the Northern New Mexico Riparian, Aquatic, and Wetland Restoration Project.

Sincerely,

A handwritten signature in black ink, appearing to read "Rolf Schmidt-Petersen". The signature is fluid and cursive, with a large loop at the end.

Rolf Schmidt-Petersen,
Director
New Mexico Interstate Stream Commission

cc: Page Pegram, Rio Grande Basin Manager
Arianne Singer, General Counsel, NMISC
Ramona Martinez, OSE District 6
Doug Crosby, OSE District 6