



**DEPARTMENT OF AGRICULTURE
STATE OF NEW MEXICO**

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Susana Martinez
Governor

Jeff M. Witte
Secretary

July 12, 2018

Ms. Elizabeth Humphrey
Attn: NMMJM Comments
Lincoln National Forest
P.O. Box 288
Clondcroft, NM 88317

Dear Ms. Humphrey:

New Mexico Department of Agriculture (NMDA) submits the following comments in response to the draft Environmental Assessment (EA) for the New Mexico Meadow Jumping Mouse (NMMJM) Habitat Improvement Projects on the Sacramento Grazing Allotment on the Lincoln National Forest (LNF).

NMDA maintains a strategic goal to promote the responsible and productive use and management of natural resources in support of agriculture. Our comments focus on aspects of the EA that received deficient analysis and will negatively impact livestock producers while providing little or no benefit to the NMMJM.

NMDA supports sustainably managed livestock grazing as a congressionally mandated use of federal lands that is vital to the ranching industry and beneficial to wildlife and associated natural resources. The importance of consistent access to forage and water on the LNF cannot be overstated for the ranching industry in New Mexico. Livestock grazing on LNF allotments has a significant role in maintaining economic viability for producers and rural communities.

We recognize the efforts of LNF to build additional corrals and watering facilities to improve management flexibility on the allotment and its commitment to follow the allotment owners' preferences for placement, design, and construction of new facilities. However, increased costs to permittees associated with altered management of livestock and increased maintenance costs of these new facilities should also be considered in the EA.

The EA has no economic analysis or timeline for the proposed actions. The potential financial and managerial cost of additional fencing for the exclosures as well as the proposed range improvements is high. This EA generates several additional questions related to the proposed action including:

- What is the total cost to LNF for this proposed action?
- What is the total cost to the allotment owner as a result of these actions, including indirect costs?
- How much of the critical habitat for the NMMJM is being permanently fenced off?
- How much of the permanent fencing will be barbed wire, pipe, or wildlife proof?
- What happens if this project fails to achieve the desired results for the NMMJM and its habitat?

One concern is that LNF will prioritize the construction of exclosures over the construction of the range improvements leaving the allotment owners at a disadvantage. NMDA strongly recommends that improvements be prioritized over the exclosures to ensure maximum flexibility for the allotment owners and their livestock to adapt to the changing circumstances on the allotment.

NMDA is aware of the legal obligation that LNF has under Section 7(a)(2) of the Endangered Species Act (ESA). However, there are lingering concerns about Section 7 Consultation, and with the EA itself. The EA states that “Approximately 100 acres would be fenced; 60 acres in Wills Canyon and 40 acres in Rio Penasco” based upon the footprint of the temporary fencing established in 2016. It appears that exclosures in Wills Canyon will be built regardless of the resource condition, but the exclosure in Rio Penasco will only be built if “annual and seasonal monitoring of impacts from livestock grazing indicated that livestock management described in the annual operating instructions was not sufficient for meeting the habitat requirements for the NMMJM.” What are the specific thresholds that would determine that livestock management was not sufficient for meeting the habitat requirements for the NMMJM? Although habitat requirements for the NMMJM might not be met, livestock grazing may not be the causal factor of the impacts. Instead, drought or wild ungulates may be the cause of the degradation. This statement in the EA is concerning to NMDA because the Sacramento Grazing Association (SGA) was recently determined to be out of compliance with terms and conditions of its biological opinion. Partially due to that determination, the United States Fish and Wildlife Service (FWS) recommended reinitiation of Section 7 Consultation under the ESA. Upon review of the compliance report, it was found that all but two noncompliance citations were the responsibility of LNF (missed deadlines, failure to report and effectively communicate, etc.). The rest of the items determined to be out of compliance relied on a subjective assessment and inappropriate data analysis resulting in an inaccurate conclusion that terms and conditions were exceeded due to allotment owners’ actions. The potential that permanent exclosures could be triggered based on subjective monitoring techniques such as the landscape appearance method or that FWS finds SGA to be out of compliance based on the action, or inaction, of LNF is unacceptable. NMDA urges LNF to pursue a more detailed and defensible decision making framework.

NMDA was under the impression that fencing in Rio Penasco was significantly modified based on adaptive management and conversations with the allotment owners in 2017. Further, at the SGA Annual Operating Instruction meeting held on February 16, 2018, Travis Moseley, supervisor of LNF, stated, “The FS has discussed removing the fencing from the trap, shoring up the existing boundary fencing of the trap to be able to better use the trap.” That strategy along with other possibilities on the allotment “is the framework of how to look at the approach differently while still maintaining the vegetation in the trap, but allow use without the fencing.”¹ Given that LNF was already having discussions about different strategies for the Rio Penasco trap, why was this alternative not included in the EA?

There are several design features of the exclosures that merit further consideration. The EA states that water lanes will be included in the exclosures to allow access to water for livestock; but the EA makes no reference to the size, frequency, or location of these water lanes. Water lanes should be a sufficient size to avoid concentrated impacts. NMDA suggests the water lanes be no less than 150 meters and a frequency of no more than one mile apart. Additionally, the slope of the location should not be too steep for livestock and wildlife to access.

The EA also notes that stream banks of water lanes will be armored to prevent erosion. While this is a necessary design feature, there is concern that material used to armor the bank will be incompatible with

¹ February 16, 2018, Sacramento Grazing Association Annual Operating Instruction Meeting Notes. Provided by the Sacramento Ranger District on the Lincoln National Forest.

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livestock and wildlife use. For example, if large and uneven rocks are used, animals may not be able to cross them to reach water, rendering the water lane useless.

In response to comments solicited during the scoping of this project, LNF notes that maintenance responsibility for the enclosure fences would be assigned administratively through the permit process. NMDA believes the allotment owners should not bear the additional burden of maintaining enclosure fences, especially in light of the expenses associated with altering management practices to adapt to the enclosures. In effect, this action poses an additional burden on the allotment owners based solely on the actions of LNF.

Additionally, LNF should consider the effects the cessation of grazing will have on nonnative plant species within the enclosures. The lack of properly managed grazing within the enclosures could lead to nonnative plant species out-competing native species. FWS recognized the benefits of livestock grazing to endangered species in California noting that "Inside the small, fenced-off areas, non-native grasses grow in thick clusters as high as three feet, choking out native plants."²

Finally, LNF lists elk and their impact on NMMJM as an issue to be analyzed in the EA. However, following the acknowledgment that elk may be an issue, the EA does not analyze it. It is well to acknowledge that management of elk falls under the purview of the New Mexico Department of Game and Fish. Nevertheless their impact on NMMJM has not been sufficiently analyzed.

NMDA is confident that LNF can meet its responsibilities in a way that would reduce the burden on ranchers within the affected allotment. Thank you for the opportunity to comment on this proposed action. Please continue to communicate in an open and transparent manner during this process to ensure all issues are addressed. Please contact Mr. Marshal Wilson at (575) 646-4941 with any questions pertaining to these comments.

Sincerely,



Jeff M. Witte

JMW/mw/ya

² Cordell, Doug. "A cud above: Service partnership with Bay Area cattle operation helps endangered wildlife." Nature's Good Neighbors Series. United States Fish and Wildlife Service, Pacific Southwest Region. June 21, 2018. <https://www.fws.gov/natures-good-neighbors/stories/a-cud-above/#feature-image>