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Fax Confirmation

Job	Date	Time	Type	Identification	Duration	Pages	Result	
3490	07/20/2018	08:17:16	Receive	19153693005	03:05	2	OK	52.0k

JUL-20-2018 10:00A FROM:HIDPETH COUNTY FAX 0 19153693005

TO:15756823394

P.1

July 18, 2018

Ms Elizabeth Humphrey, District Ranger
NMMJM Sacramento EA
Sacramento Ranger District
#4 Lost Lodge Rd.
PO Box 288
Cloudercroft, NM 88317

RE: Comments from the Otero County Public Land Use Advisory Council pertaining to the NMMJM Habitat Improvement Projects on the Sacramento Grazing Allotment Draft Environmental Assessment.

Dear Ms. Humphrey,

Thank you for the opportunity to comment on the New Mexico Meadow Jumping Mouse (NMMJM) Habitat Improvement Projects on the Sacramento Grazing Allotment Draft Environmental Assessment.

Section 2.2.2.1 Proposed Activities, Exclosure Fencing of the NMMJM Habitat Improvement Projects on the Sacramento Grazing Allotment Draft Environmental Assessment states that approximately 100 acres will be fenced off, amounting to less than 1% (0.09%) of the entire Sacramento Grazing Allotment (SGA). The specified 100 acres contains a legally owned water source for the Goss Family's livestock. Regardless of whether it is 1% or 50% that is fenced out, such fencing is taking a legally purchased, private right from the owners of the Sacramento Grazing Association (Goss Family).

Section 2.2.2.1 Proposed Activities, Livestock Facilities and Waters states that water could be diverted from an existing livestock water source. This would constitute a change for place of use from the original legal water source. New Mexico law is specific in how places of use are changed when dealing with water. Most, if not all, of the SGA stream water sources were put to beneficial use pre-1907. The Goss Family cannot risk the chance of losing their senior, pre-1907 priority right by applying for a "change of place of use", nor should they. They own legal, documented water rights and fencing them off of these legal rights presents a compensable 5th Amendment takings.

Should Alternative 2----Proposed Action be chosen and the permanent fence is installed, this

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Should Alternative 2---Proposed Action be chosen and the permanent fencing is installed, this will allow the buildup of vegetation ultimately restricts or hinders the flow of water to downstream adjudicated water rights owners/users.

The NMMJM Habitat Improvement Projects on the Sacramento Grazing Allotment Draft Environmental Assessment document centers its attention specifically on livestock as the culprit for possible degradation. There is only causal mention of the possibility of exclosure fencing being built located only in the uplands to deter the elk. Elk are large ungulates as are livestock. There is entirely no mention of the feral hog issue. Hogs are very destructive to many areas, but

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specifically areas that contain mud and water. The NMMJM Habitat Improvement Projects on the Sacramento Grazing Allotment Draft Environmental Assessment document is remiss in that it has not fairly addressed all animals that could be considered a detriment to the proposed areas.

The NMMJM Habitat Improvement Projects on the Sacramento Grazing Allotment Draft Environmental Assessment document does not evaluate or consider what the extra cost and/or financial hardship that will be created for the Goss Family. Nor does the document discuss the consequences to downstream users should the water flow be impeded by overgrowth within the enclosures. Federal law dictates that the customs, cultures, and socio-economics be taken into consideration when federal actions are taken. These considerations were not included in this document.

PLUAC believes that all aspects related to the proposed permanent fencing have not been truly considered or addressed and the public has been presented with a flawed document. Therefore we request that Alternative 1—No Action be the chosen alternative.

Should Alternative 2---Proposed Action be chosen, we strongly suggest that the Goss Family be compensated for the property that has been taken from them for public use.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gary Scarbrough".

Gary Scarbrough, Chairman
Public Land Use Advisory Council
1101 New York Avenue
Alamogordo New Mexico 88310