



**DEPARTMENT OF AGRICULTURE
STATE OF NEW MEXICO**

**MSC 3189, Box 30005
Las Cruces, New Mexico 88003-8005
Telephone (575) 646-3007**

Susana Martinez
Governor

Jeff M. Witte
Secretary

April 3, 2017

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

Dear Ms. Humphrey:

New Mexico Department of Agriculture (NMDA) submits the following comments in response to the New Mexico meadow jumping mouse (NMMJM) Critical Habitat Improvement Projects Proposed Action on the Sacramento Grazing Allotment (PA) on the Lincoln National Forest (LNF).

NMDA maintains a strategic goal to promote the responsible and effective use and management of natural resources in support of agriculture. Our comments focus on aspects of the PA that are unjustified 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 large role in maintaining economic viability for producers and rural communities.

In response to comments received regarding NMMJM proposed activities on the Sacramento Ranger District of the LNF (dated April 20, 2016), the LNF stated that "The Forest Service will collect monitoring data and analyze the data to determine if the fences are meeting the desired objectives." Moreover, "Further analysis will be completed to determine what needs to be protected before more long term decisions are made to protect habitat." Since the LNF is proposing to replace temporary fences with permanent fences, what "further" analysis has been conducted to support this decision? NMDA requests any data and analysis that is relevant to the PA.

Furthermore, NMDA notes that the LNF has set criteria for constructing fences, but has not identified measures that would allow the fences to be removed if objectives related to the NMMJM have been met. Exclosures should be removed once objectives are achieved to relieve the hardships placed on the allotment owners associated with altered management of livestock and increased maintenance costs of additional fencing.

NMDA understands the legal obligation that LNF has under Section 7(a)(2) of the Endangered Species Act to, “insure that any action authorized...is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat which is determined by the Secretary...to be critical...” Regulations germane to this obligation at 50 CFR §17.94(c) state that “Critical Habitat management focuses only on the biological or physical constituent elements within the defined area of Critical Habitat that are essential to the conservation of the species.”

According to the PA, permanent fences will follow the footprint of temporary fencing from the 2016 grazing season. This is concerning because exclosure areas constructed in 2016 were chosen based on the presence of primary constituent elements (PCEs), restoration potential, and possible future connectivity to other high-quality habitat. Exclosures should only include areas where all PCEs currently exist and are threatened by current management. Including areas that have restoration potential and possible future connectivity is outside the focus for critical habitat management provided by regulation.

Further, the lack of peer-reviewed science¹ used in determining the exclosures is of concern. According to the Species Status Assessment Report for the NMMJM:

It is important to recognize that there are substantial areas of uncertainty associated with this assessment. The main areas of uncertainty include the amount of suitable habitat needed to support resilient populations and the number of redundant populations needed to provide for adequate redundancy and representation. There is also uncertainty in some of the natural history information such as the location of hibernation sites relative to riparian areas and population sizes of localities found since 2005. We base our assumptions in these areas on the best available information, which is admittedly limited in these areas of science.²

Therefore, building permanent exclosures around the areas in question are indefensible based on the current understanding of NMMJM habitat needs.

The statement within the PA that “Approximately 100 acres would be fenced, which is less than 1% of the 111,484 acre Sacramento Grazing Allotment” is misleading. Although a small portion

¹Under the Microscope: An examination of the questionable science and lack of independent peer review in Endangered Species Act listing decisions. U.S. House of Representatives. Committee on Natural Resources. Majority Staff Report, 113th Congress. December 15, 2014 .

² U.S. Fish & Wildlife Service: Listing Review Team, Species Status Assessment Report: New Mexico meadow jumping mouse. May 27, 2014.

Ms. Elizabeth Humphrey

Page 3

April 3, 2017

of the overall allotment would be excluded, it is worth noting that those areas are of key importance to the management of the allotment due to the location of the proposed exclosures. NMDA recognizes the efforts of the LNF to build additional corrals and watering facilities to improve management flexibility on the allotment and its commitment to follow the allotment owner's preferences for placement, design, and construction of the 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. NMDA encourages LNF to continue seeking input from the affected allotment owners at every step in this process.

Moreover, the construction of new water facilities in the PA is useless without water rights to put them to use. Are there any assurances that allotment owners will be able to use these watering facilities subject to valid existing rights in place of their lost access to the surface water in the exclosures?

Thank you for the opportunity to comment on this proposed action. NMDA requests you continue to keep us informed about similar actions in the future. Please contact Mr. Marshal Wilson at (575) 646-4941 with any questions pertaining to these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read 'JM Witte', with a stylized flourish at the end.

Jeff M. Witte

JMW/mw/ya