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**Western
Watersheds
Project**

Working to protect and restore Western Watersheds and Wildlife

October 21, 2022

Tom Torres
Deputy Forest Supervisor
2324 E. McDowell Rd.
Phoenix, AZ 85006

Submitted via email to: objections-southwestern-tonto@usda.gov

**Hicks Pikes Peak Allotment Grazing Authorization
EA Objection
Tonto National Forest
Round 2**

Dear Mr. Torres,

The following Objection to the Hicks Pike Peak Grazing Authorization Environmental Analysis (EA), Draft Decision Notice and Finding of No Significant Impact (DDN/FONSI) is being submitted on behalf of the members of Western Watersheds Project (WWP) who are concerned with the management of our public lands. WWP previously submitted comments for this project on August 30, 2019, and have included these comments as Appendix A. The legal notice for the previous decision was published on February 3, 2021 and WWP filed its first objection to this project on, March 19, 2021. This objection is attached as Appendix B. The 2021 decision was withdrawn The legal notice for this decision was published on September 7, 2022. This objection is filed on October 21, 2022 and is therefore timely.

This Objection is filed pursuant to, and in compliance with, 36 C.F.R. Part 218, Subparts A and B. All parties to this objection have filed timely, specific and substantive written comments in accordance with 36 C.F.R. 218(a).

As required by 36 C.F.R. § 218.8(d), Objectors provide the following information:

1. The name and contact information for the Objector is listed below.

2. This Objection was written on behalf of Objector by Cyndi Tuell whose signature and contact information are below.
3. Western Watersheds Project is the Objector. Cyndi Tuell is the Lead Objector for purposes of communication regarding the Objection.

Cyndi Tuell
Western Watersheds Project
738 N. 5th Ave, Suite 206
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4. The project that is subject to this Objection is “Hicks Pike Peak Allotment Grazing Authorization EA.” The Responsible Official is Adam Bromley, District Ranger for the Globe Ranger District.
5. Objector submitted, timely, specific, and substantive comments during the Public Comment Period on August 30, 2019. All points and issues raised in this objection refer to issues raised in that comment letter or new information.
6. In the following Statement of Reasons, Objector provides the specific reasons why the decision is being appealed and the specific changes or suggested remedies that he seeks, along with the related evidence and rationale on why the decision violates applicable laws and regulations.

NOTICE OF OBJECTION

Pursuant to 36 C.F.R. § 218, Western Watersheds Project is filing an Objection regarding the Draft DN/FONSI for the Hicks Pike Peak Grazing Authorization EA in the Globe Ranger District of the Tonto National Forest.

INTRODUCTION

This project covers 68,838 acres of federal public lands divided into 21 pastures ranging in size from 500 acres to over 10,000 acres and includes designated Wilderness, a Wild and Scenic River, multiple riparian areas, sensitive wildlife habitat, and habitat for species listed as threatened and endangered, and the majority of the project area includes soils that are extremely susceptible to erosion. USFS 2021 EA at 6 and throughout. The failure of the Forest Service to adequately address our concerns raised in prior comments, the geographic and temporal scope along with the special designations and species found in this area, and the proposal to use mechanized and motorized equipment in designated Wilderness, require the development of an Environmental Impact Statement (EIS) and preclude a Finding of No Significant Impact (FONSI).

We describe our concerns more specifically below.

STATEMENT OF REASONS

I. There have been no substantive changes to the NEPA analysis or decision

As stated in the “Note to Reader” section of the “revised” EA, the changes to the proposed actions and analysis from the 2021 decision and EA are “minimal.” 2022 EA at 6. One of the biggest changes is an

explanation for the likely illegal 2018 decision to divide the Ortega pasture in to the East and West Ortega pastures and the construction of a pasture fence and a drift fence. The Forest Service also acknowledges that in 2020 the West Ortega pasture was authorized for “emergency” grazing due to the Griffin wildfire. *Id.* at 8.

A second change is the indication that the Forest Service is relying upon the 1985 Land and Resource Management Plan (Plan) for this September 2022 grazing decision which will govern the allotment for the next 10 years. Unfortunately, this September 2022 decision comes *after* the Forest Service has released a Record of Decision for its newly revised Land and Resource Management Plan in March 2022. While we understand the Plan is still in the midst of the objection process, the anticipated life of the Plan is at most 15 years. Therefore, this decision, which will have impacts for at least the next 10 years, may not be in compliance with the revised Plan, but will last for nearly the entire life of the Plan, if not longer. This also means that the authorization of livestock grazing on this allotment is based on an extremely outdated, 37-year old Plan that used a utilization study that did not account for climate change, drought, altered fire regimes, or threatened or endangered species listings. The Forest Service attempts to explain how the production utilization study was flawed, but in doing so only further demonstrates that this allotment has likely never been, and probably will never be, suitable for livestock grazing: “Lower Shute Pasture had a distribution problem due to the available water sources in the canyon bottoms...” and “utilization on key species was found to be between 60 and 80 percent.” *Id.* at 14.

Another significant admission found in the slightly revised EA is that even years after livestock grazing has ended, the impacts continue, though the Forest Service attempts to artificially minimize the impacts of livestock grazing and blame poor soil conditions on slope and soil type, and basically anything other than livestock: “The soil condition represents an approximation of the current condition of the allotment and can provide the basis for determining effects from actions, such as authorized grazing. However, not only does historic or current grazing impact soil conditions, but so does slope, parent material of the soil, drought conditions, annual precipitation patterns, and other uses, such as dispersed camping.” *Id.* at 23. However, the Forest Service cannot deny that of the many factors it cites as reasons for poor resource conditions, livestock grazing is one of the only ones it can control: “This means that even if an area or pasture has not been grazed in several years, it can still be classified as “impaired” as improvement in these areas may take decades and with the increase in drought conditions and climate change, may never fully recover without active restoration activities.” *Id.* And while the Forest Service attempts to frame past livestock grazing practices as happening long-ago by changing the word “past” to “historic,” it cannot deny that current and *recently* past grazing operations have degraded conditions on this allotment. Indeed, the 2021 EA and FONSI stated that “current management practices could also be slowing or preventing recovery[,]” and continuing to acknowledge the problem in the 2022 EA: “There is a potential that current activities within the allotment boundary, including livestock management, could slow or prevent soil recovery.” *Id.* at 26. Furthermore, there is no information in the EA about specific areas where dispersed camping, instead of livestock grazing, is impacting soil conditions.

The Forest Service is keenly aware that soils in the allotment area are in poor condition, indeed, they are classified as “impaired” in the Watershed Condition Framework. *Id.* at 28. Because soils in desert ecosystems can be extremely slow to recover and generally take longer than the timeframe of a grazing authorization (10 years) to recover, it is imperative the Forest Service act with great caution to protect

fragile desert soils. Instead, it appears the Forest Service has used the degraded soil condition and the long-time frame necessary for soil recovery to justify the status quo and has authorized continued livestock grazing, which will undoubtedly further damage the soils on the allotment. The Forest Service acknowledges that deserts are generally considered to have both low resistance and resilience to disturbance and livestock grazing authorizations cause wide-spread disturbance. The livestock grazing authorization is contrary to Forest Service Manual 2550.2 that states the desired conditions for soils are to “maintain or restore soil quality on National Forest System lands. Manage resource uses and soil resources on NFS lands to sustain ecological processes and condition so that desired ecosystem services are provided in perpetuity.” The authorization of livestock grazing does the exact opposite. In violation of the National Forest Management Act, the livestock grazing authorization will violate the 1985 Forest Plan provision that requires project improve soil productivity (1985 plan at p. 19). *Id.* at 28. This livestock grazing authorization on degraded soils will also cause unnecessary and undue degradation of the soils on the allotment.

Stream conditions on the allotment are extremely poor. Of the assessed reaches they are either impaired, severely impaired, or unstable. *Id.* at 33. Whether or not livestock grazing is the current cause of degraded stream conditions, the Forest Service must recognize that the added stressor of livestock grazing in the watershed will hinder stream recovery and exacerbate the degradation.

The information the Forest Service is relying on for stream condition appears woefully outdated. Bluff Spring in Holly Pasture has not been visited since 2006. *Id.* at 34. The information in the EA indicates Murphy Spring in Kenny Pasture is degraded and missing key vegetation species, including seedlings of willow, cottonwood and sycamore. *Id.* Murphy Spring appears to have been last visited for monitoring in 2007 and use in 2009 was estimated with trailing and trampling found to be “excessive.” *Id.* at 35. The current condition of these areas is unknown.

The Ortega Pasture has seven springs and had not been used in over a decade until the Forest Service authorized “emergency use” in 2020 in response to the Griffin fire. Notably, the analysis of this pasture and the springs within it has not changed from the 2019 EA, prior to livestock use of the pasture. The Forest Service failed to comply with NEPA by excluding any information on how livestock use after a period of rest of over a decade impacted this allotment and the streams and springs found therein. The Forest Service should have included information on the pasture conditions prior to turn out for emergency use and after the emergency use was ended. We are also concerned that the information in the EA fails to disclose that the permittee requested use of the West Ortega pasture in 2020 and was denied because the pasture required a fence that needed to go through NEPA analysis. This information is found in an October 15, 2020 Pasture Adjustment document obtained through a Freedom of Information Act (FOIA) request (attached as Appendix C). Use of the West pasture was apparently requested for April 2022 and denied because ecological conditions were degraded by prior use: “While ecological conditions have begun to improve and early seral species are growing, our team of USFS specialists have agreed one or more growing season of rest is required.” Appendix D, Pasture Adjustment document obtained through FOIA.

In the 2019 Annual Operating Instruction (AOIs), the Forest Service noted that use of the West Ortega pasture was prohibited because the fence necessary to allow use of this pasture was “Currently in Allotment Analysis.” Appendix E, page 2 of the pdf file, AOI obtained through FOIA. In the January 21, 2020 AOI (Appendix E, page 5 of the pdf file), the West Ortega pasture is authorized for use from

April 18, 2020 through June 26, 2020 for 100 cows and 10 bulls, yet we are unaware of any completed NEPA analysis for the required pasture fence. We do note that the East Ortega pasture includes a note about a new fence for which there is pending NEPA analysis and it is unclear if there was a mistake in the pasture names. It is also unclear whether the permittee used the West Ortega pasture in 2020 given that the AOI indicated the permittee was authorized to use the West Ortega pasture. The 2020 AOI was modified on March 11, 2020 and includes the same language for both the West Ortega and East Ortega pastures, as well as an indication that livestock were to be moved *from* the West Ortega pasture on January 15, 2021 after they were moved there during the Griffin fire. Notably, the AOI modification form indicates the modification was not approved because of impacts to Southwestern willow flycatcher and the fact that mitigation measures (fencing) were not in place in the West Ortega pasture. This modification was signed on November 18, 2020. Appendix E, page 8 of the pdf file. Another AOI modification was approved and signed on November 18, 2020, and it indicates livestock were moved to Scute [sic] Springs on November 7, 2020 through June 23, 2021 due to the Griffin fire. As there is no “Scute Springs” pasture we must assume the permittee meant Shute Springs pasture. This means the statement in the EA that the Lower Shute Springs pasture had not been grazed in over a decade is possibly in error. It also raises concerns about impacts to the Southwestern willow flycatcher as well as illegal and unauthorized livestock access to the Salt River because, as the EA states, “[w]ith current range infrastructure, if this pasture were grazed, cattle would have access to the river at Redmond Flats, Redmond Wash, and Shute Springs Creek. 2022 EA at 36. The EA also indicates Shute Springs Creek is functioning at risk and any livestock use, even when deemed an “emergency” would have significant negative impacts. 2022 EA at 42. The 2020 AOI was further modified on December 11, 2020, indicating that gates were opened on the West Ortega pasture on August 21, 2020 and the “rest of heard” (88 adult cattle) were moved into the pasture on September 12, 2020. The 2020 AOI modifications were signed by Adam Bromely, who also signed the 2021 AOI (Appendix E at page 12 of the pdf file) which again authorized livestock use of the West Ortega pasture from December 15, 2021 through February 2, 2022. A modification of the 2021 AOI indicates a 2 week extension of the use of the West Ortega pasture was approved on February 16, 2022. *Id.* at page 14 of the pdf file. The 2022 AOI again indicates the West Ortega pasture is authorized for use from December 18, 2022 through February 28, 2023. *Id.* at page 18 of the pdf file. There are two modification requests to the 2022 AOI, one of which was denied because ecological conditions on the West (not West Ortega) pasture have not improved sufficiently to justify livestock use. Appendix D, 2022 AOI modification.

Notably, there exists a 2020 AOI modification that states the West Ortega Pasture was misidentified and not actually used in 2020, but there are no similar notices of error or non-use for 2021 or 2022. Appendix F.

It is unclear how the emergency use of the West Ortega pasture, that occurred without the necessary fence to prevent access to the Salt River and habitat of threatened and endangered species, was lapsed for most of 2021, but planned to re-occur in December 2021, 2022, and into 2023. The 2021 AOI makes clear that the previous fire activity damaged range infrastructure but there were no apparent reductions in authorized AUMs as a result. So, despite drought, fire and loss of (or lack of) range infrastructure to maintain livestock on authorized pastures, livestock grazing continued on this allotment and indeed, occurred in areas that had not been grazed for more than a decade. To say this is shocking is an understatement. The Forest Service cannot continue to authorize livestock grazing on federally managed public lands regardless of the impacts and lack of appropriate range infrastructure while allowing the destruction of habitat for threatened and endangered species that are also suffering

the impacts of drought, fire, and climate change. It is also shocking to learn that *while* this allotment was undergoing a NEPA process to determine whether or not to re-authorize livestock grazing, and *after* fires had damaged a significant amount of range infrastructure, the Forest Service would authorize the rebuilding of that infrastructure *before* the NEPA analysis for livestock authorization was complete.

It is unclear how the use of the West Ortega pasture has not violated the Endangered Species Act. A 2015 notice in the Federal Register (80 Fed. Reg. 39, 10662-10663, attached as Appendix G) states clearly that livestock grazing by livestock permittees along the Salt River would potentially impact protected species and that neither the Forest Service nor the permittees had time or money to conduct the monitoring necessary to protect natural resources. Given that the funding for Forest Service monitoring has not improved since 2015, it is highly unlikely that monitoring of impacts to the Salt River have occurred while livestock were authorized in the West Ortega Pasture.

II. We Appreciate the Restoration of the Following Language to the EA

The Forest Service had removed important language from the 2021 EA that had been included at page 13 of the 2019 EA. We asked that this language be reinstated because the study shows how long the lack of monitoring and inability to manage livestock utilization has been ongoing on this allotment. This important language makes clear that rotational grazing is not a solution to significant, long-term, ongoing grazing impacts. We have again included the previously missing (and now restored) language (in *italics*) bracketed by the language originally found in the EA (in **bold and underlined**) and appreciate that the description of the study results are again included in the final EA for this project.

In 1985, a production utilization study was conducted throughout the entire allotment. At that time, the allotment was under continuous yearlong grazing with low forage cover and decreased soil stability, based on long term monitoring data. These conditions, when reviewed by Forest Service personnel, recommended allowable livestock grazing use to be set at 20 percent key perennial grasses and 30 percent key browse. These recommendations were made, but never implemented, on the allotment. Allowable use was measured in areas where livestock had access and was not measured on highly erodible soils or areas with no palatable perennial forage. This 1985 study determined that the majority of the allotment was stocked at higher levels than are sustainable for forage plants. At that time, utilization on key species was found to be between 60 and 80 percent. Livestock were not moved to areas of lower utilization and instead congregated in easily accessible areas before moving to others. Livestock were not moved to areas of lower utilization and instead congregated in easily accessible areas before moving to others [copy edit note, this sentence appears twice in the 2022 EA]. This lack of livestock distribution was noted by the difference in vegetation between easily and tougher areas to access, due largely to excessive stocking and continuous yearlong grazing. Pasture structure did not allow for reasonable livestock rotations and new fences were recommended to offset these results. Lower Shute pasture had a distribution problem due to the available water sources in the canyon bottoms of Shute canyon and the Salt River. The conclusion and recommendation of that study determined that for an allotment under rotational management with two out of three years' rest, back to back, capacity could be 629 head of cattle with 522 head natural increase.

The Forest Service should have provided the split pasture data or directed the public where in the more than 150 page EA it can now be located. The Forest Service should also have explained, if this data is not included, why the Forest Service was unable to provide this information in the year since the 2019 EA was provided to the public. It is not clear how old the Soil Condition data is, but it is apparently older than the “recent years” in which the pastures were split. This begs the question as to whether the Forest Service is relying on outdated data, especially in light of recent fires, ongoing, historic drought, and climate impacts.

The foregoing shortcomings in the EA render the DN and FONSI invalid and require additional analysis and public review.

III. Financial Information Regarding Past and Proposed Range Improvements Was Not Provided.

We asked the Forest Service to disclose any and all information regarding the use of federal and state monies for range “improvements” on this allotment. WWP 2019 comments at 3. The public has a right to be informed as to how much money the permittee has received from federal funding sources such as EQIP grants, NRCS grants, disaster relief, Arizona Game and Fish funds, or any other federal or state funding sources.

In response, the Forest Service identified various possible sources for range infrastructure in a generalized way in the Response to Comments, but stated “[r]equests for specific information about how these particular improvements would be paid for is outside the scope of the decision for this project.” USFS 2021 Response to Comments at 3 (which was not updated in the 2022 EA, therefore we refer to the 2021 EA for this section). The Forest Service also noted that “[r]ange improvements are part of the existing conditions and are outside the scope of this decision. Maintenance of range improvements are assigned to the grazing permit holder and will be maintained to standards. The grazing permit holder may reach out to other agencies or groups to apply for funding on existing improvements.” USFS 2021 Response to Comments at 9. Yet, the Forest Service depends on range improvements, and their ongoing maintenance, to mitigate the impacts of livestock grazing on natural resources within the project area, so it is unclear how these issues are outside the scope of issues the Forest Service should have considered.

The Forest Service’s failure to analyze the fiscal impacts of this proposed project render the NEPA analysis invalid and preclude a FONSI. Given that the Forest Service charges historically low grazing fees (\$1.35/AUM) and the increasingly high costs of administering grazing leases that is never disclosed on an allotment-by-allotment basis, the public is continuously, and apparently intentionally, kept in the dark about the financial impacts of livestock grazing projects. We note that the EA for this project identifies the specific dollar amount recreational permits gross for outfitters for the Salt River Canyon, the specific costs for permits and fees to use the Salt River, and the federal funds generated from those fees. USFS 2021 EA at 103. We are simply asking the Forest Service provide a similar level of fiscal information as it relates to livestock grazing on this allotment. Furthermore, it is important for the Forest Service to accurately and adequately respond to specific requests for information related to the NEPA process and the information regarding how much the proposed range infrastructure will cost is indeed *not* outside the scope of this project, but rather squarely within it.

We hereby incorporate the Objection of Jeff Burgess, attached as Appendix H, as part of WWP's Objection. This objection details the history of livestock grazing on the allotment as well as myriad potential NEPA violations and we both support and adopt these objection points as our own.

The Forest Service has not adequately responded to our concerns, has provided no information in response to questions regarding fiscal costs associated with this project, and therefore cannot rely upon this Decision Notice and Finding of No Significant Impact to authorize livestock grazing.

IV. The Purpose and Need is Insufficient

The 2017 scoping letter identified the Purpose for this project: “[t]his project proposes to authorize livestock grazing on the Hicks-Pike Peak allotment.” 2017 Scoping Letter at 1. That’s it. There is nothing else identified as a need or a purpose in the scoping document.

This project has one purpose – authorize livestock grazing. The 2017 EA, with the same date as the scoping notice, September 2017, identified a Purpose and Need at page 33: “[t]he Hicks-Pike Peak Allotment is a priority for completing grazing allotment planning in conformance with...[NEPA]...Completing this effort on time and to standard is essential...The purpose of this action is to consider livestock grazing opportunities on public lands where consistent with management objectives.” *Id.* The Purpose and Need further states that the purpose is to authorize livestock grazing in a manner consistent with direction to move ecosystems towards their desired conditions and per various Forest Service Handbook provisions. The Need is identified as to comply with congressional intent to allow livestock grazing on suitable lands, the allotment contains lands identified as suitable for grazing and grazing is consistent with the 1985 Forest Plan goals, objectives, standards, and guidelines, and it is Forest Service policy to make forage available to qualified livestock operators and it is Forest Service policy to “continue contributions to the economic and social well-being of people by providing opportunities for economic diversity and by promoting stability for communities that depend on range resources for their livelihood.”

Unsurprisingly, the Forest has authorized livestock grazing on this allotment and indeed appears to be expanding where livestock grazing will occur. We note with great concern that the decision authorizes significant additional range infrastructure even though the scoping notice and purpose and need do not identify additional range infrastructure as either a purpose or need. We also note that the apparent urgency to complete the project (“on time) in compliance with federal regulations (“to standard”) has fallen to the wayside given that the project has now taken over five years and was already decided in a manner so incompatible with compliance with federal regulations that the decision was withdrawn.

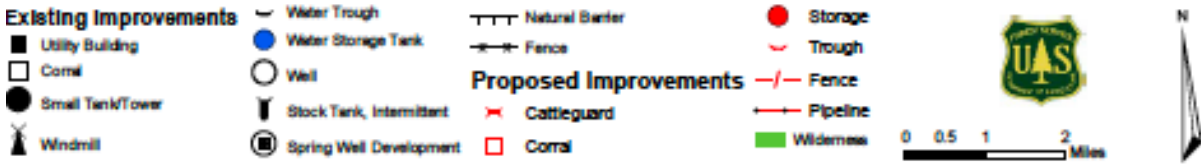
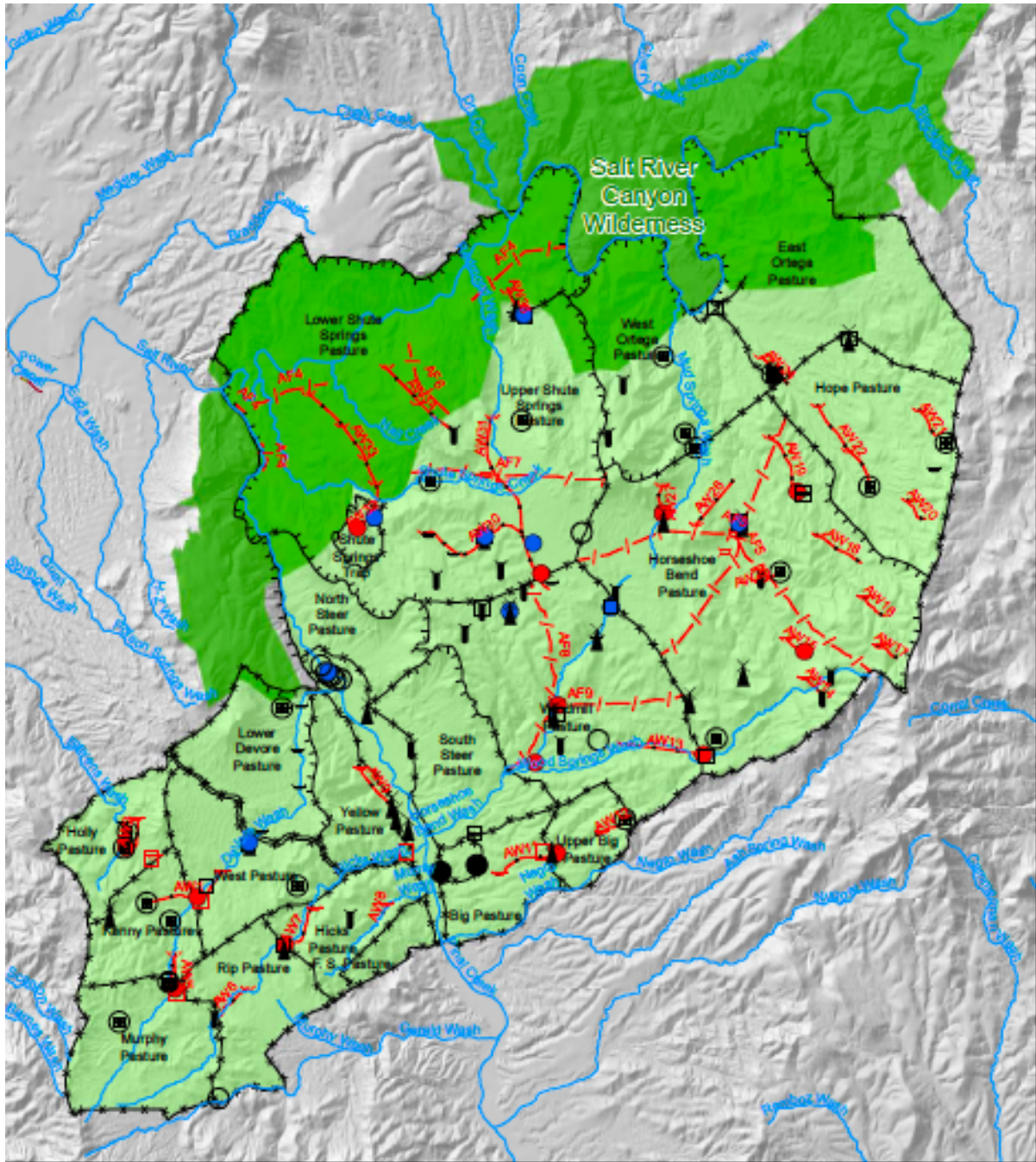
In our prior comments we expressed our concern about the inadequacies of the Purpose and Need Statement. WWP 2019 comments at 3-4. The Forest Service’s response was a simple statement that the project complies with federal regulations, misstates that impacts have been “fully analyzed in the EA” and there are no significant impacts. USFS 2021 Response to Comments at 14-15. This response failed to address our actual concern, which is that the Forest Service has failed to look at the impacts of this project because it has failed to properly identify the scope of the project.

The 2022 Decision Notice (DN) identifies the Purpose of this project: the allotment “is a priority for completing grazing allotment planning in conformance with the requirements of” NEPA. 2022

Decision Notice at 1. The Purpose is identified as the consideration of livestock grazing opportunities on public lands where consistent with management objectives and to authorize livestock grazing in a manner consistent with direction to move ecosystems towards desired conditions. *Id.* at 1-2. The 2022 DN indicates that the No Grazing alternative was not selected because it didn't meet the project's need. *Id.* The Need is not clearly identified in the 2022 EA, but perhaps is found at page 20: "In order to optimize production and utilization of forage allocated for livestock, as well as reach the management goal of 30 percent ground cover, it is our objective to balance permitted grazing use with available forage allotted for use by domestic livestock." The Purpose is once again identified as "a priority for completing grazing allotment planning in conformance with" NEPA and "to consider livestock grazing opportunities on public lands where consistent with management objectives" and "authorize livestock grazing in a manner consistent with direction to move ecosystems towards their desired condition." 2022 EA at 45. As we explain throughout this objection, the Forest Service has failed in its attempt to comply with NEPA, but has certainly prioritized authorizing livestock grazing.

There is no indication that the Purpose and Need for this project included increasing the number of AUMs authorized, nor to install fencing along the Salt River (a Wild and Scenic River with Outstandingly Remarkable Values and within a designated Wilderness area). Yet, fencing along the river is a large part of this project with nearly 6 miles of new fencing proposed. The 2022 EA indicates significant negative impacts to the river's Outstandingly Remarkable Values and Wilderness areas from fencing, including a failure to retain the primeval character and influence of the area, as well as the failure to meet Visual Quality Objectives, Scenic and Recreational Outstandingly Remarkable Values and the ROS of Preservation. 2022 EA at 101, 104, 133. The Forest Service is proposing a significant amount of infrastructure, with significant negative impacts on Wilderness and other important values, and this precludes a Finding of No Significant Impact.

The map below visually demonstrates the industrial scale of livestock grazing infrastructure this project would authorize. Instead of eliminating livestock grazing from pastures adjacent to Wilderness areas, the Forest Service is going to violate the Wilderness Act, along with NEPA.



In the 2017 EA the Forest Service identified 10 needed structural range projects to be implemented in the first two years. Only two of these proposed range infrastructure projects remain in the 2022 EA, with “additional infrastructure” identified as *perhaps* needed in the future and which will be “disclosed and tiered” to this NEPA analysis. 2022 EA at 53-54 and 2017 EA at 38; see comparison chart below.

2017 EA Infrastructure

Table 9: Proposed Structural Range Improvements to be implemented within the First Two Years

Identifier	Description	Pasture
W1	A pipeline running from Storm Canyon Well #3509 with approximately 2.3 miles of above ground pipeline with 2 troughs.	Ortega
W2	A pipeline running from Grapevine Well # 1323 with approximately 1.5 miles of above ground pipeline with 1 trough, 1 storage tank and a corral.	Ortega
W3	A pipeline running from Shute Spring Well #1245 with approximately 3.0 miles of above ground pipeline, 4 troughs, a storage tank, and a corral.	Lower Shute
W4	Drill four wells on allotment.	
W5	A water system that would pump water from the Salt River to a storage tank and series of troughs in the Ortega and Lower Shute pastures.	Ortega and Lower Shute
F1	Fence to split pasture into two.	Ortega
F2	Fence to split pasture into two	Lower Shute
F3	Install a drift fence near the Salt River to provide a barrier to keep cattle from grazing near the river. A minimum tools analysis would be completed to authorize fence construction in designated wilderness areas.	Ortega
F4	Install a drift fence near the Salt River to provide a barrier to keep cattle from grazing near the river. A minimum tools analysis would be completed to authorize fence construction in designated wilderness areas.	Lower Shute
R1	All numbered roads on the allotment would be requested for occasional maintenance for access to range improvements and livestock management.	Entire Allotment

2022 EA Infrastructure

Table 16: Proposed Structural Range Improvements anticipated to be installed

Identifier	Description	Pasture
W2	An above ground water line running from existing Lower Mud Spring with approximately 1.5 miles of above ground water line with 1 trough, 1 storage tank and a corral.	West Ortega
F2	Install a drift fence near the Salt River to provide a barrier to keep cattle from accessing the river.	West Ortega

The 2022 EA identifies a long list of proposed range infrastructure that “may be installed in the future” but which have been identified as necessary for proper range management *now*. Some of this infrastructure was included in the list identified in the 2017 EA, but there are many cattleguards and water developments identified in the 2022 EA as “possibly” needed but they seem to have evaded any NEPA analysis because specific locations are not identified.

Proposed future infrastructure identified in 2022 EA:

Table 16: Proposed Additional Infrastructure - Fencing

Identifier	Description	Pasture
AF6	Fence to split pasture into East and West Lower Shute pastures. A minimum tools analysis would be completed to authorize fence construction in designated wilderness areas.	Lower Shute
AF4	Install a drift fence near the Salt River and Pinal Creek to provide a barrier to keep cattle from accessing the river. A minimum tools analysis would be completed to authorize fence construction in designated wilderness areas.	Lower Shute
AF5	Fence to split pasture into four individual pastures: North, South, East, and West Horseshoe Bend pastures.	Horseshoe Bend
AF7	Fence to split pasture into Upper Shute and Redmond pastures.	Upper Shute
AF8, AF9	Fence to split pasture into Main, North, and South Windmill pastures.	Windmill

Table 17: Proposed Additional Infrastructure - Cattleguards

Identifier	Description	Pasture
CG1, CG13, CG16	Cattleguard	Kenny/West, Kenny/Holly, Kenny/Murphy
CG3	Cattleguard	Hope/Ortega
CG5	Cattleguard	Upper Big/Big
CG7	Cattleguard	Windmill new pasture split
CG9	Cattleguard	Upper Shute Spring new pasture split
CG10	Cattleguard	Upper Shute Springs/Ortega
CG8, CG11, CG12, CG18	Cattleguard	Windmill/Upper Shute Springs Windmill/Horseshoe Bend
CG14	Cattleguard	South Steer/Horseshoe Bend
CG15	Cattleguard	Rip/Hicks
CG17, CG20	Cattleguard	Lower Devore/Yellow Lower Devore allotment boundary
CG2, CG4, CG6, CG19	Cattleguard	Horseshoe new pasture splits, Horseshoe Bend/Ortega, Horseshoe Bend Allotment Boundary

Table 18: Proposed Improvements - Water Developments (Springs, troughs, storage tanks) and Corrals

Identifier	Description	Pasture
AW10	Install a corral	Yellow
AW11	An above ground water line, trough, and corral.	Big
AW12	An above ground water line running from Cement Spring to a new trough.	Upper Big
AW13	An above ground water line running from Procopio Spring to a new trough and storage tank.	Windmill
AW14	An above ground water line running from Apache Spring to a new trough.	Horseshoe Bend
AW15	An above ground water line running from Little Brewster Spring to a new trough and storage tank	Horseshoe Bend
AW16	In Section 26, extend a water line and install a new trough.	Horseshoe Bend
AW17	In Section 36, extend a water line and install a new trough.	Horseshoe Bend

Identifier	Description	Pasture
AW18	Add another water line and new trough	Horseshoe Bend
AW19	An above ground water line running from Brush Spring to a new trough and storage tank	Horseshoe Bend
AW20	In Section 23, extend a water line and install a new trough.	Hope
AW21	In Section 11, extend a water line and install a new trough.	Hope
AW22	An above ground water line running from Grapevine Spring to a new trough and storage tank.	Hope
AW24	An above ground water line running from Lower Grapevine Spring to a new trough and storage tank	Ortega
AW25	Extend a water line and install a trough from Horse Spring.	Horseshoe Bend
AW26	Install an above ground water line along Forest Road 219 to a new trough.	Horseshoe Bend
AW27	Install an above ground waterline to a new trough and storage tank.	Horseshoe Bend, Upper Shute
AW29	Install a new storage tank at Wood Spring.	Windmill
AW30	Install an above ground waterline to a new trough and storage tank	Upper Shute
AW31	Add an additional above ground waterline from AW30 and two troughs.	Upper Shute
AW32	Install a new storage tank and trough from Shute Springs.	Upper Shute
AW33, AW34	Install a new above ground water line and troughs.	Upper Shute, Lower Shute
AW5	Install a corral, storage tank, trough with an above ground water line, and drill a well near Murphy Spring.	Murphy
AW6, AW7, AW8, AW9	Install a new above ground water line and troughs.	Rip, Hicks, Yellow

If the Forest Service has already identified the needed infrastructure for this allotment, it should have included that information in this most recent version of the EA rather than deferring the disclosure and analysis of impacts to a later date. To break this project up into small parts appears to be an attempt to avoid an accurate assessment of the environmental impacts of this project and hide the need for an Environmental Impact Statement, in clear violation of NEPA.

We ask that this decision be remanded for further analysis because the Forest Service should take a hard look at whether livestock grazing is appropriate at all, instead of using an EA to rubber stamp approval of livestock grazing on the Hicks-Pike Peak allotment. The Forest Service should be engaged in the NEPA process *to determine whether or not to authorize livestock grazing* on these lands. As we stated in our prior comments, while *where consistent* with other multiple use goals and objectives, there is Congressional intent to allow grazing on suitable lands, and while this allotment *may* contain lands identified as suitable for domestic livestock grazing in the existing 1985 Forest Plan, there is nothing in the regulations controlling livestock grazing on public lands that *requires* livestock grazing to be permitted. Furthermore, while continued domestic livestock grazing *may* be consistent with the *1985 Forest Plan* goals, objectives, standards, and guidelines, this Forest Plan has been revised and is woefully out of date. The new plan's draft decision is currently within the Objection period.

Reliance on an inaccurate Purpose and Need statement and an outdated determination that the area *was at some point in the past perhaps* suitable for livestock grazing, has resulted in a failure to take a hard look at the actual impacts of livestock grazing in an ecologically, recreationally, and culturally important area. In light of climate change and drought, it is especially important that the Forest Service make careful, thoughtful determinations regarding livestock grazing at this time. Given the Forest Plan revision and pending decision, the Forest Service's decision for this project must not include any actions that would conflict with grazing suitability determinations, impair Wilderness character, or preclude an area for recommended Wilderness in the forthcoming Forest Plan revision. This decision would authorize livestock grazing long into the future, along with industrial scale infrastructure in some of the wildest parts of the Tonto National Forest. It is highly inappropriate.

It is not the job of the Forest Service to simply provide for livestock grazing on public lands because an application has been submitted or livestock permittee has economic interests in doing so. While the permittee may really want to continue grazing his livestock on federally managed public lands, they have no "right" to do so and the Forest Service is not required to authorize livestock grazing on the allotment without first determining whether doing so is appropriate in light of the ecological conditions on the ground. Here, the Forest Service has not made that determination.

We asked the Forest Service to properly frame the purpose and need for this project because the alternatives developed from that proper framing, and the environmental analysis that flow from an actual hard look at the impacts of those alternatives, would have provided a more accurate picture of the impacts of livestock grazing on the lands managed by the Forest Service for the public.

The Forest Service has not adequately responded to our concerns and therefore, cannot rely upon this Decision Notice and Finding of No Significant Impact to authorize livestock grazing.

V. The Range of Alternatives is Inadequate

We detailed our concerns about the range of alternatives in our prior comments. 2019 WWP comments at 4. The Forest Service failed to respond to our specific concerns.

There is no alternative that would reduce the number of AUMs authorized on the allotment. The Forest Service should have analyzed at least one alternative that eliminated all livestock use of the driveway, including sheep use.

The Forest Service has not adequately responded to our concerns, has not analyzed a reasonable range of alternatives, and therefore cannot rely upon this Decision Notice and Finding of No Significant Impact to authorize livestock grazing.

VI. The Forest Service Should Prepare an Environmental Impact Statement

We identified the legal flaws with the Forest Service’s use of an EA in great detail in our prior comments. WWP 2019 comments at 4-11. The Forest Service responded that according to agency handbooks and direction, they didn’t need to prepare an EIS. USFS 2021 Response to Comments at 2, 8. This necessarily ignores the degraded watershed condition (and indeed, dismissed our concerns about watershed condition by noting the data as “captured at a specific time” – in 2011 – as somehow problematic, *see* 2022 EA at 26) throughout the vast majority of the project area (and required the Forest Service to highlight that the degraded watershed conditions “extend beyond watershed health related to range conditions” and we note not exclusive of range impacts), ignores the fact the Forest Service took more than 5 years to create a lengthy EA (over 150 pages plus additional maps and appendices), and ignores the extreme drought conditions in the region. USFS 2021 Response to Comments at 9-10. It also requires the Forest Service to abdicate its responsibility to protect and improve the conditions of the watersheds and they have failed to explain how adding more livestock grazing to degraded watersheds will improve watershed health, especially in the Sycamore Canyon-Salt River watershed that *is* degraded specifically due to range impacts.

We object to the removal of three key reaches from Table 9. USFS 2022 EA at 33. East Ortega, West Ortega, and Lower Shute Springs reaches were eliminated from the table because, according to the Forest Service, cattle will not be authorized in these reaches. However, the removal of these reaches hides from the public the fact that these reaches have not been assessed for stream condition and yet the Forest Service still plans to allow grazing in these pastures. It also ignores the problem of trespass or unauthorized livestock use and will preclude a future accurate comparison, especially for the public who will rely upon this EA for comparisons to future projects and/or conditions.

The length of this EA alone is a clear indication that the Forest Service is precluded from a FONSI. As noted above, at over 150 pages, not including relevant reports and assessments, this document is a far cry from the concise document described by the CEQ that is required for an EA:

Generally, the EA includes a brief discussion of:

- The need for the proposal
- Alternatives (when there is an unresolved conflict concerning alternative uses of available resources)
- The environmental impacts of the proposed action and alternatives
- A listing of agencies and persons consulted.

There is nothing “brief” about this EA. What the Forest Service has done for this project, as it has done with several other livestock and range infrastructure authorizations in recent years, is attempt to toe the line between EA and EIS, using the shortened time frames and reduced public involvement requirements required by EAs for a project that clearly requires the more in-depth analysis and public oversight and public engagement opportunities found in an EIS. The result is the impacts of livestock grazing on federal public lands and natural resources are never getting the hard look they deserve.

We cited specific examples of our concerns regarding the lack of analysis for this ecologically and culturally important area in our prior comments, including:

- this allotment is adjacent to and overlapping with the Salt River Canyon Wilderness Area and designated critical habitat for threatened and endangered species including the narrow-headed garter snake, the yellow billed cuckoo, and the Southwestern willow flycatcher; wells, fencing, pipelines, and other livestock related infrastructure are located within or adjacent to the designated critical habitat and designated Wilderness areas; this project would authorize livestock grazing on 66,838 acres over 18 pastures;
- a large portion of this range is composed of decomposed granite soil, which is extremely susceptible to erosion; drought has been an ongoing issue for this area;
- the NEPA history for this project was not properly addressed in the EA; the legal settlement that prohibited livestock in Ortega and Lower Shute Springs pastures is not included as part of the allotment history; also missing from the history of this allotment is any information regarding an appeal of a decision to authorize 4,200 AUMs, yearlong, which was appealed by a conservation group in 2005;
- past records indicate the Forest Service identified capability for just 1,217 AUMs *excluding* the Ortega and Lower Shute Springs pastures, and just 1,450 AUMs including the two pastures, yet the Forest Service now proposes to authorize 1,900 AUMs;
- there is a lack of NEPA documentation for range infrastructure projects completed with federal and state funds (public funds) in the recent past;
- two pastures that had been off limits to grazing since 2002 are now mysteriously available to grazing despite past assurances from a Forest Supervisor that they would remain free from the damaging impacts of livestock;
- water quality concerns have not been addressed, putting public health and safety at risk;
- air quality issues have not been addressed at all;
- the unique characteristics of the project area have not been adequately considered;
- the fact that livestock grazing on federal public lands is becoming increasingly controversial and is scientifically unsupported was ignored;
- the decision here could preclude more protective management decision that would limit grazing from being made in the Forest Planning process;
- the proposed range infrastructure will harm scenic integrity (and despite the assurances that non-reflective material will be used, it is likely people will still be able to see the new range infrastructure);
- the Forest Service ignored impacts from trespass and unauthorized grazing;
- the required monitoring scheme is aspirational at best and funding sources are not identified;
- cultural resources are not adequately considered or protected.

For cumulative impacts the Forest Service identified any past range infrastructure as “part of the existing condition” and therefore did not include the impacts of that infrastructure in this analysis.

Given that some of the past range infrastructure was installed with little (Categorical Exclusion or EA level) or no analysis, this oversight is yet another reason a FONSI is precluded. While it might be easier for the Forest Service to ignore the significant impacts of livestock grazing and related infrastructure, and ignoring those impacts does make it easier to find no significant impacts, to do so is a violation of NEPA.

The Forest Service has not adequately responded to our concerns and therefore cannot rely upon this Decision Notice and Finding of No Significant Impact to authorize livestock grazing.

VII. Violations of the Endangered Species Act

We raised our concerns about the impacts to threatened and endangered species and the Forest Service's failure to adequately comply with the Endangered Species Act (ESA) in our prior comments. WWP 2019 comments at 11-16. Unfortunately, the Forest Service continues to ignore the impacts of trespass and unauthorized livestock on threatened and endangered species and does not take that information into account when making its affect findings. Nor does the Forest Service adequately consider the realities of monitoring, or rather, the reality of the lack of monitoring, when making affects findings. These failures result in a skewed Biological Assessment and the U.S. Fish and Wildlife Service concurrence is based on flawed information, resulting in violations of the ESA.

As one example of the inadequacy of the finding related to the narrow headed garter snake (NHGS), the Forest Service acknowledges that the snake is present in the project area, but not in great numbers. However, the Forest Service never asks the question: why aren't there many NHGS in the project area? Is it due to historic livestock grazing? Is it due to reduced water on the landscape accessible to the NHGS because of livestock water pumping?

For the southwestern willow flycatcher (SWWFL), the initial determination that the project would affect the species was revisited when the Forest Service modified the grazing to exclude grazing in critical habitat for the SWWFL and some riparian areas. However, this again ignores the need to analyze the impacts of trespass livestock and unauthorized uses because the Forest Service refuses to look at these impacts because it only considers authorized uses in its analysis. This renders the analysis of impacts to this species invalid and precludes a FONSI.

The Forest Service determined that the grazing authorization may affect but would not adversely affect the yellow billed cuckoo (YBC). Again, this determination failed to consider trespass and unauthorized use. We again assert that these oversights, especially cumulatively, preclude a FONSI. The Letter of Concurrence from the U.S. Fish and Wildlife Service does not include information about livestock grazing in the Ortega pasture because when the Biological Assessment and concurrence were prepared, that authorization had not yet occurred.

The Forest Service has not adequately responded to our concerns and cannot rely upon this Decision Notice and Finding of No Significant Impact to authorize livestock grazing.

VIII. The Analysis of Impacts to Riparian Areas is Inadequate

In our prior comments we identified flaws with the analysis of impacts to riparian areas. WWP 2019 comments at 16-17. The Forest Service responded to our concerns by stating that “[c]ompliance with the utilization standards identified in the proposed action...should maintain or result in slow improvement of riparian conditions.” USFS 2021 Response to Comments at 2. However, as we noted in our prior comments, enforcement of grazing authorizations is a significant problem and monitoring is unlikely to occur. The lack of enforcement and monitoring render the Forest Service’s assumption that riparian impacts will be slowed or conditions improved invalid and preclude a FONSI.

We also asked the Forest Service to analyze the impacts of the proposed livestock grazing in light of the known impacts livestock grazing in xeroriparian areas has on riparian areas. Levick et al. (2008, reference provided in 2019) provide a comprehensive review of the ecological and hydrological importance of such systems, which provide important habitat also for many plant species (not just riparian-dependent species), refugia for plants and animals in times of drought (and climate change), a source of water for upland wildlife, and migration/dispersal corridors. Further, the relationship to the riparian and xeroriparian areas to the uplands are a critical component of wildlife habitat in the project area. Upland vegetation is directly related to winter species richness and abundance of avian species. Strong and Bock, 1990. Overgrazing and destruction of grasslands are leading causes of bird imperilment in the southwest. Finch, C. *Ed.* 2005. Livestock grazing has numerous known impacts to uplands, including the effects of range developments on habitat integrity. Fleischner 1994. We noted that this was an issue that was not addressed in the EA and this shortcoming was not remedied nor responded to and, again, the Forest Service unwisely relies upon monitoring and compliance to minimize the anticipated impacts of grazing on these fragile and important areas.

The Forest Service has not adequately responded to our concerns and therefore cannot rely upon this Decision Notice and Finding of No Significant Impact to authorize livestock grazing.

IX. Suitability, Condition, Trend

As we noted in our prior comments, the EA does not address the important issue of range suitability at all, only a reference to the suitability determination from the 1985 Forest Plan. WWP 2019 EA comments at 17. There is no current analysis of suitable range in the EA for each the allotment, nor any updated verification of determinations made in the Forest Plans regarding livestock suitability.

The Forest Service has not adequately responded to our concerns, has provided no information to refute our contention that the suitability determinations are outdated, and therefore, cannot rely upon this Decision Notice and Finding of No Significant Impact to authorize livestock grazing.

X. Lack of Adequate Monitoring and Analysis of Livestock Grazing Impacts

As we stated in our prior comments the EA inadequately analyzes the impacts of livestock grazing to native wildlife species that are affected by social displacement due to livestock grazing. WWP 2019 comments at 17. The Forest Service responded by assuring us that this information is included in the Wildlife section of the EA. USFS 2021 Response to Comments at 4. This is not accurate. Social displacement was not addressed at all.

The Forest Service has not responded to our concerns and therefore cannot rely upon this Decision Notice and Finding of No Significant Impact to authorize livestock grazing.

XI. The Analysis of Climate Change Related Impacts is Inadequate

As we stated in our prior comments, there is insufficient analysis of the impacts of the project on the environment *in light of the compounding impacts of climate change*. WWP 2019 comments at 17-18. Examples of the questions we had hoped the Forest Service would ask and answer: given the likelihood of hotter and dryer conditions in the southwest, how will this project exacerbate the already alarming impacts associated with the impacts of climate change on surface and ground water, game species, threatened and endangered species, on Management Indicator or Special Status species? How will fencing and other related infrastructure associated with this project further fragment the landscape and how will this impact species already harmed by the rapid on-the-ground changes associated with climate change? How will this affect what the agency considers suitable range for livestock?

These questions have not been asked nor answered. Again, this precludes a FONSI and has prevented adequate public review and comment.

The Forest Service has not responded to our concerns and therefore, cannot rely upon this Decision Notice and Finding of No Significant Impact to authorize livestock grazing.

XII. Drought Impacts are not Adequately Analyzed

As we noted in our prior comments, information in the EA clearly indicates that the project area has experienced extreme drought in the past, as recently as 2002, which required the Forest Service to prohibit livestock use of this allotment. WWP 2019 comments at 18. The droughts of 2019 and 2020 were also significant and many livestock operators finally culled their herds. Unfortunately, the EA indicates that *at some point in the future* the Tonto National Forest may modify the AOIs to address drought but is not doing so now, as part of this decision, other than to add grazing infrastructure to facilitate a commercial activity on these public lands despite the drought that has made the land unsuitable for such a use. This has a two-fold negative impact. First, the public will have had no opportunity to help frame and flesh out the drought plans or responses; and second, the impacts of the drought are already evident and therefore the Forest Service should be taking action now to prevent further management impacts exacerbated by the drought. This is a significant impact the Forest Service has failed to adequately disclose, analyze, or address. Simply acknowledging that Arizona has been experiencing a long term, severe, and sustained drought since the 1990s is not the same thing as analyzing the impacts of a livestock grazing authorization that puts cows where they have not been or doubles the number of cows on these already stressed, arid lands. Somehow, the Forest Service believes that by authorizing younger livestock this addresses the concerns related to drought, but the Forest Service has not explained how this is true. USFS 2021 Response to Comments at 2.

One pasture that does not currently have authorized livestock grazing (except for “emergencies”), and that should remain free from the degrading impacts of livestock during prolonged drought, is the West Ortega Pasture. USFS 2021 Response to Comments at 3. Yet the Forest Service chose to ignore those

impacts and refused to analyze how livestock authorizations in light of significant drought would harm resources in that pasture.

The Forest Service has not adequately responded to our concerns and therefore cannot rely upon this Decision Notice and Finding of No Significant Impact to authorize livestock grazing.

XIII. Violations of NFMA

The Forest Service has failed to address the watershed health concerns we raised in our prior comments (and address above), though it admits the watershed is in trouble. The Forest Service failed to ask or answer the question: how does authorizing so many cows on these watersheds improve watershed health? The Forest Service blames roads, poor soil productivity, erosion, and mines, while ignoring or minimizing livestock impacts and ignoring the fact that this decision will increase use of roads, create more roads, and fencelines, and will increase erosion and reduce soil productivity. Water developments will concentrate livestock which will further degrade the watershed. This is very likely to result in a violation of the 1985 Forest Plan provisions, as outdated as they are, and will be a violation of the National Forest Management Act (NFMA). If and when the 2022 Forest Plan is finalized, this grazing decision is likely to violate the new plan as well.

The reliance upon outdated information and direction, such as the Allotment Management Plan from 1992, is also likely to lead to a violation of NFMA.

The Forest Service has not adequately responded to our concerns and therefore, cannot rely upon this Decision Notice and Finding of No Significant Impact to authorize livestock grazing.

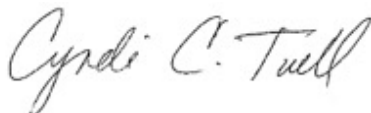
XII. Conclusion

We wonder how many endangered species, special protective land designations, and decades of drought it will take for a land management agency to do the right thing and put a halt to, or even reduce, livestock grazing in the desert. What will it take to get a federal land manager to take an actual hard look at those impacts by preparing an Environmental Impact Statement? The Hicks Pike Peak grazing and infrastructure authorization via an EA make it clear that the Forest Service is not willing to do that work, and this is very unfortunate. Therefore, we object to this decision.

Relief Requested: The Forest Service must withdraw the Draft FONSI/DN and prepare a supplemental analysis, including an EIS for this project. It must fully consider the more than 20 scientific references we provided or cited to in our prior comments.

Thank you for your consideration of this Objection. If you have any questions, or wish to discuss the issues raised in this objection letter in greater detail, please do not hesitate to contact me.

Sincerely,



Cyndi Tuell
Arizona and New Mexico Director
Western Watersheds Project

ATTACHMENTS

Appendix A
Comments of Western Watersheds Project submitted on August 30, 2019.

Appendix B
Objection submitted by Western Watersheds Project on March 19, 2021.

Appendix C
2020 Hicks Pike Peak AOI Adjustment for Ortega Pasture

Appendix D
2022 Hicks Pike Peak AOI Adjustment for Lower Devore and West Pastures

Appendix E
2022 FOIA response from Tonto National Forest including Hicks Pike Peak AOIs and adjustments from 2019-2022

Appendix F
2020 Hicks Pike Peak AOI Adjustment for Ortega Pasture

Appendix G
2015 Federal Register Notice of Retraction of Salt River Allotments Vegetative Management EIS

Appendix H
2022 Objection of Jeff Burgess