

October 20, 2022

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

Dear Mr. Torres,

This is an objection, as per 36 CFR 218, Subparts A & B, to the recent draft decision notice published on September 7, 2022, by Globe District Ranger Adam Bromley for the Hicks-Pikes Peak Allotment Grazing Authorization. My objection is based upon the written comments that I submitted in 2017 and 2019 regarding this project, wherein I raised questions that I believe still haven't been resolved by this decision.

As you know, Mr. Bromley previously issued a draft decision notice for this project, which was published on February 3, 2021. On March 19, 2021, I submitted an objection to that decision too. Forest Supervisor Neil Bosworth responded by hosting an online resolution conference on the morning of May 4, 2021, as per 36 CFR 218 § 218.11. Ranger Bromley also participated in that meeting, as did Cyndi Tuell from the Western Watershed Project, because they had also submitted an objection.

Subsequently, Supervisor Bosworth sent me a letter on June 1, 2021, wherein he explained that the project's February decision notice had been withdrawn by Ranger Bromley on May 27, 2021. He stated that it had been withdrawn *"to further address some of the contentions raised during the predecisional objection process."* He also explained that, after a new draft decision notice was eventually issued, I would need to submit a new objection if I still wanted to object.

The new draft decision notice issued by Ranger Bromley on September 7 of this year explained the objections filed against his initial draft decision *"included identification of incorrect or unclear information in environmental assessment and finding of no significant impact (EA-FONSI), the document that supported the draft decision notice."*

These two notices led me to believe that the new decision, and its accompanying revised environmental assessment (EA), would provide significantly more information to help answer questions about the project. The new decision notice, however, provided no specific details about the proposed livestock management plan for the Hicks-Pikes Peak grazing allotment, other than it was the Proposed Action alternative, *"detailed in the EA, beginning on page 46 and ending on page 73."* This was in stark contrast to the 33-page draft decision notice issued in February 2021, which included many details.

Furthermore, the format of the new decision notice forced reviewers to make page by page comparisons of the project EA released in February 2021 against the revised EA released in September 2022 in order to identify any changes. This was made more difficult by the fact that

the prior EA was deleted from the project's web page (<https://www.fs.usda.gov/project/?project=52246>), so a reviewer could only identify the changes that were made if they happened to have saved a copy of the prior EA. (I did.)

After comparing the two EAs, the biggest difference I could find was a new map on page 52 of the revised EA, labeled Figure 11, which shows the location of the proposed new livestock fence of approximately 31,560 feet in length along the south bank of the Salt River in the Lower Shute Springs Pasture. (Note: On page 51 of the EA it states that this equates to nearly 5 miles, but this distance would actually be practically 6 miles, at 5,280 feet per mile.)

The revised EA also differs in regards to the West Ortega Pasture. On page 8 of the original EA it stated that it wasn't part of the grazing rotation, but on the same page of the revised EA it states that, "*West Ortega pasture was authorized for grazing for emergency use due to the 2020 Griffin wildfire.*"

The grazing status of the Lower Shute Springs Pasture and the West Ortega Pasture is a primary issue in this project, and a complete recent history of allotment is needed to understand the current situation. However, it's missing from the EA, so I will attempt to summarize it from the public records that I have gathered.

Recent History of Hicks-Pikes Peak Allotment

About 1999 livestock grazing was ended along the entire Salt River in the Globe Ranger District to protect the associated desert riparian habitat used by local endangered species. This was accomplished by building some new fences, and by excluding grazing from some existing pastures that were located along the river. On the Hicks-Pikes Peak Allotment, it was achieved by excluding grazing from the entire original Shute Springs and Ortega pastures. These pastures didn't have fences to exclude cattle from the river, and they include portions of the Salt River Canyon Wilderness, which was established in 1984.

Then, from 2000 to 2002, toward the beginning of the Southwest's still ongoing megadrought, the Tonto National Forest took the common-sense measure of ordering its grazing permittees to remove almost all of their cattle from the Forest due to severe drought. According to the Hicks-Pikes Peak Allotment's 2004 annual operating instructions (AOI), cattle were entirely removed from the allotment in 2000.

H & E Ranch, Inc., was the allotment's permittee in 2004, but the 2004 AOI shows that the J Bar B Cattle Co., LLP, was authorized to graze 130 cows for almost four months on the allotment that year, "*to provide drought relief to the Bar V Bar Allotment on the Tonto Basin Ranger District.*" This authorization was equivalent to about 498 animal unit months¹ (AUMs). J Bar B

¹ A cow, or a cow and her calf grazing for a month, equals 1.0 AUM. A bull typically equals 1.4 AUM, and a yearling 0.7 AUM.

Cattle Co., LLP, was the permittee for the Forest's nearby Bar V Bar Allotment, now called the Campaign Allotment.

I don't know if this "emergency" arrangement was repeated in 2005, but on September 27, 2005, the Globe District Ranger issued a decision to implement a new allotment management plan (AMP) for the allotment as the result of a NEPA public planning process that had been initiated in 2001. The new AMP continued to exclude grazing from the original Shute Springs and Ortega pastures. It also called for a fence to exclude Sycamore Springs from grazing, and it authorized up to 350 cattle yearlong, the equivalent of 4,200 AUMs.

This decision was an improvement over the allotment's obsolete 1992 AMP, which is technically still in effect, and authorizes up to 850 head of cattle yearlong, or 10,200 AUMs. But it was appealed by the conservation group Forest Guardians (now WildEarth Guardians) for several reasons – including the proposed number of AUMs. On December 22, 2005, the Tonto National Forest Supervisor issued a decision in response to the appeal that reversed the District's decision, and instructed the District to complete a new EA that included an analysis to "balance livestock AUMs with capacity."

At the beginning of 2006, H & E Ranch, Inc., sold the ranch to Rockin Four Ranch, LLC, which became the Hicks-Pikes Peak Allotment's new permittee. According to Arizona Corporation Commission records, Rockin Four Ranch, LLC, was formed in early 2006 and had four initial owners, including the J Bar B Cattle Co., LLP, which had grazed the allotment in 2004, and perhaps 2005. The allotment's 2006 AOI shows that 116 cows and 7 bulls were authorized to graze the allotment yearlong, equivalent to about 1,510 AUMs.

Since then, Rockin Four Ranch, LLC, has continuously worked to enlarge the area grazed by their cattle and to increase the number of cattle on the allotment, and a primary objective has been to graze the allotment's original Shute Springs and Ortega pastures. The Hicks-Pikes Peak permittees, for example, were among the local permittees that encouraged the Tonto National Forest to initiate the Salt River Allotments Vegetative Management Project (<https://www.fs.usda.gov/project/?project=36074>) in 2011 because they wanted grazing restrictions relaxed along the Salt River. This was verified in the draft environmental impact statement (DEIS) released for that project in February 2013. On page three it stated, "*Forest Service denied a 2005 request to incorporate winter grazing along Salt River on Hicks Pikes-Peak Allotment until a comprehensive analysis and formal consultation was completed.*"

The 317-page DEIS, of course, proposed to allow cattle access to the Salt River and its desert riparian habitat during the winter, from November through February. This was outside of the May through July breeding season for the endangered Southwestern willow flycatcher, when grazing is prohibited in their riparian habitat by the Endangered Species Act. But the permittees were still required to comply with the Forest's riparian utilization guidelines for cattle. And it only takes a short amount of time for cattle exceed riparian guidelines in the desert.

Subsequently, on February 27, 2015, the Tonto National Forest published a notice in the Federal Register to retract the DEIS and abandon the project. It explained that through discussions with the local permittees, *“it was determined that if livestock were allowed to graze along river that neither Forest Service nor term-grazing permittees had time or money to conduct monitoring necessary to determine appropriateness of this proposed action along river corridor.”* This verified that the primary purpose of project had been to facilitate cattle grazing along the Salt River. The retraction notice added that EAs would be used to implement new livestock management plans on the individual allotments that were included in the DEIS. (The first preliminary EA for the Hicks-Pikes Peak Allotment was issued in 2017.)

The retracted 2013 DEIS, however, still served to reveal some important details about the status of the Hicks-Pikes Peak Allotment’s original Shute Springs and Ortega pastures. The September 2005 decision notice for the allotment hadn’t indicated that these pastures were divided then – there was no mention of a Lower Shute Springs or West Ortega pasture. So, at that time, their original boundaries were still intact, and no grazing was authorized on any part of them. But on page 12 of the DEIS it stated, *“Natural barriers and fences around Upper Shute pasture prevent livestock access to Salt River.”* And on page 17 it stated that there was an Upper Shute and Lower Shute pasture. The 2013 DEIS was the first publicly issued Forest Service document to mention that the original Shute Springs Pasture had been divided.

Some written correspondence between a conservation group and the Tonto National Forest in 2008 indicates that the pasture division had recently occurred. The allotment’s 2008 AOI showed that grazing was authorized in the Shute Springs and Ortega pastures during the winter of 2008-2009. This would have been the first time they were grazed in several years, and it prompted the conservation group Western Watersheds Project to send the Tonto National Forest a Notice of Intent (NOI) to sue for violation of the Endangered Species Act (ESA) on September 3, 2008. The NOI pointed out that Forest had conducted the required formal Section 7 consultation with the U.S. Fish & Wildlife Service (USFWS) regarding the effects of grazing upon the endangered Southwestern willow flycatcher for the AMP that had been proposed in 2005. But that AMP had proposed to maintain the existing no grazing status for the entire original Shute Springs and Ortega pastures. Livestock grazing, the NOI warned, could not be allowed in the two pastures until it was subjected to a new Section 7 consultation with the USFWS.

The Tonto National Forest Supervisor responded to the NOI with a letter on October 8, 2008, wherein he stated that no cattle had yet been allowed in either of the pastures. He added that if any cattle had been observed in those pastures, *“there has been a break in a fence or a gate has been left open”*, and the Globe District Ranger had addressed the issue with the permittees.

He also admitted that the 2008 AOI *“did not clearly preclude clearly preclude livestock from grazing in the Ortega and Lower Shute Springs pastures,”* and said it was an, *“apparent oversight.”* And he promised to conduct a new Section 7 consultation before any grazing was authorized in these two pastures.

This response letter was the first Forest document I found that indicated the original Shute Springs Pasture had been divided between an Upper and Lower Shute Springs pasture. The lower pasture is along the Salt River, and the upper pasture is located to the south, away from it. The southern boundary of the Salt River Canyon Wilderness is the upper pasture's northern boundary, and its southern boundaries are along the allotment's other pastures. Obviously, the Upper Shute Springs Pasture was created so that cattle could graze the portion of the original pasture that was located away from the endangered species habitat along the Salt River. And the placement of its northern boundary just outside of the Salt River Canyon Wilderness was intended to avoid the legal restrictions against building new livestock fences in federal wilderness areas.

I have not obtained a copy of the allotment's 2009 AOI, but the 2010 AOI showed that the new Upper Shute Springs Pasture had been included in the grazing rotation. It also showed that authorized cattle numbers had risen to about 2,986 AUMs, including hundreds of yearlings. This was about a 50 percent increase over the 2006 AOI.

To my knowledge, no NEPA analysis, decision memo, or decision notice was ever issued by the Tonto about the creation of the 6,822-acre Upper Shute Springs Pasture and the authorization to graze it. Assuming it was first authorized for grazing in 2009, it had been ungrazed for about nine years. Its vegetation is comprised of arid semi-desert grasslands and juniper savannahs, so the vegetation is mostly chaparral and semi-desert scrub, and there was an ongoing long-term drought.

As I mentioned above, the initial preliminary EA for the Hicks-Pikes Peak Grazing Authorization was issued in 2017. It also indicated that the Upper Shute Springs Pasture was included in the grazing rotation. But it said that the Lower Shute Springs Pasture and the Ortega Pasture could not be grazed, *"until a drift fence is constructed to prevent livestock from accessing the Salt River."*

This project's second preliminary EA wasn't issued until 2019, but in the meantime the Globe Ranger District issued the Ortega Pasture Fence Project decision memo on July 19, 2018. It authorized two new fences in the 9,321-acre Ortega Pasture. One split the pasture into two pastures, the East Ortega and West Ortega pastures, and the other one was designed to prevent cattle from accessing the Salt River from the East Ortega Pasture, so grazing could be authorized on it.

The memo claimed that the fences were a needed drought response and, *"allotment improvements are being authorized across the forest,"* because of the continuing drought. It also claimed that the decision was categorically excluded from NEPA analysis because it complied with 36 CFR 220.6(e)(9), *"Implementation or modification of minor management practices to improve allotment condition...."* These fences, which would enable more Forest land to be grazed during a drought, were apparently part of the Forest's drought relief strategy to, *"focus efforts to approve critical range infrastructure needed to utilize available forage,"* that the Forest Supervisor described in a drought response letter he sent out to all Tonto

grazing permittees on May 3, 2018. The Forest subsequently held an emergency NEPA categorical exclusion meeting for drought response range projects.

The allotment's 2019 AOI showed that grazing was authorized in the East Ortega pasture in the latter part of that year. At that time it would have been ungrazed for about 19 years. Like the Upper Shute Pasture, it's comprised of arid semi-desert grasslands and juniper savannahs, so the vegetation is mostly chaparral and semi-desert scrub.

The 2019 preliminary EA, along with the September 2022 final EA for the Hicks-Pikes Peak Grazing Authorization, both stated that the West Ortega Pasture would not be grazed until a fence was constructed in it to prevent cattle from accessing the Salt River. But as I noted previously, the 2022 EA mentioned that, "*grazing for emergency use*," had been authorized in the pasture, as per 36 CFR 222.3, because the Griffin wildfire had burned portions of the allotment in the summer of 2020. But the allotment's 2020 AOI was issued in January, before the wildfire, and it showed that the West Ortega Pasture was already included in the grazing rotation, from mid-April through mid-June, which was during the Southwestern willow flycatcher breeding season.

It's true that the 2020 AOI was modified after the wildfire to allow cattle to reenter in the West Ortega Pasture in August 2020 and stay until January 2021. But the subsequent 2021 and 2022 AOIs both authorized grazing in the West Ortega Pasture from December to the start of February the following year, and both of those were regular authorizations, not emergency authorizations due to the wildfire.

These grazing authorizations for the West Ortega Pasture made me wonder if the required riparian protection fence had been built. On September 30, 2022, Ranger Bromley informed me in an email that the fence still hasn't been built.

The recent grazing authorizations in this pasture occurred despite the fact that the Forest Supervisor's 2008 NOI response letter promised that the Ortega Pasture wouldn't be grazed until a new Section 7 consultation was completed with the USFWS. On May 19, 2020, the USFWS sent a new Section 7 concurrence letter to the Forest regarding the Hicks-Pikes Peak Grazing Authorization project's proposed livestock management plan. But the Forest didn't receive the letter until after the 2020 AOI that authorized grazing in the West Ortega Pasture was issued. Moreover, the concurrence letter documented the promises the Tonto had made to the USFWS about the allotment's proposed livestock management plan. They included the promise that a fence would be built in the West Ortega Pasture to prevent cattle from accessing the Salt River, and that it wouldn't be grazed before it was built. The Forest also promised to prohibit grazing in or near Southwestern willow flycatcher habitat during their breeding season, and that grazing in riparian areas would comply with the Forest's riparian utilization guidelines.

A clue about why grazing was authorized in the West Ortega Pasture beginning in 2020, despite the fact the riparian fence hadn't been built, and a new Section 7 consultation hadn't been completed, can be found, I believe, in the objection to the February 3, 2021, decision notice

that Rockin Four Ranch manager, John L. Fowler, filed on March 18, 2021. His objection stated that the Rockin Four Ranch had met with the Globe District Ranger and Supervisors Office staff on December 10, 2019, and that an agreement had been made. On May 6, 2021, I submitted a Freedom of Information Act (FOIA) request (#2021-FS-R3-03667-F) to the Forest Service for a copy of that agreement. On June 2, 2021, I received a FOIA final response which stated that a search had been conducted but, *“No documents were responsive for your request.”* Still, it seems more than a coincidence that grazing was authorized in the West Ortega Pasture soon after this meeting.

The original 2020 AOI for the Hicks-Pikes Peak Allotment, before it was modified due to the summer wildfires, authorized about 290 cows and 29 bulls yearlong, along with 150 yearlings for about five months, and another 100 yearlings for about four months, which totals about 4,772 AUMs. This was about a 316 percent increase in authorized AUMs since the first AOI was issued to the permittees in 2006. Moreover, the addition of the Upper Shute Springs Pasture and the Ortega pastures to the grazing rotation increased the area being grazed by about 16,143 acres. These increases were achieved without the completion of any NEPA analysis, and with the only public notice being the 2018 decision memo for the Ortega Pasture Fence Project, which claimed the project was categorically excluded from NEPA. All of it was done during a long-term drought.

These are not just paperwork issues. According to the conservation group Center for Biological Diversity, they conducted riparian surveys along the Salt River on March 30, 2021, and documented significant cattle impacts to its riparian habitat in the Hicks-Pikes Peak Allotment, and the Dagger Allotment directly across the river. They conducted another survey in March 2002 that found similar problems. On September 9, 2022, they submitted a FOIA request asking for the Tonto’s recent records regarding the ownership of the cattle that are trespassing in areas where they shouldn’t be in this area.

The Arizona Drought Monitor shows that our state has been experiencing a long-term drought for more than 20 years. In fact, it’s so bad that scientists are calling it a “megadrought” and warning us that it will continue to get hotter and drier, and might be a permanent aridification of the local climate, due to the ongoing climate change caused primarily by the burning of fossil fuels. Furthermore, research (Kauffman 2022) has shown that livestock grazing on Western public lands is exacerbating climate change. Scientists are also telling us that we have entered an Anthropocene epoch, wherein the human impact on the Earth’s ecosystems has created an unprecedented increase in the rate of the extinction of species. Considering these realities, the Tonto National Forest’s drought strategy of rubber-stamping new ranching infrastructure so grazing permittees can try to access every bit of forage and keep as many cattle on the land as possible seems very short-sighted.

The costs of the Forest trying to maintain as many cattle on the land as possible aren’t just environmental. According to the USDA’s Natural Resources Conservation Service (NRCS), the Rockin Four Ranch, LLC, received \$231,089 in assistance from their Environmental Quality Incentives Program (EQIP) from 2008 through 2019, which helped finance the repair and

construction of the livestock fences and watering sites on the allotment that facilitated the increased cattle numbers. And according to the USDA's Farm Service Agency (FSA), Rockin Four Ranch, LLC, also received \$122,105 in 2015 from their Livestock Forage Disaster Program due to drought. Furthermore, the ranch has likely benefited from the Forest Service's Burned Area Emergency Response (BAER) funds to rebuild the fences and livestock watering infrastructure that were destroyed or damaged by the 61,821-acre Griffin and 21,670-acre Salt wildfires that burned portions of the allotment in 2020. This means that BAER public monies might be spent to replace ranching infrastructure that other public monies previously helped build.

Specific Objections

Therefore, I have the following specific objections to the draft decision notice to implement the Proposed Action for the Hicks-Piles Peak Allotment Grazing Authorization project that was issued by Globe District Ranger Adam Bromley on September 7, 2022.

Violation of the 1970 National Environmental Policy Act (NEPA)

- The project's environmental assessment (EA) is inaccurate about the status of livestock grazing in the West Ortega pasture. It isn't being authorized for grazing as a wildfire emergency response measure, but as a regular grazing authorization, despite the fact that the fence to prevent cattle from accessing the Salt River from the pasture hasn't been built. The EA should be revised to show the correct current grazing status of this pasture, and how it complies with the Endangered Species Act.
- The project's environmental assessment (EA) is inadequate and misleading in regards to the information provided about measures included in the proposed action to protect the allotment's riparian areas from livestock grazing through compliance with the Forest's riparian utilization guidelines. The pastures along the Salt River, which would include the West Ortega, East Ortega, and new Lower Shute pastures, are proposed to be grazed between August 1 and April 30. Protection for the allotment's other riparian areas would rely primarily upon monitoring, and trying to draw cattle away from them with livestock waters located elsewhere. There is no evidence provided in the EA that any of these strategies would actually work in the real world. For example, as noted above, the Salt River Allotments Vegetative Management Project 2013 DEIS was retracted because, "*neither Forest Service nor term-grazing permittees had time or money to conduct monitoring necessary,*" to protect the riparian habitat along the river. Furthermore, my own personal observations and research (Carter 2017) have shown that building upland livestock waters primarily facilitates increased grazing in the uplands, and provides insufficient protection for riparian bottomlands if cattle aren't excluded from them. The EA should include an estimate of the likelihood that the necessary riparian utilization monitoring required to protect the allotment's riparian habitat could actually be completed by Forest staff.

- The project’s environmental assessment (EA) provides insufficient information about the location of the proposed fence in the Lower Shute Springs Pasture along the south bank of the Salt River. Figure 11 on page 103 of the EA is an improvement regarding the fence’s location, but there are still unanswered questions. For example, the May 19, 2020, Section 7 concurrence letter from the USFWS indicated that the Tonto National Forest had promised to construct new fences, “*within the Salt River Canyon Wilderness beyond the upper Salt River 100-year floodplain and flood prone area.*” The map in Figure 11, however, fails to show the boundaries of the river’s 100-year floodplain. Also, in the description of the proposed action on page 54 it states that, “*No improvements will be built within 100 feet of the Upper Salt River.*” But then on page 55 it states that new fences, “*should not be located within floodplains or within 300 feet of water resource features,*” such as the Salt River. So which it, 100 or 300 feet? (During the online resolution conference on May 4, 2021, Ranger Bromley said it was 100 feet.) Furthermore, the location of the western end of the proposed fence in Figure 11 appears to be right on the river. Would there be a water gap that would allow cattle to access the river? The location of the proposed fence should be clarified in the EA.
- The EA fails to disclose the content of the agreement that Tonto National Forest staff made with the allotment’s grazing permittees at the meeting held on December 10, 2019. The content of the agreement should be included in the EA.

Violation of the 1964 Wilderness Act

- The construction of the proposed new livestock fence in the Lower Shute Springs Pasture would violate the Wilderness Act. This law states that, “*the grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary.*” And Forest Service Manual adds states that wilderness protection should not prevent, “*the construction and maintenance of new fences or improvements which are consistent with allotment management plans and/or which are necessary for the protection of the range.*” But the proposed fence is completely unnecessary to protect natural resources if grazing isn’t authorized to begin in the Lower Shute Springs Pasture. The permittees cannot complain that the continued exclusion of cattle from this pasture would be some sort of taking, because public land grazing is a privilege, not a property right. Furthermore, when they obtained the allotment’s grazing permit in 2006 they knew that this pasture wasn’t being grazed, and that there was no guarantee that the situation would change. Moreover, this pasture is comprised primarily of Sonoran Desert and semi-desert grasslands, which are inherently unsuited for livestock grazing. Cattle prefer to eat herbaceous plants, so they quickly denude the desert of its limited herbaceous vegetation and are forced to eat woody plants (brush) to avoid starvation (Smith 1993). In fact, research (Rosiere 1975) has shown that cattle grazing the Southwest’s deserts don’t get more than 50% of their forage from desert grasses. This type of grazing, called “brush grazing” by ranchers in the Southwest, is obviously very destructive to desert ecosystems, especially during hot weather and droughts, and it negatively impacts mule

deer populations (Short 1977), because it forces the deer to compete with cattle for browse. Additionally, the construction of the miles of new fence that are proposed for managing grazing in this pasture would cost many tens of thousands of dollars, if not more than a \$100,00, and the taxpayers might have to help pay for it in the form of EQIP, or other government assistance. It doesn't cost the public anything, and the river would be still protected from grazing, if the Lower Shute Springs Pasture remained ungrazed. The proposal to build a fence along the Salt River in the Lower Shute Springs Pasture so that it can be grazed should be abandoned.

- The location of the proposed fence new in the Lower Shute Springs Pasture would also violate the Wilderness Act. The Forest is required to retain the land's "primeval character and influence, without permanent improvements" for visitors to the Salt River Canyon Wilderness. March and April are the prime seasons for whitewater river rafting on the Salt River, and the project's EA states that, under the proposed action, the Lower Shute Springs Pasture could be grazed through the end of April. Livestock fences and cattle degrade a wilderness experience. I completed a whitewater rafting trip down the Salt River through this wilderness in April 2017, which included primitive camping two nights along the river's banks. We didn't see any cattle or piles of cattle manure, and I didn't notice any livestock fences. I remember their absence was a wonderful contribution to the enjoyment of the trip, and I'm sure everybody else on the trip felt the same way. Also, fences and cattle within 100 feet of the river would negatively affect the overnight camping spots used by river runners, which are located back from the river's banks. The Forest has chosen to identify the appropriate minimum distance from the river for the proposed livestock fences by identifying a "viewshed" of what's visible in the foreground from river within a quarter mile of the river. This area is show in Figure 11 in the EA. The western end of the proposed Lower Shute Springs Pasture fence, however, lies within this viewshed. The EA states on page 104 that this includes 2.27 miles of fence that could be visible from the river. The explanation for this violation can be found in the objection that the Rockin Four Ranch manager filed on March 18, 2021, to this project's original draft decision, which described the aforementioned meeting held with Tonto employees on December 10, 2019, that resulted in an agreement. On page 3 of the objection it stated that, "*The agreement was to allow fencing in the foreground and viewshed and no other structures such as windmills or tanks. This agreement was to be incorporation into the EA and was not.*" If the proposal to build the fence isn't abandoned, it's location should be revised to keep it out of the river's viewshed to comply with the Wilderness Act.

Violation of the 1973 Endangered Species Act

- As noted above, the EA fails to identify the boundaries of the Salt River's 100-year floodplain. But according to the May 19, 2020, Section 7 concurrence letter from the USFWS, the Tonto National Forest promised to, "*construct all new range improvements within the Salt River Canyon Wilderness beyond the upper Salt River 100-year floodplain and flood prone area.*" If the new fence proposed in the Upper Shute Springs Pasture is

built within the 100-year floodplain, that would be a violation of the Endangered Species Act.

Thank you for this opportunity to participate.

Sincerely,

[Redacted signature block]

Jeffrey D. Burgess

[Redacted contact information]

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