



January 23, 2022

Michiko Martin
Southwestern Regional Forester
333 Broadway SE
Albuquerque, NM 87102

Submitted via email to objections-southwestern-regional-office@usda.gov

Re: Santa Fe Mountains Landscape Resiliency Project – Objection to the Draft Decision Notice and Finding of No Significant Impact Issued December 9, 2022

Dear Regional Forester Martin:

New Mexico Wilderness Alliance (New Mexico Wild) is a nonprofit organization dedicated to the protection, restoration, and continued enjoyment of New Mexico’s wildlands and wilderness areas, with thousands of members across the state. We appreciate this opportunity to seek predecisional administrative review of the Santa Fe Mountains Landscape Resiliency Project (SFMLRP) under 36 CFR part 218, subparts A and B. This written objection is timely submitted within 45 days of the draft decision.¹

New Mexico Wild respects the evident work the Santa Fe National Forest (SFNF) has put into the SFMLRP and acknowledges the many challenges facing the Forest Service, especially in New Mexico. As described in this objection, however, we are concerned that implementation of the SFMLRP, as described in the draft decision notice and Finding of No Significant Impact (FONSI), is likely to have significant impacts on Inventoried Roadless Areas (IRAs). Under the circumstances, the Forest Service should incorporate more robust mitigation measures designed to protect the roadless area characteristics of IRAs, and especially their apparent naturalness, to ensure that this project does not have a significant impact on the environment.

I. Required Information

Lead Objector: New Mexico Wild
Sally Paez, Staff Attorney
317 Commercial Ave. NE, Ste. 300

¹ See 36 C.F.R. § 218.6 (computation of time periods).



Albuquerque, NM 87102
(505) 843-8696
sally@nmwild.org

Reference to: Santa Fe National Forest
Santa Fe Mountains Landscape Resiliency Project #55088
Responsible Official: James D. Duran, Acting Forest Supervisor

Connection to Prior Written Comments:

New Mexico Wild has participated in the SFMLRP since scoping and has submitted timely, written comments during all opportunities for public comment. These previous comments are attached.

On July 10, 2019, New Mexico Wild submitted scoping comments that raised concerns about potential detrimental impacts on wildlife, IRAs, designated wilderness, and lands that had been proposed for recommended wilderness management areas during the land management plan revision process. We urged the SFNF to ensure that IRAs within the project area are preserved or enhanced, rather than degraded, by the proposed restoration activities. We also urged the SFNF to prepare an Environmental Impact Statement (EIS) because an Environmental Assessment (EA) would be inadequate for evaluating the impacts of a project of this scale, the largest single vegetation clearing and prescribed burning project ever proposed on the SFNF.

On October 29, 2021, New Mexico Wild submitted a comment on the draft EA that echoed most of our comments from scoping. We emphasized that IRAs provide excellent opportunities for future wilderness designation and criticized the draft EA for failing to explain how the SFMLRP would maintain or improve roadless area characteristics. We asked the SFNF to exclude from the project area the Thompson Peak IRA, which had been recommended for wilderness management in the draft forest plan, because detrimental project impacts could lead Congress to decline to designate the area as wilderness. We also called for a temporary pause of the project to allow for the adoption of guidelines to implement the Biden Administration's initiative to conserve 30% of our lands and waters by 2030 to combat climate change and prevent biodiversity loss.

Finally, on May 12, 2022, New Mexico Wild submitted an objection on the original draft decision notice, which had been issued on March 28, 2022. We reiterated the same concerns, again noting that the Project's impact on IRAs would likely be significant, and argued that the SFNF should prepare an EIS, rather than proceeding with a FONSI.

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II. Additional Mitigation Measures Are Necessary to Ensure that the SFMLRP Does Not Have Significant Impacts on IRAs in Violation of the Roadless Rule and NEPA.

Implementation of the draft decision is likely to have significant impacts on IRAs in violation of the Roadless Area Conservation Rule (Roadless Rule), and in particular the requirement that the Forest Service must manage IRAs to maintain roadless area characteristics, including apparent naturalness.² The IRAs in the project area exemplify the roadless area characteristic of “[n]atural appearing landscapes with high scenic quality.”³ The EA fails to adequately analyze impacts on this characteristic and lacks appropriate mitigation measures to ensure that the proposed action will maintain the apparent naturalness of affected IRAs.

In analyzing the SFMLRP’s potential effects on the natural character of IRAs, the EA states that “treatments would affect the short-term appearance during implementation, as a result of tree removal, slash piles, and burned vegetation. However, the IRAs would still appear natural. No artificial structures or new roads would be added that would reduce the appearance of a natural landscape.”⁴ These assertions are flawed due to poor analysis and a lack of adequate mitigation measures, as explained below.

First, the Roadless Rule prohibits timber cutting in IRAs except in limited circumstances. Timber cutting and removal is prohibited in IRAs because those activities “have the greatest likelihood of altering and fragmenting landscapes, resulting in immediate, long-term loss of roadless area values and characteristics.”⁵ We acknowledge that the Roadless Rule includes an exception that permits the cutting of small-diameter trees in IRAs if the Responsible Official determines that this activity is needed to reduce the risk of uncharacteristic wildfire effects.⁶ But such timber cutting should be “infrequent,” and the Responsible Official may grant a timber cutting exception only if the action “will *maintain or improve the roadless area characteristics* of the IRA.”⁷

For this project, the draft decision violates the Roadless Rule because the proposed thinning activities would result in remnant stumps that would degrade the natural appearance of IRAs. As

² See generally Roadless Area Conservation Rule, 66 Fed. Reg. 3244 to -73 (Jan. 12, 2001).

³ *Id.* at 3245 (stating that “[n]atural appearing landscapes with high scenic quality” are an important value of IRAs and explaining that “[h]igh quality scenery, especially scenery with natural-appearing landscapes, is a primary reason that people choose to recreate. In addition, quality scenery contributes directly to real estate values in nearby communities and residential areas”).

⁴ Santa Fe Mountains Landscape Resiliency Project, Environmental Assessment, p. 2-148 (Dec. 2022).

⁵ *Los Padres ForestWatch v. USFS*, 25 F.4th 649, 655 (9th Cir. 2022) (quoting 66 Fed. Reg. at 3244).

⁶ Roadless Area Conservation Rule, *supra*, at 3273.

⁷ *Id.* (emphasis added).



stated in Mitigation Measures Rec-9 and Scen-7, “Stumps will be cut to a maximum of 8 inches within 150 feet of National Forest System roads, and as low as possible in all other distances zones.”⁸ Leaving stumps of any height anywhere in an IRA would result in long-term visual evidence of management activities and plainly reduce the appearance of affected landscapes as “natural.” Although 8” or higher stumps may not affect scenery from afar, the stumps would be substantially noticeable to anyone visiting treated areas.

Similarly, the proposed mitigation measures related to the establishment of slash piles fail to address scenic concerns and related impacts to the natural appearing landscape within IRAs.⁹ Design Feature Rx-7 expressly states, “Not all piles would be burned; maintain some unburned piles.” Leaving unburned slash piles in an IRA would result in long-term visual impacts that are substantially noticeable and inconsistent with the Roadless Rule’s requirement to maintain a natural appearing landscape.

Second, the Roadless Rule prohibits road construction and road reconstruction in IRAs.¹⁰ The Responsible Official may grant an exception to this prohibition if “[a] road is needed to protect public health and safety in cases of an imminent threat of flood, fire, or other catastrophic event that, without intervention, would cause the loss of life or property.”¹¹ In the SFMLRP, the Forest Service does not rely on this or any other exception to the prohibition on road construction or reconstruction. Instead, the draft decision states that “there will be no new roads, [and] no road reconstruction or temporary road construction.”¹² The draft decision acknowledges, however, that some roads which are currently closed to the public will be used for project implementation and will require maintenance work.¹³ The draft decision further states that “[t]here are user created roads, trails and routes that may be used to reduce additional resource damage” and that “[o]verland travel by vehicles that do not require roads (e.g., masticators, UTVs) may occur.”¹⁴

The Forest Service’s proposal to permit overland travel by vehicles in IRAs and to drive on user-created roads, trails, and routes—which are not a part of the SFNF’s established travel network—contravenes the spirit and intent of the Roadless Rule and constitutes an arbitrary circumvention of the prohibition on road construction and reconstruction.

⁸ Santa Fe Mountains Landscape Resiliency Project, Draft Decision Notice and Finding of No Significant Impact, Appx. A, at A-8, A-9 (Dec. 2022) [hereinafter Decision Notice/FONSI].

⁹ *Id.* at A-5.

¹⁰ Roadless Area Conservation Rule, *supra*, at 3272.

¹¹ *Id.*

¹² Decision Notice/FONSI, *supra*, at 15.

¹³ *Id.*

¹⁴ *Id.*



Additionally, the draft decision lacks necessary mitigation measures related to the “maintenance” of roads and the associated long-term impacts that would result from this activity. New Mexico Wild staff and members are intimately familiar with much of this project area. While there may technically be official Forest Service “roads” in some of the IRAs affected by this project, the reality is that many or all of these “roads” are mere remnants of former roads that in many instances are barely noticeable because they have by and large naturally decomposed and faded into the landscape over a period of decades. Therefore, “maintaining” these roads is tantamount to road reconstruction. Not only does the EA fail to disclose this, such an action would have long-term impacts on the natural appearing landscapes and high scenic quality in affected IRAs.

Given the above, the analysis in the EA and the proposed mitigation measures are inadequate when it comes to the management of IRAs and the protection of roadless area characteristics. Compliance with NEPA¹⁵ dictates the incorporation of additional mitigation measures prior to the issuance of a FONSI. Moreover, the SFNF’s conclusion that the SFMLRP’s creation of visible stumps, slash piles, and roads will not degrade natural appearing landscapes of IRAs is inconsistent with the SFNF’s recent decisions during the land management plan revision process. During the plan revision process, the SFNF conducted a wilderness inventory and evaluation and concluded that certain lands lacked “apparent naturalness” (and therefore lacked wilderness characteristics) due to the presence of “substantially noticeable” vegetation treatments and roads.¹⁶ The SFNF’s conclusion that the SFMLRP’s creation of such features would not degrade the apparent naturalness of IRAs is inconsistent with the SFNF’s conclusions during the plan revision process. These inconsistent conclusions do not pass a basic logic test and constitute arbitrary and capricious decision-making.

Proposed Remedy: Craft more robust mitigation measures to protect the natural appearing landscapes with high scenic quality in all parts of all IRAs within the project area, consistent with recent Forest Service interpretations of “apparent naturalness” in the forest planning process. Such mitigation measures could for example include but are not necessarily limited to flush cutting all stumps at ground level within IRAs to ensure they are not visible following project implementation; burning all slash piles within IRAs within a specified timeframe following

¹⁵ National Environmental Policy Act (NEPA), 42 U.S.C. § 4321 et seq.; 40 C.F.R. § 1502.14.

¹⁶ See Final EIS for the Santa Fe National Forest Land Management Plan, Vol. 3, Appx. J, at 16 (July 2022) (defining “apparent naturalness” as “the degree to which an area generally appears to be affected primarily by the forces of nature, with the imprints of man’s work substantially unnoticeable”); see also *id.* at 5, Table J-2 (explaining that areas with substantially noticeable vegetation treatments and prior road construction would not be carried forward from the inventory step of the analysis to the evaluation step of the analysis).



mechanical treatments (acknowledging the need for appropriate burn windows); requiring immediate restoration of areas impacted by overland vehicle traffic and motorized vehicles on user-created trails, roads, and routes within IRAs; and actively decommissioning any roads “maintained” in IRAs to expedite their restoration and render them generally unnoticeable in a period of years as opposed to likely decades. Incorporating adequate mitigation measures into the decision is necessary to prevent significant impacts on the roadless area characteristics of IRAs.

III. Conclusion

New Mexico Wild supports the SFNF in its efforts to take a science-based approach to restoration and the reduction of risk of catastrophic fire. However, a core part of our mission is to protect New Mexico’s wildlands. IRAs in many instances have a high degree of wilderness characteristics yet lack permanent protection afforded other congressionally designated areas. As currently drafted, the proposed action in the SFMLRP is likely to result in significant impacts on IRAs in violation of the Roadless Rule and NEPA. The SFNF should revise the draft decision and FONSI to correct the analysis and include necessary mitigation measures designed to protect the roadless area characteristics and apparent naturalness of IRAs. We look forward to discussing remedies to our objections with you and the SFNF.

Sincerely,

[s] Sally Paez
(electronic signature)

Sally Paez
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cc: Sandra Jacquez, Sandra.imler-jacquez@usda.gov

encl: New Mexico Wild’s prior comments and objection

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July 10, 2019

Santa Fe National Forest
Attn: Hannah Bergemann, Fireshed Coordinator
11 Forest Lane
Santa Fe, NM 87508

Submitted via email to: Hannah.Bergemann@usda.gov

Re: **COMMENTS ON SANTA FE MOUNTAINS LANDSCAPE RESILIENCY
PROJECT SCOPING DOCUMENT**

Dear Ms. Bergemann:

Thank you for the opportunity to comment on the Santa Fe Mountains Landscape Resiliency Project (SFMLRP) Scoping Document.¹

New Mexico Wilderness Alliance is a statewide non-profit organization dedicated to the protection, restoration, and continued enjoyment of New Mexico's wild lands and wilderness areas. As such, we advocate for increased protections for, and the prevention of damage to public lands, and we participate in all levels of agency planning. We have thousands of members in New Mexico and across the country, many of whom regularly visit the Santa Fe National Forest (SFNF), and particularly the area covered by this project proposal.

We have reviewed the scoping document and it raises some significant concerns. We are particularly concerned that the scoping document does not address how the SFMLRP will impact currently designated Wilderness, proposed wilderness management areas, or Inventoried Roadless Areas. We are also concerned that the SFNF will rely upon the SFMLRP in making wilderness proposal decisions during its broader forest plan revision process, potentially excluding areas from being managed as wilderness due to decisions made in the SFMLRP.

Before we begin our comments on the specific proposal, we would like to remind SFNF of the Forest Service's (USFS) mission, its decision-making discretion, and its public trust responsibilities as a federal land management agency.

The USFS mission is "Caring for the Land and Serving People". USFS guidance states that this means the agency must, among other things, advocate a conservation ethic in promoting the health, productivity, diversity, and beauty of forests and associated lands, listen to people and respond to their diverse needs in making decisions, and protect and manage the national forests and grasslands so that they best demonstrate the sustainable multiple-use management concept.

The agency holds federal land in trust for future generations of the American public. While the agency has a multiple use mission, it is not charged with allowing every use on every acre. Quite the opposite; it is expected that the agency will reserve some areas for conservation and recreation, and will close certain areas to development. This is in conformance with the multiple use mandate. Additionally, agencies are given enormous discretion in their decision making

¹ Santa Fe National Forest, Santa Fe Mountains Landscape Resiliency Project Scoping Document (June 2019), https://www.fs.usda.gov/nfs/11558/www/nepa/110443_FSPLT3_4655386.pdf [hereinafter "Scoping Document"].

authority. Unless Congress directly tells the agency what to do in a specific scenario, or the agency acts with no rational basis for its decisions, the agency has full discretion to make decisions within its mission. We encourage SFNF to remember that it is not bound to allow restoration projects here by any law, rule, or guidance whatsoever.

I. NEPA Requirements

Public Participation

The National Environmental Policy Act (NEPA) and its accompanying guidance both from the Council on Environmental Quality (CEQ) and the USFS NEPA Manual, make it clear that public agencies should include those parties who are actually interested in the development of a decision document. Forest Service Manual 1909.15.10 § 11.52 (4) states that USFS shall, “[e]nsure that the level of effort to inform and to involve the public is consistent with the scale and importance of the proposed action and the degree of public interest.” The Pecos/Las Vegas and Española Ranger Districts are certainly two of the most visited USFS ranger districts in New Mexico, used extensively by hikers, backpackers, hunters, and anglers. The level of public interest is extremely high.

The agency has ample discretion to increase the comment period to 60 or even 90 days, which would be in conformance with USFS’s NEPA goals and would alleviate some of the frustration expressed at the public meetings. We hope SFNF will consider extending the public comment period and holding at least one additional public meeting dedicated to answering the public’s questions in a more robust way. We submitted a letter on July 5, 2019, specifically requesting an extension of the comment period and additional public meetings.

Prohibition on Predecision

NEPA prohibits an agency from being “predecisional.” In other words, NEPA requires that federal agencies take a “hard look” at the issues presented, the public’s interest, the best available science, and the potential environmental impacts of various alternatives, and to actually weigh that evidence when making a decision.² An agency is not permitted to have made decisions internally before the NEPA process is complete.

SFNF must not simply adopt the Greater Santa Fe Fireshed’s desires without thorough consideration of impacts through NEPA analysis and consideration of how those impacts would affect SFNF’s obligations under the National Forest Management Act (NFMA). The Greater Santa Fe Fireshed has a different objective than SFNF. SFNF must evaluate all available information during this process and proceed in conformity with the USFS’s responsibility of sustainably holding land in trust for the use and enjoyment of future generations of the American public.

II. Best Available Science

² See *Natural Resources Defense Council v. Morton*, 458 F.2d 827, 838 (D.C. Cir. 1972), see also Question 1a, Forty Most Asked questions Concerning the CEQ’s National Environmental Policy Act, available at <https://www.energy.gov/sites/prod/files/2018/06/f53/G-CEQ-40Questions.pdf> (NEPA “includes all reasonable alterna

USFS is directed by NEPA, agency guidance, and Executive Orders to make its decisions based on the best scientific information available. NEPA regulations require that in an environmental analysis, “[t]he information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA.” 40 C.F.R. § 1500.1(b). Executive Order 13563 (2011), affirming Executive Order 12866 (1993) states that, “[o]ur regulatory system . . . must be based on the best available science.” The 2012 Forest Planning Rule states that the best available scientific information must be used to inform the planning process and documentation of how science was used in the plan must be included. *See* FSH 1909.12.

III. Boundaries

We are confused and concerned about the source of the boundaries for this analysis. USFS lands comprise more acres within the Greater Santa Fe Fireshed than those included in the project area. Similarly, the project area contains acres outside of the Greater Santa Fe Fireshed. The scoping document does not provide the basis for the boundary lines of the project area.

There appear to be more than 23,500 acres of Inventoried Roadless Areas (IRA) within the project area, comprised of portions of at least six IRAs.³ As you know, IRAs are areas which have been inventoried by USFS and found to possess wilderness characteristics. While not formally designated as protected areas through legislation, they are areas which are potentially suitable for future wilderness designation by Congress, and which are generally managed for preservation of their wilderness characteristics by USFS.

In 2001, the Roadless Rule was finalized, and it has survived several federal court challenges. The USFS website states that, “[t]he 2001 Roadless Rule establishes prohibitions on road construction, road reconstruction, and timber harvesting on 58.5 million acres of inventoried roadless areas on National Forest System lands. The intent of the 2001 Roadless Rule is to provide lasting protection for inventoried roadless areas within the National Forest System in the context of multiple-use management.”⁴ We are concerned about the complete lack of discussion of IRAs within the scoping document. SFNF should clarify the SFMLRP’s impact on these IRAs. If SFNF is using an exception to the 2001 Roadless Rule, it needs to make that clear to the public.

Further, most of the IRAs included within the project area have been evaluated in the draft documents for the upcoming forest plan revision as containing high wilderness characteristics, and one IRA was evaluated as containing moderate wilderness characteristics. Again, we are concerned with the scoping document’s complete lack of discussion of areas with moderate or high wilderness characteristics. Uses which could degrade these areas should not be permitted or even considered before SFNF has completed its forest plan revision process and submitted its wilderness proposals to Congress. If SFNF makes a decision on the SFMLRP first, SFNF may exclude areas from protection in the forest plan which would otherwise qualify for wilderness management. At the very least, SFNF should clarify how the SFMLRP will preserve or enhance the wilderness characteristics of inventoried areas within the project area.

³ Based upon our review of SFNF’s IRA GIS overlays and comparison with the proposed project area.

⁴ <https://www.fs.usda.gov/roadmain/roadless/2001roadlessrule>.

IV. Endangered Species

The official policy of the United States, as expressed in the Endangered Species Act (ESA) is that “all Federal departments and agencies shall seek to conserve endangered species and threatened species.” 16 U.S.C. §1531(c)(1). Under the ESA, USFS has an affirmative duty to ensure that any action it authorizes is not likely to jeopardize listed species or result in the destruction or adverse modification of designated critical habitat. *Id.* § 1536(a)(2). In order to fulfill this responsibility, when USFS knows that listed species are present in the action area, which is true in this case, it must conduct a biological assessment. *Id.* § 1536(c). We request that the biological assessment(s) for this project be made available on the project website, for ease of public accessibility.

Further, when, as part of the biological assessment, USFS determines that either listed species or critical habitat are likely to be adversely affected, formal consultation and/or conference with FWS is necessary. 50 C.F.R. § 402.12. In this case, based on the potential likely impacts to both listed species and designated critical habitat, we believe that a determination that this project may adversely affect both is likely, and therefore SFNF should initiate formal consultation with FWS upon completion of the biological assessment. We request that the draft Environmental Assessment (draft EA) explain the consultation and/or conference process used by USFS for this project, as well as the information contained in any biological assessment and biological opinion, including any discretionary conservation recommendations provided by Fish and Wildlife Service (FWS).

We know that there is at least one listed species in the analysis area, the Mexican Spotted Owl (MSO). Based on previously completed mapping, we believe that MSO have designated critical habitat both within and near the project area. This is not discussed in detail within the scoping materials, except for the fact that MSO Protected Activity Center (PAC) locations within the project area have been noted, but must be both disclosed and analyzed within the draft EA. The identity of all listed species and critical habitat within the project area must be presented in the draft EA, along with the potential impacts to those species and habitats. We also note that USFS should include a comprehensive monitoring and mitigation strategy for all listed species as part of the draft EA and any project that moves forward within the area.

The scoping materials do not mention the significant impacts to MSO that may occur based on activities that may take place throughout the proposed action area. MSOs have been threatened throughout the Southwest for many decades, and recovery has not been achieved. Moreover, because of their use of a wide variety of habitats and the number of projects that take place on forest lands, the cumulative effects to this species are significant in any large-scale project undertaken over many years.

Breeding and nesting periods are a particularly significant time for raptor populations. In studies of MSO in New Mexico, breeding and nesting activities took place from March until July (Delaney et al. 1999:44). Additionally, foraging behavior also increased during this period (Delaney et al. 1999: 46). It is also important to note that MSO rely on small prey species, and the impacts of activity associated with this project on those populations are important to understanding the overall impacts to MSO viability and recovery. It is unclear based on the scoping materials how much ground disturbance and overall habitat fragmentation that might directly impact prey species would occur. This should be made clear in the draft EA.

MSO are also particularly sensitive to noise pollution and disruption caused by human activities. Because of the potential scope of the activities within the entire project area, we assume that noise pollution throughout the lifespan of these activities will be varied, dispersed, and significant. Studies of MSO have demonstrated that noise from even relatively limited recreation activities can disrupt owl activity and have “caused declines in several important activities that could adversely affect the reproductive success of owls” (Swarthout and Stiedl 2003: 311). The research suggests that human activity of any kind, especially near nesting sites, can create disruptions to MSO behavior and activity that directly threaten reproductive success. We encourage USFS to analyze the potential noise impacts from this project and future related activities as it considers the impacts to MSO in the area. Further, we request USFS assess how noise pollution and human behaviors in the area from ongoing recreation will contribute to the cumulative impacts here.

Additionally, we are unsure about SFNF’s level (if any) of consultation with FWS, which will need to be consulted on endangered species. USFS Manual 1909 notes that the “[r]esponsible official *shall* identify and contact other federal, state, or local agencies with an interest in the action.” See § 11.3 (emphasis added). It also states that the Lead Agency shall request the participation of each cooperating agency in the NEPA process at the earliest possible time.

None of the documents on the SFMLRP website mention any discussions thus far with FWS, and there were no FWS representatives at the public meetings. As discussed in more detail below, this project overlaps Critical Habitat for the Mexican Spotted Owl (MSO). SNF is prohibited by the Endangered Species Act from jeopardizing this species, and should have notified FWS at the earliest possible point to get a list of endangered species in the proposal area. SFNF must then prepare a Biological Assessment for each listed species to determine whether or not the proposed action may jeopardize any of the species.⁵ If the Assessment determines jeopardy may occur, SFNF must initiate formal consultation with FWS.⁶

We would appreciate clarification of the process SFNF went through to get to this point, and again, encourage the agency to extend the comment period and to host additional public meetings to be more within the spirit of the NEPA regulations of widely including the public.

We understand that SFNF expects to conduct an environmental analysis and reach a finding of no significant impact, but we are concerned that a project of this size and scope is more appropriately analyzed through an environmental impact statement. At over 50,000 acres it is one of the largest single vegetation clearing and burning projects ever proposed on SFNF. An EA will not provide sufficient analysis for such a large-scale project with potential impacts on a broad spectrum of resources and wildlife.

V. USFS Sensitive Species

The official policy of USFS, as expressed in the Forest Service Manual (FSM), is to “[a]void or minimize impacts to species whose viability has been identified as a concern.” FSM § 2670.32. Further, decisions “must not result in loss of species viability or create significant trends toward federal listing.” FSM § 2670.32.

⁵ 50 C.F.R. § 402.12.

⁶ *Id.*

The scoping materials do not mention the significant impacts to northern goshawk that may occur based on activities that may take place throughout the proposed action area. The northern goshawk has been listed on USFS Region 3's Sensitive Species list since 1982. (Reynolds et al. 1992:1). In studies of the northern goshawk across the region, breeding and nesting takes place from early March until late September. (Reynolds et al. 1992:3) It is also important to note that northern goshawk rely on small prey species, and the impacts of activity associated with this project on those populations are important to understanding the overall impacts to northern goshawk viability and recovery. It is unclear based on the scoping materials how much ground disturbance and overall habitat fragmentation that might directly impact prey species would occur. This should be made clear in the draft EA.

Where northern goshawk communities exist outside of MSO protected and restricted areas, a less stringent, but still existent set of standards and guidelines apply.⁷ These guidelines instruct SFNF to “[l]imit human activities in or near nest sites and post-fledgling family area’s during the breeding season[,]” and to prepare a fire management plan whenever a fire is planned in the occupied nest area. The scoping documents do not make clear how these standards and guidelines will be implemented throughout the project area, and as such do not make clear the extent of impacts upon this species and its habitat as a result of the SFMLRP. This should be made clear in the draft EA.

VI. The public’s use of, and interest in, this area.

The draft EA should include extensive analysis of the public’s use of, and interest in, this area. Public use in the SFNF is high for hiking, backpacking, equestrian trail riding, hunting, and fishing. It likely has one of the highest levels of public use of any public land in the State of New Mexico, with the possible exception of the Sandia Mountains. People care deeply and passionately about this area.

SFNF should consider this, both with regards to whether the project is actually appropriate, and also with regards to any future public meetings it may choose to hold at future stages of this process. SFNF has discretion to allow longer comment periods and a greater number of public meetings than the number required by NEPA.

VII. Conclusion

As currently written, it is unclear whether the proposal meets SFNF’s responsibilities to preserve public land for the use and enjoyment of future generations of Americans. The project proposal calls for extensive thinning and prescribed burning, without apparent consideration of the wilderness characteristics of large swaths of the proposed action area.

We believe it should become clear to SFNF that the proposal must be re-written to address:

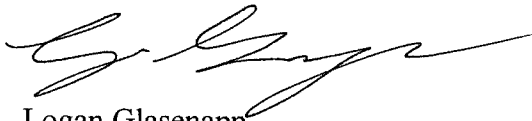
- The impacts to IRAs and potential wilderness areas
- The impacts to threatened or endangered species and USFS sensitive species;
- The need for an EIS, as opposed to the SFNF contemplated EA;
- The prohibition on pre-decision; and

⁷ Santa Fe National Forest Plan, 1987, amended 2010, app. D.

- The impacts of the SFMLRP on SFNF's ongoing Forest Plan revision process.

Thank you for your consideration of our comments, please include these comments as part of the project record, let us know if you have any questions, and please include us on the list of interested parties.

Sincerely,



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October 29, 2021

Debbie Cress
Forest Supervisor
Santa Fe National Forest
11 Forest Lane
Santa Fe, NM
87508

Re: **Santa Fe Mountains Landscape Resiliency Project**

Submitted via the CARA comment portal

Dear Ms. Cress,

Thank you for the opportunity to provide input on this important, if not a bit controversial, project. New Mexico Wilderness Alliance (New Mexico Wild) is a non-profit organization dedicated to the protection of our state's wilderness, water, and wildlife, with thousands of supporters across the state.

Below we provide narrowly focused comments on the potential impacts to IRAs, the need to avoid Thompson Peak entirely, and the need for this project to be analyzed through an environmental impact statement (EIS) rather than an EA. We have also helped draft and have therefore signed onto organizational comments submitted by our conservation partners.

We submitted scoping comments on July 10, 2019, detailing our concerns with several deficiencies with the scoping documents including: a lack of information regarding the impacts to IRAs, a lack of reasoning for the boundaries of this project, a lack of information regarding any consultation required under the Endangered Species Act, and a lack of information addressing the impacts on the public's use and enjoyment of the project area. We are pleased to see several of these concerns addressed, but we are still confused about the boundaries of this project, and how those lines were drawn. As we noted in 2019, the project purports to address concerns of the Greater Santa Fe Fireshed, but many acres of the project area are outside of the Fireshed while many acres of the Fireshed are not included in the project area. These discrepancies raise concerns that the purpose and need for this project is incongruous with the actual strategy contemplated.

Need for a Pause

We are at a turning point in this country as the federal government begins to take seriously the dual threat of the climate and extinction crises. We saw within the first few weeks of this administration, a commitment to 30x30 goals, followed up by the America the Beautiful report.

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We have also seen recent reporting that the United Nations, as well as the Intelligence community of the United States, now recognize that climate change threatens every aspect of human life. Given these new commitments, and recent developments in the understanding of the precipice upon which we stand, there is a dire need for the Santa Fe National Forest to pause this National Environmental Policy (NEPA) process until there are clear directives, guidelines, and hopefully regulations in place to guide decision-making under a new climate-focused approach. Blazing ahead on a project that will have immediate impacts on air quality, wilderness qualities, and threatened and endangered species would be the wrong choice at this time.

This project needs to be analyzed through an EIS

There is significant disagreement between the Santa Fe National Forest and many members of the public about what the best available science supports in terms of both treatments at all and the degree of those treatments. We are concerned that a project of this scale, analyzed through a simple EA, does not give the public the reassurance needed to know that prescribed burns and mechanical- and hand-thinning are truly the best solutions, especially to the degree which the forest proposes to employ these treatments. We hope that you will forgive us for being somewhat skeptical, but given the century of extreme fire suppression, a tactic that the forest service now agrees was wrong for forest health, we must ask for a full analysis of this restoration project before any work begins.

Among the fuller analyses of IRA impacts and a better explanation and defense of these treatment strategies being supported by the best available science, we suggest analyzing the lessons learned from other national forests that have undertaken restoration projects of this size and severity. We are aware that two smaller restoration projects are underway on the Santa Fe very near to the project area, but we think comparing to projects of a similar size would be very helpful to the public both for transparency's sake and to allow us to provide better and more helpful comments to you.

One confusion caused by the documents provided for this project also shows the need for an EIS at this time. In the "Scoping Issues Addressed" document, the forest asserts that the "relatively large area" covered by this project would be treated over the next 10 to 15 years. However, the draft EA states that roughly 3% of areas with a gradient greater than 40% would be treated per year. This work would, based on our math, take more than 33 years to complete. This kind of confusion, on top of the very sincere and supportable disagreements about best available science, support a need for an EIS, and a more robust public engagement process. An EIS and robust public engagement process would show a renewed commitment to transparency and help many of us better understand—and trust—the forest service.

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Potential NEPA and Roadless Rule Violations

NEPA

The Santa Fe's proposed approach in this restoration project, specifically the choice to not define specific treatment units at this time, is likely in violation of NEPA. This lack of specificity would be understandable if the forest were proposing a programmatic EIS, followed up by site-specific project EAs for each treatment proposed. Without this overarching programmatic EIS, this EA lacks the hard look analysis required by NEPA and places far too much discretion in the hands of district rangers and other members of your staff.

Before this project is approved, the Santa Fe *must* provide more specific details, preferably site-specific details, to the public and allow for a new public comment period. These details must include: where thinning versus prescribed burn treatments would be used, where and how many acres would benefit from wildlife habitat improvement treatments, the location and status of existing roads to access treatment areas, the miles of streams in the project area, and the cost of this project. While we recognize that the Santa Fe does not have complete information regarding resource conditions on every acre in the project area, we fail to understand how that excuses the complete lack of transparency or effort to compile that information. We cannot support, and will likely challenge to the extent practicable, any approval of this project without "complete information regarding the conditions found on every acre of the project footprint[.]" EA at 29.

This lack of information is likely the best evidence available that this project needs to be analyzed via EIS rather than EA. *See Southeast Alaska Conservation Council, et al. v. U.S. Forest Service*, 443 F. Supp. 3d 995 (D. Alaska 2020) (rejecting an EIS for a project with a similar lack of information).

IRAs

Of similar concern, and with a similar dearth of information, is the Santa Fe National Forest's approach to thinning and burning within IRAs. The EA documents do not appear to state, and completely fail to analyze, under which exemption of the roadless rule this project is purported to fall. Information and analysis is also deficient or entirely absent for how this project will not have significant effects on these IRAs and how precisely a 16" dbh limit sufficiently keeps thinning treatment to generally small diameter trees. The most glaring deficiency in this EA, however, is the complete lack of any analysis and supporting evidence for how this project would maintain or improve one or more of the roadless area characteristics.

Besides the legal deficiencies in this project, we want to note the several moral and conservation deficiencies. As we look towards the future of conservation in this country, keeping hopeful with

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the new federal and state commitment to 30x30, we must urge you to keep this project out of all IRAs across the Santa Fe National Forest. IRAs provide some of the best opportunities for future wilderness designations, and often meet the apparent naturalness and opportunities for solitude requirements just by the simple fact that they are roadless. Any unnatural work undertaken to “restore” these areas runs the risk of fundamentally and permanently destroying their natural appearance.

Recognizing that it is unlikely for the forest to make such a significant departure from its draft EA, we must request two far simpler solutions in the alternative. First, prepare an EIS for this project to specifically address and more fully analyze the potential impacts to these IRAs, including the wildlife that are found on them, and two, while preparing this EIS analyze a third alternative that would only treat non-IRA areas within the project area. We likely could support restoration around and near wildland urban interfaces, but at this time cannot support the level of work proposed in this project in IRAs.

Since you are recommending it for wilderness designation in your proposed forest plan, we must strongly urge you to completely avoid the Thompson Peak IRA. Even with the best intentions, accidents or errors in the planning could result in the permanent marring of the Thompson Peak area and lead Congress to not act on a designation. This area is valuable both on its own and as an expansion of the Pecos Wilderness and would also have the added benefit of somewhat buffering the Santa Fe Watershed from encroachment of public infrastructure in the future.

We note that the other IRAs are included in Alternative C of your proposed final forest plan, as well as the citizens proposal we submitted many years ago. As our objection will state, and we will discuss in the future, the areas recommended in Alternative C deserve to be recommended in your final plan. Given this position, and the very real need to recommend a larger number of areas for designation, we think it inappropriate to continue with the SFMLRP planning process until the final forest plan is signed and in place. Anything else would indicate to the public that the objection process is really just a meaningless exercise to appease those committed enough to stay engaged in the process.

Simply put, one size cannot fit all in this case. We recognize that tree thinning would be limited in specific ways within Mexican spotted owl (MSO) protected activity centers (PAC), and then mechanical treatment would be limited to slopes with less than a 40% gradient. So clearly, the Santa Fe is aware that one size does not fit all. We urge you to consider additional mitigation measures to protect the roadless and wild characteristics of these areas, including: no mechanical treatments, period; a similar limit to tree diameter size for thinning treatment as the limit proposed for MSO PACs; and a recognition and analysis of the best available science for forest health *in wild and untouched areas*. Our concern is that the best available science to protect human

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infrastructure in and near wildland urban interfaces does not offer the best results for forest health in wild and roadless areas.

Analysis and Disclosure of Alternative Available Science

There are many well-researched and supportable forest health opinions contrary to the scientific opinions used as the foundation of this project. In fact, we know that the Santa Fe received numerous scoping comments highlighting in great detail alternative scientific positions on forest health. We are concerned that a bias towards achieving the goals of this project was applied when the decisionmakers reviewed the available science on this topic. For example, as we've already said, one size does not fit all and the science of forest health and fire prevention for the WUI is vastly different than the science for wildland forest health. Some research indicates that a heavier reliance on prescribed burns results in reduced net carbon release as opposed to a heavier reliance on thinning, while other research indicates the opposite. All of these different supportable positions could have been analyzed and dismissed or adopted if the Santa Fe had done the right thing here and initiated an EIS review. As it stands, it appears that the "best available science" used to defend this project was subjectively and specifically selected because it supported the goals and strategies from the outset, rather than letting the science instruct the Santa Fe National Forest on what those goals and strategies ought to be. We again urge you to initiate an EIS review of this project to thoroughly and publicly analyze the available science on forest health, climate change, and a healthy fire regime before continuing to exert human influence on natural processes.

Conclusion

We cannot support the SFMLRP at this time and urge you to make the changes to the project requested above. Further, we urge you to better engage with the public on these kinds of projects moving forward. Among other strategies to better engage the public, we urge you to avoid in the future overlapping public comment and objection periods for projects that the forest knows are important to many users of the forest.

We are happy to discuss these comments more fully with you, as we have always valued the relationship we have with the Santa Fe National Forest. Please include this letter in the project record.

Sincerely,

Logan Glasenapp
Staff Attorney
New Mexico Wild

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May 12, 2022

Michiko Martin
Regional Forester
333 Broadway SE
Albuquerque, NM
87102

Re: Objection to the Santa Fe Mountains Landscape Resiliency Project Finding of No Significant Impact

Dear Regional Forester Martin:

New Mexico Wilderness Alliance (New Mexico Wild) appreciates the evident work the Santa Fe National Forest staff have put into the Santa Fe Mountains Landscape Resiliency Project. We are well aware of the many challenges facing the Forest Service at this moment, especially in New Mexico. However, we are deeply concerned that the analysis of potential impacts on Inventoried Roadless Areas (IRAs) and wildlife is insufficient to determine that this large project will not have a significant impact on the environment.

I. Required Information

Lead Objector: New Mexico Wild
 Logan Glasenapp
 Staff Attorney
 317 Commercial Ave. NE, Ste. 300
 Albuquerque, NM 87102
 (414) 719-0352
 Logan.glasenapp@gmail.com

Reference to: Santa Fe National Forest
 Responsible Official: Debbie Cress, Forest Supervisor

New Mexico Wild is a nonprofit organization dedicated to the protection, restoration, and continued enjoyment of New Mexico's wildlands and wilderness areas, with thousands of members across the state. New Mexico Wild has participated in the Santa Fe Mountains Landscape Resiliency Project (SFMLRP) since scoping and submitted a scoping comment, attached, in 2019. We look forward to discussing remedies to our objections with you and the Santa Fe National Forest.

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II. Objection Summary

We are objecting on two grounds. First, the impacts to IRAs are likely significant. Second, the impacts to wildlife, particularly federally-listed endangered and threatened species like the Mexican spotted owl, are likely significant. We believe that recent experience with poorly managed prescribed fires displays the significant, and detrimental, impacts this project could have on these two resources.

III. Link Between Prior Scoping Comment and the Content of our Objection

New Mexico Wild filed a scoping comment on July 10, 2019. Our comment raised concerns with the likely detrimental impacts on IRAs and wildlife. These concerns included how the SFMLRP would preserve the or enhance the wilderness characteristics of IRAs within the project area, and how the Santa Fe National Forest (SFNF) would protect endangered and threatened species in the project area, particularly how the SFNF would abide by the Mexican spotted owl recovery plan. Finally, our scoping comment expressed our concern that a project of this scale, the largest single vegetation clearing and burning project ever proposed on the SFNF, is inadequately evaluated through an environmental assessment (EA) and urging the SFNF to instead study the impacts through an environmental impact statement (EIS).

New Mexico Wild also filed a comment on the draft EA on October 29, 2021. We echoed most of our comments from scoping, but also called for a pause of the process under the National Environmental Policy Act (NEPA) to allow for the adoption of directives, guidelines, and regulations to better meet the Biden Administration's commitments to 30 by 30 and to combatting climate change.

Overall, we are deeply concerned that a project of this scale that will impact numerous resources is not being thoroughly evaluated and explained to the public. A century of fire mismanagement has led to an overload of fuel on our forests, but we do not believe that haste is the best method to correct the errors of the past.

IV. Impacts to IRAs are Likely Significant

We understand that the SFNF intends to apply an exception to the roadless rule that allows for timber activities in IRAs when such activity is needed to reduce the risk of uncharacteristic wildfire. However, many of our concerns remain unaddressed. For example: the EA states that no new or temporary roads will be constructed, but is silent as to the potential for maintenance or reconstruction activities to allow for the use of existing roads, trails, and routes. This is the kind of information that we would expect to see from an EIS.

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The EA also does not provide any support for what the SFNF defines as a “small diameter tree” for purposes of the application of the roadless rule exception. We signaled our concern with the one-size-fits-all approach taken by the SFNF with this project, and must again raise the same concern. If restoration activities must take place within IRAs, they must be done so with much more care, analysis, and proactive thinking than is currently being applied.

Proposed Remedy: Analyze the likely impacts of this project via an EIS to fully understand and mitigate against them.

V. Impacts to Wildlife are Likely Significant

As SFNF notes in the EA, the project area for the SFMLRP includes several protected activity centers (PACs) for the federally-listed Mexican spotted owl (MSO). We have raised our concerns with conducting prescribed burns and thinning in MSO habitat before and must do so again. The recent mismanaged prescribed burn that led to the Hermits Peak fire shows just how much damage can be done, inadvertently, as the result of restoration work gone wrong. The impacts to an MSO population of a prescribed burn that jumps in boundaries would certainly be detrimental to the recovery of the species. Further analysis is needed, and additional guardrails put in place to ensure that any activity taking place under this project truly benefits the overall health of the forest and all of its inhabitants.

Proposed Remedy: Analyze the likely impacts of this project via an EIS to fully understand and mitigate against them.

VI. An EIS is Necessary

There remains significant disagreement between the SFNF and many members of the public about what the best available science supports in terms of both treatments at all and the degree of those treatments. We are concerned that a project of this scale, analyzed through a simple EA, does not give the public the reassurance needed to know that prescribed burns and mechanical- and hand-thinning are truly the best solutions, especially to the degree which the forest proposes to employ these treatments.

We appreciate the goal of addressing conditions that would allow the return of a more natural fire regime on the Santa Fe National Forest. We also appreciate that the risk of extreme fires has been exacerbated by increased fuel loads that exist in part due to previous USFS fire suppression policies. The desire to correct this is understandable, however in the interest of avoiding the risk of new policy prescriptions that may result in additional negative unintended consequences, we respectfully advise additional analysis and caution. We believe this is particularly warranted for this particular issue, due to radically changed environmental conditions associated with mega-



draught and climate change, conditions that have made historic modeling of fire behavior unreliable.

Among the fuller analyses of IRA impacts and a better explanation and defense of these treatment strategies being supported by the best available science, we suggest analyzing the lessons learned from other national forests that have undertaken restoration projects of this size and severity. We are aware that two smaller restoration projects are underway on the Santa Fe very near to the project area, but we think comparing to projects of a similar size, within similar ecosystem types, and, if possible, on forests in the southwest would be more helpful to the public both for transparency's sake and to allow us to provide better and more helpful comments to you.

One confusion caused by the documents provided for this project also shows the need for an EIS at this time. In the "Scoping Issues Addressed" document, the forest asserts that the "relatively large area" covered by this project would be treated over the next 10 to 15 years. However, the draft EA states that roughly 3% of areas with a gradient greater than 40% would be treated per year. This work would, based on our math, take more than 33 years to complete. This kind of confusion, on top of the very sincere and supportable disagreements about best available science, support a need for an EIS, and a more robust public engagement process. An EIS and robust public engagement process would show a renewed commitment to transparency and help many of us better understand—and trust—the forest service.

Proposed Remedy: Analyze the likely impacts of this project via an EIS to fully understand and mitigate against them.

VII. Conclusion

New Mexico Wild fully recognizes the need to address the errors of the past fire regime for the good of our forests. We do not, however, recognize the need to rush into addressing these errors without proper analysis, forethought, and mitigation measures. Catastrophic wildfires seem to be the norm these days, rather than the exception, and we are losing thousands, sometimes millions, of acres of pristine wild land every year. We feel these losses personally. Restoration has a place in forest management, we simply urge the Forest Service to apply a finer lens on restoration plans because one size, in this case, does not fit all.

Sincerely,

Logan Glasenapp

Staff Attorney

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