



TOWN OF PATAGONIA

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Andrea Wood

Mayor

March 10, 2023

Reviewing Officer, Kurt Davis,
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Email: objections-southwestern-coronado@usda.gov

RE: **OBJECTION** to the Sunnyside Exploration Drilling Project, Draft Decision Notice (DN),
Finding of No Significant Impact (FONSI) and Final Environmental Assessment (EA)

Town Municipal Supply Watershed

- As authorized by 36 C.F.R. § 251.9, the Town of Patagonia applied to the Coronado National Forest to designate a region which includes the Project area as its municipal watershed in August 2011.
- On December 12, 2012, the Town of Patagonia adopted Resolution 12-16 Pertaining to the Protection of the Town Water Supply from Mining Projects within the Town Watershed (PDF attached).
- On March 4, 2014 a participating agreement (PDF attached) was signed between the Town of Patagonia and the Coronado National Forest to “document the cooperation to monitor and measure the water quantity and quality of the Patagonia municipal supply watershed within the boundaries of the Coronado National Forest.”
- The US Forest Service has recognized the Town of Patagonia’s Municipal Supply Watershed with six-sub watersheds as identified on the map of the recognized municipal supply watershed (see PDF attached of FS map).
- On August 12, 2020, the Town of Patagonia Mayor requested a comprehensive surface and groundwater study be conducted by the Forest Service (see PDF attached and PDF of the referenced 2007 study).
- The Town’s request was support by Congressman Raul Grijalva in his October 19, 2020 letter to the Coronado FS (PDF attached). The Forest Service did not respond.

- On August 25, 2021, the Town Mayor sent a follow-up letter repeating the request for a comprehensive surface and groundwater study (PDF attached).
- On October 6, 2021, Acting Supervisor Kurt Davis responded (PDF attached) but did not address the Town's request for a comprehensive surface and groundwater study, instead he listed various monitoring projects being conducted by the Forest Service. None of these studies are a comprehensive surface and groundwater study.

OBJECTIONS to the Sunnyside Exploration Drilling Project, Draft Decision Notice (DN), Finding of No Significant Impact (FONSI) and Final Environmental Assessment (EA)

Pursuant to 36 CFR Part 218, the Town of Patagonia (Objector) files this Objection to the Draft DN, FONSI, and Final EA for the Sunnyside Exploration Drilling Project (Project) issued by Celeste Kinsey, District Ranger, Sierra Vista Ranger District Coronado National Forest, on or about January 25, 2023.

Because the DN is based on the inadequate EA and FONSI, these Objections show that the DN, EA, and FONSI fail to comply with numerous federal laws, including the National Environmental Policy Act, 42 U.S.C. §§ 4321 et seq. (“NEPA”); Forest Service Organic Administration Act of 1897, 16 U.S.C. §§ 475, 478, 551 (“Organic Act”); National Forest Management Act, 16 U.S.C. §§ 1600-1614 (“NFMA”); Endangered Species Act, 16 U.S.C. §§ 1531 et seq. (“ESA”); the Administrative Procedure Act, 5 U.S.C. §§ 551 et seq. (“APA”), and the implementing regulations, Executive Orders, and policies of these laws.

The remedy for these violations is for the Forest Service (USFS) to withdraw the DN, EA, and FONSI and not issue any decision or take any action based on the inadequate EA. The Forest Service must not take any action until a revised EA, and more appropriately an EIS, demonstrates full compliance with each and every law, regulation, policy, and Executive Order noted herein. The agency must withdraw the EA, DN, and FONSI with instructions to the Coronado National Forest to correct all errors noted herein before the agency can consider approving or taking any actions.

This Objector filed comments on the Draft EA on or about April 2, 2021 along with multiple Objecting groups. *See* Comments submitted by Objecting groups on April 2, 2021. Pursuant to 36 CFR 218.8, this Objector states that the following content of this Objection demonstrates the connections between the Objectors' previous comments (“previous comments”) for all issues raised herein, unless the issue or statement in the EA, DN or FONSI arose or was made after the opportunity for comment on the Draft EA closed, as detailed herein. Pursuant to the Administrative Procedure Act, 5 U.S.C. §553-706, and USFS requirements, the Reviewing Officer must provide a detailed response to each of the issues/objections raised in this Objection.

All of the previous comments submitted by the Objectors, including all exhibits and attachments submitted to the Forest Service by the Objectors, are hereby incorporated into this Objection and into the administrative record and hereby submitted to the Reviewing Officer for its review and consideration.

Interests and Description of Objector: The Town of Patagonia is proud of our history and distinctive character. Visitors tell us that Patagonia's unique spirit is easily perceived and is their reason to stay or return. Situated at over 4,000 feet elevation between the Santa Rita and Patagonia Mountains in the riparian corridor of Sonoita Creek, Patagonia is spectacularly rich in both natural and human assets. The distinguishing vision of our CommUNITY is to protect and build sustainably upon those assets, and continuously develop our Nature Based Restorative Economy (see attached PDF of a summary of a 2021 University of Arizona economic report on Santa Cruz County's Nature Based Restorative Economy).

According to the EA: "Arizona Standard's Sunnyside Exploration Drilling Project (SED Project) would include drilling on up to 30 constructed drill pads within three drill areas on National Forest System (NFS) lands. During the exploration drilling, no more than two drill sites at a time would be active. Drilling would be undertaken on an around-the-clock rotational work schedule with intermittent breaks, seven days a week for up to seven years. Drill holes would have a maximum depth of approximately 6,500 feet from the surface." EA at 1.

The USFS should not approve the Sunnyside Project using an EA and FONSI and instead should prepare an Environmental Impact Statement (EIS) that collects data and establishes current baselines for resources likely to be affected by the project. The EIS, or at a minimum, a revised Draft EA for public review, should identify and analyze alternatives to the proposed action, analyze cumulative impacts of all past, present, and reasonably foreseeable future actions in the project area and beyond, particularly of other mining activities, and identify needed mitigation measures.

Regarding NEPA, the EA fails to undertake the necessary "hard look" of all impacts, alternatives, baseline conditions, mitigation measures, among other inadequacies as noted herein. The EA and agency:

1. Failed to collect and analyze and establish baseline conditions for resources that may be affected, including air quality, vegetation/plants, surface and ground-water quality and quantity (including not only the water to be directly, indirectly or cumulatively affected by the drilling, but also the sources of water to be used for the project), recreation, transportation/traffic, economic activity/resources.
2. Failed to conduct the required detailed analysis of cumulative impacts from all mining and other projects/activities in the area that may affect resources, including vegetation, water quality/quantity, air quality, recreation, transportation/traffic.
3. Failed to consider all reasonable alternatives and conduct in-depth analysis of these alternatives.
4. Failed to identify appropriate and adequate mitigation (and its effectiveness) to offset impacts to all potentially affected resources. *See April 2, 2021 comments (pp. 3-4)(not satisfactorily addressed by the EA/DN/FONSI).*

As shown in more detail below, the USFS's review contained in the EA/DN/FONSI contains numerous legal and factual errors and as such should be revised in order to comply with federal law.

I. FAILURE TO ADEQUATELY ANALYZE AND PROTECT NATURAL RESOURCES THAT WILL BE AFFECTED BY THE PROJECT

The Objectors raised the following issues in their April, 2021, comments at pp. 4-16, but were not satisfactorily addressed by the EA/DN/FONSI.

Water Resources

The Patagonia Mountains are headwaters for Sonoita Creek and its tributaries, Alum Gulch and Harshaw Creek, waterways that provide essential water to downstream ecosystems and human communities. The creeks and their watersheds are recharge areas for groundwater aquifers. Residents of the Town of Patagonia and approximately 300 individual well users in the surrounding communities are entirely dependent on the water supply originating in these mountains.

- The April 2018 Coronado National Forest Land and Resource Management Plan makes multiple references to the Patagonia municipal supply watershed. *See, e.g.*, U.S. Forest Serv., Coronado National Forest Land and Resource Management Plan, at 139 & 145 (Apr. 2018), https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd583208.pdf [hereinafter Coronado NF Plan]. Because the proposed drilling operations are within the Town's Municipal Supply Watershed and because traffic supporting the drilling will travel through the watershed, this places on the USFS a duty to ensure the continued safety and adequacy of the Town of Patagonia water supply.

As stated in the EA at:

- pages 59-60: details studies documenting a decline in groundwater levels.
- page 60: states that no groundwater quality samples have been collected in the project area.
- page 63, end of second paragraph: "Therefore, drill cuttings and fluids stored in temporary stumps are unlikely to lead to detectable changes in groundwater quality." There is NO baseline data. Furthermore, what testing will be done to document this claim?

As stated in the Sunnyside Water Resource Analysis Technical Report at page 15, "Analysis of Potential Effects: Artesian Flows During Drilling" section: "These conditions could allow groundwater from the deeper aquifer systems, about which is little is known at this time, to flow to shallower aquifer systems or to the ground surface."

The summer monsoon season that provides drenching rainfalls to the Patagonia Mountains could result in wastewater pit overflows that could contaminate Alum Gulch surface or subsurface waters. One waste sump on the Hermosa site adjacent to the Sunnyside site overflowed in approximately 2013.

Given these risks, water stored in sumps should be analyzed in terms of historic frequencies of spills and possible harm to surface water rather than accepting at face value the company's assertion that containment will be adequate, particularly given the possibility of severe monsoon precipitation, which in 2013 caused adits from abandoned mines in the area to overflow, contaminating Harshaw Creek with acidic waste.

The PoO states that "baseline water quality samples will be taken at nearby ephemeral or intermittent water sources prior to any disturbance activities; during drilling, and after the completion of drilling activities to document any changes in baseline water quality conditions in the Project Area." Arizona Standard LLC, Plan of Operations, Sunnyside Exploration Drilling Project, Santa Cruz County, at 30 (Feb. 28, 2021), https://www.fs.usda.gov/nfs/11558/www/nepa/111128_FSPLT3_5599116.pdf [hereinafter PoO]. Yet, under NEPA as detailed herein, this critical baseline data and analysis should have been provided in an adequate EA (for all potentially affected resources) to allow for adequate public review under NEPA.

In addition to adverse effects for surface waters, exploratory drilling can contaminate, impede, or redirect the flow of groundwater. "[A] potential risk to impact groundwater quality and quantity through potential water exchange between aquifers. Deep boreholes drilled through the groundwater system could create a preferred pathway for groundwater in deeper formations to migrate upward and intermingle with the shallow parts of the system. A potential issue would be a risk of water exchange between aquifers as a result of the proposed drilling program." PoO at 31.

The PoO proposes to drill over a mile deep: "Coring drill holes will have depths of up to approximately 6,500 feet from the surface." PoO at 17. "Drill holes would have a maximum depth of approximately 6,500 feet from the surface." EA at 1. As noted, this will intersect the aquifer(s). For these reasons, further study of the baseline quality and quantity of ground and surface waters is essential for the USFS to make an informed decision about the proposed Project. *See, e.g., Gifford Pinchot Task Force v. Perez*, 2014 WL 3019165, *25–33 (D. OR. 2014) (BLM/USFS EA for mineral exploration violated NEPA by failing to obtain and analyze baseline groundwater quality conditions); *Idaho Conservation League v. U.S. Forest Serv.*, 2012 WL 3758161, *14–17 (D. Idaho Aug. 29, 2012).

As the EA, at 61, noted:

A segment of Alum Gulch and all segments of Harshaw Creek are listed as being impaired under Category 4a (impaired waters with U.S. Environmental Protection Agency -approved total maximum daily load); the impaired sections of the streams are shown in figure 14.

The upper portion of Alum Gulch is impaired for cadmium, copper, zinc, and acidity. Harshaw Creek is impaired for copper and acidity (ADEQ 2003a). A third unnamed ephemeral drainage within the project area and west of Alum Gulch, is also listed as impaired for zinc and copper (Arizona Standard 2020).

Arizona Department of Environmental Quality and U.S. Geological Survey have completed environmental studies on water quality and sources of contributions of acidity and heavy metals (ADEQ 2003a, 2003b). These studies concluded there is a clear contribution from historical mining activities, including mining wastes and adits.

The USFS has not shown that these conditions have been properly analyzed, rectified, and public resources protected, under the 1897 Organic Act, Clean Water Act, NEPA, and related laws.

It is imperative that the US Forest Service require a comprehensive surface and groundwater study as requested by the Town of Patagonia.

II. THE USFS FAILED TO CONDUCT AN ADEQUATE NEPA REVIEW OF THE SUNNYSIDE PROJECT

The Objectors raised the following issues in their April, 2021, comments at pp. 17-24, but were not satisfactorily addressed by the EA/DN/FONSI.

A. The Impacts of this Project, Especially Added to Other Cumulative Projects, Will Be Significant

Given the relatively large scope of this Project, and the fact that it will be occurring in the context of other substantial mining operations in the immediate area, we urge that the USFS require an EIS to fully explore the possible effects, particularly cumulative effects with other ongoing and reasonably foreseeable projects. The activities described in the scoping notice and the EA, drilling at several test sites 24 hours a day, seven days a week, with enlargement of access roads and increased human and vehicular traffic, continuing for over seven years, will likely result in significant environmental impacts, which must be adequately analyzed in an EIS before the project moves forward. Furthermore, many similar impacts have already been observed on private land in the area where operations have been ongoing, so the USFS should know that the impacts will not be insignificant

B. The Draft EA Failed to Fully Analyze All Direct, Indirect, and Cumulative Impacts

Under the National Environmental Policy Act (“NEPA”), the USFS must fully review the impacts from all “past, present, and reasonably foreseeable future actions.” These are the “cumulative effect/impacts” under NEPA. To comply with NEPA, the USFS must consider all direct, indirect, and cumulative environmental impacts of the proposed action. 40 C.F.R.

§§ 1502.16, 1508.8, 1508.25(c).

The USFS must fully consider the cumulative impacts from all past, present, and reasonably foreseeable future projects in the region on, at a minimum, water and air quality including ground and surface water quantity and quality, recreation, cultural/religious, wildlife, transportation/traffic, scenic and visual resources, etc. At a minimum, this requires the agency to fully review, and subject such review to public comment in a revised Draft EA or EIS, the cumulative impacts from all other mining, grazing, recreation, energy development, roads, etc. in the region.

The EA is based on a seriously deficient view regarding its duties to review these impacts. The agency admits that there are large-scale mineral operation active and proposed in the area (Hermosa and San Antonio projects). This includes current exploration activities as well as anticipated mining projects (in the case of the Hermosa and San Antonio projects).

South32 Hermosa Project: Because this project will operate from private, patented lands to conduct an underground lateral drilling operation, there is very little public information about the impacts. A January 17, 2022 Hermosa Project Update (see PDF attached of the January 17, 2022 Hermosa Project Update) provided limited public information, but did state that the company expects a 22 year resource life on the Taylor Deposit producing 4.3 million metric tonnes per year; there are other deposits and exploration targets (see PDF of page 17 of the Project Update), but no information on those are provided. It is known that the South32 Flux Prospect has a pending application with the USFS for exploratory drilling. The Hermosa Project is located next to the Sunnyside Project and the Flux Prospect is on USFS public lands less than ten miles from the Sunnyside Project.

As other examples of the deficient cumulative impacts and baseline analysis, the EA acknowledges the dewatering and water discharges expected from the Hermosa Project (on the regional aquifer and Harshaw Creek). “South 32 [Hermosa] intends to treat the water collected from the declines and discharge it to Harshaw Creek at a rate of up to 4,500 gallons per minute, which represents an approximately 40-fold increase over current stream flow.” EA at 68.

Hudbay Rosemont/Copper World Mine: The impacts from the nearby proposed Hudbay Copper Mine Project on transportation/traffic, and other potentially affected resources was also not analyzed.

The EA contains a cursory cumulative effects/impacts section. Although Table 8 lists a number of projects that will result in cumulative impacts, no details about the actual impacts are provided. The Table merely lists the projects, their locations, and what resources will be affected. Such a listing was expressly found to violate NEPA in *Great Basin Mine Watch v. Hankins*, 456 F.3d 955, 971–74 (9th Cir. 2006) (requiring mine-specific cumulative data, quantified assessment of combined environmental impacts of other projects, and objective quantification of the impacts from other existing and proposed mining operations in the region). Yet for each of these resources/impacts, none of the required analysis regarding other existing and proposed activities in the region is provided.

As other examples of the deficient cumulative impacts and baseline analysis, the EA acknowledges the dewatering and water discharges expected from the Hermosa Project (on the regional aquifer and Harshaw Creek). “South 32 [Hermosa] intends to treat the water collected from the declines and discharge it to Harshaw Creek at a rate of up to 4,500 gallons per minute, which represents an approximately 40-fold increase over current stream flow.” EA at 68.

There is no detailed analysis, as NEPA requires, of the baseline conditions of these affected resources and of these impacts on water quality and quantity, streamflow, erosion, wildlife and habitat, transportation/traffic, sedimentation, recreation, and other impacted resources. For example, there is little/no analysis of the water-related impacts from the Project and other reasonably foreseeable activities on sediment in Harshaw Creek (and on other water quality baseline conditions, resources and impacts) along Harshaw Road, and other roads, such as increased sediment loading

from Project and other activities, along with the increased water discharges (and other pollutant loadings in Harshaw Creek and downstream waters). The fact that Arizona Standard may apply for a state discharge permit does not substitute for the USFS's

NEPA duties for full public and agency analysis. As one example, there is no analysis of the baseline conditions for sediment conditions in Harshaw Creek, nor the expected sediment and other pollutant loading from the Project along with the other current and reasonably foreseeable projects that may affect the Creek and downstream waters (such as Sonoita Creek).

C. The Draft EA Fails to Fully Analyze All Baseline Conditions

The Project proposes an extensive network of roads, drilling sites, and support facilities across a large area. These activities will adversely impact a number of critical public resources such as air, water (surface and ground, quantity and quality), wildlife, recreation, visual/scenic, transportation/traffic, cultural/religious, historical, etc. As noted above, each of these potential impacts must be fully reviewed, not just in the immediate location of the impact, but on a regional scale. In addition, the agency must prepare for public review a detailed analysis of the current baseline conditions for all potentially affected resources, both at the immediate site locations, but also nearby and regionally (e.g., for all the resources within the Cumulative Effects Analysis Area, CEAA).

The USFS is required to "describe the environment of the areas to be affected or created by the alternatives under consideration." 40 C.F.R. § 1502.15. The establishment of the baseline conditions of the affected environment is a fundamental requirement of the NEPA process:

"NEPA clearly requires that consideration of environmental impacts of proposed projects take place before [a final decision] is made." *LaFlamme v. FERC*, 842 F.2d 1063, 1071 (9th Cir. 1988) (emphasis in original). Once a project begins, the "pre-project environment" becomes a thing of the past, thereby making evaluation of the project's effect on pre-project resources impossible. *Id.* Without establishing the baseline conditions which exist in the vicinity . . . before [the project] begins, there is simply no way to determine what effect the proposed [project] will have on the environment and, consequently, no way to comply with NEPA.

Such baseline information and analysis must be part of the EA/EIS and be subject to public review and comment under NEPA. The lack of an adequate baseline analysis fatally flaws an EA or EIS. "[O]nce a project begins, the pre-project environment becomes a thing of the past and evaluation of the project's effect becomes simply impossible." *Northern Plains v. Surface Transp. Bd.*, 668 F.3d 1067, 1083 (9th Cir. 2011). "[W]ithout [baseline] data, an agency cannot carefully consider information about significant environment impacts. Thus, the agency fail[s] to consider an important aspect of the problem, resulting in an arbitrary and capricious decision." *Id.* at 1085.

Here, as noted above, the PoO and EA admit that groundwater may be adversely affected by the Project: a potential risk to impact groundwater quality and quantity through potential water exchange between aquifers. Deep boreholes drilled through the groundwater system could create a preferred pathway for groundwater in deeper formations to migrate upward and intermingle with the shallow

parts of the system. A potential issue would be a risk of water exchange between aquifers as a result of the proposed drilling program.

Yet, the Draft EA admits that: “**No groundwater quality samples have been collected in the project area and the quality of groundwater in the project area is unknown (SRK 2020).**” EA at 60 (emphasis added).

The federal courts have reiterated the NEPA requirement for a detailed groundwater baseline analysis. “Ninth Circuit cases acknowledge the importance of obtaining baseline condition information before assessing the environmental impacts of a proposed project.” Gifford Pinchot Task Force v. Perez, 2014 WL 3019165, at *28 (D. Or. 2014) (USFS/BLM EA for mineral exploration project failed to obtain and analyze baseline water quality data in violation of NEPA).

Here, at a minimum, prior to considering or approving any exploration, the USFS must first obtain this required baseline information for all potentially affected resources and subject the information and analysis to public review and comment in a revised Draft EA or EIS. “NEPA requires that the agency provide the data on which it bases its environmental analysis. Such analyses must occur before the proposed action is approved, not afterward.” Northern Plains, 668 F.3d at 1083 (internal citations omitted) (concluding that an agency’s “plans to conduct surveys and studies as part of its post-approval mitigation measures,” in the absence of baseline data, indicate failure to take the requisite “hard look” at environmental impacts). This requirement applies not only to ground and surface waters, but any potentially affected resource such as air quality, recreation, soils, cultural/historical, wildlife, etc.

III. THE FOREST SERVICE FAILED TO MINIMIZE ALL ADVERSE IMPACTS AND ENSURE COMPLIANCE WITH ALL ENVIRONMENTAL AND PUBLIC LAND LAWS

The Objectors raised the following issues in their April, 2021, comments at pp. 24-25, but were not satisfactorily addressed by the EA/DN/FONSI.

On the National Forests, the Organic Act requires the USFS “to regulate their occupancy and use and to preserve the forests thereon from destruction.” 16 U.S.C. § 551. “[P]ersons entering the national forests for the purpose of exploiting mineral resources must comply with the rules and regulations covering such national forests.” Clouser v. Espy, 42 F.3d 1522, 1529 (9th Cir. 1994). The USFS mining regulations require that “all [mining] operations shall be conducted so as, where feasible, to minimize adverse environmental impacts on National Forest resources.” 36 C.F.R. § 228.8. In addition, the operator must fully describe “measures to be taken to meet the requirements for environmental protection in § 228.8.” 36 C.F.R. § 228.4(c)(3). The agency “can reject an unreasonable plan and prohibit mining activity until it has evaluated the plan and imposed mitigation measures.” Siskiyou Regional Education Project v. Rose, 87 F. Supp. 2d 1074, 1086 (D. Or. 1999), citing Baker v. U.S. Dep’t of Agriculture, 928 F. Supp. 1513, 1518 (D. Idaho 1996). “This court does not believe the law supports the Forest Service’s concession of authority to miners under the General Mining Act in derogation of environmental laws and regulations.” Hells Canyon Preservation Council v. Haines, 2006 WL 2252554, at *6 (D. Or. 2006) (finding violation of Organic

Act in Forest Service's failure to minimize adverse impacts to streams).

IV. VIOLATION OF THE NATIONAL FOREST MANAGEMENT ACT

This Objector raised the following issues in the April, 2021, comments at pp. 25-30, but were not satisfactorily addressed by the EA/DN/FONSI.

The EA and proposed project approval also do not ensure that all requirements of the Coronado National Forest Plan and Regional requirements will be met at all times, in violation of the National Forest Management Act (“NFMA”), 16 U.S.C. § 1601 *et seq.* Among other mandates, the NFMA requires the USFS to prepare a land and resource management plan, or “forest plan,” for each National Forest. 16 U.S.C. § 1604(a). Each plan must include standards, guidelines, and other requirements stating how the forest shall be managed. 16 U.S.C. §§ 1604(c), (g)(2), & (g)(3).

Once a forest plan is adopted, all resource plans, permits, contracts, and other instruments for use of the lands, such as Special Use Permits, Road Use Permits, mining plan approvals, etc., must be consistent with the plan. 16 U.S.C. § 1604(i). “It is well-settled that the Forest Service’s failure to comply with the provisions of a Forest Plan is a violation of NFMA.” Native Ecosystems Council v. Dombek, 304 F.3d 886, 961 (9th Cir. 2002); see also Save Our Cabinets v. U.S. Dept. of Agric., 254 F. Supp. 3d 1241, 1258–59 (D. Mont. 2017) (USFS approval of mining plan of operations that would not meet the Forest Plan’s “desired conditions” protecting water quality violated the NFMA).

Failing to follow, or to evaluate and document compliance with, a Forest Plan provision is also a NEPA violation. See ONDA v. BLM, 625 F.3d 1092, 1110–11 (9th Cir. 2010) (NEPA analysis must include “considerations made relevant by the substantive statute driving the proposed action”); Westlands Water Dist. v. U.S. Dep’t of the Interior, 376 F.3d 853, 866 (9th Cir. 2004) (“[w]hen an action is taken pursuant to a special statute, the objectives of that statute serve as a guide by which to determine the reasonableness of alternatives” examined under NEPA).

As stated in the Coronado National Forest Plan, the agency must ensure that the desired conditions, objectives, standards, and guidelines must be met for every action taken by the agency (which includes approval of mining exploration projects such as the Sunnyside Project):

Desired conditions set forth the desired social, economic, and ecological attributes of the Coronado National Forest. They attempt to paint a picture of what we (the public and Forest Service) desire the national forests to look like and the goods and services we desire them to provide. Desired conditions are normally expressed in broad, general terms and are timeless in that there is no specific date by which they are to be completed. Desired conditions may only be achievable over a long timeframe (in some cases, several hundred years). In some cases, a desired condition matches the current condition, and the goal is to maintain it. Desired conditions are aspirations and are not commitments or final decisions to approve

projects[.]

To be consistent with the desired conditions of the plan, a project or activity, when assessed at the appropriate spatial scale described in the plan (such as landscape scale), must be designed to meet one or more of the following conditions:

- Maintain or make progress toward one or more of the desired conditions of a plan without adversely affecting progress toward, or maintenance of, other desired conditions; or
- Be neutral with regard to progress toward plan desired conditions; or
- Maintain or make progress toward one or more of the desired conditions over the long term, even if the project or activity would adversely affect progress toward or maintenance of one or more desired conditions in the short term; or
- Maintain or make progress toward one or more of the desired conditions over the long term, even if the project or activity would adversely affect progress toward other desired conditions in a negligible way over the long term.

The project documentation should explain how the project is consistent with desired conditions and describe any short-term or negligible long-term adverse effects the project may have on the maintenance or attainment of any desired condition.

Objectives are concise, time-specific statements of measurable planned results that make progress toward or maintain desired conditions. An objective forms the basis for further planning to define the precise steps to be taken and the resources to be used in achieving desired conditions. The objectives represent just some of the expected outcomes or actions required to accomplish movement toward desired conditions. Not every action or objective the Coronado National Forest may initiate is identified in the plan, just the primary ones.

Variation in achieving objectives may occur during the next 15 years because of changes in environmental conditions, available budgets, and other factors.

Objectives are strongly influenced by recent trends, past experiences, anticipated staffing levels, and short-term budgets.

A project or activity is consistent with the objectives of the plan if it contributes to or does not prevent the attainment of any applicable objectives. The project documentation should identify any applicable objective(s) to which the project contributes and document that the project does not prevent the attainment of any objectives. If there are no applicable objectives, the project must be consistent with the objectives decisions of the plan, and the project document should state that fact.

Standards are constraints upon project and activity decision making. A standard is an absolute requirement to be met in the design of projects and activities. A project or activity is consistent with a standard when its design is in accord with the explicit provisions of the standard; variance from a standard is not allowed except by plan amendment.

Guidelines are components with which a project or activity must be consistent, in either of two ways:

- The project or activity is designed exactly in accord with the guideline; or
- A project or activity design varies from the exact words of the guideline, but is as effective in meeting the purpose of the guideline to contribute to the maintenance or attainment of the relevant desired conditions and objectives.

Guidelines must be followed, but they may be modified somewhat for a specific project if the intent of the guideline is followed and the deviation is addressed in a decision document with supporting rationale. When deviation from a guideline does not meet the original intent, however, a plan amendment is required.

Coronado NF Plan at 11–12.

As shown herein, the Project, alone and in cumulatively with other past, present, and reasonably foreseeable activities in the area (discussed herein) will result in significant adverse environmental impacts and the proposed activities are not consistent with and not in compliance with, the Desired Conditions, Objectives, Standards, Guidelines of the Forest Plan. The following are some examples of these NFMA violations:

Riparian Areas

Guidelines

1. New road construction in riparian areas should be avoided, except to cross drainages, unless alternate routes have greater overall resource impacts. If road construction in riparian areas is unavoidable, it should be designed and implemented to minimize effects to natural waterflow, aquatic species, channel morphology, and native vegetation communities.
2. Management activities should only be allowed in riparian areas if soil function and structure, hydrologic function and riparian plant communities (except noxious and/or invasive plants) are kept the same or improved.

Coronado NF Plan at 52–53. As shown herein, the proposed drilling, road reconstruction/construction and other project activities do not adequately protect riparian areas nor comply with these requirements.

Watersheds

Desired Conditions

Surface runoff, sheet, rill, and gully erosion, and subsequent sedimentation into connecting waters downstream is minimal. . . .

Coronado NF Plan at 57.

Natural Water Sources

Desired Conditions

Landscape Scale

Watersheds, streams, wetlands, springs ecosystems, and riparian areas have characteristics, processes, and features in low departure from reference condition.

... Vegetation conditions (as described in each section above) contribute to maintaining downstream water quality, quantity, and aquatic habitat features. Upland soil erosion contributes sediment in amounts that do not impair stream function or water quality.

Mid-Scale

... High and low flow events maintain a normal and expected sediment and water balance between streams and their watersheds. ... Water quality meets or exceeds relevant State of Arizona, State of New Mexico, and Environmental Protection Agency standards for designated uses. Water quality meets critical needs of aquatic species. Nonpoint-source loading of streams and lakes from sediment, excessive nutrients, or hazardous chemicals does not reduce water quality below the State standards for Arizona and/or New Mexico.

Coronado NF Plan at 59.

Guidelines

1. Projects in upland habitats adjacent to streams should be designed to minimize input of sediment to streams.
2. Water quality, quantity, soil function and structure, and wildlife habitat (including aquatic species habitat) should be protected or enhanced at natural springs and seeps.
...
4. Management activities should not impair soil moisture recharge at outflows of natural water sources.
...
7. New road construction near springs and seeps should be avoided, unless alternate routes have greater overall resource impacts. If road construction near springs and seeps is unavoidable, it should be designed and implemented to minimize effects to natural water flow and aquatic species.
8. Projects affecting perennial streams should be designed and constructed to allow for natural instream movement of aquatic species, except where barriers are necessary to preclude the movement of nonnative species.

Coronado NF Plan at 60.

As shown herein, the proposed drilling, road reconstruction/construction and other project activities do not adequately protect watersheds and natural waters nor comply with these requirements.

Animals and Rare Plants

The Coronado National Forest has the highest biological diversity of any national forest in the western United States. This is because it is situated at a convergence zone of ecological regions, and has a wide variety of vegetation communities and steep elevation gradients. Biological diversity is further enhanced by a long growing season, bimodal precipitation, and the evolutionary consequences of isolation in the sky island mountain ranges.

The number of species inhabiting the Coronado National Forest and adjoining lands is not precisely known, and new species are periodically described. Conservative estimates include about 2,100 species of plants, 466 species of birds, 110 species of mammals, 91 species of reptiles, over 240 species of butterflies, and nearly 200 species of mollusks.

Coronado NF Plan at 65.

Desired Conditions

Naturally occurring native ecosystems are present and sustainable across the Coronado National Forest, providing habitat to support a full complement of plants and animals, including sensitive and rare species. Habitats are interconnected within the national forest boundary while the interspaces between ecosystem management areas allow for movement of wide-ranging species and promote natural predator-prey relationships.

Forest boundaries are permeable to animals of all sizes and offer consistent, safe access for ingress and egress of wildlife. In particular, segments of the national forest boundary identified in figure 3 remain critical interfaces that link wildlife habitat on both sides of the boundary.

Coronado NF Plan at 65.

Guidelines

Guidelines for protecting animals and rare plants are also found in various other sections of chapters 2, 3, and 4.

1. Activities occurring within federally listed species habitat should apply habitat management objectives and species protection measures from approved recovery plans.

Coronado NF Plan at 67.

As shown herein, the proposed drilling, road reconstruction/construction and other project activities do not adequately protect wildlife and wildlife habitat nor comply with these requirements.

CONCLUSION

Because the DN is based on the inadequate EA and FONSI, these Objections show that the DN, EA, and FONSI fail to comply with numerous federal laws, including the National Environmental Policy Act, 42 U.S.C. §§ 4321 et seq. (“NEPA”); Forest Service Organic Administration Act of 1897, 16 U.S.C. §§ 475, 478, 551 (“Organic Act”); National Forest Management Act, 16 U.S.C. §§ 1600 1614

(“NFMA”); Endangered Species Act, 16 U.S.C. §§ 1531 et seq. (“ESA”); the Administrative Procedure Act, 5 U.S.C. §§ 551 et seq. (“APA”), and the implementing regulations, Executive Orders, and policies of these laws.

The remedy for these violations is for the Forest Service (USFS) to withdraw the DN, EA, and FONSI and not issue any decision or take any action based on the inadequate EA. The Forest Service must not take any action until a revised EA, and more appropriately an EIS, demonstrates full compliance with each and every law, regulation, policy, and Executive Order noted herein. The agency must withdraw the EA, DN, and FONSI with instructions to the Coronado National Forest to correct all errors noted herein before the agency can consider approving or taking any actions.

It is imperative that the US Forest Service require a comprehensive surface and groundwater study as requested by the Town of Patagonia in order to protect the Town of Patagonia Municipal Supply Watershed.

Please direct all communications regarding this Objection to the undersigned.

TOWN OF PATAGONIA



Andrea Wood, Mayor
Email: manager@patagonia-az.gov