



January 4, 2025

SUBMITTED VIA ELECTRONIC MAIL

Objection Reviewing Officer
Southwestern Regional Forester's Office
Attn: Arizona National Scenic Trail Comprehensive Plan
333 Broadway SE
Albuquerque, NM 87102

**Re: Objection to Arizona National Scenic Trail Comprehensive Plan
(November 2024)**

On behalf of the Arizona Mining Association ("AMA") and Arizona Rock Products Association ("ARPA"), we are filing the following objections based on prior submitted comments on the draft environmental assessment ("EA") and comprehensive plan for the Arizona National Scenic Trail ("ANST") dated March 22, 2024 (hereafter the "AMA/ARPA Comments").¹ Information required pursuant to 36 C.F.R. § 219.54 (c) follows:

I. Objector Contact Information:

AMA² and ARPA
916 W. Adams Street Suite 2
Phoenix, AZ 85007
Attn: Steve Trussell, Executive Director of AMA and ARPA
Telephone: 602-266-4416
Email: steve@azmining.org

II. Subject of Objection: ANST Comprehensive Plan (November 2024) (the "CP") and related final environmental impact statement ("FEIS") and draft record of decision ("DROD").

III. Name and Title of Responsible Official: Michiko Martin, Regional Forester, Southwestern Region.

IV. Statement of the Issues and Applicable Parts of Revision to Which the Objection Applies: See relevant content set forth below.

¹ Incorporated by reference pursuant to 36 C.F.R. § 218.8 (b) (4).

² AMA will serve as the lead objector.

V. Statement Explaining Objection, Suggestion for Improvement, Inconsistencies with Law, Regulation or Policy and Links Between Prior Substantive Formal Comments³ and/or Issues Arising After Opportunities for Formal Comment: See relevant content set forth below.

1. National Environmental Policy Act (“NEPA”) Deficiencies

A. Inadequate Scoping⁴

Nearly seven years elapsed between the initial public scoping notice and the publication of the draft CP.⁵ During that time, adequate agency interface with likely affected parties (such as AMA and ARPA) was not undertaken and neither AMA, nor ARPA were invited to become cooperating parties. This is particularly problematic in light of the concerns AMA and ARPA raised in correspondence to Cal Joyner (then Region 3 Supervisor) dated September 14, 2017 and letter to Vicki Christiansen (then USDA Forest Service Chief) dated October 15, 2019 regarding the Forest Service’s failure to constitute an ANST Advisory Council as required by 16 U.S.C. § 1244 (d).⁶

The only remedy to address this legal issue is to conduct further scoping with properly identified cooperating parties (including AMA/ARPA) in conjunction with the publication of a supplemental EA analyzing reasonable alternatives to the CP.

B. Failure to Analyze Reasonable Alternatives⁷

Contrary to the requirements of NEPA, in the final EA, the Forest Service only analyzed the proposed action (the CP) and the no-action alternative.⁸ The Forest Services’ proffered justification is that “there were no unresolved conflicts concerning alternative uses of available resources” citing 36 C.F.R. 220.7 thus no alternative analysis is required. This justification is nonsensical when considering: 1) the ANST bisects the entire State of Arizona; and 2) all existing and conflicting planning designations (federal, state and local) and existing and future land uses within the 800-mile trail planning corridor.

In 2009 when the ASNT was designated by Congress (Pub. L. 111-8), the requirement to produce a feasibility study to support national scenic trail designation was waived and no specific

³ Links between prior AMA/ARPA comments will be identified in footnotes in the specific subject matter heading of each objection.

⁴ AMA/ARPA Comments at pgs. 4 and 12.

⁵ See Forest Service scoping letter at: https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd567276.pdf (July 17, 2017).

⁶ The content of said letters are hereby incorporated by reference and copies are provided as Exhibit “A”.

⁷ AMA/ARPA Comments at pgs. 13 and 15.

⁸ See 42 U.S.C. § 4332 (2) (C) and (E) (requirement to “study, develop, and describe appropriate alternatives to recommended course of action in any proposal”). In fact, the requirement to study alternatives under 42 U.S.C. § 4332 (E) has been held to be broader than 4332 (C). See *Bob Marshall Alliance v. Hodel*, 852 F.2d 1223 (9th Cir. 1988) (duty is triggered by conflicts); see also *Olmsted Citizens for Better Community v. United States*, 793 F.2d 201 (9th Cir. 1986).

trail purpose was specified. Congress did, however, intend that when establishing National Scenic Trails the selection of routes should “avoid established highways, motor roads, mining areas, power transmission lines, existing commercial and industrial developments . . . and private operations”⁹ and declared in the NSTA that: (i) in selecting the rights of way for national scenic trails, “full consideration shall be given to minimizing the adverse effects upon the adjacent landowner or user and his operation;”¹⁰ and (ii) where possible, management and planning corridors should be designed and managed to “harmonize with and complement any established multiple-use plans for that specified area in order to insure continued maximum benefits from the land.”¹¹

AMA/ARPA specifically informed the Forest Service that the proposed one-mile corridor would contain within it, two aggregate crushed stone operations, two building stone operations, four cinder operations, one metal and one industrial mine and that it was proximal to many other known mining areas.¹² In addition, nearly 1/3 of the entire ANST planning corridor is located on existing public roads or other established trails (evidencing conflicting alternative uses) and will need to be relocated. These facts alone are sufficient to warrant analysis of alternatives to the recommended uniform one-mile trail planning corridor. Without such analysis, the appropriate Secretary will be unable to fully consider competing uses (as directed by Congress) when selecting the right-of way.¹³

The remedy for this legal deficiency is to publish a supplemental EA, disclose the competing land uses within the proposed corridor and analyze alternative planning corridors that reflect consideration of conflicting land uses in keeping with the intent and directives of Congress. At a minimum, this will require the disclosure of the impact on existing mining claims, utility corridors, oil and gas pipelines, rail and road crossings and existing commercial and industrial developments within the entire 800-mile planning corridor.

2. National Scenic Trail Act (“NSTA”) Violations

A. Failure to Constitute an Advisory Council (16 U.S.C. § 1244 (d))¹⁴

The NSTA requires that within one year of the date of addition to any national scenic trail to the trail system, an advisory council must be formed, unless there is a lack of public interest and the relevant Secretary involved informs the appropriate committees of Congress. AMA/ARPA specifically requested detail on the efforts undertaken by the Forest Service to constitute the advisory council (in 2017 and again in 2019) and asked for copies of the required notifications to “appropriate committees of Congress.”

In response to AMA/ARPA’s comment request for more detail on the history of the Advisory Council establishment, the Forest Service indicated the following:

⁹ House Report No. 90-1631 accompanying P.L. 90-543.

¹⁰ 16 U.S.C. § 1246 (a) (2).

¹¹ *Id.*

¹² AMA/ARPA Comments at pg. 14. See attached map at Exhibit “B”.

¹³ 16 U.S.C. § 1246 (a) (2).

¹⁴ AMA/ARPA Comments at pg. 4-5.

- The Service published an intent to establish the Council in the Federal Register on February 24, 2014 and conducted outreach for council member candidates that did not produce enough applicants in several membership categories;¹⁵
- The Council’s advisory charter expired twice, the last time being December 2018;¹⁶
- On June 14, 2019, President Donald J. Trump signed Executive Order (EO) 13875 requiring Federal agencies to evaluate and improve the utility of all Federal advisory committees and councils to evaluate and recommend termination of Federal advisory committees or councils that are no longer serving a required purpose.
- In 2019, USDA Secretary Sonny Perdue “signed a decision memorandum recommending Congress terminate the Council for the Trail on the grounds that its purposes have either been fulfilled or can be fulfilled by ongoing coordination and collaboration among affected federal agencies, state and local governmental entities, and private interests;”¹⁷ and
- The Department of Agriculture notified Congress pursuant to section 5(d) of the NSTA of USDA’s inability to constitute the membership of the Council for the Trail due to lack of adequate public interest.¹⁸

Upon review of the relevant federal register notice, it is clear that the Forest Service unduly complicated the proposed organization of the council in a manner contrary to the direction of Congress (and Federal Advisory Committee Act (“FACA”) regulations applicable to *nondiscretionary advisory committees*) thereby causing the Council not to be constituted. Under the NSTA, Congress specified that such Councils would be constituted for a period of ten years from the date of establishment¹⁹ and required the appointment of members from three groups: (1) the head of each Federal department or agency administering lands through which the trail route passes; (2) a member appointed to represent each State through which the trail passes; and (3) one or more members appointed to represent private organizations, including corporate and individual landowners and land users, which in the opinion of the Secretary, have an established and recognized interest in the trail.²⁰

In contrast, the Secretary of Agriculture required for the third class of representatives at least nine additional members including: at least one representative from Arizona State Parks; at least one representative from County or Municipal Parks and Recreation; at least one representative for Tribes; at least two representatives from the National Scenic Trail and non-motorized trail users organizations; at least one representative from Conservation organizations;

¹⁵ <https://www.federalregister.gov/documents/2014/02/24/2014-03793/arizona-national-scenic-trail-advisory-council>

¹⁶ Notably, this implies the advisory committee was formed, and continued upon initial expiration in 2016, which is contrary to the Service’s explanation that it was never formed. In fact, the FACA database evidences as established committee system ID (Committee # 2480) which can be viewed at: <https://www.facadatabase.gov/FACA/s/FACACommittee/a10t0000001h0Wa/com003041>

¹⁷ Forest Service Response to Comments at pg. 13. Notably, a single meeting of the Arizona Trail Administer and AMA on August 13, 2019 to hear concerns and discuss the planning process is not sufficient to discharge the Forest Service of its obligations under the NSTA.

¹⁸ *Id.* The content of this purported notification is unknown and was not provided by the Forest Service.

¹⁹ Accordingly, the advisory committee charter could not expire. 41 C.F.R. § 102-3.55 (1).

²⁰ 16 U.S.C. § 1244 (d).

at least one representative from Gateway Communities; at least one representative from the Ranching industry; and at least one representative from Private landholders along with accompanying resumes, cover letters, background information and to the extent possible, “individuals with demonstrated ability to represent women, men, racial and ethnic groups, and persons with disabilities.”

While AMA/ARPA appreciate the explanation offered by the Forest Service, the explanation proffered is insufficient justification for the failure to establish the ANST Advisory Council. Clearly, “form over substance” is what caused the ANST Council not to be established, not a lack of adequate public interest. The ANST Council is required by statute (i.e., a non-discretionary council). By definition in the applicable FACA regulations, a non-discretionary advisory committee means:

“any advisory committee either required by statute or by Presidential directive. A non-discretionary advisory committee required by statute generally is identified specifically in a statute by name, purpose or function(s), and its establishment or termination is beyond the legal discretion of an agency head.”²¹

Further, in Executive Order 13875, President Donald J. Trump asked federal agencies to conduct a review of *discretionary* advisory committees, *not advisory councils required by statute*.²² Thus, neither Sonny Perdue, nor the Department of Agriculture had authority to recommend termination or otherwise terminate the ANST Council. That authority belongs to Congress and the ANST Council should have been constituted and continued.

Finally, the FACA Committee public database documents the fact that ANST Council was in fact established.²³ This fact is contrary to the assertion that the Council was never formed due to lack of public interest.

The remedy for this statutory violation is to establish the ANST Council as directed by Congress, and obtain their input on the development of alternatives to the proposed trail planning corridor and publish a new comprehensive plan.

B. Failure to Engage in Full Consultation (16 U.S.C. §1244 (e))²⁴

Prior to the submittal of the CP to the House of Representatives and Committee on Energy and Natural Resources of the Senate, the NSTA requires *full consultation* with “affected Federal land management agencies, the Governors of the affected States, [and] the relevant advisory council established pursuant to subsection (d).”

²¹ 41 C.F.R. § 102-3.25.

²² <https://www.presidency.ucsb.edu/documents/executive-order-13875-evaluating-and-improving-the-utility-federal-advisory-committees>

²³ <https://www.facadatabase.gov/FACA/s/FACACommittee/a10t0000001h0Wa/com003041>

²⁴ AMA/ARPA Comments at pg. 5-6.

The Forest Service has not provided sufficient evidence that it conducted *full consultation* with the Governor of the State of Arizona or the relevant advisory council. Instead, in response to AMA/ARPA comments, the Forest Service advised that the State of Arizona (Governor’s Office) was granted cooperator status based on request of the Governor and that the Arizona State Parks and Trails Department commented on the draft EA.²⁵ While that level of interface with Arizona officials may satisfy the requirements of public outreach under NEPA, it does not evidence *full consultation* with the Governor of Arizona or remedy the failure to constitute and consult with an advisory council. Arizona State Trust Lands comprise 11% of the trail planning corridor, and state, county, municipal and private lands comprise 16% of the corridor. The Governor of Arizona has an obligation to ensure the value of Arizona State Trust Lands are not impaired and there is no evidence of the required Governor (and/or Arizona State Land Commissioner) interface included in the CP.

The remedy for this violation is either to evidence the *full consultation* with the Arizona Governor in the CP or, in the alternative, to form the ANST Advisory Council and fully consult with it and the Governor of the State of Arizona in the development of a revised plan that is consistent with the intent and directives of Congress.

C. Failure to Meet Comprehensive Plan Content Requirements (16 U.S.C. § 1244 (e)(1) – (3))²⁶

The NSTA sets forth three relevant comprehensive plan content requirements:

- #1) specific objectives and practices to be observed in management of the trail, including the identification of all significant natural, historical, and culture resources to be preserved . . . ;
- #2) an acquisition or protection plan, by fiscal year, for all lands to be acquired by fee title or lesser interest, along with the detailed explanation of anticipate necessary cooperative agreements for any lands not to be acquired; and
- #3) general and site-specific development plans including anticipated costs.

As it relates to plan content requirement #1): the CP fails to identify *all significant natural, historical and cultural resources* to be preserved *as a result of the trail planning corridor*. Of the 100 pages of the final CP, five (5) pages of Chapter 3 (pgs. 27-31) are dedicated to the “resources to be preserved” (while nearly fifty (50) pages are dedicated to “specific objectives and practices” to be observed).

As a result of AMA/ARPA’s comments, three new categories of resource themes suitable for preservation were added (i.e., Exceptional Scenic Beauty and Variety; Wilderness and Backcountry Settings; Diverse Ecological Communities and Valued Plant Species). Except for the portion of the ANST traversing the Matatzal Wilderness, none of the new description provided establishes the existence of *significant natural, historical or cultural resources within the trail*

²⁵ Response to Comments at pg. 7.

²⁶ AMA/ARPA Comments at pg. 6.

planning corridor. The fact that “astonishing examples of exceptional scenic beauty and biodiversity unique to Arizona” can be seen from the ANST or that there is “astonishing diversity of wildlife species in every region” of the ANST is not sufficient to meet the requirements of Congress or warrant the recommendation of a one-mile travel planning corridor.²⁷ And, as previously raised in AMA/ARPA comments, only 18% of the 800-mile trail corridor has even been inventoried for cultural resources. A passage-by-passage analysis of the ANST should have been included in the CP along with a disclosure of nationally significant resources *within the trail planning corridor* to justify the recommended uniform width.

As it relates to plan content requirement #2): Appendix F of the CP is a mere recitation of land ownership traversed by the ANST and discussion of generalized methods of federal acquisition or control. It does not contain any specific plan, by fiscal year, for lands to be acquired either by fee title or lesser interest or identify necessary cooperative agreements for specified lands not to be acquired. In light of the fact that over 1/3 of the ANST needs to be relocated, this is a major deficiency.

As it relates to plan content requirement #3): there are no site-specific development plans or anticipated costs included in the CP. The Forest Service controls approximately 72% of the trail miles. At a minimum, Forest Service site-specific development plans should have been included along with a disclosure of anticipated costs. The Forest Service’s listing of a few priority actions in Appendix E does not satisfy this obligation (none are site specific). Moreover, there is a complete absence of any site-specific development plans or costs from any other federal land management agencies controlling other trail segments (e.g., BLM, NPS, BOR). In fact, the only costs included in the final EA (Table 6 at pg. 98) are Forest Service costs for administering Forest Service segments of the ANST regardless of CP implementation. This does not meet the statutory requirement.

The remedy for the failure to include the required plan content information is to obtain it and include the required information in a revised CP. Otherwise, how will the relevant Secretaries be able to make their ultimate right of way determinations in the absence of such critical information needed to weigh the pros and cons of their decision?

D. Impermissible Conditions, Objectives and Practices²⁸

The proposed management conditions, objectives and practices in the CP are not supported by an identification of nationally significant, natural, historical and cultural resources in areas through which the ANST passes.²⁹ The management objectives and practices must directly relate to those identified resources within *the recommended trail planning corridor*. Further, there is no correlation of many of the CP “recommended” prohibitions to the preservation of said unidentified “nationally significant” resources. As such, there is no justification for the recommended uniform

²⁷ CP at pg. 28-29.

²⁸ AMA/ARPA at pgs. 6-10.

²⁹ 16 U.S.C. § 1242 (a) (2) (National scenic trails, established as provided in section 1244 of this title, which will be extended trails so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the *nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass* ”).

one-mile corridor and the establishment of a recommended “planning corridor” is not required CP content.³⁰

Further, the inclusion of “desired conditions” is wholly outside the authority of the Forest Service and is not a statutory comprehensive plan content component. The NSTA requires the inclusion of “*objectives and practices to be observed in the management of the trail*,” it does not include a list of “desired conditions” that lead to land management prohibitions under the guise of water resource protection and or plant and wildlife protection. AMA/ARPA contend that the justification for the inclusion of “desired conditions” likely originates from Region 3 Designated Areas, Wilderness, and Wild and Scenic Rivers Forest Plan Revision Process Guidance under the 2012 Planning Rule (Nov. 2015). However, neither this Forest Plan Revision guidance, or the Forest Service planning regulations, are applicable here and should not be utilized in the development of the CP.

As stated in AMA/ARPA’s comments on the draft CP, many of the CP management “recommendations” will form the basis for land use policy and land use plan revisions and will have undue influence on federal land managers when being considered in conjunction with project level decision-making.³¹ None of the management “recommendations” recognize valid existing rights under the mining law or existing land use authorizations (exploration or mine plans of operation; existing rights of way requiring reauthorization, etc.) or the provisions of the NSTA requiring that full consideration be given to:

“minimizing the adverse effects upon the adjacent landowner or user and his operation. Development and management of each segment of the National Trails System shall be designated to *harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land.*”³²

For example, in the Multiple Use section of the CP (pgs. 94-95), the Forest Service recognizes that “[m]ore of the AZNST exists on lands with multiple uses than on protected lands managed primarily for preservation or low impact recreation” but then the CP fails to include related management practices to give effect to that reality. At a minimum, provisions recognizing exceptions for circumstances needed to meet statutory requirements, such as mining laws, statutory multiple use mandates,³³ or laws to protect public health and safety, should be included in several

³⁰ Nor is it consistent with the USDA Trail Construction and Maintenance Notebook (2007) and what constitutes a “trail corridor” as set forth therein (e.g., “the trail corridor is, the tread and the area above and to the sides of the tread.”)

³¹ A prime example of such prescriptive influence is in the Forest Service’s Response to Comments (pg. 34) where it states, “Each land management agency is responsible for planning and developing the AZNST in a way that harmonizes with other authorized land uses while ensuring the AZNST and its resources, qualities, values, associated settings, and uses are not degraded.”

³² 16 U.S.C. § 1246 (a) (2). Moreover, nothing contained within E.O. 1395 regarding the protection of trail corridors associated with national scenic trails overrides this obligation.

³³ See e.g., 16 U.S.C. § 528. The Multiple Use Sustained-Yield Act of 1960 (“MUSY”) is one of the foundational pieces of federal legislation relative to the administration of National Forest System (“NFS”) lands in that the statute added consideration of outdoor recreation, range, timber, watershed and wildlife and fish as supplemental management resources. Importantly, MUSY mandated that “[n]othing herein shall be construed so as to effect the use or

of the management practices in various resource sections. In addition, there is no statutory authority for the Forest Service to “recommend” mitigation requirements be imposed.³⁴

The remedy for this violation is, at a minimum: a) remove the Water Resource Protection and Plant and Wildlife Protection sections; b) remove all Desired Conditions from all resources in Chapter 3; c) incorporate provisions recognizing the need “*harmonize and compliment established multiple-use plans*” for all resource sections; d) modify the following Multiple Use Management Practices as shown below in track changes (referencing the relevant CP numbering):

1. When evaluating proposed projects or permitted uses, consider federal land multiple use mandates including MUSY and the Federal Land Policy and Management Act of 1976; the requirements of the General Mining Act of 1872, as amended; the Mining and Minerals Policy Act of 1970; the National Materials and Minerals Policy, Research and Development Act of 1980, as amended; the Energy Act of 2020; and The Infrastructure Investment and Jobs Act of 2021.

4. To the extent not otherwise inconsistent with valid existing rights, land use plans should include protections for the national trail planning corridor and AZNST resources, qualities, values, and associated setting and uses, while providing direction for managing the AZNST for compatibility with other land uses.

5. Analysis of activities that have the potential to impact the scenic, natural, historic, or cultural resources associated with the AZNST should be informed by an agency conducted inventory of national trail resources, qualities, values, and associated settings. The analysis should determine whether projects would substantially interfere with the nature and purposes of the AZNST, subject to valid existing rights and statutory multiple use mandates.

6. Remove in whole [there is no authority to recommend or impose mitigation].

E. Inconsistent Non-Substantial Trail Relocation Standard³⁵ (16 U.S.C. § 1246 (b))³⁶

The CP imposes an unwarranted “equal to or better location” standard for non-substantial relocations of the ANST and requires proponents of relocation to conduct an “optimal location review” prior to submitting a relocation proposal. This unwarranted standard and requirement are inconsistent with the requirements of NSTA and should be removed. Not only are these standards contrary to the NSTA, they are also impracticable and burdensome on proponents who may have a statutory right to conduct activities within and outside of the trail planning corridor and need to relocate the ANST. Further, over 1/3 of the ANST exists on motorized roads (thus requiring trail relocation). It is highly likely that the burden of the “equal or better standard” and/or the optimal

administration of the mineral resources of national forest lands or to affect the use or administration of Federal lands not within national forests.”

³⁴ See e.g., CP Visual, Aural, and Dark Sky Resource Protection (Management Practices #3) and Multiple Use (Management Practice #6).

³⁵ The CP defines a relocation as moving the ANST outside of the trail planning corridor as opposed to a realignment (which would occur within the planning corridor). See CP at pg. 46 (FN12).

³⁶ AMA/ARPA Comments at pg. 12.

location review process will unnecessarily complicate the relocation and prevent a substantial portion of the ANST from ever meeting the intended purpose of the NSTA.

The remedy for this legal issue is to remove reference to the “equal or better location” standard and the “optimal location review” process. In the alternative, exceptions for meeting the standard and having to undertake the optimal location review should be provided for those having valid existing rights within or adjacent to the trail corridor if relocation occurs thereon.

AMA/ARPA requests a meeting with the reviewing officer to discuss the issues raised in this objection and a potential resolution of the issues prior to a written response to the objections. Thank you in advance for your consideration of the meeting request, the objections and the proposed remedies offered herein.

Sincerely,

A handwritten signature in cursive script that reads "Steve Trussell". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Steve Trussell, Executive Director

Attachments

Exhibit A



ARIZONA MINING ASSOCIATION
916 W Adams Street Suite 2
Phoenix AZ 85007
(602) 266-4416

September 18, 2017

Cal Joyner
Regional Forester and Reviewing Officer
333 Broadway Blvd. SE
Albuquerque, N.M. 87102

Re: Arizona National Scenic Trail

CC: Laura White, Arizona National Scenic Trail Program Manager

Dear Mr. Joyner:

AMA is a diversified mining association whose members are dedicated to responsible, sustainable and safe mining in Arizona. The AMA's mission is to be the primary advocate of the Arizona mining industry through promoting sound public policy at all levels of government, educating the public about the benefits of mining, and supporting the sustainability of a safe and responsible mining industry. AMA and its members are emblematic of the important role that hard rock mining plays in the Arizona economy, as well as the economy of the nation as a whole.

The mining industry in Arizona has supported the Arizona National Scenic Trail ("the Trail") since its inception and will continue to do so. As indicated on the attached map, the Trail runs directly through the Copper Corridor and other highly mineralized areas within the state. Several of our member companies are in close proximity to the Trail, and their operations could be directly impacted by the proposed Comprehensive Plan.

Our overarching concern is that the current scoping process appears to go well beyond the intent of Congress as outlined in the National Trails Management Act ("the Act").

The Act requires the U.S. Forest Service (the "USFS") to prepare a Comprehensive Plan for the acquisition, management, development and use of the Trail but does not provide authority to add an additional layer of restrictive land use management outside the Trail right-of-way which would have negative impacts on current and future mineral exploration and development, future energy projects as well as associated employment and economic growth. The proposed nature and purposes of the Trail conflicts with the Federal Land Policy Management Act (FLPMA) and other multiple use policies pertaining to public lands, especially those outside the Trail's right-of-way.

The public scoping document for the Trail indicates that the Comprehensive Plan will a) serve as a Trail-wide vision and measuring stick for all proposals on the Trail, b) mandate that all actions "meet the nature and purposes of the Trail," and c) "define the ideal Trail setting and establish the context of what types of uses and activities are appropriate for the Trail and its corridor." It is premature to begin scoping before stakeholders are provided with more complete information such as a proposed Comprehensive Plan regarding the intended uses and restrictions proposed by the USFS.

The project timeline provides a very brief 30-day comment period after the draft Comprehensive Plan and an Environmental Assessment have been released. The proposed planning schedule is contrary to the NEPA process

requirement. A proposed Comprehensive Plan should trigger the NEPA process and associated public scoping period. The determination of whether an Environmental Assessment or an Environmental Impact Statement is needed should then be based in part on the public scoping comments.

A required component of the Comprehensive Plan is to achieve desired conditions as well as specific policy and guidelines for Trail administration. It appears that USFS and the Bureau of Land Management intend to incorporate the Comprehensive Plan as policy and encourage restrictive state and local land use planning (i.e. restrictive zoning within the corridor). This is not the intent of the Act nor its purpose.

The proposed key objectives and practices state that no new surface or subsurface occupancy for energy or minerals shall occur within a minimum half mile wide Management Corridor to be established along the Trail. This would negatively impact development and the multiple use purposes on public lands. The public scoping document calls for an even wider management corridor under certain subjective circumstances, such as the preservation of a “viewshed.” This loosely defined criterion will affect mining operations that are visible from the Trail. It also encourages similar land use restrictions on private lands through restrictive zoning by local governments and cooperative agreements with private parties. The key objectives and practices further encourage local governments to work with existing operations and private landowners to develop mitigation measures and minimize impacts to the Trail. There is no legal authority for local governments to ask for mitigation based on current operations and this type of activity complicates the already lengthy permitting process and adds to the cost of doing business in Arizona.

Due to the Trail’s proximity to existing mines as well as located mining claims which could be developed in the future, it will be necessary to relocate portions of the Trail. The scoping document says that an “optimal location review process” will be part of the Comprehensive Plan and that decisions will be made by “relevant management agencies under separate NEPA review.” Without the ability to view the proposed process in advance, we are concerned that it will be costly and time consuming and, therefore, prevent expansion and development of projects that could create new jobs for our state. Crossing the Trail in the course of routine mining operations will also be affected if additional land use restrictions are put in place.

On behalf of the hard rock mining industry which contributes \$4.3 billion annually to Arizona’s economy and provides nearly 44,000 direct and indirect jobs, we request that:

- 1) More comprehensive documentation be provided to stakeholders on the front end of the public scoping process;
- 2) Expanded timeline be provided for public comment on the draft Comprehensive Plan and Environmental Assessment;
- 3) The Comprehensive Plan should comply with FLPMA, NEPA and other applicable land use laws;
- 4) No new restrictive land use policies should be promoted, encouraged or established that would limit mineral exploration, the operations of existing mines, mines under development or claims for future mining activities in violation of the Act;
- 5) No new or expanded mitigation requirements be promoted, encouraged or established; and
- 6) The final Management Plan does not include any land use limitations or policies that exceed the USFS authority as outlined in the National Trails Management Act (“the Act”).

Thank you for the opportunity to provide input into the proposed Comprehensive Plan for the Trail. We look forward to working with you and other stakeholders to ensure that the Trail can offer recreational opportunities while sustaining economic activity and jobs in the state of Arizona.

Sincerely,

A handwritten signature in black ink, appearing to read "Suzanne Kinney". The signature is fluid and cursive, with a large initial "S" and a long, sweeping underline.

Suzanne Kinney
Interim Manager
Arizona Mining Association



October 15, 2019

Vicki Christiansen, Chief
USDA Forest Service
1400 Independence Ave, SW
Washington, DC 20250-1111
vickichristiansen@fs.fed.us
(Via Email)

URGENT -- Request for appointment of an Arizona National Scenic Trail Advisory Committee within 30 days and suspend release of the U.S. Forest Service's draft Arizona National Scenic Trail Comprehensive Plan

Dear Chief Christiansen:

The Arizona Mining Association (AMA) supports multiple land use projects including the Arizona National Scenic Trail (Trail).

The Trail, which was designated a National Scenic Trail in 2009, is a compilation of existing trails that extend from Utah to Mexico. The Trail follows the Copper Corridor, which includes numerous active and inactive mines (see exhibit A).

The US Forest Service is the lead agency for preparation of the Trail's first Comprehensive Plan (Plan). The public scoping for the Plan has been concluded and the draft Plan is about to be released.

The plan was prepared without the input of a Trail Advisory Council as such a Council has yet to be established despite the fact that the Act that created the National Trail System calls for the establishment of an Advisory Council.

We ask that the Plan not be released until this group of stakeholders are seated as the Trail Advisory Council and are allowed to participate in the plan preparation.

The Statutes (see exhibit B) state that the Advisory Councils' key purpose is to advise on the development and implementation of the Plan, yet the Plan is being prepared in the absence of an Advisory Council. Such Councils provide transparency by publishing in the Federal Register their meetings and minutes. Such transparency is being overlooked to the detriment of the Plan.

Additionally, the Arizona National Scenic Trail is one of only four Trails in the nation that never had a feasibility study conducted and two of the four (Pacific Crest and Appalachian) Trails were designated in the original Act.

The AMA has contacted and met with organizations that have given support to the immediate establishment of this Advisory Council and suspension of the release of the draft Plan. AMA is a diversified mining association whose members are dedicated to responsible, sustainable and safe mining in Arizona and support multiple-use.

Please act quickly, support the appointment of the Advisory Council for the Arizona Trail, and suspend release of the draft Plan.

Respectfully,

A handwritten signature in black ink that reads "Steve Trussell". The signature is written in a cursive, flowing style.

Steve Trussell
Executive Director

cc: Sydney Hay, President, AMIGOS Trade Association
Rick Grinnell, Vice President, Southern Arizona Business Coalition (SABC)
Eric Loken, Chairman of the Board, Arizona Rock Products Association (ARPA)

Exhibit A

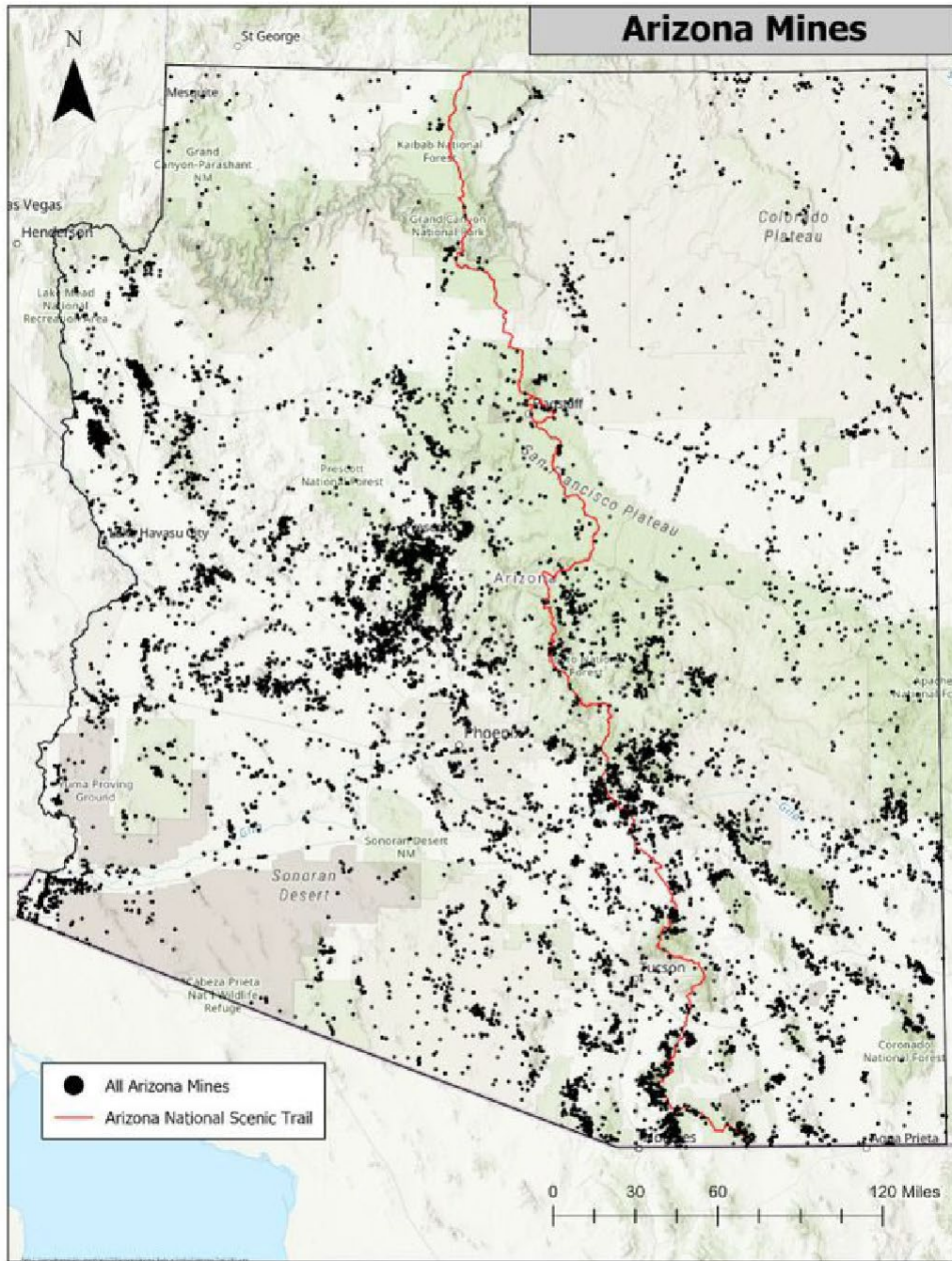


Exhibit B
16 USC § 1244(d) re Advisory Councils

The U.S. Department of Interior's January 2019 National Trails System Reference Manual 45 ("NTS Reference Manual"), addresses the need for Advisory Councils, the establishment of its charter and states that members are the responsibility of the appropriate 'administrative agency'.

The administrative agency is then tasked with the Advisory Council holding regular meetings that are announced in the Federal Register, they are required to record accurate minutes and follow up to make sure decisions are carried out.

The Advisory Council meetings must be open to the public.

The Manual emphasizes the importance of the Advisory Council in the Comprehensive Plan process (*emphasis added*):

NPS [National Parks Service] experience with National Trails System Advisory Councils indicates that they are generally an important aspect of the early years of a trail's administration. Advisors often provide important access to political officials, State agencies, and supporters of the trail. They have been very helpful in developing trail comprehensive management plans (CMPs), becoming advocates for plan implementation, and guiding trail administration in its infancy.

Background:

2014. The USFS announced its intent to form the Arizona National Scenic Trail Advisory Council for which a Charter and Membership Balance Plan was filed, establishing that (*emphasis added*):

The purpose of the Council is to provide advice and recommendations to the Secretary of Agriculture (Secretary) on matters relating to the Arizona National Scenic Trail (Arizona Trail) including but not limited to, the development and implementation of a comprehensive plan, selection of rights-of-way, standards for the erection and maintenance of markers along the Trail, and interpretation and administration of the Trail, in compliance with the Act.

The 2014 Advisory Council was to consist of no more than 13 members, including a USFS, BLM and NPS representative, with the remaining 10 representatives comprised of:

- *one from the State of Arizona (selected by the Secretary from recommendations provided by the Governor);*
- *at least one from the Arizona State Parks;*
- *at least one from the counties and municipalities;*
- *at least two from National Scenic Trails and/or non-motorized trail organizations;*
- *at least one from conservation organizations;*
- *at least one from gateway communities;*
- *at least one from tribes;*
- *at least one from the ranching industry; and*
- *at least one from private landholders.*

2016. The Charter underwent a required renewal in 2016. It was revised to increase the number of members from 13 to no more than 35. This was done to “allow for broader recruitment of candidates” according to USFS Winter 2017 Plan Project Update Report.

According to the 2016 Membership Balance Plan and the Federal Advisory Committee Act (“FACA”) report filed along with the 2016 charter renewal, the additional positions on the Advisory Council are to have the following representatives:

- *the head of each Federal department or independent agency administering lands through which the trail route passes, or a designee;*
- *one or more members to represent each State through which the trail passes, that will be selected by the Secretary from recommendations made by the Governor; and representatives from state agencies and local governments; and*
- *one or more members ‘to represent private organizations, including corporate and individual landowners and land users, which, in the opinion of the Secretary, have an established and recognized interests in the trail, and such appointments shall be made from recommendations of the heads of such organizations.*

The 2016 Charter permits more members on the Advisory Council.

Arizona State Parks, the lead state agency statutorily designated via the Arizona State Parks Board at A.R.S. §41-511.15(B) to coordinate planning, establishing, developing, maintaining and preserving of the Arizona Trail, was no longer recognized in the Advisory Council membership.

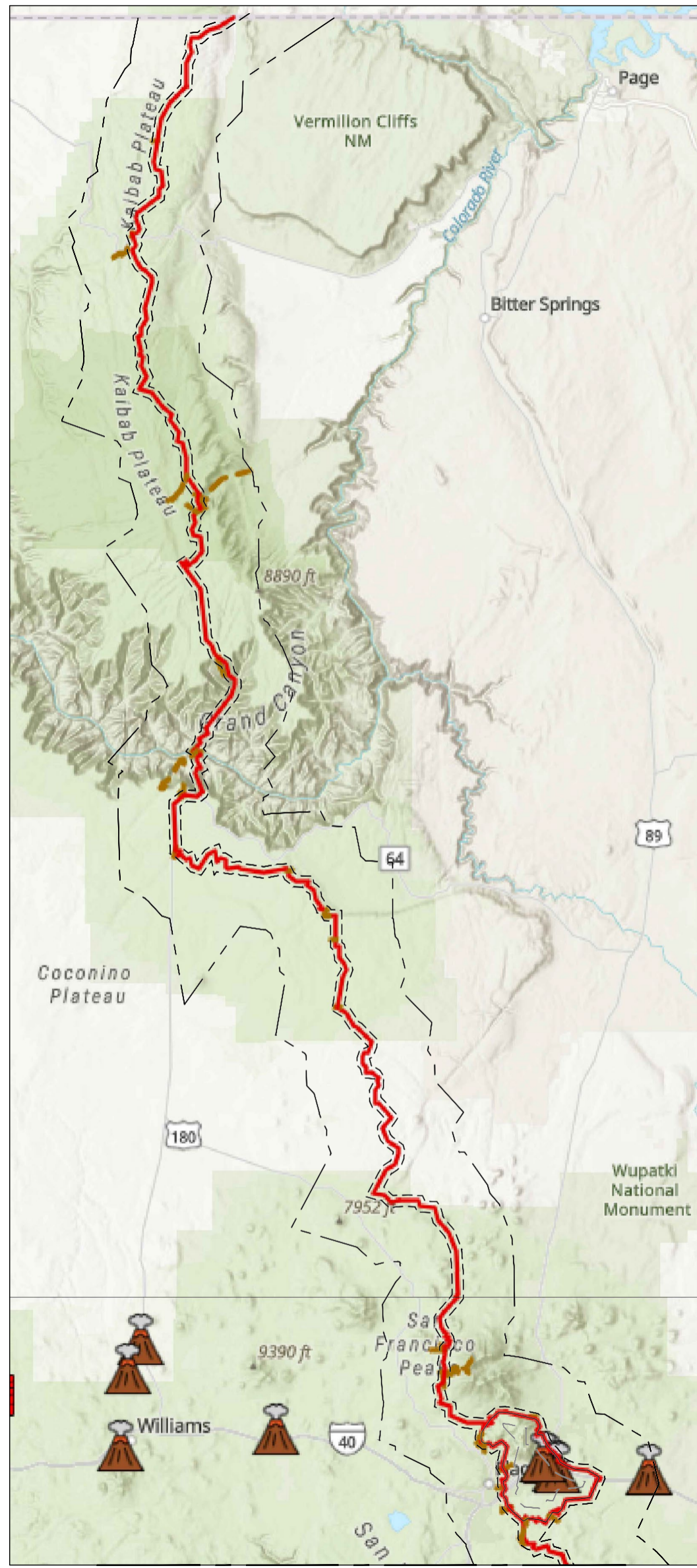
State law at A.R.S. §41-511.15(B)(4) specifically requires that the Arizona State Parks Board “in cooperation with federal and state land management agencies, prepare a trail management plan...,” which can only be accomplished if the Arizona State Parks Director or designee is a member of the Arizona NST Advisory Council.

2018. The Advisory Council Charter was required to undergo another renewal, but it did not. The 2016 FACA report was recycled.

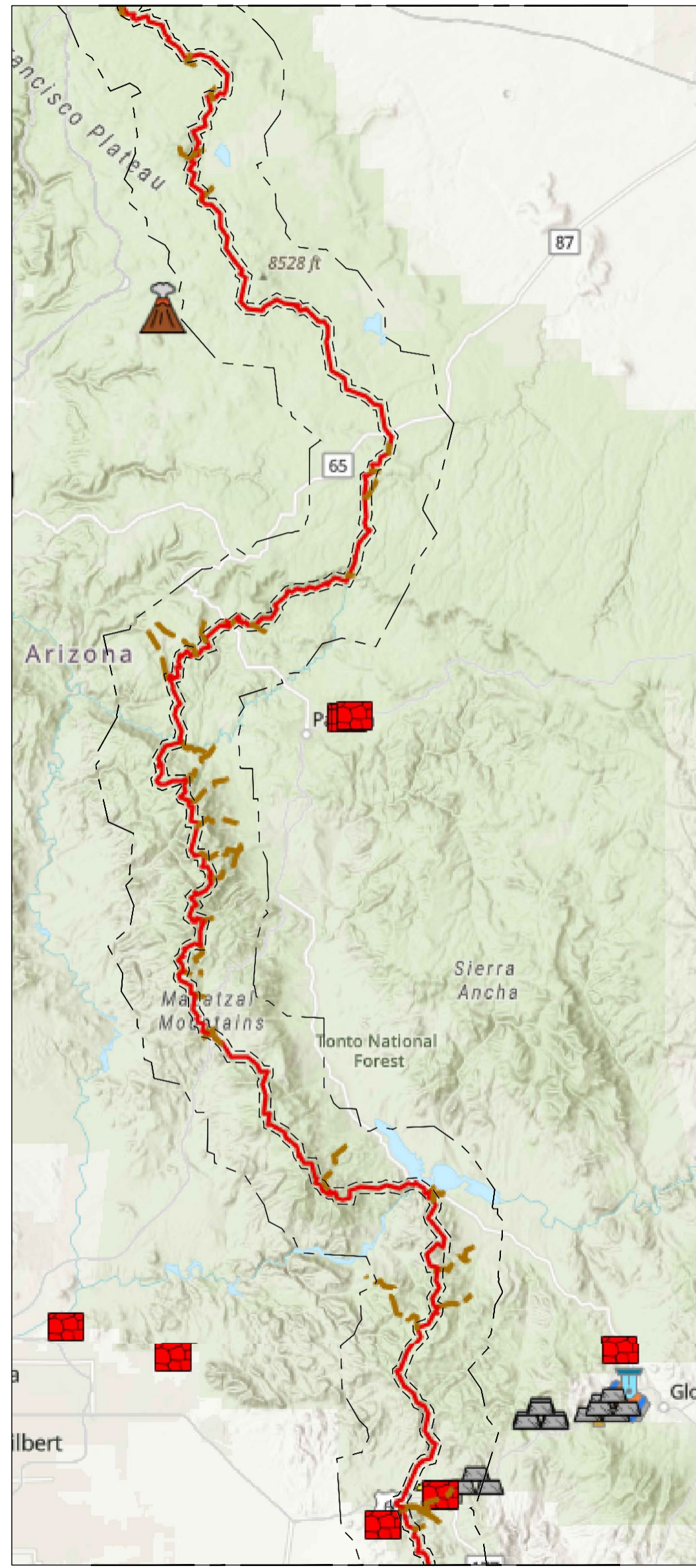
The 2016 report argued that even though the Advisory Council is statutorily mandated “*there are longstanding partnerships that have supported the Arizona National Scenic Trail . . . [therefore] it is possible to accomplish the work of the committee [Advisory Council].*” The statutory requirement for the Advisory Committee was waived.

Exhibit B

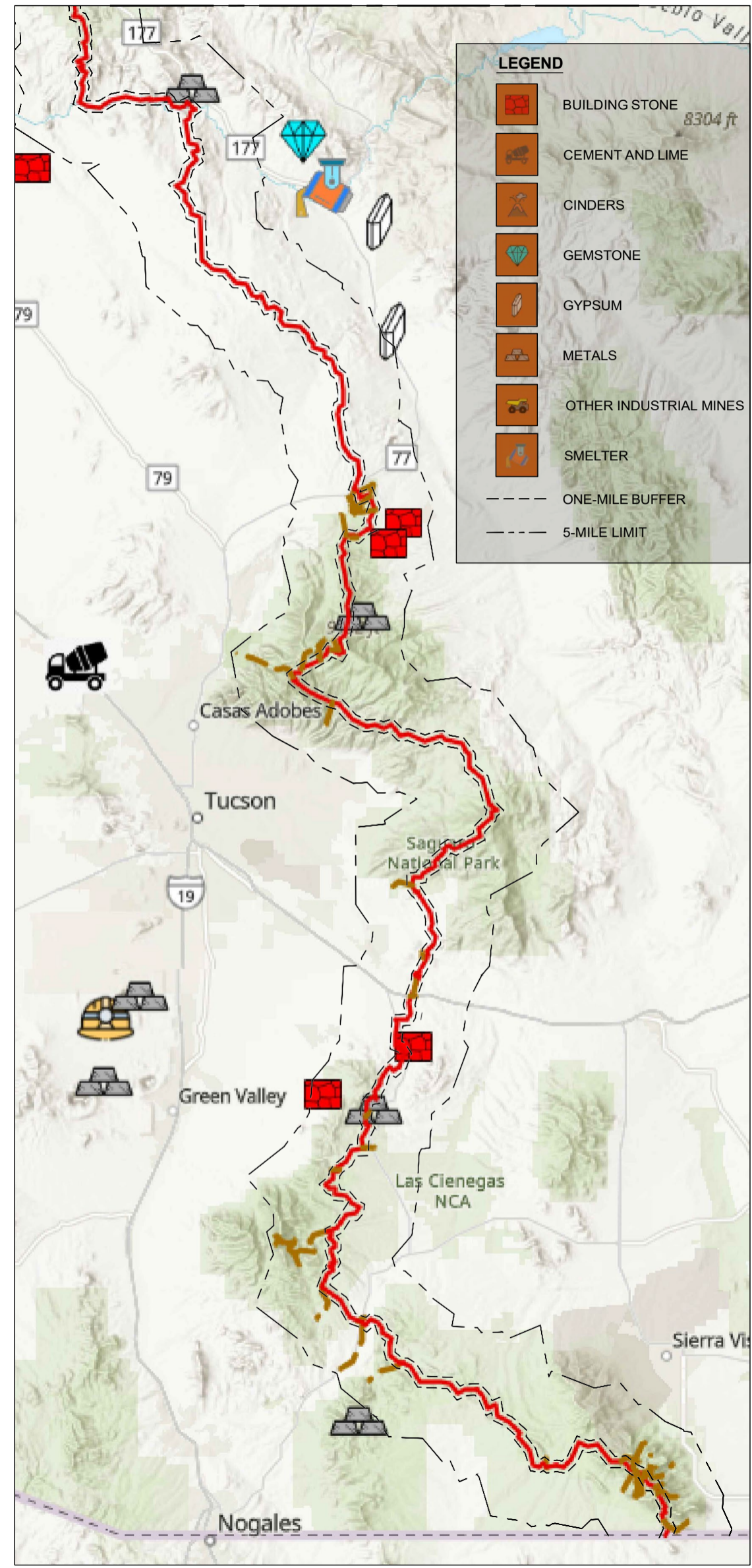
LANGHAM, CHRISTOPHER; 3/22/2024 2:28 PM; Layout: LAYOUT1; C:\USERS\LANGHAM\ONE DRIVE - HALEY ALDRICH\COM\DESKTOP\AAA ALL-DWG\FIG-1 ACTIVE-MINE-EXHIBIT.DWG



MATCHLINE SEE MIDDLE TOP



MATCHLINE SEE RIGHT TOP



MATCHLINE SEE MIDDLE BOTTOM

LEGEND

- BUILDING STONE 8304 ft
- CEMENT AND LIME
- CINDERS
- GEMSTONE
- GYPSUM
- METALS
- OTHER INDUSTRIAL MINES
- SMELTER
- ONE-MILE BUFFER
- 5-MILE LIMIT

HALEY ALDRICH
Haley & Aldrich, Inc.
400 E. Van Buren Street, Suite 545
Phoenix, AZ 85034
Tel: 602.760.2450
Fax: 602.238.9585
www.haleyaldrich.com

Project No.:	-
Scale:	AS SHOWN
Date:	MARCH 2024
Drawn By:	H&A
Designed By:	H&A
Checked By:	H&A
Approved By:	H&A
Stamp:	

Rev	Description	By	Date

ACTIVE MINES IN PROXIMITY TO ANST MANAGEMENT CORRIDOR

FIG-1