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Comments: October 1, 2019

Dan Dallas

Rio Grande National Forest Supervisor

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Via Email: r02admin_review@fs.fed.us

Subject: Rio Grande National Forest Land Management Plan Objection

Dear Forest Supervisor Dallas,

Pursuant to 36 CFR Part 219 Subpart B, the National Wildlife Federation (NWF), the Colorado

Wildlife Federation (CWF), and the New Mexico Wildlife Federation (NMWF) are objecting to portions of the Draft Record of Decision, Final Forest Plan, and Final Environmental Impact

Statement for the Rio Grande National Forest (RGNF) Land Management Plan (LMP). The responsible official for the Rio Grande National Forest is Dan Dallas, Forest Supervisor, Rio Grande National Forest.

The NWF, CWF and NMWF have been actively involved in the forest plan revision process, and we have provided comments at multiple stages of the process, including during the scoping process and in response to the Draft Plan and DEIS. See comments submitted on October 27, 2016 and December 28, 2017 respectively. In these comments we repeatedly advocated for the inclusion of multiple Special Interest Areas (SIAs) including the Spruce Hole/Osier/Toltec SIA (Spruce Hole SIA) and the Chama Basin Watershed Protection SIA (Chama Basin SIA). These SIAs include over 100,000 acres to promote wildlife connectivity, the protection and restoration of native Rio Grande cutthroat trout, and the conservation of wildlife and critical habitat. In our comments we also stressed the importance of including forest-wide wildlife plan components that best reflect and strengthen the Rio Grande National Forest's management direction of habitat for wildlife connectivity that is place based and at large-landscape scale.

We are objecting to the exclusion of the Spruce Hole and Chama Basin SIAs from the preferred alternative. We are also objecting to the exclusion of, and reduction of, forest-wide wildlife plan components that were part of the Draft LMP, but removed in the Final LMP. In excluding these SIAs and plan components, the RGNF LMP fails to adequately manage for place-based and large, landscape-scale wildlife connectivity and wildlife habitat. As a result, the Forest Service is not meeting its obligations under the 2012 Forest Planning Rule to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area. 36 C.F.R. [sect] 219.8

We also note that 4,538 members of the National Wildlife Federation filed letters and emails joining our objection. We are sending those under separate cover. Many of those individuals who join our objection commented in support of the special interest areas during the public comment period. Also attached to this objection is a letter

of support for the Spruce Hole and Chama Basin SIA from the Costilla County Board of County Commissioners.

I. The Forest Service Should Include the Spruce Hole/Osier/Toltec SIA and the Chama Basin Watershed Protection Special Interest Areas in the final Rio Grande Forest Management Plan

In our comments, we recommended that the Forest Service include both the Spruce Hole SIA and the Chama Basin SIA, as analyzed in Alternative D. See comments submitted 12.18.2017.

a. Spruce Hole/Osier/Toltec Special Interest Area

The 36,000-acre Spruce Hole SIA is a key migratory route for a number of species moving between Colorado and northern New Mexico. These species include mule deer, pronghorn, Rocky Mountain bighorn sheep and Canada lynx. The importance of this area to wildlife movement was highlighted in the 2016 Wildlife Doorways report, published by Natural Heritage New Mexico. This report identified the northern reach of the Northern Taos Plateau Wildlife Movement Focal Area that spans through the RGNF, Carson National Forest, and the Rio Grande del Norte National Monument. The Spruce Hole SIA and neighboring San Antonio Management Area found in New Mexico's Carson National Forest Draft Plan together provide connected and adjacent wildlife habitat to many species that use the multiple jurisdiction forest landscape. In short, the Spruce Hole is not only important for wildlife on the Rio Grande National Forest, it's important for wildlife on the Carson National Forest.

The Spruce Hole SIA and the San Antonio Management Area, which connect at the New Mexico, Colorado border, are no more than 18 miles wide, and surrounded by a diverse boundary of federal land and private land ownership. As there is no way for the Forest Service to prevent or minimize development on the private land surrounding these areas, special management is vital to ensuring that wildlife connectivity is maintained both within the RGNF and across the Colorado and New Mexico border. Given the narrowness of these areas, without proper management and protection, a bottleneck and barrier to wildlife connectivity could emerge. Such a bottleneck would result in decreased wildlife movement across the Rio Grande National Forest and into New Mexico. Ultimately, impediments to wildlife movement has serious long-term negative impacts on the life cycles of wildlife populations that rely on corridors to move to seasonal habitats and breeding grounds. A forest plan, which looks to the future, is a critical document for planning and managing ahead.

In response to our recommendation the Forest Service stated:

"the wildlife values represented by the Spruce Hole/Osier/Toltec area are adequately protected through sections of the plan dealing with species of conservation concern; federally listed, proposed, and candidate species; and plants and wildlife."

FEIS at 135

The Forest Service provides little detail as to why it believes the plan sufficiently protects wildlife species, habitat, and migratory routes. There are no plan components for at-risk species, except for inadequate plan components for the Canada lynx. Those components that do exist for wildlife and habitat connectivity will not sufficiently protect the acres in the proposed SIA and the vital role they play in connecting wildlife habitat. Finally, as discussed below, some plan components that offered protections under the draft LMP are removed from the final LMP, reducing even further the protections in place for wildlife and habitat connectivity. See FEIS at

21.

Absent further analysis from the Forest Service, we disagree with its conclusion that the lands within the Spruce Hole SIA are "adequately protected" without designation as an SIA. There is high oil and gas potential in Spruce Hole and as a result, without sufficient protections in place, the area is susceptible to oil and gas development.

Such development would have serious implications for migrating wildlife. By managing the area as an SIA for wildlife migration and connectivity and for high quality wildlife habitat within a pinch point on the Forest, the Forest Service will be better able to prevent and/or minimize these detrimental impacts.

Recommendation: Include the Spruce Hole SIA in the final RGNF LMP in order to manage the area for wildlife migration and connectivity and for high quality wildlife habitat

b. Chama Basin Special Interest Area

The 17,790-acre Chama Basin Watershed Protection Special Interest Area is of critical economic and cultural importance to local communities within Rio Grande, Mineral, Alamosa and Conejos Counties. The Chama Basin is valuable habitat and migration corridor for mule deer and elk. It is also a critical watershed for New Mexico. In response to our recommendation the Forest Service stated:

"[T]he forest plan does not recommend Chama Basin as a special interest area. The recreational and fish habitat values represented by the proposed Chama Basin Special Interest Area are protected through multiple plan components. Also, nearly 90 percent of the area is currently designated as Colorado roadless, which the plan incorporates as a management area."

FEIS at 136

While we agree that habitat connectivity and wildlife corridors are maintained through designated wilderness areas, Colorado roadless and river areas eligible for wild and scenic rivers designation in this SIA are insufficient protections of wildlife values and do not adequately provide for the necessary protections for wildlife connectivity and critical habitat throughout the SIA. While these designations are certainly a good start, the additional protections of an SIA are necessary to ensure the area is managed for connectivity and habitat. For example, the SIA would limit density of motorized traffic on trails throughout the area. The Roadless Rule does not prevent such traffic and as the number of visitors to the Front Range continues to grow, this type of trail use is expected to increase. Motorized traffic could lead to serious habitat fragmentation thereby hindering seasonal wildlife migration. Moreover, the Roadless Rule allows for oil and gas development under a no surface occupancy stipulation. In contrast, the SIA would not allow for any development, further increasing protection for wildlife. Overall the SIA adds an extra layer of protection necessary to protect the valuable resources within the Chama Basin.

Recommendation: Include the Chama Basin SIA in the final RGNF LMP in order to manage the area for wildlife migration and connectivity and for high quality wildlife habitat

c. Including the recommended SIAs in the Rio Grande Forest Plan would align with the Forest Service's regulatory obligations under the 2012 planning rule

In response to our recommendations for both the Spruce Hole and the Chama Basin SIAs, the Forest Service stated that they were not included because the creation "of additional special interest areas would increase the complexity of management areas." See FEIS at 135. As noted by the Forest Service, a revision goal of the Forest plan is to "update management area designation and plan direction to minimize complexity and promote ecosystem integrity and connectivity." FEIS at 27. However, in reducing "complexity," the Forest Service must still show that it is in fact promoting ecosystem integrity and connectivity. In short, the agency must still meet its regulatory obligations under the 2012 Forest Planning Rule; it cannot simply abdicate this responsibility under the guise of simplification. Amongst other provisions, the 2012 Forest Planning Rule requires that the plan provide for ecological sustainability:

"the plan must include plan components, including standards or guidelines, to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area, including plan components to maintain or restore structure, function, composition, and connectivity, taking into account: (i) Interdependence of terrestrial and aquatic ecosystems in the plan area. (ii) Contributions of the plan area to ecological conditions within the broader landscape influenced by the plan area. (iii) Conditions in the broader landscape that may influence the sustainability of resources and ecosystems within the plan area."

36 C.F.R. [sect]219.8

The designation of the Spruce Hole and Chama Basin SIAs is clearly consistent with the requirements under 36 CFR [sect] 219.8. These SIAs are critical to ensuring connectivity between

Colorado and New Mexico for mule deer, elk, Rocky Mountain bighorn sheep, Canada lynx, cougar and other species. Indeed, Colorado Parks and Wildlife released on September 6, 2019 a Department of Interior directed Colorado Wildlife Action Plan that identifies the San Juan Basin as a Colorado Migration Corridor Priority because of high wildlife use in the San Juan Basin and Chama Basin. The Colorado Wildlife Action Plan also identifies the Spruce Hole as a corridor(s) for, among other wildlife species, herds numbering nearly 6,000 Rocky Mountain elk and 6,000 mule deer. See Colorado Wildlife Action Plan, 19-25.

Given the importance of these areas to wildlife habitat and connectivity, it is necessary that the Forest Service sufficiently protect these areas to meet its sustainability obligations under the Forest Planning Rule. As noted above, the current plan fails to offer sufficient protections to wildlife and wildlife connectivity. As the population of Colorado continues to grow-it is expected to double by 2050[mdash]pressures on these wild areas will intensify. Therefore it is vital that proper protections are put in place now. Along with the plan components specific to the SIAs as previously proposed in in the 2017 Draft Plan, establishment of the SIAs will provide for adaptive forest management opportunities while also prioritizing, promoting and protecting wildlife habitat connectivity that will benefit the Special Interest Areas, the forest-wide landscape, and neighboring jurisdictions and communities.

Recommendation: The Forest Service should include the Spruce Hole/Osier/Toltec and Chama Basin Watershed Protection SIAs in the final LMP.

d. Including the Spruce Hole and Chama Basin SIA reflects Best Available Science for maintaining wildlife connectivity

The use of best-available science is not only a key component in creating a land management plan that reflects the best-science practices on the forest landscape, but it is a requirement under the 2012 Forest Planning Rule, 26 C.F.R. [sect] 219.4. Science gathered from the 2016 Wildlife Doorways report, which was data compiled from Colorado Parks and Wildlife, Colorado Natural Heritage, Colorado Department of Transportation, Jicarilla Apache Tribe, New Mexico Department of Game and Fish and New Mexico Department of Transportation recognizes the importance of the wildlife habitat and connectivity values within these SIAs. A large amount of science data has been collected to illustrate the movement of various terrestrial species including Rocky Mountain elk and mule deer, which utilize the Spruce Hole and Chama Basin areas for various ecological purposes necessary to their survival. Although the Forest Service sites to this report in their plan, they do not seem to rely on its data to create sufficient protections for migrating animals.

II. The Forest Service did not sufficiently analyze the Spruce Hole/Osier/Toltec and Chama Basin Watershed Protection SIAs in any of the alternatives as required by the National Environmental Policy Act

The Forest Service has not met its fundamental duty under the National Environmental Policy Act (NEPA) to consider reasonable alternatives. 40 C.F.R. [sect] 1502.14. Consideration of alternatives is the "linchpin" of an

Environmental Impact Statement (EIS). *Dubois v. Dept. of Agriculture*, 102 F.3d 1273, 1286-87 (1st Cir. 1996) (internal citations omitted). Indeed, the existence of a "viable but unexamined alternative renders the environmental impact statement inadequate." *Muckleshoot Indian Tribe v. U.S. Forest Serv.*, 177 F.3d 800, 814 (9th Cir. 1999). Given the minimal analysis the Forest Service gave to the Spruce Hole and Chama Basin SIA recommendations, including these SIAs in the final plan remains a viable but unexamined alternative.

NEPA requires that alternatives be studied, developed and described in order to guide the substance of the environmental decision-making process, and provide evidence that the mandated decision-making process has actually taken place. Informed and meaningful consideration of alternatives is an integral part of the statutory scheme. *Bob Marshall Alliance v. Hodel*, 852 F.2d 1223, 1228 (9th Cir. 1988), cert. denied, 489 U.S. 1066 (1989) (citations and emphasis omitted). Alternative D does not allow for an informed and meaningful consideration of alternatives because it is far too broad. Rather than looking at the benefits of proposed SIAs, Alternative D lumps seven proposed SIAs together and analyzes the affected environment and environmental consequences of either including all seven SIAs or excluding all seven SIAs. See FEIS chapter 3. Given the range of SIAs included in Alternative D, a more meaningful analysis would look at the unique benefits and impacts of the individual SIAs or at the very least look at an alternative that includes a more thoroughly developed concept of some of the proposed SIAs. In our comments submitted on the DEIS and Draft Plan, we recommended the Forest Service include the Spruce Hole and Chama Basin SIA as part of the RGNF LMP. As part of this recommendation we provided specific plan components and management approaches for the SIAs. While Alternative D considered including, along with many other interest areas, both the Spruce Hole and Chama Basin SIAs, the analysis of this alternative contained none of the recommended plan components and management approaches that give meaning to the SIA designation. See comments submitted Dec 28, 2019 for recommended components, also see FEIS at 44. Moreover, by broadly analyzing an alternative with an increased number of SIAs, rather than looking at the specific SIAs under recommendation, the FEIS fails to recognize the critical role both Spruce Hole and Chama Basin SIA play in protecting habitat connectivity. In failing to consider the plan components and management approaches, the Forest Service diminished the value of the alternatives analysis. Without these components, an analysis comparing the inclusion of the SIAs in the final LMP to a LMP without the SIAs becomes less meaningful.

The Forest Service's NEPA-mandated consideration of alternatives should include significant and viable alternatives that were suggested by the public during the comment period. *Wilderness Workshop v. Bureau of Land Mgmt.*, 342 F. Supp. 3d 1145 (D. Colo. Oct. 17, 2018) (holding that BLM violated NEPA by failing to consider "significantly distinguishable" alternatives). The inclusion of the Spruce Hole and Chama Basin SIA, including the plan components and management approaches that were proposed by the undersigned organizations, are both within the Forest Service's statutory mandate and meet the stated needs for the proposed RGNF LMP.

Recommendation Conduct an alternatives analysis that includes the recommended plan components and management approaches submitted in our comments.

III. The Forest Service has not adhered to the spirit of the public participation requirements under both NEPA and the 2012 Forest Management Act

Public participation is a key requirement of both NEPA and the 2012 Forest Management Act. Although the Forest Service may have complied with the letter of the law throughout this process, it has not complied with the spirit of public participation.

In Section 101 of NEPA Congress unambiguously declares that:

"[I]t is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures to create and

maintain conditions under which man and nature can exist in productive harmony, and fulfill the social economic, and other requirements of present and future generations of Americans."

42 U.S.C. [sect] 4331(a)

Central to achieving this congressionally mandated goal is transparency and public engagement in the agency decision-making process. Environmental decisions are not to be made behind closed doors, but instead should be made after informing and engaging the public: "The sweeping policy goals announced in [sect] 101 of NEPA are thus realized through a set of 'actionforcing' procedures that require that agencies take a 'hard look' at environmental consequences," and that provide for broad dissemination of relevant environmental information." *Robertson v. Methow Valley Citizens Council*, 109 S. Ct. 1835, 1846 (1989). The procedural requirements of NEPA "ensure that the agency will inform the public that it has indeed considered environmental concerns in its decision-making process." *Baltimore Gas & Elec. Co. v. Nat. Res. Def. Council*, 103 S. Ct. 2246, 2252 (1983) (citing *Weinberger v. Catholic Action of Hawaii*, 102 S. Ct. (1981))."

The opportunity for meaningful public participation is also embodied in the 2012 Forest Planning Rules. See 36 C.F.R. [sect] 219.4. As part of this public process, a number of organizations representing a variety of stakeholders, including NWF, CWF and NMWF have recommended the inclusion of SIAs in the RGNF LMP. Despite these numerous comments, the Forest Service continues to overlook these recommendations.

The way in which the public has been engaged throughout this process does not adhere to the spirit of public and community participation as envisioned by either NEPA or the 2012 Forest Planning Rule. For example, the Rio Grande National Forest 90-day public comment period fell during both the 2017 holiday season as well as the hunting season. In working with various sportsmen organizations and with local community organizations in the San Luis Valley, it became apparent that the 90-day public comment period was not a true reflection of the actual time needed to properly explain the forest revision plan process and to encourage public participation and public comments in the forest plan revisions process. In engaging various sportsmen and traditional land users throughout the region and in recognizing the challenges of encouraging public participation during the Thanksgiving and end-of-year holidays, we asked the RGNF for a limited extension to ensure proper community engagement and to ensure that the deadline for commenting would not occur during the holiday season. See letter to RGNF dated Dec 11, 2017. This request for a brief extension was denied. Additionally, this timing made it difficult for local governing bodies to weigh in with support letters or resolutions.

Recommendation In reviewing the objections ensure that meaningful public participation plays a key role in this process.

IV. The Forest Service has removed important plan components from the final LMP

In our comments, we urged the Forest Service to recognize the importance of wildlife connectivity and wildlife habitat in the final LMP and to manage the Forest accordingly. An important part of managing the RGNF for wildlife is through plan components including conditions, standards, and management approaches. As a result, we were surprised to see that with little explanation or analysis, the Forest Service has removed from the final LMP the following conditions, standards and management approaches.

Desired Conditions

DC-WLDF-6: Habitat conditions promote the prevention and control of wildlife-related pathogens and diseases, such as chronic wasting disease. (Forestwide)

DC-WLDF-8: Manage northern goshawk nesting territories on the basis of nest site, postfledging, and foraging area needs. Nest site buffers should encompass 25-30 acres and postfledging areas 420 acres, with

considerations for surrounding foraging habitat. (Forestwide)

DC-WLDF-9: Maintain a road density of 1.5 miles/per square mile or less in winter concentration areas, winter range, calving areas, and transition habitat. (Forestwide)

DC-WLDF-10: Where possible, retain public ownership of wildlife travelways adjacent to public highways, or where public lands are identified as a key component in maintaining the integrity of seasonal movements by wildlife. (Forestwide)

DC-WLDF-11: Maintain habitat components of size, quality, and spatial extent necessary on the landscape to provide for connectivity of movement between seasonal habitat (i.e., wildlife travelways) as identified and mapped by Colorado Parks and Wildlife or other science-based partners (e.g., Colorado Natural Heritage Program). (Forestwide)

Standards

S-WLDF-3: Provide security habitat in winter range, winter concentration areas, severe winter range, and lambing areas during big-game use seasons from December 1 to March 31. Employ access restrictions and seasonal closure as necessary. Dates may vary depending upon variations in winter use. (Forestwide)

S-WLDF-9: Maintaining screening cover to minimize the disturbance and harassment of deer and elk along open roads and around openings on the basis of site conditions. Design screening cover design consistent with the disturbance regime characteristics of the forest cover type it is occurring in. (Forestwide)

S-WLDF-12: Do not authorize actions that reduce the effective use of habitat on severe winter range and winter concentration areas between approximately November 1 and April 15. (Forestwide)

Management Approaches

MA-WLDF-9: Use vegetation management and habitat improvement strategies, including but not limited to prescribed fire, thinning, building stock ponds, and guzzler placement, to help achieve and maintain desired conditions for big game winter habitat. (Forestwide)

MA-WLDF-22: Manage off-road travel on big game winter range areas, including over the snow track machines, during the primary use seasons for big game. Exceptions may be authorized under special use permit. (Forestwide)

MA-WLDF-23: Design management activities to provide forage and cover across the landscape to sustain ungulate populations and to support state population objectives. (Forestwide)

MA-WLDF-24: Maintain habitat components necessary to provide for connectivity of seasonal habitats as mapped by Colorado Parks and Wildlife. (Forestwide)

MA-WLDF-27: Identify and assess habitat connectivity needs at various spatial scales when conducting forest management activities at the project level, as necessary, on the basis of existing landscape patterns and local species concerns. Use a nesting of hydrologic unit codes at the scale(s) necessary to assess connectivity patterns (e.g., 8th-level hydrologic unit codes or smaller). Identify and use key stream zones and topographic features to help facilitate movement across broader landscapes. Movement zones of 400 to 600 feet in width may be sufficient to facilitate movement for most local species of conservation concern, including large predators, in most landscape conditions. (Forestwide)

If the Forest Service intends to remove these conditions, standards, and management approaches, it must provide a reasoned explanation for doing so, and it must explain why these removals will not impinge on its obligation to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area. 36 C.F.R. [sect] 219.8 In noting these changes the Forest Service simply stated:

"In response to internal and external comments received, plan components, including desired condition, objectives, standard, and guidelines have been revised to better meet the intent and direction of the 2012 Planning Rule (36 CFR 219) and its implementing direction (FSH 1909.12). The intent of the direction did not change. Rewrites combined like or redundant direction, added clarity and specificity."

FEIS 21

However, the Forest Service has provided no explanation as to why these specific conditions, standards and management approaches are redundant, and why removing them adds clarity and better meets the intent and direction of the 2012 Planning Rule. These components added important protective measures for both wildlife connectivity and high quality habitat. Removing them serves only to diminish these protections and further weakens the overall LMP.

Recommendation: Include the deleted components in the final LMP or provide a reasoned explanation as to why they were removed and why the remaining components achieve the same level of protection.

V. Conclusion

We very much appreciate the opportunity object on the RGNF LMP. We hope the Forest Service takes into account our serious concerns about the exclusion of the Spruce Hole and Chama Basin SIAs in the final plan, and works with the public to develop and LMP that protects habitat connectivity and high-quality habitat.

Sincerely,

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Literature Cited:

Wildlife Doorways:

<https://nhnm.unm.edu/sites/default/files/nonsensitive/newsfiles/>

WildlifeDoorways_NHNM%20Final%20Report%20for%20Website.pdf

Colorado State Wildlife Action Plan:

<https://www.nwf.org/westernmigrations/Documents/colorado-state-action-plan.pdf>

Attachment: Letter of Support from Costilla County Board of County Commissioners