San Joaquin del Rio de Chama Land Grant adopted objection by the
New Mexico Land Grant Council
Objection to the Carson National Forest Final Land Management Plan

November 1, 2021

The New Mexico Land Grant Council submits the following objections to the final draft land management plan (and appendices, including EIS) for the Carson National Forest. Since 2014, the New Mexico Land Grant Council has engaged with the three northern forests (Carson, Cíbola and Santa Fe) in the plan revision process and participated in anticipation and in the formation of the Planning Rule of 2012. The Council, with support from the Land Grant Studies Program at the University of New Mexico and the Merced Land Education and Conservation Trust (MLECT), and support from dozens of land grants, has arranged a number of listening sessions, which turned into MOUs, cost share agreements, and forest plan community collaboration. Additionally, Council staff has provided "Land Grant 101" sessions for new USFS employees of Region 3, as well as other education and outreach. The Council has served as a cooperative agency on all three forests, serving on the Government Working Group for the Carson National Forest. Further, the Council has encouraged the participation of land grants throughout northern and central New Mexico in the plan revision process.

As a cooperating agency and government working group member, the Council has not wavered in its support of *protecting and restoring the traditional uses of the national forests by land grant-merced communities.* These traditional uses are of profound cultural, historical, social and economic importance to land grant heirs and the boards of trustees that represent their interests. It is paramount that this plan corrects the mistakes of the 1985-1986 forest plans, where little public engagement led to the inconsistency as many forest supervisors and districts rangers waivered in their service to resource dependent communities that live amongst New Mexico's national forests, of which thousands of acres are their former land grant commons.

Land grant communities did not choose to settlement amongst national forest systems lands: by and large, their proximity to national forest lands is the result of the federal government purchasing thousands of acres of former land grant common land from the very speculators that unethically stole the land grant commons from our communities in the first place. More than *one million acres* became part of the public domain as a result of the 1897 U.S. Supreme Court's *U.S. v. Sandoval* decision, which erred in determining that the common lands remained under the ownership disposition of the sovereign (first the Spanish Crown, then the Mexican Republic and ultimately the U.S. federal government). This decision overturned a ruling of the Court of Private Land Claims, which, in line with previous decisions by the U.S. Office of the Surveyor General for New Mexico, held that the common lands were the fee simple property of the land grants to which they were granted. Though some lands were regained by individual heirs as homesteads, the bulk of these lands were included in the newly created forest reserves.

By the 1920s and through the Great Depression, the federal government began aggressively purchasing land grant common lands from the very land speculators that dispossessed land grant communities. This accelerated during the New Deal, where lands were purchased by several federal agencies before ultimately being transferred to the U.S. Forest Service and included in growing national forests. The result: 252,769.81 acres of the Carson National Forest, including the recently purchased Miranda Canyon of the Cristóbal de la Serna Land Grant, are now U.S. Forest Service lands. The Carson and

Santa Fe National Forests also share 52,169 acres of the Mora Land Grant, which was partitioned before portions were purchased by the federal government between 1931 and 1955. Overall, including both lands taken under the *U.S. v. Sandoval* decision and those lost through speculation, well over 900,000 of land grant common lands are now forest system lands (more than 100,000 acres of common lands are managed by the BLM).

Below is a narrative that discusses our reasons for objecting to the final land and resource management plan as presented. Attached are notations to the Council's November 2019 comments that we believe were not met by the U.S. Forest Service in neither their final draft plan nor in their responses to our comments.

Carson National Forest

Chapter 2. Forestwide Direction – Traditional Communities and Uses

The NMLGC recommends that the Carson National Forest, within its plan, outside of the general narrative and historic background, recognize the land grant-*merced* history within the Carson National Forest, especially considering the abovementioned acreages of former land grant common land within the forest lands managed by the Carson National Forest. The US Forest Service began purchasing land grant common land with the Las Trampas Land Grant (21,151 acres) in 1926 and the Santa Bárbara Land Grant (24,685 acres) in 1931. Purchases continued through New Deal programs and continued through at least 1961, when the Rancho del Río Grande Grant (91,066 acres) was obtained through a land exchange, nearly consolidating all forest lands in the area, including lands important to the Rio Pueblo de Picurís watershed. Today, 252,769.81 acres of the Carson National Forest, including the recently purchased Miranda Canyon of the Cristóbal de la Serna Land Grant, are now U.S. Forest Service forest system lands. The Carson and Santa Fe National Forests also share 52,169 acres of the Mora Land Grant, which was partitioned before portions were purchased by the federal government between 1931 and 1955.

Additionally, land grant-*merced* communities maintain an interest in forest system lands that surround those communities to meet their traditional use needs, including, but not limited to, firewood (including ocote), plants, herbs and nuts for consumption and medicinal purposes, including piñón nuts, oshá roots, building materials, including vigas and latillas and gravel and sand, etc. Land grants-*mercedes* that maintain an interest in forest systems lands managed by the Carson National Forest include: Arroyo Hondo Arriba, Don Fernando de Taos, Embudo, Juan José Lobato, La Petaca, Las Trampas, Las Truchas, Plaza de Guadalupe, San Antonio del Río Colorado, Cañón del Río Colorado, San Joaquín del Río de Chama, Sangre de Cristo, Santa Bárbara, Mora, and Tierra Amarilla.

Specific objections to the Carson National Forest Final Resource Management Plan by the New Mexico Land Grant Council

The New Mexico Land Grant Council submits the following objections to the Carson National Forest Plan.

1. In general, the Council objects to the Northern New Mexico Traditional Communities and Uses Section not including a separate section for Land Grant-Mercedes. The Council raised the importance of having a separate section relating to land grants-mercedes at the beginning and throughout the entire planning process. This is evidenced by official comments submitted by the

throughout the process. The National Forest instead chose to include the incorporate land grants-mercedes into the Rural Historic Communities Section, which lumps all non-tribal communities together. Like tribal communities, Land Grant-Merced communities not only predate the establishment of the U.S. Forest Service but also the establishment of United States of America sovereignty over what is now the U.S. Southwest. Settlement of land grant-merced communities occurred over a period of at least 168 years prior to 1848, with most inhabitants being *mestizo* (mix of Native American and Spanish European descent) and *genízaro* (full blooded Native American decent). The lack of separate recognition of these important, still existing communities, in the Traditional Communities and Uses Section, denies historical accuracy and equity to these pre-existing indigenous communities whose property rights are protected by the Treaty of Guadalupe Hidalgo. The Plan can be improved by establishing a separate sub-section for land grants-mercedes under the Traditional Communities and Uses Section, as previously suggested by the Council. For the demonstrated link between the Council's Objection and formally submitted substantive comments, please see previously submitted New Mexico Land Grant Council Santa Fe National Forest 2019 Plan Comments.

2. Although the Council objects to the lack of a separate section for land grants-mercedes within the Northern New Mexico Traditional Communities and Uses Section, since land grants-mercedes are included under the Rural Historic Communities (RHC), the Council also objects to the fact that there are no Standards or Objectives for the RHC section found in the plan. According to page 10 of the Final Plan, recognized plan components, "should (1) provide a strategic and practical framework for managing the Carson, (2) be applicable to the resources and issues of the Carson, and (3) reflect the Carson's distinctive roles and contributions." Standards and Objectives in the RHC Section would in fact provide a strategic and practical framework for accomplishing the Desired Conditions under the RHC Section. In addition, Standards and Objectives in the RHC section would be applicable to the resources used and issues faced by RHCs accessing and utilizing National Forest resources. Without Standards and Objectives it makes it difficult to determine the Carson NF's distinctive roles and contributions in progressing towards the Desired Conditions found in the RHC Section of the Plan. Further, "Objectives describe how the Carson NF intends to move toward the desired conditions" and "Standards are technical design constraints that must be followed when an action is being taken to make progress toward desired conditions." Therefore, the lack of these essential plan components in the Rural Historic Communities Section again raises questions about how the Carson National Forest will work towards accomplishing desired conditions without any measurable objectives to gauge progress towards those Desired Conditions or any technical design constraints that will guide individual land management activities toward accomplishment of Desired Conditions. The Council throughout the planning process submitted multiple suggested objectives and standards that were tied specifically to identified desired conditions and other plan components. None of these suggested Standards and Objectives found their way into the final draft of the plan. The Plan can be improved by incorporating the previously suggested or similar Standards and Objectives made by the Council. For the demonstrated link between the Council's Objection and formally submitted substantive comments, please see the below, New Mexico Land Grant Council Santa Fe National Forest 2019 Plan Comments linked to this objection on pages 7 through 13-A.

3. The New Mexico Land Grant Council objects to the lack of a Desired Condition relating to a collaborative relationship between the Forest Service and Land Grant-Merced Communities that results in mutually beneficial educational programs. The National Forest language does speak to providing a space for educational opportunities with youth, but not in collaboration with land grant-merced and other traditional communities. As described on pages 10-11 of the Final Plan "Desired Conditions describe the aspirational vision for the Carson National Forest. They are the ecological, cultural, and socioeconomic aspirations toward which management of the land and resources of the plan area is directed." The Council argues that collaboration with longstanding adjacent communities dependent on National Forest lands and resources for educating local youth should be an aspirational vision of the National Forest and it is directly related to the ecological, cultural, and socioeconomic aspirations for management of the land. The Plan can be improved by incorporating the previously suggested or similar Desired Condition relating to collaboration with land grant-merced communities and tribes made by the Council. For the demonstrated link between the Council's Objection and formally submitted substantive comments, please see the below, New Mexico Land Grant Council Santa Fe National Forest 2019 Plan Comments linked to this objection on page 6 and 6-A.

4. The New Mexico Land Grant Council objects to the lack of a Desired Condition relating to the future desired condition of a collaborative relationship between the Forest Service and Land Grant-Merced Communities and Acequias that results in mutually beneficial projects. The National Forest rejected this suggestion made by the Council during the planning process on the grounds that the collaboration is an approach for accomplishing the desired conditions and is therefore included under management approaches. The Council objects to this response for two reasons. 1. Management Approaches are not official plan components and therefore are not binding with regard to the agency's need to follow or utilize them in managing National Forest lands or designing projects aimed at accomplishing Desired Conditions. 2. As described on pages 10-11 of the Final Plan "Desired Conditions describe the aspirational vision for the Carson National Forest. They are the ecological, cultural, and socioeconomic aspirations toward which management of the land and resources of the plan area is directed." The Council argues that collaboration with longstanding adjacent communities dependent on National Forest lands and resources should be an aspirational vision of the National Forest and it is directly related to the ecological, cultural, and socioeconomic aspirations for management of the land. The Plan can be improved by incorporating the previously suggested or similar Desired Condition relating to collaboration with land grant-merced communities and Acequias made by the Council. For the demonstrated link between the Council's Objection and formally submitted substantive comments, please see the below, New Mexico Land Grant Council Carson National Forest 2019 Plan Comments linked to this objection on pages 7 and 7-A.

5. The New Mexico Land Grant Council objects to the lack of a Desired Condition relating to mitigating negative impacts to traditional use resources and protecting access to those resources. As described on pages 10-11 of the Final Plan "Desired Conditions describe the aspirational vision for the Carson National Forest. They are the ecological, cultural, and socioeconomic aspirations toward which management of the land and resources of the plan area is directed." The Council argues that protection of traditional use resources and access to those resources should be an aspirational vision of the National Forest and it is directly related to the ecological, cultural, and socioeconomic aspirations for management of the land. The Plan can be improved

by incorporating the previously suggested or similar Desired Condition relating to protection of traditional use resources and access made by the Council. For the demonstrated link between the Council's Objection and formally submitted substantive comments, please see comments submitted by the New Mexico Land Grant Council during the official comment periods.

6. The New Mexico Land Grant Council objects to non-inclusion of guidelines suggested by the Council to the 2019 Draft Plan, relating to: project specific analysis and mitigation of adverse impacts to traditionally used forest products; maintenance of shared infrastructure with land grant-merced government entities; local fuelwood collection opportunities; special use permits for land grant-merced communities when appropriate and allowable; and use of existing authorities to convey lands to meet certain community needs where appropriate (e.g. Small Tracts Act, etc). The Plan can be improved by incorporating the previously suggested or similar Guidelines relating to land grants-mercedes made by the Council. For the demonstrated link between the Council's Objection and formally submitted substantive comments, please see the below, New Mexico Land Grant Council Carson National Forest 2019 Plan Comments linked to this objection on pages 14 through 15-A.

7. The Council objects to language in the FW-RHC-G guideline 1, which qualifies availability of traditionally used products as being subordinate to plans components found in other sections of the plan. This appears to be prejudicial to traditional communities since no other uses in the plan receives similar treatment. Below is the specific guideline of concern:

   FW-RHC-G – PAGE 113

   1. Traditionally used products (e.g. fuelwood, latillas, and vigas) should be available on the Carson to rural historic communities, except in areas with resource concerns or *any areas otherwise restricted by standards or guidelines set forth in other sections of this plan,* to move toward desired conditions.

   In the Council's review of the Plan we found no other instance where such mandatory language was applied to other uses or management activities outside of their individual section of the plan. While there are instances where scenic integrity is applied to other sections of the plan such as Wilderness, Wild and Scenic Rivers, and Inventoried Roadless Areas, language there states "Management activities <u>should</u> be consistent with scenic integrity." The use of "should" implying that it is discretionary, whereas the language in this guideline appears to purposely leave no room for the discretion with regard to traditional uses. While there are examples of the unqualified "consistent" language found in other sections of the plan, it is specific to that given section with no language making the activity or use subservient to any other plan component or resource concern. The Plan can be improved by removing such prejudicial language that makes this guideline subordinate to other plan components or resource uses. For the demonstrated link between the Council's Objection and formally submitted substantive comments, please see the below, New Mexico Land Grant Council Carson National Forest 2019 Plan Comments linked to this objection on pages 14 and 14-A.

Additionally, the New Mexico Land Grant Council objects to the following portions of the Carson National Forest Land and Resource Management Plan and maintains that the following areas of the plan be amended to ensure that forest resources important to land grant-*merced* communities are protected.

1. Plant communities of significant traditional and cultural use, such as oshá, poleo, oregano del campo, and other medicinal plants are protected and preserved, as are forest products such as timber, firewood (fuelwood), piñón nuts, vigas and latillas, trementina (sap), and capulín (chokecherry) berries. Native plant communities dominate the landscape and non-native and invasive species are non-existent or low in abundance and do not disrupt ecological functions (pages 1, 14, and 22 of New Mexico Land Grant Council Carson National Forest 2019 Plan Comments, below).
2. Fuelwood collection opportunities, including fuelwood created as a byproduct of management activities, should be available for personal use by the public. (pages 1, 7, 8, 12, 13, 14, 15, 16, 19, and 22 of New Mexico Land Grant Council Carson National Forest 2019 Plan Comments, below).
3. Vegetation characteristics are resilient to disturbances and climate change, and support favorable water flow, water quantity, and water quality (pages 13 and 27 of the New Mexico Land Grant Council Carson National Forest 2019 Plan Comments, below).
4. Watershed treatment and restoration activities should be planned and implemented with the input of local land grant and acequia communities, including their boards of trustees (pages 2, 3 and 13 of New Mexico Land Grant Council Carson National Forest 2019 Plan Comments, below).
5. Soil resources that support traditional, cultural and subsistence needs are available and sustainable (page 3 of New Mexico Land Grant Council Carson National Forest 2019 Plan Comments, below).
6. Grazing, particularly communal grazing, especially those on historically closed allotments, should be restored and at least managed so no net loss of grazing occurs (pages 7, 10, 13, and 21 of New Mexico Land Grant Council Carson National Forest 2019 Plan Comments, below).

The Plan can be improved by protecting of culturally, socially and economically important traditional resources within the Carson National Forest. For the demonstrated link between the Council's Objection and formally submitted substantive comments, please see the below, New Mexico Land Grant Council Carson National Forest 2019 Plan Comments linked to this objection.

Suggested Language: 18. Vegetation provides a sustainable supply of timber and forest products, such as firewood, piñon nuts, vigas and latillas, herbs and forage.

Comment: The current Carson draft plan has no desired condition under All Vegetation Types that reflects the critical role that forest vegetation plays in providing resources for traditional use activities for tribal and land grant communities.

Not met. Item was not added as a Desired Condition in VEG section. See Concern Statement 894. "The All Vegetation Communities section in the final Plan describes desired ecological conditions. Desired benefits that people may receive from vegetation are in the Social, Cultural, and Economic Sustainability and Multiple Use section of the plan. Firewood, vigas, and latillas have been added as examples of available and sustainable desired forest products to FW-RHC-DC-3. Sustainable availability of forest products is also addressed by FW-FFP-DC-1. Additionally, FW-FFP-DC-4 encourages timber harvest that creates opportunities for small and large businesses, employment, and provides wood products. The sustained yield limit for timber is imposed by the National Forest Management Act (16 U.S.C. §§ 1611(a, b)) and reiterated by FW-FFP-S-7. Sustainable availability of forage is also addressed by FW-GRZ-DC-1."
See FS Plan pages 113, 124, and 125.

Chapter 2. Forestwide Plan Components - Soil Resources (SL)

Page 61 - Desired Conditions (FW- DC-SOIL) - Recommend adding a new desired condition relating to the use of soils by traditional communities

Suggested Language: *Soil resources that support cultural and traditional needs (e.g., micaceous clay) as well as those that support traditional and subsistence economic needs (e.g. gravel and soils used for building materials, including but not limited to those used to build adobes and those for traditional plastering on adobe buildings) traditional communities are available and sustainable.*

Comment: Traditional land based communities (including federally recognized tribes and land grants) have for centuries relied on access to soils for traditional wares (i.e. pottery) and building materials.These resources are found within the former common lands of land grant communities or within adjacent traditional use areas.

Chapter 2. Forestwide Plan Components- Watersheds and Water

Page 65 - Watershed and Water - Desired Conditions (FW-DC-WTR) - Desired Condition 6. - Recommend rewriting this desired condition to include additional examples of multiple uses.

Suggested Language: "*Most watersheds support multiple uses (e.g., timber, cultural uses, traditional uses, human subsistence, recreation, and grazing) with no long-term decline in ecological conditions, although some watersheds are reserved to preserve ecological functions and may support more limited uses (e.g., municipal watersheds).*"

Comment: In suggesting this new wording it best describes the impacts of uses on watersheds and differentiates between WSR designated watersheds and subsistence utilized watersheds. This new suggested wording shows that watersheds are utilized without long term effects and are done so in an ecologically friendly manner.

See Concern Statement 865. This is not addressed under Desired Conditions for Soil Resources, but under Traditional Communities and Uses. "Response
The Soil Resources section in the final Plan describes desired physical and chemical characteristics of the soil resource. Desired mineral products and benefits that people receive from soils are more appropriately described in the Social, Cultural, and Economic Sustainability and Multiple Use section of the plan. The collection of soils, including clay and rocks for building materials and other purposes, is included in the list of traditional uses in the Northern New Mexico Traditional Communities and Uses section introduction (Final Plan, Chapter 2). FW-FRT-DC-3 and FW-RHC-DC-3 state that available and sustainable forest resources for cultural and traditional needs are desired; micaceous clay is specifically listed in both desired conditions. Gravel and building materials are examples of "other forest products" (FW-RHC-DC-3). Finally, FW-MM-DC-5 directs management to make common variety mineral materials such as clay and gravel available, regardless of their intended use." See page 106 of FS Plan.

Partially met. Concern Statement 941. See page 71 of FS Plan. "Watersheds support multiple uses (e.g., timber, recreation, grazing, and traditional uses by tribalcommunities and acequia associations) with no long-term decline in ecological conditions. Short-term impacts occur only when they serve to improve conditions over the life of the plan."

Page 65 - Watersheds and Water - Recommend adding the following plan components to the Waters and Water Section where appropriate.

Suggested Language: New Desired Condition - *"Riparian areas around all lakes, perennial and intermittent streams, springs, and open water wetlands contribute to healthy watersheds while providing for multiple uses (including, but not limited to, grazing, recreation, vegetation management, and traditional uses by tribal **and land grant** communities and acequia associations)."*

Comment: As traditional communities, like tribes and acequias, land grant community members have used common waters for traditional use purposes since prior to the establishment of the U.S. Forest Service.

Not met. There is no mention of land grant communities in FW-DC-WTR. See Concern Comment 975. "FW-WSW-RMZ-DC-1 describes the desired contributions for riparian areas. The introduction to the Riparian Management Zone section also discusses some ways that wetlands contribute to healthy watersheds." In reference to FS Plan 71, Desired Conditions.

Chapter 2. Forestwide Plan Components - Social, Cultural, and Economic Sustainability and Multiple Use

Page 95- Northern New Mexico Traditional Communities and Uses- On the 6th paragraph of the page rewrite to add land grant-merced

Suggested Language: *A traditional community refers to a federally recognized tribe, land grant-merced or a land-based rural community that has a long-standing history in and around the lands managed by the Forest Service.*

Comment: It is important to call out land grants-mercedes specifically as they are communities established under a prior sovereign that have Treaty Protected rights which predate the establishment of the U.S. and forest system lands in New Mexico.

Chapter 2. Forestwide Plan Components- Rural Historic Communities

Page 100- Rural Historic Communities - On the 5th paragraph add to the following before the first sentence,

Suggested Language: *Since the 1920s, the Carson National Forest has acquired former land grant-merced common lands through purchase or exchange, much of it from lands obtained by the Farm Security Administration during the New Deal and later transferred to the US Forest Service. For this reason, many traditional Hispanic communities have ties to lands on the Carson that were once common lands of community land grants-mercedes*

Comment: The Carson National Forest should recognize that the CNF grew at the expense of land grantunities.More than 250,000 acres (~17%) of Carson National Forest acres (~17%) are former land grant common lands and the Carson National Forest has continued to obtain former land grant common ls recently as 24 with the purchase of Miranda Canyon (common lands of the Cristóbal de la Serna Land Grant).

Partially met. Does not include loss of land grants or common lands. See Concern Statement 65 "It is already noted in the Plan that, “The cattle and sheep boom and the environmental damage they caused is one of many reasons that led Congress to establish and regulate Federal reserves across the American West.” (Historical Context section pg. 3). A brief summary of New Mexican territorial history and the origins of National Forest lands has been added to the final Plan (Chapter 1, Plan Area, Historical Context)."
See FS Plan page 3.

Partially met. Land Grants-Mercedes section was added to Rural Historic Communities section, however, suggested language was not included. See FS Plan page 111. See Concern Statement 853. "The list of traditional communities in the 7th paragraph of the Northern New Mexico Traditional Communities and Uses section includes land-grant-mercedes, defined as land-based rural communities with long-standing histories."
See Concern Statement 858. FS Plan mentions land grant common lands, but there is no mention of acerage obtained or the recent purchase of Miranda Canyon. See FS Plan page 3. "In the years following the Treaty of Guadalupe-Hidalgo (1848), New Mexico was a U.S. Territory and remained a territory until it attained statehood in 1912. Between 1848 and 1912, and especially from the 1880s to early 1900s, lands, including land grant common lands, came under control of a variety of incoming U.S. citizens and companies from across the country, or into the public domain and eventually was managed under the National Forest System. The lands that would later become Forest Service-managed lands in northern New Mexico were at one time mostly land grant common lands, but collectively became public lands through a variety of historical events, developments, and/or processes."

Page 100- Rural Historic Communities - Recommend that after the 5th paragraph/ last paragraph on this page include a paragraph on that list all land grants in the Carson National Forest by ranger district.

Comment: Identifying land grants by ranger district will help ensure that during plan implementation the appropriate land grants are contacted regarding proposed projects and activities with the potential to affect them.

Not met. See Concern Statement 885. "In the final Plan, FW-RHC-G-4 requires coordination with acequia governing bodies beginning in the
early stages of planning and project design. A strategy of coordination and cooperation with land grant communities is also addressed through Management Approaches for Rural Historic Communities-2, -3, -7, -10, and -13. Communication with partners is more generally addressed in FW-PART-DC-2. While the final Plan does not include a list of specific land grants by ranger district, these components provide clear direction to work with land grant communities in and around the Carson NF, including as potential projects arise."
Refers to FS Plan pages 113 and 154.

Page 101- Rural Historic Communities - Desired Conditions (FW-RHC-DC) - Desired Condition 6. Recommend amending the language to encourage the engagement of land grants and tribal communities.

Suggested Language: *6. The Forest provides a setting and culturally relevant programs in collaboration with Land Grant communities and Tribes for educating youth in culture, history, and land stewardship, and for exchanging information between elders and youth.*

Comment: We recommend that the forest service collaborates with land grant communities, particularly duly elected boards of trustees, to ensure that these intergenerational educational exchanges and culturally relevant. Ties to Hassell Report Recommendation 46; Hurst Policy Memo paragraph 11.

Not met. See FS Plan 112. No mention of land grant or tribal communities. "The national forest provides a setting for educating youth in culture, history, and land stewardship and for exchanging information between elders and youth."
May refer to Concern Statement 29. "Add desired conditions that require collaboration with specific groups. Response: Desired conditions are plan components that describe what the plan area should look like in the future
(FSH 1909.12 section 22.11): they do not direct the agency to act in specific ways (FSH 1909.12 section 22.11(2)(d)). Additionally, plan components guide and constrain only Forest Service actions, not those of
the public (FSH 1909.12 22.1(2)(g)). Collaboration requires willing collaborators; the plan cannot compel the public to work with the Forest Service. Management approaches are the appropriate planning
tool for describing strategies for working with the public. The final Plan includes many management approaches that describe potential ways the Carson NF can collaborate with partners, other agencies, and
the public."

Page 101 - Rural Historic Communities- Desired Conditions. Recommend a new Desired Condition on the relationship between land grants and acequias and the Forest Service.

Suggested Language: 7. *Land Grant Communities and Acequias have a collaborative relationship with Forest Service that allows for meaningful dialogue and project partnerships that result in mutually beneficial projects and activities.*

Comment: Inclusion of a desired condition that focuses on positive relationships between land grants, acequias and the Forest Service is a very desirable goal for all parties.

Page 101 Rural Historic Communities - Desired Conditions - Recommend a new Desired Condition relating to grazing as a traditional use.

Suggested Language: The Forest Service will manage forage resources for fluctuations to ensure that there is no net loss in grazing capacity within the historic / traditional use boundaries of land grants or on grazing allotments affecting communities associated with land grants.

Comment: Grazing has been a shrinking part of the local economy for decades arguably because of a systematic effort on the part of the USFS to reduce the dependence of local land grant on resources that they historically depended on. By example, free-use permits on the Santa Fe NF were reduced from 217 (two-hundred seventeen) in 1940 to 0 (zero) in 1980 (see William deBuys, Enchantment and Exploitation: The Life and Hard Times of a New Mexico Mountain Range (Albuquerque: University of New Mexico Press, 1985), 248; free-use permits in the Carson National Forest were reduced from 461 (four hundred and sixty one) in 1940 to zero (0) in 1980 (William deBuys, Enchantment and Exploitation: The Life and Hard Times of a New Mexico Mountain Range (Albuquerque: University of New Mexico Press, 1985), 248; free use permits figures on the Cibola are not immediately available, but heirs and forest service documents demonstrate the systematic removal of community grazing allotments from local land grants, citing access to local labor markets as a justification for removing access to forest resource dependent and traditional land grant communities (Ties to Hassell Report Recommendations 27, 42b; Hurst Policy Memo paragraph 15)

Page 101. Rural Historic Communities - Objectives (FW-RHC-OBJ): Recommend that the following objective be added to the Rural Historic Communities Section.

Suggested Language: *1. On average, provide 12,000 to 15,000 cords of fuelwood annually through the issuance of fuelwood permits.*

Comment: This objective is currently in the Cibola Plan and believe that is would be best including across all the forest on how to ensure that fuelwood is being provided for rural historic communities on an annual basis. This objective fits as an objective because gives a time frame and measurable amount as an objective is defined to do by the Directives.

Not met. See Concern Statement 29. Desired conditions are plan components that describe what the plan area should look like in the future
(FSH 1909.12 section 22.11): they do not direct the agency to act in specific ways (FSH 1909.12 section 22.11(2)(d)). Additionally, plan components guide and constrain only Forest Service actions, not those of
the public (FSH 1909.12 22.1(2)(g)). Collaboration requires willing collaborators; the plan cannot compel the public to work with the Forest Service. Management approaches are the appropriate planning
tool for describing strategies for working with the public. The final Plan includes many management approaches that describe potential ways the Carson NF can collaborate with partners, other agencies, and
the public."
See FS Plan page 112.

Not met. See Concern Statement 702. "The final Plan includes FW-DC-1 and FW-RHC-DC-3, which direct management to make available, in a sustainable manner, those traditional uses that are important for the subsistence practices and economic support (e.g., livestock grazing, acequias and forest products) of rural historic communities. FW-GRZ-DC-1 describes sustainable rangelands that provide forage for livestock grazing opportunities that contribute to agricultural businesses, local employment, livelihoods, as well generational ties to the land. In addition, FW-GRZ-DC-2 describes the contribution of livestock grazing to the long-term socioeconomic diversity and stability and the cultural identity of local communities." FS Plan page 112 does not include a desired condition specifically for grazing.

Not met. Objectives were not added to Rural Historic Communities section of FS Plan. Some of the comments are mentioned in Concern Statements. See below.

Not met. Objectives section was not created. Comment addressed. See Concern Statement 887. "Fuelwood availability is addressed in the final Plan by FW-FFP-DC-1, -2, and -3. Management Approaches for Sustainable Forestry and Forest Products-4 and -5, and Management Approach for Rural Historic Communities-9 describe strategies for increasing fuelwood opportunities."
Response refers to FS Plan page 113, 114, 124.

Page 101. Rural Historic Communities - Objectives (FW-RHC-OBJ): Recommend adding new objective concerning meeting with land grant communities.

Suggested Language: *2. The Forest Service will meet annually with active community land grants within or adjacent to the National Forest.*

Comment: The Council recommends adding an objective that requires meetings with interested land grant-merced governing boards to discuss their community access and natural resources needs and or mutually beneficial projects across shared boundaries. (Ties to Hassell Report Recommendations 42a, 42b, 46, 57, 63, 64; Hurst Policy Memo paragraphs 8, 9, 11, 13, 14, 15, 16, 18)

Page 101. Rural Historic Communities - Objectives (FW-RHC-OBJ): Recommend adding a new objective concerning setting goals for meeting with land grants to identify religious and spiritual sites and areas of traditional use.

Suggested Language: *3. The Forest Service, in conjunction with the governing bodies of active community land grants, identifies religious and spiritual sites and areas of traditional use for at least 1 land grant annually during the life plan within the National Forest.*

Comment: Certain areas within the Forest may contain resources or sites of spiritual significance that land grant communities would not want to publicize to the general public in order to protect the resource/site. (Ties to Hassell Report Recommendation 1; Hurst Policy Memo paragraph 7, 8, 9, 10, 11, 13, 17, 18).

Page 101. Rural Historic Communities - Objectives (FW-RHC-OBJ): Recommend adding the additional 2 objectives:

Suggested La*nguage:* *4. Fuelwood products derived from issuance of fuelwood permits (green and dead and down) along with forest restoration programs, projects and activities meet at least 90% of the local fuel wood demand.*

Comment: As demonstrated by the recent chaos caused by the injunction won by the Wild Earth Guardians, fuelwood is a socio-economically and culturally important resource. Meeting the fuelwood demand of traditional communities helps poor and rural residents, the micro-economics of villagers that work as *leñeros* (woodhaulers), and is sensitive to the traditional and culturally significant practice of harvesting fuelwood. (Ties to Hassell Report Recommendations 9, 58, 59; Hurst Policy Memo 16)

Suggested Language: *5. The Forest Service, in coordination with land grant governing bodies, will annually assess the maintenance needs of any shared infrastructure (fences, roads etc.).*

Comment: Land grants and the USFS share miles of common boundaries, much of it deriving from the growth of USFS through both the rejection of legitimate claims during the adjudication process (which made these lands part of the public domain, to be incorporated into the national forest) and through the purchase of former land grant

Not met. FW-RHC-OBJ section was not added to the plan. Specific comments were not addressed. See Concern Statement 32. "Both standards and guidelines place design or operational constraints on projects and activities and are required to be followed (FSH 1909.12 sections 22.13(1) and 22.14(1)). Standards may include complete
prohibitions (FSH 1909.12 section 22.13(1)), whereas the terms of a guideline may be departed from so long as its purpose is met, and the result would be equally effective (FSH 1909.12 sections 22.14(1))."

Not met. Objectives were not added to FS Plan. (continued on page 11). See Concern Statement 715. "Generally grazing permitees are responsible for maintaining assigned improvements on their allotments.
Forest Service Term Grazing Permits (FS-2200-10 Part 2, Section 8(h)) state that, “The permittee will pay the costs of, perform, or otherwise provide for the proportionate share of cooperative improvements
and management practices on the permitted area when determined by the Forest officer in charge that such improvements and practices are essential to proper protection and management of the resources administered by the Forest Service.” This usually includes fences and other infrastructure on National Forest System lands, but does not include boundary fences shared with other landowners.
In New Mexico, the Forest Service shares responsibility for infrastructure on its boundaries in limited instances where a memorandum of understanding or cooperative agreement to do so has been established
with the adjacent landowner. However, in most cases it is the responsibility of private landowners in New Mexico to “fence out” their land (New Mexico Statutes - Article 16 — Fences, 77-16-1 through 77-16-18) meaning landowners have the responsibility to fence and maintain their own property."

common lands from speculators that dispossessed communities of their patrimony. Working with these communities for the mutual benefit of FS and land grant lands may employ members of communities in desperate need for such opportunities and will aid the forest service in providing local knowledge and familiarity with the landscape that only locals have, while also easing the budget constraints of USFS. *(Ties to Hassell Report Recommendations 9, 30; Hurst Policy Memo paragraphs 4, 8, 9, 10, 11, 13, 18)*

Page 101. Rural Historic Communities - Objectives (FW-RHC-OBJ):Standards - As written, the Rural Historic Communities section of the plan has no standards. Per the Forest draft Land Management Plan, standards are "technical design constraints that must be followed when an action is being taken to make progress toward desired conditions," and are, therefore, essential plan components that ensure the resource interests of local, forest dependent land grant-merced communities are protected. Below are recommendations for inclusion of Standards for the Rural Historic Communities Section.

Page 101 - Standards for Rural Historic Communities (FW-RHC-S): Recommend adding a new standard to address input on projects.

Suggested Language: *1. Projects, programs and activities near land grant communities and acequias shall seek input from the relevant land grant and acequia governing bodies early in the stages of planning and protect design to include local perspectives, needs, concerns and traditional knowledge."*

Comment: It is important to include this as a standard to ensure that all projects, programs, and activities near land grant communities and acequias are aware of and include in project planning and design.

Page 101 - Standards for Rural Historic Communities (FW-RHC-S) - Recommend adding the following 14 additional Standards:

Suggested Language: *2. The Forest Service meets periodically with governing bodies of active community land grants and acequias adjacent to/within the National Forest to discuss access to and management of forest resources.*

Comment: We recommend that the forest service collaborates with land grant communities, particularly duly elected boards of trustees to access resource needs of their communities. (Ties to Hassell Report Recommendations 1b, 1c, 42b, 44, 52, 68, 78; Hurst Policy Memo paragraphs 4, 9, 10, 14, 18).

Suggested Language: *3. Projects and activities do not adversely impact identified religious and spiritual sites or Forest resources important to traditional and cultural use.*

Comment: The protection of spiritual sites (calvarios, shrines, etc.) is important to maintaining the cultural integrity of forest dependent land grant communities. Additionally, certain areas within the Forest may contain resources or sites of spiritual significance that land grant communities would not want to publicize to

Not met. See Concern Statement 32. "Both standards and guidelines place design or operational constraints on projects and activities and are
required to be followed (FSH 1909.12 sections 22.13(1) and 22.14(1)). Standards may include complete prohibitions (FSH 1909.12 section 22.13(1)), whereas the terms of a guideline may be departed from so long as its purpose is met, and the result would be equally effective (FSH 1909.12 sections 22.14(1))."

Not Met. Recommended Standard addressed in Concern Statement 850. "The final Plan includes the following plan components to ensure continued collaboration between the
agency and our rural historic communities: FS-RHC-G-4; FW-RHC-MA-2, -3, -6, -7, -10 and -11."

Not met. Standards not added to FS Plan. (Continued on page 12).
See Concern Statement 862 "Response
Protection of places that rural historic communities regard as spiritually or culturally important is addressed by FW-RHC-G-2 in the final Plan. For individual projects, the responsible official makes a decision based on an interdisciplinary team's analysis of potential effects to all resources. While mitigation of adverse resource effects is the desired common practice, it is not always possible and therefore is not a reasonable forest Plan standard. There are instances in which actions are required under
federal law (for example, the 1872 Mining Law) or where the impact to a place or property is deemed, by administrative decision, to be less than the benefit provided by the undertaking. In these cases, if the place is a historic property (including a traditional cultural property), the Carson NF is required to work with governing bodies or representative organizations that identify as consulting parties, in the resolution
of adverse effects under 36 CFR 800.6."

See FS Plan page 113.

the general public in order to protect the resource/site. (Ties to Hassell 1; Hurst Policy Memo paragraph 7, 8, 9, 11, 13, 17, 18).

Suggested Language: *4. Land Grant governing bodies are given the option to establish communal grazing permits for newly vacant allotments within the patented or historical/traditional use boundaries of a land grant-merced.*

Comment: Grazing has been a shrinking part of the local economy for decades arguably because of a systematic effort on the part of the USFS to reduce the dependence of local land grant on resources that they historically depended on. By example, free-use permits on the Santa Fe NF were reduced from 217 (two-hundred seventeen) in 1940 to 0 (zero) in 1980 (see William deBuys, Enchantment and Exploitation: The Life and Hard Times of a New Mexico Mountain Range (Albuquerque: University of New Mexico Press, 1985), 248; free-use permits in the Carson National Forest were reduced from 461 (four hundred and sixty one) in 1940 to zero (0) in 1980 (William deBuys, Enchantment and Exploitation: The Life and Hard Times of a New Mexico Mountain Range (Albuquerque: University of New Mexico Press, 1985), 248; free use permits figures on the Cibola are not immediately available, but heirs and forest service documents demonstrate the systematic removal of community grazing allotments from local land grants, citing access to local labor markets as a justification for removing access to forest resource dependent and traditional land grant communities (Ties to Hassell Report Recommendations 27, 42b; Hurst Policy Memo paragraph 15)(Ties to Hassell Report Recommendations 27; Hurst Policy Memo paragraph 15).

Suggested Language: *5. When a shared infrastructure assessment determines a need for maintenance or improvement the Forest Service shall work collaboratively with the appropriate land grant governing body(ies) to address the need.*

Comment: Land grants and the USFS share miles of common boundaries, much of it deriving from the growth of USFS through both the rejection of legitimate claims during the adjudication process (which made these lands part of the public domain, to be incorporated into the national forest) and through the purchase of former land grant common lands from speculators that dispossessed communities of their patrimony. Working with these communities for the mutual benefit of FS and land grant lands may employ members of communities in desperate need for such opportunities and will aid the forest service in providing local knowledge and familiarity with the landscape that only locals have, while also easing the budget constraints of USFS. (Ties to Hassell Report Recommendations 34, 41; Hurst Policy Memo Paragraphs 4, 9, 10, 14, 18)

Suggested Language: *6. Prior to acquiring former land grant common land the Forest Service shall meet with the appropriate governing bodies of any active community land grants and acequias within the acquisition area in order to determine the communities' traditional use needs for the area..*

Not Met. See Concern Comment 702. "The final Plan includes FW-RHC-DC-1 and FW-RHC-DC-3, which direct management to make
available, in a sustainable manner, those traditional uses that are important for the subsistence practices
and economic support (e.g., livestock grazing, acequias, and forest products) of rural historic communities. FW-GRZ-DC-1 describes sustainable rangelands that provide forage for livestock grazing
opportunities that contribute to agricultural businesses, local employment, livelihoods, as well as generational ties to the land. In addition, FW-GRZ-DC-2 describes the contribution of livestock grazing to the long-term socioeconomic diversity and stability and the cultural identity of local communities." FS Plan page 112 does not include a Desired Condition specifically meant for grazing.

Not met. Standards not added to FS Plan. "Generally grazing permitees are responsible for maintaining assigned improvements on their allotments.
Forest Service Term Grazing Permits (FS-2200-10 Part 2, Section 8(h)) state that, "The permittee will pay the costs of, perform, or otherwise provide for the proportionate share of cooperative improvements
and management practices on the permitted area when determined by the Forest officer in charge that such improvements and practices are essential to proper protection and management of the resources administered by the Forest Service." This usually includes fences and other infrastructure on National Forest System lands, but does not include boundary fences shared with other landowners.
In New Mexico, the Forest Service shares responsibility for infrastructure on its boundaries in limited instances where a memorandum of understanding or cooperative agreement to do so has been established
with the adjacent landowner. However, in most cases it is the responsibility of private landowners in New Mexico to "fence out" their land (New Mexico Statutes - Article 16 — Fences, 77-16-1 through 77-16-18) meaning landowners have the responsibility to fence and maintain their own property.

Not met. (continued on Page 13.) See Concern Statement 882. "Coordination with land grant governing bodies during the early stages of planning and project design is
addressed by FW-RHC-G-4 in the final Plan. In addition, Management Approaches for Rural Historic Communities-3, -7, and -10 describe an emphasis on working collaboratively, and integrating the perspectives of, land grant communities. Land grant communities are an equitable interested party that would be involved in scoping during any NEPA process for land acquisition." Response refers to FS Plan page 113.

Comment: The USFS continues to expand at the expense of community land grants (see Miranda Canyon purchase of former Cristóbal de la Serna Land Grant common land, 2012), an action that also threatens watersheds that feed acequia communities. We recommend that the USFS ceases acquiring former land grant common land, particularly land that from active community land grants as this land is most often seized from land grants through spurious means (both illegal and extra legal). (Ties to Hassell Report Recommendation 30; Hurst Policy Memo paragraphs 4, 10, 18)

Suggested Language: *7. As Forest Land and Resource Management Plans are implemented the Forest Service shall consult with community land grant and acequia governing bodies and with livestock grazing associations and permittees to maintain continued access to traditional resources*.

Comment: Land grants, acequias, and grazing associations / permittees have been a part of the planning process for the Cibola National Forest for more than four years, strengthening the plan and advocating for the resource needs of their local communities. Maintaining these collaborative relationships between the FS and these associations (land grants, acequias, and livestock associations) will be paramount in implementing the plan for the benefit of local communities that are most affected by the management of the resources that surround their local communities, particularly those that are a part of their stolen patrimony. (Ties to Hassell Report Recommendations 42b, 42c; Hurst Policy Memo Paragraphs 4, 10, 13, 14, 15, 16, 18).

Suggested Language*: 8. When Forest Land and Resource Management Plans are revised, updated, or amended the Forest Service shall consult with community land grant and acequia governing bodies and with livestock grazing associations and permittees to ensure access to traditional resources important to these forest dependent communities.*

Comment: Land grants and acequias have been a part of the planning process for the Cibola NF for more than four years, strengthening the plan and advocating for the resource needs of their local communities. Maintaining these collaborative relationships between the FS and these associations (land grants, acequias, and livestock associations) will be paramount in implementing the plan for the benefit of local communities that are most affected by the management of the resources that surround their local communities, particularly those that are a part of their stolen patrimony. (Ties to Hassell Report Recommendations 42b, 42c; Hurst Policy Memo Paragraphs 4, 10, 13, 14, 15, 16, 18)

Suggested Language: *9. All Forest Service signage for forest system lands within or adjacent to historical/traditional use boundaries of community land grants, pueblos and tribes should be written in native languages (i.e., Spanish, Tanoan, Keres, Athabaskan) as well as in English. Signage should include traditional names for these areas as identified in consultation with local communities, as well as names currently found on Forest Service maps and other literature. All relevant applications, informational brochures, pamphlets, and other Forest Service literature should be presented in*

Not met. Standards were not created. See Concern Statement 849. "Access to traditionally used forest resources is addressed by FW-RHC-DC-3 in the final Plan. Coordination with land grant-mercedes and acequia governing bodies is required by FW-RHC-G-4.
Cooperation, collaboration, and coordination with permit holders is prioritized under Management Approach for Sustainable Rangelands and Livestock Grazing-1."
Response refers to pages 112 and 121.

Not met. (Continued on page 14). List of Standards were not added. See Concern Statement 762. "In the final Plan "Federally Recognized Tribes Management Approach-9 encourages incorporation of native languages into interpretive materials as a way to highlight the American Indian culture. Management Approach-8 of the Rural Historic Communities section also addresses the need to incorporate Spanish into signage, publications, brochures, etc." Refer to page 110 of FS Plan.

English, Spanish and native languages to ensure equal access to all local traditional use communities.

Comment: Members of both federally recognized tribes and other Indian nations, land grant heirs, whose bloodlines include significant genizaro (detribalized and Hispanicized indians) ancestors, have a historic connection to the landscape that is unique to the southwest and should be valued through sentiment and action. The publication of documents, the increase of signage in native languages, including Spanish, will not only assist these communities in retaining their cultural integrity and recovering a culture that was lost or stolen, but will increase their access to forest resources. (Ties to Hassell Report Recommendations 43, 72; Hurst Policy Memo Paragraphs 8, 10, 11, 18)

Suggested Language: *10. Forest Service manages for prior existing uses recognized under public laws, memorandums of understanding or agreements established prior to the Forest Service acquisition and management of former community land grant common lands.*

Comment: Land grants are protected foremost by international treaty law. The Treaty of Guadalupe Hidalgo explicitly protected the property rights of land grant heirs (Articles XIII and X); the Protocol of Queretaro affirm these protections; the Supremacy Clause of the U.S. Constitution (Article VI) affirmed that international treaties such as the Treaty of Guadalupe Hidalgo, which was affirmed by the Protocol of Queretaro, are the "Supreme law of the land." The 1854 Act establishing the Office of the Surveyor General of New Mexico (10 Stat. 308) included a provision (section 8) that the Surveyor General decide the validity of grants "under the laws, usages, and customs of the country before its cession to the United States." This provides the legal basis for the land grant ejido to be protected as common land. Later federal laws, MOUs and agreements include, but are not limited to, Public Law 39, Public Law 419, February 23, 1932 - Color of Title Claims in New Mexico. (Ties to Hassell Report Recommendations 52; Hurst Policy Memo Paragraphs 9, 10).

Suggested Language: *11. Forest Service will utilize wood generated from forest restoration and utility easement maintenance projects to help meet fuelwood needs of adjacent local forest dependent communities.*

Comment: The USFS has a great opportunity to help meet the fuelwood demand of the local forest dependent populations, especially land grant communities, when clearing rights-of-way, easements, etc. The chaos caused by the injunction won by the Wild Earth Guardians demonstrated not only the volatility of the fuelwood issue, but also the real dependence of land grant communities on this resource. (Ties to Hassell Report Recommendation 9, 58, 59; Hurst Policy Memo paragraph 4, 8, 10, 16, 18)

Suggested Language: *12. Forest Service collaborates with community land grant and acequia governing bodies to ensure that access is maintained on forest system roads critical to traditional use.*

Not met. See Concern Statement 856. Plan consistency requirements under the National Forest Management Act are subject to valid existing
rights (see 16 U.S.C. 1604(i)). Management of National Forest System lands is guided and constrained by laws, regulations, policies, practices, and procedures that are in the Forest Service Directive System; these are generally not repeated in land management plans. This final Plan is the result of a revision process conducted in accordance with the 2012 Planning Rule (36 CFR § 219) and its 2015 planning directives (FSH 1909.12). The Carson NF is not exempt from any law enacted by Congress.
The Forest Service does not have the authority to grant rights to people on or off the Forest and the plan
revision process is not meant to enforce specific rights, only to dictate how Forest Service staff perform their duties in terms of ecosystem and cultural resource management. Past court actions have affirmed:

- that the Secretary of Agriculture has the authority to regulate the use and occupancy of national forests (United States v. Grimaud, Supreme Court of the United States, 1911);
- that an individual's right to graze on National Forest System lands only exists under the regulations issued by the Secretary of Agriculture, that these regulations have the force of law, and that grazing can be relinquished but cannot be transferred to another party by contract of sale (Bell v.Apache Maid Cattle Co et. al., Circuit Court of Appeals, Ninth Circuit, 1938); and
- that the privilege of grazing on National Forest System lands under a permit cannot be a property right (Osborne et al. v. United States, Circuit Court of Appeals, Ninth Circuit, 1944).

Land rights conveyed by the Treaty of Guadalupe Hidalgo are beyond the scope of forest plan revision and are not within the authority of the Forest Service to adjudicate. Community lands were set aside for grazing and other communal uses as part of land grants issued by Spain and Mexico. These community lands became Federal public lands when ownership passed from the Mexican government to the United States at the time the Treaty of Guadalupe Hidalgo was signed in 1848. Under the Treaty, the United States agreed to recognize and protect the existing property rights of Mexican citizens. With regard to the
concern by some grantees and heirs that the confirmation process did not address community land grant
claims in a fair and equitable manner, the General Accounting Office has concluded, "there does not appear to be a specific legal basis for relief, because the Treaty was implemented in compliance with all applicable U.S. legal requirements."

Not met.See Concern Statement 343. "Plan components that address fuelwood availability can be found in the Rural Historic Communities
(RHC) and Sustainable Forestry and Forest Products (FFP) sections, all of which apply forestwide. In the final Plan, FW-RHC-DC-3 describes forest products as available to rural historic communities."
Response refers to FS Plan 112.

See Concern Statement 845.

Comment: We recommend this standard as it ensures that the Forest Service meets with interested land grant-merced and acequia governing boards and tribal governing bodies to discuss their community access and natural resources needs and or mutually beneficial projects across shared boundaries. (Ties to Hassell Report Recommendations 65, 66, Hurst Policy Memo paragraphs, 8, 9, 10, 11, 12, 13, 18)

Suggested Language: *13. Coordinate with land grant governing bodies to develop a permitting process for traditional use forest products*.

Comment: Land grants are political subdivisions of the State of New Mexico, duly elected by their membership, and represent the needs of their local communities. They possess the on the ground knowledge necessary to ensure that fuelwood permitting will be successful and equitable, representing the interests of heir-members of community land grants who are dependent on forest products for both economic and cultural reasons. They are uniquely positioned to work with the USFS to meet the fuelwood needs of their local communities through a locally informed permitting process. (Ties to Hassell Report recommendation 9, 10, 63b, 68; Hurst Policy Memo paragraphs 4, 10, 13, 14, 16, 18; Desired Conditions 1, 2, 3, 4, 5, 6, 7, 10, 11).

Suggested Language: *14. The Forest Service consults with grazing permittees when planning and prioritizing programs, projects and activities that may impact livestock grazing.*

Comment: Grazing has been a shrinking part of the local economy for decades arguably because of a systematic effort on the part of the USFS to reduce the dependence of local land grant on resources that they have historically depended on. For grazing to remain a viable economic practice and a meaningful cultural one, grazing permittees must be a part of the process. (Ties to Hassell Report Recommendation 23; Hurst Policy Memo paragraph 15).

Suggested Language: *15. At least 70% of the workforce for forest and watershed restoration projects come from adjacent local forest dependent communities.*

Comment: Land grant communities local economies are dependent on access to USFS managed lands, including former land grant common land. Local contractors that are likely to hire local laborers often cannot compete with larger companies that win these federal bids and local laborers that are more often than not land grant heirs are excluded from workforces that are restoring their community land grants former land grant common land. This objective would work to ensure that whether a contractor is local, regional, or national, local laborers have the opportunity to work on these projects, bringing their local knowledge of the landscape into restoration projects, thus benefiting the local economy and the restoration project itself. (Ties to Hassell Report Recommendations 17a, 78; Hurst Policy Memo paragraphs 4, 9, 10, 14).

Page 101. Rural Historic Communities- Guidelines(FW-RHC-G): Recommend rewriting this guideline to be specific to land grants and to strike redundant language.

Not met. See Concern Statement 888. "The Forest Service does not prejudice its recognition of the need for the collection of traditionally used
forest products by members of rural historic communities based on their contemporary affiliation with a Spanish or Mexican era grant confirmed by Congress or the Federal courts. In the final Plan, FW-RHC-DC-3 directs management to make fuelwood and other forest products available to rural historic communities such as land grants. Management Approach for Rural Historic Communities-3 describes a strategy of coordinating with land grants to understand their needs and develop collaborative proposals
and projects of mutual benefit."
See FS Plan 112.

Not met. Grazing is addressed in Concern Statement 745. "The Grazing Permit Administration Handbook (FSH 2209.13_92.12, 92.13, 92.23, 94.3) requires that grazing permittees be involved in planning, monitoring, and projects that may impact livestock grazing. Footnotes are also included in FW-GRZ-S-1 and FW-GRZ-G-1 citing this handbook for guidance when
cooperating with permittees in the Final Plan. This is Forest Service policy, and therefore, must be followed."

Not met. See Concern Statement 23. "The Plan guides the Carson in fulfilling its stewardship responsibilities to best meet the current and
future needs of the American people. This plan provides forest-specific guidance and information for project and activity decision-making over the plan period, generally considered to be 10 to 15 years. It provides the vision, strategy, and constraints that guide integrated resource management, provide for ecological sustainability, and contribute to social and economic sustainability. For instance, FW-RHC-DC-3 in the final Plan is directed at providing economic support to local communities. However, the Plan does not set forth legal requirements for contractors, as that would be outside of the scope and authority of a land management plan."
Response refers to FS Plan page 113.

Suggested Language: *1. Traditionally used products (e.g., fuelwood, latillas, vigas, piñon, osha, and clay) should be available on the national forest to rural historic communities in a manner consistent with applicable laws and regulations..*

Comment: Traditional use resources should be available and allowed to be collected throughout the National Forest as the types of traditionally used products vary widely. Collection of traditional use resources would obviously be limited to any specific restrictions governing the portion of the forest where they are harvested. The Forest Management Plan cannot trump existing laws and regulations therefore this additional restriction language is not necessary. In addition, as currently written it unnecessarily and unjustly subordinates traditional use of forest products to other resource considerations of the plan.

Page 101. Rural Historic Communities- Guidelines(FW-RHC-G) Recommend adding the following 5 guidelines to the Rural Historic Communities Section:

Suggested Language: *5. Management activities should be analyzed and mitigated to prevent or minimize adverse impacts to forest resources important for cultural and traditional needs of rural historic communities.*

Comment: To ensure that Land grant-merced communities dependence on forest resources, which predates the forest service administration of former common land and traditionally used lands, is recognized in management activities and projects on former common land and within the traditional use areas adjacent to land grant communities. (Ties to Hassell Report Recommendation 9; Hurst Policy Memo paragraph 11, 13, 17)

Suggested Language: *6. The Forest Service will support the maintenance of infrastructure shared with community land grants based upon assessed needs and budget.*

Comment: Land grants and the USFS share miles of common boundaries, much of it deriving from the growth of USFS through both the rejection of legitimate claims during the adjudication process (which made these lands part of the public domain, to be incorporated into the national forest) and through the purchase of former land grant common lands from speculators that dispossessed communities of their patrimony. Working with these communities for the mutual benefit of FS and land grant lands may employ members of communities in desperate need for such opportunities and will aid the forest service in providing local knowledge and familiarity with the landscape that only locals have, while also easing the budget constraints of USFS. (Ties to Hassell Report Recommendation 30; Hurst Policy Memo paragraphs 4, 10, 18).

Suggested Language: *7: The Forest Service will provide local fuelwood collection opportunities (green and dead and down) to meet the demand of traditional forest dependent communities on an annual basis.*

Comment: As demonstrated by the recent chaos caused by the injunction won by the Wild Earth Guardians, fuelwood is a socio-economically and culturally important

Not met. See Concern Statement 37. "The Carson NF must adhere to relevant laws, regulations, policies, and directives at the national, State,
and local government level; a partial list of these laws can be found in appendix C in the final Plan. Additionally, the Plan includes components specifically related to Federally Recognized Tribes (FRT) and Rural Historic Communities (RHC) supporting uses such as access to traditionally used products and
acequia easements."

Not met. Not addressed in Concern Statements.

Not met. Addressed in Concern Statement 715. "Generally grazing permitees are responsible for maintaining assigned improvements on their allotments.
Forest Service Term Grazing Permits (FS-2200-10 Part 2, Section 8(h)) state that, "The permittee will pay the costs of, perform, or otherwise provide for the proportionate share of cooperative improvements
and management practices on the permitted area when determined by the Forest officer in charge that such improvements and practices are essential to proper protection and management of the resources administered by the Forest Service." This usually includes fences and other infrastructure on National Forest System lands, but does not include boundary fences shared with other landowners.
In New Mexico, the Forest Service shares responsibility for infrastructure on its boundaries in limited instances where a memorandum of understanding or cooperative agreement to do so has been established
with the adjacent landowner. However, in most cases it is the responsibility of private landowners in New Mexico to "fence out" their land (New Mexico Statutes - Article 16 — Fences, 77-16-1 through 77-16-18) meaning landowners have the responsibility to fence and maintain their own property."

Not met. Not addressed in Concern Statements.

resource. Meeting the fuelwood demand of traditional communities helps poor and rural residents, the micro-economics of villagers that work as *leñeros* (woodhaulers), and is sensitive to the traditional and culturally significant practice of harvesting fuelwood. (Ties to Hassell Report Recommendation 9, 58, 59; Hurst Policy Memo paragraphs 4, 8, 9, 10, 14, 16).

Suggested Language: 8. Forest Service works with community land grant associated forest dependent communities which are surrounded by federal lands and which have little or no vacant land for community facilities and uses (i.e. cemeteries, dumps, community water, wastewater, community centers) to issue and maintain special use permits for such uses when doing so is in the best interest of public health, safety and general welfare.

Comment: Unlike other *Rural historic communities*, and like American Indian tribes, land grant-merced communities predate the establishment of forest reserves, the founding of the US Forest Service, and homesteads that created non-American Indian and non-nuevomexicano settlements. Many land grants even predate the founding of the United States of America and forest system lands grew at the expense of land grants through the acquisition of former land grant common lands. This has landlocked land grant communities and they lack vacant land on which to locate or build important community facilities that support the general welfare of the community. (Ties to Hassell Report Recommendation 50; Hurst Policy Memo paragraphs 4, 9, 13, 18).

Suggested Language: *9. Forest Service will work with existing authorities (i.e. Public Law 39, February 23, 1932- Color of Title Claims in New Mexico, Small Tracts Act) to convey land or provide block easements for community land grant associated cemeteries, and other culturally significant sites (i.e. moradas, chapels, churches)*

Comment: Will ensure that the USFS to responds to the cultural needs of land-locked land grant communities, many of whom are deprived of necessary vacant land because of the federal acquisition of common land. (Ties to Hassell Report Recommendations 50, 51, 73; Hurst Policy Memo paragraphs 4, 7, 8, 9, 10, 11, 13, 17, 18).

Not Met. Item was not added to Guidelines. See Concern Statment 354. "The introduction to the Special Uses section in the final Plan discusses lands special use authorization
and lists some examples of permitted uses on the Carson NF; community water systems have been added
to this list. Any special use permit would be evaluated on a case-by-case basis, consistent with FW-SU-DC-1 and -2. Several cemeteries are currently permitted on the Carson NF. New cemeteries, liquid waste disposal areas, and solid waste disposal sites are not permitted on National Forest System lands (FSH 2709.11 section 19, exhibit 3)." Refer to FS Plan page 143.

Not met. See Concern Statement 351. "The Forest Service has limited land conveyance authorities; of those authorities, none are specific to
convey land directly to land grant heirs (Exchange of National Forest System land Title 36, Code of Federal Regulations, part 254, subpart A (36 CFR part 254, subpart A). Sales of land provide for the conveyance of specific and limited categories of land to relieve or to resolve title conflicts and certain management problems (see FSH 5509.11, ch. 20). These authorities are part of laws, regulations, and policies, so they do not need to be repeated in the final plan. A guideline was added to the Lands section
of the final Plan to address these concerns: Land adjustments should consolidate and improve management efficiency of resources through real estate transactions, including sales, purchases, exchanges, and conveyances (FW-LAND-G-4). Additionally, language was added to Management Approach for Lands-4 that specifies that prioritization of land acquisition or conveyance be based on improving management efficiency and/or serving the broader needs of the community within the scope of the authorities proved for these types of transactions."

Page 102-Rural Historic Communities- Management Approaches- Recommend adding the following to MA 9

Suggested Language: *Consider ways to make fuelwood permits available locally in the field where the fuelwood opportunity is available or allow rural communities to get a fuelwood permit at the Forest Service district office closest to them, online or another government office, rather than only at the district office administering the permitted area*

Comment: Easy access to fuel wood permits is important especially in rural communities were individual often have to commute long hours to work centers.

Management Approach 11. Work collaboratively with land grant and acequia governing bodies, rural communities and other community leaders to maintain shared infrastructure (e.g., fencing, roads, and cattleguards).

Suggested Language: 11. *(Our recommendations in Italics:) Work collaboratively with land grant and acequia governing bodies, rural communities and other community leaders to maintain shared infrastructure (e.g., fencing, roads, and cattleguards); invite the appropriate land grant and/or acequia governing body(ies) on field trips related to the planning or implementation of projects and activities with the potential to impact traditional use resources, culturally and historically significant sites, adjacent community land grant common lands or community land grant and acequia infrastructure.*

Comment: We suggest that the USFS incorporates proposed language below into Management Approach 11 or adopts Management Approach 17 (proposed below) to ensure that land grant and acequia governing bodies are included in site visits to understand and inform management actions on their former common land or land that affects their communities. **(**Ties to Hassell Report Recommendations 1b, 1c, 8, 14, 30, 44, 52, 66, 68; Hurst Policy Memo paragraphs 4, 8, 9, 10, 18)

Not Met. See Concern Statement 334: "No procedures currently exist that allow the Carson NF to sell fuelwood permits online."
Refer to page 114 of FS Plan.

Partially met. See Concern Statement 845. "Management Approach for Rural Historic Communities-3 has been updated in the final Plan to include
building respectful and collaborative relationships and incorporating local perspectives into collaborative
proposals and projects of mutual benefit. Working across boundaries on shared infrastructure and collaborative ecosystem restoration are both now included in Management Approach for Rural Historic Communities-11."
See FS Plan pages 113 and 114.

Page 102- Rural Historic Communities - Management Approaches- Recommend creating the following 11. new management approaches.

Suggested Language: 13. *Consider acknowledging locations identified as important by rural historic communities and managing them with an emphasis on the resilience and protection of natural and cultural resources.*

~~Comment:~~ ~~The~~ resilience and protection of natural and cultural resources is critical to the cultural integrity of traditional communities.

Suggested Language: 14. *Consider developing approaches for rural historic communities to continue to practice occupational- and subsistence-based activities that are sensitive to environmental and cultural concerns.*

Comment: The ability to continue to practice subsistence based activities in the national forest is critical in supporting the local economies of Northern New Mexico.

Suggested Language: 16. *Coordinate with land grant governing bodies to protect religious and spiritual sites and forest resources important to traditional and cultural use.*

Comment: Certain areas within the Forest may contain resources or sites of spiritual significance that land grant communities would not want to publicize to the general public in order to protect the resource/site. (Ties to Hassell Report Recommendation 1; Hurst Policy Memo paragraphs 7, 8, 9, 10, 11, 13, 18)

Not met. Added as Guideline not Management Approach. See Concern Statement 863. "Protection of places that rural historic communities regard as spiritually or culturally important is addressed by FW-RHC-G-2 in the final Plan." See FS Plan page 113.

Not met. Item was not addressed in Concern Statements.

Not met. See Concern Statement 848. "FW-RHC-G-2 in the final Plan requires the protection of spiritually or culturally important places. Management Approach for Rural Historic Communities-3 emphasizes coordinating with land grant governing bodies to understand their concerns and develop proposals of mutual benefit."
See FS Plan page 113.

Suggested Language: *18: When establishing priorities for projects on the Carson National Forest choose those projects which will employ local people and/or contribute to the local economy while meeting resource management objectives*

Comment: Land grant communities local economies are dependent on access to USFS managed lands, including former land grant common land. Local contractors that are likely to hire local laborers often cannot compete with larger companies that win these federal bids and local laborers that are more often than not land grant heirs are excluded from workforces that are restoring their community land grants former land grant common land. This objective would work to ensure that whether a contractor is local, regional, or national, local laborers have the opportunity to work on these projects, bringing their local knowledge of the landscape into restoration projects, thus benefiting the local economy and the restoration project itself. (Ties to Hassell Report Recommendations 14, 16, 17a, 78; Hurst Policy Memo paragraphs 4, 5, 9, 14)

Suggested Language: 19: *When implementing projects (fence construction and maintenance, trail construction, thinning projects, etc) hire local seasonal staff where practical or split projects into units small enough to be within the grasp of small local contractors*

Comment: Land grant communities local economies are dependent on access to USFS managed lands, including former land grant common land. Local contractors that are likely to hire local laborers often cannot compete with larger companies that win these federal bids and local laborers that are more often than not land grant heirs are excluded from workforces that are restoring their community land grants former land grant common land. This objective would work to ensure that whether a contractor is local, regional, or national, local laborers have the opportunity to work on these projects, bringing their local knowledge of the landscape into restoration projects, thus benefiting the local economy and the restoration project itself. (Ties to Hassell Report Recommendations 15, 16; Hurst Policy Memo paragraphs 4, 5, 9, 14)

Suggested Language: *20: When implementing projects that cannot be practically split into smaller jobs (road construction, buildings, etc.) require in the contract that a specified percentage of the labor be hired locally.*

Comment: Land grant communities local economies are dependent on access to USFS managed lands, including former land grant common land. Local contractors that are likely to hire local laborers often cannot compete with larger companies that win these federal bids and local laborers that are more often than not land grant heirs are excluded from workforces that are restoring their community land grants former land grant common land. This objective would work to ensure that whether a contractor is local, regional, or national, local laborers have the opportunity to work on these projects, bringing their local knowledge of the landscape into restoration projects, thus benefiting the local economy and the restoration project itself. (Ties to Hassell Report Recommendations 14, 16, 17a, 78; Hurst Policy Memo paragraphs 4, 5, 9, 14).

Not Met. Contracting is addressed in Concern Statement 23. "FW-RHC-DC-3 in the final Plan is directed at providing economic support to local communities. However, the Plan does not set forth legal requirements for contractors, as that would be outside of the scope and authority of a land management plan."

Suggested Language: *21. Local Ranger Districts make every effort to invite the appropriate land grant and/or acequia governing body(ies) on field trips related to the planning or implementation of projects and activities with the potential to impact traditional use resources, culturally and historically significant sites, adjacent community land grant common lands or community land grant and acequia infrastructure.*

Comment: to ensure that land grant and acequia governing bodies are included in site visits to understand and inform management actions on their former common land or land that affects their communities.**(**Ties to Hassell Report Recommendations 1b, 1c, 8, 14, 30, 44, 52, 66, 68; Hurst Policy Memo paragraphs 4, 8, 9, 10, 18).

Suggested Wording: *23: Coordinate with community land grant governing bodies to develop permitting and/or wood collection processes for fuelwood derived from former land grant common land.*

Comment: Land grants are political subdivisions of the State of New Mexico, duly elected by their membership, and represent the needs of their local communities. They possess the on the ground knowledge necessary to ensure that fuelwood permitting will be successful and equitable, representing the interests of heir-members of community land grants who are dependent on forest products for both economic and cultural reasons. They are uniquely positioned to work with the USFS to meet the fuelwood needs of their local communities through a locally informed permitting process. (Ties to Hassell Report Recommendations 8, 59, 63, 64; Hurst Policy Memo paragraphs 4, 8, 9, 10, 14, 16).

Not met. See Concern Statement 846. "The specific approach of holding field trips was not included; while the Carson NF agrees that field trips can be valuable, they also require time, planning, and coordination that, in many cases, is not necessary to understand potential impacts or to develop collaborative proposals and projects of mutual benefit. Nevertheless, the final Plan in no way prevents or
discourages field trips." Concern Statement sites MA 3 and not MA 11.
Page 113 of FS Plan new Management Approach does not include field trips. "Coordinate with rural historic communities, such as land grant-merced and acequia governing bodies, to build respectful, collaborative relationships and develop collaborative proposals and projects of
mutual benefit." No mention of Ranger Districts, or field trips.
Response refers to FS Plan page 113.

Not met. See Concern Statement 888. "The Forest Service does not prejudice its recognition of the need for the collection of traditionally used
forest products by members of rural historic communities based on their contemporary affiliation with a Spanish or Mexican era grant confirmed by Congress or the Federal courts. In the final Plan, FW-RHC-DC-3 directs management to make fuelwood and other forest products available to rural historic communities such as land grants. Management Approach for Rural Historic Communities-3 describes a strategy of coordinating with land grants to understand their needs and develop collaborative proposals
and projects of mutual benefit."
See FS Plan 112.

Page 108 - Management Approaches for Sustainable Rangelands and Livestock Grazing - Recommend adding a new management approach as follows: Consider converting vacant or understocked allotments near or adjacent to land grant communities into communal livestock grazing allotments.

Comment: This management approach concept would allow for communal grazing opportunities consistent with historical grazing practices for land grant communities.

Not met. See Concern Statement 707 "Response
The Forest Service Range Management Manual (FSM 2231.3 Grazing and Livestock Use Permit System) states that, "Qualified applicants may be issued permits with term status through prior use, the grant process, purchase of base property or livestock with waiver, or interchange of permits with other agencies."
The Grazing Permit Administration Handbook (FSH2209.13_92.13) states that, "The Forest Supervisor may issue grazing permits with term status by grant or increase existing term grazing permits to entities recognized as the logical applicants for new range, transitory range, or additional range, provided that the
applicants meet requirements, and are otherwise qualified, and provided the range resource can support
increased use." The Forest Service uses the grant process, which is the procedure designed to identify preferred applicants for a grazing permit to be issued, when unobligated grazing capacity becomes available. This is policy and required to followed."

Comment: It is not clear why Desired Condition 6 relating to wetland and riparian areas species and plant communities has been inserted in this section. As currently written it is not specifically tied to rangeland and livestock grazing and would be more appropriate in another section of the plan.

Page 108 - Management Approaches for Sustainable Rangelands and Livestock Grazing - Recommend adding a new management approach as follows: Consider converting vacant or understocked allotments near or adjacent to land grant communities into communal livestock grazing allotments.

Comment: This management approach concept would allow for communal grazing opportunities consistent with historical grazing practices for land grant communities. archeological and cultural sites). Therefore explicit language calling for the protection of traditional use and cultural/historic resources should be included along with the other areas called out for protection as currently written in the draft plan.

See Concern Statement 318. "In the final Plan, FW-CR-DC-2 sets forth the vision that human impacts to cultural resources are
minimal. Current and future management activities, such as timber harvests, must include practices to minimize or avoid negative impacts to cultural resources. Additionally, Federal statutes including the National Historic Preservation Act (36 CFR 800), Antiquities Act (16 U.S.C. 431-433), Archaeological Resources Protection Act (16 U.S.C. 470 aa et seq.), and Historic Sites Act (16 U.S.C. 461) require Federal agencies to protect and preserve significant historic properties. Eligible historic properties are also protected under 36 CFR 800.1-2, 800.4 and 800.8 and with aid from the FSM 236 Heritage Program Management.
Traditionally used products are also addressed in the Rural Historic Communities section of the Plan. FW-RHC-G-1 makes available traditionally used products on the Carson NF to rural historic communities and these resources need to be considered when planning timber management activities." Comment refers to pages 113 and 116.

Page 112 - Sustainable Forestry and Forest Products - Standards (FW-FFP-S) - Recommend Adding a Standard 9. -Recommend adding a new standard relating to removal of permit requirement for certain forest products collected for cultural and personal use.

Suggested Language: 9. *Collection of the culturally significant forest products of piñón nuts, trementina sap, chapulín berries, and medicinal plants, in small quantities for personal traditional use shall not require a permit.*

Comment: In order to help met Desired Condition 6, it is important to exempt the permitting requirement for certain culturally significant forest products. The collection of these products for personal traditional use has been going on for centuries in a sustainable manner that has ensured the persistence of the forest products. Removing the requirement for permitting the collection of these products will go a long way to build goodwill with traditional communities. Permitting of these forest products for commercial use should be required.

Page 113 - Sustainable Forestry and Forest Products Guideline (FW-FFP-G) - Recommend adding a new guideline that directs management activities that result in the byproduct of fuelwood to include fuelwood collection opportunities for traditional and local communities.

Suggested language: 4. *When management activities result in generation of fuelwood, opportunities for collection by traditional and other local communities will be made available*
where appropriate.

Comment: This guideline is important because it provides direction to project managers to utilize fuelwood byproducts generated from management projects/ activities for distribution to local communities. This would go a long way toward creating goodwill amount communities dependent on forest resources, like fuelwood, for their survival.

Page 114 - Management Approaches for Sustainable Forestry and Forest Products - Recommend adding a new management approach relating to reasonable distances for local fuelwood collection opportunities.

Suggested Language: *14. Provide annual fuelwood collection opportunities for forest dependent communities, that are adjacent to the National Forest, within a reasonable distance to the community.*

Comment: Providing annual fuelwood collection opportunities as near as practicable to local communities is critical, particularly for traditional communities that are still reliant on fuelwood as a primary heating source.

Not met. See Concern Statement 348 "Rural Historic Communities Desired Conditions-1 and -3 demonstrate that the Carson NF is committed
to providing forest products for traditional, subsistence, and culturally based activities. Forest Service Handbook."

Not met. "Plan components that address fuelwood availability can be found in the Rural Historic Communities
(RHC) and Sustainable Forestry and Forest Products (FFP) sections, all of which apply forestwide. In the final Plan, FW-RHC-DC-3 describes forest products as available to rural historic communities. Additionally, Sustainable Forestry and Forest Products Management Approaches-4, -5, -6, and -13 suggest ways for making fuelwood available to the public." Response refers to FS Plan pages 112 and 126.

Not met. Not Addressed in Concern Statements.

Page 160 - Eligible Wild and Scenic River Management Area (EWSR)

The New Mexico Land Grant Council opposes the the Carson National Forest's eligibility recommendation for the *Cr 31 – Río Santa Bárbara (all three forks)*. It is particularly concerned with the 1½ mile segment of the of the river that lies between the Santa Bárbara Campground and the boundaries of the Pecos Wilderness. Supporting arguments for why the Río Santa Bárbara, particularly the 1½ mile segment, should not be identified as eligible are below:

A. The draft Eligibility Evaluation identified that segment of the Río Santa Barbara with a classification of Wild with the outstanding remarkable values being Scenic, Recreationaland Historic. The draft plan states that the entire stretch of the river segment identified as Cr 31 "offers outstanding & recreational opportunities because of the solitude & high alpine, primitive experience & views of the entire basin and its expansive aspen stands." Both the Land Grant Council and the Santa Bárbara Land Grant disagrees that this statement applies to of the 1½ miles between the Santa Bárbara Campground and the Pecos Wilderness Boundary for the following reasons: 1. Due to this segment's proximity to the Santa Bárbara Campground there is actually very little opportunity for solitude on this stretch of the river. This is a result of the high levels of human traffic, especially during peak camping and fishing season, from campers, hikers, and fishers taking the trailhead from the campgrounds into the Wilderness. 2. Approximately at the midpoint of the 1½ mile segment there is a man-made bridge constructed of concrete and dimensional lumber that allows people to cross from the westside to the eastside of the river. This bridge is by no stretch of the imagination primitive in design or appearance. Based on this the claim that this segment of the river is provides a truly primitive experience is refuted. 3. The vast majority of the 1½ mile segment of the river is in a narrow canyon with that is densely populated with tall trees, which blocks out most of the view to greater surrounding area. Within this segment of the river there are no "views of the entire basin" or "its expansive aspen stands" as claimed in the draft eligibility evaluation. Therefore, based on the fact that this 1½ segment of the river, from the Santa Bárbara Campground to the Pecos Wilderness boundary, does not have true opportunities for solitude, does not offer a truly primitive experience, and does not have views of the entire basin or its expansive aspen stands, it does not have a qualifying Scenic outstanding remarkable value. Furthermore, like other rivers in the immediate area evaluated in the draft eligibility evaluation, i.e. the Río de las Trampas, the "scenic values are not outstandingly remarkable regionally."

Not met. See Concern Statement 361."The reevaluation of river eligibility is being conducted within the context of the overall plan revision for
the Carson NF. There is a suite of regulatory, policy, and legal considerations with which management must comply along all rivers on the forest. Changes to river eligibility fit within the revised approach to river management described by the totality of the new plan. By refining the evaluation and management
direction for eligible rivers, the Carson NF believes it is managing more in line with the intent of the Wild and Scenic Rivers Act, providing clearer management guidance, and stronger protections of those values which make a river eligible. Refining the evaluation and providing consistent management direction for eligible rivers improves the Carson NF's ability to effectively protect and enhance those values that make them eligible."
Eligibility is discussed on FS Plan page 177.

Not met. See Concern Statement 490. "The Rio Santa Barbara is eligible with scenic, recreational, and historic outstandingly remarkable values
from its headwaters to its confluence with Jicarita Creek. This confluence is about one-third of a mile south of the campground and about three-quarters of a mile north of the wilderness boundary. The eligible segment is entirely south of the historic Merced de Santa Barbara Land Grant boundary. We agree that the portion directly adjacent to the campground does not provide the same primitive solitude
as the rest of the river and it is not eligible. The bridge is not completely primitive but is consistent with the "essentially primitive" nature of the river's wild classification. The presence of a few inconspicuous structures is acceptable. The entire basin is not visible from the lower, confined segment and the scenic values are not outstandingly remarkable, but that segment does contribute to the recreational experience.
This has been clarified in the evaluation narrative."
Eligibility is discussed on FS Plan page 177.

Author: anissabaca Subject: Highlight Date: 10/28/2021 12:23:23 PM

B. The draft eligibility evaluation also identifies the *Historical* outstanding remarkable value as “the history of the Santa Barbara Pole and Tie Company is remarkable for its influence on the local communities.” Both the New Mexico Land Grant Council and the Santa Bárbara Land Grant strongly disagrees with the notion that the history of the Santa Barbara Pole and Tie Company and its (adverse) impact on the local community is something to be celebrated or identified as remarkable. This company and its investors are part of the chain of property title claimants who profited from theft of the common land from the local communities. They extracted millions of board feet of timber from what was the common lands of the Santa Bárbara Land Grant without compensation to the community and they denied community members access to portions of the common lands. When the Pole and Tie company extracted all they could they did not return the property back to the community but rather conveyed the lands to the U.S. Forest Service via a land exchange in 1931. Therefore, it is strongly recommended that the Santa Barbara Pole and Tie company *not be* evoked in the plan as an outstandingly remarkable historic value that is to be preserved and protected by the U.S. Forest Service. To do so would be a celebration of the suffering and hardship that was thrust upon our grandparents and great grandparents.

This Historical ORV relating to the Santa Barbara Pole and Tie Company is also present in the identification evaluation for Cr 51 Middle Río Pueblo. We strongly suggest it is

Removed from the Narrative Description of Outstanding Remarkable Values for Cr 51 as well.

Not met. See Concern Comment 495. "The Middle Rio Pueblo is not eligible. The Santa Barbara Pole and Tie Company was listed as an outstandingly remarkable value in the previous evaluation. The history of land use and management in this portion of the southern Camino Real Ranger District is remarkable; it tells the story of traditional use and dependence on this watershed and the battle for local resources by local communities." Eligibility is discussed on FS Plan page 177.

C. The Eligibility Evaluation draft states that the “RGCT populations are suspected to be hybridized & non-native species are present. There is not a full barrier that separated this section.” The New Mexico Land Grant Council along with the Santa Bárbara Land Grant is a proponent of the protection of the native Rio Grande Cutthroat Trout and recognizes that the Río Santa Bárbara is the ideal habitat for this native species. The use of “suspected to be hybridized” when referring to the Rio Grande Cut Throat trout found in this segment of the Río Santa Bárbara is questioned. No evidence found from the New Mexico Department of Game and Fish supports the notion that the Rio Grande Cutthroat Trout in the Río Santa Bárbara have been hybridized. In fact, the 2016 Statewide Fisheries Management Plan published by the New Mexico Department of Game and Fish states that there is a “Core Conservation Population of Rio Grande cutthroat trout in the headwaters of the East, Middle and West Forks of the Rio Santa Barbara. . .” In addition, the Plan states the only other fish species present in Río Santa Bárbara are Brown Trout. Brown Trout and Rio Grande Cutthroat Trout are not known to cross breed. This is since the Brown Trout spawn in the fall whereas the Rio Grande Cutthroat spawn in the Spring. Therefore, since there is no evidence of any Rainbow Trout in the Río Santa Bárbara the claim that the “RGCT populations are suspected to be hybridized” is likely a false claim. While the Brown Trout do not breed with RGCT they do present a huge problem for maintaining RGCT populations. This is since Brown trout are known for pushing out or marginalizing RGCT populations by taking over or dominating RGCT habitats. The Brown Trout which are larger and more aggressive will eat smaller RGCT. The 2016 Fisheries Management Plan also states the although the Río Santa Bárbara contains a Core Conservation Population of RGCT there are no barriers in place to prevent Brown Trout from invading the areas were RGCT Core Conservation Populations currently prevail. Conservation efforts to decimate the invading Brown Trout will not be successful unless fish barriers separating the two populations can be established in the river along this segment of the Río Santa Bárbara. There are several options for establishing fish barriers within the Río Santa Bárbara. One would be to establish barriers on all three forks of the Rio Santa Bárbara. This is possible but does present some logistical challenges since all three forks are within the Pecos Wilderness. Another option would be to establish a fish barrier downstream of the three forks somewhere within the 1½ segment that lies between the Pecos Wilderness Boundary and the Santa Barbara Campground. None of these options are feasible if the segment of the Río Santa Bárbara being proposed in the draft Eligibility Evaluation are identified for management as eligible for Wild and Scenic Rivers Designation in the Carson National Forest Service Management Plan. Therefore, in order to not limit the ability to protect the Core Conservation Population of Rio Grande Cutthroat Trout, identified by NM Dept of Game and Fish as being present in the headwaters of Río Santa Bárbara, Cr 31 Rio Santa Barbara (all threes forks) in its entirety should be identified as Not Eligible for possible designation under the Wild and Scenic River Act.

Addressed in Concern Statement 494. "The installation of fish barriers is not prevented in eligible rivers. The final Plan clarifies the types of water resources projects (including fish barriers) that may be allowed in eligible rivers in the footnote for MA-EWSR-S-1 (footnote 57). Fish barriers by design do impound water and modify the waterway, and therefore, result in modification of free-flowing character." Eligibility is discussed on FS Plan page 177.

D. The Carson National Forest Planning team identified Cr 31 as WSR eligible with a classification as Wild. If Determined to be eligible Wild is the only classification that fits this segment of the river based on the fact that there are no roads that access any portion of this segment of the Río Santa Bárbara. There are grave concerns with this classification, particularly within the 1½ segment between the Pecos Wilderness and the Santa Barbara Campground, since it could severely hamper any management efforts aimed at improving watershed health, reducing the risk of catastrophic wildfire and for ensuring water quantity and quality for downstream acequia water rights owners. This is since the classification as Wild requires that no management efforts occur within the eligible area that could affect/impact the wild character for which it was classified. Therefore, it would be highly unlikely that any restoration efforts such as removal of trees for reducing fuel loads or improving the watershed health would take place within the 1½ mile segment. This area is known to be subject to high winds and storms that often times result in the felling of trees, sometimes in large quantities along the river bed, such as in ~2008. When this occurs, it may be necessary to go in and remove the down trees in order to reduce fuel loads and prevent the trees from damming up the river. If trees dam up the river this could reduce the amount of water available for the downstream acequia water users. Therefore, in order to not limit the Forest Service's ability to manage this segment of the Río Santa Bárbara for watershed health, prevention of catastrophic wildfire, and for downstream acequias, Cr 31 from the Santa Barbara Campground to the Pecos Wilderness boundary should be re-identified as Not Eligible for management as a potential WSR

Based on all of the above reasons the New Mexico Land Grant Council supports the Santa Bárbara Land Grant's repeated requests that the Río Santa Bárbara not be listed as eligible for a Wild and Scenic River designation, particularly the 1½ mile segment of the river between the Santa Barbara Campground and the Pecos Wilderness.

Page 165 - Developed Winter and Summer Resort Management Area (DEVRES)

General Comment: The New Mexico Land Grant Council supports the Santa Barbara Land Grant's request to not approve the expansion of the Sipapu Ski Area as doing so would impact the natural resources located in the expansion area. Including impacts to downstream water rights holders.

See Concern Statement 361. "The reevaluation of river eligibility is being conducted within the context of the overall plan revision for
the Carson NF. There is a suite of regulatory, policy, and legal considerations with which management must comply along all rivers on the forest. Changes to river eligibility fit within the revised approach to river management described by the totality of the new plan. By refining the evaluation and management
direction for eligible rivers, the Carson NF believes it is managing more in line with the intent of the Wild and Scenic Rivers Act, providing clearer management guidance, and stronger protections of those values which make a river eligible. Refining the evaluation and providing consistent management direction for eligible rivers improves the Carson NF's ability to effectively protect and enhance those values that make them eligible." Eligibility is disscussed on FS Plan page 177.

Addressed on page 184 of FS Plan. See Concern Statement 645.
"The location of the management area surrounding Sipapu Ski Area from alternative 1 has been adopted
under alternative 2-modified (USDA FS Carson NF 2021). The management area location in alternative 3 was not chosen because it was based on an expansion area proposed by the ski area that is still under development and has not been fully analyzed. The Potential Developed Recreation Site Management Area maintains opportunities for future recreation development; however, it does not itself permit expansion of the Sipapu Ski Area or the permitted area. Any ski area expansion would go through project-level analysis under the National Environmental Policy Act."