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**Western
Watersheds
Project**

Working to protect and restore Western Watersheds and Wildlife

March 12, 2020

Tonto National Forest
ATTN: Forest Planner
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Letter submitted via email and via CARA website this date

Re: Comments on the Tonto National Forest Draft Land Management Plan and Draft Environmental Impact Statement

Dear Tonto Forest Planning Team:

Thank you for the opportunity to comment on the Tonto National Forest's Draft Revised Management Plan (draft plan) and Draft Environmental Impact Statement (DEIS).

While WWP appreciates the opportunity to comment on the DEIS for the Tonto National Forest, we are disappointed that the Gila and Tonto National Forests chose to initiate the public comment period for their draft plans and DEISs concurrently, with overlapping meeting schedules and comments are due in very close proximity. This decision is a repetition of what happened with the Cibola, Carson, and Santa Fe National Forests and as we stated previously, these poor logistical decisions may significantly impede public comment and is inconsistent with the 2012 planning rule's emphasis on the importance of meaningfully involving the public throughout the plan revision process.¹

WWP is a nonprofit organization dedicated to protecting and restoring western watersheds and wildlife through education, public policy initiatives, and legal advocacy. With over 15,000 members and supporters throughout the United States, including Arizona, WWP actively works to protect and improve upland and riparian areas, water quality, fisheries, wildlife, and other natural resources and ecological values. WWP's staff and members are concerned with the management of national forests and public lands throughout Arizona, including the Tonto National Forest. We work throughout the West, advocating for watersheds, wildlife, and ecological integrity. The ongoing plan revision process

¹ See 77 Fed. Reg. 21162, 21178 (Apr. 9, 2012) (describing the rule's "transparent and collaborative approach to planning")

affects our interest in the health and integrity of the terrestrial and riparian environments found in the Tonto National Forest. Our staff and members regularly visit the Tonto National Forest and enjoy the outstanding wildlife, wilderness, and recreational values the Forest provides.

WWP is especially concerned with the impacts of livestock grazing on ecological integrity, wildlife, fisheries, and recreation. Across public lands and national forests in the West, grazing is ubiquitous, and it remains one of the primary commercial uses of the Forest. Too often, however, land managers do not adequately consider the environmental impacts of this widespread and highly extractive use; nor have federal land management agencies considered whether the environmental costs of public lands grazing outweigh the relatively insignificant economic benefits.

We have included our prior comments, submitted May 29, 2018, as Appendix A and our comments submitted January 12, 2018 as Appendix B. We ask that the Forest Service include and consider fully these prior comments.

WWP asks the Forest Service to acknowledge that there is no way to conduct a sustainable and commercially viable livestock grazing operation in the arid southwest. If sustainable means simply that it can be done year after year, decade after decade, perhaps. But if “sustainable” is defined, as it is more commonly, to mean maintained at a steady level without depleting or exhausting natural or economic resources, public lands livestock operations fail to meet the bar. Public lands grazing operates at a profound financial public deficit (economically unsustainable), has converted and degraded entire landscapes (ecologically unsustainable), converts thousands of gallons of potable water into sewage every year (hydrologically unsustainable), produces greenhouse gases at levels that exceed other forms of agriculture (climatically unsustainable), and results in a product that is demonstrably adverse to human health when ingested frequently or in high amounts (nutritionally unsustainable). Additionally, the reliance on removing top predators from the landscape as a way of making it safe for untended livestock is highly impactful on native wildlife species such as the coyote, cougar, black bear, and Mexican gray wolf.

WWP notes, with great dismay, that the Forest Service has chosen to play on the emotional appeal and false romantic narrative of the “traditional” or “western” way of life that livestock grazing producers embrace, in abject denial of the realities and long history of degradation from livestock grazing in southwestern forests, including the displacement of Indigenous people from their traditional lands. The quotes found at the beginning of the “Rangelands, Forage, and Grazing” section of the Draft LRMP² expose the Forest Service’s true approach to managing livestock grazing on the Tonto National Forest: ignore the best available science and rely upon the emotional pull of the “rural lifestyle” when making land management decisions. This approach turns a blind eye to the current degraded ecological conditions of the Tonto National Forest that have resulted from generations of livestock industry exploitation on this forest.

The analysis in the DEIS briefly discusses the long history of livestock grazing in the Tonto National Forest, noting that there were up to 2 million head of livestock in the area in the 1800s and approximately 25,000 “permitted” livestock as of 2013. DEIS at 126. Unfortunately, this history fails to adequately acknowledge the long-lasting negative impacts livestock grazing has had on the forest. There is no discussion of how livestock grazing has contributed to and continue to exacerbate altered

² Draft Land and Resource Management Plan at 38.

fire regimes, invasive species, loss of species diversity, and degraded watersheds. Indeed, the Forest Service starts the discussion about rangelands in the DEIS with a paragraph that hails the use of livestock to reduce fuel loads. A few paragraphs later the Forest Service notes that “[m]any accounts of the vegetative communities indicate early overgrazing substantially altered the composition of the plant communities now present, but then immediately notes how little mention was made in a 1926 diary of Fred Coxen of gullying or erosion, as if somehow the vegetation could be “substantially altered” by overgrazing but that would not have an impact on erosion. *Id.*

Unfortunately, “[n]early the entire Tonto National Forest is within a grazing allotment with a few exceptions[.]” *Id.* at 127. There are over 106 allotments (97 active, 8 vacant, and one formally retired), one sheep driveway (which WWP objects to and which hasn’t been used for many years because the sheep permittee usually transports his livestock via truck³), with over 25,000 cattle⁴ and over 170,000 Animal Unit Months (AUMs) permitted and most livestock authorizations for year-round grazing, leaving little room, time or opportunity for wildlife and recreation that is unmarred by conflicts with livestock and related infrastructure. The vast majority of the forest is dedicated for use by just ~85 term grazing permittees. DEIS at 127.

The Forest Service states that “[l]ivestock grazing is an appropriate use of National Forest Lands when managed in a responsible manner.” DEIS at 11. This fallacy of this statement is that livestock grazing can be responsibly managed. There is ample evidence that livestock permittees are very often incapable of ensuring their livestock are maintained within the pasture or allotment they are supposed to be in and trespass or unauthorized use is rampant.⁵

Therefore, we strongly recommend, among other environmental considerations, that the decisions regarding the proposed forest plan specific to livestock operations take into account the need to address sustainability and to plan for the recovery and expanded habitat of all native predators. In that light, we ask the Tonto National Forest to revisit the livestock grazing section of the Draft LRMP and DEIS.

To address this significant concern, the Forest Service must apply the best available scientific information, 36 C.F.R. § 219.3, to determine which areas of the Forest are suitable for livestock grazing, and which are not. 36 C.F.R. § 219.7(e)(1)(v). Unfortunately, the DEIS and Draft LRMP are silent on this issue, as well as the capability of Forest Service lands to provide forage for livestock. This is a one primary example of a clear and direct failure of the Forest to apply the best available scientific information that must be remedied before the release of a final decision.

A. National Environmental Policy Act Violations

The Forest is violating the National Environmental Policy Act, 42 U.S.C. §4321 et seq. and its implementing regulations, 40 C.F.R. §1500 et seq., by issuing grazing permits and making important grazing management decisions on allotments throughout the Forest without compliance with NEPA’s

³ See Appendix C, WWP’s October 28, 2019, Objection to the Bar X and Driveway Grazing Authorization; and see Appendix D, WWP’s April 8, 2019, comments on the Bar X and Heber-Reno Sheep Driveway Authorization project; and see the project record held by the Tonto National Forest for this same project.

⁴ These numbers appear to be from 2015. Given that it is now 2020, the Forest Service should include information for livestock operations through 2019. Please provide this information.

⁵ See Appendix E, 2016 GAO Report to the Committee on Natural Resources, House of Representatives: Unauthorized Grazing: Actions Needed to Improve Tracking and Deterrence Efforts.

environmental analysis or public participation requirements and by deferring all site-specific analysis to some to-be-completed-but-aspirational revision of the Forest's outdated AMPs. Suitability and capability for livestock grazing are not addressed, and this oversight must be corrected.⁶

Analysis of impacts indefinitely deferred

The Forest Service is illegally deferring long-overdue analysis and failing to use the best available science and ignoring known and available information.

These violations are not remedied by the revision process but rather exacerbated by the clear direction to continue defer actual analysis on grazing permits:

Stocking decisions regarding the amount of livestock grazing authorized for each grazing allotment are considered as part of the project-level analysis (NEPA) and is beyond the scope of this programmatic analysis for the forest plan. Project-level analysis would cover changes to authorized grazing through term grazing permits (subject to Forestwide standards and guidelines); allotment management plans; and annual operating instructions. In addition, the alternatives include a range of options on how to deal with vacant and understocked allotments that could increase or decrease grazing numbers. Based on the above, an alternative that removes grazing on the forest is not considered necessary as well as not legally compliant. DEIS at 48.

Unfortunately, the DEIS is the perfect example of the NEPA shell game whereby analysis is deferred from the larger planning document to yet to be conducted site-specific analysis. However, the agency has no intention of actually completing the site-specific analysis and continues to permit the underlying activity in the meantime. This is a clear violation of law and must be remedied before a final decision is implemented. The problems with deferring any action to site-specific analysis are manifold given the tremendous impact livestock grazing has had on the ecological conditions of the Tonto National Forest.

Assumptions used for the analysis of impacts are flawed

There are two key issues related to livestock grazing in the DEIS that the Forest Service has missed the mark on. First, in the DEIS at page 127, the Forest Service explains that Animal Unit Months (AUMs) are calculated using an estimated 1,000-pound cow. This is in error and does not reflect the current understanding of livestock weights. Second, the DEIS is silent on the important issue of trespass. Because this important information is missing, the Forest Service must revise the Draft EIS to acknowledge and address the impacts of unauthorized grazing by permittees, as well as revise how AUMs are calculated.

⁶ WWP notes that suitability for timber is addressed in the DEIS, which is a clear indication that the Forest Service is capable of determining suitability for extractive uses in the LRMP process.

For calculating Animal Unit Months (AUMs), wherein the animal unit is defined as one mature cow and her nursing calf, the Forest Service should use the well-known that the average livestock weight, which is in excess of 1,300 pounds.⁷

In 2016, the Government Accounting Office identified actions needed by federal agencies to improve the tracking and deterrence efforts for addressing trespass livestock, or unauthorized use.⁸ This 2016 GAO report found that the frequency and extent of unauthorized livestock grazing on Forest Service lands is largely unknown because agencies “prefer to handle most incidents informally” with a phone call and these violations of law are not recorded, and yet despite this vast underreporting of livestock grazing violations the report indicates 1,500 incidents of unauthorized grazing where formal action was taken between 2010 and 2014, with more than 600 incidents reported on Forest Service lands and a large number of those occurring in Region 3.⁹ With this information in mind, the Forest Service should, for this project, disclose the level of unauthorized grazing that has occurred on this allotment over the past 10 years, including incidents that were handled “informally,” including willful and non-willful incidents. The cumulative impact of unauthorized livestock grazing is undisclosed in this EA and this deficiency must be corrected.

These mistaken and missing assumptions are critical for the impacts analysis in all alternatives. Therefore, the Forest Service must take a step back, revise the assumptions and analysis, and provide the public with an opportunity to review and comment upon the new analysis.

Range of Alternatives is inadequate

The analysis of alternatives under the National Environmental Policy Act (NEPA) is the “heart” of an environmental impact statement (EIS).¹⁰ The Forest Service must “[r]igorously explore and objectively evaluate all reasonable alternatives” to a proposed action.¹¹ “Without substantive, comparative environmental impact information regarding other possible courses of action, the ability of an EIS to inform agency deliberation and facilitate public involvement would be greatly degraded.”¹² Consistent with NEPA’s basic policy objective to protect the environment, this includes more environmentally protective alternatives.¹³

⁷ See Livestock Slaughter, USDA, National Agricultural Statistics Service, June 2019.

⁸ See Appendix E, GAO Report to the Committee on Natural Resources, House of Representatives: Unauthorized Grazing: Actions Needed to Improve Tracking and Deterrence Efforts.

⁹ *Id.* at 1, 57-58.

¹⁰ 40 C.F.R. § 1502.14.

¹¹ *Id.* § 1502.14(a); see also 42 U.S.C. § 4332(2)(E) (agencies must “study, develop and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources”).

¹² *New Mexico ex rel. Richardson v. BLM*, 565 F.3d 683, 708 (10th Cir. 2009).

¹³ 40 C.F.R. § 1500.2(e) (agencies must “[u]se the NEPA process to identify and assess reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment”).

An agency risks a finding that it has violated NEPA if it considers only the no action alternative and its primary, preferred alternatives, and ignores action alternatives suggested in public comments.¹⁴ Put simply, “[t]he existence of a viable but unexamined alternative renders an [EA] inadequate.”¹⁵

There is no requirement for any changes in grazing management to occur until site-specific Allotment Management Plans (AMPs) are created or revised. No alternatives propose any interim management prescriptions for livestock grazing even though the DEIS is replete with references to current grazing practices responsible for conditions that are below the current or proposed desired conditions.

WWP has not found any chart or table that discloses the current number of AUMs authorized under each alternative. This information must be provided. However, WWP notes that the number of authorized livestock authorized is “substantially lower than permitted grazing, authorizing only about 58 percent of permitted animal unit months in 2015” and not including the vacant allotments for natural resource protection or permittee personal convenience. DEIS at 127. Clearly, the Forest Service has over-estimated the need for and/or capacity for livestock grazing in the Tonto National Forest, at least as of 2015. Aside from the fact that the Forest Service must disclose this same information for 2016, 2017, 2018, and 2019, this is valuable information the Forest Service seems to be turning a blind eye to. The Forest Service should therefore have included at least one alternative that would have significantly reduced the number of AUMs authorized forest-wide.

Furthermore, the Forest Service should have analyzed an alternative that would prohibit livestock grazing forest-wide. The Forest Service claims that the decision to reject this proposed alternative is because a no-grazing alternative would not meet the legal direction for managing the forest for multiple use. DEIS at 47. This explanation is unsatisfactory for several reasons. First, the Forest Service (and other federal agencies) frequently analyze alternatives that do not comply with legal direct. For example, the Tonto National Forest (and indeed, every forest in Region 3), analyzed a “no action” alternative as part of the Travel Management Planning process that would leave the current system of managing vehicles on Forest Service lands in place and continuing to allow cross-country motorized travel forest- or district-wide. This was in clear violation of the Travel Management Rule, but this alternative was developed and analyzed, even though the Forest Service was incapable of legally selecting that no-action alternative as the final decision. Clearly, the Forest Service could legally have analyzed a no-grazing alternative, as requested by several commenters. Second, we agree the Forest Service is bound by the Multiple Use Sustained Yield Act (MUSY) of 1960 (Public Law 86-517, 16U.S.C. 528 *et seq.*), but this law does not require that federal agencies allow for every use of federally managed lands. While “it is the policy of the Congress that the National Forests are established and shall be administered for outdoor recreation, range, timber, watershed, and wildlife and fish purposes[.]” there is nothing that defines “range” as only for livestock and nothing requiring every forest (and nearly every acre of every forest) be used for livestock.

Indeed, “[c]urrent Forest Service objectives for the range management program are:

¹⁴ See, e.g., *Soda Mountain Wilderness Council v. Bureau of Land Management*, 534 Fed. Appx. 680 (9th Cir. 2013), on remand to, 2013 WL 4786242 (D. Or. 2013) (failure to consider alternative to timber sale that would not have required building new roads to access three units in the project area).

¹⁵ *Western Watersheds Project v. Abbey*, 719 F.3d 1035, 1050 (9th Cir. 2013).

1. To manage range vegetation to protect basic soil and water resources, provide for ecological diversity, improve or maintain environmental quality, and meet public needs for interrelated resource uses.
2. To integrate management of range vegetation with other resource programs to achieve multiple use objectives contained in Forest land and resource management plans.
3. To provide for livestock forage, wildlife food and habitat, outdoor recreation, and other resource values dependent on range vegetation.
4. To contribute to the economic and social well being of people by providing opportunities for economic diversity and by promoting stability for communities that depends on range resources for their livelihood.
5. To provide expertise on range ecology, botany, and management of grazing animals.”

And, “[i]t was ***never the intent of the Congress that all uses would occur on all areas***. Individual forests determine what uses are feasible and appropriate for different areas through the development and revision of the Land and Resource Management Plans. Once a determination has been made that grazing is feasible and appropriate for an area, grazing is planned and managed taking into consideration all the other uses of the area.”¹⁶

The definition of “multiple use” from the MUSY is clear that “that ***some land will be used for less than all of the resources***; and ***harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output***.” 16 U.S.C. 531 § 4(a), emphasis added. Clearly, the Forest Service *may* consider a no-grazing alternative and simply chosen not to do so despite reasonable requests for such an alternative, citing at least in part the need for economic benefit to livestock permittees.

Additionally, the Forest Service should have considered an alternative that would authorize the permanent retirement of grazing allotments that are voluntarily waived by the permittee. The Forest Plan must allow permits to be waived back to the agency for permanent resource protection. The option of permanent voluntary retirement of permits and associated grazing privileges represents an equitable solution to wildlife conflicts with agricultural operations on public lands. It provides security to livestock producers facing declining economic returns, increasing price instability, a shrinking available workforce, and other challenges, and allows the Forest Service to redesignate lands to other uses, including wildlife habitat, recreation, and hunting. The permit waiver system represents the increasing public interest in maintaining natural systems and restoring native species, and allows land managers to facilitate the win-win resolution of grazing conflicts which impact not only native species, but also water quality and the recreational experience of users. Allotments already vacated for resource protection, either through Forest Service actions or through the voluntary relinquishment of grazing preference, must be closed.

Finally, the analysis of Alternative C is biased and is in fact advocacy for livestock grazing rather than analysis of impacts. DEIS at 131-132. The Forest Service describes Alternative C as allowing currently vacant allotments to be closed and as allotments become vacant in the future they can be evaluated for closure, among other uses, but neither currently vacant nor prospectively vacant allotments could be

¹⁶ <https://www.fs.fed.us/rangeland-management/grazing/allowgrazing.shtml>, last accessed March 6, 2020.

permanently retired. Unfortunately, the Forest Service shows its bias towards livestock grazing when it describes how Alternative C's emphasis on wildlife fire to treat vegetative communities may harm livestock infrastructure, such as livestock waters and fences, which may harm wildlife dependent on those waters. First, wildlife can and do find water on the landscape even without the "helpful" livestock industry waters that have been installed. Second, the removal of livestock fencing would allow wildlife to move more freely about the forest, providing greater access to natural resources (such as water and forage), but the Forest Service has ignored this benefit and focused only on the *possible* negative impacts from loss of livestock waters. This same analysis is carried through regarding the impacts from the lack of maintenance on closed allotments for Alternative C, and Alternative D wherein the Forest Service identifies only the positive benefits of increased livestock use and infrastructure and fails to consider the negative impacts of additional fences, road use, watershed modification, the spread of invasive species of plants, and the increased competition for forage between livestock and wildlife. This was an interesting attempt by the Forest Service to skew the analysis of livestock use under the alternatives analysis, but is belied by the Forest Service's own statements elsewhere in the DEIS that "[m]any water sources on the Forest have been damaged by grazing" and other activities (DEIS at 158), "[g]razing can adversely impact archeological sites or change traditional landscapes" and "[r]ange activities that alter springs, riparian areas, and other waters are of concern to tribal communities[,] negatively impacting tribal access to plants used for subsistence, religious, medicinal, and other cultural purposes (DEIS at 159).

The Forest Service acknowledges the lack of a range in the alternatives as regards livestock grazing and that the "alternatives" only differ in the number of acres available for livestock grazing, not the number of AUMs. DEIS at 188. This is shocking given that, among other impacts identified in the DEIS, "the greatest negative impact on scenery has been grazing in the Sonoran Desert and riparian areas due to erosion along with damage to, or removal of, vegetation and landforms."

The analysis must disclose underlying Indigenous land claims and address environmental justice issues

"Beef's move to the center of the American diet depended on bison hunters' and ranchers' ecological remaking of western lands with the support of the U.S. military. Further, this process produced a set of narratives that not only justified seizing American Indian lands, but also placed ranching at the heart of the story of the American West." - from Red Meat Republic by Joshua Specht. (Princeton University Press 2019).

The history of livestock grazing in the West is inextricably linked to the conquest and displacement of Indigenous peoples. Cattle companies created proxy territorialism, carving up the landscape of Nations and cultures into one of barbed-wire and "resource use." To the extent that ranchers today claim to have been on a particular piece of land for generations and therewith claim some "rights" to those lands, their sense of propriety should be contextualized with who was displaced when they originally staked those claims. Unceded territories should be disclosed in land management decisions and environmental justice considerations should be thoroughly discussed.

The Forest Service should be seeking more public input and Indigenous input in order to properly and accurately tell these stories, and grazing permit renewals should necessarily entail in-depth analyses of

the history of the places and peoples affected by continued livestock use. These issues must be included as part of the NEPA analysis for this project.

B. Bighorn Sheep

Underpinning the 2012 Planning Rule's complementary ecosystem and species-specific approach to the maintenance of plant and animal diversity are provisions relating to the identification and management of species of conservation concern. Species of conservation concern (SCC) are native species occurring on the planning unit for which substantial concern exists for their ability to persist in the long term. For these species, specific plan elements must be developed when an ecosystem-scale approach to conservation is unlikely to provide adequate security from known threats to persistence. 36 CFR 219.9.

The Forest Service must identify a species as an SCC even where primary threats to persistence do not occur within the plan area or as a result of Forest Service actions. 36 CFR 219.9 (b) (2)(ii). Factors contributing to concern for persistence include: significant threats, declining trends in population and/or habitat, restricted ranges, and low population numbers or restricted ecological conditions within the plan area. FSH 1909.12 Ch 10 Sec 12.52(d).

While bighorn sheep were not evaluated as potential SCC on the Tonto National Forest, bighorn sheep are listed as an Arizona Species of Greatest Conservation Need, a designation reflecting state wildlife officials' substantial concern for their persistence. Bighorn sheep are also considered a high priority for conservation by several area Tribes. The security of bighorn sheep populations on the Tonto National Forest can not be guaranteed even where ecosystem integrity is high (as reflected in GRZ-G-06 in the Draft Plan), demonstrating why a fine filter approach to bighorn sheep conservation is necessary. Bighorn sheep should be evaluated for inclusion in the Tonto National Forest's SCC list, and standards should be added to the plan to promote the security and expansion of Tonto bighorn populations.

Known threats to bighorn sheep populations on the Tonto National Forest include livestock pathogens transmitted by domestic sheep and goats on public and private lands and displacement by recreational activities. While the Draft Plan does include a guideline ostensibly addressing the fundamental incompatibility between the wild and domestic species of subfamily *Caprinae*, this guideline amounts to an optional recommendation to limit wildlife exposure to fatal livestock pathogens. It does not adequately address the use of sheep and goats for weed control, fuels management projects, or as recreational or commercial pack stock, it does not attempt to limit contact between wild sheep on public lands and hobby flocks of sheep and goats on private lands, and it does not mitigate the risks from existing trailing activities occurring on the Forest. Further, both the Draft Plan and DEIS are silent on the impacts of recreation and mining on bighorn sheep populations, activities that are known to significantly affect the species. This is unacceptable. Each of these factors must be analyzed.

The Forest Service should remove GRZ-G-06 and include a standard GRZ-S-XX which reads: For the protection of bighorn sheep, domestic sheep and goat grazing will not be permitted on the Forest. The Forest should develop additional standards 1) prohibiting domestic sheep and goats, such as those used for vegetation management or as pack stock, from areas where they pose a risk to bighorn sheep, 2) prohibiting vegetation management activities that will increase the risk of pathogen transmission to bighorn sheep by affecting habitat quality or landscape permeability, and 3) prohibiting or seasonally restricting road construction, surface disturbing activities, and recreational use critical bighorn sheep habitat areas.

C. Tortoise

The Sonoran desert tortoise is considered an “at risk” species associated with the semi-desert grasslands of the Tonto National Forest and is also found on approximately 822,000 acres of desert community. Draft LRMP Vol 2. at 13, 123. There are more than one million acres of potential habitat for the tortoise found in the Cave Creek, Globe, Payson, and Tonto Ranger Districts. Draft LRMP Vol. 2 at 104, 123. Approximately twenty percent of potential habitat for the tortoise is found in the Four Peaks, Mazatzal, Salome, and Superstition wilderness areas. Draft LRMP Vol. 2 at 123. “The Tonto National Forest is currently home to some of the densest populations of Sonoran desert tortoise[.]” *Id.*

The Draft EIS for the LRMP notes that on October 5, 2015, the U.S. Fish and Wildlife Service removed the Sonoran desert tortoise from the Endangered Species Act candidate list and that, despite myriad risks to tortoise populations including climate change and livestock grazing, tortoise populations are somehow considered “stable.” Draft LRMP at 123. The Forest Service states that urbanization is a risk to the tortoise that is unlikely to impact tortoise numbers on the forest. *Id.* WWP notes that this assumption is incorrect because as urban areas increase in population size, the number of visitors to the forest from those urban areas also increases, which does impact tortoise populations.

WWP is concerned that the Forest Service is minimizing the impacts, known and potential, that threaten the Sonoran desert tortoise because the tortoise “continues to be managed under a formal candidate conservation agreement for which the Tonto National Forest is one of the signatory agencies.” We have attached a complaint filed in a lawsuit against the U.S. Fish and Wildlife Service for failure to list the Sonoran desert tortoise under the Endangered Species Act and ask the Forest Service to include this information in the analysis of the alternatives for this project. As noted in the complaint, livestock grazing remains a significant and unaddressed threat to the tortoise and it occurs nearly forest-wide in the Tonto National Forest, including in Wilderness areas and the Candidate Conservation Agreement is insufficient to keep the tortoise from its rapid slide towards extinction.

D. Climate Change

The Tonto draft plan and DEIS do address climate change. However, the discussion is scattered. There is no comprehensive section concerning climate change in either the draft plan or DEIS. The piecemeal approach to the issue of climate change makes it difficult to develop an understanding of how the Forest Service is planning to address climate change and how climate change is likely to impact the forest. It also makes it difficult to determine what gaps exist in the Tonto’s climate-related management direction and environmental analysis. The Forest Service should address these shortcomings in the final plan and final EIS to ensure that the big-picture context on climate change is clearly delineated and available to guide forest management.

The Forest Service should include a climate alternative or significantly improve its climate analysis for the existing alternatives. Relying on management approaches to address climate management challenges is ineffective because management approaches are not enforceable and may never actually be implemented. Actual enforceable plan components and corresponding monitoring indicators are needed to effectively address climate change, and they must be included in the final plan.

NEPA expressly calls on agencies to provide for intergenerational equity, stating that it is intended to “fulfill the responsibilities of each generation as trustee of the environment for succeeding

generations.”¹⁷ This is particularly relevant with respect to climate change, given its long-lasting impacts. The Forest Service Planning Handbooks moreover explain that forest plan components should be developed through a forward looking, future-based viewpoint.¹⁸

The Forest Service has repeatedly acknowledged and committed to using the lands it manages to effectively address climate change impacts and sequester carbon. For example, the Forest Service Global Change Research Strategy states that forests “play an important role in reducing the buildup of greenhouse gases in the atmosphere by sequestering carbon.”¹⁹ In the same document, the Forest Service commits to identifying best management practices that will increase carbon sequestration while supporting ecosystem health.²⁰

The USFS National Roadmap for Responding to Climate Change also addresses the importance of climate change adaptation and mitigation in national forests. It identifies several adaptive management strategies that the Forest Service will use, including building resistance to climate-related stressors, increasing ecosystem resilience, and when necessary, facilitating large-scale ecological transitions.²¹ Carbon sequestration is the primary mitigation strategy of the Forest Service, which has committed to “[p]romoting the uptake of atmospheric carbon by forests and the storage of carbon.”²² The Forest Service also developed a Climate Change Performance Scorecard that each National Forest must complete annually.²³

There is insufficient analysis of the impacts of managed decisions on the environment *in light of the compounding impacts of climate change*. For example, given the likelihood of hotter and dryer conditions in the southwest, how will this project exacerbate the already alarming impacts associated with the impacts of climate change on game species, threatened and endangered species, or special status species? How will livestock grazing related fencing and infrastructure further fragment the landscape and how will this impact species already harmed by the rapid on-the-ground changes associated with climate change? How does climate change affect what the Forest Service considers suitable range for livestock? These questions have not been asked nor answered.

Climate variability will exacerbate the impacts of management activities on all resources in the Tonto National Forest. Climate impacts are compounded from heavy use by livestock and other grazing ungulates, which cause soil erosion, compaction, and dust generation; stream degradation; higher water temperatures and pollution; loss of habitat for fish, birds and amphibians; and desertification. Livestock grazing and trampling degrades soil fertility, stability and hydrology, and makes it vulnerable to wind erosion. This in turn adds sediments, nutrients and pathogens to western streams.²⁴

¹⁷ 42 U.S.C. 4331(b)(1).

¹⁸ FSH 1909.12, § 23.11 (“In light of possible changes in species composition under the effects of climate change and with a focus on restoration, the Agency designs plan components to provide ecological conditions to sustain functional ecosystems based on a future viewpoint.”).

¹⁹ The Forest Service Global Change Research Strategy, 5, 2009-2019.

²⁰ *Id.*

²¹ USFS National Roadmap for Responding to Climate Change, 19-20 (2010).

²² *Id.*

²³ See USFS, *Performance Scorecard for Implementing the Forest Service Climate Change Strategy*, <https://www.fs.fed.us/climatechange/advisor/scorecard.html> (with links to the scorecard and related materials).

²⁴ Beschta, Robert L., Debra L. Donahue, Dominick A. DellaSala, Jonathan J. Rhodes, James R. Karr, Mary H. O’Brien,

The advent of climate change has significantly added to historic and contemporary problems that result from cattle and sheep ranching.

The incomplete consideration of climate change in the draft plan and DEIS is inconsistent both with the requirements of NEPA and Forest Service policy. More is needed to ensure that the Forest Service complies with applicable requirements and appropriately considers climate impacts, the forest's ability to mitigate climate change (e.g. by carbon sequestration), and the forest's level of resilience and ability to adapt to climate-related stressors.

We recommend that the Forest Service include a section on climate change in the draft plan that describes climate change impacts on the forest, explains how the Forest Service plans to address climate change (including climate mitigation, adaptation, and resilience), and cross-references all plan components that concern climate change. If the Forest Service is concerned about creating redundancy in the forest plan, the agency could include either a table that lists the plan component code without the text or all of the climate-related plan components in an appendix to the draft plan.

The Forest Service should also include a comprehensive section on climate change in the final EIS. The analysis should describe current and expected climate impacts in the Tonto National Forest and explain how the various alternatives would address climate change. Climate impacts should be described in detail, including impacts on temperature, precipitation patterns, drought, wildfire, water resources, vegetation, species and habitat, insect infestations, disease, and invasive species. In addition to information about ecological impacts related to climate change, socioeconomic impacts and impacts on human activity in the Tonto National Forest should be described in detail.

E. Specific Recommendations for Changes to the Draft LRMP²⁵

WWP's recommended changes to the Draft LRMP are below. ~~Strikethrough~~ indicates our recommended deletion and ALL CAPS indicates our recommended addition to the text.

ALL ANNUAL OPERATING INSTRUCTIONS, MONITORING REPORTS, AND EPHEMERAL USE PERMITS WILL BE POSTED ONLINE AND MADE PUBLICLY AVAILABLE IN A TIMELY MANNER.

Desired Conditions (GRZ-DC)²⁶

01 ~~Sustainable~~ livestock grazing contributes to the long-term socioeconomic diversity and stability of local communities.

Thomas L. Fleischner, Cindy Deacon Williams. 2012. Adapting to Climate Change on Western Public Lands: Addressing the Ecological Effects of Domestic, Wild, and Feral Ungulates. Environmental Management, DOI 10.1007/s00267-012-9964-9 2012.

https://www.researchgate.net/publication/233418604_Adapting_to_Climate_Change_on_Western_Public_Lands_Addressing_the_Ecological_Effects_of_Domestic_Wild_and_Feral_Ungulates.

²⁵ Please note that WWP provides specific recommendations for bighorn sheep in the section above.

²⁶ Draft LRMP at 39.

02 Rangelands are resilient to disturbances, fluctuations, and extremes in the natural environment (e.g., fire, flooding, drought, climate variability).

03 Livestock grazing IS ONLY PERMITTED WHERE IT allows for healthy, diverse plant communities, satisfactory soil conditions, and sustains the quality of wildlife habitat.

04 Livestock management and range improvements ARE ONLY PERMITTED WHERE THEY sustain or improve other resource.

05 NATIVE PLANT COMMUNITIES SUPPORT DIVERSE AGE CLASSES OF SHRUBS, AND VIGOROUS, DIVERSE, SELF-SUSTAINING UNDERSTORIES OF GRASSES AND FORBS RELATIVE TO SITE POTENTIAL, WHILE PROVIDING FORAGE FOR WILDLIFE AND, WHERE APPROPRIATE, LIVESTOCK.

06 WETLAND AND RIPARIAN AREAS CONSIST OF NATIVE OBLIGATE WETLAND SPECIES AND A DIVERSITY OF RIPARIAN PLANT COMMUNITIES CONSISTENT WITH SITE POTENTIAL AND RELATIVE TO WETLAND RIPARIAN AND FOREST AND SHRUB RIPARIAN DESIRED CONDITIONS.

Objectives (GRZ-O)²⁷

01 ~~At least 2~~ ALL water troughs or open storage tanks per ranger district will be fitted with wildlife escape ramps ~~each~~ WITHIN ONE year OF THE SIGNING OF THE ROD FOR LRMP AND EACH DISTRICT WILL ENSURE ~~until~~ all troughs and tanks have ramps.

02 At least one vacant allotment will be evaluated for one of the following options every ~~two~~ years, until there are no vacant allotments. If additional allotments become vacant (waived without preference) they will be evaluated for one or a combination of the following options within ~~two~~ ONE years:

~~03~~ 02(A) Conversion to forage reserves to improve resource management flexibility.

~~04~~ 02(B) Grant to current or new permitted livestock producer.

~~05~~ 02(C) Closure to permitted grazing, in whole or in part.

02(D) PERMANENT GRAZING RETIREMENT

03 ANNUALLY REMOVE AT LEAST 6 - 10 EXISTING RANGE IMPROVEMENT STRUCTURES FOR LIVESTOCK GRAZING THAT ARE NO LONGER NECESSARY OR IN POOR OR NON-FUNCTIONAL CONDITION.

Guidelines (GRZ-G)²⁸

²⁷ DLRMP at 40.

²⁸ *Id.*

01 Range improvements ~~should~~ SHALL be maintained to specifications to provide their intended function and extend the useful life of the improvement. Range improvements ~~should~~ SHALL be removed or decommissioned when no longer needed.

02 Salt or mineral supplements ~~should~~ SHALL not be placed near riparian, wetland, or other areas where livestock concentrations are undesired.

03 Drought preparedness ~~should~~ SHALL be emphasized in Allotment Management Plans and may include flexible stocking rates/livestock classes, flexible rotation schedules, and other strategies for dealing with climate variability.

04 Livestock rotations ~~should~~ SHALL avoid grazing the same areas during the growing season at the same time, year after year.

05 Wildlife escape ramps ~~should~~ SHALL be installed in all livestock water troughs and open storage tanks.

06 Efforts (e.g., coordination with permittees, temporary fencing, increased herding, and herding dogs) ~~should~~ SHALL be made to prevent transfer of disease from domestic sheep and goats to bighorn sheep wherever bighorn sheep occur. Conversions to domestic sheep or goats ~~should~~ SHALL not be allowed in areas adjacent to or inhabited by bighorn sheep.

07 Allotments and other areas closed to permitted livestock grazing ~~should~~ SHALL remain closed.

08 When unauthorized livestock are found occupying National Forest lands, the owner ~~should~~ SHALL be promptly notified to remove them and prevent them from re-entering National Forest lands. If the owner is unknown or uncooperative, impoundment procedures ~~should~~ SHALL be initiated.

09 VACANT OR UNDERSTOCKED ALLOTMENTS SHOULD BE MADE AVAILABLE FOR VOLUNTARY PERMIT RETIREMENT.

Management Approaches for Rangelands and Livestock Grazing²⁹

01 Coordinate permittees' grazing schedules with planned prescribed fire treatments to ensure there will be sufficient fuel to allow burn objectives to be met and forage available for permittee.

02 Forest managers work continually with permittees to adjust timing, intensity, and frequency of livestock grazing to respond to changing resource conditions.

03 Consider allowing structural range improvements to be added or removed to meet desired conditions in conformance with applicable laws and regulations in the Allotment Management Plan.

04 Range managers use a cooperative approach working with permittees, local, county, state, and federal government entities, and non-government organizations and develop partnerships to facilitate

²⁹ Draft LRMP at 40.

flexible and balanced permitted use AND WILL NOTIFY CONSERVATION ORGANIZATIONS AND INTERESTED PARTIES ABOUT OPPORTUNITIES FOR INVOLVEMENT IN RANGE MANAGEMENT DECISIONS.

05 ~~Encourage the development of water sources in uplands (including wells) where possible to~~ REQUIRE PERMITTEES TO ENSURE LIVESTOCK ARE NOT GRAZING IN RIPARIAN AREAS TO improve or restore riparian areas.

06 Work with partners (e.g., University of Arizona and Friends of the Tonto, CONSERVATION ORGANIZATIONS) to complete rangeland monitoring (e.g., Reading the Range and riparian photo points).

WWP recommends that Voluntary Permit Retirement be included as an Objective for Wilderness Areas (WILD-O): WITHIN THE LIFE OF THE PLAN, VOLUNTARY LIVESTOCK GRAZING PERMIT RETIREMENT WILL BE CONSIDERED FOR EACH ALLOTMENT.

WFP-G- XX: EPHEMERAL LIVESTOCK GRAZING WILL BE PROHIBITED IN CLASS I, II, AND III HABITAT FOR THE SONORAN DESERT TORTOISE.

F. Recommendations for Annual Operating Instructions

WWP has submitted management recommendations to the Tonto National Forest and other forests in Region 3 for inclusion in Forest Plan revision that are currently underway, as well as for inclusion in AOIs. By asking for these Special Management Instructions to be implemented as part of the AOIs throughout Region 3, we hope to reduce the impacts of livestock grazing to the highly endangered Mexican gray wolf, and these recommendations are appropriate to protect other predators as well. Therefore, we are again asking the Tonto National Forest to include such recommendations as part of the Forest Plan revision process as a recommended Management Approach.

Management Approach for AOIs

“Best Practices” for protecting livestock and grazing operations where predators are present have been successful in reducing negative interactions between predators and livestock. These best practices must be followed and include:

1. Removing, destroying, burying, or placing electric fencing around dead livestock discovered on allotments if carcasses would attract predators into high use areas such as currently grazed meadows, salting grounds, water sources, or holding corrals.
2. Removing sick or injured livestock from grazing allotments to prevent them from being targeted by predators.
3. Increasing range riding to provide a more consistent human presence around your cattle. This has proven to be one of the most effective means for reducing predator-livestock interactions and depredation. There is nothing in your Grazing Permit, Allotment Management Plans (AMPs), or in these Annual Operation Instructions (AOI) that authorizes predator control.

For this allotment, the permittee is aware:

- The allotment does include predator habitat and the possibility of predator-livestock conflicts exists and will be an ongoing part of managing livestock on the allotment;
- The permittee has an obligation to comply with the Endangered Species Act, among all other federal laws;
- The Forest Service will provide conflict-reduction resources as they are developed;
- A grazing permit in non-use status shall not be allowed to increase allowable animal unit months when returning to use to help prevent livestock-predator conflicts;
- The Forest Service has provided notification to the permittee regarding BMPs to minimize the potential for predator-livestock interactions
- Permittees must implement specific best management practices to reduce livestock-predator conflicts, including, at a minimum, the removal of predator attractants during calving season, increased human presence during vulnerable periods, use of range-riders and diversionary and deterrent tools such as fladry fencing, airhorns, crackershells, etc.;
- Measures to reduce livestock-predator conflicts, including a clause notifying the permittee of the potential for modification, cancellation, suspension, or temporary cessation of livestock activities to resolve livestock-predator conflicts;
- Permittees are prohibited from using leg-hold traps to manage livestock predation on any allotments.

All AOIs should include a notice to grazing permittees that they may take conservation non-use for the sake of reducing livestock-predator conflicts on these allotments, pursuant to the Forest Service regulations at 36 C.F.R. 222.3 Issuance of grazing and livestock use permits 36 CFR 222.3 Issuance of grazing and livestock use permits(C)(1)(iv)(D); Forest Service Handbook 2209.13(17.2) Nonuse for Resource Protection or Development.

Drought management planning should take into consideration increased competition between predators, native prey and livestock for forage and resources and the Forest Service should maintain an adequate supply of food for wildlife it intends to avoid livestock-predator conflict.

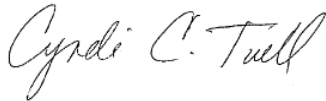
G. Economic Analysis

The Forest Service has included an economic analysis at page 177 of the DEIS that includes the contribution of the Tonto National Forest by program area (as of 2016), and notes that the labor income related to the livestock grazing program is \$8,581,000. However, this analysis does not include the costs to the Forest Service (and therefore, the public) for managing livestock permits nor does it disclose the amount of money lost to the grazing program as a result of extremely low grazing fees (just \$1.35 per AUM in 2019 and 2020) as compared to private land livestock grazing rates. This information should be disclosed and the public provided an opportunity to review and comment upon this important aspect of the LRMP revision.

Conclusion

Western Watersheds Project encourages the Forest Service to revise the existing environmental analysis to correct the deficiencies we have identified above. We look forward to reviewing the next step in this NEPA process for Forest Plan Revision.

Sincerely,

A handwritten signature in cursive script that reads "Cyndi C. Tuell".

Cyndi Tuell
Arizona and New Mexico Director
Western Watersheds Project

APPENDIX A – WWP’s prior comments dated May 29, 2018

APPENDIX B – WWP’s prior comments dates January 11, 2018

APPENDIX C – WWP’s October 2019 Bar X Objection

APPENDIX D – WWP’s April 2019 Bar X comments

APPENDIX E – 2016 GAO Report

APPENDIX F – Complaint filed in U.S. District Court for the District of Arizona September 5, 2019, against the U.S. Fish and Wildlife Service challenging the 2015 decision that the Sonoran desert tortoise is “not warranted” for listing under the Endangered Species Act.