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Working to protect and restore Western Watersheds and Wildlife

August 30, 2019

Ms. Tyna Yost
NEPA Coordinator
5140 E. Ingram Street
Mesa, AZ 85205

Andrea Wages

Sent this date via email:
tyost@fs.fed.us
andrea.wages@usda.gov
comments-southwestern-tonto-globe@fs.fed.us

RE: Draft Environmental Assessment for the Hicks-Pike Peak Grazing Authorization Project on the Tonto National Forest, Globe Ranger District in Gila County, Arizona.

Dear Ms. Yost,

The following comments on the Hicks-Pike Peak Grazing Authorization project Draft Environmental Assessment (EA) are being submitted on behalf of the staff and members of Western Watersheds Project who are concerned with the management of our public lands.

In addition to being an inappropriate level of National Environmental Policy Act (NEPA) analysis for a project this size and in this particular area, the EA here is insufficiently critical of the need for livestock grazing in the Tonto National Forest within important habitat for wildlife species, especially threatened and endangered species that rely upon riparian areas for their habitat, including designated critical habitat. Wildlife habitat is a precious resource on this allotment and this fact is not adequately considered nor are the impacts of grazing to wildlife habitat adequately analyzed. The alternatives do not adequately reflect the fact that livestock grazing on these allotments is not an activity the permittees are assured of engaging in.

While WWP does not support *any* livestock grazing in the project area, the Forest Service must consider the following: range science shows that to improve conditions in riparian and upland areas where livestock grazing is allowed, changes in management are necessary. These changes include

setting stocking rates based on currently available preferred forage species and today's consumption rates of livestock, enforcing utilization rates of less than 30% in upland and riparian areas, enforcing riparian stubble heights of > 15.2 cm across the aquatic influence zone and floodplain, enforcing bank alteration levels of < 20%, using riders to limit riparian use and distribute livestock, and providing rest, not deferment, so that sensitive native grasses recover vigor and productivity prior to being grazed again. Carter *et. al*, 2017.

The Schedule of Proposed Actions for the Tonto National Forest is Incorrect

We have reviewed the most current Schedule of Proposed Actions (SOPA) for the Tonto National Forest and we see that the Hicks-Pike Peak Allotment Grazing Authorization is listed as "On Hold." This is contrary to the email we received from the Forest Service regarding this project. This discrepancy creates confusion, can result in some members of the public not commenting on this Preliminary EA despite being interested in this allotment, and is a significant problem for the Forest Service.

Please explain the discrepancy and we strongly suggest that the notice for this project be properly disclosed in the SOPA[1] and another comment period should be provided.

	Web Link: http://www.fs.usda.gov/project/?project=54119				
	Location: UNIT - Globe Ranger District. STATE - Arizona. COUNTY - Pinal. LEGAL - Copper King: T2S, R12E, Sec4; T1S, R12E, Secs 12-14, 23, 26, 27, 34; T1S, R13E,Secs 7-8, 17-18, 20-21, 28. Superior West: T1S, R12E, Secs 32-33; T2S, R12E, Secs 3-6, 8-11, 13-16, 20-23, 28-29. Copper King project is located approximately two miles north of the Town of Superior, and Superior West project is located immediately west and south of the Town of Superior, in Pinal County, Arizona.				
Hicks-Pikes Peak Allotment Grazing Authorization EA	- Grazing management	On Hold	N/A	N/A	Andrea Wages 928-402-6222 comments-southwestern-tonto-globe@fs.fed.us
	Description: Project is a new planning effort to authorize livestock grazing on the Hicks-Pikes Peak Allotment in a manner that is consistent with the goals, objectives, and standards and guidelines of the Tonto National Forest Plan. **Web Link:** http://www.fs.usda.gov/project/?project=52246				
	Location: UNIT - Globe Ranger District. STATE - Arizona. COUNTY - Gila. LEGAL - Not Applicable. Hicks-Pikes Peak Allotment is located on Globe Ranger District, 8 miles north and northwest of Globe, Arizona in Gila County. Salt River forms part of the allotment%u2019s northern boundary.				

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Please Disclose the Number of AUMs Authorized

We see a range of number of livestock to be authorized for this allotment, but the number of Animal Unit Months (AUMs) is not disclosed. This important information must be disclosed. It appears that more than 14,000 AUMs are proposed for authorization. Please clarify. If we have missed this information and it is actually included in the NEPA documents, please let us know.

[1] https://www.fs.fed.us/sopa/components/reports/sopa-110312-2019-07.pdf

Given that the total AUMs permitted in 2015 for the entire Globe Ranger District was 83,901, we are very concerned that the number of AUMs authorized for this single allotment is extremely high. Tonto Forest Plan Assessment Vol. 2 at 70.

Financial Information Regarding Past and Proposed Range Improvements Must be Provided
The Forest Service should disclose any and all information regarding the use of federal and state monies for range "improvements" on this allotment. The public should be informed as to how much money the permittee has received from federal funding sources such as EQIP grants, NRCS grants, disaster relief, Arizona Game and Fish funds, or any other federal or state funding sources.

The Purpose and Need is Insufficient

Instead of using an EA to rubber stamp approval of livestock grazing on the Hicks-Pike Peak allotment, the Forest Service should be engaged in the NEPA process *to determine whether or not to authorize livestock grazing* on these lands. While *where consistent* with other multiple use goals and objectives, there is Congressional intent to allow grazing on suitable lands, and while this allotment *may* contain lands identified as suitable for domestic livestock grazing in the existing 1985 Forest Plan, there is nothing in the regulations controlling livestock grazing on public lands that *requires* livestock grazing to be permitted. Furthermore, while continued domestic livestock grazing may be consistent with the 1985 Forest Plan goals, objectives, standards, and guidelines, this Forest Plan is currently being revised and is woefully out of date.

Clearly, this project area is incredibly rich in natural and cultural resources and ecological diversity. It is especially important that the Forest Service make careful, thoughtful determinations regarding livestock grazing at this time. The Forest Service's decision for this project must not include any actions that would conflict with grazing suitability determinations, impair Wilderness character, or preclude an area for recommended Wilderness in the forthcoming Forest Plan revision.

Importantly, and as acknowledged by the Forest Service, the Congressional intent to facilitate livestock grazing on federal lands must be consistent with other multiple use goals and objectives of other federal regulations, including the Multiple Use Sustained Yield Act of 1960, Wilderness Act of 1964, Forest and Rangeland Renewable Resources Planning Act of 1974, Federal Land Policy and Management Act of 1976, National Forest Management Act of 1976.

It is therefore important for the Forest Service to recognize that the need for this project should be to determine *whether or not* to continue livestock grazing on the allotment and to do so only when it will not impair the productivity of federal public lands. It is not the job of the Forest Service to simply provide for livestock grazing on public lands because an application has been submitted or livestock permittee has economic interests in doing so. While the permittee may really want to continue grazing his livestock on federal public lands, they have no "right" to do so and the Forest Service is not required to allow livestock grazing on the allotment or through the sheep driveway without first determining whether doing so is appropriate in light of the ecological conditions on the ground.

Therefore, we recommend the Forest Service revise the purpose and need for this project to reflect the true purpose and need, which is to determine whether livestock grazing is appropriate in the project area. If the Forest Service properly frames the purpose and need for this project, the alternatives developed and the environmental analysis that flow from a hard look at the impacts of those

alternatives will provide a more accurate picture of the impacts of livestock grazing on the lands managed by the Forest Service for the public.

The Range of Alternatives is Inadequate

For this project the Forest Service has identified a No Action – which would result in the canceling of the permit and no grazing on the allotment and would not permit cattle to graze in the sheep driveway but would continue to allow up to 8,000 sheep to use the driveway; and a Proposed Action – which increases the number of AUMs significantly, authorizes improvements, "conservation measures," and monitoring, and also allows the continued use of the driveway by sheep as well as cattle.

There is no alternative that would reduce the number of AUMs authorized on the allotment. There is no alternative that would eliminate the use of the driveway by sheep. The Forest Service must analyze at least one alternative that eliminates all livestock use of the driveway, including sheep use. The Forest Service must also analyze at least one alternative that reduces the number of AUMs for this project.

The Forest Service Should Prepare an Environmental Impact Statement

The use of an EA for this project fails to comply with NEPA requirements. This allotment is adjacent to and overlapping with the Salt River Canyon Wilderness Area and designated critical habitat for threatened and endangered species including the narrow-headed garter snake, the yellow billed cuckoo, and the Southwestern willow flycatcher. *See* Hicks-Pike Peak Location Map, Critical Habitat Map, and Existing and Proposed Improvements Maps, from 2019 Preliminary EA (PEA). Wells, fencing, pipelines, and other livestock related infrastructure are located within or adjacent to the designated critical habitat. *Id*.

This project would authorize livestock grazing on 66,838 acres over 18 pastures in Gila County. PEA at 5. "A large portion of this range is composed of decomposed granite soil, which is extremely susceptible to erosion." *Id.* Livestock grazing has occurred on this allotment for many years, but the current permittee, Rockin Four Ranch LLC, has only had a permit for this allotment since 2006. PEA at 6. Drought has been an ongoing issue for this area. *Id.* It appears that consultation with the U.S. Fish and Wildlife Service has taken place only for fish and not for the narrow-headed garter snake, the yellow billed cuckoo, nor the Southwestern willow flycatcher.

The NEPA history for this project is not properly addressed in the PEA.[2] The legal settlement that prohibited livestock in Ortega and Lower Shute Springs pastures is not included as part of the allotment history. Also missing from the history of this allotment is any information regarding an appeal of a decision to authorize 4,200 AUMs, yearlong, which was appealed by a conservation group in 2005. The record for this appeal indicates the Forest Service identified just 1,217 AUMs excluding the Ortega and Lower Shute Springs pastures, and just 1,450 AUMs including the two pastures. The appeal was upheld because the documented capacity did not support the proposed stocking levels and the then Forest Supervisor directed the Ranger District to conduct NEPA analysis. No NEPA analysis was conducted, however. Subsequently, in 2006, the current permittee, Rockin Four Ranch, purchased

[2] Here, we incorporate by reference the comments submitted by Jeff Burgess on August 21, 2019 and August 30, 2019.

the base property for the allotment and obtained the permit and the number of livestock authorized on the allotment subsequently increased, despite the lack of NEPA and the lack of carrying capacity for larger numbers of cows. The 2008 AOI documents several range "improvements" and the amount of federal EQIP/NRCS funds used by the permittee for range "improvements" is documented at over $27,000 in 2008, but there is a serious lack of information and NEPA analysis about these improvements.[3] This same 2008 AOI implies that grazing would be allowed in the Ortega and Lower Shute pastures and would authorize 4,020 AUMs in the allotment, far above the documented 1,450 AUM capacity. There is no information in the PEA regarding Western Watersheds Project's Notice of Intent to Sue for violations of the Endangered Species Act in 2008 for allowing grazing in the Ortega and Lower Shute pastures, nor any documentation of the Forest Service response that the missing information about the prohibition on grazing in these two pastures was just an oversight. The then Forest Supervisor assured Western Watersheds Project that these two pastures had been off limits to livestock grazing since 2002 and would remain so. Finally, there is no information in the PEA regarding the use of Categorical Exclusions for range "improvements" such as fencing and livestock waters on this allotment.

These oversights should be corrected and the analysis should reflect more accurately the significant impacts of livestock grazing in these two pastures. Failure to correct these omissions will compound the NEPA violations further.

Additionally, the proximity to and overlap with specially designated areas requires a higher level of analysis in light of the intensity and context of this specific project. Similarly, the presence of threatened and endangered species and designated critical habitat in the project area raise the level of analysis necessary to ensure compliance with federal regulations. *See* 40 C.F.R. §§ 1508.27(a) (context), b (intensity)). In assessing "context," agencies must look at different geographic scales and the short- and long-term impacts of the proposed action within those different geographic scales (40 C.F.R. § 1508.27(a)). In assessing "intensity," agencies must look at the severity of the impact based on several factors:

> 1. The fact that impacts "may be both beneficial and adverse" and that "[a] significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial." 40 C.F.R § 1508.27b(1).
>
> > For all allotments in the project area, and from our review of the EA, there appear to be significant long-term negative impacts associated with livestock grazing that have been minimized in the analysis, resulting in an inadequate analysis of the intensity of these impacts to threatened and endangered species as well as specially designated areas.
> >
> > For example, the entire area is composed of watersheds that are Impaired or Functioning at Risk. *See* Watershed Condition Map at page 32 of the PEA.

[3] According to the Environmental Working Group's Farm Subsidy Database website, the permittee received a $27,750 Environmental Quality Incentives Program (EQIP) grant in 2008 from the Natural Resources Conservation Service (NRCS). https://farm.ewg.org/

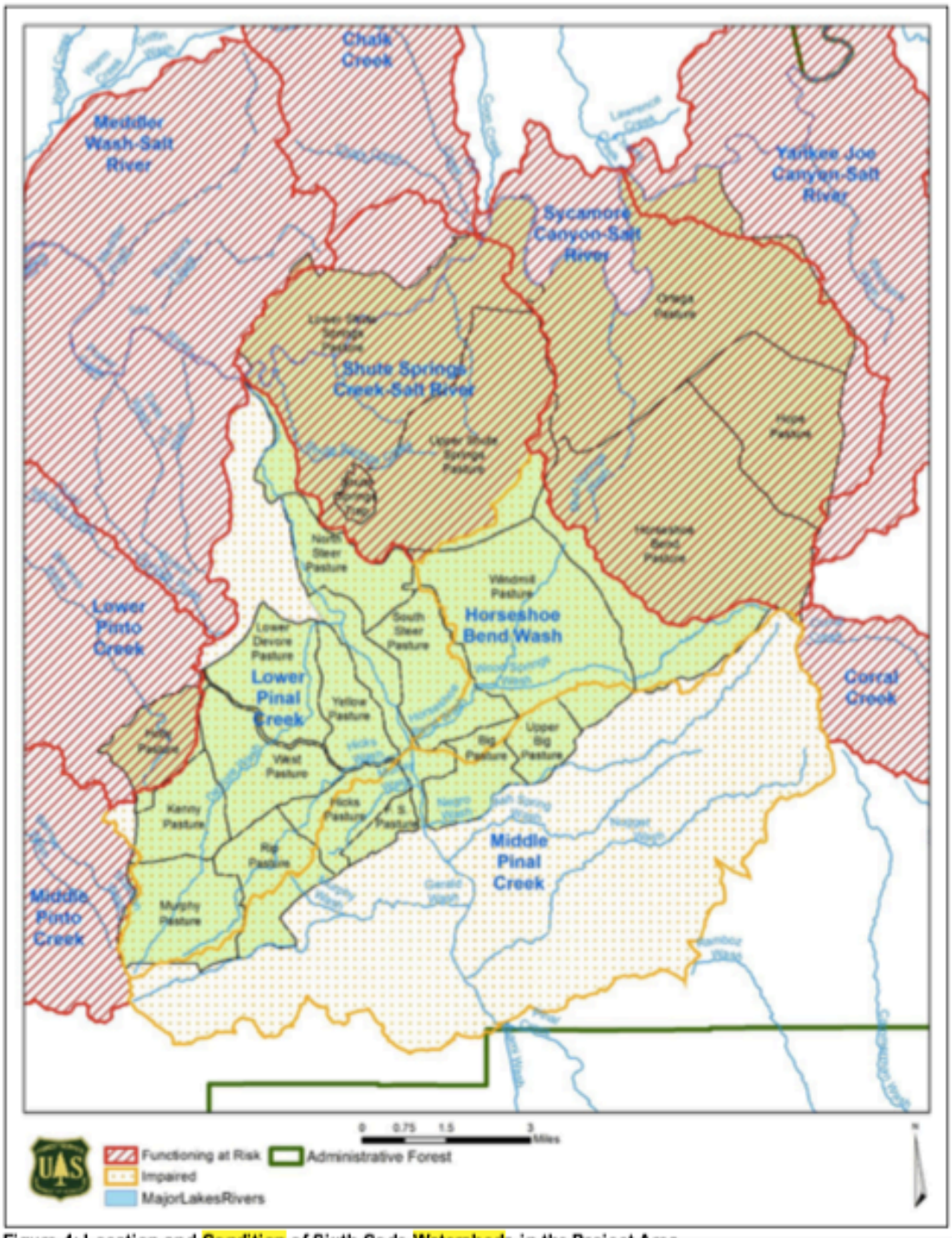


Figure 4: Location and Condition of Sixth Code Watersheds in the Project Area

The 1985 Forest Plan for the Tonto National Forest requires that watersheds should be managed so as to improve them to satisfactory or better condition (functioning properly).

Here, the Forest Service is proposing to facilitate livestock grazing in watersheds that are already degraded in violation of the Forest Plan. This is especially problematic because the conditions contributing to the degraded watershed condition include poor riparian condition and poor soil condition, which can largely be attributed to the negative impacts associated with livestock grazing. PEA at 33. Please review our Appendix A, attached to these comments, for additional references regarding the significant negative impacts livestock grazing has on riparian areas and watersheds.

More than doubling the number of AUMs for the project area will further degrade the watersheds in the project area, not improve them. Degrading these important watersheds is a significant effect that must be analyzed in an EIS, precluding a Finding of No Significant Impact.

2. "The degree to which the proposed action affects public health and safety." 40 C.F.R § 1508.27b (2).

This issue has not been directly addressed in the PEA. Water quality impacts from *E. coli* haven't been adequately disclosed as they relate to livestock grazing, yet the Forest Service admits the Arizona Department of Environmental Quality recommends the Salt River stay designated as "Impaired" due to *e. coli* contamination. The reach of the Salt River from Pinal Creek to Roosevelt Lake is impaired due to *e. coli* contamination and this same stretch is designated for full body contact recreation. PEA at 29-30. The Forest Service cannot ignore the role livestock grazing has on *e. coli* contamination, nor can it ignore the risks to human health.

In the analysis of water quality impacts, the Forest Service must disclose how removing water from the Salt River for livestock operations will exacerbate contamination for not only *e. coli*, but also copper, manganese, zinc, and pH.

Air quality issues have not been addressed at all. For air quality, the Forest Service should assess the impacts of livestock use at the currently authorized level on air quality, and compare that to a "no grazing" and the proposed action alternatives. The analysis should include the tens of thousands of acres disturbed by hoof action, wallowing, and other direct livestock activities.

3. "Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas." 40 C.F.R § 1508.27b (3).

A portion of the Salt River in the project area has been classified as potentially eligible for Wild and Scenic River designation. PEA at 26. The planned infrastructure along the Salt River will negatively impact the potential for such a designation and the impacts of this have not been adequately analyzed in the PEA.

4. “The degree to which the effects on the quality of the human environment are likely to be highly controversial.” 40 C.F.R § 1508.27b (4).

> Unfortunately, the environmental impacts associated with livestock grazing are not scientifically controversial because they are well studied and the impacts are well-known to be highly detrimental to wildlife and watersheds.[4] However, livestock grazing on federal public lands is a highly controversial issue, especially in recent years with ranchers taking over a wildlife refuge in Oregon, failing to remove their errant livestock from federal public lands in Arizona and Utah, among other states, and with livestock ranching “advocates” threatening violence against federal employees for trying to enforce livestock grazing regulations designed to protect those federal lands. In areas where Mexican gray wolf reintroductions have occurred or where the wolves are likely to be found, livestock grazing is even more controversial because grave concessions to livestock ranchers are often made to the detriment of the wolf. This controversy over how federal public lands should be used and managed has not been addressed in the EA.

5. “The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.” 40 C.F.R § 1508.27b (5).

6. “The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.” 40 C.F.R § 1508.27b (6).

> The authorization of livestock grazing by federal land managers does appear to ensure that future livestock grazing will continue, even when doing so is outside the law and regulations the agency is bound to follow. Furthermore, public lands ranching provides an economic boon to livestock operators and entrenches the concept of welfare ranching, which is made explicit in the PEA, as we noted with the problematic “purpose and need” statements.
>
> Because the Tonto National Forest is in the midst of revising the 1985 Forest Plan, decisions made for this project must not foreclose management decisions that are yet to be made to update this 34-year-old plan.
>
> Do any of the proposed infrastructure “improvements” in this project preclude any Wild and Scenic River designations moving forward? This information must be disclosed and if the answer is yes, this would preclude a Finding of No Significant Impact.

7. “Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.” 40 C.F.R § 1508.27b (7).

[4] Fleischner, T.L. 1994.

The Forest Service's usual policy of authorizing livestock grazing on an allotment-by-allotment basis using EAs is a clear example of breaking down an action into small parts or determining it is temporary in order to render the impacts individually insignificant. Here, the Forest Service is combining the significant negative impacts of a dramatic increase in the number of livestock on the lands with an industrial scale modification of the landscape to facilitate that increase, all within an ecologically sensitive area.

Because livestock grazing occurs on multiple allotments covering generations of livestock ranchers and is authorized on a decade-by-decade system, the Forest Service has an obligation to analyze the impacts of livestock grazing on each allotment, to look at those impacts holistically to identify, disclose, and allow public comment upon, the actual, widespread, long-term, and significant impacts livestock grazing has on lands management by federal agencies for the public.

The cumulative impacts associated with the unauthorized and/or illegal actions of permittees in and around the project area have not been disclosed at all. The Forest Service must address the cumulative impacts of unauthorized grazing by permittees in and adjacent to the project area. In 2016, the Government Accounting Office identified actions needed by federal agencies to improve the tracking and deterrence efforts on this front. *See* Appendix B, GAO Report to the Committee on Natural Resources, House of Representatives: Unauthorized Grazing: Actions Needed to Improve Tracking and Deterrence Efforts. 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. 2016 GAO report at 1, 57-58. 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.

For these reasons, a FONSI is precluded for this project and an EIS must be prepared based on just the factor of cumulative impacts.

8. "The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources." 40 C.F.R § 1508.27b (8).

There is insufficient information regarding any historic or culturally significant structures or objects in the project area found in the EA. Because the project area is rich with archaeological, historic, and cultural sites, the use of an EA is inappropriate.

Because the current EA dismisses the importance of these sites and because the public has not had an opportunity to review and comment on this project in light of the existence of those sites, the Forest Service cannot proceed, must revise the current environmental analysis, and allow another opportunity for review and comment.

9. "The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973." 40 C.F.R § 1508.27b (9).

The U.S. Fish and Wildlife Service has identified livestock grazing as having significant impacts on listed species and even identified livestock grazing as a potential cause for the need to list species. There are several federally listed threatened or endangered species within this project area. The EA minimizes the impacts of livestock grazing on these species and fails to adequately address the significance of the existence of these species and their habitat in the project area.

In light of the well-documented ongoing inability of livestock operators and Forest Service personnel to prevent trespass livestock in riparian areas with the project area, the Forest Service cannot rely upon "well managed" livestock operations to artificially minimize the impacts of this project.

The Forest Service has failed to acknowledge the potential existence of the Mexican gray wolf in the project area in this EA.[5] This significant oversight must be corrected. The presence of this species, in addition to the yellow billed cuckoo, the Southwestern willow flycatcher, and the narrow-headed garter snake in the project area elevate the significance of this project considerably, precluding a Finding of No Significant Impact.

10. "Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment." 40 C.F.R § 1508.27b (10).

The issues with trespass/errant livestock on this allotment are not adequately discussed or analyzed. Because trespass livestock are not adequately disclosed or discussed in the EA, the public is not able to review or comment upon violations of the grazing permits, nor on potential Wilderness Act, NEPA, FLMPA, or other violations related to trespass livestock.

It is extremely unclear from the information in the EA why the Forest Service thinks that adding *more* livestock to an area that is experiencing *more* drought than past decades is an appropriate decision given the clear and present dangers climate change and drought pose to our natural resources.

Despite the fact that all watersheds in the project area are Impaired or Functioning at Risk, the Forest Service proposed to add more livestock to this area. There is no rationale in the EA explaining how a riparian area or watershed that is Impaired or

[5] We addresses this issue more fully below.

> Functioning at Risk livestock will improve condition with the addition of more livestock. This is perhaps because there is no scientific support for such a rationale.

As we note above, the sheer scope of this project clearly precludes the use of an EA and there are many reasons that a Finding of No Significant Impact is inappropriate.

Possible Violations of the Endangered Species Act

Narrow Headed Garter Snake

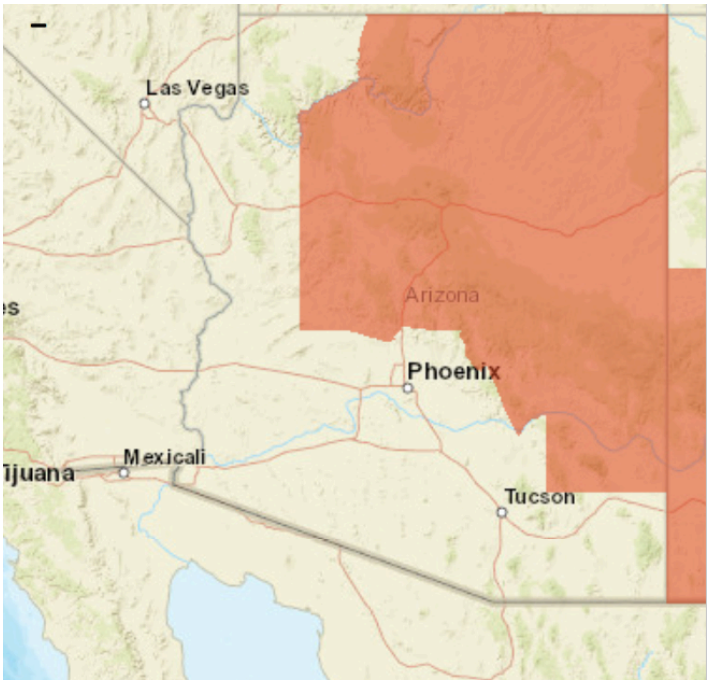
The narrow-headed gartersnake was listed as threatened on July 8, 2014 (79 FR 38678). Critical habitat was proposed on July 10, 2013 (78 FR 41550) and a final critical habitat rule is expected in the future.

As the Forest Service is aware,

> [T]he narrow-headed gartersnake is distributed across the Mogollon Rim of Arizona and New Mexico, at elevations from approximately 2,300 to 8,000 feet. The species inhabits Petran Montane Conifer Forest, Great Basin Conifer Woodland, Interior Chaparral, and Arizona Upland Sonoran Desertscrub communities (Rosen and Schwalbe 1988; Brennan and Holycross 2006). The species is widely considered to be one of the most aquatic of the gartersnakes (Drummond and Marcias Garcia 1983; Rossman *et al.* 1996). It is strongly associated with clear, rocky streams, using predominantly pool and riffle habitat that includes cobbles and boulders (Rosen and Schwalbe 1988; Degenhardt *et al.* 1996; Rossman *et al.* 1996; Nowak and Santana-Bendix 2002; Ernst and Ernst 2003). Narrow-headed gartersnakes have also been observed using reservoir shoreline habitat in New Mexico (Fleharty 1967; Rossman et al. 1996, Hellekson 2012b, pers. comm.) ***Despite the reputation of being highly aquatic, narrow-headed gartersnakes found in water represented less than 10 percent of total observations according to a multi-year telemetry study in New Mexico, with slightly more females found in water compared to males (Jennings and Christman 2012). These data suggest that this species may spend a relatively small percentage of its time in the water, but compared to other native gartersnakes, it is still the most aquatic.***
>
> ***Narrow-headed gartersnakes also use terrestrial, upland habitat during periods of cold-season dormancy, for gestation of young in pregnant females, for bask to aid digestion and for healing from injury or illness, and to escape flood events. Nowak (2006) found narrow-headed gartersnakes used upland habitat that was 328 ft away from the stream during early fall and spring months and may strongly associate with boulders in the floodplain during summer months. During cold-season dormancy periods, narrow-headed gartersnakes may use upland habitat up to 656 ft or farther out of the floodplain (Nowak 2006).***
>
> …As of 2016, as many as 41 of 51 (80 percent) known narrow-headed populations may exist at low densities and could be threatened with extirpation (Table 1).

U.S. Fish and Wildlife Service Biological Opinion, March 1, 2017 at 8-9. Emphasis added.

As you can see from the map below, proposed critical habitat covers the entire project area (indicated by the orange color).[6]



The information in the EA regarding this species and the impacts of this project to the species is inadequate and there is no actual analysis of the impacts of this project on the narrow-headed gartersnake. There is no plan for managing livestock in the uplands. There is no analysis of the impacts of stock ponds, which can provide habitat for non-native species that prey on the gartersnake and can divert water from aquatic habitat, to this species. There is no analysis of the impacts of this project to the prey species of the gartersnake. These oversights must be corrected and the public must be provided an opportunity to review and comment upon that analysis.

Southwestern Willow Flycatcher

The PEA fails to disclose and analyze whether livestock grazing in the project area, especially within the riparian areas, complies with the species' recovery plan. Whether flycatcher habitat is occupied or not, the Forest Service is required to abide by specific recovery plan guidelines for utilization and this information is missing from the PEA. Will grazing be within the thresholds for utilization that are described in the recovery plan? Brown-headed cowbird parasitism, associated with livestock use of the area, is not adequately disclosed or analyzed, other than the single statement in the PEA that "[a]nticipated indirect effects from brown-headed cowbird parasitism and watershed effects will result in adverse effects to the flycatcher and its critical habitat." PEA at 109. This information must be disclosed and without this information a Finding of No Significant Impact is precluded.

[6] Map available at the U.S. Fish and Wildlife Service "species profile" website, https://ecos.fws.gov/ecp0/profile/speciesProfile?spcode=C051. Last accessed August 29, 2019.

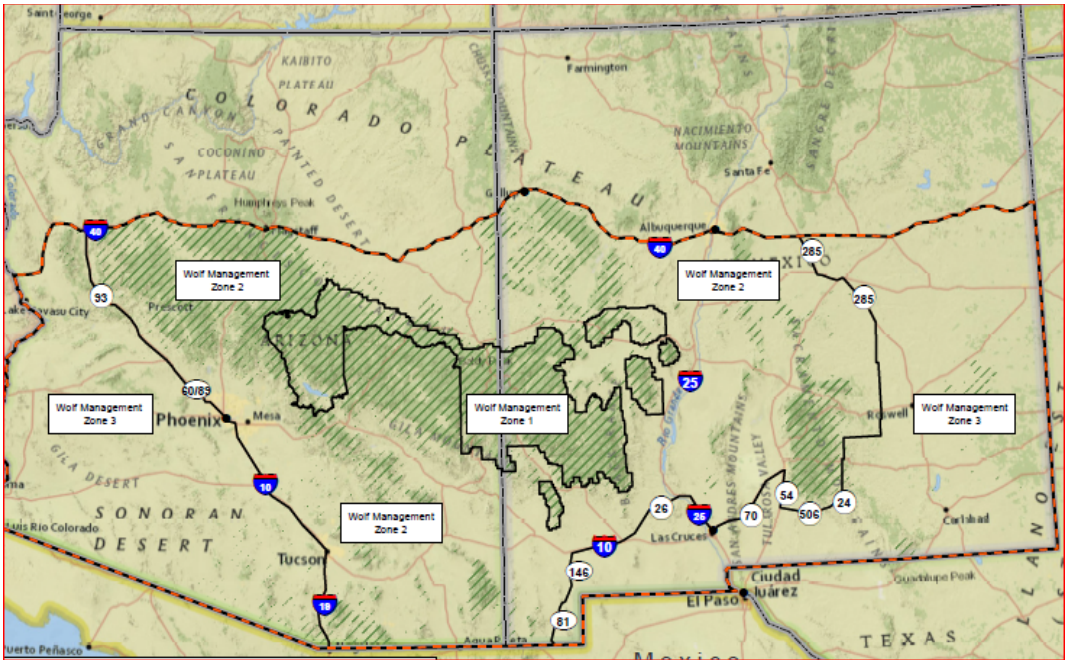
Yellow Billed Cuckoo

For this species the Forest Service's PEA states, in part, that "habitat patches are small compared with known occupied habitats and that no cuckoos were found in allotment suitable habitats in 2017…" PEA at 109. However, the PEA also indicates that "[p]reviously, cuckoos have been detected adjacent to the allotment incidentally while conducting flycatcher surveys." It is confusing whether this species is present in the allotment, but it does appear that the species is present "adjacent" to the allotment. There is no explanation of what "adjacent" means as it is used in this PEA. Does "adjacent" mean immediately next to, or some distance from the allotment? If it is immediately next to, it is extremely likely this species is present within the project area.

The analysis of impacts to this species is lacking, rendering a Finding of No Significant Impact impossible.

Mexican Gray Wolf

The analysis of impacts to the Mexican gray wolf is insufficient. Notably missing from the EA is direction to permittees about preventing their livestock from impacting the Mexican gray wolf. As you can see from the maps below, this project area is in the very heart of Zone 2 of the Mexican gray wolf Management Area. The impacts of this project on this imperiled species cannot be minimized.



Under the currently operative 2015 Final Rule for the Revision to the Regulations for the Nonessential Experimental Population of the Mexican Wolf (80 FR 2512), the Mexican Wolf Experimental Population Area (MWEPA) stretches from Interstate 40 in the north to the U.S.-Mexico border in the south. The planning area at issue here is well within "Zone 2," the area in which Mexican wolves may naturally disperse and occupy. *Id.*[7]

[7] *See* https://www.fws.gov/southwest/es/mexicanwolf/pdf/Non_Essential_Map.pdf,

The Forest Service must consider, analyze, and disclose the impacts of livestock grazing on Mexican wolves, especially regarding the effects on prey species. It is well understood that livestock significantly displace certain native ungulates. Wallace and Krausman, 1987. Some deer species are known to avoid cattle. Krämer 1973. Elk and deer densities can decline by as much as 92 percent in response to introduction of livestock. Clegg 1994. Because wild ungulates and cattle use the landscape in similar ways (by eating plants and moving about the landscape), but wild ungulates are more effective agents of landscape change in a reflexive relationship with ideas of land that stress natural amenities over production, (Hobson et al. 2006), the Forest Service must consider the habitat preferences of ungulates as part of this planning process. Frisina 1992. Given that each AUM allocated to livestock effectively redirects the same forage away from native wildlife, the Forest Service should accurately discuss the public trust resources (wildlife) being replaced by private profit (livestock).

Because the ecological costs of livestock have been clearly documented (e.g., Belsky and Blumenthal 1997, Donahue 1999, Fleischner 1994, Gillis 1991, Jones 2001, Mack and Thompson 1982, Milton et al. 1994, Painter 1995, using information garnered from reviewing published peer reviewed research and citations therein), advocates of public-lands livestock grazing (as the Forest Service appears to be for this project) must be able to demonstrate that low-impact management and ecosystem sustainability are possible, on the basis of careful use of the best available science. They must be able to demonstrate how ecological costs can be minimized. Alien taxa (including domestic livestock) and their associated infrastructure must be treated as a significant ecological stress, and negative impacts on native plants and animals, on soils and soil organisms and on all other aspects of impacted ecosystems must be anticipated and minimized. This can only be done if management decisions are made based on knowledge of the impacted flora, fauna, and ecosystems, and a management program firmly grounded in the best available science, not unsubstantiated opinions, misunderstanding, and misinformation.

As the Forest Service is well aware, livestock and wildlife grazing can modify plant community composition and structure, and overabundant populations negatively impact rangeland–watershed function and wildlife habitats. Danvir, 2018. Negative effects on wildlife may include avoidance of water sources by wildlife, forage loss and altered plant communities, altered bird communities, and impacts to soils and insects. *Id*. For this planning process, the Forest Service must fully analyze and disclose how the presence, number, and grazing intensity of livestock will impact the native and nonnative plant communities. This is especially important for summer months when cattle tend to exhibit more intensive foraging over extensive movements and can therefore forage in place longer than native ungulates. Clark *et al*. 2017.

The Tonto National Forest provides all of the necessary ecological elements to support Mexican gray wolves. Unfortunately, there are many man-made elements that are putting the wolves in jeopardy. There have been high rates of human-wolf conflict during the nearly two-decades long reintroduction program. The population dropped by 12 percent, from 110 to 97, in 2015 with over a dozen dead adult wolves found during this time. While investigations by law enforcement continue, the majority of these losses were the result of illegal killing, one of the primary factors the USFWS cited in its determination that the species warranted listing under the ESA (80 Fed. Reg. 2488).

Accessed August 29, 2019, attached as Appendix C. And see https://www.fws.gov/southwest/es/mexicanwolf/pdf/Mexican_Wolf_f10j_FAQ_FINAL.pdf, Accessed March 25, 2019, attached as Appendix D.

As part of this project, the Forest Service must provide strategic and proactive management and guidance to reduce wolf mortality. A greater emphasis on livestock management strategies that emphasize wildlife protection would reduce wolf losses and are a key, yet missing, part of the analysis for this project.

Specifically, we recommend that the Forest Service, as part of this project:

- identify and provide secure denning and rendezvous sites for wolf packs and management activities and livestock grazing prohibited during critical biological periods, including whelping and rearing;
- provide a secure condition for Mexican gray wolves by identifying, preventing, and addressing livestock-wolf conflicts, limiting and reducing human-caused wolf mortality;
- avoid or limit disturbance within 0.5 mile of known, active dens and rendezvous sites, incorporating measures to avoid or mitigate impacts of activities from April 1 to July 1;
- require the reporting of livestock carcasses within 24 hours of discovery, followed by proper disposal of the carcass within in or in proximity to established wolf pack home ranges, permits for livestock grazing;
- include specific best management practices to reduce livestock-wolf conflicts in the annual operating instructions for grazing permittees within or in proximity to established wolf pack home ranges. These BMPs should include, at a minimum, the removal of wolf attractants during calving season, increased human presence during vulnerable periods, use of range-riders diversionary and deterrent tools such as fladry fencing, airhorns, crackershells, etc. The Forest Service should provide additional information regarding conflict-reduction resources as they are developed;
- within established wolf pack home ranges, for these permits, the Allotment Management Plans, and Annual Operating Plans should incorporate measures to reduce livestock-wolf conflicts and include a clause requiring the modification, cancellation, suspension, or temporary cessation of activities to resolve livestock-wolf conflicts;
- allotments and permits in non-use status (such as the Pleasant Valley allotment) shall not be allowed to increase allowable AUMs when returning to use to help prevent livestock-wolf conflicts within established wolf pack home ranges.
- the number of active livestock allotments within established wolf pack home ranges should not be increased;
- existing allotments should only be combined or divided as long as doing so does not result in grazing on currently un-allotted lands or an increase in AUMs;

The Forest Service has failed to even discuss the Mexican gray wolf in the EA. There is no determination as to whether or not this project is likely to adversely affect the Mexican gray wolf. The Forest Service must take a step back in this project and conduct an analysis regarding the impacts of this project to the Mexican gray wolf and allow for public review and comment upon that analysis.

Specifically, the Forest Service must analyze:

- The impacts of livestock use in the allotment that will displace prey species for wolves, such as deer and elk.

- The economic cost-benefit analysis of livestock grazing impacts on the Mexican gray wolf reintroduction project.

As the Forest Service is aware, whether a population is designated "essential" or "nonessential" affects whether federal agencies have a duty to consult with Fish and Wildlife Service (FWS) on certain federal actions under ESA Section 7(a)(2), not whether or not a project is likely to jeopardize a species. Where a population is designated "nonessential," federal agencies are not required to formally consult with FWS on actions likely to jeopardize the continued existence of the species. 16 U.S.C. § 1536(a)(2). Instead, federal agencies must engage in a conferral process that results in conservation recommendations that are not binding upon the agency. Id. § 1536(a)(4). It is clear from the EA that this legal requirement has been met.

The Analysis of Impacts to Riparian Areas is Inadequate

Livestock grazing is and has been a primary cause of stream and riparian habitat degradation in the western United States. The negative impacts of livestock grazing in riparian areas have been well documented. Poff, et al. 2011, Kovalchik and Elmore 1992. The scientific literature reveals that livestock grazing negatively affects water quality and seasonal quantity, stream channel morphology, hydrology, riparian zone soils, instream and streambank vegetation, and aquatic and riparian wildlife. Belsky et al. 1999, Ohmart 1996, Elmore and Kauffman 1994. Invertebrate and small mammal habitat is improved by livestock exclusion from riparian areas. *See*, e.g. Herbst 2011, Hayward et al. 1997. There is evidence of the benefits of livestock exclusion within southern Arizona, specifically, the scientifically documented evidence of the improvements to riparian areas post-livestock exclusion from the San Pedro Riparian National Conservation Area (SPRNCA), which provides a robust record of improvement following livestock exclusion. From riparian canopy forest recovery to the increases in avian abundance, the scientific analyses of post-grazing effects in the SPRNCA form a strong record of the benefits of livestock exclusion that must be considered by the Forest Service while determining whether to authorize livestock grazing on these allotments where doing so will impact riparian areas. *See* Appendix A, Annotated bibliography of scientific research specific to livestock exclusion in riparian areas.

The cessation of livestock grazing in riparian areas can increase the abundance of small mammals that require dense vegetation. Soykan, et al. 2009. The substantial increase of plant cover at low height intervals that followed the removal of livestock from southwestern riparian areas can substantially increase the abundance of small mammal species that prefer cover characteristic of grassland or riparian woodland habitats. Soykan, et al. 2009, citing Duncan 1988; Krueper et al. 2003. These benefits have not been adequately disclosed or analyzed as part of the no action alternative.

The Forest Service must also analyze the impacts of the proposed livestock grazing in light of the known impacts livestock grazing in xeroriparian has on riparian areas. Levick et al. (2008) provide a comprehensive review of the ecological and hydrological importance of such systems, which provide important habitat also for many plant species (not just riparian-dependent species), refugia for plants and animals in times of drought (and climate change), a source of water for upland wildlife, and migration/dispersal corridors. Further, the relationship to the riparian and xeroriparian areas to the uplands are a critical component of wildlife habitat in the project area. Upland vegetation is directly

related to winter species richness and abundance of avian species. Strong and Bock, 1990. Overgrazing and destruction of grasslands are leading causes of bird imperilment in the southwest. Finch, C. *Ed*. 2005. Livestock grazing has numerous known impacts to uplands, including the effects of range developments on habitat integrity. Fleischner 1994. This is an issue that has not been addressed in the EA and this shortcoming must be remedied.

Trespass livestock is an additional concern regarding riparian impacts associated with, but not analyzed as part of this project. These issues have not been adequately disclosed and remain unanalyzed, in violation of NEPA. The Forest Service must adequately disclose, analyze and address these issues before this project can move forward.

Suitability, Condition, Trend

The EA does not address the important issue of range suitability at all, only a reference to the suitability determination from the 1985 Forest Plan. There is no current analysis of suitable range in the EA for each the allotment, nor any updated verification of determinations made in the Forest Plans regarding livestock suitability.

Lack of Adequate Monitoring and Analysis of Livestock Grazing Impacts

The EA inadequately analyzes the impacts of livestock grazing to native wildlife species that are affected by social displacement due to livestock grazing.[8]

It appears that the Forest Service has not compared the known plant species in the project area to the Arizona rare plant lists or the Forest Service sensitive species lists. The project record should include a list of plant collections found in all of the allotments that are part of this project from the SEINet database (http://swbiodiversity.org/seinet/collections/index.php#). The Forest Service should review these lists to see if there are any plants that require further analysis. Is there a plan to monitor for impacts to these species and if so, what actions will be taken if impacts occur?

There is vague information on supplemental feeding of livestock and how it will be monitored or enforced. Further, the EA states that off-road vehicles could be used to place supplements. EA at 45. There is nothing in the EA regarding the required use of weed-free feed or forage or any indication whether the region has a source of this important resource to ensure livestock grazing on public lands does not spread invasive species.

The Analysis of Climate Change Related Impacts is Inadequate

There is insufficient analysis of the impacts of the project 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, on Management Indicator or Special Status species? How will fencing and other related infrastructure associated with this project further fragment the landscape and how will this impact species already harmed by the rapid on-the-ground changes associated with climate change? How will this affect what

[8] Bock, C.E., Bock J.H., 1993; Krueper, D. J. 1993; Donahue, D. L. 1999.

the agency considers suitable range for livestock? These questions have not been asked nor answered. Again, this precludes a Finding of No Significant Impact and has prevented adequate public review and comment.

Drought Impacts are not Adequately Analyzed

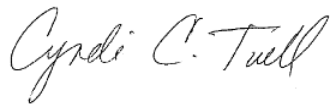
Information in the EA indicates that the project area has experienced extreme drought in the past, as recently as 2002, which required the Forest Service to prohibit livestock use of this allotment. EA at 7. Unfortunately, the EA indicates that *at some point in the future* the Tonto National Forest may modify the AOIs to address drought. EA at 45. Unfortunately, this has a two-fold negative impact. First, the public will have had no opportunity to help frame and flesh out the drought plans or responses; and second, the impacts of the drought are already evident and therefore the Forest Service should be taking action now to prevent further management impacts exacerbated by the drought.

Conclusion

Where FLPMA requires that goals and objectives for public lands be established by law as guidelines for public land use planning, and that management is on the basis of multiple use and sustained yield, it adds, "unless otherwise specified by law." §102(a)(7). And "multiple use" is specifically defined in the statute as, in part, "making the most judicious use of the land for some or all of these resources...the use of some land for less than all of the resources... with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output." §103(c). Simply because the overarching land management plan describes these allotments as "available" for grazing doesn't preclude the agency from taking a hard look at the balance of uses at the site-specific level.

Therefore, we encourage the Forest Service to revise the existing environmental analysis to correct the deficiencies we have identified above. Clearly, as we have explained above there are many reasons that a Finding of No Significant Impact are inappropriate. We look forward to reviewing the next step in this NEPA process for this project.

Sincerely,



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ATTACHMENTS

Appendix A, Annotated bibliography of scientific research specific to livestock exclusion in riparian areas

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

Appendix C, Non-Essential map for Mexican Gray Wolf

Appendix D, Mexican Gray Wolf 10-J Rule, Frequently Asked Questions

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