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First name: Greg
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Organization: Rio Grande Water Conservation District
Title: President
Comments: September 27, 2019

VIA EMAIL

Dan Dallas Forest Supervisor

Rio Grande National Forest Attn: Plan Revision

1803 W. Hwy 160

Monte Vista, CO 81144

USDA Forest Service

Attn: Objection Reviewing Officer Rocky Mountain Region

1667 Cole Boulevard

Building 17

Lakewood, CO 80401 R02admin_review@fs.fed.us

RE: Rio Grande Forest Plan Revision Objection

Dear Mr. Dallas,

Pursuant to the public notice published in the Federal Register on August 2, 2019, at 84 Fed. Reg. 37830, the Rio Grande Water Conservation District ("RGWCD") respectfully submits the following objection to the Rio Grande National Forest Land Management Plan ("Proposed Plan").

Analysis

The RGWCD appreciates the Forest Service's diligent work to revise the Proposed Plan, and believes that, generally speaking, the Proposed Plan articulates a thorough and well-reasoned decision that will benefit both the Rio Grande Forest and the San Luis Valley. The RGWCD especially appreciates the Forest Service's efforts to address the RGWCD's previous comments concerning the federal reserved water rights decreed to the United States of America in Case No. 81CWI 83 (Div. 3), and the designation of additional stream mileage for potential inclusion in the National Wild and Scenic Rivers System. The RGWCD, however, still has some concerns regarding the Proposed Plan, particularly as it may impact the water rights of the RGWCD and its constituents. Accordingly, the RGWCD respectfully requests that the final Land Management Plan include a specific directive

requiring that "management decisions shall be consistent with water rights decrees."

1. The Rio Grande Water Conservation District's Interest in the Rio Grande National Forest Land Management Plan.

The RGWCD is a statutorily-created Special District operating in Colorado's San Luis Valley. It was established by the Colorado General Assembly and formed in 1967 by a vote of the residents within its boundaries. The RGWCD is charged with protecting, enhancing, and developing water resources in the Rio Grande and Closed Basin in Colorado. The RGWCD also works to ensure that Colorado complies with its obligations under the Rio Grande Compact, a long-standing agreement allocating the waters of the Rio Grande between Colorado, New Mexico and Texas. The District encompasses a five-county region, which includes Alamosa, Rio Grande, Conejos and portions of Saguache and Mineral Counties within the Rio Grande and Closed Basin.

Through its various activities, the RGWCD actively represents the interests of a substantial portion of the 47,000 residents of the San Luis Valley. Many of these residents earn their livings through farming, ranching or related agricultural activities. Forest management decisions concerning water, water resources, and water rights have a direct and potentially devastating impact on their agricultural operations. The day-to-day operations of the RGWCD could be similarly impacted, as the RGWCD owns direct flow, storage, and groundwater recharge water rights as well as conveyance structures that may be impacted by the Proposed Plan.

Throughout the plan-revision process, RGWCD has submitted comments urging the Forest Service "to not modify any provisions of the current Forest Plan that relate to water, water resources or water rights." See, e.g., Letter to Dan Dallas, Re: Forest Plan Revision, dated July 21, 2015; Letter to Dan Dallas, Re: Revisions to Rio Grande National Forest Plan, dated October 28, 2016. While the Proposed Plan significantly improves upon previous versions, the Proposed Plan still may adversely impact water rights within the San Luis Valley. The content of the RGWCD's objection to the Proposed Plan, therefore, is related to prior formal comments of the RGWCD.

2. The Plan should include a directive requiring that "management decisions shall be consistent with water rights decrees."

The RGWCD is concerned that the Proposed Plan may negatively impact water rights in the San Luis Valley. The Proposed Plan identifies three main goals: (1) maintain and restore sustainable, resilient terrestrial ecosystems; (2) protect and restore watershed health, water resources, aquatic ecosystems, and the systems that rely on them; and (3) actively contribute to social and economic sustainability in the broader landscape and connect citizens to the land. The second goal includes four areas of focus that are directly connected to water and water rights: (1) Fisheries; (2) Groundwater-Dependent Ecosystems; (3) Riparian Management Zones; and (4) Watersheds. Management decisions concerning these four areas of focus may impact, e.g., the timing, location, and amount of groundwater and surface flows-causing injury to established water rights, many of which predate the formation the Rio Grande National Forest.

While the Proposed Plan notes that management actions with respect to watersheds "should not cause long-term degradation to water resources, including lakes, streams, wetlands, and groundwater" and that "[p]articular attention should be paid to public water supplies, sole source aquifers, and source water protection areas"---or similarly that "the timing and magnitude of flood events" must be managed to occur "[w]ithin the constraints of existing water rights decrees"-the Proposed Plan does not include any specific overarching directive that requires forest management decisions to avoid impacts or injury to existing water rights. As the RGWCD explained in its previous comments, any impacts or injuries resulting from management decisions may violate Colorado law or result in the reopening of the United States' Decree in Case No. 81CW183.

To address these concerns, and to avoid future legal battles, the RGWCD urges the Forest Service to include a

specific, overarching directive that provides: "management decisions shall be consistent with water rights decrees." The RGWCD believes that the inclusion of such a directive will sufficiently resolve its outstanding concerns regarding the Proposed Plan.

If you have any questions, please do not hesitate to contact the RGWCD's General Manager, Cleave Simpson, at (719) 589-6301 or cleave@rgwcd.org, or the RGWCD's legal counsel, David Robbins, Hill & Robbins, P.C., at (303) 296-8100 or davidrobbins@hillandrobbins.com.

Sincerely,

Greg Higel

President

Rio Grande Water Conservation District

cc://

Cleave Simpson, General Manager, Rio Grande Water Conservation District

Senator Michael Bennet

Senator Cory Gardner

Representative Scott Tipton

James DuBois, Esq. United States Dept. of Justice

Hill & Robbins, P.C.