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Comments: The New Mexico Land Grant Council submits the following objections to the final draft land management plan (and appendices, including EIS) for the Santa Fe National Forest. Since 2014, the New Mexico Land Grant Council has engaged with the three northern forests (Carson, C[iacute]bola and Santa Fe) in the plan revision process and participated in anticipation and in the formation of the Planning Rule of 2012. The Council, with support from the Land Grant Studies Program at the University of New Mexico and the Merced Land Education and Conservation Trust (MLECT), and support from dozens of land grants, has arranged a number of listening sessions, which turned into MOUs, cost share agreements, and forest plan community collaboration. Additionally, Council staff has provided [ldquo]Land Grant 101[rdquo] sessions for new USFS employees of Region 3, as well as other education and outreach.

The Council has served as a cooperative agency on all three forests, including the Santa Fe National Forest. Further, the Council has encouraged the participation of land grants throughout northern and central New Mexico in the plan revision process.

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

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

By the 1920s and through the Great Depression, the federal government began aggressively purchasing land grant common lands from the very land speculators that dispossessed land grant communities. This accelerated during the New Deal, where lands were purchased by several federal agencies before ultimately being transferred to the U.S. Forest Service and included in growing national forests. The result: 332,594.48 acres of the Santa Fe National Forest are now U.S. Forest Service lands. The Carson and Santa Fe National Forests also share 52,169 acres of the Mora Land Grant, which was partitioned

before portions were purchased by the federal government between 1931 and 1955. Overall, including both lands taken under the U.S. v. Sandoval decision and those lost through speculation, well over 900,000 of land grant common lands are now forest system lands (more than 100,000 acres of common lands are managed by the BLM).

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

Santa Fe

Chapter 2. Forestwide Direction [ndash] Traditional Communities and Uses

The NMLGC recommends that the Santa Fe National Forest, within its plan, outside of the general narrative and historic background, recognize the land grant-merced history within the Santa Fe National Forest, especially considering the aforementioned acreages of former land grant common land within the forest lands managed by the Santa Fe National Forest. The US Forest Service began purchasing land grant common land that became part of the Santa Fe National Forest in 1934 and 1935, when it purchased the Juan de Gabaldon Land Grant (8,001 acres) from the Thomas Catron estate and the southern half of the Juan Jose Lobato Grant (72,935 acres) from William S. Jackson, a member of the Colorado State Supreme Court, who bought it from George Hill Howard, a land speculator. These and other purchases under the auspices of New Deal Programs continued and were complemented by the 1960s exchange for the Ca[ntilde][oacute]n de San Diego Grant (98,614 acres), bringing the total of former land grant lands within the Santa Fe National Forest to 332,594.48 acres. The USFS also purchased the remaining private land (~1,400 acres) within the Ca[ntilde][oacute]n de Chama (Skull Ranch), which were miniscule portion of the San Joaqu[iacute]n del R[iacute]o de Chama Grant that was patented (1,422 acres of the 471,756 acre San Joaqu[iacute]n del R[iacute]o de Chama Grant). Adding this acreage increases the total to nearly 334,000 acres of land.

Additionally, land grant-merced communities maintain an interest in forest system lands that surround those communities to meet their traditional use needs, including, but not limited to, firewood (including ocote), plants, herbs and nuts for consumption and medicinal purposes, including pi[ntilde][oacute]n nuts, osh[aacute] roots, building materials, including vigas and latillas and gravel and sand, etc. Land grants-mercedes that maintain an interest in forest systems lands managed by the Carson National Forest include: Abiqui[uacute], Anton Chico, Ca[ntilde][oacute]n de San Diego, Juan Bautista Bald[eacute]s, Juan Jose Lobato, Las Truchas, San Joaqu[iacute]n del R[iacute]o de Chama, San Miguel del Bado, Santa Cruz de la Ca[ntilde]ada, Mora, Santo Domingo de Cundiy[oacute], Sebasti[aacute]n Mart[iacute]n, and Tecolote.

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

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

1. In general, the Council objects to the Northern New Mexico Traditional Communities and Uses Section not including a separate section for Land Grant-Mercedes. The Council raised the importance of having a separate section relating to land grants-mercedes at the beginning and

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

1. Although the Council objects to the lack of a separate section for land grants-mercedes within the Northern New Mexico Traditional Communities and Uses Section, since land grants- mercedes are included under the Rural Historic Communities (RHC), the Council also objects to the fact that there are no Standards or Objectives for the RHC section found in the plan. According to page 18 of the Final Plan, recognized plan components, [ldquo]should (1) provide a strategic and practical framework for managing the Santa Fe National Forest, (2) be applicable to the resources and issues of the forest, and (3) reflect the forest[rsquo]s distinctive roles and contributions.[rdquo] Standards and Objectives in the RHC Section would in fact provide a strategic and practical framework for accomplishing the Desired Conditions under the RHC Section. In addition, Standards and Objectives in the RHC section would be applicable to the resources used and issues faced by RHCs accessing and utilizing National Forest resources. Without Standards and Objectives it makes it difficult to determine the Santa Fe National Forest[rsquo]s distinctive roles and contributions in progressing towards the Desired Conditions found in the RHC Section of the Plan. Further, [ldquo]Objectives describe how the Santa Fe NF intends to move toward the desired conditions[rdquo] and [ldquo]Standards are technical design constraints that must be followed when an action is being taken to make progress toward desired conditions.[rdquo] Therefore, the lack of these essential plan components in the Rural Historic Communities Section again raises questions about how the Santa Fe National Forest will work towards accomplishing desired conditions without any measurable objectives to gauge progress towards those Desired Conditions or any technical design constraints that will guide individual land management activities toward accomplishment of Desired Conditions. The Council throughout the planning process submitted multiple suggested objectives and standards that were tied specifically to identified desired conditions and other plan components. None of these suggested standards and objectives found their way into the final draft of the plan. The Plan can be improved by incorporating the previously suggested or similar Standards and Objectives made by the Council. For the demonstrated link

between the Council[rsquo]s Objection and formally submitted substantive comments, please see the below, New Mexico Land Grant Council Santa Fe National Forest 2019 Plan Comments linked to this objection on pages 4 through 12-A.
2. The New Mexico Land Grant Council objects to the lack of a Desired Condition relating to a collaborative relationship between the Forest Service and Land Grant-Merced Communities that results in mutually beneficial educational programs. The National Forest language does speak to providing a space for educational opportunities with youth, but not in collaboration with land grant-merced and other traditional communities. As described on page 18 of the Final Plan [ldquo]Desired Conditions describe the vision for the Santa Fe National Forest. They are the ecological, cultural, and socioeconomic aspirations toward which management of the land and resources of the plan area is directed.[rdquo] The Council argues that collaboration with longstanding adjacent communities dependent on National Forest lands and resources for educating local youth should be an aspirational vision of the National Forest and it is directly related to the ecological, cultural, and socioeconomic aspirations for management of the land. The Plan can be improved by incorporating the previously suggested or similar Desired Condition relating to collaboration with land grant-merced communities and tribes made by the Council. For the demonstrated link between the Council[rsquo]s Objection and formally submitted substantive comments, please see the below, New Mexico Land Grant Council Santa Fe National Forest 2019 Plan Comments linked to this objection on page 3 and 3-A.
3. The New Mexico Land Grant Council objects to the lack of a Desired Condition relating to mitigating negative impacts to traditional use resources and protecting access to those resources. The Santa Fe National Forest in their response (Trad023) to our official comments state that federal laws such as the 1872 Mining Law prohibit this type of Desired Condition calling the protection of traditional use resources and access. The Council disagrees with this analysis as the language offered by the Council could be tweaked to qualify the protection of those resources with language such as: [ldquo]where possible and in accordance with applicable laws.[rdquo] As described on page 18 of the Final Plan [ldquo]Desired Conditions describe the vision for the Santa Fe National Forest. They are the ecological, cultural, and socioeconomic aspirations toward which management of the land and resources of the plan area is directed.[rdquo] The Council argues that protection of traditional use resources and access to those resources should be an aspirational vision of the National Forest and it is directly related to the ecological, cultural, and socioeconomic aspirations for management of the land. The Plan can be improved by incorporating the previously suggested or similar Desired Condition relating to protection of traditional use resources and access made by the Council. For the demonstrated link between the Council[rsquo]s Objection and formally submitted substantive comments, please see the below, New Mexico Land Grant Council Santa Fe National Forest 2019 Plan Comments linked to this objection on page 3 and 3-A.
4. The New Mexico Land Grant Council objects to non-inclusion of guidelines suggested by the Council to the 2019 Draft Plan, relating to: project specific analysis and mitigation of adverse impacts to traditionally used forest products; maintenance of shared infrastructure with land grant-merced government entities; local fuelwood collection opportunities; special use permits for land grant-merced communities when appropriate and allowable; and use of existing authorities to convey lands to meet certain community needs where appropriate (e.g. Small Tracts Act, etc). The Plan can be improved by incorporating the previously suggested or similar Guidelines relating to land grants-mercedes made by the Council. For the demonstrated link between the Council[rsquo]s Objection and formally submitted substantive comments, please see the

below, New Mexico Land Grant Council Santa Fe National Forest 2019 Plan Comments linked to this objection on pages 12 through 14-A.

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

specific guideline of concern:

FW-RURALH-G [ndash] PAGE 107

1.
1. Traditionally used products (such as fuelwood, latillas, vigas, pi[ntilde]on, osha, and clay) should be available on the national forest to rural historic communities, except in areas with resource concerns or in designated areas where such uses are not allowed or otherwise restricted by standards or guidelines set forth in other sections of this plan.

In the Council[rsquo]s review of the Plan we found no other instance where such mandatory language was applied to other uses or management activities outside of their individual section of the plan. While there are instances where scenic integrity is applied to other sections of the plan such as Wilderness, Wild and Scenic Rivers, and Inventoried Roadless Areas, language there states [ldquo]Management activities should be consistent with scenic integrity.[rdquo] The use of [ldquo]should[rdquo] implying that it is discretionary, whereas the language in this guideline appears to purposely leave no room for the discretion with regard to traditional uses. While there are examples of the unqualified [ldquo]consistent[rdquo] language found in other sections of the plan, it is specific to that given section with no language making the activity or use subservient to any other plan component or resource concern. The Plan can be improved by removing such prejudicial language that makes this guideline subordinate to other plan components or resource uses. For the demonstrated link between the Council[rsquo]s Objection and formally submitted substantive comments, please see the below, New Mexico Land Grant Council Santa Fe National Forest 2019 Plan Comments linked to this objection on pages 12 and 12-A.

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

1. Plant communities of significant traditional and cultural use, such as osh[aacute], poleo, oregano del campo, and other medicinal plants are protected and preserved, as are forest products such as timber, firewood (fuelwood), pi[ntilde][oacute]n nuts, vigas and latillas, trementina (sap), and capul[iacute]n (chokecherry) berries. Native plant communities dominate the landscape and non-native and invasive species are non-existent or low in abundance and do not disrupt ecological functions. (pages 5, 11, 12, 13, 18, 19, and 20 of the New Mexico Land Grant Council Santa Fe National Forest 2019 Plan Comments, below).
2. Fuelwood collection opportunities, including fuelwood created as a byproduct of management activities, should be available for personal use by the public. (page 2, 5, 11, 12, 13, 18, 19, 20, and 20-A of the New Mexico Land Grant Council Santa Fe National Forest 2019 Plan Comments, below).

1. Soil resources that support traditional, cultural and subsistence needs are available and sustainable. (page 1 of the New Mexico Land Grant Council Santa Fe National Forest 2019 Plan Comments, below).
2. Grazing, particularly communal grazing, especially those on historically closed allotments, should be restored and at least managed so no net loss of grazing occurs. (page 6, 7, 8, 9, and 12 of the New Mexico Land Grant Council Santa Fe National Forest 2019 Plan Comments, below).

The Plan can be improved by protecting of culturally, socially and economically important traditional resources within the Santa Fe National Forest. For the demonstrated link between the Council[rsquo]s Objection and formally submitted substantive comments, please see the below, New Mexico Land Grant Council Santa Fe National Forest 2019 Plan Co