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Working to protect and restore Western Watersheds and Wildlife

January 12, 2024
Reviewing Official
Southwest Regional Forester
333 Broadway SE
Albuquerque, NM 87102

Submitted via email to: objections-southwestern-regional-office@usda.gov

**House Rock Wildlife Area Bison Infrastructure Project
Objection
Kaibab National Forest**

Dear Reviewing Official,

The following Objection to the House Rock Wildlife Area (HRWA) Bison Project Environmental Analysis (EA), Draft Decision Notice and Finding of No Significant Impact (FONSI) is being submitted on behalf of the members of Western Watersheds Project (WWP) and the Sierra Club - Grand Canyon Chapter who are concerned with the management of our public lands. WWP and the Sierra Club previously submitted comments for this project on June 18, 2019, and April 1, 2022, attached as Appendix A and B. The legal notice for this decision was published on November 30, 2023. This objection is filed on January 12, 2024, and is therefore timely.

This Objection is filed pursuant to, and in compliance with, 36 C.F.R. Part 218, Subparts A and B. All parties to this objection have filed timely, specific and substantive written comments in accordance with 36 C.F.R. 218(a).

As required by 36 C.F.R. § 218.8(d), Objectors provide the following information:

1. The name and contact information for the Objectors is listed below.
2. This Objection was written on behalf of Objectors by Cyndi Tuell whose signature and contact information are below.
3. Western Watersheds Project and Sierra Club-Grand Canyon Chapter are the Objectors. Cyndi Tuell is the Lead Objector for purposes of communication regarding the Objection.

Cyndi Tuell
Western Watersheds Project
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4. The project that is subject to this Objection is “House Rock Wildlife Area Bison Infrastructure Project EA.” The Responsible Official is Nicole Branton, Forest Supervisor for the Kaibab National Forest
5. Objector submitted, timely, specific, and substantive comments during the Public Comment Period on June 18, 2019 and April 1, 2022. All points and issues raised in this objection refer to issues raised in those comment letters or new information.
6. In the following Statement of Reasons, Objector provides the specific reasons why the decision is being appealed and the specific changes or suggested remedies that he seeks, along with the related evidence and rationale on why the decision violates applicable laws and regulations.

NOTICE OF OBJECTION

Pursuant to 36 C.F.R. § 218, Western Watersheds Project is filing an Objection regarding the Draft DN/FONSI for the Hicks Pike Peak Grazing Authorization EA in the Globe Ranger District of the Tonto National Forest.

INTRODUCTION

This project covers 23,907 acres of federally managed lands in the north part of the HRWA, which includes more than 53,000 acres. USFS EA 2023 at 1. The project area includes designated Wilderness, sensitive wildlife habitat, and habitat for species listed as threatened and endangered, and large portions of the project area include soils that are susceptible to erosion, are impaired, or are in poor condition. USFS EA 2023 at 17-20.

The bison herd that prompted the creation of the HRWA are not a true wild bison herd, but rather a bison/cattle hybrid first introduced to this area in 1906 by a rancher and eventually purchased by the State of Arizona in 1927. This herd has been managed as a livestock herd by the Arizona Game and Fish Department (AZGFD) since 1929 under grazing permits from the U.S. Forest Service (USFS). Livestock grazing and infrastructure was permitted, via a special use permit, to the AZGFD by the USFS in the 1950s and expanded in 2000 and 2014. The AZGFD acquired a ranch headquarters in 1953 for managing this herd of livestock. In the 1990s the bison herd moved into the Saddle Mountain Wilderness, causing damage to the Wilderness area and showing a preference for remaining inside the Wilderness. In 2017, the AZGFD released 15 yearling bison from the American Prairie Reserve into a 4,000 acre pasture in the HRWA. This new herd of bison has no known cattle introgression and has a high conservation value, but is managed as a livestock herd. All of the information about the HRWA bison herds is found in the 2023 EA at page 1-2.

This project authorizes livestock grazing infrastructure on ecologically sensitive lands within designated and recommended Wilderness areas to facilitate the breeding of bison in an area where bison presence is scientifically controversial.

The failure of the Forest Service to adequately address our concerns raised in prior comments, the geographic and temporal scope along with the special designations and species found in this area, and the proposal to construct a fence to manage bison as livestock within designated Wilderness, require the development of an Environmental Impact Statement (EIS) and preclude a FONSI.

We describe our concerns more specifically below.

STATEMENT OF REASONS

I. Violations of the Wilderness Act

We previously provided comments and identified our concerns regarding Wilderness Act violations. See WWP 2019 Comments, attached as Appendix A at pages 2, 5; WWP and SCGCC 2022, attached as Appendix B at pages 4-5, 9, 15, 17-19 and 20.

The Forest Service has chosen to violate the Wilderness Act and to degrade designated Wilderness area to facilitate the management of cattle/bison hybrids that were released years ago and whose population is expanding. Unfortunately, this is one of the worst Minimum Requirement Analysis Framework workbooks¹ (MRAFs) we have seen and the MRAF and this decision improperly suggest that the Arizona Game and Fish Department (AZGFD) can do whatever they like in Wilderness. While we realize this is the desire of the AZGFD, it violates federal law and therefore cannot be authorized.

a. The EA is contradictory regarding the bison/cattle hybrids in a way that negatively affects Wilderness.

The Forest Service treats the bison herd as both wildlife and livestock within the EA. The Forest Service claims, at page 1 of the EA, that “[t]he Forest Plan identifies bison as a desired wildlife species within HRWA (p. 103). Additionally, Arizona state law defines bison as wildlife (“The following definitions of wildlife shall apply: ... ‘Big game’ means... bison (buffalo)...” [ARS 17-101B2]). As a result, bison in HRWA are considered a wildlife species.”

Yet, in the Wilderness section on page 63 of the EA, the USFS states:

*“When the wilderness areas designated by this title [the Arizona Wilderness Act of 1984], the grazing of livestock, **where established prior to the date of enactment of this Act**, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary concerned deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act” (Arizona wilderness act 1984 TITLE III, SEC. 302).*

¹ The MRAF are often referred to as Minimum Requirements Decision Guides, or MRDGs.

Under this provision, the effects of grazing and its infrastructure (existing or new fence lines; bison management is of similar character for purposes of this analysis) in designated wilderness should meet the determination for necessity for an action, identifying the alternative that best preserves wilderness character, be consistent with desired conditions in the Kaibab LRMP for wilderness management, and adhere to the Wilderness Act of 1964.

This is a clear indication the USFS is acting in an arbitrary and capricious manner on two fronts in order to violate the Wilderness Act.

First, the USFS wants the animals to be treated as livestock for purposes of weakening 4(c) protections within designated Wilderness, specifically the maintenance of grazing structures in existence at the time of designation in 1984. The USFS wants the animals classified as livestock for this purpose because if the animals were classified as wildlife, then the 4(c) provisions would not apply. But, the USFS also wants the bison to be considered wildlife to justify impacts to the Wilderness area and the newly designated Baaj Nwaavjo I'tah Kukveni-Ancestral Footprints of the Grand Canyon Monument because the bison as wildlife are supposedly restoring or supporting Wilderness character or are protected as Monument objects. The MRAF describes the bison as providing a unique and valuable wildlife viewing opportunity. USFS 2023 MRAF at 4. However, the new bison herd is currently being managed as livestock, not wildlife. The USFS treats the AZGFD as a permittee, and the animals behave as livestock in terms of how they graze.

Second, the USFS wants to consider the new bison herd, introduced in 2017, as a *pre-existing* livestock herd in order to justify “reconstructing” livestock infrastructure within a Wilderness area that was designated in 1984. It is clear that the bison/cattle hybrid herd introduced into the HRWA in 1906, prior to the designation of the wilderness area and prior to the designation of the HRWA, no longer uses the HRWA, has not used it since the 1990s, and instead prefers the Saddle Mountain Wilderness area west of the HRWA. USFS 2023 EA at 1. “[B]ison have not returned to the HRWA since 2009, except for a few individuals for a very short time (AZGFD 2021). **This original herd now exclusively resides on top of the Kaibab Plateau.**” *Id.*, emphasis added. The bison/cattle hybrids abandoned the HRWA more than a decade ago, and almost a decade prior to the relocation of the new, “wild” herd. Therefore, neither the AZGFD nor the USFS can claim that the need for livestock infrastructure within designated Wilderness areas is to facilitate livestock grazing that was established prior to the designation of the Wilderness area.

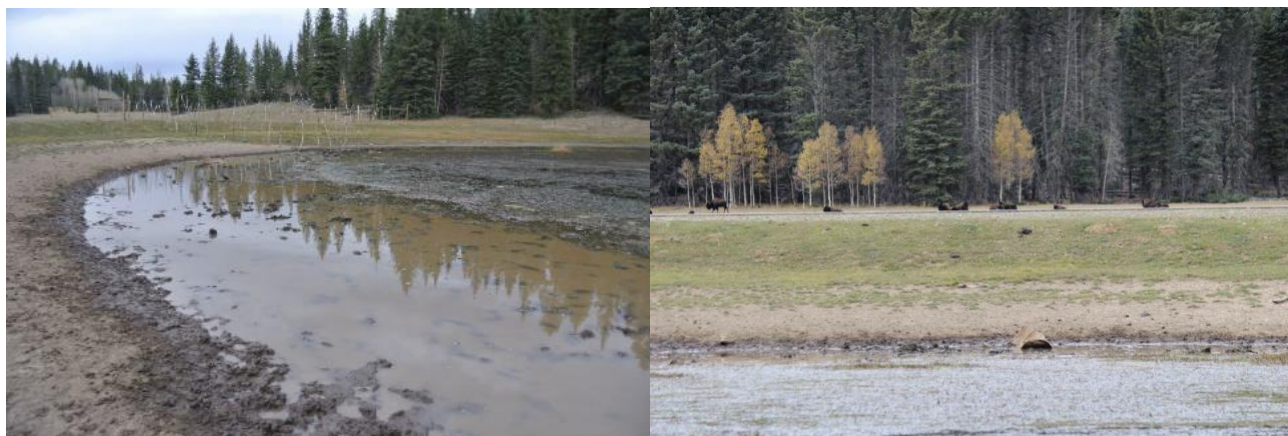
b. There is a reasonable alternative to building fencing within designated Wilderness.

Regardless of whether this new bison herd is considered livestock, there was an alternative analyzed that would not affect Wilderness. Alternative 2 allows fence building outside of the designated Wilderness area, near the boundary. This provides the USFS with an alternative to violating the Wilderness Act and frames the decision to authorize fence “reconstruction” within Wilderness as an unreasonable decision and in violation of the Wilderness Act.

The first question in the MRAF is answered incorrectly. Because there is an alternative to fence construction (or reconstruction) within designated Wilderness areas, the question as to whether this action could take place outside of Wilderness should have been answered in the affirmative. Because this question was answered incorrectly, the analysis in the MRAF is wrong. “Although bison

confinement within HRWA could be attained by constructing a new bison-standard fence around Saddle Mountain Wilderness (issue 1), doing so would effectively change the boundary of HRWA, contrary to the 1950 MOU and subsequent management plans and agreements (issue 2).” USFS 2023 MRAF at 3. This analysis is problematic. The Wilderness Act cannot be overridden by a MOU or management plan even if it predates designation and especially where, as here, the USFS claims the new bison herd that is the impetus for the fencing is wildlife, not livestock. An MOU does not have a superior legal status over the Wilderness Act. *See* Nie et al., 2017. Additionally, the MOU itself contains provisions for adjustments to its terms as “necessary for conservation purposes.” 1950 MOU at 3.

The MOU indicates that the area is set aside for “as long as the Arizona Game and Fish Commission continues to use the aforementioned area for the grazing of buffalo.” 1950 MOU at 2. It has been acknowledged that the AZGFD does not “manage” buffalo and has been unable to control them in the HRWA since at least the 1990s. Previous mismanagement at HRWA, including failure to maintain fencing and inability to round up escaped animals, has resulted in a stray population of bison-hybrids on the North Kaibab and in Grand Canyon National Park that number in the hundreds, with more than 800 stray animals on the landscape now (“Stray animal” as defined in ARS 3-1401). *See* NPS 2017, *Initial Bison Herd Reduction Environmental Assessment Grand Canyon National Park*, at 1, available at <https://parkplanning.nps.gov/projectHome.cfm?projectId=49574>. As we noted in our prior 2022 comments at page 2, damage from these animals is ubiquitous across the Plateau and extending south to Powell Plateau, manifesting as denuded meadow vegetation, abundant manure in and surrounding water sources, and damaged cultural resources. *See* Figures 6 through 22 of the Initial Bison Herd Reduction EA, figure 10 provided as one example:



Source: Louis Berger

FIGURE 10. LITTLE PARK LAKE ALONG THE NORTH RIM ENTRANCE ROAD
WHERE THE HOUSE ROCK BISON HERD GATHERS IN THE MEADOW

The AZGFD has long acknowledged the inherent difficulty of trying to keep bison or bison-hybrids on the HRWA. The 1984 Allotment Management Plan for Buffalo Allotment, North Kaibab Ranger District, Kaibab National Forest describes the difficulty of keeping bison and lays out numerous reasons that confinement of the bison-hybrids in House Rock Valley was destined to fail even with intensive management:

It is almost impossible to move and keep the animals in an area where they don't want to be...Buffalo are difficult to move or drive. They tend to follow fences when moving of their own accord, but when disturbed or excited, they pay little attention to such a minor obstical. [sic] They frequently disregard fences when they wish to follow the phenological development of forage plants. (1984 Allotment Plan at pp. 3, 5)

We provided additional evidence of the difficulty AZGFD has had in keeping bison in the HRWA at page 3 of our 2022 comments.

The MRAF identifies building a fence outside the Wilderness along the road (Alternative 2) as a negative impact to Wilderness, while at the same time claiming the construction of a fence suitable to restrain bison movement will be less of an impact on Wilderness, even though it takes place within the designated Wilderness area. USFS 2023 MRAF at 4-5, 18. However, the MRAF describes the existing fence within the Wilderness area as in “varying states of repair.” USFS 2023 MRAF at 2. The impacts to Wilderness from constructing a new, bison-proof fence to AZGFD standards is minimized and essentially dismissed because a deteriorating fence currently exists. This is despite the fact that the new fence will consist of welded 2 7/8” pipe at ¼ mile intervals, T-posts every 20 feet, 5 strand barbed wire, cable supports with 6-7 foot posts at least 5” in diameter every 250-300 feet, 18 gauge double strand wire, 5 foot tall stays every 42”, making the fence “look imposing to bison” and requires tree limb clearing for a minimum of 4 feet on each side of the fence. USFS 2023 MRAF at 10. This is certainly a bigger impact to the Wilderness than the existing fence that is ignored in order to “minimize” the impacts to the HWRA to avoid any non-compliance with the MOU. Notably, neither the EA nor the MRAF include photos of the existing fence or the proposed fence. The impact of fence building is analyzed in an arbitrary and capricious manner and the decision fails to give adequate weight to compliance with the Wilderness Act.

c. The Wilderness Act must be considered as a whole.

The MRAF and EA make a grave error in looking at the impacts to designated Wilderness areas by dissecting the Wilderness Act. See the “5 qualities of wilderness” discussion on pages 64 and 65 of the EA. However, the Wilderness Act does not state that there are five qualities of Wilderness, nor does it provide conflicting definitions for Wilderness qualities. To the extent that there is an administrative conflict between various uses of Wilderness and the preservation of Wilderness, the statute and the agencies’ regulations and management guidance provide direction for resolving those conflicts in favor of wilderness preservation. See, e.g., 16 U.S.C. § 1133(b); 36 C.F.R. § 293.2(c); FSM 2320.6.

The notion of five wilderness qualities came about in *Keeping it Wild* protocols, which are internal agency guidance documents that have not gone through formal notice and comment rulemaking. Landres et al, 2008, General Technical Report RMRS-GTR-212, available at <https://doi.org/10.2737/RMRS-GTR-212>. These documents are the subject of much disagreement and controversy, largely because they promote, intentionally or not, an interpretation of the Wilderness Act that is internally inconsistent and result in management actions that are antithetical to Wilderness preservation. See, e.g. Cole, et. al. 2015. While initially envisioned as a tool to help agencies measure wilderness character, on the ground it has had the unintended consequence of agencies (including the Forest Service here) using the documents to creep back into active management paradigms that are predominant outside of Wilderness. A prime example of a rapidly growing consequence from *Keeping*

it Wild is the erroneous idea that managers can weigh various components of Wilderness character against each other, thereby reducing the Wilderness Act to a point tallying system rather than a substantive law with cohesive goals and stringent prohibitions. This management mindset effectively and unlawfully repeals and rewrites the Wilderness Act. The Wilderness Act sought to remove agency bias and influence from the equation. In other words, in contrast to other public land management statutes, which typically authorize agencies to consider and weigh diverse values through exercise of their scientific and policy expertise, the Wilderness Act required certain areas to be managed predominantly for one use -wilderness preservation.

Unlike all other land-management statutes, the Wilderness Act's basic purpose was not to delegate authority to expert agencies, but rather, to exclude certain lands from the application of the agencies' specialized expertise, to restrain agency flexibility, and to protect (with limited, narrow exceptions) certain lands from the impact of the sort of policy choices land managers typically make. Sean Kammer, *Coming to Terms with Wilderness: The Wilderness Act and the Problem of Wildlife Restoration*, 43 ENVTL. L. 83, 100-101 (2013). That Wilderness areas have been affected by intentional human manipulation in the past (e.g. vegetative manipulation, development, fire suppression, etc.) or are affected by unintentional human influence now and will continue to be in the future (e.g. climate change) does not change how they are to be administered once designated as Wilderness. The drafters of the Wilderness Act understood "it would be impractical and unwise to require that lands be completely untrammelled prior to being designated, but [the drafters] fully expected Wilderness areas, once designated, to be untrammelled into the future. *Id.* at 106-107.

The statute, when read as a coherent whole, supports this position. The canons of statutory construction dictate that the term "natural conditions" be read in harmony with the term "untrammelled." *See United States v. Powell*, 6 F.3d 611, 614 (9th Cir. 1993) ("It is a basic rule of statutory construction that one provision should not be interpreted in a way which is internally contradictory or that renders other provisions of the same statute inconsistent or meaningless"); *see also Wilderness Society*, 353 F.3d at 60 ("a fundamental canon that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme"); *Kmart Corp. v. Cartier, Inc.*, 486 U.S. 281, 291 (1988) ("In ascertaining the plain meaning of [a] statute, the court must look to the particular statutory language at issue, as well as the language and design of the statute as a whole."); *United States v. Lewis*, 67 F.3d 225, 228-29 (9th Cir. 1995) ("Particular phrases must be construed in light of the overall purpose and structure of the whole statutory scheme."). In other words, a statute should be construed "as a symmetrical and coherent regulatory scheme," *Gustafson v. Alloyd Co.*, 513 U.S. 561, 569 (1995), and a "harmonious whole," *Fed. Trade Comm'n v. Mandel Brothers, Inc.*, 359 U.S. 385, 389 (1959).

The Wilderness Act, read as an internally consistent document as required by law, does not pit the terms "untrammelled" and "natural" against one another. "A wilderness, in contrast with those areas where man and his own works dominate the landscape," is statutorily defined as "an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain" and an area "retaining its primeval character and influence, ... which is protected and managed so as to preserve its natural conditions...." 16 U.S.C. § 1131(c). Thus, what is natural for the area necessarily flows from what is untrammelled. Indeed, this is the common meaning of the term "natural." *See Black's Law Dictionary* 1026 (6th ed. 1990) (natural means wild, formed by nature, and not artificially made or cultivated); *see also Webster's New International Dictionary of the English*

Language (1960) (defining “natural” as 1) “Of, from, or by, birth; natural-born;” 5) “In accordance with, or determined by, nature;” and 9) “Not artificial”). It is the result of a process, not a static end point. Otherwise, the default position will always be to trammel Wilderness to comport with a land manager’s notion of what is natural, even though various complicated factors—many of which we do not fully understand and cannot control—are always necessarily at play in shifting natural conditions.

d. There is no provision to allow fence maintenance for wildlife under section 4(d) of the Wilderness Act.

The Forest Service errs in suggesting that the AZGFD can maintain fences within designated Wilderness area for wildlife management based upon section 4(d)7 of the Wilderness Act. USFS 2023 MRAF at 5. The AZGFD does not have authority to engage in prohibited actions (structures) in Wilderness. The Wilderness Act only recognizes normal jurisdictional actions for game and fish agencies, such as the setting of hunting and fishing seasons, bag limits, etc.

The Forest Service has not adequately responded to our concerns regarding violations of the Wilderness Act and therefore cannot rely upon this Decision Notice and Finding of No Significant Impact for this project.

II. Violations of the National Environmental Policy Act (NEPA)

The use of an EA for this project will likely fail to comply with NEPA requirements. With this decision, the USFS failed to adequately respond to our prior comments, failed to prepare an Environmental Impact Statement (EIS), and is in violation of other federal laws.

The USFS should be analyzing the impacts of the proposal to install livestock grazing infrastructure to support a population of imported, genetically valuable bison *in conjunction with* the impact of bison-hybrids on the landscape as well as grazing by cattle throughout the adjacent and nearby grazing allotments. By authorizing actions to keep and expand the range of the newly imported animals, the USFS is losing HRWA as a place to move bison-hybrids from the Kaibab Plateau. This compounds the difficulty of managing the bison-hybrids and extends bison grazing impacts into a larger area. Additionally, the proximity to and overlap of HRWA 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 and near 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)).

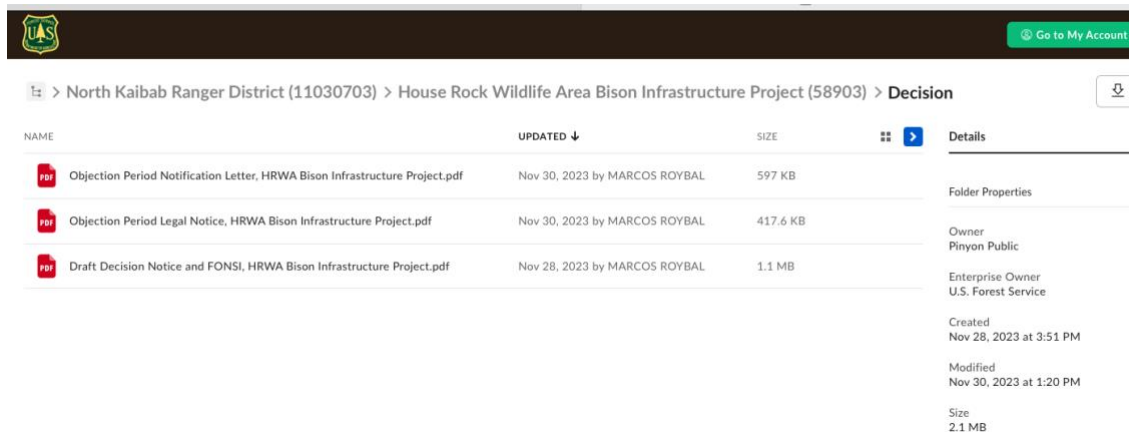
a. The USFS Failed to Adequately Respond to Public Comment

The USFS failed to respond to our concerns regarding the following:

- Impacts to the chisel-toothed kangaroo rat. WWP_SCGCC 2023 at 16-17.
- Impacts to the Fickeisen plains cactus (*Pediocactus*) *Id.* at 17-18.
- Impacts to pronghorn *Id.* at 17. The EA briefly mentions impacts from fencing to pronghorn but does not analyze impacts from competition for forage.

- Compliance with the 1973 and 2010 MOU requiring the AZGFD to coordinate with the USFS prior to releasing wildlife. We have specific concerns regarding the lack of public notice and NEPA compliance for the 2017 release of the bison herd that is the impetus for this project. *Id.* 10-11.
- Compliance with the 1950 MOU requiring adequate fence maintenance. *Id.* at 11.

The Decision Notice/FONSI indicate that responses to public comments are found in Appendix B, but Appendix B is not in the EA and does not appear on the project website. Below are screenshots of the project website.



NAME	UPDATED ↓	SIZE		Details
Objection Period Notification Letter, HRWA Bison Infrastructure Project.pdf	Nov 30, 2023 by MARCOS ROYBAL	597 KB		Folder Properties
Objection Period Legal Notice, HRWA Bison Infrastructure Project.pdf	Nov 30, 2023 by MARCOS ROYBAL	417.6 KB		Owner Pinyon Public
Draft Decision Notice and FONSI, HRWA Bison Infrastructure Project.pdf	Nov 28, 2023 by MARCOS ROYBAL	1.1 MB		Enterprise Owner U.S. Forest Service
				Created Nov 28, 2023 at 3:51 PM
				Modified Nov 30, 2023 at 1:20 PM
				Size 2.1 MB



NAME	UPDATED ↓	SIZE		Details
MRAF - HRWA Bison Infrastructure Project.pdf	Nov 28, 2023 by MARCOS ROYBAL	588.2 KB		Folder Properties
1950 HRWA MOU.pdf	Sep 21, 2023 by MARCOS ROYBAL	119.8 KB		Owner Pinyon Public
1984 HRWA AMP.pdf	Sep 21, 2023 by MARCOS ROYBAL	313.6 KB		Enterprise Owner U.S. Forest Service
2021 Arizona Bison Management Plan.pdf	Sep 21, 2023 by MARCOS ROYBAL	9.5 MB		Created Sep 21, 2023 at 12:50 PM
2022 HRWA Operational Management Plan.pdf	Sep 21, 2023 by MARCOS ROYBAL	3.5 MB		Modified Nov 28, 2023 at 3:53 PM
				Size 14 MB

 Go to My Account			
Home > North Kaibab Ranger District (11030703) > House Rock Wildlife Area Bison Infrastructure Project (58903) > Analysis			
NAME	UPDATED ↓	SIZE	Details
 Final EA - HRWA Bison Infrastructure Project.pdf	Nov 28, 2023 by MARCOS ROYBAL	5.4 MB	Folder Properties Owner Pinyon Public Enterprise Owner U.S. Forest Service Created Jul 30, 2023 at 11:45 AM Modified Nov 28, 2023 at 3:50 PM Size 11.4 MB
 Comment Period Legal Notice, HRWA Bison Infrastructure Project.pdf	Aug 1, 2023 by MARCOS ROYBAL	242.4 KB	
 Comment Period Notification Letter - HRWA Bison Infrastructure Project.pdf	Jul 31, 2023 by MARCOS ROYBAL	210.4 KB	
 Draft EA - HRWA Bison Infrastructure Project.pdf	Jul 30, 2023 by MARCOS ROYBAL	5.6 MB	

b. The Forest Service Should Prepare an Environmental Impact Statement

We identified the legal flaws with the Forest Service’s use of an EA instead of an EIS in great detail in our prior comments. WWP-SCGCC 2022 at 3-9. We described how this project would violate NEPA for failure to take into account the context and intensity of this project including the significant impacts, impacts to public health and safety, unique characteristics of the area, the controversial nature of managing bison as livestock, the uncertain and unknown risks, cumulative impacts including impacts from adjacent and nearby cattle livestock grazing allotments, impacts to archaeological resources and threatened or endangered species, and violations of other regulations, including the Endangered Species Act and the Wilderness Act. We hereby incorporate by reference that section in its entirety (WWP-SCGCC 2022 pages 3-9).

Additionally, the footprint of Baaj Nwaavjo I’tah Kukveni-Ancestral Footprints of the Grand Canyon, designated on August 8, 2023, overlaps the project area, which increases the rationale for preparing an EIS due to the unique characteristics of the project area.

The Forest Service has not adequately responded to our concerns regarding these NEPA violations and therefore cannot rely upon this Decision Notice and Finding of No Significant Impact for this project.

III. Violations of the 1984 Allotment Management Plan

As noted in our prior comments, this decision violates the allotment management plan (AMP) for the HRWA allotment. WWP_SCGCC 2022 at 10-11. The decision to authorize 145 bison violates the provision of the AMP that caps the number of bison at no more than 90 unless there have been improvements to range condition and trend. There is no evidence of range improvement or trend and the number of bison authorized is in addition to the number of bison/cattle hybrids that still exist in the area.

The Forest Service has not adequately responded to our concerns regarding these violations of the 1884 AMP and therefore cannot rely upon this Decision Notice and Finding of No Significant Impact for this project.

IV. Violations of the National Forest Management Act

We raised this issue at page 10-15 of our 2022 comments and we incorporate those arguments by reference in their entirety.

Our concern is that the Forest Plan discusses the bison/cattle hybrid herd that had been present on the North Kaibab Ranger District for more than 100 years, while this project facilitates the expansion of a new, genetically distinct bison herd. We identified two problems with the introduction and now expansion of the new bison herd: 1) high conservation value bison occupying the HRWA makes gathering and holding the bison/cattle hybrids more difficult; and 2) placing bison/cattle hybrids into the HRWA will reduce the conservation value and genetic value of the new bison herd. While our concerns about the implementation of Alternative 1 were not discussed, the USFS rejected the no action alternative for the reasons we identified as problematic in Alternative 1. This is perhaps the very definition of an arbitrary and capricious decision by a federal agency.

The Forest Service has not adequately responded to our concerns regarding these violations of the Forest Plan and NFMA and therefore cannot rely upon this Decision Notice and Finding of No Significant Impact for this project.

V. Violations of the Endangered Species Act

We raised our concerns about the impacts to threatened and endangered species and the Forest Service's failure to adequately comply with the Endangered Species Act (ESA) in our prior comments. WWP 2019 comments at 11-16. Unfortunately, the Forest Service continues to ignore the impacts of this project on threatened and endangered species and does not take that information into account when making its affect findings.

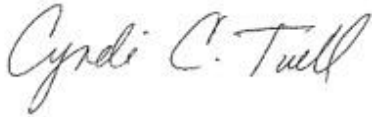
The Forest Service has not adequately responded to our concerns regarding these violations of the ESA and cannot rely upon this Decision Notice and Finding of No Significant Impact for this project.

VI. Conclusion

The Forest Service has made an arbitrary and capricious decision based on an inconsistent description of these bison as both wildlife and livestock and as a historic herd and a new herd. The Forest Service has also failed to comply with the Wilderness Act, NEPA, the Endangered Species Act, the Forest Plan, NFMA and various other laws and regulations. We have provided the Forest Service with our concerns in prior comments and those concerns have gone unaddressed or were addressed inadequately.

Relief Requested: The Forest Service must withdraw the Draft FONSI/DN and prepare a supplemental analysis, including an EIS for this project, or withdraw the project. Thank you for your consideration of this Objection. If you have any questions, or wish to discuss the issues raised in this objection letter in greater detail, please do not hesitate to contact me.

Sincerely,



Cyndi Tuell
Arizona and New Mexico Director
Western Watersheds Project



Sandy Bahr, Chapter Director
Sierra Club - Grand Canyon Chapter

ATTACHMENTS

Appendix A
Comments of Western Watersheds Project submitted on June 18, 2019

Appendix B
Comments of Sierra Club-Grand Canyon Chapter and Western Watersheds Project submitted on April 1, 2022

REFERENCES

Cole, David, E. Zahniser, D. Scott, R. Kaye, K. Proescholdt, and G. Nickas. 2015. *The Definition of Wilderness Character in "Keeping it Wild" Jeopardizes the Wildness of Wilderness*. Attached as Exhibit 3.

Kammer, Sean. 2013. *Coming to Terms with Wilderness: The Wilderness Act and the Problem of Wildlife Restoration*, 43 ENVTL. L. 83, 100-101 (2013). Attached as Exhibit 2.

Landres et al, 2008, General Technical Report RMRS-GTR-212, available at <https://doi.org/10.2737/RMRS-GTR-212>

National Park Service 2017. *Initial Bison Herd Reduction Environmental Assessment Grand Canyon National Park*, available at <https://parkplanning.nps.gov/projectHome.cfm?projectId=49574>

Nie, Martin, C. Barns, J. Haber, J. Joly, K. Pitt, S. Zellmer, 2017. *Fish and Wildlife Management on Federal Lands: Debunking State Supremacy*. Environmental Law Vol. 47, No. 4 (Fall 2017), pp. 797-932 (136 pages). Lewis & Clark Law School. <https://www.jstor.org/stable/44466736>. Attached as Exhibit 3.

U.S. Forest Service. 2023. House Rock Wildlife Area Bison Project Environmental Assessment.

U.S. Forest Service. 2023 MRAF. Minimum Requirements Analysis Framework Workbook.

U.S. Forest Service. 1984. Allotment Management Plan for Buffalo Allotment, North Kaibab Ranger District, Kaibab National Forest.

1950 Memorandum of Understanding (MOU) between the U.S. Forest Service, Arizona Game and Fish Department, Bureau of Land Management, interested stockman, and Mr. R.B. Wolley.