



**UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
LINCOLN NATIONAL FOREST
SACRAMENTO RANGER DISTRICT**

**SPECIAL CLOSURE FOR RESOURCE PROTECTION WITHIN
AGUA CHIQUITA – RIO PEÑASCO – WILLS CANYON**

Pursuant to 16 USC 551 and Title 36 CFR 261.50(a), the following acts are prohibited within the fenced areas encompassing critical habitat for endangered species within Agua Chiquita, Rio Peñasco and Wills Canyon riparian areas as described in this Order (the “restricted area”) and as depicted on the attached map, hereby incorporated into this Order as Exhibit A-D, within the Sacramento Ranger District, Lincoln National Forest, Otero County within the State of New Mexico.

PROHIBITIONS:

1. It is prohibited to go into or be upon any area which is closed for the protection of threatened, endangered, rare, unique, or vanishing species of plants, animals, birds or fish. **36 CFR 261.53(a)**
2. It is prohibited to go into or be upon any area which is closed for the protection of public health and safety. **36 CFR 261.53(e)**

EXEMPTIONS:

Pursuant to 36 CFR 261.50(e), the following persons are exempt:

1. Persons with a permit specifically authorizing the otherwise prohibited act or omission.
2. Any Federal, State or local officer, or member of an organized rescue or firefighting force engaged in the performance of an official duty.
3. Any other person meeting exemption requirements specified in the order.

RESTRICTED AREA:

The restricted area encompasses critical habitat for endangered species within the following areas: Agua Chiquita (T. 18 S., R. 12 E. Sec. 25, 26; T. 18 S., R. 13 E. Sec. 17-20, 30); Rio Peñasco (T. 17 S., R. 11 E. Sec. 11-14; T. 17 S., R. 12 E. Sec. 17, 18); Wills Canyon (T. 17 S., R. 12 E. Sec. 15, 16, 20-22, 28, 29); (shown on the attached map). All authorized roads and trails will remain open and are not affected by this closure. The restricted areas included in the special closure are fenced for livestock management. Livestock access lanes (breaks in fences

within protected habitat) are provided in order to allow permitted livestock access to water and livestock handling facilities and are considered outside of the restricted area.


PURPOSE:

This order is being implemented for resource protection and for the protection of public health and safety. The order will allow for protection of water quality and habitat for endangered species, and will reduce the potential hazard of electric shock to the public from the temporary electric fences within the Agua Chiquita, Rio Peñasco and Wills Canyon on the Sacramento Ranger District. The fenced areas have not been adequately protected by fencing alone and a closure order is necessary to protect resources in the area. The electric fencing could pose a safety risk to the public if handled, this order would assist in preventing the public from handling the fence.

IMPLEMENTATION:

1. This Order will be in effect when signed and shall remain in effect until October 31, 2016 or until rescinded, whichever occurs first.
2. Any violation of these prohibitions is punishable as a Class B misdemeanor by a fine of not more than \$5,000.00 for individuals and \$10,000.00 for organizations or by imprisonment for not more than six (6) months, or both. [Title 16 USC 551, Title 18 USC 3571(b)(6), Title 18 USC 3581 (b)(7)].
3. This order supersedes, rescinds, and replaces any previous orders prohibiting the same acts covered by this order.

Done at Alamogordo, New Mexico, this 12th day of August, 2016.


BARRY L. IMLER
Acting Forest Supervisor
Lincoln National Forest

**ASSESSMENT OF NEED, CIVIL RIGHTS IMPACT STATEMENT,
AND ENFORCEMENT PLAN**

Need of Order

This order implements a short-term special closure for resource protection, specifically endangered species habitat and water quality protection. Temporary fencing was put in place to protect the New Mexico meadow jumping mouse critical habitat in addition to closing the occupied portions of the habitat in closure order # 08-277. An additional closure is deemed necessary because the fenced areas not included in closure # 08-277 are getting disturbed by dispersed camping which is causing impacts to habitat and water quality. Campers repeatedly have taken the temporary fences down and camped within the fenced areas impacting critical habitat. It was thought that the fencing would be enough to discourage people from entering, but after repeated entries a closure order is considered necessary to sufficiently protect the endangered species habitat and water quality. The fenced habitat that will be closed in this closure order is present within small stretches of the following drainages: Agua Chiquita; Rio Peñasco; and Wills Canyon.

This special closure is temporary, until environmental analysis is conducted for long term management strategies for continued protection of endangered species habitat at these locations.

Scope of Order

This special closure will close fenced critical habitat within the Sacramento Ranger District of the Lincoln National Forest to all entry. The habitat involved in this order is within the following locations: Agua Chiquita (T. 18 S., R. 12 E., Sec. 25, 26; T. 18 S., R. 13 E., Sec. 17-20, 30); Rio Peñasco (T. 17 S., R. 11 E., Sec. 11-14; T. 17 S., R. 12 E., Sec. 17, 18); Wills Canyon (T. 17 S., R. 12 E., Sec. 15, 16, 20-22, 28, 29). All authorized roads and trails will remain open. The restricted areas included in the special closure are fenced for livestock management. Livestock access lanes (breaks in fences within protected habitat) are provided in order to allow permitted livestock access to water and livestock handling facilities and are considered outside of the restricted area. Grazing permittees are permitted to enter the restricted area to remove livestock from the restricted area, to utilize designated access lanes, or to perform necessary operations with prior approval from the Forest Service. Hunters are permitted to enter the restricted area to retrieve game animals when necessary.

This temporary special closure may remain in effect from the date signed through October 31, 2016.

NEPA Consistency

This action is categorically excluded from documentation in an environmental impact statement or an environmental assessment. This special closure for occupied habitat protection falls within a category established by the Chief of the Forest Service (36 CFR 220.6(d)(1)) – *Orders pursuant to 36 CFR part 261 – Prohibitions to provide short-term resource protection or to protect public health and safety*. This order would provide resource protection, specifically for

endangered species habitat and water quality. There are no extraordinary circumstances related to the special closure that may result in a significant individual or cumulative effect on the quality of the natural or human environment that would warrant further analysis and documentation in an environmental assessment or environmental impact statement. The closure will be applicable to only a small area and will have little to no impact on dispersed recreation.

Forest Plan Consistency

This order is consistent with standards and guidelines from the Lincoln National Forest Land and Resource Management Plan (Forest Plan) (U.S. Forest Service 1986). This order is consistent with management direction and standards and guidelines documented in the Forest Plan for the affected management areas (4J- Upper Agua Chiquita; 2E- Upper Peñasco), which both emphasize habitat management for wildlife. This project is consistent with the Standards and Guidelines in the Forest Plan for Federal and State Threatened and Endangered (T&E) Species which include: Protect and manage essential and critical habitats of threatened, endangered, and sensitive species through ensuring that legal and biological requirements of designated plant and animal species are met; Identify, protect and enhance existing and potential habitat of all T&E and sensitive species; Activities likely to cause disturbance, including public use, will be prohibited in the vicinity of any essential habitat for T&E species. This project is consistent with the Standards and Guidelines in the Forest Plan for water and soils which include: maintain water quality to meet or exceed appropriate standards; manage riparian areas to provide optimum vegetation and ecological diversity.

CIVIL RIGHTS IMPACT STATEMENT

The Special Closure Order will have no impact on civil rights, as the prohibition will apply to all individuals equally. No group will be affected more than another group. The Special Closure Order is also extremely limited in scope.

ENFORCEMENT PLAN

Posting/Notification

In accordance with the provisions of 36 CFR 261.51, copies of the order will be posted and available to the public at the Supervisor's Office of the Lincoln National Forest, in Alamogordo, NM. In addition, copies of the order will be available to the public at the Sacramento Ranger Station in Cloudcroft, NM. Signs will be posted at conspicuous places along the closure area indicating the prohibition and the hazard of the electric fence. A news release informing the public of the closure order will be released and the order will be posted on the Lincoln National Forest public website.

Patrol Activities

Employees of the Lincoln National Forest will be monitoring for violations of this order.

Enforcement Strategies

Emphasis will be placed on appropriate signing. This is expected to be adequate.

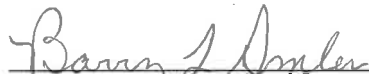
Contact will be attempted with any person observed in violation of this order, the violator will be asked to immediately leave the closed area.

Persons Exempt from this Order

This closure order exempts the following from its restriction:

- (1) Persons with a permit specifically authorizing the otherwise prohibited act or omission.
- (2) Any Federal, State or local officer, or member of an organized rescue or firefighting force engaged in the performance of an official duty.
- (3) Any other person meeting exemption requirements specified in the order.

This Assessment of Need, Civil Rights Impact Statement, and Enforcement Plan for Order #08-278 is approved by:


BARRY L. IMLER
Acting Forest Supervisor
Lincoln National Forest

8/12/2016
Date

Lincoln National Forest
Closure Order 08-278

Upper Rio Penasco

Wills Canyon

Agua Chiquita

SACRAMENTO

Legend

Fenced_Closure_Area-08-278

Surface_Ownership

OTHER

USFS

EXHIBIT B

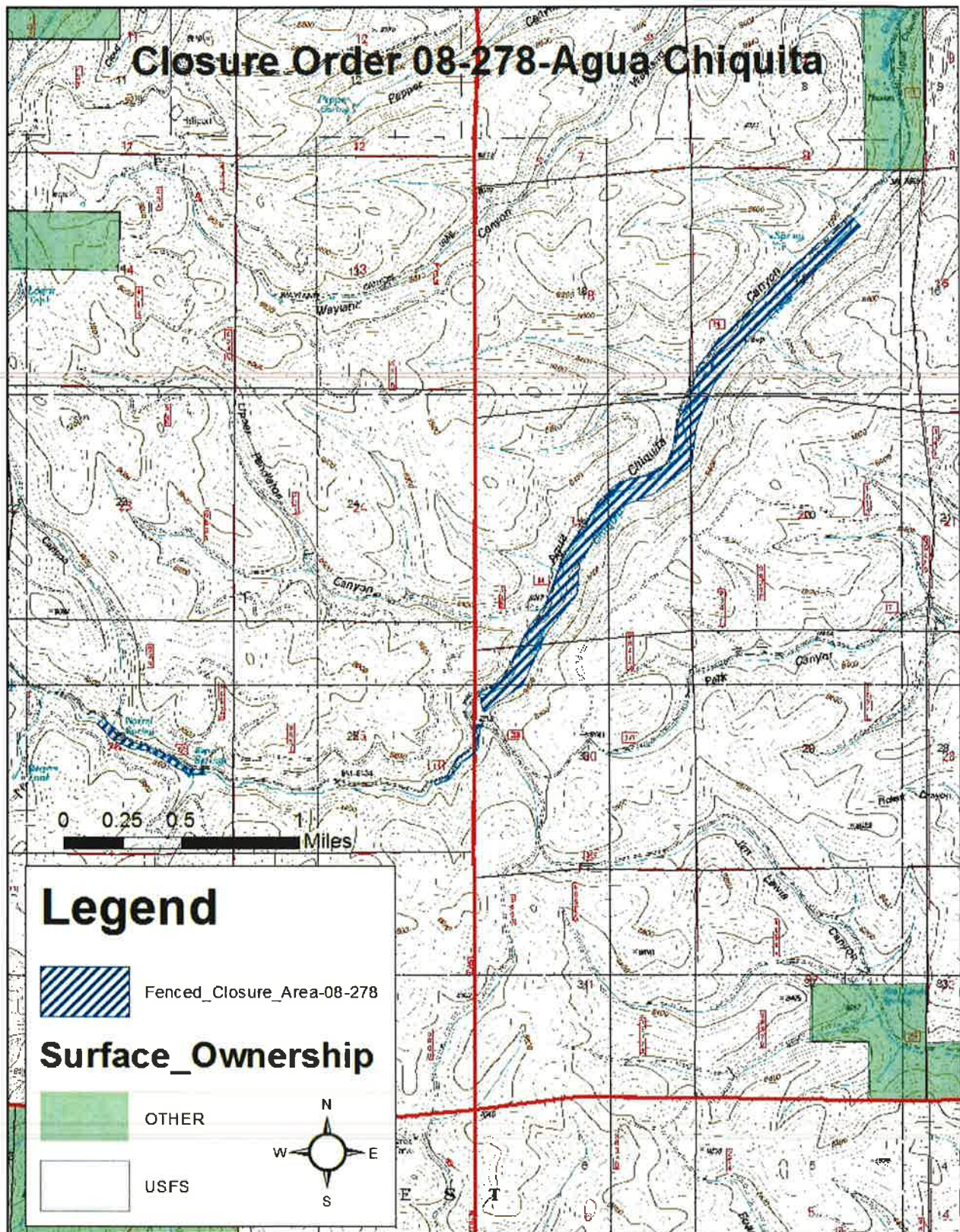


EXHIBIT C

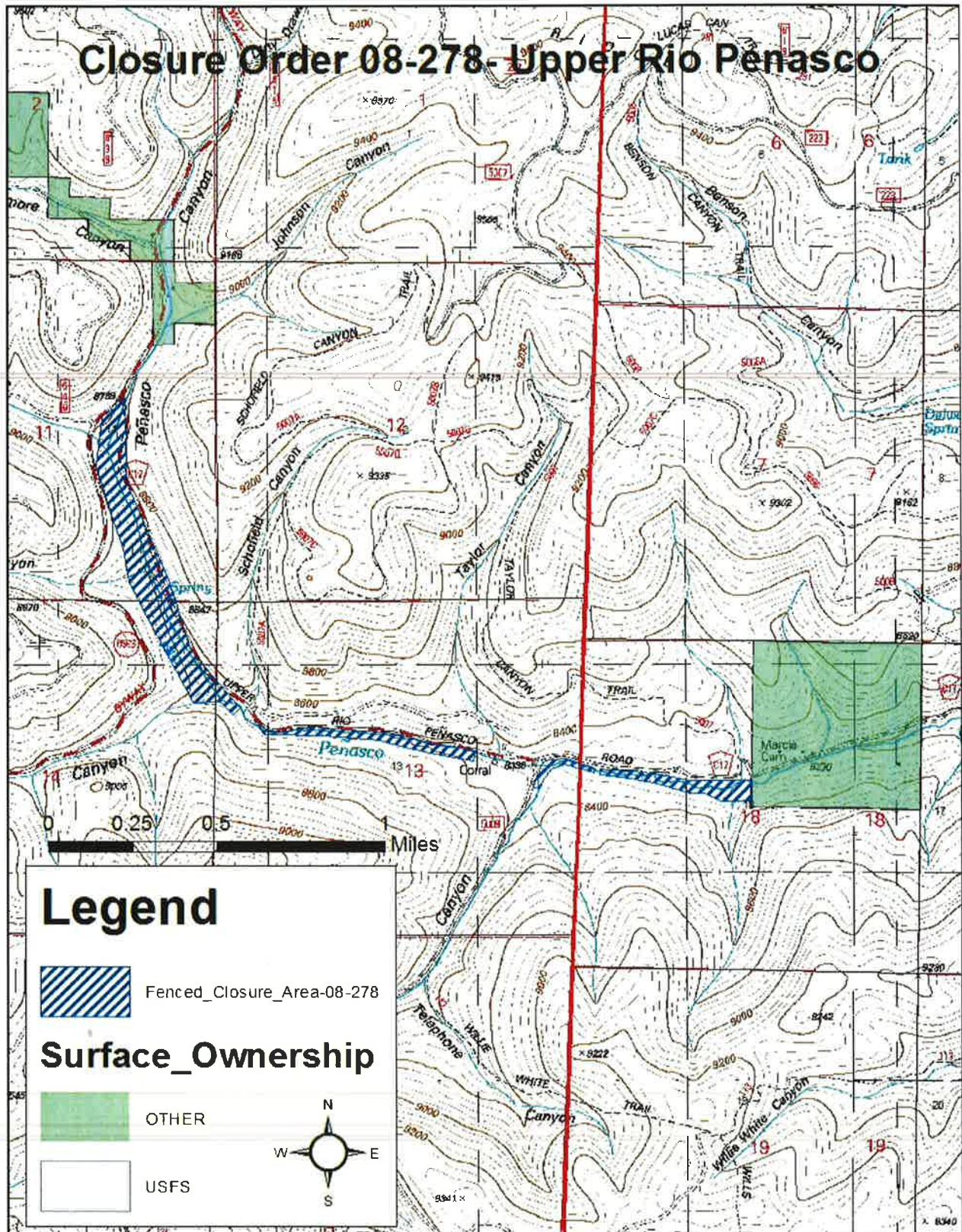


EXHIBIT D

