ATTACHMENT "H"

To: Mr. Delvin Lopez, District Ranger,
Cave Creek District, Tonto National Forest

From: Dennis Parker for Johnson Ranch Partnership

Re: Proposal to Graze the Lower Chalk and Yearling pastures outside of the Southwestern Willow flycatcher's critical season on an experimental basis

Date: August 30, 2002

I. Summary of Proposal

The Johnson Ranch Partnership proposes to graze the Lower Chalk and Yearling pastures from November 1 through March on an experimental basis in order to (1) minimize the threat of loss of occupied Southwestern Willow flycatcher habitat to stochastic fire event per Section 7 of the Endangered Species Act and (2) to facilitate more efficient management of the Johnson Ranch through more effective use of the Forest Service allotments it currently holds. We suggest that allowable use could be set at 40% for woody species under six feet tall and that bank alteration would not be allowed to exceed 20%. Moreover, under this proposal, livestock will not be allowed to "camp out" in the occupied Southwestern Willow flycatcher habitat found at the upper end of Horsehoe Lake because livestock use of this area will be closely monitored and the livestock will be actively herded away from this area as necessary. All livestock will be removed from both pastures by April 1 in order to avoid livestock use during the critical season for the Southwestern Willow flycatcher (April 1 thru July 31), or earlier if allowable use levels are approached.

II. Compatibility of this Proposal with Section 7 of the Endangered Species Act

Section 7 of the Endangered Species Act requires that the Forest Service "insure that any action authorized, funded or carried out ..... is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species." Once consultation with the Fish and Wildlife Service has been initiated by the Forest Service, the Forest Service and any permit or license applicant involved may not make any irreversible or irretrievable commitment of resources.

Here, the action proposed -- grazing of the Lower Chalk and Yearling pastures -- is not likely to jeopardize the continued existence of the Southwestern Willow flycatcher or result in the destruction or adverse modification of its habitat.

This is because the use proposed is outside of the critical season for this species, is within allowable forage use and bank alteration levels, and will serve as the primary tool to substantially reduce the high risk of flycatcher and flycatcher habitat loss to catastrophic wildfire which now exists in both of these pastures.

The presence of livestock during the non-critical season in both of these pastures will substantially reduce the potential for catastrophic wildfire as it relates to Southwestern Willow flycatchers and their habitat because the livestock will trample down and to an extent consume the over-abundant fuels now existent within these pastures. These fuels consist primarily of dense stands of cocklebur in the lakebed and to the edge of the riparian green line, dense buildups of dry Russian thistle plants within and at the edge of the riparian greenline, and Johnson grass to a lesser extent.

Loss of Southwestern Willow flycatchers and their habitat to catastrophic wildfire is a very real and well known threat within flycatcher-occupied areas subjected to year-round exclusion of livestock (such as is currently the case with the Lower Chalk and Yearling pastures). Substantial evidence supporting this conclusion is provided by the loss of four occupied Southwestern Willow flycatcher habitats to wildfire in the year 1996 alone.

One of these fires, which occurred June 3, 1996, on the PZ Ranch along the lower San Pedro River, burned approximately 75% of the entire patch and about two-thirds of the historical flycatcher breeding area then found at that location. Significantly, this site consisted of a mature Fremont Cottonwood gallery forest with an understory of Tamarisk on the edge -- a habitat type far more resistant to destruction by fire than the younger growth Goodding Willow edged by Tamarisk habitat type now found at the upper end of Horseshoe Lake. In 1997, no flycatchers returned to the burned area on the PZ, nor did any return to the unburned area to the north of the 96' burn the next year.

Furthermore, in response to the Forest Service's stated concern regarding cowbird parasitism and Willow flycatchers, we must point out that the elimination of livestock grazing within 2-5 miles of occupied Willow flycatcher habitat, based on the assumption that to allow such would lead to increased parasitism of Willow flycatchers by cowbirds, is unsuppported by substantial evidence. To the contrary, the best scientific and commercial data available -- that obtained by the Forest Service's own Rocky Mountain Research Station on the U Bar Ranch in New Mexico -- clearly shows that parasitism rates on flycatchers by cowbirds are extremely low and reproductive success rates of flycatchers are extremely high in an area where

livestock and flycatchers occur together or within close proximity to one another during the Willow flycatcher's critical season. See 1998-2001 Summary Reports by Drs. Scott H. Stoleson and Deborah M. Finch, USDA Forest Service, Rocky Mountain Research Station, Albuquerque, New Mexico. This information is in fundamental contradiction with the Forest Service's April 15, 2002, Guidance Criteria for grazing which eliminates livestock grazing within 2-5 miles of occupied flycatcher habitat and which cites as support for this approach no research conducted after 1996.

Here, however, because the use proposed is to occur during the non-critical season when the Willow flycatcher is not on its Horseshoe Lake breeding grounds, there is no threat of cowbird parasitism. Thus, cowbird parasitism is a non-factor in the consideration of this proposal.

III. Conclusion

Utilization by livestock of the Lower Chalk and Yearling pastures during the non-critical season for the Southwestern Willow flycatcher as here proposed will substantially reduce the currently high potential for loss of flycatchers and their habitat to catastrophic wildfire in compliance with Section 7 of the Endangered Species Act. Moreover, because the use proposed is during the time period when Willow flycatchers are not present on their breeding grounds, there is no conflict between such use and concerns regarding cowbird parasitism on Willow flycatchers. Finally, riparian condition will not be degraded because utilization of these pastures by livestock under this proposal will not exceed allowable use percentages. For all of the preceding reasons, the Johnson Ranch strongly urges the Forest Service to accept its proposal to utilize the Lower Chalk and Yearling pastures during the non-critical season for the Southwestern Willow flycatcher.