ARIZONA WILDERNESS COALITION

Working Together to Protect Arizona's Wild Lands and Waters

November 5, 2015

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Subject: NOTICE OF APPEAL REGARDING THE RECORD OF DECISION FOR THE REVISED LAND AND RESOURCE MANAGEMENT PLAN FOR THE PRESCOTT NATIONAL FOREST

Responsible Official: Calvin Joyner, Southwestern Regional Forester

This is a Notice of Appeal filed on the Record of Decision ("ROD") for the Revised Land and Resource Management Plan for the Prescott National Forest, dated July 29, 2015, with availability published August 7, 2015 ("Plan"), and filed on the Environmental Impact Statement underlying the ROD, including supporting analyses including the Potential Wilderness Area Evaluation Report ("PWA Report").

Appellant's Interest

Arizona Wilderness Coalition ("AWC") holds high regard for our working relationship with all six National Forests in Arizona. Through our Wilderness Stewardship program, we have completed many restoration projects across the state to the benefit of the agency and the public. Our Stewardship program had its start on the Prescott National Forest, and we continue a productive working relationship with that

Forest today. Our mission is to permanently protect and restore wildlands and waters in Arizona for the enjoyment of all citizens and to ensure that Arizona's native plants and animals have a lasting home in wild nature.

AWC represents more than 1600 wilderness supporters in Arizona. Our members, supporters and volunteers enjoy the Prescott National Forest ("PNF") for many activities, including hiking, birding, hunting, fishing, nature study, photography and more. Our supporters also place great value on the ecosystems services provided by the PNF and the wild areas that support primitive recreation and wildlife.

AWC filed comments on the Draft Land and Resource Management Plan for the PNF on November 28, 2012. We appreciate the opportunity to submit this appeal and respectfully ask for your consideration of the issues we raise.

Summary of Issues of the Appeal:

1. The Management Direction and Desired Conditions in the Plan reflect an incomplete and inadequate assessment of Potential Wilderness Areas
2. The Potential Wilderness Area Evaluation Report was flawed and was not conducted in accordance with the guidance provided in Forest Service Handbook 1909.12

This appeal is filed pursuant to 36 CFR 219.35, Appendix A. We acknowledge the language of the Optional Appeal Procedures Available During the Planning Rule Transition Period that includes "Recommendations of Forest Service line officers to higher ranking Forest Service or Departmental officers or to other entities having final authority to implement the recommendations in question, such as wilderness and wild and scenic river recommendations" under Section 4 (c), "Decisions not subject to appeal." We are not appealing the Plan's wilderness recommendations, rather we are appealing the evaluation process for Potential Wilderness Areas and the resulting Management Direction and Desired Conditions included in the Final Plan.

Appeal Issue:

1. The Forest Service failed to conduct the Potential Wilderness Area Evaluation in accordance with Forest Service Handbook 1909.12, producing an incomplete and inadequate assessment of Potential Wilderness Areas, resulting in Management Direction and Desired Conditions that did not reflect a thorough analysis of a reasonable range of alternatives, violating the National Environmental Policy Act and National Forest Management Act

Detailed Elaboration of Appeal Issues:

The Potential Wilderness Area Evaluation contained a number of flaws with respect to application of the wilderness evaluation criteria found in FS Handbook 1909.12, 72.31. As a consequence, areas possessing wilderness qualities were inappropriately excluded from consideration for Management Direction and Desired Conditions that would preserve those wilderness qualities in the Final Plan.

The flaws in the PWA evaluation appeared in applying criteria including "Capability," "Availability" and "Need". In addition, the ratings appear to have been inconsistently or incorrectly calculated based on the Forest Service's own factor ratings.

While these flaws appeared throughout the PWA Evaluation document, the following identification of errors focuses on the specific examples of two Inventoried Roadless Areas, the Ash Creek and Muldoon IRAs. As a result of flaws in evaluation, these two areas were omitted from Management Direction and Desired Conditions that would preserve their wilderness qualities in the Final Plan. These two areas should have the same Management Direction applied as for the recommended wilderness areas, and the same Desired Conditions applied as for existing wilderness areas, as part of the Prescott/Chino/Drake Geographic Area and Upper Verde Management Area (Final Plan at 105-108) The resultant Desired Conditions that should have been applied for Ash Creek, Muldoon, and other inappropriately evaluated PWAs with wilderness qualities is "There are opportunities to experience isolation from manmade sights, sounds, and management controls " (Final Plan at 107). Without this management direction, the inaccurately evaluated PWAs are vulnerable to degradation from activities that would impair the PWA's wilderness qualities and preclude future consideration for wilderness recommendations.

Specific wilderness evaluation criteria with flaws in application:

Capability

A factor of "Manageability" was consistently misapplied as part of the Capability criterion in the PWA report, as compared to the guidance found in FS 72.31.

The first specific issue with application of the "Manageability" criterion under "Capability" is that FS 72.31 includes no such criteria under "Capability". FS 72.31 does reference under "Capability" "A summary of the boundary conditions, needs, *and management requirements should the area be designated for wilderness*. Address whether or not boundary changes would enhance the wilderness characteristics or whether or not it would be possible to use boundary modifications to separate incompatible activities from those characteristics." (emphasis added).
In specific application of this "Manageability" factor, a number of the analyses inaccurately assert that ranching infrastructure and wildlife management activities conflict with wilderness management because motorized access would be prohibited. These assertions are incorrect because:

- For authorized uses in wilderness, including approved water developments and other ranching and wildlife management infrastructure, motorized access is routinely provided through "administrative access" provisions. Wilderness management does not in and of itself preclude motorized access for such authorized uses.
- Wildlife management and river restoration remain possible in areas managed as wilderness. There are numerous wildlife management and river restoration projects occurring on federal designated wilderness throughout the state currently as testament to this fact. While motorized access and use of mechanized equipment may be limited in areas managed as wilderness, wilderness regulations indeed provide a process by which the Forest Service can permit motorized and mechanized access for actions necessary in wilderness. In addition, many wildlife management and river restoration activities can be accomplished on foot and horseback, and using traditional tools, which are permitted in wilderness.

A specific example of misapplication of the "Manageability" factor is found in the evaluation of the Muldoon PWA:

From the PWA Report, page 146:

> **"Manageability Rating:** Medium
> There is no authorized recreational motorized use in this PWA, but there is illegal use on a number of old roads that have not been decommissioned. There are five cherry-stemmed roads in the PWA, totaling approximately 6 miles. There are three earthen stock tanks and one well that require motorized equipment for maintenance and access. Preventing motorized use in this area would be moderately difficult as most of the boundary runs through open, flat areas adjacent to existing roads. Management activities for pronghorn habitat restoration and river restoration would be difficult to implement due to the need for motorized equipment and their impact on naturalness and visitor solitude."

As noted above, management as wilderness does not in and of itself preclude motorized access for maintenance of stock tanks and wells; Further, no justification was provided that at least some such maintenance could not reasonably occur with horse or foot access.

Regarding management of pronghorn habitat and river restoration, such activities do not intrinsically require motorized access. However, as noted above, there are provisions for the Forest Service to permit use of motorized and mechanized equipment in wilderness areas under certain conditions for both wildlife management and land restoration.

Availability

The Wildlife, Water, Livestock, Timber and Cultural resource factors under the Availability criterion have been misapplied, and incorrect assertions in these criteria resulted in consistently lower overall ratings for the PWAs analyzed. Had the criterion been appropriately applied, additional PWAs would have ranked sufficiently high to be included in Management Direction and Desired Conditions to preserve wilderness qualities.

In application of the Wildlife criterion, the errors described in the "Capability/Manageability" section have been repeated, asserting that wildlife management is incompatible with wilderness. The Wildlife factor has been misapplied as demonstrated in the Muldoon PWA example:

From the PWA Report, page 146:

> **"Wildlife Rating:** Low
> In general, wilderness designation could have both positive and negative effects on wildlife management. The watershed lies above spikedace critical habitat in the Verde River and wilderness designation would maintain limited soil disturbance in the area above this habitat. In addition, designation would preclude the development of future roads or motorized trails that cause habitat fragmentation and disrupt travel corridors for pronghorn and other wildlife species. Wilderness designation could also provide a large block of second-growth dense juniper habitat adjacent to the Upper Verde River Important Bird Area (IBA). However, restrictions on motorized use could cause negative impacts by limiting options for vegetation and fuels treatments. Limiting these options could limit opportunities for pronghorn habitat improvement and watershed improvement for listed fish species such as spikedace. The second-growth dense juniper habitat that benefits bird species also blocks travel ways for pronghorn, and repairing this situation is vital to space-limited pronghorn movement on this side of the Prescott NF."

The above example reflects an additional error in prioritizing management for a game species, specifically pronghorn, over migratory birds, to whit: "Wilderness designation could also provide a large block of second-growth dense juniper habitat adjacent to the Upper Verde River Important Bird Area (IBA). … The second-growth dense juniper habitat that benefits bird species also blocks travel ways for pronghorn, and repairing this situation is vital to space-limited pronghorn movement on this side of the Prescott NF." The birds potentially benefitted in this instance include the federally threatened Yellow-bill cuckoo, and the Upper Verde River is included in proposed Critical Habitat for this avian species (**Federal Register** /Vol. 79, No. 158 / Friday, August 15, 2014 / Proposed Rules **48605)**. The benefits of wilderness management to a broad range of wildlife species, including federally listed species, far outweigh the potential detriment to a singular game species whose prime habitat is grasslands rather than the sensitive riparian areas considered in the Muldoon PWA evaluation.

Had this factor been appropriately rated as High for the marked benefits to species as described in the analysis (reduction of habitat fragmentation, reduction of siltation and improvement in water quality benefitting sensitive species of fish, improvement in vegetation providing habitat for avian species), the Availability rating for Muldoon PWA should have been High, because out of nine factors applied, four were rated "High" even without the Wildlife criterion, three were rated "Medium," and only two were rated low (including the "Wildlife" criterion).

Further, the Water, Timber and Cultural resources factors repeat the incorrect assertions that

> "Mechanical vegetation treatment is the most viable option to improve watershed conditions and restore a fire-adapted ecosystem to the Muldoon PWA because there are not enough fine fuels to carry a fire. Wilderness designation would limit allowable management actions and cause conflict with these watershed improvement goals. (PWA Report at 146 -147) ;
>
> "If designated as wilderness, the Forest Service and the public would lose access to this fuelwood, along with the ability to maintain historic tree density levels through thinning in the piñon-juniper vegetation types. This would increase the risk of loss of existing vegetation due to high intensity fire or insect outbreaks. No positive benefits to timber management from wilderness designation were identified for the Muldoon PWA" (Id. at 147); and
>
> "However, administration of these sites, including research and monitoring and inspections, would be more difficult. If sites were in need of maintenance, stabilization, or rehabilitation, the ability to accomplish the work could be hampered by motorized restrictions." (Id. at 147)

Wilderness management does not preclude necessary management actions for any of these resources. As even the PWA report states, wilderness management can benefit protection of resources. Riparian restoration can be accomplished in wilderness; vegetation management can be accomplished in wilderness; and wildfire mitigation can occur in wilderness. The Wilderness Act of 1964 specifically provides "such measures may be taken as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable. " (Wilderness Act of 1964, Special Provisions (d)(2)).

<u>Need</u>

Refuge Factor:

The Refuge Factor under Need was not applied in accordance with FS 72.31.

FS 72.31 states the minimum factors to consider in evaluating the need to recommend a potential wilderness area for wilderness study or designation. The fourth and final minimum factor is:

> "The need to provide a refuge for those species that have demonstrated an inability to survive in less than primitive surroundings or the need for a protected area for other unique scientific values or phenomena."

The FS failed to fully or accurately consider this factor in evaluating Potential Wilderness Areas.

In the specific example of Ash Creek, PWA Report states:

> "There is a higher than normal level of biodiversity within this unit primarily due to the presence of lowland leopard frog habitat in Ash Creek. The northern portion of the area contains northern goshawk habitat. Both the lowland leopard frog and the northern goshawk are on the Forest Service Southwestern Region Sensitive Species list." (Id. at 43)
>
> The PWA Report then states for Need Factor 4:
> "There were no species identified in the Ash Creek PWA that require less than primitive surrounding to survive. No need for ecological sanctuary was identified."

This is contradictory on its face, and the FS guidance has been restated incorrectly, resulting in an incorrect rating for this factor. While the FS Handbook reads "The need to provide a refuge for those species that have demonstrated *an inability to survive in less than primitive surroundings*, " the PWA Report states "There were no species identified in the Ash Creek PWA that *require less than primitive surrounding to survive*." (emphases added) The PWA Report's statement "no species that require less than primitive surroundings" *reverses* the meaning of the FS Handbook's statement to consider species that require primitive surroundings.

For the Muldoon example, The PWA Report states:

> "There were no species identified in the Muldoon PWA that require less than primitive surrounding to survive. One listed species and eleven sensitive species were identified in the area; however, it is unclear if the most benefit would be obtained from primitive or managed surroundings, thus the need for ecological sanctuary cannot be supported." (Id. at 150)

Again, the first sentence reverses the meaning of 72.31. Further, the implication that management for species and habitat cannot occur in wilderness is incorrect. The Refuge factor for the Need criterion was thus consistently misapplied in the PWA Evaluation, resulting in consistently lower PWA rankings than should have resulted.

FLAWS IN COMPILATION OF RATINGS FOR PWAS

The computation method for summary ratings for PWAs appears inconsistent and, at times, mathematically incorrect. For example, for the Availability criterion, the Ash Creek PWA had three "High" factor ratings, four "Medium" ratings, and two "Low" ratings, yet its overall rank for this PWA was "Low", which is unsubstantiated.

Conclusion regarding Management Direction and Desired Conditions for Potential Wilderness Areas:

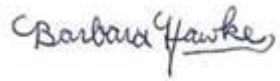
The criteria found in FS 72.31 have been misapplied and incorrectly applied. The ratings for PWAs have been applied in an arbitrary and capricious manner. A full and reasonable range of alternatives was not thoroughly analyzed with respect to including additional IRAs in Management Direction and Desired Conditions that would preserve wilderness characteristics.

RESOLUTION SOUGHT:

The PWA Report should be redone in accordance with FS Handbook 1909.12, 72.31, applying criteria and factors consistently, avoiding incorrect assumptions that necessary management activities cannot occur in wilderness, and calculating resultant rankings for Factors and Criteria accurately. The potential benefits of wilderness to wildlife, water quality, soil retention, and user experience should be fully reflected in PWA factor ratings. Additional PWAs that rank sufficiently high should then be accorded Management Direction and Desired Conditions consistent with preservation of wilderness qualities, as afforded recommended and existing wilderness. We assert this reevaluation would result in Management Direction and Desired Conditions that would preserve wilderness conditions in Muldoon and Ash Creek IRAs, along with additional IRAs that were incorrectly evaluated.

We appreciate your careful consideration of the appeal issues presented.

Sincerely,



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