USDA United States Department of Agriculture
Forest Service
Southwestern Region
Regional Office
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File Code: 1920
Date: May 5, 2025

Dear Objectors and Interested Persons:

As the objection reviewing officer for the Land Management Plan for the Gila National Forest, I am providing my final written response to the objections (36 CFR 219.50, Subpart B). Acting Deputy Chief Ellen Shultzabarger, the reviewing officer for objections filed on the Southwestern Regional Forester's list of species of conservation concern will provide a separate written response to those objections.

The legal notice of the objection period for the Land Management Plan for the Gila National Forest was published on July 30, 2024, initiating a 60-day objection filing period. The objection period closed on September 30, 2024. The written response provided in the attachment to this letter is the final determination of the U.S. Department of Agriculture on these objections (36 CFR 219.57(b)(3)).

I conducted my review in accordance with the predecisional administrative review process described at 36 CFR 219 subpart B. A review team made up of Forest Service subject matter experts from across the agency helped me review your objections and proposed remedies. They evaluated the planning record to ensure it meets current laws, regulations, and policies, and provided me with their recommendations for addressing any inconsistencies. I appreciate those of you who attended the resolution meeting on January 22 and 23, 2025 to discuss your concerns as an objector and/or as an interested person. The discussion improved my understanding of the issues and requested remedies, and informed my decision.

The attached objection response includes a summary of each objection issue and the proposed remedies, my findings regarding the adequacy of the planning record to address the issue, and an assessment with more details to support my findings. Where needed, I am providing instructions to the responsible official that must be completed prior to making a final decision on the Land Management Plan for the Gila National Forest. My response will also be available on the forest plan revision website at https://www.fs.usda.gov/r03/gila/planning/forest-plan-revision.

Please contact Heather Luczak, National Forest Plan Objection Review Team, at heather.luczak@usda.gov if you have any questions regarding my objection response.

Sincerely,

JACOB NUTTALL
Digitally signed by JACOB NUTTALL
Date: 2025.05.06 12:14:19 -06'00'

JACOB NUTTALL
Acting Deputy Regional Forester

Enclosure

cc: Michiko Martin, Ariel Leonard, Camille Howes, Jeffrey Shearer, Lisa Mizuno, Christina Milos, Heather Luczak

Enclosure: Objection Response for the Gila National Forest Land Management Plan

For more information about this objection response, please contact

Heather Luczak, heather.luczak@usda.gov

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OVERVIEW

As required by the National Forest Management Act (NFMA) and guided by the Code of Federal Regulations (CFR) at 36 CFR Part 219, Forest Service Manual (FSM) 1900, chapter 1920, and Forest Service Handbook (FSH) 1909.12, National Forest System (NFS) land management units are required to develop and maintain land management plans for the management of National Forest System lands, and those which depend upon them. These plans are known as “forest plans” or “grassland plans."

Land management planning is a science-informed process which aims to ensure ecological and economic sustainability, maintenance or restoration of federally listed species and their critical habitat, and provide sustainable multiple uses, all within the inherent capability of the plan area, and the fiscal capability of the unit. Planning can be summarized into four separate yet interconnected segments: assessment, plan development, pre-decisional administrative review (objection) process, and monitoring. These processes ensure integration of information, expertise, and public engagement. Plan development requires preparation of documents in compliance with the National Environmental Policy Act (NEPA) and the 2012 planning rule (36 CFR Part 219) to afford the public an opportunity to participate in the development of the land management plan and associated documents.

During the objection process, the public can raise objections to specific aspects of planning documents. The reviewing officer reviews the objections and proposed remedies and provides a response to objectors, which may include instructions to the responsible official to modify aspects of the planning documents if needed to address inconsistencies with law, regulation, or policy. Once instructions are completed, the responsible official publishes the final plan, final environmental impact statement (EIS), and record of decision (ROD). The final plan will be effective 30 days after the date of publication in the Federal Register.

36 CFR 219.62 defines an objector as “An individual or entity that meets the requirements of § 36 CFR 219.53, and files an objection that meets the requirements of [36 CFR] 219.54 and [36 CFR] 219.56.” Interested persons are individuals or organizations that provided substantive formal comments on the plan and filed a formal interested persons request during the designated time period (36 CFR 219.56 and FSH 1909.12.51.65).

Objection Review

The Forest Service received 14 eligible objections to the revised land management plan for the Gila National Forest. An independent review team made up of Forest Service specialists assisted me in the review and resolution of the objections. They read the letters, identified 72 substantive issues, and reviewed the planning record to determine if the record adequately addressed the issues and was consistent with law, regulation, and policy. To facilitate the review and response, similar issues were grouped under a general resource heading. While much of the review focused on ensuring the revised plan meets current law, regulations, and policies, we also considered what changes were warranted to improve the analysis and decision, based on the eligible objection issues. In some cases, the review resulted in my issuing instructions to the responsible official to address inconsistencies with law, regulation, or policy, or to provide additional clarification. My instructions must be completed prior to the responsible official making the final decision on the Land Management Plan for the Gila National

Forest. They can address these instructions in the final ROD, forest plan, final EIS, or other places within the planning record. In addition to objection issues, some objectors provided suggestions for addressing typographical and grammatical errors. Those suggestions were considered by the responsible official and addressed as appropriate, but I did not include those as issues in this response.

Resolution Meeting

Deputy Regional Forester Kristin Bail (now acting Regional Forester for the Northern Region) held an in-person resolution meeting on January 22 and 23, 2025 (per 36 CFR 219.57(a)), in Silver City, New Mexico. Attendees who could not attend in person were provided with options to either attend via Microsoft Teams or call in via a phone line. The meeting was well attended and productive. Objectors were represented by 25 individuals, 18 additional interested persons participated, and a few members of the public were present to observe. The meeting covered aspects of a variety of objection topics, with a focus on areas where the reviewing officer was seeking greater clarity. The discussions helped us better understand the issues as well as the remedies proposed by objectors and the discussion benefited from both the objectors and interested persons sharing their perspectives. We appreciate the time of all the participants and the engagement we shared. The feedback received at the meeting was very helpful in my consideration of the issues and development of instructions to the forests. No decisions were made at the meeting, but what was learned through the dialogue, in addition to a review of the objections, informed this final written response.

Objection Response Reading Guide

The objection responses are organized into topic areas, such as recreation or wildlife. Individual issues are addressed under each topic area and include: the title of the issue, a summary of the objection and any remedies proposed by the objector, and my findings and instructions followed by an assessment of the planning record that is anchored in applicable laws, regulations and policy. For ease of discussion throughout this document, the Gila National Forest will be referred to as “the forest.” The Gila National Forest Land Management Plan will be referred to as “the forest plan”, "the land management plan”, or “the plan” depending on the context and the March 2017 Final Assessment Report of Ecological/Social/Economic Sustainability Conditions and Trends will be referred to as “the assessment”. Unless otherwise specified, cited page numbers and plan components refer to the draft ROD, final forest plan, final EIS, and their associated appendices that were released at the start of the objection period on July 30, 2024. A list of references cited is provided at the end of this document. The following acronyms are used in this document:

- CFR – Code of Federal Regulations
- EIS – environmental impact statement
- FSH – Forest Service Handbook
- FSM – Forest Service Manual
- NEPA – National Environmental Policy Act
- NFMA – National Forest Management Act
- USC – United States Code
- USDA – United States Department of Agriculture

AIR QUALITY

Air Quality Impacts

Objection Summary

An objector is concerned with the impacts on air quality from prescribed fires and wildland fires, contending that the EIS does not address environmental impacts to air quality, particularly the effects on human health.

Objector's Proposed Remedy

The forest should conduct a proper assessment and need for change in order to create objective directions.

Findings

I find that that the final EIS adequately analyzed the impacts of fire management actions on air quality and the subsequent effects to human health. The land management plan also contains the necessary plan components and references to existing laws and regulations for the management of air quality and emissions from prescribed fire, including coordination with the appropriate state agency. Therefore, the plan meets law, regulation, and policy as it pertains to this issue.

Assessment

The land management plan includes desired conditions, standards, guidelines, and management approaches for air quality (forest plan pp. 146-149). Additionally, the forest will comply with existing laws and regulations including the Clean Air Act, Regional Haze Rule, and New Mexico State Smoke Management Program, as required under the approved state implementation plan (forest plan p. 147).

The final EIS addresses the impacts of planned fire ignitions and documents that the forest coordinates with the New Mexico Environment Department to ensure that every planned fire ignition complies with the Smoke Management Program, so no unacceptable adverse impacts to air quality or visibility should result from prescribed fire under any alternative. Naturally ignited wildfires, regardless of the fire management strategy, may adversely impact air quality (final EIS Vol. 1 p. 116).

Additionally, the final EIS discloses the potential impacts on human health of fine particulate matter, which is the predominant pollutant in smoke (final EIS Vol. 1 p. 117), and describes how the effects on air quality differ across alternatives.

FIRE AND FUELS

Community Wildfire Protection Plans

Objection Summary

An objector contends that the land management plan does not incorporate local community wildfire protection plans and ignores the Healthy Forest Restoration Act, therefore wildfire protection "did not receive any environmental impact analysis".

Objector's Proposed Remedies

The forest should conduct a proper assessment and need for change in order to create objective directions. Update the plan to incorporate Catron County and other Community Wildfire Protection Plans and incorporate direction from the Healthy Forest Restoration Act.

Findings

I find that the Forest Plan includes multiple references to Community Wildfire Protection Plans, including a management approach that states "Forest staff and leadership continue to work with partners and stakeholders involved in the community wildfire protection plans". This management approach reflects the forest's intent to work collaboratively to prioritize, design, fund, and implement hazardous fuel treatments to achieve shared goals. The plan is consistent with law, regulation, and policy, including acknowledging the role that the Healthy Forest Restoration Act 2003 plays in land management.

Assessment

The forest plan includes references to Community Wildfire Protection Plans and the associated coordination with local stakeholders and Community Wildfire Protection Plan coordinators. This includes the Annual Pre-Season Landscape Risk Assessment Meetings (forest plan p. 157). Final EIS Vol. 3 appendix D includes descriptions of Community Wildfire Protection Plans (p. D-5 to D-6). These plans were reviewed during forest plan revision with consideration for compatibility and opportunities to address shared goals and objectives. The forest plan also documents public engagement and how it helped identify shared goals and objectives, issues, and opportunities to reduce conflict and improve alignment between plans and policies (p. D-1). The responsible official identified the selected alternative as the most advantageous alternative, providing a management framework to address Community Wildfire Protection while maintaining consistency with the ecological integrity requirements included in 36 CFR 219.8(a) and 219.9(a) (ROD p.14).

The 2012 Planning Rule (36 CFR 219.2(b)(2)) directs that "[p]lans should not repeat laws, regulations, or program management policies, practices, and procedures that are in the Forest Service Directive System. However, the Forest Plan appendix D "contains a partial listing of relevant statutes, regulations, policies, and agreements that provide management direction but are not restated in this plan." This list includes the Healthy Forest Restoration Act with a brief description of the law's purpose, which includes reducing the "wildfire risk to communities and municipal water supplies through collaborative hazardous fuels reduction projects" (forest plan p. 316).

SILVICULTURE AND REFORESTATION

Tree Density and Thinning and Use of Ecological Response Units

Objection Summary

The objector argues that the use of ecological response units as a planning basis, along with natural range of variability and historic range of variability is not consistent with the 1976 NFMA guidance and is not achievable. The objector believes that the land management plan's goal of restoring the Gila National Forest to "pre-European settlement conditions," is unachievable and that a more viable target would be conditions that existed in the 1970's.

Objectors disagree with the use of ecological response units to classify and manage vegetation types and argue that using ecological response units is a substantial change from how the forest has been managed in the past and is not compatible with continued multiple use, sustained yield management.

The objector argues that the use of ecological response units as a planning basis, along with natural range of variability and historic range of variability is not consistent with the NFMA. They allege the primary intent of the NFMA is "to improve and protect the forest within the boundaries, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States" (16 USC 475 - Purposes for which national forests may be established and administered).

Objector's Proposed Remedies

The forest should conduct a proper assessment and need for change in order to create objective directions. A proper baseline assessment would be conditions that existed between 1970 and 1978.

Findings

Ecological response units were used in plan development based on the capability of specific land areas, and I find that the use of ecological response units is consistent with NFMA and the 2012 planning rule. The 2012 planning rule allows for natural range of variation and ecosystem integrity analysis in the planning area. Although natural range of variation was not used as a target for management, it was used in combination with local social-economic and managerial considerations to inform the development of desired conditions for ecological response units. The objector's suggestions for specific management objectives can be considered under the forest plan during project development. Based on my review, I find that the plan is consistent with applicable law, regulation, and policy.

Assessment

While the NFMA does not include direct or explicit reference to ecological response units, natural range of variation, or historical range of variation, it does provide authority for the 2012 planning rule which specifically addresses ecosystem integrity and the requirement to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area (36 CFR 219.8).

The final EIS acknowledges that spatial predictions of the future range of variation would be informative to management, and the final plan allows for the integration of new scientific information. Ecological response units form a reasonable baseline from which to assess natural or historic variation (FSH 1909.12 zero code), current departure and loss of ecological integrity (Keane et al. 2018), the future range of variation (Somodi et al. 2012), and to consider adaptation to changing conditions ([USDA] [Forest Service] 2023) (final EIS Vol. 2 appendix A pp. 286-298).

The natural range of variation is used as a guide to understanding how to restore a resilient ecosystem with structural and functional properties that will enable it to persist into the future (FSH 1909.12.23.11a). During the assessment phase of the plan revision, the Forest Service identified the need and directives that "…specify [natural range of variation] as the preferred ecological reference model upon which to assess current conditions and ecological integrity" based on best available science (Assessment p. 11-12). The response to comments describes the scientific basis for using natural range of variation (prior to European settlement) as a reference timeframe (Final EIS Vol. 2 appendix A pp. 198-199).

Ecological response units are groupings of vegetation types that have similar biophysical conditions, including species composition and structure, functional processes, and natural range of variation. These units are useful for analysis, project planning, and characterization of likely responses to management and natural disturbances. The forest plan does not state that natural range of variation is the target for management, but rather is used to inform the development of desired conditions by vegetation ecological response unit type (forest plan p. 50). Desired conditions were also informed by local social-economic and managerial considerations (forest plan pp. 66-94).

The vegetation desired conditions described in the draft land management plan were developed through interdisciplinary team and public comments based on best available science and agency 2012 planning rule direction. These desired conditions describe a range of conditions and ecological functions that are within the natural range of variability but are not directed management targets for all local projects. Achievement and/or maintenance of desired conditions may not be feasible within the short term but represent long-term objectives. Natural range of variation was chosen to inform management of appropriate ranges that are consistent with development and maintenance of conditions that are ecologically sustainable. These desired conditions represent a range of target conditions to be considered for project planning but can be amended where local project purpose and need differs, based on local conditions and social and economic considerations. These land management plan level desired conditions describe desired outcomes, not methodologies, for achievement. Forest and woodland vegetation management can be conducted through any combination of commercial timber or fuelwood sales, service contracts, and/or prescribed fire. Those determinations are made at the local project planning level. The plan identifies lands (suitable for timber production) where long-term sustained yield of forest products is an objective and sustained yield limits of timber product volumes are displayed (Forest Plan pp. 268-269). The rationale for timber production volumes is found in the project record (Youtz and Vandendriesche 2015). Timber products can also be harvested from other lands to meet other resource desired condition objectives.

The objector contends that the plan should not rely on computer driven analysis (geographic information system) but should instead require on-the-ground management of the forest. The plan

identifies the development and maintenance of a mosaic of uneven aged forest patches throughout the landscape as a key focus of the land management plan desired conditions (forest plan pp. 66-94). Local, on the ground assessment, planning, and layout will occur during project planning and implementation of the plan.

See Land Management Planning Plan Components Too Vague for a detailed discussion regarding the Assessment and Need for Change process for more detailed discussion regarding the assessment phase and identification of need for change.

LAND MANAGEMENT PLANNING

Plan Components are Too Vague

Objection Summary

An objector claims their requested needs for change, including infrastructure improvements for resource protection and resource harvesting, did not get incorporated into the final plan and were not analyzed in the EIS. They also believe the desired conditions, standards and guidelines are unclear and subjective making it difficult to determine if plan objectives are being met and to adaptively manage.

Objector's Proposed Remedies

The forest should conduct a proper assessment and need for change in order to create objective directions.

Findings

I find that the responsible official used their discretion appropriately and provided a thorough explanation and analysis on the need for change and multiple uses. Requests for infrastructure improvements, as proposed by the objector, are site specific actions that would occur during implementation of the plan and would include environmental review and public engagement as required by NEPA. The planning record adequately documents the process used to revise the forest plan, including consideration of public comment, and the plan is consistent with applicable law, regulation, and policy.

Assessment

The assessment and need for change processes are intended to guide and shape the analysis, the plan components, and development of the forest plan at the discretion of the responsible official (FSH 1909.12.21.13(1) and (2)). The responsible official has the discretion to determine the scope, scale, and timing of the assessment as described in 36 CFR 219.5(a)(1). The need for change helps define the proposed action, purpose and need, plan components (i.e. desire conditions, standard, guidelines) and decision framework for the environmental analysis for the revised plan, also at the discretion of the responsible official (See FSH 1909.12.40, FSH 1909.15.11.2, FSH 1909.15.21.21).

The objector's requests related to need for change are carried throughout the planning process partially or in whole through the iterations of analysis. The land management plan is shaped by the initial Need for Change and overall management approach through defined objectives (p. 3), foundational concepts

(p.5), implementation (p. 8), and objective deployment (p. 21). Enhancing communication and coordination with external agencies and partners, and management approaches focusing on adaptation, restoration, and relationships for watershed management are included on pages 107-110 of the land management plan. Watersheds are broadly mentioned throughout the final need for change document. The forest plan discusses desired conditions and management approaches for wildlife, fish, and plants (p. 129-135) specifically mentioned in the need for change statement 23 (p. 11). Other examples are included in the final EIS Vol. 2 appendix A response to comments, pages A-50 and A-101, in which science-based desired conditions, objectives, and site-specific evaluation will be carried forward. Other concerns raised by the objector are addressed in the need for change statement, include flood protection which is addressed under 18 (p. 9), restoration approaches and tools (p. 13-14), range (p. 17), and timber (p.18) and are addressed throughout the final plan.

The objector claims that their request for infrastructure improvements and resource harvesting is missing from the need for change statement. However, infrastructure is addressed in the need for change statement 39 and the final plan. Further discussion on infrastructure for harvesting depends on site-specific implementation and sustainability, scaled industry infrastructure, and capacity. The ROD acknowledges that "since the adoption of the 1986 plan, there has been a steady decline in timber harvesting, forest industry, and the infrastructure to support it" (p. 4).

The ROD explains the need for multiple-use management and "recognizes key relationships among multiple uses" such as the use of wood products, fuelwood for heat, timber production, livestock grazing, the management of rangelands, traditional lifestyles, and generational use of the land (pp. 16-17). The ROD also provides specific details of multiple uses in reference to the requirements of the planning rule to addresses ecosystem services, outdoor recreation, range, timber, watershed, wildlife and fish, all within the Forest Service authority (ROD pp. 25-26).

Emphasis of Revised Plan on Outcomes Over Outputs

Objection Summary

An objector questions how the revised plan will differ from the 1986 plan, specifically requesting more details on how it will have a stronger focus on outcomes rather than outputs, have the ability to adapt to changing conditions and stressors over time, and how it will use enhanced public participation.

Objector's Proposed Remedies

The objector suggests the forest provide the requested details on how the revised plan will differ from the 1986 plan.

Findings

The final EIS appendix L provides a crosswalk to help the objector understand how the revised plan differs from the 1986 forest plan. Additionally, the final EIS Vol. 1 chapter 5 Monitoring Program provides sufficient information to show how the plan provides for monitoring to inform the success or need to adapt management to meet desired conditions. This program meets the requirements of the 2012 planning rule. For these reasons, I find that the planning record adequately addresses the objector's concerns and that the plan is consistent with law, regulation, and policy.

Assessment

In the final EIS Vol. 3 appendix L, there is a crosswalk that summarizes the broad changes from the 1986 Forest Plan to the current revised plan. In addition, appendix L points to the final need for change document for further information on the 54 need for change statements (pp L-1 to L-41).

The directives of the 2012 Planning Rule provide guidance for the responsible official to focus the analyses within an adaptive management framework (assessment, planning, and monitoring). "The Agency's intent is to ensure an adaptive land management planning process that is inclusive, efficient, collaborative and science-based to promote healthy, resilient, diverse and productive national forests and grasslands." Part of the 2012 planning rule intent is focused on making progress toward desired conditions and enabling better outcomes and outcome-requirements rather than the singular outcome or result.

The Gila National Forest plan provides examples in which outcomes, ability to adapt to changing conditions, stressors, and enhanced public participation are identified. Future implementation at the project level is site-specific and will be guided by the whole plan, and not necessarily or always a specific outcome (final plan p. 8).

The final EIS and overall planning process provide the analysis and framework that adequately address the objector's requests and the final plan guides outcomes, adapting to changing conditions, stressors, and enhanced public participation. The final plan thoroughly explains adaptive management in chapter 5 Monitoring Program. The chapter 5 monitoring program is a highlighted change from the 1982 planning rule to the current planning rule. The monitoring program will enable the objector to account for (outcomes) changing conditions, stressors, and enhanced public participation for at least eight indicators (p. 272). The chapter 5 monitoring program outlines the new plan in terms of implementation, effectiveness, validation, and the reporting of 15 monitoring questions (pp. 274-280). Furthermore, the monitoring questions are associated with plan components and provide rationale for the public.

Wildlife as Co-equal Factor in Forest Management

Objection Summary

The objector contends that the land management plan and final EIS do not meet the requirement of NFMA for wildlife because they do not provide sufficient direction for the protection and enhancement of the forest for avian needs.

Objector's Proposed Remedies

None provided

Findings

I find that the forest plan includes an appropriate level of protections for wildlife and is consistent with NFMA. NFMA does not require wildlife resources to be treated as controlling or co-equal factors in forest management and the responsible official used their discretion to provide a sufficient balance in their approach to managing for multiple use. The plan is consistent with the requirements for managing wildlife in accordance with the NFMA and meets applicable law, regulation, and policy.

Assessment

The NFMA states "provide for multiple use and sustained yield of the products and services obtained therefrom in accordance with the Multiple-Use Sustained-Yield Act of 1960, and in particular, include coordination of outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness; and timber, watershed, wildlife and fish, and wilderness" (NMFA, Section 6(e)(1)). It does not require "forest managers to treat the wildlife resource as a controlling, co-equal factor in forest management."

See Wildlife Bird Management and Protection for a detailed discussion on the sufficiency of the land management plan direction for protecting avian species and their habitat in compliance with NFMA and the 2012 planning rule.

See At Risk Species Plan Components Species of Conservation Concern for a detailed discussion on the adequacy of the plan for protection of threatened and endangered avian species and avian species of conservation concern species.

LANDS

Non-Federal Lands

Objection Summary

Objectors assert that their policy goal of no net loss of private lands was not incorporated into the final plan under needs for change and did not receive any analysis in the EIS.

Objector's Proposed Remedies

The forest should conduct a proper assessment and need for change assessment in order to create objective directions.

Findings

I find that forest adequately considered the objector's concern regarding no net loss of private lands in the environmental analysis. There is no proposal in, or associated with, the forest plan to use eminent domain and land purchases or exchanges will only occur with willing sellers. Additionally, the forest intends to engage with potentially affected stakeholders, as discussed in the forest plan, so they have an opportunity to provide comments on the proposal. The plan is consistent with law, regulation, and policy.

Assessment

Neither the 2012 Planning Rule, nor the NFMA explicitly address land acquisitions or net loss of non-federal lands. Acquisitions of non-federal lands are at the discretion of the Regional Forester and field units on a case-by-case basis as directed, reviewed, and delegated in FSM 5400 Zero-Code. The forest addressed the topic of no net loss of private property in the final EIS Vol. 1 through the development of an issue that was addressed in the range of alternatives (p. 9, 30, 212, 215, 329, and 405) as well as in response to comment 4 (final EIS Vol. 2 appendix A pp. A-120 to A-121).

The forest plan includes a management approach that describes the criteria for establishing priorities for the lands program, including land purchases and exchanges (p. 183-184). The forest plan also discusses a process for strengthening relationships by “providing notification and justification to local governments, congressional representatives, adjacent landowners, and permittees that may be affected and allow an opportunity to provide feedback on the proposal” for a land adjustment (land exchanges, purchases, donations, or sales, p. 183).

CULTURAL AND TRIBAL

Use of the term “Traditional Cultural Use"

Objection Summary

Objectors allege that the reference to "traditional cultural use" and "cultural heritage" in the forest plan, without definitions and consistent application, is arbitrary and capricious, particularly when applied to livestock grazing.

Objector’s Proposed Remedies

Without more definition and consistent application of the phrases, remove reference to ‘traditional cultural use’ and ‘cultural heritage’ from the forest plan.

Findings

I find that the forest plan defines and correctly applies cultural services and traditional uses to not just livestock grazing, but also to timber harvesting, fuelwood harvesting, forest products harvesting, and hunting and fishing as required by regulation and policy. These traditional uses are applicable to multiple cultures and are not just used in the context of livestock grazing. The plan is consistent with applicable law, regulation, and policy.

Assessment

Land management plans are required to include components that guide the forest’s contribution to social sustainability while taking into account cultural conditions, and ecosystem services, among other things (36 CRF 219.8). Plans are also required to provide for ecosystem services which are defined as benefits people obtain from ecosystems (36 CFR 219.10), including cultural services such as cultural heritage values (36 CFR 219.19). Social sustainability refers to the capability of society to support traditions and culture that connect people to the land and to one another and support vibrant communities (36 CFR 219.19).

Cultural sustainability refers to the diversity of forest products that support individuals, tribes, businesses, and organizations as well as contributions to the local and regional communities (Desired condition 2, p. 204). Management approaches for the timber and fuelwood programs acknowledge their contribution to the sustainability of cultural systems by identifying firewood harvesting as a long-standing traditional use in the plan area (pp. 206-207). Likewise, livestock grazing is identified in the plan as a traditional cultural use. The forest plan envisions a community that benefits ecologically and

socioeconomically from culturally important traditional uses such as fuelwood harvest, timber harvest (logging), livestock grazing (ranching), and hunting and fishing (Forest plan, pp. 16-18).

The Gila final land management plan uses the words “cultural”, “traditional”, “heritage”, as well as multiple variations of combining these words into terms such as “cultural ecosystem services” and “traditional uses”. The land management plan defines cultural ecosystem services as “non-material benefits people obtain from ecosystems and watersheds such as educational, aesthetic, spiritual and cultural heritage values, recreation experiences, and tourism opportunities” (forest plan p. 6). Traditional uses include fuelwood harvest, timber harvest, livestock grazing (ranching), and hunting and fishing (forest plan pp. 17-18) as well as ceremonial access, harvesting forest products (food, medicine, and ceremonial and building materials), and maintaining acequias or irrigation ditches to the list of traditional uses (forest plan p. 161). Harvested forest products include Christmas trees, transplants, pinyon nuts, medicinal herbs, and hops, all of which are cultural traditions that help support local livelihoods and traditions (p. 13).

Cultural sustainability is correctly applied to timber, forest, and botanical products as Timber, Forest, and Botanical Products Desired Condition 2 (p. 204). Management approaches for the timber and fuelwood programs are compliant with the regulation and policy by acknowledging their contribution to the sustainability of cultural systems and by identifying firewood harvesting as a long-standing traditional use in the plan area (pp. 206-207). Likewise, livestock grazing is identified in the plan as a traditional cultural use, and Livestock Grazing Desired Condition 1 sufficiently addresses cultural and traditional sustainability (pp. 193-194). Hunting, fishing, and forest product gathering are appropriately identified as providing heritage, cultural, and traditional connections for sustainable recreation (pp. 219-220).

Use of Indigenous Knowledge and Co-Stewardship

Objection Summary

Objector contends that there are no provisions in the NFMA to support the use of the terms co-stewardship and Indigenous knowledge, nor is there any scientific basis for the use of these terms. They are concerned that these terms were added to the plan after the comment period and “that indigenous knowledge could be withheld from the general public thereby preventing examination and scientifically verifying that information…in violation of the Data Quality Act and the OMB implementation guidelines.”

Objector’s Proposed Remedies

None provided

Findings

I find that the addition of the terms co-stewardship and Indigenous knowledge did not result in substantial changes in how the plan will be implemented. The inclusion of these terms in the final plan is an acknowledgement of collaborative and cooperative arrangements between the Forest Service and Tribes related to shared interests in managing, conserving, and preserving National Forest System lands. Through collaboration and co-stewardship, there will be increased opportunities to achieve plan

objectives compared to what the Forest Service can achieve on its own. The use of Indigenous knowledge during plan development is consistent with the 2012 Planning Rule. The forest plan complies with the Information Quality Act and OMB guidelines which require the FS to maintain the integrity of confidential information and statutory requirements to protect information provided by a Tribe or indigenous person.

Assessment

The 2012 planning rule was developed to meet the NFMA requirement that the Secretary of Agriculture develop a planning rule ‘‘under the principles of the Multiple Use Sustained-Yield Act of 1960, that set[s] out the process for the development and revision of the land management plans, and the guidelines and standards’’ required by the NFMA. The 2012 planning rule requires agency officials to request Indigenous ecological knowledge from Tribes (36 CFR 219.4(a)(3)) and it includes requirements for public participation (36 CFR 219.4). The addition of the terms co-stewardship and Indigenous knowledge as plan content did not result in substantial changes in how the plan will be implemented and the Gila planning process is consistent with the 2012 planning rule.

USDA guidelines implementing the Information Quality Act (Public Law 106-554, Section 515) and OMB guidelines require the Forest Service to maintain the integrity of confidential information and comply with the statutory requirements to protect the information it gathers and disseminates. There are various laws that address confidential cultural information, such as the 2008 Farm Bill granting federal agencies the authority to withhold information provided by a Tribe or Indigenous person when under an express expectation of confidentiality by that Tribe or Indigenous person (PL 110-234, Title VIII, Subtitle B, Section 8106 Prohibition on Disclosure). The forest plan is compliant with this by stating “Data sovereignty is respected” as part of Tribal Relationships and Co-Stewardship Desired Condition 8 (p. 164). Co-stewardship provides a process for acquiring Indigenous knowledge. The forest plan appropriately acknowledges co-stewardship as a method to integrate Indigenous knowledge in land management practices (Tribal Relationships and Co-Stewardship, Background Information, p. 163).

Inventory of Cultural Resources Along the Continental Divide National Scenic Trail

Objection Summary

Objectors request that the forest conduct an inventory of cultural resources in the Continental Divide National Scenic Trail corridor in order to provide adequate protection of cultural resource values along the continental divide national scenic trail.

Objector’s Proposed Remedies

The Forest conduct should conduct cultural resource surveys, both within and outside of the Continental Divide National Scenic Trail corridor and undertake robust tribal consultation to ensure that all locations with cultural significance are correctly identified and protected.

Findings

I find that the plan adequately addresses requirements for surveys and tribal consultation to protect cultural resources and it is consistent with applicable law, regulation, policy. The objector's concerns regarding cultural resource inventory and tribal consultation to protect resources within the Continental Divide National Scenic Trail corridor will be addressed at the project level as required by statute. It is during implementation of the land management plan when cultural resource surveys are required—for specific projects designed to meet the objectives of the plan. As part of the National Historic Preservation Act Section 106 process at the specific project level, tribal consultation occurs for the identification and protection of cultural resources.

Assessment

The National Trail Systems Act identifies one of the purposes for designating and managing national scenic trails is to conserve historic and cultural resources along those trails (Section 3(a)(2)). This purpose is also identified in the 2009 Continental Divide National Scenic Trail Comprehensive Plan (Sections II(A) IV(A)), in FSM 2353.42, and in the 2024 final Gila National Forest Land Management Plan (p. 256). However, a complete inventory of cultural resources is not required at the land management planning level (FSM 2353 and FSH1909.12). Rather, surveys for historic and cultural resources are conducted for specific projects per Section 106 of the National Historic Preservation Act and its implementing regulation at 36 CFR 800. Land management planning is programmatic in nature and does not have the potential to cause effects to historic properties and does not require the identification of historic properties per 36 CFR 800.3(a)(1). The final EIS correctly explains cultural resource inventory and tribal consultation occurs at the project level as already required by law, regulation, and policy (final EIS Vol. 1 pp. 276-277). Additionally, the forest plan appropriately requires consultation with Tribes and Pueblos beginning at the early stages of project planning and design (Tribal Relationships and Co-Stewardship Guideline 2 p. 164).

WILDERNESS

Recommended Wilderness — Socioeconomics

Objection Summary

The objector contends that the forest did not perform an adequate economic impact analysis to industry and the negative economic effect of reducing or removing areas from future economic agricultural and mining production by recommending them for wilderness.

Objector's Proposed Remedies

The objector proposed that the forest remove wilderness recommendation areas, like roadless areas, from the land management plan until an appropriate economic analysis has been completed, and partner with Grant Soil and Water Conservation District, New Mexico Department of Agriculture, New Mexico Bureau of Geology and Mineral Resources and other parties skilled at evaluating economic potential.

Findings

The objector's concerns regarding an analysis of the economic impact of recommended wilderness on agricultural and mining production are sufficiently addressed in the planning record. None of the recommended wilderness areas under Alternative 2 overlap with significant mineral deposits identified in the forest plan, and recommended wilderness does not affect valid existing mineral rights. Additionally, none of the areas recommended for wilderness contain land that would contribute substantially to the suitable timber base if they were not recommended. Most areas are inventoried roadless areas and feature steep, rugged, and complex terrain that make even temporary road building technically difficult and cost prohibitive. All recommended areas minimize the amount of range infrastructure, and the Wilderness Act includes special provisions for allowing livestock grazing to continue where it occurred before designation, subject to reasonable regulations. The preferred alternative would result in an overall increase in economic contributions over current conditions. I find that the planning record shows that law, regulation, and policy were followed when analyzing areas recommended for wilderness designation in each alternative.

Assessment

The 2012 Planning Rule does not require a specific type of social or economic analysis (36 CFR 219) and the economic analysis in the final EIS is adequate (pp. 380-413). The final EIS (Vol. 3 appendix H pp. 19-135) describes the analysis completed by the forest. NEPA has no automatic requirement for an economic analysis, however, values and impacts associated with livestock grazing and minerals across alternatives are considered in the Livestock Grazing and Minerals sections of the final EIS (Vol 1 p. 404 tables 91 and 92). Methodologies for estimating economic contributions, including for these program areas, is detailed on pages 399-402, including associated assumptions and data inputs. While all models are a limited snapshot in time to some degree, the planning record discloses the assumptions and limitations associated with known livestock grazing and mineral materials data (see respective table footnotes and subsections on pages 401-402).

As stated in the Minerals Affected Environment section, there is no coal, oil, or gas production occurring on the forest, nor are there any pending or expected leasing applications (final EIS pp. 333-334). Recommended wilderness areas under Alternative 2 do not overlap with significant mineral deposits identified in the forest plan (Figure 43, final EIS pp. 332, 335); and recommended wilderness does not affect valid existing rights (see sections 4(d)(2) and 4(d)(3) of the Wilderness Act). Only designation of wilderness by Congress could remove areas from future mining production, and that would be addressed in the establishing legislation. Given the minerals affected environment described in the final EIS, the approach of modeling no variation between alternatives for nominal minerals materials production is adequate (pp. 331-335).

None of the areas recommended for wilderness designation "contain land that would substantially contribute to the suitable timber base if they were not recommended (see Timber, Forest, and Botanical Products Effects Common to Alternatives 1, 2, 3, and 4). All these areas minimize the amount of range infrastructure included in the recommendation. Most of the areas are inventoried roadless areas and feature steep, rugged, and complex terrain that make even temporary road building technically difficult and cost prohibitive." (final EIS p. 352) Minimal differences in the estimated economic impacts of

Alternative 2, the preferred alternative, resulting from forest product volumes are reflective of differences in management approaches not wilderness recommendations (final EIS p. 407).

The grazing program provides the largest current economic contribution of the Gila National Forest to the socioeconomic area of influence (final EIS Table 83 p. 395). The forest plan emphasizes the important relationships with agricultural producers on page 18 when discussing the overall vision for Gila National Forest management stating, "we envision a future in which livestock grazing is sustained as a culturally and economically important use of the national forest, forage is plentiful, and producers are prosperous. Leadership advances this vision by (1) restoring productive rangelands; (2) encouraging collaborative monitoring to support adaptive management; and (3) strategically selecting vacant allotments to serve as forage reserves, or swing allotments that provide flexibility to support permittees during times of drought and other environmental disturbances."

The Wilderness Act of 1964 directs that livestock grazing shall be permitted to continue where it occurred before designation, subject to reasonable regulations. Impacts on forage and grazing costs across alternatives are included in the final EIS (pp 406-413) and increased costs associated with increased designated areas are discussed in the Social and Economic Conditions section (final EIS p. 410). The preferred alternative would result in an overall increase in economic contributions over current conditions (final EIS Table 91 and 92 p. 404).

See Range of Alternatives for Livestock Grazing for additional discussion regarding management of livestock grazing in wilderness.

Recommended Wilderness — Best Available Scientific Information

Objection Summary

The objectors contend that the forest failed to consider the New Mexico Wilderness Alliance and partners' proposal as a separate EIS alternative. One objector also contends that the responsible official made an arbitrary and capricious decision in the final plan to not recommend four areas that were recommended in the draft plan (RG1-Aspen Mountain, QG1-Nolan North, W3-Aldo Leopold Addition West, and W4-Aldo Leopold Addition McKnight Canyon).

Objectors also assert that the forest's recommended wilderness analysis process is flawed because the forest inappropriately excluded many areas based on justification that was incorrect or nonfactual, misaligned with agency policy, or unsupported by the project record.

Objector's Proposed Remedies

The objectors suggest the following remedies:

- Include the following units in the [ROD] as areas to be managed as recommended wilderness, consistent with the proposed action: RG1-Aspen Mountain (minimum of 19,053 acres); QG1-Nolan North (minimum of 6,718 acres); W3-Aldo Leopold Addition West (minimum of 1,110 acres); and W4-Aldo Leopold Addition McKnight Canyon (minimum of 11,094 acres).

- Restore the following units, which were reduced in size for unsupported reasons during the analysis process, to their original acreage as determined in the evaluation process: B1a - Aldo Leopold Seco Addition; B1c - Aldo Leopold Seco Addition; B10 - Aldo Leopold Addition Northeast; G1 - Mineral Creek; QG1 - Nolan North; RG1 - Aspen Mountain; W4 - Aldo Leopold Addition McKnight Canyon; WB1 - Taylor Creek; and WSB1 - Rabb Park.
- Include the following units in the [ROD] as areas to be managed as recommended wilderness because the units ranked highly for wilderness characteristics during the evaluation process and were inappropriately eliminated during the analysis process: G6 - Lower San Francisco; QR1 - Upper Frisco Box; Q11 - Mother Hubbard; RG2 - Devil's Creek; RG4 - North Mogollon Mountain (Deep Creek); S2 - Gila Middle Box; and S1 - Mogollon Box/Tadpole Ridge.

Findings and Instructions

The forest developed Alternative 5 to represent New Mexico Wilderness Alliance and partners' citizen's proposal and Alternative 5 appears to include the proposed areas with minor differences in boundaries. The forest's process for inventorying and evaluating areas for recommended wilderness is consistent with the 2012 Planning Rule and the responsible official sufficiently documented their rationale for what areas they recommended for wilderness designation, including why certain areas were not included in the final decision. The decision document does not include the management direction for lands that were included in the inventory and evaluation and analyzed in an alternative but not recommended for wilderness. This documentation needs to be included in the final decision and should address some of the objectors' concerns regarding management of lands not recommended for wilderness.

I instruct the responsible official to include documentation in the final decision that identifies what management direction is provided in the plan for those lands that were included in the inventory and evaluation and analyzed in an alternative but not recommended for wilderness.

Assessment

The final EIS Vol. 3 appendix H Documentation of the Wilderness Process summarizes Alternative 5 as an intention "to mirror the citizen's proposal" and be "responsive to the perspective that the areas recommended to Congress should be maximized to the extent possible" (p. H-22). The final EIS analyzes the effects of Alternative 5 which includes the areas proposed by the New Mexico Wilderness Alliance and partners' citizen's proposal with minor differences in boundaries.

Appendix H of the final EIS includes documentation of wilderness characteristics associated with the individual areas including Aspen Mountain (pp. H-58 to H-59), Nolan North (pp. H-410 to H-42), Aldo Leopold Addition West (pp. H-119 to H-120), and Aldo Leopold Addition McKnight Canyon (pp. H-121 to H-122). Criteria that were used in evaluating wilderness characteristics are consistent with FSH 1909.12 chapter 70, and clearly documented in appendix H. The analysis step of the wilderness recommendation process documented which areas, or modified areas, would be analyzed as part of one or more alternatives and the documented the criteria that were used to inform each alternative (appendix H pp. H-19 to H-26).

The responsible official has discretion to recommend or not recommend areas based on input received during public participation opportunities and the analysis presented in the final EIS. The draft ROD

provides the rationale for not including the four areas noted above including consideration of public and partner input and other management trade-offs (draft ROD pp. 19-22). The consideration of all other areas that were included in the inventory and evaluation for recommended wilderness is documented in appendix H of the final EIS; however, the final decision does not indicate how those lands would be managed under the revised land management plan.

Recommended Wilderness Benefits to Bighorn Sheep

Objection Summary

The objector contends that the forest should have included the Lower San Francisco, Park Mountain, and Mogollon Box/Tadpole Ridge areas as recommended wilderness because they argue that managing those areas as recommended wilderness would benefit bighorn sheep.

Objector's Proposed Remedies

The objector recommends that the forest include Lower San Francisco, Park Mountain, and Mogollon Box/Tadpole Ridge wilderness study areas as recommended wilderness.

Findings

I find that the responsible official provided sufficient documentation of their rationale for their decision related to recommended for wilderness and the plan is consistent with law, regulation, and policy. The decision for what areas to include as recommended wilderness shows careful consideration of the evaluation and analysis included in the final EIS and was not based on any single factor or species habitat. The responsible official considered the information and analysis provided in the final EIS, including appendix H to reach a decision that balanced the many factors informing their decision. They appropriately used their discretion when they decided not to include the Park Mountain, Mogollon Box/Tadpole Ridge areas and the Lower San Francisco Wilderness Study Area as recommended wilderness, while acknowledging the benefits wilderness recommendation would have for bighorn sheep.

Assessment

The purpose of wilderness, as defined by the Wilderness Act of 1964 is to preserve and protect natural ecosystems and wild areas, allowing for public use and enjoyment while maintaining their "untouched character" through recreational, scenic, scientific, educational, conservation, and historical uses, with minimal human impact and opportunities for solitude and primitive recreation; essentially, to keep a space as close to its natural state as possible for the benefit of the people. Providing for individual species protection is not an explicit goal of the Wilderness Act and the forest plan supports habitat for bighorn sheep through a desired condition for Cliff and Rocky Features Desired Condition 2 (forest plan p. 133).

Appendix H of the final EIS documents the process for inventorying and evaluating lands that may be suitable for inclusion in the National Wilderness Preservation System including the evaluation of wilderness characteristics for each area. The analysis of which areas to recommend for wilderness in each alternative is documented in chapter 3 of the final EIS, and specifically the effects to species are

analyzed in the Wildlife, Fish, and Plants section of the final EIS. While the effects of recommended wilderness on bighorn sheep are not specifically addressed, the analysis does consider the effects of recommended wilderness on ecological conditions and ecological response units (final EIS pp. 94-99, 214-215).

Additionally, appendix A of the final EIS, response to comments addressed the objectors concerns about bighorn sheep in recommended wilderness by stating "the adoption of recommended wilderness areas included in alternative 5 would benefit bighorn sheep, which inhabit the Lower San Francisco, Park Mountain, and Mogollon Box/Tadpole Ridge areas."

Designated Wilderness — Desired Conditions

Objection Summary

Objectors contend that the desired conditions for designated wilderness are not consistent with terminology in the 1964 Wilderness Act. Specifically, they note that the desired conditions list too few prohibitions and place too much emphasis on 'use and enjoyment of the American people' compared to natural processes. Objectors also contend that the desired conditions should not use terms such as 'unique experiences' and 'special use authorizations' because those terms are not defined in the Wilderness Act and that desired conditions regarding constructed features appear contradictory to one another.

Objector's Proposed Remedies

The objectors propose the following remedies:

1. Instead of referring to wilderness character, and leaving managers to make management trade-offs, have forest plan direction fully address what the [1964 Wilderness Act] says with the goal to allow wilderness to be wild.
2. Add the full slate of prohibitions in section 4(c) on page 235 of the [p]lan. Eliminate the desired condition, "designated wilderness areas exhibit wilderness character and provide for the purpose of wilderness, which is the use and enjoyment of the American people".
3. If this is retained, "the landscape is essentially undeveloped and natural. Constructed features exist only when they reflect the historical and cultural landscape or are the minimum necessary for administration of the area as wilderness.", change it to: "the landscape is essentially undeveloped and natural. Constructed features exist only when they are the minimum necessary for administration of the area as wilderness."
4. Delete, "unique features and experiences are preserved as an element of wilderness character."
5. Clarify this statement and change "special-use authorizations" to "commercial services", "Special-use authorizations facilitate the use and enjoyment of wilderness character, wilderness education, or protection and do not adversely affect wilderness character."

Findings and Instructions

I find that the description of the qualities of wilderness character in the forest plan is consistent with the wording in the Wilderness Act. Additionally, the language included in Designated Wilderness Desired Condition 8 (p. 237) is consistent with the Wilderness Act and the planning record provides adequate

clarity regarding intent of this desired condition. The language is Designated Wilderness Desired Condition 2 does not contradict the language in Cultural Resources and Archeology Guideline 7.

The prohibitions described for designated wilderness on page 235 of the land management plan are incomplete and therefore inconsistent with the language of the Wilderness Act. While this language is not included in a plan component, it can be problematic. Designated Wilderness Desired Condition 1 (p. 237) is also incomplete and therefore inconsistent with the language in the Wilderness Act.

The term "constructed features" is not sufficiently defined in the plan to mean installations or structures and therefore, the language used in Designated Wilderness Desired Condition 2 is inconsistent with the Wilderness Act.

The phrase "unique features and experiences" in Designated Wilderness Desired Condition 5 is inconsistent with the Wilderness Act as "unique features and experiences" is not clearly defined and it is not clear if the intent was to incorporate language from section 2(c)(4) of the Wilderness Act, which states "may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value."

I instruct the responsible official to address the incomplete language from the Wilderness Act by either including the full list of prohibitions on page 234 of the land management plan or removing that language is it is not necessary to include verbatim text from statue. The also need to either include the full purpose of the Wilderness Act in Desired Condition 1 or remove this desired condition as it does not add anything substantial to the management of designated wilderness that isn't already addressed in the planning record and would be merely restating language in the Wilderness Act. In addition, I instruct the responsible official to include a definition of the term "constructed features" to mean installations and structures. Finally, I instruct the responsible official to revise Designated Wilderness Desired Condition 5 that states "unique features and experiences are preserved as an element of wilderness character" to read "other features of value are preserved as an element of wilderness character."

Assessment

The forest addressed concerns regarding wilderness character description on page 235 of the forest plan in the response to public comments (final EIS, Vol. 2 Designated Wilderness Comment 10 p. A-374). The wilderness character qualities described in the final plan are consistent with the wording in the Wilderness Act and this plan direction is consistent with all applicable laws, regulations, and policies.

The prohibitions described for designated Wilderness on page 235 are inconsistent with the language of the Wilderness Act because it includes some, but not all the prohibited uses, such as motorized equipment and structures or installations, specified in the Wilderness Act.

Desired Condition 1 (p. 237) states "designated Wilderness areas exhibit wilderness character and provide for the purpose of wilderness, which is the use and enjoyment of the American people." While the Wilderness Act does state a purpose of "use and enjoyment of the American people," it also requires that use is "in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness

character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness" the protection of the areas and the preservation of their wilderness character.

The objector requested that the language "they reflect the historical and cultural landscape" be removed from Desired Condition 2, arguing that the term "reflect" is inconsistent with the language in the Wilderness Act. Additionally, the term "constructed features" is not well defined in either the final plan or the Wilderness Act and could be referring to installations or structures, and therefore, without a clear definition, is not consistent with the language of the Wilderness Act.

Objectors also contend that Designated Wilderness Desired Condition 2 contradicts Cultural Resources and Archeology Guideline 7 (p. 174). Cultural Resources and Archeology Guideline 7 (p. 174) states "Cultural resources should not be actively managed or interpreted in congressionally designated wilderness. Visitor information regarding prehistoric and historic resources within designated wilderness should be provided at district offices or nearby educational and interpretive displays located outside of wilderness boundaries, and not within designated wilderness boundaries." The language in Designated Wilderness Desired Condition 2 is not contradictory to the language in this guideline.

The language used in Desired Condition 5 (p. 237) is problematic, as the Wilderness Act does not define "unique features and experiences" as an element of wilderness character. The forest is not required to cite the Wilderness Act verbatim, but the language here incorrectly states this additional term as an element of wilderness character that is not described in the [Wilderness Act]. It is unclear if the intent is to incorporate language from section 2(c)(4) of the Wilderness Act which states "may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value."

Wilderness Act section 4(d)(5) notes "Commercial services may be performed within the wilderness areas designated by this Act to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas." Page 284 of the final EIS, Vol. 1 describes special-use authorizations. Plan direction provided by Designated Wilderness Desired Condition 8 (p. 237) is not in violation of any law, regulation, or policy. The Forest Service uses special use authorizations to permit several types of uses, including commercial services where appropriate, as long as these use authorizations are, "to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas" (Wilderness Act, section 4(d)(5)).

Designated Wilderness — Standards

Objection Summary

Objectors contend that the standards for designated wilderness are not consistent with terminology in the Wilderness Act. Specifically, the standards related to group size in wilderness are not consistent and are not based on best available science, the plan lacks a standard to require NEPA be completed for all proposed nonconforming and prohibited actions, and that the standard for treatment of non-native invasive species in wilderness is not clear and is overly permissive.

Objector's Proposed Remedies

The objectors suggest the following:

1. Clarify what the stock and party size limits are for the public and commercial outfitters, make them consistent for all users and not subject to change unless reduced in specific management plans, and use science to guide party size.
2. For minimum requirements analysis, include that adequate NEPA analysis (not a categorical exclusion) must also be completed.
3. Treatment of non-native invasive species must use methods consistent with maintaining, restoring, or enhancing wilderness character and clarify Designated Wilderness standard 4 to emphasize prevention.

Findings and Instructions

I find that the planning record adequately addresses the objector's issue regarding the use of best available science to establish group size limits and clarity regarding what users would be held to group size limits. However, the final EIS and planning record need to be updated to include the Shelby and Heberlein (1986) citation. The planning record is clear that completing a minimum requirements analysis does not negate the need to also comply with the NEPA. It is also clear regarding the purpose and expectations for desired conditions and the approach to non-native invasive species control in wilderness that would include conducting a minimum requirements analysis and compliance with the applicable level of NEPA.

I instruct the responsible official to update the literature cited section of the final EIS to include Shelby and Heberlein (1986) which is cited in Vol. 1 (pp. 349-350) and Vol. 2 appendix A (p. A-372) and include it in the planning record.

Assessment

The level of NEPA required for a particular project depends on a variety of factors and as the final EIS Vol. 2 appendix A response to comments points out, "A minimum requirements analysis does not substitute for a NEPA process" (A-385).

Designated Wilderness Standard 1 establishes group size limits for people and pack/saddle stock along with exceptions (p. 237). The final EIS discusses group size limits for people and pack/saddle stock and cites guidelines established by Shelby and Heberlein (1986) on pages 349-350. The final EIS Vol. 2 appendix A response to comments provides additional information on the use of this best available science for establishing group size stating "As is outlined in the EIS's Designated Wilderness Analysis Methodology, we used guidelines developed by Shelby and Heberlein (1986) that are useful for informing the decision for appropriate group size limits in wilderness from a social (opportunities for solitude) rather than a physical condition perspective (naturalness, undeveloped, untrammeled). The range of alternatives explores several options, as described in chapter 2 of the [final] EIS." (A-371). However, the Shelby and Heberlein (1986) citation is missing from the literature cited section of the final EIS and the planning record.

The response to comments (p. A-372) and the draft ROD (p. 12) indicate that group size limits were identified as an issue in response to public comments and that alternatives were generated to address this issue. The response to comments also clarifies that group size related "plan direction presently affects only those groups requiring special use permits, such as outfitters and guides. If or when a permit

or reservation system is deemed necessary, this plan direction would then apply to those authorizations" (p. A-371). Response to comments also notes that "plan direction places constraints on management actions, not on the actions of individual persons. Group size limits are constraints on special use authorizations, permits, and reservations." The planning record is clear that group size limits would apply to those required to have a special use authorization, permit, and reservation. It also explains how exceptions to group size limits may be obtained.

Designated Wilderness Standard 4 states that "treatment of non-native invasive species must use methods consistent with maintaining, restoring, or enhancing wilderness character" (p. 238). The land management plan describes the use of desired conditions and explains that "projects and activities are designed to maintain or move toward desired conditions over the long term and that in some cases, desired conditions may already be achieved, while in other cases they may only be achievable over hundreds of years" (p. 3). Designated Wilderness Desired Condition 6 establishes that "non-native invasive species are absent." Clarity regarding the desired condition is provided in the response to comments (p. A-381). The response to comments acknowledges that "each individual circumstance would be analyzed in a minimum requirements analysis to first determine if any management action is warranted, and if so, the minimum action that will accomplish non-native invasive species and wilderness management objectives. In wilderness, actions other than use of herbicides or non-native weed predators are always preferable if they are effective as that minimum tool." The response goes on to say that "prevention is the preferred approach to non-native species management" and that the "plan emphasizes prevention by requiring the use of decontamination procedure, integrated pest management, certified weed-free products in every case they are available." See also Section 4(d)(10 of the Wilderness Act and FSM 2324.1 for discretion and direction regarding treatment for insects and diseases.

Designated Wilderness — Guidelines

Objection Summary

Objectors contend that guidelines for designated wilderness do not clearly communicate the intent for management actions that are allowed in wilderness. Specifically, they argue that guidelines allow too much flexibility for management actions such as new trail construction, which would be inconsistent with the Wilderness Act.

Objector's Proposed Remedies

The objectors propose that the forest edit or remove plan guidelines to be consistent with the Wilderness Act.

Findings and Instructions

I find that Designated Wilderness Guideline 1 is consistent with the Wilderness Act. Designated Wilderness Guideline 4 is inconsistent with the Wilderness Act and inconsistent with Recommended Wilderness Guideline 2.

I instruct the responsible official to reword Designated Wilderness Guideline 4 to be consistent with the language provided in Recommended Wilderness Guideline 2 (pp. 246-247) to read "new trail

construction or existing trail realignment should only occur where it facilitates protection of wilderness characteristics and/or comply with applicable regulation(s)."

Assessment

Designated Wilderness Guideline 1 (p. 238) states "intervention in natural processes through management actions should only occur if it is necessary to preserve wilderness character, protect public health and safety, uphold other federal laws and regulations, or conform with a valid existing right."

The intent of this guideline is not clear. For example, what "natural processes" would need "intervention" through "management actions" to "uphold other federal laws and regulations" or "conform with a valid existing right" in a designated wilderness setting? Similarly, what "natural processes" would need "intervention" through "management actions" to "protect public health and safety" in a designated wilderness setting? Wilderness areas by nature, policy, and law present a higher safety risk for users. Reducing or eliminating risk is not necessarily a justification for management action in wilderness and visitors to wilderness areas accept a higher level of risk than visitors in non-wilderness areas.

Designated Wilderness Guideline 4 (p. 238) states:

> *New trail construction or existing trail realignment should only occur where it is necessary to facilitate the use and enjoyment of wilderness or protect public health and safety. These trails or trail segments should be designed, built, and maintained as minimally to moderately developed.*

As written this guideline conflicts with the primary mandate of the Wilderness Act which is to preserve the areas wilderness character. The guideline as written indicates that new trail construction could occur to facilitate "use and enjoyment of wilderness" without regard to the preservation of the areas wilderness character. Additionally, this guideline differs from Recommended Wilderness Guideline 2 (pp. 246-247) which is consistent with the Wilderness Act and states:

> *New trail construction or existing trail realignment should only occur where it facilitates protection of wilderness characteristics or protects public health and safety. These trails or trail segments should be designed, built, and maintained as minimally to moderately developed.*

Forest Service policy requires that trails in wilderness meet the objectives in the land management plan (FSM 2323). Designated Wilderness Objectives (p. 237) include:

> *1. Annually rehabilitate or restore at least five wilderness trail segments, campsites, or other areas that have been impacted by use, fire, or other management to restore wilderness character, prevent resource impacts, and improve visitor experiences.*
>
> *2. Within the first 5 years of plan approval, all congressionally designated wilderness areas are managed to at least a minimum standard as defined by the current wilderness performance reporting measures.*

There needs to be a link to the preservation of wilderness character when constructing new trails in wilderness as specified in Recommended Wilderness Guideline 2 but is missing from Designated Wilderness Guideline 4.

Designated Wilderness — Management Approaches

Objection Summary

Objectors contend that the management approaches for wilderness inappropriately place too much emphasis on volunteers and partners for managing wilderness. The objector contends that the land management plan emphasizes outfitter and guide partnerships and volunteers in the Management Approaches section instead of agency professionals, devolving designated wilderness administration to volunteers and partners and blaming this management strategy on a lack of appropriated funds. This makes the agency's budget process inscrutable and unaccountable to the public.

Objector's Proposed Remedies

Objectors request that the forest remove the emphasis on outfitter and guide partnerships and volunteers for managing wilderness from the management approaches.

Findings

I find that the use of partnerships and volunteers to accomplish management objectives is an important tool and its application is adequately addressed in the planning record. The forest plan is clear about the role of forest staff and management as well as partners and volunteers in wilderness stewardship and the planning record is consistent with law, regulation, and policy.

Assessment

Partnerships and volunteerism have a long and robust history in Forest Service wilderness stewardship. The forest plan includes management approaches for Wilderness Character and Relationships and describes opportunities to collaborate with local partners, volunteers, Adopt-a-Trail organizations, and wilderness advocacy groups (pp. 238-239). Management approaches describe the principal strategies and priorities that the forest will use to carry out projects and activities developed in the plan. While management approaches are intended to convey strategies for achieving objectives, they are not the exclusive means by which the forest can achieve the objectives and move towards desired conditions. In addition to the approach of collaborating with partners, the forest acknowledges the forest staff responsibility for addressing resource damage, diminished wilderness character, and impacts to visitor experiences.

Designated Wilderness — Vegetation Treatments

Objection Summary

Objectors contend that plan components call for extensive use of prescribed fire, naturally ignited fire, and mechanical methods to maintain or move toward desired conditions and that those actions trammel wilderness and should not be allowed in designated wilderness.

Objector's Proposed Remedies

Objectors request that the forest exclude mechanical treatments and prescribed fire from designated wilderness.

Findings

I find that the forest plan adequately addresses the objector's concern by acknowledging the need to complete a minimum requirements analysis and environmental analysis through the appropriate level of NEPA before using prescribed fire, naturally ignited fire, or mechanical methods for moving towards desired conditions and preserving the area's wilderness character. The plan is consistent with law, regulation, and policy.

Assessment

The forest plan must comply with the Wilderness Act and be consistent with policy. FSM 2324.2 - Management of Fire provides direction for managing fire in wilderness. Designated Wilderness Standard 3 states, "A minimum requirements analysis must be completed when considering nonconforming or prohibited uses in designated wilderness" (p. 237). The determination would need to be documented by a minimum requirements analysis, an environmental analysis would need to be completed under the appropriate level of NEPA, and the decision would need to be consistent with the Wilderness Act and Forest Service policy.

Designated Wilderness — Other Permitted Uses

Objection Summary

Objectors contend that the plan is too permissive with regards to permitted research and special uses in designated wilderness. Specifically, the plan should clarify that "only wilderness dependent research be conducted in wilderness" and that the plan should not allow for any prohibited uses in wilderness regardless of whether they were an existing use prior to designation

Objector's Proposed Remedies

The objectors suggest the plan be changed to require that only wilderness dependent research be conducted in wilderness and that it be done in a wilderness-compatible manner. If the agency or applicant goals can be met outside of designated wilderness, special-use permits should not be issued in designated wilderness unless a valid existing right or use existed prior to designation.

Findings and Instructions

I find that the planning record provides sufficient clarity in how permitted research in designated wilderness is addressed, however, Lands and Realty Guideline 11 is inconsistent with the Wilderness Act in that the phrase "or use existing prior to designation" is not clearly defined to ensure it is consistent with the Wilderness Act and/or enabling legislation.

I instruct the responsible official to either eliminate the phrase "or use existing prior to designation" or add the specific use and ensure it is consistent with the special provisions provided in the Wilderness Act (for example livestock grazing) and/or enabling legislation.

Assessment

In Section 4(b) of The Wilderness Act one of the public purposes is 'scientific' and should occur conditioned on preserving the area's wilderness character. Providing permitted research is critical to

helping understand the ecological, social, cultural, and economic systems in and around designated wilderness and agency policy supports conditioned permitted research on preserving the areas wilderness character. The land management plan consistently points to the importance of preserving wilderness character including Lands and Realty Guideline 11 (p. 181) which states “if the agency or applicant goals can be met outside of designated wilderness, special-use permits should not be issued in designated wilderness unless a valid existing right or use existed prior to designation”

Designated Wilderness Desired Condition 8 states “special-use authorizations facilitate the use and enjoyment of wilderness character, wilderness education, or protection and do not adversely affect wilderness character” (p. 237). The land management plan states that “special-use permits are authorized when the proposed activities support the Forest Service mission, meet demonstrated public needs, and are consistent with the desired conditions for the proposed use area. Permits are a partnership between the Forest Service and private businesses, academia, non-governmental organizations, or individuals. Special uses are divided into two categories—lands and recreation. Most of the direction for managing special uses is specified in Forest Service directives and regulations” (p. 180).

However, it is not clear what the forest intended by in their inclusion of the phrase “use existing prior to designation” in Designated Wilderness Desired Condition 8. It is not clear what “use existing prior to designation” is referring to. This phrase is vague and could be interpreted to mean a use that is incompatible in designated wilderness and inconsistent with the Wilderness Act. For example, mountain biking that was occurring prior to designation would be considered incompatible with designated wilderness because mechanized use is prohibited by the Wilderness Act. The Wilderness Act section 4(d) includes special provisions associated with the use of motorboats and aircraft (Section 4(d)(1)) as well as livestock grazing (4(d)(4)(2)). The planning record is unclear as to whether the intention was to address uses existing prior to designation that are addressed under the special provisions provided for by the Wilderness Act and/or enabling legislation.

Wild and Scenic Rivers

Economic Study

Objection Summary

The objector asserts that finding 16 rivers eligible will impact the economy and that the final EIS does not adequately evaluate this impact. They object to the decision not to complete a suitability study and contend that the Forest Service "avoided the necessary assessments" to consider all the social and economic impacts by not completing a suitability study.

Objector’s Proposed Remedies

The objector asserts that finding 16 rivers eligible will impact the economy and that the current final EIS social and economic analysis inadequately evaluates this impact. They object to the decision not to complete a suitability study and contend that the Forest Service "avoided the necessary assessments" to consider all the social and economic impact by not completing a suitability study.

Findings

I find that the social and economic analyses in the final EIS sufficiently describe the impacts of the forest plan to agriculture and the local economy. Where the Wild and Scenic River eligibility study found outstandingly remarkable values in locations where grazing currently occurs, the forest concluded that current grazing management is compatible with managing for those outstandingly remarkable values. A Wild and Scenic River suitability study is not required to be completed as part of plan revision and the responsible official used their discretion properly when they decided not to proceed with a wild and scenic river suitability study concurrent with the forest plan revision process. A suitability study may be conducted in response to a future project proposal that could affect the river's eligibility, economic impacts would be considered at that time, and the public would have an opportunity to provide feedback.

Assessment

Forest Service policy (FSH 1909.12.82 and 82.93) does not require a specific social and economic impact study to be completed as part of the wild and scenic river eligibility determination process or when documenting this process in the environmental analysis. The eligibility study is a separate but concurrent process with plan revision and is not subject to NEPA requirements for alternatives. River segments are either found eligible or not, and this determination does not vary by alternative. Where the eligibility study found outstandingly remarkable values in locations where grazing currently occurs, the forest concluded that current grazing management was compatible with managing for those outstandingly remarkable values, as noted in responses to similar comments (see responses to comments 13 final EIS Vol. 2 appendix A p. A-341 and comment 28 pp. A-348 to A-349).

A suitability study may begin following a determination of eligibility and classification or may be deferred to a later time at the discretion of the responsible official (FSH 1909.12.81). Legislatively mandated studies (sec. 5(a) of the Act) should be included in the development or revision of land management plan when the legislatively mandated river study period and the timing of the planning process are compatible. Another approach is to conduct a suitability study after approval of the land management plan or revision, sometimes in response to a project proposal that could potentially affect the river's eligibility.

The 2012 Planning Rule does not require any specific social or economic analysis (36 CFR 219). Values and impacts associated with livestock grazing across alternatives are considered in the Livestock Grazing section of the final EIS and economic analysis of livestock grazing between plan alternatives is presented on page 404. The social and economic analyses, including impacts on forage and grazing costs across alternatives, are included in the final EIS (pp 406-413).

Finally, the forest plan specifically calls out relationships with agricultural producers on page 18 when discussing the overall vision for Gila National Forest management "we envision a future in which livestock grazing is sustained as a culturally and economically important use of the national forest, forage is plentiful, and producers are prosperous. Leadership advances this vision by (1) restoring productive rangelands; (2) encouraging collaborative monitoring to support adaptive management; and (3) strategically selecting vacant allotments to serve as forage reserves, or swing allotments that provide flexibility to support permittees during times of drought and other environmental disturbances.

Wild and Scenic Rivers – Region of Comparison

Objection Summary

The objector contends that the Forest Service failed to consider "multiple scales of comparison", specifically the national scale from the phrase “regional or national scale” was not considered in their Wild and Scenic River eligibility determination. By not considering the national scale for region of comparison, the objector claims the Forest Service violated the intent of the Wild and Scenic River Act.

Objector’s Proposed Remedies

The objector requests the forest update the eligibility study to reflect that the following stream segments are eligible for inclusion in the National Wild and Scenic River System, due to the fact that the segments are free-flowing and possess at least one outstandingly remarkable values: Apache Creek, Black Canyon Creek, East Fork Gila River, East Fork Mimbres River (McKnight Canyon), Gilita Creek, Indian Creek, Little Creek, Mogollon Box Gila River, Mogollon Creek, San Francisco River (Devil's Creek), Sapillo Creek, Taylor Creek, Turkey Creek, and West Fork Mogollon Creek.

Findings

I find that the planning record adequately documents the identification and rationale for choosing the region of comparison for each of the outstandingly remarkable values criteria used to determine river eligibility and the forest’s process in applying those criteria to evaluate the rivers is consistent with law, regulation, and policy. Ultimately, the determination that a resource value is outstandingly remarkable is a professional judgement by the responsible official and the responsible official used their discretion appropriately.

Assessment

The final EIS Vol. 3 appendix I provides a background of the process used by the Gila National Forest to evaluate river eligibility (p. I-1). The forest completed an eligibility study in 2002 that included some river segments within the forest and incorporated management direction for those that were eligible for wild and scenic river status. The forest built on this study, stating that during forest plan revision, “a total of 245 river segments [were] evaluated …, all of which are required to be included because they are named on a U.S. Geological Society 7.5-minute quadrangle map (FSH 1909.12.82.2). Of these, 158 had not been evaluated in the previous [2002] study. The other 87 stream segments were included in the previous study and reviewed for changed circumstances” (p. I-2). The forest identified 16 rivers (24 segments totaling 224.11 miles) eligible for inclusion in the Wild and Scenic River system, finding more rivers to be eligible compared to those found eligible in the 2002 study.

The objector contends that the forest failed to consider "multiple scales of comparison", specifically that the national scale was not considered in their wild and scenic river eligibility determination and therefore, the forest violated the intent of the Wild and Scenic River Act. They cite a 1999 report from the Interagency Wild and Scenic Rivers Coordinating Council, which concluded that the regions of comparison must include multiple scales and that “[i]n addition to regional or statewide comparison, values must also be considered from a national perspective.” The 1999 report goes on to say that “the area, region or scale of comparison is not fixed, and should be defined as that which serves as a basis for

meaningful comparative analysis; it may vary depending on the value being considered. Typically, a "region" is defined on the scale of an administrative unit, a portion of a state, or an appropriately scaled physiographic or hydrologic unit" (p. 12).

FSH 1909.12, chapter 80 discusses outstandingly remarkable values as significant when compared with similar values from other rivers at a regional or national scale and that unique, rare, or exemplary features are those that are conspicuous examples of these values, among the best representatives of these features, within a region or the nation (FSH 1909.12.83.73). The final EIS Vol. 3 appendix I outlines the forest's outstandingly remarkable values determination process and recognizes that the region of comparison may vary for different categories, resulting in multiple regions of comparison possibly being used to evaluate a single river. Appendix I includes a description of the region of comparison for scenery, recreation, geology, fish, wildlife, and historic and cultural, including the rationale for why each region of comparison was chosen (pp. I-3 to I-11).

The final directives for implementing the 2012 Planning Rule establishes baseline criteria for evaluating river-related values that foster greater consistency within the Forest Service and with other federal agencies. These criteria may be refined to make them more meaningful in the region of comparison. The interdisciplinary team added more specificity to the criteria, based on the direction provided by the forest supervisor and public input, to facilitate a more meaningful comparison between rivers within the regions of comparison. The value should be directly river-related or be river-dependent and owe its location or existence to the presence of the river.

Wild and Scenic Rivers - Eligibility of 14 Streams

Objection Summary

The objectors argue that 14 streams found ineligible should have been found eligible because the public input that included information on changed circumstances was not used to reevaluate the 30 specific rivers to consider this information (14 ineligible and 16 eligible). Objectors also found it unclear whether the segment they refer to as "Mogollon Box of the Gila River" corresponds to one or more of the segments included in final EIS Table I-5.

Objector's Proposed Remedies

The objectors propose the following remedies:

- Update the eligibility study to reflect that the following stream segments are eligible for inclusion in the National Wild and Scenic River System because the segments are free-flowing and possess at least one ORV: Apache Creek, Black Canyon Creek, East Fork Gila River, East Fork Mimbres River (McKnight Canyon), Gilita Creek, Indian Creek, Little Creek, Mogollon Box Gila River, Mogollon Creek, San Francisco River (Devil's Creek), Sapillo Creek, Taylor Creek, Turkey Creek, and West Fork Mogollon Creek.
- Reopen the Wild and Scenic eligibility evaluation process, with renewed opportunities for public review and comment and consider the supplemental information about stream and stream-corridors for all 30 streams that American Rivers provided, including data available from Natural Heritage New Mexico, the State of New Mexico, Adaptation Partners, and from other

appropriate sources. Document how that information was considered and how those potential values do or do not meet standards for wild and scenic eligibility.

Findings and Instructions

I find that the planning record does not adequately address how the Forest considered specific outstandingly remarkable values for the following rivers as requested by the public:

- East Fork of the Gila River and West Fork Mogollon Creek have scenery outstandingly remarkable value findings, but the findings were not adequately addressed in the response to comments.
- The planning record lacks documentation for consideration of the scenery outstandingly remarkable values for Mogollon Box of the Gila River.
- The planning record lacks documentation for consideration of the recreation outstandingly remarkable value for the San Francisco River (Devil's Creek).
- Mogollon Creek and Mogollon Box of the Gila River are missing from Table I-5.

Additionally, I find that the planning record lacks clarity regarding if and how the Natural Heritage New Mexico data was used with rationale on why it was or was not considered best available scientific information. The planning record documenting review of changed circumstances is lacking.

I instruct the responsible official to:

- Update the planning record to adequately document the scenery outstandingly remarkable values determination for the East Fork of the Gila River and West Fork Mogollon Creek.
- Update the planning record to document consideration of the recreation outstandingly remarkable value for the San Francisco River (Devil's Creek).
- Update the planning record to document consideration of the scenery outstandingly remarkable values for Mogollon Box of the Gila River.
- Add Mogollon Creek and Mogollon Box of the Gila River to Table I-5.
- Clarify in the planning record if and how the Natural Heritage New Mexico data was considered for informing eligibility determinations with rationale on why it was or was not used.
- Provide a rationale to explain if or why no changed circumstances were found for the 14 ineligible and 16 eligible rivers as requested by the objector and document how the data provided by the objector was considered in the evaluation.

Assessment

The determination that a river area does or does not contain one or more outstandingly remarkable values is a professional judgment on the part of the responsible official as informed by the interdisciplinary team, best available scientific information, and public participation (FSH 1909.12.82.73). Forest plan components are required to protect "designated wild and scenic rivers as well as management of rivers found eligible or determined suitable for the National Wild and Scenic River system to protect the values that provide the basis for their suitability for inclusion in the system" (36 CFR 219.10 (b)(v)). All alternatives fully analyzed in the final EIS include the rivers found to be eligible

in compliance with NEPA and the 2102 Planning Rule. The river study report is incorporated into the environmental analysis as described in the final EIS Vol. 3, appendix I (FSH 1909.12.83.32).

For the 14 rivers provided by the objector, the responsible official found there to be no outstandingly remarkable values as the values were either not river-related or were not unique, rare, or exemplary in relation to the region of comparison. The planning record documents consideration of most of the outstandingly remarkable values suggested by the objector in the response to Wild and Scenic Rivers comments 18 through 71 (final EIS Vol. 3 appendix A pp. 344-367). The following outstandingly remarkable values were not addressed in the response to comments:

1) Scenery value for the East Fork of the Gila River
    a. The 2002 study acknowledge the scenery value but found that it did not meet the criteria for outstandingly remarkable.
2) Scenery value for the Mogollon Box of the Gila River
    a. The planning record did not include documentation showing consideration of the scenery outstandingly remarkable value for this river segment, including the objector's suggestion for river-canyon scenery such as towering and distinctive cliffs.
3) Recreation value for San Francisco River (Devil's Creek)
    a. The planning record did not include documentation showing consideration of the recreation outstandingly remarkable value for this river segment, including the objector's suggestion for rafting.
4) Scenery values for West Fork Mogollon Creek
    a. The 2002 study acknowledge the scenery value but found that it did not meet the criteria for outstandingly remarkable.

The objector claims, "the presentation of this data by American Rivers also constitutes "changed conditions," and the content of the data detailed changed conditions on the ground." The data may or may not constitute changed circumstances depending on if it shows that there were changes in the river or its corridor since the last eligibility study that could affect outstandingly remarkable values and therefore require a reevaluation (FSH 1909.12.82.4).

It is clear from the planning record that the agency evaluated rivers, including changed circumstances. Documentation of the Wild and Scenic River Eligibility Study (final EIS Vol. 3 appendix I) documents that "a total of 245 river segments evaluated during this process, all of which are required to be included because they are named on a US Geological Society 7.5-minute quadrangle map (FSH 1909.12.82.2). Of these, 158 had not been evaluated in the previous study. The other 87 stream segments were included in the previous study and reviewed for changed circumstances. Improved geospatial information systems and tools resulted in small changes to some river segment lengths during the review. These changes are described in the documentation section for each river segment later in this appendix. Between the time the draft environmental analysis was released to the public and preparation of the final analysis, the 2022 Black Fire impacted several streams that were found eligible during this study. These streams include Las Animas, Holden Prong, Diamond Creek and South Diamond Creek. The interdisciplinary team was again convened to evaluate impacted stream segments for changed circumstances" (p. I-2). The final EIS appendix I goes on to document that "all the river segments that were studied in 2002 were reviewed for changed circumstances, whether they had been found eligible

for wild and scenic status or not. A second review of changed circumstances was conducted after the 2022 Black Fire. Only those streams that had been found eligible earlier in this study which possessed outstandingly remarkable fisheries values potentially affected by the fire and post-fire flood events were reviewed. The interdisciplinary team concluded that while these values had been impacted, there was insufficient information to determine the status of these values. The interdisciplinary team considered the worst-case scenario and concluded that even if fish were no longer present, these streams still contain important habitat and future work would be directed toward recovering those outstandingly remarkable values" (pp. 11-12). The response to comments notes that 13 of the 14 ineligible rivers the objectors mentioned had no changed circumstances. The 14th river was not previously studied (pp. A-344 to A-367, comments 18, 20, 24, 26, 29, 33, 39, 51, 55, 57, 63, 65, 71).

While it is clear that the forest considered changed circumstances, the response to comments does not provide clarification or rationale to support the conclusion of no changed circumstances; specifically, the record does not provide a rationale to explain why the data provided by the objectors does or does not constitute changed circumstances (FSH 1909.12.85.12, 40 CFR 1503.4).

Additionally, the planning record lacks documentation on how the data the objector provided regarding changed circumstances for rivers previously found ineligible were considered, nor does it provide rationale for why those data were not considered best available scientific information.

The objectors recommended using data from Natural Heritage New Mexico, among other sources, for identifying outstandingly remarkable values (final EIS Vol. 2 appendix A pp. 344-367). The response to comments captures numerous comments that refer to the Natural Heritage New Mexico data when suggesting outstandingly remarkable values for specific river segments. The outstandingly remarkable values are responded to in those comments (with the exceptions listed above) but only in response to comment 39 does the forest refer to that data source "with regard to the plant species listed, we believe commenters are referring to Mogollon whitlow grass as Mogollon wheatgrass is not a valid common name for any species in the Nature Serve or Natural Heritage New Mexico data. Not all the species listed by the commenter have habitat requirements that are river-dependent, and they may or may not be present in the river corridor" (final EIS appendix A pp. 353-354). This suggests that the forest used the data in their eligibility evaluation, and it also appears to have been used for evaluating potential SCC during data gathering in a partnership with other organizations and the US Forest Service. However, the planning record is not clear in terms of when or how data from the Natural Heritage New Mexico was used in the wild and scenic river evaluation process.

Additionally, Mogollon Creek and Mogollon Box of the Gila River are both responded to in the response to comments (comment 49 and 51), but they are not in the final EIS Table I-5 list of ineligible rivers.

See Wild and Scenic Rivers Other Outstandingly Remarkable Values for additional discussion regarding consideration of adaption to long-term shifts in weather patterns and temperature, refugia from these shifts, and ecosystem services as "Other Outstandingly Remarkable Values".

Wild and Scenic Rivers - Documentation

Objection Summary

The objector claims that the final land management plan, final EIS, and draft ROD do not have sufficient "documentation, data, and justification to support the [Gila National Forest's] ineligibility" findings.

Objector's Proposed Remedies

The objector requests that the forest revise the final EIS to include adequate justification and documentation regarding stream segments found ineligible for inclusion in the National Wild and Scenic Rivers System, as required by FSH chapter 80.

Findings and Instructions

I find that the planning record lacks clarity regarding why certain rivers were determined to be ineligible. Specifically, final EIS Vol. 3 appendix I, Table I-5 List of ineligible rivers, which documents that values were present but were not outstandingly remarkable in the regions of comparison, does not provide sufficient information regarding the rationale to support the wild and scenic river ineligibility determination.

I instruct the responsible official to update the planning record to provide additional clarity and rationale that supports the wild and scenic river ineligibility determinations provided in Table I-5.

Assessment

FSH 1909.12.82.93 details the required documentation for a Wild and Scenic River Study for Eligibility. It states "the environmental document for developing, revising, or amending a land management plan should contain an appendix containing the study report for all rivers studied for their eligibility for inclusion in the [s]ystem. This section contains separate river narratives for each river segment evaluated in the planning process and a map showing the rivers, their termini and corridors. River segments may be organized or grouped by watershed to address rationale for determination of eligibility. The river narratives should be a synopsis of the pertinent information related to eligibility and classification factors." Additional guidance provides that the "documentation should include "…one or more tables listing each river segment with information supporting whether the river is deemed eligible or not (such as free-flowing characteristics, water quality, and presence or absence and a description of outstandingly remarkable values)…"

The final EIS Vol. 3, appendix I includes documentation for the eligibility study report, including Table I-5. List of ineligible rivers: values present are not outstandingly remarkable in the regions of comparison" (final EIS Vol. 3 appendix I pp. 26-27). The table does not provide clear documentation regarding whether these rivers were determined to be free-flowing or not and the only narrative provided for every river or segment is that the "values present are not outstandingly remarkable in the regions of comparison." This narrative does not provide sufficient information supporting the eligibility determination according to FSH 1909.12.82.93.

See Wild and Scenic Rivers Region of Comparison and Eligibility 14 Streams for additional discussion related to documentation of the eligibility determination process used by the forest.

Scenery Criteria for Wild and Scenic River Evaluation

Objection Summary

An objector asserts that the Gila National Forest outstandingly remarkable value evaluation criteria for wild and scenic rivers are too restrictive for scenery outstandingly remarkable values criteria and put too much emphasis on only certain aspects for scenery.

Objector's Proposed Remedies

The objector suggests that the Gila National Forest consider the following scenery elements to evaluate whether the presence of box canyons, steep cliff walls, spires, high concentrations of cascades, and waterfalls within a particular river canyon are exceedingly rare, exemplary, occurring in a remarkably high concentration, or otherwise particularly notable, either within the region of comparison or nationally.

Update the eligibility study to reflect that the following stream segments are eligible for inclusion in the National Wild and Scenic River System because the segments are free-flowing and possess at least one ORV: Apache Creek, Black Canyon Creek, East Fork Gila River, East Fork Mimbres River (McKnight Canyon), Gilita Creek, Indian Creek, Little Creek, Mogollon Box Gila River, Mogollon Creek, San Francisco River (Devil's Creek), Sapillo Creek, Taylor Creek, Turkey Creek, and West Fork Mogollon Creek.

Findings

I find that process used by the Gila National Forest for developing and applying specific criteria for assessing scenery outstandingly remarkable values is consistent with policy. The application of forest specific scenery criteria along with the FSH criteria was sufficient and appropriate and the responsible official used their discretion properly in determining which rivers contained scenic outstandingly remarkable values. The Gila National Forest-specific criteria is not too restrictive for scenery. The plan is consistent with law, regulation, and policy.

Assessment

There are modifications or additions to the handbook criteria which are minimum thresholds for identifying outstandingly remarkable values. Handbook criteria can be modified or added to by the forest unit to make the criteria more meaningful within the region of comparison (FSH 1909.12.82.73a). The Gila National Forest-specific criteria are in addition to the handbook criteria (draft EIS Table 73 pp. 282-284). This clarification was lost between the draft EIS and final EIS which may have been a source of confusion for the objector.

The Gila National Forest-specific criteria is not too restrictive because it emphasizes the importance of vast viewsheds and adds air quality and natural night sky as scenic elements for consideration by the interdisciplinary team as regionally significant criteria (final EIS Table I-1 pp. 10-11). The Gila National Forest-specific criteria does not limit the scope of the wild and scenic river study or preclude the forest from studying other scenic elements listed in the handbook such as "landscape elements of landform, vegetation, water, color, and related factors result in notable or exemplary visual features or attractions" (FSH 1909.12.80.82.73a, final EIS Table I-1 pp. 10-11, draft EIS Table 73 pp. 282-284).

As the Gila National Forest-specific criteria is an addition to the handbook criteria, it does not emphasize only certain aspects of scenery, nor does it exclude the scenery elements the objectors would like considered: extremely narrow sections or "box canyons," high cliffs, sheer walls, spires, drop offs, pinnacles, cascades or high concentrations of cascades, waterfalls, and steep cliff walls (New Mexico Wild Objection Letter p. 38). These would fall under the "landform" and "water" scenic elements the handbook tells the interdisciplinary team to consider. Furthermore, the planning record includes evidence that these sorts of scenic elements were considered by the interdisciplinary team on several streams:

- The Wild and Scenic Rivers Eligibility Evaluation Summary Draft Scenery Notes mentions findings with canyons, waterfalls, boxes, slot canyons (Wild and Scenic Rivers Eligibility Evaluation Summary Draft Scenery Notes).
- The final EIS Eligible-Ineligible Summary Table Draft mentions findings with sheer rock walls, canyons, waterfalls (final EIS Eligible-Ineligible Summary Table Draft – Scenery Tab).
- The final EIS mentions findings with cliffs, sheer rock cliffs, pinnacles, steep cliffs, canyons, boxes, waterfalls (final EIS River Narratives pp. 15-25).

Spires, cascades, and drop offs were not specifically mentioned in the planning record, but if there were no spires, cascades, or drop offs for consideration as outstandingly remarkable within the region of comparison, there would have been no reason to mention them. The record shows that the Forest considered most of the specific scenery elements the objector was interested in, and the record also shows that the Forest met the requirement to consider landform and water scenery elements. The determination that a river area does or does not contain one or more outstandingly remarkable values is a professional judgment on the part of the Responsible Official as informed by the Interdisciplinary Team, best available scientific information, and public participation (FSH 1909.12.82.73).

Fish and Wildlife Criteria for Wild and Scenic River Evaluation

Objection Summary

Objectors contend that the Gila National Forest outstandingly remarkable value evaluation criteria are too restrictive for fish and wildlife and were not applied in a way to make adequate eligibility findings.

Objector's Proposed Remedies

Update the eligibility study to reflect that the following stream segments are eligible for inclusion in the National Wild and Scenic River System because the segments are free-flowing and possess at least one ORV: Apache Creek, Black Canyon Creek, East Fork Gila River, East Fork Mimbres River (McKnight Canyon), Gilita Creek, Indian Creek, Little Creek, Mogollon Box Gila River, Mogollon Creek, San Francisco River (Devil's Creek), Sapillo Creek, Taylor Creek, Turkey Creek, and West Fork Mogollon Creek.

Findings

I find that process used by the Gila National Forest for developing and applying specific criteria for assessing fish and wildlife outstandingly remarkable values is consistent with policy. Application of forest

specific fish and wildlife criteria, along with the FSH criteria, was sufficient and appropriate and the responsible official properly used their discretion in determining which rivers contained fish and wildlife outstandingly remarkable values. The Gila National Forest specific criteria is not too restrictive for fish and wildlife and the plan is consistent with law, regulation, and policy.

Assessment

There are modifications or additions to the handbook criteria which are minimum thresholds for identifying outstandingly remarkable values; handbook criteria can be modified or added to by the forest unit to make the criteria more meaningful within the region of comparison (FSH 1909.12.82.73a). The Gila National Forest-specific criteria are in addition to the handbook criteria (draft EIS Table 73 pp. 282-284). This clarification was lost between the draft EIS and final EIS which may have been a source of confusion for the objector.

The Gila National Forest-specific fish and wildlife criteria place "special emphasis on" "irreplaceable populations, distinct lineages and diverse assemblages of multiple threatened and endangered species" for consideration for the fish outstandingly remarkable values and "irreplaceable populations and diverse, unique assemblages of multiple threatened and endangered species" for the wildlife outstandingly remarkable values (final EIS Table I-1 pp. I-10 to I-11, draft EIS Table 73 pp. 282-284). The additional criteria were added by the planning team as regionally significant criteria. The Gila National Forest specific fish and wildlife criteria do not limit the scope of the wild and scenic rivers study nor preclude the forest from studying the fish and wildlife values listed in the handbook. Instead, the Gila National Forest specific criteria compliment the handbook language. For example, the fish criteria in the handbook states that the forest unit should consider "wild stocks," while the forest places a special emphasis on "irreplaceable populations". The additional criteria do not preclude the forest from considering wild stocks, but the forest finds irreplaceable populations to be more meaningful within the region of comparison (FSH 1909.12.80.82.73a, final EIS Table I-1 pp. I-10 to I-11).

The record shows that the forest considered the factors required by the handbook, and the criteria was applied correctly to make eligibility findings for fish and wildlife outstandingly remarkable values. The determination that a river area does or does not contain one or more outstandingly remarkable values is a professional judgment on the part of the responsible official as informed by the interdisciplinary team, best available scientific information, and public participation (FSH 1909.12.82.73).

See Wild and Scenic Rivers Gila Trout Criteria for a discussion related to the Gila Trout Fish outstandingly remarkable values.

Gila Trout Criteria for Wild and Scenic River Evaluation

Objection Summary

The objector asserts that the Gila National Forest outstandingly remarkable value evaluation criteria are too restrictive for fish outstandingly remarkable value criteria, specifically for Gila trout. The Gila trout are rare on a national and regional scale and the Forest Service should have considered geographical and historical context when making eligibility decisions. They argue that the Forest Service did not adequately consider Gila trout's threatened status and did not comply with the Endangered Species Act to carry out programs for conservation of threatened and endangered species.

Objector's Proposed Remedies

The final land management plan and final EIS must be revised to comply with Section 7(a)(1) of the Endangered Species Act which explicitly directs all federal agencies to "utilize their authorities" to carry out "programs for the conservation of endangered species and threatened species."

Update the eligibility study to reflect that the following stream segments are eligible for inclusion in the National Wild and Scenic River System because the segments are free-flowing and possess at least one ORV: Apache Creek, Black Canyon Creek, East Fork Gila River, East Fork Mimbres River (McKnight Canyon), Gilita Creek, Indian Creek, Little Creek, Mogollon Box Gila River, Mogollon Creek, San Francisco River (Devil's Creek), Sapillo Creek, Taylor Creek, Turkey Creek, and West Fork Mogollon Creek.

Findings

I find that the process used by the Gila National Forest for developing and applying specific criteria for assessing fish, including Gila trout, outstandingly remarkable values is consistent with policy. The Gila National Forest-specific criteria was not too restrictive for Gila trout. The forest application of forest specific fish criteria along with the FSH criteria as it relates to Gila trout is sufficient and appropriate and the responsible official used their discretion properly in making determinations related to Gila trout outstandingly remarkable values. The plan is consistent with law, regulation, and policy.

Assessment

The Gila National Forest-specific criteria is in addition to the handbook criteria (draft EIS Table 73 pp. 282 to 284) which is the minimum threshold criteria for identifying outstandingly remarkable values; handbook criteria can be modified or added to by the unit to make the criteria more meaningful within the region of comparison (FSH 1909.12.80.82.73a). This clarification was lost between the draft EIS and final EIS though, which may have been a source of confusion.

The Gila National Forest-specific fish criteria place "special emphasis on" "irreplaceable populations, distinct lineages and diverse assemblages of multiple threatened and endangered species" (final EIS Table I-1 pp I-10- 11, draft EIS Table 73 pp. 282-284). This additional criterion was added by the planning team as regionally significant criteria. The Gila National Forest-specific fish criterion does not limit the scope of the wild and scenic river study or preclude the forest from studying the fish values listed in the handbook. Instead, the Gila National Forest-specific fish criterion compliments the handbook language.

The forest adequately considered the context surrounding the range of the Gila trout. In a note to Table I-1, the forest acknowledged that Gila trout are considered rare within the southwest and the nation, but there are several streams with Gila trout throughout the region of comparison (final EIS Vol. 3 Table I-1 pp. I-10 to I-11). The region of comparison is appropriate, and the forest's rationale is provided along with the map (final EIS Vol. 3 Figure I-4 p. I-7) of the region of comparison for fish. The region of comparison was chosen because it includes streams with similar habitat, species, species assemblages, and species not found "outside the area" for comparison, which is in line with the region of comparison guidance to establish a region of comparison that "encompasses similar type rivers" (FSH 1909.12.82.73, final EIS Vol. Figure I-4 p. I-7). The forest documents that within the region of comparison there are multiple streams with Gila trout, therefore Gila trout cannot be unique or rare within the region of comparison. The additional Gila National Forest-specific criteria emphasized the importance of distinct lineages as being more meaningful within the region of comparison (final EIS Vol. 3 Table I-1 pp. I-10 to

11). With those criteria, it was appropriate to find the five remaining relict Gila trout lineages as exemplary and are therefore outstandingly remarkable when compared to other streams within the region of comparison.

The forest considered the threatened status of the Gila trout in their decision to not find all Gila trout rivers eligible with a fish outstandingly remarkable value. It was appropriate to only find some of the streams with Gila trout eligible since there are multiple streams within the region of comparison with Gila trout and therefore only the most unique, rare, or exemplary can be found outstandingly remarkable. It was appropriate to only find some streams eligible under the 2015 guidelines for wild and scenic rivers eligibility studies and under the Wild and Scenic Rivers Act. The 2012 Planning Rule does not require forests to find eligible all rivers with threatened and endangered species; it does require plan components to contribute to their recovery (36 CFR 219.9(b)(1)). There are methods of conservation and recovery other than an eligibility finding that may be more appropriate in some circumstances. Similarly, the Endangered Species Act requires the agency to use their authority to conserve threatened and endangered species, but this does not mean that an eligibility finding is the most appropriate means of conservation, especially if it is not in line with the Wild and Scenic Rivers Act and 2015 directives to only identify the unique, rare, and exemplary rivers as eligible (16 USC 1536).

The additional Gila National Forest-specific criteria and the interdisciplinary team findings related to the Black Fire and changed circumstances are consistent (final EIS Vol. 3 p I-11 to I-12). After the Black Fire, the interdisciplinary team did not have enough information to determine if the Fish population outstandingly remarkable value still applied, but did determine that the Fish habitat outstandingly remarkable value still applied, and it was possible to recover the fish population outstandingly remarkable value (if it was really lost). The responsible official has the discretion to decide this (FSH 1909.12.82.73). The objection that the criterion limits outstandingly remarkable values to irreplaceable populations and is inconsistent with the interdisciplinary team finding of a fish habitat outstandingly remarkable value without a population and with the possibility to replace the population. Thus, the criteria did not exclude Fish habitat outstandingly remarkable values to be found. The criteria emphasized the importance of irreplaceable populations, while still allowing fish population outstandingly remarkable values to be found for replaced population, if any such outstandingly remarkable values exist on the Gila National Forest.

The record shows that the forest considered the factors required by the handbook for fish criteria and the broader context of the species. The determination that a river area does or does not contain one or more outstandingly remarkable values is a professional judgment on the part of the responsible official as informed by the Interdisciplinary team, best available scientific information, and public participation (FSH 1909.12.82.73).

See Wild and Scenic Rivers Fish and Wildlife Criteria for additional discussion regarding the Forest's development and application of Gila specific Fish criteria.

Recreation Criteria for Wild and Scenic River Evaluation

Objection Summary

Objectors contend that the recreation criteria were not applied correctly as all streams with fishing of endemic Gila trout are considered to have an outstandingly remarkable value so all streams containing Gila trout should be found eligible. Streams with multi-day rafting should also be found eligible.

Objector's Proposed Remedies

The objector requests that all stream segments containing Gila trout be found to have an outstandingly remarkable value for recreation. Find the few stream segments where multi-day rafting is possible, and especially where those segments that are considered particularly exceptional for multi-day rafting, to have outstandingly remarkable recreation values.

Update the eligibility study to reflect that the following stream segments are eligible for inclusion in the National Wild and Scenic River System because the segments are free-flowing and possess at least one ORV: Apache Creek, Black Canyon Creek, East Fork Gila River, East Fork Mimbres River (McKnight Canyon), Gilita Creek, Indian Creek, Little Creek, Mogollon Box Gila River, Mogollon Creek, San Francisco River (Devil's Creek), Sapillo Creek, Taylor Creek, Turkey Creek, and West Fork Mogollon Creek.

Findings

I find that the process used by the Gila National Forest for developing and applying specific criteria for assessing recreation outstandingly remarkable values is consistent with policy and the forest supervisor properly used their discretion in making determinations related to recreation outstandingly remarkable values. The project record shows that the forest appropriately applied the recreation criteria for all evaluations except Devil's Creek section of the San Francisco River which lacked appropriate documentation. See Wild and Scenic Eligibility 14 Streams for my instructions to address this deficiency.

Assessment

FSH 1909.12, chapter 80 discusses outstandingly remarkable values as significant when compared with similar values from other rivers at a regional or national scale and that unique, rare, or exemplary features are those that are conspicuous examples of these values, among the best representatives of these features, within a region or the nation (FSH 1909.12.83.73). The final EIS Vol. 3 appendix I outlines the forest's outstandingly remarkable values determination process.

The Gila National Forest-specific criteria for recreation states to "consider exceptional opportunities for… fishing for endemic species like Gila trout" (final EIS Table I-1 pp. 10-11). Although a river segment may contain Gila trout, it may not be found to be an outstandingly remarkable recreation value. The Gila National Forest-specific recreation criterion also includes consideration of "exceptional opportunities for… rafting" (final EIS Vol. 3 Table I-1 pp. I-10 to I-11). Although a river segment may contain rafting, it may not be found to be an outstandingly remarkable recreation value.

The record shows that the forest applied the recreation criteria appropriately. The determination that a river area does or does not contain one or more outstandingly remarkable values is a professional judgment on the part of the responsible official as informed by the Interdisciplinary team, best available scientific information, and public participation (FSH 1909.12.82.73).

See Wild and Scenic Rivers Eligibility 14 Streams for additional analysis related to the documentation for recreational Outstandingly remarkable value, including documentation related to the Devil's Creek section of the San Francisco River.

Other Outstandingly Remarkable Values

Objection Summary

The objector asserts that the Forest Service "failed to consider climate change adaptation, climate refugia values, and ecosystem services as potential Wild and Scenic Outstandingly Remarkable Values (ORVs)."

Objector's Proposed Remedies

The objector that "the Wild and Scenic eligibility process must be reopened, with renewed opportunities for public review and comment, to include specific screening of all candidate streams for potential Outstanding Remarkable Values in the context of climate change and ecosystem services in general, and in the context of specific information provided by Adaptation Partners."

Findings

I find that the planning record adequately addresses consideration of adaptation to long-term shifts in weather patterns and temperature, refugia from these shifts, and ecosystem services. They are not considered outstanding remarkable values as outlined in the Wild and Scenic Rivers Act, even when considering other similar values. The plan is consistent with law, regulation, and policy.

Assessment

The objector's opinion that some rivers would have outstandingly remarkable values that included adaptation to long-term shifts in weather patterns and temperature, refugia from these shifts, and ecosystems services is not supported by the Wild and Scenic Rivers Act nor agency policy, even when considering the 'other similar values' language of the Act.

Outstandingly remarkable values are articulated both in the Wild and Scenic Rivers Act (Section 1 and 2) and in agency policy for evaluating rivers (FSH 1909.12.82.73). In the final EIS Vol. 3 appendix I on page I-2 it states, "the river and its adjacent land area must have one or more outstandingly remarkable scenic, recreational, geologic, fish, wildlife, historic, cultural, or other similar value to be eligible for wild and scenic status. "Outstandingly remarkable" means the river-related value must be a unique, rare, or exemplary feature that is a conspicuous example or among the best representatives of that feature, within a region or the nation when compared to similar rivers."

See Wild and Scenic Rivers Eligibility 14 Streams for discussion regarding the consideration of changed circumstances.

RECREATION

Dispersed Recreation Use

Objection Summary

Objectors claim that the forest plan does not comply with the 2012 Planning Rule because the assessment and needs for change did not recognize the benefits of dispersed recreation which they

believe would help address impacts from concentrated use. They also assert that the plan did not acknowledge the movements of indigenous populations as a form of historic dispersed recreation.

Objector's Proposed Remedies

The forest should conduct a proper assessment and need for change in order to create objective directions.

Findings

I find that the Forest documented their consideration of current and future trends in dispersed recreation, including historic and cultural uses, and potential future impacts when determining the need for change related to sustainable recreation. Their assessment was used to inform the need for change which was used to inform development of issues and alternatives. The effects of the alternatives are adequately disclosed, and the responsible official provides a sufficient rationale to support their decision. None of the alternatives are expected to increase use, but external factors such as increased hunting or fishing could result in an increase. The forest plan provides sufficient direction for managing dispersed recreation in a sustainable manner, including addressing concerns regarding potential impacts to visitors and resources if dispersed recreation increases or becomes more concentrated in particular areas. The forest also continues to educate the public about closing gates after they pass through and where possible switching gates to cattle guards to reduce impacts from dispersed users leaving gates open. The plan is consistent with law, regulation, and policy.

Assessment

The Final Assessment Report of Ecological, Social, and Economic Sustainability Conditions and Trends chapter 17 contains a description of how indigenous communities historically occupied and used the Gila National Forest (pp. 660-708). The planning record shows that the forest considered current recreational use and trends as well as potential impacts from current and future use when developing the need for change. On page 538 of the Assessment, the forest describes the "noticeable trend of visitors shifting from utilizing developed sites to dispersed sites. A large percentage of dispersed site use is associated with hunting and utilization of backcountry areas including trail use. The risks associated with an increase of dispersed recreation use include resource damage within riparian areas due to concentrated recreation, increased litter, and the possibility of greater conflicts among visitors." The Assessment also describes the survey data demonstrating an increase in the number of visitors to the Forest utilizing dispersed recreation opportunities and notes potential resource damage due to high levels of use (p. 543). The Assessment further describes opportunities for dispersed recreation and current and future visitor use and trends across the Forest and how they were used to "determine potential future impacts of increased or decreased use to dispersed recreation sites" (pp. 543-545).

The draft ROD addresses social and economic sustainability and describes how the plan addresses recreation opportunities that balance developed and dispersed recreation commensurate with public interest, resource capacity, and other values and uses (p. 18).

The final EIS acknowledges that "dispersed recreation is the most popular form of recreation" on the Forest and that the plan provides a "continued emphasis on dispersed recreation in all the action alternatives." The [final] EIS discloses that none of the alternatives are expected to increase use, but

that “it may very well increase over time based on external factors such as number of hunting and fishing licenses or permits issued by the State of New Mexico (final EIS Vol. 1 p. 268).

The final forest plan acknowledges the importance of dispersed recreation to forest users by including Sustainable Recreation Desired Condition 11 (p. 222), Objectives 2 and 3 (p. 223) and Collaborative Sustainable Recreation Strategy and Relationships as a management approach (pp. 225-228). These plan components include direction for addressing impacts associated with areas where dispersed recreation has become concentrated.

Unclear Guidance on Motorized and Mechanized use of the Continental Divide National Scenic Trail

Objection Summary

Objectors contend that "significant details are missing regarding motorized and mechanized use of the [Continental Divide National Scenic Trail] in the Gila National Forest". The objector believes that, although the language regarding motorized and mechanized use on the Continental Divide National Scenic Trail is consistent with the Continental Divide National Scenic Trail Comprehensive Plan, it is unnecessarily confusing.

Objector’s Proposed Remedies

Ensure that the language used in the planning process accurately and clearly reflects section six of the Continental Divide National Scenic Trail Comprehensive Plan, which outlines the limited situations in which motorized and mechanized use of the Continental Divide National Scenic Trail is authorized.

Use the outdoor recreation and trails strategy development processes to consider opportunities to relocate motorized use off the Continental Divide National Scenic Trail or relocate the Continental Divide National Scenic Trail off of motorized routes.

Use the language presented in Section 5.b.2 of the Comprehensive Plan which states: "Bicycle use may be allowed on the CDNST (16 USC 1246(c)) if the use is consistent with the applicable land and resource management plan and will not substantially interfere with the nature and purposes of the CDNST."

Findings

I find that the forest plan clearly communicates under what circumstances motorized or mechanized use will be allowed on the Continental Divide National Scenic Trail and that it addresses the objector’s concern regarding relocation of the trail or motorized use routes to address those overlaps. The planning record shows compliance with Forest Service policy and is consistent with the Continental Divide National Scenic Trail Comprehensive Plan, including the intent to complete a unit-specific management plan. The planning record is consistent with law, regulation, and policy.

Assessment

According to FSM 2353.44(b)10, bicycle use may be allowed on the Continental Divide National Scenic Trail (16 USC 1246(c)), using the appropriate trail design standards, if the use is consistent with the

applicable Continental Divide National Scenic Trail unit plan and will not substantially interfere with the nature and purposes of the Continental Divide National Scenic Trail (FSM 2353.42).

The forest plan includes desired conditions, objectives, standards, and guidelines for the Continental Divide National Scenic Trail (pp. 257-259). These plan components align with the direction found in the Continental Divide National Scenic Trail Comprehensive Management Plan and provide for the nature and purposes of the trail as required by FSM 2353.44(b)1.

The forest plan clearly states that where there is overlap with motorized routes that existed prior to the trail's designation, either "the trail or the road or motorized trail should be realigned as soon as possible so that they are not co-located" (p. 256). The final EIS discloses that the "trail corridor currently makes occasional use of motorized routes as it passes through the forest, following open motorized trail for 2.4 miles and open motorized road for 30.9 miles. Motorized use within these shared rights-of-way is not in alignment with trail objectives and intended uses under the legal designation of the trail…. Ultimately, all segments of the trail will be realigned to avoid motorized routes, and progress continues to be made toward that objective" (p. 373).

Forest plan Management Approaches (p. 259) acknowledge that Forest Service policy requires "a forest-level master plan" to guide management and development associated with the trail (FSM 2353.44(b)2). The process to develop a unit plan, such as the outdoor recreation and trails strategy development process the objector mentions, would be conducted separate from the plan revision process and is not required by the planning regulations at 36 CFR 219.

The only change to mountain bike use that would result from implementation of the plan is a reduction in miles of trail available for use if Congress were to act on the forest's recommendations for wilderness designation (final EIS Vol. 1 pp. 376-377). More specific management direction regarding motorized or mechanized (mountain bike) use, including any prohibitions that aren't already addressed by law, policy, or regulation, would be considered during the development of the unit plan, and would include public engagement and disclosure of effects as required by the applicable NEPA process.

Length of Stay Limits - Continental Divide National Scenic Trail

Objection Summary

Objectors contend the length-of-stay limit established in the plan risks being inconsistent with the intent of guidelines established in the Continental Divide National Scenic Trail Comprehensive Plan. They contend that the newly proposed length-of-stay limit includes additional language that makes it much more restrictive, particularly the addition of the word "cumulative." Objectors argue that the plan creates conditions under which Continental Divide National Scenic Trail through-hikers who did not have an exception from the rule would need to complete the entire Gila National Forest portion of the Continental Divide National Scenic Trail in 14 nights or camp outside of the forest for any remaining nights. They believe that the "[t]wo primary justifications are offered for this length-of-stay limit, neither of which present any reason that [Continental Divide National Scenic Trail] through-hikers cannot be categorically excepted from this rule".

Objector's Proposed Remedies

The forest plan should be rewritten to exempt all Continental Divide National Scenic Trail through-hikers from the length-of-stay limits.

Findings and Instructions

Sustainable Recreation Standard 1 creates a default length-of-stay limit of 14 cumulative days within a 30-day period, with exemptions to be issued on a case-by-case by the forest supervisor or designee for users who meet a narrow set of criteria. However, enforceable length-of-stay limits may only be imposed through a forest order issued under 36 CFR 261 Subpart B. Any exemptions to this length of stay limit will be authorized by the order itself or a permit exempting a specific user from the order. Although this plan component is consistent with law, regulation, and policy, it is important to recognize that the Gila National Forest values the experience provided by through-hiking the CDNST (forest plan pp. 256-259). The Forest Service will work to ensure stay limits imposed by a forest order provide a mechanism so that CDNST through-hikers have adequate time to hike the section of trail that crosses the Gila National Forest.

I instruct the responsible official to clarify in the planning record that the forest intends to ensure the 14-day stay limit imposed by a forest order will provide a mechanism so that CDNST through-hikers have adequate time to hike the section of trail that crosses through the Gila National Forest.

Assessment

The final EIS, land management plan, and draft ROD cover the topic of exemptions from the 14-day stay limit included in Sustainable Recreation Standard 1. As written, through-hikers needing exemptions from this closure could be granted exemptions on a case-by-case basis if mitigation terms are accepted and high levels of proficiency of leave no trace ethics can be demonstrated. The land management plan component identifies the forest supervisor as the individual that can issue exemptions. However, as the footnote to this plan component notes, the length-of-stay limit can only be implemented through a forest order pursuant to 36 CFR 261 Subpart B. Forest plans do not directly regulate uses by the public (36 CFR 219.2(b)(2)). Thus, length-of-stay limitations (and exemptions thereto) must be detailed in, and implemented through a forest order. A forest order may exempt "persons with a permit specifically authorizing the otherwise prohibited act or omission" (36 CFR 261.50(e)(1)). Orders may also exempt any person "meeting exemption requirements specified in the order" (36 CFR 261.50(e)(6)).

Continental Divide National Scenic Trail Plan Components do not align with Continental Divide National Scenic Trail Comprehensive Plan

Objection Summary

Objectors contend that standards and objectives for the Continental Divide National Scenic Trail do not align with the intended nature and purposes of the Continental Divide National Scenic Trail as established in the Continental Divide National Scenic Trail Comprehensive Plan, guided by the National

Trails Act and request that the plan include language for 'no surface occupancy for oil, gas, or geothermal energy leasing in the CDNST corridor".

Objector's Proposed Remedies

The objectors propose specific rewrites to Standard 1 to capture that no surface occupancy for oil, gas, or geothermal energy or leasing occurs in the Continental Divide National Scenic Trail corridor. Additionally, the objectors propose standards be added to cement strict adherence to the 2009 Continental Divide National Scenic Trail Comprehensive Plan and best available science and to deconflict motorized routes and the Continental Divide National Scenic Trail on Gila National Forest in the next five years.

Findings

I find that the forest plan includes plan components applicable to nonrenewable energy and mineral development that are within Forest Service authority consistent with applicable laws and regulations, including the requirements of the 2012 Planning Rule (forest plan pp. 186-191). These components guide future leasing decisions and include Continental Divide National Scenic Trail Standard 1: "No surface occupancy for geothermal energy leasing activities will be authorized within the corridor" (forest plan p. 257). I find the plan is consistent with law, regulation, and policy.

Assessment

The role of the Comprehensive Management Plan in guiding management of the trail is clearly documented in the forest plan (p. 256) and the ROD (p. 40). The forest administers over 254 miles of the trail and manages it consistent with direction provided in the Continental Divide National Scenic Trail Comprehensive Plan (final EIS Vol. 1 p. 373). The analysis contained within the [final] EIS "assumes that management under all alternatives would be consistent with the Continental Divide National Scenic Trail's most current comprehensive management plan" (Vol. 1 p. 375) and the cumulative effects incorporates that "[t]he comprehensive plan is developed to guide management along the entire length of the trail and to protect and enhance the nature and purposes for which the trail was designated, reducing any negative cumulative effects" (Vol. 1 p. 378). The forest plan provides specific plan components to guide management of the trail (pp. 257-259).

The Continental Divide National Scenic Trail Comprehensive Plan does not prescribe a timeframe for relocating the trail only "it is expected the trail will eventually be relocated off of roads for its entire length (p. 3)." This is mirrored in the final EIS: "ultimately, all segments of the trail will be realigned to avoid motorized routes, and progress continues to be made toward that objective" (Vol. 1 p. 373). Although the forest sets an objective to restore or relocate at least 5 miles of the Continental Divide National Scenic Trail within 5 years of plan approval, and every 5-year period thereafter until desired conditions are achieved, more miles will be restored or relocated if resources are available to do so, until the need is met (final EIS Vol. 2 p. 277). The objective is based on what the forest finds implementable but does not prevent the forest from relocation of more miles of trail off motorized routes if resources are available.

The exploration for and production of oil and gas resources is generally allowed on National Forest System lands as required by the Mining and Minerals Policy Act of 1970 (30 USC 21a) unless the lands

have been withdrawn. The Secretary of the Interior has the general authority to make withdrawals (43 USC 1714). Congress can also pass legislation to withdraw lands. National Forest System lands that contain the Continental Divide National Scenic Trail corridor on the Gila National Forest have not been withdrawn.

Decisions to lease land are subject to valid existing rights, are regulated by 36 CFR 228, and must be consistent with the forest plan. An oil and gas leasing analysis would need to be completed to inform the appropriate level of NEPA decision to identify lands that are either open or closed to leasing (36 CFR 228.102). Leasing analyses are different in scope, proposed action, and level of detail as compared to a programmatic plan revision. The responsible official used their discretion in choosing not to include an oil and gas leasing availability analysis as part of forest plan revision. Companies have conducted test drilling and seismic analysis of the subsurface for non-renewable energy resources in various locations of the forest throughout the years. Currently, there are not any oil and gas exploration surveys or production or leases (active or pending) on the forest (final EIS Vol. 1 p. 334). Any future oil and gas leasing decisions would need to comply with NEPA, including having public engagement, and would need to be consistent with the forest plan.

The 2012 Planning Rule requires that the responsible official considered nonrenewable energy and mineral development when developing plan components (36 CFR 219.10(a)(2)). The forest plan includes plan components applicable to nonrenewable energy and mineral development that are within Forest Service authority consistent with applicable laws and regulations, including the requirements of the 2012 Planning Rule (forest plan pp. 186-191). These components guide future leasing decisions and include Continental Divide National Scenic Trail Standard 1: “No surface occupancy for geothermal energy leasing activities will be authorized within the corridor” (forest plan p. 257).

Continental Divide National Scenic Trail gap description is inadequate in Burro Mountains

Objection Summary

Objectors contend the description provided in the land management plan does not sufficiently describe the Continental Divide National Scenic Trail’s gap in the Burro Mountains or provide enough information to ensure that trail relocation will occur as planned in this area.

Objector’s Proposed Remedies

The plan should specifically cite and include the Continental Divide Trail Optimal Location Review document, to ensure these guidelines are utilized in the Burro Mountains reroute project. Objectors also requests that the proposed Continental Divide National Scenic Trail alignment that is marked on Figure 11 in appendix B of the land management plan should also be mentioned in the text of the land management plan, in order to facilitate US Forest Service acquisition of land or easements to achieve this relocation. In addition, the objectors suggest land acquisitions and rights-of-way need to be added to the Management Approaches for the Continental Divide National Scenic Trail.

Findings

I find that the forest plan and final EIS adequately describe the location and intention to address the gap in the Continental Divide National Scenic Trail through the Burro Mountains. The forest plan is clear in the intent to use the Continental Divide National Scenic Trail Comprehensive Management Plan for specific guidance on realigning or relocating trails to align with the desired conditions for the Continental Divide National Scenic Trail. The plan is consistent with law, regulation, and policy.

Assessment

The forest plan uses the Continental Divide National Scenic Trail Comprehensive Management Plan for guidance as it related to management of the scenic trail (p. 256). The forest plan specifically calls out the "gap between Burro Mountains segment of the trail and the rest of the forest" noting that it "remains an issue important to the Coalition and trail users" (p. 257). The forest plan Management Approaches acknowledge the desire to engage with private landowners through collaboration and cooperation noting that "forest leadership and staff continue to identify and pursue opportunities to acquire the necessary rights-of-way to address management issues, especially the gap between the Burro Mountains and the rest of the forest" (p. 259).

The forest plan lands that are not owned by the Forest Service that require a right-of-way cannot be described within the plan due to the level of uncertainty. The Continental Divide National Scenic Trail Comprehensive Management Plan provides clear guidance for the process of acquiring rights-of-ways through private lands.

The forest plan outlines that it will use the Continental Divide National Scenic Trail Comprehensive Management Plan for the overarching direction for management of the Continental Divide National Scenic Trail regarding the location of the trail itself and proposed deviations. The Continental Divide National Scenic Trail Comprehensive Management Plan outlines clear criteria for trail relocations and deviations. The public will have an opportunity to provide feedback on the process for identifying alternative locations for future trail relocations and the effects of the alternatives as required by project-specific NEPA. The Forest can consider using the optimal location review guide and other tools as part of that process.

The planning record demonstrates the forest's commitment to relocating the trail to non-motorized areas when and where applicable as described within the forest plan under the Continental Divide National Scenic Trail Desired Condition 3 (p. 257) and Guideline 1 (p. 258).

Burro Mountains – Recreation Opportunity Spectrum Classification

Objection Summary

Objectors allege that the recreation opportunity spectrum classification for the Burro Mountains as motorized is in conflict with the Continental Divide National Scenic Trail Comprehensive Management Plan. They contend that while maps of the Burro Mountains identify the recreation opportunity

spectrum class for the area as motorized, the Continental Divide National Scenic Trail in this area is not open to motorized use, a conflict that is not addressed or resolved in the land management plan.

Objector's Proposed Remedies

The objector proposes that if the Burro Mountains are designated as semi-primitive motorized on the recreation opportunity spectrum, special attention must be given to ensuring that the Continental Divide National Scenic Trail corridor in this area is managed to provide for the nature and purposes of the Continental Divide National Scenic Trail.

Findings

I find that the planning record adequately addresses the issue of incursions where the Continental Divide National Scenic Trail crosses through areas with recreation opportunity spectrum classifications of "semi-primitive motorized" in the Burro Mountains area as well as other areas on the forest and it provides clear guidance that is consistent with the Comprehensive Management Plan. The planning record is consistent with law, regulation, and policy.

Assessment

The objector contends that the recreation opportunity spectrum classification of "semi-primitive motorized" in the Burro Mountains area conflicts with the Continental Divide National Scenic Trail Comprehensive Management Plan direction to move segments of the trail to "primitive" or "semi-primitive non-motorized" areas. The forest plan Continental Divide National Scenic Trail Desired Condition 3 is that "[t]he corridor's setting is consistent with or complements a primitive or semi-primitive non-motorized setting." But goes on to acknowledge that "[t]he trail may intermittently pass through more developed settings to provide for a continuous route" (p. 257). The final EIS discloses that the trail corridor currently makes occasional use of motorized routes as it passes through the forest, following open motorized trail for 2.4 miles and open motorized road for 30.9 miles (p. 373). The final EIS goes on to acknowledge that the overlap in user groups "within these shared rights-of-way is not in alignment with trail objectives and intended uses under the legal designation of the trail. Public comments received have expressed concern that motorized use is incompatible with National Scenic Trail objectives, and detrimental to experiences of hikers and horseback riders. Specific areas identified included the Burro Mountains" and that [u]ltimately, all segments of the trail will be realigned to avoid motorized routes". In order to move the trail towards desired conditions, the Forest Plan includes Objective 1 which is to [r]estore or relocate at least 5 miles of the Continental Divide National Scenic Trail within 5 years of plan approval, and every 5-year period thereafter until desired conditions are achieved. Standard 3 addresses future trail construction by requiring that "[m]otorized uses … not be authorized on newly constructed segments (p. 258). Guideline 1 provides that "[t]o retain or promote the character for which the trail was designated, new or relocated trail segments should be located primarily within settings consistent with or complementing primitive or semi-primitive non-motorized recreation opportunity spectrum classes. Road and motorized trail crossings and other signs of modern development should be avoided to the extent possible" (p.258).

The responsible official acknowledges the role of the 2009 Continental Divide National Scenic Trail Comprehensive Management Plan in providing management direction within the corridor of the

Continental Divide National Scenic Trail, as required by the National Tails System Act, in the ROD, noting that the forest plan is consistent with the Continental Divide National Scenic Trail Comprehensive Management Plan (ROD p. 40).

See Recreation Continental Divide National Scenic Trail Plan Components do not align with Continental Divide National Scenic Trail Comprehensive Management Plan for a more detailed discussion on the forest's commitment to use the comprehensive management plan for guidance.

See Recreation Unclear Guidance on Motorized and Mechanized use Continental Divide National Scenic Trail for additional discussion regarding how motorized and mechanized use is addressed in the forest plan.

TRANSPORTATION AND TRAVEL MANAGEMENT

Forest Plan Components for Roads

Objection Summary

The objectors contend that forest plan lacks plan components for roads that comply with the 2012 Planning Rule and Forest Service directives that align standards and guidelines that aim to make the road system resilient and more sustainable. Additionally, one objector is concerned that the response to comments (final EIS Vol. 2 p. A-238) regarding the need for additional plan components was not adequately addressed because although Roads Objective 1 and Roads Desired Condition 6 were added, these components do not address the overall concern for complying with the 2012 Planning Rule and Forest Service directives.

Objector's Proposed Remedies

None provided.

Findings

The planning record clearly shows that the responsible official included integrated plan components to help maintain or improve desired resource conditions that could be impacted by roads as required by the 2012 Planning Rule and guided by policy. The plan is consistent with applicable law, regulation, and policy.

Assessment

Land management plan components work together to provide for ecological sustainability and contribute to social and economic sustainability in the plan area as well as the broader landscape. The integration of plan components means that all plan components work together toward achieving or maintaining desired conditions (FSH 1909.12.22).

The ROD indicates that roads and infrastructure management related to riparian areas, wildlife, fish, and plants was an issue identified during public engagement that drove the development of alternatives (p. 8). The land management plan Roads Objective 1, Desired Conditions 4, 5, and 6, Standards 1, 2, and 3, and Guidelines 1-6 address management of the roads system, including resource concerns related to

potential impacts. As required by FSH 1909.12.23, these plan components are integrated in that they work towards achieving or maintaining desired conditions of other resources, such as Watersheds (pp. 108-109), Soils (pp. 100-101), Riparian and Aquatic Ecosystems (pp. 115-118), Wildlife, Fish, and Plants (pp. 132-133). These other resources include a number of corresponding objectives, standards, and/or guidelines that directly or indirectly address management of roads and are consistent with the roads plan components as required by policy.

The response to comments indicates that the "plan includes components to support future project-level decisions and that allow for management of designated roads (those included on the motor vehicle use map) and unneeded roads." Roads Objective 1 helps "meet the minimum road system identified in the 2014 travel management decision, including project-level adjustments that might be made in the future" and Roads Desired Condition 6 was added to provide direction related to vulnerability assessments and a transportation system that is resilient to extreme weather events. The forest also added Roads Guideline 5 "requiring temporary roads to be restored to more natural vegetative conditions upon project completion. While no new road construction is proposed as part of the revised forest plan, prohibiting new road construction in the plan would restrict the ability of the agency to fulfill its mission" (p. A-238). The plan components allow for management of all National Forest System roads, including maintenance level 1 and administrative maintenance level 2 roads that are not included on the motor vehicle use map.

Specific information on the minimum road system is found in the forest travel analysis process, which informs analysis and decisions that are completed during Transportation and Travel Management Planning (Gila Travel Management Plan, 2014). According to the final EIS, "Potential effects associated with the existing transportation system are anticipated under all alternatives and those effects were analyzed as part of the travel management decision-making process (USDA Forest Service 2014a and USDA Forest Service 2014b)" (p. 135).

The effects of implementing plan components designed to reduce impacts from the roads on other resources and to make the road system more sustainable and resilient are disclosed in the final EIS under Roads (pp. 311-315) as well as resource topics including soil and watershed, riparian and aquatic ecosystems, and wildlife, fish, and plants. The Soil and Watersheds section of the final EIS discloses that "all alternatives contain the same set of desired conditions and an objective for decommissioning roads identified as unneeded. However, progress toward those desired conditions through road maintenance is driven by budget and staffing, which is outside the scope of the forest plan. The repairs and maintenance will help mitigate negative impacts to soil and watershed conditions caused by the transportation system" (final EIS Vol. 1 p. 135). The Roads section of the final EIS states "all alternatives strive for a forest road system that is well planned, managed, and maintained, so as not to harm ecological integrity or cultural resources and allow for continued enjoyment and use of the forest by many user groups. Through project-level environmental planning and analysis, unneeded roads are closed to motor vehicle use and naturalized to reduce impacts to ecological resources, especially watersheds, wildlife and fish habitat, and soil erosion. Construction of new roads is minimized in riparian areas" (p. 311). In the rationale for their decision, the responsible official indicates that the land management plan "provides for sustainably designed, well-marked, and well-maintained roads and trails

that provide safe and reasonable access for public travel, recreation uses, traditional and cultural uses, and management activities" (ROD p. 18).

See Transportation and Travel Management Minimum Road System for a more detailed discussion related to the differences between travel management planning requirements and forest planning requirements as it relates to travel management.

Plan Direction for Temporary Roads

Objection Summary

The objector claims that forest plan direction for temporary roads is inadequate and inconsistent. They contend that plan guidelines do not sufficiently and consistently ensure that temporary roads will be obliterated after use.

More specifically, Wildlife, Fish, and Rare Plant Standard 2 (forest plan p. 133), Roads Guideline 4 (forest plan p. 212) is inadequate because closures do not go far enough to prevent use because they do not require temporary roads to be obliterated within three years after construction. They also argue that it is unclear what the term "naturalize" means. They also assert a lack of consistency in how temporary roads are addressed in Roads Guideline 4, Roads Guideline 5 (forest plan p. 213), and Riparian Management Zone Guideline 1 (forest plan p. 119).

Objector's Proposed Remedies

Address the revised plan inconsistencies regarding standards and guidelines related to the removal of temporary roads by clarifying what is meant by "naturalize" or simply strike it to make clear that temporary roads should be obliterated and any engineered components removed. Include guidelines like riparian management zones Guideline 1 (p. 119) for temporary roads, and clarify that all temporary roads will be obliterated within three years after construction.

Findings and Instructions

I find that the plan components use inconsistent language for how temporary roads will be decommissioned (Roads Guidelines 4 and 5 and Wildlife, Fish and Plants Standard 2). Additionally, I find that the intent of Riparian Management Zone Guideline 1 is unclear regarding its application to temporary roads and the plan would benefit from additional clarity to show consistency with decommissioning of temporary roads as provided for in FSM 7701.1 in compliance with NFMA.

I instruct the responsible official to clarify the language in Wildlife, Fish, and Plants Standard 2, and Roads Guidelines 4 and 5 describing the decommissioning of temporary roads once they are no longer needed to ensure consistency and communicate intent. Change "developed" to "constructed" in regard to temporary roads and change "closed" to "decommissioned" as Forest Service policy defines closed roads as maintenance level 1 roads. Clarify the intent of Riparian Management Zone Guideline 1 so that it is clear this guideline is intended to include temporary roads.

Assessment

Temporary roads are constructed for project activities and are decommissioned at the completion of the project activity. Activities where temporary roads are constructed may have time frames that extend beyond three years, the temporary roads could be developed in sensitive areas for restoration purposes, and decommissioning of the temporary roads could include complete landscape restoration.

Forest Service policy requires revegetation of temporary roads authorized under a contract, permit, lease, or other written authorization within 10 years of termination of the written authorization (FSM 7701.1). The level of treatment for road decommissioning depends on the project specific management prescriptions identified in planning and decision documents. A variety of treatments can be used to decommission a road, including blocking the road, revegetating the road surface, restoring surface drainage, removing crossing structures and fills, mitigating road surface compaction, re-establishing drainageways, removing unstable road embankments, and recontouring the surface to restore natural slopes. One or more treatments are applied to decommission a road depending on resource objectives and cost (National Core Best Management Practices Technical Guide Vol. 1 p. 115).

Watershed Standard 1 (forest plan p. 110) and Riparian/Aquatic Ecosystems Standard 1 (forest plan p. 119) address temporary roads and other actions by requiring that "Decision's authorizing uses and activities in riparian management zones must provide preferential consideration to riparian and aquatic resources. Project-specific best management practices will be developed, identified in the proposed action, and followed as the principal mechanism for demonstrating preferential consideration and controlling nonpoint source pollutants to protect beneficial uses and riparian and aquatic ecosystem values" (forest plan pp. 110, 119). Best management practices are site- and project-specific methods or measures to prevent or mitigate potential adverse impacts to environmental quality, especially water quality. They include protection measures to address potential detrimental changes in water temperatures, blockages of water courses, deposits of sediment in streams, streambanks, shorelines, lakes, wetlands, and other bodies of water that are likely to affect water quality or aquatic habitat seriously and adversely (forest plan p. 102).

The National Core Best Management Practices Technical Guide directs that temporary roads be "decommissioned and the area returned to resource production after the access is no longer needed" (p. 114). Road Storage and Decommissioning Road-6 provide additional direct "to obliterate the temporary road and return the area to resource production after the access is no longer needed" (p. 115-117).

As noted by the objector, Riparian Management Zone Guideline 1 addresses "new construction or realignment of roads and motorized routes" but it does not specifically mention temporary roads and it is not clear if temporary roads are intended to be addressed by this guideline.

Decommissioning of temporary roads is addressed by Roads Guideline 4 and 5 and Wildlife, Fish, and Rare Plant Standard 2. Roads Guideline 4 provides direction to avoid constructing temporary roads in Semi-Primitive Non-Motorized designated areas unless required by valid permitted activity or management action (p. 212). This guideline specifies that, "if authorized, roads should be constructed and maintained at the lowest maintenance level needed for the intended use and then obliterated or naturalized when the permitted activity or management action is completed" (p. 212). Roads Guideline

5 states that “temporary roads that support adaptation and restoration activities, fuels management, or other projects should be restored to more natural vegetative conditions upon project completion to assist in moving toward desired conditions for watersheds and habitats and to discourage illegal motorized use” (p. 213). Wildlife, Fish, and Rare Plant Standard 2 provides that “…temporary motorized routes are closed when no longer needed” (p. 133). It is not clear why the Standard 2, Guideline 4, and Guideline 5 use inconsistent terminology. Additionally, “closed” roads are not the same as decommissioned roads.

Motorized Route Density Consideration

Objection Summary

The objector alleges that the Forest Service failed to consider and adopt an alternative that establishes motorized route density standards. They argue that these standards would improve the Watershed Condition Framework attribute rankings over time. Objectors also assert that the forest failed to include mass wasting as an attribute for the Watershed Condition Framework Road and trail indicators; failed to disclose actual attribute scores for each subbasin including actual road densities; and failed to provide a list of sub watersheds that have impaired or functioning at risk rankings with respect to road density or proximity of water. Objectors further argue that the final EIS failed to disclose and consider the environmental consequences of a "deferred maintenance backlog” and maintenance level 1 roads.

Objector’s Proposed Remedies

Supplement the final EIS analysis with an alternative that considers appropriate motorized route densities and include those densities as standards in the final revised plan. Provide a revised plan that will improve the watershed attribute rankings by reducing road densities particularly where the watershed attribute ranking is listed as "poor".

Findings

I find that the responsible official properly documented their rationale for considering but not fully analyzing a roads density standard. Road densities and roads with mass wasting are not a specific requirement of forest plans and can be addressed at the project level or in revised travel analysis in the future. The planning record shows the forest disclosed and considered the effects of miles of road by all maintenance levels, noting that the miles of roads by maintenance level was updated following implementation of the 2014 Travel Management Plan. The planning record shows an adequate consideration of the impacts from implementing the plan, including plan components designed to reduce impacts from roads on other resources, at the proper programmatic level. The plan is consistent with applicable law, regulation, and policy.

Assessment

Road densities and roads with mass wasting are addressed at the project level and within the Travel Analysis Process report (Subpart A, Travel Management Rule). They were considered in the Travel Analysis Process report as part of the Travel Management process, Subpart A (36 CFR 212 Subpart A) which was completed by the forest in 2009 and revised in 2010. The forest completed their travel management analyses (36 CFR 212 Subpart B) in 2014. Issues related to the 2009/2010 minimum road

strategy process and the 2014 travel management decision are outside the scope of the Gila National Forest's land management plan revision process (FSH 1909.12). As noted in the response to comments, the "plan includes components to support future project-level decisions and that allow for management of designated roads (those included on the motor vehicle use map) and unneeded roads" (p. A-238). The forest plan also documents that it complies with 36 CFR 221 Travel Management Planning (forest plan p. 325) and the draft ROD provides additional clarity regarding the land management plan's compliance with the Travel Management Rule (draft ROD pp. 40-41).

A road density standard was an alternative considered but not carried forward in the plan, however, the plan references indicators in the Watershed Condition Classification Technical Guide, 2010 (including mass wasting and road density) to manage to the watershed condition class. Watershed condition classes and road density are identified in the 2009 Travel Analysis Process report. The final EIS provides the rationale for not analyzing this alternative, noting that "while road density measures may be useful condition indicators, they make poor management standards." The rationale provides additional justification, including that road densities and their effects on species, habitats and watersheds were addressed by the 2014 travel management decision (USDA FS 2014a) and its supporting environmental analysis (USDA FS 2014b), which were incorporated into the project record for plan revision." They also note that "While minimizing new roads and decommissioning unneeded roads is desirable, managing toward a specific road density would be arbitrary and would not meet the purpose and need to revise the forest plan" (p. 17).

The record shows the planning team considered the effects of the road network on natural resources and the plan includes components that work towards addressing them which were responsive to comments. For example, a desired condition for a transportation network that is resilient to extreme weather events (forest plan p. 221, Roads Desired Condition 6), and a discussion about a transportation and facilities vulnerability assessment and adaptation options in the management approach change and uncertainty, have been added to the final plan in response to the objector's previous comments. The management approach describes how the plan addresses the transportation network's resistance, resilience, and realignment to future conditions. Land management plan direction related to mitigating the impacts of the road system on watersheds, water resources, species, and habitat are likewise referenced in the Natural Systems subsection of this same management approach. Corresponding analysis has been added to the Soil and Water Resources, Riparian and Aquatic Ecosystems, and Wildlife, Fish, and Plants sections of the final EIS. Minimum Required Monitoring includes indicators for road density (forest plan p. 274). Road Objective 1 states, "decommission at least 50 miles of closed roads every 10-year period until the need has been met" (forest plan p. 212). This objective will indirectly reduce road density. The Water Quality section of the forest plan includes Desired Condition 2 (p. 109) to address road densities in a manner that benefits fish and other water quality dependent species.

The Affected Environment description for roads in the final EIS discloses an "estimate of the current deferred maintenance for system roads in the Gila National Forest is $272,265,429" (p. 310). The forest plan includes Roads Guideline 6 that emphasizes reconstruction and rehabilitation of existing roads over constructing new roads (p. 213), with the intent to "decrease the effects associated with new road construction such as changes to surface water flow paths and quantities, loss of vegetation, soil

disturbance and compaction, and wildlife displacement and habitat fragmentation", noting that "emphasis on existing roads over new road construction would also help moderate the deferred maintenance backlog by minimizing additions to the transportation system, which the forest already struggles to maintain" (final EIS Vol. 1 p. 314). See Transportation and Travel Management Forest Plan Components for Roads for additional information regarding consideration of the effects of implementing the plan components designed to reduce impacts from the roads on other resources and to make the road system more sustainable and resilient.

The final EIS includes the assumption that "all management actions and permitted uses will be designed and carried out in compliance with the approved plan direction. Compliance with the plan is a necessary assumption that keeps the analysis focused and relevant to the decisions to be made, which are the plan's desired conditions, objectives, standards, and guidelines. Non-compliance of any kind is an implementation issue, not a planning or analysis issue" (p. 35).

The Affected Environment description for roads in the final EIS discloses the number of miles of roads by maintenance level 2 – 5 in Table 66 (p. 309). Miles of maintenance level 1 roads are also disclosed "roads not selected as part of the designated public system can be used administratively or by written authorization (329 miles), be stored (908 miles) for future use…" The plan notes that the "future needs of these stored roads will be evaluated during future project planning" (p. 319). They also note that working with the local county agencies to "clarify jurisdictional issues associated with roads passing through the Gila National Forest" resulted in "a transfer of nearly 400 miles of National Forest System roads to Catron and Grant Counties" (p. 309). This information is also provided in the forest plan noting the data is based on the most current motor vehicle use map (2023) (p. 211).

The revised land management plan is a programmatic level plan that does not directly authorize ground disturbing activities or projects. Future projects will be consistent with the plan and subject to additional site-specific public involvement, environmental analysis, and pre-decisional review processes in compliance with the NEPA, as amended [Public Law 91–190]. This would include any changes related to travel management. The programmatic review conducted in the final EIS for the forest plan addresses analyses of 'broad actions', consistent with NEPA.

Failure to Take a Hard Look at Road Systems

Objection Summary

Objectors contend the final EIS failed to take a hard look at the road systems and their effects under all alternatives. They contend the plan's intent to retain existing roads, both system and non-system, fails to maintain the roadless character in each inventoried roadless area and that the final EIS does not disclose how system and unauthorized roads affect inventoried roadless area characteristics.

Objector's Proposed Remedies

Supplement the final EIS with sufficient analysis including more detailed discussion of the Watershed Condition Framework's Road and Trail Indicator and each attribute ranking for all sub-watersheds across the Gila National Forest, especially road densities.

Disclose the miles and types of roads within Inventoried Roadless Areas, and how they affect roadless characteristics.

Findings

I find that the plan is consistent with the 2001 Roadless Area Conservation Rule and provides adequate plan components and content for managing areas identified by this rule. The planning record adequately addresses the objector's issue, and the plan is consistent with applicable law, regulation, and policy.

Assessment

The land management plan includes plan components and content that provide direction for managing areas identified by the 2001 Roadless Area Conservation Rule (pp. 248-250). For example, Roadless Areas Desired Conditions 1 states "The roadless characteristics of all inventoried roadless areas identified by the 2001 Roadless Area Conservation Rule are maintained or enhanced" (p. 249). Standard 1 that directs "All management activities conducted within inventoried roadless areas must maintain or improve roadless characteristics" (p. 250). A management approach specifically addresses road decommissioning stating that "when developing the proposed action and alternatives for a project, forest leadership and staff consider incorporating decommissioning of roads within the within inventoried roadless areas, while involving affected stakeholders" (p. 250).

The 2001 Roadless Area Conservation Rule itself provides for specific prohibitions and exceptions to road building and maintenance (36 CFR 294.12). In some cases, road construction and maintenance may be necessary and allowable and land management plan components that would strictly prohibit or require decommissioning of roads would not be appropriate. The forest plan discusses the process for gaining approval when needed (p. 249) and any approval would need to be consistent with project level NEPA.

Minimum Road System

Objection Summary

Objectors assert that the responsible official violated the Travel Management Rule, Subpart A at 36 CFR 212.5(b) - Minimum Road System by using a faulty and out of date travel management plan decision that includes an ecologically and economically unsustainable road system. They argue that the responsible official failed "to sufficiently consider, analyze, or include forest plan components that provide for an ecologically and economically sustainable forest road system". They also assert that the intent of Roads Objective 1 (forest plan p. 212) is unclear as to the need that is trying to be met is to bring the road system into alignment with agency budgets to reduce impacts to ecological and cultural resources, or to implement an undisclosed minimum road system.

Objector's Proposed Remedies

Acknowledge that the Gila National Forest has yet to comply with subpart A of the Travel Management Rule and include specific road objectives to identify the minimum road system within three years of plan adoption and implement the minimum road system over the life of the plan.

Supplement the final EIS analysis with an alternative that considers appropriate motorized route densities and include those densities as standards in the final Plan.

Findings

I find that the forest completed a minimum road system analysis and has a valid travel management decision that was completed prior to forest plan revision under 36 CFR 212. Travel management planning is not required under 36 CFR 219 as part of forest plan revision. I find that the forest plan includes components that adequately address potential for resource degradation related to the road system, and the planning record is consistent with law, regulation, and policy.

Assessment

Travel management planning is a separate process regulated by 36 CFR 212 and is not required to be completed as part of the land management plan revision process regulated by 36 CFR 219. Travel analysis may be used to inform land management planning when necessary to address issues relating to the forest transportation system (FSM 7712.2). Land management plans contain desired conditions, objectives, and guidelines and identify suitability of areas for various uses (FSM 1920) that inform future travel management planning. The draft ROD states that "Travel management decisions are best made on a case-by-case basis, taking into consideration site-specific factors, multiple-use management, and desired conditions as described in the final [land management plan]. However, the final [land management plan] does provide direction for future transportation system decisions, including avoidance areas for new road construction and an objective for decommissioning closed roads and temporary roads" (draft ROD p. 18).

The objector takes issue with the minimum road strategy (36 CFR 212 Subpart A) completed in 2009 and revised in 2010 and the travel management decision completed in 2014 (36 CFR 212 Subpart B, 2014 NEPA decision). The minimum road strategy completed under 36 CFR Subpart A is not a NEPA process and has no 36 CFR 220 requirements. The 2014 Travel Management Plan has not been found faulty, and the decision is valid. Issues related to the 2009/2010 minimum road strategy process and the 2014 travel management decision are outside the scope of the Gila's land management plan revision process (FSH 1909.12).

The planning team considered the effects of the road system on natural resources, and the plan includes components that work towards addressing these effects. This includes Roads Desired Condition 6 which established a desired condition for a transportation network that is resilient to extreme weather events (p. 212), and a discussion about a transportation and facilities vulnerability assessment and adaptation options in the management approach (pp. 213-214). A section on change and uncertainty (pp. 23-43) has been added to the final plan in response to comments. This section includes a description on how the plan addresses the transportation network's resistance, resilience, and realignment to future conditions (p. 36). Plan direction related to mitigating the impacts of the road system on watersheds, water resources, species and habitat are likewise referenced in the Natural Systems (pp. 27-35) subsection of this same management approach. Corresponding analysis is included in the Soil and Water Resources, Riparian and Aquatic Ecosystems, and Wildlife, Fish, and Plants sections of the final EIS (Vol. 1 pp. 23-43).

WATERSHED, RIPARIAN, AND WATER QUALITY

Seeps & Springs

Objection Summary

An objector contends that the land management plan fails to include a methodology for inventorying, assessing, and protecting seeps and springs, which are crucial habitat for "many endemic aquatic species, including the New Mexico hot springsnail (*Pyrgulopsis thermalis*) and the Gila springsnail (*Pyrgulopsis gilae*), found in the Gila National Forest."

Objector's Proposed Remedies

Springs and seeps, such as those where endemic species are found, should be inventoried, assessed, and protected.

Findings

I find that the planning record addresses the objector's concern related to springs and seeps and the species that depend on them and that plan components to protect springs and seeps are sufficient. The forest plan includes a management approach that acknowledges the limitations of remote sensing products, and the desire to complete more inventory and monitoring of springs and seeps as funding and partnerships allow. They also acknowledge that, because of financial and staffing constraints, most of this work is likely to take place during project-level activities. The plan is consistent with applicable law, regulation, and policy.

Assessment

The assessment identified an information need for better inventory of springs and seeps that was carried forward as a need for change (final EIS Vol. 1 p. 5). The final EIS also disclosed that the forest does not have a detailed inventory of springs and seeps; the National Hydrography Dataset and National Wetlands Inventory was used as the best available information (final EIS Vol. 1 p. 128). Springs and seeps are defined as groundwater-dependent ecosystems in the forest plan for which Riparian Management Zone plan components were developed. Land management plan components that protect springs and seeps include Riparian Management Zone 6th level watershed scale Desired Conditions 8, which communicates the desired distribution and health of riparian, wetland, and aquatic communities (forest plan pp. 117-118). Riparian Management Zone Desired Condition 3 documents the forest's desire to inventory and assess "[t]he location, characteristics, and condition of all riparian management zones" (forest plan p. 118). Riparian Management Zone Standard 1 protects springs and seeps by directing that "[d]ecision's authorizing uses and activities in riparian management zones must provide preferential consideration to riparian and aquatic resources. Project-specific best management practices will be developed, identified in the proposed action, and followed as the principal mechanism for demonstrating preferential consideration and controlling nonpoint source pollutants to protect beneficial uses and riparian and aquatic ecosystem values" (forest plan p. 119). Riparian Management Zone Guideline 5 also affords springs and seeps protection by directing that "New or reconstructed

spring developments should be designed to maintain or restore ecological conditions and functions for the dependent ecosystems and maintain water quality and quantity" (forest plan p. 119).

The forest plan also includes a management approach to inventory springs and seeps as part of the project planning and analysis process. Specifically, Riparian Management Zone Management Approaches Inventory, Monitoring, and Relationships states that "[w]hile remote sensing products derived from satellite data, like the National Inventory of Wetlands, are providing more and better information on the location and some characteristics or conditions of riparian and aquatic ecosystems, they cannot substitute for field-based inventory and monitoring data. This is especially true in the Southwest, where the widths of many stream systems and the size of springs and seeps are often too small to be captured at the product scales commonly available. With limited staff and financial resources to conduct field-based inventory and monitoring, most of the fieldwork that has been completed was associated with project-level activities. Forest leadership and staff seek opportunities to engage partners and volunteers in multi-party inventory and monitoring efforts to accomplish this important work" (forest plan p. 120).

The forest plan (p. 113) recognizes that riparian and aquatic ecosystems provide essential habitat for wildlife and aquatic species including New Mexico hot springsnail (*Pyrgulopsis thermalis*) and the Gila springsnail (*Pyrgulopsis gilae*), both of which are species of conservation concern for the Gila National Forest. The draft ROD discloses that the forest plan includes course- and fine-scale components for species of conservation concern (draft ROD p. 25). A crosswalk between coarse- and fine-filter plan components for at risk species, including these snails, is provided in appendix G of the final EIS (Vol. 3 pp. G-27 to G-29).

Watershed Management Desired Conditions and Needs for Change

Objection Summary

The objector contends that their previous comments on needs for change and desired conditions related to watershed management were not adequately addressed in the final plan. They requested a desired condition for water impoundments and requested a need for change to address flood protection.

Objector's Proposed Remedies

The forest should conduct a proper assessment and need for change in order to create objective directions.

Findings

Although the need to change does not incorporate the objector's specific language, I find that the planning record shows the objectors' concerns related to flood protection, water accessibility, and soil erosion are addressed by plan components, and the effects of the plan components were adequately addressed in the final EIS and draft ROD. The plan is consistent with applicable law, regulation, and policy.

Assessment

The public had an opportunity to comment on the draft assessment and public comments were considered by the forest during identification of the need to change and development of plan components and content. Although the need for change did not include statements exactly as the objector requests, water availability, flooding, and erosion were considered and need for change statements were included for Soil, Watershed, Riparian Ecosystems and Water Resources that address the need to control soil erosion and address flood protection and long-term water availability (forest plan pp. 9-11)

The forest plan includes plan components that address the identified needs to change including Soils Desired Conditions 1a, and d (forest plan pp. 100-101) that address the need for erosion control, including resiliency to extreme weather events and flooding.

The forest plan includes Soils Objective 2 to measure progress towards the desired condition of reduced erosion through stabilized soils (forest plan p. 101).

The forest plan also includes desired conditions for watersheds, aquatic and riparian ecosystems, and water use, including downstream flood protection, sediment control, and water availability (forest plan pp. 108-109, 117, 179), as well as a water use management approach (forest plan p. 180).

Additional plan components that are responsive to flooding and erosion control include Roads Desired Condition 6 (p. 211), Facilities Standard 2 (p. 215), and Sustainable Recreation Standard 2 (p. 223).

The effects of implementing these plan components are disclosed in the final EIS sections for Soil and Watershed Resources (final EIS pp. 130-145) and Riparian and Aquatic Ecosystems (final EIS pp. 148-160). The responsible official's decision and rationale to select modified Alternative 2 includes their finding that "[t]he final [land management plan] carries forward the Forest Service's commitment to manage for healthy watersheds that benefit communities and the integrity of ecosystems. The final [land management plan] includes watershed management direction that will…[r]educe the threat of flood damage to Forest Service infrastructure and downstream values" (draft ROD p. 15).

Riparian Habitat Protection

Objection Summary

An objector proposed several recommendations to strengthen measures taken to benefit New Mexico wildlife and their riparian habitat within the Gila National Forest.

Objector's Proposed Remedies

Add the following guideline under Livestock Grazing "Livestock grazing management strategies, such as deferred or rotational grazing and resting riparian areas that are severely degraded, should be implemented to promote the proper functioning condition of riparian habitats as outlined in the desired conditions portion of the Riparian and Aquatic Ecosystems section (pp. 115-118) of the [land management plan]."

Findings

I find that the objector's concerns regarding management of livestock grazing to protect riparian areas from severe degradation and to allow those areas to move towards desired conditions is adequately addressed in the planning record. The plan is consistent with applicable law, regulation, and policy.

Assessment

The land management plan includes standards, guidelines and management approaches to maintain and move riparian areas towards desired conditions. Consistent with Aquatic and Riparian Ecosystems Guideline 4, all projects and activities within riparian management zones will have project-specific actions and best management practices to move riparian areas towards desired conditions (final plan p. 119). Additionally, Livestock Grazing Standard 1 requires the use of best management practices to mitigate impacts to soil, water, riparian, and aquatic resources (final plan p. 194).

Land management plan components work together to provide for ecological sustainability and contribute to social and economic sustainability in the plan area as well as the broader landscape. The integration of plan components means that all plan components work together toward achieving or maintaining desired conditions (FSH 1909.12.22). Livestock Grazing Standard 1 provides that "*Annual operating instructions should address ecological resources such as native plant communities, at-risk species, soils, riparian health, and water quality, if they are departed from desired conditions, as determined by data that are relevant to the allotment and the current management system"* (final plan p. 195). This standard speaks to the objector's desires to avoid further impacts to degraded riparian areas that are departed from desired conditions.

Livestock Grazing management approaches also articulate strategies to cooperatively develop adaptation measures to enable degraded riparian areas to move towards desired conditions (final plan pp. 197–200). Consultation with the US Fish and Wildlife Services for activities in riparian critical habitat could result in additional adaptation measures for livestock grazing permits, allotment management plans and annual operating instructions.

In the draft ROD, the responsible official rationale notes that "the preferred alternative most effectively integrates management strategies and guidance that "1. Is responsive to the issues, concerns, and opportunities expressed by state, local and tribal governments, the public, and other federal agencies. It addresses all 10 of the issues identified in the final EIS, including: … (ii) livestock grazing management, including management of vacant allotments…" (draft ROD p. 12).

See Range Monitoring and Adaptive Management for Grazing for a discussion regarding monitoring, utilization, and use of Allotment Management Plan and Annual Operating Instructions to manage cattle grazing.

Livestock Grazing Impacts on Water Quality

Objection Summary

Objectors allege that the responsible official violated NEPA by not taking a hard look at the impacts of livestock grazing on water quality, including the impacts of *E. coli* bacteria contamination. Further, an

objector alleges the responsible official failed to adhere to the NFMA because they did not include forest plan standards that prevent water quality impairment from livestock use nor did they include plan components to "maintain or restore water quality and meet or exceed state water quality standards."

Objector's Proposed Remedies

Complete supplementary NEPA analysis of livestock grazing impacts on water quality, adopt a standard for Riparian Management Zones that prohibits permitted uses that impair water quality, or that are likely contributing to water quality impairment, and adopt a standard for Water Quality, Watershed, and Soils that limits permitted uses in watersheds that do not meet water quality standards.

Findings

I find that the planning record documents that the responsible official took a hard look and adequately disclosed the impacts of livestock grazing on water quality, including considerations of impacts from fecal contamination (*E. coli*). The plan includes adequate plan components to address those impacts, and the final EIS discloses those impacts. The planning record is consistent with applicable law, regulation, and policy, including NEPA and NFMA.

Assessment

The land management plan includes plan components that address water quality impacts from livestock grazing and other sources. These include desired conditions, standards, and guidelines located in the water quality, watershed, riparian management zone, wildlife, and livestock grazing sections of the land management plan, in accordance with NFMA and 2012 Planning Rule (FSH 1909.12, chapter 20). For example, Water Quality Desired Condition 1 establishes that water quality meets or exceeds state water quality standards and provides for the attainment of designated uses (forest plan p. 105) and Watersheds Desired Condition 1 establishes that watersheds are functioning properly (forest plan pp. 108-109).

The land management plan includes standards to help maintain or move towards these desired conditions by requiring project-specific best management practices (Watershed Standard 1,forest plan p. 110).

Riparian Management Zones Standard 1 requires that "Decision's authorizing uses and activities in riparian management zones must provide preferential consideration to riparian and aquatic resources. Project-specific best management practices will be developed, identified in the proposed action, and followed as the principal mechanism for demonstrating preferential consideration and controlling nonpoint source pollutants to protect beneficial uses and riparian and aquatic ecosystem values. (forest plan p. 119). Livestock Grazing, Standard 1 requires that "[p]roject-specific best management practices identified in the proposed action …be followed...to mitigate impacts to soil, water, riparian, and aquatic resources. (forest plan p. 194). And Livestock Grazing Guideline 1 provides that "Annual operating instructions should address ecological resources such as native plant communities, at-risk species, soils, riparian health, and water quality, if they are departed from desired conditions, as determined by data that are relevant to the allotment and the current management system" (forest plan p. 195).

Livestock grazing management was an issue that drove the development of alternatives (draft ROD pp. 8-10). Both alternatives considered in detail and alternatives considered but eliminated from detailed study were developed in response to livestock grazing related issues. The purpose of the environmental analysis is to evaluate the effects of plan direction and relies on projects applying best management "to prevent or mitigate potential adverse impacts to environmental quality, especially water quality" and to "comply with the Clean Water Act" (final EIS Vol. 1 p. 136).

The rest of the effects analysis is more broadly related to how different alternatives would vary based on forage reserves or a system of swing allotments available for use when others are unsuitable for grazing due to wildfires or drought. The EIS also includes livestock grazing effects analysis common to all alternatives, although most of the water quality effects analysis is not directly connected to livestock grazing. The final EIS discloses that "Livestock grazing would continue to affect many riparian and aquatic ecosystems under all alternatives. While livestock grazing would be managed to move toward desired conditions for riparian and aquatic ecosystems and other natural resources, impacts are likely to occur in some areas." The final EIS goes on to further disclose what would be affected (final EIS Vol. 1, pp. 153-154)

Under the effects analysis, the final EIS reiterates the use of best management practices noting that "Under the action alternatives, management would be directed toward maintaining and achieving desired conditions for riparian and aquatic ecosystems", and that reliance on best management practices provides a measure of both accountability and flexibility" (final EIS Vol. 1 pp. 155-156).

The response to Water Quality Comment 10 addresses concerns related to fecal matter resulting in *E. coli* contamination in many rivers and streams (final EIS Vol. 2 appendix. A p. A-328).

In the draft ROD Decision and Rationale under Ecological Integrity 36 CFR 219.8(a) and 219.9(a) the responsible official states that the final plan includes a commitment to manage for healthy watersheds that benefit communities and the integrity of ecosystems through the inclusion of watershed management direction (draft ROD p. 14).

RANGE

Monitoring and Adaptive Management for Grazing

Objection Summary

The objector contends that the final plan components and strategy for monitoring and adaptive management is inadequate because it does not provide for the detection and prevention of unauthorized livestock, nor does it protect listed species habitat from damage caused by livestock grazing. They assert that the final plan lacks mechanisms that would require changes in livestock grazing strategy in response to riparian and aquatic ecosystem monitoring, in violation of NEPA, NFMA, ESA and the Administrative Procedure Act. They further assert that the final plan incorrectly relies on forage utilization monitoring to assess livestock grazing impacts to primary constituent elements, which they believe does not accurately assess the effects to those primary constituent elements.

Specifically, they are concerned that the monitoring "(1) does not require a minimum frequency or spatial extent of monitoring or reporting frequencies sufficient to detect and immediately correct damage from livestock to riparian and aquatic habitat for endangered species habitat, (2) does not specify metrics by which ecological attributes (or "[i]ndicators" in [w]atershed [c]ondition [c]lassification parlance) will be measured, and, (3) most critically, the [f]inal [p]lan does not provide plan components that require or specify how monitoring results will result in changes to livestock grazing in order to prevent impacts to riparian or aquatic habitat for threatened and endangered species."

The objector also argues that the Forest Service cannot rely on allotment management plan revisions or annual operating instructions because the agency has not proven that past revisions of annual operating instructions has prevented impacts and because the agency has stated that there is no schedule to renew or revise existing allotment management plans.

Objectors contend that the agency incorrectly relies on the outdated Parker 3-step method for rangeland monitoring, that the agency based the range conditions assessment on analyses and data not available to the public during the comment period for the draft EIS, and that the analysis was insufficient and did not use best available scientific information.

Objector's Proposed Remedies

None provided.

Findings

I find that the issues regarding unauthorized livestock use, monitoring, utilization, allotment management plans and annual operating instructions, and use of Parker 3-step data are adequately addressed in the planning record. Federal regulations prohibit all unauthorized grazing on National Forest System lands and the forest plan does not need to repeat existing law, regulation, or policy. All projects implemented on a forest require a site-specific analysis of their potential impacts to other resources as required by NEPA. Mitigations for impacts to, or from, livestock for any resource are addressed through a site-specific analysis. The monitoring chapter in the plan specifically includes a monitoring question about progress toward desired conditions for riparian and aquatic ecosystems and the rationale specifically mentions watershed and ecological conditions that support the recovery of at-risk species (forest plan p. 275). The plan includes sufficient plan components to address There is clear rationale, and the plan is consistent with law, regulation, and policy.

Assessment

Federal regulations, including 36 CFR 261.7, prohibit all unauthorized grazing on national forest system lands. Where unauthorized or excess grazing is identified in association with a permittee or term grazing permit, a notice of noncompliance may be issued and administrative remedies, up to and including suspension or cancellation of the permit in whole or in part pursuant to 36 CFR 222.4, may be pursued. The Forest Service also has authority to impound and remove unauthorized livestock under 36 CFR 262.10. FSH 1909.12 chapter 20 clarifies that plan components should not merely repeat existing direction from laws, regulations, or directives. Therefore, the forest plan appropriately excludes plan components for unauthorized livestock grazing. Page 17 of the final EIS Vol. 1 states “Unauthorized use

by feral or stray cattle is not compliant with the law or any of the plan alternatives" and at page 35 states "Non-compliance of any kind is an implementation issue, not a planning or analysis issue."

FSH 1909.12 chapter 30 provides direction for development of the plan monitoring program. Monitoring forms the basis for continuous improvements of the plan and provides information for adaptive management of the plan area. The monitoring chapter in the plan specifically includes a monitoring question about progress toward desired conditions for riparian and aquatic ecosystems and the rationale specifically mentions watershed and ecological conditions that support the recovery of at-risk species (forest plan p. 275). Plan components being monitored with this question include Riparian and Aquatic Ecosystems Fine Scale Desired Conditions 1a-f and 2, Standard 1, Guideline 5; Wildlife, Fish, and Plants Desired Conditions 1-3, 11, and 12. Project level monitoring may occur outside the plan monitoring program which may result in adaptive management changes that also address the need to maintain or move toward achieving desired conditions. Project level monitoring may inform the plan monitoring program, and the plan monitoring may inform specific projects and activities.

All projects implemented on a forest require a site-specific analysis of their potential impacts to other resources as required by NEPA. Mitigations for impacts to, or from, livestock for any resource are addressed through a site-specific analysis. Page 194 of the final EIS within the Wildlife section identifies: "Conservation Measures - If projects or activities might affect federally listed species or designated critical habitat, the Forest Service consults with the [US Fish and Wildlife Service] to mitigate potential impacts to listed species under section 7(a)(2) of the Endangered Species Act… Activities that may negatively affect federally listed species or critical habitat in the short term may still be permitted or authorized; while some individuals of these species may be impacted, the conservation measures agreed upon during the consultation process would maintain species viability and support recovery over the long term. In addition, section 7(a)(1) of the act directs federal agencies to use their authorities to carry out programs for conserving federally listed species." The final EIS Vol. 2 appendix A, responds to several comments regarding monitoring and evaluation of livestock grazing management (pp. A-130, A-178 to A-182).

The objector incorrectly states that the plan relies on forage utilization monitoring to assess grazing impacts to primary constituent elements. The plan does not use or direct use of forage utilization monitoring to "assess grazing impacts to primary constituent elements." The introduction section to Livestock Grazing on page 193 of the land management plan does, however, identify rangeland utilization monitoring as one data source for informing annual operating instruction adjustments.

Allotment management plan and annual operating instruction modifications are outside the scope of plan revision; see Range Outdated Allotment Management Plans.

The objector incorrectly stated that the Parker 3-step method of monitoring should have resulted in a map of utilization. Parker 3-step was developed to determine long term trends and does not result in utilization maps. As related to the objector's concern of Parker 3-step being outdated, the final EIS acknowledges that "new protocols that better consider soil quality and ecological health have been developed and are being adopted" and then states "a few of the Parker 3-step concepts are useful for this environmental analysis (p. 253). Assessments are meant to be a rapid evaluation of existing information (36 CFR 219.5(a)(1), and the responsible official properly used their discretion to determine

the scope and scale of the assessment (36 CFR 219.6), which included *not* processing decades of existing Parker 3-step data. The planning record explains how available data were used to inform the assessment and analysis, including disclosing that most of the range condition analysis for the forest plan was qualitative (for example, final EIS Vol. 1 p. 253, final EIS Vol. 2 p. A-133).

Range of Alternatives for Livestock Grazing

Objection Summary

Objectors are concerned that the final EIS lacks alternatives that would reduce or eliminate grazing and range infrastructure as a forest use in order to reduce impacts on forest users and resources such as at-risk species and their habitat, recreation, and water resources.

In addition, they argue that the final EIS failed to analyze an alternative or plan components that would reduce or eliminate unauthorized grazing and the impacts to threatened and endangered species and riparian areas that results from unauthorized grazing.

They contend that the "option of permanent voluntary retirement of permits and associated grazing privileges represents an equitable solution to wildlife conflicts with agricultural operations on public lands. It provides security to livestock producers facing declining economic returns, increasing price instability, a shrinking available workforce, and other challenges, and allows the Forest Service to redesignate lands to other uses, including wildlife habitat, recreation, and hunting." They note that Alternative 5 maintains vacant allotments that can be analyzed in future NEPA documents, making it unclear why an alternative that would allow vacant allotments to be permanently closed was not considered. They also note that the forest plan includes an objective that would allow vacant allotments to be used as open allotments and assert that this appears to make the forest's decision to not include an alternative that would allow for allotment closure or retirement arbitrary and capricious.

Objectors also argue that it is "inappropriate, arbitrary, and capricious for the Forest Service to use the Wilderness Act as an excuse to refuse to consider an alternative that would reduce or eliminate grazing within designated Wilderness Areas." They argue that the language in the Wilderness Act makes it clear, that while livestock grazing established prior to the effective date of the Wilderness Act is permitted, grazing can be eliminated where it is impacting natural resources and/or violating other laws such as the ESA, NFMA or Clean Water Act. As such, an alternative should have been considered that reduces or eliminates grazing in wilderness areas.

Finally, they state that "The [f]orest [p]lan contains no requirement for any changes in grazing management to occur until site specific [a]llotment [m]anagement [p]lans are created or revised, meaning the identified harms to the forest caused by livestock grazing will continue indefinitely. No alternatives propose any interim management prescriptions for livestock grazing even though the EIS is replete with references to current grazing practices responsible for conditions that are far below the past or now current desired conditions."

Objector's Proposed Remedies

Objectors request that "the Forest Service select the part of Alternative 5 that would authorize the permanent retirement of grazing allotments that are requested for non-use for resource protection by

the permittee. The Forest Service must therefore withdraw the ROD, issue a new decision that selects Alternative 5 as it pertains to vacant grazing allotments (they should remain vacant), and provide the other such relief as requested above.

They request the forest consider an alternative which eliminates grazing from "fragile riparian areas;" reduces animal unit months by more than a few thousand across the forest; and reduce or eliminate grazing in wilderness areas

Findings

Based on my review, I find that the planning record adequately addresses the objectors' concerns regarding the consideration of alternatives related to livestock grazing alternatives and provides sufficient rationale for alternatives not considered for detailed study. The planning record also addresses the objectors' concern with unauthorized grazing and concern with grazing in wilderness. The plan is consistent with applicable law, regulation, and policy.

Assessment

The Alternatives and Alternative Elements Considered but Eliminated from Detailed Study, Eliminate Livestock Grazing section, states that the "…no-grazing alternative would not meet legal direction provided by the Multiple-Use Sustained-Yield Act, the NFMA, or the agency policy that guides the implementation of these laws" (final EIS Vol. 1 p. 16). Changes in grazing levels or range infrastructure are more appropriately considered at the project or allotment level through site-specific analysis. See Range Outdated Allotment Management Plans for more about allotment level analysis.

Addressing unauthorized grazing is a compliance issue that is outside the scope of the forest plan and therefore, an alternative or plan components to reduce or eliminate unauthorized grazing is not appropriate. The analysis necessarily assumes compliance with the forest plan. See Range Monitoring and Adaptive Management for Grazing for more on unauthorized use.

The Wilderness Act of 1964 directs that livestock grazing shall be permitted to continue where it occurred before designation, subject to reasonable regulations. Livestock grazing in designated wilderness is subject to, and implemented in accordance with, 36 CFR 293.7 and direction is provided in the congressional grazing guidelines (FSM 2323.2-2323.26a). The congressional grazing guidelines provide that grazing shall not be curtailed or phased out simply because the area is or has been designated as wilderness areas (House Committee on Interior and Insular Affairs Reports) (pp. 95-1821). Adjustments to permitted livestock grazing in wilderness areas should consider legal mandates, range condition, and protection of range resource deterioration (final EIS Vol. 1 p. 250). The final land management plan recognizes this direction in the Livestock Grazing (S5) and (G2) plan components (p. 195). See Wilderness Recommended Wilderness – Socioeconomics for additional discussion regarding livestock grazing in wilderness.

In compliance with the Endangered Species Act, the forest prepared a biological assessment that analyzes the effects of the land management plan, including livestock grazing, on federally listed species and designated critical habitat on a programmatic level. The US Fish and Wildlife Service issued a

biological opinion which is also included in the planning record. In contrast to NEPA, the ESA requires federal agencies to analyze the effects of the preferred alternative, not every alternative.

Impacts from Livestock Grazing

Objection Summary

The objectors assert that the final EIS failed to analyze the effects (including cumulative effects) of livestock grazing (including impacts from trespass livestock) on ecological integrity, scenic integrity, wildlife (particularly the Mexican wolf), fisheries, and recreation in violation of NEPA, NFMA, and Administrative Procedure Act. One objector argues that "because the Forest Service refused to analyze an alternative that eliminated or even reduced livestock grazing, the Forest Service was unable to acknowledge or analyze the impacts of fewer livestock on the ground." They contend that fewer livestock would have led to the beneficial impact of "improved scenic integrity, better habitat for wildlife and native plants, reduction in invasive non-native plants forest-wide, improved fire ecology, improved soil conditions, reduced erosion, more eligible segments of Wild and Scenic Rivers, more lands eligible for Wilderness recommendations, and a host of other positive, ecological beneficial impacts."

Another objector asserts that "The [final] EIS also fails to quantify the amount of water consumed and removed by cows from streams, and the effects of that water use on riparian areas, aquatic ecosystems, and the native, threatened, and endangered species that depend upon them" and that the final EIS fails to "analyze the synergistic effects of livestock grazing in combination with other ecological stressors, including regional warming, aridification, declining streamflow, water withdrawals, elk herbivory, and other factors." They also contend that the forest failed to consider science provided by the objector in violation of "NEPA's hard look requirement to analyze direct, indirect, and cumulative impacts."

Objector's Proposed Remedies

Objectors request that the Forest Service:

- Provide an analysis and determination pursuant to 36 C.F.R. § 219.7 and FSH 1902.12 that livestock grazing is unsuitable for riparian areas, aquatic ecosystems, and native aquatic, semi-aquatic, threatened, and endangered species habitats therein.
- Provide supplementary NEPA analysis to take a hard look at alternatives and plan components that prevent authorized and unauthorized livestock grazing and associated impacts to riparian areas, aquatic ecosystems, and ESA-listed species and habitats therein.
- Prohibit livestock grazing in riparian management zones, aquatic ecosystems, and occupied and designated critical habitat therein. Exclude livestock from these areas with fenced exlosures and close pastures or allotments that intersect these areas but lack fenced exclosures.
- Verifying the intactness of its fences prior to seasonal commencement of livestock grazing in any pasture or allotment that intersects riparian areas with riparian exclosures, or that shares a fence with any pasture or allotment that intersects riparian areas.
- Ensure unauthorized livestock, if attributed to a permittee or owner, are removed from unauthorized locations by the permittee or owner within one week of detection. If after one

week unauthorized livestock are not so removed, the Forest Service would commence operations to impound unauthorized livestock pursuant to 36 C.F.R. 262.10.

- Revoke a grazing permit if a permittee's livestock are documented as unauthorized twice in any five-year period.
- Close a grazing allotment if a permittee's livestock from that allotment are documented as unauthorized thrice in any five-year period.
- Monitor riparian management zones within the forest for evidence of unauthorized livestock grazing twice annually and publish an annual report of the locations, numbers, and where possible, specify attribution to trespass or estray livestock. Include use of repeat photography at permanent photo points.
- Conduct and report monitoring of riparian and aquatic ecosystems annually. Segregate monitoring results specific to designated critical habitat and make reports available to the public on the Gila National Forest website.

Findings

I find the forest plan analysis was conducted at the appropriate level for a programmatic analysis. The range of alternatives was also appropriate and need not require the detail or range that would be expected during a site-specific analysis. There is consistency with law, policy, and regulation and there is a clear record of rationale.

Assessment

A land management plan does not authorize projects or activities or commit the Forest Service to take action, but it may constrain the Agency from authorizing or carrying out projects and activities, or the manner in which they may occur (36 CFR 219.2(b)(2)). Thus, the programmatic analysis is focused on the effects of implementing the plan rather than the effects of projects or activities.

The final EIS Vol. 1 p. 33 informs reviewers of the level of effects analysis completed, “the effects described are broadly related to the types of activities that would be consistent with the plan to compare the relative effects of the alternatives.” Livestock grazing is considered in a broad analysis of effects to Upland Vegetation, Fire Ecology and Fuels, Soil and Watershed Resources, Riparian and Aquatic Resources, Wildlife, Fish and Plants components of the land management plan. Programmatic-level cumulative effects take a multi-jurisdictional look at future management actions likely to occur during plan implementation that could have effects on neighboring lands, and actions likely to occur on neighboring lands under those plans that could affect the forest. The final EIS cumulative effects analyses in the Soil and Watershed Resources, Riparian and Aquatic Ecosystems, and Wildlife, Fish and Plant Species sections relate to topics raised by the objectors.

See Range Monitoring and Adaptive Management for Grazing for discussion on unauthorized (trespass) livestock and Range of Alternatives for Livestock Grazing for discussion on alternatives that reduce or eliminate grazing.

Livestock Suitability Analysis

Objection Summary

Objectors argue that the forest's failure to complete a grazing suitability determination, lack of any areas as unsuitable for grazing violates NEPA, NFMA, and the Administrative Procedure Act. They argue that unsuitable areas "could have included riparian areas, habitat (or even critical habitat or occupied habitat) for species such as the New Mexico meadow jumping mouse, heavily used recreational areas, areas that have recently undergone restoration efforts, etc." They also contend that the forest's response to their comment related to grazing suitability was insufficient and that the forest failed to use best available science to determine which areas of the forest are suitable for livestock grazing and which are not, in violation of the 2012 Planning Rule. They contend that the final EIS "provides no data indicating that livestock grazing can or will improve the ecological condition of riparian areas and that "an assumption otherwise unlawfully ignores baseline conditions and ongoing causes thereof, and is arbitrary and capricious."

Objector's Proposed Remedies

Objector requests that the forest plan explain how continued grazing by non-native cattle is within the natural range of variability. They also request that riparian areas and riparian management zones are managed foremost to maintain and restore wildlife, water, and ecological integrity, and that plan direction identifies the prohibition of domestic livestock from these ecologically sensitive areas. They want the Forest Service to commit to conducting livestock grazing suitability determinations on a forest-wide basis by a time-certain or withdraw the [final] EIS while such a determination is made for this forest plan revision.

Findings

I find that the responsible official properly used their discretion in not conducting a grazing suitability analysis as part of the plan revision process. The only required suitability analysis is a timber suitability analysis which was conducted (36 CFR 219.17). The forest adequately addressed concerns regarding sensitive areas, including riparian areas and aquatic resources, with specific standards to maintain or move towards desired conditions. I find that the planning record adequately addresses the objector's issue. The plan is consistent with applicable law, regulation, and policy.

Assessment

The 2012 Planning Rule does not require a rangeland suitability analysis during forest planning. 36 CFR 219.7(e)(1)(v) states that the "suitability of lands need not be identified for every use or activity. Suitability identifications may be made after consideration of historic uses and of issues that have arisen in the planning process." It is at the discretion of the responsible official whether to complete a rangeland suitability analysis as part of plan revision. The responsible official determined that a separate rangeland suitability analysis is not necessary because the forest plan desired conditions, standards, guidelines, and allotment management plans direct the use of best management practices and adaptive management to ensure movement towards desired conditions for riparian and aquatic ecosystems.

The response to comments addresses the objector's concerns regarding the grazing suitability analysis stating that "the 2012 planning [rule] does not require capability or suitability for livestock grazing" (final EIS Vol. 2 appendix A p. A-132). All future ground disturbing activities and projects, including livestock grazing, must be consistent with the revised land management plan and are subject to additional site-specific, that is, allotment level, analysis. See Range Outdated Allotment Management Plans for more on allotment level analysis.

The objector's concerns with riparian areas were addressed in forest plan Riparian Management Zones, Standard 1 which states that "decisions authorizing uses and activities in riparian management zones must provide preferential consideration to riparian and aquatic resources. Project-specific best management practices will be developed, identified in the proposed action, and followed as the principal mechanism for demonstrating preferential consideration and controlling nonpoint source pollutants to protect beneficial uses and riparian and aquatic ecosystem values (see "Best Management Practices Resources" in the Soils section)" (forest plan p. 119). Additionally, Livestock Grazing Standard 1 states that "project-specific best management practices identified in the proposed action will be followed (see also Soils, Water Quality, and Watersheds) to mitigate impacts to soil, water, riparian, and aquatic resources" (forest plan p. 194). These standards are sufficient to address the riparian zones, critical habitat and other concerns brought forth by the objector because all project activities must be consistent with the land management plan. An alternative to exclude riparian management zones from livestock grazing was considered but eliminated from detailed study (final EIS Vol. 1 p. 16) because plan components are sufficient to provide for desired conditions in riparian management zones.

The monitoring program includes a question to ensure that management activities, including livestock grazing, are sufficiently maintaining or generating progress toward desired conditions for physical and biological watershed processes. Adaptive management is the cornerstone of sustainable livestock grazing, and monitoring the conditions within riparian management zones will ensure that appropriate measures are being implemented.

Portrayal of Grazing

Objection Summary

Objectors allege that grazing is unsustainable in ecological, economical, hydrological, climatic and nutritional ways. Objector contends that the Forest Service has "perpetuated the myth of "sustainable grazing" and has not acknowledged that there is "no way to conduct a sustainable and commercially viable livestock grazing operation in the arid southwest and to remove all references to "sustainable livestock grazing" in the forest plan." Objector states that while the final EIS briefly discusses the history of livestock grazing on the forest, the analysis "fails to acknowledge the long-lasting negative impacts livestock grazing has had on the forest. There is no discussion of how livestock grazing has contributed to and continues to exacerbate altered fire regimes, invasive species, loss of species diversity, and degraded watersheds. Statements about the "benefits" of livestock grazing are extreme hyperbole: "aeration through hoof action" is actually destruction of soil crusts and structure that leads to erosion; "invasive plant control" is more accurately described as invasive plant distribution; "fine fuels reduction" is removal of forage for wildlife as well as removal of plant cover that prevents erosion."

Objector's Proposed Remedies

The objector requests that the Forest Service acknowledge that there is no way to conduct a sustainable and commercially viable livestock grazing operation in the arid southwest and to remove all references to "sustainable livestock grazing" in the forest plan.

Findings

I find that the forest adequately considered and discussed livestock grazing, including sustainability, at the appropriate programmatic level for the forest plan and that the plan is consistent with law, regulation, and policy.

Assessment

FSH 1901.12 chapter 20 provides direction on land management plan development, including resource requirement for integrated plan components. While meeting the requirement for sustainability, the land management plan must provide for ecosystem services and multiple uses (36 CFR 219.10). This requirement creates a loop where the sustainability of multiple use projects and activities require sustainable ecosystem integrity and ecosystem sustainability requires multiple uses managed for ecologic sustainability.

In developing alternatives and plan components within them, sustainability is considered in a broad way across the planning area. 36 CFR 219.10(a) requires that a land management plan include plan components, including standards and guidelines, for integrated resource management to provide for ecosystem services and multiple use, including range. The intent is to guide the development, amendment, and revision of plans that further sustainable resource management and multiple uses on National Forest System lands, in the context of the broader landscape. A plan cannot guarantee sustainability. FSH 1909.12 recognizes that plan components of a broader social, economic, and ecological context are more likely to provide for sustainability.

Site specific project planning and analysis is the level where specific management and activities are analyzed for consistency with broad plan desired conditions. In the case of allotment management, this would include sustainable livestock grazing in a social and economic context and sustainable rangelands in an ecologic sustainability context. See Range Outdated Allotment Management Plans for more about allotment level analysis.

Response to the objector's comments describes the appropriate avenue for determining what changes may be necessary to provide for allotment management that meets forest plan direction related to sustainable grazing and rangelands to meet plan desired conditions, allotment-level NEPA analysis and decision-making process that are compliant with the plan. Grazing would be managed to move toward the land management plan's desired conditions (final EIS Vol. 2 appendix A p. 142).

It is acknowledged in the Ecologic Integrity and Sustainability section of the Final Assessment Report of Ecological/Social/Economic Sustainability Conditions and Trends for the Gila, pages 12-13, that management actions may act as system drivers or stressors, or both, depending on the ecosystem characteristic(s), site conditions, and the timing, frequency, duration, intensity, and extent of those actions. These actions may include but are not limited to timber harvest, prescribed fire, permitted

livestock grazing, water developments, seeding, and road construction. In some cases, past management policies and practices that are no longer in place (i.e. historic fire suppression and overgrazing) remain stressors to the present day because of the alterations to ecological processes that resulted. These alterations are referred to as legacies of past management. In the Range section of the assessment which is included in Multiple Uses and Their Economic Contributions, stressors to rangelands and grazing are discussed.

The final EIS acknowledges the effects of past grazing management and levels on ecological sustainability and the current levels of permitted livestock in response to that (p. 249). The assumption is that site specific adaptations to management will be made to ensure permitted livestock contributes to ecologic and economic sustainability to be in compliance with the forest plan.

The forest identifies a desired condition for sustainable and productive rangelands in the final EIS, as well as plan components intended to maintain or move toward the desired conditions of sustainable livestock grazing that contributes to long-term social, economic, and cultural diversity and sustainability of local communities, as well livestock grazing and use that is compatible with the desired conditions for ecological sustainability, biodiversity, and other uses. Plan components include objectives, standards, and guidelines necessary to meet plan desired conditions at the broad scale. Additional plan direction is included in the Livestock Grazing section that would further inform site specific analysis to evaluate management changes and adaptations.

Annual Operating Instructions for Grazing

Objection Summary

Objectors contend that the forest plan could include stronger plan language to reduce the impacts of livestock grazing on wild predators.

Objector's Proposed Remedies

The objector proposes the following management approaches for annual operation instructions be added to the forest plan:

Management approach for annual operation instructions include best practices for protecting livestock and grazing operations where predators are present have been successful in reducing negative interactions between predators and livestock. These best practices must be followed and include:

- Removing, destroying, burying, or placing electric fencing around dead livestock discovered on allotments if carcasses would attract predators into high use areas such as currently grazed meadows, salting grounds, water sources, or holding corrals.
- Removing sick or injured livestock from grazing allotments to prevent them from being targeted by predators.
- Increasing range riding to provide a more consistent human presence around your cattle. This has proven to be one of the most effective means for reducing predator-livestock interactions and depredation. There is nothing in your grazing permit, allotment management plans, or in these annual operation instructions that authorizes predator control.

For this allotment, the permittee is aware:

- The allotment does include predator habitat and the possibility of predator livestock conflicts exists and will be an ongoing part of managing livestock on the allotment;
- The permittee has an obligation to comply with the Endangered Species Act, among all other federal laws;
- The Forest Service will provide conflict-reduction resources as they are developed;
- A grazing permit in non-use status shall not be allowed to increase allowable animal unit months when returning to use to help prevent livestock-predator conflicts;
- The Forest Service has provided notification to the permittee regarding BMPs to minimize the potential for predator-livestock interactions
- Permittees must implement specific best management practices to reduce livestock-predator conflicts, including, at a minimum, the removal of predator attractants during calving season, increased human presence during vulnerable periods, use of range-riders and diversionary and deterrent tools such as fladry fencing, airhorns, crackershells, etc.;
- Measures to reduce livestock-predator conflicts, including a clause notifying the permittee of the potential for modification, cancellation, suspension, or temporary cessation of livestock activities to resolve livestock-predator conflicts; and
- Permittees are prohibited from using leg-hold traps to manage livestock predation on any allotments.

All annual operation instructions should include a notice to grazing permittees that they may take conservation non-use for the sake of reducing livestock-predator conflicts on these allotments, pursuant to the Forest Service regulations at 36 C.F.R. 222.3 Issuance of grazing and livestock use permits; Issuance of grazing and livestock use permits 36 C.F.R. 222.3(C)(1)(iv)(D); FSH 2209.13(17.2) Nonuse for Resource Protection or Development.

Drought management planning should take into consideration increased competition between predators, native prey and livestock for forage and resources and the Forest Service should maintain an adequate supply of food for wildlife it intends to avoid livestock-predator conflict.

Another objector request that the forest require the following terms and conditions in livestock grazing permits and/or annual operating instructions to permittees to protect Mexican wolves: timely and proper disposal of the carcasses of livestock that die of non-wolf causes before wolves scavenge on such carrion; a human presence in the vicinity of livestock that are calving/birthing; and planned chronologically-pulsed birthing of livestock to limit the span of time that newborn domestic animals are available to wolves and other predators.

Findings

I find the planning record includes an accurate description of the purpose and proposed use of annual operating instructions and the plan provides adequate plan components to address concerns related to

protection of livestock predators, including Mexican gray wolf. The planning record adequately addresses the objector's issue, and the plan is consistent with applicable law, regulation, and policy.

Assessment

The revised land management plan is a programmatic level plan that does not directly authorize ground disturbing activities or projects. Future projects will be consistent with the revised land management plan and subject to additional site-specific public involvement, environmental analysis, and pre-decisional review processes in compliance with NEPA, as amended [Public Law 91–190]. This would include consideration of potential impacts to Mexican gray wolf. The programmatic review conducted in the final EIS for the forest plan addresses analyses of 'broad actions', consistent with NEPA.

Annual operating instructions are used to specify those actions in the implementation of a decision (forest plan p. 193, FSH 2209.13 94.3). Annual operating instructions are site specific and outside the scope of the forest plan (forest plan p. 193). The annual operating instruction is not a decision and any actions in the annual operating instruction must be consistent with the project-level decision (FSH 2209.13.94.3).

While it is not appropriate to include annual operating instructions in a forest plan, the revised plan does include numerous plan components to minimize livestock wildlife conflicts and potential negative outcomes. For example, the Livestock and Wildlife Management Approach (forest plan p. 199). Livestock grazing Desired Conditions 3 and 4, Objective 1, Standard 2, and Guidelines 1, 3, and 8 (pp. 194-196) call for protection of wildlife, including the Mexican gray wolf, from associated threats and/or movement towards desired conditions that provide for associated ecological sustainability and biodiversity.

The final EIS, Vol. 1, also notes examples of completed and ongoing conservation measures resulting from consultation with the US Fish and Wildlife Service (final EIS Vol. 1 pp. 194-195). The forest recognizes, supports, and encourages permittees to adopt husbandry practices such as removing sick, injured, or deceased animals and increased range riding (forest plan p. 199). Although the issuance of an annual operating instruction is not required by Forest Service Grazing Regulations and is optional (FSH 2209.13 94.3), Livestock Grazing Objective 2 (p. 194) shows the forest's intent to use annual operating instructions stating that "In cooperation with every permit holder, evaluate consistency with annual operating instructions and document pasture rotation, utilization compliance, and improvement maintenance annually… If these evaluation meetings are held annually with every permit holder, this objective is met." Livestock Grazing Guideline 1 (p. 195) provides for how the forest intends to meet that objective, indicating that "annual operating instructions should address ecological resources such as native plant communities, at-risk species, soils, riparian health, and water quality, if they are departed from desired conditions, as determined by data that are relevant to the allotment and the current management system."

See Socioeconomics Economic Analysis of Wolf/Livestock for additional discussion regarding livestock grazing plan components that provide for wildlife protections, including the Mexican gray wolf.

See At Risk Species Plan Components Species of Conservation Concern for additional discussion on the on the adequacy of the plan for protection of threatened and endangered species and species of conservation concern, including Mexican gray wolf.

See Wildlife Plant and Animal Diversity for a discussion on the crosswalks in final EIS appendix G that outline desired conditions, objectives, standards, and guidelines, both coarse- and fine-filter, that address ecological conditions and threats for at-risk species including Mexican gray wolf.

Flawed Analysis for Animal Unit Months

Objection Summary

The objector contends that the assumptions used for the analysis are flawed and that animal unit months were incorrectly calculated.

Objector's Proposed Remedies

Recalculate animal unit months using the average livestock weight of 1,300 pounds (1.3 animal unit months) instead of the 1,000 pounds (1 animal unit months) currently used.

Findings and Instructions

I find the analysis was conducted at the appropriate level for a programmatic analysis using a professionally acceptable metric that is based on best available science. Animal unit months provide the basis for consistent alternative analysis, the assumptions used for the analysis are accurate, and the animal unit months were correctly calculated. Although the animal unit months are incorrectly defined on page 102 of the final EIS Vol. 1, it does not affect the overall outcome of the analysis. The plan is consistent with applicable law, regulation, and policy.

I instruct the responsible official to update the final EIS and forest plan glossary to address any inconsistencies with the definitions of animal unit month, animal unit and animal equivalent so that they are consistent with definitions found in FSM 2205.

Assessment

The definitions for animal unit and animal unit month used by the forest are consistent with the definition provided in FSM 2205. The forest also properly cites Society for Range Management Rangeland Assessment and Monitoring Committee publication "Does Size Matter? Animal Units and Animal Unit Months" (2016) as best available science for calculating animal unit months.

The forage availability section on page 253 of the final EIS states "estimations of any changes in animal unit months that could occur because of implementing each alternative is a required input for the socioeconomic model and analysis under the Social and Economic Conditions heading in this chapter. It is used as an indicator of forage availability here. Any actual changes in animal unit months would be evaluated and determined at the allotment level within a project-level NEPA decision-making process."

The use of an animal unit month in the context of forest planning allows for a standardized measure of changes in potential impacts to socio economic sustainability and economic impacts across a range of alternatives given a projected change in forage availability. The analysis completed for forest planning is not using animal unit months to analyze alternatives that set stocking rates, determine actual use, develop permits or management plans, or calculate fees. None of these considerations are necessary for analysis of differences between alternatives during broad programmatic analysis for forest plan

development. Response to the objector's issue can be found in the Final EIS for the Forest Plan Vol. 2 appendix A (p. 135).

There are a couple of instances in the final EIS (Vol. 1 p. 102; final EIS Vol. 2 p. 135) where the definition of an animal unit month is incorrectly described as being the amount of forage a 1,000 pound cow with a calf up to three months old would consume in a month. However, the typographical error does not impact the overall analysis.

Outdated Allotment Management Plans

Objection Summary

Objectors asserts that the forest is violating NEPA by making grazing management decisions on allotments without complying with NEPA and by deferring environmental analysis to site-specific allotment management plans without any scheduled for when those would be renewed.

Objector's Proposed Remedies

The objectors request that the forest identify grazing allotments with and without allotment management plans, including the dates the allotment management plans were issued, and a schedule to renew those allotment management plans.

Findings

I find that the forest plan is consistent with NEPA, regulations, and policy. The responsible official correctly determined that addressing allotment management plans as outside the scope of the forest plan and a forest plan is not the appropriate instrument to analyze allotment management plans. There is no prescribed schedule for updating allotment management plans. Additionally, the forest provides a list of allotments without allotment management plans in the planning record.

Assessment

The forest plan is not the appropriate instrument to analyze allotment management plans. A land management plan does not authorize projects or activities, nor does the land management plan commit the Forest Service to take action (36 CFR 219.2(b)(2)). FSH 2209.13. 94 clarifies that the authorization of grazing is a project level decision: "The project-level decision to authorize grazing on one or more allotments and any associated rangeland management activities (for example rangeland improvement construction) is made by the authorized officer upon completion of a site-specific environmental analyses or review." Allotment Management Plans, Grazing permits, and Annual Operating Instructions or other similar documents "are used to communicate and/or implement actions included in the respective analysis and authorized in the project-level decision." Therefore, analyzing and making decisions on allotment management plans is outside the scope of the forest plan.

Per FSH 2209.13.94, allotment management plans are renewed or revised based on the need to reflect changed conditions and new information resulting from the most current allotment-level NEPA analysis and decision. FSH 2209.13.91.2 states: "All grazing permits, new and existing, must be consistent with applicable direction in the [land management plan]. Where necessary, modify grazing permits to ensure consistency with the [land management plan] and any subsequent amendments." FSH 1909.15.18

provides additional guidance on reviewing existing decisions and environmental analysis documentation, stating “be alert for new information and changed circumstances that might affect decisions for actions that are awaiting implementation and for ongoing programs or projects to determine if the environmental analysis and documentation needs to be corrected, supplemented, or revised.” The forest identifies multiple mechanisms for evaluating, reviewing, and adapting livestock grazing on pages 16 and A-124 to A-128 of the final EIS.

The Forest Service provided information on allotments that currently do not have allotment management plans in response to comment “These allotments are the Redstone and Fort Bayard allotments on the Silver City District. The Harden Cienega, Deep Creek, Copper Creek, and Apache Creek allotments on the Glenwood Ranger District. The Fort Bayard allotment is allocated for administrative use of the Gila National Forest’s pack and saddle stock. The Redstone allotment is vacant, with one pasture authorized for use by the permit holder on an adjacent allotment” (final EIS Vol. 2 p. A-126).

Livestock Grazing - Best Available Scientific Information

Objection Summary

Objector alleges that the forest inappropriately cited literature in the response to comments that is not relevant (2008 Svejcar et al.), because carbon fluxes on North American rangeland is very different than forest grazing allotments in the desert southwest.

Objector’s Proposed Remedies

None provided.

Findings

I find that the planning record adequately addresses the objector’s issue related to the use of Svejcar et al. 2008 as best available scientific information and the objector did not provide alternative best available scientific information for consideration. The plan is consistent with law, regulation, and policy.

Assessment

FSH 1909.12 provides direction on use of best available scientific information to inform the land management planning process. Best available scientific information should meet three criteria: it needs to be accurate, reliable, and relevant. Relevance in the planning phase means the scientific information is pertinent to the plan area or issues being considered for development of plan components or other plan content. Potential conflicting scientific information may be recognized where a clear scientific consensus does not exist. Analysis or interpretation may be needed to place best available scientific information in the appropriate context. The objector’s issue is related to what is contended to be outdated and irrelevant information provided in the response to a comment received during the draft EIS public comment period. The final EIS cites Svejcar et al. 2008 to support the existence of conflicting science on carbon storage in semi-arid grasslands (final EIS Vol. 2 appendix A p. A-64). The objector did not provide alternative best available scientific information to Svejcar et al. 2008 for consideration.

Livestock Grazing - Hard Look at Previous Comments

Objection Summary

The objector asserts that their previous comments regarding livestock grazing were not given a hard look and were not considered during development of the revised forest plan.

Objector's Proposed Remedies

Objector requests that their specific recommended changes to the forest plan be included in the final forest plan.

Findings

I find that the forest gave adequate consideration of the objector's comments and suggestions for plan component language change and changes to language in other sections of the final EIS. Based on my review, I find that the planning record adequately addresses the objector's issue. The plan is consistent with law, regulation, and policy.

Assessment

FSH 1909.12 chapter 20 provides direction related to the requirements for integrated land management plan components. The plan components as a whole, must provide for social, economic, and ecologic sustainability. A land management plan is not an assemblage of program plans that have unique plan components for every resource. What is essential, is that the combined plan components meet the requirements of the 2012 Planning Rule for ecological integrity, diversity of plant and animal communities, multiple-use management, ecological sustainable production of goods and services and that they contribute to economic and social sustainability. Plan components should guide the development of future projects and activities and are not commitments to act or final decisions approving projects or activities. NEPA requires agencies to take a hard look at environmental consequences of their proposed actions, consider alternatives, and publicly share information regarding data and conclusions before finalizing a decision. The final EIS for the Revised Forest Plan Vol. 2 appendix A addresses the objectors' suggested additions and modifications to plan language, including specific plan components on pages A-124 to A-172.

SOCIOECONOMICS

Socioeconomic Analysis of Wolf and Livestock Conflict

Objection Summary

The objector argues that the EIS does not include an economic analysis of the impacts to prey species resulting from the conflict between Mexican gray wolves and livestock grazing. Disclosure of the number of wolves killed as a direct result of livestock industry activities on the Gila National Forest is also missing.

Objector's Proposed Remedies

The objector requests the inclusion of Mexican gray wolves as a focal species.

Findings

I find that a sufficient socioeconomic analysis was conducted within the final EIS regarding livestock grazing and wildlife; livestock grazing plan components provide for wildlife protections, including the Mexican gray wolf and the plan is consistent with law, regulation, and policy. The planning record provides adequate documentation for how concerns related to Mexican gray wolves were considered and addressed, including why they were not included as a focal species.

Assessment

The responsible official has the discretion to determine the scope, appropriate level, and complexity of economic and social evaluations (FSM 1970.6). FSM 1970.3 directs social and economic evaluations to use data relevant to the planning process and decision. The scope and depth of analyses depend on the potential social and economic effects of the plan under review (FSM 1970.6). On page 16 of the ROD, the responsible official states that "illegal harassment and shooting of Mexican gray wolves is not a planning issue; it is a law enforcement issue." In cases such as this, "plan components focus on addressing threats the Gila National Forest can control and which will maintain or restore the ecological conditions necessary to support viable populations, as required by 36 CFR 219.9(b)(2)" (ROD p. 16). Unauthorized taking of federally listed species is outside the scope of the forest plan and is therefore not included in the social or economic evaluation.

The 2012 Planning Rule does not require any specific type of social or economic analysis (36 CFR 219) and NFMA does not require monetization of non-timber resources. The Range Improvement Act of 1978 requires economic analysis of grazing use on Forest Service administered lands, fee formulas, and funding of rangeland programs and identification of associated economic impacts on the livestock industry, which was performed across alternatives. NEPA does not mandate full economic cost-benefit analyses. Instead, NEPA directs that economic effects include indicators such as the effects on employment which was performed across alternatives for social and economic conditions and resource impacts associated with the forest plan (final EIS Vol. 1 pp. 403-413).

The forest plan incorporates by reference all US Fish and Wildlife Service-approved recovery plans, including the recovery plan for Mexican gray wolf (Wildlife, Fish, and Plants draft Guideline 3 and final Standard 4). FSH 1909.17 directs that "evaluations of economic efficiency must recognize that it is not possible to express all aspects as quantified measures. Some outputs and inputs cannot be valued." In accordance with the directives, the economic analysis presented by the final EIS discloses changes to social and economic conditions across alternatives, including related to wildlife. Final EIS Vol. 1 p. 407 states that "fish- and wildlife-related visitation is estimated to increase under alternative 2, due to improved stream habitat for fishing opportunities. Alternative 2 contains the greatest potential to improve forage opportunity and improve habitat for wildlife." Gila National Forest staff responded to related comments (see response to Wildlife, Fish, and Plants comment 120, final EIS Vol. 2 appendix A pp. 468-471) and restructured areas of the plan and final EIS to provide additional clarity regarding the Mexican gray wolf.

Values and impacts associated with the Mexican gray wolf are considered in the Wildlife, Fish, and Plant Species section of the final EIS. The comparison of the economic analysis of livestock grazing between alternatives is on pages 401-402 and 404-410 of the final EIS. In the ROD, the responsible official documents their rationale for selecting a modified version of Alternative 2 over Alternative 3. Alternative 3 created additional flexibilities for livestock grazing and emphasized timely restocking of vacant allotments (final EIS Vol. 1 p. 12), as opposed to Alternative 2 and as modified which does not provide this flexibility and addresses some of the objector's concerns. The selected alternative does not increase grazing flexibility or emphasize livestock restocking, which are activities that could increase Mexican gray wolf and livestock grazing conflicts.

The final EIS appendix G Table G-6 identifies the plan components that provide for the ecological conditions needed by the Mexican gray wolf. Table G-6 references both coarse- and fine-filter plan components related to livestock grazing that also address ecological condition and threats for the Mexican Gray Wolf. Beginning on page G-59, referenced livestock grazing Standards 1 and 3, and Guidelines 1 and 4, specifically illuminate species-, site/project-, and/or allotment-specific characteristics and associated management needs that would include those of the Mexican gray wolf. Livestock grazing Desired Conditions 3 and 4, Objective 1, Standard 2, and Guidelines 1, 3, and 8 (pp. 194-196) call for protection of wildlife, including the Mexican gray wolf, from associated threats and/or movement towards desired conditions that provide for associated ecological sustainability and biodiversity.

The revised land management plan is a programmatic level plan that does not directly authorize ground disturbing activities or projects. Future projects will be consistent with the revised land management plan and subject to additional site-specific public involvement, environmental analysis, and pre-decisional review processes in compliance with the NEPA, as amended [Public Law 91–190]. This would include consideration of potential impacts to Mexican gray wolf. The programmatic review conducted in the final EIS for the forest plan addresses analyses of 'broad actions', consistent with NEPA.

Focal species are a small subset of species whose status permits inference to the integrity of the larger system to which it belongs and provides meaningful information regarding the effectiveness of the plan in maintaining or restoring ecological conditions to maintain the diversity of plan and animal communities… commonly selected based on their functional role in ecosystems (36 CFR 219.19). See Wildlife Focal Species in Monitoring Program for a detailed response to the identification of focal species, including the consideration of Mexican gray wolf.

WILDLIFE

Clarification and Correction

Objection Summary

An objector is requesting clarification regarding the New Mexico Department of Game and Fish's responsibilities, and a correction regarding recent taxonomic change to northern goshawk.

Objector's Proposed Remedies

The forest should correct the reference to New Mexico Department of Game and Fish's responsibilities and update the taxonomic reference from northern goshawk to American goshawk.

Findings and Instructions

Although the objection is not based on law, regulation, or policy, the suggested changes would clarify the role of the New Mexico Department of Game and Fish and provide greater clarification regarding the species of goshawk that is found on the forest.

I instruct the responsible official to update the language in the planning record to align with New Mexico Department of Game and Fish statues that the state is "responsible for managing all the state's protected vertebrates, mollusks, and crustaceans as defined in chapter 17, New Mexico Statutes Annotated (NMSA) 1978." Additionally, update the planning record to reflect the taxonomic split of northern goshawk (*Accipiter gentilis*) to American goshawk (*Accipiter atricapillus*) as the species that occurs within the plan area.

Assessment

In 2023, the American Ornithological Society split northern goshawk into two species, American goshawk (*Accipiter atricapillus*), which occurs in the plan area, and Eurasian goshawk (*Accipiter gentilis*). Therefore, the requested revision to update mentions of the Northern goshawk would provide additional clarity and should be considered by the forest.

Bighorn Sheep Plan Components

Objection Summary

An objector argues that the land management plan components fail to adequately protect bighorn sheep from the threat of disease transmission from domestic livestock, and threats to lambing areas from prescribed fires.

Objector's Proposed Remedies

An objector proposes the following remedies:

- Include a special management area for bighorn sheep that would incorporate a 10-mile buffer area around sheep habitat and foray areas to create a no pack animal (goat and sheep) zone.
- Add a Cliffs and Rocky Features guideline to avoid prescribed fire in bighorn sheep habitat during bighorn sheep lambing season between mid-December and mid-February.
- Include a standard that would protect bighorn sheep in areas where domestic sheep occur on lands adjacent to the forest.
- Include the following standards to address cattle grazing in bighorn sheep occupied and potential habitat:
    - Cattle shall not be grazed in sensitive and critical habitats, including those used as lambing range.

- Cattle shall not be grazed in areas with limited water sources, to prevent the displacement of wildlife and the transmission of livestock pathogens to bighorn sheep.
- Fences shall be constructed and repaired using only wildlife-friendly materials, methods, and designs, and fences shall be immediately removed from pastures and allotments where they are in disrepair or are no longer needed.

Findings

Based on my review of the planning record, I find that the forest sufficiently addressed threats to bighorn sheep including threats of disease transmission from domestic livestock, including cattle, sheep, and goats, and threats to lambing areas from prescribed fire. The planning record adequately documents how bighorn sheep were considered in the Gila National Forest land management plan and the plan is consistent with law, regulation, and policy.

Assessment

The forest plan includes the following components that provide protections specific to bighorn sheep:

- Cliff and Rocky Features Desired Condition 2 states "cliffs and rocky features provide specialized habitats for a variety of plant and animal species including rare, endemic, and special status species. They provide nesting and feeding habitats for birds of prey, roosting habitat for bats, and escape, bedding, and lambing cover for bighorn sheep" (forest plan p. 123).
- Wildlife, Fish, and Plants Desired Condition 13 states "the risk of disease transmission from domestic livestock to bighorn sheep is low" (forest plan p. 133).
- Non-Native Invasive Species Standard 6 states "Domestic goats and sheep will not be used to control invasive plants" (forest plan p. 141).
- Livestock Grazing Standard 4 states "permit conversions to domestic sheep or goats will not be authorized, to minimize the risk of disease transfer to bighorn sheep" (forest plan p. 195).
- Sustainable Recreation Standard 5 states "special-use permits authorizing domestic sheep and goats will not be issued with the following exception: special use permits authorizing recreational use of pack goats outside of bighorn sheep occupied range may be issued if the prospective permittee can demonstrate their animals have tested negative for pneumonia-causing pathogens, have been vaccinated against the pathogen, and are up to date with those vaccinations" (forest plan p. 223).

In response to comments requesting a prohibition on pack animals within 10 miles of bighorn sheep habitat and foray areas, the forest explains that considering Recreation Standard 5, Non-native Invasive Species Standard 6, and Livestock Grazing Standard 4, "the suggestions to include historic range and larger buffers add no additional protection for bighorn sheep" (final EIS Vol. 2 p. A-490). The planning record shows that the forest considered this comment and determined that the requested components were not necessary.

The specific request for timing restrictions for prescribed fire during lambing season was not brought up previously by the objectors. Therefore, the response to comments does not address the request to add a plan component to restrict the timing of prescribed burning in lambing areas to align with the New Mexico Comprehensive Wildlife Conservation Strategy. The forest plan Cliffs and Rocky Features Desired

Condition 2, mentions lambing cover for bighorn sheep as one example of specialized habitat that the forest intends to provide for a variety of plant and animal species (p. 123). Wildlife, Fish, and Plants Desired Condition 1 states "sustainable populations of native wildlife, fish, and plants, including at-risk, rare and endemic, and special status species, are supported by healthy, connected ecosystems and watersheds as described in the desired conditions for…cliffs and rocky features…" and Desired Condition 4 states "the locations of rare and endemic plant and animal species, habitat requirements, abundance, threats, and responses to management are known. Habitats and refugia for these species are intact, functioning, and sufficient for species persistence" (p. 132). The forest plan also includes Management Approaches for Adaptation, Restoration and Relationships and specifically points to participating and contributing to the development of the State Wildlife Action Plan as well as continued coordination with New Mexico Department of Game and Fish (p. 135-136). The plan considers and incorporates cooperation with the New Mexico Department of Game and Fish. Project-level planning for prescribed fire would include an interdisciplinary team, including a wildlife biologist and public engagement as required by the applicable NEPA process. If the project could affect lambing habitat, then wildlife design features including timing restrictions for prescribed burning during lambing season could be considered at that time.

Although the planning record does not specifically address the objector's comments submitted in 2018, the Wildlife, Fish, and Plants Desired Condition 13 provides that "the risk of disease transmission from domestic livestock to bighorn sheep is low" (forest plan p. 133). Project-specific habitat management projects would include public engagement through the applicable NEPA process and could consider the types of approaches proposed by the objector at that time.

The forest plan addresses the continued threat of disease transmission from domestic livestock to bighorn sheep under the Wildlife Management Approaches section stating that "there are uses that do not require a special use permit and no tool other than an educated public to limit the risk of transmission. Forest staff look for opportunities to engage in collaborative education efforts to increase awareness of disease transmission, the science that supports it, and the most current preventative practices" (forest plan p. 138).

The objector highlights multiple concerns regarding cattle grazing in bighorn sheep habitat including potential for disease transmission, displacement, and habitat degradation. In response to comments on the range of alternatives (final EIS Vol. 2 p. A-63), the forest states "all action alternatives contain science-based desired conditions for vegetation communities, soils, watersheds and water resources, riparian and aquatic ecosystems, and wildlife, fish, and plant species […] A description of the regulatory and policy framework guiding allotment management has been added to the livestock grazing sections in the plan (Background Information) and the EIS (Affected Environment). If those effects were to be observed on the ground, it is an implementation and enforcement issue, not a planning issue. Under all plan alternatives, livestock grazing would be directed toward maintaining and achieving desired conditions."

In addition, the forest explains "without greater scientific evidence documenting a bona fide threat to bighorn sheep from cattle, the forest considered, but did not include plan components to restrict cattle in bighorn habitat. The plan does contain multiple plan components addressing the spread and

treatment of noxious weeds and has the authority to manage grazing permits as needed to address any emerging threats to wildlife species" (final EIS Vol. 2 p. A-449).

See *Bighorn Sheep Listing as Species of Conservation Concern* in the *Objection Response for the Gila National Forest Regional Forester's Species of Conservation of Concern List* for a discussion regarding the determination not to include bighorn sheep as a species of conservation concern.

See Wildlife Bighorn Sheep BASI for additional discussion regarding best available scientific information related to the threat of disease transmission from cattle to bighorn sheep and Recreational Pack Goat Use Permits and Testing for additional discussion regarding concerns related to the threat of disease transmission from pack goats to bighorn sheep.

Bighorn Sheep - Best Available Scientific Information

Objection Summary

The objector contends that the bighorn sheep research supporting pack goat restrictions and permit requirements are not the best available scientific information. They specifically object to any reliance on Wolfe et al. 2010 to implement restrictions on recreational pack goat use.

Objector's Proposed Remedies

The objector requests that the land management plan not rely on the Colorado study to restrict pack goat use.

Findings

I find that the forest sufficiently documented consideration of the comments relating to disease transmission from cattle to bighorn sheep. The rationale for not considering cattle a threat to bighorn sheep is clear and the forest acknowledges their authority to manage grazing permits as needed to address emerging threats to wildlife if an issue arises. The forest adequately considered the objector's concern, and the land management plan is consistent with law, regulation, and policy.

Assessment

When considering the Wolfe et al. 2010 study, in the response to comments (final EIS Vol. 2 pp. A-154, A-449) the forest states "[w]hile there is a study potentially linking cattle and lethal disease transmission to bighorn sheep (Wolfe et al. 2010), it is the only one we are aware of. In that study, bighorn sheep were coming down out of the high country during bad winters onto private property and eating hay with the cattle. This herd had very limited winter range to begin with, and the extreme winter weather conditions were an added stress that overcame the sheep's typical response of interspecies avoidance. The study concluded that the duration and intensity of the interaction may also have contributed to the lethal transmission. This situation is highly unlikely on the Gila National Forest. The two bighorn sheep herds in the Gila National Forest are located along the San Francisco and Gila rivers and probably rely on those streams for most of their water needs (and potentially Turkey Creek). All these streams are either excluded from permitted livestock grazing or closed to livestock grazing. This diminishes the possibility that bighorn sheep and permitted livestock congregate at the waters used by the sheep" (A-154).

"There is one published study from one event in Colorado that suggests cattle may transmit lethal pneumonia-causing pathogens to bighorn sheep (Wolfe et al. 2010); however, there were several contributing factors. According to the article, a local rancher had observed bighorn sheep coming onto his private land and into his cattle feed lines for about 15 years, presumably due to the limited winter range of the bighorn herd. The event happened after a record-breaking winter, during which the intensity and duration of interactions between the cattle and the bighorn sheep in the feed line both increased. We could find no other studies, and the commenter did not provide additional studies linking lethal disease transmission to bighorn sheep from cattle. This study is not conclusive evidence that this is a threat that deserves the same treatment as domestic sheep, and this situation is highly unlikely to play out in southwestern New Mexico. The two bighorn sheep herds in the Gila National Forest are located along the San Francisco and Gila Rivers and probably rely on those streams for most of their water needs (and potentially Turkey Creek). All these streams are either excluded from permitted livestock grazing or closed to livestock grazing. This diminishes the possibility that bighorn sheep and permitted livestock congregate at the waters used by the sheep. Wind, water, people, cattle and other domestic livestock, and wildlife can contribute to the spread of noxious weeds" (A-448).

"Without greater scientific evidence documenting a bona fide threat to bighorn sheep from cattle, the forest considered, but did not include plan components to restrict cattle in bighorn habitat. The plan does contain multiple plan components addressing the spread and treatment of noxious weeds and has the authority to manage grazing permits as needed to address any emerging threats to wildlife species" (A-449).

Effects Analysis for Bighorn Sheep

Objection Summary

The objector contends that additional effects analysis is needed relating to bighorn sheep and recreation stating that "impacts to bighorn sheep by recreational users, including hikers, motorized users, and river rafters" are not included in the SCC assessment nor the EIS.

Objector's Proposed Remedies

The objector suggests conducting additional effects analysis for bighorn sheep.

Findings

I find that the planning record does not include recent references that specifically address best available scientific information to support plan components that restrict pack goat use on the forest, nor does the planning record provide a sufficient rationale to support inclusion of Sustainable Recreation Standard 5 that restricts pack goat use in areas outside of known bighorn sheep range.

I am providing the following instructions here and in my response to Wildlife Recreational Pack goat Use Permits and Testing to address these deficiencies. I instruct the responsible official to:

- Revise Sustainable Recreation, Recreation Special Uses - Standard 5 to clarify the intent of this standard to prevent disease transmission from domestic sheep and goats, including pack goats, to Rocky Mountain bighorn sheep.

- Clarify that domestic sheep and goats, including pack goats, won't be authorized in areas known to be occupied by Rocky Mountain Bighorn sheep and the Gila NF may consider or use the forest order process to address recreational pack goat use.
- Remove language requiring vaccination against and testing for *Mycoplasma ovipneumoniae* and clarify that intra and interstate movement and shipping of domestic sheep and goats, including recreational pack goats must comply with New Mexico Livestock Board statutes and rules.
- Update the planning record to include best available scientific information to support plan components that restrict pack goat use on the forest.

Assessment

The planning record includes response to comments regarding the effects of human recreational use on bighorn sheep (final EIS Vol. 2 p. 448):

"Recreationists can have impacts on wildlife, including bighorn sheep. Threats are considered during the process of identifying species of conservation concern. Where best available scientific information about a native species, including information about threats, is sufficient to indicate a substantial concern about the species capability to persist in the long term in the plan area, that species is identified as a species of conservation concern (FSH 1909.12.12.52c). Bighorn sheep were not identified as a species of conservation concern. The analysis is focused on the effects of plan direction on species recognized under the Endangered Species Act and species of conservation concern (at-risk species). At-risk species, the ecological conditions they require, threats to their persistence, and the plan direction that provides the ecological conditions and addresses threats can be found in appendix G to the [final] EIS (draft appendix D)."

The responsible official has discretion to determine the scope of an assessment for forest plan revision. Given what is already included in the project record, I see no need to add an effects analysis on recreation or pack goat effects on bighorn sheep as requested by the objector.

See Wildlife Recreational Pack goat Use Permits and Testing for information regarding the management of pack goats to reduce the potential for disease spread through contact.

Bird Management and Protection

Objection Summary

The objector asserts that the plan fails to adequately address management and protection of avian species and their habitat in violation of NFMA and the 2012 planning rule.

Objector's Proposed Remedies

None provided

Findings

I find that the plan components adequately address management and protection of avian species, and the planning record includes sufficient rationale for how the land management plan meets NFMA and

the 2012 Planning Rule. The planning record adequately addresses the objector's issue, and the plan is consistent with applicable law, regulation, and policy.

Assessment

The land management plan contains a number of plan components that address management and protection of avian species and their habitat including Grassland Ecological Response Units Mid-Scale Desired Condition 4 (p. 98), 4th and 5th Level Watershed-Scale Desired Condition 3 (p. 116), Wildlife, Fish, and Plants Desired Conditions 1 through 7, and 10 (pp. 132-133), Wildlife, Fish, and Plants Guideline 1, 2, 4, 9, 11 (pp. 134-135), Raptor Management Approach (p. 137).

The record of decision provides rationale for how the final land management plan improves ecological integrity including "plant and animal species assemblages that are healthy, well-distributed, genetically diverse and connected, enabling species to adapt to changing environmental and climatic conditions" (ROD p. 15).

The response to comments on wildlife explains that "the plan conserves habitat-restricted species and birds, whether they are on the species of conservation concern list or not, with detailed, science-based desired conditions for vegetation communities, watersheds, and the habitat elements within those communities and watersheds." (final EIS Vol. 2 appendix A pp. A-450 to 451)) The plan is compliant with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act and discloses how compliance with those acts was incorporated into the plan to address the needs of those avian species (final EIS Vol. 1 pp. 188-189, 196). Additionally, the "coarse- and fine-filter approach […] would provide for diversity of plant and animal communities necessary to meet the diversity requirement of the NFMA and 2012 Planning Rule" (final EIS Vol. 1 p. 189).

See Land Management Planning Wildlife as Co-equal Factor in Forest Management for additional discussion regarding the plan's compliance with NFMA.

Plant and Animal Diversity

Objection Summary

The objector states that the plan fails to provide plan components that contribute to maintaining a viable population of species of conservation concern within its range.

Objector's Proposed Remedies

None provided.

Findings

I find that that the final EIS appendix G provides a thorough analysis and crosswalk explaining which plan components address ecological conditions for each SCC and the planning record adequately documents how those components provide for viable populations of SCC. The plan is consistent with applicable law, regulation, and policy.

Assessment

In an overview of at-risk species, the planning record states “the final [land management plan] provides for a diversity of plant and animal communities commensurate with the suitability and capability of the Gila National Forest by restoring and maintaining ecological integrity. Consistent with the 2012 Planning Rule, the final [land management plan] adopts a complementary ecosystem and species-specific approach to maintaining species diversity (36 CFR 219.9)” (draft ROD p. 16).

The final EIS, appendix G, provides the in-depth crosswalk between at-risk species needs and plan components. The planning record states that “this crosswalk displays forest plan guidance intended to provide the ecological conditions necessary for the persistence of identified at-risk species and address the ecological conditions needed to fulfill their life history requirements and the activities that may affect them. Where habitat needs and threats to an at-risk species’ persistence are not fully addressed by the coarse-filter, then species-specific or guild-specific plan components were developed for resources and activities. The guild approach groups of species that use the same classes of ecological resources in a similar way and helps to reduce redundancy. These species-specific and guild-specific plan components are referred to as fine-filter components. The coarse-filter/fine-filter approach for developing plan components improves conditions not just for at-risk species, but for a variety of other common and uncommon species dependent upon those same ecological conditions” (final EIS Vol. 3 p. G-1).

Specific to SCC, analysis is provided for each species on the list (final EIS Vol. 3 pp. G-19-G-43). Tables are provided for each species group that outline numerous desired conditions, objectives, standards, and guidelines, both coarse- and fine-filter, that address ecological conditions and threats for birds of conservation concern. In this same section of the final EIS, a large number of plan components are listed that provide more detail.

Analysis for some SCC point to plan component crosswalks used for federally listed species, including Table G-1 (p. G-4) for amphibians and reptiles, Table G-4 (p. G-12) for fish and semi-aquatic invertebrates, and Table G-5 (p. G-14 to G-15) for terrestrial invertebrates. There is an exception of Wildlife, Fish, and Plants Standard 4 (fine-filter) and, as applicable, Timber, Forest, and Botanical Products Standard 11 (fine-filter), which are both specific to federally listed species.

Table G-8 (final EIS Vol. 3 pp. G-21-G-22) outlines plan components that address ecological condition and threats for birds of conservation concern. Table G-9 (final EIS Vol. 3 pp. G-25-G-26), Table G-10 (final EIS Vol. 3 p. G-27), and Table G-11 (final EIS Vol. 3 pp. G-28-G-29) outline plan components that address ecological conditions and threats for snails with varying habitat needs including slopes or other rocky features (Table G-9), those species endemic to the Black Range and Mogollon Mountains and dependent on north-facing talus slopes and riparian canyons (Table G-10), and spring-dependent snails (Table G-11).

Ecological condition and threats crosswalks are provided in Table G-12 (pp. G-31-G-32) for the Arizona crested coralroot, Table G-13 (pp. G-32-G-33) for the Chiricahua mountain mudwort, and Table G-14 (p. G-34) for cliff brittlebrush. Analysis for Davidson’s cliff carrot, Gila morning glory, Goodding’s onion, Green milkweed, Heartleaf groundsel, and Hess’s fleabane point to crosswalks G-12, G-13, or G-14 with some noted plan component exceptions (pp. G-35 -G-36).

Table G-15 (final EIS Vol. 3, pp. G-36-G-37) outlines plan components that address ecological condition and threats for Metcalfe's penstemon. Analysis for Mimbres figwort, Mogollon clover, Mogollon death camas, Mogollon hawkweed, Mogollon lousewort, Pinos Altos flameflower, Porsild's starwort, Ray Turner's spurge, Wooton's hawthorn, Wright's catchfly (campion), and Yellow lady's-slipper point to crosswalks G-12, G-13, G-14, or G-15 with some noted plan component exceptions (pp. G-37-G-39).

Finally, appendix G thoroughly addresses 36 CFR 219.9 (b)(2), clearly demonstrating how plan components maintain or restore ecological conditions within the plan area to contribute to maintaining a viable population of the species within its range.

See At Risk Species Plan Components Species of Conservation Concern for additional discussion related to the adequacy of plan components to protect species of conservation concern.

Focal Species in the Monitoring Program

Objection Summary

An objector contends that the species viability requirements of NFMA are not being met because the number of avian species identified as focal species for monitoring is limited. Another objector states that Mexican gray wolf should be a focal species because they have "a relatively straightforward relationship between their status and ecological conditions, are located in areas where management actions occur frequently […], they are no longer rare, are not cryptic, and are quite easy to monitor given that nearly every wolf pack has at least one radio-collared adult in the pack."

Objector's Proposed Remedies

An objector requests the inclusion of the Mexican gray wolf as a focal species.

Findings and Instructions

I find that the planning record provides sufficient documentation for why Mexican gray wolf was not considered as a focal species. However, the planning record does not provide clear rationale for why specific avian species suggested by the objector were not selected as focal species. The planning record includes a thorough explanation of 2012 Planning Rule requirements for focal species selection and a general rationale is given that "other species suggested by commenters were not selected because they would not fulfill the role of focal species as well as Mexican spotted owl and northern goshawk."

I instruct the responsible official to clarify the rationale for why specific avian species were not selected as focal species.

Assessment

The NFMA does not explicitly refer to a species viability requirement, but section 6 does reference the requirement to "provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall multiple-use objectives…" The 2012 Planning Rule contains a strong, implementable approach to provide for the diversity of plant and animal communities and the persistence of native species in the plan area.

The forest plan provides the selection process and rationale for selecting focal species (forest plan pp. 307-310). Northern Goshawk and Mexican Spotted Owl were included as focal species with the rationale that they would provide insight on the ecological integrity of mixed conifer and ponderosa pine ecosystems. These ecosystems are likely to see the most mechanical thinning and prescribed fire activities because of the plan's objectives for vegetation communities and that these ecosystems are some of the most highly departed from reference conditions, the highest priorities for restoration treatments, and are vulnerable to impacts from long-term changes in weather patterns and temperature. The two were chosen because they are dependent on forest structural components such as tree size, canopy cover, canopy layers, snag size and density, the character, amount, and distribution of downed woody material, forest age, and patch size and could help evaluate whether plan direction and management is moving toward the desired conditions for Mixed Conifer with Aspen (Wet Mixed Conifer), Mixed Conifer-Frequent Fire (Dry Mixed Conifer), Ponderosa Pine Forest, and Ponderosa Pine-Evergreen Oak) (forest plan p. 308).

In-depth background information and rationale for selection as a focal species is provided for both species. Goshawk monitoring "will serve as an excellent indicator for ponderosa pine forest health" and already has an established survey protocol securely in place (forest plan p. 309). Mexican Spotted Owl "has a great deal of information…acquired regarding effects of forest conditions and management activities on these owls, thus the species' relationship to ecological conditions on the ground is relatively well understood" (forest plan pp. 309-310).

In response to comments suggesting additional focal species including avian species and Mexican gray wolf, the Forest states that a single focal species would fulfill the 2012 Planning Rule requirements (FSH 1909.12.32.13c). Focal species are selected based on their functional role in the ecosystem (36 CFR 219.19). To be effective, they should have relatively straightforward relationships between status and the ecological conditions managed for and not be impacted by other stressors. The status of focal species should provide information about the effectiveness of management actions, so it is also useful if those species can be linked to specific ecological conditions in areas where management actions occur with some frequency. Focal species should not be rare, cryptic, or otherwise difficult to monitor and abundant enough to measure change. There should not be factors, like hunting, off-forest land use, or disease, affecting the species' status that would mask a response to management activities" (final EIS Vol. 2 appendix A pp. A-183-A-184).

This response does not provide rationale for why species recommended by commentors were not selected, rather it explains "[t]he other species suggested by commenters were not selected because they would not fulfill the role of focal species as well as Mexican spotted owl and northern goshawk" (final EIS Vol. 2 p. A-184). However, in response to comments specific to Mexican gray wolf the forest notes that "the Mexican gray wolf is a wide-ranging generalist species" and points to the draft EIS and appendix G for the assessment of ecological conditions and threats (final EIS Vol. 2 p. 470). This additional response to comments and the analysis included in final EIS Vol. 3 appendix G describing Mexican gray wolf as a habitat generalist, is a valid reason to not include this species.

The planning record clearly links plan components to ecological condition and threats for the Mexican gray wolf (Table G-6) and describes its habitat as occurring above 4,500 feet elevation in ponderosa pine- Gambel oak, riparian, juniper woodland and grassland habitats (final EIS Vol. 3 pp. G-15-G-17). See

Socioeconomics Economic Analysis of Wolf/Livestock Conflict for additional discussion related to Mexican gray wolf.

Recreational Pack Goat Use Permits and Testing

Objection Summary

Objectors contend that having to obtain a special use permit for recreational pack goat use outside of bighorn sheep occupied range is unjustified, not based on best available scientific information, and presents an unreasonable burden. They also believe the requirement to test for *Mycoplasma ovipneumoniae* is unclear and they object to the reliance on the Besser study to support the pack goat restrictions and permit requirement contained in the draft forest plan.

Objector's Proposed Remedies

The objector requests that the forest provide direction similar to what is contained within the Nez Perce-Clearwater National Forest and/or Grand Mesa Uncompahgre and Gunnison National Forests. They also ask that the forest not rely on the Besser study to inform restrictions on recreational pack goat use.

Findings and Instructions

I find that the use of recreational pack goats on public land is a valid use as expressed by the objectors. Enforceable prohibitions of non-commercial recreational use of pack goats may only be imposed through a forest order issued under 36 CFR 261, Subpart B. Any exemptions to this prohibition would be authorized by the order itself or a permit exempting a specific user from the order. I find that the planning record does not include recent references that more specifically address the issues, nor does the planning record provide a sufficient rationale to support inclusion of Sustainable Recreation Standard 5 that restricts pack goat use in areas outside of known bighorn sheep range. Although the forest plan management approach describes strategies for achieving the desired condition, including management of domestic goats (invasive species control and livestock grazing), it is unclear whether the intent of Sustainable Recreation standard 5 is to restrict recreational pack goat use. If the intent is to support a forest order to implement this standard, additional analysis and public engagement consistent with the applicable level of NEPA would need to be completed.

I instruct the responsible official to:

- Revise Sustainable Recreation, Recreation Special Uses - Standard 5 to clarify the intent of this standard to prevent disease transmission from domestic sheep and goats, including pack goats, to Rocky Mountain bighorn sheep.
- Clarify that domestic sheep and goats, including pack goats, won't be authorized in areas known to be occupied by Rocky Mountain Bighorn sheep and the Gila NF may consider or use the forest order process to address recreational pack goat use.
- Remove language requiring vaccination against and testing for *Mycoplasma ovipneumoniae* and clarify that intra and interstate movement and shipping of domestic sheep and goats, including recreational pack goats must comply with New Mexico Livestock Board statutes and rules.

- Update the planning record to include best available scientific information to support plan components that restrict pack goat use on the forest.

Assessment

It is well established that goats can transmit disease to bighorn sheep as stated in the assessment report "domestic sheep and goats can carry diseases that are lethal to bighorn sheep" (Assessment report p. 911). Forest plan Wildlife, Fish, and Plants Desired Condition 13 states "the risk of disease transmission from domestic livestock to bighorn sheep is low" (p. 133). In response to comments, the forest modified Forest Plan Wildlife Fish, and Plants Standard 10 (draft forest plan p. 106) and created Sustainable Recreation Standard 5 to allow for "exceptions outside of bighorn sheep-occupied range if the prospective recreation special use permittee can demonstrate their animals have tested negative for pneumonia-causing pathogens" (final EIS Vol. 2 appendix A pp. A-489 to A-490). More specifically, Sustainable Recreation Standard 5 directs that "Special-use permits authorizing domestic sheep and goats will not be issued with the following exception: special use permits authorizing recreational use of pack goats outside of bighorn sheep occupied range may be issued if the prospective permittee can demonstrate their animals have tested negative for pneumonia-causing pathogens, have been vaccinated against the pathogen, and are up to date with those vaccinations" (p. 223).

The Forest documented their consideration of the Besser et al. 2017 study in the response to comments (final EIS Vol. 2 appendix A p. A-213) where they state that "Besser and others (2017) concluded goats could induce pneumonia in bighorn sheep, but it wasn't severe enough to kill them. This is very different from the science about domestic sheep disease transmission. When domestic sheep transmit the pathogens that induce pneumonia, it is nearly always fatal to bighorn sheep" (pp. A-205, A-213, A-490).

The final EIS concludes that transmission of disease from domestic sheep and goats to bighorn sheep can be fatal and the forest plan includes plan components that restrict how domestic goats can be used on the forest, including prohibiting their use for non-native invasive species control or converting cattle grazing permits to domestic goats.

Areas outside of occupied bighorn sheep habitat would likely have significantly less potential for interactions between goats and bighorn sheep. These findings support the limitation of pack goats within occupied bighorn sheep habitat, but not outside of these areas as required by Sustainable Recreation Standard 5. However, the response to comments does not provide sufficient rationale to support the inclusion of Standard 5, nor does it provide the best available scientific information to inform development of the plan component. It is not clear whether Sustainable Recreation Standard 5 was intended to restrict pack goat use that does not require a special use permit or if it was intended to address commercial pack goat use only. If so, the planning record does not provide clarity regarding why the Forest would require recreational pack goat users to obtain special use permits for recreating on lands that are not occupied by bighorn sheep.

The forest plan management approach for bighorn sheep states that "forest leadership and staff recognize that disease transmission from domestic livestock to bighorn sheep remains a threat to the species and an active area of research. Although the plan provides science-based guidance for issuing special use permits that include the use of pack goats, there are uses that do not require a special use permit and no tool other than an educated public to limit the risk of transmission. Forest staff look for

opportunities to engage in collaborative education efforts to increase awareness of disease transmission, the science that supports it, and the most current preventative practices. The North American Packgoat Association may be an important partner in such education efforts" (p. 138). This references recreational uses of pack goats that do not require a special use permit.

FSM 2701 outlines the authorities for which the Forest Service can require special use permits. As written, pack goat users wanting exemptions from this closure could be granted exemptions on a case-by-case basis if "prospective permittee can demonstrate their animals have tested negative for pneumonia-causing pathogens, have been vaccinated against the pathogen, and are up to date with those vaccinations." The plan component places the role of issuing such exemptions to the forest supervisor. Closing areas to the public can only be implemented through a forest order pursuant to 36 CFR 261 Subpart B. Forest plans do not directly regulate uses by the public. 36 CFR 219.2(b)(2). Thus, prohibiting non-commercial pack goat use (and exemptions thereto) must be detailed in, and implemented through a forest order. An order may exempt "persons with a permit specifically authorizing the otherwise prohibited act or omission." 36 CFR 261.50(e)(1). Orders may also exempt any person "meeting exemption requirements specified in the order." 36 CFR 261.50(e)(6). A forest order would require compliance with applicable NEPA requirements.

See Wildlife Bighorn Sheep Plan Components for additional discussion on plan components designed to protect bighorn sheep.

BOTANY

Rare and Endemic Plants

Objection Summary

The objector contends that land management plan components are not sufficient to protect rare and endemic plants, and the effects analysis is lacking.

Objector's Proposed Remedies

Rare and endemic plants should be listed and spatially delineated in the final land management plan to provide protection during project-level management. The plan should designate Botanical Areas, list all rare and endemic plants that are known to occur on the forest, and include a standard that requires rare and endemic plant surveys as part of project planning for any ground disturbing activity. The plan should also include guidelines to 1) protect rare and endemic plant populations from new ground disturbing activity, 2) protect rare and endemic plant populations from being eaten by domestic livestock, 3) minimize exposure of rare and endemic plant populations to the establishment and spread of non-native plants, 4) Manage camping to prevent impacts to rare and endemic plants, and 5) maximize opportunities for visitor education about unique plant populations of the Gila National Forest.

Findings

I find that the planning record adequately documents the consideration of comments related to rare and endemic plants, including considering a range of alternatives for designating botanical areas. The forest documented an appropriate level of analysis to meet programmatic planning needs and included adequate plan components to protect rare and endemic plant species at the course and fine filter scale. The plan is consistent with applicable law, regulation, and policy.

Assessment

The 2012 Planning Rule requires that a plan provide for the diversity of plant and animal communities, within Forest Service authority and consistent with the inherent capability of the plan area (36 CFR 219.9). The Forest identified seventy-two at-risk species, including twenty-one plant species that were identified as species of conservation concern (final EIS Vol. 3 appendix G p. 16). As required by regulations (36 CFR 219.9 (b)), the land management plan adopts a complementary ecosystem (coarse-filter) and species-specific (fine-filter) approach to maintaining the diversity of plant and animal communities and the persistence of native species in the plan (ROD p. 25). The planning record documents the development of plan components, including standards or guidelines, that maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area as required by 36 CFR 219.8 (a)(1). Species-specific plan components were developed when it was determined that ecosystem components did not adequately contribute to the recovery of federally listed threatened and endangered species, conserve proposed and candidate species and maintain a viable population of each species of conservation concern within the plan area. The final EIS Vol. 3 appendix G provides a crosswalk between at-risk species needs and land management plan components. Land management plan components for at-risk species are integrated throughout multiple resource sections in the forest plan (G-1). At-risk plant species are included on pages G-31 through G-40 of appendix G. Appendix G states that “most of the coarse-filter plan components address threats, support healthy upland ecological conditions, or both, as aquatic ecological processes are integrated within watersheds.”

The response to comments regarding botanical areas can be found in the final EIS Vol. 2 appendix A on pages A-26-38 which documents the consideration of a range of alternatives for designating botanical areas from zero (no botanical areas) to 150,590 acres (p. A-26). The alternatives were created to address Issue 9 in the final EIS. This issue was developed in response to public comment (final EIS Vol. 1 p. 10). The final EIS Table 1 on page 32 presents a summary of the botanical area alternatives and the effects of the alternatives are disclosed in the final EIS, including under Wildlife, Fish, and Plant Species (final EIS Vol. 1 pp. 198-215).

Alternatives that include botanical areas contain some forestwide plan components for all rare and endemic plant species and more restrictive plan components for botanical areas. Alternatives that do not include botanical areas contain forestwide plan components for all rare and endemic species because these plant species are important wherever they occur, not just in specific areas (for example: All Upland Ecological Response Units Landscape-Scale desired conditions 7 and 8; Cliffs and Rocky Features guideline 1; Wildlife, Fish, and Plants desired conditions 11-4 and 8, standards 2 and 3, guidelines 8 and 10; and Roads G3). Limitations on disturbance and avoidance measures can also be

established at the project level (final EIS appendix A pp. A-26-27). The responsible official chose not to designate botanical areas and provided a clear rationale in the record of decision (p. 12).

As noted in the response to comments, the Forest Plan includes landscape-scale desired conditions to provide ecological conditions which support habitat quality, distribution, abundance, and connectivity to self-sustaining populations of all native and desirable non-native plant and animal species that are healthy, well distributed, and genetically diverse, including federally listed species, species of conservation concern, and rare and endemic species (Wildlife, Fish, and Plants desired conditions 1, 2, 6, 7, 10 pp. 132-133). Objectives 1-5 in the Wildlife, Fish and Plants section provide measurable and time specific outcomes to move toward the desired conditions (p. 133). More geographic, habitat and site or species-specific plan components were included in the plan to account for plant species needs on a finer scale. These include Wildlife, Fish and Plant section includes desired conditions 1, 3, 4, 5, 6, 8, standards 2 and 3, and guidelines 1(a) - 1(d), 3-4, 7-10 (pp. 132-135).

The land management plan also includes forest wide plan components that would decrease impacts to rare, endemic and at-risk species including Sustainable Recreation guidelines 5, 7, 9, 12-14 (pp. 224-225), Facilities standard 2 (p. 215), Roads guidelines 1, 3-5 (pp. 212-213), Livestock Grazing standard 3 and guideline 1 and 4 (p. 195), Mineral standards 1 and 4 (p. 187) and guidelines 2, 9, 14 (pp. 187-188), Renewable Energy desired condition 1 (p. 191), and Timber, Forest, Botanical Products standard 1 (p. 204), and guideline 1 (p. 205).

The land management plan is a programmatic level plan that does not directly authorize ground disturbing activities or projects. The programmatic review conducted in the final EIS for the land management plan addresses analyses of ‘broad actions', consistent with NEPA. Future projects will be consistent with the land management plan and subject to additional site-specific public involvement, environmental analysis, and pre-decisional review processes in compliance with the NEPA, as amended (Public Law 91–190). This would include consideration of potential impacts to rare and endemic plants and surveys would be carried out as needed.

Motorized Routes Near Rare and Endemic Plants

Objection Summary

The objector contends that a plan component should be added to protect known populations of rare and endemic plants from new permanent road or motorized trail construction and temporary motorized routes.

Objector’s Proposed Remedies

Include a plan component to prohibit new permanent roads or motorized trail construction where known populations of rare and endemic plants occur, unless it is to provide legal access to private property.

Findings

I find that the planning record shows the inclusion of adequate and appropriate plan components to address rare and endemic plants in relation to roads. Plan components were incorporated and analyzed

at an appropriate level for programmatic planning needs. The planning record adequately addresses the objector's issue, and the plan is consistent with applicable law, regulation, and policy.

Assessment

The land management plan includes plan components that meet the 2012 planning rule requirements to provide for ecological sustainability and diversity of plant communities, including plan components that address concerns related to the potential impact of roads on rare and endemic plants (36 CFR 219.8 (a)(1)). Specifically, Roads guidelines 1 and 3-5 address meeting desired condition for other resources and specifically address new road construction and temporary roads (pp. 212-213). Wildlife, Fish and Plants standard 2 addresses new permanent and temporary roads in areas where known populations of rare and endemic plants exist (p. 133). The final EIS Vol. 2 appendix A pages A-26 to A-29 address this issue, including referencing specific plan components that provide direction for road management in relation to rare and endemic plants.

See Botany Rare and Endemic Plants for additional discussion regarding what is found in the planning record as it relates to management of rare and endemic plants.

At Risk Species

Plan Components for At-Risk Species

Objection Summary

Objector claims that the plan does not adequately address the recovery of threatened and endangered species or efforts to maintain viability of species of conservation concern species as required by the NFMA. They also contend that within the plan, ecological response units/successional forest stages unduly limit avian species.

Additionally, objectors claim that of the four avian species that they recommended as focal species, only northern goshawk was included in the plan, but not as a focal species.

Objector's Proposed Remedies

None provided

Findings

I find that the planning record adequately addresses the objector's issue and the plan is consistent with applicable law, regulation, and policy. Northern goshawk is identified as a focal species in the land management plan (Forest Plan, p. 309). Appendix G of the final EIS provides a thorough analysis and crosswalk explaining which plan components address ecological conditions for each ESA species and species of conservation concern, and these species are sufficiently included and addressed in the plan.

Assessment

The NFMA does not explicitly refer to a species viability requirement for species of conversation concern. Rather, NFMA includes the requirement to "provide for diversity of plant and animal communities based on the suitability and capability of the specific land area in order to meet overall

multiple-use objectives, and within the multiple-use objectives of a land management plan adopted pursuant to this section, provide, where appropriate, to the degree practicable, for steps to be taken to preserve the diversity of tree species similar to that existing in the region controlled by the plan" (section 6). Additionally, the 2012 Planning Rule requires that the plan provide the ecological conditions necessary to maintain a viable population of each species of conservation concern within the plan area (36 CFR219.9).

Analysis for at-risk species, including threatened and endangered species is provided in appendix G (final EIS Vol. 3 pp. G-3-G-19). Tables are provided for each species group that outline desired conditions, objectives, standards, and guidelines, both coarse- and fine-filter, that address ecological conditions and threats for species including birds of conservation concern. Tables G-1 through G-7 outline plan components that address ecological conditions and threats for federally listed species and other at-risk species. Final EIS appendix G provides a thorough analysis and crosswalk explaining which plan components address ecological conditions for each threatened or endangered species.

The Ecological Sustainability and Biodiversity section of the land management plan explains "the ecological response unit framework is a landscape mapping system and a tool for organizing planning, analysis, monitoring, and research of some ecological features" (forest plan p. 50). Although a small number of avian species are specifically named in plan components and management approaches, the land management plan is not limited to the examples mentioned. For example, desired conditions 5, 7, and 8 for all upland ecological response units incorporate plant and animal diversity, habitat quality, distribution, abundance, and connectivity, and habitat availability and configuration (forest plan p. 55). The seral state diversity management approach for all upland ecological response units explains that "desired conditions were defined based on this information and refined based on analysis of additional data and the ecological conditions we currently understand as necessary to support the recovery of federally listed species, specifically the Mexican spotted owl" (forest plan p. 58). A similar approach is used for all of the ecological response unit sections of the plan. I find that wildlife species are sufficiently included and addressed in the ecological response units section of the plan.

See Wildlife Bird Management and Protection for a detailed discussion on the sufficiency of the land management plan direction for protecting avian species and their habitat in compliance with NFMA and the 2012 Planning Rule.

See Wildlife Plant and Animal Diversity for a discussion on the crosswalks in final EIS appendix G that outline numerous desired conditions, objectives, standards, and guidelines, both coarse- and fine-filter, that address ecological conditions and threats for at-risk species. Final EIS appendix G provides a thorough analysis and crosswalk explaining which plan components address ecological condition for each at-risk species.

Effects Analysis for At-Risk Species

Objection Summary

Objectors assert that the forest plan and final EIS do not connect individual forest plan components with specific ecological conditions needed by individual at risk species, including both those with and without U.S. Fish and Wildlife Service recovery plans.

Objectors contend that appendix G of the final EIS does not sufficiently connect plan components to ecological conditions and threats for individual species.

Objectors also allege that the forest plan has an overreliance on U.S. Fish and Wildlife Service recovery plans and does not include an appropriate analysis of effects of the plan to at-risk species. Furthermore, they point out that not all federally listed species on the Gila National Forest have associated recovery plans.

Objector's Proposed Remedies

The objector requests that the forest plan identify specific components to address specific needs of specific species, and that the final EIS should:

- Analyze the effects of the plan components on at-risk species and the conditions necessary for the recovery of threatened and endangered species, conservation of federally proposed or candidate species, and viability of species of conservation concern.
- Provide an analysis that demonstrates that the aggregate plan components contribute to the recovery of each threatened and endangered species and maintain viability for each species of conservation concern.
- Analyze the effects of plan components on each at-risk species, individually, even for species where species-specific plan components may not be necessary to address their conservation needs.
- Revise the crosswalk to distinguish plan components applicable to all at-risk species separately to help serve as documentation supporting such an analysis.
- Clearly and consistently articulate the key characteristics and threats associated with each at-risk species individually.

Findings

I find that the planning record adequately addresses the effects of the land management plan on at-risk species including SCC and federally listed species. While not all ESA species have recovery plans or conservation plans, the plan includes an objective to implement activities that contribute to the recovery of federally listed species over each 10-year period. Documentation of the analysis for at risk species is included in the final EIS appendix G and the biological assessment, and the plan is consistent with applicable law, regulation, and policy.

Assessment

Appendix G of the final EIS explains which plan components address ecological conditions for each ESA species and SCC (final EIS Vol. 3 appendix G). In addition to the crosswalks by species and species groups, each species' analysis identifies threats. Threats to SCC birds are stated in final EIS appendix G (pp. G-20 to G-21). While the crosswalk table does not link each individual plan component to the ecological condition or threat it addresses, ecological conditions and threats are included in each species' baseline discussion and relevant plan components are provided in the crosswalk table. There is no requirement to associate each plan component with species-specific ecological conditions or threats. The plan uses a combination of coarse filter and fine filter plan components to provide ecological conditions necessary

to maintain a viable population of each species of conservation concern in the plan area (final EIS Vol. 3 pp. G-1 to G-2). The coarse-filter/fine-filter plan components improve conditions not just for at-risk species, but for a variety of other common and uncommon species dependent upon those same ecological conditions.

The objector's assertion that not all ESA species have recovery plans or conservation plans is correct. Western yellow-billed cuckoo, narrow-headed gartersnake, and northern Mexican gartersnake are listed as threatened and have no conservation plans. Wildlife, Fish, and Plants Objective 3 sets a goal to "implement at least 20 activities that contribute to the recovery of federally listed species over each 10-year period" (forest plan p. 133). Wildlife, Fish, and Plants Standard 4 states "project activities and special uses occurring within occupied, designated, or proposed critical habitats for federally listed species must follow the most recent approved US Fish and Wildlife Service recovery plan and integrate habitat management objectives and species recovery, conservation, and protection measures identified in the plan unless otherwise negotiated through consultation" (forest plan pp. 133-134).

Effects of the land management plan on federally listed species is analyzed in the biological assessment. The biological assessment explains "[the land management plan] provides a programmatic framework for future site-specific actions, however it does not authorize or mandate any site-specific projects or activities" (p. 7). Effects to listed species are analyzed in detail (biological assessment pp. 22-116). The final EIS acknowledges "there may be additional conservation measures identified through consultation with the US Fish and Wildlife Service at the project level" (final EIS Vol. 3 p. G-10). This is supported by the biological opinion, which states "the proposed [land management plan] is part of the land management planning process. It provides forest-level direction to meet the Forest Service's mission for the management of activities on the Forest. [Land management plan]s are developed, amended, and revised over time consistent with [NFMA] and must comply with the [NEPA] and the ESA. The effects to listed species and designated critical habitat of future actions that are subsequently authorized, funded, or carried out under this program will be addressed in subsequent section 7 consultations, as appropriate" (biological opinion p. 9).

See Wildlife Bird Management and Protection for information on management and protection of avian species and their habitat, including a list of relevant plan components, which are also relevant to all at-risk wildlife species.

See Wildlife Plant and Animal Diversity for a discussion regarding the sufficiency of plan components to address ecological condition and provide for viable populations of species of conservation concern SCC.

See At Risk Species Plan Components Species of Conservation Concern and Plant and Animal Diversity for information on the crosswalks in final EIS appendix G that outline numerous desired conditions, objectives, standards, and guidelines, both coarse- and fine-filter, that address ecological conditions and threats for SCC.

Clarifications and corrections for SCC

Objection Summary

Objectors suggest that the plan should include a link to the full list of species of conservation concern and the criteria that were used to develop the list. Objectors also suggest that the plan should reference the state-listed species and species of greatest conservation need that are identified in the State Wildlife Action Plan.

Objector's Proposed Remedies

Make the following corrections:

- Include cold water temperatures among the key ecological conditions for the Gila trout (*Oncorhynchus gilae*), (final EIS, p. 207).
- Correct the scientific name for desert sucker to *Catostomus clarkii* (EIS Vol. 1 page 182 Table 41).
- In the first paragraph on page 130, "Rio Grande trout" are referenced twice; these references should be corrected to "Rio Grande cutthroat trout" (*Oncorhynchus clarkii virginalis*).
- The scientific name for the Pinyon Jay is misspelled; correct to *Gymnorhinus cyanocephalus*. The scientific name for the lesser long-nosed bat is now accepted as *Leptonycteris yerbabuenae*.

Findings and Instructions

I find that the process for identifying species of conservation concern is consistent with the language in the regulations and handbook related to consideration of SCC and the best available scientific information. The process was documented in the publicly available final assessment report and the planning record includes sufficient reference to the State Wildlife Action Plan and consideration of state-listed species and species of greatest conservation need.

The SCC list is dynamic and may change over time as new scientific information becomes available, therefore, the SCC list is not included in the forest plan. See *Objection Response Southwest Regional Forester's List of Species of Conservation Concern for the Gila National Forest* for more detailed findings and assessment related to the framework for evaluating potential species of conservation concern.

I instruct the responsible official to update the planning record to reflect cold water temperatures as a key ecological condition for the Gila trout (*Oncorhynchus gilae*). Typographical errors and suggestions for updating taxonomic information will be addressed in the final plan and EIS.

Assessment

The regional forester updated the species that were identified as species of conservation concern for the Gila National Forest in March 2023. This decision is available on the forest website in the planning record for the revision of the forest plan for the Gila National Forest. Appendix G of the final EIS includes species descriptions for all species of conservation concern, including supporting ecological conditions and threats to the species (pp. G-19 to G-43).

The State Wildlife Action Plan is referenced in the Wildlife, Fish, and Plan section of the forest plan (forest plan p. 130), with acknowledgment that the New Mexico Department of Game and Fish is responsible for managing all wildlife species besides those covered by the ESA and Migratory Bird Treaty Act.

Key ecological conditions for the Gila trout (*Oncorhynchus gilae*) are not included under the "Chihuahua chub, Gila chub, Gila trout, loach minnow, and spikedace" heading in the final EIS, page 207.

Pinyon Jay Habitat Clarification and Monitoring

Objection Summary

The objector contends that the plan should acknowledge Pinyon Jay's use of ponderosa pine habitat, both in the description of ponderosa pine forest management (Forest Plan pp. 78-82) and in the description of this species in the final EIS (Vol. 1 p. 178). They also recommend continued surveys and monitoring of Pinyon Jays to build on the recent data collected by Johnson et al. (2023).

Objector's Proposed Remedies

None provided.

Findings

Although the final EIS and Forest Plan don't include the use of ponderosa pine habitat by Pinyon Jay in the description of ponderosa pine management or in the description of the species as requested by the objector, the planning record does acknowledge that recent surveys have shown Pinyon Jay using transitional ponderosa pine habitat. Additionally, the forest has a cooperative agreement to continue Pinyon Jay surveys in 2025 and 2026 as long as funding remains available. The monitoring plan includes appropriate indicators and identifies plan components that would contribute to habitat integrity for Pinyon Jay in the plan area. I find that the planning record adequately address the habitat needs of Pinyon Jay.

Assessment

The final EIS (Vol. 1 Table 40 p. 174) lists Pinyon Jay habitat features as the following: "Pinyon and juniper woodlands; recent surveys in the Gila National Forest indicate this species is using transitional ponderosa pine habitat."

Table 40 also lists Pinyon Jay-associated ecological response unit types as: "Ponderosa Pine-Evergreen Oak, Pinyon Juniper Woodland and Pinyon Juniper Grass Woodland."

Field surveys conducted on the Gila National Forest from 2021-2023 showed that "approximately two-thirds of survey points with jay detections has ponderosa pine woodland, and nearly 20% had ponderosa pine without recorded piñon-juniper" (Johnson et al. 2023). In addition, the report states that ponderosa pine was present at several nesting locations on the forest, and all 12 active colonies occurred in sparsely treed or open areas including ponderosa pine woodland. Pinyon Jay use of ponderosa pine woodlands appears to be unique to the Gila National Forest in New Mexico (Johnson et al. 2023).

Monitoring Question 3 (Forest Plan, pp. 275-276) addresses monitoring trends of structural condition within ecological response units, including those associated with Pinyon Jay habitats. Specifically, the monitoring plan indicators for Question 3 are “trend in seral state proportion, coarse woody debris density, snag density, and area expected to be dominated by old trees for each ecological response unit” and plan components include All Upland Ecological Response Units LS-DC1, Ponderosa Pine Forest LS-DC4 and MS-DC5, Pinyon Juniper Woodland LS-DC2 and 3c; Pinyon Juniper Grass and Juniper Grass Woodlands LS-DC2 and MS-DC1c (forest plan p. 275).

Mexican Spotted Owl Plan Components and Effects Analysis

Objection Summary

Objectors claim the forest plan fails to ensure the protection of the Mexican spotted owl stating that plan components are too general and that the plan does not include specific requirements for monitoring Mexican spotted owl protected activity centers despite regional guidance that requires collection of pre-treatment and post-treatment data.

Objector’s Proposed Remedies

The final EIS must analyze the forest plan's impacts to Mexican spotted owl at the short-term and long-term, at a scale relevant to the location and sequencing of future vegetation treatment projects implemented under the forest plan.

The forest plan must include specific protections or criteria to be incorporated into future projects within Mexican spotted owl protected activity centers, critical habitat and recovery habitat, including the recommendations from the Mexican Spotted Owl recovery plan with respect to minimum basal areas and canopy cover. The forest plan should include the recommendations of the recovery plan to retain trees larger than 18 inches diameter in foraging/non-breeding habitat.

The forest plan should include requirements for pre-treatment and post-treatment monitoring of Mexican spotted owl protected activity centers in forest restoration projects.

Findings

The forest plan incorporates all U.S. Fish and Wildlife Service approved recovery plans by reference (Wildlife, Fish, and Plants Standard 4 and Guideline 2) (final EIS Vol. 1 p. 19). The planning record appropriately documents that coarse filter plan components provide ecological integrity sufficient for the Mexican spotted owl. I find that the responsible official used their discretion in establishing a monitoring plan to meet 36 CFR 219.12 and has met those responsibilities for the habitat associated with Mexican spotted owl. The plan is consistent with applicable law, regulation, and policy.

Assessment

The responsible official has discretion regarding the application of plan components to maintain the diversity of plant and animal communities and the persistence of native species in the plan area (36 CFR 219.9). If the coarse filter plan components written to provide ecological integrity are sufficient for the Mexican spotted owl, then no additional plan components are required (36 CFR 219.9(b)(1)).

The Mexican spotted owl recovery plan outlines recovery needs for Mexican spotted owl, including monitoring requirements that would be implemented at the project level. Additionally, monitoring question 4 of the monitoring plan addresses the desired conditions for mixed conifer and ponderosa pine-gambel oak vegetation communities using the occupancy status of select Mexican spotted owl protected activity centers as an indicator.

Mexican Gray Wolf Plan Components and Effects Analysis

Objection Summary

Objector claims a failure to adequately regulate livestock grazing and a failure to adequately analyze the authorized and unauthorized livestock grazing's effects on the endangered Mexican gray wolf in violation of NFMA, NEPA, ESA, and Administrative Procedure Act. They assert that the Forest Service is failing to provide the ecological conditions necessary to contribute to the recovery of the Mexican wolf.

Objector's Proposed Remedies

The forest plan should require terms and conditions in livestock grazing permits and/or annual operating instructions to permittees to protect Mexican wolves. Those terms and conditions should at a minimum include the following requirements: The timely, proper disposal of the carcasses of livestock that die of non-wolf causes before wolves scavenge on such carrion; a human presence in the vicinity of livestock that are calving/birthing; and planned chronologically-pulsed birthing of livestock to limit the span of time that newborn domestic animals are available to wolves and other predators.

Findings

The forest plan incorporates all U.S. Fish and Wildlife Service approved recovery plans by reference (Wildlife, Fish, and Plants Standard 4 and Guideline 2) (final EIS Vol. 1 p. 19). The planning record appropriately documents that coarse filter plan components provide ecological integrity sufficient for the Mexican gray wolf. I find that the responsible official used their discretion in establishing a monitoring plan to meet 36 CFR 219.12 and has met those responsibilities for the habitat associated with Mexican gray wolf. The plan is consistent with applicable law, regulation, and policy.

Assessment

The responsible official has discretion regarding the application of plan components to maintain the diversity of plan and animal communities and the persistence of native species in the plan area (36 CFR 219.9). If the coarse filter plan components written to provide ecological integrity are sufficient for the Mexican grey wolf, then no additional plan components are required (36 CFR 219.9(b)(1)). The forest plan describes the partnership with the Mexican Wolf interagency field team for managing conflict between livestock and wolf (p. 199) and the final EIS analyzes the impact of wolves and other predators on livestock grazing.

See Wildlife Focal Species in Monitoring Program for additional discussion regarding consideration of Mexican gray wolf as a focal species.

Habitat Impacts from Herbicides and Thinning

Objection Summary

The objector expressed concern regarding the effects of forest thinning and herbicide use, alleging that herbicide use will have unacceptable impacts to habitat that is "downhill from the areas to be treated" and that forest thinning "causes habitat destruction."

Objector's Proposed Remedies

None provided.

Findings

I find that the forest plan and final EIS sufficiently address the effects of forest thinning and herbicide use at the programmatic scale. The forest plan identifies the requirement to utilize an integrated pest management framework for invasive species management, and the effects analysis in the final EIS evaluates this for all alternatives at the programmatic planning level. Additional analysis will appropriately be conducted at the project planning stage when herbicide application is proposed.

Assessment

Vegetation management, including thinning and herbicide application, helps maintain, move toward, and achieve desired conditions on the forest. The forest plan addresses the needs of wildlife species and plants and includes guidance to maintain and enhance the habitat characteristics for species (forest plan pp. 129-138). The effects of forest thinning are addressed in the final EIS including the impacts of mechanical thinning on ecological response units and the ecological conditions for all species, including at-risk species (pp. 191-192).

Non-native Invasive Species standard 3 (forest plan p. 141) and Guideline 1 (forest plan p. 143) require the use of integrated pest management and a decision matrix at the project level. The final EIS documents the appropriate level of analysis for integrated pest management and references that additional analysis would be completed at the project level (final EIS Vol. 1 p. 57).

Herbicides are highly regulated by federal law and there are many practices that reduce the potential for off-target effects (forest plan pp. 136-137). All herbicide applications must comply with label instructions which are based on risk assessments that support the Environmental Protection Agency's registration of a chemical.

INVASIVE SPECIES

Lack of Integrated Pest Management Framework

Objection Summary

The objector asserts that the land management plan does not have a proper integrated pest management framework and is therefore in violation of NEPA. The objectors also assert that the land management plan does not prioritize non-chemical management practices, does not consider livestock

grazing impacts, and does not use the best available science as required by the NFMA and it violates NEPA's hard look requirement. They also argue that "the [final EIS] fails to fully analyze the effects of all pesticide that would be used in violation of the NEPA.

Objector's Proposed Remedies

The objector requests that the forest complete an environmental analysis of the effects of pesticide use on the forest assessing a range of integrated pest management frameworks that address, among other things, causes of non-native invasive species introduction and spread. They also request the inclusion of the following standards:

- Herbicide and pesticide use will not be authorized except for targeting invasive nonnative species.
- Causes of invasive non-native species introduction and spread shall be identified and, if addressable by changes in forest management, eliminated or substantially reduced, prior to or in conjunction with applications of pesticides.
- Pesticides are a management option of "last resort." All non-chemical management options for preventing, controlling, containing, and eradicating invasive non-native species shall be considered and determined infeasible prior to use of herbicides and pesticides.
- Herbicide and pesticide application shall be limited to the absolute minimum amounts, toxicities, and extents necessary.

Findings

I find that the planning record documents the requirement to use an integrated pest management framework for invasive species management and the EIS provides a sufficient programmatic-level analysis. Additional analysis, including risk assessments, would be conducted at the appropriate project planning level when herbicide application is proposed, including more site-specific effects on pollinators. Similarly, the final plan and its alternatives provide the flexibility for decisions to be made at the appropriate livestock grazing allotment level as part of grazing permit administration when allotment and site-specific circumstances are known. Environmental Protection Agency and Forest Service risk assessments identify the extensive science used to estimate various risk calculations and contribute to best available scientific information regarding pesticide use. The plan is consistent with law, regulation, and policy.

Assessment

The forest is not in violation of the Food Quality Protection Act of 1996, since it required action by the Environmental Protection Agency. To implement the requirements of the Food Quality Protection Act, the Environmental Protection Agency needed to develop methodologies to perform more refined pesticide risk assessments, to better reflect real-world situations within a 10-year timeframe, which the Environmental Protection Agency did produce. Non-native Invasive Species standard 9 (final land management plan p. 142) states "herbicide use will be restricted to those formulations containing active ingredients that have both an Environmental Protection Agency and Forest Service risk assessment. If mixtures of herbicide formulations are applied with Hazard Quotients greater than 1.0, additional mitigation measures will be included." Thus, the more refined risk assessments are used when

determining what pesticides may ultimately be considered for use by the Forest Service. Extensive research is referenced in each risk assessment.

Analysis of the direct, indirect, and cumulative effects of pesticide use at the programmatic planning scale for all alternatives is included throughout chapter 3 of the final EIS, Vol. 1 (pp.134, 138, 140, 142, 144, 154, 156, 160, 192, 201, 269). Regarding project level analysis, the final EIS (Vol. 1 p. 57) states that herbicide use is allowable as part of integrated weed management. The plan's standards and guidelines are useful as baseline constraints and serve to provide for transparency and communication with stakeholders who are concerned about the use of chemicals and may or may not have familiarity with the law or regulatory procedures. The need for more restrictive or additional constraints on herbicide use would be determined at the project level when herbicide application is proposed.

Forest Plan Non-native Invasive Species standard 3 (p. 141) and guideline 1 (p. 143) require the use of integrated pest management and a decision matrix at the project level. As noted above, the need for more restrictive or additional constraints would be determined at the project level. The Forest Plan includes 19 non-native invasive species standards (pp. 141-142) and 12 guidelines (pp. 143-144) as well as one Wildlife, Fish, and Plants standard 3 (p. 133) which provide an initial framework for the integrated pest management approach which would be further defined at the project proposal level. The land management plan also emphasizes identification, monitoring and early detection and rapid response and promotes education with Non-native Invasive Species desired conditions 2 and 3, and other plan content (Non-native Invasive Species management approaches: Early Detection and Rapid Response; Integrated Pest Management and Relationships; Survey and Documentation Strategy; Plant Identification; and Information, Education and Research (pp. 144-145); and Monitoring Questions 62 and 63 (p. 292).

The final EIS considers the impacts from livestock grazing on invasive species and acknowledges that there are several sources for noxious weed dispersal (p. 58). The plan provides the flexibility for the appropriate decisions to be made at the allotment level as part of permit administration when allotment and site-specific circumstances are known and Non-native Invasive Species guideline 8 requires that permits include specifications for supplemental feed to limit the potential for weed introduction.

Native pollinators' habitat needs are addressed by the land management plan in the revised plan on page 133 under Wildlife, Fish, and Plants Desired Condition 12 and additional analysis has been included in the final EIS Wildlife, Fish, and Plants section. The forest plan includes a section on native pollinators that recognizes the importance of native pollinators and the management of pollinator habitat (p. 137). Site specific effects on pollinators would be discussed in detail in project-level environmental analysis supporting a future herbicide-use proposal and its alternatives.

CONCLUSION

In closing, this is my final response to objections filed to the Gila National Forest Land Management Plan, final EIS, and ROD. Where I find changes or additional information are needed, I am issuing instructions to the responsible official that must be implemented prior to issuing a final decision on the land management plan for the Gila National Forest. My response is the final decision of the United

States Department of Agriculture on the objections to this forest plan. Thank you for your participation during this process and I look forward to engaging with you in the management of your national forests.

SUMMARY OF INSTRUCTIONS

Wilderness

Recommended Wilderness – Best Available Scientific Information

- Include documentation in the final decision that identifies what management direction is provided in the plan for those lands that were included in the inventory and evaluation and analyzed in an alternative but not recommended for wilderness.

Designated Wilderness – Desired Conditions

- Address the incomplete language from the Wilderness Act by either including the full list of prohibitions on page 234 of the land management plan or removing that language is it is not necessary to include verbatim text from statue.
- Either include the full purpose of the Wilderness Act in Desired Condition 1 or remove this desired condition as it does not add anything substantial to the management of designated wilderness that isn't already addressed in the planning record and would be merely restating language in the Wilderness Act.
- Include a definition of the term "constructed features" to mean installations and structures.
- Revise Designated Wilderness Desired Condition 5 that states "unique features and experiences are preserved as an element of wilderness character" to read "other features of value are preserved as an element of wilderness character."

Designated Wilderness – Standards

- Update the literature cited section of the final EIS to include Shelby and Heberlein (1986) which is cited in Vol. 1 (pp. 349-350) and Vol. 2 appendix A (p. A-372) and include it in the planning record.

Designated Wilderness – Guidelines

- Reword Designated Wilderness Guideline 4 to be consistent with the language provided in Recommended Wilderness Guideline 2 (pp. 246-247) to read "new trail construction or existing trail realignment should only occur where it facilitates protection of wilderness characteristics and/or comply with applicable regulation(s)."

Designated Wilderness - Other permitted uses

- Either eliminate the phrase "or use existing prior to designation" or add the specific use and ensure it is consistent with the special provisions provided in the Wilderness Act (for example livestock grazing) and/or enabling legislation.

Wild and Scenic Rivers

Eligibility 14 Streams

- Update the planning record to adequately document the scenery outstandingly remarkable values determination for the East Fork of the Gila River and West Fork Mogollon Creek.
- Update the planning record to document consideration of the recreation outstandingly remarkable value for the San Francisco River (Devil's Creek).
- Update the planning record to document consideration of the scenery outstandingly remarkable values for Mogollon Box of the Gila River.
- Add Mogollon Creek and Mogollon Box of the Gila River to Table I-5.
- Clarify in the planning record if and how the Natural Heritage New Mexico data was considered for informing eligibility determinations with rationale on why it was or was not used.
- Provide a rationale to explain if or why no changed circumstances were found for the 14 ineligible and 16 eligible rivers as requested by the objector and document how the data provided by the objector was considered in the evaluation.

Documentation

- Update the planning record to provide additional clarity and rationale that supports the wild and scenic river ineligibility determinations provided in Table I-5.

Recreation

Length of Stay Limits Continental Divide National Scenic Trail

- Clarify in the planning record that the forest intends to ensure the 14-day stay limit imposed by a forest order will provide a mechanism so that CDNST through-hikers have adequate time to hike the section of trail that crosses through the Gila National Forest.

Transportation

Plan Direction for Temporary Roads

- Clarify the language in Wildlife, Fish, and Plants Standard 2, and Roads Guidelines 4 and 5 describing the decommissioning of temporary roads once they are no longer needed to ensure consistency and communicate intent. Change "developed" to "constructed" in regard to temporary roads and change "closed" to "decommissioned" as Forest Service policy defines closed roads as maintenance level 1 roads. Clarify the intent of Riparian Management Zone Guideline 1 so that it is clear this guideline is intended to include temporary roads.

Range

Flawed Analysis for Animal Unit Months

- Update the final EIS and forest plan glossary to address any inconsistencies with the definitions of animal unit month, animal unit and animal equivalent so that they are consistent with definitions found in FSM 2205.

Wildlife

Clarification and Correction

- Update the language in the planning record to align with New Mexico Department of Game and Fish statues that the state is "responsible for managing all the state's protected vertebrates, mollusks, and crustaceans as defined in chapter 17, New Mexico Statutes Annotated (NMSA) 1978." Additionally, update the planning record to reflect the taxonomic split of northern goshawk (Accipiter gentilis) to American goshawk (Accipiter atricapillus) as the species that occurs within the plan area.

Focal Species in Monitoring Program

- Clarify the rationale for why specific avian species were not selected as focal species.

Recreational Pack Goat Use Permits and Testing

- Revise Sustainable Recreation, Recreation Special Uses - Standard 5 to clarify the intent of this standard to prevent disease transmission from domestic sheep and goats, including pack goats, to Rocky Mountain bighorn sheep.
- Clarify that domestic sheep and goats, including pack goats, won't be authorized in areas known to be occupied by Rocky Mountain Bighorn sheep and the Gila NF may consider or use the forest order process to address recreational pack goat use.
- Remove language requiring vaccination against and testing for *Mycoplasma ovipneumoniae* and clarify that intra and interstate movement and shipping of domestic sheep and goats, including recreational pack goats must comply with New Mexico Livestock Board statutes and rules.
- Update the planning record to include best available scientific information to support plan components that restrict pack goat use on the forest.

At Risk Species

Clarifications and corrections for SCC

- Update the planning record to reflect cold water temperatures as a key ecological condition for the Gila trout (*Oncorhynchus gilae*). Typographical errors and suggestions for updating taxonomic information will be addressed in the final plan and EIS.

LIST OF ELIGIBLE OBJECTORS AND INTERESTED PERSONS

Eligible Objectors

- American Rivers
- Bird Alliance of Southwestern New Mexico
- Carol Martin
- Center for Biological Diversity (lead), New Mexico Wilderness Alliance, New Mexico Sportsmen, Defenders of Wildlife, Gila Conservation Coalition, Gila Resource Information Project, Heart of

the Gila, Rio Grande Indivisible-NM, Sierra Club Rio Grande Chapter, Upper Gila Wilderness Alliance, White Mountain Conservation League, WildEarth Guardians
- Continental Divide Trail Coalition
- Grant Soil and Water Conservation District
- Joanne Cockerill
- New Mexico Wilderness Alliance (lead), the Wilderness Society, Great Old Broads for Wilderness, Wild Earth Guardians, Center for Biological Diversity
- New Mexico Department of Game and Fish Wildlife
- North American Packgoat Association
- San Francisco Soil and Water Conservation District
- Theresa Mercer
- Western Watersheds Project (lead), Wild Earth Guardians
- Wilderness Watch

Interested Persons

- American Whitewater
- Caren Cowan
- Gerald Engel
- Glenn Griffin
- Grant County Soil and Water Conservation District
- Harry Browne
- Michael Sauber
- New Mexico Cattle Growers' Association
- New Mexico Department of Agriculture
- New Mexico Department of Game and Fish
- New Mexico Pilots Association
- San Francisco Soil and Water Conservation District
- Stream Dynamics, Inc.
- The Center for Biological Diversity
- The Hopi Tribe
- Thomas Shelley
- Ty Bays
- Western Watersheds Project (lead), Wild Earth Guardians

REFERENCES CITED

General

Statutes such as the National Forest Management Act and the National Environmental Policy Act are available at the Office of the Law Revision Counsel's United States Code website at https://uscode.house.gov/.

CFR references are available at www.ecfr.gov.

Forest Service directives (manuals and handbooks) are available at https://www.fs.usda.gov/about-agency/regulations-policies.

Forest plan revision documents such as the final EIS, ROD, and assessment are available at https://www.fs.usda.gov/project/?project=51887.

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