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Via postal mail and e-mail: comments-southwestern-gila-glenwood@fs.fed.us

RE: Comments Regarding Pueblo Creek Allotment Environmental Assessment (EA)

Dear Ranger Morrison,

Thank you for providing our office with a copy of the Pueblo Creek Allotment EA. These comments are submitted on behalf of Forest Guardians and our 1,650 members who care about, and are affected by, the management of our National Forests. Forest Guardians is a non-profit public interest organization dedicated to preserving the wild lands and wildlife of the American Southwest. Forest Guardians has a long history of interest and involvement in Forest Service activities with respect to grazing, riparian areas, water quality, and wildlife. The members and staff of Forest Guardians use and enjoy the public lands, waters, and natural resources within the Gila National Forest for recreational, scientific, spiritual, educational, aesthetic, and other purposes. Forest Guardians and its members also participate in information gathering and dissemination, education and public outreach, commenting upon agency actions, and other activities relating to the Forest Service's management and administration of the public lands in New Mexico and Arizona.

As I am sure you are aware, the effects of cattle grazing have long subjected our southwestern public lands to ecological disrepair. Recent scientific studies have indisputably shown that grazing in the arid areas of our country, such as those in Arizona and New Mexico, eradicates native flora and fauna and degrades water quality.¹ These devastating effects stem from the fact that cattle denude the landscape while trampling soils and destroying stream banks. The ubiquity of subsidized livestock ranching on our National Forests is quickly eradicating the unique treasure of biodiversity that once pervaded throughout the places in which we now live, work, and play.

Modern scientific thought on southwestern cattle ranching is rapidly altering public opinion of the same. Many concerned citizens, including those in our own membership, seek change for range management on our public lands. Simply put, we feel that

¹ See e.g. Wuerthner, George and Mollie Matteson (eds). *Welfare ranching: the subsidized destruction of the American west*. Island Press (2002).

livestock grazing on the Gila National Forest is unsustainable and incompatible with the public interest. It is from this perspective that we now comment on your contemplated course of action for the Pueblo Creek Allotment.

PROJECT DEFINITIONS AND LEGAL PARAMETERS

The purpose and need of the project at issue is “to determine a suitable level of livestock management for the Pueblo Creek Allotment.”² In furtherance of this goal, the project level EA purports to analyze the environmental impacts of reauthorizing livestock grazing on the Pueblo Creek Allotment. Because continued grazing on this allotment specifically- and on our public lands in general- wreaks havoc on the environment, depletes public resources, and impairs recreational opportunities, any decision to reauthorize grazing at this time cannot be taken lightly. Indeed, the need for sound agency decision-making is reflected in the myriad of federal rules and regulations that now govern your decision.

Not only must the Pueblo Creek EA meet the procedural requirements of the National Environmental Policy Act (NEPA), 42 U.S.C §§ 4321 *et seq.*, all range management decisions on this allotment must comply substantively with NEPA, the National Forest Management Act (NMFA), 16 U.S.C §§ 1600 *et seq.*, the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. §§ 1751 *et seq.*, the Public Rangelands Improvement Act (PRIA), 43 U.S.C. §§ 1901 *et seq.*, the Endangered Species Act (ESA), 16 U.S.C. §§ 1531 *et seq.*, the Administrative Procedures Act (APA), 5 U.S.C. §§ 706 *et seq.*, the Clean Water Act (CWA), 33 U.S.C. §§ 1251 *et seq.*, the Multiple-Use, Sustained-Yield Act (MUSY), 16 U.S.C. §§ 528 *et seq.*, the National Forest Grazing Act (NFGA), 16 U.S.C. §§ 580c *et seq.*, the United States Forest Service (USFS) Federal Regulations for Grazing and Livestock Use on the National Forest System, 36 C.F.R. Part 222, the Gila National Forest Plan (GNFP), and the 1996 Record of Decision for Amendment of Forest Plans, Arizona and New Mexico (ROD).

In short, the USFS is compelled to manage our forests in the public interest by preserving their natural integrity and balancing competing uses. The EA prepared for the Pueblo Creek Allotment should have reflected the USFS’s aforementioned charge by realistically analyzing the environmental and financial costs of continued grazing, along with the benefits of long-term rest. The EA, however, failed to take either of these factors fully into account. Instead, the preferred action on the Pueblo Creek Allotment inappropriately and unjustifiably reflects the USFS’s overarching policy of favoring the preservation of an ambiguous “ranching culture” over all other potential uses. In doing so, the USFS turns a blind eye to the real costs of public lands ranching, and fails to disclose the tangible benefits that could be realized by allowing our National Forests to be put to the panoply of other uses, which are now unrealistic on the 69% of USFS land that is currently devoted to livestock grazing.³

² Pueblo Creek Allotment EA, at 3.

³ Wuerthner, *supra* at note 1.

These comments explore the inadequacies of the Pueblo Creek Allotment EA. We do this through a discussion of those issues that should have been addressed therein, and conclude that the USFS must now complete an environmental impact statement (EIS). This heightened level of environmental review is required to cure the deficiencies of the EA, and adequately address other significant issues that the USFS should consider before deciding whether to reauthorize livestock grazing on the allotment.

THE INADEQUACY OF THE PUEBLO CREEK ALLOTMENT EA

We feel that the EA for the reauthorization of grazing on the Pueblo Creek Allotment fails to meet the requirements of the Council on Environmental Quality (CEQ)⁴ as promulgated in accordance with NEPA. The sections that follow discuss the general role of an EA in the agency decision-making process, and point out why *this* EA provides an insufficient basis upon which the USFS can move forward without further environmental review.

Purpose and Function of an EA Generally

When, as here, an action is not categorically excluded from environmental review, the USFS may begin the NEPA process with the preparation of an EA.⁵ The purpose of an EA is to determine whether the federal action is significant enough to require an EIS, *i.e.*, whether the federal action will have a significant effect on human health or the environment.⁶ To facilitate such determination, the EA must contain, *inter alia*, brief discussions of the need for the proposed action, alternatives to the proposal, and the environmental impacts of the proposal and the alternatives.⁷ Additionally, an EA must consider the cumulative impacts of the proposed action.⁸

An EA is meant to be a concise public document, which serves to provide sufficient evidence and analysis for determining whether to prepare an EIS or, on the other hand, make a finding of no significant impact (FONSI).⁹ Although not as thorough or as detailed as an EIS, an EA requires enough of an investment of agency resources to carry out a preliminary environmental inquiry. Should such inquiry reveal that the federal action may significantly affect the quality of the environment, the USFS must prepare and EIS.

Closing the environmental review process on any major federal action¹⁰ before providing the public sufficient evidence and analysis of the environmental impacts is contrary to

⁴ The CEQ regulations are codified at 40 C.F.R. §§ 1500 *et seq.*

⁵ See 40 C.F.R. §§ 1501.3 and 1501.4(a)-(c).

⁶ 42 U.S.C. § 4332(2)(C).

⁷ See 40 C.F.R. § 1508.9.

⁸ See *e.g.* *Kern v. BLM*, 284 F.3d 1062 (9th Cir.2002); *Hall v. Norton*, 266 F.3d 969 (9th Cir.2001); *Blue Mountains Biodiversity Project*, 161 F.3d 1028 (9th Cir.1998); *Idaho Sporting Cong. V. Thomas*, 137 F.3d 1146 (9th Cir.1998).

⁹ See 40 C.F.R. § 1508.9, *supra* note 7.

¹⁰ The issuance or re-issuance of a USFS grazing permit is a major federal action under NEPA.

law. We feel as though the USFS has acted in such a contrary manner with regard to the Pueblo Creek Allotment EA. You have done so both by violating the procedural requirements of NEPA and by arbitrarily and capriciously proposing an action that cannot possibly fulfill the identified objectives of the project. The following section details our rationale.

Specific Inadequacies of the Pueblo Creek Allotment EA

The Pueblo Creek Allotment EA constitutes inadequate environmental review for four main reasons. First, the proposed action does not further the identified project objectives. Second, the EA offers no substantive range of alternatives to the proposed action. Third, the EA fails to disclose and discuss the true environmental impacts of cattle grazing to riparian areas, water quality, wildlife, and threatened and endangered (T&E) species. Fourth, the EA includes no discussion of the cumulative impacts of continued livestock grazing throughout the Gila National Forest.

Taken either collectively or separately, these four failures bar the USFS from now issuing a FONSI for the reauthorization of grazing on the Pueblo Creek Allotment. We submit that each of the following four issues is significant enough to warrant the development of an EIS, and urge the USFS to do so in a timely manner. The following sections provide an elaboration of our position.

1. FAILURE TO FURTHER PROJECT OBJECTIVES

Several project objectives are identified in the Pueblo Creek Allotment EA, including the improvement of range, riparian, and watershed conditions.¹¹ The need for ecological improvement on the Pueblo Creek Allotment signals USFS's own acknowledgement that the current conditions there are undesirable. Indeed, the EA explicitly states that range condition is currently unsatisfactory on almost half of the allotment's key areas.¹²

Soil/watershed conditions remain unsatisfactory on 15% of key areas, while monitoring shows unsatisfactory conditions on 34% of riparian streams.¹³ Specifically, three out of seven riparian streams and four out of six springs and/or seeps are experiencing a qualitative downward trend.¹⁴ The Sheep Basin wet meadow- the only habitat of its kind on the allotment- is also in a downward trend, as its ecological integrity is continuously placed at risk due to cattle trampling.¹⁵

Despite the fact that grazing under the current management scheme has resulted in degraded range, riparian, and watershed conditions, the proposed action can hardly be deemed a true departure from past and present practices on the allotment. Under the current grazing permit, the USFS has authorized 5,197 animal unit months (AUMs) to be

¹¹ Pueblo Creek Allotment EA, *supra* note 2, at 7-8.

¹² *Id.*, at 6.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*, at 10.

grazed year round on the Pueblo Creek Allotment by utilizing an eight pasture rotation system. For the past ten months, the permittee has voluntarily reduced this stocking rate to 3,912 AUMs through a Memorandum of Understanding (MOU) with the USFS. While the proposed action initially cuts that number to 3,168 AUMs, it reduces the scope of rotation to three pastures, and simultaneously authorizes the USFS to bolster the stocking rate to 5,197 AUMs at any time and with no further environmental analysis.

At first blush, lowering stocking rates by 744 AUMs seems like a positive step towards achieving project objectives. However, sufficient scrutiny reveals that the proposed action offers nothing of the sort. For instance, while a reduction in pasture rotation from an eight to three pasture scheme places less focused pressure on small areas of the allotment at one time, this scheme provides less rest to the allotment as a whole. In all reality, at least one third of the total allotment area will be grazed at all times. Similarly, the EA states that 67% of riparian springs will be excluded from livestock use, but the schedule for riparian exclosure construction spans over the next six years. This means that the 67% exclosure goal cannot possibly be realized until the permittee is over half way through his or her grazing term. This type of delayed construction schedule is not an effective strategy for “improve[ing] springs/seeps and riparian condition on the allotment by the end of the ten-year grazing permit period.”¹⁶

Even if one were to assume that the aforementioned reduction could further project objectives, it is simply unfathomable that raising the stocking rate to 5,197 AUMs could possibly improve degraded range, riparian, and watershed conditions. Nevertheless, the EA states that the USFS has absolute authority to increase the stocking rate in just this way. More shocking still is that the only prerequisite for the USFS to make this abrupt, at-will increase in allowable AUMs is that the permittee comply with the terms of his or her annual operating instructions (AOIs).

Grazing permits confer *no property rights to permittees*. Quite to the contrary, a federal permittee’s daily operations are carefully constrained by his or her permit terms, allotment management plans (AMPs), and AOIs. The TGA explicitly defines “grazing privileges” as revocable licenses, stating that “the creation of a grazing district or the issuance of a permit... shall not create any right, title, interest, or estate in or to the lands.”¹⁷ This means that strict compliance with the terms of grazing permits, AMPs, and AOIs is *nondiscretionary*.

Permittee compliance is assumed by the USFS and demanded by the public. Noncompliance is grounds for permit suspension and/or revocation,¹⁸ and should not be treated as a benign, commonplace departure from malleable guidelines. Permittee compliance should be the standard expectation of behavior- not a threshold for reward. That the USFS would even consider increasing the stocking rate by 143%¹⁹ over that

¹⁶ *Id.*, at 8 (project objective number 7).

¹⁷ 43 U.S.C. § 315b.

¹⁸ 36 C.F.R. § 222.4(a)(2).

¹⁹ 5,197 AUMs represents 143% of the 3,633 average AUM figure that the EA identified on p. 4 as actual use for the last ten years (1996-2005).

currently utilized on the allotment with no additional NEPA review is unquestionably violative of APA § 706(2)(A) and NEPA itself.

2. FAILURE TO PROVIDE SUBSTANTIVE RANGE OF ALTERNATIVES

NEPA requires federal agencies to consider alternatives to their proposed actions, and examine the environmental impacts of those alternatives. This alternatives requirement implements NEPA's environmental policies. It requires federal agencies to consider whether they can carry out their proposed action in a less environmentally damaging manner, and whether alternatives exist that make the action unnecessary. In fact, the CEQ has described the alternatives requirement as the "heart" of environmental review.²⁰ The courts have been correspondingly emphatic, calling the alternatives requirement the "linchpin" of the EIS.²¹

Importantly, the alternatives requirement also applies to the preparation of an EA.²² NEPA § 102(2)(E) requires all agencies to "study, develop, and describe appropriate alternatives to recommended courses of action in *any* proposal which involves unresolved conflicts concerning alternative uses of available resources" (emphasis added).²³ The CEQ regulations require that an EA include "brief discussions of the need for the proposal, of alternatives as required by [NEPA § 102(2)(E)], [and] of the environmental impacts of the proposed action and alternatives."²⁴ Courts, too, have stressed the importance of the alternatives requirement in the development of EAs. In doing so, they have required federal agencies "to study alternatives to any actions that have an impact on the environment, even if [it is ultimately determined that] the impact is not significant enough to require a full-scale impact statement."²⁵

Some courts have concluded that the duty to discuss alternatives in an EA under NEPA § 102(2)(E) is *at least as broad and may be broader* than the duty to discuss alternatives in an EIS. For instance, the Fifth Circuit has held that NEPA § 102(2)(E) is "supplemental and more extensive" than the alternatives requirement of an EIS.²⁶ That court further stated that the purpose of NEPA § 102(2)(E) is "to insist that no major federal project would be undertaken without intense consideration of other more ecologically sound courses of action, including shelving the entire project..."²⁷

²⁰ See 40 C.F.R. § 1502.14

²¹ See *Monroe County Conservation Council, Inc. v. Volpe*, 472 F.2d 693 (2nd Cir.1972).

²² See e.g. *Greater Yellowstone Coalition v. Flowers*, 359 F.3d 1257 (10th Cir.2004); *Highway J Citizens Group v. Mineta*, 349 F.3d 938 (7th Cir.2003); *Mt. Lookout-Mt. Nebo Prop. Prot. Ass'n v. Federal Energy Regulatory Comm'n*, 143 F.3d 165 (4th Cir.1998); *Sierra Club v. Epsy*, 38 F.3d 792 (5th Cir.1994); *Senville v. Peters*, 327 F.Supp.2d 335 (D.Vt. 2004).

²³ 42 U.S.C. § 4332(2)(E).

²⁴ 40 C.F.R. § 1508.9(b).

²⁵ See *City of New York v. United States Dep't of Transp.*, 715 F.2d 732 (2nd Cir.1983), *appeal dismissed*, 465 U.S. 1055 (1984).

²⁶ *Environmental Def. Fund, Inc. v. United States Army Corps of Eng's*, 429 F.2d 1123 (5th Cir.1974); *accord Bob Marshall Alliance v. Hodel*, 852 F.2d 1223 (9th Cir.1988).

²⁷ *Id.*

Here, the CEQ requires the USFS to present the realistic environmental impacts of its proposed action on the Pueblo Creek Allotment, as well as to present all reasonable alternatives to that action in comparative form.²⁸ A proper alternatives analysis should “rigorously explore” and “objectively evaluate” these alternatives, which means it should “devote substantial treatment to each alternative considered in detail- including the proposed action- so that reviewers may evaluate their comparative merits.”²⁹

The range of alternatives to be set forth in an EA is governed by the “rule of reason,” and defined by the “purpose and need” of the action itself.³⁰ Again, the purpose and need of the action at issue is to determine a suitable level of livestock management for the Pueblo Creek Allotment. Certainly, the USFS need not consider an infinite range of alternatives- but it must seriously consider all reasonable and feasible ones.

The USFS failed to meet the alternatives requirement in the Pueblo Creek Allotment EA because it offers just two alternatives to the proposed action: the riparian alternative and the no grazing alternative.³¹ While we applaud your consideration of both of these courses of action, we still feel that your overall analysis is lacking. This is because there are other significant issues- beyond riparian degradation- that exist on the allotment but are not considered in the EA.

Namely, the Pueblo Creek Allotment sits wholly within the Blue Range Wolf Recovery Area (BRWRA). Therefore, there is real potential that Mexican gray wolves are now present, or will be present on this allotment in the near future. Because of the inherent nature of wolf-livestock conflicts, it is simply implausible that this potential for wolf presence is not a significant issue giving rise to an alternative to the proposed action. The development of an alternative that addresses wolf-livestock conflicts is plainly “reasonable” and “feasible” under these circumstances. The next section describes the logistics of wolf recovery efforts on the Gila National Forest, and fully explains the critical role that the success of this recovery project plays in the American southwest.

Mexican Wolf Recovery

A relatively new endangered species on the Gila National Forest landscape requiring the USFS’s consideration is the Mexican wolf (*Canis lupus baileyi*). Unlike other

²⁸ See 40 C.F.R. § 1502.14.

²⁹ 40 C.F.R. § 1502.14(b); see also Council on Environmental Quality, “Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations,” 46 Fed. Reg. 18026, 18027, 18028 (1981): Question 5 (degree of analysis devoted to each alternative to be substantially similar to degree of analysis devoted to proposed action); Question 7 (contrasting discussion of alternatives with discussion of environmental consequences and suggesting that discussion of alternatives be presented concisely in comparative form, including charts and tables); see also 40 C.F.R. § 1502.2(d) (impact statement must state how alternatives achieve goals of statute); 40 C.F.R. § 1505.1(e) (alternatives considered by decision maker must encompass those included in impact statement); 40 C.F.R. § 1503.25(b) (alternatives to include no-action alternative, other reasonable courses of action and mitigation measures).

³⁰ See 40 C.F.R. § 1502.13.

³¹ Because the purpose of the NEPA alternatives requirement is to examine less environmentally damaging actions than that proposed, the “no change alternative,” which continues the current management scheme on the allotment, is not a proper alternative.

endangered species, the Mexican wolf has the potential, and is ultimately expected, to occupy nearly all of the Gila National Forest.

As with all species listed as threatened or endangered under the ESA, the USFS has a mandate to “carry out programs for the conservation of endangered species....”³² The USFS is a signatory to the 2003 Memorandum of Understanding (2003 MOU)³³ and a full member of the Mexican Wolf Adaptive Management Oversight Committee (AMOC), which makes decisions regarding the Mexican wolf reintroduction project underway in the BRWRA. The stated purpose of the 2003 MOU, which establishes the AMOC, is “to establish a framework for adaptively managing the Mexican wolf reintroduction project in and around the BRWRA to contribute toward recovery, including downlisting and delisting.” The BRWRA includes the entire Gila National Forest and, by inclusion, the entire Pueblo Creek Allotment.

The assessment of the effect of all alternatives considered in the EA on the Mexican wolf is as follows: “One experimental non-essential population, no denning or release sites on within the allotment.” We find this 13-word assessment grossly inadequate. Mexican wolves are free to establish territories and dens on the Pueblo Creek Allotment, but simply have not done so yet. Wolves previously released in Arizona can be translocated to any location in the Gila National Forest; and, thus, the Pueblo Creek Allotment could be selected as a release site in the future. Decisions now made that would reduce the potential for livestock-wolf conflicts and increase populations of deer and elk would enhance the value of this allotment and the BRWRA for Mexican wolf recovery.

On December 31, 2005, the AMOC issued the Mexican Wolf Blue Range Reintroduction Project 5-Year Review- a comprehensive assessment of the progress of the reintroduction project from 1998-2003. The review documents an unsustainable mean annual “failure rate” of 64%, meaning that without continued releases of wolves the population would continue to decline. The failure rate is comprised of wolves that die, wolves that are removed for dispersing outside the BRWRA boundary, and wolves removed to resolve conflicts between livestock and wolves. To date, all continuing conflicts between livestock and wolves have been ultimately resolved by removing wolves, and a significant component of the removal rate (26%) is of wolves that prey on livestock.

Annual reports issued by the U.S. Fish and Wildlife Service (FWS) and the AMOC for the years 2004 and 2005 document a decline in the BRWRA Mexican wolf population for both years.³⁴ The estimated population at the end of 2005 was 42 compared to the

³² ESA § 7(a)(1).

³³ This MOU was signed by *Arizona Game and Fish Department, New Mexico Game and Fish Department, U.S.D.A. Animal and Plant Health Inspection Service/Wildlife Services, U.S.D.A Forest Service, U.S. Fish and Wildlife Service, White Mountain Apache Tribe, Arizona Counties of Graham, Greenlee, and Navajo, New Mexico Counties of Catron and Sierra, and the New Mexico Department of Agriculture* on October 31, 2003.

³⁴ USFWS. 2005. Mexican wolf recovery program: January 1 - December 31, 2004. Progress Report #7. U.S. Fish and Wildlife Service, Albuquerque, New Mexico. See also USFWS. 2006. Mexican wolf recovery program: January 1-December 31, 2005. Progress Report #8. U.S. Fish and Wildlife Service, Albuquerque, New Mexico.

estimated population of 55 wolves at the end of 2003. It is important to note that these numbers are not exact, and possibly slightly inflated. Accordingly, the annual reports noted that the 2005 end population number was perhaps as low as 35 individuals.

Wolves continue to be removed when conflicts arise between livestock and wolves, further reducing the BRWRA wolf population. To date, the AMOC has not required any changes in livestock management or husbandry practices by allotment permit holders. This practice needs to change. The implementation of such preventive measures could reduce livestock-wolf conflicts and increase the survival and tenure of reintroduced wolves and their offspring on the BRWRA. Both results would effectively contribute to the conservation and recovery of the Mexican wolf *as required by* the ESA and the 2003 MOU.

NEPA assessments required by the Rescissions Act of 1995 (Public Law 104-19) provide an opportunity to systematically re-evaluate policy decisions on an allotment-by-allotment basis in light of the effects of such decisions on the BRWRA Mexican wolf reintroduction project and the recovery requirements of the ESA. We have identified five measures that would serve individually and collectively to conserve and recover the endangered Mexican wolf in the BRWRA: (1) reduce or eliminate livestock; (2) increase native prey, especially elk and deer; (3) remove, or render unpalatable, livestock carcasses; (4) eliminate open-range calving by livestock; (5) adjust the seasonality of grazing. We elaborate on each of these measures below, and reiterate that a similar analysis should have been offered as part of the alternatives requirement of the Pueblo Creek EA.

Reduce or eliminate livestock. Wolves course through large home ranges in search of prey. The more livestock that are present within the BRWRA and the more ubiquitously they are distributed, the greater is the probability of wolves encountering and eventually preying on livestock. Under current rules and procedures, this results in the take and removal of wolves. The success of gray wolf recovery in the northern Rocky Mountains is attributed in large part to the existence of large livestock-free core areas where wolves need not be managed or controlled for interactions with livestock.³⁵

Increase native prey. The primary native prey of Mexican wolves in the BRWRA are elk and deer, especially elk. Presently, wolves have a near equal opportunity of encountering native prey and domestic livestock in the BRWRA. Logical reasoning suggests that by increasing elk and deer, conflicts between livestock and wolves would be reduced and the removal of wolves would decline. This would increase the survival and persistence of wolves in the BRWRA contributing to their conservation and recovery. The EA documents a forage allocation of 92% for livestock and only 8% for wildlife established in 1986, with a future goal of 80% for livestock and 20% for wildlife. Livestock grazing is a permitted privilege within the BRWRA “where consistent with other multiple use goals and objectives.” The elimination of grazing privileges within the BRWRA would

³⁵ Bangs E.E., S.H. Fritts, J.A. Fontaine, D.W. Smith, K.M. Murphy, C.M. Mack, and C.C. Niemeyer. 1998. *Status of gray wolf restoration in Montana, Idaho, and Wyoming*. Wildlife Society Bulletin 26:785-798.

not significantly affect the livestock industry as a whole.³⁶ However, the success of the BRWRA Mexican wolf reintroduction project is entirely dependent on Mexican wolves thriving and persisting within the BRWRA. We believe that these facts elevate the priority of Mexican wolf recovery above that of livestock production within the BRWRA and that this priority should be reflected in the pending decision by the USFS on the Pueblo Creek Allotment and other allotments within the BRWRA. Thus, the allocation of forage should be at least 50/50, and for reasons stated above we recommend that more forage be allocated to wildlife than domestic livestock within the BRWRA.

Remove or render unpalatable livestock carcasses. The Mexican Wolf Recovery: Three-Year Program Review and Assessment concluded that scavenging on dead livestock “may predispose wolves to eventually prey on livestock”;³⁷ and the Five-Year Review documented that 11% of wolves that depredated livestock were known to have previously scavenged dead livestock prior to their first documented depredation incident.³⁸ Authors of the Three-Year Review recommended that livestock operators on public lands within the BRWRA be required to “take some responsibility for carcass management/disposal to reduce the likelihood that wolves become habituated to feeding on livestock.” The USFS’s AMOC representative claims that the agency lacks authority to require permittees to remove or render unpalatable (as by applying lime) dead livestock on their allotment. We believe otherwise, and recommend that such a requirement be included in all allotment management plans within the BRWRA. Such a provision will reduce livestock-wolf conflicts and, thus, contribute to the conservation and recovery of the Mexican wolf.

Eliminate open-range calving by livestock. Wolves prey disproportionately on young prey, including livestock. Dispersed open-range calving of untended cows invites depredation by wolves, which leads to wolves being removed from the BRWRA, and contributes to the failure of wolf recovery efforts. We have recently learned of some confined calving operations in the Apache National Forest that reportedly resulted in increased calf survival. If grazing is allowed, confined calving should be a condition of the Pueblo Creek Allotment management plan and of all other allotment management plans in the Gila National Forest.

Adjust the seasonality of grazing. Mexican wolf project personnel report that fewer livestock depredation incidents occur on seasonally grazed allotments, especially those stocked with livestock during summer after the elk have given birth to their calves. Young wolves learn to identify prey from their parents and older pack members and from a “search image” for the prey they are taught to hunt. From an energetics perspective, wolves that stick to known prey items would be expected to fare better than wolves that experiment with potential prey with which they lack experience, unless known prey becomes scarce. If livestock are on the range less than half of the year, wolves would

³⁶ Donahue, D.L. 1999. *The Western Range Revisited*. University of Oklahoma Press, Norman.

³⁷ Paquet, P.C., J.A. Vucetich, M.K. Phillips, and L.M. Vucetich. 2001. *Mexican wolf recovery: Three-year program review and assessment*. US Fish and Wildlife Service, Albuquerque, New Mexico.

³⁸ Mexican Wolf Adaptive Management Oversight Committee. 2005. *Mexican wolf Blue Range Reintroduction Project 5-year review*. US Fish and Wildlife Service, Albuquerque, New Mexico.

presumably have a reduced incentive to switch from known prey (i.e., elk and deer) to domestic livestock.

While we were able to easily develop and articulate the above five measures to help conserve and recover the endangered Mexican wolf in the face of cattle grazing on the allotment, your EA made no attempt to raise the wolf issue or discuss its impacts. Because the “appropriate level of livestock grazing on the Pueblo Creek Allotment” turns, in part, on the magnitude and resolution of potential wolf-livestock conflicts, a “wolf alternative” falls well within the “rule of reason.” Accordingly, environmental review of the proposed action cannot close until this integral alternative is developed and submitted for public comment.

4. FAILURE TO PROVIDE SUFFICIENT EVIDENCE AND ANALYSIS OF ENVIRONMENTAL IMPACTS

Any EA must provide enough evidence and analysis of environmental impacts for the USFS to make an informed decision as to whether it should prepare an EIS. Despite this NEPA requirement, the actual environmental consequences of continued livestock grazing are not mentioned in the Pueblo Creek Allotment EA. This is unacceptable. Without any knowledge of the environmental impacts that can be expected to flow from the proposed action, an informed decision as to whether those impacts are significant cannot be made.

The following sections explore the well documented and scientifically accepted environmental impacts of livestock grazing in the arid southwest. Although not politically appealing, these impacts are non-speculative and ecologically relevant. Their disclosure in the Pueblo Creek EA is required by law.³⁹

Cattle Grazing Destroys Riparian Areas & Impairs Water Quality

Riparian and stream ecosystems represent only 0.5 to 1% of the surface area of arid lands in the eleven western United States,⁴⁰ yet support an estimated 60 to 70% of Western bird species⁴¹ and as many as 80% of wildlife species in Arizona and New Mexico.⁴² Despite the immense ecological importance of these areas, grazing by livestock has damaged 80% of the streams and riparian ecosystems in arid regions of the western United

³⁹ 40 C.F.R. § 1508.9(b), *supra* note 23.

⁴⁰ U.S. General Accounting Office. 1988. *Public rangelands: some riparian areas restored by widespread improvement will be slow*. GAO/RCED-88-105; *see also* Belsky, A.J., A. Matzke, and S. Uselman. *Survey of livestock influences on stream and riparian ecosystems in the Western United States*. *Journal of Soil and Water Conservation* 54 (1999): 419-431.

⁴¹ Omart, R.D. 1996. *Historical and present impacts of livestock grazing on fish and wildlife resources in western riparian habitats*. Pp. 245-279. In: P.R. Krausman (ed.), *Rangeland wildlife*. Society for Range Management: Denver, CO; *see also* Belsky et al. (1999).

⁴² Chaney, E., W. Elmore, and W.S. Platts. 1990. *Livestock grazing on Western riparian areas*. Northwest Resource Information Center, Inc.: Eagle, ID; *see also* Belsky et al. (1999).

States.⁴³ As recently as 1990, the U.S. Environmental Protection Agency reported that “extensive field observations suggest that riparian areas throughout much of the West are in their worst conditions in history.”⁴⁴ In addition, a joint Bureau of Land Management (BLM) and USFS report concluded that “riparian areas have continued to decline” since grazing reforms in the 1930’s.⁴⁵

The result of cattle grazing in and around riparian areas is nothing short of ecological collapse. A recent survey of scientific literature reported on the effects of livestock grazing on Western streams and riparian zones.⁴⁶ Cattle have a negative effect on water quality and seasonal quantity, stream channel morphology, hydrology, riparian zone soils, instream and streambank vegetation, and aquatic and riparian wildlife.⁴⁷ Strikingly, this comprehensive survey of peer-reviewed, experimental and comparative studies found no positive environmental impacts due to cattle grazing.⁴⁸

Cattle not only destroy wildlife habitat through the degradation of water quality; they also impair human water supplies. Agriculture is the major source of water quality impairment in this country. Siltation, introduction of excessive “nutrient” materials, bacteria, proliferation of oxygen-depleting substances, and pesticides rank as the top causes of water quality decline in rivers.⁴⁹ Agriculture- including livestock production- is linked to all of them.⁵⁰ Livestock waste alone is a major factor in the nutrient pollution of streams, increase of pathogenic bacteria in water supplies, and the decline of dissolved oxygen levels in rivers, lakes, and other water bodies.⁵¹ Cattle are by far the largest generators of waste, producing about 3.5 tons per year for every man, woman, and child in the United States.⁵²

That reauthorizing cattle grazing on the Pueblo Creek Allotment will continue to degrade water quality is a given. The USFS has a legal duty to protect the rivers, streams, springs, seeps, and wetlands of the Gila National Forest from its grazing permittees’ pollution. The New Mexico Environment Department (NMED) and USFS have an agreement that states that the USFS will endeavor to minimize and mitigate all potential non-point source pollution activities. CWA § 313 requires federal agencies to “comply with...all state...and local requirements, administrative authority, and process sanctions

⁴³ U.S. Department of Interior. 1994. *Rangeland reform '94, draft environmental impact statement*. Bureau of Land Management: Washington D.C.; see also Belsky et al. (1999).

⁴⁴ Chaney, et al., *supra*, at note 7.

⁴⁵ U.S. Department of Interior, *supra*, at note 8.

⁴⁶ Belsky et al. (1999), *supra*, at notes 5-7.

⁴⁷ *See id.*

⁴⁸ *See id.*

⁴⁹ U.S. Environmental Protection Agency, *The Quality of Our Nation’s Water: 1996- Executive Summary of the National Water Quality Inventory: Report to Congress*, EPA841-S-97-001 (Washington, D.C.: USEPA, Office of Water, 1998).

⁵⁰ *Id.*

⁵¹ Carter, John. *Stink water: declining water quality due to livestock production in Welfare ranching: the subsidized destruction of the American West*. Foundation for Deep Ecology (2002).

⁵² *Id.*

respecting the control and abatement of water pollution in the same manner and to the same extent as any non-governmental activity.”⁵³

You must be cognizant of your agreement with the NMED when reauthorizing grazing on the Pueblo Creek Allotment. The USFS will violate CWA § 313 if it allows its permittees to degrade the water quality on the Gila National forest to such an extent that the New Mexico and/or Arizona water quality standards are exceeded. Moreover, if the USFS reauthorizes grazing on an allotment where state water quality standards are known to be exceeded, it will be in violation of APA § 706(2)(A), as such action is surely arbitrary and capricious.

Cattle Grazing Harms Wildlife and Further Imperils T&E Species

The detrimental effects of cattle grazing on wildlife and T&E species are numerous and far reaching. The presence of vast numbers of cattle on lands completely unsuitable for such pressure throws the ecosystem where they graze completely out of balance. Grazing depletes food sources necessary for sustaining wildlife by denuding the landscape of vegetation. Native flora not only provides direct nutritional value for herbivorous species, but also serves as prey base cover for carnivorous ones. As native vegetation is grazed to oblivion, exotic weeds invade, threatening grass and shrub ecosystems and disturbing the soil surface. Trampling breaks apart vital biological soil crusts, causes erosion, and collapses stream banks. Riparian damage increases water temperature and sedimentation loads, which in turn degrades stream habitat for a host of aquatic species. Terrestrial species are also harmed by cattle grazing. Fencing and other so-called “range improvements” fragment habitat, creating edge effects and isolating populations.

Birds, bears, wolves, frogs, snails, prairie dogs, sage grouse, and bison are but a few examples of wildlife being put at risk for the sake of subsidized public lands ranching. In addition to the abundance of wildlife there, the Pueblo Creek Allotment may be home to any and all of the T&E species known to inhabit the Glenwood Ranger District. These include the Mexican gray wolf, southwestern willow flycatcher, loach minnow, spikedace, bald eagle, Mexican spotted owl, and Chiricahua leopard frog.

When authorizing and/or issuing grazing permits on federal public land inhabited by T&E species, the USFS must comply with ESA §§ 7 and 9. ESA § 7(a)(1) requires the USFS to “carry out programs for the conservation of endangered species and threatened species....” Courts have interpreted this mandate as “a specific, rather than a generalized duty to conserve species.”⁵⁴ This means that the USFS “must utilize all [of its] authorities to ‘conserve’ the endangered [species there].”⁵⁵ The USFS must take active measures to encourage the propagation of healthy populations of T&E species on the Gila National Forest. Because there is a direct causal link between livestock grazing and declining populations of each of the T&E species that inhabit the Glenwood Ranger

⁵³ 33 U.S.C. § 1323(a)(1).

⁵⁴ *Sierra Club v. Glickman*, 156 F.3d 606, 618 (5th Cir.1998); *Defenders of Wildlife v. Secretary, U.S. Dept. of the Interior*, 2005 WL 221253 (D.Or. Jan. 31, 2005).

⁵⁵ *Rio Grande Silvery Minnow v. Keys*, 2002 WL 32813602 (D.N.M. April 19, 2002).

District, the USFS must take real steps to relieve livestock pressures on the Gila. This means significantly reducing if not eliminating the presence of cattle.

ESA § 7(a)(2) requires the USFS to consult with the FWS regarding the likely effects of its proposed actions on protected species known to inhabit the area. We have no record that the USFS has initiated informal consultation with the FWS regarding its decision to reauthorize cattle grazing on the Pueblo Creek Allotment. If the FWS has issued a biological opinion (BO) for this decision, please provide our office with this document. If the USFS is delaying consultation until it has made its decision on this EA, we again urge you that issuing a FONSI would be wholly inappropriate. As we have adequately described above, cattle grazing has severe impacts on the health and habitat of wildlife and T&E species. Failing to initiate consultation when your actions may affect T&E species is violative of the ESA and the APA.

ESA § 9 prohibits any person from “taking” a threatened or endangered species. “Take” is defined broadly under the ESA to include harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct.⁵⁶ “Take” includes direct as well as indirect harm, and need not be purposeful.⁵⁷ Indeed, a take may even be the result of an accident.⁵⁸ Causing or attempting to cause almost any level of injury to an endangered species is prohibited by law. “Take is defined in the broadest possible manner to include every conceivable way in which a person can ‘take’ or attempt to ‘take’ any fish or wildlife.”⁵⁹

ESA § 9 prohibits individuals, *as well as State agencies*, from taking T&E species. It is unlawful for “any person to cause [an ESA violation] to be committed.”⁶⁰ The term “person” includes “any officer, employee, agent, department, or instrumentality...of any State, municipality, or political subdivision of a State...[or] any State, municipality, or political subdivision of a State...”⁶¹

The ESA not only prohibits the acts of those parties that directly exact the taking, but also bans those acts of a third party that bring about the acts exacting a taking. “[A] governmental third party pursuant to whose authority an actor directly exacts a taking...may be deemed to have violated the provisions of the ESA.”⁶² Therefore, ESA § 9 prohibits the USFS from issuing a grazing permit that authorizes a third party’s cattle

⁵⁶ 16 U.S.C. § 1532(19).

⁵⁷ See *Babbitt v. Sweet Home Chapter of Communities for a Great Oregon*, 515 U.S. 687, 704 (1995).

⁵⁸ See *National Wildlife Federation v. Burlington Northern Railroad*, 23 F.3d 1508, 1512 (9th Cir.1994).

⁵⁹ *Defenders of Wildlife v. Administrator, EPA*, 882 F.3d 1294, 1300 (8th Cir.1989).

⁶⁰ 16 U.S.C. § 1538(g).

⁶¹ 16 U.S.C. § 1532(13).

⁶² *Strahan v. Coxe*, 127 F.3d 155, 163 (1st Cir.1997). See also *Defenders of Wildlife v. Administrator, EPA*, 688 F.Supp. 1334 (D.Minn. 1988), *aff’d* by *Defenders of Wildlife v. Administrator, EPA*, 882 F.3d 1294 (8th Cir.1989); *Loggerhead Turtle v. County Council of Volusia Co.*, 148 F.3d 1231 (11th Cir.1998), *cert. denied*, 526 U.S. 1081 (1999); *Sierra Club v. Lyng*, 694 F.Supp. 1260 (E.D.Tex. 1988), *aff’d* by *Sierra Club v. Yeutter*, 926 F.2d 429 (5th Cir.1991); and *U.S. v. Town of Plymouth, Mass.*, 6 F.Supp.2d 81 (D.Mass. 1998).

operation if that operation harms or threatens to harm protected species or their critical habitat.⁶³

Your decision to reauthorize grazing on the Pueblo Creek Allotment is equally constrained by the GNFP and the ROD. According to the EA, these directives contain pertinent management direction that requires “maintaining conditions at or above a condition which assures recovery and continued existence of threatened and endangered species.”⁶⁴ This mandate is particularly applicable to Mexican gray wolf.

The Pueblo Creek Allotment geographically occupies an important, relatively undeveloped, movement corridor for wolves dispersing from the Arizona portion to the New Mexico portion of the BRWRA. An ability for wolves to safely disperse throughout the BRWRA is important for wolf population growth, genetic mixing, and progress toward the reintroduction population objective of 100 wolves for the BRWRA. This is another central reason for implementing measures that reduce or eliminate the potential for conflicts between livestock and wolves.

Managing the Pueblo Creek Allotment to accommodate and aid the Mexican wolf recovery program should be a key issue in the EA. Again, your approval of grazing here must accommodate legal requirements. The ESA, the NFMA,⁶⁵ and the GNFP all speak to maintaining and improving wildlife habitat in general, and to maintaining and improving T&E species in particular. NEPA requires that you disclose sufficient evidence and analysis of the real impacts of reauthorizing grazing on the Pueblo Creek Allotment to wildlife and T&E species. The EA at issue completely fails in this regard, and is therefore inadequate and contrary to law.

5. FAILURE TO CONDUCT CUMULATIVE IMPACTS ANALYSIS

Although not explicitly required by NEPA, a discussion of the cumulative environmental effects of a proposed action is an essential part of the environmental review process,⁶⁶ for otherwise the combined environmental effect of related actions will not be evaluated. Although the CEQ regulations explicitly apply to EISs, the courts readily apply these regulations to EAs.⁶⁷ “Cumulative impact” is defined as “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions. . . . Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.”⁶⁸

⁶³ See also *Defenders of Wildlife v. EPA*, 882 F.2d 1294 (8th Cir. 1989) and *Sierra Club v. Yeutter*, 926 F.2d 429 (5th Cir.1991).

⁶⁴ Pueblo Creek Allotment EA, *supra* notes 2 & 10-15, at 5.

⁶⁵ Specifically, NFMA § 6(a) imposes a substantive duty on the USFS to provide sufficient habitat to maintain viable, well-distributed populations of wildlife species throughout their existing ranges.

⁶⁶ See *Tomac v. Norton*, 433 F.3d 852 (D.C. Cir.2006).

⁶⁷ See e.g., *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208 (9th Cir. 1998); *American Canoe Ass'n v. White*, 277 F. Supp. 2d 1244 (N.D. Ala. 2003); 40 C.F.R. § 1508.9; and 40 C.F.R. § 1508.8.

⁶⁸ 40 C.F.R. § 1508.7; see also *Inland Empire Pub. Lands Council v. United States Forest Serv.*, 88 F.3d 754 (9th Cir. 1996); and *Coalition on Sensible Transp., Inc. v. Dole*, 826 F.2d 60 (D.C. Cir. 1987).

The CEQ interprets NEPA and its corresponding regulations as requiring analysis and a concise description of the identifiable present effects of past actions. The USFS must do this to the extent that they are relevant and useful in analyzing whether the reasonably foreseeable effects of the current agency proposal may have a continuing, additive and significant relationship to those effects.⁶⁹ The courts of appeal have adopted different tests to determine what cumulative impacts must be included in a discussion of environmental impacts. The Ninth Circuit, for example, applied the CEQ regulation that all “reasonably foreseeable” actions that have potential cumulative impacts must be addressed in an EIS or EA.⁷⁰

Given the damage that grazing causes to wildlife and T&E species through riparian devastation and overall habitat destruction, the reauthorization of grazing on the Pueblo Creek Allotment cannot be analyzed in a vacuum. Actions currently taken on this allotment will be felt far beyond its boundaries and well into the future. Indeed, it is the culmination of effects brought on by the government-sanctioned grazing of over 300 million acres of land in the arid west⁷¹ that has led to biological travesty we now see unfolding. The Pueblo Creek Allotment is part of a larger ecosystem, and should be analyzed as such.

The EA should have explored how the reauthorization of grazing on the Pueblo Creek Allotment will further exacerbate the degradation of all connected watersheds, and how additional fragmentation may affect overall accessibility of wildlife habitat. The fact that the Pueblo Creek Allotment could play a critical role in Mexican wolf recovery over the next ten years makes cumulative impacts analysis here even more imperative. The cumulative impacts of grazing on the Gila National Forest as a whole must be analyzed in light of wolf recovery efforts in the BRWRA.

THE NEED FOR AN EIS

Due to the inadequacies described above, the USFS must complete an EIS for the reauthorization of grazing on the Pueblo Creek Allotment. The public is legally entitled to be made aware of this project’s full environmental impacts to the Gila National Forest. Closing environmental review on this decision would run contrary to NEPA and the APA. This is because the issuance of a FONSI would likely lead to agency violations of the ESA, the CWA, the GNFPA, and the ROD.

⁶⁹ See 40 C.F.R. § 1502.22.

⁷⁰ See e.g. *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208 (9th Cir. 1998) (environmental assessment for timber sale must address cumulative effects of other “reasonably foreseeable” timber sales in the forest); *Kern v. United States Bureau of Land Mgmt.*, 284 F.3d 1062 (9th Cir. 2002) (timber sales); *Muckleshoot Indian Tribe v. United States Forest Serv.*, 177 F.3d 800 (9th Cir. 1999) (land exchange); *City of Tenakee Springs v. Clough*, 915 F.2d 1308 (9th Cir. 1990) (logging in forest); *Northern Alaska Envtl. Center v. Norton*, 361 F. Supp. 2d 1069 (D. Alaska 2005) (oil and gas leasing, must analyze effects of proposed plan amendment).

⁷¹ Wuerthner, *supra* at notes 1 & 3.

When undertaking a more thorough environmental analysis at the EIS level, we urge you to fully explore the issues described in the preceding sections. Additionally, the EIS should explain how the proposed action will comply with the “pertinent management direction” of the GNFP and the ROD.

The EIS should explain how the proposed action will comply with the “pertinent management direction” of the GNFP and the ROD

The GNFP and ROD set forth criteria defining which areas are suitable for livestock grazing. The USFS claims that the proposed action is in compliance with both of these directives, yet the EA fails to show how the lands of the Pueblo Creek Allotment fit into this category.

THE PUEBLO CREEK ALLOTMENT HAS NO SUITABLE RANGELANDS

According to the EA, the GNFP and ROD state that “suitable rangelands” may exist on the allotment only where the benefits of grazing are “commensurate with costs,” and do not “impair land productivity.” Because neither of these criteria is met on the Pueblo Creek Allotment, one can only assume that the allotment has no suitable rangelands, and thus the USFS may not reauthorize cattle grazing there.

The only “benefit” of grazing disclosed in the EA is that of a financial subsidy to the permittee. The public has no moral obligation to financially support one rancher who is engaged in an economically dwindling and environmentally destructive industry. When, as here, the benefits of ranching are not commensurate with the costs, the USFS has no legal obligation to do so either.

The benefit of continued grazing on the Pueblo Creek Allotment outweighs neither the ecological costs nor the financial burden to the American taxpayer. The Government Accountability Office (GAO) has reported that the federal government spends at least \$144 million each year managing private livestock grazing on federal public lands, but collects only \$21 million in grazing fees. This equates to a net loss of at least \$123 million per year.⁷² Considering the additional direct and indirect costs not included in the GAO report, economists have estimated that the federal public lands grazing on BLM and USFS lands may cost as much as \$500 million to \$1 billion annually.⁷³

The benefits that would flow from the elimination of cattle, however, are numerous. Besides its inherent value, livestock-free and fence-free wildlife habitat enhances opportunities for ecological services and recreational uses. There is rising demand for outdoor recreation on our public lands. Therefore, the EIS should attempt to accurately quantify the income of enhanced hunting and recreation, along with the non-monetary

⁷² GAO. 2005. Livestock grazing: federal expenditures and receipts vary, depending on the agency and the purpose of the fee charged. GAO-05-869. Government Accountability Office. Washington, D.C.

⁷³ Moscovitz, K. and C. Romaniello. 2002. *Assessing the full cost of the federal grazing program*. Center for Biological Diversity. Tuscon, AZ. The estimated cost of the federal grazing program at \$500 million is consistent with estimates developed by other experts.

ecological and social benefits, which would arise from the cessation of grazing, and the devotion of the allotment to wildlife and other unique resources. The USFS must consider socio-economic benefits not only to permittees and local communities, but also to the entire public now and in future generations, as they are the ultimate owners and inheritors of this land.

Furthermore, any consideration of the “lifestyle and culture” of ranching must be weighed explicitly against the “lifestyle and culture” interests of the far more numerous hikers, hunters, fishers, and professional or amateur mycologists, ornithologists, entomologists, herpetologists, botanists, mammalogists and other zoologists, wilderness lovers and bird watchers that frequent and enjoy the biodiversity and landscape of this allotment. Through appropriate social survey, the USFS should estimate the actual demand for these services.

LANDS ON THE PUEBLO CREEK ALLOTMENT MAY NOT BE GRAZED AT THIS TIME

According to the EA, the GNFP and ROD state that lands on the allotment may only be grazed “while maintaining conditions at or above a condition which assures recovery and continued existence of T&E species,” “while protecting and improving the soil resource,” “while restoring lands in unsatisfactory watershed condition,” and “while improving all riparian areas to satisfactory or better condition.”

We have thoroughly explained that the Pueblo Creek Allotment EA fails to address how the proposed action will further the recovery efforts of T&E species or restore range, riparian, or watershed condition. Generally speaking, the EA gives no justification as to how implementation of the proposed action will comply with the “pertinent management direction” of the GNFP or the ROD. As such, we must now conclude that the lands on the Pueblo Creek Allotment may not be grazed at this time. Any further action taken to reauthorize grazing on the allotment must be accompanied by an EIS, which addresses this issue in full.

A CALL TO ADOPT THE NO GRAZING ALTERNATIVE

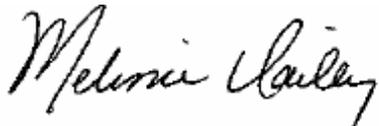
Again, we strongly encourage the USFS to develop and EIS. We feel that a realistic analysis of both the consequences of continued grazing on the Pueblo Creek Allotment and the benefits of eliminating livestock there will lead you to adopt the No Grazing Alternative. The history of cattle grazing on this allotment has severely damaged its natural resources. The resumption of cattle grazing will stifle any progress thus far realized towards restoring ecological balance, and will bar the public from using a portion its lands in the Gila National Forest. We believe a period of long-term rest to be the best and most sustainable use of the Pueblo Creek Allotment at this time.

We are concerned that any continuation of livestock grazing is inconsistent with the broader public interest mandate of the USFS, and that the allotment’s management is enormously costly to the benefit of a few. We are dismayed at the USFS’s longstanding

policy of prioritizing the livestock grazing permittee's economic benefit over all other concerns, including benefits to wildlife, riparian areas, watershed health, and the United States taxpayer. We would like to see the USFS begin to adjust this policy to reflect the growing interest of all Americans in conservation of our public lands. The USFS can begin doing so now by giving serious consideration to the ecological and economic benefits of the No Grazing Alternative to the re-authorization of grazing on the Pueblo Creek Allotment.

Thank you again for this opportunity to participate in this planning process, and please keep us apprised of future actions for these allotments.

Respectfully submitted,



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