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Via Email and FedEx

April 30, 2010

Ms. Jennifer Ruyle
Forest Planner
Coronado National Forest
300 West Congress, FB 42
Tucson, AZ 85701

Re: Comments on March 2010 Coronado National Forest Draft Land and Resource Management Plan

Dear Ms. Ruyle,

The following comments, timely submitted on behalf of Mr. Jim Chilton, Mrs. Sue Chilton, Mrs. Susan Krentz, the Krentz Family, and the Southern Arizona Cattlemen's Protective Association (SACPA) address the March 2010 Coronado National Forest Draft Land and Resource Management Plan. At the outset, because the Coronado grossly misstates its mission in this draft plan, and because that misstatement of mission improperly permeates and thus fatally flaws virtually the entirety of this draft's contents, this draft must be rewritten for the many reasons stated below.

First, the draft plan is fundamentally and fatally flawed because it grossly misstates the Coronado Forest's mission at page 3. According to the draft, the Coronado National Forest's mission is "*to sustain the unique biodiversity of the sky island ecosystems and provide a variety of high quality visitor opportunities and services within the capabilities of these ecosystems*." (emphasis mine). The additional statements -- that "We promote the use of prescribed fire as an important tool in maintaining healthy ecosystems" and that "We will continue to embrace our organizational effectiveness and community partnerships" – are merely methods of approach and are therefore clearly out of place within this so-called mission statement.

Most seriously disturbing, however, is the fact that not one part of this draft's "mission statement" is reflective of the Coronado National Forest's actual, lawful mission, or that of the Forest Service for that matter, as specifically articulated to the Forest Service by Congress in various, pertinent laws. Contrary to the claim of this draft, the Forest Service's, and the Coronado's, actual mission, as directed by Congress, is the sustainable management of Forest resources for multiple use.

Towards that end, the Multiple Use – Sustained Yield Act (MUSY) provides the Forest Service with a specific Congressional directive establishing priorities for sustainable, multiple use of resources. MUSY defines multiple use as:

> The management of all the various renewable surface resources of the national forests so that they are utilized in the combination that will best meet the needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; that some land will be used for less than all of the resources; and harmonious and coordinated management of the various resources, each with the other, without impairment of the productivity of the land, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output.

Multiple Use – Sustained Yield Act, P.L. 86-517, 16 USC 528.

Moreover, MUSY defines sustained yield as "the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the National Forests without impairment of the productivity of the land." This provision, unlike the draft's mission misstatement, emphasizes long-term productivity as well as the maintenance of forest health.

Further, Congress, with the Forest Service's participation, passed the National Forest Management Act (NFMA) of 1976, replacing major portions of the 1897 Organic Act. NFMA, like MUSY, also calls for protection of multiple use and sustained yield of the products and services obtained from the National Forests. NFMA also calls for "the coordination of outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness." NFMA further articulates the multiple use mission of the Forest Service in highlighting these seven products and services. National Forest Management Act of 1976, 16 USC 1600.

While a Committee of Scientists convened by the Secretary of Agriculture in 1997 to review the Forest Service's mission issued a final report in 1999 recommending that "ecological sustainability should be the guiding star of stewardship of the national forests," neither that

recommendation nor the report on which it was based have any force of law because only Congress may change or alter the Forest Service's multiple use mission, and because the committee's recommendation was fundamentally biased by improper weighting toward "preserving biodiversity" over sustaining multiple use.

That even the committee viewed its recommendation as fundamentally at odds with the multiple use management directions iterated by Congress for the Forest Service in the 1897 Organic Act, MUSY, NAFMA, and the Resources Planning Act of 1974, was acknowledged by at least one of its members, Roger Sedjo, in 1999. Nonetheless, Sedjo highlighted what he envisioned as three potential candidates for the Forest Service's "new" mission – biological preservation, recreation, and local management – in his appendix to the 1999 final report.

In sum, like Sedjo's and the committee's articulation of a new mission for the Forest Service, the draft plan's articulation of a new mission for the Coronado contrary to Congress's direction is also fatally flawed because only Congress – not the Coronado through the drafting of a forest plan -- has the authority to expand Forest Service authority or to change and/or restrict its current, multiple use mission.

Here, the Coronado draft Forest Plan's misstatement of mission attempts, contrary to specific Congressional direction, to broaden Forest Service authority to include jurisdiction over private ("non-federal") lands while also attempting to sharply restrict multiple use within and beyond the Coronado National Forest's boundaries. The draft mission misstatement attempts to do so by making it part of the Coronado's "mission" to sustain not only the unique biodiversity of the Coronado National Forest, but the unique biodiversity of the greater "sky island ecosystems" region as well, and, by attempting to restrict multiple use of both the Coronado and the greater "sky island ecosystems" region through arbitrary limitation of the Coronado's multiple use mission to a single purpose -- "the provision of high quality visitor opportunities and services" (draft at p. 3).

Accordingly, because the Coronado's mission statement presented at p. 3 of the draft plan misrepresents the scope of Forest Service authority and attempts to sharply restrict the scope of the Forest Service's multiple use mission, at a minimum, that statement must be rewritten to comport with the actual extent of Forest Service legal jurisdiction and to accurately describe its multiple use mission as such is currently defined for the Coronado by Congress. Once these corrections have been made, much of the rest of this draft plan must also be corrected to bring that plan into consistency with both the actual limitations of the Forest's authority and Congress's direction relative to multiple use. As shown by the many examples provided below, such corrections are imperative because the draft plan's misrepresentations of the Coronado's mission, authority and jurisdiction improperly permeate, and thus fatally flaw, virtually every aspect of its contents.

For example, allowing harvesting of forest products on up to only 120 acres in most forest types over the 10-year period following the Coronado Forest plan's approval (draft plan at p. 21) is neither consistent with the Coronado's multiple use mission nor reflective of a rational biological diversity protection policy supported by the best scientific information available.

Instead, this provision appears to represent the arbitrary and capricious adoption of a non-use ideology in the absence of scientific support by a Coronado ID team that recognizes neither legal limitations on Forest Service authority nor Congress's direction that natural resources be managed by the Forest Service for sustainable multiple use. Accordingly, at the least, this section must be amended to reflect the actual limitations of Forest Service legal authority, the actual multiple use mission of the Coronado, and, the factual, scientific basis that justifies such severe restriction of the Coronado's multiple use mission relative to the sustainable harvest of forest products.

The same situation, relative to adoption of ideology over science, overreach of authority, and abandonment of the Coronado's actual multiple use mission also characterizes the draft plan's exaggeration of the problem that bufflegrass allegedly poses to the Coronado National Forest by its presence in the Sonoran Desert. According to the draft plan (at p. 5) the objective here is to "remove bufflegrass on at least 2,500 acres of Sonoran Desert within 10 years of plan approval using herbicides and hand-pulling techniques." The draft plan, however, fails to identify any area of 2500 acres in the Sonoran Desert within the boundaries of the Coronado National Forest where bufflegrass is even known to occur, let alone to be invasively increasing.

Instead, the draft adopts the ideological assumption that bufflegrass is a major, invasive problem for desert communities between 2,600 to 3,200 feet in elevation (draft at p. 4) within, or near, the Forest boundary (draft at p. 5). Thus, at the least, this section must be amended to reflect three things: first, just where and how many acres within the boundaries of the Coronado, between 2600 and 3200 feet in elevation, is bufflegrass even known to occur, let alone to be invasively increasing; second, a full explanation of the legal basis on which the Coronado claims the authority to expand its management jurisdiction, through use of "assisting partners" or otherwise, to lands located outside of its boundaries; and, third, how restricting the harvest of forest products to only 5 acres over the 10 year period following plan approval -- apparently over all lands within the Coronado's boundaries between 2600 and 3200 feet in elevation – is somehow consistent with Congress's direction relative to sustainable multiple use.

Similar, seriously disturbing examples of authority overreach, restriction of multiple use in the absence of or in direct contradiction of the best science available, and ideological bias against private ownership of water rights and real property abundantly riddle the remainder of this draft. Among those examples are the draft plan's treatments of water diversions, instream flow water rights, riparian areas, restoration of wetlands, livestock presence and sensitive species management.

According to the draft, there should be no new surface water diversions, apparently within the entirety of the "sky island ecosystems" region (draft at p. 3), unless it can be demonstrated that there would be no significant changes to the native plant assemblage, such as biological diversity, biomass, and presence of rare species (draft at p. 25, 27). Presumably, this demonstration in the negative would have to be made to the same Forest Service Line Officer who, in contradiction of the best scientific evidence available and by improper use of FONSI, can also ignore any significant changes to biological diversity, biomass and presence of rare species, plus human health risks, when authorizing the poisoning of that same water body by

multiple applications of deadly pesticides under the guise of aquatic "restoration" (draft at p. 29, 30).

The problem with these "guidelines" applicable to the same, naturally occurring surface waters is that they represent an irreconcilable double standard that is both arbitrary and capricious. For example, while any new diversion of water would require proof of a negative -- that the diversion won't negatively or significantly change the native plant assemblage, such as biological diversity, biomass, and rare species – the multiple poisoning of that same water body by use of highly toxic pesticides requires no proof at all that biological diversity, biomass, rare species, and human health will not be negatively or significantly changed.

That this is the current policy of the Coronado is expressed both in this draft (at p. 29) and by the current proposals of the Coronado to allow the AGFD to multiply poison many natural and constructed waters within its boundaries with highly toxic pesticides in the absence of necessary EIS development. Here, the facts reveal that the Coronado National Forest is currently proposing the multiple poisonings of at least seven streams and/or water impoundments with the highly toxic pesticides rotenone and antimycin A. The facts also reveal that the Coronado is attempting to do so by use of inadequate EA despite its knowledge that both of these pesticides are known to be devastatingly toxic to aquatic macroinvertebrates, fishes and amphibians, and despite its further knowledge that the federal courts have required development of full EISs whenever called upon to review such poisoning projects.

The facts further reveal that the Coronado is also clearly aware that exposure to rotenone in extremely small amounts has been linked by scientific study to Parkinson's disease in humans, and it is further aware that antimcyin A in extremely small amounts can cause substantial mitochondrial damage. Lastly, the Coronado is further aware of the fact that there is no example of long-term stream or other aquatic habitat "restoration" resulting from the use of these pesticides – either alone or in conjunction with the construction of fish barriers. Nonetheless, the Coronado is currently proposing to multiply poison at least seven streams and/or water impoundments by use of inadequate EAs which attempt to either ignore or misrepresent the body of recent, substantial scientific evidence showing that multiple applications of these deadly pesticides will negatively impact biological diversity, biomass, rare species and human health.

In short, because the draft's standard relative to water diversion is a standard that apparently aims to protect biological diversity, biomass and rare species from harm, and, because the draft's and the Coronado's standard relative to the poisoning of that same water clearly does not, these standards are irreconcilably contradictory. Therefore, at the least, the draft must be amended to clarify, specifically, where the Coronado's presumption against any and all diversions of water might apply; why such is the case; what specific facts and data must be shown by an applicant to overcome the initial presumption against his/her diversion of water; and, the specific facts and data that must be shown to support a presumption that any particular aquatic poisoning project is eligible for proposal by use of EA. In regard to the diversion of water by holders of State issued water rights on privately owned lands, the draft must also acknowledge, specifically, that the Coronado National Forest has no legal authority or jurisdiction over those waters or the diversion of such.

Similarly, the draft plan must correct its deficiencies relative to the need to acquire privately held water rights to diversions and to acquire instream flow water rights in view of its actual authority and mission. The draft must also correct its current confusion of guidelines with objectives and proclamations with standards as well.

For example, while the maintenance or increasing of the current "acreage of wetlands on the Forest over the 10 year period following plan approval" (draft at p. 25) is a relevant objective, the acquisition of at least one water right "to at least one diversion *that is currently limiting wetland recharge*" (draft at p. 25), by its plain wording, is a guideline or method for realizing that objective based on a case by case assessment – not a separate objective unto itself.

Similarly, the draft's statement, as a "standard," that "diverting water sources that recharge wetlands is not allowed" (draft at p. 26), is not a statement of a standard at all. Rather, such is a blanket proclamation that any and all diversions of precipitation, ground waters or surface waters which might possibly end up in a wetland somewhere within the sky island ecosystems area but for use by humans, crops or livestock will be viewed by the Coronado as prohibited. Because that prohibition represents an arbitrary and capricious proclamation which is inconsistent with at least one of the draft's own objectives (second objective of draft at bottom of p. 29), Arizona's water law, Congress's multiple use direction and the extent of Forest Service authority, it cannot possibly serve as a management "standard" as claimed in this draft. Accordingly, this arbitrary and capricious prohibition of diversion proclamation must be stricken from further iterations of the Coronado draft plan.

Similar misconception relative to the acquisition of "instream flow water rights" also bears correction in the draft. According to the draft (at p. 27), the Coronado will apply for at least 10 instream flow water "rights" on streams "to enable the Forest to start providing for channel and floodplain maintenance and recharge of riparian aquifers." These are not, however, among the specific, nonconsumptive purposes for which an instream flow certificate can be issued by Arizona's Department of Water Resources (ADWR). To the contrary, the beneficial uses authorized by A.R.S. 45-151(A), 45-157(B)(4), and 45-181(1) for the appropriation of surface water for instream or in situ purpose are limited to recreation and wildlife, including fish. These limitations are also reflected in ADWR's *A Guide to Filing Applications for Instream Flow Water Rights in Arizona* (Dec. 1991), where, at page 1, the Guide states that "[i]nstream flow, as defined in this report, is the maintenance flow necessary to preserve instream values such as aquatic and riparian habitats, fish and wildlife and water-based recreation in a particular stream or stream segment."

More importantly, and directly at odds with the expansive approach taken by the Coronado in this draft, ADWR's Guide defines the term "instream flow" and not "instream flow water right." An instream flow is a maintenance flow that preserves instream values, while a water right possesses discrete attributes and serves approved beneficial uses. In short, there is no reasonable basis to conclude that the authorized uses of instream flow in Arizona, as narrowly and specifically defined by ADWR, include or encompass the Forest Service's attempt in this draft (at p. 27) to expand those uses to include ***consumptive*** use of the vested water rights of

others through initiation of channel and floodplain maintenance activities or for the purpose of recharging riparian aquifers. Accordingly, these inconsistencies with current Arizona law relative to instream flow must also be corrected in any further iteration(s) of the Coronado Forest Plan.

Likewise, the general prohibition against livestock presence in riparian areas and wetlands must also be corrected in any further iteration(s) of the Coronado Forest plan because that prohibition is based on the acceptance of a false, ideological assumption of harm which runs directly counter to and ignores the best scientific evidence available relative to controlled livestock grazing. Contrary to the false assumption of this draft, there is no scientific research showing that controlled livestock grazing poses a threat to any species. Nor is there any valid or rational "protection"or "research" reason for attempting to eliminate currently controlled livestock presence on thousands of acres of the Coronado by improper extension of Research Natural Area status to those areas (draft, at p. 62 -101). Neither is there any research showing that livestock exclusion benefits the Gila topminnow or any other native cyprinid minnow.

Instead, substantial scientific evidence previously provided the Coronado in comment shows that controlled grazing benefits many species and that native cyprinid fishes, including Gila topminnows, have precipitously declined after livestock grazing has been excluded for their alleged benefit. In upper Cienega Creek, for example, the Gila topminnow was found to have declined by more than 98% just a decade after all livestock presence was excluded for their alleged benefit by the BLM (Bodner, Gori and Simms, (2007)). In Redrock Canyon, AGFD surveys reveal that Gila topmminows declined and then disappeared altogether less than a decade after the Forest Service excluded all livestock from their presence.

Similarly, in the upper Verde River, the Spikedace declined precipitously and became extinct less than three years after all riparian presence of livestock was excluded for its alleged protection by the Forest Service. Moreover, the remainder of the upper Verde's native fishes assemblage has also precipitously declined in the absence of livestock presence from making up more than 80% of all fishes found there in 1997 (Rinne and Miller (2006)), to less than 15% of all fishes found there today (RMRS, Flagstaff, 2009).

These facts directly contradict the draft's attempt to nevertheless prohibit livestock grazing in riparian areas, and the use of vested water rights in riparian areas, as valid multiple uses. Thus, to comport with Congress's multiple use direction, the draft's own statement of "Desired Conditions" (at p. 26-27), and the best science available, the draft's "guideline" for livestock grazing in riparian areas must be amended to read as follows:

"1. Controlled livestock grazing in riparian areas should only be excluded when a site-specific analysis has determined that there would be significant deleterious effects to rare species populations and the wetland form, function, and structure on which those species depend if controlled grazing were allowed to occur. Analysis must consider grazing season, timing, intensity, and frequency."

Neither do the facts support the dichotomy of management approach espoused in this draft relative to "naturally occurring" waters versus "constructed waters" (draft at p. 30). In point of fact, the use of piscicides in any water – natural or constructed – is an unlawful, ***consumptive*** use of vested downstream water rights because, as currently proposed for Redrock Canyon, such pesticide introduction will prevent the holders of vested, downstream water rights from putting their water to beneficial use -- either temporarily (as proposed for Redrock Canyon) or possibly even permanently (as occurred at Davis Lake, California).

Here, the draft states that "[a]ll other treatment options should be considered before using piscicides for eradicating non-desirable aquatic species" in "constructed waters." However, the draft places no such constraint on the use of piscicides in waters that are "naturally occurring" (draft, at p. 29). Because whether a particular water source is "natural" or "contructed" is irrelevant to the underlying issue of misappropriation of a vested water right by intentional poisoning, the draft's dichotomy of treatment of natural versus constructed waters is arbitrary and capricious and must be corrected in any further iteration(s) of the Coronado Forest plan.

Further, the standard relative to constructed waters (draft, at p. 30) must strike its second part exception and the remainder of that standard must be amended to comport with current federal and state law. This is because, first, the taking of water rights and beneficial use is not dependent on whether the Coronado might construct alternative sources of water somewhere else at some undefined point in time, and, second, because water quality, which is omitted from this draft standard altogether, is crucially relevant to the putting of any water to beneficial use. Accordingly, the standard found at p. 30 of the draft must be amended to read as follows: "1. No constructed water sources ***shall*** be removed or altered such that ***either*** water ***quality or*** quantity is reduced."

Considerable amendment of the draft's "Wildlife, Fish, and Rare Plants" section (draft, at p. 32-34) is also necessary, beginning with that section's "Desired Conditions" statement. According to the draft (at p. 32),"[n]ative species that were present during the first decade of the twentieth-century continue to exist, and none have been extirpated."

This statement is internally contradictory and thus problematic because at least two species present on the Coronado during the first decade of the twentieth century, the thick-billed parrot and the Mexican grizzly bear, haven't occurred there since the 1930's and the first decade of the twentieth century, respectively, and therefore do not "continue to exist" on the Coronado (or anywhere near it) today. Moreover, despite the abysmal failure of previous efforts to "reintroduce" thick-billed parrots on the Coronado Forest, the draft nonetheless suggests that the presence by reintroduction of both the parrot and grizzly bear is a desired condition of the Coronado National Forest – despite the proven fact that the Coronado does not provide suitable habitat for thick-billed parrots, and despite the further and equally obvious fact that reintroduction of Mexican grizzly bears is an impossibility because that species is likely extinct.

Accordingly, this contradictory statement of desired condition (draft, at p. 32) must be amended as follows to eliminate its current arbitrary and capricious taint: "Native species

present *today* continue to exist, and none have been extirpated." In the alternative, the Coronado may wish to consider striking this draft statement of desired condition altogether.

Similarly, the Coronado may also wish to revisit its misuse of the goshawk to unreasonably restrict multiple use of the Coronado in this draft by guideline based on no more than a two page contribution from an eighteen year old agency report. According to the draft, "[a] minimum of 3 goshawk nest areas and 3 replacement nest areas should be located per goshawk territory" on the Coronado (draft, at p. 32). This is an unrealistic, and thus arbitrary and capricious, statement of minimum guideline relative to goshawks on the Coronado because rarely is there more than one nest area or more than two replacement nests present within a given goshawk territory on the Coronado.

For example, in a particular canyon in the Patagonia Mountains, a pair of goshawks occupy one, discrete area of habitat where that pair was observed to use a nest that they constructed themselves, a nest originally constructed by spotted owls, and a nest originally constructed by zone-tailed hawks in consecutive years. No other suitable nesting area apparently exists for this pair within this territory, and only one replacement nest built by that pair actually exists there. Each year, this pair of goshawks fledged young. Nonetheless, these goshawks' presence and successful reproduction under these natural conditions would not meet the Coronado's minimum guideline for their management as stated in this draft.

In short, because the minimum numbers of nest areas and replacement nest areas per goshawk territory stated by the Coronado in draft as a mininum guideline do not represent the actual minimum numbers of nest areas and nest areas per territory actually required for the presence and reproductive success of goshawks on the Coronado, that guideline is arbitrary and capricious by definition. Accordingly, this guideline must either be amended to comport with these facts or stricken from any further iteration(s) of the Coronado Forest plan.

Similarly arbitrary and capricious, is the further "guideline" relative goshawks stated in the draft at p. 32. According to the draft, "[h]uman presence should be minimized in goshawk nest areas during the nesting season – March 1st through September 30th," -- or fully seven months out of the year.

In point of fact, however, goshawks are primarily early nesters (March and April) and are subject to possible nest abandonment because of persistent human presence only before the onset of full-clutch incubation. Transient presence, such as that which occurs during permitted livestock ranching activities, has not been shown to negatively affect goshawks. Thus, at the most, minimization of persistent human presence on behalf of the goshawk is perhaps warranted during the months of March, April and May, or during three months, rather than seven months out of the year as stated in this draft. Accordingly, this "guideline" must also be amended by adding the word "persistent" as a descriptor of "human presence," and by defining the goshawk's nesting season as from "March 1st through May 31st." Clarification must also be added that persistent human presence does not include transient human presence which might occur during the course of permitted livestock ranching activities.

Clarification is also called for relative to guideline 8 at p. 33 of the draft, where the word "potential" as a descriptor of climate change is improper and must be stricken from further iteration(s) of the Coronado Forest plan. As the recent "climate gate" scandal clearly instructs, actual changes in climate supported by factual data – not ideological speculation about "potential" changes in climate unsupported by factual data -- must be the basis of responsible management guideline here.

Similarly, using a "management approach" to create conflict where none previously existed also bears correction. According to the draft at p. 33, one of the Coronado's "management approaches" will be to cooperate "with state and federal wildlife management agencies to limit conflicting wildlife resource issues related to hunted, fished, and trapped species." The draft, however, fails to identify what these issues even are while apparently proposing the limitation of hunting, fishing and trapping activities as necessary to address them. Thus, at a minimum, this "management approach" must be amended in further iteration(s) of the Coronado Forest plan to specifically define what these supposed "conflicting wildlife resource issues" actually are and how working with the FWS and AGFD to restrict hunting, fishing and trapping, or the restriction of sustainable multiple use, is likely to "limit" those specific issues in the future. In the alternative, this particular "management approach" should be stricken from the plan altogether.

The foregoing examples are representative of but a few of many others found throughout this draft that similarly recognize no boundaries on Forest Service authority and specifically disregard the Forest Service's, and the Coronado's, sustainable, multiple use mission. Many more examples reveal the depths of this draft plan's inordinate disdain for private property ownership as well.

As shown previously in regard to water rights and instream flow, this draft plan attempts to eliminate private ownership and use of water rights within and outside of the Coronado National Forest. Beginning with its treatment of "Public Access," and culminating with its treatment of "Desired" EMA "Conditions," the draft plan attempts to further that agenda by eliminating private property ownership or by onerously restricting the quiet use and enjoyment of private property beyond the boundaries of the Coronado National Forest.

The elimination of and/or restriction of the quiet use and enjoyment of private property begins innocuously enough at p. 35 of the draft, where the single objective of "Public Access" is stated to be the acquisition of 10-20 easements through private property by a variety of methods to increase the number of permanent legal access points to the Coronado. While ensuring the Public's access to the Coronado is a particularly laudable goal, attempting to do so solely by encumbering private property owners by acquisition of legal easements, or establishment of "non-system roads," through their private properties by a "variety" of undefined "means" including, apparently, the use of eminent domain, clearly is not. Instead, placement of that burden solely on the backs of private land owners is both arbitrary and capricious.

This is particularly the case here because the Coronado is simultaneously, but oppositely, proposing to restrict public access to the Coronado in this same draft by decommissioning,

closing and restoring 3 to 10 miles of "unwanted" "non-system roads" annually throughout the plan period (draft, at p. 36) while proposing precisely the opposite for private land owners. Accordingly, the draft's treatment of acquisition of easements through private property to access the Forest as an "objective" at p. 35 must be amended to read as follows: "[w]ithin the first decade following plan approval, increase the number of permanent legal access points *by developing 10-20 new access points on Forest Service lands and, secondarily, through use of easements across private property acquired by either purchase or by lease.*" The draft's treatment of annual road closure "objective" (at p. 36) must also be expanded to include specific definition of what an "unwanted non-system road" actually is.

Similary, the draft's further "guideline" relative to road closure – roads in need of maintenance that cannot be serviced because of budget constraints should be closed if "unacceptable resource damage is occurring" -- bears further, specific clarification. Accordingly, the draft's treatment of this road closure "guideline" (draft, at p. 36) must also be expanded to, first, include a specific definition of what "unacceptable resource damage" actually means, and second, to clarify how the Coronado's failure to live up to its multiple use maintenance responsibilities justifies its proposed closure of existing roads and substantial reduction of multiple use. Similar clarification and explanation is called for at page 39, relative to the closure of additional roads as "unnecessary."

That the Coronado has abysmally failed to live up to its maintenance responsibilities relative to its multiple use mission is also on display in the form of the sizable "backlog of recreation deferred maintenance" the Coronado has also accumulated (draft, at p. 38). While the draft's "objective" relative to such, reducing the backlog of recreation deferred maintenance by 20% within 5 years of plan approval, is clearly appropriate (draft, at p. 38), its "guidelines" for doing so clearly are not.

Instead, those "guidelines" attempt to dispense with the Coronado's multiple use mission altogether. For example, under "guideline" number one at p. 38, the draft states that where the choice is available relative to recreation projects, managers should opt for those projects resulting in more primitive than less primitive settings, or those projects that most minimize multiple use. Similarly, under "guideline" number two, the draft states that recreation sites should be managed for "capacities" that do not cause "unacceptable resource damage," or, those capacities which most minimize multiple use in the absence of any specific standard of measure.

These "guidelines" go even further beyond the realm of Forest Service authority, however, when the draft asserts, under "guideline" number four (at p. 38, 39), that "[t]he Coronado NF's paint color guidelines, the USFS's Built Image Guide, and the Coronado NF's Architectural Guidelines for Recreation Residences should be used for public and private facilities across the Forest." As previously stated, the Coronado National Forest has no jurisdiction or authority over the quiet use and enjoyment of privately owned property. This includes those in-holdings of private property found throughout the Coronado. Nor does the Coronado have the authority, by use of recreation management "guidelines," to dictate the architectural design of, or color of paint that any private landowner may use on, any privately constructed residence or "facility."

Moreover, because dictating architectural design and color of private "facilities," creating additional semi-primitive recreational "opportunities" by closing "unnecessary" roads, and evaluating and recommending streams for Wild & Scenic Rivers designation have nothing whatsoever to do with reducing the backlog of recreation deferred maintenance, or their purpose of existence as stated in this draft, all of these so-called "guidelines" are also misplaced and arbitrary and capricious by definition.

Equally misplaced are the "zoning" restrictions the draft attempts to impose on the use of private property as "guidelines" for "Scenic Quality" at page 41. As stated previously, the Coronado lacks jurisdiction or authority over the quiet use and enjoyment of private property. Moreover, because private property is not part of the Coronado National Forest, and because the Coronado's "Scenic Quality" guidelines can only lawfully apply to Coronado National Forest lands, guidelines two and three (at p. 41) are arbitrary and capricious by their extension to adjacent private lands nonetheless. Accordingly, the draft must be amended to clarify where, and to what specific facilities, these guidelines might apply.

In similar need of explanation is the draft's statement of "[d]esignating special places, where appropriate, to help protect resources," as a "management approach" (at p. 41) for "Scenic Quality." This statement must be expanded in further iteration(s) of the Coronado Forest plan to clarify what constitutes a "special place," and when, and under what specific conditions, the "designating" of a place as "special" is "appropriate" "to help protect resources." This statement must also be clarified to make it clear that designations of "special places" apply only to such places located on Coronado National Forest lands.

Also calling out for clarity and correction is the fact that uses of privately owned properties which are not part of the Coronado's recreation residence program are ***not*** "Special Uses" of the Coronado National Forest, and therefore cannot possibly constitute unsuitable uses on the Coronado that should be phased out. Because the draft's statement of the opposite (at p. 42) is false, that statement is arbitrary and capricious by definition and must be corrected in further iteration(s) of the Coronado Forest plan.

Moreover, the draft's statement that all private property ownership – including base properties supporting grazing permits – are unsuitable uses on the Coronado Forest that should be phased out by December 31, 2025, as a "guideline" for "Special Use Management" is, in and of itself, as arbitrary and capricious as it is outrageously offensive to the Coronado's actual multiple use mission. According to the draft (at p. 42) occupation and any use of private properties not located on the Coronado National Forest are not suitable uses of the Coronado. Nonetheless, the draft oppositely proposes to transform two to ten historic sites that are actually located on the Coronado into commercial cabin rentals as a suitable use of the Coronado (at p. 44). This dichotomy of approach to suitable use is arbitrary and capricious by definition. This dichotomy of approach is also outrageously offensive to the Coronado's multiple use mission because it seeks to eliminate one of the Coronado's most important multiple uses – controlled livestock grazing – by use of inapplicable and unlawful "Special Use Management" "guideline."

Accordingly, this so-called "guideline" must be stricken from any further iteration(s) of the Coronado Forest Plan. Further, the ID team responsible for writing this draft "guideline" should also be held accountable to fully explain, on the record, how it came to the conclusion that private property ownership is a special use of the Coronado when it isn't, and how, for what reasons, and by what authority that team concluded that privately owned residences and other "facilities" are "not suitable uses" of the Coronado National Forest that "should be phased out by December 31, 2025."

While they are at it, perhaps this ID team can also explain why this draft extends deference to only one group, Native Americans, when it comes to facilitating the practice of religion. According to the draft (at p. 47), "[e]nsuring that tribal members have access to sacred sites for individual and group prayer and traditional ceremonies and rituals, and that the integrity of sacred sites is maintained or improved wherever possible," is a "management objective" relative to "Tribal Relations."

While ensuring that Native Americans have access to the Coronado for religious purpose is laudable, the draft's limitation of access for such religious practice to one particular group or class over all others is not. Instead, the latter limitation is not only arbitrary and capricious, but offensive to equal protection and thus the Due Process Clause of the Fifth Amendment of the U.S. Constitution as well. Accordingly, this "management objective" must either be stricken in its entirety or rewritten to remove the taint of equal protection and due process violation.

Equally in need of rewriting and additional explanation is the draft's "guideline" number five (at p. 48) under "Range Management." According to the draft, "[r]ange improvements should be used and/or located in a way that does not conflict with "riparian functions" or should be relocated or modified when found incompatible with riparian function or health." The draft, however, provides no definition of what "riparian functions" are, what would constitute "conflict" with those functions, or how "incompatibility" between range improvements and riparian functions might be determined. Accordingly, this "guideline" must be rewritten to provide that information, or, in the alternative, be stricken from further iteration(s) of the Coronado Forest Plan.

Similarly, "[r]eviewing each active allotment plan at least once every five years to identify any necessary adaptations in management based on changes in conditions or circumstances," (draft, at p. 48) is also a "management approach" that should be stricken from any further iteration(s) of the Coronado Forest plan. This is because the kind of "approach" called for in this draft relative to review already occurs on an annual basis, through the issuance of annual operating instructions (AOIs). As a result, this particular "management approach" is both unnecessary and redundant.

Also unnecessary and at odds with the Coronado's multiple use mission is the draft's fixation with the acquisition of any and all private lands "that are valuable for public access, open space, habitat (wildlife, fish, and rare plants), recreation, riparian, and scenic resources" (draft, at p. 49). As previously discussed, the acquisition of privately owned land or the acquisition of easements through them for "public access" is arbitrary and capricious because the

Coronado is simultaneously calling for the closure of accesses to the public located on its own lands. Moreover, acquisition of private lands that are currently valuable to native fishes is also arbitrary and capricious because, as previously mentioned, the Coronado is proposing the continuation of the same ideological management approach for them that has resulted in documented, extreme reductions of native fish assemblages and local extirpation of at least two species that formerly occurred at sites located on National Forest lands. Acquiring private lands for recreation purpose is also arbitrary and capricious because, as previously stated, the Coronado is unable to maintain the recreational properties it already has, as is clearly evidenced by the huge backlog of deferred recreation projects it has accumulated and lacks foreseeable funding to afford.

Acquiring further riparian resources through private property acquisition is also quite unnecessary and equally arbitrary and capricious because the Coronado already controls the upper watersheds of virtually every stream found within its boundaries and because, as also previously shown, the Coronado's ideological approach to riparian management runs counter to the best scientific information available. Finally, acquiring private property designated as valuable for scenic resource purpose is also arbitrary and capricious because the draft's proposed management of such "special areas" runs directly counter to the Coronado's, and the Forest Service's, multiple use mission.

Nonetheless, the draft's "objective" relative to private property (at p. 49) is to acquire 7,582 to 10,587 acres of the current 70,582 acres of private lands that occur adjacent to the Coronado's boundaries for the purposes stated above. No mention is made by the draft that the Coronado's acquisition of these private lands will significantly and negatively affect the local property tax base (only 14% of Arizona's lands are currently privately owned, and only 11.5% of Arizona's lands are currently subject to property tax assessment). Neither is any assurance made in this draft that payment in lieu of taxes will be made by the Coronado to the counties to off-set revenues lost because of its acquisition of formerly productive, tax contributing, private properties. Accordingly, this "desired condition" section bears considerable amendment or rewrite to provide for payment of in lieu of taxes to the counties by the Coronado for each and every piece of private property it plans to acquire.

The draft's "desired condition" relative to property lines (at p. 49) also bears amendment to read as follows: "Property lines between NFS and *private* lands are located, well-marked, and posted *by the Coronado National Forest* to protect resources and *to* prevent trespass and encroachments." Similarly, the draft's "standard" for fences along Forest boundaries (number 2, at p. 49) must also be amended to clarify that its requirements apply only to the Coronado and fences located on Coronado Forest property. As stated previously, the Coronado has no authority or jurisdiction over the quiet use and enjoyment of privately owned property, including the building of any fences on such. Therefore, "standard" number two at p. 49 of the draft must be amended to read as follows: "All fences to be constructed along Forest boundaries *on Forest property* will be located by a Forest Surveyor or cooperative surveyor."

Similarly, the "management objective" relative to removal of livestock improvements in wilderness areas (draft, at p. 54) is irresponsibly vague and must be amended to define the

specific criteria by which livestock improvements such as fences, pipelines, and water troughs can be deemed to be "unneeded" or "unused," and thus qualify for removal by the Coronado from wilderness areas.

Amendment is also clearly called for relative to the draft's statement of "desired conditions" for "eligible wild and scenic rivers." According to the draft (at p. 56), "[e]ach river's outstanding features, free-flowing characteristics and potential classification are protected, including the bed, bank, and one-quarter mile on either side of the ordinary high-water mark. The actual river corridor varies in order to protect the outstanding remarkable values." First, actual river and stream corridors vary because of their respective geomorphologic and hydrologic characteristics. Those characteristics are physical and do not vary simply because the Coronado wants to arbitrarily and capriciously expand those characteristics in order to protect "outstanding remarkable values" found beyond a particular stream's corridor.

Second, because at least one of the streams listed as "eligible" for wild and scenic designation is currently proposed for aquatic poisoning by multiple use of highly toxic pesticides and fish barrier construction, and because all of the other streams listed are also subject to possible multiple poisoning by use of highly toxic pesticides and/or the construction of fish barriers, none of these streams qualify for wild and scenic designation because their outstanding features, free-flowing characteristics and outstanding remarkable values are clearly not being protected by the Coronado. Accordingly, the list of streams on the Coronado (draft, at p. 56-57) allegedly "eligible" or qualifying for wild and scenic designation is inaccurate and therefore arbitrary and capricious. Similarly, misrepresenting Sycamore Creek, which is protected by Research Natural Area (RNA) status, as a "river" (draft at p. 57) in need of protection by wild and scenic designation, is also inaccurate and thus also arbitrary and capricious.

Moreover, the Coronado's ideological bias against controlled livestock presence in riparian areas has been consistently applied to wild and scenic designations. The Forest Service has done so for alleged "protection" reasons despite contradiction by the best scientific information available, and by ignoring the fact that livestock presence helped create some of the very values that supported the classification.

In short, because controlled livestock presence is among the conditions that support the classification and outstandingly remarkable values of many of the streams proposed for wild and scenic designation by the Coronado, and because the "guideline" (draft, at p. 57) for wild and scenic rivers calls for maintenance of those conditions when implementing any project, the Coronado's exclusion of controlled livestock presence from along those same streams is arbitrary and capricious. Moreover, because the Coronado proposes to allow the multiple poisoning and damming of those same streams to occur, their free-flowing characteristics and outstanding remarkable values are arbitrarily and capriciously unprotected as well. Accordingly, the list of streams currently stated as eligible for wild and scenic status in this draft must be stricken from any further iteration(s) of the Coronado Forest Plan because, according to this draft, none of those streams is actually eligible for wild and scenic designation.

That this draft is improperly biased against controlled livestock presence as a valid multiple use is also on display in the draft's treatment of "ecosystem management areas" (EMAs) and its proposal to use "research natural area" (RNA) extensions to exclude such (draft, at p. 62-101). According to the draft (at p. 74), exclusion of controlled livestock grazing by extension of the Goodding Research Natural is necessary to protect "additional" populations of rare plants and animals, including the supine bean. In point of fact, however, there is no scientific research showing that controlled grazing poses any threat of harm to any species – including the supine bean. To the contrary, the sizeable body of scientific research relative to controlled grazing conclusively reveals that controlled grazing is beneficial to many species of animals and plants. Moreover, the Coronado is aware of these facts because specific citations to that research were provided the Coronado in previous comments on this forest planning effort. Accordingly, because there is no resource protection reason whatsoever for excluding livestock presence by extension of the boundaries of the Goodding RNA (draft, at p. 74), the draft provision calling for livestock exclusion nonetheless (draft, at p. 77) is clearly arbitrary and capricious and must be eliminated from further iteration(s) of this draft plan.

The same applies to the draft's attempt to arbitrarily and capriciously restrict livestock grazing within the Huachuca EMA by proposing the exclusion of such from the new Canelo RNA also proposed for creation in this draft (draft, at p. 79, 81). In point of fact, considerable scientific research and monitoring of long-term changes in the absence of livestock grazing, and considerable scientific research comparing the effects grazing exclusion with controlled livestock grazing has been accomplished since the Canelo RNA was first recommended for designation in the 1986 Forest Plan. That research shows, as the Coronado well knows but chooses to ignore, that exclusion of livestock from additional acreage near Canelo for the alleged protection of plants and animals by use of new RNA designation is both scientifically unsupported and directly contradictory of the Coronado's multiple use mission. As such, the proposal of livestock exclusion from the new Canelo RNA is arbitrary and capricious by definition. This same situation applies to the Santa Catalina RNA (draft, at p. 100) and all other RNAs and/or proposed extensions thereof across the Coronado (i.e., Douglas, Santa Catalina, Winchester EMAs, etc.).

One last example of this draft's improper, ideological disdain for private property ownership and use and Congressional direction must be commented on here. According to the draft (at p. 106) "desired conditions" for the Huachuca EMA includes the following: "The proclaimed National Forest Boundary includes the San Rafael De La Zanja Grant and surrounding non-federal land previously located outside the proclaimed boundary." The draft neglects to mention, however, that there is absolutely no legitimate resource protection reason for the Coronado to want to remove the San Rafael Grant from Santa Cruz County's property tax rolls by its acquisition of such because the San Rafael Grant is already protected from development in perpetuity by encumbrance through conservation easement. Nor is there any legitimate protection reason for the Coronado to want to acquire other private lands surrounding the San Rafael Grant. Finally, neither does the Coronado have the legal authority to "proclaim" new and expanded boundaries for itself.

That authority, along with the authority to change the Forest Service's and the Coronado's multiple use mission, resides exclusively with Congress. Because this draft fails to

recognize the boundaries of the Coronado's and the Forest Service's authority, and because as clearly shown herein, the draft completely ignores the Coronado's actual, multiple use mission as directed in various and pertinent laws by Congress, this draft must be rewritten in accordance with both to be anything other than an arbitrary, capricious, and severely ideologically tainted waste of time.

Should you have any questions about these comments, require further information about them, or wish to discuss any of the serious concerns contained herein, please feel free to contact me by email at dennis.parker36@verizon.net and at dennisparker36@msn.com , or by phone at (520) 394-0286.

Sincerely,

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Cc: Jim & Sue Chilton, Susan Krentz & Family, SACPA