



November 18, 2019

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Objection to the Draft Record of Decision (DROD) and Final Environmental Impact Statement (FEIS) for the Travel Management on the Tonto National Forest (TNF)

As the Executive Director representing Arizona Sportsmen for Wildlife Conservation (AZSFWC), we object to the DROD and FEIS for the TNF Travel Management Project as per 36 C.F.R. 218. We have provided substantive comments to this project (TNF Travel Management Draft Supplemental EIS comments 5/21/2019, attached to demonstrate prior comments connection with our objection; and our October 1, 2017 comment letter to the Tonto Forest Plan Revision with attached March 2, 2015 AZSFWC Resolution on Special Land-use Designations referenced therein, which included statements regarding travel management on Forest Road 203 and 487 also addressed in this Travel Management FEIS and DROD), and therefore have standing to object per 36 C.F.R. 218.5(a).

AZSFWC is a non-profit 501(c)(3) umbrella organization that represents 41 member, associate, affiliate groups and businesses that reach across the spectrum of hunting, angling, shooting, and outdoor recreation from all over Arizona. Our member groups alone represent in excess of 10,000 sportsmen and women from Arizona.

AZSFWC understands and has witnessed the challenges the Forests face in public land and resource management, travel management, and the purposeful sequence of focus over time. The focus has been based on perceived or real needs and persuasion or intimidation most often from those who demonstrate pertinent influencing factors on issues of the time. That purposeful

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management sequence of focus began with conservation, then multiple-use, and to what many call sustained conflict, to now sustainability. Collaborative stewardship, a key component in several edicts, has both improved and protracted the implementation of legislative mandates that direct the Forests day to day management activities. We believe the beneficial effects of higher quality analyses using the best available science outweigh concerns regarding delays due to collaborative partners' contributions. Based on our experience and observations over many decades, a key issue that negatively impacts Forest management and decision outcomes (also litigation) is inadequate analyses, including data collection and monitoring, which unfortunately persists. This DROD and FEIS exhibit critical gaps in these analyses.

We believe through continued collaborative efforts, the Forest can avoid the conflicts that come with lack of disclosure or withholding information, which could result in untimely litigation if critical information is lacking in this FEIS or DROD.

AZSFWC requested in our May 21, 2019 comment letter that the TNF comply with NEPA's 'hard look' of the environmental consequences in their analyses for the Forests Travel Management FEIS and DROD. The Forest must include a rational connection between the facts found and the choice made, and we believe the gaps in their analysis do not support a rational connection. This is based on the specific information and issues the Arizona Game and Fish Department (AZGFD) have repeatedly provided specific to the State's jurisdiction and responsibilities as defined in the Multiple-Use Sustained Yield Act of 1960 and the Federal Land and Policy Management Act of 1976.

Motorized access on the Forest is critical for the connected activities related to State wildlife management mandates. It is also critical for recreational users of all types. The DROD and FEIS as written significantly and negatively impact the State's legal obligations to do this for the following:

- Enforcement of wildlife regulations and consistency with other Forests,
- Road closures and recreational access for all users
- Monitoring and enforcing Motorized Big Game Retrieval (MBGR) for elk, bear and deer too, to avoid waste of game meat,
- Maintain big game management with the AZGFD across the respective hunt management units, which necessitates and requires the need for Motorized Dispersed Camping (MDC) site availability,

These issues demonstrate the Tonto National Forest failed to fully analyze significant issues that impact the AZGFD mandates and responsibilities.

Enforcement of wildlife regulations and consistency with other Forests

AZSFWC has been commenting on the various TNF planning matters several years. We have long called for clarity and consistency across Arizona's six National Forests, understanding there are differences across the varying landscapes, but imploring consistency for the recreating

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public. This is particularly important because several game management units occur within the boundaries of more than one Forest.

It should also be patently obvious that if the AZGFD's Wildlife Managers do not have access across the Forest to fulfill their trust responsibility to manage wildlife, they are not going to have the ability to enforce wildlife regulations. At the minimum, the AZGFD must have access to all roads available to the TNF classified as "administrative".

Road closures and recreational access for all users

AZSFWC requested the TNF develop and offer a motor vehicle use map (MVUM) similar to what the Coconino National Forest publishes. This would go a long way in aiding the general public's understanding of what roads are proposed to be open and what roads would be closed.

Your online "story map" could be helpful for someone sitting behind a computer, but in many instances impractical when one is in the Forest, or useless for those without computers. We requested you provide a similar map for public review prior to a decision, so the public could clearly see the proposed classification or designation of all roads, trails and routes.

Further, your "story map" was not always online for interested individuals to access and review to make an informed comment or objection and route numbers were missing. This missing information affected our ability to evaluate alternatives. We request this missing information be made available in both formats prior to a decision.

Specific to Forest Roads 203 (Cherry Creek Road) and 487 (Workman Creek Road) adjacent to the Sierra Ancha Wilderness, the FEIS does narrow the proposed portion of Forest Road 203 to be decommissioned as 5 miles and naming that portion 203B. The mileage is different compared to the June 2016 FEIS, which lists 10.05 miles of 203B to be decommissioned. We request the length of planned decommissioning of Forest Road 203B be clarified and confirmed before a decision is made. Further, in the DROD, as written, it confers the entire 203 road will be closed to all motor vehicle use. This must be corrected to describe that only a portion (203B) is planned for closure.

There are several private land inholdings on the other miles of the 203 road, and Gila County has a contract to maintain for motorized access those portions of the road for many years. Importantly, we continue to request the Forest consider and administrative action to correct the errors and inconsistencies on the Sierra Ancha Wilderness boundary.

Further, it is important to note that Congress did not "approve" the map and legal description submitted in 1965 by the Forest Service to meet the deadline for submission of the information following the passage of the Wilderness Act of 1964. Rather, by *default* the Sierra Ancha "Wild Area" became a Wilderness Area because it was already officially recognized as a "Wild Area" as amended February 13, 1951, and this can be verified in the Congressional records. Therefore, in 1965 the "Wild Area" map should have been submitted to the Interior and Insular

Affairs Committees of the United States Senate and the House of Representatives, not the changed boundary map and flawed legal description that was submitted for the Sierra Ancha Wilderness. We request you take a harder look at the administrative action provided in the Wilderness Act of 1964 when there are errors, and support an administrative action by Secretary Sonny Perdue to remedy this issue prior to the completion of legislation.

The 9th Circuit has established relatively clear standards for how the analysis must be presented in NEPA documents. Data cannot be obviously outdated, particularly when it plays a significant role in supporting the analysis. It is important to note that claims of professional expertise alone will not survive judicial review. Also, based on case law, an agency is required to have a willingness to provide confession of errors or mistakes, such as in the legal description and map created in 1965 referenced herein, to ensure proper and fair administration. We surmise a confession of error will not circumvent the procedural requirements of the Administrative Procedures Act (APA).

Therefore, specific to sections of long-established motorized travel routes adjacent to or shown to have intermittent entrance into the Sierra Ancha Wilderness areas based on inexact, inconsistent, or indefinite interpretations of map boundaries (based on various inconsistent federal records provided in prior communications), we request you take a hard look as is required by NEPA:

- A. Further analyzing pertinent records from the Congressional Research Service (provided to the forest in prior communications),
- B. U.S. legislative correspondence documenting issues regarding the TNF maps and survey record inconsistencies, errors, and omissions specific to the Sierra Ancha Wilderness (This can also be applied to analysis of the other motorized travel routes at issue for other wilderness areas addressed in this analysis).
- C. Congressional hearings, intent, and findings in the years leading up to the 1964 Wilderness Act.
- D. Imprecise or mistaken statements in recent federal correspondence specific to the Sierra Ancha Wilderness and sections of the 203 and 487 Roads adjacent to the wilderness boundary and planned for closure or decommissioning (also provided in prior communications).
- E. The fact that the Sierra Ancha "Wild Area" map from 1951 is found to be classified and not simply a "working document," and should have been mirrored in the 1965 document that was allegedly submitted to congressional committees. This because by default a Wild Area became a Wilderness Area through the 1964 Wilderness Act. The Region 3 document created in 1965 showing a map and legal description of the Sierra Ancha Wilderness was not 'approved' by Congress as has been stated based on what was not found in Congressional Research Service records and the fact that a Wild Area by default via the 1964 Wilderness Act automatically became a Wilderness Area.
- F. Congressional and local reviews of the 1965 map and legal description found significant flaws. It appears the 1965 document and map submitted would not have provided full

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disclosure of what features on the ground existed (including all established motorized routes) to Congressional committees. Further, based on our understanding, the 1964 Wilderness Act has no statute of limitations in Section 3 where the law provides for errors to be corrected through administrative action. The errors in the boundary of the Sierra Ancha Wilderness are found in several versions of maps currently in use, all of which do not reflect the intent of the cartographer and the boundaries drawn in the 1951 Wild Area map.

We request the following to better reflect current conditions on the TNF as a whole and within Wilderness Areas and the adjacent land uses and classifications.

- G. Specificity of information is a critical component of analysis that is clearly noted in the Forest Service's many Strategic Plans, coupled with timeliness. We believe the justification of specific route designations analysis lacks the specificity that would be needed to justify the current selection of sections of roads for closure detailed in the analysis that are adjacent to or have intermittent entrance into a Wilderness area. Update the current conditions, in addition to describing the various resources and uses associated with each area, including the contribution of each area to the social and economic stability of rural communities directly affected by Forest Travel Management actions or decisions using site-specific data rather than statewide or region-wide data.
- H. The FEIS failed to mention or analyze effects specific to new information provided regarding the Sierra Ancha Wilderness and surrounding or adjacent land uses or classifications. With this lack of specificity, the Forests planned closure or decommissioning of sections of the 203 and 487 roads are unsupported and inconsistent with statements in other documents (provided in earlier Forest communications from the Congressional Research Service, Congressional representatives, and private citizens).
- I. In your analysis it is important to include recognition of Section 3, and not limit your analysis to Section 4 of the 1964 Wilderness Act. Further, if the Wild Area map for the Sierra Ancha Wilderness that should have been mirrored in the 1965 documents, mentioned above, was appropriately analyzed, whether or not the States enabling legislation recognizes Forest Roads 203 or 487 becomes a moot point.
- J. Both Forest Roads 203 and 487 predate the 1964 Wilderness Act.

AZSFWC believes it is critical for the social and economic stability and safety of local communities, local government administration, the AZGFD, and thousands of recreationists that frequent the Forest to find an administrative correction and remedy as provided for in the 1964 Wilderness Act to the Sierra Ancha Wilderness map and legal description errors prior to finalizing the corrections through legislation. The 1951 final Wild Area map clearly communicates the intent to place the Sierra Ancha Wilderness boundary away from established travel routes.

AZSFWC also requests you reanalyze Powerline Road 393, at issue within the Mazatzal Wilderness, supporting administrative remedy by Secretary Sonny Perdue based on the provisions in the Wilderness Act of 1964 to do so, until a legislative remedy is completed.

Monitoring and enforcing Motorized Big Game Retrieval (MBGR)

On February 7, 2019, the 9th Circuit Court of Appeals ruled in “WildEarth Guardians v. Provencio, No. 17-17373, 9th Cir. 2019”, that MBGR be allowed “up to three miles from a designated route” for bison and “up to one mile from a designated route” for elk and mule deer on the Kaibab National Forest.

AZSFWC requested the TNF modify the DSEIS decision and allow the MBGR of elk, bear and mule deer up to one mile from a designated route. We believe MBGR should be consistent across all the National Forests and Districts in Arizona, with respect to that 9th Circuit ruling.

In addition to the 9th Circuit ruling, AZSFWC believes a more precise site-specific analysis must be considered in the FEIS, as it is not clear this was accomplished. Transparency and effective public involvement are severely lacking, with the use of incomplete data and unsupported hypotheses regarding impacts of established roads considered for closure, to instead remain open for motorized public use or MBGR.

All prior environmental assessments across the entire Forest must be considered in this FEIS and DROD that by either default or specific data recognized all forest program areas use many miles of roads for appropriate Forest management and motorized access. And, based on Forest documentation and annual reports for Forest-wide conditions, this use of motorized public access roads has not been documented in annual specialists’ reports to indicate any significant adverse effects to overall Forest conditions.

Further, the FEIS and DROD failed to fully analyze the need for MBGR, specific to the A.R.S. 17-340 which prohibits waste of game meat. AZSFWC believes it is critical to avoid discrimination against anyone specific to a game animal species, in determining whether MBGR is needed. The physical ability to pack out an animal is not the same for all men, women, and youth, not even considering the obvious limitations of anyone physically challenged or handicapped.

It is arbitrary and capricious to make an unwarranted assumption of when MBGR is needed most, simply based on the weight of an elk and the number of game animal harvests. This completely ignores the greater issue of individual’s safety and abilities in the effective and timely removal of game meat that are obligated to comply with the state law.

MBGR has been a long-established practice and prior Forest or Travel Management Plans have supported its use for all big game animal transport, so the FEIS and DROD must complete a more detailed and appropriate analysis, particularly considering these issues. If through this higher level of analysis significant resource damage may occur, then an appropriate site-specific decision can be made.

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Motorized Dispersed Camping (MDC) site availability

AZSFWC is aware of the fact the TNF has worked with the AZGFD on dispersed camping access specific to the Salt River while also protecting critical habitat for the Southwestern Willow Flycatcher. We concur with the AZGFD request relative to clarifying fishing access on the #465 Road and its spurs.

Route #465 and all of its components #465A, 465B, and 465C constitute the primary access route to the Salt River Recreational Area. The FSEIS did not note this important access route nor was it addressed in the narrative as AZGFD requested. During the review additional discrepancies were found across modes and NEPA documents that inhibited our ability to verify public access. For example, the interactive map was removed from access and the story map did not contain route numbers. Therefore, we were unable to locate route #465B or #465C, and the DROD stated route #465B and #465C as decommissioned.

The document describes and provides maps on the selected routes re-analyzed in the Route Designation Issues portion of the document, but then lists routes in the Travel Impacts to Wild and Scenic Rivers section by alternatives and no maps. AZSFWC requests the routes be added to the narrative and the interactive map to clarify public access to this important recreational area; and further supports the AZGFD's request for route designations for each alternative be added to the interactive map to address discrepancies that were found across alternatives.

AZSFWC also concurs with the AZGFD recommendation that all previously disturbed motorized dispersed campsites and the #123 Road and spur roads that lead to the campsites remain open as inventoried and presented in alternative C of FEIS. AZSFWC recognizes and supports the need to manage MDC in order to minimize natural and cultural resource damage, however closing these roads and campsites has the potential to create additional disturbance and users would likely create new unauthorized roads and campsites to replace these excluded areas.

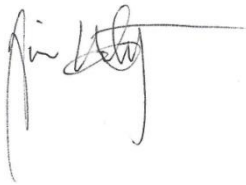
Summary

AZSFWC understands the TNF considers the AZGFD a cooperating agency in view of their trust responsibility in the management and conservation of all of Arizona's 800+ species of wildlife. This responsibility requires active management to ensure these resources are conserved for present and future generations.

AZSFWC requests the Forest take NEPA's harder look at their travel management analyses and related decisions that would impact the AZGFD mandates. This is a significant issue, as they are on the ground charged with enforcement, not just for wildlife regulations, but some of the very issues discussed in this FEIS; Roads, Routes, Motorized Big Game Retrieval (MBGR) and Motorized Dispersed Camping, as well as managing and monitoring threatened and endangered species.

The TNF's Decision for Travel Management will affect multiple layers of social and economic stability including individuals and local communities, local and State businesses, local and State governments, as well as ecological systems and watersheds, all of which makes the Forest's compliance with NEPA's harder look imperative. If this is not fully accomplished, particularly considering the AZGFD has provided the Forest with detailed information on its legal obligations and the management actions involved with enforcement of State laws on public lands of the TNF, the Forest will be in non-compliance with several of these edicts.

AZSFWC appreciates the need to balance natural resource management with recreational use on the forest. However a key component missing in your analysis was any consideration of the economic impact of lost or limited recreational access, particularly where motorized vehicle access is long established on already classified travel routes. That is a critical issue as our state's population continues to grow and the need for more recreational access grows with it!



Jim Unmacht
Executive Director
Arizona Sportsmen for Wildlife Conservation

Attachments: AZSFWC Comment letter to TNF – 5-21-19
AZSFWC Comment letter to TNF – 10-1-17
AZSFWC Resolution on Special Land-use Designations – 3-2-15

CC: Senator Krysten Sinema
Senator Martha McSally
Representative Paul Gosar, D.D.S.
Representative Tom O'Halleran
Director Ty Gray, AZGFD

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