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Regional Forester, Objection Reviewing Officer
USDA Forest Service, Southwestern Region
333 Broadway Blvd, SE
Albuquerque NM 87102

Project name: Tajique Watershed Restoration Project

Responsible officer: Nancy Rose, Forest Supervisor, Cibola National Forest

National Forest: Cibola National Forest, Mountainair District

Objectors:
Bud Latven, 43 Troncon Negro Rd, Tajique, NM 87016, ph: 505-384-2208 (lead objector)
Caroline Orcutt, 43 Troncon Negro Rd, Tajique, NM 87016, ph: 505-344-3908
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Introduction

The above named objectors are residents of Forest Valley subdivision, a scattered community of about a 10 homes in the center of the proposed project area. Forest Valley would be the primary beneficiary of reduced fire risk from the Tajique Watershed Restoration Project, yet 30 of our 33 residents and land owners (90%) now oppose the project (attachment 1).

As is outlined below, and from my neighbor's objections and those of Forest Guardians, it will be seen that forest health will likely decline and fire risk to our properties will likely increase as a result of the Tajique project.

Our community, with the help of Forest Guardians, had put forward a Citizen's Alternative (attachment 7) in a spirit of cooperation in the hope that negotiation would rectify many of the problems seen in the DEIS. Unfortunately, any serious consideration of the Citizen's Alternative was not forthcoming and the community now stands united in opposition to the Tajique project.

Several of this objector's concerns are outlined below. The remaining majority of which will be presented by Forest Guardians and other community members.

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The Objectors herein desire and request relief in the form of:

- A re-evaluation of the criteria for a wildland/urban interface as it applies to this project. If criteria are not met, conduct a standard NEPA process outside the HFRA.
- Incorporation of the Citizen's Alternative as the primary vehicle for project development and implementation.
- A re-issue of the FEIS incorporating accurate lightning-caused fire data along with an analysis of fire risk associated with lightning-caused fires. This evaluation should be directly incorporated into the decision making process.
- A re-issue of the FEIS incorporating accurate human-caused fire data along with an analysis of fire risk associated with human-caused fires. This evaluation should be directly incorporated into the decision making process.
- A re-issue of the FEIS incorporating a comparative trend analysis and between lightning and human-caused fires including a projection trend as a result of project implementation. This evaluation should be directly incorporated into the decision making process.

Objections to the Tajique Watershed Restoration Project

A. The FEIS is Not in Compliance With WUI Definitions in the HFRA

The FEIS fails to adequately show the how the project area falls within the definitions of a Wildland-Urban Interface (WUI) as indicated in the HFRA, Section 101, (1) (A) (i) and as defined in the Federal Registry 66, 753, 2001 (attachment 2a ,b). Recommend this project be brought into compliance with the HFRA.

The Federal Registry defines three categories of WUI areas: interface, intermix and occluded. These are found in the Federal Register, Vol. 66, No.3, p. 753, as referenced in the HFRA, Sec.101(1)(A)(i). A WUI *interface* area is defined as a community with "*3 or more structures per acre (structure is defined as a residence or business) with shared municipal services*". An alternative definition of an *interface* area is "*250 or more people per square mile*". An *intermix* area is defined as an area with "*structures very close together to one structure per 40 acres*". An alternative definition has a "*population density of between 28-250 people per square mile.*" An *occluded* area is not relevant to the project area.

The FEIS identifies three main community-at-risk areas within the project area. These are: "*Forest Valley (that) has approximately 35 lots with 10 year-round or part-time residents*", "*Sherwood Forest (that) has approximately 35 lots with 10 year-round or part-time residents*" and "*Inlow Youth Camp (that) can serve up to 350 people at any given time*". (FEIS p. 186)

Since Forest Valley and Sherwood Forest subdivisions each have approximately 10 residents in their respective 640 acre subdivisions, and we assume that each resident has a residence, this is only one structure per 64 acres. This is below the minimum WUI intermix definition of one structure per 40 acres.

Since there are about 10 residents in each of these subdivisions (10 people per square mile), this

also does not meet the minimum population density requirement of 28 people per square mile for the intermix definition of a WUI as noted above. If you take the populations of both subdivisions and the two full time residents at Inlow Youth Camp over the entire 17,000 acre project area you would find that there is less than 1 person and 1 structure per square mile in the project area.

Further, the 2000 census (attachment 3) indicates that there are no more than 63 residents in an area that covers all of the project area plus some overlapping private lands. Even with the inflated population numbers from the overlapping private lands, this shows that there are only 1.72 residents per square mile. This does not comply with the minimum requirements of Sec. 101 (1)(A)(i) of the HFRA.

	HFRA interface minimum requirement	HFRA intermix minimum requirement	FEIS (p.186)	2000 Census
People/square mi	250	28	10	1.72

From the above it can be seen that the entire project area does not fall within any of the definitions of a wildland-urban interface area and therefore the project does not comply with Sec.101(1)(A)(i) of the HFRA. **We recommend a re-evaluation of the criteria for a wildland/urban interface as it applies to this project. If criteria are not met, conduct a standard NEPA process outside the HFRA.**

B. Fire risk associated with natural causes inadequately analyzed

The FEIS gives very conflicting information about the actual number of fires associated with lightning thereby making it impossible to determine the actual fire risk associated with natural causes. Without accurate information, decisions regarding fuelbreaks, stand thinning and access roads for fire fighting cannot be properly determined. Recommend the fire risk associated by natural causes be accurately determined, analyzed and incorporated into decision making process prior to project approval.

Here are some of the sentences showing conflicting data in the FEIS. "*Based on historic fire data, this area has an average of five lightning caused fires a year*." (FEIS p.81). "*Approximately 50 lightning caused fires occurred between 1970 and 2004*". (FEIS p.50) This is equal to 1.47 fires per year. The map on page 88 of the FEIS shows 23 lightning strikes between 1970 and 2000 (FEIS p.87, 88). This is equal to 0.77 fires per year. This information shows a variation between five fires per year and less than one fire per year.

	FEIS (page 81)	FEIS (page 5)	FEIS (p.87, 88)	
Lightning fires per year within project area	5	1.47	0.77	

A study of current GIS data below (attachment 4) shows a total of 16 fires in the project area from 1986 to 1996. 62.5% (10 of 16) of these fires were lightning caused. This means that there were 0.91 lightning fires per year (10 fires per 11 years). This number corroborates the 0.77 fires per year for the thirty year period noted above. (also see *Course-scale Spatial Data for Wildland Fire and Fuel Management,* National Fire Occurrence, Federal and State Lands, 1986 - 1996, v1999,

and online at www.fs.fed.us/fire/fuelman for this fire data).

	UNIQUE#	FIRE #	FIRENAME	YEAR	ACRES	CAUSE	LONGITUDE	LATITUDE
1	587202718	202718		1987	2.50	2	-106.39000	34.81300
2	588202768	202768	Tajique Fire	1988	941.00	2	-106.35600	34.81300
3	594290409	290409		1994	0.10	1	-106.37300	34.79600
4	593279541	279541		1993	2.00	2	-106.39000	34.77900
5	590202895	202895		1990	0.50	1	-106.39000	34.76300
6	595302634	302634		1995	1.00	1	-106.37300	34.76300
7	590202898	202898		1990	0.10	1	-106.37300	34.76300
8	595302638	302638		1995	0.50	2	-106.35600	34.76300
9	594290415	290415		1994	0.10	1	-106.32200	34.76300
10	596311792	311792		1996	0.10	1	-106.39000	34.74600
11	596311793	311793		1996	0.10	1	-106.37300	34.72900
12	592259471	259471		1992	0.10	2	-106.37300	34.72900
13	596311499	311499		1996	0.50	2	-106.35600	34.72900
14	596311502	311502		1996	0.10	1	-106.35600	34.72900
15	28600022	22		1986	0.10	1	-106.38333	34.80000
16	28600021	21		1986	0.10	1	-106.36667	34.80000

Cause: 1 = lightning caused, 2 = human caused

Regarding the map on page 88 of the FEIS, the period of "1970 to 2000" noted on page 87 of the FEIS was not shown on the map on page 88 and the number and rate of lightning strikes was also not indicated on the map. It requires an actual physical counting of the fire starts on the map on page 88 and then backtracking to the period on page 87 in order to determine the actual rate of lightning fires per year by this presentation. As a result, the actual rate of lightning caused fires in the FEIS area appears to be hidden from any analysis.

When Deborah Walker of the Cibola National Forest, the contact person for the FEIS, was asked about the source of the data on page 88, it was stated that "*there is a way to get real time data for lightning activity but only recent data for the past couple of years, not as far back as we looked for this (FEIS) analysis*" (attachment 5). This is quite an incredible statement because it shows that lightning strike data could not have been analyzed for fire risk in the FEIS! Indeed, in the entire 350 page document there is only one paragraph on page 81 devoted to Fire Risk.

Conflicting information in the FEIS about the actual number of fires associated with lightning strikes and the complete absence of a fire risk analysis brings into question the veracity of any of the fire risk assessments in the FEIS. As a result, the USFS action here could be considered arbitrary and capricious. Inflated statements about lightning strikes; a dearth of lightning strike data; and a complete absence of a fire risk analysis borders on negligence. The FEIS comments on lightning strike fire numbers run counter to the evidence provided above and this document has entirely failed to consider this important aspect of the problem.

Without accurate fire risk information, decisions regarding fuelbreaks, stand thinning and access roads for fire fighting and evacuation cannot be properly determined. **We recommend the fire risk associated by natural causes be accurately determined, analyzed and incorporated into**

a re-issue of the FEIS.

C. Fire risk associated with human causes inadequately considered

The FEIS entirely fails to adequately analyze the current and future fire risk associated with human-caused fires. The FEIS offers no data at all relating to human-caused fires, yet this information is readily available on the same GIS database that the lightning caused fires were drawn from on page 88 of the FEIS. These two fire sources are shown together on the map in attachment 6.

The GIS table shown in the previous section indicates that 37.5% (6 of 16) of all fires between 1986 and 1996 in the project area were human caused. Indeed, 71% (5 of 7) of all fires in the project area greater than 0.10 acre between 1986 and 1996 were human-caused, yet page 326 of the FEIS states "there is no data to support that the probability (of fire) will increase with the increase presence by either contractors or public."

The District has been continually downplaying the importance of human-caused fires noting that "*within a 30-year period between 1970 and 2000* [there were] *only a handful of human-caused fires*" leaving one to believe that these human-caused fires were inconsequential (attachment 6). The USFS document "Manzano Mountain Historic Fire Occurrences 1970 to 2000" included in attachment six and which is used for the map on page 88 of the FEIS shows that almost one-third (31.2%, 43 of 138) fires during the 30 year period mentioned above were human caused. This is not a "handful of human-caused fires."

Further, page 81 of the FEIS discusses the Hayman Fire of 2002 and the Rodeo-Chediski Fire of 2002. Both of these large fires were human-caused but this fact was not discussed in the FEIS. The FEIS also discusses the Lookout Fire in the Gallinas Mountains and states, "if left untreated, the Tajique watershed would be vulnerable to such an event" (FEIS page 193) yet the FEIS fails to mention that this fire was also a human-caused fire. In addition, the only major crown fire in the project area in recent history was the Tajique Fire of 1988. This was started when a FS prescribed burn escaped containment and burned 941 acres for two days before being contained. None of the above information was analyzed from the perspective of human-caused fires and incorporated into the decision making process.

In addition, the implementation of the current project proposal will provide much greater public access for recreational activities by opening up otherwise inaccessible areas for hunting, fuelwood gathering and general off-road vehicle activity. Lightning caused fires are often extinguished by rainfall but since recreational activities can occur at any time of the year, these fires can be a lot more difficult to manage as can be seen by the data above.

This project also proposes to maintain the 33 miles of fuelbreaks with prescribed burns. These will also add an additional increase in fire risk associated with human causes as evidenced by the Tajique Fire of 1988. Every mile of the fuelbreaks will need to be re-burned on a periodic basis in order to maintain the effectiveness of the fuelbreaks. Additional prescribed burns are also planned to remove fuel loads and slash piles during the project. All of these human-caused fires will greatly increase the fire risk associated with human-causes yet there is no consideration of this in

the FEIS.

In sum, the only mention of the cumulative effects of human caused fires comes in the form of a generalized statement that the effects are not significant. Without hard data there is no effective way to determine the veracity of USFS actions or opinions regarding human-caused fires. As a result, the USFS action here is arbitrary and capricious. It runs counter to the evidence provided above and has entirely failed to consider this important aspect of the problem.

We recommend the USFS seriously analyze current fire data associated with human causes including prescribed burns and increased public access. More importantly, this should accompany a comparative trend analysis between natural and human-caused fires. We recommend the fire risk associated by natural causes be accurately determined, analyzed and incorporated into a re-issue of the FEIS.

Cibola National Forest Proposed Action in this EIS Would Violate the Administrative Procedures Act.

The APA requires all agency actions to conform to general standards of regularity and rationality. The courts will overturn agency decisions that are "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law." The Supreme Court has held:

> "Normally, an agency [action] would be arbitrary and capricious if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise."

Failures to comply with the Forest Plan, the NFMA, the MBTA and E.O. 13186, HFRA, the US Constitution, and NEPA by implementing the proposed action as is would all be in violation of the APA because that decision would be arbitrary, capricious, or otherwise not in accordance with the law.

The 2002 Responsible Official determination to not analyze the DFS only alternative in violation of HFRA and NEPA that was carried into the 2005 EA is a violation of the APA.