

Appendix C: Public Comments on Draft EIS and Forest Service Responses

Air Quality

Comment 1

Oil and gas development can have significant direct, indirect and cumulative impacts on air quality. The particular location of the Cuba and Coyote Ranger Districts in the four comers region and nearby San Juan Basin requires the SFNF to take a hard look at the affects of oil and gas development on Forest Service lands on air quality. There is great potential for development on the ranger districts to have a cumulative impact on air quality when considered in association with oil and gas development in the San Juan Basin as well as energy production in the four comers region. The SFNF has a duty to comply with the clean air act and assure that it can mitigate any negative impacts on air quality in the region. The SFNF must also ensure compliance with all local, state, and regional air quality standards. Oil and gas development produce many air pollutants including particulates, NOx, SO2, and volatile organic compounds. The oil and gas industry rank among the top creators of air pollutants among the 29 industrial sectors.

Comment submitted by: Forest Guardians

Response to Comment 1

Noted. These issues and concerns have been addressed in the DEIS in Chapter 3, page 41.

Alternatives

Comment 2

Because the Roadless Rule is in effect on NFS lands in the state of New Mexico and because it contains no special circumstances for road building to accommodate oil and gas production, the SFNF cannot authorize any oil and gas development in inventoried roadless areas. The SFNF should include in its amendment a stipulation prohibiting any exploration or development in inventoried roadless areas per the Roadless Rule.

Comment submitted by: Forest Guardians

Response to Comment 2

Alternative 3 would implement a lease stipulation requiring no surface occupancy (NSO) in all inventoried roadless areas (IRA). However, the NSO stipulation will be applied to all IRAs pursuant to the November 29, 2006, clarification order issued by the U.S. District Court for the Northern District of California in its September 20, 2006, decision in the consolidated cases California v. USDA and Wilderness Society v. USFS. The clarifying order re-instated the 2001 Roadless Rule prohibitions on road construction or reconstruction in IRAs except roads “needed in conjunction with the continuation, extension, or renewal of a mineral lease on lands under lease ... as of January 12, 2001, or for a new lease issued immediately upon expiration of an existing lease” (36 CFR § 294.12(b)(7)).

Comment 3

Other stipulations to consider:

- Lighting at drill sites should be prohibited except in cases of emergencies.
- Low profile structures should be required and such structures should be painted to blend in with the surrounding landscape.
- Sounds and exhaust from compressor engines and any other equipment that create noise disturbance or exhaust should be required to be muffled to the largest extent possible.
- Restrictions should be placed on human presence at drill sites. For example, limit human presence at drill sites to between 9:00 a.m. and 3:00 p.m. to avoid wildlife feeding and movement periods.
- The dumping of produced waters should be strictly prohibited.
- Provide guidance for the maintenance of reserve pits and require that all pits be: i) lined to protect the ground water; and ii) properly fenced to protect wildlife. Earthen pits should be strictly prohibited.
- Road closures should be required and enforced during wildlife migration periods.
- Guidance on when re-initiation of Section 7 consultation must take place should be provided.
- Specific emergency plans in case of a blowout at a well site should be required prior to authorization and should require complete cleanup should an accident happen backed by a bond.
- Specific reclamation provisions should be required and should require a complete reclamation plan backed by a bond.
- Ensure archeological, historical and cultural resources are fully protected. This includes full compliance with the National Historic Preservation Act (e.g. consultation with SHPO), Executive Order 11593, the Archaeological Resources Protection Act, and the Native American Graves Protection and Repatriation Act.

Comment submitted by: Forest Guardians

Response to Comment 3

Requirements for low profile structures, construction of reserve pits, emergency plans, reclamation plans, Section 7 and cultural resources consultation procedures are already provided by existing laws or as part of the conditions of approval when permits to drill are issued. When the NEPA analysis is done for an APD, site-specific design features or mitigation measures such as those identified in this comment are developed and put into the permit as COAs, as stated several places in the DEIS, such as page 26 where the Proposed Action is described. The Noise Policy that provides standards for minimizing compressor noise is part of ongoing management. The disposal of produced water is under State of New Mexico jurisdiction and the State Engineer does not allow surface disposal. The Roads Management DEIS Proposed Action includes seasonal closures of 45 miles within the Cuba Ranger District for wildlife habitat protection, which would limit human presence and provide protection of archeological resources. Each project requires a bond and a reclamation plan.

Comment 4

No surface occupancy should be permitted in sensitive plant and animal habitats, including but not limited to wetlands, 100-year flood plains, other riparian areas, and areas within 1/2 mile of raptor nests. In addition, all human activities associated with oil and gas production must cease during animal occupancy of all big game winter ranges. Oil and gas resources, if approved, must be developed using directional drilling and cluster development methods to minimize creation of new roads and other impacts. Additionally, any pipeline rights-of-way must follow existing road corridors to minimize their effects on forest vegetation. All well pads must be constructed adjoining existing high-standard roads to minimize the creation of spurs, and in areas where a number of wells are proposed, wells up to 4 in number must be sited on the same pad to minimize the proliferation of well pads.

Comment submitted by: Forest Guardians

Response to Comment 4

The Proposed Action (Alternative 2) includes stipulations for avoidance of raptor nests, riparian areas and wetlands, and sensitive wildlife habitat (including, but not limited to, deer and elk winter range and fawning/calving areas). Timing limitations for wildlife are applied to especially disruptive oil and gas activities, i.e. drilling and construction activities. Depending on site-specific drilling proposals, such as multiwell drilling in an area, alternative drilling procedures can be evaluated at the APD stage if surface resource values appear to be threatened. The proposed road closure and decommissioning in the Cuba and Coyote Ranger Districts would reduce the total road miles, accomplishing the recommendation of the commenter. With only 20 wells projected in the SFNF in the foreseeable future, potential impacts to wildlife or National Forest System lands and resources from oil-gas activities are not likely to be significant.

Comment 5

We have received and reviewed the above referenced Draft Environmental Impact Statement. The Natural Resources Conservation Service (NRCS) prefers Alternative Three due to its superior protection of surface resources.

Comment submitted by: Natural Resources Conservation Service

Response to Comment 5

Comment is noted and will be considered by the decision maker.

Comment 6

We recommend the management efforts identified in Alternative 3, which would potentially decrease degrading water quality from a watershed standpoint and improve the productivity of the soils. The document includes information on impairment of streams in the oil-gas study area, including tributaries to the Rio Puerco, Rio Chama, and Rio Guadalupe. Many of the streams listed in Table OG-16 are not meeting water quality standards due to turbidity and sedimentation/siltation exceedances. Alternative 3 would provide better management tools to use discretion in permitting oil and gas facilities and protecting surface water resources, associated riparian areas and wetlands.

Comment submitted by: NM Environment Department

Response to Comment 6

Comment is noted and will be considered by the decision maker.

Comment 7

The NMED supports the Proposed Action. The reduced road miles and fewer stream crossing should provide improved watershed conditions, lower sediment yield, less damage to riparian areas, and reconnect wet meadows while still providing access to recreation sites, private lands, mineral extraction activities, and management activities including range, fire, and tree harvest.

Comment submitted by: NM Environment Department

Response to Comment 7

Comment is noted and will be considered by the decision maker.

IRA Management

Comment 8

We are especially concerned that in the preferred alternative the inventoried roadless area (adjacent to the San Pedro Parks Wilderness) does not receive special protection as well as the fact that “all of the restrictions proposed ... would be subject to exceptions, modifications, or waivers.” We assume further NEPA would be required when the application for permits to drill was received. We are also uncomfortable with the fact that the restrictions would not apply to existing leases. We believe that they should apply.

Comment submitted by: Forest Guardians

Response to Comment 8

Development of lease stipulations must follow the template developed by the BLM, which allows for exceptions or waivers as long as the intended resource protection goals are met. Site-specific NEPA is required prior to approval of an application for permit to drill. In addition, for the Management Area L NSO stipulation, which overlays most of the IRAs, a public notice and comment period is required prior to waiver, exception, or modification waiver of this stipulation. Furthermore, due to the clarifying order (See Response to Comment 2) the NSO stipulation will be applied to all IRAs in the study area until such time as new Agency direction is promulgated.

The proposed stipulations cannot, by law, be applied to leases retroactively. Agencies can work with lessees to gain their cooperation in implementing actions for resource protection through conditions of approval or other mitigation measures.

Riparian and Wetland Ecosystems

Comment 9

Oil and gas production can have significant adverse affects on both riparian habitats and water quality both during normal operations as well as in the event of a catastrophic spill or other accident. Further, both the drilling activities themselves can result in direct, indirect and cumulative impacts, but also the infrastructure (pads and roads) and maintenance can result in similar impacts and affects. Often these impacts are the result of sedimentation, alterations in surface and ground water flows, changes in the invertebrate communities that provide food for fish, and through the obstruction of migration routes.

Because of the critical importance of these areas, two executive orders require their protection. Executive Order 11988 (1977) requires Federal agencies to avoid adverse impacts associated with the occupancy of flood plains. Executive Order 11990 (1977) requires Federal agencies to minimize the destruction, loss, or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands. Further, all federally approved activities must include all practical measures to minimize adverse impacts to wetlands and riparian areas.

Comment submitted by: Forest Guardians

Response to Comment 9

While these EOs are not specifically listed, compliance with State and Federal laws is stated under “Mitigation Measures” on page 34 of the DEIS and in Appendix B. Compliance includes avoiding adverse impacts to flood plains and wetlands, as well as maintaining wetland values. During the site-specific NEPA analysis for an APD, mitigation measures would be developed and water quality BMPs would be applied to minimize adverse impacts to wetlands, flood plains, and riparian areas. At this stage, any actions that might affect wetlands or flood plains are likely to involve coordination with NMED and the Corps of Engineers regarding Sections 401/404 (of Clean Water Act) permits and associated mitigation measures. The proposed CSU stipulation on riparian areas and wetlands would support selection of sites for wells that avoid impacting these important resources.

Comment 10

The DEIS states, in the preferred alternative, and by inclusion in Alternative three, that “Certain Riparian Areas” would be protected from oil and gas development. In chapter two it states that riparian areas will be areas of no surface occupancy (NSO) but then footnotes this to include terrestrial ecosystem units 3-8, 10, 11, 13, 31, 33, 34, 38, 234, 320, and 334. This again implies that only some riparian areas will be NSO. It is the position of the NRCS that all riparian areas should be NSO. Habitat fragmentation caused by oil and gas development increases the importance of riparian areas as they supply connectivity in the fragmented landscape.

Comment submitted by: Natural Resources Conservation Service

Response to Comment 10

Page 30 of the DEIS states that riparian areas and wetlands will have a CSU stipulation, not NSO, which allows well pads to be moved up to 200 meters (656 feet) to avoid sensitive areas. NSO in riparian areas and wetlands was eliminated from further evaluation for the reasons stated on page

39 of the DEIS. The footnote was included to inform the reader on how the locations and acreage of riparian areas and wetlands were identified for the DEIS. The footnote states that these areas include the listed TES map units, but that implies that there could be others. There are limitations to the mapping used, and it is always stated that wells and roads would be permitted only after site-specific NEPA is completed.

Road Management

Comment 11

The San Pedro Parks IRA is especially important because of its buffering capacity as well as its cumulative contribution to large undeveloped areas on the Santa Fe National Forest. IRAs are not only important for recreation and wildlife habitat, but are especially critical in dry states like New Mexico for production of clean and abundant water.

According to a 1997 letter to President Clinton, 136 scientists claimed, among other positive attributes of roadless areas, that Inventoried Roadless Areas, “typically provide supplies of the purest water, untainted by chemical pollutants.” The Forest Service has determined that based on consumptive uses of water on national forests, one acre/foot of water is worth between \$26 and \$75. One study in a Colorado watershed fixed this figure as high as \$940 per acre/foot (Talberth and Moskowitz 1999).

Pristine watersheds purify the waters that flow through them at no cost to downstream municipalities. In some cases cities have chosen to spend funds protecting their watersheds rather than on expensive treatment plants because of the financial efficacy of such a choice. The city of New York saved billions when it purchased its upstate watershed in 1997 (Kelly 2002).

Loomis, J. B. 1988. Economic Benefits of Pristine Watersheds. American Wilderness Alliance.

Talberth, J. and K. Moskowitz. 1999. The economic case against National Forest logging. National Forest Protection

Comment submitted by: Forest Guardians

Response to Comment 11

Noted. Under both Alternatives 2 and 3, a NSO stipulation would be applied to IRAs but the total area in Alternative 3 is larger. Due to the U.S. District Court's clarifying order (See Response to Comment 2), the NSO stipulation will be applied to all IRAs in the study area. Therefore, the NSO would apply to the same area and acreage under both Alternatives 2 and 3.

Comment 12

It appears that the failure to protect the IRAs in the planning area, in particular the IRA adjacent to the San Pedro Park Wilderness Area is in direct contradiction to current USFS policy on development of IRAs.

When the Bush administration published its substitute rule in the Federal Register, great efforts were made to depict the action as still protecting roadless areas, while allowing more “flexibility.” Indeed, according to a USDA press statement made on May 5, 2005, the rule would

“advance President Bush's commitment to cooperatively conserve inventoried roadless areas within our national forests.”

According to Undersecretary of Agriculture Mark Rey: “[T]he reality on the ground tomorrow will remain the same as it was yesterday. These areas will remain protected by the interim directive, and that will continue to be so as we move, hopefully, with some alacrity to develop state-specific rules and bring this issue to closure after all these years.”

In a letter to the editor dated September 9, 2005, and published in the New York Times on September 15, the undersecretary criticized the Times for an editorial supporting the multi-state lawsuit, stating: “The lawsuit you mention is unfortunate and unnecessary. We are providing interim protection to roadless areas, pending the development of state-specific rules provided for in our 2005 rulemaking.”

Thus, the Bush administration has repeatedly assured the public that roadless areas would remain protected until the state petition process was complete. Yet, as the case studies in this report will illustrate, these assurances are misleading and untrue.

Comment submitted by: Forest Guardians

Response to Comment 12

Under Alternatives 2 and 3, the NSO lease stipulation and road closures proposed in the EIS would restrict activities in the San Pedro Parks Wilderness IRA (area west of and contiguous to the San Pedro Parks Wilderness.) In addition to this management protection, this IRA is located on the granite of the Nacimiento uplift and, therefore, the potential for oil and gas occurring is extremely low. The steep and rugged topography makes it an unattractive target for exploratory drilling. These factors indicate that there is very little likelihood of any leasing interest. If leasing does occur, it would occur with the proposed NSO stipulation, so surface disturbance would be extremely limited.

As stated in the Response to Comment 11, the NSO stipulation will be applied to all IRAs in the study area pursuant to the U.S. District Court's clarifying order (See Response to Comment 2 for complete text).

Comment 13:

Enclosed is a map furnished to me by Mr. Robert Potts of the Forest Service. After some communication problems he finally got a map for me. I am not sure of the color code so I will use Road Numbers where possible. I assume Black roads are to be kept open. Our property is outlined in Orange. Our Back Gate is at the junction of 84B & 94B. The short section of 84B that goes to the north west to 94B is very important to us, please color this section Black. There is a small road that connects 84B to a number that I cannot read so I have marked it in green. This short road is pretty primitive but it connects us to 157G which goes to 157, the Miller Addition and the Las Vacas cabin road to the north. It also goes to the northwest to Clear Creek. We would like very much to keep this little road open. Color this one Black.

I am very much opposed to closing or decommissioning the Red roads. In general they are useful mainly for recreation. They can be helpful in fighting forest fires. They are useful to hikers that might become lost and searchers looking for lost hikers. They do not degrade the ecology and require no maintenance expense. It is kind of nice to have an old road to walk down when you are just out exploring the forest.

If my memory is correct, several years ago when the fire danger was quite high, someone in the Forest Service asked us for permission to use our property and Our Back Gate for fire fighting purposes. In return they would help to protect our cabin in case of a forest fire. We gave permission and I think we gave them a key to Our Back Gate, the front gate to Rt. 126 and maybe the Power Box so they would have access to the water in our well. There are instructions on the Power Box for its use if needed.

We have enjoyed being neighbors with the National Forest for forty-five years. Please consider these thoughts when you are planning the future of the forest.

Comment submitted by: Norman Elliott

Response to Comment 13

Forest Road 94B is proposed for decommissioning and 157G for closure; the 84B road is mislabeled on the map you referenced and should be identified as 94B. These actions proposed in the EIS were based on the Cuba Ranger District roads analysis that requires each national forest to identify the minimum road system needed to provide for administrative, public or permitted access across National Forest System lands pursuant to Forest Service Roads Policy and regulations at 36 CFR 212.5 and Forest Service Manual 7712.1. More recently, new regulations governing off-highway vehicles and other motor vehicle use requires each national forest to designate roads, trails, and areas open to motor vehicle use. Until this planning is completed, which will take 3 to 4 years; the subject area will remain open to motor vehicle use. Regardless, closed and decommissioned roads provide for a variety of nonmotorized recreational activities such as hiking, bird watching, mountain biking and if needed, can be reopened to respond to wildfires, floods, or other emergencies.

Soils

Comment 14

The Forest Service's revised, post-1987, DEIS addresses issues of imperiled species, threatened habitats such as riparian areas, and potential erosion of disturbed soils on steep slopes. The DEIS also describes the need to consider "soil characteristics...when planning for construction activities and stabilization of disturbed areas" (for example, page 247, Chapter 3 Affected Environment and Environmental Consequences, Soil Characteristics and Interpretations for Use). The report, however, does not mention the potential vulnerability of biological soil crusts to disturbance such as vehicular traffic. The significance of this omission is that intact biological soil crusts function to make soils, and associated habitats, healthy. Conservation of these living soils can have a positive impact on habitats for imperiled species, such as the cited Mexican spotted owl, northern goshawk, and peregrine falcon.

For information on biological soil crusts, the USGS suggests accessing USGS Southwest Biological Science Center (<http://sbsc.wr.usgs.gov/crs/products/products.htm>), Biological Soil Crusts: Ecology and Management (Belnap et al.2001).

Comment submitted by: U.S. Department of the Interior, Office of Environmental Policy and Compliance

Response to Comment 14

The analysis of impacts to soils identifies that surface-disturbing activities would directly affect soils by accelerating erosion due to loss of vegetative cover, among other factors such as biological crusts. The effects of surface disturbance on soils, biological crusts, and vegetation would be minimized through mitigation measures and conditions of approval developed during site-specific NEPA analysis at the APD stage. In the case of proposed surface disturbance to decommission roads in the Roads Management EIS, these activities would directly affect soils but the roads to be graded and stabilized have been disturbed by vehicle traffic and do not support biological crusts. It is possible that, after many years of being undisturbed, the decommissioned roads may be populated by the organisms that make up biological crusts, but this would take a very long time, beyond the reasonably foreseeable future considered under cumulative impacts. Also, except for installing closure devices where needed to prevent access, there would be little if any closure or decommissioning activities on roads that are restoring themselves naturally. The activities under consideration in this EIS would not affect biological crusts.

T&E Species

Comment 15

Failure of an agency to prepare a biological assessment for a proposal in an area in which it has been determined that an endangered species may be present violates the ESA. See e.g., *Thomas v. Peterson*, 753 F.2d 754 (1985).

In this particular case, several wildlife species either listed or candidates for listing are present on the lands in consideration for stipulations on the Cuba and Coyote Ranger Districts including the Mexican spotted owl and the northern goshawk. The agency cannot ignore the potential risks posed to these species at either the LRMP amendment stage or lease stage. The agency must determine, in consultation with USFWS, whether the potential exploration/development/production of oil and gas related activities (i.e., all stages of oil and gas activity) would have an effect on and/or jeopardize endangered and threatened species in the planning area. Failure to do otherwise is arbitrary, capricious, and an abuse of discretion.

Comment submitted by: Forest Guardians

Response to Comment 15

The analysis in the DEIS concludes that there would be no adverse effect to any listed or candidate species under any alternative. Under Alternatives 2 and 3, timing limitations on drilling operations and construction activities would be established for the Mexican spotted owl, in addition to Forest Service sensitive species, big game winter range, and fawning/calving areas. Prior to oil and gas exploration, development, or production, site-specific NEPA analyses would be required. If potential effects to listed or candidate species were identified at that stage, then a biological assessment and formal Section 7 consultation with the USFWS would be initiated. Also see response to Response to Comment 14.

Comment 16

The proposed lease areas in question on the SFNF would occur in areas that are valuable habitat for species listed under the Endangered Species Act (“ESA”), 16 U.S.C. §§ 1531, et seq. and for

species that are candidates for listing under the ESA. The ESA directs federal agencies “to conserve endangered and threatened species and to utilize their authorities in furtherance of the purposes [of the ESA]”. 16 U.S.C. §1531(c). Section 7(a) of the Act requires each federal agency to “insure” that an action by that agency “does not jeopardize the existence of any endangered species or threatened species or result in the destruction or adverse modification” of critical habitat of such species. Id. at 1536(a)(2).

In order to facilitate compliance with this requirement, the Act imposes on any agency whose actions may affect an endangered or threatened species the duty of “consultation” with the U.S. Fish and Wildlife Service (“USFWS”). Id. At 1536 (c)(1); 50 C.F.R. §402.04. Section 7(c)(1) provides:

“To facilitate compliance with the requirements of subsection (a)(2) of this section, each Federal agency shall . . . request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action. If the Secretary advises, based on the best scientific and commercial data available, that such species may be present, such agency shall conduct a biological assessment for the purpose of identifying any endangered species or threatened species which is likely to be affected by such action.”

In fulfilling the consultation requirement of Section 7(c), the agency is required to “use the best scientific...data available.” Id. § 1536(c). In addition, Section 7(d) forbids “irreversible or irretrievable commitment of resources” during the consultation process. Id. § 1536(d).

Comment submitted by: Forest Guardians

Response to Comment 16

Compliance with State and Federal laws and guidelines are required for all actions conducted by the Forest Service, as stated in the “Mitigation Measures” section of Chapter 2. The BA/BE determined that there would be no adverse effect for the proposed actions and, therefore, consultation with the F&WS is not required. Biological surveys will be conducted before any ground-disturbing activities are approved at specific site locations.

Water Resources

Comment 17

Regarding proposed changes to the road system within the Cuba Ranger District, some of the road closure and decommissioning activities will likely involve the use of heavy equipment, thereby leading to the possibility of containment releases (e.g., fuel, hydraulic fluid, etc.) associated with equipment malfunctions. We advise all parties involved in the project to be aware of discharge notification requirements contained in 20.6.2.1203 NMAC. Compliance with the notification and response requirements will ensure the protection of ground water quality in the vicinity of the project.

Comment submitted by: NM Environment Department

Response to Comment 17

Compliance with applicable State and Federal laws and guidelines is required for all actions conducted by the Forest Service, as stated in the “Mitigation Measures” section of Chapter 2.

Comment 18

Alternative 3 provides the most protection to water resources and watershed management. Most of the area protected includes steep/unstable slopes, roadless recreation areas, heritage resource sites and certain riparian areas. Because of current issues as stated in the document (pages 63 and 64) “Existing problems with sedimentation or turbidity in streams downstream from the district would be exacerbated by accelerated soil erosion. Every map unit within the study area has current soil loss rates that exceed natural soil loss rates. About 28,270 acres of primary components, or about 13 percent of the study area, have current erosion rates that exceed tolerance levels (USSFS 1993).” Whereas oil and gas activities are the primary mineral development. The document also lists copper mines (none active), sand and gravel operations, and humate (organically rich shale) extraction operations. Most of the mineral exploratory/extraction activity (with the exception of copper mines) is west of the areas planned as NSO protected sites. While Alternative 3 provides more protection than the proposed alternative (Alternative 2), it does not unduly inconvenience economic benefits in likely areas of exploration. At least 157 acres of bare ground are identified due to active oil and gas facilities and salable mineral pits within the Rio Gallina and Rio Nutria watersheds.

Comment submitted by: NM Environment Department

Response to Comment 18

Noted.

Comment 19

Amendment of the Forest Plan with the stated stipulations and enactment of the stipulations are not expected to have any effect on ground water quality in the area. Future oil and gas development activities in the San Juan Basin need to consider the applicability of the New Mexico Water Quality Control Commission (NMWQCC) regulations to the planned activities and associated discharges, particularly with respect to the need to obtain permits or perform abatement of ground water pollution in accordance with regulations. It should also be noted that 20.6.2.1201 NMAC requires that notification be made to the Oil Conservation Division, rather than the NMED-GWQB for any discharges from facilities associated with the production, refinement, or pipeline transmission of oil or gas.

Comment submitted by: NM Environment Department

Response to Comment 19

Compliance with applicable State and Federal laws and guidelines is required for all actions conducted by the Forest Service, as stated in the “Mitigation Measures” section of Chapter 2.

Wildlife

Comment 20

Another serious concern is the impacts on Neotropical Migratory Bird species (NTMB) from drilling infrastructure. We remain concerned that NTMBs will be adversely affected, particularly in the pinon-juniper habitat type. There seems to be little mention of the cumulative impacts of habitat loss or alteration and drought/climate change. Species like the pinon-jay may be

experience delayed population declines due to the loss of its specialized habitat type. The only mention of this important issue is that “more monitoring is needed” (DEIS at 122).

In addition, NTMBs may be impacted by flaring at individual wells and this critical issue appears to have been ignored or glossed over with little to no scientific information being presented.

Comment submitted by: Forest Guardians

Response to Comment 20

The analysis documents the acreage to be protected by habitat type under the action alternatives, as well as the number of wells and new roads projected to be constructed within piñon-juniper habitat under cumulative effects. Overall projected habitat loss is described under the “Cumulative Effects” section as negligible due to the small amount of oil and gas development projected. Because so few wells are projected, the likelihood that birds would be affected by development or operations is low.

Comment 21

The SFNF is required to disclose and consider population trends of management indicator species (“MIS”) in the project area:

[f]ish and wildlife habitat SHALL BE MANAGED TO MAINTAIN VIABLE POPULATIONS OF EXISTING NATIVE AND DESIRED NON-NATIVE VERTEBRATE SPECIES in the planning area. For planning purposes, a viable population shall be regarded as one which has the estimated numbers and distribution of reproductive individuals to insure its continued existence is well distributed in the planning area. In order to insure that viable populations will be maintained, habitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well distributed so that those individuals can interact with others in the planning area.

36 C.F.R. §219.19 (emphasis added).

We are especially disturbed by the reliance in the DEIS on habitat trends for MIS species and TES. In several places the DEIS discloses negative trends for habitat (for example, Mexican spotted owl) but then makes the totally unsupported assertion that despite these trends the species actual populations are increasing (DEIS at 114). But the SFNF does not have any population trend data to support such a critical conclusion.

Thus, USFS regulations require the agency to provide sufficient habitat to insure the continued existence of existing vertebrate species in each national forest. The practical effect of this requirement is to make distribution of wildlife habitat a controlling factor in forest planning.

Comment submitted by: Forest Guardians

Response to Comment 21

The trends for MIS, including MSO, habitat and population in the DEIS are derived from the July 2003 MIS assessment for the SFNF, cited in the DEIS as USFS 2003. This reference states that MSOs are rare in the SFNF, occurring in only two districts that are not within the study area or project area addressed in this EIS. The MIS assessment clearly states that, based on evaluations of potential MSO habitat, the habitat trend is declining mainly due to catastrophic fires (page 52 of

USFS 2003), while occupancy information collected by forest biologists since 1988 indicates a slight increase in population numbers (page 55 of USFS 2003). This trend is supported in the cited reference, which is the source document for the statement in the EIS.

The Proposed Action would improve wildlife habitat by reducing the number of roads, providing timing limitations for oil and gas drilling operations in important areas, and seasonal road closures.

