

COUNTY MANAGER

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December 15, 2021

Diane Prather
Lincoln National Forest All Units
3463 Las Palomas
Alamogordo, NM, 88310

RE: Comments on the Lincoln National Forest Plan Revision (#45148) and Notice of Failure to coordinate the Draft Lincoln Forest Management Plan and the Related Draft Environmental Impact Statement

Dear Ms. Prather,

In our letter to Forest Supervisor Travis Mosely, dated December 7, 2021, we noted our surprise that your office is moving into the final planning and approval phases of the Lincoln National Forest Plan Revision without having coordinated the plan with Chaves County to identify potential planning conflicts. Mr. Mosely indicated that if we provided comments by December 15th, they would be included in the formal record. Although we have not had sufficient time to review the draft plan, we are providing this limited assessment for your record. These should not be considered a full representation of our position or a complete list of the conflicts created with our Comprehensive plan and polices.

While we are pleased to work with the Forest Service through this avenue to help facilitate your planning process, it is important that you delay any further action until you have had the opportunity to review the Chaves County Comprehensive Plan¹, and have met with us to address our questions for the purpose of resolving inconsistencies with our policies. Additionally, we request you prepare a Supplemental Environmental Impact Statement that analyzes our position, as well as the other local governments and Department of Defense in the planning region, which should be considered prior to making any Wilderness recommendation to Congress. It is essential, and frankly required under the National Environmental Policy Act (NEPA)², that any recommendation advanced for this restrictive

¹ The Chaves County Comprehensive Plan (updated July 2016) is available online at <https://www.chavescounty.gov/DocumentCenter/View/340/Chaves-County-Comprehensive-Plan-July-2016-PDF>

² For discussion of this see the joint report by the USDA and National Association of Counties, "*County Governments and the USDA Forest Service: A Guidebook for Working together*," page 28. "For plan development or revision, the responsible official shall review the planning and land use policies of [these entities], where relevant to the plan area. The results of this review shall be displayed in the environmental impact statement (EIS) for the plan (40 CFR 1502.16(c), 1506.2). The review shall include consideration of: (i) The objectives of [these entities], as expressed in their plans and policies; (ii) The compatibility and interrelated impacts of these plans and policies; (iii) Opportunities for the plan to address the impacts identified or contribute to joint objectives; and (iv) Opportunities to resolve or reduce conflicts, within the context of

designation include, at the very least, a thorough analysis of our planning positions and policies and the potential impact to the County and our services.

Unfortunately, the federally mandated process of coordination has not been initiated by your agency even though you have already completed your Wilderness Inventory process and released the Draft Environmental Impact Statement of the revised plan to the public. This has prevented us from being able to consider your plans early in the process and work with you to harmonize the goals and objectives to benefit the land and the people we serve. We understand that at the beginning of this process you invited the County to apply to be a cooperating agency in this process. While we appreciate the invitation, our focus and resources are better spent coordinating the plan itself to resolve planning conflicts between our respective jurisdictions, rather than preparing the impact analysis under NEPA.

Specifically, Section 6 of the National Forest Management Act (NFMA) states that the Secretary of Agriculture, through the Forest Service, “shall *develop, maintain, and, as appropriate, revise* land and resource management plans . . . coordinated with the land and resource management planning processes of State and local governments.” (16 U.S.C. § 1604(a)) Coordination is an important requirement that is intended to ensure local governments play a significant role in the planning and management of National Forest System resources. Section 6 of NFMA, recognizes that “local governments have important land and resource planning and management responsibilities that both affect and are affected by the management of the National Forest System. Coordination offers an opportunity to develop mutual understanding, address resource management issues on a wider scale, and ensure consistency between forest plans and local plans and policies.”³

The purpose of this provision in NFMA is expressly to ensure your agency does not prepare and implement plans without analyzing and disclosing the potential impacts to the County, the services we provide, and the people we protect. This position and analysis is to be displayed in the Draft Environmental Impact Statement, as specifically directed by the 2021 Forest Planning Rules and NEPA⁴. This has not been carried out in your current planning effort.

We have been made aware through members of the public that you are planning to recommend to Congress the designation of a restrictive Wilderness Areas in Chaves County, in the Sacramento Ranger District. This recommendation directly conflicts with policies set forth in the Chaves County Comprehensive Plan. Some of these conflicts are as follows:

The proposed special area designations will increase the restrictions on the grazing community, specifically in the Wilderness Areas, leading to increased expenses on producers and potentially the loss of grazing, and therefore loss of economic contribution to the County that cannot be replaced by recreational activity; and

developing the plan’s desired conditions or objectives.” (<https://www.naco.org/sites/default/files/documents/USFS-Guidebook.pdf>)

³ “Forest Service and State, County, and Local Government Coordination Under NFMA Section 6,” Norman D. James and Ronald W. Opsahl, Fennemore Craig, P.C., September 7, 2017 (<https://americanstewards.us/wp-content/uploads/2017/09/Formatted-NFMA-Coordination-Requirement-Norm-James.pdf>)

⁴ See footnote 3

Significant infrastructure exists in these proposed Wilderness Areas including transmission lines, roads, buried and above ground pipelines, storage tanks, dirt tanks, and other developments⁵; and

The significant infrastructure development and daily productive use of these lands disqualify the areas as Wilderness as they do not meet the statutory definition of Wilderness as set forth in the Wilderness Act (16 U.S.C. §1131); and

The Draft Environmental Impact Statement fails to take into account the use of the Lincoln National Forest by the US Army and the White Sands Missile Range for storage, testing and other activities essential to the improvement of test articles and maintaining our nation's security and defense⁶; and

The Draft Environmental Impact Statement fails to disclose and consider how designation of new Wilderness, Lands with Wilderness Characteristics, and other special areas may negatively impact the ability of the Department of Defense to secure the special use permits to continue these activities essential to our national defense⁷; and

The proposed special management areas create large areas restricted and potentially inaccessible to the County to fulfill its public health and safety duties, including protecting the people and their property; and

These restrictive designations create areas that will no longer allow proper wildfire management control increasing the danger to the Chaves County citizen's lives and property⁸.

In order to address these concerns and others not specifically mentioned here, we request that you delay final approval of the plan until you have had the opportunity to coordinate with us and properly identify and resolve potential planning conflicts. Our position must be disclosed to the public in the draft environmental impact statement in order for the analysis to sufficiently inform the public and decision makers on the significant impacts of the proposed action. Since this has not yet occurred, we recommend you prepare a supplemental statement that takes into account

⁵ The Otero Soil and Water Conservation District notes in their comments filed October 29, 2021 that the range improvement investments made for six ranches in the area "show that not less than \$547,000 of federal cost-share was invested in improvements on those allotments since 2003, and that another \$330,000 of federal cost-share has been committed to those allotments but not yet spent."

Additionally, see comments submitted by James Ellett on October 7, 2021 regarding infrastructure development in the proposed Wilderness and Lands with Wilderness Characteristics areas.

⁶ See comments submitted September 20, 2021 by Silsby Gregory, General Biologist, US Army Garrison WSMR

⁷ See Footnote 6

⁸ See Cramer Ranch Comments submitted October 21, 2021

the Counties and other local government's position in the region, as well as that of the U.S. Army, White Sands Missile Range.

We will host such a discussion in Chaves County at your earliest convenience. This is additionally important as we noticed you also failed to hold any public meetings in the County, and this would also provide Chaves County citizens with the opportunity to hear directly from your agency on your proposed plan update.

We look forward to hearing from you.

Sincerely,

A handwritten signature in blue ink that reads "William B. Williams". The signature is written in a cursive style with a large, prominent initial "W".

William B. Williams
County Manager