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STATE OFFICE
SANTA FE, NEW MEXICO

Bill Richardson
Governor

February 2, 2009

Ms. Linda Rundell
State Director
United States Department of the Interior
Bureau of Land Management
1474 Rodeo Road
P.O. Box 27115
Santa Fe, NM 87502

Fax 505-438-7452

Re: The United States Department of the Interior, Bureau of Land Management's (BLM)
Socorro Proposed Resource Management Plan/Final Environmental Impact Statement

Dear Ms. Rundell:

Under cover of this letter, I am delivering to you my consistency review of and recommended changes to the above referenced document. Thank you for the opportunity to offer comments.

The primary contacts for this document at the Energy, Minerals and Natural Resources Department are Secretary Joanna Prukop at 505-476-3200 and General Counsel Carol Leach at 505-476-3210. At the Department of Game and Fish, the primary contact is Robert Jenks, Deputy Director at 505-476-8009. The primary contact in my office is Energy and Environmental Policy Advisor Sarah Cottrell at 505-476-2241.

Sincerely,

A handwritten signature in cursive script that reads "Bill Richardson".

Bill Richardson
Governor of New Mexico

BR/mr
Attachments

**NEW MEXICO GOVERNOR BILL RICHARDSON'S CONSISTENCY REVIEW OF AND
RECOMMENDED CHANGES TO THE SOCORRO PROPOSED RESOURCE MANAGEMENT
PLAN/FINAL ENVIRONMENTAL IMPACT STATEMENT**

I. INTRODUCTION

The United States Department of the Interior, Bureau of Land Management (BLM) prepared the Socorro Proposed Resource Management Plan/Final Environmental Impact Statement (Plan) to revise the 1989 Socorro Resource Management Plan. The Plan's purpose is to "reevaluate existing conditions and reconsider an appropriate mix of multiple uses and appropriate levels of resource allocation in accordance with the Federal Land Policy and Management Act of 1976 and other applicable statutes".

The Federal Land Policy and Management Act requires that BLM guidance and management plans "be consistent with officially approved and adopted resource related policies and programs of other Federal agencies, State and local governments and Indian tribes". 43 U.S.C. § 1712(c)(9); 43 C.F.R. 1610.3-2. Accordingly, it is incumbent upon the BLM to seek consistency with the plans, policies, and programs of the State of New Mexico (State). We would also note that the Council on Environmental Quality¹ has interpreted the term "policies" to include:

- formally adopted statements of land use policy as embodied in laws or regulations;
- proposals for action, such as the initiation of a planning process; and
- formally adopted policy statements of a local, regional, or state executive branch, even if they have not yet been formally adopted by the local, regional, or state legislative body.

This document includes inconsistencies we have identified that fall within the scope of these standards.

II. COMMENTS AND RECOMMENDATIONS

The BLM's preferred alternative B is inconsistent with the New Mexico Forest Legacy Program conservation easement (CE) at Horse Springs Ranch in Catron County. Congress established the Forest Legacy Program in 1990 through amendments to the Cooperative Forestry Assistance Act. 16 U.S.C. § 2103c. The Forest Legacy Program is a partnership between the United States Department of Agriculture, Forest Service and a state. Its purpose is to help protect environmentally important forests from conversion to non-forest uses. The main tool used for

¹ From "Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations," which the U.S. Court of Appeals for the Tenth Circuit has found to be persuasive authority for interpreting NEPA. Davis v. Mineta, 302 F.3d 1104, 1125 (10th Cir. 2002).

protecting these forests is conservation easements. States may receive grants from the United States Department of Agriculture, Forest Service to carry out the Forest Legacy Program in the state. The federal government may fund up to 75 percent of program costs. At least 25 percent must come from private, state or local sources. New Mexico began its Forestry Legacy program in 2001.

In 2006, the State of New Mexico, Energy, Minerals and Natural Resources Department, Forestry Division, Forest Legacy Program acquired a 5,000-acre CE on the Horse Springs Ranch for \$3.6 million (\$2.7 million from the United States Department of Agriculture, Forest Service and \$900,000 from the State). BLM-Socorro provided a letter of support for this CE (March 20, 2003 certified letter from Field Office Manager, Kate Padilla to Trust for Public Land). See attached letter. The purpose of this CE is to preserve an undeveloped wildlife movement corridor on Horse Springs Ranch, which is mostly private land. The CE extends across the ranch and adjoins the Gila National Forest in the Mangus Mountains on the west side and the BLM Horse Mountain ACEC on the east side. It perpetually protects the land from subdivision and development, and prohibits mining and fluid mineral extraction where the landowner owns the minerals. Several small, disjunctive parcels of BLM land occur within and very near this CE and some are identified in the Plan as suitable for disposal. If conveyed to private ownership, these parcels could be developed in ways that would diminish the CE's purpose of protecting an undeveloped wildlife corridor to Horse Mountain. Some of these BLM parcels are also open to fluid mineral leasing with surface occupancy, which is also contrary to the CE's purpose.

To protect this important wildlife corridor and be consistent with previously stated desires, BLM should retain lands within T3S R13W Section 29, T4S R13W Sections 5, 8, 17 and 18. The BLM should also close these lands to surface occupancy if it leases the fluid minerals. The Plan shows the federal minerals below the private surface estate of the Horse Springs CE as open to standard leasing terms. Since BLM owns the subsurface, but not the surface estate, the BLM should close federal fluid minerals to leasing where the surface is privately owned within the CE. A legal description of the Horse Springs CE follows:

Horse Springs CE, Catron County, NM

T3S, R13W

Section 27: N1/2

Section 28: All

Section 32: S1/2NE1/4; NW1/4NE1/4

Section 33: NW1/4; NW1/4SW1/4; S1/2SW1/4

Section 34: N1/2

T4S, R13W

Section 3: N1/2; SE1/4

Section 4: N1/2

Section 5: Lots 1, 2, 3, 4; S1/2N1/2; SE1/4; N1/2SW1/4; SE1/4SW1/4

Section 8: All **except** N1/2NE1/4; SW1/4SW1/4

Section 10: E1/2NE1/4

Section 11: W1/2

Section 17: W1/2SW1/4; E1/2W1/2; E1/2

Section 18: Lots 2, 3, 4; S1/2SE1/4; SE1/4SW1/4

T4S, R14W

Section 13: E1/2E1/2; NW1/4NE1/4

The BLM preferred alternative B, in regard to Rangeland Management, appears inconsistent with Department of Game and Fish's (Department) Comprehensive Wildlife Conservation Strategy for New Mexico (CWCS-NM)². The CWCS-NM is the Agency's primary planning document that focuses upon Species of Greatest Conservation Need (SGCN), key wildlife habitats, and overcoming the challenges affecting the conservation of both. This planning document for the Department was created due to Congressional interest in the State Wildlife Grants program and addresses local and state-level conservation needs and promotes an ability to advise regional and national perspectives on wildlife conservation at landscape scales.

The CWCS-NM planning document greatly facilitates meeting the Department's statutory mandates to provide an adequate supply of game, fish, and furbearers and to carry out the provisions of the Wildlife Conservation Act pertaining to the conservation of indigenous threatened or endangered wildlife.

Current literature and the recommendation of Department staff to BLM (in early planning discussions for this RMP) recommended that grassland habitats have no more than 25 to 35% utilization by livestock, whereas the mesic habitats should have around 40 to 45% livestock utilization.

Under preferred alternative B, Rangeland Management, the RMP discusses that "long-term increase in forage allocation would be allocated to wildlife, watershed and livestock based on monitoring and other studies to support such increase. The allocations typically would be 50 percent to wildlife/watershed and 50 percent to livestock." Although this statement indicates some flexibility in regards to percent of acreage utilized by livestock, it is important that the RMP recognize that range conditions in certain CWCS-NM key habitats may require greater flexibility in determining appropriate forage utilization by livestock.

² New Mexico Department of Game and Fish. 2006. Comprehensive Wildlife Conservation Strategy for New Mexico. New Mexico Department of Game and Fish. Santa Fe, New Mexico. 526 pp + appendices.

III. CONCLUSION

By failing to evaluate how the Horse Springs CE, the purpose of which is to preserve an undeveloped wildlife movement corridor and that the BLM supported, will be impacted by the proposed disposal of BLM lands within the corridor, the Plan does not take into account protections and priorities for those lands. As a result, the proposed disposal will lead to management that is inconsistent with state programs. To protect this important wildlife corridor and be consistent with previously stated desires, BLM should retain lands within T3S R13W Section 29, T4S R13W Sections 5, 8, 17 and 18. The BLM should also close these lands to surface occupancy if it leases the fluid minerals in order to achieve consistency.

By not specifically acknowledging that the varied habitats that fall under the management of BLM will require significantly different percentages of utilization, the RMP preferred alternative B is inconsistent with the CWCS-NM, which states that while livestock grazing can be a valuable tool to improve wildlife habitat, if managed improperly can be detrimental to plant communities in key habitats that support Species of Greatest Conservation Need (SGCN).