

**Western  
Environmental  
Law Center**



**EARTHKEEPERS<sup>360</sup>**

November 1, 2021

Regional Forester (Reviewing Officer)  
Southwest Regional Office  
Attn: Carson Forest Plan Objections  
333 Broadway SE  
Albuquerque, NM 87102  
Sent via email to: [objections-southwestern-regional-office@usda.gov](mailto:objections-southwestern-regional-office@usda.gov)

**RE: Objection to proposed Final Plan and FEIS, Carson National Forest**

Dear Carson National Forest,

We appreciate the hard work that the Carson National Forest (“Carson” or “Forest”) has put into the forest planning process and its attempt to balance the diverse values and uses of the forest. We also would like to thank the Forest for the numerous open houses, meetings, workshops and general availability of the planning staff during the process. Unfortunately, despite these efforts by the Forest, we still have several outstanding concerns and therefore find it necessary to object to the final plan.

**Required Information**

Lead Objector: Amigos Bravos  
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Reference to: Carson National Forest  
Responsible Official: James Duran, Forest Supervisor

Amigos Bravos is a non-profit conservation organization dedicated to preserving and restoring the ecological and cultural integrity of New Mexico’s water and the communities that depend on it. The Western Environmental Law Center is a non-profit conservation organization that uses the power of the law to safeguard the public lands, wildlife, and communities of the American West in the face of a changing climate. The National Wildlife Federation works across the country to unite Americans from all walks of life in giving wildlife a voice. The New Mexico Wilderness Alliance is a nonprofit organization dedicated to the protection, restoration, and continued enjoyment of New Mexico’s wildlands, water, and wildlife, with thousands of members across the state. Earthkeepers 360 is a movement focused on equipping spiritual leaders with the tools needed to effectively engage

modern environmental issues. Our organizations have participated in the Carson planning process and have formally submitted comments on several occasions, including on the Draft Environmental Impact Statement (“DEIS”). We hereby formally submit an objection to the Final Forest Plan (“Plan”), Final Environmental Impact Statement (“FEIS”) and the draft Record of Decision (“ROD”) for the Carson National Forest. We look forward to discussing remedies to our objections with the Carson.

## **Objection Summary**

We are objecting to three separate plan components. First, we object to the inadequacy of process and analysis presented in the Wild and Scenic River Eligibility Evaluation (“2019 WSR Evaluation”)<sup>1</sup> found in Appendix D of the Draft Plan, and in the final determinations regarding Wild and Scenic River eligibility found on pages 178–181 of the Final Plan and as presented in Volume 3, Appendix G of the FEIS. Second, we object to specific language associated with Outstanding National Resource Waters protections and plan components.<sup>2</sup> Finally, we object to specific language that lists only one of the three components of water quality standards in three separate “desired conditions” sections of the Plan.<sup>3</sup> We outline these objections in more detail below.

### **I. Wild and Scenic River Eligibility Determinations**

#### **a. The Carson Inappropriately Reassessed All Streams for Wild and Scenic River Eligibility.**

During the Plan revision process, the Carson reassessed *all* streams on the Forest for eligibility for inclusion in the National Wild and Scenic Rivers System, despite the existence of a previously completed analysis and inventory. *See* 2019 WSR Evaluation, Table 4 (Eligibility evaluations of previously eligible river segments). In 2002, the Carson adopted Carson Forest Plan Amendment 12, which incorporated forest-wide Wild and Scenic River eligibility determinations and National Wild and Scenic Rivers Act plan components into the 1986 forest plan. However, as we pointed out in our comments on the DEIS,<sup>4</sup> the 2012 planning rule and the Forest Service Handbook (“FSH”) state that only changed circumstances require further review of rivers that have been previously found to be eligible for inclusion in the National Wild and Scenic Rivers System:

“Identify the eligibility of rivers for inclusion in the National Wild and Scenic Rivers System, unless a systematic inventory has been previously completed and documented, and there are no changed circumstances that warrant additional review.” Planning Rule, 36 C.F.R. § 219.7(c)(2)(vi).

“If a systematic inventory of eligible rivers has been completed, the extent of the study process during plan development or revision can be limited to evaluation of any rivers that

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<sup>1</sup> Carson National Forest Plan (Draft) Appendix G, Wild and Scenic River Eligibility Evaluation, [https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/fseprd569037.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd569037.pdf).

<sup>2</sup> Carson National Forest Plan, pg. 70-71.

<sup>3</sup> Watershed and Water Desired Conditions (FW-WSW-DC), Streams Desired Conditions (FW-WSW-RMZ-STM-DC), and Springs and Seeps Desired Conditions (FW-WSW-RMZ-SNS-DC).

<sup>4</sup> Amigos Bravos and WELC Comments on the DEIS (November 7, 2019) at pgs. 19-20.

were not previously evaluated for eligibility and those with changed circumstances. . . .” FSH 1909.12.82.2.

“Generally if a river segment has been studied in the past and a determination was made of its eligibility, it does not need to be studied again for eligibility during any subsequent land management planning, unless changed circumstances warrant additional review of eligibility.” FSH 1909.12.82.4.

As we pointed out in our comments on the DEIS,<sup>5</sup> “changed circumstances” are defined in the Forest Service Handbook as:

“[C]hanges that have occurred *to the river or the river corridor* that have affected the outstandingly remarkable values.” FSH 1909.12.82.4 (emphasis added).

The Carson did not document changed circumstances on-the-ground to the river segments or river corridors for the 62 river segments previously found eligible for inclusion in the National Wild and Scenic Rivers System in the 2002 WSR Evaluation, but that were determined to be ineligible in the 2019 WSR Evaluation. *See* 2019 WSR Evaluation, Table 4 (Eligibility evaluations of previously eligible river segments). Changed circumstances must be linked to changes on-the-ground, and not merely based solely on a changed policy approach or interpretation on the part of the Forest. *See* Planning Rule, 36 C.F.R. § 219.7(c)(2)(vi); FSH 1909.12.82.4.

The Forest must document the “changed circumstances” that have physically occurred on-the-ground to the river segments or river corridors for those river segments found no longer eligible for Wild and Scenic River designation in the final plan.

This is a major omission, and the Forest must document and adequately explain what physical changed circumstances occurred to render these 62 river segments as no longer eligible for inclusion in the National Wild and Scenic Rivers System.

**Preferred Remedy:** Revert back to previous eligibility determinations as per the 2002 WSR Evaluation.

**Alternative Remedy:** Document the physical, on-the-ground changed circumstances that occurred to the river segments or river corridors previously found eligible in the 2002 WSR Evaluation justifying their ineligibility in accordance with the 2012 Planning Rule and Forest Service Handbook in the 2019 WSR Evaluation and the revised final plan (Final Plan at pages 178–81; FEIS, Vol. 3, Appendix G).

**b. The 2019 WSR Evaluation Inappropriately and Inconsistently Applied the Presence or Absence of RGCT when making Recreation and Fisheries ORV Determinations.**

**i. Recreation ORV**

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<sup>5</sup> Amigos Bravos and WELC Comments on the DEIS (November 7, 2019) at pgs. 19-20.

The Carson has arbitrarily used the presence or absence of Rio Grande Cutthroat trout (“RGCT”) populations to inconsistently determine whether Recreation outstandingly remarkable values (“ORVs”) may exist for various river segments analyzed in the 2019 WSR Evaluation.

For example, in Canjilon Creek, from its headwaters to fish barrier (Ca6), the Forest identified the presence of RGCT as a justification for a fishing-related Recreation ORV, yet no other stream segments with similar features — including a full fish barrier and genetically pure RGCT populations — are deemed eligible for a fishing-related Recreation ORV. In Canjilon Creek, the presence of RGCT is apparently such a large part of the Recreation ORV for this segment that the eligible section ends at the fish barrier itself. Yet, as we pointed out in our comments<sup>6</sup> despite having a full fish barrier and genetically pure populations of RGCT, the North Ponil and McCrystal Creeks are not listed as eligible based on a Recreation ORV.<sup>7</sup> In addition, numerous other streams on the Carson are listed as eligible for Fisheries ORV because of the presence of RGCT but are not also assigned a Recreation ORV.<sup>8</sup> Using the presence of RGCT on Canjilon Creek to justify a Recreation ORV, but not on the North Ponil or McCrystal Creeks, or the 20 streams with a Fisheries ORV for RGCT, constitutes an inconsistent and arbitrary application of this factor in assessing whether a Recreation ORV exists.

In short, fishing for genetically pure RGCT is an exceptionally remarkable experience and presence of genetically pure RGCT should merit a Recreational ORV; therefore, all streams with a Fisheries ORV for RGCT should also merit a Recreational ORV.

**Preferred Remedy:** Revert back to previous eligibility determinations as per the 2002 WSR Evaluation.

**Alternative Remedy:** Assign a Recreation ORV to all streams with genetically pure populations of RGCT, and a full fish barrier, including: Alamitos Creek, North Fork Alamitos Creek, Canada de Chacon, El Rito Creek, Hachita Canyon, Bull Creek, Chuckwagon Creek, Deer Creek, Grassy Creek, Gold Creek, Foreman Creek, Holman Creek, La Belle Creek, La Cueva Canyon, Lagunitas Fork, Lake Fork, Little Costilla Creek, Powderhouse Creek, Place Creek, McCrystal Creek, North Ponil Creek, and Willow Fork.

## ii. Fisheries ORV- “Not Isolated” Criterion

As outlined in our comments on the Draft Plan and DEIS,<sup>9</sup> there has been inconsistent rationale and implementation of the Fisheries ORV in the WSR Evaluation process. Our confusion has only

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<sup>6</sup> Amigos Bravos and WELC Comments on the DEIS (November 7, 2019) at pgs. 27-28.

<sup>7</sup> Additionally, in its response to comments, the Forest lists the presence of a headgate that diverts the flow of the stream as justification for why McCrystal Creek is not eligible for designation. FEIS, Vol. 2, at pg.181–82 (Concern statement 471). But, the existence of low dams, diversion works, or other minor structures at the time any river is proposed for inclusion as a Wild and Scenic River is not an automatic bar on its consideration for such inclusion. 16 U.S.C. § 1286(b). The existence of a small diversion that sometimes, but not always, diverts water from McCrystal Creek should not be a barrier for Wild and Scenic eligibility in its own right.

<sup>8</sup> Carson National Forest Plan (Draft) Appendix G, Wild and Scenic River Eligibility Evaluation, [https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/fseprd569037.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd569037.pdf) pgs. 22-26.

<sup>9</sup> Amigos Bravos and WELC Comments on the DEIS (November 7, 2019) at page 23.

grown after reviewing the FEIS and associated final appendices, Final Plan, and draft ROD. Namely, the Carson has arbitrarily and inappropriately applied the concept of “isolated” to RGCT populations, and therefore, the determinations regarding Fisheries ORVs are flawed in the 2019 WSR Evaluation and Final Plan/FEIS. To remedy this grave error, the Carson should remove the “not isolated” criterion when making Fisheries ORV determinations for river segments on the Carson in a renewed WSR Evaluation.

While how “isolation” was determined by the Forest in the Fisheries ORV eligibility determinations at issue here is unclear, it seems to be generally based on a lack of connection to a “large network of streams that provide redundant, high-quality RGCT habitat.”<sup>10</sup> Likewise, how the Carson is determining “large” is uncertain, but appears to be related to the mileage of habitat or perhaps number of streams in a system. Yet, the 2019 WSR Evaluation does not explain how this criterion was implemented, and the Carson’s response to our comments where we provided evidence of both the McCrystal and North Ponil streams as meeting the Fisheries ORV criteria, only raises further questions. Specifically, in our comments we explained how the 2019 WSR Evaluation failed to include — as per New Mexico Department of Game and Fish documentation — that there was a complete fish barrier, genetically pure RGCT, and no non-native fish species on neither McCrystal nor North Ponil Creeks.<sup>11</sup> The Carson, in response to our comments, stated that they added the presence of a fish barrier, genetically pure RGCT and no non-native fish species to the final 2019 WSR Evaluation in response to our comment, but that both McCrystal and North Ponil — despite being interconnected and having more mileage of RGCT habitat than many other stream systems that were deemed “not isolated” by the Forest — were not eligible for Wild and Scenic River status based on a Fisheries ORV because they were “isolated.”<sup>12</sup> Even if the “not isolated” criterion was implemented based on the number of streams in a system, rather than stream mileage, this also appears to be inconsistent, as there are other systems that were deemed eligible and “not isolated” that were made up of only two streams, just like McCrystal and North Ponil. The application of the “not isolated” criterion therefore appears arbitrary, inconsistent, and not based on a reasonable understanding of the facts on the ground.

Specifically, the mileage of stream systems found to be eligible — and therefore, “not isolated” — is, in some cases, less than the stream mileage found in the McCrystal and North Ponil systems, which, again, were found ineligible due to “isolation.” For example, the stream mileage of the Lake Fork tributaries that are found eligible for a Fisheries ORV based on RGCT populations is 7.1 miles;<sup>13</sup> the stream mileage for the Columbine tributaries that are found eligible is 12.6 miles;<sup>14</sup> and the stream mileage for the Alamitos streams that were found eligible is 6 miles.<sup>15</sup> The stream mileage for

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<sup>10</sup> Carson National Forest Plan, Appendix G, Wild and Scenic River Eligibility Evaluation, [https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/fseprd569037.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd569037.pdf), pg. 9.

<sup>11</sup> Amigos Bravos and WELC Comments on the DEIS (November 7, 2019) at pgs. 27-28; *see also* FEIS, Vol. 2, at pg.181–82 (Concern statement 471).

<sup>12</sup> FEIS, Vol. 2, at pg.181–82 (Concern statement 471).

<sup>13</sup> Carson National Forest Plan, Appendix G, Wild and Scenic River Eligibility Evaluation, [https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/fseprd569037.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd569037.pdf), at pgs. 23 and 25 (Lagunitas Fork 1.7 miles, Lake Fork 4.0 miles, and Bull Creek 1.4 miles).

<sup>14</sup> *Id.* at pgs. 23-26 (Columbine from Deer to headwaters 3.6 miles, Deer 2.9 miles, Placer 4.0 miles, and Willow 2.1 miles).

<sup>15</sup> *Id.* at pg. 20 (Alamitos Creek 3.4 miles and North Fork Alamitos Creek 2.6 miles).

McCrystal and North Ponil is 11-15 miles.<sup>16</sup> Therefore, it appears that the Carson’s application of the term “isolated” is not rationally connected to the amount of habitat provided for RGCT (*i.e.*, the amount of habitat provided by the McCrystal and North Ponil system is larger than other systems that were deemed eligible). Similarly, if the “not isolated” criterion relates to the number of streams (and not miles of habitat), the criterion is yet again arbitrarily applied because the Alamitos system of streams that were found eligible for a Fisheries ORV, and therefore considered “not isolated” is — like the McCrystal and North Ponil system — made up of only two streams.<sup>17</sup>

The “not isolated” criterion was initially not deemed necessary by the Carson in its initial 2017 WSR Draft and was not used for determining the presence of a Fisheries ORV at that time.<sup>18</sup> It was only after the area of comparison was reduced from the four-corners region to the four-subdrainages that intersect the Forest, that the Carson implemented a filter of only considering “not isolated” RGCT stream segments as eligible for a Fisheries ORV. This eliminated many streams — including: Policarpio Canyon, Allen Creek, Manzanita Canyon, Italianos Canyon, and Canjilon Creek — from eligibility because, despite having full fish barriers and genetically pure populations of RGCT, those populations were considered “isolated.”<sup>19</sup> It is unclear why the Forest needed to implement this “not isolated” filter — in the Carson’s 2017 WSR Evaluation Draft, the Carson states: “Rio Grande Cutthroat Trout (RGCT) are native only to the Rio Grande, Pecos, and Canadian River drainages and thus are considered rare regionally and nationally.”<sup>20</sup> The Carson has a perfectly justified reason (as outlined in the 2017 WSR Evaluation Draft) to consider the presence of RGCT without implementing a “not isolated” criterion as a requirement for a Fisheries ORV, even when using the smaller region of comparison that was used in later drafts, and should therefore drop this problematic criterion and restore eligibility to *all* streams with genetically pure populations of RGCT and a full fish barrier.

**Preferred Remedy:** Revert back to previous eligibility determinations as per the 2002 WSR Evaluation.

**Alternative Remedy:** Remove the “not-isolated” filter from the 2019 WSR Evaluation and final plan/FEIS, and assign eligibility with a Fisheries ORV to all streams with genetically pure populations of RGCT and a full fish barrier, including: Policarpio Canyon, Allen Creek, Manzanita Canyon, Italianos Canyon, McCrystal Creek, North Ponil Creek, and Canjilon Creek.

### iii. Fisheries ORV – “No Non-Natives” Criterion

Additionally, the criterion requiring that there be no non-native fish species present in a river segment under consideration as an eligible Wild and Scenic River with a Fisheries ORV — even when there are genetically pure populations of RGCT — is also arbitrary and inappropriate in Fisheries ORV determinations and should be removed from the WSR Evaluation. River segments

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<sup>16</sup> Environmental Assessment, Carson Forest Plan Amendment 11, Protection of Eligible Wild and Scenic Rivers (Aug. 2001).

<sup>17</sup> Carson National Forest Plan, Appendix G, Wild and Scenic River Eligibility Evaluation, [https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/fseprd569037.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd569037.pdf), at pg. 20.

<sup>18</sup> Carson National Forest, Wild and Scenic River Eligibility Evaluation: Background and Process (April 2017)

<sup>19</sup> Carson National Forest Plan, Appendix G, Wild and Scenic River Eligibility Evaluation, [https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/fseprd569037.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd569037.pdf), at pgs. 36, 61, 49, 37.

<sup>20</sup> *Id* at pg. 6.

with full fish barriers are often periodically treated with piscicides, and thus, the existing genetically pure populations of RGCT can be expected to be maintained. In fact, the streams that have been found eligible — and therefore are considered by the Forest to be meeting the criterion of “no non-natives” — are, as of October 2021 (e.g., on the Rio Costilla), being treated with piscicides to remove non-native fish species.<sup>21</sup> This indicates that the presence of non-native fish species is cyclical and variable in streams that have been determined to contain genetically pure populations of RGCT and a full fish barrier (and therefore, eligible for Wild and Scenic River eligibility based on a Fisheries ORV). If non-natives are allowed to remain for too long in a stream segment the genetic purity of the RGCT populations would be expected to be impacted, at which point the “genetically pure population” of RGCT Fisheries ORV criterion would not be met. Therefore, in addition to being arbitrarily applied, the “no non-natives” Fisheries ORV criterion is unnecessary because if the goal of this criterion is to ensure that RGCT populations are pure, it is redundant with “genetically pure population” criteria.

**Preferred Remedy:** Revert back to previous eligibility determinations as per the 2002 WSR Evaluation.

**Alternative Remedy:** Remove the “no non-natives” criterion from the Fisheries ORV Criteria.

## II. Outstanding National Resource Waters (ONRW)

The Carson did not adequately address our comments on inaccurate language in the Plan relating to Outstanding National Resource Waters. Our comments regarding footnote 7 of the draft plan (which in the final plan has been changed to footnote 9) outlined four concerns; our fourth concern, as follows, was not addressed:

Fourth, the language regarding piscicide applications is not accurate. While the State’s continuing planning process<sup>22</sup> explains that piscicide applications “may” be allowed in ONRWs, they are not completely exempt from ONRW requirements. Unlike acequia maintenance and operations, which is given explicit exemption in the applicable regulations, piscicide application in relation to ONRWs is not mentioned in the regulations. Instead, piscicide application would fall under the general temporary degradation requirements that apply to all restoration projects. Accordingly, we suggest editing Footnote 7 as follows: “Per current New Mexico State Regulations, ~~approved piscicide application and~~ acequia operation, maintenance, and repairs are not subject to outstanding ~~natural~~ natural resource water requirements....”<sup>23</sup>

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<sup>21</sup> The Carson and New Mexico Department of Game and Fish treated the eligible stretch of the Rio Costilla with piscicide in October of 2021 (personally seen by Rachel Conn on October 4, 2021).

<sup>22</sup> New Mexico Environment Department, State of New Mexico Continuing Planning Process (Appendix A) Antidegradation Policy and Implementation Procedure (November 30, 2010) *available at*: <https://www.env.nm.gov/wp-content/uploads/sites/25/2018/08/WQMP-CPP-Appendix-A-Antideg-Policy.pdf>.

<sup>23</sup> Amigos Bravos and WELC Comments on the DEIS (November 7, 2019) at pg. 15.

Our objection concerns the footnote applying the same ONRW exemptions to piscicide application that are applied to acequia maintenance and operation. This is not accurate. New Mexico state regulations at 20.6.4.8.A(3)(e) NMAC clearly exempt acequia maintenance and operation from ONRW requirements. But, nowhere in the regulations is piscicide application exempted from ONRW requirements as well. This does not mean that piscicide applications are prohibited in ONRWs, it merely means that piscicide applications must follow the same ONRW requirements found at 20.6.4.8.A(4) NMAC that apply to other restoration projects. In the Forest's response to comments, the FEIS simply states that the "footnote has been corrected,"<sup>24</sup> yet this component of the footnote was not changed, nor corrected.

**Remedy:** Remove language that states that piscicide applications are exempt from ONRW requirements.

### III. Water Quality Standard Language

As written, the water quality standard language in Watershed and Water Desired Conditions (FW-WSW-DC), Streams Desired Conditions (FW-WSW-RMZ-STM-DC), and Springs and Seeps Desired Conditions (FW-WSW-RMZ-SNS-DC) is unnecessarily limited to only one component of water quality standards: designated uses. State water quality standards have three components: (1) designated uses, (2) criteria, and (3) antidegradation. By explicitly adding the clause "for designated uses," the Forest is unnecessarily and inappropriately limiting these Desired Conditions to only one of these three components of the water quality standards. We pointed out this inappropriately limiting use of "for designated uses" language in three separate places in our comments on the DEIS.<sup>25</sup> Unfortunately, this part of our comment on water quality standards was misquoted in the Carson's response to comments and therefore was not properly considered.<sup>26</sup>

Our comment was as follows:

Watershed and Water Desired Conditions (FW-WSW-DC) 7: As written, the language for FWWSW-DC-7 is unnecessarily limited to only one component of water quality standards — designated uses. State water quality standards have three components: (1) designated uses, (2) criteria, and (3) antidegradation. By explicitly adding the clause "for designated uses," at the end of this Desired Condition, the Forest is unnecessarily and inappropriately limiting this Desired Condition to only one of these three components of water quality standards. This is especially concerning given that the Forest has removed the ONRWMA from the Draft Plan. ONRWs are a component of the antidegradation standards. Moreover, the language in this Desired Condition references groundwater quality standards, which do not have a designated use component. We therefore propose that the language be modified as follows: "Surface water and groundwater meet State water quality standards ~~for designated uses.~~"<sup>27</sup>

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<sup>24</sup> FEIS, Vol. 2, Appendix A, at pg. 400 (Concern Statement 972).

<sup>25</sup> Amigos Bravos and WELC Comments on the DEIS (November 7, 2019) at pgs. 17-18.

<sup>26</sup> FEIS, Vol. 2, Appendix A, at pg. 387 (Concern Statement 929).

<sup>27</sup> Amigos Bravos and WELC Comments on the DEIS (November 7, 2019) at pg. 17.

The Carson, in its response to comments summarized our comments as follows:

Concern Statement 929 – Water Quality Standards

To avoid unnecessarily limiting the component to only one facet of the State's water quality standards the language should be modified as follows: “Water quality meets or surpasses State of New Mexico water quality standards for designated uses.”

*Associated Comment Letter:* 4911

We did not include the “surpasses” language in our comment on “Watershed and Water Desired Conditions (FW-WSW-DC) 7” nor did we recommend removing the term “groundwater” from the language as is indicated in the concern statement summary presented by the Carson. Most concerning is that the main point of our comment, the need to remove the term “for designated uses” from this plan component, was not included and in fact was misquoted in the concern statement.

Then, the Carson in its response focused solely on refuting the need to include “surpasses,” which, again, we did not recommend, and does not address the main point of our comment — the need to remove the clause “for designated uses:”

Response

The national forests in New Mexico and the New Mexico Environment Department are parties to a memorandum of understanding (MOU) titled, “New Mexico Water Quality Protection Agreement.” The purpose of that MOU is “to document the cooperation between the parties with the common objective of improving and protecting the quality of New Mexico’s waters by implementing progressive watershed-based restoration protection programs to *meet* applicable water quality standards” (NMED and USDA FS Southwestern Region 2017, emphasis added).<sup>28</sup>

Perhaps the confusion is due to our comments on the plan components for Streams Desired Conditions (FW-WSW-RMZ-STM-DC), and Springs and Seeps Desired Conditions (FW-WSW-RMZ-SNS-DC), which did include the “surpasses” language, but only because it was already included in the Carson’s August 2019 Draft Plan in the proposed language for these plan components, and therefore was the Carson’s own language.<sup>29</sup> Namely, we weren’t proposing to add “surpasses” in these two plan components because the term “surpasses” was already included by the Carson itself in the Draft Plan.

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<sup>28</sup> FEIS, Vol. 2, Appendix A, at pg. 387 (Concern Statement 929).

<sup>29</sup> Carson Draft Forest Plan, August 2019, pgs. 69 and 73.

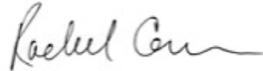
Regardless, our comment was not properly considered in the FEIS because it was misquoted and mischaracterized. We request that the clause “for designated uses,” as an unnecessary limiting qualifier for water quality standards, be removed from the three separate locations it appears in the final plan.<sup>30</sup>

**Remedy:** Remove the clause “for designated uses” after “water quality standards” in the Watershed and Water Desired Conditions (FW-WSW-DC), Streams Desired Conditions (FW-WSW-RMZ-STM-DC), and Springs and Seeps Desired Conditions (FW-WSW-RMZ-SNS-DC). Just using “water quality standards” encompasses designated uses, as well as water quality criteria and antidegradation.

## Conclusion

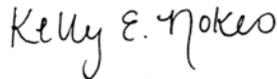
Thank you for considering our objections and recommended remedies. As always, we would be happy to meet with you to discuss the issues that we have raised.

Sincerely,



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Rachel Conn  
Deputy Director  
Amigos Bravos



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Kelly Nokes  
Shared Earth Wildlife Attorney  
Western Environmental Law Center

/s/ Jeremy Romero

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Jeremy Romero  
National Wildlife Federation  
Wildlife Corridors Coordinator



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Logan Glasenapp

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<sup>30</sup> Carson Final Forest Plan, September 2021, pgs. 71, 76, and 82

Attorney  
New Mexico Wilderness Alliance

/s/ Andrew Black

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Rev. Andrew Black  
EarthKeepers 360  
Founder