United States Department of the Interior

Fish and Wildlife Service
Arizona Ecological Services Office
9828 North 31st Avenue, Suite C3
Phoenix, Arizona 85051
Telephone: (602) 242-0210 Fax: (602) 242-2513

In reply refer to:
AESO/SE
02EAAZ00-2020-I-0183

May 19, 2020

Mr. B. Chad Harold, District Ranger
Globe Ranger District
Tonto National Forest
7680 South Six Shooter Canyon Road
Globe, Arizona 85501

Dear Mr. Harrold:

Thank you for your correspondence of April 27, 2020, received the same day. This letter documents our review of the Hicks-Pikes Peak Grazing Allotment, Tonto National Forest (TNF) in Gila County, Arizona, in compliance with section 7 of the Endangered Species Act of 1973 (ESA) as amended (16 U.S.C. 1531 *et seq*.).

Your letter concluded that the proposed project "may affect, but is not likely to adversely affect" the endangered southwestern willow flycatcher (*Empidonax traillii extimus*: flycatcher), threatened yellow-billed cuckoo (*Coccyzus americanus occidentalus:* cuckoo), and narrow-headed gartersnake (*Thamnopolis rufupunctatus:* gartersnake). You also determined that the action "may affect, but is not likely to adversely affect" flycatcher and razorback sucker (*Xyrauchen texanus*: sucker) critical habitat, and proposed cuckoo critical habitat. We concur with your determinations and provide our rationales below.

Since submittal of your Biological Assessment (BA), we revised proposed gartersnake critical habitat on April 28, 2020, removing proposed critical habitat from the action area. As a result, we will not be addressing proposed gartersnake critical habitat in this document.

You also concluded there would be "no effect" to the razorback sucker. Species with "no effect" determinations do not require our review; therefore, we will not address the sucker further.

DESCRIPTION OF THE PROPOSED ACTION

A complete description of the proposed action is in your April 27, 2020, BA and the accompanying maps and notes sent to our office.

The Hicks-Pikes Peak Allotment contains 21 pastures within a total area of 66,838 acres (Figure

1). Pastures range from greater than 10,000 acres to less than 500 acres. The Salt River forms part of the allotment's northern boundary, and Pinal Creek flows through the allotment from south to north. In total, there are 56 miles of creeks and washes flowing through the Hicks-Pikes Peak Allotment. Topographical features range from nearly level valley and elevated plains to very steep mountains and escarpments. The vegetation communities in the allotment are primarily Sonoran Desert scrub in lower elevations (as low as 2,200 feet), semi-desert grasslands and chaparral in middle elevations and pinyon-juniper-oak woodlands in high elevations (as high as 5,385 feet).

The proposed action for the 10-year term grazing permit consists of five components: authorization, range improvements, monitoring, response to monitoring, and livestock management practices and mitigations for other resources. The range improvements and pastures occur throughout the allotment and further described within the BA (Figure 1). The proposed action follows current guidance from Forest Service Handbook 2209.13, Chapter 90 (Grazing Permit Administration; Rangeland Management Decision making).

The TNF's proposed yearly maximum authorized use varies from 650 to 800 adult cattle, yearlong. Adult cattle may include cows with calves, non-lactating cows, or bulls. Additionally, the TNF can authorize 700 to 1,100 weaned calves up to 18 months of age (yearlings) for up to any 7 months within a 12-month period.

Initial stocking levels would begin with currently authorized livestock numbers, which are 326 adult cows grazed yearlong and 511 yearlings grazed for any 7 months within a 12-month period. As the TNF and permittee install range improvements, or as vegetative conditions on the allotment allow, the TNF may authorize an increase in numbers up to the proposed maximum stocking numbers. The Globe Ranger District will plan and authorize stocking adjustments not to exceed the maximum permitted number of livestock. Factors affecting annual authorized livestock numbers may include precipitation, pasture rotation, forage production, current range conditions (i.e., forage and growing conditions), water availability, resource monitoring and permittee needs.

Grazing will occur through a rotational system, either deferred or rest rotation grazing, which will allow plants the opportunity for growth or regrowth. Until the permittee installs the necessary allotment range improvements, such as fences and water developments, grazing will continue under the current modified deferred grazing strategy. As the permittee defines new pastures with new fences, and water developments are constructed, incorporating rest into each year's grazing will become possible.

Annual operating instructions will specify pasture rotation schedules each year and include timing, livestock numbers, and duration. The TNF will develop a rotation schedule with the permittee and incorporate into the allotment management plan an estimate of grazing schedules. The District Range is schedule can annually alter and authorize the schedule in the Annual Operating Instructions.

The TNF will manage grazing to achieve long-term goals in pasture key areas and prevent exceedance of allowable vegetation use thresholds. The TNF's allowable vegetation use thresholds are:

- Upland herbaceous: 30-40 percent of current year's growth;
- Upland browse: 50 percent of current year's growth;
- Riparian herbaceous: limited to 40 percent of plant species biomass and maintain 6-8 inches of stubble height (i.e., deer grass); and
- Riparian woody: limited to 50 percent of leaders browsed on upper one third of plants up to six feet tall.

The TNF is proposing structural improvements and additional infrastructure (Figure 1). The TNF will assign the grazing permit holder to authorize, maintain, and create these improvements to TNF standards. Some improvements include a 1.5-mile above ground water line for the Ortega Pasture and a drift fence in the West Ortega Pasture to prevent cattle from accessing the Salt River. The BA further describes sideboards for existing and new improvements associated with springs, pipelines, troughs/storage tanks, stock tanks, fences, gates, and corrals.

The TNF's proposed monitoring will determine if the above actions are effective at achieving or moving toward desired conditions. TNF staff will monitor either during or at the end of grazing season. Monitoring, as described in the BA, consists of implementation and effectiveness monitoring in key areas such as: allotment inspections, noxious weed treatments, riparian monitoring, photo-points, utilization height and weight, reading the range, and parker three-step.

<u>Conservation Measures</u>

- The TNF will not graze the Ortega and Lower Shute pastures until a drift fence is constructed.
- The TNF will continue to maintain an existing fence that keeps cattle from accessing Pinal Creek.
- The TNF will install a drift fence near the Salt River and Pinal Creek, within Lower Shute Springs pasture. The TNF will complete a minimum tools analysis to authorize fence construction in designated Wilderness Areas.
- The TNF will construct all new range improvements within the Salt River Canyon Wilderness beyond the upper Salt River 100-year floodplain and flood prone area.
- The TNF will limit grazing adjacent to nesting flycatchers during the breeding season to reduce the potential for effects from brown-headed cowbird brood parasitism.
- When traveling off road to range improvements outside of the Salt River Canyon Wilderness, the permittee will use a variety of routes, especially as they exit system roads. This practice is to prevent creating new unauthorized routes that other motorized users may mistake as authorized routes.
- The permittee must use existing routes or the shortest, most direct route to access fences, tanks, or other improvements. The permittee will not construct new routes (i.e., blading a path) without additional authorization. The permittee will not conduct cross-country motorized travel when conditions are such that it would cause unacceptable natural and/or heritage resource damage.
- The TNF will minimize disturbance to obligate riparian vegetation, including but not limited to willows, cottonwoods, and sycamores.
- Natural spring developments and their surrounding riparian vegetation are important

winter stop over areas for migratory birds and provide important habitat for many riparian dependent species. Fences built near these areas will be between at least one quarter and one half acres around the natural spring to maintain the riparian vegetation where possible and comply with Forest Service Policy.
- The TNF will provide annual education and information to permittee and ranching personnel about narrow-headed gartersnakes, including species identification, habitats, and instruction that they not be intentionally killed.
- Grazing on the leased private land parcel at Horseshoe Bend will occur outside of the Salt River Floodplain and flood-prone area, and will not occur within the critical flycatcher and cowbird brood parasitism season (May 1 thru July 30).

DETERMINATION OF EFFECTS

We concur with your determination that the proposed action "may affect, but is not likely to adversely affect" the flycatcher and designated critical habitat, the cuckoo and proposed critical habitat, the gartersnake, and sucker critical habitat for the following reasons:

Southwestern Willow Flycatcher and Critical Habitat
- Effects to flycatchers and its riparian habitat from cattle or cattle grazing are insignificant and discountable because no authorized livestock grazing will occur within flycatcher habitat along the Salt River and Pinal Creek floodplains.
- The TNF will not conduct the following livestock management activities, off-road travel, water developments, fence building, and other improvements within the Salt River or Pinal Creek floodplains where flycatcher habitat occurs. Therefore, we anticipate any effects to flycatchers or its habitat (including riparian habitat and insect prey critical habitat primary constituent elements) will be insignificant.
- We expect watershed effects to flycatcher habitat (including riparian habitat and insect prey critical habitat primary constituent elements) from upland grazing to be insignificant, because the proposed action (moderate to conservative grazing and effectiveness monitoring) will ensure maintenance of adequate upland herbaceous cover.
- Because livestock proximity to flycatcher breeding habitat on the Salt River (Upper/ Lower Shute Pasture, West/East Ortega Pasture, and Mud Springs Wash/Storm Canyon 40-acre holding pasture property) will be greater than 2.2 kilometers during the essential flycatcher breeding season (May through July), we anticipate any increase in cowbird parasitism attributed to cattle will be insignificant.
- Because of the existing private landowner cowbird attractants along Pinal Creek within flycatcher breeding habitat (grazing, corrals, horses, rural residences, etc.), we expect any flycatcher nest parasitism increase from the proposed action will be undetectable, and therefore insignificant.
- We expect effects from the proposed action to riparian habitat and insect prey primary constituent elements (PCEs) of flycatcher critical habitat and the stream function components of the Physical and Biological Features will be insignificant. We expect this because the TNF is not authorizing permitted livestock grazing within designated critical habitat along the Salt River and upland grazing will be at moderate to conservative levels and monitored to ensure retention of herbaceous cover.

Western Yellow-Billed Cuckoo and Proposed Critical Habitat

- Because there are no known breeding cuckoos within the action area and no authorized livestock grazing will occur within cuckoo habitat along the Salt River and Pinal Creek floodplains, we anticipate effects to cuckoos or its habitat from livestock, livestock grazing, and range management activities are insignificant and discountable.
- We expect watershed effects to cuckoo habitat from upland grazing to be insignificant, due to maintaining adequate upland herbaceous cover from moderate to conservative grazing and effectiveness monitoring.
- We expect effects to proposed cuckoo critical habitat Physical and Biological Features (riparian woodlands, prey base, and hydrologic processes) will be insignificant. We expect this because no authorized grazing will occur within proposed critical habitat along Pinal Creek (30 acres), upland grazing will be at moderate to conservative levels and monitored to retain herbaceous cover, and range improvements will occur outside of proposed critical habitat.

Narrow-Headed Gartersnake

- We anticipate effects to gartersnakes or its habitat from livestock, livestock grazing, or range management action are insignificant and discountable because gartersnakes are likely either absent or at very low density within the action area, no authorized grazing will occur within the Salt River or Pinal Creek floodplains, and there are no stated effects to the gartersnake's fish prey base.

Razorback Sucker Critical Habitat

- We expect effects to razorback critical habitat PCEs (water, physical and biological environment) will be insignificant. We expect this because no authorized grazing will occur within razorback sucker critical habitat along the Salt River, upland grazing will be at moderate to conservative levels and monitored to retain herbaceous cover, range improvements will occur outside of critical habitat, and livestock grazing actions will not noticeably affect water quality or flow.

Certain project activities may also affect species protected under the Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. sec. 703-712) and/or bald and golden eagles protected under the Bald and Golden Eagle Protection Act (Eagle Act). The MBTA prohibits the intentional taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests, except when the FWS authorizes these actions. The Eagle Act prohibits anyone, without a FWS permit, from taking (including disturbing) eagles, and including their parts, nests, or eggs. If you think this action will affect migratory birds and/or eagles, we recommend seeking our Technical Assistance to identify available conservation measures that you may be able to incorporate into your project.

For more information regarding the MBTA and Eagle Act, please visit the following websites. Your can retrieve more information on the MBTA and available permits from FWS Migratory Bird Program web page and FWS Permits Application Forms. For information on protections for bald eagles, please refer to the FWS's National Bald Eagle Management Guidelines (72 FR 31156) and regulatory definition of the term "disturb" (72 FR 31132) published in the Federal Register on June 5, 2007, as well at the Conservation Assessment and Strategy for the Bald

Eagle in Arizona (Southwestern Bald Eagle Management Committee website).

In keeping with our trust responsibilities to American Indian Tribes, by copy of this letter we are notifying Tribes that may be affected by this proposed action and encourage you to invite the Bureau of Indian Affairs to participate in the review of your proposed action. We also encourage you to coordinate the review of this project with the Arizona Game and Fish Department.

Thank you for your continued coordination. No further section 7 consultation is required for this project at this time. Should project plans change, or if information on the distribution or abundance of listed species or critical habitat becomes available, this determination may need to be reconsidered. In all future correspondence on this project, please refer to consultation number 02EAZZ00-2020-I-0183.

If you require further assistance or you have any questions, please contact Greg Beatty (greg_beatty@fws.gov, 602-242-0210).

Sincerely,

Shaula J. Hedwall
for
Jeffrey A. Humphrey
Field Supervisor

cc (electronic):
- Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ
- Assistant Field Supervisor, Fish and Wildlife Service, Phoenix and Tucson, AZ (Attn: J. Servoss, S. Sferra, and J. Gwinn)
- Wally Davis Jr, Cultural Resources Department, Tonto Apache Tribe, Payson, AZ
- Tim Stevens, Recreation and Wildlife, San Carlos Apache Tribe, San Carlos, AZ
- Stuart Leon, Game and Fish Department, White Mountain Apache Tribe, Whiteriver, AZ
- Director, Environmental Programs, Bureau of Indian Affairs, Phoenix, AZ
- Forest Biologist, Tonto National Forest, Phoenix, AZ
- District Biologist, Tonto Basin Ranger District, Tonto National Forest, Roosevelt, AZ

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Figure 1.Hicks Pikes Peak Allotment with Additional Infrastructure and Wildlife Data, GlobeRanger District, Tonto National Forest.